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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1075

[DA–96–12]

Milk in the Black Hills, South Dakota, Marketing Area; termination of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; Termination order.

SUMMARY: This rule terminates the remaining administrative provisions of the Black Hills, South Dakota, Federal milk marketing order (Order 75), effective December 31, 1996. All of the monthly operating provisions were terminated as of October 1, 1996. Termination of this order was requested by Black Hills Milk Producers, a cooperative association that represents all of the producers whose milk is pooled under the order.

EFFECTIVE DATE: December 31,1996.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–2357; e-mail address, connie__m__brenner@usda.gov.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Termination Order: Issued August 30, 1996; published September 6, 1996 (61 FR 47038).

The Department is issuing this rule in conformance with Executive Order 12866.

This termination order has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may request modification or exemption from such order by filing with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

This order of termination is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and of the order regulating the handling of milk in the Black Hills, South Dakota, marketing area.

Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service has considered the economic impact of this action on small entities and prepared an analysis which was included in the Black Hills, South Dakota, termination order published September 6, 1996 (61 FR 47038). This action merely terminates the administrative provisions that were embodied, by reference, in § 1075.1 of the order. The market administrator, in his capacity as the orders liquidating agent, has completed the disbursement of all of the money remaining in the administrative, producer-settlement, and marketing service funds established under the order. Accordingly, the remaining provisions of the order are terminated.

Statement of Consideration

This rule terminates the remaining administrative provisions of the Black Hills, South Dakota, Federal milk order. Termination is favored by a majority of the producers engaged in the production of milk for sale in the marketing area in the representative period, determined to be June 1996, and such producers produced more than 50 percent of the milk produced for sale in the Black Hills, South Dakota, milk marketing area in such representative period. Section 608(c)(16)(B) of the Agricultural Marketing Agreement Act of 1937, as amended, requires that if a majority of the producers engaged in the production of milk for sale in the marketing area in a representative period determined by the Secretary favor termination of the order, and such producers produced more than 50 percent of the milk produced for sale in the marketing area in the representative period, that such order shall be terminated. Therefore, the provisions of the order, as amended, were terminated effective October 1, 1996 subject to specific exceptions. The termination order left intact certain administrative provisions that were embodied, by reference, in § 1075.1 of the order.

The market administrator, in his capacity as the order's liquidating agent, has completed the disbursement of all of the money remaining in the administrative, producer-settlement, and marketing service funds established under the order. Hence, the remaining provisions of the order should be terminated.

Therefore, the aforesaid provisions of § 1075.1 of the order are hereby terminated.

For good cause shown, this rule shall be effective December 31, 1996. Neither a comment period nor a 30-day effective date is provided in that all other provisions of the order were terminated effective October 1, 1996, and no parties are affected by this action.

List of Subjects in 7 CFR Part 1075

Milk marketing orders.

PART 1075–MILK IN THE BLACK HILLS, SOUTH DAKOTA MARKETING AREA—[REMOVED]

For the reasons set forth in the preamble and under the authority of 7 U.S.C. 601–674, 7 CFR part 1075 is removed.

Dated: December 19, 1996.

Michael V. Dunn,

Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 96–32851 Filed 12–24–96; 8:45 am]

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Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. 96–092–1]

Tuberculosis in Cattle and Bison; State Designation

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the tuberculosis regulations concerning the interstate movement of cattle and bison by raising the designation of Oklahoma from a modified accredited State to an accredited-free State. We have determined that Oklahoma meets the criteria for designation as an accredited-free State.

DATES: Interim rule effective December 26, 1996. Consideration will be given only to comments received on or before February 24, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96–092–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 96–092–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Mitchell A. Essey, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 36, Riverdale, MD 20737–1231, (301) 734–7727; or e-mail: messey@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The "Tuberculosis" regulations, contained in 9 CFR part 77 (referred to below as "the regulations"), regulate the interstate movement of cattle and bison because of tuberculosis. Bovine tuberculosis is the contagious, infectious, and communicable disease caused by *Mycobacterium bovis*. The requirements of the regulations concerning the interstate movement of cattle and bison not known to be affected with, or exposed to, tuberculosis are based on whether the cattle and bison are moved from jurisdictions designated as accredited-free States, modified accredited States, or nonmodified accredited States.

The criteria for determining the status of States (the term "State" is defined to mean any State, territory, the District of Columbia, or Puerto Rico) are contained in a document captioned Uniform Methods and Rules—Bovine Tuberculosis Eradication," which has been made part of the regulations via incorporation by reference. The status of States is based on the rate of tuberculosis infection present and the effectiveness of a tuberculosis eradication program. A State must have no findings of tuberculosis in any cattle or bison in the State for at least 5 years to be designated as an accredited-free State.

Before publication of this interim rule, Oklahoma was designated in § 77.1 of the regulations as a modified accredited State. However, Oklahoma now meets the requirements for designation as an accredited-free State. Therefore, we are amending the regulations by removing Oklahoma from the list of modified accredited States in § 77.1 and adding it to the list of accredited-free States in that section.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is warranted to change the regulations so that they accurately reflect the current tuberculosis status of Oklahoma as an accredited-free State. This will provide prospective cattle and bison buyers with accurate and up-to-date information, which may affect the marketability of cattle and bison since some prospective buyers prefer to buy cattle and bison from accredited-free States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon publication in the **Federal Register**. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

Cattle and bison are moved interstate for slaughter, for use as breeding stock, or for feeding. Oklahoma has approximately 62,000 cattle herds with a combined total of 5,800,000 cattle. Approximately 95 percent of herd owners would be considered small businesses. Changing the status of Oklahoma may affect the marketability of cattle and bison from the State, since some prospective cattle and bison buyers prefer to buy cattle and bison from accredited-free States. This may result in some beneficial economic impact on some small entities. However, based on our experience in similar designations of other States, the impact should not be significant.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

Accordingly, 9 CFR part 77 is amended as follows:

PART 77—TUBERCULOSIS

1. The authority citation for part 77 continues to read as follows:

Authority: 21 U.S.C. 111, 114, 114a, 115–117, 120, 121, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

§ 77.1 [Amended]

2. In § 77.1, in the definition for "Modified accredited state", paragraph (2) is amended by removing "Oklahoma,".

3. In § 77.1, in the definition for "Accredited-free state", paragraph (2) is amended by adding "Oklahoma," immediately before "Oregon,".

Done in Washington, DC, this 16th day of December 1996.

A. Strating,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–32724 Filed 12–24–96; 8:45 am]

BILLING CODE 3410–34–P

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9 CFR Part 113

[Docket No. 93–128–2]

Viruses, Serums, Toxins, and Analogous Products; Encephalomyelitis Vaccine, Eastern, Western, and Venezuelan, Killed Virus

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the standard requirement for Encephalomyelitis Vaccine, Eastern and Western, Killed Virus, by specifying requirements for killed Venezuelan equine encephalomyelitis vaccines and revising the standard potency test for Eastern and Western equine encephalomyelitis vaccines. The amendments require the use of Vero 76 cells in the test to evaluate the potency of Encephalomyelitis Vaccine, Eastern, Western, and Venezuelan, Killed Virus, and establish minimum antibody titers which must be elicited by each of the indicated fractions, as determined by a plaque reduction, serum neutralization assay in which Vero 76 cells are used.

EFFECTIVE DATE: January 27, 1997.

FOR FURTHER INFORMATION CONTACT: Dr. David A. Espeseth, Director, Licensing and Policy Development, Center for Veterinary Biologics, VS, APHIS, 4700 River Road Unit 148, Riverdale, MD 20737–1237, (301) 734–8245.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the regulations in 9 CFR part 113, standard requirements are prescribed for the preparation of veterinary biological products. A standard requirement consists of specifications, procedures, and test methods that define the standards of purity, safety, potency, and efficacy for a veterinary biological product. Where a standard requirement for a product has not been established, production procedures and specifications for purity, safety, and potency of a biological product are provided in an Outline of Production filed with the Animal and Plant Health Inspection Service (APHIS).

On November 27, 1995, we published in the **Federal Register** (60 FR 58255–58256, Docket No. 93–128–1) a proposed rule to amend the regulations in § 113.207 by providing requirements for killed Venezuelan equine encephalomyelitis vaccines and amending the potency test provisions for killed Eastern and Western equine encephalomyelitis vaccines. The proposed amendments required the use of Vero 76 cells in the test to evaluate the potency of Encephalomyelitis Vaccine, Eastern, Western, and Venezuelan, Killed Virus and establish minimum antibody titers which must be elicited by each of the indicated fractions, as determined by a plaque reduction, serum neutralization assay in which Vero 76 cells are used.

We solicited comments concerning our proposal for 60 days ending January 26, 1996. We received two comments by that date from a manufacturer of veterinary biological products and a veterinary biologics industry consultant. They are discussed below.

One commenter expressed support for the rule provided adequate data are available to justify the proposed revisions. Adequate data are available to support the revisions. Antibody titers in guinea pigs, as measured by duck embryo fibroblasts, were correlated with protection in horses. Antibody titers in guinea pigs measured by Vero 76 cells were, in turn, correlated with those measured by duck embryo fibroblasts. Therefore, the Agency believes that there is justification for the proposed revisions. No changes to the regulations are made in response to this comment.

The other commenter, who claimed to have considerable experience with the plaque reduction, serum neutralization assay in which Vero cells are used, stated that "less than 1:10" rather than "less than 1:4" should be set as the acceptable titer for control guinea pigs in the tests for the Eastern and Western type fractions because nonspecific titers up to 1:10 are commonly encountered. In response to the commenter, the Agency notes that the correlative studies to support the rule were conducted with guinea pigs with prevaccination titers of less than 1:4. APHIS believes that extrapolation of the results of the studies to a situation where the sera of test animals prior to vaccination are negative at a 1:10 dilution but positive at a 1:4 dilution is inappropriate. No change to the regulations is made in response to this comment.

The second commenter also requested that, in proposed § 113.207(b)(4), "three or four vaccinate serum samples" instead of "two or three vaccinate serum samples" be specified to "be consistent with the initial tests being satisfactory if 80 percent of the vaccinates show protective titers." In response to the commenter, APHIS notes that the proposed "two or three vaccinate serum samples" does not differ from the requirement specified under the current regulations. Moreover, paragraph (b)(6) of § 113.207 of the current regulations not proposed for amendment specifies that four or more failures is a basis for an unsatisfactory test, and that for a given fraction, at least 9 of the 10 vaccinated guinea pigs, or 90 percent, must have an acceptable titer for a satisfactory first-stage test. Therefore, "three or four vaccinate serum samples" and "80 percent of the vaccinates show[ing] protective titers" would be inconsistent with current regulations. No change to the regulations is made in response to this comment.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposed rule as a final rule without change.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This rule revises the standard requirement in § 113.207 for Encephalomyelitis Vaccine, Eastern and Western, Killed Virus, by specifying a different cell type for use in the potency test assay and specifying different minimum specific antibody titers that must be achieved for a satisfactory test. In addition, the rule revises the standard requirement so that it would also apply to Encephalomyelitis Vaccine, Venezuelan, Killed Virus. The Agency believes the titers given in the standard requirement are adequately correlated with claimed efficacy and that they would be readily obtained by all relevant vaccines currently licensed. We do not expect any increase in cost to the biologics manufacturers affected by this rule. The changes should actually decrease costs for most impacted manufacturers, since fewer repeat tests will be needed and obtaining Vero 76 cells should prove less expensive than procuring primary DEF.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted prior to a judicial challenge to the provisions of this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 113

Animal biologics, Exports, Imports, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 113 is amended as follows:

PART 113—STANDARD REQUIREMENTS

1. The authority citation for part 113 continues to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.2(d).

2. In § 113.207, the section heading, the introductory text, the introductory text of paragraph (b), and paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) are revised to read as follows:

§ 113.207 Encephalomyelitis Vaccine, Eastern, Western, and Venezuelan, Killed Virus.

Encephalomyelitis Vaccine, Eastern, Western, and Venezuelan, Killed Virus, shall be prepared from virus-bearing cell culture fluids. Each serial or subserial shall meet the requirements prescribed in this section and the general requirements prescribed in § 113.200, except those in § 113.200(d). Any serial or subserial found unsatisfactory by a prescribed test shall not be released.

* * * * *

(b) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency in accordance with the two-stage test provided in this paragraph. For each fraction contained in the product—Eastern type, Western type, or Venezuelan type—the serological interpretations required in this test shall be made independently. A serial or subserial found unsatisfactory for any of the fractions shall not be released.

(1) * * *

(2) Fourteen to 21 days after the second injection, serum samples from each vaccinate and each control shall be tested by a plaque reduction, serum neutralization test using Vero 76 cells.

(3) If the control serum samples show a titer of 1:4 or greater for any fraction, the test is inconclusive for that fraction and may be repeated: *Provided,* That, if four or more of the vaccinate serum samples show a titer of less than 1:40 for the Eastern type fraction, less than 1:40 for the Western type fraction, or less than 1:4 for the Venezuelan type fraction, the serial or subserial is unsatisfactory without further testing.

(4) If two or three of the vaccinate serum samples show a titer of less than 1:40 for the Eastern type fraction, less than 1:40 for the Western type fraction, or less than 1:4 for the Venezuelan type fraction, the second stage of the test may be used for the relevant fraction(s): *Provided,* That, if a fraction is found acceptable by the first stage of the test, the second stage need not be conducted for that fraction.

(5) If the second stage is used and four or more of the vaccinate serum samples show a titer of less than 1:40 for the Eastern type fraction or the Western type fraction, or less than 1:4 for the Venezuelan type fraction, the serial or subserial is unsatisfactory.

* * * * *

Done in Washington, DC, this 16th day of December 1996.

A. Strating.

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–32725 Filed 12–24–96; 8:45 am]

BILLING CODE 4310–12–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 206

[Docket No. FR–2958–C–06]

RIN 2502–AF32

Home Equity Conversion Mortgage Insurance Demonstration: Additional Streamlining; Correction and Delay of Effective Date for the Definition of "Principal Limit" in § 206.3

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule correction and delay of effective date.

SUMMARY: On September 17, 1996 (61 FR 49030), the Department issued a final rule to changes proposed on May 10, 1996, to the Home Equity Conversion Mortgage (HECM) Insurance Demonstration. The final rule had an effective date of October 17, 1996, except that the amendment to the definition of "principal limit" in § 206.3, had a delayed effective date of January 5, 1997. This document further delays the effective date of the definition of "principal limit" in § 206.3 until May 1, 1997. In addition, § 206.121(c) is corrected to remove language that should have been omitted which allowed HUD to change a monthly adjustable ARM to annual interest rate adjustments if assigned to HUD.

DATES: Effective date of this document: October 17, 1996.

Effective date for amended definition of "principal limit" in § 206.3 is delayed until May 1, 1997.

FOR FURTHER INFORMATION CONTACT: Richard K. Manuel, Director, Home Mortgage Insurance Division, Office of Insured Single Family Housing, Room number 9272, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–2700; TTY (202) 708–4594. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION: The September 17, 1996 final rule delayed the effective date for the amendment to the definition of "principal limit" in § 206.3, until January 5, 1997. The Department recognized at that time that the Lockheed/Martin (CDSI) system would have to be changed to accommodate the new calculation. The Department now realizes that the change will not be completed by the January 5, 1997 effective date and by this notice delays further the effective date.

Accordingly, the effective date for the amendment to the definition of "principal limit" in § 206.3, as stated in the final rule published on September 17, 1996, at 61 FR 49030, is delayed until May 1, 1997.

The September 17, 1996 final rule inadvertantly failed to delete from § 206.121(c) the language allowing HUD to change a monthly adjustable ARM to annual interest rate adjustments if assigned to HUD. This language had been proposed in the May 10, 1996 proposed rule, at 61 FR 21918, and opposed by public comment. Therefore, in the preamble to the September 17, 1996 final rule, at 61 FR 49030, the Department agreed not to make the disputed language final.

Accordingly, in FR Doc. 96–23717, in the final rule published on September 17, 1996 (61 FR 49030), the first and second sentences in 24 CFR 206.121, are corrected as follows:

§ 206.121 Secretary authorized to make payments.

* * * * *

(c) *Second mortgage.* If the contract of insurance is terminated as provided in § 206.133(c), all payments to the mortgagor by the Secretary will be secured by the second mortgage, if any. Payments will be due and payable in the same manner as under the insured first mortgage. * * *

* * * * *

Dated: December 19, 1996.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 96–32769 Filed 12–24–96; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Office of the Special Trustee for American Indians

25 CFR Chapter VII and Part 1200

RIN 1035–AA00

The American Indian Trust Fund Management Reform Act of 1994

AGENCY: Office of the Special Trustee for American Indians, Interior.

ACTION: Final rule.

SUMMARY: The Office of Special Trustee for American Indians (OST) in the Office of the Secretary of the Interior is promulgating this regulation to implement Title II of Public Law 103–412, the American Indian Trust Fund Management Reform Act of 1994 (the Act). The Act, for the first time, permits American Indian tribes to take tribal funds out of trust status with the Department of the Interior (DOI). The purpose of the Act is to enable tribes to manage the funds by themselves, or with the help of capable commercial fund managers. The regulation affects tribal funds only, not Individual Indian Monies (IIM) funds.

EFFECTIVE DATE: These regulations take effect on January 27, 1997.

SUPPLEMENTARY INFORMATION: 25 CFR Part 1200 in chapter VII contains provisions which affect 240 tribes with trust funds. These tribes currently have approximately $1.5 billion in judgments, settlements, awards, and associated earnings held in trust status by the Department of the Interior. Key concepts of the regulation are as follows: (a) Tribes wishing to withdraw some or all of their tribal funds under the Act (not IIM funds) must present a tribal resolution acknowledging that when funds leave the U.S. Treasury, the federal government has no further liability relating to those funds; (b) tribes must also present a management plan for Secretarial approval, detailing how the funds will be managed once they are out of trust, including a protection against a significant loss of principal; (c) if the funds are not managed by the tribes, they are to be managed by capable investment managers or investment firms with proof of liability insurance; (d) tribes must provide notification to tribal members regarding their intent to withdraw funds from trust; (e) tribes may return any or all of their funds withdrawn under this act, including any earnings, to trust status; (f) tribes may request technical assistance and/or grants from the Department in order to develop the management plan. The ability to take funds from trust creates new tribal opportunities for investment of funds and for economic development; therefore, establishment of the regulation has a high priority in Indian Country.

Summary of Regulation and Comment Received

In accordance with the Act, this regulation was developed with the active participation of tribal representatives. The policy of the Department is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. A Regulatory Workgroup was established by the Office of Trust Funds Management (OTFM), which had tribal representation, as well as representation from the InterTribal Monitoring Association (ITMA), Departmental Office of the Solicitor (SOL), and Bureau of Indian Affairs (BIA). Also in furtherance of tribal participation, draft regulations were sent to all tribes with trust funds in August, 1995; a formal presentation was made by OTFM at a National Tribal Consultation in September, 1995. The consultation session was announced in the Federal **Register** and was open to the public. Comments which were incorporated from this consultation are as follows: (a) A specific provision for notifying the tribal membership of an intent to remove funds was included based on comments by the Delaware Tribe of Oklahoma; (b) the "certification" by tribe's legal counsel of authority of tribal government to withdraw funds was changed to a requirement for a "legal opinion" to be included in the application package based on comments from both the Hopi and Cheyenne River Tribes; (c) a requirement to provide a copy of audit or investment report when requesting to withdraw additional funds was included based on comments from the First Nations Development Institute; (d) a requirement for liability insurance of tribal officials was added based on a suggestion from the Skokomish Tribe of Washington State. Other changes were made, such as changing the approving official to the Secretary, Department of the Interior, from the Commissioner of Indian Affairs, Bureau of Indian Affairs; removing duplicative language from the policy statement; adding clarifying language regarding applicability of these regulations to "proceeds of labor" funds; and requiring tribes to submit copies of applicable distribution plans or settlement acts when making application to withdraw funds. The regulation was also rewritten in a "user-friendly" format after the consultation.

On February 9, 1996, the OTFM was moved from the BIA to the OST by Secretarial Order Number 3197. This action was taken to implement Title III of the Act which established the Office of the Special Trustee for American Indians. The Director, OTFM, reports directly to the Special Trustee.

The Department published a Notice of Proposed Rulemaking in the **Federal Register** as part 144 in Chapter I of 25 CFR on May 16, 1996, on page 24731, with a 60-day open comment period. This final rule is being published as new part 1200 in the newly established chapter VII of 25 CFR, which is reserved for rules published by the Office of the Special Trustee.

Only one formal comment was received on the proposed rule. An Oklahoma City law firm commented that in discussions with representatives of three tribes, concerns had been expressed relating to the ability of tribes

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to use withdrawn funds for economic development purposes as part of an overall business plan. The firm was not authorized to comment directly for the tribes, but recommended modifying § 144.14 to clarify the use of funds withdrawn from trust to obtain financing for economic development purposes. The Act does not address economic development activities as a part of a tribe's plan for management of their withdrawn trust funds. After review, it is felt that an attempt to include a discussion of "economic development purposes" in the regulations is not necessary. The Secretary is tasked with determining if a tribes' plan is "reasonable," has adequate protection against a "significant loss of principal," and will allow the tribe to follow the dictates of any approved distribution plan for judgment or settlement awards. Each tribal plan will be evaluated by the Secretary on its own merits based on the criteria listed in the regulation.

Administrative Matters

The Department has determined that this rulemaking will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The Department certifies that the rule does not represent a governmental action capable of interference with constitutionally protected property rights. Thus, a Takings Implication Assessment need not be prepared under Executive Order 12630, "Government Action and Interference with Constitutionally Protected Property Rights."

The Department has certified to the Office of Management and Budget that this rule meets the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12998.

This document has been reviewed under Executive Order 12866 and is not a significant regulatory action.

The Department has determined that this rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act of 1995

The Office of Management and Budget (OMB) has approved, under 44 U.S.C. chapter 35, the information collection requirements in Subpart B (Application to Withdraw Tribal Funds from Trust Status) under control number 1035–0001. The information for this Subpart is being collected and used by the OST to determine applicant eligibility, evaluate applicant capabilities, protect the service population, safeguard tribal trust funds, and permit the OST to evaluate capability of tribes or their contractors to manage and invest large blocks of funds.

The OMB has approved under 44 U.S.C. chapter 35, information collection requirements in Subpart D (Applications for Technical Assistance to Withdraw Tribal Funds from Trust Status—General and Specific Budget) under control number(s) 1035–0002 and 1035–0003. The information for this Subpart is being collected and used by the OST to determine applicant eligibility, as well as the level of need for technical assistance in order for tribes to develop the Management Plans and to complete the application for withdrawal process. This is in accordance with statutory authority which requires the Secretary to provide technical assistance for tribes to complete the required Management Plan. This information will be collected once only from each applicant.

The OST estimates that the average burden of complying with the collection, broken down by Subpart, will be as follows: Subpart B (Application to Withdraw Tribal Funds from Trust Status), 342 hours; Subpart D (Applications for Technical Assistance to Withdraw Tribal Funds from Trust Status) General form, 13 hours; Specific Budget form, 39 hours.

Responses to the collection of information under this regulation are required in order for Indian tribes to obtain or retain benefits under the Act. However, not every tribe will need to respond to each request for information contained in the regulation, as some of the requests pertain to specific situations (requests for technical assistance). Any disagreements over application approvals are subject to the criteria and procedures in § 1200.21 of the regulation.

With regards to confidentiality, an Indian tribe is not protected under the Privacy Act. However, in accordance with DOI, OST, BIA and OTFM policy, tribes are accorded confidentiality with regard to trust fund account matters. Tribal information provided will not be shared with anyone outside the Department without permission from the tribe.

The Department may not collect information, nor are Indian tribes or other persons required to respond to such collections unless the collection displays a currently valid OMB control number.

List of Subjects in 25 CFR Part 1200

Indians, Indian tribal trust funds, Indian trust responsibility, Tribal funds withdrawal.

For the reasons given in the preamble, the Department of the Interior establishes a new chapter VII consisting of part 1200 in Title 25 of the Code of Federal Regulations as set forth below.

CHAPTER VII—OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS, DEPARTMENT OF THE INTERIOR

PART 1200—AMERICAN INDIAN TRUST FUND MANAGEMENT REFORM ACT

Subpart A—General Provisions

Sec.

1200.1 Purpose of this regulation.
1200.2 Definitions.
1200.3 What is the Department's policy on tribal management of trust funds?
1200.4 May tribes exercise increased direction over their trust funds and retain the protections of Federal trust status?
1200.5 What are the advantages and disadvantages of managing trust funds under the options in § 1200.4?
1200.6 Do these regulations tell tribes how to receive future income directly rather than have the government continue to collect it?
1200.7 Information collection.

Subpart B—Withdrawing Tribal Funds From Trust

1200.10 Who is eligible to withdraw their tribal funds from trust?
1200.11 What funds may be withdrawn?
1200.12 What limitations and restrictions apply to withdrawn funds?
1200.13 How does a tribe apply to withdraw funds?
1200.14 What must the Tribal Management Plan contain?
1200.15 What is the approval process for management plans?
1200.16 What criteria will be used in evaluating the management plan?
1200.17 What special criteria will be used to evaluate management plans for judgment or settlement funds?
1200.18 When does the Department's trust responsibility end?
1200.19 How can the plan be revised?
1200.20 How can a tribe withdraw additional funds?
1200.21 How may a tribe appeal denials under this part?

Subpart C—Returning Tribal Funds to Trust

1200.30 How does a tribe notify the Department if it wishes to return withdrawn funds to Federal trust status?
1200.31 What part of withdrawn funds can be returned to trust?
1200.32 How often can funds be returned?
1200.33 How can funds be returned?
1200.34 Can a tribe withdraw redeposited funds?

Subpart D—Technical Assistance

1200.40 How will the Department provide technical assistance for tribes?
1200.41 What types of technical assistance are available?
1200.42 Who can provide technical assistance?
1200.43. How can a tribe apply for technical assistance?
1200.44 What action will the Department take on requests for technical assistance?

Authority: 25 U.S.C. 4001.

Subpart A—General Provisions

§ 1200.1 Purpose of this regulation.

This part describes the processes by which Indian tribes can manage tribal funds currently held in trust by the United States. It defines how tribes may withdraw their funds from trust status; how they may return funds to trust; and how they may request technical assistance or grants to help prepare plans to manage funds or to ensure the capability to manage those funds.

§ 1200.2 Definitions.

As used in this part:

Act means the American Indian Trust Fund Management Reform Act of 1994 (Pub. L. 103–412, 108 Stat. 4239, 25 U.S.C. 4001).

Agency Superintendent means the official in charge of a Bureau of Indian Affairs Agency.

Area Director means the official in charge of a Bureau of Indian Affairs area office.

Bureau or *BIA* means the Bureau of Indian Affairs, Department of the Interior.

Department or *DOI* means the Department of the Interior.

General Counsel means the attorney for the tribe.

OST means the Office of the Special Trustee for American Indians, Department of the Interior.

OTFM means the Office of Trust Funds Management, Department of the Interior.

Resolution means the formal manner in which a tribal government expresses its legislative will.

Secretary means the Secretary of the Interior or his/her designee.

Solicitor means the Office of the Solicitor, Department of the Interior.

Special Trustee means the Special Trustee for American Indians appointed under Title III of the Act.

Tribal council means the elected or appointed governing officials of any tribe which is recognized by the Secretary.

Tribe means any Indian tribe, band, nation, rancheria, pueblo, colony or community, including any Alaska Native village or regional or village corporation as defined or established pursuant to the Alaska Native Claims Settlement Act which is federally recognized by the U.S. Government for special programs and services provided by the Secretary to Indians because of their status as Indians. For this purpose, it also means two or more tribes joined for any purpose, the joint assets of which include funds held in trust by the Secretary. An example of this would be the KCA (consisting of the Kiowa, Comanche and Apache Tribes).

Us means the Department of the Interior, i.e., the Secretary of the Interior or his/her designee.

We means the Department of the Interior, i.e., the Secretary of the Interior or his/her designee.

§ 1200.3 What is the Department's policy on tribal management of trust funds?

(a) We will give tribes as much responsibility as they desire for the management of their tribal funds that we currently hold in trust.

(b) Title II of the American Indian Trust Fund Management Reform Act, implemented by these regulations, offers tribes one approach for assuming increased management of their funds that we now hold in trust and administer. Under Title II, a tribe may completely remove its funds from Federal trust status and manage them as it wishes, subject to the requirements and conditions in this part. When a tribe withdraws its funds under this part, it may invest those funds in equities or other investment vehicles that are statutorily unavailable to us.

§ 1200.4 May tribes exercise increased direction over their trust funds and retain the protections of Federal trust status?

Yes. The Tribal Self-Governance Act (25 U.S.C. 458) and the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et. seq.) provide other options for trust funds management. A tribe may choose to manage its trust funds under the provisions of these Acts if it wishes. These options are covered by 25 CFR part 900 (the "Indian Self-Determination and Education Assistance Act Program") and 25 CFR part 1000 (the "Self-Governance Program").

§ 1200.5 What are the advantages and disadvantages of managing trust funds under the options in § 1200.4?

Under these other options, the funds remain in Federal trust status and the tribe can exercise a range of control over their management. However, the tribe has fewer investment options than it has when it withdraws its funds completely from trust status. If a tribe chooses to keep its funds in trust status, the tribe is subject to the same statutory investment restrictions that bind us. That means that the tribe's investments are limited to bank deposits and securities guaranteed by the United States. (See 25 U.S.C. 162a for specific statutory investment restrictions.)

§ 1200.6 Do these regulations tell tribes how to receive future income directly rather than have the government continue to collect it?

No. These regulations apply only to the withdrawal of funds which are in trust. Some of these funds come from the sale or lease of trust resources. Even if a tribe withdraws its funds, we will collect and manage future income. If a tribe wishes to receive future income directly, it should contact the OST/OTFM staff at its agency or area office to find out how to do this.

§ 1200.7 Information collection.

The information collection requirements contained in subpart B of this part, Application to Withdraw Tribal Funds from Trust Status and subpart D of this part, Application to Withdraw Tribal Funds from Trust Status-General and Specific Budget Technical Assistance, have been approved by the Office of Management and Budget under 44 U.S.C. 3507 *et seq.* and assigned clearance numbers 1035–001 (subpart B), and 1035–002 and 1035–003 (subpart D). Information collected in § 1200.13, (How does a tribe apply to withdraw funds?) will be used to determine the eligibility of applicants, and the capability of tribes or their contractors to manage and invest large blocks of funds. Information collected in § 1200.43, (How can a tribe apply for technical assistance?) will be used to determine the eligibility of applicants, as well as the level of need for technical assistance, in order for tribes to develop Management Plans and to complete the application for withdrawal process.

Subpart B—Withdrawing Tribal Funds From Trust

§ 1200.10 Who is eligible to withdraw their tribal funds from trust?

Any tribe for whom we manage funds in trust.

§ 1200.11 What funds may be withdrawn?

A tribe may withdraw some or all funds that we hold in trust if we approve a plan that it submits under this part.

§ 1200.12 What limitations and restrictions apply to withdrawn funds?

(a) A tribe may withdraw funds appropriated to satisfy judgments of the

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Indian Claims Commission (ICC) and the Court of Federal Claims and that we hold under the Indian Judgment Funds Use and Distributions Act (25 U.S.C. 1401) or another act of Congress if:

(1) The tribe uses the funds as specified in the previously approved judgment fund plan, and;

(2) The tribe withdraws only funds held for Indian tribes and does not include any funds held for individual tribal members.

(b) A tribe may withdraw funds appropriated to satisfy settlement agreements relating to certain tribal claims and that we hold and manage for the tribe pursuant to an act of Congress if:

(1) The tribe uses the funds as specified in the previously approved settlement act plan;

(2) The tribe withdraws only funds held for Indian tribes and does not include any funds held for individual tribal members; and

(3) It is determined that there is no provision in the act or settlement agreement requiring that the funds remain in trust to implement the act or agreement that cannot be waived.

(c) Tribal funds commonly known as "Proceeds of Labor" funds, usually income to trust resources, are generally withdrawn under normal tribal budgeting procedures, but may also be withdrawn from trust under this part. These funds may be returned to trust under the provisions of subpart C of this part.

§ 1200.13 How does a tribe apply to withdraw funds?

The tribe must submit four copies of its application and the attachments listed below to: Director, Office of Trust Funds Management, Department of the Interior, 505 Marquette NW, Suite 1000, Albuquerque, NM 87102. We will notify the tribe if the application is incomplete and will help the tribe complete the application if requested. When we determine that the application is complete, we will send copies to the appropriate agency superintendent and area director, the Special Trustee and the Solicitor. Each application package must contain the items listed below.

(a) Proof that the tribe has notified its members of its intent to remove funds from trust and that, when the request is approved, the tribe and not the United States Government will be liable for funds management. Notification must be by the method(s) that the tribe customarily uses to notify its members of significant tribal actions. The notification must identify the specific funds to be withdrawn.

(b) A tribal resolution that:

(1) Expressly authorizes the withdrawal of the funds and indicates the (approximate) dollar amount of the funds to be withdrawn;

(2) Expressly acknowledges that the funds, once withdrawn in accordance with the Act, will no longer be held in trust status by the United States, and that we have no further liability or responsibility for the funds; and

(3) Acknowledges that:

(i) Neither we nor the tribe necessarily accept the account balances at the time of withdrawal as accurate; and

(ii) Neither we nor the tribe have waived any rights regarding the balances, including the right to seek compensation for incorrect balances.

(c) A copy of a formal agreement between the tribe and the manager of the funds to be withdrawn, in which the manager agrees to:

(1) Comply with the terms of the plan we approve under § 1200.15 and make only those changes that conform to revision procedures in the approved plan and the requirements of § 1200.19; and

(2) Transfer funds to the tribe or another manager only after receiving a valid tribal resolution calling for this transfer and proof that the tribe has notified its members of intent to transfer the funds. The resolution must clearly state that:

(i) The funds are being withdrawn to be reinvested by the tribe in a manner consistent with the goals and strategies of the approved plan; and

(ii) The fund managers will continue to follow any previously approved distribution plan conditions.

(d) A legal opinion by the tribe's attorney or its general counsel that:

(1) The resolution referred to in paragraph (b) of this section was enacted under procedures established by the tribe's organic documents or oral tradition;

(2) The tribal governing body has the legal authority to withdraw funds from trust status and that the withdrawal does not require a referendum vote or other procedure beyond a tribal council resolution; and

(3) If the funds to be withdrawn are judgment or settlement funds, that the tribe's plan for managing the funds meets the requirements of any applicable judgment fund use and distribution plan or settlement act.

(e) The results of a tribal referendum, if one was held.

(f) If the funds to be withdrawn are judgment or settlement funds, a copy of the act and/or plan that sets out the conditions for the uses of the funds or income from them.

(g) A management plan as provided for in § 1200.14.

§ 1200.14 What must the Tribal Management Plan contain?

The Tribal Management Plan required by § 1200.13 must include each of the following:

(a) Tribal investment goals and the strategy for achieving them.

(b) A description of the protection against the substantial loss of principal, as set forth in § 1200.16.

(c) A copy of the tribe's ordinances and procedures for managing or overseeing the management of the funds to be withdrawn. These must include adequate protections against fraud, abuse, and violations of the management plan.

(d) A description of the tribe's previous experience managing or overseeing the management of invested funds. This should include factual data of past performance of tribally-managed funds (i.e., audited reports) and the identity and qualifications of the tribe's investment officer.

(e) A description of the capability of all of the individuals or investment institutions that will be involved in managing and investing the funds for the tribe. Provide copies of State or Federal security applications for account executive(s).

(1) Investment entities named must submit:

(i) Ownership information (including Central Registry Depository (CRD) numbers);

(ii) Asset size and capitalization;

(iii) Assets under management;

(iv) Performance statistics on managed accounts for the past 5 years; and

(v) Any adverse actions by licensing and/or regulatory bodies within the past 5 years.

(2) In addition, we may ask about:

(i) Soft dollar arrangements;

(ii) Affiliation with broker dealers, banks, insurance and/or investment companies;

(iii) Research done in house;

(iv) Recent changes in active portfolio managers; and

(v) Any other information necessary to make an adequate evaluation of the proposed plan.

(f) A description of how the plan will ensure that the fund manager will comply with any conditions established in judgment fund plans or settlement acts.

(g) Proof of liability insurance of the investment firm.

(h) Proof of liability insurance that protects against fraud for those Tribal Council members with authority to disburse funds. In many tribes the chairperson, and the comptroller and/or the tribal treasurer, for example, would be the positions having this authority.

(i) A plan for custodianship of investment securities that includes:

(1) Name of persons in the tribe who can direct the custodian;

(2) Name of the custodian;

(3) Copy of intended custodian agreement;

(4) Size of custodian operation;

(5) Disclosure of any security lending provisions; and

(6) Insurance coverage.

(j) A tribal council agreement to provide an annual audit and report on performance of withdrawn funds to the tribal membership, with a copy to: Office of the Special Trustee for American Indians, Department of the Interior, MS–5140, 1849 C Street NW, Washington, DC, 20240. This agreement must include:

(1) A statement that the copy to the Special Trustee is for information only, and infers no liability on our part regarding the audit results, nor does it infer a requirement for us to take any action whatsoever; and

(2) A description of the steps (including audit performance and reporting) the tribe will take to ensure its membership that the tribe is continuing to comply with the terms of the plan submitted and approved pursuant to judgment fund limitations (if any) and/or the terms of the Act.

(k) The proposed date for transfer of funds.

(l) A statement as to whether the tribe chooses to receive the withdrawal as a cash balance transfer, as a transfer of marketable investments that we own for the tribe, or as a combination of the two.

(1) A cash balance transfer may require us to sell bonds, notes, or other investments that we purchased when investing the tribe's monies.

(2) We cannot transfer non-marketable securities to a tribe. We can only purchase and hold them and must sell them back to the U.S. Treasury.

(3) If we sell a tribe's security at a loss (i.e., when market value is less than book value or carrying value) we will first notify the tribe. The tribe must instruct us to proceed with the sale and must agree not to hold us responsible for the loss before we will make the sale.

(4) If the tribe asks us to transfer marketable securities, upon proper instructions from the new tribal custodian, we will order our custodian to physically transfer the proper security to the new custodian on the agreed upon date.

(m) Agreement that judgment award funds will have segregated accounts.

(n) A description of the procedures for amending or revising the plan.

§ 1200.15 What is the approval process for management plans?

The Secretary will approve or disapprove each management plan, based in part upon our recommendation.

(a) We will determine the completeness of the application, provide for adequate professional review of the application and the management plan, and provide technical assistance as necessary to make an application complete.

(b) We will coordinate with area directors in confirming authority of tribal governments to make requests.

(c) We will approve or disapprove a request within 90 calendar days of receiving a completed application. This 90-day period does not include time that we spend awaiting a response from the tribe for additional information that we have requested. All determinations will be in writing, and all responses will be by certified mail.

(d) If we find that a plan does not meet the criteria in § 1200.16, we will notify the tribe of shortcomings of the request, and allow the tribe to respond before recommending formal disapproval.

(e) Before final approval, we will reach agreement with the tribe on how many days after final approval we will transfer the funds. We will transfer the funds as soon after final approval as the tribe or manager is ready to receive them, unless we need additional time to sell existing instruments.

§ 1200.16 What criteria will be used in evaluating the management plan?

Each plan must be approved by the appropriate tribal governing body, and must be accompanied by a resolution approving the plan. The plan must be reasonable in light of the trust responsibility and the principles of Indian self-determination, and other appropriate factors, including, but not limited to, the factors listed below:

(a) We will evaluate the individuals or entities that will manage the funds to be withdrawn, or that will advise the tribe on investing the funds to be withdrawn in order to determine if they have the capability and experience to manage the funds. Among the elements we will evaluate are: the number of years in business, the performance record for funds management, and the ability to compensate the tribe if the entity is found liable for failing to comply with the tribe's management plan (i.e., its assets, bonding, and insurance).

(b) We will review the tribe's experience in managing investments. We will compare this experience to the complexity of the proposed management plan to determine whether the tribe has the experience to manage its proposed plan or whether it should begin with a less complex approach.

(c) We will evaluate the tribe's internal audit and control systems for overseeing or monitoring its investment activity.

(d) We will evaluate the adequacy of protection against substantial loss of principal. Our determination will include a thorough evaluation of the tribe's investment plan including:

(1) The goals and objectives;

(2) The proposed uses of the fund in order to meet business objectives;

(3) The size and diversity of the investment portfolio (for example, the class of stocks and the mixture of types of investments);

(4) The financial condition of the tribe;

(5) The inherent riskiness of the proposed investments; and

(6) The tribe's projected need and proposed timeframes to draw down the funds being invested or the income from them.

(e) We will determine the likelihood that the plan will be followed. We will base this determination on the contents of the agreement between the tribe and the fund manager and other appropriate factors.

§ 1200.17 What special criteria will be used to evaluate management plans for judgment or settlement funds?

For judgment or settlement funds, in addition to the criteria in § 1200.16, we will determine if the plan adequately provides for compliance with any conditions, uses of funds, or other requirements established by the appropriate judgment fund plan or settlement act.

§ 1200.18 When does the Department's trust responsibility end?

Our trust responsibility for funds withdrawn under this part ends on the date that the funds are withdrawn. However at the time of withdrawal neither we nor the tribe may be deemed to have accepted the account balance at the time of withdrawal as accurate; or waived any rights regarding the balance and our ability to seek compensation.

§ 1200.19 How can the plan be revised?

Once a tribe has withdrawn its funds, the tribe may revise its plan without our approval. All revisions should conform to the procedures outlined in the approved management plan. The tribe should inform its members of all revisions to a plan through normal tribal procedures before the revisions are implemented.

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§ 1200.20 How can a tribe withdraw additional funds?

(a) If a tribe has withdrawn funds under an approved tribal management plan and wishes to withdraw additional funds that will be managed under the same plan, it need not submit a complete new application. The tribe must:

(1) Notify us of the additional amount it intends to withdraw and whether the funds to be withdrawn are in kind or cash. (Written notification should be provided to our address in § 1200.13);

(2) Send us a tribal resolution approving the new withdrawal and certifying that the funds are being withdrawn subject to the same conditions and that they will be managed under the plan in the original approved application;

(3) Send us a copy of the most recent compliance audit or investment report.

(b) After we finish our review we will release the additional funds, unless the compliance audit or investment report indicates that the tribe is not complying with its management plan. In this case, we will not release the additional funds until the tribe demonstrates that it is complying with the management plan.

§ 1200.21 How may a tribe appeal denials under this part?

If we deny a request or do not approve an application within 90 days of a request, the tribe may address any problems that we identify and resubmit a revised request, seek technical assistance, or appeal the denial under 43 CFR Part 4.

Subpart C—Returning Tribal Funds to Trust

§ 1200.30 How does a tribe notify the Department if it wishes to return withdrawn funds to Federal trust status?

If a tribe elects to return some or all of the funds it has withdrawn from Federal trust status pursuant to this Act, it must first notify us in writing at our address in § 1200.13. This notification must provide a proposed date for the return of the funds, as well as the amount of funds to be returned, or actual securities to be delivered to the appropriate custodian.

§ 1200.31 What part of withdrawn funds can be returned to trust?

A tribe may return all or a portion of the principal which was removed from trust under this Act along with earnings and profits. We will verify the amount declared for earnings before we accept a return. We will accept any amount less than the original principal amount as a principal amount.

§ 1200.32 How often can funds be returned?

Tribes may return all or part of withdrawn funds no more than twice a year, beginning no sooner than six months after date of withdrawal, except with approval of the Secretary.

§ 1200.33 How can funds be returned?

Funds may be returned either as cash or securities, which meet the requirements for investments in 25 U.S.C. 162a. Cash can be transferred to the US Treasury by Electronic Funds Transfers (EFT), or the Automated Clearing House (ACH) process. Tribes must coordinate the transfer of ownership in securities with us to ensure proper credit to the tribe. The securities must meet investment restrictions contained in 25 U.S.C. 162a.

§ 1200.34 Can a tribe withdraw redeposited funds?

Yes. If a tribe wishes to withdraw redeposited funds from Federal trust status, it must submit a written request to do so, accompanied by a new resolution and any revisions it wishes to make in its original management plan.

Subpart D—Technical Assistance

§ 1200.40 How will the Department provide technical assistance for tribes?

(a) We will provide direct or contract technical assistance, in accordance with appropriations availability to tribes for developing, implementing, and managing Indian trust fund investment plans. We will ensure that our legal, financial and other expertise is made fully available to advise tribes in developing, implementing, and managing investment plans.

(b) We may award grants to tribes for developing and implementing plans for investing Indian tribal trust funds.

(c) Tribes may also obtain technical assistance on their own.

§ 1200.41 What types of technical assistance are available?

The types of technical assistance include: investment planning; accounting; selection of investment managers; monitoring of investments; asset management; or other assistance appropriate to support funds withdrawal.

§ 1200.42 Who can provide technical assistance?

A sample of competent providers includes any of the following entities with the appropriate skills and capabilities: available DOI or OST staff; intertribal organizations; public agencies; and contracted private investment firms.

§ 1200.43 How can a tribe apply for technical assistance?

(a) Tribes wishing technical assistance may request it by sending us a letter along with a tribal resolution outlining the technical assistance required, tribal resources which may be applied to the need, and suggested provider, if known. The resolution must state clearly that the assistance is needed for developing, implementing, or managing an investment plan under the provisions of this authority.

(b) Tribes requesting funds for technical assistance must send a completed SF–424, APPLICATION FOR FEDERAL ASSISTANCE, and SF–424A, BUDGET INFORMATION, along with a tribal resolution, detailing the assistance specifically requested, and the suggested provider to our address in § 1200.13.

(c) We will make grants subject to funds availability. We will publish a notice in the **Federal Register** concerning the availability of funding, deadlines for grants, the application process, and approval criteria. If funding is limited, grants will be awarded based on criteria that we feel will best meet the intent of the Act. We will consult with tribes in determining annual criteria. Unsolicited grant requests will not be accepted.

§ 1200.44 What action will the Department take on requests for technical assistance?

We will respond in writing to all requests for technical assistance and grants, advising of decision, availability of appropriate expertise and funding, and anticipated delivery of the service.

Dated: December 19, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–32738 Filed 12–24–96; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8707]

RIN 1545–AT19

Distribution of Marketable Securities by a Partnership

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations providing rules for partnership distributions of marketable securities under section 731(c) of the

Internal Revenue Code of 1986, as amended, and for determining when those distributions are taxable to the distributee partner. The regulations reflect changes to the law made by the Uruguay Round Agreements Act enacted on December 8, 1994.

DATES: These regulations are effective on December 26, 1996.

FOR FURTHER INFORMATION CONTACT: Terri A. Belanger or William M. Kostak at (202) 622–3080 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document amends 26 CFR part 1 to provide rules relating to the treatment of partnership distributions of marketable securities under section 731(c). Under section 731(a), in the case of a distribution by a partnership to a partner, gain is recognized to the partner only to the extent that any money distributed exceeds the adjusted basis of the partner's interest in the partnership. Prior to the enactment of section 731(c), marketable securities were not considered money and, therefore, the distribution of marketable securities by a partnership to a partner was not a taxable event. Section 731(c) now treats a partnership distribution of marketable securities as a distribution of money and as a taxable event if the value of the distributed securities exceeds the adjusted basis of the partner's interest in the partnership. Section 731(c) also provides several exceptions to the general rule that a distribution of marketable securities will be treated as a distribution of money.

On January 2, 1996, the IRS published in the **Federal Register** (61 FR 28) a notice of proposed rulemaking (PS–2–95) to provide guidance regarding section 731(c). A number of public comments were received concerning the proposed regulations. However, the public hearing scheduled for April 3, 1996, was cancelled because no one requested to speak. After consideration of the written comments received, the proposed regulations are adopted as revised by this Treasury decision.

Explanation of Provisions

I. General Background

The proposed regulations provide rules for determining when and the extent to which a distribution of marketable securities by a partnership to a partner will be treated as a distribution of money for purposes of section 731(a). Although modified in response to comments, the final regulations generally adopt the rules contained in the proposed regulations.

II. Public Comments

Several comments requested that the IRS reconsider the requirement in § 1.731–2(d) (2)(ii) of the proposed regulations that a marketable security must be actively traded on the date of distribution to qualify for the "nonrecognition transaction" exception to section 731(c). Because of this rule, financial instruments (securities) that are treated as marketable securities under section 731(c)(2)(B) on the date of distribution, but that are not actively traded, would not qualify for this exception. Commentators suggested that the final regulations should not include this requirement or should include a more narrowly drafted provision. In response to these comments, the final regulations provide that a security that falls within the definition of marketable security may qualify for the exceptions under § 1.731–2(d) of the final regulations even if the security is not actively traded on the date of distribution. An anti-stuffing rule has been added to address the concern to which the actively-traded requirement of the proposed regulations was directed.

Several comments also suggested that § 1.731–2(d)(2) of the proposed regulations should allow a de minimis amount of cash and marketable securities to be transferred in a nonrecognition transaction. The final regulations provide that if the value of money and marketable securities transferred in a nonrecognition transaction is less than 20 percent of the total amount of all property transferred in exchange for the distributed security, the entire value of the distributed security will qualify for the nonrecognition transaction exception under § 1.731–2(d)(1)(ii) of the final regulations.

Several commentators also suggested that the five-year rules of § 1.731–2(d)(2) and (3) of the proposed regulations be eliminated. Section 1.731–2(d)(2) of the proposed regulations provided that a marketable security that was acquired in a nonrecognition transaction in exchange for other property and distributed within five years by the partnership would not be subject to section 731(c). Section 1.731–2(d)(3) of the proposed regulations provided that a marketable security that was acquired by the partnership before it became actively traded would also not be subject to section 731(c) if it was distributed by the partnership within five years of becoming actively traded. One commentator, for example, argued that a security is no less a substitute for the underlying assets in a nonrecognition transaction after five years than before five years. These five-year rules were included in the proposed regulations because of administrative concerns. For example, it may be difficult, after the passage of many years, for taxpayers or the IRS to determine the circumstances in which a partnership acquired a particular security. Moreover, it is not clear whether certain exceptions should apply to a distribution of securities if those securities were acquired by a partnership many years ago and are now distributed to a partner who was not a partner at the time the securities were acquired. These administrative concerns remain valid, and a five year time limitation provides a reasonable and simple solution to such problems. Therefore, the final regulations retain both five-year rules.

One comment requested clarification regarding whether a section 708(b)(1)(B) termination affects a partnership's qualification for the exceptions under § 1.731–2 (d) and (e) of the regulations. Another commentator suggested that the regulations be modified to provide that marketable securities will not be treated as money when there is a deemed distribution of marketable securities by the terminating partnership as the result of a section 708(b)(1)(B) termination. In response to these comments, the final regulations provide that a section 708(b)(1)(B) termination does not have any effect on a partnership's qualification for the exceptions under section 731(c). In addition, a deemed distribution occurring as a result of a section 708(b)(1)(B) termination will not be subject to section 731(c).

Several comments suggested that the 10-percent test in the investment partnership look-through rule under § 1.731–2(e)(4) of the proposed regulations should be modified or eliminated. A partnership can qualify for the investment partnership exception only if it has never been engaged in a trade or business and substantially all of its assets are investment assets. Under the proposed regulations, a partnership is treated as engaged in a trade or business engaged in by, or as holding a proportionate share of the assets of, a lower-tier partnership in which the partnership holds a partnership interest unless the upper-tier partnership does not participate in the management of the lower-tier partnership and the interest held by the upper-tier partnership is less than 10 percent of the total profits and capital interests in the lower-tier partnership. According to the comments, the requirement that the upper-tier partnership not participate in

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the management of the lower-tier partnership should be sufficient to ensure passive ownership of the interest in the lower-tier partnership. The commentators further argued that ownership of more than 10 percent of the capital and profits interest in a lower-tier partnership may still be consistent with passive ownership. After consideration of these comments, the final regulations modify the rule in the proposed regulations to increase the threshold ownership percentage amount from 10 to 20 percent.

In response to a comment, the final regulations clarify that an interest in a lower-tier partnership that qualifies for the exception to the investment partnership "look-through" rule is treated as eligible property for purposes of determining whether the partner who contributed the lower-tier partnership interest is an eligible partner of the upper-tier investment partnership.

One commentator recommended that the regulations include an example that illustrates the section 732(a)(2) ordering rules for distributions that include money, marketable securities and other property, and to clarify whether marketable securities are treated as money for purposes of section 732(a)(2). Because the statute and the regulations provide that marketable securities are treated as money only for purposes of sections 731(a)(1) and 737, no additional examples are necessary.

One comment suggested that the effective date of the regulations should be the same as the effective date of section 731(c) because the regulations contain guidance for the various exceptions provided for by the Internal Revenue Code. In response to this comment, the final regulations provide that, for the period between the effective date of the statutory provision and the effective date of these regulations, taxpayers may apply the rules contained in these regulations. Another comment suggested that the final regulations should make clear that the rules in the investment partnership exception apply with respect to all property contributed to, or held by, a partnership at any time (including any period prior to the enactment of section 731(c)). The IRS and Treasury believe that this is sufficiently clear from the statutory language, and an explicit statement to this effect in these regulations is not necessary and may be confusing.

One comment requested that the regulations provide several examples illustrating abusive transactions intended to be covered by the anti-abuse rules of § 1.731–2(h), and that these rules be coordinated with the general anti-abuse rules of § 1.701–2. After consideration of this comment, it has been determined that the text of the regulations adequately describes several situations that would be considered abusive under these rules, and that additional examples are unnecessary.

In response to several comments, the final regulations clarify that the 90 percent test of § 1.731–2(c)(2)(i) and the 20 percent test of § 1.731–2(c)(2)(ii) are determined using the gross value of the entity's assets, disregarding any debt that may encumber or otherwise be allocable to those assets, other than debt that is incurred to acquire property with a principal purpose of avoiding or reducing the effect of section 731(c).

Finally, the regulations clarify the interaction of the limitation on gain rule in section 731(c)(3)(B) and the various exceptions listed in paragraph (d). The regulations provide that any gain or loss on a distributed security that qualifies for an exception is not taken into account in determining the distributee partner's limitation on gain.

III. Effective Dates

In general, section 731(c) applies to distributions made after December 8, 1994. These regulations are effective for distributions made on or after December 26, 1996. However, taxpayers may apply the rules of this section to distributions made after December 8, 1994, and before December 26, 1996.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the notice of proposed rulemaking preceding the regulations was issued prior to March 29, 1996, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal authors of these regulations are Terri A. Belanger and William M. Kostak, Office of Assistant Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805. * * *

Section 1.731–2 also issued under 26 U.S.C. 731(c). * * *

Par. 2. Section 1.731–2 is added to read as follows:

§ 1.731–2 Partnership distributions of marketable securities.

(a) *Marketable securities treated as money.* Except as otherwise provided in section 731(c) and this section, for purposes of sections 731(a)(1) and 737, the term money includes marketable securities and such securities are taken into account at their fair market value as of the date of the distribution.

(b) *Reduction of amount treated as money*—(1) *Aggregation of securities.* For purposes of section 731(c)(3)(B) and this paragraph (b), all marketable securities held by a partnership are treated as marketable securities of the same class and issuer as the distributed security.

(2) *Amount of reduction.* The amount of the distribution of marketable securities that is treated as a distribution of money under section 731(c) and paragraph (a) of this section is reduced (but not below zero) by the excess, if any, of—

(i) The distributee partner's distributive share of the net gain, if any, which would be recognized if all the marketable securities held by the partnership were sold (immediately before the transaction to which the distribution relates) by the partnership for fair market value; over

(ii) The distributee partner's distributive share of the net gain, if any, which is attributable to the marketable securities held by the partnership immediately after the transaction, determined by using the same fair market value as used under paragraph (b)(2)(i) of this section.

(3) *Distributee partner's share of net gain.* For purposes of section 731(c)(3)(B) and paragraph (b)(2) of this section, a partner's distributive share of net gain is determined—

(i) By taking into account any basis adjustments under section 743(b) with respect to that partner;

(ii) Without taking into account any special allocations adopted with a principal purpose of avoiding the effect of section 731(c) and this section; and

(iii) Without taking into account any gain or loss attributable to a distributed security to which paragraph (d)(1) of this section applies.

(c) *Marketable securities*—(1) *In general.* For purposes of section 731(c) and this section, the term *marketable securities* is defined in section 731(c)(2).

(2) *Actively traded.* For purposes of section 731(c) and this section, a financial instrument is actively traded (and thus is a marketable security) if it is of a type that is, as of the date of distribution, actively traded within the meaning of section 1092(d)(1). Thus, for example, if *XYZ* common stock is listed on a national securities exchange, particular shares of *XYZ* common stock that are distributed by a partnership are marketable securities even if those particular shares cannot be resold by the distributee partner for a designated period of time.

(3) *Interests in an entity*—(i) *Substantially all.* For purposes of section 731(c)(2)(B)(v) and this section, substantially all of the assets of an entity consist (directly or indirectly) of marketable securities, money, or both only if 90 percent or more of the assets of the entity (by value) at the time of the distribution of an interest in the entity consist (directly or indirectly) of marketable securities, money, or both.

(ii) *Less than substantially all.* For purposes of section 731(c)(2)(B)(vi) and this section, an interest in an entity is a marketable security to the extent that the value of the interest is attributable (directly or indirectly) to marketable securities, money, or both, if less than 90 percent but 20 percent or more of the assets of the entity (by value) at the time of the distribution of an interest in the entity consist (directly or indirectly) of marketable securities, money, or both.

(4) *Value of assets.* For purposes of section 731(c) and this section, the value of the assets of an entity is determined without regard to any debt that may encumber or otherwise be allocable to those assets, other than debt that is incurred to acquire an asset with a principal purpose of avoiding or reducing the effect of section 731(c) and this section.

(d) *Exceptions*—(1) *In general.* Except as otherwise provided in paragraph (d)(2) of this section, section 731(c) and this section do not apply to the distribution of a marketable security if—

(i) The security was contributed to the partnership by the distributee partner;

(ii) The security was acquired by the partnership in a nonrecognition transaction, and the following conditions are satisfied—

(A) The value of any marketable securities and money exchanged by the partnership in the nonrecognition transaction is less than 20 percent of the value of all the assets exchanged by the partnership in the nonrecognition transaction; and

(B) The partnership distributed the security within five years of either the date the security was acquired by the partnership or, if later, the date the security became marketable; or

(iii) The security was not a marketable security on the date acquired by the partnership, and the following conditions are satisfied—

(A) The entity that issued the security had no outstanding marketable securities at the time the security was acquired by the partnership;

(B) The security was held by the partnership for at least six months before the date the security became marketable; and

(C) The partnership distributed the security within five years of the date the security became marketable.

(2) *Anti-stuffing rule.* Paragraph (d)(1) of this section does not apply to the extent that 20 percent or more of the value of the distributed security is attributable to marketable securities or money contributed (directly or indirectly) by the partnership to the entity to which the distributed security relates after the security was acquired by the partnership (other than marketable securities contributed by the partnership that were originally contributed to the partnership by the distributee partner). For purposes of this paragraph (d)(2), money contributed by the distributing partnership does not include any money deemed contributed by the partnership as a result of section 752.

(3) *Successor security.* Section 731(c) and this section apply to the distribution of a marketable security acquired by the partnership in a nonrecognition transaction in exchange for a security the distribution of which immediately prior to the exchange would have been excepted under this paragraph (d) only to the extent that section 731(c) and this section otherwise would have applied to the exchanged security.

(e) *Investment partnerships*—(1) *In general.* Section 731(c) and this section do not apply to the distribution of marketable securities by an investment partnership (as defined in section 731(c)(3)(C)(i)) to an eligible partner (as defined in section 731(c)(3)(C)(iii)).

(2) *Eligible partner*—(i) *Contributed services.* For purposes of section 731(c)(3)(C)(iii) and this section, a partner is not treated as a partner other than an eligible partner solely because the partner contributed services to the partnership.

(ii) *Contributed partnership interests.* For purposes of determining whether a partner is an eligible partner under section 731(c)(3)(C), if the partner has contributed to the investment partnership an interest in another partnership that meets the requirements of paragraph (e)(4)(i) of this section after the contribution, the contributed interest is treated as property specified in section 731(c)(3)(C)(i).

(3) *Trade or business activities.* For purposes of section 731(c)(3)(C) and this section, a partnership is not treated as engaged in a trade or business by reason of—

(i) Any activity undertaken as an investor, trader, or dealer in any asset described in section 731(c)(3)(C)(i), including the receipt of commitment fees, break-up fees, guarantee fees, director's fees, or similar fees that are customary in and incidental to any activities of the partnership as an investor, trader, or dealer in such assets;

(ii) Reasonable and customary management services (including the receipt of reasonable and customary fees in exchange for such management services) provided to an investment partnership (within the meaning of section 731(c)(3)(C)(i)) in which the partnership holds a partnership interest; or

(iii) Reasonable and customary services provided by the partnership in assisting the formation, capitalization, expansion, or offering of interests in a corporation (or other entity) in which the partnership holds or acquires a significant equity interest (including the provision of advice or consulting services, bridge loans, guarantees of obligations, or service on a company's board of directors), provided that the anticipated receipt of compensation for the services, if any, does not represent a significant purpose for the partnership's investment in the entity and is incidental to the investment in the entity.

(4) *Partnership tiers.* For purposes of section 731(c)(3)(C)(iv) and this section, a partnership (upper-tier partnership) is not treated as engaged in a trade or business engaged in by, or as holding (instead of a partnership interest) a proportionate share of the assets of, a partnership (lower-tier partnership) in which the partnership holds a partnership interest if—

(i) The upper-tier partnership does not actively and substantially

participate in the management of the lower-tier partnership; and

(ii) The interest held by the upper-tier partnership is less than 20 percent of the total profits and capital interests in the lower-tier partnership.

(f) *Basis rules*—(1) *Partner's basis*—(i) *Partner's basis in distributed securities.* The distributee partner's basis in distributed marketable securities with respect to which gain is recognized by reason of section 731(c) and this section is the basis of the security determined under section 732, increased by the amount of such gain. Any increase in the basis of the marketable securities attributable to gain recognized by reason of section 731(c) and this section is allocated to marketable securities in proportion to their respective amounts of unrealized appreciation in the hands of the partner before such increase.

(ii) *Partner's basis in partnership interest.* The basis of the distributee partner's interest in the partnership is determined under section 733 as if no gain were recognized by the partner on the distribution by reason of section 731(c) and this section.

(2) *Basis of partnership property.* No adjustment is made to the basis of partnership property under section 734 as a result of any gain recognized by a partner, or any step-up in the basis in the distributed marketable securities in the hands of the distributee partner, by reason of section 731(c) and this section.

(g) *Coordination with other sections*—(1) *Sections 704(c)(1)(B) and 737*—(i) *In general.* If a distribution results in the application of sections 731(c) and one or both of sections 704(c)(1)(B) and 737, the effect of the distribution is determined by applying section 704(c)(1)(B) first, section 731(c) second, and finally section 737.

(ii) *Section 704(c)(1)(B).* The basis of the distributee partner's interest in the partnership for purposes of determining the amount of gain, if any, recognized by reason of section 731(c) (and for determining the basis of the marketable securities in the hands of the distributee partner) includes the increase or decrease, if any, in the partner's basis that occurs under section 704(c)(1)(B)(iii) as a result of a distribution to another partner of property contributed by the distributee partner in a distribution that is part of the same distribution as the marketable securities.

(iii) *Section 737*—(A) *Marketable securities as other property.* A distribution of marketable securities is treated as a distribution of property other than money for purposes of section 737 to the extent that the marketable securities are not treated as money under section 731(c). In addition, marketable securities contributed to the partnership are treated as property other than money in determining the contributing partner's net precontribution gain under section 737(b).

(B) *Basis increase under section 737.* The basis of the distributee partner's interest in the partnership for purposes of determining the amount of gain, if any, recognized by reason of section 731(c) (and for determining the basis of the marketable securities in the hands of the distributee partner) does not include the increase, if any, in the partner's basis that occurs under section 737(c)(1) as a result of a distribution of property to the distributee partner in a distribution that is part of the same distribution as the marketable securities.

(2) *Section 708(b)(1)(B).* If a partnership termination occurs under section 708(b)(1)(B), the successor partnership will be treated as if there had been no termination for purposes of section 731(c) and this section. Accordingly, a section 708(b)(1)(B) termination will not affect whether a partnership qualifies for any of the exceptions in paragraphs (d) and (e) of this section. In addition, a deemed distribution that may occur as a result of a section 708(b)(1)(B) termination will not be subject to section 731(c) and this section.

(h) *Anti-abuse rule.* The provisions of section 731(c) and this section must be applied in a manner consistent with the purpose of section 731(c) and the substance of the transaction. Accordingly, if a principal purpose of a transaction is to achieve a tax result that is inconsistent with the purpose of section 731(c) and this section, the Commissioner can recast the transaction for Federal tax purposes as appropriate to achieve tax results that are consistent with the purpose of section 731(c) and this section. Whether a tax result is inconsistent with the purpose of section 731(c) and this section must be determined based on all the facts and circumstances. For example, under the provisions of this paragraph (h)—

(1) A change in partnership allocations or distribution rights with respect to marketable securities may be treated as a distribution of the marketable securities subject to section 731(c) if the change in allocations or distribution rights is, in substance, a distribution of the securities;

(2) A distribution of substantially all of the assets of the partnership other than marketable securities and money to some partners may also be treated as a distribution of marketable securities to the remaining partners if the distribution of the other property and the withdrawal of the other partners is, in substance, equivalent to a distribution of the securities to the remaining partners; and

(3) The distribution of multiple properties to one or more partners at different times may also be treated as part of a single distribution if the distributions are part of a single plan of distribution.

(i) [Reserved]

(j) *Examples.* The following examples illustrate the rules of this section. Unless otherwise specified, all securities held by a partnership are marketable securities within the meaning of section 731(c); the partnership holds no marketable securities other than the securities described in the example; all distributions by the partnership are subject to section 731(a) and are not subject to sections 704(c)(1)(B), 707(a)(2)(B), 751(b), or 737; and no securities are eligible for an exception to section 731(c). The examples are as follows:

Example 1. Recognition of gain. (i) *A* and *B* form partnership *AB* as equal partners. *A* contributes property with a fair market value of $1,000 and an adjusted tax basis of $250. *B* contributes $1,000 cash. *AB* subsequently purchases Security *X* for $500 and immediately distributes the security to *A* in a current distribution. The basis in *A*'s interest in the partnership at the time of distribution is $250.

(ii) The distribution of Security *X* is treated as a distribution of money in an amount equal to the fair market value of Security *X* on the date of distribution ($500). (The amount of the distribution that is treated as money is not reduced under section 731(c)(3)(B) and paragraph (b) of this section because, if Security *X* had been sold immediately before the distribution, there would have been no gain recognized by *AB* and *A*'s distributive share of the gain would therefore have been zero.) As a result, *A* recognizes $250 of gain under section 731(a)(1) on the distribution ($500 distribution of money less $250 adjusted tax basis in *A*'s partnership interest).

Example 2. Reduction in amount treated as money—in general. (i) *A* and *B* form partnership *AB* as equal partners. *AB* subsequently distributes Security *X* to *A* in a current distribution. Immediately before the distribution, *AB* held securities with the following fair market values, adjusted tax bases, and unrecognized gain or loss:

	Value	Basis	Gain (Loss)
Security X	100	70	30
Security Y	100	80	20
Security Z	100	110	(10)

(ii) If *AB* had sold the securities for fair market value immediately before the distribution to *A*, the partnership would have

recognized $40 of net gain ($30 gain on Security *X* plus $20 gain on Security *Y* minus $10 loss on Security *Z*). *A*'s distributive share of this gain would have been $20 (one-half of $40 net gain). If *AB* had sold the remaining securities immediately after the distribution of Security *X* to *A*, the partnership would have $10 of net gain ($20 of gain on Security *Y* minus $10 loss on Security *Z*). *A*'s distributive share of this gain would have been $5 (one-half of $10 net gain). As a result, the distribution resulted in a decrease of $15 in *A*'s distributive share of the net gain in *AB*'s securities ($20 net gain before distribution minus $5 net gain after distribution).

(iii) Under paragraph (b) of this section, the amount of the distribution of Security *X* that is treated as a distribution of money is reduced by $15. The distribution of Security *X* is therefore treated as a distribution of $85 of money to *A* ($100 fair market value of Security *X* minus $15 reduction).

Example 3. Reduction in amount treated as money—carried interest. (i) *A* and *B* form partnership *AB*. *A* contributes $1,000 and provides substantial services to the partnership in exchange for a 60 percent interest in partnership profits. *B* contributes $1,000 in exchange for a 40 percent interest in partnership profits. *AB* subsequently distributes Security *X* to *A* in a current distribution. Immediately before the distribution, *AB* held securities with the following fair market values, adjusted tax bases, and unrecognized gain:

	Value	Basis	Gain
Security *X*	100	80	20
Security *Y*	100	90	10

(ii) If *AB* had sold the securities for fair market value immediately before the distribution to *A*, the partnership would have recognized $30 of net gain ($20 gain on Security *X* plus $10 gain on Security *Y*). *A*'s distributive share of this gain would have been $18 (60 percent of $30 net gain). If *AB* had sold the remaining securities immediately after the distribution of Security *X* to *A*, the partnership would have $10 of net gain ($10 gain on Security *Y*). *A*'s distributive share of this gain would have been $6 (60 percent of $10 net gain). As a result, the distribution resulted in a decrease of $12 in *A*'s distributive share of the net gain in *AB*'s securities ($18 net gain before distribution minus $6 net gain after distribution).

(iii) Under paragraph (b) of this section, the amount of the distribution of Security *X* that is treated as a distribution of money is reduced by $12. The distribution of Security *X* is therefore treated as a distribution of $88 of money to *A* ($100 fair market value of Security *X* minus $12 reduction).

Example 4. Reduction in amount treated as money—change in partnership allocations. (i) *A* is admitted to partnership *ABC* as a partner with a 1 percent interest in partnership profits. At the time of *A*'s admission, *ABC* held no securities. *ABC* subsequently acquires Security *X*. *A*'s interest in partnership profits is subsequently increased to 2 percent for securities acquired after the increase. *A* retains a 1 percent interest in all securities acquired before the increase. *ABC* then acquires Securities *Y* and *Z* and later distributes Security *X* to *A* in a current distribution. Immediately before the distribution, the securities held by *ABC* had the following fair market values, adjusted tax bases, and unrecognized gain or loss:

	Value	Basis	Gain (Loss)
Security *X*	1,000	500	500
Security *Y*	1,000	800	200
Security *Z*	11,000	1,100	(100)

(ii) If *ABC* had sold the securities for fair market value immediately before the distribution to *A*, the partnership would have recognized $600 of net gain ($500 gain on Security *X* plus $200 gain on Security *Y* minus $100 loss on Security *Z*). *A*'s distributive share of this gain would have been $7 (1 percent of $500 gain on Security *X* plus 2 percent of $200 gain on Security *Y* minus 2 percent of $100 loss on Security *Z*).

(iii) If *ABC* had sold the remaining securities immediately after the distribution of Security *X* to *A*, the partnership would have $100 of net gain ($200 gain on Security *Y* minus $100 loss on Security *Z*). *A*'s distributive share of this gain would have been $2 (2 percent of $200 gain on Security *Y* minus 2 percent of $100 loss on Security *Z*). As a result, the distribution resulted in a decrease of $5 in *A*'s distributive share of the net gain in *ABC*'s securities ($7 net gain before distribution minus $2 net gain after distribution).

(iv) Under paragraph (b) of this section, the amount of the distribution of Security *X* that is treated as a distribution of money is reduced by $5. The distribution of Security *X* is therefore treated as a distribution of $995 of money to *A* ($1000 fair market value of Security *X* minus $5 reduction).

Example 5. Basis consequences—distribution of marketable security. (i) *A* and *B* form partnership *AB* as equal partners. *A* contributes nondepreciable real property with a fair market value and adjusted tax basis of $100.

(ii) *AB* subsequently distributes Security *X* with a fair market value of $120 and an adjusted tax basis of $90 to *A* in a current distribution. At the time of distribution, the basis in *A*'s interest in the partnership is $100. The amount of the distribution that is treated as money is reduced under section 731(c)(3)(B) and paragraph (b)(2) of this section by $15 (one-half of $30 net gain in Security *X*). As a result, *A* recognizes $5 of gain under section 731(a) on the distribution (excess of $105 distribution of money over $100 adjusted tax basis in *A*'s partnership interest).

(iii) *A*'s adjusted tax basis in Security *X* is $95 ($90 adjusted basis of Security *X* determined under section 732(a)(1) plus $5 of gain recognized by *A* by reason of section 731(c)). The basis in *A*'s interest in the partnership is $10 as determined under section 733 ($100 pre-distribution basis minus $90 basis allocated to Security *X* under section 732).

Example 6. Basis consequences—distribution of marketable security and other property. (i) *A* and *B* form partnership *AB* as equal partners. *A* contributes nondepreciable real property, with a fair market value of $100 and an adjusted tax basis of $10.

(ii) *AB* subsequently distributes Security *X* with a fair market value and adjusted tax basis of $40 to *A* in a current distribution and, as part of the same distribution, *AB* distributes Property *Z* to *A* with an adjusted tax basis and fair market value of $40. At the time of distribution, the basis in *A*'s interest in the partnership is $10. *A* recognizes $30 of gain under section 731(a) on the distribution (excess of $40 distribution of money over $10 adjusted tax basis in *A*'s partnership interest).

(iii) *A*'s adjusted tax basis in Security *X* is $35 ($5 adjusted basis determined under section 732(a)(2) plus $30 of gain recognized by *A* by reason of section 731(c)). *A*'s basis in Property *Z* is $5, as determined under section 732(a)(2). The basis in *A*'s interest in the partnership is $0 as determined under section 733 ($10 pre-distribution basis minus $10 basis allocated between Security *X* and Property *Z* under section 732).

(iv) *AB*'s adjusted tax basis in the remaining partnership assets is unchanged unless the partnership has a section 754 election in effect. If *AB* made such an election, the aggregate basis of *AB*'s assets would be increased by $70 (the difference between the $80 combined basis of Security *X* and Property *Z* in the hands of the partnership before the distribution and the $10 combined basis of the distributed property in the hands of *A* under section 732 after the distribution). Under section 731(c)(5), no adjustment is made to partnership property under section 734 as a result of any gain recognized by *A* by reason of section 731(c) or as a result of any step-up in basis in the distributed marketable securities in the hands of *A* by reason of section 731(c).

Example 7. Coordination with section 737. (i) *A* and *B* form partnership *AB*. *A* contributes Property *A*, nondepreciable real property with a fair market value of $200 and an adjusted basis of $100 in exchange for a 25 percent interest in partnership capital and profits. *AB* owns marketable Security *X*.

(ii) Within five years of the contribution of Property *A*, *AB* subsequently distributes Security *X*, with a fair market value of $120 and an adjusted tax basis of $100, to *A* in a current distribution that is subject to section 737. As part of the same distribution, *AB* distributes Property *Y* to *A* with a fair market value of $20 and an adjusted tax basis of $0. At the time of distribution, there has been no change in the fair market value of Property *A* or the adjusted tax basis in *A*'s interest in the partnership.

(iii) If *AB* had sold Security *X* for fair market value immediately before the distribution to *A*, the partnership would have recognized $20 of gain. *A*'s distributive share of this gain would have been $5 (25 percent of $20 gain). Because *AB* has no other marketable securities, *A*'s distributive share of gain in partnership securities after the distribution would have been $0. As a result, the distribution resulted in a decrease of $5 in *A*'s share of the net gain in *AB*'s securities ($5 net gain before distribution minus $0 net

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gain after distribution). Under paragraph (b)(2) of this section, the amount of the distribution of Security *X* that is treated as a distribution of money is reduced by $5. The distribution of Security *X* is therefore treated as a distribution of $115 of money to *A* ($120 fair market value of Security *X* minus $5 reduction). The portion of the distribution of the marketable security that is not treated as a distribution of money ($5) is treated as other property for purposes of section 737.

(iv) *A* recognizes total gain of $40 on the distribution. *A* recognizes $15 of gain under section 731(a)(1) on the distribution of the portion of Security *X* treated as money ($115 distribution of money less $100 adjusted tax basis in *A*'s partnership interest). *A* recognizes $25 of gain under section 737 on the distribution of Property *Y* and the portion of Security *X* that is not treated as money. *A*'s section 737 gain is equal to the lesser of (i) *A*'s precontribution gain ($100) or (ii) the excess of the fair market value of property received ($20 fair market value of Property *Y* plus $5 portion of Security *X* not treated as money) over the adjusted basis in *A*'s interest in the partnership immediately before the distribution ($100) reduced (but not below zero) by the amount of money received in the distribution ($115).

(v) *A*'s adjusted tax basis in Security *X* is $115 ($100 basis of Security *X* determined under section 732(a) plus $15 of gain recognized by reason of section 731(c)). *A*'s adjusted tax basis in Property *Y* is $0 under section 732(a). The basis in *A*'s interest in the partnership is $25 ($100 basis before distribution minus $100 basis allocated to Security *X* under section 732(a) plus $25 gain recognized under section 737).

(k) *Effective date.* This section applies to distributions made on or after December 26, 1996. However, taxpayers may apply the rules of this section to distributions made after December 8, 1994, and before December 26, 1996.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved: November 27, 1996.

Donald C. Lubick,

Acting Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 96–32854 Filed 12–24–96; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF LABOR

Office of Labor-Management Standards

29 CFR Parts 402, 403, 404, 405, 406, 408, and 409

Submission of Computer-Generated Labor Organization and Auxiliary Reports

AGENCY: Office of Labor-Management Standards, Labor.

ACTION: Notice of policy.

SUMMARY: The Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), provides for the reporting and disclosure of information on the financial transactions and administrative practices of labor organizations. The statute also provides, under certain circumstances, for reporting and disclosure of information by labor organization officers and employees, employers, labor relations consultants, and surety companies. The Department of Labor's Office of Labor-Management Standards (OLMS) has begun to receive required reports in a variety of computer-generated formats. OLMS has developed standards to ensure the uniformity of computer-generated reporting forms to assist persons who make approximately 10,000 requests to examine these reports each year. This notice of policy is to inform those who file reports of the standards for computer-generated reports.

EFFECTIVE DATE: December 26, 1996.

FOR FURTHER INFORMATION CONTACT: David Geiss, Chief, Section of Reports and Disclosure, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5119, Washington, DC 20210, (202) 219–7353 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background: While enacting the reporting provisions of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), Congress expressed the belief that the labor-management process and union members, officers, and the public in general would benefit by having access to information about labor organizations, their officers and employees, employers, labor relations consultants, and surety companies. In particular, the disclosure of financial information about labor organizations was intended to help ensure their fiscal integrity. Consequently, labor organizations are required to file information reports, annual financial reports, and trusteeship reports. Labor organization officers and employees, employers, and labor relations consultants who engage in certain activities are required to file financial disclosure reports. Surety companies which issue bonds required by the LMRDA must file annual reports concerning their experience with such bonds. Section 205 of the LMRDA provides that these reports are public information.

Pursuant to section 208 of the LMRDA and 29 CFR Parts 402, 403, 404, 405, 406, 408, and 409, OLMS has prescribed and printed reporting forms to be used to submit the required reports. In an effort to reduce the paperwork and reporting burdens on those who file required reports, OLMS has begun to accept computer-generated reports in lieu of the printed OLMS forms. However, to insure the integrity of public disclosure for union members and others who examine and study the reports, computer-generated reports must meet certain standards to ensure uniformity and compliance with the Congressionally mandated reporting requirements.

Current Actions: Computer-generated reports which are submitted to OLMS will be accepted only if in overall appearance and content they are virtually indistinguishable from the printed OLMS forms and their readability is equivalent to the readability of OLMS forms (Forms LM–1, LM–2, LM–3, LM–4, LM–10, LM–15, LM–15A, LM–16, LM–20, LM–21, LM–30, and S–1). For example, a form should meet the following criteria to be accepted as substantially identical to the corresponding printed OLMS form:

* The form should be the same size (8½ by 11 inches) as the OLMS form.

* The layout of each page should be the same as the layout on the OLMS form.

* There should be no abbreviations or misspellings, and no additions or deletions of words.

* The font-size, spacing, and boxes on the form should be substantially the same as those used on the OLMS form.

Computer-generated forms which are not substantially identical to OLMS forms will not be accepted as complying with the reporting requirements of the LMRDA and will be returned to the filer.

Dated: December 19, 1996.

John Kotch,

Acting Deputy Assistant Secretary.

[FR Doc. 96–32782 Filed 12–24–96; 8:45 am]

BILLING CODE 4510–86–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4000, 4022, and 4041

RIN 1212–AA75

Finding Aids; Benefits Payable in Terminated Single-Employer Plans; Termination of Single-Employer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Correction.

SUMMARY: On July 1, 1996, the Pension Benefit Guaranty Corporation published

in the **Federal Register** (at 61 FR 34001, FR Doc. 96–16398) a final rule reorganizing, renumbering, and reinventing its regulations. This document contains corrections to 29 CFR Parts 4000, 4022, and 4041 as so published.

EFFECTIVE DATE: July 1, 1996.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or Marc L. Jordan, Attorney, Office of the General Counsel, Suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026; 202–326–4024 (202–326–4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: As published, 29 CFR Parts 4000, 4022, and 4041 contain errors that call for correction. This document corrects those errors.

List of Subjects in 29 CFR Chapter XL

Part 4000

Administrative practice and procedure, Authority delegations (Government agencies), Blind, Business and industry, Civil rights, Claims, Conflict of interests, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Freedom of information, Government employees, Handicapped, Nondiscrimination, Organization and functions (Government agencies), Penalties, Pension insurance, Pensions, Physically handicapped, Political activities (Government employees), Privacy, Production and disclosure of information, Reporting and recordkeeping requirements, Small businesses, Testimony.

Parts 4022 and 4041

Pension insurance, Pensions, Reporting and recordkeeping requirements.

Accordingly, 29 CFR Parts 4000, 4022, and 4041 are corrected as follows:

PART 4000—FINDING AIDS

1. The authority citation for Part 4000 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3).

§ 4000.1 [Corrected]

2. In § 4001.1, in the table "Subchapter B—Rules Applicable to Single-Employer and Multiemployer Plans," the next-to-last entry (beginning with "2612" in the left column) is corrected to read as follows:

§ 4000.1 Distribution table.

* * * * *

Ch. XXVI part Subpart(s)/section(s)	Ch. XL part(s)/subpart(s) Subpart(s)/section(s)
Subchapter B—Rules Applicable to Single-Employer and Multiemployer Plans	
. . . . .	
2612	4001
. . . . .	

§ 4000.2 [Corrected]

3. In § 4000.2, the table, "Subchapter A—General," is corrected to read as follows:

§ 4000.2 Derivation table.

* * * * *

Ch. XL part Subpart/section(s)	Ch. XXVI part(s) Subpart/section(s)
Subchapter A—General	
4000	[Tables].
4001	2612 (and various statutory and regulatory definitions).
4002	2601.
4003	2606.

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

4. The authority citation for Part 4022 continues to read as follows:

* * * * *

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

§ 4022.3 [Corrected]

5. In § 4022.3(a), the word "is" is corrected to read "is, on the termination date,".

PART 4041—TERMINATION OF SINGLE-EMPLOYER PLANS

6. The authority citation for Part 4041 continues to read as follows:

Authority: 29 U.S.C. 1302(B)(3), 1341, 1344, 1350.

§ 4041.2 [Corrected]

7. In § 4041.2, the second and third sentences in the definition of Proposed termination date are corrected to read: "A proposed termination date becomes the 'termination date' if a plan terminates in a standard termination. A proposed termination date specified in the notice of intent to terminate or standard termination notice may not be earlier than the 60th day, nor later than the 90th day, after the issuance of the notice of intent to terminate."

Issued in Washington, D.C., this 19th day of December, 1996.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 96–32763 Filed 12–24–96; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 596

Terrorism List Governments Sanctions Regulations; Authorization for Government Stipends and Scholarships for Students

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendment.

SUMMARY: This final rule amends the Terrorism List Governments Sanctions Regulations to generally authorize payment by the Governments of Syria and Sudan of stipends and scholarships for Syrian and Sudanese nationals studying at accredited educational institutions in the United States.

EFFECTIVE DATE: December 20, 1996.

FOR FURTHER INFORMATION CONTACT: Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220; tel.: 202/622–2520.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

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Background

On August 22, 1996, the Office of Foreign Assets Control issued the Terrorism List Governments Sanctions Regulations, 31 CFR part 596 (the "Regulations"), implementing section 321 of the Antiterrorism and Effective Death Penalty Act of 1996 (Pub. L. 104-132, 110 Stat. 1214, 1254 (18 U.S.C. · 2332d)). Section 596.504 authorizes U.S. persons to engage in all financial transactions with a terrorism list government that is not otherwise subject to sanctions contained in 31 CFR chapter V, currently the Governments of Syria and Sudan, except for a transfer from a terrorism list government constituting a donation to a U.S. person, or a payment that a U.S. person knows or has reason to know poses the risk of furthering terrorist acts in the United States. This final rule adds § 596.505 to the Regulations, generally authorizing donations from the Governments of Syria and Sudan in the form of stipends and scholarships for their respective nationals enrolled as students in accredited educational institutions in the United States. Representations made by an accredited educational institution concerning the status of a student may be relied upon in determining the applicability of this general license.

The general license contained in § 596.505 was originally issued by the Office of Foreign Assets Control on October 24, 1996, as General License No. 1. General License No. 1 may continue to be relied upon for transactions within its scope occurring between October 24, 1996, and the effective date of this final rule.

Since the Regulations involve a foreign affairs function, Executive Order 12886 and the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory FlexibilityAct (5 U.S.C. 601-612) does not apply.

No collection of information is contained in this final rule.

List of Subjects in 31 CFR Part 596

Administrative practice and procedure, Banking and finance, Cuba, Fines and penalties, Iran, Iraq, Libya, North Korea, Reporting and recordkeeping requirements, Syria, Sudan, Terrorism, Transfer of assets.

For the reasons set forth in the preamble, 31 CFR part 596 is amended as follows:

PART 596—TERRORISM LIST GOVERNMENTS SANCTIONS REGULATIONS

1. The authority citation for part 596 continues to read as follows:

Authority: Pub. L. 104–132, 110 Stat. 1214, 1254 (18 U.S.C. 2332d).

Subpart E——Licenses, Authorizations and Statements of Licensing Policy

2. Section 596.505 is added to subpart E to read as follows:

§ 596.505 Certain transactions related to stipends and scholarships authorized.

(a) United States persons are authorized to engage in all financial transactions with respect to stipends and scholarships covering tuition and related educational, living and travel expenses provided by the Government of Syria to Syrian nationals or the Government of Sudan to Sudanese nationals who are enrolled as students in an accredited educational institution in the United States. Representations made by an accredited educational institution concerning the status of a student maybe relied upon in determining the applicability of this section.

(b) Nothing in this section authorizes a transaction prohibited by § 596.504(a)(2).

Dated: November 27, 1996.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: December 3, 1996.

James E. Johnson,

Assistant Secretary (Enforcement).

[FR Doc. 96–32858 Filed 12–20–96; 2:47 pm]

BILLING CODE 4810–25–F

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 269

Inflation Adjustment of Civil Monetary Penalties

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Final rule.

SUMMARY: This final rule adjusts the amount of each statutory civil penalty subject to Department of Defense jurisdiction in accordance with the requirements of the Federal Civil Penalties Inflation Adjustment Act of 1990 as amended by the Debt Collection Improvement Act of 1996.

EFFECTIVE DATE: January 27, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Summers, Directorate for Accounting Policy, Office of the Deputy Chief Financial Officer, Office of the Under Secretary of Defense (Comptroller), 1100 Defense Pentagon, Room 3A882, Washington, DC 20301–1100, (703) 697–0586 (e-mail address: summerst@ousdc.osd.mil).

SUPPLEMENTARY INFORMATION: The Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIAA), Public Law 101–410, 104 Stat. 890, 28 U.S.C. 2461, as amended by the Debt Collection Improvement Act of 1996 (DCIA), Public Law 104–134, April 26, 1996, requires the inflation adjustment of Civil Monetary Penalties (CMP) to ensure that they continue to maintain their deterrent value. The DCIA requires that not later than 180 days after its enactment, and at least once every 4 years thereafter, the head of each agency shall, by regulation published in the **Federal Register**, adjust each CMP within its jurisdiction by the inflation adjustment described in the FCPIAA. The inflation adjustment under the DCIA is to be determined by increasing the maximum CMP by the cost-of-living adjustment, rounding to amounts set forth in section 5(a) of the FCPIAA. The cost-of-living adjustment is the percentage (if any) for each CMP by which the Consumer Price Index (CPI) for the month of June of the calendar year preceding the adjustment, exceeds the CPI for the month of June of the calendar year in which the amount of such CMP was last set or adjusted pursuant to law. The first adjustment to a CMP may not exceed 10 percent of such penalty.

Any increased penalties shall apply only to violations which occur after the date on which the increase takes effect.

A typical example of an inflation adjustment of a CMP is as follows:

Title 10 U.S.C., section 1094(c)(1) imposes a maximum penalty of $5,000 to a person who provides health care independently as a health-care professional where that person does not have a current license to provide such care. The term "health care professional" means physician, dentist, clinical psychologist or nurse and any other person providing direct patient care as may be designated by the

Secretary of Defense in regulations. The penalty was set in 1985. The CPI for June 1985 and 322.3. The CPI for June 1995 is 456.7. The inflation factor, therefore, is 456.7/322.3 or 1.42. The maximum penalty amount after increase and statutory rounding would be $7,000 (1.42×5,000). The new maximum penalty amount after applying the 10 percent limit on an initial increase is $5,500.

A similar calculation was done with respect to each CMP subject to the jurisdiction of the Department of Defense. In compliance with the DCIA, the Department of Defense hereby is amending its religions by creating this new part.

This final rule has been issued without prior public notice or opportunity for public comment. The Administrative Procedure Act (5 U.S.C. 553(b)(B)) does not require that process "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." In this instance, the Department of Defense finds for good cause, that solicitation of public comment on this final rule is unnecessary and impractical. The Congress has required that the agency issue the amendments contained the rule, and provided no discretion to the agency regarding the substance of the amendments. All that is required of the Department of Defense for determination of the amount of the inflation adjustment are ministerial computations.

It has been determined that 32 CFR part 269 is not a significant rule as defined under section 3(f)(1) through 3(f)(4) of Executive order 12866. The rule does not:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandate, the President's priorities, or the principles set forth in Executive Order 12866.

The Department of Defense certifies that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule implements statutory authority intended to protect the Department's programs from abusive practices, but will have no adverse or disproportionate economic impact on small businesses.

The Department of Defense certifies that this rule does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 32 CFR Part 269

Administrative practice and procedure, penalties.

Accordingly, Title 32, Chapter I, subchapter M of the Code of Federal Regulations, is amended to add part 269 to read as follows:

PART 269—CIVIL MONETARY PENALTY INFLATION ADJUSTMENT

Sec.

269.1 Scope and purpose.
269.2 Definitions.
269.3 Civil monetary penalty inflation adjustment.
269.4 Cost of living adjustments of civil monetary penalties.
269.5 Application of increase to violations.

Authority: 28 U.S.C. 2461.

§ 269.1 Scope and purpose.

The purpose of this part is to establish a mechanism for the regular adjustment for inflation of civil monetary penalties and to adjust such penalties in conformity with the Federal Civil Penalties Inflation Adjustment Act of 1990, 46 U.S.C. 2461, as amended by the Debt Collection Improvement Act of 1996, Public Law 104–134, April 26, 1996, in order to maintain the deterrent effect of civil monetary penalties and to promote compliance with the law.

§ 269.2 Definitions.

(a) *Department.* The Department of Defense.

(b) *Civil monetary penalty.* Any penalty, fine, or other sanction that:

(1)(i) Is for a specific monetary amount as provided by Federal law; or

(ii) Has a maximum amount provided by Federal law;

(2) Is assessed or enforced by the Department pursuant to Federal law; and

(3) Is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal Courts.

(c) *Consumer Price Index.* The index for all urban consumers published by the Department of Labor.

§ 269.3 Civil monetary penalty inflation adjustment.

The Department shall, not later than 180 days after the enactment of the Debt Collection Improvement Act on April 23, 1996, and at least once every 4 years thereafter—

(a) By regulation adjustment each civil monetary penalty provided by law within the jurisdiction of the Department of Defense by the inflation adjustment described in § 269.4; and

(b) Publish each such update in the **Federal Register.**

§ 269.4 Cost of living adjustments of civil monetary penalties.

(a) The inflation adjustment under § 269.3 shall be determined by increasing the maximum civil monetary penalty for each civil monetary penalty by the cost-of-living adjustment. Any increase determined under this paragraph shall be rounded to the nearest:

(1) Multiple of $10 in the case of penalties less than or equal to $100;

(2) Multiple of $100 in the case of penalties greater than $100 but less than or equal to $1,000;

(3) Multiple of $1,000 in the case of penalties greater than $1,000 but less than or equal to $10,000;

(4) Multiple of $5,000 in the case of penalties greater than $10,000 but less than or equal to $100,000;

(5) Multiple of $10,000 in the case of penalties greater than $100,000 but less than or equal to $200,000; and

(6) Multiple of $25,000 in the case of penalties greater than $200,000.

(b) For purposes of paragraph (a) of this section, the term "cost-of-living adjustment" means the percentage (if any) for each civil monetary penalty by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment, exceeds the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.

(c) *Limitaiton on initial adjustment.* The first adjustment of civil monetary penalty pursuant to § 269.3 may not exceed 10 percent of such penalty.

(d) *Inflation adjustment.* Maximum civil monetary penalties within the jurisdiction of the Department of Defense are adjusted for inflation as follows:

United States Code citation	Civil monetary penalty description	Maximum penalty amount as of 10/23/96	New adjusted maximum penalty amount
10 U.S.C. 1094(c)(1)	Unlawful Provision of Health Care	$5,000	$5,500
10 U.S.C. 1102(k)	Wrongful Disclosure—Medical Records:		
	First Offense	3,000	3,300
	Subsequent Offense	20,000	22,000
31 U.S.C. 1352	Use of Appropriated Funds to Influence Contract:		
	Minimum	10,000	11,000
	Maximum	100,000	110,000
31 U.S.C. 3721(i)	Personal Property Loss Claims from Government Personnel	1,000	1,100
31 U.S.C. 3802(a)(1)	Program Fraud Civil Remedies Act/Violation Involving False Claim	5,000	5,500
31 U.S.C. 3802(a)(2)	Program Fraud Civil Remedies Act/Violation Involving False Statement	5,000	5,500
33 U.S.C. 1319(g)(2)(A)	§404 Permit Condition Violation, Class I (per violation amount)	10,000	11,000
33 U.S.C. 1319(g)(2)(A)	§404 Permit Condition Violation, Class I (maximum amount)	25,000	27,500
33 U.S.C. 1319(g)(2)(B)	§404 Permit Condition Violation, Class II (per day amount)	10,000	11,000
33 U.S.C. 1319(g)(2)(B)	§404 Permit Condition Violation, Class II (maximum amount)	125,000	137,500

§ 269.5 Application of increase to violations.

Any increase in a civil monetary penalty under this part shall apply only to violations which occur after the date the increase takes effect.

Dated: December 18, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–32564 Filed 12–24–96; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–96–113]

RIN 2115 7E46

Special Local Regulations for Marine Events; New Year's Eve Fireworks, Delaware River, Philadelphia, PA

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements 33 CFR 100.509 for the New Year's Eve Fireworks Display, to be held at Penns Landing, in the Delaware River, Philadelphia, Pennsylvania on December 31, 1996. These special local regulations are needed to control vessel traffic in the vicinity of Penns Landing due to the confined nature of the waterway and expected vessel congestion during the event. The effect will be to restrict general navigation in the regulated area for the safety of spectators and other vessels transiting the event area.

EFFECTIVE DATES: 33 CFR 100.509 is effective from 11 p.m., December 31, 1996 until 1:30 a.m., January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer T.J. Donovan, marine events coordinator, Commander, Coast Guard Group Philadelphia, 1 Washington Ave., Philadelphia, PA 19147–4395, (215) 271–4940.

SUPPLEMENTARY INFORMATION: The Philadelphia Convention and Visitors Bureau will sponsor the Neighbors in the New Year fireworks display, to be launched from a barge anchored off Penns Landing, on the Delaware River, Philadelphia, Pennsylvania. A large number of spectator vessels are expected to be in the area to watch the fireworks. Therefore, to ensure the safety of spectators and transiting vessels, 33 CFR 100.509 will be in effect for the duration of the event. Under provisions of 33 CFR 100.509, a vessel may not enter the area between Pier 30 and the Benjamin Franklin Bridge unless it is registered as a participant with the event sponsor or it receives permission from the Coast Guard patrol commander. These restrictions will be in effect for a limited period and should not result in significant disruption of maritime traffic.

Dated: December 5, 1996.

T.M. Cross,

Captain U.S.C.G., Commander, Fifth Coast Guard District, Acting.

[FR Doc. 96–32845 Filed 12–24–96; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 100

[CGD01–96–139]

RIN 2115–AE46

Special Local Regulation: Fireworks Displays Within the First Coast Guard District

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This document provides notice of the dates and times of the special local regulations contained in 33 CFR 100.114, "Fireworks Displays within the First Coast Guard District." All vessels will be restricted from entering the area of navigable water within a 500 yard radius of the fireworks launch platform for each event listed in the table below. Implementation of these regulations is necessary to control vessel traffic within the regulated area to ensure the safety of spectators.

EFFECTIVE DATE: The regulations in 33 CFR 100.114 are effective from one hour before the January 1, 1997 scheduled start of the event until thirty minutes after the last firework is exploded for each event listed in the table below. The events are listed alphabetically with their corresponding number listed in the special local regulation, 33 CFR 100.114.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander James B. Donovan, Office of Search and Rescue, First Coast Guard District, (617) 223–8278.

DISCUSSION OF NOTICE: This notice implements the special local regulations in 33 CFR 100.114 (61 FR 32329; June 24, 1996). All vessels are prohibited from entering a 500 yard radius of navigable water surrounding the launch platform used in each fireworks display listed below.

Table 1—Fireworks Displays

22. First Night Fireworks
Date: January 1, 1997
Time: 12:00 a.m. to 12:13 a.m.
Location: Vicinity of New England Aquarium, Boston Harbor, MA
Lat: 42°21′38″ N Long: 071°02′48″ W (NAD 1983)

23. First Night Mystic
Date: January 1, 1997
Time: 12:00 a.m. to 12:15 a.m.

Location: Mystic River, CT
Lat: 41°22′30″ N Long: 072°00′00″W
(NAD 1983)

Dated: November 27, 1996.

J.L. Linnon,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 96–32840 Filed 12–24–96; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 117

[CGD07–96–064]

RIN 2115–AE 47

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Florida

AGENCY: Coast Guard, DOT.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is changing the regulations governing the operation of the J.D. Butler (Hillsboro Boulevard/SR 810) drawbridge, mile 1050.0 at Deerfield Beach, by limiting the number of openings during certain periods. This change is being made because of complaints of delays to vehicular traffic during the heavy tourist season period. This action is necessary to accommodate the needs of vehicular traffic flow and provide for the reasonable needs of navigation.

DATES: This rule is effective December 26, 1996. Comments must be received on or before February 24, 1997.

ADDRESSES: Comments may be mailed to the Commander(oan), Seventh Coast Guard District, Bridge Section, Brickell Plaza Federal Building, 909 S.e. First Avenue, Miami, Florida 33131–3050, or may be delivered to room 406 at the same address between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (305) 536–5117.

FOR FURTHER INFORMATION CONTACT: Mr. Brodie Rich, Project Manager, Seventh Coast Guard District, Bridge Section at (305) 536–5117.

SUPPLEMENTARY INFORMATION: This rule is being published as an interim rule and is being made effective on the date of publication. This rule is being promulgated without an NPRM because this proposed regulation change is needed immediately due to the large increase in seasonal highway traffic on Hillsboro Boulevard and the greater number of bridge openings being caused by increased vessel traffic along this reach of the Atlantic Intracoastal Waterway. This interim rule was tested with request for comments (61 FR 1524, January 22, 1996) from December 1, 1995 through February 28, 1996. The change in opening schedules helped to relieve seasonal traffic congestion without unreasonably impacting navigation. The Coast Guard did not receive any objections to the temporary deviation during the test period. The interim rule has not changed from the previously tested temporary deviation.

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD07–96–064) and the specific section of this rule to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for coping and electronic filing. Persons wanting acknowledgement of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this rule or the assessment in view of the comments received.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the District Commander at the address under **ADDRESSES.** The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentation will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Coast Guard is changing the regulations governing the operation of the J.D. Butler (Hillsboro Boulevard/SR 810) drawbridge, mile 1050.0 at Deerfield Beach, by limiting the number of openings during certain periods. This change is being made because of complaints of delays to vehicular traffic during the heavy tourist season period. This change is being made because of complaints of delays to vehicular traffic during the heavy tourist season period. This four lane roadway which intersects with highway A–1–A, a two-lane roadway immediately east of the drawbridge, becomes extremely congested as vehicles enter and leave the popular beach area. The weekend bridge openings exacerbate this congestion especially during peak periods. This action is necessary to accommodate the needs of vehicular traffic flow and provide for the reasonable needs of the vessel navigation.

On January 30, 1996, the Coast Guard issued Public Notice 8–96 soliciting comments on the test of this regulation from December 1, 1995 through February 28, 1996. No objections were received. This interim rule is unchanged from the temporary deviation with comments published on January 22, 1996.

The interim rule reduces the number of draw openings by changing the existing 20 minute schedule to hour and half-hour openings from 7 a.m. to 6 p.m. on Friday through Sunday and federal holidays. From Monday through Thursday, from 7 a.m. to 6 p.m., the draw will continue to open on the hour, 20 minutes after the hour, and 40 minutes after the hour.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of executive order 12866 and does not require an assessment of potential costs and benefits under section 6(a) (3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. We conclude this because of the infrequent operation of the draw, and public vessels of the United States, tugs with tows, and vessels in a situation where a delay would endanger life or property will continue to be passed through the draw at any time.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" may include small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their field and governmental jurisdictions with populations of less than 50,000. This rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Act. Although this rule is exempt, the Coast Guard has reviewed it for potential impacts on small entities.

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The economic impact will not affect a substantial number of small entities since tugs with tows are exempt and local excursion vessels will be able to plan their passage during the scheduled opening periods.

Therefore, the Coast Guard's position is that this rule will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

Collection of Information

This rule contains no collection-of-information requirements under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

Federalism

The Coast Guard has analyzed the rule that under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under section 2.B.2.e.(32) of Commandant Instruction M16475.1B, promulgation of operating requirements or procedures for drawbridges is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

Final Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 117 as follows:

PART 117—[AMENDED]

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.261 is amended by revising paragraph (bb) to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Mary's River to Key Largo, FL.

* * * * *

(bb) Hillsboro Boulevard (SR 810) bridge, mile 1050.0 at Deerfield Beach. The draw shall open on signal; except that, from October 1 through May 31, from 7 a.m. to 6 p.m., on Monday through Thursday, the draw need open only on the hour, 20 minutes after the hour, and 40 minutes after the hour; and from 7 a.m. to 6 p.m., on Friday through Sunday and federal holidays, the draw need open only on the hour and half-hour.

* * * * *

Dated: December 9, 1996.

J.W. Lockwood,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 96–32847 Filed 12–24–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP CHARLESTON 96–072]

RIN 2115–AA97

Safety Zone Regulations; Back River and Foster Creek, Charleston, SC

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the U.S. Border Patrol Training Academy Small Arms Range at the Charleston Naval Weapons Station. The safety zone will become effective at 12:01 a.m. Eastern Standard Time (EST) on December 1, 1996 and will terminate at 12 a.m. EST on February 1, 1997. This safety zone is needed to protect vessels and personnel from safety hazards associated with small arms fire and is an extension of a previously published rule [COTP Charleston 96–052].

EFFECTIVE DATE: The regulation becomes effective at 12:01 a.m. EST on December 1, 1996 and will terminate at 12 a.m. EST on February 1, 1997 unless terminated earlier by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: Lieutenant Jeffrey T. Carter, Coast Guard Marine Safety Office Charleston, at (803) 720–7701, between the hours of 7:30 a.m. and 4:00 p.m. EDT, Monday through Friday, except federal holidays.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 533, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impractical. The information concerning the need for an extension to the previously published rule was not received with sufficient time to publish proposed rules prior to the event or to provide for a delayed effective date.

Discussion of Regulation

The temporary safety zone, previously published as [COTP] Charleston 96–052], being extended for an additional two months for the U.S. Border Patrol Training Academy Small Arms Range at Charleston Naval Weapons Station. The safety zone will become effective at 12:01 a.m. Eastern Standard Time (EST) on December 1, 1996 and will terminate at 12 a.m. EST on February 1, 1997. This safety zone is needed to protect vessels and personnel from safety hazards associated with small arms fire.

The safety zone will consist of those portions of unnamed tributaries of the Back River and Foster Creek that are generally described as lying south of the main shoreline and extending southward to the northern shoreline of Big Island (U.S. Naval Reservation). Specifically, the area beginning at a point on the main shoreline, which is the northern shore of an unnamed tributary of Back river at position 32–59.19N, 079–56.52W, southwesterly to a point on or near the northern shoreline of Big Island at position 32–59.11N, 079–56;.59W; thence northwesterly to a point on the main shoreline, which is the northern shore of an unnamed tributary of Foster Creek, at position 32–59.16N, 079–57.11W; thence easterly along the main shoreline, which is the northern shore of the unnamed tributaries of Foster Creek and Back River, back to the point beginning at position 32–59.19N, 079–56.52W. All coordinates referenced use datum; NAD 1983. The Captain of the Port has restricted vessel operations in this safety zone. No persons, vehicles or vessels will be allowed to enter or operate within this zone, except as may be authorized by the Captain of the Port, Charleston, South Carolina. This regulation is issued pursuant to 33 U.S.C. 1231, as set out in the authority citation of Part 165.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of

Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Maritime traffic will not be significantly impacted because of the small number of vessels expected to need this safety zone, and the limited area affected by the zone.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. For reasons set forth in the above Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) for the reason stated above that this proposal, if adopted, would not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.).*

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposed rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B (as revised by 59 FR 38654, July 29, 1994), this rule is categorically excluded from further environmental documentation. Pursuant to COMDTINST M16475.1B, paragraph (34)(g), an environmental determination has been made that this rule will not significantly affect the environment. A categorical exclusion determination is on file in the rulemaking docket and is available for inspection or copying at the address shown above in the paragraph entitled "For Further Information Contact".

List of Subject in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Safety measures, Waterways.

Regulation

In consideration of the foregoing, subpart C of part 165 of title 33, Code of Federal Regulations, the Coast Guard amends as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A new section 165.T96–072 is added to read as follows:

§ 165.T96–072 Safety Zone; Back River and Foster Creek, Charleston, SC.

(a) *Regulated area.* Naval Weapons Station/U.S. Border Patrol Training Academy Small Arms Range. The following area is a safety zone: those portions of unnamed tributaries of the Back River and Foster Creek lying south of the main shoreline and extending southward to the northern shoreline of Big Island (U.S. Naval Reservation) beginning at a point on the main shoreline at position 32–59.19N, 079–56.52W; then to 32–59.11N, 079–56.59W; then to 32–59.16N, 079–57.11W; then back to the point of beginning. All coordinates referenced use datum: NAD 1983.

(b) *Effective dates.* This regulation is effective at 12:01 a.m. Eastern Standard Time (EST) on December 1, 1996 and will terminate at 12 a.m. EST on February 1, 1997 unless sooner terminated by the Captain of the Port, Charleston, SC.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of the this part, entry into the zone is subject to the following requirements:

(1) This safety zone is closed to all persons, vehicles and vessels, except as may be permitted by the Captain of the Port.

(2) Persons desiring to enter or operate vehicles or vessels within the safety zone shall contact the Captain of the Port to obtain permission to do so. Persons given permission to enter or operate in the safety zone shall comply with all directions given them by the Captain of the Port.

(3) The Captain of the Port may be contacted via the Coast Guard Group Charleston operations center at (803) 724–7619 or VHF–FM channel 16.

Dated: November 27, 1996.

M.J. Pontiff,

Commander, U.S. Coast Guard, Captain of the Port, Charleston, South Carolina.

[FR Doc. 96–32835 Filed 12–24–96; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AI43

Adjudication Regulations; Miscellaneous

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends adjudication regulations by removing obsolete sections, updating authority citations, and making other nonsubstantive changes.

EFFECTIVE DATE: December 26, 1996.

FOR FURTHER INFORMATION CONTACT: John Bisset, Jr., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, telephone (202) 273–7230.

SUPPLEMENTARY INFORMATION: 38 CFR 3.107 contains requirements for processing benefit awards where claims have not been filed by or on behalf of all dependents who may be entitled to monetary benefits. The heading of § 3.107, "Awards where all dependents do not apply", does not accurately reflect its content and we are revising it to read "Awards where not all dependents apply".

38 CFR 3.315(c)(1) (i) and (ii) require basic eligibility determinations under certain circumstances when veterans apply for education benefits under 38 U.S.C. Chapter 34 and Chapter 32, respectively. Since 38 U.S.C. Chapter 34 expired on December 31, 1989, § 3.315(c)(1)(i) is obsolete and we have removed it. The last date that a veteran seeking benefits under 38 U.S.C. Chapter 32 could have entered active duty and not have the two-year service requirement found in 38 U.S.C. 5303A apply was October 16, 1981. If such a veteran also did not meet the 181-day service requirement, that veteran would have been released from active duty before April 16, 1982, and, if found eligible for benefits under 38 U.S.C. Chapter 32, would have had the period of eligibility expire ten years from the date of release from active duty, or no later than April 16, 1992. If such a veteran made a current application for chapter 32 educational benefits, there would be no need for rating board referral in order to adjudicate that claim. Section 3.315(c)(1)(ii) is therefore obsolete and we have removed it.

The references in § 3.315(c)(4) to Post-Korean and Vietnam era service were needed to administer § 3.315(c)(1)(i). Since § 3.315(c)(1)(i) has been removed,

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there is no longer any need in § 3.315(c)(4) to refer to service between January 31, 1955, and August 5, 1964, and during the Vietnam era. We have revised § 3.315(c)(4) accordingly. As there is no longer any need to refer to 38 U.S.C. 3452(a) in the authority citation following § 3.315(c), we have removed that reference. Also, that authority citation contains an incorrect reference to "10 U.S.C. 2133(b)". The correct reference is "10 U.S.C. 16133(b)", and we have revised the reference accordingly. Sections 3.315(c)(3)(i) and 3.1000(g) contain incorrect references to "10 U.S.C. Chapter 106". The correct reference is "10 U.S.C. Chapter 1606", and we have revised the references accordingly.

38 CFR 3.400(d) is being deleted because it merely restates a statute and its provisions have become obsolete.

When the Social Security Administration (SSA) has notified the Department of Veterans Affairs (VA) that payments to any individual have been authorized pursuant to section 217(b)(2) of the Social Security Act (42 U.S.C. 417(b)(2)), 38 CFR 3.709 requires VA to notify SSA of any determination that death pension, compensation, or dependency and indemnity compensation is payable to any dependent of the veteran. Section 5117 of Pub. L. 101–508 revised 42 U.S.C. 417(b)(2) so that it applied only to individuals applying for SSA benefits before the end of the 18-month period after the month in which Pub. L. 101–508 was enacted. Since that 18-month period expired on June 1, 1992, 38 CFR 3.709 is obsolete and we have removed it.

38 CFR 3.712(a) concerns the election of improved pension by Spanish-American War veterans. However, there are no Spanish-American War veterans currently receiving monetary benefits from VA. Consequently, § 3.712(a) is no longer required and is removed. Since the remainder of § 3.712 concerns surviving spouses only, we have revised the heading to read "Improved pension elections; surviving spouses of Spanish-American War veterans", and redesignated paragraphs (b)(1) and (b)(2) as paragraphs (a) and (b), respectively.

Pub. L. 95–588 completely revised the statutory framework for VA pension benefits effective January 1, 1979. 38 CFR 3.961 states that pension claims pending on December 31, 1978, will be adjudicated under title 38 U.S.C. as in effect on December 31, 1978, and that pension claims filed after December 31, 1978, will be adjudicated under title 38 U.S.C. as in effect on January 1, 1979 or thereafter. 38 CFR 3.962 states that claims filed after December 31, 1978, will generally be adjudicated under title 38 U.S.C. as in effect on December 31, 1978, if entitlement is based on permanent and total disability that existed or death that occurred prior to January 1, 1979.

Since such claims have long since been adjudicated, §§ 3.961 and 3.962 are obsolete and we have removed them.

This final rule makes nonsubstantive changes. Accordingly, this final rule is promulgated without regard to the notice-and-comment and effective-date provisions of 5 U.S.C. 553.

Because no notice of proposed rulemaking was required in connection with the adoption of this final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601–612). Even so, the Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act. The final rule only makes nonsubstantive changes.

The Catalog of Federal Domestic Assistance program numbers are 64.104, 64.105, 64.109, and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: November 21, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 3 is amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.107, the section heading is revised to read as follows:

§ 3.107 Awards where not all dependents apply.

* * * * *

§ 3.315 [Amended]

3. In § 3.315, remove paragraphs (c)(1)(i) and (c)(1)(ii) are removed, and paragraphs (c)(1)(iii) and (c)(1)(iv) are redesignated as paragraphs (c)(1)(i) and (c)(1)(ii), respectively. Paragraph (c)(3)(i) is amended by removing "10 U.S.C. chapter 106" and adding, in its place, "10 U.S.C. Chapter 1606"; and paragraph (c)(4) is amended by removing "after January 31, 1955, and before August 5, 1964, or after May 7, 1975, and § 3.306(b) based on service rendered during the Vietnam era" and adding, in its place, "after May 7, 1975"; and the authority citation following paragraph (c)(4) is revised to read as follows:

§ 3.315 Basic eligibility determinations; dependents, loans, education.

* * * * *

(Authority: 38 U.S.C. 3011(a)(1)(A)(ii), 3012(b)(1), 3202(1)(A), 10 U.S.C. 16133(b))

§ 3.400 [Amended]

4. In § 3.400 paragraph(d) is removed.

§ 3.709 [Removed]

5. Section 3.709 is removed.

§ 3.712 [Amended]

6. In § 3.712, paragraph (a) and the heading for paragraph (b) are removed, paragraphs (b)(1) and (b)(2) are redesignated as paragraphs (a) and (b), respectively; the section heading is revised to read as follows:

§ 3.712 Improved pension elections; surviving spouses of Spanish-American War veterans.

* * * * *

§ 3.961 [Removed]

7. Section 3.961 is removed.

§ 3.962 [Removed]

8. Section 3.962 is removed.

§ 3.1000 [Amended]

9. In § 3.1000, paragraph(g) is amended by removing "10 U.S.C. chapter 106", and adding, in its place, "10 U.S.C. chapter 1606". •

[FR Doc. 96–32726 Filed 12–24–96; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 9

[FRL–5670–1]

OMB Approval Numbers Under the Paperwork Reduction Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical amendment.

SUMMARY: In compliance with the Paperwork Reduction Act, this document displays the Office of Management and Budget (OMB) control numbers issued under the Paperwork Reduction Act (PRA) for the Criteria for Classification of Solid Waste Disposal Facilities and Practices.

EFFECTIVE DATE: December 26, 1996.

FOR FURTHER INFORMATION CONTACT: Paul Cassidy of the Industrial and Extractive Waste Branch, Office of Solid Waste at (703) 308–7281.

SUPPLEMENTARY INFORMATION: EPA is today amending the table of currently approved information collection request (ICR) control numbers issued by OMB for various regulations. Today's amendment updates the table to accurately display those information requirements promulgated under the Criteria for Classification of Solid Waste Disposal Facilities and Practices which appeared in the **Federal Register** on July 1, 1996 (61 FR 34252). The affected regulations are codified at 40 CFR Part 257—Subpart B. EPA will continue to present OMB control numbers in a consolidated table format to be codified in 40 CFR part 9 of the Agency's regulations, and in each CFR volume containing EPA regulations. The table lists the section numbers with reporting and recordkeeping requirements, and the current OMB control numbers. This display of the OMB control number(s) and its(their) subsequent codification in the Code of Federal Regulations satisfies the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR 1320.

This ICR was previously subject to public notice and comment prior to OMB approval. As a result, EPA finds that there is "good cause" under section 553(b)(B) and (d)(3) of the Administrative Procedure Act (5 U.S.C. 553(b)(B) and (d)(3)) to amend this table without further notice and comment. Due to the technical nature of the table, further notice and comment would be unnecessary.

List of Subjects in 40 CFR Part 9

Environmental Protection, reporting and recordkeeping requirements.

Dated: November 25, 1996.

Elliott P. Laws,

Assistant Administrator Office of Solid Waste and Emergency Response.

For the reasons set out in the preamble 40 CFR part 9 is amended as follows:

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1321, 1326, 1330, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. In Section 9.1, the table is amended by adding the new entries under the indicated hearing to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR Citation	OMB Control No.
* * * * *	
Criteria for Classification of Solid Waste Disposal Facilities and Practices	
257.24	2050–0154
257.25	2050–0154
257.27	2050–0154
* * * * *	

[FR Doc. 96–32793 Filed 12–24–96; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 301–6

[FTR Amendment 55]

RIN 3090–AG23

Federal Travel Regulation; Repeal of Long-Distance Telephone Call Certification Requirement

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal Travel Regulation (FTR) to remove the long-distance telephone call certification requirement. This amendment will reduce agency administrative costs by easing the processing of reimbursement claims.

DATES: This final rule is effective March 22, 1997, and applies for travel (including travel incident to a change of official station) performed on or after March 22, 1997.

FOR FURTHER INFORMATION CONTACT: Robert A. Clauson, Travel and Transportation Management Policy Division (MTT), Washington, DC 20405, telephone 202–501–0299.

SUPPLEMENTARY INFORMATION: A multi-agency travel reinvention task force was organized in August 1994 under the auspices of the Joint Financial Management Improvement Program (JFMIP) to reengineer Federal travel rules and procedures. The task force developed 25 recommended travel management improvements published in a JFMIP report entitled *Improving Travel Management Governmentwide*, dated December 1995. On September 23, 1996, the President signed into law the Federal Employee Travel Reform Act of 1996 (Public Law 104–201), which included 8 legislative changes recommended by the JFMIP to improve travel and relocation.

This amendment implements section 1721 of the Act which eliminates the requirement in 31 U.S.C. 1348(b) that the agency head certify each long-distance telephone call as necessary in the interest of the Government.

The General Services Administration (GSA) has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993. This final rule is not required to be published in the **Federal Register** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply. This rule also is exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Part 301–6

Government employees, Travel, Travel allowances, Travel and transportation expenses.

For the reasons set out in the preamble, 41 CFR part 301–6 is amended as follows:

PART 301–6—COMMUNICATIONS SERVICES

1. The authority citation for part 301–6 continues to read as follows:

Authority: 5 U.S.C. 5707.

§ 301–6.4 [Amended]

2. Section 301–6.4 is amended by removing the cite "(31 U.S.C. 1348(b))" in paragraph (c), and by removing the reference "Federal Information Resources Management Regulation (FIRMR) (41 CFR 201–21.600 through 201–21.602)" and adding in its place the reference "Federal Property Management Regulations (FPMR), 41 CFR 101–35.201".

§ 301–6.5 [Reserved]

3. Section 301–6.5 is removed and reserved.

Dated: November 27, 1996.

David J. Barram,

Acting Administrator of General Services.

[FR Doc. 96–32713 Filed 12–24–96; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF DEFENSE

48 CFR Parts 249 and 252

[DFARS Case 96–D321]

Defense Federal Acquisition Regulation Supplement; Downsizing Notice

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 825 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201). Section 825 repeals the requirements for the Secretary of Defense to notify the Secretary of Labor if a modification or termination for convenience of a major defense contract or subcontract will have a substantial impact on employment.

EFFECTIVE DATE: December 26, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Richard G. Layser, PDUSD (AT&T) DP (DAR), Defense Acquisition Regulations Council, IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0131; telefax (703) 602–0350. Please cite DFARS Case 96–D321 in all correspondence related to this issue.

SUPPLEMENTARY INFORMATION:

A. Background

Section 825 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201) repeals Sections 4101 and 4201 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2391 note). This final rule removes the DFARS language that implemented Sections 4101 and 4201.

C. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comment is not required. However, comments from small entities concerning the affected DFARS subparts will be considered in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 96–D321 in correspondence.

D. Paperwork Reduction Act

This final rule removes the information collection requirement previously approved by the Office of Management and Budget (OMB) under OMB Control Number 0704–0327.

List of Subjects in 48 CFR Parts 249 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 249 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 249 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 249—TERMINATION OF CONTRACTS

249.102 [Removed]

2. Section 249.102 is removed.

249.7002 [Removed and Reserved]

3. Section 249.7002 is removed and reserved.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.249–7001 [Removed and Reserved]

4. Section 252.249–7001 is removed and reserved..

[FR Doc. 96–32667 Filed 12–24–96; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 1–281]

Organization and Delegation of Powers and Duties; Delegation to the Commandant; United States Coast Guard

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Secretary of Transportation is delegating to the Commandant, United States Coast Guard, the authority contained in 46 U.S.C. Chapter 33, pertaining to the delegation of authority to classification societies to review and approve commercial vessel plans and conduct commercial vessel inspections and examinations. In order that the Code of Federal Regulations reflect this delegation, a change is necessary.

EFFECTIVE DATE: December 26, 1996.

FOR FURTHER INFORMATION CONTACT: LCDR George P. Cummings, Marine Safety and Environmental Protection (G–MSE–1), (202) 267–2997, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593; or Ms. Gwyneth Radloff, Office of the General Council, C–50, (202) 366–9305, Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Public Law 104–324 is the Coast Guard Authorization Act of 1996, (hereafter referred to as the Act). Section 3316 of title 46, U.S. Code, was amended by the Act to allow the Secretary to delegate to the American Bureau of Shipping or another classification society the authority to approve vessel plans, conduct vessel inspections, and issue a certificate of inspection and other related documents. The Secretary of Transportation is delegating his authority under the Act to the Commandant of the Coast Guard.

This rule adds a specific delegation of authority to 49 CFR 1.46, thus amending the codification to reflect the Secretarial delegation of authority to the Commandant of the Coast Guard.

Since this amendment relates to departmental management, organization, procedure, and practice, notice and comment on it are unnecessary under 5 U.S.C. 553(b). Further, since the amendment expedites the Coast Guard's ability to meet the needs of the U.S. maritime industry, the Secretary finds good cause under 5 U.S.C. 553(d)(3) for the final rule to be effective on the date of publication in the **Federal Register**.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

PART 1—[AMENDED]

1. The authority citation for Part 1 continues to read as follows:

Authority: 49 U.S.C. 322; Pub. L. 101–552, 28 U.S.C. 2672, 31 U.S.C. 3711(a)(2).

2. Section 1.46 is amended by adding a new paragraph (ddd) to read as follows:

§ 1.46 Delegations to Commandant of the Coast Guard.

* * * * *

(ddd) Carry out the functions and exercise the authority vested in the Secretary by 46 U.S. Code Chapter 33 pertaining to the delegation of authority to classification societies to review and approve commercial vessel plans and conduct commercial vessel inspections and examinations, as enacted by the Coast Guard Authorization Act of 1996, title 46, section 3316 (classification

societies), Pub. L. 104–324, 110 Stat. 3901.

Issued at Washington, DC, this 18th day of December, 1996.

Federico Peña,

Secretary of Transportation.

[FR Doc. 96–32723 Filed 12–24–96; 8:45 am]

BILLING CODE 4910–62–P

National Highway Traffic Safety Administration

49 CFR Part 572

[Docket No. 74–14; Notice 104]

RIN 2127–AF41

Anthropomorphic Test Dummy; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends the specifications for the Hybrid III test dummy. The dummy is specified by the agency for use in compliance testing under Standard No. 208, *Occupant Crash Protection.* The amendments make minor modifications of the femurs and ankles to improve biofidelity. While there may be some minimal effect on HIC, chest, and femur test data, the improvement in data quality and reliability will more than offset these differences and make the dummy more useful in tests at more severe impact conditions of some research and vehicle development programs. This rule does not include any amendments based on a proposal to adopt a neck shield for the Hybrid III test dummy.

DATES: *Effective Date:* The amendments made in this rule are effective June 25, 1997.

Incorporation by Reference Date: The incorporation by reference of the material listed in this document is approved by the Director of the Federal Register as of June 25, 1997.

Petition Date: Any petitions for reconsideration must be received by NHTSA no later than February 10, 1997.

ADDRESSES: Any petitions for reconsideration should refer to the docket and notice number of this notice and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590:

For non-legal issues: Mr. Stanley Backaitis, Office of Crashworthiness Standards, NPS–10, telephone (202) 366–4912, facsimile (202) 366–4329, electronic mail "sbackaitis@nhtsa.dot.gov".

For legal issues: Mr. Steve Wood, Office of the Chief Counsel, NCC–20, telephone (202) 366–2992, facsimile (202) 366–3820, electronic mail "swood@nhtsa.dot.gov".

SUPPLEMENTARY INFORMATION: Standard No. 208, *Occupant Crash Protection,* currently permits the use of either the Hybrid III test dummy or the older Hybrid II dummy in compliance testing. Effective September 1, 1997, however, the Standard will specify the use of a single dummy, the Hybrid III dummy. The specifications for the Hybrid III dummy appear in subpart E of 49 CFR part 572.

The Hybrid III dummy has been widely used in recent years. In addition to increasingly using the dummy for Standard No. 208 certification purposes, many manufacturers use this advanced dummy in their research and developmental testing. In addition, NHTSA uses the Hybrid III dummy in its New Car Assessment Program (NCAP).

In petitions for rulemaking, vehicle manufacturers identified three areas in which they believe the dummy should be improved. These areas are (1) increased ankle dorsiflexion motion, (2) use of a soft foam neck shield, and (3) increased femur flexion ranges. The first two of these areas were identified by Ford in a petition submitted in March 1991. The third was identified in petitions submitted by Toyota, Honda, and Nissan between September 1993 and April 1994.

NHTSA granted each of the petitions for rulemaking and conducted extensive analysis, including a test program, of the issues raised in the petitions. Among other actions, the agency consulted with the Society of Automotive Engineers (SAE) Human Biomechanics and Simulations Committee.

Subsequently, on June 30, 1995, the agency published a Notice of Proposed Rulemaking (NPRM) proposing minor modifications of the femurs and ankles of the Hybrid III dummy (60 FR 34213). The NPRM also proposed to specify the use of a neck shield. The NPRM stated that the proposed changes would have no effect on Standard No. 208 test results, but would make the Hybrid III test dummy more useful for use in research and vehicle development programs which involve more severe impact conditions.

The agency received 17 responses to the NPRM. In general, commenters supported the proposed amendments to the femurs and ankles, but not the use of a neck shield. All comments were considered and the most significant ones are addressed below.

Femur/Hip Modifications

In the NPRM, the agency proposed modifications to the femurs at the hip joint to assure the same motion range between the right and left femurs and to prevent metal to metal contact or hard contact impacts from occurring with the pelvis bone at maximum femur flexion. In addition, the agency proposed the addition of a calibration test for hip joint-femur flexion. None of the commenters disagreed with these proposals. However, some commenters raised some issues related to them.

Advocates for Highway and Auto Safety (Advocates) supported the goal of the proposed changes, but questioned whether there would be trade-offs among the various injury measures that affected safety. Since the NPRM was published, the agency has conducted additional testing to evaluate the effects of hip joint changes on the dummy response. This evaluation showed a slight decrease (up to 10%) in passenger chest G's, and a slight increase (up to 5%) in driver chest G's. Head Injury Criteria (HIC) showed an increase of more than 10% in some tests; however, this is not of great concern because it occurred only when there was a low baseline HIC (15% to 60% of the maximum limit). Despite these minor differences, the agency believes the effects of the modifications are positive overall because they will produce more consistent and less spike-contaminated impact responses. These improvements will result from the elimination of non-uniform ranges of motions between the left and right legs, and from the prevention of metallic impacts between the femur shafts and the pelvis.

Two commenters, Ford and Chrysler, supported the proposal but also stated that load transmission from the femurs and hips through the lumbar spine is not biofidelic. Neither commenter provided details regarding how this alleged problem should be addressed. Because the dummy is constructed from different materials than the human body, it can never be completely biofidelic. This final rule addresses identified problems concerning inadequate femur flexion and possible metal-to-metal contacts. As such, the final rule increases the biofidelity of the dummy. Consideration of other areas of biofidelity should be the subject of future research.

Four commenters (Ford, General Motors (GM), Toyota, and, Transportation Research Center (TRC))

raised issues concerning femur loading level during the calibration test. NHTSA proposed a 50 ft-lbf torque maximum between 20 and 34 degrees of rotation and a 250 ft-lbf torque maximum between 44 and 52 degrees. Toyota commented that the 250 ft-lbf loading level was too high and could prematurely damage the femur bumper. GM and TRC also commented that the level was too high and recommended a level of 150 ft-lbf. Comments were also received on the range of femur rotation during the calibration test.

After reviewing these comments, the agency has decided to modify the calibration test. NHTSA agrees that the femur should be capable of flexion rotation of at least 52 degrees without the bumper. But it also agrees that, in bumper loading tests, 250 ft-lbf can compress the bumper to the extent that it could begin to fall apart. The new requirements specify that a load of 50 ft-lbf cannot be exceeded before the femur rotates 36 degrees, and that a load of 150 ft-lbf must be reached after the femur rotates 46 degrees, and before it rotates 52 degrees.

Several commenters recommended adoption of the SAE test procedure for the hip joint (SAE Engineering Aid 23—Final Draft (August 1995)). Because only limited numbers of vehicle manufacturers have experience with this procedure, NHTSA believes that it would be desirable to review it further to determine its objectivity and acceptability. The agency will review the procedure and propose it in a future rulemaking, if appropriate.

The amendments adopted in this final rule include revisions to the upper bone parts (drawings 78051–108, –109) and the addition of bolt-on urethane bumpers (drawings 78051–498–1, –2). The right and left femurs are redesigned to allow identical motion ranges in the dorsiflexion direction. The cost of replacement femurs is estimated at approximately $2,400 per dummy.

Foot/Ankle Modifications

In the NPRM, the agency proposed to modify the ankle to allow 45 degrees of dorsiflexion instead of the current 30 degrees. With one exception, commenters supported this proposal. The exception was Advocates, which expressed concern that the change could alter dummy response and allow increased injuries. Agency research shows no measurable change in dummy response during Standard No. 208 testing as a result of the increased dorsiflexion. Therefore, NHTSA is adopting the changes.

The changes to the ankle rotation to allow increased dorsiflexion necessitate relocation of the center of the ankle joint and a rearrangement of the foot. The modifications to the foot and ankle involve the relocation of the ankle ball joint and associated revisions of the foot skeletal structure, reorientation of the foot plate, and a revised casting of the foot flesh, while retaining essentially the same exterior surfaces. The modified drawings are 78051–600, –601, and –611, and 7310–1, and –2. The cost of a modified foot is $305, or $610 per dummy. The cost of a bumper and its retainer washer is $200 per foot, or $400 per dummy.

Neck Shield

Last, in response to the Ford petition, the agency proposed to specify the use of a neck shield for the Hybrid III dummy. A number of commenters questioned the need for the neck shield, stating that they had not experienced problems that necessitated its use. In addition, commenters questioned whether the design of the neck shield would adversely affect the head/neck interaction.

As indicated in the NPRM, NHTSA has no data indicating that a neck shield is necessary, but was willing to consider specifying its use to alleviate alleged problems if there were no adverse effects. No data was submitted to indicate that a neck shield cannot have the undesirable consequences some commenters suggested. Given this, the agency is not specifying a neck shield for the Hybrid III dummy at this time. NHTSA notes that the dummy specified in Part 572 is the dummy that NHTSA must use in its compliance testing. However, manufacturers are free to use another dummy or even another test when certifying their vehicles, provided they can demonstrate that they have exercised due care in certifying compliance. Therefore, a manufacturer could use the neck shield without it being specified by NHTSA. NHTSA will continue to monitor this issue and would reconsider adopting a specification if a need was demonstrated.

Effective Date

The agency proposed to make the amendments effective 30 days after publication of a final rule. TRW, Ford, GM and Nissan support the proposed effective date. Honda suggested a 90 day effective date, while Volkswagen suggested 180 days. Dummy manufacturers state that some dummy users have already begun using replacement parts for the femur/hip modifications. They also noted that users should be able to obtain any new femur within 30 days, and modified foot/ankle assemblies in less than eight weeks.

To provide maximum flexibility, NHTSA has decided to make this rule effective 180 days following the date of publication. All manufacturers said they would be able to comply with this effective date. NHTSA will begin using the modified dummy for all vehicles manufactured after this date. Manufacturers, of course, may begin using the modified components for their purposes prior to that date.

Other Comments

Commenters also raised issues concerning a lower lumbar spine load cell and the access holes in the pelvis assembly. These issues are outside the scope of the NPRM and cannot be addressed in this final rule. However, NHTSA will consider these comments in a future agency rulemaking.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." This action has been determined to be not "significant" under the Department of Transportation's regulatory policies and procedures. Replacement costs for existing dummies would be approximately $3,410. These changes are being made to allow manufacturers to use the same dummy for research purposes as they use for compliance certification purposes. There will be no impact on the ability of manufacturers to comply with NHTSA's standards.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this final rule under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. As explained above, there will not be a significant economic impact on purchasers of either dummies or vehicles as a result of this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (P.L. 96–511), there are no requirements for information collection associated with this final rule.

National Environmental Policy Act

NHTSA has also analyzed this final rule under the National Environmental

Policy Act and determined that it will not have a significant impact on the human environment.

Executive Order 12612 (Federalism)

NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have significant federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 572

Incorporation by reference, Motor vehicle safety.

In consideration of the foregoing, 49 CFR Part 572 is amended as follows:

PART 572—[AMENDED]

1. The authority citation for Part 572 of Title 49 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Subpart E—Hybrid III Test Dummy

2. Section 572.30 is amended by revising paragraph (b) to read as follows:

§ 572.30 Incorporated materials.

(a) * * *

(b) The materials incorporated by reference are available for examination in the general reference section of docket 74–14, Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW, Washington, DC 20590. Copies may be obtained from Reprographic Technologies, 9000 Virginia Manor Road, Beltsville, MD 20705, Telephone (301) 210–5600, Facsimile (301) 419–5069, Attn. Mr. Jay Wall. Drawings and specifications are also on file in the reference library of the Office of the Federal Register, 800 N. Capitol Street, NW., suite 700, Washington, DC.

3. Section 572.31 is amended by revising paragraphs (a)(1), (a)(3), and (a)(4) to read as follows, by removing paragraph (b), by redesignating paragraphs (c) through (f) as paragraphs (b) through (e) and by revising redesignated paragraph (d) to read as follows:

§ 572.31 General description.

(a) * * *

(1) The Anthropomorphic Test Dummy Parts List, dated September 9, 1996, and containing 16 pages.

* * * * *

(3) A General Motors Drawing No. 78051–218, revision S, titled "Hybrid III Anthropomorphic Test Dummy," dated May 20, 1978, the following component assemblies, and subordinate drawings:

Drawing No.	Revision
78051–61 head assembly—complete, dated May 20, 1978	(T)
78051–90 neck assembly—complete, dated May 20, 1978	(A)
78051–89 upper torso assembly—complete, dated May 20, 1978	(K)
78051–70 lower torso assembly—complete, dated August 20, 1996, except for drawing No. 78051–55, "Instrumentation Assembly—Pelvic Accelerometer," dated August 2, 1979.	(E)
86–5001–001 leg assembly—complete (LH), dated March 26, 1996	(A)
86–5001–002 leg assembly—complete (RH), dated March 26, 1996	(A)
78051–123 arm assembly—complete (LH), dated May 20, 1996	(D)
78051–124 arm assembly—complete (RH), dated May 20, 1978	(D)

(4) Disassembly, Inspection, Assembly and Limbs Adjustment Procedures for the Hybrid III dummy, dated September 1996.

* * * * *

(d) The weights, inertial properties and centers of gravity location of component assemblies shall conform to those listed in drawing 78051–338, revision S, titled "Segment Weights, Inertial Properties, Center of Gravity Location—Hybrid III," dated May 20, 1978 of drawing No. 78051–218.

* * * * *

4. Section 572.35 is amended by moving Figure 24 to the end of paragraph (c); revising paragraphs (a) through (c); and adding Figures 25 through 27 after Figure 24 at the end of the section, to read as follows:

§ 572.35 Limbs.

(a) The limbs consist of the following assemblies: leg assemblies 86–5001–001, revisinn A and –002, revision A, and arm assemblies 78051–123, revision D and –124, revision D, and shall conform to the drawings subtended therein.

(b) *Femur impact response.* (1) When each knee of the leg assemblies is impacted in accordance with paragraph (b)(2) of this section, at 6.9 ft/sec ±0.10 ft/sec by the pendulum defined in § 572.36(b), the peak knee impact force, which is a product of pendulum mass and acceleration, shall have a minimum value of not less than 1060 pounds and a maximum value of not more than 1300 pounds.

(2) *Test procedure.* (i) The test material consists of leg assemblies (86–5001–001, revision A) left and (–002, revision A) right with upper leg assemblies (78051–46) left and (78051–47) right removed. The load cell simulator (78051–319, revision A) is used to secure the knee cap assemblies (79051–16, revision B) as shown in Figure 24).

(ii) Soak the test material in a test environment at any temperature between 66 degrees F to 78 degrees F and at a relative humidity from 10% to 70% for a period of at least four hours prior to its application in a test.

(iii) Mount the test material with the leg assembly secured through the load cell simulator to a rigid surface as shown in Figure 24. No contact is permitted between the foot and any other exterior surfaces.

(iv) Place the longitudinal centerline of the test probe so that at contact with the knee it is collinear within 2 degrees with the longitudinal centerline of the femur load cell simulator.

(v) Guide the pendulum so that there is no significant lateral, vertical or rotational movement at time zero.

(vi) Impact the knee with the test probe so that the longitudinal centerline

of the test probe at the instant of impact falls within .5 degrees of a horizontal line parallel to the femur load cell simulator at time zero.

(vii) Time zero is defined as the time of contact between the test probe and the knee.

(c) *Hip joint-femur flexion.* (1) When each femur is rotated in the flexion direction in accordance with paragraph (c)(2) of this section, the femur rotation at 50 ft–lbf of torque will not be more than 36 deg. from its initial horizontal orientation, and at 150 ft–lbf of torque will not be less than 46 deg. or more than 52 deg.

(2) Test procedure. (i) The test material consists of the assembled dummy, part No. 78051–218 (revision S) except that (1) leg assemblies (86–5001–001 and 002) are separated from the dummy by removing the 3/8–16 Socket Head Cap Screw (SHCS) (78051–99) but retaining the structural assembly of the upper legs (78051–43 and –44), (2) the abdominal insert (78051–52) is removed and (3) the instrument cover plate (78051–13) in the pelvic bone is replaced by a rigid pelvic bone stabilizer insert (Figure 25a) and firmly secured.

(ii) Seat the dummy on a rigid seat fixture (Figure 25) and firmly secure it to the seat back by bolting the stabilizer insert and the rigid support device (Figure 25b) to the seat back of the test fixture (Figures 26 and 27) while maintaining the pelvis (78051–58) "B" plane horizontal.

(iii) Insert a lever arm into the femur shaft opening of the upper leg structure assembly (78051–43/44) and firmly secure it using the 3/8–16 socket head cap screws.

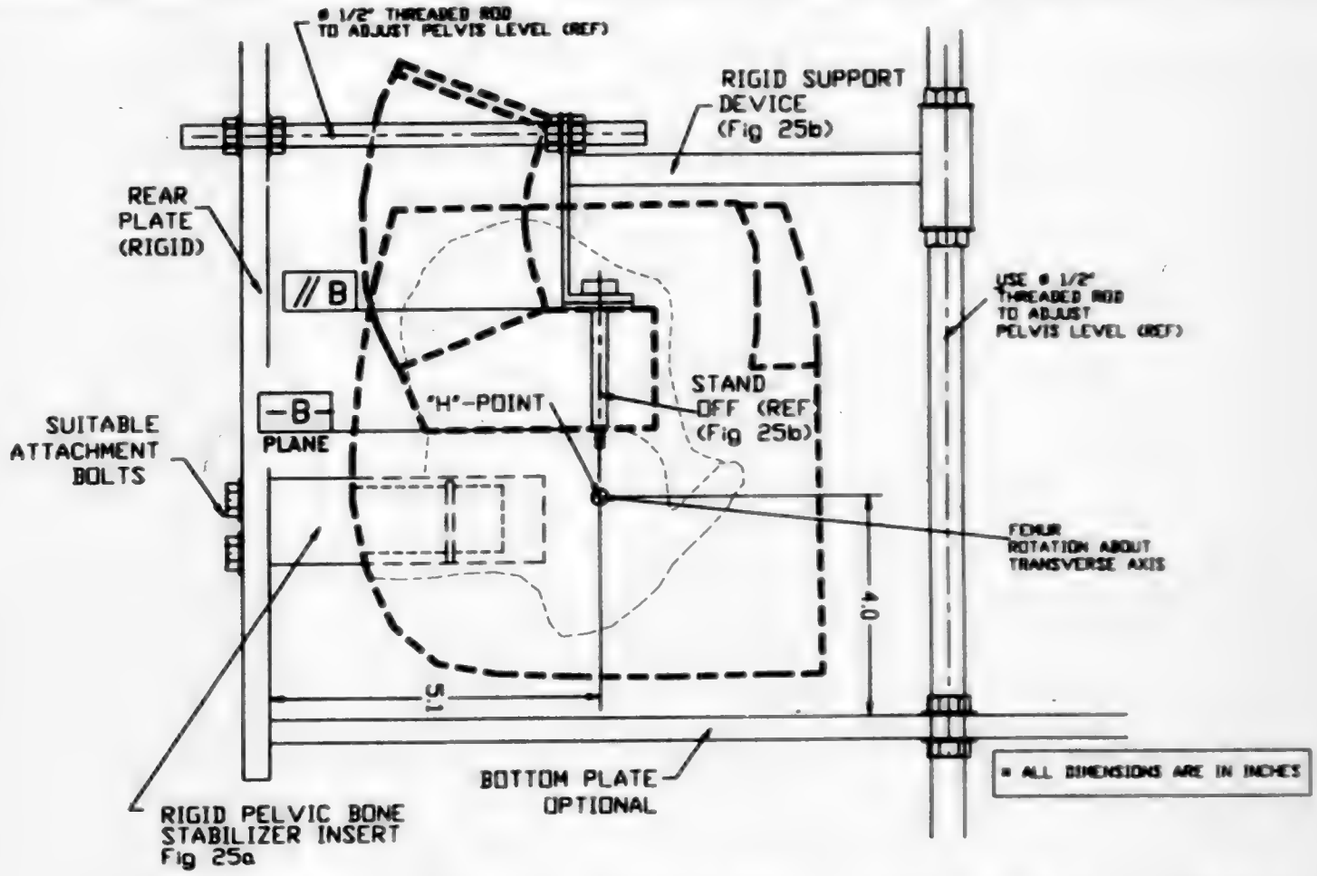
(iv) Lift the lever arm parallel to the midsagittal plane at a rotation rate of 5 to 10 deg. per second while maintaining the 1/2 in. shoulder bolt longitudinal centerline horizontal throughout the range of motion until the 150 ft–lbf torque level is reached. Record the torque and angle of rotation of the femur.

(v) Operating environment and temperature are the same as specified in paragraph (c)(3) of this section.

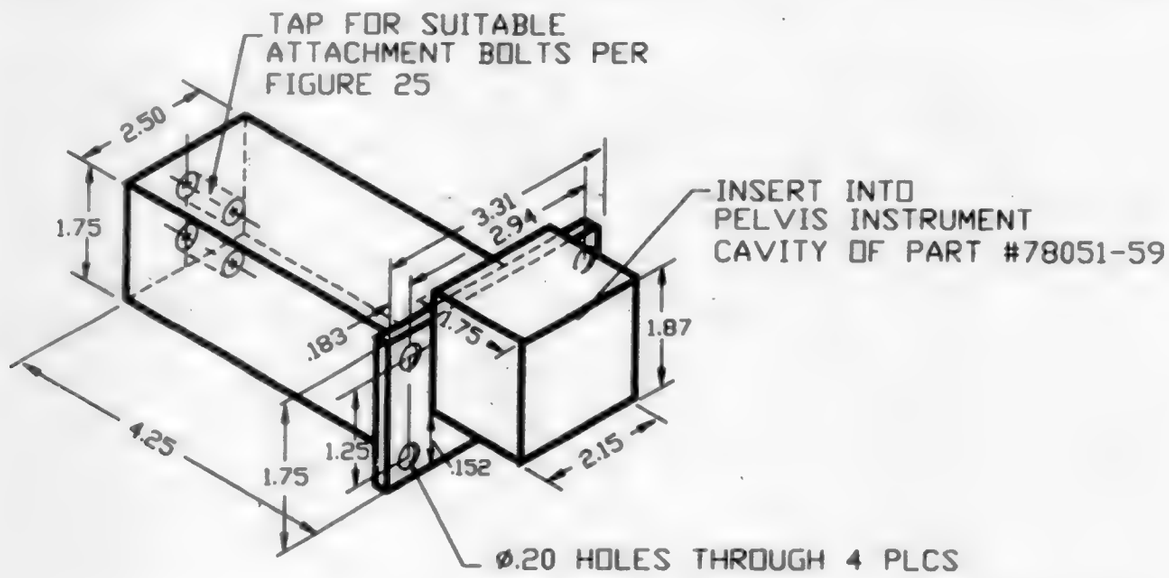
* * * * *

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VOL 61 ISS 249 DE 26 1996 UMI



HIP-JOINT TEST FIXTURE ASSEMBLY (REF)
Fig 25



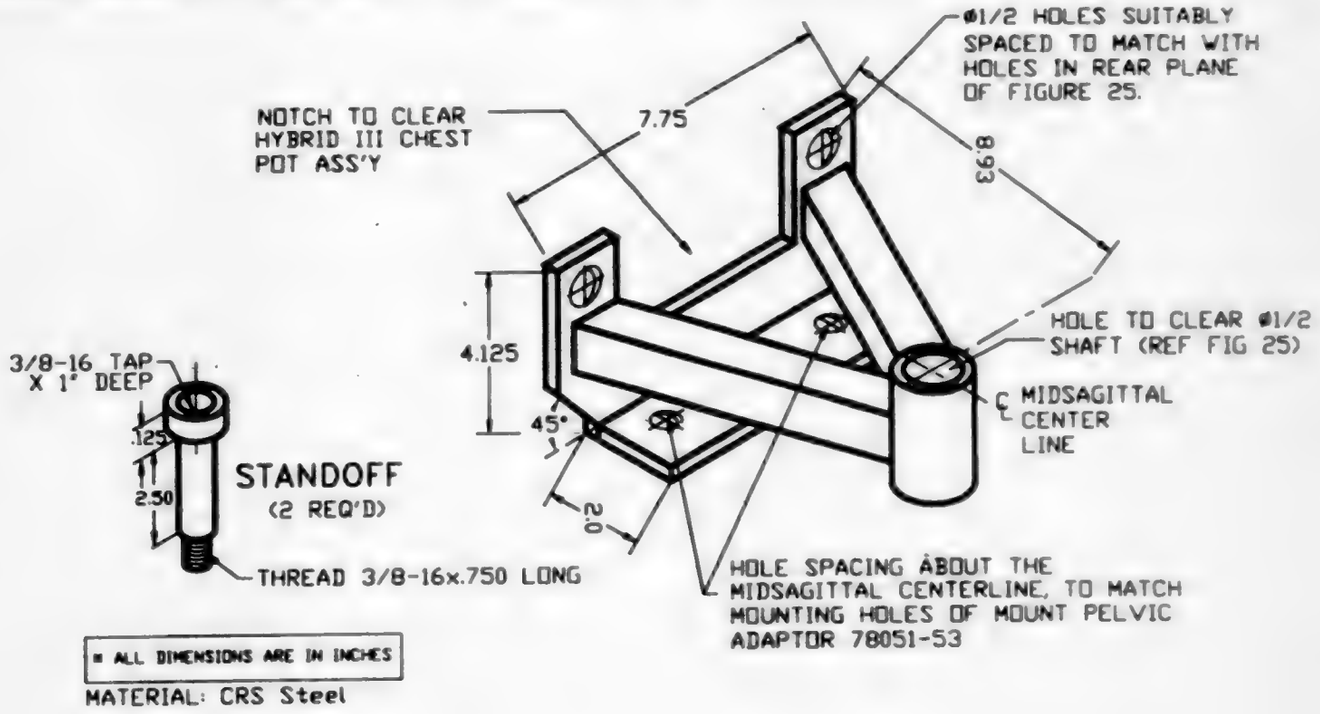
(REF NOTE): HOLE LOCATIONS MATCHING
INSTRUMENT CAVITY COVER #78051-13

* ALL DIMENSIONS ARE IN INCHES

MATERIAL: Alum. or Steel

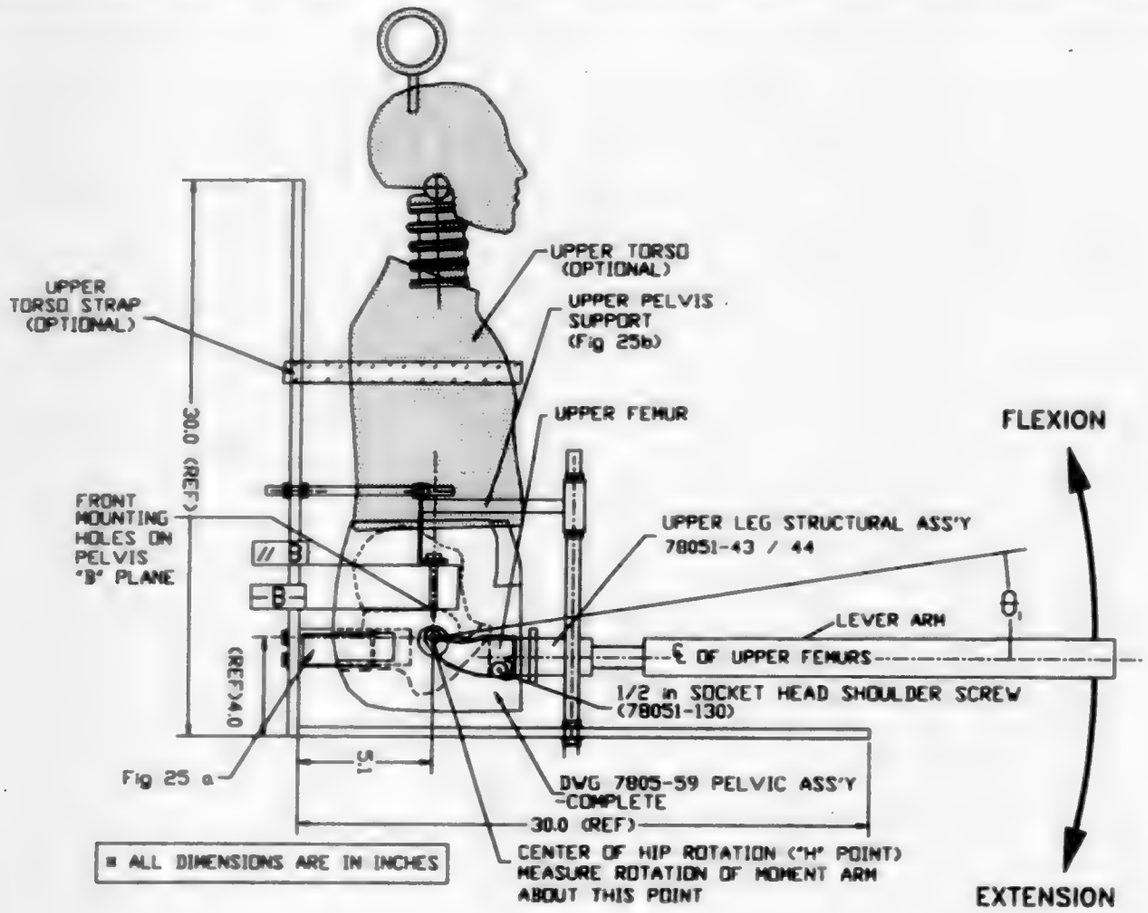
PELVIC BONE STABILIZER INSERT (REF)

Fig 25a



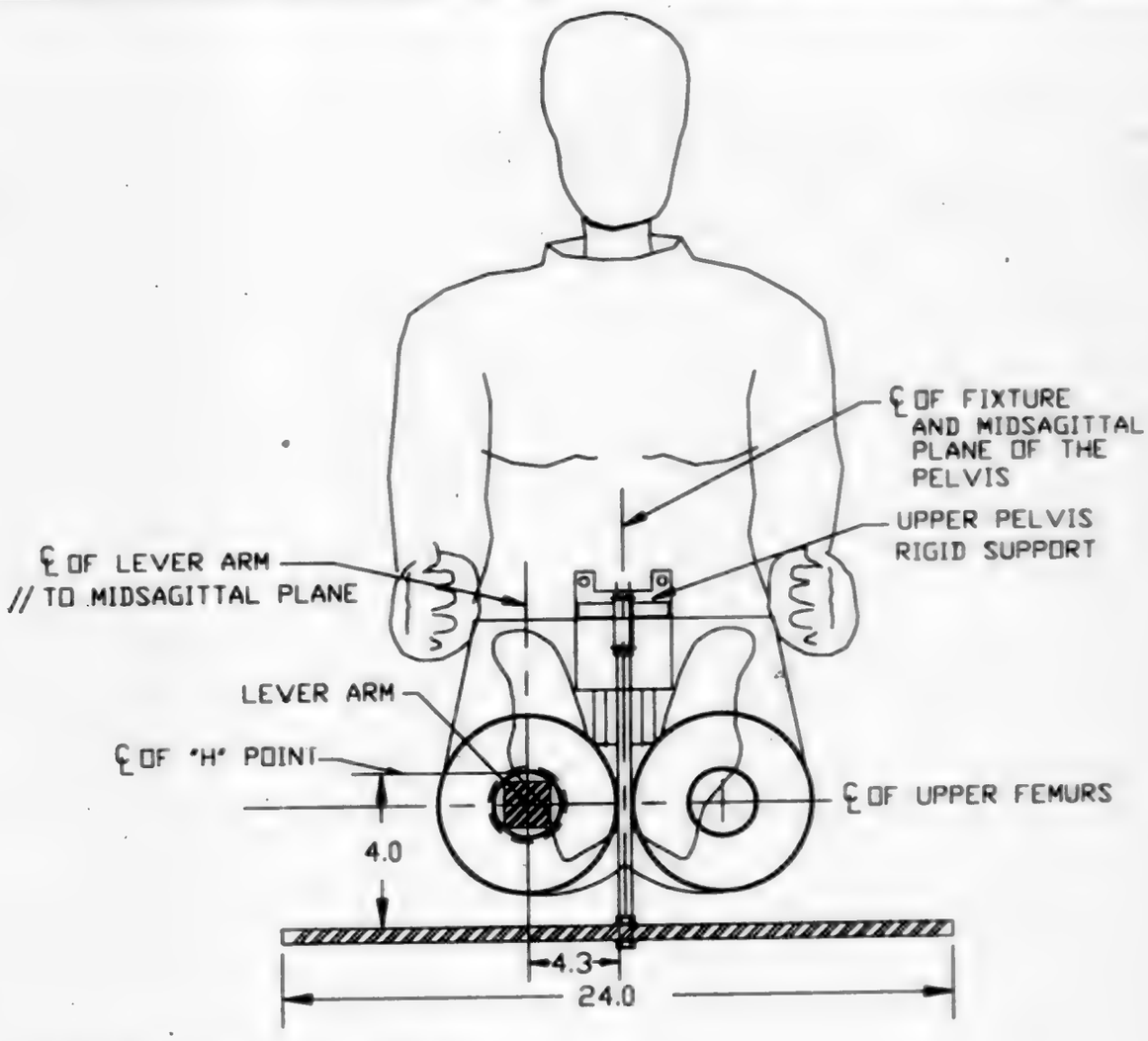
PELVIS UPPER SUPPORT DEVICE (REF)

Fig 25b



HIP JOINT TEST FIXTURE AND TORSO ASSEMBLY (REF)
SIDE VIEW

Fig 26



* ALL DIMENSIONS ARE IN INCHES

HIP JOINT TEST FIXTURE AND TORSO ASSEMBLY (REF)
FRONT VIEW

Fig 27

BILLING CODE 4910-59-C

Issued on December 18, 1996.

Ricardo Martinez,

Administrator.

[FR Doc. 96–32702 Filed 12–24–96; 8:45 am]

BILLING CODE 4910–59–P

Federal Transit Administration

49 CFR Parts 653 and 654

Prevention of Prohibited Drug Use in Transit Operations; Prevention of Alcohol Misuse in Transit Operations

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of random drug and alcohol testing rate.

SUMMARY: This notice announces the random testing rate for employers subject to the Federal Transit Administration's (FTA) drug and alcohol rules.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION: Contact Judy Meade, Director of the Office of Safety and Security (202) 366–2896 (telephone) and (202) 366–7951 (fax). Electronic access to this and other documents concerning FTA's drug and alcohol testing rules may be obtained through FTA's Transit Safety and Security Bulletin Board at 1–800–231–2061 or through the FTA World Wide Web home page at http://www.fta.bts.gov; both services are available seven days a week.

SUPPLEMENTARY INFORMATION: The Federal Transit Administration (FTA) required large transit employers to begin drug and alcohol testing "safety-sensitive" employees on January 1, 1995, and to report, annually by March 15 of each year beginning in 1996, the number of "safety-sensitive" employees who had a verified positive for the use of prohibited drugs, and the number of safety-sensitive employees who tested positive for the misuse of alcohol. Large employers are required to annually submit other data, not relevant here, in the same report; these data are available from the FTA as discussed below. Small employers started testing their "safety-sensitive" employees on January 1, 1996 and will begin to report the same information as the large employees beginning on March 15, 1997.

The rules established a random testing rate for prohibited drugs and the misuse of alcohol; specifically, the rules require that employers conduct random drug tests at a rate equivalent to at least 50 percent of its total number of safety-sensitive employees for prohibited drug use and at least 25 percent for the misuse of alcohol. The rules provide that the drug random testing rate will be lowered to 25 percent if the "positive rate" for the entire transit industry is less than one percent for two consecutive years. Once lowered, it may be raised to 50 percent if the positive rate equals or exceeds one percent for any one year. ("Positive rate" means the number of positive results for random drug tests conducted under part 653 plus the number of refusals of random tests required by part 653, divided by the total number of random drug tests conducted under part 653 plus the number of refusals of random tests required by part 653.)

Likewise, the alcohol rule provides that the random rate will be lowered to 10 percent if the "violation rate" for the entire transit industry is less than .5 percent for two consecutive years. It will remain at 25 percent if the "violation rate" is equal to or greater than .5 percent but less than one percent, and it will be raised to 50 percent if the "violation rate" is one percent or greater for any one year. ("Violation rate" means the number of covered employees found during random tests given under part 654 to have an alcohol concentration of .04 or greater, plus the number of employees who refuse a random test required by part 654, divided by the total reported number of employees in the industry given random alcohol tests under part 654 plus the total reported number of employees in the industry who refuse a random test required by part 654.)

FTA has received and analyzed the 1995 data from large transit employers. The "positive rate" for random drug tests was 1.7 percent and the "violation rate" for random alcohol tests was 0.24 percent; therefore, for 1997, transit employers will continue to be required to conduct random drug tests at a rate equivalent to at least 50 percent of the total number of its "safety-sensitive" employees for prohibited drugs and at least 25 percent for the misuse of alcohol.

FTA will be publishing in December a detailed report on the 1995 data collected from large employers. This report may be obtained from the Office of Safety and Security, Federal Transit Administration, 400 Seventh Street, SW, Room 9301, Washington, DC 20590, (202) 366–2896.

Issued: December 20, 1996.

Gordon J. Linton,

Administrator.

[FR Doc. 96–32821 Filed 12–24–96; 8:45 am]

BILLING CODE 4910–57–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 960918264–6350–02; I.D. 091296A]

RIN 0648–AI61

Fisheries of the Exclusive Economic Zone Off Alaska; Individual Fishing Quota Program; Sweep-up Adjustments

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement Amendment 43 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI), Amendment 43 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA), and a regulatory amendment to the halibut individual fishing quota (IFQ) regulations. This action is necessary to increase the consolidation ("sweep-up") levels for small quota share (QS) blocks for Pacific halibut and sablefish managed under the IFQ program. This action is intended to maintain consistency with the objectives of the IFQ program (i.e., prevent excessive consolidation of QS, maintain diversity of the fishing fleet, and allow new entrants into the fishery), while increasing the program's flexibility by allowing a moderately greater amount of QS to be "swept-up" into larger amounts that can be fished more economically.

EFFECTIVE DATE: December 20, 1996.

ADDRESSES: Copies of the final rule and the environmental assessment/regulatory impact review (EA/RIR) for this action may be obtained from: Fisheries Management Division, Alaska Region, NMFS, 709 West 9th Street, Room 453, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: John Lepore, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background Information

The U.S. groundfish fisheries of the GOA and the BSAI in the exclusive economic zone are managed by NMFS pursuant to the FMPs for groundfish in the respective management areas. The FMPs were prepared by the North Pacific Fishery Management Council (Council) pursuant to the Magnuson-Stevens

Fishery Conservation and Management Act (Magnuson-Stevens Act) at 16 U.S.C. 1801 *et seq.* and are implemented by regulations for the U.S. fisheries at 50 CFR part 679. The Northern Pacific Halibut Act of 1982 (Halibut Act) at 16 U.S.C. 773 *et seq.* authorizes the Council to develop and NMFS to implement regulations to allocate halibut fishing privileges among U.S. fishermen.

Under these authorities, the Council developed the IFQ program, a limited access management system for the fixed gear Pacific halibut and sablefish fisheries. NMFS approved the IFQ program in November 1993 and fully implemented the program beginning in March 1995. The Magnuson-Stevens Act and the Halibut Act authorize the Council to recommend to NMFS changes to the IFQ program as necessary to conserve and manage the fixed gear Pacific halibut and sablefish fisheries.

Rationale for Amendments 43/43

Before NMFS implemented the IFQ program, the Council recommended that all QS that resulted at initial issuance in less than 20,000 lb (9 metric tons (mt)) of IFQ be "blocked," that is, issued as an inseparable unit. Further information on Amendments 31/35 (Block Amendments) can be found in the preambles to the proposed rule (59 FR 33272, June 28, 1994), and the final rule (59 FR 51135, October 7, 1994). The final rule implementing these amendments was effective prior to the beginning of the first IFQ season in 1995.

The Block Amendments created a variety of block sizes that were available for transfer. One of the primary purposes of the Block Amendments was to create small blocks of QS that could be purchased at a relatively low cost by crew members and new entrants to the IFQ fisheries. As the experience of these fishermen increased and the size of their fishing operations grew, larger amounts of QS were needed to accommodate this growth. One method included in the Block Amendments to accommodate this growth was the "sweep-up" provision, which allows very small blocks of QS to be permanently consolidated. The maximum sweep-up level was set at 1,000 lb (0.45 mt) for Pacific halibut and 3,000 lb (1.4 mt) for sablefish, based on the 1994 total allowable catch (TAC).

After the completion of the first IFQ season, the IFQ longline industry reported that the established sweep-up levels were lower than the harvest amount of a worthwhile fishing trip. Therefore, the IFQ longline industry requested a moderate increase in the sweep-up levels to allow greater amounts of QS to be swept up into larger amounts that can be fished more economically. The Council determined that a moderate increase in the sweep-up levels would likely enhance the opportunity of crew members and small-boat fishermen who seek to increase their QS holdings. The Council also determined that allowing persons to consolidate permanently slightly larger blocks of QS would not circumvent the primary goals of the Block Amendments (i.e., preventing excessive consolidation and maintaining the diversity of the IFQ longline fleet). A proposed rule to implement these changes to the IFQ program was published on September 27, 1996, at 61 FR 50797.

Management Action Pursuant to Amendments 43/43

Amendments 43/43 increase the sweep-up levels for small QS blocks for Pacific halibut and sablefish from the current 1,000 lb (0.45 mt) maximum for Pacific halibut and 3,000 lb (1.4 mt) maximum for sablefish to a 3,000 lb (1.4 mt) maximum and a 5,000 lb (2.3 mt) maximum, respectively. Two other changes are also made to accompany these increases. First, the base year TAC for determining the pounds of IFQ used to determine the first sweep-up levels is now the 1996 TAC, rather than the 1994 TAC. Second, the maximum number of QS units that may be consolidated into a single block in each regulatory area is now fixed and codified. This will eliminate any confusion as to the appropriate sweep-up level in pounds.

Response to Comments

NMFS received a comment from the U.S. Coast Guard stating that its enforcement and safety concerns were addressed by this action. Also, NMFS received a request from the U.S. Department of the Interior (DOI), Office of Environmental Policy and Compliance, that the comment period for the proposed rule be extended until mid-December, 1996, in order to lengthen DOI's review opportunity. NMFS denies the request for an extended comment period. Any extension of the comment period would jeopardize compliance with the FMP review and approval schedule specified in section 304 of the Magnuson-Stevens Act. Furthermore, any extension to the comment period would delay the effective date of this rule, thereby decreasing the time period available for fishermen to consolidate blocked QS prior to the 1997 fishing season.

Classification

The Administrator, Alaska Region, NMFS, determined that Amendments 43 to the Fishery Management Plan for the Groundfish of the Gulf of Alaska and Amendment 43 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area are necessary for the conservation and management of groundfish in waters off Alaska and halibut in waters in and off Alaska and that they are consistent with the Magnuson-Stevens Act and other applicable laws.

The Assistant Administrator for Fisheries, NOAA, finds that this final rule relieves a restriction, because this action is designed to allow fishermen to increase the efficiency of their operations through relaxed regulatory restrictions on sweep-up levels. Increasing the sweep-up levels as soon as possible will allow these fishermen to take advantage of the provision before the 1997 season. Therefore, a delayed effectiveness date is not required under 5 U.S.C. 553(d)(1).

An EA/RIR was prepared for this rule that describes the management background, the purpose and need for action, the management action alternatives, and the socio-economic impacts of the alternatives. The EA/RIR estimates the total number of small entities affected by this action, and analyzes the economic impact on those small entities. Based on the economic analysis in the EA/RIR, the Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. Copies of the EA/RIR can be obtained from NMFS (see **ADDRESSES**).

This final rule will not change the collection of information approved by the Office of Management and Budget, OMB Control Number 0648–0272, for the Pacific halibut and sablefish IFQ program.

This final rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 679

Fisheries, Reporting and recordkeeping requirements.

Dated: December 19, 1996.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

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PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*

2. In § 679.41, paragraph (e)(2) is revised and paragraph (e)(3) is added to read as follows:

§ 679.41 Transfer of QS and IFQ.

* * * * *

(e)* * *

(2) QS blocks for the same IFQ regulatory area and vessel category that represent less than 5,000 lb (2.3 mt) of sablefish IFQ, based on the 1996 TAC share for fixed gear sablefish in a specific IFQ regulatory area and the QS pool for that IFQ regulatory area on January 31, 1996, may be consolidated into larger QS blocks provided that the consolidated blocks do not represent greater than 5,000 lbs (2.3 mt) of sablefish IFQ based on the preceding criteria. A consolidated block cannot be divided and is considered a single block for purposes of use and transferability. The maximum number of QS units that may be consolidated into a single QS block in each IFQ regulatory area is as follows:

(i) Southeast Outside district: 33,270 QS.

(ii) West Yakutat district: 43,390 QS.

(iii) Central Gulf area: 46,055 QS.

(iv) Western Gulf area: 48,410 QS.

(v) Aleutian Islands subarea: 99,210 QS.

(vi) Bering Sea subarea: 91,275 QS.

(3) QS blocks for the same IFQ regulatory area and vessel category that represent less than 3,000 lbs (1.4 mt) of halibut IFQ, based on the 1996 catch limit for halibut in a specific IFQ regulatory area and the QS pool for that IFQ regulatory area on January 31, 1996, may be consolidated into larger QS blocks provided that the consolidated blocks do not represent greater than 3,000 lbs (1.4 mt) of halibut IFQ based on the preceding criteria. A consolidated block cannot be divided and is considered a single block for purposes of use and transferability. The maximum number of QS units that may be consolidated into a single block in each IFQ regulatory area is as follows:

(i) Area 2C: 19,992 QS.

(ii) Area 3A: 27,912 QS.

(iii) Area 3B: 44,193 QS.

(iv) Subarea 4A: 22,947 QS.

(v) Subarea 4B: 15,087 QS.

(vi) Subarea 4C: 30,930 QS.

(vii) Subarea 4D: 26,082 QS.

(viii) Subarea 4E: 0 QS.

* * * * *

[FR Doc. 96–32752 Filed 12–20–96; 12:43 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 249
Thursday, December 26, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–CE–31–AD]

RIN 2120 AA64

Airworthiness Directives; AeroSpace Technologies of Australia Limited (formerly Government Aircraft Industries), Nomad Models N22S, N22B, and N24A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede AD 82–25–09 which currently requires repetitively inspecting the pilot and co-pilot control wheel sub-assemblies for cracks, and if cracked, modifying the cracked part on the AeroSpace Technologies of Australia, Limited (ASTA), formerly Government Aircraft Industries (GAF) Nomad Models N22S, N22B, and N24A airplanes. The proposed action would retain the repetitive inspection of the pilot and co-pilot control wheel sub-assemblies for cracks, but would include a modification that would terminate the repetitive inspections by replacing or re-working the control wheel sub-assembly with a part of improved design. This proposed superseding action is prompted by cracking in the control wheel sub-assemblies and the manufacture of an improved part that would terminate the repetitive inspection. The actions specified by the proposed AD are intended to prevent failure of the pilot's and co-pilot's control wheels, which, if not detected and corrected, could result in loss of control of the airplane.

DATES: Comments must be received on or before February 21, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–31–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from AeroSpace Technologies of Australia, Limited, ASTA DEFENCE, Private Bag No. 4, Beach Road Lara 3212, Victoria, Australia. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Atmur, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Blvd., Lakewood, California, 90712; telephone (310) 627–5224; facsimile (310) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 95–CE–31–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–31–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Airworthiness Directive 82–25–09, Amendment 39–4510 currently requires repetitively inspecting the pilot and co-pilot control wheel sub-assemblies for cracks, and if cracked, modifying the cracked part on the ASTA Nomad Models N22S, N22B, and N24A airplanes. Accomplishment of the proposed modification would terminate the repetitive inspections.

Actions Since Issuance of Previous Rule

The Civil Aviation Safety Authority (CASA) of Australia, which is the airworthiness authority for Australia, notified the FAA that an unsafe condition may exist on ASTA Nomad Models N22S, N22B, and N24A airplanes. The CASA of Australia advises that several incidents have been reported of the pilot's and co-pilot's control wheels developing structural cracks and becoming inoperable, reducing the pilots' ability to control the airplane during flight.

Since the publication of AD 82–25–09, the manufacturer has designed a part of improved design. The proposed action would retain the repetitive inspection of the pilot and co-pilot control wheel sub-assemblies for cracks, but would include a modification that would terminate the repetitive inspections by replacing or re-working the control wheel sub-assembly with a part of improved design.

Applicable Service Information

ASTA has issued Government Aircraft Factories (GAF) Nomad Alert Service Bulletin (SB) AS/B ANMD–27–27, Revision 1, dated November 5, 1982, which specifies repetitively inspecting the control wheel sub-assemblies for cracking, modifying the assemblies by replacing or reworking them when cracks appear, and upon the accumulation of 300 hours time-in-service, modifying the control wheel sub-assemblies by replacing or re-working them with a part of improved design. This modification would be

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considered a terminating action for the repetitive inspections.

The CASA of Australia classified this service bulletin as mandatory and issued CASA of Australia AD/GAF–N22/46 AMDT 1 in order to assure the continued airworthiness of these airplanes in Australia.

FAA's Determination

This airplane model is manufactured in Australia and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the Australian CASA has kept the FAA informed of the situation described above. The FAA has examined the findings of the Australian CASA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provision of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other ASTA Nomad Models N22S, N22B, and N24A airplanes of the same type design registered for operation in the United States, the proposed AD would supersede AD 82–25–09 with a new AD that would retain the repetitive 100 hour time-in-service (TIS) inspections for cracks on the pilot's and co-pilot's control wheel sub-assembly (part number (P/N) 1/N–45–1208) in the area adjacent to the circumferential weld adjoining the shaft spigot to each control wheel back support plate, modifying any cracked assembly by replacing the assembly with a part of improved design (P/N 2/N–45–1208), or re-working the assembly with approved re-worked parts (P/N 1/N–03–734), and if there are no signs of cracking during these inspections, terminating the repetitive inspections upon the accumulation of 300 hours TIS by accomplishing the modification to control wheel sub-assemblies with parts of improved design. This modification would be considered a terminating action for the repetitive inspections required in AD 82–25–09.

Cost Impact

The FAA estimates that 15 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 6 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $1,592 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $23,680 or $1,952 per airplane. This figure is based on the cost of the initial inspection and modification and does not account for the repetitive inspections that may occur prior to the proposed modification. The FAA has no way to determine the number of airplanes that may have already accomplished this action.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 82–25–09, Amendment 39–4510, and by adding a new AD to read as follows:

Aerospace Technologies of Australia, Limited (ASTA) (formerly Government Aircraft Industries (GAF)):

Docket No. 95–CE–31–AD; Supersedes AD 82–25–09, Amendment 39–4510.

Applicability: Nomad Models N22S, N22B, and N24A airplanes, all serial numbers, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 100 hours time-in-service (TIS) after the effective date of this AD, and thereafter as indicated in this AD, unless already accomplished.

To prevent failure of the pilot's and co-pilot's control wheels, which, if not detected and corrected, could result in loss of control of the airplane, accomplish the following:

(a) Inspect the pilot and co-pilot control wheel sub-assembly (part number (P/N) 1/N–45–1208) for structural cracking in the area adjacent to the circumferential weld adjoining the shaft spigot to each control wheel back support plate in accordance with the "2. *Accomplishment Instructions*" section, "*Part A*—Inspection" paragraphs in Government Aircraft Industries (GAF) Nomad Alert Service Bulletin (SB) AS/B ANMD–27–27, Revision 1, dated November 5, 1982.

(1) If no cracks are visible, repetitively inspect the control wheel sub-assemblies at intervals not to exceed 100 hours TIS in accordance with the "2. *Accomplishment Instructions*" section, "*Part A*—Inspection" paragraphs in GAF Nomad Alert Service Bulletin (SB) AS/B ANMD–27–27, Revision 1, dated November 5, 1982 until the accomplishment of paragraph (b) of this AD.

(2) If cracks are visible during any inspection required by this AD, prior to further flight, modify the control wheel sub-assemblies by replacing or re-working the cracked part with parts of improved design (P/N 2/N–45–1208 or 1/N–03–734 (reworked part)) in accordance with the "2. *Accomplishment Instructions*" section, "*Part B*—Modification by Replacement or Rework" paragraphs in GAF Nomad Alert SB AS/B ANMD–27–27, Revision 1, dated November 5, 1982.

(b) Upon the accumulation of 300 hours TIS after the effective date of this AD, modify the control wheel sub-assemblies (P/N 1/N–45–1208) by replacing the assemblies or re-working the assemblies with parts of improved design (P/N 2/N–45–1208 or P/N 1/N–03–734, respectively) in accordance

with the "2. *Accomplishment Instructions*" section, "*Part B*—Modification by Replacement or Rework" paragraphs in GAF Nomad Alert SB AS/B ANMD–27–27, Revision 1, dated November 5, 1982.

(c) Accomplishment of the modification in paragraph (b) of this AD is considered a terminating action for the repetitive inspections required in paragraph (a)(1) of this AD.

(d) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Blvd., Lakewood, California, 90712. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles Aircraft Certification Office. Alternative methods of compliance approved in accordance with AD 82–25–09 (superseded by this action) are considered approved as alternative methods of compliance with this AD.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(f) All persons affected by this directive may obtain copies of the document referred to herein upon request to AeroSpace Technologies of Australia, Limited, ASTA DEFENCE, Private Bag No. 4, Beach Road Lara 3212, Victoria, Australia, or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(g) This amendment supersedes AD 82–25–09, Amendment 39–4510.

Issued in Kansas City, Missouri, on December 18, 1996.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–32850 Filed 12–24–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 71

[Airspace Docket No. 96–AWP–30]

Proposed Revision of Class E Airspace; Victorville, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: This notice announces the extension of the comment period on a Notice of Proposed Rulemaking (NPRM), which proposes to revise the Class E airspace area at Victorville, CA. This action is being taken due to an administrative oversight, wherein the comment period did not allow adequate time for interested persons to have the opportunity to comment.

DATES: Comments must be received on or before January 30, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Operations Branch, AWP–530, Docket No. 96–AWP–30, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California, 90009.

SUPPLEMENTARY INFORMATION:

Background

Airspace Docket No. 96–AWP–30, published on November 20, 1996 (61 FR 59042) proposed to revise the Class E airspace area at Victorville, CA. This action will extend the comment period closing date on that airspace docket from November 30, 1996, to January 30, 1997 to allow for a 30-day comment period instead of the existing 10-day abbreviated comment period.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Extension of Comment Period

The comment period closing date Airspace Docket No. 96–AWP–30, is hereby extended to January 30, 1997.

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

Issued in Los Angeles, California, on December 10, 1996.

Leonard A. Mobley,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 96–32711 Filed 12–24–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

[SPATS No. IA–009–FOR]

Iowa Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Iowa regulatory program (hereinafter the "Iowa program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Iowa rules pertaining to repair or compensation for material damage resulting from subsidence caused by underground coal mining operations and to replacement of water supplies adversely impacted by underground coal mining operations. The amendment is intended to revise the Iowa program to be consistent with the corresponding Federal regulations and SMCRA.

DATES: Written comments must be received by 4:00 p.m., c.s.t., January 27, 1997. If requested, a public hearing on the proposed amendment will be held on January 21, 1997. Requests to speak at the hearing must be received by 4:00 p.m., c.s.t., on January 10, 1997.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Michael C. Wolfrom, Mid-Continent Regional Coordinating Center, at the address listed below.

Copies of the Iowa program, the propose amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Mid-Continent Regional Coordinating Center.

Michael C. Wolfrom, Mid-Continent Regional Coordinating Center, Office of Surface Mining Reclamation and Enforcement, Alton Federal Building, 501 Belle Street, Alton, Illinois, 62002, Telephone: (618) 463–6460.

Iowa Department of Agriculture and Land Stewardship, Division of Soil Conservation, Henry A. Wallace Building, Des Moines, Iowa, 50319, Telephone: (515) 281–6147.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Mid-Continent Regional Coordinating Center, Telephone: (618) 463–6460.

SUPPLEMENTARY INFORMATION:

I. Background on the Iowa Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Iowa program, effective April 10, 1981. General background information on the Iowa program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Iowa program can be found in the January 21, 1981, **Federal Register** (46 FR 5885). Subsequent actions

concerning Iowa's program and program amendments can be found at 30 CFR 915.10, 915.15, and 915.16.

II. Description of the Proposed Amendment

By letter dated December 4, 1996 (Administrative Record No. IA–424), Iowa submitted a proposed amendment to its program pursuant to SMCRA. Iowa submitted the proposed amendment in response to a May 20, 1996, letter (Administrative Record No. IA–420) that OSM sent to Iowa in accordance with 30 CFR 732.17(c). The provisions of the Iowa Administrative Code (IAC) that Iowa proposes to amend are IAC 27–40.4(10), Definitions; IAC 27–40.38(2), PHC determination; IAC 27–40.38(3), Subsidence control plan; IAC 27–40.64(8), Hydrologic balance protection; IAC 27–40.64(6), Subsidence control; and IAC 27–40.64(7), Repair of damage. The substantive changes proposed by Iowa are discussed below.

I. IAC 27–40.4(10) Definitions

At IAC 27–40.4(10), Iowa proposes to add at its incorporation of 30 CFR 701.5 definitions for the terms "Drinking, domestic or residential water supply"; "Material damage"; "Non-commercial building"; "Occupied residential dwelling and structures related thereto"; and "Replacement of water supply."

2. IAC 27–40.38(2) PHC Determination

At IAC 27–40.38(2), Iowa proposes to add at its incorporation of 30 CFR Part 784 the new Federal provision at 30 CFR 784.14(e)(3)(iv), which was effective May 1, 1995.

The substantive provision at paragraph (e)(3)(iv) requires the PHC determination to include findings on whether underground mining activities conducted after October 24, 1992, may result in contamination, diminution, or interruption of a well or spring in existence at the time the permit application is submitted and used for domestic, drinking, or residential purposes within the permit or adjacent areas.

3. IAC 27–40.38(3) Subsidence Control Plan

At IAC 27–40.38(3), Iowa proposes to delete 30 CFR 784.20 as incorporated by reference as in effect on July 1, 1992, and replace it with the revised Federal provisions at 30 CFR 784.20 that were effective May 1, 1995.

The substantive provisions of 30 CFR 784.20(a) require that each permit application for an underground mine include a pre-subsidence survey to identify potentially impacted structures, renewable resource lands, and protected water supplies within the proposed permit and adjacent areas. In addition, the revised rules add specific content requirements for the pre-subsidence survey, including: a detailed map, at a scale of 1:12,000, or larger scale if required by the regulatory authority, identifying the location and type of all structures, renewable resource lands that subsidence may materially damage or diminish the reasonably foreseeable use, and protected water supplies that could be adversely impacted; a narrative addressing the potential impacts of subsidence on these features; and identification of the premining condition of all protected structures and water supplies.

The substantive provisions of 30 CFR 784.20(b) require that a permit application for an underground mine include a subsidence control plan if the survey required by 30 CFR 784.20(a) identifies any domestic, drinking, or residential water supply that could be contaminated, diminished, or interrupted by subsidence. The subsidence control plan must contain the information contained in paragraphs (b)(1) through (b)(6). Paragraph (b)(2) requires that the plan must include a map showing the areas where damage minimization measures will be taken. Paragraph (b)(7) of the revised Federal rules requires that the subsidence control plan include a description of the methods to be used to minimize subsidence damage to protected structures when the proposed mining method involves planned subsidence. The rule allows the owner of the structure to waive this protection. In cases where there is no threat to health or safety, the rule also authorizes the waiver of this requirement if the applicant can demonstrate that the costs of damage minimization exceed anticipated repair costs. Paragraph (b)(8) of the revised rules requires that the subsidence control plan include a description of the measures to be taken to replace any adversely impacted protected water supply.

Iowa proposed minor changes to the provisions to make them State specific, including adding some State regulation citation cross-references and parenthetical notes.

4. IAC 27–40.64(8) Hydrologic Balance Protection

At IAC 27–40.64(8), Iowa proposes to add at its incorporation of 30 CFR Part 817 the new provision at 30 CFR 817.41(j), which was effective May 1, 1995.

The substantive provision of paragraph (j) requires prompt replacement of any drinking, domestic, or residential water supply that is contaminated, diminished, or interrupted by underground mining activities conducted after October 24, 1992.

5. IAC 27–40.64(6) Subsidence Control

IAC 27–40.64(6), Iowa proposes to delete 30 CFR 817.121(a), as incorporated by reference as in effect on July 1, 1992, and to add the actual Federal provision at 30 CFR 817.121(a), which was revised effective May 1, 1995.

The substantive provisions of paragraph (a) provide that, to the extent technologically and economically feasible, permittees using mining methods that involve planned subsidence must conduct their operations in a manner that minimizes subsidence damage to protected structures. The rule allows the owner of the structure to provide a written waiver of this protection. In cases where there is no threat to health or safety, the rule also authorizes the regulatory authority to waive this requirement if the applicant can demonstrate that the costs of damage minimization exceed anticipated repair costs.

6. IAC 27–40.64(7) Repair of Damage

At IAC 27–40.64(7), Iowa proposes to delete 30 CFR 817.121(c) as incorporated by reference as in effect on July 1, 1992, and to add the actual Federal provisions at 30 CFR 817.121(c), which were revised effective May 1, 1995.

The substantive provisions of 30 CFR 817.121(c) (2) and (3) require the permittee to promptly repair, or compensate the owner for, subsidence-related material damage to any noncommercial building or occupied residential dwelling or related structure that existed at the time of mining, provided the subsidence results from underground mining activities conducted after October 24, 1992. The rule also provides that, to the extent required by State law, the permittee must repair or compensate the owner for subsidence-related material damage to all other structures and facilities. The substantive provisions at 30 CFR 817.121(c)(4) establish a rebuttable presumption that the permittee is responsible for any structural damage caused by earth movement within a specified angle of draw from the outermost boundary of any underground mine workings to the land surface. Unless otherwise approved in the permit or the State program based on a geotechnical analysis of the factors affecting potential surface impacts of underground coal mining operations,

the presumption must apply within a 30-degree angle of draw. No presumption exists if the owner of the structure denied the permittee access to conduct the presubsidence survey required under 30 CFR 784.20(a). All relevant and reasonably available information must be considered in determining whether damage was caused by subsidence from underground mining. The substantive provisions of 30 CFR 817.121(c)(5) provide that, if subsidence-related material damage occurs to land, structures, or facilities protected under 30 CFR 817.121(c), the regulatory authority must require the permittee to post additional performance bond in the amount of the estimated repair costs or diminution in value, depending on whether the permittee intends to repair the damage or compensate the owner. Similarly, if an underground mining operation contaminates, diminishes, or interrupts any water supply protected under 30 CFR 817.41(j), the regulatory authority must require the permittee to post additional bond in the amount of the estimated cost of replacing the supply. The permittee must post this bond within 90 days of the date the damage occurred, unless repair, compensation, or replacement is completed within that timeframe. Under certain circumstances, the regulatory authority may extend the 90-day grace period up to a maximum of one year.

Iowa proposed minor modifications to the provisions to make them State program specific, including adding some State regulation citation cross-references and parenthetical notations.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Iowa program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Mid-Continent Regional Coordinating Center will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.s.t. on January 10, 1997. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

The location and time of the hearing will be arranged with those persons requesting the hearing. Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**

The public hearing will continue on the specific date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 915

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 7, 1996.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 96–32707 Filed 12–24–96; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–96–101]

RIN 2115–AE47

Drawbridge Operation Regulations; Corson Inlet, Strathmere, NJ

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: At the request of the Cape May County Bridge Commission, the Coast Guard is proposing to change the regulations that govern the operation of the drawbridge across Corson Inlet, mile 0.9, at Strathmere, New Jersey, by requiring a two hour advance notice for drawbridge openings from October 1 to May 15 from 10 p.m. to 6 a.m., seven days a week. This proposed rule is intended to help relieve the bridge owner of the burden of having a bridge tender constantly available at times when there are few or no requests for openings, while still providing for the reasonable needs of navigation.

DATES: Comments must be received on or before February 24, 1997.

ADDRESSES: Comments may be mailed to Commander (Aowb), USCG Atlantic Area, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704–5004, or may be hand-delivered to the same address between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398–6222. Comments will become a part of this docket and will be available for inspection and copying at the above address.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, USCG Atlantic Area, at (757) 398–6222.

SUPPLEMENTARY INFORMATION:

Requests for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD05–96–101), the specific section of this rule to which each comment applies, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Commander, USCG Atlantic Area, at the address listed under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The drawbridge across Corson Inlet, mile 0.9, at Strathmere, New Jersey, is currently required to open on request year round. The Cape May County Bridge Commission (Commission) has requested that the operating schedule for the drawbridge be amended to reduce the periods during which it must open the bridge on signal. In support of its request, the Commission contends that its records show that during the period from October 1 through May 15, no vessels required a drawbridge opening during the hours of 10 p.m. to 6 a.m.

The Coast Guard has reviewed the Commission's bridge logs for 1992 through 1995, copies of which are included in the docket for this rulemaking. According to the logs, no openings occurred between the hours of 10 p.m. and 6 a.m. from October 1 through May 15 in any of these years.

Therefore, the Coast Guard is proposing a new regulation governing the operation of the drawbridge across Corson Inlet, mile 0.9, at Strathmere, New Jersey. The proposed rule would require the bridge to open on signal from May 15 through September 30 and between 6 a.m. and 10 p.m. from October 1 through May 15. The bridge would also open between 10 p.m. and 6 a.m. from October 1 through May 15 if notice is given to the Cape May County Bridge Department two hours in advance of the time that the opening is requested. A sign will be posted at the bridge giving the Cape May County Bridge Department's 24-hour telephone number. The Coast Guard believes that these proposed changes will relieve the burden of requiring a bridgetender to be on duty during periods of little or no vessel traffic while not unduly restricting navigation.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposed rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this proposed rule to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612, and has determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B (as amended, 59 FR 38654, 29 July 1994), this proposed rule is categorically excluded from further environmental documentation.

A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. A new section, 117.714, is added to read as follows:

§ 117.714 Corson Inlet.

The draw of the Corson Inlet bridge, mile 0.9, at Strathmere, shall open on signal; except that from October 1 through May 15, from 10 p.m. to 6 a.m., the draw need only open if at least two hours notice is given.

Dated: December 6, 1996.

Kent H. Williams,

Vice Admiral, U.S. Coast Guard, Commander, Atlantic Area.

[FR Doc. 96–32845 Filed 12–24–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD0–96–017]

RIn AE2115–AE46

Prevention of Collisions Between Commercial and Recreational Vessels in the South Passage of the Lake Erie Western Basin

AGENCY: Coast Guard, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering a number of options for improvement of navigational safety in an area known as the "South Passage" in the Western Basin of Lake Erie. This is a high traffic area used by both commercial and recreational vessels. Collisions between commercial and recreational vessels in this area, with loss of lives in one case, have given the Coast Guard cause for concern about the long-term safety of the South Passage. The Coast Guard therefore requests public comment on the appropriateness and practicality of various options, some of which include possible regulatory action, to better protect both commercial and recreational vessels from risk of collision in this area. The Coast Guard is providing an advance notice of proposed rulemaking because comments on a range of various options are desired.

DATES: Comments must be received on or before February 24, 1997.

ADDRESSES: Comments and supporting materials should be mailed or delivered to Lieutenant Commander Rhae Giacoma, Assistant Chief, Marine Safety Analysis and Policy Branch, Ninth Coast Guard District, Room 2069, 1240 E. Ninth Coast Guard District, Room 2069, 1240 E. Ninth Street, Cleveland, Ohio, 44199–2060. Please reference the name of the proposal and the docket number in the heading above. If you wish receipt of your mailed comments to be acknowledged, please include a stamped self-addressed envelope or postcard for that purpose. Comments and materials received will be available for public inspection at the above location from 9:00 a.m. to 3:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Rhae Giacoma, Assistant Chief, Marine Safety Analysis and Policy Branch, Ninth Coast Guard District, Room 2069, 1240 E. Ninth Street, Cleveland, Ohio, 44199–2060, (216) 522–3994.

SUPPLEMENTARY INFORMATION:

Request for Comments.

The Coast Guard Strongly encourages all interested parties to participate in this consideration of possible rulemaking by submitting written comments which may consist of data, views, arguments, or other proposals for or against the various options being considered. The Coast Guard is presenting options for a regulated navigation area as one approach for resolving the apparent waterway user conflict in the South Passage area of Western Lake Erie. Proposals for non-regulatory alternatives which would serve the same purpose of enhancing vessel safety in the area are also desired. Although all comments will be considered, interested parties are requested to specifically identify which of the detailed options they are commenting on, the basis for their objection to proposals they dislike, and what alternative option (including the option of no action) they do support.

The Coast Guard does not currently plan to have a public hearing. The Coast Guard sponsored a number of informal workshops which were open to all interested parties and which provided an informative airing of views. At this point, the Coast Guard is more in need of specific, written, and concrete comments. However, further consideration will be given to holding a formal public hearing if one is requested. Such a request should indicate how a public hearing would contribute substantial information or views which cannot be received in written form. If it appears that a public hearing would substantially contribute to this rulemaking, the Coast Guard will announce such a hearing by a later notice in the **Federal Register**. The Coast Guard will consider all comments received before the closing date indicated above, and may amend or revoke this proposal in response to such comments.

Background and Purpose

I. The South Passage

The South Passage is an area of water on the United States side of the Western Basin of Lake Erie, roughly 9 by 4 statute miles, bounded by Kelleys Island and South Bass Island on the north, and by Catawba Island and Point Marblehead on the south. The South Passage is one of two traditional, natural passages through the islands and shallows separating the Western and Central Basins of Lake Erie, the other being the Pelee Passage to the north on the Canadian side of the Western basin. At one time, between 1952 and 1974, it appears that the South Passage was a regular route for large commercial carriers. Since that time, Pelee Passage to the north in Canadian waters has become the preferred route for large commercial vessels transiting through the Western End of Lake Erie. There is still a wide array of both commercial and recreational traffic using some parts of the South Passage, including some large commercial carriers transiting in and out of the Marblehead area on the east side, barges and tow boats in transit both through and across the passage, regular ferry boats transiting across the passage, commercial excursion vessels, transiting recreational crafts, and recreational fishing vessels. In additional to being a natural passage in and out of the basin and a natural area of transit between the mainland and the islands, the South Passage is also a desirable fishing ground where a relatively heavy concentration of small recreational fishing vessels anchor or drift.

II. Accidents in the South Passage

Three collisions between commercial barges in tow and small recreational craft have occurred in the South Passage

during the last five years, one of which resulted in two deaths. (1) On May 1, 1992, a tug with a barge in tow collided with a recreational bass boat in the east end of the South Passage, off the Marblehead and Lakeside area. The bass boat was anchored, the occupants engaged in fishing. There was minor injury to one of the occupants of the bass boat. The Coast Guard took administrative actions against the license of the master of the tug. (2) On October 1, 1994, a tug and barge collided with a recreational motorboat in the west end of the South Passage, slightly to the east of the channel marked by the Starve Island Reef Red #2 buoy and the Scott Point shoal Green #1 buoy. The motorboat was anchored or dragging anchor (until shortly before the collision, when the occupants apparently attempted to raise anchor), the occupants engaged in fishing. Two of the four occupants of the motorboat died by drowning after jumping from the boat just before collision, and the other two occupants suffered minor injuries. The State of Ohio convicted the master of the tug of a misdemeanor and the Coast Guard has filed charges against the licenses of both the master and the operator of the tug. (The licensing action is still in adjudication.) the Coast Guard also required the owners of the tug and barge to make structural changes improving the visibility from the bridge. (3) On June 13, 1995,a tug with a crane barge in tow collided with a recreational motorboat in the east end of the South Passage, approximately one mile northeast of Marblehead light. The one occupant of the motorboat was "drift fishing." No one was injured in the collision. The State of Ohio convicted the operator of the motorboat of a minor misdemeanor and the Coast Guard took administrative action against the license of the operator of the tug. The Coast Guard also required the owners of the crane barge to insure that visibility was not obstructed by the crane.

Although this is not a large number of accidents over a five-year period, the similarity of the events and the inherent dangerousness of collisions between barges and small boats, tragically demonstrated by the two deaths which have occurred, prompted the Coast Guard to conduct a special study of the South Passage in order to determine if there is a systemic problem which should be addressed. The Coast Guard and the State of Ohio have used administrative and criminal procedures to hold individuals (both commercial and recreational vessel operators) accountable in these cases. Although fault may be appropriately assigned to individuals for their failure to keep a proper lookout and exercise due care to avoid collisions in accordance with the principles of good seamanship, this does not negate the possibility that there are systemic problems creating an unusual risk of collision. The purpose of this study is to address those systemic problems. All three collisions occurred between tug/barge combinations and boats engaged in fishing. In one case the recreational boat was anchored, in another it was clearly drifting, and in one case it is uncertain whether it was at anchor or adrift at the time. In two cases it does not appear that the recreational boats were in clearly defined channels. In one case, the 1994 case which resulted in the deaths, the collision occurred in a channel clearly marked by red and green lateral buoys (Reef Red #2 buoy and Scott Point Shoal Green #1 buoy), although it is a matter very much in controversy as to whether or not this constituted a "narrow channel" as that term is used in the Inland Navigational Rules Act of 1980 (33 U.S.C. §§ 2001 et seq., especially Rule 9, 33 U.S.C. § 2009). Whether or not that was a "narrow channel" at the time (which is not a matter to be determined in this forum), the detailed investigation of that case conducted by the Coast Guard did provide some indication of a systemic conflict between recreational and commercial traffic in the South Passage. As the tug and barge approached the west end of the passage, they navigated between two large concentrations of boats north and south of the west end. As they actually entered the navigational channel market by Starve Island Reef Red #2 Buoy on the north and Scott Point Shoal Green #1 Buoy on the South, they found themselves between two packs of 15 or so boats, one clustered around each of the buoys. The recreational vessel that they hit was on the northeast side of the pack around the southern buoy, apparently quite close to the middle of the navigational channel. Given the inherent limits on the maneuverability of barges in tow, it appears that this was a dangerous situation in the making.

III. Consultation With the Marine Community

The Coast Guard solicited information and opinion from a variety of groups in order to obtain a better appreciation of the South Passage and develop ideas for possible improvements in navigational safety. This was an effort to fulfill the spirit of the President's "Regulatory Reinvention Initiative" (Presidential Memorandum of March 4, 1996), in which President Clinton urged Federal agencies to work with the local people affected by regulatory actions in order to achieve a consensus on reasonable solutions whenever possible. Those invited to provide input on the South Passage included tow boat operators, commercial carriers, commercial passenger vessel operators, recreational boating and fishing associations, a professional mariner association and individual mariners, along with representatives of the Ohio Department of Natural Resources, the City of Toledo, and the U.S. Coast Guard Auxiliary. Five informal workgroup sessions were held. The discussions were informal, wide-ranging, sometimes adversarial, and less informative than hoped. Many of the issues discussed were highly controversial, and there was little consensus on any point except the importance of continuing and enhancing existing programs for education of recreational boaters. There was controversy about whether or not there is a particular problem with conflicts between recreational and commercial vessels in the South Passage, with very different, sometimes inconsistent statements being made during the course of the informal discussions. There clearly are a large number of small boats anchored or drifting in various areas around the passage during summer months. However, some participants argued that there is no real problem with "congestion" or conflicting use as such. Other participants in the discussions described some dangerous situations, including near-misses between recreational and commercial vessels. There were comments about the dangerousness of recreational boaters anchoring or drifting in commercial channels, and, conversely, about the dangerousness of barge operators who seem to expect boats to give way as a matter of course. Some participants also expressed concern about boats sometimes blocking the approaches to the ferries running across the passage.

Because the characterization of the passage as "congested" has been controversial (the President of the Great Lakes Sport Fishing Council has found this term particularly objectionable), several points about the use of that term should be clarified. First, it is a relative matter, having more to do with particular, localized concentrations of boats in navigational channels rather than a question of overall density in the passage. Clusters of ten to twenty boats gathered off points or gathered around a buoy, as is common even on weekdays during the summer in the passage, can constitute "congestion" even though

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there may be no more than a few hundred boats out in the passage in total and there are large sections of the passage which are clear that day. Second, "congestion" is very relative to the point of view of the mariner in question. The same situation may appear completely uncongested to a recreational boater with freedom to maneuver in any of the large empty spaces of water remaining outside the clusters, and yet appear most definitely congested to the commercial operator forced to pass very close to one of those clusters because of limited scope for maneuver. Finally, the use of the term "congestion" by representatives of the Coast Guard in the workgroup discussions should not have been interpreted as expressing any idea that the South Passage has too much recreational traffic. To the contrary, the Coast Guard views the South Passage as an extremely valuable resource, important to recreation and tourism, which should be fully enjoyed by all. Any adjustments to navigational practices which may help protect the safety of recreational boaters using the passage should serve to encourage rather than discourage continued and expanded use of the passage for fishing and other recreation.

There was considerable dispute about the relative fault between recreational and commercial operators, and an intense controversy about whether the channel between the two buoys which was the site of the fatalities on October 1, 1994 was or was not a "narrow channel" subject to Rule 9 of the Inland Navigational Rules Act (which requires a small vessel to avoid impeding a vessel which cannot safely navigate outside the narrow channel). And there were widely differing opinions about the appropriateness of area-specific navigational regulations, some arguing that a few clear, geographic delineations would greatly enhance safety, others arguing that any regulations beyond the general navigational rules are unnecessary.

Although the workgroup discussions certainly assisted the Coast Guard in delineating issues, it is important for the Coast Guard to now be able to consider written and attributable comments on specific proposals. Also, it is important for the Coast Guard to make sure that any decision be based on comments from all concerned parties, solicited on an equal basis, whether or not they had an opportunity to personally participate in the workgroup sessions.

IV. Working Propositions

In framing the regulatory options presented here, the Coast Guard is proceeding on the basis of the following propositions, which are subject to dispute:

1. There is an obvious danger created when small boats are at anchor or adrift in an area used by a large commercial vessel, particularly if the occupants of the small boats are occupied in fishing and the commercial vessels are restricted in their visibility and maneuverability.

2. Recreational and commercial vessels have a right to make use of the South Passage, neither taking absolute priority over the other, but some regulatory adjustment may be necessary in order to insure than both can do so safety. Although Pelee Passage is now the primary route for large commercial traffic transiting Lake Erie, it is important not to lose the availability of the South Passage (the only passage in United States waters) for commercial traffic. At the same time, recreational use of the islands and fishing grounds in the South Passage area is likely to increase, and should not be impeded.

3. Any local rules promulgated for a particular area such as the South Passage should be consistent with the general statutory rules for navigation. Those general statutory rules obligate one vessel not to impede the passage of another. Section 15 of the Rivers and Harbors Act (33 U.S.C. 409) provides that "It shall not be lawful to tie up or anchor vessels * * * in navigable channels in such a manner as to prevent or obstruct the passage of other vessels. * * *" and Rule 9(b) of the Inland Navigational Rules (33 U.S.C. § 2009(b)) provides that "A vessel of less than 20 meters in length or a sailing vessel shall not impede the passage of a vessel than can safely navigate only within a narrow channel or fairway."

4. The general statutory provisions quoted above do not provide unambiguous guidance in some of these dangerous cases involving commercial and recreational vessels. It is a case by case determination (and certainly a matter of dispute, as evidenced by the discussions which took place in the workgroups) as to whether a particular vessel at anchor is obstructing another or whether any one of dozens of identifiable channels in the South Passage are "narrow channels." It is difficult for an operator of a small recreational boat to know, in fact, whether or not the small vessel is obstructing a large commercial vessel which may or may not be restricted in its ability to maneuver. The recreational operators are usually not familiar with the drafts, stopping distances, and visibility limitations of large commercial vessels, particularly barges in tow. A small boat which is not an obstruction one day when there are few other vessels in a wide channel may well be an obstruction another day when the whole channel is more congested. In the absence of radio communications among the recreational vessels, and between the recreational and commercial vessels, it is difficult for the operators of the recreational vessels to know if they are in violation of these statutory provisions.

5. Other governmental actions of a more general and comprehensive nature may be of relevance in addressing this sort of problem on a nationwide basis. Those include (as suggested during the workgroup discussions), amendments to the Inland Navigational Rules Act of 1980, more extensive Coast Guard regulation of towing vessels (including visibility standards on all sizes of barge and tow combinations), new equipment requirements for recreational boats (such as radar reflectors, anchor balls, or radios), and licensing of recreational vessel operators. However, these proposals are outside the authority of the Commander of the Ninth Coast Guard District and cannot be expected to provide any improvement in the navigational safety in the South Passage in the foreseeable future. The Ninth District has already specified visibility requirements for some tug and barge combinations subject to Coast Guard inspection (including the one involved in the fatal collision on October 1, 1994). The Commander of the Ninth Coast Guard District is certainly prepared to submit a proposal for changes in the navigation rules to the Commandant of the Coast Guard if it appears that such a proposal would enhance safety and be appropriate on a nationwide basis. However, it is not apparent what change in the language of Rule 9 would as a practical matter better define a "narrow channel" in all the circumstances to which that would apply around the nation. At this point (although any written proposal will be read with interest), it seems more useful to address particular problem areas on a case by case basis, taking into account the particular configuration of the waterway and the traffic in the local area.

V. Options Under Consideration

The Coast Guard invites comments on any or all of the following options, and requests that commentors specifically identify the options they are arguing for or against (although comments making arguments in favor of options not listed here will also be considered):

Option 1. Do nothing. The existing accident rate would be deemed

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unfortunate but tolerable, perhaps unavoidable. It may be noted that there have been no similar accidents during the 1993 or 1996 navigation seasons, although it should also be noted that neither the Coast Guard nor the State of Ohio has a system for recording and investigating near-misses which may occur on a more frequent basis. On the other hand, it may be argued that the congestion and dangerousness of the system is only likely to increase in the future.

Option 2. Emphasize enforcement and education. Make no changes in the South Passage navigational system, but put more resources into enforcement and educational efforts. The Coast Guard would continue with existing enforcement and education in cooperation with the Ohio Department of Natural Resources, the Coast Guard Auxiliary, the Power Squadron, boating groups, and maritime industry, as resources allow. Particular focus can be put on insuring high standards of professionalism among licensed commercial operators and educating recreational boaters about the dangers inherent in anchoring or drifting in commercial channels. However, Coast Guard resources available for more on the water enforcement or more educational outreach are limited, perhaps declining. Moreover, while operators can be told of the danger and reminded of their obligation to always maintain a good lookout, it is not clear how either enforcement or education can be effective in convincing small boats not to anchor or drift in front of channels needed by commercial vessels in the absence of some unambiguous legal rule prohibiting it.

Option 3. Make nonregulatory changes to the navigational system in the South Passage. The Coast Guard could request that the National Oceanic and Atmospheric Administration add some special delineations and notes to the nautical charts, marking the areas most commonly used by commercial vessels and warning small vessels that these areas may be dangerous for anchoring or drifting. (The areas delineated in the text of the regulatory alternatives proposed here may be taken as examples of lanes or danger areas which could also be delineated on a nonregulatory basis.) However, this may only create more confusion. Would such a marking create a "narrow channel" under Rule 9 or an "obstruction" under the Rivers and Harbors Act? Would a boater be guilty of "negligent operation" under Federal and State law for failing to heed the "nonregulatory" warning? Would it depend on whether or not a commercial vessel was operating in the warning area at the time? Special warning buoys could also be established by the Coast Guard. However, this would tend to create the same confusion about legal effect, and would be a drain on limited resources available to maintain aids to navigation in the Great Lakes.

Option 4. Establish regulated navigation areas in the South Passage. There is a wide variety of special rules which could be established to help avoid collisions. The regulatory options currently under consideration include the following permutations (and others will be considered if proposed by commentors). All mariners are invited to comment on the likely effectiveness of these proposals in protecting against the danger of collision. Operators of recreational boats, fishers, and others who have an economic interest in recreational or fishing activity in the area, are specifically requested to comment on any cost associated with these limited restrictions on anchoring and drifting.

Option 4–A. Designated no-anchor and no-drift lanes. These are narrow lanes for the routes most heavily used by commercial traffic, including (1) the channel between Starve Island Reef and Scott Point Shoal, (2) the approach to the commercial docks on the west side of Kelleys Island, (3) the approach to the commercial docks at Marblehead, and (4) the established ferry routes across the passage, between South Bass Island and Scott Point, and between the south side of Kelleys Island and Marblehead. Within these lanes, vessels of any size would be prohibited from either anchoring or drifting, but would be allowed to navigate in any manner otherwise allowed by the navigation rules as long as not anchored or adrift. A permutation on the theme might be to provide that a vessel would not be prohibited from anchoring or drifting in these lanes if the operator of the vessel is monitoring a marine radio on channel 16 so as to be available to be effectively hailed by an approaching commercial vessel.

This is the most restrictive regulatory option being considered. Under this option, the area marked off for no anchoring or drifting would be approximately 13% of the total area of the South Passage. Other forms of navigation would not be restricted. It may be noted that the proposed lanes are near to, but not at the specific points where the three collisions discussed above occurred. The purpose of the lanes is to provide the most logical routing possible, to and from points of commercial activity, which are as far as possible away from the shallower areas favored for fishing.

Draft Regulatory Text, Option 4–A:

§ 165.905 South Passage of Western Lake Erie—regulated navigation areas.

(a) *Locations.* The following navigational lanes in the South Passage of Western Lake Erie are regulated navigation areas:

(1) South Passage Transit Lane: an area 150 yards to either side of a line (approximately 8¾ statute miles long) running northwesterly (302° T) from a point at 41°33′30″ N, 82°42′43″ W on the east end of South Passage to a point at 41°37′30″ N, 82°51′16″ W on the west end of South Passage.

(2) Kellstone Lane: an area 150 yards to either side of a line (approximately 2⅞ statute miles long) running southwesterly (235° T, on a line of sight from the Kellstone Crib Light to the West Harbor Entrance Channel Light #1) from the Kellstone Crib Light at 41°36′36″ N, 82°43′40″ W to the point of intersection of the South Passage Transit Channel center line at 41°35′15″ N, 82°46′24″ W.

(3) Marblehead Stone Dock Lane: an area 150 yards to either side of a line (approximately 1¼ statute miles long) running northerly (019° T), from the Marblehead Stone Dock Light at 41°32′42″ N, 82°43′48″ W to the point of intersection of the South Passage Transit Channel center line at 41°33′45″ N, 82°43′19″ W.

(4) Catawba Island to South Bass Island Ferry Lane: an area 150 yards to either side of a line (approximately 2¾ statute miles long) running due north (000° T), from the ferry dock on the north side of Catawba Island (41°35′16″ N, 82°50′13″ W) to the ferry dock on the south side of South Bass Island (41°37′43″ N, 82°50′13″ W).

(5) Neuman Marblehead to Kelleys Island Ferry Lane: an area 150 yards to either side of a line (approximately 3½ statute miles long) running northerly (006° T), from the Neuman ferry dock at Marblehead (41°32′39″ N, 82°43′55″ W) to the Newman ferry dock on the south side of Kelleys Island (41°35′42″ N, 82°43′31″ W).

(6) Kellstone Marblehead to Kelleys Island Ferry Lane: an area 150 yards to either side of a line (approximately 3⅜ statute miles long) running northerly (019° T), from the Kellstone ferry dock at Marblehead (41°32′38″ N, 82°43′39″ W) to the Kellstone ferry dock on the south side of Kelleys Island (41°35′21″ N, 82°42′20″ W).

(b) *Regulations.* Vessels shall not anchor or drift in these regulated navigation areas.

Option 4–B. Designated no-anchor and no-drift choke points. This would be the same as Option 4–A, except that it would be limited to smaller areas in critical choke points on the ends of the commercial lanes instead of extending to the whole length of the lanes. These choke points could include (1) the approximately 600 by 1000 yard area immediately south of Starve Island Reef Red Buoy #2 bounded by the 25-foot depth contour, (2) a 300 by 1500 yard rectangle with a long axis of 224° true

running from the light on the end of the Kellstone dock on the east side of Kelleys Island to the middle of the channel between Carpenter point and the Red #2 Buoy off the point, and (3) 300 by 1000 yard areas off each of the ferry docks on South Bass Island, Catawba Island, Kelleys Island, and Marblehead.

Under this option, the area marked off for no anchoring or drifting would be approximately 3% of the total area of the South Passage. Other forms of navigation would not be restricted.

Draft Regulatory Text, Option 4–B:

§ 165.905 South Passage of Western Lake Erie—regulated navigation areas.

(a) *Locations.* The following areas in the South Passage of Western Lake Erie are regulated navigation areas:

(1) Scott Point Shoal and Starve Island Reef Channel: an area 300 yards to either side of a line (approximately 1 statute mile long) running northwesterly (302° T) from a point at 41°36′17″ N, 82°48′19″ W (approximately 300 yards northeast of Scott Point Shoal Green Buoy #1) to a point at 41°36′40″ N, 82°49′16″ W (approximately 300 yards southwest of Starve Island Reef Red Buoy #2).

(2) Kellstone Approach Channel: an area 150 yards to either side of a line (approximately 1¼ statute miles long) running southwesterly (235° T, on a line of sight from the Kellstone Crib Light to the West Harbor Entrance Channel Light #1) from the Kellstone Crib Light at 41°36′36″ N, 82°43′40″ W to a point at 41°36′02″ N, 82°44′50″ W.

(3) Marblehead Stone Dock Approach Channel: an area 150 yards to either side of a line running 019° T for 1000 yards from the Marblehead Stone Dock Light at 41°32′42″ N, 82°43′48″ W.

(4) South Passage Ferry Approach Channels: areas 150 yards to either side of lines 1000 yards long running:

(i) 000° T from the ferry docks on the north side of Catawba Island (41°35′16″ N, 82°50′13″ W);

(ii) 180° T from the ferry dock on the south side of South Bass Island (41°37′43″ N, 82°50′13″ W);

(iii) 0006° T from the Neuman ferry dock at Marblehead (41°32′39″ N, 82°43′55″ W):

(iv) 186° T from the Neuman ferry dock on the south side of Kelleys Island (41°35′42″ N, 82°43′31″ W);

(v) 019° T from the Kellstone ferry dock at Marblehead (41°32′38″ N, 82°43′39″ W); and

(vi) 099° T from the Kellstone ferry dock on the south side of Kelleys Island (41°35′21″ N, 82°42′20″ W).

(b) *Regulations.* Vessels shall not anchor or drift in these regulated navigation areas.

Option 4–C. Designated give-way areas. The same areas indicated above in either Option 4–A or Option 4–B, either lanes or choke points, could be designated as areas in which vessels less than 20 meters in length are obligated to clear the designated area upon the approach of barges, ferries, or other commercial vessels greater than 20 meters in length. In effect, this would be creating a "narrow channel" rule for each of these designated areas. Such a rule may or may not already apply in some of these areas depending on interpretation on the general rules. But this would make it clear and unambiguous, with notice to all parties beforehand. However, it is difficult to specify a practical decision rule for determining how close the approaching large vessel need be before the small vessel would be obligated to clear the channel.

Draft Regulatory Text, Option 4–C:

§ 165.905 South Passage of Western Lake Erie—regulated navigation areas.

(a) *Locations.* [Locations would be the same as those in either Option 4–A or Option 4–B above.]

(B) *Regulations.* In these regulated navigation areas, all vessels less than 20 meters in length shall clear the area upon the approach of barges, ferries, or other commercial vessels greater than 20 meters in length.

Drafting Information

The drafters of this regulation are Lieutenant Commander Rhae Giacoma, Assistant Chief, Marine Safety Analysis and Policy Branch, the project officer, and Commander Eric Reeves, Chief, Marine Safety Analysis and Policy Branch, Marine Safety Division, Ninth Coast Guard District.

The Environment, the Economy, and Federalism

The Coast Guard invites comments on significant effects that any of the actions or nonactions proposed in this notion would have on the environment, economics, or federalism:

(1) Would any of these proposed regulations or other options considered here have a significant environmental impact on the South Passage, Lake Erie, or nearby shore areas? If so, what resources would be impacted? How would the impacts be likely to occur?

(2) Would any of these proposed regulations or other options considered here have a significant economic impact on any small business or other small entity? If so, what are the likely costs? How would those costs be incurred?

(3) Would any of these proposed regulations or other options considered here intrude into areas traditionally not regulated by the Federal Government or otherwise implications for Federal and State relations?

Dated: December 2, 1996.

John A. Bastek,

Captain, U.S. Coast Guard, Acting Commander, Ninth Coast Guard District.

[FR Doc. 96–32836 Filed 12–24–96; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5668–9]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Minot Landfill Site from the National Priorities List: request for comments.

SUMMARY: The Environmental Protection Agency (EPA), Region VIII announces its intent to delete the Minot Landfill Site (Site) from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR Part 300 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the State of North Dakota (State) have determined that the Site as remediated poses no significant threat to public health or the environment and, therefore, further remedial measures pursuant to CERCLA are not appropriate.

DATES: Comments concerning this Site may be submitted on or before January 27, 1997.

ADDRESSES: Comments may be mailed to: Erna Acheson Waterman, Remedial Project Manager, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Mail Stop EPR–SR, Denver, Colorado 80202–2466.

Comprehensive information on this Site is available through the public docket which is available for viewing at the Minot Landfill site information repositories at the following locations:

Superfund Records Center, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, 5th Floor, Denver, Colorado 80202–2466, (303) 312–6473. Hours of operation are 8:00 a.m. to 4:30 p.m.

Background information from the Regional public docket is also available for viewing at the Minot Landfill Site

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information repository located at the City of Minot Offices, 1025 31st St., S.E. Minot, North Dakota 58701, (701) 857–4140. Contact: Alan Walter.

FOR FURTHER INFORMATION CONTACT: Erna Acheson Waterman, U.S. EPA, Region VIII, 999 18th Street, Suite 500, Mail Stop 8EPR–SR, Denver, Colorado 80202–2466, (303) 312–6762.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

The Environmental Protection Agency (EPA), Region VIII announces its intent to delete the Minot Landfill Site (Site) located in Minot, North Dakota from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, and requests comments on this deletion. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as a list of these sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant such action.

The Site is identified as the Old Minot Landfill Site in many of the Site documents. EPA will accept comments on this proposed deletion for thirty days following publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Minot Landfill Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from, or recategorized on the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

(i) Responsible parties or other parties have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed response under CERCLA has been implemented, and no further action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking remedial measures is not appropriate.

For all Remedial Actions (RA) which result in hazardous substances, pollutants, or contaminants remaining at the site, CERCLA requires a review of such action be conducted no less than every five years after initiation of Remedial Action. Pursuant to CERCLA § 121(c), 40 C.F.R § 300.400(f)(4)(ii) and OSWER Directive 9355.7–02, Structure and Components of Five-year Review Guidance, July 26, 1994, EPA Region VIII must conduct a statutory five-year review at this Site prior to the end of the third quarter of 2001 (five years after Remedial Action on-site construction mobilization).

III. Deletion Procedures

EPA Region VIII will accept and evaluate public comments before making a final decision to delete the Minot Landfill Site. The following procedures were used for the intended deletion of this Site:

1. EPA Region VIII has recommended deletion of the Minot Site and has prepared the relevant documents;

2. The State of North Dakota has concurred with EPA's recommendation for deletion;

3. Concurrent with this Notice of Intent to Delete, a notice has been published in local newspapers and has been distributed to appropriate Federal, State and local officials, and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete;

4. The Region has made all relevant documents available in the Regional Office and local Site information repositories;

5. Prior to deletion of this Site, EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant comments received. Public notices and copies of the Responsiveness Summary will be made available to local residents by the Regional office.

6. Deletion of the Site from the NPL does not in itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management. As mentioned in Section II of this Notice, § 300.425(e)(3) of the NCP states that the deletion of a Site from the NPL does not preclude eligibility for future response actions should future Site conditions warrant such action.

7. A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the Notice.

IV. Basis for Intended Site Deletion

The following summary provides EPA's rationale for recommending deletion of the Minot Landfill Superfund Site.

A. Site Background

The Minot Landfill Superfund Site is located in Section 27, Township 155 North, Range 83 West, approximately one mile southwest of downtown Minot, in Ward County, North Dakota. The Site is situated approximately 2,000 feet south of the Souris River and is located to the east of the intersection of the Burdick Expressway and the combined U.S. Highways 2 and 52 Bypass. The area that received municipal and industrial waste covered approximately 26 acres. Land use in the vicinity of the Site is light industrial and residential, with areas south-west of the Site used for agriculture.

The Site was placed on the National Priorities List (NPL) in 1989, **Federal Register**, Volume 54, No. 61, March 31, 1989, Page 13296.

In 1989, a Removal Action was initiated by the City of Minot. The Removal Action involved installation of a fence around the perimeter of the landfill, construction of surface runoff/erosion control (including swales and storm sewer piping), and seeding of areas disturbed by construction and exposed slopes on the hills located along the southern edge of the site. In 1990, additional work to repair drainage ditches and swales was performed to complete the Removal Action.

B. History

The Site was used to dispose of municipal and industrial waste between 1961 and 1971. The landfill was operated by the City of Minot. An estimated 75 tons/day of waste was placed in the landfill during its operation. The exact composition of the wastes disposed is not known. Discussions with past landfill operators indicate that refuse was received from the City of Minot, other neighboring towns, farms, industries, and military sites. In addition, the landfill likely contains arsenic-contaminated soils and residues, and solvents used in a variety of local industrial applications.

C. Characterization of Risk

Sampling and field studies were conducted by the City of Minot's consultant in order to prepare the Site-

wide Remedial Investigation (RI) Report. The RI Report, completed in 1992, characterized contamination for the entire Site.

Residential, commercial recreational, and agricultural areas are currently located in the vicinity of the Site, and nearly a quarter (8,000) of Minot's population lies within a one-mile radius of the Site. Since the latter part of 1989, most of the Site has been enclosed with a chain-link fence and, consequently, public access to the Site is presently restricted. Future land use for the areas adjacent to the Site is expected to be commercial and light industrial. A Baseline Risk Assessment (BRA) was prepared for the Site to evaluate potential human health risks associated with the Site in absence of any remedial action. Contaminated media that were quantitatively evaluated in the risk assessment were groundwater (including leachate), surface water, soil, sediment, and landfill gases. Potentially exposed receptors evaluated in the BRA were: (1) adult residents and occupational workers who live or work at or in the vicinity of the Site; and (2) active children between the ages of 3 to 12 years who live or play in the vicinity of the Site.

Once the contamination at the Site was characterized, an evaluation was made of the remedial measures that would be necessary to achieve specified cleanup goals. This evaluation and cleanup goals are contained in the Site Feasibility Study (FS), completed in 1992 by the City of Minot's consultant.

Additionally, a geophysical survey investigation, a borrow source investigation, and aerial surveying were performed in April and May 1993, by the City of Minot's consultant.

Upon completion of the Remedial Investigation/Feasibility Study (RI/FS) for the Site, EPA issued a Record of Decision (ROD) for the Site on June 21, 1993. Due to timing conflicts, this ROD did not include the results of the geophysical survey investigation. An Explanation of Significant Differences (ESD) was prepared to address the geophysical survey and additional information related to various components of the remedy presented at a remedial design kickoff meeting on January 23, 1996, between the City of Minot, EPA, North Dakota Department of Health (NDDH) and the City's consultant, Wenck Associates, Inc. (Wenck). The approved ESD for the Old Minot Landfill Superfund Site was issued April 10, 1996.

In April 1996, a Remedial Design Report describing the remedial actions to be implemented at the Minot Landfill Site was approved by the EPA and NDDH.

The Remedial Action at the Site took place during the months of July, August and September 1996. The elements of the Remedial Action are: Grading of the landfill and installation of a vegetated cover; installation of rip-rap around catch basins; installation of drains to collect leachate within the landfill for conveyance to the City of Minot waste water treatment facility; installation of riser pipes to serve as passive gas vents with removable wind turbines to help remove gas from the landfill; installation of seven groundwater monitoring wells and four piezometers to be used in longer term groundwater monitoring. Institutional Controls have been put into place to restrict or control land use within and adjacent to the Site boundaries.

Maintenance of fences, vegetated cover, groundwater monitoring and other longer term aspects of the response actions are addressed in the Monitoring Operations and Contingency Plan which was approved by EPA and the State of North Dakota on November 7, 1996. The Final Remedial Action Completion Report was approved by EPA and the State of North Dakota on November 29, 1996.

V. Community Relations

EPA produced a fact sheet on the site in October 1989. The City of Minot held a public meeting on the landfill in January 1990.

An EPA community involvement coordinator conducted interviews of Minot citizens during the week of September 25, 1990. EPA completed a Community Relations Plan for the Old Minot Landfill in November 1991. A mailing list of key contacts was developed.

EPA established an information repository at the Minot Public Library and placed a public notice announcing the repository's creation and location in the Minot Daily News.

A public notice was placed in the Minot Daily News announcing availability of the Remedial Investigation/Feasibility Study (RI/FS) Work Plan. An information update concerning human health risks at the Site was placed in the Minot Daily News on July 17, 1992.

EPA issued a Proposed Plan for Site cleanup in December 1992 and placed a public notice announcing the availability of the Proposed Plan, the initiation of the public comment period and the date of a Public Hearing on the Proposed Plan in the Minot Daily News. EPA held a public comment period on the Proposed Plan from Januaary 4, 1993 to March 4, 1993, and EPA conducted the public hearing on January 19, 1993 at the Minot City Hall.

The Record of Decision (ROD) was issued on June 21, 1993. A public notice announcing the issuance of the Record of Decision was placed in the Minot Daily News. The ROD contains a Responsiveness Summary that addresses the public comments that were received.

The Community Relations Plan was updated in November 1994.

A public notice announcing changes in the cleanup and the availability of an Explanation of Significant Differences was placed in the Minot Daily News on May 15 and 19, 1996.

Alan Walter, Public Works Director for the City of Minot appeared in the news media and provided information to the public both at the beginning and completion of the Remedial Action.

VI. Summary

The completed remedy results in hazardous substances remaining on-site above levels which allow for unlimited and unrestricted access; therefore institutional controls and operation and maintenance activities will be required.

For all Remedial Actions (RA) which result in hazardous substances, pollutants, or contaminants remaining at the Site CERCLA requires that a review of such action be conducted no less than every five years after initiation of the Remedial Action. Pursuant to CERCLA § 121(c), 40 C.F.R. § 300.400(f)(4)(ii) and OSWER Directive 9355.7–02, Structure and Components of Five-year Review Guidance, July 26, 1994, EPA Region VIII must conduct a statutory five-year review at this Site prior to the end of the third quarter of 2001 (five years after Remedial Action on-site Construction Mobilization). All completion requirements for the Minot Landfill Site have been achieved as outlined in OSWER Directive 9320.2–3A.

EPA, with the concurrence of the State of North Dakota, has determined that all appropriate response actions required by CERCLA at the Minot Landfill Site have been completed, and that no further cleanup by responsible parties is appropriate.

Dated: December 12, 1996.

Jack W. McGraw,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region VIII.

[FR Doc. 96–32659 Filed 12–24–96; 8:45 am]

BILLING CODE 6560–50–P

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 1

[CC Docket No. 96–238; FCC 96–460]

Formal Complaints Filed Against Common Carriers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission adopted a Notice of Proposed Rulemaking ("NPRM") seeking comment on proposed changes to the rules for processing formal complaints filed against common carriers. The NPRM proposes rules necessary to implement certain provisions contained in the 1996 Act that prescribe deadlines ranging from 90 days to 5 months for resolution of certain types of complaints against common carriers. The proposed rules require or encourage complainants and defendants to engage in certain pre-filing activities, change service requirements, modify the form of initial pleadings, shorten filing deadlines, eliminate certain pleading opportunities that do not appear useful or necessary, and eliminate or modify the discovery process.

DATES: Written comments by the public on the NPRM and the proposed and/or modified information collections are due January 6, 1996. Reply comments are due on January 31, 1996. Written comments by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before February 24, 1997.

ADDRESSES: Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Suite 222, Washington, D.C. 20554, with a copy to Anita Cheng, Federal Communications Commission, Enforcement Division, 2025 M Street, N.W., Room 6008, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to dconway@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Anita Cheng, Enforcement Division, Common Carrier Bureau, (202) 418–0960. For additional information concerning the information collections contained in the NPRM contact Dorothy Conway at (202) 418–0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's NPRM in CC Docket No. 96–238, adopted on November 26, 1996 and released November 27, 1996. The full text of the NPRM is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's duplicating contractor, International Transcription Services, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037 (202) 857–3800.

Paperwork Reduction Act

The NPRM contains a proposed or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in the NPRM, as required by the Paperwork Reduction Act of 1995, Public Law No. 104–13. Public and agency comments are due at the same time as other comments on the NPRM; OMB notification of action is due February 24, 1997. Comments should address: (a) whether the proposed or modified information collection is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Control Number: 3060–0411.

Title: Formal Complaints Against Common Carriers, Sections 1.720 - 1.735.

Type of Review: Revised collection.

Respondents: Individuals or households; business or other for-profit, including small business; not-for-profit institutions; state, local or tribal government.

Section/Title	Number of respondents	Est. time per response (hour(s))	Total annual burden (hours)
a. Designation of Agent for Service	4,965	.5	2,482.5
b. Joint Statement of Stipulated Facts and Pleading Content Requirements	760	3	2,280
c. Orders Memorializing Rulings at Status Conferences	760	1	760
d. Complaint Intake Form	760	.5	380
Total Annual Burden:			5,902.5

Estimated cost per respondent: 0.

Needs and Uses: The information has been and is currently being used by the FCC to determine the sufficiency of complaints and to resolve the merits of disputes between the parties.

The NPRM proposes to require all carriers subject to the Communications Act of 1934, as amended, to file in writing and electronically, a designation of agent for service of process with the Commission, to facilitate service of process in all Commission proceedings.

Regarding changes to the pleading requirements, the NPRM proposes that complaints must contain complete statements of relevant facts and supporting documentation; certification that each complainant has discussed the possibility of settlement with each defendant prior to filing of the complaint; copies or descriptions of documents relevant to the complaint; name, address and telephone number of all individuals with information relevant to the complaint; a computation for any damages claimed. The NPRM also proposes that answers must be filed within 20 days of service of the formal complaint and must contain complete statements of relevant facts and supporting documentation; copies or descriptions of documents

relevant to the pleadings; name, address and telephone number of all individuals with information relevant to the pleadings; and proposes to prohibit general denials. The NPRM proposes to require all pleadings to be accompanied by copies of relevant tariffs. The NPRM proposes to prohibit replies unless authorized by the Commission and when permitted, replies must contain copies or descriptions of documents relevant to the pleadings; name, address and telephone number of all individuals with information relevant to the pleadings. The NPRM proposes to require all motions seeking Commission orders must be accompanied by proposed orders in both hard copy and on computer disk. The NPRM proposes to prohibit amendments to complaints to add new claims or requests for relief. The NPRM further requires parties to submit a joint statement of proposed stipulated facts and key legal issues within 5 days after the answer is filed, as well as requiring all relevant facts and documentation to be contained in each pleading. These proposals will promote agreement on a significant number of disputed facts and legal issues, as well as serving to better inform the Commission of the factual and legal areas in dispute.

The NPRM also proposes to require parties to memorialize jointly, in writing, Commission rulings made in a status conference and to submit such writing, within 24 hours, to the Commission staff person who made such rulings. This proposal would remove the burden of memorializing oral rulings made in status conferences from the Commission to the parties.

Finally, the NPRM proposes to require a complainant to submit a completed intake form with its formal complaint to indicate that the complaint meets the threshold requirements for stating a cause of action. This requirement would help to prevent the filing of procedurally insufficient complaints.

Initial Regulatory Flexibility Analysis

Pursuant to Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. Section 603(a) (1981), the Commission concluded that the proposals in the NPRM may have some economic impact on small business entities, due to the proposals to require or encourage complainants and defendants to engage in certain pre-filing activities, change service requirements, modify the form of initial pleadings, shorten filing deadlines, eliminate certain pleading opportunities that do not appear useful or necessary, and eliminate or modify the discovery process. Public comment is requested on the Initial Regulatory Flexibility Analysis set forth fully in the NPRM. These comments must be filed in accordance with the same filing deadlines set for comments on the other issues in this NPRM but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis.

Need for and Objectives of the Proposed Rules: The Commission is issuing this Complaint NPRM to implement certain complaint provisions contained in the Telecommunications Act of 1996 and to improve generally the speed and effectiveness of its formal complaint process.

Legal Basis: The Complaint NPRM is adopted pursuant to Sections 1, 4(i), 4(j), 207 - 209, 260, 271, 274, and 275 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 207 - 209, 260, 271, 274, 275.

Description and Number of Small Entities Which May be Affected: The proposals in this proceeding may have a significant impact on a substantial number of small businesses as defined by Section 601(3) of the Regulatory Flexibility Act. Under the Small Business Act, a "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA). SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) as those which have fewer than 1,500 employees.

1. Telephone Companies (SIC 481)

Estimate of Potential Complainants that may be Classified as Small Businesses. Section 208(a) provides that formal complaints against a common carrier may be filed by "[a]ny person, any body politic or municipal organization." The FCC has no control as to the filing frequency of complaints, nor as to the parties that will file complaints. The filing of complaints depends entirely upon the complainant's perception that it possesses a cause of action against a common carrier subject to the Communications Act of 1934, as amended, and it is the complainant's decision to file its complaint with the FCC. Therefore the Commission is unable at this time to estimate the number of future complainants that would qualify as small business concerns under SBA's definition.

Estimate of Potential Defendants that may be Classified as Small Businesses. The United States Bureau of the Census ("the Census Bureau") reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number encompasses a broad category which contains a variety of different subsets of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not "independently owned and operated." For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by this Order. The Commission seeks comment on this conclusion. The Commission estimates below the potential defendants affected by this order by service category. The Commission seeks comment on these estimates.

Wireline Carriers and Service Providers. SBA has developed a definition of small entities for telephone communications companies other than radiotelephone (wireless) companies. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, the Commission is unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, the Commission estimates that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the decisions and rules adopted in this Order.

Local Exchange Carriers. Neither the Commission nor SBA has developed a definition of small providers of local

exchange services (LECs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of LECs nationwide of which the Commission is aware appears to be the data that it collects annually in connection with the Telecommunications Relay Service (TRS). According to the Commission's most recent data, 1,347 companies reported that they were engaged in the provision of local exchange services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, the Commission is unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under SBA's definition. Consequently, the Commission estimate that there are fewer than 1,347 small incumbent LECs that may be affected by the decisions and rules adopted in this Order.

Interexchange Carriers. Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of IXCs nationwide of which the Commission is aware appears to be the data collected annually in connection with TRS. According to the Commission's most recent data, 97 companies reported that they were engaged in the provision of interexchange services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, the Commission is unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under SBA's definition. Consequently, the Commission estimates that there are fewer than 97 small entity IXCs that may be affected by the decisions and rules adopted in this Order.

Competitive Access Providers. Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of competitive access services (CAPs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of CAPs nationwide of which the Commission is aware appears to be the data that it collects annually in connection with the TRS. According to the Commission's most recent data, 30 companies reported that they were engaged in the provision of competitive access services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, the Commission is unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under SBA's definition. Consequently, the Commission estimates that there are fewer than 30 small entity CAPs that may be affected by the decisions and rules adopted in this Order.

Operator Service Providers. Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of operator services. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of operator service providers nationwide of which the Commission is aware appears to be the data that it collects annually in connection with the TRS. According to the Commission's most recent data, 29 companies reported that they were engaged in the provision of operator services. Although it seems certain that some of these companies are not independently owned and operated, or have more than 1,500 employees, the Commission is unable at this time to estimate with greater precision the number of operator service providers that would qualify as small business concerns under SBA's definition. Consequently, the Commission estimates that there are fewer than 29 small entity operator service providers that may be affected by the decisions and rules adopted in this Order.

Pay Telephone Operators. Neither the Commission nor SBA has developed a definition of small entities specifically applicable to pay telephone operators. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of pay telephone operators nationwide of which the Commission is aware appears to be the data that it collects annually in connection with the TRS. According to the Commission's most recent data, 197 companies reported that they were engaged in the provision of pay telephone services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, the Commission is unable at this time to estimate with greater precision the number of pay telephone operators that would qualify as small business concerns under SBA's definition. Consequently, the Commission estimates that there are fewer than 197 small entity pay telephone operators that may be affected by the decisions and rules adopted in this Order.

Wireless (Radiotelephone) Carriers. SBA has developed a definition of small entities for radiotelephone (wireless) companies. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992. According to SBA's definition, a small business radiotelephone company is one employing fewer than 1,500 persons. The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned and operated. Although it seems certain that some of these carriers are not independently owned and operated, the Commission is unable at this time to estimate with greater precision the number of radiotelephone carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, the Commission estimates that there are fewer than 1,164 small entity radiotelephone companies that may be affected by the decisions and rules adopted in this Order.

Cellular Service Carriers. Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of cellular services. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of cellular service carriers nationwide of which the Commission is aware appears to be the data that it collects annually in connection with the TRS. According to the Commission's most recent data, 789 companies reported that they were engaged in the provision of cellular services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, the Commission is unable at this time to estimate with greater precision the number of cellular service carriers that

would qualify as small business concerns under SBA's definition. Consequently, the Commission estimates that there are fewer than 789 small entity cellular service carriers that may be affected by the decisions and rules adopted in this Order.

Mobile Service Carriers. Neither the Commission nor SBA has developed a definition of small entities specifically applicable to mobile service carriers, such as paging companies. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of mobile service carriers nationwide of which the Commission is aware appears to be the data that it collects annually in connection with the TRS. According to the Commission's most recent data, 117 companies reported that they were engaged in the provision of mobile services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, the Commission is unable at this time to estimate with greater precision the number of mobile service carriers that would qualify under SBA's definition. Consequently, the Commission estimates that there are fewer than 117 small entity mobile service carriers that may be affected by the decisions and rules adopted in this Order.

Broadband PCS Licensees. The broadband PCS spectrum is divided into six frequency blocks designated A through F. As set forth in 47 CFR § 24.720(b), the Commission has defined "small entity" in the auctions for Blocks C and F as a firm that had average gross revenues of less than $40 million in the three previous calendar years. The Commission's definition of a "small entity" in the context of broadband PCS auctions has been approved by SBA. The Commission has auctioned broadband PCS licenses in Blocks A, B, and C. The Commission does not have sufficient data to determine how many small businesses bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auction. Based on this information, the Commission concludes that the number of broadband PCS licensees affected by the decisions in this Order includes, at a minimum, the 90 winning bidders that qualified as small entities in the Block C broadband PCS auction.

At present, no licenses have been awarded for Blocks D, E, and F of broadband PCS spectrum. Therefore, there are no small businesses currently providing these services. However, a total of 1,479 licenses will be awarded in the D, E, and F Block broadband PCS auctions, which are scheduled to begin on August 26, 1996. Of the 153 qualified bidders for the D, E, and F Block PCS auctions, 105 were small businesses. Eligibility for the 493 F Block licenses is limited to entrepreneurs with average gross revenues of less than $125 million. There are 114 eligible bidders for the F Block. The Commission cannot estimate, however, the number of these licenses that will be won by small entities under this definition, nor how many small entities will win D or E Block licenses. Given that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective D, E, and F Block licensees can be made, the Commission assumes for purposes of this IRFA, that all of the licenses in the D, E, and F Block Broadband PCS auctions may be awarded to small entities under the Commission's rules, which may be affected by the decisions and rules adopted in this Order.

SMR Licensees. Pursuant to 47 CFR § 90.814(b)(1), the Commission has defined "small entity" in auctions for geographic area 800 MHz and 900 MHz SMR licenses as a firm that had average annual gross revenues of less than $15 million in the three previous calendar years. This definition of a "small entity" in the context of 800 MHz and 900 MHz SMR has been approved by the SBA. The rules adopted in this Order may apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of less than $15 million. The Commission assumes, for purposes of this IRFA, that all of the extended implementation authorizations may be held by small entities, which may be affected by the decisions and rules adopted in this Order.

The Commission recently held auctions for geographic area licenses in the 900 MHz SMR band. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. Based on this information, the Commission concludes that the number of geographic area SMR licensees affected by the rule adopted in this Order includes these 60 small entities. No auctions have been held for 800 MHz geographic area SMR licenses. Therefore, no small entities currently hold these licenses. A total of 525 licenses will be awarded for the upper 200 channels in the 800 MHz geographic area SMR auction. However, the Commission has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction. There is no basis, moreover, on which to estimate how many small entities will win these licenses. Given that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective 800 MHz licensees can be made, the Commission assumes, for purposes of this IRFA, that all of the licenses may be awarded to small entities who, thus, may be affected by the decisions in this Order.

Resellers. Neither the Commission nor SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable definition under SBA rules is for all telephone communications companies. The most reliable source of information regarding the number of resellers nationwide of which the Commission is aware appears to be the data that it collects annually in connection with the TRS. According to the Commission's most recent data, 206 companies reported that they were engaged in the resale of telephone services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, the Commission is unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under SBA's definition. Consequently, the Commission estimates that there are fewer than 206 small entity resellers that may be affected by the decisions and rules adopted in this Order.

2. Cable System Operators (SIC 4841)

Cable Systems: SBA has developed a definition of small entities for cable and other pay television services, which includes all such companies generating less than $11 million in revenue annually. This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Census Bureau, there were 1,323 such cable and other pay television services generating less than $11 million in revenue that were in operation for at least one year at the end of 1992.

The Commission has developed its own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a "small cable company," is one serving fewer than 400,000 subscribers nationwide. Based on the Commission's most recent information, the Commission estimates that there were 1,439 cable operators that qualified as small cable system operators at the end of 1995. Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, the Commission estimates that there are fewer than 1,439 small entity cable system operators that may be affected by the decisions and rules adopted in this Order.

The Communications Act also contains a definition of a small cable system operator, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000." The Commission has determined that there are 61,700,000 subscribers in the United States. Therefore, the Commission found that an operator serving fewer than 617,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate. Based on available data, the Commission finds that the number of cable operators serving 617,000 subscribers or less totals 1,450. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, the Commission is unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements: Section 1.721 of the proposed rules would require all complainants to complete and submit a Formal Complaint Intake Form with their complaints. The intake form requirement is designed to help complainants avoid procedural and substantive defects that might affect the staff's ability to quickly process complaints and delay full responses by defendant carriers to otherwise legitimate complaints. In addition, the completed form should enable the staff and the defendant carriers to quickly identify the specific statutory provisions under which relief is being sought in the complaint. Because the proposed form would solicit information that would be already contained in the body of the formal complaint, no additional professional skills would be necessary to complete the form.

Potential Impact: Some of the proposed requirements in this Complaint NPRM may have a significant economic impact on small business entities. Generally, this Complaint NPRM proposes to require or encourage complainants and defendants to engage in certain pre-filing activities, change service requirements, modify the form of initial pleadings, shorten filing deadlines, eliminate certain pleading opportunities that do not appear useful or necessary, and modify the discovery process.

Pre-Filing Activities and Discovery: The Commission proposes to require a complainant to do the following: certify that it discussed the possibility of settlement with the defendant carrier's representative(s) prior to filing the complaint and attach certain written documentation. The Commission seeks comment on limiting discovery. The Commission also seeks comment on the feasibility of allowing the parties to a complaint proceeding to agree among themselves to a cost-recovery system as a basis for facilitating the prompt identification and exchange of information. While these proposed rules may place a greater burden on a small business entity to provide better legal and factual support early in the process, the Commission tentatively concludes that it does not significantly alter the level of evidentiary and legal support that would be ultimately required of parties in formal complaint actions pursuant to the current rules. It may, however, make it more difficult for all complainants, including small business, to gather the information needed to prevail on their complaints. Potentially higher initial costs may be somewhat offset by the prompt resolution of complaints and the avoidance of protracted and costly discovery proceedings and briefing requirements. It has been noted, for example, that the overall litigation costs of "rocket docket" cases in the U.S. District Court for the Eastern District of Virginia are lower than the costs of cases that take longer to resolve. Indeed, by requiring better and more complete submissions earlier in the process, this proposed rule reduces the need for discovery and other information filings, thereby significantly reducing the burden on small business entities. The Commission seeks comment on this tentative conclusion and any other potential impact of these proposals on small business entities.

Format and Content Requirements and Other Required Submissions: The Commission proposes to require parties to submit a joint statement of stipulated facts and key legal issues five days after the answer is filed. The Commission also proposes to require all pleadings that seek Commission orders, as well as the orders themselves, to contain proposed findings of fact and conclusions of law, with supporting legal analysis, and to require these submissions to be in both hard copy and on computer disks in "read only" mode and formatted in WordPerfect 5.1 for Windows, or as otherwise directed by the staff in particular cases. The Commission also proposes to require the complaint, answer, and any authorized reply to include: (1) the name, address and telephone number of each individual likely to have discoverable information relevant to the disputed facts alleged in the pleadings, identifying the subjects of information; and (2) a copy of, or a description by category and location of all documents, data compilations and tangible things in the possession, custody, or control of the party that are relevant to the disputed facts alleged with particularity in the pleadings. While these proposed rules may place a greater burden on a small business entity to provide better legal and factual support early in the process, the Commission tentatively concludes that it does not significantly alter the level of evidentiary and legal support that would be ultimately required of parties in formal complaint actions pursuant to the current rules. It may, however, make it more difficult for all complainants, including small business, to gather the information needed to prevail on their complaints. Potentially higher initial costs may be somewhat offset by the prompt resolution of complaints and the avoidance of protracted and costly discovery proceedings and briefing requirements. It has been noted, for example, that the overall litigation costs of "rocket docket" cases in the U.S. District Court for the Eastern District of Virginia are lower than the costs of cases that take longer to resolve. Indeed, by requiring better and more complete submissions earlier in the process, this proposed rule reduces the need for discovery and other information filings, thereby significantly reducing the burden on small business entities. The Commission seeks comment on this

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tentative conclusion and any other potential impact of these proposals on small business entities.

Damages. The Commission proposes to allow bifurcation of liability and damages issues by permitting a complainant to file a supplemental complaint for damages after a finding of liability. In such a case, the Commission would defer adjudication of all damages issues until after a finding of liability. The Commission also proposes to require, in certain cases after liability has been found, defendants to place a sum of money in an interest-bearing escrow account, to cover part or all of the damages for which they may be found liable. While the bifurcation of liability and damages issues may require small business entities to postpone litigation of damages issues, any increased costs will be somewhat offset by the prompt resolution of the liability issues in complaints and the avoidance of protracted and costly discovery proceedings and briefing requirements in the initial proceeding. The proposal to require defendants to place a sum of money in an interest-bearing escrow account may have a significant economic impact on defendants that are small business entities without sufficient funds. The Commission seeks comment on this tentative conclusion and any other potential impact of these proposals on small business entities.

Significant Alternatives to the Proposed Rules Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives: The Commission has included a proposal to waive many of the proposed pleading requirements with respect to complainants and other entities that can demonstrate good cause. Upon an appropriate showing of financial hardship or other public interest factors, the Commission proposes to waive format and content requirements under Section 1.721 of the rules. Furthermore, the proposed rules apply only to Section 208 complaints that are filed with the Commission. Complainants wishing to assure themselves of the ability to utilize full discovery, for example, are not precluded from filing their complaints in federal district court. The impact on small business entities of the proposal to require defendants to place a sum of money in an interest-bearing escrow account would be minimized by the fact that this measure would be implemented under standards similar to those used for determining whether a preliminary injunction is appropriate, *e.g.*, likelihood of success on the merits, irreparable harm, etc. In addition, the Complaint NPRM solicits comments on a variety of alternatives.

Federal Rules that May Overlap, Duplicate, or Conflict with the Proposed Rules: None.

Summary of Notice of Proposed Rule Making

I. Background

1. In February 1996, Congress passed and the President signed the "Telecommunications Act of 1996" ("1996 Act"). The 1996 Act prescribes deadlines ranging from 90 days to 5 months for the resolution of certain types of complaints against the Bell Operating Companies ("BOCs") and other telecommunications carriers that are subject to the 1996 Act's requirements. The complaint provisions added by the 1996 Act that are relevant to this NPRM are Sections 208, 255, 260, 271, 274, and 275. This NPRM proposes rules necessary to implement those complaint resolution provisions.

II. Discussion

2. The NPRM seeks comment on changes to the Commission's current rules for processing formal complaints against carriers that would: (1) require or encourage complainants and defendants to engage in certain pre-filing activities designed to resolve or narrow issues and compile and/or exchange better factual information before resort to the complaint process; (2) eliminate delays in serving complaints on defendant carriers; (3) improve the format and content of complaints, answers and other pleadings filed by parties; (4) eliminate certain pleading opportunities that do not appear useful or necessary; and (5) limit or eliminate discovery.

A. Pre-Filing Procedures and Activities

3. The Commission asks interested parties to identify specific pre-filing activities available to potential complainants and defendants that could serve to settle or narrow disputes, or facilitate the compilation and exchange of relevant documentation or other information prior to the filing of a formal complaint with the Commission. The Commission proposes to require a complainant to certify that it discussed the possibility of settlement with the defendant carrier's representative(s) prior to filing the complaint.

4. The Commission also seeks comment on whether a committee composed of industry members would serve a needed role or useful purpose in addressing disputes over technical and other business disputes, before such disputes are brought before the Commission in the form of formal complaint actions that must be resolved under expedited procedures. Participation in a proceeding before such a committee would be strictly voluntary.

B. Service

5. The primary goal of the Commission in proposing changes to the current service procedures is to prevent the delay caused by those procedures, which implement the Section 208 requirement that the Commission serve formal complaints on defendant carriers. The Commission proposes to authorize or require a complainant to effect service simultaneously on the following persons: the defendant carrier, the Commission, and the appropriate staff office. The complainant would also be required to serve a copy of the complaint and associated attachments directly on the Chief of the division or branch responsible for handling the complaint. The Commission proposes to provide for a separate lock box at the Mellon Bank in Pittsburgh for complaints against wireless telecommunications service providers to help ensure the prompt receipt and handling of such complaints by the Wireless Telecommunications Bureau. The Commission also proposes to establish and maintain an electronic directory, available on the Internet, of agents authorized to receive service of complaints on behalf of carriers that are subject to the provisions of the Act.

6. In applying the requirement in Section 208 of the Act that the Commission serve the complaint on the defendant carrier, the staff routinely reviews complaints in the first instance and determines whether they meet the requirements under the Act and the Commission's rules. To accomplish this objective while eliminating the delay caused by having the Commission serve the defendant, the Commission also proposes to require a complainant to submit a completed intake form with any formal complaint as part of the filing requirement to indicate that the complaint meets the various threshold requirements for stating a cause of action under the Act and the Commission's rules. Finally, the Commission proposes to require parties to serve all subsequent pleadings by facsimile to be followed by mail delivery, or by overnight delivery.

C. Format and Content Requirements

7. The 1996 Act's complaint resolution deadlines necessitate substantial modification of the content requirements for pleadings filed in formal complaint proceedings. These

modifications must have the effect of creating complete records for the disposition of formal complaints. The Commission's overall goals are to improve the utility, quality, and content of the complaint, answer, and other filings submitted by parties in formal complaint cases and to expedite the issuance of orders that resolve procedural and substantive issues.

8. The Commission proposes to require any party to a formal complaint proceeding, in its complaint, answer, or any other pleading required during the complaint process, to include full statements of relevant facts, and to attach to such pleadings supporting documentation and affidavits of persons with knowledge of the facts stated in the pleadings. The Commission also proposes to require all pleadings that seek Commission orders, including complaints, answers, briefs, reply briefs, and motions, as well as the orders themselves, to contain findings of fact and conclusions of law, and to require these submissions to be in both hard copy and on computer disks in "read only" mode and formatted in WordPerfect 5.1 for Windows, or as otherwise directed by the staff in particular cases. In recognition of the fact that many of the proposed pleading requirements could be unduly burdensome on certain individuals or parties, the Commission proposes to waive format and content requirements upon an appropriate showing of financial hardship or other public interest factors. The Commission also proposes to require parties to append copies of relevant tariffs or tariff provisions that are relied upon in a pleading.

D. Answers

9. The Commission proposes to reduce the permissible time for a defendant to file an answer to a complaint from 30 to 20 days after service or receipt of the complaint.

E. Status Conferences

10. The Commission proposes to require that, unless otherwise ordered by the staff, an initial status conference take place in all formal complaint proceedings 10 business days after the defendant files its answer to the complaint. At the status conference, the Commission and parties may discuss claims and defenses, settlement possibilities, scheduling, whether discovery shall be permitted, and if so, a discovery plan. The parties would be required to memorialize jointly, in writing, any Commission rulings made during these status conferences.

F. Discovery

11. The Commission's goal in modifying the discovery rules is to limit or eliminate discovery while still permitting parties the opportunity to develop a sufficient record for resolution of their dispute. It is the Commission's belief that while the parties should continue to bear the burden of developing an adequate record, that burden should be borne earlier in the proceeding, upon the filing of the initial pleadings rather than upon discovery. Therefore the Commission seeks comment on limiting or eliminating discovery as a matter of right. It is anticipated that the proposed requirements for complaints, answers, and proposed stipulated facts will, in a majority of cases, present a sufficient factual record to enable the Commission to rely upon the initial pleadings alone to determine the outcome of the case. The Commission also seeks comment on the feasibility of allowing the parties to a complaint proceeding to agree among themselves to a cost-recovery system as a basis for facilitating the prompt identification and exchange of information.

12. The Commission also proposes to authorize the Bureau, on its own motion, to refer certain disputes to an administrative law judge for expedited hearing on factual issues.

G. Cease, Cease-and-Desist Orders and Other Forms of Interim Relief

13. The Commission sought comment on the legal and evidentiary standards necessary for obtaining cease or cease-and-desist orders pursuant to Title II of the Act and other forms of interim relief in Section 208 formal complaint cases, in order to expedite the issuance of cease or cease-and-desist orders within the 1996 Act's deadlines and to create more certainty regarding the legal and factual basis for granting interim relief.

H. Damages

14. The Commission's goal is to eliminate or minimize the delay endemic to the resolution of damages issues. The Commission proposes to allow bifurcation of liability and damages issues by permitting a complainant to file supplemental complaint for damages after a finding of liability. In such a case, the Commission would defer adjudication of all damages issues until after a finding of liability. This approach would enable the Commission to make a liability finding within the statutory deadline and still preserve the complainant's right to a damage award. The Commission also proposes to require that any complaint seeking an award of damages contain a detailed computation of damages, such that the Commission's adjudication of damages would end with a determination about the sufficiency of the computation formula submitted by the complainant rather than a finding as to the exact amount of damages, if any, owed to the complainant. The Commission also proposes to establish, following a finding of liability, a limited period during which the parties could engage in settlement negotiations or submit their damage claims to voluntary alternative dispute resolution mechanisms in lieu of further proceedings before the Commission. The Commission also seeks comment on a proposal to refer damages issues to an administrative law judge for decision once liability for damages has been determined by the Commission or if the parties agree to mediation by an administrative law judge. The Commission proposes to require, in certain cases after liability has been found, defendants to place a sum of money in an interest-bearing escrow account, to cover part or all of the damages for which they may be found liable.

I. Cross-Complaints and Counterclaims

15. The Commission proposes to allow compulsory counterclaims, those arising out of the same transaction or occurrence that is the subject matter of the opposing party's claim, only if the defendant files them concurrently with the answer. If a defendant fails to file such a compulsory counterclaim with its answer, it will be barred. A defendant may, but is not required to, file permissive counterclaims (those not arising out of the same transaction or occurrence) against the complainant. In addition, a defendant may, but is not required to, file cross-claims that arise out of the same transaction against co-parties. To the extent that the defendant elects to file such permissive counterclaims and cross-claims, it must file these pleadings concurrently with its answer. The defendant always has the option of filing any barred permissive counterclaims or cross-claims in a separate proceeding, provided that the statute of limitations has not run.

16. In addition, the Commission will revise its rules to clarify the applicability of filing fees to both complaints and cross-complaints.

J. Replies

17. The Commission proposes to prohibit replies to oppositions to motions. The Commission also proposes to prohibit replies to answers unless

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specifically authorized by the Commission, generally upon a complainant's motion showing that there is good cause to reply to affirmative defenses that are supported by factual allegations that are different from any denials also contained in the answer.

K. Motions

18. In cases where discovery is conducted, the Commission proposes to require parties filing Motions to Compel to certify that they have made a good faith attempt to resolve the matter before filing the motion, in order to limit Commission involvement in conflicts that should be easily resolved. The Commission also proposes to make failure to file an opposition to a motion possible grounds for granting the motion, as well as shorten the deadline for filing oppositions to motions from ten to five business days. Finally, the Commission proposes to prohibit amendment of complaints except for changes necessary under 47 CFR § 1.720(g), which requires that information and supporting authority be current and updated as necessary in a timely manner.

L. Confidential or Proprietary Information and Materials

19. The Commission proposes to allow parties to designate as proprietary any materials generated in the course of a formal complaint, and not limit such designation to materials produced in response to discovery. The Commission also seeks comment on whether additional protections are needed in light of the short complaint resolution deadlines in the 1996 Act and the Commission's proposals in this NPRM to eliminate certain pleading and discovery opportunities.

M. Other Required Submissions

20. The Commission proposes to require parties to submit a joint statement of stipulated facts and key legal issues five days after the answer is filed. The Commission feels that drafting such a statement would promote agreement on a significant number of the disputed facts and legal issues, and that the statement itself would serve as a guide for the Commission to determine whether discovery is necessary in a particular case. Additionally, the Commission seeks comment on streamlining the current briefing process by prohibiting the filing of briefs in cases where discovery is not conducted, by continuing to allow the parties to file briefs, but permitting the staff to limit the scope of such briefs, or by shortening the deadline by which briefs are due. The Commission proposes to limit the page length of briefs to 25 pages for initial briefs and 10 pages for reply briefs.

N. Sanctions

21. The Commission seeks comment on what sanctions and/or remedies would be necessary or appropriate to ensure full compliance with and satisfaction of the proposed rule requirements.

O. Other Matters

22. The Commission seeks comment on two matters presented by certain language in Section 271 relative to other complaint provisions in the Act. First, the Commission sought comment on its tentative conclusion that the phrase "act on" as used in Section 271(d)(6)(B) encompasses actions taken by the Bureau and need not necessarily be final action by the Commission. Second, the Commission noted that the 90-day complaint resolution deadline for Section 271(d) complaints applies only in the absence of an agreement otherwise by the parties to the complaint action. The Commission sought comment on specific procedures and timetables that could be employed to ensure early notification to the Commission of waivers or extension agreements under Section 271(d)(6)(B) and to avoid the unnecessary expenditure of time and resources by the staff and parties to such a complaint action.

III. Comments and Ex Parte Requirements

23. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, all interested parties may file comments on the matters discussed in the NPRM and on proposed rules contained in the appendices by January 6, 1997 and reply comments on or before January 31, 1997. Parties are also invited to submit, in conjunction with their comments or reply comments, proposed text for rules that the Commission could adopt in this proceeding. Specific rule proposals should be filed as an appendix to a party's comments or reply comments. Such appendices may include only proposed text for rules that would implement proposals set forth in the parties' comments and reply comments in this proceeding, and may not include any comments or arguments. Proposed rules should be provided in the format used for rules in the Code of Federal Regulations, and should otherwise conform to the Comment Filing Procedures set forth in this NPRM.

24. To file formally in this proceeding, participants must file an original and six copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, they must file an original and nine copies. In addition, participants are encouraged to submit two additional copies directly to the Common Carrier Bureau, Enforcement Division, Room 6008, 2025 M Street, N.W., Washington, D.C. 20554. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, N.W., Room 239, Washington, D.C. 20554.

25. In order to facilitate review of comments and reply comments, both by parties and the Commission, comments and reply comments should include a summary of the substantive arguments raised in the pleading.

26. Parties are also asked to submit comments and reply comments on diskette. Such diskette submissions would be in addition to the formal filing requirements addressed above. Parties submitting diskettes should submit them to Anita Cheng, Common Carrier Bureau, Enforcement Division, Room 6008, 2025 M Street, N.W., Washington, D.C. 20554. Each disk must be a standard 3½" magnetic disk, formatted to be readable by high-density 1.44 MB floppy drives operating under MS-DOS (3.X or later versions). Participants are encouraged to submit documents formatted in WordPerfect 5.1 for Windows. Otherwise, parties must submit the documents formatted in both ASCII and any word processing program. The diskette should be submitted in "read only" mode. The diskette should be clearly labelled with the party's name, proceeding, type of pleading (comment or reply comments) and date of submission. The diskette should be accompanied by a cover letter.

27. This is a non-restricted notice and comment rule making proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. See

generally 47 CFR §§ 1.1202, 1.1203, and 1.1206(a).

IV. Conclusion

28. In this NPRM, the Commission proposes to amend its rules governing the filing of formal complaints to implement certain complaint provisions in the 1996 Act and establish procedures necessary to facilitate the full and fair resolution of complaints filed under such provisions within the deadlines established by the Telecommunications Act of 1996. The Commission's goal is to establish rules of practice and procedure which, by providing a forum for prompt resolution of complaints of unreasonable, discriminatory, or otherwise unlawful conduct by telecommunications carriers, will foster rather than impede robust competition in all telecommunications markets.

VI. Ordering Clauses

29. Accordingly, *it is ordered* that pursuant to Sections 1, 4, 201–205, 208, 215, 218, 220 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 201–205, 208, 215, 218 and 220, a *notice of proposed rulemaking* is hereby *adopted*.

30. *It is further ordered* that the Chief of the Common Carrier Bureau is delegated authority to require the submission of additional information, make further inquiries, and modify the dates and procedures if necessary to provide for a more complete record and a more efficient proceeding.

31. *It is further ordered* that the Secretary shall cause a copy of this NPRM, including the Initial Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. Section 603(a) (1981). The Secretary shall also cause a summary of this Notice to appear in the **Federal Register**.

List of Subjects

47 CFR Part 0

Organization and functions (Government agencies).

47 CFR Part 1

Communications common carriers.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

Rule Changes

Parts 0 and 1 of Title 47 of the Code of Federal Regulations are proposed to be amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for Part 0 continues to read as follows:

Authority: Sec. 5, 48 Stat. 1068, as amended, 47 U.S.C. 155, 225, unless otherwise noted.

2. Section 0.291 is proposed to be amended by revising paragraph (d) to read as follows:

§ 0.291 Authority delegated.

* * * * *

(d) *Authority to designate for hearing.* The Chief, Common Carrier Bureau shall not have authority to designate for hearing any formal complaints which present novel questions of law or policy which cannot be resolved under outstanding precedents or guidelines. The Chief, Common Carrier Bureau shall not have authority to designate for hearing any applications except applications for facilities where the issues presented relate solely to whether the applicant has complied with outstanding precedents and guidelines.

* * * * *

PART 1—PRACTICE AND PROCEDURE

3. The authority citation for Part 1 continues to read as follows:

Authority: 47 U.S.C. 151, 154, 303, and 309(j) unless otherwise noted.

4. Section 1.47 is proposed to be amended by revising paragraph (b) and adding new paragraph (h) to read as follows:

§ 1.47 Service of documents and proof of service.

* * * * *

(b) Where any person is required to serve any document filed with the Commission, service shall be made by that person or by his representative on or before the day on which the document is filed.

* * * * *

(h) Every carrier subject to the Communications Act of 1934, as amended, shall designate an agent in the District of Columbia, upon whom service of all notices, process, orders, decisions, and requirements of the Commission may be made for and on behalf of said carrier in any proceeding pending before the Commission. Such designation shall be filed, and updated as necessary, in writing and electronically in the office of the secretary of the Commission. Service of all notices, process, orders, decisions, and requirements of the Commission may be made upon such carrier by leaving a copy thereof with such designated agent at his office or usual place of residence in the District of Columbia. If a carrier fails to designate such an agent, service of any notice or other process in any proceeding before the Commission, or of any order, decision, or requirement of the Commission, may be made by posting such notice, process, order, requirement, or decision in the office of the secretary of the Commission.

5. Section 1.720 is proposed to be amended by revising the introductory paragraph and paragraph (h) to read as follows:

§ 1.720 General pleading requirements.

Formal complaint proceedings are generally resolved on a written record consisting of a complaint, answer, and statement of stipulated facts, but may also include other written submissions such as briefs and responses to written interrogatories. The Bureau in its discretion may designate formal complaint proceedings for resolution by hearing before an Administrative Law Judge, or where appropriate, it may refer certain issues of fact to an Administrative Law Judge for expedited hearing, while responsibility for the overall resolution of the proceeding is retained by the responsible Bureau. All written submissions, both substantively and procedurally, must conform to the following standards:

* * * * *

(h) Specific reference must be made to any tariff provision relied on in support of a claim or defense. Copies of relevant tariffs or relevant portions of tariffs that are relied upon in a pleading shall be appended to the pleading.

* * * * *

6. Section 1.721 is proposed to be amended by revising paragraphs (a)(5), (a)(6), (a)(7), (a)(8), adding paragraphs (a)(9), (a)(10), (a)(11), (a)(12), and adding paragraph (c) to read as follows:

§ 1.721 Format and content.

(a) * * *

(5) A complete statement of facts which, if proven true, would constitute such a violation. All facts must be supported, pursuant to § 1.720(c), by relevant affidavits and documentation, including copies of all applicable agreements, offers, counter-offers, denials, or other relevant correspondence.

(6) Complete detailed explanation of the manner in which a defendant has violated the Act, Commission order, or Commission rule in question, including identification or description and relevant time period, of the communications, transmissions, services, or other carrier conduct

complained of and nature of the injury sustained;

(7) The relief sought, including recovery of damages and the amount of damages claimed, if known;

(8) Certification that each complainant has discussed the possibility of settlement with each defendant prior to the filing of the formal complaint;

(9) Whether suit has been filed in any court or other government agency on the basis of the same cause of action, or whether the complaint itself seeks prospective relief identical to the relief proposed or at issue in a notice-and-comment proceeding that is concurrently before the Commission;

(10) A copy of, or a description by category and location of all documents, data compilations and tangible things in the complainant's possession, custody or control that are relevant to the disputed facts alleged with particularity in the complaint. The complaint may also include an explanation of why any relevant documents are believed to be confidential.

(11) The name, address and telephone number of each individual likely to have discoverable information relevant to the disputed facts alleged with particularity in the complaint, identifying the subjects of information; and

(12) A completed Formal Complaint Intake Form.

* * * * *

(c) Upon showing of good cause by the complainant, the Commission may waive any of the requirements of this section.

Section 1.722 is proposed to be amended by revising the introductory text of paragraph (b) and adding paragraphs (c) and (d) to read as follows:

§ 1.722 Damages.

* * * * *

(b) Damages will not be awarded upon a complaint unless specifically requested. Damages may be awarded, however, upon a supplemental complaint as described more fully in paragraph (c) of this section, based upon a finding of the Commission in the original proceeding. *Provided that:*

* * * * *

(c) In all cases in which recovery of damages is sought, it shall be the responsibility of the complainant to provide a computation of each and every category of damages for which recovery is sought, along with an identification of all relevant documents and materials or such other evidence to be used by the complainant to determine the amount of such damages.

(1) Where the recovery of damages is sought on the original complaint, such original complaint must include the computation of damages and identification of documents, materials and other evidence to be used in such computation described in paragraph (c) of this section.

(2) A complainant electing to seek damages upon a supplemental complaint as provided in paragraph (b) of this section must clearly and unequivocally state such election in the original complaint. In cases in which a complainant clearly and unequivocally states its election to seek damages upon supplemental complaint, the computation and identification of all relevant documents, materials and other evidence described in paragraph (c) of this section need not be provided until such time the complainant files its supplemental complaint.

(3) Where a complainant voluntarily elects to seek the recovery of damages upon a supplemental complaint, the Commission will resolve the liability complaint within the relevant complaint resolution deadlines contained in the Act and defer adjudication of the damage complaint until after the liability complaint has been resolved.

(d) Where a complainant elects in its original complaint to seek the recovery of damages upon a supplemental complaint, the following procedures may apply in the event the Commission determines liability based upon its review of the original complaint:

(1) If the parties agree, issues concerning the amount, if any, of damages may be submitted for mediation to a Commission Administrative Law Judge. Such Administrative Law Judge shall be chosen in the following manner:

(i) By agreement of the parties and the Chief Administrative Law Judge; or

(ii) In the absence of such agreement, the Chief Administrative Law Judge shall designate the Administrative Law Judge.

(2) After the defendant has been determined to be liable in such bifurcated proceeding, the Commission may order the defendant to deposit into an interest bearing escrow account a sum equal to the amount of damages which it finds, upon preliminary investigation, is likely to be ordered after the issue of damages is fully litigated, or some lesser sum which may be appropriate, provided the Commission finds that the grant of this relief is favored on balance upon consideration of the following factors:

(i) Complainant's potential irreparable injury in the absence of such deposit;

(ii) The likelihood that the amount of damages ordered at the conclusion of litigation will be equal to or greater than the amount deposited;

(iii) The balance of the hardships between complainant and defendant; and

(iv) Whether public interest considerations favor the ordering of the deposit..

8. Section 1.724 is proposed to be amended by revising paragraphs (a), (b), and (c) and adding new paragraphs (f), (g) and (h) to read as follows:

§ 1.724 Answers.

(a) Any carrier upon which a copy of a formal complaint is served under this subpart shall answer within 20 days of service of the formal complaint, unless otherwise directed by the Commission.

(b) The answer shall advise the complainant and the Commission fully and completely of the nature of any defense, and shall respond specifically to all material allegations of the complaint. Every effort should be made to narrow the issues in the answer. Any defendant failing to file and serve an answer within the time and in the manner prescribed by this part may be deemed in default and an order may be entered against the defendant in accordance with the allegations contained in the complaint.

(c) The defendant shall state concisely its defenses to each claim asserted and shall admit or deny the averments on which the complainant relies. If the defendant is without knowledge or information sufficient to form a belief as to the truth of an averment, the defendant shall so state and this has the effect of a denial. When a defendant intends in good faith to deny only part of an averment, the defendant shall specify so much of it as is true and shall deny only the remainder. The defendant may make its denials as specific denials of designated averments or paragraphs. General denials are prohibited.

* * * * *

(f) The answer shall include a copy of, or a description by category and location of all documents, data compilations and tangible things in the defendant's possession, custody or control that are relevant to the disputed facts alleged with particularity in the pleadings. The answer may also include an explanation of why any relevant documents are believed to be confidential.

(g) The answer shall also list the name, address and telephone number of each individual likely to have discoverable information relevant to the disputed facts alleged with particularity

in the pleadings, identifying the subjects of information.

(h) Upon showing of good cause by the defendant, the Commission may waive any of the requirements of this section.

9. Section 1.725 is proposed to be revised to read as follows:

§ 1.725 Cross-complaints and counterclaims.

(a) Compulsory counterclaims, those claims arising out of the transaction or occurrence that is the subject matter of the complaint and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction, must be filed concurrently with the answer or it will be barred.

(b) Permissive counterclaims, those claims not arising out of the transaction or occurrence that is the subject matter of the complaint, must be filed concurrently with the answer in order to be resolved in the same proceeding. If not filed concurrently with the answer, however, the defendant will not be barred from filing such claim in a separate proceeding, provided that the statute of limitations has not run.

(c) Cross-complaints, claims by one party against a co-party arising out of the same transaction or occurrence that is the subject matter of either the complaint or counterclaim therein or relating to any property that is the subject matter of the original matter, must be filed concurrently with the answer in order to be resolved in the same proceeding. If not filed concurrently with the answer, however, the co-party will not be barred from filing such claim in a separate proceeding, provided the statute of limitations has not run.

10. Section 1.726 is proposed to be revised to read as follows:

§ 1.726 Replies.

(a) Replies are prohibited unless authorized by the Commission for good cause shown. If no reply is submitted, the complainant will be deemed to have denied the affirmative defenses.

(b) A complainant wishing to submit a reply must, within five days after the service of the answer, file a motion seeking leave to do so. A copy of the complainant's proposed reply should accompany its motion. A complainant's reply shall respond only to the specific factual allegations made by the defendant supporting its affirmative defenses. Replies which contain other allegations or arguments will not be accepted or considered by the Commission.

(c) Replies shall be accompanied by a copy of, or a description by category and location of all documents, data compilations and tangible things in the complainant's possession, custody or control that are relevant to the disputed facts alleged with particularity in the pleadings. The reply may also include an explanation of why any relevant documents are believed to be confidential. Replies shall also include the name, address and telephone number of each individual likely to have discoverable information relevant to the disputed facts alleged with particularity in the pleadings, identifying the subjects of information.

11. Section 1.727 is proposed to be amended by revising paragraphs (b), (c), (d), and (e) and adding new paragraphs (g) and (h) to read as follows:

§ 1.727 Motions.

* * * * *

(b) Motions that the allegations in the complaint be made more definite and certain are prohibited.

(c) The moving party shall provide a proposed order for adoption, which appropriately incorporates the basis therefor, including proposed findings of fact and conclusions of law relevant to the pleading. The proposed order shall be clearly marked as a "proposed order." The proposed order shall be submitted both as a hard copy and on computer disk in accordance with the requirements of § 1.734(d). The proposed order format should conform to that of a reported FCC order.

(d) A party opposing any motion shall also provide a proposed order for adoption, which appropriately incorporates the basis therefor. The proposed order shall be clearly captioned as a "Proposed Order." The proposed order shall be submitted both as a hard copy and on computer disk in accordance with the requirements of § 1.734(d). The proposed order format should conform to that of a reported FCC order.

(e) Oppositions to motions may be filed within five days after the motion is filed. Oppositions shall be limited to the specific issues and allegations contained in the motion; when a motion is incorporated in an answer to a complaint, an opposition to the motion shall not address any issues presented in the answer that are not also specifically raised in the motion. Failure to oppose any motion may constitute grounds for granting of the motion.

* * * * *

(g) All motions must contain proposed findings of fact and conclusions of law, with supporting legal analysis, relevant to the content of the pleading. All facts relied upon in motions must be supported by documentation or affidavits pursuant to § 1.720(c), except for those facts of which official notice may be taken. Assertions based on information and belief are prohibited.

(h) Amendments or supplements to complaints to add new claims or requests for relief are prohibited. Parties are responsible, however, for the continuing accuracy and completeness of all information and supporting authority furnished in a pending complaint proceeding as required under § 1.720(g).

§ 1.730 [Removed]

12. Section 1.730 is proposed to be removed.

13. Section 1.731 is proposed to be amended by revising the section heading and paragraph (a) to read as follows:

§ 1.731 Confidentiality of information produced or exchanged by the parties.

(a) Any materials generated in the course of a formal complaint proceeding may be designated as proprietary by that party if the party believes in good faith that the materials fall within an exemption to disclosure contained in the Freedom of Information Act (FOIA), 5 U.S.C. 552(b) (1) through (9). Any party asserting confidentiality for such materials shall so indicate by clearly marking each page, or portion thereof, for which a proprietary designation is claimed. If a proprietary designation is challenged, the party claiming confidentiality shall have the burden of demonstrating, by a preponderance of the evidence, that the material designated as proprietary falls under the standards for nondisclosure enunciated in the FOIA.

* * * * *

Section 1.732 is proposed to be amended by revising paragraphs (b), (c), and (d) and adding new paragraph (h) to read as follows:

§ 1.732 Other required written submissions.

* * * * *

(b) In cases when discovery is not conducted, briefs shall be filed concurrently by both complainant and defendant within 90 days from the date a complaint is served. Such briefs shall be no longer than 25 pages.

(c) In cases when discovery is conducted, briefs shall be filed concurrently by both complainant and defendant at such time designated by the staff, typically within 30 days after discovery is completed.

(d) Reply briefs may be submitted by either party within 20 days from the

date initial briefs are due. Reply briefs shall be no longer than 10 pages.

* * * * *

(h) Within 5 days after the answer is filed, the parties shall submit a joint statement of stipulated facts and key legal issues.

15. Section 1.733 is proposed to be amended by revising paragraphs (a) introductory text, (a)(2), (a)(4), (a)(5), (a)(6), (b), and (c) to read as follows:

§ 1.733 Status conference.

(a) In any complaint proceeding, the Commission may, in its discretion, direct the attorneys and/or the parties to appear before it for a status conference. Unless otherwise ordered by the Commission, an initial status conference shall take place within ten business days after the answer is filed, unless otherwise directed by the staff. A status conference may include discussion of:

* * * * *

(2) The necessity for or desirability of additional pleadings or evidentiary submissions;

* * * * *

(4) Settlement of all or some of the matters in controversy by agreement of the parties;

(5) Whether discovery is necessary and, if so, the scope, type and schedule for any discovery;

(6) The schedule for the remainder of the case and the date for further conferences; and

* * * * *

(b) In addition to the status conference referenced in paragraph (a) of this section, any party may also request that a conference be held at any time after the complaint has been filed.

(c) During a status conference, the Commission may issue oral rulings pertaining to a variety of interlocutory matters relevant to the conduct of a formal complaint proceeding including, *inter alia*, procedural matters, discovery, and the submission of briefs or other evidentiary materials. Within 24 hours after a status conference, the parties in attendance, unless otherwise directed, must submit a joint proposed order memorializing the oral rulings made during the conference to the Commission. Commission staff will review and make revisions, if necessary, prior to signing and filing the submission as part of the record. Parties may, but are not required to, tape record the Commission's summary of its oral rulings. Alternatively, parties may use a stenographer to transcribe the oral presentations and exchanges between and among the participating parties, insofar as such communications are not "off-the-record." The cost of such stenographer will be shared equally by the parties.

* * * * *

16. Section 1.734 is proposed to be amended by revising paragraph (c) and adding new paragraph (d) to read as follows:

§ 1.734 Specifications as to pleadings, briefs, and other documents; subscription.

* * * * *

(c) The original of all pleadings and other submissions filed by any party shall be signed by that party, or by the party's attorney. The signing party shall state his or her address, telephone number, facsimile number and the date on which the document was signed. Copies should be conformed to the original. Except when otherwise specifically provided by rule or statute, pleadings need not be verified. The signature of an attorney or party shall be a certificate that the attorney or party has read the pleading, motion, or other paper; that to the best of his or her knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and that it is not interposed solely for purposes of delay or for any other improper purpose.

(d) All proposed orders shall be submitted both as hard copies and on a 3.5 inch diskette formatted in an IBM compatible form using MS-DOS 5.0 and WordPerfect 5.1 software. The diskette should be submitted in "read only" mode. The diskette should be clearly labelled with the party's name, proceeding, type of pleading, and date of submission. The diskette should be accompanied by a cover letter. Parties who have submitted copies of tariffs or reports with their hard copies need not include such tariffs or reports on the magnetic disk.

17. Section 1.735 is proposed to be amended by revising paragraphs (b), (d) and (e) to read as follows:

§ 1.735 Copies; service; separate filings against multiple defendants.

* * * * *

(b) The complainant must file an original plus three copies of the complaint, accompanied by the correct fee, in accordance with subpart G of this part. See 47 CFR 1.1105(1)(c). However, if a complaint is addressed against multiple defendants, the complainant shall pay a separate fee and supply three additional copies of the complaint for each additional defendant. For complaints filed with the Common Carrier Bureau, the complainant must also serve a copy on the Chief, Formal Complaints and Investigations Branch. For complaints filed with the Wireless Telecommunications Bureau, the complainant must also serve a copy on the Chief, Enforcement Division. For complaints filed with the International Bureau, the complainant must also serve a copy on the Chief, Telecommunications Division. The requirements of this paragraph also apply to defendants filing cross-complaints.

* * * * *

(d) The complainant shall serve the complaint on the named defendant's registered agent for service of process. If filing a cross-complaint, the defendant/cross-complainant shall serve such cross-complaint on the named cross-defendant's registered agent for service of process and all counsel of record in the complaint proceeding.

(e) All subsequent pleadings and briefs filed in any formal complaint proceeding, as well as all letters, documents or other written submissions, shall be served either by overnight delivery or by facsimile and followed by mail, by the filing party on the counsel of record of all other parties to the proceeding, together with a proof of such service in accordance with the requirements of § 1.47(g).

* * * * *

18. Section 1.1105 is proposed to be amended by revising the entry (1)(c), and adding (1)(d) to read as follows:

§ 1.1105 Schedule of charges for applications and other filings in the common carrier services.

Action	FCC form No.	Fee amount	Payment type code	Address
1. * * *				
c. Formal Complaints/Cross-Complaints and Pole Attachment Compaints/Cross-Complaints, except those relating to wireless telecommunications services, Filing Fee..	Corr. and 159	150	.....	CIZ Federal Communication Commission, Common Carrier Enforcement, P.O. Box 358120, Pittsburgh, PA 15251-5120.

Action	FCC form No.	Fee amount	Payment type code	Address
d. Formal Complaints/Cross-Complaints relating to wireless telecommunications services, including cellualr telephone, paging, personal communications services, and other commercial mobile radio services, Filing Fee..	Corr. and 159	150	CIZ	Federal Communications Commission, Wireless Telecommunications Bureau, P.O.Box 358128, Pittsburgh, PA 15251–5120.

Attachment to the Proposed Rule

FORMAL COMPLAINT INTAKE FORM

Case Name: _____

Complainant Name, Address, Phone and Facsimile Number:

_____

_____

_____

_____

Complaint alleges violation of the following provisions of the Communications Act of 1934, as amended: _____

Answer (Y)es, (N)o or N/A to the following:

___ Complaint conforms to the specifications prescribed by 47 CFR §§ 1.49, 1.734.

___ Complaint complies with the pleading requirements of 47 CFR § 1.720.

___ Complaint conforms to the format and content requirements of 47 CFR § 1.721:

___ Complaint contains a detailed explanation of the manner in which the defendant violated the provisions of the Communications Act of 1934, as amended.

___ Relevant documentation and/or affidavits is attached, including agreements, offers, counter-offers, denials, or other relevant correspondence.

___ Contains certification that complainant has discussed the possibility of settlement with each defendant prior to the filing of the formal complaint.

___ Suit has been filed in another court or government agency on the basis of the same cause of action. If yes, please explain: _____

___ Seeks prospective relief identical to the relief proposed or at issue in a notice-and-comment proceeding that is concurrently before the Commission. If yes, please explain: _____.

___ If damages are sought, contains specified amount and nature of damages claimed.

___ Contains a copy of, or a description by category and location of all documents, data compilations and tangible things in the complainant's possession, custody or control that are relevant to the disputed facts alleged with particularity in the complaint.

___ Contains the name, address and telephone number of each individual likely to have discoverable information relevant to the disputed facts alleged with particularity in the complaint, identifying the subjects of information.

___ All reported FCC orders relied upon have been properly cited in accordance with Section 1.14 of the Commission's Rules, Title 47 Code of Federal Regulations, 47 CFR § 1.14.

___ Copies of cited non-FCC authority are attached.

___ Copy of complaint has been served on defendant's registered agent for service in accordance with [to be amended] 47 CFR § 1.47(b).

___ If more than 10 pages, the complaint contains a table of contents as specified in 47 CFR § 1.49(b).

___ The correct number of copies, required by 47 CFR § 1.51(c)(2) and 47 CFR § 1.51(c)(2) if applicable, have been filed.

___ Complaint has been properly signed and verified in accordance with 47 CFR § 1.52.

___ $150.00 filing fee specified in 47 CFR § 1.1105(1)(c) is attached.

___ If complaint is by multiple complainants, it conforms with the requirements of 47 CFR § 1.723(a).

___ If complaint involves multiple grounds, it complies with the requirements of 47 CFR § 1.723(b).

___ If complaint is directed against multiple defendants, it complies with the requirements of 47 CFR § 1.735 (a)–(b).

[FR Doc. 96–32322 Filed 12–24–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961203339–6339–01; I.D. 111896B]

RIN 0648–AI88

Fisheries of the Exclusive Economic Zone Off Alaska; Scallop Fishery Off Alaska; Scallop Vessel Moratorium

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes a temporary moratorium on the entry of additional vessels into the scallop fishery off Alaska. This action would implement Amendment 2 to the Fishery Management Plan for the Scallop Fishery off Alaska (FMP) as recommended by the North Pacific Fishery Management Council (Council). The intended effect of Amendment 2 is to curtail increases in fishing capacity and to provide stability for industry while the Council develops a long-term limited access system for this fishery. This action is necessary to promote the conservation and management objectives of the FMP.

DATES: Comments must be received at the following address by February 10, 1997.

ADDRESSES: Comments on the proposed rule must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori J. Gravel. Copies of Amendment 2 and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this action may be obtained from the same address. Send comments regarding burden estimates or any other aspect of the data requirements, including suggestions for reducing the burdens, to NMFS and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503, Attn: NOAA Desk Officer.

FOR FURTHER INFORMATION CONTACT: Kent Lind, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Management Authority

The scallop fishery in the exclusive economic zone (EEZ) off Alaska is managed by NMFS under the FMP. The FMP was prepared by the Council under the Magnuson-Stevens Act and approved by NMFS on July 26, 1995. Regulations implementing the FMP are set out at 50 CFR part 679. General regulations that also affect fishing in the EEZ are set out at 50 CFR part 600.

The Council is authorized by the Magnuson-Stevens Act to establish a system for limiting access to a fishery in order to achieve optimum yield if, in developing such a system, the Council and NMFS take into account: (1) Present participation in the fishery, (2)

historical fishing practices in, and dependence on, the fishery, (3) the economics of the fishery, (4) the capability of fishing vessels used in the fishery to engage in other fisheries; (5) the cultural and social framework relevant to the fishery, and (6) any other relevant considerations (16 U.S.C. 1853).

Scallop Management Background

Management of scallops in the EEZ off Alaska was conducted by the Alaska State Department of Fish and Game (ADF&G) from 1968 until the implementation of the Federal FMP and an interim closure of the EEZ to fishing for scallops in 1995. In 1992, ADF&G developed an Interim Fishery Management Plan (IFMP) for scallops, as fishing effort was rapidly increasing and maximum sustainable yield may have been exceeded. The IFMP specified three major management measures: (1) Setting area-specific guideline harvest levels and gear restrictions to prevent localized overharvesting, (2) creating an observer program to monitor the fishery and obtain biological information, and (3) limiting effort via gear restrictions, seasons, minimum size limits, and other measures. Consistent with scallop management actions taken on the east coast, the State of Alaska (State) promulgated regulations that limit crew size to a total of 12, and mandated that weathervane scallops only be shucked manually to control effort. In 1993, the Commissioner of ADF&G declared scallops a High Impact Emerging Fishery (5 AAC 39.210) because of mounting resource concerns. A fishery may be regulated as a high impact emerging commercial fishery if the Commissioner determines that any of the following conditions apply to a species or species group in an area or region: (1) Harvesting effort has recently increased beyond a low sporadic level; (2) interest has been expressed in harvesting the resource by more than a single user group; (3) the level of harvest might be approaching a level that might not be sustainable on a local or regional level; and (4) comprehensive regulations to address issues of conservation, allocation, and conduct of an orderly fishery have not been developed.

In 1993, the Council also began to address the issues of overexploitation and overcapitalization in the scallop fishery. At the January 1993 meeting, the Council determined that the scallop fishery may require Federal management to protect the fishery from overexploitation and further overcapitalization. The Council set a control date of January 20, 1993, to notify the industry that a moratorium for this fishery may be implemented. This control date, which was published in the Council's newsletter, meant that fishermen and/or vessels not participating in the fishery by that date may not be guaranteed future access to the fishery.

The Council was presented with information indicating that the stocks of weathervane scallops were fully exploited and any increase in effort would be detrimental to the stocks and the Nation. Information indicated that dramatic changes in age composition had occurred after the fishing-up period (1980–90), with commensurate declines in harvest. In recent years, many fishermen abandoned historical fishing areas and searched for new areas to maintain catch levels. Increased numbers of small scallops were reported. Additionally, scallops are highly susceptible to overfishing and boom/bust cycles worldwide.

The need to limit access was the primary motivation for the Council to prepare the FMP in lieu of State management of the scallop fishery. As anticipated, effort in the scallop fishery increased in 1993 when 32 scallop permits, representing 21 vessels, were issued by the State. Fifteen of these vessels had made landings by the end of 1993. Even without additional vessels entering the fishery, the Council believed that the 1993 fishery was overcapitalized, meaning that too much capital was invested relative to the fleet size necessary to conduct the fishery. In 1992, seven vessels harvested 1.8 million lb (816 mt), for an average of 257,143 lb (116.6 mt) harvested per vessel. The 1993 quota was set at 890,000 lb (403.7 mt) for areas with specified guideline harvest levels, or about one-half of the 1992 landings. This quota could have been harvested by three or four vessels. In 1993, landings from areas without guideline harvest levels totaled 524,000 lb (237.7 mt), which could have been taken by an additional two vessels. Yet, 15 vessels participated in the 1993 fishery. In 1994, the growth trend in the fishery continued with 16 vessels harvesting 1,235,269 lb (560.3 mt) of scallops.

At its January 1993 meeting, the Council directed staff to proceed with an analysis to evaluate potential Federal management of Alaskan scallops. A vessel moratorium was proposed as an essential element of a Federal management regime to stabilize the size and capitalization of the scallop fleet during the time that the Council considers limited entry alternatives for this fishery.

At its June 1993 meeting, the Council and its advisory panels reviewed a draft EA/RIR/IRFA analysis of management alternatives for the scallop fishery. Also at that meeting, the Council reaffirmed the control date of January 20, 1993, and recommended several revisions to the draft analysis, which was subsequently released for public review on August 9, 1993. At the September 1993 Council meeting, public testimony was received on scallop management, particularly on the qualifying criteria for a moratorium. At that meeting, the Council tentatively identified its preferred alternative of a separate FMP for the scallop fishery, with shared management authority with the State. The preferred alternative also included a vessel moratorium option. However, the Council requested additional analysis to assist with determining appropriate qualifying criteria. Additional analysis was incorporated into the revised draft FMP, including a draft EA/RIR/IRFA, and was released for public review on November 30, 1993.

At its April 1994 meeting, the Council and its advisory bodies reviewed the draft FMP, took public testimony, and voted to adopt a separate FMP for the scallop fishery. Eighteen vessels would qualify under the criteria adopted by the Council in April 1994. The 1994 draft FMP, which deferred most management measures to the State, was based on the premise that all vessels fishing for scallops in the Federal waters off Alaska would also be registered with the State.

While regulations were being drafted to implement the FMP, a vessel that had nullified its registration with the State began fishing for scallops in the Federal waters of the Prince William Sound Registration Area, which the State had already closed after the guideline harvest level of 50,000 lb (22,686 kg) was taken on January 26, 1995. The State did not have authority to stop the vessel from fishing, because it was no longer registered with the State and was fishing in the EEZ. On February 17, 1995, the Council met by emergency teleconference and recommended that NMFS implement an emergency rule to close the EEZ off Alaska to scallop fishing to prevent further uncontrolled harvests in Federal waters. The emergency rule went into effect on February 23, 1995 and was published on March 1, 1995 (60 FR 11054).

At its April 1995 meeting, the Council took additional steps to prevent unregulated and uncontrolled harvests after the emergency rule expired. On April 19, 1995, the Council adopted an FMP, which continued the closure of the EEZ to fishing for scallops for a 1-year period. The FMP was approved by

NMFS on July 26, 1995. Additional information on the FMP and the interim closure of Federal waters to fishing for scallops may be found in the proposed and final rules implementing the FMP (60 FR 24822, May 10, 1995, and 60 FR 42070, August 15, 1995, respectively).

At its June 1995 meeting, the Council considered the testimony and recommendations of its Scientific and Statistical Committee, fishing industry representatives, and the general public on alternative management options for the scallop fishery to replace the interim closure. The Council also reviewed a revised EA/RIR/IRFA that outlined the potential impacts of a full Federal management regime, including a vessel moratorium based on the previously approved qualifying criteria. Based on the above information, the Council adopted Amendment 1 to the FMP authorizing a suite of Federal management measures, including the vessel moratorium.

In April 1996, the Council separated the scallop vessel moratorium from the other management measures contained in Amendment 1 and recommended instead that the moratorium proceed as Amendment 2 to the FMP. The Council took this action so that the development of a vessel moratorium would not delay the reopening of the fishery. Amendment 1 was subsequently approved by NMFS on July 10, 1996 (61 FR 38099, July 23, 1996).

Scallop Vessel Moratorium

The following paragraphs explain each aspect of the proposed scallop vessel moratorium.

Duration of the Moratorium

The temporary vessel moratorium would remain in effect for 3 years from the date of implementation or until repealed or replaced by a permanent limited access program. Amendment 2 would allow the Council to recommend that the moratorium be extended for no more than 2 years if a limited access program were imminent.

Qualification Criteria

Scallop moratorium permits would be issued to the person (or successor in interest) who owned the qualifying vessel when it most recently made qualifying landings. The Council indicated that when vessels were sold during or after the moratorium qualification period, the moratorium rights should attach to the owner of the vessel when it most recently made qualifying landings such that each vessel generates only one moratorium permit. The Council believed that moratorium rights should be assigned to the person who owned a vessel when it qualified for a moratorium permit rather than some subsequent owner who does not have a history of participation in the fishery with that vessel. The Council adopted this approach after the testimony of one scallop fisherman who had a long history of participation in the scallop fishery, but who had sold his qualified vessel prior to the announcement of a moratorium control date and had replaced it with a new vessel that would not qualify under the moratorium.

A vessel would qualify for inclusion in the moratorium if it made a legal landing of scallops during 1991, 1992 or 1993; or during at least 4 separate years from 1980 through 1990. The Council chose this two-tier approach to emphasize recent participation in the fishery by allowing all vessels with any legal landings in 1991, 1992, or 1993 to qualify. Historic participants would qualify under the more restrictive standard of a legal landing during at least 4 separate years from 1980 through 1990.

The Council adopted the 1980 start date for qualification of historic participants, because data prior to 1980 were not available. More important, 1980 marked the first year of the buildup of the scallop fishery and was thus considered to be a reasonable base year for historical participation. Less than three vessels participated in 1974, 1976, 1977, and 1979, and no vessels participated in 1978. The 1990 cutoff date for historic participation was chosen because vessels making landings in 1991, 1992, or 1993 would be included as recent participants. The Council did not include those vessels that participated in 1990, but that did not have sufficient historic participation or more recent participation in the fishery, as moratorium qualified. The Council determined that such vessels had neither recent nor historic dependence on the fishery. Vessels that were in the "pipeline" to fish for Alaskan scallops (i.e., under construction, being refitted, relocated, etc.) but that had not made a required landing, would not qualify under the moratorium. The Council had been discussing a scallop moratorium throughout 1993. The qualification period was extended from the January 20, 1993, control date to the end of 1993 to address the problem of vessels in the "pipeline."

The Council chose not to extend the moratorium qualifying period past 1993 in order to discourage speculative entry while the moratorium was being developed and submitted for review. Additional entry into the fishery during the development and implementation phase would only exacerbate the very problems that the moratorium is intended to solve. Fishermen received extensive notice through the Council process described above that the fishery was being limited in a way that jeopardized any investments they would make in the fishery after 1993. According to ADF&G landing records, at least three vessels have entered the scallop fishery since the moratorium cut-off date, and they would not qualify for moratorium permits. However, participation in the scallop fishery by these vessels has been sporadic. None of these vessels made a single landing during the entire moratorium qualification period of 1980–93, nor have they participated on a consistent basis since the moratorium cut-off date of December 31, 1993.

Area Endorsements

Moratorium permits would include area endorsements for fishing within Registration Area H (Cook Inlet) and/or waters outside Registration Area H. Qualified vessels should have made at least one legal landing of scallops during the qualifying period within an endorsement area to receive an endorsement for that area. No crossovers would be allowed between Registration Area H and waters outside Registration Area H unless a vessel qualifies in both areas.

The Council adopted the area endorsement approach in order to preserve the unique nature of the Cook Inlet scallop fishery, which is conducted exclusively by small boats operating out of Homer. The State has preserved the Cook Inlet scallop fishery as a distinct small boat fishery by limiting Cook Inlet vessels to a single 6–ft (1.83 m) dredge and exempting Cook Inlet vessels from the observer coverage requirements that are in effect for all other registration areas (§ 679.65(c)). According to ADF&G landing data, only one qualifying vessel fished both inside and outside Registration Area H during the qualifying period and would receive endorsements to fish in both areas.

Vessel Reconstruction and Maximum Length Overall (LOA)

To prevent increased capitalization in the scallop fishery, the Council chose to limit increases in vessel LOA due to the reconstruction of vessels during the moratorium to no more than 1.2 times or 20 percent of the LOA of the vessel on the control date of January 20, 1993. For vessels under reconstruction on January 20, 1993, the maximum LOA would be the LOA on the date reconstruction was completed, with no

additional increases allowed. Each scallop moratorium permit would specify a maximum LOA based on the above criteria.

The 20–percent limit was chosen by the Council for the same reasons that a 20–percent limit was established for the groundfish and crab vessel moratorium. The Council believed that limiting increases in vessel size to 20 percent of LOA would allow for some upgrading of vessels to improve stability and safety, while limiting the further overcapitalization that could occur through massive reconstruction of existing vessels.

Transferability

Moratorium permits would be valid on any vessel that is less than or equal to the maximum LOA identified on the permit and that is owned, leased, or operated by the person identified on the moratorium permit. A vessel fishing for scallops would be required to carry a valid moratorium permit on board whenever the vessel is fishing for scallops, or has scallops retained on board. A person could transfer a moratorium permit to another person if a completed transfer application were submitted to NMFS and subsequently approved. In this event, a new permit would be issued in the name of the person who received the transferred permit.

Exemptions

Vessels less than or equal to 26 ft (7.9 m) LOA in the Gulf of Alaska, and less than or equal to 32 ft (9.8 m) LOA in the Bering Sea and Aleutian Islands Area, would be exempt from the scallop moratorium when fishing for scallops with dive gear. The Council wanted to provide for the potential development of cleaner gear types such as dive gear and chose to adopt the same size limits exemption for small vessels as were established for the groundfish and crab vessel moratorium, except that the exemption only applies when fishing with dive gear. An operator of a vessel under the size limits listed above would still be required to carry a valid scallop moratorium permit on board when fishing with dredge gear, or from a vessel that has dredge gear on board.

While commercial harvesting of shellfish and sea cucumbers with dive gear does occur in Alaska waters, safety and technology factors generally limit this type of fishing to shallow, near-shore State waters. NMFS has no record of commercial divers harvesting scallops in Federal waters off Alaska and believes it is unlikely that any commercial divers would choose to attempt such an endeavor. Nevertheless, this exemption would ensure that a vessel moratorium designed to limit further overcapitalization by the dredge fleet would not prevent future exploration with dive gear.

Appeals

NMFS would issue an initial administrative determination to each applicant who is denied a scallop moratorium permit. An initial administrative determination may be appealed by the applicant in accordance with the procedures established for the groundfish and crab moratorium at § 679.43. An initial administrative determination that denies an application for a scallop moratorium permit would authorize the affected person to catch and retain scallops with an interim permit. The interim permit would expire on the effective date of the final agency action relating to the application. An administrative determination denying the issuance of a scallop moratorium permit or application for transfer would be the final agency action for purposes of judicial review.

Technical changes to existing regulations

This proposed rule contains technical changes to the existing definitions of "legal landing", "maximum LOA", "moratorium qualification", "moratorium species", and "qualifying period" set out at § 679.2. These technical changes would be made to clarify which terms apply only to the existing groundfish and crab moratorium and which terms also would apply to the scallop moratorium.

A technical change would also be made to the description of the groundfish and crab moratorium appeals process at § 679.4(c)(10)(i) to specify that appeals are to be sent to the Regional Administrator rather than to the Chief, RAM Division. This change is necessary to make § 679.4(c)(10)(i) consistent with the appeals process described at § 679.43(c). In addition, § 679.43(a) would be revised to indicate that the appeals process described at § 679.43 also applies to scallop moratorium appeals made under § 679.4(g).

Classification

At this time, NMFS has not determined that the FMP amendment that this rule would implement is consistent with the national standards, other provisions of the Magnuson-Stevens Act, and other applicable laws. NMFS, in making that determination will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for the purposes of E.O. 12866.

This proposed rule contains a new collection-of-information requirement subject to the Paperwork Reduction Act (PRA). This collection-of-information requirement has been submitted to OMB for approval. The new information requirements include an application for a moratorium permit and an application for transfer of a moratorium permit. Public reporting burden for these collections of information are estimated to be 0.33 and 0.5 hours, respectively. Send comments regarding reporting burden or any other aspect of the data requirements, including suggestions for reducing the burdens, to NMFS and OMB (see **ADDRESSES**).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

An RIR was prepared for this proposed rule that describes the management background, the purpose and need for action, the management action alternatives, and the social impacts of the alternatives. The RIR also estimates the total number of small entities affected by this action and analyzes the economic impact on those small entities.

The Council prepared an IRFA as part of the RIR, which describes the impact this proposed rule would have on small entities, if adopted. The analysis shows that the economic effects of this proposed rule to the regulated community would be significant and positive. By limiting participation at current levels, the temporary moratorium would prevent further overcapitalization of the fleet and reduce the potential for overfishing of the scallop resource. Most commercial fishing vessels harvesting scallops off Alaska meet the definition of a small entity under the RFA. In 1994, 86 percent of the scallop harvests off Alaska were taken from Federal waters and 11 of the 16 vessels harvesting scallops participated in no other fishery. Eighteen vessels would qualify for the moratorium under the qualification criteria adopted by the Council. According to ADF&G landing records, at least three vessels have entered the scallop fishery since the moratorium cut-off date and would not qualify for moratorium permits. However, participation in the scallop fishery by

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these three vessels has been sporadic. None of these vessels made a single landing during the entire moratorium qualification period of 1980–93, nor have they participated on a consistent basis since the moratorium cut-off date of December 31, 1993, and none of these three vessels has re-entered the fishery since the re-opening of Federal waters to February February fishing for scallops on August 1, 1996, under Amendment 1 to the FMP. Fishermen received extensive notice through the Council process that the fishery was being limited in a way that jeopardized any investments they made in the fishery after 1993. Copies of the EA/RIR/IRFA are available from NMFS (see **ADDRESSES**).

List of Subjects in 50 CFR Part 679

Fisheries, Reporting and recordkeeping requirements.

Dated: December 19, 1996.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 773 *et seq.*

2. In § 679.2, the definitions of "Legal landing", "Maximum LOA" introductory text, "Moratorium qualification", "Moratorium species", and "Qualifying period" are revised to read as follows:

§ 679.2 Definitions.

* * * * *

Legal landing (applicable through [insert date 3 years after the effective date of the final rule]) means any amount of a moratorium species that was or is landed in compliance with Federal and state commercial fishing regulations in effect at the time of the landing.

* * * * *

Maximum LOA (applicable through December 31, 1998), with respect to a vessel's eligibility for a groundfish or crab moratorium permit, means: * * *

* * * * *

Moratorium qualification (applicable through December 31, 1998) with respect to the groundfish and crab vessel moratorium program means a transferable prerequisite for a moratorium permit.

Moratorium species means:

(1) (Applicable through [insert date 3 years after the effective date of the final rule]) any scallop species.

(2) (Applicable through December 31, 1998) any moratorium crab species or moratorium groundfish species.

* * * * *

Qualifying period (applicable through December 31, 1998) with respect to the groundfish and crab vessel moratorium program means the period to qualify for the moratorium from January 1, 1988, through February 9, 1992.

* * * * *

3. In § 679.4, paragraph (c)(10)(i) is revised and a new paragraph (g) is added to read as follows:

§ 679.4 Permits.

* * * * *

(c) * * *

(10) *Appeal*—(i) *Determination.* The Chief, RAM Division, will issue an initial administrative determination to each applicant who is denied a moratorium permit by that official. An initial administrative determination may be appealed by the applicant in accordance with § 679.43. The initial administrative determination will be the final agency action if a written appeal is not received by the Regional Administrator, within the period specified at § 679.43.

* * * * *

(g) *Scallop moratorium permits* (applicable through [Insert date three years after the effective date of the final rule])—(1) *General*—(i) *Applicability.* Except as provided under paragraph (g)(2) of this section, any vessel used to take or retain any scallop species in Federal waters must have a valid scallop moratorium permit on board the vessel at all times when the vessel is engaged in fishing for scallops in Federal waters or has scallops taken from Federal waters retained on board. Any vessel used to take or retain scallops in Federal waters within Scallop Registration Area H must have a scallop moratorium permit endorsed for Registration Area H. Any vessel used to take or retain scallop species in Federal waters outside Registration Area H must have a scallop moratorium permit endorsed for Federal waters exclusive of Registration Area H.

(ii) *Duration.* The scallop moratorium permit is valid for the duration of the moratorium unless otherwise specified.

(iii) *Validity.* A scallop moratorium permit issued under this paragraph is valid only if:

(A) The vessel is owned, leased, or operated by the person named on the moratorium permit.

(B) The vessel's LOA does not exceed the maximum LOA specified on the permit.

(C) The permit has not been revoked or suspended under 15 CFR part 904.

(iv) *Inspection.* A scallop moratorium permit must be presented for inspection upon the request of any authorized officer.

(2) *Exemptions.* A vessel that has an LOA of less than or equal to 26 ft (7.9 m) in the GOA, and less than or equal to 32 ft (9.8 m) in the BSAI and that does not have dredge gear on board is exempt from the requirements of this paragraph (g) when fishing for scallops with dive gear.

(3) *Qualification criteria*—(i) *Qualifying period.* A vessel would qualify for a moratorium permit if the vessel made a legal landing of scallops during 1991, 1992 or 1993 or during at least 4 separate years from 1980 through 1990.

(ii) *Area endorsements.* A scallop moratorium permit may contain an area endorsement for Federal waters within Registration Area H and for Federal waters outside Registration Area H.

(A) *Registration Area H.* A scallop moratorium permit may be endorsed for fishing in Federal waters within Registration Area H if a qualifying vessel made a legal landing of scallops taken inside Registration Area H during the qualifying period defined at paragraph (g)(3)(i) of this section.

(B) *Waters outside Registration Area H.* A scallop moratorium permit may be endorsed for fishing in Federal waters outside Registration Area H if the qualifying vessel made a legal landing of scallops taken in waters outside Registration Area H during the qualifying period defined at paragraph (g)(3)(i) of this section.

(iii) *Legal landings.* Evidence of legal landings shall be limited to documentation of state or Federal catch reports that indicate the amount of scallops harvested, the registration area or location in which they were caught, the vessel used to catch them, and the date of harvesting, landing, or reporting.

(4) *Maximum LOA*—(i) All scallop moratorium permits will specify a maximum LOA, which will be 1.2 times the LOA of the qualifying vessel on January 20, 1993, unless the qualifying vessel was under reconstruction on January 20, 1993.

(ii) If a qualifying vessel was under reconstruction on January 20, 1993, the maximum LOA will be the LOA on the date reconstruction was completed.

(5) *Application for permit.* A scallop moratorium permit will be issued to the person or successor in interest who was the owner of a qualifying vessel when

it most recently made qualifying landings under paragraph (g)(3) of this section, if he/she submits to the Regional Administrator a complete scallop moratorium permit application that is subsequently approved. A complete application for a scallop moratorium permit must include the following information:

(i) Name(s), signature(s), business address(es), and telephone and fax numbers of the person(s) who owned the vessel when the most recent qualifying landing of scallops occurred.

(ii) Name of the qualifying vessel, state registration number of the vessel and the USCG number of the vessel, if any.

(iii) Valid documentation of the vessel's basis for moratorium qualification, if requested by the Regional Administrator due to an absence of landings records for the vessel for the qualifying period.

(iv) Reliable documentation of the vessel's qualifying LOA, if requested by the Regional Administrator, such as a vessel survey, builder's plan, state or Federal registration certificate, or other reliable and probative documents that clearly identify the vessel and its LOA, and that are dated on or before January 20, 1993.

(v) Name(s) and signature(s) of the person(s) who is/are the owner(s) of the vessel or the person(s) responsible for representing the vessel owner.

(vi) If the qualifying vessel was under reconstruction on January 20, 1993, the permit application must contain the following additional information:

(A) A legible copy of written contracts or written agreements with the firm that performed reconstruction of the vessel and that relate to that reconstruction.

(B) An affidavit signed by the vessel owner(s, and the owner/manager of the firm that performed the reconstruction specifying the beginning and ending dates of the reconstruction.

(C) An affidavit signed by the vessel owner(s) specifying the LOA of the reconstructed vessel.

(6) *Vessel ownership.* Evidence of vessel ownership shall be limited to the following documents, in order of priority:

(i) For vessels required to be documented under the laws of the United States, the USCG abstract of title issued in respect to that vessel.

(ii) A certificate of registration that is determinative as to vessel ownership.

(iii) A bill of sale.

(7) *Permit transfer.* A complete application for approval of transfer of a scallop moratorium permit must include the following information:

(i) Name(s), business address(es), and telephone and fax numbers of the applicant(s) including the holders of the scallop moratorium permit that is to be transferred and the person who is to receive the transferred scallop moratorium permit.

(ii) Name(s) and signature(s) of the person(s) from whom moratorium qualification would be transferred or their representative, and the person(s) who would receive the transferred moratorium qualification or their representative.

(iii) A legible copy of a contract or agreement to transfer the moratorium permit in question must be included with the application for transfer that specifies the person(s) from whom the scallop moratorium permit is to be transferred, the date of the transfer agreement, name(s) and signature(s) of the current holder(s) of the permit, and name(s) and signature(s) of person(s) to whom the scallop moratorium permit is to be transferred.

(8) *Appeal*—(i) *Determination.* The Chief, RAM Division, will issue an initial administrative determination to an applicant upon denial of a scallop moratorium permit by that official. An initial administrative determination may be appealed by the applicant in accordance with § 679.43. The initial administrative determination will be the final agency action if a written appeal is not received by the Regional Administrator postmarked within the period specified at § 679.43.

(ii) *Permit denial.* An initial administrative determination that denies an application for a scallop moratorium permit may authorize the affected person to take or retain scallops. The authorization expires on the effective date of the final agency action relating to the application.

(iii) *Final action.* An administrative determination denying the issuance of a scallop moratorium permit is the final agency action for purposes of judicial review.

4. In § 679.43, paragraph (a) is revised to read as follows:

§ 679.43 Determinations and appeals.

(a) *General.* This section describes the procedure for appealing initial administrative determinations made under this subpart as well as § 679.4(c), § 679.4(g) and portions of subpart C of this part that apply to the halibut and sablefish CDQ program.

* * * * *

[FR Doc. 96–32751 Filed 12–20–96; 12:43 pm]

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Notices

Federal Register
Vol. 61, No. 249
Thursday, December 26, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. FV96–944–2, FV96–980–1, FV96–999–3]

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for a currently approved information collection for specified exempt import commodities.

DATES: Comments on this notice must be received by February 24, 1997 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, USDA, AMS, Fruit and Vegetable Division, Marketing Order Administration Branch, P.O. Box 96456, Room 2525–S, Washington, D.C. 20090–6456; or, FAX: (202) 720–5698. All comments should reference the docket number, the date, and page number of this issue of the **Federal Register**. Comments will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR ADDITIONAL INFORMATION CONTACT: Shoshana Avrishon, USDA, AMS, Marketing Order Administration Branch, Fruit and Vegetable Division, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone: 202–720–6467.

SUPPLEMENTARY INFORMATION:

Title: Specified Commodities Imported into the United States Exempt from Import Requirements.

OMB Number: 0581–0167.

Expiration Date of Approval: March 31, 1997.

Type of Request: Extension of currently approved information collection.

Abstract: Section 8e of the Agricultural Marketing Agreement Act of 1937, As Amended; 7 U.S.C. 601–674 (Act) requires that whenever the Secretary of Agriculture issues grade, size, quality, or maturity regulations under domestic marketing orders for certain commodities, the same or comparable regulations on imports of those commodities must be issued. Import regulations apply only during those periods when domestic marketing order regulations are in effect. Currently, the following commodities are subject to Section 8e import regulations: avocados, dates (other than dates for processing), filberts, grapefruit, table grapes, kiwifruit, limes, olives (other than Spanish-style olives), onions, oranges, Irish potatoes, prunes, raisins, tomatoes, and walnuts. However, imports of these commodities are exempt from such requirements if they are imported for such outlets as processing, charity, animal feed, seed, and distribution to relief agencies, when those outlets are exempt under the applicable marketing order.

Safeguard procedures in the form of importer and receiver reporting requirements are used to ensure that the imported commodity is provided to authorized exempt outlets. The safeguard procedures are similar to the reports currently required by most domestic marketing orders. The import regulations require importers and receivers of imported fruit, vegetable, and specialty crops to submit a form, as provided in sections 944.350, 980.501, and 999.500.

An importer wishing to import commodities for exempt purposes must complete, in triplicate, prior to importation, an Importer's Exempt Commodity Form (FV–6). Copy one is presented to the U.S. Customs Service. The importer files copy two with the Marketing Order Administration Branch (MOAB) of the Fruit and Vegetable Division, AMS, within two days after the commodity enters the United States. The third copy of the form accompanies the exempt shipment to its intended destination. The receiver certifies that the commodity has been received and that it will be utilized for authorized exempt purposes. The receiver then files copy three with MOAB, within two days after receiving the commodity.

The Department of Agriculture (Department) utilizes this information to ensure that imported goods destined for exempt outlets are given no less favorable treatment than that afforded to domestic goods destined for such exempt outlets. These exemptions are consistent with Section 8e import regulations under the Act.

This form requires the minimum amount of information necessary to effectively carry out the requirements of the orders, and its use is necessary to fulfill the intent of the Act as expressed in the orders, and to administer Section 8e compliance activities.

The information collected is used primarily by authorized representatives of the Department, including AMS, Fruit and Vegetable Division regional and headquarters staff. AMS is the primary user of the information.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 10 minutes per response.

Respondents: Importers and receivers of exempt commodities.

Estimated Number of Respondents: 714.

Estimated Number of Responses per Respondent: 3.

Estimated Total Annual Burden on Respondents: 119 hours.

Comments are invited on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and, (4) ways to minimize the burden of the collection of information on those who respond, including use of automated, electronic, mechanical, or other technologies.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: December 17, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–32852 Filed 12–24–96; 8:45 am]

BILLING CODE 3410–02–P

Forest Service

Red Mountain Project—Twin, Muddy Creek, and Gee Timber Sales, Wallowa-Whitman National Forest, Baker County, Oregon

AGENCY: Forest Service, USDA.

ACTION: Cancellation of a notice of intent to prepare an environmental impact statement.

SUMMARY: On December 17, 1990, a notice of intent to prepare an environmental impact statement (EIS) for the Red Mountain Project, on the Baker District of the Wallowa-Whitman National Forest, was published in the **Federal Register** (55 FR 51739). A notice of availability for the draft EIS for the Red Mountain Project was published in the **Federal Register** on March 8, 1996 (61 FR 9450). USDA, Forest Service, has decided to cancel the preparation of a final EIS analyzing timber sale proposals and related activities within an unloaded portion of the east face of Elkhorn Ridge. The notice of intent is hereby rescinded.

FOR FURTHER INFORMATION: Questions may be addressed to Joanne Britton, Environmental Coordinator, Baker Ranger District, 3165 10th Street, Baker City, Oregon, 97814, telephone: 541–523–4476.

Dated: December 10, 1996.

R.M. Richmond,

Forest Supervisor.

[FR Doc. 96–32714 Filed 12–24–96; 8:45 am]

BILLING CODE 3410–11–M

Olympic Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Olympic PIEC Advisory Committee will meet on January 24, 1997 at the Jamestown S'Klallam Tribal Community Center, 1033 Old Blyn Highway, Sequim, Washington. The meeting will begin at 9:30 a.m. and continue until 3:00 p.m. Agenda topics to be covered include: (1) Review of Field Trip; (2) Quilcene District Overview of Watershed Analysis, Projects, Access & Travel Management Updates; (3) Second half of FY97 Priorities for Restoration Projects; (4) Regional Ecosystem Office: role and relation to PACs; (5) Adaptive Management Area planning and strategies; (6) Open Forum; and (7) Public Comments. All Olympic Province Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Kate Snow, Province Liaison, USDA, Quilcene Ranger District, P.O. Box 280, Quilcene, WA 98376, (360) 765–2211 or Ronald R. Humphrey, Forest Supervisor, at (360) 956–2301.

Dated: December 18, 1996.

Ronald R. Humphrey,

Forest Supervisor.

[FR Doc. 96–32848 Filed 12–24–96; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121996A]

Small Takes of Ringed Seals Incidental to On-Ice Seismic Activity

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of issuance of letters of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) as amended, and implementing regulations, notification is hereby given that letters of authorization to take ringed seals incidental to on-ice seismic operations in the Beaufort Sea off Alaska were issued on December 19, 1996, to BP Exploration, Western Geophysical, and Northern Geophysical of America, all of Anchorage, AK.

EFFECTIVE DATE: These letters of authorization are effective from January 1, 1997, through May 31, 1997.

ADDRESSES: The applications and letters are available for review in the following offices: Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 and Western Alaska Field Office, NMFS, 701 C Street, Anchorage, AK 99513.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713–2055 or Ron Morris, Western Alaska Field Office, NMFS, (907) 271–5006.

SUPPLEMENTARY INFORMATION: Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, on request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, if certain findings are made and regulations are issued. Under the MMPA, the term "taking" means to harass, hunt, capture or kill or to attempt to harass, hunt, capture or kill marine mammals.

Permission may be granted for periods up to 5 years if the Secretary of Commerce finds, after notification and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, NMFS must prescribe regulations that include permissible methods of taking and other means effecting the least practicable adverse impact on the species and its habitat and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating grounds and areas of similar significance. The regulations must include requirements pertaining to the monitoring and reporting of such taking. Regulations governing the taking of ringed seals incidental to on-ice seismic activities were published on January 13, 1993 (58 FR 4091), and remain in effect until December 31 1997.

Summary of Requests

NMFS received requests for letters of authorization on the dates specified from (1) Northern Geophysical of America, 2361 Cinnabar Loop, Anchorage, AK 99507 (September 10, 1996), (2) Western Geophysical Inc. 351 E. International Airport Road, Anchorage, AK 99518–1299 (September 18, 1996), and (3) BP Exploration (Alaska) Inc., 900 East Benson Blvd. P.O. Box 196612, Anchorage, AK 99519–6612 (October 7, 1996). All letters request a take by harassment of a small number of ringed seals incidental to on-ice seismic work in the Beaufort Sea, AK.

Issuance of these letters of authorization is based on findings that the total takings will have a negligible impact on the ringed seal species or stock and will not have an unmitigable adverse impact on the availability of this species for subsistence uses.

Dated: December 19, 1996.

Patricia Montanio,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–32775 Filed 12–24–96; 8:45 am]

BILLING CODE 3510–22–F

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[I.D. 121796A]

Marine Mammals; Scientific Research Permit No. 1021 (P532C)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Texas A&M University at Galveston, P.O. Box 1675, Galveston, TX 77551 (Principal Investigator: Dr. Randall W. Davis, Co-investigators: Dr. William E. Evans, Dr. Robert Benson, Dr. Bernd Würsig, Mr. Troy S. Sparks and Mr. Spencer Lynn), has been issued a permit to tag, biopsy dart, capture/release various cetacean species for purposes of scientific research. The NMFS decision on project 1 involving low frequency sounds on sperm whales was deferred pending an environmental review.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2532.

SUPPLEMENTARY INFORMATION: On August 26, 1996, notice was published in the **Federal Register** (61 FR 43737) that a request for a scientific research permit to take various cetacean species had been submitted by the above-named organization. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.25).

Issuance of this permit as required by the ESA was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: December 17, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–32753 Filed 12–24–96; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Futures Contracts in Corn and Soybeans; Notice That Delivery Point Specifications Must Be Amended

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of, and request for public comment on, Notification to chicago board of trade to amend delivery specifications.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has notified the Board of Trade of the City of Chicago ("CBT"), under Section 5a(a)(10) of the Commodity Exchange Act ("Act"), 7 U.S.C. 7a(a)(10), that the delivery terms of the CBT corn and soybean futures contracts no longer accomplish the objectives of that section of the Act; and that the CBT has seventy-five days from the date of this notice to submit proposed amendments to those contracts which will accomplish the objectives of that section.

The Commission has determined that publication of the notification to the CBT for public comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received by February 24, 1997.

ADDRESSES: Comments should be mailed to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, attention: Office of the Secretariat; transmitted by facsimile at (202) 418–5521; or transmitted electronically at [secretary@cftc.gov]. Reference should be made to "Corn and Soybean Delivery Points."

FOR FURTHER INFORMATION CONTACT: Blake Imel, Acting Director, or Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, (202) 418–5260, or electronically, Mr. Architzel at [PArchitzel@cftc.gov].

SUPPLEMENTARY INFORMATION: Section 5a(a)(10) of the Act provides that as a condition of contract market designation, boards of trade are required to:

permit the delivery of any commodity, on contracts of sale thereof for future delivery, of such grade or grades, at such point or points and at such quality and locational price differentials as will tend to prevent or diminish price manipulation, market congestion, or the abnormal movement of such commodity in interstate commerce. If the Commission after investigation finds that the rules and regulations adopted by a contract market permitting delivery of any commodity on contracts of sale thereof for future delivery, do not accomplish the objectives of this subsection, then the Commission shall notify the contract market of its finding and afford the contract market an opportunity to make appropriate changes in such rules and regulations.

The Commission, by letter dated December 19, 1996, notified the CBT under Section 5a(a)(10) of the Act, that its futures contracts for corn and soybeans no longer were in compliance with the requirements of that section of the Act. The text of that notification is set-forth below.

December 19, 1996.

Patrick Arbor

Chairman, Chicago Board of Trade, 141 W. Jackson Blvd., Chicago, Illinois 60604

Re: Delivery Point Specifications of the Corn and Soybean Futures Contracts.

Dear Chairman Arbor: The Commodity Futures Trading Commission ("CFTC" or "Commission") hereby notifies the Board of Trade of the City of Chicago ("CBT or Exchange") under Section 5a(a)(10) of the Commodity Exchange Act ("Act"), 7 U.S.C. 7a(a)(10), that the delivery terms of the CBT corn and soybean futures contracts no longer accomplish the statutory objectives of "permit[ting] the delivery of any commodity * * * at such point or points and at such quality and locational price differentials as will tend to prevent or diminish price manipulation, market congestion, or the abnormal movement of such commodity in interstate commerce." [1]

The Commission, as detailed below, bases this finding on the following: (1) the continuing diminution of the role of terminal markets in the cash market for grain; (2) the increasing shift of the locus of the main channels of commodity flows away from the delivery points on the contracts, particularly the par-delivery point of Chicago; (3) the continuing decline in cash market activity generally at the contracts' delivery points, particularly Chicago; and (4) the serious, precipitous drop in regular warehouse storage capacity at the Chicago delivery point

[1] The full text of Section 5a(a)(10) of the Commodity Exchange Act is appended to this letter.

over the past fourteen months. These conclusions are supported by a number of CFTC staff inquiries into these issues and by four separate, comprehensive studies of these issues completed in 1991 (one of which was sponsored by the CBT). Each of these inquiries and studies identified the above trends and indicated that deliverable supplies on the subject contracts were not available in normal cash market channels in amounts sufficient to tend to prevent or to diminish price manipulation, market congestion, or the abnormal movement of such commodity in interstate commerce.

Although the CBT has attempted previously to respond to these problems by amending the contracts, those steps, such as the addition of St. Louis as a delivery point, have proven to be ineffective. With the recent precipitous drop in warehouse capacity in Chicago, the problem has reached a critical juncture. Recognizing this, the CBT convened a Task Force to consider changes to the grain contracts. More than a year after the Task Force began its deliberations, the Exchange membership rejected the modifications to the terms of the corn and soybean contracts recommended by the CBT's Board of Directors.

And, as provided under section 5a(a)(10) of the Act, the Commission hereby notifies the CBT that the Exchange is afforded the opportunity to submit for Commission approval proposed amendments to the delivery terms of the corn and soybean futures contracts that will accomplish the statutory objectives by March 4, 1997, a period of seventy-five days from the date of this letter. In determining whether its proposal is adequate to accomplish the objectives of section 5a(a)(10) of the Act, the CBT should be guided by a number of illustrative alternatives provided below. Failure to respond in a manner which in the Commission's judgment is "necessary to accomplish the objectives" of this section of the Act will result in further proceedings under section 5a(a)(10).

In light of the Commission's determination that the CBT's futures contracts in corn and soybeans no longer comply with the requirements of section 5a(a)(10) of the Act, the CBT should refrain from listing additional months for trading in those contracts during the pendency of these proceedings.

By limiting this notification under Section 5a(a)(10) of the Act to the CBT's futures contracts for corn and soybeans, the Commission is not thereby making any determination regarding any other CBT futures contract. The Commission notes, however, that the delivery specifications for the CBT wheat futures contract are also subject to many of the same trends which have affected adversely the corn and soybean contracts. In light of the importance of these issues, the Commission determined to limit this Section 5a(a)(10) notification to the corn and soybean contracts, which have been fully considered by the CBT in the first instance. The Commission believes that such a full consideration by the CBT of the delivery specifications of its wheat contract is also warranted and should be undertaken immediately. The Commission is of the view that this reconsideration should be completed within 120 days.

In notifying the CBT of the Commission's finding that the terms of the corn and soybean futures contracts do not accomplish the objectives of Section 5a(a)(10) of the Act, the Commission is not questioning the continued utility of the contracts for hedging or price basing under ordinary conditions or their role as the world's premiere futures contracts for corn and soybeans. Rather, the Commission's action, as explained in greater detail below, is predicated upon its finding that bringing the delivery terms of the contracts into closer alignment with an otherwise broad and active cash market is necessary to meet the requirements of Section 5a(a)(10), tending to prevent or to diminish price manipulation, market congestion, or the abnormal movement of such commodities in interstate commerce.

I. Background.

The CBT's corn and soybean futures contracts are major United States (U.S.) futures markets and principal vehicles for hedging and pricing by U.S. firms with commercial interests in these two important agricultural commodities. They rank among the most actively traded commodity futures contracts in the world and are used extensively by foreign commercial interests. In this regard, for the 1995/96 crop year, the average daily open interest was nearly two billion bushels for CBT corn futures and approached one billion bushels for CBT soybean futures. The total trading volume over the same period was approximately 95 billion bushels for corn futures and 70 billion bushels for soybean futures.

These activity levels for corn represent a greater than eight-fold increase in the levels of volume and open interest experienced in these markets in the early 1970s. For soybeans, these current levels are more than four times the levels experienced in the early 1970s. This increased overall level of trading activity can be attributed to an approximate 80 percent increase in the combined U.S. annual production of corn and soybeans over the last 25 years; a steadily decreasing level of federal crop price support activities, which has led to increased commercial uncertainty and need for hedging; and an increased internationalization of cash markets for feed grains and soybeans, which has also led to increased foreign participation in these futures markets for purposes of hedging and price-basing.

The preponderant use of these markets is commercial in nature. For example, in mid-November of this year, reportable commercial traders held 60 and 70 percent of the reportable long and short sides, respectively, of the soybean futures market and 85 and 64 percent of the reportable long and short sides, respectively, of the corn market.[2] Presumably, commercial traders also held a substantial proportion of the non-reportable positions.

The predominant economic function of the CBT corn and soybean futures markets is risk-transfer and price-basing, rather than merchandising or title transfer for the underlying commodity. Consistent with this, the preponderance of positions established in these markets are liquidated through the purchase or sale of offsetting futures contracts, rather than through making or taking delivery of the commodity. Nonetheless, the orderly convergence of futures prices and cash market merchandising values is essential to these contracts' risk-transfer and price-basing functions, and this convergence is dependent on the unimpeded opportunity of market participants to conduct arbitrage between the cash and futures markets. As a result, it is essential that the delivery specifications of these contracts effectively link futures trading to a substantial segment of the underlying cash markets.

The manner in which cash and futures prices are linked through the delivery mechanism is straightforward. If, at contract expiration, short position holders believe that expiring futures prices are higher than the current value of the commodity, they can satisfy their contractual obligations by acquisition and delivery of the physical commodity, rather than through the purchase of offsetting futures contracts. Likewise, if long position holders believe that

[2] Reportable traders are individuals or firms that hold futures positions of 500,000 bushels or more in soybeans or 750,000 bushels or more in corn in any one contract month through any U.S. or foreign broker.

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expiring futures prices are lower than the current merchandising value of the commodity, they can require delivery in lieu of selling offsetting contracts in the futures market. To the extent that this arbitrage process is not impeded, convergence of cash and futures prices at contract expiration is assured.

The terms of delivery are critical in determining the degree of arbitrage between cash and futures markets and the strength of the linkage between cash and futures prices. When contract delivery terms do not correspond to a substantial segment of the cash market, the strength of the arbitrage linkage is diminished. In particular, when the futures market requires delivery at a location or of grades for which the commodity is not sufficiently available, short position holders may not be able to acquire the commodity or gain access to the delivery facilities in the event they believe that cash and futures prices are misaligned. Long position holders, seeking to profit from their positions, have no incentive to liquidate their positions through offset, and futures prices may take a course that is independent of the cash market. The resulting market congestion, or distortion of prices, is disruptive to proper functioning of the futures market, because prices no longer reflect cash market fundamentals. Thus, the nature of the delivery terms is critical to use of the CBT's corn and soybean futures contracts throughout the U.S. and abroad in the hedging and pricing of corn and soybean transactions and directly determines the degree to which the prices of the futures markets may be manipulated or otherwise become independent of fundamental conditions in those cash markets.

As discussed in detail below, the CBT's corn and soybean contracts currently specify delivery through the use of warehouse receipts for stocks held in specified facilities at Chicago, Toledo, and St. Louis. It is the location of these delivery points, as well as the nature of the delivery instrument, that is the subject of the Commission's analysis regarding the CBT's compliance with the provisions of Section 5a(a)(10) of the Act.

II. General Cash Market Trends

Chicago and Toledo, the primary delivery points of the CBT's corn and soybean futures contracts, are now situated at the periphery of current major cash market channels for these commodities. Their declining importance as cash market centers is the result of long-term trends in the storage, transportation, and processing of grains. As discussed below, these trends include: (1) increasing shipment of corn and soybeans from production areas directly to domestic users or export locations, bypassing intermediate locations such as terminal markets; (2) increasing processor use of corn and soybeans in production areas, to produce food, feed, and other products, thereby reducing the relative quantity of corn and soybeans shipped to locations outside of production areas including terminal markets; (3) substantially declining export activity from the Great Lakes relative to the growth of exports from Gulf of Mexico and Pacific Northwest ports; and (4) increasing decentralization in grain storage capacity, with marked increases in both on-farm and commercial storage capacity in production areas.

1. Changes in Transportation Patterns

The increasing shipment of corn and soybeans directly from production areas to domestic users or export locations, bypassing the traditional terminal markets, is related, in large part, to the deregulation of railroad freight rates. Prior to rail freight-rate deregulation in 1980, a practice called "transit" or

"proportional billing" permitted grain to be shipped from production areas to an intermediate point for storage, such as a traditional terminal market, and then to the final destination at a single, fixed rate. After 1980, negotiated point-to-point rates replaced transit billing, favoring direct shipments of corn and soybeans to domestic users or export locations, to the detriment of traditional terminal markets located at major railroad centers such as Chicago.

2. Processing Trends

Substantial increases in corn and soybean processing at new and existing locations within the major production areas has further reduced the role of traditional terminal markets. According to U. S. Department of Agriculture (USDA) data, the quantity of corn processed into corn sweeteners, ethanol, and other products quadrupled between 1970 and 1995 (from about 400 million bushels to over 1.6 billion bushels) and the quantity of soybeans crushed in the U.S. approximately doubled over the same time period (from about 760 million bushels to about 1.34 billion bushels). Most of these new or expanded facilities are located in production areas, in which the processors obtain their supplies of corn and soybeans directly from nearby grain warehouses or producers. Moreover, even processing facilities located at terminal markets now purchase the majority of their supply directly from lower-cost production-area locations rather than from terminal market elevators. The inability to participate in this growth sector of the cash market has further eroded the relative importance of traditional terminal-market elevators.

3. Export Marketing Channel Changes

Over the past 25 years, corn and soybean exports have grown dramatically. However, the trends favor the all-year export facilities of the lower Mississippi River. In addition, the growth in exports to Asia has favored export facilities at Pacific Northwest ports. The growth in exports from these two areas has relatively disadvantaged the third major export route—the Great Lakes. More fundamentally, corn and soybean exports from the Great Lakes have declined absolutely, as well. This decline is, in part, attributable to the fall in exports to Northern European countries where Great Lakes ports sometimes have a cost advantage relative to other U.S. ports. In addition, exports from the Great Lakes are limited by the relatively high cost of shipping corn and soybeans by vessel from Great Lakes ports. This is partially due to the fact that the St. Lawrence Seaway, through which all vessels from Great Lakes ports must pass, can accommodate only relatively small vessels, which tend to charge higher freight rates for grain shipments than those assessed by larger vessels. In view of this consideration, corn and soybeans frequently are transferred from such smaller ships to larger vessels at Canadian ports.

These changes have significantly eroded the role, and general business activity, of the Great Lakes ports and the traditional terminal markets located there. For example, USDA data indicate that average annual exports of corn from Chicago and Toledo combined fell by 33 percent between 1968–70 and 1993–95. Average annual soybean exports from Toledo and Chicago over this same period fell by 53 percent. In addition, the percentage of total U.S. exports of corn and soybeans accounted for by Chicago and Toledo combined declined from an average of about 17 percent in the 1968–70 period to an average of about four percent in the 1993–95 period.

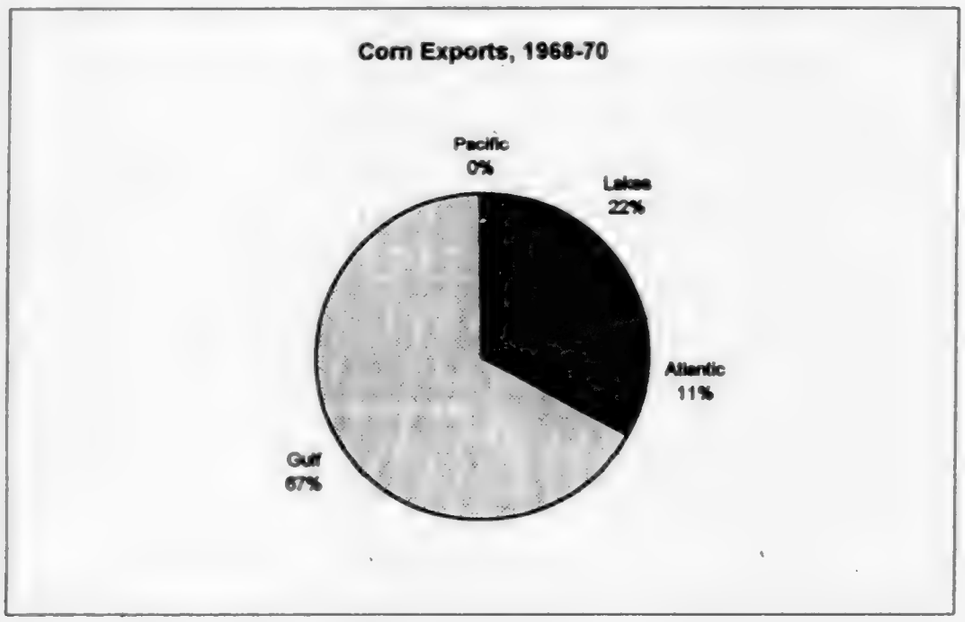
As the following charts indicate, the decline in the export role of Chicago and Toledo has been associated with, and is in contrast to, the increasing importance of corn and soybean exports through ports on the Gulf of Mexico and on the Pacific Coast.[3]

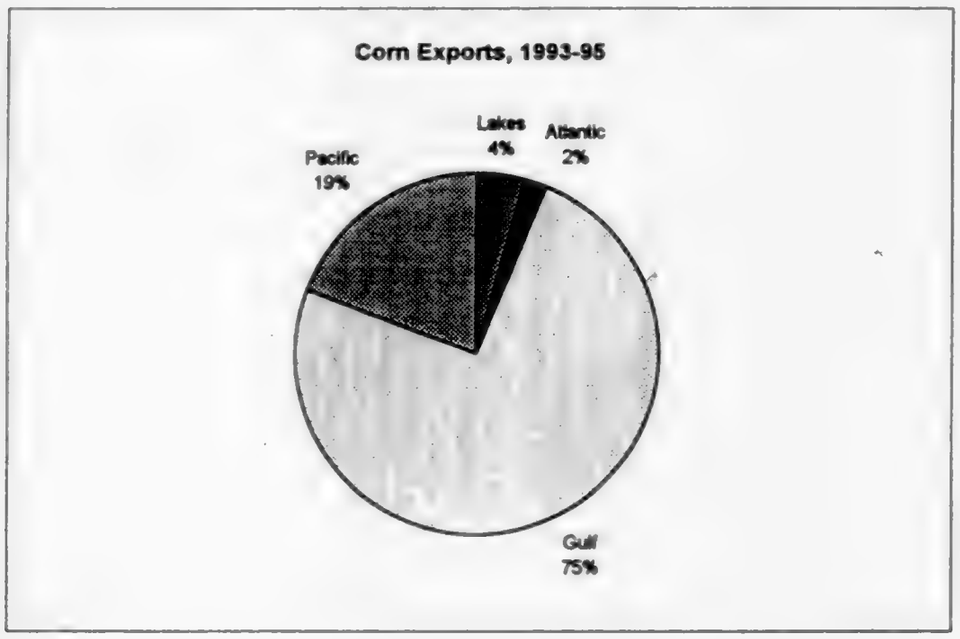
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[3] Ports located on the lower Mississippi River accounted for about 93 percent of average annual soybean and corn exports from Gulf of Mexico ports over the period 1993–95. Virtually all Pacific Coast exports of corn and soybeans move through Pacific Northwest ports located on the Columbia River and Puget Sound.

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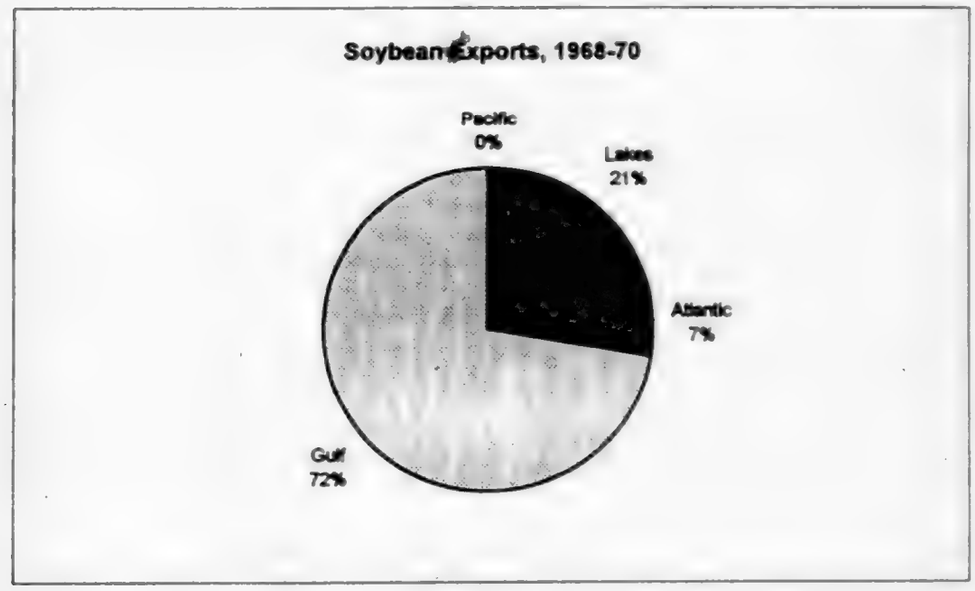
Chart 1. Percentage Distribution of Average Annual U.S. Corn Exports Among Port Areas, 1968-70 and 1993-95

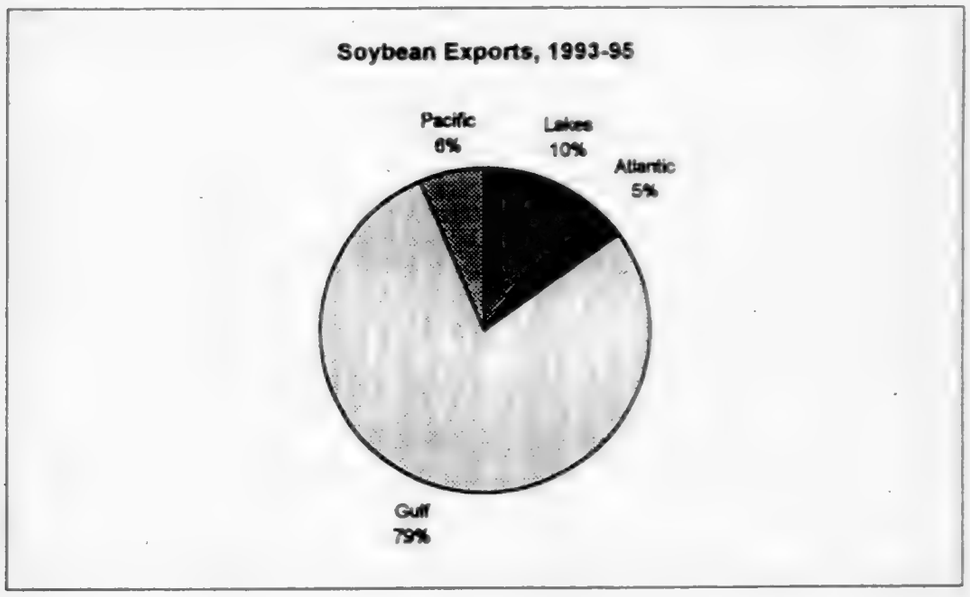




Sources: Federal Grain Inspection Service and CBT Annual Reports

Chart 2. Percentage Distribution of Average Annual U.S. Soybean Exports Among Port Areas, 1968-70 and 1993-95.





Sources: Federal Grain Inspection Service, CBT Annual Reports

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4. Geographic Changes in Storage Capacity Location

Finally, the role of some terminal markets as grain storage centers has declined as increasing storage capacity has been constructed in production areas, both off-farm and on-farm. Increases in off-farm storage capacity in production areas is due, in part, to the deregulation of rail freight rates, increased processing activity in production areas, and the need for additional storage capacity due to the significant growth in corn and soybean production in recent decades. In addition, on-farm storage capacity has increased significantly over the past 25 years to allow producers to maintain harvesting efficiency and access to lower cost storage. As a result, the role of terminal markets as storage centers has greatly diminished.

III. Cash Market Conditions at CBT Delivery Points.

As indicated above, general cash market trends disfavor traditional terminal markets such as Chicago. Moreover, cash market activity in Chicago and Toledo, the primary delivery locations for the CBT's corn and soybean futures contracts, has declined substantially, both on an absolute and relative basis, in recent decades. USDA production data and CBT data on grain receipts by elevators and processors at the primary delivery locations indicate that, despite U.S. corn production nearly doubling from 1970 to 1995, total corn receipts at Chicago and Toledo combined increased only by about 26 percent from 1970 to 1995, representing a mere 2.5 percent of total U.S. corn production in 1995. These data also indicate that, while U.S. soybean production also nearly doubled over this period, total soybean receipts in these locations actually fell by about 64 percent during the 1970–95 period, representing less than 2 percent of total 1995 U.S. soybean production. These trends illustrate the peripheral nature of the delivery points of the CBT's corn and soybean futures contracts to the cash market for these commodities.

The decline in the importance of the primary CBT delivery locations relative to the cash market is further illustrated by the trends in storage capacity at these locations in relation to changes in storage capacity in states which contain primary production areas for corn and soybeans. In particular, USDA data indicate that, from January 1, 1970, to December 1, 1995, total off-farm storage capacity in Illinois more than doubled, whereas CBT data for the same period indicate that the registered storage capacity of regular elevators at Chicago remained essentially constant until 1995, when it fell by about 58 percent. Similarly, during the period January 1, 1978, through December 1, 1995, total off-farm storage capacity in Illinois, Indiana and Ohio combined increased by about 42 percent, whereas total regular storage capacity in Chicago and Toledo combined declined by about 15 percent. This decline includes the 25 percent decrease in total regular storage capacity during 1995.

The decline in the cash market importance of the primary CBT delivery points has not been uniform. Rather, the declining cash-market importance of Chicago, the par delivery point, has recently been particularly acute.

1. Cash Market Trends at Chicago

Chicago's decreasing cash market role has been reflected over the years in a gradual loss in regular elevator storage capacity and in the number of firms operating such elevators. As discussed in more detail below, this loss has recently become precipitous. According to CBT data, in 1970, five firms operated seven regular elevators with a total registered storage capacity of about 52.4 million bushels. Currently, there are only three firms operating three regular elevators, with a total registered storage capacity of 22.8 million bushels. Further, one of the three remaining regular elevators, representing about 8.1 million bushels of storage capacity, recently ceased accepting grain and soybeans and appears to be closing down its operations, leaving total registered storage capacity at 14.7 million bushels.

Currently, soybean cash market activity in the Chicago area is limited to the merchandising by regular elevators of soybeans received from production locations, generally at harvest time. In this regard, total annual soybean receipts by regular CBT elevators declined by about 86 percent from 1970 to 1995, to about 8 million bushels. The merchandising role played by CBT regular elevators essentially is limited to shipping soybeans into export channels, either by barge to lower Mississippi River export points or via vessels through the Great Lakes and the St. Lawrence Seaway.

The existing corn cash market in the Chicago area primarily consists of purchases of corn by two local processing facilities and the merchandising by regular elevators of corn received from production locations. Annual receipts of corn in Chicago in 1995 totaled 112 million bushels, remaining relatively unchanged since 1970. CBT data indicate that a very small share of these receipts is received by regular elevators, with these elevators accounting for only about 14 percent of total corn receipts in 1995. Further, corn processing facilities in Chicago purchase essentially all of their annual corn requirements directly from production areas rather than from regular elevators. As with soybeans, regular elevators merchandise the limited quantities of corn they receive primarily into export channels.

USDA data indicate that average corn exports via the Great Lakes, during the period 1993–95, declined in absolute terms by over 60 percent relative to the average levels observed in 1968–70 and, as a percentage of total U.S. exports, from about 11.3 to 1.2 percent.[4] These data also indicate that average soybean exports via the Great Lakes declined by approximately 70 percent between these same two time periods and, as a percentage of total U.S. exports, from about 7.3 to about 1.1 percent.

2. Cash Market at Toledo

Corn and soybean cash market activity in Toledo has been less affected by these trends than the par delivery point of Chicago. Since Toledo was added as a delivery point for corn and soybeans in the mid- to late 1970s, the number of regular elevators in Toledo has remained relatively stable, although overall registered storage capacity has increased from about 36 million bushels in 1978 to about 57 million bushels today. Currently, there are seven regular elevators at the Toledo delivery point. The cash market for corn and soybeans at Toledo consists exclusively of the merchandising activities of the regular elevators; there are no processing facilities for these commodities at this location.

From 1970 to 1995, annual receipts of corn at Toledo doubled, increasing to an average of about 65 million bushels during 1994–95. Despite the overall doubling of receipts, however, average corn exports via the Great Lakes, during the period 1993–95, exceeded by only about 20 percent the average levels observed in 1968–70. In contrast, soybean receipts at Toledo declined in absolute amount by about 30 percent over this same period to an average of about 30 million bushels during 1994–95. Average soybean exports from Toledo declined by an even greater amount—approximately 47 percent between these same two time periods. Thus, while these data indicate that

[4] These data actually overstate the level of corn and soybean exports from Chicago, because the USDA's export data for Chicago also include exports from Milwaukee.

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Toledo, unlike Chicago, has retained a larger measure of cash market activity, it is of a decidedly mixed nature.

3. Cash Market Conditions at St. Louis

Cash market activity at the contracts' St. Louis delivery point is of a substantially different nature than at the contracts' two primary delivery points. This location primarily serves as a barge loading area for corn and soybeans for shipment to the lower Mississippi River export market. The four regular elevators currently at St. Louis have a registered storage capacity of 12.2 million bushels. CBT data indicate that these elevators handle relatively large quantities of corn and soybeans. Specifically, receipts of corn averaged 52 million bushels during the period 1994–95, while receipts of soybeans averaged 23 million bushels over this same period. Similar quantities of corn and soybeans were shipped (almost exclusively by barge) during these two years. However, regular elevators at this location do not store significant quantities of corn or soybeans for extended periods of time due to the need to keep storage space unencumbered in order efficiently to conduct the unloading/loading process. Accordingly, because delivery on the CBT's corn and soybean contracts calls for the issuance of warehouse receipts that require regular elevators to store the commodity until the receipt is redeemed, there have been only a token number of futures deliveries at St. Louis.

IV. History of Revisions to the CBT Corn and Soybean Futures Delivery Point Specifications—1973 to 1993

The trends discussed above are long-term in nature. There has been an equally long history of modest attempts, made only in response to the urging of the federal regulator, to address the effect of these trends on the continued viability of the delivery terms of these futures contracts, while retaining the primacy of Chicago. Until the 1970's, Chicago was the sole delivery point on the CBT's corn and soybean futures contracts. At that time, a number of problem liquidations and price manipulation investigations in these futures markets focused attention on the inadequacy of Chicago as a delivery point and the need for additional delivery points. In particular, in the summer of 1973, both futures markets experienced problem liquidations, due, in part, to a general tightness in supplies associated with large Soviet grain purchases. Later that year, Congressional hearings were held in response to these problems. Ultimately, as part of far-reaching amendments to the Act, Section 5a(a)(10) was added, providing for new federal authority to address directly the delivery point provisions of futures contracts.

1. Proposals to Add Toledo and St. Louis

In 1974, the CBT submitted proposals to the USDA's Commodity Exchange Authority, the Commission's predecessor agency, to add Toledo and St. Louis as delivery points on the corn and soybean contracts at a discount of 5 cents per bushel to Chicago.[5] The CBT never placed these amendments into effect, because the proposed discounts were thought to be too great relative to cash market pricing relationships between Chicago and the proposed delivery points. In 1975, these same amendments were resubmitted to the newly formed CFTC for its approval. The Commission approved the proposal for corn (effective with the December 1976 contract month); and the CBT withdrew the soybean proposal. In 1978, the CBT resubmitted the proposal to add Toledo (but not St. Louis) as a delivery point for the soybean contract at a discount of 8 cents per bushel. The Commission approved those amendments, effective with the November 1979 contract month.

2. Proposal to Add St. Louis as a Soybean Futures Delivery Point

In July 1989, a commercial long trader held large long positions that exceeded the amount of soybeans that short traders were able to deliver at the contract's then existing delivery points and indicated that it would stand for delivery on its positions. This prompted the CBT to declare a market emergency, taking action to ensure an orderly liquidation of that futures contract month. In response to the outpouring of concerns over the adequacy of the contract's delivery provisions expressed by market participants after this incident, the CBT in 1990 proposed a number of changes to its soybean and grain futures contracts. These included adding St. Louis as a delivery point for soybeans at a discount of 4 cents per bushel to Chicago. Based upon evidence that the proposed discount for St. Louis delivery was too great relative to cash market pricing relationships, the Commission returned this submission for further justification under Commission Rule 1.41(b). The Commission also reiterated its view that the CBT should consider more substantive changes to its soybean and grain futures contracts in order to ensure adequate deliverable supplies.

In response to the heightened concerns over the adequacy of the CBT grain and soybean delivery points renewed by the July 1989 market emergency, the National Grain and Feed Association, the CBT, the General Accounting Office, and the Commission all conducted or sponsored studies on the delivery terms of the soybean and grain futures contracts. These separate studies were all completed in 1991. They generally found that long-term trends in the structure of the grain industry had affected adversely the viability of the cash markets at Chicago and Toledo. Their specific conclusions are summarized below.

a. MidAmerica Institute

The CBT commissioned the MidAmerica Institute to conduct a study of its corn and soybean futures contracts. The study concluded that, based on an analysis of cash and futures price data for the 1984–89 period, the delivery process for these contracts effectively resulted in the convergence of futures prices and cash prices at the contracts' Chicago and Toledo delivery points. The study noted, however, that the Chicago-Great Lakes-East Coast cash market for grains and soybeans had declined markedly in importance relative to the Mississippi-Gulf of Mexico area. The study concluded that this decline had reduced the benefits of retaining Chicago as the primary delivery point and of relying upon Toledo as the alternative delivery point. In this respect, the study concluded that Chicago had become a relatively low price point because it is located near the origin, rather than at the destination, of grain and soybean flows for most of the year. The study indicated that this feature enhances the potential for manipulation, since deliverable supplies may only be increased to address a manipulation attempt by drawing these commodities from higher value locations. The study noted that such an action to increase deliverable supplies is costly and that a manipulator can profitably exploit this cost to inflate futures prices artificially under conditions that recur periodically in grain markets. The study also noted that the decline in Chicago's tributary area means that more hedgers must bear additional basis risk when Chicago is the primary delivery point.

This increased susceptibility to manipulation and basis risk, the study concluded, could be ameliorated by improving the alignment of the contracts' delivery mechanisms with

[5] Toledo was established by the CBT as a delivery point for its wheat futures contract in the early 1970s.

prevailing cash market conditions and pricing relationships. In particular, the addition of an effective Mississippi River delivery point, such as St. Louis, and the establishment of price differentials for all delivery locations at levels reflecting typical cash price relationships, was recommended. The addition of a delivery point at an active cash market location such as St. Louis, the Institute noted, would enhance the futures contracts' hedging performance by improving the extent to which their prices reflect prices in primary cash market channels. In this regard, however, the MidAmerica Institute cautioned that, because of their limited storage capacity and throughput nature, the addition of St. Louis warehouses would only modestly enhance deterrence of manipulative activity.[6]

b. Food Research Institute

The Food Research Institute of Stanford University was commissioned by the National Grain and Feed Association to study these issues as well. This study concluded that deliverable stocks at the contracts' delivery points were, in the years preceding the study's completion in 1991, too low relative to the size of positions normally held by the largest traders. It concluded that, in this respect, positions held by the largest traders were of such a size relative to deliverable stocks that neither delivery nor the threat of delivery was a credible alternative. Moreover, this limited level of deliverable stocks was not due to any warehouse capacity constraints existing at that time, but rather to the general inexorable decline of cash market activity at grain terminal markets—Chicago, in particular.

The Food Research Institute recommended that the CBT address this fundamental problem by rethinking its specifications requiring delivery of grain and soybeans in-store via warehouse receipts. Suggested alternatives included barge delivery, incorporating aspects of a call on production, or delivery at Mississippi River export facilities, with the receiver given the option as to when the product is loaded upon one month's notice.[7]

[6] Providing for emergency barge or rail delivery, or for some mechanism of ensuring access of throughput elevators in the vicinity of that city to the delivery process, would, according to the MidAmerica Institute, address these shortcomings in St. Louis as a potential additional delivery point.

[7] The Food Research Institute study suggested that the CBT consider adopting the delivery procedures used on the New York Mercantile Exchange's crude and heating oil futures contracts if the CBT selects a Gulf of Mexico delivery point system.

c. The CFTC

The Commission staff's study of the contracts' delivery terms reviewed and analyzed the general cash market trends and the specific cash market conditions at Chicago and Toledo during the period 1960 through 1990. The study found that Chicago and, to a lesser extent, Toledo had declined substantially as storage locations for corn and soybeans to be exported via the Great Lakes and shipped to other U.S. destinations for domestic consumption purposes. In addition, the study analyzed several potential alternative delivery-point specifications for the corn and soybean futures contracts, which would locate the contracts' delivery points within the commodities' primary cash market channels. These included delivering corn and soybeans in-store at Central Illinois warehouses via warehouse receipts; making delivery at Illinois River barge-loading, or Mississippi River vessel-loading export facilities via shipping certificates; and cash settlement. The study concluded that these alternatives, by aligning the contracts' terms more closely with the underlying cash markets for corn and soybeans, would thereby reduce the potential for market problems and concomitant regulatory interventions.

d. General Accounting Office (GAO)

At the request of the Chairman of the Agriculture Committee of the U.S. House of Representatives, the GAO completed a review of the CBT grain and soybean futures delivery-point issues in 1991. The GAO conducted interviews of interested parties, including CBT and Commission officials, and reviewed the above-noted studies prepared by the MidAmerica Institute and the Stanford University Food Research Institute.

In its study, the GAO noted that CBT officials believed that changing delivery points might interfere with the economic purposes of futures trading and that surveillance and disciplinary action programs rather than changing delivery points might be better suited to preventing potential market manipulation. The GAO noted that, in contrast, the Commission was reluctant not to alter futures contract terms that in its judgement resulted in an increased threat of manipulation and required an excessive level of regulatory intervention to prevent frequent market congestion, price distortions or manipulation. The GAO also noted that the MidAmerica and Food Research Institute studies supported the need for the CBT and the Commission to assess alternatives for improving how delivery points for grain and soybean futures contracts meet the economic purposes and anti-manipulation goals of the Act.

e. Symposium on CBT Grain and Soybean Delivery Point Issues

In conjunction with the completion of these studies, in September 1991, the Commission sponsored a symposium to discuss these issues. Attendees at that symposium represented a broad cross section of interested parties, including major grain companies, academic institutions, the CBT, and the Commission. Members of the grain industry generally agreed that the performance of the futures contracts under their current delivery specifications was not satisfactory in all respects, but disagreed on the degree of the problem and the nature of the possible solutions. Although acknowledging that Chicago was a declining cash market, a CBT representative nevertheless maintained that Chicago was still a viable delivery point based upon the variety of transportation alternatives available to long traders taking delivery at that location. The CBT representative further indicated that the CBT was continuing to study the situation and develop appropriate revisions to the contracts' delivery specifications.

f. Final CBT Proposals Responding to July 1989 Soybean Incident

In 1992, the CBT re-submitted its proposal to add St. Louis as a delivery point for soybeans, at a premium of 8 cents per bushel rather than at a discount of 4 cents per bushel as previously proposed in 1990. The CBT also proposed to revise the price differential for St. Louis corn futures deliveries to a premium of 7 cents per bushel from the then existing 4 cents per bushel discount and to reduce the discount for the delivery of corn in Toledo to 3 from 4 cents per bushel. Although approving these proposals in April 1992 for implementation beginning with the December 1993 corn contract month and the November 1993 soybean contract month, the Commission, in its approval letter, stated that it:

> understands that the addition of St. Louis as a delivery point for soybeans and wheat and revisions to locational differentials for corn were intended by the Exchange to provide additional deliverable supplies for these contracts. Nevertheless, the Commission is concerned that these changes may not be sufficiently responsive to the long run changes in the cash market, and therefore may not significantly alleviate concerns about the contracts' specifications in either the immediate future or the long run.

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In particular, in view of the long term trends in the cash market, the Commission is concerned about the continued reliance on warehouse receipts in terminal markets as the sole source of deliverable supplies for each of these contracts. Further, the Commission notes that the limited warehouse space at St. Louis may be devoted primarily to "through-put" merchandising activities and, as a result, operators of these facilities may be reluctant to make significant space and/or receipts available for purposes of futures delivery.

The Commission concluded by again putting the CBT on notice that:

[i]n consideration of this, the Commission believes that the CBT should continue its efforts to develop comprehensive contract revisions that will enhance deliverable supply and reduce the need for formal and informal market intervention by the Exchange or the Commission. It is the Commission's belief that such revisions may require linking contract terms more directly to commodity flows or to decentralized storage. In the Commission's view, continued active consideration of this matter is particularly advisable in view of the possibility of further declines in the viability of the Chicago delivery area and the time necessary to develop and fully implement more substantive contract changes.

V. Recent Events—1995 to the Present

As predicted by the Commission in 1992, the CBT's response to the continuing deterioration of the cash market at its delivery points proved to be a solution of limited effect and short duration. In the fall of 1995, three of the existing six Chicago delivery warehouses ceased operations. As a result, Chicago delivery capacity was immediately reduced by more than half—from 53.9 to 22.8 million bushels. Significant as this drop in capacity is, it must be kept in mind that actual supplies available in those warehouses have been a fraction of the total capacity. Nevertheless, the precipitous drop in warehouse capacity served to reawaken concerns over the viability of the contracts' delivery points.[8]

Commission Chairman Mary Schapiro, in an October 11, 1995, letter to the CBT, expressed once again the Commission's concerns regarding the adequacy of the contracts' delivery provisions, stressing that the Commission's concerns were heightened by this further deterioration. Chairman Schapiro requested that the Exchange keep the Commission staff informed on a frequent basis of the progress of a Special Task Force established by the CBT to study the situation. Chairman Schapiro's letter further noted the Commission's recommendation that the Exchange not limit its consideration to short-term responses to the closure of the above-noted Chicago regular elevators. The letter noted, specifically, that the Exchange should consider, in the context of long-run cash market trends, comprehensive contract revisions that would enhance deliverable supply and provide a viable price-basing service for the international grain industry.

1. CBT Task Force.

As noted above, the halving of deliverable storage capacity at Chicago prompted the CBT to form a Special Task Force on September 25, 1995, to determine what changes, if any, were needed to be made to the contracts' delivery terms to ensure adequate deliverable supplies. The Special Task Force held numerous meetings from the date of its establishment through early June 1996. It invited a significant number of individuals, representing a broad cross section of the industry and other interests, to express their views. It considered in depth the merits of a number of suggested alternatives. The Special Task Force's Chairman also briefed the Commission on its progress.

On June 4, 1996, the CBT Special Task Force issued its final recommendations for changing the delivery provisions of the grain futures contracts. The Special Task Force recommended: (1) adding delivery points in East Central Illinois, Northern Illinois River locations, and Milwaukee, Wisconsin, for the corn and soybean contracts, with warehouse receipts continuing to serve as the delivery instrument; (2) reducing the locational price differentials for delivery of corn, soybeans, and wheat at Toledo, Ohio; (3) deleting St. Louis as a delivery point for the corn, soybean, and wheat futures contracts; (4) reducing the daily barge load-out requirement for Chicago elevators from 3 to 2 barges, but permitting the receivers of corn or soybeans to request up to 4 barges per day, which the Chicago warehouseman could provide either entirely from the Chicago elevator or through a combination of loadings at the Chicago elevator and a separate loading point along the Northern Illinois River; and (5) establishing higher minimum financial requirements for regular warehousemen.

2. March 1996 Wheat Expiration Problem

In the midst of the Special Task Force's deliberations, the March 1996 wheat futures contract experienced a problematic liquidation.[9] On the last trading day of this future, a major commercial trader maintained a significant long position against export sales contracts and a major commercial trader who did not own wheat in deliverable position maintained a significant short position until the final few minutes of trading. The commercial short trader and several other short position holders elected to offset their positions rather than make delivery. During the final minutes of trading, this buying interest was met by a lack of selling interest—the large commercial long trader had determined to stand for delivery and had not entered any orders on the close. As a result, wheat futures prices were bid sharply higher, from about $5.00 to over $7.00 per bushel during and after the close of trading. Although the Commission staff report [10] on this incident was not addressed to the causal links, if any, between the delivery specifications for the contract and the problem liquidation, the recent problem in the expiration of the March wheat futures contract may foreshadow similar problems for the corn and soybean futures contracts.

3. CBT Action on Proposals to Revise the Contracts

On September 18, 1996, the CBT's Board of Directors considered the Special Task Force's recommendations and approved for membership balloting all of the Special Task Force's recommended changes except the proposal to add East Central Illinois as a delivery area. On October 17, 1996, the Exchange membership voted to reject the recommended changes by a margin approximately of 2 to 1.

4. More Recent Developments

In the last week of October 1996, Commission staff were notified that one of the three remaining Chicago elevators, operated by Countrymark, has stopped accepting soybeans and grain for the indefinite future. Accordingly, at

[8] Moreover, as also anticipated by the Commission in 1992, there have been few, if any, warehouse receipts registered for delivery on the soybean (or wheat) futures contracts at St. Louis, since it became a soybean (and wheat) delivery point in 1993. In addition, despite the substantial increase in the locational price differential applicable to St. Louis corn futures deliveries under the 1992 amendments, there continues to be very little futures delivery activity in corn at that location.

[9] As noted above, although this notification under section 5a(a)(10) of the Act applies only to the CBT corn and soybean futures contracts, many of the same trends affecting the corn and soybean futures contracts have affected the wheat futures contract, as well. The Commission is requesting the CBT to conduct an in-depth reconsideration of the delivery specifications for its wheat contract within the next 120 days, similar to that which it undertook for its corn and soybeans futures contracts.

[10] See, Report on Chicago Board of Trade March 1996 Wheat Future Expiration on March 20, 1996, (November 26, 1996).

present, there are only two functioning regular Chicago elevators. They have a combined rated storage capacity of 14.7 million bushels.[11]

VI. Requirements of Section 5a(a)(10) of the Act

The Commodity Exchange Act was extensively amended in 1974. Those amendments substantially expanded the Act's scope, created a regulatory system for the trading of all commodity futures contracts, and created the Commission as an independent regulatory agency to administer and to enforce the Act's provisions. Many of these amendments were designed to address apparent weaknesses in the prior statutory scheme. In this regard, the Commission's predecessor agency, charged with administering the Act, testified before the House Committee on Agriculture, that:

> For many years, the Department has been urging the exchanges to provide an adequate number of delivery points in the production areas and along the routes by which the various commodities move from the producer to the consumer. The need for such points is readily apparent. On July 20, 1973, the last trading day for July corn on the Chicago Board of Trade, the futures price rose $1.20 per bushel. * * * Transportation problems made it difficult to move corn into the Chicago area and warehouses in that area were either filled or reluctant to accept corn coming in for delivery on the futures contract. The result was that many who would have made delivery had there been provision for delivery at other points where supplies are ordinarily available * * * were * * * forced to buy futures contracts at an escalating price largely caused, not by an overall change in the supply or demand for corn, but an artificial shortage. * * *
>
> [T]he establishment of * * * additional delivery points * * * ought to be made by the exchanges in the first instance. Our concern here is simply making sure that if they do not do the job properly, adequate authority is present for the regulatory agency to take action should such be desirable.

H.R. Rep. No. 975, 93rd Cong. 2d Sess. 77 (1974).

In recognition of the crucial role played by adequate deliverable supplies in promoting orderly markets, Congress enacted Section 5a(a)(10) of the Act, which specifies, in part, that each contract market is required to:

> permit the delivery of any commodity, on contracts for sale thereof for future delivery of such grade or grades, at such point or points and at such quality and locational price differentials as will tend to prevent or diminish price manipulation, market congestion, or the abnormal movement of such commodity in interstate commerce.

7 U.S.C. § 7a(a)(10).

Moreover, Congress granted the Commission authority under Section 5a(a)(10) of the Act to determine whether exchange rules regarding delivery terms fail to accomplish these objectives and to take appropriate remedial action.

As an aid to the exchanges in meeting the statutory requirements for designation, including the provisions of Section 5a(a)(10), the newly formed Commission published Guideline No. 1 (now codified at 17 CFR Part 5, Appendix A). As explained in Guideline No. 1, to demonstrate continuing compliance with the Act, exchanges must provide evidence that each individual contract term conforms with the underlying cash market and provides for a deliverable supply that will not be conducive to price manipulation or distortion and which can be expected to be available to the short trader, and saleable by the long trader at its cash market value in normal cash marketing channels.[12]

VII. Compliance of the CBT's Corn and Soybean Delivery Point Specifications with Section 5a(a)(10) of the Act

The Commission believes that the CBT's corn and soybean futures contracts currently do not meet the requirements of Section 5a(a)(10) of the Act that delivery terms be specified which "tend to diminish price manipulation, market congestion, or the abnormal movement of such commodity in interstate commerce." As noted, the current level of total regular capacity in Chicago available for the storage of deliverable corn, soybeans, wheat, and oats has been reduced by about 60 percent since the fall of 1995, as three of the six regular Chicago warehouse operators closed operations. Moreover, effective regular storage capacity could decline to even lower levels (about 12 million bushels of effectively available storage capacity) in the very near future in view of the potential that another existing regular elevator may cease operations. With the withdrawal of three—and now, apparently four—elevators at the contracts' Chicago delivery point, the available deliverable supplies potentially have been reduced to levels which increase the futures contracts' susceptibility to price manipulation or distortion.

The recent closure of these elevators in Chicago greatly exacerbates a deliverable supply situation that is already severely limited due to the low levels of cash market activity in Chicago. These closures confirm that Chicago is at the periphery of normal cash market channels for corn and soybeans. The reduced number of regular warehouses, the frequently low levels of stocks available, and the lack of commodity flows to Chicago resulting from normal cash market activities increase the likelihood that futures prices may become distorted and that abnormal interstate movements of corn or soybeans may be required to meet futures delivery requirements.

Moreover, this situation is not confined to Chicago, the primary delivery point on the contracts. The inadequacy of the contracts' overall delivery point specifications is suggested by the very low deliverable supply conditions frequently observed at season-end for the corn and soybean futures contracts during recent years. As shown in Chart 3, season-end deliverable stocks of corn at all CBT delivery points combined have often fallen to very low levels from 1980 to the present, independent of the recent precipitous decline in regular storage capacity in Chicago. In particular, deliverable stocks of corn fell to as low as 2 million bushels (400 contracts) on September 1, 1990. As shown in Chart 4, since 1980, deliverable stocks of soybeans at all delivery points combined also have declined to levels as low as 1.2 million bushels (240 contracts) in 1985 and 1.05 million bushels (210 contracts) in 1996.[13]

[11] Trade sources indicate that, if the latest elevator to stop accepting grain and soybeans closes, the effective regular storage capacity in Chicago which is available to hold grain and soybeans will be reduced to an even lower level, to about 12.0 to 12.5 million bushels. These lower effective capacity estimates reflect the fact that a certain proportion of storage within an elevator must be kept empty to allow blending of the stored grain and soybeans and for the efficient movement of these commodities into and out of the facility.

[12] Specifically, with respect to delivery points, Guideline No. 1 provides that exchanges must consider: (1) the nature of the cash market at the delivery point; (2) the composition of the market at that point; (3) the normal commercial practice for establishing cash market values and the availability of published cash prices reflecting the value of the deliverable commodity; (4) the level of deliverable supplies normally available, including the seasonal distribution of such supplies; and (5) any locational price differentials that would be applicable to the delivery points, including the economic basis for discounts or premiums, or lack thereof, applying to delivery points. In addition, Guideline No. 1 specifies that contract markets must provide information which describes the delivery facilities, including: (1) the type of delivery facility at each delivery point; (2) the number and total capacity of facilities meeting contract requirements; (3) the proportions of such capacity expected to be available for traders who may wish to make delivery, and seasonal changes in such proportions; and (4) the extent to which ownership and control of such facilities is dispersed or concentrated.

[13] The low levels of corn and soybean stocks at the contracts' delivery points observed in September 1996 were associated with low stock levels throughout the U.S. Nevertheless, it is clear that low stocks at the contracts' delivery points are

Further, effective deliverable stocks of corn (stocks at Toledo and Chicago minus stocks at St. Louis) have declined to even lower levels on other occasions.[14] For instance, on September 1, 1996, effective corn stocks fell to about 1.1 million bushels (about 220 contracts).

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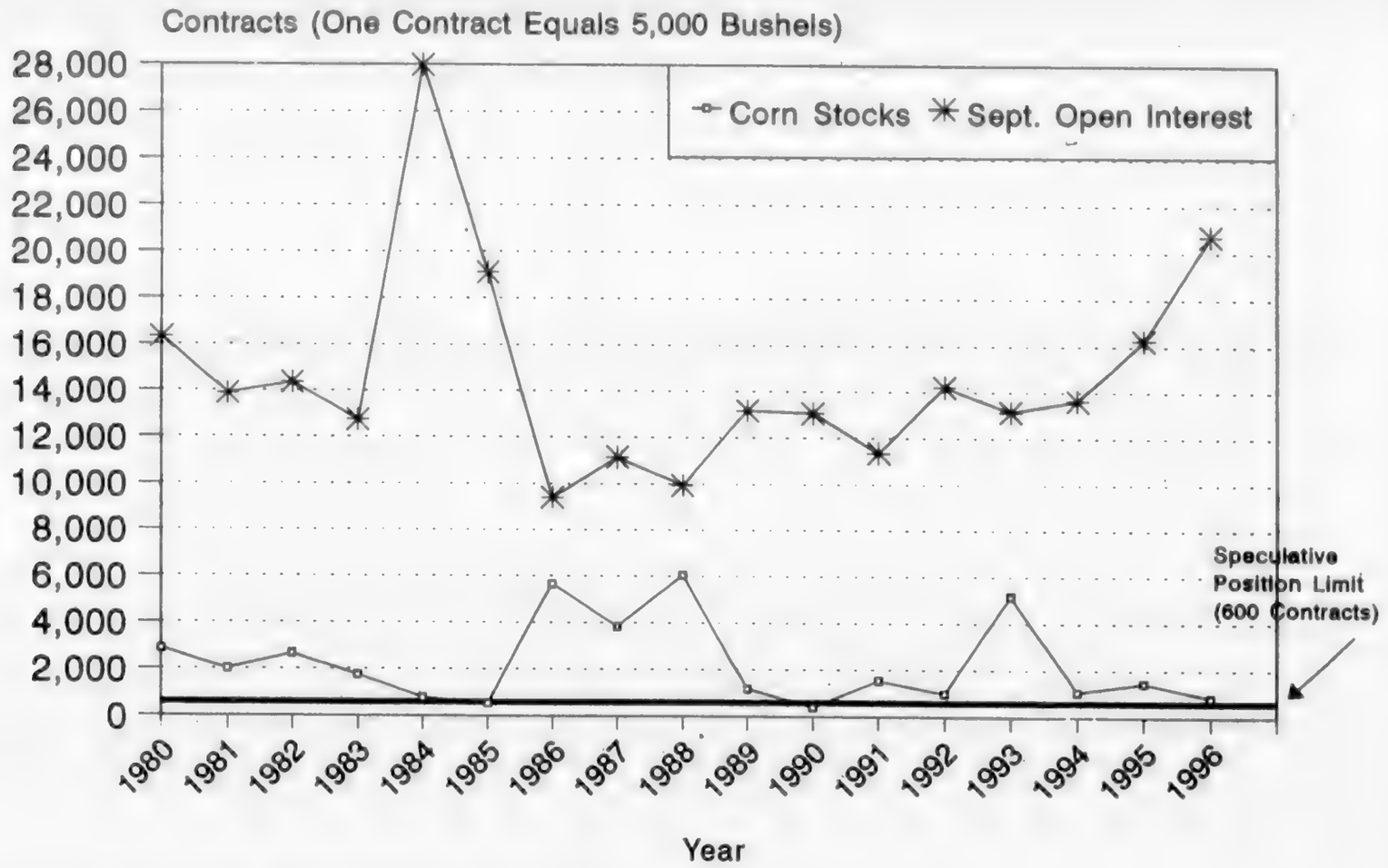
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also a problem in years where U.S. stock levels are not at uniformly low levels.

[14] As discussed above, there have been very few deliveries at St. Louis since this location became a delivery point in the 1970s. The lack of deliveries at this point reflects the fact that elevators in St. Louis, unlike the regular elevators in Chicago and Toledo, operate as barge-loading facilities rather than storage facilities. Corn and soybeans received at St. Louis elevators are stored only temporarily until they can be loaded into barges.

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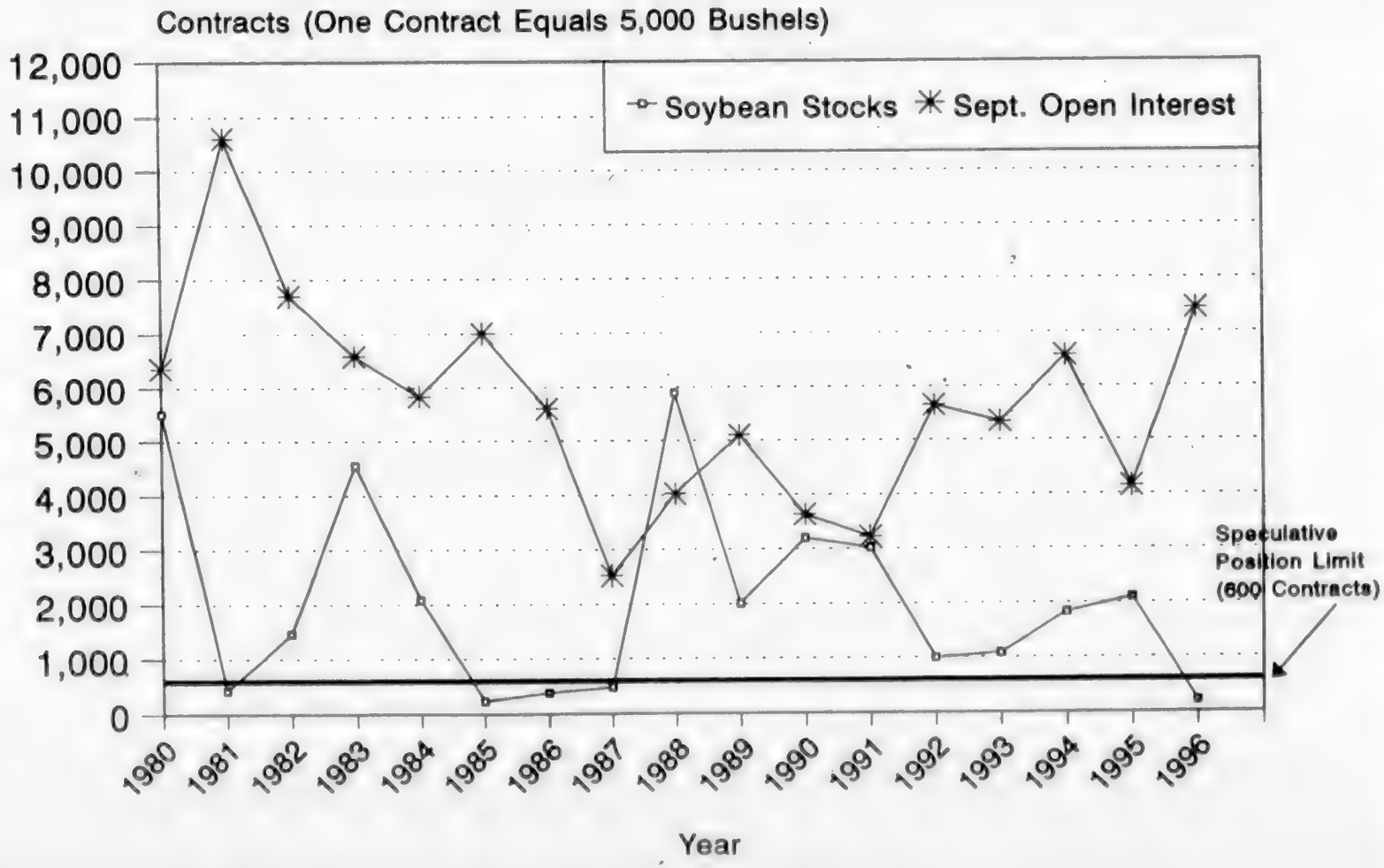
Chart 3 - Corn Stocks on First Friday of September in Deliverable Position at All CBT Regular Elevators vs. Total Open Interest for the September Contract and Spot Month Speculative Limit Level, 1980 Through 1996



Source: CBT and CFTC Stocks of Grain Reports. Footnotes: Stocks reported as of the First Friday in September for CBT Regular Elevators in Chicago, Toledo and St. Louis. September Futures Contract Open Interest on the Last Day of August.

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Chart 4 - Soybean Stocks on First Friday of September in Deliverable Position at All CBT Regular Elevators vs. Total Open Interest for the September Contract and Spot Month Speculative Limit Level, 1980 through 1996



Source: CBT and CFTC Stocks of Grain Reports. Footnotes: Stocks reported as of the First Friday in September for CBT Regular Elevators in Chicago, Toledo and St. Louis. St. Louis became a soybean futures delivery point in 1993. September Futures Contract Open Interest on the Last Day of August.

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Charts 3 and 4 also indicate the comparative levels of open interest for the expiring September contract month and the spot month speculative position limits for the corn and soybean futures contracts. These figures indicate, for instance, that total stock levels frequently have fallen to levels near or below the maximum number of contracts a single speculative trader may hold during the delivery periods of expiring contract months (600 contracts). Moreover, commercial firms may have been granted exemptions from these limits for purposes of bona fide hedging. These comparisons show that the potential requirements for futures delivery frequently exceed, by a substantial degree, the level of deliverable stocks available for futures contracts. They thereby indicate the increased potential for market problems as well as the increased potential for regulatory intervention required to ensure that positions are liquidated in an orderly fashion.

Moreover, the recent loss of substantial regular warehouse capacity likely will cause further deterioration in the chronically low deliverable stock situation. The primary factor drawing deliverable supplies to Chicago has been the existence of warehouse capacity for futures contract deliveries at that location, rather than traditional cash market demand. Numerous trade sources and cash market experts have verified that the cash market flow of corn and soybeans to Chicago elevators for purposes other than futures delivery is weak or non-existent. Accordingly, the Commission believes that the recent decline in the number of grain merchandisers in Chicago will necessarily result in a further decline of stocks from the low levels depicted in the charts.

In such situations, where stocks are available for delivery only at chronically low-levels due to the location of a contract's delivery points at the periphery of cash market channels, futures prices can more become distorted relative to cash market prices. This results from the need to attract the necessary quantities of corn or soybeans, which are otherwise not normally available, to the contracts' delivery points to fulfill delivery requirements. Thus, when the delivery points for a futures contract are not located within active cash market channels for the underlying commodity, the likelihood increases that abnormal interstate movements of the commodity will be required to meet futures delivery requirements. In contrast, when a contract's delivery points are located within active cash market channels for a commodity, deliverable supplies readily can be made available for delivery from stocks at, or flows of the commodity through, the contract's delivery points at a price that is representative of prevailing cash market prices for the commodity.

These circumstances were clearly envisioned by the MidAmerica Institute study discussed above, which concluded that because Chicago had become a low price point, deliverable supplies required to respond to an attempted manipulation could only be drawn from higher value locations, thereby enhancing the potential for, and possible profitability of, market manipulations.[15]

The situation is critical in that, except for cash-settled contracts, the threat of delivery is the mechanism through which the market forces futures and cash prices to converge. To the extent that delivery is not a viable alternative because of inadequate deliverable supplies, trading will increasingly require regulatory intervention to remain orderly, particularly during contract month expirations.

Accordingly, the Commission has determined to notify the CBT under the provisions of Section 5a(a)(10) of the Act, that for the reasons discussed above, and in light of the CBT's failure to date to take appropriate corrective action, the Commission finds that the CBT rules specifying the terms of its corn and soybean futures contracts do not accomplish the Section 5a(a)(10) objectives of "tend[ing] to prevent or diminish price manipulation, market congestion, or the abnormal movement of such commodity in interstate commerce."

Further, the Commission hereby notifies the CBT, under the provisions of Section 5a(a)(10) of the Act, that the CBT has until March 4, 1997 to adopt and submit for Commission approval "appropriate changes" to CBT rules.

VIII. Alternative Contract Specifications.

To avoid further proceedings under Section 5a(a)(10), the CBT must make changes to the contracts which, in the opinion of the Commission, are necessary to accomplish the objectives of this subsection of the Act. Although the Commission has not reached a conclusion as to the exact nature of the changes which are "necessary to accomplish the objectives" of providing delivery terms "as will tend to prevent or diminish price manipulation," it is providing guidance to the CBT on a range of possibilities which could constitute "appropriate changes" by providing for the necessary, viable linkage with the cash market. By providing these alternatives, the Commission is not limiting the CBT's ability to respond to this Section 5a(a)(10) notification, nor is it specifying exact design criteria. Rather, these are examples of various means by which the Commission believes the objectives of the section could be met. In any event, the particular contract specifications proposed by the CBT in response to this notification, in order to meet the statutory requirement, should provide for a linkage with the cash market through specific terms which are in conformity with a substantial segment of that underlying market.

1. Modified CBT Special Task Force Proposal

The contract amendments recommended by the CBT Special Task Force, with certain modifications, could potentially provide for the necessary increase in deliverable supplies. Under the Special Task Force proposal, futures delivery would continue to be made at all locations by the transfer of a warehouse receipt for grain in store. Chicago and Toledo would continue as delivery points, with Chicago remaining the par delivery location, St. Louis being deleted, and existing discounts for Toledo delivery being reduced to 2 from 3 cents per bushel for corn and to 4 from 8 cents per bushel for soybeans.

The Special Task Force also proposed that delivery be permitted at regular warehouses in Milwaukee, in East Central Illinois (ECI), and on the Northern Illinois River (NIR).[16] Vessel deliveries of corn and soybeans in Milwaukee would be at par, with rail and barge deliveries subject to a discount of 8 cents per bushel. Corn and soybeans in store at regular ECI warehouses would be deliverable at discounts of 4 cents and 8 cents per bushel, respectively.[17] Futures delivery at NIR warehouses would be at par for corn and at a discount of 4 cents per bushel for soybeans.

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[15] The inclusion of Toledo does not cure this fundamental flaw because it, too, is on the periphery of the cash market.

[16] The ECI delivery area would encompass the counties of Champaign, Coles, Douglas, Ford, and Iroquois. The NIR delivery area would consist of that part of the Illinois River that lies between Creve Coeur and Chicago.

[17] The recommended changes also would permit delivery receivers to require ECI regular warehouses to load the delivery corn and soybeans into barges at NIR barge-loading facilities at a premium of 4 cents per bushel. This provision implies that corn would be deliverable in barges on the NIR at par, while soybeans would be deliverable on the NIR at a discount of 4 cents per bushel.

However, as to this proposal, the following changes would be necessary to provide for an economically effective linkage of the futures contracts with the cash market:

1. In view of the infrequent participation of St. Louis as a delivery point, as well as the similarly limited storage capacity and through-put nature of the barge-loading warehouses on the NIR, the Special Task Force proposal to permit delivery in NIR barge-loading warehouses must be modified to allow delivery at off-water warehouses located within a specified distance of this portion of the Illinois River, in order to make warehouses located on the NIR an effective source of deliverable supplies.[18] The specified area should encompass corn and soybean storage facilities that typically store these commodities on a seasonal basis and from which substantial deliverable supplies would be available.

2. The recommended locational price differentials for delivery in store at Toledo, the ECI, and warehouses located on or near the NIR should be modified so that they reflect commonly observed cash price relationships with the contracts' other delivery locations. Specifically, for deliveries at NIR barge-loading facilities, the price differential levels selected should reflect the fact that corn and soybeans become more highly valued the further south the delivery location is on the NIR.

2. Illinois River Shipping Certificate Delivery Alternative

An alternative specification that could also result in the necessary increase to deliverable supplies would replace the existing warehouse-receipt-delivery instrument with a shipping certificate and provide for delivery at Illinois River barge loading facilities, in addition to the contracts' existing Chicago, Toledo, and St. Louis delivery points.[19] The Illinois River delivery area could be specified to include all or a substantial part of that River. The contracts' par pricing location could be shifted to a delivery location/area that has an active cash market, with locational price discounts for other delivery points/areas set at levels that fall within the range of commonly observed cash price differences between the specified delivery locations.

3. Lower Mississippi River Export Alternative

This alternative would eliminate the contracts' existing delivery locations and delivery instrument in favor of an export-oriented contract with a shipping certificate as the delivery instrument. The shipping certificate would call for delivery at export locations on the lower Mississippi River.[20]

4. Cash Settlement Alternative

This alternative would replace the contracts' existing delivery provisions with cash settlement provisions. The cash price index could be based on the USDA-quoted prices for corn and soybeans in the primary production or export market areas on the last day of trading or any other method of calculating a cash-settlement price consistent with Guideline No. 1.

Section 5a(a)(10) of the Act authorizes the Commission to change or supplement the terms and conditions of futures contracts. The Commission would prefer, however, not to take such an action. Rather, the Commission looks forward to receiving for its approval proposed modifications from the CBT to the delivery specifications for the CBT's corn and soybean futures contracts which satisfactorily address the issues discussed in this letter. In the event that the Commission fails to receive such proposed amendments by March 4, 1997, the Commission is prepared to take appropriate action under Section 5a(a)(10) of the Act to address the situation.

By the Commission,
Jean A. Webb,
Secretary of the Commission.

The Commission has determined that publication of the notification to the CBT for public comment will assist the Commission in its consideration of these issues, including in particular, the eventual response of the CBT. Accordingly, the Commission is requesting written data, views or arguments from interested members of the public. Commenters are specifically requested to address the following issues:

1. To what extent do the current CBT delivery specifications for corn and soybeans reflect the structure of the cash market for the underlying commodity? To the extent the terms of the contracts depart from commodity flows in the cash market, does this have any detrimental impact on the trading of these contracts?

2. What is the likely effect of failing to modify the current terms of the contract?

3. To what extent would the alternatives listed by the Commission increase deliverable supplies on the contracts, and would such increases be sufficient under the Act?

4. The Commission identified several changes to the CBT Task Force's recommendations necessary to provide "a meaningful increase in the level of economically deliverable supplies available for futures delivery." To what extent is it necessary to permit delivery in off-water warehouses if delivery on the contract continues to call for warehouse receipts at warehouses on the Illinois river, which largely tend to be through-put facilities? What is the range of discounts or premiums commonly observed in the cash market for corn and soybeans that would be deliverable in Toledo, East Central Illinois, or the Northern Illinois River, compared to Chicago?

5. Is modification of the contracts' delivery provisions likely to enhance or detract from their hedging or price-basing utility?

6. On a related issue, to what extent do the current CBT delivery specifications for the futures contract for wheat reflect the structure of the cash market for the underlying commodity? To the extent that the terms of the futures contract depart from commodity flows in the cash market, does this have any detrimental impact of the trading of futures contracts for wheat?

7. What is the likely effect of failing to modify the current delivery specifications of the wheat contract?

8. What alternatives to the current delivery specifications would increase deliverable supplies on the wheat contract, while maintaining its utility for hedging and price basing?

Issued in Washington, D.C., this 19th day of December, 1996, by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–32708 Filed 12–24–96; 8:45 am]

BILLING CODE 6351–01–P

[18] As recommended by the Special Task Force for deliveries at ECI warehouses, the receiver of corn and soybeans in an off-water warehouse could be given the option of taking delivery of corn and soybeans in barges from regular warehouses on the NIR or by rail from the off-water facility.

[19] The terms of the shipping certificate could be specified in several different ways. For example, the shipping certificate could require that the issuer ship corn or soybeans in rail cars or trucks to a location nominated by the buyer within the specified delivery areas, with the buyer having the option of requiring that the corn or soybeans be loaded into barges at a specified premium.

[20] As in alternative 2, the shipping certificate's terms may be specified in different ways. In this case, for example, the shipping certificate could require the issuer to deliver corn or soybeans in barges or rail cars to an export location on the lower Mississippi River specified by the buyer, with provision for delivery corn and soybeans to be loaded into vessels at a specified premium.

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Partnership Council Meeting

AGENCY: Department of Defense.

ACTION: Notice of meeting.

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SUMMARY: The Department of Defense (DoD) announces a meeting of the Defense Partnership Council. Notice of this meeting is required under the Federal Advisory Committee Act. This meeting is open to the public. The topics to be covered are the Federal Managers Association (FMA) membership on the Council and a discussion of general DoD Human Resources initiatives.

DATES: The meeting is to be held January 22, 1997, in room 1E801, Conference Room 7, the Pentagon, from 1:00 p.m. until 3:00 p.m. Comments should be received by January 14, 1997, in order to be considered at the January 22 meeting.

ADDRESSES: We invite interested persons and organizations to submit written comments or recommendations. Mail or deliver your comments or recommendations to Mr. Kenneth Oprisko at the address shown below. Seating is limited and available on a first-come, first-served basis. Individuals wishing to attend who do not possess an appropriate Pentagon building pass should call the below listed telephone number to obtain instructions for entry into the Pentagon. Handicapped individuals wishing to attend should also call the below listed telephone number to obtain accommodations.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Oprisko, Chief, Labor Relations Branch, Field Advisory Services Division, Defense Civilian Personnel Management Service, 1400 Key Blvd., Suite B–200, Arlington, VA 22209–5144, (703), ext. 704.

Dated: December 19, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–32822 Filed 12–24–96; 8:45 am]

BILLING CODE 5000–04–M

Department of the Navy

Notice of Availability and Public Hearings for the Draft Environmental Impact Statement (DEIS) for Base Realignment Action for the Naval Sea System Command Relocation to the Washington Navy Yard, Washington, DC

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), the Department of the Navy (DoN) prepared and filed with the U.S. Environmental Protection Agency a DEIS evaluating the environmental effects of relocating the Naval Sea System Command Headquarters (NAVSEA) from leased space in Arlington, Virginia to the Washington Navy Yard or other government-owned property in the metropolitan Washington, DC area.

In response to the recommendations of the 1995 Department of Defense Base Realignment and Closure Commission (BRAC–95) and legislative requirements of the 1990 Base Realignment and Closure Act (Pub. L. 101–510), the Navy will relocate approximately 4,100 NAVSEA personnel to the Washington Navy Yard (WNY) in Washington, DC. The Navy's DEIS addresses the environmental impacts associated with an increase of personnel at the WNY, as well as, renovation, demolition and new construction of facilities at the installation necessary to accommodate relocated personnel.

The Washington Navy Yard (WNY) occupies 68 acres along the Anacostia River in southeast Washington, DC. Development at the installation began in the early 1800's and continued in response to National defense efforts. Little if any undeveloped land is currently available for new construction at the WNY. The four alternatives considered in the DEIS center around a small group of existing structures and involve variations of renovation and/or demolition and new construction. The BRAC–95 relocation of NAVSEA corresponds to the current use of the WNY as an administrative center and long range plans to convert underutilized facilities at the installation into office space.

The DEIS has been distributed to various Federal, state, and local agencies, elected officials, special interest groups, and three local libraries. A limited number of single copies are available, and may be obtained by contacting the Navy representative listed at the end of this notice. A public hearing to inform the public of the DEIS findings and to solicit comments will be held on January 23, 1997, in Building 101 at the WNY. The meeting facilities will be open at 6:30 PM with the Navy's formal presentation beginning at 7:00 PM.

Interested parties are invited to attend and participate in the Public Hearing. Oral statements will be heard and transcribed by a stenographer; however, to ensure accuracy of the record, all statements should be submitted in writing. In the interest of available time, each speaker will be asked to limit his/her comments to five minutes. If longer statements are to be presented, they should be summarized for the public hearing and submitted in long-form at the hearing or mailed to the address listed at the end of this announcement. All statements, both oral and written, will become part of the public record.

ADDRESSES: Written comments on the DEIS should be mailed to: Department of the Navy, Naval Facilities Engineering Command, Engineering Field Activity—Chesapeake, Mr. Hank Riek (Code 20E), 901 M Street SE, Building 212, Washington Navy Yard, Washington, DC 20374–5018. Comments must be received no later than February 10, 1997. Additional information concerning this notice may be obtained by contacting the Navy at (202) 685–3064, facsimile (202) 685–3350.

Dated: December 20, 1996.

D.E. Koenig,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96–32778 Filed 12–24–96; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF ENERGY

Record of Decision Programmatic Environmental Impact Statement for Stockpile Stewardship and Management

AGENCY: Department of Energy.

ACTION: Record of decision.

SUMMARY: The Department of Energy (DOE) is issuing this Record of Decision for the Stockpile Stewardship and Management Program, the program through which DOE carries out its statutory responsibility for the United States nuclear weapons program. This Record of Decision is based on the information and analysis contained in the Final Programmatic Environmental Impact Statement (PEIS) for Stockpile Stewardship and Management (DOE/EIS–0236) and other factors, including the mission responsibilities of the Department, and comments received on the Draft and Final PEIS. DOE's decisions will continue the ongoing Office of Defense Programs missions at eight DOE sites, making appropriate adjustments consistent with post-Cold War national security policies. Selected facilities for enhanced experimental capability will be constructed and operated; manufacturing capability at existing weapons industrial plants will be maintained; however, manufacturing capacity will be appropriately downsized; plutonium pit component manufacturing capability will be reestablished.

More specifically, for Stockpile Stewardship, the Department has

decided to: (1) Construct and operate the National Ignition Facility at the Lawrence Livermore National Laboratory; (2) construct and operate the Contained Firing Facility at the Lawrence Livermore National Laboratory; and (3) construct and operate the Atlas Facility at the Los Alamos National Laboratory. Additionally, the Department has decided to transfer a small amount of plutonium-242 material from the Savannah River Site to the Los Alamos National Laboratory to support stockpile stewardship activities.

With respect to Stockpile Management, the Department has decided to: (1) Downsize weapons assembly/disassembly capacity at the Pantex Plant; (2) downsize high explosive component fabrication capacity at the Pantex Plant; (3) downsize weapons secondary and case component fabrication capacity at the Y–12 Plant at the Oak Ridge Reservation; (4) downsize weapons nonnuclear component fabrication capacity at the Kansas City Plant; and (5) reestablish pit fabrication capability, with a small capacity, at the Los Alamos National Laboratory.

FOR FURTHER INFORMATION CONTACT: For further information on the Final Programmatic Environmental Impact Statement, or this Record of Decision, please call 800–776–2765, or write to: Jay Rose, Director, Reconfiguration Group, Office of Technical and Environmental Support, DP–45, United States Department of Energy, 1000 Independence Avenue SW, Washington, D.C. 20585.

The Stockpile Stewardship and Management Program maintains an Internet Home Page at http://web.fie.com/fedix/doeoor.html. This can also be accessed by modem by dialing toll-free (800) 783–3349 or (301) 258–0953 in the Washington, D.C. metropolitan area.

For information on the DOE's National Environmental Policy Act (NEPA) process, please contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, United States Department of Energy, 1000 Independence Ave. SW., Washington, D.C. 20585, (202) 586–4600 or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Background

Since the inception of nuclear weapons in the 1940s, DOE and its predecessor agencies have been responsible for the stewardship and management of the nation's stockpile. Through the system of national laboratories and industrial facilities known collectively as the Nuclear Weapons Complex (Complex), DOE has provided the nation with nuclear weapons and ensured that those weapons remain safe and reliable. The Stockpile Stewardship and Management PEIS analyzes the potential consequences to human health and the environment if certain changes to the Complex are implemented to support DOE's Stockpile Stewardship and Management Program.

The term "stockpile stewardship" refers to core competencies in activities associated with research, design, development, and testing of nuclear weapons, and the assessment and certification of their safety and reliability under a Comprehensive Test Ban Treaty. Historically, these activities have been performed at the three DOE weapons laboratories (Los Alamos National Laboratory in New Mexico, Lawrence Livermore National Laboratory in California, and Sandia National Laboratories in New Mexico and California) and the Nevada Test Site. The term "stockpile management" refers to core competencies in activities associated with the production, maintenance, surveillance, and disassembly of the nuclear weapons in the stockpile. Historically, these activities have been performed at the DOE nuclear weapons industrial facilities (currently, the Y–12 Plant in Tennessee, the Kansas City Plant in Missouri, the Pantex Plant in Texas and the Savannah River Site in South Carolina).

In response to the end of the Cold War and changes in the world's political regimes, the emphasis of the United States nuclear weapons program has shifted dramatically from developing and producing new-design weapons to dismantlement and maintenance of a smaller enduring stockpile. In accordance with national security policy, including the terms of the Strategic Arms Reduction Talk (START) Treaties, the nuclear weapons stockpile is being significantly reduced. The United States is no longer producing new-design nuclear weapons, and DOE has closed or consolidated some of its former weapons industrial facilities. Additionally, in 1992, the United States declared a moratorium on underground nuclear testing. President Clinton extended this moratorium and decided, in August 1995, to pursue a "zero-yield" Comprehensive Test Ban Treaty that he signed in September 1996.

Even with these significant changes, however, DOE's responsibilities for the nuclear weapons stockpile continue. The President and Congress have directed DOE to maintain the core intellectual and technical competencies of the United States in nuclear weapons and to maintain the safety and reliability of the enduring nuclear weapons stockpile. In response to this direction, DOE has developed a science-based Stockpile Stewardship and Management Program to provide a single, highly integrated technical program for maintaining core competencies and ensuring the continued safety and reliability of the stockpile. The Stockpile Stewardship and Management Program has evolved from programs that served this mission over previous decades.

With no new-design nuclear weapons production, DOE expects existing weapons to remain in the stockpile well into the next century. This means that the weapons will age beyond original expectations. Because underground nuclear testing will no longer be available, alternative means must be developed in order to assess and certify the weapons' continued safety and reliability. To meet these new challenges, DOE's Stockpile Stewardship and Management Program has been developed to increase understanding of the basic phenomena associated with nuclear weapons, to provide better predictive understanding of the safety and reliability of weapons, and to ensure a strong scientific and technical basis for future United States nuclear weapons policy objectives.

DOE prepared this Record of Decision pursuant to the Council on Environmental Quality (CEQ) Regulations for implementing the procedural provisions of the National Environmental Policy Act (NEPA) (40 CFR Parts 1500–1508) and the Department of Energy regulations implementing NEPA (10 CFR Part 1021). In making this Record of Decision for the Stockpile Stewardship and Management Program, the Department considered the analysis from the Final Programmatic Environmental Impact Statement (PEIS) for the Stockpile Stewardship and Management Program (DOE/EIS–0236), issued in November 1996, along with other factors such as DOE statutory mission requirements, national security policy, cost, schedule, and technical risks. Additional technical descriptions and assessments of cost, schedule and technical risk are found in the Analysis of Stockpile Management Alternatives (DOE/AL, July 1996), the Stockpile Management Preferred Alternatives Report (DOE/AL, July 1996), and the Technology Basis and Site Comparison Evaluation for the National Ignition Facility (DOE/OAK, September 1996).

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In February 1996, DOE published the Draft PEIS for Stockpile Stewardship and Management, which evaluated the siting, construction, and operation of proposed stockpile stewardship facilities and the siting, construction, and operation of facilities proposed for stockpile management at eight alternative sites within the Complex. The 60-day public comment period for the Draft PEIS began on March 8, 1996, and ended on May 7, 1996.

During the comment period, public meetings were held in Los Alamos, Albuquerque and Santa Fe, New Mexico; North Las Vegas, Nevada; Oak Ridge, Tennessee; Kansas City, Missouri; Livermore, California; Washington, D.C.; Amarillo, Texas; and North Augusta, South Carolina. In response to requests from the public, five of the public meetings were joint meetings to obtain comments on both the Stockpile Stewardship and Management Draft PEIS and the Department's Storage and Disposition of Weapons-Usable Fissile Materials Draft PEIS, which were being prepared concurrently. Two of the joint meetings (Amarillo and North Augusta) also addressed issues associated with another EIS then in preparation, the Site-Wide Draft Environmental Impact Statement for the Continued Operation of the Pantex Plant and Associated Storage of Nuclear Weapon Components. In addition, the public was encouraged to provide comments via mail, fax, electronic bulletin board (Internet), and telephone (toll-free 800 number).

Volume IV of the Final PEIS, the Comment Response Document, describes the public comment process in detail, presents comment summaries and responses, and provides copies of all comments received.

The PEIS includes a classified appendix that provides additional information about weapons physics as it relates to the proposed actions for enhanced experimental capability, the stewardship need for plutonium-242 and its transfer to a weapons laboratory, and a number of the classified appendices to unclassified documents summarized or referenced in the PEIS. Applicable regulations provide that Environmental Impact Statements which address classified proposals may be restricted from public dissemination; consistent with the regulations, however, the Department has organized the PEIS so that classified information is segregated in order that the unclassified portions can be made available to the public [40 CFR 1507.3; 10 CFR 1021.340(a)].

For the National Ignition Facility, Contained Firing Facility, and the Atlas Facility, the PEIS included project specific environmental analyses (Appendices I, J and K of the PEIS) to address the detailed environmental impacts associated with siting, construction and operation. Based upon this Record of Decision, the Department intends to proceed with the construction and operation of these three facilities with no further National Environmental Policy Act reviews.

Proposed Actions

Broadly stated, all of the existing basic capabilities of the Complex continue to be required both technically and by national security policy objectives established by the President and Congress. The Stockpile Stewardship and Management PEIS concentrates on three major proposed actions that result from the national security policy constraints placed on the Program. The three major proposed actions are: (1) Providing enhanced experimental capability; (2) rightsizing the industrial base; and (3) reestablishing manufacturing capability and a small capacity for plutonium pit components (the pit is the central core of a nuclear weapon containing plutonium and/or highly enriched uranium that is surrounded by a layer of high explosive). Additionally, the Department considered the transfer of a small amount of plutonium-242 from the Savannah River Site to Los Alamos National Laboratory or Lawrence Livermore National Laboratory in support of stockpile stewardship activities.

1. Proposed Action (1)—Providing Enhanced Experimental Capability for Stockpile Stewardship

Historically, nuclear testing provided the Department with an unambiguous high confidence in the safety and reliability of weapons in the stockpile. As described in Chapters 2 and 3 of the PEIS, without underground nuclear testing, DOE must rely on experimental and computational capabilities, especially in weapons physics, to assess and predict the consequences of problems that may occur in an aging stockpile.

DOE concluded that other approaches to stockpile stewardship would not ensure nuclear weapon safety and reliability, and that such approaches are therefore not reasonable. In addition, DOE concluded that only the three facilities discussed below are sufficiently well understood that they could be proposed and evaluated in detail in the PEIS (see Section 3.1.2 of the PEIS, and the sections below entitled, "Next Generation Experimental Facilities for Stockpile Stewardship," and "Other Considerations.")

DOE has considered that there are differing opinions on the technical merit of DOE's proposed actions with regard to enhanced experimental capability. Nuclear weapons design information, including the complex physics of nuclear weapon explosions, is generally classified for reasons of national security and nonproliferation. Even if this information were unclassified, the physics problems remain extremely complex; hence, the reason why nuclear testing was so important to the past program. Both the classification of information and technical complexity of the issues form natural barriers to public communication. The technical complexity, alone, engenders significant debate among qualified experts, especially in the area of high energy density physics.

The PEIS attempts to explain the weapon physics issues in an unclassified, comprehensible manner regarding its relation to mission purpose and need (Chapter 2), proposed actions and alternatives (Section 3.3), and project-specific technical detail (Volume III). In the absence of nuclear testing, there are two basic alternatives: (1) Rely on existing facilities, as described by the No Action alternative, as sources of experimental data; and (2) pursue the enhanced capability of the proposed facilities to provide the sources of experimental data needed.

The nuclear weapons phenomena involved in enhanced experimental capability can be broadly grouped into three categories: (1) Physics of nuclear weapons primaries (the primary contains the main high explosive and the plutonium pit); (2) physics of nuclear weapons secondaries (the secondary contains highly enriched uranium, lithium deuteride and other materials to produce a thermonuclear explosion); and (3) weapons effects (the effects of radiation on nuclear weapons and military systems). Because there are no proposed actions in the PEIS for new facilities designed primarily for weapons effects testing, this issue is not discussed further in this Record of Decision. The physics of nuclear weapons primaries and secondaries are described below, as well as alternatives that are assessed in the PEIS. More detail on the physics of nuclear weapons can be found in Section 2.4.1, 3.3, and Appendices I and K of the PEIS.

1.A. Physics of Nuclear Weapons Primaries

With respect to the physics phenomena from the implosion of the primary, experimental facilities provide physics and computational model validation, material behavior information, improved understanding of the implosion and the ability to assess the effects of defects. Proposed new facilities and site alternatives considered, along with the existing facilities which are part of the No Action alternative, are discussed below.

1.A.1 Alternatives. 1.A.1.1 No Action. The principal diagnostic tools DOE currently uses to study initiation of nuclear weapons primaries are hydrodynamic tests and dynamic experiments (see Section 3.3 of the PEIS). Under the No Action alternative, DOE would continue to use the hydrodynamic and dynamic testing facilities currently available at Los Alamos National Laboratory (LANL), Lawrence Livermore National Laboratory (LLNL), and the Nevada Test Site (NTS), including the Dual-Axis Radiographic Hydrodynamic Test (DARHT) facility currently under construction at LANL (see Section 1.6.2 of the PEIS).

1.A.1.2 Action Alternative—Construct and Operate the Contained Firing Facility (CFF) at Lawrence Livermore National Laboratory (LLNL). Under this alternative, the capabilities of the CFF would be added to the existing facilities at LLNL used to study the physics of primaries. Specifically, the CFF would be an addition to the existing Flash X-Ray Facility (FXR) at LLNL Site 300, Building 801. The facility would provide an enclosed blast chamber to contain debris from high explosive experiments that support the stockpile stewardship program. The containment enclosure would reduce the environmental, safety, and health impacts of current outdoor testing. The enclosure would also improve the quality of diagnostics data derived from testing by better controlling experimental conditions. Because the CFF is an upgrade to an existing facility, sites other than Building 801, at LLNL, would have significant technical disadvantages, and were not evaluated in detail.

1.A.2 Comparison of Alternatives. 1.A.2.1 Cost and Technical Factors. The CFF addition to the existing FXR Facility would cost about $50 million to construct and take about two years to complete. The CFF would improve the quality of diagnostics data derived from testing. Improving diagnostic capability to understand weapon primary behavior is crucial to DOE's ability to continue to certify the safety and reliability of the stockpile in the absence of nuclear testing.

1.A.2.2 Environmental Factors. DOE prepared a Project Specific Analysis (Appendix J of the PEIS) to address the environmental impacts associated with construction and operation of the CFF. Because the proposal for the CFF involves modification to the existing FXR Facility, construction impacts would be negligible. Very little land would be disturbed (less than 1 acre) and the construction activities would largely involve internal modifications to the existing facility.

Impacts associated with operation would also be negligible. The CFF enclosure would reduce gaseous and particulate air emissions from explosives testing, reduce the generation of solid low-level radioactive waste, reduce testing noise, and improve the safety of testing by controlling fragment dispersion. The CFF would not utilize any significant quantities of natural resources, and would not cause any significant socioeconomic impacts at LLNL. LLNL has adequate existing waste management facilities to treat, store, and/or dispose of wastes that would be generated by the CFF. Impacts to human health from CFF operation are expected to be within regulatory limits, and extremely small.

1.A.3 Environmentally Preferable Alternative. The environmentally preferable alternative is to construct and operate the CFF as an addition to FXR, at LLNL. Although this alternative would require construction and additional land utilization, the impacts associated with the construction and operation of this facility are minor and offset by the environmental benefits of the CFF. The CFF would contain releases to the atmosphere from the conventional high explosive detonations presently being conducted uncontained at the FXR Facility, which would continue operation under the No Action alternative.

1.A.4 Decision. DOE's decision is to proceed with the construction and operation of the CFF at Site 300, Building 801, at LLNL. This action is consistent with existing operations at Site 300 and LLNL land-use plans and policies.

Mitigation. The mitigation measures appropriate to the CFF construction and operation will be formalized in a CFF Mitigation Action Plan. The plan will be issued by the DOE and monitored for compliance by its representatives during construction and operation of the CFF. Construction and operation of the CFF are not expected to incur environmental impacts other than those associated with a temporary construction lay-down area. Dust suppression and storm water runoff mitigation technologies will be applied to reduce these impacts to insignificance. A preconstruction survey monitoring for endangered species will be conducted no more than 60 days prior to construction start-up.

1.B. Physics of Nuclear Weapons Secondaries

The energy released by the fission of the nuclear weapons primary activates the secondary assembly, creating a thermonuclear (fusion) explosion. However, the physics of nuclear weapons secondaries deals with the interaction of many dynamic physics processes, including hydrodynamics, thermodynamics, fission, and fusion. Experimental facilities provide improved understanding of thermonuclear ignition, secondary physics and computational model validation, and material behavior information. These facilities will also be useful for investigating other physics phenomena related to the nuclear weapon primary and weapons effects (see Appendices I and K of the PEIS).

1.B.1 Alternatives. 1.B.1.1 No Action. The No Action alternative would limit DOE to the use of existing facilities. The principal facilities currently available are the Nova Facility at Lawrence Livermore National Laboratory (LLNL), and the Pegasus II Facility at Los Alamos National Laboratory (LANL).

1.B.1.2 Action Alternative—Construct and Operate the National Ignition Facility (NIF). Under this alternative, the capabilities of the NIF would add to the existing facilities used to study the physics of secondaries. The NIF would house the world's most powerful laser, focusing 192 laser beams onto a target containing isotopes of hydrogen. NIF experiments are designed to address, to various degrees, certain weapons issues connected with fusion ignition and boosting; weapon effects; radiation transport; and secondary implosion, ignition, and output. Most of these processes occur at very high energy density (i.e., at high temperatures and pressures) and are relevant to a weapon's performance. The NIF would achieve higher temperatures and pressures, albeit in a very small volume, than any other existing or proposed stockpile stewardship facility. The energy available to conduct experiments with the NIF would be about 50 times that available with Nova. Five alternative locations at four DOE sites were studied for the NIF: LLNL, LANL, NTS—Area 22 main site location

and North Las Vegas Facility (NLVF), and Sandia National Laboratories (SNL), New Mexico.

1.B.1.3 Action Alternative—Construct and Operate the Atlas Facility. Under this alternative, the Atlas Facility would be added to the existing facilities used to study the physics of secondaries. The Atlas Facility, a pulsed-power experimental facility that builds upon special equipment existing at LANL TA–35 (the technical area which contains the existing pulsed-power infrastructure), would provide the capability to create pressures and volumes necessary to accurately benchmark weapon-related computational predictions. The need to perform experiments with macroscopic pulsed-power targets, as well as with lasers, exists not only because of the limits of measurement diagnostics and improved ease of measurement at larger scale, but also because some of the physical phenomena that must be investigated cannot readily be scaled down to smaller sizes without affecting some parameters of importance. Existing facilities are not adequate to analyze some secondary physics issues.

1.B.2 *Comparison of Alternatives.* The capabilities that would be provided by the two proposed facilities, the NIF and the Atlas Facility, are independent components needed to improve the understanding of the physics of nuclear weapon secondaries. As explained in Section 3.3 and Appendices I and K of the PEIS, because each facility responds to a different need and provides different capabilities related to nuclear weapons secondaries, they are complementary proposals.

1.B.2.1 Cost and Technical Factors. National Ignition Facility. Total capital costs for construction of the NIF at LLNL would be approximately $1.1 billion. The capital and life-cycle comparative cost evaluation indicates the LLNL site will have the lowest capital and the lowest overall costs (by about 5%) of the alternative sites considered. Construction is anticipated to take about five years.

In regard to technical risk, LLNL has the most extensive experience in developing, designing, constructing, and operating high power, large-aperture, solid-state lasers and optical components. The extensive solid-state laser infrastructure, equipment, and facilities at LLNL exceed those of the alternative sites. LLNL has improved this infrastructure continuously as it has built a succession of highly sophisticated solid-state lasers. LLNL also has the most extensive surrounding high-technology infrastructure.

The Inertial Confinement Fusion Program (ICF) and the NIF have been supported by a succession of independent technical reviews conducted by the National Academy of Sciences (NAS), the Fusion Policy Advisory Committee (FPAC), the Inertial Confinement Fusion Advisory Committee (ICFAC), and the JASON Committee (a group of independent experts who evaluated the Science Based Stockpile Stewardship (SBSS) program). These reviews enabled the Department to plan the next reasonable steps to further the pursuit of ICF goals and to evaluate their relationship to SBSS. In September 1990, the NAS concluded that a solid state glass laser, as proposed for NIF, was the only driver capable of achieving ignition within a decade. Also in September 1990, as part of the Inertial Fusion Energy plan, the FPAC urged support for the ICF ignition facility, driven by a solid state glass laser as recommended by the NAS, as the most important next step in the investigation of inertial fusion energy's potential. In May 1994, the ICFAC stated that they believed that the ICF research and development program has a key role to play in "science-based stewardship." They continued by saying that an essential ingredient in this role will be the achievement of ignition of a fusion capsule in the laboratory. In February 1996, their final report concludes that good progress in target physics continues and that DOE should proceed with the next step in the NIF project. In November 1994, the JASON Committee strongly endorsed the NIF, calling it "the most scientifically valuable of the programs proposed for SBSS." They did not identify any other technologies that could provide the technical capabilities of the NIF. In March 1996, the JASON Committee reiterated their previous comment about the NIF and further concluded, "that the present ICF Program does make an important contribution to SBSS, and that the NIF will substantially increase this contribution * * *" The committee recommended proceeding with the NIF.

Atlas Facility. Capital costs to build the Atlas Facility are estimated to be about $43 million. Construction will take about four years. Because LANL has more extensive expertise in microsecond pulsed-power than any other DOE site, and because the Atlas Facility would utilize the extensive existing infrastructure and special equipment available at LANL, no other DOE sites were considered for the Atlas Facility. Proceeding with the construction of the Atlas Facility is also consistent with the November 1994 JASON Committee review mentioned above.

1.B.2.2 Environmental Factors. National Ignition Facility. DOE prepared a Project Specific Analysis (Appendix I of the PEIS) to address the environmental impacts associated with construction and operation of the NIF. Potential environmental impacts were assessed for the No Action alternative and two design capabilities (i.e., Conceptual Design and Enhanced Design options) at all five candidate locations.

The analysis indicates that there would be few differences in the environmental impacts between the candidate sites and little environmental impact in any case. The maximum daily particulate matter concentration in the air during site clearing would exceed applicable air quality standards for suspended particles less than 10 microns in diameter (PM10) at LLNL and the North Las Vegas Facility (NLVF). However, the ambient air quality impacts would be localized and of short duration. Land requirements would be greatest at NTS (45.0 acres), although this acreage is less that 1 percent of the uncommitted land at NTS. Conversely, the least amount of uncommitted land that would be required for NIF would be 7.9 acres at the NLVF. However, this acreage represents the largest percentage of uncommitted land at a candidate site (56 percent). Of greater significance would be the quality of the habitat of the uncommitted land that would be affected by NIF construction. The highest quality habitats that would be affected are forest (9.9 acres) at LANL or desert (45 acres) at NTS. At the other candidate sites, habitat disturbance would occur to previously disturbed grassland (LLNL and SNL) or to an area of sparse vegetation (NLVF). The risk to the public from a facility accident involving the release of radioactive material would be greatest at NLVF and SNL, although the potential for the actual occurrence of such an accident would be extremely low.

Atlas Facility. DOE prepared a Project Specific Analysis (Appendix K of the PEIS) to address the environmental impacts associated with construction and operation of the Atlas Facility. Because the proposal for the Atlas Facility involves modification to the existing facilities within LANL's TA–35, construction impacts are expected to be small. Very little land (0.1 acre) would be disturbed and the construction activities would largely involve internal modifications to existing facilities.

Impacts associated with operations would also be negligible. The Atlas

Facility would not utilize any significant quantities of natural resources, would not cause any significant socioeconomic changes at LANL, and would not generate significant quantities of wastes. LANL has adequate existing waste management facilities to treat, store, and dispose of wastes that would be generated by the Atlas Facility. Impacts to human health from Atlas Facility operations are expected to be small and within regulatory limits.

1.B.3 Environmentally Preferable Alternative. National Ignition Facility. The environmentally preferable alternative is the No Action alternative. However, in the absence of underground nuclear testing, it is the Department's technical judgment that its ability to carry out its statutory mission responsibilities would be impaired without the capabilities that would be provided by the NIF. For this reason, the No Action alternative with regard to the NIF is not reasonable.

Based on the PEIS analysis of the action alternatives, siting the NIF at LLNL would have low or no adverse environmental impacts for most environmental resource categories (land use, air quality and noise, water biota, cultural, paleontologic, socioeconomic, human health, and waste management) and would have the highest beneficial socioeconomic impacts, compared to other site alternatives. After balancing the overall potential environmental impacts at the other candidate sites against LLNL, DOE concluded that none of the alternative candidate sites is environmentally preferable to LLNL for the NIF.

Atlas Facility. The environmentally preferable alternative is the No Action alternative. However, in the absence of underground nuclear testing, it is the Department's technical judgment that its ability to carry out its statutory mission responsibilities would be impaired without the capabilities that would be provided by the Atlas Facility. For this reason, the No Action alternative with regard to the Atlas Facility is not reasonable.

Because the Atlas Facility would rely upon existing facilities and special equipment already located at LANL, no additional site alternatives were analyzed. As discussed above, the single action alternative, to construct and operate the Atlas Facility at LANL TA–35, would result in negligible environmental impact.

1.B.4 Decision. National Ignition Facility. DOE's decision is to proceed with the construction and operation of the NIF (enhanced design option) at LLNL. Without the improved experimental capabilities offered by the NIF, DOE would lack the ability to evaluate significant weapon performance issues, which could adversely affect confidence in the nation's nuclear deterrent. Among the alternatives determined to be reasonable, construction and operation of the NIF at LLNL is environmentally preferable, the least cost and, due to LLNL's existing infrastructure for laser technology, the least technical risk.

Mitigation. The NIF mitigation measures appropriate to the LLNL site as identified in the PEIS (Appendix I, Paragraph I.4.7), will be formalized in a NIF Mitigation Action Plan. The plan will be issued by the DOE and monitored for compliance by its representatives during construction of the NIF. Mitigation measures appropriate to NIF operations will be incorporated in operating plans and procedures. A brief summary of the mitigation actions that will be taken follows.

Construction materials will be stored in temporary laydown areas. When construction is complete, a Reclamation Plan will be developed and actions taken to restore the construction material laydown areas to their original condition. To assure that the public is aware of the NIF construction activities the public will be informed, through the local news media, that elevated noise levels will occur for several months during construction of the NIF. Visual monitoring will be done to determine the effectiveness of conventional water-spraying dust control measures to assure that air quality standards are not exceeded. A Storm Water Pollution Prevention Plan will be developed and a Storm Water Permit will be obtained from the San Francisco Bay Region Water Quality Control Board for storm water discharges during construction. No more than 60 days before the start of construction, a special status species survey will be conducted for protected and sensitive biological resources within the NIF site and laydown areas, and mitigation actions taken as necessary. Exclusion or buffer zones will be established to avoid any sensitive locations. Appropriate mitigation measures will be implemented to avoid or minimize potential adverse impacts to protected and sensitive resources, such as state and federally-listed threatened and endangered species. Construction crews will be informed of any environmental concerns that exist and requested to avoid sensitive areas. An alternative construction entrance will be utilized to prevent traffic congestion during major construction activities such as major concrete pours.

For external combustion boilers, a permit will be obtained from the San Francisco Bay Area Air Quality Management District to comply with local area air quality standards. Hazardous materials will be inventoried and moved out of the area during flood conditions during NIF construction and operation. A Facility Safety Plan and Construction Safety Plan will be developed that will identify safety requirements for construction and operation of the NIF. A Waste Minimization Plan will be developed for the operational phase to evaluate the potential net reduction of hazardous, radioactive, and mixed waste streams. Other mitigation measures, identified in Sections I.4.7.2.4 and I.4.7.2.5 of Volume III of the PEIS, will be implemented to the extent practicable.

Atlas Facility. DOE's decision is to proceed with the construction and operation of the Atlas Facility at LANL's TA–35. Without improved experimental capabilities offered by the Atlas Facility, DOE would lack the ability to evaluate significant weapon performance issues, which could adversely affect confidence in the nation's nuclear deterrent. Among the alternatives determined to be reasonable, construction and operation of the Atlas Facility is environmentally preferable, the least cost, and the least technical risk.

Mitigation. The mitigation measures appropriate to the Atlas Facility construction and operation will be formalized in an Atlas Facility Mitigation Action Plan. The plan will be issued by the DOE and monitored for compliance by its representatives during construction and operation of the Atlas facility. There is a potential for public exposure to nonstatic magnetic fields from the Atlas Facility for short periods when operated. Monitoring at various locations around the Atlas Facility will be conducted to insure fields greater than 1 Gauss (a measure of electromagnetism) do not cause adverse impacts. Warning signs and other administrative controls, such as road closures, will be put in place prior to the operation of the Atlas Facility, as necessary.

1.C. Next Generation Experimental Facilities for Stockpile Stewardship

Related to the proposed actions for enhanced experimental facilities is the issue of next generation experimental facilities. In commenting on the Draft PEIS, some commentors suggested that potential next generation experimental facilities be analyzed as part of the proposed action. The Final PEIS

includes a discussion of potential next generation experimental facilities and the reasons why they are not proposed actions or alternatives (Section 3.3.4). These facilities, while contemplated on the basis of anticipated technical need, have not reached the stage of design maturity through research and development for DOE to include a decisionmaking analysis at this time.

However, the PEIS does describe, in general terms or by reference, what is known today about their potential environmental impacts. The environmental impacts from these facilities as contemplated today would not be significantly different from existing "similar" facilities. By characterizing the potential impacts in this way, the decisionmaker was aware of the potential program-level cumulative impacts of the next generation facilities when deciding whether to pursue a program of enhanced experimental capability. If DOE were to propose to construct and operate such next generation facilities in the future, appropriate NEPA review would be performed.

1.D. Transport and Storage of Plutonium-242

As a result of the Record of Decision for the Interim Management of Nuclear Materials at the Savannah River Site EIS (DOE/EIS–0220), existing plutonium-242 in nitrate solutions at H-Canyon at SRS will be stabilized by conversion to plutonium oxide in the HB-line. The plutonium-242 oxide would then be stored. The PEIS evaluates the need for plutonium-242 for stockpile stewardship activities and transport and storage of this material.

1.D.1 Alternatives. 1.D.1.1 No Action. Under the No Action alternative, the plutonium-242 material would remain at SRS and be stored in existing facilities at either the FB-Line or Building 235F.

1.D.1.2 Action Alternative 1—Store Plutonium-242 at the Los Alamos National Laboratory (LANL). Under this alternative, the plutonium-242 would be transported to LANL and stored in an existing plutonium facility.

1.D.1.3 Action Alternative 2—Store Plutonium-242 at the Lawrence Livermore National Laboratory (LLNL). Under this alternative, the plutonium-242 would be transported to LLNL and stored in Building 332.

1.D.2 Comparison of Alternatives. 1.D.2.1 Cost and Technical Factors. Transporting the plutonium-242 material would only require a fraction of one Safe, Secure Trailer shipment, and the costs are not significant. Because there is existing storage capacity at all three sites, the storage costs are comparable and not significant.

The programmatic need for shipment of this material is contained in a classified appendix to the Final PEIS. If the plutonium-242 material were not transported to LANL or LLNL, it could not be used for stockpile stewardship purposes.

1.D.2.2 Environmental Factors. The small quantity of plutonium-242 material is within the quantities of materials historically stored at all three sites. Regardless of the storage location for this material, there would be negligible environmental impacts. A high-bounding case analysis of the risk from the transport of this material (see Section 4.19 of the PEIS) indicates low risk for either LANL or LLNL.

1.D.3 Environmentally Preferable Alternative. For plutonium storage, the No Action alternative is the environmentally preferable alternative because there would be no potential impacts associated with transportation. However, the No Action alternative would not enable the plutonium-242 material to be used as needed for stockpile stewardship purposes, and is, therefore, not considered reasonable. For the action alternatives, storage at LANL is the environmentally preferable alternative because there is slightly less risk associated with transportation from SRS (due to the shorter distance from SRS).

1.D.4 Decision. DOE's decision is to transport the plutonium-242 material to LANL and store this material in an existing plutonium facility. LANL currently performs most of the plutonium activities for the Stockpile Stewardship and Management Program and has the necessary facilities for storing this material. LLNL, although a reasonable alternative, is currently reducing its inventory of plutonium.

2. Proposed Action (2)—Rightsizing the Industrial Base

With a reduced nuclear weapons stockpile, the capacity to manufacture nuclear weapons components and assemble or disassemble nuclear weapons can be reduced. For each required mission capability, the Department evaluated a No Action alternative, a downsize-in-place alternative, and an alternative that would transfer the mission to a weapons laboratory or to the Nevada Test Site (NTS). For pit component fabrication (a capability which no longer exists due to the closure of the Rocky Flats Plant in 1992), the Department evaluated reestablishing this capability, with an attendant small capacity, at Los Alamos National Laboratory (LANL) or the Savannah River Site (SRS), in addition to the No Action alternative (see Proposed Action 3).

2.A. Weapons Assembly/Disassembly

Weapons assembly/disassembly provides the capability to disassemble (dismantle) retired weapons, assemble nuclear and nonnuclear components into nuclear weapons, and perform weapons surveillance. In addition, this mission includes the capability to conduct nonintrusive modification pit reuse (external modifications to the pit) at the weapons assembly/disassembly facility. This mission also includes an option to store strategic reserves of nuclear components (pits and secondaries).

2.A.1 Alternatives. 2.A.1.1 No Action. Under the No Action alternative, this mission would continue at Pantex in current facilities, but Pantex would not develop the capability to perform nonintrusive modification pit reuse. Currently, nonintrusive modification pit reuse can only be performed at the plutonium research and development (R&D) facilities at LANL and LLNL.

2.A.1.2 Action Alternative 1—Downsize the Pantex Plant. This alternative would downsize and consolidate assembly/disassembly facilities and operations. Downsizing of the assembly/disassembly operation at Pantex would consist of an in-place decrease in facility footprint and relocation into modern existing facilities, mostly within Zone 12. No new construction would be required at Pantex; however, relocation and reinstallation of equipment would be required. The capabilities for nonintrusive modification pit reuse would be established in existing facilities within Zone 12. These facilities would also have the capability to support pit recertification and requalification operations.

2.A.1.3 Action Alternative 2—Relocate to the Nevada Test Site (NTS). This alternative is based on the use of the existing Device Assembly Facility and other plant infrastructure available at the NTS site that is required to maintain the capability for underground nuclear testing and experimentation. Because the Device Assembly Facility is not large enough to meet assembly/disassembly mission requirements, new construction would be required.

2.A.2 Comparison of Alternatives. 2.A.2.1 Cost and Technical Factors. Downsizing the Pantex Plant is the lower cost action alternative. Significant capital construction (about $250 million in 1995 dollars) would be required if the mission were relocated to NTS.

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Downsizing Pantex presents less technical risk than relocation to NTS because of the need to relocate and requalify processes at NTS, the uncertainty in availability of key personnel, and the one year gap in operations that would be necessary while the transition occurred.

2.A.2.2 Environmental Factors. Downsizing the Pantex Plant would have a net positive effect on environmental impacts compared to the No Action alternative. No land would be disturbed, groundwater withdrawals would be reduced, and accident risks would also be less than the No Action alternative because of the consolidation of the facility footprint (smaller area) into Zone 12. Socioeconomic impacts at Pantex would result because of reductions in workload that will occur when the current weapons dismantlement backlog is eliminated in about three years. The additional socioeconomic impacts due to facility downsizing after this dismantlement is complete are relatively small.

Transferring the assembly/disassembly mission to NTS would entail upgrading and expanding the Device Assembly Facility. It is estimated that 18.5 additional acres would be disturbed. Although cultural and biotic resources are not expected to be impacted, the presence of a federally listed endangered species (the desert tortoise) at NTS would require a site survey to determine the potential for impacts. Water requirements to support the assembly/disassembly mission at NTS would amount to about 4 percent more than normal projected usage. Transferring the assembly/disassembly mission to NTS would create positive socioeconomic impacts at NTS, and significant negative socioeconomic impacts at Pantex.

Risks to worker health would be essentially the same at either location. Worker exposure to radiation is expected to be about equal for the NTS and the downsizing of Pantex alternatives. Radiation exposure to members of the public from normal operation would be well within regulatory limits at both sites. Although the remoteness of the NTS site yields a lower potential accident risk, the risk to the public from an accident at Pantex is very low. Relocation to NTS would also eliminate the risk associated with the transport of low level waste from Pantex to the NTS for disposal. These transportation risks, however, are very low.

2.A.3 Environmentally Preferable Alternative. The environmentally preferable alternative is to downsize existing capabilities at Pantex. No land would be disturbed, groundwater withdrawals would be reduced compared to usage under the No Action alternative, and accident risks would also be less than under the No Action alternative because of the consolidation of the facility footprint into Zone 12.

2.A.4 Decision. DOE's decision is to downsize the existing assembly/disassembly facilities presently located at the Pantex Plant. This is the environmentally preferable alternative, it exhibits the least technical risk, and is also the least-cost alternative.

2.B. High Explosives Fabrication

The high explosives fabrication mission includes capabilities required for manufacturing process development, formulation, synthesis, main charge manufacturing and energetic component manufacture. The high explosives fabrication mission also supports some high explosives surveillance and some stockpile stewardship activities.

2.B.1 Alternatives. 2.B.1.1 No Action. Under No Action, Pantex would continue fabrication and surveillance of high explosives components for nuclear weapons. Los Alamos National Laboratory (LANL) and Lawrence Livermore National Laboratory (LLNL) would continue to perform weapon high explosives research and development, some surveillance, and high explosives safety studies.

2.B.1.2 Action Alternative 1—Downsize at the Pantex Plant. This alternative would downsize and consolidate current high explosives operations and facilities at the Pantex Plant. Only minor modifications to existing facilities within Zones 11 and 12 would be required. This alternative would be considered only in conjunction with maintaining the weapons assembly/disassembly mission at Pantex.

2.B.1.3 Action Alternative 2—Relocate to the Los Alamos National Laboratory (LANL). This alternative would transfer high explosives operations from Pantex to LANL. This alternative would use existing LANL research and development facilities, which have sufficient capacity for high explosives requirements. There would be no new building construction and no significant modifications required.

2.B.1.4 Action Alternative 3—Relocate to the Lawrence Livermore National Laboratory (LLNL). This alternative would transfer high explosives operations from Pantex to LLNL, and would use existing LLNL research and development facilities. It would also require construction of one new facility for storage of high explosives at Site 300.

2.B.1.5 Action Alternative 4—Relocate to both the Los Alamos National Laboratory and the Lawrence Livermore National Laboratory. This option would involve splitting the high explosives mission between the two laboratories to protect core competencies at both. Since its impact is bounded by the previous two options, this option was not analyzed further in the PEIS.

2.B.2 Comparison of Alternatives. 2.B.2.1 Cost and Technical Factors. The costs to perform the high explosives mission are not large, and are comparable for all site alternatives. The current high explosives fabrication mission at Pantex costs about $17 million per year. The future high explosives fabrication mission will be relatively small, costing $2–3 million per year (assuming the selected site has other missions to absorb site overhead).

Since the U.S. does not have plans to develop new-design weapons, there is a concern that the laboratories will lose their core competencies in the area of high explosives technology. However, these competencies can be retained through greater teaming and integration of plant and laboratory capabilities and activities. This approach would attempt to protect core competence at the weapons laboratories in high explosives technology while retaining the overall fabrication mission at Pantex, the site with historical production experience.

2.B.2.2 Environmental Factors. Environmental impacts from facility modification and operation are comparable for all alternatives, and are less than current operations. However, relocation of the high explosives fabrication mission to LANL or LLNL would result in minor additional environmental impacts due to the increased level of operations at those sites compared to the No Action alternative, and the small construction required at LLNL (less than 2.5 acres). Socioeconomic impacts are relatively small for all alternatives. There are no radiological risks to workers or the public associated with the high explosives fabrication mission. Risks to neighboring populations from credible facility accidents would be small for all alternatives.

2.B.3 Environmentally Preferable Alternative. For high explosives fabrication, the environmentally preferable alternative is to downsize existing capabilities at the Pantex Plant. Environmental impacts under this alternative would be lower than under the No Action alternative.

2.B.4 Decision. DOE's decision is to downsize the existing high explosives fabrication facilities at the Pantex Plant.

This is the environmentally preferable alternative, the least-cost alternative and, when coupled with greater teaming and integration of plant and laboratory capabilities, has low technical risk. This decision is also consistent with Section 3140 of the National Defense Authorization Act for Fiscal Year 1997 (Pub. L. 104–201), which requires that the high explosives fabrication mission be performed at Pantex.

2.C. Secondary and Case Fabrication

The secondary and case fabrication mission includes activities to support fabrication, surveillance and inspection of secondaries and components. Functional capabilities for these services include operations to physically and chemically process, machine, inspect, assemble, and disassemble secondary and case materials. Materials include depleted uranium, enriched uranium, uranium alloys, isotopically enriched lithium hydride and lithium deuteride, and other materials.

2.C.1 Alternatives. 2.C.1.1 No Action. Under the No Action alternative, DOE would continue secondary and case fabrication at the Y–12 Plant at Oak Ridge. The Y–12 Plant would maintain the capability to produce and assemble secondaries, cases, and related nonnuclear weapon components.

2.C.1.2 Action Alternative 1—Downsize the Y–12 Plant at Oak Ridge. This alternative would downsize the existing secondary and case fabrication facilities at the Y–12 Plant at Oak Ridge. The downsized facilities would only require approximately 14 percent of the existing Y–12 Plant floor space, and no new facility construction would be needed to support the secondary and case fabrication mission. Modifications to the existing buildings would be required, both to implement the downsized mission and to upgrade the buildings to meet natural phenomena requirements (e.g., seismic events).

2.C.1.3 Action Alternative 2—Relocate to the Los Alamos National Laboratory (LANL). This alternative would transfer the secondary and case fabrication operations to 11 existing buildings at LANL using manufacturing processes proven at the Y–12 Plant. The secondary and case fabrication facilities at LLNL would principally involve modifications to six buildings.

2.C.2 Comparison of Alternatives. 2.C.2.1 Cost and Technical Factors. Downsizing the Y–12 Plant at Oak Ridge is the least-cost alternative because of significant facility modification costs (about $130 million at LANL and about $185 million at LLNL, both in 1995 dollars) that would be required if the mission were relocated. Downsizing the Y–12 Plant also presents less technical risk than relocation to the other sites because a production infrastructure for secondaries and cases currently exists at the Y–12 Plant and processes would not need to be relocated and requalified. In addition, downsizing the Y–12 Plant provides greater program flexibility by allowing some additional capacity to be maintained in a standby mode at minimal cost.

2.C.2.2 Environmental Factors. Downsizing the Y–12 Plant would not impact land, cultural or biotic resources. Downsizing would improve the efficiency of operations and significantly reduce natural resource requirements. Negative socioeconomic impacts associated with downsizing would be somewhat mitigated by positive socioeconomic impacts associated with the decontamination and decommissioning of facilities no longer required.

Transferring the secondary and case fabrication mission to either LANL or LLNL would have small positive socioeconomic impacts at those sites and a large negative socioeconomic impact at Oak Ridge due to the phaseout of this mission. For the relocation to LLNL alternative, a small area of land (less than one acre) would be disturbed, but impacts to cultural and biotic resources are not expected. Transfer of the secondary and case fabrication mission from Oak Ridge would entail small, one time impacts associated with moving the strategic reserve of highly enriched uranium to a new location.

Radiation exposure to workers is expected to be about equal for all three action alternatives and well within regulatory limits. Potential radiological impacts from accidents were determined to be about equal for Oak Ridge and LANL, and slightly higher for LLNL due to its closer proximity to populated areas.

2.C.3 Environmentally Preferable Alternative. For secondary and case manufacturing, the environmentally preferable alternative is to downsize the Y–12 Plant at Oak Ridge. Downsizing the Y–12 Plant would not impact land, cultural, or biotic resources. Downsizing would improve the efficiency of operations and significantly reduce natural resource requirements compared to the No Action alternative.

2.C.4 Decision. DOE's decision is to downsize the existing secondary and case fabrication facilities located at the Y–12 Plant at Oak Ridge. This is the environmentally preferable alternative, has the least technical risk, and is the least-cost alternative.

2.D. Nonnuclear Fabrication

Nonnuclear fabrication consists of the fabrication of electrical, electronic, electro-mechanical, and mechanical components (plastics, metals, composites), the assembly of arming, fuzing, and firing systems, and surveillance inspection and testing of nonnuclear components.

2.D.1 Alternatives. 2.D.1.1 No Action. The No Action alternative would maintain these activities at their present location at the Kansas City Plant (KCP), Sandia National Laboratories (SNL), and Los Alamos National Laboratory (LANL). KCP manufactures nonnuclear weapon components and conducts surveillance testing on them. SNL conducts system engineering of nuclear weapons, designs and develops nonnuclear components, conducts field and laboratory nonnuclear testing, manufactures some nonnuclear weapons components, and provides safety and reliability assessments of the stockpile. LANL also manufactures a few nonnuclear weapons components and conducts surveillance on certain nonnuclear weapons components.

2.D.1.2 Action Alternative 1—Downsize the Kansas City Plant (KCP). The downsized nonnuclear fabrication alternative consists of three major factory segments designed around electronics, mechanical, and engineered materials product lines, procuring some components from outside sources, and reducing the KCP facility area. This alternative consists of downsizing and consolidating existing facilities and would require facility modification but no new construction.

2.D.1.3 Action Alternative 2—Relocate to the Los Alamos National Laboratory (LANL), Lawrence Livermore National Laboratory (LLNL), and Sandia National Laboratories (SNL). This alternative would use the existing expertise, capability, and infrastructure at LANL, LLNL, and SNL to satisfy fabrication requirements for nonnuclear components. This alternative would transfer the majority of current KCP missions to SNL, except for nuclear system plastic components, which would go either to LANL or LLNL, and high energy detonator inert components,

which would go to LANL. In addition, there is an option of moving the reservoir mission to either SNL or LANL. This alternative would require construction of a new stand-alone production site at SNL, consisting of six new buildings and renovations or minor modifications to some existing buildings.

2.D.2 Comparison of Alternatives. 2.D.2.1 Cost and Technical Factors. Because of significant facility construction or modification costs to relocate the mission (about $235 million in 1995 dollars), downsizing the KCP is the least-cost alternative. Downsizing KCP also presents significantly less technical risk than relocation to the other sites, because a production infrastructure for nonnuclear components currently exists and processes would not need to be relocated and requalified.

2.D.2.2 Environmental Comparison. For the alternative that would downsize KCP, the construction activities would involve internal modifications to the existing facility. No land would be disturbed. For the alternative that would transfer the KCP mission to the laboratories, construction impacts would involve internal facility modifications at LANL and LLNL. At SNL, approximately 22 acres of land would be disturbed to construct new facilities. This represents 6 percent of the undisturbed land at SNL. Potential impacts to cultural and biotic resources could occur.

There are minimal air impacts for both alternatives. Water requirements for a downsized facility at KCP would be reduced 31 percent compared to No Action. For the alternative that would transfer the mission to the laboratories, groundwater use would increase by less than 1 percent over No Action usage at LANL and LLNL, but would increase by 64 percent over No Action usage at SNL. This would still represent only 29 percent of the groundwater rights and thus, no adverse impacts are expected. Transferring the nonnuclear mission to the laboratories would have small positive socioeconomic impacts at those sites, and a large negative socioeconomic impact at KCP due to the phaseout of this mission.

There are no radiological risks to workers or the public associated with the nonnuclear fabrication mission, and there are no significant adverse impacts associated with normal operations. Accident profiles at the sites would not change as a result of downsizing at KCP or transferring the nonnuclear fabrication mission to the laboratories. Risks to neighboring populations from credible facility accidents would be small for all alternatives. All three sites have adequate existing waste management facilities to treat, store, and dispose of wastes that would be generated by this mission.

2.D.3 Environmentally Preferable Alternative. The environmentally preferable alternative is to downsize existing facilities at the KCP. The relocation of this mission to SNL, LANL or LLNL would entail additional environmental impacts associated with the construction and operation of new facilities.

2.D.4 Decision. DOE's decision is to downsize the existing facilities at the KCP. This is the environmentally preferable alternative, it exhibits the least technical risk, and is also the least-cost alternative.

3. Proposed Action (3)—Reestablishing Manufacturing Capability and Capacity for Pit Components

This capability, hereafter referred to as pit fabrication, includes all activities necessary to fabricate new pits, to modify the internal features of existing pits (intrusive modification), and to recertify or requalify pits.

3.A.1 Alternatives. 3.A.1.1 No Action. Under the No Action alternative, DOE would continue to use existing capabilities at the Los Alamos National Laboratory (LANL) and the Lawrence Livermore National Laboratory (LLNL). LANL maintains a limited capability to fabricate plutonium components using its plutonium research and development facility, and performs surveillance to provide safety and reliability assessments of the stockpile. In addition, less extensive capabilities would continue at LLNL to support material and process technology development.

3.A.1.2 Action Alternative 1—Reestablish Capability at the Los Alamos National Laboratory (LANL). This alternative would reconfigure the plutonium facility at LANL to fulfill the pit fabrication mission. This alternative would locate pit manufacturing in existing facilities. Existing equipment would be retained as much as possible, but some equipment would need to be upgraded.

3.A.1.3 Action Alternative 2—Reestablish Capability at the Savannah River Site (SRS). This alternative would establish a pit fabrication facility at SRS within existing facilities, but with new equipment and systems. Facilities are available at the SRS, in F-Area and H-Area, which could house all the process functions required for the manufacture of plutonium pits. New equipment and systems would be required for the pit fabrication facility.

3.A.2 Comparison of Alternatives. 3.A.2.1 Cost and Technical Factors Technical risk associated with each alternative was assessed by comparing the relative experience of each site in the pertinent production capability areas. No pits are currently being produced for the nuclear weapon stockpile, and neither site has done so in the recent past. However, LANL has recently provided pits for nuclear explosive testing, and is currently producing plutonium-238 heat sources for National Aeronautics and Space Administration (NASA) programs. Also, LANL continues to perform pit surveillance and technology development activities directly related to the required capabilities for pit fabrication.

SRS is currently processing and shipping plutonium-238 to LANL to support fabrication of NASA heat sources. Although SRS has a health, safety, and security infrastructure for plutonium operations, the historical mission for the site was separation and production of plutonium metal for shipment to other sites for weapons program use. Consequently, SRS has no experience with the kinds of capabilities required for precision nuclear component manufacturing and the ancillary supporting functions.

The required workload for the fabrication of new replacement pits is small. DOE foresees only the replacement of pits destroyed in routine surveillance testing unless a near-term, life-limiting phenomenon is discovered in stockpile pits. Historical pit surveillance data and pit life studies do not predict a near-term problem. However, data are limited for weapons older than 25 years, and for the youngest weapons in the stockpile.

The technological capability to manufacture all of the pit designs in the enduring stockpile provides an inherent capacity to manufacture about 50 pits per year in single shift operations. During weapon refurbishment to replace other components, DOE expects most pits to be requalified and reused. About 20 pits per year are expected to be required to replace pits destroyed in routine surveillance testing. A capacity of about 50 pits per year is, therefore, judged to be sufficient for the next 10 or more years.

The construction costs for providing such a limited pit fabrication capacity are less at LANL (about $310 million in 1995 dollars) than at SRS (about $490 million in 1995 dollars). This is largely because the capability would be additive to existing capabilities at LANL

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while a completely new stand-alone capability would be required at SRS. Both estimates include the costs of planned refurbishment of the LANL plutonium facility for its ongoing pit surveillance and stockpile stewardship missions. In addition, annual operating costs would be considerably less at LANL (about $30 million versus $60 million at SRS) because the mission would be additive to other existing missions and would not have to carry all facility overhead costs.

The technical risk at LANL would be less, due to the existing experience base for stockpile stewardship and pit surveillance missions. The LANL capability would also be in place at least two years earlier than the SRS alternative.

In reestablishing plutonium pit fabrication capability, DOE considered establishing a larger fabrication capacity more in line with the capacity planned for other manufacturing functions. Larger capacity was rejected, however, because of the small current demand for the fabrication of replacement pits, and the significant, but currently undefined, time period before additional capacity may be needed.

3.A.2.2 Environmental Factors—Upgrades to existing facilities would be required for each alternative, and no new land would be disturbed. During operations, both alternatives would utilize similar facilities, procedures, and natural resources. Therefore, both alternatives would result in similar operational environmental impacts for most natural resource areas. Impacts to air quality would be minimal and well within established standards. At SRS, water requirements would be provided from surface water, which is plentiful, and no adverse impacts would be expected. At LANL, groundwater would be used. Water requirements for this mission, which would be less than 1 percent of projected No Action usage, could be adequately met without exceeding the groundwater allotment at LANL.

Socioeconomic impacts are comparable for either alternative, although SRS would require more additional new workers. Worker exposure to radiation would be larger at SRS due to the larger added workforce, but within regulatory limits for both alternatives. Both sites have adequate existing waste management facilities to treat, store, and dispose of wastes that would be generated by the pit fabrication mission. Risks to neighboring populations from normal operations or credible facility accidents would be small for both alternatives.

3.A.3 Environmentally Preferable Alternative. For pit manufacturing, the No Action alternative is the environmentally preferable alternative. Under the No Action alternative, no new construction would be required, and the Department would continue with the existing pit research and development capability at LANL and LLNL. However, DOE would not have the capability to replace the pit component in stockpile weapons if necessary, nor protect against stockpile attrition through surveillance testing. Thus, No Action is not a reasonable alternative.

Of the two action alternatives, which would reestablish pit manufacturing capabilities at either LANL or SRS, LANL is the environmentally preferable alternative. Although overall environmental impacts are projected to be similar between the two sites, LANL was judged to be preferable due to the fact that the radiological risks to workers during normal operations are projected to be less than at SRS.

3.A.4 Decision. DOE's decision is to reestablish the pit fabrication capability, at a small capacity, at LANL. This is the environmentally preferable alternative, it exhibits the least technical risk, and is also the least-cost alternative. This decision limits the plutonium fabrication facility plans to a facility sized to meet expected programmatic requirements over the next ten or more years. It is not sized to have sufficient capacity to remanufacture new plutonium pits at the same production rate as that of their original manufacture. DOE will perform development and demonstration work at its operating plutonium facilities over the next several years to study alternative facility concepts for larger capacity. Environmental analysis of this larger capacity has not been performed at this time because of the uncertainty in the need for such capacity and the uncertainty in the facility technology that would be utilized. Should a larger pit fabrication capacity be required in the future, appropriate environmental and siting analysis would be performed at that time.

Mitigation. Specific mitigation measures are not addressed for the stockpile management decisions of this ROD, although many potential mitigation measures are identified in the PEIS. In accordance with the Stockpile Stewardship and Management Program's two-tiered NEPA Strategy, these specific mitigation measures will be addressed, as necessary, on a site-by-site basis, in any site-specific NEPA analyses needed to implement the stockpile management decisions of this ROD.

Strategic Reserve Storage

The PEIS also evaluates storage alternatives for strategic reserve material (plutonium and highly enriched uranium that has not been declared surplus to national security needs). However, a decision on storage of strategic reserve materials will be made later in the Record of Decision on the Final PEIS for the Storage and Disposition of Weapons-Usable Fissile Materials in conjunction with decisions on the storage of surplus materials. The preferred alternatives for strategic reserve storage described in both the Final PEIS for Stockpile Stewardship and Management and the Final PEIS for the Storage and Disposition of Weapons-Usable Fissile Materials are consistent. The preferred alternatives are: (1) Highly enriched uranium strategic reserve storage at Y–12; and (2) plutonium pit strategic reserve storage in Zone 12 at Pantex.

Other Considerations

DOE has considered a wide range of views on alternatives for the Stockpile Stewardship and Management Program. However, it is national security policy, as established by the President and Congress, that must define the complex balance between U.S. national security policy objectives for nuclear deterrence, arms control and nonproliferation.

Chapter 2 of the PEIS describes the national security policy framework that defines the purpose and need for DOE's nuclear weapons mission for the foreseeable future. That chapter also describes the development of proposed actions and reasonable alternatives in response to recent changes in national security policy, and puts those changes in a broad technical perspective. Successive levels of technical detail are provided in Volume I, Chapter 3 and Volumes II and III of the PEIS. The discussions that follow refer to the appropriate sections of the PEIS to avoid unnecessary repetition.

While the terms "stockpile stewardship" and "stockpile management" are relatively new, the Program is not new when considered in terms of its substructure capabilities. What the terms are meant to convey is a post-Cold War change in Program focus away from large-scale development and production of new-design nuclear weapons with nuclear testing, to one that focuses on the safety and reliability of a smaller, aging stockpile without nuclear testing. Even with this change in focus, however, national security policies require DOE

to maintain the historical capabilities of the ongoing Program. The actions selected in this Record of Decision flow logically from the mission purpose and need, given the policy constraints placed on the Program by the President and Congress. Enhanced experimental capability (represented by the National Ignition Facility, Contained Firing Facility, and Atlas Facility) is needed because, in the absence of nuclear testing, it will provide the surrogate source of experimental data that are needed to continually assess and certify a safe and reliable stockpile. Rightsized manufacturing capacities at the Y–12 Plant (Oak Ridge), the Kansas City Plant, and Pantex will most efficiently conform to the reduced requirements of a smaller, aging stockpile in the absence of new-design weapon production. A reestablished pit manufacturing capability at LANL will restore a required capability of the Program that was temporarily lost as a consequence of the closure of the Rocky Flats Plant.

The question of alternatives for the Stockpile Stewardship and Management Program is complex because maintaining a nuclear weapons stockpile, whatever its size, requires a complete integrated set of technical capabilities as well as an appropriately sized manufacturing capacity. The technical capabilities are generally characterized as research, design, development, and testing; reliability assessment and certification; and manufacturing and surveillance operations (Section 2.2 and Figure 2.7–2 of the PEIS). From a technical point of view, none of these capabilities can be deleted if DOE is to maintain a safe and reliable stockpile (Section 2.4 of the PEIS). Indeed, DOE has been directed by the President and Congress to maintain these capabilities (Section 2.4 of the PEIS).

Commentors on the PEIS questioned the different treatment of stewardship and management alternatives, mainly the lack of programmatic alternatives to science based stockpile stewardship. Stewardship and management alternatives were treated differently in the PEIS because they address fundamentally different problems. Stockpile stewardship capabilities form the basis of DOE's judgments about the safety, reliability, and performance of U.S. nuclear weapons and, in a larger context, U.S. judgments about the nuclear weapons capabilities of others (Section 2.4.1 of the PEIS). DOE did not consider it reasonable to propose stewardship alternatives that would diminish, rather than enhance, stewardship capabilities, particularly given the fact that historic confidence in the safety and performance of the stockpile was derived from the nuclear testing that is no longer part of the ongoing stewardship program. National security policy requires DOE to maintain, and in some areas enhance, the stewardship capabilities of the three weapons laboratories and NTS (Section 2.2 of the PEIS). The PEIS explains the basis for this conclusion in a technical context, including the need for two independent nuclear design laboratories (Section 2.4.1 of the PEIS). Therefore, the PEIS did not propose any actions that would otherwise diminish ongoing stewardship missions.

In the PEIS, the Department determined that there is only one reasonable programmatic alternative for stockpile stewardship: enhanced experimental capability (see Section 3.1.2). This determination is consistent with a previous review made in November 1994 by the JASON Committee, a group of independent experts who evaluated the Science-Based Stockpile Stewardship (SBSS) program. The JASON Committee concluded that "[a] strong SBSS program, such as we recommend in this report, is an essential component for the U.S. to maintain confidence in the performance of a safe and reliable nuclear deterrent under a comprehensive test ban." The JASON Committee further concluded that "[in] the absence of nuclear weapons testing, improved understanding of the warheads and their behavior over time will be derived from computer simulations and analyses benchmarked against past data and new, more comprehensive diagnostic information obtained from carefully designed laboratory experiments. Toward this goal, the SBSS calls for the construction of a number of experimental facilities which have applications both in basic scientific research and in research directed towards strengthening the underlying scientific understanding in the weapons program."

Section 3.1.2.4 of the PEIS discussed four possible programmatic stewardship alternatives to enhanced experimental capability and concluded that none of them were reasonable stand-alone alternatives. These included: denuclearization (eliminate nuclear weapons in the relative near term); restoration (continue to rely on underground nuclear testing); remanufacturing (reproduce exact replicas of proven designs); and maintenance (rely on enhanced surveillance and revalidation to detect and correct problems). Both denuclearization and restoration are inconsistent with United States national security policy. Furthermore, while remanufacturing and maintenance already are, and will continue to be key components of the Program, neither would provide sufficient technical assurance that problems that may arise in the stockpile will be effectively diagnosed and corrected.

Prior to the issuance of the Final PEIS, some commentors expressed concern that the Department had not considered other programmatic alternatives for stockpile stewardship (i.e., remanufacturing). In response to their concerns, the Department asked Dr. Sidney D. Drell, of the JASON Committee, to review the issue of remanufacturing as a reasonable alternative to enhanced experimental capabilities.

In an October 28, 1996, letter to the Secretary of Energy, Dr. Drell and another member of the JASON Committee, Dr. Richard L. Garwin, stated that "we must not only maintain a cadre of first-class weapon scientists and engineers. We must also expand the existing science based understanding of the stockpile. The existing S&T [Science and Technology] base, including existing above-ground experimental facilities, is not adequate to the task of stewardship over the long term for an aging deterrent in the absence of nuclear tests. These requirements cannot be met if the SSMP [Stockpile Stewardship and Management Program] as planned by the Department of Energy is replaced simply by a program of remanufacturing or refurbishing existing weapons without paying careful attention to the need of maintaining weapons design capability, expanding our science based understanding of the stockpile, and providing the sources of experimental data needed to validate enhanced computer simulations." They concluded that "[w]hile remanufacturing is a necessary component of SSMP, it is not a reasonable alternative to the pursuit of a science-based stockpile stewardship or the need for enhanced experimental capability."

National security policy also requires DOE to maintain a full complement of stockpile management capabilities and appropriate manufacturing capacity, albeit for a smaller post-Cold War stockpile. Unlike stockpile stewardship capabilities, a smaller stockpile does permit some reasonable siting alternatives for stockpile management capabilities and capacities to accomplish the mission purpose and need within the current national security policy framework (Section 2.4.2 of the PEIS).

One important consideration in developing the PEIS was the possibility

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that future international treaties may lead to a smaller U.S. stockpile, i.e., less than the currently defined START II protocol-sized stockpile. The PEIS analyzed each of the two stockpile sizes currently defined and directed by national security policy, a START I Treaty stockpile (6000 accountable strategic weapons) and a START II protocol-sized stockpile (3500 accountable strategic weapons). In addition, the PEIS analyzed a hypothetical 1,000-weapon stockpile for the purpose of providing a sensitivity analysis for decisions on manufacturing capacity. The Nuclear Weapons Stockpile Memorandum (NWSM) process that specifies the types of weapons and quantities of each weapon type in the stockpile is described in Section 1.1 of the PEIS. The classified NWSM is developed based on Department of Defense force structure requirements necessary to maintain nuclear deterrence and comply with existing arms control treaties while pursuing further arms control reductions. The PEIS describes this complex process, and explains why DOE does not believe it reasonable to speculate on additional stockpile sizes, which would necessarily entail the use of a large number of arbitrary assumptions (Section 2.2 of the PEIS). Nevertheless, DOE has considered the possibility that future national security policy could define a path to a smaller stockpile. Therefore, the analysis in the PEIS is very flexible in its approach to potential changes in stockpile size.

It is important to note in this regard that, just as stockpile stewardship capabilities are currently viewed by the United States as furthering U.S. nonproliferation objectives by making the "zero-yield" Comprehensive Test Ban Treaty feasible, it is reasonable to assume that confidence in U.S. stewardship capabilities would remain as important, if not more important, in future negotiations to reduce the stockpile further. The path to even a very small (tens or hundreds of weapons) or a zero stockpile would require the negotiation of complex international treaties, most likely with provisions that require intrusive international verification inspections of nuclear weapons-related facilities. Therefore, DOE believes it reasonable to assume that complex treaty negotiations, when coupled with complex implementation provisions, could possibly stretch over several decades. On such a gradual path to a very small or zero stockpile, stockpile size alone would not change the purpose and need, proposed actions, or alternatives in the PEIS as they relate to stewardship capabilities. The issues of maintaining the core competencies of the United States in nuclear weapons, and the technical problems of a smaller, aging stockpile in the absence of nuclear testing, would remain the same.

With regard to stockpile management capability and capacity, the PEIS evaluates reasonable approaches for a gradual path to a very small or zero stockpile. At some point on this path, further downsizing of existing industrial plants or the alternative of consolidating manufacturing functions at stewardship sites would become more attractive as manufacturing capacity becomes a less important consideration. In the near term, however, the decisions to downsize the existing industrial plants would still be reasonable because the projected downsizing investment would be recouped within a few years through reduced operating expense, and downsizing in the near term is consistent with potential longer-term decisions regarding plant closures. With regard to reestablishing pit manufacturing capability, DOE does not intend to establish a greater manufacturing capacity than is inherent in reestablishing the basic manufacturing capability. Thus, on a gradual path to a very small or zero stockpile, stockpile size alone would not change the purpose and need, proposed actions, or alternatives in the PEIS with regard to stockpile management capabilities and capacities.

Conclusions

With the issuance of this Record of Decision, the Department is making the decisions necessary to: (1) construct and operate three enhanced experimental facilities (the National Ignition Facility at LLNL, the Contained Firing Facility at LLNL, and the Atlas Facility at LANL); (2) downsize the existing weapons industrial plants (Y–12 at Oak Ridge, the Kansas City Plant, and Pantex); and (3) reestablish the plutonium pit component manufacturing capability at LANL. Additionally, the Department has decided to transfer a small amount of plutonium-242 material from SRS to LANL for stockpile stewardship activities.

During the 30 day period following the Environmental Protection Agency's notice that the Final PEIS had been filed, the Department received four letters from government organizations in response to the Final PEIS. Two of the letters, from the Tennessee Historical Commission and the State of Missouri Office of Administration, expressed no objection or comment. A third letter, from the Environmental Protection Agency, indicated that the Agency's prior comments on the Draft PEIS had been adequately addressed in the Final PEIS, and that the Agency had no objections to the project as proposed. The fourth letter, from the New Mexico Environmental Department, provided comments on the nomenclature used to describe water resources in and around the Los Alamos National Laboratory. These comments do not change the analysis in the PEIS, but they have been considered in preparing this Record of Decision. In making these decisions, all practicable means to avoid or minimize environmental harm from the alternatives selected have been adopted.

These decisions will help enable the Department to assess and certify the safety and reliability of the nation's nuclear weapons stockpile, while also supporting a zero-yield Comprehensive Test Ban Treaty. These decisions will allow for the closing and ultimate remediation of unnecessary industrial facilities, and reduce the cost of existing manufacturing operations. These decisions reestablish the required national security capability of plutonium pit fabrication. These decisions are consistent with, and supportive of, national security policy requirements established by the President and Congress for nuclear deterrence, arms control, and nonproliferation, including the safeguards established for U.S. entry into the Comprehensive Test Ban Treaty. Finally, these decisions will help enable the Department to maintain the core intellectual and technical competencies of the United States in nuclear weapons, and maintain a safe and reliable nuclear weapons stockpile.

Issued in Washington DC, December 19, 1996.

Hazel R. O'Leary,

Secretary.

[FR Doc. 96–32759 Filed 12–24–96; 8:45 am]

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Office of Energy Research

Joint Program on Terrestrial Ecology and Global Change Notice 97–02

AGENCY: Department of Energy (DOE), National Science Foundation (NSF), National Aeronautics and Space Administration (NASA), U.S. Department of Agriculture (USDA), Environmental Protection Agency (EPA).

ACTION: Notice inviting grant applications.

SUMMARY: In concert with the U.S. Global Change Research Program

(USGCRP) and with the intent of enhancing interagency collaboration, the Department of Energy (DOE), the National Science Foundation (NSF), the National Aeronautics and Space Administration (NASA), the United States Department of Agriculture (USDA), and the Environmental Protection Agency (EPA) announce their interest in receiving applications for support of grants that seek to augment research on terrestrial ecology as it relates to global environmental changes. This request for applications encourages multi-disciplinary applications involving companion experimental/manipulative and modeling efforts to provide critically needed data and information for improved predictions of global change phenomena in three equally important areas: (1) the consequences of global-scale environmental changes on terrestrial ecosystems, (2) the role of terrestrial ecosystems as a source or sink of carbon dioxide and other trace gases, and (3) the interactions and feedback between terrestrial ecosystems and the atmosphere and between linked ecosystems at watershed and landscape scales.

This request for applications extends the research begun as a result of the first two Terrestrial Ecology and Global Change (TECO) competitions in FY 1995 and FY 1996. It also extends current USGCRP activities supported by the five participating agencies that are relevant to this notice. These activities include the NSF Ecological Rates of Change (EROC), Water, Energy, Atmosphere, Vegetation and Earth (WEAVE), Land Margin Ecosystem Research (LMER), and Ecological Diversity (ED), the DOE Program on Ecosystem Research (PER), Terrestrial Carbon Processes (TCP), and the National Institute for Global Environmental Change (NIGEC), the NASA programs on Terrestrial Ecology and Land Cover and Land Use Change, the USDA programs on Forest/Range/Crop/Aquatic Ecosystems, Soils and Soil Biology, and Plant Responses to the Environment (PRE), and the EPA program on Regional Ecological Vulnerabilities to Climate Change.

Applications submitted in response to this interagency announcement are to be submitted to DOE. Each agency supporting an award, however, will act as the sole administrative unit for that award. All successful awards will be identified with the joint effort. The participating agencies will jointly manage the TECO program throughout the entire phase from the receipt and review of applications until the close-out of awards.

It is expected that 15–18 awards up to 3 years in duration and not exceeding $500,000 per year will be issued subject to the availability of FY 1997 funds. Applications submitted under this notice will be managed, prior to award selection decisions, in accordance with the DOE Office of Energy Research's (ER's) Financial Assistance Program Regulation 10 CFR Part 605 as published in the **Federal Register** September 3, 1992, (57 FR 40582).

DATES: Submission of an original and 18 copies of each application must be received no later than 4:30 p.m. E.S.T., February 28, 1997, in order to be accepted under this notice and to permit timely consideration for award by the participating agencies during FY 1997.

ADDRESSES: Formal applications referencing Program Notice 97–02 on the cover page must be sent to: U.S. Department of Energy, Office of Energy Research, Grants and Contracts Division, ER–64, 19901 Germantown Road, Germantown, MD 20874–1290, Attn: Program Notice 97–02. The above address for formal applications must also be used when submitting formal applications by U.S. Postal Service Express Mail, any commercial mail delivery service, or when hand carried by the applicant.

FOR FURTHER INFORMATION CONTACT: Dr. Jerry Elwood, Office of Energy Research, U.S. Department of Energy, Office of Health and Environmental Research, ER–74, 19901 Germantown Road, Germantown, MD 20874–1290, telephone: (301) 903–4583, E-mail: jerry.elwood@oer.doe.gov; Dr. Roger Dahlman, Office of Energy Research, Office of Health and Environmental Research, ER–74, 19901 Germantown Rd., Germantown, MD 20874–1290, telephone: (301) 903–4951, E-mail: roger.dahlman@oer.doe.gov; Dr. Scott Collins, Division of Environmental Biology, Room 635 National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, telephone: (703) 306–1479, E-mail: scollins@nsf.gov; Dr. Andy Phillips, Division of Integrative Biology and Neuroscience, Room 685, National Science Foundation, 4201 Wilson Blvd. Arlington, VA 22230, telephone: (703) 306–1421, E-mail: jphillip@nsf.gov; Dr. Diane E. Wickland, Terrestrial Ecology Program, Office of Mission to Planet Earth, National Aeronautics and Space Administration, Washington, D.C. 20546, telephone: (202) 358–0245, E-mail: Diame.Wickland@hq.nasa.gov; Dr. Anthony C. Janetos, Land Cover and Land Use Change Program, Office of Mission to Planet Earth, National Aeronautics and Space Administration, Washington, D.C. 20546, telephone: (202) 358–0276, E-mail: Anthony.Janetos@hq.nasa.gov; Dr. Timothy C. Strickland, National Research Initiative Competitive Grants Program, U.S. Department of Agriculture, Ag Box 2241, Washington, D.C. 20250–2241, telephone: (202) 401–4082, E-mail: tstrickland@reeusda.gov; Ms. Barbara M. Levinson, Office of Research and Development, Environmental Protection Agency, 401 M Street, N.W., Mail Code 8723, Washington, D.C. 20460, telephone: (202) 260–5983, E-mail: Levinson.barbara@epamail.epa.gov; Dr. Robert Menzer, Office of Research and Development, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, telephone: (202) 260–5779, E-mail: menzer.robert@epamail.epa.gov

SUPPLEMENTARY INFORMATION: In concert with the U.S. Global Change Research Program (USGCRP) and with the intent of enhancing interagency collaboration, the National Science Foundation (NSF), the Department of Energy (DOE) , the National Aeronautics and Space Administration (NASA), the United States Department of Agriculture (USDA), and the Environmental Protection Agency (EPA) seek to augment terrestrial ecological research with this special competition. This competition will allow more comprehensive research on the combined response of terrestrial ecosystems to global-scale environmental changes that are occurring or are expected to occur and the influence of terrestrial ecosystems on environmental phenomena.

In recent decades, extensive efforts have been made to characterize and monitor the distribution and state of terrestrial ecosystems. Various global-scale environmental changes that are known or have the potential to affect terrestrial ecosystems have already been documented (e.g., increasing atmospheric CO_2 and other trace gases, global average increase in temperature, decreasing stratospheric ozone and increases in tropospheric ozone, and land transformations, including changes in land cover and land use). Some of these changes are expected to continue, if not increase due to continuing human activities. Other potential global-scale environmental changes could occur in the future due directly or indirectly to human activities (e.g., altered precipitation patterns, increased severity and frequency of extreme events related to climate change). Presently, what is lacking is an understanding of the potential

combined effects of global-scale environmental changes on essential ecosystem components, functions, and processes, particularly the effects of multiple and interacting environmental changes such as changes in climate and atmospheric composition and land transformations that are outside the range normally experienced by terrestrial ecosystems. There are also significant uncertainties regarding the role of terrestrial ecosystems in affecting global-scale changes and how natural and human-induced changes in terrestrial ecosystems may influence global phenomena. It is unclear from existing information how the essential functions of species or ecosystems are being or will be affected by global environmental changes in the future, on scales from individual organisms to populations, communities, ecosystems, landscapes and subcontinental regions. Without the ability to make such projections, implications for the sustainability of ecosystems as a support system for humans remain uncertain.

The goal for this research is to improve the scientific understanding of how species, ecological characteristics and processes, and ecosystems effect and are affected by global change over a range of time scales. To enhance capabilities to assess the probable consequences of multiple influences (e.g., concurrent changes in climate, atmospheric composition, land transformations/land use) and their feedback effects. The research also will increase the capability for extending experimentally-derived information obtained at smaller geographical scales (e.g., plot-size, stand-level, patch-size) and shorter time frames (e.g., growing seasons) to landscape and larger scales (e.g., regions, river basins) at longer temporal intervals (e.g., decades, centuries).

To achieve this scientific understanding, innovative field experiments and observational studies are needed to address interactions of ecological processes and combinations of effects related to global change; to relate observed effects to causative factors; and to test predictive response models. Also, to improve predictability, new modeling efforts will be needed for extrapolating information to other systems and across multiple scales that will contribute to the development of regional and subcontinental models and ecological models that are fully interactive with other Earth system models (e.g., Dynamic Global Vegetation Models). Agencies involved in this interagency announcement encourage multi-disciplinary applications involving companion experimental, manipulative and modeling efforts to provide critically needed data and understanding for improved predictions of global change phenomena in the following, equally important areas:

(1) Consequences of Global Change on Ecosystems.

The goal of research in this area is to provide a stronger scientific basis for understanding, predicting, and assessing the effects of human-induced and natural influences on terrestrial ecosystems, including aquatic ecosystems imbedded within terrestrial ecosystems (e.g., streams, lakes, wetlands). It is hypothesized that ecosystems are changing or will change in response to climate and land use changes of the past century and predicted future changes due to the enhanced greenhouse effect and increasing demands on land for food, fiber, and other human uses. Understanding the consequences of these and other global-scale changes on terrestrial ecosystems, organisms, and resources presents unprecedented challenges because many other types of change are occurring simultaneously. There is a need to understand how existing terrestrial ecosystems are likely to respond to ongoing or predicted environmental changes, and to relate observed changes to likely causes using experimental approaches that examine phenomena at multiple scales. There is also a need to consider the adaptive potential of terrestrial ecosystems to environmental changes and to incorporate the influence of ongoing adaptive changes through time. Also, the research needs to provide the quantitative information for models that generalize from selected study sites to broader areas at local, regional and global levels at multiple temporal scales.

The focus of research on consequences should be on improving the scientific understanding of how the structure and function of terrestrial ecosystems will respond to global change, including changes in land use and land cover, climate, and atmospheric composition. The research should improve the scientific basis for assessing the vulnerability of different ecosystems to global changes, including the potential beneficial and adverse effects of such changes on ecosystem components and processes of utilitarian and/or intrinsic value to humans. This capability should also include projecting potential ecological effects of future environments that many ecological communities may not yet have experienced, and the potential role of natural selection in driving these changes. Experimental and modeling research is encouraged:

* To understand and predict how ecosystem processes (e.g., net primary production, respiration, net ecosystem productivity) are affected by combinations of altered atmospheric CO_2 and other trace gas concentrations (e.g., ozone), different climate conditions, changing resource constraints (e.g., nutrients, water and light), and changing land-use patterns (e.g., urban/suburban sprawl, conversion of forest to other uses);
* To identify and quantify the mechanism(s) or process(es) controlling observed responses to altered climatic and atmospheric conditions and altered land cover or land use, and to understand both the potential for these mechanisms and processes to undergo adaptation to the changes through physiological adaptations and natural selection, and the consequences of adaptive responses and evolutionary changes on ecosystem function;
* To investigate trends, patterns, and relationships among vegetation, climate, and land use to document and understand the interaction between natural and human-dominated systems;
* To determine how biological and ecological responses to global-scale environmental changes are manifested at higher levels of ecosystem hierarchy (populations, communities, ecosystem, landscape) of terrestrial environments;
* To identify changes in structural components (e.g., landscape pattern, community structure, architectural properties of vegetation), caused by different atmospheric, climatic, and land-use activities that will predict the future structure and distribution of ecosystems;
* To understand and predict the effects of combinations of altered CO_2, climate conditions, changing resource constraints and land-use change on biodiversity (e.g., genetic diversity, species diversity, habitat diversity).

(2) Carbon, CO_2, and Other Trace Gases Related to Global Change

The goal of research in this area is to improve the scientific basis for understanding, predicting and assessing the quantitative role of the terrestrial biosphere as a source or sink of radiatively active trace gases such as carbon dioxide, methane, and nitrous oxide. The combined results of process, observation, and global modeling studies strongly suggest that terrestrial ecosystems must be taking up and storing significant amounts of carbon each year, yet we do not know where it is going, how long this might continue, and whether this storage will be

permanent or only temporary. Improved databases, experiments and process models are needed:

* To understand complex interactions that control exchange of CO_2 and other trace gases between the biosphere and the atmosphere for representative terrestrial ecosystems;
* To develop databases for the use, intercomparison, and testing of process-based models of net ecosystem productivity, including data to quantify carbon content of terrestrial ecosystems and estimate how sources and sinks of carbon are changing;
* To measure continental atmospheric CO_2, carbon isotopes, and oxygen to better quantify processes of terrestrial carbon cycles.

(3) Ecosystem Feedbacks to Global Change

The goal of research in this area is to improve the scientific understanding of the full range of interactions and feedbacks between terrestrial ecosystems and the atmosphere (e.g., water and energy exchange, aerosol exchange, nutrient fluxes), and between linked ecosystems at a landscape scale by, for example, biotic propagule dispersal, land-water interactions, biogeochemical linkages. Research is encouraged on how species composition, ecological properties and processes, changes in land use or land management practices influence the ability of ecosystems, for example:

* To control or modify physical factors such as albedo, regional precipitation, wind speed, and particulate movement in water and air;
* To control the movement of biological propagules between ecosystems and affect the spread of indigenous and non-indigenous species, including pest species across the landscape.
* To control biogeochemical cycling and nutrient deposition, retention and transport that affect soil fertility, and water quality;
* To regulate the exchange of energy, water, trace gases, aerosols, and biotic materials between the atmosphere and terrestrial environment under variable and/or changing climatic conditions.

Research is also encouraged on the development and testing of coupled land-atmosphere models that include interactive surface-atmosphere processes in integrative global models.

Research proposed for this competition is encouraged to take advantage of existing programs, research sites and facilities, or data sets of other agencies with multi-disciplinary efforts. Examples of such existing efforts are: NASA field campaigns (FIFE, BOREAS), DOE's National Environmental Research Parks (NERPS), Free-Air CO_2 Enrichment (FACE) field sites, the Atmospheric Radiation Measurement (ARM) Southern Great Plains site, and Program on Ecosystem Research (PER) sites, NSF's Long Term Ecological Research (LTER) sites and Land Margin Ecosystem Research (LMER) sites, and USDA's Management Systems Evaluation Areas (MSEA). Applications involving the establishment of new long-term research facilities or study sites must clearly demonstrate the need for such facilities, including the unique research opportunities they would provide.

In addition to interest in applications in these three areas, one-year scoping applications will also be considered that involve developing and demonstrating the feasibility of new experimental approaches and/or facilities for field studies to investigate the responses and/or feedback effects of terrestrial ecosystems to global environmental changes. The agencies involved in the TECO program recognize the need for new, innovative field experimental approaches and facilities to study interactive effects of environmental changes on terrestrial ecosystems. Accordingly, this announcement also seeks one-year scoping applications to design and test the feasibility of new approaches and/or field experimental systems for studying the effects of environmental changes on ecosystems. Such scoping applications should be clearly identified as such in the title of the application.

Administrative Information

To provide a consistent format for the submission and review of grant applications submitted under this notice, the preparation and submission of grant applications must follow the guidelines given in the Application Guide for the Office of Energy Research Financial Assistance Program 10 CFR Part 605.

Information about the development and submission of applications, eligibility, limitations, evaluation, the selection process, and other policies and procedures may be found in 10 CFR Part 605, and in the Application Guide for the Office of Energy Research Financial Assistance Program. The Application Guide is available from the U.S. Department of Energy, Office of Energy Research, ER–74, 19901 Germantown Road, Germantown, MD 20874–1290. Telephone requests may be made by calling (301) 903–3338. Electronic access to ER's Financial Assistance Application Guide and forms is possible via the World Wide Web at: http://www.er.doe.gov/production/grants/grants.html.

Interested scientists at Federal agencies and Federally owned or operated laboratories, including Federal-Funded Research and Development Centers (FFRDC) must contact the web site http://www.er.doe.gov/production/grants/lab97__02.html for information on this program, or seek information from a relevant agency contact listed above under the section entitled **FOR FURTHER INFORMATION CONTACT.**

All U.S. institutions eligible to receive grant support from DOE, NSF, NASA, USDA, and EPA may submit applications in response to this notice. NSF will not fund applications from FFRDCs.

Applications will be subjected to formal merit review (peer review) and will be evaluated against the following evaluation criteria which are listed in descending order of importance codified at 10 CFR 605.10(d):

1. Scientific and/or Technical Merit of the Project.
2. Appropriateness of the Proposed Methods or Approach.
3. Competency of Applicant's Personnel and Adequacy of Proposed Resources.
4. Reasonableness and Appropriateness of the Proposed Budget.

As part of the evaluation, program policy factors such as the relevance of the proposed research to the terms of the announcement and an agency's programmatic needs, are also criteria used in the selection process. Note that external peer reviewers are selected with regard to both their scientific expertise and the absence of conflicts-of-interest. Both Federal and Non-federal reviewers may be used, and submission of an application constitutes agreement that this is acceptable to the investigator(s) and the submitting institution.

Applications must not exceed 15 pages for the project description section; visual materials and tables count toward the 15 page limit. No letters of endorsement or other appendices are allowed. Applications may request funding for projects with a duration not to exceed three years and a total budget not to exceed $500,000 per year. Final selection of awards by participating agencies will be determined by the review panel's recommendations and programmatic considerations. Each award will be supported by a single agency. Overall the estimated amount of funding for this program is $7M in FY 1997, depending on the availability of funds from each agency. Principal investigators may be requested to modify their budgets and work plans to

comply with special requirements of the particular agency supporting their award. The principal investigator of an award will be requested to travel to Washington, DC for an annual meeting of all principal investigators to discuss additional collaboration, sharing of information and interaction of efforts among successful projects funded through TECO and other global change programs mentioned above. Budget requests should include travel costs to attend such a meeting.

DOE awards made as a result of this notice will be administered in accordance with the DOE Office of Energy Research Financial Assistance Program (10 CFR Part 605).

NSF awards made as a result of this notice will be administered in accordance with the terms of conditions of SF GC–1, Grant General Condition or FDP–II, Federal Demonstration Project. Copies of these documents are available at no cost from the NSF Form and Publication Unit, telephone: (703) 306–1130, or via E-mail: (internet: pubs@nsf.gov). More comprehensive information is contained in the NSF grant Policy Manual (NSF 95–26, July 1995), for sale through the Superintendent of Documents, Government Printing Office, Washington, DC 20402. The telephone number at GPO is (202) 783–3238 for subscription information.

NASA grant or cooperative agreement awards made as a result of this notice will be administered in accordance with the NASA Grant and Cooperative Agreement Handbook (NHB 5800.1).

USDA award authority for this program is contained in section 2(b) of the Act of August 4, 1965, as amended (7 U.S.C. 450i(b)). Under this program, subject to the availability of funds, the Secretary may award competitive research grants for periods not to exceed five years for the support of research projects to further the programs of the Department of Agriculture (USDA). Applications may be submitted by any state agricultural experiment station, college, private organization, corporation, or individual. Applications from scientists at non-United States organizations will not be considered for support. Pursuant to Section 712 of Public Law 103–330 (the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1995) funds available in fiscal year 1995 to pay indirect costs on research grants award competitively by CSREES may not exceed 14 per centum of the total Federal funds provided under each award. In addition, pursuant to Section 719(b) of Public Law 103–330, in the case of any equipment or product that may be authorized to be purchased with the funds provided under this Program, entities are encouraged to purchase only American-made equipment or products.

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR Part 605.

Issued in Washington DC on December 18, 1995.

John Rodney Clark,

Associate Director for Resource Management, Office of Energy Research.

[FR Doc. 96–32758 Filed 12–24–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. RP97–72–001]

ANR Pipeline Company; Notice of Compliance Filing

December 19, 1996.

Take notice that on December 16, 1996, ANR Pipeline Company (ANR) tendered for filing, as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, proposed to become effective January 1, 1997:

Second Revised Sheet No. 37
Original Sheet No. 37A
Fifth Revised Sheet No. 39
Sixth Revised Sheet No. 120

ANR states that these tariff changes, regarding scheduling of its Rate Schedule FTS–2 service, are being submitted in compliance with the Commission's November 29, 1996 Order Accepting and Suspending Tariff Sheets Subject to Refund and Condition in the captioned proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Inspection Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–32736 Filed 12–24–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–20–002]

El Paso Natural Gas Company; Notice of Compliance Filing

December 19, 1996.

Take notice that on December 16, 1996, pursuant to Subpart C of 154 of the Commission's Regulations Under the Natural Gas Act and in Compliance with the Commission's order issued November 15, 1996 at Docket No. RP97–20–000, El Paso Natural Gas Company (El Paso) tendered for filing and acceptance the revised pro forma tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1 and Second Revised Volume No. 1–A, identified below.

Pro Forma Third Revised Volume No. 1

Substitute First Revised Sheet No. 302

Pro Forma Second Revised Volume No. 1–A

Substitute Second Revised Sheet No. 202
Original Sheet No. 202A
Substitute Original Sheet No. 210A
Substitute First Revised sheet No. 211
Substitute Second Revised sheet No. 214
Substitute Third Revised sheet No. 217

El Paso states that the pro forma tariff sheet are being tendered to list the Gas Industry Standards Board (GISB) Standards that are incorporated by reference and to revise the intra-day scheduling and pooling provisions. The tendered pro forma tariff sheets are proposed to become effective April 1, 1997.

El Paso states that copies of the filing were served upon all parties of record in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before January 6, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–32733 Filed 12–24–96; 8:45 am]

BILLING CODE 6717–01–M

Notice of Application to Grant Permission to Carl Donaldson to Construct a Small Commercial Marina

December 19, 1996.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Non-Project Use of Project Lands and Waters.

b. *Project Name and No:* Lake Sinclair Project, FERC Project No. 1951–043.

c. *Date Filed:* August 15, 1996.

d. Applicant: Georgia Power Company.

e. *Location:* Hancock County, Georgia, Sandy Run Subdivision of the Holiday, Shores Development on Lake Sinclair near Sparta.

f. *Filed pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

g. *Applicant Contact:* Mr. Larry J. Wall, Georgia Power Company, Connector Building, 2nd Floor, 333 Piedmont Avenue, Atlanta, Georgia 30308; (404) 526–2054.

h. *FERC Contact:* Steve Naugle, (202) 219–2805.

i. *Comment Date:* January 27, 1997.

j. *Description of the filing:* Georgia Power Company requests approval to grant permission to Mr. Carl Donaldson to construct certain facilities within the project boundary as part of a proposed small commercial marina on Lake Sinclair. The marina facilities that would be constructed within the project boundary include a boat ramp; two service docks, one of which would have fuel service for boats; 14 boat-slip piers; retaining walls along the shoreline; two above-ground, self-contained fuel storage tanks; a convenience store; and associated access drives and parking areas, portions of which extend outside the project boundary. The marina would also include an existing boat ramp, two existing access drives and parking areas, four existing and two proposed rental cottages, and an existing on-shore boat storage shelter.

k. *This notice also consists of the following standard paragraphs:* B, C1, D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Document—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 96–32731 Filed 12–24–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP90–239–005]

Gulf States Transmission Corporation; Notice of Application

December 19, 1996.

Take notice that on December 13, 1996, Gulf States Transmission Corporation (GSTC), 1324 North Hearn, Suite 300, Shreveport, Louisiana 71107, filed in Docket No. CP90–239–005, an application to amend the certificate issued on July 26, 1990 in Docket No. CP90–239–000, pursuant to Section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Federal Energy Regulatory Commission's (Commission) regulations, to authorize GSTC to set its transportation rates based on 95% of the effective capacity, or, in the alternative, to authorize GSTC to file under Section 4 of the NGA for market-based rates, all as more fully set forth in the petition on file with the Commission and open to public inspection.

Specifically, GSTC seeks to modify the currently effective certificate condition that requires GSTC's transmission rates to be set at 95% of the proposed design capacity, 15,000 Mcf/d, by changing the condition to read: "GSTC's transmission rates are to be set at 95% of the effective capacity of 75,00 Mcf/d." In the alternative, GSTC requests that the Commission find that GSTC lacks the ability to exercise market power in the relevant product and geographic markets, and amend GSTC's certificate to authorize GSTC to file under Section 4 of the NGA for market-based rates.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 9, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for GSTC to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–32728 Filed 12–24–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–43–000]

Koch Gateway Pipeline Company; Notice of Technical Conference

December 19, 1996.

In the order issued on November 27, 1996,[1] in the above-captioned proceeding, the Commission found that the filing raises issues for which a technical conference is to be convened.

The conference to address the issues identified in the November 27 order has been scheduled for Tuesday, January 14, 1997, at 10:00 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 96–32735 Filed 12–24–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–19–002]

Mojave Pipeline Company; Notice of Compliance Filing

December 19, 1996.

Take notice that on December 16, 1996, pursuant to Subpart C of 154 of the Commission's Regulations Under the Natural Gas Act and in compliance with the Commission's order issued November 15, 1996 at Docket No. RP97–19–000, Mojave Pipeline Company (Mojave) tendered for filing and acceptance revised pro forma tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1.

Pro Forma First Revised Volume No. 1

Substitute First Revised Sheet No. 103
Original Sheet No. 103A
Substitute Original Sheet No. 117A

Mojave states that the pro forma tariff sheets are being tendered to list the Gas Industry Standards Board (GISB) Standards that are incorporated by reference and to revise the intra-day scheduling and pooling provisions. The tendered pro forma tariff sheets are proposed to become effective April 1, 1997.

Mojave states that copies of the filing were served upon all parties of record in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before January 6, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–32733 Filed 12–24–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–193–000]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

December 19, 1996.

Take notice that on December 16, 1996, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the tariff sheets listed in Appendix A to the filing, with an effective date of December 31, 1996.

NGT states that the filing is being made to comply with Order No. 582.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Inspection Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–32737 Filed 12–24–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP94–149–008, RP94–145–007, (Consolidated) and RP95–141–005, (Not Consolidated)]

Pacific Gas Transmission Company; Notice of Refund Report

December 19, 1996.

Take notice that on December 16, 1996, Pacific Gas Transmission Company (PGT) submitted a report of refunds made in conjunction with the Stipulation and Agreement in the above-referenced proceedings. PGT states this report is filed in compliance with the March 21, 1996 Stipulation and Agreement (Stipulation), which the Commission approved by its Order of September 11, 1996 in these proceedings (76 FERC ¶ 61,246).

PGT states that refunds were made between November 15 and November 20, 1996 in accordance with the provisions of the Stipulation. PGT further states that copies of this report, with exception of Appendices F and G, are being served upon its jurisdictional customers and interested state regulatory agencies, as well as the official service list compiled by the Secretary in the above-referenced proceedings. Customers receiving refunds were previously provided with the applicable portions of Appendices F and G to the report. The applicable portions of Appendices F and G are being served on the customers' counsel of record in these proceedings and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests must be filed on or before December 27, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–32732 Filed 12–24–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–154–000]

Williams Natural Gas Company; Notice of Request Under Blanket Authorization

December 19, 1996.

Take notice that on December 13, 1996, Williams Natural Gas Company (WNG), One Williams Center, Tulsa, Oklahoma 74101, filed in Docket No. CP97–154–000, a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to utilize facilities, originally installed for the delivery of NGPA Section 311 transportation gas to Mannford Public

[1] 77 FERC ¶ 61,228 (1996).

Works Authority (Mannford) in Creek County, Oklahoma, for purposes other than NGPA Section 311 transportation, under WNG's blanket certificate authorization issued in Docket No. CP82–479–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

WNG explains that after the Section 311 facilities were installed and the Section 311 agreement was signed with Mannford, a local distribution company, an end-user behind Mannford asked about the possibility of arranging transportation on his own behalf. WNG states that it is now seeking authority to deliver Section 284 gas through the facilities as well.

WNG describes the facilities as consisting of a 3-inch tap connection, a single-run positive displacement meter with two pressure cuts, and over-pressure protection, located in Section 20, Township 19 North, Range 8 East, Creek County Oklahoma. WNG says it began delivering gas to Mannford through these Section 311 facilities on November 22, 1996, with the initial delivery being 311 Dth. WNG states that the cost to construct these facilities was approximately $50,848, which will be recouped through a new production area TSS agreement, which replaced Mannford's previous STS–P agreement. WNG explains that these facilities are an additional delivery point for Mannford and will handle all of Mannford's load through the summer and will be used in conjunction with the existing orifice meter setting through the winter months. WNG asserts that the use of the two meter settings will enable WNG to more accurately measure fluctuating gas volumes.

WNG states that the requested change is not prohibited by an existing tariff and that it has sufficient capacity to accomplish the deliveries without detriment or disadvantage to its other customers. WNG asserts that the operation of these facilities will have no impact on WNG's peak day or annual deliveries. WNG states it has sent a copy of this filing to the Oklahoma Corporation Commission.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–32729 Filed 12–24–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 137–002–CA]

Pacific Gas and Electric Company; Notice of Availability of Draft Environmental Assessment

December 19, 1996.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 19 CFR Part 380 (Order No. 486, 52 F.R. 47897), the Office of Hydropower Licensing has reviewed the application for relicensing the Mokelumne River Hydroelectric Project, located in Alpine, Amador, and Calaveras Countries, California, and has prepared a Draft Environmental Assessment (DEA) for the project. In the DEA, the Commission's staff has analyzed the potential environmental impacts of the existing project and has concluded that approval of the project, with appropriate environmental protection measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Branch, Room 2–A, of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426.

Any comments should be filed within 30 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street N.E., Room 1–A, Washington, D.C. 20426. Please affix "Mokelumne River Hydroelectric Project No. 137" to all comments. For further information, please contact Tom Dean at (202) 219–2778.

Lois D. Cashell,

Secretary.

[FR Doc. 96–32730 Filed 12–24–96; 8:45 am]

BILLING CODE 6717–01–M

Notice of Cases Filed With the Office of Hearings and Appeals; Week of November 18 Through November 22, 1996

During the Week of November 18 through November 22, 1996, the appeals, applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Any person who will be aggrieved by the DOE action sought in any of these cases may file written comments on the application within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585–0107.

Dated: December 17, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of November 18 through November 22, 1996]

Date	Name and location of applicant	Case No.	Type of submission
November 15, 1996.	William H. Payne, Washington, DC	VFA–0243	Appeal of an information request denial. If granted: The October 10, 1996 Freedom of Information Request Denial issued by the Office of Inspector General would be rescinded, and William H. Payne would receive access to certain Department of Energy information.
November 20, 1996.	Personnel security hearing	VSO–0124	Request for hearing under 10 CFR Part 710. If granted: An individual employed by a Contractor of the Department of Energy would receive a hearing under 10 CFR Part 710.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of November 18 through November 22, 1996]

Date	Name and location of applicant	Case No.	Type of submission
November 20, 1996.	Personnel security hearing	VSO–0125	Request for hearing under 10 CFR Part 710. If granted: An individual employed by a Contractor of the Department of Energy would receive a hearing under 10 CFR Part 710.
November 21, 1996.	James L. Hecht, Wilmington, DE	VFA–0244	Appeal of an information request denial. If granted: The October 29, 1996 Freedom of Information Request Denial issued by the Office of Energy Efficiency and Renewable Energy would be rescinded, and James L. Hecht would receive access to certain DOE information.
November 22, 1996.	Personnel security hearing	VSO–0126	Request for hearing under 10 CFR Part 710. If granted: An individual employed by a Contractor of the Department of Energy would receive a hearing under 10 CFR Part 710.
November 22, 1996.	Personnel security hearing	VSA–0103	Request for review of opinion under 10 CFR Part 710. If granted: The October 24, 1996 Opinion of the Office of Hearings and Appeals, Case No. VSO–0103, would be reviewed at the request of an individual employed by the Department of Energy.

[FR Doc. 96–32757 Filed 12–24–96; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30112A; FRL–5396–3]

Chlorothalonil; Notice of Withdrawal of Administrative Exception Request to Worker Protection Standard's Prohibition of Early Entry into Pesticide-Treated Areas to Harvest Muskmelons by Hand

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of withdrawal of petition.

SUMMARY: The State of Indiana has notified EPA that it is withdrawing its petition for an exception to the 48–hour restricted entry interval (REI) for chlorothalonil on muskmelon fields.

EFFECTIVE DATE: This document became effective December 9, 1996.

FOR FURTHER INFORMATION CONTACT: Joshua First, Office of Pesticide Programs, Field Operations Division (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 1121, 1921 Jefferson Davis Highway, Crystal Mall 1B2, Arlington, VA, 703–305–7437, e-mail: first.joshua@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On August 21, 1992 (57 FR 38102), EPA issued a final rule revising the Worker Protection Standard (WPS) for agricultural pesticides (40 CFR part 170). The WPS became fully implemented on January 1, 1995. The WPS contains requirements for training, notification of pesticide applications, use of personal protective equipment (PPE), decontamination, and emergency medical assistance. The WPS also set new restricted entry intervals (REIs) for thousands of pesticide products; many of the REIs were increased. Chlorothalonil's REI on muskmelons increased from 12 hours to 48 hours.

II. Early Entry Exceptions

In general, § 170.112 of the WPS prohibits agricultural workers from entering a pesticide-treated area during a REI. REIs are specified on the pesticide product label and typically range from 12 to 72 hours. Product-specific longer REIs have been set for a few pesticides.

Under § 170.112(e) of the WPS, EPA may establish exceptions to the Standard's provision of prohibiting early entry to perform routine hand labor tasks. Before implementing such changes, however, EPA is required to provide a 30–day public comment period. EPA will grant or deny a request for an exception based on a risk-benefit analysis. However, as required by 40 CFR 170.112(e)(3), the analysis must take into account both the added risks and the benefits from allowing early entry to perform hand labor tasks.

III. Indiana's Petition for an Exception and Subsequent Retraction of the Petition

Late in March 1996, EPA received a petition from the State of Indiana. Indiana petitioned the Agency under § 170.112(e) to allow early entry by workers into chlorothalonil-treated muskmelon fields to perform hand labor harvesting. The current REI for chlorothalonil remains at 48 hours after application. Although a specific REI was not requested in the petition, Indiana requested entry as soon as feasible following the application of the fungicide, before the expiration of the REI. Indiana's petition stated that muskmelon growers would suffer substantial economic losses if they could not harvest their crop on a daily basis. The requested time period for the exception was from June 15 through August 30, 1996. EPA published a Notice of Receipt for the petition in the **Federal Register** of June 7, 1996 (61 FR 29096) (FRL–5373–8) and provided a 30–day public comment period.

In early July 1996, following the 30-day public comment period on the petition, EPA began its analysis of the comments that were received. On July 17, 1996, Indiana officially withdrew its petition in a retraction letter to Daniel M. Barolo, Director, Office of Pesticide Programs.

List of Subjects

Environmental protection, Occupational safety and health, Pesticides and pests.

Dated: December 9, 1996.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 96–32797 Filed 12–24–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30426; FRL–5578–5]

Cartilage Technologies, Inc.; Application to Register a Pesticide Product

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register a pesticide product containing an active ingredient not included in any currently registered product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by January 27, 1997.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30426] and the file symbol (69167–R) to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will be accepted on disks in Wordperfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–30426]. No "Confidential Business Information" (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submission can be found below in this document.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: John Tice, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. CS51B6, Westfield Building North Tower, 2800 Crystal Drive, Arlington, VA 22202, (703) 308–8295; e-mail: tice.john@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA received an application from Cartilage Technologies, Inc., 200 Clearbrook Road, Elmsford, NY 10523, to register the pesticide product Stoplite For Babies (EPA File Symbol 69197–R), an insect repellent, containing the active ingredient geranium oil at 0.4 percent, an active ingredient not included in any currently registered product pursuant to the provisions of section 3(c)(4) of FIFRA. The product is classified for general use as an insect repellent to repel biting insects. Notice of receipt of the application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

A record has been established for this notice under docket number [OPP–30426] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operations Division at the address provided from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. It is suggested that persons interested in reviewing the application file, telephone this office at (703–305–5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: December 12, 1996.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 96–32795 Filed 12–24–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–00446; FRL–5393–5]

Registration Policies Pertaining to Rodenticide Baits and Other Vertebrate Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Draft PR Notice; notice of availability.

SUMMARY: EPA announces the availability of a draft pesticide regulation (PR) notice that summarizes policies affecting the registrations of rodenticide baits and other vertebrate pesticide products, which include toxicants and repellents. The PR notice outlines historical policies which are largely or completely specific to vertebrate pesticides, especially rodenticide baits. Most of these policies pertain to where the Agency draws distinctions among products based upon formulations, bait forms, and packaging arrangements. The PR notice also announces a proposed new policy under which it would be possible for rodenticide baits of a common formulation to be sold in placepacks of

different sizes under a single registration number.

DATES: Written comments, identified by the document control number [OPP–00448], must be received on or before February 24, 1997.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. Copies of the draft notice may be requested from the Public Response and Program Resources Branch by telephone (703) 305–5805) or by writing to the Washington, DC, address indicated above.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–00448]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any or all of that information as "Confidential Business Information" (CBI) . Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Room 1128 at the Virginia address given above, from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: William W. Jacobs, Insecticide-Rodenticide Branch, Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Room 259, CM #2, 1921 Jefferson Davis Highway, Arlington, (703) 305–6406.

SUPPLEMENTARY INFORMATION:

EPA has established a record for this notice of availability under docket number [OPP–00448] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice of availability, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 18, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–32798 Filed 12–24–96; 8:45 am]
BILLING CODE 6560–50–F

[PF–680; FRL–5576–7]

American Cyanamid Company; Pesticide Tolerance Petition Filing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing.

SUMMARY: This notice is a summary of a pesticide petition proposing the establishment of a regulation for residues of AC 299263 [(±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-(methoxymethyl)-3-pyridinecarboxylic acid] in or on soybean seed.

DATES: Comments, identified by the docket number [PF–680], must be received on or before, January 27, 1997.

ADDRESSES: By mail, submit written comments to Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in Unit II. of this document.

Information submitted as comments concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 241, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, Telephone: 703–305–6027, e-mail: taylor.robert@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received a pesticide petition (PP) 6F4649 from American Cyanamid Company, P.O. Box 400, Princeton, NJ 08543–0400, proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FDDCA), 21 U.S.C. section 346a(d), to amend 40 CFR

part 180 by establishing a tolerance for residues of the herbicide AC 299263 in or on the raw agricultural commodity soybean seed at 0.1 ppm. The proposed analytical method is HPLC Method M2248.01.

Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, American Cyanamid Company has submitted the following summary of information, data, and arguments in support of their pesticide petition. This summary was prepared by American Cyanamid Company and EPA has not fully evaluated the merits of the petition.

EPA edited the summary to clarify that the conclusions and arguments were the petitioner's and not necessarily EPA's and to remove certain extraneous material.

I. Petition Summary

On November 30, 1995, American Cyanamid Company petitioned the EPA, under pesticide petition (PP) 6F4649, for a permanent tolerance of 0.1 ppm for the residues of AC 299263 on soybean seed.

Section 408(b)(2)(A) of the amended FFDCA allows EPA to establish a tolerance only if the Administrator determines that there is a "reasonable certainty that no harm will result from the aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information."

All of the studies required for the proposed use pattern have been completed and submitted to EPA for review. The available information indicates there is a reasonable certainty that no harm will result from various types of exposure.

The following is a summary of the information submitted to EPA to support the establishment, under section 408(b)(2)(D) of the amended FFDCA, of a tolerance for AC 299263 on soybean seed.

A. Residue Chemistry

1. *Plant metabolism*. The qualitative nature of the residues of AC 299263 in soybeans is adequately understood. Parent compound is the only residue of concern. The requirement for a processing study was waived by EPA based on the results of field trials at rates up to 5x the maximum label rate. In these trials, there was no measurable residue of AC 299263 in soybean seed above the validated sensitivity of the method (0.05 ppm). In addition, results from the plant metabolism study showed no detectable residues of AC 299263 in oil obtained from soybean seed which had been treated at an exaggerated use rate.

2. *Analytical method*. A practical analytical method (HPLC Method M2248.01) for detecting and measuring levels of AC 299263 in soybean seed has been submitted to EPA. This method is appropriate for enforcement purposes.

3. *Magnitude of residues*. No apparent residues of AC 299263 were observed in soybean seed at or above 0.05 ppm (the limit of quantitation for the analytical method). These field studies, conducted at 1–5x the highest intended label use rate, clearly support the proposed tolerance of 0.1 ppm.

B. Toxicological Profile

A complete battery of mammalian toxicity studies supports the tolerance for AC 299263 on soybean seed. The data base is complete, valid and reliable, and all studies have been submitted to EPA for review.

1. *Acute toxicity*. Based on EPA criteria, AC 299263 technical material is relatively non-toxic via the oral and inhalation routes of exposure (Category IV), and is only slightly toxic (Category III) via dermal exposure.

Acute oral toxicity in rats: LD50 > 5,000 mg/kg

Acute dermal toxicity in rabbits: LD50 > 4,000 mg/kg

Acute inhalation toxicity in rats: LC50 > 6.3 mg/l (analytical)

Primary eye irritation in rabbits: Slightly to moderately irritating

Primary dermal irritation in rabbits: Non-irritating to slightly irritating

Dermal sensitization in guinea pigs: Non-sensitizer

2. *Genotoxicity*. The results from a battery of three *in vitro* and one *in vivo* genetic toxicity tests with AC 299263 show that this compound is not mutagenic or genotoxic.

Gene mutation - Ames: Negative

In vitro structural chromosomal aberration assay: Negative

In vitro CHO/HGPRT assay: Negative

In vivo micronucleus aberration assay: Negative

3. *Reproductive and developmental toxicity*. Results of these studies indicate that AC 299263 is not a reproductive toxicant, a developmental toxicant, or a teratogen.

Teratology in rats: NOEL (maternal) = 500 mg/kg/day NOEL (fetal/developmental) = 1000 mg/kg/day*

Teratology in rabbits: NOEL (maternal) = 300 mg/kg/day NOEL (fetal/developmental) = 900 mg/kg/day*

Two-Generation reproduction in rats: NOEL (parental and reproductive) = 20,000 ppm* (~ 1639 mg/kg/day)

* highest concentration tested

4. *Subchronic toxicity*. No treatment-related adverse effects were noted in subchronic toxicity studies at the highest doses tested.

28-Day dermal in rats: NOEL = 1000 mg/kg/day*

13-Week oral feeding in rats: NOEL = 20,000 ppm* (~ 1661 mg/kg/day)

90-Day oral feeding in dogs: NOEL = 40,000 ppm* (~ 1368 mg/kg/day)

* highest concentration tested

5. *Chronic toxicity*. The low order of mammalian toxicity of AC 299263 technical is also evident from the chronic dietary toxicity studies. These studies showed no increased mortalities or clinical signs of toxicity attributed to AC 299263 treatment. There was no gross or microscopic evidence of treatment-related lesions or carcinogenicity in the three chronic studies conducted in dogs, mice, or rats.

1-Year chronic toxicity in dogs: NOEL = 40,000 ppm* (~ 1,165 mg/kg/day)

18-Month chronic toxicity and carcinogenicity in mice: NOEL = 7,000 ppm* (~ 1201 mg/kg/day)

24-Month chronic toxicity and carcinogenicity in rats: NOEL = 20,000 ppm* (~ 1,167 mg/kg/day)

* highest concentration tested

6. *Animal metabolism*. The qualitative nature of the residues of AC 299263 in animals is adequately understood. Based on metabolism studies with goats, hens and rats, there is no reasonable expectation that measurable AC 299263-related residues will occur in meat, milk, poultry or eggs from the proposed use.

7. *Metabolite toxicology*. No toxicologically significant metabolites were detected in plant or animal metabolism studies. Therefore, no metabolites are required to be regulated.

8. *Endocrine effects*. Collective organ weights and histopathological findings from the two-generation rat reproductive study, as well as from the subchronic and chronic toxicity studies in two or more animal species, demonstrate no apparent estrogenic effects or effects on the endocrine system. There is no information available which suggests that AC 299263 would be associated with endocrine effects.

C. Aggregate Exposure

1. *Dietary exposure*.– (i) *Food*. The Theoretical Maximum Residue Concentrations (TMRC) of AC 299263 on or in soybean seed are:

0.000036 mg/kg b.w./day for the general U.S. population

0.000252 mg/kg b.w./day for non-nursing infants

0.000064 mg/kg b.w./day for children 1 to 6 years of age

0.000050 mg/kg b.w./day for children 7 to 12 years of age

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These TMRC values are calculated from the proposed 0.1 ppm tolerance of AC 299263 on soybean seed using a "worse case" estimate of dietary exposure. This conservative estimate assumes that 100 percent of all soybeans are treated with AC 299263 and that the residues of AC 299263 on soybean seed are at the tolerance level (0.1 ppm). In fact, no apparent residues were observed in soybean seed at or above the 0.05 ppm limit of quantitation of the residue method.

There are no other established tolerances for AC 299263, and there are no other registered uses for AC 299263 on food or feed crops.

(ii) *Drinking water.* There is no available information about AC 299263 exposures via levels in drinking water. Studies verify that the use of AC 299263 in soybeans, at the proposed application rate of 0.04 lb. ai/acre, has a low potential for ground water contamination. Results from field dissipation studies showed rapid initial degradation of AC 299263 in soil, and additional studies indicate that AC 299263 is resistant to desorption with time. Furthermore, AC 299263 soil metabolites suggest a "moderate to strong" soil binding potential.

EPA has not established a Maximum Concentration Level for AC 299263 in drinking water under the Safe Drinking Water Act, because it is unlikely to be found in ground water. Because of the very low level of mammalian toxicity of parent AC 299263 and its two major soil metabolites, there is no health risk to humans from exposure to parent or soil metabolites in ground water. A Lifetime Health Advisory level for AC 299263 in drinking water calculated by EPA procedures would be 81.55 mg/liter, assuming a 20% relative contribution from water.

There is a reasonable certainty that no harm will result from dietary exposure to AC 299263, because dietary exposure to residues on food will use only a small fraction of the Reference Dose (including exposure of sensitive populations), and exposure through drinking water is expected to be insignificant.

2. *Non-dietary exposure.* There is no available information quantifying non-dietary exposure to AC 299263. However, based on the physical and chemical characteristics of the compound, the proposed use pattern and available information concerning its environmental fate, non-dietary exposure is expected to be negligible.

D. Cumulative Effects

AC 299263 belongs to the imidazolinone class of compounds. The herbicidal activity of the imidazolinones is due to the inhibition of acetohydroxy acid synthase (AHAS), an enzyme only found in plants. AHAS is part of the biosynthetic pathway leading to the formation of branched chain amino acids. Animals lack AHAS and this biosynthetic pathway. This lack of AHAS contributes to the extremely low toxicity of AC 299263 in mammals. Although other registered imidazolinones have a similar herbicidal mode of action, there is no information available to suggest that these compounds exhibit a similar toxicity profile in the mammalian system. Since AC 299263 is relatively non-toxic, cumulative effects of residues of AC 299263 and other compounds are not anticipated.

E. Safety Determination

1. *U.S. population.* Based on a RfD of 11.65 mg/kg b.w./day, supported by a NOEL of 40,000 ppm or 1165 mg/kg b.w./day from the 1-year dog study and a safety (uncertainty) factor of 100, the "worse case" estimate of chronic dietary exposure of AC 299263 in soybean seed will utilize approximately 0.0003 percent of the RfD for the general U.S. population. EPA generally has no concern for exposures below 100 percent of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. The complete and reliable toxicity data and the conservative chronic exposure assumptions support the conclusion that there is a "reasonable certainty of no harm" from aggregate exposure to AC 299263 residues.

2. *Infants and children.* The conservative estimates, as described above, indicate that dietary exposure of AC 299263 on soybeans will utilize approximately 0.002 percent of the RfD for non-nursing infants, approximately 0.0006 percent of the RfD for children ages 1 to 6, and approximately 0.0004 percent of the RfD for children ages 7 to 12.

No developmental, reproductive, or fetotoxic effects were noted at the highest doses of AC 299263 tested in guideline studies. The only maternal effects in the rat and rabbit teratology studies were decreased body weights, body weight gains, and absolute and relative feed consumption in the higher dose groups of each study.

Based on the current toxicological data requirements, the data base relative to pre-and post-natal effects for children is complete, valid, and reliable. Results from the teratology studies and the two-generation reproduction study, which support NOELs for fetal/developmental effects or reproductive/offspring effects, respectively, equivalent to the highest concentrations tested, suggest that there is no additional sensitivity of infants and children to residues of AC 299263. Therefore, an additional safety (uncertainty) factor is not warranted, and the RfD of 11.65 mg/kg b.w./day, which utilizes a 100-fold safety factor, is appropriate to assure a reasonable certainty of no harm to infants and children.

F. International Tolerances

There is no Codex maximum residue level established for residues of AC 299263 on soybean seed.

II. Administrative Matters

Interested persons are invited to submit comments on this notice of filing. Comments must bear a notation indicating the document control number, [PF–680]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address give above from 8:30 a.m. to 4 p.m., Monday through Friday, except legal holidays.

A record has been established for this notice under docket number [PF–680] including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address

in "ADDRESSES" at the beginning of this document.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 17, 1996.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–32796 Filed 12–24–96; 8:45 am]
BILLING CODE 6560–50–F

[OPPT–59357; FRL–5581–7]

Certain Chemical; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME–97–3. The test marketing conditions are described below.

DATES: This notice becomes effective December 19, 1996. Written comments will be received until January 10, 1997.

ADDRESSES: Written comments, identified by the docket number [OPPT–59357] and the specific TME number [TME 97–3] should be sent to: TSCA nonconfidential center (NCIC), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. NEB–607 (7407), 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by [OPPT–59357]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on these notices may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under "SUPPLEMENTARY INFORMATION".

FOR FURTHER INFORMATION CONTACT: Darlene Jones, New Chemicals Branch, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–447, 401 M St. SW., Washington, DC 20460, (202) 260–2279; jones.darlene@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to human health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME–97–3. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to human health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

A notice of receipt of the application was not published in advance of approval. Therefore, an opportunity to submit comments is being offered at this time. EPA may modify or revoke the test marketing exemption if comments are received which cast significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury.

The following additional restrictions apply to TME–97–3. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the Company shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity of the TME substance produced and the date of manufacture.

2. The applicant must maintain records of dates of the shipments to each customer and the quantities supplied in each shipment.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

TME–97–3.

Date of Receipt: October 30, 1996.

Close of Review Period: December 20, 1996 (inclusive of a voluntary suspension). The extended comment period will close January 10, 1997.

Applicant: Confidential.

Chemical: (G) Ammonium Benzophenonecarboxylate.

Use: (G) Dispersing Agent.

Production Volume: Confidential.

Number of Customers: Confidential.

Test Marketing Period: Confidential.

Risk Assessment: EPA identified no significant human health or environmental concerns. Therefore, the test market activities will not present an unreasonable risk of injury to health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury to health or the environment.

A record has been established for this notice under docket number OPPT–59357 (including comments and data submitted electronically as described above). A public version of this record, including printed page versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA nonconfidential information center (NCIC), Rm. NEB–607, 401 M St., SW., Washington, DC 20460. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official records for these notices, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

List of Subjects

Environmental protection, Test marketing exemption.

Dated: December 19, 1996.

Paul J. Campanella,

Chief, New Chemicals Branch, Office of Pollution Prevention and Toxics.

[FR Doc. 96–32794 Filed 12–24–96; 8:45 am]

BILLING CODE 6560–60–F

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

RIN 3046–AA45

Agency Information Collection Activities: Proposed Collection; Comments Request

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 5, the Commission announces that it intends to submit to the Office of Management and Budget (OMB) a request for an extension without change the existing collection requirements under 29 CFR Part 1602 *et seq.*, Recordkeeping and Reporting Requirement under Title VII and the ADA. The Commission is seeking public comments on the proposed extension.

DATES: Written comments on this notice must be submitted on or before February 24, 1997.

ADDRESSES: Comments should be submitted to Frances M. Hart, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 10th Floor, 1801 L Street, N.W., Washington, D.C. 20507. As a convenience to commentators, the Executive Secretariat will accept comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 7663–4114. (This is not a toll free number.) Only comments of six or fewer pages will be accepted via FAX transmittal. This limitation is necessary to assure access to the equipment. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663–4078 (voice) or (202) 663–4074 (TDD). (These are not toll free telephone numbers.) Copies of comments submitted by the public will be available for review at the Commission's library, Room 6502, 1801 L Street, N.W., Washington, D.C. 20507 between the hours of 9:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Nicholas M. Inzeo, Deputy Legal Counsel, Thomas J. Schlageter, Assistant Legal Counsel or Stephanie D. Garner, Senior Attorney, at (202) 663–4670 or TDD (202) 663–7026. This notice is also available in the following formats: large print, braille, audio tape and electronic file on computer disk. Requests for this notice in an alternative format should be made to the Publications Center at 1–800–669–3362.

SUPPLEMENTARY INFORMATION: The Equal Employment Opportunity Commission (EEOC) enforces Title VII of the Civil Rights Act of 1964 and Title I of the Americans with Disabilities Act, which prohibit discrimination on the basis of race, color, religion, sex, national origin or disability. Sections 709(c) of Title VII and section 107(a) of the ADA authorize the EEOC to issue recordkeeping and reporting regulations that are deemed reasonable, necessary or appropriate. EEOC has promulgated recordkeeping regulations under those authorities that are contained in 29 CFR 1602. Those regulations do not require the creation of any particular records but generally require employers to preserve any personnel and employment records it makes or keeps for a period of one year. The EEOC seeks extension of these regulations without change.

Collection Title: Recordkeeping and Reporting under Title VII and the ADA.
OMB Control Number: 3046–0040.
Description of Affected Public: Employers with 15 or more employees are subject to Title VII and the ADA.
Responses: 627,000
Reporting Hours: One
Federal Cost: None
Number of Forms: None
Abstract: Section 709(c) of Title VII, 42 U.S.C. 2000e–8(c) and section 107(a) of the ADA, 42 U.S.C. 12117(a) require the Commission to establish regulations pursuant to which employers subject to those Acts shall make and preserve certain records to assist the EEOC in assuring compliance with the Acts' nondiscrimination requirements in employment.

This is a recordkeeping requirement. Any of the records maintained which are subsequently disclosed to the EEOC during an investigation are protected from public disclosure by the confidentiality provisions of section 706(b) and 709(e) of Title VII because they are incorporated by reference into the ADA at section 107(a).

Burden Statement: The EEOC estimates that there will be no increased burden on employers. All employers subject to Title VII are subject to the ADA, and the same EEOC records retention requirements are applicable to both. As all employers with 15 or more employees are already required by the EEOC's Title VII regulations on recordkeeping to maintain the same records, and the extension does not require reports or the creation or maintenance of new documents, there is no increased burden.

Pursuant to the Paperwork Reduction Act of 1995, and OMB regulation 5 CFR 1320.8(d)(1), the Commission solicits public comment to enable it to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the Commission's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Dated: December 19, 1996.

For the Commission.

Maria Borrero,

Executive Director.

FEDERAL COMMUNICATIONS COMMISSION

[FCC 96–469]

Procedures for Bell Operating Company Applications Under New Section 271 of the Communications Act

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Commission has released a Public Notice which establishes various procedural requirements and policies relating to the Commission's processing of Bell operating company applications to provide in-region, interLATA services pursuant to new section 271 of the Communications Act of 1934, as amended, 47 U.S.C. § 271 (Act), Section 271 provides for applications on a State-by-State basis.

FOR FURTHER INFORMATION CONTACT: Florence Grasso, Common Carrier Bureau, Policy and Program Planning Division. (202) 418–1580.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

OMB Control Number: 3060–0756

Expiration Date: 06/30/97

Title: Procedures for Bell Operating Company Applications under New Section 271 of the Communications Act.

Respondents: Business or other for-profit; federal government; and state, local or tribal government.

Public reporting burden for the collection of information is estimated as follows:

Information collection	No. of respondents (approx.)	Annual hour burden per response	Total annual burden
Submission of applications by the BOCs	7	120 hours per application (7 (companies) × 7 (estimated filings each) × 120 (hours)).	5,880
Submission of written consultations by the State Regulatory Commissions.	49	120	5,880
Submission of written consultations by the Department of Justice.	1	4,900 (49 (states) × 100 (hours per state))	4,900

Total Annual Burden: 16,600.

Frequency of Response: One-time, unless an application must be resubmitted.

Estimated Costs Per Respondent: $0.

Needs and Uses: The Commission issued a Public Notice (FCC 96–469) on December 6, 1996 which established various procedural requirements and policies relating to the Commission's processing of Bell operating company applications to provide in-region, interLATA services pursuant to new section 271 of the Communications Act of 1934, as amended, 47 U.S.C. § 271(Act). Section 271 provides for applications on a State-by-State basis.

Synopsis of Public Notice

A. Application Filing Requirements

Applicants must file an original and six copies of each section 271 application. By "application," we mean (1) a stand-alone document entitled Brief in Support of Application by [Bell company name] for Provision of In-Region, InterLATA Services in [State name] and (2) any supporting documentation. The content of both parts of the application is addressed later in this Public Notice.

The Applicant's Brief in Support shall also be submitted on a 3.5 inch computer diskette formatted in WordPerfect 5.1. If electronically available, the supporting documentation must be included on the computer diskette as well. With respect to supporting materials that are not provided on diskette, the applicant should include a note at the end of the electronic version of the Brief in Support indicating that such materials are on file with the Commission. All filings submitted on diskette will be posted on the internet for public inspection at http://www.fcc.gov. We also urge the applicant to post its electronic filings on its own internet home page and to inform us of such posting in the Brief in Support.

If the applicant wants each Commissioner to receive a copy of the section 271 application, the applicant should file an original plus eleven copies. The original, all copies, and the diskette should be sent to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554.Applications will be available for public inspection during regular business hours in the Reference Center of the Federal Communications Commission, Room 239, 1919 M Street, N.W., Washington, D.C. 20554. The applicant must also submit a copy of the application simultaneously to (i) the Department of Justice c/o Donald J. Russell, Telecommunications Task Force, Antitrust Division, Room 8205, 555 Fourth Street, NW., Washington, D.C. 20001, (ii) the relevant State regulatory commission, and (iii) the Commission's copy contractor, ITS, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, tel. (202) 857–3800.

B. Preliminary Matters

Section 271(d)(3) states that "[t]he Commission shall not approve the authorization requested in an application * * * unless it finds" three specified conditions to be met. We expect that a section 271 application, as originally filed, will include all of the factual evidence on which the applicant would have the Commission rely in making its findings thereon. In the event that the applicant submits (in replies or ex parte filings) factual evidence that changes its application in a material respect, the Commission reserves the right to deem such submission a new application and start the 90-day review process anew. All factual assertions made by any applicant (or any commenter) must be supported by credible evidence or will not be entitled to any weight.

Because the statute affords us only 90 days to review the application, we encourage the applicant to meet with likely objectors in order to attempt to narrow the issues in dispute. As noted in Section C of this Public Notice, we require that either the application itself or a supplemental statement filed within five days after the application contain a signed statement that describes efforts that the applicant has made to narrow the issues in dispute and the results of those efforts.

C. Content of Applications

Applications shall conform to the Commission's general rules relating to applications. As noted above, applications shall have two parts: (1) a Brief in Support of Application by [Bell company name] for Provisions of In-Region, InterLATA Services in [State name] and (2) any supporting documentation, such as records of State proceedings, interconnection agreements, affidavits, etc. The Brief in Support may not exceed 100 pages. There is no page limit, however, on supporting documentation.

The Brief in Support should contain the following items:

(a) a table of contents;

(b) a concise summary of the substantive arguments presented in the Brief;

(c) a statement identifying all of the negotiations and/or arbitrations under section 252, including the dates on which the agreements were approved under section 252 and the status of any federal court challenges to the agreements pursuant to section 252(e)(6);

(d) a statement identifying how the applicant meets the requirements of section 271(c)(1), including a list of the specific agreements on which the applicant bases its application if it

intends to rely on a subset of the list set forth in item (c) above;

(e) a statement summarizing the status and findings of the relevant State proceedings (if any) examining the applicant's compliance with section 271 or portions thereof;

(f) a statement describing the efforts the applicant has made to meet with likely objectors to narrow the issues in dispute and the results of those efforts (as indicated above, this statement may be filed separately from the application; but not later than five days after the filing of the application);

(g) all legal and factual arguments that three requirements of section 271(d)(3) have been met, supported as necessary with selected excerpts from the supporting documentation (with appropriate citations) (Item (g) is obviously the core item of the Brief in Support, and may be quite lengthy. It may help to divide it, therefore, into three subsections, one corresponding to each of three requirements set forth in section 271(d)(3));

(h) an Anti-Drug Abuse Act certification as required by 47 CFR § 1.2002; and

(i) an affidavit signed by an officer or duly authorized employee certifying that all information supplied in the application is true and accurate.

The name of the applicant, the date the application is filed, and the State to which it relates should appear in the upper right-hand corner of each page of the Brief in Support.

As for the supporting documentation, we require that it contain, at a minimum, the complete public record, as it exists on the date of filing, of the relevant State proceedings (if any) examining the applicant's compliance with section 271 or portions therof. In addition, supporting documentation, including any records of interconnection agreements, affidavits, etc., shall be provided in appendices, separated by tabs and divided into volumes as appropriate.

D. Comments by Interested Third Parties

After an application has been filed, the Common Carrier Bureau will issue a public notice (Initial Public Notice) establishing the specific due dates for the various filings set forth below. Simultaneously with the issuance of the Initial Public Notice, the Bureau will notify the Department of Justice and the affected State of our receipt of the application. Interested third parties will have approximately 20 days from the issuance of the Initial Public Notice to file comments in opposition or support, which may not exceed 50 pages. The specific due date for comments will be set forth in the Initial Public Notice. The name of the commenter, the name of the applicant, and the State to which the application relates should appear in the upper right-hand corner of each page. Supporting documentation is welcome without page limits. To file comments (or any other filing set forth below) in a section 271 proceeding, commenters need to follow the applicable procedures outlined in section A of this Public Notice.

E. State Commission and Department of Justice Written Consultations

Many State commissions have already commenced proceedings to examine Bell company compliance with section 271 or portions thereof. In light of this fact and in light of the shortness of the 90-day period for deciding a section 271 application, we require that the relevant State commission file any written consultation not later than approximately 20 days after the issuance of the Initial Public Notice. The specific due date for the State's written consultation will be set forth in the Initial Public Notice. The relevant State commission shall also follow the applicable procedures outlined in section A of this Public Notice.

Any written consultation by the Department of Justice (which, by the Act's express terms, must become part of the record) must be filed not later than approximately 35 days after the issuance of the Initial Public Notice. The specific due date for the Department's written consultation will be set forth in the Initial Public Notice. The Department of Justice shall also follow the applicable procedures outlined in section A of this Public Notice.

The State commission and the Department of Justice are also welcome to file a reply pursuant to section F of this Public Notice, as well as written *ex parte* submissions in accordance with section G of this Public Notice.

F. Replies

All participants in the proceeding—the applicant, interested third parties, the relevant State commission, and the Department of Justice—may file a reply to any comment made by any other participant. Such replies are limited to 35 pages and will be due approximately 45 days after the Initial Public Notice is issued. The specific due date for replies will be set forth in the Initial Public Notice. Reply comments may not raise new arguments that are not directly responsive to arguments other participants have raised, nor may the replies be repetitive of arguments made by that party in the application or initial comments. The name of the submitter, the name of the applicant (if different), and the State to which the application relates should appear in the upper right-hand corner of each page. Supporting documentation is welcome without page limits.

G. Ex Parte Rules—Non-Restricted Proceeding

Because of the broad policy issues involved, section 271 application proceedings initially will be considered non-restricted proceedings. Accordingly, *ex parte* presentations will be permitted, provided they are disclosed in conformance with Commission *ex parte* rules. Because of the statutory timeframe, however, we strongly encourage parties to set forth their views comprehensively in the formal filings specified above (e.g., the Brief in Support, oppositions, supporting comments, etc.) and not to rely on subsequent *ex parte* presentations. In any event, parties may not file more than a total of 20 pages of written *ex parte* submissions. This 20-page limit does not include: (1) Written *ex parte* submissions made solely to disclose an oral *ex parte* contact; (2) written material submitted at the time of an oral presentation to Commission staff that provides a brief outline of the presentation; (3) written material filed in response to direct requests from Commission staff; or (4) written factual exhibits. *Ex parte* submissions in excess of the 20-page limit will not be considered part of the record.

For purposes of these proceedings, and in light of the explicit role the Act give to the Department of Justice and the State commissions under section 271, any oral *ex parte* presentations from the Department of Justice and the relevant State commission will be deemed to be exempt *ex parte* presentations. To the extent that we obtain through such oral *ex parte* presentations new factual information on which we may rely in our decision-making process, the party submitting the information (the Department of Justice or the relevant State commission) shall prepare a summary for inclusion in the record in accordance with Commission rules, unless such a summary is being prepared by Commission staff. We also waive any page limits for written *ex parte* submissions by the Department of Justice or the relevant State commission.

Notwithstanding the above, the Commission may, by subsequent public notice, prohibit all communication with Commission personnel regarding the application during a seven-day period preceding the anticipated release date of the Commission's order regarding the

application. On this last point, we note that the notice and comment and effective date provisions of the Administrative Procedure Act are not applicable to these procedural requirements and policies. See 5 U.S.C. § 553 (b), (d).

This Public Notice contains new information collections subject to the Paperwork Reduction Act of 1995. Accordingly, we are presently requesting emergency approval from the Office of Management and Budget for these collections. When the Commission receives such approval, it will issue a Public Notice to that effect, after which the procedural requirements and policies contained herein will become effective.

Federal Communications Commission.

LaVera F. Marshal,

Acting Secretary.

[FR Doc. 96–32762 Filed 12–24–96; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

MAS & E Company, 350 S. Crenshaw Blvd., Suite A 202, Torrance, CA 90503

Officers: Marie L. Park, President; James Bong-Ik Park, Vice President

Edward Mittelstaedt, Inc., 55 Margarita Drive, San Rafael, CA 94901

Officer: Edward O. Mittelstaedt, President

K.A.K. LLC, 1507 South Olive Street, South Bend, IN 46619

Officers: Kenneth A. Kanczuzewski, Partner; Thomas E. Kanczuzewski, Partner.

Dated: December 19, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–32628 Filed 12–24–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 21, 1997.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. Fulton Financial Corporation, Lancaster, Pennsylvania; to acquire 100 percent of the voting shares of The Woodstown National Bank & Trust Company, Woodstown, New Jersey.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. The Colonial BancGroup, Inc., Montgomery, Alabama; to merge with Shamrock Holding, Inc., Evergreen, Alabama, and thereby indirectly acquire The Union Bank, Evergreen, Alabama.

C. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. BankWest Financial, Kalispell, Montana; to become a bank holding company by acquiring 100 percent of the voting shares of BankWest, National Association, Kalispell, Montana.

Board of Governors of the Federal Reserve System, December 19, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–32741 Filed 12–24–96; 8:45 am]

BILLING CODE 6210–01–F

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue

concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 10, 1997.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Compass Bancshares, Inc., Birmingham, Alabama; Compass Banks of Texas, Inc., Birmingham, Alabama; Compass Bancorporation of Texas, Inc., Wilmington, Delaware; to acquire Horizon Bancorp, Inc., Austin, Texas, and Horizon Bank & Trust, SSB, Austin, Texas, and thereby engage in operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y. These activities will be conducted throughout the State of Texas.

Board of Governors of the Federal Reserve System, December 19, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–32742 Filed 12–24–96; 8:45 am]

BILLING CODE 6210–01–F

[Docket No. R–0953]

Fair Credit Reporting

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Notice; request for comments.

SUMMARY: The Board solicits comment on issues to be addressed in a study concerning the public availability and use of social security numbers and other sensitive identifying information about consumers. The Board's study is required by the Economic Growth and Regulatory Paperwork Reduction Act of 1996.

DATES: Comments must be received on or before January 31, 1997.

ADDRESSES: Comments should refer to Docket No. R–0953, and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551. Comments also may be delivered to Room B–2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street, N.W. (between Constitution avenue and C Street) at any time. Comments may be inspected in Room MP–500 of the Martin Building between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding the availability of information.

FOR FURTHER INFORMATION CONTACT: Jane Jensen Gell or Sheilah Goodman, Staff Attorneys, Division of Consumer and Community Affairs, at (202) 452–2412 or (202) 452–3667; for users of Telecommunications Device for the Deaf (TDD) *only*, please contact Dorothea Thompson at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

I. Background

On September 30, 1996, the President signed into law the Economic Growth and Paperwork Reduction Act of 1996 (Pub. L. 104–208, 110 Stat. 3009) (the 1996 Act). The 1996 Act amends several consumer credit laws, including the Fair Credit Reporting Act (FCRA) (15 U.S.C. 1681). An amendment to the FCRA directs the Board of Governors of the Federal Reserve System (Board), in consultation with the Federal Trade Commission (the Commission) and the federal financial regulatory agencies, to conduct a study to determine the availability to the public of sensitive identifying information about consumers, the possibility that such information could be used for financial fraud, and the potential for fraud or risk of loss, if any, to insured depository institutions. By March 31, 1997, the Board must report the results of the study to the Congress, including any suggestions for legislative change. The Board solicits the comment of interested parties on these issues. The comments received will be used in the Board's study. Because of the short time frame the Congress gave the Board to study this matter, all comments must be received by January 31, 1997.

II. Availability of Sensitive Consumer Information

The Congress became concerned about the availability of sensitive identifying information about consumers after a widely-publicized incident in which a large database service offered personal information for sale—including individuals' social security numbers— from one of its electronic databases. After a few days, the service discontinued the practice of making social security numbers available but continued to permit users to search for information by social security number. At about the same time, members of Congress learned of situations in which such identifying information was being used for financial fraud. In addition, testimony at a recent Federal Trade Commission hearing highlighted how easy it is to obtain identifying information about a consumer and to use that information to fraudulently receive credit in the consumer's name—without the knowledge of the consumer or the credit granting institution. This practice is often referred to as "identity theft." Armed with such information, criminals can request and receive credit or negotiate checks in the consumer's name, with devastating results for the consumer.

Sometimes identity theft begins with the use of publicly available information. A government employee who participated in the Commission hearings related such an incident. General information about this witness was listed in a publicly-available government directory. Using that information, an unknown individual was able to obtain a copy of the employee's college transcript, which showed his social security number. The individual was able subsequently to get a copy of the employee's birth certificate using the social security number. The thief then had all he needed to "assume" the employee's identity and use the information to commit fraud.

III. Request for Comment

In response to concerns about the availability of identifying information about consumers, and anecdotal evidence suggesting an increase in identity theft and financial fraud, the Congress has directed the Board to conduct a study regarding the availability to the public of sensitive information used to identify consumers. The Board is to determine whether there are organizations "engaged in the business of making sensitive consumer identification information, including social security numbers, mothers' maiden names, prior addresses and dates of birth, available to the general public." To help make this determination, the Board solicits comment on the following issues:

1. What is or should be considered sensitive consumer information for purposes of the study?

2. What information is currently used, or might be used in the future, to identify individuals, and what types of public or private organizations, repositories, or databases make such

information available to certain entities or to the general public?

3. How is the information obtained (for example, by phone, through the mail, or on the Internet), what costs are associated with obtaining the information, what are the specific uses for which the information is obtained, and does the furnisher place any restrictions on the distribution or use of this information on the purchaser? If so, how does the furnisher ensure that use of the data is limited to its intended purposes?

4. Is the compilation, sale, and use of sensitive identifying information about consumers subject to industry guidelines or regulations, and if not, what guidelines, regulatory or legal requirements might be appropriate?

If sensitive information about consumers is available, the Board must determine whether the availability of the information creates "undue potential for fraud and risk of loss to insured depository institutions." In order to make this assessment, the Board seeks comment on the following issues:

5. How is sensitive identifying information about consumers used for financial fraud (for example, to obtain a credit card in another person's name)?

6. What types of identifying information about consumers are most meaningful in granting and verifying credit, and how can consumers, financial institutions, and others control the fraudulent use of this information?

7. What magnitude of financial loss do institutions attribute to fraudulent use of consumer information?

Finally, if the Board determines that additional laws are needed to lessen the risks of fraud and loss to the banking system, the Board is directed to make legislative recommendations to the Congress. Accordingly, the Board is seeking comment on the following issues:

8. What, if any, legislative changes should be considered to help protect sensitive identifying information about consumers?

9. What, if any, legislative changes should be considered to limit the use of such information and reduce the risk of fraud or other loss to the banking system?

IV. Form of Comment Letters

Comment letters should refer to Docket No. R–0953, and, when possible, should use a standard courier typeface with a type size of 10 or 12 characters per inch. This will enable the Board to convert the text to machine-readable form through electronic scanning, and will facilitate automated retrieval of comments for review. Also, if accompanied by an original document in paper form, comments may be submitted on 3½ inch or 5¼ inch computer diskettes in any IBM-compatible DOS-based format.

By order of the Board of Governors of the Federal Reserve System, December 17, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–32495 Filed 12–24–96; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Regional Offices; Statement of Organization, Functions, and Delegations of Authority

This notice amends Part K of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (DHHS), Administration for Children and Families (ACF) as follows: Chapter KD, The Regional Offices of the Administration for Children and Families (61 FR 50029), as last amended, September 24, 1996. This Notice reflects the organizational changes for Regions 4, 8 and 9 and the reorganizations for Region 3 and X.

I. Amend Notice 61 FR 50029, dated September 24, 1996, Roman numeral I, 13th line to read "amended, May 1, 1995."

II. Amend Chapter KD as follows:

a. KD.10 Organization. Delete in its entirety and replace with the following:

KD.10 Organization. Regions 4, 8 and 9 are organized as follows:

Office of the Regional Administrator (KD8A)
Office of the Regional Hub Director (KD4A and KD9A)
Office of Financial Operations (KD4B, KD8B and KD9B)
Office of Family Security (KD4C, KD8C and KD9C)
Office of Family Supportive Services (KD4D, KD8D and KD9D)

b. KD.20 Functions. Delete Paragraph A in its entirety and replace with the following:

KD.20 Functions (For Region 8). A. The Office of the Regional Administrator is headed by a Regional Administrator who reports to the Assistant Secretary for Children and Families. In addition, the Office of the Regional Administrator has a Deputy Regional Administrator who reports to the Regional Administrator. The Office provides executive leadership and direction to state, county, city, territorial and tribal governments, as well as public and private local grantees to ensure effective and efficient program and financial management. It ensures that these entities conform to federal laws, regulations, policies and procedures governing the programs, and exercises all delegated authorities and responsibilities for oversight of the programs. The Office takes action to approve the state plans and submits recommendations to the Assistant Secretary for Children and Families concerning state plan disapproval.

The Office contributes to the development of national policy based on regional perspectives on all ACF programs. It oversees ACF operations, the management of ACF regional staff; coordinates activities across regional programs; and assures that goals and objectives are met and departmental and agency initiatives are carried out. The Office alerts the Assistant Secretary for Children and Families to problems and issues that may have significant regional or national impact. It represents ACF at the regional level in executive communications within ACF, with the HHS Regional Director, other HHS operating division, other federal agencies, and public or private local organizations representing children and families.

Within the Office of the Regional Administrator, an Administrative staff assists the Regional Administrator and Deputy Regional Administrator in providing day-to-day support for regional administrative functions, including budget, internal systems, employees relations, and human resource development activities. The Staff develops and implements the regional planning process. It tracks, monitors and reports on regional progress in the attainment of ACF national goals and objectives. The Staff coordinates public awareness activities, information and education campaign in accordance with the ACF Office of Public Affairs and in conjunction with the HHS Regional Director. It assists the Regional Administrator in management of cross-cutting initiatives and activities among the regional components, and ensures effective and efficient management of internal automation processes.

c. After the end of KD2.20 Functions (60 FR 21211, 05/01/95), Paragraph D, and before KD5.10 Organization (60 FR 34284, 06/30/95), insert the following:

KD3.10 Organization. The Administration for Children and Families, Region 3, is organized as follows: Office of the Regional

Administrator (KD3A) Office of Program and Administrative Support (KD3B) Office of Family Services (KD3C) Office of Child Development and Developmental Disabilities (KD3D).

KD3.20 Functions. A. The Office of the Regional Administrator is headed by a Regional Administrator. The Office provides executive leadership and directives to state, county, city, territorial and tribal governments, as well as public and private local grantees to ensure effective and efficient program and financial management. It ensures that these entities conform to federal laws, regulations, policies and procedures governing the programs, and exercises all delegated authorities and responsibilities for oversight of the programs.

The Office takes action to approve state plans and submits recommendations to the Assistant Secretary for Children and Families concerning state plan disapproval, where applicable. The Office contributes to the development of national policy based on perspectives on all ACF programs. It oversees ACF operations and the management of ACF regional staff; coordinates activities across regional programs; and assures that goals and objectives are met and departmental and agency initiatives are carried out. The Office alerts the Assistant Secretary for Children and Families to problems and issues that may have significant regional or national impact. The Office represents ACF at the regional level in executive communications without ACF, with the HHS Regional Director, other HHS operating divisions, other federal agencies, and public or private local organizations representing children and families.

B. The Office of Program Administrative Support is headed by an Assistant Regional Administrator who reports to the Regional Administrator. The Office assists the Regional Administrator in providing day-to-day support for regional administrative functions, including budget, performance management, procurement, property management, financial management, external and internal systems, statistical analysis, employee relations and human resource development activities.

The Office provides expertise in business and other non-programmatic areas of grant administration and helps ensure that states and grantees fulfill requirements of law, regulations and administrative policies. It establishes regional financial management priorities. The Office provides cost allocation and financial support to the Office of Family Services and the Office of Child Development and Developmental Disabilities.

The Office oversees the management and coordination of automated systems in the region, and provides data management and statistical analysis support to all Regional Office components. Data management responsibilities include the development of automated system applications to support and enhance program, fiscal, administrative and quality control operations, and the compilation and analysis of data on demographic and service trends that assist in monitoring and oversight responsibilities. Statistical analysis functions include the review of state and federal sampling procedures. The Office is responsible for the effective and efficient management of internal ACF automation processes and for oversight of state systems projects for ACF programs.

In coordination with other Regional Office components, it monitors state systems projects and is the focal point for technical assistance to states and grantees on the development and enhancement of automated systems. The Office represents the Regional Administrator on administrative matters and on internal and State systems matters with ACF central office, states, contractors and grantees. It alerts the Regional Administrator to problems or issues that have significant implications for functional areas under its jurisdiction.

C. The Office of Family Services is headed by an Assistant Regional Administrator who reports to the Regional Administrator. The Office is responsible for providing centralized management, financial management services, and technical administration of ACF formula, block and entitlement programs such as Aid to Families with Dependent Children (AFDC), Child Support Enforcement (CSE), Job Opportunities and Basic Skills Training (JOBS). Foster Care and Adoption Assistance, Child Welfare, Family Preservation and Support Services, Child Abuse and Neglect and the discretionary Runaway and Homeless Youth Program.

The Office provides policy guidance to state, county, city or town and tribal governments and public and private organizations to assure consistent and uniform adherence to federal requirements governing formula and entitlement programs. State plans are reviewed and recommendations concerning state plan approval or disapproval are made to the Regional Administrator. The Office provides technical assistance to entities responsible for administering these programs resolve identified problems, ensures that appropriate procedures and practices are adopted, monitors the program to ensure their efficiency and effectiveness, establishes regional financial management priorities and reviews cost allocation plans, and monitors state systems projects for the CSE, AFDC, Child Welfare, and JOBS programs.

The Office provides financial management services for ACF formula and entitlement grants in the region as well as for the Runaway and Homeless Youth Program which is a discretionary grant. The Office issues discretionary grant awards based on a review of project objectives, budget projections, and proposed funding levels. The Office also reviews cost estimates and reports for ACF entitlement and formula grant programs and recommends funding levels. The Office performs systematic fiscal reviews and makes recommendations to the Regional Administrator to approve, defer or disallow claims for federal financial participation in ACF formula and entitlement grant programs. As applicable, recommendations are made on the clearance and closure of audits, paying particular attention to financial management deficiencies that decrease the efficiency and effectiveness of the ACF programs and taking steps to monitor the resolution of such deficiencies. The Office represents the Regional Administrator in dealing with the ACF Program Offices on all program and financial policy matters under its jurisdiction. Alerts or early warnings are provided to the Regional Administrator regarding problems or issues that may have significant implications for the programs.

D. The Office of Child Development and Developmental Disabilities is headed by an Assistant Regional Administrator who reports to the Regional Administrator. The Office is responsible for providing centralized management, financial management services, and technical administration of ACF discretionary and formula grant programs such as Head Start, Child Care and Developmental Disabilities programs.

In that regard, the Office provides policy guidance to state, county, city or town and tribal governments and public and private organizations to assure consistent with uniform adherence to federal requirements. The Office provides technical assistance to entities responsible for administering these programs to ensure that appropriate procedures and practices are adopted,

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and monitors the programs to ensure their efficiency and effectiveness.

The Office performs systematic fiscal reviews; makes recommendations to the Regional Administrator to approve or disallow costs under ACF discretionary grant programs; and makes recommendations to the Regional Administrator concerning state plan approval or disapproval, as applicable. The Office issues discretionary grant awards based on a review of project objectives, budget projections, and proposed funding levels. As applicable, recommendations are made on the clearance and closure of audits of grantee programs, paying particular attention to financial management deficiencies that decrease the efficiency and effectiveness of the ACF programs and taking steps to monitor the resolution of such deficiencies. The Office oversees the management and coordination of office automation systems in the region such as the PC Cost and HS Cost systems for budget analysis on Head Start Applications and monitors grantee systems projects such as the Head Start Program Information Report, Head Start Management Tracking System and the Head Start Bulletin Board. The Office represents the Regional Administrator in dealing with ACF program offices on all program policy and financial matters under its jurisdiction. Alerts or early warnings are provided to the Regional Administrator regarding problems or issues that may have significant implications on the programs.

d. After the end of KD7.20 Functions (61 FR 3937, 02/02/96), Paragraph D, insert the following:

KDX.10 Organization. The Administration for Children and Families, Regional X, is organized as follows: Management Team (KDXA) Service Delivery Teams (KDXE) Support Teams (KDXF)

KDX.20 Functions. A. The Management Team consists of the Regional Administrator, a Deputy Regional Administrator, and three Supervisory Program Specialists who report directly to the Deputy. In addition to being a team member, the Regional Administrator is responsible for alerting the Assistant Secretary for Children and Families to problems and issues that may have significant regional or national impact.

The Team provides executive leadership to state, county, city, and tribal governments, as well as public and private local grantees to ensure effective, efficient, results-oriented program and financial management. ACF's primary goal is to assist vulnerable and dependent children and families to achieve economic independence, stability, and self-reliance. The Team partners with state, local, and tribal organizations to promote adherence to federal laws, regulations, policies and procedures governing the programs, and exercises all delegated authorities and responsibilities for oversight of the programs. The Team takes action to approve state and tribal plans and submits recommendations to the Assistant Secretary for Children and Families concerning plan disapproval.

The Team contributes to the development of national policy based on regional perspectives on all ACF programs. It oversees ACF operations; manages ACF regional staff; coordinates activities across regional programs; and assures that goals and objectives are met and departmental and agency initiatives are carried out.

The Team represents ACF at the regional level in executive communications within ACF, the HHS Regional Director, other HHS operating divisions, other federal agencies, Tribal and Native American Organizations, and public or private local organizations representing children and families.

In order to ensure that agency goals are accomplished, the Management Team provides leadership to grantees through a staff organized in Service Delivery Teams. ACF programs and functions are grouped within teams according to current ACF programs and/or initiatives. Each team is charged with achieving measurable progress towards ACF goals through their work with state, local, and tribal grantees, the public, other federal agencies, and internally within the Department. The regional team structure is designed to allow ACF to respond quickly in a dynamic and changing environment to achieve ACF and HHS goals.

B. The Service Delivery Teams (SDTs) report directly to the Management Team. The SDTs are responsible for providing centralized management and technical administration of ACF formula, block, discretionary, and entitlement grants and programs to assist families achieve economic independence and self-sufficiency, and to promote safe, healthy, and permanent environments in which children can grow. The SDTs review and recommend approval or disapproval of State and tribal plans to the Management Team. SDTs recommend issuance of certain grant awards based on a review of project objectives, budget projections, and proposed funding levels.

The SDTs provide policy guidance to state, local, and tribal governments, and public and private organizations to foster consistent and uniform adherence to federal requirements governing formula, block, and entitlement programs. The SDTs provide technical assistance to states, grantees, and tribes to resolve identified problems; ensure that appropriate procedures and practices are adopted; develop and implement outcome-based performance measures; and to monitor the programs to ensure their efficiency and effectiveness.

The SDTs represent the Management Team in dealing with the ACF Program Offices on all program and policy matters under their jurisdiction. Alerts or early warnings are provided to the Management Team regarding problems or issues that may have significant implications for the programs.

C. The Support Teams provide administrative and management support to the Regional Administrator and Management Team. Members of the Support Teams report directly to the Regional Administrator or a member of the Management Team. Functions within the Team include day-to-day operational management of regional administrative functions such as, budget, performance management, procurement, property management, employee relations, human resource development activities, planning and coordination, and office automation systems.

The Team includes experts in cash assistance and supportive services programs who serve as resources to all teams on issues which cross-cut the organization, such as legislative policy up-dates, partnership agreements, result measurements, policy guidance, and monitoring state systems projects for ACF programs.

Team members also provide leadership in regional financial management matters to the Service Delivery Teams and the Management Team, including reviewing cost estimates and reports for ACF grant programs, recommending funding levels, and performing systematic fiscal reviews. Approve grant awards based on a review of project objectives, budget projections, and approved funding plans. Provide funds accounting for discretionary grant programs. Establish regional financial management priorities and review cost allocation plans.

Dated: December 18, 1996.

Olivia A. Golden,

Acting Assistant Secretary for Children and Families.

[FR Doc. 96–32744 Filed 12–24–96; 8:45 am]

BILLING CODE 4184–01–M

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicaid Management Information System (MMIS); *Form No.:* HCFA–R–0004; *Use:* The Medicaid Management Information System (MMIS) is a State-operated, Federally mandated computer system used for automated Medicaid claims processing and information retrieval for program management. Data elements represent the Federally imposed recordkeeping requirements of MMIS; Frequency: Annually; *Affected Public:* Business or other for profit; State, local, or tribal government; *Number of Respondents:* 50; *Total Annual Responses:* 50; *Total Annual Hours:* 2,206,250.

To request copies of the proposed paperwork collection referenced above, E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Analysis and Planning Staff, Attention: Linda Mansfield Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: December 17, 1996.

Edwin J. Glatzel,

Director, Management Analysis and Planning Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–32823 Filed 12–24–96; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4120–N–03]

Assessment of the Reasonable Revitalization Potential of Certain Public Housing Required by Law; Amendment to Timeframes

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: On September 26, 1996, the Department published a notice which implements section 202 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996. Section 202 requires PHAs to identify certain distressed public housing developments that will be required to be replaced with tenant-based assistance if they cannot be revitalized by any reasonable means. In that eventuality, households in occupancy would be offered tenant-based or project-based assistance and would be relocated—if sufficient housing will not be maintained, rehabilitated, or replaced on the current site—to other decent, safe, sanitary, and affordable housing which is, to the maximum extent practicable, housing of their choice. This notice amends the timeframes that the Department set in the September 26, 1996 notice for accomplishing the standards necessary for compliance with section 202. The timeframes are being amended because comments on the September 26, 1996 notice were due by November 25, 1996, and the Department wishes to (1) adequately respond to all comments and (2) give PHAs sufficient time to comply with the Section 202 requirements, including any revisions. PHAs should position themselves to respond in a timely manner by beginning to collect the necessary data. The same data is likely to be required in order to comply with Section 202, regardless of any possible changes to the notice. Except for the amendments to the timeframes made by this notice, all of the requirements of the September 26, 1996 notice continue to be in effect.

EFFECTIVE DATE: December 26, 1996.

FOR FURTHER INFORMATION CONTACT: Rod Solomon, Senior Director for Policy and Legislation, Public and Indian Housing, Room 4116, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410, telephone (202) 708–0713. For hearing or speech impaired persons, this number may be accessed via TTY by contacting the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: General Requirement and Scope

Section 202 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub.L. 104–134, 110 STAT. 1321–279, 42 U.S.C. 1437l note) ("OCRA") requires PHAs to identify certain distressed public housing developments that will be required to be addressed. Households in occupancy would be offered tenant-based or project-based assistance (that can include other public housing units) and would be relocated—if sufficient housing will not be maintained, rehabilitated, or replaced on the current site—to other decent, safe, sanitary, and affordable housing which is, to the maximum extent practicable, housing of their choice. After residents are relocated, the distressed developments (or affected buildings) for which no reasonable means of revitalization exists will be removed from the public housing inventory.

On September 26, 1996, at 61 FR 50632, the Department published a notice to implement section 202 of OCRA. The notice established the standards for conducting the assessments and the conversion plan. It also set forth certain timeframes for meeting those standards. This notice amends the timeframes set in that notice in order to be equitable to all of the housing authorities that will be assessed. The following new deadlines for submissions to HUD field offices, therefore, are scheduled:

Accomplish Standards A to C by January 31, 1997
(was December 29, 1996)

Accomplish Standard D by March 31, 1997
(was December 29, 1996)

Accomplish Standard E by June 30, 1997
(was February 27, 1997)

Submit conversion plan by September 26, 1997
(was August 26, 1997)

fFor clarification of the provision in the September 26, 1996 notice regarding the PHAs' requirement to develop their plans in consultation with affected public housing residents, PHAs should

provide, as an initial step, copies of their submissions for Standards A to C to the appropriate tenant councils and resident groups before or immediately after these submissions are provided to HUD.

Dated: December 19, 1996.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 96–32768 Filed 12–20–96; 12:32 pm]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

California Desert District Advisory Council; Renewal

AGENCY: Bureau of Land Management, Interior.

ACTION: California Desert District Advisory Council—notice of renewal.

SUMMARY: This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act of 1972 Public Law 92–463. Notice is hereby given that the Secretary of the Interior has renewed the Bureau of Land Management's (BLM) California Desert District Advisory Council.

The purpose of the Council is to provide counsel and advice to the BLM District Manager concerning planning and management of the public land resources within the BLM California Desert District and implementation of the comprehensive, long-range plan for the management, use, development, and protection of the public lands within the California Desert Conservation Area.

FOR FURTHER INFORMATION CONTACT: Melanie Wilson, Intergovernmental Affairs (600), Bureau of Land Management, 1620 L Street, N.W., Room 1050, Washington, D.C. 20240, telephone (202) 452–0377 or (202) 208–7701.

Dated: December 9, 1996.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 96–32827 Filed 12–24–96; 8:45 am]

BILLING CODE 4310–84–P

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit No. 820730

Applicant: Robert Sivinski, Santa Fe, New Mexico

The applicant requests a permit to collect new populations of all federally listed plant species that potentially occur in New Mexico for the purposes of resource management and plant conservation.

Permit No. PRT–821356

Applicant: Dr. Lawrence E. Stevens, Flagstaff, Arizona

The applicant requests a permit to conduct laboratory and field monitoring studies and collect the Kanab ambersnail (*Oxyloma haydeni kanabensis*) as eggs in egg masses in Grand Canyon National Park and vicinity.

Permit No. 821369

Applicant: Rhonda Sidnèr, Tucson, Arizona

The applicant requests a permit to conduct presence/absence surveys of lesser long-nosed bats (*Leptonycteris curasoae*) on Ft. Huachuca, Arizona.

Permit No. 821577

Applicant: Duane Shroufe, Arizona Game and Fish Department, Phoenix, Arizona. The applicant requests a permit to allow take of a voucher specimen of the New Mexico ridgenose rattlesnake (*Crotalus willardi obscurus*) from the Peloncillo Mountains, Cochise County, Arizona for the purpose of documenting occurrence of this taxon in the state of Arizona. Applicant also requests a permit to take any resident endangered/threatened fish or wildlife listed below for conservation purposes, provided: (1) the taking is not reasonably anticipated to result in death or permanent disabling of the specimen; (2) the speciment is not removed from the State of Arizona without prior written permission from the U.S. Fish and Wildlife Service; or (3) the live specimen is not held in captivity for more than 45 consecutive days.

Birds

peregrine falcon (*Falco peregrinus*)
aplomado falcon (*Falco femoralis*)
Yuma clapper rail (*Rallus longirostris yumanensis*)
masked bobwhite (*Collinus virginianus*
bald eagle (*Haliaeetus leucocephalus*)
southwestern willow flycatcher (*Empidonax trillii extimus*)
Mexican spotted owl (*Strix occidentalis*)

Fish

bonytail chub (*Gila elegans*)
humpback chub (*G. cypha*)
yaqui chub (*G. purpurea*)
Virgin River chub (*G. robusta seminuda*)
desert pupfish (*Cyprinodon macularius macularius*)
Quitobaquito pupfish (*C. m. eremus*)
Colorado squawfish (*Ptychocheilus lucius*)
Gila topminnow (*Poeciliopsis occidentalis*)
Gila trout (*Oncorhynchus gilae*)
woundfin (*Plagopterus argentissimus*)
razorback sucker (*Xyrauchen texanus*)

Reptiles

desert tortoise (*Gopherus agassizii*)

Mammals

lesser long-nosed bat (*Leptoncyteris curasoae*)
black-footed ferret (*Mustela nigripes*)
Mount Graham red squirrel (*Tamiasciurus hudsonicus*)
Hualapai Mexican vole (*Microptus mexicanus*)
jaguarundi (*Felis yagouaroundi*)
ocelot (*F. Paradalis*)
Mexican gray wolf (*Canis lupus bailey*)
Sonoran pronghorn (*Antilocapra americana sonoriensis*)

Invertebrates

Kanab ambersnail (Oxyloma haydeni kanabensis)

Permit No. 821801

Applicant: Robert Tafanelli, Las Cruces, New Mexico

The applicant requests a permit to conduct presence/absence surveys of the aplomado falcon and bald eagle in southwestern New Mexico south of Socorro and west of but including the Sacramento and Guadalupe Mountains.

Permit No. 820062

Applicant: Don Blanton, Hicks & Company, Inc., Austin, Texas

The applicant requests permission to conduct surveys throughout the ranges of the following for scientific and recovery purposes when necessary:

Invertebrates

Tooth Cave pseudoscorpion (*Microcreagris texana*)
Tooth Cave spider (*Neoleptoneta myopica*)
Tooth Cave ground beetle (*Rhadine persephone*)
Kretschmarr Cave mold beetle (*Texamaurops reddelli*)
Bee Creek Cave harvestman (*Texella reddelli*)
Bone Cave harvestman (*Texella reyesi*)
Coffin Cave mold beetle (*Batrisodes texanus*)

Amphibian

Houston toad (*Bufo houstonenis*)

Birds

bald eagle (*Haliaeetus leucocephalus*)
aplomado falcon (*Falco femoralis*)
piping plover (*Charadrius melodus*)
interior least tern (*Sterna antillarum athalassos*)
black-capped vireo (*Vireo atricapillus*)
golden-cheeked warbler (*Dendroica chrysoparia*)
red-cockaded woodpecker (*Picoides borealis*)

Plants

large-fruited sand verbena (*Abronia macrocarpa*)
Navasota ladies'-tresses (*Spiranthes parksii*)
Texas trailing phlox (*Phlox nivalis ssp. texensis*)
slender rush-pea (*Hoffmannseggia tenella*)
South Texas ragweed (*Ambrosia cheiranthifolia*)
Texas Ayenia (*Ayenia limitaris*)
Walker's manioc (*Manihot walkerae*)
ashy dogweed (*Thymophylla tephroleuca*)
Johnston's frankenia (*Frankenia johnstonii*)
black lace cactus (*Echinocereus reichenbachii var. albertii*)
star cactus (*Echinocactus asterius*)
Tobusch fishhook cactus (*Ancistrocactus tobuschii*)
Texas poppy mallow (*Callirhoe scabriuscula*)
Nellie cory cactus (*Coryphanthus minima*)
bunched cory cactus (*C. ramillosa*)
Sneed pincushion cactus (*C. sneedii var. sneedii*)
Terlingua Creek cat's eye (*Cryptantha crassipes*)
Chisos Mountain hedgehog cactus (*Echinocereus chisoensis*)
Lloyd's hedgehog cactus (*E. lloydii*)
Davis' green pitaya (*E. viridiflorus var. davisii*)
McKittrick pennyroyal (*Hedeoma apiculatum*)
Lloyd's mariposa cactus (*Neolloydia mariposensis*)
Little Aguja pondweed (*Potamogeton clystocarpus*)
Hinckley's oak (*Quercus hinckleyi*)

Permit No. 822908

Applicant: Dr. Michael E. Tewes. Kingsville, Texas

The applicant requests authorization for scientific research and recovery purposes to live-capture (using live box traps), handle, sedate, collect blood, fecal, tissue, and parasite samples from, attach a 100 g radio-collar to, ear tag and tattoo, hold (for approximately 6 hours) during recovery from sedation, release unharmed following complete recovery from sedation, and monitor the species listed below at Laguna Atascosa National Wildlife Refuge, Texas, and Cameron, Starr, Willacy, Hidalgo, Kennedy, Brooks, Jim Wells, Webb, Live Oak, McMullen, Dimmit, Zavala, Maverick, Atascosa, San Patricio, Nueces, Bee, Aransas, Jim Hogg, Zapata, Kleberg, and Duval Counties, Texas:

Ocelots (*Felis pardalis*), no more than 20 total for all locations listed,
Jaguarundi (*Felis yagouaroundi*), no more than 5 total for all locations listed.

Permit No. 822942

Applicant: Gregory J. Tickle, Dallas, Texas

The applicant requests authorization to conduct population surveys for the golden-cheeked warbler (*Dendroica chrysoparia*) and black-capped vireo (*Vireo atricapillus*) at various sites in Texas, Oklahoma, and Arizona.

Permit No. 822998

Applicant: John M. McGee, Tucson, Texas

The applicant requests authorization for scientific research and recovery purposes to census, survey, and monitor the activities of the Mt. Graham red squirrel (*Tamiasciurus hudsonicus*) and lesser long-nosed bat (*Leptoncyteris curasoae*).

Permit No. 823089

Applicant: Dr. Ralph J. Gutierrez, Arcata, California

The applicant requests authorization for scientific research and recovery purposes to conduct field surveys, locate, map the distribution of, capture, and immediately release unharmed at the capture sites adult and juvenile Mexican spotted owls (*Strix occidentalis lucida*) in New Mexico and Arizona.

Permit No. 823097

Applicant: Dr. Rebecca Reiss, Socorro, New Mexico

The applicant requests authorization to collect the Socorro isopod (*Thermosphaeroma thermophilum*) to establish a colony for propagation and molecular genetic analysis at Sedillo Springs, New Mexico.

DATES: Written comments on these permit applications must be received on or before January 27, 1997.

ADDRESSES: Written data or comments should be submitted to the Legal Instruments Examiner, Division of Endangered Species/Permits, Ecological Services, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: U.S. Fish and Wildlife Service, Ecological Services, Division of Endangered Species/Permits, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when requesting copies of documents. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice, to the address above.

Joseph P. Mazzoni,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 96–32747 Filed 12–24–96; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

U.S. Fish and Wildlife Service

[I.D. 121796C]

Marine Mammals; Scientific Research Permit (P624)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Dr. Michael Moore, Research Specialist (Co-investigator: Dr. John Stegeman, Senior Scientist), MS 33 Biology Department, Woods Hole Oceanographic Institution, Woods Hole, MA 02543, has applied in due form for a permit to take marine mammals for purposes of scientific research.

DATES: Written comments must be received on or before January 27, 1997.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West

Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01903–2298 (508/281–9250);

Regional Administrator, Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2532 (813/570–5301); and

U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Arlington, VA 22203.

Written data or views, or requests for a public hearing on this request, should be submitted to the Director, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.23).

The applicant requests a permit to conduct the following activities annually: Collect biopsy samples from up to 40, conduct blubber thickness assay on up to 40, and inadvertently harass up to 60 Northern right whales (*Eubalaena glacialis*) off the coast of Georgia, Great South Channel, Cape Cod Bay and the Gulf of Maine; specifically import samples from Canada, Arctic, Kazakhstan (Russia), Falklands/South Georgia, Australia, New Zealand, South Africa, and opportunistically, import samples from all species of Cetacea and Pinnipedia worldwide; biopsy live stranded minke whales (*Balaenoptera acutorostrata*), finback whales (*B. physalus*), humpback whales (*Megaptera novaengliae*), long-finned pilot whales (*Globicephala melas*), and white-sided dolphins (*Lagenorhynchus acutus*) on Cape Cod.

Dated: December 17, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

Dated: December 17, 1996.

Margaret Tieger,

Chief, Branch of Permits, Office of Management Authority, U.S. Fish and Wildlife Service.

[FR Doc. 96–32776 Filed 12–24–96; 8:45 am]

BILLING CODE 3510–22–F

Bureau of Land Management

[WO–300–1310–00]

Green River Basin Advisory Committee, Colorado and Wyoming; Notice of Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Green River Basin Advisory Committee (GRBAC).

SUMMARY: This notice announces the dates, time, schedule and initial agenda for a meeting of the Green River Basin Advisory Committee.

DATES: January 15, 1997, from 8:00 a.m. until 4:00 p.m. and January 16, 1997, from 8:00 a.m. until 3:00 p.m.

ADDRESSES: Holiday Inn, 300 South Colorado Highway 13, Craig, Colorado.

FOR FURTHER INFORMATION CONTACT: Terri Trevino, GRBAC Coordinator, Bureau of Land Management, P.O. Box 1828, Cheyenne, WY 82003; telephone (307) 775–6020.

SUPPLEMENTARY INFORMATION: The topics for the meeting will include:

(1) Finalization of GRBAC Sub-Committee Reports
(2) Discussion of Cumulative Impacts Task Force report
(3) Construction and review of draft Final Report language
(4) Discussion of future GRBAC actions
(5) Public comment

This meeting is open to the public. Persons interested in making oral comments or submitting written statements for the GRBAC's consideration should notify the GRBAC Coordinator at the above address by January 13. The GRBAC will hear oral comments beginning at 4:00 p.m. on January 15, and may establish a time limit for oral statements.

Dated: December 19, 1996.

Mat Millenbach,

Acting Director, Bureau of Land Management.

[FR Doc. 96–32828 Filed 12–24–96; 8:45 am]

BILLING CODE 4310–84–M

National Park Service

Draft Environmental Impact Statement (DEIS) for Lake Crescent Management Plan, Olympic National Park, WA

AGENCY: National Park Service, Interior.

ACTION: Notice of extension of public review period.

SUMMARY: The comment period as specified in the official Notice of Availability (FR, Vol. 61, No. 203, p. 54437) was to end December 17, 1996, but was extended to February 3, 1997 (FR, Vol. 61, No. 223, p. 58702). This present Notice announces that the comment period has been extended until March 19, 1997.

DATES: Comments on the DEIS must be received no later than March 19, 1997.

ADDRESSES: Written comments should be submitted to the Superintendent, Olympic National Park, 600 E. Park Ave., Port Angeles, WA 98362.

FOR FURTHER INFORMATION CONTACT: Superintendent, Olympic National Park, at the above address or at telephone number (360) 452–4501, ext. 207.

Dated: December 19, 1996.

William C. Walters,

Deputy Field Director, Pacific West Field Area.

[FR Doc. 96–32826 Filed 12–24–96; 8:45 am]

BILLING CODE 4310–70–P

Missouri National Recreational River Advisory Group

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets the schedule for the forthcoming meeting of the Missouri National Recreational River Advisory Group. Notice of this meeting is required under the Federal Advisory Committee Act (Public Law 92–463).

DATE, TIME, AND ADDRESS: Wednesday, January 29, 1997; 1:30 p.m.; Niobrara State Park Group Lodge, Niobrara, Nebraska. In the event of cancellation of the meeting scheduled above, a snow date will be in effect as scheduled as follows:

Snow Date: Wednesday, February 5, 1997; 1:30 p.m.

ADDRESSES: Niobrara State Park Group Lodge, Niobrara, Nebraska.

AGENDA: (1) Discussion of a group advisory statement concerning the draft general management plan; (2) Public comments to the advisory group; (3) Final discussions and approval of the advisory group statement to the Secretary of the Interior concerning the draft plan; (4) Proposed agenda, date,

and time, of the next Advisory Group meeting. The meeting is open to the public. Interested persons may make oral/written presentation to the Commission or file written statements. Requests for time for making presentations may be made to the Superintendent prior to the meeting or to the Chair at the beginning of the meeting. In order to accomplish the agenda for the meeting, the Chair may want to limit or schedule public presentations.

The meeting will be recorded for documentation and a summary in the form of minutes will be transcribed for dissemination. Minutes of the meeting will be made available to the public after approval by the Commission members. Copies of the minutes may be requested by contacting the Superintendent. An audio tape of the meeting will be available at the headquarters office of the Niobrara/Missouri National Scenic Riverways in O'Neill, Nebraska.

FOR FURTHER INFORMATION CONTACT: Superintendent Warren Hill, Niobrara/Missouri National Scenic Riverways, P.O. Box 591, O'Neill, Nebraska 68763–0591, or by phone at 402–336–3970.

SUPPLEMENTARY INFORMATION: The Advisory Group was established by the law that established the Missouri National Recreational River, Public Law 102–50. The purpose of the group, according to its charter, is to advise the Secretary of the Interior on matters pertaining to the development of a management plan, and management and operation of the recreational river. The Missouri National Recreational River is the 39-mile free flowing segment of the Missouri from Fort Randall Dam to the vicinity of Springfield in South Dakota.

Dated: December 17, 1996.

William W. Schenk,

Field Director, Midwest Field Area.

[FR Doc. 96–32750 Filed 12–24–96; 8:45 am]

BILLING CODE 4310–70–P

Bureau of Reclamation

Notice of Request for Approval of an Information Collection

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intentions of the Bureau of Reclamation (Reclamation) to seek approval of an information collection for a voluntary customer survey. The surveys will be conducted in the Great Plains Region, which includes all of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and large portions of Montana, Wyoming, Colorado, and Texas. The mission of the Bureau of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public. The collections will obtain information for determining the level of satisfaction with the service provided and to identify any areas where improvements in providing service can be made.

DATES: Comments on this notice must be received by February 24, 1997.

FOR FURTHER INFORMATION CONTACT: To submit comments on this information collection contact: Bureau of Reclamation, Information Collection Officer, D–7924, P.O. Box 25007, Denver, Colorado 80225–0007; telephone: (303) 236–0305 extension 459; Internet address: infocoll2do.usbr.gov.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of Reclamation, including whether the information shall have practical utility; (b) the accuracy of Reclamation's estimated burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Title: Great Plains Region Voluntary Customer Survey to Implement Executive Order 12862.

Description of respondents: Reclamation's customers include individuals from the related water and electrical service utilities, i.e., Federal, State, and local entities, Native Americans, universities, the press, environmental groups, the legal community, consultants, and the general public.

Frequency: Semi-annual questionnaires will be provided to a major sampling of customers.

Estimated completion time: An average of 30 minutes is required to fill out the form.

Annual responses: 7,000.

Annual burden hours: 3,500 hours.

Dated: December 18, 1996.

Robert M. Sims,

Manager, Property and Facilities.

[FR Doc. 96–32849 Filed 12–24–96; 8:45 am]

BILLING CODE 4310–94–M

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval for the collections of information for a technical training program course effectiveness evaluation.

DATES: Comments on the proposed information collection must be received by February 24, 1997, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Room 210–SIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact John A. Trelease, at (202) 208–2783.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies information collections that OSM will be submitting to OMB for approval.

OSM will request a 3-year term of approval for the information collection activity.

Comments are invited on: (1) the need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will be included in OSM's

submissions of the information collection requests to OMB.

The following information is provided for the information collection: (1) title of the information collection; (2) OMB control number; (3) summary of the information collection activity; and (4) frequency of collection, description of the respondents, estimated total annual responses, and the total annual reporting and recordkeeping burden for the collection of information.

Title: Technical Training Program Course Effectiveness Evaluation.

OMB Control Number: None.

Summary: Executive Order 12862 requires agencies to survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services. The information supplied by this evaluation will determine customer satisfaction with OSM's training program and identify needs of respondents.

Bureau Form Number: None.

Frequency of Collection: On Occasion.

Description of Respondents: State regulatory authority and Tribal employees and their supervisors.

Total Annual Responses: 650.

Total Annual Burden Hours: 110 hours.

Dated: December 27, 1996

Sarah E. Donnelly,

Acting Chief, Division of Regulatory Support.

[FR Doc. 96–32764 Filed 12–24–96; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Overseas Private Investment Corporation

Submission for OMB review; Comment Request

AGENCY: Overseas Private Investment Corporation, IDCA.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), Agencies are required to publish a Notice in the **Federal Register** notifying the public that the Agency has prepared an information collection request for OMB review and approval and has requested public review and comment on the submission. OPIC published its first **Federal Register** Notice on this information collection request on October 17, 1996, in 61 FR 54214, at which time a 60-day comment period was announced. This comment period ended on December 16, 1996. No comments were received in response to this Notice.

This information collection submission has now been submitted to OMB for review. Comments are again being solicited on the need for the information, its practical utility, the accuracy of the Agency's burden estimate, and on ways to minimize the reporting burden, including automated collection techniques and uses of other forms of technology.

The proposed form under review is summarized below.

DATES: Comments must be received within 30 calendar days of this Notice.

ADDRESSES: Copies of the subject form and the request for review submitted to OMB may be obtained from the Agency Submitting Officer. Comments on the form should be submitted to the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

OPIC Agency Submitting Officer: Lena Paulsen, Manager, Information Center, Overseas Private Investment Corporation, 1100 New York Avenue, N.W., Washington, D.C. 20527; 202/336–8565.

OMB Reviewer: Victoria Wassmer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10102, 725 17th Street, N.W., Washington, DC 20503, 202/395–5871.

Summary of Form Under Review

Type of Request: Revised form.

Title: Application for Political Risk Investment Insurance.

Form Number: OPIC–52.

Frequency of Use: Once per investor per project.

Type of Respondents: Business or other institutions (except farms); individuals.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies or citizens investing overseas.

Reporting Hours: 6 hours per project.

Number of Response: 160 per year.

Federal Cost: $4,000 per year.

Authority for Information Collection: Sections 231, 234(a), 239(d), and 240A of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The application is the principal document used by OPIC to determine the investor's and project's eligibility, assess the environmental impact and developmental effects of the project, measure the economic effects for the United States and the host country economy, and collect information for underwriting analysis.

Dated: December 19, 1996.

James R. Offutt,

Assistant General Counsel, Department of Legal Affairs.

[FR Doc. 96–32754 Filed 12–24–96; 8:45 am]

BILLING CODE 3210–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–748 (Final)]

Engineered Process Gas Turbo-Compressor Systems From Japan

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–748 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from Japan of engineered process gas turbo-compressor systems (EPGTS), whether assembled or unassembled, and whether complete or incomplete. The systems covered by this investigation are only those used in the petrochemical and fertilizer industries, in the production of ethylene, propylene, ammonia, urea, methanol, refinery and other petrochemical products. The subject imports are provided for in subheadings 8414.80.20, 8414.90.40, 8419.60.50, 8406.81.10, 8406.82.10, 8406.90.20 through 8406.90.45, 8483.40.50, 8501.53.40, 8501.53.60, 8501.53.80, and 9032.89.60 of the Harmonized Tariff Schedule of the United States. Excluded from this investigation are spare parts, including parts or components for the revamp or repair of an existing EPGTS, that are sold separately from an original contract for an EPGTS.

For further information concerning the conduct of this phase of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207), as amended by 61 FR 37818, July 22, 1996.

EFFECTIVE DATE: December 9, 1996.

FOR FURTHER INFORMATION CONTACT: Diane J. Mazur (202–205–3184), Office of Investigations, U.S. International

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Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of engineered process gas turbo-compressor systems from Japan are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. § 1673b). The investigation was requested in a petition filed on May 8, 1996, by Dresser-Rand Company, Corning, NY.

Participation in the Investigation and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. § 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on April 10, 1997, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on April 24, 1997, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before April 16, 1997. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on April 18, 1997, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is April 17, 1997. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is May 1, 1997; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before May 1, 1997. On May 23, 1997, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before May 28, 1997, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: December 16, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–32777 Filed 12–24–96; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 332–288]

Ethyl Alcohol for Fuel Use; Determination of the Base Quantity of Imports

AGENCY: United States International Trade Commission.

ACTION: Notice of Determination.

EFFECTIVE DATE: December 17, 1996.

SUMMARY: Section 7 of the Steel Trade Liberalization Program Implementation Act, as amended (19 U.S.C. 2703 note), which concerns local feedstock requirements for fuel ethyl alcohol imported by the United States from CBI-beneficiary countries, requires the Commission to determine annually the U.S. domestic market for fuel ethyl alcohol during the 12-month period ending on the preceding September 30. The domestic market estimate made by the Commission is to be used to establish the "base quantity" of imports that can be imported with a zero percent local feedstock requirement. The base quantity to be used by the U.S. Customs Service in the administration of the law

is the greater of 60 million gallons or 7 percent of U.S. consumption as determined by the Commission. Beyond the base quantity of imports, progressively higher local feedstock requirements are placed on imports of fuel ethyl alcohol and mixtures from the CBI- beneficiary countries.

For the 12-month period ending September 30, 1996, the Commission has determined the level of U.S. consumption of fuel ethyl alcohol to be 1.1 billion gallons. Seven percent of this amount is 79.7 million gallons (these figures have been rounded). Therefore, the base quantity for 1997 should be 79.7 million gallons.

FOR FURTHER INFORMATION CONTACT: Ms. Jean Harman (202) 205–3313 in the Commission's Office of Industries. For information on legal aspects of the investigation contact Mr. William Gearhart of the Commission's Office of the General Counsel at (202) 205–3091. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

Background

For purposes of making determinations of the U.S. market for fuel ethyl alcohol as required by section 7 of the Act, the Commission instituted Investigation No. 332–288, Ethyl Alcohol for Fuel Use: Determination of the Base Quantity of Imports, in March 1990. The Commission uses official statistics of the U.S. Department of Energy to make these determinations as well as the PIERS database of the *Journal of Commerce*, which is based on U.S. export declarations.

Section 225 of the Customs and Trade Act of 1990 (Public Law 101–382, August 20, 1990) amended the original language set forth in the Steel Trade Liberalization Program Implementation Act of 1989. The amendment requires the Commission to make a determination of the U.S. domestic market for fuel ethyl alcohol for each year after 1989.

Issued: December 17, 1996.
By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–32779 Filed 12–24–96; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 731–TA–740 (Final)]

Sodium Azide From Japan

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: December 20, 1996.

FOR FURTHER INFORMATION CONTACT: Fred Ruggles (202–205–3187), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION: On August 16, 1996, the Commission established a schedule for the conduct of the final phase of the subject investigation (61 FR 50330, September 25, 1996). Counsel for the petitioner has requested that the Commission postpone the date for the submission of prehearing briefs until after December 30, 1996, the date on which Commerce's final determination is due. Accordingly, the Commission has postponed the date for submission of prehearing briefs to December 31, 1996; all other dates remain the same.

For further information concerning this investigation see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207), as amended in 61 FR 37818, July 22, 1996.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to sections 207.21 and 207.23 of the Commission's rules.

By order of the Commission.
Issued: December 20, 1996

Donna R. Koehnke,

Secretary.

[FR Doc. 96–32829 Filed 12–24–96; 8:45 am]

BILLING CODE 7020–02–P

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–96–24]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: January 9, 1997 at 9:30 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 731–TA–757–759 (Preliminary) (Collated Roofing Nails from China, Korea, and Taiwan)—briefing and vote.
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:.
Issued: December 23, 1996.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–33011 Filed 12–23–96; 2:35 pm]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed Stipulated Final Order for Injunctive Relief ("Consent Decree") in *United States* v. *City of San Diego, et al.*, Civil Action No. 88–1101–B, was lodged on December 13, 1996, with the United States District Court for the Southern District of California. The United States brought a complaint under the Clean Water Act (the "Act"), as amended, 33 U.S.C. §§ 1251 *et seq.*, against the City of San Diego (the "City") and against the statutory defendant the State of California for violations of the Act in connection with the City's wastewater treatment system.

The proposed consent decree requires the City to implement a number of long-term and short-term remedial measures designed to ensure compliance with the Act on a permanent, consistent basis. These measures include, *inter alia*, programs to replace concrete sewer mains in the City's sewer collection system and to conduct a comprehensive audit of all pump stations and force mains to augment existing records to provide a basis for future planning efforts.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *City of*

San Diego, et al., DOJ Ref. #90–5–1–1–2987.

The proposed consent decree may be examined at the office of the United States Attorney, Southern District of California, 880 Front Street, San Diego, California 92101; at the Region IX Office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $4.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–32824 Filed 12–24–96; 8:45 am]

BILLING CODE 4410–15–M

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Request OMB emergency approval; affidavit of support under section 213A of the Act.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. OMB approval has been requested by December 29, 1996. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulatory Affairs, Attention: Ms. Deborah Bond, 202–395–7316, Department of Justice Desk Officer, Washington, DC 20503.

During the first 60 days of this same period a regular review of this information collection is also being undertaken. Comments are encouraged and will be accepted until February 24, 1997. Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points.

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New Information Collection.

(2) *Title of the Form/Collection:* Affidavit of Support Under Section 213A of the Act.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–864. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The form is mandated by law for a petitioning relative to submit an affidavit on their relative's behalf. The executed form creates a contract between the sponsor and any entity that provides means-tested public benefits.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 610,000 respondents at 1.15 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 701,500 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Mr. Richard A. Sloan, 202–616–7600, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: December 20, 1996.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 96–32830 Filed 12–24–96; 8:45 am]

BILLING CODE 4410–18–M

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Request OMB emergency approval; medical certification for disability exceptions.

The Department of Justice, Immigration and Naturalization has submitted the following information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. OMB approval has been requested by December 29, 1996. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulatory Affairs, Attention: Ms. Deborah Bond, 202–395–7316, Department of Justice Desk Officer, Washington, DC 20503.

During the first 60 days of this same period a regular review of this information collection is also being undertaken. Comments are encouraged and will be accepted until February 24, 1997. Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points.

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submission of responses.

Overview This Information Collection

(1) *Type of Information Collection:* New Information Collection.

(2) *Title of the Form/Collection:* Medical Certification for Disability Exceptions.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–648. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individual or Households. These medical certifications, executed by licensed health care providers, will be used to support an applicant's claim to an exception of the literacy and history/government knowledge requirements found in section 312 of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 300,000 respondents at 3 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 900,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Mr. Richard A. Sloan, 202–616–7600, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: December 26, 1996.

Robert B. Briggs,

Deaprtment Clearance Officer, United States Department of Justice.

[FR Doc. 96–32831 Filed 12–24–96; 8:45 am]

BILLING CODE 4410–18–M

Agency Information Collection Activities: Revision of Existing Collection; Comment Request

ACTION: Notice of information collection under review; application—alternative inspection services.

The Department of Justice, Immigration and Naturalization Service submitted the following information collection request utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act 1995. This proposed information collection was previously published in the **Federal Register** on October 15, 1996, at 61 FR 53766, allowing for an emergency review with a 60-day public comment period. No comments were received by the Immigration and Naturalization Service. The Office of Management and Budget approved this information collection under emergency review.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until January 23, 1997. This process is conducted in accordance with 5 CFR Part 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC, 20530. Additionally, comments may be submitted to DOJ via facsimile to 202–514–1590.

Written comments and suggestions from the public and affected agencies should address one or more of the following points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The proposed collection is listed below:

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection.* Application—Alternative Inspection Services.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–823. Inspections Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The collected data will be used to determine eligibility for automated inspections programs and to secure those data elements necessary to confirm enrollment at the time of application for admission to the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 500,000 respondents at 70 minutes (1.166) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 583,000 annual burden hours.

Public comment on this proposed information collection is strongly encouraged.

Dated: December 19, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 96–32705 Filed 12–24–96; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Employment and Training Administration

Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

TA–W–32,754, Bull HN Information Systems Incorporated, Billerica, Massachusetts; TA–W–32,754A, Bull HN Information Systems Incorporated, Brighton, Massachusetts; TA–W–32,754B, Bull HN Information Systems Incorporated, Phoenix, Arizona; and various field offices in the following States: TA–W–32,754C—AL, TA–W–32,754D—CA, TA–W–32,754E—CO, TA–W–32,754F—FL, TA–W–32,754G—GA, TA–W–32,754H—IA, TA–W–32,754I—IL, TA–W–32,754J—MA, TA–W–32,754K—ME, TA–W–32,754L—MI, TA–W–32,754M—MN, TA–W–32,754N—MO, TA–W–32,754O—NE, TA–

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W–32,754P—NH, TA–W–32,754Q—NY, TA–W–32,754R—OH, TA–W–32,754S—OK, TA–W–32,754T—OR, TA–W–32,754U—PA, TA–W–32,754V—TX, TA–W–32,754W—VA.

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 5, 1996, applicable to all workers of Bull HN Information Systems Incorporated located in Billerica and Brighton, Massachusetts, Phoenix, Arizona, and various field offices at numerous United States locations. The notice will soon be published in the **Federal Register**.

At the request of the State agency, the Department reviewed the certification for workers at the subject firm. The Department is amending that part of the certification for TA–W–32,754 related to the September 10, 1995 impact date for workers at Bull HN Information Systems, Incorporated, in order to avoid a coverage overlap with certifications TA–W–29,522 and TA–W–32,860 for the same groups of workers at Bull HN Information Systems.

Accordingly, the Department is deleting the September 10, 1995 impact date set in TA–W–32,754 for all workers at all locations of Bull HN Information Systems and inserting a new impact date of August 19, 1996.

The amended notice applicable to TA–W–32,754 is hereby issued as follows:

"All workers of Bull HN Information Systems, Incorporated, Billerica, Massachusetts; Bull HN Information Systems Incorporated, Brighton, Massachusetts; Bull HN Information Systems Incorporated, Phoenix, Arizona; and, various field offices in Alabama, California, Colorado, Florida, Georgia, Iowa, Illinois, Massachusetts, Maine, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Texas, and Virginia engaged in employment related to the production of computer circuit boards and other computer related materials who became totally or partially separated from employment on or after August 19, 1996 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed in Washington, DC, this 10th day of December, 1996.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–32792 Filed 12–24–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,593, TA–W–32,593A]

Connor Forest Industries, Inc., Wakefield and Baraga, Michigan; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on September 12, 1996, applicable to workers of Connor Forest Industries, Inc. located in Wakefield, Michigan. The notice was published in the Federal Register on October 1, 1996 (61 FR 51304).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New findings show that workers separations have occurred at the subject firm's Baraga, Michigan location. The workers produce lumber.

The intent of the Department's certification is to include all workers of Connor Forest Industries, Inc., who were affected by increased imports of lumber. Accordingly, the Department is amending the worker certification to include the workers of Connor Forest Industries, Inc. located in Baraga, Michigan.

The amended notice applicable to TA–W–32,593 is hereby issued as follows:

All workers of Connor Forest Industries, Inc., Wakefield, Michigan (TA–W–32,593) and Baraga, Michigan (TA–W–32,593A), who became totally or partially separated from employment on or after July 12, 1995, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of December 1996.

Russell T. Kile,

Program Manager, Policy and Reemployemnt Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–32677 Filed 12–24–96; 8:45 am]

BILLING CODE 4510–30–M

Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

E.I. DuPont DeNemours & Company, TA–W–32,453, Parlin, New Jersey, and TA–W–32,453A; Clifton, New Jersey.

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on June 17, 1996, applicable to all workers of E.I. DuPont DeNemours & Company, located in Parlin, New Jersey.

The notice was published in the Federal Register on August 6, 1996 (61 FR 40852).

Based on new information received from the company, the Department reviewed the certification for workers of the subject firm. New information provided by the company shows that the subject firm's Clifton, New Jersey facility is scheduled to shutdown by the end of 1996; at which time, all workers will be permanently laid off from the subject firm's Clifton, New Jersey location. These workers are engaged in employment related to the distribution and marketing of graphic arts film manufactured by its affiliate located in Parlin, New Jersey.

The intent of the Department's certification is to include all workers of E.I. DuPont DeNemours & Company who were adversely affected by imports.

Accordingly, the Department is amending the certification to cover the workers separated from E.I. DuPont DeNemours & Company, located in Clifton, New Jersey.

The amended notice applicable to TA–W–32,453 is hereby issued as follows:

"All workers of E.I. DuPont DeNemours & Company, located in Parlin, New Jersey (TA–W–32,453) and E.I. DuPont DeNemours & Company, located in Clifton, New Jersey (TA–W–32,453A) who became totally or partially separated from employment on or after June 3, 1995 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, DC, this 10th day of December 1996.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–32783 Filed 12–24–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32, 813]

E.I. DuPont DeNemours & Company, Clifton, New Jersey; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 15, 1996 in response to a worker petition which was filed September 26, 1996 on behalf of workers at E.I. DuPont DeNemours & Company, located in Clifton, New Jersey (TA–W–32,813).

The petitioning group of workers are covered under an existing Trade Adjustment Assistance certification (TA–W–32, 453). Consequently, further investigation in this case would service

no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 10th day of December 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services Office of Trade Adjustment Assistance.

[FR Doc. 96–32784 Filed 12–24–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32, 718, TA–W–32, 718A, and TA–W–32, 718B]

The Olga Company Division of Warnaco, Inc., Fillmore, California; The Olga Company Division of Warnaco, Inc., Santa Paula, California; The Olga Company Division of Warnaco, Inc., City of Commerce, California; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) as amended by the Omnibus Trade and Competitiveness Act of 1988 (P.L. 100–418), the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order the make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is determined in this case that all of the requirements have been met.

The investigation was initiated in response to a petition received on September 9, 1996, and filed on behalf of workers at The Olga Company, Division of Warnaco, Inc., Fillmore, Santa Paula, and City of Commerce, California. The workers produce women's intimate apparel.

Workers at the subject plants were certified eligible for NAFTA Transitional Adjustment benefits on August 14, 1996 (NAFTA–01155A and 01155B).

Warnaco, Inc., is transferring sewing and finishing work at the subject facilities to locations abroad. Apparel formerly sewn and finished at the subject plants is being imported from the foreign plants into the United States.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's intimate apparel produced at The Olga Company, Division of Warnaco, Inc., Fillmore, Santa Paula, and City of Commerce, California, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of The Olga Company, Division of Warnaco, Inc., Fillmore, Santa Paula, and City of Commerce, California, who became totally or partially separated from employment on or after July 16, 1995, through two years from the date of certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 30th day of October, 1996.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–32786 Filed 12–24–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,966]

Velco Electronics, Inc., Fishers, New York; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on November 25, 1996 in response to a worker petition which was filed on October 30, 1996 on behalf of workers at Velco Electronics, Inc., Fishers, New York.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 6th day of December, 1996.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–32787 Filed 12–24–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,808]

Warnaco, Incorporated, Olga Division, City of Commerce, California; Notice of Termination of Certification

This notice terminates the Certification Regarding Eligibility to Apply For Worker Adjustment Assistance issued by the Department on December 6, 1996, for all workers of Warnaco, Incorporated, Olga Division, City of Commerce, California. The notice will soon be published in the **Federal Register**.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Findings show that the worker group is covered under an existing TAA certification (TA–W–32,718B).

Since the workers are already covered by a TAA certification, the continuation of the certification would serve no purpose and the certification has been terminated.

Signed at Washington, D.C., this 10th day of December 1996.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–32785 Filed 12–24–96; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA–01049]

The Goodyear Tire & Rubber Company, Air Springs Manufacturing Division, Green, Ohio; Amended Certification Regarding Eligibility to Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Notice of Revised Determination Regarding Eligibility to Apply for NAFTA-Transitional Adjustment Assistance on August 15, 1996, applicable to all workers of the Goodyear Tire & Rubber Company producing air sleeves in Green, Ohio. The notice was published in the **Federal Register** on September 6, 1996 (61 FR 47190).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Review of the worker certification revealed that the workers produced air sleeves. For clarification, air sleeve is also know as shock sleeve. New information provided by the Goodyear Tire & Rubber Company shows that the company will move its air spring production from Green, Ohio, to its facility in Mexico. The transition will begin in 1997, and worker separations will begin in the first quarter of 1997. Accordingly, the Department is amending the certification to include all workers of the Goodyear Tire & Rubber Company, Green, Ohio engaged in employment related to the production of air springs. This amendment is also intended to clarify that the product air sleeve is also know as shock sleeve.

The intent of the Department's certification is to include all workers of the subject firm adversely affected by the shift in production to Mexico.

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The amended notice applicable to NAFTA–01049 is hereby issued as follows:

All workers of the Goodyear Tire & Rubber Company, Green, Ohio engaged in employment related to the production of air sleeves also know as shock sleeves, and air springs, who became totally or partially separated from employment on or after May 25, 1995 are eligible to apply for NAFTA–TAA assistance under Section 250 of the Trade Act of 1974.

Signed at Washington, DC, this 11th day of December 1996.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–32788 Filed 12–24–96; 8:45 am]

BILLING CODE 4510–30–M

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning two proposed extension collections: (1) Work Experience and Career Exploration Programs—29 CFR Part 570.35A; and (2) Regulations to Implement the Remedial Education Provisions of the Fair Labor Standards Amendments of 1989—29 CFR 516.34. Copies of the proposed information collection requests can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before February 26, 1997. The Department of Labor is particularly interested in comments which:

- evaluate whether the proposed collection of information is necessary for the performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSEE: Mr. Rich Elman, U.S. Department of Labor, 200 Constitution Ave., N.W., Room S–3201, Washington, D.C. 20210, telephone (202) 219–6375 (this is not a toll-free number), fax 202–219–6592.

SUPPLEMENTARY INFORMATION:

Work Experience and Career Exploration Programs (WECEP)—29 CFR Part 570.35A

I. Background: Section (3)(1) of the Fair Labor Standards Act (FLSA) provides the Secretary of Labor with the authority to prescribe employment standards for minors under the age of 18. It further permits the waiver of those standards for minors between 14 and 15 years of age in occupations other than manufacturing and mining, where such employment is confined to periods which will not interfere with the health and well-being of such minors. Section 570.35(b)(2) requires a State Educational Agency to file an application for approval of a State WECEP program as one not interfering with schooling or with the health and well-being of the minors involved and therefore not constituting oppressive child labor. Section 570.35a(b)(3)(vi) of the regulations requires each student participating in a WECEP to execute a written training agreement signed by the teacher-coordinator, the employer and the student and signed or otherwise consented by the student's parent or guardian. Section 570.35a(b)(4)(ii) of the regulations requires that the State Educational Agency keep a record of the names and addresses of each school enrolling WECEP students and the number of enrollees in each unit. A copy of the written training agreement for each student participating in the program is to be kept in the State Educational Agency Office or in the local educational office for a period of 3 years from the date of enrollment in the program.

II. Current Actions: The Department of Labor seeks extension approval to collect this information to carry out its responsibility to determine whether a WECEP program meets requirements specified in Section 570.35a of the Regulations, 29 CFR Part 570, as necessary to permit the employment of minors 14 and 15 years of age under conditions and in occupations which are otherwise prohibited by Child Labor Regulation 3. Without this information, the Administrator, Wage and Hour Division, would not have the means to determine whether or not the proposed program meets the regulatory criteria.

Regulations to Implement the Remedial Education Provisions of the Fair Labor Standards Amendments of 1989—29 CFR 516.34

I. Background: The Fair Labor Standards Act (FLSA) sets minimum wage, overtime (OT) pay, child labor and recordkeeping standards. The requirements apply to employees engaged in interstate commerce or in the production of goods for interstate commerce and to employees in certain enterprises (including employees of a public agency). However, the law provides exemptions for some of its standards for employees in certain types of employment. Pursuant to Sec. 7(q) of the FLSA, as amended, employees who lack a high school diploma or whose reading level or basic skills are at or below the eighth grade level may be required to attend up to ten hours per week of remedial education. The employer-provided remedial education must be designed to provide these basic skills or to fulfill the requirements for a high school diploma or General Education Development (GED) Certificate and may not include job-specific training. Employees subject to OT provisions of the FLSA ordinarily must be paid one and one-half times their regular rates of pay for all hours worked over 40 in each workweek (FLSA Sec. 7 (a)). The additional hours devoted to such remedial education, whether voluntarily attended by the employee or required as a condition of employment would not have to be compensated at the time and one-half OT rate set forth in FLSA Sec. 7(a). However, employees must receive compensation at their regular rate of pay for time spent receiving such remedial education. The basic recordkeeping requirements for employers of employees subject to the FLSA are contained in Regulations, 29 CFR Part 516, Records to be Kept by Employers.

II. Current Actions: The Department of Labor seeks extension approval to collect this information to carry out its responsibility to review and determine employers' compliance with Sec. 7(q) of FLSA. Failure to require such records to be kept would make it very difficult to determine compliance.

Current Actions: The Department of Labor seeks extension approval to collect this information to carry out its responsibility to review and determine employers' compliance with Sec. 7(q) of FLSA. Failure to require such records to be kept would make it very difficult to determine compliance.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Work Experience and Career Exploration Programs (WECEP)—29 CFR Part 570.35A.

OMB Number: 1215–0121.

Affected Public: State or Local or Tribal government; Individuals or households.

Total Respondents: 16,016.

Frequency: Biennially.

Total Responses: 16,016.

Estimated Time per Response for Reporting: 2 hours per WECEP application; 1 hour per training agreement.

Average Time per Response for Recordkeeping: 2 hours per WECEP; one-half minute per training agreement.

Estimated Total Burden Hours: 8,166.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $3.00.

Type of Review: Extension.

Agency: Employment Standards Administration

Title: Regulations to Implement the Remedial Education Provisions of the Fair Labor Standards Amendments of 1989—29 CFR 516.34.

OMB Number: 1215–0175.

Affected Public: Business or other for-profit; Not-for-profit institutions; State or Local or Tribal government.

Total Respondents: 15,000.

Frequency: On occasion.

Total Responses: 15,000.

Average Time Per Response for Reporting: 10 minutes per affected employee per year.

Estimated Total Burden Hours: 5,000.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 19, 1996.

Cecily A. Rayburn,

Director, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 96–32789 Filed 12–24–96; 8:45 am]

BILLING CODE 4510–27–M

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Roof Control Plans

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to Roof Control Plans. MSHA is particularly interested in comments which:

- evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed below in the Contact section of this notice.

DATES: Submit comments on or before February 24, 1997.

ADDRESSES: Written comments shall be mailed to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via E-mail to psilvey@msha.gov, along with an original printed copy. Ms. Silvey can be reached at (703) 235–1910 (voice) or (703) 235–5551 (facsimile).

FOR FURTHER INFORMATION CONTACT: George M. Fesak, Director, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 715, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Mr. Fesak can be reached at gfesak@msha.gov (Internet E-mail), (703) 235-8378 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 302(a) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. § 846, requires that a roof control plan and revisions thereof suitable to the roof conditions and mining system of each coal mine be first approved by the Secretary of Labor (Secretary) before implementation by the operator. The plan must show the type of support and spacing approved by the Secretary, and the plan must be reviewed at least every 6 months by the Secretary.

Under 30 CFR § 75.221, the information required to be submitted and approved in the roof control plan includes the following: (1) the name and address of the company; (2) the name, address, mine identification number and location of the mine; (3) the name and title of the company official responsible for the plan; (4) a description of the mine strata; (5) a description and drawings of the sequence of installation and spacing of supports for each method of mining used; (6) the maximum distance that an ATRS system is to be set beyond the last row of permanent support (if appropriate); (7) specifications and installation procedures for liners or arches (if appropriate); (8) drawings indicating the planned width of openings, size of pillars, method of pillar recovery, and the sequence of mining pillars; (9) a list of all support materials required to be used in the roof, face and rib control system; (10) the intervals at which test holes will be drilled (if appropriate); and (11) a

description of the methods to be used for the protection of persons. Roof control plans are evaluated by Mine Safety and Health Administration (MSHA) specialists on the basis of the criteria set forth in 30 CFR 75.222. The District Manager may require additional measures in plans and may approve roof control plans that do not conform to the applicable criteria in this section, provided that effective control of the roof, face, and ribs can be maintained.

Under 30 CFR 75.223, a mine operator is required to propose revisions to the roof control plan when conditions indicate that the plan is not suitable for controlling the roof, face, ribs, or coal or rock bursts, or when accident and injury experience at the mine indicates the plan is inadequate. Revisions shall also contain a mine map plot of each unplanned roof or rib fall and coal or rock burst that occurs in the active workings when certain criteria are met. The regulations also requires MSHA to review the plan every six months.

II. Current Actions

Falls of roof, face and rib continue to be a leading cause of injuries and death in underground coal mines. All underground coal mine operators are required to develop and submit roof control plans to MSHA for evaluation and approval. These plans provide the means to instruct miners, who install roof supports, in the minimum requirements and placement of roof supports. The plan also provides a reference for mine supervisors to assist them in compliance with the plan requirements. In that regard the plan is a working document for the miners.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Roof Control Plans (30 CFR 75.220, 75.221, and 75.223).

Agency Number: 1219–0004.

Recordkeeping: Indefinite.

Affected Public: Business or other for-profit.

Cite/reference	Total respondents	Frequency	Total responses	Average time per response	Burden hours
75.220	12	On occasion	12	24 hours	288
75.223	1,105	On occasion	2,391	5 hours	11,955
75.223(b)	1,117	On occasion	2,025	5 minutes	162
Totals	2,234		4,428	2.8 hours	12,405

Estimated Total Burden Costs: $12,015.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 18, 1996.

George M. Fesak,

Director, Program Evaluation and Information Resources.

[FR Doc. 96–32790 Filed 12–24–96; 8:45 am]

BILLING CODE 4510–43–M

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Notification of Commencement of Operations and Closing of Mines

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed new/revision/extension/reinstatement of the information collection related to the Notification of Commencement of Operations and Closing of Mines. MSHA is particularly interested in comments which:

- evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed below in the Addressee section of this notice.

DATES: Submit comments on or before February 24, 1997.

ADDRESSES: Written comments shall be mailed to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via E-mail to psilvey@msha.gov, along with an original printed copy. Ms. Silvey can be reached at (703) 235–1910 (voice) or (703) 235–5551 (facsimile).

FOR FURTHER INFORMATION CONTACT:

George M. Fesak, Director, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 715, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Mr. Fesak can be reached at gfesak@msha.gov (Internet E-mail), (703) 235–8378 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Under 30 CFR §§ 56.1000 and 57.1000, operators of metal and nonmental mines must notify the Mine Safety and Health Administration (MSHA) when the operation of a mine will commence or when a mine is closed. Openings and closings of mines are dictated by the economic strength of the commodity mined, and by weather conditions which prevail at the mine site during various seasons.

MSHA must be aware of openings and closing so that its resources can be used efficiently in achieving the requirements of the Mine Act.

II. Current Actions

Section 103(a) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. § 813, requires that each underground mine be inspected in its entirety at lease four times a year, and each surface mine at least two times per year. Mines which operate only during warmer weather must be scheduled for inspection during the spring, summer and autumn seasons. Mines are sometimes located a great distance from MSHA field offices and the notification required by this standard precludes wasted time and trips.

Type of Review: Reinstatement (without change).

Agency: Mine Safety and Health Administration.

Title: Notification of Commencement of Operations and Closing of Mines.

OMB Number: 1219–0092.

Affected Public: Business or other for-profit.

Cite/Reference/Form/etc: 30 CFR 56.1000 and 57.1000.

Total Respondents: 2,300.

Frequency: On occasion.

Total Responses: 2,070.

Average Time per Response: .125 hours.

Estimated Total Burden Hours: 259 hours.

Estimated Total Burden Cost: $1,438.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 18, 1996.

George M. Fesak,

Director, Program Evaluation and Information Resources.

[FR Doc. 96–32791 Filed 12–24–96; 8:45 am]

BILLING CODE 4510–43–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Combined Arts Advisory Panel Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Advisory Panel (Planning & Stabilization Section) to the National Council on the Arts will be held on January 13–16, 1997 in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C., 20506. The meeting will take place from 9:00 a.m. to 7:30 p.m. on January 13, 14 and 15 and from 9:00 a.m. to 5:00 p.m. on January 16.

This meeting will be open to the public from 2:30 p.m. to 5:00 p.m. on January 16 for a discussion of guidelines and policy related issues. The remaining portions of the meeting, from 9:00 a.m. to 7:30 p.m. on January 13, 14, and 15 and from 9:00 a.m. to 2:30 p.m. on January 16, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the June 22, 1995 determination of the Chairman, these sessions will be closed to the public pursuant to subsection (c)(4) (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, D.C. 20506, 202/682–5532, TYY/TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Panel Coordinator, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5691.

Dated: December 16, 1996.

Kathy Plowitz-Worden,

Panel Coordinator, National Endowment for the Arts.

[FR Doc. 96–32709 Filed 12–24–96; 8:45 am]

BILLING CODE 7537–01–M

National Endowment for the Arts; Combined Arts Advisory Panel Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Advisory Panel (Creation & Presentation Section #2) to the National Council on the Arts will be held on January 6–10, 1997.

The meeting will be held from 9:00 a.m. to 7:30 p.m. on January 6 and January 7; from 9:00 a.m. to 8:30 p.m. on January 8 and 9; and from 9:00 a.m. to 5:00 p.m. on January 10. This meeting will be held in Room 716, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C., 20506.

A portion of this meeting, from 2:30 p.m. to 5:00 p.m. on January 10, will be open to the public for a discussion of guidelines and policy related issues.

The remaining portions of this meeting, from 9:00 a.m. to 7:30 p.m. on January 6 and January 7; from 9:00 a.m. to 8:30 p.m. on January 8 and 9; and from 9:00 a.m. to 2:30 p.m. on January 10, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of June 22, 1995, these sessions will be closed to the public pursuant to subsection (c)(4),(6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, or advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Panel Coordinator, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5691.

Dated: December 16, 1996.

Kathy Plowitz-Worden,

Panel Coordinator, National Endowment for the Arts.

[FR Doc. 96–32803 Filed 12–24–96; 8:45 am]

BILLING CODE 7537–01–M

Meetings of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–473, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

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FOR FURTHER INFORMATION CONTACT: Michael S. Shapiro, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that this meeting will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* January 6, 1997
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 430
   Program: This meeting will review applications for Education Development and Demonstration in Literature and Composition, K–16 submitted to the Division for Research and Education, for projects at the October 1, 1996 deadline.
2. *Date:* January 7, 1997
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 317
   Program: This meeting will review applications for Collaborative Research in Near Eastern Studies, submitted to the Division of Research and Education for projects at the September 1, 1996 deadline.
3. *Date:* January 8, 1997
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 430
   Program: This meeting will review applications for Education Development and Demonstration in Hispanic/Native American Studies, K–16 submitted to the Division of Research and Education for projects at the October 1, 1996 deadline.
4. *Date:* January 8, 1997
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 317
   Program: This meeting will review applications for Collaborative Research in Cultural and Religious Studies submitted to the Division of Research and Education, for projects at the September 1, 1996 deadline.
5. *Date:* January 10, 1997
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 317
   Program: This meeting will review applications for Fellowship Programs at Independent Research Institutions submitted to the Division of Research and Education, for projects at the October 1, 1996 deadline.
6. *Date:* January 10, 1997
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 430
   Program: This meeting will review applications for Education Development and Demonstration in African/Asian Studies, K–16 submitted to the Division of Research and Education, for projects at the October 1, 1996 deadline.
7. *Date:* January 14, 1997
   Time: 8:30 a.m. to 5:00 p.m.
   Room: 430
   Program: This meeting will review applications for Education Development and Demonstration in Foreign Languages, K–16 submitted to the Division of Research and Education, for projects at the October 1, 1996 deadline.

Michael S. Shapiro,

Advisory Committee Management Officer.

[FR Doc. 96–32765 Filed 12–24–96; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Bioengineering and Environmental Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Bioengineering and Environmental Systems (No. 1189).

Date and Time: January 21–22, 1997; 8:00 a.m.–5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 390, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: H. Frederick Bowman, Program Director, Biomedical Engineering and Research to Aid Persons with Disabilities, Division of Bioengineering and Environmental Systems, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1318.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–32814 Filed 12–24–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Chemical and Transport Systems (#1190); Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemical and Transport Systems (#1190).

Date and Time: January 22, 1997; 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 580, Arlington, VA 22230, (703) 306–1371.

Type of Meeting: Closed.

Contact Person: Dr. Robert M. Wellek and Dr. Vijay John Program Directors, Interfacial, Transport and Separation Processes, Division of Chemical and Transport Systems (CTS), Room 525, (703) 306–1371.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate nominations for the FY97 Faculty Early Career Development proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–32802 Filed 12–24–96; 8:45 am]

BILLING CODE 7555–01–M

Faculty Early Career Award Panel in Chemical and Transport Systems; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemical and Transport Systems (#1190).
Date and Time: January 16–17, 1997; 8:30 a.m. to 5:00 p.m.
Place: National Science Foundation 4201 Wilson Boulevard, Room 530, Arlington, VA 22230, (703) 306–1371.
Type of Meeting: Closed
Contact Person: Drs. M. C. Roco and Roger E. A. Arndt, Program Directors, Fluid, Particulate, and Hydraulic Systems, Division of Chemical and Transport Systems (CTS), Room 525, (703) 306–1371.
Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support
Agenda: To review and evaluate nominations for the FY97 Faculty Early Career Development Program proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

M. Rebecca Winkler,
Committee Management Officer.
[FR Doc. 96–32859 Filed 12–24–96; 8:45 am]
BILLING CODE 7555–01–M

Faculty Early Career Award Panel in Chemical and Transport Systems; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemical and Transport Systems (#1190).
Date and Time: January 22, 1997; 8:30 a.m. to 5:00 p.m.
Place: National Science Foundation, 4201 Wilson Boulevard, Room 1280, Arlington, VA 22230, (703) 306–1371.
Type of Meeting: Closed.
Contact Person: Dr. Timothy W. Tong, Program Director, Thermal Transport and Thermal Processing, Division of Chemical and Transport Systems (CTS), Room 525, (703) 306–1371.
Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.
Agenda: To review and evaluate nominations for the FY97 Faculty Early Career Development Program proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

M. Rebecca Winkler,
Committee Management Officer.
[FR Doc. 96–32860 Filed 12–24–96; 8:45 am]
BILLING CODE 7555–01–M

Faculty Early Career Award Panel in Chemical and Transport Systems; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemical and Transport Systems (#1190)
Date and Time: January 27, 1997; 8:30 a.m. to 5:00 p.m.
Place: National Science Foundation, 4201 Wilson Boulevard, Room 320, Arlington, VA 22230, (703) 306–1371.
Type of Meeting: Closed.
Contact Person: Dr. Farley Fisher, Program Director, Combustion and Thermal Plasma, Division of Chemical and Transport Systems (CTS), Room 525, (703) 306–1371.
Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.
Agenda: To review and evaluate nominations for the FY97 Faculty Early Career Development Program proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. The matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

M. Rebecca Winkler,
Committee Management Officer.
[FR Doc. 96–32861 Filed 12–24–96; 8:45 am]
BILLING CODE 7555–01–M

Special Emphasis Panel in Civil and Mechanical Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Civil and Mechanical Systems (1205).
Date & Time: January 16 & 17, 1997; 8:00 AM–6:00 PM
Place: Room 580, National Science Foundation, 4201 Wilson Blvd., Arlington, VA
Type of Meeting: Closed.
Contact Persons: Priscilla P. Nelson, Division of Civil and Mechanical Systems, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1361.
Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.
Agenda: To review and evaluate proposals as part of the selection process for awards.
Reasons for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

M. Rebecca Winkler,
Committee Management Officer.
[FR Doc. 96–32815 Filed 12–24–96; 8:45 am]
BILLING CODE 7555–01–M

National Science Foundation

Special Emphasis Panel in Electrical and Communications Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Electrical and Communications System (1196)
Date and Time: January 20–21, 1997; 8:30 a.m. to 5:00 p.m.
Place: Rooms 530, 630, and 680 on Jan. 20, Room 580 on Jan 21, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA
Type of Meeting: Closed
Contact Persons: Dr. Deborah Crawford, Program Director, Solid State and Microstructures, Dr. Rajinder Khosla, Program Director, Solid State and Microstructures, Dr. Virginia Ayres, Program Director, Quantum Electronics, Waves and Beams, Division of Electrical and Communications Systems, NSF, 4201 Wilson Boulevard, Room 675, Arlington, VA 22230, Telephone: (703) 306–1339 Purpose: To provide advice and recommendations concerning proposals submitted to NSF for financial support.
Agenda: To review and evaluate CAREER proposals as part of the selection process for awards. Reasons for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of 5 U.S.C. 552b.(c) (4)

and (6) of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–32816 Filed 12–24–96; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Mathematical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis in Mathematical Sciences (1204).

Date and Time: January 16–18, 1997; 8:30 a.m. until 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230 Room 340.

Type of Meeting: Closed.

Contact Person: Dr. Subramaniya I. Hariharan, Program Director, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Room 1025 Telephone: (703) 306–1877.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals concerning the Applied and Computations Mathematics Programs as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Governmental in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–32817 Filed 12–24–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Mathematical Sciences (#1204)

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Mathematical Sciences (#1204).

Date and Time: January 6–7, 1997.

Place: Room 380, NSF, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: J. Whitehurst, National Science Foundation, 4201 Wilson Blvd., Room 1025, Arlington, VA 22230, Tel: (703) 306–1666.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Mathematical Science Division.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–32818 Filed 12–24–96; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Undergraduate Education; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L.92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Undergraduate Education (1214).

Date and Time: January 14th (7:30 p.m. to 9:00 p.m.), January 15th (8:30 a.m. to 5:00 p.m.) and January 16th (8:30 a.m. to 3:00 p.m.).

Place: Room 375, NSF, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Terry Woodin, Program Director, Division of Undergraduate Education (DUE), Room 835, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Tel: (703) 306–1666

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the NSF Collaborative for Excellence in Teacher Reverse Site Panel Meeting.

Reason for Closing: The proposals being reviewed includes information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c) the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–32819 Filed 12–24–96; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Commonwealth of Massachusetts: Staff Assessment of Proposed Agreement Between the Nuclear Regulatory Commission and the Commonwealth of Massachusetts

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of proposed agreement with the Commonwealth of Massachusetts.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has received, from the Governor of the Commonwealth of Massachusetts, a proposal to enter into an Agreement pursuant to Section 274 of the Atomic Energy Act of 1954, as amended (Act). The proposed Agreement would permit Massachusetts to assume certain portions of the Commission's regulatory authority. As required by the Act, NRC is publishing the proposed Agreement for public comment. NRC is also publishing a summary of the NRC staff assessment of the proposed Massachusetts radiation control program. Comments are requested on the proposed Agreement, especially public health and safety aspects, and the assessment.

The Agreement will effectively release (exempt) persons in Massachusetts from certain portions of the Commission's regulatory authority. The Act also requires that NRC publish those exemptions. Notice is hereby given that the pertinent exemptions have been previously published in the **Federal Register** and are codified in the Commission's regulations as 10 CFR Part 150.

DATES: The comment period expires January 23, 1997. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Written comments may be submitted to Mr. David L. Meyer, Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, Washington, DC 20555–0001. Copies of comments received by NRC may be examined at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. Copies of the proposed Agreement, along with copies of the request by Governor Weld including referenced enclosures, applicable legislation, regulations for the control of radiation, and the full text of the NRC staff assessment are also available for public

inspection in the NRC's Public Document Room.

FOR FURTHER INFORMATION CONTACT: Richard L. Blanton, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone (301) 415–2322 or e-mail RLB@NRC.GOV.

SUPPLEMENTARY INFORMATION: The Commission has received a request from Governor William Weld of Massachusetts to enter into an Agreement whereby the NRC would discontinue, and the Commonwealth would assume, certain regulatory authority as specified in the Act. Section 274 of the Act authorizes the Commission to enter into such an agreement.

Section 274e of the Act requires that the terms of the proposed Agreement be published for public comment once each week for four consecutive weeks. This notice is being published in the **Federal Register** in fulfillment of the requirement.

I. Background

(a) Section 274d of the Act provides the mechanism whereby a State may assume regulatory authority, otherwise reserved to the NRC, over certain radioactive materials [1] and uses thereof. In a letter dated March 28, 1996, Governor Weld certified that the Commonwealth of Massachusetts has a program for the control of radiation hazards that is adequate to protect health and safety of the public within the Commonwealth with respect to the materials covered by the proposed Agreement, and that the Commonwealth desires to assume regulatory responsibility for these materials. Included with the letter was the text of the proposed Agreement, which is shown in Appendix A to this notice.

The specific authorities requested by the Commonwealth of Massachusetts under this proposed Agreement are (1) the regulation of byproduct materials as defined in Section 11e.(1) of the Act, (2) the regulation of source materials, (3) the regulation of special nuclear materials in quantities not sufficient to form a critical mass, (4) the evaluation of the safety of sealed sources and devices (containing materials covered by the Agreement) for distribution in interstate commerce, and (5) the land disposal of low-level radioactive waste (as defined in the Low-Level Radioactive Waste Policy Amendments Act of 1985, 42 U.S.C. 2021b) received from other persons. The Commonwealth does not wish to assume authority over the regulation of byproduct materials as defined in Section 11e.(2) of the Act, that is over tailings from the recovery of source materials from ore, but does reserve the right to apply at a future date for an amended agreement to assume authority in this area.

(b) The proposed agreement contains nine articles that (1) list the materials and activities to be covered by the Agreement; (2) specify the activity for which the Commission will retain regulatory authority; (3) allow for future amendment of the Agreement; (4) allow for certain regulatory changes by the Commission; (5) reference the continued authority of the Commission for purposes of safeguarding nuclear materials and restricted data; (6) commit the Commonwealth and NRC to exchange information necessary to maintain coordinated and compatible programs; (7) recognize reciprocity of licenses issued by the respective agencies; (8) identify criteria for the suspension or termination of the Agreement; and (9) specify the proposed effective date. The Commission reserves the option to modify the terms of the proposed Agreement in response to comments, to correct errors, and to make editorial changes in style. Also, because of several issues posed by this request which required resolution before the Agreement could be concluded, the effective date requested by the Governor could not be realized. The final text of the Agreement, with the actual effective date, will be published after the Agreement is approved by the Commission.

(c) The Massachusetts radiation control program currently regulates users of naturally-occurring and accelerator-produced radioactive materials, and users of certain radiation-producing electronic machines. The program was enabled by Massachusetts law (Massachusetts General Law [M.G.L.] Chapter 111, § 5B) in 1958. This statute was later replaced by M.G.L. Chapter 111, Sections 5M through 5P. In 1987, M.G.L. Chapter 111H was added to provide for the regulation of low-level radioactive waste. Section 7 of the legislation contains the authority for the Governor to enter into an Agreement with the Commission.

The Massachusetts regulations contain provisions for the orderly transfer of authority over NRC licenses to the regulatory control of the Commonwealth. After the effective date of this proposed Agreement, licenses issued by NRC will continue in effect under Massachusetts regulatory authority until these licenses expire or are replaced by Commonwealth issued licenses.

(d) The NRC staff assessment finds the proposed Massachusetts program adequate to protect public health and safety, and compatible with the NRC program for materials regulation.

II. Summary of the NRC Staff Assessment of the Massachusetts Program for the Control of Agreement Materials

NRC staff has examined the proposed Massachusetts radiation control program with respect to the ability of the program to regulate agreement materials. The examination was based on the Commission's policy statement *"Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement"* (referred to herein as the "criteria") (46 FR 7540; January 23, 1981, as amended).

(a) Organization and Personnel. The proposed program unit responsible for regulating agreement materials will consist of 13 technical/professional positions within the existing radiation control program of the Massachusetts Department of Public Health. The qualifications for staff members specified in the personnel position descriptions, and the qualifications of the current staff members, meet the criteria for education, training and experience. All current staff members hold at least bachelor's degrees in physical or life sciences, or have a combination of education and experience at least equivalent to a bachelor's degree. Most staff members hold advanced degrees, and have had additional training and experience in radiation protection. Senior staff have more than five years experience each in radiation control programs. The program director has a master's degree in public health and 15 years experience in regulatory health physics.

(b) Legislation and regulations. The Massachusetts Department of Public Health is designated by statute to be the radiation control agency. The Department is provided by statute with the authority to promulgate regulations, issue licenses, issue orders, conduct inspections, and to enforce compliance with regulations, license conditions, and orders. Licensees are required by law to provide access to inspectors.

The Department has adopted regulations (Massachusetts Regulations for the Control of Radiation or MRCR) providing radiation protection standards

[1] The materials, sometimes referred to as "agreement materials," are: (a) Byproduct materials as defined in Section 11e.(1) of the Act; (b) Byproduct materials as defined in Section 11e.(2) of the Act; (c) Source materials as defined in Section 11z. of the Act; and (d) Special nuclear materials as defined in Section 11aa. of the Act, restricted to quantities not sufficient to form a critical mass.

essentially identical to the standards in 10 CFR Part 20. Technical definitions in the MRCR are also essentially identical. The MRCR require consideration of the total radiation doses to individuals from all sources of radiation (except background radiation and radiation from medical treatment or examinations, as is the case in the NRC rules), whether the sources are in the possession of the licensee or not. The MRCR also require appropriate surveys and personnel monitoring under the close supervision of technically competent people, and the use of radiation labels, signs and symbols essentially identical to those contained in 10 CFR Part 20. Posting requirements and instruction of workers requirements adopted in the MRCR are compatible with the equivalent current requirements of the NRC.

Nothing in the Massachusetts statutes or regulations seeks to regulate areas not permitted by the Atomic Energy Act. The MRCR contains a provision to avoid interference with those regulatory requirements imposed by NRC pursuant to the Act, and for which Commonwealth licensees have not been exempted under the agreement.

(c) *Storage and Disposal.* The MRCR also contains compatible requirements for the storage of radioactive material, and for the disposal of radioactive material as waste. The waste disposal requirements cover both waste disposal by material users and the land disposal of waste received from other persons. The NRC staff noted some differences in the MRCR waste regulations as compared to the NRC regulations in 10 CFR Part 61, but determined that the differences are related either to the prohibition of shallow land burial as a disposal technology or to the ownership of the disposal site by the Massachusetts Low-Level Radioactive Waste Management Board. Because of these special provisions, NRC staff determined that the differences in the regulations do not reduce the ability of the Massachusetts radiation control program to protect health and safety, nor reduce the compatibility of the program or the regulations themselves.

(d) *Transportation of Radioactive Material.* The MRCR contains rules equivalent to 10 CFR Part 71 as in effect prior to April 1, 1996. Effective on that date, the NRC amended Part 71. Under current policy, an existing Agreement State is allowed up to three years after NRC adopts a final rule to adopt a compatible rule, or to impose each regulatory provision of the rule using an alternate legally binding requirement (LBR), such as an order or license condition. A State seeking an agreement is expected to have effective rules or LBRs compatible with those of NRC in effect at the time the agreement becomes effective. The intent of this expectation is to spare licensees in the new Agreement State from the "whipsaw" effect of being subjected first to the new NRC requirements, then the old requirements when the agreement takes effect, then again to the new requirements when later adopted by the State. Massachusetts is in the process of adopting rules compatible with the revised 10 CFR Part 71. However, these rules may not become effective before the Agreement is signed. Massachusetts intends to impose the requirements of the new Part 71 rules in the interim by issuing appropriate orders to the affected licensees.

(e) *Recordkeeping and Incident Reporting.* The MRCR incident reporting requirements are similar to the requirements in the NRC rules. The NRC staff noted that for some NRC rules that specify a records retention period of less than five years, the retention period specified in the MRCR is shorter. The NRC staff concluded, however, that the retention periods specified in the MRCR rules are adequate since the retention periods are long enough to permit examination of the records during routine inspections. The MRCR imposes retention requirements similar to the NRC rules for records which must be retained indefinitely or until the license is terminated.

(f) *Evaluation of License Applications.* The MRCR contains requirements equivalent to the current NRC regulations specifying the required content of applications for licenses, renewals, and amendments. The MRCR also provides requirements equivalent to the NRC requirements for issuing licenses and specifying the terms and conditions of licenses. The agreement materials program unit has adopted a procedure for processing applications that assures the regulatory requirements will be met, or, if appropriate, exceptions granted. The program unit has the authority by Statute to impose requirements in addition to the requirements specified in the regulations. The program unit also retains by regulation the authority to grant specific exemptions from the requirements of the regulations. The MRCR specifies qualifications for the use of radioactive materials in or on humans that are similar to the NRC requirements in 10 CFR Part 35.

The Massachusetts licensing procedures manual, along with the accompanying regulatory guides, are adapted from similar NRC documents and contain adequate guidance for the agreement materials program unit staff to use when evaluating license applications.

(g) *Inspections and Enforcement.* The Massachusetts radiation control program has adopted a schedule providing for the inspection of licensees as frequently as, or more frequently than, the inspection schedule used by NRC. The agreement materials program unit has adopted procedures for the conduct of inspections, the reporting of inspection findings, and the report of inspection results to the licensees. The program has also adopted procedures for enforcement in the MRCR.

(h) *Regulatory Administration.* The Massachusetts Department of Public Health is bound by procedures specified in Commonwealth statute for rulemaking. The program has adopted procedures to assure fair and impartial treatment of license applicants.

(i) *Cooperation with Other Agencies.* The MRCR deems the holder of an NRC license on the effective date of the Agreement to possess a like license issued by Massachusetts. The MRCR provides that these former NRC licenses will expire either 90 days after receipt from the radiation control program of a notice of expiration of such license or on the date of expiration specified in the NRC license, whichever is earlier. The MRCR also provides for "timely renewal." This provision affords the continuance of licenses for which an application for renewal has been filed more than 30 days prior to the date of expiration of the license. Licenses in timely renewal are not excluded from the transfer continuation provision. The MRCR provides exemptions from the Commonwealth's requirements for licensing of sources of radiation for NRC and U.S. Department of Energy contractors or subcontractors.

The Department of Public Health and the Department of Labor and Industries have entered into a Memorandum of Understanding, as authorized elsewhere in Massachusetts law, which provides for the Department of Public Health to exercise the responsibility and authority of the Department of Labor and Industries with respect to radiation and radioactive materials. The Department of Environmental Protection is designated as the agency to adopt the suitability standards for any proposed disposal site under the Massachusetts Low-Level Radioactive Waste Management Act. The Department of Public Health will license and regulate the site only after the Executive Secretary for Environmental Affairs has determined that the report on the site characterization study is in conformance with the suitability

standards, and the Low-Level Radioactive Waste Management Board has selected the operator.

The proposed Agreement commits the Commonwealth to use its best efforts to cooperate with the NRC and the other Agreement States in the formulation of standards and regulatory programs for the protection against hazards of radiation and to assure that the Commonwealth's program will continue to be compatible with the Commission's program for the regulation of like materials. The proposed Agreement stipulates the desirability of reciprocal recognition of licenses, and commits the Commission and the Commonwealth to use their best efforts to accord such reciprocity.

III. Staff Conclusion

Subsection 274d of the Act provides that the Commission shall enter into an agreement under subsection 274b with any State if:

(a) The Governor of the State certifies that the State has a program for the control of radiation hazards adequate to protect public health and safety with respect to the materials within the State covered by the proposed Agreement, and that the State desires to assume regulatory responsibility for such materials; and

(b) The Commission finds that the State program is in accordance with the requirements of Subsection 274o, and in all other respects compatible with the Commission's program for the regulation of such materials, and that the State program is adequate to protect public health and safety with respect to the materials covered by the proposed Agreement.

On the basis of its assessment, the NRC staff has concluded that the Commonwealth of Massachusetts meets the requirements of Section 274 of the Act. The Commonwealth's statutes, regulations, personnel, licensing, inspection, and administrative procedures are compatible with those of the Commission and adequate to protect public health and safety with respect to the materials covered by the proposed Agreement. Since the Commonwealth is not seeking authority over byproduct material as defined in Section 11e.(2) of the Act, Subsection 274o is not applicable to the proposed Agreement. The language of the Agreement requested by Governor Weld has been revised to reflect that the effective date of the proposed Agreement and the location at which it will be signed remain to be determined. Certain conventions have been used to highlight the proposed revisions. New language is shown inside boldfaced arrows, while language that would be deleted is set off with brackets.

IV. Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

Dated at Rockville, Maryland, this 19th day of December, 1996.

For the U. S. Nuclear Regulatory Commission.

Paul H. Lohaus,

Acting Director, Office of State Programs.

Appendix A—Proposed Agreement

Agreement Between the United States Nuclear Regulatory Commission and the Commonwealth of Massachusetts for the Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the Commonwealth Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended

Whereas, The United States Nuclear Regulatory Commission (hereinafter referred to as the Commission) is authorized under Section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to by-product materials as defined in Sections 11e.(1) and (2) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and,

Whereas, The Governor of the Commonwealth of Massachusetts is authorized under Massachusetts General Laws, Chapter 111H, to enter into this Agreement with the Commission; and,

Whereas, The Governor of the Commonwealth of Massachusetts certified on [June 1, 1995,] >March 28, 1996,< that the Commonwealth of Massachusetts (hereinafter referred to as the Commonwealth) has a program for the control of radiation hazards adequate to protect [the] public health and safety with respect to the materials within the Commonwealth covered by this Agreement, and that the Commonwealth desires to assume regulatory responsibility for such materials; and,

Whereas, The Commission found on [November 1, 1995,] >(date to be determined)< that the program of the Commonwealth for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect public health and safety; and,

Whereas, The Commonwealth and the Commission recognize the desirability and importance of cooperation[s] between the Commission and the Commonwealth in the formulation of standards for protection against hazards of radiation and in assuring that Commonwealth and Commission programs for protection against hazards of radiation will be coordinated and compatible; and,

Whereas, The Commission and the Commonwealth recognize the desirability of reciprocal recognition of licenses and exemptions from licensing of those materials subject to this Agreement; and,

Whereas, This Agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now, therefore, It is hereby agreed between the Commission and the Governor of the Commonwealth, acting in behalf of the Commonwealth, as follows:

Article I

Subject to the exceptions provided in Articles II, IV, and V, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the Commonwealth under Chapters 6, 7, and 8, and Section 161 of the Act with respect to the following materials:

A. By-product materials as defined in Section 11e.(1) of the Act;

B. Source materials;

C. Special nuclear materials in quantities not sufficient to form a critical mass; and,

D. Licensing of Low-Level Radioactive Waste Facilities.

Article II

This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:

A. The construction and operation of any production or utilization facility;

B. The export from or import into the United States of by-product, source, or special nuclear material, or of any production or utilization facility;

C. The disposal into the ocean or sea of by-product, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

D. The disposal of such other by-product, source, or special nuclear

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material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission; and,

E. The extraction or concentration of source material from source material ore and the management and disposal of the resulting by-product material.

Article III

This Agreement may be amended, upon application by the Commonwealth and approval by the Commission, to include the additional area(s) specified in Article II, paragraph E, whereby the Commonwealth can exert regulatory control over the materials stated therein.

Article IV

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, by-product, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

Article V

This Agreement shall not affect the authority of the Commission under Subsection 161b or 161i of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

Article VI

The Commission will use its best efforts to cooperate with the Commonwealth and other Agreement States in the formulation of standards and regulatory programs of the Commonwealth and the Commission for protection against hazards of radiation and to assure that Commonwealth and Commission programs for protection against hazards of radiation will be coordinated and compatible. The Commonwealth will use its best efforts to cooperate with the Commission and other Agreement States in the formulation of standards and regulatory programs of the Commonwealth and the Commission for protection against hazards of radiation and to assure that the Commonwealth's program will continue to be compatible with the program of the Commission for the regulation of like materials. The Commonwealth and the Commission will use their best efforts to keep each other informed of proposed changes in their respective rules and regulations and licensing, inspection and enforcement policies and criteria, and to obtain the comments and assistance of the other party thereon.

Article VII

The Commission and the Commonwealth agree that it is desirable to provide reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any other Agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

Article VIII

Commission, upon its own initiative after reasonable notice and opportunity for hearing to the Commonwealth, or upon request of the Governor of the Commonwealth, may terminate or suspend all or part of this Agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that (1) such termination or suspension is required to protect public health and safety, or (2) the Commonwealth has not complied with one or more of the requirements of Section 274 of the Act. The Commission may also, pursuant to Section 274j of the Act, temporarily suspend all or part of this Agreement if, in the judgement of the Commission, an emergency situation exists requiring immediate action to protect public health and safety and the Commonwealth has failed to take necessary steps. The Commission shall periodically review this Agreement and actions taken by the Commonwealth under this Agreement to ensure compliance with Section 274 of the Act.

Article IX

This Agreement shall become effective on [April 24, 1996,] >(date to be determined)< and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Done at [Boston, Massachusetts] >(location to be determined)<, in triplicate, this [24]th Day of [April, 1996] >(date to be determined)<.

For the United States Nuclear Regulatory Commission

Shirley Ann Jackson,

Chairman.

For the Commonwealth of Massachusetts

William F. Weld,

Governor.

[FR Doc. 96–32756 Filed 12–24–96; 8:45 am]

BILLING CODE 7590–01–P

Policy and Procedure for Enforcement Actions; Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement: corrections.

SUMMARY: This document presents corrections to the revision of the policy statement that was published December 10, 1996 (61 FR 65088). This action is necessary to correct the inadvertent failure to change two paragraphs of the Enforcement Policy concerning matters on which the NRC staff must notify the Commission. These additional changes are consistent with the other changes that were made in the revision as published.

EFFECTIVE DATE: The revision became effective on December 10, 1996.

FOR FURTHER INFORMATION CONTACT: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (301) 415–2741.

SUPPLEMENTARY INFORMATION: On December 10, 1996 (61 FR 65088), the NRC publised a revision to its "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy or Policy) to address issues regarding consultation with the Commission and other subjects. Sections III of the Policy was revised to reflect the new list of circumstances in which the Commission would be consulted or notified. However, two paragraphs in Section VII, Exercise of Discretion, were not amended to reflect the changes adopted by the Commission. This document modifies those two paragraphs to reflect the appropriate policy as to notification to the Commission when the staff exercises discretion in enforcement matters. These two paragraphs were inadvertently omitted in the revision prepared for publication in the **Federal Register**.

Accordingly, the NRC Enforcement Policy is corrected by revising the first paragraphs in Sections VII.A.1. and VII.B. to read as follows:

General Statement of Policy and Procedure for NRC Enforcement Actions

* * * * *

VII. EXERCISE OF DISCRETION

* * * * *

A. Escalation of Enforcement Sanctions

* * * * *

1. Civil penalties. Notwithstanding the outcome of the normal civil penalty assessment process addressed in Section VI.B, the NRC may exercise discretion

by either proposing a civil penalty where application of the factors would otherwise result in zero penalty or by escalating the amount of the resulting civil penalty (i.e., base or twice the base civil penalty) to ensure that the proposed civil penalty reflects the significance of the circumstances and conveys the appropriate regulatory message to the licensee. The Commission will be notified if the deviation in the amount of the civil penalty proposed under this discretion from the amount of the civil penalty assessed under the normal process is more than two times the base civil penalty shown in Tables 1A and 1B. Examples when this discretion should be considered include, but are not limited to the following:

* * * * *

B. Mitigation of Enforcement Sanctions

The NRC may exercise discretion and refrain from issuing a civil penalty and/or a Notice of Violation, if the outcome of the normal process described in Section VI.B does not result in a sanction consistent with an appropriate regulatory message. In addition, even if the NRC exercises this discretion, when the licensee failed to make a required report to the NRC, a separate enforcement action will normally be issued for the licensee's failure to make a required report. The approval of the Director, Office of Enforcement, with consultation with the appropriate Deputy Executive Director as warranted, is required for exercising discretion of the type described in Section VII.B.1.b where a willful violation is involved, and of the types described in Sections VII.B.2 through VII.B.6. Commission notification is required for exercising discretion of the type described in: (1) Section VII.B.2 the first time discretion is exercised during that plant shutdown, and (2) Section VII.B.6 where appropriate based on the uniqueness or significance of the issue. Examples when discretion should be considered for departing from the normal approach in Section VI.B include but are not limited to the following:

* * * * *

Dated at Rockville, MD, this 18th day of December, 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle.

Secretary of the Commission.

[FR Doc. 96–32755 Filed 12–24–96; 8:45 am]

BILLING CODE 7590–01–P

UNITED STATES POSTAL SERVICE

Board of Governors; Notice of a Sunshine Act Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR Section 7.5) and the Government in the Sunshine Act (5 U.S.C. Section 552b), hereby gives notice that it intends to hold a meeting at 1:00 p.m. on Monday, January 6, 1997, and at 8:30 a.m. on Tuesday, January 7, 1997, Washington, DC.

The January 6 meeting is closed to the public (see 61 FR 65092, December 10, 1996). The January 7 meeting is open to the public and will be held at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., in the Benjamin Franklin Room. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Thomas J. Koerber, at (202) 268–4800.

Agenda

Monday Session

January 6–1:00 p.m. (Closed)

1. Consideration of a Proposed Filing with the Postal Rate Commission for Parcels. (John H. Ward, Vice President, Marketing Systems)
2. Consideration of Classroom Publication Rates. (John H. Ward, Vice President, Market Systems)
3. Consideration of Funding Approval for International Service Centers. (James F. Grubiak, Vice President, International Business; and John F. Kelly, Vice President, New York Metro Area Operations)

Tuesday Session

January 7–8:30 a.m. (Open)

1. Minutes of the Previous Meetings, December 2–3, 1996.
2. Remarks of the Postmaster General/Chief Executive Office. (Marvin Runyon)
3. Consideration of Board Resolution on Capital Funding. (Tirso del Junco, M.D., Chairman of the Board)
4. Consideration of Amendments to BOG Bylaws. (Chairman del Junco)
5. Annual Report on Government in the Sunshine Act Compliance. (Thomas J. Koerber, Secretary of the Board.
6. Postmaster General's FY 1996 Annual Report. (Larry M. Speakes, Senior Vice President, Corporate & Legislative Affairs)
7. Capital Investments.

a. Golden, Colorado, Main Post Office/Delivery Distribution Center. (Rudolph K. Umscheid, Vice President, Facilities)

b. Las Vegas, Nevada, Processing and Distribution Center. (Vice President Umscheid)

c. Remote Computer Reader Enhanced Handwriting Recognition. (William J. Dowling, Vice President, Engineering)

8. Election of Chairman and Vice Chairman of the Board of Governors.
9. Tentative Agenda for the February 3–4, 1997, meeting in Albuquerque, New Mexico.

Thomas J. Koerber,

Secretary.

[FR Doc. 96–33015 Filed 12–23–96; 2:36 pm]

BILLING CODE 7710–12–M

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Customer Satisfaction Surveys. In accordance with Executive Order 12862, the Railroad Retirement Board (RRB) conducts a number of customer surveys designed to determine the kinds and quality of services our beneficiaries, claimants, employers and members of the public want and expect, as well as their satisfaction with existing RRB services. The information collected is used by RRB management to determine where and to what extent services are satisfactory and where and to what extent services can be improved. The surveys are limited to data collections that solicit strictly voluntary opinions, and do not collect information which is required or regulated.

The RRB currently utilizes OMB public information collection 3220–0188 (RRB Customer Satisfaction Survey), to gather information used in monitoring customer satisfaction. The RRB proposes to replace this information collection by securing approval of a generic clearance for customer survey activities. The generic clearance will enhance the RRB's capability to submit new or revised customer survey instruments needed to timely implement customer monitoring

activities to OMB for review and approval.

The average burden per response for current customer satisfaction activities is estimated to range from 2 minutes for a web-site questionnaire to 2 hours for participation in a focus group. The RRB estimates 11,550 annual respondents totaling 1,043 hours of annual burden for the proposed generic customer survey clearance.

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written Comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance officer.

[FR Doc. 96–32746 Filed 12–24–96; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Proposed Amendments

Rule 2a–7, SEC File No. 270–258, OMB Control No. 3235–0268
Rule 34b–1, SEC File No. 270–305, OMB Control No. 3235–0346
Regulation C, SEC File No. 270–68, OMB Control No. 3235–0074
Form N–1A, SEC File No. 270–21, OMB Control No. 3235–0307
Form N–3, SEC File No. 270–281, OMB Control No. 3235–0316
Form N–4, SEC File No. 270–282, OMB Control No. 3235–0318
Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, D.C. 20549

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget requests for approval of proposed amendments on previously approved collections of information:

Proposed Technical Amendments to Rule 2a–7

Rule 2a–7 [17 CFR 270.2a–7] under the Investment Company Act of 1940 (15 U.S.C. 80a–1, *et seq.*) ("1940 Act"), governs money market funds. The rule exempts money market funds from the valuation requirements of the 1940 Act, and, subject to certain risk-limiting conditions, permits money market funds to use the "amortized cost method" of asset valuation or the "penny rounding method" of share pricing. On March 21, 1996, the Commission adopted amendments to rule 2a–7 (Investment Company Act Rel. No. 21837 (Mar. 21, 1996)) ("March Amendments"). The proposed technical amendments to rule 2a–7 would clarify the application of the March Amendments, revise terminology used in the rule to reflect common market usage and codify a number of interpretive positions taken by the staff of the Division of Investment Management.

Rule 2a–7 imposes certain recordkeeping and reporting obligations upon money market funds.[1] Because the proposed technical amendments to rule 2a–7 would clarify existing recordkeeping obligations, it is estimated that the amendments would have no effect on the annual reporting burden of money market funds. It is estimated that approximately 1,345 money market funds are subject to the rule each year. It is further estimated that compliance with the rule's recordkeeping and reporting requirements imposes an average annual burden per money market fund of approximately 146 hours, so that the total annual burden for all money market funds would be 196,371 hours. These estimates of burden hours are made solely for purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study.

Proposed Amendments to the Sales Literature and Advertising Rules Applicable to Money Market Funds

Proposed amendments to the sales literature and advertising rules applicable to money market funds (1) would clarify that income included in a money market fund's yield calculated in accordance with a uniform formula is limited to investment income, and (2) would require that total return used by money market funds in sales literature and advertisements must be accompanied by a quotation of current yield, computed in accordance with Commission rules, and set forth with equal prominence. It is estimated that the proposed amendments would not result in an increase in the total annual burden for all money market funds because the majority of money market funds include only investment income in calculating yield, and do not use total return based on short periods of time in sales literature and advertisements. The estimated burden hours appearing below are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms.

Rule 34b–1 under the 1940 Act governs sales material that accompanies or follows the delivery of a statutory prospectus ("sales literature"). It is estimated that there are approximately 287 respondents (including money market funds) that file approximately five responses annually pursuant to rule 34b–1. The burden from rule 34b–1 requires approximately 2.4 hours per response resulting from the collection of information.

Regulation C provides standard instructions to guide registrants filing registration statements under the Securities Act of 1933 (15 U.S.C. 77a, et seq.) ("1933 Act"). Regulation C is assigned one burden hour for administrative convenience because the rule simply prescribes the disclosure that must appear in other filings under the 1933 Act.

The 1940 Act requires investment companies to register with the Commission before they conduct any business in interstate commerce. The registration statement required under Section 8(b) of the 1940 Act must contain such information as the Commission has determined to be necessary or appropriate in the public interest or for the protection of investors. The various investment company registration forms state that if a money market fund wishes to

[1] Rule 2a–7 requires the board of directors of a money market fund, in supervising the fund's operations and delegating certain responsibilities to the fund's investment adviser, to establish written procedures designed to stabilize the fund's net asset value. These procedures typically address various aspects of the fund's operations. The fund must maintain and preserve for six years a written record of the board's considerations and actions taken in connection with the discharge of its responsibilities, to be included in the board's minutes. The fund must also maintain and preserve for three years written records of certain credit risk analyses, evaluations with respect to securities subject to certain types of liquidity enhancements and conditional and unconditional credit enhancements, and determinations with respect to adjustable rate securities and asset backed securities. If the board takes action with respect to defaulted securities, events of insolvency, or deviations in share price, the fund must file with the Commission an exhibit to Form N-SAR describing the nature and circumstances of such action. In the event of certain default or insolvency events, the fund must notify the Commission of the events and the actions the fund intends to take in response to the situation. As a matter of sound business practice, the board must develop and maintain certain additional procedures and records to ensure compliance with the risk-limiting conditions of rule 2a–7.

advertise its yield, it must calculate yield according to a standardized Commission formula set forth in the forms, and provide a quotation of yield in its registration statement.[2] The proposed amendments to Forms N–1A, N–3 and N–4 would conform the applicable items on each form to the proposed amendments to rule 34b–1 under the 1940 Act and rule 482 under the 1933 Act. The proposed amendments would not result in an increase in burden hours.

General comments regarding the estimated burden hours should be directed to the Desk Officer for the Securities and Exchange Commission at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 and Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: December 18, 1996.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–32718 Filed 12–24–96; 8:45 am]

BILLING CODE 8010–01–M

Submission for OMB Review; Comment Request

New

Form DF; SEC File No. 270–430, OMB Control No. 3235-mew

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget requests for approval of the addition of the following form:

Form DF—Notice of Delayed Filing Pursuant to Rule 13(d) of Regulation S–T. This form is to be filed in connection with a delayed electronic filing to preserve the timeliness of filing of reports or schedules filed pursuant to Sections 13(a), 13(d), 13(g), 15(d) and 16(a) of the Exchange Act, which, notwithstanding good faith efforts, are not filed in a timely manner because of technical difficulties beyond the electronic filer's control. The form will be available for public inspection. Issuers, corporate insiders and significant beneficial owners are the likely respondents.

The Commission's proposal to add Form DF would result in an estimated addition of 12 minutes of burden hour per submission, for a total burden of 100 hours, given an estimate of 500 responses per year.

General comments regarding the estimated burden hours should be directed to the Desk Officer for the Securities and Exchange Commission at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 and Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: December 21, 1996.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–32722 Filed 12–24–96; 8:45 am]

BILLING CODE 8010–01–M

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Centennial Technologies, Inc., Common Stock, $.01 Par Value) File No. 1–12912

December 19, 1996.

Centennial Technologies, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, it has listed the Security with the New York Stock Exchange, Inc. ("NYSE"). In making the decision to withdraw the Security from listing on the Amex, the Company considered its anticipated listing on the NYSE, its continuing need to reduce its costs of doing business in the current competitive environment in which it operates, and the prohibitive cost of listing of the Security on both the Amex and the NYSE.

Any interested person may, on or before January 13, 1997, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–32716 Filed 12–24–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–22406; International Series Release No. 1038; 812–9582]

The Industrial Credit and Investment Corporation of India Limited

December 18, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: The Industrial Credit and Investment Corporation of India Limited ("ICICI").

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act that would exempt applicant from all provisions of the Act.

SUMMARY OF APPLICATION: Applicant, an industrial finance company, requests an order exempting it from all provisions of the Act in connection with the offer and sale of its securities in the United States.

FILING DATE: The application was filed on May 2, 1995, and amended on January 30, 1996, July 22, 1996, and on December 17, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a

[2] See Item 22(a) of Form N–1A [17 CFR 239.15A and 274.11A]; Item 25(a) of Form N–3 [17 CFR 239.17a and 274.11b]; and Item 21(a) of Form N–4 [17 CFR 239.17b and 274.11c].

hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 13, 1997 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writers's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street N.W., Washington, D.C. 20549. Applicant, c/o Pierre de Saint Phalle, Davis Polk & Wardwell, 450 Lexington Avenue, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Sarah A. Buescher, Staff Attorney, at (202) 942–0573, or Elizabeth G. Osterman, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a limited liability company under the Indian Companies Act, 1913, was established in 1955 as a result of an initiative of the Government of India (the "Government"), the International Bank for Reconstruction and Development, and representatives of Indian industry. Applicant states that it is one of India's largest publicly traded industrial finance companies and, together with two other finance institutions owned or controlled by the Government, is a key source of long-term financing of private sector industry in India.

2. Historically, ICICI has been owned by Government owned or controlled institutions. As of March 31, 1996, 50.04% of applicant's outstanding equity shares were owned by financial institutions owned partly or wholly by the Government. An additional 6.4% of applicant's outstanding equity shares were owned by Government companies, nationalized banks, and their mutual funds. One of applicant's 16 directors is nominated by the Government and another director is a representative of India's Ministry of Industry.

3. Applicant has been designated a Development Financial Institution (a "DFI") by the Securities and Exchange Board of India (the "SEBI"). In its role as a DFI, applicant's financing objectives are largely influenced by Government policies. Applicant is also one of the largest of the All-India Financial Institutions in India, which are Public Financial Institutions that provide medium-term and long-term financial assistance to all sectors of the Indian economy for setting up new projects and for expansion and modernization of existing facilities. As a Public Financial Institution under the Indian Companies Act of 1956, applicant has the same status as other Government owned financial institutions and is entitled to various exemptions, including exemptions from certain provisions of the tax code and other laws.

4. Applicant typically provides assistance of medium-term duration to industrial companies to finance the cost of the establishment, modernization, or expansion of manufacturing and processing facilities. Applicant represents that the greatest use of the proceeds of its term loans is for the purchase of specified equipment and related services. As of March 31, 1996, approximately 80.1% of applicant's total loan portfolio (including leased assets) represented loans to finance the purchase price of specified machinery and equipment. Substantially all project loans are secured either by all assets of the borrower and/or by guarantees of commercial banks, state governments or the Government, and provide full recourse to the borrower. As security, applicant normally requires a borrower to create a mortgage over all its assets. Applicant does not normally make working capital loans. For the year ending March 31, 1996, 72.9% of applicant's total income from operations was from project loans (including debentures).

5. Applicant also offers financing assistance through underwriting or direct subscription of equity shares. This assistance is usually offered in conjunction with project finance loans. ICICI does not purchase any equity or preference shares in the secondary market. Applicant also provides financing assistance through deferred credits, leasing, installment sale, and asset credits. In addition, due to deregulation of the Indian economy, applicant recently has expanded into related financial activities such as custodian and debenture trusteeship activities, transfer agent services and investment advisory services (to be provided by separate subsidiaries), a merchant banking joint venture, a commercial bank subsidiary, and a trust company for sponsoring mutual funds.

6. Applicant provides project and equipment loans and other services to the Indian private sector, principally to industries such as textiles, chemicals, fertilizers, cement, metal, machinery, and transport equipment. ICICI restricts its credit exposure to specific industries by imposing a per-industry lending limitation of 15% of applicant's total asset portfolio. In addition, applicant's credit exposure to individual companies or business groups is kept below ceilings mandated by the Reserve Bank of India (the "RBI") for Public Financial Institutions (such as ICICI) and for commercial banks.

7. Generally, applicant does not bear any exchange rate risk with respect to its foreign currency loans because it typically shifts foreign exchange risk to its borrowers. All of applicant's loans and, with a few exceptions, all debentures, are held by applicant to maturity. Applicant does not purchase or sell loans or debentures in the secondary market.

8. The administration of ICICI is governed by the general provisions of the Indian Companies Act and other statutes applicable to public limited companies in India. Applicant is subject to extensive regulation by both the RBI and the SEBI. ICICI is regulated by the RBI as a non-bank financial institution and not as a banking institution or trust company. The RBI regulates ICICI's commercial lending, issuing certificates of deposit, issuing finance letters of credit, and engaging in foreign currency trading. In 1994, the RBI adopted capital adequacy guidelines for other types of financial institutions, which are adhered to by applicant. Capital adequacy guidelines are designed to protect the solvency of financial institutions by establishing limits on the amount of leverage they may incur. ICICI's accounting policies comply with guidelines established by the RBI. ICICI is also subject to specific practice guidelines established by the RBI relating to eligible clients, periodic reports, income recognition and asset allocation, and rates payable on certificates of deposit (generally discount instruments) and "fixed" deposits (generally interest bearing instruments).

9. The SEBI regulates applicant's underwriting, merchant banking, asset management, custodial, and debenture trusteeship activities. The SEBI prescribes conditions for the registration of these activities and establishes standards of obligations and responsibilities. SEBI regulations also establish requirements for underwriters and underwriting agreements, require the adoption of codes of ethics, and prohibit conflicts of interest and insider trading.

10. Applicant proposes to offer and sell equity and debt securities in the United States. Applicant will not offer or sell any such securities unless (a) they are registered under the Securities Act of 1933 (the "Securities Act"), or (b) in the opinion of United States counsel for applicant there is an exemption from registration under the Securities Act available with respect to such offer and sale, or (c) the staff of the SEC states that they would not recommend that the SEC take any action under the Securities Act if the securities are not registered. In February 1996, applicant sold bonds in a Euro-offering in reliance on Regulation S under the Securities Act, including a private placement in reliance on rule 144A under the Securities Act.

11. Although applicant does not expect that the Government will guarantee payments on the notes that applicant proposes to sell in the United States, applicant states that investors would have the protection afforded by both the Indian regulation of ICICI's operations and the requirements of the Securities Act and the anti-fraud provisions of the Securities Exchange Act of 1934.

Applicant's Legal Analysis

1. Section 3(a)(3) of the Act defines an investment company to include any issuer engaged in the business of investing, reinvesting, owning, holding, or trading in securities, and that owns or proposes to acquire investment securities, having a value exceeding 40% of the issuer's total assets. As of March 31, 1996, 63.4% of applicant's assets consisted of obligations of industrial concerns pursuant to loans made to them by applicant. Such obligations could be deemed to be "investment securities" within the meaning of section 3(a)(3). As a result, applicant may be deemed to be an "investment company" under the Act. Applicant states that its financing activities currently fit within the literal language of sections (3(c)(5)(A) and (B) of the Act.[1] However, because ICICI's activities are expanding, it may not meet the requirements of section 3(c)(5) in the future. To prevent uncertainty as to its status under the Act, applicant requests an order pursuant to section 6(c) of the Act for an exemption from all provisions of the Act.

2. Section 6(c) of the Act provides that the SEC may exempt any person or transaction from any provision of the Act or any rule thereunder to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant requests an order under section 6(c) exempting it from all provisions of the Act.

3. Rule 3a-6 under the Act excludes foreign banks from the definition of investment company for all purposes under the Act. A "foreign bank" is defined to include a banking institution "engaged substantially in commercial banking activity" which, in turn, is defined to include "extending commercial and other types of credit, and accepting demand and other types of deposits." Applicant believes that it is functionally equivalent to a foreign bank because it offers financial services and issues financial products similar to those offered and issued by traditional foreign banks, and it is subject to oversight, supervision, and regulation. Because applicant presently does not accept demand deposits, it may not be eligible for the exemption provided by rule 3a-6.

4. Applicant represents that RBI regulations governing its activities are similar to those governing commercial banks. The principal differences between RBI's regulation of non-bank financial institutions and banks are the non-banks' exemption from RBI regulations to minimum cash reserve ratios and statutory liquidity ratios and in the RBIs authority over the appointment of directors of bank boards only.

5. Applicant argues that, as a development financial institution designed to promote and provide a source of finance for industry in India, it is not within the intent of the Act and its characteristics different from the types of investment companies at which the Act was generally directed.

Applicant's Conditions

Applicant agrees that the order granting the requested relief will be subject to the following conditions:

1. In connection with any offering by the applicant of its securities in the United States, the applicant will appoint an agent to accept service of process in any suit, action or proceeding brought on the securities and instituted in any state or federal court in the City or State of New York by the holder of any such securities. The applicant will expressly submit to the jurisdiction of the New York State and United States Federal courts sitting in the City of New York with respect to any such suit, action or proceeding. Applicant will also waive the defense of an inconvenient forum to the maintenance of any such action or proceeding. Such appointment of an agent to accept service of process and such consent to jurisdiction shall be irrevocable until all amounts due and to become due in respect of debt securities have been paid and until any equity securities offered in the United States are no longer outstanding. No such submission to jurisdiction or appointment of agent for service of process will affect the right of a holder of any such security to bring suit in any court which shall have jurisdiction over the applicant by virture of the offer and sale of such securities or otherwise.

2. Applicant will rely on this order only so long as (a) its activities conform to the activities described in the application and (b) applicant continues to be regulated by the Government as a financial institution, as described in the application.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-32719 Filed 12-24-96; 8:45 am]

BILLING CODE 8010-01-M

[1] Sections 3(c)(5)(A) and (B) except from the definition of "investment company" any person who is not engaged in the business of issuing certain specified securities and who is primarily engaged in (A) "purchasing or otherwise acquiring notes, drafts, acceptances, open accounts receivable, and other obligations representing part of all of the sales price of merchandise, insurance, and services" and (B) "making loans to manufacturers, wholesalers, and retailers of, and to prospective purchasers of, specified merchandise, insurance, and services."

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Providence Energy Corporation, Common Stock, $1.00 Par Value) File No. 1-10032

December 19, 1996.

Providence Energy Corporation ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, the Board of Directors of the Company adopted resolutions on October 17, 1996, to withdraw the Common Stock from listing on the Amex and, instead, to list such Common Stock on the New York Stock Exchange, Inc. ("NYSE").

Any interested person may, on or before January 13, 1997, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts hearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–32715 Filed 12–24–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–22407; 812–10258]

Van Kampen American Capital Equity Opportunity Trust, et al.

December 18, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Van Kampen American Capital Equity Opportunity Trust (the "Trust"), on behalf of itself and its series, Stepstone Growth Equity and Treasury Securities Trust, Series 1, Stepstone Funds on behalf of itself and its portfolio, Stepstone Growth Equity Fund (the "Equity Fund"), Van Kampen American Capital Distributions, Inc. (the "Sponsor"), Pacific Alliance Capital Management (the "Adviser"), and SEI Financial Services Company (the "Distributor").

RELEVANT ACT SECTIONS: Order requested under section 11(a) for an exemption from section 11(c).

SUMMARY OF APPLICATION: Applicants request an order to permit certain offers of exchange involving the Trust.

FILING DATE: The application was filed on July 22, 1996 and amended on November 22, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persona may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 13, 1997 and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing request should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicants: The Sponsor and the Trust, One Parkview Plaza, Oak Brook Terrace, Illinois 60181; the Adviser, 475 Sansome Street, San Francisco, CA 94111; the Funds, 2 Oliver Street, Boston, MA 02109; and the Distributor, 680 East Swedesford Road, Wayne, PA 19087–1658.

FOR FURTHER INFORMATION CONTACT: Sarah A. Buescher, Staff Attorney, at (202) 942–0573, or Mercer E. Bullard, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Trust is a unit investment trust registered under the Act that will consist of a series of unit investment trusts, each of which will be similar but separate and designated by a different series number ("Trust Series"). Each Trust Series will be created under the laws of one of the United States pursuant to a trust agreement which will contain information specific to that Trust Series and which will incorporate by reference the master trust indenture between the Sponsor and a financial institution that is a bank within the meaning of section 2(a)(5) of the Act and that satisfies the criteria in section 26(a) of the Act (the "Trustee"), and an evaluator. The trust agreement and the master trust indenture are referred to collectively as the "Trust Agreement."

2. The Sponsor is a Delaware corporation and a wholly-owned subsidiary of Van Kampen American Capital, Inc. The Sponsor is a registered broker-dealer and a member of the National Association of Securities Dealers, Inc. The Sponsor currently acts as principal underwriter for the Van Kampen American Capital of Mutual Funds.

3. Stepstone Funds is an open-end management investment company registered under the Act. Stepstone Funds is not affiliated with the Sponsor or the Trust. The Equity Fund is one of fourteen portfolios offered by Stepstone Funds (collectively, the "Funds"). Stepstone Funds has entered into an investment advisory agreement with the Adviser pursuant to which the Adviser acts an investment adviser for the Equity Fund and the other portfolios of Stepstone Funds.

4. Several of the Funds, including the Equity Fund, offer two classes of shares, the Institutional Class and the Investment Class. The Institutional Class is offered without a sales charge. The Investment Class is offered at net asset value plus a front-end sales load. Purchases of the Investment Class shares in the amount of $1 million or more are not subject to a front-end sales load, but redemptions of such amounts, purchased in reliance upon the waiver accorded to purchases of $1 million or more, within one year of purchase are subject to a contingent deferred sales load ("CDSL").

5. Certain Funds, including the Equity Fund, have adopted a distribution plan with respect to their Investment Class shares pursuant to rule 12b–1 under the Act ("12b–1 Plan"). With respect to each portfolio's 12b–1 Plan, Stepstone Funds is authorize to pay the Distributor a fee at the annual rate of up to 0.40% of the respective portfolio's Investment Class shares average daily net assets, of which a maximum of .25% may be used to compensate broker-dealers and service providers that provide administrative and/or distribution services to Investment Class shareholders of their customers who beneficially own Investment Class shares. For the current year, the Distributor has agreed to waive any fees payable pursuant to the 12b–1 Plan for several of the Funds. The Distributor reserves the right, however, to terminate its waiver at any time at its sole discretion. The Distributor is a registered broker-dealer and acts as underwriter for the shares of the Funds.

6. Each Trust Series will have a portfolio consisting initially of shares of one of the Funds and zero coupon obligations. The Sponsor's obligation to purchase any such obligations from third parties in order to fulfill contracts to purchase such obligations held by a Trust Series will be backed by an irrevocable letter of credit. All zero coupon obligations in any one Trust Series will have essentially identical maturities.

7. The Trust Series are intended to be offered to the public initially at prices based on the net asset value of the shares of the Fund selected for deposit in that Trust Series, plus the offering side value of the zero coupon

obligations contained therein, plus a sales charge. Each Trust Series will redeem units representing undivided interests in that Trust Series (the "Units") at prices based on the aggregate bid side evaluation of the zero coupon obligations plus the net asset value of the Fund shares.

8. The Sponsor will deposit the zero coupon obligations in a Trust Series at a price determined by an evaluator.[1] The Trust Agreement will govern and the prospectus will fully disclose this procedure. The shares of the Funds will be deposited at their net asset value. Simultaneously with such deposit, the Trustee will deliver to the Sponsor registered certificates for Units which will represent the entire ownership of the Trust Series. These Units, in turn, will be offered for sale to the public by the Sponsor through the final prospectus following the declaration of effectiveness of the registration statement.

9. With the deposit of the securities in the Trust Series on the initial date of deposit, the Sponsor will have established a proportionate relationship between the principal amounts of zero coupon obligations and Fund shares in the Trust Series. The Sponsor will be permitted under the Trust Agreement to deposit additional securities, which may result in a potential corresponding increase in the number of Units outstanding. Such Units may be continuously offered for sale to the public by means of the prospectus. The Sponsor anticipates that any additional securities deposited in the Trust Series subsequent to the initial date of deposit in connection with the sale of these additional Units will maintain the proportionate relationship between the principal amounts of zero coupon obligations and Fund shares in the Trust Series.

10. Each Trust Series will be structured so that it will contain a sufficient amount of zero coupon obligations to assure that, at the specified maturity date for such Trust Series, the initial investors purchasing Units of the Trust Series on the first date they are offered for sale will receive back at least the total amount of their original investment in the Trust Series, including the sales charge. To the extent that the Fund pays dividends or makes capital gains distributions during the life of the Trust Series and to the extent that Fund shares have any value at the maturity of the Trust Series, the value of the purchaser's investment will have increased.

11. Each Trust Series will be able to acquire no more than 10% of the outstanding shares of any Fund.[2] Shares of only one of the Funds will be sold for deposit in any one Trust Series and the sales charge or CDSL, if any, on such shares will be waived so that such sales will be at net asset value.

12. Since the shares of the Funds have their net asset values calculated daily and this value will be readily available to the Sponsor, no evaluation fee will be charged with respect to determining the value of the Fund shares which comprise part of the value of the Units. The evaluator will charge an evaluation fee only with respect to that portion of the portfolio of a Trust Series which consists of zero coupon obligations.

13. The Sponsor and the Distributor will rebate to the Trustee any rule 12b–1 fees they receive on shares of the Funds held by the Trust Services. Any rule 12b–1 fees so rebated will be distributed along with other Fund income earned by the Trust. Any Fund related distributions, including amounts attributable to rebated rule 12b–1 fees, will reflect the deduction by the Trust of bona fide Trust expenses. If such Trust expenses exceed the amount of distributions from the Fund, excluding rebated 12b–1 fees, the deduction of Trust expenses will effectively reduce the amount of such rebate that is returned to unitholders.

14. The Sponsor does not intend to maintain a secondary market for the Units of the Initial Trust Series. Although not obligated to do so, the Sponsor may maintain a secondary market for Units of subsequent Trust Series. In the event the Sponsor does not maintain a secondary market, the Trust Agreement will provide that the Sponsor will not instruct the Trustee to sell zero coupon obligations from any Trust Series until shares of the Fund have been liquidated in order not to impair the protection provided by the zero coupon obligations, unless the Trustee is able to sell such zero coupon obligations and still maintain at least the original proportional relationship to Unit value and will further provide that zero coupon obligations may not be sold to meet Trust expenses. In addition, the Trustee may not redeem Fund shares except to the extent necessary to meet redemption of Units by unitholders, or to pay Trust expenses should distributions received on Fund shares and rebated 12b–1 fees prove insufficient to cover such expenses.

15. Unitholders may redeem their Units at prices based upon the net asset value of the Fund shares in the Trust Series plus the aggregate bid price of the zero coupon obligations. Unitholders tendering a minimum number of shares as disclosed in the prospectus will be able to request an in-kind distribution of portfolio securities in lieu of a cash distribution. The tendering unitholder will receive the *pro rata* number of Fund shares and the Fund proposes to offer these unitholders the option of reinvesting the *pro rata* portion of zero coupon obligations into Fund shares without a sales charge. Unitholders not electing to have their portion of the zero coupon obligations reinvested in Fund shares will receive cash equal to the *pro rata* portion of the zero coupon obligations to which the tendering unitholder is entitled.

16. Similarly, each Trust Series will provide unitholders still holding at termination the minimum number of Units set forth in the prospectus the option to receive an in-kind distribution of their *pro rata* number of Fund shares. The Fund also will offer all such unitholders the option of reinvesting their *pro rata* portion of zero coupon obligations in Fund shares at net asset value. Proceeds from the zero coupon obligations will be paid in cash unless the unitholder elects reinvestment. The reinvestment options upon redemption of Units and at termination of the Trust Series are collectively referred to herein as the "Reinvestment Options." Shares acquired under the Reinvestment Options will be subject to any applicable rule 12b–1 fees as are all other shares held directly by investors.

Applicants' Legal Analysis

1. Section 11(a) of the Act makes it unlawful for any registered open-end investment company or principal underwriter for such company to make or cause to be made certain offers of exchange on any basis other than the relative net asset values of the securities to be exchanged, unless the terms of the exchange offer have first been approved by the SEC. Section 11(c) provides that section 11(a) will be applicable to any type of exchange offer involving securities of a registered unit investment trust, irrespective of the basis for the exchange. Applicants state that the intent of section 11 is to protect

[1] The Sponsor expects to be deposit substantially more than $100,000 aggregate value of zero coupon obligations and Fund shares in each Trust Series.

[2] Applicants state that they are not requesting relief from section 12(d)(1) of the Act because section 12(d)(1)(E) of the Act provides that section 12(d)(1) shall not apply to securities purchased by a registered unit investment trust if the securities are the only "investment securities" held by the trust. Applicants believe that U.S. Treasury zero coupon obligations are not "investment securities" for purposes of section 12(d)(1)(E) and that the Fund shares are the only "investment securities" which a Trust Series will hold. *See* Equity Securities Trust (pub. avail. Jan. 19, 1994).

investors from switching their investment in securities of one investment company to another investment company and the consequent erosion of their equity.[3]

2. Applicants request relief on behalf of (a) certain existing and subsequent Trust Series, (b) existing and future portfolios of the Stepstone Funds other than money market or no-load funds (*i.e.* funds that do not impose a sales load, a deferred sales load, or bear distribution expenses pursuant to a rule 12b–1 plan), and (c) open-end management investment companies, including portfolios and series thereof, that may in the future be advised by the Adviser, other than money market or no-load funds.[4]

3. Applicants note that the Reinvestment Options provide unitholders the option of either (a) in-kind distribution of their proportionate number of Fund shares or (b) receiving a cash distribution. Such unitholders also will have the option of (a) reinvesting the proceeds of the zero coupon obligations in Fund shares at net asset value (without the imposition of a CDSL or a sales load) or (b) receiving a cash distribution.

4. Applicants believe that the Reinvestment Options give the unitholders flexibility of choice. Applicants further believe that the Reinvestment Options do not raise the concerns that section 11 was designed to address because, although Fund shares have a front-end sales load or a CDSL, none will be charged to the unitholders in the proposed Reinvestment Options. Applicants note that there will be no additional cost, other than the rule 12b–1 fee, to unitholders who choose to invest in Fund shares upon redemption of Units or upon termination of the Trust.[5]

Applicants' Conditions

Applicants agree to the following as conditions to granting the requested order:

1. No sales charge, CDSL, if any, or redemption fee will be imposed on any shares of the Fund deposited in any Series of the Trust or on any Fund shares acquired by unitholders through the Reinvestment Options.

2. The prospectus of each Trust Series and any sales literature or advertising that mentions the existence of the Reinvestment Options will disclose that shareholders who elect to invest in Fund shares will incur a rule 12b–1 fee.

3. The Sponsor and the Distributor will immediately rebate to the Trustee any rule 12b–1 fees it receives on shares of the Funds acquired by the Trust Series.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–32720 Filed 12–24–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38053; File No. SR–MSRB–96–06]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval to Proposed Rule Change and Notice of Filing of, and Order Granting Accelerated Approval to, Amendment No. 1 to the Proposed Rule Change Relating to MSRB Telemarketing Rules

December 16, 1996.

I. Introduction

On July 30, 1996, the Municipal Securities Rulemaking Board ("Board" or "MSRB") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend MSRB telemarketing rules[3] the proposed rule change was published for comment in the **Federal Register** on September 7, 1996.[4] No comments were received on the proposal.[5]

II. Background

Under the Telemarketing and Consumer Fraud and Abuse Prevention Act ("Telemarketing Act"), which became law in August 1994,[6] the Federal Trade Commission adopted detailed regulations ("FTC Rules")[7] to prohibit deceptive and abusive telemarketing acts and practices that became effective on December 31, 1995.[8] The FTC Rules, among other things, (i) require the maintenance of "do-not-call" lists and procedures, (ii) prohibit certain abusive, annoying, or harassing telemarketing calls, (iii) prohibit telemarketing calls before 8 a.m. or after 9 p.m., (iv) require a telemarketer to identify himself or herself, the company he or she works for, and the purpose of the call, and (v) require express written authorization or other verifiable authorization from the customer before the firm may use instruments called "demand drafts."[9]

Under the Telemarketing Act, the SEC is required either to promugage or to require the SROs to promulgate rules substantially similar to the FTC Rules, unless the SEC determines either that the rules are not necessary or appropriate for the protection of investors or the maintenance of fair and orderly markets, or that existing federal securities laws or SEC rules already provide for such protection.

The MSRB believes it has implemented the prohibition against certain abusive, annoying, or harassing telemarketing calls contained in the FTC Rules by issuing an interpretation that such conduct is violative of existing rules.[10] The MSRB believes that the proposed rule change addresses all

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[3] Applicants state that they are not requesting relief from sections 14(a) and 19(b) of the Act and rule 19b–1 thereunder because the Trust has received an exemption from such provisions in a prior application. *See* Van Kampen Merritt Equity Opportunity Trust, Investment Company Act Release Nos. 20597 (Oct. 4, 1994) (notice) and 20672 (Nov. 1, 1994) (order).

[4] Applicants state in a letter that all existing Trust Series or portfolios of the Stepstone Funds that currently intend to rely on the requested order are named in the application.

[5] Applicants note that, if Unitholders choose instead to take a cash distribution upon termination of the Trust or upon redemption of Units and later decide to invest in Fund shares, they would have to pay a front-end sales load or would be subject to the imposition of any applicable CDSL.

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On Nov. 4, 1996, the MSRB filed Amendment No. 1 to its proposal. Letter from Ronald W. Smith, Legal Associate, Municipal Securities Rulemaking Board ("MSRB"), to George A. Villasana, Attorney, Division of Market Regulation, SEC, dated Nov. 1, 1996.

[4] *See* Securities Exchange Act Release No. 37626 (Aug. 30, 1996), 61 FR 47224 (Sept. 6, 1996) (notice of File No. SR–MSRB–96–06).

[5] The Commission, however, received two comment letters on an NASD proposal, which is substantially similar. *See* Letter from Brad N. Bernstein, Assistant Vice President & Senior Attorney, Merrill Lynch, to Jonathan G. Katz, Secretary, SEC, dated Aug. 19, 1996 ("Merrill Lynch Letter"), and Letter from Frances M. Stadler, Associate Counsel, Investment Company Institute ("ICI"), to Jonathan G. Katx, Secretary, SEC, dated Aug. 21, 1996 ("ICI better").

For a discussion of the letters and responses thereto, see Securities Exchange Act Release No. 38009 (Dec. 2, 1996) (approving File No. SR–NASD–96–28). In response to these letters, the MSRB filed Amendment No. 1 to its proposal. *See* Amendment No. 1, *supra* note 3.

[6] 15 U.S.C. §§ 6101–08.

[7] 16 CFR 310.

[8] §§ 310.3–4 of FTC Rules.

[9] *Id.* Pursuant to the Telemarketing Act, the FTC Rules do not apply to brokers, dealers, and other securities industry professionals. Section 3(d)(2)(A) of the Telemarketing Act.

A "demand draft" is used to obtain funds from a customer's bank account without that person's signature on a negotiable instrument. The customer provides a potential payee with bank account identification information that permits the payee to create a piece of paper that will be processed like a check, including the words "signature on file" or "signature pre-approved" in the location where the customer's signature normally appears.

[10] The Board implemented the requirement in (ii) referenced above by issuing an interpretation that abusive telemarketing calls are inconsistent with past and equitable principles of trade. *See* MSRB Reports, Vol. 16, No. 3 (Sept. 1996).

other relevant elements of the FTC Rules not covered by existing federal securities laws and regulations.

III. Description of the Proposals

Time Limitations and Disclosure

The proposed rule change adds rule G–39 to prohibit, under proposed paragraph (a) to rule G–39, a broker, dealer or municipal securities dealer or a person associated with a broker, dealer or municipal securities dealer from making outbound telephone calls to the residence of any person for the purpose of soliciting the purchase of municipal securities or retailed services at any time other than between 8 a.m. and 9 p.m. local time at the called person's location, without the prior consent of the person, and to require, under proposed paragraph (b) to rule G–39, such broker, dealer or municipal securities dealer or a person associated with a broker, dealer or municipal securities dealer to promptly disclose to the called person in a clear and conspicuous manner the caller's identity and firm, the telephone number or address at which the caller may be contacted, and that the purpose of the call is to solicit the purchase of municipal securities or related services.

Paragraph (c) to proposed rule G–39 creates exemptions from the time-of-day and disclosure requirements of paragraphs (a) and (b) for telephone calls by associated persons responsible for maintaining and servicing accounts of certain "existing customers" assigned to or under the control of the associated persons. Paragraph (c) defines "existing customer" as a customer for whom the broker, dealer or municipal securities dealer, or a clearing broker or dealer on behalf of such broker, dealer or municipal securities dealers, carries an account. Proposed subparagraph (c)(i) exempts such calls, by an associated person, to an existing customer who, within the preceding twelve months, has effected a securities transaction in, or made a deposit of funds or securities into, an account under the control of or assigned to such associated person at the time of the transaction or deposit. Proposed subparagraph (c)(ii) exempts such calls, by an associated person, to an existing customer who, at any time, has effected a securities transaction in, or made a deposit of funds or securities into an account under the control of or assigned to the associated person at the time of the transaction or deposit, as long as the customer's account has earned interest or divided income during the preceding twelve months. Each of these exemptions also permits calls by other associated persons acting at the direction of an associated person who is assigned to or controlling the account. Proposed subparagraph (c)(iii) exempts telephone calls to a broker, dealer or municipal securities dealer. The proposed rule change also expressly clarifies that the scope of this rule is limited to the telemarketing calls described herein; the terms of the rule do not otherwise expressly or by implication impose on brokers, dealers or municipal securities dealers any additional requirements with respect to the relationship between a dealer and a customer or between a person associated with a dealer and a customer.[11]

Do Not Call List

The proposed rule change amends rule G–8, on books and records, so that each broker, dealer and municipal securities dealer that engages in telephone solicitation to market its products and services is required to make and maintain a centralized do-not-call list of persons who do not wish to receive telephone solicitations from a broker, dealer or municipal securities dealer or a person associated with a broker, dealer or municipal securities dealer.[12]

Demand Draft Authorization and Recordkeeping

The proposed rule change also amends rule G–8, on books and records, to prohibit a broker, dealer or municipal securities dealer or municipal securities dealer or person associated with a broker, dealer or municipal securities dealer from obtaining from a customer or submitting for payment a check, draft, or other form of negotiable paper drawn on a customer's checking, savings, share, or similar account ("demand draft") without that person's express written authorization, which may include the customer's signature on the instrument. The proposed change to rule G–9, on preservation of records, requires the retention of such authorization for a period of three years. The proposal also states that this provision shall not, however, require maintenance of copies of negotiable instruments signed by customers.[13]

Telemarketing Scripts

The proposed rule change amends rule G–21 to include "electronic" messages sent via computer and "telemarketing scripts" within the definition of "advertisement." The inclusion of the term "electronic" within the definition of "advertisement" is intended to apply to communication available to all network subscribers including items displayed over network bulletin boards, and it is intended to apply to messages sent directly to individuals or targeted groups. Therefore, the associated record retention requirement for "advertisements" contained in the proposed change to rule G–9(b)(xiii), on record retention, will require dealers to retain telemarketing scripts for three years.

IV Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the Board, and, in particular, with Section 15B(b)(c)(C) of the Act[14] which requires, among other things, that the rules of the Board be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.[15] The proposed rule change is consistent with these objectives in that it imposes time restriction and disclosure requirements, with certain exceptions, on members' telemarketing calls, requires verifiable authorization from a customer for demand drafts, requires the maintenance of a do-not-call list, requires the retention for three years of all substantially different telemarketing scripts, and prevents members from engaging in certain deceptive and abusive telemarketing acts and practices while allowing for legitimate telemarketing practices. The Commission believes that the addition of rule G–39, prohibiting a broker, dealer or person associated with a broker, dealer or municipal securities dealer from making outbound telephone calls to the residence of any person for the purpose of soliciting the purchase of municipal securities or related services at any time other than between 8 a.m. and 9 p.m. local time at the called person's location, without the prior consent of the person, is appropriate.

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[11] *See* Amendment No. 1, *Supra* note 3.

[12] The NYSE, the NASD, the CBOE, the Amex, and the PSE also adopted similar rules. *See* Securities Exchange Act Release Nos. 35821 (June 7, 1995), 60 FR 31337 (approving File No. SR–NYSE–95–11); 35831 (June 9, 1995) 60 FR 56624 (approving File No. SR–CBOE–95–63); 36748 (Jan. 19, 1996), 61 FR 2556 (approving File No. SR–AMEX–96–01); and 37897 (Oct. 30, 1996), 61 FR 57937 (approving File No. SR–PSE–96–32).

[13] *See* Amendment No. 1, *supra* note 3.

[14] 15 U.S.C. § 78o–4.

[15] In approving these rules, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. 15 U.S.C. § 78c(f).

The Commission notes that, by restricting the times during which a broker, dealer or municipal securities dealer or person associated with a broker, dealer or municipal securities dealer may call a residence, the Rules furthers the interest of the public and provides for the protection of investors by preventing brokers, dealers and municipal securities dealers from engaging in unacceptable practices, such as persistently calling members of the public at unreasonable hours of the day and night.

The Commission also believes that the addition of rule G–39, requiring a broker, dealer or municipal securities dealer or person associated with a broker, dealer or municipal securities dealer to promptly disclose to the called person in a clear and conspicuous manner the caller's identity and firm, telephone number or address at which the caller may be contacted, and that the purpose of the call is to solicit the purchase of municipal securities or related services, is appropriate. By requiring the caller to identify himself or herself and the purpose of the call, the rule assists in the prevention of fraudulent and manipulative acts and practices by providing investors with information necessary to make an informed decision when purchasing municipal securities. Moreover, by requiring the associated person to identify the firm for which he or she works and the telephone number or address at which the caller may be contacted, the rule encourages responsible use of the telephone to market municipal securities.

The Commission also believes that rule G–39, creating exemptions from the time-of-day and disclosure requirements for telephone calls by associated persons, or other associated persons acting at the direction of such persons, to certain categories of "existing customers" is appropriate. The Commission believes it is appropriate to create an exemption for calls to customers with whom there are existing relationships in order to accommodate personal and timely contact with a broker, dealer or municipal securities dealer who can be presumed to know when it is convenient for a customer to respond to telephone calls. Moreover, such an exemption also may be necessary to accommodate trading with customers in multiple time zones across the United States. The Commission, however, believes that the exemption from the time-of-day and disclosure requirements should be limited to calls to persons with whom the broker, dealer or municipal securities dealer has a minimally active relationship. In this regard, the Commission believes that rule G–39 achieves an appropriate balance between providing protection for the public and the municipal brokers' and dealers' interest in competing for customers.

The Commission also believes that the amendment to rule G–8, requiring that a broker, dealer or municipal securities dealer or person associated with a broker, dealer or municipal securities dealer obtain from a customer, and maintain for three years, express written authorization when submitting for payment a check, draft, or other form of negotiable paper drawn on a customer's checking, savings, share or similar account, is appropriate. The Commission notes that by requiring a broker, dealer and municipal securities dealer or person associated with a broker, dealer or municipal securities dealer to obtain express written authorization from a customer in the above-mentioned circumstances assists in the prevention of fraudulent and manipulative acts in that it reduces the opportunity for a broker, dealer or municipal securities dealer or person associated with a broker, dealer or municipal securities dealer to misappropriate customers' funds. Moreover, the Commission believes that by requiring brokers, dealers and municipal securities dealers or persons associated with a broker, dealer or municipal securities dealer to retain the authorization for three years, rule G–8 protects investors and the public interest in that it provides interested parties with the ability to acquire information necessary to ensure that valid authorization was obtained for the transfer of a customer's funds for the purchase of a municipal security.

The Commission also believes that the amendment to rule G–8, requiring that each broker, dealer and municipal securities dealer maintain a centralized do-not-call list of persons who do not wish to receive telephone solicitations from the broker, dealer or municipal securities dealer or its associated persons, is appropriate. By requiring brokers, dealers and municipal securities dealers to maintain a do-not-call list, rule G–8 assists in the prevention of fraudulent and manipulative acts and practices, such as persistently calling investors who have expressed a desire not to receive telephone solicitations.

The Commission also believes that the amendments to rules G–9 and G–21, requiring every broker, dealer and municipal securities dealer to retain for three years from the date of each use each advertisement published or designed for distribution to the public, including, among other things, electronic media and telemarketing scripts, is appropriate. By requiring brokers, dealers and municipal securities dealers to retain advertisements for three years, rules G–9 and G–21 assist in the prevention of fraudulent and manipulative acts and practices and provide for the protection of the public in that they provide interested parties with the ability to acquire copies of the advertisements used to solicit the purchase of municipal securities to ensure that brokers, dealers and municipal securities dealers and associated persons are not engaged in unacceptable telemarketing practices.

Finally, the Commission believes that the proposed rule achieves a reasonable balance between the Commission's interest in preventing members from engaging in deceptive and abusive telemarketing acts and the members' interest in conducting legitimate telemarketing practices.

The Commission finds good cause for approving Amendment No. 1 prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. Amendment No. 1 simply clarifies portions of the proposed Rule and does not raise any significant regulatory concerns. Therefore, the Commission believes that granting accelerated approval to Amendment No. 1 is appropriate and consistent with Section 15B and Section 19(b)(2) of the Act.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth, N.W., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the MSRB. all submissions should refer to File No. SR–MSRB–96–06 and should be submitted by January 15, 1997.

V. Conclusion

It is Therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the proposed rule change (SR–MSRB–96–06), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–32721 Filed 12–24–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38060; File NO. SR–NASD–96–47]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by NASD Regulation, Inc. Relating to the Policy and Practice Concerning the Application of the Eligibility Provision in Rule 10304 of the NASD Code of Arbitration Procedure

December 18, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 17, 1996, NASD Regulation, Inc. ("NASD Regulation") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.[1]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation amended its policy and practice concerning the application of the eligibility provision in Rule 10304 of the Code of Arbitration Procedure ("Code") of the National Association of Securities Dealers, Inc. ("NASD" or "Association") to the effect that arbitrators, not the NASD Regulation staff, shall determine whether a dispute is eligible for arbitration. Below is the test of the policy and practice change.

Pursuant to Rule 10304 of the Code, "[n]o dispute, claim or controversy shall be eligible for submission to arbitration under this code where six (6) year as have elapsed from the occurrence or event giving rise to the act or dispute, claim or controversy." Effective August 1, 1996,[2] the NASD Regulation staff will no longer make preliminary determinations concerning the eligibility of a claim for arbitration. The NASD Regulation staff instead will address questions concerning the eligibility of a claim according to the following procedures:

1. Upon the filing or receipt of a claim, the staff reviews the claim to determine if the claimant has identified when the transaction at issue occurred or when the claim arose. If not identified, the Statement of Claim is retained but the claimant is asked for additional information about the age of the claim.

2. If a claim identifies when the transaction at issue occurred or when the claim arose, it is served on the respondents. It is then the respondent's determination whether to challenge the eligibility of the claim.

3. Any motions to dismiss the claim on eligibility grounds and any responses thereto are forwarded to the arbitrators for a decision.

4. For those cases filed prior to August 1, 1996 where the staff has made a preliminary eligibility ruling in response to a respondent's motion, the moving papers will be forwarded to the arbitrators with a remainder that the arbitrators must review the issue *de novo* and must not accord the staff's preliminary ruling any weight.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASD Regulation is soliciting comment on its amended policy and practice concerning the application of the eligibility provision in Rule 10304 of the Code to the effect that arbitrators, not the NASD Regulation staff, shall determine whether a dispute is eligible for arbitration under Rule 10304.[3]

Until recently, the NASD Regulation staff made preliminary eligibility determinations, both before and after a claim had been served, in cases where a bright line test could be applied. Before a claim was served the staff would, upon examination of the allegations in the Statement of Claim, determine if the occurrence or event giving rise to the act or dispute, claim or controversy took place more than six (6) years prior to the filing of the Statement of Claim. If the staff determined that this was the case, it would advise the claimant that the claim was ineligible for arbitration. Once a claim had been served and the staff had previously made a preliminary eligibility determination upon the motion of a party, upon the request of a party the arbitrators could review the preliminary staff determination and accept or reject it. The other self-regulatory organization ("SRO") arbitration forums have also followed this practice.

NASD Regulation has determined that because the practice of having the staff make preliminary eligibility determinations is not expressly provided for in the Code, questions may arise concerning the legal effect of these determinations. Accordingly, NASD Regulation amended the existing policy and practice to eliminate staff eligibility determinations.

The amended policy, which is consistent with the Code and plain language of Rule 10304, will require the staff, upon the filing or receipt of a claim, to review the claim to determine if the claimant has identified when the transaction at issue occurred or when the claim arose. If not identified, the Statement of Claim is retained but the claimant is asked for additional information about the age of the claim. By requiring that claims identify when the transaction at issue occurred or arose, NASD Regulation is facilitating the ability of the arbitrators to determine if the claim is eligible.

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[16] 15 U.S.C. § 78s(b)(2).

[17] 17 CFR 200.30–3(a)(12)(1994).

[1] NASD Regulation originally submitted this proposed rule change in SR–NASD–96–37 on October 15, 1996. That rule filing was submitted for immediate effectiveness under Section 19(b)(3)(A) of the Act. SR–NASD–96–37 was withdrawn simultaneously with the filing of this rule change.

[2] NASD Regulation has been enforcing the amended policy and practice described in SR–NASD–96–37, and in this filing, since August 1, 1996, up to and during the filing of notice in SR–NASD–96–37, and is continuing to enforce the policy at this time.

[3] This policy is intended to be temporary. NASD Regulation intends the policy to remain in effect until an amendment to Rule 10304 can be developed and approved. The NASD's Arbitration Policy Task Force Report on Securities Arbitration Reform recommended suspending the eligibility rule. NASD Regulation, in consultation with the Securities Industry Conference on Arbitration (SICA) and others, is considering other alternatives to suspending the eligibility rule. The policy will not be included in the NASD Manual because NASD Regulation intends to propose a new arbitration eligibility rule within a few months.

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If a claim identifies when the transaction at issue occurred or when the claim arose, or is amended to provide such information, it is served on the respondents. Once the claim is served, the respondents can decide whether or not the challenge the eligibility of the claim. If a respondent submits a motion to dismiss on eligibility grounds, the claimants will have an opportunity to respond, and the motion and the responses will be forwarded to the arbitrators for a decision.

NASD Regulation has also determined that where a case was filed prior to August 1, 1996, and the staff has made a preliminary eligibility ruling in response to a respondent's motion, the moving papers will be forwarded to the arbitrators with a reminder that the arbitrators must review the issue de novo and must not accord the staff's preliminary ruling any weight.

NASD Regulation notes, as described above, that eligibility determinations have always involved an element of staff discretion. Thus, adoption of the policy set forth above is not a substantive change in Rule 10304 or its interpretation; it is a change in the manner in which the staff exercises its discretion to administer the arbitration process under the Rule.

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b) (6) of the Act[4] in that amending the policy for applying the eligibility provision of the Code serves the public interest by enhancing the perception of fairness of such proceedings by the parties to such proceedings. Unless otherwise expressly provided for in the Code, dispositive motions should be decided by the arbitrators because the arbitrators are the designated adjudicators of all issues of fact, law and procedure in an arbitration. To the extent the parties to such proceedings express increased satisfaction with the resolution of eligibility issues, the goal of providing the investing public with a fair, efficient and cost-effective forum for the resolution of disputes will have been advanced.

B. Self-Regulatory Organization's Statement on Burden on Competition

Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[4] 15 U.S.C. 780–3(b)(6).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

NASD Regulation proposed rule change SR–NASD–96–37 was filed for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act on October 15, 1996. The Commission published notice of the filing of SR–NASD–96–37 in the **Federal Register**[5] and received thirteen comment letters in response.[6] Filing SR–NASD–96–37 is being withdrawn simultaneously with the submission of this rule filing, which is substantively the same as SR–NASD–96–37.

Because there is insufficient time to adequately address the comment letters received in response to SR–NASD–96–37 at this time, NASD Regulation will respond to them when addressing the comment letters received in response to this filing.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–96–47 and should be submitted by January 16, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–32772 Filed 12–24–96; 8:45 am]

BILLING CODE 8010–01–M

[5] Securities Exchange Act Release No. 37875 (October 28, 1996), 61 FR 56594 (November 1, 1996).

[6] Comment letters were received from A.G. Edwards & Sons, Inc.; Scot D. Bernstein, Esq.; Gail E. Boliver, Esq.; Michael R. Casey, Esq.; Dean Witter, Discover & Co.; Philip J. Hoblin, Jr., Esq.; Investor Advocates; C. Thomas Mason, III; Merrill Lynch; Public Investors Arbitration Bar Association; Harold W. Sellner; Smith Barney; and the Securities Industry Association.

[7] 17 CFR 200.30–3(a)(12).

[Release No. 34–38058; File No. SR–NYSE–96–36]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Transmission of Proxy and Other Shareholder Communication Material.

December 18, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. § 78s(b)(1), notice is hereby given that on December 6, 1996, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing changes to Rules 451 and 465 (the "Rules") on a three-year pilot basis. The Rules establish guidelines for the reimbursement of expenses by issuers to NYSE member organizations for the processing of proxy materials and other issuer communications with respect to security holders whose securities are held in street name. The text of the proposed rule change is available at the Exchange or the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Items IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background to the Proposed Rule Change

Exchange member organization holding securities in street name solicit proxies and deliver communications to and from beneficial owners of securities on behalf of issuers.[1] For this service, issuers reimburse the member organizations for all out-of-pocket expenses, reasonable clerical expenses, postage and other expenses incurred in a particular circulation. The Rules set guidelines for the amount of the reimbursement.

While member organizations initially handled proxy processing internally, beginning in the late 1960's and continuing to the present, firms have increasingly used outside contractors for these types of services. In particular, a firm will contract with a service bureau, such as Automatic Data Processing ("ADP"), for the solicitation of proxy voting instructions, and the distribution of reports to shareholders.[2] However, the identity of the soliciting broker remains on all communications.

Since the level of reimbursement was last reviewed in 1986, the Exchange has found that proxy solicitation and report distribution costs have increased, due in large part to general cost increases in the economy. Postage itself has doubled since 1979. Brokers pass these costs to the issuers. Aggregate costs also have increased due to a substantial increase in the number of beneficial owners, which results from increased participation of individual investors in the rising securities market.

While the number of individual investors has increased, the percentage of holdings of securities through institutional investors, mutual funds, pension and savings plans also has increased. Such institutions have an obligation, or, in some cases, a statutory duty, to vote the shares being held. Institutions have developed a variety of mechanisms to vote their shares in conformity with their own internal policies and governing regulations. While these procedures require time, many institutional investors have difficulty voting on a timely basis during the spring proxy season. Over 40 percent of all annual meetings occur within a few weeks. Some large institutions tend to vote very close to the meeting date, particularly during the proxy season, due to the immense increase in paperwork.

The Exchange has determined that, in addition to the changing stock ownership patterns, stock holdings continue to migrate from registered to street or nominee ownership. Street name holdings are concentrated with approximately 1,000 nominees, and the Exchange believes that an efficient infrastructure is necessary to coordinate these nominees and their customers. Service bureaus, as contract agents of the nominees, build and maintain such systems. Nominees and their agents also have developed communications systems for obtaining shareholder votes electronically rather than through a physical proxy. To accommodate this, the Exchange recently amended its rules to permit telephone voting. However, the Exchange has found that the current fee structure does not recognize the value that these systems provide to issuers in reducing the costs of coordination and solicitation.

Despite the progress that has been made in the distribution and proxy solicitation process, issuers often express their belief that mailing fees are unnecessarily high and that the procedures are not responsive to the needs of the issuers. In this regard, unit fees for large issuers are the same as those for small issuers, ignoring economies of scale. Two matters are of particular concern to issuers: whether they will have a quorum at their meeting and whether large blocks of votes will be received relatively close to the meeting date. In many cases, addressing these concerns has led to significantly increased solicitation costs for issuers. At the same time, the interests of institutions in having their voted counted in the tabulation must also be recognized, and any changes must preserve the rights of all shareholders in the corporate suffrage process.

Limitations of the Current Fee Structure

While there have been changes in the nature of securities holdings and enhancements in technology, the proxy fee structure generally has been unchanged since the Rules were first adopted in 1938. In the Exchange's view, the current structure does not provide incentives for nominees and other intermediaries to use the most current and efficient technology. The Exchange believes that this structure needs to be reconsidered and that there should be incentives for market-driven innovations, such a electronic proxy services, touch-tone voting, and electronic vote reporting.

Funding to operate these communication and voting systems presently comes from the unit mailing fees that issuers pay under the NYSE reimbursement guidelines. A decrease in fees could reduce the use of these systems, which are increasingly being relied upon in the voting process. Without financial incentives, it is unlikely that new cost-reducing technology will be implemented. In addition, there is no incentive for brokers and intermediaries to reduce the mailing of printed material. Paper, printing and postage generally represent between 80 and 90 percent of the cost of the average proxy mailing. By the development and use of new technologies and electronic distribution, these costs can be reduced.

Finally, the Rules also do not recognize the cost of coordinating multiple nominees and the value that consolidating material distribution and vote collection provides to issuers. These services, which are not expressly required by any regulation, include: (i) sending a single search card for multiple nominees; (ii) coordinating multiple nominees to generate a single material request for each issuer; (iii) delivering material to a single place for multiple nominees; (iv) sorting bulk mail across multiple nominees for maximum discounts; (v) daily reporting of votes for multiple broker and bank nominees; and (vi) consolidating multiple nominees into a single invoice.

The Exchange's Proposal

The proposed rule change would amend the Rules to reduce the suggested rate of reimbursement from 60¢ or 70¢ to 55¢ for each set of proxy material, *i.e.*, proxy statement, form of proxy and

[1] Street ownership encompasses shares purchased through a broker or bank (referred to as a nominee). The shares are then registered in the name of that nominee, or in the nominee name of a depository such as The Depository Trust Company ("DTC"). Recent analysis indicates that, on average, approximately 70 to 80 percent of all outstanding shares are held in street name.

[2] The Commission notes that ADP is currently the only intermediary offering these services to broker-dealers.

annual report, when mailed as a unit. The present distinction between proposals that require beneficial instructions and those that do not would be eliminated. According to the Exchange, this will produce substantial savings for all issuers. Further, the rate for mailing other reports, primarily quarterly reports, would be reduced from 20¢ to 15¢. The rate of reminder notices would remain at 40¢ unless a proxy fight is involved. The special fee of 60¢ for mailing only to shareholders who have not voted would be eliminated. These are the first reduction in the basic rates since the Rules were adopted in 1938.

The proposal treats reimbursement for mailings during proxy fights differently. These contests require significant efforts by all participants in the proxy process and can occur under difficult circumstances. The time for distribution is short and requires maximum effort. Thus, the proposal includes a new fee of $1 for each set of proxy materials mailed.

A significant aspect of the proposed rule change is a new $20 fee per nominee. To earn this fee, the intermediary will need to provide coordination for a series of functions across a multitude of nominees (brokers, banks).[3] In effect, this fee compensates an intermediary for all the services it provides and upon which issuers and institutions have come to rely, such as:[4]

- Searches: Rule 14a-13 under the Act requires an issuer to inquire of each record holder to determine the number of beneficial owners holding shares through nominees. If an intermediary coordinates multiple nominees, the issuer incurs only the expense of performing one "search" for all the nominees, saving the issuer significant expenses.
- Search responses: Nominees must respond to an issuer's search request within seven business days of receipt. This process often is complicated since there are multiple levels of entities. In that case, an intermediary can consolidate responses (in some cases, responses of over 1,000 entities), this saving administrative expenses for issuers and increasing the accuracy of ordering material.
- Delivering materials: Providing material to hundreds of nominees requires an issuer to sort and ship a parcel to each nominee. If this task is not done by the issuer, it must be done by a proxy solicitor or some other vendor. Since an issuer pays a fee and a freight bill for each of these shipments, and intermediary can save issuers a significant expense if it can make one material delivery for hundreds of nominees.
- Use of bulk mail: For issuers who use bulk mail, a significant amount of the savings realized today would not occur unless intermediaries continue to combine nominees. Issuers reimburse nominees for postage, and bulk postage rates are available only for large shipments. Unless consolidated, the majority of nominees would not be able to qualify individual small shipments for bulk discounts.
- Preliminary voting information: To help issuers judge whether they have a quorum, many brokers currently report a discretionary vote ten or fifteen days before a meeting in accordance with NYSE Rule 451(b)(1), and again at the time of the meeting. As the proxy process has evolved, large intermediaries voluntarily have provided daily voting updates for issuers. ADP now sends daily consolidated vote reports 15 or 10 days before a meeting, and then every business day until the night before the meeting. Without this service, many issuers would need to hire a proxy solicitor to obtain voting estimates. Obtaining the vote from a single source for hundreds of nominees can save the issuer substantial expense, and daily voting updates provide comfort to the issuer as the meeting date approaches.

The Exchange has determined that this coordination fee is consistent with current Exchange rules that authorize the payment of a coordination fee for agents that coordinate providing information regarding non-objecting beneficial owners ("NOBOs").[5] The impact of the nominee fee will vary with the issuer and the nature of its shareholders. However, the Exchange has observed that smaller issuers tend to have fewer nominee holders. The Exchange estimates that the smallest 4,000 U.S. issuers would pay, on average, an intermediary nominee coordination fee of only $800. This will be partially offset by the lower basic rate and lower expense.

To clarify the policy with respect to out-of-pocket expenses, the proposed rule provides for reimbursement only of actual costs, such as: outgoing postage (plus third class sorting fee); envelopes and business reply envelopes; and custom printing of envelopes and ballots. The business reply postage would be billed at the Business Reply Mailing Accounting System (BRMAS) rate. Additional savings are possible by sorting mail to obtain postal discounts, as well as through other efforts undertaken by nominees or their agents to reduce issuers' postage expenses. These savings could be shared between the issuer and the processor.

The Exchange also is prosing a new incentive fee to compensate member organizations for eliminating the need to send materials in paper form. This will encourage member organizations to apply technology to sort materials in a way that multiple proxy instruction forms are included in a single envelope, with a single set of materials to be mailed to the same household. The Rules address this area through the concept of "householding." A member firm or intermediary could earn this paper elimination fee by distributing multiple proxy instruction forms electronically or be distributing all material to a household electronically. An additional fee of 50¢ (10¢ for a quarter report) is proposed for each set of material that is not mailed.

The Exchange provides the following examples of the cost savings that are possible by eliminating mailings:

1. A person having three accounts—such as an individual account, an "IRA" retirement account, and a trust account—could receive one set of materials through "householding." The cost comparison is:

	Unit cost	Without householding	Householding (3 accounts)
Proxy Fee	$.55	$1.65	$1.65
Householding Fee	.50	0	1.00
Annual Report & Proxy Statement (Estimated, cost will vary):	2.00	6.00	2.00
Bulk Rate	.65	1.95	.65

[3] "Nominees" are those names that appear on either the list of record shareholders or on an omnibus proxy sent to the issuer on the record date by a depository, but who are, in fact, acting for someone else. In practice, they are self-clearing brokers, banks, or other financial institutions participating in DTC or some other depository.

[4] As noted above, ADP is the only intermediary that currently offers these services to broker-dealers.

[5] *See* Exchange Rule 451.92

	Unit cost	Without householding	Householding (3 accounts)
Outgoing Postage			
Envelopes	.08	.24	.08
Return Postage	.34	1.02	.34
Total		$10.[illegible]	$5.72

As this example makes clear, the potential savings are greatest in the areas of postage and printing, and these savings will occur even in the first year. Also note that this example assumes the use of bulk rate mailings. The savings would be greater for issuers using first class postage.

2. Savings from elimination of mailings also are possible through use of the Internet. Even for an individual with only one account, the savings can be shown as follows:

	Unit cost	Mail return	Electronic return
Proxy Fee	$.55	[illegible].55	$.55
Householding Fee	.50	0	.50
Annual Report & Proxy Statement	2.00	2.00	0
(Estimated, cost will vary):			
Outgoing Postage	.65	.65	0
Envelopes	.08	.08	0
Return Postage	.34	.34	0
Total		$3.62	$1.05

In this example, the Internet cost is paid by the user. Investors who request to receive information electronically simply would receive an "e-mail" message indicating that the annual report and proxy are available. The Exchange believes that such use of the Internet would be consistent with Commission policies in this area.[6]

Finally, as to the manner in which the fees are collected, the Exchange notes that ADP is the data processor for many of the brokerage firms that are Exchange members. These firms subcontract the data processing functions of the proxy solicitation process to ADP, but retain all the obligations to comply with the relevant Exchange rules. As a general matter, the firms subcontract for these services at less than the full fee that the issuer pays. The firms also maintain some staff in a proxy department to handle such tasks as balancing depository positions on record date, changing investor records, answering inquiries and performing other work not covered by the subcontract.

The firm's systems department also needs to maintain proxy-related programs—including programs for separating wrap accounts—and the communications equipment to interface electronically with an intermediary on both search date and record date. In addition, the compliance department of the firm is required to ensure that the firm fully complies with Exchange and Commission rules since subcontracting does not relieve a firm of its legal responsibilities.

To simplify the administrative difficulties that would result if each issuer had to pay many brokers, ADP has developed a "single invoice" procedure for all of the brokers with whom they have subcontracted. Under this procedure, ADP bills issuers on behalf of literally hundreds of brokers and banks. ADP remits to their clients the amounts specified in their contracts, which the firms will retain to cover their own costs.

The Exchange believes that this billing procedure does not affect issuer costs. In this regard, if the brokers billed issuers directly, the issuers would pay the same amount, but to several brokers, rather than to a central data processor. In the Exchange's view, there is no economic difference in the brokerage firms retaining part of the costs paid by the issuers or such firms receiving the same amount paid by ADP through the single invoice system. This billing process also is consistent with other types of outsourcing transactions. Indeed, issuers benefit from this procedure since they are able to pay a single processor, rather than multiple brokerage firms.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, tc foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Summary of the Comment Letters

The Exchange solicited comments on the proposed rule change from listed companies, member firms and other industry organizations involved in the proxy solicitation process pursuant to a Request for Comment dated September 18, 1996. The Exchange received 261 comments letters.[7] While it is difficult to categorize some of the letters, the

[6] *See* Securities Act Release No. 7233 (Oct. 6, 1995).

[7] The Exchange informally circulated a draft of the Request for Comment on July 19, 1996. That draft was substantially similar to the final proposal, and a number of commentators responded only to the July 19th request for comments. Thus, the 261 letters include those letters received in response to the July draft.

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Exchange has concluded that 181 letters generally supported the proposal and 80 letters opposed the proposal. Of the 181 letters supporting the proposal, 52 letters also expressed reservations about certain aspects of the proposal.

Those letters supporting the proposal believed that it would lead to cost reductions, increased technological efficiencies and consolidation of services. These commentators saw the savings from the fee reductions more than compensating for the cost of the new nominee fee. Even some companies facing increased fees in the short term supported the proposal, believing that they would reap long-term gains through decreases in internal printing costs and increased efficiencies in the years ahead. Some commentators also thought that the proposal could result in an increased voting response in the proxy process.

In addition, supporters believed that the new fee structure would more equitably distribute the costs of the proxy process among market participants. To the extent that these commentators had reservations regarding the proposal, they noted that any difficulties could be addressed following the end of the three-year pilot period.

Commentators objecting to the proposal focused primarily on the new nominee fee. The main objection to that fee was that it would result in increased costs, especially to smaller issuers. There are suggestions that the Exchange (i) abandon the nominee fee, (i) adopt tiered nominee fees, with small issuers not being subject to the full $20 fee, and (iii) restructure the nominee fee so that it would be progressive, based on how many shareholder accounts an issuer has.

Some commentators asked for a more precise definition of "nominee." Others expressed the general view that brokers should be responsible for the costs of communicating with street name holders (and some recommended that the Exchange not establish guidelines at all in this area). Some commentators also objected to the proposed incentive fees. These commentators argued that the proposed fee was unrelated to any additional service provided by an intermediary, and that the intermediaries should be expected to provide for additional efficiencies without the need for further reimbursement.

As to the letters with mixed opinions, some commentators said they needed more time to review the proposal. Others found it difficult to estimate the proposed savings or thought that any possible savings would be minimal. A number of commentators supported the overall thrust of the proposals, but questioned certain aspects of it, such as suggesting that it was counterproductive to authorize the nominee fee while lowering fees generally. Some commentators supported the proposal, but urged that the Exchange lower fees even further. Finally, a number of commentators made specific suggestions on how to structure the review of the pilot program.

The Exchange's Response to the Comment Letters

Well over half the comment letters expressed support for the proposals. The Exchange believes that this indicates that the proposal accurately balances the interests of the issuers, broker-dealers, intermediaries and investors. In particular, many commentors noted that the proposal would provide a more rational fee structure and would encourage the use of enhanced technology to facilitate the shareholder communication and voting process. As discussed, even a number of issuers whose proxy solicitation costs would increase supported the proposal, noting that the new fee structure likely would yield long-term savings.

Those commentators who voiced opposition to the proposed rule change focused almost entirely on the possibility of increased costs, especially through the nominee fee. Many of these commentators argued that the fee was unfair and that it covered services that already were being provided. Some of these commentators believed that the proposed nominee fee would benefit large issuers at the expense of smaller issuers.

In response, the Exchange first notes that this fee is cost-related and is intended to compensate intermediaries for the services they provide. As discussed above, intermediaries conduct searches for determining how many sets of material to mail, coordinate mailings (often through the use of bulk mail) and help provide preliminary voting information. The proposed rule change attempts to establish a more accurate fee schedule by isolating these services and establishing a separate fee for recovering the costs of providing these services. By charging separately for these discreet services, the Exchange is able to lower the general fees for mailing materials.

The Exchange also believes that the commentators who objected to the nominee fee do not fully recognize the cost savings that will result under the new fee schedule. These commentators simply added the total fees that they would have to reimburse intermediaries under the fee schedule, but failed to consider the other cost savings, particularly "out of pocket savings," that the Exchange believes they are likely to achieve. In addition, for example, the new incentive fees are likely to result in fewer mailings, thus decreasing printing and mailing costs. Similarly, the fee structure encourages the use of new technology, especially with respect to voting, and thus should result in a more efficient proxy system.

As to the other objections that commentators raised, the Exchange notes:

- Definition of nominee: The Exchange believes that the term "nominee" is well-known in the securities industry and will not give rise to interpretive issues. The Exchange's request for comment made clear that a "nominee" is a name appearing on a list of record holders who, in fact, is acting for someone else. They are "participants" of the Depository Trust Company, such as self-clearing banks, brokers and other financial institutions.
- Need for reimbursement guidelines: The Exchange has provided fee reimbursement guidelines since 1938 to provide a service to its constituents and to help ensure that investors receive proxy and other information from issuers on a timely basis. The system has worked well over the years, and the current process of reviewing the fees indicates that the Exchange continues to play a critical role in facilitating (i) the flow of information from issuers to shareholders and (ii) the flow of votes from shareholders to issuers.
- Incentive fees: A number of commentators questioned the adoption of incentive fees as a means to reduce mailings. These commentators believed that intermediaries already should be taking steps to reduce costs. However, the Exchange states that the current fee structure provides little incentive for intermediaries to limit the number of mailings to shareholders. This results in increases in both mailing costs and, more significantly, printing costs, for issuers. The incentive fee could have a dramatic effect in encouraging intermediaries to eliminate multiple mailings.
- Non-U.S. issuers: Non-U.S. issuers are exempt from most of the Commission's proxy rules pursuant to Rule 3a12–3 under the Act. Nevertheless, non-U.S. issuers generally do provide U.S. shareholders with proxy and related information and seek the vote of their U.S. holders. Thus, broker-dealers and other intermediaries face the same reimbursement issues with non-U.S. companies as they do with U.S. companies. The Exchange has not been presented with any compelling

reasons to treat these classes of issuers differently.

Finally, the Exchange recognizes that it is impossible to establish a final fee structure without actual market experience. Thus, the Exchange is proposing the new fee structure for a three-year pilot term. An industry Committee consisting of representatives of the Exchange and all the major constituency groups affected by the new fee structure will monitor the effect of the new fees throughout the pilot. The Committee will be able to propose changes as needed and will make final recommendations to the Exchange at the conclusion of the pilot period.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons as invited to submit written data, views, and arguments concerning the foregoing. Commenters are invited specifically to provide information that will assist the Commission in assessing whether each of the various elements of the proposed fee structure—the mailing reimbursement fees for non-contested and contested solicitations, respectively, the nominee fee, and the "householding" incentive fee—considered separately and/or as a whole, are consistent with: (1) issuers' obligation under Rule 14a–13(a)(5) of the Act to reimburse broker-dealers, banks, and other nominees for the "reasonable expenses" they incur in mailing proxy soliciting materials and annual reports to beneficial holders of such issuers' voting securities and/or (2) broker-dealers' ability under Rule 14b–1(c)(2) of the Act not to deliver proxy soliciting materials and annual reports pursuant to Rule 14b–1(b)(2) of the Act, or provide NOBO information under Rule 14b–1(b)(3) of the Act absent a particular issuer's "assurance of reimbursement of * * * reasonable expenses, both direct and indirect." Should such "reasonable expenses" within the meaning of any or all of these Commission rules be construed to encompass an intermediary's costs of: (1) coordinating an issuer's proxy mailings to multiple nominees and/or (2) operating an electronic proxy voting system whereby street-name customers of broker-dealer clients may instruct the intermediary on how to vote the securities in which they hold a beneficial ownership interest? Should the determination of "reasonableness" with respect to any of the foregoing fees vary with the size of the issuer, whether measured in terms of its total market capitalization or public float, or any other criterion?

Should this reasonableness determination take into account any fee-sharing arrangements between a intermediary and its broker dealer clients? In this connection, to what extent should such arrangements reflect actual allocation of costs between an intermediary and such clients? In addressing this question, commenters should attempt to quantify to the extent possible the costs that continue to be borne by those broker-dealers that outsource proxy processing and/or voting obligations to an intermediary, and the relationship of such costs to fulfillment of obligations under Rule 14b–1 of the Act and/or Exchange Rules.

Moreover, the Commission solicits comment on whether an independent audit during the three-year pilot period would be helpful in assessing the reasonableness of the costs passed through to issuers. Finally, the Commission also solicits comment on whether the proposed NYSE nominee fee and incentive fee should be deemed to apply to reimbursement by non-NYSE issuers to NYSE member firms.

In view of the extensive comments requested, the Commission is providing a 45-day comment period. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–96–36 and should be submitted by [insert date 45 days from date of publication].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–32717 Filed 12–24–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38059; File No. SR–PTC–96–07]

Self-Regulatory Organizations; Participants Trust Company; Notice of Filing of Proposed Rule Change Relating to the Right of Set-off Upon the Default of a Participant

December 19, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on December 2, 1996, the Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–PTC–96–07) as described in Items I, II, and III below, which items have been prepared primarily by PTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change relates to PTC's right to set-off credit balances in an account of a defaulting participant against an unpaid debit balance of the defaulting participant.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

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[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by PTC.

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(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to (1) make explicit PTC's right to set-off credit balances in any proprietary account, agency account, or pledge account of a defaulting participant, against an unpaid debit balance in any other account of the defaulting participant and to establish a priority for application thereof; (2) grant PTC a right of set-off against the agency seg credit balances of a defaulting participant and to include the agency seg credit balance in a participant's Net Debit Monitoring Level ("NDML") calculation; (3) clarify that in addition to the present representation that securities are deposited in conformity with the terms of any applicable customer agreement, each participant represents and warrants to PTC that securities and other property (including credit balances) held by PTC in an account maintained by such participant are, by reason of these applicable customer agreements, subject to clearing agency rules; and (4) make miscellaneous conforming and technical changes to certain provisions of PTC's rules.

Background

Account Structure

Participants maintain their securities positions at PTC in one or more master account, each of which is comprised of one or more accounts of the following types: proprietary accounts for securities that are held by the participant as principal; agency accounts for securities that are held by the participant as agent; pledgee accounts for securities that are held by the participant as pledgee or pursuant to financing arrangements; and various seg and hold-in-custody accounts associated with the proprietary and agency accounts for purposes of segregation.

Cash Balance Structure

Each Proprietary account, agency account, and pledgee account has a cash balance associated with it against which credits and debits are posted, including amounts owing with respect to securities delivered versus payment intraday to the transfer account associated with the account. Each cash balance is either a credit balance or debit balance depending on whether the participant is in a net funds credit position or debit position with respect to the applicable account to which the cash balance relates at the time the determination is made.

NDML

PTC restricts the net debit amount each participant may owe PTC by imposing a net debit cap by means of the NDML.[3] A participant's NDML is compared to the total of the net cash balances in its proprietary account, agency account, and pledgee account. PTC will not process a transaction that will result in a net debit balance that exceeds a participant's NDML. If a participant is at its NDML limit, it must take steps to reduce the net debit balance. Such a participant may prefund the payment of its debit balance by means of making optional deposits of cash to the participants fund by wiring funds to PTC intraday. A participant may also deliver securities versus payment through PTC's system which will generate a credit to the cash balance of the account from which the securities are transferred and will result in a reduction of the debit balance of that account.

Set-off in the NDML Structure

The ability to apply a defaulting participant's proprietary, agency, and pledgee credit balances against its unpaid settlement obligations is implicit in the NDML structure to assure that the failure of a single participant is covered by PTC's committed line of credit for settlement. It is also implicit in other provisions of PTC's.[4] Participant responsibility for the total amount of its PTC obligations, as monitored by its NDML, also is consistent with PTC's applicant review process in which PTC verifies that a participant has sufficient financial resources to satisfy its total obligations to PTC by assessing the capital and financial resources of the prospective participant without regard to the resources or capital of the customers of the participant.

However, PTC's rules are silent on the aplication of pledgee and agency credit balances in the event a participant does not make complete payment of all account obligations at settlement. In addition, PTC's "default rule" states that PTC will set-off any credit balance in a proprietary account of a defaulting participant against an unpaid debit balance in another account. This rule does not make reference to PTC's right to set-off against agency and pledgee credit balance of a defaulting participant.

Proposed amendments

Set-off upon Participant Default

The proposed rule change will clarify that upon a particpant's default in payment of a debit balance PTC will apply any credit balances in the participant's proprietary accounts, pledgee accounts, and agency accounts to reduce the unpaid obligation of the participant consistent with the other provisions of PTC's rules mentioned above. The proposed rule change also will extend PTC'S right of set-off in the event of a participant's default to include any agency seg credit balances of the defaulting participant.

Set-off Priority

The set-off priority will be applied in the same order as governs in the event of a participant default. Specifically, the proposed set-off priority will enable PTC to apply credit balances of a defaulting participant to reduce the participant's unpaid debit balances in the following priority: first, by application of any credit balance in its proprietary account(s); second, in its pledge account(s); third, in its agency account(s); and lastly, in its agency seg account. These credit balance(s) are applied toward payment of unpaid debit balances in the following priority: first, to any agency debit balance(s);[5] second, toward payment of any pledgee debit balance(s); and lastly, toward payment of any proprietary debit balance(s).

Inclusion of Agency Seg Credit Balance

The proposed rule change will modify the NDML calculation to include agency seg credit balances and will give PTC a lien in the agency seg credit balance and a right to set-off against agency seg credit balances in the event a participant defaults in the payment of its other debit balances. The inclusion of agency seg credit balances in the NDML calculation will allow a participant to have the benefit of these credits in calculating its net obligation to PTC.

Agency seg accounts are not permitted to incur a debit balance and may not receive securities subject to a transfer versus payment. Therefore, PTC does not have a lien on securities in an agency seg account. The securities in

[3] The maximum NDML for any participant is the amount of PTC's committed line of credit for settlement, which is currently $2 billion. This maximum is imposed in compliance with the Federal Reserve Policy Statement on Payments System Risk, as amended effective April 13, 1995, which requires private delivery-against-payment securities systems to "have sufficient safeguards so that it will be able to settle on time if any one of its major participants defaults."

[4] For example, provisions of PTC's rules that require payment of all debit balances by a participant and prohibit a participant from asserting set-offs or defenses against payment of its debit balances and that grant PTC a lien in cash and property of a participant.

[5] Under PTC's rules, the agency seg account may not have a debit balance.

the agency seg account will remain free of PTC's lien consistence with current rules and the regulatory obligations of the participants with respect to such customer securities that are held in agency seg accounts.

Clarification of Participant Representations and Warranties

The proposed rule change also will clarify that all securities, funds, and other property maintained or transferred to an account at PTC are issued, deposited, transferred, or otherwise applied in conformity with the terms of any applicable customer, pledge, or financing agreement and are by reason of the applicable customer agreements subject to clearing agency rules.

Technical Amendments to PTC's Rules

PTC also is proposing to make certain technical changes to several sections of its rules to conform them to the present rule change. In particular, the definition of NDML will be amended to delete the provision that PTC will require a participant to confirm its ability to pay its debit balance when the NDML is reached. As changed, the definition will conform to the actual NDML procedure applied by PTC and to the substantive provisions of PTC's rules which govern and describe PTC's Net Debit Monitoring procedure.

PTC's rules also will be amended to state that PTC will not process a transaction that causes a debit balance in any single account of a participant to exceed that participant's NDML. This conforms to PTC's current actual procedural control which imposes this additional credit check (in addition to capping a participant's net obligation at the master account level at its NDML) that is not reflected in the current NDML rule.

PTC believes the proposed rule change is consistent with the requirements of Section 17(b)(3)(F) of the Act[6] and the rules and regulations promulgated thereunder because it will facilitate the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds in PTC's custody and control or for which it is responsible.

B. Self-Regulatory Organization's Statement on Burden on Competition

PTC does not believe that the proposed rule change imposes any burden on competition.

[6] 15 U.S.C. 78q–1(b)(3)(F).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

PTC has neither solicited nor received comments on this proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which PTC consents, the Commission will:

(A) by order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of PTC. All submissions should refer to the file number SR–PTC–96–07 and should be submitted by January 16, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–32771 Filed 12–24–96; 8:45 am]

BILLING CODE 8010–01–M

[7] 17 CFR 200.30–3(a)(12).

STATE DEPARTMENT

[Public Notice No. 2495]

Advisory Committee on International Economic Policy of Working Group on Economic Sanctions; Closed Meeting

The Department of State announces a meeting of the U.S. State Department Advisory Committee on International Economic Policy Working Group on Economic Sanctions on Wednesday, January 8, 1997 at the U.S. Department of State, Washington, D.C. Pursuant to Section 10(d) of the Federal Advisory Committee Act (FACA) and 5 U.S.C. 5526(c)(1), 5 U.S.C 552b(c)(4), and 5 U.S.C. 552b(c)(9)(B), the Department has determined that the meeting will be closed to the public. Matters relative to classified national security information as well as privileged commercial information will be discussed.

For more information contact Joanne Balzano, Working Group on Economic Sanctions, Department of State, Washington, DC 20522–1003, phone: 202–647–1498.

Dated: December 19, 1996.

Vonya B. McCann,

Acting Assistant Secretary for Economic and Business Affairs.

[FR Doc. 96–32825 Filed 12–20–96; 2:47 pm]

BILLING CODE 4710–07–M

DEPARTMENT OF STATE

[Docket Notice 2493]

Advisory Committee on International Economic Policy Notice of Closed Meeting

The Advisory Committee on International Economic Policy will meet at 8:30–12:00 am on Wednesday, January 15, 1997 in Room 1107, U.S. Department of State, 2201 C Street, NW., Washington, DC 20520. The meeting will be hosted by Assistant Secretary of State for Economic and Business Affairs, Alan Larson.

Pursuant to Section 10(d) of the Federal Advisory Committee Act (FACA) and 5 U.S.C. 552b(c)(1), 5. U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(9)(B), it has been determined the meeting will be closed to the public. Matters relative to classified national security information as well as privileged commercial information will be discussed. The agenda calls for the discussion of classified and corporate proprietary/security information.

As access to the Department of State is controlled, persons wishing to attend the meeting must notify the ACIEP Executive Secretariat by Friday, January

10, 1997. Each person should provide his or her name, company or organizational affiliation, date of birth, and social security number to the ACIEP Secretariat at telephone number (202) 647–7727 or fax number (202) 647–5713 (Attention: Ann Alexandrowicz). A list will be made up for Diplomatic Security and the Reception Desk at the C Street diplomatic entrance (21st and C Streets, NW), where Department personnel will direct them to Room 1107.

For further information, contact Ann Alexandrowicz, ACIEP Secretariat, U.S. Department of State, Bureau of Economic and Business Affairs, Room 6828, Main State, Washington, DC 20520. She may be reached at telephone number (202) 647–7727 or fax number (202) 647–5713.

Dated: December 20, 1996.

Alan Larson,

Assistant Secretary for Economic and Business Affairs.

[FR Doc. 96–32833 Filed 12–24–96; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD08–96–055]

Manning Requirements—Pilotage

AGENCY: Coast Guard, DOT.

ACTION: Notice of designated areas.

SUMMARY: This notice lists the designated areas in the Eighth Coast Guard District for which new first class pilot licenses and endorsements will be issued by the Eighth Coast Guard District Regional Examination Centers. These areas have been designated consistent with the revised manning requirements introduced in 1994.

FOR FURTHER INFORMATION CONTACT: CDR Guy A. Tetreau, Marine Safety Division, Eighth Coast Guard District, (504) 589–3624, between 8 a.m. and 4 p.m. Monday through Friday, except federal holidays.

SUPPLEMENTARY INFORMATION:

Introduction

New first class pilot licenses and endorsements will only be issued for those areas within the Eighth Coast Guard District that have been designated by the cognizant Officer in Charge, Marine Inspection (OCMI). Eighth District Regional Examination Centers shall continue to renew existing first class pilot licenses with all previously earned endorsements.

Background

"Designated areas" are "* * * those areas within pilotage waters for which first class pilot's licenses or endorsements are issued * * *" (46 CFR 15.301). These areas are designated by the OCMI based upon the particular hazards of the waterway involved. They are the only areas for which first class pilots licenses and endorsements are required, and for which new first class pilotage licenses and endorsements will be issued.

Eighth Coast Guard District Designated Areas

The following is a list of the Eighth District designated areas for which first class pilots licenses or endorsements are required. Future changes to designated areas will be published in the **Federal Register.**

MSO Mobile

—The Port St. Joseph Bay Channel from St. Joseph Bay entrance lighted buoy "SJ" to the turning basin in Port St. Joe for St. Joseph, FL.

—The St. Andrews Bay Channel from St. Andrews Bay entrance lighted buoy "SA" to the port of Panama City, including the area between the Hathaway Bridge and the Dupont Bridge, or St. Andrews Bay, Panama City, FL.

—The Pensacola Bay Channel, Inner Harbor, and its approaches, to three miles from Pensacola Bay, Pensacola, FL.

—The Mobile Alabama Main Ship Channel from Mobile entrance lighted buoy "m" to the Cochran Bridge, including Hollinger's Island, Theodore, and Arlington Channels.

—The Horn Island Pass Ship Channel from Horn Island Pass entrance lighted buoy "HI" to the Bayou Cassotte turning basin via the Bayou Cassotte Channel, and to the Pascagoula River turning basin via the Pascagoula Channel, Pascagoula, MS.

—The Ship Island Bar Channel from Ship Island Bar lighted buoy "GP" to the state dock facility including the Gulfport Ship Channel, Gulfport, MS.

—The coastal approach from St. George Sound, Dog Island Reef light #1 to St. Marks, FL., including the St. Marks River channel.

—The Bayou Labatre entrance channel from the intersection of the Gulf Intracoastal Waterway to the Bayou Labatre Lift Bridge, Bayou Labatre, AL.

MSO New Orleans

—The Lower Mississippi River including:

(1) Southwest Pass from sea buoy to Head of Passes;

(2) from Head of Passes to mile 234 Above Head of Passes (AHOP).

—The Mississippi River Gulf Outlet.

—The Inner Harbor Navigational Canal.

MSO Morgan City

—The Lower Atchafalaya River from Point Au Fer Reef Light (LLN 18030) to Stout's Pass at Atchafalaya River mile 115.5.

—The Gulf Intracoastal Waterway from its intersection with the Lower Atchafalaya River at 20 Grand Point (MM 95.5 WHL) east to the Bayou Boeuf Locks.

MSO Port Arthur

—The Sabine River from the Offshore Sea buoys "29" and "30" to the north end of the Old Navy piers in Orange, TX.

—The Neches River from the Sabine/Neches intersection to the I–10 Bridge, north of Beaumont, TX.

—The Calcasieu River from the Offshore "CC" buoy, in Pilot Boarding Area 4, north to the I–10 Bridge spanning the Calcasieu, including the Industrial Canal at Devil's Elbow, and the deep water channels for Clooney and Coon Islands.

MSO Houston-Galveston

—The Galveston Entrance Channel from the red and white "GB" buoy to red buoy "18."

—The Galveston Ship Channel from the green "1" buoy to Pelican Island Bridge.

—The Boliver Roads Ferry Route from the Bolivar Ferry Landing to the Galveston Ferry Landing, crossing the Bolivar Roads Channel.

—The Texas City Channel from Green "1" buoy to the turning basin.

—The Houston Ship Channel from red buoy "18" to Buffalo Bayou turning basin.

—The Bayport Ship Channel from the intersection of the Houston Ship Channel to the Bayport turning basin.

—The Freeport Channel from the red and white "FP" buoy to the turning basin.

MSO Corpus Christi

—The Matagorda Ship Channel from the sea buoy to Port of Point Comfort.

—The Corpus Christi Ship Channel from the sea buoy to Viola turning basin including La Quinta Channel.

—The Brownsville Ship Channel to Port Isabel.

Dated: November 27, 1996.

T.W. Josiah,

Commander, Eighth Coast Guard District.

[FR Doc. 96–32838 Filed 12–24–96; 8:45 am]

BILLING CODE 4910–14–M

[CGD 96–062]

Natural Gas as Fuel in Marine Applications

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting; requests for comments.

SUMMARY: On November 26, 1996, (61 FR 60138), the Coast Guard published a notice of meeting and request for comments regarding the use of compressed natural gas (CNG) and liquefied natural gas (LNG) as fuel aboard commercial ships. This notice provides additional information about the location and time of the public meeting, and building security procedures recently established.

DATES: A public meeting will be held on Tuesday, January 14, 1997, from 9 a.m. to 3 p.m.

ADDRESSES: The meeting will be held in room 6200 at the Department of Transportation (DOT) headquarters, Nassif Building, 400 Seventh Street SW., Washington, DC 20590–0001. Room 6200 is located on the 6th floor of the south wing. Interested members of the public wishing to attend the meeting should enter the building at the southwest entrance, located inside the DOT courtyard near the intersection of E Street and Seventh Street. The L'Enfant plaza metro stop also exits into the DOT courtyard.

Due to increased security, it is important for all attendees to have proper identification. In addition, all bags may be checked when entering the building.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander R. K. Butturini, Mr. Wayne Lundy or Ensign Felicia K. Rydzewski, Systems Engineering Division, Commandant (G–MSE–3), telephone (202) 267–2206 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

Dated: December 13, 1996.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 96–32820 Filed 12–24–96; 8:45 am]

BILLING CODE 4910–14–M

DPEARTMENT OF TRANSPORTATION

Coast Guard

[CGD08–96–057]

Houston/Galveston Navigation Safety Advisory Committee Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of subcommittee meetings.

SUMMARY: The two Subcommittees (Waterways and Navigation) of the Houston/Galveston Navigation Safety Advisory Committee (HOGANSAC) will meet to discuss waterway improvements, aids to navigation, current meters, and various other navigation safety matters affecting the Houston/Galveston area. Both meetings will be open to the public.

DATES: The meeting of the Waterways Subcommittee will be held on Thursday, January 16, 1997 at 9:30 a.m. and immediately following, the Navigation Subcommittee will meet. Members of the public may present written or oral statements at the meetings.

ADDRESSES: The subcommittee meetings will be held at the Port of Houston Authority, 111 East Loop North, Houston, Texas.

FOR FURTHER INFORMATION CONTACT: Captain Kevin Eldridge, Executive Director of HOGANSAC, telephone (713) 671–5101, or Commander Paula Carroll, Executive Secretary of HOGANSAC, telephone (713) 671–5164.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agendas of the Meetings

Subcommittee on Waterways. The tentative agenda includes the following:

(1) Presentation by each work group of its accomplishments and plans for the future.

(2) Review and discuss the work completed by each work group.

Subcommittee on Navigation. The tentative agenda includes the following:

(1) Presentation by each work group of its accomplishments and plans for the future.

(2) Review and discuss the work completed by each work group.

Procedural

All meetings are open to the public. Members of the public may make oral presentations during the meetings.

Information on Services for the Handicapped

For information on facilities or services for the handicapped or to request special assistance at the meetings, contact the Executive Director as soon as possible.

Dated: December 10, 1996.

T.W. Josiah,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 96–32842 Filed 12–24–96; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket S–941]

Sargeant Marine, Inc.; Notice of Application for Permission Under Section 506 of the Merchant Marine Act, 1936, as Amended, To Operate in the Domestic Trade

Notice is hereby given that Sargeant Marine, Inc. (Sargeant), by application dated December 17, 1996, has applied for written permission under section 506 of the Merchant Marine Act, 1936, as amended (Act), for the temporary transfer of the construction-differential subsidy (CDS) built asphalt-tanker ASPHALT COMMANDER (ex-FALCON CHAMPION) in the domestic trade, commencing on or about January 15, 1997. Sargeant states that it is scheduled to load 200,000 barrels (bbls.) of asphalt at Garryville, Louisiana for discharge in New York, New York. The cargo will be delivered at a temperature of 300 degrees fahrenheit, five days after completion of loading and must be discharged at 6000 bbls. per hour.

Section 506 permits the temporary transfer for up to six months of CDS-built vessels "whenever the Secretary determines that such transfer is necessary or appropriate to carry out the purposes of the Act." Consent by MARAD is to be conditioned upon payment to MARAD, upon such terms as MARAD may prescribe, of "an amount which bears the same proportion to the CDS paid by the Secretary as such temporary period bears to the entire economic life of the vessel."

Although publication of a Notice with respect to Sargeant's request for permission under section 506 is not required, the Maritime Administration believes that it is appropriate to provide an opportunity for interested parties to comment on Sargeant's application.

Any person, firm, or corporation having any interest in the application

for section 506 permission and desiring to submit comments concerning the application must file written comments in triplicate, to the Secretary, Maritime Administration, Room 7210, Nassif Building, 400 Seventh Street, SW., Washington, DC, 20590, by the close of business on December 31, 1996. The Maritime Administration, as a matter of discretion, will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program N. 20.800 Construction-Differential Subsidies (CDS))

By order of the Maritime Administrator.

Edmond T. Sommer,

Acting Secretary.

[FR Doc. 96–32710 Filed 12–24–96; 8:45 am]

BILLING CODE 4910–61–M

Research and Special Programs Administration

[Docket No. PS–142; Notice 4]

Guidance on Performance Measures for Use in the Pipeline Risk Management Demonstration Program

AGENCY: Office of Pipeline Safety, DOT.

ACTION: Notice.

SUMMARY: The Research and Special Programs Administration's (RSPA), Office of Pipeline Safety (OPS) is currently involved in the development of the Pipeline Risk Management Demonstration Program required by the Accountable Pipeline Safety and Partnership Act of 1996. The demonstration program will invite risk management proposals from pipeline operators that are interested in demonstrating plans to reallocate their resources in ways to achieve superior safety on their pipeline systems by more effective methods than currently required by the pipeline safety regulations. On November 15, 1996, RSPA published Program Framework for Risk Management Demonstrations" (61 FR 58605) that included a statement that a guidance document for assessing risk management would soon be available for public comment. This document, "Guidance on Performance Measures For Use in the Pipeline Risk Management Demonstration Program," prepared by the Joint Risk Assessment Quality Team, is now available for public review and comment. This document provides guidance for monitoring individual demonstration projects and to enable OPS to determine the effectiveness of risk management as a regulatory alternative to 49 CFR Parts 190–199. OPS invites the public to review and comment on this draft.

ADDRESSES: Comments should be sent to the RSPA dockets unit, U.S. Department of Transportation, 400 7th St., SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Eben M. Wyman, (202) 366–0918, or by E-mail (eben.wyman@rspa.dot.gov), for copies of this document; or John Hess, (202) 366–4576, or by E-mail (john.hess@rspa.dot.gov) or via the World Wide Web at (http://opspm.volpe60.dot.gov.) regarding the subject matter of this Notice. Contact the Dockets Unit, (202) 366–5046, for other material in the docket.

Issued in Washington, DC, on December 18, 1996.

Richard B. Felder,

Associate Administrator for Pipeline Safety

[FR Doc. 96–32704 Filed 12–24–96; 8:45 am]

BILLING CODE 4910–60–P

Surface Transportation Board

[STB Ex Parte No. 290 (Sub No. 5) (97–1)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved a first quarter 1997 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The first quarter 1997 RCAF (Unadjusted) is 1.116 an increase of 2.2% from the fourth quarter 1996 RCAF of 1.092. The first quarter 1997 RCAF (Adjusted) is 0.774. The first quarter 1997 RCAF–5 is 0.757.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: H. Jeff Warren, (202) 927–6243. TDD for the hearing impaired: (202) 927–5721.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision write to, call, or pick up in person from: DC NEWS & DATA, INC., Room 2229, 1201 Constitution Avenue, N.W., Washington, DC 20423, or telephone (202) 289–4357. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: December 19, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–32773 Filed 12–24–96; 8:45 am]

BILLING CODE 4915–00–P

[STB Finance Docket No. 33317]

Union Pacific Railroad Company—Trackage Rights Exemption—Duluth, Missabe and Iron Range Railway Company

Duluth, Missabe and Iron Range Railway (DMIR) has agreed to grant overhead trackage rights to Union Pacific Railroad Company (UP) over a total of approximately 0.83 miles of rail line located in Douglas County, WI, between milepost 17.79 near Saunders (at the BN connection), and milepost 16.96 near Pokegama (at the yard of Duluth, Winnipeg and Pacific Railway).[1] The transaction was expected to be consummated on December 17, 1996.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33317, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423 and served on: Joseph D. Anthofer, General Attorney, 1416 Dodge Street, #830, Omaha, NE 68179.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: December 17, 1996.

[1] The trackage rights transaction is an extension of overhead trackage rights granted to Chicago and North Western Railway Company (CNW) between South Itasca and Saunders, WI. *See* 47 FR 42658 (September 21, 1982). On April 25, 1995, CNW was merged into UP pursuant to authority granted in Finance Docket No. 32133, and UP continued the trackage rights operation.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–32774 Filed 12–24–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

[Treasury Order Number 100–01]

The Department of the Treasury Seal

December 17, 1996.

1. Pursuant to 31 U.S.C. § 301(g) and 31 U.S.C. § 321(b) and by the authority vested in the Secretary of the Treasury, I hereby approve the design of the Treasury seal which accompanies this Order (and which is described below) as the official seal of the Department for single color reproductions. This seal shall be used on letterhead stationery and other official Treasury documents.

2. The central device of the seal is essentially the same as that used by the Department throughout its entire history. It is a shield containing scales, a chevron with 13 stars, and a key. An outer ring surrounding the shield carries the inscription THE DEPARTMENT OF THE TREASURY 1789 in the Cheltenham Bold type font.

3. Single color reproduction guidelines are as follows: scales, chevron, and key are reproduced on an open shield; the inscription is reproduced on an open ring. When printing the seal in blue ink only on credentials, PMS 290 should be used. PMS stands for Pantone Matching System, which is the printing industry standard for describing and matching ink colors.

4. The standard for reproduction of the seal in three colors remains unchanged from the seal adopted by the Department in 1968 (1968 seal). Multi-color reproduction guidelines are as follows: shield in gold (options are: PMS 110, PMS 873 or bright gold foil); scales, chevron (stars in white, i.e., reversed) and key in light blue (PMS 292). Inscription is reversed out of dark blue (PMS 540).

5. The official seal in use since 1968 is identical except that the type in the outer ring was reversed out of a dark background. The 1968 seal shall continue to be an authorized optional seal. Use of the new seal should be phased in as requirements for printing letterhead stationery and other documents carrying the seal arise. Existing dies and plates of the 1968 seal are considered equally effective as the official seal and shall continue to be used until there is a need to replace them.

6. The Assistant Secretary (Management) and Chief Financial Officer is hereby delegated the authority to approve future changes to the seal or some elements of it to the extent such changes may be necessary for efficiency in printing and reproduction. This delegation is made with the understanding that any future changes to the seal shall be set forth in a Treasury Directive and published in the **Federal Register**.

7. *CANCELLATION.* This Order supersedes Treasury Order 100–01, "Treasury Seal," dated January 29, 1968.

Robert E. Rubin,

Secretary of the Treasury.

BILLING CODE 4810–25–C

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[FR Doc. 96–32727 Filed 12–24–96; 8:45 am]
BILLING CODE 4810–25–C

UNITED STATES INFORMATION AGENCY

Media Management Training Program for Albania

ACTION: Notice; request for proposals.

SUMMARY: The Office of Citizen Exchanges of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c)(3)–1 may apply to develop training programs in media management for Albania.

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries . . . ; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations . . . and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program cited above is provided through the Support for Eastern European Democracies Act.

Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package. USIA projects and programs are subject to the availability of funds.

ANNOUNCEMENT TITLE AND NUMBER: All communications with USIA concerning this announcement should refer to the above title and reference number E/P–97–19.

DEADLINE PROPOSALS: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, D.C. time on Friday, February 7, 1997. Faxed documents will not be accepted, nor will documents postmarked February 7, 1997 but received at a later date. It is the responsibility of each applicant to ensure that proposals are received by the above deadline.

Program activities should begin after May 1, 1997.

FOR FURTHER INFORMATION, CONTACT: The Office of Citizen Exchanges, E/PE, Room 216, U.S. Information, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547, telephone: 202–619–5319, fax: 202–619–4350, e-mail address: (cminer@usia.gov) to request a Solicitation Package containing more detailed award criteria, required application forms, and standard guidelines for preparing proposals, including specific criteria for preparation of the proposal budget.

TO DOWNLOAD A SOLICITATION PACKAGE VIA INTERNET: The entire Solicitation Package may be downloaded from USIA's websit at http://www.usia.gov/ or from the Internet Gopher at gopher:/ /gopher.usia.gov. Under the heading "International Exchanges/Training," select "Request for Proposals (RFPs)." Please read "About the Following RFPs" before downloading.

Please specify USIA Program Officer Christina Miner on all inquiries and correspondences. Interested applicants should read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Agency staff may not discuss this competition in any way with applicants until the Bureau proposals review process has been completed.

SUBMISSIONS: Applicants must follow all instruction given in the Solicitation Package. The original and eight copies of the application should be sent to: U.S. Information Agency, Ref.: e/P–97–19, Office of Grants Management, E/XE, Room 326, 301 4th Street, S.W., Washington, D.C. 20547.

Applicants must also submit the "Executive Summary" and "Proposal

Narrative" sections of the proposal on a 3.5" diskette, formatted for DOS. This material must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. USIA will transmit these files electronically to USIS posts overseas for their review, with the goal of reducing the time it takes to get posts' comments for the Agency's grants review process.

DIVERSITY GUIDELINES: Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal.

SUPPLEMENTARY INFORMATION:

Overview

USIA requests proposals that will provide media management training for Albanian media professionals in radio and television. Training should focus on the management of media as a business: station management, newsroom management, advertising, marketing, personnel, and public relations. A secondary focus should be professional journalistic ethics, including topics such as checkbook journalism; observation of attribution and interview ground rules; and balance in political coverage. Project activities may include: internships; study tours; short-term training; consultations; and intensive workshops taking place in the United States or in Albania. Proposals should reflect the authors' understanding of the political, economic, and social environment in which the program activity will take place. Proposals which take into account the need for ongoing sharing of information and training beyond the period of the USIA grant will be viewed more favorably than those that do not.

Exchange and training programs supported by institutional grants should operate at two levels: they should enhance institutional relationships; and they should offer practical and comparative information to individuals to assist them with their professional responsibilities. Strong proposals usually have the following characteristics: an existing partner relationship between an American organization and a host-country institution; proven tract record of conducting program activity; cost sharing from American or in-country sources, including donations of air fares, hotel and housing costs; experienced staff with language facility; and a clear, convincing plan showing how permanent results will be accomplished as a result of the activity funded by the grant. USIA wants to see tangible forms of time and money contributed to the project by the prospective grantee institution, as well as funding from third party sources.

Note: Research projects or projects limited to technical issues are not eligible for support nor are film festivals or exhibits. Exchange programs for students or faculty or proposals that request support for the development of university curricula or for degree-based programs are also ineligible under this RFP. Proposals to link university departments or to exchange faculty and/or students are funded by USIA's Office of Academic Programs (E/A) under the University Affiliation Program and should not be submitted in response to this RFP.

Guidelines

1. All grant proposals must clearly describe the type of persons who will participate in the program as well as the process by which participants will be selected. Note that participants should be professionals working in the field of media management and not members of university faculties. In the selection of all foreign participants, USIA an USIS posts retain the right to nominate participants and to approve or reject participants recommended by the program institution. Programs must also comply with J–1 visa regulations.

2. Programs that include internships in the U.S should provide letters tentatively committing host institutions to support the internships. Letters of commitment from the hosts of study tour site visits should also be included, if applicable.

3. Applicants are encouraged to consult with USIS offices regarding program content and partner institutions before submitting proposals. Award-receiving will be expected to maintain contact with the USIS post throughout the grant period.

Proposal Budget

Please refer to the Solicitation Package for complete budget guidelines instructions.

Applicants must submit a detailed line item budget based on specific instructions in the Program and Budget Guidelines of the Proposal Submission Instructions. Proposals for less than $150,000 will receive preference. Proposals with strong cost-sharing will be given priority.

Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

The following project costs are eligible for consideration for funding:

1. International and domestic air fares; visas; transit costs; ground transportation costs.

2. Per Diem. For the U.S. program, organizations have the option of using a flat $140/day for program participants or the published U.S. Federal per diem rates for individual American cities. For activities outside the U.S., the published Federal per diem rates must be used. **Note:** U.S. escorting staff must use the published Federal per diem rates, not the flat rate.

3. Interpreters. If needed, interpreters for the U.S. program are provided by the U.S. State Department Language Services Division. Typically, a pair of simultaneous interpreters is provided for every four visitors. USIA grants do not pay for foreign interpreters to accompany delegations from their home country. Grant proposal budgets should contain a flat $140/day per diem for each Department of State interpreter, as well as home-program-home air transportation of $400 per interpreter plus any U.S. travel expenses during the program. Salary expenses are covered centrally and should not be part of an applicant's proposed budget.

4. Book and cultural allowance. Participants are entitled to and escorts are reimbursed a one-time cultural allowance of $150 per person, plus a participant book allowance of $50. U.S. staff do not get these benefits.

5. Consultants. May be used to provide specialized expertise or to make presentations. Daily honoraria generally do not exceed $250 per day. Subcontracting organizations may also be used, in which case the written agreement between the prospective grantee and subcontractor should be included in the proposal.

6. Room rental, which generally should not exceed $250 per day.

7. Materials development. Proposals may contain costs to purchase, develop, and translate materials for participants.

8. One working meal per project. Per capita costs may not exceed $5–$8 for a lunch and $14–$20 for a dinner, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one.

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9. A return travel allowance of $70 for each participant which is to be used for incidental expenditures incurred during international travel.

10. All USIA-funded delegates will be covered under the terms of a USIA-sponsored health insurance policy. The premium is paid by USIA directly to the insurance company.

11. Other costs necessary for the effective administration of the program, including salaries for grant organization employees, benefits, and other direct and indirect costs per detailed instructions in the application package.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will be reviewed by the program office, as well as the USIA Office of Eastern Europe and NIS Affairs and the USIA post overseas, where appropriate. Proposals may be reviewed by the Office of the General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the USIA grants officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. Quality of the Program Idea: Proposals should respect to the program requirements of the RFP.

2. Program Planning and Ability to Achieve Objectives: Program objectives should be stated clearly and precisely and should reflect the applicant's expertise in the subject area and the region. Goals should be reasonable and attainable. A detailed agenda and relevant work plan should demonstrate how objectives will be achieved, including a timetable for completion of major tasks. The substance of seminars, presentations, consulting, internships, and itineraries should be spelled out in detail. Responsibilities of in-country partners should be clearly described.

3. Support of Diversity: Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials, and follow-up meetings).

4. Institutional Capability: Proposed personnel and institutional resources should be adequate and appropriate to achieve the project's goals. The narrative should demonstrate proven ability to handle logistics. Proposal should reflect the institution's expertise in the subject area and knowledge of the conditions in Albania.

5. Follow-on Activities: Proposals should provide a plan for continued follow-on activity (without USIA support) which ensures that USIA supported programs are not isolated events.

6. Project Evaluation: Proposals must include a plan and methodology to evaluate the project's success, both as the activities unfold and at the end of the program. USIA recommends that the proposal include a draft survey questionnaire and/or plan for use of another measurement technique (such as a focus group) to link outcomes to original project objectives. Award-receiving organizations/institutions will be expected to submit intermediate reports after each project component is concluded or quarterly, whichever is less frequent.

7. Cost Effectiveness/Cost Sharing: Overhead and administrative costs for the proposal, including salaries, honoraria, and subcontracts for services, should be kept low. All other items should be necessary and appropriate. Proposals should show cost-sharing, both contributions from the applicant and from other sources.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Dated: December 18, 1996.

Dell Pendergrast,

Deputy Associate Director for Educational and Cultural Affairs.

[FR Doc. 96–32512 Filed 12–24–96; 8:45 am]

BILLING CODE 8230–01–M

Corrections

Federal Register
Vol. 61, No. 249
day, December 26, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Irene C. Kelly, a/k/a Ayter Yalincak, a/k/a Imrag Yalincak; Revocation of Registration

Correction

In notice document 96–30380 appearing on page 60729 in the issue of Friday, November 29, 1996, make the following corrections:

On the same page, in the third column, in the first paragraph, in the first line, "Accordinly" should read "Accordingly".

On the same page, in the third column, in the first paragraph, in the fourth line, "823" should read "823 and 824".

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Earl G. Rozeboom, M.D.; Revocation of Registration

Correction

In notice document 96–30377 appearing on page 60730 in the issue of Friday, November 20, 1996, make the following corrections:

On the same page, in the first column, in the first line, "March 4," should read "March 5,".

On the same page, in the third column, in the third line, "AR404611" should read "AR4044611".

BILLING CODE 1505–01–D

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Federal Register

Thursday
December 26, 1996

Part II

Securities and Exchange Commission

17 CFR Part 270
Private Investment Companies; Proposed Rule

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC–22405, International Series Release No. 1037, File No. S7–30–96]

RIN 3235–AH09

Private Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission is publishing for comment new rules under the Investment Company Act of 1940 to implement provisions of the National Securities Markets Improvement Act of 1996 that apply to private investment companies. The proposed rules would define certain terms for purposes of the new exception from regulation under the Investment Company Act for private investment companies whose investors are all highly sophisticated investors, termed "qualified purchasers." The proposed rules also would address certain transition issues related to existing private investment companies that have no more than 100 investors and certain other matters related to private investment companies.

DATES: Comments must be received on or before February 10, 1997.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Stop 6–9, Washington, D.C. 20549. Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7–30–96; this file number should be included on the subject line if E-mail is used. Comment letters will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Electronically submitted comment letters also will be posted on the Commission's Internet web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: David P. Mathews, Senior Counsel, Nadya B. Roytblat, Assistant Office Chief, or Kenneth J. Berman, Assistant Director, at (202) 942–0690, Office of Regulatory Policy, Division of Investment Management, Stop 10–2, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today is requesting public comment on proposed new rules 2a51–1, 2a51–2, 2a51–3, 3c–1, 3c–5, 3c–6 and 3c–7 under the Investment Company Act of 1940 [15 USC 80a] (the "Investment Company Act" or "Act").

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Executive Summary

The Commission is proposing rules to implement certain provisions of the National Securities Markets Improvement Act of 1996 (the "1996 Act"), which was signed into law by President Clinton on October 11, 1996. The 1996 Act, among other things, added section 3(c)(7) to the Investment Company Act to create a new exclusion from regulation under the Act for private investment companies that consist solely of highly sophisticated "qualified purchasers" owning or investing on a discretionary basis a specified amount of "investments" ("section 3(c)(7) funds"). The 1996 Act also amended section 3(c)(1) of the Investment Company Act, which excludes from regulation under the Act private investment companies with 100 or fewer "beneficial owners" ("section 3(c)(1) funds"). Reflecting a relationship between section 3(c)(1) and new section 3(c)(7), the 1996 Act contains provisions that permit an existing section 3(c)(1) fund to convert into a section 3(c)(7) fund or invest in a section 3(c)(7) fund as a qualified purchaser, subject to certain requirements designed to protect the section 3(c)(1) fund's existing beneficial owners.

The 1996 Act requires the Commission to prescribe rules defining the terms "investments" and "beneficial owner" relevant to the new provisions by April 9, 1997. Other changes to the provisions of the Investment Company Act relating to private investment companies require Commission rulemaking as well. The Commission is proposing for public comment new rules under the Investment Company Act that would:

- Define the term "investments" for purposes of the qualified purchaser definition;
- Define the term "beneficial owner" for purposes of the provisions that permit an existing section 3(c)(1) fund to convert into a section 3(c)(7) fund or to be treated as a qualified purchaser;
- Address certain interpretative issues under section 3(c)(7);
- Permit certain section 3(c)(1) funds to rely on the pre—1996 Act provisions of section 3(c)(1) rather than restructure their existing relationships with investors;
- Permit knowledgeable employees of a section 3(c)(1) or a section 3(c)(7) fund (referred to collectively in this Release as "private funds"), and knowledgeable employees of affiliates of these funds, to invest in the fund; and
- Address transfers of securities in a private fund when the transfer was caused by legal separation, divorce, death, and certain other involuntary events.

I. Background

Section 3(c)(1) of the Investment Company Act excludes from regulation under the Act certain private investment companies "whose outstanding securities (other than short-term paper) are beneficially owned by not more than one hundred persons." [1] A wide variety of investment vehicles rely on section 3(c)(1), ranging from small groups of individual investors, such as investment clubs, to venture capital and other investment pools designed primarily for sophisticated investors.[2]

[1] 15 U.S.C. 80a–3(c)(1). In addition, the section 3(c)(1) fund must be an issuer that "is not making and does not presently propose to make a public offering of its securities."

[2] *See* Division of Investment Management, SEC, Protecting Investors: A Half Century of Investment

A. Qualified Purchaser Funds

In 1992, the Commission concluded that the 100-investor limit, while reasonably reflecting the point beyond which federal regulatory concerns incorporated in the Investment Company Act are raised, may place unnecessary constraints on investment pools that sell their securities exclusively to sophisticated purchasers.[3] The Commission recommended that Congress amend the Investment Company Act to create an alternative exclusion for investment companies whose securities are owned exclusively by sophisticated investors.

Congress implemented this recommendation in the 1996 Act. New section 3(c)(7) of the Investment Company Act creates an exclusion for investment companies whose investors consist solely of "qualified purchasers."[4] New section 2(a)(51)(A) of the Investment Company Act defines the term qualified purchaser as (i) any natural person who owns not less than $5 million in investments,[5] (ii) a family-owned company ("Family Company") that owns not less than $5 million in investments,[6] (iii) certain trusts,[7] and (iv) any other person (*e.g.*, an institutional investor) that owns and invests on a discretionary basis not less than $25 million in investments.[8] The 1996 Act directs the Commission to prescribe rules defining the term "investments" for purposes of determining whether a prospective investor in a section 3(c)(7) fund ("prospective qualified purchaser") meets the $5 million/$25 million thresholds.[9]

Section 3(c)(7) includes a "grandfather" provision that allows an existing section 3(c)(1) fund to convert into a section 3(c)(7) fund ("Grandfathered Fund"). The outstanding securities of a Grandfathered Fund may be beneficially owned by as many as 100 persons who are not qualified purchasers, provided that these persons acquired their investment in the Grandfathered Fund on or before September 1, 1996.[10] The grandfather provision is designed to allow an existing section 3(c)(1) fund wishing to avail itself of the new section 3(c)(7) exclusion to continue its existing relationships with investors who are not qualified purchasers.[11]

The grandfather provision requires the Grandfathered Fund, prior to the conversion, to provide each beneficial owner of its securities (i) notice of the fund's intention to become a section 3(c)(7) fund and (ii) an opportunity to redeem such owner's interest in the fund.[12] This provision is designed to enable an investor in an existing section 3(c)(1) fund to dispose of an investment, without penalty, if the investor does not choose to continue its investment in a private investment company that no longer will be limited to 100 investors.[13] The 1996 Act directs the Commission to define the term "beneficial owner" for this purpose.[14] The 1996 Act also requires an existing section 3(c)(1) fund that wishes to become a qualified purchaser to obtain the consent of the beneficial owners of its securities and certain other persons (the "consent provision").[15]

The Commission is proposing a rule under the Investment Company Act to define the term "investments" for purposes of the qualified purchaser definition. The Commission also is proposing rules to define the term "beneficial owner" for purposes of the grandfather and the consent provisions, and to address other transitional and interpretative issues related to section 3(c)(7).

B. Amendments to Section 3(c)(1)

To prevent circumvention of the 100-investor limit, section 3(c)(1)(A) (the "look-through provision") requires, in some instances, that a fund seeking to rely on the provision "look through" certain companies (*e.g.*, corporations, partnerships and other investors that are not natural persons) that hold its voting securities and count the company's security holders as beneficial owners of its securities.[16] The look-through provision currently applies (i) if a company owns 10% or more of a section 3(c)(1) fund's voting securities ("first 10% test") and (ii) more than 10% of the company's total assets are invested in section 3(c)(1) funds generally ("second 10% test").[17]

The 1996 Act's amendments to section 3(c)(1) are designed, in part, to

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Company Regulation at 104 (1992) (hereinafter Protecting Investors Report).

[3] 138 Cong. Rec. at S4822 (daily ed. Apr. 2, 1992) (Memorandum of the Securities and Exchange Commission in Support of the Small Business Incentive Act of 1992) (hereinafter Commission Memorandum). Some commenters also suggested that section 3(c)(1)'s 100-investor limit may have had the effect of providing an incentive for Americans to invest in unregulated off-shore markets. *See* S. Rep. No. 293, 104th Cong., 2d Sess. at 10 (1996) (hereinafter Senate Report); H.R. Rep. No. 622, 104th Cong., 2d Sess. at 18 (1996) (hereinafter House Report). These Reports relate to bills that were eventually enacted as the National Securities Markets Improvement Act of 1996, Pub. L. No. 104–290 (1996) (the "1996 Act") (to be codified in scattered sections of the United States Code ("U.S.C."); U.S.C. references are to the sections in which the relevant provisions of the 1996 Act will be codified).

[4] 1996 Act section 209; 15 U.S.C. 80a–3(c)(7). As is the case for a section 3(c)(1) fund, a section 3(c)(7) fund cannot make, or propose to make, a public offering of its securities.

[5] 15 U.S.C. 80a–2(a)(51)(A)(i).

[6] A Family Company is a company "that is owned directly or indirectly by or for two or more natural persons who are related as siblings or spouse (including former spouses), or direct lineal descendants by birth or adoption, spouses of such persons, the estates of such persons, or foundations, charitable organizations, or trusts established for the benefit of such persons . . . ." 15 U.S.C. 80a–2(a)(51)(A)(ii).

[7] A trust may be a qualified purchaser if (i) it was not formed for the specific purpose of acquiring the securities offered, and (ii) the trustee or other person authorized to make decisions with respect to the trust, and each settlor or other person who has contributed assets to the trust, are qualified purchasers. 15 U.S.C. 80a–2(a)(51)(A)(iii).

[8] A qualified purchaser that meets the $25 million threshold may act for its own account or for the accounts of other qualified purchasers. 15 U.S.C. 80a–2(a)(51)(A)(iv).

[9] 1996 Act section 209(d)(2). Such rules are required to be prescribed by April 9, 1997 (180 days after the enactment of the 1996 Act). The provisions of the 1996 Act enacting section 3(c)(7) take effect on the earlier of April 9, 1997 or the date on which the rulemaking defining the term investments is completed.

[10] 15 U.S.C. 80a–3(c)(7)(B).

[11] *See* 142 Cong. Rec. at E1938 (Oct. 21, 1996) (Remarks of Hon. John D. Dingell); The Investment Company Act Amendments of 1995: Hearing on H.R. 1495 Before the Subcomm. on Telecommunications and Finance of the Comm. on Commerce, House of Representatives, 104th Cong. 1st Sess. (1995) (prepared statement of Marianne Smythe); *see also* American Bar Association, Section of Business Law, Committee on Federal Regulation of Securities, Task Force on Hedge Funds, Report on Section 3(c)(1) of the Investment Company Act of 1940 and Proposals to Create an Exception for Qualified Purchasers, 51 Bus. Law. 773, 779 (Dec. 5, 1995) (hereinafter Hedge Funds Task Force Report). The grandfather provision is not intended, however, to allow a sponsor of a section 3(c)(1) fund to nominally give the fund section 3(c)(7) status in order to be able to operate another section 3(c)(1) fund and thereby circumvent the 100-investor limit. Remarks of Hon. John D. Dingell, *supra; see also* section II.D of this Release.

[12] 15 USC 80a–3(c)(7)(B)(ii).

[13] *See* 142 Cong. Rec. at E1929 (Oct. 4, 1996) (Remarks of Hon. Thomas J. Bliley, Jr.).

[14] 1996 Act section 209(d)(4). Such rules are required to be prescribed by April 9, 1997. *See supra* note 9.

[15] 15 USC 80a–2(a)(51)(C).

[16] Section 2(a)(42) of the Investment Company Act [15 USC 80a-2(a)(42)] defines a voting security as any security "presently entitling the holder thereof to vote for election of directors [of the issuer] thereof." *See* Thomas P. Lemke and Gerald T. Lins, *Private Investment Companies Under Section 3(c)(1)*, 44 Bus. Law. 401, 416–18 (Feb. 1989) (discussing the types of non-voting interests that have been treated as voting securities).

[17] To illustrate the operation of the current look-through provision, assume Company A is seeking to rely on the provisions of section (3)(c)(1). If one of Company A's security holders, Company B, beneficially owns 10% or more of Company A's voting securities, then the security holders of Company B would be counted as security holders of Company A (under the first 10% test), unless no more than 10% of Company B's assets consist of securities of section 3(c)(1) funds (the second 10% test).

The operation of the look-through provision also is relevant to determining who is a beneficial owner of a section 3(c)(1) fund's securities for purposes of the grandfather and the consent provisions. *See* section II.B. of this Release.

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simplify the way in which the number of investors in a fund is calculated for purposes of the 100-investor limit.[18] When the relevant provisions of the 1996 Act become effective,[19] the amended look-through provision will no longer apply to a security holder that is an operating company (*i.e.*, a company that is not an investment company or a private fund).[20] This approach recognizes that an investment in a section 3(c)(1) fund by a company that is not itself an investment company generally does not implicate the concerns that the look-through provision was intended to address—that the investor may be a conduit that was created to enable a section 3(c)(1) fund to have indirectly more than 100 investors.[21]

The 1996 Act not only limits the scope of the look-through provision, but also seeks to simplify it by eliminating the second 10% test. The look-through provision will apply whenever an investment company, including a private fund, owns 10% or more of a section 3(c)(1) fund, regardless of whether or not the investment company has more than 10% of its assets invested in section 3(c)(1) funds generally. This change reflects the view that the private nature of a section 3(c)(1) fund may be brought into question when an investment company has a substantial investment in the section 3(c)(1) fund.[22]

These amendments, while attempting to simplify the look-through provision and make it more consistent with its regulatory purpose, may create interpretative issues for existing section 3(c)(1) funds that have investors to which the first, but not the second, 10% test applies. The Commission is proposing a rule to address these issues.

C. Other Directed Rulemaking

The 1996 Act directs the Commission to prescribe two sets of rules relating to private funds.[23] The 1996 Act directs the Commission to prescribe rules permitting "knowledgeable employees" of a private fund (or knowledgeable employees of the fund's affiliates) to invest in the fund without causing the fund to lose its exclusion from regulation under the Investment Company Act.[24] The purpose of this provision appears to be to allow private funds to offer persons who participate in the funds' management the opportunity to invest in the fund as a benefit of employment.[25]

The Commission is proposing a rule to allow directors, executive officers, general partners, and other knowledgeable employees of a section 3(c)(1) fund to invest in the fund without being counted for purposes of the fund's 100-investor limit. The proposed rule similarly would allow knowledgeable employees of a section 3(c)(7) fund to invest in the fund even though they may not meet the definition of qualified purchaser. The rule also would permit investments by knowledgeable employees of affiliates that manage the investment activities of these funds.

In addition to directing the Commission to adopt rules relating to investments by knowledgeable employees, the 1996 Act directs the Commission to prescribe rules implementing section 3(c)(1)(B) of the Act.[26] Section 3(c)(1)(B) provides that beneficial ownership of securities of a section 3(c)(1) fund by any person who acquires the securities as a result of "a legal separation, divorce, death, or other involuntary event" will be deemed to be beneficial ownership by the person from whom the transfer was made, pursuant to such rules and regulations as the Commission prescribes.[27] The Commission is proposing a rule to permit securities acquired by a person as a result of certain transfers to be treated as being beneficially owned by the original beneficial owner. The proposed rule would address similar transfers of securities issued by section 3(c)(7) funds.[28]

II. Rules Relating to Qualified Purchaser Funds

A. Investments

The 1996 Act provides that the term investments is to be defined by Commission rule. Section 2(a)(51)(B) of the Act also gives the Commission authority to prescribe such rules and regulations governing qualified purchasers as the Commission determines are necessary or appropriate in the public interest or for the protection of investors.

In explaining why Congress deferred to the Commission's defining what constitutes an investment for purposes of the $5 million/$25 million thresholds, the legislative history of the 1996 Act indicates that section 3(c)(7) funds are to be limited to investors with a high degree of financial sophistication who are in a position to appreciate the risks associated with investment pools that do not have the protections afforded by the Investment Company Act.[29] These investors are likely to be able to evaluate on their own behalf matters such as the level of a fund's management fees, governance provisions, transactions with affiliates, investment risk, leverage and redemption or withdrawal rights.[30] Congress appears to have expected that the definition of investments be broader than securities, but not that every asset be treated as an investment. Rather, the legislative history suggests that the asset should be held for investment purposes and that the nature of the asset should indicate a significant degree of investment experience and sophistication such that the investor can be expected to have the knowledge to evaluate the risks of investing in unregulated investment pools.[31]

Proposed rule 2a51–1 under the Investment Company Act seeks to define the term investments consistent with the principles set forth in the legislative history. The proposed rule would define investments broadly to include securities (other than controlling interests in all but certain issuers), and real estate, futures contracts, physical commodities, and cash and cash equivalents held for investment purposes. Proposed rule 2a51–1 also contains certain provisions designed to clarify how the amount of a person's investments would be determined (including investments held jointly with a spouse and investments held by certain affiliated entities). The proposed rule would permit a section 3(c)(7) fund to rely, in good faith, on certain documentation in determining a person's eligibility as a qualified purchaser.

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[18] These changes also had been recommended by the Commission in 1992. *See* Commission Memorandum, *supra* note 3; *see also* Protecting Investors Report, *supra* note 2, at 108–09.

[19] The amendments to section 3(c)(1)(A) will become effective on the earlier of April 9, 1997 or the date on which the rulemaking defining the term investments is completed. 1996 Act section 209(e).

[20] 15 USC 80a–3(c)(1)(A).

[21] *See* Testimony of Arthur Levitt, Chairman, SEC, Concerning S. 1815, the Securities Investment Promotion Act of 1996, Before the Senate Committee on Banking, Housing and Urban Affairs (June 5, 1996).

[22] *See, e.g.*, Protecting Investors Report, *supra* note 2, at 106–09.

[23] 1996 Act section 209(d).

[24] 1996 Act section 209(d)(3). These rules are required to be promulgated no later than October 11, 1997 (1 year after enactment of the 1996 Act).

[25] *See The Investment Company Act Amendments of 1995: Hearing on H.R. 1495 before the Subcomm. on Telecommunications and Finance of the Comm. on Commerce, House of Representatives*, 104th Cong., 1st Sess. 22–23 (1995) (testimony of Barry P. Barbash, Director, Division of Management, SEC).

[26] 1996 Act section 209(d)(1).

[27] 15 USC 80a–3(c)(1)(B).

[28] *See* 15 USC 80a–3(c)(7)(A) (permitting certain transfers by qualified purchasers).

[29] *See* Senate Report, *supra* note , at 10.

[30] *Id.*

[31] The Senate Report gave family-owned businesses and personal residences as examples of assets that should not be considered to be investments. *See id.* at 10.

1. Definition of Investments

a. Securities

Proposed rule 2a51–1(b)(1) would include securities within the definition of investments. Defining investments in this way should result in a broad range of investments being treated as such for purposes of section 3(c)(7). Many investment opportunities are offered through entities that issue securities, such as limited partnerships and limited liability companies.[32]

Under the proposed rule, securities of an issuer with which the prospective qualified purchaser has a control relationship generally would not come within the definition of investments for purposes of section 3(c)(7).[33] Limiting the definition in this manner is designed to exclude, among other things, controlling ownership interests in family-owned and other closely held businesses, and controlled subsidiaries of operating companies. These holdings would appear not to demonstrate the degree of financial sophistication necessary to invest in unregulated investment vehicles or securities generally.

The proposed rule would not exclude from the definition of investments controlling ownership interests in investment companies and other issuers excepted from the definition of investment company by sections 3(c)(1) through 3(c)(9) of the Act.[34] Ownership of a controlling interest in these types of companies generally suggests a significant degree of investment experience. The proposed rule also would not exclude a controlling ownership interest in a "listed" company (*e.g.*, a company whose equity securities are listed on a national securities exchange, traded on the National Association of Securities Dealers Automated Quotation System ("NASDAQ") or listed on an offshore securities exchange) that is not a majority-owned subsidiary of the prospective qualified purchaser.[35] A controlling ownership interest in a company listed on a national securities exchange or traded on NASDAQ is likely to evidence knowledge of and experience in dealing with investment risk, securities-related disclosure, corporate governance, transactions with affiliates, leverage, and other issues relevant to a person's ability to evaluate investment in a pooled investment vehicle. The proposed inclusion of securities traded on a "designated offshore securities market" is intended to include securities of foreign issuers that trade in an organized market that is not regulated by the Commission.

Comment is requested on the proposed exclusions from the definition of investments for certain securities. Should other controlling interests (such as controlling interests in large, but privately held, companies) be treated as investments for purposes of section 3(c)(7)?[36] In the alternative, should the listed company exception be applicable if any securities of the issuer have been offered to the public, even if periodic reports with respect to the issuer's securities are no longer required to be filed under the Securities Exchange Act of 1934 ("Exchange Act")?[37] Should foreign securities be considered listed securities based on criteria other than, or in addition to, whether they trade on a designated offshore securities market (such as a public float requirement or a requirement that American Depositary Receipts with respect to these securities be traded in the U.S.)?

Comment also is requested whether other types of business holdings (whether or not characterized as securities) should be treated as investments. For example, should any passive ownership interest in a trade or business be considered to be an investment?[38] Finally, comment is requested whether other types of securities should be excluded from the definition of investments because they do not serve as an appropriate measure of investment experience.

b. Real Estate

Proposed rule 2a51–1(b)(2) would include real estate held for investment purposes within the definition of investments. Consistent with the examples provided by the legislative history of the 1996 Act, real estate would not be considered to be held for investment purposes if the real estate is used by the prospective qualified purchaser or a member of the prospective qualified purchaser's family ("related person") for personal purposes (*e.g.*, as a personal residence).[39] The term "personal purposes" is derived from the Internal Revenue Code provision that addresses circumstances under which a taxpayer is allowed deductions with respect to certain "dwelling units."[40] Thus, residential property could be treated as an investment if it is not treated as a residence for tax purposes. The Commission believes that reference to the Internal Revenue Code provisions is appropriate because it would allow prospective qualified purchasers to determine whether the residential real estate is an investment based on the same provisions they would apply in

[32] For example, the term security includes any "fractional undivided interest in oil, gas or other mineral rights." *See* section 2(1) of the Securities Act of 1933 ("Securities Act") [15 USC 70a(1)].

[33] The proposed rule would exclude from the definition of investments securities of an issuer that "controls, is controlled by, or is under common control with, the person that owns the securities." The term "control" is defined in section 2(a)(9) of the Act as "the power to exercise a controlling influence over the management or policies of a company, unless such power is solely the result of an official position with such company." 15 USC 80a-2(a)(9). Section 2(a)(9) also provides that a person who owns beneficially, "either directly or through one or more controlled companies, more than 25 per centum of the voting securities of a company shall be presumed to control such company." *Id.*

[34] 15 USC 80a–3(c) (1) through (9). In addition to private investment companies, sections 3(c)(1) through (9) except from the definition of investment company certain types of issuers that engage in significant investment-related activities (*i.e.*, brokers and other financial intermediaries, banks, insurance companies, and finance companies). A controlling interest in a foreign bank, foreign insurance company or structured finance vehicle also would be included as an investment, even if the issuer is not considered to be an investment company under rules 3a–6 or 3a–7 under the Act [17 CFR 270.3a–6 and 3a–7].

[35] A company would be considered to be a "listed company" if it has outstanding a class of equity securities that are (i) "reporting securities" under rule 11Aa3–1 of the Securities Exchange Act of 1934 ("Exchange Act") [17 CFR 240.11Aa3–1] (*i.e.*, securities listed and registered, or admitted to unlisted trading privileges, on a national securities exchange or for which quotation information is disseminated in the NASDAQ and for which transaction reports are required to be made on a real-time basis pursuant to an effective transaction reporting plan) or (ii) listed on a "designated offshore securities market" (as such term is defined in Regulation S under the Securities Act [17 CFR 230.901 *et seq.*]).

[36] For example, a controlling interest in a company that has shareholders equity in excess of a specified amount (*e.g.*, $50 million or $100 million) could be treated as an investment on the theory that the size of the company suggests a certain level of financial sophistication on the part of the control person.

[37] *See* sections 12(b), 12(g) and 15(d) of the Exchange Act [15 USC 78*l*(b), 78*l*(g) and 78*o*(d)].

[38] A passive ownership interest could be defined for these purposes as an interest in a trade or business in which such person does not materially participate. *See* Internal Revenue Code ("IRC") section 469(c)(1) [26 USC 469(c)(1)].

[39] Proposed rule 2a51–1(c). Proposed rule 2a51–1(a)(5) would define "related person" as a sibling, spouse or former spouse of the prospective qualified purchaser, or a direct lineal descendant or ancestor by birth or adoption of the prospective qualified purchaser, or a spouse of such descendant. *See also* section 2(a)(51)(A)(ii) of the Act [15 USC 80a–2(a)(51)(A)(ii)] (specifying who is considered a family member for purposes of the Family Company definition).

[40] IRC section 280A(d) [26 USC 280A(d)]. The proposed rule would treat residential real estate as an investment if it is not treated as a dwelling unit used as a residence in determining whether deductions for depreciation and other items are allowable under the IRC. Section 280A provides, among other things, that a taxpayer uses a dwelling unit during the taxable year as a residence if he or she uses such unit for personal purposes for a number of days that exceeds the greater of 14 days or 10 percent of the number days during which the unit is rented at a fair market value.

determining whether certain expenses related to the property are deductible for purposes of completing their tax returns. Comment is requested on the proposed approach. Would alternative approaches (such as not treating the property as held for investment purposes if it is used *at any time* for personal purposes) be easier to apply?

Property owned by the prospective qualified purchaser that has been used by the prospective qualified purchaser or a related person as a place of business or in connection with the conduct of a trade or business ("business-related property") would not be considered to be held for investment purposes.[41] While business-related property may have been acquired with an investment goal in mind, these holdings may not be indicative of extensive experience in the financial or real estate markets and may have been acquired for reasons other than the potential investment merits of the property.

Comment is requested on including real estate as an investment for purposes of the proposed rule. Does real estate investing sufficiently reflect the kind of financial sophistication required to understand the risks of investing in an unregulated investment pool? Should real estate be included as an investment for purposes of the proposed rule only if the investment is in the form of a security?

c. Commodity Interests

Proposed rule 2a51–1(b)(3) would include contracts for the purchase or sale of a commodity for future delivery ("commodity interests") held for investment purposes within the definition of investments.[42] Commodity interests are often used by investors to hedge their portfolios from declines in securities prices, changes in interest rates, or foreign currency fluctuations. Commodity interests also may provide a means to invest in the commodities markets.

Commodity interests would be included as investments to the extent of the initial margin and option premium deposited with a futures commission merchant.[43] This approach is similar to that taken by rule 4.7 under the Commodity Exchange Act, which makes available a simplified regulatory framework for private commodity pools offered to certain sophisticated investors.[44] Gains and losses on commodity interests generally would be reflected in changes in the prospective qualified purchaser's cash position (which also could be treated as an investment).[45] Comment is requested on the proposed approach to treating commodity interests. Since the value of the commodity interest generally would be reflected in the investor's cash position (including initial margin), is it necessary for the rule to include commodity interests? Would the rule be easier to apply if it explicitly provided that "variation margin" posted to the commodity account of the prospective qualified purchaser to reflect gains could be treated as an investment for purposes of the rule? Would another formulation for determining how to value commodity interests be more appropriate?

The proposed rule also would include in the definition of investments commodities that are held in physical form and for investment purposes.[46] This provision would recognize that many investors hold gold, silver or other commodities as part of their investment portfolios. Commodities that are used as part of a trade or business (such as grain held by a food processor as part of its inventory or raw materials) would not be considered to be investments.

Comment is requested on the proposed inclusion of commodity interests and commodities within the definition of investments. Should any other types of financial instruments, to the extent they are not addressed by the proposed rule, be included within the definition of investments?[47]

d. Cash and Cash Equivalents

Proposed rule 2a51–1(b)(5) would include cash and cash equivalents held for investment purposes ("cash") in the definition of investments.[48] The Commission is proposing to include cash as an investment to reflect its views that many investors are likely at any given time to have a component of their investment portfolio in cash.[49] The rule would specify that the cash would have to be held by the prospective qualified purchaser for investment purposes. Thus, cash used by the prospective qualified purchaser to meet its day-to-day expenses (or, in the case of a prospective qualified purchaser that is a business, its working capital) would

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[41] Proposed rule 2a51–1(c).

[42] Paragraph (a)(1) of proposed rule 2a51–1 would define commodity interests to mean commodity futures contracts, options on a commodity futures contracts, and options on physical commodities traded on or subject to the rules of (a) any contract market designated for trading such transactions under the Commodity Exchange Act (the "CEA") [7 USC 1 *et seq.*] and the rules thereunder; or (b) any board of trade or exchange outside the United States, as contemplated in Part 30 of the rules under the CEA. 17 CFR 30.1 through 30.11.

A futures contract generally is a bilateral agreement providing for the purchase or sale of a specified commodity at a stated time in the future for a fixed price. Robert E. Fink & Robert B. Feduniak, Futures Trading at 10 (1988). A commodity option gives its holder the right, for a specified period of time, to either buy (in the case of a call option) or sell (in the case of a put option) the subject of the option at a predetermined price. The writer (seller) of an option is obligated to sell or buy the specified commodity at the election of the option holder. 1 Philip M. Johnson & Thomas L. Hazen, Commodities Regulation at section 1.07 (2d ed. Supp. 1994) (hereinafter Johnson & Hazen).

[43] Proposed rule 2a51–1(d)(1). To enter into a futures contract or write a commodity option, a customer typically deposits with a futures commission merchant ("FCM"), as security for performance of its obligations, a specified amount of assets or cash as "initial margin." Initial margin is not considered part of the contract or option price, and is returned upon termination of the position, unless used to cover a loss. Johnson & Hazen, *supra* note 42, at section 1.10.

[44] 17 CFR 4.7. In taking this approach, the Commodity Futures Trading Commission noted that "account equity in excess of the minimum necessary for margin or option premiums is not includable because it has no necessary correlation with actual commodity interest transactions." *See* Exemption for Commodity Pool Operators With Respect to Offerings to Qualified Eligible Participants; Exemption for Commodity Trading Advisors With Respect to Qualified Eligible Clients, 57 FR 34853, 34855 n.17 (Aug. 7, 1992). Rule 4.7 under the CEA establishes a different threshold for securities investments ($2,000,000 market value) and commodity interests ($200,000 initial margin). Since the proposed rule would permit cash to be treated as an investment (*see* section II.A.2.d. of this Release), it would not be appropriate to incorporate this dual threshold into the proposed rule.

[45] See section II.A.1.d of this Release. An FCM must, on a daily basis, reconcile its customers' positions by crediting gains and debiting losses on a customer-by-customer basis. *See* CEA rule 1.32 [17 CFR 1.32] (requiring daily computation of customer accounts); *see also* Custody of Investment Company Assets with Futures Commission Merchants and Commodity Clearing Organizations, Investment Company Act Rel. No. 22389 (Dec. 11, 1996) [61 FR 66207 (Dec. 17, 1996)].

[46] Proposed rule 2a51–1(b)(4). Physical commodities, for purposes of the proposed rule, would be defined as any commodity with respect to which a commodity interest is traded on a domestic or foreign commodities exchange. Proposed rule 2a51–1(a)(4). This approach is designed to provide certainty on the types of commodities that would be considered investments.

[47] *See, e.g.*, section 3(c)(2) of the Act, as amended by the 1996 Act [15 USC 80a–3(c)(2)] (defining the term "financial contract").

[48] Cash and cash equivalents would generally be considered to include cash, bank deposits, certificates of deposit, bankers acceptances and other bank instruments. *See, e.g.*, Investment Company Act Rel. No. 10937 (Nov. 13, 1979) [44 FR 66608 (Nov. 20, 1979)]; Statement of Cash Flows, Statement of Financial Accounting Standards No. 95, at section 95.08 (Fin. Accounting Standards Bd. 1987); Treas. Reg. section 220.2 (as amended in 1996) [Fed. Sec. L. Rep. (CCH) ¶ 22,252]. The cash surrender value of an insurance policy (net of any loans) would also be considered to be a cash equivalent. Certain of the instruments that are considered to be cash equivalents (*e.g.*, shares of money market mutual funds, certain Government securities) for purposes of these sources are securities and would be treated as investments for purposes of the proposed rule.

[49] For example, an investor may have a significant amount of cash as a result of a recent sale of an investment or because market conditions resulted in the investor taking a "defensive" position. Cash or cash equivalents may also be integral to certain sophisticated investment strategies (such as hedging).

not be included for purposes of determining whether the prospective qualified purchaser has the requisite amount of investments.

Comment is requested on the proposed inclusion of cash as an investment. Should cash only be included if it is in excess of a certain amount (*e.g.*, $25,000)? Should the rule provide examples of when cash would be considered to be held for investment purposes (*i.e.*, if it represents proceeds from the sale of investments occurring during the preceding six months)? Should cash be included only if "investment securities" and other types of investments (*e.g.*, real estate) constitute more than a specified average amount or percentage of the prospective qualified purchaser's investment portfolio (*e.g.*, 25%, 50% or 75%) over the prior 12-month period?[50]

e. Request For Comment

Comment is generally requested on the proposed definition of investments. Certain assets (such as jewelry, art work, antiques, and other collectibles) that may be held by some individuals as investments are not included because they do not necessarily suggest any experience in the financial markets or investing in unregulated investment pools.[51] Should such assets be included if held for investment purposes? Should any property that produces income from interest, dividends, annuities or royalties not derived in the ordinary course of a trade or business be treated as an investment?[52] Commenters should explain how these types of investments can serve as indicia of sophistication in investment matters. Finally, should any assets that are proposed to be included within the definition of investments not be included?

2. Determining the Amount of Investments

Proposed rule 2a51–1 would allow the amount of a prospective qualified purchaser's investments to be based on either the market value of the investments or their cost. In either case, certain deductions from the amount of investments owned would have to be made as discussed below.

a. Value of Investments

Proposed rule 2a51–1(d) would specify that the value of an investment would be determined based either on its market value on a recent date or its cost.[53] A section 3(c)(7) fund could determine which methodology to use, or could allow prospective qualified purchasers to provide the amount of their investments based on either methodology. The Commission believes that this approach is appropriate because either the cost or market value of the prospective qualified purchaser's investments may provide an appropriate starting point for assessing the person's investment experience.

Comment is requested on the proposed approach to valuing investments. Should the proposed rule instead take an approach similar to that taken in rule 144A under the Securities Act, which generally requires that securities be valued at cost even if a market value is available?[54] Would that approach make it easier for a section 3(c)(7) fund to determine the continuing status of an investor as a qualified purchaser when the investor adds to its investment in the fund?[55]

b. Deductions From Amount of Investments

(i) Certain Indebtedness

The Commission believes that, in establishing the $5 million/$25 million investment thresholds, Congress intended that qualified purchasers generally be limited to persons who own a specified amount of investments. This intention would appear to be inconsistent with permitting a prospective qualified purchaser to accumulate the requisite amount of investments through leverage or similar means. As a result, the proposed rule would require that the amount of any outstanding indebtedness incurred to acquire investments owned by a prospective qualified purchaser be deducted from that person's amount of investments. This requirement would apply to all types of prospective qualified purchasers.[56]

The Commission is concerned that section 3(c)(7) funds may have difficulty in determining whether certain indebtedness was incurred to acquire investments. To address this issue, the proposed rule would require that certain indebtedness, if incurred during the preceding 12 months, be deducted from the amount of the person's investments, regardless of whether the proceeds of the indebtedness can be directly traced to the acquisition of investments. These provisions are generally applicable to natural persons and Family Companies.

The amount of any loan to a natural person secured by a mortgage on the person's personal residence or other non-investment real estate would be deducted unless the proceeds of the loan were used solely to finance the acquisition or improvement of the property or to refinance an outstanding mortgage ("real estate loans").[57] The intent of this provision is to preclude a personal residence or a vacation home from, in effect, being converted into cash or another type of investment for purposes of meeting the $5 million threshold.[58]

Under the proposed rule, a Family Company would be required to deduct the amount of any outstanding indebtedness incurred by any of the Company's owners to acquire the investments held by the Company.[59] In addition, a Family Company would have to deduct the amount of any real estate loans that any owner of the Family Company would have had to deduct if the owner were the

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[50] Section 3(a)(3) of the Act [15 USC 80a–3(a)(3)] defines the term "investment securities" as all securities except (A) Government securities, (B) securities issued by employees' securities companies, and (C) securities issued by majority-owned subsidiaries of the owner which are not investment companies. Upon effectiveness of the 1996 Act's amendments related to section 3(c)(7) funds, the term investment securities also will exclude majority-owned subsidiaries that are section 3(c)(1) or section 3(c)(7) funds. *See* section 209(c)(6) of the 1996 Act.

[51] *See* Hedge Funds Task Force Report, *supra* note 11, at 788 (suggesting that automobiles, jewelry and art be excluded from investments for purposes of measuring financial sophistication).

[52] *See* IRC section 163(d)(5) [26 USC 163(d)(5)] (definition of "property held for investment" under tax code provisions allowing a limited deduction for investment interest).

[53] In the case of a security, market value could be determined in the manner described in rule 17a–7(b) under the Investment Company Act [17 CFR 270.17a–7(b)]. In the case of other investments, other reasonable methods to ascertain market value (such as real estate appraisals by independent third parties) could be used. A prospective qualified purchaser could not use a "fair value" method of valuation such as that contemplated by rule 2a–4 under the Act [17 CFR 270.2a–4]. In the absence of a readily ascertainable market value, the value of an investment always would be based on its cost.

[54] *See* 17 CFR 230.144A(a)(3) (requiring securities to be valued at cost, unless a person reports its securities holdings in its financial statements on the basis of their fair market value, or no current information with respect to the cost of those securities has been published).

[55] *See* section 3(c)(7)(A) of the Investment Company Act (providing that the outstanding securities of a section 3(c)(7) fund must be owned "exclusively by persons who, at the time of acquisition of such securities, are qualified purchasers").

[56] Proposed rule 2a51–1(e). The proposed rule would not require the deduction to be made with respect to investments that the person manages on a discretionary basis for others.

[57] Proposed rule 2a51–1(f) (4) and (5). The proceeds of a refinancing loan would be deducted to the extent that the amount of the new loan exceeds the lowest principal amount of the refinanced loan outstanding during the preceding 12 months.

[58] This deduction would generally apply to real estate that is not held for investment purposes. Outstanding indebtedness incurred to acquire investment real estate would already have been deducted as required by proposed rule 2a51–1(e).

[59] Proposed rule 2a51–1(g)(1).

prospective qualified purchaser.[60] Finally, the proposed rule would require a Family Company to deduct (i) the amount of any indebtedness incurred by the Family Company during the preceding 12 months to the extent that the principal amount of the indebtedness exceeds the fair market value of any assets of the Family Company other than investments and (ii) the amount of any indebtedness incurred during the preceding 12 months by an owner of the Family Company or by a related person of an owner of the Family Company and guaranteed by the Family Company.[61] These provisions would provide further assurance that indebtedness incurred by the Family Company or its owners to acquire investments was appropriately deducted.

Comment is requested whether the rule should contain other provisions to clarify the extent to which indebtedness should be treated as incurred to acquire the investment. For example, should any indebtedness collateralized by the investment (whether directly or indirectly) be deemed to have been incurred to acquire the investment?

(ii) Other Payments

Prospective qualified purchasers who are natural persons would be required to deduct from the amount of their investments certain other amounts received during the preceding 12 months that could inflate the amount of their investments (particularly cash) without reflecting any investment experience. These amounts include payments received pursuant to an insurance policy; the value of any investments received by the person as a gift or bequest or pursuant to an agreement related to a legal separation or divorce; and any amount received by the person in connection with a lawsuit.[62]

(iii) Request for Comment

Comment is requested concerning the proposed approach for deducting indebtedness and other payments. Should the rule establish guidelines or presumptions concerning whether indebtedness was incurred to acquire an investment? Should other specified types of indebtedness or payments be deducted from the amount of investments?

Comment also is requested whether the 12-month period is sufficient to establish, for example, that a person who has received a $5 million bequest is sufficiently sophisticated to be treated as a qualified purchaser based on investments that may have been made with that bequest? Would a longer (*e.g.*, 24 months) or shorter (*e.g.*, six months) period be more appropriate? In lieu of, or in addition to, the 12-month period, should the rule reduce the amount of the deductions to the extent that the prospective qualified purchaser can trace the use of the proceeds of the loans or other payments to non-investment activities?

3. Jointly Held Investments

The proposed rule would clarify that, in determining whether a natural person is a qualified purchaser, there may be included in the value of such person's investments any investments held jointly with such person's spouse ("joint investments").[63] Thus, a person who owns $3 million of investments individually and $2 million of joint investments would be a qualified purchaser. The spouse also would be a qualified purchaser if he or she owned, individually, an additional $3 million of investments. On the other hand, if each spouse owned, individually, $3 million of investments, but the spouses did not own any joint investments, neither spouse would be a qualified purchaser.[64] Comment is requested on the proposed approach to joint investments. Should spouses that hold not less than $5 million in investments in the aggregate (regardless of whether the investments are held jointly) be treated as qualified purchasers if they make a joint investment in a section 3(c)(7) fund?

4. Investments Held by Certain Corporate Affiliates

The proposed rule generally would permit a parent company in a corporate structure that is a prospective qualified purchaser to aggregate investments it owns with those owned by its wholly-owned and majority-owned subsidiaries. The investments of these affiliated entities would have to be managed under the direction of the parent company.[65] This approach appears to be an appropriate way to address, for example, holding company structures necessitated by legal, tax or other factors that may require or make advantageous the holding of investments in separate corporate entities.[66] Comment is requested whether there are other structures for holding ownership interests in investments that should be addressed by the proposed rule. Should the rule also require the subsidiary to be consolidated with the parent company under Generally Accepted Accounting Principles?[67]

5. Good Faith Reliance on Certain Documentation

The proposed rule would permit a section 3(c)(7) fund or a person acting on its behalf, when determining whether a prospective investor is a qualified purchaser, to rely upon audited financial statements, brokerage account statements and other appropriate information and certifications provided by the prospective purchaser or its representatives, as well as upon publicly available information as of a recent date.[68] Reliance on this information must be reasonable and the section 3(c)(7) fund or its representatives, after reasonable inquiry, must have no basis for believing that the information is incorrect in any material respect. Comment is requested whether rule 2a51–1 should include a list of documentation similar to that included in rule 144A under the Securities Act.[69]

B. Definitions of Beneficial Ownership

Proposed rule 2a51–2 would define the term "beneficial owner" for

[60] Proposed rule 2a51–1(g)(2).

[61] Proposed rule 2a51–1(g)(3) and (4).

[62] Proposed rule 2a51–1(f)(1) through (3). A Family Company would have to deduct any such payments received by the Company or by any owner of the Company. Proposed rule 2a51–1(g)(2).

[63] Proposed rule 2a51–1(h). Joint investments also would include investments in which the person shares with his or her spouse a community property or similar shared ownership interest. *Id.* In determining the amount of joint investments, the prospective qualified purchaser would have to deduct from the amount of any joint investments any amounts that the spouse would have had to deduct (*e.g.*, indebtedness incurred to acquire the investments or bequests received by the spouse). *Id.*

[64] This rule would not affect whether a spouse that is not a qualified purchaser can hold a joint interest in a section 3(c)(7) fund with his or her qualified purchaser spouse. Section 2(a)(51)(A)(i) of the Act provides that such a joint interest can be held.

[65] Proposed rule 2a51–1(i).

[66] *See, e.g.*, Resale of Restricted Securities; Changes To Method of Determining Holding Period of Restricted Securities Under Rules 144 and 145, Securities Act Rel. No. 6862 (Apr. 23, 1990) [55 FR 17933 (Apr. 30, 1990)] (describing bank holding company structures).

[67] *See* rule 144A(a)(4) under the Securities Act [17 CFR 230.144A(a)(4)].

[68] Proposed rule 2a51–1(j). The legislative history of the 1996 Act indicates that the Commission can use its rulemaking authority provided in section 2(a)(51) of the Act to "develop reasonable care defenses when an issuer relying on the qualified purchaser exception in good faith sells securities to a purchaser that does not meet the qualified purchaser definition." House Report, *supra* note 3, at 53.

[69] 17 CFR 230.144A(d)(1). Rule 144A includes several non-exclusive methods for purposes of determining whether a person is a "qualified institutional buyer." These methods include most recent publicly available financial statements, information filed with Federal and State regulatory authorities, and information appearing in recognized securities manuals, as well as certifications by a company's executive officers. *Id.*

purposes of the grandfather provision governing section 3(c)(1) funds that wish to convert into section 3(c)(7) funds and the consent provision governing section 3(c)(1) funds that wish to become qualified purchasers. The proposed rule also would address what types of ownership constitute "indirect" beneficial ownership for purposes of the consent provision.

1. The Grandfather Provision

Under the grandfather provision, a Grandfathered Fund may convert into a section 3(c)(7) fund without requiring investors that are not qualified purchasers to dispose of their interests in the fund.[70] The grandfather provision requires the Grandfathered Fund, prior to the conversion, (i) to disclose to each "beneficial owner" that future investors will be limited to qualified purchasers, and that ownership in the Grandfathered Fund will no longer be limited to 100 persons, and (ii) concurrently with or after the disclosure, to provide each beneficial owner with a reasonable opportunity to redeem any part or all of its interests in the fund for that beneficial owner's proportionate share of the fund's net assets.[71]

The 1996 Act directs the Commission to define the term "beneficial owner" for purposes of the grandfather provision. The legislative history of the 1996 Act suggests that the Commission was to use this authority to address any unnecessary burdens that might arise as a result of the application of section 3(c)(1)'s look-through provision.[72] Specifically, Congress appears not to have intended to require a Grandfathered Fund to provide the notice and redemption opportunity to security holders of its institutional investors, even when those security holders would be deemed beneficial owners of the Grandfathered Fund's voting securities under section 3(c)(1)(A).[73] Rather, the notice and redemption opportunity are generally intended to be provided only to the institutional investor, unless the institutional investor is controlled by or under common control with the Grandfathered Fund.[74]

Consistent with the purposes indicated in the legislative history of the 1996 Act, the Commission believes that the grandfather notice and redemption opportunity provisions were intended not only for the purposes described above, but for the benefit of certain persons who were deemed to be beneficial owners *prior* to the 1996 Act's amendments to the look-through provision.[75] These persons may have relied on the then-existing look-through provision as a way to limit the Grandfathered Fund's ability to sell its securities to additional investors.[76] Allowing the Grandfathered Fund to raise substantial new capital from an unlimited number of qualified purchasers could significantly alter the nature of an investment in the Grandfathered Fund.

Paragraph (a) of proposed rule 2a51–2 would provide generally that beneficial ownership is to be determined in accordance with section 3(c)(1) of the Act. Paragraph (b) of the proposed rule would provide a special rule for determining beneficial ownership of securities held by a company. Paragraph (b) would provide that securities of a Grandfathered Fund beneficially owned by a company (without giving effect to the look-through provision) are deemed to be beneficially owned by one person (the "owning company") unless (i) on October 11, 1996, under section 3(c)(1)(A) of the Act as then in effect, the voting securities of the Grandfathered Fund were deemed to be beneficially owned by the holders of the owning company's outstanding securities,[77] (ii) the owning company has a control relationship with the Grandfathered Fund,[78] and (iii) the owning company is itself an investment company or a private fund.[79] If these conditions do not apply, the grandfather notice and redemption opportunity would be provided to the owning company. If the conditions do apply, the grandfather notice and redemption opportunity would be provided to the owning company's security holders as the beneficial owners of the Grandfathered Fund's securities.

The intended application of the proposed rule can best be illustrated by the following example. Assume Company A is a Grandfathered Fund and that Company B, a section 3(c)(1) fund, owned more than 10% of the voting securities of Company A on October 11, 1996. If Company B does not have a control relationship with Company A, the grandfather notice and redemption opportunity can be provided directly to Company B. If a control relationship does exist, and on October 11, 1996, the security holders of Company B were deemed to be the beneficial owners of Company A's voting securities (because of the second

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[70] These non-qualified purchasers must have acquired all or a portion of their investment in the Grandfathered Fund prior to September 1, 1996. Any person acquiring an interest in the Grandfathered Fund after that date must, either on the date of the acquisition or on the date that the fund avails itself of the section 3(c)(7) exception, be a qualified purchaser. These persons are required to be given the notice and redemption opportunity described below.

[71] The opportunity must be provided "notwithstanding any agreement to the contrary between the [Grandfathered Fund] and such beneficial owner." 15 USC 80a–3(c)(7)(B)(ii)(II). Each person electing to redeem must receive its proportionate share of the Grandfathered Fund's net assets in cash, unless the person agrees to accept such amount in kind (*i.e.*, in assets of the Grandfathered Fund). If the Grandfathered Fund elects to provide investors with an opportunity to receive an in-kind distribution, this election must be disclosed in the grandfather disclosure.

[72] *See supra* note 17 and accompanying text (describing section 3(c)(1)(A) of the Investment Company Act).

[73] *See* Remarks of Hon. Thomas J. Bliley, *supra* note 13.

[74] *Id.*

[75] *See supra* notes 18–22 and accompanying text (discussing the elimination of the second 10% test). Consistent with this legislative intent, the Commission believes that the conditions in the grandfather provision must be complied with by any section 3(c)(1) fund organized before the enactment of the 1996 Act that wishes to avail itself of section 3(c)(7). Thus, the notice and redemption opportunity must be provided to the beneficial owners of a Grandfathered Fund's securities, even if each beneficial owner meets the definition of qualified purchaser. If the notice and redemption opportunity provision had been intended only for the benefit of beneficial owners who are not qualified purchasers, Congress could have limited the provision accordingly. *Compare* House Report, *supra* note 3, at 51 (describing original provision in H.R. 3005, as reported by the Committee on Commerce, which limited the notice and redemption opportunity to investors that were not qualified purchasers) and Senate Report, *supra* note 3, at 23 ("The issuer must allow section 3(c)(1) fund owners 'of record' to redeem their interests in the fund in either cash or a proportionate share of the fund's assets."); *see also supra* note 70 .

[76] This reliance can be illustrated by the following example. An investor invested in a section 3(c)(1) fund ("Fund A") through another section 3(c)(1) fund ("Fund B") that was subject to the look-through provision as then in effect. The investor may have made its investment in Fund B (or Fund B may have made its investment in Fund A) recognizing that under section 3(c)(1)(A) as then in effect, each security holder of Fund B was deemed to be a beneficial owner of Fund A's voting securities. In this way, the look-through provision would have limited the number of additional persons that could invest in Fund A.

[77] The applicability of the look-though provision would be determined as of October 11, 1996 to assure that the Grandfathered Fund does not engage in transactions subsequent to the enactment of the 1996 Act (which was signed by the President on that date) designed to limit the applicability of the look-through provision (such as the issuance of additional voting securities so that the percentage of voting securities owned by an owning company falls below 10%).

[78] *See supra* note (describing the Act's definition of control).

[79] Limiting the application of the look-through provision in this context to owning companies that are investment companies or private funds is consistent with amended section 3(c)(1)(A). If the owning company is not an investment company or a private fund, its security holders are unlikely to have a sufficient interest in its investment in the Grandfathered Fund to justify providing them with the grandfather notice and redemption opportunity. *See supra* note 21 and accompanying text.

10% test),[80] Company A must provide the grandfather notice and redemption opportunity to each of Company B's security holders.

Comment is requested on the proposed approach for determining beneficial ownership in the absence of a control relationship. Should Company B's security holders receive the grandfather notice and redemption opportunity if Company B owns more than 10% of Company A's voting securities? That is, should Company B's security holders receive the grandfather notice and redemption opportunity regardless of (i) Company B's status as an investment company or a private fund; (ii) the existence of a control relationship, or (iii) the applicability of the second 10% test?

Comment also is requested whether any other rules may be necessary to clarify the operation of the grandfather provision. For example, a redeeming shareholder of a Grandfathered Fund is entitled to receive its proportionate share of the Fund's "net assets." The term "current net assets" is used in the Investment Company Act and defined by Commission rule.[81] Should the same definition apply to Grandfathered Funds, or should net assets, for purposes of the grandfather provision, be determined based upon the methods that would have been used to determine the amount that the investor would have received in accordance with existing withdrawal provisions in the Grandfathered Fund's governing documents? Are these withdrawal provisions typically subject to conditions (*e.g.*, a "hold-back") that would undercut the purpose of the redemption requirements of section 3(c)(7) and, if so, how could the existence of such provisions be addressed?[82]

2. The Consent Provision

The consent provision requires that a private fund that wishes to become a qualified purchaser ("purchasing fund") obtain the consent of all of its beneficial owners that had invested in the purchasing fund prior to April 30, 1996.[83] The beneficial owners of the securities of any private fund that is a direct or indirect beneficial owner of the securities of the purchasing fund must also consent to the treatment of the purchasing fund as a qualified purchaser.[84]

The consent provision appears to be designed to give investors in an existing private fund with the opportunity to review what could be a significant change in the manner in which the fund makes investments as a result of the regulatory changes effected by the 1996 Act.[85] The consent provision also may serve to prohibit an existing section 3(c)(1) fund from avoiding the notice and redemption opportunity requirements of the grandfather provision by investing its assets in a section 3(c)(7) fund, either directly or indirectly through another private fund.[86]

Paragraph (c) of proposed rule 2a51–2 would clarify the meaning of the term "beneficial owner" for purposes of the consent provision. The proposed rule would provide that securities of a purchasing fund beneficially owned by a company (without giving effect to the look-through provision) are deemed to be beneficially owned by one person unless the company has a control relationship with *either* the purchasing fund or the section 3(c)(7) fund with respect to which the purchasing fund will be a qualified purchaser ("target fund"). If a control relationship exists, and the company is a private fund whose security holders were deemed to be beneficial owners of the purchasing fund on October 11, 1996, then these security holders would be deemed to be beneficial owners under the proposed rule.

As in the case of the proposed definition of beneficial owner for purposes of the grandfather provision, the proposed rule relating to the consent provision is intended to allow an institutional investor to provide the required consent even if, under the look-through provision, the security holders of the institutional investor are deemed to be beneficial owners of the purchasing fund's securities. If there is a control relationship between the purchasing fund and either the institutional investor or the target fund, and the institutional investor is a private fund whose security holders were deemed beneficial owners of the purchasing fund prior to the enactment of the 1996 Act, then the consent must be obtained from those security holders.

The proposed rule also would clarify what constitutes "indirect" ownership with regard to the requirement that the consent be obtained from the security holders of a private fund that is an *indirect* beneficial owner of the purchasing fund. Paragraph (d) of the proposed rule would provide that the private fund would not be considered to own the securities of the purchasing fund indirectly unless the private fund has a control relationship with either the purchasing fund or the target fund.[87]

Under the proposed rule, the purchasing fund could obtain a general consent with respect to most transactions in which it will be a qualified purchaser. Consent for specific transactions would be required only when there is a control relationship between the purchasing fund or certain of its beneficial owners and the target fund.

Comment is requested on proposed rule 2a51–2. Comment specifically is requested on the proposed approach of

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[80] *See* section I.B. of this Release.

[81] *See, e.g.*, section 2(a)(32) of the Investment Company Act [15 USC 80a–2(a)(32)] (defining the term redeemable security as a "security * * * under the terms of which the holder * * * is entitled (whether absolutely or only out of surplus) to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof") and rule 2a–4 [17 CFR 270.2a–4] (definition of current net asset value for certain purposes).

[82] For example, if a section 3(c)(1) fund's withdrawal provision provides for a hold-back to assure that sufficient assets are available to satisfy contingent liabilities, the rule could provide that the Grandfathered Fund could not avail itself of section 3(c)(7) until the hold-backs are released or the liabilities extinguished.

[83] 15 USC 2(a)(51)(C). Section 2(a)(51)(C) and the proposed rule use the term "excepted company" to refer to section 3(c)(1) and section 3(c)(7) funds. The inclusion of section 3(c)(7) funds in this provision was presumably designed to require the consent to be obtained by any Grandfathered Fund that wished to be a qualified purchaser.

[84] *Id.*

[85] The legislative history of the 1996 Act does not address the purpose of the consent provision.

[86] Such conduct may also raise issues under section 48(a) of the Investment Company Act [15 U.S.C. 80a–47(a)] (precluding indirect circumvention of the Act's provisions).

[87] The following example illustrates the intended operation of the proposed rule. Assume Company A is a purchasing fund and that Companies B and C are beneficial owners of Company A's voting securities. Company B is an operating company that does not have a control relationship with Company A, but whose security holders were deemed to be beneficial owners of Company A's voting securities on October 11, 1996. Company C is a private fund that was deemed to own beneficially Company A's voting securities on October 11, 1996 (in other words, the look-through provision did not apply). Each of Company C's investors (Companies D through F) are themselves private funds, but none has a control relationship with Company C or Company A.

Company B would have to consent to Company A being a qualified purchaser. Because Company B is not a private fund, Company B's shareholders would not be treated as beneficial owners of Company A's voting securities, and their consent would not be required. (The consent of Company B's shareholders would not be required even if Company B had a control relationship with Company A.)

Company C would have to consent to Company A being a qualified purchaser. Additionally, because Company C is a private fund, all beneficial owners of its outstanding securities also would have to consent to Company A being a qualified purchaser. Because there is no control relationship, however, security holders of Companies D through F would not be required to consent even if they are considered to be beneficial owners of Company C's securities under the look-through provision. Similarly, Companies D through F would not be deemed to indirectly own voting securities of Company A.

defining indirect beneficial ownership in the purchasing fund on the basis of whether the investor has a control relationship with the purchasing fund or the target fund.

C. Conforming Rule

The Commission is proposing a rule to clarify an interpretative issue concerning companies that are qualified purchasers.[88] The statutory definition of qualified purchaser specifies that a trust that is a qualified purchaser must not have been formed "for the specific purpose of acquiring the securities offered."[89] The proposed rule would make the same condition applicable to any other company that is a prospective qualified purchaser (whether a Family Company or another type of company) unless each beneficial owner of the company's securities or other interest in the company is a qualified purchaser. The proposed rule would limit the possibility that a company will be able to do indirectly what it is prohibited from doing directly (*i.e.*, organize a "qualified purchaser" entity for the purpose of making an investment in a particular section 3(c)(7) fund available to investors that themselves did not meet the definition of qualified purchaser).[90]

D. Non-Exclusive Safe Harbor for Certain Section 3(c)(7) Funds

The legislative history of the 1996 Act indicates that the grandfather provision is not intended to allow a sponsor of an existing section 3(c)(1) fund nominally to convert that fund into a section 3(c)(7) fund in order to create another section 3(c)(1) fund and thereby avoid the 100-investor limit.[91] While the 1996 Act includes a provision allowing a sponsor to operate both a section 3(c)(1) and a section 3(c)(7) fund (the "non-integration provision"),[92] this provision was not designed to address whether a nominally converted section 3(c)(1) fund should be treated as a section 3(c)(7) fund for purposes of the integration and other applicable provisions.[93]

Since the passage of the 1996 Act, representatives of hedge funds and other investment pools have raised concerns regarding the ability of a sponsor of a section 3(c)(1) fund that undergoes a bona fide conversion into a section 3(c)(7) fund (*i.e.*, sells its securities to new investors that are qualified purchasers) to then create a new section 3(c)(1) fund. These representatives have requested that the Commission clarify the application of the non-integration provision to sponsors of Grandfathered Funds who form new section 3(c)(1) funds. To respond to these concerns, the Commission is proposing rule 3c–7 under the Investment Company Act to provide that a Grandfathered Fund will be treated as an issuer excepted under section 3(c)(7) of the Act if, at the time the new section 3(c)(1) fund offers its securities, 25% or more of the value of all securities of the Grandfathered Fund is held by qualified purchasers that acquired these securities after October 11, 1996. The proposed rule is designed to provide a non-exclusive safe harbor for Grandfathered Funds. Comment is requested whether the percentage threshold should be higher (*e.g.*, 50%). Comment also is requested whether existing investors that are qualified purchasers on the date that the Grandfathered Fund avails itself of section 3(c)(7) should also be counted for purposes of the proposed threshold.

III. Other Rules for Private Investment Companies

A. Transition Rule for Section 3(c)(1) Funds

As noted above, the 1996 Act amended section 3(c)(1)(A) of the Investment Company Act, which governs the way a section 3(c)(1) fund calculates the number of its beneficial owners for purposes of complying with the 100-investor limit. Under amended section 3(c)(1)(A), a section 3(c)(1) fund must include among its beneficial owners the underlying security holders of any investment company and any private fund that owns 10% or more of the section 3(c)(1) fund (collectively, "10%+ investors"). Until the amendment becomes effective, the look-through provision does not apply unless the 10%+ investor also has more than 10% of its assets invested in section 3(c)(1) funds generally. The amendment, in effect, will limit the ability of certain types of investors to own more than 10% of a section 3(c)(1) fund.[94]

The Commission is aware that some existing section 3(c)(1) funds may have 10%+ investors in reliance on the pre-amendment application of the look-through provision. The Commission believes that the amendment to the look-through provision was primarily designed to simplify the application of the provision and was not intended to disrupt existing investment relationships. The Commission, therefore, is proposing a rule under the Investment Company Act to provide that the amended look-through provision will not apply in the case of an investor that held more than 10% of the outstanding voting securities of a section 3(c)(1) fund on October 11, 1996, provided that the investor continues to satisfy the second 10% test.[95]

The Commission requests comment on the approach of the proposed rule. For example, the proposed rule would not limit additional investments by the 10%+ investors in the section 3(c)(1) fund as long as the second 10% test continues to be inapplicable. Should the rule prohibit additional investments? Should the rule only permit additional investments that do not increase the percentage of the section 3(c)(1) fund's voting securities that the 10%+ investor owns? Are there other circumstances when similar relief would be appropriate?

Comment also is requested on rule 3c–2 under the Investment Company Act, which was adopted in 1958 to facilitate capital investments by operating companies in small business investment companies ("SBICs") that were section 3(c)(1) funds.[96] Rule 3c–2

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[88] Proposed rule 2a51–3.

[89] 15 U.S.C. 80a–2(a)(51)(A)(iii).

[90] *See supra* note 86 and accompanying text.

[91] *See* Remarks of Hon. John D. Dingell, *supra* note 11.

[92] Section 3(c)(7)(E) of the Investment Company Act [15 U.S.C. 80a–3(c)(7)(E)]. The non-integration provision states, in part, that an issuer that is otherwise excepted under section 3(c)(7) and an issuer that is otherwise excepted under section 3(c)(1) is not to be treated by the Commission as being a single issuer for purposes of determining the number of beneficial owners of the section 3(c)(1) fund or whether the outstanding securities of the section 3(c)(7) fund are owned by anyone who is not a qualified purchaser.

[93] *See* Remarks of Hon. John D. Dingell, *supra* note 11. The bona fides of a conversion to a section 3(c)(7) fund also would affect the ability of the fund to use the new exemption from the prohibition in the Investment Advisers Act of 1940 ("Advisers Act") on performance fees available to section 3(c)(7) funds. *See* new section 205(b)(4) of the Advisers Act [15 U.S.C. 80b–5(b)(4)].

[94] The limitation will exist only when an investment company or a private fund invests in a section 3(c)(1) fund. The 1996 Act expands the ability of corporate, non-investment company investors to participate in section 3(c)(1) funds by no longer requiring section 3(c)(1) funds to count the underlying shareholders of these investors under any circumstances.

[95] Proposed rule 3c–1. For the purpose of the proposed rule, investment in section 3(c)(7) funds would be included in applying the second 10% test, since a section 3(c)(7) fund probably would have been a section 3(c)(1) fund but for the new exception created by the 1996 Act. The proposed rule also would address 10%+ ownership interests that result from voting securities acquired as a result of the conversion of convertible non-voting securities acquired prior to October 11, 1996.

[96] Rule 3c–2 [17 CFR 270.3c–2]. At that time, the look-through provision did not include the second 10% test and, therefore, inhibited SBICs' capital raising efforts because SBICs frequently depended upon corporate investors to make investments that resulted in their owning more than 10% of the SBICs voting securities.

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provides that beneficial ownership of 10% or more of an SBIC's voting securities by a company is deemed to be ownership by one person if and so long as that company's total investment interest in all SBICs does not exceed 5% of the value of the company's assets. The amendments to the look-through provision made by the 1996 Act will make it unnecessary for an investor in an SBIC that is itself not an investment company or a private fund to rely on rule 3c–2.[97] Comment is requested whether rule 3c–2 is still necessary.[98] To what extent do SBICs rely on registered or private investment companies as a source of capital? To assure that the flow of capital to small businesses is not inhibited, should the rule be amended to incorporate the second 10% test? Should the rule be rescinded to reflect Congress' decision to eliminate the second 10% test?

B. Investments by Fund Employees

The Commission is proposing rule 3c–5 under the Investment Company Act to permit directors, executive officers, general partners and certain knowledgeable employees of a section 3(c)(1) fund or of an affiliated person of the fund (collectively, "fund personnel") to acquire securities issued by the fund without being counted for purposes of section 3(c)(1)'s 100-investor limit. The rule also would permit fund personnel to invest in a section 3(c)(7) fund even though they did not meet the definition of qualified purchaser.

The provision in the 1996 Act directing Commission rulemaking with regard to investments in private funds by knowledgeable employees appears to be intended to encompass all natural persons who actively participate in the management of a fund's investments. The proposed rule, therefore, would extend to directors, executive officers, and general partners of a fund or of an affiliate of the fund that oversees the fund's investments. The proposed rule also would extend to other employees who, in connection with their regular functions or duties, participated in, or obtained information regarding, the investment activities of the fund or other investment companies managed by the affiliate for a period of at least 12 months.[99] Comment is requested whether the proposed rule should contain any other criteria for identifying knowledgeable employees (*i.e.*, the employee's salary level or the amount of investments owned).

The proposed rule would allow transfers of fund securities held by fund personnel to family members as a gift, bequest or pursuant to an agreement relating to legal separation or divorce, as well as to family trusts and similar family vehicles established by fund personnel for the exclusive benefit of family members and charitable organizations, provided fund securities had been acquired by fund personnel pursuant to, or are otherwise subject to, an arrangement prohibiting any other transfers of such shares.[100] The Commission believes that this approach would afford adequate flexibility for employees' estate planning and other financial goals, while assuring that the securities of the issuer were not transferred in a manner inconsistent with the rationale underlying sections 3(c)(1) and 3(c)(7).

The Commission recognizes that the proposed rule would not extend to employees performing certain other functions with respect to a fund, such as clerical, secretarial and other administrative personnel. Should the rule be extended to these employees (or employees of firms that provide such services) if, for example, the employees are assisted by an independent purchaser representative?[101] The Commission also requests comment whether the proposed rule should contain any other requirements, particularly with respect to investments that are made by fund personnel through plans that are subject to the Employee Retirement Income Security Act of 1974, as amended.

C. Certain Transfers

Section 3(c)(1)(B) of the Act provides that beneficial ownership of securities of a section 3(c)(1) fund by any person who acquires the securities as a result of a "legal separation, divorce, death, or other involuntary event" will be deemed to be beneficial ownership by the person from whom the transfer was made, pursuant to such rules and regulations as the Commission prescribes. This provision was designed to address situations in which section 3(c)(1)'s 100-investor limit is exceeded "because of transfers which are neither within the issuer's control nor are voluntary on the part of the present beneficial owner."[102]

The 1996 Act directed the Commission to prescribe rules to implement section 3(c)(1)(B). The Commission is proposing rule 3c–6 under the Investment Company Act to provide that beneficial ownership by a person ("transferee") who acquired securities of a section 3(c)(1) fund pursuant to a gift, bequest, or an agreement relating to a legal separation or divorce or other involuntary event will be deemed to be beneficial ownership by the person from whom the transfer was made ("transferor"). The proposed rule would limit transferees to family members of the transferor, trusts or similar vehicles established by the transferor for the exclusive benefit of family members, and charitable organizations. The proposed rule also would provide that the securities of the section 3(c)(1) fund must have been acquired by the transferor pursuant to, or are otherwise subject to, an arrangement prohibiting any other transfers, except transfers back to the fund. The Commission believes that the proposed rule would afford sufficient flexibility to section 3(c)(1) funds and their investors consistent with the intent behind section 3(c)(1)(B).

Proposed rule 3c–6 also would address transfers of securities by qualified purchasers under section 3(c)(7)(A) of the Act. That section provides that securities of a section 3(c)(7) fund that are owned by persons who received them from a qualified purchaser as a gift or bequest, or when the transfer was caused by legal separation, divorce, death or other involuntary event, will be deemed to be owned by a qualified purchaser, subject to such rules as the Commission may prescribe. Proposed rule 3c–6 would permit transfers of securities of a section 3(c)(7) fund under essentially the same conditions as those proposed for transfers under section 3(c)(1)(B).

Comment is requested on the proposed rule governing transfers of private funds' securities. Should transfers of a section 3(c)(7) fund's securities be governed by different conditions than transfers of a section 3(c)(1) fund's securities, or be permitted in other types of situations as well?

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[97] The need for SBICs to rely on rule 3c–2 may have diminished when the second 10% test was added to the look-through provision in 1980.

[98] Rule 3c–2 also provides that the look-through provision does not apply to 10%+ investors that are "state development corporations," subject to certain conditions.

[99] The term "employee" as used in the proposed rule is intended also to encompass individuals who may be deemed independent contractors for tax purposes. *See, e.g.*, Cornish & Carey Commercial, Inc. (pub. avail. June 21, 1996).

[100] The securities could be sold back to the issuing fund or, in the case of securities issued by a section 3(c)(7) fund, other qualified purchasers.

[101] A similar concept of "purchaser representative" is found in Regulation D under the Securities Act that governs securities transactions exempted from registration under section 5 of that Act. *See* rule 501(h) under the Securities Act [17 CFR 230.501(h)].

[102] H.R. Rep. No. 1341, 96th Cong., 2d Sess. at 36 (1980).

Should the rule provide other examples of "involuntary events"?

IV. General Request for Comment

Any interested persons wishing to submit written comments on the rules that are the subject of this Release, to suggest additional rules to address interpretative and other issues relating to private funds resulting from the 1996 Act, or to submit comments on other matters that might have an effect on the proposals contained in this Release, are requested to do so. In accordance with section 2(c) of the Investment Company Act, comment is requested regarding the effects of the proposed rules on efficiency, competition and capital formation.

V. Cost/Benefit Analysis

Consistent with legislative intent and the protection of investors, the proposed rules would benefit private funds and their investors in a number of ways. The proposed rules would: define certain terms necessary to effectuate the new exclusion from regulation under the Investment Company Act for section 3(c)(7) funds; enable section 3(c)(1) funds that wish to convert into section 3(c)(7) funds or become qualified purchasers to do so without being subject to unduly burdensome notice and consent requirements; enable knowledgeable employees of a private fund to invest in the fund without causing the fund to relinquish its exclusion from regulation under the Act; permit certain transfers of private fund securities; and address certain interpretative issues for private funds.

The Commission believes that the proposed rules would not impose any additional costs on private funds. Rather, the proposed rules would clarify the statutory requirements for private funds in order to reduce any unnecessary burdens without jeopardizing investor protection. Comment is requested on this cost/benefit analysis. Commenters are requested to provide views and empirical data relating to any costs and benefits associated with the proposed rules.

For purposes of making determinations required by the Small Business Regulatory Enforcement Fairness Act of 1996, the Commission is requesting information regarding the potential impact of the proposed rules on the economy on an annual basis. Commenters should provide empirical data to support their views.

VI. Summary of Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis ("IRFA") in accordance with 5 USC 603 regarding proposed rules 2a51–1, 2a51–2, 2a51–3, 3c–1, 3c–5, 3c–6 and 3c–7 under the Investment Company Act. The IRFA indicates that the proposed rules would comply with the provisions of the 1996 Act directing the Commission to prescribe certain rules concerning private funds, and would address certain interpretive issues raised by the 1996 Act's amendments relating to private funds. The IRFA states that the proposed rules, among other things, are designed to assure that investors in section 3(c)(7) funds are the types of investors that Congress determined do not need the protections of the Investment Company Act. The IRFA further states that the proposed rules would give private funds greater flexibility as well as minimize certain compliance burdens imposed by the applicable provisions of the Investment Company Act.

The IRFA sets forth the statutory authority for the proposed rules. The IRFA also discusses the effect of the proposed rules on small entities that are section 3(c)(7) or section 3(c)(1) funds. For purposes of the proposed rules, small entities are those with assets of $50 million or less at the end of their most recent fiscal year. The IRFA states that the proposed rules would make possible the creation of small entities that are section 3(c)(7) funds, and would provide greater flexibility and minimize certain compliance burdens imposed by the provisions of the Investment Company Act on small entities that are section 3(c)(1) funds. It is estimated that there are approximately 600 U.S. venture capital pools that are section 3(c)(1) funds, of which about 50% may be considered small entities. The number of U.S. hedge funds has been estimated as being between 800 and 3,000. Based on a sample of 250 hedge funds, it is estimated that approximately 75% may be small entities.

The IRFA states that the proposed rules would not impose any new reporting, recordkeeping or compliance requirements, and that the Commission believes that there are no rules that duplicate, overlap or conflict with the proposed rules.

The IRFA discusses the various alternatives considered by the Commission in connection with the proposed rules that might minimize the effect on small entities, including: (a) the establishment of differing compliance or reporting requirements or timetables that take into account the resources of small entities; (b) the clarification, consolidation or simplification of compliance and reporting requirements under the rule for small entities; (c) the use of performance rather than design standards; and (d) an exemption from coverage of the rule or any part thereof, for small entities. The Commission believes that it would be inconsistent with the purposes of the Act to exempt small entities from the proposed rules or to use performance standards to specify different requirements for small entities. Different compliance or reporting requirements for small entities are not necessary because the proposed rules do not establish any new reporting, recordkeeping or compliance requirements. The Commission has determined that it is not feasible to further clarify, consolidate or simplify the proposed rules for small entities.

The IRFA includes information concerning the solicitation of comments with respect to the IRFA generally, and in particular, the number of small entities that would be affected by the proposed rules. Cost-benefit information reflected in the "Cost/Benefit Analysis" section of this Release also is reflected in the IRFA. A copy of the IRFA may be obtained by contacting David P. Mathews, Securities and Exchange Commission, 450 5th Street, N.W., Mail Stop 10–2, Washington, D.C. 20549.

VII. Statutory Authority

The Commission is proposing rules 2a51–1, 2a51–2, 2a51–3 and 3c–7 pursuant to the authority set forth in sections 2(a)(51)(B), 6(c) and 38(a) of the Investment Company Act [15 USC 80a–2(a)(51)(B), –6(c) and –37(a)] and sections 209(d)(2) and (4) of the 1996 Act. The Commission is proposing rule 3c–1 pursuant to the authority set forth in sections 6(c) and 38(a) of the Investment Company Act [15 USC 80a–6(c) and –37(a)]. The Commission is proposing rule 3c–5 pursuant to the authority set forth in sections 6(c) and 38(a) of the Investment Company Act [15 USC 80a–6(c) and –37(a)] and section 209(d)(3) of the 1996 Act. The Commission is proposing rule 3c–6 pursuant to the authority set forth in sections 3(c)(1), 3(c)(7), 6(c) and 38(a) of the Investment Company Act [15 USC 80a–3(c)(1), 3(c)(7), 6(c) and –37(a)] and section 209(d)(1) of the 1996 Act.

Text of Proposed Rules

List of Subjects in 17 CFR Part 270

Investment companies, Securities.

For the reasons set out in the preamble, Title 17, Chapter II of the

Code of Federal Regulations is proposed to be amended as follows:

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

1. The authority citation for Part 270 is amended by adding the following citations to read as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, 80a–37, 80a–39 unless otherwise noted;

* * * * *

Section 270.2a51–1 is also issued under 15 U.S.C. 80a–2(a)(51)(B) and 80a–6(c), and secs. 209(d) (2) and (4), National Securities Markets Improvement Act of 1996;

Section 270.2a51–2 is also issued under 15 U.S.C. 80a–2(a)(51)(B) and 80a–6(c), and secs. 209(d) (2) and (4), National Securities Markets Improvement Act of 1996;

Section 270.2a51–3 is also issued under 15 U.S.C. 80a–2(a)(51)(B) and 80a–6(c), and secs. 209(d) (2) and (4), National Securities Markets Improvement Act of 1996;

Section 270.3c–1 is also issued under 15 U.S.C. 80a–6(c);

Section 270.3c–5 is also issued under 15 U.S.C. 80a–6(c), and sec. 209(d)(3), National Securities Markets Improvement Act of 1996;

Section 270.3c–6 is also issued under 15 U.S.C. 80a–3(c)(1), 80a–3(c)(7), 80a–6(c) and 80a–37(a) and sec. 209(d)(1), National Securities Markets Improvement Act of 1996;

Section 270.3c–7 is also issued under 15 U.S.C. 80a–2(a)(51)(B) and 80a–6(c);

* * * * *

2. Section 270.2a51–1 is added to read as follows:

§ 270.2a51–1 Definition of investments for purposes of section 2(a)(51) (definition of "qualified purchaser"); certain calculations.

(a) *Definitions.* As used in this section:

(1) The term *Commodity Interests* shall mean commodity futures contracts, options on commodity futures contracts, and options on physical commodities traded on or subject to the rules of:

(i) Any contract market designated for trading such transactions under the Commodity Exchange Act and the rules thereunder; or

(ii) Any board of trade or exchange outside the United States, as contemplated in Part 30 of the rules under the Commodity Exchange Act [17 CFR 30];

(2) The term *Family Company* shall mean a company described in paragraph (A)(ii) of section 2(a)(51) of the Act [15 U.S.C. 80a–2(a)(51)];

(3) The term *Listed Company* shall mean a company that has outstanding a class of equity securities that are:

(i) Reported securities as such term is defined by § 240.11Aa3–1 of this Chapter; or

(ii) Listed on a "designated offshore securities market" as such term is defined by Regulation S under the Securities Act of 1933 [17 CFR 230.901 through 230.904];

(4) The term *Physical Commodities* shall mean any physical commodity with respect to which a Commodity Interest is traded on a market specified in paragraphs (a)(1) of this section; and

(5) The term *Related Person* shall mean a person who is related to another person as a sibling, spouse or former spouse, or is a direct lineal descendant or ancestor by birth or adoption of such person, or is a spouse of such descendant, *provided that*, in the case of a Family Company, a Related Person includes any owner of the Family Company and any person who is a Related Person of such owner.

(b) *Types of Investments.* For purposes of section 2(a)(51) of the Act [15 U.S.C. 80a–2(a)(51)], the term *investments* shall mean:

(1) Securities (as defined by section 2(1) of the Securities Act of 1933 [15 U.S.C. 70a(1)]), other than securities of an issuer that controls, is controlled by, or is under common control with, the person that owns such securities, unless the issuer is:

(i) An investment company or a company that would be an investment company but for the exclusions provided by sections 3(c)(1) through 3(c)(9) of the Act [15 U.S.C. 80a–3(c)(1) through 3(c)(9)] or the exemptions provided by §§ 270.3a–6 or 270.3a–7; or

(ii) A Listed Company that is not a majority-owned subsidiary of such person or a person that controls, is controlled by, or is under common control with such person;

(2) Real estate held for investment purposes;

(3) Commodity Interests held for investment purposes;

(4) Physical Commodities held for investment purposes; and

(5) Cash and cash equivalents held for investment purposes.

(c) *Real Estate Not Held for Investment Purposes.* For purposes of this section, real estate shall not be considered to be held for investment purposes by its owner if it is used by the owner or a Related Person of the owner for personal purposes or as a place of business, or in connection with the conduct of the trade or business of such owner or a Related Person of the owner. Residential real estate shall not be deemed to be used for personal purposes if deductions with respect to such real estate are not disallowed by section 280A of the Internal Revenue Code [26 USC 280A].

(d) *Valuation.* For purposes of determining whether a person is a qualified purchaser, the aggregate amount of investments owned and invested on a discretionary basis by such person shall be their readily ascertainable market value on the most recent practicable date or their cost, *provided that*:

(1) In the case of Commodity Interests, the amount of investments shall be the value of the initial margin or option premium deposited in connection with such Commodity Interests; and

(2) In each case, there shall be deducted from the amount of investments owned by such person the amounts specified in paragraphs (e), (f) and (g) of this section, as applicable.

(e) *Deductions: General.* In determining whether any person is a qualified purchaser there shall be deducted from the value of such person's investments the amount of any outstanding indebtedness incurred to acquire the investments owned by such person.

(f) *Deductions: Natural Persons.* In determining whether any natural person is a qualified purchaser, in addition to the amounts specified in paragraph (e) of this section there shall also be deducted from the value of such person's investments the following amounts:

(1) Any payments received by such person pursuant to an insurance policy during the preceding 12 months;

(2) The value of any investments received by such person during the preceding 12 months as a gift or bequest or pursuant to an agreement related to a legal separation or divorce;

(3) Any amount received by such person during the preceding 12 months in connection with a lawsuit (whether pursuant to a judgment or settlement agreement);

(4) The proceeds of any loan incurred during the preceding 12 months secured by a mortgage or deed of trust on such person's personal residence or other property that is not held for investment ("mortgage loan") unless the proceeds of such loan were used solely to finance the acquisition or improvement of such residence or property; and

(5) The proceeds of any loan ("refinancing loan") incurred during the preceding 12 months secured by a mortgage or deed of trust on such person's personal residence or other property that is not held for investment used to refinance a mortgage loan ("refinanced loan") to the extent that the proceeds of the refinancing loan exceed the lowest principal amount of the refinanced loan outstanding during the prior 12 months.

(g) *Deductions: Family Companies.* In determining whether a Family Company is a qualified purchaser, in addition to

the amounts specified in paragraph (e) of this section, there shall also be deducted from the value of such Family Company's investments the following amounts for purposes of this section:

(1) Any outstanding indebtedness incurred by an owner of the Family Company to acquire such investments;

(2) The amounts described in paragraph (f) of this section received by the Family Company or any owner of the Family Company;

(3) The amount of any indebtedness incurred by the Family Company to the extent that the principal amount of such indebtedness exceeds the fair market value of any assets of the Family Company other than investments; and

(4) The amount of any indebtedness incurred by an owner of the Family Company or by a Related Person of an owner of the Family Company and guaranteed by the Family Company.

(h) *Joint Investments.* In determining whether a natural person is a qualified purchaser, there may be included in the value of such person's investments any investments held jointly with such person's spouse, or investments in which such person shares with such person's spouse a community property or similar shared ownership interest. There shall be deducted from the amount of any such investments any amounts specified by paragraphs (e) and (f) of this section incurred or received by such spouse.

(i) *Corporate Investments.* For purposes of determining the amount of investments owned by a corporation ("Corporation") under section 2(a)(51)(A)(iv) of the Act [15 U.S.C. 80a–2(a)(51)(A)(iv)], there may be included investments owned by majority-owned subsidiaries of the Corporation ("Subsidiaries"), provided that the investments of the Subsidiary are managed under the direction of the Corporation.

(j) *Good Faith Reliance.* In determining whether a prospective purchaser is a qualified purchaser, an issuer or a person acting on the issuer's behalf (collectively, "relying person") shall be entitled to rely upon audited financial statements, brokerage account statements and other appropriate information and certifications provided by the prospective purchaser or its representatives and dated as of a recent date, or publicly available information as of a recent date, provided that such reliance is reasonable and the relying person, after reasonable inquiry, does not have any basis for believing that such information is incorrect in any material respect.

3. Section 270.2a51–2 is added to read as follows:

§ 270.2a51–2 Definitions of beneficial owner for certain purposes under sections 2(a)(51) and 3(c)(7) and determining indirect ownership interests.

(a) Except as set forth below, for purposes of sections 2(a)(51)(C) and 3(c)(7)(B)(ii) of the Act [15 U.S.C. 80a–2(a)(51)(C) and 3(c)(7)(B)(ii)], the beneficial owners of securities of an excepted investment company (as defined in section 2(a)(51)(C) of the Act [15 U.S.C. 80a–2(a)(51)(C)]) shall be determined in accordance with section 3(c)(1) of the Act [15 U.S.C. 80a–3(c)(1)].

(b) For purposes of section 3(c)(7)(B)(ii) of the Act [15 U.S.C. 80a–3(c)(7)(B)(ii)], securities of an issuer beneficially owned by a company (without giving effect to section 3(c)(1)(A) of the Act [15 U.S.C. 80a–3(c)(1)(A)]) ("owning company") shall be deemed to be beneficially owned by one person unless:

(1) The owning company is an investment company or an excepted investment company;

(2) The owning company, directly or indirectly, controls, is controlled by, or is under common control with, the issuer; and

(3) On October 11, 1996, under section 3(c)(1)(A) of the Act as then in effect, the voting securities of the issuer were deemed to be beneficially owned by the holders of the owning company's outstanding securities (other than short-term paper), in which case, such holders shall be deemed to be beneficial owners of the issuer's outstanding voting securities.

(c) For purposes of section 2(a)(51)(C) of the Act [15 U.S.C. 80a–2(a)(51)(C)], securities of an excepted investment company beneficially owned by a company (without giving effect to section 3(c)(1)(A) of the Act [15 U.S.C. 80a–3(c)(1)(A)]) ("owning company") shall be deemed to be beneficially owned by one person unless:

(1) The owning company is an excepted investment company;

(2) The owning company directly or indirectly controls, is controlled by, or is under common control with, the excepted investment company or the company with respect to which the excepted investment company is, or will be, a qualified purchaser; and

(3) On April 30, 1996, under section 3(c)(1)(A) of the Act as then in effect, the voting securities of the excepted investment company were deemed to be beneficially owned by the holders of the owning company's outstanding securities (other than short-term paper), in which case the holders of such excepted company's securities shall be deemed to be beneficial owners of the excepted investment company's outstanding voting securities.

(d) For purposes of section 2(a)(51)(C) of the Act [15 U.S.C. 80a–2(a)(51)(C)], an excepted investment company shall not be deemed to indirectly own the securities of an excepted investment company seeking a consent to be treated as a qualified purchaser ("qualified purchaser company") unless such excepted investment company, directly or indirectly, controls, is controlled by, or is under common control with, the qualified purchaser company or a company with respect to which the qualified purchaser company is or will be a qualified purchaser.

Note to § 270.2a51–2. On October 11, 1996, the National Securities Markets Improvement Act of 1996 [P.L. 104–290] was signed into law. Prior to that date, section 3(c)(1)(A) of the Act provided that: (A) Beneficial ownership by a company shall be deemed to be beneficial ownership by one person, except that, if the company owns 10 per centum or more of the outstanding voting securities of the issuer, the beneficial ownership shall be deemed to be that of the holders of such company's outstanding securities (other than short-term paper) unless, as of the date of the most recent acquisition by such company of securities of that issuer, the value of all securities owned by such company of all issuers which are or would, but for the exception set forth in this subparagraph, be excluded from the definition of investment company solely by this paragraph, does not exceed 10 per centum of the value of the company's total assets. Such issuer nonetheless is deemed to be an investment company for purposes of section 12(d)(1).

4. Section 270.2a51–3 is added to read as follows:

§ 270.2a51–3 Certain companies not qualified purchasers.

For purposes of section 2(a)(51)(A) (ii) and (iv) of the Act [15 U.S.C. 80a–2(a)(51)(A)] a company shall not be deemed to be a qualified purchaser if it was formed for the specific purpose of acquiring the securities offered by a company excluded from the definition of investment company by section 3(c)(7) of the Act [15 U.S.C. 80a–3(c)(7)] unless each beneficial owner of the company's securities or other interest in the company is a qualified purchaser.

5. Section 270.3c–1 is added to read as follows:

§ 270.3c–1 Definition of beneficial ownership for certain private investment companies.

(a) As used in this section:

(1) The term *Covered Company* shall mean a company that is an investment company, a Section 3(c)(1) Company or a Section 3(c)(7) Company.

(2) The term *Section 3(c)(1) Company* shall mean a company that would be an

investment company but for the exclusion provided by section 3(c)(1) of the Act [15 U.S.C. 80a–3(c)(1)].

(3) The term *Section 3(c)(7) Company* shall mean a company that would be an investment company but for the exclusion provided by section 3(c)(7) of the Act [15 U.S.C. 80a–3(c)(7)].

(b) For purposes of section 3(c)(1)(A) of the Act [15 U.S.C. 80a–3(c)(1)(A)], beneficial ownership by a Covered Company owning 10 percent or more of the outstanding voting securities of a Section 3(c)(1) Company shall be deemed to be beneficial ownership by one person, *provided that:*

(1) On October 11, 1996, the Covered Company owned 10 percent or more of the outstanding voting securities of the Section 3(c)(1) Company or non-voting securities that, on such date and in accordance with the terms of such securities, were convertible into or exchangeable for voting securities that, if converted or exchanged on or after such date, would have constituted 10 percent or more of the outstanding voting securities of the Section 3(c)(1) Company; and

(2) On the date of any acquisition of securities of the Section 3(c)(1) Company by the Covered Company, the value of all securities owned by the Covered Company of all issuers that are Section 3(c)(1) or Section 3(c)(7) Companies does not exceed 10 percent of the value of the Covered Company's total assets.

6. Section 270.3c–5 is added to read as follows:

§ 270.3c–5 Beneficial ownership by knowledgeable employees and certain other persons.

(a) As used in this section:

(1) The term *Covered Company* shall mean a company that is an investment company, a Section 3(c)(1) Company or a Section 3(c)(7) Company.

(2) The term *Executive Officer* shall mean the president, any vice president in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policy-making function, or any other person who performs similar policy-making functions for a Covered Company.

(3) The term *Knowledgeable Employee* with respect to any Covered Company shall mean any natural person who is:

(i) An Executive Officer, director, or general partner of the Covered Company or of an affiliated person of such Covered Company that manages the investment activities of such Covered Company; or

(ii) An employee of the Covered Company or of an affiliated person of such Covered Company that manages the investment activities of such Covered Company (other than an employee performing solely clerical, secretarial or administrative functions with regard to such company or its investments) who, in connection with his or her regular functions or duties, participates in, or obtains information regarding, the investment activities of such Covered Company or other investment companies the investment activities of which are managed by such affiliated person, *provided that* such employee has been performing such functions and duties for or on behalf of the Covered Company or the affiliated person of the Covered Company for at least 12 months.

(4) The term *Related Person* shall mean a person who:

(i) Is related to another person as a sibling, spouse or former spouse; or

(ii) Is a direct lineal descendant or ancestor by birth or adoption of such person, or is a spouse of such descendant.

(5) The term *Section 3(c)(7) Company* shall mean a company that would be an investment company but for the exclusion provided by section 3(c)(7) of the Act [15 U.S.C. 80a–3(c)(7)].

(6) The term *Section 3(c)(1) Company* shall mean a company that would be an investment company but for the exclusion provided by section 3(c)(1) of the Act [15 U.S.C. 80a–3(c)(1)].

(b) For purposes of determining the number of beneficial owners of a Section 3(c)(1) Company, and whether the outstanding securities of a Section 3(c)(7) Company are owned exclusively by qualified purchasers, there shall be excluded securities beneficially owned by a Knowledgeable Employee of such Company; an estate of such Knowledgeable Employee; a Related Person of such Knowledgeable Employee who acquired such securities as a gift, bequest or pursuant to an agreement relating to a legal separation or divorce; or a company established by the Knowledgeable Employee exclusively for the benefit of (or owned exclusively by) the Knowledgeable Employee, his or her estate, and his or her Related Persons or charitable organizations, *provided, however,* that in each case such securities shall have been acquired by the Knowledgeable Employee pursuant to, or shall otherwise be subject to, an arrangement that prohibits the transfer, pledge or hypothecation of such securities, or any interest in such securities, to any person other than the Covered Company, such estate, such Related Persons, such companies or, if the Covered Company is a Section 3(c)(7) Company, qualified purchasers.

7. Section 270.3c–6 is added to read as follows:

§ 270.3c–6 Certain transfers of interests in section 3(c)(1) and section 3(c)(7) funds.

(a) As used in this section:

(1) The term *Related Person* shall mean a person who is:

(i) Related to another person as a sibling, spouse or former spouse; or

(ii) A direct lineal descendant or ancestor by birth or adoption of such person, or is a spouse of such descendant.

(2) The term *Section 3(c)(7) Company* shall mean a company that would be an investment company but for the exclusion provided by section 3(c)(7) of the Act [15 U.S.C. 80a–3(c)(7)].

(3) The term *Section 3(c)(1) Company* shall mean a company that would be an investment company but for the exclusion provided by section 3(c)(1) of the Act [15 U.S.C. 80a–3(c)(1)].

(4) The term *Transferee* shall mean a Section 3(c)(1) Transferee or a Qualified Purchaser Transferee in each case as defined in paragraph (b) of this section.

(5) The term *Transferor* shall mean a Section 3(c)(1) Transferor or a Qualified Purchaser Transferor in each case as defined in paragraph (b) of this section.

(b) Beneficial ownership by any person ("Section 3(c)(1) Transferee") who acquires securities or interests in securities of a Section 3(c)(1) Company shall be deemed to be beneficial ownership by the person from whom such transfer was made ("Section 3(c)(1) Transferor"), and securities of a Section 3(c)(7) Company that are owned by persons who received the securities from a qualified purchaser ("Qualified Purchaser Transferor") shall be deemed to be owned by a qualified purchaser ("Qualified Purchaser Transferee"), *provided that:*

(1) The transfer was made as a gift or bequest, or pursuant to an agreement relating to a legal separation or divorce or as a result of another involuntary event;

(2) The Transferee is:

(i) The estate of the Transferor;

(ii) A Related Person of the Transferor; or

(iii) A company established by the Transferor exclusively for the benefit of (or owned exclusively by) his or her estate, Related Persons or charitable organizations; and

(3) The securities shall have been acquired by the Transferor pursuant to, or shall otherwise be subject to, an arrangement that prohibits the transfer, pledge or hypothecation of such securities, or any interest in such

securities, to any person other than the Company that issued the securities, the Transferor's estate, such Related Persons or such companies or, in the case of a Qualified Purchaser Transferor, qualified purchasers.

8. Section 270.3c–7 is added to read as follows:

§ 270.3c–7 Non-exclusive safe harbor for certain section 3(c)(7) funds.

An issuer relying on section 3(c)(7)(B) of the Act [15 U.S.C. 80a–3(c)(7)(B)] shall be deemed to be excluded under section 3(c)(7) of the Act [15 U.S.C. 80a–3(c)(7)] if 25% or more of the value of the issuer's securities is held by qualified purchasers that acquired these securities after October 11, 1996.

Dated: December 18, 1996.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

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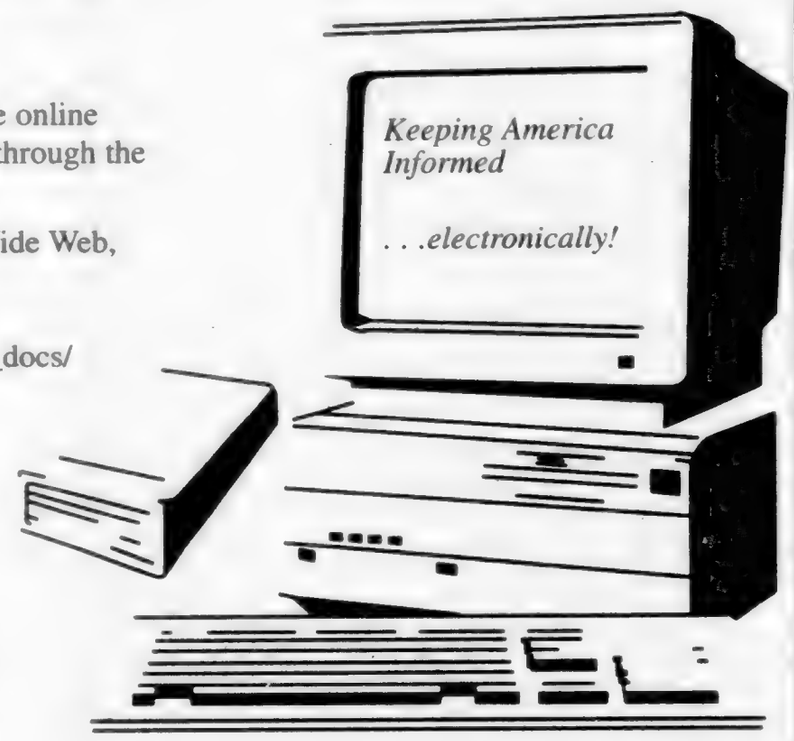
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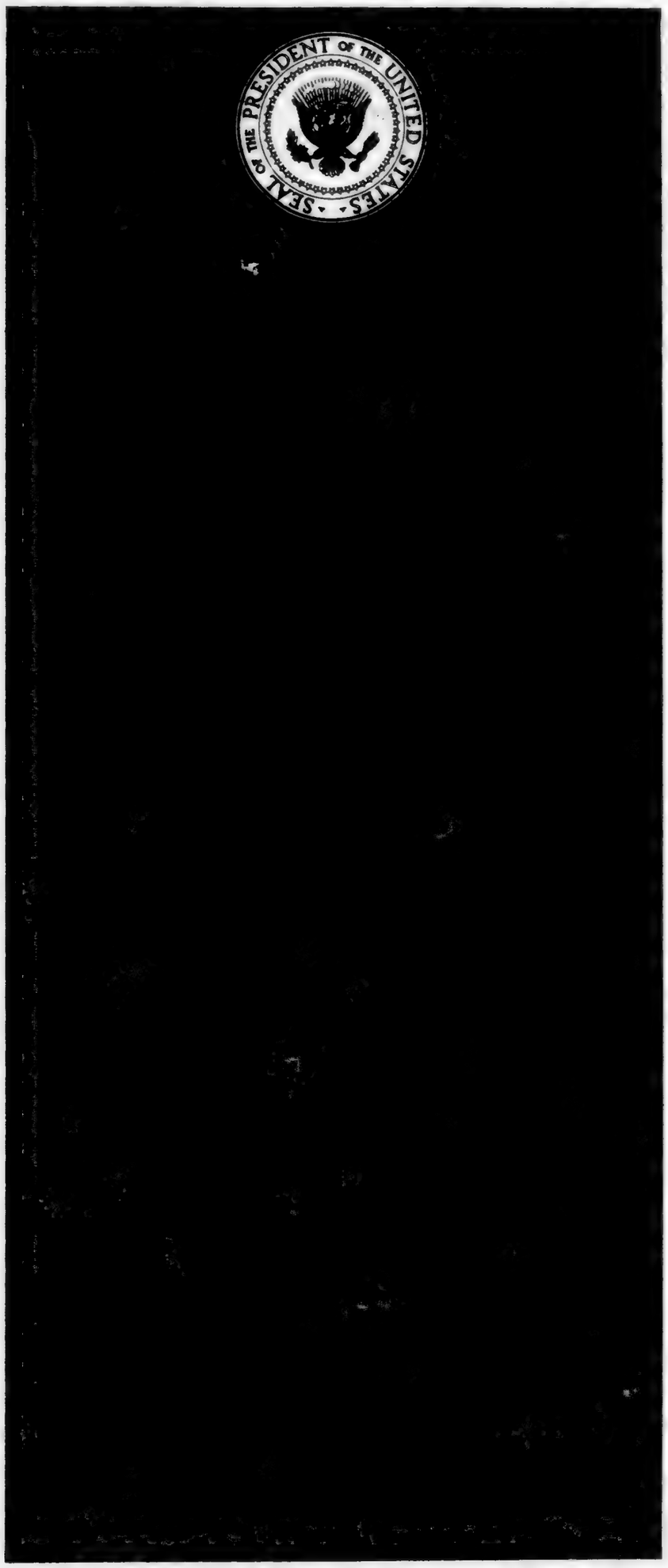
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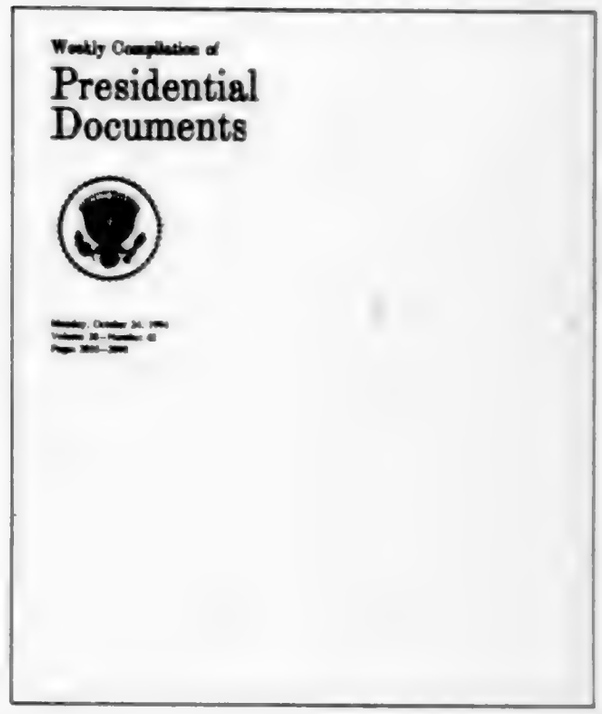
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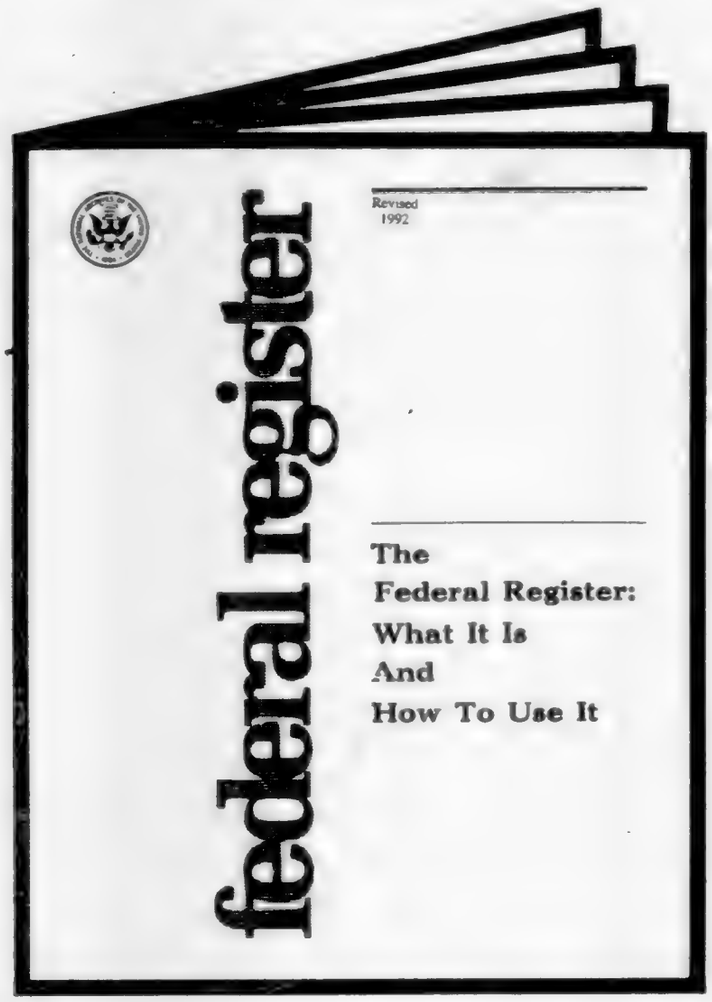
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Rules and Regulations

Federal Register
Vol. 61, No. 250
Friday, December 27, 1996

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

1 CFR Parts 5, 11 and 18

Prices and Availability of Federal Register Publications; Acceptance of Digital Signatures

AGENCY: Administrative Committee of the Federal Register.

ACTION: Final rule with request for comments.

SUMMARY: The Administrative Committee of the Federal Register (ACFR) announces changes to the prices charged for **Federal Register** publications. The price changes apply to the daily **Federal Register**, the Federal Register Index and LSA (List of CFR Sections Affected), the Code of Federal Regulations (CFR) and the Weekly Compilation of Presidential Documents. These price changes are necessary to accurately reflect certain increases and decreases in the Government Printing Office's (GPO) current cost of production and distribution of these publications.

These regulations also make certain technical amendments to acknowledge the official status and availability of the Administrative Committee's online editions of the **Federal Register** and The United States Government Manual on the GPO Access service. In addition, the regulations are amended to permit original **Federal Register** documents to be authenticated by digital signatures. This action will enable the Office of the Federal Register (OFR) to participate in selected pilot projects.

DATES: These regulations are effective January 27, 1997. Comments will be accepted through February 25, 1997.

ADDRESSES: Comments may be submitted by U.S. Mail: Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408; by private delivery services: Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC 20002; by fax: 202–523–6866; by electronic mail: info@fedreg.nara.gov.

FOR FURTHER INFORMATION CONTACT: Michael White at 202–523–4534.

SUPPLEMENTARY INFORMATION: The Administrative Committee of the Federal Register, which establishes prices for **Federal Register** publications, has determined that it must make price adjustments to certain **Federal Register** publications to accurately reflect the current costs of production and distribution. These regulations will increase the subscription rates for the paper editions of the daily **Federal Register**, the Federal Register Index and LSA (List of CFR Sections Affected), the Code of Federal Regulations (CFR) and the Weekly Compilation of Presidential Documents. The subscription rate and the single copy price charged for the microfiche edition of the daily **Federal Register** will decrease and the subscription rate for the microfiche edition of the CFR will decrease.

On September 1, 1992, the Administrative Committee announced that it had adopted a policy for requiring full cost recovery to ensure that revenues from subscriptions and single issue sales would keep pace with increased costs attributable to printing and labor expenses at the GPO plant and postal rate increases (57 FR 40024). The Administrative Committee resolved to adjust prices over a period of several years and to conduct an annual review to determine the rate of increase necessary to gradually bring prices into alignment with costs. Since 1992, the Administrative Committee has periodically adjusted the prices of **Federal Register** publications pursuant to its annual pricing review. In 1995, the Administrative Committee found it unnecessary to make any price adjustments, based on GPO's cost estimates.

After reviewing GPO's current analysis of its production and distribution costs over the past two years and estimates for calendar year 1997, the Administrative Committee has determined that increases in the prices to be charged for the paper editions of **Federal Register** publications ranging from 4 to 12 per cent are necessary to achieve full cost recovery. The increased prices reflected in amendments to 1 CFR part 11 in this final rule are primarily attributable to labor charges, paper prices, equipment costs and postal rate increases.

Production of the microfiche editions of the **Federal Register** and CFR are subject to a competitive bidding process that determines the prices to be charged. As a result of that process, subscription rates for the microfiche edition of the **Federal Register** will decrease by nearly 50 per cent and single copy prices will decrease by 33 per cent, and CFR subscription rates will decrease by 6.5 per cent.

The following rates are effective as of January 1, 1997. The annual subscription rates for the **Federal Register** paper edition are increased to $555, or $607 for a combined **Federal Register**, Federal Register Index and LSA (List of CFR Sections Affected) subscription. The annual subscription price of the microfiche edition of the **Federal Register**, including the Federal Register Index and LSA, is decreased to $220. The price for single copies of the daily **Federal Register** microfiche edition is decreased to $1. The annual subscription price for the Federal Register Index is increased to $25. The annual subscription price for the monthly LSA is increased to $27. The annual subscription rates for a full set of the Code of Federal Regulations are increased to $951 for the paper edition and decreased to $247 for the microfiche edition. The annual subscription rates for the Weekly Compilation of Presidential Documents are increased to $80 for delivery by non-priority mail, and $137 for delivery by first-class mail.

In addition to the price changes contained in this document, the Administrative Committee is updating its regulations to acknowledge the official status and availability of the Administrative Committee's online editions of the **Federal Register** and The United States Government Manual. The Administrative Committee has resolved that the American public should have greater access to essential information on the structure, functions and actions of its Government through the Federal Register system. The Administrative Committee has general authority under 44 U.S.C. section 1506 to determine the manner and form for publishing the **Federal Register** and its special editions. The Government Printing

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Office Electronic Information Access Enhancement Act of 1993 (GPO Access), 44 U.S.C. 4101, provided additional authority for the Administrative Committee to expand public access to Federal Register publications, beginning with the inauguration of online **Federal Register** service on June 8, 1994.

Accordingly, 1 CFR part 5 is amended by adding a section to state that the Administrative Committee publishes the daily **Federal Register** in three official formats, including the online edition on GPO Access. In part 11, a reference to subscription prices for the online edition of the **Federal Register**, which is now available to the public at no charge, is eliminated. It is replaced by a paragraph citing the availability of the online service. Part 11 is further revised to cite the availability of the online edition of The United States Government Manual on GPO Access to reflect the Administrative Committee's commitment to provide access to the Manual in electronic form.

In addition, the regulations in 1 CFR part 18 are amended to permit original **Federal Register** documents to be submitted in electronic form and to be authenticated by digital signatures. The Federal Register Act, at 44 U.S.C. 1503, requires agencies to submit original documents to the OFR for publication in the **Federal Register** but does not define the term "original" document. Original documents are currently defined in ACFR regulations by provisions that require originals to be submitted in manuscript form and to be authenticated by ink signatures. The amendments to part 18 expand the definition of an original document to include electronic documents submitted by telecommunication that are authenticated by digital signatures.

This action establishes the legal basis for OFR to accept documents in electronic form so that the OFR and GPO may participate in selected pilot programs currently under development. If the pilot programs are successful in establishing a government-wide Public Key Infrastructure for Federal agencies and a consensus on technical standards and specifications, the OFR and GPO will adapt their production processes to permit certain electronic documents to be published on a regular basis. However, during the pilot phase, the OFR will only accept electronic documents for publication in the **Federal Register** from agencies participating in selected pilot programs.

The Administrative Committee's last price change regulation, published at 59 FR 48989 on September 26, 1994, invited public comment on the pricing structure of Federal Register publications. No pricing related comments were received. Customers who called to inquire about the online **Federal Register**, published daily on the GPO Access service since June 8, 1994, as referenced in the September 26, 1994 final rule, were referred to the GPO Access User Support Team. Complete information on free public access to the online editions of the **Federal Register**, The United States Government Manual and other Federal Register publications on the GPO Access service Wide Area Information Server (WAIS) may be obtained by consulting introductory page II of the paper edition of the daily **Federal Register**; by Internet e-mail at gpoaccess@gpo.gov; by telephone at 202–512–1530; or by fax at 202–512–1262. Internet users can access the database by using the World Wide Web. The GPO's home page address for Federal Register publications is: http://www.access.gpo.gov/su_docs/aces/aces140.html. The OFR home page address is: http://www.nara.gov/nara/fedreg/fedreg.html. The Administrative Committee continues to welcome comments on **Federal Register** publications and prices.

The Administrative Committee has not published a notice of proposed rulemaking on the revised price schedule, as permitted by 5 U.S.C. 553(b)(B) when there is good cause not to publish a proposed rule and obtain comments from interested persons. The Administrative Committee has determined that publication of a proposed rule is unnecessary. The Administrative Committee has authority under 44 U.S.C. 1506 to set the prices to be charged for **Federal Register** subscriptions and individual copies. To the extent possible, the Administrative Committee sets prices to recover only the actual cost of producing and distributing Federal Register publications. The revised prices are based on an in-depth cost study conducted by GPO for the Administrative Committee.

Because only actual prior costs and conservative estimates of future costs were considered in setting the revised price schedule, and because of the requirement that GPO must recover its production and distribution costs, the Administrative Committee has determined that there is good cause for promulgating this final rule without a prior notice of proposed rulemaking. The changes to ACFR regulations relating to submission of electronic documents are procedural rules which are not subject to notice and comment under 5 U.S.C. 553(b)(A).

This regulatory action has been reviewed by the Office of Management and Budget's Office of Information and Regulatory Affairs under Executive Order 12866. The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) does not apply to rate increases necessary to recover the costs of the Government of printing and distributing these publications.

List of Subjects

1 CFR Part 5

Administrative practice and procedure, **Federal Register**, Government publications.

1 CFR Part 11

Code of Federal Regulations, **Federal Register**, Government publications, Organizations and functions (Government agencies)

1 CFR Part 18

Administrative practice and procedure, **Federal Register**.

For the reasons discussed in the preamble, the Administrative Committee of the Federal Register amends parts 5, 11 and 18 of chapter I of title 1 of the Code of Federal Regulations as set forth below:

PART 5—GENERAL

1. The authority citation for part 5 continues to read as follows:

Authority: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709, 3 CFR, 1954–1958 Comp., p. 189.

2. Amend part 5 by adding § 5.10 to read as follows:

§ 5.10 Forms of publication.

Pursuant to section 1506 of title 44, United States Code, the Administrative Committee publishes the **Federal Register** in the following formats: paper; microfiche; and online on GPO Access (44 U.S.C. 4101).

PART 11—SUBSCRIPTIONS

1. The authority citation for part 11 continues to read as follows:

Authority: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709, 3 CFR, 1954–1958 Comp., p. 189.

2. Amend § 11.1 by revising the first sentence to read as follows:

§ 11.1 Subscription by the public.

The Government Printing Office produces the paper and microfiche editions of the publications described in § 2.5 of this chapter, and the Superintendent of Documents, Government Printing Office, Washington, DC 20402, makes them available for sale to the public. * * *

3. Revise § 11.2 to read as follows:

§ 11.2 Federal Register.

(a) Daily issues are provided to subscribers by mail for $555 per year in paper form. A combined subscription consisting of the daily issues, the monthly Federal Register Index, and the monthly LSA (List of CFR Sections Affected) is provided to subscribers by mail for $607 per year in paper form or $220 per year in microfiche form. Six month subscriptions to the paper and microfiche editions are also available at one-half the annual rate. Limited quantities of current or recent issues may be obtained for $8 per copy in paper form or $1 per copy in microfiche form.

(b) The online edition of the **Federal Register**, issued under the authority of the Administrative Committee, is available on GPO Access, a service of the Government Printing Office (44 U.S.C. 4101).

4. Revise § 11.3 to read as follows:

§ 11.3 Code of Federal Regulations (CFR)

A complete set is provided to subscribers by mail for $951 per year for the bound, paper edition or $247 per year for the microfiche edition. Individual volumes of the bound, paper edition of the Code are sold at prices determined by the Superintendent of Documents under the general direction of the Administrative Committee. The price of an individual volume in microfiche form is $1 per copy.

5. In § 11.4, add a second sentence to read as follows:

§ 11.4 The United States Government Manual.

* * * * *

The online edition of the Manual, issued under the authority of the Administrative Committee, is available on GPO Access, a service of the Government Printing Office (44 U.S.C. 4101).

6. Revise § 11.6 to read as follows:

§ 11.6 Weekly Compilation of Presidential Documents.

Copies in paper form are provided to subscribers for $80 per year by non-priority mail or $137 per year by first-class mail. The price of an individual copy in paper form is $3.

7. Revise § 11.7 to read as follows:

§ 11.7 Federal Register Index.

The annual subscription price for the monthly Federal Register Index, purchased separately, in paper form, is $25.

8. Revise § 11.8 to read as follows:

§ 11.8 LSA (List of CFR Sections Affected).

The annual subscription price for the monthly LSA (List of CFR Sections Affected), purchased separately, in paper form, is $27.

PART 18—PREPARATION AND TRANSMITTAL OF DOCUMENTS GENERALLY

1. The authority citation for part 18 continues to read as follows:

Authority: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709, 3 CFR, 1954–1958 Comp., p. 189.

2. in § 18.4, add paragraph (c) to read as follows:

§ 18.4 Form of document.

* * * * *

(c) Original documents submitted by telecommunication and authenticated by digital signatures consistent with applicable Federal standards and Office of the Federal Register technical specifications may be accepted for publication.[3]

3. In § 18.7, add a third sentence to read as follows:

§ 18.7 Signature.

* * * * *

Documents submitted under § 18.4(c) may be authenticated as original documents by digital signatures.

John W. Carlin,
Chairman.
Michael F. DiMario,
Member.
Rosemary Hart,
Member.
Janet Reno,
Attorney General.
John W. Carlin,
Archivist of the United States.

[FR Doc. 96–32865 Filed 12–26–96; 8:45 am]
BILLING CODE 1505–02–M

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 410

RIN 3206–AF99

Training

AGENCY: Office of Personnel Management.

ACTION: Correction to final rule.

SUMMARY: The Office of Personnel Management referenced an incorrect reference in § 410.306(c). This document corrects this error.

EFFECTIVE DATE: December 17, 1996.

FOR FURTHER INFORMATION CONTACT: Judith Lombard, 202–606–2431, EMAIL jmlombar@opm.gov, or FAX 202–606–2394.

SUPPLEMENTARY INFORMATION: Accordingly, page 66194, third column, § 410.306(c) of the final rule published on December 17, 1996, is corrected to read as follows:

(c) Subject to the prohibitions of § 410.308(a) of this part, an agency may pay all or part of the training expenses of students hired under the Student Career Experience Program (see 5 CFR § 213.3202(d)(10)).

Jacquline D. Carter,
Federal Regulations Liaison Officer.

[FR Doc. 96–32856 Filed 12–26–96; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

7 CFR Part 278

RIN 0584–AC00

Food Stamp Program: Revisions in Use and Disclosure Rules Involving the Sharing of Information Provided by Retail and Wholesale Food Concerns with Other Federal and State Agencies

AGENCY: Food and Consumer Service, USDA

ACTION: Final rule.

SUMMARY: This rulemaking implements certain provisions in two different laws which expand the authority of the United States Department of Agriculture's Food and Consumer Service (FCS) to share information provided by applicants and firms participating as authorized retail food stores or wholesale food concerns in the Food Stamp Program (FSP) with other Federal and State government agencies.

The intent of this final rule is to enable better administration and enforcement of the Food Stamp Act of 1977, as amended (the Act), or any other Federal or State law and regulations issued under the Act or any other Federal or State law. This rule provides new criteria to govern the sharing of such information and new criminal penalties for unauthorized use. It also implements the Secretary of Agriculture's new authority to share employer identification numbers (EINs) and Social Security numbers (SSNs) of applicants and firms participating in the FSP with other Federal agencies.

Finally, this rule makes technical changes to correct an error in regulatory reference and also to reflect changes made by the Department of the Treasury

[3] At present, submission of documents by telecommunication is limited to selected pilot projects.

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in a parallel rule that does not change the substance of the affected provisions.

EFFECTIVE DATE: Provisions in this rule are effective and will be implemented beginning February 25, 1997.

FOR FURTHER INFORMATION CONTACT: Questions regarding this final rule should be addressed to Suzanne Fecteau, Food and Consumer Service, Chief, Redemption Management Branch, 3101 Park Center Drive, Alexandria, Virginia 22302–1594, or by telephone at (703) 305–2418.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule and related Notice to 7 CFR part 3015 subpart V (48 FR 29115, June 24, 1983), this Program is excluded from the scope of Executive Order 12372, which requires inter-governmental consultation with State and local officials.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. § 601–612). William E. Ludwig, the Administrator of the Food and Consumer Service, has certified that this rule will not have a significant economic impact on a substantial number of small entities; however, it may have a significant effect on a limited number of small entities that violate State or Federal laws.

Paperwork Reduction Act

This final rule does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule has preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule also has retroactive effect. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. In the Food Stamp Program the administrative procedures are as follows: (1) For Program benefit recipients—State administrative procedures issued pursuant to 7 U.S.C. 2020(e)(10) and 7 CFR 273.15; (2) for State agencies—administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 276.7 (for rules related to non-quality control (QC) liabilities) or Part 283 (for rules related to QC liabilities); (3) for Program retailers and wholesalers— administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 278.8.

Background

On May 12, 1995, the Department published a proposed rule at 60 FR 25625, to implement section 203 of the Food Stamp Program Improvements Act of 1994, Public Law 103–225. Section 203 revises section 9(c) of the Food Stamp Act of 1977, as amended, to expand FCS' authority to share information provided by applicants and participating retail food concerns—including information about food stamp redemptions, retail food sales, and store ownership—with other Federal and State law enforcement and investigative agencies. It covers certain information provided on authorization applications, as well as additional supporting information submitted to document store eligibility to participate in the FSP. This information can be shared for the purpose of administering and enforcing the Food Stamp Act, as well as the enforcement of any other Federal or State laws, and the regulations issued under this Act or such other laws.

The sharing of EINs and SSNs is not covered by Public Law 103–225 or by Section 9(c) of the Food Stamp Act of 1977, as amended. The sharing of EINs and SSNs is covered in section 316 of the Social Security Independence and Program Improvements Act of 1994, Public Law 103–296, and is also implemented by this rule. Section 316 revises section 6109(f) of the Internal Revenue Code of 1986, and section 205(c)(2)(C) of the Social Security Act, to expand FCS' authority to verify and match SSNs and EINs with other Federal agencies or instrumentalities of the United States to more effectively administer and enforce the FSP, as well as other Federal laws and regulations.

For currently authorized firms, the provisions of this rule are effective February 25, 1997 and will be implemented beginning February 25, 1997. Because of the legal notice requirements related to the use of EINs and SSNs, currently authorized firms will receive notices of the expanded information sharing provisions of this rule, and will be given the opportunity to withdraw from FSP participation if they do not want to be subject to these new provisions. Firms that remain authorized 60-days after the date of the notice, will be subject to the information sharing provisions. However, firms that withdraw or were disqualified from FSP participation prior to the implementation date on the notice will not be subject to the expanded information sharing provisions of this rule, unless such firms participate in the FSP at a future date subsequent to implementation of this rule.

Comments were solicited on the provisions of the proposed rulemaking through June 12, 1995. This final action addresses the commentors' concerns. Readers should refer to the proposed rule for a more complete understanding of this final action.

The Department received three comment letters on the proposed rule, two representing Federal agencies and one representing a State agency. All three commentors were supportive of the proposed provisions, and two offered constructive suggestions to clarify certain provisions of the proposed rule.

A State agency commented that the proposed rule will assist law enforcement and investigative agencies in their efforts to investigate food stamp trafficking, as well as other crimes associated with trafficking.

A Federal agency commented on the need to clarify certain requirements in the proposed rule regarding how information is requested. The proposed rule required that requests be submitted in writing and include the specific provisions of laws and regulations being enforced. The recommendation was that written requests include electronic communications. This commentor also recommended that the final rule allow standing agreements between FCS and other agencies to document that such information is being accessed for *bona fide* law enforcement purposes, without citing specific provisions of law.

It is the view of the Department that written requests include electronic communications. The Department also believes that formal agreements between government agencies may be a better way to document the *bona fide* need for the information. In such situations, individual written requests for access to FCS information may not be necessary. The Department has made this clear in the final rule by adding the appropriate language.

The Department of Agriculture's Office of Inspector General (OIG) expressed concern that the proposed rule restricted its authority to share information for enforcement of the Food Stamp Act, while other government entities could access information to enforce all laws and regulations under their respective jurisdictions. OIG also requested that the final rule include language to give it special authority to release information in certain circumstances.

The Department agrees that OIG and other USDA agencies may be allowed access to information needed to enforce Departmental laws and regulations. Appropriate clarifying language is included in the final rule. Authority for OIG or other agencies to release FCS information will be addressed in written agreements with individual agencies.

OIG was also concerned about the effective date of this rule. The proposed rule provides that stores authorized to participate in the FSP on August 15, 1994, and stores authorized after that date will be subject to the rule. OIG was concerned that a possible interpretation might be that stores initially authorized before August 15, 1994, that continue participating after implementation, would not be subject to this rule. This was not the Department's intent; thus, the final rule states that all stores participating in the FSP after implementation shall be subject to the provisions in this rule. This rule also affects unauthorized entities and individuals accepting and redeeming food stamps illegally, except that the sharing of EINs and SSNs for such firms will be limited to those firms which were previously sanctioned or convicted under section 12 or 15 of the Food Stamp Act of 1977, as amended (7 U.S.C. 2021 or 2024).

The Department has made minor revisions to clarify the meaning of a few provisions in the proposed rule in order to avoid any confusion. A reference to "applicant" under paragraph (q) that was inappropriate has been replaced with the appropriate term, "retail food store." The Department also clarified a reference in the proposed rule involving the Special Supplemental Food Program for Women, Infants and Children (WIC). Current regulations afford WIC special information sharing status. This rule's expanded information sharing negates the need to treat WIC as a special situation; therefore, the sentence involving the treatment of WIC in the proposed rule has been removed.

The Department has also added clarifying language to clearly distinguish between the two different laws implemented by this rule. One law (amending the Food Stamp Act) addresses information, excluding SSNs and EINs, provided by applicants and participating firms that can be shared with both Federal and State law enforcement or investigative agencies. The other law (amending the Social Security Act and the Internal Revenue Code) addresses information involving SSNs and EINs that can only be shared with certain Federal agencies and instrumentalities of the United States. Clarifying language has also been added to the final rule to define "a law enforcement or investigative agency" and "an FCS initiated match." Editorial changes in the final rule were also made to provide a more orderly presentation.

Finally, because a regulation published on October 15, 1996 redesignated paragraph (q) to (r) in § 278.1, this rule makes the conforming changes.

List of Subjects in 7 CFR Part 278

Administrative practice and procedure, Banks, Banking, Claims, Food stamps, Groceries—retail, Groceries, General line—wholesaler, Penalties.

Accordingly, 7 CFR part 278 is amended as follows:

PART 278—[AMENDED]

1. The authority citation for 7 CFR part 278 continues to read as follows:

Authority: 7 U.S.C. 2011–2032

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND INSURED FINANCIAL INSTITUTIONS

2. In § 278.1:

a. The heading and the introductory text of paragraph (r) is revised;

b. Paragraphs (r)(1) and (r)(2) are redesignated as paragraphs (r)(2) and (r)(3), respectively, and a new paragraph (r)(1) is added;

c. Newly redesignated paragraphs (r)(2)(i), (r)(2)(ii), (r)(3)(i), and (r)(3)(ii) are revised;

d. Newly redesignated paragraph (r)(2)(iii) is amended by adding after the word "Department" in the first sentence the words "or any agency or instrumentality of the United States" and by removing the designation "(c)(2)" following the references to "§ 301.6109–2" and "(26 CFR 301.6109–2)" and adding in its place the designation (d)(2);

e. Newly redesignated paragraph (r)(2)(iv) is amended by adding after the word "Department" the words "or maintained by any agency or instrumentality of the United States", by removing the references to "§ 278.1(s)(1)(ii)" and "§ 278.1 (r)(1)(iv)" and adding in their place references to "paragraph (r)(2)(ii) of this section" and "paragraph (r)(2)(iv) of this section", and by removing the designation "(d)" following the references to "§ 301.6109–2" and "(26 CFR 301.6109)" and adding in its place the designation (e);

f. Newly redesignated paragraph (r)(2)(v) is amended by removing the designation "(e)" after the references to "§ 301.6109–2" and "(26 CFR 301.6109–2)" and adding in its place the designation (f);

g. Newly redesignated paragraph (r)(3)(iv) is amended by removing the reference "§ 278.1(q)(2)(iv)" and adding in its place the reference "paragraph (r)(3)(iv) of this section"; and

h. A new paragraph (r)(4) is added.

The revisions and additions read as follows:

§ 278.1 Approval of retail food stores and wholesale food concerns.

* * * * *

(r) *Use and disclosure of information provided by firms.* With the exception of EINs and SSNs, the contents of an initial application, or other information required to be submitted by retail food stores and wholesale food concerns to determine continued eligibility, such as ownership information and sales and redemption data, may be disclosed to and used by Federal and State law enforcement and investigative agencies for the purpose of administering or enforcing the Food Stamp Act or any other Federal or State law, and the regulations issued under the Food Stamp Act or such other law. Such disclosure and use shall also include companies or individuals under contract for the operation by, or on behalf of FCS to accomplish an FCS function. Such purposes include the audit and examination of such information by the Comptroller General of the United States authorized by any other provision of law. Any person who publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by Federal law or regulations any information obtained under this paragraph shall be fined not more than $1,000 or imprisoned not more than 1 year, or both. Safeguards with respect to employee identification numbers (EINs) are contained in paragraph (r)(2) of this section. Safeguards with respect to Social Security numbers (SSNs) are contained in paragraph (r)(3) of this section.

(1) *Criteria for requesting information.* FCS shall determine what information can be disclosed and which government

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agencies have access to that information based on the following criteria:

(i) Federal and State law enforcement or investigative agencies or instrumentalities administering or enforcing specified Federal and State laws, or regulations issued under those laws, have access to certain information maintained by FCS. Such agencies or instrumentalities must have among their responsibilities the enforcement of law or the investigation of suspected violations of law. However, only certain Federal entities have access to information involving SSNs and EINs in accordance with paragraph (r)(1)(ii) of this section;

(ii) Except for SSNs and EINs, information provided to FCS by applicants and authorized firms participating in the FSP may be disclosed and used by qualifying Federal and State entities in accordance with paragraph (r)(1)(i) of this section. The disclosure of SSNs and EINs is limited only to qualifying Federal agencies or instrumentalities which otherwise have access to SSNs and EINs based on law and routine use. Release of information under this paragraph shall be limited to information relevant to the administration or enforcement of the specified laws and regulations, as determined by FCS;

(iii) Requests for information must be submitted in writing, including electronic communication, and must clearly indicate the specific provision of law or regulations which would be administered or enforced by access to requested information, and the relevance of the information to those purposes. If a formal agreement exists between FCS and another agency or instrumentality, individual written requests may be unnecessary. FCS may request additional information if needed to clarify a request;

(iv) Disclosure by FCS is limited to: Information about applicant stores and concerns with applications on file; information about authorized stores participating in the FSP; and information about unauthorized entities or individuals illegally accepting or redeeming food stamps;

(v) Requests for information disclosure by FCS may involve a specific store or concern, or some or all stores and concerns covered by paragraph (r)(1)(iv) of this section. In addition, FCS may sign agreements allowing certain government entities direct access to appropriate FCS data, with access to EINs and SSNs limited only to other Federal agencies and instrumentalities that otherwise have access to such numbers.

(2) *Employer identification numbers.* (i) The Department may have access to the EINs obtained pursuant to paragraph (b)(5) of this section for the purpose of establishing and maintaining a list of the names and EINs of the stores and concerns for use in determining those applicants who previously have been sanctioned or convicted under sections 12 and 15 of the Food Stamp Act of 1977, as amended, (7 U.S.C. 2021 or 2024). The Department also may share EINs with other Federal agencies and instrumentalities that otherwise have access to EINs if the Department determines that such sharing would assist in verifying and matching such information against information maintained by such other agency or instrumentality. Any such information shared pursuant to this paragraph may be used by the Department or such other agency or instrumentality for the purpose of effective administration and enforcement of the Food Stamp Act of 1977, as amended, or for the purpose of investigating violations of other Federal laws or enforcing such laws. See Treas. Reg. § 301.6109–2 (b) and (c) (26 CFR 301.6109–2 (b) and (c)).

(ii) The only persons permitted access to EINs obtained pursuant to paragraph (b) of this section are officers and employees of the United States, who otherwise have access and whose duties or responsibilities require access to the EINs for the administration or enforcement of the Food Stamp Act of 1977, as amended, or for the purpose of investigating violations of other Federal laws or enforcing such laws. See Treas. Reg. § 301.6109–2(d)(1) (26 CFR 301.6109–2(d)(1)).

* * * * *

(3) *Social Security numbers.* (i) The Department may have access to SSNs obtained pursuant to paragraph (b)(5) of this section for the purpose of establishing and maintaining a list of names and SSNs of stores and concerns for use in determining those applicants who previously have been sanctioned or convicted under section 12 or 15 of the Food Stamp Act of 1977, as amended, (7 U.S.C. 2021 or 2024). The Department may use this determination of sanctions and convictions in administering sections 12 and 15 of the Food Stamp Act of 1977, as amended, (7 U.S.C. 2018, 2021). The Department also may share SSNs with other Federal agencies and instrumentalities if the Department determines that such sharing would assist in verifying and matching such information against information maintained by the Department or such other agency or instrumentality. Any such information shared pursuant to this paragraph shall be used for the purpose of effective administration and enforcement of the Food Stamp Act of 1977, as amended, or for the purpose of investigating violations of other Federal laws or enforcing such laws.

(ii) The only persons permitted access to SSNs obtained pursuant to paragraph (b) of this section are officers and employees of the United States, who otherwise have access, and whose duties or responsibilities require access to the SSNs for the administration or enforcement of the Food Stamp Act of 1977, as amended, or for the purpose of investigating violations of other Federal laws or enforcing such laws. Such access shall also include companies or individuals under contract for the operation by, or on behalf of FCS to accomplish an FCS function.

* * * * *

(4) *FCS initiated matches.* Under the restrictions noted in paragraph (r) of this section, FCS will periodically initiate cross matches of retailer data with other Federal and State agencies' files for the purpose of verifying information provided by applicant and participating firms, and for the purposes of administering and enforcing other Federal or State laws. Such matches could involve all firms participating after implementation for the purpose of verifying information such as, but not limited to, SSNs and retail sales data.

* * * * *

3. In § 278.9, a new paragraph (l) is added to read as follows:

§ 278.9 Implementation of amendments relating to the participation of retail food stores, wholesale food concerns and insured financial institutions.

* * * * *

(l) *Amendment No. 335.* Expanded authority to use and disclose information about firms participating in the FSP under CFR 278.1(r) for currently authorized firms is effective and will be implemented beginning February 25, 1997 but not before 60-days after the date of notices to such firms, notifying them of the changes. The only exception to the above is that such disclosure of information shall not apply to firms that are withdrawn or are disqualified from FSP participation prior to implementation, unless such firms participate in the FSP at a future date subsequent to the implementation date.

Dated: December 18, 1996.

William E. Ludwig,

Administrator, Food and Consumer Service.

[FR Doc. 96–32998 Filed 12–26–96; 8:45 am]

BILLING CODE 3410–30–U

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 95–044–2]

The Importation of Ratites and Hatching Eggs of Ratites

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the animal import regulations to relieve certain restrictions on the importation of ratites and hatching eggs of ratites into the United States from Canada. We believe that these actions can be taken without increasing the risk of introducing poultry or livestock diseases into the United States. Additionally, we are allowing adult ostriches from any country to be imported, in accordance with the regulations, through the New York Animal Import Center, based on space availability. Currently, with certain exceptions, ostriches may not be imported into the United States if they exceed either 36 inches in height or 30 pounds in weight. We are making this change after determining that the New York Animal Import Center has the facilities and trained personnel to handle adult ostriches. We believe that these amendments will facilitate the importation into the United States of ratites and hatching eggs of ratites while ensuring the continued protection of the health of livestock and poultry in the United States.

EFFECTIVE DATE: January 27, 1997.

FOR FURTHER INFORMATION CONTACT: Dr. Keith Hand, Senior Staff Veterinarian, Import/Export Animals, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231, (301) 734–5097.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 92 (referred to below as "the regulations") govern the importation into the United States of certain animals and birds, including ostriches and other flightless birds known as ratites, and their hatching eggs, to prevent the introduction of communicable diseases of livestock and poultry.

Section 92.101 of the regulations, among other things, imposes general restrictions on the importation of ratites and hatching eggs of ratites. Paragraph (b)(3)(i) of § 92.101 requires that all ratites, except ratites imported as zoological birds, and all hatching eggs of ratites entering the United States must originate from certified pen-raised flocks and must be identified. Ratites must be identified by means of a microchip implant, hatching eggs of ratites by marking on the shell. Paragraph (b)(3)(i) also requires certain recordkeeping, reporting, and inspections related to the flock and premises of origin. Paragraph (b)(3)(ii) of § 92.101 prohibits, with certain exceptions, the importation of ostriches more than 36 inches in height or 30 pounds in weight at the time of arrival in the United States.

Section 92.103 of the regulations, among other things, requires that an importer submit a completed import permit application to import ratites or hatching eggs of ratites into the United States. The import permit application provides, among other things, information on the name and location of the quarantine facility in the United States that will maintain the ratites or hatching eggs of ratites during the mandatory quarantine period.

Section 92.104 of the regulations, among other things, requires that ratites and their hatching eggs offered for importation from any part of the world be accompanied by a certificate issued by a full-time salaried veterinary officer of the national government of the exporting country or issued by a veterinarian authorized or accredited by the national government of the exporting country and endorsed by a full-time salaried veterinary officer of the national government of that country. The certificate must state, among other things, that ratites and their hatching eggs offered for importation have been inspected and found free of evidence of communicable diseases and are identified in accordance with the provisions in § 92.101.

Section 92.105 of the regulations, among other things, specifies requirements for the inspection of ratites and hatching eggs of ratites at the port of entry in the United States. Paragraph (a) of § 92.105, among other things, allows hatching eggs of ratites to be offered for importation into the United States at any international airport, or any land-border port within 20 miles of an international airport, serviced by Customs. In addition, hatching eggs of ratites may be shipped, in bond, from the port of first arrival to the Customs port of entry where the eggs will be inspected and quarantined. Paragraph (c) of § 92.105 provides that ratites, other than hatching eggs of ratites, imported from any part of the world must be inspected by a veterinary inspector of the Animal and Plant Health Inspection Service (APHIS) at a listed port of entry. The ports of entry listed for ostriches are New York, NY; Stewart Airport, Newburgh, NY; and Miami, FL. The ports of entry listed for ratites other than ostriches are New York, NY; Stewart Airport, Newburgh, NY; Miami, FL; and Honolulu, HI.

Section 92.106 of the regulations, among other things, imposes quarantine requirements on ratites and hatching eggs of ratites. Paragraph (b)(1) of § 92.106, among other things, requires ratites imported from any part of the world to be quarantined upon arrival for a minimum of 30 days to determine the ratites' freedom from ectoparasites and communicable diseases. Paragraph (b)(3) of § 92.106 requires that ratites be treated for ectoparasites during the quarantine by an inspector until the inspector determines that the ratites are free of ectoparasites. Paragraph (b)(2) of § 92.106, among other things, requires hatching eggs of ratites imported from any part of the world to be quarantined upon arrival, incubated for approximately 42 days, and held in quarantine for a minimum of 30 days following the hatch of the last chick in the lot, to determine the ratites' freedom from communicable diseases. Additionally, the ratites and hatching eggs of ratites must be tested for and found free of viral diseases of poultry, including exotic Newcastle disease.

On June 3, 1996, we published in the **Federal Register** (61 FR 27797–27802, Docket No. 95–044–1) a proposal to amend the regulations by exempting certain ratites and hatching eggs of ratites from Canada from quarantine requirements upon arrival in the United States; exempting ratites imported from Canada for consignment directly to slaughter in the United States from the requirement in § 92.104(c)(8) that the ratites be treated for ectoparasites within 3 to 14 days before they are exported from Canada; exempting Canadian ratite flocks from the pen-raised requirement and the identification and recordkeeping requirements in § 92.101(b)(3); allowing ratites from Canada that are exempt from quarantine upon arrival to be offered for importation at a number of ports, in addition to the ports listed in § 92.105(c); exempting ratites and hatching eggs of ratites from Canada from the import permit requirements found in § 92.103 if the ratites and hatching eggs qualify for exemption from quarantine upon arrival in the United States and enter the United States at a Canadian land border port, as listed in § 92.203(b); and allowing ostriches greater than 36 inches in height or 30 pounds in weight to be imported into the United States from any country through the port of New

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York, NY, or through Stewart Airport, Newburgh, NY, and be quarantined at the New York Animal Import Center (NYAIC), based on space availability.

We solicited comments concerning our proposal for 60 days ending August 2, 1996. We received two comments, one from a government agency and the other from a representative of industry, by that date. The concerns of these commenters are discussed below by topic.

Ports of Entry

One commenter explained that under the regulations of the U.S. Fish and Wildlife Service, Department of the Interior, wildlife may only be imported into the United States through certain ports. Because the U.S. Fish and Wildlife Service includes ratites in their definition of wildlife, ratites may therefore only be imported into the United States through these specific ports. The commenter explained that certain ports that we proposed as additional ports for the entry of Canadian ratites and hatching eggs of ratites conflict with the ports listed as eligible ports for wildlife in the U.S. Fish and Wildlife Service regulations. Specifically, conflicts arise because the U.S. Fish and Wildlife Service limits the importation of species protected under the Convention on International Trade in Endangered Species, the Endangered Species Act, or other Federal wildlife laws requiring permits to certain ports and because the U.S. Fish and Wildlife Service does not allow the importation of wildlife through several of the ports that we had proposed as additional ports for the importation of Canadian ratites and hatching eggs of ratites.

In response to this comment, we are removing the ports of Jacksonville, FL; Port Canaveral, FL; St. Petersburg-Clearwater, FL; Portland, ME; Great Falls, MT; Opheim, MT; Alexandria Bay, NY; Galveston, TX; Lyndon, WA; Oroville, WA; Spokane, WA; and Tacoma, WA, from the list of ports through which Canadian ratites and their hatching eggs may enter the United States. We are also adding to the regulations a statement, which currently appears on the import permit issued by APHIS for ratites and their hatching eggs, that Canadian ratites and their hatching eggs intended for importation into the United States must meet all applicable requirements of the United States Fish and Wildlife Service contained in Title 50, subchapter B, of the Code of Federal Regulations.

Ratite References

One commenter suggested that throughout the proposal, we consistently use the general term "ratites," rather than specify members of the ratite family such as "ostriches." Alternatively, the commenter requested that where specific members of the ratite family are named, then each member, such as "emus," "rheas," and "kiwis," should also be listed.

Where appropriate, we used the general reference "ratite" in the proposal. The term "ratites" is defined in the regulations as "cassowaries, emus, kiwis, ostriches, and rheas." When we used the specific term "ostrich," as in the proposal to allow ostriches greater than 36 inches in height or 30 pounds in weight to be imported into the United States from any country through the port of New York, NY, or through Stewart Airport, Newburgh, NY, and be quarantined at the New York Animal Import Center, based on space availability, we intended to specify ostriches only. Therefore, we are making no changes to the rule based on this comment.

Ratite Meat and Byproducts

One commenter asked that we also relieve restrictions on ratite meat and ratite byproducts, such as ratite hides and all ratite eggs, from Canada.

Currently, the regulations in 9 CFR 94.6 restrict the entry of carcasses, or parts or products of carcasses, and eggs (other than hatching eggs) of poultry, game birds, or other birds from countries where exotic Newcastle disease (END) or *S. enteritidis*, phage type 4, is considered to exist. Canada is considered free of both END and *S. enteritidis*, phage type 4; therefore, the importation of ratite carcasses, or parts or products of ratite carcasses, and ratite eggs (other than hatching eggs) from Canada are not restricted under APHIS regulations.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. This rule has been determined to be not significant for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

This rule relieves some restrictions on the importation into the United States of ratites and hatching eggs of ratites from Canada and on the importation into the United States of adult ostriches. We anticipate that this rule will affect only the ostrich industry because very few ratites other than ostriches have been imported into the United States since first being allowed in 1986.

Ostrich production in the United States has been growing rapidly over the last few years. According to a recent estimate, there are approximately 6,000 to 7,000 ostrich owners and more than 70,000 breeding ostriches in the United States. Each farm owns an average of 8 to 10 adult ostriches, but each farm's holdings can range anywhere from 2 to 200 adult ostriches. All of these farms are considered small entities by Small Business Administration standards (annual gross receipts of less than $500,000). The American Ostrich Association reports its membership at 3,650 as of September 1995.

Over the last 2 to 3 years, the supply of ostriches in the United States has steadily increased, which has greatly reduced domestic prices. For example, in 1992, market prices for ostriches of different ages ranged as follows: 3-month-old chicks sold for approximately $6,000 a pair; 6-month-old chicks sold for $8,000 to $15,000 a pair; yearlings sold for $12,000 to $25,000 a pair; 2-year-olds sold for $25,000 to $40,000 a pair; and adults (breeding pairs) sold for $40,000 up to $100,000 a pair, depending upon proven breeding capabilities. Recent market prices for ostriches of different ages show a dramatic decrease from the market prices of 1992; estimates of 1995 market prices for ostriches of different ages are as follows: 3-month-old chicks sell for approximately $1,300 a pair; 6-month-old chicks sell for approximately $2,150 a pair; yearlings sell for approximately $4,300 a pair; 2-year-olds sell for approximately $8,600 a pair; and adults (breeding pairs) sell for approximately $14,700 a pair, depending upon proven breeding capabilities. Further, when compared to the market prices listed above for 1995, the estimated market prices for the first quarter of 1996 show approximately a fifty percent decrease in the market prices for ostriches in all age categories.

No live ratites have been imported into the United States from any country since April of 1994. Removing the quarantine and other requirements for Canadian ratites and their hatching eggs could encourage imports by decreasing the cost of importing these ratites and hatching eggs. However, because of the decrease in market prices described above, we do not expect a heavy volume of ostriches or other ratites from Canada to be imported into the United States as a result of this rule.

In addition, though the hatching eggs of ratites are more readily available, are cheaper to transport, and can be

quarantined at private facilities, historically only about 26 percent of the imported eggs (this includes fertile and infertile eggs) have hatched chicks that survived beyond 30 days. Despite being a financially dangerous option, importers continue to import hatching eggs and are trying to improve their rate of hatch and chick survival. However, because of the relatively low hatch and survival rate and the reduced market prices of ostriches of different ages, we do not expect a heavy volume of the hatching eggs of ratites from Canada to be imported into the United States as a result of this rule.

Any imports from Canada that might result from this rule could cause a further decline in the domestic prices of ratites in the United States. However, we expect that domestic ratite importers will benefit by having fewer restrictions on Canadian imports. Over the short term, the proposed changes in the regulations might have a minor adverse economic impact on domestic ostrich producers. Over the long term, we expect the domestic ratite industry to benefit from any imports that may occur because reduced ostrich prices could lead to larger domestic populations of ostriches, benefiting consumers of ostriches and ostrich products. A larger domestic ratite population could further enhance the economic viability of commercial ratite breeding, slaughter, feather, and leather markets.

We expect that the economic effect of allowing the importation of adult ostriches from all countries into the United States through the New York Animal Import Center will be insignificant because of the drastic decrease in the market prices of ostriches.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which, among other things, directs agencies to remove obsolete and unnecessary regulations and to find less burdensome ways to achieve regulatory goals.

List of Subjects in 9 CFR Part 92

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping.

Accordingly, 9 CFR part 92 is amended as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

1. The authority citation for part 92 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

§ 92.101 [Amended]

2. Section 92.101 is amended as follows:

a. By removing paragraph (b)(3)(ii).

b. By redesignating paragraphs as follows:

Old designation	New designation
(b)(3)(i) introductory text.	(b)(3) introductory text.
(b)(3)(i)(A)	(b)(3)(i)
(b)(3)(i)(B)	(b)(3)(ii)
(b)(3)(i)(C)	(b)(3)(iii)
(b)(3)(i)(D)	(b)(3)(iv)
(b)(3)(i)(D)(*1*)	(b)(3)(iv)(A)
(b)(3)(i)(D)(*2*)	(b)(3)(iv)(B)
(b)(3)(i)(D)(*3*)	(b)(3)(iv)(C)
(b)(3)(i)(E)	(b)(3)(v)
(b)(3)(i)(F)	(b)(3)(vi)
(b)(3)(i)(G)	(b)(3)(vii)
(b)(3)(i)(H)	(b)(3)(viii)
(b)(3)(i)(I)	(b)(3)(ix)
(b)(3)(i)(J)	(b)(3)(x)
(b)(3)(i)(K)	(b)(3)(xi)
(b)(3)(i)(L)	(b)(3)(xii)

c. By revising the introductory text of newly redesignated paragraph (b)(3) to read as set forth below.

d. In newly designated paragraph (b)(3)(vi), by removing the reference "(b)(3)(i)(D)" and adding "(b)(3)(iv)" in its place.

e. In newly designated paragraph (b)(3)(vii), by removing the reference "(b)(3)(i)(B)" and adding "(b)(3)(ii)" in its place, and by removing the reference "(b)(3)(i)(C)" and adding "(b)(3)(iii)" in its place.

f. In newly designated paragraph (b)(3)(x), the first sentence, by removing the reference "(b)(3)(i)(B)" and adding "(b)(3)(ii)" in its place, and by removing the reference "(b)(3)(i)(C)" and adding "(b)(3)(iii)" in its place.

g. In newly designated paragraph (b)(3)(x), the fourth sentence, by removing the reference "(b)(3)(i)(E)" and adding "(b)(3)(v)" in its place.

§ 92.101 General prohibitions; exceptions.

* * * * *

(b) * * *

(3) Except for ratites imported as zoological birds, and ratites and ratite hatching eggs imported from Canada in accordance with § 92.107, ratites and hatching eggs of ratites may not be imported into the United States unless the following conditions are met:

* * * * *

§ 92.102 [Amended]

3. Section 92.102(c) is amended by removing the reference "§ 92.105(a)" and adding "§ 92.105" in its place.

4. Section 92.103 is amended as follows:

a. In paragraph (a)(1), the first sentence, by removing the reference "92.214" and adding "92.107(b)" in its place.

b. By revising paragraphs (a)(1)(xiii), (a)(2)(iii), and (a)(2)(iv) to read as set forth below.

c. In paragraph (a)(2)(v), by removing "§ 92.101 (b)(3)(i)(G) and (b)(3)(i)(J)" and adding "§ 92.101(b)(3)" in its place; and by removing "§ 92.101 (b)(3)(i)(B) and (b)(3)(i)(C)" and adding "§ 92.101(b)(3)" in its place.

d. At the end of the section, by adding an OMB control number to read as set forth below.

§ 92.103 Import permits for birds; and reservation fees for space at quarantine facilities maintained by APHIS.

(a) * * *

(1) * * *

(xiii) In addition, the application for a permit to import ratites or hatching eggs of ratites, except for ratites and hatching eggs of ratites imported from Canada in accordance with § 92.107, shall specify the number of ratites or hatching eggs intended for importation, the size of the flock of origin, and the location of the premises where the flock of origin is kept; and shall state that, from the date of application through the date of export, APHIS representatives shall be granted access to the premises where the flock of origin is kept. (For ratites intended for importation as zoological birds, the flock of origin shall be the ratites intended for importation.)

(2) * * *

(iii) In addition, a permit to import ratites or hatching eggs of ratites, except for ratites or hatching eggs of ratites imported from Canada in accordance with § 92.107, will be denied or withdrawn unless APHIS representatives are granted access to the premises where the flock of origin is kept (or, in the case of zoological birds, to the premises where the birds are kept), from the date of the application for the permit through the date of export.

(iv) Except for ratites intended for importation as zoological birds and ratites and hatching eggs of ratites imported from Canada in accordance with § 92.107, a permit to import ratites or hatching eggs of ratites will be denied or withdrawn unless an APHIS representative has visited the premises where the flock of origin is kept within the 12-month period before the intended importation and has determined that the flock is pen-raised and contains sufficient breeding pairs to produce the number of ratites or hatching eggs intended for importation.

* * * * *

(Approved by the Office of Management and Budget under control number 0579–0040)

5. Section 92.104 is amended as follows:

a. By revising paragraphs (c)(2), (c)(8), (c)(13), (c)(14), (c)(15), (c)(16), (d)(2), (d)(9), (d)(10), and (d)(11) to read as set forth below.

b. At the end of the section, by adding an OMB control number to read as set forth below.

§ 92.104 Certificates for pet birds, commercial birds, zoological birds, and research birds.

* * * * *

(c) * * *

(2) That, except when the certificate is for zoological birds or ratites imported from Canada in accordance with § 92.107, the flock of origin is pen-raised and the ratites covered by the certificate were produced and maintained in that flock;

* * * * *

(8) That, except as provided in § 92.107 for ratites imported from Canada for immediate slaughter, the ratites were treated at least 3 days but not more than 14 days before being loaded for shipment to the United States with a pesticide of a type and concentration sufficient to kill ectoparasites on the ratites;

* * * * *

(13) That the number of ratites and hatching eggs of ratites exported from the flock of origin has not exceeded the ceiling required to be established under § 92.101(b)(3)(ix);

(14) That all the ratites and hatching eggs of ratites in the flock from which the ratites come were identified in accordance with § 92.101(b)(3);

(15) Except for ratites imported from Canada in accordance with § 92.107, the number of ratite laying hens in the flock from which the ratites come;

(16) For ratites required to be treated prior to shipment with a pesticide for ectoparasites, the certificate must also state the name, concentration, and date of administration of the pesticide used to treat the ratites;

* * * * *

(d) * * *

(2) That, except when the certificate is for hatching eggs of ratites imported from Canada in accordance with § 92.107, the flock of origin is pen-raised, and the hatching eggs covered by the certificate were produced by that flock;

* * * * *

(9) That the number of ratites and hatching eggs of ratites exported from the flock of origin has not exceeded the ceiling required to be established under § 92.101(b)(3)(ix);

(10) That all the ratites and hatching eggs of ratites in the flock from which the hatching eggs come were identified in accordance with § 92.101(b)(3);

(11) Except for hatching eggs of ratites imported from Canada in accordance with § 92.107, the number of ratite laying hens in the flock from which the hatching eggs come.

(Approved by the Office of Management and Budget under control number 0579–0040)

6. Section 92.105 is amended as follows:

a. By revising paragraph (a) to read as set forth below.

b. In paragraph (c), by revising the introductory text and paragraph (c)(1) to read as set forth below.

§ 92.105 Inspection at the port of entry.

(a) All commercial birds, zoological birds, and research birds, including hatching eggs of ratites, but excluding other ratites, imported into the United States, must be inspected by the port veterinarian at the Customs port of entry, which may be any international airport, or any land-border port within 20 miles of an international airport, serviced by Customs, as well as, for Canadian-origin hatching eggs of ratites, ports listed in § 92.107 (c). However, hatching eggs of ratites may be shipped, in bond, from the port of first arrival to the Customs port of entry at which they will be quarantined, for inspection, at that port.

* * * * *

(c) Ratites, other than hatching eggs of ratites, imported from any part of the world must be inspected at the Customs port of entry by a veterinary inspector of APHIS and, except as provided in § 92.107(b) for ratites imported from Canada, shall be permitted entry only at one of the following ports of entry:

(1) Ostriches:

(i) Up to 36 inches in height (as measured from the top of the head to the base of the feet) or 30 pounds in weight: New York, NY; Stewart Airport, Newburgh, NY; and Miami, FL.

(ii) Exceeding 36 inches in height or 30 pounds in weight: New York, NY, and Stewart Airport, Newburgh, NY.

* * * * *

§ 92.106 [Amended]

7. Section 92.106 is amended as follows:

a. In paragraph (b)(1), the first sentence, by adding the words, "except as provided in § 92.107," immediately following the words "any part of the world".

b. In paragraph (b)(2), the first sentence, by adding the words, "except as provided in § 92.107," immediately following the words "any part of the world".

8. Section 92.107 is amended as follows:

a. By adding the paragraph designation "(a)" immediately preceding the words "*In-bond shipments from Canada.*"

b. By adding new paragraphs (b) and (c) to read as follows:

§ 92.107 Special provisions.

* * * * *

(b) *Ratites from Canada.* Ratites that were hatched and raised in Canada or ratites that were legally imported into Canada and, upon arrival in Canada, were quarantined for a minimum of 28 days at a Canadian quarantine facility and remained in Canada for an additional 60 days following completion of quarantine may be imported into the United States:

(1) Without being quarantined upon arrival in the United States; and

(2) At any of the following ports of entry: Anchorage, AK; Fairbanks, AK; Los Angeles, CA; San Diego, CA; Denver, CO; Miami, FL; Tampa, FL; Atlanta, GA; Honolulu, HI; Eastport, ID; Chicago, IL; New Orleans, LA; Boston, MA; Baltimore, MD; Houlton, ME; Jackman, ME; Detroit, MI; Port Huron, MI; Sault Ste. Marie, MI; Minneapolis, MN; Raymond, MT; Sweetgrass, MT; Buffalo, NY; Champlain, NY; New York, NY; Stewart Airport, Newburgh, NY; Dunseith, ND; Pembina, ND; Portal, ND; Portland, OR; San Juan, PR; Houston,

TX; Highgate Springs, VT; Blaine, WA; Seattle, WA; and Sumas, WA; and

(3) If offered for entry at a Canadian land border port listed in § 92.203(b), without an import permit; and

(4) If consigned directly to slaughter from the port of entry, without being treated for ectoparasites within 3 to 14 days before shipment to the United States, as otherwise required by § 92.104(c)(8); and

(5) If in compliance with all of the applicable regulations of the U.S. Fish and Wildlife Service contained in Title 50, subchapter B, of the Code of Federal Regulations.

(c) *Ratite eggs from Canada.* Hatching eggs of ratites that were laid in Canada may be imported into the United States:

(1) Without being quarantined upon arrival in the United States; and

(2) At any of the ports of entry listed in paragraph (b)(2) of this section or authorized by § 92.105(a); and

(3) If offered for entry at a Canadian land border port listed in § 92.203(b), without an import permit; and

(4) If in compliance with all of the applicable regulations of the U.S. Fish and Wildlife Service contained in Title 50, subchapter B, of the Code of Federal Regulations.

Done in Washington, DC, this 19th day of December 1996.

A. Strating,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–32898 Filed 12–26–96; 8:45 am]

BILLING CODE 3410–34–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701 and 707

Organization and Operations of Federal Credit Unions; Truth in Savings

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The NCUA Board is implementing two provisions of the Economic Growth and Regulatory Paperwork Reduction Act of 1996. First, the Board is raising the threshold of credit union board of directors' approval of loans to officials from $10,000 to $20,000. Second, the Board is permanently exempting small, nonautomated credit unions from Truth in Savings compliance.

DATES: This final rule is effective December 27, 1996.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

FOR FURTHER INFORMATION CONTACT: Sparky Conrey, Staff Attorney, Office of General Counsel, telephone (703) 518–6540, and Jodee Wuerker, Compliance Officer, Office of Examination and Insurance, telephone (703) 518–6360.

SUPPLEMENTARY INFORMATION:

(1) Loans to Officials

On September 30, 1996, the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (the "Act") was enacted. Section 2306 of the Act amended sections 107(5)(A) (iv) and (v) of the Federal Credit Union Act, by raising the threshold of loans to officials that require credit union board of director approval from $10,000 to $20,000. 12 U.S.C. 1757(5)(A) (iv) and (v). These statutory provisions are currently implemented in section 701.21(d) (1) and (4) of NCUA's Rules and Regulations. 12 CFR 701.21(d) (1) and (4). The $10,000 amount is changed to $20,000 in these two sections. All other portions of the rules regarding loans to officials remain the same.

(2) Truth in Savings

Background

NCUA has previously extended the compliance date three times of part 707, which implements the Truth in Savings Act (TISA), for certain small, nonautomated credit unions. Each time, the NCUA Board took into consideration the limited resources of the exempted credit unions. The last extension was due to expire on January 1, 1997. 60 FR 57173 (November 14, 1995).

Section 2604(c) of the Act exempts from TISA requirements "any nonautomated credit union that was not required to comply with the [TISA] as of the date of enactment of the [Act], pursuant to the determination of the [NCUA] Board." The NCUA Board has previously exempted nonautomated and insufficiently automated credit unions with an asset size of $2 million or less as reported to, or determined by, NCUA. An exemption had been supported by NCUA, the Department of the Treasury, and credit union trade associations in Congressional hearings and other legislative action, citing the hardships that would befall the small, nonautomated credit unions if TISA compliance became mandatory. These hardships potentially include: increased mergers of the affected credit unions into larger credit unions; increased voluntary liquidations; loss of volunteer support; allocation of credit union resources from member services to compliance; the expense, complications, and logistics of automating in order to comply; and loss of credit union services to members. Subsequently, Congress provided a TISA exemption for small, nonautomated credit unions.

The NCUA Board is concerned with the continued viability of small credit unions and the provision of continued financial services to their members. Ten years ago, credit unions under $2 million in size made up about two-thirds (10,564) of all federally insured credit unions. Today, such credit unions number only 3,401, about thirty percent of federally insured credit unions. In addition, the assets of today's 3,401 smallest credit unions are .9 percent of total assets in all credit unions, while credit unions of $2 million or less accounted for 7.7 percent of total assets ten years ago. The average credit union today has $28 million in assets, compared to $5 million ten years ago.

Because the Act recognizes the difficulty that small credit unions face in complying with the many requirements of the TISA, especially the calculation requirements, statutory relief is provided. It is important to note that this relief is available to a very small segment of credit unions. Almost four-fifths of credit unions with $2 million or less in assets are automated or have in-house data processing. NCUA has determined that there are about 704 credit unions under $2 million in assets that report having manual recordkeeping systems. Analogously, NCUA has also determined that there are about 607 credit unions under $2 million in assets that have no compensated employees. (These numbers do not include the approximately 645 non-federally insured credit unions that do not submit 5300 reports.) The actual number of credit unions exempt from TISA and part 707 is estimated by NCUA staff to be fewer than 1,000. Although the statutory exemption is permanent in nature, NCUA encourages exempted credit unions to continue to comply with the spirit and intent of TISA by providing full and fair account disclosures to members. Even with the extension, many small, nonautomated credit union activities comply with the purposes of TISA: to enable credit union members and potential members to make informed decisions about credit union accounts and to make meaningful comparisons with accounts at other financial institutions.

Definition of Nonautomated

The NCUA Board has decided to implement the Act's exemption for nonautomated credit unions by

amending the coverage provisions of paragraph 707.1(c) and by adding a new Comment 707.1(c)–3 to Appendix C, Official Staff Interpretations. No application is necessary in order to obtain the exemption. However, as required by the Act, NCUA does determine a credit union's legibility for the exemption. Credit unions may contact the appropriate Regional Office to verify their use of the exemption.

By the term "nonautomated status" NCUA means those credit unions without adequate and sufficient in-house or vendor-provided computer or data processing capacity and capability to establish, operate and maintain a share and loan software program able to timely and accurately process all member transactions on all member accounts at the credit union. Thus, some exempted credit unions do have some computer capacity, such as a word processor or a computer with insufficient memory and power capabilities to operate a complete, up-to-date share and loan software program. Since these credit unions are not sufficiently automated for Truth in Savings purposes, it is the determination of the NCUA Board that such credit unions are entitled to the Act's exemption. NCUA generally has used the year-end NCUA Form 5300 report to determine the requisite nonautomation status and asset size for those credit unions filing Form 5300 reports that have been eligible for the previous TISA compliance date extensions. Credit unions which do not file Form 5300 reports are currently permitted to prove nonautomation status and asset size by other means, such as verified self-certifications, certifications by appropriate state supervisory authorities, and other equivalent forms of proof. In the future, NCUA will use a combination of these methods to determine eligibility for the TISA exemption.

Operation of Exemption

The Act authorizes the NCUA Board to determine the extent and operation of the TISA exemption. All credit unions that were exempt from TISA regulation as a result of the prior NCUA compliance date extensions as of September 30, 1996, are exempt. These are credit unions with $2 million or less in assets, after subtracting any nonmember deposits, that are nonautomated as determined by the NCUA Board. If any of these credit unions grow to have more than $2 million in assets as of December 31 of any year, the NCUA Board will require such credit unions to comply with TISA and part 707 on January 1 one year after the December 31st (in other words, the credit union will have at least one year to prepare for compliance). Similarly, if a credit union becomes sufficiently automated to operate a complete share and loan system, such credit union will be entitled to the same compliance phase-in period. For example, if a credit union grows to over $2 million in assets on December 31, 1997 (or if it becomes sufficiently automated on December 31, 1997), it must begin compliance with TISA and part 707 on January 1, 1999. The NCUA Board believes that a previously exempt small credit union will need time to draft account disclosures, install TISA compliance software into its share and loan system, test its share and loan system, and make other decisions regarding its automation. By granting at least one full year before the previously exempt credit union must comply with TISA, the Board believes that it is allowing sufficient time for such a credit union to ease into TISA compliance. Also, if a new credit union is chartered with less than $2 million in assets, it will be eligible for the exemption until it no longer meets exemption eligibility criteria.

(3) Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a regulation may have on a substantial number of small credit unions (primarily those under $1 million in assets). This rule will not have a significant economic impact on a substantial number of small credit unions and therefore a regulatory flexibility analysis is not required.

Paperwork Reduction Act

NCUA has determined that the amendments do not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget (OMB). 60 FR 44978 (August 29, 1995).

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. This regulation makes no significant changes with respect to state credit unions since a temporary exemption is being made permanent. Therefore the rule will not materially affect state interests.

Administrative Procedure Act

The amendments and interpretation made to this part are not subject to the notice and comment provisions of the Administrative Procedure Act (APA), 5 U.S.C. 551 et seq. The amendments and interpretation implement new effective statutory requirements. In addition, no major changes are contemplated, or made, by this action since a temporary exemption is merely being made permanent. Therefore, the NCUA Board has determined that, in this case, the APA notice and comment procedures for these amendments and interpretation are impracticable, unnecessary, and contrary to the public interest. 5 U.S.C. 553(b)(3)(B).

List of Subjects

12 CFR Part 701

Credit, Credit unions, Reporting and recordkeeping requirements.

12 CFR Part 707

Advertising, Credit unions, Consumer protection, Interest, Interest rates, Truth in savings.

By the National Credit Union Administration Board on December 19, 1996.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends 12 CFR parts 701 and 707 as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789 and Public Law 101–73. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601, et seq., 42 U.S.C. 1981 and 42 U.S.C. 3601–3610. Section 701.35 is also authorized by 12 U.S.C. 4311–4312.

2. Section 701.21 is amended by revising the first sentence in paragraph (d)(1) and paragraph (d)(4) is amended by revising the introductory text to read as follows:

§ 701.21 Loans to members and lines of credit to members.

* * * * *

(d) Loans and lines of credit to officials

(1) *Purpose.* Sections 107(5)(A) (iv) and (v) of the Act require the approval of the board of directors of the Federal credit union in any case where the aggregate of loans to an official and loans on which the official serves as endorser or guarantor exceeds $20,000 plus pledged shares. * * *

* * * * *

(4) *Board of Directors' review.* The board of directors shall, in any case, review and approve or deny an application on which an official is a

direct obligor, or endorser, cosigner or guarantor if the following computation produces a total in excess of $20,000:

* * * * *

PART 707—TRUTH IN SAVINGS

3. The authority citation for part 707 continues to read as follows:

Authority: 12 U.S.C. 4311.

4. Section 707.1 is amended by revising the first sentence of paragraph (c) to read as follows:

§ 707.1 Authority, purpose, coverage, and effect on state laws.

* * * * *

(c) Coverage. This part applies to all credit unions whose accounts are either insured by, or eligible to be insured by, the National Credit Union Share Insurance Fund, except for any credit union that has been designated as a corporate credit union by the National Credit Union Administration and any credit union that has $2 million or less in assets, after subtracting any nonmember deposits, and is determined to be nonautomated by the National Credit Union Administration. * * *

* * * * *

5. Appendix C to part 707 is amended under paragraph 707.1(c), by adding a new paragraph 3 to read as follows:

Appendix C to Part 707—Official Staff Interpretations

* * * * *

§ 707.1 Authority, Purpose, Coverage and Effect on State Laws.

* * * * *

(c) *Coverage*

* * * * *

3. *Nonautomated credit unions.* Nonautomated credit unions with an asset size of $2 million or less, after subtracting any nonmember deposits, are exempt from TISA and part 707. NCUA defines a "nonautomated credit union" as a credit union without sufficient data processing capability and capacity to establish, operate and maintain a share and loan software system to timely and accurately process all account transactions of all members. The nonautomated credit union exemption is available to all credit unions meeting the asset size and automation standards of this comment, including newly chartered credit unions. If any of the credit unions eligible for this exemption grow to have more than $2 million in assets as of December 31 of any year, the NCUA Board will require such credit unions to comply with TISA and part 707 on January 1 of one year after such credit union loses its exemption eligibility. Similarly, if a credit union becomes sufficiently automated to operate a complete share and loan system, such credit union will be entitled to the same compliance phase-in period.

* * * * *

[FR Doc. 96–32748 Filed 12–26–96; 8:45 am]

BILLING CODE 7535–01–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 900

[No. 96–92]

Description of Organization and Functions

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is amending the description of the agency's organization and functions contained in its regulations, as required by the Freedom of Information Act (FOIA). The changes have been made to further the efficiency and productivity of the agency.

DATES: This final rule shall be effective on December 27, 1996.

FOR FURTHER INFORMATION CONTACT: David A. Guy, Associate General Counsel, Office of General Counsel, (202) 408–2536, Federal Housing Finance Board, 1777 F Street, NW. Washington DC 20006.

SUPPLEMENTARY INFORMATION: Pursuant to section 552(a) of the FOIA, the Finance Board is required to publish in the **Federal Register** a description of the agency's organization and functions. *See* 5 U.S.C. 552(a)(1)(A)–(B). A description of the Finance Board's organizations and functions appears in part 900 of the Code of Federal Regulations. *See* 12 CFR Part 900. This final rule is intended to give public notice of changes to the Finance Board's organization and allocation of functions. The changes have been made to further the efficiency and productivity of the agency.

The public notice-and-comment requirements of the Administrative Procedure Act (APA) do not apply to the regulatory amendments contained in this final rule because the amendments relate exclusively to the organization of the agency. *See* 5 U.S.C. 553(b)(1)(A). Therefore, these amendments are being adopted as a final rule, effective on the date of publication.

Because this rule will be not be issued in the form of a notice of proposed rulemaking, the provisions of the Regulatory Flexibility Act do not apply. *See* 5 U.S.C. 601.

List of Subjects in 12 CFR Part 900

Organization and functions (Government agencies).

Accordingly, title 12, chapter IX, part 900, Code of Federal Regulations, is hereby amended as follows:

PART 900—DESCRIPTION OF ORGANIZATION AND FUNCTIONS

1. The authority citation for part 900 continues to read as follows:

Authority: 5 U.S.C. 552; 12 U.S.C. 1422b(a).

2. Sections 900.12 through 900.15 are revised to read as follows:

§ 900.12 Office of the Managing Director.

(a) The Managing Director is the Finance Board's chief operating officer. By order of the Chairperson, the Managing Director has been delegated the authority and power necessary and convenient to effect the day-to-day management, functioning, and organization of the Finance Board, including the authority to appoint, remove, promote, direct, set compensation for, and pay Finance Board personnel. The Managing Director is authorized to execute documents on behalf of the Board of Directors, including regulations, resolutions, or orders duly passed by the Board of Directors. The Managing Director is also the Finance Board's Chief Information Officer.

(b) The Executive Secretariat is a division within the Office of the Managing Director. The Executive Secretary is the recording officer for the Board of Directors and is responsible for maintaining the Finance Board's records, including copies of all resolutions and rules adopted by the Board of Directors and orders issued by the Chairperson. The Executive Secretary also is responsible for the preparation and maintenance of the minutes or other records of all official actions and proceedings of the Board of Directors, and is responsible for the official seals of the Finance Board. This division also is responsible for the agency's Freedom of Information Act, Privacy Act, and Records Management Programs. The Executive Secretary is the primary liaison with the Office of the Federal Register.

(c) The District Banks Secretariat is a division within the Office of the Managing Director responsible for administering the election of directors of the Banks and for maintaining records on each of the Banks' policies and marketing activities.

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§ 900.13 Office of Policy.

(a) The Office of Policy coordinates the Finance Board's policy development activities and provides advice to the Chairperson and the Board of Directors on the economic, financial, housing and community and economic development, and competitive environments in which the Bank System and its members operate. The responsibilities of the Office of Policy include:

(1) Analysis and modeling of the financial performance of the Banks;

(2) Collection and analysis of financial data in order to prepare the Bank System's annual combined financial reports and other periodic reports on Bank System operations;

(3) Collection and analysis of data on the housing and community and economic development activities of the Banks;

(4) Analysis of the Banks' performance under the Affordable Housing Program and the Community Investment Program;

(5)Analysis of policy issues arising under the Affordable Housing Program and the Community Investment Program;

(6) Preparation of the Monthly Survey of Rates and Terms of Conventional One-Family Nonfarm Mortgage Loans and determination of the conforming loan limit for Federal National Mortgage Association (Fannie Mae) and Federal Home Loan Mortgage Corporation (Freddie Mac) purchases and guarantees; and

(7) Review of the Banks' quarterly dividend recommendations.

(b) The Office of Policy is the Finance Board's primary liaison with the Banks' Chief Financial Officers concerning financial management issues, the Banks' Community Investment Officers concerning community and economic development, the Banks' Advisory Councils concerning Bank System support of affordable housing, and the Bank System's fiscal agent, the Office of Finance. It prepares the annual reports to Congress and to the Banks' Advisory Councils concerning Bank System support for low-income housing and community development.

§ 900.14 Office of Supervision.

The Office of Supervision oversees the Banks, the Office of Finance and the Financing Corporation to ensure that they operate in a financially safe and sound manner, that the Banks are carrying out their housing and community and economic development finance mission and are in compliance with applicable statutes and regulations, as well as Finance Board policies and orders. The responsibilities of the Office of Supervision include:

(a) The conduct of examinations, at least annually, of the Banks, the Office of Finance and the Financing Corporation and the furnishing of reports thereon to the Chairpersons of their Boards of Directors;

(b) The follow-up and resolution of outstanding examination issues;

(c) Liaison with each Bank's audit committee and the review and evaluation of the work of each Bank's internal audit staff;

(d) The monitoring of Bank and System interest rate risk, financial trends and mission-related activities; and

(e) The review of Community Support Statements of Bank System members.

§ 900.15 Office of General Counsel.

The General Counsel is the chief legal officer of the Finance Board. The Office of General Counsel provides advice to the Board of Directors, the Chairperson, and other Finance Board officials, on interpretations of statutes and regulations. The Office of General Counsel prepares all legal documents on behalf of the Finance Board and prepares opinions, regulations, and memoranda of law. It represents the Finance Board in all administrative adjudicatory proceedings before the Board of Directors. The Chairman appoints the Finance Board's Designated Agency Ethics Official from the staff of the Office of General Counsel.

§ 900.16 Office of Inspector General.

The Inspector General is subject to, and operates under, the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. app. 3). The Inspector General reports to and is under the general supervision of the Chairperson. The Inspector General's responsibilities under the Inspector General Act include providing policy direction for, and conducting, supervising, and coordinating audits and investigations relating to the programs and operations of the Finance Board, and recommending policies for promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, the Finance Board's programs and operations. The Inspector General prepares and furnishes to the Chairman for transmittal to the Congress semiannual reports on the activities of the Office of Inspector General.

§ 900.17 Office of Congressional Affairs.

The Office of Congressional Affairs is responsible for ensuring the effective coordination and communication with the Congress and interest groups, and for briefing the Chairperson, the other Directors, and the Managing Director, on legislative issues before Congress pertaining to the Finance Board, the Bank System, and the Financing Corporation.

§ 900.18 Office of Public Affairs.

The Office of Public Affairs is responsible for the dissemination of information about the Finance Board to the public and the news media. The Office of Public Affairs is the Finance Board's primary liaison with news reporters. It also responds to general inquiries about the activities of the Finance Board.

§ 900.19 Office of Resource Management.

The Office of Resource Management advises the Chairperson and the Board of Directors on internal agency management and organization and provides support services to the agency and to individual employees. The responsibilities of the Office of Resource Management include:

(a) Developing and managing agency policies and procedures governing employment and personnel action requirements, compensation and agency payroll requirements, travel, awards, insurance, retirement benefits, and other employee benefits;

(b) Providing support for all facility and supply requirements;

(c) Agency procurement and contracting programs;

(d) Agency financial management, budgeting and accounting; and

(e) Coordinating the design, programming, operation, and maintenance of the Finance Board's electronic data systems.

§§ 900.20, 900.21 [Removed]

3. Sections 900.20 and 900.21 are removed.

Dated: December 11, 1996.

By the Board of Directors of the Federal Housing Finance Board.

Bruce A. Morrison,

Chairman.

[FR Doc. 96–32373 Filed 12–26–96; 8:45 am]

BILLING CODE 6725–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–58–AD; Amendment 39–9852; AD 96–25–09]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F28 Mark 0100 series airplanes, that requires modification of the thrust reverser doors, and replacement of the Collins multifunction display units (MFDU) with new MFDU's. This amendment also requires installation of a placard if the replacement of the MFDU is accomplished prior to modification of the thrust reverser door. This amendment is prompted by a report that cracks were found in the flanges of the main hinge fittings of the horizontal stabilizer, which were caused by higher than anticipated loads induced during thrust reverser operation. The actions specified by this AD are intended to ensure the structural integrity of the horizontal stabilizer by reducing the thrust reverser loads on the horizontal stabilizer.

DATES: Effective January 31, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 31, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2141; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplanes was published in the **Federal Register** on December 4, 1995 (60 FR 62051). That action proposed to require modification of the thrust reverser doors. That action also proposed to require replacement of certain Collins multifunction display units (MFDU) with certain new MFDU's, and installation of a placard if the replacement of the MFDU is accomplished prior to modification of the thrust reverser door.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

One commenter supports the proposed AD.

Request To Revise Compliance Time

One commenter requests that the compliance time for accomplishing the modification be revised from the proposed "prior to the accumulation of 15,000 total flight cycles or within 1 year after the effective date of the AD, whichever is later," to "prior to the accumulation of 16,000 total flight cycles or within 2 years after the effective date of the AD, whichever is later." This commenter states that the interval for its regular heavy maintenance ("Q" check) is expected to be escalated in the near future to 16,000 flight hours/cycles; if the compliance time of the AD is extended likewise, it will allow this commenter to modify its fleet of affected airplanes during this regularly scheduled heavy maintenance interval. The commenter notes that, since the modification takes approximately 300 work hours to complete, it would be more economical to accomplish the modification during regularly scheduled maintenance, rather than having to schedule special times for the modification to be done. The commenter also states that, if it were required to bring its airplanes in for modification at a time other than the "Q" check interval, the associated costs would be far more than what the FAA indicated in its "cost impact" information that appeared in the preamble to the notice. Further, this commenter states that 6 of its 40 affected airplanes already have gone through their "Q" checks without having the modification installed; and if those 6 airplanes were required to be modified within 1 year, this commenter would sustain significant economic and logistical burdens.

The FAA does not concur with the commenter's request. The compliance time specified in the notice was developed in consultation with both the Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, and Fokker. Based on fatigue test results and analysis of the effects of the thrust reverser loads on adjacent structure, the FAA has determined that 15,000 flight cycles is the maximum number of cycles that these airplanes can be allowed to operate prior to modification without compromising safety. The commenter has submitted no technical data to justify its request for an extension of this limit by 1,000 additional flight cycles. Although the FAA does consider the maintenance schedules of affected operators when developing appropriate compliance times for AD actions, it does not revise AD's merely to accommodate individual operators' maintenance schedules.

Additionally, the FAA disagrees with the commenter's statement that the modification takes 300 work hours to complete. The cost impact information that appeared in the preamble to the notice (and in this final rule, below) indicated that only 127 work hours were necessary to complete the modification. That figure was based on information provided by the manufacturer, and was conservatively estimated based on performing options that take the longest time to accomplish. Further, the manufacturer estimates that the total elapsed time necessary to accomplish the modification is only 67 hours, since more than one person can perform the work.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 102 Fokker Model F28 Mark 0100 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 127 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $19,000 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $2,715,240, or $26,620 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish

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those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–25–09 Fokker: Amendment 39–9852. Docket 95–NM–58–AD.

Applicability: Model F28 Mark 0100 series airplanes; serial numbers 11244 through 11460 inclusive, 11463 through 11469 inclusive, 11471, 11474, 11476, 11478, and 11479; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

(a) Prior to the accumulation of 15,000 total flight cycles, or within 1 year after the effective date of this AD, whichever occurs later, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD concurrently, except as provided by paragraph (b) of this AD.

(1) Modify the thrust reverser doors in accordance with Fokker Service Bulletin SBF100–78–010, Revision 1, dated April 26, 1994; and

(2) Replace the Collins multifunction display units (MFDU) having part number (P/N) 622–8047–412 or 622–8047–422 with new MFDU's having P/N 622–8047–414 or 622–8047–423, respectively; as applicable; in accordance with Fokker Service Bulletin SBF100–31–036, dated February 7, 1994.

(b) Paragraph (a)(2) of this AD may be accomplished prior to paragraph (a)(1) of this AD provided that a placard is installed on the main instrument panel in accordance with Fokker Service Bulletin SBF100–31–038, dated April 26, 1994, and removed, prior to further flight, after accomplishment of the requirements of paragraph (a)(1) of this AD.

(c) For airplanes that have been modified in accordance with paragraphs (a)(1) and (a)(2) of this AD: No person may install a Grumman Aerospace aft engine cowling having part number 1159P41440 on any airplane unless it has been previously modified in accordance with Fokker Component Service Bulletin P41440–78–02, dated December 17, 1993, as revised by Fokker Component Service Bulletin Change Notification P41440–78–02/001, dated February 25, 1995.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished. Issued in Renton, Washington, on November 28, 1995.

(f) The actions shall be done in accordance with Fokker Service Bulletin SBF100–31–036, dated February 7, 1994; Fokker Service Bulletin SBF100–31–038, dated April 26, 1994; and Fokker Service Bulletin SBF100–78–010, Revision 1, dated April 26, 1994, which contains the following list of effective pages:

Page number	Revision level shown on page	Date shown on page
1–6, 8, 10, 11	1	April 26, 1994.
7, 9, 12–14 ...	Original	February 7, 1994.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on January 31, 1997.

Issued in Renton, Washington, on December 5, 1996.

S. R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–31526 Filed 12–26–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 96–NM–135–AD; Amendment 39–9857; AD 96–25–14]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, –30, and –40 Series Airplanes, and KC–10 (Military) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–10–10, -30, and -40 series airplanes, and KC–10 (military) series airplanes, that requires repetitive high frequency eddy current (HFEC) inspections to detect cracks in the number 4 banjo fitting on the rear spar of the vertical stabilizer, and repair and modification of the vertical stabilizer, if necessary. It also requires the installation of a modification as terminating action for the repetitive inspections. This amendment is prompted by reports of failed attach

bolts and cracking found in the area of the number 4 banjo fitting, which were caused by higher than normal operating stresses. The actions specified by this AD are intended to prevent reduction in the structural integrity of this fitting due to failed bolts and cracking.

DATES: Effective January 31, 1997. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 31, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ron Atmur, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5224; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10–10, –30, and –40 series airplanes, and KC–10 (military) series airplanes was published in the **Federal Register** on August 29, 1996 (61 FR 47375). That action proposed to require repetitive high frequency eddy current (HFEC) inspections to detect cracks in the number 4 banjo fitting on the rear spar of the vertical stabilizer, and repair and modification of the vertical stabilizer, if necessary. It also proposed to require the installation of a modification as terminating action for the repetitive inspections.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Allow Use of Additional Service Information

Several commenters request that the proposal be revised to allow the terminating modification to be accomplished in accordance with earlier versions of McDonnell Douglas Service Bulletin DC10–54–096. Although the proposal only referenced Revision 03 of this service bulletin as the appropriate source of service information, these commenters contend that the modification as described in the original issue of the service bulletin (dated March 23, 1989), as well as Revision 01 (dated September 17, 1990) and Revision 02 (dated May 5, 1995), is equivalent to that described in Revision 03. Since certain of these commenters have already installed the modification on their airplanes in accordance with the earlier revisions of the service bulletin, they want to ensure that they will receive credit for having complied with the proposed terminating action.

The FAA concurs, and has included all of the revisions in final rule as acceptable sources of service information for compliance with the terminating modification requirements of the AD.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 376 Model DC–10–10, –30, and –40 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 230 airplanes of U.S. registry will be affected by this AD.

It will take approximately 2 work hours per airplane to accomplish each required inspection; the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspection requirement on U.S. operators is estimated to be $27,600, or $120 per airplane, per inspection.

It will take approximately 34 hours to accomplish the terminating modification. Required parts will cost approximately $3,875 per airplane for "Group 1" airplanes, and approximately $3,427 per airplane for "Group 2" airplanes. Based on these figures, the cost impact of the modification requirement on U.S. operators is estimated to be $5,915 per Group 1 airplane and $5,467 per Group 2 airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. However, the FAA has been advised that some operators have already accomplished the terminating modification on airplanes in their fleets; therefore, the future cost impact of this AD is expected to be reduced by the amount associated with each previously modified airplane.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–25–14 McDonnell Douglas: Amendment 39–9857. Docket 96–NM–135–AD.

Applicability: Model DC–10–10, –30, and –40 series airplanes, and KC–10 (military) series airplanes; as listed in McDonnell Douglas Service Bulletin DC10–54–096, Revision 03, dated February 6, 1996; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduction in the structural integrity of the number 4 banjo fitting on the rear spar of the vertical stabilizer, which could ultimately result in a reduction in the ability to control the airplane during flight and ground operations, accomplish the following:

(a) Prior to the accumulation of 5,000 total landings, or within 1,500 landings after the effective date of this AD, whichever occurs later, perform a high frequency eddy current (HFEC) inspection to detect cracks in the upper and lower surface of the aft flange of the number 4 banjo fitting on the rear spar of the vertical stabilizer, in accordance with McDonnell Douglas Service Bulletin DC10–54–096, Revision 03, dated February 6, 1996.

(1) If no crack is found, repeat the HFEC inspection thereafter at intervals not to exceed 1,500 landings.

(2) If any crack is found, prior to further flight, repair the crack and install the modification in accordance with the service bulletin.

(b) Within 5 years after the effective date of this AD, modify the vertical stabilizer in the area of the number 4 banjo fitting on the rear spar, in accordance with any of the revisions of McDonnell Douglas Service Bulletin DC10–54–096 specified in TABLE 1 of this AD. Accomplishment of this modification constitutes terminating action for the repetitive HFEC inspections required by paragraph (a)(1) of this AD.

TABLE 1.—MCDONNELL DOUGLAS SERVICE BULLETIN DC10–54–096

Revision level	Issue date
(Original Issue)	March 23, 1989.
Revision 1	September 17, 1990.
Revision 2	May 5, 1995.
Revision 03	February 6, 1996.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The inspections shall be done in accordance with McDonnell Douglas Service Bulletin DC10–54–096, Revision 03, dated February 6, 1996. The modification shall be done in accordance with any of the following versions of McDonnell Douglas Service Bulletin DC10–54–096:

Revision level	Issue date
(Original Issue)	March 23, 1989.
Revision 1	September 17, 1990.
Revision 2	May 5, 1995.
Revision 03	February 6, 1996.

This incorporation by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on January 31, 1997.

Issued in Renton, Washington, on December 6, 1996.

S. R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–31608 Filed 12–26–96; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 95–NM–271–AD; Amendment 39–9856; AD 96–25–13]

RIN 2120–AA64

Airworthiness Directives; Jetstream Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Jetstream Model 4101 series airplanes, that requires a high frequency eddy current inspection to detect cracks of the boundary angle and joint angle of the rear pressure bulkhead, and repair, if necessary. This amendment also requires modification of the rear pressure bulkhead of the fuselage. This amendment is prompted by a report of fatigue cracking in the rear pressure bulkhead of the fuselage. The actions specified by this AD are intended to prevent such fatigue cracking, which could result in reduced structural integrity of the fuselage and, consequently, lead to the rapid decompression of the pressurized area of the airplane.

DATES: Effective January 31, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 31, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Jetstream Model 4101 airplanes was published as a supplemental notice of proposed rulemaking in the **Federal Register** on October 31, 1996 (61 FR 56169). That action proposed to require a high frequency eddy current inspection to detect cracks of the boundary angle and joint angle of the rear pressure bulkhead, and repair, if necessary. That action also proposed to require modification of the rear pressure bulkhead of the fuselage.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 40 Model 4101 airplanes of U.S. registry will be affected by this AD, that it will take approximately 40 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $96,000, or $2,400 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–25–13 JETSTREAM AIRCRAFT LIMITED: Amendment 39–9856. Docket 95–NM–271–AD.

Applicability: Model 4101 airplanes, constructors numbers 41004 through 41047 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue-related cracking in the rear pressure bulkhead, which could result in reduced structural integrity of the fuselage and, consequently, lead to the rapid decompression of the pressurized area of the airplane, accomplish the following:

(a) Prior to the accumulation of 10,000 total landings, or within 6 months after the effective date of this AD, whichever occurs later, accomplish paragraphs (a)(1) and (a)(2) of this AD, in accordance with Jetstream Service Bulletin J41–53–020, Revision 1, dated June 4, 1996.

(1) Perform a high frequency eddy current inspection to detect cracks of the boundary angle and joint angle of the rear pressure bulkhead, in accordance with the service bulletin. If any crack is detected, prior to further flight, repair it in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(2) Modify the rear pressure bulkhead of the fuselage (Jetstream Modification JM41382A), in accordance with the service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The inspection and modification shall be done in accordance with Jetstream Service Bulletin J41–53–020, Revision 1, dated June 4, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on January 31, 1997.

Issued in Renton, Washington, on December 6, 1996.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–31605 Filed 12–26–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–NM–244–AD; Amendment 39–9861; AD 96–25–18]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 767 series airplanes, that requires inspections of the components of the leading edge outboard slat; replacement of the control rod end, if necessary; and various follow-on actions. This amendment is prompted by reports of skewed panels of the outboard leading edge slat due to failure of a corroded rotary actuator or the control rod. The actions specified by this AD are intended to prevent such conditions, which could result in reduced controllability of the airplane and damage to or cracking of the leading edge slats or the fixed leading edge of the wing.

DATES: Effective January 31, 1997.

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The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 31, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Kristin Larson, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–1760; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 767 series airplanes was published in the **Federal Register** on December 13, 1995 (60 FR 63992). That action proposed to require inspections of the components of the leading edge outboard slat; replacement of the control rod end, if necessary; and various follow-on actions.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

Two commenters support the proposed rule.

Request To Revise the Description of the Addressed Unsafe Condition

One commenter notes that the description of the cause of the addressed unsafe condition that appeared in the Summary and Discussion sections of the preamble to the notice states that "* * * the cause of the skewed panels is attributed to either corrosion of the rotary actuator, cracking of the control rod, or incorrect clearance of the overtravel stop * * *." The commenter suggests that a more accurate description of the cause would be "* * * failure of a corroded rotary actuator, due to excessive loads caused by the incorrect clearance of the overtravel stop, or failure of the control rod."

The FAA concurs and has revised the appropriate sections of this preamble to specify this language.

Requests To Extend the Compliance Time for Inspections Performed Previously

Several commenters request that the compliance time for paragraphs (a), (b), and (c) of the proposal be revised to allow credit for visual inspections performed previously within 6,000 hours time-in-service, or 18 months, whichever occurs later. One commenter submitted an identical request, but for inspections performed previously within 5,500 hours time-in-service. Two other commenters narrowed this request to apply to only paragraph (b) of the proposal. These commenters state that, as the NPRM is currently worded, it penalizes operators who promptly started accomplishing Boeing Service Bulletin 767–27A0137 after its issuance on May 18, 1995. These commenters assert that their suggested compliance times will coincide with the repetitive inspection requirements of the proposal.

The FAA concurs with the commenters' request to allow credit for all inspections accomplished prior to the effective date of this AD. The FAA has re-reviewed the recommended compliance time in the subject service bulletin and the proposed AD. The FAA does not intend that operators be penalized for accomplishing the actions specified in Boeing Service Bulletin 767–27A0137 in an expeditious manner. Although the service bulletin recommends that credit be allowed only for inspections accomplished previously within 3,000 hours time-in-service, the FAA finds that no data exist to warrant limiting credit for such inspections to 3,000 hours. Therefore, the FAA has removed the phrase "unless previously accomplished within the last 3,000 hours time-in-service prior to the effective date of this AD" from paragraphs (a), (b), and (c) of the final rule. In the case of this AD, if the initial inspection has been accomplished prior to the effective date of the AD, this AD does not require that it be repeated. However, the AD does require that repetitive inspections be conducted thereafter at intervals not to exceed 6,000 hours time-in-service, and that other follow-on actions be accomplished when indicated.

Request to Extend the Compliance Time for Slat Adjustment

One commenter requests that the compliance time for adjustment of the stop clearance, as specified in paragraph (a)(2) of the proposal, be extended from the proposed 500 hours time-in-service to 3,000 hours time-in-service. This commenter asserts that the time for accomplishing this adjustment of the slats with incorrect clearance at the overtravel stop should not be more stringent than the time for accomplishing the replacement of the rotary actuator if no clearance is found to exist (specified in proposed paragraph (a)(3) as 3,000 hours time-in-service).

The FAA does not concur with the commenter's request to extend the compliance time for the slat adjustment; nor does the FAA agree that the compliance time for adjustment of the slats is more stringent than that for replacement of the actuator and gearbox. Paragraph (a)(2) of the AD requires the proper adjustment of the stop clearance within 500 flight hours after the initial inspection if that inspection reveals that some clearance exists, but not the correct clearance; the inspection is then to be repeated thereafter at intervals of 6,000 hours time-in-service. However, the FAA points out that paragraph (a)(3) of the AD requires adjustment of the stop clearance immediately (prior to further flight) if the inspection reveals that no clearance exists; after this adjustment is accomplished, the replacement of the actuator and gearbox is required within 3,000 hours time-in-service. For cases where some clearance exists, the FAA finds a compliance time of 500 flight hours to be appropriate and warranted, since some clearance may continue to deteriorate until no clearance exists.

Requests to Defer Initial Inspections

Two commenters request that the compliance time for the initial inspections be deferred until Model 767 series airplanes have accumulated 10,000 total hours time-in-service, as recommended in Boeing Service Bulletin 767–27A0137, Revision 1, dated November 30, 1995. One of these commenters states that the history of the Model 767 fleet has shown that, for airplanes that have accumulated 10,000 total hours time-in-service or less, the amount and location of corrosion in the rotary actuators does not adversely affect their strength or function.

The FAA concurs with the commenters' request to defer the initial inspections. The FAA has reviewed and approved Revision 1 of Boeing Service Bulletin 767–27A0137, dated November 30, 1995, as discussed below. The FAA has revised the compliance time of the initial inspection requirements of paragraphs (a), (b), and (c) of the final rule to state "prior the accumulation of 10,500 total hours time-in-service since date of manufacture, or within 500

hours time-in-service after the effective date of this AD, whichever occurs later . . ." to coincide with the recommendations of the service bulletin.

Requests to Reference Boeing Service Bulletin 767–27A0137

Several commenters request that the FAA reference Boeing Service Bulletin 767–27A0137, Revision 1, dated November 30, 1995, as the appropriate source of service information for accomplishing the actions required by the proposal.

These commenters point out that, even though the proposal references the Boeing 767 Airplane Maintenance Manual (AMM), Chapter 27–81–20, as the appropriate source of service information, the proposed actions and compliance times of the proposal appear to be consistent with the recommendations of Boeing Service Bulletin 767–27A0137. Two of these commenters point out that the procedures described in the Boeing 767 AMM for accomplishing the inspection requirements of the proposal are not as detailed as those described in Boeing Service Bulletin 767–27A0137. The commenters contend that referencing the subject service bulletin will eliminate the operators' confusion as to which slats are to be inspected.

One of these commenters states that many operators have already accomplished the recommendations of Boeing Service Bulletin 767–27A0137, since it has been available for some time now. However, without specific reference to this service bulletin in the proposal, operators will be hesitant to indicate compliance with the AD without first submitting a request for an alternative method of compliance.

The FAA concurs with the commenters' request to reference Boeing Service Bulletin 767–27A0137 as the appropriate source of service information. The FAA has reviewed and approved Boeing Service Bulletin 767–27A0137, Revision 1, dated November 30, 1995. The service bulletin describes procedures for:

1. A visual inspection to verify proper clearance of the overtravel stop;
2. Adjustment of the stop clearance, and replacement of the rotary actuator and adjacent offset gearbox, if necessary;
3. Repetitive visual inspections to detect external signs of internal corrosion of the rotary actuator of the outboard leading edge slat;
4. Replacement of a certain earlier model rotary actuator with a certain later model rotary actuator, for certain airplanes;
5. Visual inspection(s) to verify proper installation of the control rods of the outboard leading edge slats; and
6. Tightening of the bolts or installing a new lockwire, if any bolt is loose or any lockwire is missing.

The final rule has been revised to include this service bulletin as an additional source of appropriate service information. The final rule also has been revised to indicate the specific numbers of the outboard leading edge slats that are to be inspected.

Operators should note that although the Boeing service bulletin indicates that certain procedures may be accomplished in accordance with an "operator's equivalent procedure," this AD does not permit such procedures to be used unless they have been approved as an alternative method of compliance under the provisions of paragraph (d) of the final rule. Since procedures may vary from operator to operator, the FAA would have no way of knowing whether an "equivalent" procedure would provide an acceptable level of safety unless it has been reviewed and verified in accordance with the alternative method of compliance approval process. New NOTES 3, 4, and 5 have been added to this final rule to clarify this information.

Request to Reference Original Version of Service Bulletin

Two commenters request that the proposed rule be revised to cite the original version of Boeing Alert Service Bulletin 767–27A0137, dated May 18, 1995, as an additional source of service information for accomplishing the actions specified in the AD. The FAA concurs and has revised the final rule to include a new "NOTE 2" to clarify this point.

Request to Revise the Reference to "New" Actuator

Several commenters note that paragraphs (b)(1)(i), (b)(2)(i), and (b)(2)(ii) of the proposal specify replacement of the actuator with a "new" actuator having part number (P/N) 256T2120–5 or later. One of these commenters suggests that, in lieu of the word "new," the language in the AD should use the term "serviceable," which would be a more accurate description. This same commenter states that a serviceable actuator, having P/N 256T2120–5 or later, is sufficient when it has been inspected according to the Component Maintenance Manual.

The FAA concurs with this suggestion and has revised the relevant wording of the final rule.

Request to Revise the Cost Impact Statement

One commenter questions the FAA's cost estimate presented in the preamble to the notice. The commenter points out that the cost estimate did not include the cost of replacement of the rotary actuators, having part number (P/N) 256T2120–3 or earlier, with a new rotary actuator, having P/N 256T2120–5 or later.

The FAA finds that clarification of the costs associated with the requirements of this AD is necessary. The FAA points out that the economic analysis of the AD is usually limited only to the cost of actions actually required by the rule. It does not consider the costs of "on condition" actions (e.g., "replace if any sign of internal corrosion is detected"), since those actions would be required to be accomplished, regardless of AD direction, in order to correct an unsafe condition identified in an airplane, and to ensure operation of that airplane in an airworthy condition, as required by the Federal Aviation Regulations.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 612 Model 767 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 213 airplanes of U.S. registry will be affected by this AD, that it will take approximately 14 work hours per airplane to accomplish the required inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $178,920, or $840 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various

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levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–25–18 Boeing: Amendment 39–9861. Docket 95–NM–244–AD.

Applicability: All Model 767 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced controllability of the airplane and damage to or cracking of the leading edge slats or the fixed leading edge of the wing, accomplish the following:

Note 2: Actions specified in this AD that were accomplished prior to the effective date of this AD in accordance with Boeing Alert Service Bulletin 767–27A0137, dated May 18, 1995, are considered acceptable for compliance.

(a) Prior to the accumulation of 10,500 total hours time-in-service, or within 500 hours time-in-service after the effective date of this AD, whichever occurs later: Perform a visual inspection to verify proper clearance of the overtravel stop of the outboard leading edge slats 2, 3, 4, 5, 8, 9, 10, and 11, in accordance with Part I of Boeing Service Bulletin 767–27A0137, Revision 1, dated November 30, 1995, or Chapter 27–81–20 of the Boeing 767 Airplane Maintenance Manual (AMM).

Note 3: Although the Boeing service bulletin indicates that the actions required by this paragraph may be accomplished in accordance with the "operator's equivalent procedure," this AD does not permit use of an "operator's equivalent procedure" unless it has been approved as an alternative method of compliance in accordance with paragraph (d) of this AD.

(1) If proper clearance exists, repeat the inspection for proper clearance thereafter at intervals not to exceed 6,000 hours time-in-service or 18 months, whichever occurs later.

(2) If clearance exists, but is incorrect, at the next convenient maintenance interval, but no later than 500 flight hours after accomplishment of the inspection, adjust the stop clearance for the slats in accordance with the service bulletin or AMM. Repeat the inspection for proper clearance thereafter at intervals not to exceed 6,000 hours time-in-service or 18 months, whichever occurs later.

(3) If no clearance exists (i.e., stop contact), prior to further flight, adjust the stop clearance for the slats in accordance with the service bulletin or AMM. After the adjustment, within 3,000 hours time-in-service or 1,500 flight cycles after accomplishing the inspection required by paragraph (a) of this AD, whichever occurs later, replace the rotary actuator and adjacent offset gearbox in accordance with the service bulletin or AMM. After replacement, repeat the inspection for proper clearance at intervals not to exceed 6,000 hours time-in-service or 18 months, whichever occurs later.

(b) Prior to the accumulation of 10,500 total hours time-in-service, or within 500 hours time-in-service after the effective date of this AD: Perform a visual inspection to detect external signs of internal corrosion of the rotary actuator of the outboard leading edge slats 2, 3, 4, 5, 8, 9, 10, and 11, in accordance with Part II of the Boeing Service Bulletin 767–27A0137, Revision 1, dated November 30, 1995, or Chapter 27–81–20 of the Boeing 767 AMM.

Note 4: Although the Boeing service bulletin indicates that the actions required by this paragraph may be accomplished in accordance with the "operator's equivalent procedure," this AD does not permit use of an "operator's equivalent procedure" unless it has been approved as an alternative method of compliance in accordance with paragraph (d) of this AD.

(1) If no sign of internal corrosion is detected, accomplish paragraph (b)(1)(i) or (b)(1)(ii) of this AD, as applicable.

(i) For airplanes on which a rotary actuator having part number (P/N) 256T2120–3 or earlier is installed: Within 4,000 flight hours after the effective date of this AD, replace that rotary actuator with a serviceable rotary actuator having P/N 256T2120–5 or later, in accordance with the service bulletin or AMM. After replacement, repeat the inspection of the rotary actuator at intervals not to exceed 6,000 flight hours or 18 months, whichever occurs later.

(ii) For airplanes on which a rotary actuator having P/N 256T2120–5 or later is installed: Repeat the inspection of the rotary actuator thereafter at intervals not to exceed 6,000 flight hours or 18 months, whichever occurs later.

(2) If any sign of internal corrosion is detected, accomplish paragraph (b)(2)(i) or (b)(2)(ii) of this AD, as applicable.

(i) For airplanes on which a rotary actuator having part number (P/N) 256T2120–3 or earlier is installed: Within 4,000 flight hours after the effective date of this AD, replace that rotary actuator with a serviceable rotary actuator having P/N 256T2120–5 or later, in accordance with the service bulletin or AMM. After replacement, repeat the inspection of the rotary actuator at intervals not to exceed 6,000 flight hours or 18 months, whichever occurs later.

(ii) For airplanes on which a rotary actuator having P/N 256T2120–5 or later is installed: Within 6,000 flight hours or 18 months after accomplishing the initial inspection required by paragraph (b) of this AD, replace that rotary actuator with a serviceable rotary actuator having P/N 256T2120–5 or later, in accordance with the service bulletin or AMM. After replacement, repeat the inspection required of the rotary actuator at intervals not to exceed 6,000 flight hours or 18 months, whichever occurs later.

(c) Prior to the accumulation of 10,500 total hours time-in-service, or within 500 hours time-in-service after the effective date of this AD: Perform a visual inspection to verify proper installation (including loose bolts and missing lockwires) of the control rods of the outboard leading edge slats 2, 3, 4, 5, 8, 9, 10, and 11, in accordance with Part III of the Boeing Service Bulletin 767–27A0137, Revision 1, dated November 30, 1995; or Chapter 27–81–20 of the Boeing 767 AMM.

Note 5: Although the Boeing service bulletin indicates that the actions required by this paragraph may be accomplished in accordance with the "operator's equivalent procedure," this AD does not permit use of an "operator's equivalent procedure" unless it has been approved as an alternative method of compliance in accordance with paragraph (d) of this AD.

(1) If all control rods are installed properly, repeat the inspection to verify proper installation thereafter at intervals not to exceed 6,000 flight hours or 18 months, whichever occurs later.

(2) If any bolt is loose or any lockwire missing, prior to further flight, tighten the bolt or install a new lockwire, in accordance

with the service bulletin or the AMM. Repeat the inspection to verify proper installation thereafter at intervals not to exceed 6,000 flight hours or 18 months, whichever occurs later.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 6: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The inspections and replacements shall be done in accordance with Boeing Service Bulletin 767–27A0137, Revision 1, dated November 30, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on January 31, 1997.

Issued in Renton, Washington, on December 11, 1996.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–32048 Filed 12–26–96; 8:45 am]

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14 CFR Part 39

[Docket No. 96–CE–12–AD; Amendment 39–9865; AD 96–26–02]

RIN 2120–AA64

Airworthiness Directives; FLS Aerospace (Lovaux) Ltd. OA7 Optica Series 300 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain FLS Aerospace (Lovaux) Ltd. OA7 Optica series 300 airplanes equipped with a Hoffman fan, part number HO–E315/122EZ, and fan shaft extension. This AD requires replacing the fan shaft extension with one that incorporates Modification No. B2/MOD/047. The AD results from a quality control review that shows that the four counterbores on the fan shaft extension to engine attachment flange have excessive depths. The actions specified in this AD are intended to prevent cracks from forming in the fan shaft extension flange and subsequent structural failure of this area because of counterbores with excessive depth.

DATES: Effective January 13, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 13, 1997.

Comments for inclusion in the Rules Docket must be received on or before March 20, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 96–CE–12–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from FLS Aerospace (Lovaux) Ltd., Bournemouth International Airport, Christchurch, Dorset BH23 6NW, England; telephone 0202 500200; facsimile 0202 580567. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–CE–12–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Maurice Kuttler, Program Officer, Brussels Aircraft Certification Division, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium; telephone (32 2) 508.2715; facsimile (32 2) 230.6899: or Mr. Robert W. Alpiser, Project Officer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6934; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to Issuance of the Proposed AD

The Civil Airworthiness Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain FLS Aerospace (Lovaux) Ltd. OA7 Optica series 300 airplanes equipped with a Hoffman fan, part number (P/N) HO–E315/122EZ, and fan shaft extension. The CAA for the United Kingdom reports that a manufacturing process error could cause structural failure of the fan shaft extension.

This extension is attached to the engine propeller flange by six bolts. Of the six bushes on the propeller flange, four require a counterbore in the extension propeller flange. A quality control review of the manufacturing process has revealed that the depth of these counterbores on certain OA7 Optica 300 series airplanes equipped with a Hoffman fan, part number P/N HO–E315/122EZ, and fan shaft extension exceed 4.5 millimeters (mm). This could result in cracks forming in the propeller flange with subsequent structural failure of the fan shaft extension.

Applicable Service Information

FLS Aerospace Lovaux Mandatory Service Bulletin (MSB) No. B2/MSB/006, Issue: 1, dated August 22, 1994, specifies the following:

—measuring the depth of the four counterbores on the fan shaft extension to the engine attachment flange;

—inspecting the counterbores and propeller flange for cracks;

—incorporating Repair Drawing R 1299; and

—incorporating Modification B2/MOD/047 on the fan shaft extension.

The CAA of the United Kingdom classified this service bulletin as mandatory and issued CAA AD 010–08–94, in order to assure the continued airworthiness of these airplanes in the United Kingdom.

The FAA's Determination

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.19) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA of the United Kingdom has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA of the United Kingdom; reviewed all available information, including the service information and modification referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

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Explanation of the Provisions of This AD

Since an unsafe condition has been identified that is likely to exist or develop on other FLS Aerospace (Lovaux) Ltd. OA7 Optica series 300 airplanes of the same type design registered in the United States equipped with a Hoffman fan, P/N HO–E315/122EZ, and fan shaft extension, the FAA is issuing an AD. This AD requires replacing the fan shaft extension with one that incorporates Modification No. B2/MOD/047. Accomplishment of the modification would be in accordance with FL Aerospace Lovaux Modification Leaflet No. B2/MOD/047, dated August 31, 1994.

Differences Between This AD, Service Information, and the CAA AD

Both FLS Aerospace Lovaux Mandatory Service Bulletin (MSB) No. B2/MSB/006, Issue: 1, dated August 22, 1994, and CAA AD 010–08–94 specify the following:

—AT 50 HOURS TIME-IN-SERVICE (TIS): inspecting the fan shaft extension to engine attachment flange for cracks and replacing the fan shaft extension if any cracks are found; and measuring the depth of the four counterbores on the fan shaft extension to engine attachment flange incorporating Repair Drawing R 1299 if counterbores exceed a certain depth;

—AT 200 HOURS TIS: incorporating Modification B2/MOD/047 on the fan shaft extension.

Accomplishing the inspection, measurement, and possible repair allow the airplane to be operated until a Modification B2/MOD/047 fan shaft extension is installed. This AD only requires replacing the fan shaft extension. Since no airplanes are currently on the U.S. Register, the FAA has determined to require immediate fan shaft extension replacement on any aircraft obtaining a U.S. airworthiness certificate rather than require the inspection, measurement, and possible repair, and then require the replacement.

Cost Impact

None of the FLS Aerospace (Lovaux) Ltd. OA7 Optica series 300 airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers this rule necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register.

Should an affected airplane be imported and placed on the U.S. Register, accomplishment of the required replacement would take approximately 4 workhours at an average labor charge of $60 per workhour. Parts cost approximately $300 per airplane. Based on these figures, the total cost impact of this AD would be $540 per airplane that would become registered in the United States.

The Effective Date of This AD

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "**ADDRESSES.**" All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 96–CE–12–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by Reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

96–26–02 FLS Aerospace (LOVAUX) LTD.: Amendment 39–9865; Docket 96–CE–12–AD.

Applicability: OA7 Optica Series 300 Airplanes (serial numbers 020, 021, and 022), certificated in any category, that are equipped with a Hoffman fan, part number HO–E315/122EZ, and fan shaft extension.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area

subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required prior to further flight after the effective date of this AD, unless already accomplished.

To prevent cracks from forming in the fan shaft extension flange and subsequent structural failure of this area because of counterbores with excessive depth, accomplish the following:

(a) Replace the fan shaft extension with one that incorporates Modification No. B2/MOD/047 in accordance with FL Aerospace Lovaux Modification Leaflet No. B2/MOD/047, dated August 31, 1994. This modification is referenced in FLS Aerospace Lovaux Mandatory Service Bulletin No. B2/MSB/006, Issue: 1, dated August 22, 1994.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Division, Europe, Africa, Middle East office, FAA, c/o American Embassy, 1000 Brussels, Belgium. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Division.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Brussels Aircraft Certification Division.

(d) The replacement required by this AD shall be done in accordance with FL Aerospace Lovaux Modification Leaflet No. B2/MOD/047, dated August 31, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from FLS Aerospace (Lovaux) Ltd., Bournemouth International Airport, Christchurch, Dorset BH23 6NW, England. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment (39–9865) becomes effective on January 13, 1997.

Issued in Kansas City, Missouri, on December 16, 1996.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–32436 Filed 12–26–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 96–ANE–27; Amendment 39–9855; AD 96–25–12]

RIN 2120–AA64

Airworthiness Directives; Sundstrand T–62T–40C Series Auxiliary Power Units

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Sundstrand T–62T–40C series auxiliary power units (APUs). This action requires removal from service of certain compressor wheels in accordance with a drawdown schedule, and replacement with serviceable parts, and establishes a new cyclic life limit for the existing compressor wheels. This amendment is prompted by reports of compressor wheel ruptures. The actions specified in this AD are intended to prevent compressor wheel rupture, which could result in an uncontained APU failure and damage to the aircraft.

DATES: Effective January 13, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 13, 1997.

Comments for inclusion in the Rules Docket must be received on or before February 25, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–ANE–27, 12 New England Executive Park, Burlington, MA 01803–5299.

The service information referenced in this AD may be obtained from Sundstrand Aerospace, 4400 Ruffin Rd., P.O. Box 85757, San Diego, CA 92186–5757; telephone (619) 627–6303, fax (619) 627–6473. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Baitoo, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; telephone (310) 627–5245; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) has received three reports of compressor wheels, installed on Sundstrand T–62T–40C series auxiliary power units (APUs), that ruptured prior to the published cyclic life limit. Of the three ruptures, two were uncontained. The investigation revealed that the compressor wheels ruptured due to low cycle fatigue. This condition, if not corrected, could result in compressor wheel rupture, which could result in an uncontained APU failure and damage to the aircraft.

The FAA has reviewed and approved the technical contents of Sundstrand Aerospace Service Bulletin (SB) No. SB–T–62T–49–120, Revision 2, dated November 5, 1996, Revision 1, dated September 9, 1996, and Original, dated July 22, 1996, that describe procedures for removal from service of certain compressor wheels in accordance with a drawdown schedule, and replacement with new design serviceable parts, and establishes a new cyclic life limit for existing compressor wheels.

Since an unsafe condition has been identified that is likely to exist or develop on other APUs of the same type design, this AD is being issued to prevent compressor wheel rupture. This AD requires removal from service of certain compressor wheels in accordance with a drawdown schedule, and replacement with serviceable parts, and establishes a new cyclic life limit for existing compressor wheels. The actions are required to be accomplished in accordance with the SB described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All

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communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 96–ANE–27." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–23–12 Sundstrand Aerospace: Amendment 39–9855. Docket 96–ANE–27.

Applicability: Sundstrand Aerospace Models T–62T–40C series auxiliary power units (APUs), with compressor wheel, Part Numbers (P/Ns) 162690–1, 165111–1, and 167200–1. These APUs are installed on but not limited to Aerospatiale Super Puma, Boeing 707 series, British Aerospace HS 748 series, Cessna 650 series, Convair 650 and 880 series, Dassault Aviation Falcon 20, 50 and 200 series, de Havilland DHC–7 and DHC–8 series, Embraer 120 series, Fokker F .27 series, Gulfstream Aerospace Corporation 159, 1159, and G–III series, Hawker 700 series, Lockheed Jetstar 731 series, Raytheon Corporate Jets, Inc. BAe 125 series, Sabreliner Corporation NA–265 series aircraft.

Note 1: This airworthiness directive (AD) applies to each APU identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For APUs that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent compressor wheel rupture, which could result in an uncontained APU failure and damage to the aircraft, accomplish the following:

(a) Remove from service compressor wheels in accordance with the procedures described in the Accomplishment Instructions of Sundstrand Aerospace Service Bulletin (SB) No. SB–T–62T–49–120, Revision 2, dated November 5, 1996, Revision 1, dated September 9, 1996, or Original, dated July 22, 1996, and the drawdown schedule described in Table 2 of Revision 2 only, dated November 5, 1996, and replace with serviceable parts.

(b) This AD establishes a new life limit of 6,000 cycles for existing uninstalled compressor wheels, identified as Sundstrand P/Ns 162690–1, 165111–1, and 167200–1.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(e) Thereafter, except as provided in paragraphs (c) and (d) of this AD, no alternative replacement time may be approved for compressor wheels, identified as Sundstrand P/Ns 162690–1, 165111–1, and 167200–1.

(f) The actions required by this AD shall be done in accordance with the following Sundstrand Aerospace SBs:

Document No.	Revision	Pages	Date
SB–T–62–T–49–120	2	1–9	Nov. 5, 1996
Total pages: 9.			
SB–T–62–T–49–120	1	1–9	Sept. 9, 1996
Total pages: 9.			
SB–T–62–T–49–120	Original	1–9	July 22, 1996
Total pages: 9.			

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Sundstrand Aerospace, 4400 Ruffin Rd., P.O. Box 85757, San Diego, CA 92186–5757; telephone (619) 627–6303, fax (619) 627–6473. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on January 13, 1997.

Issued in Burlington, Massachusetts, on December 4, 1996.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 96–32181 Filed 12–26–96; 8:45 am]

BILLING CODE 4910–13–U

FEDERAL TRADE COMMISSION

16 CFR Part 419

Trade Regulation Rule Concerning Games of Chance in the Food Retailing and Gasoline Industries

AGENCY: Federal Trade Commission.

ACTION: Repeal of rule.

SUMMARY: The Federal Trade Commission announces the repeal of the Trade Regulation Rule concerning Games of Chance in the Food Retailing and Gasoline Industries. The Commission has reviewed the rulemaking record and determined that due to changes in industry practices, the Rule no longer serves the public interest and should be repealed. This notice contains a Statement of Basis and Purpose for repeal of the Rule.

EFFECTIVE DATE: December 26, 1996.

ADDRESSES: Requests for copies of the Statement of Basis and Purpose should be sent to Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: John M. Mendenhall, Federal Trade Commission, Cleveland Regional Office, Suite 520A, 668 Euclid Avenue, Cleveland, Ohio 44114, (216) 522–4210.

SUPPLEMENTARY INFORMATION:

Statement of Basis and Purpose

I. Background

The Commission promulgated the Trade Regulation Rule concerning Games of Chance in the Food Retailing and Gasoline Industries (Games of Chance Rule), 16 CFR Part 419, on August 16, 1969 (34 FR 13302). The purpose of the Rule was to address abuses that were uncovered during Commission and Congressional investigation into the use of games of chance for promotional purposes in the food retailing and gasoline industries. In both industries, it appeared that the winning game pieces were being distributed in a manner not determined by chance but calculated to have maximum promotional impact. In order to prevent future abuses, the Rule required various pending-game and post-game disclosures, as well as certain procedures for operating a game of chance.

Pending-game disclosures included: (1) The number of prizes in each "category or denomination;" (2) the odds-of-winning each prize; (3) the number of retail outlets participating in the game; (4) the geographic area covered by the game; and (5) the end date. If the game extended beyond 30 days, the Rule required weekly updating of disclosures of the odds-of-winning and the number of prizes. Post-game disclosures included: (1) The list of winners and the amount or value of each prize; (2) the total number of game pieces distributed; (3) the number of prizes in each "category or denomination" that were made available; and (4) the number of prizes actually awarded. Procedural requirements included a hiatus between games; a prohibition against terminating a game prior to distribution of all game pieces; a prohibition against replenishing of game pieces or prizes during a game; and a three-year record-keeping requirement.

The Commission amended the Rule once in 1981. The amendments alleviated some reporting requirements, dropped certain requirements of the "winners list" provision, and shortened the required hiatus between games.[1]

After the 1981 amendments, advertising and broadcasting trade associations filed a petition seeking exemption from the disclosure requirements for broadcast advertising of games. The petition asserted that games of chance could not be advertised in the broadcast media if full disclosures regarding prizes and odds of winning were required. In response to the petition, the Commission granted a temporary exemption from disclosure requirements for broadcast advertising.[2]

In a related action, the Commission issued an Advance Notice of Proposed Rulemaking (ANPR) to request comments about whether the Commission should make the exemption permanent and whether to revise other aspects of the Rule.[3] The commenters who responded to the ANPR consisted of members of the supermarket, gasoline, advertising, game promotion, and broadcasting industries, and lawyers with experience in representing such industries.

Based upon comments received in response to the ANPR and the staff's analysis, the Commission published its Notice of Proposed Rulemaking (NPR).[4] The major proposals of the NPR were to amend the Rule to: (1) drop certain disclosures in advertising and promotional materials; (2) raise the threshold for winners lists disclosures to prizes of $50.00 and over; (3) permit replenishment of prize game pieces; and (4) drop the waiting period required between games. In 1995, the Presiding Officer re-opened the record for additional comments, particularly regarding whether there was a continuing need for this Rule.[5]

The Commission received seven comments in response to the NPR and seven in response to the 1995 request for additional comments. These commenters included members of the advertising, broadcasting, game promotion, and game user industries.[6] A number of these commenters urged rescission of the Rule, stating that it discriminated unfairly against certain types of retailers and that there was no record of abuse to justify retaining the Rule.[7] Others urged retention of a modified Rule in order to protect consumers from possible deception.[8] Finally, some commenters stated that if the Commission were to retain the Rule, it should be expanded to include other

[1] 16 CFR 419.1(e), -(f) (1995); 46 FR 36840 (July 16, 1981).

[2] 48 FR 1046 (Jan. 10, 1983).

[3] 48 FR 265 (Jan. 4, 1983).

[4] 53 FR 39103 (Oct. 5, 1988).

[5] 60 FR 38474 (July 26, 1995).

[6] Those filing comments on the NPR included: The Promotion Marketing Association of America, Inc.; CBS; Leo Burnett Company, Inc.; Association of Retail Marketing Services; Incentive Federation, Inc.; Producers Alliance on Rulemaking; and the Food Marketing Institute. No prospective witness filed a request to testify at a hearing, and the Presiding Officer therefore issued a Notification of Cancellation of Public Hearings and Rebuttal Period. 53 FR 39103 (1988). Parties responding to the 1995 notice re-opening the record included: the Food Marketing Institute; the Minnesota Service Station and Convenience Store Association; the National Association of Broadcasters; the National Association of Convenience Stores; The Promotion Marketing Association of America, Inc.; Society of Independent Gasoline Marketers of America; and Triplex Marketing, Inc.

[7] Those urging rescission included: the Food Marketing Institute; the National Association of Convenience Stores; Society of Independent Gasoline Marketers of America; and The Promotion Marketing Association of America, Inc.

[8] Producer's Alliance on Rulemaking; Triplex Marketing, Inc.; and the Minnesota Service Station and Convenience Store Association.

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industries in order to remove the discriminatory effect against grocery stores and gasoline stations.[9] As with the response to the ANPR, the Commission received no comments from any public interest groups, government agencies or consumers.

The Final Staff Report [10] and the Presiding Officer's Report [11] on the proposed rulemaking both recommended rescission of the Rule. The reports were placed on the public record and public comments were invited.[12] No public comments were received on the reports and their joint recommendation to the Commission to rescind the Games of Chance Rule. The reasons for repeal of the Rule, as set forth in these two reports, are summarized below.

II. Basis for Repeal of Rule

The Commission has determined to repeal the Games of Chance Rule based on an analysis of the rulemaking record. The Commission bases its rescission on the following reasons:

1. In the 27 years since the Rule was promulgated, there have been no enforcement actions for violations of the Rule. It appears that the abuses that prompted adoption of this Rule have largely disappeared.

2. The Rule has become outdated. It covers only a limited sector of retail businesses that use games of chance in their promotions. During the 1960s, grocery stores and gasoline stations were the primary users of games. Today, however, businesses not covered by the Rule, such as fast food restaurants and soft drink bottlers, use games of chance as much as, or even more often than, those that are covered by the Rule. Generally, even businesses that are not covered voluntarily make some of the more important required disclosures, such as the prizes offered and the odds of winning them.

3. The Rule may have an adverse effect on businesses that must comply with all of the Rule's requirements, but are competing with other firms that are not regulated by the Rule. In recent years, the distinctions between types of retailers have become blurred. Many stores other than traditional grocery stores now sell food items, and grocery stores often sell prepared food like restaurants. Thus, although various retailers sell food, only grocery stores must incur costs to comply with the Rule. This disparity in treatment could be addressed by expanding the Rule to cover all retailers using games of chance. There is, however, no evidentiary basis in the record for expansion.

4. The states are in a good position to control the activities of retailers operating games of chance because such retailers have a physical presence in the states where they do business. Many states traditionally have been involved in the oversight of games of chance and sweepstakes, particularly where such games may violate a state's public policy against commercial lotteries.

5. This rulemaking has generated very little interest, indicating a lack of importance of this Rule in today's marketplace.[13] Significantly, no comments were filed in response to the recommendation of the Presiding Officer's Report and the Final Staff Report that the Commission repeal the Games of Chance Rule.

All of these reasons indicate that the Rule is outdated and no longer necessary to protect consumers. It appears that the costs of the Rule now outweigh its benefits. Should abuses recur in the future, both the Commission and the states can use case-by-case law enforcement to prosecute those engaging in unfair or deceptive practices in the use of games of chance.

III. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–12, requires that the agency conduct an analysis of the anticipated impact of the repeal of the Rule on small businesses.[14] The purpose of a regulatory flexibility analysis is to ensure that the agency considers the impact of a regulatory action on small entities and examines regulatory alternatives that could achieve the regulatory purpose while minimizing burdens on small entities. However, Section 605 of the RFA, 5 U.S.C. 605, provides that such an analysis is not required if the agency head certifies that the regulatory action will not have a significant economic impact on a substantial number of small entities.

Because the Games of Chance Rule covers retail food stores and gasoline stations, it may affect a substantial number of small entities. However, repeal of the Rule will not have a significant economic impact upon such entities. Disclosures and record-keeping requirements that are eliminated may involve a small cost savings to such retailers, but the effect will not be significant. Grocery stores and gasoline stations using games of chance, however, will be able to continue making those disclosures deemed most important to their customers or that are required by state law. Moreover, the Commission is not aware of any existing federal laws or regulations that would conflict with repeal of the Rule. Therefore, based on available information, the Commission certifies that repeal of the Games of Chance Rule will not have a significant economic impact on a substantial number of small entities.

IV. Paperwork Reduction Act

The Games of Chance Rule imposes third-party disclosure and record-keeping requirements that constitute information collection requirements for which the Commission has obtained clearance under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Office of Management and Budget (OMB) Control Number 2084–0067. Accordingly, repeal of the Rule would eliminate any burdens on the public imposed by these disclosure and recordkeeping requirements.

List of Subjects in 16 CFR Part 419

Advertising, Foods, Gambling, Gasoline, Trade practices.

PART 419—[REMOVED]

The Commission, under authority of Section 18 of the Federal Trade Commission Act, 15 U.S.C. 57a, amends chapter I of title 16 of the Code of Federal Regulations by removing Part 419.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–33016 Filed 12–26–96; 8:45 am]

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[9] E.g., the Food Marketing Institute.

[10] Federal Trade Commission Staff, Final Staff Report to the Federal Trade Commission, Games of Chance in the Food Retailing and Gasoline Industries (1996).

[11] Federal Trade Commission Presiding Officer, Report of the Presiding Officer on a Trade Regulation Rule Proceeding: Proposed Amendment of the Games of Chance Trade Regulation Rule (1996).

[12] 61 FR 29039 (June 7, 1996).

[13] In fact, a survey conducted for the rulemaking staff by Opinion Research Corporation showed that generally consumers do not base shopping decisions on the use of games of chance by retailers. Opinion Research Corporation, Survey to Assess the Effectiveness of the Games of Chance Trade Regulation Rule (1987).

[14] The RFA addresses the impact of rules on "small entities," defined as "small businesses," "small governmental entities," and "small (not-for-profit) organizations," 5 U.S.C. 601. The Games of Chance Rule does not apply to the latter two types of entities.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Chapter I

[Docket No. 96N–0094]

Uniform Compliance Date for Food Labeling Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is establishing January 1, 2000, as the uniform compliance date for food labeling regulations that are issued between January 1, 1997, and December 31, 1998. FDA has periodically announced uniform compliance dates for new food labeling requirements to minimize the economic impact of label changes. In 1992, FDA suspended this practice pending the issuance of regulations implementing the Nutrition Labeling and Education Act of 1990 (the 1990 amendments). FDA recently reinstated this practice of with the establishment of a uniform compliance date of January 1, 1998.

DATES: Effective December 27, 1996; written comments by March 13, 1997.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Center for Food Safety and Applied Nutrition (HFS–150), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4561.

SUPPLEMENTARY INFORMATION: FDA periodically issues regulations requiring changes in the labeling of food. If the effective dates of these labeling changes were not coordinated, the cumulative economic impact on the food industry of having to respond separately to each change would be substantial. Therefore, the agency periodically has announced uniform compliance dates for new food labeling requirements (see e.g., the **Federal Registers** of October 19, 1984 (49 FR 41019) and December 24, 1996 (61 FR 67710). Use of a uniform compliance date provides for an orderly and economical industry adjustment to new labeling requirements by allowing sufficient lead time to plan for the use of existing label inventories and the development of new labeling materials. This policy serves consumers' interests as well because the cost of multiple short-term label revisions that would otherwise occur would likely be passed on to consumers in the form of higher prices.

During the 1980's and into the early 1990's, FDA periodically issued final rules announcing new uniform compliance dates for food labeling regulations. The agency suspended the issuance of uniform compliance date final rules in 1992 because of the pending issuance of a number of new final regulations implementing the 1990 amendments. Most of these regulations are now in place and effective.

In the **Federal Register** of April 15, 1996 (61 FR 16422), FDA issued a proposal entitled "Uniform Compliance Date for Food Labeling Regulations." In that document, FDA, among other things, proposed to reinstate its practice of periodically issuing uniform compliance dates as final rules. The comments to the proposal fully supported the agency's doing so. With the publication of this final rule, FDA is reinstating this practice.

The agency has determined under 21 CFR 25.24(a)(11) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA has examined the economic implications of this final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select the regulatory approach that maximizes net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). Executive Order 12866 classifies a rule as significant if it meets any one of a number of specified conditions, including having an annual effect on the economy of $100 million or adversely affecting in a material way a sector of the economy, competition, or jobs, or if it raises novel legal or policy issues. If a rule has a significant impact on a substantial number of small entities, the Regulatory Flexibility Act requires agencies to analyze options that would minimize the economic impact of that rule on small entities.

The establishment of a uniform compliance date does not impose either costs or benefits. For future labeling requirements, FDA will assess the costs and benefits of the uniform compliance date as well as the options of setting alternative dates, especially with regard to the impact on small entities. Therefore, the agency finds that the final rule is not a significant rule as defined by Executive Order 12866. Similarly, the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities. It has also determined that the rule is not a major rule for the purpose of congressional review (Pub. L. 104–121).

This action is not intended to change existing requirements for compliance dates contained in final rules published before publication of this final rule. Therefore, all final FDA regulations published in the **Federal Register** before December 27, 1996 will still go into effect on the date stated in the respective final rule.

The agency generally encourages industry to comply with new labeling regulations as quickly as feasible, however. Thus, when industry members voluntarily change their labels, it is appropriate that they incorporate any new requirements that have been published as final regulations up to that time.

Because FDA has already provided notice and an opportunity for comment on the practice of establishing uniform compliance dates by issuance of a final rule announcing the date, it finds any further rulemaking unnecessary. Nonetheless, under 21 CFR 10.40(e)(1), FDA is providing an opportunity for comment on whether this uniform compliance date should be modified or revoked.

Interested persons may, on or before March 13, 1997 submit to the Dockets Management Branch (address above) written comments regarding this final rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday though Friday. After its review of any comments received to this final rule, FDA will either publish a notice providing its conclusions concerning the comments or will initiate notice and comment rulemaking to modify or revoke the uniform compliance date established by this final rule.

The new uniform compliance date will apply only to final FDA food labeling regulations that require changes in the labeling of food products and that publish after January 1, 1997, and before January 1, 1999. Those regulations will specifically identify January 1, 2000, as their compliance date. All food products subject to the January 1, 2000, compliance date must comply with the

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appropriate regulations when initially introduced into interstate commerce on or after January 1, 2000. If any food labeling regulation involves special circumstances that justify a compliance date other than January 1, 2000, the agency will determine for that regulation an appropriate compliance date, which will be specified when the final regulation is published.

Dated: December 20, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–32884 Filed 12–26–96; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Parts 510 and 522

Animal Drugs, Feeds, and Related Products; Fomepizole

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Orphan Medical, Inc. The NADA provides for intravenous use of fomepizole solution as an antidote for ethylene glycol poisoning in dogs.

EFFECTIVE DATE: December 27, 1996.

FOR FURTHER INFORMATION CONTACT: Marcia K. Larkins, Center for Veterinary Medicine (HFV–112), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–0614.

SUPPLEMENTARY INFORMATION: Orphan Medical, Inc., 13911 Ridgedale Dr., suite 475, Minnetonka, MN 55305, is sponsor of NADA 141–075, which provides for the use of Antizol-Vet™ (sterile injectable fomepizole solution) for use as an antidote for ethylene glycol (antifreeze) poisoning in dogs who have ingested or are suspected of having ingested ethylene glycol. The drug is for veterinary prescription use only. The NADA is approved as of November 25, 1996, and the regulations are amended in part 522 (21 CFR part 522) by adding a new § 522.1004 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

Orphan Medical, Inc., has not previously been added to the list of sponsors of approved applications in § 510.600(c) (21 CFR 510.600(c)). At this time, § 510.600(c)(1) and (c)(2) are amended to include entries for the firm.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(i)), this approval qualifies for 5 years of marketing exclusivity beginning November 25, 1996, because no active ingredient (including any ester or salt of the active ingredient) has been previously approved in any other application filed under section 512(b)(1) of the act.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

2. Section 510.600 is amended in the table in paragraph (c)(1) by alphabetically adding a new entry for "Orphan Medical, Inc.," and in the table in paragraph (c)(2) by numerically adding a new entry for "062161" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * *	* * * *
Orphan Medical, Inc., 13911 Ridgedale Dr., suite 475, Minnetonka, MN 55305	062161
* * *	* * * *

(2) * * *

Drug labeler code	Firm name and address
*	*
*	*
*	*
*	
062161	Orphan Medical, Inc., 13911 Ridgedale Dr., suite 475, Minnetonka, MN 55305.
*	*
*	*
*	*
*	

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

4. New § 522.1004 is added to read as follows:

§ 522.1004 Fomepizole.

(a) *Specifications.* Two vials, one containing 1.5 grams fomepizole (1.5 milliliter of 1.0 gram fomepizole per milliliter sterile aqueous solution), and one vial containing 30 milliliters of 0.9 percent sodium chloride injection USP (as a diluent).

(b) *Sponsor.* See 062161 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* 20 milligrams per kilogram initially, 15 milligrams per kilogram at 12 and 24 hours, and 5 milligrams per kilogram at 36 hours.

(2) *Indications for use.* As an antidote for ethylene glycol (antifreeze) poisoning in dogs who have ingested or are suspected of having ingested ethylene glycol.

(3) *Limitations.* Administer intravenously. For use by or on the order of a licensed veterinarian.

Dated: December 16, 1996.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 96–32883 Filed 12–26–96; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Parts 556 and 558

Animal Drugs, Feeds, and Related Products; Tilmicosin Phosphate Type A Medicated Article

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Elanco Animal Health. The NADA provides for the use of a Type A medicated article containing tilmicosin phosphate in manufacturing a Type B or Type C medicated feed indicated for the control of swine respiratory disease associated with certain bacterial organisms.

EFFECTIVE DATE: December 27, 1996.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1644.

SUPPLEMENTARY INFORMATION: Elanco Animal Health, A Division of Eli Lilly and Co., Lilly Corporate Center, Indianapolis, IN 46285, filed NADA 141–064, which provides for the use of a Type A medicated article containing 90.7 grams (g) of tilmicosin (as tilmicosin phosphate) per pound in manufacturing a Type C medicated feed (181.8 g to 363.6 g of tilmicosin per ton) indicated for the control of swine respiratory disease associated with *Actinobacillus pleuropneumoniae* and *Pasteurella multocida.* The NADA is approved as of December 27, 1996, and the regulations are amended by adding new § 558.618 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In addition, the agency is amending 21 CFR 556.735 to establish a tolerance for residues of tilmicosin in edible swine tissues. As discussed in the freedom of information summary, parent tilmicosin was selected as the marker residue, and liver as the target tissue, for determination of tilmicosin residues in edible swine tissues.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval qualifies for 3 years of marketing exclusivity for the use of tilmicosin in swine beginning December 27, 1996, because the application contains substantial evidence of the effectiveness of the drug involved, any studies of animal safety, or, in the case of food producing animals, human food safety studies (other than bioequivalence or residue studies) required for the approval of the application and conducted or sponsored by the applicant.

A high performance liquid chromatographic method is available to determine the presence and amount of the marker residue in swine liver. In addition, a high performance liquid chromatographic/mass spectrometric method is available to confirm the presence of the marker residue in liver. Both methods have been validated by FDA and the U.S. Department of Agriculture and are for regulatory purposes. The methods are available for public inspection at the Dockets Management Branch (address above) and are attached to the freedom of information summary for this NADA. Requests for copies of these methods should be made under the Freedom of Information Act.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Tilmicosin phosphate is a new animal drug used in a Type A medicated article to make Type B or Type C medicated feeds. Tilmicosin phosphate is a Category II drug as defined in 21 CFR 558.3(b)(1)(ii). Therefore, as provided in 21 CFR 558.4(b), an approved Form FDA 1900 is required for making a Type B or Type C medicated feed containing tilmicosin phosphate as in the approved subject NADA and in newly added § 558.618. Under section 512(m) of the act, as amended by the Animal Drug Availability Act of 1996 (ADAA), Pub. L. 104–250, medicated feed applications have been replaced by feed mill licensing.

Tilmicosin phosphate is limited to use under the professional supervision of a licensed veterinarian. It is the first veterinary feed directive (VFD) drug to be approved since the enactment of the ADAA. Pending issuance of regulations to implement veterinary feed directives, Congress directed FDA to set forth in the new animal drug approval notice required by section 512(i) of the act any necessary conditions relating to the

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labeling, advertising, distribution, holding, and use of a VFD drug. Accordingly, this regulation sets forth necessary conditions for tilmicosin phosphate (NADA 141–064) including the information that shall be included in a VFD:

•The name, address, and phone number of the veterinarian and the client;

•Identification of the animals to be treated, including, identification of the species, number of animals, and the location of the animals;

•Date of treatment and, if different, date of prescribing the VFD drug;

•The condition or disease being diagnosed or treated;

•Name of the animal drug;

•Level of animal drug in the feed and the amount of feed;

•Feeding instructions with withdrawal time;

•Any special instructions and cautionary statements necessary for use of the drug in conformance with the approval;

•Expiration date of the VFD;

•Number of refills, if permitted by the approval;

•Signature of the veterinarian; and

•The veterinarian's license number and name of the State issuing the license.

At such time as FDA finalizes general regulations governing VFD drugs, the general regulations may supersede certain specific VFD requirements of this approval regulation.

List of Subjects

21 CFR Part 556

Animal drugs, Foods.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 556 and 558 are amended as follows:

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

1. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: Secs. 402, 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342, 360b, 371).

2. Section 556.735 is revised to read as follows:

§ 556.735 Tilmicosin.

A tolerance is established for residues of parent tilmicosin (marker residue) in liver (target tissue) of cattle at 1.2 parts per million (ppm) and of swine at 7.2 ppm.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

4. Section 558.4 is amended in paragraph (d) in the "Category II" table by alphabetically adding a new entry for "Tilmicosin" to read as follows:

§ 558.4 Medicated feed applications.

* * * * *

(d) * * *

CATEGORY II

Drug	Assay limits percent[1] Type A	Type B maximum (100x)	Assay limits percent[1] Type B/C[2]
*	*	*	*
Tilmicosin	90—110	18.2 g/lb (4.0 %).	85—115

[1] Percent of labeled amount.

[2] Values given represent ranges for either Type B or Type C medicated feeds. For those drugs that have two range limits, the first set is for a Type B medicated feed and the second set is for a Type C medicated feed. These values (ranges) have been assigned in order to provide for the possibility of dilution of a Type B medicated feed with lower assay limits to make Type C medicated feed.

* * * * *

5. New § 558.618 is added to read as follows:

§ 558.618 Tilmicosin.

(a) *Approvals.* Type A medicated articles: 90.7 grams of tilmicosin (as tilmicosin phosphate) per pound (200 grams per kilogram) to 000986 in § 510.600(c) of this chapter.

(b) *Special considerations.* Do not use in any feed containing bentonite.

(c) *Related tolerances.* See § 556.735 of this chapter.

(d) *Conditions of use.* It is used in swine feed as follows:

(1) *Amount per ton.* 181.8 grams to 363.6 grams tilmicosin.

(2) *Indications for use.* For the control of swine respiratory disease associated with *Actinobacillus pleuropneumoniae* and *Pasteurella multocida.*

(3) *Limitations.* For use in swine feed only. The safety of tilmicosin has not been established in pregnant swine or swine intended for breeding purposes. Feed continuously as the sole ration for 21-day period, beginning approximately 7 days before an expected disease outbreak. Withdraw 7 days before slaughter. Federal law restricts this drug to use under the professional supervision of a licensed veterinarian. Any animal feed bearing or containing this drug shall be fed to animals only by or upon a lawful veterinary feed directive (VFD) issued by a licensed veterinarian in the course of the veterinarian's professional practice. VFD's for tilmicosin phosphate shall not be refilled.

(4) *VFD Requirements.* This drug and any article or feed manufactured from it shall bear the following cautionary statements: "Caution: Federal law limits this drug to use under the professional supervision of a licensed veterinarian. Animal feed bearing or containing this veterinary feed directive drug shall be fed to animals only by or upon a lawful veterinary feed directive issued by a licensed veterinarian in the course of the veterinarian's professional practice." A VFD shall contain the following information: The name, address, and phone number of the veterinarian and the client; identification of the animals to be treated, including, identification of the species, number of animals, and the location of the animals; date of treatment and, if different, date of prescribing the VFD drug; the condition or disease being diagnosed or treated; name of the animal drug; level of animal drug in feed and amount of feed; feeding instructions with withdrawal time; any special instructions and cautionary statements necessary for use of the drug in conformance with the approval; expiration date of VFD; number of refills, if permitted by approval; signature of the veterinarian; veterinarian's license number and name of the State issuing the license.

Dated: December 17,1996.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 96–32881 Filed 12–26–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF STATE

22 CFR Part 171

[Public Notice 2492]

Privacy Act of 1974; Implementation

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State is amending its regulations by exempting portions of a record system from certain provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a). Certain portions of the Garnishment of Wages

Records (STATE–61) are exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f).

EFFECTIVE DATE: January 27, 1997.

FOR FURTHER INFORMATION CONTACT: Celeste Houser-Jackson, 202–647–5061.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the **Federal Register** (61 FR 53158, October 10, 1996) inviting interested persons to submit comments concerning the proposed regulations. Since no comments were received, the amendment to the Privacy Provisions of the Department of State's Access to Information regulations was formally adopted as published.

List of Subjects in 22 CFR Part 171

Privacy.

PART 171—[AMENDED]

1. The authority citation for Part 171 continues to read as follows:

Authority: The Freedom of Information Act, 5 U.S.C. 552; the Privacy Act, 5 U.S.C. 552a; The Administrative Procedure Act, 5 U.S.C. 551, et seq.; The Ethics in Government Act, 5 U.S.C. App. 201; Executive Order 12958, 60 FR 19825; and Executive Order 12600, 52 FR 23781.

§ 171.32 [Amended]

2. In § 171.32, paragraph (j)(2) will be amended by adding "Garnishment of Wages Records. STATE–61", after "Records of the Inspector General and Automated Individual Cross Reference System. STATE–53".

Dated: December 16, 1996.

Joseph E. Lake,

Acting Assistant Secretary for the Bureau of Administration.

[FR Doc. 96–32739 Filed 12–26–96; 8:45 am]

BILLING CODE 4710–05–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8701]

RIN 1545–AC06

Treatment of Shareholders of Certain Passive Foreign Investment Companies

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final regulations that provide rules for making the deemed sale and deemed dividend elections under section 1291(d)(2). These regulations reflect changes to the law made by the Tax Reform Act of 1986 and the Technical and Miscellaneous Revenue Act of 1988, and apply to a shareholder of a passive foreign investment company (PFIC) that elects under section 1295 to treat the PFIC as a qualified electing fund (QEF) for a taxable year after the first taxable year during the shareholder's holding period that the foreign corporation was a PFIC.

DATES: These regulations are effective December 27, 1996.

Applicability: For the specific dates of applicability, see §§ 1.1291–9(k) and 1.1291–10(i).

FOR FURTHER INFORMATION CONTACT: Gayle Novig, (202) 622–3880 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in these final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control numbers 1545–1028 and 1545–1304. All of these paperwork requirements will be consolidated under control number 1545–1507. Responses to these collections of information are mandatory.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The estimated annual burden per respondent varies from .75 hour to 1 hour, depending on individual circumstances, with an estimated average of .76 hour.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to this collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains final regulations to be added to the Income Tax Regulations (26 CFR part 1) under section 1291(d)(2) of the Internal Revenue Code. The final regulations provide rules for making a deemed sale or deemed dividend election to purge a shareholder's holding period of stock of a PFIC of those taxable years during which the PFIC was not a QEF. The Tax Reform Act of 1986 added section 1291(d)(2)(A), relating to the deemed sale election, effective for taxable years of foreign corporations beginning after December 31, 1986. The Technical and Miscellaneous Revenue Act of 1988 amended section 1291(d)(2) to add new section 1291(d)(2)(B), relating to the deemed dividend election, effective for taxable years of foreign corporations beginning after December 31, 1986.

On March 2, 1988, temporary regulations (TD 8178) relating to the deemed sale election under section 1291(d)(2)(A), in addition to elections under sections 1294, 1295, and 1297, were published in the **Federal Register** (53 FR 6770). A notice of proposed rulemaking (INTL–941–86) cross-referencing the temporary regulations was also published in the **Federal Register** for the same day (53 FR 6781).

On April 1, 1992, temporary regulations (TD 8404) relating to both the deemed sale and deemed dividend elections under section 1291(d)(2) (A) and (B), were published in the **Federal Register** (57 FR 10992). A notice of proposed rulemaking (INTL–941–86; INTL–656–87; INTL–704–87) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (57 FR 11024).

Written comments responding to these notices were received. No public hearing was held for the notice of proposed rulemaking published on March 2, 1988. A public hearing was held November 23, 1992, for the notice of proposed rulemaking published April 1, 1992. After consideration of all the comments, the proposed regulations under section 1291(d)(2) are adopted as revised by this Treasury decision, and the corresponding temporary regulations are removed. Substantive revisions are discussed below. All other revisions are stylistic, and are primarily intended to conform the regulations under § 1.1291–10 to those under § 1.1291–9.

Explanation of Provisions and Revisions and Summary of Comments

1. Introduction

A shareholder of a foreign corporation that qualifies as a PFIC under the

income or asset test of section 1296 is subject to the special interest charge regime of section 1291 with respect to certain distributions by the PFIC and dispositions of the stock of the PFIC. Provided the PFIC complies with certain election requirements, a shareholder may elect under section 1295 to treat the PFIC as a QEF. If the election is made, the shareholder is subject to the current inclusion regime of section 1293. If the shareholder makes the section 1295 election for the first year of its holding period for the foreign corporation during which year the foreign corporation is a PFIC, the shareholder is only subject to PFIC taxation under the current inclusion regime. Such a PFIC is a pedigreed QEF with respect to the shareholder. However, if the shareholder makes the section 1295 election for a later year, the shareholder is subject to both the interest charge regime of section 1291 and the current inclusion regime of section 1293. Such a PFIC is an unpedigreed QEF with respect to the shareholder. To limit its PFIC taxation to the current inclusion regime of section 1293, a shareholder that makes the section 1295 election may also make a section 1291(d)(2) election to purge its holding period of the years, or parts of years, before the effective date of the QEF election during which the foreign corporation was a PFIC (nonQEF years). Thereafter, the PFIC will be treated as a pedigreed QEF with respect to the shareholder.

Section 1291(d)(2) provides two methods to purge the nonQEF years from a shareholder's holding period of PFIC stock. A shareholder may elect under section 1291(d)(2)(A) to be treated as having sold the stock of the PFIC. The gain on the deemed sale is subject to the interest charge regime and therefore taxed as an excess distribution under section 1291. Alternatively, if the PFIC is a controlled foreign corporation (CFC), any U.S. person that is a shareholder of the PFIC may elect under section 1291(d)(2)(B) to be treated as receiving a dividend in the amount of its pro rata share of the post-1986 undistributed earnings and profits of the PFIC. The deemed dividend is taxed to the shareholder as an excess distribution under the interest charge regime. If either election is made, the shareholder's holding period is treated, for purposes of the PFIC rules, as beginning on the date of the deemed sale or dividend (qualification date).

2. Revisions to the Regulations

Section 1.1291–9 provides the rules for making the deemed dividend election under section 1291(d)(2)(B) with respect to a PFIC that is a CFC. Section 1.1291–10 provides the rules for making the deemed sale election under section 1291(d)(2)(A). The final regulations generally follow the proposed regulations with the exceptions described below.

a. Qualification Date

The 1988 temporary regulations under § 1.1291–10T provided that, in general, the date of the deemed sale, referred to as the qualification date, is the first day of the first taxable year of the corporation that it is treated as a QEF under section 1295 (first QEF year). However, the temporary and proposed amendments to § 1.1291–10T published in 1992 changed the qualification date for elections made after May 1, 1992, to the first day of the taxable year for which the shareholder made the QEF election (shareholder's election year). Similarly, under the temporary and proposed § 1.1291–9 regulations, the qualification date is the first day of the shareholder's election year.

Commenters described a potential problem with the designation of the first day of the shareholder's election year as the qualification date where the corporation and the shareholder have different taxable years. In this circumstance, the purging election would not avoid application of the interest charge regime to distributions and dispositions during the period between the first day of the corporation's first QEF year and the first day of the shareholder's election year.

In response to comments, the final regulations adopt the definition of qualification date used in the 1988 temporary regulations for purposes of both the deemed sale and deemed dividend elections made on or after January 27, 1997. For the period after March 31, 1995, to January 26, 1997, the final regulations adopt the definition of qualification date of the 1992 temporary regulations. In addition, the final regulations permit a shareholder that made the deemed sale or deemed dividend election after May 1, 1992 and on or before January 27, 1997 to amend its election and treat the deemed sale or deemed dividend as occurring on the first day of the PFIC's first QEF year, provided the periods of limitations on assessment for the taxable year that includes that date and for the shareholder's election year have not expired.

In response to comments, the final regulations also clarify that if the shareholder's holding period under section 1223 includes the first day of the first QEF year, the shareholder will be treated as holding the stock on that date. Therefore, the shareholder may make a section 1291(d)(2) election for the first QEF year.

b. Elections Made With Respect to Former PFICs

Section 1.1291–9(h) of the proposed regulations provides that a shareholder cannot apply the deemed dividend rules of section 1291(d)(2)(B) to purge PFIC taint, pursuant to section 1297(b)(1), from the stock of a foreign corporation that no longer is a PFIC under either the asset or income test of section 1296(a), but whose stock nevertheless is treated as stock of a PFIC with respect to a shareholder pursuant to section 1297(b)(1) (former PFIC). In addition, the proposed regulations provide that the section 1291(d)(2)(B) election cannot be made with respect to a corporation that will not qualify as a PFIC under section 1296(a)(1) or (2) in the first QEF year.

Several commenters disagreed with the position taken in § 1.1291–9(h) of the proposed regulations. Section 1.1291–9(i)(1) of the final regulations does not accept these comments and adopts the rule of the proposed regulation denying application of the rules of section 1291(d)(2)(B) for purposes of a section 1297(b)(1) election. In addition, § 1.1291–9(i)(2) modifies the rule of proposed regulation § 1.1291–9(h)(2) to clarify that the section 1295 and 1291(d)(2)(B) elections cannot be made with respect to a former PFIC. Section 1.1291–10(h) of the final regulations adopts a similar rule, clarifying that a shareholder of a former PFIC cannot make the section 1295 and 1291(d)(2)(A) elections. Thus, section 1295 and section 1291(d)(2) elections may only be made with respect to a foreign corporation that is a PFIC by definition under section 1296. Accordingly, the deemed sale election of section 1297(b)(1) remains the only means by which a shareholder may purge a former PFIC of its PFIC taint.

c. Qualification as a CFC

The final regulations, in response to comments, clarify that a shareholder may make the deemed dividend election provided the PFIC qualifies as a CFC for its first QEF year.

d. Time for Making the Elections

In response to comments, the final regulations clarify the time for making the deemed sale and dividend elections. The regulations provide that if the shareholder and the PFIC have the same taxable year, and therefore the first day of the shareholder's election year and the qualification date are the same, the shareholder may make the election in the same return in which it makes the

section 1295 election or in an amended return. The regulations also provide that if the shareholder and the PFIC have different taxable years and therefore the qualification date precedes the first day of the shareholder's election year, the shareholder must make the deemed sale or deemed dividend election in an amended return. If the shareholder is making the section 1291(d)(2) election in an amended return, the amended return must be filed within three years of the due date, as extended under section 6081, for the return for the taxable year that includes the qualification date.

e. Post-1986 Accumulated Earnings and Profits

The proposed regulations provide that the shareholder's old holding period for purposes of the PFIC rules ends on the qualification date, but also provide that its new holding period begins on the qualification date. These rules may have caused confusion concerning the last day of the holding period for purposes of determining post-1986 accumulated earnings and profits. The final regulations revise the holding period rules to provide that the shareholder's holding period ends on the day before the qualification date for purposes of calculating the amount of the deemed dividend.

Special Analyses

It has been determined that this Treasury Decision is not a significant regulatory action as defined in E.O. 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the notice of proposed rulemaking preceding the regulations was issued prior to March 29, 1996, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. These regulations, which have a retroactive effective date, satisfy the Administrative Procedure Act's requirement in section 553(d) for good cause because they provide necessary guidance for the period after March 31, 1995, and because they are not detrimental to taxpayers. These regulations are necessary because they provide taxpayers with the rules needed to make the elections under section 1291(d)(2). Pursuant to section 7805(f) of the Internal Revenue Code, the notices of proposed rulemaking preceding these regulations were submitted to the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Gayle Novig, Office of the Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by removing the entry for section 1.1291–9T and the entry for sections 1.1291–10T, 1.1294–1T, 1.1295–1T, and 1.1297–3T, and by adding entries in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *.

Section 1.1291–9 also issued under 26 U.S.C. 1291(d)(2).

Section 1.1291–10 also issued under 26 U.S.C. 1291(d)(2).

Section 1.1294–1T also issued under 26 U.S.C. 1294.

Section 1.1297–3T also issued under 26 U.S.C. 1297(b)(1). * * *

Par. 2. Section 1.1291–0 is added to read as follows:

§ 1.1291–0 Treatment of shareholders of certain passive foreign investment companies; table of contents.

This section contains a listing of the headings for §§ 1.1291–9 and 1.1291–10.

§ 1.1291–9 Deemed dividend election.

(a) Deemed dividend election.
(1) In general.
(2) Post-1986 earnings and profits defined.
(i) In general.
(ii) Pro rata share of post-1986 earnings and profits attributable to shareholder's stock.
(A) In general.
(B) Reduction for previously taxed amounts.
(b) Who may make the election.
(c) Time for making the election.
(d) Manner of making the election.
(1) In general.
(2) Attachment to Form 8621.
(e) Qualification date.
(1) In general.
(2) Elections made after March 31, 1995, and before January 27, 1997.
(i) In general.
(ii) Exception.
(3) Examples.
(f) Adjustment to basis.
(g) Treatment of holding period.
(h) Coordination with section 959(e).
(i) Election inapplicable to shareholder of former PFIC.
(1) Coordination with section 1297(b)(1).
(2) Former PFIC.
(j) Definitions.
(1) Passive foreign investment company (PFIC).
(2) Types of PFICs.
(i) Qualified electing fund (QEF).
(ii) Pedigreed QEF.
(iii) Unpedigreed QEF.
(iv) Former PFIC.
(3) Shareholder.
(k) Effective date.

§ 1.1291–10 Deemed sale election.

(a) Deemed sale election.
(b) Who may make the election.
(c) Time for making the election.
(d) Manner of making the election.
(e) Qualification date.
(1) In general.
(2) Elections made after March 31, 1995, and before January 27, 1997.
(i) In general.
(ii) Exception.
(f) Adjustments to basis.
(1) In general.
(2) Adjustment to basis for section 1293 inclusion with respect to deemed sale election made after March 31, 1995, and before January 27, 1997.
(g) Treatment of holding period.
(h) Election inapplicable to shareholder of former PFIC.
(i) Effective date.

§ 1.1291–0T [Amended]

Par. 3. Section 1.1291–0T is amended as follows:

1. Remove from the introductory text the language "1.1291–9T, 1.1291–10T,".

2. Remove the entries for § 1.1291–9T and § 1.1291–10T from the table.

Par. 4. Section 1.1291–9 is added to read as follows:

§ 1.1291–9 Deemed dividend election.

(a) *Deemed dividend election*—(1) *In general.* This section provides rules for making the election under section 1291(d)(2)(B) (deemed dividend election). Under that section, a shareholder (as defined in paragraph (j)(3) of this section) of a PFIC that is an unpedigreed QEF may elect to include in income as a dividend the shareholder's pro rata share of the post-1986 earnings and profits of the PFIC attributable to the stock held on the qualification date (as defined in paragraph (e) of this section), provided the PFIC is a controlled foreign corporation (CFC) within the meaning of section 957(a) for the taxable year for which the shareholder elects under section 1295 to treat the PFIC as a QEF (section 1295 election). If the shareholder makes the deemed dividend election, the PFIC will become a

pedigreed QEF with respect to the shareholder. The deemed dividend is taxed under section 1291 as an excess distribution received on the qualification date. The excess distribution determined under this paragraph (a) is allocated under section 1291(a)(1)(A) only to those days in the shareholder's holding period during which the foreign corporation qualified as a PFIC. For purposes of the preceding sentence, the holding period of the PFIC stock with respect to which the election is made ends on the day before the qualification date. For the definitions of PFIC, QEF, unpedigreed QEF, and pedigreed QEF, see paragraph (j)(1) and (2) of this section.

(2) *Post-1986 earnings and profits defined*—(i) *In general.* For purposes of this section, the term post-1986 earnings and profits means the undistributed earnings and profits, within the meaning of section 902(c)(1), as of the day before the qualification date, that were accumulated and not distributed in taxable years of the PFIC beginning after 1986 and during which it was a PFIC, but without regard to whether the earnings relate to a period during which the PFIC was a CFC.

(ii) *Pro rata share of post-1986 earnings and profits attributable to shareholder's stock*—(A) *In general.* A shareholder's pro rata share of the post-1986 earnings and profits of the PFIC attributable to the stock held by the shareholder on the qualification date is the amount of post-1986 earnings and profits of the PFIC accumulated during any portion of the shareholder's holding period ending at the close of the day before the qualification date and attributable, under the principles of section 1248 and the regulations under that section, to the PFIC stock held on the qualification date.

(B) *Reduction for previously taxed amounts.* A shareholder's pro rata share of the post-1986 earnings and profits of the PFIC does not include any amount that the shareholder demonstrates to the satisfaction of the Commissioner (in the manner provided in paragraph (d)(2) of this section) was, pursuant to another provision of the law, previously included in the income of the shareholder, or of another U.S. person if the shareholder's holding period of the PFIC stock includes the period during which the stock was held by that other U.S. person.

(b) *Who may make the election.* A shareholder of an unpedigreed QEF that is a CFC for the taxable year of the PFIC for which the shareholder makes the section 1295 election may make the deemed dividend election provided the shareholder held stock of that PFIC on the qualification date. A shareholder is treated as holding stock of the PFIC on the qualification date if its holding period with respect to that stock under section 1223 includes the qualification date. A shareholder may make the deemed dividend election without regard to whether the shareholder is a United States shareholder within the meaning of section 951(b). A deemed dividend election may be made by a shareholder whose pro rata share of the post-1986 earnings and profits of the PFIC attributable to the PFIC stock held on the qualification date is zero.

(c) *Time for making the election.* The shareholder makes the deemed dividend election in the shareholder's return for the taxable year that includes the qualification date. If the shareholder and the PFIC have the same taxable year, the shareholder makes the deemed dividend election in either the original return for the taxable year for which the shareholder makes the section 1295 election, or in an amended return for that year. If the shareholder and the PFIC have different taxable years, the deemed dividend election must be made in an amended return for the taxable year that includes the qualification date. If the deemed dividend election is made in an amended return, the amended return must be filed by a date that is within three years of the due date, as extended under section 6081, of the original return for the taxable year that includes the qualification date.

(d) *Manner of making the election*—(1) *In general.* A shareholder makes the deemed dividend election by filing Form 8621 and the attachment to Form 8621 described in paragraph (d)(2) of this section with the return for the taxable year of the shareholder that includes the qualification date, reporting the deemed dividend as an excess distribution pursuant to section 1291(a)(1), and paying the tax and interest due on the excess distribution. A shareholder that makes the deemed dividend election after the due date of the return (determined without regard to extensions) for the taxable year that includes the qualification date must pay additional interest, pursuant to section 6601, on the amount of the underpayment of tax for that year.

(2) *Attachment to Form 8621.* The shareholder must attach a schedule to Form 8621 that demonstrates the calculation of the shareholder's pro rata share of the post-1986 earnings and profits of the PFIC that is treated as distributed to the shareholder on the qualification date pursuant to this section. If the shareholder is claiming an exclusion from its pro rata share of the post-1986 earnings and profits for an amount previously included in its income or the income of another U.S. person, the shareholder must include the following information:

(i) The name, address, and taxpayer identification number of each U.S. person that previously included an amount in income, the amount previously included in income by each such U.S. person, the provision of the law pursuant to which the amount was previously included in income, and the taxable year of inclusion of each amount; and

(ii) A description of the transaction pursuant to which the shareholder acquired, directly or indirectly, the stock of the PFIC from another U.S. person, and the provisions of law pursuant to which the shareholder's holding period includes the period the other U.S. person held the CFC stock.

(e) *Qualification date*—(1) *In general.* Except as otherwise provided in this paragraph (e), the qualification date is the first day of the PFIC's first taxable year as a QEF (first QEF year).

(2) *Elections made after March 31, 1995, and before January 27, 1997*—(i) *In general.* The qualification date for deemed dividend elections made after March 31, 1995, and before January 27, 1997 is the first day of the shareholder's election year. The shareholder's election year is the taxable year of the shareholder for which it made the section 1295 election.

(ii) *Exception.* A shareholder who made the deemed dividend election after May 1, 1992, and before January 27, 1997 may elect to change its qualification date to the first day of the first QEF year, provided the periods of limitations on assessment for the taxable year that includes that date and for the shareholder's election year have not expired. A shareholder changes the qualification date by filing amended returns, with revised Forms 8621 and the attachments described in paragraph (d)(2) of this section, for the shareholder's election year and the shareholder's taxable year that includes the first day of the first QEF year, and making all appropriate adjustments and payments.

(3) *Examples.* The rules of this paragraph (e) are illustrated by the following examples:

Example 1—(i) *Eligibility to make deemed dividend election.* A is a U.S. person who files its income tax return on a calendar year basis. On January 2, 1994, A purchased one percent of the stock of M, a PFIC with a taxable year ending November 30. M was both a CFC and a PFIC, but not a QEF, for all of its taxable years. On December 3, 1996, M made a distribution to its shareholders. A received $100, all of which A reported in its

1996 return as an excess distribution as provided in section 1291(a)(1). A decides to make the section 1295 election in A's 1997 taxable year to treat M as a QEF effective for M's taxable year beginning December 1, 1996. Because A did not make the section 1295 election in 1994, the first year in its holding period of M stock that M qualified as a PFIC, M would be an unpedigreed QEF and A would be subject to both sections 1291 and 1293. A, however, may elect under section 1291(d)(2) to purge the years M was not a QEF from A's holding period. If A makes the section 1291(d)(2) election, the December 3 distribution will not be taxable under section 1291(a). Because M is a CFC, even though A is not a U.S. shareholder within the meaning of section 951(b), A may make the deemed dividend election under section 1291(d)(2)(B).

(ii) *Making the election.* Under paragraph (e)(1) of this section, the qualification date, and therefore the date of the deemed dividend, is December 1, 1996. Accordingly, to make the deemed dividend election, A must file an amended return for 1996, and include the deemed dividend in income in that year. As a result, M will be a pedigreed QEF as of December 1, 1996, and the December 3, 1996, distribution will not be taxable as an excess distribution. Therefore, in its amended return, A may report the December 3, 1996, distribution consistent with section 1293 and the general rules applicable to corporate distributions.

Example 2. X, a U.S. person, owned a five percent interest in the stock of FC, a PFIC with a taxable year ending June 30. X never made the section 1295 election with respect to FC. X transferred her interest in FC to her granddaughter, Y, a U.S. person, on February 14, 1996. The transfer qualified as a gift for federal income tax purposes, and no gain was recognized on the transfer (see Regulation Project INTL–656–87, published in 1992–1 C.B. 1124; see § 601.601(d)(2)(ii)(*b*) of this chapter). As provided in section 1223(2), Y's holding period includes the period that X held the FC stock. Y decides to make the section 1295 election in her 1996 return to treat FC as a QEF for its taxable year beginning July 1, 1995. However, because Y's holding period includes the period that X held the FC stock, and FC was a PFIC but not a QEF during that period, FC will be an unpedigreed QEF with respect to Y unless Y makes a section 1291(d)(2) election. Although Y did not actually own the stock of FC on the qualification date (July 1, 1995), Y's holding period includes that date. Therefore, provided FC is a CFC for its taxable year beginning July 1, 1995, Y may make a section 1291(d)(2)(B) election to treat FC as a pedigreed QEF.

(f) *Adjustment to basis.* A shareholder that makes the deemed dividend election increases its adjusted basis of the stock of the PFIC owned directly by the shareholder by the amount of the deemed dividend. If the shareholder makes the deemed dividend election with respect to a PFIC of which it is an indirect shareholder, the shareholder's adjusted basis of the stock or other property owned directly by the shareholder, through which ownership of the PFIC is attributed to the shareholder, is increased by the amount of the deemed dividend. In addition, solely for purposes of determining the subsequent treatment under the Code and regulations of a shareholder of the stock of the PFIC, the adjusted basis of the direct owner of the stock of the PFIC is increased by the amount of the deemed dividend.

(g) *Treatment of holding period.* For purposes of applying sections 1291 through 1297 to the shareholder after the deemed dividend, the shareholder's holding period of the stock of the PFIC begins on the qualification date. For other purposes of the Code and regulations, this holding period rule does not apply.

(h) *Coordination with section 959(e).* For purposes of section 959(e), the entire deemed dividend is treated as included in gross income under section 1248(a).

(i) *Election inapplicable to shareholder of former PFIC*—(1) *Coordination with section 1297(b)(1).* The rules of this section do not apply to an election made under section 1297(b)(1).

(2) *Former PFIC.* A shareholder may not make the section 1295 and deemed dividend elections if the foreign corporation is a former PFIC (as defined in paragraph (j)(2)(iv) of this section) with respect to the shareholder. For the rules regarding the election by a shareholder of a former PFIC, see § 1.1297–3T.

(j) *Definitions*—(1) *Passive foreign investment company (PFIC).* A passive foreign investment company (PFIC) is a foreign corporation that satisfies either the income test of section 1296(a)(1) or the asset test of section 1296(a)(2). A corporation will not be treated as a PFIC with respect to a shareholder for those days included in the shareholder's holding period when the shareholder, or a person whose holding period of the stock is included in the shareholder's holding period, was not a United States person within the meaning of section 7701(a)(30).

(2) *Types of PFICs*—(i) *Qualified electing fund (QEF).* A PFIC is a qualified electing fund (QEF) with respect to a shareholder that has elected, under section 1295, to be taxed currently on its share of the PFIC's earnings and profits pursuant to section 1293.

(ii) *Pedigreed QEF.* A PFIC is a pedigreed QEF with respect to a shareholder if the PFIC has been a QEF with respect to the shareholder for all taxable years during which the corporation was a PFIC that are included wholly or partly in the shareholder's holding period of the PFIC stock.

(iii) *Unpedigreed QEF.* A PFIC is an unpedigreed QEF for a taxable year if—

(A) An election under section 1295 is in effect for that year;

(B) The PFIC has been a QEF with respect to the shareholder for at least one, but not all, of the taxable years during which the corporation was a PFIC that are included wholly or partly in the shareholder's holding period of the PFIC stock; and

(C) The shareholder has not made an election under section 1291(d)(2) and this section or § 1.1291–10 with respect to the PFIC to purge the nonQEF years from the shareholder's holding period.

(iv) *Former PFIC.* A foreign corporation is a former PFIC with respect to a shareholder if the corporation satisfies neither the income test of section 1296(a)(1) nor the asset test of section 1296(a)(2), but whose stock, held by that shareholder, is treated as stock of a PFIC, pursuant to section 1297(b)(1), because at any time during the shareholder's holding period of the stock the corporation was a PFIC that was not a QEF.

(3) *Shareholder.* A shareholder is a U.S. person that is a direct or indirect shareholder as defined in Regulation Project INTL–656–87 published in 1992–1 C.B. 1124; see § 601.601(d)(2)(ii)(*b*) of this chapter.

(k) *Effective date.* The rules of this section are applicable as of April 1, 1995.

§ 1.1291–9T [Removed]

Par. 5. Section 1.1291–9T is removed.

Par. 6. Section 1.1291–10 is added to read as follows:

§ 1.1291–10 Deemed sale election.

(a) *Deemed sale election.* This section provides rules for making the election under section 1291(d)(2)(A) (deemed sale election). Under that section, a shareholder (as defined in § 1.1291–9(j)(3)) of a PFIC that is an unpedigreed QEF may elect to recognize gain with respect to the stock of the unpedigreed QEF held on the qualification date (as defined in paragraph (e) of this section). If the shareholder makes the deemed sale election, the PFIC will become a pedigreed QEF with respect to the shareholder. A shareholder that makes the deemed sale election is treated as having sold, for its fair market value, the stock of the PFIC that the shareholder held on the qualification date. The gain recognized on the deemed sale is taxed under section 1291 as an excess

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distribution received on the qualification date. In the case of an election made by an indirect shareholder, the amount of gain to be recognized and taxed as an excess distribution is the amount of gain that the direct owner of the stock of the PFIC would have realized on an actual sale or other disposition of the stock of the PFIC indirectly owned by the shareholder. Any loss realized on the deemed sale is not recognized. For the definitions of PFIC, QEF, unpedigreed QEF, and pedigreed QEF, see § 1.1291–9(j) (1) and (2).

(b) *Who may make the election.* A shareholder of an unpedigreed QEF may make the deemed sale election provided the shareholder held stock of that PFIC on the qualification date. A shareholder is treated as holding stock of the PFIC on the qualification date if its holding period with respect to that stock under section 1223 includes the qualification date. A deemed sale election may be made by a shareholder that would realize a loss on the deemed sale.

(c) *Time for making the election.* The shareholder makes the deemed sale election in the shareholder's return for the taxable year that includes the qualification date. If the shareholder and the PFIC have the same taxable year, the shareholder makes the deemed sale election in either the original return for the taxable year for which the shareholder makes the section 1295 election, or in an amended return for that year. If the shareholder and the PFIC have different taxable years, the deemed sale election must be made in an amended return for the taxable year that includes the qualification date. If the deemed sale election is made in an amended return, the amended return must be filed by a date that is within three years of the due date, as extended under section 6081, of the original return for the taxable year that includes the qualification date.

(d) *Manner of making the election.* A shareholder makes the deemed sale election by filing Form 8621 with the return for the taxable year of the shareholder that includes the qualification date, reporting the gain as an excess distribution pursuant to section 1291(a), and paying the tax and interest due on the excess distribution. A shareholder that makes the deemed sale election after the due date of the return (determined without regard to extensions) for the taxable year that includes the qualification date must pay additional interest, pursuant to section 6601, on the amount of the underpayment of tax for that year. A shareholder that realizes a loss on the deemed sale reports the loss on Form 8621, but does not recognize the loss.

(e) *Qualification date*—(1) *In general.* Except as otherwise provided in this paragraph (e), the qualification date is the first day of the PFIC's first taxable year as a QEF (first QEF year).

(2) *Elections made after March 31, 1995, and before January 27, 1997*—(i) *In general.* The qualification date for deemed sale elections made after March 31, 1995, and before January 27, 1997, is the first day of the shareholder's election year. The shareholder's election year is the taxable year of the shareholder for which it made the section 1295 election.

(ii) *Exception.* A shareholder who made the deemed sale election after May 1, 1992, and before January 27, 1997 may elect to change its qualification date to the first day of the first QEF year, provided the periods of limitations on assessment for the taxable year that includes that date and for the shareholder's election year have not expired. A shareholder changes the qualification date by filing amended returns, with revised Forms 8621, for the shareholder's election year and the shareholder's taxable year that includes the first day of the first QEF year, and making all appropriate adjustments and payments.

(f) *Adjustments to basis*—(1) *In general.* A shareholder that makes the deemed sale election increases its adjusted basis of the PFIC stock owned directly by the amount of gain recognized on the deemed sale. If the shareholder makes the deemed sale election with respect to a PFIC of which it is an indirect shareholder, the shareholder's adjusted basis of the stock or other property owned directly by the shareholder, through which ownership of the PFIC is attributed to the shareholder, is increased by the amount of gain recognized by the shareholder. In addition, solely for purposes of determining the subsequent treatment under the Code and regulations of a shareholder of the stock of the PFIC, the adjusted basis of the direct owner of the stock of the PFIC is increased by the amount of gain recognized on the deemed sale. A shareholder shall not adjust the basis of any stock with respect to which the shareholder realized a loss on the deemed sale.

(2) *Adjustment of basis for section 1293 inclusion with respect to deemed sale election made after March 31, 1995, and before January 27, 1997.* For purposes of determining the amount of gain recognized with respect to a deemed sale election made after March 31, 1995, and before January 27, 1997, by a shareholder that treats the first day of the shareholder's election year as the qualification date, the adjusted basis of the stock deemed sold includes the shareholder's section 1293(a) inclusion attributable to the period beginning with the first day of the PFIC's first QEF year and ending on the day before the qualification date.

(g) *Treatment of holding period.* For purposes of applying sections 1291 through 1297 to the shareholder after the deemed sale, the shareholder's holding period of the stock of the PFIC begins on the qualification date, without regard to whether the shareholder recognized gain on the deemed sale. For other purposes of the Code and regulations, this holding period rule does not apply.

(h) *Election inapplicable to shareholder of former PFIC.* A shareholder may not make the section 1295 and deemed sale elections if the foreign corporation is a former PFIC (as defined in § 1.1291–9(j)(2)(iv)) with respect to the shareholder. For the rules regarding the election by a shareholder of a former PFIC, see 1.1297–3T.

(i) *Effective date.* The rules of this section are applicable as of April 1, 1995.

§ 1.1291–10T [Removed]

Par. 7. Section 1.1291–10T is removed.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 8. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 9. In § 602.101, paragraph (c) is amended by removing the entries for 1.1291–9T and 1.1291–10T from the table and adding entries in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(c) * * *

* * * * *

CFR part or section where identified and described	Current OMB Control No.
. . . . .	
1.1291–9	1545–1507
1.1291–10	1545–1507
. . . . .	

Margaret Milner Richardson,
Commissioner of Internal Revenue.
Approved: December 12, 1996.
Donald C. Lubick,
Acting Assistant Secretary of the Treasury.
[FR Doc. 96–32246 Filed 12–26–96; 8:45 am]
BILLING CODE 4830–01–U

Fiscal Service

31 CFR Part 209

RIN 1510–AA30

Payment to Financial Institutions for Credit to Accounts of Employees and Beneficiaries

AGENCY: Financial Management Service, Fiscal Service, Treasury.
ACTION: Final rule.

SUMMARY: The Financial Management Service is removing this Part from Title 31 of the Code of Federal Regulations. This Part governs the remittance to financial institutions of checks representing wage, salary, annuity and allotment payments to be credited to the accounts of Federal employees and beneficiaries. Such disbursements are no longer made by check. These payments now are made by electronic funds transfer through the Automated Clearing House and, are governed by 31 CFR Part 210. Therefore, Part 209 is no longer necessary.

EFFECTIVE DATE: January 27, 1997.

FOR FURTHER INFORMATION CONTACT: Christine Ricci, Financial Program Specialist, at (202) 874–7458 or Cynthia L. Johnson, Director, Cash Management Policy and Planning Division, (202) 874–6657. A copy of the Final Rule is being made available for downloading from the Financial Management Service home page at the following address: http://www.ustreas.gov./treasury/bureaus/finman/.

SUPPLEMENTARY INFORMATION:

Background

On January 4, 1995, the Financial Management Service (Service) published a Notice of Proposed Rulemaking (NPRM) proposing to remove Part 209 from Title 31 of the Code of Federal Regulations. See 60 FR 416. Part 209 governs the remittance to financial institutions of checks representing wage, salary, annuity and allotment payments for credit to the accounts of Federal employees and beneficiaries. The Service issued such checks when sending payments to financial institutions that did not have the capability to receive payments by electronic funds transfer. In the NPRM, the Service noted that other regulations which took effect on July 1, 1994, required financial institutions to receive such payments by electronic funds transfer. See 58 FR 21634. The Service no longer issues checks pursuant to Part 209 and, thus, the regulation is obsolete.

The January 4 publication contained a 30 day comment period. No comments were received in response to the NPRM.

On September 30, 1994, the Service published an NPRM in which the Service proposed to move the portions of Part 209 dealing with savings and salary allotments to 31 CFR Part 210. See 59 FR 50112. The Service expects to issue a new NPRM with respect to Part 210 in the near future. At that time, the Service will review the desirability of including provisions relating to savings and salary allotments in Part 210.

Rulemaking Analysis

The Service has determined that this regulation is not a significant regulation as defined in E.O. 12866 and a regulatory assessment is not required. It is hereby certified that removal of this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. The removal of 31 CFR Part 209 will have little or no effect on the economy or consumers, because the part is obsolete and no longer in use.

List of Subjects in 31 CFR Part 209

Automated Clearing House, Allotments, Banks, Banking, Discretionary allotments, Electronic funds transfer, Financial institution, Government employees, Net pay, Salary, Wages.

Accordingly, and under the authority of 31 U.S.C. 321, 3321, and 3335, Part 209 of Title 31 is removed as follows:

PART 209—[REMOVED]

Part 209 is removed.

Dated: December 19, 1996.
Russell D. Morris,
Commissioner.
[FR Doc. 96–32781 Filed 12–26–96; 8:45 am]
BILLING CODE 4810–35–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Charleston 96–034]

RIN 2115–AA97

Safety/Security Zone Regulations; Charleston Harbor and Cooper River, SC

AGENCY: Coast Guard, DOT.
ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a moving safety/security zone around vessels transporting nuclear materials in Charleston Harbor and the Cooper River. Each zone will extend 200 yards ahead and astern, and 100 yards to each side of vessels carrying the nuclear materials, during transit from the Charleston Harbor entrance to the Charleston Naval Weapons Station on the Cooper River. The zone will remain in effect during cargo operations while the vessel is moored at the Naval Weapons Station. This safety/security zone is needed to protect the transport vessels from potential protests and demonstrations by organizations that may attempt to disrupt shipments, while transiting Charleston Harbor and the Cooper River.

EFFECTIVE DATE: January 27, 1997.

FOR FURTHER INFORMATION: Lieutenant Jeffrey T. Carter, Project Manager, Coast Guard Marine Safety Office Charleston at (803) 724–7680.

SUPPLEMENTARY INFORMATION:

Regulatory History

On September 11, 1996, the Coast Guard published a notice of proposed rulemaking entitled SAFETY/SECURITY ZONE REGULATIONS; Charleston Harbor and Cooper River, SC in the **Federal Register** (61 FR 47839). The Coast Guard received no letters commenting on the proposal. A public hearing was not requested and one was not held.

Background and Purpose

The Coast Guard is establishing a moving safety/security zone around vessels transporting certain nuclear materials in Charleston Harbor and the Cooper River. As part of a major national security objective to prevent the spread of nuclear weapons worldwide, the U.S. Department of Energy will be receiving shipments of foreign research reactor spent nuclear fuel rods through the Charleston Naval Weapons Station. These shipments will take place over a 13 year period.

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Protests and demonstrations during shipments through U.S. ports of nuclear materials, such as spent fuel rods, would place the safe navigation of the transport vessels at risk. This moving safety/security zone is needed to protect the transport vessels from the risk associated with protests and demonstrations while transiting Charleston Harbor and the Cooper River.

The safety/security zone will extend 200 yards ahead and astern and 100 yards to each side of the vessel carrying the nuclear materials during its transit from Charleston Harbor Entrance Buoy "C" (LLNR 1885) to the Charleston Naval Weapons Station on the Cooper River. The zone will remain in effect during cargo operations while the vessel is moored at the Naval Weapons Station. Entry into this zone is prohibited during vessel transit (which includes any emergency anchorage or mooring) and cargo transfer operations, unless authorized by Captain of the Port Charleston.

The actual dates this safety/security zone will be in effect are not known at this time. The Captain of the Port will announce the activation of this zone through a Broadcast Notice to Mariners whenever Captain of the Port Charleston receives a firm arrival time. Maritime traffic will not be significantly impacted because of the expected small number of vessels needing this safety/security zone, and the limited duration of the zone during transit and cargo operations.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979), because of the small number of vessels needing the safety/security zone and the minimal impact on navigation and commerce. No changes have been made to the proposed regulatory text.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. This rule is not significant and the number of small entities is not substantial because of the small number of vessels needing the safety/security zone and the minimal impact on navigation and commerce. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this action and has determined pursuant to Section 2.B.2 of Commandant Instruction M16475.1B, (as revised by 59 FR 38654, July 29, 1994), that this rule is categorically excluded from further environmental documentation. In accordance with this instruction section 2.B.2.e.34.(g), a Categorical Exclusion Determination and Environmental Analysis Checklist was prepared. Both documents are available in the docket for inspection and copying.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Final Regulations

For reasons set forth in the preamble, the Coast Guard amends subpart D of part 165 of title 33, Code of Federal Regulations, as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A new § 165.708 is added to read as follows:

§ 165.708 Safety/Security Zone; Charleston Harbor and Cooper River, Charleston, SC.

(a) *Regulated area.* The following boundaries are established as a safety and security zone during specified conditions:

(1) All waters 200 yards ahead and astern and 100 yards to each side of a vessel transporting nuclear materials while the vessel transits from Charleston Harbor Entrance Buoy "C" (LLNR 1885, position 32–39.6N, 079–40.9W) to the Charleston Naval Weapons Station (position 32–55.4N, 079–56.0W) on the Cooper River. All coordinates referenced use datum: NAD 1983.

(2) All waters within 100 yards of the vessel described in paragraph (a)(1) of this section while the vessel is conducting cargo operations at the Charleston Naval Weapons Station.

(b) Captain of the Port Charleston will announce the activation of the safety/security zones described in paragraph (a) of this section by Broadcast Notice to Mariners. The general regulations governing safety and security zones contained in §§ 165.23 and 165.33 apply.

Dated: November 27, 1996.

M. J. Pontiff,

Commander, U.S. Coast Guard, Captain of the Port, Charleston, South Carolina.

[FR Doc. 96–32837 Filed 12–26–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP Savannah 96–073]

RIN 2115–AA97

Safety Zone Regulations; Savannah, GA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in a 1,000 yards radius of the Savannah Light Tower. The safety zone is needed to protect vessel traffic from the hazards created by the allision of a vessel with the Savannah Light Tower and the Tower's subsequent destruction. These regulations are necessary for the safety of life on navigable waters. Entry into this zone is prohibited, unless specifically authorized by the Captain of the Port.

DATES: This rule is effective at 8 a.m. EST (Eastern Standard Time) on December 5, 1996. When this temporary regulation is terminated, the agency will publish a document in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: LCDR Linda Fagan, Project Officer, Coast Guard Marine Safety Office Savannah, at (912) 652–4371.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in

less than 30 days after **Federal Register** date would be contrary to the public interest since immediate action is needed to prevent further harm to the public due to the navigational hazards associated with destruction of the Savannah Light Tower.

Background and Purpose

The Coast Guard is establishing a temporary safety zone in a 1,000 yards radius of the Savannah Light Tower. This safety zone is needed to protect vessel traffic from the hazards created by the allision of the M/V Neptune Jade with the Savannah Light Tower and the Tower's subsequent destruction. The M/V Neptune Jade at the time of the allision lost at 20 ft. container overboard. The contents of the container were 70 55-gallon drums of paint. Salvage operations are being performed in the area of the Savannah Light Tower. In addition to protecting vessel traffic from debris associated with the Savannah Light Tower's destruction, these regulations are necessary to protect salvage personnel engaged in recovery operations.

This safety zone is established on the navigable waters within a 1,000 yard radius of the Savannah Light Tower, at position 31–57.ON and 080–41.OW. All coordinates referenced use Datum: NAD 1983. Nonobligatory guidelines are included in the regulatory language for that portion of the regulated area which falls outside of the navigable waters of the United States. Entry into this safety zone is prohibited, unless specifically authorized by the Captain of the Port.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary, because the safety zone will be in effect for a limited time and regulates a limited area.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). The Coast Guard Certifies this rule will not have a significant effect on small entities because this safety zone will be established in a limited area and will only be in effect for a limited time.

Collection of Information

This rule contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient Federalism implication to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this action and has been determined pursuant to section 2.B.2. of Commandant Instruction M16475.1B, (as revised by 59 FR 38654, July 29, 1994). Specifically, section 2.B.2.e.(34)(g) does not require a Categorical Exclusion Determination and the preparation of an Environmental Analysis Checklist.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Safety measures, Waterways.

Temporary Regulations

In consideration of the foregoing, the Coast Guard amends subpart C of part 165 of title 33, Code of Federal Regulations, as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A new § 165.T96–073 is added to read as follows:

§ 165.T96–073 Safety Zone: Savannah, GA.

(a) *Regulated Area.* A safety zone is established on the navigable waters within a 1,000 yard radius of the Savannah Light Tower, at position 31–57.ON, 080–41.OW. All coordinates referenced use Datum: NAD 1983.

(b) *Regulations.* These regulations are effective for those navigable waters which fall within the navigable waters of the United States.

(1) Anchoring, mooring, or transiting within this zone is prohibited, unless authorized by the Captain of the Port, Savannah, Georgia.

(2) Entry into this zone is prohibited. unless specifically authorized by the Captain of the Port, Savannah, Georgia.

(3) The Captain of the Port will notify the public of changes in the status of this safety zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

(c) *Effective date.* This regulation is effective at 8 a.m. EST on December 5, 1996. When this temporary rule is terminated the agency will publish a document in the **Federal Register.**

Dated: December 5, 1996.

C. E. Bone,

Commander, U. S. Coast Guard, Captain of the Port Savannah, Georgia.

[FR Doc. 96–32844 Filed 12–26–96; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5669–7]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of a site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Ambler Asbestos Superfund site in Ambler, Pennsylvania from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of Pennsylvania have determined that all appropriate Fund-financed responses under CERCLA have been implemented and that no further cleanup by responsible parties is appropriate. Moreover, EPA and the State of Pennsylvania have determined that remedial actions conducted at the site to date remain protective of public health, welfare, and the environment.

EFFECTIVE DATE: December 27, 1996.

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ADDRESSES: Comprehensive information on this site is available for viewing at the Site information repositories at the following locations:

U.S. EPA, Region 3, Hazardous Waste Technical Information Center, 841 Chestnut Building, Philadelphia, PA 19107, (215) 566-5363.

Wissahickon Valley Public Library, Ambler Branch, 209 Race Street, Ambler, PA 19002, (610) 646-1072.

FOR FURTHER INFORMATION CONTACT: James J. Feeney, Site Project Manager (3HW21), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA, 19107, (215) 566-3190.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Ambler Asbestos Site, Ambler, Pennsylvania.

A Notice of Intent to Delete for this site was published September 5, 1996 (61 FR 46755). The closing date for comments on the Notice of Intent to Delete was October 7, 1996. EPA received no comments.

The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund-) financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.66(c)(8) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL.

Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: December 13, 1996.

W. Michael McCabe,

Regional Administrator, U.S. EPA Region 3.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 191 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B [Amended]

2. Table 1 of Appendix B to part 300 is amended by removing the site "Ambler Asbestos Piles" in Ambler, Pennsylvania.

[FR Doc. 96-32660 Filed 12-26-96; 8:45 am]

BILLING CODE 6560-50-P

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 301-4, 301-7, 301-8, 301-11, and 302-2

[FTR Amendment 54]

RIN 3090-AF98

Federal Travel Regulation; Computation of Per Diem Allowance for a Partial Day of Travel; Use of Locality-Based Per Diem Rate for Househunting Trips

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal Travel Regulation (FTR) to modify per-diem allowance computation for a partial day of travel, to eliminate the requirement for a traveler to record departure and arrival times on the travel voucher, and to allow per diem reimbursement for a househunting trip to be based on the locality per diem rate. This amendment will simplify travel reimbursement, thereby reducing agency travel costs.

DATES: *Effective dates:* The provisions of this final rule which amend part 301-4 of chapter 301 are effective June 7, 1996. The provisions of this final rule which amend parts 301-7, 301-8, and 301-11 of chapter 301, and part 302-2 of chapter 302 are effective December 27, 1996.

Applicability dates: The provisions of this final rule which amend part 301-4 of chapter 301 apply for travel performed on or after June 7, 1996. The provisions of this final rule which amend parts 301-7, 301-8, and 301-11 of chapter 301, and part 302-2 of chapter 302 apply for travel (including travel incident to a change of official station) performed on or after December 27, 1996.

FOR FURTHER INFORMATION CONTACT: Robert A. Clauson, Travel and Transportation Management Policy Division (MTT), Washington, DC 20405, telephone 202-501-1538.

SUPPLEMENTARY INFORMATION: This amendment was developed by the Joint Financial Management Improvement Program (JFMIP) Travel Reinvention Task Force to streamline the processing of travel and relocation reimbursement claims. The General Services Administration (GSA), after review of the JFMIP recommendations, has determined that the recommendations are appropriate and is implementing the changes with certain modifications through this amendment. The amendment modifies per diem allowance computation for a partial day of travel, and eliminates the requirement for a traveler to record departure and arrival times on the travel voucher. This amendment also authorizes the payment of a locality-based per diem rate when an employee is performing travel to seek residence quarters. Finally, this amendment makes a technical correction to the provisions governing reimbursement when an employee uses a privately owned vehicle to perform official travel.

Current Per Diem Allowance Computation

The FTR provides for the payment of a per diem allowance based on the lodgings-plus method, which includes payment for the actual expenses of lodging up to a maximum amount and payment of a flat amount for meals and incidental expenses (M&IE). The FTR currently requires that the M&IE amount be reduced for meals provided by the Government at no cost or at nominal cost to the employee.

In addition, the FTR requires that the M&IE allowance for a partial day of travel (e.g., the first or last day of travel) be computed based on one-fourth of the applicable M&IE rate for each quarter-day the employee is in a travel status on that day. The quarters are fixed (i.e., 12:01 a.m.-6:00 a.m., 6:01 a.m.-12:00 noon, 12:01 p.m.-6:00 p.m., and 6:01 p.m.-12:00 midnight) based on local time.

Under current rules, an employee may not be paid a per diem allowance for travel of 10 hours or less (a special variation of this rule applies for an employee working a compressed work schedule). Finally, an employee must record the time of departure from, and arrival at, the official station or any other place at which official travel begins or ends to accurately compute the per diem allowance payable.

Modification of Per Diem Allowance Computation.

This amendment abolishes the quarter-day method of computing the M&IE allowance for a partial day of travel and replaces it with payment of a flat three-fourths of the applicable M&IE rate on a partial travel day. The JFMIP Travel Reinvention Task Force

found that most travelers begin their first day of official travel in the second quarter of the day and end the travel in the third quarter of the day. Under the new rule, agencies must continue to reduce, or deduct from, the applicable maximum per diem rate or the three-fourths of the M&IE rate, as appropriate, for Government provided meals.

This amendment also prohibits the payment of a per diem allowance for travel of 12 hours or less, and establishes three-fourths of the applicable M&IE rate as the appropriate per diem allowance payment for travel of more than 12 hours but not exceeding 24 hours when no lodging is required. For travel of more than 12 hours but not exceeding 24 hours when lodging is required, per diem shall be computed in the same manner as for travel of more than 24 hours.

Elimination of the Requirement That Employees Record Time of Departure and Arrival

This amendment eliminates the need for an employee to record departure and arrival times on the travel voucher. The FTR will continue to require that an employee record departure and arrival dates for such travel, however.

Locality-Based Per Diem Rate for Househunting Trips

The FTR allows an agency to authorize payment for travel to seek permanent residence quarters, i.e., a househunting trip. The agency may pay transportation expenses and subsistence expenses for the employee and spouse to perform a househunting trip for a period not to exceed 10 days. The FTR provides that the applicable per diem rate for a househunting trip inside the continental United States (CONUS) shall be the standard CONUS rate regardless of locality.

The JFMIP recommended giving agencies discretionary authority to reimburse per diem for a househunting trip within CONUS based on the locality per diem rate. This change is necessary since an employee who transfers to a high cost locality needs to obtain lodging in that locality when performing a househunting trip.

Further, the employee may not be able to reduce subsistence costs by lodging at a lower cost extended stay facility. The employee incurs expenses in the same manner as if he/she were on temporary duty travel, and it therefore is equitable to provide subsistence reimbursement based on the locality rate. This amendment maintains agencies' ability to reimburse househunting trip subsistence expenses based on the standard CONUS rate when the agency determines that it is advantageous to the Government.

Technical Correction to the Mileage Reimbursement Rate Provisions

FTR Amendment 48, (61 FR 25802, May 23, 1996) increased mileage reimbursement rates for the use of a privately owned vehicle. FTR Amendment 48 revised FTR § 301–4.2(a) to increase the mileage reimbursement rate for use of a privately owned automobile to 31 cents per mile, but did not make a corresponding change to FTR § 301–4.2(c) (1) or (2). This amendment makes the corresponding changes.

GSA has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993. This final rule is not required to be published in the **Federal Register** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

List of Subjects in 41 CFR Parts 301–4, 301–7, 301–8, and 301–11

Government employees, Travel, Travel allowances, Travel and transportation expenses.

List of Subjects in 41 CFR Part 302–2

Government employees, Relocation allowances and entitlements, Transfers.

For the reasons set out in the preamble, 41 CFR parts 301–4, 301–7, 301–8, 301–11, and 302–2 are amended to read as follows:

PART 301–4—REIMBURSEMENT FOR USE OF PRIVATELY OWNED CONVEYANCES

1. The authority citation for part 301–4 is revised to read as follows:

Authority: 5 U.S.C. 5701–5709.

§ 301–4.2 [Amended]

2. Section 301–4.2 is amended by removing the phrase "30 cents per mile" where it appears in paragraphs (c) (1) and (2), and adding in its place the phrase "31 cents per mile".

PART 301–7—PER DIEM ALLOWANCES

3. The authority citation for part 301–7 is revised to read as follows:

Authority: 5 U.S.C. 5701–5709.

4. Section 301–7.2 is amended by revising paragraphs (a) (2) and (3) to read as follows:

§ 301–7.2 Employee and agency responsibilities.

(a) * * *

(2) *Duty to record pertinent times and/or dates.* The date of departure from and arrival at the official station or any other place at which travel begins or ends must be shown on the travel voucher. This same information also must be shown for points at which temporary duty is performed or for a stopover or official rest stop location when such arrival or departure affects the per diem allowance or other travel expenses. Other points visited also should be shown.

(3) *Use of standard time.* When recording time, an employee shall use standard time in effect at the place involved. (See 15 U.S.C. 262.)

* * * * *

§ 301–7.4 [Amended]

5. Section 301–7.4 is amended by removing the phrase "Federal Supply Service, Attn: Transportation Management Division (FBX), Washington, DC 20406" in paragraph (a), and by adding in its place the phrase, "Office of Governmentwide Policy, Attn: Travel and Transportation Management Policy Division (MTT), Washington, DC 20405".

6. Section 301–7.5 is amended by revising paragraph (b), by removing paragraph (c), and redesignating paragraphs (d) and (e) as paragraphs (c) and (d) and revising them to read as follows:

§ 301–7.5 General rules affecting entitlement to per diem.

* * * * *

(b) *No allowance for travel of 12 hours or less.* A per diem allowance shall not be allowed for official travel of 12 hours or less. (This requirement also applies for travel incident to a change of official station.)

(c) *Beginning and ending of entitlement.* For computing per diem allowances, official travel begins when an employee leaves his/her home, office, or other authorized point of departure and ends when the traveler returns to his/her home, office, or other authorized point at the conclusion of the trip.

(d) *International date line.* In cases where the traveler crosses the international date line (180th meridian), the actual elapsed time in days shall be used to compute the per diem rather than calendar days.

7. Section 301–7.6 is amended by revising paragraph (b)(2) to read as follows:

§ 301–7.6 Lodgings-plus per diem system.

* * * * *

(b) * * *

* * * * *

(2) *Meals and incidental expenses (M&IE) allowance.* The maximum per

diem rates include a fixed allowance for meals and for incidental expenses (M&IE rate). The M&IE rate, or fraction thereof, is payable to the traveler without itemization of expenses or receipts. For a partial day of travel, the M&IE rate shall be prorated as provided in § 301–7.8 (a) or (c)(3), as appropriate.

8. Section 301–7.7 is revised to read as follows:

§ 301–7.7 Computation rules for travel of more than 12 hours, but not exceeding 24 hours.

When the travel for which per diem has been authorized is more than 12 hours, but does not exceed 24 hours, the per diem allowance for the trip shall be calculated as follows:

(a) *Lodging not required.* If lodging is not required, the per diem allowance shall be three-fourths of the applicable M&IE allowance for the temporary duty assignment location. If more than one temporary duty point is involved, the per diem allowance shall be calculated using the highest of the M&IE rates prescribed for the location where official business is performed.

(b) *Lodging required.* If lodging is required, the per diem allowable shall be the actual cost of lodging incurred by the traveler, limited to the applicable maximum lodging allowance prescribed for the location of the lodging, plus three-fourths of the applicable M&IE rate prescribed for the lodging location.

9. Section 301–7.8 is revised to read as follows:

§ 301–7.8 Computation rules for travel of more than 24 hours.

The applicable maximum per diem rate for each calendar day of travel shall be determined by the travel status and location of the employee at 12:00 midnight and whether lodging is required at such location. When lodging is required, the applicable maximum per diem rate shall be the maximum rate prescribed for the temporary duty location, or a stopover point where lodging is obtained while en route to, from, or between temporary duty locations (see §§ 301–7.9 and 301–7.6(a)(3) for regulations on lodging location and maximum per diem rates applicable to change of official station travel, respectively). Only one maximum rate will be applicable to a calendar day or fraction thereof. Per diem for travel of more than 24 hours shall be calculated as provided in paragraphs (a) through (e) of this section.

(a) *Day travel begins*—(1) *Lodging required.* When lodging is required on the day travel begins (day of departure from the home, office, or other authorized point), the per diem allowable shall be the actual cost of lodging incurred by the traveler, limited to the applicable maximum lodging allowance prescribed for the location of the lodging, plus three-fourths of the applicable M&IE rate prescribed for the lodging location.

(2) *Lodging not required.* When lodging is not required on the day travel begins, (day of departure from the home, office, or other authorized point), the per diem allowable shall be three-fourths of the destination M&IE rate.

(b) *Full calendar days of travel*—(1) *Lodging required.* For each full calendar day that the employee is in a travel status and lodging is required (whether en route or at a temporary duty location), the per diem allowable shall be the actual cost of lodging incurred by the traveler, limited to the applicable maximum lodging allowance prescribed for the location of the lodging, plus the applicable M&IE rate.

(2) *Lodging not required.* For each full calendar day that the traveler is in a travel status and lodging is not required (such as when the traveler is en route overnight to the next temporary duty location), the per diem allowance shall be the destination M&IE rate.

(c) *Returning from travel*—(1) *Lodging required.* For each full calendar day of travel when lodging is required at an en route location while the employee is returning to the official station, home, or other authorized point, the per diem allowable shall be the actual cost of lodging incurred by the traveler, limited to the applicable maximum lodging allowance prescribed for the en route temporary duty site, plus three-fourths of the M&IE rate applicable to the en route temporary duty site.

(d) *Lodging obtained after midnight.* Although per diem generally is based on the employee's location at midnight, there will be instances in which he/she is en route and does not arrive at the lodging location (either temporary duty location or en route stopover point) until after midnight. In such cases, the lodging shall be claimed for the preceding calendar day and the applicable maximum per diem for the preceding day will be determined as if the employee had been at the lodging location at 12:00 midnight of that day.

(e) *Commercial vessel.* For vessel travel, except for the day of arrival on board (day of embarkation) and the day of departure from the vessel (day of debarkation), the allowable per diem rate will be $6 per day. When the $6 rate is not sufficient to meet the traveler's per diem expenses, a per diem rate equal to the anticipated expenses, not to exceed $9 per day, may be authorized or approved; except that the rate for travel by the Alaska Ferry System shall not exceed the standard M&IE rate for CONUS. Per diem will be computed under the lodgings-plus system on the days of embarkation and debarkation.

10. Section 301–7.12 is amended by revising the fifth sentence of the introductory text to read as follows:

§ 301–7.12 Reductions in maximum per diem rates when appropriate.

* * * When reduced rate situations involve partial days, per diem for such days may be three-fourths of the reduced rate, a special reduced rate prescribed for partial days, or an amount determined under the lodgings-plus system, as considered appropriate by the agency. * * *

* * * * *

PART 301–8—REIMBURSEMENT OF ACTUAL SUBSISTENCE EXPENSES

11. The authority citation for part 301–8 is revised to read as follows:

Authority: 5 U.S.C. 5701–5709.

12. Section 301–8.3 is amended by revising paragraph (b)(2) to read as follows:

§ 301–8.3 Maximum daily rates and reimbursement limitations.

* * * * *

(b) * * *

(2) *Specific meals and incidental expenses limitation.* The agency may authorize or approve the payment of meals and incidental expenses on a flat rate basis without the need for receipts

and/or itemization when such expenses are within the applicable M&IE rate. On full days of travel, the payment shall not exceed the applicable M&IE rate. On partial days of travel, the payment shall not exceed three-fourths of the applicable M&IE rate. The amount of the maximum daily rate in excess of the actual M&IE payment may be used for lodging.

PART 301–11—CLAIMS FOR REIMBURSEMENT

13. The authority citation for part 301–11 is revised to read as follows:

Authority: 5 U.S.C. 5701–5709.

14. Section 301–11.5 is amended by revising paragraph (a) (2) and (3) to read as follows:

§ 301–11.5 Preparation of voucher.

(a) * * *

(2) *Leave of absence.* When leave of absence of any kind is taken while an employee is in a travel status, the type of leave and number of hours of leave for each day shall be recorded on the travel voucher.

(3) *Indirect-route travel.* The travel voucher should set forth the details of the expenses actually incurred, the date of departure from the post of duty, and the date of arrival at the place of duty. Where leave has been taken while in travel status, the date and time that leave began and terminated should be shown.

* * * * *

§ 301–11.6 [Amended]

15. Section 301–11.6 is amended by removing the reference "§ 301–7.8(g)" in paragraph (b)(16), and adding in its place the reference "§ 301–7.8(e)".

PART 302–2—ALLOWANCES FOR SUBSISTENCE AND TRANSPORTATION

16. The authority citation for part 302–2 continues to read as follows:

Authority: 5 U.S.C. 5721–5734; 20 U.S.C. 905(a); E.O. 11609, 36 FR 13747, 3 CFR, 1971–1975 Comp., p. 586.

17. Section 302–2.1 is revised to read as follows:

§ 302–2.1 For the employee.

(a) *Applicability.* This part applies to travel of

(1) Transferred employees,

(2) New appointees, and

(3) Employees assigned to posts of duty outside the continental United States in connection with either overseas tour renewal agreement travel or return travel to places of residence for the purpose of separation.

(b) *Payment for employee's travel expenses.* Except as specifically provided in this chapter, an agency shall pay per diem, transportation costs, and other travel expenses of the employee in accordance with the provisions of 5 U.S.C. 5701–5709 and chapter 301 of this title. The prohibition in § 301–7.5(b) of this title on paying per diem for travel of 12 hours or less applies to change of official station travel.

(c) *Maximum per diem rates for relocation travel*—(1) *Travel when en route between employee's old and new official stations.* The maximum per diem rate for en route travel within CONUS between the employee's old and new official stations shall be the standard CONUS rate prescribed under § 301–7.3 of this title.

(2) *Travel to seek residence quarters.* The maximum per diem rate for travel to seek residence quarters shall be the lesser of the maximum per diem rate prescribed under § 301–7.3 of this title for the locality where the employee seeks residence quarters or for the locality where the employee obtains lodging accommodations. An agency may prescribe the standard CONUS rate as the maximum per diem rate if it determines that establishment of such lower rate is advantageous to the Government.

18. Section 302–2.2 is amended by revising the introductory text of paragraph (b) to read as follows:

§ 302–2.2 For members of an employee's immediate family.

* * * * *

(b) *Per diem allowance when en route between employee's old and new official stations.* When an employee is transferred, an allowance shall be paid for per diem expenses incurred by the employee's immediate family while traveling between the old and new official stations regardless of where the old and new stations are located. If the actual travel involves departure and/or destination points other than the old or new official station, the per diem allowance shall not exceed the amount to which members of the immediate family would have been entitled if they had traveled by a usually traveled route between the old and new official stations. The prohibition in § 301–7.5(b) of this title on paying per diem for travel of 12 hours or less applies to change of official station travel. The maximum allowable per diem rates are as follows:

* * * * *

Dated: September 26, 1996.

David J. Barram,

Acting Administrator of General Services.

[FR Doc. 96–32712 Filed 12–26–96; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 28

[CGD 96–046]

RIN 2115–AF35

Commercial Fishing Industry Vessel Regulations

AGENCY: Coast Guard, DOT.

ACTION: Correction to interim rule; extension of comment period; delay of effective date.

SUMMARY: This document contains a correction to the interim rule [CGD 96–046], which was published Tuesday, November 5, 1996, (61 FR 57268). Also, the Coast Guard is extending the comment period and delaying the interim rule effective date on the requirements for safety equipment and vessel operating procedures on commercial fishing industry vessels. The comment period is extended to 105 days to allow 60 additional days for public comment.

DATES: The effective date of the interim rule published on November 5, 1996 (61 FR 57268) is delayed until March 20, 1997. The effective date of this document is December 27, 1996. Comments must be received on or before February 20, 1997.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 94–046), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Commander Mark D. Bobal, Project Manager, G–MSO–2, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593, telephone (202) 267–0836.

SUPPLEMENTARY INFORMATION:

Background and Purpose

On November 5, 1996, the Coast Guard published an interim rule in the **Federal Register** (61 FR 57268). This rulemaking was initiated to implement certain provisions of the Commercial Fishing Industry Vessel Safety Act of 1988, Pub. L. 100–424. This rule established requirements for U.S. documented or state numbered uninspected fishing, fish processing, and fish tender vessels. The comment period was limited to 45 days by the interim rule. The Coast Guard has received many requests to extend the comment period to allow for additional time to review the provisions of this rule. The purpose of this document is to extend the comment period an additional 60 days and delay the effective date of the interim rule and to make the following correction:

Need for Correction

As published, the interim rule contains an omission which may prove to be misleading and needs correction.

Correction of Publication

Accordingly, the publication on November 5, 1996, of the interim rule [CGD 96–046] which was the subject of FR Doc. 96–28406, is corrected as follows:

1. On page 57274, in table 28.120(a) entitled "Survival Craft For Documented Vessels," in the eighth entry for area, "Inside Boundary Line, cold waters; or Lakes, bays, sounds, cold waters; or rivers, cold waters", for vessels 10.97 meters (36 feet) or more in length, in the third column, the words "See note 2" should be added after the words "Inflatable buoyant apparatus."

Dated: December 20, 1996.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 96–32843 Filed 12–26–96; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the actual classes of channels allotted to various communities. The changes in channel classifications have been authorized in response to applications filed by licensees and permittees operating on these channels. This action is taken pursuant to *Revision of Section 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment,* 4 FCC Rcd 2413 (1989), and the *Amendment of the Commission's Rules to permit FM Channel and Class Modifications [Upgrades] by Applications,* 8 FCC Rcd 4735 (1993).

EFFECTIVE DATE: December 27, 1996.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, adopted December 13, 1996, and released December 20, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by removing Channel 244A and adding Channel 244C3 at Pine Hill.

3. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 297A and adding Channel 296B1 at Madera, and by removing Channel 252A and adding Channel 252B1 at Oxnard.

4. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 264C3 and adding Channel 264A at Milledgeville.

5. Section 73.202(b), the Table of FM Allotments under Idaho, is amended by removing Channel 237C3 and adding Channel 237C1 at Sun Valley.

6. Section 73.202(b), the Table of FM Allotments under Garapan is amended by removing Channel 266C and adding Channel 266A at Saipan.

7. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by removing Channel 235C2 and adding Channel 235A at Albert Lea.

8. Section 73.202(b), the Table of FM Allotments under Montana, is amended by removing Channel 244A and adding Channel 243C2 at Deer Lodge.

9. Section 73.202(b), the Table of FM Allotments under New York, is amended by removing Channel 269A and adding Channel 270A at Jamestown.

10. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 225A and adding Channel 226A at Bells and by removing Channel 290A and adding Channel 290C2 at Stanton.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–32558 Filed 12–26–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 282]

Organization and Delegation of Powers and Duties; Delegations to Federal Highway Administrator, Research and Special Programs Administrator, and Director of the Bureau of Transportation Statistics

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This document delegates to the Administrator of the Federal Highway Administration (FHWA), the Administrator of the Research and Special Programs Administration (RSPA), and the Director of the Bureau of Transportation Statistics (BTS) certain authority vested in the Secretary of Transportation by the ICC Termination Act of 1995 (ICCTA), Pub. L. 104–88, 109 Stat. 803. The purpose of this rulemaking is to amend Part 1 of title 49, Code of Federal Regulations, to reflect these delegations.

EFFECTIVE DATE: December 27, 1996.

FOR FURTHER INFORMATION CONTACT: (1) Thomas P. Holian, Office of Chief Counsel, Legislation and Regulations Division, FHWA, Room 4223, (202) 366–0761; (2) John Grimm, Office of Motor Carrier Information Analysis,

FHWA, Room 3104, (202) 366–4039; or Michael Falk, Office of Chief Counsel, Motor Carrier Law Division, FHWA, Room 4217, (202) 366–0834; (3) Edward H. Bonekemper, III, Assistant Chief Counsel, Hazardous Materials Safety, Research and Technology Law Division, RSPA, Room 8405, (202) 366–4401; (4) David Mednick, BTS, Room 3430, (202) 366–8871. The building address for all of the above is 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: The Secretary has determined that certain authority vested in the Secretary by the ICCTA should be formally delegated to the Federal Highway Administrator, the Research and Special Programs Administrator, and the Director of the Bureau of Transportation Statistics. This rulemaking amends section 1.48 of 49 CFR Part 1, Delegations to the Federal Highway Administrator, section 1.53 of 49 CFR Part 1, Delegations to the Administrator of the Research and Special Programs Administration, and section 1.71 of 49 CFR Part 1, Delegations to the Director of the Bureau of Transportation Statistics, to reflect these delegations.

Because these amendments relate to departmental management, organization, procedure, and practice, prior notice and opportunity for comment are unnecessary. For the same reason, good cause exists for making this final rule effective immediately upon publication in the **Federal Register**.

Section 1.48 Delegations to the Federal Highway Administrator

This final rule amends 49 CFR 1.48 to delegate to the Federal Highway Administrator the authority to administer portions of section 103 of the ICCTA. Section 103 amended or enacted provisions of title 49, United States Code, which direct the Secretary to carry out certain motor carrier, broker, and freight forwarder functions.

This final rule also amends 49 CFR 1.48 to delegate to the Federal Highway Administrator the authority to administer sections 104, 403(a), and 408 of the ICCTA. Section 104 requires regulations be established relating to State grants, vehicle length limitations, insurance, and self-insurance. Section 403(a) relates to the promulgation of regulations relating to railroad-highway grade crossings. Section 408 requires the Secretary to issue a rulemaking in relation to a variety of fatigue-related issues pertaining to commercial motor vehicle safety.

A correction in paragraph designation is provided to reflect an amendment to a final rule published on January 6, 1993 (58 FR 502–503), that added paragraph (jj) to § 1.48. The final rule published today amends the January 6, 1993, rule because an earlier rule added (jj) at 57 FR 62483–62484 on December 31, 1992.

Section 1.53 Delegations to the Research and Special Programs Administrator

This final rule amends 49 CFR 1.53 to delegate to the Research and Special Programs Administrator the authority to administer section 406 of the ICCTA, which requires the Secretary to (1) issue a final rule extending the transition period for the continued use of fiber drum packagings that do not meet performance standards adopted in 1990; (2) contract with the National Academy of Sciences for a study of packaging standards applicable to the use of fiber drums for the transportation of liquid hazardous materials; and (3) develop final standards for fiber drum packagings for liquid hazardous materials.

Section 1.71 Delegations to the Director of the Bureau of Transportation Statistics

This final rule amends 49 CFR 1.71 to delegate to the Director of the Bureau of Transportation Statistics the authority to administer section 14122(a) and (c) and section 14123 of title 49, U.S.C., relating to the collection and dissemination of information on motor carriers, which was revised under section 103 of the ICCTA.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

PART 1—[AMENDED]

1. The authority citation for Part 1 continues to read as follows:

Authority: 49 U.S.C. 322; Pub. L. 101–552; 28 U.S.C. 2672; 31 U.S.C. 3711(a)(2).

2. Section 1.48 is amended by redesignating the second (jj) paragraph as paragraph (d) and adding new paragraphs (h) and (i) to read as follow:

§ 1.48 Delegations to the Federal Highway Administrator.

* * * * *

(h) Carry out the functions and exercise the authority vested in the Secretary by 49 U.S.C., Subtitle IV, Part B,:

(1) Chapter 131;

(2) Chapter 133;

(3) Chapter 135;

(4) Chapter 137, sections 13702(a), 13702(c)(1), 13702(c)(2), 13702(c)(3), 13704, 13707, and 13708;

(5) Chapter 139;

(6) Chapter 141, Subchapter I and sections 14121 and 14122 of Subchapter II;

(7) Chapter 145, sections 14501, 14502, and 14504;

(8) Chapter 147, sections 14701 through 14708; and

(9) Chapter 149, sections 14901 through 14913.

(i) Carry out the functions and exercise the authority vested in the Secretary by sections 104, 403(a), and 408 of the ICC Termination Act of 1995, Pub. L. 104–88, relating to miscellaneous motor carrier provisions, railroad-highway grade crossing regulation and fatigue-related issues pertaining to commercial motor vehicle safety.

* * * * *

3. Section 1.53 is amended by adding a new paragraph (b)(5) to read as follows:

§ 1.53 Delegations to the Administrator of the Research and Special Programs Administration.

* * * * *

(b) * * *

(5) Section 406 of the ICC Termination Act of 1995 (Public Law 104–88) relating to the issuance of regulations concerning the use of certain fiber drum packagings for the transportation of liquid hazardous materials, including contracting for a study by the National Academy of Sciences.

* * * * *

4. Section 1.71 is amended by adding a new paragraph (b) to read as follows:

§ 1.71 Delegations to the Director of the Bureau of Transportation Statistics.

* * * * *

(b) *Motor carrier information.* 49 U.S.C. 14123, relating to the collection and dissemination of information on motor carriers.

* * * * *

Issued at Washington, D.C. this 17 day of December 1996.

Federico Peña,

Secretary of Transportation.

[FR Doc. 96–32703 Filed 12–26–96; 8:45 am]

BILLING CODE 4910–62–P

VOL 61 ISS 250 DE 27 1996 UMI

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 951116270–5308–02; I.D. 102896B]

Fisheries of the Northeastern United States; Summer Flounder Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Commercial quota harvest; Closure of the exclusive economic zone (EEZ).

SUMMARY: NMFS issues this notification to announce that the summer flounder commercial quota available to the State of Maryland has been harvested and to announce the closure of the summer flounder fishery in the EEZ. Accordingly, vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in Maryland and no commercial vessel may fish for or possess summer flounder in the EEZ for the remainder of calendar year 1996. Regulations governing the summer flounder fishery require publication of this notification to advise Maryland that the State's quota has been harvested and to advise vessel and dealer permit holders that no commercial quota is available for landing summer flounder in that state. Also, regulations governing this fishery require that once the commercial fisheries for summer flounder are closed in all states, such as is now the case, the Regional Administrator close the EEZ to fishing for summer flounder for the remainder of the calendar year.

EFFECTIVE DATE: December 27, 1996, through December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Regina Spallone, Fishery Policy Analyst, 508–281–9221.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648, Subparts A and G. The regulations require annual specification of a commercial quota that is apportioned among the states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in

§ 648.100. Amendment 7 to the Fishery Management Plan for the Summer Flounder Fishery (November 24, 1995, 60 FR 57955) revised the fishing mortality rate reduction schedule for summer flounder, and the revised schedule was the basis for establishing the 1996 quota. The total commercial quota for summer flounder for the 1996 calendar year was adopted to achieve the appropriate fishing mortality rate of 0.41 for 1996, and is set equal to 11,111,298 lb (5,040,000 kg) (January 4, 1996, 61 FR 291). The percent allocated to vessels landing summer flounder in Maryland is 2.03910 percent or 226,570 lb (102,770 kg).

Section 648.101(b) requires the Regional Administrator, Northeast Region, NMFS, (Regional Administrator) to monitor state commercial quotas and to determine when a state commercial quota is harvested. The Regional Administrator is further required to publish a notice in the **Federal Register** advising a state and notifying Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. The Regional Administrator has determined that the 1996 summer flounder quota allocation for vessels landing in Maryland has been harvested.

The regulations at § 648.4(b) provide that Federal permit holders agree as a condition of the permit not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours December 27, 1997, through December 31, 1997, further landings of summer flounder in Maryland by vessels holding commercial Federal fisheries permits are prohibited for the remainder of the 1996 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Federally permitted dealers are also advised that they may not purchase summer flounder from Federally permitted vessels that land in Maryland for the remainder of the calendar year, or until additional quota becomes available, effective on December 27, 1996, through December 31. 1996.

Furthermore, the closure of the State of Maryland to landings means that the quota allocated to all of the states for 1996 has been attained and all of those states have been closed by virtue of either state of Federal action. As required by § 648.101(a), this notification closes the summer flounder fishery in the EEZ to harvesting or otherwise possessing summer flounder by commercial vessels for the remainder of the 1996 calendar year. During the closure, harvesting or otherwise possessing summer flounder in the EEZ is prohibited as authorized under § 600.725(a) and (k).

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 20, 1996.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 96–32890 Filed 12–20–96; 4:26 pm]

BILLING CODE 3510–22–F

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50 CFR Part 648

[Docket No. 960216032–6352–08; I.D. 112196D]

RIN 0648–AH70

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Small Mesh Area 2

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to modify the regulations implementing the Northeast Multispecies Fishery Management Plan (FMP). This rule modifies the size of Small Mesh Area 2, which is an exempted small mesh fishing area located in the Gulf of Maine/Georges Bank (GOM/GB) Regulated Mesh Area, by removing the northernmost portion from the list of exempted fisheries. The intent of this action is to reduce the bycatch of regulated multispecies in Small Mesh Area 2 so that it is consistent with the conservation objectives of the fishery.

EFFECTIVE DATE: January 1, 1997.

ADDRESSES: Copies of Amendment 7 to the FMP, its regulatory impact review (RIR), the regulatory flexibility analysis contained within the RIR, and its final supplemental environmental impact statement, are available upon request from Christopher Kellogg, Acting Executive Director, New England Fishery Management Council (Council), 5 Broadway, Saugus, MA 01906–1097. Copies of the environmental assessment (EA) supporting this action may be obtained from Dr. Andrew A. Rosenberg, Regional Administrator, NMFS, 1 Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Peter W. Christopher, Fishery Management Specialist, 508–281–9288.

SUPPLEMENTARY INFORMATION:
Regulations implementing Amendment 7 to the FMP became effective on July 1, 1996 (61 FR 27710, May 31, 1996). These regulations implemented a comprehensive set of measures to control fishing mortality and rebuild the primary stocks of regulated multispecies. Among the specific measures is a bycatch control measure that prohibits prosecution of any fishery for which NMFS has not determined the bycatch level of regulated multispecies.

The bycatch control restriction is applied on a fishery-specific basis in each of two regulated mesh areas: The GOM/GB Regulated Mesh Area and the Southern New England (SNE) Regulated Mesh Area. A vessel may not fish in these areas unless it is fishing under a multispecies or scallop days-at-sea allocation, fishing with exempted gear, fishing under the handgear or party/charter permit restrictions, or fishing in an exempted fishery.

The procedure for adding or removing exempted fisheries is described in § 648.80 of the regulations governing the FMP. These regulations state that additional fisheries may be exempted if, after consultation with the New England Fishery Management Council, the Regional Administrator, Northeast Region, NMFS, (Regional Administrator) finds that there are sufficient data or information to determine that the percentage of the bycatch of regulated multispecies is, or can be reduced to, less than 5 percent, by weight, of the total catch, and that such exemption will not jeopardize fishing mortality objectives. This section also authorizes the Regional Administrator to remove or modify existing exempted fisheries by imposing specific gear, area, seasonal, or other limitations appropriate to reduce bycatch of regulated multispecies.

On May 15, 1995, the Regional Administrator established a seasonal small mesh fishing area within part of the GOM/GB Regulated Mesh Area (60 FR 26841, May 19, 1995). This small mesh fishing area consists of two subareas, Small Mesh Areas 1 and 2, and was established on the basis that fishing in these areas was not likely to exceed the 5 percent bycatch allowance of regulated multispecies.

Subsequently, the Maine Fisheries Cooperative Association requested that the Regional Administrator reexamine the establishment of Small Mesh Area 2, since it felt that small mesh vessels were causing unacceptable damage to the resource. The Regional Administrator presented the industry request to the Council and, despite earlier data showing that fishers using small mesh in Small Mesh Area 2 during January through June exhibited less than a 5 percent bycatch of regulated multispecies, several members of the Council insisted that the fishery exceeded the maximum 5 percent bycatch of regulated multispecies. The Council concurred with the industry request that the Regional Administrator reexamine the area and stated it would support further restrictions if the Regional Administrator found that the bycatch was equal to or greater than 5 percent, by weight, of total catch, or that continuing the exemption might jeopardize meeting fishing mortality objectives.

After analyzing the available data and considering the gear used, the area where the fishery occurred, and other relevant factors, the Regional Administrator determined that the top third (northernmost portion) of Small Mesh Area 2 does not meet the exemption qualification requirements specified in § 648.80(a)(7). This area is geophysically distinct from the lower two-thirds of Small Mesh Area 2 in that it is in shallower water. The elimination of the northern portion of the area is consistent with the available data, which show that fishing activity in the northern portion of Square Mesh Area 2 has exceeded the allowable bycatch of regulated multispecies. Eligible vessels may continue to participate in the fishery in the lower portion of Small Mesh Area 2 from January through June.

Classification

The Regional Administrator determined that this final rule is necessary for the conservation and management of the fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable law.

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive prior notice and opportunity for comment under 5 U.S.C. 553(b)(B). Provisions under the FMP give the Regional Administrator authority to add, delete, or modify exempted fisheries based on the percentage of regulated species caught. Public meetings held by the Council to discuss this modification to Small Mesh Area 2, provided prior notice and opportunity for public comment to be made and considered, making additional notice and opportunity for public comment unnecessary. Further, the AA finds good cause to waive the 30-day delay in effectiveness of this regulation under 5 U.S.C. 553(d)(3), because fishing in the area when it opens January 1 with small mesh would jeopardize the conservation objectives of the fishery. Specifically, the FMP's goals to reduce regulated multispecies bycatch would be jeopardized. NMFS will employ notification methods to fishery participants and the affected public beyond notification by this **Federal Register** notice (e.g., by letter, fax) so that they will not unknowingly fish in violation of the area modification.

This final rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 23, 1996.

Charles Karnella,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.80, paragraph (a)(8)(i) is revised to read as follows:

§ 648.80 Regulated mesh areas and restrictions on gear and methods of fishing.

* * * * * *

(a) * * *

(8) *Small Mesh Area 1/Small Mesh Area 2.* (i) Vessels subject to the minimum mesh size restrictions specified in paragraph (a)(2) of this section may fish with or possess nets with a mesh size smaller than the minimum size from July 15 through November 15 when fishing in Small Mesh Area 1 and from January 1 through June 30 when fishing in Small Mesh Area 2, except as specified in paragraph (a)(8)(ii) of this section. A vessel may not fish for, possess on board, or land any species of fish other than: Butterfish, dogfish, herring, mackerel, ocean pout, scup, squid, silver hake, and red hake, except for the following allowable bycatch species, with the restrictions noted: Longhorn sculpin; monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board; and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less. These areas are defined by straight lines connecting the following points in the order stated (copies of a chart depicting these areas are available from the Regional Director upon request):

SMALL MESH AREA 1

Point	N. Lat.	W. Long.
SM1	43°03′	70°27′
SM2	42°57′	70°22′
SM3	42°47′	70°32′
SM4	42°45′	70°29′
SM5	42°43′	70°32′
SM6	42°44′	70°39′
SM7	42°49′	70°43′
SM8	42°50′	70°41′
SM9	42°53′	70°43′
SM10	42°55′	70°40′
SM11	42°59′	70°°32′
SM1	43°03′	70°27′

SMALL MESH AREA 2

Point	N. Lat.	W. Long.
SM13	43°03.7′	70°00′
SM14	43°10.1′	69°43.3′
SM15	42°49.5′	69°40′
SM16	42°41.5′	69°40′
SM17	42°34.9′	70°00′
SM13	43°03.7′	70°00′

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[FR Doc. 96–33022 Filed 12–23–96; 4:49 pm]
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Proposed Rules

Federal Register
Vol. 61, No. 250
Friday, December 27, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 20

Export Reporting for Meat and Meat Products

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Extension of comment period for advance notice of proposed rulemaking.

SUMMARY: On November 14, 1996, the U.S. Department of Agriculture (USDA) published an advance notice of proposed rulemaking (**Federal Register**: November 14, 1996, Volume 61, Number 221, page 58343–58345) soliciting comments and views on a proposal to require reporting of export sales of meat (including poultry meat) and meat products. The proposal responded to a recommendation by the USDA Advisory Committee on Agricultural Concentration. This notice required that comments be received on or before January 13, 1997, to be assured of consideration. Under the proposal, firms involved in exporting meat products could be required to report detailed information on these sales to the Department on a weekly basis.

DATES: *Revised comment period.* The comment period is extended for 30 days and comments should be received on or before February 12, 1997, to be assured of consideration.

ADDRESSES: Comments should be sent to: Export Sales Reporting Branch, Trade and Economic Analysis Division, Room 5959—Stop 1025, Foreign Agricultural Service, U.S. Department of Agriculture, 1400 Independence Ave. SW, Washington, DC 20250–1025. All written comments received will be available for public inspection at the above address during business hours from 8:00 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Thomas B. McDonald, Jr., Chief, Export Sales Reporting Branch, Trade and Economic Analysis Division, Foreign Agricultural Service, U.S. Department of Agriculture, (202) 720–3273, FAX (202) 690–3275.

Signed at Washington, D.C. December 18, 1996.

August Schumacher, Jr.,

Administrator, Foreign Agricultural Service.

[FR Doc. 96–32909 Filed 12–26–96; 8:45 am]

BILLING CODE 3410–10–M

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 96–007P]

RIN 0583–AC17

Use of Two Kinds of Poultry Without Label Change

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: In response to a petition, the Food Safety and Inspection Service (FSIS) is proposing to amend the poultry products inspection regulations by adding a provision that would permit manufacturers of poultry products to interchange the amounts and kinds of poultry present in a product without requiring new labels for each formulation. This provision would apply in situations where two kinds of poultry make up at least 70 percent of the poultry and poultry ingredients used in the product formulation, and neither of the two kinds of poultry used constitutes less than 30 percent of the poultry and poultry ingredients used. In these situations, one label with the word "and" instead of a comma between the declaration of the kinds of poultry in the ingredients statement would indicate to consumers that the order of predominance of the two kinds of poultry may be interchanged. This action would provide consistent provisions for both meat and poultry products.

DATES: Comments must be received on or before: February 25, 1997.

ADDRESSES: Send an original and two copies of comments to: FSIS Docket Clerk, Docket #96–007P, Room 3806–S, 1400 Independence Avenue, SW, Washington, DC 20250–3700. Reference materials cited in this document and any comments received will be available for public inspection in the FSIS Docket Room from 8:30 a.m. to 1:00 p.m. and 2:00 p.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Charles Edwards, Director, Facilities, Equipment, Labeling and Compound Review Division, Office of Policy, Program Development, and Evaluation; (202) 418–8900.

SUPPLEMENTARY INFORMATION:

Background

FSIS has been petitioned to amend the poultry products inspection regulations to add a provision that would permit poultry processors to interchange the kinds of poultry used to prepare a poultry product without requiring that the product label be changed to reflect the order of predominance of the kinds of poultry.

The Federal meat inspection regulations currently provide that when two meat ingredients comprise at least 70 percent of the meat and meat byproduct ingredients of a product formulation and when neither of the two meat ingredients constitutes less than 30 percent of the total weight of the meat and meat byproducts used, the meat ingredients may be interchanged in the product formula without a change being made in the ingredients statement, if the word "and" is used in lieu of a comma between the two meat ingredients in the ingredients statement (9 CFR 317.2(f)(1)(v)). (Meat byproduct ingredients are any parts of a meat carcass that are capable of use as human food other than meat.) For example, if a sausage is made with both beef and pork the proportions of beef can vary from 30 to 70 percent and the proportions of pork can vary from 30 to 70 percent, without necessitating a change in the product's ingredients statement. This provision was originally promulgated in response to an industry request to allow meat processors to utilize different amounts of meat ingredients without having to develop and maintain an inventory of labels with different ingredients statements. This provision permits processors to utilize whichever species of meat is the least expensive at the time the product is being produced. This provision, when promulgated for meat products, was not extended to poultry products because, at that time, the poultry industry was producing further processed poultry

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products (such as poultry rolls and sausages) only on a very limited scale. Conditions in the poultry industry have changed since that time. Therefore, the petitioner requests that the labeling flexibility afforded to meat processors be available to poultry processors.

FSIS has determined that there is merit to the petitioner's request, and is proposing to amend the poultry products inspection regulations to add a provision to permit manufacturers of poultry products to interchange the amounts and kinds of poultry present in a product formulation without requiring new labels for each formulation. This provision would apply to those products in which at least 70 percent of the poultry and poultry ingredients portion comprises two kinds of poultry, and neither of the two kinds of poultry used in the product constitutes less than 30 percent of the poultry and poultry ingredients. (Poultry ingredients include such products as giblets, skin and/or fat in excess of natural proportions, and mechanically separated (kind)).

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) all State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Executive Order 12866 and the Regulatory Flexibility Act

This proposal has been determined to be not significant under Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

The Administrator has made an initial determination that this proposal will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). The proposal would provide flexibility in the amount and kinds of poultry that may be used in a product formulation without having to change product labels.

Paperwork Requirements

Abstract: FSIS has reviewed the paperwork and recordkeeping requirements in this proposed rule. This proposed rule would permit establishments to interchange the amounts and kinds of poultry present in a product without having to change the product label. However, establishments wishing to take advantage of this provision would need to develop and print labels which conform to the proposed rule.

Estimate of Burden: Meat and poultry establishments must develop product labels in accordance with the regulations. To receive approval of the labels, establishments must complete FSIS Form 7234–1. FSIS program employees review FSIS Form 7234–1 to ensure that information on the label complies with the regulations. FSIS estimates that it will take 60 minutes to design and develop a modified product label in accordance with the proposed regulations, and 15 minutes to prepare FSIS Form 7234–1 and submit it, along with the label, to FSIS or a label expediter who will deliver the form and label to FSIS.

Respondents: Poultry establishments.

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 125 hours.

Copies of this information collection assessment can be obtained from Lee Puricelli, Paperwork Specialist, Food Safety and Inspection Service, USDA, South Agriculture Building, Room 3812, Washington, DC 20250–3700.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Send comments to both Lee Puricelli, Paperwork Specialist, at the address provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

Comments are requested by February 25, 1997. To be most effective, comments should be sent to OMB within 30 days of the publication date of this proposed rule.

List of Subjects

9 CFR Part 381

Poultry products inspection, Labeling.

For the reasons discussed in the preamble, FSIS is proposing to amend part 381 of the poultry products inspection regulations (9 CFR part 381) as follows:

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

1. The authority citation for part 381 would continue to read as follows:

Authority: 7 U.S.C. 138f; 7 U.S.C. 450; 21 U.S.C. 451–470; 7 CFR 2.18, 2.53.

2. Section 381.118 would be amended by adding a new paragraph (f) to read as follows:

§ 381.118 Ingredients statement.

* * * * *

(f) Establishments may interchange the identity of two kinds of poultry (e.g., chicken and turkey) used in a product formulation without changing the product's ingredients statement under the following conditions: the two kinds of poultry used must comprise at least 70 percent by weight of the poultry and poultry ingredients (e.g., giblets, skin and/or fat in excess of natural proportions, or mechanically separated (kind)) used, and neither of the two kinds of poultry used can be less than 30 percent by weight of the total poultry and poultry ingredients used. The word "and" in lieu of a comma must be shown between the declaration of the two kinds of poultry in the ingredients statement.

Done at Washington, DC, on: December 17, 1996.

Thomas J. Billy,

Administrator.

[FR Doc. 96–32853 Filed 12–26–96; 8:45 am]

BILLING CODE 3410–DM–P

FEDERAL RESERVE SYSTEM

12 CFR Part 203

[Regulation C; Docket No. R–0951]

Home Mortgage Disclosure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is publishing for comment proposed revisions to Regulation C (Home Mortgage Disclosure). The revisions would implement the amendments to the Home Mortgage Disclosure Act included in the Economic Growth and Regulatory Paperwork Reduction Act of 1996. Those amendments increase the exemption threshold for depository institutions and modify certain

disclosure requirements. The Board also proposes to extend the information collection authority under the Paperwork Reduction Act for another three years, and to make technical amendments to the transmittal sheet accompanying the loan/application register.

DATES: Comments must be received on or before February 25, 1997.

ADDRESSES: Comments should refer to Docket No. R–0951, and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. Comments also may be delivered to Room B–2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street, N.W. (between Constitution Avenue and C Street) at any time. Comments received will be available for inspection in Room MP–500 of the Martin Building between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding availability of information.

FOR FURTHER INFORMATION CONTACT: Jane Jensen Gell or Manley Williams, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667 or (202) 452–2412; for the hearing impaired *only*, Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

I. Background

On September 30, the President signed into law the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (the 1996 Act) (Pub. L. 104–208, 110 Stat. 3009) . The 1996 Act, in part, amends the Home Mortgage Disclosure Act of 1975 (HMDA) (12 U.S.C. 2801 *et seq.*). HMDA requires most mortgage lenders located in metropolitan areas to collect data about their housing-related lending activity. Annually, lenders must file reports with their federal supervisory agencies and make disclosures available to the public. The Board's Regulation C (12 CFR Part 203) implements HMDA.

II. Proposed Revisions

A. Increasing the Exemption Based on Asset Size

Currently, depository institutions with assets of $10 million or less are exempt from HMDA. The 1996 Act increases this exemption for depository institutions by adjusting the $10 million figure by the change since 1975 in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPIW)—rounded to the nearest million. The Board proposes to revise § 203.3(a)(1)(ii) of Regulation C to implement this amendment to section 309 of HMDA (12 U.S.C. 2808).

The Bureau of Labor Statistics calculates the CPIW monthly and publishes the data with a lag of a few weeks. The seasonally adjusted figures are available with a longer lag. Accordingly, the Board proposes to use the "not seasonally-adjusted" figure. The 1996 Act calls for an initial adjustment based on the percentage by which the CPIW for 1996 exceeds the CPIW for 1975. To ensure that the public is informed of the new threshold promptly, the Board intends to publish a notice with the adjusted threshold as soon as the December 1996 data become available in early January. Based on the increase in the CPIW from December 1975 to October 1996, the adjusted figure would be $27.9 million, rounded to an exemption threshold of $28 million. Thus, institutions with assets of $28 million or less would be exempt from data collection in 1997.

Institutions covered during 1996 but exempt subsequently because of the new threshold (for example, institutions with assets of $17 million) are required to collect data for all of 1996, and to submit those data by March 1, 1997. Such institutions will not be subject to the data collection requirements for 1997.

The 1996 Act provides that the exemption is to be adjusted annually to reflect future changes in the CPIW. The Board could make the adjustment using December data or, if it wanted to announce the new threshold by year-end, using November data. To make the year-to-year adjustments consistent with the initial adjustment, the Board proposes to base the adjustments on December data and publish the results in the **Federal Register** as soon as those data become available in January. If the adjustment uses December data the threshold might be higher, but some institutions that are actually exempt might have to collect the data in the early weeks of the year because of the uncertainty as to the threshold. For example, one year the threshold could be $29 million based on November data and $30 million based on December data. An institution with assets of $28.5 million as of that December 31 might want the Board to use the November data and publish the threshold in December so it could cease data collection beginning January 1. An institution with assets of $29.5 million might want the Board to use the December data so that it would qualify for exemption, even though the institution would have collected data for the first few weeks of January before the new threshold was published. The Board requests comment on whether earlier notice based on November data is preferable to a potentially higher exemption threshold using December data.

Conforming amendments relative to the asset exemption would be made in several sections of Appendix A—Form and Instructions for Completion of HMDA Loan/Application Register, and in § 203.3 of Supplement I—Staff Commentary.

Section 309 of HMDA (12 U.S.C. 2808), as amended in 1991, requires the Board, in consultation with the Secretary of the Department of Housing and Urban Development, to establish an exemption for nondepository institutions comparable to the exemption for depository institutions. The 1996 Act amends section 309 by adding a parenthetical stating that the comparable exemption shall be "determined without regard to the adjustment made by subsection (b) [the CPIW adjustments]." Currently, a nondepository institution with offices in an MSA is exempt from HMDA if it had assets of $10 million or less as of the preceding December 31 and originated fewer than 100 home-purchase loans in the preceding calendar year. In 1996, depository institutions with assets of $28 million or less, on average, reported about 50 HMDA loan/application register entries apiece. Accordingly, the Board, in consultation with the Secretary, has determined that no change to the existing coverage of nondepository institutions is appropriate at this time.

B. Elimination of the Branch Disclosure Requirement

Currently, HMDA provides that within ten business days of receiving the disclosure statement from the Federal Financial Institutions Examination Council (FFIEC), an institution must make a copy of the statement available to the public for inspection and copying in at least one branch office in each additional MSA where the institution has offices. The institution must also make the disclosure statement available at its home office. Regulation C added the requirement that an institution must post a general notice concerning the availability of HMDA data at the institution's home office and at each physical branch in an MSA.

The 1996 Act amends section 304 of HMDA (12 U.S.C. 2803) to specify that

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an institution need not make the information available at branch offices if the institution posts a notice and makes the information available upon a written request sent to the home office. The proposal amends § 203.5(b) concerning the public disclosure of an institution's mortgage loan disclosure statement accordingly.

For an institution choosing to make the HMDA data available upon written request, the 1996 Act requires a notice stating that the information is available from the home office upon written request. Currently, § 203.5(e) requires an institution to post—at the home office and at each branch office—a general notice about the availability of its HMDA data. Upon request, the institution must promptly provide the location where the data is available, and at its option may include the location in the notice. The Board believes the current provisions provide adequate notice and that requiring more detailed notices would not produce sufficient additional benefit to the public to justify the burden of preparing the new notices.

A literal reading of the 1996 Act could suggest that a request for HMDA data must be sent to the home office. The Board believes that specifying the home office as the location where requests are sent would not improve the public availability of this information. Accordingly, the revised § 203.5(e) would allow an institution to specify whatever address it wishes. The institution could either provide the address promptly upon request, or include the address in its notice.

Technical amendments to paragraphs (b) and (c) of § 203.5 clarify that an institution may continue to provide the data on an MSA-by-MSA basis. For example, if a person requests the disclosure statement for a particular branch location, the institution may provide just the statement for the MSA in which that branch is located.

Conforming amendments would be made in several sections in Appendix A—Form and Instructions for Completion of HMDA Loan/Application Register.

C. Disclosure Formats

Currently, Appendix A to Regulation C provides that an institution may make the public disclosures available in paper or automated form (a computer diskette, for example). The 1996 Act amends section 304 of HMDA (12 U.S.C. 2803) to provide that an institution may not make the information available in automated form (in place of paper) unless the person requesting the information agrees to receiving the data in that format. Appendix A, Section III.F. would be revised accordingly.

D. Revisions to the HMDA Loan/Application Register

The Board proposes to make three minor revisions to the HMDA loan/application register. To comply with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. ch. 3506; 5 CFR 1320 Appendix A.1), the following text would be added: "An agency may not conduct or sponsor, and an organization is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for the HMDA–LAR is 7100–0247." In addition, to facilitate prompt communication with a respondent, a blank for the respondent's facsimile number would be added to the transmittal sheet. To reduce burden, the Board proposes to modify the transmittal sheet so that a respondent will no longer have to enter the name and address of its supervisory agency.

III. Form of Comment Letters

Comment letters should refer to Docket No. R–0951. The Board requests that, when possible, comments be prepared using a standard courier typeface with a type size of 10 or 12 characters per inch. This will enable the Board to convert the text into machine-readable form through electronic scanning, and will facilitate automated retrieval of comments for review. Comments may also be submitted on computer diskettes, using either the 3.5" or 5.25" size, in any IBM-compatible DOS-based format. Comments on computer diskettes must be accompanied by a paper version.

IV. Regulatory Flexibility Analysis

In accordance with section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603), the Board's Office of the Secretary has reviewed the proposed amendments to Regulation C. Overall, the amendments are expected to reduce the burden on small entities. The proposed regulatory revisions implement the 1996 Act which, in part, increases the exemption threshold for depository institutions. The 1996 Act also creates an alternative means for making branch disclosures available. A final regulatory flexibility analysis will be prepared after consideration of comments received during the comment period.

V. Paperwork Reduction Act

A. Paperwork Burden

The proposed revisions to the information collection requirements are found in 12 CFR 203.3, 203.5 and Appendix A to Part 203 and implement the data collection and reporting requirements established by the Home Mortgage Disclosure Act. The respondents are mortgage lenders in metropolitan statistical areas. Under the act, each respondent must make its loan/application register available to the public for three years; and must provide for five years the disclosure statement that the FFIEC prepares from the data submitted by the respondent. Local public officials use the data to help identify target areas for residential redevelopment and rehabilitations. Members of the public use the data to help evaluate the extent to which mortgage lenders are serving local community and housing needs.

The amendments that the Board has proposed for public comment would decrease the number of respondents and ease compliance with the public disclosure requirements of the regulation. Small businesses are directly affected by the proposed amendments: many would no longer be required to collect, report, or disclose the information.

Regulation C applies to all types of financial institutions and other mortgage-lending institutions that meet the coverage tests. Under the Paperwork Reduction Act, however, the Board accounts for the paperwork burden associated with Regulation C only for state member banks, their subsidiaries, subsidiaries of bank holding companies, and other entities regulated by the Federal Reserve. Any estimates of paperwork burden for other respondents are provided by the federal agency or agencies that supervise them.

The Board estimates that the amendments' impact on the burden per response is negligible. The estimated burden per response varies from 10 to 10,000 hours, depending on individual circumstances, with estimated averages of 202 hours for state member banks and 160 hours for mortgage banking subsidiaries.

It is estimated that of the 565 state member banks that are currently covered because they exceed the $10 million asset threshold, 39 will be exempt as a result of the higher threshold. The 93 mortgage banking subsidiaries reporting HMDA data to the Federal Reserve are and would remain covered. The total amount of annual burden is estimated to decrease from 129,168 hours to 121,368 (a change of approximately 6 percent) as a consequence of the higher exemption threshold. The Board estimates that there would be no capital or start up cost associated with these amendments,

and that there is no annual cost burden beyond the estimated burden hours.

B. OMB Control Number

Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and an organization is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number applicable to the HMDA–LAR data collection is 7100–0247.

C. Confidentiality

The Board has previously determined that the HMDA loan/application register is required by law (12 U.S.C. 2801–2810; 12 CFR Part 203) and completion of the register, submission to the appropriate federal supervisory agency, and disclosure to the public on request are mandatory. The data, as modified according to Appendix A of the regulation (paragraph III.E.), are made publicly available and are not considered confidential. Information that might identify individual borrowers or applicants is given confidential treatment under exemption 6 of the Freedom of Information Act (5 U.S.C. 552(b)(6)).

D. Extension of Authority

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board has reviewed Regulation C under the authority delegated to the Board by the Office of Management and Budget. The Board proposes to extend the authority to collect the HMDA loan/application register for three years through March 31, 2000.

E. Comments

In keeping with OMB regulations, comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility; (b) the accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the cost of compliance; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology. Comments on the collection of information may be sent to the Office of Management and Budget, Paperwork Reduction Project (7100–0247), Washington, D.C. 20503, with copies to Mary M. McLaughlin, Chief, Financial Reports Section, Division of Research and Statistics, Mail Stop 97, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

List of Subjects in 12 CFR Part 203

Banks, banking, Consumer protection, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements.

Text of Proposed Revisions

Certain conventions have been used to highlight the proposed revisions to the regulation. New language is shown inside bold-faced arrows, while language that would be deleted is set off with bold-faced brackets.

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR part 203 as follows:

PART 203—HOME MORTGAGE DISCLOSURE (REGULATION C)

1. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 2801–2810.

2. Section 203.3 would be amended by revising paragraph (a)(1)(ii) to read as follows:

§ 203.3 Exempt institutions.

(a) *Exemption based on location, asset size, or number of home purchase loans.* (1) * * *

(ii) The institution's total assets were [$10 million or less] ►at or below the asset threshold established by the Board. For 1997 data collection, the asset threshold is $28 million as of December 31, 1996. For subsequent years, the Board will adjust the threshold based on the year-to-year change in the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, as of the month of December, with rounding to the nearest million. The Board will publish the adjusted asset figure in January◄.

* * * * *

3. Section 203.5 would be amended as follows:

a. Under paragraph (b), the first sentence would be designated as paragraph (b)(1), sentences two and three of the newly designated paragraph (b)(1) would be removed, and a new paragraph (b)(2) would be added;

b. Under paragraph (c), the last sentence would be revised; and

c. Under paragraph (e), the last two sentences would be revised.

The revisions and additions would read as follows:

§ 203.5 Disclosure and reporting.

* * * * *

(b) *Public disclosure of statement.* ►(1)◄ A financial institution shall make its mortgage loan disclosure statement (to be prepared by the Federal Financial Institutions Examination Council) available to the public at its home office no later than three business days after receiving it from the Examination Council. [A financial institution shall also make its disclosure statement available to the public within ten business days in at least one branch office in each additional MSA where the institution has offices. The disclosure statement at a branch office need only contain data relating to properties in the MSA where the branch office is located.]

►(2) In addition, a financial institution shall either:

(i) Make its disclosure statement available to the public within ten business days of receiving it from the Examination Council in at least one branch office in each additional MSA where it has offices (the disclosure statement need only contain data relating to properties in the MSA where the branch office is located); or

(ii) Mail or deliver a copy of its disclosure statement to any person requesting it, within 15 calendar days of receiving a written request (the disclosure statement need only contain data relating to properties in the MSA for which the request is made).◄

(c) *Public disclosure of loan application register.* * * * [The modified register made available at a branch office need only contain data relating to properties in the MSA where the branch office is located.] ►The modified register need only contain data relating to the MSA for which the request is made.◄

* * * * *

(e) *Notice of availability.* * * * Upon request, it shall promptly provide the location of the institution's offices where the statement is available ►for inspection and the address where a written request may be sent for a copy of the data◄. At its option, an institution may include [the locations] ►this information◄ in its notice.

4. Appendix A to Part 203 would be amended as follows:

a. Paragraph I.A. would be amended by redesignating the introductory text, paragraph 1., and 2. as paragraph 1., paragraph 1.a., and paragraph 1.b., respectively;

b. Newly designated paragraph 1.a. would be revised;

c. A new paragraph 2. would be added; and

d. The undesignated paragraph EXAMPLE, would be designated as

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paragraph 3. and would be revised. The addition and revisions would read as follows:

Appendix A to Part 203—Form and Instructions For Completion of HMDA Loan/Application Register

* * * * *

I. Who Must File a Report

A. Depository Institutions.

►1.◄ * * *

[1.]►a.◄ Had assets of more than [$10 million] ►the asset threshold for coverage as published by the Board each year in January◄, and

[2.]►b.◄ * * *

►2. For 1997 data collection, the asset threshold is $28 million in total assets as of December 31, 1996.◄

►3. *Example.*◄ If on December 31 you had a home or branch office in an MSA and your assets exceeded [$10 million] ►the asset threshold◄, you must complete a register that lists the home-purchase and home-improvement loans that you originate or purchase (and also lists applications that did not result in an origination) beginning January 1.

* * * * *

5. Paragraph III. of Appendix A to Part 203 would be amended as follows:

a. Under paragraph D. the fourth sentence would be removed and a new sentence and new paragraphs 1. and 2. would be added at the end;

b. Under paragraph F. the first paragraph following the heading would be designated as paragraph 1. and revised, and the second paragraph would be designated as paragraph 2.; and

c. Under paragraph G. the first paragraph following the heading would be designated as paragraph 1. and a new heading would be added to the newly designated paragraph 1., and paragraph 2. would be added after the Home Mortgage Disclosure Act Notice.

The revisions and additions would read as follows:

* * * * *

III. Submission of HMDA–LAR and Public Release of Data

* * * * *

D. *Availability of disclosure statement.*

* * * [You also must make the disclosure statement available, within ten business days after receiving it from the FFIEC, in at least one branch office in each additional MSA where you have physical offices.] For these purposes a business day is any calendar day other than a Saturday, Sunday, or legal public holiday. ►You also must either:

1. Make your disclosure statement available to the public, within ten business days of receiving it from the FFIEC, in at least one branch office in each additional MSA where you have offices (the disclosure statement need only contain data relating to properties in the MSA where the branch office is located); or

2. Mail or deliver a copy of your disclosure statement to any person requesting it, within 15 calendar days of receiving a written request (the disclosure statement need only contain data relating to the MSA for which the request is made).◄

* * * * *

F. *Location and format of disclosed data.*

►1.◄ A financial institution must make a complete copy of its disclosure statement and modified register available to the public at its home office. Institutions may make these data available in [hard copy or] ►paper form or, if the person requesting the data agrees,◄ in automated form (such as by floppy disk or computer tape). [If you have physical branch offices in other MSAs, you must make available, in at least one branch office in each of those MSAs, either a complete copy of the disclosure statement or the portion of it that relates to properties in that MSA. Similarly, a modified register at a branch office need only reflect data concerning properties within the MSA where the branch is located.] ►A modified register need only reflect data relating to the MSA for which the request is made.◄

►2.◄ * * *

G. *Posters.*

►1. *Suggested language.*◄ * * *

►2. *Optional information.* At your option, you may include the location where the disclosed data are available for inspection and the address to be used for making a written request.◄

* * * * *

6. Supplement I to Part 203, under Section 203.3—Exempt Institutions, under 3(a) *Exemption based on location, asset size, or number of home-purchase loans,* the second sentence of Paragraph 1. *General* would be revised to read as follows:

Supplement I to Part 203—Staff Commentary

* * * * *

Section 203.3—Exempt Institutions

3(a) *Exemption based on location, asset size, or number of home-purchase loans.*

1. *General.* * * * For example, a bank whose assets [drop to $10 million or less] ►are at or below the threshold◄ on December 31 of a given year reports data for that full calendar year, in which it was covered, but does not report data for the succeeding calendar year. * * *

* * * * *

By order of the Board of Governors of the Federal Reserve System, December 16, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–32305 Filed 12–26–96; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–AEA–14]

Proposed Establishment of Class E Airspace; Canandaigua, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would establish Class E Airspace at Canandaigua, NY. The development of a new Standard Instrument Approach Procedure (SIAP) at Canandaigua Airport based on the Global Positioning System (GPS) has made this proposal necessary. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for Instrument Flight Rules (IFR) operations to the airport. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before January 3, 1997.

ADDRESSES: Send comments on the proposed rule in triplicate to: Manager, Operations Branch, AEA–530, Docket No. 96–AEA–14, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430. The official docket may be examined in the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Operations Branch, AEA–530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Operations Branch, AEA–530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments

are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal.
Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made:
"Comments to Airspace Docket No. 96–AEA–14". The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace extending upward from 700 feet above the surface (AGL) at Canandaigua, NY. A GPS RWY 13 SIAP has been developed for Canandaigua Airport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for IFR operations at the airport. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace extending upward from 700 feet above the surface are published in Paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, is proposed to be amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA NY E5 Canandaigua, NY [New]

Canandaigua Airport, NY
(Lat. 42° 54′ 26″ N, long. 77° 19′ 18″ W)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Canandaigua Airport, excluding that portion that coincides with the Rochester, NY Class E airspace area and the Palmyra, NY Class E airspace area.

* * * * *

Issued in Jamaica, New York, on December 11, 1996.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 96–33002 Filed 12–26–96; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Notice of Intent to Request Public Comments on Rules

AGENCY: Federal Trade Commission.

ACTION: Notice of intent to request public comments.

SUMMARY: As part of its systematic review of all current Commission regulations and guides, the Federal Trade Commission ("Commission") gives notice that it intends to request public comments on the rules listed below during 1997. The Commission will request comments on, among other things, the economic impact of, and the continuing need for, the rules; possible conflict between the rules and state, local, or other federal laws or regulations; and the effect on the rules of any technological, economic, or other industry changes. In certain instances the reviews also will address other specific matters or issues, such as reviews of the impact on small businesses mandated by the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* No Commission determination on the need for or the substance of a rule should be inferred from the intent to publish requests for comments.

FOR FURTHER INFORMATION CONTACT: Further details may be obtained from the Commission's contact person(s) listed for each particular item.

SUPPLEMENTARY INFORMATION: The Commission intends to initiate a review of and solicit public comments on the following rules during 1997:

(1) *Hobby Protection Act Rules*, 16 CFR Part 304. The review of the Hobby Protection Act Rules will include a review of the impact of the rules on small businesses under the Regulatory Flexibility Act.

Agency Contact: Robert E. Easton, Sr., Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, Room S–4302, Sixth Street and Pennsylvania Ave., NW, Washington, DC 20580, (202) 326–3029.

(2) *900 Number Rule*, 16 CFR Part 308.

Agency Contact: Marianne Schwanke, Federal Trade Commission, Bureau of Consumer Protection, Division of Marketing Practices, Room H–238, Sixth

Street and Pennsylvania Ave., NW, Washington, DC 20580, (202) 326–3165.

(3) *Dry Cell Batteries Rule*, 16 CFR Part 403.

Agency Contact: Neil J. Blickman, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, Room S–4302, Sixth Street and Pennsylvania Ave., NW, Washington, DC 20580, (202) 326–3038.

(4) *Negative Option Plans Rule*, 16 CFR Part 425.

Agency Contact: Edwin Rodriguez, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, Room S–4302, Sixth Street and Pennsylvania Ave., NW, Washington, DC 20580, (202) 326–3147.

(5) *Power Output Claims for Amplifiers Rule*, 16 CFR Part 432.

Agency Contact: Robert E. Easton, Sr., Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, Room S–4302, Sixth Street and Pennsylvania Ave., NW, Washington, DC 20580, (202) 326–3029.

(6) *Ophthalmic Practice Rules*, 16 CFR Part 456.

Agency Contact: James Reilly Dolan, Federal Trade Commission, Bureau of Consumer Protection, Division of Service Industry Practices, Room H–200, Sixth Street and Pennsylvania Ave., NW, Washington, DC 20580, (202) 326–3292.

(7) *Informal Dispute Settlement Procedures under Magnuson-Moss Warranty Act*, 16 CFR Part 703.

Agency Contact: Carole I. Danielson, Federal Trade Commission, Bureau of Consumer Protection, Division of Marketing Practices, Room H–238, Sixth Street and Pennsylvania Ave., NW, Washington, DC 20580, (202) 326–3115.

As part of its systematic program to review all current Commission regulations and guides, the Commission also has tentatively scheduled reviews of additional rules and guides for 1998 through 2006. A copy of this tentative schedule is appended. The Commission may modify or reorder the schedule in the future where appropriate to incorporate new legislative rules, or to respond to external factors (such as changes in the law) or other considerations.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

APPENDIX—REGULATORY REVIEW MODIFIED REVOLVING TEN-YEAR SCHEDULE

16 CFR Part	Topic	Year to review	Office to review
304	Hobby Protection Act Rules	1997	ENF.
308	900 Number Rule	1997	MP/AP/CP.
403	Dry Cell Batteries Rule	1997	ENF.
425	Negative Option Rule	1997	ENF.
432	Amplifier Rule	1997	ENF.
456	Ophthalmic Practice Rules	1997	SIP.
703	Informal Dispute Settlement Procedures	1997	MP.
20	Used Auto Parts Industry Guides	1998	CLRO.
243	Decorative Wall Paneling Guides	1998	DERO.
801	Hart-Scott-Rodino Coverage Rules (mergers)	1998	BC.
802	Hart-Scott-Rodino Exemption Rules (mergers)	1998	BC.
803	Hart-Scott-Rodino Transmittal Rules (mergers)	1998	BC.
235	Adhesive Compositions Guides	1999	SFRO.
240	Guides for Ad Allowances and Merchandising Payments	1999	BC.
256	Guides for the Law Book Industry	1999	ENF.
259	Fuel Economy Guides	1999	CLRO.
307	Regulations under the Comprehensive Smokeless Tobacco Health Education Act of 1986	1999	AP.
453	Funeral Industry Practices Rule	1999	MP.
600	Statements of General Policy or Interpretations	1999	CP.
901	Procedures for State Exemptions from Fair Debt Collection Practices Act	1999	CP.
233	Guides Against Deceptive Pricing	2000	CHRO.
238	Guides Against Bait Advertising	2000	AP.
241	Guides for the Dog and Cat Food Industry	2000	AP.
250	Guides for the Household Furniture Industry	2000	ARO.
251	Guide Concerning Use of the Word "Free"	2000	CHRO/BC.
310	Telemarketing Sales Rule	2000	MP.
228	Tire Advertising and Labeling Guides	2001	CLRO.
255	Guides Concerning Use of Endorsements and Testimonials in Advertising	2001	AP.
424	Retail Food Store Advertising and Marketing Practices	2001	ENF.
433	Holder-In-Due-Course Rule	2001	CP.
306	Automotive Fuel Ratings Rule	2003	ENF.
435	Mail or Telephone Order Merchandise Rule	2003	ENF.
18	Guides for the Nursery Industry	2004	ENF.
305	Appliance Labeling Rule	2004	ENF.
410	Television Picture Size Rule	2004	AP.
500	Regulations under Section 4 of the Fair Packaging and Labeling Act (FPLA)	2004	ENF/LARO.
501	Exemptions from Part 500 of FPLA	2004	ENF/LARO.
502	Regulations under Section 5(c) of FPLA	2004	ENF/LARO.
503	Statements of General Policy or Interpretations under FPLA	2004	ENF/LARO.
14	Administrative Interpretations, General Policy Statements, and Enforcement Policy Statements.	2005	ENF.
309	Labeling Requirements for Alternative Fuels and Alternatively Fueled Vehicles	2005	ENF.
311	Recycled Oil Rule	2005	ENF.
429	Cooling Off Rule	2005	ENF.
444	Credit Practices Rule	2005	CP.
455	Used Car Rule	2005	ENF.

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APPENDIX—REGULATORY REVIEW MODIFIED REVOLVING TEN-YEAR SCHEDULE—Continued

16 CFR Part	Topic	Year to review	Office to review
24	Leather Products Guides	2006	DARO.

[FR Doc. 96–33017 Filed 12–26–96; 8:45 am]
BILLING CODE 6750–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1 and 5

Revised Procedures for Commission Review and Approval of Applications for Contract Market Designation and of Exchange Rules Relating to Contracts Terms and Conditions

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: On November 22, 1996, the Commodity Futures Trading Commission (Commission) published in the **Federal Register** a proposal to amend its procedures relating to its review and approval of applications for contract market designation and proposed exchange rules relating to contract terms and conditions (61 FR 59386). The comment period ends on December 23, 1996. These fast-track review procedures are intended further to streamline Commission review of applications for contract market designation and proposed exchange rule amendments relating to contract terms and conditions. The Commission has determined, in this instance, to extend the comment period.

DATES: Comments must be received on or before January 16, 1997.

ADDRESSES: Comments should be mailed to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, DC 20581, attention: Office of the Secretariat; transmitted by facsimile at (202) 418–5521; or transmitted electronically at [secretary@cftc.gov]. Reference should be made to "Fast-track Designation and Rule Approval Procedures."

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, DC 20581, (202) 418–5260, or electronically, [PArchitzel@cftc.gov].

SUPPLEMENTARY INFORMATION: The New York Mercantile Exchange (NYMEX) has filed a petition requesting an extension of time to submit comments on the Commission's proposed rulemaking concerning approval of applications for contract market designation and of exchange rules relating to contract terms and conditions. The Exchange requests an extension until January 16, 1997—the date that comments are to be received on the proposed rulemaking concerning the related topic of contract market review procedures for other rules (61 FR 66241, December 17, 1996). The NYMEX stated that it has spoken to representatives from the Chicago Mercantile Exchange and the Chicago Board of Trade concerning this request for an extension and that those exchanges agreed to join this request.

The Exchange stated that, since the proposed rulemakings concern similar and related issues, the issues should be considered and evaluated together and can best be addressed in one comment letter. Accordingly, the NYMEX concluded that a short delay will result in a more efficient rulemaking process.

For the reasons noted above, the Commission has determined to extend the public comment period for the subject rulemaking. The Commission believes that an extension of the comment period until January 16, 1997, would permit the NYMEX and any other interested parties fully to evaluate the proposed rulemaking and to submit their comments thereon to the Commission. The Commission cautions that the deadline for comments on the subject proposed rulemaking is independent of the deadline for comments on the proposed rulemaking concerning contract market review procedures for other rules. Any request for and Commission action on an extension of the comment period for the latter proposed rulemaking will not affect the deadline for comments on the subject proposed rulemaking.

Issued in Washington, DC on December 20, 1996.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–33072 Filed 12–26–96; 8:45 am]
BILLING CODE 6351–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–209817–96]

RIN 1545–AU19

Treatment of Obligation-Shifting Transactions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to the treatment of certain multiple-party financing transactions in which one party realizes income from leases or similar agreements and another party claims deductions related to that income. In order to prevent tax avoidance, the proposed regulations recharacterize these transactions in a manner that clearly reflects income. The proposed regulations affect only persons that engage in these transactions. The regulations generally do not apply to routine transactions lacking characteristics of tax avoidance. This document also provides notice of a public hearing on the proposed regulations.

DATES: Written comments, requests to appear, and outlines of topics to be discussed at the public hearing scheduled for April 29, 1997, at 10 a.m. must be received by April 8, 1997.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–209817–96), Room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–209817–96), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option of the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax_regs/comments.html. The public hearing will be held in the IRS Auditorium, Internal Revenue Building,

7th Floor, 1111 Constitution Avenue NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Jonathan Zelnik at (202) 622–3940; concerning submissions and the hearing, Christina Vasquez at (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224. Comments on the collection of information should be received by April 8, 1997. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the collection will have a practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collection of information is in § 1.7701(l)–2(j). This information is required by the IRS to verify pass-through entity compliance with § 1.7701(l)–2. This information will be used to determine whether the amount of tax has been computed correctly. The collection of information is mandatory. The likely recordkeepers are businesses and other organizations. Estimated total annual recordkeeping burden: 500 hours. Estimated average annual burden per recordkeeper: 5 hours. Estimated number of recordkeepers: 100.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax information are confidential, as required by 26 U.S.C. 6103.

Background

The IRS and Treasury Department have become aware of multiple-party financing transactions ("stripping transactions") intended to allow one party to realize income from a lease or similar agreement and to allow another party to report deductions related to that income (for example, cost recovery or rental expenses). Notice 95–53, 1995–2 C.B. 334, describes several examples of these transactions, including transferred basis transactions, transfers of partnership interests, and variations involving licenses, service contracts, and prepayment, front-loading, and retention of rights to receive future payments.

Notice 95–53 states the position of the IRS that the claimed tax treatment of these transactions improperly separates income from related deductions and that the transactions do not produce the tax consequences desired by the parties. The notice also states that regulations will be issued under section 7701(l) of the Internal Revenue Code recharacterizing stripping transactions any significant element of which is entered into or undertaken on or after October 13, 1995. The notice requested comments regarding those regulations.

The IRS received only one set of comments in response to Notice 95–53. Those comments recommended that the regulations under section 7701(l) address a broader class of transactions than was described in the notice. Specifically, they recommended that the regulations defer the recognition of income in circumstances where there is an advance receipt or assignment of future income and there is the potential for the transactions to become stripping transactions. They also recommended that the regulations recharacterize these transactions without regard to whether there is a tax avoidance purpose. The comments reflected a desire for the regulations to produce an economic accrual of income and to enable taxpayers to determine the proper tax accounting for their transactions without regard to subsequent events.

The proposed regulations generally follow the notice and do not expand the class of transactions subject to recharacterization. The regulations do not require taxpayers to make any assumptions as to subsequent events. They are intended to produce tax results that conform to the economic substance of the transactions that they address. Furthermore, the regulations generally apply to transactions whether or not the parties have a tax avoidance purpose.

Explanation of Provisions

1. General Approach

Section 7701(l) authorizes the Secretary to "prescribe regulations recharacterizing any multiple-party financing transaction as a transaction directly among any 2 or more of such parties where the Secretary determines that such recharacterization is appropriate to prevent avoidance of any tax imposed by [the Internal Revenue Code]." The proposed regulations recharacterize transactions in which the transferee ("the assuming party") assumes obligations or acquires property subject to obligations under an existing lease or similar agreement and the transferor ("the property provider") or any other party has already received or retains the right to receive amounts that are allocable to periods after the transfer. The recharacterization reflects the general principle that a taxpayer who is treated for federal income tax purposes as the owner of rental property must recognize income that accrues during its period of ownership. , *e.g.*, *Steinway & Sons* v. *Commissioner*, 46 T.C. 375 (1966), *acq.*, 1967–2 C.B. 3; *Alstores Realty Corp.* v. *Commissioner*, 46 T.C. 363 (1966), *acq.*, 1967–2 C.B. 1.

For the period in which an assuming party in such a transaction is a party to the lease or similar agreement, the recharacterization requires the assuming party to report income on a level-rent basis calculated using the rules of the constant rental accrual method described in § 1.467–3(d) as proposed on June 3, 1996 (IA–292–84, 61 FR 27834, 27844). Thus, the assuming party is required to recognize rental income for the period in which it owns the property or leasehold interest. In addition, the transaction is recharacterized to include additional consideration in the form of a note provided by the assuming party to the property provider for the transfer of the property, resulting in interest income and expense for which the parties must account as appropriate. The property provider also must adjust its income for any differences between amounts it recognized and amounts it would have recognized if it had reported income on a level-rent basis for the periods that it owned the property or leasehold

interest. Finally, to account for any differences in timing or amount between payments the property provider actually receives after the transaction and payments treated as being made to the property provider under the note from the assuming party, the property provider is treated as an obligor or obligee under a second loan, for which the property provider must account accordingly.

2. Obligation-shifting Tsransactions

The proposed regulations are not intended to recharacterize transactions with little potential for tax avoidance. Taken together, the definition of "obligation-shifting transaction" and the enumerated exceptions limit the scope of the regulations to transactions that are not routine and that involve shifting of substantial amounts of income away from the taxpayer that recognizes deductions related to the income.

The proposed regulations apply to obligation-shifting transactions, which are defined as any transaction in which an assuming party assumes a property provider's obligations to a property user (or acquires property subject to a property provider's obligations to a property user) under a lease or similar agreement if the property provider or any other party has already received, or retains the right to receive, amounts that are allocable to periods after the transaction. The regulations define obligations under a lease or similar agreement as including a continuing obligation to make property available to the lessee or the ultimate user of the property. These obligations typically give rise to deductions, such as for cost recovery or, in the case of a master-lease/sublease arrangement, for payments under a master lease. The advance receipt of amounts that are allocable to periods after the obligation-shifting transaction often results in accelerated taxable income for the recipient. Thus, the definition describes transactions in which there is the potential for one party to recognize income but a different party to recognize deductions associated with that income.

In some transactions identified in Notice 95–53, one party sells, assigns, or otherwise transfers to a third party the right to receive future payments under a lease and includes as current income the amount received as consideration for the transfer. The underlying property (subject to the lease) is later transferred in a transaction intended to qualify as a transferred basis transaction. These transactions are within the scope of the regulations because the property transferee assumes obligations or acquires the property subject to the obligation to make the property available to the lessee and the property transferor already received amounts that are allocable to periods after the transaction by reason of the assignment of rights to receive future payments. In other transactions, the property transferor does not assign the right to future rental amounts but instead receives prepayment from the lessee or retains the right to receive future amounts over time. Both variations likewise are within the scope of the regulations.

The proposed regulations adopt an aggregate view of partnerships, treating each partner as having a proportionate share of the rights and obligations of the partnership. Thus, for example, if a partnership assigns its right to receive future amounts under a lease and allocates to its current partners the amount recognized, a later transfer of a partnership interest is an obligation-shifting transaction because the transferee partner assumes an allocable share of the partnership's obligation to make the property available to the lessee and because the transferor partner is treated as having already received amounts that are allocable to periods after the transaction. See *Example 3* of the proposed regulations. In appropriate cases, the IRS may assert other authorities to prevent the use of a partnership to effect an improper separation of income from related deductions. *See, e.g.*, § 1.701–2(d) (*Example 7*).

The proposed regulations also generally treat an obligation-shifting transaction as occurring if a subsidiary that is a member of a consolidated group becomes a nonmember at a time when the subsidiary has received payments under a lease or similar agreement that are allocable to periods after the transaction.

3. Lease or Similar Agreement

Under the proposed regulations, an obligation-shifting transaction involves a lease or similar agreement. The regulations define this term broadly to include any contract for the use or enjoyment of tangible or intangible property, including leaseholds, licenses, other non-fee interests in property, and other contracts (including service contracts) involving the use or enjoyment of property if the value of that use or enjoyment is more than *de minimis*. The proposed regulations, therefore, do not apply to service contracts that do not involve the use or enjoyment of property. The definition of obligation-shifting transaction, however, does not restrict the IRS's ability to challenge these transactions under other authorities. For instance, even if a transaction is not within the scope of the proposed regulation, the IRS may challenge it under one or more of the authorities identified in Notice 95–53.

The IRS requests comments on whether additional guidance is needed on the definition of lease or similar agreement.

4. Exceptions

The proposed regulations are not intended to recharacterize otherwise routine transactions, such as the incorporation of an entire line of business that does not involve significant shifting of income and deductions. See Rev. Rul. 80–198, 1980–2 C.B. 113, subject to the limitations described therein. Accordingly, the regulations provide a number of objective exceptions that generally will protect routine transactions from recharacterization. The regulations do not apply to transactions in which the amounts that are allocable to future periods but are not transferred are less than or equal to $100,000. The regulations do not apply to transactions in which total payments (including the aggregate expected future value of all contingent consideration) under the lease or similar agreement are not reasonably expected to exceed $250,000. The regulations do not apply to transactions in which the fair market value of the property that is subject to the lease or similar agreement and is transferred in the obligation-shifting transaction, plus the value of the amounts that are already received or retained by the property provider but are allocable to periods after the obligation-shifting transaction, is less than ten percent of the total assets (other than Class I and Class II assets as described in § 1.1060–1T(d) and debt issued by the property provider) transferred by the property provider in the transaction. The regulations do not apply to transactions in which the lease or similar agreement is a disqualified leaseback or long-term agreement within the meaning of § 1.467–3(b). The regulations do not apply to transactions described in section 381(a), unless the transaction is deemed to be an obligation-shifting transaction under proposed § 1.7701(l)–2(k). Finally, the regulations provide that a transaction is exempt from recharacterization if the parties to the transaction establish to the satisfaction of the Commissioner that the transaction does not present a significant potential for tax avoidance.

Because the purpose of recharacterization under section 7701(l) is to prevent tax avoidance, these objective exceptions are unavailable for

transactions entered into with a principal purpose of substantially reducing the present value of the aggregate tax liability of the property provider, the assuming party, and any other party whose taxable income is determined by reference to the taxable income of the property provider or the assuming party.

5. Recharacterization

The proposed regulations recharacterize an obligation- shifting transaction in order to ensure that the property provider and the assuming party both report the income from the underlying property allocable to their respective periods of ownership.

For purposes of determining the amounts that are allocable to periods under the lease or similar agreement, the proposed regulations apply a rent-leveling process based on the constant rental accrual method described in § 1.467–3(d) to all amounts that are treated as payable under the lease or similar agreement. At the time of the obligation-shifting transaction, the level rental amount is determined for the entire term of the lease or similar agreement using 110 percent of the applicable Federal rate based on that term. The amounts that are treated as payable under the lease or similar agreement at the time of the obligation-shifting transaction are the amounts that have already been paid to the property provider and the future amounts that, immediately before the obligation-shifting transaction, are payable to the property provider. Thus, if the property provider assigns the right to receive payments to a third party in exchange for consideration, the consideration is treated as an amount received under the lease or similar agreement. Because the property provider no longer has the right to receive the payments assigned to the third party, those payments (whether past or future) are not treated as amounts that are payable to the property provider for purposes of calculating the level rental amount.

The proposed regulations recharacterize an obligation- shifting transaction by treating the assuming party and the property provider as follows:

The assuming party is treated as acquiring the right to receive all amounts that are allocable to periods after the obligation-shifting transaction. The assuming party includes these amounts in income for the periods that it owns the property.

To reflect the amounts that the assuming party is treated as receiving under the recharacterization but that it does not actually receive, the assuming party also is treated as providing additional consideration to the property provider in the form of a note (a "section 7701(l) note"). The original principal balance of the section 7701(l) note equals the excess of the present value of the amounts that are allocable to periods after the obligation-shifting transaction over the present value of the amounts that are payable to the assuming party.

The property provider must adjust its income to the extent that it accounted for income under the lease or similar agreement before the obligation-shifting transaction in a manner inconsistent with the level-rent method described above. The adjustment, which can increase or decrease the property provider's income, equals the principal balance of the section 467 loan that would have existed if the property provider had been using the constant rental accrual method to account for amounts under the lease or similar agreement that are allocable to periods before the obligation-shifting transaction, reduced by any existing section 467 loan if the lease or similar agreement is a section 467 rental agreement. The constant rental amount is calculated using the amounts that are treated as payable under the lease or similar agreement.

Finally, to account for any differences in timing or amount between payments the property provider actually receives after the obligation-shifting transaction and payments treated as being made to the property provider under the section 7701(l) note, the property provider is treated as a party to a loan (a "section 7701(l) rent-leveling loan"). The section 7701(l) rent-leveling loan is created at the time of the obligation-shifting transaction. Its balance at that time equals the section 467 loan that would have existed if the property provider had been using the constant rental accrual method to account for amounts under the lease or similar agreement that are allocable to periods before the obligation-shifting transaction. Thus, in the periods after the obligation-shifting transaction, the property provider must account for any interest expense or income resulting from the section 7701(l) rent-leveling loan, in addition to any interest income or expense resulting from the section 7701(l) note.

Although section 467 may not apply to an obligation-shifting transaction, the effect of the proposed regulations is to recharacterize the transaction to produce the constant rental amount and associated loans that the parties would have been treated as having if the lease or similar agreement had been a section 467 rental agreement (modified to reflect the amounts already received or payable to the property provider immediately before the obligation-shifting transaction) and had been subject to the constant rental accrual method. Thus, the assuming party is treated as if it had purchased the property in part with a note, had obtained the right to receive rental amounts on the constant rental accrual method during its ownership of the property, and had used those amounts to service the note. For the property provider, the proposed regulations provide a recharacterization that is similar (but not identical) to the treatment required when a lessor disposes of property subject to a section 467 rental agreement that was accounted for under the constant rental accrual method.

The proposed regulations provide the exclusive recharacterization of an obligation-shifting transaction for a property provider and an assuming party. Thus, if an obligation-shifting transaction is recharacterized under this section and the lease or similar agreement is a section 467 rental agreement, the rules of this section supersede the rules of §§ 1.467–1 through 1.467–8 as proposed on June 3, 1996 (IA–292–84, 61 FR 27834) for the property provider (the transferor) and the assuming party (the transferee). The assuming party's income after the obligation-shifting transaction is determined under this section and not under § 1.467–7(e)(1). Similarly, the rules provided in § 1.467–7(e)(2) for determining the amount of the section 467 loan for the period after the transfer, the amount realized by the property provider, and the assuming party's basis in the property do not apply to obligation-shifting transactions recharacterized by this section.

The recharacterization does not affect the property user or rent factor (if any), because, even though they are parties to the multiple-party financing transaction, no adjustment to their treatment of the transaction is necessary to prevent the avoidance of tax. *Cf.* § 1.881–3(a)(3)(ii)(A) (limiting purposes for which conduit financing arrangements are recharacterized). Thus, if the lease or similar agreement is a section 467 rental agreement, the property user must continue to take section 467 rent and section 467 interest into account without regard to the obligation-shifting transaction and the recharacterization under this section. *See* § 1.467–7(e)(1).

6. Issues Not Addressed

The proposed regulations do not address transactions in which a taxpayer assigns rights to future income

but does not transfer the underlying property to another taxpayer, except as provided in the special rules regarding pass-through entities and consolidated groups.

7. Proposed Effective Date

Notice 95–53 states that the regulations under section 7701(l) will be effective "with respect to stripping transactions any significant element of which is entered into or undertaken on or after October 13, 1995." The regulations are proposed to adopt the effective date stated in the notice.

Special Analyses

It is hereby certified that these regulations do not have a significant economic impact on a substantial number of small entities. This certification is based on the understanding of the IRS that the total number of entities engaging in transactions affected by these regulations is not substantial and, of those entities, most are not small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. chapter 6). Therefore, a Regulatory Flexibility Analysis is not required. It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in E.O. 12866. Therefore, a regulatory assessment is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comments on its impact on small businesses.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for April 29, 1997, at 10 a.m. in the IRS Auditorium, Internal Revenue Building, 7th Floor, 1111 Constitution Avenue NW, Washington, DC. Because of access restrictions, visitors will not be admitted beyond the building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit written comments and submit an outline of the topics to be discussed and the time to be devoted to each topic (a signed original and eight (8) copies) by April 8, 1997.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Jonathan R. Zelnik, Office of the Assistant Chief Counsel (Financial Institutions & Products). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.7701(l)–2 also issued under 26 U.S.C. 7701(l). * * *

Par. 2. Section 1.7701(l)–1 is amended as follows:

1. Paragraphs (b)(6) and (b)(7) are revised.

2. Paragraph (b)(8) is added.

The revisions and addition reads as follows:

§ 1.7701(l)–1 Conduit financing arrangements.

* * * * *

(b) * * *

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(6) Section 1.6038A–3(b)(5);

(7) Section 1.6038A–3(c)(2)(vii); and

(8) Section 1.7701(l)–2.

Par. 3. Section 1.7701(l)–2 is added under the center heading "General Actuarial Valuations" to read as follows:

§ 1.7701(l)–2 Treatment of obligation-shifting transactions.

(a) *Purpose.* The purpose of this section is to prevent avoidance of tax by parties participating in multiple-party financing transactions that involve an assumption of obligations under a lease or similar agreement. This section should be interpreted in a manner consistent with this purpose.

(b) *In general.* Obligation-shifting transactions as defined in paragraph (h)(1) of this section are recharacterized in the manner described in paragraph (d) of this section unless an exception in paragraph (c) of this section applies.

(c) *Exceptions*—(1) *In general.* Paragraph (d) of this section does not apply if any of the following is satisfied:

(i) The aggregate amounts that have already been received by or are payable to the property provider but are allocable to periods (including partial periods) after the obligation-shifting transaction (as determined under paragraph (g) of this section) are less than or equal to $100,000.

(ii) The sum of the aggregate payments (including contingent payments) under the lease or similar agreement and the aggregate value of other consideration (including contingent consideration) to be received under the lease or similar agreement is not reasonably expected to exceed $250,000. The rules of § 1.467–1(c)(4)(ii)[1] apply in determining the amount described in this paragraph (c)(1)(ii).

(iii) The fair market value of the leased property is less than ten percent of the aggregate fair market value of all of the property (excluding Class I assets as described in § 1.1060–1T(d)(1), Class II assets as described in § 1.1060–1T(d)(2)(i); and debt issued by the property provider) that the property provider transfers to the assuming party as part of the same transaction or series of related transactions. For this purpose, the fair market value of the leased property is the sum of—

(A) The fair market value of the property subject to the lease or similar agreement and transferred in the obligation-shifting transaction, plus

(B) The value of the amounts that have already been received under the lease or similar agreement or are retained by the property provider or any other party but are allocable to periods (including partial periods) after the obligation-shifting transaction.

(iv) The agreement(s) between the property provider and the property user is a disqualified leaseback or long-term agreement within the meaning of § 1.467–3(b).[2]

(v) The transaction is described in section 381(a), unless the transaction is deemed to be an obligation-shifting transaction under paragraph (k) of this section.

(vi) The Commissioner determines that the transaction does not

[1] This section appears in proposed regulations published on June 3, 1996 (IA–292–84, 61 FR 27834, 27839).

[2] This section appears in proposed regulations published on June 3, 1996 (IA–292–84, 61 FR 27834, 17844).

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substantially reduce the present value of the tax liability of the assuming party or otherwise result in the avoidance of tax.

(2) *Limitation on exceptions.* The exceptions listed in paragraph (c)(1) of this section do not apply to obligation-shifting transactions entered into with a principal purpose of substantially reducing the present value of the aggregate tax liability of the assuming party, the property provider, and any person whose taxable income is determined (in whole or in part) by reference to the taxable income of the property provider or the assuming party.

(d) *Recharacterization of obligation-shifting transaction*—(1) *In general.* In order to clearly reflect the income of the assuming party and the property provider, an obligation-shifting transaction is recharacterized as follows:

(i) *Assuming party treated as receiving all allocable rents.* The assuming party is treated as acquiring the right to receive (and as receiving when due) all amounts under the lease or similar agreement that are allocable (as determined under paragraph (g) of this section) to periods (including partial periods) after the obligation-shifting transaction. Thus, the assuming party must include these amounts in income in the periods to which they are allocable.

(ii) *Assuming party treated as issuing section 7701(l) note.* The assuming party is treated as issuing to the property provider, as additional consideration in the obligation-shifting transaction, a section 7701(l) note, with terms as described in paragraph (e) of this section. Accordingly, the assuming party and the property provider must account for interest expense and income from the section 7701(l) note in the periods (including partial periods) following the obligation-shifting transaction.

(2) *Section 7701(l) rent-leveling loan and adjustment to property provider's income*—(i) *Section 7701(l) rent-leveling loan.* To account for any differences in timing or amount between payments actually received by the property provider after the obligation-shifting transaction and payments (as described in paragraph (e)(3) of this section) treated as being made under the section 7701(l) note, the property provider is treated as a party to a section 7701(l) rent-leveling loan, with terms as described in paragraph (f) of this section. Accordingly, the property provider must account for interest expense or income (as appropriate) in the periods (including partial periods) following the obligation-shifting transaction.

(ii) *Adjustment to property provider's income.* To account for any differences between amounts previously included by the property provider and amounts that are allocable to periods before the obligation-shifting transaction, on the date on which the obligation-shifting transaction is consummated, the property provider must treat as an item of expense or income (as appropriate)—

(A) The principal balance of the section 7701(l) rent-leveling loan, minus

(B) The principal balance (plus interest not already included in the principal balance) of the property provider's section 467 loan (if any) as determined under the principles of § 1.467–4(a)(4) [3] and existing as of that date.

(3) *Exclusive recharacterization.* If the lease or similar agreement is a section 467 rental agreement, the property provider and the assuming party must account for the recharacterized transaction under the provisions of this section and not under the provisions of §§ 1.467–1 through 1.467–8.[4]

(e) *Section 7701(l) note*—(1) *Principal.* On the date on which the obligation-shifting transaction is consummated, the principal balance of the section 7701(l) note equals the excess of—

(i) The present value of the amounts that are allocable to periods (including partial periods) after the obligation-shifting transaction, over

(ii) The present value of the amounts that are payable to the assuming party.

(2) *Present value, yield, and compounding period.* For purposes of paragraph (e)(1) of this section, present value is determined under the rules of § 1.467–2(d)[5]. The yield of the section 7701(l) note equals 110 percent of the applicable Federal rate on the date on which the obligation-shifting transaction is consummated, based on the remaining term of the lease or similar agreement. The compounding period for determining both the original principal balance and the yield must equal the period used in determining the amounts that are allocable (as determined under paragraph (g) of this section) to periods under the lease or similar agreement.

(3) *Repayment schedule*—(i) *Amount.* The payment for each period under the section 7701(l) note is—

(A) The amount that is taken into account by the assuming party under paragraph (d)(1)(i) of this section, minus

(B) The amount received by the assuming party for that period.

(ii) *Timing.* The timing of section 7701(l) note payments, as determined under paragraph (e)(3)(i) of this section, is the same as the timing of the payments taken into account by the assuming party under paragraph (d)(1)(i) of this section.

(4) *Debt for all purposes.* A section 7701(l) note is debt for all purposes of the Internal Revenue Code. The principal balance of the section 7701(l) note after the obligation-shifting transaction may be positive or negative. If the principal balance is positive, the note represents an amount owed by the assuming party to the property provider, and if the principal balance is negative, the note represents an amount owed by the property provider to the assuming party.

(f) *Section 7701(l) rent-leveling loan*—(1) *Principal.* On the date on which the obligation-shifting transaction is consummated, the principal balance of the section 7701(l) rent-leveling loan equals the principal balance (plus any interest not already included in the principal balance) of the section 467 loan as determined under § 1.467–4(b) that would have existed as of that date if—

(i) The amounts payable under the lease or similar agreement were the amounts described in paragraphs (g)(1) and (g)(2) of this section, and

(ii) The property provider had reported all items of income and expense with respect to the lease or similar agreement by applying the constant rental accrual method described in § 1.467–3(d) and by determining the section 467 rent for each period in accordance with § 1.467–1(d)(2)(i).

(2) *Yield and compounding period.* The yield of the section 7701(l) rent-leveling loan equals 110 percent of the applicable Federal rate on the date on which the obligation-shifting transaction is consummated, based on the original term of the lease or similar agreement. The compounding period for determining the yield must equal the period used in determining the amounts that are allocable (as determined under paragraph (g) of this section) to periods under the lease or similar agreement.

(3) *Repayment schedule*—(i) *Amount.* The property provider's payment (or receipt) for each period under the section 7701(l) rent-leveling loan is—

(A) The amount (as described in paragraph (e)(3)(i) of this section)

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[3] This section appears in proposed regulation published on June 3, 1996 (IA–292–84, 61 FR 27834, 27845).

[4] These sections appear in proposed regulations published on June 3, 1996 (IA–292–84, 61 FR 27834).

[5] This section appears in proposed regulations published on June 3, 1996 (IA–292–84, 61 FR 27834, 27842).

treated as paid in satisfaction of the section 7701(l) note, minus

(B) The amount received by the property provider under the lease or similar agreement for that period.

(ii) *Timing.* The timing of section 7701(l) rent-leveling loan payments, as determined under paragraph (f)(3)(i) of this section, is governed by paragraph (g) of this section (and thus, is the same as the timing of the payments taken into account by the assuming party under paragraph (d)(1)(i) of this section).

(4) *Debt for all purposes.* A section 7701(l) rent-leveling loan is debt for all purposes of the Internal Revenue Code. The principal balance of the section 7701(l) rent-leveling loan may be positive or negative. If the principal balance is positive, the amount represents a loan on which the property provider is the obligee, and if the principal balance is negative, the amount represents a loan on which the property provider is the obligor.

(g) *Determining amounts that are allocable to periods under the lease or similar agreement.* The amounts that are allocable to periods under a lease or similar agreement are determined (immediately before the obligation-shifting transaction is consummated) by applying the constant rental accrual method described in § 1.467–3(d) from the inception of the lease or similar agreement based on—

(1) The amounts that have already been received under the lease or similar agreement, and

(2) The amounts that are payable under the lease or similar agreement.

(h) *Definitions.* The following definitions apply solely for purposes of this section.

(1) An *obligation-shifting transaction* is any transaction in which an assuming party assumes a property provider's obligations to a property user (or acquires property subject to a property provider's obligations to a property user) under a lease or similar agreement if the property provider or any other party has already received, or retains the right to receive, amounts that are allocable to periods after the transaction.

(2) A *property user* is any person with the right to use property under a lease or similar agreement.

(3) A *property provider* is any person (other than an assuming party in its capacity as such) that is obligated to make property available to a property user on account of a lease or similar agreement.

(4) An *assuming party* is any person that assumes obligations or acquires property subject to obligations under an existing lease or similar agreement with a property user.

(5) A *lease or similar agreement* is any contract for the use or enjoyment of tangible or intangible property, including leaseholds, licenses, other non-fee interests in property, and other contracts (including service contracts) involving the use or enjoyment of property if the fair market value of that use or enjoyment is more than de minimis.

(6) *Obligations under a lease or similar agreement* include the continuing obligation to make property subject to a lease or similar agreement available to a property user. To the extent that an assuming party assumes obligations of a property provider or acquires property subject to obligations of a property provider, the obligations shall not thereafter be treated as obligations of the property provider.

(7) *Amounts that have already been received under the lease or similar agreement* include consideration received (as of the date on which the obligation-shifting transaction is consummated) for assigning the rights to receive payments under the lease or similar agreement.

(8) *Amounts that are payable under the lease or similar agreement* do not include payments the rights to which have been assigned in an arm's-length transaction to an unrelated third person in exchange for consideration.

(9) A *section 7701(l) note* is indebtedness arising from the recharacterization described in paragraph (d)(1)(ii) of this section. The terms of a section 7701(l) note are described in paragraph (e) of this section.

(10) A *section 7701(l) rent-leveling loan* is indebtedness arising from the recharacterization described in paragraph (d)(2)(i) of this section. The terms of a section 7701(l) rent-leveling loan are described in paragraph (f) of this section.

(i) *Reserved.*

(j) *Pass-through entity look-through rule.* For purposes of determining whether any person is a property user, a property provider, or an assuming party, the person is treated as having the rights and obligations of any pass-through entity in which the person is a partner, shareholder, beneficiary, or other participant, but only to the extent of the person's allocable share of pass-through entity items relating to the property. The pass-through entity must reflect the required recharacterization on its books.

(k) *Consolidated group rule.* For purposes of this section, if a subsidiary is a member of a consolidated group and the subsidiary or a successor becomes a nonmember (other than in a transaction described in § 1.1502–13(j)(5)), the nonmember (whether or not a separate legal entity) will be treated as a separate corporation that acquires the assets and assumes the obligations of the subsidiary. For example, assume that P sells all the stock of S, previously a wholly-owned subsidiary of P and a member of the P consolidated group, and that, at the time of the sale, S already has received amounts under a lease that are allocable to periods after the sale. Under this paragraph (k), an obligation-shifting transaction occurs when S becomes a nonmember. S, as a nonmember, is treated as having assumed the obligations under the lease. Therefore, S must adjust its income as provided in paragraph (d)(2)(ii) of this section immediately before it becomes a nonmember of the consolidated group. After the sale, S is treated as both a property provider and an assuming party in the obligation-shifting transaction.

(l) *Reserved.*

(m) *Examples.* The following examples illustrate the rules of this section. Each example assumes that all taxpayers use the calendar year as the taxable year, all payment periods are the calendar year, and none of the rental agreements are disqualified leasebacks or long-term agreements under § 1.467–3(b). Except as otherwise provided, none of the exceptions in paragraph (c)(1) of this section apply. The examples read as follows:

Example 1. *Retained rents; section 351 transfer*—(i) *Facts.* (A) On January 1, 2001, A leases property to B for a five-year period. The lease provides for rent of $10,000,000 per year, payable annually on December 31.

(B) On January 1, 2002, A transfers the leased property to D in exchange for D preferred stock. A retains the right to receive the remaining four years of rent from B. As part of the same transaction, C transfers $100,000,000 to D in exchange for D common stock. After the transaction, A and C own 100 percent of the stock of D. Assume the transaction meets all of the requirements of section 351. C and D are members of the same consolidated group as defined in § 1.1502–1(h). One hundred ten percent of the applicable Federal rate based on annual compounding is 7 percent.

(ii) *Obligation-shifting transaction.* B is a property user because B has the right to use the property under the lease with A. A is a property provider because A is obligated to make the property available to B on account of the lease. D is an assuming party because in the January 1, 2002, transaction D acquires the property subject to A's obligations under the lease to make the property available to B for the remaining four years of the lease. The transaction is an obligation-shifting transaction because D is an assuming party

and A retains the right to receive rent from B allocable to periods after the transaction.

(iii) *Recharacterization.* As of January 1, 2002, the transaction is recharacterized as follows:

(A) Under the constant rental accrual method described in § 1.467–3(d), the amount accruing for each calendar year period under the lease is $10,000,000. D is treated as acquiring the right to receive the amounts allocable to the four periods after the obligation-shifting transaction. Thus, in 2002, 2003, 2004, and 2005, D must recognize $10,000,000 rental income.

(B) The principal balance of the section 7701(l) note equals $33,872,112.56, with a yield equal to 7 percent based on annual compounding. As part of the obligation-shifting transaction, D is treated as having given A the section 7701(l) note as additional consideration. The amount of the section 7701(l) note is treated as "other property" transferred from D to A in the section 351 exchange. D is treated as making section 7701(l) note payments to A. A has interest income on the section 7701(l) note. D has interest expense on the section 7701(l) note. A and D account for the section 7701(l) note as follows:

SECTION 7701(l) NOTE

Taxable year ending	Beginning balance	Payment	Interest	Principal
12/31/02	$33,872,112.56	$10,000,000.00	$2,371,047.88	$7,628,952.12
12/31/03	26,243,160.44	10,000,000.00	1,837,021.23	8,162,978.77
12/31/04	18,080,181.67	10,000,000.00	1,265,612.72	8,734,387.28
12/31/05	9,345,794.39	10,000,000.00	654,205.61	9,345,794.39

(C) Because the amount A recognized in the year before the obligation-shifting transaction equals the amount A would have recognized under the constant rental accrual method, A's adjustment to income on the consummation of the obligation-shifting transaction is $0.

(D) At the time of the obligation-shifting transaction, the principal balance of the section 7701(l) rent-leveling loan equals $0. Furthermore, because the amounts A actually receives each year after the obligation-shifting transaction, $10,000,000, equal the amounts D is treated as paying A under the section 7701(l) note, $10,000,000, the balance of the section 7701(l) rent-leveling loan equals $0 for all periods after the obligation-shifting transaction. Thus, A has no interest income or expense arising from the section 7701(l) rent-leveling loan.

Example 2. *Rents already received; section 351 transfer*—(i) Facts. (A) On January 1, 2001, X leases property to Y for a seven-year period. The XY lease provides for rent of $900,000 per year, payable annually on December 31. Also on January 1, 2001, Y leases the property to Z for a five-year period. The YZ lease provides for rent payable on December 31 of each year as follows: $800,000 in 2001, $900,000 in 2002, $1,000,000 in 2003, $1,100,000 in 2004, and $1,200,000 in 2005.

(B) On December 31, 2001, Y sells to F the right to receive all rents from Z for 2002 through 2005. F pays Y $3,146,345.27. Y includes the $3,146,345.27 as ordinary income.

(C) On January 1, 2002, Y contributes to S cash of $2,500,000, Y's rights and obligations under the lease with X, and Y's rights and obligations under the lease with Z in exchange for S preferred stock. As part of the same transaction, P transfers cash of $7,500,000 to S in exchange for S common stock. After the transaction, Y and P own 100 percent of the stock of S. Assume the transaction meets all of the requirements of section 351. S and P are members of the same consolidated group as defined in § 1.1502–1(h). One hundred ten percent of the applicable Federal rate based on annual compounding is 10 percent.

(ii) *Obligation-shifting transaction.* Z is a property user because Z has the right to use the property under the YZ lease. Y is a property provider because Y is obligated to make the property available to Z. S is an assuming party because in the January 1, 2002, transaction, S assumes Y's obligations under the YZ lease to make the property available for the remaining four years of the lease. The transaction is an obligation-shifting transaction because S is an assuming party and Y has already received amounts allocable to periods after the transaction (Y sold to F the right to receive rent payments under the YZ lease for 2002 through 2005).

(iii) *Recharacterization.* As of January 1, 2002, the transaction is recharacterized as follows:

(A) Under the constant rental accrual method described in § 1.467–3(d), the amount accruing for each calendar year period under the YZ lease is $946,396.31, based on the $800,000 Y received from Z on December 31, 2001, and the $3,146,345.27 Y received from F on December 31, 2001. S is treated as acquiring the right to receive the amounts allocable to the four periods after the obligation-shifting transaction. Thus, S must recognize $946,396.31 of rental income for each of the four periods following the obligation-shifting transaction.

(B) The principal balance of the section 7701(l) note equals $2,999,948.96, with a yield equal to 10 percent based on annual compounding. As part of the obligation-shifting transaction, S is treated as having given Y the section 7701(l) note as additional consideration. The amount of the section 7701(l) note is treated as "other property" transferred from S to Y in the section 351 exchange. S is treated as making section 7701(l) note payments to Y. Y has interest income on the section 7701(l) note. S has interest expense on the section 7701(l) note. S and Y account for the section 7701(l) note as follows:

SECTION 7701(l) NOTE

Taxable year ending	Beginning balance	Payment	Interest	Principal
12/31/02	$2,999,948.96	$946,396.31	$299,994.90	$646,401.41
12/31/03	2,353,547.55	946,396.31	235,354.75	711,041.56
12/31/04	1,642,505.99	946,396.31	164,250.60	782,145.71
12/31/05	860,360.28	946,396.31	86,036.03	860,360.28

(C) At the time of the obligation-shifting transaction, the principal balance of the section 467 loan that would have existed if Y had reported all items of income and expense by applying the constant rental accrual method equals negative $2,999,948.96. Thus, in computing its income on the consummation of the obligation-shifting transaction, Y must take into account an expense equal to $2,999,948.96.

(D) At the time of the obligation-shifting transaction, the principal balance of the section 7701(l) rent-leveling loan equals negative $2,999,948.96. Y must account for the section 7701(l) rent-leveling loan as follows:

SECTION 7701(l) RENT-LEVELING LOAN

Taxable year ending	Beginning balance	Payment	Interest	Principal
12/31/02	($2,999,948.96)	($946,396.31)	($299,994.90)	($646,401.41)
12/31/03	(2,353,547.55)	(946,396.31)	(235,354.75)	(711,041.56)
12/31/04	(1,642,505.99)	(946,396.31)	(164,250.60)	(782,145.71)
12/31/05	(860,360.28)	(946,396.31)	(86,036.03)	(860,360.28)

Example 3. *Rents already received; sale of a partnership interest*—(i) *Facts.* (A) On January 1, 2001, A, B, and C form partnership PRS by contributing $3,600,000, $396,000, and $4,000, respectively, for proportionate interests (90.0 percent, 9.9 percent, and 0.1 percent, respectively) in the capital and profits of PRS. On the same day, PRS purchases property for $4,000,000 and leases the property to X for a five-year period. The lease provides for rent payable on December 31 of each year as follows: $800,000 in 2001, $900,000 in 2002, $1,000,000 in 2003, $1,100,000 in 2004, and $1,200,000 in 2005.

(B) On December 31, 2001, PRS sells to F the right to receive all rents from X for 2002 through 2005. F pays PRS $3,146,345.27. PRS treats the $3,146,345.27 as ordinary income allocated $2,831,710.74 to A, $311,488.18 to B, and $3,146.35 to C. One hundred ten percent of the applicable Federal rate based on annual compounding is 10 percent.

(C) Immediately following the sale of the rents, A sells its entire partnership interest to D based on the fair market value of 90 percent of PRS's assets. PRS does not have an election in effect under section 754.

(ii) *Obligation-shifting transaction.* X is a property user because X has the right to use the property under the lease with PRS. A is a property provider as to its share of the partnership's obligations under the lease to make the property available to X. D is an assuming party because D acquires A's partnership interest subject to A's share of the partnership's obligations under the lease with X to make the property available for the remaining four years of the agreement. The transaction is an obligation-shifting transaction because D is an assuming party and A has already received income allocable to periods after the transaction (A received allocations of income from the sale of the right to receive rents under the lease in 2002 through 2005). Thus, D is treated as assuming 90 percent of the partnership's obligations under the lease.

(iii) *Recharacterization.* As of January 1, 2002, the transaction is recharacterized as follows:

(A) Under the constant rental accrual method described in § 1.467–3(d), the amount accruing for each calendar year period under the lease is $946,396.31, based on the $800,000 PRS received from X and the $3,146,345.27 PRS received from F. A's share of the amount payable in each calendar year period under the lease is $851,756.68 (90 percent of $946,396.31). D is treated as acquiring the right to A's 90 percent share of the amounts allocable to the four periods after the obligation-shifting transaction. Thus, D must recognize $851,756.68 of rental income for each of the four periods following the obligation-shifting transaction.

(B) The principal balance of the section 7701(l) note equals $2,699,954.06, with a yield equal to 10 percent based on annual compounding. As part of the obligation-shifting transaction, D is treated as having given A the section 7701(l) note as additional consideration. D is treated as making section 7701(l) note payments to A. A has interest income on the section 7701(l) note. D has interest expense on the section 7701(l) note. A and D account for the section 7701(l) note as follows:

SECTION 7701(l) NOTE

Taxable year ending	Beginning balance	Payment	Interest	Principal
12/31/02	$2,699,954.06	$851,756.68	$269,995.41	$581,761.27
12/31/03	2,118,192.79	851,756.68	211,819.28	639,937.40
12/31/04	1,478,255.39	851,756.68	147,825.54	703,931.14
12/31/05	774,324.25	851,756.68	77,432.42	774,324.26

(C) At the time of the obligation-shifting transaction, the principal balance of the section 467 loan that would have existed if PRS had reported all items of income and expense by applying the constant rental accrual method equals negative $2,999,948.96. Thus, in computing its income on the consummation of the obligation-shifting transaction, A must take into account an expense equal to $2,699,954.06 (90 percent of $2,999,948.96).

(D) At the time of the obligation shifting transaction, the principal balance of the section 7701(l) rent-leveling loan equals negative $2,699,954.06. A must account for the section 7701(l) rent-leveling loan as follows:

SECTION 7701(l) RENT-LEVELING LOAN

Taxable year ending	Beginning balance	Payment	Interest	Principal
12/31/02	($2,699,954.06)	($851,756.68)	($269,995.41)	($581,761.27)
12/31/03	(2,118,192.79)	(851,756.68)	(211,819.28)	(639,937.40)
12/31/04	(1,478,255.39)	(851,756.68)	(147,825.54)	(703,931.14)
12/31/05	(774,324.25)	(851,756.68)	(77,432.42)	(774,324.26)

Example 4. *Exception where aggregate amounts retained or already received are less than or equal to $100,000; section 351 transfer*—(i) *Facts.* (A) On January 1, 2001, A leases property to B for a five-year period. The lease provides for rent of $1,000,000 for 2001, and $875,000 for the each of the remaining four years of the lease. Rent is payable annually on December 31.

(B) On January 1, 2002, A transfers the leased property along with the right to receive rent payments for 2002 through 2005 to D in exchange for D preferred stock. As part of the same transaction, C transfers $1,000,000 to D in exchange for D common stock. After the transaction, A and C own 100 percent of the stock of D. Assume that the transaction meets all of the requirements of

section 351. C and D are members of the same consolidated group as described in § 1.1502–1(h). Assume that A, C, and D did not enter into the transaction with a principal purpose of substantially reducing the present value of their aggregate tax liabilities. One hundred ten percent of the applicable Federal rate based on annual compounding is 7 percent.

(ii) *Obligation-shifting transaction.* A is a property provider because it is obligated to make property available to B on account of a lease or similar agreement. B is a property user because it has the right to use property under its lease with A. D is an assuming party because, in the January 1, 2002, transaction, it acquires the property subject to A's obligation to make the property available to B for the remaining term of the lease. The transaction between A and D is an obligation-shifting transaction because D is an assuming party and A retains the right to receive amounts from B allocable to periods after the transaction.

(iii) *Availability of exception.* Even though the transaction between A and D is an obligation-shifting transaction, it is not recharacterized under this section. As of the date of the transaction, A has already received $1,000,000. Under the constant rental accrual method described in § 1.467–3(d), the constant rental amount accruing for each calendar year during the lease is $903,491.90. The aggregate amount that has already been received by A but that is allocable to periods after the obligation-shifting transaction is $1,000,000 minus $903,491.90, or $96,508.10. Because this amount is less than $100,000, the transaction is excepted from recharacterization under paragraph (c)(1)(i) of this section.

Example 5. *Exception where fair market value of leased property is less than 10 percent of value of all property transferred; incorporation of existing business*—(i) *Facts.* (A) On January 1, 2001, A leases property to B for a five-year period. The lease provides for rent of $1,000,000 per year, payable annually on December 31.

(B) On January 1, 2003, the fair market value of the leased property is $4,000,000. On that date, A transfers the property, together with $3,000,000 of Class I and Class II assets and other property with a fair market value of $39,000,000, in exchange for all of the common stock of C. A retains the right to receive the remaining three rent payments from B. The fair market value of the rent payments retained by A is $2,486,851.99 (based on a discount rate of 10 percent). The fair market value of the property subject to the lease and transferred to B, reflecting A's retention of the right to the remaining three rent payments, is $1,513,148.01. Assume that the transaction meets all of the requirements of section 351. Assume that A and C did not enter into the transaction with a principal purpose of substantially reducing the present value of their aggregate tax liabilities.

(ii) *Obligation-shifting transaction.* A is a property provider because it is obligated to make property available to B on account of a lease or similar agreement. B is a property user because it has the right to use property under its lease with A. C is an assuming party because, in the January 1, 2003, transaction, it acquires the property subject to A's obligation to make the property available to B for the remaining three years of the lease. The transaction between A and C is an obligation-shifting transaction because C is an assuming party and A retains the right to receive amounts from B allocable to periods after the transaction.

(iii) *Availability of exception.* Even though the transaction between A and C is an obligation-shifting transaction, it is not recharacterized under this section. The fair market value of the leased property equals $4,000,000. The fair market value of the property subject to the lease and transferred to B is $1,513,148.01, and the fair market value of the rents retained is $2,486,851.99. The aggregate fair market value of all of the property transferred, excluding Class I assets, Class II assets, and debt issued by the property provider, as part of the same transaction is $43,000,000 ($4,000,000 leased property plus $39,000,000 other property, excluding Class I assets, Class II assets, and debt issued by the property provider). Because the value of the leased property, $4,000,000, is less than 10 percent of $43,000,000, the transaction is excepted from recharacterization under paragraph (c)(1)(iii) of this section.

(n) *Effective date.* This section applies to obligation-shifting transactions any significant element of which was entered into or undertaken on or after October 13, 1995.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 96–32670 Filed 12–26–96; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 203

RIN 0790–AG14

Technical Assistance for Public Participation (TAPP) in Defense Environmental Restoration Activities

AGENCY: Office of the Deputy Under Secretary of Defense for Environmental Security (DUSD(ES)), DOD.

ACTION: Proposed rule.

SUMMARY: Pursuant to the National Defense Authorization Act of 1996, the Department of Defense proposes these regulations on providing technical assistance to local community members of Restoration Advisory Boards (RABs) and Technical Review Committee (TRCs). RABs and TRCs are established to review and comment on Department of Defense actions at military installations undertaking environmental restoration's activities.

DATES: Written comments must be received on or before February 25, 1997.

ADDRESSES: Send written comments and requests for documents to the Office of the Deputy Under Secretary for Environmental Security/Cleanup, 3400 Defense Pentagon, Washington, DC 20301–3400. Comments may also be submitted electronically by sending electronic mail (e-mail) to: ferrebpl@acq.osd.mil.

FOR FURTHER INFORMATION CONTACT: Patricia Ferrebee or Marcia Read, telephone (703) 697–5372 or (703) 697–7475.

SUPPLEMENTARY INFORMATION:

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I. Introduction

A. Authority

This proposed rule is issued under the authority of § 2705 of Title 10, United States Code. Subsections (c) and (d) of Section 2705 encourage the Department of Defense to establish either a Technical Review Committee (TRC) or Restoration Advisory Board (RAB) to review and comment on DoD actions at military installations undertaking environmental restoration activities. In 1994, Congress authorized the Department of Defense to develop a program to facilitate public participation by providing technical assistance to local community members of TRCs and RABs (section 326 of the National Defense Authorization Act for Fiscal Year 1995, P.L. 103–337). In 1996, Congress revised this authority (section 324 of the National Defense authorization Act for Fiscal Year 1996,

P.L. 104–112). It is pursuant to this revised authority, which is codified as new subsection (e) of § 2705, that the Department of Defense issues this proposed rule.

In general, § 2705(e) permits the Department of Defense to obtain, from private sector sources, technical assistance to help TRCs and RABs better understand the scientific and engineering issues underlying an installation's environmental restoration activities. TRCs and RABs may request this assistance only if:

(1) The TRC or RAB demonstrates that the Federal, State, and local agencies responsible for overseeing environmental restoration at the installation do not have the technical expertise necessary for achieving the objective for which the technical assistance is to be obtained; or

(2) The technical assistance—

(a) Is likely to contribute to the efficiency, effectiveness, or timeliness of environmental restoration activities at the installation; and

(b) Is likely to contribute to community acceptance of environmental restoration activities at the installation.

Funding for this technical assistance program will come from the Defense Environmental Restoration Account for operating installations and formerly used defense sites, and from the Defense Base Closure Account for installations approved for closure.

B. Background of the Rulemaking

Over the past several years, the Department of Defense has participated as a member of the Federal Facilities Environmental Restoration Dialogue Committee (FFERDC). This committee, comprised of a wide range of stakeholders, was chartered to develop consensus policy recommendations for improving environmental restoration at Federal facilities. In February 1993, the FFERDC issued the "Interim Report of the FFERDC: Recommendations for Improving the Federal Facilities Environmental Restoration Decision-Making and Priority-Setting Processes." This report recommended that Federal agencies become more proactive in providing information about restoration activities to stakeholders and that citizen advisory boards be established to provide advice to government agencies that conduct restoration at Federal facilities. This report also suggested the initiation of administrative and technical assistance funding.

The Department of Defense has issued policy for establishing RABs at all installations. On September 9, 1993, the Department of Defense issued policy for establishing RABs at installations designated for closure or realignment under the BRAC Acts of 1988 and 1990 where property will be available for transfer to the community. On April 14, 1994, the Department of Defense issued RAB policy for non-closing installations as part of Management Guidance for Execution of the FY94/95 and Development of the FY96 Defense Environmental Restoration Program. The policy called for the establishment of RABs at DoD installations where there is sufficient, sustained community interest. Criteria for determining sufficient interest are: (1) A government request that a RAB be formed; (2) fifty local residents sign a petition requesting that a RAB be formed; (3) an installation determines that a RAB is needed; or (4) the closure of an installation involves the transfer of property to the community. On September 27, 1994, the Department of Defense and the Environmental Protection Agency (EPA) issued joint RAB guidelines on how to develop and implement a RAB. Finally, on August 6, 1996, the Department of Defense proposed regulations governing the characteristics, composition, and establishment of RABs pursuant to NDAA–95 (61 FR 40764–40772). These regulations propose the policy for creation and implementation of RABs at defense installations.

The purpose of a RAB is to bring together people who reflect the diverse interests within the local community, enabling an early and continual flow of information between the affected community, the Department of Defense, and environmental oversight agencies. Recognizing the importance of citizen participation in the environmental restoration process, Congress authorized the provision of technical assistance and assistance to aid public participation in § 326 of NDAA–95. In response to this authority, the Department of Defense published a Notice of Request for Comments (May 24, 1995, 60 FR 27460–27463) on alternative methods for funding technical assistance. In 1996, Congress revised this authority in § 324 of NDAA–96. This proposed rule proposes regulations for providing technical assistance to RABs and Technical Review Committees (TRCs), and details the specific requirements for obtaining this assistance consistent with this new authority. Regulations regarding the characteristics, composition, and establishment of RABs were previously announced on August 6, 1996 (61 FR 40764–40772).

Because this rule relates to public grants, benefits, or contracts, it is exempt from the requirements of § 553 of the Administrative Procedure Act (5 U.S.C. 553), including notice and opportunity for comment. Nonetheless, the Department of Defense is interested in receiving public comments. The Department of Defense previously sought public comment on the issues addressed in this proposed rule in its May 1995 Notice of Request for Comments, and is seeking comments on this proposed rule as well in order to develop the final rule.

II. Summary of RAB Regulation

RAB policy is contained in the April 14, 1994, Management Guidance for Execution of the FY94/95 and Development of the FY96 Defense Environmental Restoration Program and the September 9, 1993, memorandum on Fast Track Cleanup at Closing Installations. Joint Department of Defense and EPA RAB Implementation Guidelines were published in September 1994. Proposed regulations on RAB development and procedures were published on August 6, 1996, (61 FR 40764–40772).

A RAB will be established at installations where there is sufficient, sustained community interest. Criteria for determining sufficient interest are:

(1) A local government requests that a RAB be formed; or

(2) Fifty local residents sign a petition requesting that a RAB be formed; or

(3) An installation determines that a RAB is needed; or

(4) The closure of an installation involves the transfer of property to the community.

The purpose of a RAB is to act as a forum for discussion and exchange of information between agencies and the community and to provide an opportunity for stakeholders to review progress and participate in a dialogue with the decisionmakers.

The RAB will be comprised of representatives from the Department of Defense Components, the EPA and/or States, and members of the local community. The Department of Defense will ensure that the membership reflects the diverse interests within the community.

Statutory language defining the duties of the Secretary of Defense regarding consultations with RABs or TRCs can be found at 10 U.S.C. § 2705(f). Details regarding the establishment, operation, funding, and reporting requirements for RABs are contained in the proposed rule published in the **Federal Register** on August 6, 1996, (61 FR 40764–40772).

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III. Responses to Major Public Comments on RAB Funding Options Raised in the Notice of Request for Comments

A. Summary of Options

Consistent with § 326 of the National Defense Authorization Act for Fiscal Year 1995 (NDAA–95), the Department of Defense considered three options for technical assistance funding to citizens affected by the environmental restoration of DoD facilities. These options were published by the Department of Defense on May 24, 1995, (60 FR 27460–27463) in a Notice of Request for Comments. The three options under consideration are described briefly as follows:

Option A proposes using the existing EPA Technical Assistance Grant (TAG) and Technical Outreach Services to Communities (TOSC) programs as vehicles to provide technical assistance to community members of TRCs and RABs. Under this option, the Department of Defense would sign a Memorandum of Understanding (MOU) authorizing the EPA to provide assistance to community members of TRCs and RABs using EPA's existing regulations. The TAG process provides funding directly to community members at National Priority List (NPL) installations. The TOSC program would provide technical advisors and related services from designated Hazardous Substance Research Centers to community members at non-NPL installations.

Option B would involve the competitive procurement of one or more independent technical assistance providers to provide technical and public participation assistance to community members of TRCs and RABs at DoD installations.

Option C proposes the issuance of purchase orders to technical and public participation assistance providers up to the allowable limit per purchase order. Under this option, community members of the TRC or RAB would provide a description of the service they are requesting and the names of one or more proposed technical assistance providers to a DoD contracting office. A minimum set of organizational qualifications for receiving assistance would be specified by the Department of Defense under this option.

In the National Defense Authorization Act for Fiscal Year 1996 (NDAA–96), Congress established a limit on the total amount of DERA and BRAC funds that could be made available for use as support to RABs. These funding sources also fund technical assistance for public participation. Under all of the technical assistance options examined today, the local installations will continue to be responsible for providing that portion of the available funds required for administrative support. Furthermore, under all options assistance would be limited to community members of TRCs or RABs at DoD installations. This has the added benefit of providing a return to the government in the form of enhanced public participation in the restoration process. Furthermore, NDAA–96 directed the Department of Defense to consider funding for technical assistance only under the following specified conditions:

(1) The Technical Review Committee or Restoration Advisory Board must demonstrate that the Federal, State, and local agencies responsible for overseeing environmental restoration at the installation, and available DoD personnel, do not have the technical expertise necessary for achieving the objective for which the technical assistance is to be obtained; or

(2) The technical assistance—

(a) Is likely to contribute to the efficiency, effectiveness, or timeliness of environmental restoration activities at the installation; and

(b) Is likely to contribute to community acceptance of environmental restoration activities at the installation.

This proposed rule responds to the public's comments on the options published in the request for comments and the requirements of § 2705 of Title 10 of the U.S. Code, as amended.

A total of 43 written comments were received in response to the request for comment. Approximately two-thirds of the comments received were from members of RABs, the groups most directly affected by the proposed rules, although a number of comments were also received from various government sources and potential providers of the services described in the notice. The written comments are available to the public in the docket for the notice. The major issues addressed by the comments and the Department of Defense responses to them are provided in this preamble.

B. Comments in Support of Option C—Issue Purchase Orders to Assistance Providers

A clear majority of the commenters expressed a preference for Option C, citing the increased flexibility and responsiveness to community needs provided by this option and the increased ability of the RABs and TRCs to contribute to the selection of the technical assistance provider. Several commenters noted the importance of this latter provision in Option C, with some going on to state that the separation of the Department of Defense from the selection process was important in eliminating potential conflicts of interest and fostering increased trust in the contributions of the technical assistance providers. Furthermore, this option was viewed as an efficient use of funds, as unnecessary layers of management were eliminated.

In response to the clear support of commenters for Option C, the Department of Defense is today publishing the proposed rule describing the procedures for implementing this option for funding technical support for public participation. This option also provides benefits to the government, primarily in providing a direct return to the restoration process in the form of informed and involved public participation. The RABs and TRCs are in the best position to determine their particular requirements for assistance. Their description of the services required and the criteria for selecting a provider will allow the Department of Defense to obtain the necessary resources to enhance their participation. Option C, as proposed today, provides the most direct means for meeting those needs and for meeting the requirements of the Federal Acquisition Regulations. Furthermore, by means of the eligibility requirements outlined in § 203.11 and § 203.12 of this proposed rule, the Department of Defense has more assurance that its limited will be used to provide technical support to the RABs or TRCs.

The Department of Defense supports the legislative initiative to enhance public participation at DoD environmental restoration sites. Based upon the comments received, the Department of Defense believes that Option C will provide the greatest opportunity to provide TRCs and RABs with technical assistance in a manner that will promote the highest level of confidence among public participants in that assistance.

Ten commenters remarked on the increased workload the RABs might incur from the implementation of Option C, since this option would involve an application for assistance, a process with which the RABs might not be familiar. However, many felt the administrative burden under this option was significantly less than that entailed by Option A.

The Department of Defense is aware of the administrative burdens that might fall to RABs or TRCs and for this reason has sought to minimize them with the publication of this rule. Each option proposed would impose some

responsibility for administration and accounting. This proposed rule, however, seeks to limit the burden on RABs and TRCs by using the Department of Defense as the contracting office to administer funds to providers selected on the basis of specifications provided by RABs and TRCs, subject to the limitations of the Federal Acquisition Regulations as noted in the proposed rule. This process is expected to minimize administrative impacts on RABs and TRCs while still providing sufficient reporting and management requirements to effectively run the program.

Although Option C was favored by most respondents, some commenters preferred either Option A or Option B or some combination of options which included A or B. The Department of Defense carefully considered these options, but ultimately rejected them in favor of Option C for many of the same reasons as were provided by commenters.

C. Comments in Support of Option A—Using EPA's TAG and TOSC Program

Option A was favored by six commenters, who cited its status as an ongoing and functioning program that has already provided technical assistance to a number of groups at Federal facilities. Two of these commenters represented TOSC providers, or individual Hazardous Substance Research Centers; two others had positive experiences with this process at their installations. There were, however, other commenters who argued against the selection of this option. Principal among the reasons provided by these commenters was the lack of local control over the selection of a provider. Several commenters also noted the "cumbersome and time-consuming" administrative requirements associated with the application and reporting requirements of TAG grants and TOSC support. These were felt to be beyond the scope of administrative resources available to most typical RABs or TRCs. One commenter questioned whether the selection process used by TOSC providers would adequately serve the needs of RABs or TRCs, citing their experience with a potential TOSC provider. Other limitations noted were the unequal treatment afforded NPL sites versus non-NPL sites, the normal limitation of one TAG grant per site, which might lead to competition between RABs or TRCs and other community groups, and the uncertain ability of the EPA to provide sufficient resources to manage the additional grants for DoD facilities. Indeed, Region IX EPA opposes the use of Option A because of the significant increase in workload it will generate for EPA staff. This commenter also believes that RABs and TRCs may be ineligible for TAG grants, which are intended for non-profit community groups, and is concerned that DoD's definition of technical assistance is broader than that used by the EPA and may lead to ineligible charges or inadequate support for RABs and TRCs.

In selecting Option C instead of Option A as a means for providing assistance to RABs and TRCs, the Department of Defense has balanced the expressed desires of those bodies to identify proposed technical assistance providers and the Department of Defense's own financial management responsibilities. Furthermore, the option of using TAG grants or TOSC support will continue to be available to communities surrounding DoD installations, although the prior existence of TAG or TOSC support at an installation may affect DoD funding priorities. Those arguments supplied by commenters in favor of Option A, because of its ready adaptation to Department of Defense use, are met by this proposed rule by implementing a process that will be immediately available to RABs and TRCs to obtain technical support. The Department of Defense also maintains that many of the comments opposing the selection of Option A have merit, and concurs that the administrative burden on RABs or TRCs associated with the procurement of a TAG grant or TOSC support could be an impediment to obtaining meaningful assistance.

D. Comments in Support of Option B—Procurement of Independent Provider

Only one commenter expressed interest solely in the selection of Option B, noting the neutral and credible assistance such a provider could supply. This commenter also expressed interest in providing the services outlined under this option. The Department of Defense's rejection of this option was again primarily based upon the majority of the commenters' wishes to maintain control of the assistance provider at the local level. Other comments that the Department of Defense believes have merit include the comment that the use of regional or national providers may exclude from participation firms providing localized or specialized expertise, and the fact that the procurement of regional or national providers under this option would take considerable time to implement.

E. Comments in Support of Option C Combined with Option A or B

Ten commenters favored the selection of Option C in conjunction with either Option A or Option B. The principal reason cited for this preference was the possibility of deflecting administrative burdens from the RABs and TRCs onto other entities. The Department of Defense believes it has met this objective by the use of DoD contracting offices in the issuance and administration of purchase orders, as detailed in this rule. The RABs and TRCs will have the ability to define the TAPP project, specify assistance provider qualifications and criteria for consideration by the Department of Defense, and provide consultation to the Department of Defense in the selection process.

F. Qualifications for Independent Technical Assistance Providers

The Department of Defense also solicited comments on the qualifications necessary for the independent technical assistance providers described in Option B, and the desirability of regional versus national assistance providers. However, because the Department of Defense supports Option C, these issues are no longer pertinent to this proposed rule.

G. Methods and Criteria for Allotment

Regardless of the option chosen, funding must, out of necessity, be subject to an annual limit per RAB or TRC. The Department of Defense solicited comments and suggestions as to the size of such a cap or the criteria that should be used to establish a cap.

Eleven commenters suggested options for allocating the limited resources available for technical assistance. Proposed amounts ranged from $25,000 to $325,000, with one commenter noting that the larger number is still less than that incurred by lawsuits brought by affected community members, and another commenter stating that $25,000 was insufficient to hire qualified technical assistance for larger projects. Other commenters proposed allotments based on a percentage of the BRAC or DERA restoration budget. Suggested amounts were based on one to five percent of the restoration budget. One commenter suggested a determination based upon the total number of RABs expected to make requests versus the available resources.

The Department of Defense must carefully balance available funds with the needs of RABs and TRCs to procure needed technical assistance. In response to the limits suggested by commenters,

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and in view of the resources available, the Department of Defense has determined that total technical assistance funding will be limited to $100,000 per RAB or TRC, with no more than the lesser of 1 percent of the installation's projected restoration cost-to-complete or $25,000 available during any fiscal year. This amount is consistent with the amounts available for similar purposes under the EPA's TAG/TOSC programs and should be sufficient to obtain meaningful technical assistance for a variety of needs. Limiting funding on the basis of an installation's annual restoration budget is one means available to the Department of Defense for allocating resources among competing facilities. The Deputy Under Secretary of Defense (Environmental Security) may waive the $100,000 total and $25,000 annual limitations, as appropriate, to reflect the complexity of response action, the nature and extent of contamination at the installation, the level of activity at the installation, projected total needs as identified by the TAPP recipient, the size and diversity of the affected population, and the ability of the TAPP recipient to identify and raise funds from other sources.

In addition to the issue of providing technical assistance to RABs or TRCs, the Department of Defense requested comment on methods of determining priorities among TAPP projects. Two commenters suggested the closure status of the base should affect priority, since these bases tend to be on a fast track cleanup schedule. Other factors that were offered as a basis for prioritization included the severity of the problem or risk associated with a base, the stage of the restoration program at the base, and the proposed use of the money. Commenters did question where the decisionmaking authority would lie for setting priorities among competing funding requests.

In response, the Department of Defense has determined that TAPP projects will be funded upon completion of an eligible TAPP request, in the order received, as available resources permit. In the event that TAPP requests exceed available resources, the Department of Defense Component will consider factors such as closure status, the installations restoration program status, and alternate sources of assistance in determining funding priorities.

H. Additional Services to be Provided Under Option C

The Department of Defense developed a list of public participation services it believes could be provided under Option C in addition to hiring technical advisors, facilitators, mediators and educators. These services include: translation and interpretation; training; transportation to meetings; and payment of approved travel. The notice solicited comments regarding additional services that should be considered to meet the goal of providing technical assistance to RABs and TRCs and to encourage meaningful public participation.

Although only a limited number of commenters chose to respond to the request for additional services that should be offered, a variety of options were suggested. These included technical support, such as the procurement of independent technical consultants, training, and legal advice, as well as administrative and financial support, such as translation services, reimbursement for postage, phone calls, and travel, community outreach programs, newsletters, stipends for RAB members, and child care.

Because of limitations within the legislation and because resources for RAB and TRC support are limited, the Department of Defense has chosen to focus resources on technical support. The Department of Defense has an interest in promoting partnering with the community members of TRCs and RABs and believes that providing technical assistance will enable them to provide more meaningful input to the restoration process. Technical support, including short-term training, attendance at workshops, and procurement of technical consultants, would be eligible for funding under the program outlined in this rule. Specific eligibility criteria can be found in § 203.11 of this proposed rule. Administrative costs incurred by the RABs and TRCs will continue to be borne by the installation, as is currently the case.

Certain types of legal assistance will not be eligible for funding because they could promote an adversarial relationship between community members and the installation. Specifically, litigation or underwriting legal actions, such as paying for attorney fees or paying for a technical assistance provider to assist an attorney in preparing legal action or preparing for and serving as an expert witness at any legal proceeding regarding or affecting the site, will be ineligible for funding. Other types of assistance, such as translation and interpretation, transportation to meetings, and community outreach programs, represent needs of the community at large, and are not limited by RAB membership. As such, they are beyond the scope of the TAPP funding mechanism.

I. Other Comments and Suggestions

Although not specifically requested by the notice for comments, a few commenters suggested additional options for increasing or improving public participation. These included extending assistance to community groups other than RABs or TRCs; providing additional assistance for minority voices on RABs; obtaining peer review from other Federal agencies with relevant technical expertise; providing documents in electronic format to RABs, TRCs, and public repositories; releasing draft documents for review; and using local universities for technical support.

In keeping with the legislation, the Department of Defense is limiting the program announced in this proposed rule to providing technical assistance to community members of TRCs and RABs. The EPA's TAG and TOSC programs are still available for other community groups. The use of assistance provided through the DoD program will be decided by individual RABs and TRCs, given the eligibility criteria specified in § 203.11 of this proposed rule.

Regarding the other suggestions, these are beyond the scope of the current rulemaking and therefore will not be addressed. The Department of Defense, however, notes its continuing efforts to enhance public participation at its facilities and encourages those commenters to pursue innovative ideas for public participation through the RAB process.

IV. Regulatory Analysis

A. Regulatory Impact Analysis

Under Executive Order 12866 (October 4, 1993, 58 FR 51735), the Department of Defense must determine whether this regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) an the requirements of the Executive Order. under Section 3(f), the order defines a "significant regulation action" as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering

the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations or recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, the OMB has determined this rule is a "significant regulatory action" because it may raise novel legal or policy issues. As such, this action was submitted to the OMB for review, and any comments or changes made in response to the OMB suggestions or recommendations have been documented in the public record.

B. Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 requires that agencies evaluate the effects of proposed rules for three types of small entities:

(1) Small businesses (as defined in the Small Business Administration regulations);

(2) Small organizations (independently owned, non-dominant in their field, non-profit); and

(3) Small government jurisdictions (serving communities of less than 50,000 people).

The Department of Defense has considered the interests of small businesses and small organizations by means of the use of purchase orders to obtain technical assistance. As stated in the Federal Acquisition Regulations, those purchase orders under $100,000 are reserved for small businesses, unless it can be demonstrated that small businesses are unable to provide the necessary service or product. Only a limited number of small non-profit organizations are expected to be affected by this program as it is likely that only those non-profit organizations located near Department of Defense installations with ongoing environmental restoration programs will, in most cases, provide the requested technical assistance. The Department of Defense was careful not to impose additional reporting requirements on the public and to stay within the reporting requirements quota for procurements.

Moreover, the Department of Defense has undertaken several activities to help small organizations. The Department of Defense has sought to increase the dollar amount of small purchase orders to simplify the procurement process. The Department of Defense has deliberately written the regulations to encourage small entities to apply.

Given the limited funding available to this program from Congress, and the rationing operation of § 203.4, this rule is not expected to have a significant economic impact on a substantial number of small entities. The Under Secretary for Acquisition and Technology (USD(A&T)), therefore, certifies that no Regulatory Flexibility Analysis is necessary.

C. Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act of 1995, the reporting and recordkeeping provisions of this proposed rule have been submitted to the OMB for review under § 3507(d) of the Act.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Deputy Under Secretary of Defense for Environmental Security (Environmental Cleanup) announces the proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed information collection; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

The collection of information is necessary to identify products of services requested by community members of restoration advisory boards or technical review committees to aid in their participation in the Department of Defense's environmental restoration program, and to meet Congressional reporting requirements.

Affected Public: Not-for-Profit Institutions.

Annual Burden Hours: 1,060.

Number of Respondents: 265.

Responses Per Respondent: 1.

Average Burden Per Response: 4 hours.

Frequency: On occasion.

Respondents are community members of restoration advisory boards or technical review committees requesting technical assistance to interpret scientific and engineering issues regarding the nature of environmental hazards at an installation. This assistance will assist communities in participating in the cleanup process. The information, directed by 10 U.S.C. 2705, will be used to determine the eligibility of the proposed project, begin the procurement process to obtain the requested products or services, and determine the satisfaction of community members of restoration advisory boards and technical review committees receiving the products and services.

Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs, OMB, 715 17th Street, N.W., Washington, DC 20503, marked "Attention Desk Officer for Department of Defense." Copies should be sent to the Office of the Deputy Under Secretary for Environmental Security/ Cleanup, 3400 Defense Pentagon, Washington, DC 20301–3400. Comments may also be submitted electronically by sending electronic mail (e-mail) to: ferrebpl@acq.osd.mil.

When the Department of Defense promulgates the Final Rule, the Department will respond to comments by OMB or the public regarding the information collection provisions and recordkeeping requirements of the rule.

List of Subjects in 32 CFR Part 203

Administrative practice and procedure, Technical assistance, Public participation, Environmental protection—restoration, Federal buildings and facilities, Organization and functions (Government agencies).

It is proposed to amend Title 32 of the Code of Federal Regulations, Chapter I, Subchapter M, by adding part 203 to read as follows:

PART 203–TECHNICAL ASSISTANCE FOR PUBLIC PARTICIPATION (TAPP) IN DEFENSE ENVIRONMENTAL RESTORATION ACTIVITIES

Sec.

203.1 Authority.
203.2 Purpose and availability of referenced material.
203.3 Definitions.
203.4 Selected option.
203.5 TAPP process.
203.6 Cost Principles.
203.7 Eligible applicants.
203.8 Ineligible applicants.
203.9 Evaluation criteria.
203.10 Submission of application.
203.11 Eligible activities.
203.12 Ineligible activities.
203.13 Technical assistance for public participation provider qualifications.
203.14 Procurement.
203.15 RAB/TRC reporting requirements.
203.16 Method of payment.
203.17 Record retention and audits.
203.18 Availability of information.
203.19 Conflict of interest and disclosure requirements.
Appendix A to Part 203—Technical Assistance for Public Participation Application Request Form.

Authority: 10 U.S.C. 2705.

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§ 203.1 Authority.

Part 203 is issued under the authority of section 2705 of Title 10, United States Code. In 1994, Congress authorized the Department of Defense to develop a program to facilitate public participation by providing technical assistance to local community members of TRCs and RABs (section 326 of the National Defense Authorization Act for Fiscal Year 1995, P.L. 103–337). In 1996, Congress revised this authority (section 324 of the National Defense Authorization Act for Fiscal Year 1996, P.L. 104–112). It is pursuant to this revised authority, which is codified as new subsection (e) of section 2705, that the Department of Defense issues this part.

§ 203.2 Purpose and availability of referenced material.

(a) This part establishes the Technical Assistance for Public Participation (TAPP) program for the Department of Defense. It sets forth policies and procedures for providing technical assistance to community members of TRCs and RABs established at DoD facilities. This part sets forth the procedures for the Department of Defense to accept and evaluate TAPP applications, to procure the assistance desired by community members of RABs and TRCs, and to manage the TAPP program. These provisions are applicable to all applicants/recipients of technical assistance as specified under the selected option discussed in § 203.4.

(b) Any reference to documents made in this part necessary to apply for TAPP (e.g., the Office of Management and Budget (OMB) Circulars or DoD forms) are available through the DoD installation, the military department headquarters, of from the Department of Defense, Office of the Deputy Under Secretary of Defense for Environmental Security (DUSD(ES)), 3400 Defense Pentagon, Washington, DC 20301–3400.

§ 203.3 Definitions.

As used in this part, the following terms shall have the meaning set forth:

Affected. Means subject to an actual or potential health or environmental threat arising from a release or a threatened release at an installation where the Secretary of Defense is planning or implementing environmental restoration activities including a response action under the Comprehensive Environmental Response Compensation and Liability Act as amended (CERCLA), corrective action under the Resource Conservation and Recovery Act (RCRA), or other such actions under applicable Federal or State environmental restoration laws. This would include actions at active, closing, realigning, and formerly used defense installations. Examples of affected parties include individuals living in areas adjacent to installations whose health is or may be endangered by the release of hazardous substances at the facility.

Applicant. Means any group of individuals that files an application for TAPP, limited by this proposal rule to community members of the RAB or TRC.

Application. Means a completed formal written request for TAPP that is submitted to the installation commander or to the identified decision authority designated for the installation. A completed application will include a TAPP project description.

Assistance provider. Is an individual, group of individuals, or company contracted by the Department of Defense to provide technical assistance under the Technical Assistance for Public Participation program announced in this rule.

Assistance provider's project manager. Means the person legally authorized to obligate the organization receiving a TAPP purchase order to the terms and conditions of the Department of Defense's regulations and the contract, and designated by the recipient to serve as the principal contact with the Department of Defense.

Community member. Is a member of the RAB or TRC who is also a member of the affected community. For the purpose of this rule, community members to do not include local, State, or Federal government officials acting in any regulatory capacity, nor does it include DoD members.

Community point of contact. Is the community member of the RAB or TRC designated in the TAPP application as the focal point for communications with the Department of Defense regarding the TAPP procurement process. The community point of contact is responsible for completing the reporting requirements specified in § 203.15 of this part.

Contract. Means a written agreement between the installation or other instrumentality of the Department of Defense and another party for services or supplies necessary to complete the TAPP project. Contracts include written agreements and subagreements for professional services or supplies necessary to complete the TAPP projects, agreements with consultants, and purchase orders.

Contract officer. Means the Federal official designated to manage the contract used to fulfill the TAPP request by the RAB or TRC.

Contractor. Means any party (e.g., Technical advisor) to whom the installation or other instrumentality of the Department of Defense awards a contract. In the context of this rule, it is synonymous with assistance provider.

Cost estimate. Is an estimate of the total funding required for the assistance provider to complete the TAPP project.

DoD Component. Includes, but is limited to, the services (Army, Navy, Air Force, Marines, and Reserves) and those defense agencies with an environmental restoration program.

DoD Installation. Means a faculty that is owned or operated or otherwise possessed by a department, agency, or instrumentality of the United States Department of Defense. In the context of this rule, formerly used defense sites (FUDS) are included within the definition of a DoD Installation.

EPA. Means the United States Environmental Protection Agency.

Formerly Used Defense Site (FUDS). Is a site that has been owned by, leased to, possessed by, or otherwise under the jurisdiction of the Department of Defense. The FUDS program does not apply to those sites outside the U.S. jurisdiction.

Firm fixed price contract. Is a contract wherein funding is fixed, prior to the initiation of a contract, for an agreed upon service or product.

Purchase order. Is an offer by the Government to buy supplies or services from a commercial source, upon specified terms and conditions, the total cost of which cannot exceed the small purchase limit of $100,000. Purchase orders are governed by Federal Acquisition Regulations, 48 CFR part 13, and the Simplified Acquisition Threshold Procedures.

Restoration Advisory Board (RAB). Is a group of individuals comprised of representatives of the Department of Defense, community members, and EPA and/or State officials formed to act as a forum for discussion and exchange of information between agencies and the community, and to provide an opportunity for stakeholders to review progress and participate in dialogue with the decision makers. RAB policy was outlined in the joint guidelines published by EPA and the Department of Defense on September 27, 1994, and is described in 32 CFR part 202.[1] [2]

Statement of Work. Is that portion of a contract which describes the actual

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[1] 32 CFR part 202 is the proposed rule on RAB development. It was published on August 6, 1996 (61 FR 40764–40772).

[2] Copies of the **Federal Register** publication for 32 CFR part 202 are available from the Department of Defense, Office of the Deputy Under Secretary of Defense (Environmental Security).

work to be done by means of specifications or minimum requirements, quantities, performance dates, time and place of performance, and quality requirements. It is key to any procurement because it is the basis for the contractor's response and development of proposed costs.

TAPP approval. Signifies that the Department of Defense has approved the eligibility of the proposed TAPP project and will undertake an acquisition to obtain the services specified in the TAPP application submitted by the RAB or TRC. The government will conduct the acquisition in accordance with all of the applicable rules and requirements of the Federal Acquisition Regulations and the Simplified Acquisition Procedures. Approval does not constitute an agreement to direct an award to a specific source if such an action would be contrary to Federal Acquisition Regulations.

TAPP project description. Is a discussion of the assistance requested that includes the elements listed in § 203.10 of this part. The project description should contain sufficient detail to enable the Department of Defense to determine the nature and eligibility of the project, identify potential providers and estimate costs, and prepare a statement of work to begin the procurement process.

Technical assistance. Encompasses those activities specified in § 203.11 that will contribute to the public's ability to participate in the decision-making process by improving the public's understanding of overall conditions and activities. Technical assistance may include interpreting information such as: the nature of the hazard, including potential health impacts posed by onsite conditions; remedial investigation and feasibility studies; records of decision; remedial designs; selection and construction of remedial actions; operation and maintenance; significant removal actions; and training on technical issues of particular concern to the community members of the RAB or TRC. Technical assistance does not include those activities prohibited under § 203.12, such as litigation or underwriting legal actions; political activity; generation of new primary data such as well drilling and testing, including split sampling; reopening final Department of Defense decisions or conducting disputes with the Department of Defense; or epidemiological or health studies, such as blood or urine testing.

Technical Review Committee (TRC). Is a group formed to meet the requirements of 10 U.S.C. 2705(c), Department of Defense Environmental Restoration Program. Primarily functioning to review installation restoration documents, these committees are being expanded and modified at installations where interest or need necessitates the creation of a RAB.

§ 203.4 Selected option.

(a) The Department of Defense will issue purchase orders to technical assistance, facilitation, training, and other public participation assistance providers subject to the purchase limit per order as resources continue to be available. If multiple purchase orders are needed to assist community members of a particular RAB or TRC, the combined sum of these purchase orders cannot exceed $100,000 or, during any one year, the lesser of $25,000 or 1 percent of the installation's projected restoration cost to complete. Note that these limitations refer to the maximum allowable technical assistance funding per RAB/TRC. Resources available within a given year may vary. These limitations apply unless a waiver is granted by the Deputy Under Secretary of Defense (Environmental Security) (DUSD(ES)). The Deputy Under Secretary of Defense (Environmental Security) may waive the $100,000 total and $25,000 annual limitations, as appropriate, to reflect the complexity of response action, the nature and extent of contamination at the installation, the level of activity at the installation, projected total needs as identified by the TAPP recipient, the size and diversity of the affected population, and the ability of the TAPP recipient to identify and raise funds from other sources.

(b) Community members of the RAB/TRC will provide a description of the services it is requesting (TAPP Project Description) and, if desired, the names of one or more proposed technical assistance providers to the DoD RAB Co-Chair, who will ensure the application will be submitted to the installation commander or other designated authority and to the appropriate DoD contracting office. Technical assistance providers proposed by the community members of a RAB or TRC at each DoD facility that meet the minimum set of organizational qualifications guidelines provided by the Department of Defense in § 203.13 of this part will be added to the governments list of bidders for the proposed procurement.

§ 203.5 TAPP process.

This section provides an overview of the TAPP process. Specific details referred to in this section can be found in subsequent sections of this rule.

(a) *TAPP funding.* The DoD budget for support to RABs and TRCs will be established annually. Each DoD Component will be authorized to allocate funds on the basis of the number of RABs or TRCs in operation or in planning stages at the beginning of the fiscal year. Each DoD Component will then make these funds available to their individual installations or facilities on an equitable basis, considering a number of factors related to the restoration program at the installation and its impact upon the community. These factors include, but are not limited to:

(1) Closure status.
(2) Budget.
(3) Installation restoration program status.
(4) Presence (or absence) of alternate funding.
(5) Relative risk.
(6) Type of task to be funded.
(7) Community concern.
(8) Available funding.

(b) *Identification of proposed TAPP project.* Eligible applicants of RABs and TRCs, established in § 203.7 and § 203.8 of this part, should determine whether a TAPP project is required to assist the community members of the RAB or TRC to interpret information regarding the nature and extent of contamination or the proposed remedial actions. Eligibility requirements for TAPP projects are described in § 203.11 and § 203.12 of this part. In keeping with the requirements of 10 U.S.C. 2705(e), the RAB or TRC must be able to demonstrate that the technical expertise necessary for the proposed TAPP project is not available through the Federal, State, or local agencies responsible for overseeing environmental restoration at the installation, or that the selection of an alternate provider will contribute to environmental restoration activities and the community acceptance of such activities. In addition, the Department of Defense encourages the RAB or TRC to seek other available avenues of assistance prior to submitting a request for TAPP in order to preserve limited TAPP resources. These sources include tasks appropriate for the installation contractor, the procurement of volunteer services from local universities or other experts, or assistance from state and local health and environmental organizations.

(c) *TAPP project request.* Upon the determination that other sources of assistance are unavailable or unlikely to contribute to the community acceptance of environmental restoration activities at the installation, the RAB or TRC should notify the installation of its intent to pursue TAPP, and should prepare a

formal request specifying the type of assistance required and, if desired, one or more sources for this assistance. Details concerning this request are stated in § 203.10 of this part. The RAB or TRC must certify to the Department of Defense that the TAPP request represents a request by a majority of the community members of the RAB or TRC. The RAB or TRC should ensure that the request meets the eligibility requirements specified in § 203.11 and § 203.12 of this part. Furthermore, the RAB or TRC should outline specific criteria for the Department of Defense to consider in the selection of a provider (such as knowledge of local environmental conditions or specific technical issues, a prior work history within the study area which has relevant specific circumstances or unique challenges, or other relevant expertise or capabilities), keeping in mind that providers must meet the minimum technical qualifications outlined in § 203.13 of this part. The formal request should be submitted to the installation commander or designated decision authority, either directly, or through the DoD member of the RAB. The installation commander, or other designated decision authority, will review the proposed project to determine whether the proposed project conforms to the eligibility requirements.

(d) *Purchase orders.* Upon receipt of a completed TAPP request, the installation will begin the procurement process necessary to obtain the desired services by means of a purchase order or will forward the request to the contracting authority designated by the DoD component to act for that installation. The government is required to follow the rules and regulations for purchase orders as outlined in the Federal Acquisition Regulations. As a result, the government cannot direct awards to a specified supplier unless the procurement is under $2,500, and then only if the cost is comparable to other suppliers. For procurements over $2,500 but under $100,000, the acquisition is reserved for small businesses, unless there is a reasonable expectation that small businesses could not provide the best scientific and technological sources consistent with the demands of the proposed acquisition for the best mix of cost, performance, and schedules. Furthermore, the award must be on a competitive basis. In addition to proposing potential providers, the application for technical assistance should indicate specific criteria or qualifications that are deemed necessary by the RAB/TRC for the completion of the project to their satisfaction. This information will be used to assist the Department of Defense in preparing a bidders list. The Department of Defense will solicit bids from those providers meeting the criteria and will select a provider offering the best value to the government. Should the procurement process identify more than one qualified respondent or fail to identify any qualified respondents, the RAB/TRC will be consulted prior to the award of a purchase order. If the Department of Defense determines that the TAPP request represents an eligible project for which no funds are available, it will ask the RAB or TRC to specify whether the project should be reconsidered upon the availability of additional funds.

(e) *Reporting requirements.* The applicant must make copies of delivered reports available to the Department of Defense and comply with the reporting requirements established in § 203.15 of this part.

§ 203.6 Cost principles.

(a) Non-profit contractors must comply with the cost principles in OMB Circular A–122.[3]

(b) Profit-making contractors and subcontractors must comply with the cost principles in the Federal Acquisition Regulation (48 CFR part 31).

§ 203.7 Eligible applicants.

Eligible applicants, except as provided in § 203.8 of this part, are community members of RABs or TRCs established in accordance with 32 CFR part 202 (61 FR 40764–40772). Furthermore, the RABs or TRCs must be comprised of at least three community members to ensure community interests are broadly represented. The applicant must certify that the request represents the wishes of a simple majority of the community members of the RAB or TRC. Certification includes, but is not limited to, the results of a roll call vote of community members of the RAB or TRC documented in the meeting minutes. Other requirements of the application are detailed in § 203.10 of this part.

§ 203.8 Ineligible applicants.

(a) The following groups and organizations are ineligible to receive technical assistance for public participation under this program:

(1) Corporations that are not incorporated for the specific purpose of representing affected individuals at a defense installation.

(2) Academic institutions.

(3) Political subdivisions (e.g., townships and municipalities).

(b) Paragraph (a) of this section does not preclude qualified technical assistance providers that fall under these categories from receiving a purchase order from the government to supply TAPP project services or products.

§ 203.9 Evaluation criteria.

The Department of Defense will begin the TAPP procurement process only after it has determined that all eligibility and responsibility requirements listed in § 203.6, § 203.7, and § 203.8 of this part are met, and after review of the specific provider qualifications as submitted in the narrative section of the application. In addition, the proposed TAPP project must meet the eligibility criteria as specified in § 203.11 and § 203.12 of this part. Projects that fail to meet those requirements relating to the relevance of the proposed project to the restoration activities at the installation will be denied.

§ 203.10 Submission of application.

The applicant must submit a TAPP application to begin the TAPP procurement process. The application form is included as Appendix A of this part and can be obtained from the DoD installation, the military department headquarters, or directly from the Department of Defense.[4] The applications will not be considered complete until the following data elements have been entered into the form:

(a) Installation.

(b) Source of TAPP request (name of RAB or TRC).

(c) Certification of majority request.

(d) RAB/TRC contact point for TAPP project.

(e) Project title.

(f) Project type (e.g., data interpretation, training, etc.).

(g) Project purpose and description (descriptions, time and locations of products or services desired).

(h) Statement of eligibility of project.

(i) Proposed provider, if known.

(j) Specific qualifications or criteria for provider.

§ 203.11 Eligible activities.

(a) TAPP procurements should be pursued by the RAB or TRC only to the extent that Federal, State, or local agencies responsible for overseeing environmental restoration at the facility do not have the necessary technical expertise for the proposed project, or the

[3] Copies may be obtained from EOP Publications, 725 17th NW, WEOB, DC 20503.

[4] Copies may be obtained from the Department of Defense, Office of the Deputy Under Secretary of Defense (Environmental Security).

proposed technical assistance will contribute to the efficiency, effectiveness, or timeliness of environmental restoration activities at the installation and is likely to contribute to community acceptance of those activities.

(b) TAPP procurements may be used to fund activities that will contribute to the community's ability to participate in the decision-making process by improving the community's understanding of overall conditions and activities. Specifically, TAPP procurements may be used to obtain technical assistance in interpreting information with regard to: the nature of the hazard, including potential health impacts posed by onsite conditions; remedial investigation and feasibility study; record of decision; remedial design; selection and construction of remedial action; operation and maintenance; or a significant removal action at an installation where the Secretary of Defense is planning or implementing environmental restoration activities. Also included within additional activities for purposes of enhancing public participation are those activities such as training on technical issues of particular concern to the community members of the RAB or TRC.

§ 203.12 Ineligible activities.

The following activities are ineligible for assistance under this program:

(a) Litigation or underwriting legal actions such as paying for attorney fees or paying for a technical assistance provider to assist an attorney in preparing legal action or preparing for and serving as an expert witness at any legal proceeding regarding or affecting the site.

(b) Political activity and lobbying in accordance with OMB Circular A–122.

(c) Other activities inconsistent with the cost principles stated in OMB Circular A–122, "Cost Principles for Non-Profit Organizations."

(d) Generation of new primary data such as well drilling and testing, including split sampling.

(e) Reopening final DoD decisions such as the Records of Decision (see limitations on judicial review of remedial actions under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) § 113(h)) or conducting disputes with the Department of Defense.

(f) Epidemiological or health studies, such as blood or urine testing.

§ 203.13 Technical assistance for public participation provider qualifications.

(a) A technical assistance provider must possess the following credentials:

(1) Demonstrated knowledge of hazardous or toxic waste issues and/or laws.

(2) Academic training in a relevant discipline (e.g., biochemistry, toxicology, environmental sciences, engineering, law).

(3) Ability to translate technical information into terms understandable to lay persons.

(b) A technical assistance provider should possess the following credentials:

(1) Experience working on hazardous or toxic waste problems.

(2) Experience in making technical presentations.

(3) Demonstrated writing skills.

(4) Previous experience working with affected individuals or community groups or other groups of individuals.

(c) The technical assistance provider's qualifications will vary according to the type of assistance to be provided. Community members of the RAB/TRC may suggest additional provider qualifications as part of the application for technical assistance. These additional qualifications may be used by the Department of Defense to target the most appropriate providers during the procurement process. Examples of such criteria could include prior work in the area, knowledge of local environmental conditions or laws, specific technical capabilities, or other relevant expertise.

§ 203.14 Procurement.

Procurements will be conducted as purchase orders in accordance with the Federal Acquisition Regulations 48 CFR part 13. Under these procedures, procurements not exceeding $100,000 are reserved exclusively for small businesses, and will be conducted as competitive procurements. Procurements below a value of $2,500 are considered "micro-purchases." These procurements do not require the solicitation of bids and may be conducted at the discretion of the contracting officer.

§ 203.15 RAB/TRC reporting requirements.

The RAB or TRC shall ensure that all final written documents developed by a technical advisor for the RAB or TRC using resources provided under this rule are disseminated by providing copies of such documents to the DoD installation for the local information repository(ies). Furthermore, the community point of contact of the RAB or TRC must submit a report, to be provided to the installation and to DUSD(ES), to enable the Department of Defense to meet DoD reporting requirements to Congress. This report should include a description of the TAPP project, a summary of services and products obtained, and a statement regarding the overall satisfaction of the community members of the RAB or TRC with the quality of service and/or products received.

§ 203.16 Method of payment.

The simplified acquisition procedures set forth in Federal Acquisition Regulations 48 CFR part 13, require purchase orders to be conducted on a firm-fixed-price basis, unless otherwise authorized by agency procedures. The Department of Defense anticipates all TAPP awards to be firm-fixed-price procurements.

§ 203.17 Record retention and audits.

The recipient contractor(s) shall keep and preserve detailed records in connection with the contract reflecting acquisitions, work progress, reports, expenditures and commitments, and indicate the relationship to established costs and schedules.

§ 203.18 Technical assistance provider reporting requirements.

Each technical assistance provider shall submit progress reports, financial status reports, and a final report to the Department of Defense for the TAPP project as specified by the specific purchase order agreement. The final report shall document TAPP project activities over the entire period of support and shall describe the achievements with respect to stated TAPP project purposes and objectives.

§ 203.19 Conflict of interest and disclosure requirements.

The Department of Defense shall require each prospective contractor on any contract to provide, with its bid or proposal:

(a) Information on its financial and business relationship with the installation or any/all potentially responsible parties (PRPs) at the site, and with their parent companies, subsidiaries, affiliates, subcontractors, contractors, and current clients or attorneys and agents. This disclosure requirement encompasses past and anticipated financial and business relationships, including services related to any proposed or pending litigation, with such parties.

(b) Certification that, to be best of its knowledge and belief, it has disclosed such information or no such information exists.

(c) A statement that it shall disclose immediately any such information discovered after submission of its bid or

after award. The contracting officer shall evaluate such information and shall exclude any prospective contractor if the contracting officer determines the prospective contractor's conflict of interest is significant and cannot be avoided or otherwise resolved. After award, the contract will be terminated, if the contracting officer determines the conflict of interest is significant and cannot be avoided or resolved.

(d) Contractors and subcontractors may not be Technical Advisors to recipient groups at the same installation for which they are doing work for the Federal or State government or any other entity.

BILLING CODE 5000-04-M

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APPENDIX A TO PART 203

TECHNICAL ASSISTANCE FOR PUBLIC PARTICIPATION (TAPP) APPLICATION

Form Approved
OMB No. 0704-0352
Expires Dec 31, 1999

The public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0704-0352), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ADDRESS. RETURN COMPLETED FORM TO INSTALLATION LISTED IN SECTION I, BLOCK 1.

SECTION I - TAPP REQUEST SOURCE IDENTIFICATION DATA

1. INSTALLATION

2. SOURCE OF TAPP REQUEST *(Name of Restoration Advisory Board (RAB) or Technical Review Committee (TRC))*

3. CERTIFICATION OF MAJORITY REQUEST

4. DATE OF REQUEST *(YYYYMMDD)*

5. RAB POINT OF CONTACT

a. NAME *(Last, First, Middle Initial)*

b. ADDRESS *(Street, Apt. or Suite Number, City, State, ZIP Code)*

c. TELEPHONE NUMBER *(Include Area Code)*

SECTION II - TAPP PROJECT DESCRIPTION

6. PROJECT TITLE

7. PROJECT TYPE *(Data Interpretation, Training, etc.)*

8. PROJECT PURPOSE AND DESCRIPTION *(State anticipated goals of project and relate to increased understanding/participation in restoration process at the installation. Include descriptions, locations, and timetables of products or services requested.)*

9. STATEMENT OF ELIGIBILITY *(Refer to eligibility criteria in §203.11 and §203.12 of TAPP rule. Name other sources that were considered for this support and state reasons why these sources are inadequate.)*

10. ADDITIONAL QUALIFICATIONS OR CRITERIA TO BE CONSIDERED *(Additional qualifications (beyond those specified in §203.13) a provider should demonstrate to perform the project to the satisfaction of the RAB/TRC. Attach separate statement, if necessary.)*

SECTION III - INSTALLATION COMMANDER/DESIGNATED DECISION AUTHORITY APPROVAL

		11. SIGNATURE	12. TITLE	13. DATE (YYYYMMDD)
	APPROVED			
	NOT APPROVED			

DD FORM 2749, DEC 1996 (EG)

Designed using Perform Pro, WHS/DIOR, Dec 96

VOL 61 ISS 250 DE 27 1996 UMI

SECTION IV - PROPOSED PROVIDER DATA	
14. PROPOSED PROVIDER	
a. NAME	b. ADDRESS (Street, Apt. or Suite Number, City, State, ZIP Code)
c. TELEPHONE NUMBER (Include Area Code)	
15. PROVIDER QUALIFICATIONS (Attach separate statement, if necessary. A statement of qualifications from the proposed technical assistance provider will be acceptable.)	
16. ALTERNATE PROPOSED PROVIDER (If known. Attach additional pages as required.)	
a. NAME	b. ADDRESS (Street, Apt. or Suite Number, City, State, ZIP Code)
c. TELEPHONE NUMBER (Include Area Code)	
17. ALTERNATE PROVIDER QUALIFICATIONS (Attach separate statement, if necessary. A statement of qualifications from the proposed technical assistance provider will be acceptable.)	

SECTION V - CONTRACTING OFFICE APPROVAL				
	APPROVED	18. SIGNATURE	19. TITLE	20. DATE (YYYYMMDD)
	NOT APPROVED			

DD FORM 2749 (BACK), DEC 1996

Dated:
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Dated: December 12, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–32130 Filed 12–26–96; 8:45 am]

BILLING CODE 5000–04–C

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD01–96–119]

Special Anchorage Area: Special Anchorage Sheepshead Bay, Brooklyn, NY

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposed to amend the Sheepshead Bay special anchorage regulations by reducing the size of the northern area to accommodate the construction of a floating restaurant.

DATES: Comments must be received on or before February 25, 1997.

ADDRESSES: Comments should be mailed to Lieutenant John W. Green, Waterways Oversight Branch, Coast Guard Activities New York, Bldg. 108 Governors Island, New York 10004–5096.

FOR FURTHER INFORMATION CONTACT: Lieutenant John W. Green, Waterways Oversight Branch, Coast guard Activities New York (212) 668–7906.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD01–96–119) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments. The Coast Guard plans no public hearing; however, persons may request a public hearing by writing to the Waterways Oversight Branch at the address under **ADDRESSES**. If it is determined that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Hastings Design Group is developing plans to construct a floating restaurant in Sheepshead Bay. As planned, the floating restaurant extends into the northern area of the Sheepshead Bay special anchorage defined in 33 CFR 110.60(x)(2). Special anchorages are areas of water in which vessels of not more than 65 feet in length may anchor without exhibiting anchor lights. The proposed rule would change the boundaries of the special anchorage by moving the eastern boundary line so that no portion of the restaurant is within the special anchorage. The new eastern boundary line would be relocated to a line parallel to and 80 feet west of the prolonged west line of Coyle Street. This configuration would allow for the floating restaurant to project a maximum of 80 feet west of the prolonged west line of Coyle Street, and will allow for an area 45 feet wide for vessel traffic to transit to and from the anchorage west of the floating restaurant. Moving the eastern boundary line would eliminate four moorings from the special anchorage under the existing mooring field plan. However, the owner of the floating restaurant has agreed to make four berths available at the restaurant pier to the New York City, Department of Parks and Recreation to offset the loss of moorings from the special anchorage. These four berths will be administered by the Department of Parks and Recreation as part of the entire special anchorage.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. Although the proposed boundary change would decrease the size of the northern area of the Sheepshead Bay special anchorage, the effect of this regulation would not be significant for the following reasons: the owner of the floating restaurant will provide four permanent moorings to be administered by the New York City, Department of Parks and Recreation as part of the special anchorage, and a 45 foot fairway will be established so vessel traffic can safely access the special anchorage west of the floating restaurant.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For reasons set forth in the above Regulatory Evaluation, the Coast Guard expects the impact of this proposal to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposal will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization, qualifies as a small entity and that this rule will have significant economic impact on your business or organization, please submit a comment explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this proposal and concluded that under section 2.B.2.e.(34)(f) of Commandant Instruction M16475.1B (as revised by 59 FR 38654, July 29, 1994) this rule reduces the size of a special anchorage and is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR 110

Anchorage grounds.

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Proposed Regulation

For reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 110 as follows:

PART 110—[AMENDED]

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g). Section 110.1a and each section listed in it are also issued under 33 U.S.C. 1223 and 1231.

2. Section 110.60, is amended by revising paragraph (c)(2) to read as follows:

§ 110.60 Port of New York and vicinity.

* * * * *

(x) * * *

(2) *Northern Area.* South of the established U.S. pier head line on the north side of the bay; west of a line parallel to and 80 feet west of the prolonged west line of Coyle Street; north of a line ranging from a point 125 feet south of said pier head line in said line parallel to and 80 feet west of the prolonged west line of Coyle Street to the intersection of the south line of Shore Boulevard and the west line of Kensington Street; north of a line parallel to and 325 feet north of the bulkhead wall along the north side of Shore Boulevard; northeast of a line ranging from the point of intersection of the last-mentioned line with the prolonged east line of East 28th Street, toward a point on the prolonged east line of East 27th Street and 245 feet south of the established U.S. pier head line on the north side of the bay; and east of the prolonged east side of East 27th Street.

* * * * *

Dated: December 6, 1996.

J.L. Linnon,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 96–32839 Filed 12–26–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD08–95–026]

RIN 2115–AE47

Drawbridge Operation Regulation; Bonfouca Bayou, LA

AGENCY: Coast Guard, DOT.

ACTION: Notice of supplemental proposed rulemaking; Notice of temporary deviation.

SUMMARY: The Coast Guard is revising its proposal concerning the operation of the swing span drawbridge across Bonfouca Bayou, mile 7.0, at Slidell, St. Tammany Parish, Louisiana. This supplemental proposal is the result of comments on the notice of proposed rulemaking. The revised proposal would provide that the draw need not open for passage of vessels during peak vehicular traffic periods. This change will allow for the timely passage of school busses and relieve vehicular traffic congestion that has increased dramatically during recent years and still provide for the reasonable needs of navigation.

In order to test the revised schedule and closing times in this supplemental proposal, the District Commander authorized a temporary deviation in drawbridge operation regulations for the Bonfouca Bayou drawbridge effective through December 21, 1996. The Coast Guard requests comments on the test schedule.

DATES: Comment must be received on or before January 10, 1997.

ADDRESSES: Comments should be mailed to Commander (ob), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana 70130–3396, or may be delivered to Room 1313 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589–2965.

FOR FURTHER INFORMATION CONTACT: Mr. Phil Johnson, Bridge Administration Branch, at the address and telephone number given above.

SUPPLEMENTARY INFORMATION:

Request for Comments

Interested parties are invited to participate in the proposed rulemaking and to comment on the temporary deviation by submitting written views, comments, or arguments. Persons submitting comments should include their names and addresses, identify the bridge and give reasons for concurrence with or any recommended change in this supplemental proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Eighth Coast Guard District at the address under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If it is determined that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

The Commander, Eighth Coast Guard District, will evaluate all comments received and determine a course of final action on this proposal. The supplemental proposal may again be changed in the light of comments received.

The temporary deviation is effective for 90 days from September 23, 1996 through December 21, 1996.

Discussion of Proposed Rules

The Bonfouca Bayou, swingspan bridge at mile 7.0, at Slidell, St. Tammany Parish, Louisiana, has 3.5 feet vertical clearance above high tide in the closed to navigation position and 6.7 feet above low tide at the pivot pier, and 8.2 feet clearance above high tide and 11.4 feet above low tide at the rest pier. Navigation on the waterway consists of tugs with tows, fishing vessels, sailing vessels, and other recreational craft. Annualized data provided by the Louisiana Department of Transportation and Development (LDOTD) show that from September 1994 through September 1995, a total of 207 vessels passed the bridge between 6 a.m. and 9 a.m. throughout the year and a total of 406 vessels passed the bridge between 3 p.m. and 6 p.m. throughout the year. The data also shows that on average 1532 vehicles cross the bridge between 6 a.m. and 9 a.m. each day and 2261 vehicles cross the bridge between 3 p.m. and 6 p.m. each day.

Reduced to a monthly rate, the above data reflects the fact that on average, 17 vessels pass and 45,960 vehicles cross the bridge each month during the morning period and 34 vessels pass and 67,830 vehicles cross the bridge during the afternoon period.

The Louisiana Department of Transportation and Development with the support to Congressman Robert L. Livingston and many other parish and city officials, previously requested that the bridge remain closed from 6 a.m. to

9 a.m. and from 3 p.m. to 6 p.m. in order to expedite passage of vehicular traffic, that crosses the bridge during the peak traffic periods. A notice of proposed rulemaking was published in 61 Federal Register 19223 dated Wednesday, May 1, 1996 which announced the original proposed rulemaking and solicited comments of support or opposition. Mariners and business owners, located upstream of the bridge commented on the proposal, stating that their businesses would suffer if vessels were not permitted to transit above the bridge for periods of three continuous hours. Additionally, local commercial marine interests, requested that the draw open on demand from 9 p.m. to 5 a.m. if at least 4 hours advance notice is given, in lieu of 12 hours notice. A meeting was held in Slidell, Louisiana on June 19, 1996 attended by the Greater Slidell Chamber of Commerce, City of Slidell officials, maritime industry members, and concerned citizens to discuss this proposal. The proposed rule is being revised to reflect these comments, concerns and suggested changes.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

Since the proposed rule also considers the needs of local commercial fishing vessels, the economic impact of this proposal is expected to be minimal. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under paragraph 2.B.2.g(5) of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.433 is revised to read as follows:

§ 117.433 Bonfouca Bayou.

The draw of the S433 bridge, mile 7.0, at Slidell, shall operate as follows:

(a) The draw need not open for passage of vessels from 7 a.m. to 8 a.m. and from 1:45 p.m. to 2:45 p.m., Monday through Friday except Federal holidays.

(b) The draw need open only on the hour and half-hour from 6 a.m. to 7 a.m. and from 3 p.m. to 6 p.m., Monday through Friday except Federal holidays.

(c) The draw shall open on signal from 9 p.m. to 5 a.m., if at least 4 hours notice is given to the LDOTD Security Service at (504) 375–0100.

(d) At all other times the draw shall open on signal.

Dated: November 26, 1996.

T.W. Josiah,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 96–32846 Filed 12–26–96; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO–010–1010; FRL–5671–3]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve revisions to Missouri's State Implementation Plan (SIP) concerning Missouri rules 10 CSR 10–2.260 and 10 CSR 10–5.220, "Control of Petroleum Liquid Storage, Loading, and Transfer." The purpose of these revisions is to modify the required testing periods for delivery vessels in the Kansas City metropolitan area and in the St. Louis nonattainment area. These revisions are designed to reduce volatile organic compound emissions from the loading and unloading of gasoline delivery vessels. The reduction in emissions is part of the state's plan under the Clean Air Act to reduce ozone levels in the St. Louis nonattainment area. This action will also ensure progress toward improved air quality in Kansas City.

DATES: Comments must be received on or before January 27, 1997.

ADDRESSES: Comments may be mailed to Stan Walker, Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Stan Walker at (913) 551–7494.

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SUPPLEMENTARY INFORMATION: On February 1, 1996, the state of Missouri submitted revisions to Missouri rules 10 CSR 10–2.260 and 10 CSR 10–5.220, "Control of Petroleum Liquid, Storage, Loading, and Transfer." These revisions were adopted after proper notice and public hearing. The hearing was held on July 27, 1995. Revisions to 10 CSR 10–2.260 are being submitted to help Kansas City maintain the ozone standard. Revisions to 10 CSR 10–2.250 are being submitted as part of the state's plan to attain the ozone standard in St. Louis.

The amendment to Missouri rule 10 CSR 10–2.260 (specific to the Kansas City metropolitan area) changes the periods for testing tank trucks that have rubber hoods from April 1 through July 1 to January 1 through May 30 of each year. The purpose of requiring tank trucks with rubber hoods to be tested during the aforementioned schedule is to give the state an opportunity to identify problems or possible leaks in the gasoline transfer process before the ozone season. The testing period for aluminum hoods will take place in the period of January 1 through December 31 of each year. Requiring tank trucks with aluminum hoods to be tested during the previously mentioned schedule provides the state the opportunity to test trucks before the ozone season, but also provides the flexibility to continue testing throughout the year. In addition, the revisions add two forms for reporting. One form is a leak test application which is to be completed by the owner or operator of the facility and provided to the director. The second form is a request for exemption form which is to be completed by facility personnel to request an exemption.

The amendment to Missouri rule 10 CSR 10–5.220 (specific to the St. Louis nonattainment area) requires bulk plants to use two new forms. One form requires bulk plants to report the throughput when they apply for an exemption. This form provides documentation for eligible facilities to seek an exemption. The second revision requires sources to submit an application form to obtain a sticker that certifies passage of required tests by gasoline tank trucks.

I. Proposed Action

The EPA is proposing to approve amendments to rules 10 CSR 10–2.260 and 10 CSR 10–5.220 as a revision to the Missouri SIP.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

II. Administrative Requirements

A. Executive Order 12866.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5. U.S.C. 600 et seq., the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, the EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the Clean Air Act (CAA) do not create any new requirement, but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: November 26, 1996.

Dennis Grams,

Regional Administrator.

[FR Doc. 96–32971 Filed 12–26–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

46 CFR Part 586

[Docket No. 96–20]

Port Restrictions and Requirements in the United States/Japan Trade

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rule; extension of comment period.

SUMMARY: This extends the comment deadline in regard to the Commission's proposed imposition of fees on liner vessels operated by Japanese carriers calling at United States ports in an effort to adjust or meet apparent unfavorable conditions caused by Japanese port restrictions and requirements.

DATES: Comments due on or before January 20, 1997.

ADDRESSES: Send comments (original and fifteen copies) to: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT:

Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573, (202) 523–5740.

SUPPLEMENTARY INFORMATION: The Commission's Notice of proposed rulemaking in this proceeding, published November 13, 1996 (61 FR 58160), proposed countervailing burdens on Japanese ocean carriers designed to adjust or meet apparent unfavorable conditions caused by Japanese port restrictions and requirements. Sixty days were allowed for filing comments. The current deadline is January 13, 1997.

Counsel for the Japanese Lines now has filed a request for a 45-day enlargement of the comment period to February 27, 1997. Counsel cite as justification for their request intergovernmental meetings regarding this matter scheduled for January 6–7, 1997, a week before comments are due, and the intervening holiday schedule. Counsel for Sea-Land Service, Inc. and American President Lines, Ltd. have responded in general opposition to the request, but state that they have no objection to a one-week extension of the filing deadline.

The Commission has determined that an extension limited to one week should be granted. This would move the filing deadline to January 20, 1997, which would provide roughly two weeks after completion of the intergovernmental meetings for parties to finalize and submit comments. This should be sufficient in the circumstances.

By the Commission

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 96–32902 Filed 12–26–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 76

[Gen Docket No. 83–484; RM 3739; DA No. 96–2159]

Personal Attack and Political Editorial Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; notice of invitation to file updated comments.

SUMMARY: This Public Notice invites interested parties to file updated comments in General Docket No. 83–484 concerning the Commission's proposal to repeal or modify the personal attack and political editorial rules. Comments were filed in that proceeding in 1983, but no Report and Order has been issued. The Commission has received petitions from the Radio-Television News Directors Association ("RTNDA") and other parties urging the Commission to repeal the personal attack and political editorial rules. In addition, on September 17, 1996, RTNDA filed in the United States Court of Appeals for the D.C. Circuit a Petition for a Writ of Mandamus, asking the Court to direct the Commission to act on a 1987 RTNDA petition seeking repeal of the rules. In view of the length of time that has passed since conclusion of the pleading cycle in General Docket No. 83–484, and in light of the Commission's subsequent decision to end enforcement of the fairness doctrine as described in the 1987 RTNDA petition, we believe it is appropriate to update the record in this proceeding by affording interested parties an opportunity to file additional comments in General Docket No. 83–484 concerning the Commission's proposal to repeal the rules.

DATES: Comments are due February 10, 1997, and reply comments are due March 12, 1997.

ADDRESSES: Federal Communications Commission, 2000 M Street, Room 543, Washington, DC, 20554.

FOR FURTHER INFORMATION CONTACT: Kim Matthews, Mass Media Bureau, (202) 418–2130.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Public Notice, released December 19, 1996, inviting updated comments regarding the personal attack and political editorial rules. The complete text of the Public Notice is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Synopsis of Public Notice

The Commission has received petitions from the Radio-Television News Directors Association ("RTNDA") and other parties urging the Commission to repeal the personal attack and political editorial rules, 47 CFR §§ 73.1920, 73.1930. In addition, on September 17, 1996, RTNDA filed in the United States Court of Appeals for the D.C. Circuit a Petition for a Writ of Mandamus, asking the Court to direct the Commission to act on a 1987 RTNDA petition seeking repeal of the rules. By this Public Notice, interested parties are invited to file updated comments in the Commission's pending rulemaking proceeding concerning the above-referenced rules.

By way of background, in 1983 the Commission proposed to repeal or modify the personal attack and political editorial rules. *See Notice of Proposed Rulemaking*, Gen. Docket 83–484, RM–3739, 48 FR 28295 (June 21, 1983). The Commission also sought comment on possible repeal of the rules insofar as they apply to cable systems. Comments were filed in the proceeding in 1983, but no Report and Order has been issued. On August 25, 1987, RTNDA and others filed a "Joint Petition for Expedited Rulemaking Action and for Clarification of Memorandum Opinion and Order Ending Enforcement of the Fairness Doctrine" ("Joint Petition"), urging the Commission to: (1) Issue a Report and Order in General Docket 83–484 repealing the personal attack and political editorial rules; and/or (2) clarify that in light of the decision to end enforcement of the fairness doctrine, in *In re Complaint of Syracuse Peace Council Against Television Station WTVH, Syracuse, New York*, 2 FCC Rcd. 5043 (1987), *recon. denied*, 3 FCC 2d 2035 (1988), *aff'd sub nom. Syracuse Peace Council* v. *FCC*, 867 F.2d 654 (D.C. Cir. 1989), *cert. denied*, 493 U.S. 1019 (1990) ("*Syracuse Peace Council*"), the personal attack and political editorial rules will no longer be applied to broadcast licensees. On January 22, 1990, RTNDA and four other parties filed another petition, renewing the request that the Commission repeal the personal attack and political editorial rules.

In view of the length of time that has passed since conclusion of the pleading cycle in General Docket No. 83–484, and in light of the Commission's subsequent decision to end enforcement of the fairness doctrine as described in the 1987 RTNDA petition, we believe it is appropriate to update the record in this proceeding by affording interested parties an opportunity to file additional comments in General Docket No. 83–484 concerning the Commission's proposal to repeal the rules. Comments must be filed on or before February 10, 1997, and reply comments must be filed by March 12, 1997. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. All comments should reference General Docket No. 83–484 and should be addressed to: Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. The full text of

the submissions are available for viewing and copying in the Public Reference Room, Room 239, 1919 M Street, N.W., Washington, D.C. 20554. Copies may also be purchased from the Commission's copy contractor, International Transcription Service ((202) 857–3800).

List of Subjects

47 CFR Part 73

Political candidates, Radio broadcasting, Television broadcasting.

47 CFR Part 76

Cable television, Political candidates.

Federal Communications Commission.

Roy J. Stewart,

Chief, Mass Media Bureau.

[FR Doc. 96–32933 Filed 12–23–96; 12:09 pm]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 678

[Docket No. 961211348–6348–01; I.D. 121196A]

RIN 0648–AH77

Atlantic Shark Fisheries; Limited Access Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement the limited access system contained in proposed Amendment 1 to the Fishery Management Plan for Atlantic sharks (FMP). If approved, Amendment 1 would establish a two-tiered permit system for the Atlantic shark commercial fishery, set forth eligibility criteria for these permits based on historical participation, and limit the transferability of such permits. NMFS has determined that the Atlantic shark fishery is overfished and overcapitalized, with an excessive number of permitted vessels relative to the harvest level prescribed by the recovery plan. NMFS is holding public hearings and requesting written comments from the public on this proposed rule. The objective of this amendment is to take a first and significant step to prevent further overcapitalization.

DATES: Written comments on this proposed rule must be received on or before February 18, 1997.

ADDRESSES: Comments on this proposed rule should be sent to William Hogarth, Acting Chief, Highly Migratory Species Management Division (F/SF1), National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. Copies of Amendment 1, which includes an Environmental Assessment (EA) and Regulatory Impact Review (RIR), are available from Margo Schulze, Fishery Biologist, at the same address. See **SUPPLEMENTARY INFORMATION** for hearing locations. Comments regarding the collection-of-information requirement required in this rule should be sent to Margo Schulze and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Margo Schulze or John Kelly, 301–713–2347; fax: 301–713–1917.

SUPPLEMENTARY INFORMATION:

Background

The fishery for Atlantic sharks is managed under the FMP prepared by NMFS under authority of section 304(g) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended, and implemented on April 26, 1993, through regulations found at 50 CFR part 678. The FMP established three species management groups, commercial quotas and recreational bag limits, fishing seasons, mandatory vessel reporting, and required commercial vessel permits (with an earned income requirement). The Atlantic shark fishery has operated under open access.

On February 22, 1994, a notice of control date for entry into the Atlantic shark fishery was published in the **Federal Register** (59 FR 8457). This notice announced that anyone entering the fishery after that date (the "control date") may not be assured of future access to the fishery if some form of limited access were implemented later.

Currently, there are more vessels permitted in the fishery than are necessary or desirable to harvest the available total allowable catch (TAC). During 1993–96, the number of commercial vessels permitted in the fishery has fluctuated between approximately 1,500 and 2,748 vessels, while the TAC has been harvested by about 100 to 150 vessels (approximately 3 to 5 percent of the permitted fleet).

Need for Limited Access

The creation of a limited access system would be an initial step toward achieving a more reasonable balance between the harvesting capacity of the permitted fleet and the TAC. Implementation of proposed limited access would, at a minimum, prevent further increases in the number of permits in the fisheries that target sharks and would dramatically reduce the number of speculative permit holders (those without significant, documented landings of Atlantic sharks).

While a limited access system alone would not resolve all of the problems associated with open access fisheries (e.g., derby fishing conditions, "the race for fish," market gluts), it would help prevent them from becoming more severe. Additionally, considerable public comment subsequent to the scoping meetings convened by NMFS indicates increased support for limited access from the directed shark fishing industry.

A limited access system would stabilize fleet size and provide an opportunity for NMFS to collect data, conduct studies, and work cooperatively with fishery participants and other constituents to develop a more flexible, permanent, effort control program in the future.

Permit Categories

NMFS proposes to implement a two-tiered commercial fishing permit system in which permits would be classified as "directed" or "incidental." The reason for issuing two types of permits is to define and regulate the directed shark fishery separately from commercial fisheries that target other species but take sharks as bycatch. Only persons holding directed fishery permits would be eligible to participate in directed fisheries under the management measures already established, while those holding incidental permits would be restricted to the bycatch fishery with more restrictive management measures. NMFS proposes to restrict access to both the directed and incidental shark fisheries.

Eligibility Criteria

Only person or entities that held a shark permit at any time from July 1, 1994, through December 31, 1995, who have documented landings equal to or above the specified directed or incidental threshold levels of historical participation in the shark fishery, who meet the current earned income requirement, and who own a shark-permitted vessel at the time of

publication of the final rule would receive a directed or incidental commercial permit, respectively.

It is considered that catch histories belong to current permit holders rather than to vessels; i.e., if a shark permit holder sells one vessel and buys another, he/she retains the history of the vessel sold and does not acquire the history of the vessel purchased. Thus, it is considered that persons or entities purchasing existing shark vessels have not also purchased that vessel's catch history (since the fishery is currently open access, it would be imprudent for someone to pay money for a catch history from which he/she may never benefit). However, the establishment of a control date by NMFS has changed this assumption as several vessels were purchased after the control date with stipulations that the catch history of the purchased vessel was purchased as well. Accordingly, NMFS will accept legal documentation of transfers of catch histories in the determination of eligibility.

These eligibility criteria are proposed because the majority of existing shark permit holders have not participated in the fishery (have not had significant reported landings of sharks). If all current shark permit holders were to be allowed future participation in the commercial shark fishery, there would be potential to reach or even to exceed greatly the TAC in a short time. Given the overfished status of large coastals and the fully fished status of pelagics and small coastals, exceeding the TAC could have substantial long-term negative impacts on these resources.

For the directed fishery, NMFS proposes a minimum landings threshold of 250 sharks from January 1, 1991, through February 21, 1994, and 125 sharks from February 22, 1994 (the control date), through June 30, 1995 (which is equivalent to having landed sufficient shark each year on average to earn $5,000 per year in gross revenue). NMFS estimates that 134 vessels would be eligible for directed shark permits under this landings criteria.

For the incidental fishery, NMFS proposes a minimum landings threshold of three sharks from January 1, 1991, through February 21, 1994, and two sharks from February 22, 1994 (the control date), through June 30, 1995. NMFS estimates that 279 vessels would be eligible for incidental shark permits under this landings criteria.

If a vessel were sold after the control date and its landings history were included specifically in the written sales agreement, such landings would accrue to the purchaser (and no longer to the seller) for purposes of qualifying for a directed or incidental permit under the proposed limited access system.

Permit Process

NMFS would identify and notify all permit holders of their eligibility status for the directed or incidental shark fishery, after analysis based on the established eligibility criteria.

Upon receipt of this initial notification, eligible permit holders may submit an application for a directed or incidental fishery permit. If a permit holder is informed that he or she does not qualify for a permit, but he or she believes that there is credible evidence to the contrary, the permit holder may apply for a permit and provide the appropriate documentation. NMFS would then evaluate all applications and any accompanying documentation, and notify the applicant of its decision either to accept or deny the permit application.

If the permit application is denied, the applicant may appeal within 90 days of receipt of the notice of denial. Provisional directed or incidental fishery permits, as appropriate, would be issued, pending the outcome of an appeal, until the final decision has been rendered. All appeal decision letters would be mailed via certified mail. If the appeal is denied, provisional permits would become invalid 5 days after the receipt of the notice of denial. If the appeal is approved, provisional permits would become invalid upon receipt of the appropriate permit.

Only owners or operators of permitted vessels that were permitted at any time from July 1, 1994, through December 31, 1995, would be considered for appeal. All appeals would need to be made in writing. To appeal, the applicant would complete an appeal cover sheet with the name, affiliation (if any), address, and telephone number of the applicant. Additional pages and documentation could be attached, as necessary.

The sole ground for appeal would be that NMFS used incorrect or incomplete data in the eligibility analysis. No hardship cases would be heard. Valid documentation of landings covering the eligibility period would be required for consideration of an appeal. Documentation that would be considered in support of an appeal from fishers who believe they qualify for a directed or incidental fishery permit would be restricted to official NMFS logbook records that have been submitted to NMFS prior to August 30, 1995 (60 days after the cutoff date for eligible landings); official, verifiable sales slips or receipts from registered dealers; and state landings records. Dealer sales slips or receipts would have to show definitively the species and the vessel's name or other traceable indication of the harvesting vessel. Dealer records would have to contain a sworn affidavit by the dealer confirming the accuracy and authenticity of the records.

While photocopies would be acceptable for initial submission, NMFS might request originals at a later date, which would be returned to the applicant via certified mail. Any submitted materials of questionable authenticity would be referred for investigation to NMFS' Office of Enforcement.

NMFS would designate appeals officers, who would be NOAA employees. The appeals officers would individually review cases but would confer regularly to ensure consistency.

The appeals officers would review appeals for no more than 30 days before making a recommendation to the Director of the Office of Sustainable Fisheries (Director). The Director would render the final decision for the Department of Commerce. All denial letters would be sent by certified mail with return receipt so that NMFS would know when letters were received by permit holders.

Restrictions on Transfer of Permits

NMFS recognizes that vessels may sink or deteriorate beyond repair, and vessel owners may have valid reasons for wishing to exit the fishery. NMFS proposes to create a system in which directed commercial permits would be transferable with the sale of the permitted vessel, or to a vessel of similar harvesting capacity, or a replacement vessel owned or purchased by the original permittee but not under any other circumstances. Such transfers would be subject to upgrading restrictions (defined in next section). Incidental permits would not be transferable. NMFS recognizes that the same factors present in the directed fishery (e.g., vessel sinking or deterioration, disability, retirement) would also be present in the incidental fishery and that non-transferability of incidental permits would eventually result in the elimination of the incidental fishery through attrition. However, NMFS believes that allowing transferability of incidental permits could result in substantial increases in fishing effort levels. Prohibiting transferability of incidental permits would slow the growth of fishing effort in the limited access fishery.

In years after 1997, the eligibility criteria to which initial limited access permit holders are subject would not apply. In other words, transferees/

buyers of limited access vessel permits would not be required to meet the initial limited access eligibility criteria, (i.e., having held a shark permit at any time from July 1, 1994, through December 31, 1995; having met the landings thresholds and the earned income requirement; and owning a vessel at the time of publication of the final rule).

Restrictions on Vessel Upgrading

NMFS proposes to require that any vessel to which a permit is transferred be defined as the "new" vessel and be required to have the same or less gross registered tonnage and registered length as the originally permitted vessel. This restriction would apply to "replacement vessels," or those vessels acquired by the original permittee to replace originally permitted vessels, and to "new vessels," or those vessels not originally permitted but to which a permit has been transferred after the original permittee has sold the permit. This restriction would also apply to the refurbishment of existing permitted vessels.

Ownership Limits

NMFS proposes to restrict the number of permitted vessels that any one person or entity could own or control to no more than 5 percent of the permitted vessels in the directed fishery. This would prevent significant consolidation and maintain the historically predominant individual owner/operator character of the shark fishery.

Incidental Harvest Limits

Without limits on the harvest of bycatch, the potential would exist for the incidental fishery to target and harvest significant numbers of sharks. This would defeat the purpose of the two-tiered commercial permit system. For these reasons, NMFS proposes to establish a harvest limit for the incidental fishery at a maximum of four sharks (all species combined) per vessel per day. Vessel logbooks would be examined to determine the dates of trip origin and termination (number of days) to ascertain the authorized harvest limit for each trip, with the number of days of the trip multiplied by 4 as the maximum number of sharks of all species authorized per trip.

NMFS believes that establishing a limit of four shark per vessel per day for the commercial incidental fishery would ensure that fishing mortality on the overfished large coastal stock does not increase, while still providing the opportunity for incidental fishers to land some bycatch. The rationale for combining all species groups is that a single catch limit would minimize fishing mortality on the overfished large coastal sharks, prevent increases in fishing mortality on the fully fished pelagic and small coastal sharks, reduce the incentive to target sharks while fishing for other species, and greatly facilitate enforcement. A limit of four sharks per vessel per day limit for the incidental limit would be restrictive for the pelagic longline fisheries, which often catch substantial numbers of pelagic sharks as bycatch. However, at this time, most pelagic sharks are released except for makos and threshers, which are harvested for their valuable fins, and porbeagles, for which there is a small directed fishery. Current estimates of effective fishing mortality on pelagic sharks indicate that significant increases in fishing mortality would likely result in overfishing. The proposed incidental limit, in conjunction with the limited number of permits that would be issued for the incidental category under the proposed limited access system (approximately 279 permits), would allow some sharks caught as bycatch to be landed, while an increase in the current level of fishing mortality would be prevented.

Fees

The Regional Director may charge a fee to recover the administrative expenses of permit issuance and appeals. The amount of the fee would be determined, at least annually, in accordance with the procedures of the NOAA Finance Handbook, available from the Regional Director, for determining administrative costs of each special product or service. The fee would not exceed such costs and would be specified with each application form. The appropriate fee would be required to accompany each application. Failure to pay the fee would preclude issuance of the permit. Payment by a commercial instrument later determined to be insufficiently funded would invalidate any permit.

Classification

This proposed rule is published under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* The Assistant Administrator has preliminarily determined that the proposed regulations are necessary for management of the Atlantic shark fishery. NMFS prepared a draft EA for this proposed rule with a preliminary finding of no significant impact on the human environment. NMFS reinitiated consultation on the Atlantic shark fishery under section 7 of the Endangered Species Act on September 25, 1996. This consultation will consider new information concerning the status of the northern right whale. NMFS has determined that proceeding with this rule, pending completion of that consultation, will not result in any irreversible and irretrievable commitment of resources that would have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures. This rule would reduce the number of permits in the Atlantic shark commercial fishery and freeze the harvesting capacity of the fleet at current levels, thereby preventing further overcapitalization and derby fishing conditions and would likely reduce interaction rates.

The Assistant General Counsel for Legislation and Regulations of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The proposed rule would establish a two-tiered limited access permit system for the Atlantic shark fishery, set forth eligibility criteria for these permits based on historical participation, and limit the transferability of such permits. The Atlantic shark fishery is overfished and overcapitalized, with an excessive number of permitted vessels relative to the harvest level prescribed by the recovery plan.

The purpose of this proposed rule is to rationalize current harvesting capacity with total allowable catch and substantially reduce latent effort without significantly altering the status quo in the Atlantic shark fishery. Practically all current participants of the shark fishery readily fall within the definition of small business. The proposed rule will affect all current permit holders in the Atlantic shark fishery. However, few if any shark fishers that are substantially dependent on the fishery would be excluded under the proposed limited access rule.

Speculative permit holders, by definition, have not participated in the commercial shark fishery at all or have not been substantially dependent on the fishery. The incidental bycatch limits continue to provide for speculative commercial fishers to land some sharks; accordingly, annual gross revenues should not decrease substantially.

Therefore, redefining commercial shark permits as directed and incidental will not significantly alter the status quo of the Atlantic shark fishery in terms of fishers' annual gross revenues. Since the proposed rule will not significantly impact presently active shark fishers, the "significant economic impact" criterion will not be met. Therefore, the substantive changes proposed are minimal, primarily affecting the applicability of permitting requirements.

Any of the proposed limited entry measures have implications on the gross revenues of small entities. In essence, those that will be excluded from any form of limited entry system will experience

reduction in their gross revenues at least in the short run. If qualification for any form of limited entry is similar to the one adopted for the species endorsement and bycatch while limited is allowed, those excluded would probably not experience more than a 5 percent reduction in their gross revenues.

The substantive changes proposed primarily affecting the applicability of permitting requirements. The need for these changes is explained in the preamble to the proposed rule.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB Control Number.

This proposed rule does not change any currently approved vessel permitting or reporting requirements under OMB Control Numbers 0648–0205, which is estimated and approved at 20 minutes per permit application, and 0648–0016, which is estimated and approved at 15 minutes per logbook report. However, the appeals procedure does constitute a new collection-of-information requirement, which has been submitted to OMB for approval. An appeal of a permit denial is estimated to take 1.5 hours, including the time to gather records, make copies, and mail documents to NMFS. Comments regarding: (1) the accuracy of this burden estimate (including hours and cost); (2) whether the proposed collection of information is necessary for the proper performance of NMFS' functions, including whether the sought information has practical utility; (3) ways to enhance the quality, utility, and clarity of the information to be collected; (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information; and (5) any other aspects of information collection should be sent to OMB and NMFS (see **ADDRESSES**).

This action has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 678

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 20, 1996.

Nancy Foster,

Deputy Assistant Administrator, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 678 is proposed to be amended as follows:

PART 678—ATLANTIC SHARKS

1. The authority citation for part 678 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 678.2, a definition for "Director" is added, in alphabetical order, to read as follows:

§ 678.2 Definitions.

* * * * *

Director means the Director, Office of Sustainable Fisheries F/SF, NMFS, or a designee.

* * * * *

3. In § 678.4, paragraphs (a) through (c) and (e) through (k) are revised to read as follows:

§ 678.4 Permits and fees.

(a) *Vessel permits.* Any owner or operator of a vessel of the United States that fishes for, possesses, or lands Atlantic sharks from the management unit, except vessels that fish for Atlantic sharks exclusively in state waters, and recreational fishing vessels, must obtain and carry on board a valid Federal shark permit issued under this paragraph.

(1) *Limited access eligibility in 1997.* NMFS will issue two types of Atlantic shark vessel permits: Directed and incidental. To be eligible to obtain a shark permit for 1997, a vessel owner or operator must have held a valid Federal commercial shark permit at any time from July 1, 1994, through December 31, 1995, must meet the earned income qualification specified in paragraph (b)(1)(vi) of this section, and must own or operate a vessel with a valid shark permit on the date of publication of the final rule.

(i)(A) Directed permits will be issued only to eligible permit holders that have documented landings of at least 250 sharks from January 1, 1991, through February 21, 1994, and 125 sharks from February 22, 1994, through June 30, 1995.

(B) Incidental permits will be issued only to eligible permit holders that have documented landings of three sharks from January 1, 1991, through February 21, 1994, and two sharks from February 22, 1994, thorough June 30, 1995.

(ii) If the vessel owner does not meet the limited access criteria specified in paragraph (a)(1) of this section and the earned income qualification specified in paragraph (b)(1)(vi) of this section and the operator does meet those qualifications, the operator may apply for a shark permit.

(iii) A shark permit for 1997 will not be issued unless an application for such permit is received by NMFS on or before December 31, 1997.

(2) *Eligibility in 1998 and thereafter.* To be eligible for a shark permit in years after 1997, a vessel owner or operator must have been issued a shark permit for the preceding year or the vessel must be replacing a vessel that has been retired from the Atlantic commercial shark fishery and had been issued a shark permit for the preceding year, and the vessel and owner must meet the criteria set forth in paragraphs (a)(4) through (a)(6) of this section. If more than one vessel owner claims eligibility to apply for a shark permit based on one vessel's fishing and permit history after 1997, the Regional Administrator shall determine who qualifies for the limited access Atlantic shark vessel permit according to paragraph (a)(3) of this section.

(3) *Change in ownership.* The fishing and permit history of a vessel is presumed to be retained by the original permit holder whenever the vessel is bought, sold, or otherwise transferred, unless there is a written agreement, signed by the transferor/seller and transferee/buyer, or other credible written evidence, verifying that the transferor/seller is transferring/selling the vessel's fishing and permit history.

(4) *Permit transfer.* Directed permits are transferable to a new vessel and/or owner or to a replacement vessel owned or purchased by the original permittee but not under any other circumstances. Such transfers are subject to the requirements specified in paragraph (a)(5) of this section. Incidental permits are not transferable or assignable; incidental permits are valid only for the vessel and owner or operator of original issuance.

(5) *Vessel replacement/upgrading.* Transfer of directed shark permits is authorized only for new or replacement vessels of the same or lesser gross registered tonnage and registered length as the originally permitted vessel.

(6) *Ownership limits.* One person or entity may own or control no more than 5 percent of the vessels in the directed shark fishery.

(7) *Notification of eligibility for 1997.* (i) NMFS will attempt to notify all current commercial shark permit holders of their eligibility for a directed or incidental shark permit, based on the eligibility criteria set forth in paragraph (a)(1) of this section. Upon receipt of this determination, eligible permit holders may submit an application for the appropriate permit.

(ii) If a vessel owner or operator has been notified that the vessel is not eligible for a directed shark permit or is only eligible for an incidental shark permit, and the vessel owner or operator can provide credible evidence that the

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vessel does qualify under the pertinent criteria, the vessel owner or operator may apply for the appropriate permit by submitting the documentation required under paragraph (9)(ii) of this section. If, based on the documentation supplied with the application, NMFS determines that the vessel meets the eligibility criteria, the appropriate permit will be issued.

(8) *Application denial.* If, based on the documentation supplied with the application, NMFS determines that the vessel does not meet the eligibility criteria specified in paragraphs (a)(1) and (a)(2) of this section or the conditions specified in paragraph (e) of this section, the permit will be denied. Letters of denial will be sent via certified mail.

(9) *Appeals.* (i) Any applicant denied a limited access permit for Atlantic shark vessels may appeal the denial to NMFS within 90 days of the notice of denial. The sole ground for appeal is that NMFS erred in its determination of eligibility on the basis of incorrect or incomplete data. Valid documentation of landings covering the eligibility period as specified in paragraph (a)(9)(ii) of this section must be provided by the applicant for NMFS to consider an appeal. Photocopies will be acceptable for initial submission. NMFS may request originals at a later date, which will be returned to the applicant via certified mail. Any such appeal must be in writing. Documentation that is of questionable authenticity will be referred for investigation to NMFS' Office of Enforcement.

(ii) *Valid documentation.* The only documentation that will be considered in support of an application or appeal are official NMFS logbook records that were submitted to NMFS prior to August 30, 1995, state landings records, and official, verifiable sales slips or receipts from registered dealers. Dealer sales slips and receipts must definitively show the species landed and vessel's name or other traceable information for the harvesting vessel and must contain a sworn affidavit by the dealer confirming the accuracy and authenticity of the records.

(iii) *Status during appeal.* The Regional Director shall issue a provisional permit for the category of appeal for, which shall be valid for the pendency of the appeal to a vessel and owner for which an appeal has been initiated. The provisional permit must be carried on board the vessel while participating in the Atlantic shark fishery and is not transferable.

(iv) *Appeals officers.* NMFS will appoint appeals officers, who will review the written materials and submit findings and a recommendation to the Regional Director within 30 days of receipt of a complete appeal.

(v) *Final decision on appeals.* Upon receiving the findings and a recommendation, the Regional Director will issue a final decision on the appeal. The Regional Director's decision is the final administrative action of the Department of Commerce.

(vi) *Notification of final decision on appeals.* The Regional Director shall notify the appellant of the final decision on the appeal by letter sent via certified mail. If the appeal is denied, the provisional permit will become invalid 5 days after receipt of the notice of denial. If the appeal is granted, the provisional permit will become invalid upon receipt of the appropriate permit.

(10) *Adjustments to eligibility.* In years after 1997, NMFS may adjust the eligibility criteria for issuance of a shark permit. In making the adjustment, NMFS shall take into consideration the fishing mortality goals and the objectives of the FMP. Any such adjustment may be made following a reappraisal and analysis under the framework provisions specified in § 678.27.

(11) *Condition.* A vessel owner who applies for a shark permit under this section must agree, as a condition of the permit, that the vessel's shark fishing, catch, and gear are subject to the requirements of this part during the period of validity of the permit, without regard to whether such fishing occurs in the EEZ, landward of the EEZ, or outside the EEZ, and without regard to where such shark or gear are possessed, taken, or landed. However, when a vessel fishes in the waters of a state that has more restrictive regulations on shark fishing, those more restrictive regulations may be applied by that state to fishing, catch, and gear in its waters.

(b) *Application for a shark permit.* (1) In the year 1997, an initial application for a shark permit must be submitted and signed by the owner (in the case of a corporation, the qualifying officer or shareholder; in the case of a partnership, the qualifying general partner) or operator of the vessel. The application must be submitted to the Regional Director at least 30 days prior to the date on which the applicant desires to have the permit made effective. An applicant must provide the following:

(i) A copy of the vessel's U.S. Coast Guard certificate of documentation or, if not documented, a copy of its state registration certificate.

(ii) The vessel's name, official number, registered gross tonnage, and registered length.

(iii) Name, mailing address including ZIP code, telephone number, and social security number, and date of birth of the owner (if the owner is a corporation/partnership, in lieu of the social security number, the employer identification number, if one has been assigned by the Internal Revenue Service (IRS), and, in lieu of the date of birth, provide the date the corporation/partnership was formed).

(iv) If the owner does not meet the earned income qualification specified in paragraph (b)(1)(vi) of this section and the operator does meet that qualification, the name, mailing address including ZIP code, telephone number, social security number, and date of birth of the operator.

(v) Information concerning vessel, gear used, fishing areas, and fisheries vessel is used in, as specified on the application form.

(vi) A sworn statement by the applicant (if the applicant is a corporation or partnership, by an officer, shareholder, general partner, or if the applicant is an operator, by the operator) certifying that, during 1 of the 3 calendar years preceding the application:

(A) More than 50 percent of his or her earned income was derived from commercial fishing, that is, sale of the catch, or from charter or headboat operations;

(B) His or her gross sales of fish were more than $20,000; or

(C) For a vessel owned by a corporation or partnership, the gross sales of fish of the corporation or partnership were more than $20,000.

(vii) Documentation supporting the statement of income, if required under paragraph (b)(1)(x) of this section.

(viii) A sworn statement that the applicant agrees to the conditions specified in paragraph (a)(11) of this section.

(ix) Any other information that may be necessary for the issuance or administration of the permit, as requested by the Regional Director and included on the application form.

(x) The Regional Director may require the applicant to provide documentation supporting the sworn statement under paragraph (b)(1)(vi) of this section before a permit is issued or to substantiate why such permit should not be revoked or otherwise sanctioned under paragraph (h) of this section. Such required documentation may include copies of appropriate forms and schedules from the applicant's income tax return. Copies of income tax forms and schedules are treated as confidential.

(2) In years after 1997, a shark permit holder may apply for a shark permit renewal, provided that the initial information under which the permit holder qualified for a shark permit has not changed as specified in paragraph (k) of this section. Shark permits must be renewed annually and renewal applications must be submitted to the Regional Director at least 30 days prior to the date on which the applicant desires to have the permit made effective. Only a holder of a valid shark permit is eligible for a renewal of that permit.

(3) In years after 1997, an application for permit transfer of a directed shark permit to a new vessel and/or owner will be authorized, subject to transfer and upgrading restrictions specified in paragraphs (a)(4) and (a)(5) of this section, respectively. Incidental shark permits are not transferable. All other requirements and restrictions specified in this part apply to transferred limited access permits and permit holders.

(c) *Dealer permits.* A dealer who receives sharks from the management unit must have a valid dealer permit issued under this part. An application for an annual dealer permit must be submitted and signed by the dealer or an officer of a corporation acting as a dealer. The application must be submitted to the Regional Director at least 30 days prior to the date on which the applicant desires to have the permit made effective.

(1) A permit applicant must provide the following:

(i) A copy of each state wholesaler's license held by the dealer.

(ii) Business name; mailing address, including zip code, of the principal office of the business; employer identification number, if one has been assigned by the Internal Revenue Service; and date the business was formed.

(iii) The address of each physical facility at a fixed location where the business receives fish.

(iv) Applicant's name; official capacity in the business; address, including zip code; telephone number; social security number; and date of birth.

(v) Any other information that may be necessary for the issuance or administration of the permit, as specified on the application form.

(2) *Transfer.* A dealer permit issued under paragraph (c)(1) of this section may be transferred upon sale of the dealer's business. However, such transferred permit shall expire 30 days after sale of the dealer's business. A person purchasing a permitted dealership who desires to conduct activities for which a new permit is required after that 30-day period must apply promptly for a permit in accordance with paragraph (c) of this section.

* * * * *

(e) *Issuance*—(1) Limited access shark permits. Except as provided in subpart D of 15 CFR part 904 and under paragraphs (a)(8) and (a)(9) of this section, the Regional Director shall issue a Federal shark permit within 30 days of receipt of the application unless:

(i) The applicant has failed to submit a complete application. An application is complete when all requested forms, information, documentation, and fees, if applicable, have been received and the applicant has submitted all applicable reports specified at § 678.5;

(ii) The application was not received by NMFS by the deadlines set forth in paragraph (a)(1)(v) of this section;

(iii) The applicant and applicant's vessel failed to meet all eligibility requirements described in paragraphs (a)(1) and (a)(2) of this section; or

(iv) The applicant has failed to meet any other application requirements stated in this part.

(2) *Dealer permits.* The Regional Director will issue a dealer permit at any time to an applicant if the application is complete. An application is complete when all requested forms, information, and documentation have been received and the applicant has submitted all applicable reports specified at § 678.5(a) or § 678.5(b).

(3) *Incomplete applications.* Upon receipt of an incomplete application, the Regional Director will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 90 days of the date of the Regional Director's letter of notification, the application will be considered abandoned.

(f) *Duration.* A permit remains valid for the period specified on it, and the conditions accepted upon its issuance remain in effect for that period, unless the vessel is retired from the shark fishery or the permit is revoked, suspended, or modified pursuant to subpart D of 15 CFR part 904.

(g) *Display.* A vessel permit issued pursuant to paragraphs (a)(9)(iii) or (b) of this section must be carried on board the vessel, and such vessel must be identified as required by § 678.6. A dealer permit issued pursuant to paragraph (c) of this section must be available on the dealer's premises. The operator of a vessel or a dealer must present the permit for inspection upon the request of an authorized officer.

(h) *Sanctions and denials.* A permit issued pursuant to this section may be revoked, suspended, or modified, and a permit application may be denied, in accordance with the procedures governing enforcement-related permit sanctions and denials found at subpart D of 15 CFR part 904.

(i) *Alteration.* A permit that is altered, erased, or mutilated is invalid.

(j) *Replacement.* A replacement permit may be issued. An application for a replacement permit will not be considered a new application. A fee, the amount of which is stated with the application form, must accompany each request for a replacement permit.

(k) *Change in application information.* The owner or operator of a vessel with a shark permit or a dealer with a permit must notify the Regional Director within 30 days after any change in the application information required by paragraphs (a), (b), or (c) of this section. The permit is void if any change in the information is not reported within 30 days.

* * * * *

4. In § 678.7, paragraphs (b), (k) through (m), (p), (q), (x), and (y) are revised to read as follows:

§ 678.7 Prohibitions.

* * * * *

(b) Fail to display a permit, as specified in § 678.4(g).

* * * * *

(k) Remove the fins from a shark and discard the remainder, as specified in § 678.22(b)(1).

(l) Possess shark fins, carcasses, or parts, aboard or offload shark fins from a fishing vessel, except as specified in § 678.22, or possess shark carcasses or parts aboard, or offload shark fins, carcasses, or parts, from a vessel, except as specified in § 678.22(d).

(m) Fail to release a shark in the manner specified in § 678.22(c).

* * * * *

(p) Land or possess on any trip, shark in excess of the vessel trip limit, as specified in § 678.22(d).

(q) Transfer a shark at sea, as specified in §§ 678.22(d)(3) and 678.23(e).

* * * * *

(x) Exceed the vessel trip limits, as specified in § 678.22(d).

(y) Purchase, trade, or barter, or attempt to purchase, trade, or barter, a shark from the management unit without an annual dealer permit, as specified in § 678.4(c).

* * * * *

5. Section 678.22 is revised to read as follows:

§ 678.22 Harvest Limitations.

(a) *Limited access permit restrictions.* (1) Only holders of valid directed shark

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permits issued pursuant to § 678.4 may target and harvest sharks under the specifications outlined in §§ 678.20, 678.21, and 678.24 through 678.28.

(2) Only holders of valid incidental shark permits issued pursuant to § 678.4 may retain a maximum of four sharks (all species combined) per vessel per day.

(b) *Finning.* (1) The practice of "finning," that is, removing only the fins and returning the remainder of the shark to the sea, is prohibited in the EEZ or aboard a vessel that has been issued a permit pursuant to § 678.4.

(2) Shark fins that are possessed onboard or offloaded from a fishing vessel must be in proper proportion to the weight of carcasses. That is, the weight of fins may not exceed 5 percent of the weight of the carcasses. All fins must be weighed in conjunction with the weighing of the carcasses at the vessel's first point of landing and such weights of the fins landed must be recorded on the weighout slips submitted by the vessel owner or operator under § 678.5(a).

(3) Shark fins may not be possessed onboard a fishing vessel after the vessel's first point of landing.

(c) *Release.* A shark that is harvested in the EEZ or harvested by a vessel that has been issued a permit pursuant to § 678.4 that is not retained—

(1) Must be released in a manner that will ensure maximum probability of survival.

(2) If caught by hook and line, must be released by cutting the line near the hook without removing the fish from the water.

(d) *Vessel trip limits*—(1) *Directed permits.* The owner or operator of a vessel that has been issued a directed shark permit pursuant to § 678.4 may not possess on any trip, or land from any trip, large coastal species in excess of 4,000 lb (1,814 kg), dressed weight.

(2) *Incidental permits.* The owner or operator of a vessel that has been issued an incidental shark permit pursuant to § 678.4 may not possess on any trip, or land from any trip, in excess of four sharks per day of all shark species combined. Vessel logbooks will be the sole criterion used to determine dates of trip origin and termination for each trip.

(3) *Transfer at sea.* A shark from any of the three management units may not be transferred at sea from a vessel issued an Atlantic shark permit issued under § 678.4 to any other vessel.

6. In § 678.26, paragraph (c) is revised to read as follows:

§ 678.26 Restrictions on sale upon landing.

* * * * *

(c) Fins from a shark harvested in the EEZ, or by the owner or operator of a vessel that has been issued a permit under § 678.4, that are disproportionate to the weight of carcasses landed (see § 678.22(b)(2)) may not be sold, purchased, traded, or bartered or attempted to be sold, purchased, traded, or bartered.

* * * * *

[FR Doc. 96–32891 Filed 12–20–96; 4:50 pm]
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Notices

Federal Register

Vol. 61, No. 250

Friday, December 27, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency For International Development; Board for International Food and Agricultural Development One Hundred and Twenty-Second Meeting; Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of the one hundred and twenty-second meeting of the Board for International Food and Agricultural Development (BIFAD). The meeting will be held from 9:00 a.m. to 5:00 p.m. on January 14, and from 9:00 a.m. to 3:00 p.m. on January 15, 1997, both days, at the Pan-American Health Organization, located at 525 23rd Street N.W., Washington DC, 20523, in Conference Room B.

The agenda will concentrate on issues related to the leadership role of the Agency for International Development in international agriculture.

The meeting is open to the public. Any interested person may attend the meeting, may file written statements with the Committee before or after the meeting, or present any oral statements in accordance with procedures established by the Committee, to the extent that time available for the meeting permits.

Those wishing to attend the meeting should contact Mr. George Like at the Agency for International Development, Office of Agriculture and Food Security, SA–2, Room 401–B, Washington, DC, 20523–0214, telephone (202) 663–2553, fax (202) 663–2552 or internet [glike@usaid.gov] with your full name.

Anyone wishing to obtain additional information about BIFAD should contact Mr. Tracy Atwood the Designated Federal Officer for BIFAD. Write him in care of the Agency for International Development, Office of Agriculture and Food Security, SA–2, Room 401K, Washington DC, 20523–0214, telephone him at (202) 663–2536 or fax (202) 663–2552.

Dated: December 17, 1996.

Tracy Atwood,

AID Designated Federal Officer, (Chief, Food Policy Division, Office of Agriculture and Food Security, Economic Growth Center, Bureau for Global Programs).

[FR Doc. 96–33009 Filed 12–27–96; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Market Access Program, Fiscal Year 1997

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: This notice announces an extension of the application period for participation in the Market Access program (MAP) for Fiscal Year 1997 until 5 pm eastern standard time, January 13, 1997.

FOR FURTHER INFORMATION CONTACT:

Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, 1400 Independence Ave., SW Washington, DC 20250, (202) 720–4327.

SUPPLEMENTARY INFORMATION: The MAP is implemented by the Commodity Credit Corporation (CCC) in accordance with the regulations set forth in 7 CFR 1485, published February 1, 1995. On October 4, 1996, CCC published a notice in the **Federal Register** (61 FR 51880) informing prospective applicants for participation in the MAP that all applications had to be received by CCC by 5 p.m. Eastern Standard Time, December 16, 1996.

CCC has determined that the program's goals and purposes can be best served by enabling program managers to consider a broader range of commodities and applicants. Therefore, CCC is extending the period to apply for participation in the MAP until 5 p.m. Eastern Standard Time, January 13, 1997. Applicants must follow the instructions for addressing applications set forth in the October 4, 1996, Notice.

Signed at Washington, D.C. on December 18, 1996.

August Schumacher,

Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 96–32908 Filed 12–26–96; 8:45 am]

BILLING CODE 3410–10–M

Rural Housing Service

Notice of Availability of Housing Funds; Multi-Family Housing, Single Family Housing

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Housing Service (RHS) announces the availability of housing funds for fiscal year 1997 (FY 1997). This action is taken to comply with 42 U.S.C 1490p which requires that RHS publish in the **Federal Register** notice of the availability of any housing assistance.

EFFECTIVE DATE: December 27, 1996.

FOR FURTHER INFORMATION CONTACT: Cynthia Reese-Foxworth, Senior Loan Specialist, Rural Rental Housing Branch, Multi-Family Housing Processing Division, Room 5337 (STOP 0781), or Gloria Denson, Senior Loan Specialist, Single Family Housing Processing Division, Room 5334 (STOP 0783), U.S. Department of Agriculture, 1400 Independence Ave., SW., Washington, DC 20250, telephones (202) 720–1604 and (202) 720–1474, respectively. (These are not toll free numbers.)

SUPPLEMENTARY INFORMATION:

Programs Affected

These programs or activities are listed in the Catalog of Federal Domestic Assistance under Nos.

10.405 Farm Labor Housing (LH) Grants
10.410 Very Low to Moderate Income Housing Loans
10.415 Rural Rental Housing Loans
10.427 Rural Rental Housing Assistance Payments
10.433 Housing Preservation Grants

Executive Order 12372

The following programs are subject to the provisions of Executive Order 12372 that requires intergovernmental consultation with State and local officials:

10.405 Farm Labor Housing (LH) Grants
10.415 Rural Rental Housing Loans
10.427 Rural Rental Housing Assistance Payments
10.433 Housing Preservation Grants

Discussion of Notice

7 CFR, part 1940, subpart L contains the formulas and methodology applicable to loan and grant funds.

Rural Housing Service Rural Housing Assistance Program

I. General

A. The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, 1997 Appropriations Act, Public Law 104–180 (August 6, 1996), established the Rural Housing Assistance Program (RHAP). RHAP combines eleven programs into one funding account. The Administrator has allocated RHAP budget authorities into program funds in proportion to what was proposed in the President's budget. Each dollar of budget authority may support a different program level dependent upon whether it is a loan or grant program and the nature of the program. In addition to RHAP, the Appropriations Act provided two additional sources of funding which may be available to supplement funding for some of our programs during this fiscal year. These sources include a portion of the Fund for Rural America and excess unobligated funds from the "Women, Infant, and Children" (WIC) program.

B. *RHAP Programs.* The programs included in the RHAP are:

1. Direct Community Facility loans,
2. Guaranteed Community Facility loans,
3. Community Facility grants,
4. Rural Housing Preservation Grants,
5. Section 504 Single Family Housing grants,
6. Compensation for Construction Defects,
7. Supervisory and Technical Assistance Grants,
8. Section 515 Direct Multi-Family Housing loans for new construction,
9. Section 538 Guaranteed Multi-Family Housing loans for new construction,
10. Section 521 Rental Assistance for new construction for the Section 515 program,
11. Section 516 Farm Labor Housing grants.

C. RHAP provides flexibility for transfers in budget authority between programs included within RHAP. For FY 1997, up to 20 percent of initial allocations of budget authority may be transferred between the Community Facilities CF) Direct loan, CF Guaranteed loan, and Housing Preservation Grant (HPG) programs.

D. *Empowerment Zone/Enterprise Community (EZ/EC) Earmark.* The appropriations act provided not to exceed $1.2 million in budget authority in RHAP for EZ/EC Communities.

E. *Pooling.* Pooling for programs funded under the RHAP is tentatively scheduled for August 15, 1997. Unexpended RHAP funding will be pooled and may be redistributed between the eleven program areas.

F. *RHAP programs funded for carryover.* The following programs will be funded exclusively from carryover funds from previous years. No funding was required from RHAP funds. These programs are included in the non-RHAP section of this Notice:

1. Section 509 Compensation for Construction Defects.
2. Supervisory and Technical Assistance Grants.

II. Exception Authority

The Administrator, or the Administrator's designee, may, in individual cases, make an exception to any of the requirements of this Notice which are not inconsistent with the authorizing statute if the Administrator finds that application of the requirement would adversely affect the interest of the Government. The Administrator, or designee, may change pooling dates, establish or change minimum or maximum fund usage from set asides and reserves, or restrict participation in set asides and reserves.

Rural Housing Service Rural Housing Assistance Program (RHAP) Multi-Family Housing (MFH)

I. General

A. This provides MFH allocations for the Rural Housing Assistance Program (RHAP) to individual States for FY 1997. Allocation computations have been performed in accordance with 7 CFR 1940.575 and 1940.578. For FY 1997, there is flexibility to transfer up to 20 percent of initial allocations of budget authority between the Community Facilities (CF) Direct loan, CF Guaranteed loan, and Housing Preservation Grant (HPG) programs under certain conditions.

B. Section 515 Rural Rental Housing for new construction, Section 516 Farm Labor Housing (LH) Grants, Section 525 or 509 Housing Application Packaging Grants, and the Housing Preservation Grant (HPC) Program are included under RHAP. For FY 1997, Rural Rental Housing is in two separate funds—one for new construction under the RHAP program and one for repair or rehabilitation and equity loans which is not limited to new construction not included under RHAP. Therefore, the repair or rehabilitation portion of the RRH not limited to new construction, as well as LH loans and LH rental assistance, are covered in the non-RHAP portion of this Notice.

C. MFH loan and grant levels for the available RHAP programs, for FY 1997, are as follows:

Section 515 Rural Rental Housing (RRH) for New Construction	$96,561,280
Section 521 Rental Assistance for RRH New Construction	30,190,000
Section 516 Farm Labor Housing (LH) Grants	6,421,000
Section 533 Housing Preservation Grants (HPG)	7,063,000

II. Section 515 RRH and Section 521 RA Funds (Allocated to the States)

Section 515 new construction loan funds and new construction rental assistance programs cannot be obligated until revised regulations have been promulgated for legislated reforms.

A. Section 515 RRH Loan Funds (for New Construction)

1. *Amount Available for Allocation.* Refer to the end of the RHAP, MFH portion of this Notice:

Total available	$96,561,280
Less set-aside for nonprofits	8,936,938
Less set-aside for underserved counties and colonias	4,826,064
Less general reserve	9,656,128
Less designed reserve	2,500,000
Base allocation	16,232,880
Basic formula amount	56,407,270

2. *Base Allocation.* This provides a distribution of funds to certain States to assure that all States receive at least $1,000,000 to ensure sufficient funding levels for new construction.

3. *Administrative Allocation.* Not used.

4. *Reserves and Set-Asides.*

a. *State Office Reserve.* State Directors are encouraged NOT to hold reserves or sub-allocate funds due to the decrease in funding levels.

b. *National Office Reserves.* These reserves are broken down as follows:

General reserve	$9,656,128
Designated reserve:	
State RA	2,500,000
Total National Office Reserve	12,156,128

(i) *General Reserve.* $9,656,128 in general reserve funds have been set aside. Since access to general reserve

funds cannot be assured or guaranteed, States should not consider potential access to these funds when authorizing Form AD–622, "Notice of Preapplication Review Action," up to the authorized percentage of their allocation. Some examples of allowable uses are as follows:

(A) *Hardships and Emergencies.* The request must include sufficient documentation to support the hardship or emergency including reasons why it is in the Government's best interest to favorably consider the request.

(B) *Patch outs.* A patch out, not to exceed 30 percent of the total loan obligation, when the State needs the additional funds to obligate 100 percent of its allocation.

(C) *RH Cooperatives.* States with approval proposals for cooperative housing may request funds and RA from this reserve.

(ii) *Designated Reserves for State RA.* $2.5 million of the RRH funds has been set aside for matching for projects in which an active State sponsored RA program is available. The State RA program must be comparable to the RHS RA program.

c. *National Office Set-asides.* The following designated and legislatively required set-asides are part of the National Office Set-aside:

Nonprofit set-aside	$6,936,938
Underserved counties and colonias	4,828,064

(i) *Nonprofit Set-Aside.* $6,936,938 has been set-aside for nonprofit applicants. In order to maximize the number of loans from this set-aside, each State may develop one proposal which may not exceed the State's average size (number of units) new construction loan. The amount requested under this reserve per State or jurisdiction cannot exceed $750,000. The applicant must be a nonprofit entity which meets the following conditions:

(1) Is a private nonprofit organization, consumer cooperative or Indian Tribe;

(2) Whose principal purposes include the planning, development and management of low-income housing;

(3) Is exempt from federal income taxes under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code;

(4) Is not wholly or partially owned or controlled by a for-profit entity; and

(5) If a partnership has as its general partner a nonprofit entity or the nonprofit entity's for-profit subsidiary for Section 515 assistance to sponsor a project which is receiving Low-Income Housing Tax Credits (LIHTC) pursuant to section 42 of the Internal Revenue Code of 1986.

(ii) *Underserved Counties and Colonias Set-Aside.* $4,828,064 has been set-aside for loan requests which are located in one of the 100 underscored counties (list available in any Rural Development Office) and colonias, as determined by the provisions of the Cranston-Gonzalez Affordable Housing Act of 1990.

5. *National Office Pooling.* Pooling for programs funded under the RHAP is tentatively scheduled for August 15, 1997. RHAP funding will be pooled and may be redistributed between the eleven program areas.

6. *Participation Loans.* Participation loans are those where other funding sources are participating with RHS in the development of a rural rental housing complex. All provisions of 7 CFR part 1944, subpart E apply to participation loans. Participation loans do not receive any special priority. The ability to approve such loans is tied to the promulgation of revisions to 7 CFR part 1944, subpart E.

7. *Issuing Form AS–622.* The Agency will not issue Form AD–622 authorizing submission of applications for new construction, including the use of reserve funds until regulatory changes to the selection system and initiation of subsidy layering reforms are promulgated. Applications approved, but not funded, will most likely need to be re-submitted for consideration for funding under the new selection system when implemented.

B. Section 515 New Construction Rental Assistance (RA).

1. *Valuation of New Construction RA.* $30,190,000 will be available for RRH new construction RA. This amount equates to an estimated 2,415 units for the new construction RRH loan program.

2. *Estimated New Construction RA Units Available for Allocation.* New construction RA allocations are based proportionately upon each State's new construction loan fund allocation. The allocation formula contained in 7 CFR 1940.576 was not utilized. See the end of this Notice for the new construction RA State allocations.

Estimated total new construction units available	2,415
Less set-aside	559
Less base allocation	0
Less administrative allocation	0
Total state requested new construction RA units	1,856

3. *Base Allocation.* No base allocation is provided.

4. *Administrative Allocation.* No administrative allocation is provided.

5. *RA Set-asides.*

a. *National Office Set-aside.* 309 units will be held in the National Office to accompany RRH set-asides for nonprofits, underserved counties and colonias.

b. *Participation Loans and RA.* 250 units of new construction RA have been set-aside to provide tenant subsidy on units that are developed through participation loans.

6. *National Office Pooling.* Pooling for programs funded under the RHAP is tentatively scheduled for August 15, 1997. RHAP funding will be pooled and may be redistributed between the eleven program areas.

7. *Availability of the Allocation.* The Agency will not issue Form AD–622 authorizing submission of applications for new construction until the aforementioned regulatory reforms are promulgated.

8. *Approval and Obligation of RA.* Loans will only be obligated when sufficient RA to ensure market feasibility can be obligated at the same time. RA for loans obligated in a prior FY will not be authorized.

III. Farm Labor Housing Grant Funds (Not Allocated to States) (LH Loan Funds Are Not Part of RHAP.)

A. *Section 516 LH Grants.* The grants are funded in accordance with 7 CFR 1940.579(b). Unobligated prior year balances and cancellations will be added to the amount shown.

FY 1997 Appropriation	$6,421,000
Available for LH Grants	4,815,750
Available for Technical Assistance Contracts	642,100
National Office Reserve (15 percent)	963,150

B. *National Office Reserve.* A $963,150 LH grant National Office reserve will be available until pooling, tentatively scheduled for close-of-business August 15, 1997, or until expended. The reserve will be used for the following purposes:

1. *Repair and Rehabilitation of LH Projects in the Portfolio.* Loans and grants are available for the repair and rehabilitation of existing projects that have health and safety violations.

2. *Migrant and Migrant and Homeless Projects.* Funds are available for proposals that include at least 50 percent of the units to serve migrant farmworkers or the dual populations of migrant farmworkers and the homeless.

3. *Leveraged LH projects.* While some leverage funds should be used in all LH projects to the degree possible and feasible, reserve funds are available for projects that are highly-leveraged, i.e., projects that have commitments of non-

LH loan and grant funds in excess of 25 percent of total development cost.

C. *National Office Pooling.* Pooling for programs funded under RHAP is tentatively scheduled for August 15, 1997. RHAP funding will be pooled and may be redistributed between the eleven program areas.

D. *Section 516 Technical Assistance (TA) Contracts.* Funds set aside for TA contracts are legislatively limited to 10 percent of funds made available for LH grants. TA is provided for the development of labor housing exclusively for farmworkers and may also be used in those unique agricultural markets where there is also a need for emergency, short-term housing for the local homeless population. The current contracts with the TA providers provide funds through March 31, 1997.

The contracts may be extended for the TA providers to assist current sponsors through the preapplication and application process as well as those sponsors with repair or rehabilitation needs.

E. *RA for LH.* This RA is held in a National Office reserve for use with LH loan and grant applications. RA is only available with a LH loan of at least 5 percent of total development cost. Projects without LH loans cannot receive RA.

F. *National Office Pooling.* Pooling for programs funded under the RHAP is tentatively scheduled for August 15, 1997. RHAP funding will be pooled and may be redistributed between the eleven program areas.

IV. Section 533 Housing Preservation Grants (HPG)

A. *Amount Available for Allocation.*

Total available	$7,063,000
Less reserve	353,150
Less base allocation	1,810,012
Basic formula amount	4,899,838

B. *Base Allocation.* The base allocation is used to provide each State a minimum of $100,000.

C. *Administrative Allocations.* There is no administrative allocation due to the limited amount of funds available for FY 1997.

D. *Reserve.* The National Office reserve is 5 percent of the total funds available. The reserve is for emergencies.

E. *Availability of the Allocation.* A distribution of funds is made to all States. The Agency does not have the authority to waive the statutory rule requiring not more than 50 percent of the State's allocation go to one eligible applicant.

F. *HPG is a competitive grant program.* Opening and closing dates for submission of preapplications will be announced in the **Federal Register** at a later date. Obligations of HPG requests may not exceed the amounts reflected in this Notice. There will be no funds for patch outs or additional requests.

Rural Housing Service Rural Housing Assistance Program (RHAP) Single Family Housing (SFH)

I. General

A. *Amount available for allocation.* This provides SFH allocations for RHAP programs to individual States for FY 1997. Only the Section 504 Grant program is included in RHAP for SFH.

Amount available for allocations.

Section 504 Grants

Total Available	$15,989,000
Less 5% Set aside for 100 underserved counties or colonias	799,450
Less General Reserve	757,000
Less Targeted Reserve	756,000
Basic Formula-Administrative Allocation	13,676,550

B. *Basic formula criteria, data source, and weight.* See 7 CFR 1940.567(b). Data derived from the 1990 Census was provided to each State by the National Office on August 12, 1993, (available in any State Office). This data must be used if funds are suballocated to below the State level.

C. *Administrative allocation.* Due to the absence of Census Data, the Western Pacific Areas will receive an administrative allocation of $560,000. The minimum amount to a State is $50,000.

D. *Reserve.*

1. *State Office reserve.* State Directors must:

a. Maintain an adequate reserve to fund hardship applications.

b. Develop their own definition of a hardship case. Hardships will be determined by the Agency on a case-by-case basis.

2. *National office reserves.*

a. *General reserve.* The general reserve contains $757,000. Access to the general reserve is only for hardship cases.

(i) For Section 504 Grants, an extreme hardship case is one requiring a significant priority in funding, ahead of other requests, due to severe health or safety hazards, or physical needs of the applicant or community.

(ii) Section 504 grant requests must be reviewed and sufficient documentation must be provided to support the hardship.

b. *Targeted reserve.* Of the 1997 Section 504 grant funds, $756,000 has been set aside for the targeted counties selected by the State Director in accordance with strategic plan goals.

c. *Underserved counties or colonias.* The reserve for the 100 underserved counties and colonias contains $799,450.

E. *Pooling of funds.* Pooling for programs funded under the RHAP is tentatively scheduled for August 15, 1997. RHAP funding will be pooled and may be redistributed between the eleven programs areas.

Rural Housing Service Non-RHAP

I. General

A. *Public Notification.* State Directors are encouraged to notify nonprofit and public housing agencies of the availability of RHS loan and grant funds.

B. *Section 525 or 509 Housing Application Packaging Grants (HAPG).* Carry-over funds from previous years remain available for the HAPG program. HAPG funds will not be allocated by State, based on the historical use of the program.

II. Exception Authority

The Administrator, or the Administrator's designee, may, in individual cases, make an exception to any of the requirements of this Notice which are not inconsistent with the authorizing statute if the Administrator finds that application of such requirement would adversely affect the interest of the Government.

Rural Housing Service Non-Rural Housing Assistance Programs (Non-RHAP) Multi-Family Housing (MFH)

I. General

A. This provides MFH allocations for programs not in the Rural Housing Assistance Program (RHAP) to individual States for FY 1997. Allocation computations have been performed in accordance with 7 CFR 1940.575 and 1940.578.

B. Section 514 Labor Housing (LH) Loans, Section 515 Loans for repairs and rehibilitation and Equity Loans, Rental Assistance (RA) for labor housing, and MFH Loan Program Credit Sales are covered in this section. Rental Assistance units for servicing and renewal will be distributed separately. All other MFH programs are listed in the RHAP section of this Notice. MFH loan levels for the above mentioned programs, for FY 1997, are as follows:

Section 514 Farm Labor Housing (LH) Loans	$14,512,811
Section 515 Rural Rental Housing (RRH) Loans not limited to new construction	56,571,038
Section 515 Rural Rental Housing (RRH) Loans:	
(New construction is not authorized at this time.)	(See RHAP Section)
Section 516 LH Grants	(See RHAP Section)
Section 521 Rental Assistance (RA):	
RRH New Construction	(See RHAP Section)
LH	4,500,000
Section 525 or 509 Housing Application Packaging Grants*	Carryover
Section 533 Housing Preservation Grants (HPG)	(See RHAP Section)
MFH Loan Programs Credit Sales	3,687,179

* See the RHAP, MFH portion of this notice for further information.

II. State Allocations

State allocations have been developed with the methodology and formulas stated in 7 CFR part 1940, subpart L, except where noted elsewhere.

A. *Repair or Rehabilitation.* States with repair and rehabilitation loans have a separate Section 515 allocation for repair and rehabilitation loans. These funds may not be used for new construction. Tenant health and safety continues to be a priority. Allocated repair and rehabilitation funds must be FIRST targeted to RRH Loan facilities that have physical conditions that effect the health and safety of tenants and then made available to facilities that have deferred maintenance. See the end of this Notice for the State rehabilitation and repair allocations.

B. *Section 515 RRH Funds not Limited to New Construction.*

1. *Amount Available for Allocation.*

Section 515 RRH Loan Funds	$56,571,038
General reserve	5,657,104
Designated reserve for equity loans	2,500,000
Basic formula amount	48,413,934

2. *Base Allocation.* Not used.

3. *Administrative Allocation.* To ensure sufficient funding levels for repair or rehabilitation loans, funds are distributed to States based on need. States are receiving at least $1,000,000 or their stated need for funds if less than $1,000,000.

4. *Reserves.*

a. *State Office Reserve.* Since funds were allocated based on need, there is no basis for a State Office reserve.

b. *National Office Reserve.* This reserve is 10 percent of the total funds available.

(i) *General Reserve.* $5,657,104 in general reserve funds have been set aside. Since access to general reserve funds cannot be assured or guaranteed, States should not consider potential access to these funds when authorizing Form AD–622, "Notice of Preapplication Review Action." Some examples of allowable uses are as follows:

(A) *Hardships and Emergencies.* The request must include sufficient documentation to support the hardship or emergency including reasons why it is in the Government's best interest to favorably consider the request.

(B) *Patch outs.* A patch out, not to exceed 30 percent of the total loan obligation, when the State needs the additional funds to obligate 100 percent of its allocation.

(ii) *Designated reserve for equity loans.* $2.5 million has been designated for the equity loan prepayment alternative incentive feature described in 7 CFR Part 1965, subpart E.

5. *National Office Pooling.* Unused RRH funds will be placed in the National Office reserve and will be made available administratively. Year-end pooling of all Section 515 RRH funds is tentatively scheduled for close of business (COB), August 15, 1997.

III. Funds not Allocated to States

A. *Credit Sales Authority.* For FY 1997, $3,687,179, will be set aside for credit sales to program and nonprogram buyers. Credit sale funding will not be allocated by State. When this loan authority is expended, States will resume the use of the appropriate loan funds to finance sales to program eligible buyers.

B. *Section 514 Farm LH Loans.*

1. These loans are funded in accordance with 7 CFR 1940.579(a).

FY 1997 appropriation	$14,412,811
Available for off-farm loans	10,112,811
Available for on-farm loans	1,500,000
National Office reserve	2,800,000

2. On-farm loans are limited to $1.5 million for this FY.

C. *National Office LH Loan Reserve.* A $2.8 million LH loan National Office reserve will be available until approximately August 15, 1997, or until expended. The reserve will be used for the following purposes:

1. *Repair and Rehabilitation of LH Projects in the Portfolio.* Loans are available for the repair and rehabilitation of existing projects that have health and safety violations.

2. *Migrant and Migrant and Homeless Projects.* Funds are avilable for obligation of proposals that include at least fifty percent of the units to serve migrant farmworkers or the dual populations of migrant farmworkers and the homeless.

3. *Leveraged LH Projects.* While some leveraging funds should be used in all LH projects to the degree possible and feasible, reserve funds are available for projects that are highly-leveraged, i.e., projects that have commitments of non-LH loan and grant funds in excess of percent of total development cost. The operating budget should still reflect a feasible full five-year period of RA usage. Leveraged loan funds should result in economically feasible rents and assurance that the term of RA for the facility will average 5 years. In general, the cost of leveraged loans should not exceed the cost of 100 percent LH loan financing.

D. *Section 516 Technical Assistance (TA) Contracts.* For Information on TA contracts for FY 1997, see the RHAP, MFH portion of this notice.

E. *RA for LH.* The National Office reserve contains 360 units at an average of $12,500 for use with LH loan and grant applications. RA is only available with an LH loan of at least 5 percent of total development cost. Projects without a LH loan cannot receive RA.

Rural Housing Service Non-RHAP Single Family Housing (SFH)

I. General

A. This provides SFH allocations for programs not in the Rural Housing Assistance Program (RHAP) available to individual States for Fiscal Year (FY) 1997. Allocation computations have been made in accordance with 7 CFR 1940.563 through 1940.568.

B. The SFH loan amounts (*) and grant amounts shown below are based on the total loan levels deliverable. The SFH levels authorized for FY 1997 are as follows:

Section 502 Guaranteed Rural Housing (RH) Loans:	
Non-subsidized Guarantees	$2,700,000,000
[Refinancing Guarantees ***	150,000,000]
Section 502 Direct RH Loans:	
Very Low-Income Subsidized Loans *	234,132,581
Low-Income Subsidized Loans *	351,198,871
Non-subsidized Loans	0
Credit Sales (Program and Non Program) *	24,674,166
Section 504 Housing Repair Loans *	30,251,160
See 504 Grants	(See RHAP)
Section 509 Compensation for Construction Defects **	1,909,926
Section 523 Self-Help Site Loans *	592,234
Section 525 Self-Help Technical Assistance Grants **	26,010,520
Section 524 RH Site Loans	600,000
Section 306C WWD Grants	2,075,921
Sections 525 or 509 Housing Application:	
Packaging Grants (HAPG) **	1,731,394
Natural Disaster Funds.	
(Estimated carry-over amounts from previous year):	
Section 502 Natural Disaster Loans	34,969,354
Section 504 Natural Disaster Loans	3,913,949
Section 504 Natural Disaster Grants	765,690

* SFH loan levels deliverable with subsidy.
** Unobligated or canceled funds from prior FY have been added to the amount shown. See the non-RHAP portion of this notice.
*** $150 million for loans to refinance Section 502 Direct loans with guaranteed funds. These funds will be held until July 1, 1997, pending passage of a statutory provision to permit using guaranteed funds for refinancing 502 direct loans. If the statutory provision is not passed by July 1, 1997, these funds will be used for non-subsidized guarantees.

C. SFH loan and grant types not allocated to States or available as follows:

1. *Section 502 direct non-subsidized funds (loan making and servicing).* There were no FY 1997 funds designated for loans for non-subsidized servicing or loan-making applicants. Subsidized funds will continue to be used for qualified very low- and low-income applicants when the payment subsidy formula shows there is no need for the subsidy. This assistance will be taken from the State's subsidized regular funding.

2. *Credit sale authority.* For FY 1997, $24,674,166 will be set aside for Real Estate Owned (REO) credit sales to SFH program and nonprogram buyers. Credit sale funding will not be allocated by State. When this loan authority is exhausted, States will resume the use of the loan funds to finance REO sales to program eligible buyers.

3. *Section 509 Compensation for Construction Defects.* The approval official must determine that the construction is defective, in accordance with 7 CFR 1924.265.

4. *Section 523 Mutual and Self-Help Site Loans.* The State Director must request funding authority prior to obligating loan funds for the project.

5. *Section 523 Mutual and Self-Help Technical Assistance Grants.* The State Director must request funding approval authority for all grantees. A technical review and analysis of all grantee applications must be completed by the Technical and Management Assistance (T&MA) contractor. This analysis is a prerequisite for approval for all grantees.

6. *Section 524 RH Site Loans.* The State Director must request funding authority prior to obligating loan funds for the project.

7. *Deferred Mortgage Payment Demonstration.* There is no funding provided for deferred mortgage authority or loans for deferred mortgage assumptions.

II. State Allocations

A. *Section 502 non-subsidized guaranteed RH loans.*

1. *Amount available for allocation:*

Total Available	$2,700,000,000
Less National Office Reserve	405,000,000
Less funds for refinancing Section 502 loans (Pending Legislative Authority)	150,000,000
Less Base Allocation	0
Basic Formula—Administrative: Allocation	2,145,000,000

2. *Basic formula criteria, data source, and weight.* See 7 CFR 1940.563(b). Data derived from the 1990 Census was provided to each State by the National Office on August 12, 1993.

3. *Administrative allocation.* Due to the absence of Census Data, the Western Pacific Areas will receive an administrative allocation of $1 million.

4. *Pooling of funds.* There will be no mid-year pooling. Year-end pooling is tentatively scheduled for close of business on August 15, 1997. Pooled funds will be placed in the National Office reserve and will be made available administratively.

5. *Availability of the allocation.* Funds will be distributed by quarters as follows: 50 percent through the first quarter, 80 percent through the second quarter, 90 percent through the third quarter, and 100 percent in the fourth quarter until the National Office year-end pooling date.

6. *Suballocation by the State Director.* The State Director may suballocate to the District level. All guaranteed funds will be administered through the reservation of funds system.

7. *Targeted.* Each State Director must target at least 30 percent of their Section 502 guaranteed rural housing funds toward counties with median incomes at or below the State's non-metropolitan median income.

B. *Section 502 Direct RH loans.*

1. *Amount available for allocation.*

Total Available	$585,331,452
Less required set aside for underserved counties or colonies	29,266,573
Less General Reserve	18,000,000
Less Designated Reserves	85,000,000
Self-Help	80,000,000
Targeted	5,000,000
Basic Formula Administrative Allocation	453,064,879

2. *Basic formula criteria, data source, and weight.* See 7 CFR 1940.565(b). Data derived from the 1990 U.S. Census was provided to each State by the National Office on August 12, 1993.

3. *Administrative allocation.* Due to the absence of Census Data, the Western Pacific Areas will receive an administrative allocation of $1,100,000.

4. *Reserves.*

a. *State office reserve.* State Directors must maintain an adequate reserve to fund the following applications:

(i) Hardship and homelessness applications. Hardships and homelessness will be determined by the State Directors on a case-by-case basis.

(ii) The State's portion of funds for Mutual Self-Help loans. This amount will represent the State's 25 percent contribution.

(iii) Subsequent loans for essential improvements or repairs and in connection with transfers with assumptions of the Rural Development indebtedness.

(iv) Financing for the purchase of REO property when credit sale authority has been exhausted.

(v) State Directors must set aside not less than 20 percent of their initial low-income allocation for participation in leveraging Section 502 direct loan funds. A reserve for very low-income participation loans is not required, but may be established if significant activity is anticipated by the State Director.

b. *National office reserves.*

Note: Currently, RHS has small reserves set aside for the general reserve which includes hardships, homelessness, and National Homeownership Partnership pilot cases; and the designated reserves which include self-help loans, and the targeted counties. RHS will consider increasing the general and designated reserves and continuing with the Innovative Demonstration Initiatives if there is any increase in the program levels in the Section 502 Direct Program.

(i) *General reserve.* The National Office reserve has a general reserve of $18 million. Of the $18 million, hardship and homelessness reserves each have $1 million set aside. For a National Homeownership Partnership pilot, $8 million is set aside.

(ii) *Hardhip and homeless reserve.* When State funding is not sufficient to serve all program eligible applicants, State Directors may submit hardship and homeless cases for reserve funds. Priority will be given to applicants facing deficient housing hardships including applicants who have been living in deficient housing for more than 6 months, current homeowners in danger of losing a property through foreclosure, and other circumstances determined by RHS on a case-by-case basis to constitute a hardship.

(iii) *National Homeownership Partnership pilot.* Of the section 502 direct funds, $8 million has been set aside for this pilot. This is a pilot in designated States forming a partnership between Rural Housing Service, Federal Home Loan Bank, local lenders, and community based non-profit organizations although RHS funds will all be used for Section 502 authorized purposes.

c. *Designated reserves.*

Note: The designated reserves have a set aside of $85 million for the following:

(i) *Targeted reserve.* Of the FY 1997 section 502 Direct loan funds, $5 million has been set aside for targeted counties. The targeted reserve will be held in the Administrator's reserve for areas and projects identified in the FY 1997 annual performance goals. Special consideration will be given to non-metro counties with persistent poverty, tribal government, Empowerment Zones, Enterprise Communities, Champion Communities, Pacific Northwest areas, Appalachia and the Mississippi Delta Region.

(ii) *Matching funds for states with approved mutual self-help housing grants.* The amount of $80 million of FY 1997 Section 502 Direct Loan funds has been set aside for matching funds on the basis of the National Office contributing 75 percent from the National Office reserve and States contributing 25 percent of their allocated Section 502 RH funds to assist participating Self-Help families.

d. *Underserved counties and colonias.* $29,266,573 was set aside for the 100 underserved counties and colonias per the Cranston-Gonzalez National Affordable Housing Act, as amended. These funds are to be used in the 100 most underserved counties and colonias (available in any Agency office).

e. *State office pooling.* If pooling is conducted within a State, it must not take place within the first 30 calendar days of the first, second, or third quarter. (There are no restrictions on pooling in the fourth quarter.) The pooled funds may be redistributed by the State Director provided the State Director has determined that the pooled funds could not be used in the field offices receiving the funds allocated in accordance with 7 CFR part 1940, subpart L.

f. *National Office Pooling.* There will be no mid-year pooling. Year-end pooling is tentatively scheduled for close of business August 15, 1997. Year-end pooled funds will be placed in the National Office reserve and will be made available administratively.

g. *Availability of the Allocation.* The Housing Act of 1949, as amended, provides that not less than 40 percent of the funds be made available for very low-income Section 502 loan applicants. Funds will be distributed by quarters as follows: 50 percent through the first quarter, 80 percent through the second quarter, 90 percent through the third quarter, and 100 percent in the fourth quarter until the National Office year-end pooling date.

h. *Suballocation by the State Director.* The State Director may suballocate using the methodology and formulas required by 7 CFR part 1940, subpart L.

C. *Section 504 housing repair loans.* Section 504 grant funding may be found in the RHAP section of this notice.

1. *Amount available for allocation.*

Total Available	$30,251,160
Less 5% for Underserved Counties or Colonias	1,512,558
Less General Reserve	1,436,930
Less Designated Targeted Reserve	1,436,930
Basic Formula—Administrative Allocation	25,864,742

2. *Basic formula criteria, data source, and weight.* See 7 CFR 1940.566(b). Data derived from the 1990 Census was provided to each State by the National Office on August 12, 1993, (available in any State Office). This data must be used if funds are suballocated.

3. *Administrative allocation.* Due to the absence of Census Data, the Western Pacific Areas will receive an administrative allocation of $2,400,000. The minimum State allocation is $50,000.

4. *Reserves and Set-asides.*

a. *State office reserve.* State Directors must:

(i) Maintain an adequate reserve for Section 504 hardship loan applications.

(ii) Develop an objective definition of a hardship case for a Section 504 loan. Hardships will than be determined by the State Director on a case-by-case basis.

b. *National office reserve.* Of the 1997 Section 504 loan funds, $1,436,930 has been set aside for the General Reserve and $1,436,930 has been set aside as a reserve for targeted counties.

c. *Underserved counties and colonias.* $1,512,558 was set aside for the 100 underserved counties and colonias.

5. *Pooling of funds.* There will be no mid-year pooling. Year-end pooling is tentatively scheduled for close of business on August 15, 1997. Pooled funds will be placed in the National Office reserve and will be made available administratively.

6. *Availability of the allocation for section 504 loans.* Funds will be distributed cumulatively by quarters as follows: 50 percent through the first quarter, 80 percent through the second quarter, 90 percent through the third quarter and 100 through the fourth quarter.

7. *Section 306C water and waste grants to individuals in colonias.* The

objective of the section 306C WWD individual grant program is to facilitate the use of community water or waste disposal systems for the residents of the colonias along the U.S.-Mexico border.

8. *Natural disaster assistance.* For the purpose of administering these funds, natural disasters will only include those identified by a Presidential declaration. State Offices will be informed at the issuance of the Presidential declaration on how to handle and process natural disasters loans or grants through the Finance Office.

Dated: December 18, 1996.

Jan E. Shadburn,

Acting Administrator, Rural Housing Service.

RURAL HOUSING SERVICE—SECTION 515—RURAL RENTAL HOUSING PROGRAM

[FY 1997 New Construction State Allocations Under RHAP]

State	Formula factor	State formula allocation	Base allocation	Total new construc. allocation	New construc. RA units
AL	0.02956	$1,667,963	$0	$1,667,963	43
AK	0.00587	331,111	668,889	1,000,000	26
AZ	0.01780	1,004,049	0	1,004,049	26
AR	0.02310	1,303,008	0	1,303,008	33
CA	0.04653	2,624,630	0	2,624,630	67
CO	0.00840	473,821	526,179	1,000,000	26
DE	0.00190	107,174	892,826	1,000,000	26
MD	0.00880	496,384	503,616	1,000,000	26
FL	0.02890	1,630,170	0	1,630,170	42
GA	0.03867	2,181,269	0	2,181,269	56
HI	0.00790	445,617	554,383	1,000,000	26
WPA	0.00647	364,955	635,045	1,000,000	26
ID	0.00743	419,106	580,394	1,000,000	26
IL	0.02250	1,269,164	0	1,269,164	32
IN	0.02157	1,216,705	0	1,216,705	31
IA	0.01340	755,857	244,143	1,000,000	26
KS	0.01130	637,402	362,598	1,000,000	26
KY	0.03483	1,964,665	0	1,964,655	50
LA	0.03170	1,788,111	0	1,788,111	46
ME	0.00913	514,998	485,002	1,000,000	26
MA	0.00793	447,310	552,690	1,000,000	26
CT	0.00453	255,525	744,475	1,000,000	26
RI	0.00100	56,407	943,593	1,000,000	26
MI	0.02977	1,679,245	0	1,679,245	43
MN	0.01673	943,694	56,306	1,000,000	26
MS	0.03180	1,793,751	0	1,793,751	46
MO	0.02460	1,387,619	0	1,387,619	35
MT	0.00620	349,725	650,275	1,000,000	26
NE	0.00713	402,184	597,816	1,000,000	26
NV	0.00263	148,351	851,649	1,000,000	26
NJ	0.00657	370,596	629,404	1,000,000	26
NM	0.01437	810,583	189,427	1,000,000	26
NY	0.02753	1,552,892	0	1,552,892	40
NC	0.04497	2,536,635	0	2,536,635	65
ND	0.00413	232,962	767,038	1,000,000	26
OH	0.03450	1,946,051	0	1,946,051	50
OK	0.01917	1,081,327	0	1,081,327	28
OR	0.01423	802,675	197,325	1,000,000	26
PA	0.03687	2,079,736	0	2,079,736	53
PR	0.04923	2,776,930	0	2,776,930	71
SC	0.02690	1,517,356	0	1,517,356	39
SD	0.00597	336,751	663,249	1,000,000	26
TN	0.02973	1,676,988	0	1,676,988	43
TX	0.07645	4,312,336	0	4,312,336	110
UT	0.00430	242,551	757,449	1,000,000	26
VT	0.00403	227,321	772,679	1,000,000	26
NH	0.00503	283,729	716,271	1,000,000	26
VI	0.00273	153,992	846,008	1,000,000	26
VA	0.02660	1,500,433	0	1,500,433	38
WA	0.01743	983,179	16,821	1,000,000	26
WV	0.01937	1,092,609	0	1,092,609	28
WI	0.01873	1,056,508	0	1,056,508	27
WY	0.00307	173,170	826,830	1,000,000	26
Distr	1.00000	56,407,270	16,232,880	72,640,150	1,856
N/O Res	.....	.....	.....	23,921,130	559
TTL Avail	.....	.....	.....	96,561,280	2,415

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RURAL HOUSING SERVICE—SECTION 533 Housing Preservation Grant Program Under RHAP Multi-Family Housing

State	Formula factor	FY 1997 State formula allocation	Admin allocation	Total allocation
AL	0.02957	$144,888	$0	$144,888
AK	0.00587	28,762	71,238	100,000
AZ	0.01780	87,217	12,783	100,000
AR	0.02310	113,186	0	113,186
CA	0.04653	227,989	0	227,989
CO	0.00840	41,159	58,841	100,000
DE	0.00190	9,310	90,690	100,000
MD	0.00880	43,119	56,881	100,000
FL	0.02890	141,605	0	141,605
GA	0.03867	189,477	0	189,477
HI	0.00790	38,709	61,291	100,000
WPA	0.00647	31,702	68,298	100,000
ID	0.00743	36,406	63,594	100,000
IL	0.02250	110,246	0	110,246
IN	0.02157	105,689	0	105,689
IA	0.01340	65,658	34,342	100,000
KS	0.01130	55,368	44,632	100,000
KY	0.03483	170,661	0	170,661
LA	0.03170	155,325	0	155,325
ME	0.00913	44,736	55,264	100,000
MA	0.00793	38,856	61,144	100,000
CT	0.00453	22,196	77,804	100,000
RI	0.00100	4,900	95,100	100,000
MI	0.02977	145,868	0	145,868
MN	0.01673	81,974	18,026	100,000
MS	0.03180	155,815	0	155,815
MO	0.02460	120,536	0	120,536
MT	0.00620	30,379	69,621	100,000
NE	0.00713	34,936	65,064	100,000
NV	0.00263	12,887	87,113	100,000
NJ	0.00657	32,192	67,808	100,000
NM	0.01437	70,411	29,589	100,000
NY	0.02753	134,892	0	134,892
NC	0.04497	220,346	0	220,346
ND	0.00413	20,236	79,764	100,000
OH	0.03450	169,044	0	169,044
OK	0.01917	93,930	6,070	100,000
OR	0.01423	69,725	30,275	100,000
PA	0.03687	180,657	0	180,657
PR	0.04923	241,219	0	241,219
SC	0.02690	131,806	0	131,806
SD	0.00597	29,252	70,748	100,000
TN	0.02973	145,672	0	145,672
TX	0.07645	374,593	0	374,593
UT	0.00430	21,069	78,931	100,000
VT	0.00403	19,746	80,254	100,000
NH	0.00503	24,646	75,354	100,000
VI	0.00273	13,377	86,623	100,000
VA	0.02660	130,336	0	130,336
WA	0.01743	85,404	14,596	100,000
WV	0.01937	94,910	5,090	100,000
WI	0.01873	91,774	8,226	100,000
WY	0.00307	15,042	84,958	100,000
Distr.	1.00000	4,899,838	1,810,012	6,709,850
N/O Res.	.....	.....	.....	353,150
TTL Avail.	.....	.....	.....	7,063,000

RURAL HOUSING SERVICE—FISCAL YEAR 1997 ALLOTMENT—SECTION 504 RURAL HOUSING GRANTS

State	State basic formula factor	State basic formula allocation	Admin. allocation	Total FY 1997 allocation
Alabama	0.0281124	366,062	0	366,062
Alaska	0.0056894	74,084	0	74,084
Arizona	0.0170683	222,253	0	222,253
Arkansas	0.0224230	291,978	0	291,978
California	0.0481928	627,537	0	627,537
Colorado	0.0083668	108,947	0	108,947

RURAL HOUSING SERVICE—FISCAL YEAR 1997 ALLOTMENT—SECTION 504 RURAL HOUSING GRANTS—Continued

State	State basic formula factor	State basic formula allocation	Admin allocation	Total FY 1997 allocation
Delaware	0.0023427	30,505	19,495	50,000
Maryland	0.0100402	130,737	0	130,737
Florida	0.0341365	444,504	0	444,504
Georgia	0.0368139	479,368	0	479,368
Hawaii	0.0076975	100,232	0	100,232
W. Pacific Areas	N/A	.....	560,000	560,000
Idaho	0.0073628	95,874	0	95,874
Illinois	0.0264391	344,273	0	344,273
Indiana	0.0244311	318,127	0	318,127
Iowa	0.0163989	213,536	0	213,536
Kansas	0.0133869	174,316	0	174,316
Kentucky	0.0297858	387,852	0	387,852
Louisiana	0.0261044	339,915	0	339,915
Maine	0.0103748	135,094	0	135,094
Massachusetts	0.0097055	126,379	0	126,379
Connecticut	0.0053548	69,727	0	69,727
Rhode Island	0.0013387	17,432	32,568	50,000
Michigan	0.0317938	413,999	0	413,999
Minnesota	0.0197456	257,115	0	257,115
Mississippi	0.0271084	352,989	0	352,989
Missouri	0.0257697	335,557	0	335,557
Montana	0.0060241	78,442	0	78,442
Nebraska	0.00087015	113,305	0	113,305
Nevada	0.0026774	34,863	15,137	50,000
New Jersey	0.0083668	108,947	0	108,947
New Mexico	0.0123829	161,242	0	161,242
New York	0.0324632	422,716	0	422,716
North Carolina	0.0471888	614,463	0	614,463
North Dakota	0.0046854	61,010	0	61,010
Ohio	0.0361446	470,652	0	470,652
Oklahoma	0.0184070	239,684	0	239,684
Oregon	0.0157296	204,821	0	204,821
Pennsylvania	0.0438420	570,883	0	570,883
Puerto Rico	0.0264391	344,273	0	344,273
South Carolina	0.0261044	339,915	0	339,915
South Dakota	0.0063588	83,800	0	82,800
Tennessee	0.0294511	383,494	0	383,494
Texas	0.0716198	932,588	0	932,588
Utah	0.0036814	47,937	2,063	50,000
Vermont	0.0046854	61,010	0	61,010
New Hampshire	0.0060241	78,442	0	78,442
Virgin Islands	0.0023427	30,505	19,495	50,000
Virginia	0.0284471	370,420	0	370,420
Washington	0.0184070	239,684	0	239,684
West Virginia	0.0180723	235,326	0	235,326
Wisconsin	0.0224230	291,978	0	291,978
Wyoming	0.0033467	43,579	6,421	50,000
Distr	1.0000000	13,021,371	655,179	13,676,550
Total Res.	.....	.....	.....	1,513,000
5% Set Aside for Underserved Cty/Col	.....	.....	.....	799,450
Total Avail	.....	.....	.....	15,989,000

RURAL HOUSING SERVICE—SECTION 515—RURAL RENTAL HOUSING PROGRAM

[Rehabilitation/Repair State Allocations]

State	RHS loan amt. req. from 9/9 survey	Admin. alloc. to meet request	Alloc. by percent of demand to funds avail.	Admin. alloc. to meet minimum	FY 1997 total rehab alloc.	Percent meet rehab. needs
AL	$2,700,000	.....	$1,074,209	$0	$1,074,209	39.79
AK	200,000	$200,000	.....	0	200,000	100.00
AZ	1,100,000	.....	437,641	562,359	1,000,000	90.91
AR	2,585,000	.....	1,028,456	0	1,028,456	39.79
CA	2,038,010	.....	810,833	189,167	1,000,000	49.07
CO	225,000	225,000	.....	0	225,000	100.00
DE	0	.....	.....	0	0	.....

RURAL HOUSING SERVICE—SECTION 515—RURAL RENTAL HOUSING PROGRAM—Continued

[Rehabilitation/Repair State Allocations]

State	RHS loan amt. req. from 9/9 survey	Admin. alloc. to meet request	Alloc. by percent of demand to funds avail.	Admin. alloc. to meet minimum	FY 1997 total rehab alloc.	Percent meet rehab. needs
MD	1,450,000	.....	576,890	423,110	1,000,000	68.97
FL	4,000,000	.....	1,591,421	0	1,591,421	39.79
GA	1,425,000	.....	566,944	433,056	1,000,000	70.18
HI	0	.....	.....	0	0	.....
WPA	0	.....	.....	0	0	.....
ID	300,000	300,000	.....	0	300,000	100.00
IL	927,000	927,000	0	0	927,000	100.00
IN	7,000,000	.....	2,784,987	0	2,784,987	39.79
IA	495,000	495,000	0	0	495,000	100.00
KS	584,829	584,829	0	0	584,829	100.00
KY	850,210	850,210	0	0	850,210	100.00
LA	7,057,500	.....	2,807,864	0	2,807,864	39.79
ME	3,238,830	.....	1,288,586	0	1,288,586	39.79
MA	100,000	100,000	.....	0	100,000	100.00
CT	300,000	300,000	.....	0	300,000	100.00
RI	300,000	300,000	.....	0	300,000	100.00
MI	626,099	626,099	0	0	626,099	100.00
MN	1,473,000	.....	586,041	413,959	1,000,000	67.89
MS	908,613	908,613	0	0	908,613	100.00
MO	200,000	200,000	.....	0	200,000	.....
MT	1,000,000	1,000,000	0	0	1,000,000	100.00
NE	450,000	450,000	.....	0	450,000	.....
NV	900,000	900,000	0	0	900,000	100.00
NJ	205,000	205,000	.....	0	205,000	100.00
NM	0	.....	.....	0	0	.....
NY	0	.....	.....	0	0	.....
NC	3,885,568	.....	1,545,894	0	1,545,894	39.79
ND	0	.....	.....	0	0	.....
OH	3,858,658	1,535,188	1,535,188	0	1,535,188	39.79
OK	6,260,330	.....	2,490,706	0	2,490,706	39.79
OR	5,386,500	.....	2,143,048	0	2,143,048	39.79
PA	1,200,000	.....	477,426	522,574	1,000,000	83.33
PR	428,000	428,000	0	0	428,000	100.00
SC	4,000,000	.....	1,591,421	0	1,591,421	39.79
SD	350,000	350,000	0	0	350,000	100.00
TN	2,875,000	.....	1,143,834	0	1,143,834	39.79
TX	13,300,000	.....	5,291,476	0	5,291,476	39.79
UT	500,000	500,000	0	0	500,000	100.00
VT	295,000	295,000	.....	0	295,000	100.00
NH	1,005,700	.....	400,123	599,877	1,000,000	99.43
VI	970,000	970,000	0	0	970,000	100.00
VA	2,850,000	.....	1,133,888	0	1,133,888	39.79
WA	310,000	310,000	0	0	310,000	100.00
WV	2,650,000	.....	1,054,317	0	1,054,317	39.79
WI	350,000	350,000	0	0	350,000	100.00
WY	2,850,000	.....	1,133,888	0	1,133,888	39.79
Distr	95,963,847	11,774,751	33,495,081	3,144,102	48,413,934	.....
N/O Res.	.....	.....	.....	.....	8,157,104	.....
TTL. Avail	.....	.....	.....	.....	56,571,038	.....

RURAL HOUSING SERVICE—FISCAL YEAR 1997 ALLOCATION IN THOUSANDS—SECTION 502 GUARANTEED LOANS (NONSUBSIDIZED)

States	State basic formula factor	State basic formula/administrative allocation	Total FY 1997 allocation
Alabama	0.0253847	$54,425	$54,425
Alaska	0.0061561	13,199	13,199
Arizona	0.0155290	33,294	33,294
Arkansas	0.0213661	45,809	45,809
California	0.0524861	112,530	112,530
Colorado	0.0100701	21,590	21,590
Delaware	0.0024043	5,155	5,155
Maryland	0.0104750	22,458	22,458

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RURAL HOUSING SERVICE—FISCAL YEAR 1997 ALLOCATION IN THOUSANDS—SECTION 502 GUARANTEED LOANS (NONSUBSIDIZED)—Continued

States	State basic formula factor	State basic formula/administrative allocation	Total FY 1997 allocation
Florida	0.0308357	66,112	66,112
Georgia	0.0385293	82,607	82,607
Hawaii	0.0083323	17,864	17,864
W. Pacific Areas*	N/A	1,000	1,000
Idaho	0.0077774	16,675	16,675
Illinois	0.0256395	54,971	54,971
Indiana	0.0236023	50,603	50,603
Iowa	0.0151422	32,465	32,465
Kansas	0.0123032	26,378	26,378
Kentucky	0.0286790	61,488	61,488
Louisiana	0.0256223	54,934	54,934
Maine	0.0113916	24,424	24,424
Massachusetts	0.0117468	25,185	25,185
Connecticut	0.0065708	14,088	14,088
Rhode Island	0.0017216	3,691	3,691
Michigan	0.0337181	72,292	72,292
Minnesota	0.0184738	39,608	39,608
Mississippi	0.0259670	55,673	55,673
Missouri	0.0253687	54,390	54,390
Montana	0.0067138	14,394	14,394
Nebraska	0.0083216	17,842	17,842
Nevada	0.0029735	6,375	6,375
New Jersey	0.0091825	19,687	19,687
New Mexico	0.0117200	25,128	25,128
New York	0.0369739	79,272	79,272
North Carolina	0.0471742	101,141	101,141
North Dakota	0.0040847	8,758	8,758
Ohio	0.0378081	81,061	81,061
Oklahoma	0.0175713	37,673	37,673
Oregon	0.0166212	35,636	35,636
Pennsylvania	0.0438367	93,986	93,986
Puerto Rico	0.0250931	53,800	53,800
South Carolina	0.0249510	53,495	53,495
South Dakota	0.0065435	14,029	14,029
Tennessee	0.0276859	59,359	59,359
Texas	0.0665018	142,578	142,578
Utah	0.0039861	8,546	8,546
Vermont	0.0057475	12,323	12,323
New Hampshire	0.0075234	16,130	16,130
Virgin Islands	0.0027236	5,839	5,839
Virginia	0.0278404	59,690	59,690
Washington	0.0200905	43,074	43,074
West Virginia	0.0172518	36,988	36,988
Wisconsin	0.0222867	47,783	47,783
Wyoming	0.0035006	7,505	7,505
State Totals	1.0000000	2,145,000	2,145,000
General Reserve	.....	.....	405,000
Set Aside for 502 Refinancing	.....	.....	150,000
Total	.....	.....	2,700,000

RURAL HOUSING SERVICE—FISCAL YEAR 1997 ALLOCATION IN THOUSANDS—SECTION 502 DIRECT RURAL HOUSING LOANS

States	State basic formula factor	State basic formula/administrative allocation	Total FY 1997 allocation
Alabama	0.0267275	$12,080	$12,080
Alaska	0.0055160	2,493	2,493
Arizona	0.0145422	6,573	6,573
Arkansas	0.0208104	9,406	9,406
California	0.0454819	20,556	20,556
Colorado	0.0091766	4,148	4,148
Delaware	0.0024571	1,111	1,111
Maryland	0.0115334	5,213	5,213
Florida	0.0312406	14,120	14,120

RURAL HOUSING SERVICE—FISCAL YEAR 1997 ALLOCATION IN THOUSANDS—SECTION 502 DIRECT RURAL HOUSING LOANS—Continued

States	State basic formula factor	State basic formula/administrative allocation	Total FY 1997 allocation
Georgia	0.0374586	16,930	16,930
Hawaii	0.0067195	3,037	3,037
W. Pacific Areas*	N/A	1,100	1,100
Idaho	0.0076722	3,468	3,468
Illinois	0.0266774	12,057	12,057
Indiana	0.0270785	12,239	12,239
Iowa	0.0163474	7,388	7,388
Kansas	0.0127369	5,757	5,757
Kentucky	0.0288838	13,054	13,054
Louisiana	0.0246715	11,151	11,151
Maine	0.0108314	4,895	4,895
Massachusetts	0.0109818	4,963	4,963
Connecticut	0.0066693	3,014	3,014
Rhode Island	0.0015545	703	703
Michigan	0.0353525	15,978	15,978
Minnesota	0.0199077	8,998	8,998
Mississippi	0.0250226	11,309	11,309
Missouri	0.0252733	11,423	11,423
Montana	0.0063685	2,878	2,878
Nebraska	0.0086752	3,921	3,921
Nevada	0.0028583	1,292	1,292
New Jersey	0.0097784	4,419	4,419
New Mexico	0.0110320	4,986	4,986
New York	0.0359041	16,227	16,227
North Carolina	0.0484405	21,893	21,893
North Dakota	0.0045131	2,040	2,040
Ohio	0.0390131	17,633	17,633
Oklahoma	0.0174005	7,864	7,864
Oregon	0.0154949	7,003	7,003
Pennsylvania	0.0467857	21,145	21,145
Puerto Rico	0.0239695	10,833	10,833
South Carolina	0.0258249	11,672	11,672
South Dakota	0.0062682	2,833	2,833
Tennessee	0.0291846	13,190	13,190
Texas	0.0660415	29,847	29,847
Utah	0.0040618	1,836	1,836
Vermont	0.0052653	2,380	2,380
New Hampshire	0.0072711	3,286	3,286
Virgin Islands	0.0020058	907	907
Virginia	0.0289841	13,100	13,100
Washington	0.0187042	8,454	8,454
West Virginia	0.0175008	7,910	7,910
Wisconsin	0.0237188	10,720	10,720
Wyoming	0.0036105	1,632	1,632
State Totals	1.0000000	453,065	453,065
General Reserve			18,000
Designated Reserves			85,000
100 Underserved Counties/Colonias			29,266
Total			585,331

RURAL HOUSING SERVICE.—FISCAL YEAR 1997 ALLOCATION IN THOUSANDS—SECTION 502 DIRECT RURAL HOUSING LOANS

States	Total FY 1997 allocation	Very low-income allocation 40 percent	Low-income allocation 60 percent
Alabama	$12,080	$4,832	$7,248
Alaska	2,493	998	1,495
Arizona	6,573	2,630	3,943
Arkansas	9,406	3,763	5,643
California	20,556	8,223	12,333
Colorado	4,148	1,660	2,488
Delaware	1,111	445	666
Maryland	5,213	2,086	3,127

RURAL HOUSING SERVICE.—FISCAL YEAR 1997 ALLOCATION IN THOUSANDS—SECTION 502 DIRECT RURAL HOUSING LOANS—Continued

States	Total FY 1997 allocation	Very low-income allocation 40 percent	Low-income allocation 60 percent
Florida	14,120	5,648	8,472
Georgia	16,930	6,772	10,158
Hawaii	3,037	1,215	1,822
W. Pacific Areas	1,100	440	660
Idaho	3,468	1,388	2,080
Illinois	12,057	4,823	7,234
Indiana	12,239	4,896	7,343
Iowa	7,388	2,956	4,432
Kansas	5,757	2,303	3,454
Kentucky	13,054	5,222	7,832
Louisiana	11,151	4,461	6,690
Maine	4,895	1,958	2,937
Massachusetts	4,963	1,986	2,977
Connecticut	3,014	1,206	1,808
Rhode Island	703	282	421
Michigan	15,978	6,392	9,586
Minnesota	8,998	3,600	5,398
Mississippi	11,309	4,524	6,785
Missouri	11,423	4,570	6,853
Montana	2,878	1,152	1,726
Nebraska	3,921	1,569	2,352
Nevada	1,292	517	775
New Jersey	4,419	1,768	2,651
New Mexico	4,986	1,995	2,991
New York	16,227	6,491	9,736
North Carolina	21,893	8,758	13,135
North Dakota	2,040	816	1,224
Ohio	17,633	7,054	10,579
Oklahoma	7,864	3,146	4,718
Oregon	7,003	2,802	4,201
Pennsylvania	21,145	8,458	12,687
Puerto Rico	10,833	4,334	6,499
South Carolina	11,672	4,669	7,003
South Dakota	2,833	1,134	1,699
Tennessee	13,190	5,276	7,914
Texas	29,847	11,916	17,931
Utah	1,836	735	1,101
Vermont	2,380	952	1,428
New Hampshire	3,286	1,315	1,971
Virgin Islands	907	363	544
Virginia	13,100	5,240	7,860
Washington	8,454	3,382	5,072
West Virginia	7,910	3,164	4,746
Wisconsin	10,720	4,288	6,432
Wyoming	1,632	653	979
State Totals	453,065	181,226	271,839
General Reserve	18,000	7,200	10,800
Designated Reserves	85,000	34,000	51,000

RURAL HOUSING SERVICE—FISCAL YEAR 1997 ALLOTMENT—SECTION 504 RURAL HOUSING LOANS

State	State basic formula factor	State basic formula allocation	Admin allocation	Total FY 1997 allocation
Alabama	0.0291457	683,041	0	683,041
Alaska	0.0080402	188,425	0	188,425
Arizona	0.0201005	471,063	0	471,063
Arkansas	0.0226131	529,947	0	529,947
California	0.0532663	1,248,317	0	1,248,317
Colorado	0.0085427	200,202	0	200,202
Delaware	0.0020101	47,107	2,893	50,000
Maryland	0.0095477	223,754	0	223,754
Florida	0.0296482	694,817	0	694,817
Georgia	0.0396985	930,350	0	930,350
Hawaii	0.0100503	235,533	0	235,533

RURAL HOUSING SERVICE—FISCAL YEAR 1997 ALLOTMENT—SECTION 504 RURAL HOUSING LOANS—Continued

State	State basic formula factor	State basic formula allocation	Admin allocation	Total FY 1997 allocation
W. Pacific Areas	N/A		2,400,000	2,400,000
Idaho	0.0075377	176,649	0	176,649
Illinois	0.0226131	529,947	0	529,947
Indiana	0.0221106	518,171	0	518,171
Iowa	0.0130653	306,191	0	306,191
Kansas	0.0115578	270,862	0	270,862
Kentucky	0.0321608	753,701	0	753,701
Louisiana	0.0296482	694,817	0	694,817
Maine	0.0100503	235,533	0	235,533
Massachusetts	0.0080402	188,425	0	188,425
Connecticut	0.0040201	94,213	0	94,213
Rhode Island	0.0010050	23,553	26,447	50,000
Michigan	0.0291457	683,041	0	683,041
Minnesota	0.0175879	412,179	0	412,179
Mississippi	0.0301508	706,596	0	706,596
Missouri	0.0241206	565,276	0	565,276
Montana	0.0060302	141,320	0	141,320
Nebraska	0.0070352	164,873	0	164,873
Nevada	0.0030151	70,660	0	70,660
New Jersey	0.0070352	164,873	0	164,873
New Mexico	0.0150754	353,298	0	353,298
New York	0.0286432	671,265	0	671,265
North Carolina	0.0477387	1,118,775	0	1,118,775
North Dakota	0.0040201	94,213	0	94,213
Ohio	0.0331658	777,254	0	777,254
Oklahoma	0.0175879	412,179	0	412,179
Oregon	0.0150754	353,298	0	353,298
Pennsylvania	0.0371859	871,466	0	871,466
Puerto Rico	0.0341709	800,809	0	800,809
South Carolina	0.0281407	659,488	0	659,488
South Dakota	0.0060302	141,320	0	141,320
Tennessee	0.0296482	694,817	0	694,817
Texas	0.0783920	1,837,148	0	1,837,148
Utah	0.0040201	94,213	0	94,213
Vermont	0.0045226	105,989	0	105,989
New Hampshire	0.0055276	129,542	0	129,542
Virgin Islands	0.0030151	70,660	0	70,660
Virginia	0.0296482	694,817	0	694,817
Washington	0.0185930	435,734	0	435,734
West Virginia	0.0180905	423,958	0	423,958
Wisconsin	0.0195980	459,287	0	459,287
Wyoming	0.0035176	82,436	0	82,436
Distr.	1.000000	23,435,402	2,429,340	25,864,742
Total Res.				2,873,860
5% Set Aside for Underserved Cty/Col				1,512,558
Total Avail.				30,251,160

FY 1996 MEDIAN FAMILY INCOMES FOR NONMETROPOLITAN PORTIONS OF STATES

State	Median income
Alabama	28,800
Alaska	48,500
Arizona	29,800
Arkansas	27,300
California	34,300
Connecticut	50,000
Delaware	37,800
Dist. of Columbia	0
Florida	31,600
Georgia	32,500
Hawaii	47,100
Idaho	35,900
Illinois	36,000
Indiana	37,200
Iowa	37,000
Kansas	34,300

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FY 1996 MEDIAN FAMILY INCOMES FOR NONMETROPOLITAN PORTIONS OF STATES—Continued

State	Median income
Kentucky	26,400
Louisiana	25,200
Maine	34,100
Maryland	42,000
Massachusetts	42,000
Michigan	33,800
Minnesota	36,200
Mississippi	26,000
Missouri	30,100
Montana	34,700
Nebraska	35,100
Nevada	47,200
New Hampshire	40,700
New Jersey	0
New Mexico	29,200
New York	35,600
North Carolina	33,500
North Dakota	32,300
Ohio	37,000
Oklahoma	26,600
Oregon	33,100
Pennsylvania	32,800
Rhode Island	45,400
South Carolina	33,300
South Dakota	32,800
Tennessee	30,200
Texas	28,900
Utah	36,600
Vermont	36,300
Virginia	33,600
Washington	33,600
West Virginia	26,600
Wisconsin	37,700
Wyoming	40,500
United States	31,400

[FR Doc. 96–32914 Filed 12–26–96; 8:45 am]
BILLING CODE 3410–XV–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Mississippi Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Mississippi Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 8:00 p.m. on Thursday, January 30, 1997, at the Ramada Plaza Hotel, 1001 County Line Road, Jackson, Mississippi 39211. The purpose of the meeting is to plan future projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, December 19, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit

[FR Doc. 96–33019 Filed 12–26–96; 8:45 am]
BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Virginia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Virginia Advisory Committee to the Commission will convene at 9:30 a.m. and adjourn at 7:00 p.m. on each of the following days: Thursday, January 30, 1997, at the Hampton City Council Chambers, 22 Lincoln Street, Hampton, Virginia 23669, and Friday, January 31, 1997, at the Newport News City Council Chambers, 2400 Washington Avenue, Newport News, Virginia 23607. The purpose of each meeting is to gather information from panels of speakers and individuals on policies and practices of law enforcement agencies and sentencing disparities as they affect African Americans on the Hampton/Newport News peninsula.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Jessie M. Rattley, 804–727–5647, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, December 18, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–33018 Filed 12–26–96; 8:45 am]

BILLING CODE 6336–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review: Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995, Public Law 104–13.

Agency: Bureau of the Census.

Title: 1997 Census of Governments.

Agency Number: F–1, F–5, F–5A, F–11, F–12, F–13,F–21, F–22, F–25, F–28, F–29, F–32, F–42, D–1, E–2, E–3, E–6, E–7, E–9, EGO–3, EGO–4, EGO–6, EGO–7.

OMB Approval Number: None.

Type of Request: New Collection.

Burden: 170,017 hours.

Number of Respondents: 134,119.

Avg Hours Per Response: 1.27 hours.

Needs and Uses: This census provides government organization, employment and finance data for state and local governments. The data are used to calculate the Gross Domestic Product (GDP), to monitor the government sector of the economy, and to formulate, develop, and review public policy. The organization phase provides statistics on the number of local governments by type and by selected characteristics. The employment phase collects data on employment and payrolls of state and local governments. In the finance phase, the information relates to several aspects of state and local government public finance; revenues, including related property tax bases; expenditures by function and character; indebtedness and debt transactions; and case and security holdings. The 1997 Census of Governments excludes two portions of information collected in the 1992 quinquennial census; There will not be a taxable property value phase and the organization phase will exclude data relating to elected officials. In addition, there are two significant methodological changes; The reference date for the Employment phase will be March 12, 1997 instead of October 12, 1997 and all organization phase mail data will be obtained on joint employment/organization forms (EGO forms).

Affected Public: State, local or tribal government.

Frequency: Every five years.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 USC, Section 161.

OMB Desk Officer: Jerry Coffey, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Acting DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jerry Coffey, OMB Desk Officer, Room 10201, New Executive Office Building, Washington, DC 20503.

Dated: December 19, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–32888 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–07–P

Bureau of the Census

1997 Economic Censuses Classification Report; Proposed Agency Information Collection Activity; Comment Request

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before February 25, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information of copies of the information collection instrument(s) and instructions should be directed to William Bostic, Bureau of the Census, Room 2641, Building 3, Washington, D.C. 20233–6100 and 301–457–2672 or E-mail at William.G.Bostic.Jr@Info.Census.Gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau is the preeminent collector of timely, relevant and quality data about the people and the economy of the United States. Economic data are the Census Bureau's primary program commitment during non-decennial census years. The economic census, conducted under authority of Title 13 U.S.C., is the primary source of facts about the structure and functioning of the Nation's economy and features unique industry and geographic detail. Economic census statistics serve as part of the framework for the national accounts and provide essential information for government, business, and the general public.

The 1997 Economic Census will cover virtually every sector of the U.S. economy. The Census Bureau will implement the new North American Industry Classification System (NAICS) in the 1997 Economic Census. The implementation of the NAICS as a replacement for the 1987 Standard Industrial Classification (SIC) system will require contacting businesses to collect classification information to update the 1997 Economic Census mailing lists.

Accurate and reliable industry and geographic codes are critical to the Bureau of Census statistical programs. New businesses are assigned industry classification by the Social Security Administration (SSA). However, many of these businesses in manufacturing and mining cannot be assigned detailed industry codes because insufficient information is provided on Internal Revenue Service (IRS) Form SS–4. In addition, many of these businesses when matched against the Bureau of Labor Statistics (BLS) classification system cannot be assigned a detailed classification code.

In order to provide detailed manufacturing and mining industry data reflecting NAICS for the 1997 Economic Censuses and the Standard Statistical Establishment List (SSEL), these partially coded businesses must be assigned detailed classification codes.

This data collection, Form NC–9926, is designed to obtain detailed classification information for the partially coded single-unit manufacturing and mining industries including changes from the SIC to NAICS and provide current information on physical locations for establishments below the mail cutoff.

The failure to collect this classification information will have an adverse effect on the quality and usefulness of economic statistics and

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severely hamper the Census Bureau's ability to implement NAICS in the 1997 Economic Censuses.

II. Method of Collection

The Census Bureau will select establishments to receive this survey from the Census Bureau's SSEL. The Census Bureau will mail the NC–9926 to single-unit manufacturing and mining establishments to obtain needed four-digit industry codes and subindustry detail for small establishments in selected four-digit industries in the apparel area, Major Groups 22 and 23. In addition, this form will be mailed to small manufacturing and mining establishments which could not be assigned a classification code when matched against the Bureau of Labor Statistics classification system. The NC–9926 will contain a list of 6-digit codes and descriptions. Respondents are to select the activity which best describes their business by checking the box next to the activity listed or describe their principal business activity if no box can be checked.

III. Data

OMB Number: Not Available.
Form Number: NC–9926.
Type of Review: Regular Review.
Affected Public: Small businesses or other small for profit organizations.
Estimated Number of Respondents: 105,000.
Estimated Total Per Response: 5 minutes.
Estimated Total Annual Burden Hours: 8,750.
Estimated Total Annual Cost: The cost to government for this survey is included in the total cost of the 1997 Economic Census, estimated to be $218 million.
Respondent's Obligation: Mandatory.
Legal Authority: Title 13 USC, Sections 131 and 224.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: December 19, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–32889 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–07–P

Bureau of Export Administration

Action Affecting Export Privileges; Doornbos, GMBH

In the matter of: Doornbos, GMBH, Emscherstrasse 4, 42697 Solingen, Germany, Respondent.

Order

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), having notified Doornbos, GmbH (Doornbos) of its intention to initiate an administrative proceeding against it pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401–2420 (1991 & Supp. 1996)) (the Act),[1] and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 768–799 (1996), as amended (61 FR 12714 (March 25, 1996)) (the Regulations),[2] based on allegations that Doornbos violated the provisions of Sections 787.2, 787.3(b), 787.4(a) and 787.5(a) as follows:

1. between on or about May 1, 1991 and on or about June 15, 1995, Doornbos conspired with Helmut Korelski and others to evade U.S. export control laws that restricted exports to Libya by acquiring various equipment from several companies in the United States, representing that the equipment was for use in Germany, then selling the U.S.-origin equipment to the Dong Ah Consortium for use in the Great Man Made River Project in Libya, transporting it to Libya through the Netherlands and/or Germany, without applying for and obtaining the export authorizations that the conspirators knew or had reason to know were required by Section 772.1 of the Regulations, in violation of Section 787.3(b) of the Regulations;

2. in furtherance of the conspiracy described above, between on or about May 1, 1991 and on or about June 15, 1995, Doornbos caused, aided or abetted the export of U.S.-origin equipment from the United States, through the Netherlands and/or Germany, to Libya for use in the Great Man Made River Project, without applying for and obtaining the export authorizations that Doornbos knew or had reason to know were required by Section 772.1 of the Regulations, in violation of Sections 787.2 and 787.4(a) of the Regulations; and

3. in furtherance of the conspiracy described above, between on or about May 1, 1991 and on or about June 15, 1995, Doornbos caused to be filed with the U.S. Customs Service Shipper's Export Declarations containing false and misleading misrepresentations of material fact, in violation of Section 787.5(a) of the Regulations;

BXA and Doornbos having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

It is therefore Ordered:

First, that, for a period of four years from the date of this Order, Doornbos and all of its successors or assigns, and all of its officers, representatives, agents, and employees when acting for or on behalf of Doornbos, may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license,[3] License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is

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[1] The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notice on August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), and extended again on August 14, 1996 (61 *Fed. Reg.* 42527, August 15, 1996), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701–1706 (1991 & Supp. 1996)).

[2] The March 25, 1996 **Federal Register** publication redesignated, but did not republish, the existing Regulations as 15 C.F.R. Parts 768A–799A. In addition, the March 25 **Federal Register** publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730–774, effective April 24, 1996.

[3] For purposes of this Order, "license" includes any general license established in 15 C.F.R. Parts 768A–799A.

subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment as provided in § 766.23 of the Regulations, any person, firm, corporation, or business organization related to the denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Fifth, that the proposed Charging Letter, the Settlement Agreement, and this Order shall be made available to the public. A copy of this Order shall be published in the **Federal Register**.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Entered this 18th day of December, 1996.

Frank W. Deliberti,

Acting Assistant Secretary for Export Enforcement.

[FR Doc. 96–32906 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–DT–M

Action Affecting Export Privileges; Helmut Korelski

In the Matter of: Helmut Korelski, Manager, Doornbos, GmbH, Emscherstrasse 4, 42697 Solingen, Germany, Respondent.

Order

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (BXA), having notified Helmut Korelski (Korelski) of its intention to initiate an administrative proceeding against him pursuant to Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401–2420 (1991 & Supp. 1996)) (the Act),[1] and the Export Administration Regulations (currently codified at 15 C.F.R. Parts 768–799 (1996), as amended (61 FR 12714 (March 25, 1996)) (the Regulations),[2] based on allegations that Korelski violated the provisions of Sections 787.2, 787.3(b), 787.4(a) and 787.5(a) as follows:

1. Between on or about May 1, 1991 and on or about June 15, 1995, Korelski conspired with Doornbos, GmbH and others to evade U.S. export control laws that restricted exports to Libya by acquiring various equipment from several companies in the United States, representing that the equipment was for use in Germany, then selling the U.S.-origin equipment to the Dong Ah Consortium for use in the Great Man Made River project in Libya, transporting it to Libya through the Netherlands and/or Germany, without applying for and obtaining the export authorizations that the conspirators knew or had reason to know were required by Section 772.1 of the Regulations, in violation of Section 787.3(b) of the Regulations;

2. In furtherance of the conspiracy described above, between on or about May 1, 1991 and on or about June 15, 1995, Korelski caused, aided or abetted the export of U.S.-origin equipment from the United States, through the Netherlands and/or Germany, to Libya for use in the Great Man Made River Project, without applying for and obtaining the export authorizations that Korelski knew or had reason to know were required by Section 772.1 of the Regulations, in violation of Sections 787.2 and 787.4(a) of the Regulations; and

3. In furtherance of the conspiracy described above, between on or about May 1, 1991 and on or about June 15, 1995, Korelski caused to be filed with the U.S. Customs Service Shipper's Export Declarations containing false and misleading misrepresentations of material fact, in violation of Section 787.5(a) of the Regulations;

BXA and Korelski having entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and the terms of the Settlement Agreement having been approved by me;

It is therefore ordered:

First, that, for a period of four years from the date of this Order, Korelski may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license,[3] License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any

[1] The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notice of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), and extended again on August 14, 1996 (61 *Fed. Reg.* 42527, August 15, 1996), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701–1706 (1991 & Supp. 1996)).

[2] The March 25, 1996 **Federal Register** publication redesignated, but did not republish, the existing Regulations as 15 C.F.R. Parts 768A–799A. In addition, the March 25 **Federal Register** publication restructured and reorganized the Regulations, designating them as an interim rule at 15 C.F.R. Parts 730–774, effective April 24, 1996.

[3] For purposes of this Order, "license" includes any general license established in 15 C.F.R. Parts 768A–799A.

other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the time will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed or controlled by the denied person, or service any item, or whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment as provided in § 766.23 of the Regulations, any person, firm, corporation, or business organization related to the denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Fifth, that the proposed Charging Letter, the Settlement Agreement, and this Order shall be made available to the public. A copy of this Order shall be published in the **Federal Register.**

This Order, which constitutes the final agency action in this matter, is effective immediately.

Entered this 18th day of December, 1996.

Frank W. Deliberti,

Acting Assistant Secretary for Export Enforcement.

[FR Doc. 96–32905 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–DT–M

Foreign-Trade Zones Board

[Docket 8–95]

Foreign-Trade Zone 24—Pittston, Pennsylvania; Withdrawal of Application for Subzone Status J. Schoeneman, Inc., Plant (Wearing Apparel) State Line, Pennsylvania

Notice is hereby given of the withdrawal of the application submitted by the Eastern Distribution Center, Inc., grantee of FTZ 24, requesting special-purpose subzone status for the apparel manufacturing plant of J. Schoeneman, Inc. (subsidiary of the Plaid Clothing Group, Inc.), located in State Line, Pennsylvania. The application was filed on March 10, 1995 (60 FR 14420, 3/17/95).

The withdrawal was requested by the applicant because of changed circumstances, and the case has been closed without prejudice.

Dated: December 16, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–32875 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 5–93]

Foreign-Trade Zone 86—Tacoma, WA; Withdrawal of Application for Subzone Status for the Toray Carbon Fiber Composites Plant

Notice is hereby given of the withdrawal of the application submitted by the Port of Tacoma, Washington, grantee of FTZ 86, requesting special-purpose subzone status for the carbon fiber composite materials manufacturing plant of Toray Composites (America), Inc. The application was filed on February 16, 1993 (58 FR 11208, 2/24/93).

The withdrawal was requested by the applicant because of changed circumstances, and the case has been closed without prejudice.

Dated: December 17, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–32874 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–559–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Singapore: Amended Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of amended final results of antidumping duty administrative review.

SUMMARY: On December 5, 1996, the Department of Commerce (the Department) issued the final results of administrative review of the antidumping duty orders on Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Singapore, Sweden, and the United Kingdom, which published on December 17, 1996 in the **Federal Register**.

The classes or kinds of merchandise covered by these reviews are ball bearings and parts thereof, cylindrical roller bearings and parts thereof, and spherical plain bearings and parts thereof. The reviews cover 64 manufacturers/exporters. The review period is May 1, 1993, through April 30, 1994. We are correcting a margin-rate error with respect to ball bearings from Singapore manufactured/exported by NMB/Pelmec.

EFFECTIVE DATE: December 27, 1996.

FOR FURTHER INFORMATION CONTACT: Lyn Johnson or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC. 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On December 5, 1996, the Department of Commerce (the Department) issued the final results of the fifth administrative review of the antidumping duty orders on Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Singapore, Sweden, and the United Kingdom, which published on

December 17, 1996 in the **Federal Register**. The classes or kinds of merchandise covered by these reviews are ball bearings and parts thereof, cylindrical roller bearings and parts thereof, and spherical plain bearings and parts thereof. The reviews cover 64 manufacturers/exporters. The review period is May 1, 1993, through April 30, 1994.

After issuance of our final results, we realized that we did not publish the correct margin we calculated for the final results with respect to ball bearings exported by NMB/Pelmec.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

Amended Final Results of Review

We have determined the following weighted-average margin to exist for the period May 1, 1993, through April 30, 1994:

Country	Company	Class or kind	Rate (percent)
Singapore	NMB/Pelmec	Ball Bearings	12.47

This deposit requirement is effective upon publication of this notice of amended final results of administrative review for all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Tariff Act of 1930 (as amended). This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This administrative review and this notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: December 18, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–32872 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–831]

Fresh Garlic From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review and Partial Termination of Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to a request by the petitioner, the Fresh Garlic Producers Association and its individual members, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC). The period of review (POR) is July 11, 1994, through October 31, 1995. The petitioner's request covered 159 producers/exporters of subject merchandise. Only one company, Top Pearl Ltd. (Top Pearl), a Hong Kong company, along with its U.S. importer of record, Merex Corporation, requested a review of its sales and has responded to our questionnaire. Because we have determined that (1) the review of Top Pearl should be terminated, and (2) the other PRC producers/exporters failed to submit responses to our questionnaires, we have preliminarily determined to use facts otherwise available for cash deposit and assessment purposes for all PRC producers/exporters of the subject merchandise.

Interested parties are invited to comment on these preliminary results. Parties who submit comments are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: December 27, 1996.

FOR FURTHER INFORMATION CONTACT: Andrea Chu or Kris Campbell, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Background

On September 26, 1994, the Department published in the **Federal Register** (59 FR 49058) the final affirmative antidumping duty determination on fresh garlic from the PRC and published an antidumping duty order on November 16, 1994 (59 FR 59209). On November 15, 1995, the Department published in the **Federal Register** (60 FR 55541) a notice of "Opportunity to Request an Administrative Review" of the antidumping duty order on fresh garlic from the PRC. On November 30, 1995, petitioner requested an administrative review of 159 producers/exporters of this merchandise to the United States. On the same date, Top Pearl, along with its U.S. importer of record, Merex Corporation, requested a review of its sales. We initiated the review on December 15, 1995 (60 FR 64413).

Scope of the Review

The products subject to this antidumping duty order are all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in

water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. The differences between grades are based on color, size, sheathing and level of decay.

The scope of this order does not include: (a) garlic that has been mechanically harvested and that is primarily, but not exclusively, destined for non-fresh use; or (b) garlic that has been specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed.

The subject merchandise is used principally as a food product and for seasoning. The subject garlic is currently classifiable under subheadings 0703.20.0000, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9500 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

In order to be excluded from the antidumping duty order, garlic entered under the HTSUS subheadings listed above that is (1) mechanically harvested and primarily, but not exclusively, destined for non-fresh use or (2) specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed must be accompanied by declarations to the Customs Service to that effect.

Use of Facts Otherwise Available

On January 25, 1996, we sent a questionnaire to the Embassy of the People's Republic of China, requesting that any designated party answer the questions to the extent possible for all companies that manufactured or exported the subject merchandise during the period of review (POR), whether or not they were owned by the PRC-government or subject to PRC government control of export pricing. We also stated that all companies named in the notice of initiation were presumed to be under PRC-government control and we requested that the government designate a person or organization as our contact for this review. The embassy named the Ministry of Foreign Trade and Economic Cooperation (MOFTEC) as our contact. We did not receive any response from MOFTEC regarding the questionnaire nor did we receive a response from any PRC companies. Therefore, we must rely on facts otherwise available in accordance with section 776(a) of the Act for these preliminary results of review.

Because necessary information is not available on the record with regard to sales by these firms, as a result of their withholding the requested information, we are preliminarily determining to apply antidumping duties based on facts otherwise available pursuant to section 776(a) of the Act. In addition, the Department finds that, in not responding to the questionnaire, the firms named in the notice of initiation failed to cooperate by not acting to the best of their ability to comply with requests for information from the Department.

Where the Department must base the entire dumping margin for a respondent in an administrative review on facts available because that respondent failed to cooperate, section 776(b) of the Act authorizes the Department to use an inference adverse to the interests of that respondent in choosing facts available. Section 776(b) of the Act also authorizes the Department to use, as adverse facts available, information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. Because information from prior segments of the proceeding constitutes secondary information, section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action (SAA) provides that "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value.

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render the secondary information not relevant. Where circumstances indicate that the selected data is not appropriate as adverse facts available, the Department will disregard that data and determine an appropriate alternative (*see, e.g., Bicycles from the PRC; Final Determination of Sales at Less than Fair Value*, 61 FR 19026, 19027 (April 30, 1996) (where the Department disregarded certain information from the petition as adverse facts available because the data was not reflective of the industry and, therefore, did not have probation value)). In this case, we relied upon information from the petition as secondary information. Based on our review of several major items (*i.e.*, general and administrative expense, packing cost and profit, as well as the factor value for seed cost and labor cost) contained in the petition which individually comprise a significant portion of the normal value (NV) calculations, there is no indication that the selected margin is not appropriate as facts available.

In this case, in accordance with the facts-available formula stated above, we have preliminarily assigned these companies the rate determined for companies involved in the less-than-fair-value investigation (376.67 percent). Moreover, we have determined that the non-responsive companies do not merit separate rates. *See, e.g, Natural Bristle Paint Brushes and Brush Heads From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 57390 (November 6, 1996). Therefore, the facts available for these companies forms the basis for the PRC rate, which is 376.67 percent for this review.

Partial Termination of Review

We also preliminarily determine to terminate our review of Top Pearl, the sole responding party in this proceeding. This determination is based on the principle that it is not appropriate to review U.S. sales made by a third-country company (in this case, Top Pearl) whose supplier (here, the PRC exporter Wallong) had knowledge that the merchandise was destined for the United States. Instead, the appropriate respondent in this instance is Wallong. We are assigning the PRC rate to transactions made during the period between Wallong and Top Pearl, for the reasons stated in our November 22, 1996 memorandum: *Partial Termination of 1994–95 Administrative Review of Fresh Garlic from the PRC* (November 22, 1996). Specifically, we did not receive a request for review of Wallong; accordingly, Wallong is not entitled to a review of its POR sales as a separate entity (as opposed to its participation as part of the PRC entity). In order for Wallong to participate in this review as an independent company and not as part of the PRC entity, a request for review of this company must have been made during the anniversary month (*see* 19 CFR 353.22) and the company must have established that it is entitled to a separate rate.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that a margin of 376.67 percent exists for all producers/exporters of the subject merchandise for the period July 11, 1994 through October 31, 1995.

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the publication of this notice or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will issue a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results.

The Department will determine, and the Customs Service will assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of fresh garlic from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: For all PRC exporters and for all non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the PRC-wide rate established in the final results of this review.

These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: December 18, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–32877 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–614–801]

Fresh Kiwifruit From New Zealand; Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of amendment to final results of antidumping duty administrative review.

SUMMARY: On September 3, 1996, the Department of Commerce (the Department) published the final results of its administrative review of the antidumping duty order on fresh kiwifruit from New Zealand. The review covers one exporter, the New Zealand Kiwifruit Marketing Board (NZKMB), and the period from June 1, 1994, through May 31, 1995. Based on the correction of ministerial errors, we are amending the final results.

EFFECTIVE DATE: December 27, 1996.

FOR FURTHER INFORMATION CONTACT: Paul M. Stolz or Thomas F. Futtner, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4474 or 482–3814, respectively.

SUPPLEMENTARY INFORMATION

Background

On September 3, 1996, the Department published the final results (61 FR 46438) of its administrative review of the antidumping duty order on fresh kiwifruit from New Zealand (57 FR 23203 (June 2, 1992)). The review covered one exporter, the New Zealand Kiwifruit Marketing Board (NZKMB). The Department has now amended the final results of this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). Unless otherwise indicated, all citations to the statute are references to the provisions on January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Scope of the Review

The product covered by the order under review is fresh kiwifruit. Processed kiwifruit, including fruit jams, jellies, pastes, purees, mineral waters, or juices made from or containing kiwifruit, are not covered under the scope of the order. The subject merchandise is currently classifiable under subheading 0810.90.20.60 of the Harmonized Tariff Schedule (HTS). Although the HTS number is provided for convenience and customs purposes, our written description of the scope of this review is dispositive.

Analysis of Comments Received

After publication of our final results, we received timely allegations of ministerial errors from the respondent, NZKMB, and the petitioner, the California Kiwifruit Commission.

Comments

The petitioner alleged that the Department's calculation of cost of production (used for comparison with net home market sales prices) did not include an amount for pallet expense.

The respondent alleged three ministerial errors pertaining to the Department's preliminary calculations: (1) packing costs were double-counted in calculating constructed value; (2) home market transportation insurance was incorrectly treated as an indirect selling expense rather than as a movement cost; and (3) U.S. indirect selling expenses incurred in New Zealand were erroneously deducted from constructed export price.

DOC Position

With respect to the ministerial error allegations noted above, the Department agrees that it made these errors and has corrected these errors for the final results. (See memorandum to the file dated October 30, 1996, for a detailed description of all adjustments made.)

Amended Final Results of Review

As a result of our correction of the ministerial errors, we have determined the following margin exists for the period June 1, 1994, through May 31, 1995:

Manufacturer exporter	Margin (percent)
New Zealand Kiwifruit Marketing Board	3.5

The Customs Service shall assess antidumping duties on all appropriate entries. Individual differences between U.S. price and NV may vary from the percentage stated above. The Department will issue appraisement instructions concerning the respondent directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise

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entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rate for the reviewed firm will be 3.57 percent; and (2) the cash deposit rate for merchandise exported by all other manufacturers and exporters will be the "all others" rate of 98.60 percent established in the less-than-fair-value investigation; in accordance with the Department practice. See Floral Trade Council v. United States, 822 F.Supp. 766 (1993), and Federal Mogul Corporation, 822 F.Supp. 782 (1993).

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as the final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of the APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: December 10, 1996.

Jeffrey P. Bialos,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–32879 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–847]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Persulfates From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 27, 1996.

FOR FURTHER INFORMATION CONTACT: Irene Darzenta, Barbara Wojcik-Betancourt, or Howard Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–6320, (202) 482–0629, or (202) 482–5193, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Rounds Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Preliminary Determination

We determine preliminarily that persulfates from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the initiation of this investigation (61 FR 40817, August 6, 1996), the following events have occurred:

On August 1, 1996, the Department sent a survey to the PRC's Ministry of Foreign Trade and Economic Cooperation (MOFTEC) requesting the identification of producers and exporters, information on production and sales of persulfates exported to the United States, and identification of the appropriate Chinese Chamber of Commerce. We did not receive a response to this request from MOFTEC.

On August 26, 1996, the United States International Trade Commission (ITC) issued an affirmative preliminary injury determination in this case (see ITC Investigation No. 731–TA–749). The ITC found that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from the PRC of persulfates.

The Department issued an antidumping questionnaire [1] to MOFTEC on August 27, 1996, with instructions to forward the document to all PRC producers/exporters of persulfates and to inform these companies that they must respond by the due dates. We also sent courtesy copies of the antidumping duty questionnaire to the Chinese Chamber of Commerce of Metals, Minerals and Chemicals Importers and Exporters Association and to 18 companies whose names and complete addresses had been identified in the petition. Moreover, on September 5, 1996, we served the questionnaire, via MOFTEC, on two additional companies not listed in the petition (i.e., Guangdong Petroleum Chemical Import & Export Trade Corporation ("Guangdong Petroleum") and Shanghai Ai Jian Import & Export Corporation ("AJ")) which we learned were potential manufacturers and/or exporters of the subject merchandise. In addition, on the same date, we sent copies of the questionnaire directly to both of these companies.

On September 17, 1996, the Department requested that interested parties provide published information (PI) for valuing the factors of production and for surrogate country selection. We received comments from interested parties in October 1996.

In September and October 1996, four PRC companies and one U.S. company submitted responses to section A and/or sections C and D of the questionnaire. The identities of these companies are: (1) Sinochem Jiangsu Wuxi Import & Export Co. ("Wuxi"), a Chinese exporter of subject merchandise; (2) Shanghai Ai Jian Import & Export Co., ("AJ"), a Chinese exporter of subject merchandise; (3) Ai Jian Reagent Works ("AJ Works"), Wuxi's and AJ's supplier factory; (4) ICC Chemical Corporation ("ICC"), a U.S. importer and reseller of subject merchandise which is a privately-owned U.S. company; and (5) Guangzhou City Zhujian Electrochemical Factory ("Zhujian"), ICC's Chinese supplier factory.

Also in October 1996, we issued supplemental questionnaires to the companies noted above. We received responses to these questionnaires during October and November 1996.

In its questionnaire responses, Zhujian identified Guangdong Petroleum as its official exporter in China. Yet, ICC, the U.S. importer of Zhujian produced persulfates,

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[1] The questionnaire is divided into four sections. Section A requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the sales of the merchandise in all of its markets. Sections B and C request home market sales listings and U.S. sales listings, respectively (section B does not normally apply in antidumping proceedings involving the PRC). Section D requests information on the factors of production of the subject merchandise.

responded to Section C of the Department's antidumping questionnaire. In light of these facts, we concluded that clarification was required as to whether Guangdong Petroleum or ICC was the appropriate respondent for U.S. sales reporting purposes. Therefore, on November 4, 1996, we requested that Zhujian provide information on its U.S. sales via Guangdong Petroleum. Insofar as Guangdong Petroleum had failed to respond to our original questionnaire sent to it on September 5, 1996, we did not issue our request for additional information to Guangdong Petroleum. Nevertheless, Guangdong Petroleum, rather than Zhujian, responded to this request on November 25, 1996, by submitting a response to Section C of our questionnaire.[2]

Except for the companies identified above, none of the other companies which were served with a questionnaire responded.

Postponement of Final Determination and Extension of Provisional Measures

In November and December 1996, all participating exporters requested that, pursuant to section 735(a)(2)(A) of the Act, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the publication of the affirmative preliminary determination in the **Federal Register**. In accordance with 19 CFR 353.20(b), because (1) our preliminary determination is affirmative, (2) these respondents account for all of the exports of the companies that responded to the questionnaire, and (3) we are not aware of the existence of any compelling reasons for denying the request, we are granting respondents' requests and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

Scope of the Investigation

The products covered by this investigation are persulfates, including ammonium, potassium, and sodium persulfates. The chemical formulae for these persulfates are, respectively, $(NH_4)_2S_2O_8$, $K_2S_2O_8$, and $Na_2S_2O_8$. Ammonium and potassium persulfates are currently classified under subheading 2833.40.60 of the *Harmonized Tariff Schedule of the United States* ("*HTSUS*"). Sodium persulfate is classified under HTSUS subheading 2833.40.20. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of this investigation (POI) comprises each exporter's two most recent fiscal quarters prior to the filing of the petition (*i.e.*, January through June 1996).

Nonmarket Economy Country Status

The Department has treated the PRC as a nonmarket economy country (NME) in all past antidumping investigations (*see, e.g., Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*) and *Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22545 (May 8, 1995) (*Furfuryl Alcohol*)). Neither respondents nor petitioner has challenged such treatment. Therefore, in accordance with section 771(18)(C) of the Act, we will continue to treat the PRC as an NME in this investigation.

When the Department is investigating imports from an NME, section 773(c)(1) of the Act directs us to base normal value (NV) on the NME producers' factors of production, valued, to the extent possible, in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the NV section below.

Surrogate Country

The Department has determined that India, Pakistan, Sri Lanka, Egypt and Indonesia are countries comparable to the PRC in terms of overall economic development (see Memorandum from David Mueller to Louis Apple, dated September 12, 1996).

According to the available information on the record, we have determined that India is a significant producer of comparable merchandise. Accordingly, we have calculated NV using Indian prices to value the PRC producers' factors of production, when available and where appropriate. We have obtained and relied upon PI wherever possible.

Separate Rates

Each of the participating respondent exporters, except for Guangdong Petroleum which did not respond to the Department's section A questionnaire, has requested a separate, company-specific rate. The claimed ownership structure of the respondents is as follows: (1) Wuxi is owned by all the people; (2) AJ is a publicly-held company.

As stated in *Silicon Carbide* and *Furfuryl Alcohol*, ownership of a company by all the people does not require the application of a single rate. Accordingly, each of the respondents which reports that it is owned by all the people or publicly held is eligible for consideration for a separate rate.

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*) and amplified in *Silicon Carbide*. Under the separate rates criteria, the Department assigns separate rates in nonmarket economy cases only if respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. Absence of De Jure Control

Except for Guangdong Petroleum which has failed to respond to the Department's section A questionnaire, each respondent exporter has placed on the administrative record a number of documents to demonstrate absence of *de jure* control. These documents include laws, regulations and provisions enacted by the central government of the PRC, describing the deregulation of Chinese enterprises as well as the deregulation of the Chinese export trade, but for a list of products that may be subject to central government export constraints, which the respondents claim does not involve the subject merchandise. Specifically, the respondents provided English translations of the law of the PRC on industrial enterprises "owned by the people," enacted on April 13, 1988, and the regulations regarding the deregulation of state owned industrial enterprises, enacted on August 23, 1992. The articles of the 1988 law and 1992 regulations authorize these companies to make their own operational and managerial decisions.

In prior cases, the Department has analyzed the laws which the respondents have submitted in this record and found that they establish an absence of *de jure* control. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides With Rollers From the People's Republic of China*, 60 FR 54472 (October 24, 1995);

[2] Guangdong Petroleum never responded to the Department's Section A questionnaire which was issued to it on September 5, 1996.

see also Furfuryl Alcohol. We have no new information in these proceedings which would cause us to reconsider this determination.

However, as in previous cases, there is some evidence that the PRC central government enactments have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. (*See Silicon Carbide* and *Furfuryl Alcohol*.) Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

2. Absence of De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices ("EP") are set by or subject to the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses (*see Silicon Carbide* and *Furfuryl Alcohol*).

Except for Guangdong Petroleum which has failed to respond to the Department's section A questionnaire, each respondent exporter has asserted the following: (1) it establishes its own EPs; (2) it negotiates contracts, without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales, uses profits according to its business needs and has the authority to sell its assets and to obtain loans. In addition, respondents' questionnaire responses indicate that company-specific pricing during the POI does not suggest coordination among exporters. This information supports a preliminary finding that there is a *de facto* absence of governmental control of the export functions of these companies.

Consequently, we determine preliminarily that each of the participating exporters, meets the criteria for application of separate rates. Guangdong Petroleum, however, did not provide any information on the issue of *de jure* or *de facto* control of its operations. Therefore, we preliminarily determine that this exporter has not met the criteria enumerated above for the application of a separate rate. Consequently, we are applying a China-wide rate to this PRC exporter for purposes of the preliminary determination. Because Guangdong Petroleum submitted a response to Section C of the Department's questionnaire in connection with our request for additional information from Zhujian, and we are uncertain that Guangdong Petroleum received the full questionnaire issued to it on September 5, 1996, we intend to send Guangdong Petroleum a supplemental letter requesting, among other things, that it provide the information requested in the Department's Section A questionnaire in order to be considered for a separate rate in the final determination.

China-Wide Rate

U.S. import statistics indicate that the total quantity and value of U.S. imports of persulfates from the PRC is greater than the total quantity and value of persulfates reported by all PRC companies that submitted responses. Given this discrepancy, we conclude that not all exporters of PRC persulfates responded to our questionnaire. Accordingly, we are applying a single antidumping deposit rate—the China-Wide rate—to all exporters in the PRC (other than AJ and Wuxi), based on our presumption that those respondents who failed to respond constitute a single enterprise, and are under common control by the PRC government. *See, e.g., Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China*, 61 FR 19026 (April 30, 1996) (*Bicycles*).

This China-Wide antidumping rate is based on adverse facts available. Section 776(a)(2) of the Act provides that "if an interested party or any other person—(A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority . . . shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title."

In addition, section 776(b) of the Act provides that, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use information that is adverse to the interests of that party as the facts otherwise available. The statute also provides that such an adverse inference may be based on secondary information, including information drawn from the petition.

When multiple companies are treated as a single enterprise, the enterprise must submit a complete, consolidated response. If it fails to do so, the Department may base the margin calculation for the enterprise on the facts available. As discussed above, all PRC exporters that do not qualify for a separate rate are treated as a single enterprise. Because some exporters of the single enterprise failed to respond to the Department's requests for information, that single enterprise is considered to be uncooperative. Accordingly, consistent with section 776(b)(1) of the Act, we have applied, as total facts available, the higher of the average margin from the petition, as recalculated by the Department based on the corroboration efforts discussed below, or the highest rate calculated for a respondent in this proceeding. In the present case, based on our comparison of the calculated margins for the other respondents in this proceeding to the recalculated average margin in the petition, we have concluded that the petition is the most appropriate record information on which to form the basis for dumping calculations in this investigation. Accordingly, the Department has based the China-wide rate on information in the petition. In this case, the recalculated average petition rate is 76.65 percent.

Section 776(c) of the Act provides that where the Department relies on "secondary information," the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The Statement of Administrative Action (SAA), accompanying the URAA clarifies that the petition is "secondary information." *See* SAA at 870. The SAA also clarifies that "corroborate" means to determine that the information used has probative value. *Id*. However, where corroboration is not practicable, the Department may use uncorroborated information.

In accordance with section 776(c) of the Act, we corroborated the margins in the petition to the extent practicable. The petitioner based EPs on price quotes obtained from U.S. importers, reduced by estimated importer mark-ups and movement charges. We compared the starting prices used by petitioner less the importer mark-ups against prices derived from U.S. import statistics and found that the two sets of

prices are consistent. We also compared the movement charges used in the petition with the surrogate values used by the Department in its margin calculations and found them to be consistent.

Regarding normal value, petitioner used publicly available published information from India to value the factors of production. Petitioner based factory overhead (FOH), selling, general and administrative (SG&A) and profit estimates on data from an annual report of National Peroxide Limited, an Indian producer of hydrogen peroxide. We compared this financial data against that obtained for other Indian chemical producers, and found that we could not corroborate this data. (*See* also, "Factors Valuation" section of this notice.) Therefore, we recalculated the FOH, SG&A and profit portions of the petitioner's normal value calculations using data obtained from the financial statement for Sanderson Industries Ltd. ("Sanderson"), which we found to be more consistent with that of the other Indian chemical producers examined.

With respect to all other elements of the normal value calculation in the petition (*i.e.*, materials, labor, energy and packing), the Department corroborated the values used in the petition by comparing them with values obtained from PI collected in this and previous NME investigations.

Accordingly, we have corroborated, to the extent practicable, the data contained in the petition. Our recalculation of the FOH, SG&A and profit portions of the petitioner's margin calculations resulted in revised average margin rate of 76.65 percent. See Memorandum from the Team to Louis Apple regarding Factors Valuation for the Preliminary Determination dated December 18, 1996 (*Factors Memorandum*); and the Memorandum from the Team to Louis Apple regarding Corroboration of Data Contained in the Petition, dated December 18, 1996.

Export Price Issues

Although we have not calculated a separate rate for Guangdong Petroleum for purposes of this preliminary determination, we will be affording Guangdong Petroleum a second opportunity to respond to Section A of the Department's questionnaire, as discussed in the "Separate Rates" section of this notice. Furthermore, pending receipt of a complete Section A response from Guangdong Petroleum, we will revisit the issue regarding the appropriate basis for EP for this PRC exporter's sales to the United States in the final determination.

During the POI, Zhujian sold subject merchandise to ICC through Guangdong Petroleum. In their questionnaire responses, both Zhujian and ICC claimed that ICC's prices to unaffiliated customers in the United States, rather than Guangdong Petroleum's prices to ICC, should form the basis for EP because neither Zhujian nor Guangdong Petroleum knew or had reason to know at the time of sale to ICC whether the merchandise was ultimately destined for the United States. After analyzing the record evidence in light of Zhujian and ICC's arguments, we have preliminarily determined that Guangdong Petroleum's prices to ICC are the more appropriate basis for calculating EP. As we understand the facts, ICC purchases persulfates from Guangdong Petroleum with the assistance of its Hong Kong office. ICC then warehouses the merchandise in New Jersey for resale to customers both inside and outside the United States. The record does not make clear whether this warehoused merchandise is entered for consumption or entered into a bonded warehouse in the United States. Nor is the record clear regarding the share of ICC's purchases from Guangdong Petroleum this warehoused merchandise accounts for. The record does indicate, however, that ICC is the U.S. importer of record. That is, Guangdong Petroleum sells the subject merchandise—in an arm's-length transaction—directly to the U.S. importer of record. This is, at first impression, an EP sales situation, requiring that Guangdong Petroleum's sales prices serve as the basis for EP. In such situations, the Department typically does not inquire into the disposition of the merchandise after importation.

At verification, we intend to examine, among other things, the role and function of ICC's Hong Kong office and the extent to which ICC enters the merchandise into a bonded warehouse or for consumption in the United States. We hereby invite interested parties to comment on this issue. Interested party comments must be submitted no later than January 6, 1997.

Fair Value Comparisons

To determine whether persulfates from the PRC sold to the United States by the PRC exporters receiving separate rates were made at less than fair value, we compared the EP to the NV, as specified in the "Export Price" and "Normal Value" sections of this notice.

Export Price

For both AJ and Wuxi, we calculated EP in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and constructed export price ("CEP") methodology was not otherwise indicated. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs to the factors of production.

We made company-specific adjustments as follows:

1. AJ

We calculated EP based on packed, CIF U.S. port prices to unaffiliated purchasers in the United States, as appropriate. We made deductions from the starting price, where appropriate, for the following services which were provided by market economy suppliers: ocean freight; marine insurance; and U.S. inland insurance. We also deducted from the starting price, where appropriate, an amount for foreign inland freight and port construction fees. When these movement services were provided by nonmarket economy suppliers, we valued them using Indian rates.

2. Wuxi

We calculated EP based on packed, FOB PRC port prices to unaffiliated purchasers in the United States. Wuxi claimed that all the expenses for movement services were paid by the purchaser and, thus, we did not make any adjustments to the starting price.

Normal Value

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by the factory in the PRC which produced persulfates sold by the two exporters. We valued all the input factors using PI from India.

Factor Valuations

The selection of the surrogate values was based on the quality and contemporaneity of the data. Where possible, we attempted to value material inputs on the basis of tax-exclusive domestic prices. Where we were not able to rely on domestic prices, we used import prices to value factors. As appropriate, we adjusted input prices to make them delivered prices. For those values not contemporaneous with the POI, we adjusted for inflation using wholesale price indices or, in the case of labor rates, consumer price indices, published in the International Monetary Fund's *International Financial Statistics*. For a complete analysis of surrogate values, see *Factors Memorandum*.

To value ammonium sulfate, caustic soda, caustic potash, sulfuric acid, and sodium sulfate we used public information from POI issues of the Indian publication *Chemical Weekly*. For potassium sulfate and anhydrous ammonia, we relied on import prices contained in the February and July 1995 issues of *Monthly Statistics of the Foreign Trade of India* (*Monthly Statistics*). To value ammonium persulfate, we used a price quotation obtained by interested parties from an Indian factory, the Rajendra Chemical Ltd., Bombay. For further discussion, see the *Factors Memorandum*.

To value coal (steam), we relied on public information reported in the antidumping investigation of *Pencils from the PRC*. (*See Final Determination of Sales at Less Than Fair Value: Case Pencils from the People's Republic of China*, 59 FR 55625, November 8, 1994.) For electricity, we relied upon public information from *Confederation of Indian Industries Handbook of Statistics 1995* to obtain an average price for electricity provided to large-size industries. For oil, we relied on public information reported in the antidumping investigation of *Polyvinyl Alcohol from the PRC*. (*See Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from the People's Republic of China* 61 FR 14057 (March 29, 1996) (*Polyvinyl Alcohol*)). To value water we relied on public information reported in the antidumping investigation of *Coumarin from the PRC*. (*See Final Determination of Sales at Less Than Fair Value: Coumarin from the People's Republic of China*, 59 FR 66895, December 28, 1994) (*Coumarin*).

To value packing materials such as polyethylene liners and polypropylene sacks, we relied upon Indian import data from the February and July 1995 issues of *Monthly Statistics*.

Regarding wooden pallets, we relied on public information reported in the antidumping investigation of *Brake Drums and Brake Rotors from the PRC*. (*See Preliminary Determination of Sales at Less Than Fair Value: Brake Drums and Brake Rotors from the People's Republic of China*, 61 FR 53190, October 10, 1996).

To value labor, we inflated to POI values, 1990 labor data from the United Nations' publication *Yearbook of Labour Statistics* (*YLS*), and we relied on methodology used in the antidumping investigation of *Coumarin* (*See* also *Factors Memorandum*). Although one of the respondents provided 1994 Indian labor rates from the *1995 World Labor Report, Foreign Labor Trends*, we did not use these rates because they reflected the experience in the general manufacturing sector and not labor rates specific to the chemical sector.

To value truck freight, we used public information from the Indian periodical *The Times of India*. To value ocean freight we used public information from the antidumping investigation of *Coumarin*. To value containerization and loading, we relied on public information reported in the antidumping investigation of *Polyvinyl Alcohol*.

To value foreign brokerage and handling, we relied on public information reported in the antidumping investigation of *Stainless Steel Bar from India*. (*See Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from India*, 59 FR 66915, December 28, 1996.) For marine insurance, we used public information reported in the antidumping investigation of *Sulfur Dyes, Including Sulfur Vat Dyes, from India*. (*See Final Determination of Sales at Less Than Fair Value: Sulfur Dyes, Including Sulfur Vat Dyes, from India*, 58 FR 7535, 7538, February 8, 1993.)

To value FOH, SG&A and profit, we relied on the financial statements of Sanderson, an Indian producer of sulphuric acid and other chemicals, which were submitted by Zhujian/ICC, because this financial data was consistent with that obtained from other chemical producers. The alternative data submitted by the petitioner which relied on the financial statements of an Indian producer of hydrogen peroxide was inappropriate when benchmarked against the financial data for other chemical producers. (*See Factors Memorandum*.) We also determined that the data submitted by AJ, AJ Works, and Wuxi, which relied on aggregate financial data from the *Reserve Bank of India Bulletin* for the Indian metals and chemicals industries was inappropriate because it was not industry-specific. (*See Factors Memorandum*.)

Where appropriate, we have removed from the surrogate FOH and SG&A calculations the excise duty amount listed in the financial statements (*see Bicycles*, 61 FR 19039). We adjusted the FOH, SG&A, and profit percentages that the respondent calculated from Sanderson's financial statements as follows: (1) we included manufacturing energy expenses in the base to which the FOH rate is applied, (2) we included "other" expenses and "miscellaneous" expenses in SG&A, and (3) we calculated the profit percentage using profit before prior period adjustments. (*See Factors Memorandum*.)

Verification

As provided in section 782(i) of the Act, we will verify the information used in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all entries of persulfates from the PRC, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service will require a cash deposit or posting of a bond equal to the estimated dumping margins by which the normal value exceeds the EP, as shown below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Shanghai Ai Jian Import & Export Corporation	15.62
Sinochem Jiangsu Wuxi Import & Export Corporation	50.35
China-Wide Rate	76.65

China-Wide Rate

A China-Wide Rate has been assigned to persulfates based on the average margin contained in the petition, as amended by the Department. The China-Wide rate applies to all entries of that product except for entries from exporters/factories that are identified individually above.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the corresponding U.S. industry.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than March 26, 1997, and rebuttal briefs, no later than March 31, 1997. A list of authorities used and a summary of arguments made in the briefs should accompany these briefs. Such summary should be limited to five pages total, including footnotes.

We will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. At this time, the hearing is scheduled for April 3, 1997, time and place to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B–099, within ten days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b) oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to section 733(f) of the Act.

Dated: December 18, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–32871 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–583–824]

Polyvinyl Alcohol From Taiwan: Initiation of New Shipper Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce ("the Department") has received a request to conduct a new shipper administrative review of the antidumping duty order on polyvinyl alcohol from Taiwan. In accordance with 19 CFR 353.22(h), we are initiating this administrative review.

EFFECTIVE DATE: December 27, 1996.

FOR FURTHER INFORMATION CONTACT: Everett Kelly or Dorothy Tomaszewski, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4194 or 482–0631, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

SUPPLEMENTARY INFORMATION:

Background

The Department has received a request, pursuant to section 751(a)(2)(B) of the Act, and in accordance with 19 CFR 353.22(h), for a new shipper review of the antidumping duty order on polyvinyl alcohol from Taiwan, which has a March anniversary date.

Initiation of Review

In accordance with section 751(a)(2)(B)(ii) of the Act and 19 CFR 353.22(h)(6), we are initiating a new shipper review of the antidumping duty order on polyvinyl alcohol from Taiwan. We intend to issue the final results of review not later than 270 days from the date of publication of this notice.

Antidumping duty proceeding	Period to be reviewed
Taiwan: Polyvinyl Alcohol, A–583–824:	
Perry Chemical Corporation	05/01/96–10/31/96

We will instruct the U.S. Customs Service to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by the above listed companies, in accordance with 19 CFR 353.22(h)(4).

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b).

This initiation and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 353.22(h).

Dated: December 18, 1996.

Jeffrey P. Bialos,

Principal Deputy Assistant Secretary, Import Administration.

[FR Doc. 96–32870 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–588–028]

Roller Chain, Other Than Bicycle, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of time limits.

SUMMARY: The Department of Commerce (the Department) is extending the time limits of the preliminary and final results of the antidumping duty administrative reviews of the antidumping finding on roller chain, other than bicycle, from Japan. The review covers six manufacturers/exporters of this merchandise to the United States during the period April 1, 1995 through March 31, 1996.

EFFECTIVE DATE: December 27, 1996.

FOR FURTHER INFORMATION CONTACT: Jack Dulberger or Joseph Hanley, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–5253.

Because it is not practicable to complete this review within the time limits mandated by section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act of 1994, the Department is extending the time limits for completion of the preliminary results until April 30, 1997. We are also extending the time limit for completion of our final results of review, which we will issue by October 31, 1997. *See* Memorandum from Jeffrey P. Bialos to Robert S. LaRussa, on file in Room B–099 of the Main Commerce Building.

These extensions are in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)(3)(A)).

Dated: August 8, 1996.

Jeffrey P. Bialos,

Principal Deputy Assistant Secretary for Import Administration.

[FR Doc. 96–32864 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–533–810]

Stainless Steel Bar From India; Termination of New Shipper Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: On September 18, 1996, the Department of Commerce ("the Department") published a notice of initiation of a new shipper administrative review of the antidumping duty order on stainless steel bar from India. The Department is now terminating this review.

EFFECTIVE DATE: December 27, 1996.

FOR FURTHER INFORMATION CONTACT: Jennifer Yeske or Vince Kane, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0189 or 482–2815, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

SUPPLEMENTARY INFORMATION:

Background

On August 26, 1996, Ferro Alloys Corporation Limited ("Facor") requested that the Department conduct a new shipper review of the antidumping duty order on stainless steel bar from India. On September 18, 1996, the Department published in the **Federal Register** (61 FR 49112) a notice of initiation of a new shipper administrative review of the antidumping duty order on stainless steel bar from India covering Facor and the period February 1, 1996 through July 31, 1996.

On December 3, 1996, Facor requested that it be allowed to withdraw its request for a new shipper review and that the review be terminated. Therefore, the Department is now terminating the review.

Dated: December 17, 1996.

Barbara R. Stafford,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 96–32873 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–DS–P

Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Publication of annual listing of foreign government subsidies on articles of cheese subject to an in-quota rate of duty.

SUMMARY: The Department of Commerce (the Department), in consultation with the Secretary of Agriculture, has prepared its annual list of foreign government subsidies on articles of cheese subject to an in-quota rate of duty during the period October 1, 1995 through September 30, 1996. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Russell Morris or Maria MacKay, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., N.W., Washington, D.C. 20230, telephone: (202) 482–2786.

SUPPLEMENTAL INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 (as amended) (the Act) requires the Department to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(h)(4) of the Act, and to publish an annual list and quarterly updates of the type and amount of those subsidies. We hereby provide the Department's annual list of subsidies on cheeses that were imported during the period October 1, 1995 through September 30, 1996.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702(h)(2) of the Act) being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amount of each subsidy for which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: December 19, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

APPENDIX—SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

Country	Program(s)	Gross [1] subsidy	Net [2] subsidy
Austria	European Union Restitution payments.	$0.29	$0.29
Belgium	EU restitution payments	0.29	0.29
Canada	Export assistance on certain types of cheese.	0.26	0.26
Denmark	EU restitution payments	0.32	0.32
Finland	EU restitution payments	0.31	0.31
France	EU restitution payments	0.29	0.29
Germany	EU restitution payments	0.31	0.31
Greece	EU restitution payments	0.00	0.00

APPENDIX—SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY—Continued

Country	Program(s)	Gross [1] subsidy	Net [2] subsidy
Ireland	EU restitution payments	0.29	0.29
Italy	EU restitution payments	0.31	0.31
Luxembourg	EU restitution payments	0.29	0.29
Netherlands	EU restitution payments	0.28	0.28
Norway	Indirect (Milk) subsidy	0.42	0.42
	Consumer Subsidy	0.19	0.19
Total		0.61	0.61
Portugal	EU restitution payments	0.29	0.29
Spain	EU restitution payments	0.37	0.37
Switzerland	Deficiency payments	0.39	0.39
U.K.	EU restitution payments	0.30	0.30

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 96–32878 Filed 12–26–96; 8:45 am]
BILLING CODE 3510–DS–P

[C–201–810]

Cut-to-Length Steel Plate from Mexico; Termination of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of termination of countervailing duty administrative review.

SUMMARY: On September 17, 1996 (61 FR 48883), in response to a request from the respondent, the Department of Commerce (the Department) initiated an administrative review of the countervailing duty order on cut-to-length steel plate from Mexico. In accordance with 19 CFR 355.22(a)(5)(Interim Regulations, 60 FR 25137; May 11, 1995), the Department is now terminating this review because the respondent has withdrawn its request for review.

EFFECTIVE DATE: December 27, 1996.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Kelly Parkhill, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On August 23, 1996, the Department received a request for an administrative review of this countervailing duty order from the respondent, Altos Hornos de Mexico, S.A. de C.V. (respondent), an exporter of the subject merchandise, for the period January 1, 1995, through December 31, 1995. No other interested party requested a review of the countervailing duty order. On September 17, 1996, the Department published in the **Federal Register** (61 FR 48883) a notice of "Initiation of Countervailing Duty Administrative Review" initiating the administrative review of respondent for that period. On November 26, 1996, respondent withdrew its request for review.

Section 355.22(a)(5) of the Department's interim regulations stipulates that the Secretary may permit a party that requests a review to withdraw the request not later than 90 days after the date of publication of the notice of initiation of the requested review. In this case, respondent has withdrawn its request for review within the 90-day period. No other interested party requested a review and we have received no other submissions regarding respondent's withdrawal of its request for review. Therefore, we are terminating this review of the countervailing duty order on cut-to-length steel plate from Mexico.

This notice is published in accordance with 19 CFR 355.22(a)(5).

Dated: December 18, 1996.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for AD/CVD Enforcement Group III.

[FR Doc. 96–32863 Filed 12–26–96; 8:45 am]
BILLING CODE 3510–DS–M

[C–559–001]

Certain Refrigeration Compressors From the Republic of Singapore; Extension of Time Limit for Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration/ Department of Commerce.

ACTION: Notice of extension of time limit for countervailing duty administrative review.

SUMMARY: The Department of Commerce (the Department) is extending the time limits for its final results in the administrative review of the agreement suspending the countervailing duty investigation on certain refrigeration compressors from the Republic of Singapore. The review covers the period April 1, 1994, through March 31, 1995.

EFFECTIVE DATE: December 27, 1996.

FOR FURTHER INFORMATION CONTACT: Robert Bolling or Jean Kemp, AD/CVD Enforcement, Group III, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482–3793.

SUPPLEMENTARY INFORMATION: Because it is not practicable to complete this review within the original time limit, the Department is extending the time limit for the completion of the final results to no later than February 28, 1997, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA). (See Memorandum from Joseph A. Spetrini to Robert S. LaRussa on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce).

This extension is in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the URAA (19 U.S. C. 1675(a)(3)(A)).

Dated: December 13, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary Enforcement Group III.

[FR Doc. 96–32876 Filed 12–26–96; 8:45 am]
BILLING CODE 3510–DS–P

VOL 61 ISS 250 DE 27 1996 UMI

National Oceanic and Atmospheric Administration

National Weather Service Modernization and Associated Restructuring

AGENCY: National Weather Service (NWS), NOAA, Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: The National Weather Service (NWS) is publishing proposed certifications for the proposed consolidations of:

(1) Evansville Weather Service Office (WSO) into the future Paducah, Central Illinois, Indianapolis, and Louisville Weather Forecast Offices (WFO);

(2) Wichita Falls WSO into the future Oklahoma City and Dallas/Fort Worth WFOs; and

(3) Astoria WSO into the future Portland WFO.

In accordance with Public Law 102–567, the public will have 60-days in which to comment on these proposed consolidation certifications.

DATES: Comments are requested by February 25, 1997.

ADDRESSES: Requests for copies of the proposed consolidation packages should be sent to Tom Beaver, Room 09356, 1325 East-West Highway, Silver Spring, MD 20910, telephone 301–713–0300. All comments should be sent to Tom Beaver at the above address.

FOR FURTHER INFORMATION CONTACT: Julie Scanlon at 301–713–1698 ext 151.

SUPPLEMENTARY INFORMATION: In accordance with section 706 of Public Law 102–567, the Secretary of Commerce must certify that these consolidations will not result in any degradation of service to the affected areas of responsibility and must publish the proposed consolidation certifications in the FR. The documentation supporting each proposed certification includes the following:

(1) A draft memorandum by the meteorologist-in-charge recommending the certification, the final of which will be endorsed by the Regional Director and the Assistant Administrator of the NWS if appropriate, after consideration of public comments and completion of consultation with the Modernization Transition Committee (the Committee);

(2) A description of local weather characteristics and weather-related concerns which affect the weather services provided within the service area;

(3) A comparison of the services provided within the service area and the services to be provided after such action;

(4) A description of any recent or expected modernization of NWS operation which will enhance services in the service area;

(5) An identification of any area within the affected service area which would not receive coverage (at an elevation of 10,000 feet) by the next generation weather radar network;

(6) Evidence, based upon operational demonstration of modernized NWS operations, which was considered in reaching the conclusion that no degradation in service will result from such action including the WSR-88D Radar Commissioning Report(s), User Confirmation of Services Report(s), and the Decommissioning Readiness Report (as applicable); and

(7) A letter appointing the liaison officer.

These proposed certifications do not include any report of the Committee which could be submitted in accordance with sections 706(b)(6) and 707(c) of Public Law 102–567. In December 1995 the Committee decided that, in general, they would forego the optional consultation on proposed certifications. Instead, the Committee would just review certifications after the public comment period had closed so their consultation would be with the benefit of public comments that had been submitted.

This notice does not include the complete certification packages because they are too voluminous to publish. Copies of the certification packages and supporting documentation can be obtained through the contact listed above.

Once all public comments have been received and considered, the NWS will complete consultation with the Committee and determine whether to proceed with the final certifications. If decisions to certify are made, the Secretary of Commerce must publish the final certifications in the FR and transmit the certifications to the appropriate Congressional committees prior to consolidating the offices.

Dated: December 20, 1996.

Elbert W. Friday, Jr.,

Assistant Administrator for Weather Services.

[FR Doc. 96–32899 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–12–M

COMMISSION OF FINE ARTS

Announcement; National Capital Arts and Cultural Affairs 1997 Grant Program

The 1997 National Capital Arts and Cultural Affairs Program has received an appropriation of $6,000,000. Washington, DC organizations which perform or exhibit the arts in the nation's capital and fulfill the following requirements may request an application package by writing the Commission of Fine Arts, National Capital Arts and Cultural Affairs Program, Pension Building, Suite 312, 441 F Street, NW. Washington, DC 20001.

Questions may be referred to Donald B. Myer, Program Administrator at 202–504–2200.

Charles H. Atherton,

Secretary.

1997 National Capital Arts and Cultural Affairs Program

Guidelines

In Public Law 99–190, as amended, the U.S. Congress authorized a grant program to support artistic and cultural programs in the District of Columbia. Its purpose is to provide grants for general operating support to organizations whose primary purpose is performing, exhibiting and/or presenting the arts.

Eligibility to Apply: To be eligible for a grant from the National Capital Arts and Cultural Affairs Program, an organization must be designated in 20 U.S.C. 956a or must satisfy all the following criteria:

1. The organization must have its principal place of business in the District of Columbia and must have the primary purpose of performing, exhibiting, and/or presenting the arts;

2. The organization must be engaged primarily in performing, exhibiting and/or presenting the arts in a facility or facilities located in the District of Columbia;

a. "Performing" is the public presentation before a live audience of dance, theater, opera, music and related forms.

b. "Exhibiting" is the public display to a live audience of the visual arts, including, but not limited to painting, sculpture, photography, works on paper, textiles, crafts, cultural artifacts, and media arts.

c. "Presenting" is the programming and/or presentation of "Performing" or "Exhibiting" as defined above;

3. The organization must allocate a substantial portion of its annual income to exhibiting, performing and/or

presenting art in facilities located in the District of Columbia;

4. The organization must be a not-for-profit, non-academic institution of demonstrated national repute; and

5. The organization must have an annual income, exclusive of federal or pass-through federal funds, in excess of $1 million for each of the three years prior to the year of application.

[FR Doc. 96–32904 Filed 12–26–96; 8:45 am]

BILLING CODE 6330–01–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Bahrain

December 20, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The import restraint limits for textile products, produced or manufactured in Bahrain and exported during the period January 1, 1997 through December 31, 1997 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the limits for the 1997 period.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 20, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1997, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textile products in the following categories, produced or manufactured in Bahrain and exported during the twelve-month period beginning on January 1, 1997 and extending through December 31, 1997, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Group I 237, 239, 330–336, 338, 339, 340–342, 345, 347, 348–354, 359, 431–436, 438–440, 442–448, 459, 630–636, 638, 639, 640–647, 648, 649, 650–654, 659, 831–836, 838, 839, 840, 842–847, 850–852, 858 and 859, as a group.	39,505,041 square meters equivalent.
Sublevels in Group I	
338/339	548,930 dozen.
340/640	263,367 dozen of which not more than 197,525 dozen shall be in Categories 340–Y/640–Y [1].

[1] Category 340–Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060; Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

Imports charged to these category limits for the period January 1, 1996 through December 31, 1996 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreements Act, the Uruguay Round Agreement on Textiles and Clothing and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–3[illegible]4 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Bangladesh

December 20, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The import restraint limits for textile products, produced or manufactured in Bangladesh and exported during the period January 1, 1997 through December 31, 1997 are based on the limits notified to the Textiles Monitoring Body pursuant to the

Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the limits for the 1997 period. The 1997 limits for Categories 338/339, 347/348 and 363 have been reduced for carryforward applied to the 1996 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 20, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1997, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, man-made fiber, silk blend and other vegetable fiber textile products in the following categories, produced or manufactured in Bangladesh and exported during the twelve-month period beginning on January 1, 1997 and extending through December 31, 1997, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
237	440,629 dozen.
331	1,116,315 dozen pairs.
334	134,426 dozen.
335	241,362 dozen.
336/636	431,924 dozen.
338/339	1,181,800 dozen.
340/640	2,671,533 dozen
341	2,343,153 dozen.
342/642	405,402 dozen.
347/348	1,991,808 dozen.
351/651	643;862 dozen.
352/652	9,605,759 dozen.
363	22,667,619 numbers.
369–S [1]	1,608,700 kilograms.
634	470,294 dozen.
635	304,695 dozen.
638/639	1,498,738 dozen.
641	981,144 dozen.
645/646	351,962 dozen.
647/648	1,326,313 dozen.
847	704,223 dozen.

[1] Category 369–S: only HTS number 6307.10.2005.

Imports charged to these category limits for the period January 1, 1996 through December 31, 1996 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreements Act, the Uruguay Round Agreement on Textiles and Clothing and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–32985 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Arab Republic of Egypt

December 20, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The import restraint limits for textile products, produced or manufactured in Egypt and exported during the period January 1, 1997 through December 31, 1997 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1997 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 20, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1997, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Egypt and exported during the twelve-month period beginning on January 1, 1997 and extending through December 31, 1997, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Fabric Group 218–220, 224–227, 313–317 and 326, as a group.	98,244,930 square meters.

Category	Twelve-month restraint limit
Sublevels within Fabric Group	
218	2,508,000 square meters.
219	23,114,839 square meters.
220	23,114,839 square meters.
224	23,114,839 square meters.
225	23,114,839 square meters.
226	23,114,839 square meters.
227	23,114,839 square meters.
313	42,445,469 square meters.
314	23,114,839 square meters.
315	27,143,964 square meters.
317	23,114,839 square meters.
326	2,508,000 square meters.
Levels not in a group	
300/301	9,094,098 kilograms of which not more than 2,852,229 kilograms shall be in Category 301.
369–S [1]	1,368,627 kilograms.
338/339	2,608,824 dozen.
340/640	1,080,799 dozen.
448	18,850 dozen.

[1] Category 369–S: only HTS number 6307.10.2005.

Imports charged to these category limits for the period January 1, 1996 through December 31, 1996 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–32980 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in India

December 20, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: December 24, 1996.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6705. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being adjusted, variously, for special shift, swing and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 60 FR 65299, published on December 19, 1995). Also see 60 FR 62399, published on December 6, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 20, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 29, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996.

Effective on December 24, 1996, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month Level [1]
219	67,248,362 square meters.
313	35,536,053 square meters.
315	14,016,231 square meters.
317	36,258,002 square meters.
326	5,614,173 square meters.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1995.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.96–32986 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in India

December 20, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6705. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the

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Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The import restraint limits for textile products, produced or manufactured in India and exported during the period January 1, 1997 through December 31, 1997 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1997 limits. The limit for Categories 369–S has been reduced for carryforward applied in 1996.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 20, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1997, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in India and exported during the twelve-month period beginning on January 1, 1997 and extending through December 31, 1997, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Levels in Group I	
218	12,989,042 square meters.
219	60,956,651 square meters.
313	34,753,868 square meters.
314	7,256,744 square meters.
315	12,188,423 square meters.
317	37,810,040 square meters.
326	8,593,191 square meters.
334/634	129,709 dozen.
335/635	577,464 dozen.
336/636	804,052 dozen.
338/339	3,723,716 dozen.
340/640	1,860,590 dozen.
341	3,996,788 dozen of which not more than 2,398,072 dozen shall be in Category 341–Y [1].
342/642	1,169,365 dozen.
345	173,647 dozen.
347/348	558,678 dozen.
351/651	247,181 dozen.
363	40,591,446 numbers.
369–D [2]	1,209,925 kilograms.
369–S [3]	622,938 kilograms.
641	1,361,441 dozen.
647/648	790,576 dozen.
Group II	
200, 201, 220–229, 237, 239, 300, 301, 330–333, 349, 350, 352, 359–362, 600–607, 611–629, 630–633, 638, 639, 643–646, 649, 650, 652, 659, 665–O [4], 666, 669, 670, and 831–859, as a group.	106,168,919 square meters equivalent.

[1] Category 341–Y: only HTS numbers 6204.22.3060, 6206.30.3010, 6206.30.3030 and 6211.42.0054.

[2] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[3] Category 369–S: only HTS number 6307.10.2005.

[4] Category 665–O: all HTS numbers except 5702.10.9030, 5702.42.2020, 5702.92.0010 and 5703.20.1000 (rugs).

Imports charged to these category limits for the period January 1, 1996 through December 31, 1996 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–32987 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Macau

December 20, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6709. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The import restraint limits for textile products, produced or manufactured in Macau and exported during the period January 1, 1997 through December 31, 1997 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1997 limits. The limits for certain categories have been reduced for carryforward applied to the 1996 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 20, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1997, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Macau and exported during the twelve-month period beginning on January 1, 1997 and extending through December 31, 1997, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Levels in Group I	
219	2,778,300 square meters.
225	9,724,050 square meters.
313	6,945,750 square meters.
314	1,157,625 square meters.
315	3,472,875 square meters.
317	6,945,750 square meters.
326	2,778,300 square meters.
333/334/335/833/834/835.	249,644 dozen of which not more than 139,253 dozen shall be in Categories 333/335/833/835.
336/836	59,170 dozen.
338	321,377 dozen.
339	1,346,132 dozen.
340	304,183 dozen.
341	196,192 dozen.
342	88,756 dozen.
345	57,069 dozen.
347/348/847	760,690 dozen.
350/850	62,657 dozen.
351/851	71,006 dozen.
359–C/659–C [1]	355,028 kilograms.
359–V [2]	118,343 kilograms.
611	2,778,300 square meters.
625/626/627/628/629	6,945,750 square meters.
633/634/635	559,795 dozen.
638/639/838	1,646,202 dozen.
640	123,944 dozen.
641/840	213,028 dozen.
642/842	117,205 dozen.
645/646	290,537 dozen.
647/648	553,484 dozen.
659–S [3]	125,317 kilograms.
Group II	
400–469, as a group	1,413,938 square meters equivalent.
Sublevel in Group II	
445/446	76,227 dozen.

[1] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[2] Category 359–V: only HTS numbers 6103.19.2030, 6103.19.9030, 6104.12.0040, 6104.19.8040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.9044, 6110.90.9046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.9030, 6204.12.0040, 6204.19.8040, 6211.32.0070 and 6211.42.0070.

[3] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

Imports charged to these category limits for the period January 1, 1996 through December 31, 1996 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future according to the provisions of the Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–32988 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

December 20, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6714. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The import restraint limits for textile products, produced or manufactured in Pakistan and exported during the period January 1, 1997 through December 31, 1997 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1997 limits. The 1997 limit for Category 338 is reduced for carryforward applied to the 1996 limit.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the

implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 20, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1997, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Pakistan and exported during the twelve-month period beginning on January 1, 1997 and extending through December 31, 1997, in excess of the following limits:

Category	Twelve-month restraint limit
Specific limits	
219	7,438,144 square meters.
226/313	109,549,784 square meters.
237	361,764 dozen.
239	1,703,186 kilograms.
314	5,409,559 square meters.
315	72,910,978 square meters.
317/617	29,070,061 square meters.
331/631	2,215,537 dozen pairs.
334/634	213,678 dozen.
335/635	329,983 dozen.
336/636	434,117 dozen.
338	4,309,390 dozen.
339	1,229,704 dozen.
340/640	578,823 dozen of which not more than 217,058 dozen shall be in Categories 340–D/640–D [1].
341/641	651,176 dozen.
342/642	322,298 dozen.
347/348	719,579 dozen.
351/651	289,411 dozen.
352/652	723,528 dozen.
359–C/659–C [2]	1,302,351 kilograms.
360	4,649,160 numbers.
361	5,406,000 numbers.
363	42,493,480 numbers.
369–F/369–P [3]	2,170,586 kilograms.
369–R [4]	10,129,400 kilograms.
369–S [5]	662,695 kilograms.
613/614	21,691,862 square meters
615	23,076,443 square meters.
625/626/627/628/629	70,972,838 square meters of which not more than 35,486,420 square meters shall be in Category 625; not more than 35,486,420 square meters shall be in Category 626; not more than 35,486,420 square meters shall be in Category 627; not more than 7,342,018 square meters shall be in Category 628; and not more than 35,486,420 square meters shall be in Category 629.
638/639	412,475 dozen.
647/648	782,036 dozen.
666–P [6]	720,800 kilograms.
666–S [7]	3,816,000 kilograms.

[1] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030; Category 640–D: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.3030 and 6205.90.4030.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[3] Category 369–F: only HTS number 6302.91.0045; Category 369–P: only HTS numbers 6302.60.0010 and 6302.91.0005.

[4] Category 369–R: only HTS number 6307.10.2020.

[5] Category 369–S: only HTS number 6307.10.2005.

[6] Category 666–P: only HTS numbers 6302.22.1010, 6302.22.1020, 6302.22.2010, 6302.32.1010, 6302.32.1020, 6302.32.2010 and 6302.32.2020.

[7] Category 666–S: only HTS numbers 6302.22.1030, 6302.22.1040, 6302.22.2020, 6302.32.1030, 6302.32.1040, 6302.32.2030 and 6302.32.2040.

Imports charged to these category limits for the periods January 1, 1996 through December 31, 1996 and March 22, 1996 through December 31, 1996 (Categories 666–P and 666–S) shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for those periods have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future according to the provisions of the Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–32982 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Sri Lanka

December 20, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The import restraint limits for textile products, produced or manufactured in Sri Lanka and exported during the period January 1, 1997 through December 31, 1997 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1997 limits. The limits for certain categories have been reduced for carryforward and special carryforward applied to the 1996 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 20, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1997, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Sri Lanka and exported during the twelve-month period beginning on January 1, 1997 and extending through December 31, 1997, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
237	278,533 dozen.
314	4,158,097 square meters.
331/631	2,649,715 dozen pairs.
333/633	52,430 dozen.
334/634	583,983 dozen.
335/835	273,018 dozen.
336/636/836	264,397 dozen.
338/339	1,228,822 dozen.
340/640	1,066,116 dozen.
341/641	1,865,959 dozen of which not more than 1,243,972 dozen shall be in Category 341 and not more than 1,243,972 dozen shall be in Category 641.
342/642/842	638,986 dozen.
345/845	175,318 dozen.
347/348/847	1,104,864 dozen.
350/650	121,505 dozen.
351/651	301,932 dozen.
352/652	1,245,828 dozen.
359–C/659–C [1]	1,268,605 kilograms.
360	1,468,404 numbers.
363	11,878,602 numbers.
369–D [2]	944,815 kilograms.
369–S [3]	787,343 kilograms.
434	7,246 dozen.
435	15,528 dozen.
440	10,352 dozen.
611	5,751,248 square meters.
635	342,604 dozen.
638/639/838	927,672 dozen.
644	520,740 numbers.
645/646	208,295 dozen.
647/648	1,116,807 dozen.
840	275,901 dozen.

[1] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[2] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[3] Category 369–S: only HTS number 6307.10.2005.

Imports charged to these category limits for the period January 1, 1996 through December 31, 1996 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future according to the provisions of the Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–32981 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Thailand

December 20, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE:DECEMBER 24, 1996.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of of each Customs port or call (202) 927–6717. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being adjusted, variously for carryforward, swing and shift subtracted.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 60 FR 65299, published on December 19, 1995). Also see 60 FR 62396, published on December 6, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 20, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 29, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive

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concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996.

Effective on December 24, 1996, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
200	1,102,569 kilograms.
219	3,706,230 square meters.
300	4,032,180 kilograms.
301–P [2]	3,990,591 kilograms.
301–O [3]	923,827 kilograms.
363	19,689,375 numbers.
369–S [4]	214,165 kilograms.
611	14,296,887 square meters.
619	6,584,737 square meters.
620	6,928,693 square meters.
Group II	
237, 330–359, 431–459, 630–659 and 831–859, as a group.	267,245,923 square meters equivalent.
Sublevels in Group II	
331/631	1,576,650 dozen pairs.
334/634	600,486 dozen.
335/635/835	477,310 dozen.
336/636	307,492 dozen.
340	259,980 dozen.
341/641	613,840 dozen.
342/642	534,402 dozen.
345	274,422 dozen.
347/348/847	804,498 dozen.
351/651	216,649 dozen.
647/648	1,096,273 dozen.
Level not in a Group	
239	5,699,628 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1995.

[2] Category 301–P: only HTS numbers 5206.21.0000, 5206.22.0000, 5206.23.0000, 5206.24.0000, 5206.25.0000, 5206.41.0000, 5206.42.0000, 5206.43.0000, 5206.44.0000 and 5206.45.0000.

[3] Category 301–O: only HTS numbers 5205.21.0000, 5205.22.0000, 5205.23.0000, 5205.24.0000, 5205.25.0000, 5205.41.0000, 5205.42.0000, 5205.43.0000, 5205.44.0000 and 5205.45.0000.

[4] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.96–32989 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–DR–F

Establishment of Import Restraint Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in the United Arab Emirates

December 20, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The import restraint limits for textile products, produced or manufactured in the United Arab Emirates and exported during the period January 1, 1997 through December 31, 1997 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish limits for the 1997 period. The 1997 levels for Categories 315 and 361 are zero. The levels for certain categories have been reduced for carryforward applied to the 1996 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notices 61 FR 66263, published on December 17, 1996).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 20, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended and extended, you are directed to prohibit, effective on January 1, 1997, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in the United Arab Emirates and exported during the twelve-month period beginning on January 1, 1997 and extending through December 31, 1997 in excess of the following levels of restraint:

Category	Twelve-month restraint limit
219	1,138,253 square meters.
226/313	1,946,441 square meters.
315	–0–.
317	31,400,061 square meters.
326	1,837,444 square meters.
334/634	219,026 dozen.
335/635/835	150,357 dozen.
336/636	189,822 dozen.
338/339	573,747 dozen of which not more than 361,148 dozen shall be in Categories 338–S/339–S [1].
340/640	335,839 dozen.
341/641	311,463 dozen.
342/642	245,650 dozen.
347/348	426,212 dozen of which not more than 213,106 dozen shall be in Categories 347–T/348–T [2].
351/651	177,846 dozen.
352	327,856 dozen.
361	–0–.
363	6,021,317 numbers.
369–S [3]	80,499 kilograms.
369–O [4]	578,957 kilograms.
638/639	219,026 dozen.
647/648	332,495 dozen.

Category	Twelve-month restraint limit
847	208,776 dozen.

[1] Category 338–S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.8010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.9068, 6112.11.0030 and 6114.20.0005; Category 339–S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2510, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.9070, 6112.11.0040, 6114.20.0010 and 6117.90.9020.

[2] Category 347–T: only HTS numbers 6103.19.2015, 6103.19.9020, 6103.22.0030, 6103.42.1020, 6103.42.1040, 6103.49.8010, 6112.11.0050, 6113.00.9038, 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040; Category 348–T: only HTS numbers 6104.12.0030, 6104.19.8030, 6104.22.0040, 6104.29.2034, 6104.62.2010, 6104.62.2025, 6104.69.8022, 6112.11.0060, 6113.00.9042, 6117.90.9060, 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.69.6010, 6304.69.9010, 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9050.

[3] Category 369–S: only HTS number 6307.10.2005.

[4] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S).

Imports charged to these category limits for the period beginning January 1, 1996 and extending through December 31, 1996 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–32983 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–DR–F

Amendment of Coverage of Import Limits and Visa and Certification Requirements for Certain Part-Categories Produced or Manufactured in Various Countries

December 20, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending coverage for import limits and visa and certification requirements.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

To facilitate implementation of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC), and textile agreements and export visa arrangements based upon the Harmonized Tariff Schedule (HTS), for goods entered into the United States for consumption or withdrawn from warehouse for consumption on and after January 1, 1997 for part-Categories 348–K, 348–T, 648–K and 648–T, regardless of the date of export, certain HTS classification numbers are being changed on all import controls and on all visa and certification arrangements for countries with these part-categories. These changes will be published in the 1997 Harmonized Tariff Schedule.

The changes in the HTS numbers will be reflected in the 1997 CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 20, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, all monitoring and import control directives issued to you by the Chairman, Committee for the Implementation of Textile Agreements, which include cotton and man-made fiber textile products in part-Categories 348–K, 348–T, 648–K and 648–T, produced or manufactured in various countries and imported into the United States on and after January 1, 1997.

Also, this directive amends, but does not cancel, all directives establishing visa and certification requirements for part-Categories 348–K, 348–T, 648–K and 648–T for which visa arrangements are in place with the Government of the United States.

Effective on January 1, 1997, you are directed to make the changes shown below in the aforementioned directives for goods entered in the United States for consumption or withdrawn from warehouse for consumption on and after January 1, 1997 for part-Categories 348–K, 348–T, 648–K and 648–T, regardless of the date of export:

Category	Obsolete number	New number
348–K	6104.62.2010	6104.62.2006 and 6104.62.2011.
	6104.62.2025	6104.62.2026 and 6104.62.2028.
348–T	6104.62.2010	6104.62.2006 and 6104.62.2011.
	6104.62.2025	6104.62.2026 and 6104.62.2028.
648–K	6104.63.2010	6104.63.2006 and 6104.63.2011.
	6104.63.2025	6104.63.2026 and 6104.63.2028.
648–T	6104.63.2010	6104.63.2006 and 6104.63.2011.
	6104.63.2025	6104.63.2026 and 6104.63.2028.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.96–32979 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Army

Environmental Assessment and Finding of No Significant Impact for the Relocation of the U.S. Army Defense Ammunition School and Center (USADACS) From Savanna Army Depot Activity, Illinois, to McAlester Army Ammunition Plant (MCAAP), Oklahoma

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

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SUMMARY: In accordance with Public Law 101–510 (as amended), the Defense Base Closure and Realignment Act of 1990, the Defense Base Closure and Realignment Commission recommended the relocation of the U.S. Army Defense Ammunition School and Center (USADACS) from Savanna Army Depot Activity (SVAD), Illinois to McAlester Army Ammunition Plant (MCAAP), Oklahoma.

The Environmental Assessment (EA) evaluates the environmental impacts associated with the transfer of 228 civilian jobs from SVAD to MCAAP. It also involves the construction of MCAAP of a new headquarters/administration building, a new applied instruction facility, a new transportability text complex, and renovation of two existing structures for classroom and training aids space to support the USADACS.

The EA, which is incorporated into the Finding of No Significant Impact (FNSI), examines potential impacts of the proposed action and alternatives on 13 resource areas and areas of environmental concern: Land use, air quality, noise, water resources, geology, infrastructure, training areas, hazardous and toxic materials, biological resources and ecosystems, cultural resources, the sociological environment, economic development, and quality of life.

Based on the analysis found in the EA, which is hereby incorporated in this FNSI, it has been determined that the implementation of these realignments at MCAAP would have no significant or cumulatively significant impacts on the quality of the natural or human environment. Because no significant environmental impacts would result from implementation of the proposed action, an Environmental Impact Statement is not required and will not be prepared.

DATES: Inquiries will be accepted until January 27, 1997.

ADDRESSES: Copies of the EA and FNSI can be obtained by contacting Mr. Glen Coffee at the U.S. Army Corps of Engineers, Mobile District, ATTN: CESAM–PD–E, P.O. Box 2288, Mobile, Alabama 36628–0001 or by telephone at (334) 690–2729.

Dated: December 20, 1996.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health) OASA (I,L&E).

[FR Doc. 96–33008 Filed 12–27–96; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

[CFDA No. 84.163A]

Library Services to Indian Tribes and Hawaiian Natives Program—Basic Grants (Library Services and Construction Act, Title IV); Notice Inviting Applications for New Awards for Fiscal Year (FY) 1997

PURPOSE OF PROGRAM: Provides noncompetitive basic grants to eligible Indian tribes and to eligible Hawaiian native organizations to establish or improve public library services for Indian tribes and Hawaiian natives.

ELIGIBLE APPLICANTS: The Secretary makes grant awards to eligible applicants that have submitted approved applications for authorized activities under Title IV of the Library Services and Construction Act. Eligible applicants are——

(a) Indian tribes recognized by the Secretary of the Interior to be eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(b) Alaska Native villages or regional or village corporations as defined in or established under the Alaska Native Claims Settlement Act; however, two or more Alaska Native villages, regional corporations, or village corporations may not receive basic grant allocations to serve the same population; and

(c) Organizations primarily serving and representing Hawaiian natives and recognized by the Governor of Hawaii.

DEADLINE FOR TRANSMITTAL OF APPLICATIONS: February 24, 1997.

APPLICATIONS AVAILABLE: January 6, 1997.

AVAILABLE FUNDS: $966,518 for Indian Tribes; $644,345 for Hawaiian Natives.

ESTIMATED AVERAGE SIZE OF AWARDS: $4,602 for Indian Tribes; $644,345 for Hawaiian Natives.

ESTIMATED NUMBER OF AWARDS: 210 for Indian Tribes; 1 for Hawaiian Natives.

Note: The Department is not bound by any estimates in this notice.

PROJECT PERIOD: 12 months.

APPLICABLE REGULATIONS: The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74 and 82 (for grants to Hawaiian native organizations); 80 (for grants to Indian tribes); 75, 77, 81 and 85 (for grants to both Hawaiian natives and Indian tribes).

FOR APPLICATIONS OR INFORMATION CONTACT: Kathy Price, U.S. Department of Education, 555 New Jersey Ave. N.W., Room 300, Washington, DC 20208–5571. Telephone: (202) 219–1670. Internet Address: (kathy_price@ed.gov).

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server (at gopher://gcs.ed.gov); or on the World Wide Web (at http://gcs.ed.gov). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 351c(c)(2), 361(d), 364.

Dated: December 20, 1996.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 96–32941 Filed 12–26–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Draft Request for Proposals for Waste Acceptance and Transportation Services

AGENCY: Office of Civilian Radioactive Waste Management, U.S. Department of Energy.

ACTION: Request for comments on a draft request for proposals.

SUMMARY: The Office of Civilian Radioactive Waste Management (OCRWM) is responsible under the Nuclear Waste Policy Act, as amended, for accepting and transporting spent nuclear fuel (SNF) from commercial nuclear reactor sites to a Federal facility for storage or disposal. The Standard Contract for Disposal of Spent Fuel and/or High Level Waste (10 CFR Part 961) details the arrangements between the Department (DOE) and the owners and generators of SNF (Purchasers) for the Department to accept the SNF at the Purchasers' sites for transport to a Federal facility. Section 137(a)2 of the Nuclear Waste Policy Act, as amended, requires the utilization of private industry to the "fullest extent possible" in the transportation of SNF.

OCRWM anticipates seeking competitive proposals for commercial SNF acceptance, transportation and delivery services, including the provision of storage equipment, in accordance with the final version of this

draft Request for Proposals (RFP). In May 1996, OCRWM published in the **Federal Register** (61 FR 26508) and Commerce Business Daily, a Request for Expression of Interest and Comments on a previous draft Statement of Work (SOW) for these services. In July 1996, comments were sought from interested parties at a presolicitation conference. DOE is now requesting comments on all aspects of its proposed contracting approach embodied in this draft RFP. This version of the draft SOW, Section C, of this draft RFP has been changed, but the changes do not radically alter the approach or work scope.

DATES: Comments in response to this Notice should be received by the Department no later than March 31, 1997. It is anticipated that a presolicitation conference will be held in Washington, D.C. in February 1997 to discuss the draft RFP. A separate Notice will be issued identifying the date and exact location.

ADDRESSES: Written comments should be sent to: Michelle Miskinis, Contracting Officer, U. S. Dept. of Energy, 1000 Independence Ave. SW., Attention: HR–561.21, Draft RFP Number DE–RP01–97RW00320, Washington D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Ms. Michelle Miskinis (DOE/HR–561.21), 202–634–4413 or Ms. Beth Tomasoni (DOE/HR–561.21), 202–634–4408, (fax) 202–634–4419.

SUPPLEMENTARY INFORMATION: The following describes key features of the draft RFP:

Scope of Services:

Under the approach described in this draft RFP, DOE will purchase waste acceptance, transport and delivery services from a contractor-owned, contractor-operated operation. The contractor must: finance the project; acquire the transportation and storage system hardware needed to support the specified SNF delivery rates; apply for and receive required permits, licenses and approvals; interact with State, Tribal and local governments regarding institutional activities such as routing and prenotification; and provide any facilities needed to support the acquisition, transport and delivery operations of the system (unless provided otherwise) and deliver the SNF to a Federal storage or disposal facility. The contractor also will be required to deactivate facilities and equipment no longer required and dispose of all scrap and waste materials, including any hazardous and low level radioactive waste, generated through the performance of this contract. All costs for disposal of deactivated items, unused materials and waste materials will be the responsibility of the contractor.

The continental United States has been divided into four service regions for purposes of this procurement. To maximize competition, offerors will be expected to submit proposals to service each region in Phase A, but only one contractor per region will be authorized to proceed to Phase B. Offerors will be eligible to receive authorizations to proceed to Phase B for up to two regions. Contractors awarded contracts for a service region will be referred to as Regional Servicing Agents (RSA).

Project Risks

It is the intention of DOE's privatization approach to allocate the financial, regulatory, performance, and operational risks between DOE and the contractor in an equitable manner that both protects the interests of the Government and encourages industry participation. The draft RFP includes provisions for economic price adjustments and allowable financing costs in the event of a termination for convenience by the Government.

Because of the nature of the SNF, the contractor must operate in a strict regulatory environment. DOE's proposed approach is to rely, to the maximum extent practicable, on established and functioning external regulatory authorities while minimizing DOE involvement. The contractor must comply with all Nuclear Regulatory Commission and Department of Transportation rules and regulations governing the acquisition and operational phases of the procurement activity (Phases B and C, respectively). To the extent permitted by law, the contractor will be responsible for obtaining in its own name, and will be solely responsible for compliance with, all necessary permits, authorizations and approvals from Federal, state and local regulatory agencies and Tribal nations, and will assume the financial liability for any fines and penalties.

Contract Description

The draft RFP calls for a three-phased approach to the private sector's provision of the required services. In Phase A, which lasts one year, contractors will be required to develop four regional plans necessary for contractor acceptance and transportation of SNF and delivery of storage containers to a designated Federal facility. In Phase B, which lasts eight years, a contractor will develop the capability to implement the plans it prepared in Phase A. Phase B encompasses pre-operational start-up preparations prior to accepting SNF for transportation and delivery. It includes development and acquisition of required hardware and facilities, mobilization of resources and provision of initial storage systems and supporting hardware. Phase B would also include the production and delivery of storage equipment prior to the start of Phase C. Phase C, which will last five years, puts the contractor's plans into operation to accept and transport SNF. Initiation of Phase C is dependent on DOE establishing SNF receiving capability at a yet to be designated Federal facility. After receiving DOE authorization to begin Phase C, the contractor will commence waste acceptance and transportation operations and delivery of the SNF to the Federal facility.

DOE believes that there may be limited capacity to receive uncanistered SNF at initiation of Federal facility operations. It is expected that this capacity will increase as the Federal facility and RSA deployments progress during the first several years of operation and beyond. The RSA should consider use of canistered SNF shipments or some method of repackaging to the maximum extent practical during this transitional period. The site servicing plans prepared during Phase A should identify specific site applications where use of truck shipments (i.e., shipments of uncanistered SNF) may provide a clear advantage to the Department.

Contract Type

DOE intends to award one or more contracts in Phase A. DOE has structured the initial phase (Phase A) of the contract to be "cost-shared". DOE intends to offer the same ceiling fixed-price for work to all contractor(s) awarded Phase A contracts. Upon satisfactory completion of all Phase A deliverables, the contractor will receive the specified fixed-price irrespective of actual contractor costs. Certain of the Phase A contractors, based on delivered products, may be authorized to proceed with Phase B and C work.

No payments are expected to be made to the contractors during Phase B. Costs of Phase B work are expected to be recovered in the prices for Phase C services. Pricing of Phase C deliveries and pricing of potential Phase B and estimated Phase C termination costs will be developed and delivered during Phase A. Accordingly, after the successful completion of Phase A, DOE will not make payments to the contractor until commencement of SNF delivered at a designated Federal facility (Phase C). It is anticipated that payment

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will be made at a fixed unit price per metric ton of SNF delivered. This price may vary by service region.

Contract Award Period and Performance

This overall waste acceptance, transportation and storage project is anticipated to last approximately forty years. DOE therefore anticipates periodically seeking competitive proposals from potential offerors on a regional basis over the forty-year period. DOE's current plans call for the Phase A contract award(s) to be made in April 1998 based on a July 1997 RFP release date and up to five months for evaluation by DOE of Phase A deliverables. Phase B would begin approximately seventeen months after the award of Phase A contract(s), subject to completion of the National Environmental Policy Act (NEPA) review. Phase C is anticipated to commence at the end of the third year of Phase B, (i.e., year 2002) after Congress has designated a Federal storage location. Thereafter, waste acceptance and transportation services would be recompeted in five-year increments.

Comments

OCRWM is interested in receiving comments relating to the draft RFP regarding the acquisition of waste acceptance and transportation services, especially with regard to the following issues:

1. Creative approaches for RSAs to interact with State, Tribal and local governments and interested parties in addressing key institutional issues such as routing and prenotification.
2. Structuring the procurement to provide sufficient financial incentive and other appropriate risk allocating mechanisms between DOE and contractors in order for industry to provide waste acceptance and transportation services.
3. Appropriate financial safeguards for delay in commencement of Phase C as a result of a delay in the start of operations of a Federal facility.
4. Other possible approaches for the RSA's to maximize their ability to service purchasers who cannot accommodate large rail canisters.
5. Any other regulatory requirements, terms or conditions that DOE should consider in formulating this acquisition.

DOE will consider and may utilize all information, recommendations, and suggestions provided in response to this notice. Respondents should not provide any information that they consider to be privileged or confidential or which the respondent does not want disclosed to the public. DOE does not intend to respond to comments, either to individual commentors or by publication of a formal notice. Copies of all comments will be placed in the DOE Forrestal Building Public Reading Room. Each submittal should consist of one original and three photocopies.

This notice should not be construed (1) as a commitment by the Department to enter into any agreement with any entity submitting comments in response to this Notice, (2) as a commitment to issue any RFP concerning the subject of this Notice, or (3) as a request for proposals.

The solicitation will be available for downloading on the internet from the "Current Business Opportunities at Headquarters Procurement Operations" Home Page located at address http://www.pr.doe.gov./solicit.html. It is also available on the OCRWM Home Page located at http://www.rw.doe.gov/. Interested parties that do not have the electronic capability to download the solicitation shall submit a written request to the Contracting Officer at the address listed above.

Issued in Washington, D.C. on December 18, 1996.

Daniel A. Dreyfus,

Director, Office of Civilian Radioactive Waste Management.

[FR Doc. 96–32939 Filed 12–26–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. RP97–194–000]

El Paso Natural Gas Company, Notice of Proposed Changes in FERC Gas Tariff

December 20, 1996.

Take notice that on December 17, 1996, pursuant to Subpart C of Part 154 of the Commission's Regulations Under the Natural Gas Act, El Paso Natural Gas Company (El Paso) tendered for filing following tariff sheets, to become effective April 1, 1997:

Second Revised Volume No. 1–A

Original Sheet No. 210A
First Revised Sheet No. 211
Second Revised Sheet No. 217
Original Sheet No. 217A

El Paso states that these sheets are being tendered to modify El Paso's proposed pooling and intra-day scheduling tariff provisions that were originally proposed at Docket No. RP97–20–000.

El Paso requests waiver of the notice requirement of Section 154.207 of the Commission's Regulations to permit the tariff sheets to become effective April 1, 1997, when El Paso is scheduled to implement the GISB Standards.

El Paso states that copies of the filing were served upon all interstate pipeline system customers of El Paso and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 7, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–32894 Filed 12–26–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–155–000]

Panhandle Eastern Pipe Line Company; Notice of Request Under Blanket Authorization

December 20, 1996.

Take notice that on December 16, 1996, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP97–155–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct, own and operate an additional meter and appurtenant facilities at its existing metering station for Lafarge Corporation (Lafarge) in Paulding County, Ohio under Panhandle's blanket certificate issued in Docket No. CP83–83–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Panhandle's proposed facilities will consist of a two-inch turbine meter, approximately 60 feet of 2-inch pipe and appurtenant facilities. Panhandle states that the facilities will increase the capacity of the metering station from 17 Mcf per hour to 62 Mcf per hour and

that the volumes to be delivered would be with in the certificated entitlements of Lafarge. The estimated cost to modify the proposed facilities is approximately $40,000. Lafarge will reimburse Panhandle 100% of the total cost of the proposed project.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–32895 Filed 12–26–96; 8:45 am]

BILLING CODE 6717–01–M

Viking Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

[Docket No. RP97–195–000]

December 20, 1996.

Take notice that on December 18, 1996, Viking Gas Transmission Company (Viking) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets proposed to be effective January 15, 1997:

Substitute Fourth Revised Sheet No. 1
Substitute Second Revised Sheet No. 117
Substitute Second Revised Sheet No. 118
Substitute Fourth Revised Sheet No. 141
Substitute Original Sheet No. 142
Substitute Original Sheet No. 143
Substitute Original Sheet No. 144
Substitute Original Sheet No. 145
Substitute Original Sheet No. 146

Viking states that the purpose of this filing is to facilitate customer service on Viking's system by updating Viking's Customer Nomination Form (Sheet Nos. 117–118) and incorporating the Electronic Bulletin Board Access Service Agreement (Sheet Nos. 1, 141–146) in Viking's tariff. Viking originally filed the above-referenced tariff sheets as part of its Order No. 587 compliance filing on December 2, 1996. In the Letter Order issued on December 13, 1996 in Docket No. RP97–156–000, the Office of Pipeline Regulation rejected the above-referenced tariff sheets without prejudice as beyond the scope of Order No. 587 and found that "[t]hese tariff changes are more appropriately dealt with in a Section 4 filing." December 13, 1996 Letter Order, p. 1.

Accordingly, Viking is now filing these sheets under Section 4 of the Natural Gas Act, 15 U.S.C. § 717c (1994).

Viking states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–32896 Filed 12–26–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EG97–8–000, et al.]

P.H. Don Pedro, S.A., et al.; Electric Rate and Corporate Regulation Filings

December 19, 1996.

Take notice that the following filings have been made with the Commission:

1. In the Matter of P.H. Don Pedro, S.A.

[Docket No. EG97–8–000]

On December 11, 1996, P.H. Don Pedro, S.A., a corporation (sociedad WP) organized under the laws of Costa Rica ("Applicant"), with its principal place of business at Santo Domingo de Heredia del Hotel Bouganville 200 Mts. al Este de la Iglesia Católica (Primera Entrada Portón con Ruedas de Artilleria) Heredia, Costa Rica, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant intends to own and operate an approximately 14 megawatt (net), hydroelectric power production facility located in the District of Sarapiquí, Canton Alajuela, Province of Alajuela, Costa Rica.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Virginia Electric Power Company Richmond Power Enterprise, Richmond Power Enterprise L.P. and Enron Power Marketing, Inc., and Richmond Power Enterprise, L.P.

[Docket Nos. EC97–9–000, EL95–26–000 and QF90–104–002]

Take notice that on December 6, 1996, Virginia Electric Power Company (Virginia Power), Richmond Power Enterprise, L.P. (RPE), Enron Power Marketing, Inc. (EPMI) (collectively Applicants) filed joint applications for approval of disposition of Jurisdictional facilities and for approval of the transfer of wholesale power agreement. Specifically, the Applicants request approval for two related transactions: (1) the sale of 250 megawatt combined cycle cogeneration facility (the transfer to EPMI of RPE's interest in a Power Purchase and Operating Agreement between RPE and Virginia Power, under which RPE currently sells and Virginia Power purchases the entire electric capacity and energy output of the Facility. Additionally, RPE requests permission to withdraw the waiver application filed in Docket No. QF90–104–000 in regards to the Facility.

Comment date: January 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Jersey Central Power & Light Company, Metropolitan Edison Company, and Pennsylvania Electric Company

[Docket No. ER97–716–000]

Take notice that on December 9, 1996, GPU Service, Inc. (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (GPU Energy), filed an executed Service Agreement between GPU and The Power Company of America, LP (TPC), dated November 12, 1996. This Service Agreement specifies that TPC has agreed to the rates, terms and conditions of GPU Energy's Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995 in Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co., Docket No.

ER95–275–000 and allows GPU and TPC to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than GPU Energy's cost of service.

GPU requests a waiver of the Commission's notice requirements for good cause shown and an effective date of November 12, 1996 for the Service Agreement.

GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Florida Power & Light Company

[Docket No. ER97–717–000]

Take notice that on December 9, 1996, Florida Power & Light Company tendered for filing a proposed notice of cancellation of an umbrella service agreement with City of Tallahassee, Florida for Firm Short-Term transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed cancellation be permitted to become effective on July 9, 1996.

FPL states that this filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: January 3, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Maine Public Service Company

[Docket No. ER97–718–000]

Take notice that on December 9, 1996, Maine Public Service Company tendered for filing an executed Service Agreement with Sonat Power Marketing, L.P.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Portland General Electric Company

[Docket No. ER97–719–000]

Take notice that on December 9, 1996, Portland General Electric Company submitted an agreement with Pacific Northwest Generating Cooperative.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Portland General Electric Company

[Docket No. ER97–720–000]

Take notice that on December 9, 1996, Eugene Water & Electric Board submitted an agreement with Pacific Northwest Generating Coopertive.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Cinergy Services, Inc.

[Docket No. ER97–721–000]

Take notice that Cinergy Services, Inc. (Cinergy) on December 9, 1996, tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Interchange Agreement, dated November 1, 1996 between Cinergy, CG&E, PSI and Energy Transfer Group, L.L.C. (ETC).

The Interchange Agreement provides for the following service between Cinergy and ETG.

1. Exhibit A—Power Sales by ETG
2. Exhibit B—Power Sales by Cinergy

Cinergy and ETG have requested an effective date of December 16, 1996.

Copies of the filing were served on Energy Transfer Group, L.L.C., the Texas Public Utility Commission, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Cinergy Services, Inc.

[Docket No. ER97–722–000]

Take notice that Cinergy Services, Inc. (Cinergy) on December 9, 1996, tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Interchange Agreement, dated November 1, 1996 between Cinergy, CG&E, PSI and Morgan Stanley Group Inc. (Morgan Stanley).

The Interchange Agreement provides for the following service between Cinergy and Morgan Stanley.

1. Exhibit A—Confirmation Letter
2. Exhibit B—Power Sales by Morgan Stanley
3. Exhibit C—Power Sales by Cinergy

Cinergy and Morgan Stanley have requested an effective date of December 9, 1996.

Copies of the filing were served on Morgan Stanley Capital Group Inc., the New York Public Service Commission, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: Janaury 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Cinergy Services, Inc.

[Docket No. ER97–723–000]

Take notice that on December 9, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Interchange Agreement, dated November 1, 1996 between Cinergy, CG&E, PSI and Strategic Energy Management, Inc. (Strategic).

The Interchange Agreement provides for the following service between Cinergy and Strategic.

1. Exhibit A—Power Sales by Strategic
2. Exhibit B—Power Sales by Cinergy

Cinergy and Strategic have requested an effective date of December 16, 1996.

Copies of the filing were served on Strategic Energy Management, Inc., the New York Public Service Commission, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: Janaury 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Cinergy Services, Inc.

[Docket No. ER97–724–000]

Take notice that on December 9, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Non-Firm Power Sales Standard Tariff (the Tariff) entered into between Cinergy and Florida Power & Light Company.

Cinergy and Florida Power & Light Company are requesting an effective date of December 16, 1996.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Louisville Gas and Electric Company

[Docket No. ER97–725–000]

Take notice that on December 9, 1996, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Midcon Power Services Corp. under Rate GSS.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Arizona Public Service Company

[Docket No. ER97–726–000]

Take notice that on December 9, 1996, Arizona Public Service Company (APS), tendered for filing a Service Agreement to provide Non-Firm Point-to-Point Transmission Service to APS' Merchant Group under APS' Open Access Transmission Tariff filed in Compliance with FERC Order No. 888.

A copy of this filing has been served on the Arizona Corporation Commission.

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Comment date: Janaury 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Interstate Power Company

[Docket No. ER97–727–000]

Take notice that on December 9, 1996, Interstate Power Company (IPW), tendered for filing a Notice of Cancellation of its Electric Service Agreement with the Board of Trustees of Municipal Utilities of McGregor, Iowa filed with FERC under Original Volume No. 1.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Non-Replacement Energy Agreement between PJM Companies and Illinova Power Marketing, Inc.

[Docket No. ER97–728–000]

Take notice that on December 9, 1996, the Pennsylvania-New Jersey-Maryland (PJM) Interconnection Association filed, on behalf of the signatories to the PJM Agreement, a Non-Replacement Energy Agreement between Illinova Power Marketing, Inc., and Public Service Electric and Gas Company, PECO Energy Company, Pennsylvania Power & Light Company, Baltimore Gas and Electric Company, Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power and Light Company, Potomac Electric Power Company, Atlantic City Electric Company, and Delmarva Power & Light Company. The PJM companies request an effective date of December 27, 1996.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Portland General Electric Company

[Docket No. ER97–729–000]

Take notice that Portland General Electric Company (PGE) on December 10, 1996, tendered for filing a proposed cancellation of its FPC Electric Tariff, Original Volume No. 1.

PGE respectfully requests the Commission grant a waiver of the notice requirements to allow the cancellation to become effective December 30, 1996.

A copy of this filing was caused to be served upon the entities listed in the body of the filing letter.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Cinergy Services, Inc.

[Docket No. ER97–730–000]

Take notice that on December 10, 1996, Cinergy Services, Inc. (Cinergy) tendered for filing a service agreement under Cinergy's Non-Firm Power Sales Standard Tariff (the Tariff) entered into between Cinergy and Powertec International, L.L.C.

Cinergy and Powertec International, LLC are requesting an effective date of December 4, 1996.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. UtiliCorp United Inc.

[Docket No. ER97–731–000]

Take notice that on December 10, 1996, UtiliCorp United Inc. tendered for filing on behalf of its operating division, WestPlains Energy-Colorado, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 11, with *Arkansas Power Authority*. The Service Agreement provides for the sale of capacity and energy by WestPlains Energy-Colorado to *Arkansas River Power Authority* pursuant to the tariff.

UtiliCorp requests waiver of the Commission's Regulations to permit the Service agreement to become effective in accordance with its terms.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Ohio Power Company

[Docket No. ER97–732–000]

Take notice that Ohio Power Company (OPC), d/b/a American Electric Power (AEP), on December 10, 1996, tendered for filing with the Commission an agreement to establish a new delivery point dated March 14, 1996, between OPC and Buckeye Power, Inc. (Buckeye). Buckeye is an Ohio corporation not-for-profit, organized to own and operate facilities for the generation of electricity for mutual benefit for its members.

Buckeye has requested OPC provide a new delivery point pursuant to the provisions of the Power Delivery Agreement between OPC, Buckeye, The Cincinnati Gas & Electric Company, The Dayton Power and Light Company, Monongahela Power Company, Columbus Southern Power Company and Toledo Edison Company, dated January 1, 1968.

OPC states that copies of its filing were served upon the Buckeye Power, Inc. and the Public Utilities Commission of Ohio.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Consolidated Edison Company of New York, Inc.

[Docket No. ER97–733–000]

Take notice that on December 10, 1996, Consolidated Edison Company of New York. (Con Edison) tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to KIAC Partners (KIAC).

Con Edison states that a copy of this filing has been served by mail upon KIAC.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Consolidated Edison Company of New York, Inc.

[Docket No. ER97–734–000]

Take notice that on December 10, 1996, Consolidated Edison Company of New York. (Con Edison) tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to Electric Clearinghouse, Inc. (ECI).

Con Edison states that a copy of this filing has been served by mail upon ECI.

Comment date: Janaury 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Consolidated Edison Company of New York, Inc.

[Docket No. ER97–735–000]

Take notice that on December 10, 1996, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to Vitol Gas & Electric, L.L.C. (Vitol).

Con Edison states that a copy of this filing has been served by mail upon Vitol.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Consolidated Edison Company of New York, Inc.

[Docket No. ER97–736–000]

Take notice that on December 10, 1996, Consolidated Edison Company of New York (Con Edison) tendered for filing a Supplement to its Rate Schedule, Con Edison Rate Schedule FERC No. 129, a facilities agreement with Orange and Rockland Utilities, Inc. (O&R). The Supplement provides for an increase in the monthly carrying charges. Con Edison has requested that this increase take effect as of November 1, 1996.

Con Edison states that a copy of this filing has been served by mail upon O&R.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Consolidated Edison Company of New York, Inc.

[Docket No. ER97–737–000]

Take notice that on December 10, 1996, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing a Supplement to its Rate Schedule, Con Edison Rate Schedule FERC No. 117, an agreement to provide transmission and interconnection service to Long Island Lighting Company (LILCO). The Supplement provides for a decrease in the annual fixed carrying charges. Con Edison has requested that this decrease take effect as of October 1, 1996.

Con Edison states that a copy of this filing has been served by mail upon LILCO.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. The Cleveland Electric Illuminating Company

[Docket No. ER97–739–000]

Take notice that on December 10, 1996, The Cleveland Electric Illuminating Company (CEI), tendered for filing with the Federal Energy Regulatory Commission agreements between CEI and TransCanada Power Corp.; International Utility Consultants, Inc.; AES Power, Inc.; Federal Energy Sales, Inc.; Tennessee Power Company; and Wabash Valley Power Association, Inc.

CEI requests that the agreements be allowed to become effective on December 10, 1996.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Southern California Edison Company

[Docket No. ER97–740–000]

Take notice that on December 10, 1996, Southern California Edison Company (Edison) tendered for filing revisions to the wholesale interruptible tariff, Rate Schedule IR–1.0 between Edison and the Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California and between Edison and the City of Vernon, California, FERC Rate Schedule Nos. 15.30, 16.25, 21.27, 31.26, 17.31, and 13.33, respectively.

Rate Schedule IR–1.0 is being revised to conform to changes authorized in Edison's retail interruptible tariff by the California Public Utilities Commission in Resolution E–3474. Edison requests that the Commission assign an effective date of February 8, 1997.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Great Bay Power Corporation

[Docket No. ER97–741–000]

Take notice that on December 10, 1996, Great Bay Power Corporation (Great Bay) tendered for filing a service agreement between USGen Power Services, L.P. and Great Bay for service under Great Bay's revised Tariff for Short Term Sales. This Tariff was accepted for filing by the Commission on May 17, 1996, in Docket No. ER96–726–000. The service agreement is proposed to be effective November 18, 1996.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. The United Illuminating

[Docket No. ER97–743–000]

Take notice that on December 11, 1996, The United Illuminating Company (UI) tendered for filing a Service Agreement, dated November 15, 1996, between UI Transmission and UI Power Marketing for non-firm point-to-point transmission service under UI's Open Access Transmission Tariff, FERC Electric Tariff, Original Volume No. 4, as supplemented.

UI requested an effective date of November 15, 1996 for the Service Agreement. Copies of the filing were served upon UI Power Marketing and upon Robert J. Murphy Executive Secretary, Connecticut Department of Public Utility Control.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. UtiliCorp United Inc.

[Docket No. ER97–744–000]

Take notice that on December 10, 1996, UtiliCorp Inc. tendered for filing on behalf of its operating division, WestPlains Energy-Colorado, an amended and restated Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 11, with VTEC Energy Inc. The Service Agreement provides for the sale of capacity and energy by WestPlains Energy-Colorado to VTEC Energy Inc, pursuant to the tariff, and for the sale of capacity and energy by VTEC Energy Inc. to WestPlains Energy-Colorado pursuant to VTEC Energy Inc.'s Rate Schedule No. 1.

UtiliCorp also has tendered for filing a Certificate of Concurrence by VTEC Energy Inc.

UtiliCorp requests waiver of the Commission's Regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. UtiliCorp United Inc.

[Docket No. ER97–745–000]

Take notice that on December 10, 1996, UtiliCorp United Inc. tendered for filing on behalf of its operating division, Missouri Public Service, an amended and restated Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 10, with VTEC Energy Inc. The Service Agreement provides for the sale of capacity and energy by Missouri Pubic Service to VTEC Energy Inc, pursuant to the tariff, and for the sale of capacity and energy by VTEC Energy Inc. to Missouri Public Service pursuant to VTEC Energy Inc.'s Rate Schedule No. 1.

UtiliCorp also has tendered for filing a Certificate of Concurrence by VTEC Energy Inc.

UtiliCorp requests waiver of the Commission's Regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

31. UtiliCorp United Inc.

[Docket No. ER97–746–000]

Take notice that on December 10, 1996, UtiliCorp Inc. tendered for filing on behalf of its operating division, WestPlains Energy-Kansas, an amended and restated Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 12, with VTEC Energy Inc. The Service Agreement provides for the sale of capacity and energy by WestPlains Energy-Kansas to VTEC Energy Inc., pursuant to the tariff and for the sale of capacity and energy by VTEC Energy Inc. to WestPlains Energy-Kansas pursuant to VTEC Energy Inc.'s Rate Schedule No. 1.

UtiliCorp also has tendered for filing a Certificate of Concurrence by VTEC Energy Inc.

UtiliCorp requests waiver of the Commission's Regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

32. Duke Power Company

[Docket No. ER97–747–000]

Take notice that on December 10, 1996, Duke Power Company (Duke)

tendered for filing a Transmission Service Agreement (TSA) between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light Company, and Coral Power, L.L.C. (Coral Power). Duke states that the TSA sets out the transmission arrangements under which Duke will provide Coral Power non-firm point-to-point transmission service under its Pro Forma Open Access Transmission Tariff.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

33. Duke Power Company

[Docket No. ER97–748–000]

Take notice that on December 10, 1996, Duke Power Company (Duke) tendered for filing a Service Agreement for Market Rate (Schedule MR) Sales between Duke and American Electric Power Service Corporation (AEP) dated September 20, 1996. Duke requests an effective date of December 4, 1996.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

34. Jersey Central Power & Light Company, Metropolitan Edison Company, and Pennsylvania Electric Company

[Docket No. ER97–749–000]

Take notice that on December 11, 1996, GPU Service, Inc. (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (GPU Energy) filed an executed Service Agreement between GPU and AYP Energy, Inc. (AYPE), dated December 3, 1996. This Service Agreement specifies that AYPE has agreed to the rates, terms and conditions of GPU Energy's Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995 in Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co., Docket No. ER95–276–000 and allows GPU and AYPE to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than GPU Energy's cost of service.

GPU requests a waiver of the Commission's notice requirements for good cause shown and effective date of December 3, 1996 for the Service Agreement.

GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

35. Jersey Central Power & Light Company, Metropolitan Edison Company, and Pennsylvania Electric Company

[Docket No. ER97–750–000]

Take notice that on December 11, 1996, GPU Service, Inc. (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (GPU Energy) filed an executed Service Agreement between GPU and V TEC Energy, Inc. (VTEC), dated November 27, 1996. This Service Agreement specifies that VTEC has agreed to the rates, terms and conditions of GPU Energy's Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995 in Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co., Docket No. ER95–276–000 and allows GPU and VTEC to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than GPU Energy's cost of service.

GPU requests a waiver of the Commission's notice requirements for good cause shown and effective date of November 27, 1996 for the Service Agreement.

GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

36. Kentucky Utilities Company

[Docket No. ER97–751–000]

Take notice that on December 11, 1996, Kentucky Utilities Company (KU) tendered for filing non-firm transmission service agreements with Federal Energy Sales, Inc. and Carolina Power & Light under its Transmission Services (TS) Tariff.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

37. Kentucky Utilities Company

[Docket No. ER97–752–000]

Take notice that on December 11, 1996, Kentucky Utilities Company (KU) tendered for filing a service agreement with South Carolina Electric & Gas Company under its Power Services (PS) Tariff.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

38. Jersey Central Power & Light Company, Metropolitan Edison Company, and Pennsylvania Electric Company

[Docket No ER97–753–000]

Take notice that on December 11, 1996, GPU Energy (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (jointly referred to as GPU Energy) filed a Service Agreement between GPU and Equitable Power Services Company (Equitable) dated November 20, 1996. This Service Agreement specifies that Equitable has agreed to the rates, terms and conditions of the GPU Companies' open access transmission tariff filed on July 9, 1996 in Docket OA96–114–000.

GPU requests a waiver of the Commission's notice requirements for good cause shown and an effective date of November 20, 1996, for the Service Agreement. GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania and on Equitable.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

39. New England Power Company

[Docket No. ER97–754–000]

Take notice that on December 11, 1996, New England Power Company (NEP) filed a Service Agreement with The Power Company of America for non-firm, point-to-point transmission service under NEP's open access transmission tariff, FERC Electric Tariff, Original Volume No. 9.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

40. Pennsylvania Power & Light Company

[Docket No. ER97–755–000]

Take notice that on December 11, 1996, Pennsylvania Power & Light Company (PP&L) filed a Service Agreement, dated August 3, 1996, with National Gas & Electric L.P. (National) for the sale of capacity and/or energy under PP&L's Short Term Capacity and Energy Sales Tariff. The Service Agreement adds National as an eligible customer under the Tariff.

PP&L requests an effective date of December 11, 1996, for the Service Agreement.

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PP&L states that copies of this filing have been supplied to National and to the Pennsylvania Public Utility Commission.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

41. Pennsylvania Power & Light Company

[Docket No. ER97–756–000]

Take notice that on December 11, 1996, Pennsylvania Power & Light Company (PP&L) filed a Service Agreement, dated September 26, 1996, with AYP Energy, Inc. (AYP) for the sale of capacity and/or energy under PP&L's Short Term Capacity and Energy Sales Tariff. The Service Agreement adds AYP as an eligible customer under the Tariff.

PP&L requests an effective date of December 11, 1996, for the Service Agreement.

PP&L states that copies of this filing have been supplied to AYP and to the Pennsylvania Public Utility Commission.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–32938 Filed 12–26–96; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5670–9]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Contractor Cumulative Claim and Reconciliation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Contractor Cumulative Claim and Reconciliation; OMB Control No. 2030–0016; expiration date 3/31/97. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 27, 1997.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 0246.06.

SUPPLEMENTARY INFORMATION:

Title: Contractor Cumulative Claim and Reconciliation; OMB Control No. 2030–0016; EPA ICR No. 0246.06. This is a request for extension of a currently approved collection.

Abstract: At the conclusion of cost reimbursable contracts, contractors will report the cumulative costs incurred, including direct labor, materials, supplies, equipment, other direct costs, subcontracting, consultant fees, indirect costs and fixed fee. Contractors will report this information one time on EPA Form 1900–10. EPA will use this information to reconcile the contractor's costs. Establishment of the final costs and fixed fee is necessary for closeout of the contract.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 10/7/96 (61 FR 52449). No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 40 minutes hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to adjust the existing methods to comply with any previously applicable instructions and requirements; to train personnel to be able to respond to a collection of information; to search data sources; complete and review the collection of information; and to transmit or otherwise disclose the information.

Respondents/Affected Entities: Contractors with cost reimbursable contracts.

Estimated Number of Respondents: 65.

Frequency of Response: One per contract in closeout status.

Estimated Total Annual Hour Burden: 42.9 hours.

Estimated Total Annualized Cost Burden: $1,133.60.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 246.06 and OMB Control No. 2030–0016 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460
and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW Washington, DC 20503.

Dated: December 20, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–32966 Filed 12–26–96; 8:45 am]

BILLING CODE 6560–50–P

[ER-FRL–5476–2]

Environmental Impact Statements; Notice of Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly receipt of Environmental Impact Statements Filed December 16, 1996 Through December 20, 1996 Pursuant to 40 CFR 1506.9.

EIS No. 960579, FINAL EIS, NPS, AZ, Tumacacori National Historical Park, General Management Plan (GMP), Implementation, Santa Cruz County, AZ, Due: January 27, 1997, Contact: Dan Olson (416) 744–3968.

EIS No. 960580, FINAL EIS, MMS, AL, TX, MS, LA, Central and Western Planning Areas, Gulf of Mexico 1997

Outer Continental Shelf Oil and Gas Sales 165 (March 1997) and 168 (August 1997) Lease Offering, Offshore Marine Environment and coastal counties, Parishes of AL, MS, TX and LA, Due: January 27, 1997, Contact: Archie Melancon (703) 787–1547.

EIS No. 960581, REVISED FINAL EIS, AFS, SD, WY, Black Hills National Forest, 1996 Revision to Land and Resource Management Plan, Implementation, Custer, Lawrence and Meade Cos., SD and Crook and Weston Cos., WY, Due: January 27, 1997, Contact: John Rupe (605) 673–2251.

EIS No. 960582, FINAL EIS, SFW, NM, AZ, Mexican Wolf (Canis lupus baileyi) Reintroduction within the Historic Range, Implementation, in the Southwestern United States, Catron, Dona Ana, Grant and Lincoln Counties, NM and Apache and Greenlee Counties, AZ, Due: January 24, 1997, Contact: David R. Parsons (505) 248–6656.

EIS No. 960583, DRAFT SUPPLEMENT, FHW, NC, Wilmington Bypass Transportation Improvement Program, Updated Information, Construction from I–40 to US 421, Funding, NPDES and US Coast Guard, and COE Section 10 and 404 Permits, New Hanover County, NC, Due: March 14, 1997, Contact: Nicholas L. Graf, P.E. (919) 856–4346.

EIS No. 960584, DRAFT EIS, USA, DC, Naval Sea Systems Command Headquarters (NAVSEA), Base Realignment and Closure Action, Relocation from Arlington, VA to Washington Navy Yard (WNY) in southeast Washington, DC, Due: February 10, 1997, Contact: Kim DePaul (703) 604–1233.

EIS No. 960585, FINAL EIS, AFS, CA, Cavanah Multi-Resource Management Project, Implementation, Enchancing Forest Health and Productivity, Tahoe National Forest, Foresthill Ranger District, Placer County, CA, Due: January 27, 1997, Contact: John Bradford (916) 478–6254.

EIS No. 960586, DRAFT EIS, AFS, MT, Basin Creek Drainage, Salvage Timber and Watershed Rehabilitation, Kootenai National Forest, Three Rivers Ranger District, Lincoln County, MT, Due: February 10, 1997, Contact: Jeanne Higgins (406) 295–4693.

EIS No. 960587, DRAFT EIS, AFS, OR, Robinson-Scott Landscape Management Project, Timber Harvest and other Vegetation Management, Willamette National Forest, McKenzie Ranger District, Lane and Linn Counties, OR, Due: February 10, 1997, Contact: John Allen (541) 822–3381.

EIS No. 960588, DRAFT SUPPLEMENT, COE, NJ, DE, PA, Delaware River Comprehensive Navigation Channel Improvement, Additional Information, Beckett Street Terminal in New Jersey through Philadelphia Harbor, Implementation, several counties, NJ, DE and PA, Due: February 17, 1997, Contact: John Brady (215) 656–6555.

EIS No. 960589, FINAL EIS, FHW, PA, US 220 Transportation Improvements Project, Bald Eagle Village to Interstate 80 (I–80), Funding and COE Section 404 Permit, Blair and Centre Counties, PA, Due: February 10, 1997, Contact: Manuel A. Marks (717) 782–3461.

EIS No. 960590, DRAFT EIS, AFS, NV, Griffon Mining Project, Implementation, Issuance Plan of Operations Approval, Humboldt-Toiyabe National Forests, Ely Ranger District, White Pine County, NV, Due: February 10, 1997, Contact: David Valenzuela (702) 289–3036.

EIS No. 960591, DRAFT SUPPLEMENT, EPA, TX, Oak Hill Surface Lignite Mine (formerly known as the Martin Lake D Area Mine) Expansion into the DIII Area, Modification/Reissuance of a New Source NPDES Permit, Rusk County, TX, Due: February 10, 1997, Contact: Robert D. Lawrence (214) 665–2258.

EIS No. 960592, DRAFT EIS, SFW, WA, ID, WY, OR, MT, NV, and UT, Programmatic EIS—Impact of Artificial Salmon and Steelhead Production Strategies in the Columbia River Basin, Implementation, WA, OR, ID, WY, MT, NV and UT, Due: February 10, 1997, Contact: Ben Harrison (503) 231–2068.

EIS No. 960593, DRAFT EIS, USN, PA, Naval Air Warfare Center Aircraft Division (NAWCAD) Warminster, Disposal and Reuse, Bucks County, PA, Due: February 10, 1997, Contact: Kurt C. Frederick (610) 595–0728.

EIS No. 960594, REVISED FINAL EIS, USA, OR, Umatilla Depot Activity, Revision to Disposal of Chemical Agents and Munitions Stored, Construction and Operation, Morrow and Umatilla Counties, OR, Due: January 27, 1997, Contact: Kate Miller (410) 671–4181.

EIS No. 960595, DRAFT EIS, FHW, MN, MN–TH–14 Corridor Reconstruction, MN–TH–60 to I–35, Funding and COE Section 404 Permit Issuance, Blue Earth, Waseca and Steele Counties, MN, Due: February 10, 1997, Contact: Cheryl Martin (612) 291–6120.

Dated: December 23, 1996.

B. Katherine Biggs,

Associate Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 96–32999 Filed 12–26–96; 8:45 am]

BILLING CODE 6560–50–U

[OPP–00464; FRL–5581–7]

National Workshop on the Regulation of Antimicrobial Pesticides; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Office of Pesticide Programs (OPP) is hosting the National Workshop on the Regulation of Antimicrobial Pesticides to bring together the antimicrobial community for the first time to discuss the new law and the new legislation. The workshop will focus on the impact of The Food Quality Protection Act (FQPA) on antimicrobial regulation, establishing the new division, addressing immediate and long-term policy and process concerns, eliminating the current backlog of applications, and establishing a streamlined antimicrobial registration process. The two day forum will include plenary and breakout sessions.

DATES: The meeting will take place on January 8, 1997, from 9 a.m to 5:30 p.m., and January 9, 1997 from 8:30 a.m. to 5:30 p.m.

ADDRESS: The meeting will be held at: The Grand Hyatt Washington, 1000 H St., NW., Washington, DC, (202) 582–1234.

FOR FURTHER INFORMATION CONTACT: By mail: Susan Lawrence, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 1921 Jefferson Davis Highway, Room 1114F, Arlington, VA; (703) 305–5454: e-mail: lawrence.susan@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The Food Quality Protection Act (FQPA), signed into law on August 3, 1996, (Public Law 104–170) amended the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA) to reform and expedite the antimicrobial pesticide registration process. Within the same time frame, the OPP reorganization scheme included the formation of a new division to handle antimicrobial product registrations. The two events create a unique opportunity to better address the registration of antimicrobial products.

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Registration information may be obtained by contacting Debra Rainey, TASCON, 7101 Wisconsin Avenue, Suite 1125, Bethesda, MD, 20814; (301) 907–3844; fax number (301) 907–9655. Space is limited to 300 participants.

List of Subjects

Enviornmental protection.

Dated: December 20, 1996.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 96–32973 Filed 12–26–96; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5671–2]

Good Neighbor Environmental Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act (P.L. 92–463), the U.S. Environmental protection Agency gives notice of a meeting of the Good Neighbor Environmental Board.

The Good Neighbor Environmental Board was created by the Enterprise for the Americas Initiative Act of 1992. An Executive Order delegates implementing authority to the Administrator of EPA. The Board is responsible for advising the President and the Congress on environmental and infrastructure issues and needs within the States contiguous to Mexico. The statute calls for the Board to have governmental and nongovernmental representatives from the States of Arizona, California, New Mexico and Texas, and from U.S. Government agencies. The Board meets at least twice annually.

The Board's agenda will focus primarily on discussion of federal agency programs in the border region and the Board's Annual Report to the President and the Congress.

The meeting is open to the public, with seating on a first-come, first-served basis. Members of the public are invited to provide oral and/or written comments to the Board. Time will be provided on February 6, 1997, to obtain input from the public.

DATES: The Board will meet on February 6 and 7, 1997. The Board will meet on February 6, 1997 from 8:30 a.m. to 5:30 p.m., and on February 7, 1997 from 8:00 a.m. to 2:00 p.m.

ADDRESSES: The Camino Real Hotel, 101 S. El Paso Street, El Paso, Texas 79901.

FOR FURTHER INFORMATION: Contact Mr. Robert Hardaker, Designated Federal Officer, U.S. EPA, Office of Cooperative Environmental Management, telephone 202–260–2477.

Date: December 17, 1996.

Robert Hardaker,

Designated Federal Officer, Good Neighbor Environmental Board.

[FR Doc. 96–32965 Filed 12–26–96; 8:45 am]

BILLING CODE 6560–50–M

[OPP–340105; FRL 5577–9]

Notice of Receipt of Requests for Amendments to Delete uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on June 25, 1997.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Office location for commercial courier delivery and telephone number: Room 216, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA, provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the 26 pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names, active ingredients and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before June 25, 1997 to discuss withdrawal of the applications for amendment. This 180–day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion.

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
000100–00461**	D-Z-N Diazinon AG500	Diazinon	Pineapple, trefoil
000100–00524**	D-Z-N Diazinon MG 87%	Diazinon	Lawns (all granular products with greater than 5% active ingredient), olives, peanuts, pecans, rangegrass, pasture grasses, soybeans, sugarcane, walnuts (all States except CA, OR WA), wheat
001448–00107	Metam Concentrate	Metam-sodium	Control of roots and fungi in sewer systems
001812–00257	Direx 4L	Diuron	Bermudagrass
001812–00362	Direx 80DF	Diuron	Bermudagrass
002217–00077	LV400 2,4-D Weed Killer	Acetic acid, (2,4- dichlorophenoxy)-, 2- ethylhexyl ester)	Drainage ditchbanks
002217–00314	20% Granular 2,4-D Low Volatile	Acetic acid, (2,4- dichlorophenoxy)-, 2- ethylhexyl ester)	Aquatic uses

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
002217–00354	Lawn Weed Killer Granules	Acetic acid, (2,4- dichlorophenoxy)-, 2- ethylhexyl ester)	Aquatic uses
002217–00413	600LV 2,4-D Weed Killer	Acetic acid, (2,4- dichlorophenoxy)-. 2- ethylhexyl ester)	Drainage ditchbanks
002217–00468	LV6 2,4-D Weed Killer	Acetic acid, (2,4- dichlorophenoxy)-, 2- ethylhexyl ester	Drainage ditchbanks
002217–00648	Gordon's Brushkiller 801	Acetic acid, (2,4- dichlorophenoxy)-, 2- ethylhexyl ester	Drainage ditchbanks
002217–00651	Trimec 800 Herbicide	Acetic acid, (2,4- dichlorophenoxy)-, 2- ethylhexyl ester	Drainage ditchbanks
002217–00706	Best 4 Servis Brand 2,4-D Isooctyl Ester Technical	Acetic acid, (2,4- dichlorophenoxy)-, 2- ethylhexyl ester	Rice, sugarcane, aquatic uses
002217–00758	Trimec 937 Herbicide	Acetic acid, (2,4- dichlorophenoxy)-, 2- ethylhexyl ester	Drainage ditchbanks
002217–00774	EH 1068 Trimec Ester	Acetic acid, (2,4- dichlorophenoxy)-, 2- ethylhexyl ester	Drainage ditchbanks
002217–00775	EH 1073 Trimec Ester	Acetic acid, (2,4- dichlorophenoxy)-, 2- ethylhexyl ester	Drainage ditchbanks
002217–00804	Technical 2,4-D Low Volatile Ester	Acetic acid, (2,4- dichlorophenoxy)-, 2- ethylhexyl ester	Rice, sugarcane, aquatic uses
003125–00236	NEMACUR 15% Granular	Fenamiphos	Citrus uses
034704–00006	Clean Crop LV-6 Ester Weed Killer	Acetic acid, (2,4- dichlorophenoxy)-, 2- ethylhexyl ester	Drainage ditchbanks
034704–00124	Clean Crop Low Vol 4 Ester Weed Killer	Acetic acid, (2,4- dichlorophenoxy)-, 2- ethylhexyl ester	Drainage ditchbanks
034704–00125	Clean Crop Low Vol 6 Ester Weed Killer	Acetic acid, (2,4- dichlorophenoxy)-, 2- ethylhexyl ester	Drainage ditchbanks
034704–00607	Clean Crop Low Volatile 2D-2DP Herbicide	Acetic acid, (2,4- dichlorophenoxy)-, 2- ethylhexyl ester	Drainage ditchbanks
062719–00008	Esteron 6E	Acetic acid, (2,4- dichlorophenoxy)-, 2- ethylhexyl ester	Drainage ditchbanks
062719–00009	Weed Killer 4D	Acetic acid, (2,4- dichlorophenoxy)-, 2- ethylhexyl ester	Sugarcane, drainageditchbanks
068119–00002	WILFARM 2,4-D LV4	Acetic acid, (2,4- dichlorophenoxy)-, 2- ethylhexyl ester	Aquatic weed control,sugarcane, drainage ditchbanks, aquatic applications
068119–00003	WILFARM 2,4-D LV6	Acetic acid, (2,4- dichlorophenoxy)-, 2- ethylhexyl ester)	Aquatic weed control, sugarcane, drainage ditchbanks, aquatic applications

** – Additional deleted uses announced in FEDERAL REGISTER (61 FR 50294), September 25, 1996

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2. — REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
000100	Ciba-Geigy Corporation, Ciba Crop Protection, P.O. Box 18300, Greensboro, NC 27419.
001448	Buckman Laboratories, 1256 North McLean Blvd., Memphis, TN 38108.
001812	Griffin Corporation, P.O. Box 1847, Valdosta, GA 31603.
002217	PBI/Gordon Corp., 1217 W. 12th Street, P.O. Box 4090, Kansas City, MO 64101.
003125	Bayer Corporation, Agriculture Div., 8400 Hawthorn Rd., P.O. Box 4913, Kansas City, MO 64120.
034704	Platte Chemical Co., 419 18th Street, P.O. Box 667, Greeley, CO 80632.
062719	DowElanco, 9330 Zionsville Road, Indianapolis, IN 46268.
068119	Wilfarm L.L.C., 5401 N. Oak Trafficway, Gladstone, MO 64118.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: December 18, 1996.

Linda A. Travers,

Acting Director, Program Management and Support Division, Office of Pesticide Programs.

[FR Doc. 96–32974 Filed 12–26–96; 8:45 am]

BILLING CODE 6560–50–F

FARM CREDIT ADMINISTRATION

Privacy Act of 1974; Establishment of a New System of Records

AGENCY: Farm Credit Administration.

ACTION: Notice of establishment of a new system of records maintained on individuals; request for comments.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Farm Credit Administration (FCA) is publishing a system notice, which indicates the establishment of a new Privacy Act system of records. The system notice provides information on the existence and character of the system of records for Internet access.

DATES: Written comments should be received by January 27, 1997. The FCA filed a New System Report with Congress and the Office of Management and Budget on December 20, 1996. This notice will be adopted without further publication on February 19, 1997, unless modified by a subsequent notice to incorporate comments received from the public.

ADDRESSES: Written comments may be mailed (in triplicate) to Debra Buccolo, Privacy Act Officer, in care of Cindy Nicholson, Farm Credit Administration, McLean, Virginia 22102–5090. Copies of all communications received will be available for examination by interested parties in the offices of the Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Debra Buccolo, Privacy Act Officer, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4022, TDD (703) 883–4444.

or

Jane Virga, Office of General Counsel, Farm Credit Administration, McLean, Virginia, 22102–5090, (703) 883–4071, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: As required by the Privacy Act of 1974, the FCA has identified a new system of records. The notice reflects designated points of contact for inquiring about the system, accessing the records, and requesting amendments to the records.

The new system of records is: FCA–19, FCA Internet Access System. As required by 5 U.S.C. 552a(r) of the Privacy Act, as amended, the FCA has sent notice of this proposed system of records to the Office of Management and Budget, the Committee on Government Reform and Oversight of the House of Representatives, and the Committee on Governmental Affairs of the Senate. The notice is published in its entirety below.

FCA–19

SYSTEM NAME:

FCA Internet Access System.

SYSTEM LOCATION:

Records are located at the Farm Credit Administration.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former FCA employees since November 1996.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information pertaining to an employee's access to the Internet, including the employee's name, Web sites visited, dates, and times.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 U.S.C. 2243, 2252.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In the event that information in this record system indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

Information in this record system may be disclosed as a routine use to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision concerning the hiring or retention of an employee, the letting of a contract, or the issuance of a grant or other benefit.

Information in this record system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of and investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

It shall be a routine use of the records in this system of records to disclose them to the Department of Justice or to disclose them in a proceeding before a court or adjudicative body before which the Agency is authorized to appear, when

(a) The Agency, or any component thereof; or

(b) Any employee of the Agency in his or her official capacity; or

(c) Any employee of the Agency in his or her individual capacity where the Department of Justice or the Agency has agreed to represent the employee; or

(d) The United States, where the Agency determines that litigation is likely to affect the Agency or any of its components,

is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the use of such records in the proceeding is deemed by the Agency to be relevant and necessary to the litigation, provided, however, that in each case, the Agency determines that disclosure of the records to the Department of Justice or the disclosure of such records in the proceeding is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

In the event that information in this record system is needed in the course of presenting evidence to a court, magistrate, or administrative tribunal, the relevant records may be referred, as a routine use, to the appropriate person to use as evidence.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information stored electronically.

RETRIEVABILITY:

Electronically retrievable by name.

SAFEGUARDS:

Access is limited to those whose official duties require access.

RETENTION AND DISPOSAL:

In accordance with National Archives and Records Administration General Records schedule requirements.

SYSTEM MANAGER(S) AND ADDRESSES:

Director, Office of Resources Management, Farm Credit Administration, McLean, VA 22102–5090.

NOTIFICATION PROCEDURE:

All inquiries about this system of records shall be addressed to: Privacy Act Officer, Farm Credit Administration, McLean, VA 22102–5090.

RECORD ACCESS PROCEDURES:

Requests for access to a record shall be directed to: Privacy Act Officer, Farm Credit Administration, McLean, VA 22102–5090, as provided in 12 CFR 603.310.

CONTESTING RECORD PROCEDURES:

Requests for amendments of a record shall be directed to: Privacy Act Officer, Farm Credit Administration, McLean, VA 22101–5090, as provided in 12 CFR 603.330.

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies or comes from information supplied by Agency officials.

Dated: December 20, 1996.

Jeanette Brinkley,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 96–32923 Filed 12–26–96; 8:45 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections being Reviewed by the Federal Communications Commission

December 19, 1996.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarify of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments February 25, 1997.

ADDRESSES: Direct all comments to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–0756.

Title: Procedural Requirements and Policies for Commission Processing Bell Operating Company Applications for the Provision of In-Region, InterLATA Services Under Section 271 of the Communications Act.

Form No.: N/A.

Type of Review: Extension.

Respondents: Businesses or other for profit.

Number of Respondents: 57.

Estimated Time Per Response: 292 hours (avg.)

Total Annual Burden: 16,660 hours.

Needs and Uses: The Commission issued a Public Notice (FCC 96–469) that establishes various procedural requirements and policies relating to the Commission's processing of Bell Operating Company (BOC) applications to provide in-region, interLATA services pursuant to Section 271 of the Communications of 1934, as amended. Among other things, BOCs must file applications which provide information on which the applicant intends to rely in order to satisfy the requirements of Section 271; state regulatory commission will file written consultations relating to the applications; and the Department of Justice will file written consultations relating to the applications. All of the requirements would be used to ensure that BOCs have complied with their obligations under the Communications Act of 1934, as amended before being authorized to provide in-region, interLATA services pursuant to Section 271.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 96–32869 Filed 12–26–96; 8:45 am]

BILLING CODE 6712–01–P

Notice of Public Information Collections Submitted to OMB for Review and Approval December 19, 1996

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before January 27, 1997. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should

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advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov and Timothy Fain, OMB Desk Officer, 10236 NEOB 725 17th Street, NW., Washington, DC 20503 or fain—t@a1.eop.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–0730.
Title: Toll Free Service Access Codes—800/888 Number Release Procedures.
Form No.: N/A.
Type of Review: Extension of a currently approved collection.
Respondents: Businesses or other for profit.
Number of Respondents: 18,660.
Estimated Time Per Response: 1 hour.
Total Annual Burden: 18,660 hours.
Needs and Uses: The Commission has instructed Database Service Management, Inc. (DSMI) to collection authorization from the current 800 number subscriber and its Responsible Organization or the Toll Free Service Provider declining interim protection for the corresponding 888 number. DSMI will not release the 888 number from the pool of unavailable numbers into the general of pool of toll free numbers until it receives these authorizations.

OMB Approval No.: 3060–0404.
Title: Application for FM Translator or FM Booster Station License.
Form No.: FCC 350.
Type of Review: Revision of a currently approved collection.
Respondents: Businesses or other for profit.
Number of Respondents: 250.
Estimated Time Per Response: 3.5 hour.
Total Annual Burden: 875 hours.
Needs and Uses: Licensees and permittees of FM Translators or FM Booster Stations are required to file FCC 350 to obtain a new or modified station license. This form will be revised to add the new requirements regarding antenna tower registeration. This unique antenna registration number identifies an antenna structure and must be used on all filings related to the antenna structure. Several questions will be added to the engineering portion of the form to collection this information. The data on the form 350 is used to confirm that the station has been built to terms specified in the outstanding construction permit.

Federal Communications Commission.
Shirley S. Suggs,
Chief, Publications Branch.
[FR Doc. 96–32868 Filed 12–26–96; 8:45 am]
BILLING CODE 6712–01–P

Notice of Public Information Collections Submitted to OMB for Emergency Review and Approval

December 20, 1996.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other federal agencies to take this opportunity to comment on the following emergency information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility, the accuracy of the Commission's burden estimate, ways to enhance the quality, utility, and clarity of the information collected, and ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. The Commission is seeking emergency approval for this information collection by January 10, 1997 under the provisions of 5 CFR 1320.13.

DATES: Persons wishing to comment on this information collection should submit comments by December 30, 1996.

ADDRESSES: Direct all comments to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M St., NW., Washington, DC 20554 or via Internet to dconway@fcc.gov and Timothy Fain, OMB Desk Officer, 10236 NEOB 725 17th Street, NW., Washington, DC 20503 or fain__t@a1.eop.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection contact Dorothy Conway at 202–418–0217 or via Internet at dconway(@)fcc.gov. Copies may also be obtained via fax by contacting the Commission's Fax on Demand System. To obtain fax copies call 202–418–0177 from the handset on your fax machine, and enter the document retrieval number indicated below for the collection you wish to request, when prompted.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: New Collection.
Title: FCC Auctions Customer Survey.
Type of Review: Emergency Collection.
Respondents: Businesses or other for-profit entities.
Number of Respondents: 1,500.
Estimated Time for Response: .25 hours.
Total Annual Burden: 375 hours (.25 × 1,500 responses).
Total Cost to Respondents: 0.
Needs and Uses: Section 309(j)(3) of the Communications Act requires the Commission to establish a competitive bidding methodology for each class of licenses or permits that the Commission grants through the use of a competitive bidding system. The Commission is further directed to test alternative methodologies under appropriate circumstances in order to promote, among other things, "the development and rapid deployment of new technologies, products, and services for the benefit of the public, including those residing in rural areas, without administrative or judicial delays." The Commission is directed likewise to promote "economic opportunity and competition and ensuring that new and innovative technologies are readily accessible to the American people by avoiding excess concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies and businesses owned by members of minority groups and women," and by encouraging "efficient and intensive use of the electromagnetic spectrum." In addition, Section 309(j)(12) requires the Commission to evaluate the methodologies established by the Commission for conducting competitive bidding, comparing the advantages and disadvantages of such methodologies in terms of attaining these objectives.

The FCC Auctions Customer Survey is an important step in meeting these congressional requirements. By seeking input from auction participants, the Commission expects to gather information to evaluate the effectiveness of competitive bidding methodologies

used to date, and to improve the competitive bidding methodologies used in future auctions. Finally, the FCC Auctions Customer Survey will provide useful feedback in determining the extent to which the Commission is meeting its goal of providing participants in competitive bidding with the highest level of customer satisfaction through information dissemination and the responsiveness of the Commission staff to customer inquiries.

Document Retrieval Number: 000014.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 96–32935 Filed 12–26–96; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Network Freight Forwarding Services Inc., 8260 NW 68th Street, Miami, FL 33166; Officers: Pablo C. Quintero, President; Danae Rodriguez, Operations Director

MD America Co., 10506 Prospect Hill Drive, Houston, TX 77064; Hwa-Ching Wu, Sole Proprietor

Dated: December 23, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–32931 Filed 12–26–96; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License; Rescission of Order of Revocation

Notice is hereby given that the Orders and Notices revoking the licenses of Target International Shipping, Inc. and American International Brokerage, Inc., are being rescinded by the Federal Maritime Commission pursuant to section 14 and 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License No.	Name/Addresses
2761	Target International Shipping, Inc., 317 St. Paul's Avenue, 8th Floor, Jersey City, NJ 07306.
3580	American International Brokerage, Inc., 4449 Dorchester Road, North Charleston, SC 29405.
1192	Contamar Shipping Corporation, 27 Park Place, New York, NY 10007.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 96–32903 Filed 12–26–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 21, 1997.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. Granite State Bankshares, Inc. Employee Stock Ownership Plan, Keene, New Hampshire; to acquire an additional .57 percent, for a total of 10.38 percent, of the voting shares of Granite State Bankshares, Inc., Keene, New Hampshire, and thereby indirectly acquire Granite Bank, Keene, New Hampshire.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Iron Horse Bancshares, Inc., Mazomanie, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of The Peoples State Bank, Mazomanie, Wisconsin.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Laguna Madre Bancshares, Inc., South Padre Island, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Laguna Madre Delaware Bancshares, Inc., Dover, Delaware, and thereby indirectly acquire First National Bank of South Padre Island, South Padre Island, Texas.

2. Laguna Madre Delaware Bancshares, Inc., Dover, Delaware; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of South Padre Island, South Padre Island, Texas.

Board of Governors of the Federal Reserve System, December 20, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–32920 Filed 12–26–96; 8:45 am]

BILLING CODE 6210–01–F

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Notice to Engage in Nonbanking Activities

Deutsche Bank AG, Frankfurt (Main), Federal Republic of Germany ("Deutsche Bank"), has applied for Board approval pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) ("BHC Act") and section 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)) to engage *de novo*, through its wholly owned subsidiaries, Deutsche Morgan Grenfell Futures Inc. ("DMGFI") and Deutsche Morgan Grenfell Inc. ("DMG"), both of New York, New York, in executing and clearing, executing without clearing, clearing without executing, and providing related services, including incidental advisory services, with respect to futures and options on futures on certain non-financial commodities. Deutsche Bank also proposes to engage in these activities through omnibus trading accounts established in the name of DMGFI with clearing members of exchanges on which neither DMGFI nor DMG would be a clearing member. Deutsche Bank proposes to conduct these activities throughout the world. The Board previously has determined that these activities are closely related to banking. *See, e.g., Citicorp*, 81 Federal Reserve Bulletin 164 (1995); *Northern Trust Corporation*, 79 Federal Reserve Bulletin 723 (1993).

Deutsche Bank's proposal is available for immediate inspection at the Federal Reserve Bank of New York and the offices of the Board in Washington, D.C. Interested persons may express their views on the proposal in writing, including on whether the proposed activities "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." 12 U.S.C. § 1843(c)(8). Any request for a hearing on this notice must, as required by section 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the notice must be received not later than January 10, 1997, at the Reserve Bank indicated or to the attention of William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

Board of Governors of the Federal Reserve System, December 20, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–32921 Filed 12–26–96; 8:45 am]

BILLING CODE 6210–01–F

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 10, 1997.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. National City Bancshares, Inc., Evansville, Indiana; to acquire First Federal Savings Bank of Leitchfield, Leitchfield, Kentucky, and thereby engage in operating a savings bank pursuant to § 225.25(b)(9) of the Board's Regulation Y.

B. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis, Minnesota; and its subsidiary Norwest Investment Services, Minneapolis, Minnesota, to acquire the discount brokerage accounts of Central Bank & Trust, Fort Worth, Texas pursuant §§ 225.25(b)(15) and(16) of the Board's Regulation Y. **Comments must be received by January 9, 1997.**

2. Norwest Corporation, Minneapolis, Minnesota; and its subsidiary Norwest Mortgage, Inc., Des Moines, Iowa, to acquire the residential mortgage origination and servicing activities of Central Bank & Trust, Fort Worth, Texas, pursuant to § 225.25(b)(1) of the Board's Regulation Y. **Comments must be received by January 9, 1997.**

Board of Governors of the Federal Reserve System, December 20, 1996

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–32922 Filed 12–24–96; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures

AGENCY: Federal Trade Commission.

ACTION: Grant of petition for exemption.

SUMMARY: On April 15, 1996, the Commission published a notice in the **Federal Register** soliciting comments on a petition filed by Freightliner Corporation. The Commission now grants the petition and determines that the provisions of 16 CFR Part 436 shall not apply to the advertising, offering, licensing, contracting, sale or other promotion of truck dealerships by Freightliner Corporation.

EFFECTIVE DATE: December 27, 1996.

FOR FURTHER INFORMATION CONTACT: Myra Howard, Attorney, PC–H–238, Federal Trade Commission, Washington, D.C. 20580, (202) 326–2047.

SUPPLEMENTARY INFORMATION:

Before the Federal Trade Commission

Order Granting Exemption

In the Matter of a Petition for Exemption from the Trade Regulation Rule Entitled "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures" filed by Freightliner Corporation.

On April 15, 1996, the Commission published a notice in the **Federal Register** soliciting comments on a petition filed by Freightliner Corporation ("Freightliner"). Freightliner manufactures heavy-duty and medium-duty trucks, truck parts, and military tractors, and enters into distributorship agreements with business people throughout the United States to sell and service Freightliner's trucks and parts. The petition sought an exemption, pursuant to Section 18(g) of the Federal Trade Commission Act, from coverage under the Commission's Trade Regulation Rule entitled "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures" ("Franchise Rule").

In accordance with Section 18(g), the Commission conducted an exemption proceeding under Section 553 of the Administrative Procedure Act, 5 U.S.C. 553, and invited public comment during a 60-day period ending June 14, 1996. No comments were received. After reviewing the petition, the Commission has concluded that the Petitioner's request should be granted.

The statutory standard for exemption requires the Commission to determine whether application of the Trade Regulation Rule to the person or class of persons seeking exemption is "necessary to prevent the unfair or deceptive act or practice to which the rule relates." If not, an exemption is warranted.

The abuses that the disclosure remedy of the Franchise Rule is designed to prevent are most likely to occur, as the Statement of Basis and Purpose of the Rule notes, in sales where three factors are present:

(1) A potential investor has a relative lack of business experience and sophistication;

(2) The investor has inadequate time to review and comprehend the unique and often complex terms of the franchise agreement before making a major financial commitment; and

(3) A significant information imbalance exists in which the prospective franchisee is unable to obtain essential and relevant facts known to the franchisor about the investment.

The pre-sale disclosures required by the Franchise Rule are designed to negate the effect of any deceptive acts or practices where these conditions are present. The Rule provides investors with the material information they need to make an informed investment decision in circumstances where they might otherwise lack the resources, knowledge, or ability to obtain the information, and thus protect themselves from deception.

Where the conditions that create a potential for deception in the sale of franchises are not present, however, a regulatory remedy designed to prevent deception is unnecessary. Our review of the record in this proceeding persuades us that an exemption is warranted for that reason. The Petitioner has convincingly shown that the conditions that create a potential for a pattern or practice of abuse are absent; thus, there is no likelihood of unfair or deceptive acts or practices in the appointment of its truck dealership franchises.

The petition demonstrates that potential Freightliner dealers are and will continue to be a select group of highly sophisticated and experienced businesspeople; that they make very significant investments; and that they have more than adequate time to consider the dealership offer and obtain information about it before investing. We note in particular that Freightliner has a relatively small number of dealers, approximately 232; that prospective Freightliner dealers usually have years of experience in truck or other heavy duty equipment sales; that investment costs for Freightliner dealerships are approximately $4 million; and that prospective dealers participate in an extensive application and approval process, during which time a good deal of information is exchanged between the parties.

As a practical matter, investments of this size and scope typically involve knowledgeable investors, the use of independent business and legal advisors, and an extended period of negotiation that generates the exchange of information necessary to ensure that investment decisions are the product of an informed assessment of the potential risks and benefits. The Commission has reviewed the potential for unfair or deceptive acts or practices in connection with the licensing of motor vehicle dealership franchises on six prior occasions since 1980, and found no evidence or likelihood of a significant pattern or practice of abuse by any of the Petitioners. If any such evidence exists, it has not yet been brought to the Commission's attention in this or any of the prior proceedings.

Thus, both the record in this proceeding and all prior experience to date with other Franchise Rule exemptions for automobile dealerships support the conclusion that Petitioner's licensing of new truck dealers accomplishes what the Rule was intended to ensure. The conditions most likely to lead to abuses are not present in the licensing of Freightliner dealerships, and the process generates sufficient information to ensure that applicants will be able to make an informed investment decision. For these reasons, the Commission finds that the application of the Franchise Rule to Petitioner's licensing of truck dealer franchises is not necessary to prevent the unfair or deceptive acts or practices to which the Rules relates.

Accordingly, the Commission has determined that the provisions of 16 CFR Part 436 shall not apply to the advertising, offering, licensing, contracting, sale or other promotion of truck dealerships by Freightliner Corporation.

It is so ordered.

Issued: December 6, 1996.

By the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–32900 Filed 12–26–96; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: State and Tribal Plans for the Child Care and Development Fund (Child Care and Development Block Grant.

OMB No.: 0970–0114.

Description: These legislatively-mandated plans serve as the agreement between the grantee and the Federal government describing how CCDF programs will be administered in conformance with legislative requirements, pertinent Federal regulations, and other applicable instructions and guidelines issued by ACF. This information will be used for Federal oversight of the Child Care and Development Fund.

Respondents: States, Virgin Islands, Puerto Rico, Guam, District of Columbia, Samoa, the Trust of Northern Marianna Islands and Tribal Governments.

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Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–118, State & Territory	56	.5	30	840
ACF–118A, Tribal	240	.5	30	3,600

Estimated Total Annual Burden Hours: 4,440.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: December 16, 1996.

Douglas J. Godesky,

Reports Clearance Officer.

[FR Doc. 96–32940 Filed 12–26–96; 8:45 am]

BILLING CODE 4184–01–M

Food and Drug Administration

[Docket No. 96N–0487]

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by January 27, 1997.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Geraldine M. Hogan, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, rm. 16B–19, Rockville, MD 20857, 301–827–1481.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

Title: Current Good Manufacturing Practices for Blood and Blood Components; Notification of Consignees Receiving Blood and Blood Components at Increased Risk for Transmitting human immunodeficiency virus (HIV) Infection.

Description: The final rule requires that blood establishments prepare and follow written procedures when the blood establishments have collected Whole Blood, blood components, Source Plasma and Source Leukocytes later determined to be at risk for transmitting HIV infections. This final rule requires that when a donor who previously donated blood is tested in accordance with 21 CFR 610.45 on a later donation, and tests repeatedly reactive for antibody to HIV, the blood establishment shall perform more specific testing using a licensed test, and notify consignees who received Whole Blood, blood components, Source Plasma or Source Leukocytes from prior collections so that appropriate action is taken. Blood establishments and consignees are required to quarantine previously collected Whole Blood, blood components, Source Plasma and Source Leukocytes from such donors, and if appropriate, notify transfusion recipients. The agency is issuing this final rule to help ensure the continued safety of the blood supply, to help ensure that information is provided to users of blood and blood components, and to help ensure that transfusion recipients of blood and blood components at risk for transmitting HIV will be notified as appropriate.

Description of Respondents: Blood establishments (Business and Not-for-Profit).

The total estimated annual burden is 85,528 hours. FDA estimates the burden of this collection of information as follows:

ESTIMATED ANNUAL REPORTING/DISCLOSURE BURDEN

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
610.46(a)	3,015	60	180,900	.17	30,753
610.46(b)	3,015	60	180,900	.17	30,753
610.47(b)	200	16	3,200	.5	1,600
Total					63,106

ESTIMATED ANNUAL RECORDKEEPING BURDEN

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
606.100(b)(19)	3,015	1	3,015	2	6,300
606.160(b)(1)(vii)	150	160	24,000	12.8	1,920
606.160(b)(1)(viii)	3,015	60	180,900	4.8	14,472
Total	.....	.....	.....	.....	22,422

There are no capital costs or operating and maintenance costs associated with this collection.

Dated: December 20, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–32882 Filed 12–26–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96N–0400]

Points to Consider on Plasmid DNA Vaccines for Preventive Infectious Disease Indications; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a points to consider (PTC) document entitled "Points to Consider on Plasmid DNA Vaccines for Preventive Infectious Disease Indications." The PTC document is intended to provide manufacturers with preliminary guidance regarding the manufacture and preclinical evaluation of plasmid deoxyribonucleic acid (DNA) vaccines intended for clinical studies in preventive infectious disease indications and to assist manufacturers in the preparation of investigational new drug (IND) applications for use of these vaccines. This document is also intended to assist manufacturers with their product development plans for preventive vaccines for infectious diseases.

DATES: Written comments may be submitted at any time; however, to ensure comments are considered in any future revisions they should be submitted by February 25, 1997.

ADDRESSES: Submit written requests for single copies of "Points to Consider on Plasmid DNA Vaccines for Preventive Infectious Disease Indications" to the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. The document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844. Persons with access to the INTERNET may obtain the document using the World Wide Web (WWW) or bounce-back e-mail. For WWW access, connect to CBER at "http://www.fda.gov/cber/cberftp.html". To receive the document by bounce-back e-mail, send a message to "plasmid@a1.cber.fda.gov". Submit written comments on the PTC document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Two copies of any comments are to be submitted, except individuals may submit one copy. Requests and comments should be identified with the docket number found in brackets in the heading of this notice. A copy of the PTC document and received comments are available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Valerie A. Butler, Center for Biologics Evaluation and Research (HFM–630), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–594–3074.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a PTC document entitled "Points to Consider on Plasmid DNA Vaccines for Preventive Infectious Disease Indications." Plasmid DNA vaccines are defined as purified preparations of plasmid DNA designed to contain a gene or genes for the intended vaccine antigen as well as genes incorporated into the construct to allow for production in a suitable host system. The use of purified preparations of plasmid DNA constitutes a new approach to vaccine development.

The following topics are addressed in the PTC document to assist manufacturers with their product development plans: (1) CBER's approach to regulation of plasmid DNA preventive vaccines; (2) product considerations for an IND submission; (3) considerations for plasmid DNA vaccine modifications; (4) preclinical immunogenicity and safety evaluation; (5) use of adjuvants and devices to deliver the vaccine; (6) pre-IND meetings; and (7) IND submissions.

This PTC document is intended to provide manufacturers with information regarding concerns that are associated with the new technology of plasmid DNA preventive vaccines and to provide early guidance to the regulated industry. The goal is to create a regulatory environment that will encourage innovation and at the same time ensure that products are both safe and effective.

As with other PTC documents, FDA does not intend this PTC document to be all-inclusive and cautions that not all information may be applicable to all situations. The PTC document is intended to provide information and does not set forth requirements. FDA anticipates that manufacturers and other interested parties may develop alternative methods and procedures, and discuss them with FDA. FDA recognizes that advances will continue in the area of plasmid DNA vaccines and intends to update and revise the document in order to improve its usefulness.

Although the PTC document does not create or confer any rights for or on any person and does not operate to bind FDA or the public, it does represent CBER's current thinking regarding issues related to plasmid DNA vaccines.

Interested persons may, at any time, submit to the Dockets Management Branch (address above) written comments regarding the PTC document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the PTC document and received comments are available for public examination in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Received comments will be considered in determining whether

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further revision of the PTC document is warranted.

Dated: December 16, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–32930 Filed 12–26–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96M–0490]

Advanced Bionics™ Corp.; Premarket Approval of the CLARION® Multi-Strategy Cochlear Implant

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by the Advanced Bionics™ Corp., Sylmar, CA, for premarket approval, under the Federal Food, Drug, and Cosmetic Act (the act), of the CLARION® Multi-Strategy Cochlear Implant. After reviewing the recommendation of the Ear, Nose, and Throat Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of March 22, 1996, of the approval of the application.

DATES: Petitions for administrative review by January 27, 1997.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Jane G. Fredericksen, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2080.

SUPPLEMENTARY INFORMATION: On June 30, 1994, the Advanced Bionics™ Corp., 12740 San Fernando Rd., Sylmar, CA 91342, submitted to CDRH an application for premarket approval of the CLARION® Multi-Strategy Cochlear Implant. The CLARION® Multi-Strategy Cochlear Implant is intended to restore a level of auditory sensation to individuals with profound sensorineural deafness via electrical stimulation of the auditory nerve. CLARION® is indicated for use in postlingually deafened adults, 18 years of age or older, with profound, bilateral, sensorineural deafness (greater than or equal to 90 decibels), who are unable to benefit from appropriately fitted hearing aids. Lack of aided benefit from a hearing aid is defined as scoring 20 percent or less on tests of open-set sentence recognition (i.e., Central Institute of the Deaf (CID) Sentences). Additionally, there should be no radiographic contraindications to receiver placement or electrode insertion.

On July 21, 1995, the Ear, Nose, and Throat Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, reviewed and recommended conditional approval of the application. On March 22, 1996, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act, for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under 21 CFR part 12 of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under 21 CFR 10.33(b). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before January 27, 1997 file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 24, 1996.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 96–32880 Filed 12–26–96; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

[HCFA–605]

Agency Information collection activities: Submission for OMB review; comment request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection; *Title of Information Collection:* Hospital Provider of Extended Care Services (Swing-Beds) in the Medicare and Medicaid Programs, 42 CFR 447.280 and 482.66; *Form No.:* HCFA–605; *Use:* This is a facility identification and screening form. It will be completed by a hospital that is requesting approval. It initiates the process of determining the hospital's eligibility and also requests approval for their bed count category. *Frequency:* Other (one time usage for initial application); *Affected Public:* Business

or other for profit, Not for profit institutions, and Federal Government; *Number of Respondents:* 1,500; *Total Annual Hours:* 375.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: December 18, 1996.

Edwin J. Glatzel,

Director, Management Analysis and Planning Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–33020 Filed 12–26–96; 8:45 am]

BILLING CODE 4120–03–P

National Institutes of Health

National Library of Medicine (NLM); Opportunity for a Cooperative Research and Development Agreement for Research and Development of Document Imaging and Information Retrieval Software and Systems

AGENCY: Lister Hill National Center for Biomedical Communications, NLM, NIH, DHHS.

ACTION: Notice.

SUMMARY: The Lister Hill National Center for Biomedical Communications (LHNCBC), an R&D division of the National Library of Medicine, seeks a Cooperative Research and Development Agreement (CRADA) with a software company with a reputation in the software research, development and marketing communities, as demonstrated by the quality of its information products, particularly its document imaging and information retrieval software and systems.

The Collaborator must be able to collaborate with NLM staff to produce high quality information products. The Collaborator must have a demonstrated record of success in privately producing and marketing scientific information resources.

The term of the CRADA will be up to five (5) years.

DATES: Interested parties should notify this office in writing no later than February 25, 1997. Parties should document their qualifications as identified in selection criteria in this initial submission. Parties will be subsequently selected for developing a formal proposal.

ADDRESSES: Inquires and proposals regarding this opportunity should be addressed to William Joseph Cotreau, J.D. (Tel. #301–496–0477, FAX #301–402–2177), Office of Technology Development, National Cancer Institute, Executive Plaza South, Suite 450, 6120 Executive Blvd. MSC 7182, Bethesda, Maryland 20892.

SUPPLEMENTARY INFORMATION: A CRADA is the anticipated joint agreement to be entered into by LHNCBC pursuant to the Federal Technology Transfer Act of 1986, as amended by the National Technology Transfer Act (Pub. L. 104–1993 (1996)) and by Executive Order 12591 of October 10, 1987. The Communications Engineering Branch of LHNCBC is presently developing document-imaging systems, called DocView and WILL. DocView is a client-software package, based in the Microsoft Windows environment, designed to handle document images received over the Internet via scanning systems such as Ariel and external client software such as MIME E–mail or Web browers. WILL is a document-sending system, integrating a scanner, PC, image processing boards, printer, barcode reader, fax, and other equipment. WILL is designed to automate almost all aspects of document production, from retrieval of requests to document delivery, and updating of request status.

Under the present proposal, the goal of the CRADA will be the development of the following technology:

- Development of Macintosh and Unix versions for DocView;
- Development of Netscape® Plug-in modules for Macintosh and Unix versions of DocView;
- Development of WILL for faster document capture, improved user interface, improved scanning abilities, and replacement of the present file management with a more efficient DBMS; and
- Development of an improved document-request interface for WILL.

All necessary existing rights and assets currently held by LHNCBC for the production of identified software will be transferred as needed to the Collaborator.

Party Contributions

The role of the LHNCBC includes the following:

(1) Provide Collaborator with the DocView and WILL source codes, if and as necessary, and all licenses necessary for the further development of DocView and WILL;

(2) Provide staff, expertise, and materials for the development of DocView software and the WILL system;

(3) Evaluate the work product of Collaborator to ensure progress toward meeting the CRADA goals; and

(4) Provide work space and equipment for production and testing of any document-retrieval software products developed.

The role of the successful Collaborator will include the following:

(1) Provide funding, if and as necessary, in support of production and dissemination of DocView and WILL;

(2) Provide expertise and assistance in the production and marketing of DocView and WILL;

(3) Provide staff, expertise, and materials for the development of DocView and WILL software; and

(4) Provide quality assurance testing, operator training, and user support for any document-manipulation software products resulting from this CRADA.

Selection Criteria

Proposals submitted for consideration should fully address each of the following qualifications:

(1) Expertise:

A. Demonstrated expertise in developing and producing high quality document imaging software and systems;

B. Demonstrated ability to secure national and international marketing and distribution of software;

C. Demonstrated expertise in overseeing all aspects of product development;

D. Demonstrated intellectual ability to guide development of product line which addresses the requirements of LHNCBC;

E. Demonstrated expertise in serving and supporting a significant client base; and

F. Familiarity with library systems and interlibrary loan and document delivery services.

(2) Reputation: The successful Collaborator must be reorganized in the software industry for:

A. Producing, marketing and supporting quality document imaging software;

B. Indications of high levels of satisfaction by software experts, libraries, document suppliers and

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similar entities with the information products and services; and

C. The range of products and services it produces.

(3) Physical Resources:

A. An established headquarters with offices, space, and equipment;

B. Access to the organization during business hours by telephone, mail, e-mail, the Internet, and other evolving technologies; and

C. Sufficient financial and technologies resources to support, at a minimum, the current activities of the CRADA to meet the needs of LHNCBC.

Dated: December 12, 1996.

Barbara McGarey,

Office of Technology Transfer, National Institutes of Health.

[FR Doc. 96–32910 Filed 12–26–96; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institutes; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Cancer Institute Initial Review Group:

Purpose/Agenda: To review, discuss, and evaluate individual grant applications.

Committee Name: Subcommittee H—Clinical Trials Subcommittee

Date: January 24, 1997.

Time: 12:00 p.m.

Place: Telephone Conference Call, 6130 Executive Boulevard, Room 611C, Rockville, Maryland 20852.

Contact Person: John L. Meyer, Ph.D., Scientific Review Administrator, Grants Review Branch, DEA, NCI, Executive Plaza North, Room 611C, 6130 Executive Blvd., MSC 7403, Bethesda, Md 20892–7403, Telephone: 301–496–7721.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: December 20, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 96–32911 Filed 12–26–96; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institutes; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Cancer Institute Special Emphasis Panel (SEP):

Name of SEP: Cancer Education Grant Meeting.

Date: January 14, 1997.

Time: 3:00 pm.

Place: Executive Plaza North, Room 611A, 6130 Executive Boulevard, Bethesda, MD 20852.

Contact Person: Mary Bell, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 611A, 6130 Executive Boulevard, MSC 7405, Bethesda, MD 20892–7405, Telephone: 301/496–7978.

Purpose/Agenda: To evaluate, discuss, and review issues relating to the applications for the Cancer Education Grant Program (R25).

The meeting will be closed in accordance with the provisions set forth in secs. 552(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: December 20, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 96–32912 Filed 12–26–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Cancellation of a Meeting

Notice is hereby given of the cancellation of the meeting of the National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, December 27, 1996, which was to have taken place as a telephone conference call originating in Room 6AS–25F, Natcher Building, National Institutes of Health, 4500 Center Drive, Bethesda, Maryland 20892–6600, and published in the **Federal Register** on December 17, 1996, 61 FR 66290.

This meeting is being cancelled due to an unanticipated schedule change.

Dated: December 20, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 96–32913 Filed 12–26–96; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4108–N–02]

Loan Guarantee Recovery Fund; Announcement of OMB Approval Number

AGENCY: Office of the Assistant Secretary of Community Planning and Development, HUD.

ACTION: Announcement of OMB Approval Number.

SUMMARY: On September 6, 1996 (61 FR 47404), the Department published in the **Federal Register**, a regulation authorizing a Loan Guarantee Recovery Fund and the procedures, terms and conditions by which HUD may use the fund to guarantee loans made by financial institutions to nonprofit organizations affected by acts of arson or terrorism pursuant to the Church Arson Prevention Act of 1996. In the "Effective Date" section of the rule, and consistent with the Paperwork Reduction Act of 1995, the September 6, 1996 rule advised the public that the OMB control number when received, would be announced by a separate notice in the **Federal Register**. The purpose of the notice is to announce the OMB approval number for the information collection requirements in the September 6, 1996 rule.

SUPPLEMENTARY INFORMATION: Accordingly, the OMB Approval Number for the Loan Guarantee Recovery Fund collection requirements established in accordance with the Church Arson Prevention Act of 1996 and set forth in HUD's implementing regulation, published in the **Federal Register** on September 6, 1996 at 61 47404 is 2506–0159. The approval number expires on March 31, 1997.

Dated: December 22, 1996.

Camille E. Acevedo,

Assistant General Counsel for Regulations.

[FR Doc. 96–32963 Filed 12–26–96; 8:45 am]

BILLING CODE 4210–29–M

[Docket No. FR–4124–N–18]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR Part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess of surplus Federal property. This notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this notice. Homeless assistance providers interested in any such property should need a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR Part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for user to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made suitable for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Army: Mr. Derrick Mitchell, CECPW–FP, U.S. Army Center for Public Works, 7701 Telegraph Road, Alexandria, VA 22310–3862; (703) 428–6083; Energy: Ms. Marsha Penhaker, Department of Energy, Facilities Planning and Acquisition Branch, FM–20, Room 6H–058, Washington, DC 20585; (202) 586–1191; (These are not toll-free numbers).

Dated: December 19, 1996.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program Federal Register Report for 12/27/96

Suitable/Unavailable Properties

Buildings (by State)

Louisiana

3 Office Buildings
St. James Terminal
St. James Co: St. James Paris LA 70086–
Landholding Agency: Energy
Property Number: 419640002
Status: Underutilized
Comment: 4326 sq. ft., 7877 sq. ft., and 7892 sq. ft., good condition.

Warehouse
St. James Terminal
St. James Co: St. James Paris LA 70086–
Landholding Agency: Energy
Property Number: 419640003
Status: Underutilized
Comment: 9830 sq. ft., good condition.

Laboratory
St. James Terminal
St. James Co: St. James Paris LA 70086–
Landholding Agency: Energy
Property Number: 419640004
Status: Underutilized
Comment: 1128 sq. ft., good condition.

Guard House
St. James Terminal
St. James Co: St. James Paris LA 70086–
Landholding Agency: Energy
Property Number: 419640005
Status: Underutilized
Comment: 420 sq. ft., good condition.

2 Dock Operator Bldgs.
St. James Terminal
St. James Co: St. James Paris LA 70086–
Landholding Agency: Energy
Property Number: 419640006
Status: Underutilized
Comment: 392 sq. ft. each.

Unsuitable Properties

Buildings (by State)

Alabama

Bldg. 104, Fort Rucker
Ft. Rucker Co: Dale AL 36362–5000
Landholding Agency: Army
Property Number: 219640440
Status: Unutilized
Reason: Extensive deterioration.

6 Bldgs., Fort Rucker
#143T, 417, 1205, 1317, 4706, 40200
Ft. Rucker Co: Dale AL 36362–5000
Landholding Agency: Army
Property Number: 219640441
Status: Unutilized
Reason: Extensive deterioration.

6 Bldgs, Fort Rucker
#334, 1448, 1449, 1450, 4526, 5608
Ft. Rucker Co: Dale AL 36362–5000
Landholding Agency: Army
Property Number: 219640442
Status: Unutilized
Reason: Extensive deterioration.

5 Bldgs., Fort Rucker

#1018, 1426, 1475, 4028, 4029
Ft. Rucker Co: Dale AL 36362–5000
Landholding Agency: Army
Property Number: 219640443
Status: Unutilized
Reason: Extensive deterioration.

6 Bldgs., Fort Rucker
#1021, 1443, 4702, 5609, 5613, 9807
Ft. Rucker Co: Dale AL 36362–5000
Landholding Agency: Army
Property Number: 219640444
Status: Unutilized
Reason: Extensive deterioration.

Arizona

Bldgs. 15557, 15558
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219640478
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 64013
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 2196400479
Status: Unutilized
Reason: Extensive deterioration.

Arkansas

Bldg. 129
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640445
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. 139, 2360
Fort Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640446
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 314
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640447
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 322
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640448
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 340
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 21964049
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 341
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640450
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 342
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640451
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 500
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640452
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. 502, 503
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640453
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 504
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640454
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 505
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640455
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 506
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640456
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 507
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640457
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 525
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640458
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 775
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640459
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 800
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640460
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 857
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640461
Status: Unutilized
Reason: Extensive deterioration.

26 Bldgs.
Fort Chaffee
#1337, 1641–1652, 1654–1665, 1748
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640462
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. 1504, 1574, 1633
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640463
Status: Unutilized
Reason: Extensive deterioration.

9 Bldgs.
Fort Chaffee
#1535, 1634, 1637–1638, 1667, 1670–1671, 1673, 1676
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640464
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 1595
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640465
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 1672
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640466
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 1682
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640467
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 1756
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640468
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 1782
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640469
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 1786
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640470
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 2044
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640471
Status: Unutilized
Reason: Extensive deterioration.

16 Bldgs.

Fort Chaffee
#2062, 2400–2404, 2445–2449, 2455–2459
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640472
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. 2065, 2460
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640473
Status: Unutilized
Reason: Extension deterioration.

Bldgs. 2125, 2221
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640474
Status: Unutilized
Reason: Extension deterioration.

Bldg. 2327
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640475
Status: Unutilized
Reason: Extension deterioration.

Bldg. 2425
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640476
Status: Unutilized
Reason: Extension deterioration.

Bldg. 2465
Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219640477
Status: Unutilized
Reason: Extension deterioration.

New Jersey

Bldg. 129
Armament Research, Dev. & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219640480
Status: Unutilized
Reason: Extension deterioration.

Bldg. 506C
Armament Research, Dev. & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219640481
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area Extension deterioration.

Bldg. 506D
Armament Research, Dev. & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219640482
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area Extension deterioration.

South Carolina

Bldg. 2540
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219640483
Status: Unutilized
Reason: Extension deterioration.

Bldg. 2542
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219640484
Status: Unutilized
Reason: Extension deterioration.

Bldg. 2551
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219640485
Status: Unutilized
Reason: Extension deterioration.

Bldg. 3512
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219640486
Status: Unutilized
Reason: Extension deterioration.

Bldg. 3522
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219640487
Status: Unutilized
Reason: Extension deterioration.

Bldg. 5040
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219640488
Status: Unutilized
Reason: Extension deterioration.

Bldg. 9502
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219640489
Status: Unutilized
Reason: Extensive deterioration.

Texas

Bldg. 454, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219640490
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 455, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219640491
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 11350, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219640492
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 11360, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219640493
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 703B
Longhorn Army Ammunition Plant
Karnack Co: Harrison, TX 75661–
Landholding Agency: Army
Property Number: 219640494
Status: Unutilized
Reason: Floodway.

Virginia

Bldg. T–105, Fort Monroe
Ft. Monroe, VA 23651–
Landholding Agency: Army
Property Number: 219640495
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1100
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219640496
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1102
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219640497
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1214
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219640498
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1219
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219640499
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1230
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219640500
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1306
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219640501
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1308
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219640502
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–1528
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219640503
Status: Unutilized

Reason: Extensive deterioration.

Bldg. T–8202
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219640504
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–12070
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801–
Landholding Agency: Army
Property Number: 219640505
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. 1028, 1042, 1044
Fort Story
Fort Story Co: Princess Ann VA 23459–
Landholding Agency: Army
Property Number: 219640506
Status: Unutilized
Reason: Extensive deterioration.

Sand Pool, Pool A, C
Fort Eustis
Ft. Eustis VA 23604–
Landholding Agency: Army
Property Number: 219640507
Status: Unutilized
Reason: Extensive deterioration.

[FR Doc. 96–32770 Filed 12–26–96; 8:45 am]

BILLING CODE 4210–29–M

[Docket No. FR–4043–N–02]

Announcement of Funding Awards, Federally Assisted Low Income Housing Drug Elimination Grants; Fiscal Year 1996

AGENCY: Office of the Assistant Secretary for Housing/Federal Housing Commissioner, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding awards made by the Department under a **Federal Register** notice for the Federally Assisted Low Income Drug Elimination Grant Program. This announcement contains the names and addresses of the Federally Assisted Low Income Housing Drug Elimination Program grantees and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Michael Diggs, Office of Multifamily Housing Asset Management and Disposition, Department of Housing and Urban Development, room 6176, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–0558 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number by calling the Federal Information Relay Service TTY at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

These grants are authorized under Chapter 2, Subtitle C, Title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 *et seq.*), as amended by Section 581 of the Cranston-Gonzales National Affordable Housing Act (NAHA) of 1990 (Pub. L. 101–625, 104 Stat. 4079, approved November 28, 1990), enacted November 28, 1990. Section 581 of NAHA expanded the Drug Elimination Program to include Federally assisted, low-income housing.

At the time of the publication of the NOFA for the Federally Assisted Low-Income Housing Drug Elimination Program on April 4, 1996 (61 FR 15164), Congress had not yet enacted a fiscal year (FY) 1996 appropriation for HUD. In the NOFA, HUD estimated that $17,000,000 would be appropriated for the program. HUD's FY 1996 appropriation was subsequently enacted on April 26, 1996 (Pub. L. 104–134), providing exactly $17,662,362 for this drug elimination program to provide funding for carrying out drug elimination activities in accordance with the criteria of eligible activities as outlined in the NOFA.

After reviewing and ranking the applications according to the processes described in the April 4, 1996 NOFA, HUD, in accordance with Section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), is hereby publishing the names and addresses of the grantees that received funding under the NOFA, and the amount of funds awarded to each. The total amount awarded during this period was $17,662,362 to 161 applicants.

Dated: December 19, 1996.

Nicolas P. Retsinas,

Assistant Secretary for Housing/Federal Housing Commissioner.

Fiscal Year 1996 Drug Elimination Program Grantees

Property Number: 054–44030.
Recipient Name: Jean M. Farmer.
Property Name: Lakeshore Apartments.
Property Address: One Lakeside Road #20, Greeneville, SC 29611.
Contact Person: Jean Farmer (864) 277–6687.
Grant Amount: $125,000.

Property Number: 054–35037.
Recipient Name: James Archie.
Property Name: Mt. Zion AME Apartments I.
Property Address: 619 Ervin Court, Florence, SC 29506.
Contact Person: Clifford Smalls (803) 556–9577.
Grant Amount: $37,620.

Property Number: 054–94002.
Recipient Name: Patty Ownby.
Property Name: The Colony Apartments.
Property Address: 3435 West Beltline Blvd., Columbia, SC 29203.
Contact Person: Nancy Neuhauser (423) 525–7500.
Grant Amount: $125,000.

Property Number: 054–44005.
Recipient Name: James Archie.
Property Name: Mt. Zion ZME Apartments II.
Property Address: 619 Ervin Court, Florence, SC 29506.
Contact Person: Clifford Smalls (803) 556–9577.
Grant Amount: $19,380.

Property Number: 054–35045.
Recipient Name: Robert Hughes, Sr.
Property Name: Pardue St. Apartments.
Property address: 2901 Pardue Street, Lancaster, SC 29720.
Contact Person: Angela Chico-Agustin (913) 321–2262.
Grant Amount: $125,000

Recipient Name: Peter O'Connell.
Property Name: Parkway Village.
Property Address: 775 Parkway Blvd, Box 22A, Summerville, SC 29483.
Contact Person: Peter O'Connell (910) 375–1552.
Grant Amount: $124,795.

Property Number: 054–35388.
Recipient Name: James Kerr.
Property Name: River Oaks Apartments.
Property Address: 5324 Old Bush River Road, Columbia, SC 29212.
Contact Person: James Kerr (803) 559–0862.
Grant Amount: $118,705.

Property Number: 054–35499.
Recipient Name: Peter O'Connell.
Property Name: Prescott Manor.
Property Address: 1601 Prescott Road, Columbia, SC 29203.
Contact Person: Peter O'Connell (910) 375–1552.
Grant Amount: $124,112.

Property Number: 084–55042.
Recipient Name: Rita Orlando.
Property Name: Terrace View II.
Property Address: 220 Garfield, Kansas City, MO 64124.
Contact Person: Jack Oliver (913) 599–1661.
Grant Amount: $93,313.

Property Number: 084–55051.
Recipient Name: Rita Orlando.
Property Name: Benton Villa.
Property Address: 220 Garfield, Kansas City, MO 64124.
Contact Person: Jack Oliver (913) 599–1661.

Grant Amount: $32,630.
Property Number: 084–55027.
Recipient Name: Rita Orlando.
Property Name: Terrace View I Apartments.
Property Address: 220 Garfield, Kansas City, MO 64124.
Contact Person: Jack Oliver (913) 599–1661.
Grant Amount: $86,843.
Property Number: 084–55031.
Recipient Name: Rita Orlando.
Property Name: Valley View Apartments.
Property Address: 220 Garfield, Kansas City, MO 64124.
Contact Person: Jack Oliver (913) 599–1661.
Grant Amount: $99,962.
Property Number: 087–35007.
Recipient Name: Patty Ownby.
Property Name: Tabernacle Apartments.
Property Address: 2624 Wimpole Avenue, Knoxville, TN 37914.
Contact Person: Nancy Neuhauser (423) 525–7500.
Grant Amount: $118,750.
Property Number: 087–35049.
Recipient Name: Ray McElhaney.
Property Address: Gateway Village, W. Paine Street, Sevierville, TN 37862.
Contact Person: Ray McElhaney (423) 546–1485.
Grant Amount: $8,116.
Property Number: 087–35102.
Recipient Name: Patty Ownby.
Property Name: Green Hills Apartments.
Property Address: 1929 Natchez Avenue, Knoxville, TN 37915.
Contact Person: Nancy Neuhauser (423) 525–7500.
Grant Amount: $118,750.
Property Number: 083–55020.
Recipient Name: Jubilee Housing Inc. of KY 4.
Property Name: Carpenters Apartments.
Property Address: 3524 Georgetown Circle, Louisville, KY 40215.
Contact Person: James Daniel (502) 366–3890.
Grant Amount: $116,380.
Property Number: 083–44106.
Recipient Name: Westside Rehab Corp.
Property Name: Hickory Hills Manor Apartments.
Property Address: 120 Marlowe Ct., Frankfort, KY 40601.
Contact Person: Linda Archibald (214) 638–0265.
Grant Amount: $121,081.
Property Number: 083–35033.
Recipient Name: Virginia Street Baptist Homes, Inc.
Property Name: Woodland Heights Apartments.
Property Address: 2850 Greenville Road, Hopkinsville, KY 42240.
Contact Person: Debbie Dunn (502) 886–4601.
Grant Amount: $44,705.
Property Number: 053–35449.
Recipient Name: Grier Park, ALP/ Peter O'Connell.
Property Name: Grier Park Apartments.
Property Address: 3424 Oak Arbor Lane, Charlotte, NC 28205.
Contact Person: Peter O'Connell (910) 375–1552.
Grant Amount: $124,900.
Property Number: 053–35342.
Recipient Name: Lakeside Apartments, ALP/Peter O'Connell.
Property Name: Lakeside Apartments.
Property Address: 702 Lakeside Avenue, Burlington, NC 27215.
Contact Person: Peter O'Connell (910) 375–1552.
Grant Amount: $123,952.
Property Number: 061–44290.
Recipient Name: Capital Vanera Associates.
Property Name: Capital Vanira Apartments.
Property Address: 942 Capitol Ave., SE, Atlanta, GA 30315.
Contact Person: Valerie Calloway (404) 330–0966.
Grant Amount: $124,202.
Property Number: 061–44211.
Recipient Name: First Bedford Pines, LTD.
Property Address: Bedford Pines I, 496 Boulevard, NE, Atlanta, GA 30308.
Contact Person: Edna Moffett (404) 874–6313.
Grant Amount: $101,024.
Property Number: 061–35225.
Recipient Name: Fifth Bedford Pines, LTD.
Property Name: Bedford Pines V.
Property Address: 496 Boulevard, NE, Atlanta, GA 30308.
Contact Person: Edna Moffett (404) 874–6313.
Grant Amount: $77,399.
Property Number: 061–35306.
Recipient Name: Sixth Bedford Pines, LTD.
Property Name: Bedford Pines VI.
Property Address: 496 Boulevard, NE, Atlanta, GA 30308.
Contact Person: Edna Moffett (404) 874–6313.
Grant Amount: $54,604.
Property Number: 061–35213.
Recipient Name: Fourth Bedford Pines, LTD.
Property Name: Bedford Pines IV.
Property Address: 496 Boulevard, NE, Atlanta, GA 30308.
Contact Person: Edna Moffett (404) 874–6313.
Grant Amount: $106,505.
Property Number: 061–44261.
Recipient Name: Second Bedford Pines, LTD.
Property Name: Bedford Pines II.
Property Address: 496 Boulevard, NE, Atlanta, GA 30308.
Contact Person: Edna Moffett (404) 874–6313.
Grant Amount: $94,895.
Property Number: 061–44295.
Recipient Name: Third Bedford Pines, LTD.
Property Name: Bedford Pines III.
Property Address: 496 Boulevard, NE, Atlanta, GA 30308.
Contact Person: Edna Moffett (404) 874–6313.
Grant Amount: $82,610.
Property Number: 061–55056.
Recipient Name: Leroy Johnson.
Property Name: Martin Luther King Village.
Property Address: 380 Martin Street, Atlanta, GA 30312.
Contact Person: Valerie Calloway (404) 330–0966.
Grant Amount: $123,885.
Property Number: 061–35031.
Recipient Name: Highland Arms, LTD.
Property Name: Highland Arms/East Gate Apartments.
Property Address: 11 Fairmont School Road, Newnan, GA 30264.
Contact Person: Tink Norwood (912) 738–0085.
Grant Amount: $125,000.
Property Number: 061–55053/061–55070.
Recipient Name: Central Methodist Inc.
Property Name: Central Methodist I & II.
Property Address: 320 Fairburn Rd., SW, Atlanta, GA 30331.
Contact Person: Valeria Calloway (404) 330–0966.
Grant Amount: $125,000.
Property Number: 062–35002.
Recipient Name: Jackson Heights LTD 1.
Property Name: Forest Hills Apartments.
Property Address: 2615 Tempest Dr., Birmingham, AL 35211.
Contact Person: Mary Ann Poole (205) 967–7891.
Grant Amount: $125,000.
Property Number: 062–35157.
Recipient Name: Four Winds West Co., Inc.
Property Name: Four Winds West Apartments.
Property Address: 1301 Monroe Ave., SW, Birmingham, AL 35211.

Contact Person: Gail Olive (205) 933–1020.
Grant Amount: $16,272.
Property Number: 062–44002.
Recipient Name: A.M.E. Homes of Tuscaloosa, LTD 1.
Property Name: Creekwood Village.
Property Address: 1750 40th Avenue, Tuscaloosa, AL 35401.
Contact Person: Mary Ann Poole (205) 967–7891.
Grant Amount: $125,000.
Property Number: 062–44062.
Recipient Name: Summit Ridge Apartments, L.P.
Property Name: Summit Ridge Apartments.
Property Address: 149 Haversham Drive, Birmingham, AL 35315.
Contact Person: Lisa Holbrook (601) 956–6000.
Grant Amount: $84,834.
Property Number: FL29–K013001.
Recipient Name: Key Plaza Apartments II, LTD.
Property Name: Key Plaza Apartments.
Property Address: 105 E. Truman Apartments, Key West, FL 33040.
Contact Person: Norice James (305) 294–2626.
Grant Amount: $125,000.
Property Number: 066–35161.
Recipient Name: Adimas Management Corp.
Property Name: Lincoln Fields Apartments.
Property Address: 2045 N.W. 62nd Street, Miami, FL 33146.
Contact Person: William Wildon (205) 933–1020.
Grant Amount: $125,000.
Property Number: 065–55005.
Recipient Name: Pascagoula Housing Authority.
Property Name: New Carver Village, II.
Project Address: 1912–209 Live Oak Ave., Pascagoula, MS 39567.
Contact Person: John Switzer (601) 872–4385.
Grant Amount: $125,000.
Property Number: 065–55003.
Recipient Name: Pascagoula Housing Authority.
Property Name: New Carver Village, I.
Property Address: 1912–209 Live Oak Ave., Pascagoula, MS 39567.
Contact Person: John Switzer (601) 872–4385.
Grant Amount: $125,000.
Property Number: 065–35014.
Recipient Name: Brookvale Gardens Associates, LTD.
Property Name: Brookvale Garden Apartments.
Property Address: Everglade Avenue, Starkville, MS 39759.
Contact Person: Rick Greene (601) 948–6401.
Grant Amount: $125,000.
Property Number: 065–35250.
Recipient Name: Rebelwood Apartments, LTD.
Property Name: Rebelwood Apartments.
Property Address: 200 Rebelwood Dr., Jackson, MS 39212.
Contact Person: Sharon Jakubowsky (601) 956–4911.
Grant Amount: $125,000.
Property Number: 061–35302.
Recipient Name: Greentree Apartments, LTD.
Property Name: Greentree Apartments.
Property Address: 500 Greentree Drive, Columbus, MS 39701.
Contact Person: Gail Olive (205) 933–1020.
Grant Amount: $124,734.
Property Number: 074–35003.
Recipient Name: DMACC, Inc.
Property Name: Des Moines Area Council of Churches/DMACC.
Property Address: 1236 Oak Ridge Drive, Des Moines, IA 50314.
Contact Person: Margaret Toomey (515) 244–7702.
Grant Amount: $125,000.
Property Number: 081–35036.
Recipient Name: Alco Management, Inc.
Property Name: New Robinhood Apartments.
Property Address: 35 Union Avenue, Suite 200, Memphis, TN 38103.
Contact Person: George Caruso (901) 526–1211.
Grant Amount: $125,000.
Property Number: 056–55047.
Recipient Name: Office of Liquidation of accounts of The PRVRHC.
Property Name: Bayola Apartments.
Property Address: Calle Estrella Esq. Julian Blanco #1445, Santurce, PR 00907.
Contact Person: Antonia J. Cabrero (787) 756–0127.
Grant Amount: $87,553.
Property Number: 176–44018.
Recipient Name: Woodside Village, Ltd.
Property Name: Woodside Village, Ltd.
Property Address: 1019 E. 20th Avenue, Anchorage, AK 99501.
Contact Person: Roberta Uyakovieh (202) 347–6247.
Grant Amount: $95,000.
Property Number: 136–55010.
Recipient Name: John Berkley Mgt.
Property Name: Florin Meadows I.
Property Address: 7301 29th Street, Sacramento, CA 95822.
Contact Person: Jon Berkley (916) 753–5910.
Grant Amount: $125,000.
Property Number: 136–44034.
Recipient Name: William Hutton/-Alton Mgt.
Property Name: Florin Gardens Co-op East I.
Property Address: 2471 57th Avenue, Sacramento, CA 95822.
Contact Person: William Hutton (415) 693–9263.
Grant Amount: $125,000.
Property Number: CA16–E0000–028.
Recipient Name: Ujima Village.
Property Name: Community Dev. Comm. HACLA.
Property Address: 2 Coval Circle, Monterey, CA 95822.
Contact Person: Maria Badrakhow (213) 890–7135.
Grant Amount: $125,000.
Property Number: 122–44154.
Recipient Name: Verdes Del Oriente.
Property Name: Verdes Del Orientes, A Ltd.
Property Address: 360 West 3rd Street, San Pedro, CA 90731.
Contact Person: Troy Domiter (909) 653–6070.
Grant Amount: $124,050.
Property Number: 122–44094.
Recipient Name: G&K Management.
Property Name: Pioneer Gardens.
Property Address: 9030 Pioneer Blvd., Santa Fe Springs, CA 90670.
Contact Person: Michael Drandell (310) 653–5082.
Grant Amount: $125,000.
Property Number: 129–35076.
Recipient Name: San Diego Housing Commission.
Property Name: University Canyon.
Property Address: 2098 Via Las Cumbres, San Diego, CA 92113.
Contact Person: Pat Zamora (619) 525–3716.
Grant Amount: $125,000.
Property Number: 129–35004.
Recipient Name: Villa Nueva, Inc.
Property Name: Via Nueva Apartments.
Property Address: 3604 Beyer Boulevard, San Diego, CA 92154.
Contact Person: Armando Hurtado (619) 662–1188.
Grant Amount: $125,000.
Property Number: 082–35029.
Recipient Name: Rental Management, Inc.
Property Name: Terrace Green Apartments.
Property Address: 8223 Scott Hamilton Drive, Little Rock, AR 72209.
Contact Person: Sam Sexton (501) 782–7268.
Grant Amount: $125,000.
Property Number: 082–44018.
Recipient Name: Rental Management, Inc.

Property Name: Jefferson Manor Apartments.
Property Address: 2600 John Ashley, North Little Rock, AR 72114.
Contact Person: Sam Sexton (501) 782–7268.
Grant Amount: $125,000.
Property Number: 082–44072.
Recipient Name: Westside Rehab, Corporation.
Property Name: Fair Oaks Apartments.
Property Address: 9600 West 36th Street, Little Rock, AR 72204.
Contact Person: Linda Archibald (214) 638–0265.
Grant Amount: $124,690.
Property Number: 082–EH005.
Recipient Name: Rental Management, Incorporated.
Property Name: Gorman Towers.
Property Address: 3800 Grand Avenue, Ft. Smith, AR 72904.
Contact Person: Sam Sexton (501) 782–7268.
Grant Amount: $125,000.
Property Number: 082–35017.
Recipient Name: Rental Management, Incorporated.
Project Name: Hillsboro Townhouse.
Property Address: 1600 E. Hillsboro, El Dorado, AR 71730.
Contact Person: Sam Sexton (501) 782–7268.
Grant Amount: $125,000.
Property Number: 082–44019.
Recipient Name: Rental Management, Incorporated.
Property Name: Allied Gardens Estates.
Property Address: 5221 Johnson, Ft. Smith, AR 72904.
Contact Person: Sam Sexton (501) 782–7268.
Grant Amount: $125,000.
Property Number: 123–44050.
Recipient Name: Casa Mesa Estates, Ltd.
Property Name: Casa Mesa Estates.
Property Address: 1251 S. Mesa Drive, Mesa, AZ 85210.
Contact Person: Phillip Shea (602) 997–0013.
Grant Amount: $76,380.
Property Number: 123–44017.
Recipient Name: Franmar Manor Partnership.
Property Name: Franmor Manor.
Property Address: 3825 West McDowell, Phoenix, AZ 85009.
Contact Person: Phillip Shea (602) 997–0013.
Grant Amount: $80,180.
Property Number: 123–44028.
Recipient Name: El Rio Joint Venture.
Property Name: Greenview Apartments.
Property Address: 1617 West El Rio Drive, Tucson, AZ 85705.
Contact Person: Phillip Shea (602) 997–0013.
Grant Amount: $88,480.
Property Number: 123–11071.
Recipient Name: Essex Management.
Property Name: Coronado Courts.
Property Address: 1836 Bonita Avenue, Douglas, AZ 85607.
Contact Person: Beverly Hogan (520) 364–4637.
Grant Amount: $125,000.
Property Number: 101–35037.
Recipient Name: CKJ Realty and Management.
Property Name: Wise Harris Arms.
Property Address: 605 26th Street, Denver, CO 80205.
Contact Person: Clinton Williams (303) 297–2433.
Grant Amount: $25,000.
Property Number: 101–94006.
Recipient Name: Boston Fin. Property Management.
Property Name: Windsor Court.
Property Address: 1550 Juliet Court, Auvoa, CO 80205.
Contact Person: Kathy Kingman (303) 730–0271.
Grant Amount: $64,500.
Property Number: 064–44032.
Recipient Name: Melanie OHaway.
Property Name: Versailles Arms Apartments.
Property Address: 14639l Saigon Drive, New Orleans, LA 70129.
Contact Person: Melanie OHaway (504) 254–2564.
Grant Amount: $125,000.
Property Number: 116–55002.
Recipient Name: Lake Crest L.P.
Property Name: Mountain View I Apartments.
Property Address: 2323 Kathryn Avenue, S.E., Albuquerque, NM 87110.
Contact Person: Rudy Cupich (505) 293–7462.
Grant Amount: $125,000.
Property Number: 117–44036.
Recipient Name: Elmwood Manor Apartments, Incorporated.
Property Name: Elmwood Manor Apartments.
Property Address: 615 West 11th, Hobart, OK 73165.
Contact Person: Pamela Cotner (405) 752–5229.
Grant Amount: $125,000.
Property Number: 118–55012.
Recipient Name: Normandy Apartments, Ltd..
Property Name: Normandy Apartments.
Property Address: 6221 E. 38th Street, Tulsa, OK 74135.
Contact Person: Kelly Simmons (918) 622–4428.
Grant Amount: $125,000.
Property Number: 091–35107.
Recipient Name: KTP, Incorporated.
Property Name: Knollwood Townhouses.
Property Address: 25 Knollwood, Rapid City, SD 57701.
Contact Person: Rusty Fleming (303) 423–2845.
Grant Amount: $64,467.
Property Number: 091–44044.
Recipient Name: KTP, Incorporated.
Property Name: Upper Knollwood Townhouses.
Property Address: 25 Knollwood, Rapid City, SD 57701.
Contact Person: Rusty Fleming (303) 423–2845.
Grant Amount: $49,491.
Property Number: 115–55014.
Recipient Name: TGII0, Incorporated.
Property Name: Lexington Manor.
Property Address: 5201 Kostory 2, Corpus Christi, TX 78415.
Contact Person: Robert Rogers (210) 721–3391.
Grant Amount: $124,365.
Property Number: 114–35045.
Recipient Name: Jasper Housing Development.
Property Name: Aneview Apartments.
Property Address: 700 Pollard, Jasper, TX 75951.
Contact Person: David Oyer (412) 661–2032.
Grant Amount: $124,948.
Property Number: 113–44006.
Recipient Name: Blue Water Garden Apartments.
Property Name: Blue Water Garden Apartments.
Property Address: 612 Irving Street, Hereford, TX 79045.
Contact Person: Sue Aumaugher (512) 694–8444.
Grant Amount: $125,000.
Property Number: 112–35257.
Recipient Name: Lake June Village II.
Property Name: Lake June Village II.
Property Address: 1226 North Masters, Dallas, TX 75217.
Contact Person: Vernon Butler (214) 767–9480.
Grant Amount: $111,692.
Project Number: TX16–E000–045.
Recipient Name: Dallas Housing Authority.
Property Name: Cedar Glen Apartments.
Property Address: 2906 E. Kiest Boulevard, Dallas, TX 75216.
Contact Person: Melissa Hassenfratz (214) 767–9480.
Grant Amount: $125,000.
Property Number: 127–65079.
Recipient Name: Martin Seelig.
Property Name: The Downtowner.
Property Address: 308 Fourth Avenue South, Seattle, WA 98104.

Contact Person: Jennifer Seelig (206) 454–0885.
Grant Amount: $55,468.
Property Number: OR16–HO29–115.
Recipient Name: Housing Authority of Lane County.
Property Name: Abbie Lane.
Property Address: 1011 Abbie Lane, Eugene, OR 97401.
Contact Person: Merrilee Eisen (503) 687–4090.
Grant Amount: $63,635.
Property Number: 121–35654.
Recipient Name: MLK/Marcus Garvey Square Cooperative.
Property Name: MLK/Marcus Garvey Square Cooperative.
Property Address: 1680 Eddy Street, San Francisco, CA 94115.
Contact Person: Loren Sanborn (415) 391–4321.
Grant Amount: $121,625.
Property Number: 121–44208.
Recipient Name: Bethel Housing Corporation.
Property Name: Freedom West I.
Property Address: 820 McAllister Street, San Francisco, CA 94102.
Contact Person: Alfred Reynolds (415) 693–9263.
Grant Amount: $125,000.
Property Number: 121–44423.
Recipient Name: Bethel Housing Corporation.
Property Name: Freedom West II.
Property Address: 820 McAllister Street, San Francisco, CA 94102.
Contact Person: Alfred Reynolds (415) 693–9263.
Grant Amount: $125,000.
Property Number: 121–35016.
Recipient Name: Monte Alban Apartments.
Property Name: Monte Alban Apartments.
Property Address: 1324 Santee Drive, San Jose, CA 95122.
Contact Person: Debora Burch (408) 262–5474.
Grant Amount: $125,000.
Property Number: 121–44137.
Recipient Name: Apollo Limited Partnership.
Property Name: Apollo Housing.
Property Address: 1065 8th Street, Oakland, CA 94607.
Contact Person: William H. Harrison (415) 461–8660.
Grant Amount: $125,000.
Property Number: 121–44381.
Recipient Name: Casa San Pablo.
Property Name: Casa San Pablo.
Property Address: 5270 N. San Pablo, Fresno, CA 93704.
Contact Person: Michael E. Drandell (310) 280–5082.
Grant Amount: $125,000.
Property Number: 121–35661.
Recipient Name: Runnymede Gardens.
Property Name: Runnymede Gardens.
Property Address: 2301 Cooley Avenue, East Palo Alto, CA 94303.
Contact Person: Michael E. Drandell (310) 280–5082.
Grant Amount: $75,656.
Property Number: 121–44265.
Recipient Name: Livermore Gardens.
Property Name: Livermore Gardens.
Property Address: 5720 East Avenue, Livermore, CA 94550.
Contact Person: Michael E. Drandell (310) 280–5082.
Grant Amount: $75,000.
Property Number: 121–44049.
Recipient Name: Diamond View Resnt's Association.
Property Name: Diamond View Apartments.
Property Address: 296 Addison Street, San Francisco, CA 94131.
Contact Person: Annette McKinney (415) 334–2698.
Grant Amount: $125,000.
Property Number: 017–35089.
Recipient Name: Freshwater Pond, L.P.
Property Name: Freshwater Pond.
Project Address: Thistle Lane, Enfield, CT 06082.
Contact Person: Karen Dean (860) 939–1309.
Grant Amount: $125,000.
Property Number: CT26H045–004.
Recipient Name: City of Norwalk PHA (as private owner).
Property Name: Colonial Village.
Property Address: 24 ½ Monroe Street, South Norwalk, CT 06856–0508.
Contact Person: Curtis O. Law (203) 838–8471.
Grant Amount: $125,000.
Property Number: 023–55089.
Recipient Name: Coalition for a Better Acre.
Property Name: North Canal Apartments.
Project Address: 170B Fr. Morrissette Boulevard, Lowell, MA 01854.
Contact Person: Nancy Turner (508) 970–2122.
Grant Amount: $125,000.
Property Number: 023–35245 &142NI.
Recipient Name: Madison Park Housing Corporation.
Project Name: Madison Park Village.
Project Address: 122 DeWitt Drive, Boston, MA 02120.
Contact Person: Diana J. Kelly (617) 449–7887.
Grant Amount: $125,000.
Property Number: 023–44115.
Recipient Name: Pynchon Partners II.
Property Name: Edgewater Apartments.
Property Address: 101 Lowell Street, Springfield, MA 01107.
Contact Person: Edward Allen (413) 788–6109.
Grant Amount: $125,000.
Property Number: MA06K023–001.
Recipient Name: Cobbet Hill Associates.
Property Name: Cobet Hill Apartments.
Property Address: 498 Essex Street, Lynn, MA 01902.
Contact Person: Alison Levins (617) 581–2180.
Grant Amount: $119,668.
Property Number: MA06A001–001.
Recipient Name: The Wellington Company.
Property Name: Wellington Community.
Property Address: 714 Main Street, Worcester, MA 01610.
Contact Person: June Harger (508) 756–1490.
Grant Amount: $124,960.
Property Number: MA06H058–045.
Recipient Name: Dorchester Bay Economic Dev. Corp..
Property Name: Cottage Brook Apartments.
Project Address: 622 Dudley Street, Boston, MA 02125.
Contact Person: June Harger (508) 756–1490.
Grant Amount: $124,960.
Property Number: 023–94007.
Recipient Name: Blue Hill Housing Limited Partnership.
Property Name: Blue Hill Apartments.
Property Address: 168 Seaver Street, Boston, MA 02121.
Contact Person: Bea Clark (610) 278–1733.
Grant Amount: $125,000.
Property Number: 023–44002.
Recipient Name: Southfield Gardens Company.
Property Name: Southfield Gardens.
Property Address: 165 Carl Avenue, # 348, Brockton, MA 02402.
Contact Person: Frank Cevetello (617) 423–7000.
Grant Amount: $125,000.
Property Number: IN36L000042.
Recipient Name: Quinn I Ltd. Partnership dba Meadows.
Property Name: Meadows Apartments (& IN36L000043).
Property Address: 4004 Meadows Drive, Indianapolis, IN 46205.
Contact Person: Paula Quinn (317) 574–4700.
Grant Amount: $116,000.
Property Number: 046–35578.
Recipient Name: Dayton Nrthlnd. Village Apts, Ltd.

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Property Name: Dayton Northland Village Apartments.
Property Address: 2021 Palisades, Dayton, Ohio 45414.
Contact Person: Nancy Neuhauser (423) 525–7500.
Grant Amount: $125,000.
Property Number: 047–35184.
Recipient Name: Stuyvesant LDHA.
Property Name: Stuyvesant Apartments.
Property Address: 140 Madison SE, Grand Rapids, MI 49503.
Contact Person: Melaine DeVary (517) 351–6840.
Grant Amount: $121,000.
Property Number: 092–44007.
Recipient Name: Skyline Twrs Co./ Sentinel Mgmt.
Property Name: Skyline Towers.
Property Address: 1247 St. Anthony Avenue, St. Paul, MN 55104.
Contact Person: Melanie DeMars (612) 831–5002.
Grant Amount: $125,000.
Property Number: 044–94054.
Recipient Name: MLK Ltd Dividend Hsng. Assctn.
Property Name: Martin Luther King Apartments.
Property Address: 595 Chene, Detroit, MI 48207.
Contact Person: Nancy Hopkins (810) 851–9600.
Grant Amount: $98,896.
Property Number: 043–44001*.
Recipient Name: Agler Green.
Property Name: Agler Green (*018,052,067,102).
Property Address: 3274 Gatewood Ct., Columbus, OH 43219.
Contact Person: Jackie Sowards (304) 744–9041.
Grant Amount: $125,000.
Property Number: IL06K0001&3.
Recipient Name: Michigan Blvd. Associates.
Property Name: Michigan Blvd. Apartments.
Property Address: 50 East 47th Street, Chicago, IL 60653.
Contact Person: Carla Kennedy (312) 335–2675.
Grant Amount: $125,000.
Property Number: 075–94002.
Recipient Name: Juneau Avenue Associates, Ltd.
Property Name: Windsor Court Apartments.
Property Address: 1831 W. Juneau, Milwaukee, WI 53233.
Contact Person: Nancy Neuhauser (423) 525–7500.
Grant Amount: $125,000.
Property Number: 073–44381.
Recipient Name: Asscs. of Triangle, Inc.
Property Address: Caravelle Commons.
Property Name: 1643 N. Park Avenue Indianapolis, IN 46202.
Contact Person: Aaron L. Thomas (317) 842–6612.
Grant Amount: $88,000.
Property Number: 044–94008.
Recipient Name: Auburn Hills Ths. Ltd. Partnership.
Property Name: Spring Lake Village.
Property Address: 252 Carriage Circle Pontiac, MI 48342.
Contact Person: Jim Reuschlein (810) 647–0980.
Grant Amount: $125,000.
Property Number: 071–44042.
Recipient Name: Assisi Homes-DeKalb, Inc.
Property Name: DeKalb Plaza Apartments.
Property Address: 1325 West Lincoln Highway, DeKalb, IL 60115.
Contact Person: Katie Grand (708) 462–9271.
Grant Amount: $125,000.
Property Number: 046–35198.
Recipient Name: United Services No. 2.
Property Name: United Services No. 2.
Recipient Address: 1534 Race Street, Cincinnati, OH 45210.
Property Address: Scattered Sites.
Contact Person: Thomas Denhart (513) 241–6328.
Grant Amount: $91,738.
Property Number: 046–44082.
Recipient Name: Phoenix Apartments.
Recipient Address: 1534 Race Street, Cincinnati, OH 45210.
Property Name: Phoenix Apartments.
Property Address: Scattered Sites.
Contact Person: Thomas Denhart (513) 241–6328.
Grant Amount: $124,745.
Property Number: 071–35524.
Recipient Name: Bethel New Life, Inc.
Property Name: West End Rehab.
Property Address: 4455 West End, Chicago, IL 60624.
Contact Person: Lawrence Grisham (312) 826–5540.
Grant Amount: $116,100.
Property Number: 046–35521.
Recipient Name: Hickory Woods Apartments.
Property Name: Hickory Woods Apartments.
Property Address: 2333 Hidden Meadows Drive, Cincinnati, OH 45223.
Contact Person: Bobby Artist (513) 489–1990 (ext 125).
Grant Amount: $125,000.
Property Number: 044–44060.
Recipient Name: Parkview Apartments NP Hsng. Corp.
Property Name: Parkview Apartments.
Property Address: 596 S. Hamilton Street, Ypsilanti, MI 48197.
Contact Person: Dr. Lee Jones (313) 665–9104.
Grant Amount: $117,923.
Property Number: WI39K901001.
Recipient Name: Ziegler-Limbach of Kenosha A.
Property Name: Ziegler-Limbach of Kenosha.
Property Address: 4007 45th Street, Kenosha, WI 53140.
Contact Person: Fran Spindler (608) 784–2935.
Grant Amount: $125,000.
Property Number: 043–EH277.
Recipient Name: Ohio Baptist Gnrl Cnv Natl Bapt.
Property Name: Love Zion New Salem (Mnr EH311).
Property Address: 2436 Innis Road, Columbus, OH 43224.
Contact Person: Rosalind Swinger (615) 259–4332.
Grant Amount: $125,000.
Property Number: 0464171.
Recipient Name: Centennial Estate Cooperative.
Property Name: Centennial Estate.
Property Address: 9801 Mangham Drive, Cincinnati, OH 45215.
Contact Person: Ramona M. Nelson (513) 961–6011.
Grant Amount: $125,000.
Property Number: 071–44124.
Recipient Name: Sherwood Glen on the Fox.
Property Name: Foxview Apartments II.
Property Address: 3 Oxford Road, Carpentersville, IL 60110.
Contact Person: Diane Petersen (847) 418–7771.
Grant Amount: $124,896.
Property Number: 071–44069.
Recipient Name: Sherwood Glen on the Fox.
Project Name: Foxview Apartments I.
Project Address: 3 Oxford Road, Carpentersville, IL 60110.
Contact Person: Diane Petersen (847) 418–7771.
Grant Amount: $124,896.
Property Number: 071–44176.
Recipient Name: Atrium Village Associates.
Property Name: Atrium Village.
Property Address: 300 West Hill Street, Chicago, IL 60610.
Contact Person: Nancy Spira (312) 642–8707.
Grant Amount: $125,000.
Property Number: 046–35511.
Recipient Name: Field Ertel Townhouses.
Property Name: Field Ertel Townhouses.
Property Address: 12120 Mason Montgomery Road, Cincinnati, OH 45242.
Contact Person: Bobby Artist (513) 489–1900, ext. 125.

Grant Amount: $125,000.
Property Number: 044–44005*.
Recipient Name: Lancaster Village Cooperative.
Property Name: Lancaster Village Coop *6/7/8.
Property Address: 633 Palmer Drive, Pontiac, MI 48342.
Contact Person: Leona Patterson (810) 373–4780.
Grant Amount: $125,000.
Property Number: 046–35369.
Recipient Name: Dunlap Apartments.
Recipient Address: 1534 Race Street.
Property Name: Dunlap Apartments.
Property Address: Scattered Sites, Cincinnati, OH 45210.
Contact Person: Thomas Denhart (513) 241–6328.
Grant Amount: $123,763.
Property Number: 046–35290.
Recipient Name: Green Apartments.
Recipient Address: 1534 Race Street.
Property Name: Green Apartments.
Property Address: Scattered Sites, Cincinnati, OH 45210.
Contact Person: Thomas Denhart (513) 241–6328.
Grant Amount: $70,225.
Property Number: 071–35492.
Recipient Name: New West/Burnham Management.
Property Name: Evergreen Terrace I.
Property Address: 350 North Broadway Street, Joliet, IL 60435.
Contact Person: Diane LaPointe (312) 553–3656.
Grant Amount: $125,000.
Property Number: 044–024NI.
Recipient Name: Dartmouth Square LDHA.
Property Name: Dartmouth Square.
Property Address: 26382 Colgate, Inkster, MI 48141.
Contact Person: Angela England (810) 647–0980.
Grant Amount: $125,000.
Property Number: 046–35517.
Recipient Name: Rolling Ridge Apartments.
Property Name: Rolling Ridge Apartments.
Property Address: 258–259 Yearling Court, Cincinnati, OH 45211.
Contact Person: Bobby Artist (513) 489–1900, ext. 125.
Grant Amount: $125,000.
Property Number: 092–44133.
Recipient Name: Heartland Realty Investors Inc.
Property Name: Briarhill Apartments.
Property Address: 7025 Woodland Drive, Eden Prairie, MN 55346.
Contact Person: Joan Van Putten (612) 937–1735.
Grant Amount: $125,000.
Property Number: 072–NI001.
Recipient Name: Danville Preservation Corp.
Property Name: Vermillion Gardens.
Property Address: 1213 Garden Drive, Unit C, Danville, IL 61832.
Contact Person: Dilia Saeedi (312) 443–1360.
Grant Amount: $99,250.
Property Number: 043–35084.
Recipient Name: U.S. 51 c/o Broad Street Mgmt.
Property Name: U.S. 51 c/o Broad Street Mgmt.
Property Address: 935 East Broad Street, Columbus, OH 43205.
Contact Person: Pat Hartman (614) 253–0984.
Grant Amount: $125,000.
Property Number: 046–35344.
Recipient Name: Mt. Auburn Good Housing Foundtn.
Property Name: Hillside Apartments.
Property Address: 1713–33 Sycamore Street, Cincinnati, OH 45219.
Contact Person: Ramona M. Nelson (513) 961–6011.
Grant Amount: $125,000.
Property Number: 043–35275.
Recipient Name: Greenfield Meadows, Ltd.
Property Name: Southpark Apartments.
Property Address: 891 Greenfield Drive, Columbus, OH 43223.
Contact Person: Patty Owensby (615) 525–7500.
Grant Amount: $125,000.
Property Number: 047–35005.
Recipient Name: Interfaith Hs. of Kalamazoo, Inc.
Property Name: Interfaith Homes.
Property Address: 1037 Patwood Court, Kalamazoo, MI 49007.
Contact Person: John Katsma (616) 382–0012.
Grant Amount: $109,025.
Property Number: 073–92003.
Recipient Name: LaSalle Pk HMS-Nt Pft Apts Cmt.
Property Name: Lasalle Park Homes.
Property Address: 102 South Falcon Street, South Bend, IN 46619.
Contact Name: Robert Toothaker (219) 234–9923.
Grant Amount: $86,860.
Property Number: 023–3522 & seven others.
Recipient Name: Cruz Management Company, Inc.
Recipient Address: 2315 Washington Street, Boston (Roxbury) MA 02119.
Property Name: Eight (8) Scattered Sites and individual addresses.
Contact Person: Amy Belyea (617) 445–8117.
Grant Amount: $125,000.
Property Number: MA06HO58060.
Recipient Name: Noral Housing Associates.
Recipient Address: 75 Central Street, Boston (Dorchester) MA 02109.
Property Name: Noral Housing.
Property Address: Ten (10) Scattered Sites.
Contact Person: Enrico Gilbert (617) 738–5100.
Grant Amount: $125,000.
Property Number: MA 06HO52067.
Recipient Name: Urban Edge Housing Corporation.
Recipient Address: 2010 Columbus Avenue, Boston (Roxbury) MA 02119.
Property Name: Self-Help Apartments.
Property Address: Three (3) Scattered Sites, Boston (Roxbury & Jamaica Plain), MA.
Contact Person: Leroy Stoddard (607) 541–2596.
Grant Amount: $118,363.
Property Number: MA06HO58107.
Recipient Name: Bay Meadow Achievers.
Property Name: Bay Meadow Apartments.
Property Address: 100 Bay Meadow Road, Springfield, MA 01109.
Contact Person: Paula Hatch (413) 733–3316.
Grant Amount: $63,434.
Property Number: MA06E000023.
Recipient Name: Gibraltar Associates.
Property Name: Mandela Apartments.
Property Address: 10 Hammond Street, Boston (Roxbury) MA 02120.
Contact Person: Carolyn Gibson (617) 445–0650.
Grant Amount: $107,450.
Property Number: 023–089NI.
Recipient Name: Mystic Valley Towers Associates.
Property Name: Mystic Valley Towers.
Property Address: 3610 Mystic Valley Parkway, Medford, MA 02155.
Contact Person: Michael Milko (617) 391–1810.
Grant Amount: $124,878.
Property Number: 023–44114.
Recipient Name: Pynchon Partners.
Property Name: Pynchon Terrace.
Property Address: 101 Lowell Street, Springfield, MA 01107.
Contact Person: Edward Allen (413) 788–6109.
Grant Amount: $125,000.
Property Number: 023–44210.
Recipient Name: The Cooperative of Charleston.
Property Name: Charles New Town Cooperative.
Property Address: 10 Old Ironsides Way, Boston (Charlestown) MA 02129.
Contact Person: Erik Thelen (617) 242–0808.
Grant Amount: $124,965.
Property Number: 023–020NI.
Recipient Name: Riverside Village Company.
Property Name: Riverside Village.

Property Address: 24 State Street, Leominster, MA 01453.
Contact Person: Mary Lou Walker (617) 262–2836.
Grant Amount: $125,000.
Property Number: 023–36602.
Recipient Name: Harbor Point Community Task Force.
Property Name: Harbor Point Apartments.
Property Address: 1 North Point Drive, Boston (Dorchester) MA 02125.
Contact Person: Ruby Jaudoo (617) 288–5701.
Grant Amount: $124,769.
Property Number: MA06A001002.
Recipient Name: Whittier Terrace Associates.
Property Name: Whittier Terrace.
Property Address: 86 Austin Street, Worchester, MA 01609.
Contact Person: Joseph Salvia (508) 791–1472.
Grant Amount: $123,715.
Property Number: 023–35253.
Recipient Name: Villa Nueva Vista Associates.
Property Name: Villa Nueva Vista.
Property Address: 36 Cumberland Street, Springfield, MA 01107.
Contact Person: Sharon Starinovich (413) 737–7748.
Grant Amount: $114,741.
Property Number: 023–55179.
Recipient Name: Georgetowne II Limited Partnership.
Property Name: Georgetowne House II.
Property Address: 400A Georgetowne Drive, Boston (Hyde Park) MA 02136.
Contact Person: Paul Martin (617) 364–3020.
Grant Amount: $47,845.
Property Number: 023–55058.
Recipient Name: Georgetowne I Limited Partnership.
Property Name: Georgetowne House I.
Property Address: 400A Georgetowne Drive, Boston (Hyde Park) MA 02136.
Contact Person: Paul Martin (617) 364–3020.
Grant Amount: $77,155.
Property Number: 026–55001–02655002.
Recipient Name: Northgate Housing Limited Partnership.
Property Name: Northgate/Greenfield Apartments.
Property Address: 275 Northgate Road, Burlington, VT 05401.
Contact Person: Susi Taylor (802) 658–2722.
Grant Amount: $124,579.
Property Number: 016–55003.
Recipient Name: Providence Bldg., Sanitary & Educational Asso.
Property Name: Chase Wiggin Village.
Property Address: 207 Cranston Street, Providence, RI 02907.
Contact Person: Jacquelyn E. McDonald.
Grant Amount: $125,000.
Property Number: NJE087231PB2.
Recipient Name: Jersey City Housing Authority.
Property Name: 254 Bergen Avenue.
Property Address: 254 Bergen Avenue, Jersey City, NY 07306.
Contact Person: Maria T. Maio (201) 547–6753.
Grant Amount: $125,000.
Property Number: 012–57313.
Recipient Name: Lewis Morris Associates.
Property Name: Lewis Morris Apartments.
Property Address: 1749 Grand Concourse, Bronx, NY 10453.
Contact Person: Hector Pincro (212) 947–1644.
Grant Amount: $125,000.
Property Number: 012–035NI.
Recipient Name: Starrett City Associates.
Property Name: Starrett at Spring Creek.
Property Address: 1320 Pennsylvania Avenue, Brooklyn, NY 11239.
Contact Person: Devorah L. Fong (718) 240–4545.
Grant Amount: $124,000.
Property Number: 012–35088.
Recipient Name: Jackson Terrace Associates.
Property Name: Jackson Terrace.
Property Address: 100 Terrace Avenue, Hempstead, NY 11550.
Contact Person: Peter Florey (516) 745–0150.
Grant Amount: $125,000.
Property Number: 012–019NI.
Recipient Name: Sea Park West Houses, Inc.
Property Name: Sea Park West.
Property Address: 2930 West 39th Street, Brooklyn, NY 11224.
Contact Person: Natalie J. Weinthal (718) 240–4130.
Grant Amount: $45,000.
Property Number: 014–039NI.
Recipient Name: Boriquen Associates.
Property Name: Los Flamboyanes.
Property Address: 100 Boriquen Plaza, Rochester, NY 14620.
Contact Person: Elizabeth Kurtz (716) 427–7390.
Grant Amount: $125,000.
Property Number: 052–44200.
Recipient Name: Orchard Mews Associates.
Property Name: Orchard Mews Apartments.
Property Address: 568 Orchard Street, Baltimore, MD 21201.
Contact Person: Angela Wickham (410) 523–2021.
Grant Amount: $125,000.
Property Number: 034–44106.
Recipient Name: Hillrise Mutual Housing Assoc., Inc.
Property Name: Hillrise Apartments.
Property Address: 241 Locust Street, Lancaster, PA 17602.
Contact Person: Seraida Morales (717) 291–1911.
Grant Amount: $103,832.
Property Number: 033–44074.
Recipient Name: Insignia Management Group.
Property Name: Carnegie Towers.
Property Address: 820 Capital Drive, Carnegie, PA 15106.
Contact Person: John Skaro (412) 644–6884.
Grant Amount: $108,000.
Property Number: 051–44201.
Recipient Name: Ruffin Rd. Associates LTD Partnership.
Property Name: Ruffin Road Apartments.
Property Address: 2219–A Ruffin Road, Richmond, VA 23234.
Contact Person: Regina Harris (804) 672–2236.
Grant Amount: $42,540.
Property Number: 045–35149.
Recipient Name: Willbrian Apartments, LTD.
Property Name: Willbrian Apartments.
Property Address: Ewart Drive, Beckley, WV 25801.
Contact Person: Billy P. Shadrack (704) 249–7543.
Grant Amount: $40,000.
Property Number: 000–44142.
Recipient Name: Brentwood Associates Limited Partnership.
Property Name: Brookland Manor Apartments.
Property Address: 1289 Brentwood Road, N.E., Washington, D.C. 20018.
Contact Person: Arlene Simons (301) 961–1780.
Grant Amount: $122,544.

[FR Doc. 96–32964 Filed 12–26–96; 8:45 am]
BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Draft Recovery Plan for a Plant, Fringed Campion, for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: The Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for fringed campion (*Silene polypetala*), an endangered plant native to hardwood

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forests in central Georgia and on the Flint-Apalachicola bluffs at the southern border of Georgia and adjoining Florida. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before February 25, 1997 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the Field Supervisor, Jacksonville Field Office, Fish and Wildlife Service, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216 (Telephone: 904–232–2580, FAX 904–232–2404). Written comments and materials regarding the plan should be addressed to the Field Supervisor, at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Linda Finger at the above address (Telephone: 904–232–2580 ext. 107).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened plants and animals to the point where they are secure self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for downlisting or delisting species, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice, and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will take these comments into account in the course of implementing approved recovery plans.

Fringed campion inhabits hardwood bottoms and ravines in a very limited geographic range. As a result, it was probably comparatively rare even before the time of European contact. The greatest threat to this forest species is the progressive alteration or degradation of its habitat due to logging. The resultant increased sunlight, lack of replenishment of the humus layer, and growth of aggressive exotic weeds such as Japanese honeysuckle, act in concert to eliminate this species. Browsing of flowering stems by deer impact reproduction by seed.

The actions needed to recover this species are: 1) Protect populations. 2) Preserve genetic stock from acutely threatened populations. 3). Monitor populations to determine trends and developing threats. 4) Control exotic pest plants. 5) Search for additional populations. 6) Reestablish fringed campion at protected locations, if necessary. 7) Manage sites to maintain and/or enhance populations. Most opportunities to conserve this plant will be on private land because only two sites are in public ownership and no public land acquisition is contemplated. Landowners are not obliged in any way to conserve the plant on their property.

Public Comments Solicited

The Service solicits written comments on the recovery plan. All comments received by the date specified above will be considered prior to the approval of the plans.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: December 10, 1996.

David Hankla,

Field Supervisor.

[FR Doc. 96–33021 Filed 12–26–96; 8:45 am]

BILLING CODE 4310–55–P

U.S. Fish and Wildlife Service

Availability of a Draft Programmatic Environmental Impact Statement on Impacts of Artificial Salmon and Steelhead Production Strategies in the Columbia Basin

AGENCIES: U.S. Fish and Wildlife Service, (lead agency), National Marine Fisheries Service, Bonneville Power Administration (cooperating agencies).

ACTION: Notice of availability and schedule of public workshops.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (Service), the National Marine Fisheries Service (NMFS) and the Bonneville Power Administration (BPA) have issued a draft Programmatic Environmental Impact Statement (PEIS) on Impacts of Artificial Salmon and Steelhead Production Strategies in the Columbia Basin. The draft PEIS frames the policy level issues associated with the agencies' proposals to change salmon and steelhead fish hatchery production in Columbia Basin and discusses the cumulative impact issues within the basin's salmon and steelhead mainstem migration corridor. This notice is being furnished pursuant to the Council on Environmental Quality Regulations for Implementing The Procedural Provisions of the National Environmental Policy Act (NEPA) Regulations (40 CFR 1506.6).

DATES: Written comments are requested by February 10, 1997.

Three public informational workshops have been scheduled to explain the proposals and receive comments. All of the workshops will be held from 1:00 pm to 5:00 pm and 7:00 pm to 9:00 pm.

January 14, 1997, Red Lion—Downtowner, Boise, Idaho

January 16, 1997, Red Lion Inn, Pasco, Washington

January 21, 1997, Red Lion Hotel—Lloyd Center, Portland, Oregon

ADDRESS WRITTEN COMMENTS: Send comments to PEIS Team Leader, U.S. Fish and Wildlife Service, 911 NE 11 Ave, Portland, Oregon, 97232–4181.

FOR FURTHER INFORMATION CONTACT: Lee Hillwig, U.S. Fish and Wildlife Service, Telephone: 503–872–2766 or Dave Riley, Telephone: 503–226–2460.

Copies of the Draft PEIS are available for review at the following libraries:

Astoria Public Library, Astoria, Oregon

Deschutes County Library, Bend, Oregon

Hood River County Library, Hood River, Oregon

King County Library System, Seattle, Washington

Multnomah County Library, Portland, Oregon

North Central Regional Library, Wenatchee, Washington

Seattle Public Library, Seattle, Washington

Yakima Valley Regional Library, Yakima, Washington

SUPPLEMENTARY INFORMATION: Columbia Basin fish managers continue to struggle to meet a variety of fishery obligations and mandates that often compete for scarce resources. Management of fish hatcheries is one of many factors affecting overall fish populations within the basin. In recognition of the need to develop a systemwide salmon and steelhead artificial production strategy in the Columbia Basin that better

balances responses to competing legal mandates, the Fish and Wildlife Service, National Marine Fisheries Service, and Bonneville Power Administration are proposing policy level changes in Columbia Basin salmon and steelhead fish hatchery production. These proposals are contained in the Draft Programmatic Environmental Impact Statement on Impacts of Artificial Salmon and Steelhead Production Strategies in the Columbia Basin.

A. Development of the Draft EIS

This draft PEIS has been developed cooperatively by the U.S. Fish and Wildlife Service, Pacific Division (lead agency); the National Marine Fisheries Service, and the Bonneville Power Administration.

In the development of this draft PEIS, the U.S. Fish and Wildlife Service has initiated action to assure compliance with the purpose and intent of the National Environmental Policy Act of 1969, as amended. Extensive scoping activities were undertaken preparatory to developing the EIS with a variety of Federal, State, and local entities. A Notice of Intent to prepare the EIS was published in the **Federal Register** on July 25, 1994.

Key issues addressed in this draft PEIS are identified as the effects that implementation of various alternatives would have upon (1) production for fisheries, (2) fish stock diversity, and (3) social and economic conditions.

B. Alternatives Analyzed in the Draft EIS

The draft PEIS examines a range of alternatives from closure of all or most fish hatcheries to abandoning most fish habitat improvement programs and relying almost exclusively on increased artificial production. The preferred action proposes systemwide, policy-level decisions to better meet competing fishery obligations and mandates. Key components include:

- Limiting overall basin artificial production to current levels or very small increases,
- Shifting some emphasis of outplanting strategies from downstream (below Bonneville Dam) to the upstream and/or tributary streams,
- Implementing measures to more fully assess risks where site specific hatchery management changes are contemplated,
- Establishing an enhanced natural production objective, and
- Proposing aggressive subbasin planning and monitoring for hatchery programs and adaptive management measures for hatchery practices where indicated.

At the programmatic or systemwide level, the PEIS frames the policy level issues associated with the proposed actions and discusses the cumulative impact issues within the basin's salmon and steelhead mainstream migration corridor.

Dated: December 13, 1996.

Michael J. Spear,

William W. Stelle, Jr.,

For the U.S. Fish and Wildlife Service:

Dated: December 19, 1996.

For the National Marine Fisheries Service:

[FR Doc. 96–32925 Filed 12–26–96; 8:45 am]

BILLING CODE 4310–55–P

Preparation of a Joint Environmental Impact Statement /Environmental Impact Report for Federal and State Actions Associated with Furthering the Purposes of the September 28, 1996, Agreement Between the United States, State of California, and MAXXAM, Inc. and its Subsidiary, Pacific Lumber Company

AGENCY: Fish and Wildlife Service, Interior. (Lead Agency)

Cooperating Agencies:

National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.
Environmental Protection Agency
Forest Service, Agriculture
Bureau of Land Management, Interior
California State Resources Agency
California State Department of Forestry and Fire Protection
California State Department of Fish and Game

ACTION: Notice of intent.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service and National Marine Fisheries Service (collectively "the Services"), Environmental Protection Agency (EPA), U.S. Bureau of Land Management (BLM), U.S. Forest Service (USFS), and California Resources Agency (Agency), California Department of Forestry and Fire Protection (CDF), and California Department of Fish and Game (CDFG) intend to gather information necessary for the preparation of an Environmental Impact Statement (EIS)/ Environmental Impact Report (EIR). The EIS/EIR will consider the Federal and State actions associated with the September 28, 1996 agreement, (agreement) namely:

(1) Transfer of the Headwaters Forest and the Elk Head Forest and adjacent forest lands, totaling approximately 7,500 acres, to the United States and California in exchange for (i) the Elk River Exchange Property (described below), and (ii) property and other consideration from both the United States and California (including cash) having an aggregate fair market value of $300 million;

(2) Acquisition by the United States and California of the approximately 9,600-acre Elk River Timber Company property through exchange for up to 10,000 acres of National Forest System lands in the Eldorado, Plumas, Stanislaus, and Tahoe National Forests or other considerations;

(3) Transfer of approximately 7,775 acres of the Elk River Timber Lands (the Elk River Exchanged Property) to the Pacific Lumber Company and its parent MAXXAM, Inc. in return for acquisition of the Headwaters Forest and Elk Head Forest; with the remaining approximately 1,825 acres of the Elk River Timber lands becoming part of the Headwaters-Elk Head Reserve;

(4) Issuance of an incidental take permit under the Endangered Species Act (Act) by the Services in anticipation of a permit application by The Pacific Lumber Company (a subsidiary of MAXXAM, Inc.) to take federally listed species and requesting assurances regarding other species occurring or potentially occurring on the remaining lands of The Pacific Lumber Company, the Elk River Property, and any other timberlands or timber harvesting rights acquired by Pacific Lumber and its parent MAXXAM, Inc. as a result of the above described transactions; and

(5) Approval of The Pacific Lumber Company's Sustained Yield Plan (SYP) by CDF including consideration of conservation measures or plans addressing State-listed species.

The EIS/EIR will also consider any actions by other Federal or State agencies that are necessary or appropriate to perform the agreement.

This notice is being furnished pursuant to the Council on Environmental Quality Regulations for Implementing The Procedural Provisions of the National Environmental Policy Act (NEPA) Regulations (40 CFR sections 1501.7 and 1508.22) to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to be considered in preparation of the EIS.

To satisfy both Federal and State environmental policy act requirements, the above Federal agencies and California agencies are conducting a joint scoping process for the preparation of environmental documents. In order to expedite the planning process, the above agencies request all scoping

comments to this notice be received by February 10, 1997.

DATES: As an opportunity for interested persons to comment on the scope of the EIS, public scoping meetings are scheduled as follows:

- Thursday, January 16, 1997, Oakland Convention Center, West Hall, 550 Tenth Street (at Broadway), Oakland, California
- Thursday, January 23, 1997, Red Lion Hotel, 3100 Camino del Rio Court, Bakersfield, California
- Tuesday, January 28, 1997, Red Lion Hotel, 1830 Hilltop Drive, Redding, California
- Thursday, January 30, 1997, Radisson Hotel, 500 Leisure Lane, Sacramento, California
- Wednesday, February 5, 1997, Redwood Acres Fairgrounds, Franceschi Hall, 3750 Harris Street, Eureka, California

All scoping meetings will be held from 1:00 p.m. to no later than 4:00 p.m., and from 6:00 p.m. to no later than 9:00 p.m.

ADDRESS: Comments regarding the scope of the EIS should be addressed to Mr. Bruce Halstead, U.S. Fish and Wildlife Service, 1125 16th Street, Room 209, Arcata, CA 95521–5582. Comments should be received on or before January 31, 1997, at the above address. Written comments may also be sent by facsimile to (707) 822–8136. Comments received will be available for public inspection by appointment during normal business hours (8:00 a.m. to 5:00 p.m., Monday through Friday) at the above office; please call for an appointment.

FOR FURTHER INFORMATION CONTACT: Dennis Mackey, U.S. Fish and Wildlife Service, 911 NE 11th Avenue, Portland, Oregon 97232–4181, Telephone: (503) 231–6241. Specific information regarding the location of the National Forest System lands proposed for exchange may be obtained from Phil Bayles, 630, Sansome Street, San Francisco, CA 94111, (415) 705–2772.

SUPPLEMENTARY INFORMATION: MAXXAM, Inc. and its subsidiary, Pacific Lumber Company own and manage approximately 200,000 acres of commercial forest land in Northern California. Pacific Lumber Company and MAXXAM Corporation signed an agreement on September 28, 1996, with the United States, and the State of California. The agreement calls for transfer of approximately 7,500 acres of private forest lands in the Headwaters and Elk Head forests to State and Federal ownership in exchange for the Elk River Exchange Property and a combination of cash and yet to be determined assets, valued at $300 million. The Federal and State assets currently proposed for exchange include the following, however, it should be noted these may change during the planning process and any changes would be disclosed in the appropriate environmental documents:

- Approximately 2,967 acres of timber land in Humboldt County, California (estimated to contain 11 million board feet of timber) managed by the BLM,
- Federal mineral interests in California, managed by BLM, many of which are located in Kern County,
- Approximately 30 acres of excess land adjacent to Chet Holifield Federal Office in Laguna Niguel, California,
- Not more than 17,000 acres of National Forest System lands are proposed for exchange to Elk River Timber Company for a portion of the lands known as the Elk River Timber Company property. The 17,000 acres are identified on four National Forests, including 7,000 on the Eldorado National Forest, 2,000 on the Plumas National Forest, 7,000 on the Stanislaus National Forest , and 1,000 on the Tahoe National Forest. The precise acreage that would actually be exchanged will be that amount equaling approximately $30,000,000 in value based on actual appraisal, current at the time of decision. Cash or other valuable considerations up to $30,000,000 in value may be substituted, and
- Approximately 9,013 acres of State property within the Latour State Forest, 1,100 acres of State agricultural land in San Bernardino County, approximately 1,313 acres (in 18 parcels, 13 of which are less than 40 acres) of State General Surplus property, including the 488-acre California Department of Forestry (CDF) Black Mountain property, 140-acre CDF Deadwood Camp property, and 415-acre Rector Canyon property, 5 parcels approximating 110 acres within the city limits of Eureka, and 25 parcels of surplus Caltrans property (24 of which are less than 10 acres), including the Transbay Bus Terminal.

The USFS, pursuant to National Forest Management Act (NFMA) of 1976, and BLM, pursuant to Federal Land Policy and Management Act (FLPMA) of 1976 are agencies authorized to acquire, excess, exchange, and transfer Federal lands and will be the agencies primarily responsible for furthering the federal realty actions.

The agreement also calls for the expedited development and submission by Pacific Lumber Company and processing by the Services of an application for an incidental take permit, which would be accompanied by a Habitat Conservation Plan (HCP), pursuant to the provisions of section 10(a)(1)(B) of the Act. Under the terms of the agreement, Pacific Lumber Company is to develop a multi-species habitat conservation plan for forested lands currently within their ownership, as well as other lands which would be acquired by Pacific Lumber under the agreement. It is anticipated that the permit application for incidental take will include the threatened northern spotted owl (*Strix occidentalis caurina*), the threatened marbled murrelet (*Brachyramphus marmoratus marmoratus*), the threatened bald eagle (*Haliaeetus leucocephalus*), and the endangered American peregrine falcon (*Falco peregrinus anatum*) as well as an agreement covering conservation of unlisted species including the proposed threatened steelhead (*Oncorhynchus mykiss*) and proposed threatened coho salmon (*Oncorhynchus kisutch*).

Once completed, it is expected that Pacific Lumber Company will submit the HCP as part of the incidental take permit application process, as required under the provisions of section 10(a)(2)(A) of the Act. The Service and NMFS will evaluate the incidental take permit application and associated HCP in accordance with section 10(a)(2)(B) of the Act, and its implementing regulations. The environmental review of the HCP will be conducted in accordance with the Act and the requirements of NEPA and its implementing regulations. A No Action/No Project alternative will be considered consistent with the requirements of NEPA and CEQA. As a cooperating agency EPA will also review the plan for consistency with the provisions of the Clean Water Act. Several streams in watersheds in which Pacific Lumber owns land are listed as water quality limited under Section 303(d) of the Clean Water Act. If feasible, EPA will work with Pacific Lumber Company, sister Federal Agencies, the State, and the public to address water quality issues of these limited waterbodies at the same time the HCP and SYP are developed.

As a party to the agreement, the Agency has agreed to the expedited development and submission by Pacific Lumber and processing by the CDF of a Sustained Yield Plan pursuant to the provisions under Article 6.75 of the California Forest Practice Rules including consideration of conservation measures or plans addressing State-listed species under the California Endangered Species Act. Land transactions proposed under the agreement may be subject to the approval of the Eureka City Council, California Transportation Commission,

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or the State of California legislature. The State-sponsored actions are being reviewed under the California Environmental Quality Act.

Dated: December 19, 1996.

Michael J. Spear,

Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 96–32926 Filed 12–26–96; 8:45 am]

BILLING CODE 4310–55–P

Geological Survey

Federal Geographic Data Committee (FGDC); Public Meetings of the FGDC Facilities Working Group

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of meetings.

SUMMARY: This notice is to invite public participation in meetings of the FGDC Facilities Working Group and subgroups. The major topics for this meeting are: development of a Facility/Installation ID standard; development of a utility data content standard; and development of an environmental hazard data content standard, and an accuracy standard for facility mapping.

TIME AND PLACE: 10 February 1997, from 1:00 p.m. until 3:00 p.m. The meeting will be held at Headquarters U.S. Army Corps of Engineers, in Room 8222D of the Pulaski Building, 20 Massachusetts Avenue, NW, Washington, DC. The Pulaski building is located just a few blocks west of Union Station. The standards development project teams will also meet in the same place at the following times: the Facility ID and Environmental Hazards Standards Teams will meet from 9:00 a.m.–12:00 noon and the Utilities Standard Team will meet from 3:15 p.m.–4:15 p.m.

FOR FURTHER INFORMATION CONTACT: Jennifer Fox, FGDC Secretariat, U.S. Geological Survey, 590 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 20192; telephone (703) 648–5514; facsimile (703) 648–5755; Internet "gdc@usgs.gov".

SUPPLEMENTARY INFORMATION: The FGDC is a committee of Federal agencies engaged in geospatial activities. The FGDC Facilities Working Group specifically focuses on geospatial data issues related to facilities and facility management. A facility is an entity with location, deliberately established as a site for designated activities. A facility database might describe a factory, a military base, a college, a hospital, a power plant, a fishery, a national park, an office building, a space command center, or a prison. The database for a complex facility may describe multiple functions or missions, multiple buildings, or even a county, town, or city. The objectives of the Working Group are to: promote standards of accuracy and currentness in facilities data which is financed in whole in part by Federal funds; exchange information on technological improvements for collecting facilities data; encourage the Federal and non-Federal community to identify and adopt standards and specifications for facilities data; and to promote the sharing of facilities data among Federal and non-Federal organizations

Dated: December 19, 1996.

Richard E. Witmer,

Acting Chief, National Mapping Division.

[FR Doc. 96–33026 Filed 12–26–96; 8:45 am]

BILLING CODE 4310–31–M

Bureau of Land Management

[AK–962–1410–00–P]

Alaska; Notice for Publication, AA–9243; Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(1), will be issued to Calista Corporation for approximately 680.8 acres. The lands involved are in the vicinity of Nunivak Island, Alaska.

Seward Meridian, Alaska

T. 1 S., R. 95 W.,
Sec. 31.
T. 2 S., R. 96 W.,
Sec. 1;
Sec. 2.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Anchorage Daily News. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until January 27, 1997 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Patricia A. Baker,

Land Law Examiner, ANCSA Team, Branch of 962 Adjudication.

[FR Doc. 96–32928 Filed 12–26–96; 8:45 am]

BILLING CODE 4310–$$–P

[NM–932–1320–7; OKNM 91571, et al.]

Notice of Coal Lease Offering; Oklahoma

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of competitive coal lease sale by sealed bid.

SUMMARY: Notice is hereby given that certain coal resources in the tracts described below in Le Flore County, Oklahoma, will be offered for competitive lease by sealed bid in accordance with the provisions of the Mineral Leasing Act of 1920, as amended, (30 U.S.C. 181 *et seq.*), and the Surface Mining and Reclamation Act of 1977.

DATES: The lease sale will be held at 10:00 a.m., January 31, 1997. Sealed bids must be submitted on or before 10:00 a.m., January 31, 1997. Each bid should be clearly identified by tract and/or serial number on the outside of the envelope containing the bid(s).

ADDRESSES: The lease sale will be held in the Bureau of Land Management Conference Room, Tulsa District Office, 7906 E. 33rd Street, Suite 121, Tulsa, Oklahoma 74145. Sealed bids must be submitted to the Cashier, Tulsa District Office, Attention: Laura Stich, 7906 E. 33rd Street, Suite 121, Tulsa, Oklahoma 74145.

FOR FURTHER INFORMATION CONTACT: Gary Stuckey, BLM, Tulsa District Office, (918) 621–4115.

SUPPLEMENTARY INFORMATION: The tracts will be leased to the qualified bidder(s) submitting the highest cash offer provided that the high bid meets the fair market value determination of the coal resource. The minimum bid for these tracts is $100.00 per acre or fraction thereof. No bid that is less than $100.00 per acre or fraction thereof, will be considered. This $100.00 per acre is a regulatory minimum, and is not intended to reflect fair market value of the tracts. Bids should be sent by certified mail, return receipt, or be hand-delivered. The cashier will issue a receipt for each hand-delivered bid. Bids received after the time specified above will not be considered. The fair market value of each tract will be

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determined by the authorized officer after the sale.

If identical high sealed bids are received, the tying high bidders will be requested to submit follow-up sealed bids until a high bid is received. All tie-breaking sealed bids must be submitted within 15 minutes following the Sale Official's announcement at the sale that identical high bids have been received.

All the tracts in this lease offering contain split estate lands. Except where specified, the proposed mining method is surface mining techniques. The regulations at 43 CFR 3427 set out the protection that shall be afforded qualified surface owners of split estate lands (as defined at 43 CFR 3400.0–5(gg)).

Tract No. 1—Rock Island Tract—OKNM 91571

Coal Offered: The coal resource to be offered in Tract No. 1 (OKNM 91571), will be mined by both surface *and underground* mining methods in the following described lands located in Le Flore County, Oklahoma:

Indian Meridian

T. 8 N., R. 25 E., Le Flore Co., OK
sec. 23, S½;
T. 8 N., R. 26 E., Le Flore Co., OK
sec. 12, S½S½;
sec. 13, N½;
sec. 14, NE¼, S½NW¼, and N½SW¼;
sec. 15, N½SE¼ and SW¼SE¼;
sec. 21, N½NE¼;
sec. 22, NW¼NW¼;
T. 8 N., R. 27 E.,
sec. 7, S½NE¼SW¼, S½SW¼, S½SE¼, S½N½SE¼, and N½NE¼SE¼;
sec. 8, SW¼, and N½N½SE¼;
sec. 9, S½N½ and N½N½S½;
sec. 10, SW¼NW¼ and NW¼SW¼.
Containing 2,120.00 acres, more or less.

The lands described below may only be mined by underground mining techniques. No surface mining is allowed

T. 8 N., R. 25 E., Le Flore Co., OK
sec. 23, S½SW¼, S½NW¼SW¼, S½N½NW¼SW¼, S½S½NE¼SW¼, and W½SE¼;
T. 8 N., R. 26 E., Le Flore Co., OK
sec. 12, S½S½;
sec. 13, NW¼NE¼NW¼;
sec. 14, N½NE¼;
sec. 22, NW¼NW¼;
T. 8 N., R. 27, E.,
sec 7, E½SE¼NW¼SE¼SW¼, SW¼NE¼SE¼SW¼, W½SE¼NE¼SE¼SW¼, SE¼SW¼SW¼SE¼SW¼, E½SW¼SE¼SW¼, and SW¼SE¼SE¼SW¼;
sec. 9, S½S½NW¼, and N½SE¼NE¼;
sec. 10, N½SW¼NW¼.

The lease tract consists of three non-contiguous parcels. The largest occurs on the Hackett and Spiro quadrangles and extends from section 10, T. 8 N., R. 27 E. to Section 15, T. 8 N., R. 26 E. The small central parcel lies in sections 21 and 22, T. 8 N., R. 26 E. The western parcel lies in section 23, T. 8 N., R. 25 E. While this last parcel is some 4 miles from the other parcels, the intervening lands are non-Federal. The Federal lands adjoining it on the west are encumbered by the Poteau River and consequently cannot be leased nor developed. The parcel therefore does not fit with any larger tract and is most logically mined in conjunction with the fee coal to the east. After consultation with the applicant, it was decided to include these lands with Rock Island tract rather than set offer it as a separate lease which would be costlier and less efficient for both the government and any potential lessee.

Coal resources on the tract occur in two beds: the Upper and Lower Hartshorne. These beds are separated by about 80 feet of interburden in the eastern and central parcels but only about 50 feet in the western parcel. The beds dip south, away from the Backbone anticline, at about 2° in the western parcel and at about 5° in the eastern parcels. There is a small graben in the Hackett quadrangle which has dropped the coals 40 to 60 feet and which may reduce recovery in the immediate area. Other local faulting will most likely be encountered.

The Upper Hartshorne on the eastern and central parcels is thin, split by partings of bone and rock. It is not considered recoverable.

The Lower Hartshorne on the eastern parcel has a rock parting that ranges up to 3 feet thick. Coal above the parting has been designated the Upper Split and that below, the Lower Split. The Upper Split ranges from 0.9 to 4.9 feet thick, averaging 2.7 feet. Where it thins, the Lower Split appears to thicken. The Lower Split ranges from 0.7 to 3.25 feet thick averaging 2.4 feet.

In the western parcel, both the Upper and Lower Hartshorne are considered minable. The Upper bed averages 3.8 feet thick and the Lower 4.4 feet. The two beds are separated by about 50 feet of interburden. Recoverable coal resources are estimated to be 4.3 million tons. Reserve estimates were made to a depth of 150 feet, intercepting the Lower Hartshorne coal bed.

According to the projected monthly production of 25,000 tons stated in the original lease application, coal reserves in this lease will be depleted within 14 years.

The critical quality parameters are: Upper Hartshorne: Ash 6.9%, BTU/lb 14,125; Sulfur 0.8%. Lower Hartshorne: Ash 5.2%; BTU/lb 14,310; Sulfur 1.0% (Table 1, OFR 79–495).

Tract No. 2—OKNM 94663

Indian Meridian

T. 9 N., R. 24 E.,
sec. 3, NE¼SW¼, N½SW¼SW¼, SW¼SW¼SW¼, SE¼SW¼SW¼, and NW¼SE¼SW¼.
Containing 90.00 acres, more or less.

The lands described below may only be mined by underground mining techniques. No surface mining is allowed

Indian Meridian

T. 9 N., R. 24 E., LeFlore Co., OK
Sec. 3, S½SE¼SW¼SW¼.

Geological information for this application indicates the surface minable coal is the Stigler coal bed with estimated average thickness of 1.3 feet. The coal is considered to be a good quality, medium volatile bituminous rank coal which could be used as a blend in the production of coke. The area applied-for contains an estimated 138,000 tons of recoverable Federal coal. Reserve estimates are made to a depth of 70 feet.

Projected production would be 24,000 to 30,000 tons per year depending upon market conditions. The coal would be mined in 5 or 6 years at the projected rate of production.

The Stigler coal averages 2 percent moisture, 25 percent volatile matter, 4 to 10 percent ash, and 66 to 72 percent fixed carbon content in the general area of the application. The heating value of the coal is approximately 13,000 British thermal units (Btu) per pound.

Surface Owner Information

There are currently 13 qualified surface owner consents on file for application to lease OKNM 91571. For application to lease OKNM 94663, it has been determined that there is one qualified surface owner. These consents are posted and are available for viewing at either the Tulsa District Office or the New Mexico State Office at the addresses shown above. They are also available for inspection at the BLM office located at 221 N. Service Rd., Moore, OK 73160–4946.

Rental and Royalty

The leases issued as a result of this lease offering will require payment of an annual rental of $3.00 per acre, or fraction, thereof, and a royalty payable to the United States of 12½ percent of the value of the coal removed from a surface mine and 8 percent of the value of the coal removed from an underground mine. The value of the

coal will be determined in accordance with 30 CFR § 206.250.

Notice of Availability

Bidding instructions for the offered tracts are included in the Detailed Statement of Coal Lease Sale. Copies of the proposed coal lease sale and detailed statement are available upon request in person or by mail from the New Mexico State Office, P.O. Box 27115, 1474 Rodeo Road, Santa Fe, NM 87502–0115, or the Tulsa District Office at the address shown above. The case files are available for inspection during normal business hours *only* at the Santa Fe BLM Office at the address indicated.

Dated: December 18, 1996.

Richard A. Whitley,

Acting State Director.

[FR Doc. 96–32745 Filed 12–26–96; 8:45 am]

BILLING CODE 4310–01–M

[CA–060–7122–00–D063; CACA 35800]

California Desert District; Availability of Draft Environmental Impact Statement (DEIS); U.S. Army's Land Acquisition Project for the National Training Center, Fort Irwin, California; Proposed Withdrawal of Public Lands and Proposed Amendment to the California Desert Conservation Area Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of draft environmental impact statement.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management (BLM) Department of the Interior has prepared, by third party contractors to the U.S. Army Corps of Engineers, Los Angeles District, a Draft Environmental Impact Statement (DEIS) analyzing the impacts to the human environment of the U.S. Army's proposed expansion of the National Training Center (NTC) at Fort Irwin. The NTC is located approximately 35 miles northeast of Barstow in north-central San Bernardino County, California. The proposed action is (1) the withdrawal and transfer of jurisdiction to the U.S. Army of approximately 310,296 acres of public lands managed by the BLM, and (2) an amendment of the California Desert Conservation Area Plan. This DEIS analyzes environmental impacts of the proposed action, five alternatives and the no action alternative, and identifies mitigation measures. This DEIS was prepared to comply with the Council on Environmental Quality's regulations (40 CFR Parts 1500–1508) for implementing the National Environmental Policy Act of 1969, 43 U.S.C. 1701.

DATES: A ninety (90) day public review and comment period on the DEIS and proposed plan amendment begins on January 3, 1997. Written comments relating to the DEIS will be accepted until April 4, 1997. Written or oral comments may also be presented at the five public meetings to be held in February 1997 at the following locations and times:

San Bernardino, February 6, 1997, 7:00 p.m.—County Government Center, County Supervisors Hearing Room, 385 North Arrowhead Avenue, San Bernardino, CA 92415

Victorville, February 13, 1997, 7:00 p.m.—Victorville City Hall, City Council Chambers, 14343 Civic Drive, Victorville, CA 92392

Barstow, February 18, 1997, 7:00 p.m.—Barstow City Hall, City Council Chambers, 220 East Mountain View Avenue, Barstow, CA 92311

Baker, February 20, 1997, 2:00 p.m.—Baker Community Center, Baker Blvd., Baker, CA 92309

Sacramento, February 24, 1997, 2:00 p.m. & 7:00 p.m.—Sacramento City Hall, City Council Chambers, 915 "I" Street, Sacramento, CA 95814

The public meetings will be conducted in two parts. At each location, a one-half hour "open house" will precede the formal public hearing. During the open house, information about the proposed action and the environmental review process will be provided by the Army and BLM representatives. Comments on the DEIS will be recorded only during the public hearing part.

ADDRESSES: Send written comments to the BLM, Barstow Resource Area Office, Attention: Mike DeKeyrel, Project Manager, 150 Coolwater Lane, Barstow, CA 92311. Written comments relating to the DEIS will be accepted if postmarked no later than April 4, 1997.

SUPPLEMENTARY INFORMATION: The Army proposed action was developed from an Army Land Use Requirements Study (LURS) completed in 1985 and updated in 1993, which determined that an additional 222,000 net maneuverable acres are needed for the National Training Center's combat training mission.

The BLM has not selected a lead Federal agency preferred alternative in this DEIS. After public review and consideration of the comments to the DEIS, the BLM will select a preferred alternative in the Final EIS.

Under the Engle Act of February 28, 1958, 43 U.S.C. 155–158, military withdrawals of over 5,000 acres are subject to Congressional review. This DEIS and the public review will enable the BLM and the Army to develop recommendations on the proposed action through completion of a Final EIS and Records(s) of Decision. The recommendations will be reviewed by the Secretary of the Interior in coordination with the Department of Defense.

Copies of an executive summary of the DEIS, and the entire DEIS document including technical appendices, are available for review at the BLM Barstow Resource Area Office at the above address; at the BLM California Desert District Office, 6221 Box Springs Blvd., Riverside, CA 92507; and at the BLM California State Office, 2135 Butano Drive, Sacramento, CA 95825.

FOR FURTHER INFORMATION CONTACT: Mike DeKeyrel, Project Manager at the above Barstow Resource Area address and at (619) 255–8730.

Dated December 20, 1996.

Molly S. Brady,

Assistant District Manager, Planning and Renewable Resources.

[FR Doc. 96–32924 Filed 12–26–96; 8:45 am]

BILLING CODE 4310–40–M

[OR–056–1220–00;GP7–0044]

Motor Vehicle Closure; Prineville District

AGENCY: Bureau of Land Management, Department of the Interior, Prineville District.

ACTION: Notice is hereby given that effective immediately, the following legally described area below, including all roads and trails, is closed to motor vehicle use year-round.

LEGAL DESCRIPTION: This closure order applies to the entire area, and all roads and trails within the area, located on Public Lands in Township 16 South, Range 13 East, Sections 25, 35, 36; Township 16 South, Range 14 East, Section 19, 29, 30, 31, 32, 33, 34; Township 17 South, Range 13 East, Sections 1, 2, 3, 4, 8, 9, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27; and Township 17 South, Range 14 East, Sections 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 30 W.M. Southeast of the Powell Butte Highway; East of the subdivisions known as Cimmarron City, Terry Drive, and Sunset Acres; North of Alfalfa Market Road; West of the subdivision known as Cascade View Estates; West of Johnson Market Road; and Southwest of the B.P.A. Powerline Right of Way #ORE 010362. Exemptions to this closure are: Portions of BLM Roads 6589–A and 6589 where 6589–A

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intersects the Powell Butte Highway at Township 17 South, Range 13 East, and the southwest quarter of Section 3; Mayfield Pond Access Road which originates where it intersects Alfalfa Market Road at Township 17 South, Range 13 East, and the SE quarter of Section 26 and continues north towards the B.P.A. Powerline; the Access Road into the North Mayfield Pond Pasture beginning in Township 17 South, Range 13 East, and the east half of Section 23; and the B.P.A. Powerline Right of Way #ORE 010362, All other roads, trails, and BLM managed public lands are closed to motorized vehicle use. The purpose of this closure is to protect resource values in this area and increase visitor safety and public satisfaction. More specifically, this closure is to reduce impacts to soils, vegetation, wildlife, and adjacent landowners and to reduce unsafe access off of main roads or highways. Exemptions to this closure order apply to administrative personnel, allotment permittees, the National Guard, the Electric companies for access along and maintenance of the existing powerlines and right of ways, landowners with inholdings, and the Central Oregon Irrigation District for maintenance of irrigation canals. Other exemptions to this closure order may be made on a case by case basis by the authorized officer. This emergency order will be evaluated in the Urban Interface plan Amendment to the 1989 Brothers/La Pine Resource management Plan. The authority for this closure is 43 CFR 8364.1: Closure and restriction orders.

SUPPLEMENTARY INFORMATION: Violation of this closure order is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months as provided in 43 CFR 8360.0–7.

FOR FURTHER INFORMATION CONTACT: Karen Perault, BLM Prineville District Office, P.O. Box 550, Prineville, Oregon 97754, (Telephone 541–416–6711).

Dated: December 16, 1996.

Donald L. Smith,

Associate District Manager, Prineville District Office.

[FR Doc. 96–33028 Filed 12–26–96; 8:45 am]

BILLING CODE 4310–33–M

[UT–917–07–0777–52]

Notice of Availability of Final Standards for Rangeland Health and Guidelines for Grazing Management for Bureau of Land Management (BLM) Lands in Utah and State Director's Record of Decision

SUMMARY: The Utah Bureau of Land Management has developed Standards for Rangeland Health and Guidelines for Grazing Management for the public lands in Utah, pursuant to the Grazing Regulations (43 CFR 4100) of August, 1995. This document is available to the public. A 30-day protest period is provided which will run concurrently with the Governor's Consistency Review. This 30-day period ends January 24, 1997. At the end of that period, the State Director's Decision will become final and the "Standards and Guidelines" will be forwarded to the Secretary of the Interior for his approval which places them in effect.

DATES: A 30-day protest period is provided which ends January 24, 1997.

FOR FURTHER INFORMATION CONTACT: Deane Zeller, Team Leader, Bureau of Land Management, Utah State Office, 324 South State Street, Salt Lake City, Utah, 84111; phone (801) 539–4052.

SUPPLEMENTARY INFORMATION: The Utah Standards and Guidelines have been developed in consultation with the Resource Advisory Council and with public participation. They have been provided to the Governor of Utah for his review for consistency with State and local plans in accordance with 43 CFR 1600. Public meetings were held in various locations within the State.

When approved by the Secretary, the Standards and Guidelines constitute the State Director's Policy and Planning Guidance. As such, they will be used by all BLM offices in Utah as guidance for land use planning, developing rangeland improvement projects, issuing grazing permits and leases, and general grazing administration. The Standards will apply to all land uses (where law and regulations do not dictate otherwise) and Guidelines will apply to all grazing on public lands. Appropriate National Environmental Protection Act (NEPA) compliance will be performed on implementation actions, such as land use plan amendments, preparation of new land use plans, permit issuance, rangeland improvements, etc., prior to any decisions taken under these Standards and Guidelines.

It has been determined that these Standards and Guidelines are in conformance with existing BLM land use plans. That conformance review, NEPA compliance, and other documents associated with the Standards and Guidelines are available to the public at the BLM's Utah State Office.

Dated: December 19, 1996.

William G. Lamb,

Utah BLM State Director.

[FR Doc. 96–32936 Filed 12–26–96; 8:45 am]

BILLING CODE 4310–DQ–M

[AZ–050–97–1430–01; AZA 29058]

Arizona; Notice of Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Classification of Public Land for Recreation and Public Purposes Lease/Conveyance, La Paz County, Arizona.

SUMMARY: The following described public land has been examined and found suitable for classification for lease and conveyance under the Recreation and Public Purposes (R&PP) Act, as amended (43 U.S.C. 869 et seq.):

Gila and Salt River Meridian, Arizona

T. 3 N., R. 19 W.,
sec. 20, S½SE¼SE¼SE¼.
Containing 5 acres, more or less.

SUPPLEMENTARY INFORMATION: The Quartzsite, Arizona, Fire Department has filed an R&PP application amending their original legal description for a fire station (Fire Station #3) that would be located in La Paz Valley along County 53rd Street North approximately 6 miles south of Quartzsite. A facility is needed in this part of the Fire District to serve the nearby subdivision which currently has no fire station. This land is identified in the Yuma District Resource Management Plan, as amended, as having potential for disposal. Leave and conveyance of the land for recreational or public purposes would be in the public interest.

Lease and conveyance, when issued, will contain the following reservations to the United States:

1. Rights-of-way for ditches and canals constructed by the authority of the United States.

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove such deposits from the same under applicable law and regulations to be established by the Secretary of the Interior.

And will be subject to:

1. The provisions of the R&PP Act and all applicable regulations of the Secretary of the Interior.

2. Those rights for a public road granted to the La Paz County Department of Public Works (AZA 25925).

3. Those rights for a buried telephone cable granted to Southwestern Telephone Company (AZA 22967).

Upon publication of this notice in the **Federal Register**, the land will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease and conveyance under the R&PP Act, leasing under the mineral

leasing laws, and material disposal laws.

CLASSIFICATION COMMENTS: For a period of 45 days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the Field Manager, Yuma Field Office, 2555 E. Gila Ridge Road, Yuma, Arizona 85365. Comments should address the suitability of the land for a fire station. Comments on the classification are restricted to whether the land is physically suited for the above mentioned use, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

APPLICATION COMMENTS: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the Bureau of Land Management followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a fire station.

EFFECTIVE DATE: Any adverse comments will be reviewed by the Arizona State Director. In the absence of any adverse comments, the classification of the land described in this Notice will become effective February 25, 1997. The lands will not be offered for lease and conveyance until after the classification becomes effective.

FOR FURTHER INFORMATION CONTACT: Dave Curtis, Realty Specialist, Yuma Field Office, 2555 E. Gila Ridge Road, Yuma, AZ 85365, telephone (520) 317–3237.

Dated: December 17, 1996.

Gail Acheson,

Field Manager, Yuma.

[FR Doc. 96–32907 Filed 12–26–96; 8:45 am]

BILLING CODE 4310–32–M

[Docket No. 4310–DN; MT–067–07–3120–00]

Notice of Intent; Judith-Valley-Phillips Resource Management Plan Amendment; Petroleum County, Montana

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Notice is hereby given that the Judith-Valley-Phillips Resource Management Plan will be amended by the Judith Resource Area, Lewistown, Montana.

SUMMARY: The Bureau of Land Management (BLM) will amend the Judith-Valley-Phillips Resource Management Plan (RMP) with respect to management of public lands at the Cat Creek Oil field in Petroleum County. The BLM proposes exchanging 80 acres of Federal surface estate in Petroleum County for 175.44 acres of mineral estate in Flathead County. The Federal land is legally described as the SW¼NE¼, SE¼NW¼ of Section 14, T. 15 N., R. 29 E., P.M.M., Petroleum County, Montana. The private mineral estate is legally described as Lot 5, Section 28; Lots 3, 7, 8, Section 29; and E½NE¼, Section 32 of T. 14 N., R. 20 W., P.M.M., Flathead County, Montana.

Disposal of the Federal lands was not analyzed in the Judith-Valley-Phillips Resource Management Plan (RMP) and associated Environmental Impact Statement. Disposal of Federal land requires that the specific tract be identified in the land use plan with the criteria to be met for exchange and discussion of how the criteria have been satisfied. This will be part of the plan amendment and environmental assessment. The Judith Resource Area, Lewistown District, Bureau of Land Management will prepare an environmental assessment to analyze the effects of disposal

PUBLIC PARTICIPATION: Comments and recommendations on this notice to amend the Judith-Valley-Phillips RMP should be received on or before January 27, 1997.

ADDRESSES: Comments should be sent to the Judith Resource Area, P.O. Box 1160, Lewistown, MT 59457–1160.

FOR FURTHER INFORMATION CONTACT: Chuck Otto, Area Manager, Judith Resource Area, P.O. Box 1160, Lewistown, MT 59457–1160, 406/538–7461.

Dated: December 13, 1996.

David L. Mari,

District Manager.

[FR Doc. 96–33029 Filed 12–26–96; 8:45 am]

BILLING CODE 4310–84–P

[Docket No. 4310–DN; MT–065–07–3120–00]

Notice of Intent; Judith-Valley-Phillips Resource Management Plan Amendment; Phillips County, MT

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Notice is hereby given that the Judith-Valley-Phillips Resource Management Plan will be amended by the Phillips Resource Area, Malta, Montana.

SUMMARY: The Bureau of Land Management (BLM) will amend the Judith-Valley-Phillips Resource Management Plan (RMP) with respect to management of public lands in Phillips County. The BLM proposes the sale of 80.00 acres more or less to the Phillips County Airport Commission. The land is legally described as the S½SE¼, section 11 T. 30 N., R. 29 E., P.M.M., Phillips County, Montana. The land would be sold under authority of section 203(a)(1) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) and in accordance with the procedures set forth in 43 CFR 2710 at fair market value. All minerals, ditches and canals, would be reserved to the United States. Disposal of these Federal lands was not analyzed in the Judith-Valley-Phillips RMP and associated Environmental Impact Statement. Disposal of Federal land requires that the specific tract be identified in the land use plan with the criteria to be met for sale and discussion of how the criteria have been satisfied. This will be part of the plan amendment and environmental assessment. The Phillips Resource Area, Lewistown District, Bureau of Land Management will prepare an environmental assessment to analyze the effects of disposal.

PUBLIC PARTICIPATION: Comments and recommendations on this notice to amend the Judith-Valley-Phillips RMP should be received on or before January 27, 1997.

ADDRESS: Comments should be sent to the Phillips Resource Area, 501 South 2nd St. East, Malta, MT 59538.

FOR FURTHER INFORMATION CONTACT: Rick Hotaling, Area Manager, Phillips Resource Area, 501 South 23nd St East, Malta, MT 59538, 406/654–1240.

Dated: December 13, 1996.

David L. Mari,

District Manager.

[FR Doc. 96–33031 Filed 12–26–96; 8:45 am]

BILLING CODE 4310–84–M

[CA–930–1430–01; CACA 34911]

Conveyance of Mineral Interests in California; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: In the notice document 96–3436 beginning on page 6020 in the issue of Thursday, February 15, 1996, make the following correction: On page 6021, delete Assessor's Parcel Number 42–150–86 from the legal description..

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Dated: December 17, 1996.

Duane Marti,

Acting Chief, Branch of Lands.

[FR Doc. 96–33027 Filed 12–26–96; 8:45 am]

BILLING CODE 4310–40–P

National Park Service

Submission of Study Package for Office of Management and Budget Review Opportunity for Public Comment

AGENCY: Department of the Interior, National Park Service, Big Cypress National Preserve.

ACTION: Notice and request for comments.

ABSTRACT: The National Park Service (NPS) and Virginia Polytechnic Institute and State University propose to conduct a survey of the characteristics, perceptions, behavior, and park management preferences of Off-Road Vehicle (ORV) users within the Big Cypress National Preserve. The goal is to categorize these visitor characteristics by vehicle type, primary recreational activity, and management zone visited. Results will be used by park planners, park managers, and members of the public in identifying and considering alternative management options that may become incorporated into the ORV Management Plan for Big Cypress National Preserve. The study package including the proposed survey questionnaire has been submitted to the Office of Management and Budget for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 and 5 CFR Part 1320, Reporting and Record Keeping Requirements, the NPS invites public comment on a proposed information collection request (ICR). Comments are invited on: (1) The need for the information including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

The purpose of the proposed ICR is to document ORV users' activities; perceptions of crowding, conflict, and other problems; management preferences; attitudes about the environment and its protection; satisfaction level and benefits; and socio-demographic characteristics. This information will be used by park planners, park managers, and members of the public to recommend and consider alternative management options to be incorporated into the ORV Management Plan for Big Cypress.

There were no public comments, other than a request by another park unit to be kept informed of the BICY planning effort, received or submitted to OMB for review as a result of publishing in the **Federal Register** a 60 day notice of intention to request clearance of information collection for this survey at Big Cypress National Preserve.

DATES: Public comments will be accepted until January 27, 1997.

SEND COMMENTS TO: Office of Information and Regulatory Affairs for OMB, Attention Desk Officer for the Interior Department, Office of Management and Budget, Washington, DC 20503; and also to: Joseph W. Roggenbuck, Ph.D., Department of Forestry, Virginia Polytechnic Institute and State University, Blacksburg, VA 24061–0324.

FOR FURTHER INFORMATION OR A COPY OF THE QUESTIONNAIRE SUBMITTED FOR OMB REVIEW, CONTACT: Joseph W. Roggenbuck, 540–231–7418.

SUPPLEMENTARY INFORMATION:

Title: Big Cypress National Preserve Off-Road Vehicle Visitor Use Study.

Form: Not applicable.

OMB Number: To be assigned.

Expiration Date: To be assigned.

Type of Request: Request for new clearance.

Description of Need: The National Park Service needs information about the characteristics, perceptions, behavior, and management preferences of ORV users within the Preserve to support development of an ORV Vehicle Management Plan. The proposed information to be collected is not available from existing records, sources, or observations.

Description of Respondents: Individuals who currently hold NPS-issued ORV permits or who are non-owning riders of ORVs in Big Cypress National Preserve.

Estimated Average Number of Respondents: 666.

Estimated Average Number of Responses: 400.

Estimated Average Burden House Per Response: 40 minutes.

Estimated Annual Reporting Burden: 266 hours.

Estimated Frequency of Response: One time.

Dated: December 23, 1996.

Terry N. Tesar,

Information Collection Clearance Officer, Audits and Accountability Team, National Park Service.

[FR Doc. 96–32995 Filed 12–26–96; 8:45 am]

BILLING CODE 4310–70–M

Devils Tower National Monument, Wyoming

AGENCY: National Park Service, Interior.

ACTION: Notice—Final decision, reconsideration of a portion of the Devils Tower Climbing Management Plan.

SUMMARY: The National Park Service (NPS) has reconsidered certain portions of the Final Climbing Management Plan for Devils Tower National Monument which address climbing limitations based on concerns about Indian religious and cultural values.

DATES: The final decision was signed by the National Park Service on November 26, 1996.

ADDRESSES: Comments may be addressed to: Superintendent, Devils Tower National Monument, P.O. Box 10, Devils Tower, Wyoming 82714–0010.

FOR FURTHER INFORMATION CONTACT: Deborah O. Liggett, Superintendent, Devils Tower National Monument. Telephone 307–467–5283.

SUPPLEMENTARY INFORMATION:

Background

The NPS, pursuant to a notice published in the **Federal Register** on August 8, 1996 (61 FR 41424), has reconsidered those portions of the Devils Tower National Monument Final Climbing Management Plan (FCMP) which address climbing limitations based on concerns about religious and cultural values of Indian tribes. Thirty-five written comments were received from the public in response to the **Federal Register** notice. On November 26, 1996, upon consideration of the public comments received and the entire record of the FCMP, the National Park Service modified the FCMP in certain respects by adoption of an addendum to the FCMP. Copies of the modified FCMP are available upon request. The National Park Service also reviewed the environmental assessment of the effects of the FCMP and determined that it continues to adequately consider the impacts that the FCMP, as modified, will have on the Monument. Further, NPS determined that the Finding of No Significant Impact made in connection with the

FCMP remains valid for the FCMP as modified.

Dated: December 20, 1996.

Rick Gale,

Deputy Chief, Ranger Activities Division, National Park Service.

[FR Doc. 96–32862 Filed 12–26–96; 8:45 am]

BILLING CODE 4310–70–P

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before December 21, 1996. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by January 13, 1997.

Beth Savage,

Acting Keeper of the National Register.

IDAHO

Ada County

Idaho State Forester's Building, 801 S. Capitol Blvd., Boise, 96001591
Sensenig, Emerson and Lucretia, House, 1519 W. Jefferson St., Boise, 96001590

Twin Falls County

Twin Falls Warehouse Historic District, Roughly bounded by 2nd Ave., 4th St. S and W, and Minidoka Ave., Twin Falls, 96001592

IOWA

Buchanan County

Shellito, Dr. Judd C. and Margaret S. Clarke, House, 310 5th Ave., SE, Independence, 96001588
Weins Commercial Building, 129—131 2nd Ave., NE, Independence, 96001585

Lee County

Joy, C. R., House, 816 Grand Ave., Keokuk, 96001587

Linn County

Damour, William and Sue, House, 1844 2nd Ave., SE, Cedar Rapids, 96001586

Shelby County

Christiansen, Jens Otto, House (Ethnic Historic Settlement of Shelby and Audobon Counties MPS), 2105 College Ave., Elk Horn, 96001584

MINNESOTA

Pine County

St. Croix Recreational Demonstration Area (Minnesota State Park CCC/WPA/Rustic Style MPS) off MN 48, along the St. Croix National Scenic Riverway, Clover, Ogema, Crosby, Munch, and Chengwatana Townships, Hinckley vicinity, 96001594

St. Louis County

Hearding, John Harris, Grammar and High School and John A. Johnson Grammar School, Jct. of 4th Ave. N and First St. W, Aurora, 96001593

MISSOURI

Chariton County

Chariton County Jail and Sheriff's Residence, 305 S. Cherry St., Keytesville, 96001597

Henry County

Clark, C. M. and Vina, House, 704 California Ave., Montrose, 96001598

St. Louis County

Kraus, Russell and Ruth Goetz, House, 120 N. Ballas Rd., Kirkwood, 96001595

St. Louis Independent City

Centenary Methodist Episcopal Church, South, 55 Plaza Sq., St. Louis, 96001596

MONTANA

Mineral County

Alberton School (Alberton MPS) 216 Railroad St., Alberton, 96001599
Bestwick's Market (Alberton MPS) Railroad St., E of jct. with I–90, Alberton, 96001600
Brinks House (Alberton MPS) 416 Railroad St., Alberton, 96001601
Chadwick House (Alberton MPS) 320 Railroad St., Alberton, 96001602
Methodist Church of Alberton (Alberton MPS) 802 Railroad St., Alberton, 96001604
Railroad Depot (Alberton MPS) 701 Railroad St., Alberton, 96001603
Thorn House (Alberton MPS) 140 2nd St., Alberton, 96001605
Wilson House (Alberton MPS) 114 Adams St., Alberton, 96001606

NEW MEXICO

Bernalillo County

San Antonio Church and Cemetery (Religious Properties of New Mexico MPS) Jct. of NM 14 and NM 536, NW corner, San Antonito, 96001607

VIRGINIA

Pulaski County

Turner, Francis A. and Rose M., House, 1004 Cherry St., Avoca, 96001583

[FR Doc. 96–32996 Filed 12–26–96; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–753–756 (Preliminary)]

Cut-to-Length Carbon Steel Plate From China, Russia, South Africa, and Ukraine

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is threatened with material injury [2] by reason of imports from China, Russia, South Africa, and Ukraine of cut-to-length carbon steel plate,[3] provided for in provisions of headings 7208 though 7212 of the Harmonized Tariff Schedule of the United States (HTS),[4] that are alleged to be sold in the United States at less than fair value (LTFV).

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, as amended in 61 FR 37818 (July 22, 1996), the Commission also gives notice of the commencement of the final phase of its

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Commissioner Crawford determines that there is a reasonable indication that an industry in the United States is materially injured by reason of the subject imports.

[3] For the purposes of these investigations, cut-to-length carbon steel plate is hot-rolled iron and nonalloy steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1,250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief), of rectangular shape, neither clad, plated, nor coated with metal, and whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain iron and nonalloy steel flat-rolled products not in coils, of rectangular shape, hot-rolled, neither clad, plated, nor coated with metal, and whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Included in this definition are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been "worked after rolling")—for example, products which have been bevelled or rounded at the edges. Excluded from this definition are plates that are characterized as grade X–70 plates.

[4] Cut-to-length carbon steel plate is currently covered by the following statistical reporting numbers of the HTS: 7208.40.3030; 7208.40.3060; 7208.51.0030; 7208.51.0045; 7208.51.0060; 7208.52.0000; 7208.53.0000; 7208.90.0000; 7210.70.3000; 7210.90.9000; 7211.13.0000; 7211.14.0030; 7211.14.0045; 7211.90.0000; 7212.40.1000; 7212.40.5000; and 7212.50.0000.

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investigations. The Commission will issue a final phase notice of scheduling which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules upon notice from the Department of Commerce (Commerce) of an affirmative preliminary determination in an investigation under section 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of an affirmative final determination in an investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On November 5, 1996, a petition was filed with the Commission and the Department of Commerce by Geneva Steel Co., Provo, UT, and Gulf States Steel, Inc., Gadsden, AL, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of cut-to-length carbon steel plate from China, Russia, South Africa, and Ukraine. Accordingly, effective November 5, 1996, the Commission instituted antidumping investigations Nos. 731–TA–753–756 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of November 13, 1996 (61 FR 58216). The conference was held in Washington, DC, on November 26, 1996, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on December 20, 1996. The views of the Commission are contained in USITC Publication 3009 (December 1996), entitled *Cut-to-length Carbon Steel Plate from China, Russia, South Africa, and Ukraine: Investigations Nos. 731–TA–753–756 (Preliminary).*

Issued: December 20, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–33013 Filed 12–26–96; 8:45 am]

BILLING CODE 7020–02–P

[Investigation 332–376]

Advice Concerning the Addition of Certain Pharmaceutical Products and Chemical Intermediates to the Pharmaceutical Appendix to the HTS

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation.

EFFECTIVE DATE: December 20, 1996.

SUMMARY: Following receipt on December 18, 1996, of a request from the United States Trade Representative, the Commission instituted investigation No. 332–376, Advice Concerning the Addition of Certain Pharmaceutical Products and Chemical Intermediates to the Pharmaceutical Appendix to the Harmonized Tariff Schedule of the United States, under section 115 of the Uruguay Round Agreements Act (19 U.S.C. 3524) and section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

As requested by the USTR, the Commission will provide: (1) A summary description of the products contained in the existing Pharmaceutical Appendix and the modifications to be made to that Appendix; (2) an explanation of the relationship of the "zero-for-zero" initiative, including the Pharmaceutical Appendix, to the HTS; and (3) estimates of current U.S. imports and, where possible, U.S. exports, of the products included in the existing Pharmaceutical Appendix and the proposed additions to the Appendix, based on product groupings as necessary. The Commission will submit its report to the USTR by January 17, 1997.

FOR FURTHER INFORMATION CONTACT: Information on general aspects of the study may be obtained from Elizabeth Nesbitt, Office of Industries (202–205–3355) or, on legal aspects, from William Gearhart, Office of the General Counsel (202–205–3091). The media should contact Margaret O'Laughlin, Office of Public Affairs (202–205–1819). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202–205–1810). A copy of the **Federal Register** notice announcing the institution of this investigation and the annex listing the products under consideration can be downloaded from the Commission's Internet server (http://www.usitc.gov or ftp://ftp.usitc.gov) or may be obtained by contacting the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, or at 202–205–1802.

BACKGROUND: During the Uruguay Round, the United States and 16 other major trading countries agreed to the reciprocal elimination of duties on approximately 7,000 pharmaceutical products and chemical intermediates (the latter are to be used primarily for the production of pharmaceuticals), and their derivatives, resulting in the "zero-for-zero" initiative in pharmaceuticals. Effective January 1, 1995, U.S. imports of these products, as enumerated in the Pharmaceutical Appendix to the Harmonized Tariff Schedule of the United States (HTS), now enter free of duty under general note 13 to the tariff schedule. The 17 countries also agreed to conduct a review, at least once every 3 years, to identify products to be added to the Pharmaceutical Appendix. Negotiators from several countries, including the United States, have recently been engaged in the first review and have reached agreement on the addition of 496 pharmaceutical products and chemical intermediates. Addition to the list would provide duty-free treatment to these products and their derivatives.

According to the request letter from the USTR, a coalition of pharmaceutical companies from several WTO members (which the Pharmaceutical Research and Manufacturers of America (PhRMA) coordinated) submitted the initial list of candidates for addition to the existing Appendix to the pharmaceutical agreement. Moreover, the letter states that USTR consulted with the Administration's Industry Sector Advisory Committee-3 (ISAC–3; chemicals) throughout the negotiations and that this ISAC has endorsed the final list of items under consideration.

Section 111(b) of the Uruguay Round Agreements Act (the Act) authorizes the President, subject to the consultation and layover requirements of section 115 of the Act, to proclaim duty-free treatment under the "zero-for-zero" initiative for additional pharmaceutical products to be added, such as those now under consideration. One of the requirements set out in section 115 is that the President obtain advice regarding the proposed action from the United States International Trade Commission.

Issued: December 20, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–33014 Filed 12–26–96; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 332–360]

International Harmonization of Customs Rules of Origin

AGENCY: United States International Trade Commission.

ACTION: Request for public comment on draft proposals for chapters 50–63 (Textiles).

EFFECTIVE DATE: December 20, 1996.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Tariff Affairs and Trade Agreements (O/TA&TA) (202–205–2595), or Jan Summers (202–205–2605).

Parties having an interest in particular products or HTS chapters and desiring to be included on a mailing list to receive available documents pertaining thereto should advise Diane Whitfield by phone (202–205–2610) or by mail at the Commission, 500 E St SW, Room 404, Washington, D.C. 20436. Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. The media should contact Margaret O'Laughlin, Director, Office of Public Affairs (202–205- 1819).

BACKGROUND: Following receipt of a letter from the United States Trade Representative (USTR) on January 25, 1995, the Commission instituted Investigation No. 332–360, International Harmonization of Customs Rules of Origin, under section 332(g) of the Tariff Act of 1930 (60 FR 19605, April 19, 1995).

The investigation is intended to provide the basis for Commission participation in work pertaining to the Uruguay Round Agreement on Rules of Origin (ARO), under the General Agreement on Tariffs and Trade (GATT) 1994 and adopted along with the Agreement Establishing the World Trade Organization (WTO).

The ARO is designed to harmonize and clarify nonpreferential rules of origin for goods in trade on the basis of the substantial transformation test; achieve discipline in the rules' administration; and provide a framework for notification, review, consultation, and dispute settlement. These harmonized rules are intended to make country-of-origin determinations impartial, predictable, transparent, consistent, and neutral, and to avoid restrictive or distortive effects on international trade. The ARO provides that technical work to those ends will be undertaken by the Customs Cooperation Council (CCC) (now informally known as the World Customs Organization or WCO), which must report on specified matters relating to such rules for further action by parties to the ARO. Eventually, the WTO Ministerial Conference is to "establish the results of the harmonization work program in an annex as an integral part" of the ARO.

In order to carry out the work, the ARO calls for the establishment of a Committee on Rules of Origin of the WTO and a Technical Committee on Rules of Origin (TCRO) of the WCO. These Committees bear the primary responsibility for developing rules that achieve the objectives of the ARO.

A major component of the work program is the harmonization of origin rules for the purpose of providing more certainty in the conduct of world trade. To this end, the agreement contemplates a 3-year WCO program, which was formally initiated in July, 1995. Under the ARO, the TCRO is to undertake (1) to develop harmonized definitions of goods considered wholly obtained in one country, and of minimal processes or operations deemed not to confer origin, (2) to consider the use of change in Harmonized System classification as a means of reflecting substantial transformation, and (3) for those products or sectors where a change of tariff classification does not allow for the reflection of substantial transformation, to develop supplementary or exclusive origin criteria based on value, manufacturing or processing operations or on other standards.

The draft rules for chapters 50–63 of the Harmonized System that are being made available for public comment cover goods that are not considered to be wholly made in a single country. The rules rely largely on the change of heading as a basis for ascribing origin. Copies of the proposed revised rules will be available from the Office of the Secretary at the Commission, from the Commission's Internet web server (http://www.usitc.gov), or by submitting a request on the Office of Tariff Affairs and Trade Agreements voice messaging system, 202–205–2592. Due to their length, the rules will not be available by FAX. These proposals are intended to serve as the basis for the U.S. proposal to the Technical Committee on Rules of Origin of the WCO. The proposals are based on the principles of application enacted by Congress in Section 334 of the Uruguay Round Agreements Act (19 U.S.C. 3592) with respect to country of origin determinations for textile goods but may not necessarily reflect or restate existing Customs treatment in all cases for all current nonpreferential purposes. Based upon a decision of the Trade Policy Staff Committee, the proposals are intended for future harmonization for the nonpreferential purposes indicated in the ARO for application on a global basis. The proposals may undergo change as proposals from other government administrations and the private sector are received and considered.

Under the circumstances, the proposals should not be cited as authority for the application of current domestic law.

If eventually adopted by the TCRO for submission to the Committee on Rules of Origin of the World Trade Organization, these proposals would comprise an important element of the ARO work program to develop harmonized, non-preferential country of origin rules, as discussed in the Commission's earlier notice. Thus, in view of the importance of these rules, the Commission seeks to ascertain the views of interested parties concerning the extent to which the proposed rules reflect the standard of substantial transformation provided in the Agreement.

Forthcoming Commission notices will advise the public on the progress of the TCRO's work and will contain any harmonized definitions or rules that have been provisionally or finally adopted.

WRITTEN SUBMISSIONS: Interested persons are invited to submit written statements concerning this phase of the Commission's investigation. Written statements should be submitted as quickly as possible, and follow-up statements are permitted; but all statements must be received at the Commission by the close of business on February 7, 1997 in order to be considered. Information supplied to the Customs Service in statements filed pursuant to notices of that agency has been given to us and need not be separately provided to the Commission. Again, the Commission notes that it is particularly interested in receiving input from the private sector on the effects of the various proposed rules and definitions on U.S. exports. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of

section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6), All written submissions, except for confidential business information, will be available for inspection by interested persons. All submissions should be addressed to the Office of the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436.

Issued: December 23, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–33012 Filed 12–26–96; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Request OMB emergency approval; Sponsor's notice of change of address.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. OMB approval has been requested by December 29, 1996. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulatory Affairs, Attention: Ms. Deborah Bond, 202–395–7316, Department of Justice Desk Officer, Washington, DC 20503.

During the first 60 days of this same period a regular review of this information collection is also being undertaken. Comments are encouraged and will be accepted until February 25, 1997. Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points.

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency; including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this Information Collection

(1) *Type of Information Collection:* New Information Collection.

(2) *Title of the Form/Collection:* Sponsor's Notice of Change of Address.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–865. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required, as well as a brief abstract:* Primary: Individuals or Households. The form will be used by every sponsor who has filed an affidavit of support under section 213A of the INA to notify the Service of a change of address. The data will be used to locate a sponsor if there is a request for reimbursement.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100,000 respondents at .233 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 23,300 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Mr. Richard A. Sloan, 202–616–7600, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: December 20, 1996.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 96–32929 Filed 12–26–96; 8:45 am]

BILLING CODE 4410–18–M

Office for Victims of Crime

[OJP (OVC) No. 1109]

ZRIN No. 1121–ZA56

Office for Victims of Crime Fiscal Year 1996 Discretionary Program Plan (Supplement)

AGENCY: Office of Justice Programs, Office for Victims of Crime, Justice.

ACTION: Public announcement of availability of discretionary funds for training and technical assistance.

SUMMARY: The Office for Victims of Crime (OVC) publishes this supplemental notice to announce the availability of discretionary funds for a competitive program to provide training and technical assistance to build capacity of victim service agencies nationwide. See 61 F.R. 21294.

DATES: Application kit will be available beginning January 15, 1997.

All applications are due March 14, 1997.

ADDRESSES: Office for Victims of Crime, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT: Donna Ray, 202/616–3572.

SUPPLEMENTARY INFORMATION:

Introduction

OVC is a component of the Office of Justice Programs within the U.S. Department of Justice. The Office serves as the Federal focal point for improving the treatment of crime victims and ensuring that their rights and interests are met. In addition to its role as a national victims' advocate, OVC is responsible for administering two formula grant programs authorized by the Victims of Crime Act, as amended (the victim assistance and compensation grant programs), supporting national scope training and technical assistance activities via discretionary grants, and providing training and technical assistance for Federal and state law enforcement personnel involved in investigations, prosecutions, corrections and the provision of direct services to victims of crime. See 42 U.S.C. 10601–10605.

Application Process

The application kit for OVC's Technical Assistance and Conference Series will be available beginning January 15, 1997 and will serve as a request for proposal. It will contain a detailed description of this competitive program and complete forms and instructions for developing the application. The Program

Announcement and Application Kit will describe: The purpose of the program, background, goal, program strategy, eligibility requirements, award period, award amount, and application due date. A panel of qualified Government employees will be established to review and rank the applications. Applicants may be public or private non-profit or for-profit organizations (for-profit organizations must waive their profit in order to be eligible). Awards will be made to an organization or agency offering the greatest potential for achieving the program's goals on the basis of information provided in the applicants' proposal and assessments of past performance on OVC/OJP grants. Funding decisions will be made by the Director of OVC. The anticipated funding level of this program for FY97 and future years is not guaranteed but is contingent upon the amount of funding available in those years for discretionary purposes. All applications are due March 14, 1997.

Purpose

The purpose of this cooperative agreement is to provide training and technical assistance to federal, state, tribal, and local agencies, formula and special emphasis grantees, and other public and private non-profit organizations involved in activities related to crime victims. The assistance may be provided in the form of conferences, workshops, focus groups, training programs, site-specific technical assistance, development of publications and other materials, or other forms of assistance which encourage the effective implementation of the Victims of Crime Act of 1984, as amended. The cooperative agreement will provide for on-site training and technical assistance to address significant operational problems commonly experienced by agencies, as well as, immediate on-site technical assistance to communities that have experienced an incident resulting in large numbers of crime victims. It is intended to encourage states to include the policies, programs and strategies developed through OVC's promising practices and other discretionary grants, into their state and local community services for crime victims.

The OVC Training and Technical Assistance Center (TTAC) will offer a centralized access point for information about OVC's training and technical assistance resources. It will develop and disseminate training and technical assistance materials on topics of interest to the field, and mobilize specialized teams to address these topics and other identified areas of need. The TTAC will also assess and evaluate the training and technical assistance provided by TTAC components to ensure that high standards of quality are maintained.

Dated: December 19, 1996.

Aileen Adams,

Director, OVC.

[FR Doc. 96–32885 Filed 12–26–96; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Collection of the ETA 539, Weekly Claims and Extended Benefits Trigger Data and the ETA 538, Advance Weekly Initial and Continued Claims Report; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed revision and extension of the collection of the ETA 538, Advance Weekly Initial and Continued Claims Report and the ETA 539, Weekly Claims and Extended Benefits Trigger. The proposed change is to the reported initial claims figure on the ETA 538. With the advent of increased direct telephone claims taking of interstate initial claims, to have the most accurate and timely data requires the interstate component of this item be changed to the sum of all agent and liable interstate claims taken directly by the State in the report. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before February 25, 1997.

The Department of Labor is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Cynthia Ambler, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, room S–4231, 200 Constitution Ave. NW., Washington, DC, 20210; telephone number (202) 219–9204; fax (202) 219–8506 (these are not toll free numbers) or e-mail amblerc@doleta.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The ETA 538 and ETA 539 reports contain information on initial claims and continued weeks claimed. These figures are important economic indicators. The ETA 538 is a quick look that allows U.S. figures to be released to the public five days after the close of the period. The ETA 539 contains more refined economic indicators that are publishable on a State level as well as information of the Extended Benefits trigger level and the background data supporting it. Several States have begun using the telephone for interstate claimants to file directly with liable States, by-passing the agent State. This trend will continue. It is necessary to change what is being reported as initial claims on the ETA 538 so that claims are not double counted or missed entirely. Therefore the definition of interstate claims to be reported on the ETA 538 has been changed to all those claims received directly from the claimant by the reporting State, whether in an agent or liable capacity, during the report week.

II. Current Actions

The ETA 538 and ETA 539 reports continue to be needed to verify the

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trigger for the Extended Benefits program and to allow publication of timely and accurate economic indicators for the nation.

Type of review: Extension with change.

Agency: Employment and Training Administration.

Title: Weekly Claims and Extended Benefits Trigger Data Advance Weekly Initial and Continued Claims Report.

OMB Number: 1205–0028.

Agency Number: ETA 538 and ETA 539.

Affected Public: State Government.

Cite/Reference/Form/etc: ETA 538 and ETA 539.

Total Respondents: 53.

Frequency: Weekly.

Total Responses: 5,512.

Average Time per Response: 20 minutes.

Estimated Total Burden Hours: 3,675.

Total Burden Cost (capital/start): Estimated at $110,240 which is an allowable cost under the administrative grants awarded to States by the Federal Government.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 18, 1996.

Mary Ann Wyrsch,

Director, Unemployment Insurance Service.

[FR Doc. 96–33024 Filed 12–26–96; 8:45 am]

BILLING CODE 4510–30–M

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General Wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribe in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modification issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be in the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organizations, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and related Acts" are listed by Volume and States:

Volume VI

California
- CA960100 (December 27, 1996)
- CA960105 (December 27, 1996)
- CA960109 (December 27, 1996)
- CA960110 (December 27, 1996)

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Massachusetts
- MA960018 (March 15, 1996)

Volume II

None

Volume III

Georgia
- GA960022 (Mar. 15, 1996)
- GA960087 (Mar. 15, 1996)

Kentucky
- KY960004 (Mar. 15, 1996)
- KY960025 (Mar. 15, 1996)
- KY960026 (Mar. 15, 1996)
- KY960027 (Mar. 15, 1996)
- KY960028 (Mar. 15, 1996)
- KY960029 (Mar. 15, 1996)

Volume IV

Indiana
- IN960002 (Mar. 15, 1996)
- IN960003 (Mar. 15, 1996)
- IN960004 (Mar. 15, 1996)
- IN960006 (Mar. 15, 1996)
- IN960018 (Mar. 15, 1996)

Michigan
- MI960002 (Mar. 15, 1996)
- MI960003 (Mar. 15, 1996)
- MI960004 (Mar. 15, 1996)
- MI960005 (Mar. 15, 1996)
- MI960007 (Mar. 15, 1996)
- MI960012 (Mar. 15, 1996)
- MI960030 (Mar. 15, 1996)
- MI960031 (Mar. 15, 1996)
- MI960047 (Mar. 15, 1996)
- MI960062 (Mar. 15, 1996)
- MI960063 (Mar. 15, 1996)
- MI960064 (Mar. 15, 1996)

Ohio
- OH960001 (Mar. 15, 1996)

OH960029 (Mar. 15, 1996)
OH960035 (Mar. 15, 1996)
OH960036 (Mar. 15, 1996)
OH960038 (Mar. 15, 1996)

Volume V

Arkansas
AR960001 (Mar. 15, 1996)
AR960008 (Mar. 15, 1996)
Iowa
IA960001 (Mar. 15, 1996)
IA960005 (Mar. 15, 1996)
Louisiana
LA960001 (Mar. 15, 1996)
LA960004 (Mar. 15, 1996)
LA960005 (Mar. 15, 1996)
LA960015 (Mar. 15, 1996)
LA960017 (Mar. 15, 1996)
LA960018 (Mar. 15, 1996)
LA960060 (Mar. 15, 1996)
Nebraska
NE960011 (Mar. 15, 1996)
New Mexico
NM960001 (Mar. 15, 1996)

Volume VI

Arizona
AZ960002 (Mar. 15, 1996)
AZ960004 (Mar. 15, 1996)
AZ960005 (Mar. 15, 1996)
AZ960006 (Mar. 15, 1996)
AZ960007 (Mar. 15, 1996)
AZ960010 (Mar. 15, 1996)
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AZ960016 (Mar. 15, 1996)
AZ960017 (Mar. 15, 1996)
AZ960018 (Mar. 15, 1996)
California
CA960029 (Mar. 15, 1996)
CA960050 (Apr. 12, 1996)
CA960061 (Apr. 12, 1996)
CA960064 (Apr. 12, 1996)
CA960066 (Apr. 12, 1996)
CA960069 (Apr. 12, 1996)
CA960070 (Apr. 12, 1996)
CA960084 (Apr. 12, 1996)
CA960085 (Apr. 12, 1996)
Colorado
CO960001 (Mar. 15, 1996)
Montana
MT960001 (Mar. 15, 1996)
MT960003 (Mar. 15, 1996)
MT960004 (Mar. 15, 1996)
MT960006 (Mar. 15, 1996)
Washington
WA960008 (Mar. 15, 1996)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the county.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (701) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions included an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC, this 20th day of December 1996.

Philip J. Gloss,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 96–32767 Filed 12–26–96; 8:45 am]

BILLING CODE 4510–27–M

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the "Consumer Price Index Revision Housing Survey."

A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before February 25, 1997.

The Bureau of Labor Statistics is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, N.E. Washington, D.C. 20212. Ms. Kurz can be reached on 202–606–7628 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Consumer Price Index (CPI) is the only index compiled by the U.S. Government that is designed to measure changes in the purchasing power of the urban consumer's dollar. The CPI is used most widely as a measure of inflation, and serves as an indicator of the effectiveness of Government economic policy. It also is used as a deflator of other economic series, that is, to adjust other series for price changes and to translate these series into inflation-free dollars.

II. Current Actions

This request addresses not only the 1998 Revision of the Housing Index and the new Housing sample selection, it includes the transition to computer-Assisted Data Collection (CADC) technology.

For the CPI Housing Survey, the revision means implementing a new sample in new and existing Primary Sampling Units. The methodology for index calculation includes both a Geometric Mean Test Index and a Laspeyres Index. Survey sample

selection utilized an expenditure weight algorithm which can be used to calculate both indexes. Field representative will use hand-held pen computers and transmit collected data back to Washington, D.C. electronically.

Type of Review: New.

Agency: Bureau of Labor Statistics.

Title: Consumer Price Index Housing Survey.

OMB Number: 1220-New.

Affected Public: Individuals or households; business or other for-profit.

Total Respondents: 136,612.

Frequency: Semi-annually.

Total Respondents: 149,482.

Average Time Per Response: 7 minutes.

Estimated Total Burden Hours: 16,694.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, D.C., this 23rd day of December, 1996.

W. Stuart Rust, Jr.,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 96–33025 Filed 12–26–96; 8:45 am]

BILLING CODE 4510–24–M

Mine Safety and Health Administration

Fee Adjustments for Testing, Evaluation, and Approval of Mining Products

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of fee adjustments.

SUMMARY: This notice revises the Mine Safety and Health Administration's (MSHA) user fees for testing, evaluation, and approval of certain products manufactured for use in underground mines. These fees are based on fiscal year 1996 data and reflect changes in approval processing operations, as well as costs incurred to process approval actions.

DATES: These fee schedules are effective from January 1, 1997, through December 31, 1997. Approval applications postmarked before January 1, 1997, will be charged under the fee schedules as published on January 22, 1996.

FOR FURTHER INFORMATION CONTACT: John Faini, Acting Chief, Approval and Certification Center, R.R. 1, Box 251, Triadelphia, West Virginia 26059.

SUPPLEMENTARY INFORMATION: In general, MSHA has computed the revised fees based on the cost to the government to provide testing, evaluation, and approval of products manufactured for use in underground mines. On May 8, 1987 (52 FR 17506), MSHA published a final rule, 30 CFR part 5–Fees for Testing, Evaluation, and Approval of Mining Products, which established the specific procedures for fee calculation, administration, and revisions. This revised fee schedule is established in accordance with the procedures of that rule.

The final rule for 30 CFR part 7, Subpart E—Diesel Engines Intended for Use in Underground Coal Mines and Subpart F—Diesel Power Packages Intended for Use in Areas of Underground Coal Mines Where Permissible Electric Equipment is Required, was issued on October 25, 1996. This final rule also revised 30 CFR part 36 to apply to diesel equipment for coal mines, and removed 30 CFR parts 31 and 32. Fees for applications under this rule are listed in this notice. Approvals will no longer be issued under 30 CFR parts 31 and 32.

Dated: December 20, 1996.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

FEE SCHEDULE EFFECTIVE JANUARY 1, 1997

[Based on FY 1996 data]

Action title	Hourly rate (dollars)	Flat rate (dollars)
30 CFR PART 7—PRODUCT TESTING BY THIRD PARTY:		
12 Approval Evaluation-Battery Assemblies	$51	
12 Approval Evaluation-Brattice and Ventilation Tubing	57	
12 Approval Evaluation-Multiple-Shot Blasting Units	51	
12 Approval Evaluation-Electric Motor Assemblies	51	
12 Approval Evaluation-Electric Cables and Splice Kits	56	
12 Approval Evaluation-Diesel Engines [1]	57	
12 Approval Evaluation-Diesel Power Packages [2]	57	
14 Approval Extension-Battery Assemblies	51	
14 Approval Extension-Brattice and Ventilation Tubing	53	
14 Approval Extension-Multiple-Shot Blasting Units	51	
14 Approval Extension-Electric Motor Assemblies	51	
14 Approval Extension-Electric Cables and Splice Kits	54	
14 Approval Extension-Diesel Engines [1]	57	
14 Approval Extension-Diesel Power Packages [2]	57	
40 Stamped Notification Acceptance Program (SNAP)		363
30 CFR PART 15—EXPLOSIVES:		
12 Approval Evaluation [3]	61	
Permissibility Tests for Explosives:		
Weigh-in		462
Physical Exam: First size		325
Chemical Analysis		1,977
Air Gap-Minimum Product Firing Temperature		460
Air Gap-Room Temperature		352
Pendulum Friction Test		163
Detonation Rate		352
Gallery Test 7		7,436
Gallery Test 8		5,533

FEE SCHEDULE EFFECTIVE JANUARY 1, 1997—Continued

[Based on FY 1996 data]

Action title	Hourly rate (dollars)	Flat rate (dollars)
Toxic Gases (Large Chamber)		805
Permissibility Tests for Sheathed Explosives:		
Physical Examination		128
Chemical Analysis		1,044
Gallery Test 9		1,944
Gallery Test 10		1,944
Gallery Test 11		1,944
Gallery Test 12		1,944
Drop Test		648
Temperature Effects/Detonation		672
Toxic Gases		560
14 Approval Extension	61	
30 CFR PART 18—ELECTRIC MOTOR DRIVEN EQUIPMENT AND ACCESSORIES:		
12 Approval—Machines (testing included)	57	
12 Approval—Instruments (testing included)	53	
14 Approval Extension—Machines (testing included)	57	
14 Approval Extension—Instruments (testing included)	53	
15 Acceptance Evaluation [3]	54	
Acceptance Testing:		
Explosion Test	47	
Wall Thickness Test	58	
Surface/Temperature Test	47	
Impact Test	48	
Thermal Shock Test	47	
Product Flame Test	57	
Compressibility Test (asbestos substitutes)	57	
16 Certification Evaluation (testing included)	49	
17 Acceptance Extension [3]	54	
Product Flame Test	57	
18 Certification Extension (testing included)	49	
21 Field Modification (testing included)	57	
23 Field Approval		97
26 Permit—Machines (testing included)	58	
26 Permit—Instruments (testing included)	58	
30 Intrinsic Safety Determination (testing included)	58	
31 Intrinsic Safety Determination Ext (testing included)	56	
32 Simplified Certification (testing included)	49	
34 Simplified Certification Extension (testing included)	36	
40 Stamped Notification Acceptance Program (SNAP)		363
41 Longwall Approval (testing included)	57	
42 Longwall Approval Extension (testing included)	57	
45 Shearer Evaluation (testing included)	58	
46 Shearer Evaluation Extension (testing included)	58	
47 Permit—Extension of Time		292
48 Permit Modification—Machines	56	
48 Permit Modification—Instruments (testing included)	54	
30 CFR PART 19—ELECTRIC CAP LAMPS:		
12 Approval (testing included)	53	
14 Approval Extension (testing included)	52	
40 Stamped Notification Acceptance Program (SNAP)		363
30 CFR PART 20—ELECTRIC MINE LAMPS:		
12 Approval (testing included)	54	
14 Approval Extension (testing included)	52	
40 Stamped Notification Acceptance Program (SNAP)		363
30 CFR PART 21—FLAME SAFETY LAMPS:		
12 Approval (testing included)	54	
14 Approval Extension (testing included)	54	
40 Stamped Notification Acceptance Program (SNAP)		363
30 CFR PART 22—PORTABLE METHANE DETECTORS:		
12 Approval (testing included)	54	
14 Approval Extension (testing included)	54	
40 Stamped Notification Acceptance Program (SNAP)		363
30 CFR PART 23—TELEPHONES AND SIGNALING DEVICES:		
12 Approval (testing included)	58	
14 Approval Extension (testing included)	54	
40 Stamped Notification Acceptance Program (SNAP)		363
30 CFR PART 24—SINGLE-SHOT BLASTING UNITS:		
12 Approval (testing included)	58	
14 Approval Extension (testing included)	58	
40 Stamped Notification Acceptance Program (SNAP)		363

FEE SCHEDULE EFFECTIVE JANUARY 1, 1997—Continued

[Based on FY 1996 data]

Action title	Hourly rate (dollars)	Flat rate (dollars)
30 CFR PART 26—LIGHTING EQUIPMENT FOR ILLUMINATION:		
12 Approval (testing included)	58	
14 Approval Extension (testing included)	58	
40 Stamped Notification Acceptance Program (SNAP)		363
30 CFR PART 27—METHANE MONITORING SYSTEMS:		
16 Certification (testing included)	53	
18 Certification Extension (testing included)	54	
40 Stamped Notification Acceptance Program (SNAP)		363
30 CFR PART 28—D.C. CURRENT FUSES:		
12 Approval (testing included)	59	
14 Approval Extension (testing included)	59	
40 Stamped Notification Acceptance Program (SNAP)		363
30 CFR PART 29—PORTABLE DUST ANALYZERS AND METHANE MONITORS:		
12 Approval (testing included)	54	
14 Approval Extension (testing included)	54	
40 Stamped Notification Acceptance Program (SNAP)		363
30 CFR PART 33—DUST COLLECTORS:		
12 Approval without Cert. of Performance (testing included)	58	
14 Approval Extension (testing included)	58	
16 Certification Evaluation (testing included)	58	
18 Certification Extension (testing included)	58	
21 Field Modification	58	
29 Dust Collector Approval with Cert. of Performance		181
40 Stamped Notification Acceptance Program (SNAP)		363
30 CFR PART 35—FIRE-RESISTANT HYDRAULIC FLUIDS:		
12 Approval (testing included)	54	
14 Approval Extension (testing included)	53	
30 CFR PART 36—MOBILE DIESEL-POWERED EQUIPMENT:		
12 Approval	60	
14 Approval Extension	57	
16 Certification–Engines (testing included)	54	
18 Certification Extension-Engines (testing included)	54	
21 Field Modification	58	
27 Certification–Diesel Components (testing included)	57	
28 Certification Ext–Diesel Components (testing included)	57	
40 Stamped Notification Acceptance Program (SNAP)		363
30 CFR PART 74—COAL MINE DUST PERSONAL SAMPLER UNITS:		
12 Approval	54	
00 OTHER A&CC SERVICES:		
15 Acceptance—Overcurrent Relays (testing included)	54	
15 Statement of Test and Evaluation (ST&E)		61
15 Material Acceptance (testing included)	54	
15 Monitor and Power System (MAPS) (testing included)	55	
15 Acceptance-Ground Check Monitor/Ground Wire Devices (testing included)	54	
17 Acceptance Ext-Overcurrent Relays (testing included)	54	
17 Acceptance Ext-Interim Criteria (testing included)	52	
17 Statement of Test and Evaluation (ST&E) Extension	32	
17 Material Acceptance Extension (testing included)	54	
17 Acceptance Extension-Ground Check Monitor/Ground Wire Devices (testing included)	54	
20 Stamped Revision Acceptance (SRA)[4]		305
24 Acceptance—Panic Bar	54	
33 Generic Statement of Test and Evaluation (ST&E)	54	
35 Administration Records Update	15	
37 Acceptance—Interim Criteria[3]	56	
Interim Criteria Testing: Product Flame Test	58	
40 Stamped Notification Acceptance Program (SNAP)		363
40 Stamped Notification Acceptance Program (SNAP) ST&E	32	
41 Approval—Longwall Area Lighting	56	
42 Approval Extension—Longwall Area Lighting	54	
50 Mine Wide Monitoring System (MWMS) Evaluation	56	
52 Mine Wide Monitoring System (MWMS) Barrier Classification		80
54 Mine Wide Monitoring System (MWMS) Sensor Classification	57	
00 Retesting for Approval as a Result of Post-Approval Product Audit[5]		

[1] Applications for Diesel Engines (Subpart E) postmarked after November 25, 1996, must be submitted under 30 CFR Part 7 Third Party Testing.

[2] Diesel Power Packages (Subpart F) final rule was issued October 25, 1996. The phase-in period for this program is 3 years.

[3] Full approval fee consists of evaluation cost plus applicable test costs.

[4] Fee covers SRA application accompanied by up to five documents.

[5] Fee based upon the approval schedule in effect at the time of retest.

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Note: When testing and evaluation are required at locations other than MSHA's premises, the applicant shall reimburse MSHA for traveling, subsistence, and incidental expenses of MSHA's representation in accordance with standardized government travel regulations. This reimbursement is in addition to the fees charged for evaluation and testing.

[FR Doc. 96–32994 Filed 12–26–96; 8:45 am]
BILLING CODE 4510–43–P

Office of the Assistant Secretary for Veterans' Employment and Training

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of the Assistant Secretary for Veterans' Employment and Training is soliciting comments concerning the proposed revision of the collection of the Federal Contractor Veterans' Employment Report (VETS–100).

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section on or before February 25, 1997.

The Department of labor is particularly interested in comments which:

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
* Enhance the quality, utility, and clarity of the information to be collected; and
* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Comments should be submitted to Jeffrey C. Crandall, Director of Planning, Office of the Assistant Secretary for Veterans' Employment and Training, 200 Constitution Avenue, NW, Room S–1313, Washington D.C. 20210. Telephone: (202) 219–9110; fax: (202) 219–4773.

Copies of comments submitted by the public will be available for review at the Department of Labor, 200 Constitution Avenue, NW, Room S–1316, Washington, D.C. 20210 between the hours of 9:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Rob M. Wilson, Chief, Division of Enforcement, at the address immediately above, (202) 219–9110.

SUPPLEMENTARY INFORMATION:

I. Background

The Veterans' Employment and Training Service is required by 38 USC 4212(d) to collect information from Federal contractors and subcontractors on the number of Vietnam era veterans and the number of special disabled veterans in their workforce, as well as the number of new hires during the reporting period who are Vietnam era or special disabled veterans. Pursuant to this statute, employers with Federal contracts or subcontracts of $10,000 or more must file VETS–100 reports annually. The VETS–100 data collection program has existed since 1987. Regulations to implement the statute were published on March 4, 1987. The VETS–100 data are used by the Veterans' Employment and Training Service (VETS) to monitor compliance with the statute. The information is also shared with the Office of Federal Contract Compliance Programs, Employment Standards Administration, U.S. Department of Labor, and other Federal procurement officials.

II. Current Actions

Through this information collection request, the Veterans' Employment and Training Service (VETS) seeks to reinstate the collection of the Employer Identification Number (EIN). The implementing regulation for the VETS-100 data collection program instructed respondents to provide the EIN number with other company identifiers. Practice over the years has led to the use of an identification number which is unique to this data collection. Currently, employers are assigned a specific identification number for purposes of this report only. The system in place is incompatible with other data base information pertaining to Federal contractors maintained by other Federal agencies such as the Equal Employment Opportunity Commission (EEOC) and the General Services Administration (GSA).

Also, at its inception, the VETS-100 form was modeled after the EEO-1 form and the reports were completed on the same time cycle.

Federal contractors and subcontractors with fifty or more employees and contracts or subcontracts of $50,000 or more are required to submit the EEO-1 form. The threshold for the VETS-100 submission is $10,000 or more regardless of employment levels. Thus almost all larger contractors are currently filling out both forms but for a different time period and submission date. This request, if approved, will change the VETS-100 file date to September 30 of each current year to commence in 1998. Currently the date for filing the VETS-100 is March 31. The EEOC form currently collects the Employer Identification number and the Dun & Bradstreet number from Federal contractor respondents. The inclusion of these numbers on the VETS-100 form would be consistent with existing practice for the EEO-1 report collection. The Dun and Bradstreet number is a standard business identifier used in the Federal Procurement Database system, maintained by GSA as well as in common procurement practice. VETS proposal would facilitate the sharing of information through use of common identifier(s).

With the proposed changes, information derived from the VETS-100 collection process would be more useful to veteran staff in local employment service offices who call upon Federal contractors for purposes of job development for veterans.

The proposed cycle change and use of common identifiers should not place an undue burden on Federal contractors who already provide the EIN and Dun & Bradstreet number to EEOC on the EEO-1 form. Reporting on the same cycle will further facilitate completing the reports, as the same pay period may be used for each. The EEO-1 and the VETS-100 each stand on their own, but common identifiers will enable efficient information sharing to occur.

Type of Review: Revision/Extension.

Agency: Office of the Assistant Secretary for Veterans' Employment and Training.

Title: Federal Contractor Veterans Employment Report (VETS-100).

OMB Number: 1293–0005.

Agency Number: 1291.

Affected Public: Business or other for-profit/not-for-profit institutions who have Federal contracts of at least $10,000.

Total Respondents: 190,000.

Frequency: Annually.

Total Responses: 291,000.

Average Time per Response: 30 minutes.

Estimated Total Burden Hours: 145,500.

Total Burden Cost: $727,500.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 20, 1996.

Jeffrey C. Crandall,

Director of Planning.

[FR Doc. 96–33023 Filed 12–26–96; 8:45 am]

BILLING CODE 4510–79–M

LEGAL SERVICES CORPORATION

Sunshine Act Meeting: Meeting of the Board of Directors Operations and Regulations Committee

TIME AND DATE: The Operations and Regulations Committee of the Legal Services Corporation Board of Directors will meet on January 5, 1997. The meeting will begin at 10 a.m. and continue until the committee concludes its agenda.

LOCATION: Legal Services Corporation, 750 First Street, NE., 11th Floor, Washington, DC 20002.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.
2. Approval of minutes of December 13–14, 1996.
3. Consider and act on draft revisions to 45 C.F.R. Part 1612, the Corporation's interim regulation restricting lobbying and certain other activities by grantees.
4. Consider and act on draft revisions to 45 C.F.R. Part 1620, the Corporation's interim regulation on priorities in the allocation of resources.
5. Consider and act on draft revisions to 45 C.F.R. Part 1626, the Corporation's interim regulation restricting legal assistance to aliens.
6. Consider and act on draft revisions to 45 C.F.R. Part 1627, the Corporation's interim regulation on subgrants and dues.
7. Consider and act on draft revisions to Part 1636, the Corporation's interim regulation on disclosure of plaintiff identity and statement of facts.
8. Consider and act on draft revisions to 45 C.F.R. Part 1637, the Corporation's interim regulation on representation of prisoners.
9. Consider and act on draft revisions 45 C.F.R. Part 1638, the Corporation's interim regulation on solicitation of clients.
10. Consider and act on draft revisions to 45 C.F.R. Part 1639, the Corporation's interim regulation on welfare reform.
11. Consider and act on draft revisions to 45 C.F.R. Part 1640, the Corporation's interim regulation on the application of Federal law on waste, fraud and abuse to LSC funds.
12. Consider and act on draft revisions to 45 C.F.R. Part 1642, the Corporation's interim regulation on attorneys' fees.
13. Consider and act on proposed revisions to 45 C.F.R. Part 1609, the Corporation's regulation on fee-generating cases.
14. Consider and act on other business.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel, (202) 336–8810.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Barbara Asante at (202) 336–8892.

Dated: December 24, 1996.

Victor M. Fortuno,

General Counsel.

[FR Doc. 96–33153 Filed 12–24–96; 1:24 pm]

BILLING CODE 7050–01–P

Sunshine Act Meeting; Sunshine Act Meeting of the Corporation's Board of Directors

TIME AND DATE: The Board of Directors of the Legal Services Corporation will meet on January 6, 1997. The meeting will begin at 9:30 a.m. and continue until conclusion of the Board's agenda.

LOCATION: Legal Services Corporation, 750 First Street NE., 11th Floor Board Room, Washington, DC.

STATUS OF MEETING: Open, except that a portion of the meeting may be closed pursuant to a unanimous vote of the Board of Directors to hold an executive session. At the executive session, the Board will consider and act on proposed policies and procedures for annual performance reviews of the Corporation's President and Inspector General. In addition, the Corporation's General Counsel will report to the Board on litigation to which the Corporation is or may become a party, and the Board may act on the matters reported. The closing is authorized by the relevant provisions of the Government in the Sunshine Act [5 USC § 552b(c)(2) & (10)] and the corresponding regulation of the Legal Services Corporation [45 C.F.R. § 1622.5(a) & (h)]. A copy of the General Counsel's Certification that the closing is authorized by law will be posted for public inspection at Corporation headquarters, 750 First Street NE., Washington, DC 20002, in its 11th floor reception area, and will also be available upon request.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.
2. Approval of minutes of Sept. 30, 1996, open session.
3. Approval of minutes of Sept. 30, 1996, executive session.
4. Approval of minutes of Nov. 30, 1996, teleconference.
5. Chairman's and Members' Reports.
6. Election of officers of the Board.
7. President's Report.
8. Inspector General's Report, including a report on the OIG technology project.
9. Consider and act on the report of the Board's Finance Committee.
10. Consider and act on the report of the Board's Operations and Regulations Committee:

a. Consider and act on draft revisions to 45 C.F.R. Part 1612, the Corporation's interim regulation restricting lobbying and certain other activities by grantees.

b. Consider and act on draft revisions to 45 C.F.R. Part 1620, the Corporation's interim regulation on priorities in the allocation of resources.

c. Consider and act on draft revisions to 45 C.F.R. Part 1626, the Corporation's interim regulation restricting legal assistance to aliens.

d. Consider and act on draft revisions to 45 C.F.R. Part 1627, the Corporation's interim regulation on subgrants and dues.

e. Consider and act on draft revisions to Part 1636, the Corporation's interim regulation on disclosure of plaintiff identity and statement of facts.

f. Consider and act on draft revisions to 45 C.F.R. Part 1637, the Corporation's interim regulation on representation of prisoners.

g. Consider and act on draft revisions 45 C.F.R. Part 1638, the Corporation's interim regulation on solicitation of clients.

h. Consider and act on draft revisions to 45 C.F.R. Part 1639, the Corporation's interim regulation on welfare reform.

i. Consider and act on draft revisions to 45 C.F.R. Part 1640, the Corporation's interim regulation on the application of Federal law on waste, fraud and abuse law to LSC funds.

j. Consider and act on draft revisions to 45 C.F.R. Part 1642, the Corporation's interim regulation on attorneys' fees.

k. Consider and act on proposed revisions to 45 C.F.R. Part 1609, the Corporation's regulation on fee-generating cases.

11. Consider and act on the report of the Board's Provision Committee.
12. Consider and act on the report of the Board's Presidential Search Committee.
13. Consider and act on proposed policies and procedures for annual performance

reviews of the Corporation's President and Inspector General.

CLOSED SESSION:

14. Consider and act on the General Counsel's report on potential and pending litigation involving the Corporation.
15. Consider and act on proposed policies and procedures for annual performance reviews of the Corporation's President and Inspector General.

OPEN SESSION:

16. Schedule board and committee meetings through December 1997.
17. Public comment.
18. Consider and act on other business.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel, (202) 336–8810.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Barbara Asante, at (202) 336–8800.

Dated: December 24, 1996.

Victor M. Fortuno,

General Counsel.

[FR Doc. 96–33154 Filed 12–24–96; 1:24 pm]

BILLING CODE 7050–01–P

Sunshine Act Meeting; Meeting of the Board of Directors Committee on Provision for the Delivery of Legal Services

TIME AND DATE: The Provision for the Delivery of Legal Services Committee of the Legal Services Corporation's Board Directors will meet on January 5, 1997. The meeting will begin at 2 p.m. and continue until conclusion of the committee's agenda.

LOCATION: Legal Services Corporation, 750 First Street NE., 11th Floor, Washington, DC.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.
2. Approval of minutes of September 29, 1996.
3. Status report on implementation of § 509 of Pub. L. 104–134.
4. Status report on 1995 grantee audits.
5. Status report on activities of the Office of Program Operations, including its reorganization, the status of competition for 1997 grants, restrictions enforcement and follow-up, and other matters.
6. Consider and act on other business.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel, (202) 336–8810.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Barbara Asante, at (202) 336–8800.

Dated: December 24, 1996.

Victor M. Fortuno,

General Counsel.

[FR Doc. 96–33155 Filed 12–24–96; 1:24 pm]

BILLING CODE 7050–01–P

Sunshine Act Meeting; Meeting of the Board of Directors Finance Committee

TIME AND DATE: The Finance Committee of the Legal Services Corporation's Board of Directors will meet on January 5, 1997. The meeting will begin at 4 p.m. and continue until conclusion of the committee's agenda.

LOCATION: Legal Services Corporation, 750 First Street NE., 11th Floor, Washington, DC 20002.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.
2. Approval of minutes of September 29, 1996.
3. Staff report on efforts at subletting existing LSC office space.
4. Review and consideration of budget and expenses through November 30, 1996.
5. Develop a recommendation to make to the Board of Directors on a final FY '97 Consolidated Operating Budget.
6. Develop a recommendation to make to the Board of Directors on an FY 1998 budget mark for submission to Congress.
7. Consider and act on other business.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, General Counsel, (202) 336–8810.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Barbara Asante, at (202) 336–8800.

Dated: December 24, 1996.

Victor M. Fortuno,

General Counsel.

[FR Doc. 96–33156 Filed 12–24–96; 1:24 pm]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 96–144]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Prospective Patent License.

SUMMARY: NASA hereby gives notice that TECH 2000, L.L.C., of Roswell, Georgia, has applied for an exclusive license to practice the invention described in U.S. Patent No. 5,277,959, entitled "Composite Flexible Blanket Insulation," which was issued on January 11, 1994, to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Kenneth L. Warsh, Patent Counsel, Ames Research Center.

DATES: Responses to this notice must be received by February 25, 1997.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Warsh, Patent Counsel, Ames Research Center, Mail Code 202A–3, Moffett Field, CA 94035–1000; telephone (415) 604–1592.

Dated: December 17, 1996.

Edward A. Frankle,

General Counsel.

[FR Doc. 96–32866 Filed 12–26–96; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request extension of a currently approved information collection for requesting permission to use privately-owned equipment to microfilm archival holdings in the National Archives of the United States and Presidential libraries. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before February 25, 1997 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (PIRM–POL), Room 4100, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–713–7270; or electronically mailed to nancy.allard@arch2.nara.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or

copies of the proposed information collections and supporting statements should be directed to Nancy Allard at telephone number 301–713–6730, ext. 226, or fax number 301–713–7270.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed collection information is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collections; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Request to Microfilm Records.
OMB number: 3095–0017.
Agency form number: none.
Type of review: Regular.
Affected public: Companies and organizations that wish to microfilm archival holdings in the National Archives of the United States or a Presidential library for micropublication.
Estimated number of respondents: 5.
Estimated time per response: 10 hours.
Frequency of response: On occasion (when respondent wishes to request permission to microfilm records).
Estimated total annual burden hours: 50.
Abstract: The information collection is prescribed by 36 CFR 1254.92. The collection is prepared by companies and organizations that wish to microfilm archival holdings with privately-owned equipment. NARA uses the information to determine whether the request meets the criteria in 36 CFR 1254.94, to evaluate the records for filming and to schedule use of the limited space available for filming.

Dated: December 22, 1996.

L. Reynolds Cahoon,

Assistant Archivist for Policy and IRM Services.

[FR Doc. 96–32993 Filed 12–26–96; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL SCIENCE FOUNDATION

Submission for OMB Review: Comment Request

Title of Proposed Collection: National Survey of College Graduates.

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the National Science Foundation (NSF) will publish periodic summaries of proposed projects. Such a notice was published at **Federal Register** 51723, dated October 3, 1996. No comments were received.

The materials are now being sent to OMB for Review. Send any written comments to Desk Officer, OMB, 3145–0141, OIRA, Office of Management and Budget, Washington, DC 20503. Comments should be received by January 31, 1997.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the equality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: The National Survey of College Graduates (NSCG), formerly called National Survey of Natural and Social Scientists and Engineers, has been conducted biennially since the 1970's. In the 1997 NSCG, persons identified as trained and/or working in science and engineering, who responded to the 1995 survey, will be contacted again. The purpose of this longitudinal study is to provide national estimates on the science and engineering workforce and changes in employment, education and demographic characteristics. The study is one of three components of the Scientists and Engineers Statistical Data System (SESTAT), formerly called the Scientific and Technical Personnel Data System (STPDS), which produces national estimates of the size and characteristics of the nation's science and engineering population.

The National Science Foundation Act of 1950, a subsequently amended, includes a statutory charge to ". . . provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and engineering resources, and to provide a source of information for policy formulation by other agencies of the Federal Government." The National Survey of College Graduates is designed to comply with these mandates by providing information on the supply and utilization of nation's scientists and engineers. The NSCG provides the majority of records into the SESTAT data system. The NSF uses this information to prepare congressionally mandated reports such as Science and Engineering Indicators and Women and Minorities in Science and Engineering. A public release file of collected data, edited to protect respondent confidentiality, will be made available to researchers on CD–ROM and on the World Wide Web.

The Bureau of the Census, as in the past, will conduct the study for NSF through an interagency agreement. Respondents from the 1995 NSCG, who had at least a bachelor's degree in science engineering as of 1990 Decennial Census, or who worked in science and engineering jobs as of April 1993, will be contacted in 1997. The sample design included oversampling of minority college graduate population and varying sampling rates to represent specific fields of science and engineering. Sample members will be sent mail questionnaires, and non-respondents to the mail questionnaire will be followed up by telephone or personal visit interview.

The 1997 NSCG sample size will be about 53,000 and an unweighted response rate of 95 percent is anticipated (94 percent was obtained on the previous cycle). The amount of time required to complete the questionnaire may vary depending on individuals' circumstances but on the average, it will take about 25 minutes. The survey will be collected in conformance with the Privacy Act of 1974 and the individual's response to the survey will be entirely voluntary. NSF will insure that all information collected will be kept strictly confidential and will be used only for research or statistical purposes, analyzing data, and preparing scientific reports and articles.

Dated: December 20, 1996.

Herman G. Fleming,

NSF Clearance Officer.

[FR Doc. 96–32897 Filed 12–26–96; 8:45 am]

BILLING CODE 7555–01–M

Submission for OMB Review: Comment Request

Title of Proposed Collection: Survey of Doctorate Recipients.

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the National Science Foundation (NSF) will publish periodic summaries of proposed projects. Such a notice was published at **Federal Register** 51723, dated; October 3, 1996. No comments were received.

The materials are now being sent to OMB for Review. Send any written comments to Desk Officer, OMB, 3145–0020, OIRA, Office of management and Budget, Washington, DC 20503. Comments should be received by February 4, 1996.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: The Survey of Doctorate Recipients (SDR) has been conducted biennially since 1973. For the 1997 cycle, a sample of individuals under the age of 76 who have earned doctoral degrees in science and engineering from U.S. institutions will be surveyed. The purpose of the study is to provide national estimates describing the relationship between education and employment for Ph.D. recipients in science and engineering. The study is one of three components of the Scientists and Engineers Statistical Data System (SESTAT), formerly called the Scientific and Technical Personnel Data System (STPDS).

The National Science Foundation Act of 1950, as subsequently amended, includes a statutory charge to "* * * provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and engineering resources, and to provide a source of information for policy formulation by other agencies of the Federal Government." The Survey of Doctorate Recipients is designed to comply with these mandates by providing information on the supply and utilization of doctorate level scientists and engineers. Collected data will be used to produce estimates of the characteristics of these individuals. They will also provide necessary input into the SESTAT labor force model, which produces national estimates of the size and characteristics of the country's science and engineering population. The Foundation uses this information to prepare congressionally mandated reports such as Women and Minorities in Science and Engineering and Science and Engineering Indicators. A public release file of collected data, designed to protect respondent confidentiality, is expected to be made available to researchers on CD–ROM and on the World Wide Web.

The survey sample design includes oversampling of recent Ph.D. recipients and minority recipients and varying sampling rates to represent specific fields of science and engineering. A total of approximately 58,000 individuals is expected to be sampled for the survey. Sample members will be requested to complete a 30 minute interview conducted by computer-assisted telephone interviewing (CATI) or mail. An unweighted response rate of 85 percent is anticipated. The survey will be collected in conformance with the Privacy Act of 1974. Each sample member's participation will be entirely voluntary. NSF will insure that all information collected will be kept strictly confidential and will be used only for research or statistical purposes, analyzing data, and preparing scientific reports and articles.

Dated: December 23, 1996.

Herman G. Fleming,

NSF Clearance Officer.

[FR Doc. 96–32932 Filed 12–26–96; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Notice of Pending Submittal to the Office of Management and Budget (OMB) Review

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: Nuclear Material Events Database (NMED).

2. Current OMB approval number: 3150–0178.

3. How often the collection is required: Agreement States are requested to report events to NRC electronically or by hard copy within one month of notification from an Agreement State licensee that an incident or event involving the industrial, commercial and/or academic use of radioactive byproduct materials, or the use of radioactive materials for medical diagnosis, therapy, or research has occurred. In addition, Agreement States are requested to report events that may pose a significant health and safety hazard to the NRC Headquarters Operations Officer within the next working day of notification by an Agreement State licensee.

4. Who is required or asked to report: Current Agreement States and any State receiving Agreement State status in the future.

5. The number of annual respondents: 29.

6. The number of hours needed annually to complete the requirement or request: 705 hours (an average of approximately one hour per response) for all existing Agreement States reporting; any new Agreement State would add approximately 25 reports per year or 25 burden hours.

7. Abstract: NRC regulations require NRC licensees to report incidents and events involving the use of radioactive byproduct material, and source material, such as those involving a radiation overexposure, a leaking or contaminated sealed source, release of excessive contamination of radioactive material, lost or stolen radioactive material, equipment failures, and abandoned well logging sources. Medical misadministrations are required to be reported in accordance with 10 CFR 35.33. Agreement State licensees are also required to report these events and medical misadministrations to their individual Agreement State regulatory authorities under compatible Agreement State regulations. NRC is requesting that the Agreement States voluntarily submit summary information on events and medical misadministrations involving the use of nuclear materials regulated pursuant to the Atomic Energy Act, in a uniform electronic format, for assessment and identification of any facility/site specific or generic safety concerns that could have the potential to impact public health and safety; and to evaluate actions necessary to prevent their occurrence at the same or other facilities.

Submit, by February 25, 1997, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library) NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov(Telnet). If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209, or within the Washington, DC, area at 202–634–3273.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC. 20555–0001, or by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 20th day of December, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–32946 Filed 12–26–96; 8:45 am]

BILLING CODE 7590–01–P

Documents Containing Reporting or Recordkeeping Requirements: Notice of Pending Submittal to the Office of Management and Budget (OMB) for Review

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: Applicant Self-Assessment, NRC Form 563.

2. Current OMB approval number: 3150–0177.

3. How often the collection is required: The Applicant Self-Assessment will be requested from basically qualified external applicants applying for engineering and scientific positions at the time their initial application is received in the NRC's Office of Personnel.

4. Who will be required or asked to report: Basically qualified external applicants applying for engineering and scientific positions with the NRC.

5. The number of annual respondents: 1,500.

6. The number of hours needed annually to complete the requirement or request: 125 hours (five minutes per response).

7. Abstract: The Applicant Self-Assessment will be used to collect uniform information from external applicants as to which technical specialties they possess that are unique to the needs of the NRC. This information will be reviewed by Office of Personnel staff and used to match applicants' technical specialties with those required by selecting officials when an engineering or scientific vacancy position is to be filled.

Submit, by February 25, 1997, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street NW, (lower level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library). Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of the notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608.

Comments and questions may be directed to the NRC Clearance Officer, Brenda Jo Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, or by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 20th day of December, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–32947 Filed 12–26–96; 8:45 am]

BILLING CODE 7590–01–P

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection: 10 CFR 35.32 and 35.33, "Quality Management Program and Misadministrations".

3. The form number if applicable: Not Applicable.

4. How often the collection is required:

For quality management program (QMP):

Reporting: One time submittal of a quality management program (QMP) for each existing and new licensee, when the QMP is modified, or when new modalities (uses) are added to an existing license.

Ten Agreement States, who should have adopted the rule by January 1995, have not done so. Therefore, this estimate includes the one-time burden for the development of QMPs by these ten Agreement State licensees.

Recordkeeping: Records of written directives, administered dose or dosage, annual review, and recordable events, for 3 years.

For Misadministrations:

Reporting: Whenever a misadministration occurs.

Recordkeeping: Records of misadministrations for 5 years.

5. Who will be required or asked to report: NRC Part 35 licensees who use byproduct material in limited diagnostic and therapeutic ranges and similar type of licensees regulated by Agreement States.

6. An estimate of the number of responses: Approximately 2,919 per year.

7. The estimated number of annual respondents: 6300

8. An estimate of the total number of hours needed annually to complete the requirement or request: 34,743 hours for applicable licensees (24,400 hrs/yr for reporting and 10,343 hrs/yr for recordkeeping).

9. An indication of whether section 3507(d), Pub. L. 104–13 applies: Not Applicable

10. Abstract: In the medical use of byproduct material, there have been instances where byproduct material was not administered as intended or was administered to a wrong individual, which resulted in unnecessary exposures or inadequate diagnostic or therapeutic procedures. The most frequent causes of these incidents were: insufficient supervision, deficient procedures, failure to follow procedures, and inattention to detail. In an effort to reduce the frequency of such events, the NRC requires licensees to implement a quality management program (§ 35.32) to provide high confidence that byproduct material or radiation from byproduct material will be administered as directed by an authorized user physician.

Collection of this information enables the NRC to ascertain whether misadministrations are properly identified, evaluated, and investigated by the licensee and that corrective action is taken. Additionally, NRC has a responsibility to inform the medical community of generic issues identified in the NRC review of misadministrations.

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC. Members of the public who are in the Washington, DC, area can access the submittal via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library) NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209, or within the Washington, DC, area at 202–634–3273.

Comments and questions should be directed to the OMB reviewer by January 27, 1997: Edward Michlovich, Office of Information and Regulatory Affairs (3150–0171), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084. The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 20th day of December 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–32948 Filed 12–26–96; 8:45 am]

BILLING CODE 7590–01–P

Draft Standard Review Plans on Antitrust and Financial Qualifications and Decommissioning Funding Assurance

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft Standard Review Plans.

SUMMARY: The NRC is seeking public comment on Draft Standard Review Plans (SRPs) on Antitrust and Financial Qualifications and Decommissioning Funding Assurance. The Draft SRP on Antitrust Reviews reflects current staff practice in carrying out the antitrust mandate required by the Atomic Energy Act in review of construction permit and operating license applications, amendment applications, and in antitrust enforcement actions. The Draft SRP on Financial Qualifications and Decommissioning Funding Assurance provides procedures used to evaluate initial license applications and license transfer applications with respect to financial qualifications and to determine if licensees are complying with NRC requirements for ensuring that adequate decommissioning funds are available. The SRPs are being published to obtain public comments and do not reflect the Commission's final positions. The public comments will be considered in evaluating whether the NRC review process in this area should be changed. The Draft SRPs will be available on NRC electronic bulletin boards and in the NRC's Public Document Room.

DATES: The public is invited to submit comments on the draft SRPs by March 15, 1997. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date. On the basis of the submitted comments, the Commission will determine whether to modify the draft SRPs before issuing them in final form.

ADDRESSES: Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m., Federal workdays.

Comments may be submitted electronically, in either ASCII text or WordPerfect format (version 5.1 or later), by calling the NRC electronic Bulletin Board (BBS) on FedWorld. The bulletin board may be accessed by using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet.

If using a personal computer and modem, the NRC–EDIN subsystem on FedWorld can be accessed directly by dialing the toll free number (800) 303–9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT–100 terminal emulation, the NRC–EDIN subsystem can then be accessed by selecting the "Rules Menu" option from the "NRC Main Menu." Many NRC subsystems and data bases also have a "Help/Information Center" option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial telephone number for the main FedWorld BBS, (703) 321–3339, or by using Telnet via Internet: fedworld.gov. If using (703) 321–3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the "Regulatory, Government Administration and State Systems," then selecting "Regulatory

Information Mail." At that point, a menu will be displayed that has an option "U.S. Nuclear Regulatory Commission" that will take you to the NRC Online main menu. The NRC Online area also can be accessed directly by typing "/go nrc" at a FedWorld command line. If you access NRC from FedWorld's main menu, you may return to FedWorld by selecting the "Return to FedWorld" option from the NRC Online Main Menu. However, if you access NRC at FedWorld by using the NRC's toll-free number, you will have full access to all NRC systems, but you will not have access to the main FedWorld system.

If you contact FedWorld using Telnet, you will see the NRC area and menus, including the NRC–EDIN Menu. Although you will be able to download documents and leave messages, you will not be able to write comments or upload files (comments). If you contact FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is available. There is a 15-minute time limit for FTP access.

Although FedWorld can also be accessed through the World Wide Web, like FTP that mode only provides access for downloading files and does not display the NRC–EDIN Menu.

For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, NRC, Washington, DC 20555, telephone (301) 415–5780; e-mail AXD3@nrc.gov.

Examine copies of comments received at: The NRC Public Document Room, 2120 L Street NW (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert S. Wood, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–1255, e-mail RSW1@nrc.gov; or for the Antitrust SRP, Michael J. Davis, telephone (301) 415–1016, e-mail MJD1@nrc.gov.

SUPPLEMENTARY INFORMATION: The Draft Standard Review Plan on Antitrust describes the procedures used by the NRC staff to implement the antitrust review and enforcement prescribed in Sections 105 and 186 of the Atomic Energy Act of 1954, as amended and will replace the original NUREG–0970. These procedures are principally covered by the Commission's Rules and Regulations in 10 CFR 2.101, 2.102, 2.2, 50.33a, 52.77, 50.80, and 50.90. These procedures set forth the steps and criteria the staff applies in the antitrust review of combined construction permit/operating license applications and amendments to construction permits, operating licenses, and combined licenses. In addition, the procedures describe how the staff enforces compliance by licensees with antitrust license conditions.

The Draft Standard Review Plan on Power Reactor Licensee Financial Qualifications and Decommissioning Funding Assurance describes the process the NRC staff uses to review the financial qualifications and methods of providing decommissioning funding assurance required of power reactor licensees. This draft SRP will be used as the basis for reviews as the electric utility industry moves from an environment of rate regulation toward greater competition. The NRC is concerned that rate deregulation and disaggregation resulting from various restructuring actions involving power reactor licensees could have adverse effects on the protection of public health and safety.

Dated at Rockville, Maryland, this 20th day of December, 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–32951 Filed 12–26–96; 8:45 am]

BILLING CODE 7590–01–P

Oconee Nuclear Station, Units 1, 2, and 3; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance; Correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on December 18, 1996 (61 FR 66699), that considers issuance of amendments to Facility Operating License Nos. DPR–38, DPR–47, and DPR–55, issued to the Duke Power Company. This action is necessary to correct an erroneous date.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, telephone (301) 415–7163.

SUPPLEMENTARY INFORMATION: On page 66701, in the first column, in the second complete paragraph, the date is changed from "January 2, 1997", to read "January 17, 1997."

Dated at Rockville, Maryland, this 20th day of December, 1996.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 96–32949 Filed 12–26–96; 8:45 am]

BILLING CODE 7590–01–P

[IA 96–100]

In the Matter of John Maas; Confirmatory Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately)

I

Mr. John Maas was employed as President of National Circuits Caribe, Inc. (NCCI) in Fajardo, Puerto Rico, in 1991. NCCI possessed and used radioactive materials at its Fajardo, Puerto Rico facility under the authority of a general license issued by the Nuclear Regulatory Commission (NRC) pursuant to 10 CFR 31.5. The general license authorized the licensee to use byproduct material contained in devices designed and manufactured for the purpose of gauging or controlling thickness of materials during industrial processes. NCCI filed for bankruptcy under Chapter 11 in Puerto Rico in March 1991 but the case was dismissed in October 1991 due to lack of response from the company. The Fajardo facility was abandoned sometime around October 1991.

II

On June 23, 1993, the NRC was notified by the Commonwealth of Puerto Rico's Bureau of Radiological Health (Bureau) of the discovery of radioactive sources and a quantity of hazardous chemicals on property leased from the Puerto Rico Industrial Development Corporation (PRIDCO) by NCCI. Bureau personnel indicated that the abandoned sources had been found in an abandoned building by PRIDCO personnel.

The NRC, Region II, staff performed an inspection of the site on June 30, 1993, and determined there were five sources containing microcurie amounts of Thallium-204 or Promethium-147. The sources were in backscatter gauges that were authorized for use by NCCI under an NRC general license, specified in 10 CFR 31.5. The staff determined that the source/gauges had been abandoned at the site since October 1991. NRC and PRIDCO oversaw the disposal of the gauges, which was completed in September 1994.

The NRC Office of Investigations (OI) conducted an investigation, documented in OI Report No. 2–93–044 dated January 31, 1996, to determine whether NCCI had deliberately abandoned licensed material at the plant site. Based on the evidence developed and reviewed, OI determined that during approximately October 1991, the five generally licensed backscatter gauges were deliberately abandoned by the licensee, with the knowledge of the President of the company, Mr. Maas.

Mr. Maas, the former President of NCCI, was prosecuted by the Department of Justice and on December 5, 1995, pled guilty to the charges of (1) willfully and knowingly storing or causing to be stored hazardous wastes for longer than ninety days without having first obtained a permit or interim status for said storage, in violation of Title 42, United States Code, Section 6928(d)(2) (a) and (2) willfully and knowingly abandoning devices containing byproduct radioactive materials, in violation of Section 223 of the Atomic Energy Act of 1954, as amended, Title 42, United States Code, Section 2273 and 10 CFR 31.5(c)(6). On August 8, 1996, Mr. Maas was sentenced to probation and required to perform community service.

III

The Commission's regulation in 10 CFR 30.10 requires, in part, that any employee of a licensee may not engage in deliberate misconduct that causes a licensee to be in violation of any regulation issued by the Commission. Based on the facts set forth above, the staff concluded that Mr. Maas engaged in deliberate misconduct that caused the licensee to abandon devices containing byproduct material in violation of 10 CFR 31.5(c)(6). As President of NCCI, Mr. Maas was responsible for ensuring that NCCI conducted activities in accordance with NRC requirements. The NRC must be able to rely on licensees and their officials and employees to comply with NRC requirements. Mr. Maas' actions in causing NCCI to violate 10 CFR 31.5 have raised serious doubts as to whether he can be relied on to comply with NRC requirements.

The NRC staff sent a letter dated October 10, 1996, to Mr. P. M. Sandler, Mr. Maas' attorney, containing the proposed terms of this Order which are set out in Section IV of this Order. The proposed terms are that Mr. Maas be prohibited from any involvement in NRC-licensed activities for a period of five years from the date of this Order, and is required to notify the NRC of his first involvement in NRC-licensed activities during the five years following the prohibition period. The NRC staff requested Mr. Sandler to review the proposed items with Mr. Maas and, if Mr. Maas agreed to the proposed terms of this Order, have him indicate his agreement with those terms by signing an enclosed acknowledgement. By letter dated October 22, 1996, Mr. Sandler transmitted the acknowledgement of the proposed provisions of the Order which had been signed by Mr. Maas. In the acknowledgement, Mr. Maas indicated that he understood the proposed provisions, committed to complying with them, and consented to the issuance of an Order confirming these provisions. In the acknowledgment, Mr. Maas also waived his right to have a hearing on such an Order.

I find that Mr. Maas' commitments as set forth in the letter of October 22, 1996, are acceptable and necessary and conclude that with these commitments public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that Mr. Maas' commitments in the October 22, 1996 letter be confirmed by this Order. As stated above, Mr. Maas has agreed to this action. Pursuant to 10 CFR 2.202, I have also determined, based on Mr. Maas' consent and on the significance of the conduct described above, that public health and safety require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 30.10, and 10 CFR 150.20, *it is hereby ordered, effective immediately, that:*

1. For a period of five years from the date of this Confirmatory Order, Mr. Maas is prohibited from engaging in or exercising control over individuals engaged in NRC-licensed activities. NRC-licensed activities are those activities which are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20. This prohibition includes, but is not limited to: (1) Using licensed materials or conducting licensed activities in any capacity within the jurisdiction of the NRC; and (2) supervising or directing any licensed activities conducted within the jurisdiction of the NRC.

2. At least five days prior to the first time that Mr. Maas engages in, or exercises control over, NRC-licensed activities within a period of five years following the five-year prohibition in Section IV.1 above, he shall notify the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, of the name, address, and telephone number of the NRC or Agreement State licensee and the location where the licensed activities will be performed. The notice shall be accompanied by a statement, under oath or affirmation, that Mr. Maas understands NRC requirements, that he is committed to compliance with NRC requirements, and that provides a basis as to why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Regional Administrator, Region II, may relax or rescind, in writing, any of the above conditions upon a showing by Mr. Maas of good cause.

V

In accordance with 10 CFR 2.202, any person adversely affected by this Confirmatory Order, other than Mr. Maas, may submit an answer to this Order, and may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and include a statement of good cause for the extension. The request for a hearing shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which any other person adversely affected relies and the reasons as to why the Confirmatory Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Chief, Docketing and Service Section, Washington, D.C. 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, and to the Regional Administrator, NRC Region II, 101 Marietta Street, NW, Suite 2900, Atlanta, Georgia 30323 and to Mr. Maas. If a person other than Mr. Maas requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any

hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Confirmatory Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

Dated at Rockville, Maryland this 12th day of December 1996.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

[FR Doc. 96–32950 Filed 12–26–96; 8:45 am]

BILLING CODE 7590–01–P

Advisory Committee on Reactor Safeguards

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of renewal of the Advisory Committee on Reactor Safeguards (ACRS).

SUMMARY: The Advisory Committee on Reactor Safeguards was established by Section 29 of the Atomic Energy Act (AEA) in 1954. Its purpose is to provide advice to the Commission with regard to the hazards of proposed or existing reactor facilities, to review each application for a construction permit or operating license for certain facilities specified in the AEA, and such other duties as the Commission may request. The AEA as amended by PL–100–456 also specifies that the Defense Nuclear Safety Board may obtain the advice and recommendations of the ACRS.

Membership on the Committee includes individuals experienced in reactor operations, management; probabilistic risk assessment; analysis of reactor accident phenomena; design of nuclear power plant structures, systems and components; and mechanical, civil, and electrical engineering.

The Nuclear Regulatory Commission has determined that renewal of the charter for the ACRS until December 23, 1998 is in the public interest in connection with the statutory responsibilities assigned to the ACRS. This action is being taken in accordance with the Federal Advisory Committee Act.

FOR FURTHER INFORMATION CONTACT: Andrew L. Bates, Office of the Secretary, NRC, Washington, DC 20555; telephone: (301) 415–1963.

Dated: December 23, 1996.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 96–32952 Filed 12–26–96; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Federal Use of Standards

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice and request for comments on proposed revision of OMB Circular No. A–119, "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities."

SUMMARY: The Office of Management and Budget (OMB) is revising Circular A–119, "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities." Public Law 104–113, the National Technology Transfer Act of 1995 (hereinafter known as P.L. 104–113), was passed by Congress to codify existing policies in A–119, to establish additional reporting requirements, and to authorize the National Institute of Standards and Technology (NIST) to coordinate conformity assessment activities of the agencies. P.L. 104–113 was signed into law by the President on March 13, 1996. This proposed revision of Circular A–119 implements the new law and makes certain other modifications.

DATES: Comments are requested on the proposed revisions to Circular A–119 no later than February 25, 1997.

ADDRESSES: Direct written comments to: Information Policy and Technology Branch, Office of Information and Regulatory Affairs, Office of Management and Budget, NEOB Room 10236, Washington, D.C., 20503. E-mail comments may be sent to: huth__v@a1.eop.gov.

FOR FURTHER INFORMATION CONTACT: Virginia Huth, Information Policy and Technology Branch, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10236 NEOB, Washington, D.C., 20503. Telephone: 202–395–3785. The text of this proposed revision and of the current OMB Circular A–119 are available electronically on the OMB Home page in the documents section at http://www.whitehouse.gov/WH/ EOP/ OMB. The current version of A–119 is available in paper format by contacting the OMB Publications Office at (202) 395–7332. To request a fax of the current A–119, call (202) 395–9068.

SUPPLEMENTARY INFORMATION: Section 12(d) of the National Technology Transfer Act of 1995 (P.L. 104–113, or "the Act") codified the policies of Circular A–119. Section 12(d)(1) states that "Except as provided in paragraph (3) of this subsection, all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments."

To carry out this requirement, Section 12(d)(2) states that agencies and departments "shall consult" with those bodies and "shall * * * participate" with them in developing voluntary consensus standards "when such participation is in the public interest and is compatible with agency and departmental missions, authorities, priorities, and budget resources."

Finally, Section 12(d)(3) states that, where it would be "inconsistent with applicable law or otherwise impractical" to use standards that those bodies develop or adopt, an agency or department may use other standards; however, the head of the agency or department must send to OMB "an explanation of the reasons for using such standards." The law states that, beginning with fiscal year 1997, OMB will transmit to Congress and its Committees an annual report summarizing all explanations received in the preceding year.

This Circular provides instructions, beginning with FY 97, for agencies to report explanations of instances in which agencies used standards which were not developed by voluntary consensus standards bodies. For FY 96, OMB issued a letter on May 17, 1996, to the heads of departments and agencies notifying them of the Act and of the new reporting requirement. For the period March 13, 1996 (date of enactment of the Act) to September 30, 1996, any explanations that agencies have generated should be transmitted to NIST no later than January 31, 1997, for forwarding to OMB.

The Act's legislative history confirms that Section 12(d) was intended to codify the Circular's policies. See 142 Cong. Rec. H1265 (daily ed. February

27, 1996) (statement of Rep. Morella); 142 Cong. Rec. S1080–81 (daily ed. February 7, 1996) (statement of Sen. Rockefeller); 141 Cong. Rec. H14333–34 (daily ed. December 12, 1995) (statements of Reps. Brown and Morella).

Accordingly, the revisions proposed to the Circular are not intended to change the policy with respect to agencies' use of voluntary consensus standards, but instead are intended to conform the Circular's terminology to the Act and to increase the Circular's clarity and effectiveness.

Summary of Changes

This proposed revision incorporates the following changes:

(1) Section 5 clarifies the definitions for "agency" and "standard." The definition for "adoption" has been replaced by a definition for "use." The definition for "voluntary standards" has been replaced by a definition for "voluntary consensus standards." The definition for "voluntary standards bodies" has been replaced with a definition for "voluntary consensus standards bodies." New definitions for "conformity assessment," "impractical," "performance standard," and "technical standard" have been added. Finally, terminology throughout the Circular has been modified to reflect these changes.

(2) Section 6a has been revised to state that these policies apply to all policy objectives and activities, including procurement and regulatory activities, to clarify that these policies do not pre-empt or restrict agencies' authorities and responsibilities to regulate, and to clarify that agencies retain discretion to decline to use an existing voluntary consensus standard if the agency determines that such standard is inconsistent with applicable law or otherwise impractical.

(3) Section 6b has been modified to state that agencies are to refrain from actively participating in standards development committees when involvement in such committees does not clearly relate to the mission of the agency and to avoid dominating committee proceedings. Section 7b.6 has been modified to state that agency support for standards development activities is not to be contingent upon the outcome of the standards activity.

(4) Section 6c has been modified to reflect the need for greater coordination among the federal agencies prior to their participation on technical committees. The material in Section 7c, which provides guidance on this subject, was formerly Sections 8b.2(a–e) and 8b.3. Some minor changes were made to ensure consistency in terminology. Section 9c has been added in order to make coordination of standards activities the explicit responsibility of the Standards Executive.

(5) Section 7a.5 has been added to describe one way in which agencies may identify voluntary consensus standards.

(6) Section 8 establishes procedures for reviewing existing voluntary consensus standards when issuing or revising a regulation or initiating a procurement. Such procedures provide for public notice and comment on proposed standards and require agencies to respond to public comment and to explain the final outcome.

(7) Section 10a establishes requirements for reporting on exceptions to the use of voluntary consensus standards, as required by P.L. 104–113. The reporting requirements of Section 10b, although not required by statute, have been retained. The language has been modified to provide for coordination with the reporting requirements in Section 10a.

(8) Section 10 directs the National Institute of Standards and Technology to issue guidance to the agencies in order to promote the coordination of Federal, State, and local standards activities and conformity assessment activities with the private sector, as required by Section 12(b) of P.L. 104–113.

Accordingly, OMB Circular A–119 is proposed to be revised as set forth below.

Sally Katzen,

Administrator, Office of Information and Regulatory Affairs.

To the Heads of Executive Departments and Establishments

Subject: Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities

1. *Purpose.* This Circular establishes policy to be followed by agencies in working with voluntary consensus standards bodies and in using voluntary consensus standards, in accordance with Section 12(d) of the National Technology Transfer and Advancement Act (hereinafter cited as P.L. 104–113). It also implements reporting requirements for the use of voluntary consensus standards and addresses the role of the National Institute for Standards and Technology (NIST) in coordinating conformity assessment activities.

2. *Rescissions.* This Circular supersedes OMB Circular No. A–119, dated October 20, 1993, which is rescinded.

3. *Background.* Many standards that are developed by voluntary consensus standards bodies are appropriate or adaptable for the Government's purposes. The adoption of such standards, whenever practicable and appropriate, eliminates the cost to the Government of developing its own standards. At the same time, Government participation in standards-related activities provides incentives and opportunities to establish standards that serve national needs. Moreover, harmonization of standards promotes efficiency and economic competition, thus encouraging long-term growth for U.S. enterprises. Adoption of standards developed by voluntary consensus standards bodies also furthers the policy of reliance upon the private sector to supply Government needs for goods and services, as stated in OMB Circular No. A–76, "Performance of Commercial Activities."

4. *Applicability.* This Circular applies to all agency participation in voluntary consensus standards activities, domestic and international, but not to activities carried out pursuant to treaties and international standardization agreements.

5. *Definitions.* As used in this Circular:

a. *Agency* means any executive department, independent commission, board, bureau, office, agency, Government-owned or controlled corporation or other establishment of the Federal Government, including any regulatory commission or board, except for independent regulatory commissions insofar as they are subject to separate statutory requirements regarding the use of voluntary consensus standards. It does not include the legislative or judicial branches of the Federal Government.

b. *Conformity assessment* means any procedures used directly or indirectly to determine if relevant requirements in technical regulations or standards are fulfilled. The activities which are commonly termed "conformity assessment" include product testing, inspection and/or certification, including self-certification; accreditation of testing and calibration laboratories; and management system registration (for both quality and environment). Conformity assessment procedures include: sampling, testing and inspection, evaluation, verification and assurance of conformity, laboratory accreditation (for both testing and calibration), registration accreditation, and approval.

c. *Impractical,* with respect to an agency's decision not to use an existing voluntary consensus standard, includes circumstances in which such use would demonstrably fail to serve the agency's program needs; would be infeasible; would be unnecessarily duplicative, inadequate, inefficient, or inconsistent with agency mission; or would impose more burdens, or would be less useful, than the use of another standard.

d. *Performance standard* means a standard that states requirements in terms of required results with criteria for verifying compliance but without stating the methods for achieving required results. A performance standard defines the functional requirements for the item, the environment in which it must operate, and interface and interchangeability characteristics, while a design standard specifies design requirements, such as materials to be used, how a requirement is to be achieved, or how an item is to be fabricated or constructed. "Performance standard" is a subset of "standard" as defined in section 5f. of this Circular.

e. *Secretary* means the Secretary of Commerce or that Secretary's designee.

f. *Standard* (or "technical standard," as found in P.L. 104–113), as used in this Circular, means: (1) Common and repeated use of rules, conditions, guidelines or characteristics for products or related processes and production methods; (2) the definition of terms; classification of components; delineation of procedures; specification of dimensions, materials, performance, designs, or operations; measurement of quality and quantity in describing materials, products, systems, services, or practices; or descriptions of fit and measurements of size; (3) "performance standard" as defined above; or (4) "non-government standard", which is defined as a standardization document developed by a private sector association, organization or technical society which plans, develops, establishes or coordinates standards, specifications, handbooks, or related documents. The term does not include professional standards of personal conduct, institutional codes of ethics, or standards issued by individual companies. It also does not include standards created under other legal authority, such as those contained in the United States Pharmacopeia and the National Formulary, as referenced in 21 U.S.C. 351. A "Standard" may also be a "voluntary consensus standard," as defined below, or it may be what are commonly referred to as "industry standards" or "de facto standards," which are developed by industry associations which do not always adhere to the full consensus process.

g. *Technical Standard,* as used in this Circular, is synonymous with "standard." Examples of technical standards include, but are not limited to, size and strength specifications; technical performance criteria for a product, process, or material; test methods; procurement guidelines; sampling procedures; business practices; management systems; definitional standards; and installation safety codes.

h. *Use* means (i) use of the latest edition of a standard in whole, in part, or by reference for procurement purposes, and (ii) the inclusion of the latest edition of a standard in whole, in part, or by reference in regulation(s).

i. *Voluntary consensus* standards are standards developed or used by voluntary consensus standards bodies, both domestic and international, and which are made available in a manner which includes provisions requiring that owners of relevant intellectual property have agreed to make that intellectual property available on a non-discriminatory, royalty-free or reasonable royalty basis to all interested parties. A "Voluntary consensus standard" may also be known in common usage as a "voluntary standard," a "consensus standard," or a "consensus technical standard."

j. *Voluntary consensus standards bodies* are domestic or international organizations which plan, develop, establish, or coordinate voluntary standards using agreed-upon procedures. For purposes of this Circular, "voluntary, private sector, consensus standards bodies," as cited in P.L. 104–113, is an equivalent term. These bodies may include nonprofit organizations, industry associations, accredited standards developers, professional and technical societies, institutes, committees, task forces, or working groups. P.L. 104–113 and this Circular encourage the participation of government representatives in these bodies to increase the likelihood that the standards they develop will meet both public and private sector needs. A voluntary consensus standards body observes principles such as openness, balance of interest, and due process. Further, voluntary consensus standards bodies operate by consensus, which is defined as general agreement, characterized by the absence of sustained opposition to substantial issues by any important part of the concerned interests. Consensus requires that all views and objections be considered and that an effort be made toward their resolution.

6. *Use and Development of Voluntary Consensus Standards.* a. Agencies shall use existing voluntary consensus standards, both domestic and international, in their regulatory and procurement activities as a means of carrying out policy objectives or activities determined by the agencies, unless use of such standards would be inconsistent with applicable law or otherwise impractical. Agencies shall use such voluntary consensus standards for test methods, procurement guidelines, management systems, sampling procedures, or protocols to determine whether established regulatory limits or targets have been met. This requirement does not preempt or restrict agencies' authorities and responsibilities to make regulatory decisions authorized by statute. Such regulatory authorities and responsibilities include determining the level of acceptable risk; setting the level of protection; and balancing risk, cost, and availability of technology in establishing regulatory standards. Agencies retain discretion to decline to use existing voluntary consensus standards if the agency determines that such standards are inconsistent with applicable law or otherwise impractical.

b. Agencies shall consult with voluntary consensus standards bodies and shall participate with such bodies in their development and adoption of voluntary consensus standards when, in the determination of the agencies, participation is in the public interest and is compatible with their missions, authorities, priorities, and budget resources. Agency representatives shall refrain from actively participating in voluntary consensus standards bodies or their committees when involvement does not relate to the mission of the agency. In all cases, agency representatives shall ensure that the agency's influence does not dominate proceedings.

c. Agencies shall coordinate their participation in voluntary consensus standards bodies so that: (1) The most effective use is made of agency resources and representatives; (2) the views expressed by such representatives are in the public interest and, at a minimum, do not conflict with the interests and established views of the agencies; (3) the positions among agencies serving on the same technical committees are consistent with administration policy; and (4) agency technical and policy positions are clearly defined and known in advance to all federal participants on a given committee.

7. *Guidelines.* In implementing the policy established by this Circular,

agencies should recognize the positive contribution of standards development and related activities. When properly conducted, standards development can increase productivity and efficiency in Government and industry, expand opportunities for international trade, conserve resources, improve health and safety, and protect the environment. It also must be recognized, however, that these activities, if improperly conducted, can suppress free and fair competition; impede innovation and technical progress; exclude safer and less expensive products; or otherwise adversely affect trade, commerce, health, or safety. Full account in carrying out this policy shall be taken of the impact on the economy, applicable Federal laws, policies, and national objectives, including, for example, laws and regulations relating to antitrust, national security, small business, product safety, environment, metrication, technological development, and conflicts of interest. The following guidelines are provided to assist and govern the agencies' use of, and participation in the development and adoption of, voluntary consensus standards.

a. *Use of Voluntary Consensus Standards.* (1) In the interests of promoting trade and implementing the provisions of the Agreement on Technical Barriers to Trade and the Agreement on Government Procurement (commonly referred to as the Technical Barriers to Trade (TBT) Agreement and the "Procurement Code," respectively) of the World Trade Organization, international standards (standards developed and/or adopted by international voluntary consensus standards bodies) should be considered in procurement and regulatory applications.

(2) In using voluntary consensus standards, preference should be given to standards based on performance criteria when such criteria may reasonably be used in lieu of design, material, or construction criteria.

(3) Voluntary consensus standards used by agencies should be referenced, along with their dates of issuance and sources of availability, in appropriate publications, regulatory orders, and related in-house documents. Such use should take into account the rights of copyright holders and other similar obligations.

(4) Agencies should not be inhibited from developing and using government standards in the event that voluntary consensus standards bodies cannot or do not develop a needed, acceptable standard in a timely fashion. Nor should this Circular be construed as committing any agency to the use of a voluntary consensus standard which, after due consideration, is determined by the agency to be inconsistent with applicable law or otherwise impractical.

(5) Voluntary consensus standards may be identified through databases of standards maintained by the National Institute of Standards and Technology (NIST) or by voluntary consensus standards bodies.

b. *Participation in Voluntary Consensus Standards Bodies.* (1) Participation by knowledgeable agency employees in the standards activities of voluntary consensus standards bodies, both domestic and international, should be actively encouraged and promoted by agency officials when consistent with P.L. 104–113 and this Circular.

(2) Agency employees who participate in standards activities of voluntary consensus standards bodies shall do so as specifically authorized agency representatives. Agency representatives shall refrain from actively participating in standards development committees when involvement in such committees does not relate to the mission of the agency. Agency participation in voluntary consensus standards bodies does not necessarily connote agency agreement with, or endorsement of, decisions reached by such organizations.

(3) Agency representatives shall participate in such bodies' development of voluntary consensus standards that:

(i) Will eliminate the necessity for development or maintenance of separate Government standards; and

(ii) Will further such national goals and objectives as increased use of the metric system of measurement; environmentally sound and energy efficient materials, products, systems, services, or practices; and public health and safety.

(4) Agency representatives serving as members of voluntary consensus standards bodies should participate actively and on an equal basis with other members. In doing so, agency representatives should not seek to dominate such groups. Active participation includes full involvement in discussions and technical debates, registering of opinions and, if selected, serving as chairpersons or in other official capacities. Agency representatives may vote, in accordance with the procedures of the voluntary consensus standards body, at each stage of standards development unless prohibited from doing so by law or their agencies.

(5) The number of individual agency participants in a given voluntary standards activity should be kept to the minimum required for effective presentation of the various program, technical, or other concerns of Federal agencies.

(6) Agency support provided to a voluntary consensus standards activity shall be limited to that which is clearly in furtherance of an agency's mission and responsibility. Agency support shall not be contingent upon the outcome of the standards activity. Normally, the total amount of Federal support should be no greater than that of all other participants in that activity, except when it is in the direct and predominant interest of the Government to develop or revise a standard and its development or revision appears unlikely in the absence of such support. The form of agency support, subject to legal and budgetary authority, and availability of funds, may include:

(i) Direct financial support; e.g., grants, sustaining memberships, and contracts;

(ii) Administrative support; e.g., travel costs, hosting of meetings, and secretarial functions;

(iii) Technical support; e.g., cooperative testing for standards evaluation and participation of agency personnel in the activities of voluntary consensus standards bodies;

(iv) Joint planning with voluntary consensus standards bodies to facilitate a coordinated effort in identifying and developing needed standards; and

(v) Participation of agency personnel.

(7) Participation by agency representatives in the policy-making processes of voluntary consensus standards bodies, in accordance with the procedures of those bodies, is encouraged—particularly in matters such as establishing priorities, developing procedures for preparing, reviewing, and approving standards, and developing or adopting new standards. In order to maintain the independence of such organizations, however, agency representatives should refrain from involvement in the internal management of such organizations (e.g., selection of salaried officers and employees, establishment of staff salaries and administrative policies).

(8) This Circular does not provide guidance concerning the internal operating procedures that may be applicable to voluntary consensus standards bodies because of their relationships to agencies under this Circular. Agencies should, however, carefully consider what laws or rules may apply in a particular instance because of these relationships. For example, these relationships may involve the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), or a

provision of an authorizing statute for a particular agency.

c. *Coordination of participation in voluntary consensus standards bodies and standards activities.* Agency Standards Executives, designated under section 9c., shall coordinate agency participation in voluntary consensus standards bodies. This coordination shall include, but need not be limited to:

(1) Establishing procedures to ensure that agency representatives participating in voluntary consensus standards bodies will, to the extent possible, ascertain the views of the agency on matters of paramount interest and will, at a minimum, express views that are not inconsistent or in conflict with established agency views; and will, to the extent possible, ensure that the agency's participation in voluntary consensus standards bodies is consistent with agency missions.

(2) Ensuring, when two or more agencies participate in a given voluntary consensus standards body, that they coordinate their views on matters of paramount importance so as to present, whenever feasible, a single, unified position and, where not feasible, a mutual recognition of differences;

(3) Cooperating with the Secretary in carrying out his/her responsibilities under this Circular;

(4) Consulting with the Secretary, as necessary, in the development and issuance of internal agency procedures and guidance implementing this Circular, including the development and harmonized implementation of an agency-wide directory identifying agency employees participating in standards developing groups;

(5) Submitting, as described in section 10, in response to the request of the Secretary, a report on exceptions to the use of existing voluntary consensus standards and a report on the status of agency standards policy activities; and

(6) Reviewing their existing standards within five years of issuance of this Circular, and at least once every five years thereafter, and replacing through applicable procedures those for which an adequate and appropriate voluntary consensus standard can be substituted.

8. *Procedures.* a. When issuing or revising a regulation, agencies shall review for use existing voluntary consensus standards. Such review shall include:

(1) A request for comment within the preamble of a Notice of Proposed Rulemaking (NPRM). Such request shall provide:

(i) When an existing voluntary consensus standard is being proposed for use, a statement which identifies such standard, as well as the identity of any alternative voluntary consensus standards which may have been identified and/or considered, and an explanation of why the proposed standard should be used;

(ii) When the agency has determined to not propose for use an existing voluntary consensus standard, a statement which identifies such standard, provides a preliminary explanation for why such standard would not be used, and invites the public to comment and to explain why such standard or an alternative voluntary consensus standard should be used; or

(iii) When no existing voluntary consensus standard has been identified, a statement which invites the public to identify such voluntary consensus standards and to explain why such standard should be used; and

(2) A discussion in the preamble of a Final Rulemaking that restates the discussion in the proposed rule, acknowledges and summarizes any comments received and responds to them, and explains the agency's final decision. The final rule shall provide:

(i) When an existing voluntary consensus standard is being used, a statement that identifies such standard and any alternative voluntary consensus standards which have been identified;

(ii) When an existing voluntary consensus standard is not being used, a statement that identifies such standard and explains why such use would be inconsistent with applicable law or otherwise impractical; or

(iii) When no existing voluntary consensus standard has been identified, a statement to that effect.

(b) When initiating a procurement, agencies shall consider using existing voluntary consensus standards. (1) Where the solicitation is for products that incorporate government-unique standards, the solicitation shall include a statement which identifies the standards to be used and provides offerors an opportunity to suggest alternatives in the nature of existing voluntary consensus standards that meet the government's requirements. Where such suggestions are made and do not result in a replacement of government-unique standards by existing voluntary consensus standards, the agency shall explain why such use is inconsistent with law or otherwise impractical.

(2) Where the solicitation is for commercial, off-the-shelf products, or for products that rely on existing voluntary consensus standards, or for products that do not rely on government-unique standards, the requirement in subsection (1) above shall not apply.

9. *Responsibilities.* a. The Secretary shall:

(1) Coordinate and foster executive branch implementation of this Circular and may provide administrative guidance to assist agencies in implementing this Circular;

(2) Continue the Interagency Committee on Standards Policy (ICSP), chaired by the National Institute of Standards and Technology (NIST), in order to consider their views and to advise the Secretary and agency heads in the Circular;

(3) As described in section 10, report to the Office of Management and Budget (OMB), with the assistance of NIST, concerning implementation of the policy provisions of this Circular; and

(4) Establish procedures for agencies to use when developing directories described in paragraph 7c(4) and establish procedures to make these directories available to the public.

b. Heads of Agencies shall:

(1) Implement section 6 of this Circular in accordance with the guidelines in section 7 and the procedures in section 8;

(2) In the case of an agency with significant interest in the use of standards, designate a senior level official as the Standards Executive who shall be responsible for agency-wide implementation of this Circular and who shall represent the agency on the ICSP.

c. The Standards Executive's responsibilities shall include, but not be limited to, those described in section 7c.

10. *Reporting Requirements.* a. *Agency Reports on exceptions to use of existing voluntary consensus standards.* As required by P.L. 104–113, beginning for fiscal year 1997 and every fiscal year thereafter, agencies shall report to OMB, through NIST, no later than December 31 of the following fiscal year, any decisions by the agency during that fiscal year to use a government-unique standard in lieu of an existing voluntary consensus standard, along with an explanation of the reason(s) why use of such standard would be inconsistent with applicable law or otherwise impractical, as described in sections 8a.(2)(ii) and 8b.(1) of this Circular.

b. *Agency Reports on Standards Policy Activities.* To assist OMB in its reporting to Congress, beginning for fiscal year 1996 and every fiscal year thereafter, agencies shall submit information to OMB, through NIST, on the status of agency interaction with voluntary consensus standards bodies, no later than December 31 of the following fiscal year. Such reporting

shall include the nature and extent of agency participation in the development and use of voluntary consensus standards, including:

(1) The number of voluntary consensus standards bodies in which there is agency participation;

(2) The number of voluntary consensus standards the agency has used since the last report which have come about as a result of the requirements set forth in sections 8a. and 8b. of this Circular;

(3) Identification of voluntary consensus standards that have been substituted for other standards as a result of an agency review under paragraph 7c(6) of this Circular;

(4) An evaluation of the effectiveness of the guidelines in section 7 and recommendations for any changes; and

c. No later than January 31 of the following fiscal year, NIST shall transmit to OMB such explanations as are received under section 10a. and a summary report of the information received under section 10b.

10. *Conformity Assessment.* Section 12(b) of P.L. 104–113 requires NIST to coordinate Federal, State, and local standards activities and conformity assessment activities with private sector standards activities and conformity assessment activities, with the goal of eliminating unnecessary duplication and complexity in the development and promulgation of conformity assessment requirements and measures. To ensure effective coordination, NIST shall issue guidance to the agencies.

11. *Policy Review.* This Circular shall be reviewed for effectiveness by the OMB three years from the date of issuance.

12. *Inquiries.* For information concerning this Circular, contact the Office of Management and Budget, Office of Information and Regulatory Affairs: Telephone 202/395–3785.

[FR Doc. 96–32917 Filed 12–26–96; 8:45 am]
BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

Request For Public Comment

Upon Written Request, Copies Available From: Securities and Exchange Commission Office of Filings and Information Services Washington, DC 20549.

Extension:

Reproposed Rule 13h–1; SEC File No. 270–358; OMB Control No. 3235–0408.

Rule 19d–2; SEC File No. 270–204; OMB Control No. 3235–0205.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is publishing the following summary of collections for public comment.

Reporposed Rule 13h–1 was proposed pursuant to Sections 13 of the Securities Exchange Act of 1934 (the "Act").[1] Rule 13h–1 will enable the Commission to gather timely large trader information in the form necessary for the reconstruction of trading activity in periods of market stress and for surveillance, enforcement, and other regulatory purposes. Without this information, the Commission would not be able to perform the reconstructions of trading activity necessary for evaluating periods of markets stress and other regulatory purposes.

The staff estimates that there are 630 broker-dealers that will be subject to the recordkeeping and reporting requirements of the reproposed rule. In addition, the staff estimates, based upon analysis of previous requests for similar information, that 750 investors will be large traders subject to the identification requirements of the reproposed rule. Therefore, the Staff estimates that there will be (630+750=1,380) 1,380 respondents under the reproposed rule.

Precise cost estimates are impossible to calculate because the commentators on the original proposal did not provide specific details on costs. Nevertheless, the staff estimates that annually the 1,380 respondents will require approximately 11,444 hours to comply with the reproposed rule. Further, the staff estimates that, on average, each response hour will cost approximately $12.00, and therefore the total annual cost of complying with the rule will be approximately $137,328.

Rule 19d–2 under the Act prescribes the form and content of applications to the Commission by persons desiring stays of final disciplinary sanctions and summary action of self-regulatory organizations ("SROs") for which the Commission is the appropriate regulatory agency.

It is estimated that approximately 30 respondents will utilize this application procedure annually, with a total burden of 90 hours, based upon past submissions. The staff estimates that the average number of hours necessary to comply with the requirements of Rule 19d–2 is 3 hours. The average cost per hour is approximately $30. Therefore, the total cost of compliance for the respondents is $2,700.

Written comments are invited on: (a) whether the proposed collection information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Officer of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W. Washington, DC 20549.

Dated: December 19, 1996.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–32955 Filed 12–26–96; 8:45 am]
BILLING CODE 8010–01–M

[1] Section 13 of the Act was amended by the addition of Subsection (h) (15 U.S.C. § 78m(h) (1990)) when Section 3 of the Market Reform Act of 1990 (Pub. L. No. 101–432, 104 Stat. 963 (1990)) was enacted.

[Investment Company Act Release No. 22411; 812–10242]

Harris Trust & Savings Bank, et al.; Notice of Application

December 19, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Harris Trust & Savings Bank ("Harris Bank"), Harris Bankcorp, Inc. ("Harris Bankcorp"), Bank of Montreal, Harris Insight Funds Trust (the "Harris Funds"), HT Insight Funds, Inc. (the "HT Funds" and, collectively with the Harris Funds, the "Funds"), and the Harris Trust & Savings Bank Trust for Collective Investment of Employee Benefit Accounts (the "CIF").

RELEVANT ACT SECTIONS: Order requested under sections 6(c) and 17(b) of the Act exempting applicants from section 17(a) of the Act.

SUMMARY OF APPLICATION: The requested order would permit the CIF to transfer securities to certain portfolios of the Funds in exchange for portfolio shares.

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FILING DATES: The application was filed on July 10, 1996 and amended on December 4, 1996 and December 17, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 13, 1997 and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: Harris Trust & Savings Bank and Harris Bankcorp, 111 West Monroe Street, Chicago, Illinois 60603; Bank of Montreal, First Canadian Place, 100 King Street West, First Bank Tower, Toronto, Canada MSX1A1; and Harris Insight Funds Trust and HT Insight Funds, Inc., One Exchange Place, Boston, Massachusetts 02109.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942–0574, or Elizabeth G. Osterman, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Harris Bank is an Illinois state-chartered bank and a member bank of the Federal Reserve System. Harris Bank is a wholly-owned subsidiary of Harris Bankcorp, a bank holding company. Harris Bankcorp is a wholly-owned subsidiary of Harris Bankcorp, a bank holding company. Harris Bankcorp is a wholly owned subsidiary of Bankmont Financial Corp., which is a wholly owned subsidiary of Bank of Montreal, a publicly traded Canadian banking institution. Harris Bank serves as trustee, investment manager, and/or custodian for numerous employee benefit plans qualified under section 401 of the Internal Revenue Code and certain governmental plans. The assets of some of these employee benefit plans are invested in the CIF, a collective investment fund sponsored by Harris Bank and for which Harris Bank acts as trustee.

2. The CIF includes assets of retirement benefit plans for the benefit of employees of entities unaffiliated with Harris Bank ("Other Plans") as well as assets of retirement plans for the benefit of employees of Harris Bank and its affiliates ("Affiliated Plans") (Other Plans and Affiliated Plans collectively referred to as "Plans"). Plan assets in the CIF are invested in one or more investment funds ("CIF Portfolios") with varying investment objectives.

3. HT Funds is a Maryland corporation registered under the Act as an open-end management investment company. Harris Funds is a Massachusetts business trust registered under the Act as an open-end management investment company. Shares of the Funds are divided into portfolios (the "Portfolios"). Harris Bank serves as the investment adviser to the Portfolios.

4. Harris Bank has sold the portion of its investment management business that consists of managing the assets of defined benefit pension plans of large corporations. Because Harris Bank is leaving the large corporation pension business, certain of the CIF Portfolios will no longer be needed to manage large company pension plan assets. Harris Bank is terminating five of the CIF Portfolios and intends to transfer in-kind the assets of those five CIF Portfolios and Affiliated Plan assets of four additional CIF Portfolios to corresponding Portfolios with substantially similar investment objectives in exchange for shares of that Portfolio (the "Proposed Transactions"). Harris Bank may decide at a later date to terminate additional CIF Portfolios.

5. Affiliated Plan assets of the CIF will be transferred as follows: the Investment Reserve Fund into the Harris Insight Money Market Fund; the Marketable Bond Fund into the Harris Insight Bond Fund; the Government Agency Intermediate Fund into the Harris Insight Intermediate Government Bond Fund; the Convertible Fund into the Harris Insight Convertible Securities Fund; the Common Stock Fund into the Harris Insight Equity Fund; The Index Fund into the Harris Insight Index Fund; the International Equity Fund into the Harris insight International Fund; the Balanced Fund into the Harris Insight Balanced Fund; and the Special Capital Fund into the Harris Insight Value Equity Fund.

6. The assets of the CIF representing Other Plans may be converted into Funds in accordance with a series of non-action letters in which the SEC staff has permitted similar conversions of collective trust funds into mutual funds.[1] The Affiliated Plans are unable to rely on the no-action letters, however, because such relief has been conditioned on affiliated persons, or affiliated persons of affiliated persons, of the registered investment company into which assets will be transferred having no beneficial interest in the Proposed Transactions. Applicants are requesting exemptive relief for the transfer of CIF assets into the Funds only on behalf of the Affiliated Plans owning five percent or more of the assets of the CIF.[2] Applicants also request relief for any registered open-end management investment company that may be advised by Harris Bank or any entity controlling, controlled by, or under common control with Harris Bank, and any other collective investment funds that may be sponsored by Harris Bank which Harris Bank in the future may decide to convert into registered, open-end investment companies, and in which, at that time, Affiliated Plans have invested assets.

7. Applicants will institute the following procedure to ensure the protection of Plan participants in the Proposed Transactions. Each Affiliated Plan will have an employee benefit review committee (the "Committee") that serves as fiduciary for that Plan. The Proposed Transactions will be subject to the prior authorization of a fiduciary which will be independent of Harris Bank, Harris Bankcorp, Bank of Montreal, and their affiliates. The independent fiduciary will be subject, as will the Committee, to fiduciary responsibilities under the Employee Retirement Income Security Act of 1974 ("ERISA"). Such independent fiduciary will be retained solely for the purpose of determining the fairness to the Affiliated Plans of the Proposed Transactions. Under section 404(a) of ERISA, such fiduciaries must ensure that the investment of the Affiliated Plans' assets is prudent and operates exclusively for the benefit of participating employees of Harris Bank and its affiliates and of their beneficiaries.

8. Before transferring the Affiliated Plans' CIF assets to the Portfolios, Harris

[1] *See, e.g.*, The DFA Investment Trust Company (pub. avail. Oct. 17, 1995); Federated Investors (pub. avail. Apr. 21, 1994); and Lincoln National Investment Management Company (pub. avail. Apr. 25, 1976).

[2] *See* Letter to Stradley Ronon Stevens & Young (pub. avail. Mar. 21, 1996) (clarifying the staff's position that a less than five percent beneficial interest in a collective trust fund conversion by an affiliated person of a fund, or an affiliated person of such affiliated person, is not, in and of itself, a disqualifying affiliation for purposes of rule 17a–7).

Bank will seek and obtain the approval of the Committee and each Affiliated Plan's independent fiduciary. Harris Bank will provide the Committee and the independent fiduciaries with a current prospectus for the relevant Portfolios and a written statement giving full disclosure of the fees to be received by Harris Bank and/or its affiliates and the terms of the Proposed Transactions. The disclosure will explain why Harris Bank believes that the investment of assets of the Affiliated Plans in the Portfolios is appropriate.

9. On the basis of such information, the Committee and the Independent fiduciary will decide whether to authorize Harris Bank to invest the relevant Affiliated Plan's CIF assets in the Fund and to receive fees from the Fund. Harris Bank does not charge Plan level fees to Affiliated Plans; it does charge Plan level fees to Other Plans. Harris Bank will rebate to each Other Plan its proportionate share of all advisory fees payable to Harris Bank by the Funds and it may do so as well for the Affiliated Plans.

10. Plans that are invested in the terminating CIFs and whose independent fiduciaries do not consent to the conversion will be redeemed out of the CIF in accordance with the terms of the CIF prior to the conversion. All of the assets of the CIFs representing the interests of the consenting Plans will be converted in a single transaction on the same day.

11. As of the date of the Transfer, Harris Bank, on behalf of the terminating CIF Portfolios, will deliver to the corresponding Portfolio securities equal in value to the aggregate interest of each participating Plan in exchange for Fund shares with a total net asset value equal to the market value of the transferred assets as of the date of the transfer. The Fund shares received by the CIF then will be distributed, *pro rata*, to all Plans whose interests were converted as of the date. If any assets of a CIF Portfolio are not appropriate for its corresponding Fund Portfolio, Harris Bank intends to sell such assets in the open market through an unaffiliated brokerage firm prior to the transfer.

Applicants' Legal Analysis

1. Section 17(a) of the Act, in relevant part, prohibits an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from selling to or purchasing from such investment company any security of other property. Section 2(a)(3) of the Act, in relevant part, defines "affiliated person" to include: (a) Any person directly or indirectly owning, controlling, or holding with the power to vote, five percent or more of the outstanding voting securities of such other person; (b) any person directly or indirectly controlling, controlled by, or under common control with, such other person; and (c) if such other person is an investment company, any investment adviser thereof.

2. Section 6(c) provides that the SEC may exempt any person or transaction from any provision of the Act or any rule thereunder to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Section 17(b) provides that the SEC shall exempt a proposed transaction from section 17(a) if evidence establishes that: (a) the terms of the proposed transactions are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general provisions of the Act.

4. Because the CIF may be viewed as acting as principal in the Proposed Transactions and because the CIF and the Funds may be viewed as being under the common control of Harris Bank within the meaning of section 2(a)(3)(C) of the Act, the Proposed Transactions may be subject to the prohibitions contained in section 17(a).

5. Applicants request an order under sections 6(c) and 17(b) granting an exemption from section 17(a), to the extent necessary to effect the Proposed Transactions.[3] Applicants submit that the terms of the Proposed Transactions satisfy the standards for an exemption set forth in sections 6(c) and 17(b).

6. Applicants believe that the terms of the transfers of CIF assets to the Funds are reasonable and fair to the Affiliated Plans, to the Other Plans invested in the CIF, and to existing and prospective shareholders of the Funds, and do not involve overreaching on the part of any applicant. The Proposed Transactions will comply with rule 17a–7 and conditions under the Act, and also will comply with the policy behind the conditions of rule 17a–8 under the Act. Applicants assert that the fact that the Proposed Transactions are designed as in-kind transfers does not negatively affect their fairness. Indeed, if the Proposed Transactions were effected in cash, the Plans would have to sell their securities, thereby incurring brokerage commissions or the adverse effects of mark-downs. Moreover, the Fund would purchase similar securities in the market, causing a second round of brokerage commissions and the adverse effects or mark-ups. In addition, because time could elapse between the sale of Plan securities and the repurchase of similar securities, no assurance could be given that the Funds would be able to purchase those securities at the price for which Plan securities had been sold. In contrast, applicants believe that the Proposed Transactions would not expose the Plans' assets to transaction costs or timing risk.

7. Applicants contend that the requested exemptive relief also would be consistent with the purposes intended by the policies and provisions of the Act. Applicants believe that the Proposed Transactions do not give rise to the abuses that section 17(a) was designed to prevent. A primary purpose underlying section 17(a) is a prevent a person with a pecuniary interest in a transaction from using his or her position with a registered investment company to benefit himself or herself to the detriment of the company's shareholders. After the Proposed Transactions, each Affiliated Plan will be a shareholder in a Portfolio with substantially similar investment objectives to the CIF Portfolio from which their assets were transferred. In this sense, applicants believe that the Proposed Transactions can be viewed as a change in the form in which assets are held, rather than as a disposition giving rise to section 17(a) concerns. Moreover, any transfer will be subject to extensive review and evaluation by independent fiduciaries whose actions are governed by ERISA and by the disinterested members of the board of directors (trustees) of the Funds.

8. Applicants submit that the Proposed Transactions meet the section 6(c) standards for relief as necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Harris Bank believes that the Funds may offer the Plans advantages over the CIFs as pooled investment vehicles. Sponsors of and participants in the Plans will be able to monitor more easily the performance of their investments on a daily basis, since information concerning the investment performance of the Portfolios will be available in daily newspapers of general circulation. Additionally, the mutual

[3] Section 17(b) applies to a specific proposed transaction, rather than an ongoing series of future transactions. *See* Keystone Custodian Funds, 21 S.E.C. 295, 298–99 (1945). Section 6(c), along with section 17(b), frequently is used to grant relief from section 17(a) to permit an ongoing series of future transactions.

fund vehicle will afford Harris Bank a better opportunity to market its investment management services and, assuming those marketing efforts result in greater assets under management, will allow for economies of scale, greater diversification and risk spreading. Also, Plan participants will have the benefit of the heightened disclosure applicable to mutual funds under the federal securities laws and the Plans, as shareholders, of a Fund, will have the opportunity to exercise voting and other shareholder rights. Further, shares of the Funds issued as part of the Proposed Transactions will be issued at prices equal to their net asset values. In addition, the assets of the Affiliated Plans will be valued pursuant to objective standards and are the type that the Portfolios otherwise would purchase through market transactions. Moreover, the Proposed Transactions are subject to independent fiduciary approval. Applicants contend, therefore, that the transfers will afford no opportunity for affiliated persons of the Funds to effect a transaction detrimental to the other shareholders of the Funds.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. The Proposed Transactions will comply with the terms of rule 17a–7(b)–(f).

2. The Proposed Transactions will not occur unless and until: (a) the boards of directors (trustees) of the Funds (including a majority of their disinterested members) and the Committee and the Affiliated Plans' independent fiduciaries find that the Proposed Transactions are in the best interests of the Funds and the Affiliated Plans, respectively; and (b) the boards of directors (trustees) of the Funds (including a majority of their disinterested members) find that the interests of the existing shareholders of the Funds will not be diluted as a result of the Proposed Transactions. These determinations and the basis upon which they are made will be recorded fully in the records of the Funds and the Plans, respectively.

3. In order to comply with the policies underlying rule 17a–8, any conversion will have to be approved by the Funds' board of directors (trustees) and any Affiliated Plan's independent fiduciaries who would be required to find that the interests of beneficial owners would not be diluted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–32957 Filed 12–26–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 22410; 811–3663]

PaineWebber/Kidder, Peabody Government Money Fund, Inc.; Notice of Application

December 19, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: PaineWebber/Kidder, Peabody Government Money Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on November 6, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 13, 1997, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, c/o Dianne E. O'Donnell, Legal Department, Mitchell Hutchins Asset Management Inc., 1285 Avenue of the Americas, 18th Floor, New York, New York 10019.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, diversified management investment company organized as a corporation under the laws of the State of Maryland. On February 9, 1983, applicant registered under section 8(a) of the Act and filed a registration statement on Form N–1A pursuant to section 8(b) of the Act and the Securities Act of 1933, covering an indefinite number of shares of common stock. The registration statement was declared effective on May 9, 1983, and the initial public offering of common stock commenced thereafter.

2. On July 20, 1995, applicant's Board of Directors approved an Agreement and Plan of Reorganization and Dissolution ("Plan") between applicant and PaineWebber RMA Money Fund, Inc. on behalf of its series, PaineWebber RMA U.S. Government Portfolio ("PW Fund"), whereby PW Fund was to acquire all the assets of applicant in exchange solely for shares of beneficial interest in PW Fund and the assumption by PW Fund of all of applicant's liabilities. In accordance with rule 17a–8 of the Act, applicant's directors determined that the reorganization was in the best interests of applicant and that the interests of applicant's existing shareholders would not be diluted as a result.[1]

3. According to applicant's proxy statement, the directors considered a number of factors in approving the Plan, including, (a) the similarity of the investment objectives, policies, and restrictions of the funds, (b) the effect of the reorganization on expected investment performance, (c) the effect of the reorganization on the expense ratio of the PW Fund relative to each fund's current expense ratio, and (d) possible alternatives to the reorganization, including continuing to operate on a stand-alone basis or liquidation.

4. Proxy materials relating to the Plan and the transactions contemplated thereby and a combined prospectus relating to the shares of PW Fund to be issued were mailed to applicant's shareholders on or about October 13, 1995. At a special meeting held on November 10, 1995, applicant's shareholders approved the Plan.

5. On November 20, 1995 (the "Closing Date"), applicant had

[1] Applicant and PW Fund may be deemed to be affiliated persons of each other by reason of having a common investment adviser, common directors, and/or common officers. Although purchases and sales between affiliated persons generally are prohibited by section 17(a) of the Act, rule 17a–8 provides an exemption for certain purchases and sales among investment companies that are affiliated persons of each other solely by reason of having a common investment adviser, common directors, and/or common officers.

236,411,46.15 shares of common stock outstanding, having an aggregate net asset value of $236,258,547.89 and a per share net asset value of $1.00. There were no other classes of securities of applicant outstanding. Pursuant to the Plan, applicant transferred to PW Fund all rights, title, and interest in and to applicant's assets. In exchange therefor, PW Fund assumed all liabilities, debts, obligations, and duties of applicant, and issued to applicant the number of shares of PW Fund determined by dividing the net asset value of a share of applicant by the net asset value of a share of PW Fund, in each case as of the close of regular trading on the New York Stock Exchange, Inc. on the Closing Date.

6. On the Closing Date, applicant liquidated and distributed *pro rata* to its shareholders of record, determined as of the close of business on the Closing Date, the shares of PW Fund received by applicant in the reorganization, in exchange for such shareholders' shares of applicant.

7. The expenses incurred in connection with the reorganization consisted primarily of legal expenses, expenses of printing and mailing communications to shareholders, registration fees, and miscellaneous accounting and administrative expenses. These expenses totalled approximately $225,000 and were borne by applicant and PW Fund in proportion to their respective net assets.

8. As of the date of the application, applicant has no assets, debts or liabilities, and has no securityholders. Applicant is not a party to any litigation or administrative proceedings. Applicant is not now engaged, and does not propose to engage, in any business activities other than those necessary for winding-up of its affairs.

9. On November 20, 1995, applicant filed Articles of Transfer with the Maryland State Department of Assessments and Taxation. Applicant intends to file Articles of Dissolution with the State of Maryland.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–32958 Filed 12–26–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 22409; 811–5168]

PaineWebber/Kidder, Peabody California Tax Exempt Money Fund; Notice of Application

December 19, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: PaineWebber/Kidder, Peabody California Tax Exempt Money Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on November 6, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 13, 1997, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, c/o Dianne E. O'Donnell, Legal Department, Mitchell Hutchins Asset Management Inc., 1285 Avenue of the Americas, 18th Floor, New York, New York 10019.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, non-diversified management investment company organized as a business trust under the laws of the Commonwealth of Massachusetts. On May 18, 1987, applicant registered under section 8(a) of the Act and filed a registration statement on Form N–1A pursuant to section 8(b) of the Act and the Securities Act of 1933, covering an indefinite number of shares of beneficial interest. The registration statement was declared effective on August 4, 1987, and the initial public offering of shares commenced thereafter.

2. On July 20, 1995, applicant's Board of Trustees approved an Agreement and Plan of Reorganization and Termination ("Plan") between applicant and PaineWebber Managed Municipal Trust on behalf of its series, PaineWebber RMA California Municipal Money Fund ("PW Fund"), whereby PW Fund was to acquire all the assets of applicant in exchange solely for shares of beneficial interest in PW Fund and the assumption by PW Fund of all of applicant's liabilities. In accordance with rule 17a–8 of the Act, applicant's directors determined that the reorganization was in the best interests of applicant and that the interests of applicant's existing shareholders would not be diluted as a result.[1]

3. According to applicant's proxy statement, the trustees considered a number of factors in approving the Plan, including, (a) the compatibility of the investment objectives, policies, and restrictions of the funds, (b) the investment performance of the funds, (c) the effect of the reorganization on expected investment performance, (d) the effect of the reorganization on the expense ratio of the PW Fund relative to each fund's current expense ratio, and (e) possible alternatives to the reorganization, including continuing to operate on a stand-alone basis on liquidation.

4. Proxy materials relating to the Plan and the transactions contemplated thereby and a combined prospectus relating to the shares of PW Fund to be issued were mailed to applicant's shareholders on or about November 2, 1995. At a special meeting held on December 4, 1995, applicant's shareholders approved the Plan.

5. On December 11, 1995 (the "Closing Date"), applicant had 120,122,110.24 shares of beneficial interest, par value $.001 per share of applicant outstanding, having an

[1] Applicant and PW Fund may be deemed to be affiliated persons of each other by reason of having a common investment adviser, common directors, and/or common officers. Although purchases and sales between affiliated persons generally are prohibited by section 17(a) of the Act, rule 17a–8 provides an exemption for certain purchases and sales among investment companies that are affiliated persons of each other solely by reason of having a common investment adviser, common directors, and/or common officers.

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aggregate net asset value of $120,039,529.79 and a per share net asset value of $1.00. Pursuant to the Plan, applicant transferred to PW Fund all rights, title, and interest in and to applicant's assets. In exchange therefor, PW Fund assumed all liabilities, debts, obligations, and duties of applicant, and issued to applicant the number of shares of PW Fund determined by dividing the net asset value of a share of applicant by the net asset value of a share of PW Fund, in each case as of the close of regular trading on the New York Stock Exchange, Inc. on the Closing Date.

6. On the Closing Date, applicant liquidated and distributed *pro rata* to its shareholders of record, determined as of the close of business on the Closing Date, the shares of PW Fund received by applicant in the reorganization, in exchange for such shareholders' shares of applicant.

7. The expenses incurred in connection with the reorganization consisted primarily of legal expenses, expenses of printing and mailing communications to shareholders, registration fees, and miscellaneous accounting and administrative expenses. These expenses totalled approximately $150,000 and were borne by applicant and PW Fund in proportion to their respective net assets.

8. As of the date of the application, applicant has no assets, debts or liabilities, and has no securityholders. Applicant is not a party to any litigation or administrative proceedings. Applicant is not now engaged, and does not propose to engage, in any business activities other than those necessary for winding-up of its affairs.

9. Applicant intends to file appropriate documentation to terminate its existence in Massachusetts, as required by Massachusetts law.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–32959 Filed 12–26–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38066; File No. SR–MSRB–96–12]

Self-Regulatory Organizations; Notice of Filing and Order Granting Approval of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to the Permanent Operation of the Continuing Disclosure Information System of the Municipal Securities Information Library System

December 19, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 28, 1996, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR–MSRB–96–12). The proposed rule change is described in Items, I, II, and III below, which Items have been prepared by the Board. The Commission is publishing this notice to solicit comments of the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSRB is filing herewith a proposed rule change for upgrading its interim Continuing Disclosure Information ("CDI") System of the Municipal Securities Information Library® ("MSIL®") system to CDINet, the Board's proposed permanent system for processing and disseminating continuing disclosure information and notices of material events.[1] The changes are as follows:

1. The current limit of 10 pages per document for fax and paper submissions will be changed to 25 pages. For documents exceeding 25 pages, the first 25 pages will be transmitted, with the full text made available to subscribers by mail, upon request. The capacity of the system to transmit documents will also be increased.

2. CDINet will replace the interim CDI System's modem submission system with a secure Web page on the Internet that may be used by submitters of disclosure documents.

3. The annual subscription price for CDINet will be increased to $23,000.

[1] The Municipal Securities Information Library and MSIL are registered trademarks of the Board. The MSIL® system, which was approved in Securities Exchange Act Release No. 29296 (June 13, 1991), is a central facility through which information about municipal securities is collected, stored and disseminated.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The tests of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On April 6, 1992, the Securities and Exchange Commission ("Commission" or "SEC") approved the CDI Pilot system for an 18-month period.[2] The CDI System began operating on January 23, 1993, and functions as part of the Board's MSIL® system. The CDI System accepts and electronically disseminates voluntary submissions of official disclosure notices relating to outstanding issues of municipal securities, *i.e.*, continuing disclosure information. During its first phase of operation, the System accepted disclosure notices only from trustees. On May 17, 1993, the System also began accepting disclosure notices from issuers.[3]

On November 10, 1994, the Commission approved an amendment to its Rule 15c2–12 which prohibits dealers from underwriting issues of municipal securities unless the issuer commits, among other things, to provide material events notices to the Board's CDI System or to all Nationally Recognized Municipal Securities Information Repositories ("NRMSIRs") and to the applicable state information depository.[4] In addition, the rule prohibits dealers from recommending municipal securities without having a system in place to receive material events notices. To conform to the new Commission requirements, the Board revised the CDI System and implemented an interim System

[2] Securities Exchange Act Rel. No. 30556 (April 6, 1992). A complete description of the CDI System is contained in File No. SR–MSRB–90–4, Amendment No. 1.

[3] On May 17, 1993, the Board reported to the Commission on the initial phase of operation of the CDI System regarding technical, policy and cost issues and proposed enhancements to the System.

[4] Securities Exchange Act Rel. No. 34961 (Nov. 10, 1994).

designed to accept material event notices while a larger permanent system was being designed.[5] The interim System increased the capacity of the system to enable it to process 200 documents per day and increased the page limit per document from three to 10. The Commission has approved operation of the interim System through December 31, 1996.[6]

The Board's experience with operating the interim CDI System since July 3, 1995, has demonstrated that the System operates reliably. The queue of notices broadcast to subscribers in the interim System, however, has become quite large, resulting in broadcasts continuing past the 5:00 p.m. official closing time. This typically occurs if the number of notices to broadcast exceeds the 200-notice capacity for which the interim System was designed.[7] The proposed permanent system, CDINet, is designed to broadcast 500 notices a day at a higher speed to address this situation.

CDINet

There are three areas of change from the interim System to CDINet. The first area relates to the length of documents submitted to the System and how they will be handled. Currently, the interim CDI System will accept and disseminate submissions of up to 10 pages, plus a voluntary cover sheet.[8] CDINet will accept fax and paper submissions of up to 25 pages. Should a submission exceed 25 pages, the first 25 pages and the cover sheet will be disseminated, with a notice to subscribers that the submission exceeds 25 pages. The System will then make available a copy of the complete submission to subscribers upon request, by express or regular mail, at their expense.

In addition, the interim CDI System was designed with the capability to disseminate up to 200 10-page submissions a day. While CDINet will increase the length of fax and paper notices it will disseminate from 10 pages to 25 pages, experience with the interim CDI System indicates that the vast majority of submissions will be no longer than two to three pages.[9] CDINet is designed to disseminate up to 500 three-page submissions a day.

Regarding processing time, the Commission stated in the Release approving the amendments to Rule 15c2–12 that 15 minutes might be an appropriate turnaround time for dissemination of material event notices by NRMSIRs, but that it would further discuss the issue during the NRMSIR recognition process. The Board will use its best efforts to maintain a quick turnaround time for documents sent by facsimile and Internet to CDINet, but it is not possible to guarantee a 15-minute turnaround to subscribers if large numbers of documents are received in a short period of time. The Board will ensure that any document with a voluntary cover sheet received by facsimile, Internet, or mail will be disseminated the same day it is received. Depending upon the volume of documents received, documents that refer in their title to one of the 12 material events described in SEC Rule 15c2–12 but do not have voluntary cover sheets will be disseminated on the same day, if possible, but documents with cover sheets have higher dissemination priority.

The second change to the interim CDI System is to replace the current modem submission system with a secure Web page on the Internet. The interim System continued to use the modem submission system developed for the original CDI Pilot. That system requires, among other things, that the issuer or its agent install software developed by the Board on a personal computer and make their submissions by having their modems dial the CDI System at the Board's offices. The CDINet Web page will permit issuers or their agents to use commonly available Web browser software and make their submissions over the Internet. The other requirements of the modem submission system, *i.e.*, the need to receive written authorization, a user name, and a password from the Board and the need for submissions to be in ASCII format only, will remain in effect on the CDINet Web page.[10] Finally, since submissions in ASCII format are substantially smaller, in terms of computer storage, than the equivalent submission in fax format, the CDINet Web page will accept and disseminate submissions of any length.

The third change to the CDI System is to raise the annual subscription fee from $16,000 plus telephone charges, to $23,000, plus telephone charges. The Board currently has seven subscribers and does not charge subscribers for any redistribution that they may make of the information receive from the CDI System. In its original filing with the Commission regarding subscriber fees for the CDI Pilot, the Board stated that:

> While Board funds will be expended, at least initially, to implement and operate the [CDI] Pilot system, the Board intends that user fees eventually will cover the operational costs of any permanent system. The Board, however, does not intend to or expect to make a profit from the operation of the system.[11]

The increased fee better reflects the Board's operational costs of the CDI System, but is not expected to produce excess revenues or profits.

As with the pilot and interim Systems, the notices sent to subscribers from CDINet will be available to any interested person at the Board's Public Access Facility in Alexandria, Virginia. The cost of copying notices in the Public Access Facility will remain 20 cents per page.

To design the permanent system, the Board staff met with representatives from CDI subscribers and all NRMSIRs in New York City on March 26, 1996, to receive their comments regarding possible changes to the interim CDI System. The changes proposed in this filing were developed after considering their comments.

The Board requests that the Commission approve the permanent system before the approval for the operation of the interim System expires on December 31, 1996.

2. Statutory Basis

The Board has proposed this rule change pursuant to Section 15B(b)(2)(C) of the Act, which requires, in pertinent part, that the Board's rules shall:

> be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect

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[5] The Board also terminated the pilot phase of the CDI System and filed its Report on the Conclusion of the CDI Pilot of the Municipal Securities Information Library® System with the Commission on August 25, 1995.

[6] Securities and Exchange Act Rel. No. 35911 (June 28, 1995); Securities Exchange Act Rel. No. 36610 (Dec. 20, 1995); Securities Exchange Act Rel. No. 37771 (Oct. 1, 1996).

[7] The largest number of notices broadcast by the interim System in one day was 305 on November 1, 1996.

[8] The cover sheet was in use in the interim System and provides identifying information about the issuer, the securities at issue, and the material event being disclosed. Use of the cover sheet is voluntary for submitters.

[9] From July 3, 1995 through October 22, 1996, the interim CDI System disseminated 13,341 submissions. The total number of pages disseminated in those submissions was 29,810. Thus, the average number of pages in a submission has been between two to three pages.

[10] In adopting the amendment to SEC Rule 15c2–12, the Commission stated that NRMSIRs will not be required to verify the accuracy of the information submitted, only to accurately convey the information. Securities Exchange Act Rel. No. 34961 at n. 155 (Nov. 10, 1994). The Board similarly asserts that it is not required to undertake to establish the authenticity or accuracy of documents submitted, but that it will attempt to ensure accurate dissemination of documents accepted into the System.

[11] SEC File No. SR–MSRB–93–1, Jan. 12, 1993 at 2.

to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The MSIL ® system is designed to increase the integrity and efficiency of the municipal securities market by, among other things, helping to ensure that the price charged for an issue in the secondary market reflects all available official information about that issue. The Board will continue to operate the output side of the CDI System to ensure that the information is available to any party who wishes to subscribe to the service. As with all MSIL ® system services, this service is available, on equal terms, to any party requesting the service.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received. As noted above, the Board consulted with system users in developing CDINet.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR–MSRB–96–12 and should be submitted by January 17, 1997.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the MSRB's proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the Board, and, in particular, the requirements of Section 15B(b)(2)(C) and the rules and regulations thereunder. Specifically, the Commission believes that the CDI System, which is a component of the MSIL System, by making available official disclosure notices about existing municipal issues, will increase the integrity and efficiency of the municipal securities market, and help to ensure that the prices charged for an issue in the secondary market reflect all available official information about that issue.

The Commission finds good cause for approving SR–MSRB–96–12 prior to the thirtieth day after the date of publication in the **Federal Register**, in that accelerated approval is appropriate to provide for uninterrupted operation of the CDI System, especially because approval of the pilot program will expire on December 31, 1996.[12] The Commission believes that the CDI System has been proven to be reliable and that permanent approval is appropriate. The Commission notes that the CDI System has been in continuous operation since January 23, 1993, and the changes proposed in this rule proposal primarily represent a technical enhancement to the System.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act [13], that the proposed rule change is hereby approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–32956 Filed 12–26–96; 8:45 am]

BILLING CODE 8010–01–M

[12] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. § 78c(f).

[13] 15 U.S.C. 78s(b)(2).

[Release No. 34–38065; File No. SR–SCCP–96–08]

Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing of a Proposed Rule Change to Amend the Participants Fund Formula for Continuous Net Settlement Participants

December 19, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on August 21, 1996, the Stock Clearing Corporation of Philadelphia ("SCCP") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–SCCP–96–08) as described in Items, I, II, and III below, which items have been prepared primarily by SCCP. On October 8, and November 20, 1996, SCCP filed amendments to the proposed rule change.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to amend SCCP's participants fund formula for its continuous net settlement ("CNS") participants.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, SCCP included statements concerning the purpose of and basis for the proposed rule change and discussed any comments they received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. SCCP has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to amend SCCP's participants fund formula relating to its CNS participants. Currently, the participants

[1] 15 U.S.C. 78s(b)(1).

[2] Letters from Linda S. Christie, Staff Counsel, SCCP, to Jerry Carpenter, Assistant Director, Division of Market Regulation, Commission (September 18, September 30, and November 18, 1996).

[3] The Commission has modified the text of the summaries submitted by SCCP.

fund contribution of each of SCCP's CNS participants is based upon the larger of (1) $1,000 for every twenty-five trading units of one hundred shares based on the participant's monthly average of trading activity during the preceding three months or (2) the participant's aggregate dollar amount of all long trades at their execution price for the prior three months divided by the number of days in the prior three months multiplied by two percent.[4]

SCCP proposes to amend its CNS participants fund formula to assess each CNS participant (1) two percent (2%) of the value of its average daily gross buy trades derived over a rolling three month period, plus (2) one-half of one percent (.5%) of the gross value of its sell trades to the extent that value exceeds the gross value of the buy trades derived over the same rolling three month period. The terminology of buys or sells for purposes of calculating participants fund contributions refer to a participant's gross trades and not netted positions.

CNS automatically nets each participants buy and sell trades to a net long or a net short position thereby giving rise to only a net exposure to any particular participant. SCCP's CNS participants fund formula bases its calculation of fund contributions on the basis of gross trade positions which should yield a greater amount upon which to base participants' fund computations than an amount derived from net trade positions. SCCP will recalculate each participant's deposit requirement at the end of each month based upon the previous three months prior to the most recent month.[5] The required participants fund contribution will be rounded up in $5,000 increments. SCCP also proposes to create a $15,000 minimum contribution for CNS participants.

SCCP believes the proposed rule change is consistent with Section 17A of the Act and the rules and regulations thereunder because the proposal should assure the safeguarding of securities and funds in its custody or control or for which it is responsible.

[4] Securities Exchange Act Release Nos. 37623 (August 29, 1996), 61 FR 47229 [File No. SR–SCCP–96–07] (notice of filing and order granting accelerated approval on a temporary basis of a proposed rule change seeking permanent approval of the participants fund formulas).

[5] For example, at the end of December, SCCP will use activity from September, October, and November to calculate each participant's deposit requirement.

(B) Self-Regulatory Organization's Statement on Burden on Competition

SCCP believes that the proposed rule change will not impose any burden on competition not permitted by the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which SCCP consents, the Commission will:

(a) By order approve such proposed rule change or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of SCCP. All submissions should refer to the file number SR–SCCP–96–08 and should be submitted by January 17, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

[6] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96–32954 Filed 12–26–96; 8:45 am]
BILLING CODE 8010–01–M

OFFICE OF SPECIAL COUNSEL

Appointment of Members to the Performance Review Board

AGENCY: U.S. Office of Special Counsel.
ACTION: Notice of Appointment of a Member to the Performance Review Board.

SUMMARY: This notice publishes the name of the Chair, Performance Review Board as required by 5 U.S.C. 4314(c)(4).

The following person has been appointed to and will serve as Chair of the Performance Review Board for Senior Executives in the U.S. Office of Special Counsel: John A. Kelley, Director for Management, U.S. Office of Special Counsel.

FOR FURTHER INFORMATION CONTACT: M. Marie Glover, Director of Personnel, Management Division, U.S. Office of Special Counsel, 1730 M Street, NW., Suite 300, Washington, D.C. 20036–4505, (202) 653–8964.

Signed on this 20th day of December, 1996.
James A. Kahl,
Deputy Special Counsel.

[FR Doc. 96–32918 Filed 12–26–96; 8:45 am]
BILLING CODE 7405–01–U

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Department of Transportation (DOT).
ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act 1995 (44 USC Chapter 35), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on August 30, 1996 [FR 61, page 46017–46018].

DATES: Comments must be submitted on or before January 27, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Earl Coles, Office of Information

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Management Programs, (202) 366–054, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Federal Highway Administration (FHWA)

Title: Guide to Reporting Highway Statistics.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2125–0032.

Form Number(s): FHWA–531, 532, 534, 541, 543, 551M, 556, 561, 562, 571, 536, 566, and 539.

Affected Public: The 50 States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Marianas and the Virgin Islands.

Abstract: The authority to collect this information is contained in the Department of Transportation (DOT) Act of 1966 (Pub.L. 89–670; 49 U.S.C. 301 (4), which charges the Secretary of Transportation to promote and undertake development, collection, and dissemination of technological, statical, economic, and other information relevant to domestic and international transportation. Title 23, United States Code, Section 307(a) authorizes the DOT to engage in studies to collect data concerning highway development financing, modernization, safety, maintenance, and traffic conditions and to publish the results of such research. Title 23, United States Code, Section 307(e) requires the Secretary of Transportation to report biennially to Congress on the Nation's highway needs. The Commercial Motor Vehicle Safety Act of 1986 established a major Federal interest in the States' driver licensing programs. The driver license data collected under this Guide are critical in evaluating the effects of the regulations mandated by the Act. The Act also established a three-part grant program to aid the States in the development and implementation of licensing procedures for commercial drivers and requires that the "supplemental" grant funds be distributed among the States according to the number of commercial driver tests administered and the number of commercial licenses issued. The various forms included in the Guide are designed to provide for the reporting of statistics that show motor-fuel usage, motor-vehicle registrations and use, drivers, and the taxes and fees paid and collected from these sources and the purposes for which these funds are expended. The Guide provides for the collection of information that describes policies and procedures for assembling statistical data from the existing files of State agencies on motor-vehicle registration and fees, motor-fuel use and taxation, driver licensing, highway taxation and finance, and other related subjects, and the reporting of these data to the Federal highway Administration.

Estimated Annual Burden: The total annual burden is 38,738 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW, Washington, DC 20503, Attention DOT Desk Officer.

Comments are Invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on December 19, 1996.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 96–32997 Filed 12–26–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Draft Parts 27 and 29 Advisory Circular Information; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FAA is announcing a public meeting to discuss proposed updates of advisory circulars (ACs) 27–1, Certification of Normal Category Rotorcraft, and 29–2A, Certification of Transport Category Rotorcraft and a draft appendix to ACs 27–1 and 29–2A addressing rotorcraft emergency flotation systems.

DATES: The meeting will begin at 9 a.m. PST on February 5, 1997.

ADDRESSES: The meeting will be held at the Anaheim Hilton and Towers, Huntington Theatre Room, 888 Convention Way, Anaheim, California 92802, telephone (714) 750–4321 (Headquarters hotel for the Helicopter Association International (HAI) convention.)

FOR FURTHER INFORMATION CONTACT: Kathy Jones, Rotorcraft Standards Staff, FAA, Rotorcraft Directorate, Fort Worth, Texas 76193–0110, telephone (817) 222–5359 or fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: The public meeting will address a draft appendix to ACs 27–1 and 29–2A pertaining to emergency flotation systems used on rotorcraft not specifically certificated for ditching but used for operations over-water. This material, when finalized, will become an appendix to ACs 27–1 and 29–2A. The public meeting will also address the recently proposed updates to ACs 27–1 and 29–2A, and the public comments received as a result of the FAA's request for comments published in the **Federal Register** on September 11, 1996 (61 FR 48000).

Meeting Procedures

The meeting is being chaired by the Rotorcraft Directorate. Participants will also include FAA representatives from Flight Standards and Legal Counsel; JAA representatives from engineering and operations; and industry groups from the U.S. and Europe.

The following procedures will be used to conduct the meeting:

1. Registration will be from 8–9 a.m. PST on February 5, 1997. There will be no registration fee. Preregistration is recommended and may be accomplished by contacting the person listed under the caption **FOR FURTHER INFORMATION CONTACT.**

2. The meeting will be recorded by a court reporter, and transcripts will be available for purchase directly from the court reporter.

3. Statements by the FAA will be made to facilitate discussion and should not be taken as expressing a final FAA position.

4. The FAA will consider all material presented at the meeting by participants. Handouts will be accepted at the discretion of the chairperson; however, enough copies should be provided for distribution to all participants.

Issued in Fort Worth, Texas, on December 16, 1996.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 96–33001 Filed 12–26–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Prepare a Supplemental Environmental Impact Statement for Seattle-Tacoma International Airport, Seattle, Washington

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent.

SUMMARY: The Northwest Mountain Region of the Federal Aviation Administration ("FAA") and the Port of Seattle ("Port") announce that the FAA and the Port, acting as joint lead agencies, intend to prepare a Supplemental Environmental Impact Statement (SEIS) for a proposal by the Port to develop a new parallel runaway and other airport facility improvements to be examined in an update to the Seattle-Tacoma International Airport (Sea-Tac Airport) Master Plan.

SUPPLEMENTARY INFORMATION: On April 24, 1995, the FAA published in the **Federal Register**, a Notice of Availability of the Draft Environmental Impact Statement (DEIS) [60 FR 20149] for a proposal by the Port to develop a new parallel runway and other airport facility improvements at Seattle-Tacoma International Airport (Sea-Tac Airport). Public comments were taken on the DEIS from the date of its release until August 3, 1995. During the comment period, two public hearings were held, on June 1, 1995 and June 14, 1995. Final Environmental Impact Statement (FEIS) Appendix T, located in Volumes 5, 6, and 7, contains the transcript from the public hearings, and letters commenting on the DEIS which were received from the public and government agencies. FEIS Appendix R contains responses to the issues presented during the comment period.

The FEIS, approved by the FAA on February 1, 1996, was released to the public on February 9, 1996, (see 61 FR 5056). The FEIS addressed areas of public concern by way of modifications to the DEIS text and specific responses to public comments. The U.S. Environmental Protection Agency (EPA) published a notice of the availability of the approved FEIS, pursuant to 40 CFR 1506.10 (61 FR 6243) in the Federal Register on February 16, 1996.

Although the FAA did not solicit public comments on the FEIS (on issues other than air quality conformity), several public agencies, community groups, and citizens have nevertheless submitted written comments for agency consideration since issuance of the FEIS. An FAA Record of Decision was never issued for the proposed development.

During the intervening months, both the FAA and the Port have determined that the forecasts of aircraft activity and enplaned passengers used in the above referenced draft and final EIS's did not adequately account for the actual growth which has taken place at Seattle-Tacoma International Airport in the past year nor the potential for faster growth rates than expected in the EIS's. New forecasts have been prepared which will be used to determine: (1) changes in the timing of when certain development projects will be needed to meet the needs of the airport and (2) potential environmental impacts from proposed development.

The requirement for preparing the proposed SEIS is governed by Council on Environmental Quality Regulations (40 CFR Part 1502.9(c)) which defines two circumstances requiring the preparation of supplements to draft or final impact statements, as follows: (1) "The agency makes substantial changes in the proposed action that are relevant to environmental concerns"; or (2) "There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts". The FAA and the Port believe both conditions new exist, therefore SEIS will be prepared.

The FAA and Port of Seattle have identified the following key areas for discussion in the SEIS including, but not limited to: noise and land use, social and socio-economic impacts, biotic communities, construction, earth, transportation and air quality.

Issued in Renton, Washington on December 20, 1996.

Lowell H. Johnson,

Manager, Airports Division, Federal Aviation Administration, Northwest Mountain Region, Renton, Washington.

[FR Doc. 96–33003 Filed 12–26–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application (97–04–U–00–MGW) to Use the Revenue From a Passenger Facility Charge (PFC) at Morgantown Municipal (Hart Field) Airport, Morgantown, WV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Morgantown Municipal (Hart Field) Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before January 27, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Elonza Turner, Beckley Airports Field Office, Main Terminal building, 469 Airport Circle, Beaver, West Virginia 25813–6216.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bill Plutt, Airport Manager for the City of Morgantown of at the following address Morgantown Municipal (Hart Field) Airport Morgantown, West Virginia 26505

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Morgantown under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Elonza Turner, Beckley Airports Field Office, Main Terminal building 469 Airport Circle, Beaver, West Virginia 25813–6216 (Tel. 304–252–6216). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Morgantown Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On November 20, 1996, the FAA determined that the application to use the revenue form a PFC submitted by the City of Morgantown was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than March 17, 1996.

The following is a brief overview of the application.

Level of the proposed PFC: $2.00

Proposed charge effective date: January 1, 1995

Proposed charge expiration date: December 1, 2001

Total estimated PFC revenue: $251,200

Brief description of proposed projects: The PFC funds will be utilized to fund the local share of a proposed AIP project to repair Taxiway "A".

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

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Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Morgantown.

Issued in Jamaica, New York on December 20, 1996.

Thomas Felix,

Acting Manager, Planning & Programming Branch, Eastern Region.

[FR Doc. 96–33004 Filed 12–26–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application (97–01–C–00–IPT) To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Williamsport-Lycoming County Airport, Williamsport, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Williamsport-Lycoming County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before January 27, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Lawrence W. Walsh, Manager, Harrisburg Airports District Office, 3911 Hartzdale Dr., suite 1, Camp Hill, PA 17011.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Thomas Hart, Executive Director of the Williamsport Municipal Airport Authority at the following address: Williamsport-Lycoming County Airport, Montoursville, Pennsylvania 17754.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Williamsport Municipal Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: L.W. Walsh, Manager, Harrisburg Airports District Office, 3911 Hartzdale Dr., suite 1, Camp Hill, PA 17011. 717–782–4548. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Williamsport-Lycoming County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). On November 21, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Williamsport Municipal Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than February 18, 1997.

The following is a brief overview of the application.

Application number: 97–01–C–00–IPT
Level of the proposed PFC: $3.00
Proposed charge effective date: February 1, 1997
Proposed charge expiration date: November 1, 1998
Total estimated PFC revenue: $230,000

Brief description of proposed projects: The PFC funds will be utilized to fund the following projects.

—Install perimeter fencing
—Purchase Handicapped Passenger Lift
—Remove obstruction to Part 77 surface

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/ Commercial Operators filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Williamsport Municipal Authority.

Issued in Jamaica, New York on December 20, 1996.

Thomas Felix,

Acting Manager, Planning & Programming Branch, Eastern Region.

[FR Doc. 96–33005 Filed 12–26–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Railroad Administration

Maglev Study Advisory Committee; Notice of First Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of First Meeting of the Maglev Study Advisory Committee.

SUMMARY: As required by Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), and 41 C.F.R. § 101–6.1015(b), the Federal Railroad Administration (FRA) gives notice of the first meeting of the Maglev Study Advisory Committee ("MSAC"). The purposes of the meeting are to address prerequisite organizational issues, to receive briefings on relevant FRA maglev studies and state of the art in maglev technology, and to discuss MSAC involvement in the DOT study to evaluate the near-term applications of maglev technology in the United States.

DATES: The first meeting of the MSAC is scheduled for 10:00 a.m. EST on Thursday, January 9, 1997. Decisions with respect to future meetings will be made at the first meeting and from time to time thereafter. Notice of future meetings will be published in the **Federal Register**.

ADDRESSES: The first meeting of the MSAC will be held in the 7th floor Conference Room at FRA Headquarters, 1120 Vermont Avenue NW, Washington, D.C. The meeting is open to the public on a first-come, first-served basis and is accessible to individuals with disabilities. Those with special needs should inform Mr. Mongini 5 days in advance of the meeting so that appropriate facilities can be provided. Subsequent meetings will be held at locations and dates to be announced.

FOR FURTHER INFORMATION CONTACT: Arrigo Mongini, Deputy Associate Administrator for Railroad Development, FRA RDV–2, 400 7th Street, S.W., Washington, D.C. 20590, (202)-632–3286.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), FRA is giving notice of the first meeting of the Maglev Study Advisory Committee. This notice is being published less than fifteen days prior to the date of the announced meeting due to scheduling conflicts. The meeting is scheduled for 10:00 a.m. EST on January 9, 1997, and will be held in the 7th floor Conference room at FRA Headquarters, 1120 Vermont Avenue NW (near Thomas Circle) in Washington, D.C.

Background

Pursuant to Section 359(d) of the National Highway System Designation Act of 1995 (NHS Designation Act), (Public Law 104–59), the Secretary of Transportation will conduct a study to evaluate the near-term applications of magnetic levitation ground transportation technology in the United States, with particular emphasis in identifying projects which would warrant immediate application of such technology.

The study will also evaluate the use of innovative financing techniques for the construction and operation of such projects. The actual study will be conducted by the Federal Railroad Administration (FRA) within the Department of Transportation (DOT). The NHS Designation Act provides that the study be undertaken in consultation with an advisory committee, which will serve as advisor to DOT on the conduct of the study and on the drafting of study documents prepared by DOT staff. This committee, the Maglev Study Advisory Committee, has been established. As provided for in the NHS Designation Act, it consists of 8 people representing differing disciplines and interests relative to high speed ground transportation, who were chosen by the Secretary for their backgrounds in magnetic levitation transportation, design and construction, public and private finance, and infrastructure policy disciplines.

It is the purpose of this notification to announce the date and place of the first (organizational) meeting of this Committee. At this meeting Federal Railroad Administrator, Jolene Molitoris will address the Committee, and FRA staff members and consultants will provide background for the study, including relevant prior studies performed at FRA and elsewhere, and a discussion of the state of maglev technology and its applications. The Committee may also elect a chair and discuss its involvement in the study. Adjournment is expected prior to 5:00 pm. Members of the public are entitled and encouraged to attend the meeting as observers.

Issued in Washington, D.C. on December 20, 1996.

Donald M. Itzkoff,

Deputy Administrator.

[FR Doc. 96–32945 Filed 12–26–96; 8:45 am]

BILLING CODE 4910–06–P

Maritime Administration

[Docket No. M-025]

Request for Public Comment on the Causes of Diversion of Cargo From U.S. East Coast Ports

AGENCY: Maritime Administration, United States Department of Transportation.

ACTION: Notification of public outreach meeting.

SUMMARY: On July 24, 1996, as part of a plan to help sustain long-term growth of the Port of New York/New Jersey, the Department of Transportation announced its intention to study the causes of cargo diversion from U.S. East Coast ports (i.e., the transhipment of U.S. waterborne imports and exports through nearby foreign ports) and to recommend any additional measures that are needed to enhance the international competitiveness of our East Coast ports. An announcement of the information collection phase of this study appeared as a notice in the **Federal Register** on November 12, 1996, with comments requested by December 27, 1996.

Information was requested on the impact of the following domestic and foreign factors affecting the diversion of cargo from U.S. East Coast ports: shipper and carrier routing preferences; shifting international trade patterns; constraints on the U.S. transportation infrastructure; federal, state and local laws and regulations; port charges and other transportation-related fees; "Global Alliances" of ocean carriers and their impact on port calls and port rotations; landside and waterside interface problems and intermodal factors; aggressive port marketing initiatives; direct and indirect subsidies for port and intermodal infrastructure; and any other factors that impact on the flow of cargo through U.S. East Coast ports. Data on the volume, value and composition of diverted cargo, as well as any other information related to the subject, was also sought. The Department also solicited comments on measures that are needed to enhance the international competitiveness of our East Coast ports through the 21st Century.

A public outreach meeting will be held in Washington, D.C. on Thursday, January 9, 1997, in Room 9230–34 of the Department of Transportation Nassif Building (400 7th Street, SW) from 10:00 AM until noon. Anyone wishing to address the meeting on the above topics or related matters should contact the Maritime Administration in advance, and provide four copies of their statements prior to the outreach meeting, if possible.

Participants are urged to express their views on the relative significance of the various factors affecting cargo diversion. Specific examples of cargo diversion and submission of relevant data are encouraged, as well as any views on measures that the Department might undertake to improve the international competitiveness of U.S. East Coast ports.

FOR FURTHER INFORMATION CONTACT: Bruce J. Carlton, Associate Administrator for Policy, International Trade and Marketing (202) 418–8144.

By Order of the Maritime Administrator.

Dated: December 20, 1996.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 96–32893 Filed 12–26–96; 8:45 am]

BILLING CODE 4910–81–P

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions or applications to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "M" denote a modification request. Application numbers with the suffix "P" denote a party to request. These applications have been separated from the new applications for exemptions to facilitate processing.

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DATES: Comments must be received on or before January 13, 1997.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street SW, Washington, DC.

Application

Number	Applicant	Renewal of exemption
9248–M	Reaction Products Los Angeles, CA[1]	9248
9758–M	Suunto Carlsbad, CA[2]	9758
9998–M	Accumulators, Inc. Houston, TX[3]	9998
10429–M	Baker Performance Chemicals, Inc. Houston, TX[4]	10429
10974–M	International Paper Erie, PA[5]	10974
11005–M	Pressure Technology, Inc. Hanover, MD[6]	11005
11458–M	Creative Products Inc. of Rossville Rossville, IL[7]	11458

[1] To modify the exemption to provide for cargo vessel and cargo or passenger aircraft as additional modes of transportation.
[2] To modify the exemption to provide technical changes to nonrefillable, non-DOT specification inside container conforming to DOT–2P specification.
[3] To renew and modify the exemption to provide for additional designed hydraulic accumulators with a design pressure not to exceed 6,000 psig.
[4] To modify the exemption to increase the capacity allowance to 793 gallons for IBCs mounted on vehicles for use in transporting Class 3 and Class 8 liquids.
[5] To modify the exemption to provide for hydrogen peroxide, aqueous solutions, 5.1 as an additional class of material.
[6] To modify the exemption to provide for additional designed non-DOT specification cylinders and alternative testing criteria.
[7] To provide for modification of pallet-sized display packs used for consumer commodities that exceed the gross weight limit for limited quantity packages.

Number	Applicant	Parties to exemption
3216–P	Air Products and Chemicals, Inc Allentown, PA	3216
6293–P	PRIMEX Technologies, Inc St. Marks, FL	6293
6530–P	nexAir, LLC Memphis, TN	6530
6691–P	Welders Supply d/b/a Raimy Corporation Erie, PA	6691
6691–P	nexAir, LLC Memphis, TN	6691
8451–P	Primex Technologies, Inc St. Petersburgh, FL	8451
8554–P	J & D Explosives, Inc Meyersdale, PA	8554
8786–P	Chrysler Corporation Auburn, Hills, MI	8786
9275–P	Scent 1–2–3 New York, NY	9275
9275–P	Perfumes Isabell New York, NY	9275
9414–P	Matheson Gas Products East Rutherford, NJ	9414
9723–P	PVS Transportation, Inc Detroit, MI	9723
9723–P	Progressive Disposal Group, Inc West Chester, PA	9723
10429–P	Water Chemical Service, Inc Aberdeen, MD	10429
10441–P	Progressive Disposal Group, Inc West Chester, PA	10441
10933–P	Progressive Disposal Group, Inc West Chester, PA	10933
10938–P	Westvaco Kraft Division, Charleston, SC Richmond, VA	10938
10938–P	Westvaco Bleachboard Division, Covington, VA Richmond, VA	10938

Number	Applicant	Parties to exemption
10938–P	Westvaco Fine Papers Division, Wickliffe, KY Richmond, VA	10938
10938–P	Westvaco Fine Papers Division, Luke, MD Richmond, VA	10938
10938–P	Westvaco Chemical Division, Charleston, SC Richmond, VA	10938
10938–P	Westvaco Chemical Division, DeRidder, LA Richmond, VA	10938
10949–P	PVS Transportation, Inc Detroit, MI	10949
11043–P	Progressive Disposal Group, Inc West Chester, PA	11043
11044–P	Chem-Tech, Ltd Des Moines, IA	11044
11055–P	Environmental Transport Systems Fargo, ND	11055
11156–P	D.C. Guelich Explosive Co Clearfield, PA	11156
11207–P	Houston Lighting & Power Company Houston, TX	11207
11294–P	Precision Industrial Maintenance, Inc Scotia, NY	11294
11294–P	Progressive Disposal Group, Inc West Chester, PA	11294
11296–P	Advanced Environmental Technical Services Flanders, NJ	11296
11401–P	Frequency and Time Systems, Inc Beverly, MA	11401
11454–P	PRIMEX Technologies, Inc St. Marks, FL	11454
11602–P	Emerson Electric Co St. Louis, MO	11602
11602–P	Adelanto Aluminum Co., Inc Hesperia, CA	11602
11624–P	Resource Recovery Corporation Tacoma, WA	11624
11624–P	Burlington Environmental dba Philip Environmental Renton, WA	11624
11624–P	Belshire Environmental Services, Inc Lake Forest, CA	11624
11624–P	Findly Chemical Disposal, Inc Fontana, CA	11624
11725–P	National Aeronautics & Space Administration (NASA) Greenbelt, MD	11725
11750–P	Allied Signal, Inc Morristown, NJ	11750
11788–P	Trilla Steel Drum Corporation Chicago, IL	11788

This notice of receipt of applications for modification of exemptions and for party to an exemption is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on December 18, 1996.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 96–32886 Filed 12–26–96; 8:45 am]

BILLING CODE 4910–60–M

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before January 27, 1997.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street, SW. Washington, DC.

New Exemptions

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Application number	Applicant	Regulation(s) affected	Nature of exemption thereof
11789–N	Mallard Creek Polymers, Inc., Charlotte, NC.	49 CFR 174.67(i)&(j)	To authorize rail cars to remain attached to connectors during the entire unloading process without the physical presence of an unloader. (mode 2)
11790–N	U.S. Enrichment Corp., Bethesda, MD.	49 CFR 172.302(c)	To authorize the transportation of uranium hexafluoride in non-DOT 5A specifications cylinders without required markings. (mode 1)
11791–N	The Coleman Co., Inc., Wichita, KS.	49 CFR 178.33(a)	To authorize the manufacture, mark and sale of non-DOT-Specification 2Q, inner non-refillable metal receptacles with alternative testing criteria and wall thickness. (modes 1, 2, 3, 4)
11793–N	Bilstein Corp. of America, San Diego, CA.	49 CFR 172.200–204, 172.300, 173.306(f)(2)(iii), 173.306(f)(3)(i), 174.24, 177.817.	To authorize the manufacture, mark and sale of gas-charged shock absorbers, cartridges, and struts containing compressed gas, for transportation in commerce as accumulators shipped without required labels, markings, shipping papers and testing requirements. (modes 1, 2, 3, 4, 5)
11794–N	Countrymark Cooperative, Mt. Vernon, IN.	49 CFR 174.67(i)&(j)	To authorize rail cars to remain connected during unloading of certain hazardous materials without the physical presence of an unloader. (mode 2)
11795–N	Wellman Inc., Florence, SC	49 CFR 174.67(i)&(j)	To authorize rail cars to remain connected during unloading of Class 9 material without the physical presence of an unloader. (mode 2)
11796–N	Morton International Inc., Ogden, UT.	49 CFR 173.301(h), 173.302, 173.306(d)(3).	To authorize the transportation in commerce of a non-DOT specification cylinder which exceeds the quantity limitation exception for compressed gases at a volume of 7.50 in. to be used as a component of a hybrid air bag system. (modes 1, 2, 3, 4, 5)
11797–N	Cryodyne Technologies, Radnor, PA.	49 CFR 173.201, 173.202, 173.203.	To authorize the transportation in commerce of non-DOT specification cylinders constructed of stainless steel for use in transporting Class 3 material. (modes 1, 2, 3, 4)
11798–N	Air Products & Chemicals Inc., Allentown, PA.	49 CFR 173.34(e)(15), 173.34(e)(15)(ii).	To authorize the transportation in commerce of DOT specification 3A or 3AA cylinders for use in transporting various gases classed in Division 2.1 (modes 1, 2, 3, 4, 5)
11799–N	Cryonix, Inc., Rockville, MD	49 CFR 173.196	To authorize the transportation in commerce of alternative secondary packaging consisting of heat sealed, plastic sleeve, packed in small quantities with absorbent material to be transported inside commercial freezer, for use in transporting Infectious substances, Division 6.2 (mode 1)
11800–N	General Fire Extinguisher Corp., Northbrook, IL.	49 CFR 173.309	To authorize the transportation in commerce of fire extinguishers, that exceed quantity limitation, for use in transporting liquefied compressed gas. (modes 1, 2, 3, 4, 5)
1–11801–N	Wacker Silicones Corp., Adrian, MI.	49 CFR 172.301, 172.400, 173.212(c), 173.213.	To authorize the transportation in commerce of non-authorized packagings that are not properly marked or labeled for use in transporting Toxic Solid, Inorganic, n.o.s., Division 6.1 (mode 1)
11803–N	Process Engineering, Plaistow, NH.	49 CFR 173.319, 179.400	To authorize the transportation in commerce of various classes of non-flammable cryogenic liquids in DOT–113A60W tank cars. (mode 2)
11804–N	Advertising Unlimited, Inc., Red Wing, MN.	49 CFR 173.156, 173.184	To authorize an emergency exemption for the transportation in commerce of a safety kit containing two highway fusees, one tire inflator, and one fire extinguisher as a consumer commodity, ORM–D. (modes 1, 2)
11805–N	Persons represented by the NPGA, Washington, DC.	49 CFR 178.337–11(a)(1)(I) & (a)(1)(v).	To authorize the transportation in commerce of certain DOT Specification MC–330 and MC–331 cargo tanks, containing Propane, which do not meet the self-closing stop valve and excess flow valve requirements and to continue construction, certification, inspection and testing. (mode 1)
11806–N	Mississippi Tank Co., Hattiesburg, MS.	49 CFR 178.337–11(a)(1)((I) & (a)(1)(v).	To authorize the transportation in commerce of certain DOT Specification MC–330 and MC–331 cargo tanks, containing compressed gases, which do not meet the self-closing stop valve and excess flow valve requirements and to continue construction, certification, inspection and testing. (mode 1)

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on December 20, 1996.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 96–32887 Filed 12–26–96; 8:45 am]

BILLING CODE 4910–60–M

Surface Transportation Board

[STB Finance Docket No. 33310]

Housatonic Railroad Company, Inc.—Corporate Family Transaction Exemption—Danbury Terminal Railroad Company

Housatonic Railroad Company, Inc. (HRRC)[1] and Danbury Terminal Railroad Company (DTRR),[2] Class III railroads, have jointly filed a verified notice of exemption. The exempt transaction is a merger of DTRR into HRRC.[3]

The transaction is expected to be consummated on December 31, 1996.

HRRC will assume operation of DTRR's rail lines and operating rights in the States of Connecticut and New York.[4] The proposed merger is intented to enable the merged carrier to provide more efficient service to shippers. The merger will also eliminate the significant administrative burden and expense associated with billing and accounting services.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties state that the transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

[1] HRRC operates approximately 72.29 miles of track, of which approximately 36.25 miles are within the State of Connecticut and owned by the State of Connecticut, and of which approximately 36.04 miles are within the Commonwealth of Massachusetts and owned by HRRC.

[2] DTRR operates approximately 89.1 miles of track, of which approximately 47.1 miles are located in the State of Connecticut and owned by Maybrook Railroad Company, and of which 42 miles are located in the State of New York and owned by Metro North Commuter Railroad. DTRR also holds approximately 10 miles of incidental overhead trackage rights over tracks owned by the State of Connecticut within the State of Connecticut.

[3] HRRC and DTRR are wholly owned subsidiaries of Housatonic Transportation Company.

[4] No ownership interests are transferred or otherwise affected by this transaction.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to reopen will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33310, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on Edward J. Rodriquez, Esq., Housatonic Railroad Company, Inc., 67 Main Street, P.O. Box 298, Centerbrook, CT 06409.

Decided: December 18, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–32780 Filed 12–26–96; 8:45 am]

BILLING CODE 4915–00–P

[STB Finance Docket No. 33308]

Pittsburgh Industrial Railroad, Inc.—Acquisition and Operation Exemption—Consolidated Rail Corporation and the Pittsburgh, Chartiers and Youghiogheny Railway Company

Pittsburgh Industrial Railroad, Inc. (PIR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate certain railroad lines of Consolidated Rail Corporation and the Pittsburgh, Chartiers and Youghiogheny Railway Company (PC&Y), a subsidiary of Conrail, located in Pennsylvania. The rail lines being acquired from Conrail are: (i) between milepost 0.0, at Char Jct., and milepost 2.5, at Carnegie (Canon Industrial Track); (ii) between milepost 0.5, near Carnegie, and milepost 20.4, at South Strabane Township (Canon Industrial Track); (iii) between milepost 2.5, at Esplen Interlocking, and milepost 11.0, at Collier Township (Carnegie Secondary); (iv) between milepost 0.0, at Collier Township, and milepost 0.8, at Heidelburg Borough (Superior Industrial Track); and (v) between milepost 0.0, at Houston Borough, and milepost 1.0, at Chartiers Township (Westland Branch), for a total of 32.7 miles. The rail lines being acquired from PC&Y are: (i) between milepost 0.0, at McKees Rocks, and milepost 7.5, at Carnegie; (ii) between milepost 8.9, at Woodville Station, and milepost 10.3 at Collier Township; (iii) between milepost 0.0, at McKees Rocks, and milepost 6.5, at Neville Island (Neville Island Branch); and (iv) between milepost 0.0, at Collier Township, and milepost 0.6, at Collier Township (Painter's Run Branch), for a total of 16.0 miles. PIR also seeks to acquire incidental trackage rights over .80 miles of rail line owned by CSX Transportation, Inc., between milepost 1.7 and milepost 2.5 at Neville Island.

The purpose of these trackage rights are to connect the PC&Y's rail lines being acquired by PIR.

The parties intended to consummate the proposed transaction on December 6, 1996.

This transaction is related to STB Finance Docket No. 33309, *RailTex, Inc.—Continuance in Control Exemption—Pittsburgh Industrial Railroad, Inc.*, where RailTex, Inc. will continue to control PIR, upon it becoming a Class III rail carrier.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33308, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on Karl Morell, Esq., Ball Janik LLP, Suite 225, 1455 F Street, N.W., Washington, D.C. 20005.

Decided: December 20, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–32962 Filed 12–26–96; 8:45 am]

BILLING CODE 4915–00–P

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[STB Finance Docket No. 33309]

RailTex, Inc.—Continuance in Control Exemption—Pittsburgh Industrial Railroad, Inc.

Railtex, Inc. (RailTex), a noncarrier holding company, has filed a notice of exemption to continue in control of Pittsburgh Industrial Railroad, Inc. (PIR), upon PIR's becoming a Class III railroad. The transaction is scheduled to be consummated on December 6, 1996.

The transaction is related to STB Finance Docket No. 33308, *Pittsburgh Industrial Railroad, Inc.—Acquisition Operation Exemption—Consolidated Rail Corporation and the Pittsburgh, Chartiers and Youghiogheny Railway Company*, wherein PIR seeks to acquire 32.7 miles of rail line from Consolidated Rail Corporation and 16.0 miles of rail line from the Pittsburgh, Chartiers and Youghiogheny Railway Company.

RailTex controls 21 Class III common carriers and three carriers that operate in Canada by rail: San Diego & Imperial Valley Railroad Company, Inc., operating in California; North Carolina & Virginia Railroad Company, Inc. (including Virginia Southern Division), operating in North Carolina and Virginia; South Carolina Central Railroad Company, Inc. (including Carolina Piedmont Division, operating in South Carolina; Mid-Michigan Railroad, Inc. (including Northeast Kansas & Missouri Division and Texas Northeastern Division, operating in Texas, Kansas, Missouri and Michigan; Chesapeake & Albemarle Railroad Company, Inc., operating in Virginia and North Carolina; Michigan Shore Railroad Company, Inc., operating in Michigan; New Orleans Lower Coast Railroad Company, Inc., operating in Louisiana; Dallas, Garland & Northeastern Railroad, Inc., operating in Texas; Indiana Southern Railroad, Inc., operating in Indiana; Missouri & Northern Arkansas Railroad Company, Inc., operating in Kansas, Missouri and Arkansas; Salt Lake City Southern Railroad Company, Inc., operating in Utah; Grand Rapids Eastern Railroad, Inc., operating in Michigan; Central Oregon & Pacific Railroad, Inc., operating in Oregon and California; New England Central Railroad, Inc., operating in Vermont, New Hampshire, Massachusetts, and Connecticut; Georgia Southwestern Railroad Company, Inc. (including Georgia & Alabama Division and Georgia Southwestern Division, operating in Alabama and Georgia; Austin & Northwestern Railroad Company, Inc. (including Texás-New Mexico Division), operating in Texas and New Mexico; Cincinnati Terminal Railway Company, operating in Ohio; Indiana and Ohio Railroad, Inc., operating in Indiana and Ohio; Indiana & Ohio Railway Company, operating in Ohio; Indiana & Ohio Central Railroad, Inc., operating in Ohio; and Connecticut Southern Railroad, Inc., operating in Connecticut and Massachusetts.

RailTex states that: (1) the railroads will not connect with each other or any railroad in their corporate family; (ii) the acquisition is not part of a series of anticipated transactions that would connect the twenty one railroads with each other or any railroad in their corporate family; and (iii) the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class II rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33309, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on Karl Morell, Esq., Ball Janik LLP, Suite 225, 1455 F Street, N.W., Washington, D.C. 20005.

Decided: December 20, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–32960 Filed 12–26–96; 8:45 am]

BILLING CODE 4915–00–P

[STB Docket No. AB–167 (Sub-No. 1168X)]

Consolidated Rail Corporation—Abandonment Exemption—In Brooke and Hancock Counties, WV

Consolidated Rail Corporation (Conrail) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 4.00-mile portion of its line of railroad known as the Weirton Secondary Track between milepost 35.70 and milepost 39.70 in Brooke and Hancock Counties, WV.

Conrail has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 26, 1997, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by January

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Board will accept late-filed trail use requests as long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

6, 1997. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 16, 1997, with: Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: John K. Enright, Associate General Counsel, Consolidated Rail Corporation, 2001 Market Street—16A, Philadelphia, PA 19101–1416.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Conrail has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by December 31, 1996. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Surface Transportation Board, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: December 20, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–32961 Filed 12–26–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 16, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Bureau of the Public Debt (BPD)

OMB Number: 1535–0052.
Form Number: PD F 1011.
Type of Review: Extension.
Title: Resolution Authorizing (1) Disposition of Securities Held by Organization, and (2) Executive and Delivery of Bonds of Indemnity.
Description: Form PD F 1011 is used by an organization to dispose of securities and/or execute bonds of indemnity.
Respondents: Business or other for-profit, Not-for-profit institutions.
Estimated Number of Respondents: 485.
Estimated Burden Hours Per Response: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 243 hours.
Clearance Officer: Vicki S. Thorpe (304) 480–6553, Bureau of the Public Debt, 200 Third Street, Parkersburg, West VA 26106–1328.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 96–33006 Filed 12–26–96; 8:45 am]

BILLING CODE 4810–40–U

Submission for OMB Review; Comment Request

December 12, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

SPECIAL REQUEST: In order to begin the surveys described below in January 1997, the Department of the Treasury is requesting that the Office of Management and Budget (OMB) review and approve this information collection by December 26, 1996. To obtain a copy of this survey, please contact the IRS Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545–1349.
Project Number: SOI–023.
Type of Review: Revision.
Title: 1997 TeleFile Automated and Written Customer Satisfaction Surveys.
Description: These surveys are being conducted because IRS needs to be aware of the impact on taxpayers who will receive the 1997 TeleFile booklet in terms of acceptance, burden, frustrations, and questions they may have in using the system and/or choosing to obtain and file the paper forms.
Respondents: Individuals or households.
Estimated Number of Respondents: 7,517.
Estimated Burden Hours Per Respondent:

Automated Survey—2 minutes
Written Survey—12 minutes

Frequency of Response: Other.
Estimated Total Reporting Burden: 1,723 hours
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 96–33007 Filed 12–26–96; 8:45 am]

BILLING CODE 4830–01–U

Customs Service

Customs Broker Licensure Examination

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: General notice and request for comments.

SUMMARY: This notice announces that the United States Customs Service has entered into an interagency agreement with the United States Office of Personnel Management to assist in the development and administration of the Customs Broker Licensure Examination. Customs invites the general public to comment on what areas the broker's examination should focus. Customs is also inviting the general public and Customs employees to generate multiple choice items to be used on the examination.

DATES: Written comments should be received on or before January 31, 1997, to be assured of consideration.

consummated and the abandoning railroad is willing to negotiate an agreement.

ADDRESSES: Direct all written comments and test items to Office of Personnel Management, Attn: PRDC, Room 6457—Customs Broker Project, 1900 E St., NW, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn: Broker Examination, Room 1328, 1301 Constitution Avenue NW, Washington, D.C. 20229, Tel. (202) 927–0051.

SUPPLEMENTARY INFORMATION:

Background

The written Customs Broker Licensure Examination, pursuant to 19 U.S.C. 1641(b)(2) and 19 CFR 111.13(a), is designed to determine the applicant's knowledge of Customs and related laws, regulations and procedures, bookkeeping, accounting, and all other appropriate matters and his fitness to render valuable service to importers and exporters. The applicant must obtain a grade of at least 75 percent to pass.

Customs has entered into an interagency agreement with the Office of Personnel Management to assist in the development of the broker examination. Customs invites the general public, other federal agencies and Customs employees to comment on what areas the broker licensure examination should focus and to suggest multiple choice items to be used on the examination.

Comments

Please use the following guidelines when generating your multiple choice items:

First, identify your topic and make sure it covers information:

(1) contained in the Harmonized Tariff Schedule of The United States (1996) or Title 19, Code of Federal Regulations (19 CFR Parts 1 to 199) Revised as of April 1, 1996; and

(2) important to the work performed as a Customs Broker.

The use of regulations in your own experience may be a good starting point.

Second, write a question or a stem of a question (e.g., Which of the following is sufficient to establish the right to make entry for * * * ?). The statement may take the form of either a direct question or an incomplete statement. Simplify the item as much as possible. This means eliminating unnecessary information from the question (information not needed to answer the question), using easily understood words where possible, and placing most of the information in the question/stem, not in the response options. Make sure the item only addresses one concept and is not asking multiple questions or addressing multiple content areas. After the question/stem is written, generate a correct response. The correct response should be defensible as being the only correct answer listed in the options.

Finally, generate at least four parallel and attractive response options. Try to ensure that the response options are similar in grammatical structure, length, and complexity to the correct response. Try to make sure the other response options are good distractors (i.e., they may seem attractive to test takers whose knowledge is superficial). The responses "none of these" or "none of the above" should not be used as options. The following may be helpful in creating distractors: Use of true statements that do not answer the question correctly; use of familiar phrases; and use of common mathematical mistakes or inverted numbers.

All items should contain the following information when complete:

(1) the item stem or question;

(2) at least five responses, one of which is the correct answer;

(3) an indication of the correct answer by marking it with an asterisk;

(4) a reference for the item (e.g., Title 19, CFR, Section 111.36 paragraph (b)(2)(I)). It is important that all items be referenced to either the Harmonized Tariff Schedule of The United States (1996) or Title 19, Code of Federal Regulations; and

(5) the item writer's name and work phone number.

If you would like more information on writing appropriate test items, please contact Ernest Paskey at 202–606–1160. Once you have written the test items, please send your items to OPM through either:

(1) fax: (202) 606–1399, Attn: Christelle La Police; or

(2) postal mail: Christelle La Police, Office of Personnel Management, Attn: PRDC, Room 6457- Customs Broker Project, 1900 E St., NW, Washington, D.C. 20415.

Important Note: To ensure security of the test items and avoid misplaced/lost items, we request that you call OPM at (202) 606–0820 and ask for a member of the Customs Broker Team prior to transmitting a FAX. Test items will be accepted no later than January 31, 1997. Copies of the items that you develop and other related materials should not be distributed to anyone else.

Dated: December 20, 1996.

Philip Metzger,

Director, Trade Compliance.

[FR Doc. 96–32915 Filed 12–26–96; 8:45 am]

BILLING CODE 4820–02–P

Internal Revenue Service

Proposed Collection; Comment Request for Form 8851

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8851, Summary of Medical Savings Accounts.

DATES: Written comments should be received on or before February 25, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Summary of Medical Savings Accounts.

OMB Number: 1545–1508.

Form Number: 8851.

Abstract: This form will be used by the IRS to determine whether the numerical limits set forth in Internal Revenue Code section 220(j)(1) regarding the establishment of medical savings accounts have been exceeded.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 200,000.

Estimated Time Per Respondent: 7 hr., 42 min.

Estimated Total Annual Burden Hours: 1,540,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 18, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–32991 Filed 12–26–96; 8:45 am]

BILLING CODE 4830–01–U

Proposed Collection; Comment Request for Form 8820

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8820, Orphan Drug Credit.

DATES: Written comments should be received on or before February 25, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Orphan Drug Credit

OMB Number: 1545–1505

Form Number: 8820

Abstract: Filers use this form to elect to claim the orphan drug credit, which is 50% of the qualified clinical testing expenses paid or incurred with respect to low or unprofitable drugs for rare diseases and conditions, as designated under section 526 of the Federal Food, Drug, and Cosmetic Act.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 20.

Estimated Time Per Respondent: 8 hr., 27 min.

Estimated Total Annual Burden Hours: 169

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 18, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–32992 Filed 12–26–96; 8:45 am]

BILLING CODE 4830–01–U

Office of Thrift Supervision

Submission for OMB Review; Comment Request

December 20, 1996.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the OTS Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552.

OMB Number: 1550–0072.

Form Number: MCH–1 and MCH–2.

Type of Review: Extension of an already approved collection.

Title: Mutual Holding Company.

Description: This information collection applies to mutual holding companies and their subsidiaries. The collection is necessary to fulfill statutory requirements and facilitate the review of transactions presenting risks to the safety and soundness of an institution.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Respondents: 7.

Estimated Burden Hours Per Respondent: 375 hours.

Frequency of Response: 1.

Estimated Total Reporting Burden: 2,625 hours.

Clearance Officer: Colleen M. Devine, (202) 906–6025, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, D.C. 20503.

Catherine C. M. Teti,

Director, Records Management and Information Policy.

[FR Doc. 96–32901 Filed 12–26–96; 8:45 am]

BILLING CODE 6720–01–P

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December 27, 1996

Part II

Environmental Protection Agency

40 CFR Part 72 et al.

Acid Rain Program; Permits, Alowance System, Sulfur Dioxide Opt-ins, Continuous Emission Monitoring, Excess Emissions, and Appeal Procedures; Proposed Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 72, 73, 74, 75, 77, and 78

[FRL–5656–8]

RIN 2060–AF43, AF46, and AF47

Acid Rain Program: Permits, Allowance System, Sulfur Dioxide Opt-ins, Continuous Emission Monitoring, Excess Emissions, and Appeal Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; revisions of permits, allowance system, sulfur dioxide opt-ins, continuous emission monitoring, excess emissions, and appeal procedures rules.

SUMMARY: Title IV of the Clean Air Act (the Act) authorizes the Environmental Protection Agency (EPA or Agency) to establish the Acid Rain Program. The purpose of the Acid Rain Program is to significantly reduce emissions of sulfur dioxide and nitrogen oxides from utility electric generating plants in order to reduce the adverse health and ecological impacts of acidic deposition (or acid rain) resulting from such emissions. On January 11 and March 23, 1993, the Agency promulgated final rules governing permitting, the allowance system, continuous emissions monitoring, excess emissions, and appeal procedures.

After considering its experience in applying these rules since 1993, the Agency believes that the permitting, excess emissions, and appeal procedures rules (as well as minor aspects of the monitoring rule) can be streamlined and improved in order to reduce the burden on utilities, State and local permitting authorities, and EPA. The rule revisions in today's proposal streamline the Acid Rain Program while still ensuring achievement of its statutory goals of reducing sulfur dioxide and nitrogen oxides emissions.

In addition, EPA is revising allocations of sulfur dixoxide allowances. Each allowance authorizes the emission of one ton of sulfur dioxide. Under the Acid Rain Program, utility units (i.e., fossil fuel-fired boilers or turbines) are allocated allowances and must not emit sulfur dioxide in excess of the amount authorized by the allowances that they hold. EPA proposes to revise certain units' allowances in response to litigation, in light of Agency errors in making the allocations or errors in data relevant to whether facilities are covered by the Acid Rain Program, or because of more recent information concerning the construction or commercial operation of new units.

DATES: Comments on the regulations proposed by this action must be received on or before January 27, 1997.

ADDRESSES: *Comments.* All written comments must be identified with the appropriate docket number (Docket No. A–95–56) and must be submitted in duplicate to EPA Air Docket Section (6102), Waterside Mall, Room M1500, 1st Floor, 401 M Street, SW, Washington DC 20460.

Docket. Docket No. A–95–56, containing supporting information used to develop the proposal is available for public inspection and copying from 8:30 a.m. to 12 p.m. and 1 p.m. to 3:30 p.m., Monday through Friday, excluding legal holidays, at EPA's Air Docket Section at the above address. Information concerning the original rules and some of the revisions proposed today is found in Docket Nos. A–90–38 (permits), A–91–43 and A–92–06 (allowances), A–90–51 (continuous emissions monitoring), A–91–68 (excess emissions), A–91–69 (general), and A–93–15 (appeals). A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Kathy Barylski, at (202) 233–9074, U.S. Environmental Protection Agency, 401 M St. SW, Acid Rain Division (6204J), Washington, DC 20460 (concerning revisions of parts 73 and 75); Dwight C. Alpern, Attorney-advisor, at (202) 233–9151 (same address) (concerning all other revisions); or the Acid Rain Hotline at (202) 233–9620.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are fossil-fuel fired boilers or turbines that serve generators producing electricity for sale. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Electric service providers

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in § 72.6 and the exemptions in §§ 72.7 and 72.8 of title 40 of the Code of Federal Regulations and the revised §§ 72.6, 72.7, 72.8, and 72.14 of the proposed rule. If you have questions regarding the applicability of this action to a particular entity, consult the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** Section.

Organization

The information in this preamble is organized as follows:

I. Part 72: Applicability of and Exemptions from Acid Rain Program
- A. Revisions Concerning Applicability
- B. Revisions to Exemptions
- 1. Fuel Use and Fuel Testing Requirements Under New Units Exemption
- 2. Administration of New Units Exemption
- 3. Retired Units Exemption
- 4. Industrial Units Exemption

II. Part 72: Interaction of Acid Rain Permitting and Title V
- A. Relationship Between Acid Rain Rules and Parts 70 and 71
- B. State Authority to Administer and Enforce Acid Rain Permits
- C. Required Elements for State Acid Rain Program

III. Part 72: Miscellaneous Permitting Matters
- A. Definitions
- B. Designated Representative
- C. Compliance Plans
- 1. Submission of Substitution and Reduced Utilization Plans
- 2. Repowering Extension Plans
- D. Federal Permit Issuance
- E. Permit Revision
- F. Reduced Utilization Accounting

IV. Part 73: Allowances
- A. Revision of Table 2 Allowances
- 1. Allocation Determinations Remanded to EPA
- 2. Correction of Agency Errors
- B. Deletion of Units from Table 2
- C. Additions of Units to and Deletions of Units From Table 3
- D. 1998 Revision of Allowance Allocations
- E. Revisions to Small Diesel Refinery Provisions

V. Part 75: Monitoring Requirements for Units Burning Digester or Landfill Gas

VI. Part 77: Excess Emissions
- A. Immediate Deduction of Allowances to Offset Excess Emissions
- B. Deadline for Payment of Excess Emissions Penalties
- C. Excess NO_x Emissions Under NO_x Averaging Plans

VII. Part 78: Administrative Appeals

VIII. Administrative Requirements
- A. Executive Order 12866
- B. Unfunded Mandates Act
- C. Paperwork Reduction Act
- D. Regulatory Flexibility Act
- E. Miscellaneous

I. Part 72: Applicability of and Exemptions From Acid Rain Program

A. Revisions Concerning Applicability

Section 72.6 explains what types of units are "affected units" subject to emissions reduction or limitation

requirements and other requirements of the Acid Rain Program and what types of units are not affected units. Under § 72.6(b) (5) and (6), qualifying facilities and independent power production facilities meeting certain requirements are not affected units. One such requirement is that the facility had, as of November 15, 1990, a qualifying power purchase commitment, which may be in the form of a letter of intent that is followed by a power sales agreement. Under section 405(g)(6)(A) of the Act, the power sales agreement must be executed "within a reasonable time" following the letter of intent. In July 1992 (57 FR 29940, 29947 (July 7, 1992)), EPA proposed a two-year deadline or no later than November 15, 1992 for execution of the power sales agreement. That deadline was not commented on and was made final in March 1993 (58 FR 15634, 15648 (March 23, 1993)). Subsequently, EPA has received public comment that the two-year deadline created a hardship for independent power producers negotiating with multiple regulated purchasers.

To implement the statutory language regarding the time frame for execution of a power sales agreement, EPA could set a fixed deadline (as in the current rule) or could determine a reasonable time frame on a case-by-case basis as part of an applicability determination. Particularly where questions of the applicability of the Acid Rain Program are involved, EPA maintains that it is preferable to establish clear-cut lines. Moreover, EPA is concerned that the two-year period in the current rule for execution of an agreement does not take account of the time necessary to complete agreements where multiple utility purchasers are involved.

Therefore, EPA is proposing to revise the deadline to three years from letter of intent to execution of a power sales agreement. Since under section 405(g)(6)(A) of the Act, the letter of intent must be in place by November 15, 1990, this means that the power sales agreement must have been executed by November 15, 1993, rather than by November 15, 1992 as under the current rule. Public comment indicates that the additional year is reasonable for independent power producers negotiating with multiple regulated purchasers. EPA requests comments on this revision.

Section 72.6(c) sets out procedures for petitioning for a determination from the Administrator as to whether a unit is an affected unit covered by the Acid Rain Program. The current regulation allows the submission of the petition by a certifying official, rather than requiring that the unit have a designated representative who would make the submission. However, the regulation has a general reference to, and requires compliance with, § 72.21, which requires that submissions be made by a designated representative and include certain certifications. To prevent confusion, EPA proposes revisions that pinpoint the certification and notice requirements in § 72.21 that a certifying official's petition must meet. In addition, language is added to § 72.6(c)(1) to clarify that it is the certifying official of an owner or operator of a unit that may submit a petition, and some superfluous language is removed. Further, this section is revised to allow a petition to be submitted at any time but indicating that, if possible, the petition should be submitted before the issuance of an Acid Rain permit. While EPA wants to facilitate the submission of petitions where owners or operators are uncertain as to the status of their unit under the Acid Rain Program, EPA's determination on the petition may obviate the processing and issuance of a permit for the unit.

B. Revisions to Exemptions

In the current rule, EPA established two exemptions from Acid Rain Program requirements. First, in § 72.7 EPA provided for an exemption from requirements concerning permitting, allowances, and continuous emissions monitoring for small, new units (i.e., units that commence commercial operation on or after November 15, 1990 and serve generators with a total nameplate capacity of 25 MWe or less) burning clean fuels. The exemption was adopted because emissions from these units were considered to be *de minimis*. 58 FR 3390, 3594 (January 11, 1993). Second, in § 72.8 EPA provided for an exemption from Phase II permitting requirements for affected units that retire permanently prior to the issuance of a Phase II Acid Rain permit. Units that submitted petitions for such an exemption could also be exempted from monitoring requirements under § 75.67.

1. Fuel Use and Fuel Testing Requirements Under New Units Exemption

EPA is proposing to modify the limitation on fuel use and the requirements for fuel testing under the new units exemption. Under the current rule, units must use exclusively fuels with a sulfur content of 0.05 percent or less by weight, and specified tests to measure sulfur content must be performed for each delivery of fuel (other than natural gas, which is presumed to meet the sulfur content requirement). The records of such tests must be retained at the source for 5 years.

In contrast, today's proposal requires units to use only gaseous fuel with an annual average sulfur content of 0.05 percent by weight or less and only nongaseous fuel that separately meets this same annual average sulfur content limit. The proposal includes formulas for calculating the annual average percentage sulfur content by weight for gaseous fuels and for nongaseous fuels. Similar to the approach in the current rule requiring sampling and sulfur content testing of fuel deliveries, the formulas require use of the measured sulfur content of periodic samples of fuel deliveries during the year to calculate the annual average sulfur content of fuel burned during the year. The formulas require sampling of fuel at least once for each delivery or, for fuel that is delivered to the unit continuously by pipeline, at least once each quarter that the fuel is delivered. Unlike the current rule, the formulas do not require the use of any specific testing methods to measure sulfur content. Sampling and testing of sulfur content of fuel, which may be performed by the fuel supplier rather than the unit's owners and operators, are necessary in order to demonstrate whether the sulfur content limit is met. As under the current rule, the owners and operators of an exempt unit bear the burden of proving compliance with the requirements of the exemption.

However, if the only gaseous fuel burned is natural gas, the proposal provides that the 0.05 percent annual average limit for gaseous fuel is assumed to be met without making any calculations or conducting any sampling or testing. This is consistent with the current § 72.7(d)(2)(ii), which provides that natural gas (which is defined as a "fluid mixture of hydocarbons containing", *inter alia*, 20 grains or less of sulfur (40 CFR 72.2)) is assumed to meet the 0.05 percent limit on each delivery of fuel. Moreover, consistent with the current rule, which excludes (through the 0.05 percent sulfur content limit on each delivery) any use of coal by the units, and because the sulfur content of a coal delivery is not necessarily uniform, the proposal expressly bars the use of coal or coal-derived fuel (except coal-derived gas with a sulfur content no greater than natural gas) by exempt units.

EPA believes that the fuel use and testing requirements in the proposal are sufficiently stringent to ensure that minimal emissions from the exempt units and are significantly less

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burdensome for the owners and operators of the units involved, which in many cases are municipally owned units. Allowing a unit to burn some fuel that exceeds 0.05 percent sulfur by weight so long as the annual average sulfur content of its fuel (weighted by the weight of the fuel) does not exceed that level will have little effect on the total SO_2 emissions for the year. Separate sulfur content limits are established by gaseous and nongaseous fuels so that very clean gaseous fuel (e.g., pipeline natural gas) cannot be used to offset nongaseous fuel with a sulfur content significantly higher than 0.05 percent. EPA notes that, under this approach, a unit will be able to use landfill or digester gas, which has a higher sulfur content than natural gas but lower than some nongaseous fuels.[1] Using the annual average will give owners and operators more flexibility in that a single delivery of fuel in excess of the limit will not automatically invalidate the exemption, as is the case under the current rule.

EPA also believes that prescribing more detailed testing methods is unnecessary because the appropriate testing methods may vary depending on the specific fuel involved and testing data from the fuel supplier may be sufficient to establish the sulfur content of the fuel.[2] The proposal requires owners and operators to keep records for 5 years (or longer if required in writing by EPA or the permitting authority) that demonstrate that the sulfur content limit has been met. This approach gives owners and operators more flexibility to determine what type of information will support such a demonstration, but the proposal also emphasizes that the burden of proof is on the owners and operators.

2. Administration of New Units Exemption

The purpose of the exemption, of course, is to relieve owners and operators of the burden of complying with permitting, allowance, and monitoring requirements for clean new units and to reduce the concomitant administrative burden on permitting authorities. In issuing new unit exemptions under the current rule, the Agency has found that the procedures for obtaining and maintaining an exemption are somewhat less burdensome than the procedural requirements for units required to have Acid Rain permits. However, the Agency has concluded that the exemption procedures are still more burdensome than necessary. In particular, the current rule provides that: a potentially exempt unit must have a designated representative and submit a petition for a written exemption; the permitting authority must issue a written exemption after providing public notice (e.g., in a local newspaper) and a comment period; and the exemption must be renewed every five years.

The current rule requires a significant amount of processing for each unit that seeks to obtain an exemption. The Agency has already granted about 130 new unit exemptions using current procedures, and, despite extensive public notice, not one comment has been received during the public comment periods. Based on its experience with these exemptions, EPA does not believe that requiring a designated representative to be appointed for each clean unit and submission and processing of forms for a new units exemption every five years provides any significant environmental benefit.

The proposal makes the new unit exemptions largely automatic for those units that meet the criteria, discussed above, concerning capacity, annual fuel use, and recordkeeping. In general, no designated representative, petition for exemption, or renewal petition is required.[3]

The only exception to this approach is for units that are listed and allocated one or more allowances on Table 2 or 3 of § 73.10. Because they are being exempt from the requirement to hold allowances to cover emissions, they should not retain their allowance allocations. The proposal requires the designated representative (who handle the unit's allowance account) to submit to EPA and the State permitting authority a statement that: the unit meets, and will continue to meet, the exemption requirements; he or she is surrendering allowances in the same amount, and of the same or earlier compliance use date as, the unit's allocated allowances; and he or she is returning the proceeds for any allowances withheld from the unit for EPA allowance auctions under subpart E of part 73. However, apparently because the owners and operators of some small units are small entities and not fully aware of their obligations under the Acid Rain Program, some potentially exempt units have still not selected designated representatives even though the units are allocated allowances. In order to facilitate implementation of the exemptions by small entities, the proposal provides that, if there is no designated representative, a certifying official of each owner of the unit may make this submission. This reflects the desirability of ensuring that each owner (or the designated representative representing all owners) is aware of the allowance surrender. The unit will not be exempt until EPA actually deducts the allowances from the unit account in the Allowance Tracking System and receives the allowance auction proceeds. Upon deduction of the allowances, the unit account is closed.

Although units that meet the exemption criteria and are not allocated allowances are automatically exempt, the proposal requires the designated representative (or a certifying official of each owner) of such unit to submit to EPA and the State permitting authority a statement that the unit meets and will continue to meet the exemption, which are referenced in the statement. EPA anticipates providing a standard form for designated representatives or certifying officials for exempt units (whether or not they have allocated allowances) to submit the appropriate information. Providing this type of notice to EPA and the State permitting authorities imposes little burden on the exempt units and has important benefits. First, owners of the units are more likely to consider carefully the basis for the exemption and the continuing requirements under the exemption if each owners' representative must sign and submit such a form. Second, submission of the form will ensure that EPA and State permitting authorities can keep track of which units are exempt and will not treat such units as affected units.

Under the proposal, a new units exemption is effective on January 1 of the first full calendar year for which the unit meets the criteria for an exemption.

[1] This is consistent with EPA's efforts to encourage use, rather than flaring, of such gas. *See* section V of this preamble.

[2] With the elimination of the fuel testing requirements in the current rule, the testing methodologies specified in the current § 72.7 and incorporated by reference in the current § 72.13 are unnecessary, and EPA therefore proposes to remove them. The provisions of § 72.13 are renumbered to reflect this change.

[3] Because the proposed new units exemption and, as discussed below, the proposed retired units exemption, are automatic and written exemptions for these units are no longer issued, the references in the current part 72 to written exemptions under §§ 72.7 and 72.8 are revised. The revisions to these references also reflect, in some cases, the establishment of exemptions for industrial units under proposed § 72.14, which is discussed below. For example, the criteria for State acid rain programs in § 72.72(b) are changed to remove the reference to §§ 72.7 and 72.8 written exemptions and to refer instead to § 72.14 exemptions. By further example, the reference in § 72.9(c)(6) to §§ 72.7 and 72.8 written exemptions is changed to refer to exemptions under §§ 72.7, 72.8, and 72.14. The same change—and the only change proposed to part 74—is proposed in § 74.2.

This reflects the annual nature of the Acid Rain Program. As provided in the current rule, the exemption terminates automatically when the unit involved no longer satisfies the criteria for an exemption. Consistent with the approach taken with other exclusions of units from the Acid Rain Program, a unit that had an automatic exemption that terminates is an affected unit and cannot requalify for the exemption. *See* 40 CFR 72.6(a)(3)(ii) through (vii). As in the current rule, exemption termination subjects the unit to the permitting, allowance, and monitoring requirements of the Acid Rain Program. The unit will have to have a designated representative, who must submit a complete permit application before the later of January 1, 1998 or 60 days after the exemption terminates. The unit will have to comply with the monitoring requirements within 90 days after the termination.

Under the current rule, exempt units are still included in the definition of "affected unit." As a result, they must generally be included in title V operating permits issued by State permitting authorities under part 70 and are not eligible to become opt-in units under part 74. Part 70 requires sources with affected units to have operating permits reflecting Acid Rain Program requirements and any other Clean Air Act requirements to which the sources are subject. If a unit is subject to other Clean Air Act requirements, the unit must continue to comply with such non-title IV provisions, and this will be reflected in the title V operating permit.[4] However, if a unit is not subject to any other Clean Air Act requirements and the unit is exempt from Acid Rain permitting, allowance, and monitoring requirements, question has been raised as to whether the current rule can be read to require the unit to obtain a title V operating permit. In such circumstances, it makes little sense to require a title V operating permit; after all, the only requirements put in the permit will be those for maintaining an exemption and a major purpose of the exemption is to relieve the unit and the permitting authority of permitting burdens. Although the Agency maintains that a title V operating permit is not required for such a unit, the proposal modifies § 72.6(b) to make this explicit by stating that any exempt new unit is an unaffected unit. Further, because the purpose of the exemption is to relieve clean, new units of permitting and other Acid Rain requirements, EPA continues to believe that exempt units should be excluded from applying to re-enter the Acid Rain Program as opt-in sources and the proposal contains such an exclusion.

Finally, as discussed above, EPA has already approved a number of written exemptions for new units under the current rule. Since the proposal provides more flexible requirements for qualifying for and maintaining the exemption (e.g., more flexible sulfur content requirements and no renewal requirement), the units with written exemptions also qualify for the automatic exemption under today's proposal. The proposal makes this clear by including, as one category of units that qualify for the automatic exemption, those new units that have already been granted written exemptions. EPA sees no reason for denying already exempt units the flexibility and streamlining benefits of the proposal and also sees no purpose to retaining permanently two different types of new units exemptions. Consequently, the proposal provides that already exempt units must meet the requirements for maintaining an automatic exemption, in lieu of the requirements contained in the current rule.

However, while the current rule requires exempt units to surrender any allowances allocated to the units under § 73.10 for years for which the units are exempt, the written exemptions already granted did not extend beyond 5 years. The already exempt units have not yet surrendered Phase II allowances and, under the current rule, will have to do so when the exemption is renewed. In extending automatically these exemptions and removing the need for renewal, the proposal requires those exempt units with allocated allowances to surrender such allowances and the proceeds from EPA's auctioning of such allowances.

3. Retired Units Exemption

While retaining the basic criteria in the current rule for qualifying for the retired units exemption, EPA proposes to streamline the procedures for obtaining and maintaining the exemption. In addition, EPA proposes to clarify what Acid Rain requirements are covered by the exemption.

The current rule requires largely the same procedures for the retired units exemption as for the new units exemption: submission of a petition, issuance of a written exemption subject to public notice and comment, and submission of a renewal petition every 5 years. EPA has approved about 155 retired units exemptions under these procedures without receiving any public comments on them. Since the purpose of the exemption is to reduce the burden on the owners and operators of retired units and the permitting authorities, EPA believes that, as in the case of new units exemptions, the procedures for retired units exemptions can be made less burdensome.

The proposal takes essentially the same approach in setting revised procedures for both new units and retired units exemptions. The proposed retired units exemption is automatic so long as the unit meets the criteria for the exemption: i.e., that the unit is permanently retired and does not emit any SO_2 or NO_x starting on the effective date of the exemption. Units that retire are not, of course, necessarily small and, since they probably have been participating in the Acid Rain Program until retirement, probably have designated representatives. Under the proposal, the designated representative of each exempt unit must submit to EPA and the State permitting authority a statement that the unit meets, and will continue to meet, the exemption requirements. EPA anticipates providing a standard form for the designated representative of an exempt unit to submit the appropriate information. Units already granted retired units exemptions also qualify for the automatic exemption and will make no additional submissions. As under the current rule, exempt retired units retain their allocated allowances since, even without the exemption, they would have no SO_2 emissions and would not use any allowances. An exempt unit's Allowance Tracking System account is subject to the requirements for general accounts under part 73. The owners and operators of the unit must retain at the source records demonstrating that the unit qualifies for the exemption. The exemption terminates automatically if the unit resumes operation and emits any SO_2 or NO_x.

EPA is also proposing to modify the current rule to clarify what Acid Rain requirements are covered by the exemption. Currently § 72.8 of the regulations exempts retired units only from the requirements of part 72. Section 75.67(a) currently provides that units that retire before January 1, 1995 and for which a petition for a retired units exemption is submitted prior to monitor certification deadlines may also obtain an exemption from the monitoring requirements of part 75. The Agency maintains that any unit that retires should be automatically exempt, starting in the first full year of

[4] In order to ensure that owners and operators understand this, today's proposal states this expressly. The proposed rule also provides that a permitting authority may use the administrative amendment procedures under § 72.83 to add to the permit an exemption under § 72.7, 72.8, or 72.14.

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retirement, from both the Phase II permitting requirements of part 72 and the monitoring requirements of part 75 so long as the unit remains retired. If the unit has no emissions, there is nothing to monitor. The proposal removes § 75.67(a) and adds the monitoring exemption to § 72.8.

However, as noted above, retired units may still receive allowance allocations. Such units must remain subject to subpart B of part 73, which governs allowance allocations. Reflecting these considerations, the proposal exempts retired units from all Acid Rain Program requirements except for the provisions of §§ 72.2 through 72.6, § 72.8, §§ 72.10 through 72.13, and subpart B of part 73. Moreover, retired units that, but for the exemption under § 72.7, would be Phase I units, must still comply with the requirements concerning Phase I Acid Rain permits and reduced utilization of such units during Phase I.[5] The purpose of the retired units exemption is to exempt the units from Phase II permitting, not to allow them to avoid requirements implementing statutory permitting and reduced utilization provisions. In fact, the retired unit exemptions issued by EPA under the current § 72.8 state expressly that they apply to Phase II (as distinguished from Phase I) permitting requirements. In order to clarify that reduced utilization requirements apply to units with retired unit exemptions, the proposal states that the units must submit annual compliance certification reports that include the accounting for reduced utilization and are subject to end-of-year allowance deduction procedures for Phase I years.

For the same reasons as under the proposed new units exemption, EPA proposes that units under the retired units exemption be unaffected units and that they be excluded from becoming opt-in sources. Similarly, retired units already granted written exemptions will be covered by the automatic exemption and must comply with the requirements for maintaining such an exemption.

4. Industrial Units Exemption

The purpose of title IV is to reduce the adverse impacts of acid deposition through reductions of SO_2 and NO_x emissions. Congress addressed SO_2 emissions of both "utility units" and "industrial sources." While "utility units" are generally required (starting in Phase I, if the unit is listed in Table A of section 404 or is otherwise a Phase I unit, or Phase II) to meet SO_2 emissions limitations and to hold allowances to cover their SO_2 emissions, "industrial sources" are not specifically required to limit emissions or hold allowances. Instead, section 406 of the Clean Air Act Amendments of 1990 required the Administrator to prepare and submit to Congress a report that inventories national annual SO_2 emissions from industrial sources. Whenever the inventory indicates that such emissions "may reasonably be expected to exceed 5.6 million tons per year," the Administrator must "take such actions under the Clean Air Act as may be appropriate to ensure that such emissions do not exceed" the 5.6 million ton cap. 42 U.S.C. 7656. These actions may include promulgation of standards of performance for new or existing sources.

The statutory definitions of "utility unit" and "industrial source" draw the line between facilities (utility units) that are subject to the requirement to hold allowances by no later than January 1, 2000 and industrial sources that are not, but could be, made subject to unspecified requirements if the industrial source cap is exceeded. However, "utility unit" is broadly defined in section 402 of the Act to encompass units owned by companies that are generally not treated as full-fledged public utilities by State and federal utility regulatory authorities.

Generally, for purposes of State utility regulation, a public utility is an entity that owns or operates facilities whose product or service is dedicated to public use. Typically, the company must devote its facilities to serve the general public or a portion of the general public, not simply selected contract customers.[6] In contrast, under section 201(e) of the Federal Power Act, any persons that sell electricity that is in turn resold are "public utilities" and are subject to regulation of their sales rates and other matters by the Federal Energy Regulatory Commission (FERC). While holding that industrial companies that sell utilities incidental amounts of electricity from non-cogeneration units are themselves public utilities, FERC has imposed less burdensome regulatory requirements on such industrial sellers. For example, rate schedules for sales by these industrial sellers must be filed with FERC but the rates are not required to meet traditional cost-of-service standards, under which a rate must be based on the seller's costs (including return on capital) of providing the electricity. *See, e.g., Ford Motor Co. and Rouge Steel Co.*, 50 FERC para. 61,426 (1990), *modified on reh'g*, 50 FERC para. 61,025; *Cliffs Electric Service Co.*, 32 FERC para. 61,372 at 61,833 (1985); *Orange & Rockland Utilities*, 42 FERC para. 61,012 (1988); *St. Joe Minerals Corp.*, 21 FERC para. 61,323 (1982), *modified on rehg.*, 22 FERC 61,211 (1983).

Under section 402 of the Clean Air Act, a utility unit is "a unit that serves a generator in any State that produces electricity for sale," regardless of the amount of the sale relative to total generation by the unit or generator or whether the sale is to the general public or to a public utility for resale to the public. 42 U.S.C. 7651a(17)(A). Consequently, entities (such as independent power producers, small power producers, and cogenerators) that sell electricity to a public utility are affected units unless they qualify for an exemption under other provisions of title IV. Section 402(17)(C) establishes an exemption for units cogenerating steam and electricity: a cogeneration unit is not a "utility unit" unless

> the unit is constructed for the purpose of supplying, or commences construction after [November 15, 1990] and supplies, more than one-third of its potential electric output capacity and more than 25 megawatts electrical output to any utility power distribution system for sale. 42 U.S.C. 7651a(17)(C).

In addition, section 405(g)(6) establishes an exemption for "qualifing small power production facilities", "qualifying cogeneration facilities", and "new independent power producers". 42 U.S.C. 7651d(g)(6). Such entities (which are defined in sections 405(g)(6) and 416(a)(2)) that had a committment—through a power sales agreement, a order of a State regulatory authority, a letter of intent, or selection as a winning bidder in a competitive bid

[5] The definition of "Phase I unit" in § 72.2 is revised to make it clear that units that, but for a retired units exemption, would be subject to an Acid Rain emission reduction requirement or limitation continue to be treated as Phase I units.

[6] *See, e.g., Arkansas-Louisiana Electric Cooperative* v. *Arkansas Public Service Comm'n*, 194 S.W.2d 673, 678 (S.Ct. Arka. 1946); *Richfield Oil* v. *Public Utilities Comm'n of California*, 354 P.2d 4, 10–11 and 16 (S.Ct. Cal. 1960); Colorado Utilities v. *Public Service Comm'n*, 61 P.2d 849, 854–55 (S.Ct. Colo. 1936); *Mississippi River Fuel* v. *Illinois Commerce Comm'n*, 116 N.E.2d 394, 399 (S.Ct. Ill. 1953); *City of Saint Louis* v. *Mississippi River Fuel*, 97 F.2d 726, 729–30 (8th Cir. 1938); *Llano* v. *Southern Union Gas*, 399 P.2d 646, 653 (S. Ct. N.Mex. 1964); *Ambridge* v. *Public Sevice Comm'n of Pennsylvania*, 165 A. 47, 49 (S. Ct. Penn. 1933); *Humble Oil and Refining* v. *Railroad Comm'n of Texas*, 128 S.W.2d 9, 13 (S.Ct. Tex. 1939); *Valcour* v. *Morrisville*, 184 A. 881, 885 (S. Ct. Ver. 1936); *Inland Empire Rural Electrification* v. *Dept. of Public Service of Washington*, 92 P.2d 258, 262–63 (S.Ct. Wash. 1939); *Wilhite* v. *Public Utilities Comm'n of West Virginia*, 149 S.E.2d 273, 281 (S.Ct W. Wir. 1966); and *Union Falls Power* v. *Oconto Falls*, 265 N.W. 722, 723 (S.Ct. Wisc. 1936) (cases holding that company that serve public, not just selected customers, is public utility). *But see Southern Oklahoma Power* v. *Corporation Comm'n*, 220 P. 370, 371 (S.Ct. Okla. 1923) (holding that generating company the only customer of which is a public utility is itself a public utility).

solilcitation—as of November 15, 1990 to sell power are not affected units. There are no such exceptions for industrial units that do not fall within the exempt categories of units under these sections.

As a result, the requirements of title IV cover non-cogeneration industrial units serving generators that produce electricity almost exclusively for use by an industrial company and only incidentally for sale to a public utility. In one such case, three units and three generators (with a total nameplate capacity of about 190 MWe) are owned and operated solely by the industrial company. Under the interconnection agreement with a public utility and a related power purchase agreement, the public utility provides additional electricity, through backup and emergency service, for use by the industrial company. The industrial company is in turn obligated to sell some electricity on a backup and emergency basis to the public utility and, starting in 1984, has made such sales, which have been less than 10 percent of total annual generation. The industrial company obtains backup for its capacity, and the public utility avoids constructing some additional capacity. Because these industrial units make limited electricity sales only to the public utility, the company is apparently not regulated by the State utility regulatory authority and is subject to relatively light-handed FERC regulation. EPA has received public comment suggesting that the units be exempt from the Acid Rain Program.

In order to determine the scope of the issue, EPA attempted to estimate the number of units that might be covered by such an exemption for industrial units. About 3,400 industrial combustion sources are included in the 1990 Interim Inventory (a database based on the 1985 NAPAP inventory with emissions projections for 1995). EPA removed, from this group of possibly affected industrial units, those industrial units thought to be: self-generators consuming rather than selling their generation; cogenerators exempt under section 402(17)(C); or units exempt under section 402(b) because they were serving only generators with a nameplate capacity of 25 MWe or less. EPA estimated that about 140 remaining industrial units possibly may be affected units under title IV. Based on discussions with industry representatives and on review of the electric rate schedules filed at FERC for electricity sellers that are not traditional utilities, EPA concludes that most of these remaining industrial units are not selling any electricity and that there are about 15 industrial units that sell some electricity and so are affected units under the current Acid Rain rules. *See Report to Docket: Industrial Units.*

Even if electricity sales to a public utility make up a very small portion of the total amount of electricity produced by an industrial unit and associated generator, the Acid Rain Program imposes allowance requirements relating to all SO_2 emissions from the unit. In such a case, no distinction is made between emissions associated with the small amount of electricity sales and emissions associated with the vast majority of electricity used by the industrial company itself. An affected industrial unit must hold allowances, as of the allowance transfer deadline, that cover all of the unit's SO_2 emissions during the year. 40 CFR 72.9(c)(1)(i). Similarly, any NO_x emission limitation applicable to the industrial unit covers all NO_x emissions from the unit. *See, e.g.*, 40 CFR 76.5, 76.6, and 76.7.

The cost to some industrial companies of holding sufficient allowances may be exacerbated by the fact that, even though certain existing industrial units could have qualified for allowance allocations for Phase II under section 405 of the Act, none were allocated any allowances. *See* 40 U.S.C. 73.10 (Tables 2 and 3, which do not include any such units). Information on such units was not included in the National Allowance Data Base (NADB), which was used to develop allowance allocations. However, based on information compiled by the Department of Energy on electric generators owned by nonutility electric power producers, EPA developed and published the Adjunct Data File, which listed units owned by "nontraditional" utilities. 57 FR 30034, 30040 (July 7, 1992). EPA noted that the listed facilities potentially could be affected units, but that it did not have sufficient information to make an applicabililty determination or to allocate allowances to those that were affected units. Consequently, in publishing the file, EPA requested owners or operators of units that were then or might, in the future, become affected units to provide EPA the data elements necessary for allocating allowances. In addition, EPA gave notice that if the data was not provided by September 8, 1992, the units involved would not be allocated any allowances and, to the extent allowances were needed, would have to obtain them on the open market. *Id.* A number of industrial companies submitted comments on the Adjunct Data File, each arguing that their units were not affected units.

On March 23, 1993, EPA issued a notice stating that (with a few exceptions not relevant here) that it "believes" that none of the units in the Adjunct Data File were affected units. 58 FR 15720, 15727 (March 23, 1993). No allowances were allocated to industrial units in the Adjunct Data File (including some units identified in *Report to Docket: Industrial Units* as potentially covered by the proposed industrial unit exemption) or to any other industrial units. However, EPA stressed that the omission of a unit from the tables indicating allowance allocations does not mean that the unit is an unaffected unit: "[a]pplicability will be determined under the (Acid Rain) rules in 40 CFR 72.6." *Id.*

In addition to being required to hold allowances covering all SO_2 emissions and to meet any applicable NO_x emission limitation, an affected industrial unit, like all affected units, must install, operate, and maintain continuous emission monitoring systems for all SO_2, NO_x, and CO_2 emissions and for opacity. After EPA approves certification of the systems, they must be tested periodically to ensure that the monitoring data is accurate. Further, monitoring data (including hourly emissions data) must be reported to EPA on a quarterly basis. The average cost per unit of acquisition, installation, operation, and maintenance of a continuous emission monitoring system (including data handling hardware) is estimated to be about $90,600 (in 1993 dollars). *Economic Analysis of the Title IV Requirements of the 1990 Clean Air Act Amendments* at 34 (ICF Resources Inc. 1995) (estimating total annualized emission monitoring costs under title IV of $200 million for 2,096 units during the period 1997–2010).

The costs of the Acid Rain Program are more likely to be a problem for industrial companies than for public utilities, which in general have greater ability to pass through to customers the costs of acquiring allowances. First, public utilities generally are subject to cost of service ratemaking and charge rates covering their costs of service. Second, virtually all fossil fuel-fired utility generation is covered by the Acid Rain Program. In contrast, the prices charged by industrial companies for their industrial products are generally limited by competitive market prices and relatively few industrial units are covered by the program. Particularly if one industrial company, but not its competitors, must meet the costs of the Acid Rain Program as applied to its units, market prices will not necessarily cover all such costs. EPA notes that in

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section 405(g)(6)(A) cogeneration units that, as of November 15, 1990, had already contracted or otherwise committed to sell electricity to a public utility were exempted from the Acid Rain Program because of their limited ability to pass through allowance costs to customers. 58 FR 15634, 15638 (March 23, 1993); *see also* Cong. Rec. S3027–28 (March 22, 1990).

In short, as a result of a very small portion of its operations (i.e., incidental electricity sales to public utilities under existing interconnection and power purchase agreements), a non-cogeneration industrial unit may be subject to allowance and monitoring requirements affecting all of its electric generation activities and imposing significant costs.[7] Further, once the industrial unit has begun making any such incidental electricity sales, the unit becomes an affected utility unit permanently subject to all the requirements of the Acid Rain Program. In the absence of an exemption, such a unit is an affected utility unit if, during 1985, it served a generator that produced electricity sold to a public utility or if, at any time thereafter, the unit serves such a generator. *See* 42 U.S.C. 7651a(17)(A). The unit remains an affected utility unit even if the industrial company subsequently terminates its interconnection agreement with and stops selling electricity to the public utility.

EPA is concerned that, because of an incidental portion of the operations of a non-cogeneration industrial unit, an industrial company will be burdened with significant regulatory requirements and resulting costs that were unanticipated when the incidental electricity sales were made and that are unavoidable in that they remain even if the incidental sales are now terminated. However, this concern applies only where (1) the industrial units are not cogeneration units; (2) these units serve generators that were contractually obligated to make incidental sales under an interconnection agreement (and any related power purchase agreement) and have made only incidential electricity sales; and (3) this contractual obligation was effective on or before March 23, 1993. This new exemption is not necessary for cogeneration units since Congress already provided an exemption for cogeneration units based on the amount of utility sales. Moreover, non-cogeneration industrial units making more than incidental electricity sales should be affected units since, in title IV, Congress generally applied the Acid Rain Program to units serving generators that sell electricity.

The basis for limiting the exemption to units under a contractual obligation as of March 23, 1993 is related to the Agency's handling of allowance allocations for industrial units. After November 15, 1990, industrial units' owners were on constructive notice that if they contractually obligated themselves to sell electricity, they would be subject to title IV requirements. However, as noted above, on March 23, 1993 EPA issued a notice stating that it believed that the industrial units listed in the Adjunct Data File (a list of units owned by "nontraditional utilities") were unaffected units. 58 FR 15727. The notice did not explain the basis for this "belief", which appears to have been erroneous with regard to at least some of the listed noncogeneration industrial units. As a result, EPA did not add the industrial units to the allowance allocation tables and did not allocate any allowances to these units. *Id.* Also on March 23, 1993, EPA issued a final list of the Phase II allowance allocations under section 403(a) of the Act.[8] 58 FR 15634 (March 23, 1993). As discussed below, EPA is today correcting certain Agency errors in the March 23, 1993 allocations. However, except for these limited corrections, EPA will not allocate allowances to units that were not listed as receiving allowance allocations in the March 23, 1993 notice and that become affected units after that date. 58 FR 15641. Consequently, if, after March 23, 1993, a non-cogeneration industrial unit becomes contractually obligated to sell electricity to a utility and, by making the sales, becomes an affected unit, the unit will not be allocated allowances. Non-generation industrial units that were contractually obligated on or before March 23, 1993 and were affected units probably should have been, but were not, allocated allowances. Therefore, EPA proposes to apply the new exemption to non-cogeneration industrial units that were contractually obligated as of March 23, 1993.

Under this approach, the non-cogeneration industrial units that meet the exemption criteria and are issued an exemption may continue to serve generators making incidential, contractually required electricity sales and remain exempt. However, if the units serve generators that make sales after the contractual obligation is no longer in effect or to make sales beyond the contractual obligation, the units will become affected units under the Acid Rain Program.

Exempting non-cogeneration industrial units will exempt their SO_2 emissions from the requirement to hold allowances and thus from the 8.95 million ton cap in Phase II for utility units. The total estimated annual SO_2 emissions from exempt industrial units are relatively small: about 47,000 tons. *Report to Docket: Industrial Units.* The environmental impact of removing these units from the utility unit cap is mitigated by the fact that emissions from the exempt industrial units are still subject to the 5.6 million ton cap for industrial sources. As discussed above, the Administrator is required to take action under section 406 of the Clean Air Act Amendments of 1990 to ensure that the industrial source cap is not exceeded.

The industrial units exemption will also exempt these units from Acid Rain NO_X emissions limitations to the extent that the units have coal-fired boilers of the types covered in Phase II. Again, the total estimated annual NO_X emissions from exempt units is relatively small: about 19,000 tons. *Id.* In April 1995 EPA promulgated NO_X emission limitations for dry bottom wall-fired or tangentially fired boilers. 60 FR 18751, 18763 (April 13, 1995). In January 1996, EPA proposed to revise these limitations and establish new limitations for most other types of existing coal-fired boilers. 61 FR 1442, 1480 (January 19, 1996).

For these reasons, EPA proposes to establish a narrow exemption for non-cogeneration industrial units, i.e., non-cogeneration units that have no owner or operator of which the principal business is electricity sale, transmission, or distribution or that is a public utility subject to State or local utility regulation. In determining whether this requirement is met, any affiliate or subsidiary or parent company of an owner or operator will be considered so that the requirement cannot be circumvented through the position of the owner or operator in a corporate structure. The exemption will apply where there is a showing that, on or before March 23, 1993, the owners or operators of the unit entered into an interconnection agreement (and any related power purchase agreement) with a public utility requiring that generators served by the unit produce electricity for sale only for incidental sales of electricity to a public utility. There also must be a showing that the unit served generators that, in 1985 and any year thereafter, actually produced electricity

[7] The Acid Rain Program also requires the owners and operators of affected industrial units to select a designated representative and obtain an Acid Rain permit covering the units. While these requirements impose some costs, the costs are relatively small.

[8] Section 403(a) required the final list of allowance allocations to be published by December 31, 1992, but the final list was issued late.

for sale only for incidental electricity sales to a public utility as required under that interconnection agreement and any related power purchase agreement. If any of the requirements of the exemption are not met, the exemption terminates automatically.

Two aspects of the proposed exemption ensure that it is limited to situations involving only incidental electricity sales. First, the sales must be required under an interconnection agreement (and any related power purchase agreement) between the owners or operators of the industrial unit and the public utility to which the electricity sales are made. The fact that the sales are made in connection with the agreement through which the industrial company obtains electricity for its own use from the public utility indicates that the sales are incidental to the industrial company's business. Second, the sales to the public utility must not exceed, in any calendar year, the lesser of 10 percent of the generating output capacity of the generator served by the unit (which is the nameplate capacity of the generator times the number of hours (8,760) in a year) for that year or 10 percent of the actual annual electric output of the generator. EPA believes that these limits on the amount of annual sales are reasonable and will help ensure that the unit's electricity sales are truly incidental. Applying these limits to a hypothetical industrial unit serving a generator with nameplate capacity of 75 MWe, the generator output capacity is 657,000 MWe-hr. Assuming that the generator's actual annual electrical output is 300,000 MWe-hr, this unit can sell up to 30,000 MWe-hr and qualify for an industrial unit exemption under this proposal.

Because of EPA's lack of experience with this proposed exemption and because applying the exemption criteria to specific cases may require analysis and exercise of administrative judgment and may benefit from public comment, EPA proposes to require submission of an application for an exemption and provide for public notice and comment before approving or disapproving the exemption for any industrial unit. The designated representative of an industrial unit must submit an application that provides the information necessary to rule on the exemption. Using the procedures applicable to permit issuance, the permitting authority will issue a draft exemption or denial of exemption for public comment and then issue or deny a final exemption (or proposed exemption if a State is the permitting authority). An industrial unit with an approved exemption will become an unaffected unit and will be exempt from the provisions of the Acid Rain Program, except for the provisions of § 72.14 (the new section providing for and setting conditions on the exemption), §§ 72.2 through 72.6, §§ 72.10 through 72.13. Like other exempt units, an exempt industrial unit cannot become an opt-in source. The exemption need not be renewed and is effective so long as the unit meets the requirements, discussed above, for maintaining the exemption.

EPA requests comment on all aspects of the proposed industrial unit exemption.

II. Part 72: Interaction of Acid Rain Permitting and Title V

Section 408 of the Act requires that title IV be implemented by "permits issued to units subject to this title (and enforced) in accordance with the provisions of title V, as modified by (title IV) . . . No permit shall be issued that is inconsistent with the requirements of (title IV), and title V as applicable." 42 U.S.C. 7651g(a).

Title V, in turn, sets forth requirements for permit programs to be implemented by State and local air pollution control agencies. Under title V, it is unlawful to operate an affected source in the Acid Rain Program or other specified sources "except in compliance with a permit issued by a permitting authority under (title V)." 42 U.S.C. 7652b(a). The permit must include enforceable emission limitations and standards and other conditions "as are necessary to ensure compliance with applicable requirements of (the Act)." 42 U.S.C. 7652d(a). Title V states that its provisions "apply to permits implementing the requirements of title IV except as modified by that title." 42 U.S.C. 7652f(b).

EPA proposes to revise the current regulations governing the interaction of titles IV and V with regard to several matters: the provisions explaining the relationship between the Acid Rain rules and rules implementing title V (i.e., parts 70 and 71); establishment of State authority to administer and enforce Acid Rain permits; and the required elements of a State Acid Rain program.

A. Relationship Between Acid Rain Rules and Parts 70 and 71

The current part 72 states that parts 72 and 78 take precedence over part 70 (which governs title V permitting) to the extent that any requirements of parts 72 and 78 are "inconsistent with" part 70. 40 CFR 72.70(b). The current rules also state that part 72 governs Acid Rain permitting by the Administrator but do not specifically address the rules (i.e., part 71) for permitting by the Administrator under title V since part 71 had not been issued when the current part 72 was issued. *See* 40 CFR 72.60(a). As noted above, both titles IV and V establish the precedence of the Acid Rain regulations over title V regulations for purposes of administering Acid Rain permits. Since the issuance of the current part 72 in January 1993, additional Acid Rain regulations relating to permit administration (i.e., part 74 for opt-in sources and part 76 for NO_x emissions) have been promulgated. In addition, part 71, setting forth permitting procedures for the Administrator under title V, has been proposed and then issued as a final rule. 61 FR 34202 (July 1, 1996).

EPA proposes today to revise the current provisions addressing the relationship between Acid Rain and title V rules to reflect the additional rulemaking activity. The revisions also clarify what constitutes an "inconsistency" between the two sets of regulations and the circumstances under which the Acid Rain rules take precedence. With regard to State permitting activities, the proposal states in § 72.70(b) that parts 72, 74, 76, and 78 take precedence to the extent that such parts "contain provisions not included in, or expressly eliminate or replace provisions of, part 70 concerning the acid rain permit application and the Acid Rain portion of an operating permit."[9]

An analogous provision is proposed in § 72.60(a) with regard to permitting by the Administrator. In addition, the proposal explains that the Acid Rain requirements concerning permit applications, compliance plans, permit content and permit shield, permit processing and issuance, permit revision, and administrative appeals replace the provisions in part 71 with regard to Acid Rain permit applications and permits. The provision also states that the part 71 provisions concerning Indian tribes, delegation of a part 71 program, affected State review of draft permits, and public petitions to reopen a permit for cause are not eliminated or replaced by the Acid Rain provisions and so apply to the Acid Rain Program.

[9] Language in the current § 72.70(b) concerning petitions for exemption and draft, proposed, and final written exemptions is removed because it is redundant. The requirements for exemptions are already included in part 72.

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B. State Authority To Administer and Enforce Acid Rain Permits

The current rule provides that if a State or local agency receives full, interim, or partial approval of an operating permits program under title V by July 1, 1996, that agency becomes the permitting authority for the issuance of Phase II Acid Rain permits. *See* 40 CFR 72.73(a). (Under the Acid Rain Program, the term "State" is defined to include the 48 contiguous States, the District of Columbia, and local authorities; henceforth in this preamble, "State" will be used with that meaning.) [10] The State permitting authority must issue Phase II Acid Rain permits by December 31, 1997. If the State operating permits program is not approved by July 1, 1996, the Administrator is the permitting authority for Phase II Acid Rain permits and must issue them by January 1, 1998. After a State operating permits program is approved, the Administrator will suspend issuance of Acid Rain permits. *See* 40 CFR 72.74.

EPA has found that this approach should be modified. Some States have submitted, and EPA has granted interim or full approval of, operating permits programs that do not include all necessary Acid Rain provisions. State permitting authorities that have approval but lack a full Acid Rain program are not in a position to process, issue, and otherwise administer properly Acid Rain permits. Further, some States have indicated that they want to adopt some portions of the Acid Rain Program (e.g., the permitting requirements for sources with Phase I and Phase II units) [11] but not other portions of the program (e.g., permitting requirements for opt-in sources).

Consequently, EPA proposes to revise the current rule to reflect the variety of circumstances concerning State adoption of Acid Rain programs. Under the proposal, a State becomes responsible for administering and enforcing Acid Rain permits for affected sources if it has both an operating permits program approved under part 70 *and* Acid Rain regulations that are accepted by the Administrator through a notice in the **Federal Register** that cover the sources. (The term "administer" includes all aspects of processing a permit, e.g., issuance, renewal, and revision.) Until these requirements are met, the Administrator will be the permitting authority for purposes of issuing Acid Rain permits (or the Acid Rain portion of operating permits) for the sources.

Section 408(d) of the Act requires that Phase II Acid Rain permits be issued for sources with Phase I and Phase II units by December 31, 1997 if a State is the permitting authority. In order to allow sufficient time for a State to meet this statutory deadline, the proposal states that a State must have an approved operating permits program (whether full or interim approval) and accepted Acid Rain regulations by January 1, 1997 or such later date as the Administrator may set (rather than a fixed date of July 1, 1996, as in the current rule) if the State is to be the permitting authority for the initial Phase II Acid Rain permits. Otherwise, the Administrator will be responsible for issuing such permits. EPA has already issued notices identifying the status of State permitting authorities' acid rain regulations. *See, e.g.*, 60 FR 16127 (March 29, 1995); 60 FR 52911 (October 11, 1995); and 60 FR 62846 (December 7, 1995).

If EPA is issuing permits and, after January 1, 1997, the State meets the requirements to become the permitting authority for Acid Rain permits, the Administrator will cease issuing Phase II Acid Rain permits to sources in that State. However, the Administrator will continue to administer and enforce those Acid Rain permits that he or she has already issued until the permits are replaced by State-issued Acid Rain permits. The State may issue replacement permits on or before the expiration date of the EPA-issued permits. Further, the Administrator may retain jurisdiction over the EPA-issued permits until any administrative or judicial appeals of them are completed.

The proposal also provides flexibility where a State has proposed a partial Acid Rain program, e.g., where the proposed program covers permitting of Phase I and Phase II units but not opt-in sources. In that circumstance, the Administrator may accept the State Acid Rain regulations, issue a notice stating that the State is the permitting authority for Phase I and Phase II units, and retain the authority to issue permits for opt-in sources.

If a State has become the Acid Rain permitting authority but the Administrator determines that the State is not adequately administering or enforcing the State Acid Rain program, the proposal sets forth a procedure for withdrawal of that program and for administration and enforcement by the Administrator. The procedure is modeled after, but not identical to, the analogous procedures under parts 70 and 71. Because the Acid Rain Program relies on a nationwide, market-based system of allowances to achieve cost-effective SO2 emissions reductions, it is particularly important that Acid Rain requirements be implemented in a uniform manner by permitting authorities throughout the U.S. In order to provide the Administrator the flexibility to respond in a timely fashion where Acid Rain requirements are not being properly implemented, the proposal does not fix the time frames by which a State must address deficiencies in its program or by which EPA becomes the permitting authority. The proposal leaves it to the Administrator to set these time frames based on the specific circumstances.

The proposal also includes a provision under which the Administrator may delegate to a State all or part of his or her responsibility to administer and enforce Phase II Acid Rain permits. If a State does not meet the requirements for acting as the Acid Rain permitting authority (e.g., does not yet have Acid Rain regulations accepted by EPA), the Administrator may delegate to the State the administration and enforcement of Phase II Acid Rain permits using regulations established by the Administrator. This approach is analogous to the approach in part 71.[12]

Further, the current rule does not expressly address the question of whether the provisions of Phase I or Phase II Acid Rain permits issued by the Administrator constitute "applicable requirements" under part 70. It may be argued that under title V the provisions of federally issued Acid Rain permits are "applicable requirements" under part 70 and therefore must be included in State-issued operating permits. In

[10] In the proposal, EPA is expanding the definition of "State" to include eligible Indian tribes in order to be consistent with the treatment of Indian tribes that has been proposed for parts 70 and 71. *See* 59 FR 43956 (August 25, 1994) (proposed regulations implementing section 301(d) of the Act), 60 FR 45530 (August 31, 1995) (proposed revisions to part 70), 60 FR 20804 (April 27, 1995) (proposed part 71), and 61 FR 34213–4 (final part 71). To ensure that the approach taken to Indian tribes under part 72 is consistent with the approach that is ultimately adopted under parts 70 and 71, today's proposal provides that "eligible Indian tribe" be defined as in part 71. EPA's proposals concerning the treatment of Indian Tribes were issued subject to public comment and may be modified before they are issued in final form. EPA may need to make conforming changes to today's proposal to reflect any relevant revisions made to those proposals.

[11] Phase I units are subject to Acid Rain emissions reduction requirements or emissions limitations starting in Phase I. Phase II units are subject starting in Phase II. While only Phase I units must have Acid Rain permits for Phase I, both Phase I and Phase II units must have permits for Phase II. Section 72.31 is revised to clarify that Phase II permit applications must cover all affected units at the source.

[12] The definition of "permitting authority" in § 72.2 is revised to include a State permitting authority to which authority to administer and enforce Acid Rain permits is delegated.

that case, a State would have to formally incorporate, in each operating permit for an affected source, any federally issued Acid Rain permit.

However, title IV, which supersedes title V in Acid Rain matters, requires all Phase I Acid Rain permits to be issued by the Administrator. There is little purpose in requiring States to duplicate Phase I permits in their operating permits. Moreover, any revisions of federal Phase I permits would have to be repeated for any State operating permits that included Phase I provisions. With regard to federally issued Phase II Acid Rain permits, the proposal explicitly requires that States replace the federal permit with a State-issued Acid Rain permit by the end of the five-year effective period of the federal permit. It is unnecessarily burdensome to require State incorporation of the federal permit in the operating permit prior to the federal permit's expiration. To incorporate the federal permit, the State must essentially repeat the notice and comment process that was used to issue the federal permit in the first place. Consequently, the proposal states that the provisions of federally issued Phase I or Phase II Acid Rain permits shall not be "applicable requirements" for purposes of part 70.

Finally, the current § 72.73(b)(2) requires State permitting authorities to reopen Phase II Acid Rain permits by January 1, 1999 "to add" Acid Rain NO_X requirements. It is unclear whether this language requires the reopening process to be completed or simply to begin by that date. Under part 76, Phase II NO_X compliance plans must be submitted to permitting authorities by January 1, 1998. It seems desirable to have a deadline (prior to Phase II) by which Acid Rain permits will include Phase II NO_X requirements. However, EPA is also concerned that State permitting authorities have sufficient time to process the permits. EPA therefore proposes to clarify in § 72.73(b)(2) that the reopening process and the addition of NO_X requirements must be completed by July 1, 1999.[13]

C. Required Elements for State Acid Rain Program

The current rule sets forth the criteria for approval of the Acid-Rain-related provisions of State operating permit programs. The basic approach is that the State Acid Rain program is required to comply with part 70 requirements and the additional Acid-Rain-specific requirements listed in § 72.72(b). Where the listed requirements are inconsistent with part 70 requirements, the listed requirements must be met in lieu of such part 70 requirements.

EPA has carefully re-examined the listed Acid-Rain-specific requirements with an eye to minimizing the differences between State Acid Rain permit procedures and other State operating permit procedures. EPA recognizes that the Acid Rain permits make up a relatively small portion of a full State operating permit program. Minimizing the number of unique Acid Rain requirements and reducing the number of different procedures that must be followed will reduce the burden on States and affected-source owners and operators. In addition, removal of Acid Rain requirements that duplicate provisions already in part 70 will streamline § 72.72 and reduce the potential for confusion as to whether something other than the part 70 provisions is required.

Upon re-examination of the listed requirements in § 72.72(b), EPA believes that the following requirements are unnecessary or redundant and proposes to eliminate or revise them in order to allow States to streamline their Acid Rain programs and permit administration:

1. The requirement that the State permitting authority submit to EPA any written notice of the completeness of a permit application and a copy of each draft permit imposes an unnecessary burden. Therefore, EPA proposes to remove the requirement. The permitting authority already must provide EPA copies of the application and the proposed permit under part 70, and that seems sufficient.

2. The requirement that the permitting authority include a statement of basis in the draft permit is redundant since that is already required under part 70. EPA therefore proposes to remove the provision.

3. The requirement that the permitting authority provide for public notice of the opportunity to comment and request a hearing is proposed to be revised to be less burdensome. First, based on its experience in processing Phase I Acid Rain permits, EPA maintains that, where a unit is required in a draft permit simply to comply with the standard SO_2 emissions limitation (i.e., the requirement to hold allowances covering emissions), there is little in the portion of the draft permit on which to comment. EPA believes that this is also the case to the extent a draft permit for a unit subject to Acid Rain NO_X requirements imposes only the standard NO_X emissions limitations under §§ 76.5, 76.6, or 76.7, a NO_X averaging plan, or a NO_X early election plan. There is little to comment on because the requirements for compliance in these circumstances are set forth in detail in the rule and there is little discretion involved in adopting such permit provisions. In contrast, other compliance options, such as Phase II repowering plans or NO_X alternative emission limitations, have more general requirements that must be crafted to fit the unique circumstances of the unit involved. Few, if any, comments were received on draft Phase I permits for units that were simply adopting the standard SO_2 or NO_X emissions limitations or NO_X averaging plans. The Agency also found that providing notice in a newspaper local to each source is a time consuming and expensive process. Consequently, if a draft permit or permit revision only requires units to meet the standard SO_2 or NO_X emissions limitations or a NO_X averaging plan, EPA proposes to give permitting authorities the discretion to give notice by serving a notice on the appropriate list of persons and omitting publication in a local newspaper or State publication.[14]

Second, the proposal explicitly provides that a State permitting authority may, in its discretion, use the so-called "direct final" procedure in order to meet the requirements for issuing draft permits, providing notice and comment, and issuing proposed permits. Under the "direct final" procedure (which has been used by EPA in rulemakings and other actions under the Clean Air Act)[15] the State permitting authority may issue, as a single document, a draft Acid Rain permit and a proposed Acid Rain permit and provide notice of the opportunity for public comment on the draft Acid Rain permit. In the notice the State permitting authority states that, if no significant, adverse comment on the draft Acid Rain permit is timely submitted, the proposed Acid Rain permit will be deemed to be issued on a specified date without further notice. The notice also states that, if such significant, adverse comment is timely submitted, a proposed Acid Rain permit or denial of a proposed Acid Rain permit will be issued and the comments addressed. This procedure streamlines the permitting process in cases where no adverse comment is anticipated. While EPA believes that the current rule

[13] A similar revision is proposed, in § 72.74(c)(2), where the Administrator is the permitting authority, except that reopening must be completed within 6 months of submission of a complete NO_X compliance plan.

[14] In addition, the specific references in the current rule to part 70 provisions stating what persons must be served notice are superfluous and so are eliminated.

[15] *See, e.g.*, 60 FR 18462 and 18472 (April 11, 1995).

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does not bar using this streamlined procedure, the proposed rule makes explicit the option to use the procedure.[16]

4. The requirements that the permitting authority submit a copy of the proposed permit for review by the Administrator and affected States and incorporate changes resolving objections to the proposed permit are redundant since part 70 already imposes these requirements. These provisions in § 72.72(b) are unique only to the extent that they specifically refer to issuance or denial of Acid Rain permits. EPA believes that such reference is unnecessary because the authority to deny a permit where basic requirements (e.g., meeting the applicability criteria for the Acid Rain Program) are not met is obvious. EPA does not see any reason for addressing the possibility of permit denials differently in part 72 than in part 70 and part 71.

5. The requirement that invalidation of the Acid Rain portion of the operating permit not affect the remaining provisions of the permit and vice versa is redundant. Part 70 already requires that invalidation of any operating permit provision not affect any other operating permit provisions.

6. The limitation on the filing of State administrative or judicial appeals of an Acid Rain permit to no more than 90 days from the issuance of the permit to be appealed makes appeals of Acid Rain provisions different from appeals of any other aspect of an operating permit. Under part 70, the availability of and procedures for administrative appeals are left entirely to the States; there are no mandated time limitations on filing such appeals. With regard to judicial appeals, part 70 provides that appeals may be filed after a fixed period (which may not exceed 90 days) if the appeal is based solely on grounds arising after the deadline. EPA has proposed to lengthen the maximum period under part 70 from 90 to 125 days. 59 FR 44460, 44516 (August 29, 1994). EPA sees no reason for treating appeals of Acid Rain provisions differently than appeals of other permit provisions and is concerned that the different appeal periods may engender confusion. Having different appeal periods could result in different parts of the same operating permit having different deadlines for filing appeals. The proposal eliminates the limitation on Acid Rain appeals.

[16] For the same reasons, the proposed rule includes an analogous provision in subpart F, which sets forth the Acid Rain permit issuance procedures when the Administrator is the permitting authority.

7. The requirement that a permitting authority give the Administrator notice of administrative or judicial orders relating to an Acid Rain permit is retained. The proposal removes language indicating that, after issuance of such an order, the Administrator will review and may veto the Acid Rain permit under the procedures for reviewing proposed permits under § 70.8. The language was intended to provide for EPA review where, for example, an Acid Rain permit that had already undergone EPA review under § 70.8 was then significantly altered on appeal. Upon reconsideration, EPA concludes that this approach in the current § 72.72 is confusing since it may put into question whether an ostensibly final permit becomes a proposed permit when there is a State determination (e.g., a State court order) modifying the permit. This approach is also unnecessary since the Administrator already has the authority to reopen permits for cause, which authority is available in the event of such a State determination or interpretation.[17]

8. The requirement that State administrative appeals not result in the stay of any provisions that could not be stayed under part 78 is proposed to be removed for several reasons. First, as discussed below (in section VII of this preamble), the provision on stays in part 78 is eliminated because, under current case law, a permit appealed under part 78 is not a final agency action, and cannot be implemented, pending the administrative appeal. Further, in reviewing State operating permit programs, EPA has found that States have a variety of administrative appeals processes. In many States the administrative appeal precedes the issuance of a final permit and so the stay provision in the current part 72 is meaningless. In addition, the provision bars stays of requirements in the permit (i.e., allowance allocations, the standard Acid Rain requirements, monitoring and reporting requirements, and the certificate of representation) that are imposed, under part 72 and other Acid Rain rules, independently from the permit. Even if a source has no permit, the source must meet these requirements. In short, the stay provision has little practical effect.

9. The requirements that State permitting authorities "coordinate" with utility regulatory authorities and evaluate the sufficiency of fees supporting the State acid rain program are proposed to be removed as unnecessary. The relationship between State agencies is best left to the States, and part 70 fully addresses issues concerning fees.

[17] For the same reasons, an analogous provision in § 72.80(e) is also removed.

In reconsidering the requirements for State operating permit programs, EPA has become aware of another issue concerning State programs. The current rule requires that a permitting authority issue, for each affected source, only one Acid Rain permit covering all affected units at that source. EPA received comment that, in a few cases, States have historically issued separate permits to units that are at the same source but that were constructed at different times. The States plan to continue separate permitting of the units under their operating permits programs. Rather than requiring State permitting authorities to restructure their permitting of such sources, EPA proposes to give permitting authorities the discretion to allow separate Acid Rain permit applications for, and thus to issue separate Acid Rain permits to, the units at the source. However, this provision does not change the designated-representative requirements for the units: all units at the source must still have the same designated representative and, if applicable, the same alternate designated representative.

A large number of State permitting authorities have already adopted Acid Rain regulations consistent with the current provisions of part 72. The most efficient and most frequently used method of State adoption of Acid Rain regulations has been incorporation of part 72 by reference. The part 72 rule changes proposed today are primarily aimed at streamlining Acid Rain permitting (whether EPA or the State is the permitting authority). EPA therefore anticipates that State permitting authorities will want to adopt the final revisions relatively soon after promulgation. However, EPA recognizes that revising State regulations, even when accomplished through incorporation by reference of the revised part 72, can be a time consuming process. Moreover, State permitting authorities are required to issue initial Phase II Acid Rain permits by December 31, 1997. None of today's proposed revisions are so fundamental that a State permitting authority with Acid Rain regulations consistent with the current part 72 should not start or even complete the process of issuing the Phase II permits before revising its Acid Rain regulations to conform to today's revisions. In order to ensure that States have both sufficient authority to issue Phase II permits and sufficient time to revise their Acid Rain regulations, EPA will continue to accept State Acid Rain

rules that conform with the current part 72 until 2 years after the date on which the final revisions are promulgated. Starting on the date 2 years after the promulgation of the final revisions, EPA expects all State Acid Rain regulations to incorporate the revisions.

EPA notes that many States have not added to their Acid Rain rules the provisions of part 74 (opt-in program) and part 76 (NOx compliance plans and emissions limitations), which were issued relatively recently in April 1995. Further, EPA has proposed additional part 76 provisions setting Phase II NOx emissions limitations and expects to issue final provisions by January 1, 1997. States may want to consider coordinating adoption of the final revisions based on today's proposal with adoption of the provisions of parts 74 and 76.

III. Part 72: Miscellaneous Permitting Matters

In addition to the revisions discussed above, EPA proposes a number of revisions of sections of part 72 concerning matters such as designated representatives, compliance plans, federal procedures for permit issuance and revision, and confirmation reports on verified savings from energy conservation and increased unit efficiency measures. The primary purpose of these proposed changes is to streamline the Acid Rain rules and reduce the administrative burden on owners and operators of affected units.

A. Definitions

In addition to the definition revisions discussed elsewhere in this notice, the Agency proposes the following revisions.

The definition of "Acid Rain emissions limitation," for purposes of sulfur dioxide emissions, is revised to make complete the list of statutory provisions under which affected units may be allocated allowances. Section 404(h), which is inadvertantly left out of the current definition, is added. The definition of the term, for purposes of nitrogen oxides emissions, is revised to remove references to regulations implementing section 407 of the Act. The NO_x Acid Rain regulations in part 76 became final on May 23, 1995 and so the definition is revised simply to cite part 76. Analogous changes are made elsewhere in part 72 to replace general references to regulations under section 407 by specific references to part 76 or sections of part 76.

The definition of "coal-fired" is revised to exclude the superfluous reference to part 73 and to correct the reference to the regulations implementing section 407 of the Act (i.e., part 76) to reflect the fact that part 76 includes its own definition of "coal-fired."

The definition of "dispatch system" is eliminated. In light of the detailed provisions concerning dispatch system in section 72.33, the definition is superfluous and potentially confusing.

The definition of "permitting authority" is revised to omit some superfluous language and to reference part 70, rather than refering generally to the regulations promulgated under title V. Such general references in other provisions of part 72 are also changed to specific references to parts 70 and 71 as appropriate.

The definition of "submit or serve" is revised in order to allow documents, information, or correspondence to be provided to the Administrator or any State permitting authority using any service of the U.S. Postal Service or any equivalent means of dispatch and delivery. The requirement in the current rule that such delivery be accomplished using only certified mail or an equivalent service is eliminated. Based on its experience in operating the Acid Rain Program, EPA has found that the certified-mail requirement is not necessary and may be burdensome on private parties.

B. Designated Representative

The current rule requires the selection of one designated representative for each affected source and allows the selection of one alternate designated representative per source. EPA has received comment requesting that under certain limited circumstances a second alternate designated representative be allowed. According to the commenter, in general, the current rules give operating companies the flexibility of having a designated representative at the upper management level and an alternate who is closer to the plant operations level in the company. Allegedly, this flexibility is in effect denied to operating companies that are part of a holding company if the holding company plans to use a NOx averaging plan under part 76 to comply with the applicable Acid Rain NOx emission limitation.

Under § 76.11, units that are subject to the standard NOx emission limitations (in §§ 76.5, 76.6, or 76.7), are under the control of the same owner or operator, and have the same designated representative may average their NO_x emissions through a compliance plan approved by the permitting authority. The detailed requirements for determining whether units are in compliance with the plan are set forth in § 76.11. The commenter states that it is one of several operating companies in a holding company and that all of the operating companies intend to participate in a holding-company-wide NO_x averaging plan, which under § 76.11 requires the selection of a single designated representative for the entire holding company. According to the commenter, that designated representative must, as a practical matter, be someone at the holding-company management level. Since each operating company can select only one alternate, each operating company will be unable to have a designated representative or alternate at both the management and the operations levels of the operating company. Allegedly, this is important because each operating company operates relatively independently, reflecting the fact that each is in a different State and is subject to regulation by a different utility regulatory authority.

In order to accomodate this limited circumstance where additional flexibility may be needed, EPA proposes to allow the selection of a second alternate designated representative in this circumstance. The Agency requests comment on the need for this flexibility in this case.

The current rule also establishes procedures for the selection of a designated representative and an alternate. Using these procedures, all Phase I units and many Phase II units have selected designated representatives. In addition, alternates were originally selected or were added later in some cases, and some units have changed their representatives. Based on this experience with the prescribed procedures, EPA proposes to simplify the procedures and reduce the burden they impose on owners and operators. The Agency maintains that this can be done without negatively impacting the rights of minority or other owners.

In particular, §§ 72.20(c) and 72.24(a)(5) require that whenever a designated representative or alternate is originally selected or changed, notice must be provided daily for one week in a newspaper of general circulation where the source is located or in a State publication. The Agency has learned that this provision of newspaper notice is often expensive and can be particularly cumbersome where a single designated representative or alternate is selected or changed for a group of units spread over a relatively wide geographic area (e.g., a State) or where local newpapers are weekly rather than daily. While some notice of designated-representative selection seems desirable, EPA believes that the current rule is

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unduly burdensome. EPA proposes to revise the rules to require only one notice in the newspaper (i.e., notice for one day), rather than daily notices for a week. Further, since the designated representative is the primary person representing the owners and operators and is responsible for all actions by any alternate, it seems unnecessary to require notice of selection or change of an alternate.

EPA also proposes a minor correction of § 72.25. That section currently provides that the Administrator will rely on a certificate of representation until a superseding one is "submitted." 40 CFR 72.25(a). However, the Administrator will be unaware of any superseding certificate until he or she receives it. Further, § 72.20(b) states that a certificate of representation is binding upon receipt of the complete certificate by the Administrator. Section 72.25 is therefore revised to provide that a certificate is relied on until "receipt" of a superseding certificate.

C. Compliance Plans

1. Submission of Substitution and Reduced Utilization Plans

Sections 72.41 and 72.42 currently state that a new substitution plan or reduced utilization plan may be submitted not later than 90 days before the allowance transfer deadline. A submission must be made by both the Phase I unit and its prospective substitution or compensating unit so that the plan will be reflected in their Acid Rain permits. However, there are other provisions of the rules that affect when such plans may be approved and take effect and that must be considered in deciding when to submit a plan. An affected unit must, as of the allowance transfer deadline, hold sufficient allowances to cover its emissions for the prior year. Consequently, the status of a unit as an affected unit for a given year (e.g., in Phase I, its status as a substitution unit or a compensating unit) must be determined as of the allowance transfer deadline. A new compliance plan designating a new substitution or compensating unit for a Phase I unit must be approved and active by the allowance transfer deadline in order to be effective for the year to which the allowance transfer deadline applies.

A new plan may include both a Phase I unit and a prospective substitution or compensating unit at a source that has no Phase I units and so lacks a Phase I permit. Since each unit must have a Phase I permit that includes the plan, the plan must be added to the Phase I unit's existing permit and included in a new Phase I permit for the source with the substitution or compensating unit. Because the Agency has up to 6 months to act on a new permit, the Phase I unit's plan and the source's new permit application that includes the plan should be submitted at least 6 months before the allowance transfer deadline. Later submission will not ensure approval of the plan in time for use for the year to which that allowance transfer deadline applies.

If all the units in a new plan are at sources that already have Phase I permits, then the plan can be added to both the Phase I unit's permit and the prospective substitution or compensating unit's permit through a permit revision. If the permit modification procedures are used, the Agency still has up to 6 months to act. However, if the fast-track amendment procedures are used, the Agency has 60 days from the start of the public comment period to act. In the latter case, the submission deadline of 90 days prior to the allowance transfer deadline provides sufficient time for approval of the plan.[18]

In order to ensure that designated representatives consider the procedures and timing that must be followed in submitting new plans, EPA proposes to revise §§ 72.41(b)(3) and (c)(4). The revisions state that new plans must be submitted no later than 6 months prior to the allowance transfer deadline but that, if the fast-track amendment procedures are available, submission must be no later than 90 days before the allowance transfer deadline.

2. Repowering Extension Plans

The current § 72.44 includes provisions concerning failed repowering projects. The regulation requires that, if efforts to complete and test the project are terminated prior to construction or start-up testing, the designated representative must demonstrate to the satisfaction of the Administrator that the efforts were in good faith. Similarly, if the project is properly constructed and tested but is unable to achieve emission reductions specified in the repowering extension plan, a demonstration must be provided. Under the current § 72.81(a), determinations concerning failed projects must be processed as permit modifications. However, the interaction between the demonstration requirements in the current § 72.44(g) and the procedures in § 72.81 is unclear, particularly when the State permitting authority issued the permit containing the repowering extension plan and is therefore handling the permit modifications.

EPA proposes to revise § 72.44(g) to clarify the interaction of the substantive and procedural requirements concerning failed projects. Under the revisions, the designated representative submits to the permitting authority a permit modification in which he or she makes the necessary demonstrations. The Administrator determines whether the demonstrations have been made. Where the State is the permitting authority, the State acts on the permit modification consistent with the Administrator's determination.

D. Federal Permit Issuance

1. The current § 72.60(b) requires that the Administrator issue or deny an Acid Rain permit within 6 months of receipt of a complete permit application. However, § 72.74(b) provides that initial Phase II permits, for which applications are due by January 1, 1996, must be issued by the statutory deadline of January 1, 1998 if they are issued by the Administrator. EPA proposes to revise § 72.60(b) to provide that deadline in § 72.74(b) applies, rather than the 6-month deadline, to any initial Phase II permits issued by the Administrator.

2. The current § 72.61 provides that a permit application is deemed complete after 30 days in the absence of notification by the Administrator that it is incomplete. When additional information is requested by the Administrator, the designated representative has at least 30 days to respond. EPA proposes to revise this section to make it consistent with the currently different completeness provisions of part 71 (and part 70) in order to avoid having two types of completeness procedures. Under the revisions, automatic completeness occurs after 60 days from receipt and additional information must be submitted within a reasonable period specified by the Administrator. In addition, language in parts 70 and 71 is added to this section requiring designated representatives to provide supplementary information when they become aware that relevant information was not submitted or incorrect information was submitted.[19]

3. As discussed above, EPA is proposing to revise the provisions for Acid Rain permitting by States in order to allow, for certain types of draft permits, service of notice on a list of persons and foregoing of newspaper

[18] Section 72.30(b)(3) references the deadlines in subpart D of part 72 and part 76 for applying for compliance plans. The provision is redundant and is therefore removed.

[19] This language in parts 70 and 71 is also added to § 72.80 with regard to permit revisions.

notice. For the same reasons, EPA proposes a similar type of revision for federal Acid Rain permitting. The Administrator may provide **Federal Register** notice and notice for a list of persons and omit newspaper notice where the only Acid Rain emissions limitations in the draft permit are the requirements to hold sufficient allowances for SO_2 or to comply with NO_X emission limitations under §§ 76.5, 76.6, 76.7, or 76.11.

Moreover, the list of persons required to be served notice of draft and final permits under the current rule is different than the list of persons required to be served under parts 70 and 71. This difference complicates the notice process without any significant benefit. EPA proposes to revise the list of persons for required service of federally-processed draft and final permits to be consistent with parts 70 and 71.[20] For example, parts 70 and 71 do not require service on the State or local utility regulatory authorities with jurisdiction over the unit involved or the owners of the unit. No utility regulatory authorities commented on any of the Acid Rain permits or permit revisions that have been issued by EPA for Phase I. The proposal therefore eliminates such authorities from automatically-required service.[21] Any utility regulatory authorities that want to receive notice of draft and final permits will still have the option of requesting to be treated as an interested person and thereby receiving notice.

E. Permit Revision

1. EPA proposes to make minor revisions to remove specific reference to part 70 procedures from, and to add specific references to § 72.80 in, § 72.81 concerning permit modifications.

2. EPA proposes to lengthen the deadline by which a State permitting authority must act on a fast-track modification. Under the current rule, the Administrator or State permitting authority must act within 30 days of the close of the 30-day comment period. State permitting authorities must handle many more permits covering a broader range of types of sources and emission limitations than EPA's Acid Rain Division, which handles only Acid Rain permits for the Administrator. EPA is concerned that the 30-day deadline for States to act on a fast-track modification may be unrealistic in light of their other, significant responsibilities. To put the 30-day deadline in perspective, States under title V can take up to 18 months to issue permits or make significant permit modifications. Under today's proposal, the 30-day deadline will continue to apply to the Administrator but a 90-day deadline from the end of the comment period will apply to State permitting authorities.

3. EPA proposes to remove and replace certain confusing language at the end of the fast-track modification provisions concerning review by the Administrator and affected States. The current language makes fast-track modifications subject to the same review as significant permit amendments. The proposal states this more directly. Such review is appropriate since fast-track modifications can involve important changes to a permit.

4. The current rule concerning administrative permit amendments relies heavily on, and cites, the part 70 administrative permit amendment procedures. These part 70 procedures are currently the subject of an on-going rulemaking in which extensive revisions have been proposed. *See* 59 FR 44475–79. EPA proposes to remove the citations to part 70 and to set forth in § 72.83 itself the procedures for administrative amendments to Acid Rain permits. EPA believes that the administrative amendment procedures currently applicable to Acid Rain permits are simple and, except as discussed below, should not be substantively changed.

While the proposal continues to require action by the permitting authority within 60 days of receipt, the period for acting on one potentially very complicated administrative amendment, i.e., the addition of an alternative emissions limitation demonstration period for NO_X, is lengthened to 90 days. Before implementing the addition of an alternative emissions limitation demonstration period, a permitting authority must determine whether the requirements of § 76.10 have been met. The designated representative must provide extensive information, e.g., showing that the unit has a properly installed and operated NO_X emission control system designed to meet the standard NO_X emission limitation (under §§ 76.5, 76.6, or 76.7), describing why the unit cannot meet the standard emission limitation, and outlining the testing and procedures to be undertaken to determine the maximum emission reduction that can be achieved with the installed system. EPA maintains that 60 days will likely be insufficient time, particularly for State permitting authorities, to evaluate this information and, if the requirements of § 76.10 are met, grant a requested alternative emissions limitation demonstration period and that 90 days is a more reasonable deadline.

The proposal also adds a provision explicitly allowing the permitting authority to make administrative permit amendments (other than the addition of an alternative emission limitation demonstration period) on its own motion. This procedure may be used to correct minor errors in a permit that come to the attention of the permitting authority.

Also added to § 72.83 are provisions in the current part 70 that allow immediate implementation of administrative permit amendments that meet applicable requirements and that eliminate review of such amendments by the Administrator or affected States. This adds directly to part 72 provisions that the current § 72.83 makes applicable by reference to part 70.

5. The current rule concerning permit reopenings relies heavily on, and cites, part 70 reopening procedures. EPA proposes to eliminate the references and set forth in § 72.85 the full procedures. Consistent with the current part 70 provisions, the proposal states that reopening for cause may occur when: Additional Acid Rain requirements become applicable; there is a material mistake in the permit; inaccurate statements were made in establishing a permit term or condition; or a permit revision is necessary to assure compliance with the Acid Rain Program.

F. Reduced Utilization Accounting

Under the current rule, Phase I units must account for any underutilization. A few revisions are proposed with regard to this accounting.

1. The current rule allows a designated representative to submit an identification of dispatch system in order to change a unit's dispatch system from what is listed in the NADB, which indicates the operator of each unit. A dispatch-system identification must be submitted by January 30 of the first year for which the new dispatch system is to take effect. Traditionally, there have been relatively few changes in the operator and the dispatching of utility

[20] The same change is proposed for the list of persons on which requested fast-track amendments submitted to the Administrator must be served under § 72.82. Where requested fast-track amendments are submitted to the State as the permitting authority, the proposal provides that the list of persons is the same persons on which the State permitting authority must serve notice of draft permits under the State operating permits program. Further, since parts 70 and 71 require service of notice on "affected States" and include a definition of that term, today's proposal includes a new definition that adopts the "affected State" definition in part 71.

[21] The proposal therefore also eliminates the requirement to identify such authorities in submissions to EPA (e.g., in a source's certificate of representation).

units. However, in light of increased competition in the electric industry and the potential of future restructuring of the industry, the Agency is concerned that changes in owners and operators and in dispatching of units may occur more frequently and at times that make it impossible to meet the January 30 deadline. EPA therefore proposes to give the Administrator the discretion to grant exemptions from that deadline in order to allow late submissions.

2. The current rule sets forth procedures for claiming kilowatt hour savings from energy conservation measures or heat rate reductions from improved unit efficiency measures and using the resulting heat input reductions to reduce the surrender of allowances to account for reduced utilization of Phase I units. In the annual compliance certification reports submitted by March 1, a designated representative may include estimated savings from energy conservation or estimated heat rate reductions from improved unit efficiency measures for the prior year. If any such estimates are included in the annual compliance certification report, the designated representative must submit a confirmation report by July 1 that provides and supports the verified amounts.

The current language in § 72.91(b)(1)(iii) concerning the methods for supporting the verified amounts of kilowatt hour savings, heat rate improvement, and resulting heat input reductions needs some clarification.[22] The purpose of the provision is to provide two alternative approaches to verification: documentation that may follow the EPA Conservation Verification Protocol; or certification by the appropriate State utility regulatory authority. The current provision could be read to require that only one of these approaches be used for all estimated savings and heat input reductions so that, for example, if certification is to be used, it must be used for all the estimates. EPA proposes to revise the provision to make it clear that there is flexibility to use documentation with regard to improved unit efficiency measures or some energy conservation measures and to use certification for other measures.

3. The current regulatory provisions concerning heat input reductions due to measures that reduce a unit's heat rate need clarification and revision. A measure that reduces a unit's heat rate may be treated as a supply-side energy conservation measure by another unit or as an improved unit efficiency measure by the unit at which the measure is implemented. Over a given period of time, a number of specific measures may be implemented at a unit to reduce its heat rate. However, these measures may be offset by reductions in generation efficiency at the same unit resulting from other factors, e.g., from the aging or changed operations of the unit. In that case, even though each measure may, in itself, reduce the heat rate of the unit below what the heat rate would otherwise have been, the net effect of all the measures on the unit's heat rate will be less than the sum of the reductions attributed to each measure.

It is the net effect of these measures on the unit's heat rate that should be treated as accounting for reduced utilization. Consequently, EPA proposes to add a provision that puts a ceiling on the total heat input reductions that may be claimed for all measures that reduce a given unit's heat rate, whether the measures are treated as energy conservation or improved unit efficiency measures. Under the proposal, the total verified heat input reductions attributed to such measures may not exceed the difference between the kilowatt hour generation attributed to the unit for the calendar year times the difference between the unit's heat rate for 1987 and its heat rate for the calendar year. This ensures that heat input reductions cannot exceed the heat input reductions attributable to net heat rate improvement since the end of the base period (i.e., 1985–1987). Heat rate improvements made up through 1987 are already reflected in the baseline utilization and so cannot be used to account for underutilization of a unit since the base period. *See* 58 FR 60950, 60961 (November 18, 1993).

In light of this ceiling on heat input reductions claimed for energy conservation measures improving generation efficiency (as well as for improved unit efficiency measures), EPA sees no need to burden State utility regulatory authorities with the verification of claimed reductions from this limited category of energy conservation measures. EPA will instead review the verification presented by designated representatives and will compare the claimed heat input reductions to the ceiling. Consequently, EPA proposes to remove the option of verification by State utility regulatory authorities of claimed reductions from energy conservation measures improving generation efficiency.

4. The current rule provides that, if the total verified amount of heat input reductions in the confirmation report differs from the total estimated amount in the annual compliance certification report, the confirmation report must calculate the number of allowances, if any, to be surrendered or returned as a result. EPA maintains that the provision concerning calculation of allowances to be returned needs clarification and revision.

a. Under the current rule, if the total verified heat input reductions exceed the total estimated heat input reductions, returned allowances are to be calculated using a specified formula in § 72.91(b)(4) based on the difference between the verified and estimated amounts. Section 72.91(a)(7) sets a limit on the total amount of "plan reductions" (i.e., offsets to underutilization that are attributed to energy conservation, improved unit efficiency, sulfur-free generation, and compensating units). A Phase I unit's plan reductions minus any compensating generation that it provides as a compensating unit cannot exceed the Phase I unit's baseline minus its actual utilization. The purpose of this limitation is "to prevent plan reductions from one Phase I unit from being used to offset the underutilization of another Phase I unit that has no reduced utilization plan." 58 FR 60962. This purpose applies equally whether the plan reductions involved reflect *estimated* offsets from conservation and improved unit efficiency or *verified* offsets. The confirmation process simply replaces estimated with verified offset amounts and corrects for any differences; it is not intended to allow greater offsets than if the verified offset amounts had been available when the annual compliance certification report was submitted.

The simplest way to ensure that designated representatives understand that this limitation applies is to limit the number of allowances that are to be returned to the total number of allowances that were deducted from the unit's Allowance Tracking System account for underutilization based on the annual compliance certification report. EPA proposes to add language (in § 72.91(b)(4)(iv)) setting forth this limitation. To the extent allowances were deducted based on the annual certification report, then those allowances represented underutilization of the unit (i.e., a positive difference between the unit's baseline and its actual utilization after accounting for all offsets). If allowances in excess of the amount of that allowance deduction were returned, then verified offsets from

[22] The verification process, found in § 72.91(b), is incorrectly cross-referenced in § 72.43(b)(2)(iii)(B) of the current rule. Today's proposal corrects the reference. In addition, certain typographical errors in § 72.91(b) (e.g., incomplete reference to "improved unit efficiency measures") are corrected.

conservation or improved unit efficiency would be used, in effect, to offset some other unit's underutilization.

b. Under the current rule, if the total verified offsets are less than the total estimated offsets, surrendered allowances are to be calculated using the absolute value of the formula specified for returning allowances in § 72.91(b)(4). EPA has found that this provision concerning the allowances to be surrendered is not correct in all cases and should be revised.

Under §§ 72.91 and 72.92, allowance surrender is determined initially on a dispatch-system-wide basis so that underutilization of one Phase I unit in the dispatch system may be offset by overutilization of another Phase I unit in that dispatch system. Once it is determined that allowances must be surrendered for the dispatch system, each Phase I unit's share of the surrender is calculated. The approach in the current rule is accurate if the Phase I unit had to surrender allowances based on the annual compliance certification report. In that case, the unit's underutilization was not offset completely by other Phase I units and any overstatement of offsets in the estimates used in the annual compliance certification report must result in additional surrender of allowances by the unit.

In contrast, if the Phase I unit did not have to surrender allowances based on the annual compliance certification report, the overstatement of offsets in the estimates could be offset by overutilization of other Phase I units. The provisions of the current § 72.91(b)(5) do not take account of that possibility.

EPA proposes to revise § 72.91(b)(5) to correct this problem and ensure that the confirmation process does not result in the surrender of more allowances than if the verified amounts for conservation or improved unit efficiency offsets had been available when the annual compliance certification report was submitted. The revision provides that each Phase I unit that used estimated conservation or improved unit efficiency offsets must recalculate its adjusted utilization using the verified amounts and then that the allowance surrender formula in § 72.92(c) must be reapplied using the recalculated adjusted utilizations. To the extent this results in greater allowance surrender than the surrender based on the annual compliance certification report, the difference must be surrendered.

c. Under the current rule, the designated representative must include in the confirmation report calculations of any change in the excess emissions that were previously determined based on the annual compliance certification report. EPA has decided that this is an unnecessary burden to impose on the designated representative. The current rule does not require the designated representative to calculate in the annual compliance certification report the amount of any excess emissions. Moreover, under the revisions of part 77 discussed below, the offset plan submitted by the designated representative of a unit with excess emissions will also not be required to state the amount of excess emissions.

Consistent with this approach, EPA proposes to eliminate the requirement that the confirmation report calculate the impact of the verified offsets on excess emissions. Instead, § 72.91(b)(6) and (7) are revised to require the Administrator to determine the amount of excess emissions (if any) that would have resulted if the verified, rather than estimated, offsets had been used to make deductions from the allowances in the unit's compliance subaccount as of the allowance transfer deadline. Further, if the resulting excess emissions differ from the amount determined based on the estimated offsets, the Administrator must determine whether additional offset allowances must be deducted and penalty payments must be made or whether allowances and penalty payments must be returned.

5. The current § 72.95 sets forth the formula for making allowance deductions for each year that a unit is subject to the Acid Rain emissions limitations for SO_2. Although the formula does not specifically refer to allowance deductions with respect to substitution or compensating units, §§ 72.41(d)(3) and (e)(1)(iii)(B) and 72.43(d)(2) expressly require such deductions under certain circumstances. In order to make the formula consistent with those express deduction provisions, EPA proposes to revise the formula to include those deductions, which are required in any event.

IV. Part 73: Allowances

A. Revision of Table 2 Allowances

EPA proposes to revise the allowances of certain units on Table 2 of § 73.10(b).

1. Allowance Determinations Remanded to EPA

Section 405(c) of the Act establishes allowances in Phase II for smaller units (under 75 MWe nameplate capacity) with higher emissions (over 1.2 lb/mmBtu). Paragraph (c)(1) of the section specifies the formula for calculating basic allowances for units owned by larger operating companies (with capacity of at least 250 MWe). Paragraph (c)(2) specifies the formula for basic allowances for such units owned by smaller operating companies (with capacity of less than 250 MWe). Paragraph (c)(3) provides special basic allowances for such units that are owned by larger operating companies (with capacity greater than 250 MWe and less than 450 MWe) that serve fewer than 78,000 customers. Paragraph (c)(4) provides bonus allowances for units under paragraph (c)(1) for the period 2000 through 2009. Paragraph (c)(5) provides special basic allowances to units under paragraph (c)(1) in utility systems that have units with high costs for retrofitting flue gas desulfurization devices.

The language in section 405(c) raises questions of how to measure utility capacity or size for purposes of applying the various paragraphs in the section. Paragraphs (c)(1) and (2) state that they apply to units of a "utility operating company whose aggregate nameplate fossil fuel steam-electric capacity is" of specified magnitudes. 42 U.S.C. 7651d(c)(1) and (2). In contrast, paragraph (c)(3) states that it applies to units of "a utility operating company with, as of December 31, 1989, a total fossil fuel steam-electric generating capacity" within a specified range of megawatts and with fewer than 78,000 electrical customers.

EPA proposed and finalized Phase II allowances allocations based on its interpretation that, despite the language differences among these statutory phrases, all of the phrases incorporate the same approach for defining a utility operating company's capacity. In applying all the provisions of section 405(c), EPA summed the nameplate capacity of the generators operated by the unit's operating utility to determine that utility's capacity. *See* 57 FR 29940, 29953–54 (July 7, 1992); and 58 FR 15662 and 15697.

Two utilities challenged EPA's allowance allocations to their units under section 405(c). Madison Gas & Electric Co. (Madison Gas) challenged EPA's position that only the nameplate capacities of the units *operated* by a given utility should be considered in determining utility capacity, rather than instead considering the nameplate capacity of the units *owned* in whole or in part by the utility. The City of Springfield, Illinois, City Water, Light and Power (City of Springfield) challenged EPA's use of nameplate capacity, rather than summer net dependable capability, as the measure of generating capacity under section

405(c)(3). Madison Gas and City of Springfield petitioned for judicial review of their allowance allocations. On May 27, 1994, the U.S. Court of Appeals for the Seventh Circuit remanded to EPA the allowance allocations for these utilities in order for the Agency to reconsider these two issues concerning utility capacity. *Madison Gas & Electric* v. *U.S. EPA*, 4 F.3d 529 (7th Cir. 1994).

Madison Gas argued, in its comments on EPA's original allowance allocations, that the language of section 405(c)(1) and (2) compel EPA to measure utility capacity based on the utility's ownership of capacity in any unit, including partially owned units. Sections 405(c)(1) and (2) apply to units owned by a utility "whose aggregate nameplate fossil fuel steam-electric capacity" is of a specified magnitude. 42 U.S.C. 7651d(c)(1) and (2). According to Madison Gas, the use of the word "whose" in this context means that the capacity must be owned by the utility. In contrast, EPA read the word "whose" to mean that the capacity must be operated by the utility.

EPA now believes that this language in section 405(c)(1) and (2) can support either interpretation. Further, EPA has identified at least two other utilities whose allocations would be affected by the adoption of Madison Gas's interpretation. EPA is concerned that adopting Madison Gas's interpretation and reducing, at this late date, the number of allowances allocated to these other utilities would disrupt the compliance planning already undertaken for these units. Therefore, on reconsideration, EPA believes that a fair and appropriate approach is to read the language in section 405(c)(1) and (2) to mean either aggregate nameplate capacity owned by a utility operating company or aggregate nameplate capacity operated by a utility operating company and to apply the most favorable reading to the utility involved. EPA believes that permitting the alternative interpretations is acceptable in light of the ambiguity of the statutory language. Moreover, this gives the three utilities affected by this issue the opportunity to claim and receive the most favorable allowance allocation available under these provisions, with little practical effect on other utilities.

From data submitted by Madison Gas in its comments on the original allowance allocations, Madison Gas, as of 1989, owned more than 250 MWe of capacity. Madison Gas recognized that the interpretation of section 405(c) (1) and (2) that it favors results in it receiving more allowances each year during 2000 through 2009 but fewer allowances each year thereafter and fewer total allowances. EPA therefore proposes to apply Madison Gas' interpretation of the provisions and to provide allowances to Madison Gas' Blount Street plant in Wisconsin as follows: unit 7, 116 unadjusted basic allowances each year in perpetuity under section 405(c)(1) and 1374 bonus allowances each year during 2000–2009 under section 405(c)(4); unit 8, 473 unadjusted basic allowances and 716 bonus allowances; and unit 9, 633 unadjusted basic allowances and 629 bonus allowances. These will be in lieu of the allowances for the units in the current Table 2.

Two other utilities are potentially affected by the interpretation of the utility-size language in section 405(c) (1) and (2). If the language is interpreted to refer to total owned capacity, Potomac Edison Company's R P Smith unit 9 in Maryland will be provided 320 unadjusted basic allowances under section 405(c)(1) and 354 bonus allowances under section 405(c)(4). Interpreting section 405 as referring to operated capacity, the unit receives 386 unadjusted basic allowances under section 405(c)(2) and no bonus allowances. City of Henderson's Henderson unit in Kentucky would have a lower allowance allocation when total owned capacity, rather than total operated capacity, is considered. EPA proposes to change the allowances for the R P Smith unit and leave unchanged the allowances for the Henderson unit. Comments are requested on this proposed resolution and from any utility with a unit that may be affected by the proposed interpretation of utility capacity.

City of Springfield argued, in its comments on the original allowance allocations, that EPA should not use nameplate capacity for determining utility capacity under section 405(c)(3). While section 405(c) (1) and (2) refer to a utility's "aggregate nameplate fossil fuel steam-electric capacity, section 405(c)(3) refers to a utility's "total fossil fuel steam-electric generating capacity." Data available from the Energy Information Administration (EIA) of the Department of Energy includes three different "capacity" terms: nameplate capacity, summer net dependable capability, and winter net dependable capability. Nameplate capacity is the gross maximum capacity (in MWe) that a generator is designed to deliver, whereas capability refers to the highest number of MWe actually delivered during a given season. City of Springfield recommended summing, for a utility, the summer net dependable capability of each of its units in applying section 405(c)(3).

Under EPA's original allowance allocations, City of Springfield's Lakeside units 7 and 8 received basic allowances under section 405(c)(1) because City of Springfield operated units with a total of 463 MWe of nameplate capacity. Since the total summer net dependable capability of these units was 443 MWe, City of Springfield's interpretation will result in Lakeside units 7 and 8 instead receiving unadjusted basic allowances under section 405(c)(3).

EPA now agrees that the utility-capacity language in section 405(c)(3) is ambiguous, particularly in light of the specific references in section 405(c) (1) and (2) to nameplate capacity. The legislative history does not directly address the use of different utility-capacity language in these provisions of section 405. Further, differences in statutory language are generally interpreted as differences in meaning. Section 405(c)(3), unlike section 405(c) (1) and (2), does not specify nameplate capacity. Under these circumstances, EPA agrees that it is reasonable to conclude that some other capacity measure was intended to be used. Most utilities in the United States are summer peaking utilities and have larger summer net dependable capability than winter net dependable capability. Consequently, given the capacity measures in available EIA data, summer net dependable capability is the most logical alternative to nameplate capacity. EPA has not identified any units, other than the City of Springfield's units in Illinois, whose allocations are affected by this change in interpretation of section 405(c)(3).

Therefore, EPA proposes, for the purposes of section 405(c)(3) only, to interpret utility capacity as the aggregate summer net dependable capability. This allows City of Springfield's Lakeside unit 7 to receive 2,919 unadjusted basic allowances for 2000 through 2009 and 722 unadjusted basic allowances for 2010 and thereafter. Lakeside unit 8 will receive 1,652 unadjusted basic allowances for 2000 through 2009 and 371 for 2010 and thereafter. These allowances will be in lieu of the basic allowances provided to the units in the current Table 2. Comments are requested on this approach.

EPA proposes another revision related to the application of section 405(c)(3). As noted above, eligibility for section 405(c)(3) allocations is contingent on a unit being owned by an electric generating company with fewer than 78,000 customers as of November 15, 1990. The current rule defines

"customer" as "a purchaser of electricity not for purposes of transmission or resale." 40 CFR 72.2. EPA understands that generating rural electrical cooperatives under the Rural Electrification Act (7 U.S.C. 901, *et seq.*) are required to serve distributing cooperatives, which in turn serve the retail customers. Generating rural electrical cooperatives therefore do not have "customers," as the term is currently defined. In order to address the unique circumstances of such cooperatives, EPA is proposing to revise the definition of "customer" to provide that customers of a generating rural electrical cooperative's distributing cooperative are considered customers of the generating cooperative.

The effect of this change is to make Southern Illinois Power Cooperative's Marion plant in Illinois eligible for allowances under section 405(c)(3). For years 2000 through 2009, Marion units 1, 2, and 3 will be provided 2,376, 2,434, and 2,640 unadjusted basic allowances respectively, rather than their current allowances for those years of 534, 547, and 593.

EPA proposes to implement, in this rulemaking, the above discussed revisions in the unadjusted allowances for the Madison Gas, Potomac Edison, City of Springfield, and Southern Illinois Power units in Table 2. However, EPA proposes that in this proceeding it will not insert in the table the adjusted allowance figures (i.e., the allowance allocations, which take account of the 8.9 million ton nationwide cap on SO_2 emissions and are referred to as the "total annual phase II" allowances in Tables 2 and 3) for these units and will not revise the allowance allocations of the other units on the tables to take account of the allowance impact of the revised Madison Gas, Potomac Edison, City of Springfield, and Southern Illinois Power unadjusted allowances. Instead, all of these changes will be made in a future rulemaking.

With few exceptions, sections 403(a) and 405(a)(3) prohibit total annual allowance allocations in Phase II for all affected units from exceeding 8.95 million. In this way, annual, nationwide SO_2 emissions are essentially capped at 8.95 million tons. When total unadjusted annual basic allowances calculated under section 405 exceed the 8.95 million ceiling, each unit's basic allowances must be adjusted (i.e., "racheted" down proportionately) to prevent the ceiling from being exceeded. Because the current Tables 2 and 3 already reflect a ratcheting down of each unit's allowances, any net increase or decrease in the unadjusted annual basic allowances in Phase II for any affected units probably changes the amount of ratcheting and thus probably requires a change in the allowance allocations shown on Table 2 or 3 for every other unit. Only if the increases in unadjusted basic allowances proposed today were essentially equal to the proposed decreases would the allowance allocations of the other units remain unchanged. In point of fact, the net effect of the revisions proposed today (including the allowance revisions discussed above and the corrections of Agency errors and addition of units to and deletion of units from the tables discussed below) is a relatively small net reduction in the total number of unadjusted basic allowances. This will result in a small reduction in the level of ratcheting necessary to implement the 8.95 million allowance ceiling. Reduced ratcheting may result in a relatively small number of additional allowances being allocated for Phase II to many units that are not otherwise affected by today's proposal.

Adjusting all the allocation entries on Tables 2 and 3 is administratively burdensome and expensive. Moreover, under section 403 of the Act, the allocations in the tables will have to be adjusted, and the tables republished, in June 1998 in any event. Section 403(a) required the Administrator to publish a final list of allowances allocations by December 31, 1992, reflecting estimated allowances to be allocated to units that apply for and receive repowering extensions in the future under section 409. Section 403(a) also requires the Administrator to publish a revised final list by June 1, 1998, reflecting, *inter alia*, allowances allocated to units for which repowering extensions are actually approved.

EPA believes that no one will be prejudiced in any significant way by EPA's deferring allowance adjustments until the 1998 publication of the final list of allowance allocations. The owners of units whose unadjusted allowances are increased if today's proposal is finalized can trade the allowance increase in anticipation of the actual allocation in 1998. *See* 42 U.S.C. 7651b(b). As noted above, the change in the ratchet and the difference between the amount of the unadjusted allowances for these units and the amount allocated to them after adjustment due to ratcheting will be relatively small. Similarly, the amount of the ratcheting adjustment in 1998 of the allowances of other units otherwise not affected by today's proposal will be small. The owners of units that, under the proposal, are on Table 2 or 3 can trade their current allocations and base trading decisions on the existing ratchet for Phase II (about 10%).

Consistent with its authority under section 403(b) to establish allowance system regulations, EPA proposes to revise the unadjusted allowances for the Madison Gas, Potomac Edison, City of Springfield, and Southern Illinois Power units in Table 2. The proposal includes a provision stating that the unadjusted allowances in Table 2 (or Table 3, as appropriate) for these (and certain other) units are superseded and setting forth the new number of unadjusted allowances for such units. However, EPA proposes not to change, in this rulemaking, the ratchet used to adjust all allowances on the tables. Rather than recalculating the ratchet and applying it to all units in the tables, EPA will leave in place the current allowance allocations for the Madison Gas, Potomac Edison, City of Springfield, and Southern Illinois Power units and the other units remaining in the tables. When EPA develops the June 1998 revised list of allowance allocations required under section 403, EPA will calculate a new ratchet and apply it to the unadjusted basic allowances of all units remaining on Tables 2 and 3. The resulting allowance allocations will then be reflected in the units' Allowance Tracking System accounts.

2. Correction of Agency Errors

EPA developed the NADB in order to calculate Phase II allowance allocations for all affected units. In July 1991, EPA released for comment version 2.0 of the NADB. 56 FR 33278 (July 19, 1991). Section 402(4)(C) of the Act required the Administrator, by December 31, 1991, to "supplement data needed in support of [title IV] and correct any factual errors in data from which affected Phase II units' baselines or actual 1985 emission rates have been calculated * * * for purposes of issuing allowances under the title." 42 U.S.C. 7651a(4)(C). EPA stated in the July 1991 notice that it would not accept comments on the data base after September 3, 1991 (the close of the comment period) except if the data sought was not available by that date. EPA added that it would not change any data after December 31, 1991, when it expected to issue the final data base. 56 FR 33279 and 33283.

In July 1992, EPA released version 2.1 of the NADB, believing that version to be the final, and proposed Phase I and Phase II allowance allocations. 57 FR 30034. After correcting errors made by the Agency in version 2.1, EPA released version 2.11 of the NADB in March 1993, along with the final Phase II allowance allocations. 58 FR 15720 (NADB); and 58 FR 15634 (allocations).

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The corrections to the NADB were made "only in response to comments, verified by EPA, that either changes were made to the data which, based on the data in the possession of EPA at the time, were known to be incorrect or the Agency failed to make a correction requested by a commenter that was true and properly documented at the time." 58 FR 15720. At that time, EPA believed it had corrected all of these errors.

However, several utilities subsequently informed EPA that the NADB still contained errors that were of the type that EPA had intended to correct. In the following cases, EPA agrees that the error in the current NADB results from the Agency's own actions. This is because the NADB data issues had been identified to EPA by a commenter by December 31, 1991 and the commenter submitted to EPA, before EPA's issuance of NADB version 2.1 on July 7, 1992, sufficient documentation to support the correction of the data. Because in the March 1993 notices EPA had intended to correct such problems, EPA proposes today to correct them by revising the units' unadjusted allowances to reflect the correct data. Consistent with the approach taken in the March 1993 notices, EPA will not address any errors that were not identified by December 31, 1991 or not sufficiently documented by July 7, 1992 and will not consider new requests for data changes, new data submissions, or new requests for outage adjustments.[23]

a. In the case of Manitowoc unit 8 in Wisconsin, the shared heat input at 60 percent capacity (HT60SHR) is not accurate. While EPA developed a methodology for sharing heat input at 60 percent capacity (HEAT60) that was accurate for most situations, the methodology was inaccurate for Manitowoc's unique circumstances, i.e., where only one boiler in a multiheader configuration was on-line as of December 31, 1987. The owner of Manitowoc timely commented on the inaccuracy on August 30, 1991. However, EPA failed in March 1993 to correct the methodology in a way that would account for Manitowoc's situation. EPA has reviewed the methodology for splitting HEAT60 and developed a method that is appropriate for multi-header configurations where one or more, but not all, units came on-line after the baseline period. EPA is proposing to use the proportional share of design heat input. For example, if boiler 1 had a 100 mmBtu/hr design heat input, boiler 2 had 200 mmBtu/hr and boiler 3 had 300 mmBtu/hr, boiler 1 would be allotted ⅙ of the generator's HEAT60, boiler 2 would be allotted ⅓, and boiler 3 would be allotted ½. For Manitowoc unit 8, this approach will result in 271 unadjusted basic allowances, as opposed to 27 listed in the current Table 2.

b. In the case of the Reedy Creek Improvement District's (Reedy Creek) Combined Cycle 1, unit 32432 (formerly unit 11*STG) in Florida, EPA erroneously failed to include the unit in Table 2, believing the unit was a simple combustion turbine and so was not an affected unit. Reedy Creek's timely comments, submitted on August 30, 1991, provided sufficient information to properly characterize the unit as a combined cycle turbine with auxiliary firing and thus as an affected unit and to determine its allowance allocation. EPA proposes to include the unit in Table 2 with 69 unadjusted basic allowances under section 405(g)(1).

c. In the case of Central Louisiana Electric Company's (Central Louisiana) Rodemacher unit 2, EPA failed to correctly characterize the outage request for the unit. Central Louisiana submitted the outage request for the unit on March 21, 1991 and supplemented the request with additional information on February 10, 1992. On July 7, 1992, as part of the notice of the NADB (57 FR 30034), EPA proposed a classification scheme for outage requests received by EPA prior to finalization of the NADB. EPA proposed, at that time, and later finalized allowing baseline adjustments for discontinuous but related outages totalling four months or greater ("Category II"). *See* 58 FR 15724. However, EPA mischaracterized Rodemacher unit 2's outage as less than four months. EPA now recognizes that Central Louisiana's earlier submissions provided timely notice and sufficient documentation of a discontinuous outage at Rodemacher of over four months. Unfortunately, the February 10, 1992 supplemental submission documenting the requested outage was received by EPA but was not directed to the docket or the Acid Rain Division to be considered with other outage requests. The outage at Rodemacher clearly fits the Category II classification and would have been so classified in 1992 if Central Louisiana's supplemental submission had been docketed. EPA stresses that it is not reconsidering or changing the criteria for evaluating outage requests but rather is correcting its mistake in applying the existing criteria. Therefore, EPA proposes to allow 2,312 additional unadjusted basic allowances for Rodemacher unit 2, bringing its total to 20,774.

d. For the reasons discussed above in section IV(A)(1) of this preamble, EPA is proposing today changes to the unadjusted allowances for the Manitiwoc and Rodemacher units and adding the Combined Cycle 1 unit and its unadjusted allowances to Table 2, as addressed in this section, but is not proposing to change or add the resulting allowance allocations in this rulemaking. The units' allowance allocations reflecting the new figures for unadjusted allowances will be put in Table 2 when the revised Tables 2 and 3 are issued in June 1998. At that time, any resulting revisions of the allowance allocations for the other units on the tables will also be made.

B. Deletion of Units From Table 2

EPA proposes to delete certain units from Table 2 of § 73.10(b), which set forth the Phase II allowance allocations for existing units. Because of data errors, these units were erroneously treated as affected units and included in the table. As discussed above, EPA generally will consider correcting NADB data errors and, as a result, changing an affected unit's allowances *only* where a data problem was identified to EPA by a commenter by December 31, 1991 and was sufficiently documented by July 7, 1992. Because the March 1993 notices were intended to correct such errors, EPA now considers the errors to be Agency errors and, as noted above, proposes to correct them. Other NADB data errors relating to allocations of affected units will not be corrected. However, EPA is taking a different approach to data errors (whether or not the data is in the NADB) that result in units being improperly categorized as affected units when they actually are unaffected units.

In the latter cases, EPA will delete the units from Table 2 (or Table 3, as appropriate) regardless of whether the data errors result from the Agency's own actions. Any allowances allocated to such units must be offset by return of the same number of allowances with the same or an earlier compliance use date as those allocated. Further, the proceeds from EPA's auctioning of any allowances allocated to such units must be returned to EPA. Data errors, regardless of their cause, cannot expand

[23] As discussed below in sections IV(B) and (C) of this preamble, there are two exceptions to this approach toward data errors. First, where data errors result in unaffected facilities being improperly categorized as affected units, EPA proposes to adopt the proper categorization of the units regardless of when the data errors are corrected. Second, where projections, rather than actual data, are involved (i.e., projected dates for commencement of commercial operation), EPA will correct the projected dates if EPA is made aware of the actual dates within a reasonable time after commercial operation is commenced and all other necessary data had been provided by December 31, 1991.

the applicability of the Acid Rain Program as set forth in title IV of the Act.[24] The deletion of units from Table 2 is discussed below.

1. Following publication of the March 1993 notices, EPA was notified by owners or operators of Grand Avenue, Kettle Falls, Maddox, Mobile, R S Nelson, and South Meadow that these units are not affected units under § 72.6 (the applicability provisions of the Acid Rain Program) and so should not have been listed in Table 2. All of the units were allocated allowances.

EPA agrees that Grand Avenue units 7 and 9 in Missouri are cogeneration facilities excluded from the Acid Rain Program under section 402(17)(C) of the Act and § 72.6(b)(4)(i). The Grand Avenue units commenced operation prior to 1990. The NADB does not include data on the operations of cogeneration units. The units were designed and operated to produce municipal steam heat and electricity and are still operated in that manner. They each supplied less than 219,000 MWe-hr per year in 1985–1987 and in every year since 1990. EPA proposes to remove the units from Table 2.

EPA agrees that Kettle Falls in Washington also should be deleted from Table 2 and excluded from the Acid Rain Program as a solid waste incinerator under § 72.6(b)(7). This unit commenced commercial operation in 1983 burning "hog" fuel (waste from the logging and lumber industry). The NADB erroneously labeled Kettle Falls as an oil and gas-fired unit. In 1991 during development of the NADB, EPA had data demonstrating Kettle Falls' use of non-fossil fuel and qualification under § 72.6(b)(7). EPA proposes to delete the unit from Table 2.

Maddox unit **3 in New Mexico is a simple combustion turbine (as defined in § 72.2) that originally commenced commercial operation in 1963. The turbine was moved from one site in New Mexico, where it was called "Roswell," to its present site in 1989. Section 402(8) of the Act and § 72.6(b)(1) exclude from the Acid Rain Program simple combustion turbines that commenced commercial operation prior to November 15, 1990. Because Maddox **3 meets these criteria, EPA agrees that it should be removed from Table 2.

EPA agrees that Mobile unit **2 in South Dakota is not an affected unit under the Acid Rain Program. Only units at stationary sources are affected units. 60 FR 17100, 17108 (April 4, 1995). Mobile **2 is a mobile source, not a stationary source, and thus, should not be included on Table 2 as an affected unit in the Acid Rain Program.

The operator of R S Nelson units 1 and 2 in Lousiana requested on July 17, 1992 that the units be removed from Table 2 because they are a qualifying facility excluded from the Acid Rain Program under § 72.6(b)(5). EPA failed to act on the request before finalization of the allocations in March 1993 but now agrees with the request. The units are a "qualifying facility" (Federal Energy Regulatory Commission Docket No. QF86–512) and are subject to a qualifying power purchase commitment, as defined in § 72.2. The installed capacity of the units is 227.2 MWe (measured in gross), which does not exceed 130% of the planned net output capacity of 201 MWe (measured in net). EPA proposes to remove the units from Table 2.

EPA agrees that South Meadow units 11, 12, and 13 (now called "Mid-CT RRF") in Connecticut should be deleted from Table 2 because they are solid waste incinerators excluded from the Acid Rain Program under § 72.6(b)(7). The NADB erroneously failed to reflect that, while these units were originally coal-fired utility units, they were shut down in 1969 and were substantially modified and resumed operation as solid waste incinerators in 1988. EPA proposes to delete them from Table 2.

2. EPA believes the following additional units, presently listed in Table 2, are not affected units under § 72.6:

State	Plant	Units	ORIS
CO	Valmont	11,12,13,22,23	0477
KS	Ripley	**2,**3	1244
MI	Delray	11	1728
MS	Wright	W4	2063
NY	Rochester 3	1,2,4	2640
PA	Richmond	63,64	3168
PA	Southwark	11,12,21,22	3170
TX	Concho	2,4,5,6	3518
TX	Deepwater	DWP1–DWP6	3461

The units were not in operation during the baseline period (1985- 1987) and were designated by the Energy Information Administration (EIA) of the U.S. Department of Energy as having retired before November 15, 1990. In the preamble of the March 1993 notice of final allowance allocations (58 FR 15636), EPA discussed the treatment of retired units. At that time, EPA attempted to identify all units that were not in operation during the baseline period and that had retired prior to November 15, 1990; such units were considered to be unaffected units and were deleted from Table 2. Because the units listed above also meet these criteria, EPA proposes to delete them from Table 2. Most of these units were not allocated allowances.

EPA requests notification during the comment period by the owners or operators of any other unit listed on Table 2 that was not in operation during 1985–1987 and that is designated by EIA as having retired before November 15, 1990. If the unit will not be returned to service, EPA may delete such units from Table 2.

3. EPA believes that several other facilities listed in Table 2 are unaffected units because they are not fossil fuel-fired combustion devices. El Centro 2 in California, Lauderdale PFL4 and PFL5 in Florida, and Chesterfield **8B in Virginia are heat recovery boilers that use exhaust gases from combustion turbines to produce steam in the boilers and do not use any fossil fuel, e.g., through auxiliary firing. NA 2—7246 **1 in Arkansas is planned to be a hydroelectric generation facility and thus will not use any fossil fuel. These facilities were allocated allowances in Table 2. EPA proposes to remove these facilities from Table 2.

4. EPA reviewed the status of all units listed in Table 2 using the Department of Energy's "Inventory of Power Plants 1993" (published in December 1994)

[24] While the July 1991 notice established a December 31, 1991 cut-off for changing NADB data, the notice did not suggest that units that are unaffected units and ineligible for any allowances would continue to be allocated allowances. EPA explained that "[u]nits eligible for allowances will be allocated allowances based on the data contained in the final database." 56 FR 33283.

and "Inventory of Power Plants 1994" (published in October 1995). Based on that review, EPA proposes to delete units from Table 2 that have been canceled or postponed indefinitely and therefore are not affected units at this time. None of these units were allocated allowances in Table 2. EPA requests comment from the owners or operators of the following units concerning deletion of the units from Table 2:

State	Plant	Unit	ORIS
AL	Future Fossil	**1	7064
	McIntosh CAES	**2	7063
	McWilliams	**CT1 **CT2 **CT3	0553
IL	Lakeside	GT2	0964
IN	Na1—7221	**[illegible]	7221
	Na1—7228	**4,**5	7228
KY	J K Smith	1	0054
MN	Future Base	**1	7240
MO	Combustion Turbine 1 ("CT Plant 1")	**NA7	7160
MO	Empire Energy Ctr	**4 **NA2 **NA3	6223
NE	NA1—7019	**NA2	7019
NJ	Butler	**4	7152
NJ	NA5—7217	**2	7217
	NA6—7218	**2	7218
NM	Escalante	**2	0087
ND	Dakotas	**1	7081
OK	Inola	**1	0798
	GT98	**1, **[illegible]	7243
	GT99	**1–**3	7225
	NA1–7216	**1, **2	7216
	San Miguel	**2	6183
	TNP One	**3, **4	7030
WI	Manitowoc	9	4125
	Na–7222	**1	7222

EPA also requests comment from owners or operators of other units in Table 2 that will not be built or that actually are not affected units under § 72.6. EPA notes that if the owners and operators of any unit listed in Table 2 believe that their unit is not an affected unit, a certifying official for owners or operators of the unit may submit a petition under § 72.6(c) to have the Administrator determine if the Acid Rain Program rules apply to the unit.[25] Units that are not affected units or will not be built may be deleted from Table 2.

5. EPA proposes to implement, in today's rulemaking, the above-discussed deletions from Table 2 and the other deletions from or additions to Tables 2 and 3 addressed in this proposal. However, for the reasons previously discussed, EPA proposes that, in this rulemaking, it will not change the allowance allocations of units remaining on the tables or show the allowance allocations of units added to the tables. These changes will be made in a future rulemaking in June 1998.

Specifically, with regard to units proposed for deletion from Table 2 or 3, EPA proposes, in this rulemaking, to remove from the table each such unit and the information concerning its allowances. Further, EPA proposes to require the designated representative of each unit that is proposed for deletion as an unaffected unit and has been allocated allowances, pursuant to the tables, to surrender to EPA, for each such allowance, an allowance of the same or earlier compliance use date. The Agency will deduct such allowances from the unit's Allowance Tracking System account. The designated representative of each such unit must also return to EPA the allowance proceeds that were distributed for any allowances withheld from such unit for the EPA allowance auction under subpart E of part 73. If, as proposed today, these units are not affected units, they were not eligible for any allowance allocations, and any allowances or allowance proceeds that they received must be returned. The allowances and proceeds must be returned within 60 days of the effective date of the final rule resulting from today's proposal. In the future, EPA will redistribute the returned allowance proceeds among the units that are properly allocated allowances and from which allowances are properly withheld for the auction. At that time, EPA will explain the procedure used for making the redistribution.

With regard to units proposed for addition to a table, EPA proposes to add to the appropriate table the units proposed for addition and their unadjusted basic allowances. EPA proposes not to change, in this rulemaking, the ratchet used to adjust all allowances on the tables. Rather than recalculating the ratchet and applying it to units added to or remaining in the tables, EPA will not calculate the allowance allocations ("total annual phase II allowances" in the tables) for the added units but will show these allocations as "NA" (not available). Allowances will not be placed in the Allowance Tracking System accounts of the added units at this time. Further, EPA will not change the allowance allocations (and the allowances actually reflected in the Allowance Tracking System accounts) for the units remaining in the tables. When EPA develops the June 1998 revised list of allowance allocations required under section 403, EPA will calculate a new ratchet and apply it to the unadjusted basic allowances of all units on Tables 2 and 3 at that time. The resulting allowance allocations (including those for the added units) will then be reflected in the units' Allowance Tracking System accounts.

[25] The applicability of the Acid Rain Program is described in the guidance document, "Do the Acid Rain SO_2 Regulations Apply to You?", which is available from the Acid Rain Hotline at (202) 233–9620.

C. Additions of Units to and Deletions of Units From Table 3

The current Table 3 of § 73.10 lists units that were expected to be eligible for allowances under section 405(g)(4) of the Act. Units were considered eligible if EPA was informed (as reflected in the EPA's Supplemental Data File finalized on March 23, 1993) that they had commenced construction prior to December 31, 1990 and (as reflected in the NADB) that they were planning to commence commercial operation from January 1, 1993 through December 31, 1995. EPA required that owners and operators of units on Table 3 submit documentation to EPA by December 31, 1995 of the commencement of construction. 58 FR 15722. For units commencing construction before December 31, 1990, eligibility under section 405(g)(4) ultimately depends on them being affected units that actually commenced commercial operation by what was a future date (December 31, 1995) at the time the data underlying Table 3 was gathered. While some data about a unit (e.g., its generating capacity or allowable emissions rate) is known before construction is completed or operation begins, other information (in this case, the commencement date for commercial operation) can only be a projection that, not surprisingly, may turn out to be wrong.

As discussed above, EPA's general approach to correcting data errors that lead to allowance revisions has been to require that the owners or operators have informed EPA by December 31, 1991 and sufficiently documented the correction by July 7, 1992. However, as of either of those dates, owners or operators of units in Table 3 that ultimately commenced commercial operation in 1993–1995 had only projections of commercial operation commencement dates, not *actual* data. Because such owners or operators could not have informed EPA by December 31, 1991 that the projected dates were erroneous, EPA is taking a different approach with regard to errors in the projected dates. EPA proposes to correct errors in a unit's projected commercial operation dates and to make the resulting allowance revisions if the Agency was made aware of the error within a reasonable time after the actual commencement of commercial operation. In addition, EPA is continuing to take the approach of correcting data errors (e.g., as discussed below, errors concerning completion of construction of units or status of units as fossil fuel-fired combustion devices), regardless of when EPA became aware of the corrected information, to the extent necessary to ensure that unaffected units are not erroneously treated as affected units. As a result, EPA proposes several additions of units to and deletions of units from Table 3.

a. EPA has reviewed various documents regarding planned utility units and understands that many units presently listed on Table 3 are not likely ever to be built. In some cases, EPA's information in the Supplemental Data File on construction commencement was erroneous, and, in other cases, construction was commenced but not completed. Obviously, such units are not affected units and should not be included in any table as affected units. From the Department of Energy's "Inventory of Power Plants 1993" and "Inventory of Power Plants 1994", EPA believes the following units will not be built and proposes to delete them from Table 3:

State	Plant	Units	ORIS
FL	G W Ivey	**2	0665
IL	Lakeside	GT1	0964
IA	Na1—7230	**1	7230
MO	Empire Energy Ctr	**3	6223
	Lake Road	**8	2098
NJ	Butler	**3	7152
OH	Dover	**7	2914
PA	Trenton Cogen Proj	**1	9902
SC	NA2—7107	**GT2	7107
	NA3—7108	**GT3	7108
SD	Ct	**5	7238
UT	Bonanza	**2	7790
WI	Combustion Turbine	**1	7157
	Na2	**1	7250

Table 3 also currently includes other units that are not affected units. Harbor Gen Station **10 in California, Martin **3ST and **4ST in Florida, and Clark **9 and **10 in Nevada on Table 3 are heat recovery boilers served by existing simple turbines. As discussed above, this type of unit is not a fossil fuel-fired combustion device. Therefore, these are not affected units and should not be listed in any of the tables. EPA today proposes to delete them from Table 3.

In addition, EPA proposes to delete the following units from Table 3 and include them on Table 2 with zero allowances. NA1–7228 **1, **2, and **3 in Indiana did not submit the required documentation of the date for commencement of construction. Harry Allen **GT1 and **GT2 in Nevada did not commence construction before January 1, 1990. The remaining units did not commence commercial operation before December 31, 1995.

State	Plant name	Units	ORIS code
AL	McWilliams	**4	0533
AZ	Springerville	3	8223
IN	NA1–7228	**1, **2, **3	7228
KS	Wamego	**NA1	1328
MD	Easton 2	**25	4257
	Perryman	**51	1556
MS	Moselle	**4, **5	2070
MO	Combustion Turbine 1	**1	7160
MO	Combustion Turbine 2	**2	7161

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State	Plant name	Units	ORIS code
NE	Na1–7019	**NA1	7019
NV	Harry Allen	**GT1, **GT2	7082
NJ	Butler	**1	7152
NJ	Na1–7139	**1	7139
NJ	Na2–7140	**1	7140
OH	Woodsdale	**GT7	7158
SC	NA1- 7106	**GT1	7106
VA	East Chandler	**2	7186

Finally, Twin Oak 2 in Texas is eligible for allowances under section 405(g)(2) and was listed in Table 3 as also eligible for allowances under section 405(g)(4). This unit did not actually commence commercial operation by December 31, 1995 and therefore is not eligible under section 405(g)(4). EPA proposes that Twin Oak 2 be removed from Table 3 and listed in Table 2 with 1,760 unadjusted basic allowances under section 405(g)(2).

b. EPA understands that Angus Anson unit 3 in Minnesota (listed in Table 2 as "NA1–7237, **2"), Cope unit 1 in South Carolina (listed in Table 2 as "NA4–7210, **ST1") and Fond Du Lac CT3 in Wisconsin (listed in Table 2 as "Na1–7203") actually commenced construction prior to December 31, 1990 and commercial operation in 1995 and are not listed in Table 3. In 1991, EPA had received documentation of their pre-1991 commencement of construction but did not list the units in Table 3 because they were not projected to commence commercial operation until 1996. EPA was informed, within a reasonable time after actual commencement of commercial operation, that the projections were wrong. EPA proposes to include these units in Table 3 with the following unadjusted basic allowances under section 405(g)(4) of the Act: Angus Anson unit 3, 1,166 allowances; Cope unit 1, 2,989 allowances; and Fond Du Lac CT3, 44 allowances.

In addition, EPA believes that it erred by not including West Marinette unit 33 in Wisconsin in Table 3. On August 28, 1991, the owner of West Marinette informed EPA that the unit had commenced construction before December 31, 1990 and was projected to commence commercial operation before 1996. EPA erroneously recorded the date for commencement of construction as being after 1990 and therefore failed to include the unit in the table. Because the owner timely informed EPA of the data error and because the unit actually commenced commercial operation in 1995, EPA considers this an Agency error and is correcting the error and adding the unit to Table 3. West Marinette unit 33 is eligible for 874 unadjusted basic allowances.

EPA proposes to include these three units in Table 3 with the proper unadjusted basic allowances.

c. EPA is proposing to make, in this rulemaking, the deletions and additions of units and the changes to the unadjusted allowances discussed in this section. These changes will be implemented in the manner described, and for the reasons discussed, in section IV(B) of this preamble. The units' allowance allocations will be revised to reflect the new figures for unadjusted allowances when the revised Tables 2 and 3 are issued in June 1998.

D. 1998 Revision of Allowance Allocations

As noted above, section 403(a)(1) of the Act requires EPA to publish a revised statement of allowance allocations no later than June 1, 1998. That revision must account for units eligible for allowances under section 405(g)(4) (units commencing operation from 1992 through 1995), units eligible for allowances under section 405(i)(2) (units that reduce their emissions rates), and section 409 (units with approved repowering extensions). Rules for the revision of allowance allocations were published on March 23, 1993. 58 FR 15634.

EPA is presently planning the procedures for revising allowance allocations in 1998. EPA has determined that the current regulations should be revised to facilitate the 1998 allowance allocation revision.

The current rule requires each unit eligible under section 405(i)(2) to submit a copy of the Form EIA–767 (showing the actual SO_2 emissions rate) for the unit for 1997 no later than March 1, 1998. Because EPA must provide a comment period on the revision to allocations and because of the administrative requirements for issuance of rules, there is insufficient time for EPA to issue a final rule in June 1998 using data submitted to EPA in March 1998. EPA is therefore proposing to use instead 1996 actual SO_2 emissions rate data as reported by the unit's continuous emissions monitors under part 75. That data will be available in the spring of 1997, allowing EPA time to complete the revisions by the statutory deadline. Submission of the 1997 Form EIA–767 will no longer be required.

The revisions to the allowance allocations are also dependent upon a reasonably accurate calculation of the number of allowances allocated for units with repowering extensions. EPA finalized the allowance allocations in 1993 based on its estimate of the number of allowances that could be allocated for units projected to apply for and be granted repowering extensions. The current part 72 allows for approval of a conditional repowering extension plan that does not go into effect until the plan is activated, which may occur as late as December 31, 1997. Thus, until January 1998, EPA will not know the number of repowering extension plans in effect and the resulting number of allowances to be allocated for units with repowering extensions. This date is too late for EPA to complete allowance allocation revisions by June 1998.

Therefore, EPA proposes to require activation of repowering extension plans by June 1, 1997. That is the same date as the deadline for submission to EPA of petitions for approval of repowering technology under § 72.44(d). Under § 72.44, a repowering extension can be approved only if the Administrator determines that the technology proposed to be used for repowering is a qualified repowering technology, consistent with the definition of "repowering" in section 402(12) of the Act. EPA believes that, as a practical matter, the June 1, 1997 deadline will provide sufficient flexibility for a utility to decide whether to commit to repowering a unit, particularly since the utility will still have until December 31, 1999 to terminate a repowering extension plan. Although the June 1998 revision will reflect repowering plans that the utility retains the right to terminate, EPA maintains that approved plans provide a sounder basis for the June 1998

allocations than conditional plans that may not even be activated.

E. Revisions to Small Diesel Refinery Provisions

Section 410(h) of the Act provides a total of 35,000 allowances for small diesel refineries that desulfurize diesel fuel from October 1, 1993 through December 31, 1999. Small diesel refineries are not affected units under the Acid Rain Program and do not need allowances to comply with any provision of the Act but may sell their allowances. Regulations for the allocation of allowances to small diesel refineries are contained in subpart G of part 73.

After finalization of subpart G, EPA was informed that the equation in § 73.90(c), for calculating allowances in instances where the allowances requested by small refineries exceed the 35,000 limit under section 410(h), is in error. EPA agrees. The factor for prorating allowances to the 35,000 level was inverted. Today, EPA proposes to correct the equation and eliminate some redundant language.

Also, after finalizing the rule, EPA realized that the list of items (in § 73.90(a)) to be submitted to support a certification that the refinery is a small diesel refinery eligible for allowances is insufficient, as compared to the definition of small diesel refinery in § 72.2. That definition requires data on crude oil throughput for 1988 through 1990 but the current rule requires submission of EIA–810 forms only for 1990. EPA has had to routinely request applicants to supplement their initial submissions with copies of the 1988 and 1989 EIA–810 forms. It is less burdensome for the applicant and EPA to have properly stated submission requirements in the first instance. Today, EPA proposes to revise the rule to correct this error.

V. Part 75: Monitoring Requirements for Units Burning Digester and Landfill Gas

EPA has received questions regarding treatment, under part 75, of utility units that burn digester or landfill gas in addition to natural gas. The definition of "natural gas" clearly excludes digester and landfill gas. The present definition of "gas-fired" includes natural gas and other gaseous fuels, but, for the purposes of monitoring requirements under part 75, excludes gaseous fuels that contain more sulfur than natural gas. In general, digester and landfill gas contain significantly more sulfur than natural gas, although still much less than coal. The monitoring rules of part 75 treat units that burn digester or landfill gas as "other" units, subject to the same requirements as coal-fired units to use continuous emissions monitoring systems to monitor SO_2, NO_x, carbon dioxide, and opacity.

Use of digester or landfill gas for generation of electricity is encouraged by the Agency in order to decrease the emission of greenhouse gases and to efficiently use this waste product. However, the Agency has limited information concerning the range of the sulfur content of digester or landfill gas and methods, other than continuous emissions monitoring, for determining the amount of SO_2 emissions from units combusting such gas. On one hand, EPA does not wish to discourage electricity production from digester and landfill gases by having overly burdensome monitoring requirements. In fact, use of such gases for electric generation can reduce methane and other emissions while reducing the financial burden on municipal landfills and other emitters of such gases. 61 FR 9905,9909–10 (March 12, 1996). On the other hand, accurate monitoring of SO_2 emissions from affected units is essential to the integrity and effectiveness of the Acid Rain Program.

Under these circumstances, EPA is not proposing any changes to part 75 concerning monitoring of emissions from units combusting digester or landfill gas. Instead, the Agency requests information on: the sulfur content of such gas and the variability of sulfur content over time; the available methods, in addition to continuous emissions monitoring, for determining SO_2 and NO_x emissions from units combusting such gas; and the cost and accuracy of such methods. Other than the change in § 75.67(a), discussed above, concerning exemptions from monitoring requirements for retired units, EPA is not proposing any changes to part 75 and will not accept comments on any other provisions of part 75 in this rulemaking.[26]

VI. Part 77: Excess Emissions

A. Immediate Deduction of Allowances to Offset Excess Emissions

Under the current rule, the designated representative of a unit that has excess emissions for a calendar year must submit an offset plan showing when allowances offsetting the excess emissions should be deducted. In the plan, the designated representative must state the amount of the excess emissions and of the resulting offset allowances and may state that the allowances should be deducted either immediately or on a future specified date. A plan providing for immediate deduction of all offset allowances will generally be approved without any further proceedings. A plan specifying a future date for deduction must be processed using notice and comment procedures analogous to the Agency's Acid Rain permit issuance procedures. If the future deduction date is in a year after the year in which the plan is submitted, there must be a showing that a deduction during the year of submittal will interfere with electric reliability.

This approach provides the options of, *inter alia*, submitting an offset plan for immediate deduction of allowances, which is automatically approved, or an offset plan providing for deduction later in the year in which the plan is submitted, which must go through notice and comment. However, since offset plans are submitted by March 1 and deductions will not actually be made until after completion of Agency review of emission data for the calendar year of the excess emissions, there is relatively small timing difference between an immediate deduction and one that takes place by the end of the same year. It seems doubtful that a designated representative would find that the timing difference warrants the burden of the notice and comment procedures applicable to plans not providing for immediate deductions. Further, it is less administratively burdensome for EPA to make deductions when it is already examining a unit's Allowance Tracking System acccount to determine if the allowances cover the unit's emissions than to defer the deductions to a later date in the same year. From a public policy standpoint, immediate deductions will also have the advantage of a more timely closing of compliance activities for the unit for the year of the excess emissions.

For these reasons, EPA proposes to modify the current rule to require the offset plan to provide either for immediate deduction or deduction on a specified date in a subsequent year. Immediate deduction offset plans will continue to be subject to automatic approval while any other plans will have to include a showing of the impact of an immediate deduction on electric reliability and will be subject to notice and comment.[27]

[26] Under § 75.50, information required under part 75 must be retained for at least 3 years from the date of each record. The general recordkeeping provision in § 72.9(f)(1), which requires record retention for at least 5 years, is revised to incorporate specifically the 3-year period for part 75 records.

[27] Revisions concerning the notice and comment procedure for offset plans are also proposed. The

Continued

In addition, under the proposal, it will be optional to specify in the offset plan the number of offset allowances to be deducted. Excess emissions and the offset requirement are determined by allowance account data, monitoring data, and other data (e.g., for Phase I, reduced utilization data) submitted to and reviewed by the Administrator. There is no purpose in requiring the designated representative to state in the plan the amount of excess emissions and of resulting offset allowances. This is consistent with the approach taken in the requirements for the annual compliance certification report, which does not require the designated representative to certify the amount of annual emissions or of allowances held as of the allowance transfer deadline. *See* 40 CFR 72.90.

B. Deadline for Payment of Excess Emissions Penalties

Under the current rule, the owners and operators of a unit must pay any excess emissions penalties ($2,000, adjusted for inflation, per excess ton) by 60 days after the end of the year (i.e., by March 1) in which the excess emissions occur. Penalty payments for additional excess emissions resulting from the process of confirming kilowatt hour savings or heat rate improvement from energy conservation or improved unit efficiency measures under § 72.91(b) must be paid by July 1.

The difficulty with this approach is that the Agency's review of the emissions for that year may not have been completed by the date that the payment is due. With regard to Phase I, the information concerning reduced utilization and allowance surrender, which also affect the excess emissions determination, will be submitted around the same time (i.e., no later than March 1) and will not have yet been reviewed. Moreover, reduced utilization information submitted by March 1 by Phase I units with reduced utilization plans relying on energy conservation or improved unit efficiency measures will reflect only estimates of the kilowatt hour savings or heat rate improvement from conservation or improved efficiency. Verified figures will not be submitted until July 1, and the Administrator has the discretion to extend the July 1 submission date for good cause. Agency review of emissions data and reduced utilization information may result in a change in the determination of excess emissions and the penalty payment that is due.

Consequently, while section 411(a) of the Act expressly requires automatic payment of excess emissions penalties without demand by the Agency, the requirement to submit such payments by March 1 seems premature. Further, if Agency review results in a reduction in the amount calculated as excess emissions, there will have to be a refund of overpayment of penalties.

For these reasons, EPA proposes to change the current rule to provide that excess emissions penalties are automatically due 30 days after the Administrator serves the designated representative of the unit involved a notice, stating that the Agency has completed the end-of-year recordation process set forth in the current § 73.34(a), but, in any event, no later than July 1 of the year after the year in which the excess emissions occur. That end-or-year recordation process entails: deduction of allowances, from the balance in the unit's compliance subaccount as of the allowance transfer deadline, for SO_2 emissions during the prior calendar year; deduction of allowances pursuant to any other rule provisions (e.g., for reduced utilitization) from such balance; and transfer into the compliance subaccount of allowances allocated for the new calendar year. EPA anticipates that the notice will also provide information on the final balance in the account after all deductions are made. EPA notes that under the current § 73.50(b)(2) the unit's compliance subaccount is frozen, so that no transfers can be made in or out of the account, until the recordation process in § 73.34(a) is completed.

If the penalty is not paid within 30 days after the notice is sent, EPA proposes that a second notice will be sent by the Administrator, i.e., a demand notice stating that the excess emissions penalty and interest charges are due. Interest will accrue from the date on which the second notice is mailed. This is consistent with the requirements of the Debt Collection Act (31 U.S.C. 3717).

With regard to additional excess emissions that may stem from the process of confirming the results of energy conservation or improved unit efficiency measures, EPA proposes to make the payment due 30 days after the Administrator serves the designated representative a notice stating that the process set forth in § 72.92(b) is completed. Under § 72.92(b), the Administrator must review the confirmation report and determine whether additional excess emissions have resulted and whether any penalty (or refund of a penalty) is owed.

C. Excess NO_X Emissions Under NO_X Averaging Plans

The current § 77.6 states that owners and operators of each unit with excess emissions of NO_X during a year must pay a penalty of $2,000 (adjusted by the Consumer Price Index) per ton of excess emissions of NO_X. In part 76, § 76.13 states how to calculate the amount of excess emissions of NO_X. In particular, § 76.13(b) addresses the calculation where a unit is in an approved NO_X averaging plan under § 76.11.

Each unit in a NO_X averaging plan has an individual NO_X emission limitation (in lbs of NO_X/mmBtu of heat input) and an individual heat input limit. However, if a group showing of compliance by the units in the plan can be made (i.e., if the Btu-weighted average emission rate for the units is less than or equal to the Btu-weighted average emission rate had the units operated in compliance with the standard emission limitations applicable to the units in the absence of the NO_X averaging plan), the units are deemed to be in compliance with their individual emission limitations and heat input limits. *See* 40 CFR 76.11(d)(1)(ii) (A) and (C). Under § 76.13(b), if at least one unit in a NO_X averaging plan fails to meet its individual emission limitation or heat input limit and the units in the plan fail to make a group showing of compliance, excess emissions for NO_X equal the difference between actual total NO_X emissions for the group of units for the year and total NO_X emissions for the group for the year if each unit had met the standard emission limitations otherwise applicable to the unit.

Applying the current § 77.6(b), each unit that is in the NO_X averaging plan and that has excess emissions of NO_X must pay $2,000 (adjusted for inflation) per ton for the total amount of excess emissions under the plan as set forth in § 76.13(b). If more than one unit violates its individual emission limitation or heat input limit, this could result in multiple $2,000 penalty payments on the same ton of excess emissions. EPA proposes to change part 77 to prevent such a result. The proposal states that where a NO_X averaging plan covers one or more units that fail to meet their individual emission limitations or heat

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provisions setting the time period for submission of supplemental information requested by the Administrator and establishing the list of persons on which the Administrator must serve notice of a draft offset plan are revised for the same reasons as the analogous revisions (discussed above) of the notice and comment procedure for Acid Rain permits. Further, the proposal requires service of automatic approvals of immediate-deduction offset plans only on the designated representative of the unit involved and no longer requires service on other persons. This seems appropriate since with the completion of the immediate deduction, the designated representative has fully completed his or her offset obligation and the approval of the offset plan will still be noticed in the **Federal Register**.

input limits for the year and a group showing of compliance cannot be made, excess emissions occur at all such units in the plan and the total amount of excess emissions for such units for the year will equal the amount of excess emissions calculated in accordance with § 76.13(b). The owners and operators of these units are responsible for paying the resulting excess emissions penalty under § 77.6(b). Which of the owners and operators actually make the payments is left to the owners and operators to determine so long as the correct total amount of penalties is paid.

VII. Part 78: Administrative Appeals

In a proposal promulgated on September 24, 1993, EPA proposed to add language to part 78 to clarify that, where a person contests a decision of the Administrator under the Acid Rain Program, exhaustion of the administrative appeals under part 78 is a prerequisite to judicial review. 58 FR 50088, 50104 (September 24, 1993). The proposal did not change the language in § 78.7 providing that decisions on administrative appeal will be effective pending such appeal unless a stay is granted by the Environmental Appeals Board or the Presiding Officer.

The Agency received comments on the proposed language. The commenters argued that the current part 78 is not ambiguous and should be interpreted not to require exhaustion of administrative remedies prior to judicial review. The commenters cite *Darby* v. *Cisneros*, 509 U.S. 137, 154 (1993), in which the Supreme Court held that exhaustion of administrative appeals is "a prerequisite to judicial review *only* when expressly required by statute or when an agency rule requires appeal before review and the administrative action is made inoperative pending that review." According to the Supreme Court, the requirement for exhaustion of administrative remedies must be "clearly" imposed by statute or rule. *Id.* at 146. Moreover, the commenters allege that because part 78 does not include a complete list of the specific decisions of the Administrator that are appealable under part 78, a requirement for exhaustion of administrative remedies would not be sufficiently clear. Finally, the commenters state that since the September 24, 1994 proposal would make the Administrator's decisions inoperative pending administrative appeal, this may have a disruptive effect and the Agency should solicit additional comment on the effect of the September 24, 1993 proposal.

EPA proposes to modify the language in part 78 to state clearly that exhaustion of administrative appeals is a prerequisite for judicial review of any decision appealable under part 78, i.e., any final decision of the Administrator under the Acid Rain Program (excluding the matters listed in § 78.3(d)). In addition to the changes in the September 24, 1993 proposal, changes are proposed to make it clear that if a petition for review under part 78 is not filed for a decision appealable under that part, the exhaustion prerequisite for judicial review is not met and to provide that if such a petition is filed, the decision is inoperative pending completion of the administrative appeal procedures. One such change is the elimination of § 78.7 limiting the granting of stays of decisions during administrative appeal. Another change is the removal of the current provision in § 78.3(d)(1) barring appeal of matters for which a claim of error could have been, but was not, submitted.[28] This latter change will ensure that Agency decisions on such matters are reviewed by a superior agency authority (i.e., the Environmental Appeals Board) before judicial review can be sought.

These revisions in part 78 require a few conforming changes in part 72, which are included in today's proposal. Section 72.32 is revised to state that an affected unit is governed by its complete permit application until its Acid Rain permit is issued or denied. If an administrative appeal of a permit is filed under part 78, the permit is not in effect during the appeal and the application continues to govern until there is final agency action subject to judicial review. If an administrative appeal is filed under State appeal procedures, the State procedures will determine when the permit is "issued" and thus in effect. Further, since the revised provisions of this section and of sections in part 78 address in detail when an Acid Rain permit is final, the references to administrative appeals in the definition of "Acid Rain permit" in § 72.2 are superfluous and are removed.

EPA maintains that the approach proposed here for administrative appeals is consistent with *Darby* and provides an opportunity for the Agency to correct decisions that persons allege are erroneous. Because § 78.1 provides, in paragraph (a), a clear, general description of the decisions that are appealable under part 78 and, in paragraph (b), a list of the many (but not necessarily all) of the specific types of decisions that are appealable, EPA believes that the mandate to exhaust administative remedies prior to judicial appeal is clear and meets the requirements of *Darby*.

A few additional changes to part 78 are proposed. The provisions setting time periods for filings by parties (e.g., the 30-day time periods within which motions to intervene in part 78 appeal proceedings may be filed and within which parties may file objections to a proposed decision of a Presiding Officer) are changed. In order to provide more flexibility, the changes allow the Administrator, Environmental Appeals Board, or Presiding Officer (as appropriate) to set reasonable time periods that are shorter or longer time than the usually applicable time periods in the rule. Since a decision appealed under part 78 is inoperative pending completion of the administrative appeal, the Agency needs to have the ability to accelerate the appeals proceeding where delay due to the pending appeal will have significant, adverse consequences. In addition, the usually applicable time period within which the Environmental Appeals Board may decide *sua sponte* to review a Presiding Officer's proposed decision is lengthened to 45 days so that, before the Board must decide whether to undertake review, the Board will know whether any party has requested such review. Further, requirements for service of notices of petitions for administrative review are changed to be consistent with the changes proposed above for service requirements, under part 72, for notices of draft Acid Rain permits.

VIII. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866, 58 FR 51735 (October 4, 1993), the Administrator must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees,

[28] In addition, since the right to administrative appeal is no longer conditioned on taking the opportunity to file a claim of error, references in several sections in part 78 to such opportunity are replaced by references to actual submissions of, or Agency responses to, such claims.

or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a "significant regulatory action" because the rule seems to raise novel legal or policy issues. As such, this action was submitted to OMB for review. Any written comments from OMB to EPA, any written EPA response to those comments, and any changes made in response to OMB suggestions or recommendations are included in the docket. The docket is available for public inspection at the EPA's Air Docket Section, which is listed in the **ADDRESSES** section of this preamble.

B. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the Agency must identify and consider a reasonable number of regulatory alternatives before promulating a rule for which a budgetary impact statement must be prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this proposed rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than $100 million in any one year, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments.

As discussed in detail in this preamble, the proposal has the net effect of reducing the burden of parts 72, 77, and 78 of the Acid Rain regulations on regulated entities (including both investor-owned and municipal utilities) and on State permitting authorities (which may include State, local, and tribal governments). For example, the proposal reduces the burden of obtaining or providing new units and retired units exemptions from the Acid Rain Program and of issuing Acid Rain permits.

The proposed revisions to part 73 also do not have a significant, adverse effect on regulated entities (including small entities) and have no effect on State permitting authorities. The proposal increases the annual unadjusted basic allowances for certain units and reduces the annual unadjusted basic allowances of other units, for a net reduction in total basic allowances of about 27,000 during 2000–2009 and 24,000 in 2010 and thereafter. Since sections 403(a) and 405(a)(3) of the Act set a nationwide cap on annual allowance allocations, the net reduction of allowances under this proposal will result in a small increase in the annual allocations of each of the other units that already receive allowances; the total increase will equal the amount of the above-discussed reductions. In addition, the proposal increases the annual bonus allowances by a total of about 3,000 during 2000–2009; these end in 2009 and are not subject to the cap.

In most cases where a unit's allowance allocation is reduced, the entire allocation is eliminated because EPA proposes to find that the unit is an unaffected unit and therefore to remove the unit from Table 2 or 3. These tables list affected units, which are expected to comply with all Acid Rain Program requirements. The loss of allowances is more than offset by the removal of any obligation of such a unit to meet the emission limitations and permitting, monitoring, and recording and recordkeeping requirements of the program. The only units that have reduced allowance allocations and that remain affected units are units that were conditionally granted allowances under section 405(g)(4) of the Act and therefore were listed on Table 3 of § 73.10(c). The allowances were conditioned on the owners and operators documenting that the units commenced construction before December 31, 1990 and commenced commercial operation by December 31, 1995. Because these conditions were not met by certain units, the units are not eligible for the allowances. See 58 FR 15641. Today's rule revisions simply reflect this ineligibility and propose to delete the units from Table 3 and add them to Table 2 with zero allowances. EPA maintains that the rule, therefore, does not have a significant, adverse impact on regulated entities, including entities that are owners or operators of the units removed from Table 3.

As part of the process of developing this proposal, EPA discussed with some State air regulators, the proposed revisions to part 72 affecting State permitting authorities. These air regulators expressed general support for the approach of reducing the need for States to review and approve new unit or retired unit exemptions. They also generally supported the approach of streamlining notice and comment procedures for issuance of Acid Rain permits and spelling out more clearly or reduce the differences between the Acid Rain and title V permitting procedures. The approach of allowing States not to adopt opt-in regulations and providing that the Administrator issue opt-in permits under part 74 for sources in such States was also generally supported.

C. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1633.10) and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., SW.; Washington, DC 20460 or by calling (202) 260–2740.

The only additional information required by this collection of information is data concerning industrial units that exercise the option of applying for an exemption from most requirements of the Acid Rain Program, e.g., allowance, monitoring, and annual compliance requirements. This is a new industrial units exemption that EPA proposes, in today's rule, to establish. The requirements from which qualified industrial units will be exempt are significantly more burdensome than the information collection requirements for obtaining the exemption.[29] In order to

[29] Because the information collection burden on non-cogeneration industrial units in the absence of this new exemption was not included in the ICR for the current rule, the effect of removing such burden through the new exemption is not included in the ICR for today's proposal. Consequently, the ICR for today's proposal shows an increase in burden even though exempt industrial units will actually experience a significant net reduction in the burden imposed on them by the Acid Rain Program. In addition, as discussed in detail in this preamble, today's proposal includes other revisions that will reduce somewhat the burden of the program on

obtain the exemption, an industrial unit must meet the information collection requirements, which involve submission of information that is necessary, and will be used, for determining whether the units qualify and will continue to qualify for the exemption.

The additional information collection increases the estimated burden, as compared to the burden under the current regulations, by an average of 24 hours per response for about 15 responses. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to: the Director, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M St., S.W., Washington, DC 20460; and the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., N.W., Washington, DC 20503, marked "Attention: Desk Officer for EPA." Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after December 27, 1996, a comment to OMB is best assured of having its full effect if OMB receives it by January 27, 1997. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, et seq., requires federal agencies to consider potential impacts of its regulations on small entities. Under 5 U.S.C. 604(a), an agency issuing a notice of proposed rulemaking must prepare and make available for public comment an initial regulatory flexibility analysis. Such an analysis is not required if the head of an agency determines, under 5 U.S.C. 605(b), that the proposed rule will not have a significant economic impact on a substantial number of small entities.

In the preamble of the January 11, 1993 rule, the Administrator certified that the rule, including the provisions revised by today's proposal, would not have a significant, adverse impact on small entities. 58 FR 3649. The proposed revisions are not significant enough to change the overall economic impact addressed in the January 11, 1993 preamble. Moreover, as discussed in detail in this preamble, the proposal has the net effect of reducing the burden of the Acid Rain regulations on regulated entities, including small entities. For example, the proposal makes it less burdensome to obtain new units and retired units exemptions from the Acid Rain Program. Further, as discussed in section VIII(B) of this preamble, while the proposal reduces and, in some cases, increases the allowance allocations for individual units, these changes in allocations will not have a significant, adverse effect on the owners or operators of the units. Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the revised rule will not have a significant, adverse impact on a substantial number of small entities.

E. Miscellaneous

In accordance with section 117 of the Act, issuance of this rule was preceded by consultation with any appropriate advisory committees, independent experts, and federal departments and agencies.

List of Subjects in 40 CFR Parts 72, 73, 74, 75, 77, and 78

Environmental protection, Acid rain, Administrative practice and procedure, Air pollution control, Compliance plans, Continuous emissions monitors, Electric utilities, Intergovernmental relations, Nitrogen oxides, Penalties, Permits, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 21, 1996.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter 1 of the Code of Federal Regulations is proposed to be amended as follows:

PART 72—[AMENDED]

1. The authority citation for part 72 is revised to read as follows:

Authority: 42 U.S.C. 7601 and 7651, *et seq.*

§ 72.1 [Amended]

2. Section 72.1 is amended by removing from paragraph (b) the words "part 70" and adding, in their place, the words "parts 70 and 71".

3. Section 72.2 is amended by: Removing the definition for "Dispatch system"; adding in alphabetical order the definitions for "Affected States" and "Eligible Indian tribe"; and revising paragraphs (1)(i) and (2) of the definition for "Acid Rain emissions limitation", the definition for "Acid Rain permit or permit", paragraph (2) of the definition of "Coal-fired", the definitions for "Customer" and "Permitting authority" and "Phase I unit", paragraph (3) of the definition of "Power purchase commitment", and the definitions for "Submit or serve" and "State" and "State operating permits program" to read as follows:

§ 72.2 Definitions.

* * * * *

Acid Rain emissions limitation means:

(1) * * *

(i) The tonnage equivalent of the allowances authorized to be allocated to an affected unit for use in a calendar year under section 404(a)(1), (a)(3), and (h) of the Act, or the basic Phase II allowance allocations authorized to be allocated to an affected unit for use in a calendar year, or the allowances authorized to be allocated to an opt-in source under section 410 of the Act for use in a calendar year;

* * * * *

(2) For purposes of nitrogen oxides emissions, the applicable limitation under part 76 of this chapter.

* * * * *

Acid Rain permit or permit means the legally binding written document or portion of such document, including any permit revisions, that is issued by a permitting authority under this part and specifies the Acid Rain Program requirements applicable to an affected source and to the owners and operators and the designated representative of the affected source or the affected unit.

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units that are not exempt. Because the burden reduction for non-exempt units is small relative to the total burden of the Acid Rain Program, the reduction is not reflected in the ICR for today's proposal.

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Affected States means any affected State as defined in part 71 of this chapter.

* * * * *

Coal-fired means * * *

(2) For all other purposes under the Acid Rain Program, except for purposes of applying part 76 of this chapter, a unit is "coal-fired" if it uses coal or coal-derived fuel as its primary fuel (expressed in mmBtu); *provided* that, if the unit is listed in the NADB, the primary fuel is the fuel listed in the NADB under the data field "PRIMEFUEL".

* * * * *

Customer means a purchaser of electricity not for the purposes of retransmission or resale. For generating rural electrical cooperatives, the customers of the distribution cooperatives served by the generating cooperative will be considered customers of the generating cooperative.

* * * * *

Eligible Indian tribe means any eligible Indian tribe as defined in part 71 of this chapter.

* * * * *

Permitting authority means either:

(1) When the Administrator is responsible for administering Acid Rain permits under subpart G of this part, the Administrator or a delegatee agency authorized by the Administrator; or

(2) The State air pollution control agency, local agency, other State agency, or other agency authorized by the Administrator to administer Acid Rain permits under subpart G of this part and part 70 of this chapter.

* * * * *

Phase I unit means any affected unit, except an affected unit under part 74 of this chapter, that is subject to an Acid Rain emissions reduction requirement or Acid Rain emissions limitation beginning in Phase I; or any unit exempted under § 72.8 that, but for such exemption, would be subject to an Acid Rain emissions reduction requirement or Acid Rain emissions limitation beginning in Phase I.

* * * * *

Power purchase commitment means a commitment or obligation of a utility to purchase electric power from a facility pursuant to:

* * * * *

(3) A letter of intent or similar instrument committing to purchase power (actual electrical output or generator output capacity) from the source at a previously offered or lower price and a power sales agreement applicable to the source is executed within the time frame established by the terms of the letter of intent but no later than November 15, 1993 or, where the letter of intent does not specify a time frame, a power sale agreement applicable to the source is executed on or before November 15, 1993; or

* * * * *

Submit or serve means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation:

(1) In person;

(2) By United States Postal Service; or

(3) By other equivalent means of dispatch, or transmission, and delivery. Compliance with any "submission", "service", or "mailing" deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

* * * * *

State means one of the 48 contiguous States and the District of Columbia, any non-federal authorities in or including such States or the District of Columbia (including local agencies, interstate assocations, and State-wide agencies), and any eligible Indian tribe in an area in such State or the District of Columbia. The term "State" shall have its conventional meaning when used in the phrase "the 48 contiguous States."

State operating permit program means an operating permit program that the Administrator has approved under part 70 of this chapter.

* * * * *

4. Section 72.6 is amended by adding paragraphs (b)(9) and revising paragraph (c) (1) and (2) to read as follows:

§ 72.6 Applicability.

* * * * *

(b) * * *

(9) A unit for which an exemption under § 72.7, § 72.8, or § 72.14 is in effect. Although such a unit is not an affected unit, the unit shall be subject to the requirements of § 72.7, § 72.8, or § 72.14, as applicable to the exemption.

(c) A certifying official of an owner or operator of any unit may petition the Administrator for a determination of applicability under this section.

(1) Petition Content. The petition shall be in writing and include identification of the unit and relevant facts about the unit. In the petition, the certifying official shall certify, by his or her signature, the statement set forth at § 72.21(b)(2). Within 10 business days of receipt of any written determination by the Administrator covering the unit, the certifying official shall provide each owner or operator of the unit, facility, or source with a copy of the petition and a copy of the Administrator's response.

(2) *Timing.* The petition may be submitted to the Administrator at any time but, if possible, should be submitted prior to the issuance (including renewal) of a Phase II Acid Rain permit for the unit.

* * * * *

5. Section 72.7 is revised to read as follows:

§ 72.7 New units exemption.

(a) *Applicability.* This section applies to any new utility unit that has not previously lost an exemption under paragraph (e)(4) of this section and that, in each year starting with the first year for which the unit is to be exempt under this section,

(1) serves one or more generators with total nameplate capacity of 25 MWe or less,

(2) burns fuel that does not include any coal or coal-derived fuel (except coal-derived gaseous fuel with a sulfur content no greater than natural gas) and

(3) burns gaseous fuel with an annual average sulfur content of 0.05 percent or less by weight (as determined under paragraph (c)(3) of this section) and nongaseous fuel with an annual average sulfur content of 0.05 percent or less by weight (as determined under paragraph (c)(3) of this section).

(b)(1) Any new utility unit that meets the requirements of paragraph (a) of this section and that is not allocated any allowances on Table 2 or 3 of § 73.10 of this chapter shall be exempt from the Acid Rain Program, except for the provisions of this section, §§ 72.2 through 72.6, and §§ 72.10 through 72.13.

(2) The exemption under paragraph (b)(1) of this section shall be effective on January 1 of the first full calendar year for which the unit will meet the requirements of paragraph (a) of this section. By December 31 of the first year for which the unit is to be exempt under this section, a statement signed by the designated representative (authorized in accordance with subpart B of this part) or, if no designated representative has been authorized, a certifying official of each owner of the unit shall be submitted to permitting authority otherwise responsible for administering a Phase II Acid Rain permit for the unit. If the Administrator is not the permitting authority, a copy of the statement shall be submitted to the Administrator. The statement, which shall be in a format prescribed by the Administrator, shall identify the unit, state the nameplate capacity of each generator served by the unit and the fuels currently burned or expected to be burned by the unit and their sulfur content by weight, and state that the

owners and operators of the unit will comply with paragraph (e) of this section.

(c)(1) Any new utility unit that meets the requirements of paragraph (a) of this section and that is allocated one or more allowances in Table 2 or 3 of § 73.10 of this chapter shall be exempt from the Acid Rain Program, except for the provisions of this section, §§ 72.2 through 72.6, and §§ 72.10 through 72.13, if each of the following requirements are met:

(i) The designated representative (authorized in accordance with subpart B of this part) or, if no designated representative has been authorized, a certifying official of each owner of the unit submits to the permitting authority otherwise responsible for administering a Phase II Acid Rain permit for the unit a statement (in a format prescribed by the Administrator) that

(A) identifies the unit and states the nameplate capacity of each generator served by the unit and the fuels currently burned or expected to be burned by the unit and their sulfur content by weight,

(B) states that the owners and operators of the unit will comply with paragraph (e) of this section,

(C) surrenders allowances equal in number to, and with the same or earlier compliance use date as, all of those allocated to the unit under subpart B of part 73 of this chapter for the first year that the unit is to be exempt under this section and for each subsequent year, and

(D) surrenders any proceeds for allowances under paragraph (c)(1)(i)(C) withheld from the unit under § 73.10 of this chapter. If the Administrator is not the permitting authority, a copy of the statement shall be submitted to the Administrator.

(ii) The Administrator deducts from the unit's Allowance Tracking System account allowances under paragraph (c)(1)(i)(C) of this section and receives proceeds under paragraph (c)(1)(i)(D) of this chapter. Upon completion of such deductions and receipt of such proceeds, the Administrator will close the unit's Allowance Tracking System account and notify the designated representative (or certifying official) and, if the Administrator is not the permitting authority otherwise responsible for administering a Phase II Acid Rain permit for the unit, the permitting authority.

(2) The exemption under paragraph (c)(1) of this section shall be effective on January 1 of the first full calendar year for which the requirements of paragraphs (a) and (c)(1) of this section are met.

(3) Compliance with the requirement that fuel burned during the year have an annual average sulfur content of 0.05 percent by weight or less shall be determined as follows:

(i) For gaseous fuel burned during the year, if natural gas is the only gaseous fuel burned, the requirement is assumed to be met;

(ii) For gaseous fuel burned during the year where other gas in addition to or besides natural gas is burned, the requirement is met if the annual average sulfur content is equal to or less than 0.05 percent by weight. The annual average sulfur content, as a percentage by weight, for the gaseous fuel burned shall be calculated as follows:

$$\%S_{annual} = \frac{\sum_{n=1}^{last} \%S_n V_n d_n}{\sum_{n=1}^{last} V_n d_n}$$

Where:

$\%S_{annual}$ = annual average sulfur content of the fuel burned during the year, as a percentage by weight;

$\%S_n$ = sulfur content of the nth sample of the fuel delivered during the year to the unit, as a percentage by weight;

V_n = volume of the fuel in a delivery during the year to the unit of which the nth sample is taken, in standard cubic feet; or, for fuel delivered during the year to the unit continuously by pipeline, volume of the fuel delivered starting from when the nth sample of such fuel is taken until the next sample of such fuel is taken, in standard cubic feet;

d_n = density of the nth sample of the fuel delivered during the year to the unit, in lb per standard cubic foot; and

n = each sample taken of the fuel delivered during the year to the unit, taken at least once for each delivery; or, for fuel that is delivered during the year to the unit continuously by pipeline, at least once each quarter during which the fuel is delivered.

(iii) For nongaseous fuel burned during the year, the requirement is met if the annual average sulfur content is equal to or less than 0.05 percent by weight. The annual average sulfur content, as a percentage by weight, shall be calculated using the equation in paragraph (c)(3)(ii) of this section. In lieu of the factor, volume times density (V_n d_n), in the equation, the factor, mass (M_n), may be used, where M_n is: mass of the nongaseous fuel in a delivery during the year to the unit of which the nth sample is taken, in lb; or, for fuel delivered during the year to the unit continuously by pipeline, mass of the nongaseous fuel delivered starting from when the nth sample of such fuel is taken until the next sample of such fuel is taken, in lb.

(d)(1) A utility unit that was issued a written exemption under this section and that meets the requirements of paragraph (a) of this section shall be exempt from the Acid Rain Program, except for the provisions of this section, §§ 72.2 through 72.6, and §§ 72.10 through 72.13 and shall be subject to the requirements of paragraphs (d)(2) and (e) of this section in lieu of the requirements set forth in the written exemption.

(2) If a utility unit under paragraph (d)(1) of this section is allocated one or more allowances in Table 2 or 3 of § 73.10 of this chapter, the designated representative (authorized in accordance with subpart B of this part) or, if no designated representative has been authorized, a certifying official of each owner of the unit shall submit to the permitting authority that issued the written exemption a statement (in a format prescribed by the Administrator) meeting the requirements of paragraph (c)(1)(i)(C) and (D) of this section. The statement shall be submitted by December 31, 1997 and, if the Administrator is not the permitting authority, a copy shall be submitted to the Administrator.

(e) *Special Provisions.* (1) The owners and operators and, to the extent applicable, the designated representative of a unit exempted under this section shall comply with the requirements of the Acid Rain Program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

(2) For any period for which a unit is exempt under this section, the unit is not an affected unit under the Acid Rain Program and parts 70 and 71 of this chapter and is not eligible to be an opt-in source under part 74 of this chapter. As an unaffected unit, the unit shall continue to be subject to any other applicable requirements under parts 70 and 71 of this chapter.

(3) For a period of 5 years from the date the records are created, the owners and operators of a unit exempt under this section shall retain at the source that includes the unit records demonstrating that the requirements of paragraph (a) of this section are met. The 5-year period for keeping records may be extended for cause, at any time prior to the end of the period, in writing by the Administrator or the permitting authority.

(i) Such records shall include, for each delivery of fuel to the unit, the type of fuel and the sulfur content or, for fuel delivered to the unit

continuously by pipeline, the type of fuel and the sulfur content of each sample taken.

(ii) The owners and operators bear the burden of proof that the requirements of paragraph (a) of this section are met.

(4) *Loss of exemption.* (i) On the earliest of the following dates, a unit exempt under paragraph (a) of this section shall lose its exemption and become an affected unit under the Acid Rain Program and parts 70 and 71 of this chapter:

(A) The date on which the unit first serves one or more generators with total nameplate capacity in excess of 25Mwe;

(B) The date on which the unit burns any coal or coal-derived fuel except for coal-derived gaseous fuel with the sulfur content no greater than natural gas; or

(C) January 1 of the year following the year in which the annual average sulfur content for gaseous fuel burned at the unit exceeds 0.05 percent by weight (as determined under paragraph (c)(3) of this section) or for nongaseous fuel burned at the unit exceeds 0.05 percent by weight (as determined under paragraph (c)(3) of this section).

(ii) Notwithstanding § 72.30(b) and (c), the designated representative for a unit that loses its exemption under this section shall submit a complete Acid Rain permit application on the later of January 1, 1998 or 60 days after the date on which the unit is no longer exempt.

(iii) For the purpose of applying monitoring requirements under part 75 of this chapter, a unit that loses its exemption under this section shall be treated as a new unit that commenced commercial operation on the date on which the unit is no longer exempt.

6. Section 72.8 is revised to read as follows:

§ 72.8 Retired units exemption.

(a) This section applies to any affected unit that is permanently retired.

(b)(1) Any affected unit that is permanently retired shall be exempt from the Acid Rain Program, except for the provisions of this section, §§ 72.2 through 72.6, §§ 72.10 through 72.13, and subpart B of part 73 of this chapter.

(2) The exemption under paragraph (b)(1) of this section shall become effective on January 1 of the first full calendar year during which that the unit will be permanently retired. By December 31 of the first year that the unit is to be exempt under this section, the designated representative (authorized in accordance with subpart B of this section) of the unit shall submit a statement to the permitting authority otherwise responsible for administering a Phase II Acid Rain permit for the unit. If the Administrator is not the permitting authority, a copy of the statement shall be submitted to the Administrator. The statement shall state (in a format prescribed by the Administrator) that the unit is permanently retired and will comply with the requirements of paragraph (d) of this section.

(c) A utility unit that was issued a written exemption under this section and that is permanently retired shall be exempt from the Acid Rain Program, except for the provisions of this section, §§ 72.2 through 72.6, §§ 72.10 through 72.13, and subpart B of part 73 of this chapter, and shall be subject to the requirements of paragraph (d) of this section in lieu of the requirements set forth in the written exemption.

(d) *Special Provisions.* (1) A unit exempt under this section shall not emit any sulfur dioxide and nitrogen oxides starting on the date that the exemption takes effect. The owners and operators of the unit will be allocated allowances in accordance with subpart B of part 73 of this chapter. If the unit is a Phase I unit, for each calendar year in Phase I, the designated representative of the unit shall submit a Phase I permit application in accordance with subparts C and D of this part 72 and an annual certification report in accordance with §§ 72.90 through 72.92 and is subject to §§ 72.95 and 72.96.

(2) A unit exempt under this section shall not resume operation unless the designated representative of the source that includes the unit submits a complete Acid Rain permit application under § 72.31 for the unit not less than 24 months prior to the later of January 1, 2000 or the date the unit is to resume operation.

(3) The owners and operators and, to the extent applicable, the designated representative of a unit exempted under this section shall comply with the requirements of the Acid Rain Program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

(4) For any period for which a unit is exempt under this section, the unit is not an affected unit under the Acid Rain Program and parts 70 and 71 of this chapter and is not eligible to be an opt-in source under part 74 of this chapter. As an unaffected unit, the unit shall continue to be subject to any other applicable requirements under parts 70 and 71 of this chapter.

(5) For a period of 5 years from the date the records are created, the owners and operators of a unit exempt under this section shall retain at the source that includes the unit records demonstrating that the unit is permanently retired. The 5-year period for keeping records may be extended for cause, at any time prior to the end of the period, in writing by the Administrator or the permitting authority. The owners and operators bear the burden of proof that the unit is permanently retired.

(6) *Loss of exemption.* (i) On the earlier of the following dates, a unit exempt under this section shall lose its exemption and become an affected unit under the Acid Rain Program and parts 70 and 71 of this chapter:

(A) The date on which the designated representative submits an Acid Rain permit application under paragraph (d)(2) of this section; or

(B) The date on which the designated representative is required under paragraph (d)(2) of this section to submit an Acid Rain permit application.

(ii) For the purpose of applying monitoring requirements under part 75 of this chapter, a unit that loses its exemption under this section shall be treated as a new unit that commenced commercial operation on the date on which the unit resumes operation.

§ 72.9 [Amended]

7. Section 72.9 is amended by:

a. removing from paragraphs (b)(1) and (2) the words "and section 407 of the Act and regulations implementing section 407 of the Act";

b. removing from paragraph (b)(3) the words "and regulations implementing section 407 of the Act";

c. removing from paragraph (c)(6) the words "the written exemption under §§ 72.7 and 72.8" and adding in their place, the words "an exemption under §§ 72.7, 72.8, or 72.14";

d. removing from paragraph (f)(1)(ii) the punctuation "." and adding in its place the words "; *provided* that a 3-year period (rather than a 5-year period) for recordkeeping under part 75 shall apply." ;

e. removing from paragraph (g)(1) the words "a written exemption under § 72.7 or § 72.8" and adding, in their place, the words "an exemption under §§ 72.7, 72.8, or 72.14";

f. removing from paragraph (g)(6) the words "part 76 of this chapter" and adding, in their place, the words "§ 76.11 of this chapter; and

g. removing from paragraph (h) introductory text the words "a written exemption under §§ 72.7 or 72.8" and adding, in their place, the words "an exemption under §§ 72.7, 72.8, or 72.14".

§ 72.13 [Amended]

8. Section 72.13 is amended by:

a. removing paragraphs (a)(1), (a)(5), (a)(6), (a)(7), (a)(9), and (a)(10);

b. redesignating paragraph (a)(2) as paragraph (a)(1);

c. redesignating paragraph (a)(3) as paragraph (a)(2);

d. redesignating paragraph (a)(4) as paragraph (a)(3), and

e. redesignating paragraph (a)(8) as paragraph (a)(4).

9. Section 72.14 is added to read as follows:

§ 72.14 Industrial units exemption.

(a) *Applicability.* This section applies to any non-cogeneration, utility unit that has not previously lost an exemption under paragraph (d)(4) of this section and that meets the following criteria:

(1) Starting on the date of the signing of the interconnection agreement under paragraph (a)(2) of this section and thereafter, there has been no owner or operator of the unit, subsidiary or affiliate or parent company of an owner or operator of the unit, or combination thereof whose principal business is the sale, transmission, or distribution of electricity or that is a public utility under the jurisdiction of a State or local utility regulatory authority;

(2) On or before March 23, 1993, the owners or operators of the unit entered into an interconnection agreement and any related power purchase agreement with a person whose principal business is the sale, transmission, or distribution of electricity or that is a public utility under the jurisdiction of a State or local utility regulatory authority, requiring the generator or generators served by the unit to produce electricity for sale only for incidental electricity sales to such person;

(3) The unit served or serves one or more generators that, in 1985 or any year thereafter, actually produced electricity for sale only for incidental electricity sales required under the interconnection agreement and any related power purchase agreement under paragraph (a)(2) of this section; and

(4) Incidental electricity sales, under this section, are total annual sales of electricity produced by a generator that do not exceed 10 percent of the nameplate capacity of that generator times 8,760 hours per year and do not exceed 10 percent of the actual annual electric output of that generator.

(b) *Petition for exemption.* The designated representative (authorized in accordance with subpart B of this part) of a unit under paragraph (a) of this section may submit to the permitting authority otherwise responsible for administering a Phase II Acid Rain permit for the unit a complete petition for an exemption for the unit from certain requirements of the Acid Rain Program. If the Administrator is not the permitting authority, a copy of the petition shall be submitted to the Administrator. A complete petition shall include the following elements in a format prescribed by the Administrator:

(1) Identification of the unit;

(2) A statement that the unit is not a cogeneration unit;

(3) A list of the current owners and operators of the unit and any other owners and operators of the unit, starting on the date of the signing of the interconnection agreement under paragraph (a)(2) of this section, and a statement that, starting on that date, there has been no owner or operator of the unit, subsidiary or affiliate or parent company of an owner or operator of the unit, or combination thereof whose principal business is the sale, transmission, or distribution of electricity or that is a public utility under the jurisdiction of a State or local utility regulatory authority;

(4) A summary of the terms of the interconnection agreement and any related power purchase agreement under paragraph (a)(2) of this section, including the date on which the agreement was signed, the amount of electricity that may be required to be produced for sale by the generator served by the unit, and the provisions for expiration or termination of the agreement;

(5) A copy of the interconnection agreement and any related power purchase agreement under paragraph (a)(2) of this section;

(6) The nameplate capacity of each generator served by the unit;

(7) For each year starting in 1985, the actual annual electrical output of each generator served by the unit, the total amount of electricity produced for sales to any customer by each generator, and the total amount of electricity produced and sold as required by the interconnection agreement and any related power purchase agreement under paragragh (a)(2) of this section;

(8) A statement that the generator or generators served by the unit actually produced electricity for sale only for incidental electricity sales (in accordance with paragraph (a)(4) of this section) required under the interconnection agreement and any related power purchase agreement under paragraph (a)(2) of this section; and

(9) The special provisions of paragraph (d) of this section.

(c) *Permitting Authority's Action.*

(1) (i) For any unit meeting the requirements of paragraphs (a) and (b) of this section, the permitting authority shall issue an exemption from the requirements of the Acid Rain Program, except for the provisions of this section, §§ 72.2 through 72.6 and §§ 72.10 through 72.13.

(ii) If a petition for exemption is submitted for a unit but the designated representative fails to demonstrate that the requirements of paragraph (a) are met, the permitting authority shall deny an exemption under this section.

(2) In issuing or denying an exemption under paragraph (c)(1) of this section, the permitting authority shall treat the petition for exemption as a permit application and apply the procedures used for issuing or denying draft, proposed (if the Administrator is not the permitting authority otherwise responsible for administering a Phase II Acid Rain permit for the unit), and final Acid Rain permits.

(3) An exemption issued under paragraph (c)(1)(i) of this section shall become effective on January 1 of the first full year the unit meets the requirements of paragraph (a) of this section.

(4) An exemption issued under paragraph (c)(1)(i) of this section shall be effective until the date on which the unit loses the exemption under paragraph (d)(4) of this section.

(d) *Special Provisions.* (1) The owners and operators and, to the extent applicable, the designated representative of a unit exempt under this section shall comply with the requirements of the Acid Rain Program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

(2) For any period for which a unit is exempt under this section, the unit is not an affected unit under the Acid Rain Program and parts 70 and 71 of this chapter and is not eligible to be an opt-in source under part 74 of this chapter. As an unaffected unit, the unit shall continue to be subject to any other applicable requirements under parts 70 and 71 of this chapter.

(3) For a period of 5 years from the date the records are created, the owners and operators of a unit exempt under this section shall retain at the source that includes the unit records demonstrating that the requirements of paragraph (a) of this section are met. The 5-year period for keeping records may be extended for cause, at any time prior to the end of the period, in writing by the Administrator or the permitting authority. Such records shall include the following information:

(i) A copy of the interconnection agreement and any related power

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purchase agreement under paragraph (a)(2) of this section;

(ii) The nameplate capacity of each generator served by the unit; and

(iii) For each year starting in 1985, the actual annual electrical output of each generator served by the unit, the total amount of electricity produced for sales to any customer by each generator, and the total amount of electricity produced and sold as required by the interconnection agreement and any related power purchase agreement under paragraph (a)(2) of this section.

(4) *Loss of exemption.* (i) On the earliest of the following dates, a unit exempt under this section shall lose its exemption and become an affected unit under the Acid Rain Program and parts 70 and 71 of this chapter:

(A) The first date on which there is an owner or operator of the unit, subsidiary or affiliate or parent company of an owner or operator of the unit, or combination thereof, whose principal business is the sale, transmission, or distribution of electricity or that is a public utility under the jurisdiction of a State or local utility regulatory authority.

(B) If any generator served by the unit actually produces any electricity for sale other than for sale to the person specified as the purchaser in the interconnection agreement or any related power purchase agreement under paragraph (a)(2) of this section, then the day after the date on which such electricity is sold.

(C) If any generator served by the unit actually produces any electricity for sale to the person specified as the purchaser in the interconnection agreement or any related power purchase agreement under paragraph (a)(2) of this section where such sale is not required under that interconnection agreement or related power purchase agreement or where such sale will result in total sales for a calendar year exceeding 10 percent of the nameplate capacity of that generator times 8,769 hours per year, then the day after the date on which such sale is made.

(D) If any generator served by the unit actually produces any electricity for sale to the person specified as the purchaser in the interconnection agreement or related power purchase agreement under paragraph (a)(2) of this section where such sale results in total sales for a calendar year exceeding 10 percent of the actual electric output of the generator for that year, then January 1 of the year after such year.

(E) If the interconnection agreement or related power purchase agreement under paragraph (a)(2) of this section expires or is terminated and any generator served by the unit actually produces any electricity for sale, then the day after the date on which such electricity is sold.

(ii) Notwithstanding § 72.30 (b) and (c), the designated representative for a unit that loses its exemption under this section shall submit a complete Acid Rain permit application on the later of January 1, 1998 or 60 days after the date on which the unit is no longer exempted.

(iii) For the purpose of applying monitoring requirements under part 75 of this chapter, a unit that loses its exemption under this section shall be treated as a new unit that commenced commercial operation on the date on which the unit is no longer exempted.

10. Section 72.22 is amended by adding paragraph (e) to read as follows:

§ 72.22 Alternate designated representative.

* * * * *

(e)(1) Notwithstanding paragraph (a) of this section, the certification of representation may designate two alternate designated representatives for a unit if:

(i) the unit's utility system is a subsidiary of a holding company with two or more subsidiaries that are utility systems in two or more of the contiguous 48 States or the District of Columbia; and

(ii) a single designated representative is designated for all the units in the utility-system subsidiaries of the holding company under paragraph (e)(1)(i) of this section and submits a NO_x averaging plan under § 76.11 of this chapter that covers all such units subject to part 76 of this chapter, is approved by the permitting authority, and continues to be in effect.

(2) Except in this paragraph (e), whenever the term "alternate designated representative" is used under the Acid Rain Program, the term shall be construed to include either of the alternate designated representatives authorized under this paragraph (e). Except in this section, § 72.23, and § 72.24, whenever the term "designated representative" is used under the Acid Rain Program, the term shall be construed to include either of the alternate designated representatives authorized under this paragraph (e).

11. Section 72.24 is amended by revising paragraphs (a) (3), (5), (10), and (11) to read as follows:

§ 72.24 Certificate of representation.

(a) * * *

(3) A list of the owners and operators of the affected source and of each affected unit at the source.

* * * * *

(5) The following statement: "I certify that I have given notice of the agreement, selecting me as the 'designated representative' for the affected source and each affected unit at the source identified in this certificate of representation, in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice."

* * * * *

(10) If an alternate designated representative is authorized in the certificate of representation, the following statement: "The agreement by which I was selected as the alternate designated representative includes a procedure for the owners and operators of the source and affected units at the source to authorize the alternate designated representative to act in lieu of the designated representative."

(11) The signature of the designated representative and any alternate designated representative who is authorized in the certificate of representation and the date signed.

* * * * *

12. Section 72.25 is amended by removing from paragraph (a) the words "submitted to" and adding, in their place, the words "received by".

13. Section 72.30 is amended by removing paragraph (b)(3) and adding paragraph (e) to read as follows:

§ 72.30 Requirement to apply.

* * * * *

(e) Where two or more affected units are located at a source, the permitting authority may, in its sole discretion, allow the designated representative of the source to submit, under paragraph (a) or (c) of this section, two or more Acid Rain permit applications covering the units at the source, *provided* that each affected unit is covered by one and only one such application.

14. Section 72.31 is amended by removing from paragraph (b) the words "Phase II unit" and adding in their place the words "affected unit (except as provided under part 74 of this chapter)".

15. Section 72.32 is amended by revising paragraphs (b) and (c) and adding paragraph (d) to read as follows:

§ 72.32 Permit application shield and binding effect of permit application.

* * * * *

(b) Prior to the date on which an Acid Rain permit is issued or denied, an affected unit governed by and operated

in accordance with the terms and requirements of a timely and complete Acid Rain permit application shall be deemed to be operating in compliance with the Acid Rain Program.

(c) A complete Acid Rain permit application shall be binding on the owners and operators and the designated representative of the affected source and the affected units covered by the permit application and shall be enforceable as an Acid Rain permit from the date of submission of the permit application until the issuance or denial of an Acid Rain permit covering the units.

(d) If agency action concerning a permit is appealed under part 78 of this chapter, issuance or denial of the permit shall occur when the Administrator takes final agency action subject to judicial review.

16. Section 72.33 is amended by adding a sentence to the end of paragraph (b)(3) to read as follows:

§ 72.33 Identification of dispatch system.

* * * * *

(b) * * *

(3) * * * A designated representative may request, and the Administrator may grant at his or her discretion, an exemption allowing the submission of an identification of dispatch system after the otherwise applicable deadline for such submission.

* * * * *

17. Section 72.40 is amended by:

a. removing from paragraph (a)(2) the words "applicable emission limitation established by regulations implementing section 407 of the Act" and adding, in their place, the words "applicable emission limitation under §§ 76.5, 76.6, and 76.7 of this chapter";

b. removing from paragraph (a)(2) the words "in accordance with section 407 and the regulations implementing section 407" and adding, in their place, the words "part 76 of this chapter";

c. removing from paragraph (b)(1) the words "an NO_X averaging plan contained in part 76 of this chapter" and adding, in their place, the words "a NO_X averaging plan under § 76.11 of this chapter"; and

d. removing from paragraphs (c) introductory text, (c)(1), and (d)(1) the words "regulations implementing section 407 of the Act" and adding, in their place, the words "part 76 of this chapter".

§ 72.41 [Amended]

18. Section 72.41 is amended by: removing from paragraph (b)(3) the words "90 days" and adding, in their place, the words "6 months (or 90 days if submitted in accordance with § 72.82)"; and removing from paragraph (e)(1)(ii) the words "section 407 of the Act and regulations implementing section 407 of the Act" and adding, in their place, the words "part 76 of this chapter".

§ 72.43 [Amended]

19. Section 72.43 is amended by: removing from paragraph (b)(2)(iii)(B) the words "under § 72.92" and adding, in their place, the words "under § 72.91(b)"; removing from paragraph (b)(4) the words "90 days" and adding, in their place, the words "6 months (or 90 days if submitted in accordance with § 72.82 or § 72.83)"; and removing from paragraph (f)(1)(i) the words "section 407 of the Act and regulations implementing section 407 of the Act" and adding, in their place, the words "part 76 of this chapter".

§ 72.44 [Amended]

20. Section 72.44 is amended by:

a. removing from paragraph (c)(3) the words "December 31" and adding, in their place, the words "June 1";

b. removing from paragraphs (g) (1)(i) and (2) the words "proposed permit revision" and adding, in their place, the words "requested permit modification";

c. adding between the first and second sentences of paragraphs (g) (1)(i) and (2), introductory text, the words "If the Administrator is not the permitting authority, a copy of the requested permit modification shall be submitted to the Administrator.";

d. removing from paragraph (g)(2)(iii) the words "December 21" and adding, in their place, the words "December 31"; and

e. removing from paragraph (h)(1)(ii) the words "section 407 of the Act and regulations implementing section 407 of the Act" and adding, in their place, the words "part 76 of this chapter".

§ 72.51 [Amended]

21. Section 72.51 is amended by: removing the words "parts 73, 75, 77, and 78 of this chapter, and regulations implementing section 407 of the Act" and adding, in their place, the words "parts 73, 74, 75, 76, 77, and 78 of this chapter"; and removing the words "of this part".

22. Section 72.60 is revised to read as follows:

§ 72.60 General.

(a) *Scope.* This subpart and parts 74, 76, and 78 of this chapter contain the procedures for federal issuance of Acid Rain permits for Phase I of the Acid Rain Program and Phase II for sources for which the Administrator is the permitting authority under § 72.74. This part and parts 74, 76, and 78 of this chapter supersede part 71 of this chapter to the extent that they contain provisions that are not included in, or that expressly eliminate or replace provisions of, part 71 of this chapter.

(1) The provisions of subparts C, D, E, F, and H of this part and of parts 74, 76, and 78 of this chapter replace the provisions of part 71 of this chapter concerning, for Acid Rain permit applications and permits: submission, content, and effect of permit applications; content and requirements of compliance plans and compliance options; content of permits and permit shield; procedures for determining completeness of permit applications; issuance of draft permits; public notice and comment and public hearings on draft permits; response to comments on draft permits; issuance of permits; permit revisions; and administrative appeal procedures. The provisions of part 71 of this chapter concerning Indian tribes, delegation of a part 71 program, affected State review of draft permits, and public petitions to reopen a permit for cause are not eliminated or replaced by this part or part 74, 76, or 78 of this chapter.

(2) The procedures in this subpart do not apply to the issuance of Acid Rain permits by State permitting authorities with operating permit programs approved under part 70 of this chapter, except as expressly provided in subpart G of this part.

(b) *Permit Decision Deadlines.* Except as provided in § 72.74(c)(1)(i), the Administrator will issue or deny an Acid Rain permit under § 72.69(a) within 6 months of receipt of a complete Acid Rain permit application submitted for a unit, in accordance with § 72.21, at the U.S. EPA Regional Office for the Region in which the source is located.

(c) *Use of Direct Final Procedures.* The Administrator may, in his or her discretion, issue, as single document, a draft Acid Rain permit in accordance with § 72.62 and an Acid Rain permit in final form and may provide public notice of the opportunity for public comment on the draft Acid Rain permit in accordance with § 72.65. The Administrator may provide that, if no significant, adverse comment on the draft Acid Rain permit is timely submitted, the Acid Rain permit will be deemed to be issued on a specified date without further notice and, if such significant, adverse comment is timely submitted, an Acid Rain permit or denial of an Acid Rain permit will be issued in accordance with § 72.69. Any notice provided under this paragraph (c) will include a description of the procedure in the prior sentence.

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23. Section 72.61 is amended by revising paragraphs (a) and (b)(2)(i) and adding paragraph (b)(3) to read as follows:

§ 72.61 Completeness.

(a) *Determination of Completeness.* The Administrator will determine whether the Acid Rain permit application is complete within 60 days of receipt by the U.S. EPA Regional Office for the region in which the source is located. The permit application shall be deemed to be complete if the Administrator fails to notify the designated representative to the contrary within 60 days of receipt.

(b) * * *

(2)(i) Within a reasonable period determined by the Administrator, the designated representative shall submit the information required under paragraph (b)(1) of this section.

* * * * *

(3) Any designated representative who fails to submit any relevant information or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary information or corrected information to the Administrator.

24. Section 72.65 is amended by revising paragraphs (b)(1)(ii), (b)(1)(iii), and (b)(2) to read as follows:

§ 72.65 Public notice of opportunities for public comment.

* * * * *

(b) * * *

(1) * * *

(ii) The air pollution control agencies of affected States; and

(iii) Any interested person.

(2) Giving notice by publication in the **Federal Register** and in a newspaper of general circulation in the area where the source covered by the Acid Rain permit application is located or in a State publication designed to give general public notice. Notwithstanding the prior sentence, if a draft permit requires the affected units at a source to comply with § 72.9(c)(1) and to meet any applicable emission limitation for NO_x under §§ 76.5, 76.6, 76.7, 76.8, or 76.11 of this chapter and does not include for any unit a compliance option under § 72.44, part 74 of this chapter, or § 76.10 of this chapter, the Administrator may, in his or her discretion, provide notice of the draft permit by **Federal Register** publication and may omit notice by newspaper or State publication.

* * * * *

25. Section 72.69 is amending by revising paragraph (a) to read as follows:

§ 72.69 Issuance and effective date of Acid Rain permits.

(a) After the close of the public comment period, the Administrator will issue or deny an Acid Rain permit. The Administrator will serve a copy of any Acid Rain permit and the response to comments on the designated representative for the source covered by the issuance or denial and serve written notice of the issuance or denial on any persons who are entitled to written notice under § 72.65(b)(1) (ii) or (iii) or who submitted written or oral comments on the issuance or denial of the draft Acid Rain permit. The Administrator will also give notice in the **Federal Register**.

* * * * *

26. Section 72.70 is revised to read as follows:

§ 72.70 Relationship to title V operating permit program.

(a) *Scope.* This subpart sets forth criteria for acceptance of State acid rain programs, the procedure for including State acid rain programs in a title V operating permit program, and the requirements with which State permitting authorities with accepted programs shall comply, and with which the Administrator will comply in the absence of an accepted State program, to issue Phase II Acid Rain permits.

(b) *Relationship to operating permit program.* Each State permitting authority with an affected source shall act in accordance with this part and parts 70, 74, 76, and 78 of this chapter for the purpose of incorporating Acid Rain Program requirements into each affected source's operating permit or for issuing exemptions under § 72.14. To the extent that this part or parts 74, 76, or 78 of this chapter contain provisions that are not included in, or that expressly eliminate or replace provisions of, part 70 of this chapter, this part and parts 74, 76, and 78 of this chapter shall take precedence.

27. Section 72.71 is revised to read as follows:

§ 72.71 Acceptance of State Acid Rain programs—general.

(a) Each State shall submit, to the Administrator for review and acceptance, a State Acid Rain program meeting the requirements of §§ 72.72 and 72.73.

(b) The Administrator will review each State Acid Rain program or portion of a State Acid Rain program and accept, by notice in the **Federal Register**, all or a portion of such program to the extent that it meets the requirements of §§ 72.72 and 72.73. At his or her discretion, the Administrator may accept, with conditions and by notice in the **Federal Register**, all or a portion of such program despite the failure to meet requirements of §§ 72.72 and 72.73. On the later of the date of publication of such notice in the **Federal Register** or the date on which the State operating permit program is approved under part 70 of this chapter, the State Acid Rain program accepted by the Administrator will become a portion of the approved State operating permit program.

(c)(1) Except as provided in paragraph (c)(2) of this section, the Administrator will issue all Acid Rain permits for Phase I. The Administrator reserves the right to delegate the remaining administration and enforcement of Acid Rain permits for Phase I to approved State operating permit programs.

(2) The State permitting authority will issue an opt-in permit for a combustion or process source subject to its jurisdiction if, on the date on which the combustion or process source submits an opt-in permit application, the State permitting authority has opt-in regulations accepted under paragraph (b) of this section and an approved operating permits program under part 70 of this chapter.

28. Section 72.72 is amended by:

a. removing paragraphs (b)(1)(i)(C), (b)(1)(vii), (b)(1)(viii), (b)(1)(xi), (b)(1)(xiii), (b)(5)(vii), (b)(7), and (b)(8);

b. removing the last sentence of paragraph (b)(5)(v);

c. redesignating paragraphs (ix) and (x) as paragraphs (vii) and (viii) respectively;

d. redesignating paragraph (xii) as paragraph (ix);

e. redesignating paragraph (xiv) as paragraph (x);

f. removing and reserving paragraph (b)(5)(ii); and

g. revising the heading, the introductory text, and paragraphs (b) introductory text, (b)(1)(ii), (b)(1)(iii), (b)(1)(iv), (b)(1)(v), (b)(1)(vi), the first sentence of (b)(5)(i), (b)(5)(vi), and (b)(6) to read as follows:

§ 72.72 Criteria for State operating permit program.

A State operating permit program (including a State Acid Rain program) shall meet the following criteria. Any aspect of a State operating permits program or any implementation of a State operating permit program that fails to meet these criteria shall be grounds for withdrawal of all or part of the Acid Rain portion of an approved State operating permit program by the Administrator or for disapproval or withdrawal of approval of the State

operating permit program by the Administrator.

* * * * * *

(b) The State operating permit program shall require the following provisions, which are adopted to the extent that this paragraph (b) is incorporated by reference or is otherwise included in the State operating permit program.

(1) * * *

(ii) *Draft Permit.* (A) The State permitting authority shall prepare the draft Acid Rain permit in accordance with subpart E of this part and part 76 of this chapter or, for a combustion or process source, with subpart B of part 74 of this chapter, or deny a draft Acid Rain permit.

(B) Prior to issuance of a draft permit for a combustion or process source, the State permitting authority shall provide the designated representative of a combustion or process source an opportunity to confirm its intention to opt-in, in accordance with § 74.14 of this chapter.

(iii) *Public Notice and Comment Period.* Public notice of the issuance or denial of the draft Acid Rain permit and the opportunity to comment and request a public hearing shall be given by publication in a newpaper of general circulation in the area where the source is located or in a State publication designed to give general public notice. Notwithstanding the prior sentence, if a draft permit requires the affected units at a source to comply with § 72.9(c)(1) and to meet any applicable emission limitation for NO_x under §§ 76.5, 76.6, 76.7, 76.8, or 76.11 of this chapter and does not include for any unit a compliance option under § 72.44, part 74 of this chapter, or § 76.10 of this chapter, the State permitting authority may, in its discretion, provide notice by serving notice on persons entitled to receive a written notice and may omit notice by newspaper or State publication.

(iv) *Proposed permit.* Following the public notice and comment period on a draft Acid Rain permit, the State permitting authority shall incorporate all changes necessary and issue a proposed Acid Rain permit in accordance with subpart E of this part and part 76 of this chapter or, for a combustion or process source, with subpart B of part 74 of this chapter, or deny a proposed Acid Rain permit.

(v) *Direct final procedures.* The State permitting authority may, in its discretion, issue, as a single document, a draft Acid Rain permit in accordance with paragraph (b)(1)(ii) of this section and a proposed Acid Rain permit and may provide public notice of the opportunity for public comment on the draft Acid Rain permit in accordance with paragraph (b)(1)(iii) of this section. The State permitting authority may provide that, if no significant, adverse comment on the draft Acid Rain permit is timely submitted, the proposed Acid Rain permit will be deemed to be issued on a specified date without further notice and, if such significant, adverse comment is timely submitted, a proposed Acid Rain permit or denial of a proposed Acid Rain permit will be issued in accordance with paragraph (b)(1)(iv) of this paragraph. Any notice provided under this paragraph (b)(1)(v) shall include a description of the procedure in the prior sentence.

(vi) *Acid Rain Permit Issuance.* Following the Administrator's review of the proposed Acid Rain permit, the State permitting authority shall or, under part 70 of this chapter, the Administrator will, incorporate any required changes and issue or deny the Acid Rain permit in accordance with subpart E of this part and part 76 of this chapter or, for a combustion or process source, with subpart B of part 74 of this chapter.

(5) * * * (i) Appeals of the Acid Rain portion of an operating permit issued by the State permitting authority that do not challenge or involve decisions or actions of the Administrator under this part or part 73, 74, 75, 76, 77, or 78 of this chapter shall be conducted according to procedures established by the State in accordance with part 70 of this chapter. * * *

(vi) A failure of the State permitting authority to issue an Acid Rain permit in accordance with § 72.73(b)(1) or, with regard to combustion or process sources, § 74.14(c)(6) of this chapter shall be ground for filing an appeal.

(6) *Industrial Units Exemption.* The State permitting authority shall act in accordance with § 72.14 on any petition for exemption from requirements of the Acid Rain Program

29. Section 72.73 is revised to read as follows:

§ 72.73 State issuance of Phase II permits.

(a) *State Permit Issuance.* (1) A State that is authorized to administer and enforce an operating permit program under part 70 of this chapter and that has a State Acid Rain program accepted by the Administrator under § 72.71 shall be responsible for administering and enforcing Acid Rain permits effective in Phase II for all affected sources:

(i) That are located in the geographic area covered by the operating permits program; and

(ii) To the extent that the accepted State Acid Rain program is applicable.

(2) In administering and enforcing Acid Rain permits, the State permitting authority shall comply with the procedures for issuance, revision, renewal, and appeal of Acid Rain permits under this subpart.

(b) *Permit Issuance Deadline.* (1) On or before December 31, 1997, a State that is responsible under paragraph (a) of this section as of January 1, 1997 or such later date as the Administrator may establish, for administering and enforcing Acid Rain permits shall issue an Acid Rain permit for Phase II covering the affected units (other than opt-in sources) at each source in the geographic area for which the program is approved; *provided* that the designated representative of the source submitted a timely and complete Acid Rain permit application in accordance with § 72.21 and meets the requirements of this subpart and part 70 of this chapter.

(2) Each Acid Rain permit issued in accordance with this section shall have a term of 5 years commencing on its effective date; *provided* that, at the discretion of the permitting authority, the first Acid Rain permit for Phase II issued to a source may have a term of less than 5 years where necessary to coordinate the term of such permit with the term of an operating permit to be issued to the source under a State operating permit program. Each Acid Rain permit issued in accordance with paragraph (b)(1) of this section shall take effect by the later of January 1, 2000, or, where the permit governs a unit under § 72.6(a)(3) of this part, the deadline for monitor certification under part 75 of this chapter.

(3) *Nitrogen Oxides.* Within the period required under the approved State operating permit program but not later than July 1, 1999, the State permitting authority shall reopen the Acid Rain permit and add the Acid Rain Program nitrogen oxides requirements; *provided* that the designated representative of the affected source submitted a timely and complete Acid Rain permit application for nitrogen oxides in accordance with § 72.21.

30. Section 72.74 is revised to read as follows:

§ 72.74 Federal issuance of Phase II permits.

(a)(1) The Administrator will be responsible for administering and enforcing Acid Rain permits for Phase II for any affected sources in a geographic area that is not under the jurisdiction of a State permitting authority responsible, as of January 1, 1997 or such later date

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as the Administrator may establish, for administering and enforcing Acid Rain permits for such sources under § 72.73(a).

(2) After the State permitting authority becomes responsible for administering and enforcing Acid Rain permits under § 72.73(a), the Administrator will suspend federal administration of Acid Rain permits for Phase II for sources and units subject to the accepted State Acid Rain program, except as provided in paragraph (b)(4) of this section.

(b)(1) The Administrator will administer and enforce Acid Rain permits effective in Phase II for sources and units during any period that the Administrator is administering and enforcing an operating permit program under part 71 of this chapter for the geographic area in which the sources and units are located.

(2) The Administrator will administer and enforce Acid Rain permits effective in Phase II for sources and units otherwise subject to a State Acid Rain program under § 72.73(a) if:

(i) The Administrator determines that the State permitting authority is not adequately administering or enforcing all or a portion of the State Acid Rain program, notifies the State permitting authority of such determination and the reasons therefore, and publishes such notice in the **Federal Register**;

(ii) The State permitting authority fails either to correct the deficiencies within a reasonable period (established by the Administrator in the notice under paragraph (b)(3)(i) of this section) after issuance of the notice or to take significant action to assure adequate administration and enforcement of the program within a reasonable period (established by the Administrator in the notice) after issuance of the notice; and

(iii) The Administrator publishes in the **Federal Register** a notice that he or she will administer and enforce Acid Rain permits effective in Phase II for sources and units subject to the State Acid Rain program or a portion of the program. The effective date of such notice shall be a reasonable period (established by the Administrator in the notice) after the issuance of the notice.

(3) When the Administrator administers and enforces Acid Rain permits under paragraph (b)(1) or (b)(2) of this section, the Administrator will administer and enforce each Acid Rain permit issued under the State Acid Rain program or portion of the program until the permit is replaced by a permit issued under this section. After the later of the date for publication of a notice in the **Federal Register** that the State operating permit program is currently approved by the Administrator or that the State Acid Rain program or portion of the program is currently accepted by the Administrator, the Administrator will suspend federal administration of Acid Rain permits effective in Phase II for sources and units subject to the State Acid Rain program or portion of the program, except as provided in paragraph (b)(4) of this section.

(4) After the State permitting authority becomes responsible for administering and enforcing Acid Rain permits effective in Phase II under § 72.73(a), the Administrator will continue to administer and enforce each Acid Rain permit issued under paragraph (a)(1), (b)(1), or (b)(2) of this section until the permit is replaced by a permit issued under the State Acid Rain program. The State permitting authority may replace an Acid Rain permit issued under paragraph (a)(1), (b)(1), or (b)(2) of this section by issuing a permit under the State Acid Rain program by the expiration of the permit under paragraph (a)(1), (b)(1), or (b)(2) of this section. The Administrator may retain jurisdiction over the Acid Rain permits issued under paragraph (a)(1), (b)(1), or (b)(2) of this section for which the administrative or judicial review process is not complete and will address such retention of jurisdiction in a notice in the **Federal Register**.

(c) *Permit Issuance Deadline.* (1)(i) On or before January 1, 1998, the Administrator will issue an Acid Rain permit for Phase II setting forth the Acid Rain Program sulfur dioxide requirements for each affected unit (other than opt-in sources) at a source not under the jurisdiction of a State permitting authority that is responsible, as of January 1, 1997 or such later date as the Administrator may establish, under § 72.73(a) of this section for administering and enforcing Acid Rain permits; *provided* that the designated representative for the source submitted a timely and complete Acid Rain permit application in accordance with § 72.21. The failure by the Administrator to issue a permit in accordance with this paragraph shall be grounds for the filing of an appeal under part 78 of this chapter.

(ii) Each Acid Rain permit issued in accordance with this section shall have a term of 5 years commencing on its effective date. Each Acid Rain permit issued in accordance with paragraph (c)(1)(i) of this section shall take effect by the later of January 1, 2000 or, where a permit governs a unit under § 72.6(a)(3), the deadline for monitor certification under part 75 of this chapter.

(2) *Nitrogen Oxides.* Not later than 6 months following submission by the designated representative of an Acid Rain permit application for nitrogen oxides, the Administrator will reopen the Acid Rain permit for Phase II and add the Acid Rain Program nitrogen oxides requirements for each affected source not under the jurisdiction of a State permitting authority that is responsible, as of January 1, 1997 or such later date as the Administrator may establish, under § 72.73(a) for issuing Acid Rain permits with such requirements; *provided* that the designated representative for the source submitted a timely and complete Acid Rain permit application for nitrogen oxides in accordance with § 72.21.

(d) *Permit Issuance.* (1) The Administrator may utilize any or all of the provisions of subparts E and F of this part to administer Acid Rain permits as authorized under this section or may adopt by rulemaking portions of a State Acid Rain program in substitution of or in addition to provisions of subparts E and F of this part to administer such permits. The provisions of Acid Rain permits for Phase I or Phase II issued by the Administrator shall not be applicable requirements under part 70 of this chapter.

(2) The Administrator may delegate all or part of his or her responsibility, under this section, for administering and enforcing Phase II Acid Rain permits or opt-in permits to a State. Such delegation will be made consistent with the requirements of this part and the provisions governing delegation of a part 71 program under part 71 of this chapter.

31. Section 72.80 is amended by revising paragraphs (a), (b), (d), (e), (f), and (g) to read as follows:

§ 72.80 General.

(a) The subpart shall govern revisions to any Acid Rain permit issued by the Administrator and to the Acid Rain portion of any operating permit issued by a State permitting authority.

(b) The provisions of this subpart shall supersede the operating permit revision procedures specified in parts 70 and 71 of this chapter with regard to revision of any Acid Rain Program permit provision.

* * * * *

(d) The terms of the Acid Rain permit shall apply while the permit revision is pending, except as provided in § 72.83 for administrative permit amendments.

(e) The standard requirements of § 72.9 shall not be modified or voided by a permit revision.

(f) Any permit revision involving incorporation of a compliance option that was not submitted for approval and comment during the permit issuance process or involving a change in a compliance option that was previously submitted, shall meet the requirements for applying for such compliance option under subpart D of this part and parts 74 and 76 of this chapter.

(g) Any designated representative who fails to submit any relevant information or who has submitted incorrect information in a permit revision shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary information or corrected information to the permitting authority.

* * * * *

32. Section 72.81 is amended by: removing from paragraph (c)(1)(ii) the words "and under § 70.7(e)(4)(ii) of this chapter"; and revising paragraph (c)(2) to read as follows:

§ 72.81 Permit modifications.

* * * * *

(c) * * *

(2) For purposes of applying paragraph (c)(1) of this section, a requested permit modification shall be treated as a permit application, to the extent consistent with § 72.80 (c) and (d).

33. Section 72.82 is amended by revising paragraphs (a) and (d) to read as follows:

§ 72.82 Fast-track modifications.

* * * * *

(a) If the Administrator is the permitting authority, the designated representative shall serve a copy of the fast-track modification on the Administrator and any person entitled to a written notice under § 72.65(b)(1)(ii) and (iii). If a State is the permitting authority, the designated representative shall serve such a copy on the Administrator, the permitting authority, and any person entitled to receive a written notice of a draft permit under the approved State operating permit program. Within 5 business days of serving such copies, the designated representative shall also give public notice by publication in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice.

* * * * *

(d) Within 30 days of the close of the public comment period if the Administrator is the permitting authority or within 90 days of the close of the public comment period if a State is the permitting authority, the permitting authority shall consider the fast-track modification and the comments received and approve, in whole or in part or with changes or conditions as appropriate, or disapprove the modification. A fast-track modification shall be subject to the same provisions for review by the Administrator and affected States as are applicable to a permit modification under § 72.81.

34. Section 72.83 is amended by: removing from paragraph (a)(10) the words "regulations implementing section 407 of the Act" and adding, in their place, the words "part 76 of this chapter"; and revising paragraphs (a)(12) and (b) and adding paragraphs (a)(13), (a)(14), (c), and (d) to read as follows:

§ 72.83 Administrative permit amendment.

(a) * * *

(12) The addition of a NO_X early election plan under § 76.8 of this chapter that was approved by the Administrator;

(13) The addition of an exemption for which the requirements have been met under § 72.7, 72.8, or 72.14; and

(14) Incorporation of changes that the Administrator has determined to be similar to those in paragraphs (a) (1) through (13).

(b)(1) The permitting authority will take final action on an administrative permit amendment within 60 days, or, for the addition of an alternative emissions limitation demonstration period, within 90 days, of receipt of the requested amendment and may take such action without providing prior public notice. The source may implement any changes in the administrative permit amendment immediately upon submission of the requested amendment, provided that the requirements of paragraph (a) of this section are met.

(2) The permitting authority may, on its own motion, make an administrative permit amendment without providing prior public notice.

(c) The permitting authority will designate the permit revision under paragraph (b) of this section as having been made as an administrative permit amendment and will notify the designated representative after making such revision. Where a State is the permitting authority, the permitting authority shall submit the revised portion of the permit to the Administrator.

(d) An administrative amendment shall not be subject to the provisions for review by the Administrator and affected States applicable to a permit modification under § 72.81.

35. Section 72.85 is amended by revising paragraphs (a) and (c) to read as follows:

§ 72.85 Permit reopenings.

(a) The permitting authority shall reopen an Acid Rain permit for cause whenever:

(1) Any additional requirement under the Acid Rain Program becomes applicable to any affected unit governed by the permit;

(2) The permitting authority determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit; or

(3) The permitting authority determines that the permit must be revised or revoked to assure compliance with Acid Rain Program requirements.

* * * * *

(c) As provided in §§ 72.73(b)(3) and 72.74(c)(2), the permitting authority shall reopen an Acid Rain permit to incorporate nitrogen oxides requirements, consistent with part 76 of this chapter.

* * * * *

36. Section 72.91 is amended by:

a. removing from paragraph (b)(1)(i) the words "improved unit measures" and adding, in their place, the words "improved unit efficiency measures";

b. removing from paragraph (b)(1)(iii), introductory text, the words "all figures" and adding, in their place, the words "each figure";

c. removing from paragraph (b)(1)(iii)(B) the words "measures, and" and adding, in their place, the words "measures, or";

d. removing from paragraph (b)(1)(iii)(C) the words "measures." and adding, in their place, the words "measures, except measures relating to generation efficiency.";

e. removing from the formula in paragraph (b)(4) the word "hear" and adding, in its place, the word "heat";

f. removing from paragraph (b)(4)(i) the word "units"' and adding, in its place, the word "unit's"; revising paragraphs (b)(5), (b)(6), and (b)(7); and

g. adding paragraphs (b)(1)(iv) and (b)(4)(iv) to read as follows:

§ 72.91 Phase I unit adjusted utilization.

* * * * *

(b) * * *

(1) * * *

(iv) The sum of the verified reductions in a unit's heat input from all measures implemented at the unit to reduce the unit's heat rate (whether the measures are treated as supply-side measures or improved unit efficiency measures) shall not exceed the

generation (in kwh) attributed to the unit for the calendar year times the difference between the unit's heat rate for 1987 and the unit's heat rate for the calendar year.

* * * * *

(4) * * *

(iv) The allowances credited shall not exceed the total number of allowances deducted from the unit's compliance subaccount for the calendar year in accordance with §§ 72.92 (a) and (c) and 73.35(b) of this chapter.

(5) If the total, included in the confirmation report, of the amount of verified reduction in the unit's heat input for energy conservation and improved unit efficiency measures is less than the total estimated in the unit's annual compliance certification report for such measures for the calendar year, then the designated representative shall include in the confirmation report the number of allowances to be deducted from the unit's compliance subaccount calculated in accordance with this paragraph (b)(5).

(i) If any allowances were deducted from the unit's compliance subaccount for the calendar year in accordance with §§ 72.92 (a) and (c) and 73.35(b) of this chapter, then the number of allowances to be deducted under this paragraph (b)(5) equals the absolute value of the result of the formula for allowances credited under paragraph (b)(4) of this section (excluding paragraph (b)(4)(iv) of this section).

(ii) If no allowances were deducted from the unit's compliance subaccount for the calendar year in accordance with §§ 72.92 (a) and (c) and 73.35(b) of this chapter:

(A) The designated representative shall recalculate the unit's adjusted utilization in accordance with paragraph (a) of this section, replacing the amounts for reduction from energy conservation and reduction from improved unit efficiency by the amount for verified heat input reduction. "Verified heat input reduction" is the total of the amounts of verified reduction in the unit's heat input (in mmBtu) from energy conservation and improved unit efficiency measures included in the confirmation report.

(B) After recalculating the adjusted utilization under paragraph (b)(5)(ii)(A) of this section for all Phase I units that are in the unit's dispatch system and to which paragraph (b)(5) of this section is applicable, the designated representative shall calculate the number of allowances to be surrendered in accordance with § 72.92(c)(2) using the recalculated adjusted utilizations of such Phase I units.

(C) The allowances to be deducted under this paragraph (b)(5) shall equal the amount under paragraph (b)(5)(ii)(B) of this section minus the amount for allowances deducted from the unit's compliance subaccount for the calendar year in accordance with §§ 72.92(a) and (c) and 73.35(b) of this chapter; *provided* that if the amount calculated under this paragraph (b)(5)(ii)(C) is equal to or less than zero, then the amount of allowances to be deducted is zero.

(6) The Administrator will determine the amount of allowances that would have been included in the unit's compliance subaccount and the amount of excess emissions of sulfur dioxide that would have resulted if the deductions made under § 73.35(b) of this chapter had been based on the verified, rather than the estimated, reduction in the unit's heat input from energy conservation and improved unit efficiency measures.

(7) The Administrator will determine whether the amount of excess emissions of sulfur dioxide under paragraph (b)(6) of this paragraph differs from the amount of excess emissions determined under § 73.35(b) of this chapter based on the annual compliance certification report. If the amounts differ, the Administrator will determine: the number of allowances that should be deducted to offset any increase in excess emissions or returned to account for any decrease in excess emissions; and the amount of excess emissions penalty (excluding interest) that should be paid or returned to account for the change in excess emissions. The Administrator will deduct immediately from the unit's compliance subaccount the amount of allowances that he or she determines is necessary to offset any increase in excess emissions or will return immediately to the unit's compliance subaccount the amount of allowances that he or she determines is necessary to account for any decrease in excess emissions. The designated representative may identify the serial numbers of the allowances to be deducted or returned. In the absence of such identification, the deduction will be on a first-in, first-out basis under § 73.35(b)(2) of this chapter and the return will be at the Administrator's discretion.

* * * * *

37. Section 72.95 is amended by revising the formula in the introductory text and adding paragraph (d) to read as follows:

§ 72.95 Allowance deduction formula

* * * *

Total allowances deducted=Tons emitted+Allowances surrendered for underutilization+Allowances deducted for Phase I extensions+Allowances deducted for substitution or compensating units

Where:

* * * *

(d) "Allowances deducted for substitution or compensating units" is the total number of allowances calculated in accordance with the surrender requirements specified under § 72.41(d)(3) or (e)(1)(iii)(B) or § 72.43(d)(2).

PART 73—[AMENDED]

38. The authority citation for part 73 is revised to read as follows:

Authority: 42 U.S.C. 7601 and 7651, *et seq.*

39. Section 73.10 is amended by revising the heading and adding paragraphs (b)(3), (b)(4), (b)(5), and (c)(3) to read as follows:

§ 73.10 Initial allocations for Phase I and Phase II.

* * * * *

(b) * * *

(3) Notwithstanding the amounts in Table 2 of this section, the unadjusted basic allowances for years 2000–2009 and for years 2010 and thereafter for the following boilers are: Illinois, Lakeside, 7, 2,919 unadjusted basic for 2000–2009 and 722 unadjusted basic for 2010 and thereafter; Illinois, Lakeside, 8, 1,652 unadjusted basic for 2000–2009 and 371 unadjusted basic for 2010 and thereafter; Illinois, Marion, 1, 2,376 unadjusted basic for 2000–2009 and for 2010 and thereafter; Illinois, Marion, 2, 2,434 unadjusted basic for 2000–2009 and for 2010 and thereafter; Illinois, Marion, 3, 2,640 unadjusted basic for 2000–2009 and for 2010 and thereafter; Louisiana, Rodemacher, 2, 20,774 unadjusted basic for 2000–2009 and for 2010 and thereafter; and Wisconsin, Manitowoc, 8, 271 unadjusted basic for 2000–2009 and for 2010 and thereafter.

(4) Notwithstanding the amounts in Table 2 of this section, the unadjusted basic allowances and total bonus allowances for years 2000–2009 and for years 2010 and thereafter for the following boilers are: Maryland, R P Smith, 9,320 unadjusted basic and 354 total bonus for 2000–2009 and 320 unadjusted basic for 2010 and thereafter; Wisconsin, Blount Street, 7, 116 unadjusted basic and 1,374 total bonus for 2000–2009 and 116 unadjusted basic for 2010 and thereafter; Wisconsin, Blount Street, 8,473 unadjusted basic and 716 total

bonus for 2000–2009 and 473 unadjusted basic for 2010 and thereafter; and Wisconsin, Blount Street, 9,633 unadjusted basic and 629 total bonus for 2000–2009 and 633 unadjusted basic for 2010 and thereafter.

(5) If a unit was allocated allowances in Table 2 of this section as of March 23, 1993 is subsequently removed from Table 2, the owners of the unit shall surrender, for each allowance allocated to the unit in such table, an allowance of the same or earlier compliance use date as the allowance allocated and shall return to the Administrator any proceeds received for allowances withheld from the unit under § 73.10 of this chapter. The allowances shall be surrendered and the proceeds shall be returned within 60 days after the effective date of this paragraph (b)(5).

(c) * * *

(3) If a unit was allocated allowances in Table 3 of this section as of March 23, 1993 is subsequently removed from Table 3, the owners of the unit shall surrender, for each allowance allocated to the unit in such table, an allowance of the same or earlier compliance use date as the allowance allocated and shall return to the Administrator any proceeds received for allowances withheld from the unit under § 73.10 of this chapter. The allowances shall be surrendered and the proceeds shall be returned within 60 days after the effective date of this paragraph (c)(3).

* * * * *

§ 73.10 [Amended]

40. Section 73.10, paragraph (b)(2), Table 2, is amended by:

a. removing the entries for Alabama, Future Fossil, **1; Alabama, McIntosh CAES, **2; Alabama, McWilliams, **CT1; Alabama, McWilliams, **CT2; Alabama, McWilliams, **CT3; Arkansas, NA2—7246, **1; California, El Centro, 2; Colorado, Valmont, 11; Colorado, Valmont, 12; Colorado, Valmont, 13; Colorado, Valmont, 22; Colorado, Valmont, 23; Connecticut, South Meadow, 11; Connecticut, South Meadow, 12; Connecticut, South Meadow, 13; Florida, Lauderdale, PFL4; Florida, Lauderdale, PFL5; Illinois, Lakeside, GT2; Indiana Na1—7221, **2; Indiana, Na1—7228, **4; Indiana, Na1—7228, **5; Kansas, Ripley, **2; Kansas, Ripley, **3; Kentucky, J K Smith, 1; Louisiana, R S Nelson, 1; Louisiana, R S Nelson, 2; Michigan, Delray, 11; Minnesota, Future Base, **1; Minnesota, NA1–7237, **2; Mississippi, Wright, W4; Missouri, Combustion Turbine 1, **NA7; Missouri, Empire Energy Ctr, **4; Missouri, Empire Energy Ctr, **NA2; Missouri, Empire Energy Ctr, **NA3; Missouri, Grand Avenue, **7; Missouri, Grand Avenue, **9; Nebraska, NA1—7019, **NA2; New Jersey, Butler, **4; New Jersey, NA5—7217, **2; New Jersey, NA6—7218, **2; New Mexico, Escalante, **2; New Mexico, Maddox, **3; New York, Rochester 3, 1; New York, Rochester 3, 2; New York, Rochester 3, 4; North Dakota, Dakotas, **1; Oklahoma, Inola, **1; Pennsylvania, Richmond, 63; Pennsylvania, Richmond, 64; Pennsylvania, Southwark, 11; Pennsylvania, Southwark 12; Pennslyvania, Southwark, 21; Pennsylvania, Southwark, 22; South Carolina, Na4—7210, **ST1; South Dakota, Mobile, **2; Texas, Concho, 2; Texas, Concho, 4; Texas, Concho, 5; Texas, Concho, 6; Texas, Deepwater, DWP1; Texas, Deepwater, DWP2; Texas, Deepwater, DWP3; Texas, Deepwater, DWP3; Texas, Deepwater, DWP4; Texas, Deepwater, DWP5; Texas, Deepwater, DWP6; Texas, GT98, **1; Texas, GT98, **2; Texas, GT99, **1; Texas, GT99, **2; Texas, GT99, **3; Texas, NA1—7216, **1; Texas, NA1—7216, **2; Texas, San Miguel, **2; Texas, TNP One, **3; Texas, TNP One, **4; Virginia, Chesterfield, **8B; Washington, Kettle Falls, 1; Wisconsin, Manitowoc, 9; Wisconsin, Na1—7203, **CT3; and Wisconsin, Na—7222, unit **1; and

b. by adding in alphabetical order the entries "Alabama" "McWilliams", "**4", "0", "0", "0", "0", "0", "0", "0", "0", and "0"; "Arizona", "Springerville", "3", "0", "0", "0", "0", "0", "0", "0", "0", and "0"; "Florida", "Reedy Creek Combined Cycle", "32432", "69", "0", "0", "0", "NA", "18", "0", "0", and "NA"; "Indiana", "NA1—7228", "**1", "0", "0", "0", "0", "0", "0", "0", and "0"; "Indiana", "NA1—7228", "**2", "0", "0", "0", "0", "0", "0", "0", "0" and "0"; "Indiana", "NA1—7228", "**3", "0", "0", "0", "0", "0", "0", "0", "0" and "0"; "Kansas", "Wamego", "**NA1", "0", "0", "0", "0", "0", "0", "0", "0" and "0"; "Maryland", "Easton 2", "**25", "0", "0", "0", "0", "0", "0", "0", "0", and "0"; "Maryland", "Perryman", "**51", "0", "0", "0", "0", "0", "0", "0", "0", and "0"; "Mississippi", "Moselle", "**4", "0", "0", "0", "0", "0", "0", "0", "0" and "0"; "Mississippi", "Moselle", "**5", "0", "0", "0", "0", "0", "0", "0", "0", and "0"; "Missouri", "Combustion Turbine 1", "**1", "0", "0", "0", "0", "0", "0", "0", "0", and "0"; "Missouri", "Combustion Turbine 2", "**2", "0", "0", "0", "0", "0", "0", "0", "0", and "0"; "Nebraska", "Na1—7019", "**NA1", "0", "0", "0", "0", "0", "0", "0", "0", and "0"; "Nevada", "Harry Allen", "**GT1", "0", "0", "0", "0", "0", "0", "0", "0", and "0"; "Nevada", "Harry Allen", "**GT2", "0", "0", "0", "0", "0", "0", "0", "0", "0", and "0"; "New Jersey", "Butler", "**1", "0", "0", "0", "0", "0", "0", "0", "0", and "0"; "New Jersey", "Na1—7139", "**1", "0", "0", "0", "0", "0", "0", "0", "0", and "0"; "New Jersey", "Na2—7140", "**1", "0", "0", "0", "0", "0", "0", "0", "0", and "0"; "Ohio", "Woodsdale", "**GT7", 2 "South Carolina", "NA1—7106", "GT1", "0", "0", "0", "0", "0", "0", "0", "0", "0", and "0"; "Texas", "Twin Oak", "2", "1,760", "0", "0", "0", "NA", "1,760", "0", "0", and "NA"; and "Virginia", "East Chandler", "**2", "0", "0", "0", "0", "0", "0", "0", "0", "0" and "0".

41. Section 73.10, paragraph (c)(2), Table 3 is amended by:

a. removing the entries for Alabama, McWilliams, **4; Arizona, Springerville, 3; California, Harbor, **10; Florida, G W Ivey, **22; Florida, Martin, **3ST; Florida, Martin, **4ST; Illinois, Lakeside, GT1; Indiana, NA1—7228, **1; Indiana, NA1—7228, **2; Indiana, NA1—7228, **3; Iowa, Na1—7230, **1; Kansas, Wamego, **NA1; Maryland, Easton 2, **25; Maryland, Perryman, **51; Mississippi, Moselle, **4; Mississippi, Moselle, **5; Missouri, Combustion Turbine 1, **1; Missouri, Combustion Turbine 2, **2; Missouri, Empire Energy Center, **3; Missouri, Lake Road, **8; Nebraska, NA1—7019, **NA1; Nevada, Clark, **9; Nevada, Clark, **10; Nevada, Harry Allen, **GT1; Nevada, Harry Allen, **GT2; New Jersey, Butler, **1; New Jersey, Butler, **3; New Jersey, Na1—7139; New Jersey, Na2—7140, **1; Ohio, Dover, **7; Ohio, Woodsdale, **GT7; Pennsylvania, Trenton Cogen Proj, **1; South Carolina, NA1—7106, **GT1; South Carolina, NA2—7107, **GT2; South Carolina, Na3—7108, **GT3; South Dakota, CT, **5; Texas, Twin Oak, 2; Utah, Bonanza, **2; Virginia, East Chandler, **2; Wisconsin, Combustion Turbine, **1; and Wisconsin, Na2, **1; and b. adding in alphabetical order the entries "Minnesota", "Angus Anson", "3", "1,166", "0", "0", "0", "NA", "1,166", "0", "0", and "NA"; "South Carolina", "Cope", "1", "2,989", "0", "0", "0", "NA", "2,989", "0", "0", and "NA"; "Wisconsin", "Fond du Lac", "**CT3", "44", "0", "0", "0", "NA", "44", "0", "0", and "NA"; and "Wisconsin", "West Martinette", "33", "874", "0", "0", "0", "NA", "874", "0", "0", and "NA".

42. Section 73.19 is amended by removing and reserving paragraph (b)

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and revising paragraph (a)(5) to read as follows:

§ 73.19 Certain units with declining SO_2 rates.

(a) * * *

(5) Its 1996 annual SO_2 emission rate (determined in accordance with part 75 of this chapter) is less than 1.2 lb/mmBtu;

* * * * *

43. Section 73.90 is amended by: removing from the formula in paragraph (c)(3) the words "Total Allowances Requested" and adding, in their place, the words "35,000"; removing from the formula in paragraph (c)(3) the words "35,000" and adding, in their place, the words "Total Allowances Requested"; and revising paragraphs (a)(1), (a)(2), and (a)(3) to read as follows:

§ 73.90 Allowance allocations for small diesel refineries.

(a) * * *

(1) Photocopies of Form EIA–810 for each month of calendar years 1988 through 1990 for the refinery;

(2) Photocopies of Form EIA–810 for each month of calendar years 1988 through 1990 for each refinery owned or controlled by the refiner that owns or controls the refinery seeking certification; and

(3) A letter certified by the certifying official that the submitted photocopies are exact duplicates of those forms filed with the Department of Energy for 1988 through 1990.

* * * * *

PART 74—[AMENDED]

44. The authority citation for part 74 continues to read as follows:

Authority: 42 U.S.C. 7601 and 7651 *et seq.*

§ 74.2 [Amended]

45. Section 74.2 is amended by removing the words "a written exemption under § 72.7 or § 72.8 of this chapter" and adding, in their place, the words "an exemption under § 72.7, § 72.8 or § 72.14 of this chapter".

PART 75—[AMENDED]

46. The authority citation for part 75 is revised to read as follows:

Authority: 42 U.S.C. 7601 and 7651 *et seq.*

§ 75.67 [Amended]

47. Section 75.67 is amended by removing and reserving paragraph (a).

PART 77—[AMENDED]

48. The authority citation is revised to read as follows:

Authority: 42 U.S.C. 7601 and 7651j.

49. Section 77.3 is amended by revising paragraphs (d)(3),(5), and (6) to read as follows:

§ 77.3 Offset plans for excess emissions of sufur dioxide.

* * * * *

(d) * * *

(3) At the designated representative's option, the number of allowances to be deducted from the unit's Allowance Tracking System account to offset the excess emissions for the year for which the plan is submitted.

* * * * *

(5) A statement either that allowances to offset the excess emissions are to be deducted immediately from the unit's compliance subaccount or that they are to be deducted on a specified date in a subsequent year.

(6) If the proposed offset plan does not propose an immediate deduction of allowances under paragraph (d)(5) of this section, a demonstration that such a deduction will interfere with electric reliability.

50. Section 77.4 is amended by revising paragraphs (b)(1), (c)(2)(i), (f)(2)(i), (g)(2)(i)(B), (g)(2)(i)(C), the last two sentences of (k)(1), and (k)(2) to read as follows:

§ 77.4 Administrator's action on proposed offset plans.

* * * * *

(b) *Review of proposed offset plans.* (1) If the designated representative submits a complete proposed offset plan for immediate deduction, from the unit's compliance subaccount, of allowances required to offset excess emissions of sulfur dioxide, the Administrator will approve the proposed offset plan without further review and will serve written notice of any approval on the designated representative. The Administrator will also give notice of any approval in the **Federal Register**. The plans will be incorporated in the unit's Acid Rain permit in accordance with § 72.84 of this chapter (automatic permit amendment) and will not be subject to the requirements of paragraphs (d) and (k) of this section.

* * * * *

(c) * * *

(2)(i) The designated representative shall submit the information required under paragraph (c)(1) of this section within a reasonable period determined by the Administrator.

* * * * *

(f) * * *

(2) * * *

(i) The reasons, and supporting authority, for approval or disapproval of any proposed offset plan that does not require immediate deduction of allowances, including references to applicable statutory or regulatory provisions and to the administrative record; and

* * * * *

(g) * * *

(2) * * *

(i) * * *

(B) The air pollution control agencies of affected States; and

(C) Any interested person.

* * * * *

(k) * * *

(1) * * * The Administrator will serve a copy of any approved offset plan and the response to comments on the designated representative for the affected unit involved and serve written notice of the approval or disapproval of the offset plan on any persons who are entitled to written notice under paragraphs (g)(2)(i)(B) and (C) of this section or who submitted written or oral comments on the approval or disapproval of the draft offset plan. The Administrator will also give notice in the **Federal Register**.

(2) The Administrator will approve an offset plan requiring immediate deduction from the unit's compliance subaccount of all allowances necessary to offset the excess emissions except to the extent the designated representative of the unit demonstrates that such a deduction will interfere with electric reliability.

* * * * *

51. Section 77.6 is amended by revising paragraph (a) to read as follows:

§ 77.6 Penalties for excess emissions of sulfur dioxide and nitrogen oxides.

(a)(1) If excess emissions of sulfur dioxide or nitrogen oxide occur at an affected unit during any year, the owners and operators of the affected unit shall pay, without demand, an excess emissions penalty, as calculated under paragraph (b) of this section.

(2) If one or more affected units governed by an approved NO_X averaging plan under § 76.11 of this chapter fail (after applying § 76.11(d)(1)(ii)(C) of this chapter) to meet their respective alternative contemporaneous emission limitations or annual heat input limits, then excess emissions of nitrogen oxides occur during the year at each such unit. The sum of the excess emissions of nitrogen oxides of such units shall equal the amount determined under § 76.13(b) of this chapter. The owners and operators of such units shall pay an excess emissions penalty, as calculated under paragraph (b) of this section using the sum of the excess emissions of nitrogen oxides of such units.

(3) Except as otherwise provided in this paragraph (a)(3), payment under paragraphs (a) (1) or (2) of this section shall be submitted to the Administrator by 30 days after the date on which the Administrator serves the designated representative a notice that the process of recordation set forth in § 73.34(a) of this chapter is completed or by July 1 of the year after the year in which the excess emissions occurred, whichever date is earlier. Payment under paragraph (a)(1) of this section for any increase in excess emissions of sulfur dioxide determined after adjustments made under § 72.91(b) of this chapter shall be submitted to the Administrator by 30 days after the date on which the Administrator serves the designated representative a notice that process set forth in § 72.91(b) of this chapter is completed.

* * * * *

PART 78—[AMENDED]

52. The authority citation for part 78 continues to read as follows:

Authority: 42 U.S.C. 7601 and 7651, *et seq.*

53. Section 78.1 is amended by revising paragraphs (a) and (b)(1)(v) to read as follows:

§ 78.1 Purpose and scope.

(a)(1) This part shall govern appeals of any final decision of the Administrator under parts 72, 73, 74, 75, 76, and 77 of this chapter; *provided* that matters listed § 78.3(d) and preliminary, procedural, or intermediate decisions, such as draft Acid Rain permits, may not be appealed.

(2) Filing an appeal, and exhausting administrative remedies, under this part shall be a prerequisite to seeking judicial review. For purposes of judicial review, final agency action occurs only when a decision appealable under this part is issued and the procedures under this part for appealing the decision are exhausted.

(b) * * *

(1) * * *

(v) The issuance or denial of an exemption under § 72.14 of this chapter;

* * * * *

§ 78.31 [Amended]

54. Section 78.3 is amended by:

a. removing from paragraph (b)(1) the words "60 days" and adding, in their place, the words "60 days (or other reasonable period established by the Administrator in such decision)";

b. removing from paragraph (b)(1) the words "action." and adding, in their place, the words "action and shall not meet the prerequisite for judicial review under § 72.1(a)(2).";

c. removing from paragraph (b)(3)(ii) the words "the persons entitled to written notice under § 72.65(b)(1) (ii), (iii), and (iv) of this chapter." and adding, in their place, the words "the air pollution control agencies of affected States and any interested person.";

d. adding at the end of paragraph (c)(6) the word "and"; removing from paragraph (c)(7) the words "; and" and adding, in their place, the word ".";

e. removing paragraph (c)(8);

f. removing paragraph (d)(1); and

g. redesignating paragraphs (d)(2), (d)(3), and (d)(4) as paragraphs (d)(1), (d)(2), and (d)(3) respectively.

55. Section 78.4 is amended by: removing from paragraph (c)(1) the words "7 days" and adding, in its place, the words "7 days (or other reasonable period established by the Environmental Appeals Board or Presiding Officer),"; and removing from paragraph (c)(1) the words "it, unless the Environmental Appeals Board or Presiding Officer authorizes a longer time based on good cause." and adding, in their place, the words "it.".

§ 78.5 [Amended]

56. Section 78.5 is amended by removing from paragraph (a) the words "to submit a claim of error notification" and adding, in their place, the words "a claim of error notification was submitted".

§ 78.7 [Removed]

57. Section 78.7 is removed and reserved.

58. Section 78.11 is amended by removing from paragraph (a) the words "30 days" and adding, in their place, the words "30 days (or other reasonable period established by the Administrator when giving notice)".

§ 78.12 [Amended]

59. Section 78.12 is amended by removing from paragraph (a)(2) the words "a written exemption under §§ 72.7 or 72.8" and adding, in their place, the words "an exemption under § 72.14".

§ 78.14 [Amended]

60. Section 78.14 is amended by: removing from paragraph (a), introductory text, the word "theses" and adding, in its place, the word "these"; removing from paragraph (a)(10) the words "15 days" and adding, in their place, the words "15 days (or other reasonable period established by the Presiding Officer)"; and removing from paragraph (c)(1) the words "Rule 408 of".

§ 78.15 [Amended]

61. Section 78.15 is amended by: removing from paragraph (c) the words "10 days" and adding, in their place, the words "10 days (or other reasonable period established by the Presiding Officer)"; and removing the last sentence from paragraph (c).

§ 78.16 [Amended]

62. Section 78.16 is amended by removing from paragraphs (d)(1) and (d)(2) the words "7 days" and adding, in their place, the words "7 days (or other reasonable period established by the Presiding Officer)".

§ 78.17 [Amended]

63. Section 78.17 is amended by: removing the words "45 days" and adding, in their place, the words "45 days (or other reasonable period established by the Presiding Officer)"; and removing the words ", for good cause shown, may shorten or extend the time for filing and".

§ 78.18 [Amended]

64. Section 78.18 is amended by removing from paragraph (b), introductory text, the words "30 days after service unless within that time:" and adding, in their place, the word "unless:".

§ 78.20 [Amended]

65. Section 78.20 is amended by: removing from paragraph (a), introductory text, the words "30 days" and adding, in their place, the words "30 days (or other reasonable period established by the Environmental Appeals Board)"; and removing from paragraph (b) the words "30 days" and adding, in their place, the words "45 days (or other reasonable period established by the Environmental Appeals Board)".

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Part III

Environmental Protection Agency

40 CFR Part 63

Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources; Final Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–5667–8]

RIN 2060–AD06

Hazardous Air Pollutants: Regulations Governing Constructed or Reconstructed Major Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is promulgating regulations implementing certain provisions in section 112(g) of the Clean Air Act as amended in 1990 (1990 Amendments). Section 112(g) applies to the owner or operator of a constructed, reconstructed, or modified major source of hazardous air pollutants (HAP). After the effective date of this rule, all owners or operators of major sources that are constructed or reconstructed will be required to install maximum achievable control technology (MACT) (unless specifically exempted), provided they are located in a State with an approved title V permit program. This rule establishes requirements and procedures for the owners or operators to follow to comply with section 112(g). This rule also contains guidance for permitting authorities in implementing section 112(g). When no applicable Federal emission limitation has been promulgated, the Clean Air Act (Act) requires the permitting authority (generally a State or local agency responsible for the program) to determine a MACT emission limitation on a case-by-case basis. This rule assures that effective pollution controls will be required for new major sources of air toxics during the period before EPA can establish a national MACT standard for a particular industry. This rule establishes procedures for making such determinations. This rule does not require new source MACT for modifications to existing sources.

EFFECTIVE DATE: The rule announced herein takes effect on January 27, 1997.

ADDRESSES: Supporting information used in developing the proposed and final rules are contained in Docket No. A–91–64. The docket is available for public inspection and copying from 8:00 to 4:00 p.m., Monday through Friday, except legal holidays, at the EPA's Air Docket Section, Waterside Mall, Room M1500, U.S. Environmental Protection Agency, 401 M Street, South West, Washington, DC 20460. A reasonable fee may be charged for copying. This rule is also available on the Office of Air Quality Planning and Standards (OAQPS) electronic bulletin board, the Technology Transfer Network (TTN), under Clean Air Act, Title III, Recently Signed Rules. For information on how to access the TTN, please call (919) 541–5384 between the hours of 1:00 and 5:00 p.m. eastern standard time. This rule is also listed on the EPA web site address, "http:// www.epa.gov/oar".

FOR FURTHER INFORMATION CONTACT: Dr. Gerri Pomerantz, telephone (919) 541–2317, Mr. Andy Smith, telephone (919) 541–5398, or Ms. Kathy Kaufman, telephone (919) 541–0102, Information Transfer and Program Integration Division (MD–12), OAQPS, US EPA, Research Triangle Park, NC, 27711.

SUPPLEMENTARY INFORMATION: The information presented in this preamble is organized as follows:

I. Purpose and Summary of Final Rule
  A. Purpose of this Rule
  B. Summary of this Rule
II. Background
  A. The 1990 Amendments: Section 112
  B. The 1990 Amendments: Provisions for Constructed and Reconstructed Major Sources of HAP
  C. Streamlined Nature of this Rule
III. Summary and Rationale for §§ 63.40 Through 63.44 of this Rule
  A. Section 63.40 Applicability
  B. Section 63.41 Definitions
  C. Section 63.42 Program Requirements Governing Construction or Reconstruction of Major Sources
  D. Section 63.43 MACT Determinations for Constructed and Reconstructed Major Sources
  E. Section 63.44 Requirements for Process or Production Units Subject to a Subsequently Promulgated MACT Standard or MACT Requirement
IV. Discussion of the Relationship of the Requirements of this Rule to Other Requirements of the Act.
  A. Relationship of Section 112(g) Implementation to Title V Program Approval
  B. Relationship to Section 112(l) Delegation Process
  C. Section 112(i)(5) Early Reductions Program
  D. Subpart A "General Provisions"
V. Administrative Requirements
  A. Executive Order 12866
  B. Regulatory Flexibility Act
  C. Paperwork Reduction Act
  D. Unfunded Mandates Reform Act
  E. Submission to Congress and the General Accounting Office

This preamble provides an overview of the requirements of the regulation being promulgated and a detailed discussion of the changes made from both the proposed and draft final regulations.

Section I of the preamble provides an overview of the requirements of the regulations being promulgated.

Section II provides background on section 112(g) in the context of the 1990 Amendments.

Section III provides a detailed discussion of the requirements of this rule, including significant comments as well as significant changes made since the proposal and/or draft final rule.

Section IV of the preamble discusses the relationship between the requirements of this rule and other important Act implementation activities.

Section V demonstrates that this rule is consistent with a number of Federal administrative requirements.

This preamble makes use of the term "State," usually meaning the State air pollution control agency which would be the permitting authority implementing title V of the Act (i.e., 40 CFR Part 70) and the section 112(g) program. The reader should assume that use of the term "State" also applies, as defined in section 302(d) of the Act, to the District of Columbia and territories of the United States, and may also include reference to a local air pollution control agency. In some cases, the term "permitting authority" is used and can refer to both State agencies and to local agencies (when the local agency directly makes the determinations or assists the State in making the determinations). The term "permitting authority" may also apply to the EPA, where the EPA is responsible for the program.

I. Purpose and Summary of Final Rule

A. Purpose of This Rule

The 1990 Amendments require the EPA to issue emissions standards for all major sources of 188 listed HAP (also known as air toxics). These pollutants are known or suspected of causing cancer, nervous system damage, birth defects or other serious health effects. On July 16, 1992, the EPA published an initial list of source categories for which air toxics emission standards are to be promulgated. By November 2000, EPA must develop for all these categories rules that require the maximum achievable reduction in emissions, considering cost and other factors. These rules are generally known as "maximum achievable control technology" (MACT) standards.

In developing the 1990 Amendments, Congress recognized that the EPA could not immediately issue MACT standards for all industries, and that as a result there was a potential for significant new sources of toxic air emissions to remain uncontrolled for some time. Congress also recognized that, in general, it is most cost-effective to design and add new air pollution controls at the time

when facilities are being built or significantly rebuilt.

As a result, section 112(g) of the Act requires MACT-level control of air toxics when a new major source of HAP is constructed or reconstructed. The permitting authority must determine MACT for the facility on a case-by-case basis when EPA has not yet issued a relevant MACT standard. This gap-filling program assures Americans in every State that effective pollution controls will be required for new major sources of air toxics during the period before EPA can establish a national MACT standard for a particular industry.

Section 112(g) also requires MACT-level control when major sources are modified. For reasons explained later in this preamble, this rule does not implement the modifications provision of section 112(g).

B. Summary of This Rule

1. What Sources Must Comply With 112(g)?

This rule implements section 112(g)(2)(B) of the Act by adding new regulatory sections to 40 CFR Part 63, subpart B. The new sections appear as §§ 63.40 through 63.44 of subpart B. These sections impose new control requirements on "constructed" and "reconstructed" major sources of HAP. (The definition of "major source" can be found in section 112(a) of the Act and 40 CFR Part 63 subpart A).

This rule does not apply to any source already covered by a MACT standard under section 112(d) of the Act. Therefore, sources already covered by a MACT standard under section 112(d) will not be required to undergo a review process under section 112(g). (Any section 112(g) review process already underway when a section 112(d) MACT standard is promulgated should be terminated.) This change was made to the final rule in response to comments that indicated that section 112(g) review would be inappropriate once a MACT standard was promulgated. For those sources not yet subject to section 112(d), section 112(g) applies to either (i) a major source constructed on a greenfield site, or to (ii) a new or reconstructed "process or production unit" at an existing plant site, provided that the "process or production unit" emits hazardous air pollutants in amounts that exceed the major source threshold. A new process or production unit at an existing major source must itself be inherently major-emitting; the EPA does not intend that a new process or production unit causing increased emissions at another unit downstream be covered by this rule. The definitions of "construct a major source," "reconstruct a major source," and "process or production unit" are set forth in section 63.41 of this rule and discussed in detail in section III.B. below.

2. What Must a Source Do To Comply With Section 112(g)?

If equipment additions or overhauls meet the definition of "construct a major source" or "reconstruct a major source," then the owner or operator must demonstrate to the permitting authority that emissions will be controlled to a level consistent with the "new source MACT" definition in section 112(d)(3) of the Act. A MACT determination under section 112(g) is referred to as "case-by-case" MACT. The requirements and procedures for case-by-case MACT determinations are contained in section 63.43 of this rule.

If an owner or operator wishes to construct or reconstruct a major source, then prior to construction or reconstruction, the owner or operator must apply to the state or local title V permitting authority for a case-by-case MACT determination under section 112(g). The application can take different administrative forms, at the permitting authority's discretion, but must contain basic information about the source and its potential emissions. The application must also specify the emission controls that will ensure that new source MACT will be met. The permitting authority must review and approve (or disapprove) the application, and provide an opportunity for public comment on the determination.

3. When Will Section 112(g) Be Effective?

Section 112(g) will be effective in a State or local jurisdiction on the date that the permitting authority, under title V of the Act, places its implementing program for section 112(g) into effect. Permitting authorities have up to 18 months from the date of publication of this rule in the **Federal Register** to initiate implementing programs. After the 18-month transition period, if a State or local permitting authority is unable to initiate a section 112(g) program to implement this rule, there are two options for obtaining a MACT approval: either (1) the EPA will issue section 112(g) determinations for up to 1 year; or (2) the permitting authority will make section 112(g) determinations according to procedures specified in section 63.43 of this rule, and issue a Notice of MACT Approval that will become final and legally enforceable after the EPA concurs in writing with the permitting authority's determination. Requirements for permitting authorities are contained in section 63.42 of this rule.

To place its implementing program into effect, the chief executive officer of the State or local jurisdiction must certify to the EPA that its program meets all the requirements set forth in this rule, and publish a notice stating that the program has been adopted and specifying its effective date. The program need not be officially reviewed or approved by the EPA.

4. Do Section 112(g)-regulated Sources Have To Comply With Subsequent MACT Standards?

Once a section 112(d) MACT standard is issued for a source category, the source must comply with it by the designated deadline. A major source regulated under section 112(g) may be granted up to 8 years extra time to comply with a subsequently-promulgated MACT standard under section 112(d). The EPA may specify, in the MACT standard, the length of the extension. If the EPA does not so specify, then the permitting authority may grant such extensions on a case-by-case basis. The EPA believes that in many cases the section 112(g) determination will be equivalent to MACT under section 112(d) or section 112(j), but that this determination should be made on a case-by-case basis under section 112(d) or section (j).

Regulated entities. Entities potentially regulated by this action are those which are major sources of HAP under section 112 of the 1990 Amendments. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Industries that use or manufacture chemicals listed under section 112.
Federal Government	Federal agencies which handle chemicals listed under section 112.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria of this rule. If you have questions regarding the applicability of this action to a

particular entity, contact your state or local air permitting authority.

II. Background

A. The 1990 Amendments: Section 112 and Section 307

The 1990 Amendments [Pub. L. 101–549] contain major changes to section 112 of the Act, pertaining to the control of HAP emissions. Section 112(b) includes a HAP list that is composed of 189 chemicals, including 172 specific chemicals and 17 compound classes. Section 112(c) requires publication of a list of source categories of major sources emitting these HAP, and of area sources that warrant regulation. Section 112(d) requires promulgation of emission standards for each listed source category according to a schedule set forth in section 112(e).

Under section 307(b)(1) of the Clean Air Act, judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of publication of this rule in the **Federal Register**. Under section 307(b)(2) of the Act, the provisions which are the subject of today's rule will not be subject to judicial review in any civil or criminal proceedings for enforcement.

B. The 1990 Amendments. Provisions for Constructed, Reconstructed and Modified Major Sources of HAP

The amendments to section 112 include a new section 112(g). This section is entitled "Modifications," but it contains control technology requirements for constructed and reconstructed major sources as well as major source modifications. For reasons discussed below, this rule addresses only requirements for constructed and reconstructed major sources.

1. Statutory Requirements for Constructed and Reconstructed Major Sources

Section 112(g)(2)(B) contains requirements for constructed and reconstructed major sources, as follows:

> After the effective date of a permit program under title V in any State, no person may construct or reconstruct any major source of hazardous air pollutants, unless the Administrator (or the State) determines that the maximum achievable control technology emission limitation under this section for new sources will be met. Such determination shall be made on a case-by-case basis where no applicable emission limitations have been established by the Administrator.

This section mandates a more stringent minimum level of control for "constructed" and "reconstructed" major sources than for "modified" sources. In addition, this section mandates the setting of a case-by-case emission limitation based on a technology determination for major sources that are constructed or reconstructed after the effective date of a title V permit program.

C. Streamlined Nature of This Rule

Section 112(g) is primarily a transitional program designed to operate until MACT standards issued under section 112(d) are in effect for all categories of major sources of HAP. To date, the EPA has issued 21 MACT standards covering 46 categories of major sources of HAP emissions, and has proposed five additional MACT standards covering five source categories. The EPA is currently developing all of the MACT standards that are due to be completed in 1997, as well as several of the standards due to be completed in 2000.

Because of the transitional nature of section 112(g), the EPA has concluded that the greatest benefits to be derived from section 112(g) would be from the control of major source construction and reconstruction in the period before MACT standards go into effect. Therefore, the EPA has determined that this rule will implement only that portion of section 112(g) which requires new source MACT determinations for constructed and reconstructed major sources, and will not implement that portion which requires existing source MACT determinations for modifications of existing sources.

The EPA's decision to implement only the construction and reconstruction provisions of section 112(g) is premised in part on the Agency's ability to issue the remaining MACT standards under section 112(d) in a timely way, and also in part on the assumption that where there are existing State air toxics programs that address modifications, they will continue to operate as they do currently. If there were substantial delays in issuance of MACT standards, or radical changes to existing State programs, increased exposure to emissions from unregulated sources of HAP could occur and threaten public health and the environment. If such delays were to occur, the EPA would reconsider whether to issue a regulation to cover modifications under section 112(g).

III. Summary and Rationale for Subsection 63.40 Through 63.44 of This Rule

This section of the preamble provides a detailed discussion of the provisions of this rule. It is organized by each topic area in subsection 63.40 through 63.44 of subpart B, and contains a detailed discussion of the principal regulatory issues and changes made in the final rule, particularly in response to public comments. It also discusses some comments that did not result in regulatory changes.

A. Section 63.40 Applicability

Section 63.40 describes the timing of the requirements of this rule and the sources to which section 112(g) applies.

1. Section 63.40(a) Subpart B Applicability

Section 63.40(a) of this rule indicates that the intent of the rule is to implement section 112(g)(2)(B) of the Act.

2. Section 63.40(b) Overall Requirements

Section 63.40(b) of this rule indicates the overall applicability of section 112(g) to the owner or operator who constructs or reconstructs a major source of HAP after the "effective date of section 112(g)(2)(b) and the effective date of a title V program" in each State. This rule contains an exemption for sources specifically exempted by promulgated standards in other subparts of 40 CFR 63. The EPA believes that this exemption is consistent with "MACT" because a MACT evaluation was made in establishing the exemption.

In addition, there will be instances in which a "presumptive MACT" determination has been made for a source category. A presumptive MACT determination is a preliminary MACT determination made by the EPA, in consultation with States and other stakeholders, after data on a source category's emissions and controls have been collected and analyzed, but before a final MACT standard has been promulgated. The "presumptive MACT" determination is intended as preliminary guidance for States and sources. The EPA believes that the presumptive MACT determination would thus serve as the best information available on the eventual MACT standard. Therefore the EPA recommends to sources and States that applications for section 112(g) determinations use as guidance any presumptive MACT determinations. Presumptive MACT determinations can be found on the TTN (referenced above) under Clean Air Act, Title III, Policy and Guidance or at the EPA web site address "http://www.epa.gov/oar".

It should be noted that there may be source categories which have not yet been listed on the source category list for standards. The language of section 112(g)(2)(B) of the Act reads: "no person

may construct or reconstruct any major source of hazardous air pollutants" without a case-by-case MACT determination, and makes no mention of whether or not the source is in a listed category. (In fact, the EPA is required to list these categories as it becomes aware of them.) Therefore, the EPA believes that section 112(g) does apply to any major source which is not yet in a listed category.

(a) Effective date. Many commenters noted inconsistencies in the provisions of the draft final rule pertaining to the effective date of section 112(g), which in different sections referred both to the adoption of a section 112(g) program in a State or local jurisdiction by the responsible permitting authority and to the effective date of a title V permit program in a State. The EPA agrees with the commenters that these provisions were confusing and inconsistent. Sections 63.41 and 63.42(a) of this rule make it clear that section 112(g)(2)(B) will take effect in a State or local jurisdiction only after the permitting authority has been afforded an opportunity to adopt a program to implement this provision. The effective date of section 112(g)(2)(B) in a given State or local jurisdiction will be the date on which the permitting authority places its implementing program into effect or the date which is 18 months after the date of publication of this rule in the **Federal Register**, whichever is earlier. This affords those permitting authorities which are prepared to implement section 112(g)(2)(B) quickly an opportunity to do so, but also recognizes that some State permitting authorities will need additional time to take the necessary steps to plan for and adopt a satisfactory program.

The meaning of "effective date of a title V permit program" is indicated in the final regulations for implementation of title V of the Act, which are contained in 40 CFR Parts 70 and 71, and which were published on July 21, 1992 (57 FR 32250) and July 1, 1996 (61 FR 34202), respectively. Under these regulations, States were required to submit a permit program for review by the EPA on or before November 15, 1993. The EPA was required to approve or disapprove the permit program within 1 year after receiving the submittal. The EPA's title V program approval date is termed the "effective date."

The effective date of title V permit programs is defined in section 502(h) of the Act, which says:

> The effective date of a permit program, or partial or interim program, approved under . . . [title V] . . . shall be the effective date of approval by the Administrator. The effective date of a permit program, promulgated by the Administrator shall be the date of promulgation.

This definition is incorporated into the operating permit regulations as 40 CFR 70.4(g).

If a project does not receive its air quality construction permits before the effective date of section 112(g), then this rule will be applicable. The EPA requested comment on other alternatives, such as grandfathering projects for which a complete application has been submitted to the permitting authority, or grandfathering projects from the date of "onsite fabrication, erection, or installation." Some commenters agreed with the EPA's current approach; however, many commenters supported grandfathering projects that had applied for, but not yet received, a permit. The EPA believes the chosen approach reflects the best option for ensuring adequate controls on sources seeking to add new equipment, while grandfathering sources which have already made significant investments in equipment. This approach assures that if prior to the permit issuance, new approaches to control HAP emissions are considered appropriate, the source will apply the latest control technology. This approach is also most consistent with current Federal policy in the prevention of significant deterioration program (PSD), in which sources with an approved permit are grandfathered when the attainment status of the region changes. In the new source review (NSR) program as well, while sources with a complete application which might otherwise be considered major modifications are grandfathered, these modifications do not escape review; they are treated as minor modifications instead.

(b) Major Source. Section 112(g) applies only to major sources as defined in section 112(a)(1) of the Act. This definition, from 40 CFR 63, subpart A, (the general provisions of part 63), is as follows:

> The term 'major source' means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants.

The definition also allows the EPA to establish a lesser quantity than 10 or 25 tons to define "major source" with respect to particular HAP where warranted on the basis of potency, persistence, and other factors. To date, no such lesser quantities have been established.

As a result of this definition, the section 112(g) requirements do not apply if the total emissions from an entire "contiguous area under common control" (in general, the entire plant site) do not exceed the major source level.

An important element of the major source definition is the term "potential to emit." "Potential to emit" is based on the source's capability to emit HAP considering enforceable limitations. Such limitations include restrictions on capacity, restrictions on the types of materials used, emission limitations, and other types of restrictions. A definition of "potential to emit" is contained in 40 CFR 63, subpart A (General Provisions), as well as in further guidance provided by the EPA available on the Technology Transfer Network (referenced above), under Clean Air Act, Title III, Policy and Guidance, as well as on the EPA web site address (also reference above).

3. Section 63.40(c) Exclusion for Steam Generating Units

Section 63.40(c) of this rule clarifies that electric utility steam generating units are not yet subject to the requirements of section 112(g).

Section 112(n)(1) requires the EPA to perform a study of the hazards to public health associated with HAP emissions from electric utility steam generating units. This paragraph states that:

> The Administrator shall regulate electric utility steam generating units *under this section*, if the Administrator finds such regulation is appropriate and necessary after considering the results of the study required by this paragraph. (emphasis added)

The EPA reads the phrase "under this section" as a broad exemption from regulation under section 112, including section 112(g), pending the results of the utility health hazards study.

4: Section 63.40(d) Relationship to State and Local Requirements

Most state and local regulatory agencies maintain regulatory programs that involve toxic air pollutant reviews for constructed and reconstructed sources. Section 63.40(d) clarifies that the requirements of section 112(g) do not supersede any requirements of these programs that are more stringent than this rule. Any such State requirements which are more stringent than the requirements of this rule would not be federally enforceable under section 112(g).

5. Section 63.40(e) Source Categories Deleted

This rule provides an exclusion for sources in source categories which have

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been deleted by the EPA from the source category list for standards [57 FR 31576, July 16, 1992]. These sources are excluded because for any such category the EPA will have determined, in lieu of making a MACT determination, that MACT should not apply.

6. Section 63.40(f)—Research and Development Facilities

This rule also provides an exclusion for research and development facilities that meet the specific definition in section 63.41. The proposed rule requested comment on whether to provide this exclusion, and the EPA received significant comment in favor of providing it, based on the potential resource burden of reviewing operations which by design change frequently and do not produce a product for commercial use. The title V operating permit program has issued a policy memorandum aimed at reducing the permit requirements for such facilities. In the interest of consistency with previous exclusions for research and development activities and its anticipated use in the title V program, this rule adopts the definition of research and development facilities provided in section 112(c)(7) of the Act.

B. Section 63.41 Definitions

1. Terms Defined in the General Provisions

A number of terms used in the rule have already been defined for all of 40 CFR Part 63 by the General Provisions contained in subpart A. Readers interested in the definitions and rationale for those terms should refer to subpart A. Relevant terms defined in the General Provisions include:

—Act
—Approved permit program
—Capital expenditure
—Federally enforceable
—Hazardous air pollutant
—Major source
—Permit program
—Potential to emit
—Relevant standard
—Title V permit

In the definition of Construct a Major Source, the threshold level for a major source is a source which emits or has the potential to emit (PTE) 10 tons/year of any HAP or 25 tons/year of any combination of HAP. The PTE means the maximum capacity of a source to emit any air pollutant under its physical and operation design. A source's PTE may also take into account enforceable requirements for air pollution control equipment, and enforceable restrictions on operation such as maximum hours of operation or types of materials consumed.[1]

This means that if a source keeps its emissions below the threshold limits for a major source through enforceable limits, it will not meet the definition of "Construct a Major Source" under section 112(g), and thus will not have to apply new source MACT. For example, if a plant to be constructed will have uncontrolled emissions of a HAP of 40 tons/year, it would normally be subject to new source MACT under section 112(g). The owners are, however, able to install emission controls achieving a 75 percent reduction in emissions of the HAP in question. By imposing on themselves this control system and making their emissions limit and operating conditions enforceable, as a practical matter they can keep their PTE below the major source threshold of 10 tons/year. Such a source would not be subject to section 112(g), even if the 75 percent emissions reduction did not achieve a "new source MACT" level of control.

2. Terms Related to Construction and Reconstruction

The following terms are included in section 63.41:

—Construct A Major Source
—Reconstruct A Major Source
— Greenfield Site

The definition of "construct a major source" in this rule refers to two types of sources. The first is any "major-emitting" construction at a greenfield site (i.e., construction which emits or has the potential to emit HAP in amounts that would make it a major source). The other is any construction of a new "process or production unit" at an existing site where the process or production unit is itself major-emitting. (The definition of "process or production unit" is discussed below in this section.)

It should be noted that a major source "construction" or "reconstruction" project may require more than one MACT determination. As outlined in paragraph (3) of the definition, the EPA believes that MACT determinations consistent with section 112(d) of the Act may not include combinations of emission points involving more than one category on a published list of source categories (57 FR 31576). For example, most types of combustion sources appear as individually listed categories. As a result, a "construction" or "reconstruction" involving boilers and other process equipment must make a separate MACT determination for the boilers.

In response to EPA's request for comments on the exclusion from section 112(g) for major sources that use existing emission controls, several issues were raised. Most industry commenters supported the exclusion, but favored broadening it and wanted the rule to state clearly that the decision for what constitutes the best control technology is left to the discretion of the permitting authority. Industry supported replacing the phrase "control equipment" with "control technology" to cover pollution prevention approaches. Environmental groups and several States opposed this exclusion. They felt the use of the phrase "one of the best control technologies" was too open to interpretation and could be abused. These commenters cited the following concerns: the statute requires MACT or its equivalent, the technology determination should be based on recent standards (not standards used when the controls were originally constructed), all significant HAP should be controlled by the existing controls, and public review and comment should be required of the permitting authority's decision. Several States indicated that review of applications for this exclusion would be too resource intensive for their staffs.

The EPA agrees with the comment that the phrase "one of the best control technologies" is too ambiguous and open to varied interpretation. Nevertheless, the EPA recognizes that many sources will have previously

[1] Currently, there is a requirement in the general provisions to part 63 that PTE limits must be federally enforceable in order to be credited. In a 1995 court case (*National Mining* v. *EPA*, 59 F. 3d 1351, D.C. Cir. 1995), the court required EPA to reconsider this requirement. The EPA is currently developing rulemaking amendments that will address the concerns raised by the court. It is expected that these rulemaking amendments will be finalized in mid-1998.

The EPA believes that virtually all of the new constructed or reconstructed sources with a possibility of triggering section 112(g) requirements, and requiring emission limitations in order to avoid section 112(g), will need to obtain a preconstruction minor NSR permit from a State and local air quality agency. Because those minor NSR permits are federally enforceable, the practical implications of the above-mentioned PTE rulemaking may not be as pronounced for section 112(g) as for other requirements of part 63.

There may be a few situations where a source seeks to attain "synthetic area" status for section 112(g) for a new greenfield site, or seeks PTE limits to ensure that a newly constructed source avoids becoming a 10-ton "affected source" under section 112(g), and the limitation issued by a State program is not federally enforceable. For example, a State's air toxics preconstruction permitting program that creates limits for non-VOC HAP's such as methylene chloride may not in some circumstances yield federally enforceable limits. For any such circumstances that arise before EPA issues its rulemaking amendments addressing the *National Mining* decision, the EPA will accept, for purposes of section 112(g), limitations that are practicably enforceable by a State and local air pollution control agency.

installed controls at the plant site, and that such controls may be sufficient for case-by-case MACT when new process or production units are added to them. It is our intent to provide flexibility to the permitting authority in making case-by-case MACT determinations, but believe we are obligated to provide guidance as to how those determinations are evaluated. Consequently, the final rule clarifies the criteria that must be met for a new major process or production unit to qualify for this exemption from section 112(g) review.

The definition of "construct a major source" excludes such process or production units, provided the controls meet six specific criteria.

One criterion is that all HAP that would otherwise be controlled by a case-by-case MACT determination are controlled by the existing technology. For example, if a source has previously installed controls designed for total volatile organic compounds (which may also be HAP), those controls must achieve a MACT level of control for all of the HAP in the emission stream that would normally be expected to be controlled by a MACT determination. (For example, a MACT standard might reasonably be expected to address all the HAP emitted in a stream except for those emitted in trace amounts.) In addition, the control efficiency of the equipment for HAP prior to addition of the new process or production unit must be maintained after addition of the new equipment.

The definition also requires either that the previously installed control technology has been reviewed and approved within the last 5 years under another air quality program that requires best available control technology (BACT), lowest achievable emission rate (LAER), or State-level toxics BACT (T–BACT) or MACT. Alternatively, the permitting authority may determine that the previously installed control technology is equivalent to what would be currently required by another similar air quality program. Use of the exclusion must be documented in the title V permit at the time of permit issuance or renewal. These requirements provide a safeguard that the new process or production unit will be adequately controlled, even if it does not undergo section 112(g) review.

In addition, an opportunity is required for public review of the permitting authority's decision to allow use of this exclusion. If any commenter questions the permitting authority's view that previously installed controls are adequate for section 112(g) purposes, then the permitting authority must explain its decision in response to those comments. In general, the EPA believes that controls that were constructed in accordance with an earlier determination could be adequate; however, such previously installed controls may not be adequate if that same determination, made currently, would be significantly different. For example, a BACT determination made in 1992 could be significantly different from a determination made in 1997 on similar equipment if advances in control technology have occurred during that time.

Finally, the EPA generally does not view this "good controls" exclusion under section 112(g) as satisfying MACT for new sources under section 112(d) or section (j). As such, sources subject to later MACT determinations pursuant to section 112(d) or section 112(j) may have additional compliance requirements placed upon them.

3. Terms Related to MACT

Definitions for the following terms related to levels of control technology are included in section 63.41 of this rule:

—Available information
—MACT
—Control Technology
—MACT Emission Limitation for New Sources

The basis for the MACT definitions is statutory language contained in section 112(d) of the Act. The term "MACT" appears only in section 112(g) of the Act, and does not appear elsewhere in section 112. There is, however, considerable legislative history indicating that this term refers to the level of control required by section 112(d) emission standards. The term "MACT" was used in this context in the House Bill, H. R. 3030. For purposes of the definitions in this rule, the EPA assumes that MACT is a reference to the "maximum degree of reduction in emissions" language contained in section 112(d)(3).

The term "available information" is used to define the extent of review for permitting authorities and applicants for case-by-case MACT determinations. This rule defines "available information" to include information made available by the EPA in the process of setting emission standards, including but not limited to MACT standards. The EPA intends that information made publicly available in background or other documents in the process of developing a "presumptive MACT" for a source category should be considered "available information." In this rule, information is considered to be "available" if it is available as of the permitting authority's final determination, i.e., the date the permitting authority makes the final determination after receiving all comments. Some commenters argued that information should only be considered "available" if it has been available as of the date of application for a MACT determination. The EPA believes, however, that new information presented during a public comment period should be considered in the MACT determination. The issue of "available information" is discussed in more detail in section III.D.3. below.

4. Terms Affecting Extent of Coverage by MACT

The following terms are used to describe equipment subject to a MACT determination:

—Affected source
—List of source categories
—Process or production unit

As explained above, the EPA believes that Congress did not intend section 112(g)(2)(B) to be so limited in scope that it would apply only to construction or reconstruction of entire facilities, and that this section was also intended to apply to construction of new process or production units and reconstruction of existing process or production units at existing facilities. Accordingly, it is necessary for EPA to decide what types of new equipment constitute the unit to be controlled under section 112(g).

A number of commenters expressed concerns regarding the exclusion for an "integral component of a process or production unit," in the draft final rule, which required that the component be an "essential part" of a larger process or production unit. The nature of the comments made it clear that this definition was subject to greatly differing interpretations. Many commenters stated that the definition was too narrow, while some argued that it could be construed so broadly that no new equipment would qualify. Several commenters who believed the proposed definition of "integral component" to be too narrow suggested that EPA use alternative criteria such as "functions as a part of" or "integrated with" a larger process or production unit instead. The EPA believes the concept of a functional relationship to be a useful one, but by itself this concept is susceptible to an unduly broad interpretation.

The EPA is concerned about the varying interpretations given to this term by the commenters. Therefore, instead of defining the equipment which should be excluded from section 112(g), the EPA has chosen to define the

equipment to which section 112(g) should apply controls. This rule applies section 112(g) to equipment which meets the definition of a "process or production unit."

The definition of "process or production unit" requires that the unit to which section 112(g) applies should be "any collection of structures and/or equipment that processes, assembles, applies, or otherwise uses material inputs to produce an intermediate or final product," and notes that the process or production unit may be a part of a facility which contains several such units. By requiring that the unit produce a product, the EPA intends section 112(g) to apply to units which are discrete, not units which are just one essential part of a larger function. The EPA also intends that the requirement that the unit produce a product be read to include those units whose product is energy, such as boilers.

At the same time, some commenters suggested that an entire plant site should generally be considered the unit to which section 112(g) applies, an interpretation which the EPA does not share. Therefore, by specifying that the process or production unit may be a part of a facility, the EPA intends that the definition be interpreted to cover a process line or production operation within a facility.

The draft final rule contained separate definitions of "process" and "production unit." Under the draft language, storage tanks would have been considered processes or production units in some situations. Because the final rule consolidates the two definitions, the EPA has changed the definition of process or production unit to include the storage of materials, where storage is the primary function of the facility (e.g., tank farms), as a process or production unit. These issues are discussed and illustrated further in section III.D. below.

5. Electric Utility Steam Generating Unit

The definition of electric utility steam generating unit in the proposed rule is taken directly from section 112(a) of the Act.

C. Section 63.42 Program Requirements Governing Construction or Reconstruction of Major Sources

Several commenters expressed concerns regarding the provision in the draft final rule under which section 112(g) would have taken effect immediately upon promulgation of this rule in those States which have already developed section 112(g) programs. Some of these commenters noted that it is illogical to assume that a program adopted by a State in advance of issuance of this rule will meet its requirements, and that States should be required to evaluate their programs for conformity to this rule before they take effect. The EPA agrees with this comment, and has therefore required that each permitting authority certify that its implementing program is in conformity with the provisions of this rule as part of its adoption of a program.

Some commenters requested that EPA provide a fuller description of the steps by which a permitting authority can adopt a section 112(g) program. Other commenters argued that a program should not take effect without some sort of notice to affected facilities. The EPA agrees with these comments and has therefore also required that a permitting authority establish in advance an effective date for its program, and publish notice of the adoption of the program prior to that effective date.

One commenter argued that section 112(g) programs adopted by a State permitting authority cannot take effect unless they are expressly approved by EPA, either as part of a title V program or as a delegation of authority to the State under section 112(l). The commenter argued that EPA must also afford an opportunity for public comment prior to any such approval. The EPA does not agree with the position expressed by this commenter.

The EPA interprets section 112(g) as assigning to the permitting authority for each State, whether it be the State or the EPA Regional Office acting on behalf of the Administrator, the responsibility for making section 112(g) determinations. This construction of section 112(g) is implicit in the language which makes the applicability of the prohibitions in section 112(g)(2)(B) contingent on the effective date of a title V permit program in each State. Moreover, the EPA has previously taken steps to effectuate this construction of the Act. Each State which received approval to operate a title V permit program was required to state that it had the requisite authority to implement section 112(g). While an individual State (or the EPA Regional Office if it is the permitting authority under title V) is not in a position to adopt a section 112(g) program which satisfies Federal requirements for such programs until after EPA has issued its general guidance concerning the nature of these requirements, there is no indication in the language of section 112(g) that EPA must then "delegate" to each State the authority already assigned it by the statute itself.

The EPA believes that it would be permissible for EPA to require that State section 112(g) programs be approved by the EPA before they could take effect, but does not intend to do so. The EPA acknowledges that the difficulties it has encountered in devising guidance on implementation of section 112(g) which is both effective and practicable have resulted in unfortunate delays in implementation, and that EPA must necessarily afford State permitting authorities some additional time after issuance of this rule to plan for and adopt their implementing programs. However, inclusion of additional EPA comment and review procedures which are not mandatory would only serve to further delay implementation of this provision, thereby undermining the congressional intent.

Section 63.42(c) says that no person may "begin actual construction or reconstruction" of a major source unless a case-by-case MACT determination has been made. The EPA intends that the phrase "begin actual construction or reconstruction" have the same meaning as the phrase "begin actual construction" in 40 CFR 51 and 52 [the NSR and PSD programs], i.e. initiation of physical onsite construction activities as set forth in those programs.

If a facility which wishes to undertake construction or reconstruction of a major source after the effective date of section 112(g)(2)(B) in a State or local jurisdiction is unable to obtain the case-by-case MACT determination required by that provision, this could prevent the facility from proceeding with construction or reconstruction. Although the potential for constraints on construction or reconstruction when no section 112(g) program is in place is inherent in the structure of the statute itself, the EPA has included in the final rule two provisions which are intended to avert such a result in the event that a State permitting authority is unable to adopt a section 112(g) program in a timely manner.

First, in those instances where a State has not adopted a section 112(g) program within 18 months but concludes that it can still make the required case-by-case MACT determinations, the State may elect to make such determinations subject to written concurrence by the EPA Regional Office. Upon written concurrence by the EPA, the MACT determination will become final and federally enforceable. Second, in those instances where a State has not adopted a section 112(g) program within 18 months and concludes that it is unable to make case-by-case MACT determinations in the absence of such a program, the State may request that the EPA Regional Office implement a transitional section 112(g) program for a

period not to exceed 1 year. Although it is clear that failure to adopt a section 112(g) program would constitute a material deficiency in a State's title V permitting program, the EPA would prefer to afford those States who have encountered practical difficulties in timely adoption of a section 112(g) program additional time rather than immediately applying the sanctions and remedies set forth in section 502(i).

Industry commenters have expressed concern that individual States might use adoption of a section 112(g) program to "federalize" elements of existing State air toxics programs which are not required to implement section 112(g) with respect to construction or reconstruction of major sources. Conversely, some States have expressed concern that adoption of a section 112(g) program might operate to preempt other existing provisions in State air toxics programs which are not required to implement section 112(g). The EPA does not intend or support either of these results. The program adopted by each State to implement section 112(g) will be intrinsically less extensive in its scope than many existing State air toxics programs. When this is the case, the section 112(g) program should not be treated as either subsuming or superseding extraneous State program elements. Accordingly, the EPA has included in the final rule explicit language making it clear that nothing in the section 112(g) rule can be construed to require compliance with State program elements not intended to implement section 112(g) with respect to construction or reconstruction of major sources, and nothing in the rule can be construed to preclude enforcement of such State program elements under any other provision of applicable law. State permitting authorities may examine their existing State air toxics programs to determine if they contain the requirements of this rule. If so, a permitting authority may use its existing air toxics program as a vehicle for implementing section 112(g) requirements.

D. Section 63.43 MACT Determinations for Constructed and Reconstructed Major Sources

Section 63.43 (in combination with a number of definitions contained in section 63.41) contains the requirements for constructed and reconstructed major sources described in section 112(g)(2)(B) of the Act. Equipment affected by this section must comply with a "new source MACT" level of control.

Applicability

1. "Greenfield" Facilities. The most straightforward case for section 112(g) is for a new plant site emitting (or having the PTE) more than major amounts of HAP (that is, 10 tons/yr of one HAP, 25 tons/yr of multiple HAP, or amounts that exceed any lesser quantity cutoffs that may be established under subpart C of part 63). The EPA believes that the statute clearly requires such a new plant site to be treated as a "constructed major source" subject to a "new source MACT" level of control.

2. Addition of Equipment at an Existing Plant Site. This rule treats addition of a new "process or production unit" as construction, as discussed above, and requires application of new source MACT to that process or production unit. This ensures that new major-emitting process or production units (that is, those emitting more than 10 tons/year of a HAP, or 25 tons/year from all HAP, or amounts exceeding a lesser quantity cutoff), which generally would represent sizeable investments, will be built with state-of-the art control technology. It is generally recognized that it is more straightforward to build such a level of control technology into the original design, and that it is difficult or sometimes even impossible to retrofit such controls at a later date. A fundamental goal of many EPA programs, such as the new source performance standards program under section 111 of the Act and the effluent guidelines program under the Clean Water Act, is to achieve long-term reductions in emissions by requiring "best" controls as old production operations are replaced with new operations. In addition, this requirement prevents inequities in the implementation of the 112(g) program, because a new process or production unit at an existing plant would be subject to the same standard as a "greenfield" plant site with identical equipment. If this rule only covered greenfield sites, as some commenters suggested, then that same new process or production unit would not be controlled at all under section 112(g).

The guidance in this preamble is designed to help the permitting authority determine whether a new major addition constitutes a process or production unit. The EPA is providing the following examples to illustrate its intent for applicability of section 112(g). The rationale for each case is explained based on the definition of a process or production unit.

Because this rule is generic to all industries, the definition of "process or production unit" and the use of the terms "intermediate or final product" in this rule are necessarily generic. As a result, in applying this definition to individual plant sites, permitting authorities will need to exercise their reasonable judgment in determining the "collection of structures and/or equipment that * * * produce(s) an intermediate or final product." The following discussion and examples provide guidance on factors and considerations that EPA believes are appropriate in making this judgment. None of the factors or considerations by itself should be considered absolute in determining applicability, but these should be weighed by the permitting authority in reaching a decision.

In applying the definition of "process or production unit" to a facility, a key question is: What are the intermediate or final products? There is no intention for this rule to impart any regulatory significance to informal uses of the term "intermediate." The examples below illustrate EPA's intent for a variety of industries.

A second question is: Do the new equipment and/or structures constitute a collection of equipment and/or structures that produces such a product? The EPA believes that an appropriate factor for the permitting authority to consider is the extent to which the new equipment and structures are discrete—in other words, whether as a technical matter the new equipment and structures can produce an intermediate or final product independently, in substantial degree, from the existing equipment or structures. If so, this would tend to support a judgment by the permitting authority that the new equipment and structures constitute a process or production unit. If not, this would support the opposite conclusion. The EPA notes that in making this judgment concerning "discreteness," one relevant consideration is whether the types of new equipment and structures in question are reasonably controlled independently.

In many cases it will be easy to discern whether changes at a plant site will constitute construction or reconstruction of a "process or production unit." For example, if a new unit is added to an existing plant site, and that type of unit is often built alone at a greenfield site, the logical conclusion is that the new unit is a process or production unit. Also, if minor changes are being made to existing equipment, it should be clear that no process or production unit is being constructed or reconstructed. Of course, there is no need to define the "process or production unit" at all

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unless the structures and/or equipment being constructed at an existing plant site have the potential to emit major amounts of HAP.

The following sample applicability determinations provide further guidance in judging when a source is subject to section 112(g) requirements:

Example 1. At a plant which manufactures fiberglass reinforced plastic boats, the owners wish to add more spray guns to an existing fabrication line to supplement the existing spray guns in laminating a particular model of boat hulls. The new spray guns will have a PTE greater than 10 tons/year of a HAP.

In this example, EPA views the fiberglass hull of a boat as an intermediate product in the manufacture of the final product (i.e., the boat with deck, trim, paint, engine, etc.) The collection of structures and/or equipment needed to manufacture the intermediate product, in this case, includes the existing spray guns and other operations in the building (e.g., the lamination operation and other supporting equipment) that typically are found in the production of boats. Because the newly added spray guns in and of themselves do not produce the intermediate product, the EPA does not view the additional spray guns for lamination as a process or production unit that is subject to review under section 112(g).

Example 2. Using Example 1, assume that the owner adds more spray guns to laminate a second model of boat hulls. The room is large enough to accommodate two lamination processes at the same time. The new spray guns have a PTE greater than 10 TPY.

The same rationale used in Example 1 applies here. The collection of equipment needed to produce the boat hull includes the lamination process as well as the gel coat process. Because the addition of the second lamination process does not produce an intermediate product, if no additional laminating or other essential equipment were added, it would not be subject to review under section 112(g).

Example 3. Using Example 2, a gel coat spray booth and supporting equipment needed to manufacture the boat hulls are added in addition to the spray guns.

The process or production unit in this example is the set of equipment that consists of the gel coat spray booths, the spray gun, and the supporting equipment. This new set of equipment can reasonably operate alone and produce an intermediate product. Consequently, all sources of HAP in this set of equipment, which includes the gel coat spray booth and the spray guns in the laminating room, are subject to review under section 112(g).

Example 4. An aluminum reduction plant has several potlines which manufacture aluminum. Each potline consists of between 100 and 200 electrolytic reduction cells or "pots" that are connected together in series electrically to complete a circuit. Each pot produces molten aluminum. The company wishes to add more pots on each line. The additional pots will result in a major increase in emissions.

Although each individual pot contributes to the production of the aluminum, the separate pots are not considered to be discrete process or production units in that they cannot operate independently. In addition, it does not make sense from an engineering standpoint to apply new source MACT only to the additional pots. The best time to apply new source MACT is when constructing an entirely new potline. The EPA does not view each separate pot as a process or production unit and thus the individual pots are not subject to review under section 112(g). The EPA sees the pots within the potline as being both functionally and physically interconnected and unable to function alone. Thus, EPA does not consider the pots as discrete process or production units.

Example 5. Using Example 4, assume the aluminum production facility adds a new potline which is a major source of HAP.

The EPA considers the entire potline as the collection of structures and equipment that produces an intermediate product (i.e., molten aluminum). Since it fits within the definition of a process or production unit, the potline is subject to review under 112(g). Also, note that the potline is an example of a process or production unit that is part of a larger production unit, the aluminum production plant.

Example 6. At an automobile assembly paint shop, three coating steps, primer, surfacer, and top coat, are used to paint the automobile body. Another parallel topcoat step is added to the existing topcoat step. Both top coat steps then feed back into a bake oven. The new top coat step will be a major source of HAP.

The new parallel topcoat step is not subject to review under section 112(g). The intermediate product in this case is the painted automobile body. The top coating step cannot take place without the preceding primer and surfacer steps and the supporting infrastructure. Additionally, the intermediate product cannot be completed without the bake oven step. Consequently, the topcoat by itself is not a discrete process as it is only one step in a series of steps necessary to produce an intermediate or final product. (Although unlikely, if an existing automobile assembly plant were to build a second paint shop, this should be reviewed under section 112(g).)

3. Reconstruction. Section 112(g) continues the concept of "reconstruction" contained in past regulatory programs. The concept of reconstruction is intended to prevent the circumvention of "new source" requirements by completely overhauling existing equipment. Current air pollutant emission standards under previous requirements of the Act treat replacement of components as a reconstruction if the replacement represents more than 50 percent of the capital cost of the new unit.

For section 112(g), the requirements apply to the reconstruction of a "major source," and this rule defines "reconstruct a major source" as the replacement of components at a major source such that the replacement exceeds 50 percent of the capital cost of either an entirely new major source, or of a comparable process or production unit where the process or production unit, if newly constructed, would have been considered a constructed major source under this rule. (For the sake of clarity, the EPA has deleted that portion of the reconstruction definition in the draft rule that referred to a "group of process or production units" being reconstructed, so that the definitions of both construction and reconstruction would refer to the same units).

MACT Determinations

Section 63.43 reflects the statutory requirement that an owner or operator who proposes to "construct or reconstruct" a major source must obtain a determination from the "permitting authority" that the "MACT emission limitation for new sources" will be met. The "permitting authority" is defined as the agency responsible for the title V permit program. Further discussion of this issue, and of other issues related to implementation of section 112(g), is contained in section IV of this preamble.

This section of the preamble discusses the procedures for making these MACT determinations. These procedures include technical review procedures needed to establish a MACT emission limitation and a corresponding MACT control technology, and, (where appropriate), administrative procedures for submitting and reviewing applications for MACT determinations. In this rule, the overall process for MACT determinations is outlined in § 63.43.

1. Overall Process for MACT Determinations. Where no MACT standard under section 112(d) has been promulgated, section 112(g) requires a case-by-case determination of the MACT emission limitation. This "determination" can take any of three

forms, as described below and in § 63.43(c) of this rule. Under any approach, the process for review is conceptually similar.

The process begins with a MACT analysis by the owner and operator. This MACT analysis must be consistent with general principles described in § 63.43(d). The owner or operator provides an application for a MACT determination to the permitting authority. Requirements for the contents of this application are listed in § 63.43(e). Commenters indicated that the source cannot certify that the control technology meets MACT because the permitting authority has not yet made the MACT determination. The EPA agrees with these commenters and has therefore eliminated the requirement from § 63.43(e)(2) of the draft final rule for a responsible official to certify that the control technology meets the requirements of section 112(g) of the Act. (The EPA wishes to clarify that the requirement in § 63.43(e)(2)(vi) to list emission rates is intended as background information to enable the permitting authority to identify the pollutants requiring MACT controls. The EPA recognizes that there is often a significant effort required to obtain precise estimates of HAP emission rates and speciations. The EPA does not intend in this paragraph to require a greater level of detail than is necessary for evaluating applicability and emission control issues.)

This application for a MACT determination is then reviewed by the permitting authority according to one of the following procedures (at the permitting authority's discretion): (1) the permitting authority's own review procedures (so long as they provide for public participation in the determination), (2) the administrative procedures outlined in 40 CFR part 70 or part 71, or (3) the administrative procedures described in § 63.43, paragraphs (f), (g), and (h). If approvable, the permitting authority will then either: (1) issue approval under its own procedures, (2) revise the part 70 or part 71 permit, or (3) issue a Notice of MACT Approval. Regardless of which review procedure is used, the provisions of section 63.43, paragraphs (j), (k), (l), and (m) apply.

Section 63.43(c)(3) of this rule provides that a source may seek approval of case-by-case MACT determinations for new alternate operating scenarios (that were not incorporated in a State permit) when obtaining its title V permit. As a result, the source would have met the requirements of section 112(g) at the time of permit approval, and thus would be free to activate any such alternative operating scenario in the future without having to undergo any further section 112(g) review.

Where EPA determines that the MACT determination made by the permitting authority fails to meet any of the requirements of § 63.43, EPA may take one of two actions to address the deficient MACT determination. (a) Where the MACT determination is made part of a source's part 70 permit, EPA may veto issuance of the permit in accordance with the provisions of 40 CFR 70.8(c). The EPA may also use the veto process outlined in 40 CFR 70.8(c) where the State has "enhanced" its section 112(g) process to incorporate the part 70 procedures.

(b) Where the MACT determination is made before the source obtains or revises its part 70 permit, either through a Notice of MACT Approval or the permitting authority's own procedures, EPA may exercise its authority under section 113(a)(5) of the Act to prohibit construction, issue an administrative penalty order, or bring a civil action against the source upon finding that the State has not acted in compliance with any requirement or prohibition relating to the construction or reconstruction of new sources.

Many commenters have expressed opposition to the provision in the draft final rule which provides that an owner or operator shall be deemed to be in compliance with section 112(g)(2)(B) only to the extent that the constructed or reconstructed major source is in compliance with the terms and conditions of the MACT determination. The commenters contend that this provision would operate to treat sources that are temporarily in violation of the terms of a MACT determination the same as sources who completely ignore section 112(g)(2)(B) and proceed to construct or reconstruct without obtaining a MACT determination. One commenter even argues expansively that this proposed provision would operate to subject the violator to penalties for the entire period since the original construction or reconstruction, rather than only for the period of the violation itself.

It was not the intent of EPA, nor would it be appropriate, to transform prior compliance into a violation based on the occurrence of subsequent violations. The EPA has clarified the language of the provision to assure that any violation of the terms and conditions in a MACT determination will be construed as a violation of section 112(g)(2)(B) only for that period that the owner or operator is actually in violation of such terms or conditions.

In general, the commenters assume that the MACT determinations made by a State will themselves be automatically federally enforceable, regardless of whether they have been incorporated in a title V operating permit for the facility. One commenter expressly invoked the language of section 113 by referring to a MACT determination as a "permit," while another argued to the contrary that Federal enforceability is not mandatory for MACT determinations under section 112(g). The EPA agrees that MACT determinations made pursuant to the authority conferred on a State by section 112(g) should be construed as federally enforceable actions, regardless of whether their terms have been incorporated into a title V operating permit. The EPA notes that a significant period may elapse between the time a facility first obtains a MACT determination and the subsequent issuance of a title V operating permit for that facility. The MACT determinations in this interim period are federally enforceable.

Congress clearly intended that the EPA should be able to enforce the requirement for sources to apply MACT prior to construction or reconstruction of a major source. If a facility obtains a MACT determination but does not adhere to its terms and conditions, then that facility should not be shielded from Federal enforcement. The provision in the final rule which makes failure to adhere to the requirements in the MACT determination a violation of section 112(g)(2)(B) itself, but only for the period that the facility is actually violating those requirements, is reasonable. It provides additional assurance that no facility will be able to avoid Federal enforcement based on a contention that the MACT determination has not yet been incorporated into a title V operating permit and should not be deemed directly enforceable.

2. Requirement for Preconstruction Determination. Section 63.43 requires the MACT determination before construction or reconstruction of the major source. The requirement is based upon the language in section 112(g)(2)(B) requiring that the Administrator (or the State) determine that MACT "will be met." The EPA believes that the future tense suggests an up-front determination.

In addition, the EPA believes that there are substantial implementation disadvantages for any program that would allow equipment to be constructed before a determination is made. The EPA's past experience in enforcing air quality regulations suggests strongly that it would be very

difficult to require substantial changes in the design of equipment once it is in place. The EPA feels that fairness or equity arguments, based on investments already made and the costs of retrofit and shutdown, could be made by a source seeking to begin operation under these circumstances.

3. General Principles for MACT Determinations. Section 63.43(d) reviews a number of general principles that govern MACT determinations under this rule. As required by section 112(g)(2)(B), this rule requires a case-by-case determination by the permitting authority that the technology selected by the owner or operator is consistent with what would have been required under section 112(d) of the Act. For constructed and reconstructed major sources, the minimum requirement for a case-by-case MACT determination, consistent with section 112(d), is the level of control that is achieved in practice by the best controlled similar source. The definition of MACT for new source MACT in this rule does not require consideration of sources outside the U.S. However, sources and permitting authorities are expected to consider controls on sources across the U.S., as opposed to considering just those controls used on sources in a particular State.

In determining the appropriate level of control, this rule requires consideration of "available information." In some instances, such information sources are readily apparent. For example, if a Federal MACT standard has been proposed, but not yet promulgated, the EPA expects that a MACT determination will strongly consider that proposal. (Other information may be available in some cases, for example, based upon public comment on the MACT proposal, but such data would need to be adequate to refute the finding in the proposal). In other cases, the EPA will have generated background documents summarizing MACT findings which should be readily available.

In some cases, during the course of developing the MACT standard the EPA will decide upon and make publicly available a "presumptive MACT" emission limitation that anticipates what the ultimate MACT determination will be. The EPA may do this before a proposed MACT standard has been published in the **Federal Register** for a source category. If so, sources and States should use such a "presumptive MACT" emission limitation as guidance in making case-by-case MACT determinations, because these determinations would be the best available information on the eventual MACT emission limitation.

The most recent performance standards for existing control technologies must be met. These include standards for BACT, LAER, or State T–BACT established within the last 5 years. The EPA plans to develop guidance for performance standards for 10-year MACT categories. Any relevant performance standards established in this guidance should be used once it is available. Determinations by the permitting authority on the adequacy of equivalent controls should be evaluated by the most recent performance standards available at the time of construction. As indicated in the draft final rule, the resulting level of control must at least meet that provided by the control technology prior to the inclusion of additional sources.

In addition, the EPA currently maintains a number of data bases that may be useful as a resource for information on available control technologies. The EPA has also designed a data management system that will support case-by-case MACT determinations. This data base is called the MACT data base. The EPA is developing guidance documents on how to use the MACT data base. Section 63.43(m) requires States to report all case-by-case MACT determinations to the MACT data base.

Finally, it should be noted that the final rule changes the term "control equipment" to "controls" to include any pollution prevention strategy that effectively limits emissions and is federally enforceable.

4. General Issues with Regard to MACT Determinations. For constructed and reconstructed major sources, section 112(g) of the Act requires an emission limitation consistent with a "new source MACT" level of control. The Act states:

> The maximum degree of reduction that is deemed achievable for new sources in a category or subcategory shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source, as defined by the Administrator.

For the purposes of section 112(g), two criteria should be used to determine if a source is similar: (1) whether the two sources have similar emission types, and (2) whether the sources can be controlled with the same type of control technology. The EPA can classify the emission source as one of five different types. They are as follows:

Process vent or stack discharges—the direct or indirect discharge of an organic liquid, gas, fume, or particulate by mechanical or process-related means. Examples would be emission discharges from columns and receiving tanks from distillation, fractionation, thin-film evaporation, solvent condensers, incinerators, flares, and closed-looped biological treatment units.

Equipment leaks—fugitive emissions from the following types of equipment: valves, pumps, compressors, pressure valves and lines, flanges, agitators, sampling connection systems, and valve connectors.

Evaporation and breathing losses—emissions from storage or accumulation of product or waste material; for example: stationary and mobile tanks, containers, landfills, and surface impoundments, and pilings of material or waste.

Transfer losses—emission of an organic liquid, gas, fume, vapor or particulate resulting from the agitation of material during transfer or the material from one unit to another. Examples of such activities are filling of mobile tanks, dumping of coke into coke quench cars, transfer of coal from bunker into larry car, emptying of baghouse hoppers, and sludge transfer.

Operational losses—emissions resulting from the process operation which would result in fugitive emissions if uncontrolled by hoods or vacuum vent, or other vent systems. Examples of operation losses are emission resulting from spray coating booths, dip-coating tanks, quenching towers, lubricating stations, flash-off areas, or grinding and crushing operations.

These five types of emission sources can serve as a general guide in identifying available control options while also considering the concentration and the type of constituents of a gas stream. However, while two pieces of apparatus can be classified within the same emission source type, this does not automatically mean that the emission points can be controlled using the same type of control technology. For instance, storage tanks and landfills are both listed in the evaporation and breathing losses classification, but it is unlikely that a storage tank and landfill would be controlled with the same technology.

The EPA believes that because the Act specifically indicates that existing source MACT should be determined from within the source category and does not make this distinction for new source MACT, that Congress intends for transfer technologies to be considered when establishing the minimum criteria for new sources. EPA believes that the use of the word "similar" provides support for this interpretation. The EPA believes that Congress could have

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explicitly restricted the minimum level of control for new sources, but did not. The use of the term "best controlled similar source" rather than "best controlled source within the source category" suggests that the intent is to consider transfer technologies when appropriate.

Some commenters expressed concern that the EPA's definition of "similar source" could be interpreted too broadly. The EPA believes that the practical use and effectiveness of any transfer technology should be generally comparable across emission units. While the particular pollutants emitted need not be the same, the following factors may be considered: the volume and concentration of emissions, the type of emissions, the similarity of emission points, and the cost and effectiveness of controls for one source category relative to the cost and effectiveness of those controls for the other source category, as well as other operating conditions. The uninstalled cost of controls should not be a factor in determining similarity across emission units. What should be a factor is the uninstalled cost of controls *plus* the costs associated with installation and operation of those controls. Therefore, whenever costs are quantified, such costs should include the purchase price of controls plus the costs associated with installation and operation of those controls for the source in question. In addition, the EPA recognizes that control efficiencies across similar sources may be different. The permitting authority is expected to use its judgement in determining when operating conditions are comparable across emission units.

Another general problem that must be addressed in determining the MACT, is the identification of the universe of equipment that must be considered for control. When the notice of initial list of categories of sources under section 112(c)(1) of the Act was published (57 FR 31576), the EPA listed broad categories of major and area sources rather than narrowly defined categories. The EPA chose to establish broad source categories at the time the source category list was developed because there was too little information to identify technically distinct groupings within these broad categories. During the standard-setting process, EPA may find it appropriate to further subcategorize to distinguish among classes, types and sizes of sources.

In making case-by-case MACT determinations, the EPA believes that permitting authorities may find it necessary to subcategorize particular source categories into technically distinct groupings. This rule allows permitting authorities to subcategorize, at their discretion, on a case-by-case basis, giving permitting authorities the greatest flexibility in case-by-case MACT determinations. In their comments, some permitting authorities indicated that reviewing agencies may not have the resources to address this subcategorization issue. The EPA recognizes that allowing permitting authorities discretion to subcategorize or not subcategorize may lead to some national inconsistency in implementation for source categories for which the EPA has not yet established a presumptive MACT, or has not yet collected enough information on the source category to establish subcategories. To limit inconsistencies, the EPA strongly encourages those States which have collected information on particular source categories to share that information with other States through the MACT data base.

In the proposed rule, EPA also sought comment on the criteria for which subcategorization would be allowed. Possible criteria can include technically distinct processes or operations (including differences between batch and continuous operation), fundamental differences in emission characteristics or control device applicability, differences in safety considerations, and the appropriate consideration of opportunities for pollution prevention. Most commenters supported allowing sources and/or States the discretion to subcategorize on a case-by-case basis. The EPA has not subcategorized source categories in this rule because it is most feasible to do so on a case-by-case basis.

5. Application for a MACT Determination. Section 63.43(e) of this rule describes the information the owner or operator is required to provide with an application for a MACT determination or in a title V permit application for which a MACT determination is requested. These information requirements are designed to identify the equipment to be controlled, and to demonstrate that the selected control technology for those units is consistent with or exceeds the requirements of the statute.

6. Review Process. Analysis of the relationship of section 112(g) to the operating permits program. This rule, in section 63.43, paragraphs (f), (g), (h), and (i), establishes an administrative process for reviewing a request by an owner or operator for a MACT determination. As discussed previously, the EPA believes that section 112(g) of the Act requires such a determination to be made before constructing or reconstructing a major source.

There will be cases when the title V permit process will be used for section 112(g) reviews, and there will be cases when it will not be used and MACT determinations will be incorporated into the permit after commencement of operation. Section 63.43(c) of this rule states that when the title V procedures are used, this process would be sufficient. When the title V process does not occur until after construction or reconstruction of a major source requiring a case-by-case MACT determination, this rule requires that the owner or operator follow either of the other two administrative review processes described in § 63.43. Where the change that is subject to section 112(g) review is addressed or prohibited by an existing title V permit, the change would of course need to be processed as a revision to the title V operating permit prior to commencing operation.

Regardless of the timing for incorporation of section 112(g) determinations into the operating permit, there are certain 40 CFR Part 70 requirements that apply. The title V permit must be revised or issued according to procedures set forth in part 70, and must incorporate the compliance provisions of part 70. If, during the EPA's review of the section 112(g) determination, it becomes apparent that the determination is not in compliance with the Act, then EPA must object to the issuance or revision of that permit.

These requirements are obviously satisfied either if part 70 requires revision to an existing title V permit prior to operation, or if the permitting authority otherwise requires incorporation into a title V permit as a step in the section 112(g) determination process. However, even where there is no formal incorporation into a title V permit prior to operation, subsequent title V review may effectively be avoided if the State's section 112(g) process is "enhanced" to include the required title V procedures, thereby allowing for later incorporation into the title V permit by administrative amendment.

7. Streamlined Administrative Process. Section 63.43, paragraphs (f), (g), and (h) of this rule establish an administrative review process for case-by-case MACT determinations for permitting authorities to use at their discretion. The process begins with a 45-day completeness determination. (In this rule the EPA suggests a completeness determination of 45 days, and a public review period of 30 days, in order to be consistent with the time periods set forth in part 70 for a permit application, so that a permitting

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authority can easily combine these processes). Once a complete application is received, approval or an intent to disapprove the application is required. If an intent to disapprove is issued, the owner or operator is given the opportunity to provide further information. The proposed decision to either approve or disapprove the application is then subject to public review. This rule provides for public review through issuance of a notice containing all the relevant background information about the application and allows 30 days for the public to comment on whether the application should or should not be granted. To expedite approval of noncontroversial case-by-case MACT determinations, this rule allows such determinations to become final following the close of the comment period if no adverse comments have been received. If adverse comments are received, a final notice addressing the comments must be published either approving or disapproving the application.

8. Notice of MACT Approval or similar document. The end result of the administrative review process is a determination set forth in a State permit or other document issued by the permitting authority. Necessary elements of this document are set forth in section 63.43(g) of this rule. This document should contain the emission limitations, notification, operating and maintenance, performance testing, monitoring, reporting, record keeping and any other requirements needed to ensure that the case-by-case MACT emission limitation will be met.

The Notice of MACT Approval or other document serves to provide a mechanism for Federal enforceability of these conditions in the interim time period between initial operation of the constructed or reconstructed major source and the time the conditions are added to the title V permit. The EPA has added a provision under which a Notice of MACT Approval would expire if construction does not begin within 18 months from the issuance of the notice. Such an 18-month expiration period is included in criteria pollutant preconstruction review programs.

9. Compliance. Section 63.43(k) requires the permitting authority to establish compliance dates for MACT. For constructed and reconstructed major sources subject to a "new source MACT" level of control, compliance upon startup is required. Some commenters requested that compliance be required by the date 180 days after startup to allow for a "shakedown" period for controls. However, sources subject to this rule are also subject to the relevant requirements of subpart A of this part (the general provisions for part 63), including compliance requirements. Since subpart A does not require the first performance test until 180 days after startup, the EPA believes that a "shakedown" period for controls is already accounted for through subpart A.

To ensure Federal enforceability, section 63.43(l) of this rule requires that the Notice of MACT Approval or other such document contain, at a minimum, monitoring, record keeping and reporting requirements sufficient to document the source's compliance. Because major sources obtaining MACT determinations will incorporate that determination into a title V permit, this rule includes a requirement that the monitoring, record keeping, and reporting requirements required for a case-by-case MACT determination be consistent with the compliance requirements contained in part 70.

In addition to part 70 compliance requirements, additional requirements may need to be considered at the time of the MACT determination. Under section 114(a)(3) of the Act, EPA regulations for major sources must assure that owners or operators are accountable for their emissions and compliance status on a continuous basis. In this way, the EPA is assured that the emissions reductions intended by regulations are in fact achieved. Some commenters noted that monitoring requirements were not consistent with the requirements being developed for the Compliance Assurance Monitoring (CAM) rulemaking. However, the CAM rule does not apply to new standards promulgated currently under section 112. A new program, such as section 112(g), should apply monitoring as directed by section 114(a)(3) of the Act.

It is important to distinguish between continuous compliance and continuous monitoring. Under section 112 of the Act, to demonstrate continuous compliance, a source may not be required to record emissions data on a continuous, instantaneous basis such as with a continuous emission monitor. Depending on the type of standard, regular parameter monitoring, equipment inspections, and/or maintenance of raw material records, etc., may be sufficient to demonstrate continuous compliance. For all standards, monitoring frequency must be based on the averaging time of the applicable limitation or standard, and the likely variability of potential emissions from a particular emissions unit. If the potential variability is high, monitoring must be done frequently. If the potential variability is low, monitoring may be conducted less frequently at regular intervals.

Where the Notice of MACT Approval or other such document fails to meet any requirement of section 63.43, EPA may exercise its authority under section 113(a)(5) of the 1990 Amendments to prohibit construction or reconstruction, issue an administrative penalty order or bring a civil action against the source upon finding that the State has not acted in compliance with any requirement or prohibition relating to the construction or reconstruction of new sources.

10. Reporting to National Data Base. Section 63.43(m) requires permitting authorities to provide EPA with information on all case-by-case MACT determinations issued under this subpart. The intent of this paragraph is to use EPA's MACT data base to store data on well-controlled sources and on previous MACT determinations to help facilitate the MACT determination process.

E. Section 63.44 Requirements for Process or Production Units Subject to a Subsequently Promulgated MACT Standard or MACT Requirement

The EPA anticipates that new source MACT requirements adopted with respect to construction or reconstruction of a particular source under section 112(g)(2)(B) will normally be at least as stringent as any subsequent requirements for existing sources adopted as part of a MACT standard issued under section 112(d). However, should a subsequently promulgated MACT standard impose more stringent requirements, the EPA believes that it may be appropriate in some instances for the EPA to establish a later compliance date for those sources which have acted in reliance on a prior case-by-case MACT determination. This rule expressly provides that the EPA may establish separate compliance dates for facilities which have notified EPA of such determinations in a timely manner. Specifically, the EPA may establish, in the MACT standard, a later compliance date for those sources which have received a final and legally effective MACT determination pursuant to section 112(g), and have provided the EPA with data on their section 112(g) control determination by the end of the public comment period on the subsequent Federal standard.

In those instances where the subsequent MACT standard does not establish a compliance date for sources subject to a prior case-by-case MACT determination, this rule authorizes the permitting authority to grant up to 8 years of additional time for the affected

source to comply with the subsequent MACT standard. The EPA has previously explained that the structure of section 112 as a whole supports such a construction of section 112(g), and a source may also be afforded up to 8 years to comply with a MACT standard in instances where a prior emission limitation has been established by permit under section 112(j).

This provision is a modified form of the provision that appeared in the original proposed rule. The original provision has been modified in two respects. First, commenters indicated that inequities might result from the fact that the original provision stated that the revised compliance date should not be more than 8 years after a standard promulgated under section 112(d), or 8 years after the date by which the source must comply with the MACT determination under section 112(g), whichever is earlier. For example, if a standard under section 112(d) is promulgated 7 years after a source's compliance date under section 112(g), the source might only have one year to comply with the standard under section 112(d). Therefore the EPA has removed this condition, and allowed the extension to be counted from the section 112(d) compliance date in all cases.

Second, commenters noted that the EPA had required, in § 63.44(a), that a source must comply with a relevant section 112(d) standard if it has not yet obtained a "final and legally effective MACT determination" under section 112(g) before promulgation of the relevant section 112(d) standard. However, the EPA had required, in § 63.44(b), that the source must have "commenced construction" in order to be eligible for a compliance extension under section 112(d). In order to eliminate this inconsistency, the EPA has changed section 63.44(b) to require that the source must have obtained a "final and legally effective MACT determination" in order to be eligible for a compliance extension under section 112(d).

Several industry commenters felt that section 112(g) compliance should constitute compliance with subsequent MACT standards. The EPA is currently evaluating this issue in the context of setting policy for section 112(d) and section 112(j) standards. The EPA believes that in most cases the section 112(g) determination will be equivalent to MACT, but that this decision should be made on a case-by-case basis in the context of a determination under section 112(d) or section 112(j).

Several commenters requested EPA to clarify whether a source which met a new source section 112(g) MACT determination would be considered to be a new or existing source under a subsequent section 112(d) standard. According to section 112(a)(4) of the Act, if the source begins construction before the section 112(d) standard is proposed, then it is considered an existing source under a section 112(d) MACT standard. Sources constructed after a section 112(d) standard is proposed are treated as new sources under section 112(d). This applies as well to sources that have met new source MACT under section 112(g).

IV. Discussion of the Relationship of the Requirements of This Rule to Other Requirements of the Act

The previous sections of this preamble discuss the requirements of this rule in defining the requirements of section 112(g) of the Act as it relates to constructed or reconstructed major sources of HAP. In addition, there are a number of issues concerning the relationship between the requirements of section 112(g) and other requirements of the Act that are relevant to the implementation of the requirements of this rule. These issues are important in defining the overall responsibilities of States and the EPA in carrying out the requirements of section 112(g), and in understanding how section 112(g) requirements relate to other important requirements of the Act. The purpose of this section of the preamble is to present a number of regulatory and statutory interpretations related to these implementation issues.

A. Relationship of Section 112(g) Implementation to Title V Program Approval

Title V of the Act and the part 70 regulations provide that a State seeking to obtain or retain approval of a title V program must have authority to assure compliance with all applicable requirements through the title V permit (section 502(b)(5)(A); 40 CFR 70.4(b)(3)(i)). The preamble to the operating permits rule explains that, in the context of section 112, the permitting authority must have authority to develop and enforce case-by-case MACT determinations under section 112(g).

This rule and preamble language represent what EPA considers to be the most natural reading of section 112(g). The EPA reads the reference in section 112(g)(2) to case-by-case determinations made by "the Administrator (or the State)" to mean that these determinations must be made by the title V permitting authority. This reading is consistent with the reference in section 112(g)(2) to the effective date of the title V program as the date on which the requirements of section 112(g) become applicable, and with the title V requirement that major sources of HAP submit applications for title V permits regardless of whether they are subject to a MACT standard. It is also consistent with the reference in section 112(j) to "the Administrator (or the State)" as the entity that must make case-by-case determinations of MACT and issue permits incorporating these determinations.

B. Relationship to the Section 112(l) Delegation Process

Under section 112(l) of the Act, States have the option of developing and submitting to the Administrator a program for implementing the requirements of section 112. The EPA promulgated a rule for the implementation of section 112(l) on November 26, 1993 (58 FR 62262). This rulemaking added sections 63.90 through 63.96 to 40 CFR 63.

During the mid to late 1980's, most States adopted regulations or procedures to review toxic air pollutant emissions from new (and modified) sources. In some cases, these programs already regulate all of the equipment covered by section 112(g). It is the EPA's view that the Act directly confers on the permitting authority the obligation to implement section 112(g) and to adopt a program which conforms to the requirements of this rule. Therefore, the permitting authority need not apply for approval under section 112(l) in order to use its own program to implement section 112(g). A State need simply certify that their State program meets the requirements of section 112(g), and notify the EPA to that effect. (For further discussion of this issue see section III.C., above.)

C. Section 112(i)(5) Early Reductions Program

Section 112(i)(5) allows owners and operators, that provide early reductions in HAP emissions, to be granted a 6-year extension of any compliance date for emission standards issued under section 112(d). In order to participate in the section 112(i)(5) program, the owner or operator defines a "source" at a plant-site for which a 90 or 95 percent reduction in emissions can be accomplished before the proposal date of the emission standard. There are a few items of clarification on the relationship between the section 112(i)(5) requirements and section 112(g).

First, the extension granted by section 112(i)(5) applies only to that equipment incorporated within the "source" for

which the 90 or 95 percent reduction was accomplished. Other equipment at a plant-site not included within that "source" definition are subject to section 112(g) requirements if they make changes that would be considered to be construction or reconstruction of a major source under this rule.

On the other hand, equipment within the "source" definition for which there is an approved early reductions submittal are not subject to further control technology requirements under section 112(g). Section 112(g) requires case-by-case MACT where no "applicable emission limitation" exist. The "alternative emission limitation" under section 112(i)(5) should be considered an "applicable emissions limitation" for purposes of section 112(g), such that compliance with such alternative emissions limitation shields a source from having to comply with section 112(g).

D. Subpart A "General Provisions"

The EPA has promulgated "general provisions" to the MACT program as subpart A to 40 CFR 63. These general provisions contain a number of definitions and provisions that generally affect the subparts of part 63 that follow, including subpart B discussed here. In general, the relevant requirements of subpart A apply to sources subject to case-by-case MACT determinations under this rule. For example, requirements for monitoring, record keeping, and reporting established in subpart A apply to a section 112(g) source which uses the control equipment at which such requirements are directed. It should be noted, however, that specific preconstruction review requirements in subpart A apply only to standards promulgated under section 112(d), section 112(f), or section 112(h) of the Act—not to section 112(g), which establishes its own requirements. This is set out in section 112(i) of the Act, from which subpart A draws its authority to require preconstruction review.

V. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866, (58 FR 51,735 (October 4, 1993)) the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Although this rule will not have an annual effect on the economy of $100 million or more, and therefore is not economically significant, EPA has determined that this rule is a "significant regulatory action" because it contains novel policy issues. This action was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12866. Any written comments from OMB and any EPA response to OMB comments are in the public docket.

B. Regulatory Flexibility

The EPA considered the impact of this rule on small entities. In general, the EPA believes that very few small entities will actually be affected by the rule. Estimating the number of small entities that may be affected, however, is difficult due to the large number of industries potentially affected, and the need to predict the frequency of what is generally a fairly uncommon event, a small entity making an expansion which is itself a major source. In examining the potential impact on small entities, the EPA took into account the factors listed in the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, for conducting a final regulatory flexibility analysis.

The approach chosen in this final rule is a less burdensome option for small entities than the approach contained in the proposed rule. The proposed rule to implement section 112(g) contained requirements for modifications, as noted above. These requirements would have required control on many smaller equipment changes at industrial facilities. The EPA has chosen instead only to implement section 112(g)(2)(B) at this time (and not all of section 112(g)). By doing so, this rule eliminates much of the complexity inherent in the portion of section 112(g) which covers modifications to existing sources. It should be noted that some commenters requested that the EPA restrict section 112(g) requirements even further, to just covering construction of new "greenfield" facilities or reconstruction of entire plantsites. The EPA rejected this approach because the EPA believes it makes sense to control major sources at the time of construction when they are most cost-effective to control, whether or not they are constructed at existing plantsites.

C. Paperwork Reduction Act

The information collection requirements in this proposal have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. An information collection request (ICR) document has been prepared by the EPA (ICR No. 1658.01) and a copy may be obtained from Sandy Farmer, Information Policy Branch (2136), U.S. Environmental Protection Agency, 401 M Street, South West, Washington, DC 20460, or by calling (202) 260–2740.

The EPA prepared estimates of the average annual burden hours needed to collect and prepare information required under section 112(g). The burden estimates presented below are an accumulation of the estimated annual burden hours that would be experienced by industry respondents, State and local agencies, and EPA under the various regulatory scenarios. The approximate annual burden-hours that would be required would peak in 1999 at 167,134 hours, and reduce to 23,218 by 2003.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may

significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. This determination was made based on the analyses conducted for the proposal RIA.

E. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

The statutory authority for this rule is provided by sections 101, 112, 114, 116, and 301 of the Clean Air Act as amended; 42 U.S.C. 7401, 7412, 7414, 7416, and 7601.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practices and procedures, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: December 13, 1996.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 63 of chapter I of title 40 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart B—Requirements for Control Technology

Determinations for Major Sources In Accordance with Clean Air Act Sections, Section 112(g) and 112(j).

2. Part 63 is amended by adding new §§ 63.40 through 63.44 to subpart B to read as follows:

§ 63.40 Applicability of §§ 63.40 through 63.44

(a) *Applicability.* The requirements of §§ 63.40 through 63.44 of this subpart carry out section 112(g)(2)(B) of the 1990 Amendments.

(b) *Overall requirements.* The requirements of §§ 63.40 through 63.44 of this subpart apply to any owner or operator who constructs or reconstructs a major source of hazardous air pollutants after the effective date of section 112(g)(2)(B) (as defined in § 63.41) and the effective date of a title V permit program in the State or local jurisdiction in which the major source is (or would be) located unless the major source in question has been specifically regulated or exempted from regulation under a standard issued pursuant to section 112(d), section 112(h), or section 112(j) and incorporated in another subpart of part 63, or the owner or operator of such major source has received all necessary air quality permits for such construction or reconstruction project before the effective date of section 112(g)(2)(B).

(c) *Exclusion for electric utility steam generating units.* The requirements of this subpart do not apply to electric utility steam generating units unless and until such time as these units are added to the source category list pursuant to section 112(c)(5) of the Act.

(d) *Relationship to State and local requirements.* Nothing in this subpart shall prevent a State or local agency from imposing more stringent requirements than those contained in this subpart.

(e) *Exclusion for stationary sources in deleted source categories.* The requirements of this subpart do not apply to stationary sources that are within a source category that has been deleted from the source category list pursuant to section 112(c)(9) of the Act.

(f) *Exclusion for research and development activities.* The requirements of this subpart do not apply to research and development activities, as defined in § 63.41.

§ 63.41 Definitions.

Terms used in this subpart that are not defined in this section have the meaning given to them in the Act and in subpart A.

Affected source means the stationary source or group of stationary sources which, when fabricated (on site), erected, or installed meets the definition of "construct a major source" or the definition of "reconstruct a major source" contained in this section.

Affected States are all States:

(1) Whose air quality may be affected and that are contiguous to the State in which a MACT determination is made in accordance with this subpart; or

(2) Whose air quality may be affected and that are within 50 miles of the major source for which a MACT determination is made in accordance with this subpart.

Available information means, for purposes of identifying control technology options for the affected source, information contained in the following information sources as of the date of approval of the MACT determination by the permitting authority:

(1) A relevant proposed regulation, including all supporting information;

(2) Background information documents for a draft or proposed regulation;

(3) Data and information available for the Control Technology Center developed pursuant to section 113 of the Act;

(4) Data and information contained in the Aerometric Informational Retrieval System including information in the MACT data base;

(5) Any additional information that can be expeditiously provided by the Administrator; and

(6) For the purpose of determinations by the permitting authority, any additional information provided by the applicant or others, and any additional information considered available by the permitting authority.

Construct a major source means:

(1) To fabricate, erect, or install at any greenfield site a stationary source or group of stationary sources which is located within a contiguous area and under common control and which emits or has the potential to emit 10 tons per year of any HAP's or 25 tons per year of any combination of HAP, or

(2) To fabricate, erect, or install at any developed site a new process or production unit which in and of itself emits or has the potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, unless the process or production unit satisfies criteria in paragraphs (2) (i) through (vi) of this definition.

(i) All HAP emitted by the process or production unit that would otherwise be controlled under the requirements of this subpart will be controlled by

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emission control equipment which was previously installed at the same site as the process or production unit;

(ii) (A) The permitting authority has determined within a period of 5 years prior to the fabrication, erection, or installation of the process or production unit that the existing emission control equipment represented best available control technology (BACT), lowest achievable emission rate (LAER) under 40 CFR part 51 or 52, toxics—best available control technology (T–BACT), or MACT based on State air toxic rules for the category of pollutants which includes those HAP's to be emitted by the process or production unit; or

(B) The permitting authority determines that the control of HAP emissions provided by the existing equipment will be equivalent to that level of control currently achieved by other well-controlled similar sources (i.e., equivalent to the level of control that would be provided by a current BACT, LAER, T–BACT, or State air toxic rule MACT determination);

(iii) The permitting authority determines that the percent control efficiency for emissions of HAP from all sources to be controlled by the existing control equipment will be equivalent to the percent control efficiency provided by the control equipment prior to the inclusion of the new process or production unit;

(iv) The permitting authority has provided notice and an opportunity for public comment concerning its determination that criteria in paragraphs (2)(i), (2)(ii), and (2)(iii) of this definition apply and concerning the continued adequacy of any prior LAER, BATC, T–BACT, or State air toxic rule MACT determination;

(v) If any commenter has asserted that a prior LAER, BACT, T–BACT, or State air toxic rule MACT determination is no longer adequate, the permitting authority has determined that the level of control required by that prior determination remains adequate; and

(vi) Any emission limitations, work practice requirements, or other terms and conditions upon which the above determinations by the permitting authority are applicable requirements under section 504(a) and either have been incorporated into any existing title V permit for the affected facility or will be incorporated into such permit upon issuance.

Control technology means measures, processes, methods, systems, or techniques to limit the emission of hazardous air pollutants through process changes, substitution of materials or other modifications;

(1) Reduce the quantity of, or eliminate emissions of, such pollutants through process changes, substitution of materials or other modifications;

(2) Enclose systems or processes to eliminate emissions;

(3) Collect, capture or treat such pollutants when released from a process, stack, storage or fugitive emissions point;

(4) Are design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in 42 U.S.C. 7412(h); or

(5) Are a combination of paragraphs (1) through (4) of this definition.

Effective date of section 112(g)(2)(B) in a State or local jurisdiction means the effective date specified by the permitting authority at the time the permitting authority adopts a program to implement section 112(g) with respect to construction or reconstruction or major sources of HAP, or June 29, 1998 whichever is earlier.

Electric utility steam generating unit means any fossil fuel fired combustion unit of more than 25 megawatts that serves a generator that produces electricity for sale. A unit that co-generates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electric output to any utility power distribution system for sale shall be considered an electric utility steam generating unit.

Greenfield suite means a contiguous area under common control that is an undeveloped site.

List of Source Categories means the Source Category List required by section 112(c) of the Act.

Maximum achievable control technology (MACT) emission limitation for new sources means the emission limitation which is not less stringent that the emission limitation achieved in practice by the best controlled similar source, and which reflects the maximum degree of deduction in emissions that the permitting authority, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable by the constructed or reconstructed major source.

Notice of MACT Approval means a document issued by a permitting authority containing all federally enforceable conditions necessary to enforce the application and operation of MACT or other control technologies such that the MACT emission limitation is met.

Permitting authority means the permitting authority as defined in part 70 or 71 of this chapter.

Process or production unit means any collection of structures and/or equipment, that processes assembles, applies, or otherwise uses material inputs to produce or store an intermediate or final product. A single facility may contain more than one process or production unit.

Reconstruct a major source means the replacement of components at an existing process or production unit that in and of itself emits or has that potential to emit 10 tons per year of any HAP or 25 tons per year of any combination of HAP, whenever:

(1) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable process or production unit; and

(2) It is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under this subpart.

Research and development activities means activities conducted at a research or laboratory facility whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for sale or exchange for commercial profit, except in a *de minimis* manner.

Similar source means a stationary source or process that has comparable emissions and is structurally similar in design and capacity to a constructed or reconstructed major source such that the source could be controlled using the same control technology.

§ 63.42 Program requirements governing construction or reconstruction of major sources.

(a) *Adoption of program.* Each permitting authority shall review its existing programs, procedures, and criteria for preconstruction review for conformity to the requirements established by §§ 63.40 through 63.44, shall make any additions and revisions to its existing programs, procedures, and criteria that the permitting authority deems necessary to properly effectuate §§ 63.40 through 63.44, and shall adopt a program to implement section 112(g) with respect to construction or reconstruction of major sources of HAP. As part of the adoption by the permitting authority of a program to implement section 112(g) with respect to construction or reconstruction of

major sources of HAP, the chief executive officer of the permitting authority shall certify that the program satisfies all applicable requirements established by §§ 63.40 through 63.44, and shall specify an effective date for that program which is not later than June 29, 1998. Prior to the specified effective date, the permitting authority shall publish a notice stating that the permitting authority has adopted a program to implement section 112(g) with respect to construction or reconstruction of major sources of HAP and stating the effective date, and shall provide a written description of the program to the Administrator through the appropriate EPA Regional Office. Nothing in this section shall be construed either:

(1) To require that any owner or operator of a stationary source comply with any requirement adopted by the permitting authority which is not intended to implement section 112(g) with respect to construction or reconstruction of major sources of HAP; or

(2) To preclude the permitting authority from enforcing any requirements not intended to implement section 112(g) with respect to construction or reconstruction of major sources of HAP under any other provision of applicable law.

(b) *Failure to adopt program.* In the event that the permitting authority fails to adopt a program to implement section 112(g) with respect to construction or reconstruction of major sources of HAP with an effective date on or before June 29, 1998, and the permitting authority concludes that it is able to make case-by-case MACT determinations which conform to the provisions of § 63.43 in the absence of such a program, the permitting authority may elect to make such determinations. However, in those instances where the permitting authority elects to make case-by-case MACT determinations in the absence of a program to implement section 112(g) with respects to construction or reconstruction of major sources of HAP, no such case-by-case MACT determinations shall take effect until after it has been submitted by the permitting authority in writing to the appropriate EPA Regional Office and the EPA Regional Office has concurred in writing that the case-by-case MACT determination by the permitting authority is in conformity with all requirements established by §§ 63.40 through 63.44. In the event that the permitting authority fails to adopt a program to implement section 112(g) with respect to construction or reconstruction of major sources of HAP with an effective date on or before June 29, 1998, and the permitting authority concludes that it is unable to make case-by-case MACT determinations in the absence of such a program, the permitting authority may request that the EPA Regional Office adopt and implement a transitional program to implement section 112(g) with respect to construction or reconstruction of major sources of HAP in the affected State of local jurisdiction while the permitting authority completes development and adoption of a section 112(g) program. Any such transitional section 112(g) program adopted by the EPA Regional Office shall conform to all requirements established by §§ 63.40 through 63.44, and shall remain in effect for no more than 1 year. Continued failure by the permitting authority to adopt a program to implement section 112(g) with respect to construction or reconstruction of major sources of HAP shall be construed as a failure by the permitting authority to adequately administer and enforce its title V permitting program and shall constitute cause by EPA to apply the sanctions and remedies set forth in the Clean Air Act section 502(I).

(c) *Prohibition.* After the effective date of section 112(g)(2)(B) (as defined in § 63.41) in a State or local jurisdiction and the effective date of the title V permit program applicable to that State or local jurisdiction, no person may begin actual construction or reconstruction of a major source of HAP in such State or local jurisdiction unless:

(1) The major source in question has been specifically regulated or exempted from regulation under a standard issued pursuant to section 112(d), section 112(h) or section 112(j) in part 63, and the owner and operator has fully complied with all procedures and requirements for preconstruction review established by that standard, including any applicable requirements set forth in subpart A of this part 63; or

(2) The permitting authority has made a final and effective case-by-case determination pursuant to the provisions of § 63.43 such that emissions from the constructed or reconstructed major source will be controlled to a level no less stringent than the maximum achievable control technology emission limitation for new sources.

§ 63.43 Maximum achievable control technology (MACT) determinations for constructed and reconstructed major sources.

(a) *Applicability.* The requirements of this section apply to an owner or operator who constructs or reconstructs a major source of HAP subject to a case-by-case determination of maximum achievable control technology pursuant to § 63.42(c).

(b) *Requirements for constructed and reconstructed major sources.* When a case-by-case determination of MACT is required by § 63.42(c), the owner and operator shall obtain from the permitting authority an approved MACT determination according to one of the review options contained in paragraph (c) of this section.

(c) *Review options.* (1) When the permitting authority requires the owner or operator to obtain, or revise, a permit issued pursuant to title V of the Act before construction or reconstruction of the major source, or when the permitting authority allows the owner or operator at its discretion to obtain or revise such a permit before construction or reconstruction, and the owner or operator elects that option, the owner or operator shall follow the administrative procedures in the program approved under title V of the Act (or in other regulations issued pursuant to title V of the Act, where applicable).

(2) When an owner or operator is not required to obtain or revise a title V permit (or other permit issued pursuant to title V of the Act) before construction or reconstruction, the owner or operator (unless the owner or operator voluntarily follows the process to obtain a title V permit) shall either, at the discretion of the permitting authority:

(i) Apply for and obtain a Notice of MACT Approval according to the procedures outlined in paragraphs (f) through (h) of this section; or

(ii) Apply for a MACT determination under any other administrative procedures for preconstruction review and approval established by the permitting authority for a State or local jurisdiction which provide for public participation in the determination, and ensure that no person may begin actual construction or reconstruction of a major source in that State or local jurisdiction unless the permitting authority determines that the MACT emission limitation for new sources will be met.

(3) When applying for a permit pursuant to title V of the Act, an owner or operator may request approval of case-by-case MACT determinations for alternative operating scenarios. Approval of such determinations satisfies the requirements of section 112(g) of each such scenario.

(4) Regardless of the review process, the MACT emission limitation and requirements established shall be effective as required by paragraph (j) of

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this section, consistent with the principles established in paragraph (d) of this section, and supported by the information listed in paragraph (e) of this section. The owner or operator shall comply with the requirements in paragraphs (k) and (l) of this section, and with all applicable requirements in subpart A of this part.

(d) *Principles of MACT determinations.* The following general principles shall govern preparation by the owner or operator of each permit application or other application requiring a case-by-case MACT determination concerning construction or reconstruction of a major source, and all subsequent review of and actions taken concerning such an application by the permitting authority:

(1) The MACT emission limitation or MACT requirements recommended by the applicant and approved by the permitting authority shall not be less stringent than the emission control which is achieved in practice by the best controlled similar source, as determined by the permitting authority.

(2) Based upon available information, as defined in this subpart, the MACT emission limitation and control technology (including any requirements under paragraph (d)(3) of this section) recommended by the applicant and approved by the permitting authority shall achieve the maximum degree of reduction in emissions of HAP which can be achieved by utilizing those control technologies that can be identified from the available information, taking into consideration the costs of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements associated with the emission reduction.

(3) The applicant may recommend a specific design, equipment, work practice, or operational standard, or a combination thereof, and the permitting authority may approve such a standard if the permitting authority specifically determines that it is not feasible to prescribe or enforce an emission limitation under the criteria set forth in section 112(h)(2) of the Act.

(4) If the Administrator has either proposed a relevant emission standard pursuant to section 112(d) or section 112(h) of the Act or adopted a presumptive MACT determination for the source category which includes the constructed or reconstructed major source, then the MACT requirements applied to the constructed or reconstructed major source shall have considered those MACT emission limitations and requirements of the proposed standard or presumptive MACT determination.

(e) *Application requirements for a case-by-case MACT determination.* (1) An application for a MACT determination (whether a permit application under title V of the Act, an application for a Notice of MACT Approval, or other document specified by the permitting authority under paragraph (c)(2)(ii) of this section) shall specify a control technology selected by the owner or operator that, if properly operated and maintained, will meet the MACT emission limitation or standard as determined according to the principles set forth in paragraph (d) of this section.

(2) In each instance where a constructed or reconstructed major source would require additional control technology or a change in control technology, the application for a MACT determination shall contain the following information:

(i) The name and address (physical location) of the major source to be constructed or reconstructed;

(ii) A brief description of the major source to be constructed or reconstructed and identification of any listed source category or categories in which it is included;

(iii) The expected commencement date for the construction or reconstruction of the major source;

(iv) The expected completion date for construction or reconstruction of the major source;

(v) the anticipated date of start-up for the constructed or reconstructed major source;

(vi) The HAP emitted by the constructed or reconstructed major source, and the estimated emission rate for each such HAP, to the extent this information is needed by the permitting authority to determine MACT;

(vii) Any federally enforceable emission limitations applicable to the constructed or reconstructed major source;

(viii) The maximum and expected utilization of capacity of the constructed or reconstructed major source, and the associated uncontrolled emission rates for that source, to the extent this information is needed by the permitting authority to determine MACT;

(ix) The controlled emissions for the constructed or reconstructed major source in tons/yr at expected and maximum utilization of capacity, to the extent this information is needed by the permitting authority to determine MACT;

(x) A recommended emission limitation for the constructed or reconstructed major source consistent with the principles set forth in paragraph (d) of this section;

(xi) The selected control technology to meet the recommended MACT emission limitation, including technical information on the design, operation, size, estimated control efficiency of the control technology (and the manufacturer's name, address, telephone number, and relevant specifications and drawings, if requested by the permitting authority);

(xii) Supporting documentation including identification of alternative control technologies considered by the applicant to meet the emission limitation, and analysis of cost and non-air quality health environmental impacts or energy requirements for the selected control technology; and

(xiii) Any other relevant information required pursuant to subpart A.

(3) In each instance where the owner or operator contends that a constructed or reconstructed major source will be in compliance, upon startup, with case-by-case MACT under this subpart without a change in control technology, the application for a MACT determination shall contain the following information:

(i) The information described in paragraphs (e)(2)(i) through (e)(2)(x) of this section; and

(ii) Documentation of the control technology in place.

(f) *Administrative procedures for review of the Notice of MACT Approval.* (1) The permitting authority will notify the owner or operator in writing, within 45 days from the date the application is first received, as to whether the application for a MACT determination is complete or whether additional information is required.

(2) The permitting authority will initially approve the recommended MACT emission limitation and other terms set forth in the application, or the permitting authority will notify the owner or operator in writing of its intent to disapprove the application, within 30 calendar days after the owner or operator is notified in writing that the application is complete.

(3) The owner or operator may present, in writing, within 60 calendar days after receipt of notice of the permitting authority's intent to disapprove the application, additional information or arguments pertaining to, or amendments to, the application for consideration by the permitting authority before it decides whether to finally disapprove the application.

(4) The permitting authority will either initially approve or issue a final disapproval of the application within 90 days after it notifies the owner or operator of an intent to disapprove or

within 30 days after the date additional information is received from the owner or operator; whichever is earlier.

(5) A final determination by the permitting authority to disapprove any application will be in writing and will specify the grounds on which the disapproval is based. If any application is finally disapproved, the owner or operator may submit a subsequent application concerning construction or reconstruction of the same major source, provided that the subsequent application has been amended in response to the stated grounds for the prior disapproval.

(6) An initial decision to approve an application for a MACT determination will be set forth in the Notice of MACT Approval as described in paragraph (g) of this section.

(g) *Notice of MACT Approval.* (1) The Notice of MACT Approval will contain a MACT emission limitation (or a MACT work practice standard if the permitting authority determines it is not feasible to prescribe or enforce an emission standard) to control the emissions of HAP. The MACT emission limitation or standard will be determined by the permitting authority and will conform to the principles set forth in paragraph (d) of this section.

(2) The Notice of MACT Approval will specify any notification, operation and maintenance, performance testing, monitoring, reporting and record keeping requirements. The Notice of MACT Approval shall include:

(i) In addition to the MACT emission limitation or MACT work practice standard established under this subpart, additional emission limits, production limits, operational limits or other terms and conditions necessary to ensure Federal enforceability of the MACT emission limitation;

(ii) Compliance certifications, testing, monitoring, reporting and record keeping requirements that are consistent with the requirements of § 70.6(c) of this chapter;

(iii) In accordance with section 114(a)(3) of the Act, monitoring shall be capable of demonstrating continuous compliance during the applicable reporting period. Such monitoring data shall be of sufficient quality to be used as a basis for enforcing all applicable requirements established under this subpart, including emission limitations;

(iv) A statement requiring the owner or operator to comply with all applicable requirements contained in subpart A of this part;

(3) All provisions contained in the Notice of MACT Approval shall be federally enforceable upon the effective date of issuance of such notice, as provided by paragraph (j) of this section.

(4) The Notice of MACT Approval shall expire if construction or reconstruction has not commenced within 18 months of issuance, unless the permitting authority has granted an extension which shall not exceed an additional 12 months.

(h) *Opportunity for public comment on the Notice of MACT Approval.* (1) The permitting authority will provide opportunity for public comment on the Notice of MACT Approval, including, at a minimum:

(i) Availability for public inspection in at least one location in the area affected of the information submitted by the owner or operator and of the permitting authority's initial decision to approve the application;

(ii) A 30-day period for submittal of public comment; and

(iii) A notice by prominent advertisement in the area affected of the location of the source information and initial decision specified in paragraph (h)(1)(i) of this section.

(2) At the discretion of the permitting authority, the Notice of MACT Approval setting forth the initial decision to approve the application may become final automatically at the end of the comment period if no adverse comments are received. If adverse comments are received, the permitting authority shall have 30 days after the end of the comment period to make any necessary revisions in its analysis and decide whether to finally approve the application.

(i) *EPA notification.* The permitting authority shall send a copy of the final Notice of MACT Approval, notice of approval of a title V permit application incorporating a MACT determination (in those instances where the owner or operator either is required or elects to obtain such a permit before construction or reconstruction), or other notice of approval issued pursuant to paragraph (c)(2)(ii) of this section to the Administrator through the appropriate Regional Office, and to all other State and local air pollution control agencies having jurisdiction in affected States.

(j) *Effective date.* The effective date of a MACT determination shall be the date the Notice of MACT Approval becomes final, the date of issuance of a title V permit incorporating a MACT determination (in those instances where the owner or operator either is required or elects to obtain such a permit before construction or reconstruction), or the date any other notice of approval issued pursuant to paragraph (c)(2)(ii) of this section becomes final.

(k) *Compliance date.* On and after the date of start-up, a constructed or reconstructed major source which is subject to the requirements of this subpart shall be in compliance with all applicable requirements specified in the MACT determination.

(l) *Compliance with MACT determinations.* (1) An owner or operator of a constructed or reconstructed major source that is subject to a MACT determination shall comply with all requirements in the final Notice of MACT Approval, the title V permit (in those instances where the owner or operator either is required or elects to obtain such a permit before construction or reconstruction), or any other final notice of approval issued pursuant to paragraph (c)(2)(ii) of this section, including but not limited to any MACT emission limitation or MACT work practice standard, and any notification, operation and maintenance, performance testing, monitoring, reporting, and recordkeeping requirements.

(2) An owner or operator of a constructed or reconstructed major source which has obtained a MACT determination shall be deemed to be in compliance with section 112(g)(2)(B) of the Act only to the extent that the constructed or reconstructed major source is in compliance with all requirements set forth in the final Notice of MACT Approval, the title V permit (in those instances where the owner or operator either is required or elects to obtain such a permit before construction or reconstruction), or any other final notice of approval issued pursuant to paragraph (c)(2)(ii) of this section. Any violation of such requirements by the owner or operator shall be deemed by the permitting authority and by EPA to be a violation of the prohibition on construction or reconstruction in section 112(g)(2)(B) for whatever period the owner or operator is determined to be in violation of such requirements, and shall subject the owner or operator to appropriate enforcement action under the Act.

(m) *Reporting to the Administrator.* Within 60 days of the issuance of a final Notice of MACT Approval, a title V permit incorporating a MACT determination (in those instances where the owner or operator either is required or elects to obtain such a permit before construction or reconstruction), or any other final notice of approval issued pursuant to paragraph (c)(2)(ii) of this section, the permitting authority shall provide a copy of such notice to the Administrator, and shall provide a summary in a compatible electronic

format for inclusion in the MACT data base.

§ 63.44 Requirements for constructed or reconstructed major sources subject to a subsequently promulgated MACT standard or MACT requirement.

(a) if the Administrator promulgates an emission standard under section 112(d) or section 112(h) of the Act or the permitting authority issues a determination under section 112(j) of the Act that is applicable to a stationary source or group of sources which would be deemed to be a constructed or reconstructed major source under this subpart before the date that the owner or operator has obtained a final and legally effective MACT determination under any of the review options available pursuant to § 63.43, the owner or operator of the source(s) shall comply with the promulgated standard or determination rather than any MACT determination under section 112(g) by the permitting authority, and the owner or operator shall comply with the promulgated standard by the compliance date in the promulgated standard.

(b) If the Administrator promulgates an emission standard under section 112(d) or section 112(h) of the Act or the permitting authority makes a determination under section 112(j) of the Act that is applicable to a stationary source or group of sources which was deemed to be a constructed or reconstructed major source under this subpart and has been subject to a prior case-by-case MACT determination pursuant to § 63.43, and the owner and operator obtained a final and legally effective case-by-case MACT determination prior to the promulgation date of such emission standard, then the permitting authority shall (if the initial title V permit has not yet been issued) issue an initial operating permit which incorporates the emission standard or determination, or shall (if the initial title V permit has been issued) revise the operating permit according to the reopening procedures in 40 CFR part 70 or part 71, whichever is relevant, to incorporate the emission standard or determination.

(1) The EPA may include in the emission standard established under section 112(d) or section 112(h) of the Act a specific compliance date for those sources which have obtained a final and legally effective MACT determination under this subpart and which have submitted the information required by § 63.43 to the EPA before the close of the public comment period for the standard established under section 112(d) of the Act. Such date shall assure that the owner or operator shall comply with the promulgated standard as expeditiously as practicable, but not longer than 8 years after such standard is promulgated. In that event, the permitting authority shall incorporate the applicable compliance date in the title V operating permit.

(2) If no compliance date has been established in the promulgated 112(d) or 112(h) standard or section 112(j) determination, for those sources which have obtained a final and legally effective MACT determination under this subpart, then the permitting authority shall establish a compliance date in the permit that assures that the owner or operator shall comply with the promulgated standard or determination as expeditiously as practicable, but not longer than 8 years after such standard is promulgated or a section 112(j) determination is made.

(c) Notwithstanding the requirements of paragraphs (a) and (b) of this section, if the Administrator promulgates an emission standard under section 112(d) or section 112(h) of the Act or the permitting authority issues a determination under section 112(j) of the Act that is applicable to a stationary source or group of sources which was deemed to be a constructed or reconstructed major source under this subpart and which is the subject of a prior case-by-case MACT determination pursuant to § 63.43, and the level of control required by the emission standard issued under section 112(d) or section 112(h) or the determination issued under section 112(j) is less stringent than the level of control required by any emission limitation or standard in the prior MACT determination, the permitting authority is not required to incorporate any less stringent terms of the promulgated standard in the title V operating permit applicable to such source(s) and may in its discretion consider any more stringent provisions of the prior MACT determination to be applicable legal requirements when issuing or revising such an operating permit.

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Friday
December 27, 1996

Part IV

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production; Proposed Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–5664–8]

RIN 2060–AE–86

National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: This proposed rule would reduce emissions of hazardous air pollutants (HAP) from existing and new facilities that manufacture flexible polyurethane foam. In the production of flexible polyurethane foam a variety of HAP are used as reactants or process solvents. The HAP emitted by the facilities covered by this proposed rule include methylene chloride, toluene diisocyanate, methyl chloroform, methylene diphenyl diisocyanate, propylene oxide, diethanolamine, methyl ethyl ketone, methanol, and toluene. Methylene chloride comprises over 98 percent of the total HAP emissions from this industry. This proposed rule is estimated to reduce emissions of these pollutants by over 12,500 Megagrams per year (Mg/yr), with over 99 percent of this total expected to be methylene chloride emission reductions. The emission reductions achieved by these standards, when combined with the emission reductions achieved by other similar standards, will achieve the primary goal of the Clean Air Act, which is to "enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population."

This proposed rule implements section 112(d) of the Clean Air Act of 1990 (CAAA), which requires the Administrator to regulate emissions of HAP listed in section 112(b) of the CAAA. The intent of this rule is to protect the public by requiring the maximum degree of reduction in emissions of HAP from new and existing major sources, taking into consideration the cost of achieving such emission reduction, and any nonair quality, health and environmental impacts, and energy requirements.

DATES: *Comments.* Comments must be received on or before February 25, 1997.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by January 17, 1997, a public hearing will be held on January 27, 1997 beginning at 10 a.m. Persons interested in attending the hearing should call Ms. Marguerite Thweatt at (919) 541–5607 to verify that a hearing will be held.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact the EPA by January 17, 1997 by contacting Ms. Marguerite Thweatt, Organic Chemicals Group (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5607.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Air Docket Section (LE–131), Attention: Docket No. A–95–48, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The EPA requests that a separate copy also be sent to the contact person listed below. The public hearing, if required, will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina.

The docket is located at the above address in room M–1500, Waterside Mall (ground floor), and may be inspected from 8:00 a.m. to 5:30 p.m., Monday through Friday; telephone number (202) 260–7548. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: For information concerning this proposed rule, contact Mr. David Svendsgaard at (919) 541–2380, Organic Chemicals Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities regulated by this action, upon promulgation, are flexible polyurethane foam production facilities. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Producers of slabstock, molded, and rebond flexible polyurethane foam.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this proposed action, you should carefully examine the applicability criteria in section 63.1290 of the proposed rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

In addition to its inclusion in this **Federal Register** notice, the regulatory text is available in Docket No. A–95–48, or from the EPA contact person designated in this notice. The proposed regulatory language is also available on the Technology Transfer Network (TTN) on the EPA's electronic bulletin boards. The TTN provides information and technology exchange in various areas of air pollution control. The service is free, except for the cost of a telephone call. Dial (919) 541–5742 for up to a 14,400 bps modem. For further information, contact the TTN HELP line at (919) 541–5348, from 1:00 p.m. to 5:00 p.m. Monday through Friday, or access the TTN web site at: http://ttnwww.rtpnc.epa.gov.

The Basis and Purpose Document which contains the rationale for the various components of the standard, is available in the docket and on the TTN. This document is entitled Hazardous Air Pollutant Emissions from the Production of Flexible Polyurethane Foam—Basis and Purpose Document for Proposed Standards, September 1996, and has been assigned document number EPA–453/D–96–008a.

Other materials related to this rulemaking are available for review in the docket. Some of the technical memoranda have been compiled into a single document, the Supplementary Information Document (SID), to allow interested parties more convenient access to the information. The SID is available in the docket (Docket No. A–95–48 Category III–B), and, in limited supply, from the EPA Library by calling (919) 541–2777. The document is entitled Hazardous Air Pollutant Emissions from the Production of Flexible Polyurethane Foam—Supplementary Information Document for Proposed Standards, October 1996, and has been assigned document number EPA–453/D–96–009a.

A record has been established for this rulemaking under docket number A–95–48 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information included as CBI, is available for inspection from 8:00 a.m. to 5:30 p.m. Monday–Friday, excluding legal holidays. The public record is located in the Air & Radiation Docket & Information Center, Room M1500, 401 M Street S.W., Washington, D.C. 20460. Electronic comments can be

sent directly to EPA at: a-and-r-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 format or ASCII file format. All comments and data in electronic form must be identified by the docket number A–95–48. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

The official record for this rulemaking, as well as the public version, as described above, will be kept in paper form. Accordingly, the EPA will transfer all comments received into printed, paper form as they are received and will place the paper copies in the official rulemaking record, which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in the **ADDRESSES** section of this document.

The information presented in this preamble is organized as follows:

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I. List of Source Categories

Section 112 of the CAAA requires that the EPA evaluate and control emissions of HAP. The control of HAP is achieved through promulgation of emission standards under sections 112(d) and 112(f) and work practice and equipment standards under section 112(h) for categories of sources that emit HAP. On July 16, 1992, the EPA published an initial list of major and area source categories to be regulated, as required under section 112(c) of the CAAA. Included on that list were major sources emitting HAP from the production of flexible polyurethane foam.

The EPA chose to subcategorize the flexible polyurethane foam source category into molded flexible polyurethane foam production, slabstock flexible polyurethane foam production, and rebond foam production. Subcategorization was necessary to reflect major variations in production methods, and/or HAP emissions that affect the applicability of controls. All technical analyses were conducted on a subcategory basis to determine the appropriate level of the standard. In addition, on June 4, 1996 the EPA added to the source category list a separate source category for flexible polyurethane foam fabrication (61 FR 28197). These operations are occasionally co-located with slabstock foam production facilities, but occur other places as well. A future standard will address flexible polyurethane foam fabrication operations.

The EPA identified 78 facilities in the U.S. that produce slabstock foam. It is believed that this represents the entire slabstock foam industry. The identification of the U.S. molded foam facility population has been more difficult to estimate. This difficulty is due to the many small companies serving specialty markets, the production of molded foam at facilities that also produce other molded plastic products, and the lack of a trade association for molded foam. The EPA identified 46 molded foam facilities in the information gathering phase of the project, but industry estimates that there may be several hundred molded foam facilities nationwide. The nationwide molded foam facility population was estimated to be 228, based primarily on information found in suppliers guides. In this notice the EPA is requesting comments on this molded foam facility population estimate. If commenters dispute this estimate, the EPA would request supporting documentation for such an assertion, along with a list of molded foam facility names and locations.

The EPA identified 21 rebond foam production facilities that are co-located with slabstock or molded foam production facilities. It is estimated that this represents about one-half of the total U.S. rebond foam facility population.

This proposed rule would apply to all major sources that produce flexible polyurethane foam. Area sources would not be subject to this proposed rule. All of the slabstock foam facilities considered in the analysis supporting the proposed rule are believed to be major sources according to the CAAA criterion of having the potential to emit 10 tons per year of any one HAP or 25 tons per year of any combination of HAP.

In this proposed rule, an affected source includes all flexible polyurethane foam and rebond processes located at a contiguous plant site, where a process consists of raw material storage; production equipment and piping, ductwork, and other associated equipment; and curing and storage areas.

II. A Summary of Considerations Made in Developing This Rule

The Clean Air Act was created in part "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population" (CAAA, section 101(b)(1)). Section 112(d) of the Act establishes a control technology-based program to reduce stationary source emissions of HAP. The goal of the proposed rule is to apply such control technology to reduce emissions and thereby reduce the impacts of HAP emitted from stationary sources.

Available emission data, collected during the development of these proposed National Emission Standards for Hazardous Air Pollutants (NESHAP), show that the greatest volume of HAP emitted during the production of flexible polyurethane foam is the emission of methylene chloride. The proposed emission limits are projected to reduce methylene chloride emissions by 70 percent. Following is a summary of the potential health effects associated with exposure to methylene chloride that would be reduced by the standard.

The acute (short-term) effects of methylene chloride inhalation in humans consist mainly of nervous system symptoms such as decreased visual and auditory functions. These effects are reversible once exposure ceases. Short-term exposure to high concentrations of methylene chloride also irritates the nose and throat. The effects of chronic (long-term) exposure to methylene chloride involve the central nervous system, and include headaches, dizziness, nausea, and memory loss. Animal studies indicate

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that inhalation of methylene chloride affects the liver, kidney, and cardiovascular system. Developmental or reproductive effects of methylene chloride have not been reported in humans, but limited animal studies have reported lowered fetal body weights in rats exposed to inhalation.

Human data are considered inadequate to prove cancer caused by exposure to methylene chloride; animal studies have shown increases in liver and lung cancer and benign mammary gland tumors following the inhalation of methylene chloride. Methylene chloride is classified as Group B2, probable human carcinogen of relatively low carcinogenic potency.

As noted earlier, there are other HAP emitted by flexible polyurethane foam production facilities. While the magnitude of emissions of these pollutants is dwarfed by those of methylene chloride, it is important to note that the EPA has not undertaken a risk assessment of these facilities. Therefore, it is possible that other HAP, such as diisocyanates, may also pose risks of concern. The seriousness of risks remaining after imposition of the final MACT standards will be examined at a later date, as provided for under Section 112(f) of the Clean Air Act.

The Clean Air Act strategy avoids dependence on a detailed and comprehensive risk assessment hampered by (but not limited to) the following caveats, as a pre-requisite for controlling air toxics: (1) some of the HAP emitted from stationary sources are unknown, and (2) the EPA has incomplete data about the emissions of many of the HAP with which to describe health hazards. In addition, this is not a "significant" rule as defined by Executive Order 12866, and a specific benefits analysis is not required. Because of these issues, a detailed and intensive risk assessment of potential effects from HAP emitted from flexible foam plants is not included in this rulemaking.

The EPA does recognize that the degree of adverse effects to health resulting from the most significant emissions identified can range from mild to severe. The extent to which the effects could be experienced is dependent upon the ambient concentrations and exposure time. The latter is further influenced by source-specific characteristics, such as emission rates and local meteorological conditions. Human variability factors also influence the degree to which effects to health occur: genetics, age, pre-existing health conditions, and lifestyle.

The alternatives considered in the development of this regulation, including those alternatives selected as standards for new and existing sources, are based on process and emissions data received from the flexible polyurethane foam industry. This included information from every existing flexible polyurethane slabstock foam facility known to be in operation at the time of the initial data collection, and the information gathered from the 46 molded foam facilities (which was assumed to be representative of the entire molded foam industry). The EPA met with industry several times to discuss this data. In addition, facilities and State regulatory authorities had the opportunity to comment on draft versions of the regulation and to provide addition information. Several facilities did provide comments; of major concern to industry were the auxiliary blowing agent (ABA) emission limitation, and the reporting and recordkeeping requirements. The proposed standards reflect these comments.

The proposed standards give existing facilities 3 years from the date of promulgation to comply. This is the maximum amount of time allowed under the Clean Air Act. New sources are required to comply with the standard upon startup. The EPA sees no reason why new facilities would not be able to comply with the requirements of the standards upon startup. For existing sources, the EPA believes that the required retrofit or other actions can be achieved in the time frame allotted.

Included in the proposed rule are methods for determining initial compliance as well as monitoring, recordkeeping, and reporting requirements. All of these components are necessary to ensure that sources will comply with the standards both initially and over time. However, the EPA has made every effort to simplify the requirements in the rule.

As described in the Basis and Purpose document, regulatory alternatives were considered that included a combination of requirements equal to, and above, the maximum achievable control technology (MACT) "floor." Cost-effectiveness was a factor considered in evaluating options above the MACT floor; in cases where options more stringent than the floor were selected, they were judged to have a reasonable cost effectiveness Non-air environmental and health factors, as well as energy impacts were also considered and deemed to be reasonable for the proposed standards.

Representative from other interested EPA offices and programs, as well as representative from State regulatory agencies, are included in the regulatory development process as members of the Work Group. The Work Group is involved in the regulatory development process, and must review and concur with the regulation before proposal and promulgation. Therefore, the EPA believes that the implication to other statutory authorities and programs have been adequately considered during the development of these standards.

In addition to this proposed standards, two of the HAP use and emitted by the flexible polyurethane foam industry (toluene diisocyanate and propylene oxide) are subject to the risk management program rule requirements under section 112(r) of the CAAA. The risk management rule was signed May 24, 1996, and the rule was published in the **Federal Register** on June 20, 1996. Facilities handling a listed subject in quantities greater than threshold amount must comply with the risk management requirements by June 20, 1999. The list of substances and threshold quantities were published in the **Federal Register** on January 31, 1994.

III. Authority for National Emission Standards for Hazardous Air Pollutants Decision Process

A. Source of Authority for NESHAP Development

Section 112 of the CAAA gives the EPA the authority to establish national standards to reduce air emissions from sources that emit one or more HAP. Section 112(b) contains a list of HAP to be regulated by NESHAP. Section 112(c) directs the EPA to use this pollutant list to develop and publish a list of source categories for which NESHAP will be developed. The EPA must list source categories and subcategories of "major sources" (defined below) that emit one or more of the listed HAP. A major source is defined in section 112(a) as any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit in the aggregate, considering controls, 10 tons per year or more of any one HAP or 25 tons per year or more of any combination of HAP. This initial list of source categories was published in the **Federal Register** on July 26, 1992 (57 FR 31576) and include flexible polyurethane foam.

The proposed rule, as noted in § 63.1290(a), applies only to major sources (sources which emit or have the potential to emit HAP in excess of the major source thresholds). The rule does not affect area sources (those that do not emit or have the potential to emit HAP

in excess of the major source thresholds). A definition of "major source" and "potential to emit" is contained in § 63.2 of the general provisions to part 63. Some sources which would otherwise have a potential to emit HAP in excess of the major source thresholds can become area sources by accepting enforceable limitations on their operations. A number of issues exist with respect to the requirements for such enforceable limitations. These issues (particularly whether such limitations must be federally enforceable) will be subject to a separate upcoming rulemaking. In this separate rulemaking, the EPA will be amending the definitions of "major source" and "potential to emit" in § 63.2. The EPA requests that any comments on requirements for potential to emit limitations be directed towards this separate rulemaking.

For those facilities that may seek enforceable limitations on their potential to emit, the EPA believes that mechanisms are in place in most States to provide such limitations. In addition, the owners or operators of sources in the flexible polyurethane foam industry will have had to address whether the title V operating permits program affects their particular facilities well before the compliance date of the NESHAP. Title V applications vary from State to State, but generally will be due within the 1995–97 time frame. The compliance date for the proposed NESHAP would be in 3 years after promulgation of the standard, which will likely be sometime in the year 2000.

The proposed rule provides a mechanism that could be used by sources seeking area sources status to limit their emissions. The mechanism requires owners or operations to notify the Administrator of their commitment to maintaining emissions below major source levels. This notification would be included in the Precompliance Report, and would include recordkeeping and reporting procedures. The EPA requests comments on whether this provision, contained in § 63.1290(c)(1) of the proposed rule, is necessary. In addition, the EPA requests comments on any amendments to the provision that would make it more useful or understandable.

B. Criteria for Development of NESHAP

The NESHAP are to be developed to control HAP emissions from both new and existing sources according to the statutory directives set out in section 112(d) of the CAAA. The statute requires the standards to reflect the maximum degree of reduction in emissions of HAP that is achievable for new or existing sources, considering costs and other impacts. This control level is referred to as MACT.

The MACT floor is the least stringent level allowed for MACT standards. For new sources, the standards for a source category or subcategory "shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source, as determined by the Administrator" (section 112(d)(3)). Existing source standards shall be no less stringent than the average emission limitation achieved by the best performing 12 percent of the existing sources for categories and subcategories with 30 or more sources or the average emission limitation achieved by the best performing 5 sources for categories or subcategories with fewer than 30 sources (section 112(d)(3)). These two minimum levels of control define the MACT floor for new and existing sources. When the selection of MACT considers control levels more stringent than the MACT floor (described below), its selection must reflect consideration of the cost of achieving the emission reduction, any non-air quality, health, and environmental impacts, and energy requirements.

IV. Summary of Proposed Standards

This section provides a summary of the proposed regulation. The full regulatory text is available in Docket No. A–95–48, directly from the EPA, or from the Technology Transfer Network (TTN) on the EPA's electronic bulletin boards. More information on how to obtain a copy of the proposed regulation is provided at the beginning of the **SUPPLEMENTARY INFORMATION** section of this document.

A. Source Categories To Be Regulated

These proposed standards would regulate HAP emissions from facilities that produce slabstock, molded, or rebond flexible polyurethane foam, provided that a facility is a major source or is located at a plant site that is a major source. Flexible polyurethane foam processes meeting one of three criteria are exempted from the regulation: (1) A process located at a plant site, where the plant site is limited by a federally enforceable limit to emissions less than 10 tons per year of any single HAP and less than 25 tons per year of all HAP; (2) a process exclusively dedicated to the fabrication of flexible polyurethane foam; and (3) a research and development process.

B. Pollutants To Be Regulated

The HAP currently emitted by the facilities covered by this proposed rule include methylene chloride, toluene diisocyanate, methyl chloroform, methylene diphenyl diisocyanate, propylene oxide, diethanolamine, methyl ethyl ketone, methanol, and toluene. Emission of any of these HAP or any other HAP that are emitted from emission points discussed in the next section will be affected. Methylene chloride, which comprises over 98 percent of the total HAP emissions from this industry, will be the primary HAP affected.

C. Affected Emission Points

As noted above, three basic areas of the foam production facility are covered by the proposed regulation: (1) raw material storage; (2) production equipment and associated piping, ductwork, etc.; and (3) curing and storage areas. These areas contain the following emission points, which are covered by the proposed regulation: storage vessels, equipment leaks, mixhead flush, mold release agents, repair adhesives, equipment cleaning, and ABA.

D. Format of the Standards

This section discusses the selected formats for the proposed standards. The formats and their selection are discussed in more detail in the Basis and Purpose Document for this proposed regulation.

For mixhead flush, mold release agents, and repair adhesives at molded foam facilities; mold release agents and equipment cleaners at rebond foam facilities; and equipment cleaning at slabstock foam facilities, the format of the proposed standards is the prohibition of the use of HAP or HAP-based products.

For storage vessels at slabstock facilities, the format is an equipment standard. For equipment leaks at slabstock facilities, the proposed standards incorporate several formats including equipment standards, design standards, work practices, and operational practices.

For HAP ABA at slabstock facilities, the format of the proposed standards is an emission limitation. The proposed regulation includes provisions for the calculation of an allowable HAP ABA emissions level, which is compared to the actual HAP ABA emissions.

E. Proposed Standards

Existing sources subject to the proposed regulation would be required to comply within three years of the effective date of the regulations, and

new sources would be required to comply at startup. Following is a description of the requirements of the proposed standards.

1. Standards for Molded Flexible Polyurethane Foam Production

At molded foam facilities subject to the proposed rule, emissions from three emission sources are covered by the proposed rule: mixhead flushing, mold release agent usage, and the use of adhesives to repair molded foam. For each of these emission sources, the proposed rule prohibits the use of HAP or HAP-based products at new and existing sources. Other than the initial notification and notification of compliance, there are no associated monitoring, reporting, or recordkeeping requirements for molded foam producers.

2. Standards for Rebond Foam Production

This proposed regulation would prohibit the use of HAP-based cleaners or mold release agents in the production of rebond foam at new and existing sources. Other than the initial notification and notification of compliance, there are no associated monitoring, reporting, or recordkeeping requirements for rebond foam producers.

3. Standards for Slabstock Flexible Polyurethane Foam Production

At slabstock foam facilities subject to the proposed rule, emissions from four types of emission points are covered by the proposed rule: storage vessels, equipment leaks, HAP auxiliary blowing agent (ABA) use, and equipment cleaning. The requirements are separated into two basic categories corresponding to the two major uses of HAP in the slabstock process: (1) diisocyanate used as a reactant in the foam process, and (2) HAP ABA and equipment cleaning. The diisocyanate used in the production of slabstock foam is almost always toluene diisocyanate (TDI), and the HAP ABA used is almost always methylene chloride.

a. Diisocyanate emissions

Emissions of diisocyanate from storage vessels and equipment leaks are covered by the proposed standards. For new and existing sources, there are two compliance options for storage vessels. The vessel can be equipped with a vapor return line that returns vapors displaced during storage vessel filling to the tank truck or rail car. The second option is to equip the storage vessel with a system in which displaced vapors are routed through a carbon adsorption system prior to being discharged to the atmosphere. Storage vessels equipped with carbon adsorption systems must monitor the outlet of the carbon system to detect breakthrough.

Transfer pumps in diisocyanate service must be either sealless pumps, or submerged pump systems that are visually monitored weekly to detect leaks. Any transfer pump leaks detected must be repaired within 15 calendar days. Diisocyanate leaks for other components in diisocyanate service (valves, connectors, and pressure-relief valves) detected by visual, audible, or any other detection method must be repaired within 15 calendar days, as well.

b. HAP ABA storage and equipment leak emissions, HAP ABA emissions from the production line, and equipment cleaning HAP emissions

HAP ABA emissions from three types of emission points—storage vessels, equipment leaks, and the production line—are covered by the proposed regulation. In addition, HAP emissions from equipment cleaning are covered.

This proposed regulation requires that owners or operators comply with requirements for each of the four types of emission points (HAP ABA emissions from storage vessels, equipment leaks, and the production line, and HAP emissions from equipment cleaning). These limitations are described below.

However, since methylene chloride is the primary HAP used as an ABA and as an equipment cleaner, this proposed rule allows owners and operators flexibility in complying with the HAP ABA and equipment cleaning provisions. As an alternative to the emission point specific limitations, the owner or operator can elect to comply with a source-wide emission limitation. Owners or operators selecting the source-wide emission limitation must maintain the combined emissions from all of these sources below the required level. While this option is slightly more stringent than the emission point specific limitations, the EPA believes the flexibility it provides will prove to be beneficial for sources selecting this alternative.

HAP ABA storage vessel requirements. The requirements for HAP ABA storage vessels are identical to the diisocyanate storage vessel requirements discussed above. Storage vessels can be equipped with either a vapor return line to the tank truck or railcar, or a carbon adsorption system. The requirements for new and existing sources are identical.

HAP ABA equipment leaks. These proposed standards contain requirements for pumps, valves, connectors, pressure-relief devices, and open-ended valves or lines in HAP ABA service at new and existing sources.

Pumps and valves must be monitored quarterly for leaks using Method 21, 40 CFR part 60, appendix A, where a leak is defined as an instrument reading of 10,000 parts per million or greater. Leaks must be repaired within 15 calendar days after their detection. Alternatively, leakless pumps can be used. Valves that are designated as unsafe-to-monitor must be monitored as frequently as possible, and difficult-to-monitor valves must be monitored once per year.

Connectors must be monitored annually, unless the connector has been opened or the seal broken. In these cases, the connector must be monitored within 3 months after being returned to HAP ABA service. As with the other components, a leak is defined as an instrument reading of 10,000 parts per million or greater, and a leak must be repaired within 15 calendar days. Connectors can also be designated as unsafe-to-monitor, in which case they must be monitored as frequently as possible.

Pressure-relief devices must be monitored using Method 21 if evidence of a potential leak is found by visual, audible, olfactory, or any other detection method. If a leak is found (10,000 parts per million), it must be repaired within 15 calendar days.

Each open-ended valve or line in HAP ABA service must be equipped with a cap, blind flange, plug, or a second valve.

HAP ABA Emissions from the production line. Compliance with the proposed provisions for HAP ABA emissions from the production line is determined by comparing actual HAP ABA emissions to an allowable emission level for a 12-month period. Compliance must be determined each month for the previous consecutive 12-month period.

This proposed regulation recognizes the variability in HAP ABA emissions for different grades of foam, where a grade of foam is determined by its density and indentation force deflection (IFD). Therefore, the allowable emission level is dependent on the mix of foam grades produced during the 12-month compliance period. The nucleus of the HAP ABA emission limitation provisions is the HAP ABA formulation limitation equation, which determines an allowable amount of HAP ABA for each grade of foam. For existing sources, this equation is:

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$$ABA_{limit} = 0.25(IFD) - 19.1\left(\frac{1}{IFD}\right) - 16.2(DEN) - 7.56\left(\frac{1}{DEN}\right) + 36.5$$

Where,

ABA_{limit} = HAP ABA formulation limitation, parts HAP ABA allowed per hundred parts polyol (pph)

IFD = Indentation force deflection (25 percent), pounds

DEN = Density, pounds per cubic foot

Therefore, for each foam grade produced during the 12-month period, the owner or operator must determine the HAP ABA formulation limitation. This equation was developed using actual formulation data from the best performing foam production facilities. The development of this equation is discussed in docket item no. II–B–6.

For new sources, the equation is used to determine the HAP ABA formulation limitation for a limited number of grades. However, the formulation limitation for many higher-density, higher-IFD foams is automatically set to zero.

The allowable HPA ABA emissions for a consecutive 12-month period are calculated as the sum of allowable monthly HAP ABA emissions for each of the individual 12 months in the period. Allowable HAP ABA emissions for each individual month are calculated using the following equation.

$$emiss_{allow,month} = \sum_{j=1}^{m}\left(\sum_{i=1}^{n}\frac{(limit_i)(polyol_i)}{100}\right)_j$$

Where,

$emis_{allow,\ month}$ = Allowable HAP ABA emissions from the slabstock affected source for the month, pounds

m = number of slabstock foam production lines at the affected source

n = Number of foam grades produced in the month on foam production line j

$limit_i$ = HAP ABA formulation limit for foam grade i, parts HAP ABA per 100 parts polyol

$polyol_i$ = Amount of polyol used in the month in the production of foam grade i on foam production line j, pounds

The amount of polyol used is a key component of this analysis, and it must be determined by continuously monitoring the amount of polyol added to the slabstock foam production line at the mixhead when foam is being poured (see section IV(E)(4)(b) below for more information).

Actual HAP ABA emissions are determined by continuously monitoring the HAP ABA added to the slabstock foam production line at the mixhead when foam is being poured. The allowable monitoring methods for HPA ABA are the same as for polyol.

This proposed regulation also contains provisions to allow for the use of HAP ABA recovery devises. If a recovery device is used, the actual HAP emissions are the difference between the uncontrolled HAP ABA emissions and the HAP ABA recovered. The uncontrolled HAP ABA emissions are determined by monitoring the HAP ABA added to the slabstock foam production line at the mixhead, as discussed above. The amount of HAP ABA recovered is required to be monitored.

As an alternative to the rolling annual compliance approach, owners or operators can elect to comply each month. If this approach is selected, actual and allowable emissions are determined as discussed above. However, compliance is determined by comparing allowable and actual emissions for each month, rather than for the 12 previous months. An advantage of the monthly compliance approach is that a violation of the allowable monthly HAP limitation constitutes up to 30 days of violation for that compliance period, whereas a violation of the allowable annual total of HAP calculated in any given month constitutes up to 365 days of violation for that compliance period. This alternative is allowed because it is more stringent than the rolling annual compliance approach.

Equipment cleaning HAP emissions. Affected sources complying with the emission point specific limitations are prohibited from using a HAP, or a HAP-based product, as an equipment cleaner. Other than the initial notification, there are no associated reporting, recordkeeping, or monitoring requirements.

Source-wide emission limitation alternative. This alternative allows the owner or operator to choose which of the HAP ABA emission sources to control but is only available for sources using no more than one HAP as an ABA and equipment cleaner in the process. In other words, an owner or operator could choose not to control HAP ABA storage vessels and equipment leaks, and achieve a slightly higher HAP ABA emission reduction from the production line. Alternatively, an owner or operator could choose to control emissions from equipment leaks and storage to "save" as much HAP ABA as possible for use in the production line. In addition, under the source-wide alternative, a facility could utilize a HAP equipment cleaner, as long as the HAP used as the equipment cleaner is the same chemical as the HAP ABA. However, the equipment cleaning HAP emissions must be offset by emission reductions from one of the HAP ABA emission sources.

An owner or operator electing to comply with the source-wide emission limitation for HAP ABA and equipment cleaning determines compliance by comparing actual emissions from the three HAP ABA emission sources and from equipment cleaning with an allowable emissions level. Compliance is determined each month for the previous 12-month period.

The allowable emissions level is determined using the same procedures discussed above for HAP ABA emissions from the production line. Therefore, the total HAP ABA and equipment cleaning HAP emissions allowed under this alternative are equivalent to the allowed HAP ABA emissions from the production line if the emission point specific alternative is selected.

The actual HAP ABA and equipment cleaning emissions are determined by performing a material balance at the HAP ABA storage vessel, using the following equation:

$$PWE_{actual} = \sum_{1}^{n}\left(ST_{i,begin} - ST_{i,end} + ADD_i\right)$$

Where,

PWE_{actual} = Actual source-wide HAP ABA and equipment cleaning HAP emissions for a month, pounds/month

$ST_{i,begin}$ = Amount of HAP ABA in storage tank i at the beginning of the month, pounds

$ST_{i,end}$ = Amount of HAP ABA in storage tank i at the end of the month, pounds,

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ADD_i = Amount of HAP ABA added to storage tank i during the month, pounds
n = Number of HAP ABA storage vessels

Weekly monitoring of the level of HAP ABA in the storage vessels is required, thus providing the beginning and end of month amounts to be used in the above equation. In addition, the amount of each HAP ABA delivery must be determined. The requirements for the monitoring of HAP ABA storage vessel levels and the amount of HAP ABA added during each delivery is discussed later in this section. Emission reductions achieved by recovery devices can be accounted for by monitoring the amount of HAP ABA recovered.

As with the emission point specific limitation for HAP ABA from the production line, the source-wide emission limitation includes a monthly compliance alternative.

4. Monitoring Requirements

This proposed regulation contains monitoring requirements for five situations: (1) storage vessels complying using carbon adsorption systems, (2) polyol and HAP ABA added to the production line at the mixhead, (3) recovered HAP ABA when a recovery device is used, (4) the amount of HAP ABA in a storage vessel, and (5) the amount of HAP ABA added to a storage vessel.

a. Storage Vessel Emissions Monitoring

Storage vessels equipped with carbon adsorption systems must monitor either the concentration of HAP or the concentration of total organic compounds (TOC) at the exit of the adsorption system. Measurements of HAP or TOC concentration must be made using Method 18 or 25A of Appendix A of 40 CFR 60. Outlet concentration measurements must be made monthly (or each time the vessel is filled, if filling occurs less frequently than monthly), or the owner or operator can install a monitoring system that continuously monitors HAP or TOC concentrations during vessel filling.

b. Polyol and HAP ABA Monitoring at the mixhead

All slabstock facilities must continuously monitor the amount of polyol added to the slabstock foam production line at the mixhead when foam is being poured to allow the calculation of allowable emissions. The regulation contains two options for continuously monitoring the polyol added: (1) a device installed and operated to monitor and record pump revolutions per minute, or (2) a flow rate monitoring device installed and operated to measure the amount of polyol added at the mixhead. Either of these devices must be calibrated at least once each 6 months, and must have an accuracy to within ± 2 percent. The owner or operator can develop an alternative monitoring program to monitor the amount of polyol added at the mixhead. The components of an alternative monitoring plan shall include, at a minimum, (1) description of the parameter to be monitored to measure the amount of HAP ABA or polyol added at the mixhead; (2) a description of how the monitoring results will be recorded, and how the results will be converted into amount of HAP ABA or polyol delivered to the mixhead; (3) data demonstrating that the monitoring device is accurate to within ± 2.0 percent; and (4) procedures to ensure that the accuracy of the parameter monitoring results is maintained. These procedures shall, at a minimum, consist of periodic calibration of all monitoring devices. In addition, if an owner or operator elects to comply with the emission point specific limitations, the amount of HAP ABA added to the slabstock foam production line at the mixhead must be continuously monitored when foam is being poured. The requirements for monitoring the amount of HAP ABA added are exactly the same as discussed above for polyol, except that the device must be calibrated at least once per month.

c. Recovered HAP ABA Monitoring

The proposed rule also includes monitoring requirements for slabstock facilities using a recovery device to reduce HAP ABA emissions. The amount of HAP ABA recovered is determined by using a device that monitors the cumulative amount of HAP ABA recovered by the recovery device. This device must be installed, calibrated, maintained, and operated according to the manufacturer's specifications, and must be certified by the manufacturer to be accurate to within ± 2.0 percent.

d. Monitoring to Determine Amount of HAP ABA in a Storage Vessel

The amount of HAP ABA in a storage vessel must be determined by monitoring the HAP ABA level in the storage vessel using a monitoring device that has been certified by its manufacturer to be at least 99 percent accurate, that has either a digital or printed output, and that is calibrated at least once a year. The level of HAP ABA in each storage vessel must be measured and recorded at least once per week.

e. Monitoring to Determine the Amount of HAP ABA Added to a Storage Vessel

The amount of HAP ABA added to a storage vessel during a delivery must be determined using any one of three options. The first option requires that the volume of HAP ABA added to the storage vessel be determined by monitoring the flow rate using a device with an accuracy of 98 percent or greater, and which Is calibrated at least once every six months. The second options allows the owner or operator to calculate the weight of HAP ABA added by determining the difference between the full weight of the transfer vehicle prior to unloading into the storage vessel and the empty weight of the transfer vehicle after unloading has been completed. This weight must be determined using a scale approved by the State or local agencies using the procedures contained in the National Institute of Standards and Technology Handbook 44, or a scale determined to be in compliance with the requirements of the National Institute of Standards and Technology Handbook 44 at least once per year by a registered scale technician. The third option for determining the amount of HAP ABA added to a storage vessel allows the owner or operator to develop an alternative monitoring program. The alternative monitoring program must include, at a minimum, a description of the parameter to be monitored to determine the amount of the addition, a description of how the results of the monitoring will be recorded and converted into the amount of HAP ABA added, data demonstrating the accuracy of the monitoring measurements, and procedures for ensuring that the accuracy of the monitoring measurements is maintained.

5. Testing Requirements

There are two instances where the use of test methods is required. First, for slabstock owners or operators complying with the emission point specific requirements for HAP ABA equipment leaks, testing must be conducted using Method 21 of 40 CFR part 60, subpart A.

Second, all slabstock affected sources must test each grade of foam produced during a single production "run" to verify the IFD and density, as these are integral inputs into the equation to determine the HAP ABA formulation limitation. This proposed rule requires these parameters to be determined using ASTM D3574 using a sample of foam cut from the center of the foam bun. The maximum sample size for which the IFD and density is determined shall not be

larger than 24 inches by 24 inches by 4 inches.

6. Alternative Means of Emission Limitation

This proposed regulation also contains provisions to allow an owner or operator to request approval to use an alternative means of emission limitation. Examples of alternative means of emission limitation could be the reduction of HAP ABA by a combustive device, use of a storage tank control not mentioned in the regulation, or an alternative program to reduce HAP ABA equipment leak emissions. The request, which may be submitted in the precompliance report for existing sources, the application for construction or reconstruction for new sources, or at any other time after the initial compliance, must include a complete description of the alternative means of emission limitation and documentation demonstrating equivalency with the requirements in the regulation. The owner or operator can begin using the alternative means of emission limitation upon approval of the request by the Administrator.

7. Applicability of General Provisions

The General Provisions for Part 63; 40 CFR 63, Sub Part A; create the technical and administrative framework for implementing national emission standards established under section 112 of the Clean Air Act. The General Provisions establish baseline applicable requirements for activities such as performance testing, monitoring, notifications, and recordkeeping and reporting, and they also implement statutory provisions such as compliance dates for new and existing sources and preconstruction review requirements. The General Provisions apply to all sources that are affected by Part 63 standards, including the proposed standard for flexible polyurethane foam production. However, certain requirements in the General Provisions may be overridden in individual standards. This proposed regulation contains a table outlining the sections of the General Provisions that are applicable to subpart III, and outlining the General Provisions' sections that are being overridden or not incorporated.

F. Reporting and Recordkeeping Requirements

1. Reporting Requirements

This proposed regulation requires the submittal of six types of reports: (1) initial notification, (2) application for approval of construction or reconstruction, (3) precompliance report, (4) notification of compliance status, (5) semi-annual compliance reports, and (6) other reports. These reports are briefly described below.

a. Initial Notification

Each owner or operator of an affected source must submit an initial notification to the Administrator within 120 days after promulgation of the rule. This initial notification must contain an identification of the facility that is subject to the regulation, the name and address of the owner or operator of the subject facility, and a brief description of the process.

b. Application for Approval of Construction or Reconstruction

Owners or operators constructing a new affected source, or reconstructing an existing process, must submit an application for approval of construction or reconstruction. This application must contain identification information such as location, owner/operator, and the anticipated completion and start-up dates. The application must also contain a description of the planned process and how compliance will be achieved. The application must be submitted as soon as practicable before the construction or reconstruction is planned to commence. A permit application can take the place of this report.

c. Precompliance Report

One year before the compliance date, each slabstock owner or operator must submit a precompliance report. This report must contain notification of whether compliance will be achieved using the emission point specific HAP ABA and equipment cleaning emission limitation or the source-wide emission limitation. The report must also indicate if either of the following compliance options are going to be utilized:

- If compliance will be achieved on a monthly basis for either the emission point specific limitation for HAP ABA emissions from the production line or the source-wide emission limitation.
- If a recovery device will be used to reduce HAP ABA emissions.

This report must also contain a description of how the amount of polyol and HAP ABA (if required) added at the mixhead will be monitored. If the owner or operator is developing an alternative monitoring plan, the plan must be submitted with the precompliance report. In addition, owners or operators of slabstock flexible polyurethane production facilities using a recovery device to reduce HAP ABA emission must include a description of the HAP ABA monitoring and recordkeeping program to determine the amount of HAP ABA recovered in the precompliance report.

Each owner or operator of a source complying with the source-wide emission limitation must submit a description of how the amount of HAP ABA in a storage vessel will be determined, and a description of how the amount of HAP ABA added to a storage vessel during a delivery will be monitored. If the owner or operator is developing an alternative monitoring program for the determination of HAP ABA added to a storage vessel, this program must be submitted with the precompliance report.

The owner or operator of a flexible polyurethane foam production facility that is planning to maintain HAP emissions below major source levels and achieve an enforceable limitation through this subpart, must report this intention in the precompliance report.

d. Notification of Compliance Status

Each owner or operator of an affected source must submit a notification of compliance status report 180 days after the compliance date. For slabstock affected sources, this report must contain notification of the compliance status of diisocyanate storage vessels and dissocyanate transfer pumps. In addition, for slabstock affected sources complying with the emission point specific limitations for HAP ABA, this report must contain compliance information for HAP ABA storage vessels and equipment in HAP ABA service. Molded and rebound affected sources must submit a statement that compliance is being achieved with the standards.

An owner or operator of a flexible polyurethane foam production facility that is committing to an enforceable limit to maintain emissions below major source levels must submit an affidavit stating the annual HAP emissions will not exceed the major source levels in the notification of compliance status. This affidavit must be signed by the owner, operator, or other responsible individual.

e. Semi-annual Compliance Reports

Each slabstock owner or operator must submit semi-annual compliance reports. For affected sources complying with the rolling annual compliance provisions (for either the emission point specific HAP ABA limitations or the source-wide emission limitation), the report must contain the allowable and actual HAP ABA emissions (or allowable and actual HAP ABA and equipment cleaning HAP emissions) for each of the 12-month periods ending on each of the six months in the reporting

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period. For affected sources complying with the monthly compliance alternative, the report must contain the allowable and actual HAP ABA emissions (or allowable and actual HAP ABA and equipment cleaning HAP emissions) for each for the six months in the reporting period.

f. Other Reports

A slapstock owner or operator must provide a report to the Administrator indicating the intent to change the selected compliance alternative (emission point specific limitation or source-wide emission limitation). This report must be submitted at least 180 days prior to the change.

Similarly, the intent to switch the compliance method (rolling annual or monthly) must be reported. This report must be submitted at least 12 months prior to the change.

2. Recordkeeping Requirements

Records must be recorded in a form suitable and readily available for expeditious inspection and review, and must be kept for a period of 5 years. At a minimum, the most recent 2 years of data must be retained on-site.

Records are required for storage vessels, equipment leaks, and HAP ABA. If the owner of operator complies with the source-wide emission limitation, no records are required for HAP ABA storage vessel controls (see section "a" below) or controls for equipment in HAP ABA service (see section "b" below).

a. Storage Vessel Records

All slabstock affected sources must maintain records listing all diisocyanate storage vessels and the type of control utilized to comply with the regulation. For the storage vessels complying through the use of a carbon absorption system, the records must include the design parameters of the system and the monitoring records.

(vi) Records of all calibrations for each device used to measure the amount of HAP ABA in the storage vessel, conducted in accordance with § 63.1303(d)(3).

(vii) Records to verify that all scales used to measure the amount of HAP ABA added to the storage vessel meet the requirements of § 63.1303(e)(2). For scales meeting the criteria of § 63.1303(e)(2)(i), this documentation shall be in the form of written confirmation of the State or local approval. For scales complying with § 63.1303(e)(2)(ii), this documentation shall be in the form of a report provided by the registered scale technician.

(d) *Records for sources with enforceable emission limitations below major source levels.* Processes exempted from this subpart through a federally enforceable emission limitation in accordance with § 63.1290(b)(1), and that have notified the Administrator of this self-imposed limitation through § 63.1306(c)(9), shall maintain records to support the emission estimates provided in the annual emission reports, submitted in accordance with § 63.1306(f)(3). These emission estimates may be based on inventory records, material balance calculations, emission tests, or other engineering analyses.

b. Equipment Leak Records

All slabstock affected sources must maintain a list of components in diisocyanate service, and a description of the control utilized for each transfer pump. If the affected source is complying with the emission point specific limitations, then records listing each component in HAP ABA service must also be maintained.

When a leak, as defined in the proposed rule, is detected for any component, the component must be marked with a readily visible identification until the leak is repaired. For valves, the identification must remain until 2 successive months have passed where no leak is detected. Records must be kept specifying when the leak was detected when it was repaired, and when the identification was removed.

c. HAP ABA Records

All slabstock affected sources must keep records integral to the calculation of allowable emissions. These include a daily log of foam runs, and daily records of the amount of polyol added at the mixhead for each grade of foam, and the results of the density and IFD testing for each grade. Monthly, a cumulative record must be maintained listing the foam grades produced during the month, along with the total amount of polyol used for each foam grade, and the corresponding allowable HAP ABA (or HAP ABA and equipment cleaning) emission level. If complying on an annual rolling basis, the allowable HAP ABA (or HAP ABA and equipment cleaning) emission level for the previous 12 consecutive months must also be recorded each month.

For affected sources complying with the emission point specific limitation for HAP ABA emissions from the production line, records must be kept regarding the amount of HAP ABA added at the mixhead each day. In addition, there must also be a cumulative HAP ABA usage record for each month, and a cumulative record for the previous 12 consecutive months (if complying on an annual rolling basis).

For affected sources complying with the source-wide emission limitation, monthly records must be kept regarding the actual HAP ABA and equipment cleaning emissions, as measured at the storage vessel. Also required are daily records of the HAP ABA storage vessel levels and records of the amount of HAP ABA added to the storage vessel during each delivery. If complying on an annual rolling basis, monthly records must be kept of the actual cumulative HAP ABA and equipment cleaning emissions for the previous 12 months.

If an affected source uses a recovery device to reduce HAP ABA emissions, records must be kept regarding the amount of HAP ABA recovered. In addition, records of all required calibrations must be maintained.

d. Records for Sources With Enforceable Emission Limitations Below Major Source Levels

The owner or operator of a flexible polyurethane foam production facility that is committing to an enforceable limit to maintain emissions below major source levels must keep records documenting HAP emissions. These records can consist of basic inventory records and engineering calculations.

V. Request for Comment on Specific Issues

The Administrator welcomes comments from interested persons on any aspect of this proposed standards, and on any statement in the preamble or the referenced supporting documents. These proposed standards were developed on the basis of information available. The Administrator is specifically requesting factual information that may support either the approach taken in these proposed standards or an alternate approach. To receive proper consideration, documentation or data should be provided. Specifically, the EPA is requesting comment and data on the following issue.

The proposed standards for slabstock foam production contain provisions to control emissions of TDI from storage vessels and equipment leaks. However, the standards do not contain provisions to control TDI emissions from the foam production line. At baseline, no facilities in the industry reported control for these TDI emissions; therefore, the MACT floor was determined to be "no control." Further, no control options more stringent than the MACT floor were investigated, since

no demonstrated technology were identified. However, some State and local agencies have requirements affecting sources emitting TDI in their air toxics regulations. One State with such a regulation has expressed concern to the EPA that this proposed regulation will not reduce TDI emissions from foam production. Therefore, the EPA is requesting comments on the need for additional controls for TDI from this industry. The EPA would like to be made aware of any control technologies that are being used, or could be used, to reduce TDI emissions from slabstock foam production lines. Comments should be detailed and include costs, control effectiveness, operation and monitoring requirements, and any other relevant factors to be considered.

For the proposed requirements for HAP ABA emissions from the production line, and source-wide HAP ABA and equipment cleaning HAP emissions, the EPA considered two averaging time formats: (1) Compliance determined monthly for the previous 12 months (i.e., a rolling annual compliance determination), and (2) compliance determined for each individual month. The Agency determined that the rolling annual compliance format was most appropriate for this industry, but the industry was particularly concerned about enforcement implications of this format. Therefore, the proposed rule allows each slabstock facility to choose the individual monthly averaging time as an alternative, because it is more stringent. The EPA is specifically requesting comments from State and local agencies, as well as the industry, on the burdens caused by the inclusion of this choice in the proposed regulation.

The point of compliance for the proposed source-wide HAP ABA and equipment cleaning ABA emission limitation would be the HAP ABA storage vessel, where a monthly material balance would be performed to determine the amount of HAP ABA and HAP equipment cleaner used/emitted. This proposed rule requires sources complying with the source-wide emission limitation to monitor the amount of HAP ABA in each storage vessel at least once per week. These monitoring results are used to determine monthly source-wide HAP ABA emissions. The device used to determine this amount must meet three criteria: (1) It must be certified by its manufacturer to be accurate to within +/−1 percent, (2) it must have either a digital or printed output, and (3) it must be calibrated at least once per year. As proposed, the rule would not allow the use of gauge glasses and simple float systems (i.e., float and tape), which are common practices in the industry. The concerns that led the Agency to propose requirements that exclude the use of these devices were the uncertainty of the accuracy of these devices, and the potential errors associated with the visual reading of the level of liquid in the tank. Since the use of these technologies is wide-spread in the slabstock foam industry, the EPA would prefer that the use of these technologies be allowed. However, questions regarding the concerns mentioned above remain unanswered. Therefore, the EPA is requesting comment on the proposed monitoring requirements to determine the amount of HAP ABA in storage vessels. The EPA is also specifically requesting comment on whether the use of gauge glasses, float and tape systems, and other visually-read systems should be allowed under this rule. Commenters that believe that it is appropriate to allow the use of these systems should provide rationale and supporting documentation regarding the accuracy of these systems, measures to ensure the accuracy of visual readings, and calibration procedures.

The EPA estimated that there are 228 molded foam facilities in the U.S. The EPA is requesting comments on this estimate, and any information related to the molded foam production facility population.

This proposed regulation prohibits the use of HAP-based adhesives for molded foam repair. The EPA is requesting comments on the technical feasibility of these requirements.

VI. Summary of Environmental, Energy, Cost, and Economic Impacts

This section presents the air, non-air environmental (waste and solid waste), energy, cost, and economic impacts resulting from the control of HAP emissions under this rule.

A. Facilities Affected by These NESHAP

It is estimated that 176 sources will be subject to the proposed regulation. This consists of 57 slabstock foam facilities, 21 facilities with slabstock and rebond processes, and 98 molded foam facilities. It is assumed that 130 molded foam facilities are area sources, and will not be subject to today's proposed rule. It is also assumed that all rebond facilities not co-located with a slabstock foam process are area sources.

B. Primary Air Impacts

These proposed standards are estimated to reduce HAP emissions from all existing sources of flexible polyurethane foam manufacturing by over 12,500 Mg/yr. This represents a 70 percent reduction from baseline. This includes over 10,400 Mg/yr from slabstock foam production (69 percent reduction from baseline) and over 2,100 Mg/yr from molded foam production (73 percent reduction from baseline). No reduction is expected from rebond foam production, since it is believed that the entire industry has already stopped using HAP cleaners and mold release agents.

C. Other Environmental Impacts

The Agency estimates that there will be minimal secondary environmental impacts from this proposed regulation. There could be a slight increase in volatile organic compound (VOC) air emissions if facilities switch from a HAP-based product to a non-HAP VOC based product for equipment cleaning, mold release agents, mixhead flushes, and repair adhesives. Wastewater could contain minor amounts of HAP if carbon adsorption systems are used to comply with the HAP ABA limitations, but the Agency believes the use of such systems will be rare. The only potential hazardous waste impact would be due to the disposal of spent carbon adsorption canisters used to control storage vessels.

D. Energy Impacts

Due to the use of several control technologies in both slabstock and molded foam there will be some increase in the amount of energy used by this source category. The impact will vary depending on which control technology is chosen by each facility, but is not expected to be significant.

E. Cost Impacts

Cost impacts include the capital costs of new equipment that reduces HAP emissions, the cost of energy required to operate the equipment, operation and maintenance costs, as well as cost savings. Also, cost impacts include the costs of monitoring, recordkeeping, and reporting associated with the proposed standards. Average cost effectiveness ($/Mg of pollutant removed) is also presented as part of cost impacts and is determined by dividing the annual cost by the annual emission reduction.

For the molded subcategory, the estimated total capital investment in $6.1 million, and the total estimated annual cost is almost $760,000 per year. The total annual HAP emission reduction is 2,100 Mg/year, resulting in a cost effectiveness of $360/Mg per year.

For the rebond subcategory, it is anticipated that there will be no cost or environmental impacts, since it is believed that every facility already

complies with these provisions. The regulation will prohibit the future use of HAP-based cleaners and mold release agents in this industry.

For the slabstock subcategory, the total estimated capital investment is around $68 million, and the total estimated annual cost is $7.3 million per year. The total annual HAP emission reduction is over 10,400 Mg/yr, resulting in a cost-effectiveness of around $700/Mg per year.

Therefore, the total capital investment for this proposed regulation is estimated at $74 million. The total estimated annual cost is $8.1 million per year. The total emission reduction is over 12,560 Mg/yr, resulting in an overall cost effectiveness of around $650/Mg per year.

F. Economic Impacts

An economic impact analysis of these proposed standards was prepared to evaluate primary and secondary impacts on (1) the slabstock and molded foam sectors of the flexible polyurethane foam industry, (2) consumers, and (3) society.

For the slabstock foam sector of the industry, the total annualized social cost (in 1994 dollars) of this proposed regulation is $7.18 million. Market price is estimated to increase by 2.20 percent, and the corresponding decrease in market output is estimated to be 1.08 percent. Employment loss is estimated to be 1.09 percent (i.e., 96 jobs).

For the molded foam sector, impacts on price and output are estimated to be smaller than those predicted for the slabstock market. The total annualized social cost (in 1994 dollars) of the proposed standards for the molded foam subcategory is $0.71 million. Price is estimated to increase by 1.14 percent, and the corresponding decrease in market output is estimated to be 0.56 percent. Employment loss in the molded sector is estimated to be 0.67 percent (37 jobs).

However, given the predicted changes in market price and output, the industry will experience increases in the value of shipments (i.e., industry profits), because estimated price increases more than offset the lower production volumes. Since no significant export or import markets exist for the industry (due to prohibitive transportation costs), no impacts on foreign trade are expected.

The analysis also predicts the number of plant closures that may result from the imposition of compliance costs on a facility. For the analysis, worst-case assumption is adopted that the facilities with the highest emission control costs are the least efficient producers in the market. Actual plant closures will be less than that predicted if plants with the highest emission control costs are not the least efficient producers in the industry. In addition, the outcome of predicted closures is sensitive to the wide variety of emission control technologies assigned to the model plants. If the control technology assigned to the representative model plant is different than that which would be chosen by an actual facility, the analysis could overestimate the number of predicted plant closures. Therefore, a sensitivity analysis was performed to test the outcome of closures based on the assignment of control technology to model plants. For the slabstock sector, plant closures are estimated to range from 1 to 3 facilities for this proposed standard. For the molded foam sector, closures are estimated to be zero for this proposed standard (a sensitivity analysis was not performed for the molded foam production subcategory). Given the significant amount of restructuring currently occurring in the industry (mergers, buy-outs, and shut-downs), the number of facility closures that will result from the proposed regulation is likely to be minimal.

VII. Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to discuss the proposed standard in accordance with section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentation on the proposed standards for flexible polyurethane foam production should contact the EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Air Docket Section address given in the **ADDRESSES** section of this preamble and should refer to Docket No. A–95–48.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at the EPA's Air Docket Section in Washington, DC (see **ADDRESSES** section of this preamble).

B. Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by the EPA in the development of this proposed rulemaking. The principal purposes of the docket are:

(1) To allow interested parties to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process; and

(2) To serve as the record in case of judicial review (except for interagency review materials [section 307(d)(7)(A)]).

C. Executive Order 12866

Under Executive Order 12866, (58 FR 51,735 (October 4, 1993)) the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

D. Enhancing the Intergovernmental Partnership Under Executive Order 12875

In compliance with Executive Order 12875 the EPA has involved State and local Governments in the development of this rule. These governments are not directly impacted by the rule; i.e., they are not required to purchase control systems to meet the requirements of the rule. However, they will be required to implement the rule; e.g., incorporate the rule into permits and enforce the rule. They will collect permit fees that will be used to offset the resource burden of implementing the rule. Three representatives of the State and local governments have been members of the EPA Work Group developing the rule. The Work Group has met numerous times, and comments have been solicited from the Work Group members, including the State representatives; and their comments

have been carefully considered in the rule development. In addition, all States are encouraged to comment on this proposed rule during the public comment period, and the EPA intends to fully consider these comments in the final rulemaking.

E. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. An Information Collection Request (ICR) document has been prepared by the EPA (ICR) No. 1783.01) and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division; U.S. EPA (2137); 401 M St., S.W.; Washington, DC 20460 or by calling (202) 260–2740.

The information collection is needed as part of the overall compliance and enforcement program required by section 112 of the CAAA. The prescribed records and reports are necessary to enable the EPA to identify sources subject to the emission standards and to ensure that the standards are being achieved. All information submitted to the EPA for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in 40 CFR part 2, subpart B—Confidentiality of Information.

The public reporting burden for this collection of information is estimated to average 101 hours per respondent per year. The average burden for the 78 affected slabstock foam producers is somewhat higher than this estimate, due to their monthly recordkeeping and semiannual reporting requirements, while the average burden for the 98 affected molded foam manufacturers is less than 101 hours, since they are only required to submit an initial one-time notification of compliance. No cost burden associated with the purchase of new equipment or technology is estimated to result from this collection of information.

"Burden" means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques. Send comments on the ICR to the Director, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., S.W.; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., N.W., Washington, DC 20503, marked "Attention: Desk Officer for EPA." Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after December 27, 1996 a comment to the OMB is best assured of having its full effect if the OMB receives it by January 27, 1997. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

F. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), as amended, Pub. L. 104–121, 110 Stat. 847, the EPA certifies that this rule will not have a significant economic impact on a substantial number of small entities and therefore no initial regulatory flexibility analysis under section 604(a) of the Act is required.

Due to insufficient data on the ownership of the plants in the flexible polyurethane foam industry, an analysis of each parent company in the industry was not feasible. Consequently, the EPA used data collected in the section 114 survey to evaluate the impact on small businesses based on model facilities. That analysis indicates that there is a total of approximately 121 businesses (31 slabstock, 90 molded) that are affected by the proposed regulation, of which approximately 71 are small businesses (18 slabstock, 53 molded).

The calculation of average compliance costs as a percent of revenues is less than one percent for nearly all model facilities in the analysis. The analysis also indicates a potential for business courses ranging from 0 to 3 of the total number of estimated entities. However, because there is insufficient data to determine the exact size of the plants that may close, the analysis cannot determine if these impacts will occur at small businesses. Given the results of the analysis and the use of worst-case assumptions in the closure analysis, the EPA believes that the affect of the proposed regulation on small businesses will be minimal.

G. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in aggregate, or the private sector in any one year, because

they contain no requirements that apply to such governments or impose obligations upon them.

H. Miscellaneous

In accordance with section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of this proposed regulation, including health, economic and technical issues, and on the proposed test methods.

This regulation will be reviewed 8 years from the date of promulgation. This review will include an assessment of such factors as evaluation of the residual health and environmental risks, any overlap with other programs, the existence of alternative methods, enforceability, improvements in emission control technology and health data, and the recordkeeping and reporting requirements.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: December 9, 1996.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 63 of title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR AFFECTED SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. It is proposed that part 63 be amended by adding subpart III, consisting of §§ 63.1290 through 63.1307, to read as follows:

Subpart III—National Emission Standards for Hazardous Air Pollutant Emissions from Flexible Polyurethane Foam Production

Sec.

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Subpart III—National Emission Standards for Hazardous Air Pollutant Emissions from Flexible Polyurethane Foam Production

§ 63.1290 Applicability.

(a) The provisions of this subpart apply to each new and existing flexible polyurethane foam or rebond foam process that meets the criteria listed in paragraphs (a) (1) through (3) of this section:

(1) Produces flexible polyurethane or rebond foam;

(2) Uses a HAP, except as provided in paragraph (c)(2) of this section; and

(3) Is located at a major source plant site.

(b) For the purpose of this subpart, an affected source includes all processes meeting the criteria in paragraphs (a)(1) through (a)(3) of this section that are located at a contiguous plant site.

(c) A process meeting one of criteria listed in paragraphs (c) (1) through (3) of this section shall not be subject to the provisions of this subpart, but shall maintain supporting documentation of the applicable criteria.

(1) A process located at a plant site for which the plant site does not have a potential to emit more than 10 tons per year of any single HAP, or more than 25 tons per year of all HAP. A limitation on potential to emit may be obtained by notifying the Administrator of a commitment to maintain emissions below the major source levels noted in the Precompliance Report, as specified in § 63.1306(c)(9), and following the applicable reporting and recordkeeping procedures.

(2) A process exclusively dedicated to the fabrication of flexible polyurethane foam; or

(3) A research and development process.

§ 63.1291 Compliance schedule.

(a) Existing affected sources shall be in compliance with all provisions of this subpart no later than [3 years from effective date of final rule].

(b) New or reconstructed affected sources shall be in compliance with all provisions of this subpart upon startup.

§ 63.1292 Definitions.

All terms used in this subpart shall have the meaning given them in the Act, in subpart A of this part, and in this section. If a term is defined in subpart A and in this section, it shall have the meaning given in this section for purposes of this subpart.

Auxiliary blowing agent, or ABA, means a low-boiling point liquid added to assist foaming by generating gas beyond that resulting from the isocyanate-water reaction.

Breakthrough means that point in the adsorption step when the mass transfer zone (i.e., the section of the carbon bed where the adsorbate is removed from the carrier gas stream) first reaches the carbon bed outlet as the mass transfer zone moves down the bed in the direction of flow. The breakthrough point is characterized by the beginning of a sharp increase in the outlet adsorbate concentration.

Calibrate means to verify the accuracy of a measurement device against a known standard. For the purpose of this subpart, there are two levels of calibration. The initial calibration includes the verification of the accuracy of the device over the entire operating range of the device. Subsequent calibrations can be conducted for a point or several points in a limited range of operation that represents the most common operation of the device.

Canned motor pump means a pump with interconnected cavity housings, motor rotors, and pump casing. In a canned motor pump, the motor bearings run in the process liquid and all seals are eliminated.

Carbon adsorption system means a system consisting of a tank or container that contains a specific quantity of activated carbon. For the purposes of this subpart, a carbon adsorption system is used as a control device for storage vessels. Typically, the spent carbon bed does not undergo regeneration, but is replaced.

Connector means flanged, screwed, or other joined fittings used to connect two pipe lines or a pipe line and a piece of equipment. A common connector is a flange. Joined fittings welded completely around the circumference of the interface are not considered to be connectors for the purposes of this subpart.

Cured foam means flexible polyurethane foam with fully developed physical properties. A period of 12 to 24 hours from pour is typically required to completely cure foam, although mechanical or other devices are sometimes used to accelerate the curing process.

Curing area means the area in a slabstock foam production facility where foam buns are allowed to fully develop physical properties.

Diaphragm pump means a pump where the driving member is a flexible diaphragm made of metal, rubber, or plastic. In a diaphragm pump, there are no packing or seals that are exposed to the process liquid.

Diisocyanate means a compound containing two isocyanate groups per molecule. The most common diisocyanate compounds used in the flexible polyurethane foam industry are toluene diisocyanate (TDI) and methylene diphenyl diisocyanate (MDI).

Flexible polyurethane foam means a flexible cellular polymer containing urea and carbamate linkages in the chain backbone produced by reacting a diisocyanate, polyol, and water.

Flexible polyurethane foam process means the equipment used to produce a flexible polyurethane foam product. For the purpose of this subpart, the flexible polyurethane foam process includes raw material storage; production equipment and associated piping, ductwork, etc.; and curing and storage areas.

Grade of foam means foam with a distinct combination of indentation force deflection (IFD) and density values.

HAP ABA means methylene chloride, or any other Hap compound used as an auxiliary blowing agent.

High-pressure mixhead means a mixhead where mixing is achieved by impingement of the high pressure streams within the mixhead.

Identation Force Deflection (IFD) means a measure of the load bearing capacity of flexible polyurethane foam. IFD is generally measured as the force (in pounds) required to compress a 50 square inch circular indentor foot into a four inch thick sample, typically 15 inches square or larger, to 25 percent of the sample's initial height.

In diisocyanate service means a piece of equipment that contains or contacts a diisocyanate.

In HAP ABA service means a piece of equipment that contains or contacts a HAP ABA.

Isocyanate means a reactive chemical grouping composed of a nitrogen atom bonded to a carbon atom bonded to an oxygen atom; or a chemical compound, usually organic, containing one or more isocyanate groups.

Magnetic drive pump means a pump where an externally-mounted magnet coupled to the pump motor drives the impeller in the pump casing. In a magnetic drive pump, no seals contact the process fluid.

Metering pump means a pump used to deliver reactants, ABA, or additives to the mixhead.

Mixhead means a device that mixes two or more component streams before dispensing foam producing mixture to the desired container.

Mold release agent means any material which, when applied to the mold surface, serves to prevent sticking of the foam part to the mold.

Molded flexible polyurethane foam means a flexible polyurethane foam that is produced by shooting the foam mixture into a mold of the desired shape and size.

Plant site means all contiguous or adjoining property that is under common control, including properties that are separated only by a road or other public right-of-way. Common control includes properties that are owned, leased, or otherwise operated by the same entity, parent entity, subsidiary, or any combination thereof.

Rebond foam means the foam resulting from a process of adhering small particles of foam together to make a usable cushioning product. Various adhesives and bonding processes are used. A typical application for rebond foam is for carpet underlay.

Rebond foam process means the equipment used to produce a rebond foam product. For the purpose of this subpart, the rebond foam process includes raw material storage; production equipment and associated piping, ductwork, etc.; and curing and storage areas.

Reconstructed source means an affected source undergoing reconstruction, as defined in subpart A. For the purposes of this subpart, process modifications made to reduce HAP ABA emissions to meet the existing source requirements of this subpart shall not be counted in determining whether or not a change or replacement meets the definition of reconstruction.

Recovery device means an individual unit of equipment capable of and used for the purpose of recovering chemicals for use, reuse, or sale. Recovery devices include, but are not limited to, carbon absorbers, absorbers, and condensers.

Research and development process means a laboratory or pilot plant operation whose primary purpose is to conduct research and development into new processes and products, where the operations are under the close supervision of technically trained personnel, and which is not engaged in the manufacture of products for commercial sale.

Run of foam means a continuous production of foam, which may consist of several grades of foam.

Sealless pump means a canned-motor pump, diaphragm pump, or magnetic drive pump, as defined in this section.

Slabstock flexible polyurethane foam means flexible polyurethane foam that is produced in large continuous buns that are then cut into the desired size and shape.

Slabstock flexible polyurethane foam production line includes all portions of the flexible polyurethane foam process from the mixhead to the point in the process where the foam is completely cured.

Storage vessel means a tank or other vessel that is used to store diisocyanate or HAP ABA for use in the production of flexible polyurethane foam. Storage vessels do not include vessels with capacities smaller than 38 cubic meters (or 10,000 gallons).

Transfer pump means all pumps used to transport diisocyanate or HAP ABA that are not metering pumps.

Transfer vehicle means a railcar, tank truck, or other vehicle used to transport HAP ABA to the flexible polyurethane foam facility.

§ 63.1293 Standards for slabstock flexible polyurethane foam production.

Each owner or operator of a new or existing slabstock affected source shall comply with § 63.1294 and either paragraph (a) or (b) of this section:

(a) The emission point specific limitations in §§ 63.1295 through 63.1298, or

(b) For sources that use only one HAP as an ABA and equipment cleaner, the source-wide emission limitation in § 63.1299.

§ 63.1294 Standards for slabstock flexible polyurethane foam production—diisocyanate emissions.

Each new and existing slabstock affected source shall comply with the provisions of this section.

(a) *Diisocyanate storage vessels.* Diisocyanate storage vessels shall be equipped with either a system meeting the requirements in paragraph (a)(1) of this section, or a carbon adsorption system meeting the requirements of paragraph (a)(2) of this section.

(1) The storage vessel shall be equipped with a vapor return line from the storage vessel to the tank truck or rail car that is connected during unloading, and contains no leaks, where

a leak is detected by visual, audible, or any other detection method.

(2) The storage vessel shall be equipped with a carbon adsorption system, meeting the monitoring requirements of § 63.1303(a), that routes displaced vapors through activated carbon before being discharged to the atmosphere.

(b) *Transfer pumps in diisocyanate service.* Each transfer pump in diisocyanate service shall meet the requirements of paragraph (b)(1) or (b)(2) of this section.

(1) The pump shall be a sealless pump; or

(2) The pump shall be a submerged pump system meeting the requirements in paragraphs (b)(2)(i) through (iii) of this section.

(i) The pump is completely immersed in bis(2-ethylhexyl)phthalate (DEHP, CAS #118–81–7), 2(methyloctyl)phthalate (DINP, CAS #68515–48–0), or another neutral oil.

(ii) The pump shall be visually monitored weekly to detect leaks,

(iii) When a leak is detected, it shall be repaired in accordance with the procedures in paragraphs (b)(2)(iii)(A) and (b) of this section.

(A) The leak shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected.

(B) A first attempt at repair shall be made no later than 5 calendar days after the leak is detected. First attempts at repair include, but are not limited to, the following practices where practicable:

(*1*) Tightening of packing gland nuts.

(*2*) Ensuring that the seal flush is operating at design pressure and temperature.

(c) *Other components in diisocyanate service.* If evidence of a leak is found by visual, audible, or any other detection method, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in § 63.1296(f). The first attempt at repair shall be made no later than 5 calendar days after each leak is detected.

§ 63.1295 Standards for slabstock flexible polyurethane foam production—HAP ABA storage vessels.

Each owner or operator of a new or existing slabstock affected source complying with the emission point specific limitation option provided in § 63.1293(a) shall control HAP ABA storage vessels in accordance with the provisions of this section.

(a) Each HAP ABA storage vessel shall be equipped with either a vapor balance system meeting the requirements in paragraph (b) of this section, or a carbon adsorption system meeting the requirements of paragraph (c) of this section.

(b) The storage vessel shall be equipped with a vapor balance system. The owner or operator must ensure that the vapor return line from the storage vessel to the tank truck or rail car is connected during unloading, and that there are no significant leaks in the system.

(c) The storage vessel shall be equipped with a carbon adsorption system, meeting the monitoring requirements of § 63.1303(a), that routes displaced vapors through activated carbon before discharging to the atmosphere.

§ 63.1296 Standards for slabstock flexible polyurethane foam production—HAP ABA equipment leaks.

Each owner or operator of a new or existing slabstock affected source complying with the emission point specific limitation option provided in § 63.1293(a) shall control HAP ABA emissions from leaks from transfer pumps, valves, connectors, pressure-relief valves, and open-ended lines in accordance with the provisions in this section.

(a) *Pumps.* Each pump in HAP ABA service shall be controlled in accordance with either paragraph (a)(1) or (a)(2) of this section.

(1) The pump shall be a sealless pump, or

(2) Each pump shall be monitored for leaks in accordance with paragraphs (a)(2) (i) and (ii) of this section. Leaks shall be repaired in accordance with paragraph (a)(2)(iii) of this section.

(i) Each pump shall be monitored quarterly to detect leaks by the method specified in § 63.1304(a). If an instrument reading of 10,000 parts per million (ppm) or greater is measured, a leak is detected.

(ii) Each pump shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal. If there are indications of liquids dripping from the pump seal, a leak is detected.

(iii) When a leak is detected, it shall be repaired in accordance with the procedures in paragraphs (a)(2)(iii) (A) and (B) of this section, except as provided in paragraph (f) of this section.

(A) The leak shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected.

(B) A first attempt at repair shall be made no later than 5 calendar days after the leak is detected. First attempts at repair include, but are not limited to, the following practices, where applicable:

(*1*) Tightening of packing gland nuts.

(*2*) Ensuring that the seal flush is operating at design pressure and temperature.

(b) *Valves.* Each valve in HAP ABA service shall be monitored for leaks in accordance with paragraph (b)(1) of this section, except as provided in paragraphs (b) (3) and (4) of this section. Leaks shall be repaired in accordance with paragraph (b)(2) of this section.

(1) Each valve shall be monitored quarterly to detect leaks by the method specified in § 63.1304(a). If an instrument reading of 10,000 parts per million or greater is measured, a leak is detected.

(2) When a leak is detected, the owner or operator shall repair the leak in accordance with the procedures in paragraphs (b)(2) (i) and (ii) of this section, except as provided in paragraph (f) of this section.

(i) The leak shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected.

(ii) A first attempt at repair shall be made no later than 5 calendar days after the leak is detected. First attempts at repair include, but are not limited to, the following practices where practicable:

(A) Tightening of bonnet bolts;

(B) Replacement of bonnet bolts;

(C) Tightening of packing gland nuts; and

(D) Injection of lubricant into lubricated packing.

(3) Any valve that is designated as an unsafe-to-monitor valve is exempt from the requirements of paragraphs (b) (1) and (2) of this section if:

(i) The owner or operator of the valve determines that the valve is unsafe to monitor because monitoring personnel would be exposed to an immediate danger as a consequence of complying with paragraphs (b) (1) and (2) of this section; and

(ii) The owner or operator of the valve has a written plan that requires monitoring of the valve as frequently as practicable during safe-to-monitor times, but not more frequently than monthly.

(4) Any valve that is designated as a difficult-to-monitor valve is exempt from the requirements of paragraphs (b) (1) and (2) of this section if:

(i) The owner or operator of the valve determines that the valve cannot be monitored without elevating the monitoring personnel more than 2 meters above a support surface or it is not accessible at any time in a safe manner;

(ii) The process within which the valve is located is an existing source, or the owner or operator designates less

than 3 percent of the total number of valves in a new source as difficult-to-monitor; and

(iii) The owner or operator of the valve follows a written plan that requires monitoring of the valve at least once per calendar year.

(c) *Connectors.* Each connector in HAP ABA service shall be monitored for leaks in accordance with paragraph (c)(1) of this section, except as provided in paragraphs (c) (3) and (4) of this section. Leaks shall be repaired in accordance with (c)(2) of this section.

(1) Connectors shall be monitored at the times specified in paragraphs (c)(1)(i) through (iii) of this section to detect leaks by the method specified in § 63.1304(a). If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

(i) Each connector shall be monitored annually, and

(ii) Each connector that has been opened or has otherwise had the seal broken shall be monitored for leaks within the first 3 months after being returned to HAP ABA service.

(iii) If a leak is detected, the connector shall be monitored for leaks in accordance with paragraph (c)(1) of this section within the first 3 months after its repair.

(2) When a leak is detected, it shall be repaired in accordance with the procedures in paragraphs (c)(2) (i) and (ii) of this section, except as provided in paragraph (c)(4) and paragraph (f) of this section.

(i) The leak shall be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected.

(ii) A first attempt at repair shall be made no later than 5 calendar days after the leak is detected.

(3) Any connector that is designated as an unsafe-to-monitor connector is exempt from the requirements of paragraph (c)(1) of this section if:

(i) The owner or operator determines that the connector is unsafe to monitor because personnel would be exposed to an immediate danger as a result of complying with paragraph (c)(1) of this section; and

(ii) The owner or operator has a written plan that requires monitoring of the connector as frequently as practicable during safe to monitor periods, but not more frequently than annually.

(4) Any connector that is designated as an unsafe-to-repair connector is exempt from the requirements of paragraphs (c)(1) and (c)(2) of this section if:

(i) The owner or operator determines that repair personnel would be exposed to an immediate danger as a consequence of complying with paragraph (c)(2) of this section; and

(ii) The connector will be repaired as soon as practicable, but not later than 6 months after the leak was detected.

(d) *Pressure-relief devices.* Each pressure-relief device in HAP ABA service shall be monitored for leaks in accordance with paragraph (d)(1) of this section. Leaks shall be repaired in accordance with paragraph (d)(2) of this section.

(1) Each pressure-relief device in HAP ABA service shall be monitored within 5 calendar days by the method specified in § 63.1304(a) if evidence of a potential leak is found by visual, audible, olfactory, or any other detection method. If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

(2) When a leak is detected, the leak shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in paragraph (f) of this section. The owner or operator shall make a first attempt at repair no later than 5 calendar days after the leak is detected.

(e) *Open-ended valves or lines.*

(1) Each open-ended valve or line in HAP ABA service shall be equipped with a cap, blind flange, plug, or a second valve, except as provided in paragraph (e)(5) of this section.

(2) The cap, blind flange, plug, or second valve shall seal the open end at all times except during operations requiring process fluid flow through the open-ended valve or line, or during maintenance or repair.

(3) Each open-ended valve or line equipped with a second valve shall be operated in a manner such that the valve on the process fluid end is closed before the second valve is closed.

(4) When a double block and bleed system is being used, the bleed valve or line may remain open during operations that require venting the line between the block valves but shall comply with paragraph (a) of this section at all other times.

(5) Open-ended valves or lines in an emergency shutdown system which are designed to open automatically in the event of a process upset are exempt from the requirements of paragraphs (e)(1), (2), (3), and (4) of this section.

(f) *Delay of repair.*

(1) Delay of repair of equipment for which leaks have been detected is allowed for equipment that is isolated from the process and that does not remain in diisocyanate or HAP ABA service.

(2) Delay of repair for valves and connectors is also allowed if:

(i) The owner or operator determines that emissions of purged material resulting from immediate repair are greater than the fugitive emissions likely to result from delay of repair, and

(ii) The purged material is collected and destroyed or recovered in a control device when repair procedures are effected.

(3) Delay of repair for pumps is also allowed if repair requires replacing the existing seal design with a sealless pump, and repair is completed as soon as practicable, but not later than 6 months after the leak was detected.

§ 63.1297 Standards for slabstock flexible polyurethane foam production—HAP ABA emissions from the production line.

(a) Each owner or operator of a new or existing slabstock affected source complying with the emission point specific limitation option provided in § 63.1293(a)(1) shall control HAP ABA emissions from the slabstock polyurethane foam production line in accordance with the provisions in this section. Compliance shall be determined on a rolling annual basis as described in paragraph (a)(1) of this section. As an alternative, the owner or operator can determine compliance on a monthly basis, as described in paragraphs (a)(2) and (a)(3) of this section.

(1) *Rolling annual compliance.* In determining compliance on a rolling annual basis, actual HAP ABA emissions shall be compared to allowable HAP ABA emissions for each consecutive 12-month period. The allowable HAP ABA emission level shall be calculated based on the production for the 12-month period, resulting in a potentially different allowable level for each 12-month period. Compliance shall be determined each month for the previous 12-month period. The compliance requirements are provided in paragraph (b) of this section.

(2) *Monthly compliance alternative.* As an alternative to determining compliance on a rolling annual basis, an owner or operator can determine compliance by comparing actual HAP ABA emissions to allowable HAP ABA emissions for each month. The allowable HAP ABA emission level shall be calculated based on the production for the month, resulting in a potentially different allowable level each month. The requirements for this monthly compliance alternative are provided in paragraph (c) of this section.

(3) Each owner or operator complying with the monthly compliance alternative described under paragraph

(a)(2) of this section shall include notification of the intent to use this option in the precompliance report.

(4) Each owner or operator electing to change between the compliance methods described under paragraphs (a)(1) and (a)(2) of this section shall notify the Administrator no later than 180 days prior to the change.

(b) *Rolling Annual Compliance.* At each slabstock foam production source complying with the rolling annual compliance provisions described in § 63.1297(a)(1), actual HAP ABA emissions shall not exceed the allowable HAP ABA emission level for a consecutive 12-month period. The actual HAP ABA emission level for a consecutive 12-month period shall be determined using the procedures in paragraph (b)(1) of this section, and the allowable HAP ABA emission level for the corresponding 12-month period shall be calculated in accordance with paragraph (b)(2) of this section.

(1) The actual HAP ABA emissions for a 12-month period shall be calculated as the sum of actual monthly HAP ABA emissions for each of the individual 12 months in the period. Actual monthly HAP ABA emissions shall be based on the amount of HAP ABA added to the slabstock foam production line at the mixhead, determined in accordance with § 63.1303(b). Slabstock foam production sources using recovery devices to reduce HAP ABA emissions shall determine actual monthly HAP ABA emissions using the procedures in paragraph (e) of this section.

(2) The allowable HAP ABA emissions for a consecutive 12-month period shall be calculated as the sum of allowable monthly HAP ABA emissions for each of the individual 12 month shall be calculated using Equation 1.

$$emiss_{allow,month} = \sum_{j=1}^{m}\left(\sum_{i=1}^{n}\frac{(limit_i)(polyol_i)}{100}\right)_j \qquad \text{(Eq. 1)}$$

Where:

$emiss_{allow, month}$ = Allowable HAP ABA emissions from the slabstock foam production source for the month, pounds.

m = Number of slabstock foam production lines.

$polyol_i$ = Amount of polyol used in the month in the production of foam grade i on foam production line j, determined in accordance with paragraph (b)(3) of this section, pounds.

n = Number of foam grades produced in the month on foam production line j.

$limit_i$ = HAP ABA formulation limit for foam grade i, parts HAP ABA per 100 parts polyol. The HAP ABA formulation limits are determined in accordance with paragraph (d) of this section.

(3) The amount of polyol used for specific foam grades shall be based on the amount of polyol added to the slabstock foam production line at the mixhead, determined in accordance with the provisions of § 63.1303(b).

(c) *Monthly Compliance Alternative.* At each slabstock foam production source complying with the monthly compliance alternative described in paragraph (a)(2) of this section, actual HAP ABA emissions shall not exceed the corresponding allowable HAP ABA emission level for the same month. The actual monthly HAP ABA emission level shall be determined using the procedures in paragraph (c)(1) of this section, and the allowable monthly HAP ABA emission level shall be calculated in accordance with paragraph (c)(2) of this section.

(1) The actual monthly HAP ABA emission shall be based on the amount of HAP ABA added to the slabstock foam production line at the mixhead, determined in accordance with § 63.1303(b). Slabstock foam production sources using recovery devices to reduce HAP ABA emissions shall determine actual monthly HAP ABA emissions using the procedures in paragraph (e) of this section.

(2) The allowable HAP ABA emissions for the month shall be determined in accordance with Equation 1.

(d) *HAP ABA Formulation Limitations.* The HAP ABA formulation limitations shall be determined in accordance with paragraphs (d)(1) through (d)(3) of this section.

(1) For existing sources, the HAP ABA formulation limitation for each grade of slabstock foam produced shall be determined using Equation 2.

$$ABA_{limit} = -0.25(IFD) - 19.1\left(\frac{1}{IFD}\right) - 16.2(DEN) - 7.56\left(\frac{1}{DEN}\right) + 36.5 \qquad \text{(Eq. 2)}$$

Where:

ABA_{limit} = HAP ABA formulation limitation, parts HAP ABA allowed per hundred parts polyol (pph).

IFD = Indentation force deflection, pounds.

DEAN = Density, pounds per cubic foot.

(2) For new sources, the HAP ABA formulation limitation for each grade of slabstock foam produced shall be determined as described in paragraphs (d)(2)(i) through (d)(2)(iv) of this section.

(i) For each foam grade with a density of 0.95 pounds per cubic foot or less, the HAP ABA formulation limitation shall be determined using Equation 2.

(ii) For each foam grade with a density of 1.4 pounds per cubic foot or less, and an IFD of 15 pounds or less, the HAP ABA formulation limitation shall be determined using Equation 2.

(iii) For each foam grade with a density greater than 0.95 pounds per cubic foot and an IDF greater than 15 pounds, the HAP ABA formulation limitation shall be zero.

(iv) For each foam grade with a density greater than 1.40 pounds per cubic foot, the HAP ABA formulation limitation shall be zero.

(3) The IFD and density for each foam grade shall be determined in accordance with § 63.1304(b).

(e) *Compliance using recovery devices.* If a recovery device is used to comply with paragraphs (b) through (c) of this section, the owner or operator shall determine the allowable HAP ABA emissions for each month using Equation 1 in paragraph (b)(2) of this section, and the actual monthly HAP ABA emissions in accordance with paragraph (e)(1) of this section. The owner or operator shall also comply with the provisions of paragraph (e)(2) of this section.

(1) The actual monthly HAP ABA emissions shall be determined using Equation 3.

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$$E_{actual} = E_{unc} - HAPABA_{recovered} \quad \text{(Eq. 3)}$$

Where:

E_{actual} = Actual HAP ABA emissions after control, pounds/month.

E_{unc} = Uncontrolled HAP ABA emissions, pounds/month, determined in accordance with paragraph (b)(2) of this section.

$HAPABA_{recovered}$ = HAP ABA recovered, pounds/month, determined in accordance with paragraph (e)(2) of this section.

(2) The amount of HAP ABA recovered shall be determined in accordance with § 63.1303(c).

§ 63.1298 Standards for slabstock flexible polyurethane foam production—HAP emissions from equipment cleaning.

Each owner or operator of a new or existing slabstock affected source complying with the emission point specific limitation option provided in § 63.1293(a)(1) shall not use a HAP, or a HAP-containing product, as an equipment cleaner.

§ 63.1299 Standards for slabstock flexible polyurethane foam production—source-wide emission limitation.

Each owner or operator of a new or existing slabstock affected source complying with the source-wide emission limitation option provided in § 63.1293(a)(2) shall control HAP ABA storage and equipment leak emissions, HAP ABA emissions from the production line, and equipment cleaning HAP emissions in accordance with the provisions in this section. Compliance shall be determined on a rolling annual basis in accordance with paragraph (a) of this section. As an alternative, the owner or operator can determine compliance monthly, as described in paragraph (b) of this section.

(a) *Rolling annual compliance.* Under the rolling annual compliance provisions, actual source-wide HAP ABA storage and equipment leak emissions, HAP ABA emissions from the production line, and equipment cleaning HAP emissions are compared to allowable source-wide emissions for each consecutive 12-month period. The allowable source-wide HAP emission level is calculated based on the production for the 12-month period, resulting in a potentially different allowable level for each 12-month period. While compliance is on an annual basis, compliance shall be determined monthly for the preceding 12-month period. The actual source-wide HAP emission level for a consecutive 12-month period shall be determined using the procedures in paragraph (c) of this section, and the allowable HAP emission level for a consecutive 12-month period shall be determined using the procedures in paragraph (d) of this section.

(b) *Monthly compliance alternative.* As an alternative to determining compliance on a rolling annual basis, an owner or operator can determine compliance by comparing actual HAP emissions to allowable HAP emissions for each month. The allowable source-wide emission level is calculated based on the production for the month, resulting in a potentially different allowable level each month. The actual monthly emission level shall be determined using the procedures in paragraph (c) of this section, and the allowable monthly HAP ABA emission level shall be determined using the procedures in paragraph (e) of this section.

(c) *Procedures for determining actual source-wide HAP emissions.* The actual source-wide HAP ABA storage and equipment leak emissions, HAP ABA emissions from the production line, and equipment cleaning HAP emissions shall be determined using the procedures in this section. Actual source-wide HAP emissions for each consecutive 12-month period shall be calculated as the sum of actual monthly source-wide HAP emissions for each of the individual 12 months in this period. Actual source-wide HAP emissions for each individual month shall be determined using the procedures specified in paragraphs (c) (1) through (3) of this section.

(1) The actual source-wide HAP emissions for a month shall be determined using Equation 4 and the information determined in accordance with paragraphs (c) (2) and (3) of this section.

$$PWE_{actual} = \sum_{i}^{n} \left(ST_{i,begin} - ST_{i,end} + ADD_i \right) \quad \text{(Eq. 4)}$$

Where:

PWE_{actual} = Actual source-wide HAP ABA and equipment cleaning HAP emissions for a month, pounds/month.

n = Number of HAP ABA storage vessels.

$ST_{i,\ begin}$ = Amount of HAP ABA in storage vessel i at the beginning of the month, pounds, determined in accordance with the procedures listed in paragraph (c)(2) of this section.

$ST_{i,\ end}$ = Amount of HAP ABA in storage vessel i at the end of the month, pounds, determined in accordance with the procedures listed in paragraph (c)(2) of this section.

ADD_i = Amount of HAP ABA in storage vessel i at the end of the month, pounds, determined in accordance with the procedures listed in paragraph (c)(1)(3) of this section.

(2) The amount of HAP ABA in a storage vessel shall be determined by monitoring the HAP ABA level in the storage vessel in accordance with § 63.1303(d).

(3) The amount of HAP ABA added to a storage vessel for a given month shall be the sum of the amounts of all individual HAP ABA deliveries that occur during the month. The amount of each individual HAP ABA delivery shall be determined in accordance with § 63.1303(e).

(4) At each slabstock foam production source complying with the monthly compliance alternative described in paragraph (b) of this section, the actual source-wide HAP emissions for each month shall be calculated in accordance with paragraphs (c) (1) through (3) of this section.

(d) The allowable HAP emissions for a consecutive 12-month period shall be calculated as the sum of allowable monthly HAP ABA emissions for each of the individual 12 months in the period. Allowable HAP ABA emissions for each individual month shall be calculated using Equation 5.

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$$emiss_{allow,month} = \sum_{j=1}^{m}\left(\sum_{i=1}^{n}\frac{(limit_i)(polyol_i)}{100}\right)_j \quad \text{(Eq. 5)}$$

Where:

$emiss_{allow,month}$ = Allowable HAP ABA storage and equipment leak emissions HAP ABA emissions from the production line, and equipment cleaning HAP emissions from the slabstock foam production source for the month, pounds.

m = Number of slabstock foam production lines.

$polyol_i$ = Amount of polyol used in the month in the production of foam grade i on foam production line j, determined in accordance with § 63.1303(b), pounds.

n = Number of foam grades produced in the month on foam production line j.

$limit_i$ = HAP ABA formulation limit for foam grade i, parts HAP ABA per 100 parts polyol. The HAP ABA formulation limits are determined in accordance with § 63.1297(d).

§ 63.1300 Standards for molded flexible polyurethane foam production.

Each owner or operator of a new or existing molded affected source shall comply with the provisions in paragraphs (a), (b), and (c) of this section.

(a) A HAP solvent shall not be used as an equipment cleaner to flush the mixhead, nor shall it be used elsewhere at a molded flexible polyurethane foam source.

(b) A HAP-based mold release agent shall not be used in a molded flexible foam source.

(c) A HAP-based adhesive shall not be used to repair foam products in a molded flexible polyurethane foam source.

§ 63.1301 Standards for rebond foam production.

Each owner or operator of a new or existing rebond foam affected source shall comply with the provisions in paragraphs (a) and (b) of this section.

(a) A HAP solvent shall not be used as an equipment cleaner at a rebond foam source.

(b) A HAP-based mold release agent shall not be used in a rebond foam source.

§ 63.1302 Applicability of subpart A requirements.

Table 1 provides cross references to 40 CFR part 63, subpart A, indicating the applicability of the general provisions requirements to subpart III.

§ 63.1303 Monitoring requirements.

Owners and operators of affected sources shall comply with each applicable monitoring provision in this section.

(a) *Monitoring requirements for storage vessel carbon adsorption systems.* Each owner or operator using a carbon adsorption system to meet the requirements of § 63.1294(a) or § 63.1295 shall monitor the concentration level of the HAP or the organic compounds in the exhaust vent stream (or outlet stream exhaust) from the carbon adsorption system monthly and replace the existing carbon with fresh carbon immediately upon indication of carbon breakthrough.

(1) As an alternative to monthly monitoring, the owner or operator can set the monitoring frequency at an interval no greater than 20 percent of the carbon replacement interval, which is established using a design analysis described in paragraphs (a)(1)(i) through (iii) of this section.

(i) The design analysis shall consider the vent stream composition, constituent concentration, flow rate, relative humidity, and temperature.

(ii) The design analysis shall establish the outlet organic concentration level, the capacity of the carbon bed, and the working capacity of activated carbon used for the carbon bed, and

(iii) The design analysis shall establish the carbon replacement interval based on the total carbon working capacity of the carbon adsorption system and the schedule for filling the storage vessel.

(2) Measurement of HAP concentration shall be made using 40 CFR part 60, appendix A, Method 18. The measurement shall be conducted over at least one 5-minute interval during which the storage vessel is being filled.

(b) *Monitoring for HAP ABA and polyol added to the foam production line at the mixhead.*

(1) The owner or operator of each slabstock affected source shall comply with the provisions in paragraph (b)(1)(i) of this section, and the provisions of paragraph (b)(1)(ii) of this section, if applicable.

(i) All slabstock affected sources shall continuously monitor the amount of polyol added at the mixhead when foam is being poured, in accordance with paragraphs (b)(2) and (4) of this section.

(ii) For sources using the emission point specific limitation option provided in § 63.1293(a)(1), the amount of HAP ABA added at the mixhead shall be continuously monitored when foam is being poured in accordance with paragraphs (b)(2)(ii), (3), and (4) of this section.

(2) The owner or operator shall monitor either:

(i) Pump revolutions; or

(ii) Flow rate.

(3) The device used to monitor the parameter from paragraph (b)(2) shall have an accuracy to within ± 2.0 percent of the HAP ABA being measured, and shall be calibrated initially, and periodically, in accordance with paragraph (b)(3) (i) or (ii) of this section.

(i) For polyol pumps, the device shall be calibrated at least once each 6 months.

(ii) For HAP ABA pumps, the device shall be calibrated at least once each month.

(4) Measurements must be recorded at the beginning and end of the production of each grade of foam within a run of foam.

(5) As an alternative to the monitoring described in paragraphs (b) (2) through (4) of this section, the owner or operator may develop an alternative monitoring program. The components of an alternative monitoring plan shall include, at a minimum, the items listed in paragraphs (b)(5) (i) through (iv) of this section.

(i) A description of the parameter to be continuously monitored when foam is being poured to measure the amount of HAP ABA or polyol added at the mixhead.

(ii) A description of how the monitoring results will be recorded, and how the results will be converted into amount of HAP ABA or polyol delivered to the mixhead.

(iii) Data demonstrating that the monitoring device is accurate to within ± 2.0 percent.

(iv) Procedures to ensure that the accuracy of the parameter monitoring results is maintained. These procedures shall, at a minimum, consist of periodic calibration of all monitoring devices.

(c) *Recovered HAP ABA monitoring.* The owner or operator of each slabstock affected source using a recovery device to reduce HAP ABA emissions shall develop a recovered HAP ABA monitoring and recordkeeping program. The components of these plans shall include, at a minimum, the items listed in paragraphs (c) (1) through (5) of this section.

(1) A device, installed, calibrated, maintained, and operated according to the manufacturer's specifications, that

indicates the cumulative amount of HAP ABA recovered by the solvent recovery device over each 1-month period. The device shall be certified by the manufacturer to be accurate to within ± 2.0 percent.

(2) The location where the monitoring will occur. The location shall ensure that the measurements are taken after HAP ABA has been fully recovered (i.e., after separation from water introduced into the HAP ABA during regeneration).

(3) A description of the parameter to be monitored, and the times the parameter will be monitored.

(4) Data demonstrating that the monitoring device is accurate to within ± 2.0 percent.

(5) Procedures to ensure that the accuracy of the parameter monitoring results is maintained. These procedures shall, at a minimum, consist of periodic calibration of all monitoring devices.

(d) *Monitoring of HAP ABA in a Storage Vessel.* The amount of HAP ABA in a storage vessel shall be determined weekly by monitoring the HAP ABA level in the storage vessel using a device that meets the criteria described in paragraphs (d)(1) through (d)(3) of this section.

(1) A device certified by the manufacturer to be no less than 99 percent accurate,

(2) The device must have either a digital or printed output,

(3) The device must be calibrated initially and at least once per year thereafter.

(e) *Monitoring of HAP ABA added to a Storage Vessel.* The amount of HAP ABA added to a storage vessel during a delivery shall be determined in accordance with either paragraphs (e)(1), (2), or (3) of this section.

(1) The volume of HAP ABA added to the storage vessel shall be determined by monitoring the flow rate using a device with an accuracy of ± 2.0 percent, and calibrated initially and at least once each six months thereafter.

(2) The weight of HAP ABA added to the storage vessel shall be calculated as the difference of the full weight of the transfer vehicle prior to unloading into the storage vessel and the empty weight of the transfer vehicle after unloading into the storage vessel. The weight shall be determined using a scale meeting the requirements of either paragraph (e)(2)(i) or (ii) of this section.

(i) A scale approved by the State or local agencies using the procedures contained in the National Institute of Standards and Technology Handbook 44.

(ii) A scale determined to be in compliance with the requirements of the National Institute of Standards and Technology Handbook 44 at least once per year by a registered scale technician.

(3) As an alternative to the monitoring options described in paragraphs (e)(1) and (e)(2) of this section, the owner or operator may develop an alternative monitoring program shall include, at a minimum, the items listed in paragraphs (e)(3) (i) through (iv) of this section.

(i) A description of the parameter to be monitored to determine the amount of HAP ABA added to the storage vessel during a delivery,

(ii) A description of how the results will be recorded, and how the results will be converted into the amount of HAP ABA added to the storage vessel during a delivery,

(iii) Data demonstrating that the monitoring device is accurate to within ± 2.0 percent, and

(iv) Procedures to ensure that the accuracy of the monitoring measurements is maintained. These procedures shall, at a minimum, consist of periodic calibration of all monitoring devices.

§ 63.1304 Testing Requirements.

Owners and operators of affected sources shall use the test methods listed in this section, as applicable, to demonstrate compliance with this subpart.

(a) *Test Method and Procedures to Determine Equipment Leaks.* Monitoring, as required under §§ 63.1294(c) and 63.1296, shall comply with the following requirements:

(1) Monitoring shall comply with Method 21 of 40 CFR part 60, appendix A.

(2) The detection instrument shall meet the performance criteria of Method 21 of 40 CFR part 60, appendix A, except that the instrument response factor criteria in section 3.1.2(a) of Method 21 shall be for the average composition of the source fluid, rather than for each individual VOC in the stream. For source streams that contain nitrogen, air, or other inerts which are not HAP or VOC, the average stream response factor shall be calculated on an inert-free basis. The response factor may be determined at any concentration for which monitoring for leaks will be conducted.

(3) The instrument shall be calibrated before use on each days of its use by the procedures specified in Method 21 of 40 CFR part 60, appendix A.

(4) Calibration gases shall be:

(i) Zero air (less than 10 ppm of hydrocarbon in air); and

(ii) A mixture of methane and air at a concentration of approximately, 1,000 ppm for all transfer pumps; and 500 ppm for all other equipment, except as provided in paragraph (f)(4)(iii) of this section.

(iii) The instrument may be calibrated at a higher methane concentration (up to 2,000 ppm) than the leak definition concentration for a specific piece of equipment for monitoring that piece of equipment. If the monitoring instrument's design allows for multiple calibration gas concentrations, then the lower concentration calibration gas shall be no higher than 2,000 ppm methane and the higher concentration calibration gas shall be no higher than 10,000 ppm methane.

(5) Monitoring shall be performed when the equipment is in HAP ABA service, in use with an acceptable surrogate volatile organic compound which is not a HAP ABA, or is in use with any other detectable gas or vapor.

(6) If no instrument is available onsite that will meet the performance criteria specified in section 3.1.2(a) of Method 21 of 40 CFR Part 60, appendix A, the readings from an available instrument may be adjusted by multiplying by the average response factor for the stream.

(b) *Test Method to Determine Foam Properties.* The IFD and density shall be determined using ASTM D3574, using a sample of foam cut from the center of the foam bun. The maximum sample size for which the IFD and density is determined shall not be larger than 24 inches by 24 inches by 4 inches.

§ 63.1305 Alternative Means of Emission Limitation.

An owner or operator of an affected source may request approval to use an alternative means of emission limitation, following procedures in this section.

(a) The owner or operator can request approval to use an alternative means of emission, limitation in the precompliance report for existing sources, the application for construction or reconstruction for new sources, or at any time.

(b) This request shall include a complete description of the alternative means of emission limitation.

(c) Each owner or operator applying for permission to use an alternative means of emission limitation under § 63.6(g) shall be responsible for collecting and verifying data to demonstrate the emission reduction achieved by the alternative means of emission limitation.

(d) Use of the alternative means of emission limitation shall not begin until approval is granted by the Administrator in accordance with § 63.6(g).

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§ 63.1306 Reporting requirements.

Owners and operators of affected sources shall comply with each applicable reporting provision in this section.

(a) *Initial Notification.* Each affected source shall submit an initial notification in accordance with § 63.9(b).

(b) *Application for Approval of Construction or Reconstruction.* Each owner or operator shall submit an application for approval of construction or reconstruction in accordance with the provisions of § 63.5(d).

(c) *Precompliance Report.* Each slabstock affected source shall submit a precompliance report no later than (12 months before the compliance date). This report shall contain the information listed in paragraphs (c)(1) through (6) of this section, as applicable. Processes requesting a federally enforceable emission limitation in accordance with § 63.1290(b)(1) shall submit a precompliance report in accordance with paragraph (c)(9) of this section.

(1) Whether the source will comply with the emission point specific limitations described in § 63.1293(a), or with the source-wide emission limitation described in § 63.1293(b).

(2) For a source complying with the emission point specific limitations, whether the source will comply on a rolling annual basis in accordance with § 63.1297(b), or will comply with the monthly alternative for compliance contained in § 63.1297(c).

(3) For a source complying with the source-wide emission limitation, whether the source will comply on a rolling annual basis in accordance with § 63.1299(a), or will comply with the monthly alternative for compliance contained in § 63.1299(b).

(4) A description of how HAP ABA and/or polyol added at the mixhead will be monitored, and whether or not the owner or operator is developing an alternative monitoring program, as described in § 63.1303(b)(5).

(5) Notification of the intent to use a recovery device to comply with the provisions of § 63.1297 or § 63.1299.

(6) For slabstock affected sources complying with § 63.1297 or § 63.1299 using of a recovery device, the continuous recovered HAP ABA monitoring and recordkeeping program, developed in accordance with § 63.1303(c).

(7) For sources complying with the source-wide emission limitation, a description of how the amount of HAP ABA in a storage vessel shall be determined.

(8) For sources complying with the source-wide emission limitation, a description of how the amount of HAP ABA added to a storage vessel during a delivery will be monitored, and whether or not the owner or operator is developing an alternative monitoring program, as described in § 63.1303(e)(3).

(9) Processes requesting a federally enforceable emission limitation in accordance with § 63.1290(b)(1) shall submit a precompliance report. This report shall notify the Agency of the intention to limit emissions to less than 10 tons per year of any single HAP, and less than 25 tons per year of all HAP from the plant site. Notification of this status relieves the owner or operator from the provisions of this subpart, other than the requirements to annually report HAP emissions in accordance with (f)(3) of this section, and to maintain records documenting the reported emission estimates.

(d) *Notification of Compliance Status.* Each affected source shall submit a notification of compliance status report no later than (180 days after the compliance date). For slabstock affected sources, this report shall contain the information listed in paragraphs (d)(1) through (3) of this section, as applicable. This report shall contain information listed in paragraph (d)(4) of this section for molded foam processes and in paragraph (d)(5) for rebond foam processes.

(1) A list of diisocyanate storage vessels, along with a record of the type of control utilized for each storage vessel.

(2) For transfer pumps in diisocyanate service, a record of the type of control utilized for each transfer pump.

(3) If the source is complying with the emission point specific limitations of § § 63.1294 through 63.1298, the information listed in paragraphs (b)(3)(i) through (iii) of this section.

(i) A list of HAP ABA storage vessels, along with a record of the type of control utilized for each storage vessel.

(ii) A list of pumps, valves, connectors, pressure-relief devices, and open-ended valves or lines in HAP ABA service.

(iii) A list of any modifications to equipment in HAP ABA service made to comply with the provisions of § 63.1296.

(4) A statement that the molded foam affected source is in compliance with § 63.1300, or a statement that molded foam processes at an affected source are in compliance with § 63.1300.

(5) A statement that the rebond foam affected source is in compliance with § 63.1301, or that rebond processes at an affected source are in compliance with § 63.1301.

(e) *Semi-Annual Compliance Reports.* Each slabstock affected source shall submit a compliance report containing the information specified in paragraphs (e)(1) through (3) of this section semiannually no later than 60 days after the end of each 180 day period. The first report shall be submitted no later than 240 days after the date that the Notification of Compliance Status is due and shall cover the 6-month period beginning on the date that the Notification of Compliance Status Report is due.

(1) For slabstock affected sources complying with the rolling annual compliance provisions of either § 63.1297 or § 63.1299, the allowable and actual HAP ABA emissions (or allowable and actual source-wide HAP emissions) for each of the 12-month periods ending on each of the six months in the reporting period. This information is not required to be included in the initial semi-annual compliance report.

(2) For sources complying with the monthly compliance alternative of either § 63.1297 or § 63.1299, the allowable and actual HAP ABA emissions (or allowable and actual source-wide HAP emissions) for each of the six months in the reporting period.

(3) For sources complying with the storage vessel provisions of § 63.1294(a) or § 63.1295 using a carbon adsorption system, instances where the carbon in the system is replaced, along with the date of the replacement.

(4) Any equipment leaks that were not repaired in accordance with § 63.1294(b) or § 63.1296.

(f) *Other Reports.*

(1) *Change in selected emission limitation.* An owner or operator electing to change their slabstock flexible polyurethane foam emission limitation (from emission point specific limitations to a source-wide emission limitation, or vice versa), selected in accordance with § 63.1293, shall notify the Administrator no later than 180 days prior to the change.

(2) *Change in selected compliance method.* An owner or operator changing the period of compliance for either § 63.1297 or § 63.1299 (between rolling annual and monthly) shall notify the Administrator no later than 180 days prior to the change.

(3) *Annual emission reports for area sources.* Processes exempted from this subpart through a federally enforceable emission limitation in accordance with § 63.1290(b)(1), and that have notified the Administrator of this self-imposed limitation through § 63.1306(c)(9), shall

submit an annual emission report. This report shall be submitted once per year and shall report the total HAP emissions for the plant site for the previous 12-month period.

§ 63.1307 Recordkeeping requirements.

The applicable records designated in paragraphs (a) through (c) of this section shall be maintained by owners and operators of processes exempted from this subpart through a federally enforceable emission limitation in accordance with § 63.1290(b)(1) shall maintain records in accordance with paragraph (d) of this section.

(a) *Storage Vessel Records.*

(1) A list of diisocyanate storage vessels, along with a record of the type of control utilized for each storage vessel.

(2) For each slabstock affected source complying with the emission point specific limitations of §§ 63.1294 through 63.1298, a list of HAP ABA storage vessels, along with a record of the type of control utilized for each storage vessel.

(3) For storage vessels complying through the use of a carbon adsorption system, paragraph (a)(3) (i) or (ii), and paragraph (a)(3)(iii) of this section.

(i) Records of dates and times when the carbon absorption system is monitored for carbon breakthrough and the monitoring device reading, when the device is monitored monthly in accordance with § 63.1303(a); or

(ii) For affected sources monitoring at an interval no greater than 20 percent of the carbon replacement interval, in accordance with § 63.1303(a)(1), the records listed in paragraphs (a)(3)(ii) (A) and (B) of this section.

(A) Records of the design analysis, including all the information listed in § 63.1303(a)(1) (i) through (iii), and

(B) Records of dates times when the carbon adsorption system is monitored for carbon breakthrough and the monitoring device reading.

(iii) Date when the existing carbon in the carbon adsorption system is replaced with fresh carbon.

(b) *Equipment Leak Records.*

(1) A list of components as specified in paragraphs (b)(1) (i) and (ii) of this section.

(i) For all affected sources, a list of components in diisocyanate service,

(ii) For affected sources complying with the emission point specific limitations of §§ 63.1294 through 63.1298, a list of components in HAP ABA service.

(2) For transfer pumps in diisocyanate service, a record of the type of control utilized for each transfer pump and the date of installation.

(3) When a leak is detected as specified in § 63.1294(b)(2)(ii), § 63.1294(c), § 63.1296(a)(2), (b)(1), (c)(1), and (d)(1), the requirements listed in paragraphs (b)(3) (i) and (ii) of this section apply:

(i) Leaking equipment shall be identified in accordance with the requirements in paragraphs (b)(3)(i) (A) and through (C) of this section.

(A) A readily visible identification, marked with the equipment identification number, shall be attached to the leaking equipment.

(B) The identification on a valve may be removed after it has been monitored for 2-successive months as specified in § 63.1296(b)(1) and no leak has been detected during those 2 months.

(C) The identification on equipment, other than a valve, may be removed after it has been repaired.

(ii) The information in paragraphs (b)(2)(ii) (A) through (G) shall be recorded for leaking components.

(A) The instrument and operator identification numbers and the equipment identification number.

(B) The date the leak was detected and the dates of each attempt to repair the leak.

(C) Repair methods applied in each attempt to repair the leak.

(D) The words "above leak definition" if the maximum instrument reading measured by the methods specified in § 63.1296(f) after each repair attempt is equal or greater than the leak definitions for the specified equipment.

(E) The words "repair delayed" and the reason for the delay if a leak is not repaired within 15 calendar days after discovery of the leak.

(F) The expected date of the successful repair of the leak if a leak is not repaired within 15 days.

(G) The date of successful repair of the leak.

(H) The date the identification is removed.

(c) *HAP ABA Records.*

(1) *Emission Point Specific Limitations—Rolling Annual Compliance and Monthly Compliance Alternative Records.* Each slabstock affected source complying with the emission point specific limitations of §§ 63.1294 through 63.1298, and the rolling annual compliance provisions of § 63.1297(a)(1), shall maintain the records listed in paragraphs (c)(1) (i), (ii), (iii), and (iv) of this section. Each flexible polyurethane foam slabstock source complying with the emission point specific limitations of §§ 63.1294 through 63.1298, and the monthly compliance alternative of § 63.1297(a)(2), shall maintain the records listed in paragraphs (c)(1) (i), (ii), and (iv) of this section.

(i) Daily records of the information listed below in paragraphs (c)(1)(i) (A) through (C) of this section.

(A) A log of foam runs each day, identified by the amount of each grade produced during the run.

(B) Results of the density and IFD testing for each run of foam, conducted in accordance with the procedures in § 63.1304(b).

(C) The amount of polyol added to the slabstock foam production line at the mixhead for each run of foam, determined in accordance with § 63.1303(b).

(ii) Monthly records of the information listed in paragraphs (c)(1)(ii) (A) through (E) of this section.

(A) A listing of all foam grades produced during the month,

(B) For each foam grade produced, the residual HAP formulation limitation, calculated in accordance with § 63.1297(d).

(C) For each foam grade produced, the total amount of polyol used in the month.

(D) The total allowable HAP ABA emissions for the month, determined in accordance with § 63.1297(b)(2).

(E) The total amount of HAP ABA added to the slabstock foam production line at the mixhead during the month, determined in accordance with § 63.1303(b).

(iii) Each source complying with the rolling annual compliance provisions of § 63.1297(b) shall maintain the records listed in paragraphs (c)(1)(iii) (A) and (B) of this section.

(A) The sum of the total allowable HAP ABA emissions for the month and the previous 11 months.

(B) The sum of the total actual HAP ABA emissions for the month and the previous 11 months.

(iv) Records of all calibrations for each device used to measure polyol and HAP ABA added at the mixhead, conducted in accordance with § 63.1303(b)(3).

(2) *Source-Wide Limitations—Rolling Annual Compliance and Monthly Compliance Alternative Records.* Each slabstock affected source complying with the source-wide limitations of § 63.1299, and the rolling annual compliance provisions in § 63.1299(a), shall maintain the records listed in paragraphs (c)(2)(i) through (c)(2)(vii) of this section. Each flexible polyurethane foam slabstock source complying with the source-wide limitations of § 63.1299, and the monthly compliance alternative of § 63.1299(b), shall maintain the records listed in paragraphs (c)(2)(i) through (c)(2)(iii) and paragraphs

(c)(2)(v) through (c)(2)(vii) of this section.

(i) Daily records of the information listed in paragraphs (c)(2)(i) (A) through (C) of this section.

(A) A log of foam runs each day, identified by the grade.

(B) Results of the density and IFD testing for each run of foam, conducted in accordance with the procedures in § 63.1304(b).

(C) The amount of polyol added to the slabstock foam production line at the mixhead for each run of foam, determined in accordance with § 63.1303(b).

(ii) For sources complying with the source-wide emission limitation, weekly records of the storage tank level, determined in accordance with § 63.1303(d).

(iii) Monthly records of the information listed in paragraphs (c)(2)(iii) (A) through (E) of this section.

(A) A listing of all foam grades produced during the month,

(B) For each foam grade produced, the residual HAP formulation limitation, calculated in accordance with § 63.1297(d).

(C) For each foam grade produced, the total amount of polyol used in the month.

(D) The total allowable HAP ABA and equipment cleaning emissions for the month, determined in accordance with § 63.1297(b)(2).

(E) The total actual source-wide HAP ABA emissions for the month, determination in accordance with § 63.1299(c)(1), along with the information listed in paragraphs (c)(2)(iii)(E) (*1*) and (*2*) of this section.

(*1*) The amounts of HAP ABA in the storage vessel at the beginning and end of the month, determined in accordance with § 63.1299(c)(2); and

(*2*) The amount of each delivery of HAP ABA to the storage vessel, determined in accordance with § 63.1299(c)(3).

(iv) Each source complying with the rolling annual compliance provisions of § 63.1299(a) shall maintain the records listed in paragraphs (c)(2)(iv) (A) and (B) of this section.

(A) The sum of the total allowable HAP ABA and equipment cleaning HAP emissions for the month and the previous 11 months.

(B) The sum of the total actual HAP ABA and equipment cleaning HAP emissions for the month and the previous 11 months.

(v) Records of all calibrations for each device used to measure polyol added at the mixhead, conducted in accordance with § 63.1303(b)(3).

TABLE 1 TO SUBPART III.—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART III

Subpart A reference	Applies to subpart III	Comment
§ 63.1	Yes	Except that § 63.1(c)(2) is not applicable since area sources are not subject to subpart III.
§ 63.2	Yes.	
§ 63.3	Yes.	
§ 63.4	Yes.	
§ 63.5	Yes.	
§ 63.6	Yes	Except that § 63.6(h) is not applicable since subpart III does not require opacity and visible emission standards.
§ 63.7	No	Performance tests not required by subpart III.
§ 63.8	No	Continuous monitoring, as defined in subpart A, is not required by subpart III.
§ 63.9(a)–(d)	Yes.	
§ 63.9(e)–(g)	No.	
§ 63.9(h)	No	Subpart III specifies Notification of Compliance Status requirements.
§ 63.9(i)–(j)	Yes.	
§ 63.10(a)–(b)	Yes	Except that the records specified in § 63.10(b)(2)(vi) through (xiv) are not required.
§ 63.10(c)	No.	
§ 63.10(d)(1)	Yes.	
§ 63.10(d)(2)–(3).	No.	
§ 63.10(d)(4)–(5).	Yes.	
§ 63.10(e)	No.	
§ 63.10(f)	Yes.	
§ 63.11	Yes.	
§ 63.12	Yes.	
§ 63.13	Yes.	
§ 63.14	Yes.	
§ 63.15	Yes.	

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Part V

Environmental Protection Agecny

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants Phosphoric Acid Manufacturing and Phosphate Fertilizers Production; Proposed Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[IL–64–2–5807; FRL–5656–4]

RIN 2060–AE40 and 2060–AE44

National Emission Standard for Hazardous Air Pollutants Phosphoric Acid Manufacturing and Phosphate Fertilizers Production

AGENCY: Environmental Protection Agency (Agency).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: This action proposes national emission standards for hazardous air pollutants (NESHAP) for new and existing major sources in phosphoric acid manufacturing and phosphate fertilizers production plants. Hazardous air pollutants (HAPs) emitted by the facilities covered by this proposed rule include hydrogen fluoride (HF); arsenic, beryllium, cadmium, chromium, manganese, mercury, and nickel (HAP metals); and methyl isobutyl ketone (MIBK) emissions. Human exposure to the HAP constituents in these emissions may be associated with adverse carcinogenic, respiratory, nervous system, dermal, developmental, and/or reproductive health effects. Implementation of the proposed requirements would achieve an emission reduction of HF estimated at 315 megagrams per year (Mg/yr) (345 tons per year (tpy)). The standards would reduce 940 Mg/yr (1035 tpy)of total fluorides and particulate matter containing heavy metals which are regulated pollutants under the Clean Air Act as amended (the Act).

The standards are proposed under the authority of section 112(d) of the Act and are based on the Administrator's determination that phosphoric acid manufacturing and phosphate fertilizers production plants may reasonably be anticipated to emit several of the 189 HAPs listed in section 112(b) of the Act from the various process operations found within the industry. The proposed NESHAP would provide protection to the public by requiring all phosphoric acid manufacturing and phosphate fertilizers plants that are major sources to meet emission standards reflecting the application of the maximum achievable control technology (MACT).

DATES: *Comments.* Comments on the proposed standards must be received on or before February 25, 1997 at the address noted below.

Public hearing. If anyone contacts the Agency requesting to speak at a public hearing, the hearing will be held on February 10, 1997 beginning at 9 a.m. Persons wishing to present oral testimony must contact the Agency by January 21, 1997.

ADDRESSES: *Comments.* Interested parties may submit written comments (in duplicate if possible) to Public Docket No. A–94–02 at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (formerly known as the Air Docket) (6102), 401 M Street, S.W., Washington, DC 20460. The Agency requests that a separate copy also be sent to the contact person listed below. The docket is located at the above address in Room M–1500, Waterside Mall (ground floor), and may be inspected from 8 a.m. to 4 p.m., Monday through Friday. The docket is an organized and complete file of all the information submitted to or otherwise considered by Agency in the development of this proposed rulemaking. For additional information on the Docket and electronic availability see Supplementary Information.

Public Hearing. If anyone contacts the Agency requesting to speak at a public hearing, the hearing will be held at the Agency's Office of Administration Auditorium, Research Triangle Park, North Carolina. If a public hearing is requested and held, EPA will ask clarifying questions during the oral presentation but will not respond to the presentations or comments. Written statements and supporting information will be considered with equivalent weight as any oral statement and supporting information subsequently presented at a public hearing, if held. Persons wishing to present oral testimony or to inquire as to whether or not a hearing is to be held should notify Ms. Cathy Coats, Minerals and Inorganic Chemicals Group (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5422.

FOR FURTHER INFORMATION CONTACT: For information concerning specific aspects of this proposal, contact Mr. David Painter [telephone number (919) 541–5515], Minerals and Inorganic Chemicals Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

Regulated Entities. Today's proposed rulemaking would apply to process components at new and existing phosphoric acid manufacturing and phosphate fertilizers production plants. Examples of those process components are listed in the following table:

Source category	Examples
Phosphoric acid manufacturing.	Wet Process Phosphoric Acid Plant, Superphosphoric Acid Plant, Phosphate Rock Dryer, Phosphate Rock Calciner, Purified Phosphoric Acid Plant.
Phosphate fertilizers production.	Diammonium and/or Monoammonium Phosphate Plant, Granular Triple Superphosphate Plant, Granular Triple Superphosphate Storage Building.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by the proposed regulations. This table lists the types of entities that the Agency is now aware could be potentially regulated. To determine whether your facility could be regulated by the proposed regulations, you should carefully examine the applicability criteria in the proposed rules. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

The principal purposes of the docket are: (1) to allow interested parties to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review. The docket index, technical support information, the economic profile of the industry (item II-A–27) and other materials related to this rulemaking are available for review in the docket center or copies may be mailed on request from the Air and Radiation Docket and Information Center by calling (202) 260–7548 or 7549. The FAX number for the Center is (202) 260–4000. A reasonable fee may be charged for copying docket materials.

In addition to being available in the docket, an electronic copy of today's document which includes the proposed regulatory text is available on the Technology Transfer Network (TTN), one of Agency's electronic bulletin boards. The TTN provides information and technology exchange in various areas of air pollution control. The service is free, except for the cost of a phone call. Dial (919) 541–5742 for up

to a 14,400 bps modem. If more information on the TTN is needed, call the TTN HELP line at (919) 541–5384.

The information in this preamble is organized as shown below.

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I. Statutory Authority

The statutory authority for this proposal is provided by sections 101, 112, 114, 116, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7412, 7414, 7416, and 7601).

II. Introduction

A. Background

The EPA estimates that up to 550 Mg/yr (605 tpy) of HF, the predominate HAP, and other HAPs are emitted from sources at phosphoric acid manufacturing and phosphate fertilizers production plants at the current level of control. Implementing MACT-level controls is expected to reduce these HAP emissions from regulated sources by about 315 Mg/yr (345 tpy) nationwide. Plants affected by the standards could achieve these reductions by upgrading or installing wet scrubbing systems.

The overall effect would be to raise the control performance of plants in the industry to the level achieved by the best performing plants. In addition to the health and environmental benefits associated with HAP emission reductions, benefits of this action include a decrease in site-specific levels of nonHAP pollutants and lowered occupational exposure levels for employees.

The nationwide capital and annualized costs of the proposed NESHAP, including emission controls and associated monitoring equipment, are estimated at $1.4 million and $862,000/yr, respectively. The economic impacts are predicted to increase prices in all products less than three fourths of a percent. At least one company in the industry is a small entity which would be subject to the proposed standards. The economic impact of the proposed NESHAP on this company is estimated to be low and would not be significant. No production line or plant closures are expected.

The Agency has proposed controls at the MACT-floor level and tailored the requirements to allow less-costly testing and monitoring by using surrogates for HAP emissions.

A detailed description of industry processes and emissions data used to support the standards is presented in the draft "Technical Support Document for Phosphoric Acid Manufacturing and Phosphate Fertilizers Production NESHAP" which, along with additional supporting information is included in a memorandum in air docket A–94–02, as item II–B–20. This memorandum is referred to as the TSD in the following discussions.

B. NESHAP for Source Categories

Section 112 of the Act requires that EPA promulgate regulations for the control of HAP emissions from both new and existing major sources. The statute requires the regulations to reflect the maximum degree of reduction in emissions of HAPs that is achievable taking into consideration the cost of achieving the emission reduction, any nonair quality health and environmental reduction, and energy requirements. This level of control is commonly referred to as the maximum achievable control technology (MACT).

The control of HAPs is achieved through the promulgation of technology-based emission standards under sections 112(d) and 112(f) and work practice standards under 112(h) for categories of sources that emit HAPs. Emission reductions may be accomplished through the application of measures, processes, methods, systems, or techniques including, but not limited to: (1) Reducing the volume of, or eliminating emissions of, such pollutants through process changes, substitution of materials, or other modifications; (2) enclosing systems or processes to eliminate emissions; (3) collecting, capturing, or treating such pollutants when released from a process, stack, storage or fugitive emissions point; (4) design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in subsection (h); or (5) a combination of the above. [See section 112(d)(2).] The EPA may promulgate more stringent regulations at a later date to address residual risk that remains after the imposition of controls. [See section 112(f)(2).]

C. Health Effects of Pollutants

The Act was created, in part, "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population" (CAA, section 101(b)(1)). Title III of the Act establishes a control technology-based program to reduce stationary source emissions of HAPs. The goal of section 112(d) is to apply such control technology to reduce emissions and thereby reduce the hazard of HAPs emitted from stationary sources.

This proposed rule is technology-based (i.e., based on MACT). The Act's strategy avoids dependence on a risk-based approach which would be limited by incomplete information on what HAPs are emitted, what level of emissions is occurring, what health and safety benchmarks are available to assess risk, what health effects may be caused by certain pollutants, and how best to model these effects, among other things. Because of these issues, a detailed quantitative risk assessment of potential effects from HAPs emitted from phosphoric acid manufacturing and phosphate fertilizer production plants is not included in this rulemaking.

The EPA does recognize that the degree of adverse effects to health can range from mild to severe. The extent and degree to which the health effects may be experienced is dependent upon (1) the ambient concentrations observed

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in the area, (2) duration of exposures, and (3) characteristics of exposed individuals (e.g., genetics, age, pre-existing health conditions, and lifestyle) which vary significantly with the population. Some of these factors are also influenced by source-specific characteristics (e.g., emission rates and local meteorological conditions) as well as pollutant-specific characteristics.

Available emission data, collected during development of this proposed NESHAP, show that HF, a number of HAP metals, and MIBK are the most significant HAPs emitted from phosphoric acid manufacturing and phosphate fertilizer production plants. These pollutants have the potential to be reduced by implementation of the proposed emission limits. Following is a summary of the potential health effects associated with exposures, at some level, to emitted pollutants that would be reduced by the standard.

Short-term inhalation exposure to gaseous HF and related fluoride compounds can cause severe respiratory damage in humans, including severe irritation and pulmonary edema. Long-term inhalation exposures to low levels of HF by humans has been reported to result in irritation and congestion of the nose, throat, and bronchi while damage to liver, kidney, and lungs has been observed in animals. Long-term inhalation exposure, at levels of HF well above the ambient concentrations being observed at phosphate fertilizers complexes can result in skeletal fluorosis (i.e., an accumulation of fluoride in the bones). There is generally a lack of information on human health effects associated with exposures to hydrogen fluoride at current ambient air concentrations near phosphate fertilizers complexes. Occupational studies have not specifically implicated inhaled fluoride as a cause of cancer and the Agency has not classified HF with respect to potential carcinogenicity.

Almost all metals appearing on the section 112(b) list of HAPs are emitted from phosphoric acid manufacturing and phosphate fertilizers production facilities. The most important of the nonvolatile metals that would be reduced by the standard are arsenic, beryllium, cadmium, chromium, nickel, and manganese compounds. The major target of toxicity for these metals via inhalation tends to be the respiratory tract, with the exception of manganese, for which the central nervous system is the primary target. These metals can cause a range of effects including mucous membrane irritation (e.g., bronchitis, decreased lung function), gastrointestinal effects, nervous system disorders (from loss of function to tremor and numbness), skin irritation, and reproductive and developmental disorders. Additionally, several of the metals accumulate in the environment and in the human body. Cadmium, for example, is a cumulative pollutant, which can cause kidney effects after the cessation of exposure. Similarly, the onset of effects from beryllium exposure may be delayed months to years. Metals and metal compounds that would be reduced by this proposed rule are also known (arsenic and chromium) and probable (beryllium and cadmium)human carcinogens.

Mercury, a volatile metal, would also be reduced by the proposed standard. All forms of mercury may be characterized as quite toxic, with different health effects associated with different forms of the pollutant. Methyl mercury is the most toxic form of mercury to which humans and wildlife are generally exposed. Exposure to methyl mercury occurs primarily through ingestion of fish. Methyl mercury primarily effects the nervous systems in humans. The range of neurotoxic effects can vary from subtle decrements in motor skills and sensory ability to tremors, inability to walk, convulsions, and death. Exposure to inorganic mercury is associated with renal impairment. Some forms of mercury have also been classified as possible human carcinogens. Exposure to mercury compounds can also cause effects in plants, birds, and non-human mammals. Reproductive effects are the primary concern for avian mercury poisoning.

The organic compound that would be reduced by this standard is MIBK. Some of the human health effects associated with short-term exposure, at some level, to this pollutant include irritation to the eyes and mucous membranes, weakness, headache, nausea, lightheadedness, dizziness, incoordination, and narcosis. Long-term occupational exposure has been observed to cause nausea, headache, burning in the eyes, weakness, insomnia, intestinal pain, and slight enlargement of the liver in humans. No information is available on the carcinogenic effects of MIBK in humans.

D. Phosphoric Acid Manufacturing and Phosphate Fertilizers Production Industry Profile

This section includes general overviews of the two source categories for which NESHAP are being proposed. Phosphoric acid is manufactured by way of two process approaches. One approach is the thermal process whereby purified elemental phosphorous is combusted and hydrated to directly form phosphoric acid. There are currently ten facilities operating in the United States. For the period from 1971–1991, nationwide production of phosphoric acid via the thermal process declined by forty-seven percent and this trend is expected to continue. No new thermal process plants are expected to be constructed. The decline in usage of this process may be attributed to price competition by competitive products, energy costs associated with production of feedstock phosphorous and safety concerns with regard to shipping phosphorous.

The second means of manufacturing phosphoric acid is through wet processes. There are 47 wet acid plants at 21 locations. The basic step for producing phosphoric acid is the acidulation of phosphate rock. Typically, sulfuric acid, phosphate rock and water are reacted with one another to produce phosphoric acid and gypsum. When phosphate rock is acidulated to manufacture wet process phosphoric acid (WPPA), fluorine contained in the rock is released. Fluoride compounds, including HF, are evolved as particulates and gases which are emitted to the atmosphere unless removed from the exhaust stream. Some of these same fluoride compounds also remain in the product acid and are available for release as air pollutants during subsequent processing of the acid. Gypsum is pumped as a slurry to ponds atop stacks of waste gypsum where the liquids separate from the slurry and are decanted for return to the process with process cooling water. The gypsum is discarded as a major solid waste stream. There are 13 acid plants at eight locations which concentrate WPPA to make superphosphoric acid (SPA). Most producers use the vacuum evaporation process. One manufacturer uses the submerged combustion process to achieve the same effect.

The bulk of WPPA is used to produce fertilizers and animal feeds. In addition, two companies now use solvent extraction processes to further refine WPPA into purified phosphoric acid (PPA) for use in food manufacturing or specialized chemical processes. Purified phosphoric acid produced through wet processes now competes directly with acid produced by the thermal process.

There are two major processes employed for the production of phosphate fertilizers. One produces ammoniated phosphate fertilizers in the form of either diammonium phosphate (DAP) or monoammonium phosphate (MAP). Approximately 85 percent of all ammonium phosphates are produced as DAP. Diammonium phosphate and MAP

plants are generally collocated with wet-process phosphoric acid plants. Forty individual production units for DAP or MAP are located at 22 facilities. Plants that produce DAP and MAP are generally co-located with wet-process phosphoric acid plants. Most facilities can produce either product in the same process train.

Diammonium phosphate and MAP are manufactured from phosphoric acid and ammonia. The process consists of three basic steps: reaction, granulation, and finishing operations such as drying, cooling, and screening. Side reactions resulting from the production of ammonium phosphates produce ammonium fluoride, ammonium sulfate, and ammonium fluorosilicate. In addition, some of the fluorine is liberated as SiF_4 and HF. Sources of fluoride emissions from DAP/MAP plants include the reactor, granulator, dryer, cooler, screens, and mills.

The second major process employed in the phosphate fertilizers industry produces granular triple superphosphate (GTSP). Ten production units at seven facilities produce GTSP in the U.S. The primary raw materials used to produce GTSP are WPPA and ground phosphate rock. Plants that produce GTSP are generally collocated with wet-process phosphoric acid plants. Granular triple superphosphate is an impure monocalcium phosphate made by reacting phosphoric acid with ground phosphate rock. After manufacture, the product is sent to a storage building by a conveyor belt which discharges the material into bins or piles for curing. The GTSP is typically held five to ten days to stabilize the composition, after which it is considered cured and ready for shipping. Sources of emissions from GTSP plants include the reactor, the granulator, the dryer, the cooler, the screening and crushing equipment, and the storage building. Fluorides are emitted in both gaseous and particulate form. The reactor and granulator account for about 38 percent of the fluoride emissions; the dryer and screens account for 50 percent, and the storage facilities account for the remainder.

III. Summary of Proposed Standards

A. Applicability

The proposed standards apply to affected sources at each existing, modified, reconstructed, and newly constructed phosphoric acid manufacturing plant and each phosphate fertilizers production plant. All phosphoric acid manufacturing and phosphate fertilizers production plants that are major sources of HAPs would be subject to the standards. Provisions are included in the NESHAP General Provisions (40 CFR part 63, subpart A) for the owner or operator to obtain a determination of applicability. A facility that is determined by EPA to be an area source would not be subject to the NESHAP.

B. Emission Limits and Requirements

The emissions levels being proposed for NESHAP for existing and new sources are given in the tables below. The permit information and test data used to select these proposed limits are presented in the TSD referenced above. The rationale for selection of the individual emissions limits is explained in section V.C. of this notice.

PROPOSED EMISSIONS LIMITATIONS FOR EXISTING PHOSPHORIC ACID MANUFACTURING PLANTS AND PHOSPHATE FERTILIZERS PLANTS

Class of source	Pollutant	Proposed emission limit
Wet Process Phosphoric Acid Plant.	Total Fluorides.	0.020 lb. Total Fluoride (F^-)Per Ton P_2O_5 Feed.
Superphosphoric Acid Plant.	Total Fluorides.	0.010 lb. F- Per Ton P_2O_5 Feed.
Diammonium and/or Monoammonium Phosphate Plant.	Total Fluorides.	0.060 lb. F- Per Ton P_2O_5 Feed.
Granular Triple Superphosphate Plant.	Total Fluorides.	0.150 lb. F- Per Ton P_2O_5 Feed.
Granular Triple Superphosphate Storage Buildings.	Total Fluorides.	5.0 X 10^{-4} lb. F- Per Hour Per Ton of P_2C_5 Stored.
Phosphate Rock Dryers.	Particulate Matter.	0.2150 lb. PM Per Ton of Rock Feed.
Phosphate Rock Calciners.	Particulate Matter.	0.060 grains PM Per Dry Standard Cubic Foot.
Purified Phosphoric Acid Plants.	MIBK	0.168640 lb. MIBK Per Ton P_2O_5 Feed.

PROPOSED EMISSIONS LIMITATIONS FOR NEW PHOSPHORIC ACID MANUFACTURING PLANTS AND PHOSPHATE FERTILIZERS PLANTS

Class of source	Pollutant	Proposed emission limit
Wet Process Phosphoric Acid Plant.	Total Fluorides.	0.01350 lb. Total Fluoride (F-) per ton P_2O_5 Feed.
Superphosphoric Acid Plant.	Total Fluorides.	0.00870 lb. F- per ton P_2O_5 Feed.
Diammonium and/or Monoammonium Phosphate Plant.	Total Fluorides.	0.0580 lb. F- per ton P_2O_5 Feed.
Granular Triple Superphosphate Plant.	Total Fluorides.	0.1230 lb. F- per ton P_2O_5 Feed.
Granular Triple Superphosphate Storage Buildings.	Total Fluorides.	5.0×10^{-4} lb. F- Per Hour Per Ton of P_2O_5 Stored.
Phosphate Rock Dryers.	Particulate Matter.	0.060 lb. PM Per Ton of Rock Feed.
Phosphate Rock Calciners.	Particulate Matter.	0.040 grains PM Per Dry Standard Cubic Foot.
Purified Phosphoric Acid Plants.	MIBK	0.168640 lb. MIBK Per Ton P_2O_5 Feed.

C. Performance Test and Compliance Provisions

A one-time performance test would be required to demonstrate initial compliance with each applicable numerical limit for total fluorides or particulate matter. The owner/operator would be required to record process and control device operating parameters during the performance test. The owner/operator would be required to maintain scrubber pressure drop and liquid flow rate within plus or minus ten percent of the values recorded during the performance test. Any exceedance of that operating range would be considered a violation of the applicable standard. A source would be allowed up to 30 days to re-test and demonstrate compliance with the numerical limit of the standard. As an alternative to the preceding, the proposed regulations would provide sources the option of establishing ranges of the control device operating ranges on the basis of data derived from previous performance tests

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or specially-conducted performance tests. Any exceedance of those ranges would be considered a violation of the numerical limit of the applicable standard.

Compliance with the limitations upon MIBK emissions would be established through inventory and production records and through daily measurements of process parameters.

D. Monitoring Requirements

The proposed monitoring provisions require the owner or operator to continuously monitor the pressure drop and liquid flow rate of scrubbing devices used to control total fluorides or particulate matter. The feed rate of raw materials to the processes would also be continuously monitored.

For PPA plants that emit MIBK, the standards would require continuous monitoring of chiller stack temperature and daily monitoring of MIBK concentrations at two points in the process.

As required by the NESHAP General Provisions (40 CFR part 63, subpart A), the owner or operator also must develop and implement a Startup, Shutdown, and Malfunction Plan.

E. Notification, Recordkeeping, and Reporting Requirements

All notification, recordkeeping, and reporting requirements in the General Provisions would apply to phosphoric acid manufacturing and phosphate fertilizers production facilities. These include: (1) initial notification(s) of applicability, notification of performance test, and notification of compliance status; (2) a report of performance test results; (3) a Startup, Shutdown, and Malfunction Plan with semiannual reports of reportable events (if they occur); and (4) semiannual reports of excess emissions. If excess emissions are reported, the owner or operator must report quarterly until a request to return the reporting frequency to semiannual is approved.

The NESHAP General Provisions (40 CFR part 63, subpart A) require that records be maintained for at least 5 years from the date of each record. The owner or operator must retain the records on site for at least 2 years but may retain the records off site the remaining 3 years. The files may be retained on microfilm, microfiche, on a computer, on computer disks, or on magnetic tape disks. Reports may be made on paper or on a labeled computer disk using commonly available and compatible computer software.

IV. Selection of Proposed Standards

A. Selection of Source Categories

Section 112(c) of the Act directs the Agency to list each category of major and area sources, as appropriate, emitting one or more of the 189 HAPs listed in section 112(b) of the Act. The EPA published an initial list of source categories on July 16, 1992 (57 FR 31576), and may amend the list at any time. "Phosphoric acid manufacturing and phosphate fertilizers production" are two of the 174 categories of sources listed in the notice.

For this study, EPA collected information and data through the following: (1) review of existing literature; (2) visits to State air pollution control agencies to obtain plant-specific test data and permits; (3) visits to three plant sites; (4) meetings with representatives of individual companies; (5) meetings with The Fertilizer Institute, an industry trade organization; and (8) meetings with State air pollution control agency personnel. Based on this information and data, EPA believes that 15 facilities may be major sources subject to the NESHAP. As defined in the Act, a major source must have the potential to emit 9.1 Mg/yr (10 tpy) or more of a single HAP or 22.7 Mg/yr (25 tpy) or more of a combination of HAPs.

On December 3, 1993 (58 FR 63941), EPA published a schedule for the promulgation of standards for the sources selected for regulation under section 112(c) of the Act. According to this schedule, MACT standards for this source category must be promulgated no later than November 15, 2000. If standards are not promulgated by May 15, 2002 (18 months following the promulgation deadline), section 112(j) of the Act requires States or local agencies with approved permit programs to issue permits or revise existing permits containing either an equivalent emission limitation or an alternate emission limitation for HAP control.

Section 112 of the Act requires the Agency to establish national standards to reduce air emissions from major sources and certain area sources that emit one or more HAP. Section 112(b) contains a list of HAP to be regulated by NESHAP. Section 112(c) directs the Agency to use this pollutant list to develop and publish a list of source categories for which NESHAP will be developed and a schedule for development of those NESHAP. The Agency must list all known source categories and subcategories of "major sources" that emit one or more of the listed HAP. A major source is defined in section 112(a) as any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit in the aggregate, considering controls, 10 tons per year or more of any one HAP or 25 tons per year or more of any combination of HAP. This list of source categories was published in the **Federal Register** on July 16, 1992 (57 FR 31576) and includes phosphoric acid manufacturing and phosphate fertilizers production.

For area sources, the Agency examined available data on facilities, emissions, and health and environmental effects of emitted HAPs and concluded that there is no threat of adverse effects to human health or the environment from the area sources in these two source categories. Consequently, the Agency decided not to list the area sources.

B. Selection of Emission Sources and Pollutants

While phosphoric acid manufacturing and phosphate fertilizers production facilities are listed separately for the purposes of section 112 (c) of the Act, they are generally collocated. Phosphoric acid manufacturing facilities provide feedstock for phosphate fertilizer production facilities and much of the phosphoric acid produced in the United States is consumed in the manufacture of fertilizers. Thus, the Agency has chosen to regulate component processes of both source categories through a combined rulemaking action. This course of action was previously adopted when the Agency promulgated new source performance standards (NSPS) (see 40 FR 33152) to limit emissions of total fluoride compounds (which include the HAP HF) from several processes in the phosphate fertilizers industry. The NSPS apply to processes units producing WPPA, SPA, DAP, and GTSP, including GTSP storage buildings.

Once source categories have been listed as major for one or more HAPs, the Act requires that the Agency establish emission limits for all HAP-emitting units at sources within the source category regardless of whether or not those individual units emit HAPs in major quantities. An exception to this occurs when the Agency has listed specific types of sources as major sources and is developing a separate rule for those individual sources. Examples are boilers and cooling towers. For phosphoric acid manufacturing, the Agency explored the need to establish standards for phosphate rock drying and calcination (arsenic, beryllium, cadmium,

chromium, manganese, mercury, and nickel (HAP metals) emissions), WPPA manufacturing (HF emissions), SPA manufacturing (HF emissions), thermal process SPA (phosphorous emissions), and solvent extracted SPA (methyl isobutyl ketone (MIBK) emissions) which is commonly referred to as purified phosphoric acid (PPA).

A review of information for existing thermal process acid plants indicated that none are major sources of HAP emissions nor are they collocated with major sources. The potential for emissions of the HAP phosphorous is quite minimal because phosphorous is extremely reactive with oxygen and, therefore, does not exist in nature as a pure substance. Many plants previously in service have been closed due to economic pressures and no new ones are expected to be built. Since no existing thermal process plants are major sources and no new ones are to be built, there is no benefit to be derived from the development of applicable NESHAP. Given that the manufacture of WPPA, SPA, and PPA cause emission of significant quantities of HAPs and the availability of emission control systems, the Agency elected to develop and propose NESHAP for manufacture of those three products.

The phosphate fertilizers production source category potentially includes production of DAP, MAP, GTSP, normal superphosphate (NSP), and ammonium polyphosphate (APP). No NESHAP were developed for the NSP process because no production occurs at major sources and no stand-alone major sources were identified. Standards were not developed for APP production because the pollutant of concern is ammonia which is not a listed HAP. For the other phosphate fertilizers production processes, emissions limits were developed and are being proposed in today's action.

Today's action proposes NESHAP that would be applicable to new and existing major sources emitting HAP from the phosphoric acid manufacturing and phosphate fertilizers production source categories. For major sources, the rules would apply to each of the following affected sources: (1) WPPA plants; (2) SPA plants; (3) PPA plants; (4) phosphate rock dryers; (5) phosphate rock calciners; (6) DAP/MAP plants; (7) GTSP plants; and (8) GTSP storage facilities. The proposed emission limits are based on an analysis of the available emission test data from the various types of sources present in the source categories. Except for PPA plants, phosphate rock dryers, and phosphate rock calciners, the potentially affected units listed above are subject to NSPS and State regulations which limit emissions of total fluorides. The Agency test methods used to determine compliance with the NSPS measure total fluoride and are not specific to the HAP HF. At the time data were collected for this action, many sources affected by today's proposal were subject to either NSPS or State regulations. No performance test data were provided which specifically measured the HAP HF. Therefore, the database contains many performance tests for total fluorides and none for HF. To support a State air toxics permit application, one company performed tests which indicated that the HF content of emissions from WPPA plants can vary from 28 to 49 percent of total fluoride emissions depending upon whether the phosphate rock has been calcined (docket item II–I–32 cc). Since the wet scrubbing systems used for control of total fluorides are effective at reducing HF emissions, the Agency chose to use total fluorides as a surrogate for HF for those classes of sources for which HF is the regulated pollutant. This approach allows use of the available test data for establishing the MACT level of control and it provides consistency with current Federal and State permits. It would also result in a common basis for permitting in those cases where sources would continue to be covered by existing regulations but not be subject to NESHAP due to their nonmajor status.

Particulate emissions from phosphate rock dryers and calciners, contain HAP metals. Particulate matter emissions from dryers include arsenic, beryllium, cadmium, chromium, manganese, mercury, and nickel. Particulate matter emissions from calciners include arsenic, beryllium, chromium, manganese, mercury, and nickel. However, there are no stack test data specific to HAP metals. All permits and test data are for particulate matter. In the absence of detailed information on HAP metals emissions, the MACT floor has been determined using particulate matter as a surrogate for HAP metals. Accordingly, the proposed emissions limits are expressed as particulate matter.

One PPA plant is a major source of MIBK emissions. For that source, there is sufficient information to directly establish NESHAP for MIBK.

C. Selection of Proposed Standards for Existing and New Sources

1. Background

After EPA has identified the specific source categories or subcategories of major sources to regulate under section 112, it must set MACT standards for each category or subcategory. Section 112 establishes a minimum baseline or "floor" for standards. For new sources, the standards for a source category or subcategory cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. [See section 112(d)(3).] The standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources for categories and subcategories with 30 or more sources, or the best-performing 5 sources for categories or subcategories with fewer than 30 sources.

After the floor has been determined for a new or existing source in a source category or subcategory, the Administrator must set MACT standard that are no less stringent than the floor. Such standards must then be met by all sources within the category or subcategory. In establishing the standards, EPA may distinguish among classes, types, and sizes of sources within a category or subcategory. [See section 112(d)(1).]

The next step in establishing MACT standards is traditionally the investigation of regulatory alternatives. With MACT standards, only alternatives at least as stringent as the floor may be selected. Information about the industry is analyzed to develop model plants for projecting national impacts, including HAP emission reduction levels and cost, energy, and secondary impacts. Several regulatory alternative levels (which may be different levels of emissions control, equal to or more stringent than the floor levels) are then evaluated to select the regulatory alternative that best reflects the appropriate MACT level. The selected alternative may be more stringent than the MACT floor, but the control level selected must be technically achievable. The regulatory alternatives selected for new and existing sources may be different because of different MACT floors, and separate regulatory decisions may be made for new and existing sources.

The Agency may consider going "beyond-the-floor" to require more stringent controls. Here, EPA considers the achievable emission reductions of HAPs (and possibly other pollutants that are co-controlled), cost and economic impacts, energy impacts, and other non-air environmental impacts. The objective is to achieve the maximum degree of emissions reduction without unreasonable economic or other impacts. [See section 112(d)(2).]

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Subcategorization within a source category may be considered only when there is enough evidence to demonstrate clearly that there are significant differences among the subcategories. The criteria to consider include process operations (including differences between batch and continuous operations), emission characteristics, and control device applicability.

The EPA examined the processes, the process operations, and other factors to determine if separate classes of units, operations, or other criteria have an effect on air emissions. For phosphoric acid manufacturing and phosphate fertilizers production plants, characteristics of emissions streams and, therefore, effectiveness of control technologies are differentiated by the products being manufactured. Thus, in this rulemaking, the Agency has adopted the overall approach used in the previous development of NSPS and developed proposed emissions limits for major unit operations that manufacture specific products.

2. Emission Limits—General

For existing sources, § 112(d)(3) of the Act requires that the Agency establish NESHAP no less stringent than "the average emission limitation achieved by the best performing 12 percent of the existing sources (for which the Administrator has information)." This language has led to two differing interpretations of the intent of the CAA language. One interpretation is that the Act requires the Agency to establish MACT on the basis of permitted emissions limits. The other interpretation holds that MACT must be established on the basis of actual emissions as established through emissions test data. In the document "Municipal Waste Combustion: Background Information for Promulgated Standards and Guidelines—Summary of Public Comments and Responses," EPA–453/R–95–0136, October 1995, published in support of the December 19, 1995 **Federal Register** notice (60 FR 65387) for promulgated standards of performance for new municipal waste combustors (MWC) and emission guidelines for existing MWC, the Agency discussed the legislative history and relevant case law at some length. In that discussion, the Agency concluded that Congress did not directly speak to the question at issue. The discussion was focused upon § 129 of the Act. Since sections 129 and 112 are quite similarly worded, the same approach is being applied in this instance. Accordingly, the Agency has applied the test from *Chevron* v. *NRDC*, 467 U.S. 837 (1984) that its interpretation of the Act must be a "permissible construction" of the statute.

In this instance, the Agency first notes that it was the clear intent of Congress that, when possible, NESHAP are to be numerical limitations derived from the application of emissions control technologies. As was described above, for existing sources, the limitations may be no less stringent than the average level of control achieved by the best controlled twelve percent of those sources. This is commonly referred to as the MACT floor. As a starting point, the Agency attempted to identify the technology applied to achieve the lowest emissions. Since the HAP HF was the main concern for this standard, the initial approach was focused upon determining MACT for HF. The same approach was later extended to HAP metals for subsequent analyses. After thoroughly searching for studies which directly measured stack emissions of HF, the Agency concluded that there is a paucity of definitive data as to the exact amount of HF actually being emitted, although, as was previously noted, the HF content potentially ranges from 28 to 49 percent of total fluoride. This finding led the Agency to look for other means to establish a technical basis for NESHAP. During its information collection effort, the Agency found that there is a large body of existing data for the surrogate pollutant total fluoride, which the Agency previously designated for control under § 111 of the Act through the development of NSPS. Those NSPS are emissions limitations based upon demonstrated technologies. Given a paucity of direct data on HF emissions and a large body of data developed to demonstrate achievement of permitted emissions which include HF as a component of total fluorides, the Agency chose to use total fluoride as a surrogate for HF in its analyses. By adopting the approach of regulating total fluoride as surrogate for HF, the Agency avails itself of information reflecting the effect of over twenty years of implementation of NSPS and emissions guidelines (EG) which are technology-based standards. The Agency has obtained a wealth of performance data derived from emissions tests conducted to establish compliance with permitted emissions limitations required by NSPS and with State-permitted emissions limitations developed pursuant to EG for previously existing sources. Reviewing this information base reveals that, in general, the best controlled sources for the various processes used differently configured combinations of wet scrubbing devices. Several different types and configurations of wet scrubbing devices were found to give high levels of removal of fluorides. For most sources, the control systems were designed to achieve emissions limits equal to or more stringent than the NSPS. For this rulemaking, the Agency has concluded that permitted emissions constitute the emissions limits which the technological controls were designed to achieve. To determine emissions limits corresponding to MACT floors, the Agency first identified the median of the top twelve percent of permits issued for the best controlled sources for each process. Generally, this resulted in the identification of the third of the five most stringently permitted sources for a given process. After thus identifying the best controlled sources and establishing preliminary MACT floors, the Agency then used the available test data to ascertain that the permit limits were being achieved and to determine if greater degrees of control were actually being achieved in practice. For sources of total fluorides, the range of the available test data showed that the permitted emissions were reflective of the degree of emissions control actually being achieved.

For phosphate rock dryers and calciners, the MACT floors were established using particulate matter as a surrogate for HAP metals. For dryers, there was very little available test data. So, the MACT floor analysis was performed using permitted emissions of particulate matter. For calciners, there were numerous test reports for particulate matter. The permits for calciners were all based upon general process rate allowances which were not developed specifically for phosphate rock calcining. Test data showed that the permits do not reflect the level of emissions reductions achieved in practice. So, for calciners, the MACT analysis was based upon the test data.

One source manufactures a purified phosphoric acid through a solvent extraction method. The plant emits MIBK, which is a HAP. The source has modified its process several times to improve capacity and there is no information which the Agency can use to determine the effects of those modifications upon emissions as determined from inventory records. Therefore, MACT was determined on the basis of the original permitted emissions. Those limits were based upon the engineering design of the controls built into the plant. To that permitted amount, the Agency added an allowance for fugitive emissions of

MIBK known to occur because of utilization of a waste stream in an adjoining fertilizer plant. The permitted emissions were added to the fugitives and divided by permitted production capacity to calculate a unit emissions factor for MIBK based upon the input of P_2O_5.

For new sources, the most stringent permit issued for any given process was adopted as MACT, except for calciners. The calciners limit was based upon test data. Performance test data are presented in the TSD and show that the most stringent permit limits are being achieved in practice.

Having thus identified the floor level of control, the Agency then considered the possibility of setting more stringent limitations. As a part of that consideration, the Agency modeled MACT floor level emissions of HF for the purpose of quantifying potential health concerns. For HF, there is no Agency-approved health bench mark with which to identify potential public exposure and risk problems. A screening level exposure analysis was performed using State agency health bench marks and no health concerns were identified (docket item II–B–14). In addition, the Agency reviewed a detailed exposure and risk assessment performed for a source subject to State air toxics requirements which reached this same conclusion (docket item II–I–32 cc). Besides exploring potential health impacts for HF, the Agency also examined modeling performed by a source for trace metal emissions from calciners subject to the MACT floor level of control. Estimated health risks were minimal. None of the health impacts analyses for existing sources indicated a need to control emissions beyond the levels corresponding to the MACT floors. Therefore, the Agency proposes to establish limits for existing major sources at the floor levels.

During the analysis of public health impacts, the Agency also considered the need for area source standards. A screening level exposure analysis using a ten ton per year of HF model plant and State agency health bench marks did not identify "a threat of adverse effects to human health or the environment (by such sources individually or in the aggregate)." Therefore, the Agency does not recommend listing area sources and developing standards.

3. Emission Limits for Classes of Sources

WPPA Plants. The Agency previously promulgated NSPS which limit emissions of total fluorides. Those NSPS appear in 40 CFR Subpart T. For NSPS purposes, a WPPA plant is defined as any plant manufacturing phosphoric acid by reacting phosphate rock and acid. This same definition is applied herein. The NSPS limit total fluoride emissions to 0.02 pounds per ton of P_2O_5 fed to the process. At this time there are 35 WPPA plants and permitted emissions range from 0.0135 to 0.69 pounds of total fluoride per ton of P_2O_5 fed to the process. Twenty five of those plants are permitted at limits equivalent to or more stringent than the NSPS. All plants employ wet scrubbing devices to control total fluoride emissions.

The Act requires that the MACT floor for existing sources in categories with 30 or more sources must be no less stringent than the average emission limitation achieved by the best performing 12 percent of those sources. In this instance, the best performing sources are all subject to permit provisions requiring that they achieve emissions limitations equivalent to or more stringent than the NSPS. For those plants, permitted emissions range from 0.01350 to the NSPS limit of 0.020 pounds of total fluoride per ton of P_2O_5 fed to the process. The median of these permit limits is at the NSPS level of control and this was selected as the MACT floor level. The available test data summarized in the TSD show that the plants which form the basis for the MACT floor are achieving the NSPS level of control. Tested emissions for all plants permitted at or below the MACT floor range from 0.0004 to 0.019 pounds of total fluoride per ton of P_2O_5 fed to the process. Thus, the emissions limit corresponding to the MACT floor, which is the NSPS, is being proposed as MACT for existing WPPA plants.

For new sources, MACT must be as stringent as the emission limitation that is achieved in practice by the best controlled similar source, as determined by the Administrator. Currently, the most stringent permit for a WPPA plant is for the Cargill Industries facility in Riverview Florida which has been permitted at an emission limitation of 0.01350 pounds of total fluoride per ton of P_2O_5 fed to the process. Therefore, this limit is being proposed for new WPPA plants.

During the development of NESHAP, the Agency examined the emission of HF from gypsum and cooling pond systems. Recent testing of pond systems was performed using long path Fourier transform infra-red spectroscopy to typify emissions of HF (docket item II–D–15). The tests indicted that although small quantities of HF may be evolved from pond surfaces, the measured quantities would not be significant in comparison to overall process emissions. The Agency did investigate options for treating pond water to further minimize HF emissions (docket item II–B–9). None of the technologies considered have been successfully demonstrated on a commercial basis when applied to the ores and processes common to the United States. Thus, the Agency concluded that MACT for pond systems is no control.

All the plants which are being used to define MACT discharge scrubber effluent to cooling ponds. Four sources subject to the NSPS pump effluent from scrubbers to evaporative cooling towers where the collected fluorides are subjected to air stripping. This practice renders the air pollution controls largely ineffective for their intended purpose. Accordingly, the proposed NESHAP specifically prohibits this practice. The plants affected by the proposed NESHAP have other options available, such as discharging scrubber effluents to gypsum ponds. This requirement would be applied to both WPPA and SPA plants. The Agency notes that this provision will apply only to liquid discharges from air pollution control devices and is not intended to apply to process equipment.

SPA Plants. The Agency previously promulgated NSPS which limit emissions of total fluorides. Those NSPS appear in 40 CFR Part 60, Subpart U. The NSPS limit total fluoride emissions to 0.01 pounds per ton of P_2O_5 fed to the process. For NSPS purposes, an SPA plant is defined as any facility which concentrates WPPA to 66 percent or greater P_2O_5 content for eventual consumption as fertilizer. For purposes of the proposed NESHAP, the basic NSPS definition for the plant will be adopted but it will not be limited to production of SPA for consumption as fertilizer. The end use of the manufactured SPA is not relevant to the need to control HAP emissions pursuant to the Act. With the exception of one source employing the submerged combustion process, all producers in the United States employ vacuum evaporation to make SPA. The best-controlled plants for which data were available use the vacuum evaporation process. There are twelve SPA plants using vacuum evaporation and permitted emissions range from 0.0087 to 1.1 pounds of total fluoride per ton of P_2O_5 fed to the process. Nine of those plants are permitted at limits equivalent to or more stringent than the NSPS. All plants employ wet scrubbing devices to control total fluoride emissions. Several different scrubber designs are employed.

The Act requires that the MACT floor for existing sources in categories with fewer than 30 sources must be no less stringent than the average emission

limitation achieved by the best performing five of those sources. In this instance, the five best performing sources are all subject to permit provisions requiring that they achieve emissions limitations equivalent to or more stringent than the NSPS. The median of these permit limits is at the NSPS level of control, 0.01 pounds per ton of P_2O_5 fed to the process, and this was selected as the MACT floor level. The available test data summarized in the TSD show that the plants which form the basis for the MACT floor are achieving the NSPS level of control. Tested emissions for all plants permitted at or below the MACT floor range from 0.00013 to 0.00847 pounds of total fluoride per ton of P_2O_5 fed to the process. Thus, the emissions limit corresponding to the MACT floor, which is the NSPS, is being proposed as MACT for existing SPA plants that use the vacuum evaporation process.

The one source which manufactures SPA using a variation of the submerged combustion process requested that the Agency consider a separate subcategory for the process on the basis that a combination of feedstock, final product, and process requirements uniquely influences the level of control achievable at that site. The source provided information (docket item II–D–52) showing that their imported feedstock differs from that of other domestic producers of SPA in that it contains lesser amounts of impurities including radium and magnesium. The lesser amounts of radium are beneficial from the perspective that this reduces the radioactivity of the phosphogypsum waste material resulting from the processes. The lowered magnesium content is important to customers with whom the source has contractual obligations. The negative result of the lesser magnesium content is that it causes increased corrosivity of the acid manufactured at that site. Engineering studies have been unable to resolve the corrosion problem and, so, the source cannot readily convert its production to the vacuum evaporation process. In discussions with its State agency, the source has committed itself to install new air pollution controls and has performed engineering analyses which indicate that the source cannot meet the MACT performance level of the vacuum evaporation process. The potential to meet a level of 0.20 pounds of total fluoride per ton of P_2O_5 fed to the process has been successfully tested in a pilot test. In consideration of the overall environmental and technical factors unique to the existing operations of that source, the Agency has determined that subcategorization of that one existing source is appropriate and that MACT is 0.20 pounds of total fluoride per ton of P_2O_5 fed to the process for existing operations. For a new SPA plant at that site, the Agency would expect that the source could avail itself of the same resources as other companies in the industry and that no special consideration would be appropriate.

For new sources, MACT must be as stringent as the emission limitation that is achieved by the best controlled similar source, as determined by the Administrator. Currently, the best controlled SPA plant achieves a permitted emission limit of 0.0087 pounds of total fluoride per ton of P_2O_5 fed to the process. Emissions test data confirm that this level of control is being achieved in practice. Therefore, this limit is being proposed for new SPA plants.

DAP/MAP Plants. The Agency previously promulgated NSPS which limit emissions of total fluorides from DAP production. Those NSPS appear in 40 CFR Part 60, Subpart V. The NSPS limit total fluoride emissions to 0.06 pounds per ton of P_2O_5 fed to the process. For NSPS purposes, a DAP plant is defined as any plant manufacturing granular DAP by reacting phosphoric acid with ammonia. The NSPS do not include MAP production plants as affected facilities. Available information shows that many production plants are dedicated to produce either DAP or MAP. Other plants are configured and permitted to produce either product using the same equipment. As a part of the Agency's MACT partnership initiative, the Agency met with State agency and industry representatives to discuss issues pertinent to the proposed NESHAP. Several discussions addressed the question of whether to have separate rules for DAP, MAP and combined DAP/MAP production plants. During those discussions it was noted that the plant configurations used to make either one or both products are essentially identical. All plants employ wet scrubbing devices to control total fluoride emissions. Several different scrubber designs were employed. During the MACT partnership discussions, the Agency was advised that technical considerations cause a dual use production plant to be more difficult to control than those dedicated to individual products. All parties to the discussion were in agreement that the current NSPS for DAP is achievable for DAP, MAP or combined DAP/MAP production. After due consideration of these factors, the Agency is proposing that a single emissions limitation should be applied to this class of ammoniated phosphates. Accordingly, the data for plants permitted to produce both products were selected for analysis to establish the MACT floor.

There are 12 plants permitted to produce both DAP and MAP. For those plants, permitted emissions range from 0.0580 to 0.9640 pounds of total fluoride per ton of P_2O_5 fed to the process. The Act requires that the MACT floor for existing sources in categories with fewer than 30 sources must be no less stringent than the average emission limitation achieved by the best performing five of those sources. In this instance, the five best performing sources are all subject to permit provisions requiring that they achieve emissions limitations equivalent to or more stringent than the NSPS. For those plants, permitted emissions range from 0.0580 to the NSPS limit of 0.06 pounds of total fluoride per ton of P_2O_5 fed to the process. The median of these permit limits is at the NSPS level of control and this was selected as the MACT floor level. The available test data summarized in the TSD show that the plants which form the basis for the MACT floor are achieving the NSPS level of control. Tested emissions for all plants permitted at or below the MACT floor range from 0.0021 to 0.0408 pounds of total fluoride per ton of P_2O_5 fed to the process. Thus, the emissions limit corresponding to the MACT floor, which is the NSPS, is being proposed as MACT for existing DAP and/or MAP plants.

For new sources, MACT must be as stringent as the emission limitation that is achieved by the best controlled similar source, as determined by the Administrator. Currently, the best controlled combined DAP/MAP plant achieves a permitted emission limit of 0.00580 pounds of total fluoride per ton of P_2O_5 fed to the process. Emissions test data confirm that this level of control is being achieved in practice. Therefore, this limit is being proposed for new sources producing DAP and/or MAP.

GTSP Production Plants. The Agency previously promulgated NSPS which limit emissions of total fluorides from triple superphosphate production. Those NSPS appear in 40 CFR Part 60, Subpart W. The NSPS limit total fluoride emissions to 0.2 pounds per ton of P_2O_5 fed to the process. For NESHAP purposes, a GTSP plant would be defined as any plant manufacturing GTSP by reacting phosphate rock with phosphoric acid. At this time, there are ten GTSP plants and permitted

emissions range from 0.1230 to 0.760 pounds of total fluoride per ton of P_2O_5 fed to the process. Seven of those plants are permitted at limits equivalent to or more stringent than the NSPS. Six of those plants are permitted at State limits below the NSPS. All plants employ wet scrubbing devices to control total fluoride emissions. Several different scrubber designs are employed.

The Act requires that the MACT floor for existing sources in categories with fewer than 30 sources must be no less stringent than the average emission limitation achieved by the best performing five of those sources. In this instance, the five best performing sources are all subject to permit provisions requiring that they achieve emissions limitations equivalent to or more stringent than the NSPS. The median of the permit limits for the five best controlled existing plants is 0.150 pounds of total fluoride per ton of P_2O_5 fed to the process and this was selected as representing the MACT floor level of control. The available test data summarized in the TSD show that the plants which form the basis for the MACT floor are achieving the permit limit of 0.150 pounds of total fluoride per ton of P_2O_5 fed to the process in practice. Tested emissions for all plants permitted at or below the MACT floor range from 0.00845 to 0.148 pounds of total fluoride per ton of P_2O_5 fed to the process. Thus, an emissions limit equivalent to the MACT floor is being proposed for existing GTSP plants.

For new sources, MACT must be at least as stringent as the emission limitation that is achieved by the best controlled similar source, as determined by the Administrator. Currently, the best controlled GTSP plant achieves a permitted emission limit of 0.01230 pounds of total fluoride per ton of P_2O_5 fed to the process. Emissions test data confirm that this level of control is being achieved in practice. Therefore, this value is being proposed as an emissions limit for new GTSP plants.

GTSP Storage Buildings. The Agency previously promulgated NSPS which limit emissions of total fluorides from GTSP storage buildings. Those NSPS appear in 40 CFR Part 60, Subpart X. The NSPS limit total fluoride emissions to $5.0 \times 10-4$ pounds per hour per ton of P_2O_5 stored. For NESHAP purposes, the same definition used in the NSPS will be used for GTSP storage buildings. At this time there are seven GTSP storage buildings in operation. Of the seven, four are equipped with wet scrubbers to control fluoride emissions. These provide the control technology basis for the MACT floor. In general, the permitted emissions limits reflect apportionments assigned by the operators to meet emissions limitations for their GTSP plants as a whole. Thus, the emissions limits are not based upon the technological performance of control systems. The State air pollution control agency with jurisdiction over most of the sources was contacted and indicated that impacts of emissions from the storage buildings had been considered as a part of the overall emissions allowances for the fertilizer plants. None of the seven existing GTSP storage buildings is subject to the NSPS. Further, the applicable emissions limitations for the controlled buildings are in a format which differs from the NSPS. Permitted emissions are dependent upon the rate at which GTSP is transferred into the buildings. Available data indicate that the actual emission rates are comparable to the NSPS limits.

The Agency previously addressed the issue of determining the best technological approach for establishing emission limits for GTSP storage buildings during the development of the NSPS in 40 CFR Part 60, Subpart X. Those standards reflect the previous judgement of the Agency as to the best approach to controlling emissions of total fluorides from GTSP storage buildings. That same judgement was reflected in the Agency's emissions guidelines for then-existing sources. During development of the proposed NESHAP, the Agency requested the opinions of State air pollution control agencies and the technical representatives of companies which produce phosphate fertilizers. The State representatives concluded that the NSPS approach to setting emissions limits is preferable to the basis for the permitted emissions in that it is clearly based upon technological considerations. The industry representatives noted that the NSPS approach accounts for the effects of the continued curing of GTSP during initial storage and the NSPS also provides consideration of the amount of GTSP stored. Given the similarity of the results of the two approaches and the clear preference of the involved parties for the NSPS format, the Agency has concluded that the NSPS best expresses the MACT floor level of control for existing GTSP storage buildings. Should any new GTSP storage buildings be placed in service, the Agency continues to believe that the NSPS also constitutes the best approach to new source MACT. The NSPS is based upon a demonstrated control technology and directly ties allowable emissions to the quantity of GTSP in storage. Thus, existing and new source MACT is proposed to be a maximum emission of $5.0 \times 10-4$ pounds of total fluorides per hour per ton of P_2O_5 stored.

During the development of the NESHAP, the question was raised as to whether the proposed NESHAP should be applied to GTSP storage buildings which are not co-located with GTSP production plants. The Agency has concluded that the proposed NESHAP should only apply to co-located storage buildings. The reason for this is that the reactions which cause emissions of HF and total fluorides continue for several days after newly manufactured GTSP is placed into storage. This is referred to as curing. Thus, there is a clear reason to place emissions limits upon this class of sources. Opinions differed as to how long appreciable emissions are generated. Material handling problems can occur if GTSP is shipped from the production plant prior to the completion of the curing phase. So, the need for controlling emissions during storage coincides with the need to allow time for curing. Accordingly there is no benefit to be gained from applying the proposed NESHAP to GTSP storage facilities that handle only cured GTSP and are not located at GTSP production plants.

Phosphate Rock Dryers at Phosphoric Acid Manufacturing Plants and Phosphate Fertilizers Production Plants. On April 16, 1982, the Agency promulgated emissions limits (47 FR 16589) which apply to phosphate rock dryers at phosphate rock plants as 40 CFR Part 60 Subpart NN. The NSPS limit particulate matter emissions to 0.030 kilogram per megagram of phosphate rock feed (0.060 pounds per ton). For NSPS purposes, a dryer is defined as a unit in which the moisture content of phosphate rock is reduced by contact with a heated gas stream. For the proposed NESHAP, the NSPS definition will be adopted. The Agency has found little test data for particulate matter emissions. Initially available permit information indicated that eight dryers were present at seven major sources. One of those dryers is subject to Subpart NN. More recent information provided by industry representatives indicates that two of those dryers have been demolished and that two others are not used as rock dryers. That leaves four dryers from which to establish the MACT floor for existing sources.

The Act requires that the MACT floor for existing sources in categories with fewer than 30 sources must be no less stringent than the average emission limitation achieved by the best performing five of those sources. In this instance, there are only four sources. To

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provide consistency with the methodology used elsewhere in this notice, the third or "median" dryer was selected as representing the floor level of control. That dryer is limited to 0.215 pounds of particulate matter per ton of rock fed. With no additional information available, the Agency is unable to conclude that a more stringent emissions limit is warranted for dryers. Thus, the emissions limit corresponding to the MACT floor is being proposed as MACT for existing phosphate rock dryers at phosphoric acid manufacturing plants.

For new sources, MACT must be at least as stringent as the emission limitation that is achieved by the best controlled similar source, as determined by the Administrator. Currently, the best controlled dryer achieves a permitted emission limit of 0.060 pounds of particulate matter per ton of rock fed to the process. Emissions test data confirm that this level of control is being achieved in practice. Therefore, this value is being proposed as MACT for new phosphate rock dryers at phosphoric acid manufacturing plants.

Calciners at Phosphoric Acid Manufacturing Plants. On April 16, 1982, the Agency promulgated emissions limits (47 FR 16589) which apply to phosphate rock calciners at phosphate rock plants as 40 CFR Part 60 Subpart NN. For NSPS purposes, a calciner is defined as a unit in which the moisture and organic matter of phosphate rock is reduced within a combustion chamber. For the proposed NESHAP, the NSPS definition will be adopted. Information gathered during the development of proposed NESHAP show that calciners are present at four major sources. None of those calciners are subject to Subpart NN. As previously discussed, the Agency chose to use particulate matter as a surrogate for HAP metal compounds because no speciated test data were available for calciners. All plants use wet scrubbers to control particulate matter. Calciners permitted to operate at one source are not in service at this time. A second source operates two calciners controlled by wet scrubbers. No performance data were available for the second source. A third source operates a calciner controlled by a wet scrubber. Performance test data for the calciner are included in the docket. A fourth source operates six calciners. The calciners are similar in their design and emissions controls. Performance test data for those six are summarized in the TSD. Although speciation factors for HAP metals were available for the fourth source, the enforceable permit limits were for particulate matter. Given that the controls are the same for the best five units, the MACT floor level of control is based upon the use of wet scrubbers. The best performing calciners are permitted in a process rate format which allows the emissions rate to vary as function of process feed rate. For this class of sources, performance data show actual emissions to be well below permitted levels. The Agency has concluded that analysis of test data would best characterize the level of control being achieved in practice. Review of test data indicates that an emission limit equivalent to 0.06 grains of particulate matter per dry standard cubic foot (gr/dscf) is now being achieved by all calciners for which the Agency has data. This level of control was selected as the MACT floor for existing sources. The highest test data point for the calciners constituting the MACT floor was 0.058 gr/dscf. The Agency reviewed health impacts modelling provided by the fourth source and concluded that an ample margin of safety is provided at the MACT floor and that a more stringent standard for existing sources is not indicated. Thus, an emissions limit equivalent to the MACT floor is being proposed for existing calciners.

Emissions test data for the best performing calciner indicated that it could meet a somewhat lower emission limit and that this could be considered the best controlled source for establishing new source MACT. The data showed that a similar new source could achieve an emission limit of 0.04 grains per dry standard cubic foot. This level of control is consistent with that which the Agency selected as best demonstrated technology for similar sources in the NSPS for calciners and dryers in the mineral industries (40 CFR Part 60, Subpart UUU). That standard was promulgated on September 28, 1992 in 57 FR 44503. Thus, the Agency is proposing 0.040 grains per dry standard cubic foot as MACT for new calciners located at phosphoric acid manufacturing plants.

PPA Plants. Two sources in the United States manufacture PPA through the use of solvent extraction to further refine WPPA. One plant uses the HAP compound MIBK as a solvent. This results in permitted losses of MIBK which total approximately 29 tons per year. The second plant uses a different solvent and a different process from which no HAPs are emitted. The Act does not provide clear guidance on the establishment of MACT when less than five sources are present for floor analysis. In this instance, the following facts were considered. The two process designs are distinctly different. The owners of the second plant have patented their process and it is not readily available for licensing by competitors. The PPA produced by the source using MIBK is used in applications which differ in their requirements from the PPA produced by the competing source. Information provided by the owners of the plant using MIBK included information showing that reconstructing their plant to use a non-HAP solvent would result in a control cost of $800,000 per ton of MIBK reduced. This would clearly exceed the value of any environmental benefits to be derived. Thus, the Agency elected to set an emissions limit for MIBK based upon a MACT analysis of the one plant which uses that compound.

The initial permit for the PPA plant in question allows the source to emit 19 tons of MIBK per year from the operation of the plant itself. That amount was determined by engineering calculations to predict the performance of the emissions controls installed at the plant. Information provided by the operator shows an estimated 9.9 tons per year of MIBK in a process waste stream being emitted from an adjoining fertilizer plant. The combined total of 28.9 tons of MIBK is equivalent to 0.16864 pounds of MIBK per ton of P_2O_5 fed to the process. Information listing historical purchases of makeup MIBK provided by the operators indicates that emissions may have exceeded that rate on several occasions. Additional information from the source shows that several changes to the process have been made to increase production. Insufficient information was provided to allow an analysis of how the process changes are affecting emissions. Likewise, no information has been provided to show what options have or could have been pursued to maintain the permitted emissions levels. Absent any basis for determining that the permitted limits are inconsistent with the emission controls installed at the plant, the Agency has elected to use the approach consistently applied to other phosphoric acid manufacturing processes during this rulemaking and to base MACT upon permitted emissions of MIBK. The MACT limit is proposed as 0.16864 pounds of MIBK per ton of P_2O_5 fed to the process. The Agency specifically invites public comment upon this proposed action. Any comments advocating a different standard for emissions of MIBK from PPA plants should be accompanied and supported by data and information that clearly support the commenter's position.

D. Selection of Test Methods

Included in the proposed rules are methods for determining initial compliance as well as monitoring, recordkeeping, and reporting requirements. All of these components are necessary to ensure that sources will comply with the standards both initially and over time. The Agency has made every effort to simplify the requirements in the rule. The Agency has also attempted to maintain consistency with existing regulations by either incorporating text from existing regulations or cross-referencing such regulations. Under the proposed rules, total fluoride would serve as a surrogate for HF and particulate matter would serve as a surrogate measure for HAP metals. So, for those standards which would limit emissions of total fluorides or particulate matter, the approaches to testing and monitoring in the corresponding NSPS would be adopted as closely as possible. That is, initial compliance would be determined by a performance test employing Agency Test Method 13 A or B for total fluorides or Method 5 for particulate matter. The owner or operator could also use other alternative test methods subject to approval by the Administrator. The proposed standards would require that sources continuously record and maintain control device pressure drop and liquid flow rate parameters within plus or minus ten percent of the values established during performance testing. Those values would have to be determined concurrently with initial performance testing. The values of the operating parameters would be based upon the average values recorded during three one-hour test runs. This approach to monitoring control device operating parameters and an alternative requested by industry are discussed in the monitoring requirements section of this preamble.

During the development of the proposed NESHAP, two concerns were raised by industry about testing for fluoride emissions. First, the industry suggested that Method 13 B could be simplified. In response, the Agency is proposing to simplify Method 13 B for this source category by eliminating the fusion and distillation steps in the sample preparation. The fusion step is intended to make all fluorides water soluble. For these source categories, preliminary information indicates that all fluorides are water soluble. The distillation step is intended to eliminate analytical interferences. Industry has submitted data that indicates that the distillation step is unneeded for these source categories. At this time the Agency is reviewing data to verify that the requested changes in the test method are reasonable. The changes would not apply to other categories of sources.

The second concern raised was that of how to test uncontrolled GTSP storage buildings using method 13 A or B. Uncontrolled buildings do not have a stack or a single discharge point. Section 63.7 of the general provisions provides that sources may develop site-specific test plans.

The Agency is working with the affected sources and their respective permitting agencies through this site-specific test plan process to develop a consistent methodology for the purpose of determining whether the sources can achieve the emission limits of the proposed standards without add-on controls.

E. Selection of Monitoring Requirements

The proposed standards would require that sources continuously monitor and maintain control device operating parameters within plus or minus ten percent of the values established during performance testing. Since control of particulate matter is impaired by a lessening of pressure drop or liquid flow rate, decreases in these parameters indicate a decline in emissions control efficiency. For HF, as determined by total fluoride, the opposite effect can occur. Removal of fluorides by wet scrubbers is enhanced by increased residence time in the control device. So, it is appropriate that an upper bound to pressure drop should be included as a means of maintaining residence time at a value similar to that obtained during the performance test. Similar to the NSPS, the proposed NESHAP would require monitoring of process feed rate.

During development of the proposed NESHAP, industry representatives expressed some concern over EPA's intention to define scrubber monitoring parameter exceedances in excess of plus or minus ten percent of the values established during the most recent performance test as violations. That concern centered upon the possibility that those values could change as a result of equipment or process variables which would not necessarily result in noncompliance with the numerical limits of the standards. They suggested that Agency should allow a grace period for re-testing to determine compliance with the numerical limits of the standard. In particular, the inclusion of the upper bound was questioned. The Agency's response is that the upper limit is appropriate because higher pressure drops could indicate that emissions controls were suffering from a reduction in residence time associated with higher pressure drops or process upsets and the Agency has elected to keep the upper band for parameter excursions because of enforcement concerns. To allay the concerns of industry, the Agency is including in the proposed regulation language which provides a grace period for re-testing under the conditions measured during the exceedance to determine compliance. Upon considering that some sources at relatively remote locations need time to arrange for services of outside test crews, the proposed rule would allow sources thirty days to re-test and demonstrate compliance with the numerical emissions limits. If a source is re-tested within that time period and passes the required test, the exceedances of the parameter limits would not be considered violations of the Act.

Some industry representatives recommended defining the acceptable range of operational parameters on the basis of the ranges resulting from previous or specially-conducted successful performance tests. Initially, the Agency considered this approach and concluded that to require extensive testing to develop operational ranges during performance testing could be construed as burdensome. So, the Agency chose the approach first described in this section as a requirement. In addition, the proposed regulations would allow use of the approach requested by industry, with its attendant costs, as an alternative which sources could choose to employ at their discretion. In particular, the alternative provides flexibility for sources to establish operational ranges for control device parameters on the basis of data derived from multiple performance tests. Operating ranges could based upon values recorded during previous successful performance tests or upon the results of new performance testing conducted specifically for the purpose of establishing operating ranges. Sources would be required to certify that the control devices and processes had not been modified subsequent to the testing upon which the data used to establish the operating ranges were obtained. Following the approval by the permitting authority of operating ranges for the affected source, any three hour averages of the values of total pressure drop or flow rate of the scrubbing liquid in exceedance of the approved operating ranges would constitute violations of applicable emission limits.

For PPA plants, compliance would be determined by inventory records documenting the amounts of MIBK

added to the process as makeup for routine losses from the system. In addition, the source would be required to maintain records of maintenance activities which would include estimates of MIBK losses. The source would be required to document in its inventory any losses from nonroutine equipment failures or malfunctions. On a continuing basis, the source would be required to monitor and record the MIBK content of raffinate, gas chiller temperature and cooling tower losses. Recordkeeping and reporting would be subject to the General Provisions to 40 CFR Part 63.

F. Selection of Notification, Reporting, and Recordkeeping Requirements

All requirements of the General Provisions apply under the proposed rule. The General Provisions include requirements for notifications; reports on performance test results; semiannual excess emissions reports; and startup, shutdown, and malfunction plans and reports. Startups, shutdowns, and malfunctions of production lines can occur in this industry. The development and implementation of the plan will aid in reducing emissions from these events and in reducing malfunctions. A semiannual report to EPA is required only in the event a reportable event occurs and the steps in the plan were not followed. Semiannual excess emission reports are required to ensure that the permitting authority is aware of any potential operating or compliance problems at the source.

The proposed rule requires that minimum information and data be maintained in a file available for inspection at the site. Records of control device operational parameters, process feed rate, MIBK addition to PPA plants and MIBK concentrations at specified points would be required to ensure that MACT-level controls are in place and properly operated and maintained.

G. Solicitation of Comments

The EPA seeks full public participation in arriving at its final decisions and encourages comments on all aspects of this proposal from all interested parties. Full supporting data and detailed analyses should be submitted with comments to allow EPA to make maximum use of the comments. All comments should be directed to the Air and Radiation Docket and Information Center, Docket No. A–95–33 (see **ADDRESSES**). Comments on this notice must be submitted on or before the date specified in **DATES**.

Commentors wishing to submit proprietary information for consideration should clearly distinguish such information from other comments and clearly label it "Confidential Business Information" (CBI). Submissions containing such proprietary information should be sent directly to the Emission Standards Division CBI Office, U.S. Environmental Protection Agency (MD–13), Research Triangle Park, North Carolina 27711, with a copy of the cover letter directed to the contact person listed above. Confidential business information should not be sent to the public docket. Information covered by such a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, it may be made available to the public without further notice to the commentor.

V. Impacts of Proposed Standards

A. Applicability

Currently, 21 phosphoric acid manufacturing and phosphate fertilizers production complexes, owned by 15 companies, are located in seven States. The EPA estimates that five of these plants would need to install better controls on at least one process each to reduce emissions. All plants in the industry would be subject to the proposed standards unless the plant owner or operator demonstrates that the facility is not a major source. The Agency expects that six of the 21 phosphate fertilizers production complexes will be demonstrated to be non-major sources.

B. Air Quality Impacts

Nationwide HAP emissions from phosphoric acid manufacturing and phosphate fertilizers production complexes are estimated to be up to 550 Mg/yr (605 tpy) of HF and other HAP at the current level of control. Implementation of the proposed NESHAP would reduce HF emissions by 315 Mg/yr (345 tpy) from currently permitted levels. The corresponding reduction in total fluorides would be 940 Mg/yr (1035 tpy). This would equate to 1570 Mg (1725 tons) of HF and 4700 Mg (5175 tons) of total fluoride over the first five years of the proposed standards. Since the PPA plant emitting MIBK and calciners emitting HAP metals in the form of particulates would meet the NESHAP in their current configurations, no additional emissions reductions would be gained from those operations. The proposed NESHAP would ensure that the currently installed control systems would be properly operated and maintained. Additional information on emissions and emission reductions is included in the TSD.

C. Water Impacts

As a result of NESHAP, five plants would install five to six low energy scrubbers using recycled pond water as the scrubbing liquid would result from NESHAP. Most, if not all, new scrubbers would employ cooling pond water as the scrubbing fluid and return the scrubber discharge to the pond for recycle to the process. The impacts of this would therefore be minimal.

D. Solid Waste Impacts

Solid waste impacts would be minimal.

E. Energy Impacts

A total of five to six low energy scrubbers would result from NESHAP. Increased power for the scrubbers was estimated to cause an additional annual power consumption of twenty million kilowatt hours.

F. Nonair Environmental and Health Impacts

Reducing HAPs and ambient pollutant levels may help lower occupational exposure levels.

G. Cost Impacts

The proposed rule would affect phosphoric acid manufacturing and phosphate fertilizers production facilities that are major sources or that are located at major sources. The Agency projects that six process lines at existing source complexes would install new control systems. The Agency estimated that five additional sources would be expected to employ better operation and maintenance practices to meet the standards. Based upon availability of surplus production capacity and recent market trends, the Agency projects that no new facilities will be constructed within the next five years. For the five plants expected to add new air pollution control scrubbers to meet the proposed NESHAP, the capital cost of new control devices is estimated to be $1,401,561. Estimated annualized capital, operation, and maintenance costs of new scrubbers are estimated to total $847,851. The annual costs for the plants expected to implement improved operation and maintenance are estimated to be $14,400. Thus, the total annualized costs of the standards would be $862,251 nationwide.

H. Economic Impacts

Prices are expected to increase in each regional market by the per-unit-cost

increase for the marginal firm. Because neither the exact regional structure, nor which firm is the high cost producer within the region, is known, a range of prices changes has been estimated. For the lower estimate, one national market is assumed for each good. The production weighted average cost increase is assumed to be the expected cost increase for the marginal firm and is used for the price increase. The higher estimate has been developed by using the highest cost increase among the facilities as the cost increase for the marginal firm. This makes the highest cost increase the price increase for the national market. Even the highest estimate for the product (MAP/DAP) with the highest cost increase would be a price increase of less than one third of one percent.

Although demand elasticity estimates are not available, the lack of close substitutes, the small cost share of fertilizers in final agricultural products, and the expected low elasticity for the production of food lead to the expectation of an inelastic demand. Since elasticity of demand would be expected to be less than one, percentage quantity adjustments would be expected to be smaller than the percentage price changes discussed above.

Detailed plant information needed for plant closure analysis is not available, but, plant closure as a result of the costs of this regulation would be unlikely. The highest estimate for market quantity adjustment is less than three percent of the production of the smallest affected facility for each of the three markets. If there were to be no market price increase, the cost increase as a percentage of sales would always be less than two-fifths of a percent. While closure due to the regulation would be unlikely, a facility planning to close in the absence of the regulation could close earlier because of the regulation. The effect of this regulation would be expected to be minimal on both small businesses and the industry as a whole.

VI. Administrative Requirements

A. Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, because material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. [See section 307(d)(7)(A) of the Act.]

B. Public Hearing

A public hearing will be held, if requested, to discuss the proposed standards in accordance with section 307(d)(5) of the Act. Persons wishing to make oral presentations on the proposed standards should contact EPA (see **ADDRESSES**). If a public hearing is requested and held, EPA will ask clarifying questions during the oral presentation but will not respond to the presentations or comments. To provide an opportunity for all who may wish to speak, oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement on or before February 25, 1997. Written statements should be addressed to the Air and Radiation Docket and Information Center (see **ADDRESSES**), and refer to Docket No. A–95–33. Written statements and supporting information will be considered with equivalent weight as any oral statement and supporting information subsequently presented at a public hearing, if held. A verbatim transcript of the hearing and written statements will be placed in the docket and be available for public inspection and copying, or mailed upon request, at the Air and Radiation Docket and Information Center (see **ADDRESSES**).

C. Executive Order 12866

Under Executive Order 12866 [58 FR 51735 (October 4, 1993)], the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB), and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlement, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, the Agency has determined that this rule is not "significant" because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

D. Enhancing the Intergovernmental Partnership Under Executive Order 12875

In compliance with Executive Order 12875, the Agency involved State,local and Federal governments in the development of this rule. These governments are not directly impacted by the rule; i.e. they are not required to purchase control systems to meet the requirements of the rule. However, they will be required to implement the rule; e.g. incorporate the rule into permits and enforce the rule. They will collect permit fees which will be used to offset the resource burden of implementing the rule. One representative of a State environmental agency has been a member of the EPA work group developing the rule. In addition, the Agency has contacted the staffs of State air pollution control agencies to exchange information during development of the rule. The comments and suggestions of the State agency staffs have been carefully considered in the rule development. In addition, all States are encouraged to comment on this proposed rule during the public comment period and the Agency intends to fully consider these comments in the final rulemaking.

E. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995 (109 Stat. 48), requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the Agency must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative for State, local, and tribal governments and the private sector that

achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or unless the selection of this alternative is inconsistent with law.

Because this proposed rule, if promulgated, is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than $100 million in any one year, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

F. Regulatory Flexibility Act

Under the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, Federal agencies are required to assess the economic impact of Federal regulations on small entities. The Regulatory Flexibility Act specifies that Federal agencies must prepare an initial Regulatory Flexibility Analysis (RFA) if a proposed regulation will have a significant economic impact on a substantial number of small entities.

The Agency has found that two of the twenty one firms that potentially would be subject to the proposed standards are small firms. Of the two, one is an area source which would not be covered by the standards. The second source would be major and subject to the requirements of the standards. Information available to the Agency shows that the second source is able to achieve the control levels of the proposed NESHAP using existing equipment. The testing, monitoring, recordkeeping and reporting requirements are essentially identical to current requirements and, thus, would cause little or no change in these burdens. Therefore, given that only one small entity would see only a minimal change from its current requirements, the Agency certifies that the proposed rulemaking will not impact a substantial number of small entities and that any impacts would be non-significant.

G. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1790.01) and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., S.W.; Washington, DC 20460 or by calling (202) 260–2740.

The information to be collected includes the results of performance testing to be conducted to demonstrate initial compliance with the emissions limits in the proposed rules. At the time that performance testing would be performed, sources would be required to measure and record operating parameters for the processes and control devices. Following the performance testing, sources would be required under authority of the Act to monitor and record operating parameters to assure that they were maintained within approved ranges, based upon values determined during the initial tests. The purpose of the monitoring and recordkeeping requirements would be to provide implementing agencies information to assure that MACT was being implemented on an ongoing basis.

The Agency estimated the projected cost and hour burden of the proposed standards. The average annual reporting burden was estimated to be 132 hours per response. There would be fifteen likely respondents and reports would required twice a year. The total burden would equate to 3790 hours per year nationwide and the corresponding cost was estimated to be $121,773 per year. The total capital cost of the monitoring devices was estimated to be $564, 200 of which the major cost would be for the installation of sensors to measure and record the flow of scrubbing liquid to the control devices. The annualized cost of that capital would be $53,200 per year and the operation and maintenance of the monitoring equipment was estimated as $13,300 per year. Thus, the total annualized capital and operation and maintenance costs were estimated to be $66,500 per year. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., S.W.; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., N.W., Washington, DC 20503, marked "Attention: Desk Officer for EPA." Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after December 27, 1996, a comment to OMB is best assured of having its full effect if OMB receives it by January 27, 1997. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

H. Clean Air Act

In accordance with section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. This regulation will be reviewed 8 years from the date of promulgation. This review will include an assessment of such factors as evaluation of the residual health risks, any overlap with other programs, the existence of alternative methods, enforceability, improvements in emission control technology and health data, and the recordkeeping and reporting requirements.

I. Pollution Prevention Act

During the development of the standards, the Agency explored opportunities to eliminate or reduce emissions through the application of new processes or work practices. As previously discussed, at the outset the Agency explored options for reduction of cooling pond emissions of HF. Among the possibilities was a recently patented process which offers the promise of eliminating the ponds altogether while at the same time

recovery HF for sale to outside parties. At this time that process has not yet been commercially demonstrated.

The other opportunity for prevention of pollution arose when the Agency learned of the piping of air pollution control scrubber effluent to cooling towers, where the HF content was being stripped and emitted to the atmosphere. As previously discussed, the proposed NESHAP would expressly prohibit that practice.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Phosphoric acid manufacturing, and Phosphate fertilizers production.

Dated: November 21, 1996.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, it is proposed that part 63 of title 40, chapter I, of the Code of Federal Regulations be amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Part 63 is amended by adding subpart AA consisting of §§ 63.600 through 63.610 to read as follows:

Subpart AA—National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants

Sec.

63.600 Applicability.
63.601 Definitions.
63.602 Standards for existing sources.
63.603 Standards for new sources.
63.604 Monitoring requirements.
63.605 Performance tests and compliance provisions.
63.606 Notification requirements.
63.607 Recordkeeping requirements.
63.608 Reporting requirements.
63.609 Compliance dates.
63.610 Exemption from new source performance standards.

Subpart AA—National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants

§ 63.600 Applicability.

(a) Except as provided in paragraph (c) of this section, the requirements of this subpart apply to the owner or operator of each new or existing phosphoric acid manufacturing plant.

(b) The requirements of this subpart apply to emissions of hazardous air pollutants (HAPs) emitted from the following affected sources at a new or existing phosphoric acid manufacturing plant:

(1) Each wet-process phosphoric acid plant. The requirements of this subpart apply to the following emission points which are components of a wet-process phosphoric acid plant: reactors, filters, evaporators, and hot wells.

(2) Each evaporative cooling tower at a phosphoric acid manufacturing plant.

(3) Each phosphate rock dryer located at a phosphoric acid manufacturing plant.

(4) Each phosphate rock calciner located at a phosphoric acid manufacturing plant.

(5) Each superphosphoric acid plant. The requirements of this subpart apply to the following emission points which are components of a superphosphoric acid plant: evaporators, hot wells, acid sumps, and cooling tanks; and

(6) Each purified acid plant. The requirements of this subpart apply to the following emission points which are components of a purified phosphoric acid plant: solvent extraction process equipment, solvent stripping and recovery equipment, seal tanks, carbon treatment equipment, cooling towers, storage tanks, pumps and process piping.

(c) The requirements of this subpart do not apply to the owner or operator of a new or existing phosphoric acid manufacturing plant for which the owner or operator demonstrates, to the satisfaction of the Administrator, that the facility is not a major source as defined in § 63.2.

§ 63.601 Definitions.

Terms used in this subpart are defined in the Clean Air Act, in § 63.2, or in this section as follows:

Equivalent P_2O_5 feed means the quantity of phosphorus, expressed as phosphorous pentoxide, fed to the process.

Evaporative cooling tower means an open water recirculating device that uses fans or natural draft to draw or force ambient air through the device to remove heat from process water by direct contact.

HAP metals mean those chemicals and their compounds (in particulate or volatile form) that are included on the list of hazardous air pollutants in section 112 of the Clean Air Act. HAP metals include, but are not limited to: antimony, arsenic, beryllium, cadmium, chromium, lead, manganese, nickel, and selenium expressed as particulate matter as measured by the methods and procedures in this subpart or an approved alternative method. For the purposes of this subpart, HAP metals are expressed as particulate matter as measured by 40 CFR Part 60, Appendix A, Method 5.

Phosphate rock calciner means the equipment used to remove moisture and organic matter from phosphate rock through direct or indirect heating.

Phosphate rock dryer means the equipment used to reduce the moisture content of phosphate rock through direct or indirect heating.

Phosphate rock feed means all material entering any phosphate rock dryer or phosphate rock calciner including moisture and extraneous material as well as the following ore materials: fluorapatite, hydroxylapatite, chlorapatite, and carbonateapatite.

Purified phosphoric acid plant means any facility which concentrates wet-process phosphoric acid to 58 percent or greater P_2O_5 content by weight and which uses solvent extraction to separate impurities from the product acid for the purposes of rendering that product suitable for industrial, manufacturing or food grade uses.

Superphosphoric acid plant means any facility which concentrates wet-process phosphoric acid to 66 percent or greater P_2O_5 content by weight.

Total fluorides means elemental fluorine and all fluoride compounds, including the HAP hydrogen fluoride, as measured by reference methods specified in 40 CFR Part 60, Appendix A , Method 13 A or B, or by equivalent or alternative methods approved by the Administrator pursuant to § 63.7(f).

Wet process phosphoric acid plant means any facility manufacturing phosphoric acid by reacting phosphate rock and acid.

§ 63.602 Standards for existing sources.

(a) *Wet process phosphoric acid plant.* On and after the date on which the performance test required to be conducted by §§ 63.7 and 63.605 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected source any gases which contain total fluorides in excess of 10.0 gram/metric ton of equivalent P_2O_5 feed (0.020 lb/ton).

(b) *Superphosphoric acid plant.* (1) On and after the date on which the performance test required to be conducted by §§ 63.7 and 63.605 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected source any gases which contain total fluorides in excess of 5.0 gram/metric ton of equivalent P_2O_5 feed (0.010 lb/ton).

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(2) Notwithstanding paragraph (b)(1) of this section, on and after the date on which the performance test required to be conducted by §§ 63.7 and 63.605 is completed, each submerged combustion process superphosphoric acid plant at the Arcadian Fertilizers facility in Geismar, Louisiana shall not cause to be discharged into the atmosphere any gases which contain total fluorides in excess of 100.0 gram/metric ton of equivalent P_2O_5 feed (0.20 lb/ton).

(c) *Phosphate rock dryer.* On or after the date on which the performance test required to be conducted by §§ 63.7 and 63.605 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected source any gases which contain particulate matter in excess of 0.10750 kilogram/metric ton of phosphate rock feed (0.2150 lb/ton).

(d) *Phosphate rock calciner.* On or after the date on which the performance test required to be conducted by §§ 63.7 and 63.605 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected source any gases which contain particulate matter in excess of 0.138 gram per dry standard cubic meter (g/dscm) [0.060 grain per dry standard cubic foot (gr/dscf)].

(e) *Evaporative cooling tower.* No owner or operator shall introduce into any evaporative cooling tower any liquid effluent from any wet scrubbing device installed to control emissions from process equipment.

(f) *Purified phosphoric acid plant.* No owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected source any gases which contain methyl isobutyl ketone in excess of 84.320 gram/metric ton of equivalent P_2O_5 feed (0.16864 lb/ton). Compliance shall be determined as a monthly average based upon records of the addition of methyl isobutyl ketone to the process as required in § 63.605(f).

§ 63.603 Standards for new sources.

(a) *Wet process phosphoric acid plant.* On and after the date on which the performance test required to be conducted by §§ 63.7 and 63.605 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected source any gases which contain total fluorides in excess of 6.750 gram/metric ton of equivalent P_2O_5 feed (0.01350 lb/ton).

(b) *Superphosphoric acid plant.* On and after the date on which the performance test required to be conducted by §§ 63.7 and 63.605 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected source any gases which contain total fluorides in excess of 4.35 gram/metric ton of equivalent P_2O_5 feed (0.00870 lb/ton).

(c) *Phosphate rock dryer.* On or after the date on which the performance test required to be conducted by §§ 63.7 and 63.605 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected source any gases which contain particulate matter in excess of 0.030 kilogram/metric ton per megagram of phosphate rock feed (0.060 lb/ton).

(d) *Phosphate rock calciner.* On or after the date on which the performance test required to be conducted by §§ 63.7 and 63.605 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected source any gases which contain particulate matter in excess of 0.0920 gram per dry standard cubic meter (g/dscm) [0.040 grain per dry standard cubic foot (gr/.dscf)].

(e) *Evaporative cooling tower.* No owner or operator shall introduce into any evaporative cooling tower any liquids containing the effluent from any air pollution control device.

(f) *Purified phosphoric acid plant.* No owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected source any gases which contain methyl isobutyl ketone in excess of 84.320 gram/metric ton of equivalent P_2O_5 feed (0.16864 lb/ton). Compliance shall be determined as a monthly average based upon records of the addition of methyl isobutyl ketone to the process.

§ 63.604 Monitoring requirements.

(a) Each owner or operator of a new or existing wet-process phosphoric acid plant, superphosphoric acid plant, phosphate rock dryer, phosphate rock calciner, or purified phosphoric acid plant subject to the provisions of this subpart shall install, calibrate, maintain, and operate a monitoring system which can be used to determine and permanently record the mass flow of phosphorus-bearing feed material to the process. The monitoring system shall have an accuracy of ±5 percent over its operating range.

(b) Each owner or operator of a new or existing wet-process phosphoric acid plant, superphosphoric acid plant, phosphate rock calciner, or purified phosphoric acid plant subject to the provisions of this subpart shall maintain a daily record of equivalent P_2O_5 feed by first determining the total mass rate in metric ton/hour of phosphorus bearing feed using a monitoring system for measuring mass flowrate which meets the requirements of paragraph (a) of this section and then by proceeding according to § 63.605(c)(3).

(c) Each owner or operator of a new or existing wet-process phosphoric acid plant, superphosphoric acid plant, phosphate rock dryer or phosphate rock calciner using a wet scrubbing emission control system shall install, calibrate, maintain, and operate the following monitoring systems:

(1) A monitoring system which continuously measures and permanently records the total pressure drop across each scrubber in the process scrubbing system. The monitoring system shall be certified by the manufacturer to have an accuracy of ±5 percent over its operating range.

(2) A monitoring system which continuously measures and permanently records the flow rate of the scrubbing liquid to each scrubber in the process scrubbing system. The monitoring system shall be certified by the manufacturer to have an accuracy of ±5 percent over its operating range.

(d) Any new or existing source subject to emissions limitations for total fluorides or particulate matter contained in this subpart shall comply with either paragraph (d) (1) or (2) of this section:

(1) For a new or existing affected source, following the date on which the performance test required in § 63.605 is completed, any three-hour average of the total pressure drop across the scrubber(s) or of the flow rate of the scrubbing liquid to the scrubber(s) in the process scrubbing system which exceeds ± ten percent of the value determined as a requirement of § 63.605(c)(4), (d)(4), or (e)(2) shall constitute a violation of the applicable emission limit contained in this subpart unless the affected source performs and passes a performance test as required in § 63.605 within thirty days following the exceedance. Any owner or operator who intends to conduct a performance test pursuant to this paragraph shall notify the Administrator of that intention within one business day of the parameter exceedance. Any owner or operator conducting a performance test pursuant to this paragraph (d)(1) shall establish and maintain during that test the same operating conditions as were determined during the exceedance of the operating range.

(2) The owner or operator of any new or existing affected source shall establish operating ranges for the total

pressure drop across or of the flow rate of the scrubbing liquid to each scrubber in the process scrubbing system for the purpose of assuring compliance with applicable emission limits required in this subpart. Operating ranges may be based upon values recorded during previous performance tests using the test methods required in this subpart and established in the manner required in § 63.605 (c)(4), (d)(4), or (e)(2). As an alternative the owner or operator can base the operating ranges upon the results of performance tests conducted specifically for the purposes of this paragraph (d)(2) using the test methods required in this subpart and established in the manner required in § 63.605(c)(4), (d)(4), or (e)(2). The source shall certify that the control devices and processes have not been modified subsequent to the testing upon which the data used to establish the operating ranges were obtained. Following the approval by the permitting authority of operating ranges for the affected source, any three hour average of the values of total pressure drop or flow rate of the scrubbing liquid which exceeds the approved operating ranges shall constitute a violation of the applicable emission limit contained in this subpart.

(e) Each owner or operator of a new or existing purified phosphoric acid plant shall: (1) Install, calibrate, maintain, and operate a monitoring system which continuously measures and permanently records the stack gas exit temperature for each chiller stack. (2) Measure and record the concentration of methyl isobutyl ketone in each product acid stream and each raffinate stream once daily.

(f) For any new or existing purified phosphoric acid plant, any of the following shall constitute a violation of this subpart:

(1) A thirty day average of daily concentration measurements of methyl isobutyl ketone in excess of twenty parts per million for each stripped acid stream.

(2) A thirty day average of daily concentration measurements of methyl isobutyl ketone in excess of thirty parts per million for each raffinate stream.

(3) A daily average chiller stack exit gas stream temperature in excess of fifty degrees Fahrenheit.

§ 63.605 Performance tests and compliance provisions.

(a) Each owner or operator of a new or existing phosphoric acid manufacturing plant shall conduct a performance test to demonstrate compliance with the applicable emission standard for each wet-process phosphoric acid plant, superphosphoric acid plant, phosphate rock dryer, and phosphate rock calciner. If the affected source has multiple control devices and/or emission points subject to the provisions of this subpart, those control devices and/or emission points shall be tested simultaneously. The owner or operator shall conduct the performance test according to the procedures in the General Provisions in subpart A of this part and in this section.

(b) In conducting performance tests, each owner or operator of an affected source shall use as reference methods and procedures the test methods in 40 CFR Part 60, Appendix A, or other methods and procedures as specified in this section, except as provided in § 63.7(f).

(c) Each owner or operator of a new or existing wet-process phosphoric acid plant or superphosphoric acid plant shall determine compliance with the applicable total fluorides standards in § 63.602 or § 63.603 as follows:

(1) The emission rate (E) of total fluorides shall be computed for each run using the following equation:

$$E = \left(\sum_{i=1}^{N} C_{si} Q_{sdi} \right) / (PK)$$

Where:

E=emission rate of total fluorides, g/metric ton (lb/ton) of equivalent P_2O_5 feed.

C_{si}=concentration of total fluorides from emission point "i," mg/dscm (mg/dscf).

Q_{sdi}=volumetric flow rate of effluent gas from emission point "i," dscm/hr (dscf/hr).

N=number of emission points associated with the affected facility.

P=equivalent P_2O_5 feed rate, metric ton/hr (ton/hr).

K=conversion factor, 1000 mg/g (453,600 mg/lb).

(2) Method 13A or 13B (40 CFR part 60, appendix A) shall be used to determine the total fluorides concentration (C_{si}) and volumetric flow rate (Q_{sdi}) of the effluent gas from each of the emission points. If Method 13 B is used, the fusion of the filtered material described in Section 7.3.1.2 and the distillation of suitable aliquots of containers 1 and 2, described in section 7.3.3 and 7.3.4. in Method 13 A, may be omitted. The sampling time and sample volume for each run shall be at least 60 minutes and 0.85 dscm (30 dscf).

(3) The equivalent P_2O_5 feed rate (P) shall be computed for each run using the following equation:

$P=M_p R_p$

Where:

M_p=total mass flow rate of phosphorus-bearing feed, metric ton/hr (ton/hr).

R_p=P_2O_5 content, decimal fraction.

(i) The accountability system of § 63.604 (a) and (b) shall be used to determine the mass flow rate (M_p) of the phosphorus-bearing feed.

(ii) The Association of Official Analytical Chemists (AOAC) Method 9 (incorporated by reference—see 40 CFR 60.17) shall be used to determine the P_2O_5 content (R_p) of the feed.

(4) To comply with § 63.604(d) (1) or (2), the owner or operator shall use the monitoring systems in § 63.604(c) to determine the average pressure loss of the gas stream across each scrubber in the process scrubbing system and to determine the average flow rate of the scrubber liquid to each scrubber in the process scrubbing system during each of the total fluoride runs. The arithmetic averages of the three runs shall be used as the baseline average values for the purposes of § 63.604(d) (1) or (2).

(d) Each owner or operator of a new or existing phosphate rock dryer shall demonstrate compliance with the particulate matter standards in § 63.602 or § 63.603 as follows:

(1) The emission rate (E) of particulate matter shall be computed for each run using the following equation:

$E=(c_s Q_{sd})/(P K)$

Where:

E=emission rate of particulate matter, kg/Mg (lb/ton) of phosphate rock feed.

c_s=concentration of particulate matter, g/dscm (g/dscf).

Q_{sd}=volumetric flow rate of effluent gas, dscm/hr (dscf/hr).

P=phosphate rock feed rate, Mg/hr (ton/hr).

K=conversion factor, 1000 g/kg (453.6 g/lb).

(2) Method 5 (40 CFR part 60, appendix A) shall be used to determine the particulate matter concentration (c_s) and volumetric flow rate (Q_{sd}) of the effluent gas. The sampling time and sample volume for each run shall be at least 60 minutes and 0.85 dscm (30 dscf).

(3) The system of § 63.604(a) shall be used to determine the phosphate rock feed rate (P) for each run.

(4) To comply with § 63.604 (d)(1) or (2), the owner or operator shall use the monitoring systems in § 63.604(c) to determine the average pressure loss of the gas stream across each scrubber in the process scrubbing system and to determine the average flow rate of the scrubber liquid to each scrubber in the process scrubbing system during each of the particulate matter runs. The arithmetic average of the one-hour averages determined during the three test runs shall be used as the baseline average values for the purposes of § 63.604 (d)(1) or (2).

(e) Each owner or operator of a new or existing phosphate rock calciner shall

demonstrate compliance with the particulate matter standards in §§ 63.602 and 63.603 as follows:

(1) Method 5 (40 CFR part 60, appendix A) shall be used to determine the particulate matter concentration. The sampling time and volume for each test run shall be at least 2 hours and 1.70 dscm.

(2) To comply with § 63.604(d)(1) or (2), the owner or operator shall use the monitoring systems in § 63.604(c) to determine the average pressure loss of the gas stream across each scrubber in the process scrubbing system and to determine the average flow rate of the scrubber liquid to each scrubber in the process scrubbing system during each of the particulate matter runs. The arithmetic average of the one-hour averages determined during the three test runs shall be used as the baseline average values for the purposes of § 63.604 (d)(1) or (2).

(f) Each owner or operator of a new or existing purified phosphoric acid manufacturing plant shall establish and maintain an inventory system to determine the mass of methyl isobutyl ketone added to each process line at an affected source. For the purposes of determining compliance with the requirements of § 63.602(f) or § 63.603(f), the mass of methyl isobutyl ketone added to the process at any time shall be apportioned on the basis of tons of equivalent P2O5 feed, as determined under the requirements of §§ 63.604(a) and 63.604(b), for production occurring during the corresponding period of time.

§ 63.606 Notification requirements.

Each owner or operator subject to the requirements of this subpart shall comply with the notification requirements in § 63.9.

§ 63.607 Recordkeeping requirements.

Each owner or operator subject to the requirements of this subpart shall comply with the recordkeeping requirements in § 63.10.

§ 63.608 Reporting requirements.

(a) The owner or operator of an affected source shall comply with the reporting requirements specified in § 63.10 as follows:

(1) *Performance test report.* As required by § 63.10, the owner or operator shall report the results of the initial performance test as part of the notification of compliance status required in § 63.9.

(2) *Excess emissions report.* As required by § 63.10, the owner or operator of an affected source shall submit an excess emissions report for any event when an operating parameter limit is exceeded. The report shall contain the information specified in § 63.10. When no exceedances of a parameter have occurred, such information shall be included in the report. The report shall be submitted semiannually and shall be delivered or postmarked by the 30th day following the end of the calendar half. If excess emissions are reported, the owner or operator shall report quarterly until a request to reduce reporting frequency is approved as described in § 63.10.

(3) *Summary report.* If the total duration of control system exceedances for the reporting period is less than 1 percent of the total operating time for the reporting period, the owner or operator shall submit a summary report containing the information specified in § 63.10 rather than the full excess emissions report, unless required by the Administrator. The summary report shall be submitted semiannually and shall be delivered or postmarked by the 30th day following the end of the calendar half.

(4) If the total duration of control system parameter exceedances for the reporting period is 1 percent or greater of the total operating time for the reporting period, the owner or operator shall submit a summary report and the excess emissions report.

§ 63.609 Compliance dates.

(a) Each owner or operator of an existing phosphoric acid manufacturing plant shall achieve compliance with the requirements of this subpart no later than (Three Years After Date of Publication of Final Rule).

(b) Each owner or operator of a phosphoric acid manufacturing plant that commences construction or reconstruction after (Date of Publication of Final Rule) shall achieve compliance with the requirements of this subpart by (Date of Publication of Final Rule) or upon startup of operations, whichever is later.

§ 63.610 Exemption from new source performance standards.

Any process component subject to the provisions of this subpart is exempted from any otherwise applicable new source performance standard contained in 40 CFR Part 60.

3. Part 63 is amended by adding subpart BB consisting of §§ 63.620 through 63.630 to read as follows:

Subpart BB—National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants

Sec.

63.620 Applicability.
63.621 Definitions.
63.622 Standards for existing sources.
63.623 Standards for new sources.
63.624 Monitoring requirements.
63.625 Performance tests and procedures.
63.626 Notification requirements.
63.627 Recordkeeping requirements.
63.628 Reporting requirements.
63.629 Compliance dates.
63.630 Exemption from exemption from new source performance standards.

Subpart BB—National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants

§ 63.620 Applicability.

(a) Except as provided in paragraph (c) of this section, the requirements of this subpart apply to the owner or operator of each new or existing phosphate fertilizers production plant.

(b) The requirements of this subpart apply to emissions of hazardous air pollutants (HAPs) emitted from the following affected sources at a new or existing phosphate fertilizers production plant:

(1) Each diammonium and/or monoammonium phosphate plant. The requirements of this subpart apply to the following emission points which are components of a diammonium and/or monoammonium phosphate plant: reactors, granulators, dryers, coolers, screens, and mills.

(2) Each granular triple superphosphate plant. The requirements of this subpart apply to the following emission points which are components of a granular triple superphosphate plant: mixers, curing belts (dens), reactors, granulators, dryers, coolers, screens, and mills.

(3) Each granular triple superphosphate storage building located at a granular triple superphosphate plant. The requirements of this subpart apply to the following emission points which are components of a granular triple superphosphate storage building: storage or curing buildings, conveyors, elevators, screens, and mills.

(c) The requirements of this subpart do not apply to the owner or operator of a new or existing phosphate fertilizers production plant for which the owner or operator demonstrates, to the satisfaction of the Administrator, that the facility is not a major source as defined in § 63.2.

§ 63.621 Definitions.

Terms used in this subpart are defined in the Clean Air Act, in § 63.2, or in this section as follows:

Diammonium and/or monoammonium phosphate plant means any plant manufacturing granular diammonium and/or monoammonium

phosphate by reacting phosphoric acid with ammonia.

Equivalent P_2O_5 feed means the quantity of phosphorus, expressed as phosphorous pentoxide, fed to the process.

Equivalent P_2O_5 stored means the quantity of phosphorus, expressed as phosphorus pentoxide, being cured or stored in the affected facility.

Fresh granular triple superphosphate means granular triple superphosphate produced no more than 10 days prior to the date of the performance test.

Granular triple superphosphate plant means any facility, not including storage buildings, manufacturing granular triple superphosphate by reacting phosphate rock with phosphoric acid.

Granular triple superphosphate storage building means any facility curing or storing fresh granular triple superphosphate.

Total fluorides means elemental fluorine and all fluoride compounds, including the HAP hydrogen fluoride, as measured by reference methods specified in 40 CFR Part 60, Appendix A, Method 13 A or B, or by equivalent or alternative methods approved by the Administrator pursuant to § 63.7(f).

§ 63.622 Standards for existing sources.

(a) *Diammonium and/or monoammonium phosphate plant.* On and after the date on which the performance test required to be conducted by §§ 63.7 and 63.625 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected source any gases which contain total fluorides in excess of 30 grams/metric ton of equivalent P_2O_5 feed (0.060 lb/ton).

(b) *Granular triple superphosphate plant.* On and after the date on which the performance test required to be conducted by §§ 63.7 and 63.625 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected source any gases which contain total fluorides in excess of 75 grams/metric ton of equivalent P_2O_5 feed (0.15 lb/ton).

(c) *Granular triple superphosphate storage building.* On and after the date on which the performance test required to be conducted by §§ 63.7 and 63.625 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected source any gases which contain total fluorides in excess of 0.250 grams/hr/metric ton of equivalent P_2O_5 stored (5.0×10^{-4} lb/hr/ton of equivalent P_2O_5 stored).

§ 63.623 Standards for new sources.

(a) *Diammonium and/or monoammonium phosphate plant.* On and after the date on which the performance test required to be conducted by §§ 63.7 and 63.625 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected source any gases which contain total fluorides in excess of 29.0 grams/metric ton of equivalent P_2O_5 feed (0.0580 lb/ton).

(b) *Granular triple superphosphate plant.* On and after the date on which the performance test required to be conducted by §§ 63.7 and 63.625 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected source any gases which contain total fluorides in excess of 61.50 grams/metric ton of equivalent P_2O_5 feed (0.1230 lb/ton).

(c) *Granular triple superphosphate storage building.* On and after the date on which the performance test required to be conducted by §§ 63.7 and 63.625 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected source any gases which contain total fluorides in excess of 0.250 grams/hr/metric ton of equivalent P_2O_5 stored (5×10^{-4} lb/hr/ton of equivalent P_2O_5 stored).

§ 63.624 Monitoring requirements.

(a) Each owner or operator of a new or existing diammonium and/or monoammonium phosphate plant or granular triple superphosphate plant subject to the provisions of this subpart shall install, calibrate, maintain, and operate a monitoring system which can be used to determine and permanently record the mass flow of phosphorus-bearing feed material to the process. The monitoring system shall have an accuracy of ±5 percent over its operating range.

(b) Each owner or operator of a new or existing diammonium and/or monoammonium phosphate plant or granular triple superphosphate plant subject to the provisions of this subpart shall maintain a daily record of equivalent P_2O_5 feed by first determining the total mass rate in metric ton/hour of phosphorus bearing feed using a monitoring system for measuring mass flowrate which meets the requirements of paragraph (a) of this section and then by proceeding according to § 63.625(c)(3).

(c) Each owner or operator of a new or existing diammonium and/or monoammonium phosphate plant, granular triple superphosphate plant, or granular triple superphosphate storage building using a wet scrubbing emission control system shall install, calibrate, maintain, and operate the following monitoring systems:

(1) A monitoring system which continuously measures and permanently records the total pressure drop across each scrubber in the process scrubbing system. The monitoring system shall be certified by the manufacturer to have an accuracy of ±5 percent over its operating range.

(2) A monitoring system which continuously measures and permanently records the flow rate of the scrubbing liquid to each scrubber in the process scrubbing system. The monitoring system shall be certified by the manufacturer to have an accuracy of ±5 percent over its operating range.

(d) The owner or operator of any granular triple superphosphate storage building subject to the provisions of this subpart shall maintain an accurate account of granular triple superphosphate in storage to permit the determination of the amount of equivalent P_2O_5 stored.

(e) Each owner or operator of a new or existing granular triple superphosphate storage building subject to the provisions of this subpart shall maintain a daily record of total equivalent P_2O_5 stored by multiplying the percentage P_2O_5 content, as determined by § 63.625(d)(3)(C), times the total mass of granular triple superphosphate stored.

(f) Any new or existing source subject to emissions limitations for total fluorides or particulate matter contained in this subpart shall comply with either paragraph (f) (1) or (2) of this section:

(1) For a new or existing affected source, following the date on which the performance test required in § 63.625 is completed, any three-hour average of the total pressure drop across the scrubber(s) or of the flow rate of the scrubbing liquid to the scrubber(s) in the process scrubbing system which exceeds ± ten percent of the value determined as a requirement of § 63.625 (c)(4) or (d)(4) shall constitute a violation of the applicable emission limit contained in this subpart unless the affected source performs and passes a performance test as required in § 63.625 within thirty days following the exceedance. Any owner or operator who intends to conduct a performance test pursuant to this paragraph shall notify the Administrator of that intention within one business day of the parameter exceedance. Any owner or operator conducting a performance test pursuant to this paragraph shall establish and maintain during that test

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the same operating conditions as were determined during the exceedance of the operating range.

(2) The owner or operator of any new or existing affected source shall establish operating ranges for the total pressure drop across or of the flow rate of the scrubbing liquid to each scrubber in the process scrubbing system for the purpose of assuring compliance with applicable emission limits required in this subpart. Operating ranges may be based upon values recorded during previous performance tests using the test methods required in this subpart and established in the manner required in § 63.625 (c)(4) or (d)(4). As an alternative the owner or operator can base the operating ranges upon the results of performance tests conducted specifically for the purposes of this paragraph using the test methods required in this subpart and established in the manner required in § 63.625 (c)(4) or (d)(4). The source shall certify that the control devices and processes have not been modified subsequent to the testing upon which the data used to establish the operating ranges were obtained. Following the approval by the permitting authority of operating ranges for the affected source, any three-hour average of the values of total pressure drop or flow rate of the scrubbing liquid which exceeds the approved operating ranges shall constitute a violation of the applicable emission limit contained in this subpart.

§ 63.625 Performance tests and procedures.

(a) Each owner or operator of a new or existing phosphate fertilizers production plant subject to the provisions of this subpart shall conduct a performance test to demonstrate compliance with the applicable emission standard for each diammonium and/or monoammonium phosphate plant, granular triple superphosphate plant, or granular triple superphosphate storage building. If the affected source has multiple control devices and/or emission points subject to the provisions of this subpart, those control devices and/or emission points shall be tested simultaneously. The owner or operator shall conduct the performance test according to the procedures in the General Provisions in subpart A of this part and in this section.

(b) In conducting performance tests, each owner or operator of an affected source shall use as reference methods and procedures the test methods in 40 CFR Part 60, Appendix A, or other methods and procedures as specified in this section, except as provided in § 63.7(f).

(c) Each owner or operator of a new or existing diammonium and/or monoammonium phosphate plant or granular triple superphosphate plant shall determine compliance with the applicable total fluorides standards in § 63.622 or § 63.623 as follows:

(1) The emission rate (E) of total fluorides shall be computed for each run using the following equation:

$$E = \left(\sum_{i=1}^{N} C_{si} Q_{sdi} \right) / (P K)$$

Where:

E=emission rate of total fluorides, g/metric ton (lb/ton) of equivalent P_2O_5 feed.

C_{si}=concentration of total fluorides from emission point "i," mg/dscm (mg/dscf).

Q_{sdi}=volumetric flow rate of effluent gas from emission point "i," dscm/hr (dscf/hr).

N=number of emission points associated with the affected facility.

P=equivalent P_2O_5 feed rate, metric ton/hr (ton/hr).

K=conversion factor, 1000 mg/g (453,600 mg/lb).

(2) Method 13A or 13B (40 CFR part 60, appendix A) shall be used to determine the total fluorides concentration (C_{si}) and volumetric flow rate (Q_{sdi}) of the effluent gas from each of the emission points. If Method 13B is used, the fusion of the filtered material described in section 7.3.1.2 and the distillation of suitable aliquots of containers 1 and 2, described in sections 7.3.3 and 7.3.4 in Method 13A, may be omitted. The sampling time and sample volume for each run shall be at least one hour and 0.85 dscm (30 dscf).

(3) The equivalent P_2O_5 feed rate (P) shall be computed for each run using the following equation:

$$P = M_p R_p$$

Where:

M_p=total mass flow rate of phosphorus-bearing feed, metric ton/hr (ton/hr).

R_p=P_2O_5 content, decimal fraction.

(i) The accountability system of § 63.624 (a) and (b) shall be used to determine the mass flow rate (M_p) of the phosphorus-bearing feed.

(ii) The Association of Official Analytical Chemists (AOAC) Method 9 (incorporated by reference—see 40 CFR 60.17) shall be used to determine the P_2O_5 content (Rp) of the feed.

(4) To comply with § 63.624(f) (1) or (2), the owner or operator shall use the monitoring systems in § 63.624(c) to determine the average pressure loss of the gas stream across each scrubber in the process scrubbing system and to determine the average flow rate of the scrubber liquid to each scrubber in the process scrubbing system during each of the total fluoride runs. The arithmetic averages of the three runs shall be used as the baseline average values for the purposes of § 63.624(f) (1) or (2).

(d) Each owner or operator of a new or existing granular triple superphosphate storage building shall determine compliance with the applicable total fluorides standards in § 63.622 or § 63.623 as follows:

(1) The owner or operator shall conduct performance tests only when the following quantities of product are being cured or stored in the facility.

(i) Total granular triple superphosphate is at least 10 percent of the building capacity, and

(ii) Fresh granular triple superphosphate is at least 20 percent of the total amount of triple superphosphate, or

(iii) If the provision in paragraph (d)(1)(ii) of this section exceeds production capabilities for fresh granular triple superphosphate, fresh granular triple superphosphate is equal to at least 5 days maximum production.

(2) In conducting the performance test, the owner or operator shall use as reference methods and procedures the test methods in Part 60, Appendix A, or other methods and procedures as specified in this section, except as provided in § 63.7(f).

(3) The owner or operator shall determine compliance with the total fluorides standard in §§ 63.622 and 63.623 as follows:

(i) The emission rate (E) of total fluorides shall be computed for each run using the following equation:

$$E = \left(\sum_{i=1}^{N} C_{si} Q_{sdi} \right) / (P K)$$

Where:

E=emission rate of total fluorides, g/hr/metric ton (lb/hr/ton) of equivalent P_2O_5 stored.

C_{si}=concentration of total fluorides from emission point "i," mg/dscm (mg/dscf).

Q_{sdi}=volumetric flow rate of effluent gas from emission point "i," dscm/hr (dscf/hr).

N=number of emission points in the affected facility.

P=equivalent P_2O_5 stored, metric tons (tons).

K=conversion factor, 1000 mg/g (453,600 mg/lb).

(ii) Method 13A or 13B (40 CFR part 60, appendix A) shall be used to determine the total fluorides concentration (C_{si}) and volumetric flow rate (Q_{sdi}) of the effluent gas from each of the emission points. If Method 13 B is used, the fusion of the filtered material described in section 7.3.1.2 and the distillation of suitable aliquots of containers 1 and 2, described in Sections 7.3.3 and 7.3.4 in Method 13 A,

may be omitted. The sampling time and sample volume for each run shall be at least one hour and 0.85 dscm (30 dscf).

(iii) The equivalent P_2O_5 feed rate (P) shall be computed for each run using the following equation:

$P=M_p R_p$

Where:

M_p=amount of product in storage, metric ton (ton).

R_p=P_2O_5 content of product in storage, weight fraction.

(A) The accountability system of § 63.624 (d) and (e) shall be used to determine the amount of product (M_p) in storage.

(B) The Association of Official Analytical Chemists (AOAC) Method 9 (incorporated by reference—see 40 CFR 60.17) shall be used to determine the P_2O_5 content (R_p) of the product in storage.

(4) To comply with § 63.624(f) (1) or (2), the owner or operator shall use the monitoring systems in § 63.624(c) to determine the average pressure loss of the gas stream across each scrubber in the process scrubbing system and to determine the average flow rate of the scrubber liquid to each scrubber in the process scrubbing system during each of the total fluoride runs. The arithmetic averages of the three runs shall be used as the baseline average values for the purposes of § 63.624(f) (1) or (2).

§ 63.626 Notification requirements.

Each owner or operator subject to the requirements of this subpart shall comply with the notification requirements in § 63.9.

§ 63.627 Recordkeeping requirements.

Each owner or operator subject to the requirements of this subpart shall comply with the recordkeeping requirements in § 63.10.

§ 63.628 Reporting requirements.

(a) The owner or operator of an affected source shall comply with the reporting requirements specified in § 63.10 as follows:

(1) *Performance test report.* As required by § 63.10, the owner or operator shall report the results of the initial performance test as part of the notification of compliance status required in § 63.9.

(2) *Excess emissions report.* As required by § 63.10, the owner or operator of an affected source shall submit an excess emissions report for any event when an operating parameter limit is exceeded. The report shall contain the information specified in § 63.10. When no exceedances of a parameter have occurred, such information shall be included in the report. The report shall be submitted semiannually and shall be delivered or postmarked by the 30th day following the end of the calendar half. If excess emissions are reported, the owner or operator shall report quarterly until a request to reduce reporting frequency is approved as described in § 63.10.

(3) *Summary report.* If the total duration of control system exceedances for the reporting period is less than 1 percent of the total operating time for the reporting period, the owner or operator shall submit a summary report containing the information specified in § 63.10 rather than the full excess emissions report, unless required by the Administrator. The summary report shall be submitted semiannually and shall be delivered or postmarked by the 30th day following the end of the calendar half.

(4) If the total duration of control system parameter exceedances for the reporting period is 1 percent or greater of the total operating time for the reporting period, the owner or operator shall submit a summary report and the excess emissions report.

(b) [Reserved]

§ 63.629 Compliance dates.

(a) Each owner or operator of an existing phosphate fertilizers production plant shall achieve compliance with the requirements of this subpart no later than (Three Years After Date of Publication of Final Rule).

(b) Each owner or operator of a phosphate fertilizers production plant that commences construction or reconstruction after (Date of Publication of Final Rule), shall achieve compliance with the requirements of this subpart by (Date of Publication of Final Rule) or upon startup of operations, whichever is later.

§ 63.630 Exemption from new source performance standards.

Any process component subject to the provisions of this subpart is exempted from any otherwise applicable new source performance standard contained in 40 CFR Part 60.

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Part VI

Library of Congress

Copyright Office

Uruguay Round Agreements Act: List of Copyright Restoration of Certain Berne Convention and World Trade Organization Works; Notice

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LIBRARY OF CONGRESS

Copyright Office

[Docket No. 96–7]

Copyright Restoration of Works in Accordance With the Uruguay Round Agreements Act; List Identifying Copyrights Restored Under the Uruguay Round Agreements Act for Which Notices of Intent To Enforce Restored Copyrights Were Filed in the Copyright Office

AGENCY: Copyright Office, Library of Congress.

ACTION: Publication of third list of notices of intent to enforce copyrights restored under the Uruguay Round Agreements Act.

SUMMARY: The Copyright Office is publishing its third list of restored copyrights for which it has received and processed Notices of Intent to Enforce a copyright restored under the Uruguay Round Agreements Act. Publication of the lists creates a record for the public to identify copyright owners and works whose copyright has been restored for which Notices of Intent to Enforce have been filed with the Copyright Office.

EFFECTIVE DATE: December 27, 1996.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel, or Charlotte Douglass, Principal Legal Advisor to the General Counsel, Copyright GC/I&R, Post Office Box 70400, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

I. Background

The Uruguay Round General Agreement on Tariffs and Trade and the Uruguay Round Agreements Act (URAA) (Public Law No. 103–465; 108 Stat. 4809 (1994)) provide for the restoration of copyright in certain works that were in the public domain in the United States. Under section 104A of title 17 [1] of the United States Code as provided by the URAA, copyright protection was restored on January 1, 1996, in certain works by foreign nationals or domiciliaries of World Trade Organization (WTO) or Berne countries that were not protected under the copyright law for the reasons listed below in (2). Specifically, for restoration of copyright, a work must be an original work of authorship that:

(1) Is not in the public domain in its source country through expiration of term of protection;

(2) Is in the public domain in the United States due to:

(i) Noncompliance with formalities imposed at any time by United States copyright law, including failure of renewal, publishing the work without a proper notice, or failure to comply with any manufacturing requirements;

(ii) Lack of subject matter protection in the case of sound recordings fixed before February 15, 1972; or

(iii) Lack of national eligibility (e.g., the work is from a country with which the United States did not have copyright relations at the time of the work's publication); and

(3) Has at least one author (or in the case of sound recordings, rightholder) who was, at the time the work was created, a national or domiciliary of an eligible country. If the work was published, it must have been first published in an eligible country and not published in the United States within 30 days of first publication.

See 17 U.S.C. 104A(h)(6). A work meeting these requirements is protected "for the remainder of the term of copyright that the work would have otherwise been granted in the United States if the work never entered the public domain in the United States." 17 U.S.C. 104A(a)(1)(B).

Although the copyright owner may immediately enforce the restored copyright against individuals who infringe his or her rights on or after the effective date of restoration, the copyright owner's right to enforce the restored copyright is delayed against reliance parties. Typically, a reliance party is one who was already using the work before December 8, 1994, the date the URAA was enacted. *See* 17 U.S.C. 104A(h)(4). Before a copyright owner can enforce a restored copyright against a reliance party, the copyright owner must file a Notice of Intent (NIE) with the Copyright Office or serve an NIE on such a party.

An NIE may be filed in the Copyright Office within two years of the date of restoration of copyright. Alternatively, an NIE may be served on an individual reliance party at any time during the term of copyright; however, such notices are effective only against the party served and those who have actual knowledge of the notice and its contents. NIEs appropriately filed with the Copyright Office and published herein serve as constructive notice to all reliance parties.

Corrections Procedure

The Copyright Office has promulgated final regulations that provide for filing NIEs with the Office. 60 FR 50414 (Sept. 29, 1995). As required by section 104A(e)(1)(A)(iii), the Office's final regulation included provisions for the correction of minor errors or omissions. There have been requests for more detailed instructions for correcting all kinds of errors made in filing NIEs. The Office will publish these further instructions in early 1997.

II. Online Availability of NIE Lists

Pursuant to the URAA, the Office is publishing its third four-month list identifying restored works for notices of intent to enforce a restored copyright filed with the Office. 17 U.S.C. 104A(e)(1)(B). The earlier lists were published on May 1, 1996, and August 30, 1996. 61 FR 19372 (May 1, 1996) and 61 FR 46134 (Aug. 30, 1996). The NIEs listed herein are those entered into the public records of the Office between August 16, 1996, and December 6, 1996.

We have published only the names of the owners and the titles listed in the NIEs because that is all that is required by law. The funds needed to include any additional information are not available. Using the information provided herein, one may search the Office's database to obtain additional information about a particular NIE. NIEs are located in what is known as the Copyright Office History Documents (COHD) file. This file is available from computer terminals located in the Copyright Office itself or from terminals located in other parts of the Library of Congress through the Library of Congress Information System (LOCIS). Alternative ways to connect through Internet are (i) the World Wide Web (WWW), using the Copyright Office Home Page at: http://www.loc.gov/copyright; (ii) connect directly to LOCIS through the telnet address at locis.loc.gov; or (iii) use the Library of Congress gopher LC MARVEL at: marvel.loc.gov port 70. LC MARVEL and WWW are available 24 hours a day. LOCIS is available 24 hours a day Monday through Friday, Eastern Time; Saturday, until 5 p.m.; and Sunday after 11 a.m.[2] Information available online includes: the title or brief description if untitled; an English translation of the title; the alternative titles if any; the name of the copyright owner or owner of one or more exclusive rights, the date of receipt of the NIE in the Copyright Office; the date of publication in the

[1] The URAA's amendment of 17 U.S.C. 104A replaces section 104A under the North American Free Trade Agreement Implementation Act (Public Law No. 103–182, 107 Stat. 2057, 2115 (1993)). The Uruguay Round Trade Agreements, Texts of Agreements, Implementing Bill, Statement of Administrative Action, and Required Supporting Statements, H.R. Doc. No. 316, 103d Cong., 2d Sess. 324 (1994). See 60 FR 50414 (Sept. 29, 1995).

[2] Not all files are available after 9:30 p.m. on weekdays. On Sundays, all files may not be available from 5 p.m.—8 p.m.

Federal Register; and the address, telephone and telefax number of the copyright owner. If given on the NIE, the online information will also include the author, the type of work, and the rights covered by the notice. *See* 37 CFR 201.33(f). For the purpose of researching the full Office record of NIEs on the Internet, the Office has made online searching instructions accessible through the Copyright Office Home Page. Researchers can access them through the Library of Congress Home Page on the World Wide Web by selecting the copyright link. Select the menu item "Copyright Office Records" and/or "URAA, GATT Amends U.S. law." Finally, images of the complete NIEs as filed are on optical disc and available from the Copyright Office.

The following restored works are listed alphabetically by copyright owner; multiple works owned by a particular copyright owner are listed alphabetically by title. Works having more than one copyright proprietor are listed under the first owner and cross-referenced to the succeeding owner(s). A cross-reference to the composite owner (e.g., Title I owned by "A B & C") will state, "SEE A B & C" at the listing for each individual owner, (e.g., for Owner A, for Owner B and for Owner C).

III. Third List of Notices of Intent to Enforce

Antenne 2. See Fildebroc, Antenne 2 & Europe 1

Ariane. See Cogelda & Arianne

Ariane/Pathe, Films

Les parents terribles.

ARS, AG

Alleluja (Nr. 4439).
Alleluja (Nr. 4527).
Beim Christkindlein.
Christi Geburt.
Das Geget vor der Schlacht.
Du liebliche Mutter.
Engel mit Adventskranz.
Engel mit Kerze und Reh.
Engel mit Trompete und Laterne.
Flucht nach Aegypten.
Gebet in grossen Noten.
Gegrusset seist du, Maria.
Gluck auf zum neuen Jahr!
Ich gratuliere!
Ich hab mich ergeben mit Herz und mit Hand.
In Nazareth.
Ist mir alles eins.
Jes ist unser Bruder, das liebe Kindelein.
Jesu, Jesu, komm zu mir!
Karfreitag.
Kommt a Vogerl geflogen.
Krippenkind mit Engel und Stern.
Lieber Heiland, bleib bei mir.
Liebreich holdseligste himmlische Frau.
Maienkonigin.
Mein Laternlein sternlichtklar.
O Du liebes Jesulein, lass Dich vielmals grussen.
O Du mein Gott, singen Englein so fein.
Ostersonntag.
St. Franziskus.
Und viele, viele Jahre noch!
Was frag ich viel nach Geld und Gut.
Wem Gott will rechte Gunst erweisen.
Wie Du mir, so ich Dir.

Baron, Alexander, a.k.a. Joseph Alexander Baron

From the city, from the plough.
The human kind.
Rosie Hogarth.
There's no home.
With hope, farewell.

Baron, Joseph Alexander. See Baron, Alexander, a.k.a. Joseph Alexander Baron

Bixio Music Group, Ltd.

Cantate con me.
Chi e piu felice dime.
La mia cazone al vento.
Raccolta di canzoni Bixio 1943.

Button Fronts (London) Ltd.

Dolphus.
Ribbit.
Wacky.

Capac. See Fildebroc, France 2 & Capac

Chester Music, Ltd.

El amor brujo.
Asturiana no. 3 de "Siete canciones populares espanolas."
Cancion no. 6 de "Siete canciones populares espanolas."
Chanson de feu follet.
Dance of the miller de "El sombrern de tres picos" ballet.
Dance of the miller's wife de "El sombrero de tres picos" ballet.
Danse de la frayeur.
Danse rituelle du feu.
Jota no. 4 de "Siete cancinnes poulares espanolas."
Nana no. 5 de "Siete canciones populares espanolas."
El pano moruno, no. 1 de "Sietu canciones populares espanolas."
Pantomime from "El amor brujo."
Pantomime, ballet in one act from "El amor brujo."
Polo no. 7 de "Siete canciones populares espanolas."
Polo: popular Spanish song for voice and piano.
Recit du pecheur de "L'amour sorcier."
Ritual fire dance.
Seguidilla murciana no. 2 de "Siete canciones populares espanolas."
El sombrero de tres picos.
Soneto a cordoba.
Two dances from "The three-cornered hat."

Cogelda & Ariane

Fanfan la tulipe.

Cogelda & Pathe

Le gorille vous salue bien.
La salaire de la peur.
Le valse du gorille.

Cogelda & Vera Films

Les diaboliques.

Cogelda

A nous la liberte.
Les bijoutiers du clair de lune.
Cela s'appelle l'aurore.
Le ciel est a vous.
La curee.
Les dames du bois de Boulogne.
Et Dieu crea la femme.
Les grandes manoeuvres.
Gueulle d'amour.
Histoires extraordinaries.
La kermesse heroique.
Les liaisons dangereuses 1960.
Le million.
Poil de carotte.
Quatorze Juillet.
Sous les toits de Paris.

Cooperativa Tacma. See Landeta, Matilde Soto & Cooperativa Tacma

Cranz, GmbH, Musikverlag

Symphonie concertante, op. 81.

DAISA. See Disenos Artisticos E. Industriales, SA, a.k.a. DAISA

DEG Sale Company, BV

Botta e riposta.
Le crime ne paie pas.
La decima vittima.
La donna scimmia.
Dov'e la liberta.
Il giudizio universale.
Ieri, Oggi, Domani.
James Tont, operazione UNO.
Maciste contro il vampiro.
Il mafioso.
Mambo.
La marcia su Roma.
Le mepris.
Le notti di Cabiria.
L'oro di Napoli.
Il processo de Verona.
Risate de gioia.
Thrilling.
Ultimo gladiatore.
Una vita difficile.

Disenos Artisticos E. Industriales, SA, a.k.a. DAISA

A gatas con tulipanes.
A la espera del marino.
Alce con su cria.
Aldeana con vespa.
Aldeanita de fiesta.
Aldeanita geranios.
Amor de madre.
Arlequin de la rosa.
Arlequin-A.
Arlequin-B.
Arlequin-C.
Arponero.
Bailarines en descanso.
Bajo la lluvia.
Ballet primer paso.
Ballet reverencia.
Ballet silfide.
Ballet tristeza.
El besito.
Beso a la madre.
Beso al padre.
Biberon a la muneca.
Biberon a su hija.
Blancanieves y la manzana.
Bordando el ajuar.
El botanico.
Burrito adornado.

Cabeza busto vernao.
Cabeza con flor.
Cabeza pendientes aros.
Cabeza pendientes borlas.
Cabeza pendientes plumas.
Cabeza pendientes telas.
Cabezas de caballos.
Candidez.
Canguro doliente.
Carmen.
Casita para la nena.
La castanera.
Chino agricultor.
Chismosas.
Chupete en la mano.
Chupetin desperezo.
Cierva con su cria.
Cobrando pieza.
Cogiendo el biberon.
Colegiala.
Colegiala E.
Colegiala I.
Colegiala O.
Colegiala U.
Comba florida.
Consolando a su hija.
Coqueteria.
Corazon de Jesus.
Cortando flores.
D. Quijote ensonador.
Dama con nina.
Dama Goyesca.
Damas junto el sauce.
Damatas platicando.
Damita atenta.
Damita rosa.
El Dante.
Danzarina.
Desnudo.
Don Quijote, alerta.
Doncella con dulzaina.
Durmiendo a la muneca.
Elefante de Siam.
Elefante doliente.
Eloisa.
En el estanque.
Faldas al viento.
Fantasia azul.
Fantasia rosa.
Flores a la maceta.
Flores a remolque.
Flores del campo.
Floristilla insistente.
Fumando espero.
Galan jugueton.
Galanteo precoz.
Gato Egipcio blanco.
Gato Egipcio negro.
Gitanos voladores.
Gran jefe.
Groupo palanquin.
Grumete con cestos.
Grupo Amazonas.
Hablando a la muneca.
Haciendose el lazo.
Hada madrina.
Hermanitas con flores.
Hermano Lobo.
Holandesa florista.
Holandesita brazo atras.
Holandesita con patos.
Holandesita con tulipanes.
Holandesita en jarras.
Holandesita trenzas.
Holandesitos.
Jarron Pekin aves y almen.
Jarron Pekin aves y junc.
Jinete saltando.
Jirafa doliente.
Joven madre.
Juegos de sirenas.
Juglar estanteria.
Lady Macbeth.
Lagarterana.
Lagarteranita.
Lagarteranita sentada.
Leccion de astronomia.
Lectura y sueno.
Leon doliente.
Lola.
Madre holandesa.
La maestra.
Mater amabilis.
Miguel de Cervantes.
Mini-ballet acostado.
Mini-ballet asombrado.
Mini-ballet gimnastica.
Mini-ballet pose.
Mini-ballet zapatillas.
Mirando a su perrito.
Mis poemas.
Monagillo dormido.
Mono doliente.
Motorista de antano.
Nana bailadora.
Nina andando.
Nina con escoba.
Nina de la mecedora.
Nina del turbante.
Nina festival conejita.
Nina festival gatita.
Nina Mimi.
Nina mimosa.
Nina Regando.
Nina reverencia.
Nina rubores.
Nina, perro y pelota.
Ninas con el columpio.
Ninas espigadoras.
Nini festival ratita.
Observando el caracol.
Oso doliente.
Otelo.
Pajaros de primavera.
Pareja de pajaros.
Paseando en Versaller.
Paseo fustrado.
Pastoral.
Payasito despertador.
Payasito pensativo.
Payasito plantado.
Payasito saxofon.
Payaso trompeta.
El payaso y la nina.
Perdiz grande.
Perrazo timido.
Perritos traviesos.
Pescador de regreso.
La pescadora.
Pintora alfarera.
Portando flores.
Presto a salir.
Presto a volar.
Primavera no. 2.
Princesita Estanteria.
Quijote-Sancho.
Reencuentro.
Regando las plantas.
Rosita.
Sacristan.
Sancho y su bota.
Sanson y Dalila.
El sereno.
Simpatia.
Sirena de la perla.
Sirenas sobre ola.
Somorjujos mimosos.
Somormujos con su cria.
Sueno y fantasia.
Susana y las palomas.
Tocador de zanfonia.
Torerito devoto.
Torerito triunfador.
Torso desnudo.
Tres bajo el paraguas.
Triciclo con flores.
Trio de pajaros.
Valencianito.
Vamos al colegio.
Vendedor de ceramica.
Vendedora de ceramica.

Documents Cinematographiques

Acera ou le bal des sorcieres.
Les amours de la pieuvre.
Assassins d'eau douce.
Barbe bleue.
Le bernard l'ermite.
Bryozoaires.
Calendal.
Caprelles.
Le chaudronnier.
Le club des sous-l'eau.
Comment naissent des meduses.
Crabes.
La crevette.
La crevette et son bopyre.
Crevettes.
Crevettes (Histoires de).
Cristaus liquides.
Cristaus liquides nematiques et cholesteriques.
Les danseuses de la mer.
La Daphnie.
Descente de la mer en acceleree.
Diatomees.
Docteur Claque.
L'economie des metaux.
L'ecriture du mouvement.
Electrolyse de nitrate d'argent.
Eleutheria.
Farrebique.
Les fetes de Roscoff.
Forbach et sarreguemines.
Le grand cirque de Calder.
Halammohydra.
Hemioniscus balani.
L'hippocampe.
Le homard.
Hyas et stenorinques.
Jeux d'enfants.
Limaille (essai de synchronisation pour etudiants).
Lourdes et ses miracles.
La lutte pour la vie.
Mathusalem.
Methode du Docteur Parrel.
Methode du Docteur Penchenat.
Miscellanees.
Mobiles de Calder.
Le monde estrange D'Axel Henricksen.
Montage des sequences filmees en 1925.
Notre planete la terre.
L'oeuf d'epinoche.
L'oeuvre scientifique de Pasteur.
L'oursin.
Les oursins.
Pantopodes.

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La part de l'enfant.
La pieuvre.
Les pigeons du square.
Solutions Francaises.
Les tarets.
Le tonnelier.
Traitement experiemental d'une hemorragie chez le chien.
Le vampire.
Voyage dans le ciel.

Europe 1. See Fildebroc, Antenne 2 & Europe 1

Fiduciaire, Befac.

Il pleut sur Santiago.

Fildebroc & UGC DA

Ma femme s'appelle reviens.

Fildebroc, Antenne 2 & Europe 1

Allo Beatrice, episodes 1–6.

Fildebroc, FR3 & Renn Production

Les enrages.

Fildebroc, France 2 & Capac

Force majeure.

Fildebroc, UGC & Films A2

Le Leopard.

Filmadora Mexicana, SA

Arriba el norte.

Films A2. See Fildebroc, UGC & Films A2

Films ABC

Les demoniaques.
Le frisson des vampires.
Levres de sang.
Requiem pour un vampire.
La rose de fer.
Tout le monde il en a deux.
La vampire nue.
Le viol du vampire.

Films Ariane

L'aigle a deux tetes.

FR3. See Fildebroc, FR3 & Rann Production

France 2. See Fildebroc, France 2 & Capac

Friedrich Wilhelm-Murnau-Stiftung, Legal Successor of G.W. Pabst Film GmbH (Germany)

Das Tagebuch einer Verlorenen.

Friedrich Wilhelm-Murnau-Stiftung, Legal Successor of Terra-Filmkunst GmbH (Germany)

Adieu mascotte.
Am Rande der Welt.
Die Austreibung.
Bigamie.
Blitzzug der Liebe.
Bongare.
Die Boxerbraut.
Die Bruder Schellenberg.
Der Bund der Drei.
Carmen von St. Pauli.
Die Dame mit dem Tigerfell.
Dekameron-Nachte.
Dr. Monnier und die Frauen.
Die drei Kuckucksuhren.
Die drei Portiermadel.
Eifersucht.
Der Erzieher meiner Tochter.
Der Farmer aus Texas.
Die Frau, nach der man sich sehnt.
Fraulein Chauffeur.
Haus der Luge.
Der heilige Berg.
Heimkehr.
Hochverrat.
Hurrah! Ich lebe!
Ihr dunkler Punkt.
Insel der Traume.
Jacht der sieben Sunden.
Jugendrausch.
Der Kampf des Donald Westhof.
Kampf um die Scholle.
Konigin Luise.
Liebe macht blind.
Die Liebesbriefe der Baronin Von S.
Looping the loop.
Der Mann im Feuer.
Manon Lescaut.
Mein Freund, der Chauffeur.
Melodie der Welt.
Melodie des Herzens.
Michael.
Phantome des Glucks.
Schatten der Welstadt.
Die Schmugglerbraut von Mallorca.
Schuldig.
Die sieben Tochter der Frau Gyurkovics.
Die Siebzehnjahrigen.
Die Selige Exzellenz.
Spione.
Der Sprung ins Leben.
Der Strafling aus Stambul.
Svengali.
Tragodie eines Verlorenen.
Der verlorene Schuh.
Vom Tater fehlt jede Spur.
Ein Walzertraum.
Die Weber.
Wege zu Kraft und Schonheit.
Die wunderbare Luge der Nina Petrowna.
Zur Chronik von Grieshuus.

Friedrich Wilhelm-Murnau-Stiftung, Legal Successor of UFA (Germany)

Die blaue Maus.
Der fidele Bauer.
Die Flucht vor der Liebe.
Frau im Mond.
Die Frau mit dem schlechten Ruf.
Die Frauengasse von Algier.
Die geheime Macht.
Geheimnisse einer Seele.
Geheimnisse des Orients.
Der Geiger von Florenz.
Der grosse Sprung.
Komodie des Herzen.
Die letzte Droschke von Berlin.
Die Liebe der Jeanne Ney.
Milak, der Gronlandjager.
Mutter Krausens Fahrt ins Gluck.
Orlac's Hande.
Pietro, der Korsar.
Die Prinzessin und der Geiger.
Der rosa Diamant.
Sein grosse Fall.
Seine Frau, die Unbekannte.
Tartuff.
Tatjana.
Der Turm des Schweigens.
Uberfall.
Das unbekannte Morgen.
Ungarische Rhapsodie.
Vater und Sohn.
Vater werden ist nicht schwer.

Friedrich Wilhelm-Murnau-Stiftung

Der behexte Neptun.

Gaumont, SA

L'arpete.
L'atalante.
Dainah la metisse.
El Dorado.
Figaro.
Le journal tombe a cinq heures.
Taris et la natation.
Vautrin.
Zero de conduite.

Grands Films Classiques

L'affaire est dans le sac.
Drole de drame.
Voyage surprise.

L'Herbier, Marie-Ange

L'argent.
Autour de l'argent.
Le diable au coeur.
Fait divers.
La galerie des monstres.
L'inhumaine.
L'inondation.
Le vertige.

Landeta, Matilde Soto & Cooperativa Tacma

Lola Casanova.
La Negra Angustias.
Trotacalles.

Lathiere, Marcel. See Ploquin, Raoul, Represented by Marcel Lathiere

Minerva Film, AB

Fanny Hill.
Jorden runt med Fanny Hill.
Krigsforbrytare.

Music Sales Corporation

Alley cat.
Alley cat dance.
Alley cat song.
Omkring et flygel.

OB Invest

Sois belle et tais-toi.

Pabst (G.W.) Film GmbH (Germany). See Friedrich Wilhelm-Murnau-Stiftung, Legal Successor

Pathe Cinema

Boudu sauve des eaux.
Le orgueilleux.

Pathe. See Cogelda & Pathe

Ploquin, Raoul, Represented by Marcel Lathiere

L'etrange Monsieur Victor.

Procidis

La belle Americaine.

Renn Production. See Fildebroc, FR3 & Renn Production

Schirmer (G.), Inc

Adagio from Cinderella, op. 97b.
L'Admiral Ushakov.
Alexander Nevsky.
La Bataille de Stalingrad.
Betrothal in a monastery, op. 86.
Cinderella suite no. 3, op. 109.
Cinderella symphonic suite no. 1, op. 107.

Dances of the dolls from Piano pieces for children.
Le duel.
Festive poem pieces "Thirty years," for symphony orchestra, op. 113.
Les feux de l'immoralite.
Ils ont un pays natal.
Ivan the terrible, op. 116.
Le jardin.
Kotovsky.
Lermontov.
Man with the gun, op. 53 (Portrait of Lenin).
March in B flat for band, op. 99.
Mission secrete.
Otello.
Partisans in the Ukranian steppes.
Pepo.
Piano sonata no. 8, op. 84.
Piano sonata no. 9, op. 103.
Prisonnier no. 217.
Prosper our mighty land, op. 114.
Le question Russe.
Romeo and Juliet, op. 64b.
Romeo and Juliet, op. 64ter.
Romeo and Juliet, symphonic suite no. 3, op. 101.
Russian folksongs for voice and piano, op. 104.
Salavat Iulaev.
Saltanat.
Semyon Kotko symphonic suite for orchestra from opera "Semyon Kotko," op. 81bis.
Seven songs for voice and piano, op. 79.
Six pieces from Cinderella, op. 102.
Six songs for voice & piano, op. 66.
Six songs for voice & piano, op. 66 (no. 3–6).
Sonata for cello and piano, op. 119.
Sonata for piano, no. 6, op. 82.
Sonata for piano, no. 7, op. 83.
Sonata for violin and piano, no. 2, op. 94bis.
The song of the forests, op. 81.
Songs of our days, op. 76.
String quartet no. 2 (on Kabarchnian themes), op. 92.
Ten pieces from Cinderella, op. 97.
Three children's songs for piano, op. 68 (no. 1 & 2).
Three children's songs for piano, op. 68, no. 3.
Three pieces for piano, op. 96.
Three pieces from Cinderella for piano, op. 95.
Three romances by A. Pushkin for voice and piano, op. 73.
Three songs from Alexander Nevsky, op. 78b.
Le tocsin de la paix.
Tonya.
Two Russian folksongs for tenor, baritone, and piano, op. 106.
Violin sonata no. 1, op. 80.
The Volga meets the Don, op. 130.
Waltz suite, 3 movements from "Cinderella" and "War & Peace" for symphony orchestra, op. 110.
Winter bonfire suite, for reciters, boys' choir, and orchestra, op. 122.
Zangezur.
Zdravitsa-Cantata for chorus and orchestra on folk texts, op. 85.

Schott Musik International

Lili Marleen.

Scott, Christina

The age of the gods.
The dynamics of world history.
Progress and religion.
Religion and culture.
Religion and the rise of Western culture.
The spirit of the Oxford movement.
Understanding Europe.

Screen Associates, SA

His and hers.

Sindicato de Trabajadores de la Produccion Cinematografica de la Republica Mexicana

Un amor extrano.
Angela Morante (crimen o suicidio).
Ante el cadaver de un lider.
Aventuras de un caballo blanco y un nino.
Barrio de campeones.
La bestia acorralada.
La casa del pelicano.
La casa del sur.
Chicano.
Cronica roja.
Cuatro contra el imperio.
Desoos.
Dias de combate.
Ensayo de un crimen.
Espejismo de la ciudad.
Esposa te doy.
Los fernandez de peralvillo.
El fin de un imperio.
Las grandes aguas.
El hombre del puente.
La India.
El jardin de los cerezos.
La leyenda de Rodrigo.
El llanto de la tortuga.
La lucha con la pantera.
Las lupitas.
El mar.
Mas negro que la noche.
El mas valiente del mundo.
Mexicano tu puedes.
El Mexicano.
La mujer perfecta.
Musica de siempre.
Musica en la noche.
Las noches de Paloma.
Oficio de tinieblas.
Orinoco.
Para usted jefa.
Paraiso escondido.
Pasajeros en transito.
El profeta Mimi.
Pueblo, canto y esperanza.
Que noche aquella.
Rapina.
Renuncia por motivos de salud.
El reventon.
Te quiero.
El testamento.
La trenza.
El tunel seis.
Vals sin fin.
La venida Del Rey Olmos.
Viaje al paraiso.
Vibora caliente.
La vida cambia.
Y la mujer hizo al hombre.
Yo amo, tu amas, nosotros amanos.
Zona roja.

Soyuzmultfilm Studios

25-perviy den.
Afrikanskaya skazka.
Aist.
Aktsioneri.
Ali-Baba i sorok razboinikov.
Alim i ego oslik.
Alioshkini skazki.
Allo vas slishu.
Antarktika.
Antoshka.
Argonauti.
Automobil, lubov i gorchitsa.
Ave Maria.
Avrora.
Avtomat.
Babochka.
Babushka udava.
Babushkin kozlik.
Ballada o stole.
Banalnaya istoriya.
Bania.
Baron Munhauzen.
Bednaya Lisa.
Bez etogo nelizia.
Bil-nebilitsa.
Bobri idut po sledu.
Bolshie nepriyatnosti.
Bratiya Lu.
Bremenskie muzikanti.
Bud zdorov zeleniy les.
Budilnik.
Chasi s kukushkoy.
Chasovie poley.
Chelovek stroit dom.
Chelovek v. ramke.
Cheloveka narisoval ya.
Chempion.
Chestnoe krokodilskoe.
Chetire moneti.
Chi v lesu shishki?
Chto eto za ptitsa.
Chto takoe horosho i chto takoe plouo.
Chudesa v reshete.
Chudesni koldkolchik.
Chudesniy kolodets.
Chudesniy sad.
Chudestnitsa.
Chudo sredi bela dnia.
Chudo-melnitsa.
Chunia.
Churidilo.
Chuzhoy golos.
Chetvero s odnogo dvora.
Daru tebe zvezdu.
Dedushka i vnuchek.
Den chudestniy.
Den rozhdeniya.
Desnia o sokole.
Detskiy albom.
Detstvo Ratibora.
Devochka i slon.
Devochka v tsirke.
Ditia solntsa.
Dobrinya Nikitich.
Dogada.
Dogoni veter.
Dom komoriy postroil dzhek.
Doodochka i kuvshinchik.
Dorogaya kopeika.
Dostat do neba.
Dozhd.
Druziya-Tovarischi.
Diadia Stepa-militsioner.
Dva zhadnih medvezhonka.
Dve skazki.
Dzhovanni.
Eto ne pro menia.
Eto v nashin silah.
Faeton-sin solntsa.
Fedia Zaitsev.
Fedorino gore.

Frantishek.
Funtik i ogurtsi.
Futbolinie zvezdi.
General Taptigin.
Glavniy zvezdniy.
Gordiy korablik.
Gribok-teremok.
Gunan bator.
Gusi-lebedi.
Hlopok.
Hochu bodatsia.
Hochu bit otvazhnim.
Hrabriy olenionok.
Hrabriy Pak.
Hrabriy zaits.
I mama menia prostit.
I smeh i greh.
Ibolit i Barmaley.
Ilia Moromets i Solovey Razboinik.
Ilya Mooromets (prolog).
Ispolnenie zhelaniy.
Istoriya odnogo prestuplenie.
Istoriya Vlasa lentaya i Lobotriasa.
Ivan Ivanovich zabolel.
Kak ded velikoe ravnovesie narushil.
Kak koziol zemlu derzhal.
Kak mi vesnu delali.
Kak odin muzhik dvuh generalov prokormil.
Kak oslik schastie iskal.
Kak stat bolshim.
Kaleidoskop 68.
Kaleidoskop 70.
Kaleidoskop 71 no. 2.
Kaleidoskop-71.
Karlson vernulsia.
Kartina.
Karuselniy lev.
Kashtan
Ka.
Kak Kotionku postroili dom.
Katerok.
Kem bit.
Kem bit?
Klubok.
Kogda zazhigautsia Yolki.
Kolia, Onia i Arhimed.
Kolobok.
Komarov.
Komediant.
Konets chernoy topi.
Koniok-Gorbunok.
Korablik.
Korolevskaya zubnaya schetka.
Koshkin dom.
Koziol-muzikant.
Kozlionok kotoriy schital do desiati.
Krai zemli.
Krasa nenagliadnaya.
Krasheniy lis.
Kray v kotorom ti zhivesh.
Kriliya Diadushki Marabu.
Krokodil gena.
Kto perviy?
Kto poedet na vistavku?
Kto samiy silniy?
Kto skazal miau?
Kto vinovat?
Kuda poshel slon?
Kukareku.
Kukushka.
Kuznits-koldun.
Kvartet.
Labirint.
Legenda o Grige.
Legenda o starom maike.
Lesnaya hronika.
Lesnaya istoriya.
Lesnoy kontsert.
Letauschiy proletariat.
Lev i zaits.
Levsha.
Liagushonok ischet papu.
Lisa bober i drugie.
Lisa i drozd.
Lisa i medved.
Lisa i zayats.
Lisa-stroite.
Losharik.
Loskutok.
Malchik i miachik.
Malchik s palchik.
Malish i Karlson.
Mama.
Mashenka i medved.
Mashenkin kontsert.
Mashina vremeni.
Master iz Klamsey.
Medvezhonok na doroge.
Melochi zhizni.
Metamoreoza.
Meteor na ringe.
Mi ischem kliaksu.
Mi risuem octiabr.
Mi takie mastera.
Mi za solnishkom idiom.
Millioner.
Mimoletnosti.
Mir domu tvoemu.
Mishka-zadira.
Mister Twister.
Mister Uolk.
Mitia i mikrobus.
Moi drug Martin.
Moi zeleniy krokodil.
Moidodir.
Moskovskie novosti.
Moskvichek.
Mozaika.
Mozhno i nelzia.
Muha tskotuha.
Muha-tsokotuha.
Multcrokodil no. 1.
Multkrokodil no. 2.
Multkrokodil no. 3.
Multkrokodil no. 4.
Multkrokodil no. 5.
Multkrokodil no. 6.
Muravishka-hvastunishka.
Murzilka i velikan.
Murzilka na sputnike.
Na dache.
Na kreu taini.
Na lesnoi estrade.
Na perekriostke.
Na zadney parte 1.
Nargis.
Nash dobriy master.
Nash doktor.
Nash drug pishi-chitay.
Nash karandash.
Nashe solntse.
Ne lubo-ne slushay.
Ne v shliape schastie.
Nebesnaya istoriya.
Nebesnoye sozdanie.
Nemuhinskie musikanti.
Neobichniy drug.
Neobiknovenni match.
Neobitaemiy ostrov.
Nepiuschiy vorobei.
Neposlushniy kotionok.
Ni Bogu niChertu.
Nichto ne zabito.
No lesnoi trope.
Noch pered Rozhdestvom.
Noch vesni.
Novelli o kosmose.
Novichok.
Novie bolshie nepriyatnosti.
Noviy dom.
Novogodnaya noch.
Novogodnaya skazka.
Novogodniy ve ter.
Nu i rizhik.
Nu pogodi.
Obida.
Odna loshadka belaya.
Ogon.
Ograblenie po 1.
Oh i Ah idut v pohod.
Oh i Ah.
Ohotnichie ruzhie.
Okna satiri.
Okno.
Olen i volk.
Opiat dvoika.
Oranzhevoe gorlishko.
Orlinoe pero.
Orlionok.
Osel i solovey.
Ostorozhno s ogniom.
Ostorozhno schuka.
Ostrov oshibok.
Otvazhniy Robin Gud.
Palka-viruchalka.
Pavliniy hvost.
Pelo.
Peremenka 1.
Peresolil.
Persey.
Pervaya skripka.
Perviy urok.
Pes i kot.
Pesenka mishonka.
Pesenka radosti.
Pesni ognennih let.
Pesnia letit po svetu.
Pesnia o druzhbe.
Pesnia o unom barabanschike.
Petia i volk.
Petr-veseliy ormanschik.
Petuh i kraski.
Petushok-zolotoi grebeshok.
Pirozhok.
Pismo.
Pitachok.
Plastilinoviy yozhik.
Plus elektrifikatsiya.
Po sledam Bremenskih muzikantov.
Pochemu ushel kotionok.
Pochta.
Pochtoraya ribka.
Podi tuda ne znau kuda.
Podpis nerazborchiva.
Poezd pamiat.
Pohititel krasok.
Pohozhdenia Chichikova (Nozdrev).
Pohozhdeniya Chichikova (Manilov).
Poiga i lisa.
Poligon.
Poliot na lunu.
Polkan i Shavka.
Portret.
Poterialas vnuchka.
Prikluchenie neznaiki.
Prikliucheniya Homi.
Prikliucheniya krasnih galstukov.
Prikliucheniya ogurechika.

Prikliucheniya tochki i zapiatoy.
Priklushenie moorzilki.
Privet druziya.
Privet martishke.
Pro begemota kotoriy boyalsia privivok.
Pro kozla.
Pro Petrushku.
Pro zluyu machehu.
Prochti i katai Parizh i Kitai.
Prodelki v shkole.
Proishozhdenie vida.
Proroki i uroki.
Proverte vashi chasi.
Puteshestvie v stranu Vęvikanou.
R vdrug poluchitsia.
Raduga.
Rai v shalashe.
Risunok na peske.
Rovno v tri piatnadtsat.
Russkie napevi.
S boru po sosenke.
Sadko-bogatiy.
Samiy glavniy.
Samiy malenkiy gnom no. 1.
Samiy mladshiy dozhdik.
Sarmiko.
Secha pri kirzhentse.
Segodnia den rozhdeniya.
Sekret vospitaniya.
Semeinaya hronika.
Seraya sheika.
Serdtse hrabretsa.
Serdtse.
Sestritsa Alionushka i Bratets Ivanushko.
Shakalionok i verbliud.
Shel tramvai 10 nomer.
Shest Ivanov-shest kapitanov.
Shestomu festivalu.
Shkatulka s sekretom.
Shutki.
Siniaya ptitsa.
Sitsevaya ulitsa.
Skameika.
Skaz o Chapaeve.
Skazka dedushki Ai-Po.
Skazka dlia bolshim i malenkih.
Skazka o malchishe-kibalchishe.
Skazka o pope i rabotnike ego Balde.
Skazka o ribake i ribke.
Skazka o snegurochke.
Skazka o soldate.
Skazka o starom kedre.
Skazka o zhivom vremeni.
Skazka pro len.
Skazka skazivaetsia.
Skazka za skazkoi.
Skazki pro chuzhie kraski.
Skazki starogo duba.
Skripka pionera.
Sladka skazka.
Sledi na asfalte.
Sledopit.
Slon i murovei.
Slovo imeut kukli.
Slovo o hlebe.
Sluchay s hudozhnikom.
Sluchilos eto zimoy.
Slushaetsia delo o....
Snegurochka.
Snezhnie ludi.
Sokrovischa zatonuvshego korarblia.
Solntse na verevochke.
Solomenniy bichok.
Soperniki.
Spasibo aist.
Spasibo.
Sportlandiya.
Start.
Staraya fotografiya.
Staraya igrushka.
Starie zaveti.
Starie znakomie.
Starik i zhuravl.
Stariy dom.
Stekliannaya garmonika.
Stiopa-moriak.
Strana Orkestriya.
Stranichki kalendaria.
Strannaya ptitsa.
Strekoza i murovey.
Strela uletaet v skazku.
Stadion shivorot-navivorot.
Svetliachek no. 3.
Svetliachok no. 2.
Svetliachok no. 7.
Svetliachok no. 8.
Svetliachok.
Taina daliokogo ostrova.
Taina zapechnogo sverchka.
Tanusha, Tatiana Top i Nusha.
Tayozhnaya skaska.
Tebe Moskva.
Terem-teremok.
Tihaya polianka.
Timoshkina yolka.
Tolko dlia vzroslih 2.
Tolko dlia vzroslih 3.
Tolko dlia vzroslih 1.
Tolko ne seichas.
Toptizhka.
Tri banana.
Tri drovoseka.
Tri medvedia.
Tri meshka hitrosti.
Tri pingvina.
Tri tolstiaka.
Tri ziatia.
Tridtsat vosem popugaev.
Trinadtsatiy rei.
Troe is prostokvashino.
Trubka i medved.
Tsaplia i zhuravl.
Tsvetik-semitsvetik.
U straha glaza veliki.
Umka ischet druga.
Umoreski 2.
Umoreski 3.
Umoreski no. 1.
Upriamoe testo.
Urok ne v prok.
Uroki nashih predkov.
Use naoborot.
Ustupite mne dorogu.
V gostiah u gnomov.
V mire Basen.
V strane neviuchennih urokov.
Vagonchik.
Validub.
Vania Datskiy.
Vaselisa prekrasnaya.
Vashe zdorovie.
Vasiliok.
Vasilisa Mikulishna.
Velikie holoda.
Verlioka.
Vernulsia sluzhiviy domoi.
Vershki i koreshki.
Veselaya karusel no. 2.
Veselaya karusel no. 3.
Veselaya karusel no. 4.
Veselaya karusel no. 5.
Veselaya karusel no. 6.
Veselaya karusel no. 7.
Veselaya karusel no. 8.
Veselaya karusel no. 9.
Veselaya karusel no. 10.
Veseliy ohotnik-karandash i kliaksa.
Veseliy ogorod.
Vesennaya skazka.
Vesennie melodii.
Vini-puh i den zabot.
Vini-pwe.
Vinni puh idet v gosti.
Visokaya gorka.
Vlublennoe solnishko.
Vnimanie volkil.
Vodnoy storovoi.
Volk i semero kozliat.
Volshebnaya ptitsa.
Volshebnie fonariki.
Volshebniy klad.
Volshebniy magazin.
Vorona i lisa, kukushka i petukh.
Vot kakie chudesa.
Vot tak tigr.
Vovka v trideviatom tsarstve.
Vpered, vremia!
Vpervie na arene.
Vremena goda.
Ya k vam lechu vospominaniem.
Ya narisuyu solntse.
Ya vspominau.
Ya zhdu ptentsa.
Yantarni zamok.
Yulia-kaprizulia.
Yunosha Friderik Engels.
Za chas do svidaniya.
Zaichik.
Zaika-zaznaika.
Zaokeanski reporter.
Zavetnaya mechta.
Zayats Kosika i rodnichok.
Zdorovie nachinaetsia doma.
Zdravstvuy atom.
Zeleniy zmiy.
Zemlia moi.
Zerkaltse.
Zerkalo vremeni.
Zhadniy kuzia.
Zheleznie druziya.
Zheltiy aist.
Zhiharka.
Zhil-bil koziavin.
Zhila bila kurochka.
Zhivie tsifri.
Zhizn i stradaniya Ivana Semenova.
Zlodeika s nakleikoy.
Znakomie kartinki.
Znakomie litsa.
Zolotie kolosiya.
Zolotie lbi.
Zolotoy malchik.

Terra-Filmkunst GmbH (Germany). See Friedrich Wilhelm-Murnau-Stiftung, Legal Successor of

UFA (Germany). See Friedrich Wilhelm-Murnau-Stiftung, Legal Successor of UFA (Germany)

UGC DA International

La fille de l'eau.
La grande illusion.
Nana.
La petite marchande d'allumettes.

UGC DA. See Fildebroc & UGC DA

UGC. See Fildebroc, UGC & Films A2

Universal Edition, AG, Vienna

Das goldene Zeitalter, op. 22—ballet suite.

Vera Films. See Cogelda & Vera Films

Wallerstein W., Gregorio

Vivir del cuento.

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Marybeth Peters,

Register of Copyrights.

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Correction of Administrative Errors; Final Rule

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FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1605

Correction of Administrative Errors

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Final rule.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is publishing a final rule revising the Board's existing Error Correction Regulations. The rule reorganizes the regulations to make them more concise and easier to read, reflects changes in Board policy and procedures adopted since publication of the regulations in 1987, and eliminates provisions that no longer apply.

EFFECTIVE DATE: These final rules are effective December 27, 1996.

FOR FURTHER INFORMATION CONTACT: Elizabeth S. Woodruff, Federal Retirement Thrift Investment Board, 1250 H Street, N.W., Washington, D.C. 20005. Telephone: (202) 942–1661.

SUPPLEMENTARY INFORMATION: Interim regulations governing error correction relating to the Thrift Savings Plan (TSP) were first published in the **Federal Register** on May 13, 1987 (52 FR 17919) and July 22, 1987 (52 FR 27527). The final regulations, found at 5 CFR Part 1605, were published in the **Federal Register** on December 4, 1987 (52 FR 46314). This rule revises these regulations. It includes several substantive changes in the procedures by which administrative errors are corrected, as well as non-substantive editorial changes in style and organization.

The final rule is divided into four subparts. Subpart A contains definitions of terms used in this part. The definition section has been expanded to encompass a wider range of terms than was included in the existing regulation. The expanded definition section is consistent with the definitions contained in 5 CFR Part 1606, and should eliminate potential confusion or conflict between the provisions of the two parts. In addition, the revision refers to Part 1606 where such references clarify the relationship between the two parts.

Subpart B applies to employing agency errors. The revision has been reorganized for clarity into separate subparts for employing agency errors and for Board or TSP recordkeeper errors. Board and TSP recordkeeper errors are addressed in Subpart C.

The existing regulations contain two largely duplicative sections: § 1605.2. Failure to participate or delay in participation, and § 1605.3, Insufficient contribution. The revision combines these sections in § 1605.2, makeup of missed or insufficient contributions, without substantive change in the essential rules of the existing regulation. Employing agencies are responsible for promptly making up employer contributions (agency automatic (1%) contributions and agency matching contributions) that they are obligated to make but have not made. If employee contributions have not been made due to an employing agency error, the participant may establish a schedule of makeup contributions to be deducted from current pay in addition to any regular TSP contributions the participant may be making. The employing agency is also responsible for contributing any applicable agency matching contributions on the missed employee contributions, but only when the participant makes up the employee contributions.

Section 1605.4 of the existing regulations, titled "Excess deduction or contribution," addresses removal by employing agencies of contributions from participants' accounts. The revision deals with that subject in § 1605.3, which incorporates more detailed rules for removal of contributions than were included in § 1605.4 of the existing regulations. In particular, § 1605.3 describes information employing agencies must submit on negative adjustment records, the processing of negative adjustment records (including calculation of investment gains and losses on the money that is removed), and the manner in which the money will be removed from the participants' accounts. Different rules apply to investment gains or losses for employee contributions and employer contributions.

Sections 1605.9 and 1605.10 of the existing regulations address TSP contributions related to back pay awards or other retroactive pay adjustments. Those issues are addressed in § 1605.4 of the revision, which contains more detail about the types of elections a participant is entitled to make when he or she is reinstated without a break in service after reversal of a wrongful separation. The revision clarifies that, for purposes of computing lost earnings on makeup contributions that relate to the period of wrongful separation, the participant may not choose investment funds with the benefit of hindsight concerning the performance of the TSP investment funds. Earnings will be calculated at the G Fund rate of return up to the date of any interfund transfer that was made by the participant during the period of separation. From the date of the interfund transfer forward, the lost earnings will be calculated as if the money had been invested in accordance with the percentages elected for the interfund transfer.

This approach is consistent with, and reiterates, the rules established in Part 1606 (which addresses the payment of lost earnings attributable to employing agency errors), particularly § 1606.11(c). As in the existing regulations, the revision sets forth different rules for back pay awards or other retroactive pay adjustments for periods during which the participant remained employed by the Federal Government.

Section 1605.5 governs situations where employing agencies have erroneously classified participants' retirement coverage (e.g., FERS or CSRS). This issue was previously addressed in § 1605.11. The revision provides more detailed rules than the existing regulation. Under the revision, different rules apply for a FERS participant who has been misclassified as CSRS and a CSRS participant who has been misclassified as FERS.

Section 1605.6 of the revision provides for the employing agencies to establish procedures for processing claims for correction of agency errors. This section also provides time limits for filing such claims. The revision retains without substantive change the rules that apply to claims filed with employing agencies under existing § 1605.8.

Subpart C applies to errors committed by the Board or the TSP recordkeeper, not errors committed by employing agencies. Some Board or recordkeeper errors, as addressed in § 1605.7, must be corrected by crediting earnings (positive or negative) to a participant's account in order to make the participant whole with respect to earnings the account would have received had the error not occurred. Such payments of lost earnings are, in effect, paid by the rest of the TSP participants, as if they were administrative expenses of the Plan. Such lost earnings should not be confused with those payable under Part 1606, which are paid not by the Plan but by employing agencies that make errors relating to TSP accounts. Section 1605.7 also covers other errors that can be corrected by the TSP, such as reversal of taxable loan distributions caused by Board or TSP recordkeeper errors or erroneous processing of court orders.

Section 1605.8 of the revision contains rules for processing claims for correction made by Plan participants to the TSP recordkeeper or the Board. The rules adopt the informal claims process

that has evolved over the course of the Board's operations. Claims may be made in writing to the TSP recordkeeper or to the Board. There is no required format for presenting a claim; a letter setting forth the nature of the claim and the correction sought is sufficient. A participant may request review by the Board of a denial issued by the TSP recordkeeper. All decisions by the Board are final administrative decisions. Section 1605.8 also contains time limits for filing claims or requesting reconsideration of the denial of a claim by the TSP recordkeeper.

Subpart D contains miscellaneous provisions not addressed by other subparts of the revision.

On November 5, 1996, the Board published a proposed rule with a request for comments in the **Federal Register** (61 FR 56904). The Board received no comments on the proposed rule. Therefore, we are adopting the provisions of the proposed rule as a final rule with one change. The proposed rule contained, in the definition of basic pay (§ 1605.1), an incorrect reference to 5 U.S.C. 8431(3); the reference in the final rule has been corrected to 5 U.S.C. 8331(3).

Section-by-Section Analysis

Subpart A—Definitions

Section 1605.1 contains definitions of terms used in this part. Important additions to this section are the definitions of "employing agency error," "Board error," and "recordkeeper error." These terms warrant definition because they describe the errors that give rise to corrections under this part.

The definitions are intentionally broad so that participants will be encouraged to seek correction whenever they are denied rights given in applicable statutes or regulations. When the Board, the TSP recordkeeper, or an employing agency fails to follow procedures provided in bulletins or other communication materials provided to participants or employing agencies, participants should be able to expect that those procedures will be followed, and to obtain correction under this part when they are not. However, other forms of relief, such as punitive damages or consequential damages, are not statutorily authorized.

Subpart B—Employing Agency Errors

Section 1605.2 applies whenever an employing agency error causes a participant's TSP account not to receive all of the contributions it should receive, whether employee contributions, employer contributions, or both.

Section 1605.2(b) applies to missed employer contributions. An employing agency's obligation to make agency automatic (1%) contributions is unrelated to any decision by the participant whether to make employee contributions. Under 5 U.S.C. 8432(c)(1)(A), if a FERS employee receives basic pay, he or she is entitled to receive agency automatic (1%) contributions. When an employing agency discovers that it has failed to provide them, it should promptly contribute the correct amount, in a lump sum, to the affected participant's account. The revision eliminates the requirement in the existing regulations that the contributions be made within 30 days of the agency's discovery of the error, in favor of a requirement that the contributions be submitted "promptly." Although this requirement provides greater flexibility than the previous standard, experience shows that prompt action will rarely require more than 30 days; it is anticipated that in most cases much fewer than 30 days will be sufficient. The employing agency may also be required to submit lost earnings records under Part 1606.

Similarly, if an employing agency has made proper employee contributions on behalf of a FERS participant, but has failed to make all or any part of the agency matching contributions to which the participant is entitled, it must promptly make those contributions in a lump sum upon discovery of the error. Such contributions may also be subject to lost earnings under Part 1606.

Under no circumstances may an employing agency submit agency matching contributions associated with employee contributions that have not yet been made. For instance, if a participant makes up missed employee contributions under § 1605.2(c), then under § 1605.2(c)(7) any associated agency matching contributions must be made throughout the schedule of makeup contributions. In that situation, no lump sum deposit of agency matching contributions is permitted. If the schedule of makeup contributions is suspended or terminated, then the associated agency matching contributions will similarly be suspended or terminated.

Under §§ 1605.2(c)(1) and (2), in order to facilitate submission of any related lost earnings records by the employing agency, the Board has determined that the agency should have the flexibility to establish the schedule in a manner other than equal contributions. In some cases, this will enable the employing agency to avoid having to submit two or more lost earnings records (for agency matching contributions) having the same beginning date but different ending dates. Except to the extent necessary to accomplish that purpose, however, employing agencies are encouraged to work with participants to establish schedules providing for relatively equal makeup contributions.

The Board has established a ceiling on the number of pay periods over which the makeup contributions may extend. This was done to allow participants sufficient time to make up missed contributions without undue financial burden and, at the same time, avoid an undue administrative burden on the employing agencies resulting from extended schedules of makeup contributions. The limit is four times the number of pay periods over which the error(s) occurred. The agency may, however, shorten that maximum period to no less than twice the number of pay periods over which the error(s) occurred. It is expected that employing agencies will exercise their discretion to shorten the maximum schedule of makeup contributions only if there are compelling administrative reasons to do so.

Under § 1605.2(c)(4), the makeup employee contributions are not counted against the percentage limit on TSP contributions per pay period. Because the makeup contributions merely allow the participant to make contributions that should have been made in earlier pay periods, the additional contributions are statutorily authorized. However, the Internal Revenue Code annual limits on contributions found at 26 U.S.C. 402(g)(1) and 26 U.S.C. 415 contain no exceptions for contributions that should have been made in prior years. The Board has no authority to waive the Internal Revenue Code annual limits. Section 1605.2(c)(5) permits any makeup contributions that cannot be made in any year because of the Internal Revenue Code annual limits to be carried forward into subsequent years.

If application of the Internal Revenue Code annual limits is anticipated when the schedule of makeup contributions is established, the schedule can be designed to suspend contributions upon reaching the limit for any calendar year. Even if a schedule is not designed in this manner, the schedule may be suspended at the participant's request if necessary to avoid losing the opportunity to make regular TSP contributions. A similar suspension of the schedule is permitted when the participant does not have sufficient net pay to make the contribution called for by the schedule. A period of suspension does not count against the ceiling on the number of pay periods over which the schedule may extend.

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Under § 1605.2(c)(6), a participant may elect to terminate a schedule of makeup contributions at will, but if he or she does so, that termination (as opposed to a suspension due to the Internal Revenue Code annual limits or insufficient net pay) is irrevocable. Also, once a schedule of payments begins, a participant may not make partial contributions under the schedule as an alternative to terminating the schedule.

If a participant separates from Federal service before completing the schedule of makeup contributions, the participant may elect to have the remaining makeup contributions contributed from his or her final paycheck, without regard to the percentage limits (5% or 10%) contained in FERSA (but still subject to the Internal Revenue Code annual limits). Contributions may only be deducted from pay that constitutes basic pay. For example, no contributions may be deducted from a lump-sum payment of annual leave, which is not basic pay.

If there are further makeup contributions remaining on the schedule after the final paycheck, they may not be made up through any other method of contribution to the TSP. The participant's only remedy in that situation would be a direct action against the employing agency under 5 U.S.C. 8477 for lost benefits caused by the employing agency error (this may include, for example, lost opportunity to receive matching contributions and lost tax advantages). The Board anticipates that, in most cases, the participant and employing agency will be able to reach an administrative settlement of the participant's claim without involving the TSP and without the need to resort to the Federal courts.

Under § 1605.2(c)(8), any makeup employee contributions and makeup employer contributions must be reported by the employing agency for investment among the TSP investment funds using the participant's investment fund allocation election, if any, that is in effect at the time the makeup contributions are made. If no such allocation election is in effect at that time, the makeup contributions must be reported by the employing agency for investment in the G Fund. The money will not, in other words, be reported by the employing agency for investment in the investment fund(s) to which it would have been contributed had the error not occurred.

The investment of the makeup contributions pursuant to the participant's current investment allocation does not, however, control any calculation of lost earnings on the makeup contributions. That calculation will be performed under the rules set forth in Part 1606, based on tracking by the TSP recordkeeper of the investment fund(s) in which the money would have been invested from the date it should have been contributed to the date the makeup contribution was actually made. In addition, under Part 1606, the processing of lost earnings records may cause money to be moved among the investment funds, in order to place the account in the position it would have attained had the error not occurred.

Section 1605.2(c)(10) provides that makeup employee contributions may only be made by payroll deduction. Moreover, those payroll deductions may only be made from pay that constitutes basic pay. Makeup contributions may not be deducted from a final lump-sum payment of annual leave or from any other pay that does not constitute basic pay, such as the pay of a temporary employee.

Section 1605.2(c)(11) serves as a reminder to employing agencies that correction under Part 1605 may not be sufficient to meet their obligation to correct agency contribution errors. It may also be necessary to submit lost earnings records under Part 1606.

Section 1605.3 governs removal of erroneous contributions. This can arise in a multitude of circumstances, such as where a participant elects to contribute 1% of basic pay and the agency erroneously contributes 10% because of a data entry error, where an agency erroneously contributes matching contributions to the account of a CSRS participant who was temporarily (and incorrectly) classified as FERS, or when a participant erroneously classified as FERS chooses, upon learning of the proper retirement classification, to obtain a refund of contributions made to his or her account.

Under § 1605.3(b)(1), the employing agency must submit a separate negative adjustment record for each pay period involved. Each record must indicate the pay date for which the contribution was made, the amount of the contribution, the source(s) of the contribution, and the investment fund(s) to which the contribution was reported for investment by the employing agency. This information allows the TSP recordkeeper to verify that the contribution was in fact made and to calculate the investment gains or losses on the money for the period it was erroneously invested in the TSP. The calculation is done by tracking the monthly earnings of the investment fund(s) in which the erroneous contribution was invested, including consideration of how such contributions were reallocated among the investment funds as a result of any interfund transfer processed for the account during the relevant period of time.

As referred to in § 1605.3(b)(2), the Board has distributed to employing agencies detailed instructions concerning the submission of negative adjustment records. The Board may, from time to time, issue additional guidance or may change guidance that has been issued. When this occurs, the new information will be circulated to employing agencies with sufficient time for them to implement any changes to their payroll or other administrative systems that may be required by the new information. Employing agencies are required to comply with all such instructions, including providing any additional information those instructions may require.

Section 1605.3(c) provides rules for processing negative adjustment records. Most of the processing responsibility is placed upon the TSP recordkeeper. Upon receipt of negative adjustment records, the TSP recordkeeper must edit them to ensure compliance with established conventions and to ensure that the records can be successfully processed. As soon as the edit process is completed, all acceptable adjustment records are placed in approved status for processing. If that occurs by the second-to last business day of a month, the records will be processed as of the end of that month. If they are not accepted until the last business day of a month, they will be processed as of the end of the following month. The TSP recordkeeper cannot guarantee how long the edit process will take, although it frequently takes only one to two days if there are no problems with the data. In order to ensure prompt processing, employing agencies are advised to submit negative adjustment records as early as possible during a month.

Under § 1605.3(c)(2), the TSP recordkeeper will separately compute the earnings attributable to the contributions for each pay date and source of contributions. The TSP recordkeeper will also determine the investment fund(s) in which the money being removed is invested. This requires applying the monthly earnings allocation factors for the relevant investment fund(s), as well as tracking the location of the money through any interfund transfers that occur after the erroneous contributions. Subject to the rules set forth in § 1605.3(c)(3), money will be removed from the investment fund to which it has been traced.

In determining investment gains and losses for erroneous contributions submitted on a given pay date, each source of contributions is treated separately. That is, investment gains

and losses for the different TSP investment funds within a source of contributions will be netted against each other, but net gains or losses for different sources of contributions will not be netted against each other. Any other treatment would be inconsistent with the different character of the funds attributable to the three sources of contributions. For example, employee contributions are eligible to be borrowed, whereas agency matching contributions are not. Thus, if gains on employee contributions were offset against losses on employer contributions, the participant would not have as much money available to be borrowed as without such netting. Similarly, because only agency automatic (1%) contributions (and attributable earnings) are subject to the vesting requirements of 5 U.S.C. 8432(g), netting gains or losses on those contributions against the other two sources would improperly state the amount of money subject to the vesting requirement.

For similar reasons, § 1605.3(c)(3)(ii) prohibits using money in one source of contributions to return funds to an agency in connection with a negative adjustment submitted for another source of contributions. For example, if a negative adjustment to employee contributions requires returning $300 to the employing agency, and the participant only has $200 of employee contributions in his or her account (e.g., because of a loan that reduced the balance of employee contributions to $200), the additional $100 will not be returned to the employing agency from employer contributions. Rather, the negative adjustment to employee contributions will be deleted (i.e., not processed) and the employing agency may resubmit the negative adjustment record at a later time when the participant has sufficient employee contributions to cover it (e.g., due to loan repayments or new contributions).

In contrast to netting across sources of contributions, § 1605.3(c)(3)(iii) provides that within a source of contributions, gains and losses will be netted across the TSP investment funds. This is appropriate because such netting does not involve monies that are of a different character. The legal requirements applicable to all agency automatic (1%) contributions, for example, are the same regardless of the investment fund in which those monies are invested. If a negative adjustment to one source of contributions is tracked by the TSP recordkeeper to one investment fund, but there is not sufficient money in that investment fund to cover the entire adjustment, the money will be taken *pro rata* from the other investment funds. All of the money from the same source of contributions is considered to be of the same character.

Sections 1605.3(d) and (e) explain, separately for employee contributions and employer contributions, the rules for determining how much money is returned to the employing agency in connection with a negative adjustment record. Under § 1605.3(d)(1), if there is a net investment gain on an employee contribution, the employing agency receives the full face value of the negative adjustment. With one exception described in § 1605.9(a) (relating to employees ineligible to have an account in the TSP), the earnings on the employee contributions remain in the participant's account. Leaving the earnings in the account compensates the participant for the fact that he or she did not otherwise have use of the money that the employing agency erroneously contributed. The earnings cannot be paid out of the Plan to the participant at the time the negative adjustment record is processed, however. This is because such a payment, as opposed to the refund of the erroneous contributions themselves, would be a taxable distribution from the TSP that is not permitted under FERSA prior to the participant's separation from Federal service. When the participant separates, he or she may withdraw the earnings, along with any other sums in the account, under the normal rules for withdrawal from the TSP.

Section 1605.3(d)(2) addresses investment losses on employee contributions. The employing agency receives only the amount of the erroneous contribution minus the amount of the investment loss. However, the investment loss does not change the agency's responsibility to refund to the participant the full face amount of the erroneous contribution, where appropriate. The net effect is that the employing agency is required to absorb the investment loss on money that was only contributed to the TSP on account of the agency's error. It would be inequitable to require the participant to absorb the risk of loss on the money. The revised rule, which comports with current practice, effectively prevents the employing agency from putting a participant's money at risk without proper authorization.

Section 1605.3(d)(3) makes it clear that if an employing agency removes erroneous employee contributions, it must also submit negative adjustment records for any associated agency matching contributions. This is an extension of the general principle that no agency matching contributions may be made unless and until associated employee contributions are actually made. This principle cannot be circumvented by an employing agency's removing the employee contributions after agency matching contributions are made, and leaving the agency matching contributions in the TSP.

Section 1605.3(e) addresses removal of erroneous employer contributions from participants' accounts. Section 1605.3(e)(1) provides that erroneous employer contributions may only be returned to the employing agency if the negative adjustment record is processed within one year of the processing of the contribution. This rule, which is contained in the existing regulations, is based on guidance issued by the Internal Revenue Service. If more than one year elapses, the employing agency must still submit any appropriate negative adjustment records to remove erroneous contributions from the participant's account. However, in this case, instead of the employing agency's receiving a refund of the erroneous contributions, the amount of the erroneous employer contribution (plus or minus investment gains or losses) is removed from the account and used to offset TSP administrative expenses, thereby benefitting the rest of the TSP participants. In order to avoid this result, employing agencies must identify and remove erroneous employer contributions within one year of their submission.

Section 1605.3(e)(2) provides that if there is an investment gain on erroneous employer contributions that are to be returned to the employing agency, the agency receives a refund of only the face value of the negative adjustment. The agency may not receive the benefit of the investment gain on the money. At the same time, the individual participant should not receive an earnings windfall due to the fortuity of an employing agency error. Thus, the earnings on erroneous employer contributions are removed from the account and used to offset TSP administrative expenses.

Under § 1605.3(e)(3), if there is an investment loss on the erroneous employer contributions that are either returned to the employing agency or removed from the account and used to offset TSP administrative expenses, the amount removed from the account will be the amount of the contribution less the investment loss. If the employing agency received the full amount of the erroneous contribution, then the amount of the loss would have to be made up out of the participant's money. The participant should not have to absorb an investment loss on employer money that

was erroneously placed in his or her account.

The TSP recordkeeper has issued three TSP bulletins containing detailed procedures and information concerning the submission, processing, and accounting for negative adjustment records. Those bulletins, Nos. 90–22, 90–23, and 90–28, can be obtained from the Board or TSP recordkeeper upon request.

Section 1605.4 contains the rules for making up TSP contributions related to back pay awards or other retroactive pay adjustments. Section 1605.4(a) governs situations in which the participant was separated and subsequently reinstated with back pay. Under those circumstances, the participant could not have had a TSP contribution election in effect during the period of separation. Accordingly, under § 1605.4(a)(1), immediately upon reinstatement the employing agency must give the participant an opportunity to make a current TSP contribution election on Form TSP–1, regardless of whether the reinstatement occurs during a TSP open season or TSP election period.

Under § 1605.4(a)(1), the effective date of the current Form TSP–1 will be the first day of the first full pay period in the most recent TSP election period. If the participant is reinstated during a TSP open season but before the election period, he or she may also submit a Form TSP–1 that will become effective the first day of the first full pay period in the following election period. For example, if these rules had been in effect in 1995 and a participant was reinstated on January 2, 1995, the effec tive date of the current Form TSP–1 would have been January 15, 1995 (the first day of the first full pay period in the most recent election period). If the participant had been reinstated on March 22, 1995, the effective date of the current Form TSP–1 would have been January 15, 1995. If a participant had been reinstated on May 20, 1995, the effective date of the current Form TSP–1 would have been January 15, 1995. In addition, this participant could have submitted another Form TSP–1 to become effective on July 3, 1995 (the first day of the first full pay period in the following election period).

Under § 1605.4(a)(2), the participant has several choices concerning makeup contributions for the period of erroneous separation. If he or she had a contribution election on file at the time of separation, the contribution election will be reinstated for the period of separation unless the participant affirmatively elects not to have those contributions made up. Alternatively, the participant may also affirmatively elect not to make up those contributions that would have been made from the date of separation through the end of the next TSP open season after separation. Finally, the participant may, for any open season after the one during which the separation occurred, elect any amount of makeup contributions that he or she would have been eligible to make had the separation not occurred.

As provided in § 1605.4(a)(3), the decisions made by the participant after returning do not include decisions concerning the investment funds in which the money would have been invested had the separation not occurred, nor can the participant choose to receive lost earnings for the period of separation based on the investment funds elected on a Form TSP–1 that was in effect at the time of separation. The effectiveness of that election came to an end when the participant separated, even though the separation was involuntary and ultimately found to have been erroneous. Any decisions made after the participant was reinstated concerning the investment funds to use in the lost earnings calculation would be in direct violation of the principles set forth in Part 1606 (which applies to back pay awards and other retroactive pay adjustments, 5 CFR 1606.4(b)), in particular 5 CFR § 1606.11(c).

Thus, § 1605.4(a)(3) provides that all lost earnings will be calculated at the G Fund rate of return up to the date of any interfund transfer processed during the period of separation. From the effective date of the interfund transfer forward, the amount of the earnings will be calculated based on the allocations elected on the interfund transfer request. The earnings (and related contri butions) will also be moved among the investment funds to reflect the funds in which they would have been invested had the interfund transfer election been applied to them.

Under § 1605.4(b), if the participant remained employed by the Federal Government for the period covered by the back pay award or other retroactive pay adjustment, the participant is bound by the contribution election that was in effect during that period. Thus, if the participant received less pay as a result of the action that led to the back pay award or other retroactive pay adjustment, or was otherwise limited in his or her ability to make the contributions that had been previously elected, the participant must make up the missed contributions. In this situation, because any investment elections made by the participant would have remained in effect, the lost earnings are calculated based on the investment elections made by the participant for the applicable period. The employing agency is also responsible for making any agency matching contributions and agency automatic (1%) contributions that would have been required had the action that led to the payment of back pay or of another type of retroactive pay adjustment not occurred.

Section 1605.4(c)(1) provides that under both § 1605.4(a) and § 1605.4(b), any makeup employee contributions associated with the back pay award or other retroactive pay adjustment must be withheld from the award or adjustment and contributed to the participant's TSP account by the employing agency. It is not permissible for the employing agency to pay the back pay award or other retroactive pay adjustment to the participant and then accept a check or other form of payment from the participant for contribution to the TSP account. If the additional contributions associated with the back pay award or other retroactive pay adjustment would cause, or are anticipated to cause, a participant to exceed the Internal Revenue Code annual contribution limits, they may be carried forward (along with associated agency matching contributions) as makeup contributions to be deducted from pay in subsequent years.

Section 1605.4(c)(2)(i) requires employing agencies to submit agency matching contributions and agency automatic (1%) contributions associated with a back pay award or other retroactive pay adjustment.

Section 1605.4(c)(2)(ii) provides rules concerning the submission and processing of contributions associated with back pay awards and other retroactive pay adjustments. Although lost earnings on contributions associated with a back pay award or other retroactive pay adjustment are calculated based on the investment election in effect during the relevant period, the contributions must be reported by the employing agency for investment based upon the participant's investment allocation election in effect at the time of payment of the back pay award or other retroactive pay adjustment, rather than to the investment fund(s) previously elected. If there is no current election, the contributions must be reported by the employing agency for investment in the G Fund.

Section 1605.4(e) provides an opportunity for participants to restore funds to their TSP accounts if the separation upon which the withdrawal of the funds was based is reversed. This opportunity cannot be exercised by

participants who have elected to receive annuities. If a participant wishes to restore his or her account, he or she must so notify the Board within 90 days of reinstatement or lose that right.

Section 1605.5 governs employing agency misclassifications of retirement coverage. CSRS participants are not permitted to make contributions in excess of 5%. Under § 1605.5(a)(1), if a CSRS participant is erroneously classified as FERS, the employing agency must remove any employee contributions in excess of 5% of basic pay from the participant's account by submitting negative adjustment records in accordance with § 1605.3. In addition, it is recognized that for FERS employees the prospect of receiving agency matching contributions is often a significant inducement to make contributions to the TSP. A CSRS participant erroneously classified as FERS would have made any decision to contribute to the TSP with the expectation of receiving agency matching contributions on the first 5% of basic pay. When those agency contributions are removed from the account, it would be inequitable to deny the participant the option of removing all of the employee contributions. Accordingly, § 1605.5(a) provides that option.

Section 1605.5(a)(2) describes a routine procedure pursuant to which the TSP recordkeeper will remove employer contributions from a previously misclassified participant's account once the account no longer has employer contributions that have been in the account for less than one year. The employing agency may continue to submit negative adjustment records as long as there are contributions that can be returned to the employing agency under the one-year rule contained in § 1605.3(e)(1). Once all of the employer contributions have been in the account for one year or more, the employing agency cannot receive a refund of any of those contributions; submission of a negative adjustment record would cause the employer contributions (and associated earnings) to be removed from the account and be used to offset TSP administrative expenses. The TSP recordkeeper will, on its own initiative, remove the remaining employer contributions and associated earnings from the account.

In contrast to a CSRS participant misclassified as FERS, when a FERS participant is erroneously classified as CSRS, any election to contribute would have been made by the participant with the knowledge that he or she will receive no agency contributions. If the participant wished to contribute without receiving agency contributions, it follows that the participant would also have contributed at least the same amount if the added inducement of agency contributions were present. Thus, § 1605.5(b) does not allow such participants to elect to remove contributions made while misclassified as CSRS. However, because the participant has learned for the first time that the added inducement of agency contributions is available, the participant must be provided, as set forth in § 1605.5(b), an opportunity to elect makeup employee contributions in addition to those, if any, that were elected while misclassified as CSRS. Thus, for example, if the participant contributed 2% of basic pay while misclassified as CSRS, he or she must be provided the opportunity to make up an additional 8% that he or she would have been able to contribute if properly classified as FERS. If the participant did not contribute at all while misclassified, he or she may make up the full 10% contribution. The employing agency must promptly make, in a lump sum, all agency matching contributions attributable to any employee contributions that were made during the period of misclassification. In addition, the employing agency must, in accordance with § 1605.2(c)(7), make any applicable agency matching contributions attributable to the participant's makeup contributions, if any. Regardless of whether any employee contributions are made up, the employing agency must also contribute, in a lump sum, the appropriate agency automatic (1%) contributions.

Section 1605.6 adopts, without significant substantive change, the provisions of existing § 1605.8 concerning participants' claims for correction filed against their employing agencies. The rules for filing claims against the Board or the TSP recordkeeper are in a separate section of the revision, § 1605.8.

One change contained in the revision is elimination of existing § 1605.8(a)(1) relating to employing agencies' referral of participants' claims to the Board. Experience has proven this provision to be unnecessary. As a practical matter, participants are able to discern whether a claim is properly filed with the employing agency or the Board. In those rare cases in which the participant is not sure, he or she may wish to file a claim with both the employing agency and the Board. It does not appear that in such cases there is a substantial risk of inconsistent rulings that would leave the participant without relief, because the Board and the employing agency should consult to determine which, if either, is responsible for any error that may have occurred. Moreover, any inconsistent rulings would ultimately be subject to judicial review under 5 U.S.C. 8477.

Another change to the claim procedures is the provision in § 1605.6(a)(1) that the 30-day period for the employing agency to issue an initial decision on the participant's claim may be extended if the employing agency provides the participant with good cause for needing more time. Experience has shown that a full investigation of potential errors may legitimately take longer than 30 days.

Similarly, experience has shown that review of an employing agency's denial of a participant's claim can legitimately take longer than the 30 days provided in the regulations. Accordingly, § 1605.6(a)(3) also adopts a good cause provision for extending the time period for a decision.

As under the existing regulations, the burden to correct administrative errors lies, in the first instance, with the employing agency. If correction is not forthcoming, the participant may, within the time limits set forth under § 1605.6(b) of the revision, file a claim with his or her employing agency. If the participant fails to do so, he or she has not exhausted his or her administrative remedy and, therefore, is not eligible to file suit to compel the employing agency to correct the alleged error. However, regardless of whether the participant files a timely claim for correction, the employing agency may, within its discretion and otherwise in accordance with this part, correct any administrative errors it determines to have occurred. Experience has shown that most employing agencies, in a good faith effort to ensure that their employees receive all of the retirement benefits to which they are entitled, are willing to correct their errors, even after the time for filing a claim has passed. Although employing agencies are encouraged to continue to do so, participants are urged to be diligent in reviewing their earnings and leave statements and their semiannual TSP Participant Statements to promptly identify any errors, and to protect their rights by filing timely claims when necessary.

Section 1605.6(b)(1)(i)(B) clarifies when the one-year period for submitting a claim commences with respect to retirement code classifications. In particular, the revision states explicitly that mere notice to a participant of his or her retirement code classification is not sufficient to trigger the one-year claim period if that classification turns

out to be erroneous. For many partic ipants, the determination of proper retirement classification requires application of a complex set of rules. The Board has determined that it would be unjust to presume that all employees are capable of making this determination and therefore to hold them responsible for failing to immediately identify an erroneous classification. Similarly the Board is concerned that all participants may not appreciate the potential impact of a retirement classification change on their TSP accounts.

The rule adopted requires some other information that would indicate to the participant that he or she has been erroneously classified. In appropriate circumstances, the employing agency may determine that notice of a change in retirement classification constitutes sufficient notice that the earlier classification was erroneous. In addition, the rule requires that in order to trigger the one-year time limit the employing agency must provide the participant with a written notice that specifically mentions the TSP and that the retirement code classification could have implications for the participant's TSP account. Of greatest concern is that the employing agency should advise a FERS employee who was misclassified as CSRS that the employee should consider making makeup contributions for the period of misclassification. Unless and until the appropriate notice is provided, the one-year time limit will not commence.

Subpart C—Board or TSP Recordkeeper Errors

Under § 1605.5 of the existing regulations, the only Board or TSP recordkeeper error addressed is erroneous posting of contributions. Section 1605.7 of the revision addresses a broader range of potential Board or TSP recordkeeper error. The provisions of this section are derived from the experience of the Board in administering the TSP.

Section 1605.7(a) addresses situations in which a Board or TSP recordkeeper error causes a participant's account to receive credit for less earnings than it would have received had the error not occurred. Such lost earnings should not be confused with agency-paid lost earnings under Part 1606. Paragraph (a)(1) sets forth the general rule that the account should be made whole by crediting to it the difference between the credit the account received and that which it would have received had the error not occurred. Paragraph (a)(1) also describes the most common situations giving rise to lost earnings. As stated in the text, however, the situations described in paragraphs (a)(1)(i)-(iii) do not constitute an exhaustive list of the circumstances warranting payment of lost earnings attributable to Board or TSP recordkeeper error.

Section 1605.7(a)(1)(i) requires the TSP to calculate and post lost earnings (positive or negative, as the case may be) when Board or TSP recordkeeper error causes a delay in crediting money to a participant's account. Although such errors are relatively rare, given the large volume of transactions processed by the Plan, some situations have occurred more frequently than others. One is where there is a delay in crediting contributions to a participant's account. Most often this occurs because of a delay in processing an employing agency's payroll submission. Where the delay does not prevent the payroll tape from being processed in the month during which it should be processed, no lost earnings correction is required because, under the Board's earnings allocation algorithm, participants receive the same credit for the month of contribution regardless of when, during the month, the contributions are credited. Where the error does cause a delay that continues into one or more months after the one during which the contributions should have been credited, the participants should be made whole. Most of these cases affect more than one participant; all participants whose contributions are on a tape that was delayed must be credited (charged) with additional investment earnings (losses), depending on the investment experience of the funds involved. If the earnings are calculated to be positive (due to investment gains), then the additional amounts posted to the accounts of the affected participants are, in effect, charged to the rest of the TSP participants through the earnings allocation process. Conversely, if there are investment losses, the amounts deducted from the affected participants' accounts are, in effect, credited to the rest of the TSP participants through the earnings allocation process.

Other possible scenarios covered by § 1605.7(a)(1)(i) are delays in crediting loan payments or loan prepayments, or delays in reinvesting returned checks.

Section 1605.7(a)(1)(ii) covers situations in which loan or withdrawal checks are improperly issued. The error can take several forms, such as issuance to an address different from that provided to the TSP recordkeeper, issuance of a payment from the wrong account, or premature payment of a withdrawal. In all such cases, the partic ipant ceases to receive credit for earnings as of the end of the month for which the withdrawal is made effective. The participant does not again receive full credit for earnings on the improperly disbursed funds until the month after the money is redeposited in his or her account. Thus, the Plan must make up all earnings for the period of disinvestment.

Errors addressed under paragraph (a)(1)(ii) are, however, subject to the limitation contained in paragraph (a)(2). That is, if a participant receives funds that should not have been disbursed from his or her TSP account, he or she must promptly call the error to the Board's attention and return the funds for redeposit to the account. If the participant needlessly delays in returning the funds, or invests the funds before returning them to the TSP, then the participant may be deemed to have had the use of the funds during this period. If that occurs, the participant's account will not receive lost earnings for the period that he or she had use of the money. In general, determinations concerning whether a participant has had the use of money under paragraph (a)(2) must be made on a case-by-case basis, after an evaluation of all of the specific facts and circumstances. A standard of reasonableness will be applied by the Board.

Section 1605.7(a)(1)(iii) provides for payment of lost earnings in cases where a Board or TSP recordkeeper error causes a participant's account to receive earnings based on an incorrect investment fund allocation. This infrequent occurrence can take place when the TSP recordkeeper fails to process an interfund transfer request or processes it incorrectly. As described in paragraph (a)(3), par ticipants affected by this type of error will be given a choice whether they wish to have it corrected. If so, the correction will involve calculating and crediting lost earnings as well as reallocating the account balance as it would have been had the error not occurred. A participant cannot choose the former without the latter, or vice versa.

Section 1605.7(a)(4) establishes the investment funds for which the lost earnings calculations should be made. If the participant continued to have a TSP account during the period of the error, or would have had an account if the error had not occurred, then the rates of return the account would have earned during the relevant period will be used. For example, assume that separated Participant A requests a withdrawal, but the recordkeeper erroneously disburses Participant B's account as a result of a data entry error. Participant B promptly returns the erroneous disbursement, but his account loses earnings for a month.

If Participant B had his entire account invested in the C Fund just prior to the erroneous disbursement, then he will receive lost earnings based on the C Fund rates of return. The same would be true if the erroneous disbursement from Participant B's account was a loan.

In contrast, assume that separated Participant X requests a withdrawal of his entire account balance as of the end of November 1996. The entire account is properly disbursed as of the end of November 1996, but the TSP recordkeeper erroneously causes the check to be mailed to an outdated address which had been properly changed by the participant. The check is lost and the funds are uninvested for three months, at which time the account is recredited with the amount that was disbursed in November 1996. Because the account would properly have been closed as of the end of November 1996, the lost earnings will be calculated at the G Fund rate of return.

Finally, assume Participant L has an outstanding loan of $5,000 and decides to prepay it. The certified prepayment check is received in early October 1996 but due to TSP recordkeeper error is not credited to the account until December 1996. Since Participant L continued to have a TSP account during the period of the erroneous disinvestment, the lost earnings will be credited based on the investment funds in which the money would have been invested had the prepayment been properly credited in October. These rules are designed to approximate the earnings that the participant would have received if the error had not occurred. For periods when the TSP account would have been closed even if the error had not occurred, applying the G Fund rate provides the (former) participant with a reasonable positive rate of interest. It is not practicable for the Board to speculate on the earnings which the participant would have received on the money outside the Plan.

Section 1605.7(b) provides for reversal of erroneous declarations of taxable loan distributions.

Section 1605.7(c) makes explicit that the Executive Director has the discretion to make other corrections not specifically addressed elsewhere in § 1605.7. The specific types of corrections listed in § 1605.7 are not exclusive, and Board or TSP recordkeeper errors other than those addressed may properly give rise to lost earnings or other forms of corrective relief. Moreover, even if no Board or TSP recordkeeper error is involved, the Executive Director may determine that payment of lost earnings or other corrective relief is warranted under the circumstances. Such determinations must be made by the Executive Director on a case-by-case basis. In making these determinations, the Executive Director must comply with his fiduciary responsibilities under FERSA to all of the participants of the TSP. Thus, the Executive Director will consider factors such as the administrative cost of implementing the correction, the cost to the TSP as a whole of paying any lost earnings, and the harm to the affected participant if no correction is made.

Section 1605.8 contains the provisions for filing claims with respect to Board or TSP recordkeeper error. The primary change from the existing regulations is to adopt a more informal process than that originally contemplated. This decision is based on the Board's experience in handling claims for correction. It has been determined that a more informal, flexible process is beneficial to all parties concerned.

Under § 1605.8, claims may be made either to the TSP recordkeeper or to the Board. The revision provide flexibility regarding which of those parties will process the claim. If the claim is submitted to the TSP recordkeeper, it may either be processed by the record-keeper or sent to the Board to be processed. If the latter, or if the claim is initially submitted to the Board, the decision of the Board is final. If an initial decision is issued by the TSP recordkeeper, the participant may request review by the Board of any denial of all or any part of the claim. The decision by the Board on review is final.

Subpart D—Miscellaneous Provisions

Section 1605.9 contains miscellaneous provisions. Paragraph (a) addresses residual earnings. If all employee contributions to a participant's account are removed, but earnings on those contributions remain in the account under the rules of this part, the earnings will not necessarily be removed from the account merely because there are no longer any employee contributions. This will usually occur when an agency erroneously contributes money to the account of a CSRS participant who is eligible to contribute to the TSP but has not elected to do so. When the contributions are removed, the earnings on the employee contributions will remain in the account. Such a participant will, like all other TSP participants, be entitled to withdraw his or her account balance in full upon separating from the Federal Government under the same rules that apply to withdrawal of other money in a participant's account. In contrast, an employee who was never eligible to contribute to the TSP is not, by law, entitled to have a TSP account or to receive benefits from the TSP. If residual earnings remain in the account of such an employee after all contributions have been removed, they will be removed from the account and applied against TSP administrative expenses. Any remedy the employee may wish to pursue would be against his or her employing agency and would not involve the Board, which is not in a position to provide any relief to the employee.

Paragraph (b) provides for belated elections to contribute to the TSP because of circumstances beyond the participant's control (but not attributable to employing agency error). This belated election is currently found at 5 CFR 1605.2(b)(1) of the existing regulations. The revision adopts the rule of that provision without substantive change. No makeup contributions are permitted under the circumstances addressed in this provision.

Paragraph (c) contains a cross-reference to Part 1606 for correcting investment in an incorrect investment fund(s). Some employing agencies might be inclined to correct such an error by submitting a negative adjustment record to remove the money from the erroneous investment fund and then recontributing the money to the correct investment fund. However, the only permissible correction is through Part 1606.

Paragraph (d) provides addresses for the Board and TSP recordkeeper.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, sec. 201, Pub. L. 104–4, 109 Stat. 48, 64, the effect of this regulation on State, local, and tribal governments and on the private sector has been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by any State, local, or tribal governments in the aggregate or by the private sector. Therefore, a statement under section 202, 109 Stat. 48, 64–65, is not required.

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Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedure Act (APA), as amended by the Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, tit. II, 110 Stat. 847, 857–875 (5 U.S.C. 801(a)(1)(A)), the Board submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to the publication of this rule in today's **Federal Register**. This rule is not a "major rule" as defined in section 804(2) of the APA as amended (5 U.S.C. 804(2)).

List of Subjects in 5 CFR Part 1605

Administrative practice and procedure, Employee benefit plan, Government employees, Pensions, Retirement.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons set out in the preamble, Part 1605 of chapter VI, Title 5 of the Code of Federal Regulations is revised to read as follows:

PART 1605—CORRECTION OF ADMINISTRATIVE ERRORS

Subpart A—Definitions

Sec.
1605.1 Definitions.

Subpart B—Employing Agency Errors

1605.2 Makeup of missed or insufficient contributions.
1605.3 Removal of erroneous contributions.
1605.4 Back pay awards and other retroactive pay adjustments.
1605.5 Misclassification of retirement coverage.
1605.6 Procedures for claims against employing agencies; time limitations.

Subpart C—Board or TSP Recordkeeper Errors

1605.7 Plan-paid lost earnings and other corrections.
1605.8 Claims for correction of Board or TSP Recordkeeper errors; time limitations.

Subpart D—Miscellaneous Provisions

1605.9 Miscellaneous provisions.

Authority: 5 U.S.C. 8351 and 8474.

Subpart A—Definitions

§ 1605.1 Definitions.

The following definitions apply for purposes of this part:

Account or *TSP account* means a participant's account in the Thrift Savings Plan;

Agency automatic (1%) contributions means any contributions made under 5 U.S.C. 8432 (c)(1) or (c)(3);

Agency contributions means agency automatic (1%) contributions and agency matching contributions;

Agency matching contributions means any contributions made under 5 U.S.C. 8432(c)(2);

Basic pay means basic pay as defined in 5 U.S.C. 8331(3), and it is the rate of pay used in computing any amount the individual is required to contribute to the Civil Service Retirement and Disability Fund as a condition for participating in the CSRS or the FERS, as the case may be;

Board means the Federal Retirement Thrift Investment Board;

Board error means any act or omission by the Board that is not in accordance with applicable statutes, regulations, or administrative procedures made available to employing agencies and/or TSP participants (including, but not limited to, TSP communications materials and other publications);

C Fund means the Common Stock Index Investment Fund established under 5 U.S.C. 8438(b)(1)(C);

CSRS means the Civil Service Retirement System established by Subchapter III of chapter 83 of title 5, U.S.C., and any equivalent Federal Government retirement plan;

CSRS employee or *CSRS participant* means any employee, member, or participant covered by CSRS, including employees authorized to contribute to the Thrift Savings Plan under 5 U.S.C. 8351, or 5 U.S.C. 8440a through 8440d;

Employee contributions means any contributions to the Thrift Savings Plan made under 5 U.S.C. 8432(a), 5 U.S.C. 8351 or 5 U.S.C. 8440a through 8440d;

Employer contributions means agency automatic (1%) contributions and agency matching contributions;

Employing agency means any entity that provides or has provided pay to an individual, thereby incurring responsibility for submitting to the Thrift Savings Fund contributions made by or on behalf of that individual; any entity responsible for submitting TSP loan payments on behalf of an individual; or any other entity that has employed an individual and has provided information that affects or has affected that individual's TSP account;

Employing agency error means any act or omission by an employing agency that is not in accordance with all applicable statutes, regulations, or administrative procedures, including internal procedures promulgated by the employing agency and TSP procedures provided to employing agencies by the Board or TSP recordkeeper;

Executive Director means the Executive Director of the Board under 5 U.S.C. 8474;

F Fund means the Fixed Income Investment Fund established under 5 U.S.C. 8438(b)(1)(B);

FERS means the Federal Employees' Retirement System established by chapter 84 of title 5, U.S.C., and any equivalent Federal Government retirement plans;

FERS employee or *FERS participant* means any employee, member, or participant covered by FERS;

G Fund means the Government Securities Investment Fund established under 5 U.S.C. 8438(b)(1)(A);

Interfund transfer means the movement of all or a portion of a participant's existing account balance among the TSP investment funds;

Investment fund means the C Fund, the F Fund, the G Fund, and any other TSP investment funds created subsequent to December 27, 1996.

Investment fund election means a choice by a participant concerning how TSP contributions shall be allocated among the TSP investment funds;

Lost earnings record means a data record containing information enabling the TSP system to compute lost earnings and to determine the investment fund in which money would have been invested had an error not occurred;

Makeup contributions means employee or employer contributions that are made for an earlier period during which they would have been made but for an employing agency error;

Negative adjustment record means a data record submitted by an employing agency to remove money from a participant's account;

Open season means the period during which participants may choose to begin making contributions to the TSP, to change or discontinue the amount currently being contributed to the TSP (without losing the right to recommence contributions the next open season), or to allocate prospective contributions to the TSP among the investment funds;

Participant means any person with an account in the TSP, or who would have an account in the TSP but for an employing agency error;

Recordkeeper error means any act or omission by the TSP recordkeeper that is not in accordance with applicable statutes, regulations, or administrative procedures made available to employing agencies and/or TSP participants (including, but not limited to, TSP communications materials and other publications);

Source of contributions means either employee contributions, agency automatic (1%) contributions, or agency matching contributions;

Thrift Savings Plan, TSP, or *Plan* means the Federal Retirement Thrift Savings Plan established by the Federal Employees' Retirement System Act of 1986 (FERSA), Pub. L. 99–335, 100 Stat. 514, which has been codified, as amended, primarily at 5 U.S.C. 8401–8479; and

TSP Recordkeeper means the entity that is engaged by the Board to perform recordkeeping services for the TSP. As of the effective date of these regulations, the TSP recordkeeper is the National Finance Center, Office of the Chief Financial Officer, United States Department of Agriculture, located in New Orleans, Louisiana.

Subpart B—Employing Agency Errors

§ 1605.2 Makeup of missed or insufficient contributions.

(a) *Applicability.* This section applies whenever, as the result of an employing agency error, a participant does not receive all of the contributions to his or her account to which the participant is entitled. This includes, but is not limited to, situations in which an employing agency error prevents a participant from making an election to contribute to the TSP, the employing agency erroneously fails to implement a contribution election properly submitted by a participant, the employing agency fails to make agency automatic (1%) contributions or agency matching contributions that it is required to make, or the employing agency erroneously contributes less to the TSP than it would have contributed had the error not occurred. The corrections required by this section must be made in accordance with this part and procedures provided to employing agencies, from time to time, by the Board or the TSP recordkeeper in bulletins or other guidance. It is the responsibility of the employing agency to determine whether it has made an error that entitles a participant to correction under this section.

(b) *Missed employer contributions.* If an employing agency has failed to make agency automatic (1%) contributions that are required to be made under 5 U.S.C. 8432(c)(1)(A), agency matching contributions that are required to be made under 5 U.S.C. 8432(c)(2) based on employee contributions that have been made, or contributions required to be made under 5 U.S.C. 8432(c)(3), then:

(1) The employing agency must promptly submit, in a lump sum, all such missed contributions to the TSP record keeper on behalf of the affected participant. Makeup contributions must be allocated by the employing agency among the TSP investment fund(s) using the participant's current investment fund election at the time the makeup contributions are made. If no such election is on file, the contributions will be reported by the employing agency for investment in the G Fund.

(2) If applicable, the employing agency must also submit any lost earnings records required under 5 CFR Part 1606.

(c) *Missed employee contributions.* Within 30 days of receiving information from his or her employing agency that indicates that the employing agency acknowledges that an error has occurred that has caused less employee contributions to be made to the participant's account than would have been made had the error not occurred, a participant may elect to establish a schedule of makeup contributions to replace the missed contributions through future payroll deductions, in addition to any regular TSP contributions that the participant is entitled to make. The following rules apply to makeup contributions:

(1) The schedule of makeup contributions elected by the participant must establish the amount of contributions to be made each pay period over the duration of the schedule. The contribution amount per pay period may vary during the course of the schedule, but the amounts to be contributed should be established when the schedule is created. The schedule may not exceed four times the number of pay periods over which the errors occurred.

(2) The employing agency may, but need not, set a ceiling on the length of the schedule of makeup contributions which is less than four times the number of pay periods over which the errors being corrected occurred. The ceiling may not, however, be less than twice the number of pay periods over which the errors being corrected occurred.

(3) The employing agency must implement the schedule of makeup contributions as soon as practicable after the participant has made an election to implement a makeup schedule.

(4) Makeup contributions will not be considered in applying the maximum amount per pay period that a participant is permitted to contribute to the TSP (e.g., 5% of basic pay for CSRS participants, 10% of basic pay for FERS participants), but will be included for purposes of applying the annual limits contained in 26 U.S.C. 402(g)(1) and 26 U.S.C. 415.

(5) A participant's regular TSP contributions will always take precedence over makeup contributions. Thus, when establishing a schedule of makeup contributions, the employing agency must review any schedule proposed by the affected participant as well as the participant's current TSP contribution election, to determine whether the makeup contributions, when combined with regular TSP contributions, are expected to exceed the annual limits contained in 26 U.S.C. 402(g)(1) and 415. If so, the participant may elect to have the schedule of makeup contributions established in such a manner that the payments will, at an appropriate time, be suspended until the makeup contributions can be made within the annual limits. In any event, a schedule of makeup contributions may be suspended at any time in order to avoid a situation in which the participant is unable to make regular TSP contributions because of the annual limits. Similarly, a schedule of makeup contributions may be suspended if a participant has insufficient net pay to permit the makeup contributions. If a schedule of makeup contributions is suspended because of the annual limits or because of insufficient net pay, the period of suspension will not be counted against the maximum number of pay periods the participant has to complete the schedule of makeup contributions.

(6) A participant may elect to terminate a schedule of makeup contributions at any time, but may not elect to make partial payments under the schedule. Any such termination is irrevocable. If a participant separates from employment that makes the participant eligible to contribute to the TSP, the participant may elect to accelerate the payment schedule by a lump sum contribution from his or her final paycheck. No contributions may be made other than by payroll deduction from pay that constitutes basic pay.

(7) To the extent a participant makes up missed employee contributions, the employing agency must contribute any agency matching contributions that would have been made had the employing agency error that caused the missed employee contributions not been made. The agency matching contributions must be made in installments over the course of the schedule of makeup contributions. The participant may not receive matching contributions associated with any employee contributions that are not made up. If the makeup contributions are suspended in accordance with

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paragraph (c)(5) of this section, the payment of agency matching contributions must also be suspended.

(8) Makeup contributions must be reported by the employing agency for investment among the TSP investment fund(s) using the participant's current investment fund election at the time the makeup contributions are made. If no such election is on file, the contributions must be reported by the employing agency for investment in the G Fund.

(9) Where a participant has transferred to a different employing agency from the one at which the participant was employed at the time of the missed contributions, it remains the responsibility of the former employing agency to determine whether an employing agency error is responsible for the missed contributions. If it is determined that such an error has occurred, the current agency must take any necessary steps to correct the error. The current agency may seek reimbursement from the former agency of any amount that would have been paid by the former agency had the error not occurred.

(10) Makeup employee contributions may be made only by payroll deduction from pay that constitutes basic pay. Contributions by check, money order, cash, or other form of payment, directly from the participant to the TSP, or from the participant to the employing agency for deposit to the TSP, are not permitted.

(11) If applicable, the employing agency must submit any lost earnings records required under 5 CFR Part 1606.

§ 1605.3 Removal of erroneous contributions.

(a) *Applicability.* This section applies whenever, as a result of an employing agency error, a TSP account contains money that should not have been contributed to the account and which, therefore, must be removed from the account. This includes, but is not limited to, situations in which, because of an employing agency error, employee contributions in excess of those elected by a participant are contributed to the participant's account, employee contributions (and any associated agency matching contributions) are made on behalf of a participant who did not elect to have any contributions made, excess employer contributions are made to a participant's account, or employee contributions are made in excess of the amount permissible because of an improper retirement classification that is subsequently corrected (e.g., a CSRS employee is permitted to make contributions in excess of 5% of basic pay during a temporary misclassification as FERS).

(b) *Negative adjustment records.* (1) In order to remove money from a participant's account, the employing agency must submit, for each pay date involved, a negative adjustment record indicating the amount of the contribution being removed, the pay date for which it was made, the source(s) of the contributions involved (i.e., employee contributions, agency automatic (1%) contributions or agency matching contributions), and the investment fund or funds to which the erroneous contribution was made. A negative adjustment record may be for all or a part of the contributions made for the applicable pay date, investment fund and source of contributions, but for each investment fund and source of contributions the negative adjustment may not exceed the amount of contributions made for that pay date.

(2) Negative adjustment records must be submitted in accordance with this part and with procedures provided to employing agencies from time to time by the Board or the TSP recordkeeper in bulletins or other guidance. Negative adjustment records must also include any additional information required in any such bulletins or other guidance.

(c) *Processing negative adjustment records.* Negative adjustment records will be processed in accordance with the following rules:

(1) Negative adjustment records received and accepted by the TSP recordkeeper by the second-to-last business day of a month will be processed effective as of the end of that month. Negative adjustment records accepted by the TSP recordkeeper on the last business day of a month will be processed effective as of the end of the following month.

(2) When negative adjustment records are processed, the TSP recordkeeper will determine separately, for each pay date and source of contributions involved, the amount of any investment gains or losses on the money the agency seeks to remove from the account and the investment fund or funds in which that money is currently invested. In making these determinations, investment gains and losses from the different TSP investment funds will be netted against each other. Investment gains and losses for different sources of contributions will be treated separately; gains and losses for different sources of contributions will not be netted against each other. The TSP recordkeeper will take into consideration any interfund transfers made effective on or after the date on which the erroneous contribution was processed.

(3)(i) Multiple negative adjustment records in the same processing cycle will be processed in the order of the applicable pay dates, starting with the earliest pay date.

(ii) If the participant's account does not have sufficient funds in the applicable source of contributions to pay the amount of a negative adjustment, the adjustment to that source of contributions will not be processed. Funds may not be taken from another source of contributions to cover the negative adjustment. The employing agency may, at a later date, resubmit the record that was not processed. It will be processed if, at that time, there are sufficient funds for the applicable source of contributions.

(iii) If there are sufficient funds in the applicable source of contributions to pay the amount required by a negative adjustment record, but any of the investment funds does not have sufficient money to pay the portion that is attributable to that investment fund (e.g., because of a loan), then the amount required will be removed from the other investment fund(s), *pro rata*, based on the participant's total account balance in each investment fund for that source of contributions.

(d) *Employee contributions.* The following rules apply to removal of employee contributions from a participant's account:

(1) If there is a net investment gain on the erroneous employee contribution made for a pay date, then the full amount of the erroneous contribution will be returned to the employing agency. Subject to § 1605.9(a), the investment earnings on the erroneous contribution will remain in the participant's account.

(2) If there is a net investment loss on the erroneous employee contribution made for a pay date, then the employing agency will receive only the amount of the erroneous contribution reduced by the investment loss. However, the investment loss does not affect the employing agency's obligation to refund to the participant the full amount of the erroneous contribution.

(3) If an employing agency removes erroneous employee contributions from a participant's account, it must also remove, under paragraph (e) of this section, any associated agency matching contributions.

(e) *Employer contributions.* The following rules apply to removal of employer contributions from a participant's account:

(1) Employer contributions will only be returned to the employing agency if the negative adjustment record submitted to remove the contributions is

processed within one year of the date the contribution was processed. If more than one year has elapsed when the negative adjustment record is processed, the amount of the employer contribution plus (or minus) any investment gains (or losses) will be removed from the participant's account and used to offset TSP administrative expenses rather than returned to the employing agency. The employing agency's obligation to submit negative adjustment records to remove erroneous contributions from a participant's account is not affected by whether the contribution has been in the account for more or less than one year at the time the negative adjustment record is to be processed.

(2) Subject to paragraph (e)(1) of this section, if there is a net investment gain within a source of contributions for an erroneous employer contribution, then the employing agency will receive the full amount of the negative adjustment submitted. The earnings attributable to the erroneous contributions in the applicable source of contributions will be removed from the participant's account and used to offset TSP administrative expenses.

(3) Subject to paragraph (e)(1) of this section, if there is a net investment loss within a source of contributions for an erroneous employer contribution, then the employing agency will receive only the amount of the erroneous contribution reduced by the investment loss.

§ 1605.4 Back pay awards and other retroactive pay adjustments.

(a) *Participant not employed.* The following rules apply to participants who receive a back pay award or other retroactive pay adjustment for a period during which the participant was separated from Government employment:

(1) If the participant is reinstated to Government employment, then immediately upon reinstatement the employing agency must give the participant the opportunity to submit a contribution election form (Form TSP–1) to make current contributions. The effective date of the form will be the first day of the first full pay period in the most recent TSP election period. If the participant is reinstated during a TSP open season but before the election period, he or she can also submit an election form that will become effective the first day of the first full pay period in the following election period.

(2) The participant must be given the following options for electing makeup contributions:

(i) If the participant had a valid contribution election form (Form TSP–1) on file when he or she separated, upon the participant's reinstatement to Government employment that election form will be reinstated for purposes of makeup contributions, unless a new contri bution election form is submitted to terminate all makeup contributions or those contributions that would have been made from the date of separation through the end of the open season that occurred immediately after the separation.

(ii) Instead of making contributions for the period of separation under the reinstated contribution election form, the participant may submit a new election form for any open season that occurred during the period of separation. However, the investment allocation on each Form TSP–1 for the period of separation must be the same as the investment allocation on the current Form TSP–1.

(3) Lost earnings will be calculated and credited to the participant's account, in accordance with 5 CFR Part 1606, using the rates of return for the G Fund, unless the participant submitted one or more interfund transfer requests during the period of separation. In the case of interfund transfer requests, the earnings will be calculated using the G Fund rates of return until the first interfund transfer was processed. The contribution that is subject to lost earnings will be moved to the investment fund(s) the participant requested and lost earnings will be calculated based on the earnings for that fund(s). The amount of lost earnings calculated will be posted to the investment fund(s) to which the contribution was moved by the interfund transfer. If there were no interfund transfers processed during the lost earnings calculation period, the amount of lost earnings calculated will be posted to the employee's G Fund account.

(b) *Participant employed.* The following rules apply to participants who receive a back pay award or other retroactive pay adjustment for a period during which the participant was not separated from Government employment:

(1) The participant will only be entitled to makeup contributions for the period covered by the back pay award or retroactive pay adjustment if, for that period, the participant had designated a percentage of basic pay to be contributed to the TSP or had designated a dollar amount of contributions each pay period which had to be reduced (because of an applicable 5% or 10% limit on contributions per pay period) as a result of the reduction in pay that is made up by the back pay award or other retroactive pay adjustment.

(2) The employing agency must compute the amount of additional employee contributions that would have been contributed to the participant's account had the action leading to the back pay award or other retroactive pay adjustment not occurred. The employing agency must also compute the amount of agency matching contributions and agency automatic (1%) contributions that would have been payable had that action not occurred.

(c)(1) Makeup employee contributions required under paragraphs (a) and (b) of this section must be computed prior to payment of the award of back pay or other retroactive pay adjustment. The makeup employee contributions must be deducted from the payment of the back pay award or other retroactive pay adjustment and contributed to the TSP, unless the payment of such contributions will cause the participant to exceed the annual contribution limits contained in 26 U.S.C. 402(g)(1) or 26 U.S.C. 415 (taking into consideration the expected regular TSP contributions the participant will make during the year in which the back pay award or other retroactive pay adjustment is paid). To the extent TSP contributions from the back pay award or other retroactive pay adjustment would cause the participant to exceed the elective deferral limits contained in 26 U.S.C. 402(g) or 415, such contributions may be carried forward into subsequent years and made (along with attributable agency matching contributions) pursuant to a schedule of makeup contributions established under the rules set forth in § 1605.3(c).

(2)(i) If employee contributions are deducted from a back pay award or other retroactive pay adjustment, the employing agency will be responsible for contributing the associated agency matching contributions at the same time the employee contributions are made. Regardless of whether a participant elects makeup employee contributions, the employing agency must make, in a lump sum payment, all appropriate agency automatic (1%) contributions associated with the back pay award or other retroactive pay adjustment.

(ii) Any makeup contributions (both employee and employer) associated with a back pay award or other retroactive pay adjustment must be reported by the employing agency for investment among the TSP investment fund(s) using the participant's investment fund election in effect at the

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time the makeup contributions are made. If no such election is on file, the contributions must be reported by the employing agency for investment in the G Fund.

(d) The employing agency must pay any lost earnings on TSP contributions derived from back pay awards or other retroactive pay adjustments that are required to be paid under 5 CFR Part 1606.

(e) If a participant has withdrawn his or her TSP account other than by purchasing an annuity, and the separation from Government employment upon which the withdrawal was based is reversed, resulting in reinstatement of the participant without a break in service, then the participant will have the option, which must be exercised by notice to the Board within 90 days of reinstatement, to restore to his or her TSP account the amount withdrawn. The right to restore the withdrawn funds will expire if the notice is not provided to the Board within 90 days of reinstatement. No earnings will be paid on any restored funds.

§ 1605.5 Misclassification of retirement coverage.

(a) If a CSRS participant is misclassified by an employing agency as a FERS participant, when the misclassification is corrected—

(1) The employing agency must, under § 1605.3, remove all employee contributions that exceeded 5% of basic pay for the pay period(s) involved, and refund to the participant the amount contributed. In addition, the employing agency must submit negative adjustment records to remove all employer contributions made to the participant's account during the period of misclassification that have been in the account for less than one year. The participant may choose whether or not he or she wishes to have the remainder of the employee contributions made during the period of misclassification removed from his or her account and refunded to the participant; and

(2) If the participant's account at any time contains no employer contributions that have been in the account for less than one year, the TSP recordkeeper will remove from the account any employer contributions that have been in the account for one year or more (and associated earnings), and will use such amounts to offset TSP administrative expenses.

(b) If a FERS participant is misclassified as a CSRS participant, when the misclassification is corrected he or she may not elect to have the contributions made while classified as CSRS removed from his or her account. The employing agency must make in a lump sum payment, pursuant to § 1605.2(b)(1), the appropriate agency automatic (1%) contributions and agency matching contributions on the employee contributions that were made while the participant was misclassified as CSRS. The participant may also elect to make, under § 1605.2(c), additional contributions that he or she would have been eligible to make as a FERS participant during the period of misclassification. If such contributions are made, the employing agency must also submit any associated agency matching contributions and any lost earnings records required under 5 CFR Part 1606.

§ 1605.6 Procedures for claims against employing agencies; time limitations.

(a) *Agency procedures.* Each employing agency must establish procedures for participants to submit claims for correction under this subpart. Each employing agency's procedures must include the following:

(1) The employing agency will provide the participant with a decision on any claim within 30 days of receipt of the claim unless the employing agency provides the participant with good cause for requiring a longer period to decide the claim. Any decision to deny a claim in whole or in part must be in writing and must include the reasons for the denial (including citations to any applicable statutes, regulations or procedures), a description of any additional material that would enable the participant to perfect his or her claim, and a statement of the steps to be taken to appeal the denial.

(2) The employing agency must permit a participant at least 30 days to appeal the employing agency's denial of all or any part of his or her claim for correction under this subpart. The appeal must be in writing and addressed to the agency official designated in the initial denial decision or in procedures promulgated by the agency. The participant may include with his or her appeal any documentation or comments that the participant deems relevant to the claim.

(3) The employing agency must issue a written decision on a timely filed appeal within 30 days of receipt of the appeal unless the employing agency provides the participant with good cause for taking a longer period to decide the appeal. The employing agency decision must include the reasons for the decision, as well as citations to any applicable statutes, regulations, or procedures.

(4) If the agency decision on the appeal is not issued in a timely manner, or if the appeal is denied in whole or in part, the participant will be deemed to have exhausted his or her administrative remedy and will be eligible to file suit against the employing agency under 5 U.S.C. 8477. There is no administrative appeal to the Board of a final agency decision.

(b) *Time limit for filing claims.* (1)(i) Upon discovery of administrative errors, employing agencies are required to promptly correct those errors under this subpart, regardless of whether a claim for correction is received from the affected participant. If an error has not been corrected by the employing agency, the affected participant may file a claim for correction with his or her employing agency. The claim must be filed within one year of the earlier of:

(A) Receipt of a pay stub, earnings and leave statement, or other document reflecting the error; or

(B) The close of the first TSP election period following the participant's receipt of a TSP Participant Statement reflecting the error.

(ii) For purposes of paragraphs (b)(1)(i)(A) and (b)(1)(i)(B) of this section, in the case of a participant who has been improperly classified as to retirement coverage, the receipt of a document indicating the participant's retirement code classification is not, in and of itself, sufficient to notify the participant that his or her retirement classification is incorrect. However, receipt of a document indicating a change in retirement code classification, in addition to a written notice to the participant that the change may have implications for his or her TSP account, may be deemed by an employing agency to be sufficient to advise the participant that his or her retirement classification had been incorrect prior to the change. The one-year time limit will not commence with respect to retirement coverage misclassification errors unless and until the participant receives a written notice of the error that specifically mentions the TSP.

(2) If a participant fails to file a claim for correction of an administrative error in a timely manner (or fails to appeal a denial of a claim in a timely manner) under paragraph (b)(1) of this section, the agency may still correct any administrative error that is brought to or comes to its attention.

Subpart C—Board or TSP Recordkeeper Errors

§ 1605.7 Plan-paid lost earnings and other corrections.

(a) *Plan-paid lost earnings.* (1) Subject to paragraph (a)(2) of this section, if, because of an error committed by the Board or the TSP recordkeeper, a participant's account does not receive credit for earnings (which may be positive or negative) that it would have received had the error not occurred, the account will be credited with the difference between the earnings (if any) it actually received and the earnings it would have received had the error not occurred. The errors that warrant crediting of lost earnings under this paragraph (a) include, but are not limited to:

(i) Board or TSP recordkeeper delay in crediting contributions or other monies to a participant's account;

(ii) Improper issuance of a loan or withdrawal payment to a participant or beneficiary which requires the money to be restored to the participant's account; and

(iii) Investment of all or part of a participant's account in the wrong TSP investment fund(s) (e.g., improper processing or failure to process an interfund transfer request).

(2) A participant's TSP account will not be credited with earnings under paragraph (a)(1) of this section if, during the period the participant's account received credit for less earnings than it would have received but for the Board or recordkeeper error, the participant had the use of the money on which the earnings would have accrued.

(3) In the case of an error described in paragraph (a)(1)(iii) of this section, the affected participant will, upon discovery of the error, be given a choice whether or not to have the error corrected. If the participant chooses correction, the account will be placed in the position it would have attained had the error not occurred, including crediting of earnings (positive or negative as the case may be) that would have accrued had the error not occurred and reallocation of the account balance among the investment funds in the proportions that would have existed had the error not occurred.

(4) Where the participant continued to have a TSP account, or would have continued to have a TSP account but for the Board or TSP recordkeeper error, earnings under paragraph (a)(1) of this section will be computed for the relevant period based upon the investment funds in which the affected monies would have been invested had the error not occurred. If the period for which lost earnings are paid is a period for which the participant did not, and should not, have had an account in the TSP, then the earnings will be computed using the G Fund rate of return for the relevant period.

(b) *Reversal of loan distributions.* If, because of Board or TSP recordkeeper error, a TSP loan is declared a taxable distribution under circumstances that make such declaration inconsistent with FERSA, 5 CFR Part 1655, with the provisions of the documents (including instructions) signed by or provided to the participant in connection with the application for or issuance of the loan, or with other procedures established by the Board or TSP recordkeeper in connection with the TSP loan program, the taxable distribution will be reversed. The participant will be provided an opportunity to reinstate or repay in full the outstanding balance on the loan.

(c) *Other corrections.* The Executive Director may, in his discretion and consistent with the requirements of applicable law, correct any other errors not specifically addressed in this section or provide any other relief to a participant, including payment of lost earnings from the TSP, if the Executive Director determines that the correction or relief would serve the interests of justice, fairness, and equity among the participants of the TSP.

§ 1605.8 Claims for correction of Board or TSP Recordkeeper errors; time limitations.

(a) *Filing claims.* Claims for correction under this subpart may be submitted initially either to the TSP recordkeeper or the Board. The claim must be in writing and may be from the affected participant or beneficiary or from a representative of the participant or beneficiary. The written claim must state the basis for the claim.

(b) *Processing claims.* (1) If the initial claim is submitted to the TSP recordkeeper, the TSP recordkeeper may either respond directly to the participant or the person making the claim on behalf of the participant, or may forward the letter to the Board for response. The decision whether the TSP recordkeeper should respond directly or forward the claim to the Board will be made in accordance with guidance and procedures established by the Board or, if no such specific guidance is available, in consultation with the Board's staff. If the TSP recordkeeper responds to a participant's claim, and all or any part of the participant's claim is denied, the participant may request review by the Board within 90 days of the date of the recordkeeper's response.

(2) If the Board denies all or any part of a participant's claim (whether upon review of a TSP recordkeeper denial or upon an initial review by the Board), the participant will be deemed to have exhausted his or her administrative remedy and may file suit under 5 U.S.C. 8477. If the participant does not submit to the Board a request for review of a claim denial by the TSP Recordkeeper within the 90 days permitted under paragraph (b)(1) of this section, the participant shall not be deemed to have exhausted his or her administrative remedy.

(c) *Time limits for filing claims.* (1)(i) Upon discovery of errors subject to correction under this subpart, the Board or TSP recordkeeper will promptly correct such errors in accordance with this subpart, regardless of whether a claim for correction is received from the affected participant. If an error has not been corrected by the Board or TSP recordkeeper, the affected participant must file a claim for correction within one year of the earlier of:

(A) His or her receipt of a pay stub, earnings and leave statement, or other document reflecting the error; or

(B) The close of the first TSP election period following the participant's receipt of a TSP Participant Statement reflecting the error.

(ii) For purposes of paragraphs (c)(1)(i)(A) and (c)(1)(i)(B) of this section, in the case of a participant whose retirement coverage has been improperly classified, the receipt of a document indicating the participant's retirement code classification is not, in and of itself, sufficient to notify the participant that his or her retirement code classification is incorrect.

(2) If a participant fails in a timely manner to file a claim for correction (or fails in a timely manner to request reconsideration of a claim) under paragraph (c)(1) of this section, the Board or TSP recordkeeper may still correct any administrative error that is brought to or comes to its attention.

Subpart D—Miscellaneous Provisions

§ 1605.9 Miscellaneous provisions.

(a)(1) If all employee contributions are removed from a participant's account under the rules set forth in this part, but earnings on any of those employee contributions or other residual amounts are left in the account, the earnings will remain in the account unless the participant was ineligible to have an account in the TSP at the time the earnings were credited to the account and remains ineligible. In that case, the earnings will be removed from the account and used to offset TSP administrative expenses. If earnings remain in the account under this

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paragraph (a), they will be subject to withdrawal from the participant's account upon separation from Federal employment under the same withdrawal rules as apply to any other money in a participant's account.

(2) If any residual earnings on employer contributions remain in a participant's account after all employer have been removed from the account, those residual earnings will be removed from the account and used to offset TSP administrative expenses.

(b) If a participant fails to participate in the TSP due to circumstances beyond his or her control but not due to circumstances attributable to employing agency, Board, or TSP recordkeeper error, the participant will be entitled to elect to participate effective not later than the first pay period after the participant submits a contribution election form (Form TSP–1), regardless of whether the form is submitted during an election period. Such belated elections will be permitted on a prospective basis only; no makeup contributions will be permitted under this part.

(c) If TSP contributions are invested in the wrong investment fund(s) because of employing agency error, that error may be corrected only in accordance with 5 CFR 1606.7. Such errors may not be corrected under this part.

(d)(1) The address for the TSP recordkeeper is: National Finance Center, TSP Service Office, Post Office Box 61500, New Orleans, LA 70161–1500.

(2) The address for the Board is: Federal Retirement Thrift Investment Board, 1250 H Street, N.W., Washington, DC 20005.

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Friday
December 27, 1996

Part VIII

Securities and Exchange Commission

17 CFR Parts 275 and 279
Rules Implementing Amendments to the Investment Advisers Act of 1940; Proposed Rule and Suspension of Form ADV–S; Final Rule

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 275 and 279

[Release No. IA–1601, File No. S7–31–96]

RIN 3235–AH07

Rules Implementing Amendments to the Investment Advisers Act of 1940

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission is publishing for comment new rules and rule amendments under the Investment Advisers Act of 1940 ("Advisers Act") to implement provisions of the Investment Advisers Supervision Coordination Act ("Coordination Act") that reallocate regulatory responsibilities for investment advisers between the Commission and the states. The proposed rules would establish the process by which certain advisers would withdraw from Commission registration, exempt certain advisers from the prohibition on Commission registration, and define certain terms. The Commission also is proposing amendments to several rules under the Advisers Act to reflect the changes made by the Coordination Act. The proposed rules and rule amendments are intended to clarify provisions of the Coordination Act and assist investment advisers in ascertaining their regulatory status.

DATES: Comments must be received on or before February 10, 1997.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Stop 6–9, Washington, D.C. 20549. Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7–31–96; this file number should be included on the subject line if E-mail is used. Comment letters will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Electronically submitted comment letters will be posted on the Commission's Internet web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: Catherine M. Saadeh, Staff Attorney, or Cynthia G. Pugh, Staff Attorney, at (202) 942–0690, Office of Regulatory Policy, Division of Investment Management, Stop 10–2, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today is requesting public comment on new rules 203A–1, 203A–2, 203A–3, 203A–4, 203A–5, 222–1, and 222–2 [17 CFR 275.203A–1, 275.203A–2, 275.203A–3, 275.203A–4, 275.203A–5, 275.222–1, and 275.222–2], and proposed amendments to rules 204–1, 204–2, 205–3, 206(4)–1, 206(4)–2, and 206(4)–4 [17 CFR 275.204–1, 275.204–2, 275.205–3, 275.206(4)–1, 275.206(4)–2, and 275.206(4)–4], and Form ADV and Form ADV–S [17 CFR 279.1 and 279.3] under the Investment Advisers Act of 1940 [15 USC 80b–1 *et seq.*] (the "Advisers Act" or the "Act").

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Executive Summary

The Commission is proposing rules and rule amendments to implement certain provisions of the Investment Advisers Supervision Coordination Act ("Coordination Act"). The Coordination Act amended the Advisers Act to, among other things, reallocate the responsibilities for regulating investment advisers ("investment advisers" or "advisers") between the Commission and the securities regulatory authorities of the states. Generally, the Coordination Act requires advisers with $25 million or more of assets under management to register with the Commission; advisers with less than $25 million of assets under management that are registered with a state may not register with the Commission. The proposed rules and rule amendments would:

- Establish the process by which advisers that are currently registered with the Commission will determine their status as Commission- or state-registered advisers after the effective date of the Coordination Act;
- Amend Form ADV to require advisers to report information relevant to their status as Commission-registered advisers annually to the Commission;
- Relieve advisers from the burden of having to frequently register and then de-register with the Commission as a result of changes in the amount of their assets under management;
- Provide certain exemptions from the prohibition on registration with the Commission;
- Define certain terms used in the Coordination Act, including "investment adviser representative," "principal office and place of business," and "place of business;" and
- Clarify how advisers should count clients for purposes of the new national de minimis standard.

I. Background

On October 11, 1996 President Clinton signed into law the National Securities Markets Improvement Act of 1996 ("1996 Act").[1] Title III of the 1996 Act, the Coordination Act, makes several amendments to the Advisers Act. The most significant of these amendments reallocates federal and state responsibilities for the regulation of the approximately 22,500 investment advisers currently registered with the

[1] National Securities Markets Improvement Act of 1996, Pub. L. 104–290, 110 Stat. 3416 (1996) (to be codified in scattered sections of 15 U.S.C.).

Commission.[2] These amendments will become effective on April 9, 1997.[3]

The reallocation of regulatory responsibilities primarily grew out of Congress' concern that the Commission's resources are inadequate to supervise the activities of the growing number of investment advisers registered with the Commission, many of which are small, locally operated, financial planning firms.[4] Congress concluded that if the overlapping regulatory responsibilities of the Commission and the states were divided by making the states primarily responsible for smaller advisory firms and the Commission primarily responsible for larger firms, the regulatory resources of the Commission and the states could be put to better, more efficient use.[5]

Congress also was concerned with the cost imposed on investment advisers and their clients by overlapping, and in some cases, duplicative, regulation.[6] In addition to the Commission, forty-six states regulate the activities of investment advisers under state investment adviser statutes.[7] States generally have asserted jurisdiction over investment advisers that "transact business" in their state.[8] Consequently, many large advisers operating nationally have been subject to the differing laws of many states. Compliance with differing state laws has imposed significant regulatory burdens on these large advisers.[9] Congress intended to reduce these burdens by subjecting large advisers to a single regulatory program administered by the Commission.

The Coordination Act reallocates regulatory responsibilities over advisers by limiting the application of federal law and preempting certain state laws. Under new section 203A(a) of the Advisers Act,[10] an investment adviser that is regulated or required to be regulated as an investment adviser in the state in which it maintains its principal office and place of business is prohibited from registering with the Commission unless the adviser (i) has assets under management of not less than $25 million (or such higher amount as the Commission may, by rule, deem appropriate), or (ii) is an adviser to an investment company registered under the Investment Company Act of 1940 (the "Investment Company Act").[11] The Commission is authorized to deny registration to any applicant that does not meet the criteria for Commission registration,[12] and is directed to cancel the registration of any adviser that no longer meets the criteria for registration.[13]

The requirement that an adviser have assets under management of at least $25 million in order to register with the Commission was designed to limit Commission regulation to advisers likely to be subject to multiple state registration requirements and whose activities affect national markets.[14] Congress recognized, however, that some advisers that do not have $25 million of assets under management may still have national businesses.[15] Therefore, the Commission was given the authority to exempt advisers from the prohibition on Commission registration if the application of the prohibition would be "unfair, a burden on interstate commerce, or otherwise inconsistent with the purposes" of section 203A.[16]

By prohibiting certain state-regulated advisers from registering with the Commission, section 203A(a) gives the states the primary, although not exclusive, responsibility to regulate those advisers. Section 206 of the Advisers Act, which contains the anti-fraud provisions of the Act, will continue to apply to state-registered advisers,[17] and the Commission retains the authority in section 209 of the Advisers Act to investigate and bring enforcement actions against state-registered advisers for violating applicable provisions of the Act.[18]

The Coordination Act gives the Commission primary responsibility to regulate advisers that remain registered with the Commission by preempting certain state laws with respect to those advisers. New section 203A(b) of the Advisers Act [19] provides that state laws requiring the "registration, licensing, or qualification as an investment adviser" do not apply to any adviser registered with the Commission or excepted from the definition of investment adviser under section 202(a)(11) of the Advisers Act. Section 203A(b) preempts not only a state's specific registration, licensing, or qualification requirements, but all regulatory requirements imposed by state law on such investment advisers

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[2] Other amendments made by the 1996 Act to the Advisers Act include revisions to (i) section 205 [15 U.S.C. 80b–5] to create additional exceptions to the Advisers Act's limitations on performance fee arrangements, (ii) section 222 [15 U.S.C. 80b–18a] to impose certain uniformity requirements on state investment adviser laws (see section ii. G. of this Release), (iii) section 203(e) [15 U.S.C. 80b–3(e)] to permit the Commission to deny or revoke the registration of any person convicted of any felony (or of any adviser associated with such a person), and (iv) section 203(b) [15 U.S.C. 80b–3(b)] to exempt from registration certain advisers to church-sponsored employee pension plans. See 1996 Act sections 210, 304, 305(a), and 508(d).

[3] See Coordination Act section 308(a).

[4] The number of investment advisers registered with the Commission increased dramatically from 5,680 in 1980 to approximately 22,500 today. By 1995, the Commission was able to examine smaller advisers on a routine basis on average only once every forty-four years. See Testimony of Arthur Levitt, Chairman, SEC, Concerning S. 1815, the "Securities Investment Promotion Act of 1996," Hearing Before the Senate Comm. on Banking, Housing, and Urban Affairs (June 5, 1996) (hereinafter Senate Hearing), app. at 2.

[5] See S. Rep. No. 293, 104th Cong., 2d Sess. 3–4 (1996) (hereinafter Senate Report).

[6] *Id.* at 2.

[7] The District of Columbia, Guam, and Puerto Rico also have enacted statutes regulating investment advisers. See D.C. Code Ann. sections 2–2631 *et seq.* (1994); Guam Gov't Code section 45201 (1996); P.R. Laws Ann. tit. 10, sections 861 *et seq.* (1992). The four states that currently do not have investment adviser statutes are Colorado, Iowa, Ohio, and Wyoming.

[8] See, e.g., Unif. Sec. Act section 203 (1985); Ark. Stat. Ann. section 23–42–301(c) (1996); Md. Code Ann., Corps & Ass'ns section 11–401(b) (1993).

[9] See Testimony of Mark D. Tomasko, Executive Vice President, Investment Counsel Association of America, Inc., Senate Hearing, at 3 ("In some [advisory] firms, there are one or more persons whose sole job is to work on state registrations and requirements.").

[10] 15 USC 80b–3A(a).

[11] 15 USC 80a–1 *et seq.* The definition of "investment adviser" in the Investment Company Act includes any person who, pursuant to contract, regularly performs investment advisory services on behalf of an adviser. See section 2(a)(20) of the Investment Company Act [15 USC 80a–2(a)(20)]. Thus, any adviser that provides advisory services to a registered investment company pursuant to a contract (including a "sub-adviser") would be eligible to register with the Commission, regardless of the amount of assets under management.

[12] Section 203(c) of the Advisers Act [15 USC 80b–3(c)] (as amended by section 303(b)(1) of the Coordination Act).

[13] Section 203(h) of the Advisers Act [15 USC 80b–3(h)] (as amended by section 303(b)(2) of the Coordination Act).

[14] Congress has recognized that securities offerings of investment companies are "inherently national in nature." See H.R. Conf. Rep. No. 864, 104th Cong., 2d Sess. 40 (1996). Therefore, advisers to registered investment companies are permitted to (and, in fact, must) register with the Commission, regardless of the amount of their assets under management.

[15] See Senate Report at 5.

[16] Section 203A(c) of the Advisers Act [15 USC 80b–3A(c)]. The exercise of this exemptive authority would not only permit registration with the Commission, but would preempt state law with respect to the exempted advisers. See section II.D. of this Release.

[17] 15 USC 80b–6. By its terms, section 206 applies to all persons who meet the definition of "investment adviser" in section 202(a)(11) of the Advisers Act [15 USC 80b–2(a)(11)], regardless of whether they are registered with the Commission.

[18] 15 USC 80b–9. Paragraphs (a) and (d) of section 209 of the Advisers Act [15 USC 80b–9(a),(d)] give the Commission authority to investigate all persons who violate provisions of the Advisers Act, to bring actions in federal court to enforce compliance with the Advisers Act, and, if proper showings are made, to obtain permanent or temporary restraining orders or injunctions with respect to these persons. The Commission may bring administrative actions against "any investment adviser" under section 203(e) of the Advisers Act, and has cease-and-desist authority under section 203(k) of the Advisers Act [15 USC 80b–3(k)] against any person who "is violating, has violated, or is about to violate" any provision of the Act, or who "is, was, or would be a cause" of such violation.

[19] 15 USC 80b–3A(b).

relating to their advisory activities or services, except those provisions that are specifically preserved by the Coordination Act.[20] After April 9, 1997, state investment adviser laws that, for example, establish recordkeeping, disclosure, and capital requirements will no longer apply to advisers registered with the Commission.[21]

The Coordination Act preserves state authority over Commission-registered advisers in three areas.[22] First, states may investigate and bring enforcement actions against Commission-registered advisers with respect to fraud and deceit.[23] States may not, however, indirectly regulate activities of Commission-registered advisers by enforcing state requirements that define "dishonest" or "unethical" business practices unless the prohibited practices would be fraudulent absent the requirements.[24] Second, states may require Commission-registered advisers to file, for notice purposes only, documents filed with the Commission.[25] Thus, for example, a state could require a Commission-registered adviser to file its Form ADV with the state, but could not require the adviser to provide any information on the state filing other than the information that is required by the Commission. Third, states may require Commission-registered advisers to continue to pay state filing, registration, and licensing fees.[26]

II. Discussion

The Commission is proposing several rules implementing the provisions of the Coordination Act designed to reallocate the regulatory responsibilities for investment advisers between the Commission and the states.

A. Form ADV–T

Approximately 22,500 investment advisers are currently registered with the Commission. Based on information provided by these advisers, the Commission estimates that more than two-thirds of them would not be eligible to register with the Commission after April 9, 1997. These advisers must withdraw from registration or their registrations will be subject to cancellation. To help determine each adviser's status under the Advisers Act, as amended by the Coordination Act, and to provide for the orderly withdrawal from Commission registration for advisers that are no longer eligible, the Commission is proposing a transition rule, rule 203A–5, and Form ADV–T. Under proposed rule 203A–5, all advisers registered with the Commission on April 9, 1997 would be required to file a completed Form ADV–T with the Commission no later than that date.

Form ADV–T would enable an adviser to determine whether it meets the criteria set forth in the Coordination Act for Commission registration, as well as the criteria in the exemptive rules being proposed by the Commission.[27] Form ADV–T would require each adviser to declare whether or not it remains eligible for Commission registration. For an adviser that declares itself not eligible for Commission registration, Form ADV–T would serve as the adviser's request for withdrawal from registration as of April 9, 1997.[28]

Proposed rule 203A–5 would require every currently registered adviser to complete, sign, and return Form ADV–T by April 9, 1997. Failure to return the form would be a violation of a Commission rule. Advisers that do not return the form or that fail to voluntarily withdraw from Commission registration despite no longer being eligible would be subject to a cancellation proceeding under section 203(h) of the Advisers Act.

Proposed Form ADV–T is attached as an appendix to this release. Comment is requested on proposed Form ADV–T, proposed rule 203A–5, and the proposed process to de-register advisers that are no longer eligible for Commission registration.

B. Assets Under Management

In most cases, the amount of assets an adviser has under management will determine whether the adviser will be registered with the Commission or the states. The Commission recognizes that it is important that advisers understand how to determine the amount of assets under management and is proposing instructions to Form ADV–T that would provide guidance in this area.

1. Securities Portfolios

Section 203A(a)(2) of the Advisers Act defines "assets under management" as the "securities portfolios with respect to which an investment adviser provides continuous and regular supervisory or management services."[29] Proposed instruction 7(a) to Form ADV–T would provide that a "securities portfolio" means any account at least fifty percent of the total value of which consists of securities. Real estate, commodities, and collectibles are not securities and would not be included. In order to prevent an account in which the adviser has taken a defensive position in cash from being excluded as a "securities portfolio," the instruction would require an adviser to exclude cash and cash equivalents (*e.g.*, demand deposits) in determining whether an account is a securities portfolio.[30]

Instruction 7(b) would require that, once the adviser has determined that an account is a "securities portfolio," the entire value of the account, including cash and any non-securities positions, be included in the value of the adviser's assets under management. Exclusion of any component of a securities portfolio is not expressly required by section 203A(a)(2), and would be inconsistent with the manner in which the value of client portfolios is traditionally calculated. Comment is requested whether there are types of assets that

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[20] If Congress had intended section 203A(b) to preempt only the specific registration, licensing, and qualification requirements of state investment adviser statutes, it would not have had to preserve the authority of states to investigate fraud, require notice filings, and collect fees. *See infra* notes 22–26 and accompanying text.

[21] See, e.g., Unif. Sec. Act Model Rules 202(d)–1 (minimum financial requirements), 202(e)–1 (bonding requirements), 203(a)–1 (recordkeeping requirements), 203(b)–1 (brochure rule), and 203(c)–1 (financial reporting requirements); N.C. Admin. Code tit. 18 r. 18.1704 (1995) (minimum financial requirements); N.J. Admin. Code tit. 13, section 13:47A–2.3 (1992) (bonding requirements); Conn. Agencies Regs. section 36b–31–14b (1995) (recordkeeping requirements); Md. Regs. Code tit. 2, ch. 5 r. .05 (1994) (brochure rule); Ga. Comp. R. & Regs. r. 590–4–8.14 (1989) (financial reporting requirements).

[22] The Coordination Act also preserves state authority over certain persons who act on behalf of Commission-registered advisers. See section II.F. of this Release.

[23] Section 203A(b)(2) of the Advisers Act [15 U.S.C. 80b–3A(b)(2)].

[24] While there is no legislative history addressing the scope of section 203A(b)(2), Congress used similar language to preserve state anti-fraud laws when it preempted state regulation of securities offerings in Title I of the 1996 Act. See section 18(c)(1) of the Securities Act of 1933 [15 U.S.C. 77r(c)(1)] ("the [state] securities commission[s] * * * shall retain jurisdiction under the laws of such [s]tate[s] to investigate and bring enforcement actions with respect to fraud or deceit * * *."). The House report discussing that section explained that "[i]n preserving [s]tate laws against fraud and deceit * * * the Committee intends to prevent the [s]tates from indirectly doing what they have been prohibited from doing directly * * *. The legislation preempts authority that would allow the [s]tates to employ the regulatory authority they retain to reconstruct in a different form the regulatory regime * * * that [s]ection 18 has preempted." H.R. Rep. No. 622, 104th Cong., 2d Sess. 34 (1996) (hereinafter House Report).

[25] Coordination Act section 307(a).

[26] Coordination Act section 307(b).

[27] See section II.D. of this Release.

[28] An adviser that declares itself not eligible for Commission registration on Form ADV–T would not be required to separately file a Form ADV–W [17 CFR 279.2] in order to withdraw from registration with the Commission.

[29] 15 U.S.C. 80b–3A(a)(2).

[30] Instruction 7(a) also would explain that the following securities portfolios should be included in the determination of the amount of assets under management: (i) Family or proprietary accounts (except the personal assets of a sole proprietor), (ii) accounts for which the adviser receives no compensation, and (iii) accounts of foreign clients.

nonetheless should be excluded from a securities portfolio, and therefore from the amount of assets under management.

2. Valuation and Reporting of Securities Portfolios

Instruction 7(d) to proposed Form ADV–T would address the method and timing of the valuation of an adviser's securities portfolios.[31] The value of a securities portfolio would be required to be determined as of a date no more than ten business days before the filing of Form ADV–T.[32] The instruction would require that the methodology by which the securities are valued be the same as that used to value the securities for purposes of client reporting or to determine fees for investment advisory services.

3. Continuous and Regular Supervisory or Management Services

Instruction 7(c) to proposed Form ADV–T would provide guidance for determining whether an adviser provides an account with "continuous and regular supervisory or management services" within the meaning of section 203A(a)(2). The Commission would consider accounts over which advisers have discretionary authority and for which they provide ongoing management services to receive continuous and regular supervisory or management services (and therefore the assets of such accounts to be "assets under management"). In addition, the Commission believes that a limited number of non-discretionary advisory arrangements involve such services.

Whether an adviser that does not have discretionary authority will be considered to provide continuous and regular management or supervisory services with respect to an account would depend upon the nature of the adviser's responsibilities. The greater the amount of day-to-day responsibility an adviser has, the more likely the adviser would be providing continuous and regular supervisory or management services. For example, an adviser that has traditional portfolio management responsibilities but must obtain client consent before executing a trade would provide continuous and regular management or supervisory services with respect to the account.[33]

The Commission believes that Congress intended to exclude from Commission registration most advisers that do not engage in traditional ongoing portfolio management, including most financial planners and consultants. Under the proposed instructions, a financial planner that merely undertakes to monitor the markets and advise its clients as to the advisability of changes to their portfolios would not be providing continuous and regular management or supervisory services.[34] A financial planner that otherwise would be regulated by the states could not "opt" to be regulated by the Commission by revising its financial planning agreements to include the statutory language or similar language unless such a revision materially changes the nature of the services being provided.[35]

In evaluating the effect that the $25 million threshold would have on the number of investment advisers registered with the Commission, Congress relied on data provided by the Commission that was derived from responses on Form ADV.[36] Thus, the Commission believes that Congress intended to include as assets under management the types of assets advisers have reported on Form ADV. The Commission is proposing to require advisers to report on Form ADV–T the amount of assets under management reported on Form ADV.[37] An adviser that reports substantially more assets under management on its Form ADV–T than on its Form ADV could be asked to explain the difference.

Comment is requested on the Commission's proposed interpretation of "assets under management" and the related proposed instructions to Form ADV–T. Comment also is requested on the proposed examples provided on Form ADV–T of accounts that receive continuous and regular supervisory or management services. Commenters are requested to provide additional examples. The Commission is also interested in commenters' views whether the proposed form and instructions would allow manipulation of the amount of an adviser's assets under management in order to evade the eligibility requirements and, if so, whether there are any alternative methods to address that potential problem.

4. Proposed Safe Harbor for State-Registered Investment Advisers

The Commission recognizes that section 203A(a)(2) does not, and proposed Form ADV–T would not, provide a bright-line test by which an adviser that does not have discretionary authority over client assets may determine whether it is eligible to register with the Commission. The Commission therefore is proposing rule 203A–4 to provide a safe harbor from Commission registration for an adviser that is registered with state securities authorities (rather than the Commission) based on a reasonable belief that it is prohibited from registering with the Commission because it has insufficient assets under management.

Under proposed rule 203A–4, the Commission would not assert a violation of the Advisers Act for failure to register with the Commission (or to comply with the provisions of the Advisers Act to which an adviser is subject if required to register) if the adviser reasonably believes that it does not have sufficient assets under management (at least $30 million) and is therefore not required to register with the Commission.[38] This safe harbor would be available only to an adviser that is registered with the state in which it has its principal office and place of business.

C. Transitions Between State and Commission Registration

The Coordination Act contemplates that a state-registered adviser whose assets under management increase to

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[31] In general, the value of assets under management would be required to be included on Form ADV–T only if the amount of assets under management is the sole basis upon which the adviser is eligible for Commission registration. See Part III of proposed Form ADV–T.

[32] See Instruction 7(d) to proposed Form ADV–T.

[33] The frequency with which an adviser initiates trades, provides reports to clients, or has contacts with clients would not necessarily determine whether the adviser provides continuous and regular supervisory or management services.

[34] To enable the Commission to evaluate the claims of advisers relying on the non-discretionary management of assets as the basis of eligibility to remain registered with the Commission, proposed Form ADV–T would require these advisers to append a written statement explaining the nature of the non-discretionary supervisory or management services. See Part III, Item (c) of proposed Form ADV–T.

[35] The Commission is concerned that, if financial planners were permitted to treat assets they "monitor" as assets under management and therefore remain registered with the Commission, the intent of Congress to reallocate regulatory responsibilities by making "almost 72 [percent] of Commission [investment adviser] registrants" subject primarily to state regulation would not be effected. See Senate Report at 4.

[36] See Testimony of Arthur Levitt, Chairman, SEC, Senate Hearing, app. at 2 (providing data reflected in Senate Report). The Form ADV data provided in the Commission's testimony was extracted from responses to Items 18 and 19 of Part I of Form ADV, which require information on the market value of client securities portfolios managed on a discretionary basis and managed or supervised on a non-discretionary basis.

[37] See Part III, Item (b) of proposed Form ADV–T.

[38] As discussed *infra*, the Commission is proposing to increase the $25 million threshold for Commission registration to $30 million, and to provide an optional exemption from the prohibition on registering with the Commission for advisers having between $25 and $30 million of assets under management. See section II.C.1. of this Release.

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over $25 million will withdraw its state registration and register with the Commission. Conversely, an adviser whose assets under management decline below $25 million will withdraw its Commission registration and register with a state (or states).

The Coordination Act could require an adviser that has close to $25 million of assets under management to register with the Commission only to de-register and re-register with a state shortly thereafter. This could occur because of a small decrease in the value of client assets (as a result of a market decline) or the departure of one or a few clients. The Commission recognizes that this process would be burdensome and costly to advisers and therefore is proposing to use the authority provided to it in the Coordination Act to adopt a new rule, rule 203A–1, that would create a more flexible regime to avoid "transient" registration problems.

1. Transition from State to Commission Registration

Section 203A(a)(1)(A) of the Advisers Act authorizes the Commission to adopt a rule to increase the $25 million of assets under management threshold for Commission registration.[39] In addition, as discussed above, the Commission has authority to exempt persons not meeting the threshold from the prohibition on registering with the Commission.[40] The Commission is proposing to use these grants of authority to increase the $25 million threshold to $30 million, and to provide an optional exemption from the prohibition on registering with the Commission for advisers having between $25 and $30 million of assets under management.[41]

Proposed rule 203A–1 would permit advisers having between $25 and $30 million of assets under management to determine whether and when to change from state to Commission registration. In order to avoid having to de-register shortly after registering with the Commission, an adviser reaching the $25 million of assets under management threshold could defer registration with the Commission. An adviser would not be required to register with the Commission until its assets under management reached $30 million, and would not be subject to Commission cancellation of its registration until its assets had fallen below $25 million. A state-registered adviser whose assets under management grew to $30 million or more would be required to register with the Commission promptly when the assets reached $30 million (not when the adviser subsequently reported its assets under management to the state). Comment is requested whether the proposed $5 million "window" would provide advisers with sufficient flexibility to avoid the costly process of periodically registering and de-registering with the Commission and the states. Comment is also requested on other alternatives that could meet the needs of such advisers, for example, by providing a grace period for the transition from state to Commission registration, or by determining whether Commission registration is required on an annual basis.

2. Transition from Commission to State Registration

The Commission is proposing to amend Form ADV by adding new Schedule I ("eye") that would require advisers to report information necessary to determine continued eligibility for Commission registration similar to that required by Form ADV–T.[42] The information on Schedule I would be used to determine whether the Commission should cancel the registration of an adviser because the adviser no longer meets the criteria for Commission registration. Schedule I would be required to be updated annually, within 90 days after the end of the adviser's fiscal year. An adviser whose assets under management fell below $25 million would not be required to report this event until after the end of its fiscal year (and not at all unless its assets under management remained below $25 million at the time of filing its Schedule I). Thus, eligibility for Commission registration would be determined annually based upon the value of assets under management at a single point in time. Comment is requested whether the Commission should measure assets under management more frequently, or based on the average value of assets at the end of certain periods (*e.g.*, calendar quarters).

Section 203A(b) of the Advisers Act, together with most state investment adviser statutes, will cause state registration requirements to be triggered by either a withdrawal from, or by the Commission's cancellation of, registration with the Commission. To allow an adviser facing potential cancellation of its Commission registration sufficient time to register under applicable state statutes, the Commission is proposing to provide a "grace period" of 90 days after the date the adviser files its Schedule I indicating that it would not be eligible for Commission registration.[43] Upon the expiration of this period, the Commission would institute proceedings to cancel the adviser's registration if the adviser had not withdrawn its registration on its own. As provided under the Advisers Act, an adviser would be given notice and an opportunity to show why its registration should not be cancelled (*i.e.*, because since the time the adviser had filed its Schedule I to Form ADV, its amount of assets under management had grown).[44] Comment is requested whether a 90-day grace period would allow sufficient time for an adviser to register with the states.

D. Exemptions from Prohibition on Registration with the Commission

As discussed above, the Coordination Act gives the Commission authority to exempt advisers from the prohibition on Commission registration if the prohibition would be "unfair, a burden on interstate commerce, or otherwise inconsistent with the purposes" of section 203A.[45] Congress intended the Commission to grant these exemptions to advisers having "a national or multistate practice."[46] The Commission is proposing a new rule, rule 203A–2, that would exempt four types of advisers from the prohibition on Commission registration. The effect of the first three exemptions would be to make section 203 of the Advisers Act applicable to exempted advisers and, thus, require them to register with the Commission (unless exempted from Commission registration under section 203(b) of the Act). The fourth exemption would enable newly formed advisers to register with the Commission if they have a reasonable expectation that they will be eligible for Commission registration within 90 days.

1. Nationally Recognized Statistical Rating Organizations

"Nationally recognized statistical rating organization" ("NRSRO") is a term used in several Commission rules

[39] 15 USC 80b-3A(a)(1)(A).

[40] See supra note and accompanying text.

[41] Paragraphs (a) and (b) of proposed rule 203A–1.

[42] See section II. A of this Release.

[43] Paragraph (c) of proposed rule 203A–1. The Commission is not proposing a similar grace period after the filing of Form ADV–T. The Commission presumes that an adviser not eligible to maintain its registration with the Commission on April 9, 1997 would already be registered with the appropriate state(s) at the time of filing Form ADV–T.

[44] Section 211(c) of the Advisers Act [15 USC 80b-11(c)].

[45] Section 203A(c). See supra notes and accompanying text. As discussed above, the exercise of this exemptive authority would not only permit registration with the Commission, but would preempt state law with respect to the exempted advisers. See supra notes 19–21 and accompanying text.

[46] Senate Report at 5.

to identify a type of entity, often referred to as a "rating agency," that provides ratings of securities, on the basis of which the securities receive special treatment under Commission rules.[47] All of the entities currently designated as NRSROs are registered with the Commission as investment advisers.[48] While NRSROs do not have assets under management, their activities have a significant effect on the national securities markets and the operation of federal securities laws.[49] The Commission believes that it would be inconsistent with the purposes of the Coordination Act for this type of entity to be regulated by the states rather than by the Commission, and is proposing to exempt NRSROs from the prohibition on registering with the Commission.[50]

2. Pension Consultants

Pension consultants provide various advisory services to fiduciaries of pension plans, including assistance in selecting and monitoring investment advisers that manage assets of such plans.[51] Pension consultants may not have assets under management, but their activities have a direct effect on the management of billions of dollars of pension plan assets. The Commission believes that it would be inconsistent with the purposes of the Coordination Act for these advisers to be regulated by the states rather than by the Commission, and is proposing to exempt certain pension consultants, as defined under the proposed rule, from the prohibition on registering with the Commission.

Not all pension consultants, however, are engaged in activities that substantially affect national markets. Under paragraph (b) of proposed rule 203A–2, a pension consultant would be defined as an investment adviser that provides investment advice to certain employee benefit plans with respect to assets having an aggregate value of at least $50 million during the adviser's last fiscal year.[52] Comment is requested as to the appropriateness of the proposed exemption, and the proposed criteria for determining whether a pension consultant's activities warrant exemption.

3. Certain Affiliated Investment Advisers

Some firms conduct their advisory activities through separately registered advisers, not all of which may meet the criteria for Commission registration. For example, a firm may conduct its portfolio management activities in Subsidiary A, while conducting its financial planning activities in Subsidiary B, each of which is separately registered as an investment adviser. As a result, Subsidiary B may have no assets under management and, unless another exemption is available, would be regulated by the states rather than by the Commission.

This result may be appropriate for affiliated advisers that are related only by ownership.[53] The activities of affiliated advisers, however, may be centrally managed, and the effect of the Coordination Act's prohibition on registration would be either to subject an advisory firm to different schemes of regulation or force it to reorganize its operations. The Commission believes that either result could be unfair to the adviser and a burden on interstate commerce and is therefore proposing to exempt from the prohibition on Commission registration any adviser that directly or indirectly controls, is controlled by, or is under common control with an investment adviser that is eligible to register (and is, in fact, registered) with the Commission.[54] "Control" would be defined, for purposes of the rule, as the power to direct or cause the direction of the management or policies of an adviser, whether through ownership of securities, by contract, or otherwise.[55] The exemption would be available only if the principal office and place of business of the adviser is the same as that of the affiliated registered adviser.[56]

Affiliated advisers having the same principal office and place of business are likely to have overlapping operations, similar books and records, and integrated compliance systems. Compliance with separate schemes of regulation may not permit the integration of such systems and therefore would be burdensome for these advisers. Moreover, the Commission has found that it is more efficient to examine all of the activities of such affiliated advisers at the same time. Comment is requested whether the proposed conditions for exempting an affiliated adviser from the prohibition on registering with the Commission are appropriate. Is having the same principal office and place of business an appropriate criterion by which to assume the integration of operations of affiliated advisers? If not, commenters are requested to provide alternative criteria.

4. Investment Advisers With Reasonable Expectation of Eligibility

A newly formed adviser may not be eligible to register with the Commission at the time of its formation, but may have a reasonable expectation that within a short period of time it will become eligible to register. For example, an adviser may not initially have assets under management, but may anticipate an inflow of assets shortly after commencing operations. The Commission recognizes that requiring a newly formed adviser to register with the states, only to de-register and

[47] See, e.g., rule 15c3–1 under the Securities Exchange Act of 1934 ("Exchange Act") [17 CFR 240.15c3–1] (broker-dealer net capital); rule 2a-7 under the Investment Company Act [17 CFR 270.2a-7] (money market funds).

[48] The Commission's Division of Market Regulation responds to requests for NRSRO designation through no-action letters, and has designated six rating agencies as NRSROs for purposes of the net capital rule (rule 15c3–1 under the Exchange Act).

[49] See Exchange Act Rel. No. 34616 (Aug. 31, 1994) [59 FR 46314 (Sept. 7, 1994)] (describing the use of NRSRO ratings by Congress and the Commission).

[50] Paragraph (a) of proposed rule 203A–2.

[51] See Investment Advisers Act Rel. No. 1092 (Oct. 8, 1987) [52 FR 38400, 38401 (Oct. 16, 1987)].

[52] In determining the aggregate value of advised assets, the adviser would be able to include only that portion of a plan's assets for which the adviser provided investment advice (including any advice with respect to the selection of an investment adviser to manage the assets). The value of assets would be determined as of the date during the adviser's most recently completed fiscal year that the adviser was last employed or retained by contract to provide investment advice to the plan with respect to those assets. See paragraph (b)(3) of proposed rule 203A–2.

[53] The Commission does not believe that Congress intended to permit an adviser to register with the Commission merely because it is an affiliate of a Commission-registered adviser. In section 203A(b)(1)(A) of the Advisers Act [15 USC 80b-3A(b)(1)(A)], Congress preempted state regulation of advisers and certain "supervised persons." Congress defined supervised persons as persons who provide investment advice on behalf of the adviser. See section 202(a)(25) of the Advisers Act [15 USC 80b-2(a)(25)]. The principal effect of using this new defined term, rather than the term "persons associated with an investment adviser," which is defined in section 202(a)(17) of the Advisers Act [15 USC 80b-2(a)(17)], is to exclude any person controlling or controlled by the adviser unless the person provides investment advice on behalf of the adviser. See section F.1. of this Release.

[54] Paragraph (c) of proposed rule 203A–2. By proposing rule 203A–2(c), the Commission is not suggesting that an advisory firm may reorganize its operations in order to circumvent the requirements of the Advisers Act. See section 208(d) of the Advisers Act [15 USC 80b–8(d)] (making unlawful for any person "indirectly, or through or by any other person, to do any act or thing which it would be unlawful for such person to do directly" under the Advisers Act). *Cf.* Preliminary Note 2 to rule 203(b)(3)–1 [17 CFR 275.203(b)(3)–1] under the Advisers Act.

[55] Under this definition, any person that directly or indirectly has the right to vote 25 percent or more of the voting securities or is entitled to 25 percent or more of the profits of an adviser would be presumed to control that adviser.

[56] The definition of "principal office and place of business" in proposed rule 203A–3(c) would also apply to this rule. See section II.E.2. of this Release.

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register with the Commission shortly thereafter, would be unfair, burdensome, and inconsistent with the purposes of section 203A. Therefore, the Commission is proposing to exempt certain newly formed advisers from the prohibition on Commission registration.

Under proposed rule 203A–2(d), an adviser with a reasonable expectation that it will be eligible for Commission registration within 90 days after the date the adviser's registration becomes effective would be permitted to register with the Commission. At the end of the 90-day period, the adviser would be required to file an amended Schedule I. If the adviser indicates on the amended Schedule I that it has not become eligible to register with the Commission, the adviser would be required to file a Form ADV-W concurrently with the Schedule I, thereby withdrawing from registration with the Commission. The proposed exemption would be available only to advisers that are not registered or required to be registered with either the states or the Commission.

The Commission requests comment on the utility, scope, and conditions of the proposed exemptions, including whether the exemptions should require Commission registration for advisers meeting the exemptive criteria. Are there other classes of advisers that the Commission should exempt because their prohibition from registering with the Commission would be unfair, a burden on interstate commerce, or otherwise inconsistent with the purposes of section 203A? Comment is also requested whether the 90-day period is adequate or whether it should be longer.

E. Investment Advisers Not Regulated or Required To Be Regulated by States

Under section 203A(a)(1) of the Advisers Act, advisers that are not regulated or required to be regulated as investment advisers in the state [57] in which they have their principal office and place of business must register with the Commission regardless of the amount of assets they have under management.[58] This provision makes clear that the Commission will retain regulatory responsibility for advisers with a principal office and place of business in states that have not enacted investment adviser statutes, and for foreign advisers doing business in the United States. The Coordination Act does not, however, provide an explanation of when an adviser is "regulated or required to be regulated" as an investment adviser, nor does it define "principal office or place of business."

1. "Regulated or Required To Be Regulated"

Although the phrase "regulated or required to be regulated" is used in section 203A(a)(1), the legislative history of this provision suggests that Congress equated regulation by a state with registration with the state.[59] This interpretation seems appropriate since an adviser exempt from registering under a state statute typically is subject only to the anti-fraud provisions of the state statute and not to substantive regulatory provisions. Accordingly, the Commission proposes to interpret section 203A(a)(1) as requiring any person who meets the definition of investment adviser in section 202(a)(11) of the Advisers Act (and that is not otherwise exempt from registration by section 203(b) of the Act) [60] to register with the Commission if the person has a principal office and place of business in a state that has an investment adviser statute, but is not required to be registered (and, in fact, is not registered) under that statute. The person may not be required to register with the state as a result of an exemption from registration or an exception from the definition of "investment adviser" in that state's statute.[61]

One effect of this proposed interpretation would be that all advisers will be regulated either by the Commission or the states, except for advisers that are exempt from registration under both the Advisers Act and state statutes. Another effect would be that some advisers a state has determined not to regulate would be registered with the Commission even though their operations may be very limited. The Commission requests comment whether it should recommend that Congress amend section 203A(a)(1) to prohibit an adviser from registering with the Commission if it has its principal office and place of business in a state that has enacted an investment adviser statute (regardless of whether that statute requires the adviser to register).

"Principal Office and Place of Business"

Currently, advisers are required to identify their principal place of business in response to Item 2A of Form ADV. Form ADV does not, however, define the term principal place of business. Because of the added regulatory significance of the determination of the state in which the adviser has its principal place of business, the Commission is proposing to define the term "principal office and place of business" to mean the "executive office of the investment adviser from which the officers, partners, or managers of the investment adviser direct, control, and coordinate the activities of the investment adviser." [62]

2. F. Persons Who Act on Behalf of Investment Advisers

In addition to preempting state law with respect to investment advisers that are registered with the Commission, the Coordination Act preempts state law with respect to "supervised persons" of Commission-registered advisers.[63] The Coordination Act defines a supervised person as any "partner, officer, director * * *, or employee of an investment adviser, or other person who provides investment advice on behalf of the investment adviser and is subject to the supervision and control of the investment adviser." [64] Thus, the definition of supervised person parallels the traditional Commission view that persons performing advisory services on behalf of an adviser are not required to

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[57] The term "state" is defined in section 202(a)(19) of the Advisers Act [15 USC 80b–2(a)(19)] to include the District of Columbia, Puerto Rico, the Virgin Islands, and any other possession of the United States.

[58] 15 USC 80b–3A(a)(1).

[59] Senate Report at 4 ("The Commission will continue to supervise all advisers that are based in a state that does not register investment advisers.").

[60] 15 USC 80b–3(b). Section 203(b) exempts from registration (i) any adviser whose clients are all residents of the state within which the adviser maintains its principal office and place of business, and that does not furnish advice or issue reports with respect to securities listed or admitted to unlisted trading privileges on any national securities exchange (the "intrastate" exemption); (ii) any adviser whose only clients are insurance companies (the "insurance company" exemption); (iii) any adviser that, among other things, does not hold itself out generally to the public as an adviser and during the course of the preceding twelve months had fewer than fifteen clients (the "small adviser" exemption); (iv) any adviser that is a charitable organization and that provides advice only to other charitable organizations (the "charitable adviser" exemption, added by section 5 of the Philanthropy Protection Act of 1995, Pub. L. 104–62, 109 Stat. 682, 685 (1995) (codified in scattered sections of 15 U.S.C.)); and (v) any adviser that provides advice solely to church plans (the "church plan adviser" exemption, added by section 508(d) of the 1996 Act).

[61] For example, a lawyer who provides discretionary advisory services as a "bona fide fiduciary" may not be required to register as an investment adviser under Massachusetts law. Unless the lawyer's performance of such services is solely incidental to the practice of law (within the meaning of section 202(a)(11)(B) of the Advisers Act), the lawyer would likely be required to register under the Advisers Act even if the lawyer provides such services with respect to less than $25 million of assets. Compare Mass. Ann. Laws ch. 110A, section 401(m) (1996) with section 202(a)(11)(B) of the Advisers Act [15 USC 80b–2(a)(11)(B)].

[62] Paragraph (c) of proposed rule 203A–3.

[63] Section 203A(b).

[64] Section 202(a)(25).

separately register.[65] The definition of supervised person includes a person whose status is an "employee," as well as a person who provides advice on behalf of the adviser pursuant to a contract, as long as the person is under the supervision and control of the adviser.[66]

The Coordination Act, however, does preserve certain state laws with respect to certain supervised persons of Commission-registered advisers by providing that a "[s]tate may license, register, or otherwise qualify any investment adviser representative who has a place of business located within that [s]tate."[67] The Coordination Act does not define "investment adviser representative," nor does it describe what constitutes a "place of business." In order to clarify these terms and thus the scope of state preemption under the Coordination Act, the Commission is proposing a rule defining these terms.

1. "Investment Adviser Representative"

The Congressional committee reports provide no indication as to which persons providing investment advice on behalf of Commission-registered advisers Congress intended states to continue to register. Testimony in support of preserving state authority over investment adviser representatives, however, suggests that Congress intended to permit state securities authorities to establish qualification standards for investment adviser representatives in order to protect individual, or "retail," investors.[68]

While the term "investment adviser representative" is used in many states' laws, the Commission believes that it would be inconsistent with the policies underlying the 1996 Act to be guided by individual state's investment adviser statutes. Many states define "investment adviser representative" differently,[69] and in ways that reach persons who do not provide advice to retail investors (e.g., portfolio managers of mutual funds).[70] In light of the many provisions in the Coordination Act designed to promote uniformity of regulation, and the decision of Congress to preempt state laws regulating the offering of shares of investment companies,[71] the Commission does not believe that Congress intended the definition of "investment adviser representative" to incorporate state law. The Commission thus concludes that Congress used the undefined term "investment adviser representative" with the expectation that the Commission would use its existing rulemaking authority to define it.[72] The Commission is proposing to adopt a rule defining the term "investment adviser representative" in a manner consistent with the policy concerns that appear to have given rise to the exception from the provisions of the Coordination Act that preempt state law with respect to Commission-registered advisers and their supervised persons.

Proposed rule 203A–3(a) would define "investment adviser representative" to be a "supervised person" of an investment adviser, if a substantial portion of the business of the supervised person is providing investment advice to clients who are natural persons. The term therefore would exclude (and thereby preclude states from registering) supervised persons who provide advice to investment companies, businesses, educational institutions, charitable institutions and other entities that are not natural persons. Supervised persons who provide advice to natural persons, but who do not "on a regular basis solicit, meet with, or otherwise communicate to clients" also would be excepted from the definition.[73] This exception is intended to exclude personnel of an adviser who may be involved in the formulation of investment advice given to natural persons, but who are not directly involved in providing advice to (or soliciting) clients. In addition, supervised persons who give only impersonal advice would be excepted.[74] This provision is intended to exclude personnel who may be involved, for example, in preparing a newsletter, providing general market timing advice, or preparing a list of recommended purchases for inclusion on a web site.

As discussed above, the definition of "investment adviser representative" would include only those supervised persons a "substantial portion" of whose business is providing advice to natural persons. A substantial portion of a supervised person's business would be providing advice to natural persons if, during the preceding twelve months, more than ten percent of the supervised person's clients consisted of natural persons, or more than ten percent of the assets under management by the adviser attributable to the supervised person were assets of clients who are natural persons.[75] This provision is intended to permit representatives who provide advisory services primarily to clients that are not natural persons to accept so-called "accommodation clients" without being required to register as investment adviser representatives

[65] Persons who perform investment advisory services on behalf of, and under the supervision and control of, a registered adviser are not required to separately register as investment advisers. See, e.g., Abid Mansoor (pub. avail. Feb. 5, 1992); Corinne E. Wood (pub. avail. Apr. 17, 1986); The Burney Company (pub. avail. Feb. 7, 1977). Persons who provide advice on behalf of persons excepted from the definition of investment adviser in section 202(a)(11) are likewise excepted from the definition of investment adviser. See Robert S. Strevell (pub. avail. Apr. 29, 1985).

[66] Senate Report at 4.

[67] Section 203A(b)(1)(A).

[68] The North American Securities Administrators Association ("NASAA") addressed this matter in its testimony before the Senate committee.

Of particular concern to the states is the potential loss of licensing authority over [investment adviser representatives] associated with [advisory] firms operating out of small branch offices nationwide. Typically, a small number of [investment adviser representatives] operate out of each office providing, almost exclusively, retail investment advisory services * * *. Because of the local nature and retail clientele of these [representatives], the states have a strong interest in maintaining oversight of them.

See Testimony of Dee R. Harris, President, NASAA, Senate Hearing at 6–7.

NASAA recommends * * * requiring all supervised persons that provide advice to retail clients to be licensed with the states regardless of the size of their [advisory] firm. Supervised persons would be exempt from state licensure if they do not solicit retail business nor hold themselves out as providing investment advice to a retail clientele.

See NASAA Recommendations Relating to S. 1815 and H.R. 3005 (July 8, 1996), at 1–2.

[69] The investment adviser statutes of New Hampshire and New Jersey define "investment adviser representative" to include any person who is authorized to represent an investment adviser in providing investment advice. See N.H. Rev. Stat. Ann. section 421–B:2(II) (1991 & Supp. 1996). The investment adviser statutes of Oklahoma, Oregon, and Virginia define "investment adviser representatives" to include persons who prepare reports or analyses concerning securities. See Okla. Stat Ann. tit. 71 section 2(l) (Supp. 1997); Or. Rev. Stat. section 59.015(16)(a)(B) (1995); Va. Code Ann. section 13.1–501(A) (1993).

[70] See Unif. Sec. Act section 401(g) (1986 amendments) (defining "investment adviser representative" to include any person employed by or associated with an investment adviser, other than clerical or ministerial personnel, who manages accounts or portfolios of clients, or who determines which recommendations or advice regarding securities should be given); *Definitions and Procedures for Investment Adviser Representatives and Branch Offices* (Order of West Virginia Deputy Commissioner of Securities, amended eff. Oct. 11, 1995) (defining "investment adviser representative" to include clerical and ministerial employees).

[71] See 1996 Act section 102 (amending section 18(b)(2) of the Securities Act of 1933 [15 USC 77r(b)(2)] to preempt state law requiring registration of securities issued by investment companies that are registered or that have filed a registration statement with the Commission); see also Senate Report at 6–7; House Report at 30–31.

[72] This conclusion is also suggested by the fact that, although the drafters of section 203A had available to them two terms—"person associated with an investment adviser" and "supervised person"—that could have been used to describe persons the states would have authority to register, the drafters chose to use neither term. "Person associated with an investment adviser" is defined in section 202(a)(17), and "supervised person" is defined in section 202(a)(25) of the Advisers Act.

[73] Paragraph (a)(1)(I) of proposed rule 203A–3.

[74] Paragraph (a)(1)(ii) of proposed rule 203A–3.

[75] Paragraph (a)(2)(ii) of proposed rule 203A–3.

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under state law.[76] Comment is requested whether the criteria for determining whether a substantial portion of an investment adviser representative's business is providing advice to retail persons are workable. If not, commenters are requested to provide alternatives.

The Commission notes that persons not falling within the definition of "investment adviser representative," while not subject to state registration and qualification standards, would not be "unregulated." Although the Commission does not separately register persons associated with investment advisers, the Commission regulates their activities in connection with the regulation of investment advisers. These persons are subject to most of the provisions of the Advisers Act, either directly, as persons associated with investment advisers, or indirectly, as aiders and abettors.[77]

Comment is requested on the proposed definition of "investment adviser representative," and whether the exclusions from the term (and thus state registration requirements) are appropriate. Comment is requested whether supervised persons a substantial portion of whose business is providing services to natural persons who have a high net worth or meet other indicia of financial sophistication should be excepted from the definition.[78] Should an investment adviser representative that is dually-registered as a broker-dealer agent in a state be excepted from the definition of "investment adviser representative"?

2. "Place of Business"

While section 203A(b)(1)(A) preserves the ability of a state to register and regulate "investment adviser representatives" of Commission-registered advisers, the section limits a state's authority to only those investment adviser representatives who have a "place of business" within the state. The Coordination Act does not define the phrase "place of business."

The Commission is proposing new rule 203A–3(b) to clarify that, for purposes of section 203A(b)(1)(A), a place of business is any "place or office from which the investment adviser representative regularly provides advisory services or otherwise solicits, meets with, or communicates to clients." Under section 203A(b)(1)(A) and proposed rule 203A–3(b), an investment adviser representative may be required to register in multiple states if the adviser representative has multiple places of business. A place of business need not be a formal office, but it cannot be merely an office of an agent for service of process or a mail box. A place of business may, however, include a hotel room, temporarily rented office space, or even the home of a client, if the adviser representative regularly provides advisory services or solicits, meets with, or otherwise communicates to the client at that location.

If, however, an investment adviser representative does not regularly provide advisory services or otherwise solicit, meet with, or communicate to clients at any place or office, proposed rule 203A–3(b) would define the place of business of such investment adviser representative to be the residence of each client. This provision is designed to prevent itinerant investment adviser representatives from claiming that they have no place of business and thus are not subject to any state's registration or qualification requirements. As a practical matter, therefore, an investment adviser representative likely will designate at least one place or office in a state in which he or she regularly communicates to clients as a place of business.

Comment is requested whether the proposed rule will provide clear guidance for determining whether an investment adviser representative has a place of business in a particular state. Comment is specifically requested whether additional guidance or criteria would be appropriate to address investment adviser representatives that provide services to clients through electronic media.[79]

The Commission is aware that some have suggested that section 203A(b)(1)(A) could be interpreted to permit a state to require every investment adviser representative to establish a place of business in the state (such as the office of the Secretary of State) as a condition of doing business in that state. Under this interpretation, every investment adviser representative doing business in a state would be potentially subject to the state's registration and qualification requirements. The Commission does not believe that the place of business clause should be interpreted in this manner. Interpreting "place of business" as the equivalent of "doing business" would have the effect of nullifying the restriction that the inclusion of the phrase "place of business" places on a state's authority to regulate investment adviser representatives. In the Commission's view, Congress could not have intended this result, or it would not have included the place of business clause in section 203A(b)(1)(A).[80]

Moreover, this interpretation would nullify restrictions imposed by Congress in the Coordination Act on the applicability of state adviser laws to out-of-state advisers. In the Coordination Act, Congress amended section 222 of the Advisers Act to create a national de minimis standard that makes state investment adviser laws (other than provisions prohibiting fraud) inapplicable to an adviser that has fewer than six clients who are residents of the state and that does not have a place of business in the state.[81] Requiring an adviser to have a place of business in any state in which the adviser has even a single client (because it is doing business in the state), would render the new national de minimis standard meaningless.

3. Solicitors

Investment advisers frequently engage others to solicit clients on their behalf. A solicitor is a "person associated with an investment adviser" with respect to the adviser for which it solicits.[82] An adviser has an obligation to supervise its solicitors with respect to activities performed on its behalf.[83] Solicitation of clients, however, may not involve providing investment advice on behalf

[76] The proposed exception would be available to all investment adviser representatives, regardless of whether they hold themselves out as providing advisory services to natural persons. Limiting this exception to representatives that do not hold themselves out as providing advisory services to natural persons would be a difficult standard to apply, as representatives may not specify the type of client to whom their advertisements and other communications are directed.

[77] See sections 203 (d)–(f) of the Advisers Act [15 U.S.C. 80b–3 (d)–(f)].

[78] *E.g.*, clients with whom an adviser may enter into an advisory contract providing performance-based compensation under rule 205–3 of the Advisers Act [17 CFR 275.205–3].

[79] An investment adviser representative that provides investment advisory services through a web site generally would be considered to have its place of business at the physical location where the representative typically conducts his or her web site-related advisory business. For example, a representative works on a computer at home in State X where he or she designs a web site that solicits information from clients and evaluates the information provided by clients in response to the site. The representative e-mails its materials to a web server in State Y for posting on the web. Under the rule, as proposed, the representative's place of business would be considered to be in State X.

[80] This interpretation would, therefore, violate the principal of statutory interpretation that a statute is to be construed so as to give effect to all its language. See, *e.g.*, *United States* v. *Menasche*, 348 U.S. 528, 538–39 (1955).

[81] Section 222(d) of the Advisers Act [15 U.S.C. 80b–18a(d)]; see section II.G. of this Release.

[82] Investment Advisers Act Release No. 688 (July 12, 1979) [44 FR 42126 (July 18, 1979)] (adopting rule 206(4)–3). The release noted that a solicitor for an adviser providing solely impersonal advice is not necessarily a "person associated with an investment adviser." *Id.* at 42129 n.20.

[83] *Id.* at 42129.

of the adviser, in which case the solicitor would not be a "supervised person" of the adviser within the meaning of section 202(a)(25) of the Advisers Act. The Commission believes, therefore, that section 203A(b) of the Advisers Act does not generally preempt state regulation of a solicitor for a Commission-registered adviser, unless the solicitor is independently registered with the Commission as an investment adviser, or is excepted from the definition of investment adviser in section 202(a)(11) of the Advisers Act.[84]

G. National De Minimis Standard

The Coordination Act also amends the Advisers Act to add new section 222(d), which makes state investment adviser statutes inapplicable to advisers that (i) do not have a place of business in the state and (ii) have fewer than six clients who are residents of that state ("national de minimis standard").[85] The Commission believes that the national de minimis standard was intended to ease the regulatory burdens on advisers who may be uncertain as to when they are subject to state registration requirements as a result, for example, of a client moving to another state.[86]

Most, but not all, state investment adviser statutes exempt advisers that do not have a place of business in, and have a limited number of clients that are residents of, the state.[87] The maximum number of clients an adviser may have before state registration is required varies from state to state.[88] Section 222(d) establishes a national de minimis standard of five clients; a state may have a higher, but not a lower, de minimis threshold.[89]

The term "client" is not defined in the Advisers Act, nor is it generally defined in state investment adviser statutes or regulations.[90] The scope of a de minimis exemption or exclusion may be broadened or narrowed, depending on who is determined to be a "client."[91] In order to effect the intent of Congress to create a uniform minimum de minimis threshold, the Commission is proposing a new rule, rule 222–2, defining the term "client" for purposes of section 222(d).[92]

Proposed rule 222–2 would treat as a single client a natural person and (i) any relative or spouse of the natural person sharing the same principal residence, and (ii) all accounts of which such persons are the sole primary beneficiaries.[93] The proposed rule also would treat as a single client a corporation, general partnership, trust[94] or other legal organization (other than a limited partnership) that receives investment advice based on its investment objectives rather than the objectives of its shareholders, partners, members, or beneficial owners. A limited partnership would be counted as a single client if it would be counted as a single client under rule 203(b)(3)–1 of the Advisers Act.[95] Comment is requested on this definition of "client." Are there other typical client relationships that the proposed rule fails to address?

The Commission notes that the manner in which clients are counted has significance under section 203(b)(3), which exempts from registration with the Commission certain advisers having fewer than fifteen clients during the course of the preceding twelve months. Should the Commission adopt a single rule regarding the counting of clients under both sections 203(b)(3) and 222(d)? If so, should the Commission reconsider some of the provisions of rule 203(b)(3)–1, e.g, the requirement that limited partnership interests be securities?[96] Since clients include foreign clients of an adviser,[97] should the rule specifically address the status of foreign clients?

H. Other Amendments to Advisers Act Rules

The Commission is proposing amendments to several rules under the Advisers Act to reflect changes made by the Coordination Act.

1. Amendments to Form ADV; Elimination of Form ADV–S

As discussed above,[98] the Commission is proposing to amend Form ADV to add a new Schedule I, which would be substantially similar to Form ADV–T.[99] Pending future revisions of Form ADV, Schedule I would be used by the Commission to screen applicants as to eligibility for Commission registration. Schedule I would be required to be included with all new registrations filed on or after April 9, 1997.

The Commission is also proposing amendments to rule 204–1 to require an adviser to file an amended Schedule I annually within 90 days of the end of the adviser's fiscal year.[100] Like Form ADV–T, Schedule I would require an adviser to declare whether it remains eligible for Commission registration. Unlike Form ADV–T, however,

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[84] Rule 206(4)–3 under the Advisers Act [17 CFR 275.206(4)–3] would, however, continue to govern cash payments by a Commission-registered adviser to a solicitor.

[85] Because state investment adviser statutes, including state registration requirements, will be preempted with respect to advisers registered with the Commission or excluded from the definition of investment adviser under the Advisers Act, the national de minimis standard affects only advisers subject to state registration.

[86] The legislative history of the Coordination Act does not explain Congress' intent in adopting this national standard.

[87] See, e.g., Unif. Sec. Act section 204(1)(iii) (1985). Delaware, Massachusetts, and Texas, for example, do not have de minimis provisions.

[88] Compare N.Y. Gen. Bus. Law section 359–eee(1)(a)(5) (1996) (forty clients) with Pa. Stat. Ann. tit. 70 section 1–102(j)(vii) (1994) (four clients).

[89] In this sense, although section 222(d) is entitled the "national de minimis standard," the section actually establishes a minimum threshold for state de minimis provisions, rather than a uniform standard that must be applied by each state.

[90] Several states have addressed the issue of whether a limited partnership should be treated as a single client of an adviser for purposes of their state de minimis provisions. See, e.g., D.C. Mun. Regs. tit. 17 section 1822 (1996); Ga. Comp. R. & Regs. r. 590–4–8–.11 (1989); Pa. Bull., Miscellaneous Interpretations—June 1966. Connecticut, however, appears to be the only state that has adopted a detailed definition of "client" for purposes of its de minimis provision. See Conn. Agencies Regs. section 36b–31–3(d)(2)–(4) (1995).

[91] For example, one state may treat a family as a single client while another may require an adviser to count each family member. Although both states may have a five client threshold for registration, the actual thresholds are substantially different.

[92] In addition, the Commission is proposing to adopt a rule defining the terms "place of business" and "principal place of business" for purposes of section 222. Proposed rule 222–1(a) would define place of business in the same manner as proposed rule 203A–3(b), except the term is applied to the adviser rather than the supervised persons of the adviser. Proposed rule 222–1(b) would define principal place of business in the same manner that proposed rule 203A–3(c) would define "principal office and place of business."

[93] A joint account thus would be treated as a separate client under the proposed rule unless the primary beneficiaries are family members who share the natural person's principal residence. See paragraphs (a)(1) and (a)(2) of proposed rule 222–2.

[94] The Division of Investment Management has stated that where several trusts share a common trustee, each trust generally should be treated as a separate client for purposes of section 203(b)(3) of the Advisers Act [15 USC 80b–3(b)(3)]. See OSIRIS Management (pub. avail. Feb. 17, 1984); Philip Eiseman (pub. avail. July 22, 1976). The Division also has stated that trusts with identical beneficiaries could be treated as a single client. See OSIRIS Management, *supra*; First Security Investment Management (pub. avail. Mar. 25, 1985). Should the rule address these circumstances by treating multiple legal entities with identical shareholders, partners, members or beneficiaries as a single client?

[95] 17 CFR 275.203(b)(3)–1 (providing a safe harbor to count a limited partnership, as opposed to each limited partner, as a client for purposes of section 203(b)(3) of the Advisers Act).

[96] Rule 203(b)(3)–1(b)(2)(i) [17 CFR 203(b)(3)–1(b)(2)(i)].

[97] Vocor International Holding S.A. (pub. avail. Apr. 9, 1990); Walter L. Stephens (pub. avail. Nov. 18, 1985).

[98] See section II.C.2. of this Release.

[99] Schedule I is not attached to this Release.

[100] 17 CFR 275.204–1. These amendments also establish uniform updating requirements for Commission and state adviser registrations. The Commission is proposing these updating requirements in concurrence with NASAA.

Schedule I would not operate as a request for withdrawal of the adviser's registration from the Commission; rather, an adviser that declares itself not eligible for Commission registration on Schedule I would be required to withdraw from Commission registration by accompanying the Schedule I with a Form ADV–W.[101]

If an annual amendment requirement to Form ADV is adopted, the Commission will have no regulatory need for advisers to file Form ADV–S, the annual report for advisers registered under the Advisers Act. The Commission is therefore proposing to amend rule 204–1 to delete references to Form ADV–S, and proposing to repeal Form ADV–S and amend rule 279.3 to refer to Form ADV–T. Because the Commission expects to require Form ADV–T to be filed on or before April 9, 1997, and that filing will achieve the same purpose as Form ADV–S, the Commission is issuing a separate release staying rule 204–1(c) and suspending the requirement to file Form ADV–S.[102]

2. Rule 204–2—Books and Records

In light of the Congressional determination not to subject advisers registered with the states to substantive federal regulatory requirements after April 9, 1997, the Commission is proposing to amend rule 204–2 to make the books and recordkeeping requirements of that rule applicable only to advisers registered with the Commission. Additionally, the Commission is proposing to amend rule 204–2 to require advisers that register with the Commission after April 9, 1997 to preserve any books and records the adviser was previously required to maintain under state law.[103] These books and records would be required to be maintained in the manner and for the period of time as the other books and records required to be maintained under rule 204–2(a).[104]

3. Rule 205–3—Performance Fee Arrangements

By its terms, section 205 prohibits all advisers, except those exempt from registration under section 203(b), from entering into advisory contracts in which the adviser would be compensated on the basis of performance of client accounts.[105] Therefore, advisers prohibited from registering with the Commission after April 9, 1997 would still be subject to the limitations of section 205. Rule 205–3 provides an exemption from these limitations, but applies only to advisers registered with the Commission. The Commission is proposing to amend rule 205–3 to make this exemption available to all advisers, including those registered only under state law after April 9, 1997.

4. Rules 206(4)–1, 206(4)–2, and 206(4)–4—Anti-Fraud Rules

The Commission has adopted four rules pursuant to its authority under section 206(4) to "define, and prescribe means reasonably designed to prevent * * * acts, practices, and courses of business [that] are fraudulent, deceptive, or manipulative."[106] These rules prohibit certain abusive advertising practices, govern the adviser's custody of funds and securities of clients, address the payment of cash to persons soliciting on behalf of the adviser, and require certain disclosure to clients regarding the adviser's financial condition and disciplinary history.[107] Each of these rules, other than the cash solicitation rule, applies to all advisers, regardless of whether they are registered with the Commission. The Commission is proposing to amend these rules to make them applicable only to advisers registered (or required to be registered) with the Commission. By proposing to exclude advisers not registered with the Commission from these rules, the Commission is not suggesting that the practices prohibited by these rules would not be prohibited by section 206 if they were engaged in by an adviser not registered with the Commission.[108] Rather, the Commission recognizes that these rules contain prophylactic provisions, and that the application of these provisions to state-registered advisers may be more appropriately a matter for state law.

I. Provisions of the Advisers Act that Continue to Apply to State-Registered Investment Advisers

Several provisions of the Advisers Act would continue to apply to advisers no longer registered with the Commission after April 9, 1997. These include the Act's prohibitions on advisory contracts that (i) contain certain performance fee arrangements, (ii) permit an assignment of the advisory contract to be made without the consent of the client, and (iii) fail to require an adviser that is a partnership to notify clients of a change in the membership of the partnership.[109] In addition, advisers subject to state registration would continue to be subject to the Advisers Act's requirement to establish, maintain, and enforce written procedures reasonably designed to prevent the misuse of material nonpublic information.[110] Comment is requested whether the Commission should recommend that Congress amend the Act in order to make all or some of these provisions inapplicable to advisers either (i) not registered with the Commission, or (ii) prohibited from registering with the Commission pursuant to section 203A(a)(1) of the Advisers Act.

III. General Request for Comments

Any interested persons wishing to submit written comments on the rule and form changes that are the subject of this Release, to suggest additional changes, or to submit comments on other matters that might have an effect on the proposals contained in this Release, are requested to do so.

IV. Cost/Benefit Analysis

The proposed rules would implement Congressional intent to reallocate regulatory responsibilities for investment advisers between the Commission and state securities authorities. The proposed rules would impose some incidental burdens on investment advisers that would be required to file Form ADV–T, and those advisers that would, on an ongoing basis, be required to file Schedule I. Such burdens appear necessary, however, in order to implement the Coordination Act.

Many of the proposed rules clarify provisions of the Coordination Act and thereby permit investment advisers to more readily ascertain their regulatory status and that of their supervised

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[101] A separate Form ADV–W would continue to be required, in order to assure that the Commission staff is able to act promptly on the withdrawal from registration. Subject to the proposed grace period under rule 203A–1(c), failure to file the completed Form ADV–W would subject an adviser to the commencement of proceedings to cancel its registration.

[102] 17 CFR 275.204–1(c); see Investment Advisers Act Rel. No. 1602 (Dec. 20, 1996).

[103] Proposed paragraph (k) of rule 204–2.

[104] Under the proposed revisions, an adviser changing from state to federal registration would count the period during which the books and records were maintained under state law.

[105] Section 205(a)(1) [15 U.S.C. 80b–5(a)(1)]. Section 205(a) states that "[n]o investment adviser, unless exempt from registration pursuant to section 203(b)" may enter into, extend, or renew any investment advisory contract that provides for performance-based compensation. See Section . of this Release.

[106] 15 USC 80b–6(4).

[107] See rules 206(4)–1 to –4 [17 CFR 275.206(4)–1 to –4].

[108] The anti-fraud provisions of the Advisers Act will still apply to state-registered advisers after April 9, 1997. See supra note 17 and accompanying text.

[109] Section 205(a)(1)–(3) of the Act [15 U.S.C. 80b–5(a)(1)–(3)].

[110] Section 204A of the Act [15 USC 80b–4A].

persons. Other provisions grant exemptions and thereby reduce regulatory burdens by (i) relieving advisers from the burden of having to frequently register and then de-register with the Commission as a result of changes in the amount of assets under management; and (ii) exempting certain advisers from the prohibition against registration and thereby preempting state law, the application of which would be unfair, a burden on interstate commerce, and inconsistent with Congressional intent in enacting the Coordination Act. The Commission also is proposing to revise several of its rules that currently apply to all investment advisers to make such rules applicable only to advisers registered or required to be registered with the Commission.

The Commission anticipates that the implementation of the Coordination Act will reduce the aggregate regulatory burden borne by the investment advisory industry, but that the proposed rules themselves are not expected to significantly affect compliance costs. The Commission believes that the proposed rules would not impose significant additional costs on investment advisers.

Comment is requested on the impact of the proposed rules on individual investment advisers and the industry as a whole. Commenters should submit data indicating the expected dollar impact of the proposed rules on the revenues and expenses of investment advisers. Comment is requested on the cost of filing Form ADV-T and Schedule I of Form ADV. Commenters should submit data indicating the cost of filing Form ADV-T and Schedule I of Form ADV. Commenters also should submit data on the expected effects of the proposed rules on the customers of investment advisers (such as the amount of fees paid).

For purposes of making determinations required by the Small Business Regulatory Enforcement Fairness Act of 1996, the Commission is requesting information regarding the potential impact of the proposed rules on the economy on an annual basis. Commenters should provide empirical data to support their views.

Comment is requested on this cost/benefit analysis. Commenters are requested to provide views and empirical data relating to any costs and benefits associated with the proposed rules.

V. Summary of Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis ("IRFA") in accordance with 5 USC 603 regarding proposed rules 203A–1, 203A–2, 203A–3, 203A–4, 203A–5, 222–1, 222–2, and proposed amendment to rules 204–1, 204–2, 205–3, 206(4)–1, 206(4)–2, 206(4)–4, and 279.3 under the Advisers Act. The following summarizes the IRFA.

As set forth in greater detail in the IRFA, the Coordination Act makes several amendments to the Advisers Act. The most significant of these amendments reallocates federal and state responsibilities for the regulation of investment advisers currently registered with the Commission by limiting the application of federal law and preempting certain state laws. The proposed rules and rule amendments are intended to clarify these provisions of the Coordination Act and thereby assist investment advisers in ascertaining their regulatory status as of April 9, 1997.

The proposed rules and rule amendments would reduce substantially regulatory burdens on investment advisers that are small entities by effecting the intent of Congress to reduce significantly the number of small advisers that are subject to Commission regulation. The IRFA indicates that the proposals would minimize certain regulatory burdens for investment advisers, including small-entity investment advisers, by, among other things, preventing advisers from being required to frequently register and deregister with the Commission as a result of changes in the amount of their assets under management.

An investment adviser generally is a small entity if it manages assets of $50 million or less, in discretionary or non-discretionary accounts, as of the end of its most recent fiscal year and does not render other advisory services.[111] The Commission estimates that approximately 17,000 of the 22,500 advisers currently registered with the Commission are small entities. Of these small-entity advisers, the Commission estimates that approximately 800 will remain eligible for Commission registration after April 9, 1997.[112]

The proposed rules would require all Commission-registered investment advisers to file new Form ADV-T no later than April 9, 1997. The IRFA notes, however, that the Commission anticipates that as a consequence of this one-time filing, approximately 72 percent of the investment advisers currently registered with the Commission would no longer be subject to federal investment adviser regulatory requirements, including reporting and recordkeeping requirements. The Commission believes that the incidental burden imposed by this one-time filing requirement would be necessary in order to implement the Coordination Act. The proposed amendments to rule 204–1 would require all Commission-registered investment advisers to annually update new Schedule I. The IRFA explains that because the Commission, by separate release, is staying rule 204–1(c) under the Advisers Act and suspending the current requirement that Commission-registered advisers annually file Form ADV-S (and will eliminate this requirement if the proposed rules and amendments are adopted), this new annual reporting requirement should not be a significant additional burden on any small-entity investment advisers that remain eligible for Commission registration.

The IRFA further indicates that the proposed amendments to rule 204–2 would make the books and recordkeeping requirements of this rule applicable only to advisers registered with the Commission, and so would eliminate these recordkeeping requirements with respect to small entities and other advisers that are not eligible for Commission registration after April 9, 1997. The proposed amendments to this rule would require advisers that register with the Commission after April 9, 1997 to preserve any books and records the adviser was previously required to maintain under state law, but this requirement is not expected to be a significant additional burden on advisers that register with the Commission after April 9, 1997.

As explained further in the IRFA, the Commission has considered significant alternatives to the proposed rules that would accomplish the stated objective of implementing the provisions of the Coordination Act that reallocate regulatory responsibility for investment advisers between the Commission and the states. As a result, the Commission has proposed to increase the threshold for Commission registration from $25 to $30 million of assets under management, and to provide an optional exemption from the prohibition on registering with the Commission for advisers having assets under management of between $25 and $30 million. This optional exemption would give such advisers, including many small entities, the flexibility to decide

[111] Rule 275.0–7 [17 CFR 275.07].

[112] The Commission estimates that most of the 16,200 (72 percent) advisers currently registered with the Commission that will be ineligible for Commission registration after April 9, 1997 will be small entities. Based on that estimate, the Commission anticipates that approximately 800 small-entity advisers will remain eligible for Commission registration after that date.

when it would be best for them to transition between state and Commission registration, and *vise versa*. The IRFA concludes that the Commission believes that the rules and rule amendments, as proposed, will not adversely affect small entities. Finally, the IRFA addresses each of the other requirements set forth under 5 U.S.C. § 603.

The Commission encourages the submission of comments with respect to any aspect of the IRFA. Such comments will be considered in the preparation of the Final Regulatory Flexibility Analysis, if the proposed rules are adopted, and will be placed in the same public file as comments on the proposed rules themselves. Cost-benefit information reflected in the "Cost/Benefit Analysis" section of this Release also is reflected in the IRFA. A copy of the IRFA may be obtained by contacting Cynthia G. Pugh, Securities and Exchange Commission, 450 5th Street, N.W., Mail Stop 10–2, Washington, D.C. 20549.

VI. Paperwork Reduction Act

Certain provisions of the proposed rules and rule amendments contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995 (44 USC 3501 *et seq.*), and the Commission has submitted them to the Office of Management and Budget ("OMB") for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The title for the collections of information are: "Rule 203A–2(d)," "Rule 203A–5 and Form ADV–T," "Rule 203–1 and Form ADV," "Rule 204–1," and "Rule 204–2," all under the Advisers Act. Form ADV, rule 204–1, and rule 204–2, which the Commission is proposing to amend, contain currently approved collections of information under OMB control numbers 3235–0049, 3235–0048, and 3235–0278, respectively. The proposed rules and rule amendments are necessary to implement recent changes to the Advisers Act. An agency may not sponsor, conduct, or require response to an information collection unless a currently valid OMB control number is displayed.

Rule 203A–2(d)

Proposed rule 203A–2(d) contains two related collection of information requirements. The collection of information would be necessary to determine the eligibility of certain investment advisers to rely on the proposed "reasonable expectation" exemption from the prohibition on Commission registration, and to implement that exemption. It is anticipated that this collection of information would be found at 17 CFR 275.203A–2(d). An adviser relying on the exemption provided by proposed rule 203A–2(d) would be required to file a short written undertaking on Schedule E to Form ADV, indicating that the adviser will withdraw from registration if on the 90th day after registering with the Commission the adviser does not meet the eligibility requirements for registration under section 203A of the Advisers Act and rules thereunder. At the end of the 90-day period, the adviser also would be required to file an amended Schedule I to Form ADV. If the adviser indicates on the amended Schedule I that it has not become eligible to register with the Commission, the adviser would be required to file a Form ADV–W concurrently with the Schedule I, thereby withdrawing its registration with the Commission. The likely respondents to this information collection are newly formed investment advisers that are not currently registered with the Commission or with the states. The Commission estimates that there would be 100 such respondents per year, and that each respondent would respond one time per year. The weighted average total annual time burden for each respondent is estimated to be 57.5 minutes. This figure is based upon the following estimates: (i) 45 minutes for the approximately 90 advisers that advise registered investment companies, that do not need to calculate assets under management to complete Schedule I, or that need to calculate assets under management but do so as part of their normal business operations; (ii) 2 hours for the approximately 10 advisers that must calculate assets under management for the sole purpose of filing Schedule I; and (iii) 5 minutes for all respondents to prepare the undertaking required on Schedule E to Form ADV. The Commission estimates that the aggregate annual burden for all respondents would be 95.83 hours. Providing this information would be mandatory to qualify for the exemption under proposed rule 203A–2(d), and responses would not be kept confidential.

Rule 203A–5 and Form ADV–T

Proposed rule 203A–5 and Form ADV–T contain collection of information requirements. This collection of information is necessary for the Commission to determine whether advisers meet the proposed eligibility criteria for Commission registration set forth in section 203A of the Advisers Act and rules thereunder, and to provide for the orderly withdrawal from Commission registration for advisers that are no longer eligible. It is anticipated that this collection of information would be found at 17 CFR 275.203A–5 and 17 CFR 279.3. Under proposed rule 203A–5, all advisers registered with the Commission on April 9, 1997 would be required to file a completed Form ADV–T no later than that date. Form ADV–T would require each adviser to declare whether it remains eligible for Commission registration. For an adviser that declares itself not eligible for Commission registration, Form ADV–T would serve as a request for withdrawal of the adviser's registration as of April 9, 1997. The likely respondents to this information collection are all investment advisers registered with the Commission on April 9, 1997. The Commission estimates that there would be 22,500 such respondents to this collection of information. Each respondent would respond once. The weighted average annual time burden for each respondent is estimated to be 53.33 minutes. This figure is based upon the following estimates: (i) 45 minutes for the approximately 20,000 advisers that advise registered investment companies, that do not need to calculate assets under management to complete Form ADV–T, or that need to calculate assets under management but do so as part of their normal business operations; (ii) 2 hours for the approximately 2,500 advisers that must calculate assets under management for the sole purpose of filing Form ADV–T. The aggregate annual burden for all 22,500 advisers is estimated to be 19,998 hours. Providing the information would be mandatory, and responses would not be kept confidential.

Rule 203–1 and Form ADV

Rule 203–1 and Form ADV, including the proposed new Schedule I to Form ADV, contain information collection requirements. Form ADV is required by rule 203–1 to be filed by every applicant for registration with the Commission as an investment adviser, is mandatory, and responses are not kept confidential. This collection of information is found at 17 CFR 275.203–1 and 17 CFR 279.1. The Commission in the past received approximately 3,500 applications for registration on Form ADV in one year. The weighted average burden hours for completing Form ADV is currently 9.0063, and the total annual burden hours currently approved by OMB for this form is 31,522 hours.

The Commission is proposing to amend Form ADV to include a new Schedule I. The Commission is not proposing to amend rule 203–1. Schedule I would require an applicant

to declare whether it is eligible for Commission registration. This new requirement is necessary for the Commission to determine whether advisers meet the eligibility criteria for Commission registration set forth in section 203A of the Advisers Act and rules thereunder. The likely respondents to this information collection would be all applicants for registration with the Commission after April 9, 1997. Based on the Commission's experience in processing adviser applications, and the percentage of applicants in the past without assets under management, the Commission estimates that after April 9, 1997 the number of applicants for registration will decrease from approximately 3,500 to between 500 and 1,000 annually. The weighted average total annual time burden for each applicant to complete Schedule I on average is estimated to be 52.5 minutes. This figure is based upon the following estimates. Compliance with the requirement to complete Schedule I imposes a total burden per applicant of approximately 45 minutes for the approximately 90 percent of the applicants that advise registered investment companies, that do not need to calculate assets under management to complete Schedule I, or that need to calculate assets under management but do so as a part of their normal business operations. For the approximately 10 percent of the applicants that must calculate assets under management for Schedule I, however, this burden would be 2 hours. Providing this information would be mandatory. Amending Form ADV to include new Schedule I is estimated to increase the weighted average burden hours for applicants completing Form ADV to 9.8813 hours. As a result of the new Schedule I, together with the reduction of the number of investment advisers registered with the Commission, the annual aggregate burden for all respondents for completing amended Form ADV is estimated to be between 4,940.65 and 9,881.3 hours.

Rule 204–1

Rule 204–1, including the proposed amendment to the rule, includes collection of information requirements. Rule 204–1 sets forth the circumstances requiring the filing of an amendment to Form ADV, the form that must be filed with the Commission to register as an investment adviser. This collection of information is found at 17 CFR 275.204–1, is mandatory, and responses are not kept confidential. The total annual burden currently approved by OMB for rule 204–1 is approximately 21,438 hours for the 20,088 advisers registered with the Commission in 1994.

The proposed amendments to rule 204–1 would require an adviser to file an amended Schedule I to Form ADV annually within 90 days of the end of the adviser's fiscal year. Schedule I would require an adviser to declare whether it remains eligible for Commission registration. The new requirement is necessary for the Commission to determine whether advisers continue to meet the eligibility criteria for Commission registration set forth in section 203A of the Advisers Act and rules thereunder. The likely respondents to this information collection are all investment advisers registered with the Commission after April 9, 1997. The Commission estimates that there would be 6,300 such respondents to this collection of information (28% of the approximately 22,500 registered investment advisers as of April 9, 1997). Each respondent would respond one time per year. The total annual time burden for each respondent is estimated to be 52.14 minutes. This figure is based upon the following estimates. Compliance with the requirement to file an amended Schedule I would impose a total annual burden per adviser of approximately 45 minutes for the approximately 5,700 advisers that advise registered investment companies, that do not need to calculate assets under management to complete Schedule I, or that need to calculate assets under management but do so as part of their normal business operations. For the approximately 600 advisers that must calculate assets under management for Schedule I, however, this burden would be 2 hours. Providing the information would be mandatory and responses would not be kept confidential. Based on the Commission's experience under rule 204–1, and taking into account the proposed new requirement to annually amend Schedule I, the Commission estimates that each adviser eligible for Commission registration after April 9, 1997 will respond to the information collection requirements of rule 204–1, as proposed to be amended, an average of 1.5 times annually. The Commission estimates that the annual aggregate burden for all respondents to rule 204–1 will be 18,297.09 hours.

Rule 204–2

Section 204 of the Advisers Act provides that investment advisers required to register with the Commission must make and keep for prescribed periods such records, and furnish such copies thereof, and make and disseminate such reports as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. Rule 204–2 sets forth requirements for keeping, maintaining and preserving specified books and records by investment advisers. This collection of information is found at 17 CFR 275.204–2, is mandatory, is used by the Commission staff in its oversight program, and generally is kept confidential. See section 210(b) of the Advisers Act [15 U.S.C. 80b–10(b)]. Currently, compliance with the rule requires approximately 235.47 hours each year per Commission-registered investment adviser, for a total of 5,180,340 hours for all 22,000 advisers registered last year.

The proposed amendments to rule 204–2 would clarify the application of the rule's recordkeeping requirements to advisers that register with the Commission after having been registered with the states. The proposed amendments are necessary (i) to make the books and recordkeeping requirements of that rule applicable only to advisers registered with the Commission, and (ii) to clarify the rule's application to investment advisers that transfer from state to Commission registration after April 9, 1997. The Commission is proposing to amend rule 204–2 to make the rule's books and recordkeeping requirements applicable only to advisers registered with the Commission after the Coordination Act's effective date. This amendment would relieve the approximately 16,200 of the 22,500 advisers currently registered that will not be eligible for Commission registration after April 9, 1997 from the recordkeeping burdens imposed by this rule.

The Commission is also proposing to amend rule 204–2 to require an adviser that registers with the Commission after April 9, 1997 to preserve any books and records that the adviser was previously required to maintain under state law. These books and records would be required to be maintained in the manner and for the period of time as the other books and records required to be maintained under rule 204–2(a). This collection of information would be found at 17 CFR 275.204–2. The likely respondents to this information collection are all investment advisers registered with the Commission after April 9, 1997. The Commission estimates that there would be 6,300 such respondents to this collection of information. Each respondent would retain records on an ongoing basis. The total annual time burden for each respondent is estimated to be 235.47 hours. The proposed amendments

would not change the burden last reported to the OMB. As a result of the reduction of the number of investment advisers registered with the Commission, the annual aggregate burden for all respondents to the recordkeeping requirements under rule 204–2 is estimated to be 1,483,461 hours.

Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments to—

(i) Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collections of information;

(iii) Enhance the quality, utility, and clarity of the information to be collected;

(iv) Minimize the burden of the collections of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Persons desiring to submit comments on the collection of information requirements should direct them to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, D.C. 20503, and should also send a copy of their comments to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Stop 6–9, Washington, D.C. 20549 with reference to File No. S7–31–96. OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication, so a comment to OMB is best assured of having its full affect if OMB receives it within 30 days of publication.

VII. Statutory Authority

The Commission is proposing new rule 203A–1 pursuant to the authority set forth in section 203A(a)(1)(A) [15 U.S.C. 80b–3A(a)(1)(A)]; section 203A(c) [15 U.S.C. 80b–3A(c)]; and section 211(a) [15 U.S.C. 80b–11(a)]] of the Investment Advisers Act of 1940.

The Commission is proposing new rule 203A–2 pursuant to the authority set forth in section 203A(c) of the Investment Advisers Act of 1940 [15 U.S.C. 80b–3A(c)].

The Commission is proposing new rules 203A–3 and 203A–4 pursuant to the authority set forth in section 211(a) of the Investment Advisers Act of 1940 [15 U.S.C. 80b–11(a)].

The Commission is proposing new rule 203A–5 pursuant to the authority set forth in sections 203(c)(1) and 204 of the Investment Advisers Act of 1940 [15 U.S.C. 80b–3(c)(1) and 80b–4].

The Commission is proposing amendments to rule 204–1 pursuant to the authority set forth in section 204 of the Investment Advisers Act of 1940 [15 U.S.C. 80b–4].

The Commission is proposing amendments to rule 204–2 pursuant to the authority set forth in sections 204 and 206(4) of the Investment Advisers Act of 1940 [15 U.S.C. 80b–4 and 80b–6(4)].

The Commission is proposing amendments to rule 205–3 pursuant to the authority set forth in section 206A of the Investment Advisers Act of 1940 [15 U.S.C. 80b–6A].

The Commission is proposing amendments to rules 206(4)–1, 206(4)–2, and 206(4)–4 pursuant to the authority set forth in section 206(4) of the Investment Advisers Act of 1940 [15 U.S.C. 80b–6(4)].

The Commission is proposing new rules 222–1 and 222–2 pursuant to the authority set forth in section 211(a) of the Investment Advisers Act of 1940 [15 U.S.C. 80b–11(a)].

The Commission is proposing amendments to rule 279.3, new Form ADV–T, and amendments to Form ADV pursuant to the authority set forth in sections 203(c)(1) and 204 of the Investment Advisers Act of 1940 [15 U.S.C. 80b–3(c)(1) and 80b–4].

Text of Proposed Rules and Form

List of Subjects in 17 CFR Parts 275 and 279

Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

The authority citation for Part 275 is revised to read as follows:

Authority: 15 U.S.C. 80b–3, 80b–4, 80b–6(4), 80b–6A, 80b–11, unless otherwise noted.

Section 275.203A–1 is also issued under 15 U.S.C. 80b–3A.

Section 275.203A–2 is also issued under 15 U.S.C. 80b–3A.

Section 275.204–2 is also issued under 15 U.S.C. 80b–6.

2. Sections 275.203A–1 through 275.203A–5 are added to read as follows:

§ 275.203A–1 Eligibility for Commission registration.

(a) *Threshold Increased to $30 Million of Assets Under Management.* No investment adviser that is registered or required to be registered as an investment adviser in the State in which it maintains its principal office and place of business shall register with the Commission under section 203 of the Act (15 U.S.C. 80b–3), unless the investment adviser:

(1) Has assets under management of not less than $30,000,000, as reported on the Form ADV (17 CFR 279.1) of the investment adviser; or

(2) Is an investment adviser to an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*).

(b) *Exemption for Investment Advisers Having Between $25 and $30 Million of Assets Under Management.* Notwithstanding paragraph (a) of this section, an investment adviser that is registered or required to be registered as an investment adviser in the State in which it maintains its principal office and place of business may register with the Commission if the investment adviser has assets under management of not less than $25,000,000 but not more than $30,000,000, as reported on the Form ADV (17 CFR 279.1) of the investment adviser. This paragraph (b) shall not apply to an investment adviser:

(1) To an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*); or

(2) That is exempted by § 275.203A–2 from the prohibition in section 203A(a) of the Act (15 U.S.C. 80b–3A(a)) on registering with the Commission.

Note to paragraphs (a) and (b). Paragraphs (a) and (b) together make registration with the Commission optional for certain investment advisers that have between $25 and $30 million of assets under management. This option is not available to an investment adviser that (1) is not registered or required to be registered in the State in which it maintains its principal office and place of business, (2) is an investment adviser to a registered investment company, or (3) is exempted by § 275.203A–2 from the prohibition on registering with the Commission.

(c) *Grace Period.* An investment adviser registered with the Commission, upon filing an amendment to Form ADV (17 CFR 279.1) that indicates that it would be prohibited by section 203A(a) of the Act (15 U.S.C. 80b–3A(a)) from registering with the Commission shall be subject to having its registration cancelled pursuant to section 203(h) of the Act (15 U.S.C. 80b–3(h)), *Provided,*

That the Commission shall not commence any cancellation proceeding on the basis of the amendment until the expiration of a period of not less than 90 days from the date the amendment is received by the Commission.

§ 275.203A–2 Exemptions from prohibition on Commission registration.

The prohibition of section 203A(a) of the Act (15 U.S.C. 80b–3A(a)) shall not apply to:

(a) *Nationally Recognized Statistical Rating Organizations.* An investment adviser that is a nationally recognized statistical rating organization, as that term is used in paragraphs (c)(2)(vi)(E), (F), and (H) of § 240.15c3–1 of this chapter.

(b)(1) *Pension Consultants.* An investment adviser that is a pension consultant with respect to assets of plans having an aggregate value of at least $50,000,000.

(2) An investment adviser is a pension consultant if the investment adviser provides investment advice to:

(i) Any employee benefit plan described in section 1002(2) of the Employee Retirement Income Security Act of 1974 ("ERISA") (29 U.S.C. 1002(2));

(ii) Any governmental plan described in section 1002(32) of ERISA (29 U.S.C. 1002(32));

(iii) Any church plan described in section 1002(33) of ERISA (29 U.S.C. 1002(33)); or

(iv) Any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions for the benefit of its employees.

(3) In determining the aggregate value of assets of plans, only that portion of a plan's assets for which the investment adviser provided investment advice (including any advice with respect to the selection of an investment adviser to manage such assets) may be included. The value of assets shall be determined as of the date during its most recent fiscal year that the investment adviser was last engaged to provide investment advice to the plan with respect to those assets.

(c) *Investment Advisers Controlling, Controlled By or Under Common Control with a Investment Adviser Registered with the Commission.* An investment adviser that controls, is controlled by, or is under common control with, an investment adviser eligible to register, and registered with, the Commission ("registered adviser"), provided that the principal office and place of business of the adviser is the same as that of the registered adviser. For purposes of this paragraph, control means the power to direct or cause the direction of the management or policies of an adviser, whether through ownership of securities, by contract, or otherwise. Any person that directly or indirectly has the right to vote 25 percent or more of the voting securities or is entitled to 25 percent or more of the profits of an adviser is presumed to control that adviser.

(d) *Investment Advisers Expecting to Be Eligible for Commission Registration Within 90 Days.* An investment adviser that:

(1) Is not registered or required to be registered with the Commission or a securities commissioner (or any agency or officer performing like functions) of any State and has a reasonable expectation that it would be eligible to register with the Commission within 90 days after the date the investment adviser's registration with the Commission becomes effective;

(2) Includes in Schedule E to its Form ADV (17 CFR 279.1) an undertaking to withdraw from registration with the Commission if, on the 90th day after the date the investment adviser's registration with the Commission becomes effective, the investment adviser would be prohibited by section 203A(a) of the Act (15 U.S.C. 80b–3A(a)) from registering with the Commission; and

(3) Within 90 days after the date the investment adviser's registration with the Commission becomes effective, files an amendment to Form ADV (17 CFR 279.1) revising Schedule I thereto and, if the amendment indicates that the investment adviser would be prohibited by section 203A(a) of the Act (15 U.S.C. 80b–3A(a)) from registering with the Commission, the amendment is accompanied by a completed Form ADV–W (17 CFR 279.2) whereby it withdraws from registration with the Commission.

§ 275.203A–3 Definitions.

For purposes of section 203A of the Act (15 U.S.C. 80b–3A) and rules thereunder:

(a)(1) *Investment adviser representative* of an investment adviser means a supervised person of the investment adviser if a substantial portion of the business of the supervised person is providing investment advice to clients who are natural persons. Notwithstanding this paragraph, a supervised person is not an investment adviser representative if the supervised person:

(i) Does not on a regular basis solicit, meet with, or otherwise communicate to clients of the investment adviser; or

(ii) Provides only impersonal investment advice.

(2) For purposes of paragraph (a)(1) of this section:

(i) *Impersonal investment advice* means investment advisory services provided by means of written material or oral statements that do not purport to meet the objectives or needs of specific individuals or accounts; and

(ii) *A substantial portion of the business* of a supervised person is providing investment advice to clients who are natural persons if, during the course of the preceding 12 months:

(A) Clients who are natural persons represented more than 10 percent of the clients of the supervised person; or

(B) Assets of clients who are natural persons represented more than 10 percent of the assets under management attributable to the supervised person.

(b) *Place of business* of an investment adviser representative means a place or office from which the investment adviser representative regularly provides advisory services or otherwise solicits, meets with, or communicates to clients, unless the investment adviser representative does not regularly provide advisory services or otherwise solicit, meet with, or communicate to clients at any place or office, in which case the place of business of such investment adviser representative will be the residence of each client.

(c) *Principal office and place of business* of an investment adviser means the executive office of the investment adviser from which the officers, partners, or managers of the investment adviser direct, control, and coordinate the activities of the investment adviser.

§ 275.203A–4 Investment advisers registered with a State securities commission.

The Commission shall not assert a violation of section 203 of the Act (15 U.S.C. 80b–3) (or any provision of the Act to which an investment adviser becomes subject upon registration under section 203 of the Act) for the failure of an investment adviser registered with the securities commission (or any agency or office performing like functions) in the State in which it has its principal office and place of business to register with the Commission if the investment adviser reasonably believes that it does not have assets under management of at least $30,000,000 and is therefore prohibited from registering with the Commission.

§ 275.203A–5 Transition rules.

(a) Every investment adviser registered with the Commission on

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April 9, 1997 shall file a completed Form ADV–T (17 CFR 279.3) no later than April 9, 1997.

(b) If an investment adviser registered with the Commission on April 9, 1997 would be prohibited from registering with the Commission under section 203A of the Act (15 U.S.C. 80b–3A), and is not otherwise exempt from such prohibition, such investment adviser shall withdraw from registration with the Commission on Form ADV–T (17 CFR 279.3).

(c)(1) Except as provided in paragraph (c)(2) of this section, an investment adviser that indicates on Form ADV–T (17 CFR 279.3) that the investment adviser withdraws from registration with the Commission shall be deemed to have withdrawn from registration as of the later of:

(i) April 9, 1997; or

(ii) The date the investment adviser first files with the Commission Form ADV–T or any amendment to Form ADV–T (17 CFR 279.3) that indicates that the investment adviser withdraws from registration with the Commission.

(2) If, prior to the effective date of the withdrawal from registration of an investment adviser on Form ADV–T (17 CFR 279.3), the Commission has instituted a proceeding pursuant to section 203(e) of the Act (15 U.S.C. 80b–3(e)) to suspend or revoke registration, or a proceeding pursuant to section 203(h) of the Act (15 U.S.C. 80b–3(h)) to impose terms or conditions upon withdrawal, the withdrawal from registration shall not become effective except at such time and upon such terms and conditions as the Commission deems necessary or appropriate in the public interest or for the protection of investors.

3. Section 275.204–1 is revised to read as follows:

§ 275.204–1 Amendments to application for registration.

(a) Every investment adviser whose registration with the Commission is effective on the last day of its fiscal year shall, within 90 days of the end of its fiscal year, unless its registration has been withdrawn, cancelled or revoked prior to that day, file:

(1) Schedule I of Form ADV (17 CFR 279.1);

(2) A balance sheet if the balance sheet is required by Item 14 of Part II of Form ADV (17 CFR 279.1); and

(3) An executed page one of Part I of Form ADV (17 CFR 279.1).

(b) If the information contained in the response to Items 1, 2, 3, 4, 5, 8, 11, 13A, 13B, 14A and 14B of Part I of any application for registration as an investment adviser, or in any amendment thereto, becomes inaccurate for any reason, or if the information contained in response to any question in Items 9 and 10 of Part I, all of Part II (except Item 14), and all of Schedule H of any application for registration as an investment adviser, or in any amendment thereto, becomes inaccurate in a material manner, the investment adviser shall promptly file an amendment on Form ADV (17 CFR 279.1) correcting the information.

(c) For all other changes not designated in paragraph (b)(2) of this section, an investment adviser shall file an amendment on Form ADV (17 CFR 279.1) updating the information together with the amendments required by paragraph (a) of this section.

4. Section 275.204–2 is amended by revising the introductory text of paragraph (a) and adding paragraph (k) to read as follows:

§ 275.204–2 Books and records to be maintained by investment advisers.

(a) Every investment adviser registered or required to be registered under section 203 of the Act (15 U.S.C. 80b–3) shall make and keep true, accurate and current the following books and records relating to its investment advisory business:

* * * * *

(k) Every investment adviser that registers under section 203 of the Act (15 U.S.C. 80b–3) after April 9, 1997 shall be required to preserve in accordance with this section the books and records the investment adviser had been required to maintain by the State in which the investment adviser had its principal office and place of business prior to registering with the Commission.

5. Section 275.205–3 is amended by revising the section heading and paragraph (a) to read as follows:

§ 275.205–3 Exemption from the compensation prohibition of section 205(a)(1) for registered investment advisers.

(a) *General.* The provisions of section 205(a)(1) of the Act (15 U.S.C. 80b–5(a)(1)) shall not prohibit any investment adviser from entering into, performing, renewing or extending an investment advisory contract which provides for compensation to the investment adviser on the basis of a share of the capital gains upon, or the capital appreciation of, the funds, or any portion of the funds, of a client, *Provided,* That all the conditions in this section are satisfied.

* * * * *

6. Section 275.206(4)–1 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 275.206(4)–1 Advertisements by investment advisers.

(a) It shall constitute a fraudulent, deceptive, or manipulative act, practice or course of business within the meaning of section 206(4) of the Act (15 U.S.C. 80b–6(4)), for any investment adviser registered or required to be registered under section 203 of the Act (15 U.S.C. 80b–3), directly or indirectly, to publish, circulate or distribute any advertisement:

* * * * *

7. Section 275.206(4)–2 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 275.206(4)–2 Custody or possession of funds or securities of clients.

(a) It shall constitute a fraudulent, deceptive or manipulative act, practice or course of business within the meaning of section 206(4) of the Act (15 U.S.C. 80b–6(4)) for any investment adviser registered or required to be registered under section 203 of the Act (15 U.S.C. 80b–3) who has custody or possession of any funds or securities in which any client has any beneficial interest, to do any act or take any action, directly or indirectly, with respect to any such funds or securities, unless:

* * * * *

8. Section 275.206(4)–4 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 275.206(4)–4 Financial and disciplinary information that investment advisers must disclose to clients.

(a) It shall constitute a fraudulent, deceptive, or manipulative act, practice, or course of business within the meaning of section 206(4) of the Act (15 U.S.C. 80b–6(4)) for any investment adviser registered or required to be registered under section 203 of the Act (15 U.S.C. 80b–3) to fail to disclose to any client or prospective client all material facts with respect to:

* * * * *

9. Sections 275.222–1 and 222–2 are added to read as follows:

§ 275.222–1 Definitions.

For purposes of section 222 (15 U.S.C. 80b–18a) of the Act:

(a) *Place of business* of an investment adviser means a place or office from which the investment adviser regularly provides advisory services or otherwise solicits, meets with, or communicates to clients, but does not include a motor vehicle unless the motor vehicle is the only place of business of the investment adviser; and

(b) *Principal place of business* of an investment adviser means the executive office of the investment adviser from

which the officers, partners, or managers of the investment adviser direct, control, and coordinate the activities of the investment adviser.

§ 275.222–2 Definition of "client" for purposes of the national de minimis standard.

For purposes of section 222(d)(2) of the Act (15 U.S.C. 80b–18a(d)(2)), the following shall be deemed a single client:

(a) A natural person, and:

(1) Any relative, spouse, or relative of the spouse of that person who has the same principal residence; and

(2) All accounts of which the natural person and the persons referred to in paragraph (a)(1) of this section are the sole primary beneficiaries;

(b) A corporation, general partnership, limited liability company, trust, or any legal organization (other than a limited partnership) that receives investment advice based on its investment objectives rather than the individual investment objectives of its shareholders, partners, members, or beneficial owners; and

(c) A limited partnership that would be counted as a single client under § 275.203(b)(3)–1.

PART 279—FORMS PRESCRIBED UNDER THE INVESTMENT ADVISERS ACT OF 1940

10. The authority citation for Part 279 continues to read as follows:

Authority: The Investment Advisers Act of 1940, 15 U.S.C. 80b–1, *et seq.*

11. Section 279.3 and Form ADV–S are revised to read as follows:

§ 279.3 Form ADV–T, transition form for determining eligibility for Commission registration.

This form shall be filed pursuant to § 275.203A–5(a) of this chapter by every investment adviser registered with the Commission on April 9, 1997.

Note: The text of Form ADV–T (17 CFR 279.3) will not appear in the Code of Federal Regulations.

12. By revising Instructions 2 and 7 of Form ADV (referenced in § 279.1), and by adding Instruction 10 to read as follows:

Note: The text of Form ADV (17 CFR 279.1) does not and the amendments will not appear in the Code of Federal Regulations.

Form ADV

* * * * *

Form ADV Instructions

* * * * *

2. Organization

This Form contains two parts. Parts I and II are filed with the SEC and the jurisdictions; Part II can generally be given to clients to satisfy the brochure rule. The Form also contains the following schedules:

- Schedule A—for corporations;
- Schedule B—for partnerships;
- Schedule C—for entities that are not sole proprietorships, partnerships or corporations (*e.g.*, limited liability companies and limited liability partnerships);
- Schedule D—for reporting information about individuals under Part I Item 12;
- Schedule E—for continuing responses to Part I items;
- Schedule F—for continuing responses to Part II items;
- Schedule G—for the balance sheet required by Part II Item 14;
- Schedule H—for satisfaction of the brochure rule by sponsors of wrap fee programs; and
- Schedule I—for reporting information related to eligibility for SEC registration.

* * * * *

7. SEC Filings

- Submit filings in triplicate to the Securities and Exchange Commission, Washington, D.C. 20549. There is no fee for amendments.
- Non-residents—Rule 0–2 under the Investment Advisers Act of 1940 (17 CFR 275.0–2) covers those non-resident persons named anywhere in Form ADV that must file a consent to service of process and a power of attorney. Rule 204–2(j) under the Investment Advisers Act of 1940 (17 CFR 275.204–2(j)) covers the notice of undertaking on books and records non-residents must file with Form ADV.
- Federal Information Law and Requirements—Investment Advisers Act of 1940 Sections 203(c), 204, 206, and 211(a) authorize the SEC to collect the information on this Form from applicants for investment adviser registration. The information is used for regulatory purposes, including deciding whether to grant registration. The SEC maintains files of the information on this Form and makes it publicly available. Only the Social Security Number, which aids in identifying the applicant, is voluntary. The SEC may return as unacceptable Forms that do not include all other information. By accepting this Form, however, the SEC does not make a finding that it has been filled out or submitted correctly. Intentional misstatements or omissions constitute Federal criminal violations under 18 USC 1001 and 15 USC 80b–17.

* * * * *

10. Updating

Amendments to this form should be filed:

—Promptly for any changes in: Part I—Items 1, 2, 3, 4, 5, 8, 11, 13A, 13B, 14A, and 14B;

—Promptly for material changes in: Part I—Items 9 and 10, all items of Part II except Item 14, and all Items of Schedule H;

—Within 90 days of the end of the fiscal year for the filing of Schedule I and any other changes.

Note: Every investment adviser is required to file Schedule I no later than 90 days after the end of its fiscal year.

* * * *

Dated: December 20, 1996.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

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APPENDIX [NOTE: The text of Form ADV-T will not appear in the Code of Federal Regulations.]

FORM ADV-T

Form for Declaring Eligibility for SEC Registration After Effective Date Of Amendments to Investment Advisers Act of 1940

OMB APPROVAL
OMB Number:
Expires:
Estimated average burden hours per response:

This is an	[ ] Initial Filing of Form ADV-T [ ] Amendment to Previously Filed Form ADV-T	Registrant's investment adviser SEC file number: 801-

PART I General Information About Registrant

(a) Full name of registrant (if individual, state last, first, and middle name):

(b) Name under which business is conducted, if different:

(c) If business name is being amended, give previous name:

(d) Address of principal office and place of business: (*See Instruction 2*)

(e) Mailing address, if different:

(f) Is the address in items (d) or (e) being amended in this filing? ☐ Yes ☐ No

(g) Telephone number at principal place of business:

(h) Person to contact for further information about this Form:

_____
(name) (title)

_____
(telephone number)

(i) Current State Registration

Check the state(s) in which registrant is registered as an investment adviser as of the date of this Form:

AL ___	AK ___	AZ ___	AR ___	CA ___		CT ___	DE ___	DC ___	FL ___	GA ___	HI ___	ID ___
IL ___	IN ___		KS ___	KY ___	LA ___	ME ___	MD ___	MA ___	MI ___	MN ___	MS ___	MO ___
MT ___	NE ___	NV ___	NH ___	NJ ___	NM ___	NY ___	NC ___	ND ___		OK ___	OR ___	PA ___
RI ___	SC ___	SD ___	TN ___	TX ___	UT ___	VT ___	VA ___	WA ___	WV ___	WI ___		

Puerto Rico ___ Other (specify): _____

PART II Eligibility for SEC Registration

The Investment Advisers Supervision Coordination Act, P.L. 104-290, authorizes the Commission to cancel the registration of any investment adviser that does not meet the criteria for SEC registration set forth in new section 203A of the Investment Advisers Act of 1940, as amended ("Advisers Act"). This legislation will become effective on April 9, 1997. This Part II requires the registrant to declare what its status under the Advisers Act will be after April 9, 1997.

Check either (a), (b), or (c):

(a) ☐ After April 9, 1997, registrant will not be subject to having its SEC registration cancelled.

In order for a registrant to be eligible to maintain its registration with the Commission, registrant must respond affirmatively (by checking the appropriate box or boxes) to at least one of the items (i) through (vii) below:

Registrant:

(i) ☐ has assets under management of $25 million or more;

Complete the Assets Under Management Worksheet in Part III if "assets under management" is the sole basis of registrant's eligibility for SEC registration (i.e., this item (i) is checked, and none of items (ii) through (vii) below are checked).

(ii) ☐ is not registered (or required to be registered) as an investment adviser in the State in which it maintains its principal office and place of business (*See Instruction 3*);

(iii) ☐ is an investment adviser to an investment company registered under the Investment Company Act of 1940;

(iv) ☐ is a nationally recognized statistical rating organization;

(v) ☐ is a pension consultant (as that term is used in rule 203A-2(b));

(vi) ☐ is an investment adviser that controls, is controlled by, or is under common control with, an investment adviser eligible to maintain its registration with the Commission, and whose principal office and place of business is the same as that adviser (*See Instruction 4*);

(vii) ☐ has received an order of the Commission exempting registrant from the prohibition on registration with the Commission. A copy of the Commission order is attached.

(b) ☐ After April 9, 1997, registrant will be subject to having its SEC registration cancelled. Registrant hereby withdraws its registration. *See Instruction 5.*

(c) ☐ After April 9, 1997, registrant will not be subject to having its SEC registration cancelled, but nonetheless hereby withdraws its registration. This option is available only to certain registrants reporting between $25 and $30 million in assets under management. *See Instruction 6.*
If this item (c) is checked, complete the Assets Under Management Worksheet in Part III.

Registrants are reminded that it is a violation of section 207 of the Advisers Act to make any untrue statement of a material fact in any report filed with the Commission, or willfully to omit to state in any such report any material fact which is required to be stated therein.

PART III Assets Under Management Worksheet

Complete this worksheet if required by Part II.

(a) State the amount of registrant's assets under management: *See Instruction 7.* $_____ as of _____, 1997
(b) State the amount reported on registrant's current Form ADV, Part I for: Item 18(B): _____ (aggregate market value of client securities portfolios managed on a discretionary basis) Item 19(B): _____ (aggregate market value of client securities portfolios managed or supervised on a non-discretionary basis)
(c) If, but for the inclusion of client accounts that registrant manages on a non-discretionary basis, registrant would not have $25 million of assets under management, attach a written statement describing the nature of the supervisory or management services provided to such accounts. *See Instruction 8.*

PART IV Execution

The undersigned represents that he or she has executed this Form on behalf of, and with the authority of, said registrant. **The undersigned and registrant represent that the information and statements contained herein, including exhibits attached hereto and other information filed herewith, all of which are made a part hereof, are current, true, and complete.**
Date:
Name of Registrant:
By:
Typed Name and Title:

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Form ADV–T Instructions

Instruction 1

(a) This Form must be executed and filed in triplicate with the Securities and Exchange Commission, Mail Stop A–2, Registrations and Examinations, 450 Fifth Street, N.W., Washington, D.C. 20549. An exact copy should be retained by the registrant. There is no fee for filing this Form.

(b) All copies of the Form filed with the Commission shall be executed with a manual signature in Part IV. One of the filed copies must contain an original signature, the other two copies may contain photocopied signatures. If the Form is filed by a sole proprietor, it must be signed by the proprietor; if it is filed by a partnership, it must be signed in the name of the partnership by a general partner; if filed by an unincorporated organization or association which is not a partnership, it must be signed in the name of the organization or association by a duly authorized person who directs or manages or who participates in the directing or managing or its affairs; if filed by a corporation, it must be signed in the name of the corporation by a principal officer duly authorized. If signed by an officer of a corporation, organization, or associations his or her title must be given.

(c) When amending this Form, complete the entire document and circle the number or letter of any items being amended (*i.e.*, if a box is no longer being checked, circle the box to indicate that it previously had been checked).

(d) A Form that is not prepared and executed in compliance with applicable requirements may be returned as not acceptable for filing. Acceptance of this Form, however, shall not constitute any finding that it has been filed as required or that the information submitted is true, correct, or complete.

(e) Failure to file this Form is a violation of rule 203A–5(a) under the Investment Advisers Act of 1940, as amended ("Advisers Act"). Additionally, failure to file this Form will result in the taking of appropriate steps by the Commission to determine whether a registrant is still in existence and is still engaged in business as an investment adviser and may, therefore, lead the Commission to order cancellation of a registrant's registration, pursuant to section 203(h) of the Advisers Act.

(f) Unless the context clearly indicates otherwise, all terms used in this Form have the same meaning as in the Advisers Act and in the General Rules and Regulations of the Commission thereunder.

(g) Sections 203(c)(1) and 204 of the Advisers Act authorize the Commission to collect the information on this Form from registrants. The Commission will maintain files of the information on this Form and will make the information publicly available.

Instruction 2

Registrant's principal office and place of business is the executive office from which the officers, partners, or managers of the registrant direct, control, and coordinate registrant's activities. *See* rule 203A–3(c).

Instruction 3

Under the Advisers Act, a registrant whose principal office and place of business (*see* Instruction 2) is in a State that does not regulate the registrant as an investment adviser is eligible to maintain its registration with the Commission, even if none of the other criteria for SEC registration (*e.g.*, $25 million of assets under management) are met. Currently, these States are Colorado, Iowa, Ohio, and Wyoming. In addition, a registrant whose principal office and place of business is located in a country other than the United States is eligible to maintain its registration with the Commission. These registrants should check the box in item (a)(ii) of Part II.

A registrant whose principal office and place of business is in a State that regulates investment advisers, but that is excepted from regulation or exempted from registration under that State's investment adviser statute, is not "registered" as an investment adviser in that State. Such a registrant is eligible to maintain its registration with the Commission, and therefore should check the box in item (a)(ii) of Party II.

Instruction 4

A registrant that controls, is controlled by, or is under common control with, an investment adviser that is eligible to maintain its registration with the Commission after April 9, 1997 (the "eligible adviser") is eligible to maintain its registration with the Commission if the principal office and place of business of the registrant is the same as that of the eligible adviser. *See* rule 203A–2(c).

Instruction 5

If item (b) of Part II is checked, registrant's investment adviser registration with the SEC will be withdrawn effective as of the later of (i) April 9, 1997 or (ii) the date the registrant first files this Form or any amendment to the Form that indicates that registrant withdraws its registration.

Instruction 6

Under rule 203A–1(b), certain investment advisers that have assets under management of not less than $25 million but nor more than $30 million may (but are not required to) register with the Commission. An adviser wishing (and eligible) to take advantage of this option should check item (c) of Part II. This option is *not* available to an adviser that is required to be registered with the Commission regardless of the amount of its assets under management, *i.e.*, an adviser (i) to a registered investment company, (ii) that is not registered (or required to be registered) as an investment adviser in the State in which it maintains its principal office and place of business (see Instruction 3), or (iii) that is exempted by rule 203A–2 from the prohibition on registering with the Commission (NRSROs, pension consultants, and certain advisers controlling, controlled by, or under common control with SEC-registered advisers).

Registrants wishing to withdraw their SEC registration by checking item (c) of Part II must report their assets under management in the Assets Under Management Worksheet in Part III. If item (c) of part II is checked, registrant's investment adviser registration with the SEC will be withdrawn effective as of the later of (i) April 9, 1997 or (ii) the date registrant first files this Form or any amendment to the Form that indicates that registrant withdraws its registration.

Instruction 7

In determining the amount of assets the registrant has under management, include the total value of securities portfolios with respect to which the registrant provides continuous and regular supervisory or management services.

(a) An account is a securities portfolio if at least 50% of the total value of the account (less cash and cash equivalents) consists of securities. Include securities portfolios that are: (i) family or proprietary accounts (unless the registrant is a sole proprietor, in which case the personal assets of the sole proprietor should be excluded); (ii) accounts for which the registrant receives no compensation for its services; and (iii) accounts of clients who are not U.S. residents.

(b) Include the entire value of each securities portfolio for which the registrant provides "continuous and regular supervisory or management services."

(c) A registrant provides continuous and regular supervisory or management services with respect to a securities portfolio if the registrant (i) has discretionary authority over and (ii) provides ongoing management or supervisory services with respect to the portfolio.

Whether a registrant that provides ongoing management or supervisory services on a *non-discretionary* basis provides continuous and regular supervisory or management services is a question of fact. The greater the registrant's ongoing responsibilities, the more likely the adviser will be providing continuous and regular supervisory or management services.

To assist registrants, the Commission is providing examples of accounts that receive continuous and regular supervisory and management services. These examples are not exclusive.

Accounts That Receive Continuous and Regular Supervisory and Management Services

- Accounts for which the adviser provides traditional portfolio management services on a discretionary basis;
- Accounts for which the adviser provides ongoing management services, (*i.e.*, is responsible for the selection of which securities to buy and sell and when to buy and sell them) without a grant of discretionary authority;
- Accounts managed by other advisers (i) that the adviser has been given a grant of discretionary authority to hire and discharge on behalf of the client, and (ii) among which the adviser has the authority to allocate and reallocate account assets; and
- Accounts for which the adviser provides asset allocation services by (i) continuously monitoring the needs of the clients and the markets in which account assets are invested, and (ii) allocating and reallocating account

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assets to meet client objectives under a grant of discretionary authority.

Accounts That do Not Receive Continuous and Regular Supervisory and Management Services

- Accounts for which the adviser provides only periodic advice (no matter how frequent), *e.g.*, an account for which the adviser has prepared a financial plan which is periodically reviewed and updated;
- Accounts for which the adviser provides advice only on a periodic basis or as a result of some market event or change in client circumstances (even if the adviser has discretionary authority), *e.g.*, an account that is reviewed and adjusted on a quarterly basis or upon client request;
- Accounts for which adviser provides market timing recommendations (to buy or sell) but does not manage on an ongoing basis;
- Accounts for which adviser provides impersonal advice, *e.g.*, market newsletter;
- Accounts for which adviser provides only an initial asset allocation, without continuous and regular monitoring and reallocation; and
- Accounts for which the registrant undertakes to monitor the markets and apprise the client of any developments, or make recommendations as to the reallocation of client assets upon any developments.

(d) Determine the total amount of assets under management based on the current market value as determined within 10 business days prior to the date of filing this Form. Current market value should be determined using the same methodology as the account value reported to clients or calculated to determine fees for investment advisory services

(e) Include only those accounts for which registrant provides continuous and regular supervisory and management services as of the date of filing this Form.

Instruction 8

The written statement required by item (c) of Part III should be attached only if registrant does not have at least $25 million in discretionary assets under management. For example, a registrant that has $30 million of discretionary and $5 million of non-discretionary assets under management would not be required to attach the statement. A registrant that has $20 million of discretionary and $5 million of non-discretionary assets under management would attach a statement, but the statement would only be required to describe the nature of the supervisory and management services. provided to the $5 million of non-discretionary assets. A registrant that has $20 million of discretionary and $5 million of non-discretionary assets under management, but that is an adviser to a registered investment company (and therefore has an additional basis of eligibility for SEC registration) would not be required to attach the statement.

[FR Doc. 96–32799 Filed 12–26–96; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 275 and 279

[Release No. IA–1602]

RIN 3235–AH08

Suspension of Form ADV–S

AGENCY: Securities and Exchange Commission.

ACTION: Stay of rules and suspension of form.

SUMMARY: The Commission is staying a rule and a provision in a rule under the Investment Advisers Act of 1940 that require the filing of Form ADV–S, the annual report filed by all investment advisers registered with the Commission. The Commission is also suspending the use of Form ADV–S indefinitely, pending the outcome of a related rulemaking.

EFFECTIVE DATE: Effective December 27, 1996 paragraph (c) of § 275.204–1 and § 279.3 are stayed, and the use of Form ADV–S is suspended.

FOR FURTHER INFORMATION CONTACT: Catherine M. Saadeh, Staff Attorney, or Cynthia G. Pugh, Staff Attorney, at (202) 942–0690, Office of Regulatory Policy, Division of Investment Management, Mail Stop 10–2, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is staying paragraph (c) of rule 204–1 [17 CFR 275.204–1(c)] and section 279.3 of Part 279 [17 CFR 279.3] under the Investment Advisers Act of 1940 [15 USC 80b–1 *et seq.*] (the "Advisers Act"), which require investment advisers registered with the Commission to annually file Form ADV–S. The Commission is also suspending the use of Form ADV–S.

In a separate release, the Commission today is proposing new Form ADV–T, amendments to Form ADV, and related rules and rule amendments.[1] The proposed rules and form would, among other things, require each investment adviser registered with the Commission to: (i) File a report with the Commission by April 9, 1997 indicating the adviser's continued status under the Advisers Act;[2] and (ii) provide similar information in a new schedule to Form ADV annually thereafter. These proposed new requirements would make unnecessary the reporting requirements of Form ADV–S. Because the new requirements would either duplicate or replace the ADV–S reporting requirements, the Commission believes requiring advisers to file Form ADV–S prior to a final decision whether to adopt the proposed rules would be unduly burdensome. The Commission is therefore staying paragraph (c) of rule 204–1 and rule 279.3, and is suspending the use of Form ADV–S. If proposed new Form ADV–T and the related proposed rules and amendments are adopted, the Commission plans to eliminate the reporting requirements of Form ADV–S. Persons interested in commenting on the proposed elimination of Form ADV–S are encouraged to respond to the request for comments in Investment Advisers Act Rel. No. 1601, File No. S7–31–96.

Statutory Authority

The Commission is staying rule 204–1(c) and rule 279.3, and is suspending the use of Form ADV–S pursuant to the authority set forth in sections 204 and 211(a) of the Investment Advisers Act of 1940 [15 U.S.C. 80b–4 and 80b–11(a)].

Text of Stayed Rules

List of Subjects in 17 CFR Parts 275 and 279

Reporting and recordkeeping requirements, securities.

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

1. The authority citation for Part 275 continues to read, in part, as follows:

Authority: 15 U.S.C. 80b–3, 80b–4, 80b–6A, 80b–11, unless otherwise noted.

PART 279—FORMS PRESCRIBED UNDER THE INVESTMENT ADVISERS ACT OF 1940

2. The authority citation for Part 279 continues to read as follows:

Authority: The Investment Advisers Act of 1940, 15 U.S.C. 80b–1, *et seq.*

3. Effective December 27, 1996 § 275.204–1(c) and § 279.3 are stayed, and the use of Form ADV–S is suspended.

Note: Form ADV–S does not appear in the Code of Federal Regulations.

Dated: December 20, 1996.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–32800 Filed 12–26–96; 8:45 am]

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[1] *See* Investment Advisers Act Rel. No. 1601 (Dec. 20, 1996). Form ADV [17 CFR 279.1] is the form used by investment advisers to apply for registration as an investment adviser with the Commission, or amend an existing registration. *See* Investment Advisers Act Rel. No. 1601 at Section II.H.

[2] See Investment Advisers Act Rel. No. 1601 at Section II.B.

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Part IX

Environmental Protection Agency

40 CFR Part 82

Protection of Stratospheric Ozone: Reclamation Requirements Extension; Final Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–5670–2]

RIN 2060–AF36

Protection of Stratospheric Ozone: Extension of The Existing Reclamation Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Through this action EPA is amending the Clean Air Act Section 608 refrigerant recycling regulations to extend the effectiveness of the refrigerant purity requirements of § 82.154(g) and (h), which are currently scheduled to expire on December 31, 1996, until EPA adopts revised purity requirements. EPA initially extended these requirements in response to requests from the air-conditioning and refrigeration industry to avoid widespread contamination of the stock of chlorofluorocarbon (CFC) and hydrochlorofluorocarbon (HCFC) refrigerants that could result from the lapse of the purity standard. Such contamination would cause extensive damage to air-conditioning and refrigeration equipment, release of refrigerants, and refrigerant shortages with consequent price increases.

EPA proposed a more flexible approach to ensuring the purity of refrigerants on February 29, 1996, and solicited public comment. EPA received significant comments regarding a potential delegation of authority and an unintentional creation of a monopoly. EPA believes prior to adopting a more flexible approach EPA must further consider these comments. EPA intends to issue a supplemental action that would revise several aspects of the February 29, 1996 proposal.

To prevent any lapse in the purity standards, on November 1, 1996, EPA proposed to extend the current reclamation requirements indefinitely until EPA adopts revised requirements. Today EPA is extending the current reclamation requirements. This continuation will not result in any additional burden on the regulated community. Moreover, the retention of the reclamation requirement will protect the environment, public health, and consumers by ensuring that contaminated refrigerants are not vented or charged into equipment.

EFFECTIVE DATE: January 1, 1997.

ADDRESSES: Comments and materials supporting this rulemaking are contained in Public Docket No. A–92–01, Waterside Mall (Ground Floor) Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 in room M–1500. Dockets may be inspected from 8:00 a.m. until 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Cindy Newberg, Program Implementation Branch, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation (6205–J), 401 M Street, SW., Washington, D.C. 20460, (202) 233–9729. The Stratospheric Ozone Information Hotline at 1–800–296–1996 can also be contacted for further information.

SUPPLEMENTARY INFORMATION: The contents of this preamble are listed in the following outline:

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I. Regulated Entities

Entities potentially regulated by this action are those that wish to recover, recycle, reclaim, sell, or distribute in interstate commerce refrigerants that contain chlorofluorocarbons (CFCs) and/or hydrochlorofluorocarbons (HCFCs). Regulated categories and entities include:

Category	Example of regulated entities
Industry	Reclaimers. Equipment manufacturers. Air-conditioning and refrigeration contractors and technicians. Owners and operators of industrial process refrigeration equipment. Laboratories. Plumbing, heating and cooling contractors.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your company is regulated by this action, you should carefully examine the applicability criteria contained in Section 608 of the Clean Air Amendments of 1990; discussed in regulations published on May 14, 1993 (59 FR 28660); and discussed below. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Background and Notice of Proposed Rulemaking

Paragraphs 82.154 (g) and (h) of 40 CFR part 82, subpart F, set requirements for sale of used refrigerant, mandating that it meet certain purity standards. As discussed in the Notice of Proposed Rulemaking (NPRM) issued November 1, 1996 (61 FR 56493), these requirements will expire on December 31, 1996. EPA proposed extending these requirements beyond the end of 1996.

EPA is in the process of considering whether it is appropriate to promulgate new, more flexible, reclamation requirements based on industry guidelines. To that end, EPA issued a separate NPRM on February 29, 1996 (61 FR 7858). The February 29, 1996 NPRM was an omnibus notice that addressed many aspects of 40 CFR Part 82, Subpart F. Among the various issues raised in that NPRM was the adoption of a more flexible approach to reclamation with the related adoption of third-party certification for laboratories and reclaimers. Other issues addressed in that NPRM include changes to the recordkeeping and reporting requirements for technician certification programs, the adoption of an updated industry standard, amending the definitions of motor vehicle air-conditioning-like appliances and small appliances, the adoption of formal revocation procedures for approved certification programs, transfers of refrigerant between subsidiaries, and clarifying the distinction between major and minor repairs. EPA has analyzed the public comments concerning the February 29, 1996 NPRM, and will issue a final rulemaking soon; however, EPA has decided not to complete promulgation of all the proposed changes discussed in that NPRM as part of one final package. The decision to delay action on specific issues proposed in the February 29, 1996 NPRM and to extend the current reclamation requirements was discussed in the November 1, 1996 NPRM (61 FR 56493).

III. Response to Comments

EPA requested and received nine comments regarding the November 1, 1996 NPRM. All the comments

supported EPA's proposed extension of the current requirements beyond December 31, 1996.

Of these nine comments received, six commenters raised similar points. These commenters stated that it is important to extend the reclamation requirements for both environmental and consumer protection needs. The commenters stated that the reclamation requirements ensure that used refrigerant sold in the marketplace meets the ARI Standard 700 levels of purity. The commenters indicated that avoiding contamination of the refrigerant supply is paramount. The commenters highlighted concerns that a lapse in the requirements could lead to widespread contamination of the stock of used CFC- and HCFC-refrigerants leading to increased equipment failures and potential venting of refrigerants. These commenters also indicated that EPA should continue the evaluation of a more flexible approach to reclamation and implement such an approach as soon as possible. EPA agrees with these commenters.

EPA received one comment from a company that operates many older air-conditioning and refrigeration systems. This commenter, a supporter of the extension, indicated that contamination of refrigerant stock could damage parts, leading to a shortage of replacement parts and resulting in a consequent cost increases for replacement parts. EPA understands this commenter's concerns for readily available, fairly priced replacement parts.

While the last two commenters supported the proposed decision, they requested that EPA adopt a more flexible approach within a short timeframe. One commenter stated that their organization would continue to support the use of the current reclamation requirements as an interim measure and that EPA should adopt a more flexible approach with due speed. The other commenter stated that there was no choice but to support the extension because the alternative of permitting the requirements to lapse would be worse. This commenter requested that EPA set a specific deadline for the adoption of a more flexible reclamation requirement and that this deadline should be no later than a date within the next three calendar months. The commenter further stated that EPA should do everything within its power to meet such a deadline. EPA understands the concerns raised by this commenter. EPA had intended to adopt a more flexible approach to reclamation before December 31, 1996, therefore, avoiding the need for today's action. However, as discussed above and in the NPRM, central to the proposed adoption of a more flexible approach to reclamation is the proposed adoption of third-party certification programs for both laboratories and reclaimers. Commenters submitting information regarding the February 29, 1996 NPRM identified several specific concerns regarding the appropriateness of delegating various functions to third-parties and whether EPA may unintentionally create a monopoly. These comments have led to the need for additional research and consultation by EPA. EPA did not propose in the November 1, 1996 NPRM any specific date to sunset the reclamation requirements since such a date could occur prior to the completion of EPA's analysis. Instead, EPA indicated that the Agency would work to expedite the adoption of a more flexible approach and would extend the current requirements only until such action is completed.

EPA did not propose a date-certain sunset partly because EPA does not believe a date-certain approach is necessary at this juncture. EPA established sunsets for these requirements in the past based on EPA's estimation of the time required for industry representatives to develop an alternative to traditional reclamation that permits flexibility without compromising the goals of environmental protection and the time necessary for the Agency to adopt that approach. Initially, EPA anticipated that the industry standard would be a recycling standard similar to the standard used to recycle CFC–12 recovered from motor vehicle air conditioners. However, the standard developed by industry, known as *Industry Recycling Guide -2* (IRG–2) is significantly different from what EPA had initially envisioned. IRG–2 establishes a method for contractors and technicians to evaluate used refrigerant based on the history of that refrigerant, to use recycling devices where appropriate, and to ultimately rely on the testing of representative refrigerant samples by off-site laboratories prior to permitting the refrigerant to change ownership. IRG–2 could not be adopted by EPA without the further development of procedures for adequately testing representative samples by capable laboratories. The need to develop such a program and the concerns raised by commenters were not initially anticipated by EPA. EPA also did not predict other factors that slowed the rulemaking process, such as budgetary events beyond EPA's control.

These unforseen circumstances have led to today's action. While EPA anticipates the adoption of the more flexible reclamation approach in early 1997, EPA does not wish to ignore the possibility that other unforseen circumstances could arise resulting in a further delay. If such unforeseen circumstances did arise, it is likely that EPA would pursue another extension, thus diverting resources from the more important endeavor of ultimately replacing the current requirements with a more flexible approach. Therefore, EPA did not propose and today is not adding a sunset date.

IV. Today's Action

EPA is extending the effectiveness of the current reclamation requirements until the Agency can adopt replacement requirements. It was never EPA's intent to leave air-conditioning and refrigeration equipment and refrigerant supplies unprotected by a purity standard, but only to replace the existing standard with a more flexible standard when that was developed. As discussed previously, EPA is currently undertaking rulemaking to adopt a more flexible standard.

V. Effective Date

Today's action will be effective starting January 1, 1997. This expedited effective date is necessary to avoid a lapse in the current reclamation requirements. Section 553 of the Administrative Procedures Act (APA) authorizes agencies to dispense with certain procedures for rules when there exists "good cause" to do so. Given the lack of burden upon affected parties, the need to ensure that no regulatory lapse occurs, and in accordance with section 553(b), the Agency finds that there is good cause to accelerate the effective date of this rulemaking because to delay the effective date would be "impracticable, unnecessary, or contrary to the public interest."

The retention of the current reclamation requirements will protect the environment, public health, and consumers by ensuring that contaminated refrigerants are not vented or charged into equipment. Therefore, the effective date for this rulemaking will be January 1, 1997.

VI. Summary of Supporting Analysis

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether this regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order.

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The Order defines "significant" regulatory action as one that is likely to lead to a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined by OMB and EPA that this action to amend the final rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review under the Executive Order.

B. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the Agency must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this rulemaking is estimated to result in the expenditure by State, local, and tribal governments or private sector of less than $100 million in any one year, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments. As discussed in this preamble, this rule merely extends the current reclamation requirements during consideration of a more flexible approach that may result in reducing the burden of part 82 Subpart F of the Stratospheric Protection regulations on regulated entities, including State, local, and tribal governments or private sector entities.

C. Paperwork Reduction Act

There is no additional information collection requirements associated with this rulemaking. Therefore, EPA has determined that the Paperwork Reduction Act does not apply. The initial § 608 final rulemaking did address all recordkeeping associated with the refrigerant purity provisions. An Information Collection Request (ICR) document was prepared by EPA and approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. This ICR is contained in the public docket A–92–01.

D. Regulatory Flexibility Analysis

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule because it continues existing requirements. EPA would like to clarify that there was a misstatement in the NPRM regarding the potential impact that this rule would have on small entities. This rule does not make any change to the current regulatory situation. It does not provide relief or any increase from current regulatory burdens. Thus the regulatory flexibility analysis discussed in the initial final rule (May 14, 1996, 58 FR 28660) is still applicable.

VII. Submission To Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 82

Environmental protection, Aerosols, Air pollution control, Chlorofluorocarbons, Chemicals, Hydrochlorofluorocarbons, Stratospheric ozone layer.

Dated: December 20, 1996.

Carol M. Browner,

Administrator.

Part 82, chapter I, title 40, of the Code of Federal Regulations, is amended to read as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

2. Section 82.154 is amended by revising paragraphs (g) and (h) to read as follows:

§ 82.154 Prohibitions.

* * * * *

(g) No person may sell or offer for sale for use as a refrigerant any class I or class II substance consisting wholly or in part of used refrigerant unless:

(1) The class I or class II substance has been reclaimed as defined at § 82.152;

(2) The class I or class II substance was used only in an MVAC or MVAC-like appliance and is to be used only in an MVAC or MVAC-like appliance; or

(3) The class I or class II substance is contained in an appliance that is sold or offered for sale together with the class I or class II substance.

(h) No person may sell or offer for sale for use as a refrigerant any class I or class II substance consisting wholly or in part of used refrigerant unless:

(1) The class I or class II substance has been reclaimed by a person who has been certified as a reclaimer pursuant to § 82.164;

(2) The class I or class II substance was used only in an MVAC or MVAC-like appliance and is to be used only in an MVAC or MVAC-like appliance; or

(3) The class I or class II substance is contained in an appliance that is sold or offered for sale together with the class I or class II substance.

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[FR Doc. 96–32969 Filed 12–26–96; 8:45 am]

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Friday
December 27, 1996

Part X

Department of Transportation

Coast Guard

46 CFR Parts 8, 31, 71, 91, and 107
Vessel Inspection Alternatives; Classification Procedures; Final Rule

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DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 8, 31, 71, 91 and 107

[CGD 95–010]

RIN 2115–AF11

Alternative Compliance via Recognized Classification Society and U.S. Supplement to Rules

AGENCY: Coast Guard, DOT.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is issuing regulations to provide owners of U.S. tank vessels, passenger vessels, cargo vessels, miscellaneous vessels and mobile offshore drilling units an alternative method to fulfill the requirements for vessel design, inspection and certification. Under this interim rule, the Coast Guard can issue a certificate of inspection based upon reports by a recognized, authorized classification society that the vessel complies with the International Convention for the Safety of Life at Sea, the International Convention for the Prevention of Pollution from Ships, other applicable international conventions, classification society rules and other specified requirements. This new procedure will reduce the burden on vessel owners and operators by establishing an alternative to the current Coast Guard inspection system that results in plan reviews and inspections by the vessel's classification society as well as by the Coast Guard.

DATES: This interim rule is effective on December 27, 1997. Section 8.440 applies to existing vessels as of July 31, 1997. Comments on this interim rule must be received on or before March 27, 1997. The Director of the Federal Register approves the incorporation by reference of certain publications listed in the regulations as of December 27, 1997.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 95–010), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477. Comments on collection-of-information requirements must be mailed also to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. A copy of the material listed in "Incorporation by Reference" of this preamble is available for inspection at room 1304, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: LCDR George P. Cummings, Marine Safety and Environmental Protection (G–MSE–1), telephone (202) 267–2997, fax (202) 267–4816.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553(d), the provisions of this interim rule relating to foreign classification societies are issued without a prior notice of proposed rulemaking and become effective immediately. The Coast Guard Authorization Act of 1996 (Pub. L. 104–324) removed a restriction that had been imposed on foreign classification societies that were interested in participating in the Coast Guard Alternate Compliance Program (ACP). To remove this restriction in a timely fashion, the Coast Guard is omitting prior notice and comment under the exception permitted by 5 U.S.C. 553(d)(1).

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 95–010) and the specific section of this rule to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgement of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing the Marine Safety Council at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Regulatory Information

This rule is being published as an interim rule and is being made effective on the date of publication with the exception of enrollment of existing vessels in the ACP. The rule is effective on July 31, 1997, for enrollment of existing vessels in the ACP. This delay is intended to allow the time necessary for completion of the ACP pilot program and the required training of Coast Guard personnel. Because the number of vessel owners seeking to have vessels constructed under the ACP is expected to be low, the rule will be effective on the date of publication for new vessel enrollment in the ACP.

Background and Regulatory History

Alternate Compliance Pilot Program

In response to a solicitation for comments regarding regulatory reform, members of the U.S. maritime industry noted the continuing economic pressure on the U.S. oceangoing merchant fleet and commercial shipbuilding industry. Comments were submitted calling for reduction of the cost disadvantage attributed to Coast Guard inspection and certification of U.S. merchant vessels in order to improve the international competitiveness of the U.S. merchant fleet.

In order to address these concerns, the Coast Guard sought a means to alleviate the cost burdens on the maritime industry that resulted from the Coast Guard inspection program. The Coast Guard has had authority under 46 U.S.C. 3116 to rely on reports, documents and certificates issued by the American Bureau of Shipping (ABS) in carrying out its responsibilities for safety of U.S. merchant vessels and to delegate to ABS the inspection or examination of these vessels. The Coast Guard had in fact delegated to ABS the authority to issue certain certificates required by international conventions such as the International Convention for the Safety of Life at Sea, as amended, (SOLAS) Cargo Ship Safety Construction Certificate. Compliance with these standards is required for oceangoing vessels, i.e. vessels engaged in trading with foreign countries. Additionally, insurance companies require that, before a vessel is insured, it be classed. This means that a classification society must survey a vessel for compliance with its class rules. Class rules are rules developed by the particular classification society to

cover design, construction and safety of vessels. To ensure compliance with these class rules and with international standards, classification societies perform surveys on vessels using qualified marine surveyors. Many of the items examined by the classification society surveyors are the same as those examined by Coast Guard marine inspectors in their inspections for certification.

Thus, there is duplication of effort involving safety of vessels between the Coast Guard and the ABS that results in extra costs to U.S. vessel owners. In light of the authority in 46 U.S.C. 3316 to delegate to ABS, the Coast Guard, in order to address the concerns of the vessel owners regarding these costs, examined the feasibility of an alternative to the current situation that would avoid the duplication involved between ABS and the Coast Guard. A joint Coast Guard/ABS task force compared the Coast Guard requirements in the Code of Federal Regulations (CFR) to the class requirements in ABS class rules, SOLAS, and the International Convention for the Prevention of Pollution from Ships, as amended, (MARPOL 73/78) concerning the design, construction and safety systems for oceangoing merchant vessels. The purpose of this comparison was to identify redundancies between the requirements and to determine if the class and international requirements, which U.S. vessels must currently comply with, could be used in place of Coast Guard regulatory requirements. The standard used was whether compliance with the class and international standards would achieve a level of safety equivalent to compliance with Coast Guard regulatory requirements.

The task force determined that many Coast Guard regulatory requirements could be satisfied by certification of compliance with ABS classification rules, SOLAS, MARPOL 73/78, or combination of the three. This led to the development of a U.S. Supplement to the ABS classification rules. This supplement addresses those areas where current Coast Guard requirements are not embodied by either ABS classification rules or international conventions.

The Coast Guard concluded that the design requirements and survey provisions of ABS classification rules, applicable international conventions and the U.S. Supplement to the ABS classification rules provide a level of safety equivalent to corresponding Federal regulations.

As a result of this effort, the ACP was developed to reduce redundant regulatory efforts without jeopardizing safety. The Coast Guard expects that, under the ACP, vessel owners and operators will have reduced vessel down time, greater flexibility in scheduling inspections, and greater flexibility in meeting required standards.

The Coast Guard is conducting an ACP pilot program, which was announced by the **Federal Register** notice of February 3, 1995 (60 FR 6687). The purpose of the pilot program is to test and evaluate the standards and procedures that have been developed for the ACP. The Coast Guard plans to conclude this pilot program and fully implement the ACP on July 31, 1997.

Notice of Proposed Rulemaking

On June 22, 1995, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled "Alternate compliance via Recognized Classification Society and U.S. Supplement to Rules" in the **Federal Register** (60 FR 32478). The NPRM proposed regulatory changes to allow owners, operators, shipbuilders, and designers of U.S. flagged tank vessels, passenger vessels, cargo vessels, miscellaneous vessels and mobile offshore drilling units to use the services of a recognized classification society to conduct inspection and plan review functions now performed by the Coast Guard.

The NPRM proposed establishment of the ACP through addition of new sections in 46 CFR parts 31 (31.01–3), 71 (71.15–5), 91 (91.15–5), and 107 (107.205). These sections would allow the owner or operator of a vessel to submit the vessel for inspection by a recognized classification society. The classification society would survey the vessel and document compliance with applicable international requirements, class rules and its U.S. supplement. The cognizant Coast Guard Officer-in-Charge, Marine Inspection could then issue a certificate of inspection based upon the classification society's reports documenting that the vessel is classed and that it complies with all applicable requirements.

Additionally, the NPRM proposed new sections in 46 CFR parts 30 (30.01–4), 70(70.01–10) and 90 (90.01–10) to incorporate by reference the ABS Class Rules for Building and Classing Steel Vessels, 1996, and the ABS U.S. Supplement to Class Rules for Building and Classing Steel Vessels, 1996. When developed, the ABW U.S. Supplement to Class Rules for Building and Classing Mobile Offshore Drilling Units will be added to the existing incorporation by reference provisions in 46 CFR 107.115.

Overview of Interim Rule

This rule is published as an interim rule and is effective on the date of publication except for enrollment of existing vessels into the ACP. The effective date for application of the ACP to existing vessels, except for those currently involved in the pilot program, will be delayed until July 31, 1997 in order to allow the time necessary for completion of the ACP pilot program and the required training of Coast Guard personnel.

This interim rule modifies the NPRM in several areas. Changes to the NPRM are based on public comments received and recent changes to U.S. law allowing delegation of U.S. statutory authority to inspect and conduct plan approval to foreign classification societies. Changes to the NPRM are explained in this preamble.

Additionally, this interim rule establishes a new Part 8 in 46 CFR. This new part, entitled, "Vessel Inspection Alternatives", contains regulations regarding the ACP, recognition of classification societies, and future regulations regarding other vessel inspection alternatives.

Coast Guard Recognition and Authorization of a Classification Society

Until the passage of the 1996 Coast Guard Authorization Act (Pub. L. 104–324, 110 Stat. 3901), the Coast Guard could only delegate marine safety functions related to vessel plan review and inspection to the ABS or a similar U.S. classification society. Section 607 of Pub. L. 104–324 amended 46 U.S.C. 3316 to allow delegation of these functions to a classification society based in a foreign country. This new authority increases the number of classification societies that may be authorized to review and approve plans and to conduct vessel inspections and examinations on behalf of the Coast Guard. This also means that other classification societies may be utilized in a manner similar to the ABS under the ACP. But before any classification society can be delegated authority under this amendment to act on behalf of the Coast Guard for any purpose, the statute requires that the classification society be recognized by the Coast Guard. Thus, the Coast Guard is adopting a structured process to recognize classification societies other than the ABS for the delegation of marine safety functions.

Ship structural design has traditionally been covered by classification society rules. The fundamental motivation for the creation of classification societies was to meet

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the need of hull underwriters to determine structural fitness before providing insurance coverage. Over time, and primarily based on service experience, some classification societies have developed, and continued to refine, the "rules" that address hull structural design.

Classification societies have expanded their services beyond ship structural design, analysis, and inspection to include various functions delegated to them on behalf of maritime administrations to document compliance with international regulations pertaining to other aspects of ship design and operations. Currently, most classification societies provide documentation of vessel's structural and mechanical "fitness-for-service", a service used by owners in obtaining insurance.

The Coast Guard will use the term "recognized" to indicate that a classification society has met minimum standards which address general characteristics and performance of a classification society. Achieving the status of "recognized classification society" will not, in itself, indicate any specific delegation of authority to the classification society by the Coast Guard. The Coast Guard will use the term "authorized" to indicate that a recognized classification society has been delegated the authority to conduct a specific marine safety function such as plan review, vessel inspection, or insurance of an international convention certificate. This approach will provide the necessary flexibility to accommodate determinations of reciprocity and individual classification society capabilities.

The terms used in the NPRM regarding classification society status have been modified to reflect this approach. A new section 8.100 defines these terms to clarify that a recognized classification society must receive authorization to conduct specific delegated functions.

Reciprocity (Section 8.120)

Section 607 of the 1996 Coast Guard Authorization Act amends 46 U.S.C. § 3316 by stating that delegations may be made to foreign classification societies only to the extent that the foreign country in which the society is headquartered delegates authority to the ABS and provides access to ABS to inspect, certify and provide related services to vessels flagged by that country. Thus, the Coast Guard will not consider any request to delegate authority until the conditions of reciprocity have been demonstrated and verified. Additionally, the Coast Guard may not evaluate a classification society for recognition until the conditions of reciprocity have been demonstrated and verified for at lest one of the delegations of authority being sought by the classification society.

There is no reciprocity clause associated with delegation of Load Line certification under 46 U.S.C. 5107 or Tonnage certification under 46 U.S.C. 14103.

Recognition of a Classification Society (Section 8.220)

A classification society must be recognized by the Coast Guard in order to be eligible to receive statutory authority delegated by the Coast Guard. This includes authority delegated under the ACP.

A classification society that applies for recognition, and is found to meet the criteria for recognition, will be notified in writing by the Commandant.

If the Coast Guard determines that a classification society does not meet the criteria for recognition, the reasons for this determination will be provided. A classification society may reapply for recognition when it complies with the criteria for recognition set forth in the regulation.

Minimum Standards for a Recognized Classification Society (Section 8.230)

In order to become recognized, a classification society must meet the Coast Guard's minimum standards for a recognized classification society established in this rule. In developing these minimum standards, the Coast Guard reviewed several international standards which address the quality and capability of a classification society. The standards evaluated by the Coast Guard for this purpose were: International Maritime Organization (IMO) Resolution A.739(18), Guidelines for the Authorization of Organizations Acting on Behalf of the Administration; European Communities Council Directive 94/57/EC; and the membership conditions of the International Association of Classification Societies. The Coast Guard's options were to either invoke the requirements of these standards through an Incorporation by Reference citation or include selected portions in the text of this rule. The Coast Guard decided that the existing criteria were not completely satisfactory and chose to include selected portions, with some modification, in the rule.

The Coast Guard has incorporated classification society performance, as indicated by its record under the Coast Guard Port State Control Program, as an element of the minimum standards for classification society recognition under this rulemaking. The record of a particular classification society regarding detention of vessels classed or certificated by the society is one of the factors considered in determining boarding priorities for vessels calling in the U.S. This record represents a key measurement of the current performance of a classification society. Evaluation of classification society performance under the Coast Guard Port State Control Program is received in a report to the U.S. Congress entitled Port State Control, Evaluation of Classification Society Performance, dated May 13, 1996. A copy of this report is available in the docket for inspection or copying where indicated under "ADDRESSES."

It should be noted that there is a fundamental difference between the Coast Guard's recognition of a classification society for the delegation of authority under this rulemaking and any recognition issued previously under the Coast Guard's Port State Control Program indicating that the society met the requirements of IMO Resolution A.739(18). Classification societies found to meet this standard for the purposes of the Port State Control Program were sent letters indicating this. The Coast Guard's recognition of a classification society as meeting IMO Resolution A.739(18) for the purposes of the Port State Control targeting scheme does not constitute recognition for the purpose of delegation of Coast Guard vessel safety authorities.

Application for Recognition (Section 8.240)

A classification society must apply for recognition in writing to the Commandant (G–MSE). Applications should indicate which specific authority the classification society seeks to have delegated to it by the Coast Guard. The classification society must provide documentation with this application to establish that the conditions of reciprocity have been met for the authority sought to be delegated. Upon certification from the Coast Guard that the conditions of reciprocity have been met, the requesting classification society must submit documentation to establish that they meet the Coast Guard's minimum standards for a recognized classification society.

Revocation of Recognition (Section 8.260)

A recognized classification society which fails to maintain the minimum standards will be reevaluated for revocation of its recognized status.

Authorization to Perform Delegated Functions

The Coast Guard may authorize a recognized classification society to perform delegated functions after it has determined that the classification society is fully capable of conducting that function. This determination will include a review of applicable classification society rules and survey procedures. The Coats Guard will review the submitted material in order to determine whether delegation of authority to the particular classification society will result in the equivalent level of safety as that achieved through traditional Coast Guard performance of that function. When the classification society seeks ACP delegation, the classification society's class rules will be reviewed, and a U.S. Supplement to the classification society's class rules developed, as has been done with the ABS.

If the Coast Guard determines that the classification society's rules or procedures are not satisfactory, the requested delegation will not be granted. The Coast Guard will provide information to the applicant on deficiencies identified in rules or procedures. A classification society may reapply for the requested authorization after correction of any deficiencies in its rules or procedures.

Classification society authorization to perform delegated functions will be promulgated through an authorization agreement.

Existing Outlines of Cooperation between the Coast Guard and classification societies regarding passenger ship control verification are not affected by this rulemaking.

Authorization to Issue International Certificates (Section 8.320)

A recognized classification society will be eligible to receive authorization to issue certain international convention certificates on behalf of the Coast Guard. The Coast Guard may delegate the following international convention certifications to a recognized classification society: International Load Line Certificate; International Tonnage Certificate; SOLAS Cargo Ship Safety Construction Certificate; SOLAS Cargo Ship Safety Equipment Certificate; SOLAS Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk; SOLAS Certificate of Fitness for the Carriage of Liquefied Gasses in Bulk; SOLAS Mobile Offshore Drilling Unit Safety Certificate; MARPOL 73/78 International Oil Pollution Prevention Certificate; and MARPOL 73/78 International Oil Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk.

The Coast Guard Authorization Act of 1996 authorizes the Coast Guard to delegate International Safety Management (ISM) Code certification to organizations including classification societies. The procedures for this delegation will be established in separate rulemaking.

Authorization for Participation in the Alternate Compliance Program (Section 8.420)

Because of the comprehensive nature of ACP delegation, the Coast Guard must ensure that a recognized classification society has adequate experience with exercising delegated authority on behalf of the Coast Guard. A classification society will be eligible to participate in the ACP only after it has performed a delegated function related to general vessel safety assessment for a period of two years. For the purposes of this interim rule, a delegated function related to general vessel safety assessment is issuance of the SOLAS Cargo Ship Safety Construction Certificate or issuance of the SOLAS Cargo Ship Safety Equipment Certificate. The Coast Guard believes this evaluation period is necessary to assess the capabilities and performance of a classification society. The Coast Guard requests comments on the requirement for this evaluation period.

If, after this evaluation period, the Coast Guard finds that the classification society has not performed satisfactorily or lacks adequate experience, the classification society will not be eligible to receive ACP delegation. The Coast Guard will provide the reason for this determination to the classification society.

U.S. Supplement to Class Rules (Section 8.430)

If the Coast Guard finds that a classification society is eligible to receive ACP delegation, the classification society will be required to prepare a U.S. Supplement to its rules. This supplement will address areas in which U.S. marine safety regulations are not adequately covered by the classification society's rules and applicable international regulations.

Agreement conditions (Section 8.130)

The Coast Guard will enter into a written authorization agreement with a recognized classification society that meets the standards necessary to receive delegation of authority. The agreement will define the scope, terms, conditions and requirements of that delegation.

Any authorization agreement between the Coast Guard and a recognized classification society must include the agreement conditions established in this rule. Development of these conditions included review of Appendix 2 of IMO Resolution A.739(18), Guidelines for the Authorization of Organizations Acting on Behalf of the Administration, and the Model Agreement for the Authorization of Recognized Organizations Acting on Behalf of the Administration, developed by the IMO Flag State Implementation Subcommittee.

Termination of Authorizations (Sections 8.330 and 8.450)

Loss of recognized status for a classification society will result in termination of any authorization agreement with the Coast Guard.

A certificate issued by a classification society that has had its authorization agreement terminated will remain valid until the next classification society survey associated with that certificate is required or until the certificate expires.

An owner of any vessel enrolled in the ACP and classed by a classification society which loses its authority to participate in the ACP will either have to reclass the vessel with a different classification society that is authorized to participate in the ACP, or disenroll the vessel from the ACP.

Acceptance of Plan Review and Inspection Tasks Performed by a Recognized Classification Society

The Coast Guard may modify Navigation and Vessel Inspection Circuit (NVIC) 10–82, Acceptance of Plan Review and Inspection Tasks Performed by the American Bureau of Shipping for New Construction or Major Modification of U.S. Flag Vessels, to include other recognized classification societies. This determination will be based on a classification society's authorization to perform plan review and inspection functions, delegated under this rulemaking, that are similar to the tasks addressed in NVIC 10–82.

Acceptance of Standards and Functions Delegated Under Existing Regulations (Section 8.250)

Existing Coast Guard regulations contain provisions for acceptance of the standards of recognized classification societies, and for the delegation of some marine safety functions to recognized classification societies. Classification society rules will only be accepted as Coast Guard standards when that classification society has received authorization to conduct the related function. A recognized classification society is not permitted to conduct any

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delegated function until it receives a separate written authorization from the Commandant to conduct that function.

Discussion of comments and changes

The Coast Guard received nine comment letters to the NPRM published on June 22, 1995. No public hearing was requested and none was held. The following discussion contains an analysis of comments received and an explanation of any changes made in the rule.

Regulatory Reform

Three comments indicated the NPRM does not go far enough toward eliminating the gap between U.S. regulatory standards and those of other flag states. One comment stated that, in development of the U.S. Supplement, the Coast Guard did not purge the current regulations of unique requirements in areas in which adequate international standards exist. One comment expressed concern that recent regulatory action and legislation leave U.S. flag operators at a significant cost disadvantage with respect to vessel rules.

The ACP is one of several elements of the Coast Guard's regulatory reform initiative. The intent of this rulemaking on the ACP and recognition of classification societies is to provide a compliance option to owners and operators of vessels which are classed by recognized classification societies and that have SOLAS, MARPOL 73/78, and other applicable international certificates. The ACP will reduce the current regulatory burden by eliminating the requirement for duplicative plan review and inspection for certain vessels by both a classification society and the Coast Guard.

Reducing and eventually eliminating the gap between U.S. requirements and international standards is a primary goal of Coast Guard regulatory reform. There are a series of ongoing and recently completed rulemaking projects which work toward this goal. These projects eliminate obsolete or unnecessary Coast Guard regulations and harmonize Coast Guard regulations with international standards.

Because these regulatory reform projects focus on elimination of many regulations which are unique to U.S. flag vessels, they will likely reduce the areas in which gaps exist that need to be covered by U.S. supplements to classification society class rules under the ACP. However, the U.S. supplement to class rules also contains U.S. interpretations of international convention regulations. This portion of the supplement is affected by the proceedings of the IMO as well as by the Coast Guard regulatory reform initiative. It is, therefore, unlikely that the need for a U.S. supplement under the ACP will be entirely eliminated.

Two comments questioned the use of U.S. standards for vessel equipment as the basis for equivalency determinations under the ACP. One comment stated that this could result in rejection of equipment for vessels participating in the ACP that would otherwise be acceptable for foreign flag vessels under SOLAS, MARPOL 73/78, and ABS class rules. The ACP is based on a determination of vessel equivalency between the standards that apply to a vessel enrolled in the ACP and those that apply to other similar vessels certificated by the Coast Guard. As discussed above, harmonization with international standards is a principle goal of the Coast Guard regulatory reform initiative. Completion of this initiative should eliminate the adverse consequences raised by this comment.

One comment suggested that consideration be given to elimination of the requirement for a Certificate of Inspection (COI). The Coast Guard considered this during the initial development of the ACP and decided against it. The COI serves an important purpose in addition to serving as evidence of compliance with vessel inspection requirements because it also establishes specific vessel manning requirements and operational restrictions.

One comment stated this rulemaking was consistent with the goals of the President's National Performance Review and should reduce the inspection burden on owners and operators. The Coast Guard agrees with this comment. Goals expressed in the President's National Performance Review served as a basis for development of the ACP, which will reduce the burden of compliance with Coast Guard regulations.

Authorization of Classification Societies

Four comments supported Coast Guard delegation to classification societies other than the ABS under the ACP and, thereby, broaden the choices of classification societies that would be available to a participating vessel owner. One comment noted that the criteria for classification society eligibility for this program has not been published, and suggested stringent parameters to include criteria covering size, rules, international network, documented quality, and technical competence in general.

The Coast Guard Authorization Act of 1996, Pub. L. 104–324, 110 Stat. 3901, broadens Coast Guard authority to delegate by including foreign classification societies. This allows the Coast Guard to expand the ACP to include foreign classification societies which meet the criteria for recognized classification societies and the requirements for authorization of the delegations necessary to participate in the ACP. The Coast Guard agrees with the comment that criteria for recognition should be very stringent and agrees with the suggested parameters. This rulemking establishes the criteria as suggested.

Conducting the Program

One comment stated that the success of the program is highly dependent on the Coast Guard's role as auditor. The Coast Guard agrees with this comment and recognizes that the role of the Coast Guard auditor under the ACP is substantially different from the traditional role of the Coast Guard marine inspector. The Coast Guard is redefining the role of the marine inspector in order to address major changes such as the ACP. These changes will be reflected in new Coast Guard procedures and training for marine inspectors.

One comment stated that older U.S. flag ships, which are not required to meet all of the provisions of SOLAS, are not addressed in the proposed rulemaking and questioned if this meant that only recently built ships or future new buildings will be able to enroll in the ACP. Nonapplicability of specific SOLAS regulations based on vessel age does not preclude vessel enrollment in the ACP. SOLAS regulations which do not apply to a vessel due to its age will not be applied to that vessel by virtue of the fact that it is enrolled in the ACP.

One comment stated that further information on the program should be distributed to candidates through seminars or meetings. The Coast Guard has disseminated information on the ACP through several major marine industry publications, the **Federal Register**, and Coast Guard publications. In addition, the Coast Guard is conducting a pilot program for the ACP. For these reasons, the Coast Guard does not see a need for a seminar or public meeting to publicize the ACP.

One comment stated that the Coast Guard should not totally remove itself from vessel inspections, and that the ACP should remain an option and not a requirement. The ACP is an optional program designed to provide an alternative means for vessel certification. The traditional process of

Coast Guard plan review and vessel inspection will remain available to all vessel owners and operators.

Two comments addressed Coast Guard oversight of this program and of classification society performance. An oversight program was developed as part of the ACP and published in COMMANDANT INSTRUCTION 16711.17, Oversight of the U.S. Coast Guard's ABS Based Alternate Compliance Program. Coast Guard oversight ensures that the classification societies perform their duties and responsibilities in accordance with the terms and conditions of their authorization agreement, and provides a means to monitor the performance of plan review and vessel inspection conducted on behalf of the Coast Guard. The Coast Guard will continue to board vessels participating in the ACP to conduct annual inspections. Coast Guard boardings will cover those requirements and activities not delegated to the classification societies. For example, boardings will be conducted by the Coast Guard to verify crew competency in emergency drills and to assess the vessel's condition. Additionally, Coast Guard oversight will ensure that the vessels participating in the ACP do not experience any degradation in the level of safety demonstrated by comparable vessels that continue to be inspected by the Coast Guard under vessel inspection regulations. Upon completion of the ACP pilot program, the oversight program will be evaluated and modified as necessary.

One comment recommended that more flexibility be given to the Coast Guard Officer in Charge, Marine Inspection (OCMI) concerning evaluation of the severity of inspection deficiencies that would preclude issuance of a COI under the ACP. The Coast Guard agrees with this comment and has modified the regulation to give greater discretion to the OCMI to evaluate the severity of deficiencies that may allow issuance of a COI. The revised text is in Section 8.440(d). Guidance is provided to Coast Guard OCMIs in COMMANDANT INSTRUCTION 16711.18, Procedures for Issuing COIs to vessels enrolled in the U.S. Coast Guard's ABS Based Alternate Compliance Program. This guidance allows OCMIs to accept the terms and conditions of classification society outstanding requirements leading to issuance of a COI unless they conflict with applicable U.S. law, or they present a direct and immediate threat to the vessel's crew, the safety of navigation, or the marine environment.

One comment suggested the Coast Guard add the IMO Mobile Offshore Drilling Unit (MODU) Safety Certificate to the list of the international certificates authorized to be issued under the ACP. The Coast Guard agrees with this comment and has included issuance of the IMO MODU Safety Certificate on the list of functions which may be delegated to a recognized classification society. Additionally, the ABS is currently developing a U.S. MODU Supplement to ABS Class Rules. Upon completion and Coast Guard acceptance of this supplement and related survey procedures, the ABS will be authorized to conduct ACP functions on MODUs.

One comment questioned whether the Coast Guard could maintain the technical expertise necessary to provide adequate oversight of classification societies under the ACP considering the reduction in field level training and vessel inspections opportunities that will likely result from the ACP. The Coast Guard recognizes the need to maintain the technical expertise of those individuals who will be charged with performing this oversight role, its marine inspectors. The Coast Guard will maintain its capabilities to perform all of the functions it now performs related to vessel inspection and certification. In addition to certification of U.S. flag vessels, marine inspectors with technical expertise are also currently required for an effective Port State Control Program. The importance of Coast Guard Port State Control responsibilities ensures a continuing need for training of, and technical expertise on the part of, Coast Guard marine inspectors.

One comment questioned the process for obtaining an equivalency determination for foreign equipment from the ABS under the ACP. The procedure for ABS equivalency determinations for vessels enrolled in the ACP is discussed in NVIC 2–95, U.S. Coast Guard's ABS Based Alternate Compliance Program.

User Fees

Two comments addressed reduction of user fees for vessels participating in the program. One comment recommended that information obtained from the pilot program be used to promulgate new user fees because the anticipated reduction in Coast Guard inspection involvement for vessels under the ACP should reduce user fees proportionately.

The Coast Guard will modify current vessel inspection user fees based on information gathered during the ACP pilot program. Any changes to user fee regulations for vessels enrolled in the ACP will be promulgated in a separate rulemaking.

The Pilot Program

Two comments recommended that information obtained from the pilot program be published and used to identify required changes to the program. The Coast Guard agrees with these comments. The Coast Guard is collecting data on the ACP pilot program in order to assess the impact and effectiveness of the ACP. Results of the pilot program will be compiled in a final report which will be published in the **Federal Register**.

Economic Impact

One comment stated that if the rule were implemented and the surveys were properly planned, the overall cost of inspections and certification for U.S. shipowners should decrease. The Coast Guard agrees with this comment. One of the benefits intended to be provided through the ACP is the reduction of vessel down-time necessary to accommodate both Coast Guard inspections for certification and classification society surveys.

One comment stated that this program could have a positive economic effect for those operators who choose to participate. One comment questioned the economic benefit to the shipbuilder and ship owner during the ship acquisition phase and contended that the increase in ABS involvement would be at an increased cost to the shipbuilder. This comment also stated that a benefit of the ACP would be an improvement in the review process response time. The ACP is intended to be a voluntary alternative compliance method available to the U.S. maritime industry. Individual operators must evaluate their individual benefits of participation in this program.

One comment stated that the additional cost for the classification society surveyor to conduct inspections for the Coast Guard should be substantially less than the $5,000 estimated in the NPRM, and requested specific information on the projected additional effort and fees anticipated by the classification society. The Coast Guard is not involved with the setting of fees for ACP or any other functions delegated to classification societies. Classification society fee information is available from each classification society.

One comment stated that if there were no U.S. Supplement then, theoretically, there should be no additional cost. As discussed above, other, ongoing and recently completed regulatory reform

rulemaking projects work toward eliminating unique Coast Guard regulations. These regulatory reform rulemakings that harmonize U.S. vessel regulations with international standards will remove the need to cover some of the areas that would currently be required to be included in the supplements to classification society class rules under the ACP. U.S. interpretations to international conventions, however, will continue to be covered in classification society supplements. Additionally, unique U.S. requirements required by U.S. statute will also be included in classification society supplements.

Specific Provisions

One comment noted that Section 91.15–5(b) of the NPRM prohibited vessels subject to Coast Guard intervention or enforcement action for violations of 46 CFR, Chapter I, from participating in the ACP and that this prohibition was not included in similar sections for other vessel types. This comment urged removal of this restriction. The Coast Guard agrees with this comment and has removed the restriction.

Incorporation by Reference

The Director of the Federal Register has approved the material in § 8.110: ABS Rules for Building and Classing Steel Vessels, 1996, U.S. Supplement to ABS Rules for Steel Vessels for Vessels on International Voyages, October 21, 1996, and ANSI/ASQC Q9001–1994, Quality Systems—Model for Quality Assurance in Design, Development, Production, Installation, and Servicing, 1994. Copies of the material area available for inspection at Commandant (G–MSE–1), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. Copies of the material are available from the sources listed in § 8.110.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

The Coast Guard expects this rule to provide an economic benefit to the owners and operators of U.S. flagged vessels. Currently, 549 U.S. vessels may be eligible to participate in this optional ACP. The Coast Guard estimates that while a vessel owner may have to pay an additional $5,000 in classification society fees for functions presently preformed by the Coast Guard, the savings in design, construction and operating costs will recover this expense many times over during the lifetime of the vessel. Moreover, ships built and maintained to SOLAS, MARPOL 73/78, recognized classification society rules and accepted U.S. supplement are expected to experience greater competitiveness in the worldwide shipping market.

Additionally, streamlining the certification process will reduce time frames for Coast Guard involvement in the Certificate of Inspection process from an average of over 50 hours to 10 hours or less. Because the vessel is already inspected by the classification society, this program will reduce duplication of effort, decrease vessel "down time" and permit greater scheduling flexibility. Lower construction and operating costs, greater flexibility for the vessel in the global market and additional availability for vessel hire will offset the costs incurred through the alternate plan review and inspection process utilizing a recognized classification society. The Coast Guard specifically solicits comments on potential costs, savings and benefits.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. "Small entities" may include (1) small business and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. This rule change provides an alternative to complying with existing regulations. The Coast Guard believes this rulemaking will have a positive economic impact if the owner chooses to participate in the ACP. Because of the current structure of the industry, it is not expected that any small businesses will be affected by the rule. However, under Section 601 of the Regulatory Flexibility Act, the Coast Guard has provided a flexible approach which could benefit any small businesses which choose to enter this industry. This rulemaking will have no impact on vessel owners who do not choose to participate in this program. Therefore, the Coast Guard certifies that under 5 U.S.C. 605(b) this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

Under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), the Office of Management and Budget (OMB) reviews each rule that contains a collection of information requirement to determine whether the practical value of the information is worth the burden imposed by its collection. Collection of information requirements include reporting, recordkeeping, notification and other similar requirements.

This rule contains collection of information requirements in the following sections: §§ 31.01–3, 71.15–5, 91.15–5, and 107.205. The following particulars apply:

DOT No.: 2115–0626.

OMB Control No.: 2115–0626.

Administration: U.S. Coast Guard.

Title: Alternate Compliance via Recognized Classification Society and U.S. Supplement to Rules.

Need for Information: Vessel inspection reports are needed to document the compliance of a vessel with recognized classification society rules, the accepted U.S. supplement to rules, and applicable international maritime safety and marine environmental conventions. Classification societies recognized to participate in this program will submit copies of reports they routinely prepare to the Coast Guard. PROPOSED USE OF INFORMATION: The information will be used by the Coast Guard to determine if the vessel is in compliance with the requirements necessary for issuance of a Certificate of Inspection.

Frequency of Response: Reports are required whenever the recognized classification society inspects a vessel on behalf of the Coast Guard. This is generally for the initial issuance of the Certificate of Inspection (COI) and whenever the COI must be renewed. Renewal periods for vessel Certificates of Inspection are not being changed by this proposal. For tank, cargo, and miscellaneous vessels this period is two years; for passenger vessels over 100 gross tons the renewal period is one year; and for mobile offshore drilling units the renewal period is two years. A separate legislative proposal currently exists that would harmonize inspection intervals with international requirements.

Burden Estimate: There is no additional burden created by this

rulemaking. The required reports (120) are already being prepared in the course of business between the classification society and the vessel owner or operator. RESPONDENTS: The recognized classification societies. (60 vessels) FORM(S): None.

Average Burden Hours Per Respondent: No additional burden is created by this rulemaking. The required reports (2 hours per vessel) are already being prepared in the course of business between the classification society and the vessel owner or operator.

The Coast Guard has submitted the requirements to the OMB for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), and OMB has approved them. The OMB approval number is OMB Control Number 2115–0626. Persons submitting comments on the requirements should submit their comments both to OMB and the Coast Guard where indicated under "ADDRESSES."

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant a Federalism Assessment.

The authority to regulate safety requirements of U.S. vessels is committed to the Coast Guard by statute. Furthermore, since these vessels tend to move from port to port in the national market place, these safety requirements need to be national in scope to avoid numerous, unreasonable and burdensome variances. Therefore, this action will preempt State action addressing the same matter.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under paragraph 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. This rule is excluded based on its inspection and equipment aspects. A categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES.**

Since the combination of classification society rules, applicable international conventions and the U.S. supplement to the rules have been determined to provide a level of safety equivalent to current Coast Guard regulations, the Coast Guard expects that this rulemaking will have no adverse environmental impact.

List of Subjects

46 CFR Part 8

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Incorporation by reference.

46 CFR Part 31

Cargo vessels, Marine safety, Reporting and recordkeeping requirements, Incorporation by reference.

46 CFR Part 71

Marine safety, Passenger vessels, Reporting and recordkeeping requirements, Incorporation by reference.

46 CFR Part 91

Cargo vessels, Marine safety, Reporting and recordkeeping requirements, Incorporation by reference.

46 CFR Part 107

Marine safety, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels, Incorporation by reference.

For the reasons set out in the preamble, under the authority of 46 U.S.C. 3306, the Coast Guard amends 46 CFR chapter I as follows:

PART 8—[ADDED]

1. Part 8 is added to read as follows:

PART 8—VESSEL INSPECTION ALTERNATIVES

Subpart A—General

Sec.

8.100 Definitions.
8.110 Incorporation by reference.
8.120 Reciprocity.
8.130 Agreement conditions.

Subpart B—Recognition of a Classification Society

8.200 Purpose.
8.210 Applicability.
8.220 Recognition of a classification society.
8.230 Minimum standards for a recognized classification society.
8.240 Application for recognition.
8.250 Acceptance of standards and functions delegated under existing regulations.
8.260 Revocation of classification society recognition.

Subpart C—International Convention Certificate Issuance.

8.300 Purpose.
8.310 Applicability.
8.320 Classification society authorization to issue international certificates.
8.330 Termination of classification society authority.

Subpart D—Alternate Compliance Program.

8.400 Purpose.
8.410 Applicability.
8.420 Classification society authorization to participate in the Alternate Compliance Program.
8.430 U.S. Supplement to class rules.
8.440 Vessel enrollment in the Alternate Compliance Program.
8.450 Termination of classification society authority.

Authority: 46 U.S.C. 3306; 46 U.S.C. 3316, as amended by Sec. 607, Pub. L. 104–324, 110 Stat. 3901; 46 U.S.C. 3703; 49 CFR 1.45, 1.46.

Subpart A—General

§ 8.100 Definitions.

Authorized Classification Society means a recognized classification society that has been delegated the authority to conduct certain functions and certifications on behalf of the Coast Guard.

Class Rules means the standards developed and published by a classification society regarding the design, construction and certification of commercial vessels.

Commandant means the Commandant of the Coast Guard.

Delegated Function means a function related to Coast Guard commercial vessel inspection which has been delegated to a classification society. Delegated functions may include issuance of international convention certificates and participation in the Alternate Compliance Program under this part.

Delegated Function Related to General Vessel Safety Assessment means issuance of the SOLAS Cargo Ship Safety Construction Certificate or issuance of the SOLAS Cargo Ship Safety Equipment Certificate.

Gross Tons means vessel tonnage measured in accordance with the International Convention on Tonnage Measurement of Ships, 1969. Vessels not measured by this convention must be measured in accordance with the method utilized by the flag state administration of that vessel.

MARPOL 73/78 means the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978, as amended.

Officer in Charge, Marine Inspection (OCMI) means any person from the civilian or military branch of the Coast Guard designated as such by the Commandant and who, under the superintendence and direction of the Coast Guard District Commander, is in charge of an inspection zone for the performance of duties with respect to the inspection, enforcement, and

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administration of title 46, Revised Statutes, and acts amendatory thereof of supplemental thereto, and rules and regulations thereunder.

Recognized Classification Society means the American Bureau of Shipping or other classification society recognized by the Commandant under this part.

SOLAS means International Convention for the Safety of Life at Sea, 1974, as amended.

§ 8.110 Incorporated by reference.

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of the change in the Federal Register and the material must be available to the public. All material is available for inspection at the Office of the Federal Register, 800 North Capitol St., NW., Suite 700, Washington, DC and at the U.S. Coast Guard, Office of Design and Engineering Standards, 2100 Second St., SW., Washington, DC 20593–0001, and is available from the source listed in paragraph (b) of this section.

(b) The material incorporated by reference in this subchapter and the sections affected are as follows:

American Bureau of Shipping (ABS)

Two World Trade Center, 106th Floor, New York, NY 10048.

Rules for Building and Classing Steel Vessels, 1996—31.01–3(b), 71.15–5(b), 91.15–5(b).

U.S. Supplement to ABS Rules for Steel Vessels for Vessels on International Voyages, 21 October 1996—31.01–3(b), 71.15–5(b), 91.15–5(b).

American National Standards Institute (ANSI)

11 West 42nd St., New York, NY 10036.

ANSI/ASQC Q9001–1994, Quality Systems-Model for Quality Assurance in Design, Development, Production, Installation, and Servicing, 1994—8.230.

§ 8.120 Reciprocity.

(a) The Commandant may delegate authority to a classification society that has its headquarters in a country other than the United States only to the extent that the flag state administration of that country delegates authority and provides access to the American Bureau of Shipping to inspect, certify and provide related services to vessels flagged by that country.

(b) In order to demonstrate that the conditions described in paragraph (a) of this section are satisfied, a classification society must provide to the Coast Guard an affidavit from the government of the country that the classification society is headquartered in listing the authorizes delegated by the flag state administration of that country to the American Bureau of Shipping, and indicating any conditions related to the delegated authority.

(c) The Commandant will not consider an application for authorization to perform a delegated function submitted under this part until the conditions described in paragraph (a) of this section are satisfied.

(d) The Commandant will not evaluate a classification society for recognition until the conditions described in paragraph (a) of this section are satisfied for at least one of the authorized delegations being sought.

(e) The Commandant may make a delegation regarding load lines under 46 U.S.C. 5107 or measurement of vessels under 46 U.S.C. 14103 without regard to the conditions described in paragraph (a) of this section.

§ 8.130 Agreement conditions.

(a) Delegated functions performed by, and statutory certificates issued by, an authorized classification society will be accepted as functions performed by, or certificates issued by, the Coast Guard, provided that the classification society maintains compliance with all provisions of its agreement with the Commandant. Any agreement between the Commandant and a recognized classification society authorizing the performance of delegated functions will be written and will require the classification society to comply with each of the following:

(1) Issue any certificates related to a delegated function in the English language.

(2) Maintain a corporate office in the United States that has adequate resources and staff to support all delegated functions and to maintain required associated records.

(3) Maintain all records in the United States related to delegated functions conducted on behalf of the Coast Guard.

(4) Make available to appropriate Coast Guard representatives vessel status information and records, including outstanding vessel deficiencies or classification society recommendations, in the English language, on all vessels for which the classification society has performed any delegated function on behalf of the coast Guard.

(5) Report to the commandant (G-MOC) the names and official numbers of any vessels removed from class for which the classification society has performed any delegated function on behalf of the Coast Guard and include a description of the reason for the removal.

(6) Report to the Commandant (G-MOC) all port state detentions on all vessels for which the classification society has performed any delegated function on behalf of the Coast Guard.

(7) Annually provide the Commandant (G-MOC) with its register of classed vessels.

(8) Ensure vessels meet all requirements for class of the accepting classification society prior to accepting vessels transferred from another classification society.

(9) Suspend class for vessels that are overdue for special renewal or annual survey.

(10) Attend any vessel for which the classification society has performed any delegated function on behalf of the Coast Guard at the request of the appropriate Coast Guard officials.

(11) Honor appeal decisions made by the Commandant (G-MSE) or Commandant (G-MOC) on issues related to delegated functions.

(12) Apply U.S. flag administration interpretations, when they exist, to international conventions for which the classification society has been delegated authority to certificate or perform other functions on behalf of the Coast Guard.

(13) Obtain approval from the Commandant (G-MSE) prior to granting exemptions from the requirements of international conventions, class rules, and the U.S. supplement to class rules.

(14) Make available to the Coast Guard all records, in the English language, related to equivalency determinations or approvals made in the course of delegated functions conducted on behalf of the Coast Guard.

(15) Report to the Coast Guard all information specified in the agreement at the specified frequency and to the specified Coast Guard office or official.

(16) Grant the Coast Guard access to all plans and documents, including reports on surveys, on the basis of which certificates are issued or endorsed by the classification society.

(17) Identify a liaison representative to the Coast Guard.

(18) Provide regulations, rules, instructions and report forms in the English language.

(19) Allow the Commandant (G-M) to participate in the development of class rules.

(20) Inform the Commandant (G-M) of all proposed changes to class rules.

(21) Provide the Commandant (G-M) the opportunity to comment on any proposed changes to class rules and to respond to the classification society's disposition of the comments made by the Coast Guard.

(22) Furnish information and required access to the Coast Guard to conduct oversight of the classification society's activities related to delegated functions conducted on behalf of the Coast Guard.

(23) Allow the Coast Guard to accompany internal and external quality audits and provide written results of such audits to appropriate Coast Guard representatives.

(24) Provide the Coast Guard access necessary to audit the authorized classification society to ensure that it continues to comply with the minimum standards for a recognized classification society.

(25) Use only exclusive surveyors of that classification society to accomplish all work done on behalf of, or pursuant to any delegation from, the Coast Guard.

(26) Allow its surveyors to participate in training with the Coast Guard regarding delegated functions.

(b) Amendments to an agreement between the Coast Guard and an authorized classification society will become effective only after consultation and written agreement between parties.

(c) Agreements may be terminated by one party only upon written notice to the other party. Termination will occur sixty days after written notice is given.

Subpart B—Recognition of a Classification Society

§ 8.200 Purpose.

This subpart establishes criteria and procedures for vessel classification societies to obtain recognition from the Coast Guard. This recognition is necessary in order for a classification society to become authorized to perform vessel inspection and certification functions delegated by the Coast Guard as described in this part.

§ 8.210 Applicability.

This subpart applies to all vessel classification societies seeking recognition by the Coast Guard.

§ 8.220 Recognition of a classification society.

(a) A classification society must be recognized by the Commandant before it may receive statutory authority delegated by the Coast Guard.

(b) In order to become recognized, a classification society must meet the requirements of § 8.230.

(c) A classification society found to meet the criteria for recognition will be notified in writing by the Commandant.

(d) If the Coast Guard determines that a classification society does not meet the criteria for recognition, the Coast Guard will provide the reason for this determination.

(e) A classification society may reapply for recognition upon correction of the deficiencies identified by the Coast Guard.

§ 8.230 Minimum standards for a recognized classification society.

(a) In order to receive recognition by the Coast Guard a classification society must:

(1) Establish that it has functioned as an international classification society for at least 30 years with its own class rules;

(2) Establish that it has a history of appropriate corrective actions in addressing vessel casualties and cases of nonconformity with class rules;

(3) Establish that it has a history of appropriate changes to class rules based on their application and the overall performance of its classed fleet;

(4) Have a total classed tonnage of at least 10 million gross tons;

(5) Have a classed fleet of at least 1,500 ocean-going vessels over 100 gross tons;

(6) Have a total classed tonnage of ocean-going vessels over 100 gross tons totaling no less than 8 million gross tons;

(7) Publish and maintain class rules in the English language for the design, construction and certification of ships and their associated essential engineering systems;

(8) Maintain written survey procedures in the English language;

(9) Have adequate resources, including research, technical, and managerial staff, to ensure appropriate updating and maintaining of class rules and procedures;

(10) Have adequate resources and geographical coverage to carry out all plan review and vessel survey activities associated with delegated functions as well as classification society requirements;

(11) Employ a minimum of 150 exclusive surveyors;

(12) Have adequate criteria for hiring and qualifying surveyors and technical staff;

(13) Have an adequate program for continued training of surveyors and technical staff;

(14) Have a corporate office in the United States that provides a continuous management and administrative presence;

(15) Maintain an internal quality system based on ANSI/ASQC Q9001 or an equivalent quality standard;

(16) Ensure classed vessels comply with class rules;

(17) Ensure serviced vessels comply with all statutory requirements related to delegated functions;

(18) Monitor all activities related to delegated functions for consistency and required end-results;

(19) Maintain and ensure compliance with a Code of Ethics that recognizes the inherent responsibility associated with delegation of authority;

(20) Not be under the financial control of shipowners or shipbuilders, or of others engaged commercially in the manufacture, equipping, repair or operation of ships;

(21) Not be financially dependent on a single commercial enterprise for its revenue;

(22) Not have any business interest in, or share of ownership of, any vessel in its classed fleet; and

(23) Not be involved in any activities which could result in a conflict of interest.

(b) Recognition will be granted when it is established that the classification society has an acceptable record of vessel detentions attributed to classification society performance under the Coast Guard Port State Control Program.

§ 8.240 Application for recognition.

(a) A classification society must apply for recognition in writing to the Commandant (G–MSE).

(b) An application must indicate which specific authority the classification society seeks to have delegated.

(c) Upon verification from the Coast Guard that the conditions of reciprocity have been met in accordance with § 8.120, the requesting classification society must submit documentation to establish that it meets the requirements of § 8.230.

§ 8.250 Acceptance of standards and functions delegated under existing regulations.

(a) Classification society class rules will only be accepted as equivalent to Coast Guard regulatory standards when that classification society has received authorization to conduct a related delegated function.

(b) A recognized classification society may not conduct any delegated function under this title until it receives a separate written authorization from the Commandant to conduct that specific function.

§ 8.260 Revocation of classification society recognition.

A recognized classification society which fails to maintain the minimum

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standards established in this part will be reevaluated for possible revocation of its recognized status.

Subpart C—International Convention Certificate Issuance

§ 8.300 Purpose.

This subpart establishes options for vessel owners and operators to obtain required international convention certification through means other than those prescribed elsewhere in this chapter.

§ 8.310 Applicability.

This subpart applies to:

(a) Recognized classification societies; and

(b) All U.S. flag vessels that engage in international voyages and are classed by a recognized classification society that is authorized by the Coast Guard to issue the applicable international certificate as specified in this subpart.

§ 8.320 Classification society authorization to issue international certificates.

(a) The Commandant may authorize a recognized classification society to issue certain international convention certificates. Authorization will be based on review of:

(1) Applicable class rules; and

(2) Applicable classification society procedures.

(b) The Coast Guard may delegate issuance of the following international convention certificates to a recognized classification society:

(1) International Load Line Certificate;

(2) International Tonnage Certificate;

(3) SOLAS Cargo Ship Safety Construction Certificate;

(4) SOLAS Cargo Ship Safety Equipment Certificate;

(5) SOLAS Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk;

(6) SOLAS Certificate of Fitness for the Carriage of Liquefied Gasses in Bulk;

(7) SOLAS Mobile Offshore Drilling Unit Safety Certificate; .

(8) MARPOL 73/78 International Oil Pollution Prevention Certificate; and

(9) MORPOL 73/78 International Oil Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk.

(c) The Coast Guard will enter into a written agreement with a recognized classification society authorized to issue international convention certificates. This agreement will define the scope, terms, conditions and requirements of that delegation. Conditions of these agreements are presented in § 8.130.

§ 8.330 Termination of classification society authority.

(a) The Coast Guard may terminate an authorization agreement with a classification society if:

(1) The Commandant revokes the classification society's recognition, as specified in § 8.260; or

(2) The classification society fails to comply with the conditions of the authorization agreement as specified in § 8.130.

(b) Certificates issued by a classification society which has had its authorization terminated will remain valid until the next classification society survey associated with that certificate is required or until the certificate expires, whichever occurs first.

Subpart D—Alternate Compliance Program

§ 8.400 Purpose.

This subpart establishes an alternative to subpart 2.01 of this chapter for certification of United States vessels.

§ 8.410 Applicability.

This section applies to:

(a) Recognized classification societies; and

(b) All U.S. flag vessels that engage in international voyages and are classed by a recognized classification society that is authorized by the Coast Guard to participate in the Alternate Compliance Program (ACP) as specified in this subpart.

§ 8.420 Classification society authorization to participate in the Alternate Compliance Program.

(a) The Commandant may authorize a recognized classification society to participate in the ACP. Authorization will be based on a satisfactory review of:

(1) Applicable class rules; and

(2) Applicable classification society procedures.

(b) Authorization for a recognized classification society to participate in the ACP will require development of a U.S. Supplement to the society's class rules that meets the requirements of § 8.430 of this part, which must be accepted by the Coast Guard.

(c) A recognized classification society will be eligible to receive authorization to participate in the ACP only after it has performed a delegated function related to general vessel safety assessment, as defined in § 8.100, for a two-year period.

(d) If, after this two-year period, the Coast Guard finds that the recognized classification society has not demonstrated the necessary satisfactory performance or lacks adequate experience, the recognized classification society will not be eligible to participate in the ACP. The Coast Guard will provide the reason for this determination to the recognized classification society.

(e) The Coast Guard will enter into a written agreement with a recognized classification society authorized to participate in the ACP. This agreement will define the scope, terms, conditions and requirements of the necessary delegation. Conditions of this agreement are presented in § 8.130.

§ 8.430 U.S. Supplement to class rules.

Prior to receiving authorization to participate in the ACP, a recognized classification society must prepare, and receive Commandant (G–MSE) approval of, a U.S. Supplement to the recognized classification society's class rules. This supplement must include all regulations applicable for issuance of a Certificate of Inspection (COI) which are not, in the opinion of the Commandant, adequately established by either the class rules of that classification society or applicable international regulations.

§ 8.440 Vessel enrollment in the Alternate Compliance Program.

(a) In place of compliance with other applicable provisions of this title, the owner or operator of a vessel subject to plan review and inspection under this subchapter for initial issuance or renewal of a COI may submit the vessel for classification, plan review and inspection by a recognized classification society authorized by the Coast Guard to determine compliance with applicable international treaties and agreements, the classification society's class rules, and the U.S. Supplement prepared by the classification society and accepted by the Coast Guard.

(b) A vessel owner or operator wishing to have a vessel inspected under paragraph (a) of this section shall submit an Application for Inspection of U.S. Vessel (CG–3752) to the cognizant OCMI, and indicate on the form that the inspection will be conducted by an authorized classification society.

(c) Based on reports from an authorized classification society that a vessel complies with applicable international treaties and agreements, the classification society's class rules, and the U.S. Supplement prepared by the classification society and accepted by the Coast Guard, the cognizant OCMI may issue a certificate of inspection to the vessel. If the OCMI declines to issue a certificate of inspection even though the reports made by the authorized classification society indicate that the vessel meets applicable standards, the vessel owner or operator may appeal the

OCMI decision as provided in subpart 1.03 of this chapter.

(d) If reports from an authorized classification society indicate that a vessel does not comply with applicable international treaties and agreements, the classification society's class rules, and the U.S. Supplement prepared by the classification society and accepted by the Coast Guard, the cognizant OCMI may decline to issue a certificate of inspection. If the OCMI declines to issue a certificate of inspection, the vessel owner or operator may:

(1) Correct the reported deficiencies and make arrangements with the classification society for an additional inspection;

(2) Request inspection by the Coast Guard under other provisions of this subchapter; or

(3) Appeal via the authorized classification society to the Chief, Office of Compliance, Commandant (G–MOC), U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593–0001.

§ 8.450 Termination of classification society authority.

(a) The Coast Guard may terminate an authorization agreement with a classification society if:

(1) The Commandant revokes the classification society's recognition, as specified in § 8.260; or

(2) The classification society fails to comply with the conditions of the authorization agreement as specified in § 8.130.

(b) Owners or operators of vessels enrolled in the ACP and classed by a classification society that has its authority to participate in the ACP terminated must either:

(1) Change the classification society for the vessel to a classification society that is authorized to participate in the ACP; or

(2) Disenroll the vessel from the ACP.

PART 31—INSPECTION AND CERTIFICATION

2. The authority citation for part 31 is revised to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306; 46 U.S.C. 3316, as amended by Sec. 607, Pub. L. 104–324, 110 Stat. 3901; 46 U.S.C. 3703, 5115, 8105; 49 U.S.C. App 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

§ 31.01–3 [Added]

3. Section 31.01–3 is added to read as follows:

§ 31.01–3 Alternate compliance.

(a) In place of compliance with other applicable provisions of this subchapter, the owner or operator of a vessel subject to plan review and inspection under this subchapter for initial issuance or renewal of a Certificate of Inspection may comply with the Alternate Compliance Program provisions of part 8 of this chapter.

(b) For the purposes of this section, the following classification societies are authorized by the Coast Guard, and their class rules and supplements are accepted:

American Bureau of Shipping

Two World Trade Center, 106th Floor, New York, NY 10048.

Accepted Class Rules: Rules for Building and Classing Steel Vessels, 1996.

Accepted U.S. Supplements: U.S. Supplement to ABS Rules for Steel Vessels for Vessels on International Voyages, October 21, 1996.

PART 71—INSPECTION AND CERTIFICATION

4. The authority citation for part 71 is revised to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3306; 46 U.S.C. 3316, as amended by Sec. 607, Pub. L. 104–324, 110 Stat. 3901; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR 1991 Comp., p. 351; 49 CFR 1.46.

§ 71.15–5 [Added]

5. Section 71.15–5 is added to read as follows:

§ 71.15–5 Alternate compliance.

(a) In place of compliance with other applicable provisions of this subchapter, the owner or operator of a vessel subject to plan review and inspection under this subchapter for initial issuance or renewal of a Certificate of Inspection may comply with the Alternate Compliance Program provisions of part 8 of this chapter.

(b) For the purposes of this section, the following classification societies are authorized by the Coast Guard, and their class rules and supplements are accepted:

American Bureau of Shipping

Two World Trade Center, 106th Floor, New York, NY 10048.

Accepted Class Rules: Rules for Building and Classing Steel Vessels, 1996.

Accepted U.S. Supplements: U.S. Supplement to ABS Rules for Steel Vessels for Vessels on International Voyages, October 21, 1996.

PART 91—INSPECTION AND CERTIFICATION

6. The authority citation for part 91 is revised to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306; 46 U.S.C. 3316, as amended by Sec. 607, Pub. L. 104–324, 110 Stat. 3901; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

§ 91.15–5 [Added]

7. Section 91.15–5 is added to read as follows:

§ 91.15–5 Alternate compliance.

(a) In place of compliance with other applicable provisions of this subchapter, the owner or operator of a vessel subject to plan review and inspection under this subchapter for initial issuance or renewal of a Certificate of Inspection may comply with the Alternate Compliance Program provisions of part 8 of this chapter.

(b) For the purposes of this section, the following classification societies are authorized by the Coast Guard, and their class rules and supplements are accepted:

American Bureau of Shipping

Two World Trade Center, 106th Floor, New York, NY 10048.

Accepted Class Rules: Rules for Building and Classing Steel Vessels, 1996.

Accepted U.S. Supplements: U.S. Supplement to ABS Rules for Steel Vessels for Vessels on International Voyages, October 21, 1996.

PART 107—INSPECTION AND CERTIFICATION

8. The authority citation for part 107 is revised to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306; 46 U.S.C. 3316, as amended by Sec. 607, Pub. L. 104–324, 110 Stat. 3901; 46 U.S.C. 5115; 49 CFR 1.45, 1.46; § 107.05 also issued under authority of 44 U.S.C. 3507.

§ 107.205 [Added]

9. Section 107.205 is added to read as follows:

§ 107.205 Alternate compliance.

(a) In place of compliance with other applicable provisions of this subchapter, the owner or operator of a vessel subject to plan review and inspection under this subchapter for initial issuance or renewal of a Certificate of Inspection may comply with the Alternate Compliance Program provisions of part 8 of this chapter.

(b) For the purposes of this section, the following classification societies are authorized by the Coast Guard, and their class rules and supplements are accepted:

(No classification societies are authorized at this time)

Dated: December 11, 1996.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 96–32801 Filed 12–26–96; 8:45 am]

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Part XI

Department of Education

Parental Assistance Program; Notice Inviting Applications for New Awards Using Fiscal Year (FY) 1997 and 1998 Funds; Notice

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DEPARTMENT OF EDUCATION

[CFDA No.: 84.310A]

Parental Assistance Program; Notice Inviting Applications for New Awards Using Fiscal Year (FY) 1997 and 1998 Funds

NOTE TO APPLICANTS: This notice is a complete application package. Together with the statute authorizing the program and the Education Department General Administrative Regulations (EDGAR), the notice contains all of the information, application forms, and instructions needed to apply for a grant under this competition.

PURPOSE OF PROGRAM: To assist nonprofit organizations, and nonprofit organizations in consortia with local educational agencies (LEAs), in establishing parental information and resource centers that would (1) increase parents' knowledge of and confidence in child-rearing activities, such as teaching and nurturing their young children; (2) strengthen partnerships between parents and professionals in meeting the educational needs of children aged birth through five years and the working relationship between home and school; and (3) enhance the developmental progress of the children assisted under the program.

ELIGIBLE APPLICANTS: Nonprofit organizations, and nonprofit organizations in consortia with LEAs, in the following States are eligible to apply for funding: Alabama, Alaska, Arizona, Arkansas, Connecticut, Delaware, Idaho, Illinois, Indiana, Kansas, Louisiana, Mississippi, Montana, Nebraska, New Mexico, North Dakota, Oregon, Rhode Island, South Carolina, Utah, Virginia, West Virginia, and Wyoming. In addition, nonprofit organizations in Puerto Rico and in the outlying areas may apply for funding. Eligible outlying areas include the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

The statute requires the Secretary to ensure that grants are distributed, to the greatest extent possible, to all geographic regions of the United States. In the initial competition, nonprofit organizations (either individually or in consortia with LEAs) in 27 States and in the District of Columbia were awarded grants. This competition is for eligible applicants in the remaining States, as previously identified, Puerto Rico, and the outlying areas.

An LEA, by itself, is not eligible for an award. However, an LEA may be part of a consortium with a nonprofit organization that applies. In those instances, the award would be made to the nonprofit organization, which would serve as the fiscal agent.

For purposes of this competition, nonprofit organizations do not include institutions of higher education, State educational agencies, LEAs, intermediate school districts, government entities, or hospitals.

DEADLINE FOR TRANSMITTAL OF APPLICATIONS: February 21, 1997.

DEADLINE FOR INTERGOVERNMENTAL REVIEW: April 25, 1997.

AVAILABLE FUNDS: $5,000,000 in FY 1997 funds.

The Secretary does not intend to conduct a separate competition using FY 1998 funds if funds are appropriated for this program for FY 1998. Instead, pursuant to 34 CFR 75.253, from the FY 1998 funds that may be available, the Secretary intends first to make continuation awards to successful applicants under this notice and to the grantees that were initially funded from the FY 1995 appropriation. If the FY 1998 funding level for this program exceeds the FY 1997 level, the Secretary intends to use the excess FY 1998 funds to make awards, on the basis of the selection criteria in this notice, to eligible entities that applied under this competition but failed to receive FY 1997 funding. Thus, in order to be considered for either FY 1997 or FY 1998 funding, an eligible entity must apply for funding by the application deadline announced in this notice.

ESTIMATED RANGE OF AWARDS: $50,000 to $500,000 per year.

(**Note:** Due to anticipated variances in the scope of proposed activities, the estimated range is very broad. Higher award amounts are for broad-based programs that would serve a substantial number of persons in large geographic regions.)

ESTIMATED NUMBER OF AWARDS: 14.

Note: These estimates are projections for the guidance of potential applicants. The Department of Education is not bound by any estimates in this notice.

PROJECT PERIOD: Up to 48 months.

APPLICABLE REGULATIONS: The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 81, 82, and 85.

Note: The regulations in 34 CFR Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments) apply to an LEA that is part of a consortium receiving assistance.

DESCRIPTION OF PROGRAM: Increased parental involvement and participation in the social, emotional, and academic growth of children are an essential part of comprehensive education reform. Title IV of the Goals 2000: Educate America Act (Pub. L. 103–227) (20 U.S.C 5801 *et seq.*) (the Act) helps foster parental involvement by authorizing grants to nonprofit organizations, and nonprofit organizations in consortia with LEAs, to establish and fund parent information and resource centers. These centers will provide training, information, and support to (a) parents of children aged birth through five years; (b) parents of children enrolled in elementary and secondary schools; and (c) individuals who work with these parents.

Grant funds received under this program may be used—

(a) For parent training, information, and support programs that assist parents to—

(1) Better understand their children's educational needs;

(2) Provide follow-up for their children's educational achievement;

(3) Communicate more effectively with teachers, counselors, administrators, and other professional educators and support staff;

(4) Participate in the design and provision of assistance to students who are not making adequate educational progress;

(5) Obtain information about the range of options, programs, services, and resources available at the national, State, and local levels to assist parents of children aged birth through five years and parents of children in elementary and secondary schools;

(6) Seek technical assistance regarding compliance with the requirements of title IV and of other Federal programs relevant to achieving the National Education Goals;

(7) Participate in State and local decisionmaking;

(8) Train other parents; and

(9) Plan, implement, and fund activities that coordinate the education of their children with other Federal programs that serve their children or their families; and

(b) To include State or local educational personnel if that participation will further the activities assisted under the grant.

Entities are encouraged to develop and implement their projects through broad-based outreach and collaborative processes that reflect the diverse needs of parents to be served. The proposed project may not be a narrow activity that benefits parents in only a small portion of the State. Rather, it must provide a mix of direct training services and statewide information and support services. These projects must facilitate and support opportunities for broad-

based participation of communities and parents in the project from throughout the State or throughout a large area of the State, including—

(a) Areas with high concentrations of low-income families;

(b) Urban and rural areas; and

(c) Parents of children who are low-income, minority, or have limited English proficiency.

A meritorious proposal might also describe how the applicant would coordinate project activities with the activities being conducted by other organizations and agencies, parent centers, and parent groups. Particularly appropriate, for example, would be applications from eligible entities that would provide training, information, and support to parents who reside in communities that are developing or implementing a comprehensive education reform plan in which family involvement is an integral strategy, such as those communities that include LEAs supported by a subgrant under section 309(a) of the Goals 2000 Act or by other funds.

Applicants should be aware that section 1118(g) of the Elementary and Secondary Education Act, as amended by the Improving America's Schools Act of 1994, requires schools and districts receiving Title I funds to assist parents and parent organizations by informing them of the existence and purpose of the parent information and resource center in their State, providing them with a description of the services and programs provided by the center, advising parents on how to use the center, and helping them contact the center. Consequently, applicants should be prepared to address the demand for their services created by this requirement.

In developing proposals for increasing the involvement of parents in their children's learning and for strengthening partnerships between parents and educational professionals, applicants might consider issues such as the following:

(1) How the participating communities have assessed or propose to assess the interests and needs of parents in these communities, particularly the interests and needs of parents of low-income, minority, and limited English proficient children, in order to provide services that meet their needs.

(2) How parent groups, schools, and organizations and agencies in the local communities would collaborate to initiate or expand opportunities for parents to be involved in their children's learning and to strengthen their relationships in order to meet the educational needs of children.

(3) How the applicant organization and participating communities would use information currently available concerning best practices in parent and family involvement activities to meet parents' information, training, and support needs.

(4) How participating communities would implement activities that enable parents to engage in learning activities with their children at home and at school.

(5) How the applicant organization would establish, expand, or otherwise participate in a broad-based statewide or areawide network of parents, school personnel, business and community leaders, organizations that work with parents and their children, and others as appropriate, that helps the communities participating in the project as well as other communities learn from and support each other.

PROGRAM REQUIREMENTS: Each application must include assurances that the grantee will—

(a)(1) Be governed by a board of directors the membership of which includes parents; or

(2) Be an organization that represents the interests of parents;

(b) Establish a special advisory committee the membership of which includes—

(1) Parents of children aged birth through five years and parents of children enrolled in elementary and secondary schools; and

(2) Representatives of educational professionals with expertise in improving services for disadvantaged children; and

(3) A broad representation of minority, low-income, and other individuals and groups that have an interest in compensatory education and family literacy;

(c) Use at least one-half the funds provided in the grant in each fiscal year to serve areas with high concentrations of low-income families in order to serve parents who are severely educationally or economically disadvantaged;

(d) Operate a center of sufficient size, scope, and quality to ensure that the center is adequate to serve the parents in the area;

(e) Serve both urban and rural areas;

(f) Design a center that meets the unique training, information, and support needs of parents of children aged birth through five years and of parents of children enrolled in elementary and secondary schools, particularly parents who are economically or educationally disadvantaged;

(g) Demonstrate the capacity and expertise to conduct the effective training information and support activities for which assistance is sought;

(h) Network with—

(1) Clearinghouses;

(2) Parent centers for the parents of infants, toddlers, children, and youth with disabilities served under section 631(e) of the Individuals with Disabilities Act;

(3) Other organizations and agencies;

(4) Established national, State, and local parent groups representing the full range of parents of children aged birth through five years; and

(5) Parents of children enrolled in elementary and secondary schools;

(i) Focus on serving parents of children aged birth through five years and parents of children enrolled in elementary and secondary schools, who are parents of low-income, minority, and limited English proficient children; and

(j) Use part of the funds received under this program to establish, expand, or operate Parents as Teachers (PAT) programs or Home Instruction Programs for Preschool Youngsters (HIPPY) programs, as defined in section 405 of the Act.

The statute does not require a specific amount or percentage of funds to be spent on PAT or HIPPY programs. However, the PAT and HIPPY programs, like the other components of the center, should be integrated with the center's overall activities.

For further information on PAT programs, contact: Sue Sheehan, Training Director, or Joy Rouse, Deputy Director, PAT National Center, Inc., 10176 Corporate Square Drive, St. Louis, MO 63132, (314) 432–4330, (314) 432–8963 (FAX).

For further information on HIPPY programs, contact: Alice Smothers, Director of Policy and Program Development, HIPPY USA, c/o Teachers College, Box 113, 525 W. 120th Street, New York, NY 10027, (212) 678–3500, (212) 678–4136 (FAX).

In the initial competition that was conducted with FY 1995 funds, certain applicants were ineligible for funding because they failed to meet or address one or more of the above requirements. For example, certain applicants failed to describe in their applications how they would serve both urban and rural areas. *To be eligible for funding, an applicant must meet each of the statutory requirements referenced in the* **PROGRAM REQUIREMENTS** *section of this notice.*

Each application for assistance must include assurances that the grantee will comply with these requirements.

NON-FEDERAL CONTRIBUTION: To be eligible for a continuation award, in

each fiscal year after the first fiscal year a grantee receives assistance under this program, the grantee must demonstrate that a portion of the services provided by the grantee will be supported through non-Federal contributions. Those contributions may be in cash or in kind.

SELECTION CRITERIA: (a)(1) The Secretary uses the following selection criteria to evaluate applications for new grants under this competition.

(2) The maximum score for all of these criteria is 100 points.

(3) The maximum score for each criterion is indicated in parentheses.

(b) *The criteria*—

(1) *Meeting the purposes of the authorizing statute.* (25 points) The Secretary reviews each application to determine how well the project will meet the purpose of the authorizing statute (i.e., title IV of the Goals 2000: Educate America Act), including consideration of—

(i) The objectives of the project; and

(ii) How the objectives of the project further the purposes of the authorizing statute.

(2) *Extent of need for the project.* (20 points) The Secretary reviews each application to determine the extent to which the project meets specific needs recognized in the statute that authorizes the program, including consideration of—

(i) The needs addressed by the project;

(ii) How the applicant identified those needs;

(iii) How those needs will be met by the project; and

(iv) The benefits to be gained by meeting those needs.

(3) *Plan of operation.* (25 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(i) The quality of the design of the project;

(ii) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(iii) How well the objectives of the project relate to the purpose of the program;

(iv) The quality of the applicant's plan to use its resources and personnel to achieve each objective; and

(v) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition.

(4) *Quality of key personnel.* (7 points)

(i) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(A) The qualifications of the project director (if one is to be used);

(B) The qualifications of each of the other key personnel to be used in the project;

(C) The time that each person referred to in paragraphs (b)(4)(i)(A) and (B) will commit to the project; and

(D) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(ii) To determine personnel qualifications under paragraphs (b)(4)(i)(A) and (B), the Secretary considers—

(A) Experience and training in fields related to the objectives of the project; and

(B) Any other qualifications that pertain to the quality of the project.

(5) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(i) The budget is adequate to support the project; and

(ii) Costs are reasonable in relation to the objectives of the project.

(6) *Evaluation plan.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(i) Are appropriate to the project; and

(ii) To the extent possible, are objective and produce data that are quantifiable.

(Cross-reference: See 34 CFR 75.590, Evaluation by the recipient.)

(7) *Adequacy of resources.* (3 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS:

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR Part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive order. If you want to know the name and address of any State Single Point of Contact, see the list published in the **Federal Register** on August 20, 1996 (61 FR 43133 through 43135).

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA# 84.310A, U.S. Department of Education, Room 6213, 600 Independence Avenue, S.W., Washington, D.C. 20202–0124.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, D.C. time) on the date indicated in this notice.

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS. INSTRUCTIONS FOR TRANSMITTAL OF APPLICATIONS:*

(a) If an applicant wants to apply for a grant, the applicant shall-(1) Mail the original and two copies of the application on or before the deadline date to: U. S. Department of Education, Application Control Center; Attention: (CFDA # 84.310A), Washington, D.C. 20202–4725; or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, D.C. time) on the deadline date to: U.S. Department of Education, Application Control Center; Attention: (CFDA # 84.310A), Room #3633, Regional Office Building #3, 7th and D Streets, S.W., Washington, D.C.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

APPLICATION INSTRUCTIONS AND FORMS:

The appendix to this application contains forms and instructions plus a statement regarding estimated public reporting burden, a notice to applicants regarding compliance with section 427 of the General Education Provisions Act, and various assurances and certifications. In preparing your application for submission to the Department, please organize the parts and additional materials in the following order:

Application for Federal Assistance (Standard Form 424 (Rev. 4–88)).

Budget Information—Non-Construction Programs (ED Form 524).

Application Narrative.

Assurances—Non-Construction Programs (Standard Form 424B).

Certifications regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013–6/90).

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions. (NOTE: ED 80–0014 is intended for the use of grantees and should not be transmitted to the Department.)

Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions. This document has been marked to reflect statutory changes. See the notice published in the **Federal Register** (61 FR 1413) by the Office of Management and Budget on January 19, 1996.

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. No grant may be awarded unless a completed application form has been received.

FOR FURTHER INFORMATION CONTACT: Elizabeth O'Driscoll, U.S. Department of Education, 600 Independence Avenue, S.W., Portals Building, Room 4000, Washington, D.C. 20202–6135. Telephone: (202) 401–0039. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server (at gopher://gcs.ed.gov); or on the World Wide Web (at http://gcs.ed.gov). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**. Abstracts of currently-funded parental assistance center programs are available at these sites or by contacting Elizabeth O'Driscoll at (202) 401–0039.

Program Authority: 20 U.S.C. 5911 *et seq.*

Dated: December 23,1996.

Gerald N. Tirozzi,

Assistant Secretary Elementary and Secondary Education.

Instructions for Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this collection of information is 1810–0578. Expiration date: 5/31/98. The time required to complete this collection of information is estimated to average 48 hours per response, including the time to review instructions, search existing data sources, gather the data needed, and complete and review the collection of information. If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: U.S. Department of Education, Washington, D.C. 20202–4651.

If you have any comments or concerns regarding the status of your individual submission of this form, write directly to: Elizabeth O'Driscoll, U.S. Department of Education, 600 Independence Avenue, S.W., Portals Building, Room 4000, Washington, D.C. 20202–2110.

Instructions for Application Narrative

Before preparing the Application Narrative an applicant should read carefully the authorizing statute and the information in this notice, including the selection criteria the Secretary uses to evaluate applications.

The narrative should encompass each function or activity for which funds are being requested and should—

1. Begin with an Abstract; that is, a summary of the proposed project;

2. Describe the proposed project in light of each of the selection criteria in the order in which the criteria are listed in this application package; and

3. Include any other pertinent information that might assist the Secretary in reviewing the application.

The Secretary strongly requests the applicant to limit the Application Narrative to no more than 20 double-spaced, typed pages (on one side only), although the Secretary will consider applications of greater length. The Department has found that successful applications for similar programs generally meet this page limit.

Notice to all Applicants

Thank you for your interest in this program. The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103–382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new discretionary grant awards under this program. *ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.*

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its

federally-assisted program for students, teachers, and other program beneficiaries with special needs.

This section allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation that you may address: gender, race, national origin, color, disability, or age. Based on local circumstances, you can determine whether these or other barriers may prevent your students, teachers, etc. from equitable access or participation. Your description need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information my be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it tends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 1801–0004 (Exp. 8/31/98). The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, DC 20202–4651.

BILLING CODE 4000–01–P

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OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION:
Application: ☐ Construction ☐ Non-Construction
Preapplication: ☐ Construction ☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:

Organizational Unit:

Address (give city, county, state, and zip code):

Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐
A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:
☐ New ☐ Continuation ☐ Revision
If Revision, enter appropriate letter(s) in box(es): ☐ ☐
A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 8 4 . 3 1 0
TITLE: Parental Assistance Program

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT:

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:
a. Applicant
b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON.
DATE _____
b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number

d. Signature of Authorized Representative	e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

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INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control No. 1875-0102

Expiration Date: 9/30/98

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED FORM NO. 524

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Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington, D.C. 20503.

INSTRUCTIONS FOR ED FORM NO. 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

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OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

Standard Form 424B (4-88)
Prescribed by OMB Circular A-102

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 424B (4-88) Back

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CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about–

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will–

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

_____

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

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Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action: ☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: ☐ a. bid/offer/application b. initial award c. post-award	3. Report Type: ☐ a. initial filing b. material change For Material Change Only: year _____ quarter ____ date of last report ____
4. Name and Address of Reporting Entity: ☐ Prime ☐ Subawardee Tier ____, *if known:* Congressional District, *if known:*	5. If Reporting Entity in No.4 is Subawardee, Enter Name and Address of Prime: Congressional District, *if known:*	
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable:*	
8. Federal Action Number, *if known:*	9. Award Amount, *if known:* $	
10. a. Name and Address of Lobbying Entity Registrant *(if individual, last name, first name, MI):*	b. Individuals Performing Services *(including address if different from No. 10a) (last name, first name, MI):*	
11. Amount of Payment *(check all that apply):* $ _____ ☐ actual ☐ planned	13. Type of Payment *(Check all that apply):* ☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____	
12. Form of Payment *(check all that apply):* ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____		
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11: *Attach Continuation Sheet(s) SF-LLL-A, if necessary*		
15. Continuation Sheet(s) SF-LLL attached: ☐ Yes ☐ No		
16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
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INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee" then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number, grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state, and zip code of the lobbying entity registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

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Rules and Regulations

Federal Register
Vol. 61, No. 251
Monday, December 30, 1996

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Parts 2 and 371

[Docket No. 96–058–1]

Humane Treatment of Slaughter Horses; Delegation of Authority

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document delegates the authority given to the Secretary of Agriculture under the Federal Agriculture Improvement and Reform Act of 1996 to regulate the care provided to horses being transported to slaughter. Authority is delegated from the Secretary of Agriculture to the Assistant Secretary for Marketing and Regulatory Programs; from the Assistant Secretary for Marketing and Regulatory Programs to the Administrator of the Animal and Plant Health Inspection Service; and from the Administrator of the Animal and Plant Health Inspection Service to the Deputy Administrator for Veterinary Services.

EFFECTIVE DATE: December 30, 1996.

FOR FURTHER INFORMATION CONTACT: Dr. Tim Cordes, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231, (301) 734–3279.

SUPPLEMENTARY INFORMATION: Sections 901–905 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 1901 note) authorizes the Secretary of Agriculture to issue guidelines for the regulation of the commercial transportation of equines for slaughter by persons regularly engaged in that activity within the United States. In carrying out this responsibility, the Secretary of Agriculture is authorized to regulate the food, water, and rest provided to such equines in transit and to require the segregation of stallions from other equines during transit. Further, the Secretary may review other related issues he considers appropriate. Additionally, the Secretary may (1) require any person to maintain such records and reports, (2) conduct such investigations and inspections, and (3) establish and enforce such appropriate and effective civil penalties, as the Secretary deems necessary.

This rule delegates that authority from the Secretary of Agriculture to the Assistant Secretary for Marketing and Regulatory Programs; from the Assistant Secretary for Marketing and Regulatory Programs to the Administrator of the Animal and Plant Health Inspection Service; and from the Administrator of the Animal and Plant Health Inspection Service to the Deputy Administrator for Veterinary Services.

This rule relates to internal agency management. Therefore, this rule is exempt from the provisions of Executive Orders 12866 and 12988. Moreover, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required for this rule, and it may be made effective less than 30 days after publication in the **Federal Register**. In addition, under 5 U.S.C. 804, this rule is not subject to congressional review under the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. 104–121. Finally, this action is not a rule as defined by 5 U.S.C. 601 *et seq.*, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects

7 CFR Part 2

Authority delegations (Government agencies).

7 CFR Part 371

Organization and functions (Government agencies).

Accordingly, 7 CFR parts 2 and 371 are amended as follows:

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

1. The authority citation for part 2 continues to read as follows:

Authority: Sec. 212(a), Pub. L. 103–354, 108 Stat. 3210, 7 U.S.C. 6912(a)(1); 5 U.S.C. 301; Reorganization Plan No. 2 of 1953, 3 CFR, 1949–1953 Comp., p. 1024.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretaries and Assistant Secretaries

2. Section 2.22 is amended by adding a new paragraph (a)(2)(xlv) to read as follows:

§ 2.22 Assistant Secretary for Marketing and Regulatory Programs.

(a) * * *

(2) * * *

(xlv) Sections 901–905 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 1901 note).

* * * * *

Subpart N—Delegations of Authority by the Assistant Secretary for Marketing and Regulatory Programs

3. Section 2.80 is amended by adding a new paragraph (a)(50) to read as follows:

§ 2.80 Administrator, Animal and Plant Health Inspection Service.

(a) * * *

(50) Sections 901–905 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 1901 note).

* * * * *

PART 371—ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

4. The authority citation for part 371 continues to read as follows:

Authority: 5 U.S.C. 301.

5. Section 371.2 is amended by adding a new paragraph (d)(2)(xix) to read as follows:

§ 371.2 The Office of the Administrator.

* * * * *

(d) * * *

(2) * * *

(xix) Sections 901–905 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 1901 note).

* * * * *

For Part 2, Subpart C:

Dated: December 23, 1996.

Dan Glickman,

Secretary of Agriculture.

For Part 2, Subpart N:

Dated: December 9, 1996.

Michael V. Dunn,

Assistant Secretary for Marketing and Regulatory Programs.

For Part 371:

Dated: November 29, 1996.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–33128 Filed 12–27–96; 8:45 am]

BILLING CODE 3410–34–P

Federal Crop Insurance Corporation

7 CFR Part 433

Dry Bean Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Dry Bean Crop Insurance Regulations (7 CFR part 433), effective for the 1997 crop year only, to extend the contract change date to February 15, 1997.

The intended effect of this rule is to extend the contract change date, which is the date by which all contract changes must be on file in the service office, in order to provide sufficient time for FCIC to publish a final rule amending the policy for insuring dry beans.

DATES: This interim rule is effective December 30, 1996. Written comments, data, and opinions on this interim rule must be submitted not later than February 28, 1997 to be sure of consideration.

ADDRESSES: Interested persons are invited to submit written comments to the Chief, Product Development Branch, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131. Written comments will be available for public inspection and copying in room 0324, South Building, United States Department of Agriculture, 14th and Independence Avenue, S.W., Washington, DC, 8:15 a.m. to 4:45 p.m., est, Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Arden Routh, Program Analyst, Research and Development Division, Product Development Branch, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION: This action has been reviewed under the USDA procedures established by Departmental Regulation 1521–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of the Dry Bean Crop Insurance Regulations affected by this rule under those procedures.

Executive Order No. 12866

The Office of Management and Budget (OMB) has determined this rule to be exempt for the purposes of Executive Order No. 12866, and, therefore, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

The title of this information collection is "Catastrophic Risk Protection Plan and Related Requirements including, Common Crop Insurance Regulations; Dry Bean Crop Insurance Regulations." The information to be collected includes a crop insurance application and an acreage report. Information collected from the application and acreage report is electronically submitted to FCIC by the reinsured companies. Potential respondents to this information collection are producers of fresh market tomatoes that are eligible for Federal crop insurance.

The information requested is necessary for the reinsured companies and FCIC to provide insurance and reinsurance, determine eligibility, determine the correct parties to the agreement or contract, determine and collect premiums or other monetary amounts, and pay benefits.

All information is reported annually. The reporting burden of this collection of information is estimated to average 16.9 minutes per response for each of the 3.6 responses from approximately 1,755,015 respondents. The total annual burden on the public for this information collection is 2,669,932 hours.

FCIC is requesting comments for the following: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms or information gathering technology.

Comments regarding paperwork reduction should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

FCIC is soliciting comments on this rule for 60 days following publication in the **Federal Register**. This rule will be scheduled for review so that any amendment made necessary by public comments may be published as soon as possible.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for state, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than large entities. Under the current regulations, a producer is required to complete an application and acreage report. If the crop is damaged or destroyed, the insured is required to give notice of loss and provide the necessary information to complete a claim for indemnity. This regulation does not alter those requirements. The amount of work required of the insurance companies delivering and servicing these policies will not increase significantly from the amount of work currently required. This rule does not have any greater or lesser impact on the producer. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order No. 12372

This program is not subject to the provisions of Executive Order No. 12372, which require intergovernmental consultation with state and local

officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order No. 12778

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in subsections 2(a) and 2(b)(2) of Executive Order No. 12778. The provisions of this rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR parts 11 and 780 must be exhausted before any action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is not being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

FCIC herewith amends the Dry Bean Crop Insurance Regulations (7 CFR part 433) to extend the contract change date to February 15, 1997. This action is taken in order to provide sufficient time for FCIC to receive and respond to comments on the proposed rule and to publish a final rule for insuring dry beans.

The contract change date, included in the crop insurance policy, is the date by which all contract changes must be on file in the service office.

FCIC has under consideration a proposal to add to the Common Crop Insurance Policy (7 CFR part 457) a new section, 7 CFR 457.150, Dry Bean Crop Provisions. It is felt that there is not sufficient time for FCIC to solicit and respond to public comment and publish a final rule addressing the complete proposed rule before the December 31, 1996, contract change date.

Therefore, Kenneth D. Ackerman, Manager, FCIC has determined that the extension of the contract change date is necessary to provide sufficient time for FCIC to complete the comment process and publish a final rule amending the dry bean crop insurance policy for the 1997 crop year.

It is further determined that such extension will not be detrimental to any program recipient, and that publication of the extended contract change date as a proposed rule for notice and comment is impracticable, unnecessary, and contrary to the public interest. Therefore, good cause is shown for making this rule effective upon publication.

Lists of Subjects in 7 CFR Part 433

Crop insurance, Dry beans.

Interim Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby amends 7 CFR part 433, in the following instance:

PART 433—DRY BEAN CROP INSURANCE REGULATIONS

1. The authority citation for 7 CFR part 433 is revised to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

2. Section 433.7 is amended by revising subsection 16 of the policy to read as follows:

§ 433.7 The application and policy.

* * * * * *

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date (February 15, 1997, for the 1997 crop year only). Acceptance of any change will be conclusively presumed in the absence of any notice from you to cancel the contract.

* * * * *

Signed in Washington, D.C., on December 23, 1996.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 96–33065 Filed 12–27–96; 8:45 am]

BILLING CODE 3410–FA–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

RIN 3150–AD63

Environmental Review for Renewal of Nuclear Power Plant Operating Licenses; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule: Correction.

SUMMARY: This document corrects a final rule appearing in the Federal Register on December 18, 1996 (61 FR 66537), that amends regulations on the environmental review of applications to renew the operating licenses of nuclear power plants. This action is necessary to remove an unnecessary amendatory instruction and to correct an erroneous amendatory instruction.

EFFECTIVE DATE: January 17, 1997.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, telephone (301) 415–7163.

SUPPLEMENTARY INFORMATION:

§ 51.103 [Corrected]

On page 66545, amendatory instruction 5 is removed.

On page 66546, amendatory instruction 8 is revised to read as follows:

"8. In § 51.103, paragraphs (a)(3) and (a)(5) are revised to read as follows:"

Dated at Rockville, Maryland, this 23rd day of December, 1996.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Federal Register Liaison Officer.

[FR Doc. 96–33148 Filed 12–27–96; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 9 and 19

[Docket No. 96–30]

RIN 1557–AB12

Fiduciary Activities of National Banks; Rules of Practice and Procedure

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is revising its rules that govern the fiduciary activities of national banks. The OCC also is relocating provisions concerning disciplinary sanctions imposed by clearing agencies to its rules of practice and procedure. This final rule is another component of the OCC's Regulation Review Program, which is intended to update and streamline OCC regulations and to reduce unnecessary regulatory costs and other burdens.

EFFECTIVE DATE: January 29, 1997.

FOR FURTHER INFORMATION CONTACT: Andrew T. Gutierrez, Attorney,

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Legislative and Regulatory Activities Division, (202) 874–5090; Donald N. Lamson, Assistant Director, Securities and Corporate Practices Division, (202) 874–5210; Lisa Lintecum, Director, Fiduciary Activities, (202) 874–5419; Dean Miller, Senior Advisor, Fiduciary Activities, (202) 874–4852; Aida M. Plaza, Director for Compliance, Multinational Banking, (202) 874–4610, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Background

The OCC is revising 12 CFR part 9, which governs the fiduciary activities of national banks, based on its authority under 12 U.S.C. 92a. This action is a component of its Regulation Review Program. One goal of the Regulation Review Program is to review all of the OCC's rules with a view toward eliminating provisions that do not contribute significantly to maintaining the safety and soundness of national banks or to accomplishing the OCC's other statutory responsibilities, including oversight of national banks' fiduciary activities. Another goal of the Program is to improve the clarity of the OCC's regulations.

This final rule is the OCC's first comprehensive revision of part 9 since 1963.[1] Much about national banks' fiduciary business has changed since that time, including the nature and scope of the fiduciary services that banks offer and the structures and operational methods that banks use to deliver those services. The OCC's primary goal in revising part 9 is to accommodate those changes by removing unnecessary regulatory burden and facilitating the continued development of national banks' fiduciary business consistent with safe and sound banking practices and national banks' fiduciary obligations.

On December 21, 1995, the OCC published a notice of proposed rulemaking to revise part 9 (60 FR 66163) (proposal). The proposal reflected three principal themes. First, bank organizational structures—particularly with respect to the geographic structure of banking organizations—have changed significantly since Congress created the basic framework for national banks' fiduciary operations. The OCC proposed to adjust part 9 to make the requirements of the rule more workable for both large, multistate fiduciary banking organizations and small banks that conduct fiduciary activities primarily on a local basis. Second, national banks' fiduciary activities are subject to state law in many respects, though the OCC often can establish uniform Federal standards. In the proposal, the OCC attempted to strike an appropriate balance between Federal and state law. Third, over the years, the OCC has applied part 9 to a wide variety of investment advisory activities and related services, not all of which involve the bank's exercise of investment discretion. In some cases, national banks engaged in these activities operate under different standards than other financial services providers that conduct the same type of business.

Moreover, the proposal reflected an effort to update, clarify, and streamline part 9, to incorporate significant interpretive positions, and to eliminate unnecessary regulatory burden wherever possible to promote more efficient operation and supervision of national banks' fiduciary activities. The proposal added headings for ease of reference, but, for the most part, retained the numbering system used in the former regulation.

The OCC received 57 comments regarding the proposal, including letters from banks, bank trade groups, state bank supervisors, law firms, consultants, auditors, and a member of Congress. With the exception of certain aspects of the rule that concerned state bank supervisors, the commenters generally supported the proposal. However, the commenters recommended numerous modifications to the proposal. The OCC carefully considered these recommendations and incorporates many of them into this final rule.

Section-by-Section Discussion

Authority, Purpose, and Scope (§ 9.1)

The proposal added a new provision explicitly setting forth the statutory authority for, and the purpose and scope of, part 9. One commenter recommended that the OCC clarify that part 9 applies to national banks and their operating subsidiaries, but not to other subsidiaries or affiliates. The OCC notes that 12 CFR 5.34(d)(3), as recently revised at 61 FR 60342 (November 27, 1996), already clarifies that the OCC's regulations, including part 9, apply to national banks' operating subsidiaries unless otherwise provided by statute or regulation. Moreover, the OCC recognizes that its regulations generally do not apply to other subsidiaries or affiliates of national banks, and believes that it is unnecessary to enumerate those or other entities excluded from the coverage of its regulations. However, the OCC is amending this section to clarify that part 9 applies to Federal branches of foreign banks, which, unlike Federal agencies, may receive fiduciary powers.

Definitions (§ 9.2)

The proposal modified or removed some of the former regulation's definitions, and added new definitions. Moreover, the proposal relocated the definitions from former § 9.1 to proposed § 9.2. For the most part, the OCC is adopting the definitions contained in the proposal. The following discussion highlights the definitions that the OCC has modified significantly.

Applicable law (§ 9.2(b)). The former regulation used the term "local law," as defined at § 9.1(g), to refer to the laws of the state or other jurisdiction governing a fiduciary relationship. The proposal replaced the term "local law" with "applicable law" in order to streamline some of the operative provisions of the regulation and to clarify that the law that governs a national bank's fiduciary relationships may include Federal law,[2] state law governing a national bank's fiduciary relationships (that is, fiduciary duties and responsibilities), the terms of the instrument governing a fiduciary relationship, and any court order pertaining to the relationship.

Some commenters supported the proposed language without reservation. Others requested that the OCC clarify what type of law takes precedence. Some believed that Federal law should override state law, while others believed that state law should override Federal law.

The OCC recognizes that the proposed definition does not provide a priority among the various bodies of authority. Thus, the definition does not resolve situations in which the terms of a trust instrument, for example, conflicts with

[1] National banks have been authorized to exercise fiduciary powers since 1913. In 1962, the oversight responsibility for national banks' fiduciary activities was transferred from the Board of Governors of the Federal Reserve System to the OCC. *See* 12 U.S.C. 92a. Following the transfer of oversight responsibility, the OCC promulgated part 9 on October 3, 1962 (27 FR 9764), and revised it soon thereafter on April 5, 1963 (28 FR 3309).

[2] The Federal law relevant to a national bank's fiduciary activities includes, for example, provisions of the Federal banking laws (12 U.S.C. 1 *et seq.*), the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 *et seq.*) (ERISA), the Securities Act of 1933 (15 U.S.C. 77a *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*), the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 *et seq.*) (Advisers Act), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*) (Trust Indenture Act), the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*) (Internal Revenue Code), and the rules issued pursuant to those acts.

a state statute or a Federal regulation. Conflicts of law issues in the fiduciary area are highly fact specific and, thus, cannot be resolved by reference to a general rule of priority. The OCC does not intend the term "applicable law" to resolve conflicts of law; rather, the OCC merely intends to identify concisely the various bodies of authority that may govern national banks' fiduciary activities.

Some commenters were concerned that the OCC intended this term to effectuate a wholesale Federal preemption of conflicting state law, or otherwise to change the *status quo* regarding conflicts of laws. This is not the case. To clarify the OCC's intention, the OCC is modifying the definition's reference to Federal law to read "any applicable Federal law" governing a national bank's fiduciary relationships. This allows the OCC to use the concise "applicable law" term, but the definition does not presume that Federal law necessarily will apply in any particular context. Rather, Federal law is merely one of many sources of law that may govern a fiduciary relationship.

Additionally, a few commenters noted that the proposed definition of "applicable law" did not mention foreign law, and asked the OCC to clarify the extent to which foreign law governs a national bank's fiduciary activities in foreign branches. Recognizing that the law of other jurisdictions, including foreign countries, may apply to a national bank's fiduciary activities, the OCC is modifying the definition to include the law of the state *or other jurisdiction* governing a national bank's fiduciary relationships. However, as with other conflicts of law, the extent to which foreign law applies to a national bank's fiduciary activities in foreign branches is a complex issue and depends on the specific factual situation. Thus, the OCC is not addressing that issue in the regulation.

Fiduciary capacity (§ 9.2(e)). In the proposal, the OCC attempted to establish a clearer and more objective boundary for the coverage of part 9. The proposal retained the statutory list of fiduciary capacities, but, unlike the former rule, it limited the definition of other fiduciary activities to: (1) any other capacity involving investment discretion on behalf of another; and (2) any other similar capacity that the OCC authorizes pursuant to 12 U.S.C. 92a. Thus, the proposal defined fiduciary capacity to exclude relationships (other than those listed in the statute) in which the bank does not have investment discretion. Under this approach, an investment advisory activity for which the bank does not have investment discretion generally is not a fiduciary activity subject to part 9.

The proposal also solicited comment on an alternative approach under which part 9 would apply to investment advisory and other activities if, when the same or similar activity is conducted by a competing state bank or corporation, the state regulates the activity as a fiduciary activity.

A majority of commenters who addressed this issue supported the proposed definition, which utilizes investment discretion as a test, and opposed the alternative approach on the grounds that it would lead to inconsistent treatment of accounts in a bank with multistate operations, and increase risk by creating undue complexity in fiduciary compliance. A few commenters voiced concerns with the proposed definition, and recommended that the OCC define "fiduciary capacity" to include any capacity that is fiduciary under state law.

The OCC believes that "fiduciary capacity" should be defined in a manner that fosters consistent application of part 9 throughout the national banking system. Thus, the OCC is not defining "fiduciary capacity" exclusively with reference to state law. Rather, the final rule retains the proposal's approach and defines "fiduciary capacity" by using investment discretion as a test for determining whether part 9 applies to certain activities.

With respect to non-discretionary investment advisory activities, commenters differed widely as to whether and the extent to which the OCC should treat those activities as fiduciary. After carefully considering the comment letters, the OCC has concluded that when a customer pays a national bank a fee in return for providing investment advice (whether or not the customer follows that advice), the customer has a reasonable expectation of receiving advice that is free of conflicts of interest. Additionally, other Federal statutes provide heightened fiduciary-type protection to customers of certain investment advisers who receive a fee.[3] By contrast, when a national bank does not receive a fee for investment advice (*e.g.*, directed custodian accounts), it has no contractual or other obligation to provide investment advice. Therefore, the bank should not incur fiduciary liability for any incidental advice it offers.[4] Thus, the OCC is adding "investment adviser, if the bank receives a fee for its investment advice" to the list of fiduciary capacities. The OCC believes that this distinction between paid and unpaid investment advisers reflects the reasonable expectations of national bank customers.

Fiduciary records (proposed § 9.2(g)). The proposal defined "fiduciary records" and used that term in the record retention and separation requirement of § 9.8. The final rule, however, does not use the term. Thus, the definition is eliminated in the final rule.

Fiduciary powers (§ 9.2(g)). The proposal provided that "fiduciary powers" means the authority the OCC permits a national bank to exercise pursuant to 12 U.S.C. 92a. Moreover, in the proposal's preamble, the OCC discussed and invited comment on the legal framework set forth in the OCC's Interpretive Letter No. 695 (December 8, 1995), in which the OCC analyzed the authority of a national bank to exercise fiduciary powers on an interstate basis under 12 U.S.C. 92a. Some commenters questioned the analysis contained in this letter. However, as stated in the letter, the effect of 12 U.S.C. 92a is that in any specific state, the extent of fiduciary powers is the same for out-of-state national banks as for in-state national banks, and that extent depends upon what powers the state grants to the fiduciaries in the state with which national banks compete. The OCC has considered the comments, but continues to believe that the legal analysis contained in Interpretive Letter No. 695 reflects a correct interpretation of the basic fiduciary powers of national banks under 12 U.S.C. 92a. The definition of fiduciary powers summarizes this basic principle. The OCC notes that neither Interpretive Letter No. 695 nor the definition of national banks' fiduciary powers in § 9.2(g) addresses the applicability of particular state laws to national banks' exercise of their fiduciary powers.[5]

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[3] For example, under ERISA, a person is a fiduciary with respect to a plan, to the extent he renders investment advice for a fee or other compensation. 29 U.S.C. 1002(21)(A). As another example, the Advisers Act generally applies to any person who, for compensation, engages in the business of advising others (although banks are exempt). 15 U.S.C. 80b–2(a)(11).

[4] The OCC does not treat non-discretionary custodial activities as fiduciary, and the final rule continues that approach. Those activities are authorized under 12 U.S.C. 24 (Seventh).

[5] To the extent they arise, the OCC intends to handle specific questions about the applicability of particular state laws on a case-by-case basis, which in many cases will involve preemption opinions developed with the aid of a public notice and comment process.

Investment discretion (§ 9.2(i)). As mentioned previously, the proposal defined the term "fiduciary capacity" to include any capacity where the bank possesses investment discretion on behalf of another, and the final rule retains this approach. The proposed term "investment discretion" includes any account for which a national bank has the authority to determine what securities or other assets to purchase or sell on behalf of the account.

Some commenters recommended that the OCC clarify that a bank has investment discretion with respect to an account whether or not the bank exercises that discretion. Others recommended that the OCC clarify whether a bank has investment discretion with respect to an account in which the customer or another fiduciary also has investment discretion. In response to these commenters, the OCC is modifying the proposed definition to clarify that the term does not depend on whether or not the bank exercises its authority over investments, or whether or not its authority over investments is sole or shared. Moreover, the OCC is clarifying that a bank is deemed to have investment discretion even when it delegates its authority over investments, as well as when another fiduciary delegates its authority over investments to the bank.

Several commenters asked whether the OCC considers a national bank to have investment discretion when it administers asset allocation accounts or sweep accounts. Asset allocation programs differ widely in the extent of the administering bank's discretion. In some asset allocation programs, the bank has discretion to invest initially the customer's assets among several mutual funds, and to reallocate the assets as it deems appropriate based on the customer's investment profile and the prevailing market conditions. In these programs, and in any other program in which the bank may purchase or sell an investment without the customer's approval, the OCC considers the bank to have investment discretion. In sweep programs, on the other hand, a bank typically has no investment discretion. Rather, the bank is automatically sweeping excess cash into investments pre-selected by the customer (*e.g.*, money market funds).

Approval Requirements (§ 9.3)

Consistent with § 9.2 of the former regulation, the proposal directed an applicant for fiduciary powers (whether the applicant is a national bank seeking approval to exercise fiduciary powers, or a person seeking approval to organize a special-purpose national bank limited to fiduciary powers) to appropriate provisions in 12 CFR part 5, which contains rules, policies, and procedures for corporate activities. This is designed as a useful reader aid. The OCC received no specific comments on this section and adopts this section as proposed.

Administration of Fiduciary Powers (§ 9.4)

Consistent with § 9.7 of the former rule, the proposal permitted a national bank's board of directors to assign functions related to the exercise of fiduciary powers to bank directors, officers, employees, and committees thereof. The proposal also retained the requirement that all fiduciary officers and employees must be bonded adequately. Moreover, the proposal permitted a national bank to use personnel and facilities of the bank to perform services related to the exercise of its fiduciary powers, and permitted any department of the bank to use fiduciary officers and employees and facilities to perform services unrelated to the exercise of fiduciary powers, to the extent not prohibited by applicable law. Additionally, the proposal added a new provision to the section clarifying that a national bank may enter into an agency agreement with another entity to purchase or sell services related to the exercise of fiduciary powers.

Some commenters recommended that the OCC allow a national bank to use personnel and facilities of its affiliates (and not just other departments of the bank) to perform services related to its fiduciary activities, and allow affiliates to use fiduciary officers and employees and facilities to perform services unrelated to the bank's fiduciary activities, to the extent not prohibited by applicable law. The OCC believes that utilizing affiliates in this manner enhances efficiency and is consistent with safety and soundness. Moreover, this recommendation reflects the realities of modern bank organizational structures. Thus, the OCC is modifying the provision accordingly.

Policies and Procedures (§ 9.5)

The proposal required a national bank to establish written policies and procedures to ensure that its fiduciary practices comply with applicable law, and also provided a list of particular fiduciary practices that a bank's policies and procedures should cover. Several items on the list were derived from requirements in the former regulation, including brokerage placement practices (former § 9.5); methods for ensuring that fiduciary officers and employees do not use material inside information in connection with any decision or recommendation to purchase or sell any security (former § 9.7(d)); selection and retention of legal counsel readily available to advise the bank and its fiduciary officers and employees on fiduciary matters (former § 9.7(c)); and investment of funds held as fiduciary, including short-term investments and the treatment of fiduciary funds awaiting investment or distribution (former § 9.10(a)).

Other items on the proposed list were not based on requirements in the former regulation, including methods for preventing self-dealing and conflicts of interest, allocation to fiduciary accounts of any financial incentives the bank may receive for investing fiduciary funds in a particular investment, and disclosure to beneficiaries and other interested parties of fees and expenses charged to fiduciary accounts.

Many commenters were concerned that specific items on the list, particularly the items addressing the allocation of financial incentives and disclosures to interested parties, could be construed overbroadly (*e.g.*, to prohibit otherwise permissible fee arrangements, or to require disclosures to creditors of settlors of revocable trusts). Some commenters suggested that the OCC not provide a list of required policies and procedures, but rather provide guidance through less formal means.

The OCC is retaining the proposal's general requirement that a national bank adopt and follow written policies and procedures adequate to maintain its fiduciary activities in compliance with applicable law. The OCC is not attempting to assemble an exhaustive list of required policies and procedures. However, the OCC believes that the regulation should provide examples of areas that a bank's policies and procedures should address. Thus, the OCC is adopting an abbreviated list of areas that a bank's policies and procedures should address. The list includes brokerage placement practices, the prevention of misuse of material inside information, the prevention of self-dealing and conflicts of interest, the selection and retention of legal counsel, and the investment of funds (including funds awaiting investment or distribution).

Review of Assets of Fiduciary Accounts (§ 9.6)

The proposal, like the former rule, required national banks to perform reviews with respect to fiduciary accounts at least once during each calendar year, and within 15 months of the last review. Moreover, the proposal required two distinct types of annual

written reviews: individual account reviews and reviews of assets by issuer. To contrast the two types of review, a review of assets by issuer determines what investments (e.g., common stock of Corporation X) are appropriate investments for the bank's fiduciary accounts in general. In some banks, the review of assets by issuer results in a list of permissible fiduciary investments for the bank's fiduciary accounts, and the person or committee in charge of investing for a particular fiduciary account chooses investments from this list. Under an individual account review, on the other hand, the person or committee in charge of a particular account's investments determines whether the current investments are appropriate, individually and collectively, given the objectives of the account.

Several commenters indicated that the requirement for an annual review of assets by issuer is burdensome, redundant, and may conflict with the modern portfolio theory embraced by the prudent investor rule.[6] The OCC agrees with these commenters and, thus, is eliminating the requirement for an annual review of assets by issuer.

Some commenters recommended that the OCC make the requirement for a "written" review more flexible by allowing other forms of evidence of a review (e.g., an automated screening process that screens out routine and non-complex assets and accounts), in order to allow bank personnel to conduct their reviews more efficiently. In response to this recommendation, the OCC is eliminating the requirement that the review be "written." However, if a bank adopts a review system in which reviews are not documented individually, the bank must be able to demonstrate that its review system is designed to perform all required reviews.

One commenter recommended that the OCC eliminate the requirement to perform a review within 15 months after the last review, and instead rely on the requirement to perform a review at least once during each calendar year. The OCC has determined that the 15-month requirement is somewhat rigid, raises timing issues (*e.g.*, whether to measure the period from the start date to start date or end date to start date), and does not contribute significantly to safety and soundness. Consequently, the OCC is eliminating it in favor of a requirement that a national bank perform a review at least once during each calendar year.

Recordkeeping (§ 9.8)

Section 9.8(a) of the proposal required a national bank to document the establishment and termination of fiduciary accounts and to maintain adequate records for all fiduciary accounts. Section 9.8(b) of the proposal required a national bank to retain all "fiduciary records" for a specified period. Section 9.2(g) of the proposal defined "fiduciary records" to include *all* written or otherwise recorded information that a national bank creates or receives relating to a fiduciary account or the fiduciary activities of the bank.

Some commenters asserted that the proposed definition of "fiduciary records" is overly broad, and recommended that the OCC limit the record retention requirement of § 9.8(b) to the records described in § 9.8(a). The OCC agrees that the proposed definition of fiduciary records is overly broad and has limited the record retention requirement accordingly.

Audit of Fiduciary Activities (§ 9.9)

The proposal required a national bank to perform, through its fiduciary audit committee, suitable audits of its fiduciary activities annually and to report the results of the audit, including all actions taken as a result of the audit, in the minutes of the board of directors. The proposal also clarified that if a bank adopts a continuous audit system in lieu of performing annual audits, the bank may perform discrete audits of each fiduciary activity, on an activity-by-activity basis, at intervals appropriate for that activity. For example, a bank may determine that it is appropriate to audit certain low-risk fiduciary activities every 18 months. Moreover, the proposal permitted a national bank to use an affiliate's audit committee as the bank's fiduciary audit committee.

Most commenters strongly supported allowing a continuous audit system and allowing an affiliate's audit committee to serve as a bank's fiduciary audit committee. The OCC is adopting these elements. A few commenters recommended that the OCC clarify whether a bank may use external auditors in performing the required audits. In response, the OCC is adding parentheticals to clarify that a bank may use internal or external auditors. A few commenters expressed concern that the requirement to note in the board's minutes "all" actions taken as a result of the audit could be interpreted to require a board to note excessive detail. To alleviate this concern, the OCC is modifying the provision to require the board to note "significant actions" instead of "all actions."

One commenter also noted that the proposal required a suitable audit of "all" fiduciary activities (or, for continuous audits, a discrete audit of "each" fiduciary activity), and pointed out that certain fiduciary activities at certain banks may be *de minimis* (*e.g.*, a bank may have only one small account under a particular fiduciary activity, as an incidental service for a particular customer). They asserted that these *de minimis* fiduciary activities may not merit a full-scope audit. To provide a measure of flexibility with respect to *de minimis* activities, the OCC is modifying the regulation to require a suitable audit of "all significant" fiduciary activities (or, for continuous audits, a discrete audit of "each significant" fiduciary activity). The OCC intends for this standard to exclude only *de minimis* fiduciary activities conducted by a bank.

Moreover, as with annual reviews under § 9.6, the OCC is eliminating the requirement that a national bank that performs audits annually (rather than using a continuous audit system) perform an audit not later than 15 months after the last audit. The 15-month requirement is somewhat rigid, raises timing issues, and does not contribute significantly to safety and soundness. The OCC is retaining the requirement that a national bank perform an audit at least once during each calendar year.

The proposal required that a national bank's fiduciary audit committee must not include directors who are members of a fiduciary committee of the bank. Several commenters noted that some banks would experience difficulties in complying with this restriction due to their fiduciary committee structure. To provide those banks with a reasonable degree of flexibility, the OCC is modifying this restriction to require that a national bank's fiduciary audit committee must consist of a majority of members who are not also members of any committee to which the board of directors has delegated power to manage and control the fiduciary activities of the bank. The OCC believes that this modification will not impair the safety and soundness of those banks.

[6] Modern portfolio theory, which underlies modern asset management practices, focuses on the reduction of specific risk through portfolio diversification. This theory, along with corresponding practice, demonstrated that "arbitrary restrictions on trust investments are unwarranted and often counterproductive." Rest. 3rd, Trusts (Prudent Investor Rule), Introduction (1992), at 4. The prudent investor rule states that the standard of prudent investment "is to be applied to investments not in isolation but in the context of the trust portfolio and as a part of an overall investment strategy, which should incorporate risk and return objectives reasonably suited to the trust." Rest. 3rd, Trusts (Prudent Investor Rule), sec. 227(a) (1992).

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Fiduciary Funds Awaiting Investment or Distribution (§ 9.10)

The proposal retained the former regulation's general prohibition against allowing fiduciary funds to remain uninvested and undistributed any longer than reasonable for proper account management. One commenter pointed out that directing the treatment of fiduciary funds is appropriate only if the bank has investment discretion with respect to those funds. The OCC agrees that the duty to invest funds applies only to accounts for which a bank has investment discretion. However, the duty to distribute uninvested funds within a reasonable time may apply even in the absence of investment discretion. Thus, the OCC is limiting this prohibition to fiduciary accounts for which a bank has investment discretion or discretion over distributions.

The proposal eliminated the requirement that a bank obtain the "maximum" rate of return for fiduciary funds awaiting investment or distribution. One commenter asserted that the OCC should have some policy with respect to the rate of return for fiduciary funds awaiting investment or distribution. The OCC agrees, and is adopting a requirement that a bank obtain for such funds a rate of return consistent with applicable law. Thus, in states that require their corporate fiduciaries to obtain a market rate of return for fiduciary funds awaiting investment or distribution, a national bank must do the same. In other states, national banks are placed on a level playing field with competing corporate fiduciaries.

The proposal permitted a national bank to set aside, as collateral for self-deposits of fiduciary funds awaiting investment or distribution, any assets (including surety bonds) that qualify under state law as appropriate security. Several commenters recommended that the OCC allow a bank to collateralize self-deposits with surety bonds without regard to state law. Other commenters recommended that the OCC allow a bank to collateralize self-deposits with surety bonds only if state law permits that practice. The OCC has determined that it is consistent with national banks' fiduciary powers for banks to use surety bonds as collateral for self-deposits unless prohibited by applicable law. This standard grants national banks the ability to collateralize self-deposits with surety bonds, yet preserves for each state the ability to prohibit this practice for all fiduciaries operating in the state.

The proposal also permitted a national bank to deposit fiduciary funds awaiting investment or distribution with an affiliate and to secure a deposit of idle fiduciary funds by or with an affiliate "if consistent with applicable law". Several commenters recommended that the OCC modify the applicable law standard, though the commenters suggested various alternatives ranging from "without regard to state law" to "only if permitted by applicable law". After considering the various standards, the OCC is adopting "unless prohibited by applicable law" as the standard. This standard allows national banks to secure deposits of idle fiduciary funds by or with an affiliate, yet permits a state to preclude this practice for all fiduciaries operating in the state, if the state so chooses.

Investment of Fiduciary Funds (§ 9.11)

The proposal directed a national bank to invest fiduciary funds in a manner consistent with applicable law. One commenter pointed out that directing a bank how to invest fiduciary funds is appropriate only if the bank has investment discretion. This commenter's point is generally true. However, situations may arise in which a bank trustee without investment discretion receives a direction from a party with investment discretion to make an investment that violates applicable law (*e.g.*, ERISA or the trust instrument). The bank, in these situations, should comply with applicable law notwithstanding its lack of investment discretion. Thus, the OCC is adopting the provision generally as proposed.

Self-Dealing and Conflicts of Interest (§ 9.12)

The proposal clarified that a bank may not lend to any of its directors, officers, or employees any funds it holds as trustee, except with respect to bank's own employee benefit plans in accordance with section 408(b)(1) of ERISA, which specifically authorizes loans to participants and beneficiaries of such plans under certain circumstances. One commenter noted that section 408(b)(1) covers plans that the bank administers for other employers, as well as the bank's own plans. The OCC agrees, and is extending the proposed exception to plans that the bank administers for other employers. Moreover, the OCC is broadening the regulation's reference to ERISA by citing to section 408 rather than section 408(b)(1), because section 408 contains several exemptions from ERISA's prohibited transaction provisions, and not just the exemption found in 408(b)(1).

The proposal authorized a national bank to make a loan between any of its fiduciary accounts if the transaction is authorized by the instrument creating the account from which the loan is made and is not prohibited by applicable law. One commenter recommended that the OCC change this standard to "if the transaction is fair to both accounts and is not prohibited by applicable law," in order to be consistent with the standard for loans to fiduciary accounts and for sales between fiduciary accounts. The OCC agrees that there is no compelling reason to have different standards for these transactions and, thus, is modifying the standard accordingly.

Finally, one commenter pointed out that these self-dealing and conflicts of interest provisions are appropriate only if the bank has investment discretion. The OCC agrees, and is limiting this provision to fiduciary accounts for which a bank has investment discretion.

Custody of Fiduciary Assets (§ 9.13)

The proposal allowed a national bank to maintain fiduciary assets off-premises if the bank maintains adequate safeguards and controls. However, some off-premise locations may not be appropriate for the safekeeping of fiduciary assets, depending on applicable law. Consequently, the OCC is modifying the provision to allow a bank to maintain fiduciary investments off-premises only if consistent with applicable law.

Deposit of Securities With State Authorities (§ 9.14)

The proposal allowed a national bank with fiduciary assets in more than one state to meet its deposit requirement in each state based on the amount of trust assets administered from offices located in that state. The OCC intended this provision to avoid duplicative securities deposits for the same trust asset.

Some commenters requested that the OCC clarify that the deposit requirement for a multistate bank depends on the amount of trust assets that the bank administers "primarily" or "principally" from offices in that state. These commenters were concerned that the proposed language still could be interpreted in a manner that results in duplicative securities deposits for the same trust asset. To ensure that the requirement is not interpreted in a manner that results in duplicative securities deposits, the OCC is clarifying that the required deposit for each state is based on the amount of trust assets that the bank administers "primarily" from offices located in that state.

Fiduciary Compensation (§ 9.15)

The proposal retained the substance of former § 9.15, which addressed fiduciary compensation. The proposal authorized a national bank to charge a reasonable fee for its fiduciary services if the amount is not set or governed by applicable law. Moreover, the proposal prohibited an officer or an employee of a national bank from retaining any compensation for acting as a co-fiduciary with the bank in the administration of a fiduciary account, except with the specific approval of its board of directors.

One commenter requested that the OCC provide guidance on what constitutes a reasonable fee, and that the OCC allow a bank to rely on their regularly published fee schedules to satisfy the reasonableness test. However, because reasonableness of fiduciary compensation depends heavily upon the facts of each situation, the OCC does not believe that it is possible to establish specific rules on what is and what is not reasonable. Thus, the OCC is adopting this section as proposed. The OCC points out, however, that the amount of fiduciary compensation is typically set or governed by applicable law (*e.g.*, by the terms of the governing instrument, state fee schedules, a probate court, etc.), in which case the general reasonableness standard does not apply.

Receivership or Voluntary Liquidation of Bank (§ 9.16)

The proposal directed a receiver or liquidating agent for a national bank to close promptly all fiduciary accounts to the extent practicable (in accordance with OCC instructions and the orders of the court having jurisdiction) and to transfer all remaining fiduciary accounts to substitute fiduciaries. Some commenters recommended that the OCC modify this provision to reflect that a national bank's receiver or liquidating agent generally transfers fiduciary accounts to substitute fiduciaries, noting that the FDIC's usual practice is to sell a failed bank's fiduciary business. The OCC agrees that a national bank should have the option to transfer fiduciary accounts to substitute fiduciaries, regardless of whether it can practicably close those accounts. Thus, the OCC is modifying the provision accordingly.

Additionally, the OCC is clarifying that this provision does not apply to the receiver of insured national banks, which, under 12 U.S.C. 191, is the Federal Deposit Insurance Corporation.

Surrender or Revocation of Fiduciary Powers (§ 9.17)

The proposal retained the substance of former § 9.17, which addresses surrender and revocation of fiduciary powers. The proposal set forth the standards and procedures that apply when a national bank seeks to surrender its fiduciary powers. The proposal also described the standards that apply when the OCC seeks to revoke a bank's fiduciary powers. This section provides useful guidance to banks surrendering or revoking their fiduciary powers. The OCC did not receive any comments that warranted changes to this section and, thus, the OCC is adopting it as proposed.

Collective Investment Funds (§ 9.18)

The proposal retained the general structure of § 9.18. Paragraph (a) authorized national banks to invest fiduciary assets in two types of collective investment funds (called (a)(1) funds and (a)(2) funds, in reference to the paragraphs of § 9.18 that authorize them). Paragraph (b) set forth the requirements applicable to funds authorized under paragraph (a). Paragraph (c) described other types of collective investments available to national bank fiduciaries. The OCC is adopting much of proposed § 9.18, but with several significant modifications.

In General (§ 9.18(a))

The proposal removed a provision from former § 9.18(b)(3) that specifically provided that a bank may look at a collective investment fund's portfolio in the aggregate in determining whether it may invest fiduciary assets in the collective investment fund. This treatment is consistent with the prudent investor rule.[7] One commenter noted that not all states have adopted the prudent investor rule, and recommended that the OCC retain the provision. The OCC agrees, and is retaining the provision as a footnote to § 9.18(a).

Written Plan (§ 9.18(b)(1))

The former regulation required the full board of directors of a national bank to approve a new collective investment fund plan. The proposal provided additional management flexibility by allowing a committee of the board of directors to perform this function. Some commenters recommended that the OCC modify this requirement further by allowing a committee authorized by the board to approve a new plan. Because this modification provides banks with some flexibility in approving new plans and presents no supervisory concerns, the OCC is adopting it as recommended.

[7] *See* Rest. 3rd, Trusts (Prudent Investor Rule), sec. 227(a) (1992).

Frequency of Valuation (§ 9.18(b)(4)(i))

The proposal allowed a bank to value an illiquid collective investment fund (*i.e.*, one invested primarily in real estate or other assets that are not readily marketable) at least annually rather than at least quarterly, in an effort to be consistent with the one-year prior notice allowance for withdrawals from illiquid collective investment funds found at former § 9.18(b)(4). Because the prior notice allowance is limited to (a)(2) funds, it is appropriate to limit the valuation exception to (a)(2) funds. The OCC is modifying the proposed valuation exception to include this limitation.

Short-term Investment Funds (§ 9.18(b)(4)(ii)(B))

The proposal retained the former regulation's restrictions on short-term investment funds. Several commenters noted, however, that these restrictions are more stringent than the Securities and Exchange Commission's Rule 2a–7 (17 CFR 270.2a–7), which governs money market funds. The commenters recommended that the OCC revise the restrictions to make them more consistent with Rule 2a–7. The OCC agrees that its restrictions regarding short-term investment funds should be more consistent with Rule 2a–7. Consequently, the OCC is removing (1) the requirement that a bank invest at least 80 percent of the fund's assets in instruments payable on demand or that have a maturity date not exceeding 91 days from the date of purchase, and (2) the requirement that at least 20 percent of the fund's assets must be cash, demand obligations, or assets that will mature on the fund's next business day. In their place, the OCC is adding a requirement that a bank maintain a dollar-weighted average portfolio maturity of 90 days or less, consistent with Rule 2a–7.

Method of Distributions (§ 9.18(b)(5)(iv))

The proposal revised substantially the former regulation's standard for distributions to an account withdrawing from a collective investment fund. Former § 9.18(b)(6) required a bank to make distributions in cash, ratably in kind (*i.e.*, a proportional share in each of the assets held by the collective investment fund), or a combination of the two. The proposal allowed a bank to make any distributions consistent with applicable law. The proposal reflected an effort to provide banks with sufficient flexibility to address complex distribution problems that may arise (particularly with respect to collective investment funds that invest primarily

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in illiquid assets), while maintaining the basic protections of state fiduciary law. In the proposal's preamble, the OCC invited comment on whether to adopt this applicable law approach in lieu of the former regulation's distribution options.

Many commenters supported replacing the former regulation's distribution options with the proposed approach. Several commenters supported the proposed approach, but only as a supplement to the former regulation's distribution options. Some commenters noted that relying wholly on applicable law, as proposed, could be unworkable for a bank whose collective investment fund includes accounts from different states.

The OCC has determined to retain the former regulation's distribution options (*i.e.*, cash, ratably in kind, or a combination of the two) and to add, as a fourth option, "any other manner consistent with applicable law in the state in which the bank maintains the fund." The OCC believes that this approach provides ample flexibility while maintaining the basic protections of state fiduciary law. Moreover, it resolves the proposal's potential problems regarding a fund with accounts from different states by clarifying that the only state whose law applies to the fourth distribution option is the state in which the bank maintains the fund (though other forms of "applicable law," such as Federal law, may apply).

Audits and Financial Reports (§ 9.18(b)(6))

Consistent with OCC precedent, the proposal clarified that a national bank must disclose in a collective investment fund's annual financial report the fees and expenses charged to the fund. One commenter recommended that the OCC further clarify that the regulation does not require *per se* that a national bank disclose fees and expenses on a line-item basis, or as a specific dollar amount (as opposed to a percentage of assets). The OCC affirms that the regulation does not require *per se* a particular form of disclosure. However, if state law (or other applicable law) governing the collective investment fund requires a particular form of disclosure, then national banks must comply with that requirement.[8] To clarify this issue, the OCC is modifying the provision to clarify that disclosures of fees and expenses are required in a manner consistent with applicable law in the state in which the bank maintains the fund.

Advertising Restriction (§ 9.18(b)(7))

The proposal retained and clarified the former regulation's restriction on advertising (a)(1) funds. In particular, the proposal prohibited a bank from advertising a common trust fund except in connection with the advertisement of the general fiduciary services of the bank.

Many commenters recommended that the OCC eliminate or at least relax the restriction on advertising past performance. Other commenters, apparently in support of the restriction, warned that if a bank markets its common trust fund to the general public, then that fund will be subject to registration and regulation under the securities laws.

The views of commenters opposed to the advertising restriction may have some merit. The OCC has carefully considered their views but has decided that, on balance, it is not appropriate to remove the advertising restriction. Therefore, the OCC is adopting the provision as proposed.

Self-Dealing and Conflicts of Interest (§ 9.18(b)(8))

The proposal retained the substance of former § 9.18(b)(8), which addressed self-dealing and conflicts of interest specific to collective investment funds. The OCC noted in the preamble that a national bank administering a collective investment fund must comply with not only these provisions, but also the general self-dealing and conflicts of interest provisions found in § 9.12. One commenter recommended that the OCC clarify this position in the regulatory text. The OCC agrees, and is amending the provision accordingly.

Elimination of Mortgage Reserve Account Provision

The proposal retained the substance of former § 9.18(b)(11), which allowed a bank administering a collective investment fund to establish a mortgage reserve account for overdue interest payments on mortgages in the fund. Suspecting that this provision was outdated, the OCC invited comment on the extent to which banks use mortgage reserve accounts. The only commenter on this provision recommended that the OCC eliminate it, stating that national banks no longer maintain mortgage reserve accounts because they are unnecessary and may not be appropriate under generally accepted accounting principles. Accordingly, the OCC is eliminating this provision.

Management Fees (§ 9.18(b)(9))

The proposal retained the quantitative management fee limitation, found at former § 9.18(b)(12), but invited comment on whether the OCC should defer to state law instead of retaining the fee limitation. Under this limitation, a bank administering a collective investment fund may charge a fund management fee only if the total fees charged to a participating account (including the fund management fee) does not exceed the total fees that the bank would have charged had it not invested assets of the fiduciary account in the fund.

Many commenters supported eliminating the management fee limitation altogether in favor of a "reasonableness" standard or a state law based approach, arguing that these alternatives would reflect modern fiduciary law standards in this area. However, some commenters supported retaining the limitation. Other commenters were concerned that a state law approach could be unworkable for a collective investment fund with participants from different states whose fee standards differ.

The OCC recognizes the desirability of providing updated operating standards for national bank fiduciary activities, but is concerned that a general "reasonableness" standard, or even a state law standard, alone, may not provide sufficient protections for banks' fiduciary customers. Accordingly, the final rule provides that a national bank may charge a fund management fee only if: (1) the fee is reasonable; (2) the fee is permitted under applicable law (and complies with fee disclosure requirements, if any) in the state in which the bank maintains the fund; *and* (3) the amount of the fee does not exceed an amount commensurate with the value of legitimate services of tangible benefit to the participating fiduciary accounts that would not have been provided to the accounts were they not invested in the fund.

This modification safeguards the interests of customers in several ways. First, a fund management fee is subject to an overall reasonableness standard. Second, in order to charge a fund management fee, applicable law must allow the type of fee charged. Third, the bank must justify the amount of a fund management fee based on particular services that provide a tangible benefit to participating fiduciary accounts that would not have been provided to the accounts were they not invested in the fund. Fourth, a bank that charges a fee under this approach also must comply with applicable fee disclosure

[8] See Trust Interpretive Letter #242 (January 1990).

requirements. Finally, a separate provision in the final rule requires a bank to disclose a management fee, along with other fees and expenses charged to the fund, in the annual financial report in a manner consistent with applicable law in the state in which the bank maintains the fund.[9]

Additionally, this modification eliminates the possibility that multiple conflicting states' laws could apply to the same fund, and thus is responsive to commenters' concerns about administering a collective investment fund with participants from different states.

Expenses (§ 9.18(b)(10))

The proposal retained the requirement that the bank absorb establishment and reorganization expenses, but eliminated other provisions that specifically permitted or prohibited a bank to charge certain expenses to the fund. Rather than mandating the treatment of specific expenses (other than establishment and reorganization expenses), the proposal deferred to state law, in effect, by allowing a bank to charge reasonable expenses incurred in administering the fund to the extent not prohibited by applicable law.

Many commenters supported this approach. However, some commenters were concerned that a state law approach to permissible expenses could be unworkable for funds with participants from different states.

The OCC continues to believe that, when expenses of a fund are reasonable and permissible under state law, and are fully disclosed in appropriate documentation,[10] a bank should be allowed to charge them directly to the fund. Thus, the final rule retains the proposal's approach of allowing a bank to charge any reasonable expenses (except expenses incurred in establishing or reorganizing a collective investment fund) not prohibited by applicable law, and clarifies that the applicable law in the state in which the bank maintains the fund—including Federal law where appropriate, and excluding the law of states other than the state in which the bank maintains the fund—determines whether particular expenses are prohibited. This standard addresses commenters' concerns about funds with participants from different states.

[9] *See* § 9.18(b)(6)(ii).

[10] *See* § 9.18(b)(1)(iii) (disclosure of anticipated fees and expenses in the written plan) and § 9.18(b)(6)(ii) (disclosure of fees and expenses in the annual financial report).

Prohibition Against Certificates (§ 9.18(b)(11))

The proposal prohibited a national bank from issuing certificates of interest in a collective investment fund. One commenter recommended that the OCC provide an exception allowing a bank to issue a certificate of participation in a segregated investment to a customer withdrawing from a fund, consistent with OCC fiduciary precedents. The OCC agrees. The exception for segregated investments should not raise any of the securities-related concerns underlying the prohibition against certificates. Consequently, the OCC is adopting the exception.

Elimination of Participation, Investment, and Liquidity Requirements

The proposal eliminated the 10 percent participation limitation, the 10 percent investment limitation, and the liquidity requirement applicable to common trust funds under former § 9.18(b)(9). The OCC received many comment letters on this issue. All who commented supported the proposal. These restrictions have at times interfered with optimal management of common trust funds. Moreover, the OCC believes that the protections found in state fiduciary law adequately address the concerns underlying these restrictions. Consequently, the OCC is eliminating the participation, investment, and liquidity requirements.

Other Collective Investments (§ 9.18(c))

In addition to (a)(1) and (a)(2) funds, the proposal authorized other means by which a national bank may invest fiduciary assets collectively: (1) bank fiduciary funds, (2) single loans or obligations, (3) mini-funds (i.e., funds established for the collective investment of cash balances), (4) trust funds of corporations and closely-related settlors, and (5) special exemption funds. These other collective investments are not subject to the requirements of § 9.18(b).

While the OCC did not receive any comments on the provision authorizing bank fiduciary funds, the OCC believes that banks no longer maintain this type of fund. Thus, the OCC is eliminating the provision.

With respect to single loans or obligations, the proposal eliminated the restriction that a bank invest in a variable-amount note on a short-term basis only. Those who commented on this change supported it. The change will bring that provision in conformity with § 9.18(b)(4)(ii)(B), which allows a bank to invest fiduciary assets collectively in short-term investment fund composed of short-term vehicles, including variable-amount notes, but places no limitation on renewals of those investments. For this reason, the OCC is adopting the provision as proposed.

With respect to mini-funds, the proposal eliminated the requirement that no participating account's interest in the fund may exceed $10,000. Moreover, the proposal increased the total amount of assets permitted in a mini-fund to $1,000,000. Those who commented on these changes supported them. These changes remove outdated limitations on mini-funds. Consequently, the OCC is adopting the provision as proposed.

One commenter recommended that the OCC add a provision that permits a bank to use any collective investment authorized by applicable law (*e.g.*, pre-need funeral statutes). The OCC agrees that a bank should be permitted to use any collective investment authorized by applicable law, and is adding a provision to this effect.

With respect to special exemption funds, the proposal provided an expedited procedure for their review. While most commenters supported the expedited review procedure, a few commenters strongly opposed it. Those who opposed it objected that the provision does not require notice and comment, does not distinguish between routine and novel applications, and, because approval is automatic if the OCC does not act in 30 days, could lead to inadvertent approvals of common trust funds that are exempt from the regulation's management fee and common trust fund advertising provisions. After carefully considering these concerns, the OCC has decided that it may not be appropriate to adopt the proposed expedited review procedure. Thus, the OCC is modifying the provision to eliminate the expedited review procedure.

Finally, one commenter recommended that the OCC extend the right to seek special exemptions from the OCC to state banks and other corporate fiduciaries that must comply with the OCC's collective investment fund regulation in order to receive favorable tax treatment under the Internal Revenue Code (26 U.S.C. 584). The OCC agrees that those corporate fiduciaries should have the same opportunity to establish special exemption funds as national banks. Consequently, the OCC is modifying the proposal to reflect this recommendation.

Transfer Agents (§ 9.20)

The proposal incorporated by means of cross-reference the Securities and Exchange Commission (SEC) rules

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prescribing procedures for registration of transfer agents for which the SEC is the appropriate regulatory agency (17 CFR 240.17Ac2–1). The proposal also clarified that a national bank transfer agent must comply with rules adopted by the SEC pursuant to section 17A of the Securities Exchange Act (15 U.S.C. 78q–1), which sets forth operational and reporting requirements that apply to all transfer agents (17 CFR 240.17Ac2–2, and 240.17Ad–1 through 16).

Several commenters noted that the SEC's rules regarding transfer agents do not apply to activities in foreign countries. The OCC acknowledges that the SEC's rules regarding transfer agents apply only to domestic activities. Consequently, the OCC is clarifying this point in the regulatory text.

Waiver of Regulatory Requirements

In the preamble to the proposal, the OCC invited comment on whether the OCC should add a reservation of authority to part 9 for the purpose of setting forth standards and procedures under which a national bank may obtain a waiver from a specific provision. All but one of those who commented on this issue supported the addition of waiver standards and procedures. Upon reconsideration, the OCC has concluded that it is preferable to continue its current practice of considering any request to modify the application of any provision in part 9, and granting a request if the OCC deems it consistent with the bank's fiduciary duties and with safe and sound banking practices. The OCC expects that the additional flexibility it has incorporated into many of part 9's provisions will reduce the need for waivers and modifications. Moreover, the requests that banks are likely to file will vary significantly in subject matter and complexity, reducing the usefulness of generalized standards. Therefore, the OCC has decided not to include a specific waiver provision in part 9.

Acting as Indenture Trustee and Creditor (§ 9.100)

In the proposal's preamble, the OCC indicated that it was inclined to modify its restrictions on allowing an indenture trustee to act as creditor to the same debt securities issuance. In particular, the OCC suggested allowing a national bank to act both as creditor and indenture trustee until 90 days after default, consistent with the Trust Indenture Act, with the added condition that the bank maintains adequate controls to manage any potential conflicts of interest. Additionally, the OCC indicated that it would apply this policy consistently to all debt securities issuances, including issuances exempt from the Trust Indenture Act. The OCC invited comment on how banks are managing these conflicts, and on the need to address this issue in part 9.

Commenters supported a revision of the OCC's position, and indicated that bank policies and procedures effectively manage potential conflicts of interest. However, most who commented recommended that the OCC not add specific requirements to the regulation on this issue, though most of these commenters also supported less formal guidance.

Based on its experience in this area, the OCC believes that banks generally have established adequate controls to manage those conflicts. Moreover, the OCC believes that it is important to clarify to all national banks the revised position on this issue. Consequently, the OCC is adding a short interpretive ruling to part 9 explaining that a national bank may act as creditor and indenture trustee to any debt securities issuance (whether or not covered by the Trust Indenture Act) until 90 days after default with the added condition that the bank maintains adequate controls to manage the potential conflicts of interest.

Disciplinary Sanctions Imposed by Clearing Agencies (§ 19.135)

The proposal eliminated much of the detail of former §§ 9.21 and 9.22, which concern applications by national banks for stays or reviews of disciplinary sanctions imposed by registered clearing agencies. Instead, the proposal cross-referenced the SEC's rules in this area, which are virtually identical to former §§ 9.21 and 9.22. The proposal also relocated the provision to 12 CFR part 19, the OCC's rules of practice and procedure, where readers are more likely to find it.

The OCC received no comments on this provision and, thus, is adopting it as proposed.

Investment Adviser to an Investment Company

Part 9 has never contained conditions applicable to national bank operating subsidiaries engaged in investment advisory activities. Instead, appropriate conditions for particular operating subsidiary activities have been dealt with by the OCC as part of the application process. However, one of the issues related to the treatment of investment advisory activities under part 9 that was raised in the proposal was whether to impose certain conditions in all situations where a national bank or its operating subsidiary acts as investment adviser to an investment company, and, if so, whether to include them in part 9.

Most who commented on this issue expressed concerns that the conditions could impose unnecessary restrictions on certain activities. After carefully considering the comments, the OCC has decided to continue its current approach of dealing with conditions imposed on national bank operating subsidiaries as part of the corporate application process. Recent amendments to 12 CFR part 5 (61 FR 60342, November 27, 1996) also provide a specific new mechanism for conditions and policies to be developed that will be applicable to operating subsidiaries engaged in particular types of activities. One of these types of activities is serving as an investment adviser to an investment company (see § 5.34(e)(3)(ii)(D)). Accordingly, the OCC has concluded that it is not appropriate to deal with conditions imposed on operating subsidiaries engaged in such activities as an aspect of part 9.

Derivation Table for 12 CFR Part 9

This table directs readers to the provisions of the former 12 CFR part 9 on which the revised 12 CFR part 9 and the amended 12 CFR part 19 are based.

Revised provision	Former provision	Comments
§ 9.1		Added.
§ 9.2(a)		Added.
(b)	§ 9.1(g)	Significantly modified.
(c)	§ 9.1(l)	Modified.
(d)	§ 9.1(a)	Modified.
(e)	§ 9.1(b) and (h)	Significantly modified.
(f)	§ 9.1(j)	Modified.
(g)	§ 9.1(c)	Significantly modified.
(h)	§ 9.1(e)	Modified.

Revised provision	Former provision	Comments
(i)		Added.
§ 9.3	§ 9.2	Modified.
§ 9.4	§ 9.7(a)(1), (b), and (d)	Significantly modified.
§ 9.5	§§ 9.5, 9.7(c), 9.7(d), and 9.10(a)	Significantly modified.
§ 9.6	§ 9.7(a)(2)	Significantly modified.
§ 9.8	§§ 9.7(a)(2) and 9.8	Modified.
§ 9.9	§ 9.9	Significantly modified.
§ 9.10	§ 9.10	Significantly modified.
§ 9.11	§ 9.11	Significantly modified.
§ 9.12	§ 9.12	Modified.
§ 9.13	§ 9.13	Modified.
§ 9.14	§ 9.14	Significantly modified.
§ 9.15	§ 9.15	Modified.
§ 9.16	§ 9.16	Modified.
§ 9.17	§ 9.17	Modified.
§ 9.18(a)	§ 9.18(a), (b)(2), and (b)(3)	Modified.
(b)(1)	(b)(1)	Significantly modified.
(b)(2)	(b)(12)	Significantly modified.
(b)(3)	(b)(3)	Modified.
(b)(4)	(b)(1), (4), and (15)	Significantly modified.
(b)(5)	(b)(4), (6), and (7)	Significantly modified.
(b)(6)	(b)(5)(i)–(iv)	Significantly modified.
(b)(7)	(b)(5)(iv) and (v)	Significantly modified.
(b)(8)	(b)(8)	Modified.
(b)(9)	(b)(12)	Significantly modified.
(b)(10)	(b)(5)(i) and (iv), (b)(10) and (b)(12)	Significantly modified.
(b)(11)	(b)(13)	Modified.
(b)(12)	(b)(14)	Modified.
(c)(1)	(c)(2)	Modified.
(c)(2)	(c)(3)	Significantly modified.
(c)(3)	(c)(4)	Modified.
(c)(4)		Added.
(c)(5)	(c)(5)	Significantly modified.
§ 9.20	§ 9.20	Modified.
§ 9.100		Added.
§ 19.135	§§ 9.21 and 9.22	Modified.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OCC certifies that this final rule will not have a significant economic impact on a substantial number of small entities in accord with the spirit and purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Accordingly, a regulatory flexibility analysis is not required. The final rule's requirements, for the most part, are not new to the regulation. The final rule eases requirements and reduces burden for all national banks that exercise fiduciary powers, regardless of size.

Executive Order 12866

The Office of Management and Budget has concurred with the OCC's determination that this final rule is not a significant regulatory action under Executive Order 12866.

Paperwork Reduction Act of 1995

The OCC invites comment on:

(1) Whether the information collection contained in this final rule is necessary for the proper performance of the OCC's functions, including whether the information has practical utility;

(2) The accuracy of the OCC's estimate of the burden of the information collection;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected;

(4) Ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(5) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The OCC asked similar questions in the proposed rule, but received no comments.

Respondents/recordkeepers are not required to respond to this collection of information unless it displays a currently valid OMB control number.

The collection of information requirements contained in this final rule have been approved by the Office of Management and Budget under Control No. 1557–0140 in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information requirements should be sent to the Office of Management and Budget, Paperwork Reduction Project (1557–0140), Washington, DC 20503, with copies to the Legislative and Regulatory Activities Division (1557–0140), Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

The collection of information requirements in this final rule are found in 12 CFR 9.8, 9.9, 9.17, and 9.18. The OCC requires this information for the proper supervision of national banks" fiduciary activities. The likely respondents/recordkeepers are national banks.

Estimated average annual burden hours per respondent/recordkeeper: 15 hours.

Estimated number of respondents and/or recordkeepers: 1,000.

Estimated total annual reporting and recordkeeping burden: 15,010 hours.

Start-up costs to respondents: None.

Unfunded Mandates Reform Act of 1995

The OCC has determined that this final rule will not result in expenditures by state, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, a budgetary impact statement is not

required under section 202 of the Unfunded Mandates Reform Act of 1995. The final rule's requirements, for the most part, are not new to the regulation. The final rule eases requirements and reduces burden for all national banks that exercise fiduciary powers, regardless of size.

List of Subjects

12 CFR Part 9

Estates, Investments, National banks, Reporting and recordkeeping requirements, Trusts and trustees.

12 CFR Part 19

Administrative practice and procedure, Crime, Investigations, National banks, Penalties, Securities.

Authority and Issuance

For the reasons set out in the preamble, chapter I of title 12 of the Code of Federal Regulations is amended as follows:

1. Part 9 is revised to read as follows:

PART 9—FIDUCIARY ACTIVITIES OF NATIONAL BANKS

Regulations

Sec.

9.1 Authority, purpose, and scope.
9.2 Definitions.
9.3 Approval requirements.
9.4 Administration of fiduciary powers.
9.5 Policies and procedures.
9.6 Review of fiduciary accounts.
9.8 Recordkeeping.
9.9 Audit of fiduciary activities.
9.10 Fiduciary funds awaiting investment or distribution.
9.11 Investment of fiduciary funds.
9.12 Self-dealing and conflicts of interest.
9.13 Custody of fiduciary assets.
9.14 Deposit of securities with state authorities.
9.15 Fiduciary compensation.
9.16 Receivership or voluntary liquidation of bank.
9.17 Surrender or revocation of fiduciary powers.
9.18 Collective investment funds.
9.20 Transfer agents.

Interpretations

9.100 Acting as indenture trustee and creditor.

Authority: 12 U.S.C. 24 (Seventh), 92a, and 93a; 15 U.S.C. 78q, 78q–1, and 78w.

Regulations

§ 9.1 Authority, purpose, and scope.

(a) *Authority.* The Office of the Comptroller of the Currency (OCC) issues this part pursuant to its authority under 12 U.S.C. 24 (Seventh), 92a, and 93a, and 15 U.S.C. 78q, 78q–1, and 78w.

(b) *Purpose.* The purpose of this part is to set forth the standards that apply to the fiduciary activities of national banks.

(c) *Scope.* This part applies to all national banks that act in a fiduciary capacity, as defined in § 9.2(e). This part also applies to all Federal branches of foreign banks to the same extent as it applies to national banks.

§ 9.2 Definitions.

For the purposes of this part, the following definitions apply:

(a) *Affiliate* has the same meaning as in 12 U.S.C. 221a(b).

(b) *Applicable law* means the law of a state or other jurisdiction governing a national bank's fiduciary relationships, any applicable Federal law governing those relationships, the terms of the instrument governing a fiduciary relationship, or any court order pertaining to the relationship.

(c) *Custodian under a uniform gifts to minors act* means a fiduciary relationship established pursuant to a state law substantially similar to the Uniform Gifts to Minors Act or the Uniform Transfers to Minors Act as published by the American Law Institute.

(d) *Fiduciary account* means an account administered by a national bank acting in a fiduciary capacity.

(e) *Fiduciary capacity* means: trustee, executor, administrator, registrar of stocks and bonds, transfer agent, guardian, assignee, receiver, or custodian under a uniform gifts to minors act; investment adviser, if the bank receives a fee for its investment advice; any capacity in which the bank possesses investment discretion on behalf of another; or any other similar capacity that the OCC authorizes pursuant to 12 U.S.C. 92a.

(f) *Fiduciary officers and employees* means all officers and employees of a national bank to whom the board of directors or its designee has assigned functions involving the exercise of the bank's fiduciary powers.

(g) *Fiduciary powers* means the authority the OCC permits a national bank to exercise pursuant to 12 U.S.C. 92a. The extent of fiduciary powers is the same for out-of-state national banks as for in-state national banks, and that extent depends upon what powers the state grants to the fiduciaries in the state with which national banks compete.

(h) *Guardian* means the guardian or conservator, by whatever name used by state law, of the estate of a minor, an incompetent person, an absent person, or a person over whose estate a court has taken jurisdiction, other than under bankruptcy or insolvency laws.

(i) *Investment discretion* means, with respect to an account, the sole or shared authority (whether or not that authority is exercised) to determine what securities or other assets to purchase or sell on behalf of the account. A bank that delegates its authority over investments and a bank that receives delegated authority over investments are both deemed to have investment discretion.

§ 9.3 Approval requirements.

(a) A national bank may not exercise fiduciary powers unless it obtains prior approval from the OCC to the extent required under 12 CFR 5.26.

(b) A person seeking approval to organize a special-purpose national bank limited to fiduciary powers shall file an application with the OCC pursuant to 12 CFR 5.20.

§ 9.4 Administration of fiduciary powers.

(a) *Responsibilities of the board of directors.* A national bank's fiduciary activities shall be managed by or under the direction of its board of directors. In discharging its responsibilities, the board may assign any function related to the exercise of fiduciary powers to any director, officer, employee, or committee thereof.

(b) *Use of other personnel.* The national bank may use any qualified personnel and facilities of the bank or its affiliates to perform services related to the exercise of its fiduciary powers, and any department of the bank or its affiliates may use fiduciary officers, employees, and facilities to perform services unrelated to the exercise of fiduciary powers, to the extent not prohibited by applicable law.

(c) *Agency agreements.* Pursuant to a written agreement, a national bank exercising fiduciary powers may perform services related to the exercise of fiduciary powers for another bank or other entity, and may purchase services related to the exercise of fiduciary powers from another bank or other entity.

(d) *Bond requirement.* A national bank shall ensure that all fiduciary officers and employees are adequately bonded.

§ 9.5 Policies and procedures.

A national bank exercising fiduciary powers shall adopt and follow written policies and procedures adequate to maintain its fiduciary activities in compliance with applicable law. Among other relevant matters, the policies and procedures should address, where appropriate, the bank's:

(a) Brokerage placement practices;

(b) Methods for ensuring that fiduciary officers and employees do not use material inside information in connection with any decision or recommendation to purchase or sell any security;

(c) Methods for preventing self-dealing and conflicts of interest;

(d) Selection and retention of legal counsel who is readily available to advise the bank and its fiduciary officers and employees on fiduciary matters; and

(e) Investment of funds held as fiduciary, including short-term investments and the treatment of fiduciary funds awaiting investment or distribution.

§ 9.6 Review of fiduciary accounts.

(a) *Pre-acceptance review.* Before accepting a fiduciary account, a national bank shall review the prospective account to determine whether it can properly administer the account.

(b) *Initial post-acceptance review.* Upon the acceptance of a fiduciary account for which a national bank has investment discretion, the bank shall conduct a prompt review of all assets of the account to evaluate whether they are appropriate for the account.

(c) *Annual review.* At least once during every calendar year, a bank shall conduct a review of all assets of each fiduciary account for which the bank has investment discretion to evaluate whether they are appropriate, individually and collectively, for the account.

§ 9.8 Recordkeeping.

(a) *Documentation of accounts.* A national bank shall adequately document the establishment and termination of each fiduciary account and shall maintain adequate records for all fiduciary accounts.

(b) *Retention of records.* A national bank shall retain records described in paragraph (a) of this section for a period of three years from the later of the termination of the account or the termination of any litigation relating to the account.

(c) *Separation of records.* A national bank shall ensure that records described in paragraph (a) of this section are separate and distinct from other records of the bank.

§ 9.9 Audit of fiduciary activities.

(a) *Annual audit.* At least once during each calendar year, a national bank shall arrange for a suitable audit (by internal or external auditors) of all significant fiduciary activities, under the direction of its fiduciary audit committee, unless the bank adopts a continuous audit system in accordance with paragraph (b) of this section. The bank shall note the results of the audit (including significant actions taken as a result of the audit) in the minutes of the board of directors.

(b) *Continuous audit.* In lieu of performing annual audits under paragraph (a) of this section, a national bank may adopt a continuous audit system under which the bank arranges for a discrete audit (by internal or external auditors) of each significant fiduciary activity (*i.e.*, on an activity-by-activity basis), under the direction of its fiduciary audit committee, at an interval commensurate with the nature and risk of that activity. Thus, certain fiduciary activities may receive audits at intervals greater or less than one year, as appropriate. A bank that adopts a continuous audit system shall note the results of all discrete audits performed since the last audit report (including significant actions taken as a result of the audits) in the minutes of the board of directors at least once during each calendar year .

(c) *Fiduciary audit committee.* A national bank's fiduciary audit committee must consist of a committee of the bank's directors or an audit committee of an affiliate of the bank. However, in either case, the committee:

(1) Must not include any officers of the bank or an affiliate who participate significantly in the administration of the bank's fiduciary activities; and

(2) Must consist of a majority of members who are not also members of any committee to which the board of directors has delegated power to manage and control the fiduciary activities of the bank.

§ 9.10 Fiduciary funds awaiting investment or distribution.

(a) *In general.* With respect to a fiduciary account for which a national bank has investment discretion or discretion over distributions, the bank may not allow funds awaiting investment or distribution to remain uninvested and undistributed any longer than is reasonable for the proper management of the account and consistent with applicable law. With respect to a fiduciary account for which a national bank has investment discretion, the bank shall obtain for funds awaiting investment or distribution a rate of return that is consistent with applicable law.

(b) *Self-deposits*—(1) *In general.* A national bank may deposit funds of a fiduciary account that are awaiting investment or distribution in the commercial, savings, or another department of the bank, unless prohibited by applicable law. To the extent that the funds are not insured by the Federal Deposit Insurance Corporation, the bank shall set aside collateral as security, under the control of appropriate fiduciary officers and employees, in accordance with paragraph (b)(2) of this section. The market value of the collateral set aside must at all times equal or exceed the amount of the uninsured fiduciary funds.

(2) *Acceptable collateral.* A national bank may satisfy the collateral requirement of paragraph (b)(1) of this section with any of the following:

(i) Direct obligations of the United States, or other obligations fully guaranteed by the United States as to principal and interest;

(ii) Securities that qualify as eligible for investment by national banks pursuant to 12 CFR part 1;

(iii) Readily marketable securities of the classes in which state banks, trust companies, or other corporations exercising fiduciary powers are permitted to invest fiduciary funds under applicable state law;

(iv) Surety bonds, to the extent they provide adequate security, unless prohibited by applicable law; and

(v) Any other assets that qualify under applicable state law as appropriate security for deposits of fiduciary funds.

(c) *Affiliate deposits.* A national bank, acting in its fiduciary capacity, may deposit funds of a fiduciary account that are awaiting investment or distribution with an affiliated insured depository institution, unless prohibited by applicable law. A national bank may set aside collateral as security for a deposit by or with an affiliate of fiduciary funds awaiting investment or distribution, unless prohibited by applicable law.

§ 9.11 Investment of fiduciary funds.

A national bank shall invest funds of a fiduciary account in a manner consistent with applicable law.

§ 9.12 Self-dealing and conflicts of interest.

(a) *Investments for fiduciary accounts*—(1) *In general.* Unless authorized by applicable law, a national bank may not invest funds of a fiduciary account for which a national bank has investment discretion in the stock or obligations of, or in assets acquired from: the bank or any of its directors, officers, or employees; affiliates of the bank or any of their directors, officers, or employees; or individuals or organizations with whom there exists an interest that might affect the exercise of the best judgment of the bank.

(2) *Additional securities investments.* If retention of stock or obligations of the bank or its affiliates in a fiduciary account is consistent with applicable law, the bank may:

(i) Exercise rights to purchase additional stock (or securities

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convertible into additional stock) when offered pro rata to stockholders; and

(ii) Purchase fractional shares to complement fractional shares acquired through the exercise of rights or the receipt of a stock dividend resulting in fractional share holdings.

(b) *Loans, sales, or other transfers from fiduciary accounts*—(1) *In general.* A national bank may not lend, sell, or otherwise transfer assets of a fiduciary account for which a national bank has investment discretion to the bank or any of its directors, officers, or employees, or to affiliates of the bank or any of their directors, officers, or employees, or to individuals or organizations with whom there exists an interest that might affect the exercise of the best judgment of the bank, unless:

(i) The transaction is authorized by applicable law;

(ii) Legal counsel advises the bank in writing that the bank has incurred, in its fiduciary capacity, a contingent or potential liability, in which case the bank, upon the sale or transfer of assets, shall reimburse the fiduciary account in cash at the greater of book or market value of the assets;

(iii) As provided in § 9.18(b)(8)(iii) for defaulted investments; or

(iv) Required in writing by the OCC.

(2) *Loans of funds held as trustee.* Notwithstanding paragraph (b)(1) of this section, a national bank may not lend to any of its directors, officers, or employees any funds held in trust, except with respect to employee benefit plans in accordance with the exemptions found in section 408 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108).

(c) *Loans to fiduciary accounts.* A national bank may make a loan to a fiduciary account and may hold a security interest in assets of the account if the transaction is fair to the account and is not prohibited by applicable law.

(d) *Sales between fiduciary accounts.* A national bank may sell assets between any of its fiduciary accounts if the transaction is fair to both accounts and is not prohibited by applicable law.

(e) *Loans between fiduciary accounts.* A national bank may make a loan between any of its fiduciary accounts if the transaction is fair to both accounts and is not prohibited by applicable law.

§ 9.13 Custody of fiduciary assets.

(a) *Control of fiduciary assets.* A national bank shall place assets of fiduciary accounts in the joint custody or control of not fewer than two of the fiduciary officers or employees designated for that purpose by the board of directors. A national bank may maintain the investments of a fiduciary account off-premises, if consistent with applicable law and if the bank maintains adequate safeguards and controls.

(b) *Separation of fiduciary assets.* A national bank shall keep the assets of fiduciary accounts separate from the assets of the bank. A national bank shall keep the assets of each fiduciary account separate from all other accounts or shall identify the investments as the property of a particular account, except as provided in § 9.18.

§ 9.14 Deposit of securities with state authorities.

(a) *In general.* If state law requires corporations acting in a fiduciary capacity to deposit securities with state authorities for the protection of private or court trusts, then before a national bank acts as a private or court-appointed trustee in that state, it shall make a similar deposit with state authorities. If the state authorities refuse to accept the deposit, the bank shall deposit the securities with the Federal Reserve Bank of the district in which the national bank is located, to be held for the protection of private or court trusts to the same extent as if the securities had been deposited with state authorities.

(b) *Assets held in more than one state.* If a national bank administers trust assets in more than one state, the bank may compute the amount of deposit required for each state on the basis of trust assets that the bank administers primarily from offices located in that state.

§ 9.15 Fiduciary compensation.

(a) *Compensation of bank.* If the amount of a national bank's compensation for acting in a fiduciary capacity is not set or governed by applicable law, the bank may charge a reasonable fee for its services.

(b) *Compensation of co-fiduciary officers and employees.* A national bank may not permit any officer or employee to retain any compensation for acting as a co-fiduciary with the bank in the administration of a fiduciary account, except with the specific approval of the bank's board of directors.

§ 9.16 Receivership or voluntary liquidation of bank.

If the OCC appoints a receiver for an uninsured national bank, or if a national bank places itself in voluntary liquidation, the receiver or liquidating agent shall promptly close or transfer to a substitute fiduciary all fiduciary accounts, in accordance with OCC instructions and the orders of the court having jurisdiction.

§ 9.17 Surrender or revocation of fiduciary powers.

(a) *Surrender.* In accordance with 12 U.S.C. 92a(j), a national bank seeking to surrender its fiduciary powers shall file with the OCC a certified copy of the resolution of its board of directors evidencing that intent. If, after appropriate investigation, the OCC is satisfied that the bank has been discharged from all fiduciary duties, the OCC will provide written notice that the bank is no longer authorized to exercise fiduciary powers.

(b) *Revocation.* If the OCC determines that a national bank has unlawfully or unsoundly exercised, or has failed for a period of five consecutive years to exercise its fiduciary powers, the Comptroller may, in accordance with the provisions of 12 U.S.C. 92a(k), revoke the bank's fiduciary powers.

§ 9.18 Collective investment funds.

(a) *In general.* Where consistent with applicable law, a national bank may invest assets that it holds as fiduciary in the following collective investment funds: [1]

(1) A fund maintained by the bank, or by one or more affiliated banks,[2] exclusively for the collective investment and reinvestment of money contributed to the fund by the bank, or by one or more affiliated banks, in its capacity as trustee, executor, administrator, guardian, or custodian under a uniform gifts to minors act.

(2) A fund consisting solely of assets of retirement, pension, profit sharing, stock bonus or other trusts that are exempt from Federal income tax.

(i) A national bank may invest assets of retirement, pension, profit sharing, stock bonus, or other trusts exempt from Federal income tax and that the bank holds in its capacity as trustee in a collective investment fund established under paragraph (a)(1) or (a)(2) of this section.

(ii) A national bank may invest assets of retirement, pension, profit sharing, stock bonus, or other employee benefit trusts exempt from Federal income tax and that the bank holds in any capacity (including agent), in a collective investment fund established under this

[1] In determining whether investing fiduciary assets in a collective investment fund is proper, the bank may consider the fund as a whole and, for example, shall not be prohibited from making that investment because any particular asset is nonincome producing.

[2] A fund established pursuant to this paragraph (a)(1) that includes money contributed by entities that are affiliates under 12 U.S.C. 221a(b), but are not members of the same affiliated group, as defined at 26 U.S.C. 1504, may fail to qualify for tax-exempt status under the Internal Revenue Code. *See* 26 U.S.C. 584.

paragraph (a)(2) if the fund itself qualifies for exemption from Federal income tax.

(b) *Requirements.* A national bank administering a collective investment fund authorized under paragraph (a) of this section shall comply with the following requirements:

(1) *Written plan.* The bank shall establish and maintain each collective investment fund in accordance with a written plan (Plan) approved by a resolution of the bank's board of directors or by a committee authorized by the board. The bank shall make a copy of the Plan available for public inspection at its main office during all banking hours, and shall provide a copy of the Plan to any person who requests it. The Plan must contain appropriate provisions, not inconsistent with this part, regarding the manner in which the bank will operate the fund, including provisions relating to:

(i) Investment powers and policies with respect to the fund;

(ii) Allocation of income, profits, and losses;

(iii) Fees and expenses that will be charged to the fund and to participating accounts;

(iv) Terms and conditions governing the admission and withdrawal of participating accounts;

(v) Audits of participating accounts;

(vi) Basis and method of valuing assets in the fund;

(vii) Expected frequency for income distribution to participating accounts;

(viii) Minimum frequency for valuation of fund assets;

(ix) Amount of time following a valuation date during which the valuation must be made;

(x) Bases upon which the bank may terminate the fund; and

(xi) Any other matters necessary to define clearly the rights of participating accounts.

(2) *Fund management.* A bank administering a collective investment fund shall have exclusive management thereof, except as a prudent person might delegate responsibilities to others.[3]

(3) *Proportionate interests.* Each participating account in a collective investment fund must have a proportionate interest in all the fund's assets.

(4) *Valuation*—(i) *Frequency of valuation.* A bank administering a collective investment fund shall determine the value of the fund's assets at least once every three months. However, in the case of a fund described in paragraph (a)(2) of this section that is invested primarily in real estate or other assets that are not readily marketable, the bank shall determine the value of the fund's assets at least once each year.

(ii) *Method of valuation*—(A) *In general.* Except as provided in paragraph (b)(4)(ii)(B) of this section, a bank shall value each fund asset at market value as of the date set for valuation, unless the bank cannot readily ascertain market value, in which case the bank shall use a fair value determined in good faith.

(B) *Short-term investment funds.* A bank may value a fund's assets on a cost, rather than market value, basis for purposes of admissions and withdrawals, if the Plan requires the bank to:

(*1*) Maintain a dollar-weighted average portfolio maturity of 90 days or less;

(*2*) Accrue on a straight-line basis the difference between the cost and anticipated principal receipt on maturity; and

(*3*) Hold the fund's assets until maturity under usual circumstances.

(5) *Admission and withdrawal of accounts*—(i) *In general.* A bank administering a collective investment fund shall admit an account to or withdraw an account from the fund only on the basis of the valuation described in paragraph (b)(4) of this section.

(ii) *Prior request or notice.* A bank administering a collective investment fund may admit an account to or withdraw an account from a collective investment fund only if the bank has approved a request for or a notice of intention of taking that action on or before the valuation date on which the admission or withdrawal is based. No requests or notices may be canceled or countermanded after the valuation date.

(iii) *Prior notice period for withdrawals from funds with assets not readily marketable.* A bank administering a collective investment fund described in paragraph (a)(2) of this section that is invested primarily in real estate or other assets that are not readily marketable, may require a prior notice period, not to exceed one year, for withdrawals.

(iv) *Method of distributions.* A bank administering a collective investment fund shall make distributions to accounts withdrawing from the fund in cash, ratably in kind, a combination of cash and ratably in kind, or in any other manner consistent with applicable law in the state in which the bank maintains the fund.

(v) *Segregation of investments.* If an investment is withdrawn in kind from a collective investment fund for the benefit of all participants in the fund at the time of the withdrawal but the investment is not distributed ratably in kind, the bank shall segregate and administer it for the benefit ratably of all participants in the collective investment fund at the time of withdrawal.

(6) *Audits and financial reports*—(i) *Annual audit.* At least once during each 12-month period, a bank administering a collective investment fund shall arrange for an audit of the collective investment fund by auditors responsible only to the board of directors of the bank.[4]

(ii) *Financial report.* At least once during each 12-month period, a bank administering a collective investment fund shall prepare a financial report of the fund based on the audit required by paragraph (b)(6)(i) of this section. The report must disclose the fund's fees and expenses in a manner consistent with applicable law in the state in which the bank maintains the fund. This report must contain a list of investments in the fund showing the cost and current market value of each investment, and a statement covering the period after the previous report showing the following (organized by type of investment):

(A) A summary of purchases (with costs);

(B) A summary of sales (with profit or loss and any other investment changes);

(C) Income and disbursements; and

(D) An appropriate notation of any investments in default.

(iii) *Limitation on representations.* A bank may include in the financial report a description of the fund's value on previous dates, as well as its income and disbursements during previous accounting periods. A bank may not publish in the financial report any predictions or representations as to future performance. In addition, with respect to funds described in paragraph (a)(1) of this section, a bank may not publish the performance of individual funds other than those administered by the bank or its affiliates.

(iv) *Availability of the report.* A bank administering a collective investment

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[3] If a fund, the assets of which consist solely of Individual Retirement Accounts, Keogh Accounts, or other employee benefit accounts that are exempt from taxation, is registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*), the fund will not be deemed in violation of this paragraph (b)(2) as a result of its compliance with section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–10(c)).

[4] If a fund, the assets of which consist solely of Individual Retirement Accounts, Keogh Accounts, or other employee benefit accounts that are exempt from taxation, is registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*), the fund will not be deemed in violation of this paragraph (b)(6)(i) as a result of its compliance with section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–10(c)), if the bank has access to the audit reports of the fund.

fund shall provide a copy of the financial report, or shall provide notice that a copy of the report is available upon request without charge, to each person who ordinarily would receive a regular periodic accounting with respect to each participating account. The bank may provide a copy of the financial report to prospective customers. In addition, the bank shall provide a copy of the report upon request to any person for a reasonable charge.

(7) *Advertising restriction.* A bank may not advertise or publicize any fund authorized under paragraph (a)(1) of this section, except in connection with the advertisement of the general fiduciary services of the bank.

(8) *Self-dealing and conflicts of interest.* A national bank administering a collective investment fund must comply with the following (in addition to § 9.12):

(i) *Bank interests.* A bank administering a collective investment fund may not have an interest in that fund other than in its fiduciary capacity. If, because of a creditor relationship or otherwise, the bank acquires an interest in a participating account, the participating account must be withdrawn on the next withdrawal date. However, a bank may invest assets that it holds as fiduciary for its own employees in a collective investment fund.

(ii) *Loans to participating accounts.* A bank administering a collective investment fund may not make any loan on the security of a participant's interest in the fund. An unsecured advance to a fiduciary account participating in the fund until the time of the next valuation date does not constitute the acquisition of an interest in a participating account by the bank.

(iii) *Purchase of defaulted investments.* A bank administering a collective investment fund may purchase for its own account any defaulted investment held by the fund (in lieu of segregating the investment in accordance with paragraph (b)(5)(v) of this section) if, in the judgment of the bank, the cost of segregating the investment is excessive in light of the market value of the investment. If a bank elects to purchase a defaulted investment, it shall do so at the greater of market value or the sum of cost and accrued unpaid interest.

(9) *Management fees.* A bank administering a collective investment fund may charge a reasonable fund management fee only if:

(i) The fee is permitted under applicable law (and complies with fee disclosure requirements, if any) in the state in which the bank maintains the fund; and

(ii) The amount of the fee does not exceed an amount commensurate with the value of legitimate services of tangible benefit to the participating fiduciary accounts that would not have been provided to the accounts were they not invested in the fund.

(10) *Expenses.* A bank administering a collective investment fund may charge reasonable expenses incurred in operating the collective investment fund, to the extent not prohibited by applicable law in the state in which the bank maintains the fund. However, a bank shall absorb the expenses of establishing or reorganizing a collective investment fund.

(11) *Prohibition against certificates.* A bank administering a collective investment fund may not issue any certificate or other document representing a direct or indirect interest in the fund, except to provide a withdrawing account with an interest in a segregated investment.

(12) *Good faith mistakes.* The OCC will not deem a bank's mistake made in good faith and in the exercise of due care in connection with the administration of a collective investment fund to be a violation of this part if, promptly after the discovery of the mistake, the bank takes whatever action is practicable under the circumstances to remedy the mistake.

(c) *Other collective investments.* In addition to the collective investment funds authorized under paragraph (a) of this section, a national bank may collectively invest assets that it holds as fiduciary, to the extent not prohibited by applicable law, as follows:

(1) *Single loans or obligations.* In the following loans or obligations, if the bank's only interest in the loans or obligations is its capacity as fiduciary:

(i) A single real estate loan, a direct obligation of the United States, or an obligation fully guaranteed by the United States, or a single fixed amount security, obligation, or other property, either real, personal, or mixed, of a single issuer; or

(ii) A variable amount note of a borrower of prime credit, if the bank uses the note solely for investment of funds held in its fiduciary accounts.

(2) *Mini-funds.* In a fund maintained by the bank for the collective investment of cash balances received or held by a bank in its capacity as trustee, executor, administrator, guardian, or custodian under a uniform gifts to minors act, that the bank considers too small to be invested separately to advantage. The total assets in the fund must not exceed $1,000,000 and the number of participating accounts must not exceed 100.

(3) *Trust funds of corporations and closely-related settlors.* In any investment specifically authorized by the instrument creating the fiduciary account or a court order, in the case of trusts created by a corporation, including its affiliates and subsidiaries, or by several individual settlors who are closely related.

(4) *Other authorized funds.* In any collective investment authorized by applicable law, such as investments pursuant to a state pre-need funeral statute.

(5) *Special exemption funds.* In any other manner described by the bank in a written plan approved by the OCC.[5] In order to obtain a special exemption, a bank shall submit to the OCC a written plan that sets forth:

(i) The reason that the proposed fund requires a special exemption;

(ii) The provisions of the proposed fund that are inconsistent with paragraphs (a) and (b) of this section;

(iii) The provisions of paragraph (b) of this section for which the bank seeks an exemption; and

(iv) The manner in which the proposed fund addresses the rights and interests of participating accounts.

§ 9.20 Transfer agents.

(a) The rules adopted by the Securities and Exchange Commission (SEC) pursuant to section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1) prescribing procedures for registration of transfer agents for which the SEC is the appropriate regulatory agency (17 CFR 240.17Ac2–1) apply to the domestic activities of national bank transfer agents. References to the "Commission" are deemed to refer to the "OCC."

(b) The rules adopted by the SEC pursuant to section 17A of the Securities Exchange Act of 1934 prescribing operational and reporting requirements for transfer agents (17 CFR 240.17Ac2–2, and 240.17Ad–1 through 240.17Ad–16) apply to the domestic activities of national bank transfer agents.

Interpretations

§ 9.100 Acting as indenture trustee and creditor.

With respect to a debt securities issuance, a national bank may act both as indenture trustee and as creditor

[5] Any institution that must comply with this section in order to receive favorable tax treatment under 26 U.S.C. 584 (namely, any corporate fiduciary) may seek OCC approval of special exemption funds in accordance with this paragraph (c)(5).

until 90 days after default, if the bank maintains adequate controls to manage the potential conflicts of interest.

PART 19—RULES OF PRACTICE AND PROCEDURE

2. The authority citation for part 19 is revised to read as follows:

Authority: 5 U.S.C. 504, 554–557; 12 U.S.C. 93(b), 164, 505, 1817, 1818, 1820, 1831o, 1972, 3102, 3108(a), 3909 and 4717; 15 U.S.C. 78(h) and (i), 78o–4(c), 78o–5, 78q–1, 78s, 78u, 78u–2, 78u–3, and 78w; 28 U.S.C. 2461 note; 31 U.S.C. 330 and 5321; and 42 U.S.C. 4012a.

3. A new § 19.135 is added to subpart E of part 19 to read as follows:

§ 19.135 Applications for stay or review of disciplinary actions imposed by registered clearing agencies.

(a) *Stays.* The rules adopted by the Securities and Exchange Commission (SEC) pursuant to section 19 of the Securities Exchange Act of 1934 (15 U.S.C. 78s) regarding applications by persons for whom the SEC is the appropriate regulatory agency for stays of disciplinary sanctions or summary suspensions imposed by registered clearing agencies (17 CFR 240.19d–2) apply to applications by national banks. References to the "Commission" are deemed to refer to the "OCC."

(b) *Reviews.* The regulations adopted by the SEC pursuant to section 19 of the Securities Exchange Act of 1934 (15 U.S.C. 78s) regarding applications by persons for whom the SEC is the appropriate regulatory agency for reviews of final disciplinary sanctions, denials of participation, or prohibitions or limitations of access to services imposed by registered clearing agencies (17 CFR 240.19d–3(a)–(f)) apply to applications by national banks. References to the "Commission" are deemed to refer to the "OCC."

Dated: December 23, 1996.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 96–32943 Filed 12–27–96; 8:45 am]

BILLING CODE 4810–33–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 367

RIN 3064–AB76

Suspension and Exclusion of Contractors and Termination of Contracts

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Board of Directors of the Federal Deposit Insurance Corporation (FDIC or Corporation) is adopting a final rule concerning suspension and exclusion of FDIC contractors and termination of contracts. The final rule is adopted pursuant to section 12(f) (4) and (5) of the Federal Deposit Insurance Act (FDI Act), and the rule-making authority of the FDIC found at section 9 of the Act. Additional provisions implementing these statutory directives appear in the FDIC's regulation as published in the **Federal Register** on June 6, 1996 governing contractor conflicts of interest and the requirements that FDIC contractors meet minimum standards of competence, experience, fitness and integrity. This final rule is a companion to the conflict of interest regulation in that it sets forth procedures for the suspension and/or exclusion of contractors that have violated the conflicts of interest regulations (and hence, fail to meet minimum standards of fitness and integrity), or have otherwise acted in a manner warranting such action. In addition to FDIC contractors, this final rule also applies to subcontractors, key employees, management officials and affiliated business entities of FDIC contractors (all such terms are defined herein), and is designed to inform such contractors regarding their rights to notice and an opportunity to be heard on FDIC suspension and exclusion actions. The final rule is identical to an interim final rule adopted by the FDIC and published as an interim final rule on July 5, 1996 (61 FR 35115) except for one minor clarifying change.

EFFECTIVE DATE: This final rule is effective December 30, 1996.

FOR FURTHER INFORMATION CONTACT: Peter A. Ziebert, Counsel, Legal Division, (202) 736–0742; or Richard M. Handy, Assistant Executive Secretary (Ethics), Office of the Executive Secretary, (202) 898–7271.

SUPPLEMENTARY INFORMATION:

I. Background

The final rule that is being adopted herein, to be codified at 12 CFR part 367, sets forth standards and procedures governing suspension and exclusion of FDIC contractors, which includes subcontractors, management officials, key employees and affiliated business entities of such contractors, for violations of 12 CFR part 366, the FDIC's contractor conflict of interest regulation. This final rule also provides for the termination of awarded contracts of FDIC contractors. For the most part, this rule is modeled after the suspension and exclusion regulation used by the Resolution Trust Corporation (RTC) until RTC sunset on December 31, 1995, which had been codified at 12 CFR part 1618. This rule also bears similarity to the suspension and debarment procedures utilized by other federal entities, which have been developed after extensive public comment and have withstood considerable judicial scrutiny. However, as discussed below, the rule departs in certain respects from the procedures used by other federal entities because the FDIC is not subject to the Federal Acquisition Regulation (FAR). The rule also revises the former RTC regulation in several ways as the FDIC now promulgates its own suspension and exclusion regulation.

Generally, this rule provides for more expedited and less formal procedures than are used by other federal agencies, while at the same time satisfying due process requirements regarding notice and an opportunity to be heard. These expedited procedures are necessary due to the urgent need to protect the FDIC and the public interest against further dissipation of assets now under FDIC control and previously under RTC control.

As noted above, FDIC has a statutory mandate to be vigilant in enforcing the highest ethical standards for its contractors. Accordingly, it is imperative that contractor suspension and exclusion proceedings be processed as expeditiously as possible consistent with due process requirements that affected contractors be afforded notice and an opportunity to be heard on such enforcement actions.

II. Summary of Comments

The FDIC did not receive any public comments to the interim final rule published on July 5, 1996.

III. The Final Rule

The FDIC has decided to adopt the interim final rule, without change, as a final regulation, except for one minor clarification. The interim final rule inadvertently failed to state that causes for exclusion are to be shown by an evidentiary standard of a "preponderance of the evidence". That term was defined at § 367.2(q) of the interim final rule, and appears at that section in the final rule. The clarification will thus make clear that the causes for exclusion set forth at § 367.6 are to be established by a preponderance of the evidence. This clarification will contrast with language, set forth in the interim final rule and included in this final rule, concerning the evidentiary standard to be used in suspension actions, i.e., suspensions may be imposed upon a showing of

"adequate evidence" of one of the enumerated causes for suspension (See § 367.8).

IV. Regulatory Flexibility Analysis

The Board of Directors has concluded that the final rule will not impose a significant economic hardship on small institutions. Therefore, the Board of Directors hereby certifies pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C. 605) that the final rule will not have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Therefore, the provisions of that Act relating to an initial and final regulatory flexibility analysis do not apply.

V. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is inapplicable to the final rule as it does not establish any new recordkeeping or collection of information requirement or amend any such existing requirement.

List of Subjects in 12 CFR Part 367

Administrative practice and procedure, Conflict of interests, Government contracts.

For the reasons set out in the preamble, the interim final rule adding 12 CFR part 367 which was published at 61 FR 35115 on July 5, 1996, is adopted as a final rule and revised to read as follows:

PART 367—SUSPENSION AND EXCLUSION OF CONTRACTOR AND TERMINATION OF CONTRACTS

Sec.

367.1 Authority, purpose, scope and application.
367.2 Definitions.
367.3 Appropriate officials.
367.4 [Reserved]
367.5 Exclusions.
367.6 Causes for exclusion.
367.7 Suspensions.
367.8 Causes for suspension.
367.9 Imputation of causes.
367.10–67.11 [Reserved]
367.12 Procedures.
367.13 Notices.
367.14 Responses.
367.15 Additional proceedings as to disputed material facts.
367.16 Ethics Counselor decisions.
367.17 Duration of suspensions and exclusions.
367.18 Abrogation of contracts.
367.19 Exceptions to suspensions and exclusions.
367.20 Review and reconsideration of Ethics Counselor decisions.

Authority: 12 U.S.C. 1822(f) (4) and (5).

§ 367.1 Authority, purpose, scope and application.

(a) *Authority.* This part is adopted pursuant to section 12(f) (4) and (5) of the Federal Deposit Insurance Act, 12 U.S.C. 1822(f) (4) and (5), and the rule-making authority of the Federal Deposit Insurance Corporation (FDIC) found at 12 U.S.C. 1819. Other regulations implementing these statutory directives appear at 12 CFR part 366.

(b) *Purpose.* This part is designed to inform contractors and subcontractors (including their affiliated business entities, key employees and management officials) regarding their rights to notice and an opportunity to be heard on FDIC actions involving suspension and exclusion from contracting and rescission of existing contracts. This part is in addition to, and not in lieu of, any other statute or regulation that may apply to such contractual activities.

(c) *Scope.* This part applies to:

(1) Contractors, other than attorneys or law firms providing legal services, submitting offers to provide services or entering into contracts to provide services to the FDIC acting in any capacity; and

(2) Subcontractors entering into contracts to perform services under a proposed or existing contract with the FDIC.

(d) *Application.* (1) This part will apply to entities that become contractors, as defined in § 367.2(f), on or after December 30, 1996. In addition, this part will apply to contractors as defined in § 367.2(f) that are performing contracts on December 30, 1996.

(2) This part will also apply to actions initiated on or after December 30, 1996 regardless of the date of the cause giving rise to the actions.

(3) Contracts entered into by the former Resolution Trust Corporation (RTC) that were transferred to the FDIC will be treated in the same manner as FDIC contracts under this part.

(4) RTC actions taken under the RTC regulations on or before December 31, 1995, will be honored as if taken by the FDIC. A contractor subject to an RTC exclusion or suspension will be precluded thereby from participation in the FDIC's contracting program unless that exclusion or suspension is modified or terminated under the provisions of this part.

§ 367.2 Definitions.

(a) *Adequate evidence* means information sufficient to support the reasonable belief that a particular act or omission has occurred.

(b) *Affiliated business entity* means a company that is under the control of the contractor, is in control of the contractor, or is under common control with the contractor.

(c) *Civil judgment* means a judgment of a civil offense or liability by any court of competent jurisdiction in the United States.

(d) *Company* means any corporation, firm, partnership, society, joint venture, business trust, association, consortium or similar organization.

(e) *Conflict of interest* means a situation in which:

(1) A contractor; any management officials or affiliated business entities of a contractor; or any employees, agents, or subcontractors of a contractor who will perform services under a proposed or existing contract with the FDIC:

(i) Has one or more personal, business, or financial interests or relationships which would cause a reasonable individual with knowledge of the relevant facts to question the integrity or impartiality of those who are or will be acting under a proposed or existing FDIC contract;

(ii) Is an adverse party to the FDIC, RTC, the former Federal Savings and Loan Insurance Corporation (FSLIC), or their successors in a lawsuit; or

(iii) Has ever been suspended, excluded, or debarred from contracting with a federal entity or has ever had a contract with the FDIC, RTC, FSLIC or their successors rescinded or terminated prior to the contract's completion and which rescission or termination involved issues of conflicts of interest or ethical responsibilities; or

(2) Any other facts exist which the FDIC, in its sole discretion, determines may, through performance of a proposed or existing FDIC contract, provide a contractor with an unfair competitive advantage which favors the interests of the contractor or any person with whom the contractor has or is likely to have a personal or business relationship.

(f) *Contractor* means a person or company which has submitted an offer to perform services for the FDIC or has a contractual arrangement with the FDIC to perform services. For purposes of this part, contractor also includes:

(1) A contractor's affiliated business entities, key employees, and management officials of the contractor;

(2) Any subcontractor performing services for the FDIC and the management officials and key employees of such subcontractors; and

(3) Any entity or organization seeking to perform services for the FDIC as a minority or woman-owned business (MWOB).

(g) *Contract(s)* means agreement(s) between FDIC and a contractor, including, but not limited to,

agreements identified as "Task Orders", for a contractor to provide services to FDIC. Contracts also mean contracts between a contractor and its subcontractor.

(h) *Control* means the power to vote, directly or indirectly, 25 percent or more of any class of the voting stock of a company; the ability to direct in any manner the election of a majority of a company's directors or trustees; or the ability to exercise a controlling influence over the company's management and policies. For purposes of this definition, a general partner of a limited partnership is presumed to be in control of that partnership.

(i) *Conviction* means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or plea, and includes pleas of nolo contendere.

(j) *FDIC* means the Federal Deposit Insurance Corporation acting in its receivership and corporate capacities, and FDIC officials or committees acting under delegated authority.

(k) *Indictment* shall include an information or other filing by a competent authority charging a criminal offense.

(l) *Key employee* means an individual who participates personally and substantially in the negotiation of, performance of, and/or monitoring for compliance under a contract with the FDIC. Such participation is made through, but is not limited to, decision, approval, disapproval, recommendation, or the rendering of advice under the contract.

(m) *Management official* means any shareholder, employee or partner who controls a company and any individual who directs the day-to-day operations of a company. With respect to a partnership, all partners are deemed to be management officials unless the partnership is governed by a management or executive committee with responsibility for the day-to-day operations. In partnerships with such committees, management official means only those partners who are a member of such a committee.

(n) *Material fact* means one that is necessary to determine the outcome of an issue or case and without which the case could not be supported.

(o) *Offer* means a proposal or other written or oral offer to provide services to FDIC.

(p) *Pattern or practice of defalcation regarding obligations* means two or more instances in which a loan or advance from an insured depository institution:

(1) Is in default for ninety (90) or more days as to payment of principal, interest, or a combination thereof, and there remains a legal obligation to pay an amount in excess of $50,000; or

(2) Where there has been a failure to comply with the terms of a loan or advance to such an extent that the collateral securing the loan or advance was foreclosed upon, resulting in a loss in excess of $50,000 to the insured depository institution.

(q) *Preponderance of the evidence* means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

(r) *Subcontractor* means an entity or organization that enters into a contract with an FDIC contractor or another subcontractor to perform services under a proposed or existing contract with the FDIC.

(s) *Substantial loss to federal deposit insurance funds* means:

(1) A loan or advance from an insured depository institution, which is currently owed to the FDIC, RTC, FSLIC or their successors, or the Bank Insurance Fund (BIF), the Savings Association Insurance Fund (SAIF), the FSLIC Reserve Fund (FRF), or funds that were maintained by the RTC for the benefit of insured depositors, that is or has ever been delinquent for ninety (90) or more days as to payment of principal, interest, or a combination thereof and on which there remains a legal obligation to pay an amount in excess of $50,000;

(2) An obligation to pay an outstanding, unsatisfied, final judgment in excess of $50,000 in favor of the FDIC, RTC, FSLIC, or their successors, or the BIF, the SAIF, the FRF or the funds that were maintained by the RTC for the benefit of insured depositors; or

(3) A loan or advance from an insured depository institution which is currently owed to the FDIC, RTC, FSLIC or their successors, or the BIF, the SAIF, the FRF or the funds that were maintained by the RTC for the benefit of insured depositors, where there has been a failure to comply with the terms to such an extent that the collateral securing the loan or advance was foreclosed upon, resulting in a loss in excess of $50,000.

§ 367.3 Appropriate officials.

(a) The *Ethics Counselor* is the Executive Secretary of the FDIC. The Ethics Counselor shall act as the official responsible for rendering suspension and exclusion decisions under this part. In addition to taking suspension and/or exclusion action under this part, the Ethics Counselor has authority to terminate exclusion and suspension proceedings. As used in this part, "Ethics Counselor" includes any official designated by the Ethics Counselor to act on the Ethics Counselor's behalf.

(b) The *Corporation Ethics Committee* is the Committee appointed by the Chairman of the FDIC, or Chairman's designee, which provides review of any suspension or exclusion decision rendered by the Ethics Counselor that is appealed by a contractor who has been suspended and/or excluded from FDIC contracting.

(c) Information concerning the possible existence of any cause for suspension or exclusion shall be reported to the Office of the Executive Secretary (Ethics Section). This part does not modify the responsibility to report allegations of fraud, waste and abuse, including but not limited to criminal violations, to the Office of Inspector General.

§ 367.4 [Reserved]

§ 367.5 Exclusions.

(a) The Ethics Counselor may exclude a contractor from the FDIC contracting program for any of the causes set forth in § 367.6, using procedures established in this part.

(b) Exclusion is a serious action to be imposed when there exists a preponderance of the evidence that a contractor has violated one or more of the causes set forth in § 367.6. Contractors excluded from FDIC contracting programs are prohibited from entering into any new contracts with FDIC for the duration of the period of exclusion as determined pursuant to this part. The FDIC shall not solicit offers from, award contracts to, extend or modify existing contracts, award task orders under existing contracts, or consent to subcontracts with such contractors. Excluded contractors are also prohibited from conducting business with FDIC as agents or representatives of other contractors. *Provided however,* that these limitations do not become effective upon the notification of the contractor that there is a possible cause to exclude under § 367.13. Rather, they become effective only upon the Ethics Counselor's decision to exclude the contractor pursuant to § 367.16. *Provided further,* that the causes for exclusion set forth in § 367.6(a)(1) through (4) reflect statutorily established mandatory bars to contracting with the FDIC.

(c) Except when one or more of the statutorily established mandatory bars to contracting are shown to exist, the existence of a cause for exclusion does not necessarily require that the contractor be excluded; the seriousness of the contractor's acts or omissions and

any mitigating or aggravating circumstances shall be considered in making any exclusion decision.

§ 367.6 Causes for exclusion.

The FDIC may exclude a contractor, in accordance with the procedures set forth in this part, upon a finding that:

(a) The contractor has been convicted of any felony;

(b) The contractor has been removed from, or prohibited from participating in the affairs of, any insured depository institution pursuant to any final enforcement action by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, or the FDIC or their successors;

(c) The contractor has demonstrated a pattern or practice of defalcation;

(d) The contractor has caused a substantial loss to Federal deposit insurance funds;

(e) The contractor has failed to disclose, pursuant to 12 CFR 366.6, a material fact to the FDIC;

(f) The contractor has failed to disclosed any material adverse change in the representations and certifications provided to FDIC under 12 CFR 366.6;

(g) The contractor has miscertified its status as a minority and/or woman owned business (MWOB);

(h) The contractor has a conflict of interest that was not waived by the Ethics Counselor or designee;

(i) The contractor has been subject to a final enforcement action by any federal financial institution regulatory agency, or has stipulated to such action;

(j) The contractor is debarred from participating in other federal programs;

(k) The contractor has been convicted of, or subject to a civil judgment for:

(1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, or conspiracy to do the same;

(2) Violation of federal or state antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging, or conspiracy to do the same;

(3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstructing of justice, or conspiracy to do the same;

(4) Commission of any other offense indicating a breach of trust, dishonesty or lack of integrity, or conspiracy to do the same;

(l) The contractor's performance under previous contract(s) with FDIC or RTC has resulted in:

(1) The FDIC or RTC declaring such contract(s) to be in default; or

(2) The termination of such contract(s) for poor performance; or

(3) A violation of the terms of a contract that would have resulted in a default or termination of the contract for poor performance if that violation had been discovered during the course of the contract; or

(m) The contractor has engaged in any conduct:

(1) Indicating a breach of trust, dishonesty, or lack of integrity that seriously and directly affects its ability to meet standards of present responsibility required of an FDIC contractor; or

(2) So serious or compelling in nature that it adversely affects the ability of a contractor to meet the minimum ethical standards required by 12 CFR part 366.

§ 367.7 Suspensions.

(a) The Ethics Counselor may suspend a contractor for any of the causes in § 367.8 using the procedures established in this section.

(b) Suspension is an action to be imposed when there exists adequate evidence of one or more of the causes set out in § 367.8. This includes, but is not limited to, situations where immediate action is necessary to protect the integrity of the FDIC contracting program and/or the security of FDIC assets during the pendency of legal or investigative proceedings initiated by FDIC, any federal agency or any law enforcement authority.

(c) The duration of any suspension action shall be for a temporary period pending the completion of an investigation and such other legal proceedings as may ensue.

(d) A suspension shall become effective immediately upon issuance of the notice specified in § 367.13(b).

(e) Contractors suspended from FDIC contracting programs are prohibited from entering into any new contracts with the FDIC for the duration of the period of suspension. The FDIC shall not solicit offers from, award contracts to, extend or modify existing contracts, award task orders under existing contracts, or consent to subcontracts with such contractors. Suspended contractors are also prohibited from conducting business with FDIC as agents or representatives of other contractors.

§ 367.8 Causes for suspension.

(a) Suspension may be imposed under the procedures set forth in this section upon adequate evidence:

(1) Of suspension by another federal agency;

(2) That a cause for exclusion under § 367.6 may exist;

(3) Of the commission of any other offense indicating a breach of trust, dishonesty, or lack of integrity that seriously and directly affects the minimum ethical standards required of an FDIC contractor; or

(4) Of any other cause so serious or compelling in nature that it adversely affects the ability of a contractor to meet the minimal ethical standards required by 12 CFR part 366.

(b) Indictment for any offense described in § 367.6 is adequate evidence to suspend a contractor.

(c) In assessing the adequacy of the evidence, FDIC will consider how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated and what inferences can reasonably be drawn as a result.

§ 367.9 Imputation of causes.

(a) Where there is cause to suspend and/or exclude any affiliated business entity of the contractor, that conduct may be imputed to the contractor if the conduct occurred in connection with the affiliated business entity's performance of duties for or on behalf of the contractor, or with the contractor's knowledge, approval, or acquiescence. The contractor's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

(b) Where there is cause to suspend and/or exclude any contractor, that conduct may be imputed to any affiliated business entity, key employee, or management official of a contractor who participated in, knew of or had reason to know of the contractor's conduct.

(c) Where there is cause to suspend and/or exclude a key employee or management official of a contractor, that cause may be imputed to the contractor if the conduct occurred in connection with the key employee or management official's performance of duties for or on behalf of the contractor, or with the contractor's knowledge, approval, or acquiescence. The contractor's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

(d) Where there is cause to suspend and/or exclude one contractor participating in a joint venture or similar arrangement, that cause may be imputed to other participating contractors if the conduct occurred for or on behalf of the joint venture or similar arrangement, or with the knowledge, approval, or acquiescence of these contractors. Acceptance of the

benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

(e) Where there is cause to suspend and/or exclude a subcontractor, that cause may be imputed to the contractor for which the subcontractor performed services, if the conduct occurred for or on behalf of the contractor and with the contractor's knowledge, approval, or acquiescence. Acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.

§ 367.10–367.11 [Reserved]

§ 367.12 Procedures.

(a) FDIC shall process suspension and exclusion actions as informally as practicable, consistent with its policy of providing contractors with adequate information on the grounds that give rise to the proposed action and affording contractors with a reasonable opportunity to respond.

(b) For purposes of determining filing dates for the pleadings required by this part, including responses, notices of appeal, appeals and requests for reconsideration, the provisions relating to the construction of time limits in 12 CFR 308.12 will control.

§ 367.13 Notices.

(a) *Exclusions.* Before excluding a contractor, the FDIC shall send it a written notice of possible cause to exclude. Such notice shall include:

(1) Notification that exclusion for a specified period of time is being considered based on the specified cause(s) in § 367.6 to be relied upon;

(2) Identification of the event(s), circumstance(s), or condition(s) that indicates that there is cause to believe a cause for exclusion exists, described in sufficient detail to put the contractor on notice of the conduct or transaction(s) upon which an exclusion proceeding is based;

(3) Notification that the contractor is not prohibited from contracting with the FDIC unless and until it is either suspended from FDIC contracting or the FDIC Ethics Counselor issues a decision excluding the contractor, *provided however,* in any case where the possible cause for exclusion would also be an impediment to the contractor's eligibility pursuant to 12 CFR part 366, the contractor's eligibility for any contract will be determined under that part; and

(4) Notification of the regulatory provisions governing the exclusion proceeding and the potential effect of a final exclusion decision.

(b) *Suspensions.* Before suspending a contractor, the FDIC shall send it notice, including:

(1) Notice that a suspension is being imposed based on specified causes in § 367.8;

(2) Identification of the event(s), circumstance(s), or condition(s) that indicate that there is adequate evidence to believe a cause for suspension exists, described in sufficient detail to put the contractor on notice of the basis for the suspension, recognizing that the conduct of ongoing investigations and legal proceedings, including criminal proceedings, place limitations on the evidence that can be released;

(3) Notification that the suspension prohibits the contractor from contracting with the FDIC for a temporary period, pending the completion of an investigation or other legal proceedings; and

(4) Notification of the regulatory provisions governing the suspension proceeding.

(c) *Service of notices.* Notices will be sent to the contractor by first class mail, postage prepaid. For purposes of compliance with this section, notice shall be considered to have been received by the contractor if the notice is properly mailed to the last known address of such contractor. Whenever practical, a copy of the notice will also be transmitted to the contractor by facsimile. In the event the notice is not sent by facsimile, a copy will be sent by an overnight delivery service such as Express Mail or a commercial equivalent.

§ 367.14 Responses.

(a) The contractor will have 15 days from the date of the notice within which to respond.

(b) The response shall be in writing and may include: information and argument in opposition to the proposed exclusion and/or suspension, including any additional specific information pertaining to the possible causes for exclusion; and information and argument in mitigation of the proposed period of exclusion.

(c) The response may request a meeting with an FDIC official identified in the notice to permit the contractor to discuss issues of fact or law relating to the suspension and/or proposed exclusion or to otherwise resolve the pending matters.

(1) Any such meetings between a contractor and FDIC shall take such form as the FDIC deems appropriate.

(2) In cases of suspensions, no meeting will be held where a representative of the Department of Justice has advised in writing that the substantial interests of the Government would be prejudiced by such a meeting and the Ethics Counselor determines that a suspension is based on the same facts as pending or contemplated legal proceedings referenced by the representative of the Department of Justice.

(d) Failure to respond to the notice shall be deemed an admission of the existence of the cause(s) for suspension and/or exclusion set forth in the notice and an acceptance of the period of exclusion proposed therein. In such circumstances, the FDIC may proceed to a final decision without further proceedings.

(e) Where a contractor has received more than one notice, the FDIC may consolidate the pending proceedings, including the scheduling of any meetings, in accordance with this section.

§ 367.15 Additional proceedings as to disputed material facts.

(a) In actions not based upon a conviction or civil judgment, if the Ethics Counselor finds that the contractor's submission raises a genuine dispute over facts material to the proposed suspension and/or exclusion, the contractor shall be afforded an opportunity to appear (with counsel, if desired), submit documentary evidence, present witnesses, and confront any witnesses the FDIC presents.

(b) The Ethics Counselor may refer disputed material facts to another official for analysis and recommendation.

(c) If requested, a transcribed record of any additional proceedings shall be made available at cost to the contractor.

§ 367.16 Ethics Counselor decisions.

(a) Standard of proof:

(1) An exclusion must be based on a finding that the cause(s) for exclusion is established by a preponderance of the evidence in the administrative record of the case; and

(2) A suspension must be based on a finding that the cause(s) for suspension is established by adequate evidence in the administrative record of the case.

(b) The administrative record consists of the portion of any information, reports, documents or other evidence identified and relied upon in the Notice of Possible Cause to Exclude, the Notice of Suspension and/or supplemental notices, if any, together with any material portions of the contractor's response. When additional proceedings are necessary to determine disputed material facts, the Ethics Counselor shall base the decision on the facts as found, together with any information

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and argument submitted by the contractor and any other information in the administrative record.

(c) In actions based upon a conviction, judgment, a final enforcement action by a federal financial institution regulatory agency, or in which all facts and circumstances material to the exclusion action have been finally adjudicated in another forum, the Ethics Counselor may exclude a contractor without regard to the procedures set out in §§ 367.13 and 367.14. Any such decisions will be subject to the review and reconsideration provisions of § 367.20.

(d) *Notice of decisions.* Contractors shall be given prompt notice of the Ethics Counselor's decision in the manner described in § 367.13(c). If the Ethics Counselor suspends a contractor or imposes a period of exclusion, the decision shall:

(1) Set forth the cause(s) for suspension and/or exclusion included in the notice that were found by a preponderance of the evidence with reference to the administrative record support for that finding;

(2) Set forth the effect of the exclusion action and the effective dates of that action;

(3) Refer the contractor to its procedural rights of review and reconsideration under § 367.20; and

(4) Inform the contractor that a copy of the exclusion decision shall be placed in the FDIC Public Reading Room.

(e) If the FDIC Ethics Counselor decides that a period of exclusion is not warranted, the Notice of Possible Cause to Exclude may be withdrawn or the proceeding may be otherwise terminated. A decision to terminate an exclusion proceeding may include the imposition of appropriate conditions on the contractor in their future dealings with the FDIC.

§ 367.17 Duration of suspensions and exclusions.

(a) *Suspensions.* (1) Suspensions shall be for a temporary period pending the completion of an investigation or other legal or exclusion proceedings.

(2) If legal or administrative proceedings are not initiated within 12 months after the date of the suspension notice, the suspension shall be terminated unless a representative of the Department of Justice requests its extension in writing. In such cases, the suspension may be extended for an additional six months. In no event may a suspension be imposed for more than 18 months, unless such proceedings have been initiated within that period.

(3) FDIC shall notify the Department of Justice of an impending termination of a suspension at least 30 days before the 12-month period expires to give the Department of Justice an opportunity to request an extension.

(4) The time limitations for suspension in this section may be waived by the affected contractor.

(b) *Exclusions.* (1) Exclusions shall be for a period commensurate with the seriousness of the cause(s) after due consideration of mitigating evidence presented by the contractor.

(2) If a suspension precedes an exclusion, the suspension period shall be considered in determining the exclusion period.

(3) Exclusion for causes other than the mandatory bars in 12 CFR 366.4(a) generally should not exceed three years, but where circumstances warrant, a longer period of exclusion may be imposed.

(4) The Ethics Counselor may extend an existing exclusion for an additional period if the Ethics Counselor determines that an extension is necessary to protect the integrity of the FDIC contracting program and the public interest. However, an exclusion may not be extended solely on the basis of the facts and circumstances upon which the initial exclusion action was based. The standards and procedures in this part shall be applied in any proceeding to extend an exclusion.

§ 367.18 Abrogation of contracts.

(a) The FDIC may, in its discretion, rescind or terminate any contract in existence at the time a contractor is suspended or excluded.

(b) Any contract not rescinded or terminated shall continue in force in accordance with the terms thereof.

(c) The right to rescind or terminate a contract in existence is cumulative and in addition to any other remedies or rights the FDIC may have under the terms of the contract, at law, or otherwise.

§ 367.19 Exceptions to suspensions and exclusions.

(a) Exceptions to the effects of suspensions and exclusions may be available in unique circumstances, where there are compelling reasons to utilize a particular contractor for a specific task. Requests for such exceptions may be submitted only by the FDIC program office requesting the contract services.

(b) In the case of the modification or extension of an existing contract, the Ethics Counselor may except such a contracting action from the effects of suspension and/or exclusion upon a determination, in writing, that a compelling reason exists for utilization of the contractor in the particular instance. The Ethics Counselor's authority under this section shall not be delegated to any lower official.

(c) In the case of new contracts, the Corporation Ethics Committee may except a particular new contract from the effects of suspension and/or exclusion upon a determination in writing that a compelling reason exists for utilization of the contractor in the particular instance.

§ 367.20 Review and reconsideration of Ethics Counselor decisions.

(a) *Review.* (1) A suspended and/or excluded contractor may appeal the exclusion decision to the Corporation Ethics Committee.

(2) In order to avail itself of the right to appeal, a suspended and/or excluded contractor must file a written notice of intent to appeal within 5 days of the Ethics Counselor's decision.

(3) The appeal shall be filed in writing within 30 days of the decision.

(4) The Corporation Ethics Committee, at its discretion and after determining that it is in the best interests of the FDIC, may stay the effect of the suspension and/or exclusion pending conclusion of its review of the matter.

(b) *Reconsideration.* (1) A suspended and/or excluded contractor may submit a request to the Ethics Counselor to reconsider the suspension and/or exclusion decision, reduce the period of exclusion or terminate the suspension and/or exclusion.

(2) Such requests shall be in writing and supported by documentation that the requested action is justified by:

(i) Reversal of the conviction or civil judgment upon which the suspension and/or exclusion was based;

(ii) Newly discovered material evidence;

(iii) Bona fide change in ownership or management;

(iv) Elimination of other causes for which the suspension and/or exclusion was imposed; or

(v) Other reasons the FDIC Ethics Counselor deems appropriate.

(3) A request for reconsideration based on the reversal of the conviction or civil judgment may be filed at any time.

(4) Requests for reconsideration based on other grounds may only be filed during the period commencing 60 days after the Ethics Counselor's decision imposing the suspension and/or exclusion. Only one such request may be filed in any twelve month period.

(5) The Ethics Counselor's decision on a request for reconsideration is subject to the review procedure set forth in paragraph (a) of this section.

By order of the Board of Directors.

Dated at Washington, DC, this 11th day of December, 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–32281 Filed 12–27–96; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–265–AD; Amendment 39–9851; AD 96–25–08]

RIN 2120–AA64

Airworthiness Directives; de Havilland Model DHC–7 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all de Havilland Model DHC–7 series airplanes, that requires performing a review of the airplane maintenance records to determine if any insulation blankets have been repaired or changed during service, and various follow-on actions, if necessary. This amendment is prompted by reports of corrosion forming on areas of the airplane structure where black film thermal insulation blankets are used. The actions specified by this AD are intended to prevent such corrosion, which could result in degradation of the structural capability of the airplane fuselage and consequent sudden loss of cabin pressure.

DATES: Effective February 3, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 3, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sol Maroof, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7522; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all de Havilland Model DHC–7 series airplanes was published in the **Federal Register** on September 30, 1996 (61 FR 51062). That action proposed to require performing a review of the airplane maintenance records to determine if any insulation blankets have been repaired or changed during service, and various follow-on actions, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 50 de Havilland Model DHC–7 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $3,000, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–25–08 De Havilland, Inc.: Amendment 39–9851. Docket 95–NM–265–AD.

Applicability: All Model DHC–7 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent degradation of the structural capability of the fuselage and sudden loss of cabin pressure, accomplish the following:

(a) Within six months after the effective date of this AD, perform a review of the airplane maintenance records to determine if any insulation blankets have been repaired or changed during service, in accordance with

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de Havilland Service Bulletin S.B. 7–21–30, dated July 6, 1994.

(b) If no insulation blanket has been repaired or changed, no further action is required by this AD.

(c) If any insulation blanket has been repaired or changed, prior to further flight, perform a visual inspection to detect black film insulation of the air conditioning system, in accordance with de Havilland Service Bulletin S.B. 7–21–30, dated July 6, 1994.

(1) If no black film insulation is detected, prior to further flight, perform a review of the airplane modification records to determine if any kit listed in "Table 1—Modification List" has been installed, in accordance with the service bulletin.

(i) If no kit listed in "Table 1–Modification List" is found to be installed, no further action is required by this AD.

(ii) If any kit listed in "Table 1–Modification List" is found to be installed, prior to further flight, perform the various follow-on actions in accordance with the service bulletin. (The follow-on actions include an inspection to detect black film insulation, removal of any black film insulation, an inspection to detect corrosion, repair of corroded structure, and installation of new silver blankets.) However, in lieu of repairing corroded structure in accordance with service bulletin, the repair of any corrosion shall be done in accordance with a method approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate.

(2) If any black film insulation is detected, prior to further flight, perform the follow-on actions in accordance with the service bulletin. (The follow-on actions include removal of any black film insulation, an inspection to detect corrosion, repair of any corroded structure, and installation of new silver blankets.) However, in lieu of repairing corroded structure in accordance with service bulletin, the repair of any corrosion shall be done in accordance with a method approved by the Manager, New York ACO.

(d) As of the effective date of this AD, no person shall install black Orcon film insulation, part number AN46B/AN36B, on any airplane.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York ACO, FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The actions shall be done in accordance with de Havilland Service Bulletin S.B. 7–21–30, dated July 6, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on February 3, 1997.

Issued in Renton, Washington, on December 5, 1996.

S. R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–31525 Filed 12–27–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 96–NM–23–AD; Amendment 39–9860; AD 96–25–17]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737–300, –400, and –500 series airplanes, that requires inspections to detect bent or damaged tie links and washers of the elevator feel and centering unit, and replacement of the centering unit with a new or serviceable unit, if necessary. This amendment also provides an optional replacement of the centering unit, which, if accomplished with the installation of supports and a stop bolt, constitutes terminating action for the repetitive inspections. This amendment is prompted by a report of high control column forces that occurred during takeoff and landing. The actions specified by this AD are intended to prevent such high forces, which could result in restriction of elevator control during takeoff, climbout, and landing.

DATES: Effective February 3, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 3, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Kristin Larson, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–1760; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 737–300, –400, and –500 series airplanes was published in the **Federal Register** on June 26, 1996 (61 FR 33049). That action proposed to require repetitive visual inspections to detect bent or damaged tie links of the elevator centering unit, and replacement of the elevator centering unit with a new or serviceable unit, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

One commenter supports the rule.

Request to Extend the Initial Inspection Compliance Time

Several commenters request that the proposed compliance time of 6 months for the initial inspection be extended to at least 12 or 15 months. The commenters express concern that there may be a shortage of available tie link units to use as replacement units since the proposed rule would require replacement of damaged tie links with new or serviceable parts prior to further flight.

The FAA does not concur with the commenters' request to extend the compliance time. Replacement of the feel and centering unit prior to further flight is required only if the tie links have damage that exceeds the limits as specified in Boeing Alert Service Bulletin 737–27A1194. The manufacturer specifically devised the inspection plan described in the service bulletin to address the concern of the availability of an ample number of replacement tie link units. Damage found to be within the service bulletin's specified limits requires certain repetitive inspections until the elevator

feel and centering unit can be serviced or replaced. This is intended to allow relief for the operators if a spare feel and centering unit is not readily available. In developing an appropriate compliance time for this proposal, the FAA considered the safety implications and the parts availability, and finds no basis to extend the 6-month compliance time. However, paragraph (f) of the final rule does provide affected operators the opportunity to request an adjustment of the compliance time if data are presented to justify such an extension.

Request to Revise Inspection Times and Mandate the Terminating Action

Another commenter requests that:

1. The compliance time for the initial inspection be extended to 12 months,
2. Repetitive inspections be required every 12 months thereafter, and
3. "the modification" specified in Boeing Alert Service Bulletin 737–27A1194 should be required to be installed within 2 years.

This commenter states that changing the elevator feel and centering unit is labor-intensive and would require at least 8 hours to accomplish. However, this commenter offered no data or technical basis for revising the compliance times or for mandating the terminating action provided in paragraph (e) of the proposed rule.

As for the commenter's request to extend the compliance time to extend the compliance time of the initial and repetitive inspections, the FAA does not concur. As previously explained, the FAA considered the safety implications, parts availability, and maintenance schedules when developing the compliance time. The commenter has offered no new technical data that would indicate a need to revise the compliance times. However, paragraph (f) of the final rule does provide affected operators the opportunity to request an adjustment of the compliance time if data are presented to justify such an extension.

As for the commenter's request to mandate "the modification," the FAA infers that the modification the commenter is referring to is that of the feel and centering unit. (The referenced Boeing alert service bulletin actually describes two different modifications: modification of the supports and stop-bolt, and modification of the feel and centering unit.) The FAA does not concur with this request. The commenter offered no data to justify a compliance time of 2 years for mandating the installation of this modification. The FAA considers that, by providing the modification as an optional terminating action for this AD, prudent operators may accomplish that action at a time of their own discretion. Additionally, the optional terminating action does not preclude any operator from installing the modification before an arbitrary 2-year period, as suggested by the commenter. Further, the FAA finds that the required inspections, and replacement action as necessary, are both adequate and appropriate in addressing the subject damage associated with the elevator feel and centering unit.

Request to Extend the Repetitive Inspection Interval

Two commenters state that, when the stop bolt and support are installed, they will prevent excessive travel of the elevator feel actuator and preclude further damage to the tie links. Therefore, one of these commenters requests that, once the stop bolt and support are installed, the repetitive inspection intervals be extended from those intervals specified in proposed paragraph (c) (and specified in Figure 1 of Boeing Alert Service Bulletin 737–27A1194). This commenter, an operator, proposes that the inspection intervals be increased to coincide with the current maintenance schedules established for its fleet of airplanes.

The FAA does not concur. The commenter provided no substantiating evidence to justify extending the repetitive inspection intervals; and the FAA does not consider it appropriate to revise provisions in an AD to accommodate a single operator's maintenance schedule. The FAA has determined that the repetitive inspection interval described in Boeing Alert Service Bulletin 737–27A1194 (the appropriate service information for this AD) will ensure that any damage to the tie links is identified and corrected in a timely manner. However, paragraph (f) of the final rule does provide affected operators the opportunity to request an adjustment of the compliance time if data are presented to justify such an extension.

Request to Clarify Damage Limits

One commenter, the manufacturer, states that the phrase "* * * and damage is within limits specified in Figure 1 * * *", as used in paragraphs (c) and (d) of the proposal is confusing. The manufacturer notes that Figure 1 of Boeing Alert Service Bulletin 737–27A1194, which is referenced as the appropriate source of service information in the proposal, has two action paths: One path depicts actions to follow if damage is within acceptable limits (which starts an inspection program); the other path depicts actions to follow if damage is outside the acceptable limits (which specifies replacement of the unit). The manufacturer requests that the phrase be clarified to read "* * * and damage is within acceptable limits as specified in Figure 1 * * *".

The FAA concurs and has revised paragraphs (c) and (d) of the AD accordingly.

Request to Clarify the Unsafe Condition

The manufacturer also suggests that the wording, "Since an unsafe condition has been identified that is likely to exist or develop * * *.", which appeared in the preamble to the notice, be changed. The manufacturer requests that this language be revised to specify that a "possible unsafe condition" has been identified. The manufacturer states that this change of wording is warranted, since the worst scenario that has been identified is "high control column forces" and, even in that situation, an airplane still would be controllable.

The FAA does not concur with the commenter's suggestion. First, all unsafe conditions are "possible" events that "could occur." In fact, they are described in the regulations as conditions that are "likely to exist or develop" in aircraft. Second, as for this specific AD, in the event that the tie links were to become bent, it could lead to the elevator control forces being higher than normal, thus restricting the elevator control. This would be especially noticeable when larger elevator inputs are necessary, such as during takeoff, climb, and landing. The FAA considers this restriction of elevator control during these critical flight regimes to be an unsafe condition. (Further, since that language is not repeated in this final rule, no change is necessary.)

Request to Refer to Terminating Action

The manufacturer requests that reference to "see paragraph (e) for terminating action" be added to paragraph (c)(2) of the proposed rule.

The FAA does not concur. The FAA finds that it is unnecessary to reference paragraph (e) for operators who may be required to accomplish paragraph (c)(2) of the AD, since the terminating action specified in paragraph (e) of this AD is not a required terminating action.

Request to Change the Date of the Referenced Alert Service Bulletin

Additionally, the manufacturer requests that the release date of Boeing Alert Service Bulletin 737–27A1194 be changed from February 1, 1996, as specified in the proposed rule, to the actual release date of February 8, 1996.

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The FAA concurs. The FAA notes that the subject alert service bulletin dated February 1, 1996, has been replaced with the February 8, 1996, version. The FAA has revised the final rule accordingly.

Additional Sources of Service Information

Since the issuance of the proposed rule, the FAA has reviewed and approved Boeing Notices of Status Change (NSC) 737–27A1194 NSC 01, dated March 7, 1996, and 737–27A1194 NSC 02, dated April 4, 1996; and Boeing Alert Service Bulletin 737–27A1194, Revision 1, dated September 26, 1996. The NSC's and service bulletin revision provide further clarification of the inspection and modification procedures required by this AD. Therefore, the FAA has revised the AD to cite those documents as additional sources of service information.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 1,818 Boeing Model 737–300, –400, and –500 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 684 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $140 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $218,880, or $320 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–25–17 Boeing: Amendment 39–9860. Docket 96–NM–23–AD.

Applicability: Model 737–300, –400 and –500 series airplanes through line position 2764, inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent restriction of elevator control during takeoff, climbout, and landing, due to higher than normal elevator control forces caused by damaged tie links in the elevator centering unit, accomplish the following:

(a) Within 6 months after the effective date of this AD: Perform a visual inspection to detect any bent or damaged tie links of the elevator feel and centering unit, in accordance with Boeing Alert Service Bulletin 737–27A1194, dated February 8, 1996, as revised by Boeing Notice of Status Change 737–27A1194 NSC 01, dated March 7, 1996, and Boeing Notice of Status Change 737–27A1194 NSC 02, dated April 4, 1996; or Boeing Alert Service Bulletin 737–27A1194, Revision 1, dated September 26, 1996.

(b) If no tie link is found to be broken, bent, or damaged during the inspection required by paragraph (a) of this AD: Accomplish either paragraph (b)(1) or (b)(2) of this AD, in accordance with Boeing Alert Service Bulletin 737–27A1194, dated February 8, 1996, as revised by Boeing Notice of Status Change 737–27A1194 NSC 01, dated March 7, 1996, and Boeing Notice of Status Change 737–27A1194 NSC 02, dated April 4, 1996; or Boeing Alert Service Bulletin 737–27A1194, Revision 1, dated September 26, 1996.

(1) Prior to further flight, install supports and a stop-bolt on the elevator centering unit. Once this installation is accomplished, no further action is required by this AD. Or

(2) Repeat the inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 1,000 flight cycles. Installation of supports and a stop-bolt in accordance with the alert service bulletin, constitutes terminating action for the repetitive inspections required by this AD, provided that no damage is detected during any inspection required by paragraph (a) of this AD.

(c) If any tie link is found to be bent or damaged during the inspection required by paragraph (a) of this AD, and damage is within acceptable limits as specified in Figure 1 of Boeing Alert Service Bulletin 737–27A1194, dated February 8, 1996, Boeing Notice of Status Change 737–27A1194 NSC 01, dated March 7, 1996, and Boeing Notice of Status Change 737–27A1194 NSC 02, dated April 4, 1996; or as specified in Boeing Alert Service Bulletin 737–27A1194, Revision 1, dated September 26, 1996: Accomplish paragraphs (c)(1) and (c)(2) of this AD in accordance with the alert service bulletin:

(1) Repeat the inspection required by paragraph (a) of this AD thereafter at intervals not to exceed those specified in Figure 1 of the alert service bulletin. And

(2) Within 6 months after the effective date of this AD, install supports and a stop-bolt on the elevator centering unit. This installation does not terminate the repetitive inspection requirements of this paragraph.

(d) If any tie link is found to be bent or damaged during any inspection required by this AD, and the damage is beyond the acceptable limits as specified in Figure 1 of Boeing Alert Service Bulletin 737–27A1194, dated February 8, 1996, Boeing Notice of Status Change 737–27A1194 NSC 01, dated

March 7, 1996, and Boeing Notice of Status Change 737–27A1194 NSC 02, dated April 4, 1996; or Boeing Alert Service Bulletin 737–27A1194, Revision 1, dated September 26, 1996: Prior to further flight, replace the elevator centering unit with a new or serviceable unit and accomplish either paragraph (d)(1) or (d)(2) of this AD in accordance with the alert service bulletin:

(1) Install supports and a stop-bolt on the elevator centering unit; or

(2) Repeat the inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 1,000 flight cycles until the installation specified in paragraph (d)(1) of this AD is accomplished.

(e) Replacement of the elevator centering unit with a unit in which the tie links have been inspected and determined to be acceptable and in which supports and a stop-bolt have been installed, in accordance with Boeing Alert Service Bulletin 737–27A1194, dated February 8, 1996, as revised by Boeing Notice of Status Change 737–27A1194 NSC 01, dated March 7, 1996, and Boeing Notice of Status Change 737–27A1194 NSC 02, dated April 4, 1996; or Boeing Alert Service Bulletin 737–27A1194, Revision 1, dated September 26, 1996, constitutes terminating action for the requirements of this AD.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(h) The actions shall be done in accordance with Boeing Alert Service Bulletin 737–27A1194, dated February 8, 1996, as revised by Boeing Notice of Status Change 737–27A1194 NSC 01, dated March 7, 1996, and Boeing Notice of Status Change 737–27A1194 NSC 02, dated April 4, 1996; or in accordance with Boeing Alert Service Bulletin 737–27A1194, Revision 1, dated September 26, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on February 3, 1997.

Issued in Renton, Washington, on December 11, 1996.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–32053 Filed 12–27–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–257–AD; Amendment 39–9859; AD 96–25–16]

RIN 2120–AA64

Airworthiness Directives; de Havilland Model DHC–7 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain de Havilland Model DHC–7 series airplanes, that requires modification of the power control relay installation of the emergency lights. This amendment also requires revising the FAA-approved Airplane Flight Manual to include procedures for turning off and on the emergency lights switch in certain conditions. This amendment is prompted by a report that the emergency lights do not automatically illuminate when all generated electrical power on the airplane is lost and the power to the left essential bus is maintained from the aircraft batteries. The actions specified by this AD are intended to ensure that the emergency lights illuminate when needed in an emergency situation.

DATES: Effective February 3, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of February 3, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Wing Chan, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York; telephone (516) 256–7511; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain de Havilland Model DHC–7 series airplanes was published in the **Federal Register** on September 11, 1996 (61 FR 47834). That action proposed to require modification of the power control relay installation of the emergency lights. Following accomplishment of the proposed modification, that action also proposed to require revising the Limitations Section of the FAA-approved Airplane Flight Manual to include procedures for turning off and on the emergency lights switch.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 47 de Havilland Model DHC–7 series airplanes of U.S. registry will be affected by this AD.

It will take approximately 4 work hours per airplane to accomplish the required modification, at an average labor rate of $60 per work hour. Required parts will cost approximately $2,713 per airplane. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be $138,791, or $2,953 per airplane.

It will take approximately 1 work hour per airplane to accomplish the required AFM revision, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the AFM revision required by this AD on U.S. operators is estimated to be $2,820, or $60 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–25–16 De Havilland, Inc.: Amendment 39–9859. Docket 95–NM–257–AD.

Applicability: Model DHC–7 series airplanes, serial numbers 003 through 113 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure that the emergency lights illuminate when needed in an emergency situation, accomplish the following:

(a) Within 6 months after the effective date of this AD, modify the power control relay installation of the emergency lights, in accordance with de Havilland Service Bulletin S.B. 7–33–23, Revision 'A', dated October 20, 1995.

(b) Following accomplishment of paragraph (a) of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) by inserting a copy of de Havilland Dash 7 Flight Manual PSM 1–71A–1A, Revision 39, dated August 22, 1994, into the AFM.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The modification shall be done in accordance with de Havilland Service Bulletin S.B. 7–33–23, Revision 'A', dated October 20, 1995. The AFM revision shall be done in accordance with de Havilland Dash 7 Flight Manual PSM 1–71A–1A, Revision 39, dated August 22, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on February 3, 1997.

Issued in Renton, Washington, on December 11, 1996.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–32052 Filed 12–27–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–ANE–47; Amendment 39–9854; AD 96–25–11]

RIN 2120–AA64

Airworthiness Directives; CFM International Model CFM56–3C–1 and CFM56–3B–2 Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all CFM International (CFMI) CFM56–3C–1 and certain CFM56–3B–2 engines, that currently requires the removal from service of certain fan disk and fan blade hardware, and limits the use of CFM56–3C–1 thrust levels. This amendment requires removal of additional fan blade hardware, requires an Airplane Flight Manual (AFM) revision to impose thrust level limitations for airplanes equipped with affected engines, and requires the installation of redesigned fan blades as a terminating action to the thrust level limitations of this AD. The existing AD requirements for certain CFM56–3B–2 engines are unchanged and carried over into this final rule AD. This amendment is prompted by the availability of redesigned fan blades that are not subject to the thrust level limitations, and the need to clarify the AD requirements by deleting references to specific AFMs. The actions specified by this AD are intended to prevent a fan blade failure that can result in complete loss of engine power.

DATES: Effective January 29, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of January 29, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplanes, Publications Department, P.O. Box 3707, Seattle, WA 98124–2207; telephone (206) 544–9058, fax (206) 544–9178; and CFM International, Technical Publications Department, 1 Neumann Way, Cincinnati, OH 45215; telephone (513) 552–2981, fax (513) 552–2816. This information may be

examined at the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA 01803–5299; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Glorianne Messemer, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7132, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 89–13–51, Amendment 39–6425 (55 FR 1401, January 16, 1990), which is applicable to all CFM International (CFMI) CFM56–3C–1 and certain CFM56–3B–2 model turbofan engines, was published in the **Federal Register** on October 16, 1995 (60 FR 53550). That action proposed to require removal of additional fan blade hardware, thrust level limitations for airplanes equipped with affected engines, and the installation of redesigned fan blades as a terminating action to the thrust level limitations of this AD. The existing AD requirements for certain CFM56–3B–2 engines are unchanged and carried over into this final rule AD. The actions are required to be accomplished in accordance with Boeing Service Bulletin (SB) No. 737–71–1203, Revision 10, dated July 21, 1994, and CFMI CFM56–3/–3B/–3C SB No. 72–543, Revision 4, dated July 29, 1992.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter states that incorrect fan blade part numbers, 7M99P08, 9527M99P09, 9527M99P10, 9527M99P11, and 1285M39P01 were added to compliance paragraph (c). The FAA concurs and has revised this final rule accordingly.

Two comments support the rule as proposed.

Although no comments were received regarding the compliance end-date noted in compliance paragraph (c), the FAA has replaced June 30, 1996, with August 30, 1997, based on the anticipated effective date of this AD.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 289 CFMI CFM56–3C–1 and CFM56–3B–2 series engines of the affected design in the worldwide fleet. The FAA has been advised by the manufacturer that there are no engines on U.S. registered aircraft that are affected by this AD. Therefore, there is no associated cost impact on U.S. operators as a result of this AD.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–6425 (55 FR 1401, January 16, 1990) and by adding a new airworthiness directive, Amendment 39–9854, to read as follows:

96–25–11 CFM International: Amendment 39–9854. Docket 95–ANE–47. Supersedes AD 89–13–51, Amendment 39–6425.

Applicability: CFM International (CFMI) CFM56–3B–2 and CFM56–3C–1 model turbofan engines installed on, but not limited to Boeing 737 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fan blade failure that may result in complete loss of power, accomplish the following:

(a) For CFM56–3C–1 model turbofan engines:

(1) Prior to further flight, remove from service stage 1 fan disk Part Number (P/N) 335–014–511–0 that have operated at unrestricted CFM56–3C–1 thrust levels with fan blade P/N's 9527M99P08, 9527M99P09, 9527M99P10, 9527M99P11, or 1285M39P01 and replace with a serviceable fan disk.

(2) Prior to further flight, remove from service stage 1 fan blade P/N's 9527M99P08, 9527M99P09, 9527M99P10, 9527M99P11, and 1285M39P01 that have operated at unrestricted CFM56–3C–1 thrust levels and replace with a serviceable fan blade.

(b) For CFM56–3C–1 model turbofan engines equipped with fan blade P/N's 9527M99P08, 9527M99P09, 9527M99P10, 9527M99P11, or 1285M39P01:

(1) Prior to further flight, for aircraft that have not already complied with any of the revision levels 3 through 10 of Boeing Service Bulletin (SB) No. 737–71–1203, incorporate the provisions of Boeing SB No. 737–71–1203, Revision 10, dated July 21, 1994, as described in item III titled, "Accomplishment Instructions", part V, "Airplane Wiring Modification for Operation at 22,000 Pounds Thrust Levels with two CFM56–3C–1 Engines Installed."

(2) Prior to further flight, revise the engine limitations section of the Boeing 737–400 series Airplane Flight Manuals (AFM) by adding the operational restrictions contained in Appendix I. This may be accomplished by inserting a copy of Appendix I of this AD in the AFM.

(3) Operate engines at or below CFM56–3B–2 thrust levels, or in accordance with the limitations contained in Appendix I of this AD.

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Appendix I—Operational Restrictions Referenced in Paragraphs (b)(2) and (b)(3)

(a) Use of fan speed (N1) values for take-off and maximum continuous thrust levels at CFM56–3C–1 (23.5K) thrust levels are restricted.

(b) The following limitations must be observed for all CFM56–3C–1 (23.5K) operations:

(1) Airport pressure altitude must be 2,500 feet or less for take-off.

(2) The auto-throttle must be *OFF* and the thrust must be set manually for take-off.

(3) Both power management controls (PMCs) must be operative for airplane dispatch.

(4) Maximum take-off thrust for CFM56–3C–1 (23.5K) rating must *not* be used above 5,000 feet pressure altitude, or the 5-minute time limit, whichever occurs first.

(5) Maximum continuous or maximum climb thrust for CFM56–3C–1 (23.5K) rating must *not* be used above 10,000 feet pressure altitude.

(6) LANDING:

(i) For landing at destination airport or for less than maximum landing weight the CFM56–3B–2 (22K) go-around rating should be used.

(ii) Go-around at CFM56–3C–1 (23.5K) rating should be used when returning to departure airport or diverting in an emergency situation providing airport pressure altitude is 2,500 feet or less and the landing weight is greater than maximum landing weight.

End of Appendix I

(c) For CFM56–3C–1 model turbofan engines equipped with fan blade P/N's 9527M99P08, 9527M99P09, 9527M99P10, 9527M99P11, or 1285M39P01, install fan blade P/N's 1590M21P01, 1663M24P01, 1663M24P02, 1663M24P03, 1663M24P04, or 1663M24P05 in accordance with CFMI CFM56–3/–3B/–3C SB No. 72–543, Revision 4, dated July 29, 1992, prior to August 30, 1997. The installation of new fan blades in accordance with this paragraph constitutes terminating action to the thrust level limitations required by paragraph (b) of this AD.

(d) For CFM56–3B–2 model turbofan engines, Serial Number (S/N) 725101, 725102, 725103, 725104, 725105, 725107, 725108, 725141, and 725142:

(1) Prior to further flight, remove from service stage 1 fan disk P/N 335–014–511–0 that have operated at unrestricted CFM56–3C–1 thrust levels with fan blade P/N's 9527M99P08, 9527M99P09, 9527M99P10, 9527M99P11, or 1285M39P01 and replace with a serviceable fan disk.

(2) Prior to further flight, remove from service stage 1 fan blade P/N's 9527M99P08, 9527M99P09, 9257M99P10, 9257M99P11, and 1285M39P01 that have operated at unrestricted CFM56–3C–1 thrust levels and replace with a serviceable fan blade.

Note 2: Ground running for maintenance purposes should be conducted in accordance with CFM56–3B–2 rating limitations.

(e) Fan disk removal, fan blade removal, and airplane wiring modifications done in accordance with AD 89–13–51 satisfies the corresponding requirements of paragraphs (a), (b), and (d) of this AD.

(f) For the purpose of this AD, unrestricted CFM56–3C–1 thrust levels include operation at *either* of the following:

(1) More than CFM56–3B–2 maximum take-off thrust above 5,000 feet pressure altitude.

(2) More than CFM56–3B–2 maximum continuous or maximum climb thrust above 10,000 feet pressure altitude.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 3: Information concerning the existence of approved alternative method of compliance with this AD, if any, may be obtained from the Engine Certification Office.

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(i) The actions required by this AD shall be done in accordance with the following SBs:

Document No.	Pages	Revision	Date
Boeing SB No. 737–71–1203 ..... Total pages: 35.	1–35	10	July 21, 1994.
CFMI: CFM56–3/–3B/–3C. SB No. 72–543 ..... Total pages: 26.	1–26	4	July 29, 1992

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplanes, Publications Department, P.O. Box 3707, Seattle, WA 98124–2207; telephone (206) 544–9058, fax (206) 544–9178; and CFM International, Technical Publications Department, 1 Neumann Way, Cincinnati, OH 45215; telephone (513) 552–2981, fax (513) 552–2816. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(j) This amendment becomes effective on January 29, 1997.

Issued in Burlington, Massachusetts, on December 4, 1996.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 96–32435 Filed 12–27–96; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 730, 732, 734, 736, 738, 740, 742, 744, 748, 750, 768, 772, and 774

[Docket No. 960918265–6366–03]

RIN 0694–AB09

Encryption Items Transferred From the U.S. Munitions List to the Commerce Control List

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule.

SUMMARY: This interim rule amends the Export Administration Regulations (EAR) by exercising jurisdiction over, and imposing new combined national security and foreign policy controls on, certain encryption items that were on the United States Munitions List,

consistent with Executive Order 13026 and pursuant to the Presidential Memorandum of that date, both issued by President Clinton on November 15, 1996.

On October 1, 1996, the Administration announced a plan to make it easier for Americans to use stronger encryption products to protect their privacy, intellectual property and other valuable information. The plan envisions a worldwide key management infrastructure with the use of key escrow and key recovery encryption items to promote electronic commerce and secure communications while protecting national security and public safety. To provide for a transition period for the development of this key management infrastructure, this rule permits the export and reexport of 56-bit key length DES or equivalent strength encryption items under the authority of a License Exception, if an exporter makes satisfactory commitments to build and/or market recoverable encryption items and to help build the supporting international infrastructure. This policy will apply to hardware and software.

DATES: *Effective Date:* This rule is effective December 30, 1996.

Comment Date: February 13, 1997.

ADDRESSES: Written comments (six copies) should be sent to: Nancy Crowe, Regulatory Policy Division, Bureau of Export Administration, Department of Commerce, 14th Street and Pennsylvania Ave., N.W., Room 2705, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: James A. Lewis, Office of Strategic Trade and Foreign Policy Controls, Telephone: (202) 482-0092.

SUPPLEMENTARY INFORMATION:

Background

Following upon the Administration's October 1 announcement, on November 15, 1996, the President issued the Memorandum directing that all encryption items controlled on the U.S. Munitions List, except those specifically designed, developed, configured, adapted, or modified for military applications, be transferred to the Commerce Control List. The Memorandum and Executive Order 13026 (November 15, 1996, 61 FR 58767) also set forth certain additional provisions with respect to controls on such encryption items to be imposed by the Department of Commerce. The Executive Order also provides for appropriate controls on the export and foreign dissemination of encryption items controlled on the U.S. Munitions List that are placed on the Commerce Control List. In issuing the Memorandum the President stated:

> Encryption products, when used outside the United States, can jeopardize our foreign policy and national security interests. Moreover, such products, when used by international criminal organizations, can threaten the safety of U.S. citizens here and abroad, as well as the safety of the citizens of other countries. The exportation of encryption products must be controlled to further U.S. foreign policy objectives, and promote our national security, including the protection of the safety of U.S. citizens abroad.

This initiative will support the growth of electronic commerce; increase the security of the global information infrastructure; protect privacy, intellectual property and other valuable information; and sustain the economic competitiveness of U.S. encryption product manufacturers during the transition to a key management infrastructure. Under this initiative, non-recoverable encryption items up to 56-bit key length DES or equivalent strength will be permitted for export and reexport after a one-time review of the strength of the item and if the exporter makes satisfactory commitments to build and/or market recoverable encryption items, to support an international key management infrastructure. This policy will apply to hardware and software and will last through December 31, 1998.

The initiative addresses important foreign policy and national security concerns identified by the President. Export controls on cryptographic items are essential to controlling the spread abroad of powerful encryption products which could be harmful to critical U.S. national security, foreign policy and law enforcement interests. This initiative will preserve such controls and foster the development of a key management infrastructure necessary to protect important national security, foreign policy and law enforcement concerns.

Encryption software can be used to maintain the secrecy of information, and thereby may be used by persons abroad to harm national security, foreign policy and law enforcement interests. As the President indicated in E.O. 13026 and in his Memorandum of November 15, 1996, export of encryption software, like export of encryption hardware, is controlled because of this functional capacity to encrypt information on a computer system, and not because of any informational or theoretical value that such software may reflect, contain, or represent, or that its export may convey to others abroad. For this reason, export controls on encryption software are distinguished from other software regulated under the EAR.

The government recognizes that several factors, including the development of common international encryption policies, the need for an international key recovery infrastructure, and technological change, will influence market development in key recovery products. At the same time, the government is committed to a two-year transition period. The government will continually evaluate progress towards key recovery throughout and beyond the two-year period and will tailor the implementation of its policies in consultation with the public.

This interim rule implements the Administration's policy on encryption exports and reexports. This rule amends the Export Administration Regulations (EAR) by imposing national security and foreign policy controls ("EI" for Encryption Items) on certain information security systems and equipment, cryptographic devices, software and components specifically designed or modified therefor, and related technology ("encryption items"). "Encryption items" subject to the EAR do not include encryption items specifically designed, developed, configured, adapted or modified for military applications (including command, control and intelligence applications). Such items remain on the U.S. Munitions List, and continue to be controlled by the Department of State, Office of Defense Trade Controls. EI controls apply to encryption software transferred from the U.S. Munitions List to the Commerce Control List consistent with E.O. 13026 of November 15, 1996 (61 FR 58767) and pursuant to the Presidential Memorandum of the same date.

This interim rule also amends the Export Administration Regulations by requiring a license for exports and reexports to all destinations, except Canada, of certain encryption items controlled for EI reasons. Except as otherwise noted, applications will be reviewed on a case-by-case basis by BXA in conjunction with other agencies to determine whether the export or reexport is consistent with U.S. national security and foreign policy interests. Exporters should allow 40 days for the processing of licenses, consistent with E.O. 12981. The licensing policy is as follows:

(1) Certain mass-market encryption software. Certain encryption software that was transferred from the U.S. Munitions List to the Commerce Control List consistent with E.O. 13026 of November 15, 1996 (61 FR 58767) and

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pursuant to the Presidential Memorandum of that date may be released from "EI" controls and thereby made eligible for mass market treatment after a one-time BXA review. To determine eligibility for mass market treatment, exporters must submit a classification request to BXA. 40-bit mass market encryption software may be eligible for a 7-day review process, and company proprietary software may be eligible for 15-day processing. See new Supplement No. 6 to part 742 and § 748.3(b)(3) for additional information. Note that the one-time review is for a determination to release encryption software in object code only. Exporters requesting release of the source code should refer to paragraph (b)(3)(v)(E) of Supplement No. 6 to part 742. If, after a one-time review, BXA determines that the software is released from EI controls, such software is eligible for all provisions of the EAR applicable to other software, such as License Exception TSU for mass-market software. If BXA determines that the software is not released from EI controls, a license is required for export and reexport to all destinations, except Canada, and license applications will be considered on a case-by-case basis.

(2) Key Escrow, Key Recovery and Recoverable encryption software and commodities. Recovery encryption software and equipment controlled for EI reasons under ECCN 5D002 or under ECCN 5A002, including encryption equipment designed or modified to use recovery encryption software, may be made eligible for License Exception KMI after a one-time BXA review. License Exception KMI is available for all destinations except Cuba, Iran, Iraq, Libya, North Korea, Syria and Sudan. To determine eligibility, exporters must submit a classification request to BXA. Requests for one-time review of key escrow and key recovery encryption products will receive favorable consideration provided that, prior to the export or reexport, a key recovery agent satisfactory to BXA has been identified (refer to new Supplement No. 5 to part 742) and security policies for safeguarding the key(s) or other material/information required to decrypt ciphertext as described in Supplement No. 5 to part 742 are established to the satisfaction of BXA and are maintained after export or reexport as required by the EAR. If the exporter or reexporter intends to be the key recovery agent, then the exporter or reexporter must meet all of the requirements of a key recovery agent identified in Supplement No. 5 to part 742. In addition, the key escrow or key recovery system must meet the criteria identified in Supplement No. 4 to part 742. Note that eligibility is dependent on continued fulfilment of the requirements of a key recovery agent identified in Supplement No. 5 to part 742. Since the establishment of a key management infrastructure and key recovery agents may take some time, BXA will, while the infrastructure is being built, consider exports of key recovery encryption products which facilitate establishment of the key management infrastructure before a key recovery agent is named, consistent with national security and foreign policy. When BXA approves such cases, exporters of products described in Supplement No. 4 to part 742 are required to furnish the name of an agent by December 31, 1998. Requests for one-time review of recoverable products which allow government officials to obtain, under proper legal authority and without the cooperation or knowledge of the user, the plaintext of the encrypted data and communications will also receive favorable consideration.

(3) Non-recovery encryption items up to 56-bit key length DES or equivalent strength supported by a satisfactory business and marketing plan for exporting recoverable items and services. Manufacturers of non-recovery encryption items up to 56-bit key length DES or equivalent strength will be permitted to export and reexport under the authority of License Exception KMI, provided that the requirements and conditions of the License Exception are met. Exporters must submit a classification request for an initial BXA review of the item and a satisfactory business and marketing plan that explains in detail the steps the applicant will take during the two-year transition period beginning January 1, 1997 to develop, produce, and/or market encryption items and services with recoverable features. Producers would commit to produce key recovery products. Others would commit to incorporate such products into their own products or services. Plans will be evaluated in consideration of good faith efforts by the exporter to promote key recovery products and infrastructure. Such efforts can include: the scale of key recovery research and development, product development, and marketing plans; significant steps to reflect potential customer demand for key recovery products in the firm's encryption-related business; and how soon a key recovery agent will be identified. Note that BXA will accept requests for classification of non-recoverable encryption items up to 56-bit key length DES or equivalent strength under this paragraph from distributors, re-sellers, integrators, and other entities that are not manufacturers of the encryption items. The use of License Exception KMI is not automatic; eligibility must be renewed every six months. Renewal after each six-month period will depend on the applicant's adherence to explicit benchmarks and milestones as set forth in the plan approved with the initial classification request and amendments as approved by BXA. This relaxation of controls and use of License Exception KMI will last through December 31, 1998. The plan submitted with classification requests for the export of non-recoverable encryption items up to 56-bit key length DES or equivalent strength must include the elements in new Supplement No. 7 to part 742. Note that distributors, re-sellers, integrators, and other entities that are not manufacturers of the encryption items are permitted to use License Exception KMI for exports and reexports of such items only in instances where a classification has been granted to the manufacturer of the encryption items. The authority to so export or reexport will be for a time period ending on the same day the producer's authority to export or reexport ends.

Exporters authorized to export 56-bit DES or equivalent strength non-key recovery products in exchange for commitments to key recovery will be allowed to service and support the customers of those products during and after the two-year period. Support and service includes maintenance or replacement of products to correct defects or maintain existing functionality. It also includes upgrades that do not increase the strength of the encryption in the product.

Exporters authorized to export 56-bit DES or equivalent strength non-key recovery products during the interim period may also export under a license additional quantities of those 56-bit DES or equivalent strength non-key recovery products after the two-year period to existing customers. Such sales may be made to the customers of any exporter that was authorized to export such products in exchange for key recovery commitments during the two-year period. The additional quantities sold may not be disproportionate to the customer's embedded base.

(4) *All other encryption items*—(i) *Encryption licensing arrangement.* This is intended to continue without change the regulatory treatment of the distribution and warehouse arrangements currently permitted under

the International Traffic in Arms Regulations. Applicants may submit license applications for exports and reexports of certain encryption commodities and software in unlimited quantities for all destinations except Cuba, Iran, Iraq, Libya, North Korea, Syria, and Sudan. Applications will be reviewed on a case-by-case basis. Encryption licensing arrangements may be approved with extended validity periods specified by the applicant in block #24 on Form BXA–748P. In addition, the applicant must specify the sales territory and classes of end-users. Such licenses may require the license holder to report to BXA certain information such as item description, quantity, value, and end-user name and address.

(ii) *Applications for encryption items not authorized under an encryption licensing arrangement.* Applications for the export and reexport of all other encryption items will be considered on a case-by-case basis.

(5) *Applications for encryption technology.* Applications for the export and reexport of encryption technology will be considered on a case-by-case basis.

Note that all "EI" encryption items are not subject to any mandatory foreign availability procedures of the EAA or the EAR. In section 1(a) of Executive Order 13026, the President states:

> I have determined that the export of encryption products described in this section may harm national security and foreign policy interests even where comparable products are or appear to be available from sources outside the United States, and that facts and questions concerning the foreign availability of such encryption products cannot be subject to public disclosure or judicial review without revealing or implicating classified information that could harm United States national security and foreign policy interests. Accordingly, section 4(c) and 6(h)(2)–(4) of the Export Administration Act of 1979 ("the EAA") * * *, all other analogous provisions of the EAA relating to foreign availability, and the regulations in the EAR relating to such EAA provisions, shall not be applicable with respect to export controls on such encryption products.

This interim rule amends part 768, Foreign Availability, to make clear that the provisions of that part do not apply to encryption items transferred to the Commerce Control List.

This interim rule also amends part 734 to exclude encryption items transferred from the U.S. Munitions List to the Commerce Control List consistent with E.O. 13026 (61 FR 58767, November 15, 1996) and pursuant to the Presidential Memorandum of that date from the *de minimis* provisions for items exported from abroad. This rule also amends part 734 of the EAR to reflect that encryption software controlled for EI reasons under ECCN 5D002 that has been transferred to the Department of Commerce from the Department of State by Presidential Memorandum will be subject to the EAR even when publicly available. A printed book or other printed material setting forth encryption source code is not itself subject to the EAR (see § 734.3(b)(2)). However, notwithstanding § 734.3(b)(2), encryption source code in electronic form or media (e.g., computer diskette or CD ROM) remains subject to the EAR (see § 734.3(b)(3)). The administration continues to review whether and to what extent scannable encryption source or object code in printed form should be subject to the EAR and reserves the option to impose export controls on such software for national security and foreign policy reasons. Note that there is a new definition of "export of encryption source code and object code software" (see § 734.2(b)(9)).

This rule creates a new License Exception KMI for exports of certain encryption software and equipment. This rule also amends part 740 and Supplement No. 2 to part 774 to reflect that encryption software will not be eligible for "mass market" treatment under the General Software Note or for export as beta-test software under License Exception BETA unless released from EI controls through a one-time BXA review (refer to new Supplement No. 6 to part 742). Encryption items transferred from the USML to the CCL prior to November 15, 1996 are not controlled for EI reasons. Note that License Exception TMP is available for temporary exports and reexports of encryption items except under the provisions for beta-test software. License Exceptions TMP and BAG effectively replace the Department of State's personal use exemption. Software and technology that was controlled by the Department of Commerce prior to December 30, 1996 are not affected by this rule and will continue to be eligible for the publicly available treatment. Software controlled by the Department of Commerce prior to December 30, 1996 will continue to be eligible for mass market treatment under the General Software Note, and License Exception TSU for mass-market software.

For purposes of this rule, "recovery encryption products" refers to encryption products (including software) that allow government officials to obtain under proper legal authority and without the cooperation or knowledge of the user, the plaintext of encrypted data and communications. Such products fulfill the objectives of the Administration's encryption policy. Other approaches to access and recovery may be defined in the future.

This interim rule also amends part 742 to reflect the new combined national security and foreign policy controls imposed by this rule, and adds a new Supplement No. 4 titled "Key Escrow or Key Recovery Products Criteria" that includes product criteria, a new Supplement No. 5 titled "Key Escrow or Key Recovery Agent Criteria, Security Policies, and Key Escrow or Key Recovery Procedures" that includes interim requirements for key recovery agents, a new Supplement No. 6 titled "Guidelines for Submitting a Classification Request for a Mass Market Software Product that contains Encryption" that includes the criteria for the one-time review of classification requests for release of certain encryption software from EI controls, and a new Supplement No. 7 titled "Review Criteria for Exporter Key Escrow or Key Recovery Development Plans."

This interim rule also amends part 744 to add a general prohibition in § 744.9 with respect to technical assistance in the development or manufacture abroad of encryption commodities and software controlled for EI reasons and makes conforming changes throughout the EAR.

This interim rule makes conforming changes in part 748 for classification requests, amends part 750 of the EAR to reflect the Department of Justice role in the review of encryption license applications, adds new definitions to part 772, and amends the Commerce Control List (Supplement No. 1 to part 774) by adding new EI controls under ECCNs 5A002, 5D002, and 5E002 for commodities, software and technology that are placed under Commerce Department jurisdiction, consistent with E.O. 13026, by Presidential Memorandum.

In certain cases, semiannual reporting requirements on quantities shipped and country of destination will be imposed on exporters, in order to allow the United States to fulfill the reporting requirements of its international obligations, such as the Wassenaar Arrangement.

The scope of controls on the release to foreign nationals of technology and software subject to the EAR may be amended in a separate **Federal Register** Notice.

This rule involves no new curtailment of exports, because the transfer or removal of items from the United States Munitions List to the CCL maintains a continuity of controls. Therefore, the

provisions regarding the impact of new controls do not apply, and contract sanctity also does not apply to this imposition of controls.

U.S. persons holding valid USML licenses and other approvals issued by the Department of State prior to December 30, 1996 may ship remaining balances authorized by such licenses or approvals under the authority of the EAR by filing Shippers Export Declarations (SEDs) with District Directors of Customs, citing this **Federal Register** Notice and the State Department license number. Such shipments shall be in accordance with the terms and conditions, including the expiration date, existing at the time of issuance of the State license. Any reports required for distribution and other types of agreements previously authorized by the Department of State, valid at the time of this publication, should be henceforth submitted to the Department of Commerce. Actions pending at the Department of State on December 30, 1996, including pending license applications, must be refiled with the Department of Commerce. Export violations, including the terms and conditions of export, shall hereafter constitute a violation of the EAR.

Consistent with the provisions of section 6 of the Export Administration Act, a foreign policy report was submitted to Congress on December 24, 1996, notifying the Congress of the Department's intention to impose controls on certain information security systems and equipment, cryptographic devices, software and components specifically designed or modified therefor, and related technology that will be controlled on the CCL and that will be subject to new control procedures.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect, to the extent permitted by law, the provisions of the EAA and the EAR in Executive Order 12924 of August 19, 1994, notice of August 15, 1995 (60 FR 42767), and notice of August 14, 1996 (60 FR 42527).

Rulemaking Requirements

1. This interim rule has been determined to be significant for purposes of E.O. 12866. A cost benefit analysis has been prepared and is available upon request by contacting James A. Lewis at (202) 482–0092.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid OMB Control Number. This rule involves collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694–0048 and 0694–0088. This rule also contains a new collection-of-information requirement subject to the PRA that has received emergency approval under OMB control number 0694–0104. The new information requirement and estimated public burden hours include: marketing plans (40 hours each); semiannual progress reports (8 hours each); safeguard procedures (4 hours); recordkeeping (2 hours); and annual reports (4 hours). These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to OMB Desk Officer, New Executive Office Building, Washington, DC 20503.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (Sec. 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this interim rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. or by any other law, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close February 13, 1997. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form.

Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, Room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 482-5653.

This rule has been determined to be a major rule as defined in 5 U.S.C. § 804(2) for purposes of Congressional review under 5 U.S.C. ch. 8. Notwithstanding 5 U.S.C. § 801(a)(3), this rule is effective December 30, 1996 pursuant to authority at 5 U.S.C. § 808(2) as there is good cause to waive the requirement to provide notice and public procedure thereon. This action implements an Administration initiative that is intended to protect the national security and foreign policy interests of the United States and streamlines export controls for encryption items. Therefore,

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notice and public procedure that would delay implementation of this rule is contrary to the public interest.

List of Subjects

15 CFR Part 730

Administrative practice and procedure, Advisory committees, Exports, Foreign trade, Reporting and recordkeeping requirements, Strategic and critical materials.

15 CFR Parts 732, 740, 748, 750, and 768

Administrative practice and procedure, Exports, Foreign trade, Reporting and Record keeping requirements.

15 CFR Part 734

Administrative practice and procedure, Exports, Foreign trade.

15 CFR Parts 736, 738, 742, 772, and 774

Exports, Foreign trade.

15 CFR Part 744

Exports, Foreign trade, Reporting and Recordkeeping requirements.

Accordingly, parts 730, 732, 734, 736, 738, 740, 742, 744, 748, 750, 768, 772, and 774 of the Export Administration Regulations (15 CFR Parts 730–799) are amended as follows:

1. The authority citation for 15 CFR part 730 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; Sec. 201, Pub. L. 104–58, 109 Stat. 557 (30 U.S.C. 185(s)); 30 U.S.C. 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 11912, 41 FR 15825, 3 CFR, 1976 Comp., p. 114; E.O. 12002, 42 FR 35623, 3 CFR, 1977 Comp., p.133; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12214, 45 FR 29783, 3 CFR, 1980 Comp., p. 256; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12867, 58 FR 51747, 3 CFR, 1993 Comp., p. 649; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; Executive Order 13026 (November 15, 1996, 61 FR 58767); Notice of August 15, 1995 (60 FR 42767, August 17, 1995); and Notice of August 14, 1996 (61 FR 42527); E.O. 12981 (60 FR 62981).

2. The authority citation for 15 CFR parts 732, 736, 740, 748, 768, and 772 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Executive Order 13026 (November 15, 1996, 61 FR 58767) Notice of August 15, 1995 (60 FR 42767, August 17, 1995); and Notice of August 14, 1996 (61 FR 42527).

3. The authority citation for 15 CFR part 734 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; Executive Order 13026 (November 15, 1996, 61 FR 58767); Notice of August 15, 1995 (60 FR 42767, August 17, 1995); and Notice of August 14, 1996 (61 FR 42527).

4. The authority citation for 15 CFR parts 738 and 774 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; Sec. 201, Pub. L. 104–58, 109 Stat. 557 (30 U.S.C. 185(s)); 30 U.S.C. 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Executive Order 13026 (November 15, 1996, 61 FR 58767); Notice of August 15, 1995 (60 FR 42767, August 17, 1995); and Notice of August 14, 1996 (61 FR 42527).

5. The authority citation for 15 CFR part 742 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; Executive Order 13026 (November 15, 1996, 61 FR 58767); Notice of August 15, 1995 (60 FR 42767, August 17, 1995); and Notice of August 14, 1996 (61 FR 42527).

6. The authority citation for 15 CFR part 744 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; Notice of August 15, 1995 (60 FR 42767, August 17, 1995); and Notice of August 14, 1996 (61 FR 42527).

7. The authority citation for 15 CFR part 750 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Executive Order 13026 (November 15, 1996, 61 FR 58767); Notice of August 15, 1995 (60 FR 42767, August 17, 1995); E.O. 12981, 60 FR 62981; and Notice of August 14, 1996 (61 FR 42527).

PART 730—[AMENDED]

8. Section 730.5 is amended by adding a new sentence to the end of paragraph (d) to read as follows:

§ 730.5 Coverage of more than exports.

* * * * *

(d) * * * The EAR also restrict technical assistance by U.S. persons with respect to encryption commodities or software.

PART 732—[AMENDED]

9. Section 732.2 is amended by adding two new sentences at the end of the introductory text to paragraph (b) and by adding two new sentences at the end of the introductory text to paragraph (d) to read as follows:

§ 732.2 Steps regarding scope of the EAR.

* * * * *

(b) * * * Note that encryption software controlled for EI reasons under ECCN 5D002 on the Commerce Control List (refer to Supplement No.1 to Part 774 of the EAR) shall be subject to the EAR even if publicly available. Accordingly, the provisions of the EAR concerning the public availability of items are not applicable to encryption items controlled for "EI" reasons under ECCN 5D002.

* * * * *

(d) * * * Note that encryption items controlled for EI reasons under ECCN 5A002 or ECCN 5D002 on the Commerce Control List (refer to Supplement No.1 to Part 774 of the EAR) shall be subject to the EAR even if they incorporate less than the *de minimis* level of U.S. content. Accordingly, the provisions of the EAR concerning *de minimis* levels are not applicable to encryption items controlled for "EI" reasons under ECCN 5A002, ECCN 5D002, or ECCN 5E002.

* * * * *

10. Section 732.3 is amended by adding two new sentences to the end of paragraph (e)(2) to read as follows:

§ 732.2 Steps regarding the ten general prohibitions.

* * * * *

(e) *Step 10: Foreign-made items incorporating U.S.-origin items and the de minimis rule.* * * *

(2) * * * Note that encryption items controlled for EI reasons under ECCN 5A002 or ECCN 5D002 on the Commerce Control List (refer to Supplement No.1 to Part 774 of the EAR) shall be subject to the EAR even if they incorporate less than the de minimis level of U.S. content. Accordingly, the provisions of the EAR concerning *de minimis* levels are not applicable to encryption items controlled for "EI" reasons under ECCN 5A002, ECCN 5D002, or ECCN 5E002.

PART 734—[AMENDED]

11. Section 734.2 is amended by revising paragraphs (b)(1) and (b)(2)

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introductory text and by adding a new paragraph (b)(9) to read as follows:

§ 734.2 Important EAR terms and principles.

* * * * *

(b) *Export and reexport*—(1) *Definition of export.* "Export" means an actual shipment or transmission of items subject to the EAR out of the United States, or release of technology or software subject to the EAR to a foreign national in the United States, as described in paragraph (b)(2)(ii) of this section. See part 772 of the EAR for the definition that applies to exports of satellites subject to the EAR. See paragraph (b)(9) of this section for the definition that applies to exports of encryption source code and object code software subject to the EAR.

(2) *Export of technology or software.* (See paragraph (b)(9) for provisions that apply to encryption source code and object code software.) "Export" of technology or software, excluding encryption software subject to "EI" controls, includes:

* * * * *

(9) *Export of encryption source code and object code software.* (i) For purposes of the EAR, the export of encryption source code and object code software means:

(A) An actual shipment, transfer, or transmission out of the United States (see also paragraph (b)(9)(ii) of this section); or

(B) A transfer of such software in the United States to an embassy or affiliate of a foreign country.

(ii) The export of encryption source code and object code software controlled for EI reasons under ECCN 5D002 on the Commerce Control List (see Supplement No. 1 to part 774 of the EAR) includes downloading, or causing the downloading of, such software to locations (including electronic bulletin boards, Internet file transfer protocol, and World Wide Web sites) outside the U.S., or making such software available for transfer outside the United States, over wire, cable, radio, electromagnetic, photooptical, photoelectric or other comparable communications facilities accessible to persons outside the United States, including transfers from electronic bulletin boards, Internet file transfer protocol and World Wide Web sites, unless the person making the software available takes precautions adequate to prevent unauthorized transfer of such code outside the United States. Such precautions shall include:

(A) Ensuring that the facility from which the software is available controls the access to and transfers of such software through such measures as:

(*1*) The access control system, either through automated means or human intervention, checks the address of every system requesting or receiving a transfer and verifies that such systems are located within the United States;

(*2*) The access control system, provides every requesting or receiving party with notice that the transfer includes or would include cryptographic software subject to export controls under the Export Administration Act, and that anyone receiving such a transfer cannot export the software without a license; and

(*3*) Every party requesting or receiving a transfer of such software must acknowledge affirmatively that he or she understands that the cryptographic software is subject to export controls under the Export Administration Act and that anyone receiving the transfer cannot export the software without a license; or

(B) Taking other precautions, approved in writing by the Bureau of Export Administration, to prevent transfer of such software outside the U.S. without a license.

12. Section 734.3 is amended by revising paragraph (b)(3) and by adding a note to paragraphs (b)(2) and (b)(3) to read as follows:

§ 734.3 Items subject to the EAR.

* * * * *

(b) * * *

(3) Publicly available technology and software, except software controlled for EI reasons under ECCN 5D002 on the Commerce Control List, that:

(i) Are already published or will be published as described in § 734.7 of this part;

(ii) Arise during, or result from, fundamental research, as described in § 734.8 of this part;

(iii) Are educational, as described in § 734.9 of this part;

(iv) Are included in certain patent applications, as described in § 734.10 of this part.

Note to paragraphs (b)(2) and (b)(3) of this section: A printed book or other printed material setting forth encryption source code is not itself subject to the EAR (see § 734.3(b)(2)). However, notwithstanding § 734.3(b)(2), encryption source code in electronic form or media (e.g., computer diskette or CD ROM) remains subject to the EAR (see § 734.3(b)(3)).

* * * * *

13. Section 734.4 is amended by revising paragraph (b) and revising paragraph (h) to read as follows:

§ 734.4 De minimis U.S. content.

* * * * *

(b) There is no *de minimis* level for the reexport of foreign-origin items that incorporate the following:

(1) Items controlled by ECCN 9A004.a; or

(2) "Information security" systems and equipment, cryptographic devices, software and components specifically designed or modified therefor, and related technology controlled for "EI" reasons under ECCN, 5A002 ECCN 5D002, and 5E002. Certain mass market encryption software may become eligible for *de minimis* only after a one-time BXA review (refer to § 742.15(b)(1)).

* * * * *

(h) Notwithstanding the provisions of paragraphs (c) and (d) of this section, U.S.-origin technology controlled by ECCN 9E003a.1 through a.12, and .f, and related controls, and encryption software controlled for "EI" reasons under ECCN 5D002 or encryption technology controlled for "EI" reasons under ECCN 5E002 do not lose their U.S.-origin when redrawn, used, consulted, or otherwise commingled abroad in any respect with other software or technology of any other origin. Therefore, any subsequent or similar software or technology prepared or engineered abroad for the design, construction, operation, or maintenance of any plant or equipment, or part thereof, which is based on or uses any such U.S.-origin software or technology is subject to the EAR.

14. Section 734.5 is amended by adding paragraph (c) to read as follows:

§ 734.5 Activities of U.S. and foreign persons subject to the EAR.

* * * * *

(c) Technical assistance by U.S. persons with respect to encryption commodities or software as described in § 744.9 of the EAR.

15. Section 734.7 is amended by revising paragraph (b) and by adding paragraph (c) to read as follows:

§ 734.7 Published information and software.

* * * * *

(b) Software and information is published when it is available for general distribution either for free or at a price that does not exceed the cost of reproduction and distribution. See Supplement No. 1 to this part, Questions G(1) through G(3).

(c) Notwithstanding paragraphs (a) and (b) of this section, note that encryption software controlled under ECCN 5D002 for "EI" reasons on the Commerce Control List (refer to Supplement No. 1 to part 774 of the

EAR) remains subject to the EAR even when publicly available.

16. Section 734.8 is amended by adding a sentence to the end of paragraph (a) to read as follows:

§ 734.8 Information resulting from fundamental research.

(a) * * * Note that the provisions of this section do not apply to encryption software controlled under ECCN 5D002 for "EI" reasons on the Commerce Control List (refer to Supplement No. 1 to part 774 of the EAR).

* * * * *

17. Section 734.9 is revised to read as follows:

§ 734.9 Educational information.

"Educational information" referred to in § 734.3(b)(3)(iii) of this part is not subject to the EAR if it is released by instruction in catalog courses and associated teaching laboratories of academic institutions. Dissertation research is discussed in § 734.8(b) of this part. (Refer to Supplement No. 1 to this part, Question C(1) through C(6)). Note that the provisions of this section do not apply to encryption software controlled under ECCN 5D002 for "EI" reasons on the Commerce Control List (refer to Supplement No. 1 to part 774 of the EAR).

18. Supplement No.1 to Part 734 is amended by revising the introductory paragraph to read as follows:

Supplement No. 1 to Part 734—Questions and Answers—Technology and Software Subject to the EAR

This Supplement No. 1 contains explanatory questions and answers relating to technology and software that is subject to the EAR. It is intended to give the public guidance in understanding how BXA interprets this part, but is only illustrative, not comprehensive. In addition, facts or circumstances that differ in any material way from those set forth in the questions or answers will be considered under the applicable provisions of the EAR. Exporters should note that the provisions of this supplement do not apply to encryption software (including source code) transferred from the U.S. Munitions List to the Commerce Control List consistent with E.O. 13026 of November 15, 1996 (61 FR 58767) and pursuant to the Presidential Memorandum of that date. See § 742.15 of the EAR. This Supplement is divided into nine sections according to topic as follows:

* * * * *

PART 736—[AMENDED]

19. Section 736.2 is amended by revising paragraph (b)(7) to read as follows:

§ 736.2 General prohibitions and determination of applicability.

* * * * *

(7) *General Prohibition Seven—Support of Certain Activities by U.S. persons*—(i) *Support of Proliferation Activities (U.S. Person Proliferation Activity).* If you are a U.S. Person as that term is defined in § 744.6(c) of the EAR, you may not engage in any activities prohibited by § 744.6 (a) or (b) of the EAR which prohibits the performance, without a license from BXA, of certain financing, contracting, service, support, transportation, freight forwarding, or employment that you know will assist in certain proliferation activities described further in part 744 of the EAR. There are no License Exceptions to this General Prohibition Seven in part 740 of the EAR unless specifically authorized in that part.

(ii) You may not, without a license from BXA, provide certain technical assistance to foreign persons with respect to encryption items, as described in § 744.9 of the EAR.

* * * * *

PART 738—[AMENDED]

§ 738.2 [Amended]

20. Section 738.2 is amended by adding "EI Encryption Items" in alphabetical order to the list of Reasons for Control in paragraph (d)(2)(i)(A).

PART 740—[AMENDED]

21. Part 740 is amended by redesignating §§ 740.8 through 740.15 as §§ 740.9 through 740.16 and by adding a new § 740.8 to read as follows:

§ 740.8 Key management infrastructure.

(a) *Scope.* License Exception KMI authorizes the export and reexport of certain encryption software and equipment.

(b) *Eligible software and equipment*—(1) *Recovery encryption items.* Eligible items are recovery encryption software and equipment controlled under ECCNs 5D002 or 5A002 made eligible as a result of a one-time BXA review. You may initiate this review by submitting a classification request for your product in accordance with paragraph (d)(1) of this section.

(2) *Non-recoverable encryption items.* Eligible items are 56-bit DES or equivalent strength non-key recovery software and equipment controlled under ECCNs 5D002 or 5A002 made eligible as a result of a one-time BXA review. You may initiate this review by submitting a classification request for your product in accordance with paragraph (d)(2) of this section.

(c) *Eligible destinations.* License Exception KMI is available for all destinations, except Cuba, Libya, North Korea, Iraq, Iran, Syria, and Sudan.

(d) *Additional eligibility requirements*—(1) *Recovery encryption items.* Classification requests for recovery encryption software and equipment must meet the following criteria:

(i) *Key escrow and key recovery products.* (A) Key escrow and key recovery products must meet the criteria identified in Supplement No. 4 to part 742 of the EAR;

(B) Key recovery agents must meet the criteria identified in Supplement No. 5 to part 742 of the EAR;

(C) Key recovery agents must implement the security policies and key escrow/key recovery procedures identified in Supplement No. 5 to part 742 of the EAR;

(D) Key recovery agents must comply with all applicable EAR Record keeping requirements, including record retention requirements; and

(E) Key recovery agents must carry out the key holding obligations as approved by BXA, and any violation of any of the key holding obligations shall also constitute a violation of the EAR. Note that the key recovery agent's continuing compliance with key recovery agent requirements and key safeguard procedures is a condition for use of License Exception KMI. The exporter or reexporter, whether that person is the key recovery agent or not, must submit a new classification request to BXA if there are any changes (e.g., termination, replacement, additions) to the previously approved key recovery agent.

(ii) *Other recoverable encryption items.* Requests for one-time review of recoverable products which allow government officials to obtain, under proper legal authority and without the cooperation or knowledge of the user, the plaintext of the encrypted data and communications will receive favorable consideration.

(2) *Non-recoverable encryption items.* Upon approval of your classification request submitted in accordance with this paragraph (d)(2), you will become eligible to use License Exception KMI for six months. In order to continue using this License Exception, you must renew your eligibility by submitting the progress report described in paragraph (d)(2)(ii) of this section. Classification requests for 56-bit DES or equivalent strength non-key recovery software and

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equipment must meet the following criteria:

(i) Initial request must be submitted with a business plan that explains in detail the steps the applicant will take during the two-year transition period according to the criteria identified in Supplement No. 7 to part 742 of the EAR;

(ii) Renewal for use of this License Exception is contingent upon progress reports sent to BXA every six months and the applicant's adherence to benchmarks and milestones as set forth in the plan submitted for the initial classification request.

(iii) Applicants may inform their authorized distributors that an approved classification and plan has been granted to them and the distributors' authority to so export or reexport will be for a time period ending on the same day the applicant's authority to export or reexport ends.

(e) *Reporting requirements.* (1) You must provide semiannual reports to BXA identifying:

(i) Ultimate consignee; specific end-user name and address, if available; and country of ultimate destination; and

(ii) Quantities of each encryption item shipped.

(2) You must submit reports no later than March 1 and no later than September 1 of any given year.

22. Newly designated § 740.9 is amended by revising paragraph (c)(3) to read as follows:

§ 740.9 Temporary imports, exports, and reexports (TMP).

* * * * *

(c) * * *

(3) *Exports of beta test software.* All software that is controlled by the Commerce Control List (Supplement No. 1 to part 774 of the EAR), and under Commerce licensing jurisdiction, is eligible for export and reexport, subject to the restrictions of this paragraph, except encryption software controlled for EI reasons under ECCN 5D002. Certain encryption software may become eligible after a one-time BXA review (refer to § 742.15(b)(1) of the EAR).

* * * * *

23. Newly designated § 740.11 is amended by revising paragraphs (b)(2)(iii) and (b)(2)(iv) to read as follows:

§ 740.11 Governments and international organizations (GOV).

* * * * *

(b) * * *

(2) * * *

(iii) *Items for official use within national territory by agencies of cooperating governments.* This License Exception is available for all items consigned to and for the official use of any agency of a cooperating government within the territory of any cooperating government, except:

(A) Computers with a CTP greater than 10,000 MTOPS when destined for Argentina, Hong Kong, South Korea, Singapore or Taiwan;

(B) Items identified on the Commerce Control List as controlled for missile technology (MT), chemical and biological warfare (CB), or nuclear nonproliferation (NP) reasons;

(C) Regional stability items controlled under Export Control Classification Numbers (ECCNs) 6A002, 6A003, 6D102, 6E001, 6E002, 7D001, 7E001, 7E002, and 7E101 as described in § 742.6(a)(1) of the EAR; or

(D) Encryption items controlled for EI reasons as described in the Commerce Control List.

(iv) *Diplomatic and consular missions of a cooperating government.* This License Exception is available for all items consigned to and for the official use of a diplomatic or consular mission of a cooperating government located in any country in Country Group B (see Supplement No. 1 to part 740), except:

(A) Computers with a CTP greater than 10,000 MTOPS when destined for Argentina, Hong Kong, South Korea, Singapore or Taiwan;

(B) Items identified on the Commerce Control List as controlled for missile technology (MT), chemical and biological warfare (CB), or nuclear nonproliferation (NP) reasons;

(C) Regional stability items controlled under Export Control Classification Numbers (ECCNs) 6A002, 6A003, 6D102, 6E001, 6E002, 7D001, 7E001, 7E002, and 7E101 as described in § 742.6(a)(1) of the EAR; or

(D) Encryption items controlled for EI reasons as described in the Commerce Control List.

* * * * *

24. Newly designated § 740.13 is amended by revising paragraph (d)(2) to read as follows:

§ 740.13 Technology and software—unrestricted (TSU).

* * * * *

(d) * * *

(2) *Software not eligible for this License Exception.* This License Exception is not available for encryption software controlled for "EI" reasons under ECCN 5D002. (Refer to §§ 742.15(b)(1) and 748.3(b) of the EAR for information on item classifications regarding a one-time BXA review for release from EI controls.)

* * * * *

PART 742—[AMENDED]

25. Part 742 is amended by revising § 742.15 to read as follows:

§ 742.15 Encryption items.

Encryption items can be used to maintain the secrecy of information, and thereby may be used by persons abroad to harm national security, foreign policy and law enforcement interests. As the President indicated in E.O. 13026 and in his Memorandum of November 15, 1996, export of encryption software, like export of encryption hardware, is controlled because of this functional capacity to encrypt information on a computer system, and not because of any informational or theoretical value that such software may reflect, contain, or represent, or that its export may convey to others abroad. For this reason, export controls on encryption software are distinguished from controls on other software regulated under the EAR.

(a) *License requirements.* Licenses are required for all destinations, except Canada, for ECCNs having an "EI" (for "encryption items") under the "Control(s)" paragraph. Such items include: encryption commodities controlled under ECCN 5A002; encryption software controlled under ECCN 5D002; and encryption technology controlled under ECCN 5E002. (Refer to part 772 of the EAR for the definition of "encryption items'). For encryption items previously on the U.S. Munitions List and currently authorized for export or reexport under a State Department license, distribution arrangement or any other authority of the State Department, U.S. persons holding valid USML licenses and other approvals issued by the Department of State prior to December 30, 1996 may ship remaining balances authorized by such licenses or approvals under the authority of the EAR by filing Shippers Export Declarations (SEDs) with District Directors of Customs, citing the provisions of this section effective on December 30, 1996 and the State Department license number. Such shipments shall be in accordance with the terms and conditions, including the expiration date, existing at the time of issuance of the State license. Violations of such authorizations, terms and conditions constitute violations of the EAR. Any reports required for distribution and other types of agreements previously authorized by the Department of State, valid prior to December 30, 1996, should be henceforth submitted to BXA at the following address: Office of Strategic Trade and Foreign Policy Controls, Bureau of Export Administration,

Department of Commerce, 14th Street and Pennsylvania Ave., N.W., Room 2705, Washington, D.C. 20230.

(b) *Licensing policy.* The following licensing policies apply to items identified in paragraph (a) of this section. This section refers you to Supplements No. 4, No. 5, and No. 7 to this part 742. For purposes of these supplements, "products" refers to commodities and software. Except as otherwise noted, applications will be reviewed on a case-by-case basis by BXA, in conjunction with other agencies, to determine whether the export or reexport is consistent with U.S. national security and foreign policy interests.

(1) *Certain mass-market encryption software.* Consistent with E.O. 13026 of November 15, 1996 (61 FR 58767), certain encryption software that was transferred from the U.S. Munitions List to the Commerce Control List pursuant to the Presidential Memorandum of November 15, 1996 may be released from "EI" controls and thereby made eligible for mass market treatment after a one-time review. To determine eligibility for mass market treatment, exporters must submit a classification request to BXA. 40-bit mass market encryption software may be eligible for a 7-day review process, and company proprietary software may be eligible for 15-day processing. Refer to Supplement No. 6 to part 742 and § 748.3(b)(3) of the EAR for additional information. Note that the one-time review is for a determination to release encryption software in object code only unless otherwise specifically requested. Exporters requesting release of the source code should refer to paragraph (b)(3)(v)(E) of Supplement No. 6 to part 742. If, after a one-time review, BXA determines that the software is released from EI controls, such software is eligible for all provisions of the EAR applicable to other software, such as License Exception TSU for mass-market software. If BXA determines that the software is not released from EI controls, a license is required for export and reexport to all destinations, except Canada, and license applications will be considered on a case-by-case basis.

(2) *Key Escrow, Key Recovery and Recoverable encryption software and commodities.* Recovery encryption software and equipment controlled for EI reasons under ECCN 5D002 or under ECCN 5A002, including encryption equipment designed or modified to use recovery encryption software, may be made eligible for license exception KMI after a one-time BXA review. License Exception KMI is available for all destinations except Cuba, Iran, Iraq, Libya, North Korea, Syria and Sudan. To determine eligibility, exporters must submit a classification request to BXA. Requests for one-time review of key escrow and key recovery encryption items will receive favorable consideration provided that, prior to the export or reexport, a key recovery agent satisfactory to BXA has been identified (refer to Supplement No. 5 to part 742) and security policies for safeguarding the key(s) or other material/information required to decrypt ciphertext as described in Supplement No. 5 to part 742 are established to the satisfaction of BXA and are maintained after export or reexport as required by the EAR. If the exporter or reexporter intends to be the key recovery agent, then the exporter or reexporter must meet all of the requirements of a key recovery agent identified in Supplement No. 5 to part 742. In addition, the key escrow or key recovery system must meet the criteria identified in Supplement No. 4 to part 742. Note that eligibility is dependent on continued fulfilment of the requirements of a key recovery agent identified in Supplement No. 5 to part 742. Since the establishment of a key management infrastructure and key recovery agents may take some time, BXA will, while the infrastructure is being built, consider requests for eligibility to export key recovery encryption products which facilitate establishment of the key management infrastructure before a key recovery agent is named, consistent with national security and foreign policy. When BXA approves such cases, exporters of products described in Supplement No. 4 to part 742 are required to furnish the name of an agent by December 31, 1998. Requests for one-time review of recoverable products which allow government officials to obtain, under proper legal authority and without the cooperation or knowledge of the user, the plaintext of the encrypted data and communications will receive favorable consideration.

(3) *Non-recovery encryption items up to 56-bit key length DES or equivalent strength supported by a satisfactory business and marketing plan for exporting recoverable items and services.* (i) Manufacturers of non-recovery encryption items up to 56-bit key length DES or equivalent strength will be permitted to export and reexport under the authority of License Exception KMI provided that the requirements and conditions of the License Exception are met. Exporters must submit a classification request for an initial BXA review of the item and a satisfactory business and marketing plan that explains in detail the steps the applicant will take during the two-year transition period beginning January 1, 1997 to develop, produce, and/or market encryption items and services with recoverable features. Manufacturers would commit to produce key recovery products. Others would commit to incorporate such products into their own products or services. Such efforts can include: the scale of key recovery research and development, product development, and marketing plans; significant steps to reflect potential customer demand for key recovery products in the firm's encryption-related business; and how soon a key recovery agent will be identified. Note that BXA will accept requests for classification of non-recoverable encryption items up to 56-bit key length DES or equivalent strength under this paragraph from distributors, re-sellers, integrators, and other entities that are not manufacturers of the encryption items. The use of License Exception KMI is not automatic; eligibility must be renewed every six months. Renewal after each six-month period will depend on the applicant's adherence to explicit benchmarks and milestones as set forth in the plan approved with the initial license classification and amendments as approved by BXA. This relaxation of controls and use of License Exception KMI will last through December 31, 1998. The plan submitted with classifications for the export of non-recoverable encryption items up to 56-bit key length DES or equivalent strength must include the elements in Supplement No. 7 to part 742.

(ii) BXA will make a determination on such classification requests within 15 days of receipt. Exports and reexports of non-recoverable encryption items up to 56-bit key length DES or equivalent strength will be authorized under the provisions of License Exception KMI, contingent upon BXA's review and approval of a satisfactory progress report related to the ongoing plan submitted by the applicant. The applicant must submit a letter to BXA every six months requesting approval of the progress report. Note that distributors, re-sellers, integrators, or other entities that are not manufacturers of the encryption items are permitted to use License Exception KMI for exports and reexports of such items only in instances where a classification has been granted to the manufacturer of the encryption items or a classification has been granted to the distributors, re-sellers, integrators, or other entities. The authority to so export or reexport will be for a time period

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ending on the same day the producer's authority to export or reexport ends.

(4) *All other encryption items*—(i) *Encryption licensing arrangement.* Applicants may submit license applications for exports and reexports of certain encryption commodities and software in unlimited quantities for all destinations except, Cuba, Iran, Iraq, Libya, North Korea, Syria, and Sudan. Applications will be reviewed on a case-by-case basis. Encryption licensing arrangements may be approved with extended validity periods specified by the applicant in block #24 on Form BXA–748P. In addition, the applicant must specify the sales territory and classes of end-users. Such licenses may require the license holder to report to BXA certain information such as item description, quantity, value, and end-user name and address.

(ii) *Applications for encryption items not authorized under an encryption licensing arrangement.* Applications for the export and reexport of all other encryption items will be considered on a case-by-case basis.

(5) *Applications for encryption technology.* Applications for the export and reexport of encryption technology will be considered on a case-by-case basis.

(c) *Contract sanctity.* Contract sanctity provisions are not available for license applications reviewed under this section.

(d) [Reserved]

26. Part 742 is amended by revising Supplement No. 4 and Supplement No. 5, and by adding a new Supplement No. 6 and a new Supplement No. 7 to read as follows:

Supplement No. 4 to Part 742—Key Escrow or Key Recovery Products Criteria

Key Recovery Feature

(1) The key(s) or other material/information required to decrypt ciphertext shall be accessible through a key recovery feature.

(2) The product's cryptographic functions shall be inoperable until the key(s) or other material/information required to decrypt ciphertext is recoverable by government officials under proper legal authority and without the cooperation or knowledge of the user.

(3) The output of the product shall automatically include, in an accessible format and with a reasonable frequency, the identity of the key recovery agent(s) and information sufficient for the key recovery agent(s) to identify the key(s) or other material/information required to decrypt the ciphertext.

(4) The product's key recovery functions shall allow access to the key(s) or other material/information needed to decrypt the ciphertext regardless of whether the product generated or received the ciphertext.

(5) The product's key recovery functions shall allow for the recovery of all required decryption key(s) or other material/information required to decrypt ciphertext during a period of authorized access without requiring repeated presentations of access authorization to the key recovery agent(s).

Interoperability Feature

(6) The product's cryptographic functions may interoperate with:

(i) Other key recovery products that meet these criteria, and shall not interoperate with products whose key recovery feature has been altered, bypassed, disabled, or otherwise rendered inoperative; and

(ii) Non-key recovery products only when the key recovery product permits access to the key(s) or other material/information needed to decrypt ciphertext generated or received (i.e., one direction at a minimum) by the key recovery product.

Design, Implementation and Operational Assurance

(7) The product shall be resistant to efforts to disable or circumvent the attributes described in criteria one through six.

(8) The product's cryptographic function's key(s) or other material/information required to decrypt ciphertext shall be escrowed with a key recovery agent(s) (who may be a key recovery agent(s) internal to the user's organization) acceptable to BXA, pursuant to the criteria in Supplement No. 5 to Part 742. Since the establishment of a key management infrastructure and key recovery agents may take some time, BXA will, while the infrastructure is being built, consider exports of key recovery encryption products which facilitate establishment of the key management infrastructure before a key recovery agent is named.

Exporters of products described in this Supplement No. 4 to part 742 are required to furnish the name of an agent by December 31, 1998.

Supplement No. 5 to Part 742—Key Escrow or Key Recovery Agent Criteria, Security Policies, and Key Escrow or Key Recovery Procedures

Key Escrow or Key Recovery Agent Requirements; Security Policies; Key Escrow or Key Recovery Procedures

This Supplement sets forth criteria that the Department of Commerce will use to approve key recovery agents to support approval of the export or reexport of key recovery encryption items controlled for EI reasons under ECCNs 5A002 and 5D002. Any arrangements between the exporter or reexporter and the key recovery agent must reflect the provisions contained in this Supplement in a manner satisfactory to BXA, in conjunction with other agencies. This Supplement outlines the criteria for employing key recovery agent personnel for key recovery procedures. An applicant for eligibility to export or reexport key recovery items shall provide, or cause the proposed key recovery agent to provide, to BXA sufficient information concerning any proposed key recovery agent arrangements to permit BXA's evaluation of the key recovery agent's security policies, key recovery procedures, and suitability and trustworthiness to maintain the confidentiality of the key(s) or other material/information required to decrypt ciphertext. The key recovery agent, who must be approved by BXA, may be the applicant for the classification request. When there is no key recovery agent involved, or the customer will self-escrow abroad, with or without a legal obligation to the exporter, the customer must be approved by BXA. BXA retains the right, in addition to any other remedies, to revoke eligibility for License Exception KMI if BXA determines that a key recovery agent no longer meets these criteria. The requirements related to the suitability and trustworthiness, security policies, and key recovery procedures of the key recovery agent shall be made terms and conditions of the License Exception for key recovery items. BXA shall require the key recovery agent to provide a representation that it will comply with such terms and conditions.

Note: Use of key recovery agents located outside the U.S. is permitted if acceptable to BXA in consultation with the host government, as appropriate.

I. Key Recovery Agent Requirements

(1)(a) A key recovery agent must identify by name, date and place of birth, and social security number, individual(s) who:

(i) Is/are directly involved in the escrowing of key(s) or other material/information required to decrypt ciphertext; or

(ii) Have access to key(s) or other material/information required to decrypt ciphertext, or

(iii) Have access to information concerning requests for key(s) or other material/information required to decrypt ciphertext; or

(iv) Respond to requests for key(s) or other material/information required to decrypt ciphertext; or

(v) Is/are in control of the key recovery agent and have access or authority to obtain key(s) or other material/information required to decrypt ciphertext, and

(b) Must certify that such individual(s) meet the requirements of the following paragraphs (b)(i) or (b)(ii). BXA reserves the right to determine at any time the suitability and trustworthiness of such individual(s). Evidence of an individual's suitability and trustworthiness shall include:

(i) Information indicating that the individual(s):

(A) Has no criminal convictions of any kind or pending criminal charges of any kind;

(B) Has not breached fiduciary responsibilities (e.g., has not violated any surety or performance bonds); and

(C) Has favorable results of a credit check; or,

(ii) Information that the individual(s) has an active U.S. government security clearance of Secret or higher issued or updated within the last five years.

(2) The key recovery agent shall timely disclose to BXA when an individual no longer meets the requirements of paragraphs I.(1)(b)(i) or (ii).

(3) A key recovery agent must, to remain eligible for License Exception KMI, identify to BXA by name, date and place of birth, and social security number any new individual(s)

who will assume the responsibilities set forth in paragraph I.(1)(a) of this Supplement. Before that individual(s) assumes such responsibilities, the key recovery agent must certify to BXA that the individual(s) meets the criteria set forth in subparagraphs I.(1)(b)(i) or (b)(ii) of this Supplement. BXA reserves the right to determine at any time the suitability and trustworthiness of such personnel.

(4) If ownership or control of a key recovery agent is transferred, no export may take place under previously issued approvals until the successor key recovery agent complies with the criteria of this Supplement.

(5) Key recovery agents shall submit suitable evidence of the key recovery agent's corporate viability and financial responsibility (e.g., a certificate of good standing from the state of incorporation, credit reports, and errors/omissions insurance).

(6) Key recovery agents shall disclose to BXA any of the following which have occurred within the ten years prior to the application:

(a) Federal or state felony convictions of the business;

(b) Material adverse civil fraud judgments or settlements; and

(c) Debarments from federal, state, or local government contracting.

The applicant shall also timely disclose to BXA the occurrence of any of the foregoing during the use of License Exception KMI.

(7) Key recovery agent(s) shall designate an individual(s) to be the security and operations officer(s).

(8) A key recovery agent may be internal to a user's organization and may consist of one or more individuals. BXA may approve such key recovery agents if sufficient information is provided to demonstrate that appropriate safeguards will be employed in handling key recovery requests from government entities. These safeguards should ensure: the key recovery agent's structural independence from the rest of the organization; security; and confidentiality.

II. Security Policies

(1) Key recovery agents must implement security policies that assure the confidentiality, integrity, and availability of the key(s) or other material/information required for decryption of the ciphertext.

(a) Procedures to assure confidentiality shall include:

(i) Encrypting all key(s) or other material/information required to decrypt ciphertext while in storage, transmission, or transfer; or

(ii) Applying reasonable measures to limit access to the database (e.g. using keyed or combination locks on the entrances to escrow facilities and limiting the personnel with knowledge of or access to the keys/combinations).

(b) Procedures to assure the integrity of the database (i.e. assuring the key(s) and other material/information required to decrypt ciphertext are protected against unauthorized changes) shall include the use of access controls such as database password controls, digital signatures, system auditing, and physical access restrictions.

(c) Procedures to assure the availability of the database (i.e. assuring that key(s) and other material/information required to decrypt ciphertext are retrievable at any time) shall include system redundance, physical security, and the use of cryptography to control access.

(2) Policies and procedures shall be designed and operated so that a failure by a single person, procedure, or mechanism does not compromise the confidentiality, integrity and availability of key(s)or other material/information required to decrypt ciphertext. Security policies and procedures may include, but are not limited to, multi-person control of access to recoverable keys, split keys, and back-up capabilities.

(3) Key recovery agents shall implement policies that protect against unauthorized disclosure of information regarding whose encryption material is stored, the fact that key(s) or other material/information required to decrypt ciphertext was requested or provided, and the identity of a requester. Procedures to assure the confidentiality of this information shall include those described in paragraph II.(1)(a) of this supplement.

(4) Key recovery agents shall provide to BXA prompt notice of a compromise of a security policy or of the confidentiality of key(s) or other material/information required to decrypt ciphertext.

III. Key Recovery Procedures

(1) Key recovery agents shall maintain the ability to make the key(s) or other material/information required to decrypt ciphertext available until notified otherwise by BXA. Key recovery agents shall make requested key(s) or other material/information required to decrypt ciphertext available, to the extent required by the request, within two hours from the time they receive a request from a government agency acting under appropriate legal authority.

(2) Key recovery agents shall maintain data regarding key recovery requests received, release of key(s) or other material/information required to decrypt ciphertext, database changes, system administration access, and dates of such events for purposes of audits by BXA.

(3) The key recovery agent must transfer all key recovery equipment, key(s) and/or other material/information required to decrypt ciphertext, key recovery database, and all administrative information necessary to its key recovery operations to another key recovery agent approved by BXA in the event that:

(a) The key recovery agent dissolves or otherwise terminates escrowing operations, or

(b) BXA determines that there is a risk of such dissolution or termination, or

(c) BXA determines that the key recovery agent is no longer suitable or trustworthy.

Supplement No. 6 to Part 742—Guidelines for Submitting a Classification Request for a Mass Market Software Product That Contains Encryption

Classification requests for release of certain mass market encryption software from EI controls must be submitted on Form BXA-748P, in accordance with § 748.3 of the EAR. To expedite review of the request, clearly mark the envelope "Attn.: Mass Market Encryption Software Classification Request". In Block 9: Special Purpose of the Form BXA-748P, you must insert the phrase "Mass Market Encryption Software. Failure to insert this phrase will delay processing. In addition, the Bureau of Export Administration recommends that such requests be delivered via courier service to: Bureau of Export Administration, Office of Exporter Services, Room 2705, 14th Street and Pennsylvania Ave., N.W., Washington, D.C. 20230.

(a) Requests for mass market encryption software that meet the criteria in paragraph (a)(2) of this Supplement will be processed in seven (7) working days from receipt of a properly completed request. Those requests for mass market encryption software that meet the criteria of paragraph (a)(1) of this Supplement only will be processed in fifteen (15) working days from receipt of a properly completed request. When additional information is requested, the request will be processed within 15 working days of the receipt of the requested information.

(1) A mass market software product that meets *all* the criteria established in this paragraph will be processed in fifteen (15) working days from receipt of the properly completed request:

(i) The commodity must be mass market software. Mass market software is computer software that is available to the public via sales from stock at retail selling points by means of over-the-counter transactions, mail order transactions, or telephone call transactions;

(ii) The software must be designed for installation by the user without further substantial support by the supplier. Substantial support does not include telephone (voice only) help line services for installation or basic operation, or basic operation training provided by the supplier; and

(iii) The software includes encryption for data confidentiality.

(2) A mass market software product that meets *all* the criteria established in this paragraph will be processed in seven working days from receipt of the properly completed request:

(i) The software meets all the criteria established in paragraph (a)(1) (i) through (iii) of this Supplement;

(ii) The data encryption algorithm must be RC4 and/or RC2 with a key space no longer than 40 bits. The RC4 and RC2 algorithms are proprietary to RSA Data Security, Inc. To ensure that the subject software is properly licensed and correctly implemented, contact RSA Data Security, (415) 595–8782;

(iii) If both RC4 and RC2 are used in the same software, their functionality must be separate. That is, no data can be operated sequentially on by both routines or multiply by either routine;

(iv) The software must not allow the alteration of the data encryption mechanism and its associated key spaces by the user or any other program;

(v) The key exchange used in data encryption must be:

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(A) A public key algorithm with a key space less than or equal to a 512 bit modulus and/or;

(B) A symmetrical algorithm with a key space less than or equal to 64 bits; and

(vi) The software must not allow the alteration of the key management mechanism and its associated key space by the user or any other program.

(b) Instructions for the preparation and submission of a classification request that is eligible for seven day handling are as follows:

(1) If the software product meets the criteria in paragraph (a)(2) of this Supplement, you must call the Department of Commerce on (202) 482–0092 to obtain a test vector. This test vector must be used in the classification process to confirm that the software has properly implemented the approved encryption algorithms.

(2) Upon receipt of the test vector, the applicant must encrypt the test plain text input provided using the commodity's encryption routine (RC2 and/or RC4) with the given key value. The applicant should not pre-process the test vector by any compression or any other routine that changes its format. Place the resultant test cipher text output in hexadecimal format on an attachment to form BXA–748P.

(3) You must provide the following information in a cover letter to the classification request:

(i) Clearly state at the top of the page "Mass Market Encryption Software—7 Day Expedited Review Requested";

(ii) State that you have reviewed and determined that the software subject to the classification request meets the criteria of paragraph (a)(2) of this Supplement;

(iii) State the name of the single software product being submitted for review. A separate classification request is required for each product;

(iv) State how the software has been written to preclude user modification of the encryption algorithm, key management mechanism, and key space;

(v) Provide the following information for the software product:

(A) Whether the software uses the RC2 and/or the RC4 algorithm and how the algorithm(s) is used. If both of these algorithms are used in the same product, also state how the functionality of each is separated to assure that no data is operated on by both algorithms;

(B) Pre-processing information of plain text data before encryption (e.g. the addition of clear text header information or compression of the data);

(C) Post-processing information of cipher text data after encryption (e.g. the addition of clear text header information or packetization of the encrypted data);

(D) Whether a public key algorithm or a symmetric key algorithm is used to encrypt keys and the applicable key space;

(E) For classification requests regarding source code:

(*1*) Reference the applicable executable product that has already received a one-time review;

(*2*) Include whether the source code has been modified by deleting the encryption algorithm, its associated key management routine(s), and all calls to the algorithm from the source code, or by providing the encryption algorithm and associated key management routine(s) in object code with all calls to the algorithm hidden. You must provide the technical details on how you have modified the source code;

(3) Include a copy of the sections of the source code that contain the encryption algorithm, key management routines, and their related calls; and

(F) Provide any additional information which you believe would assist in the review process.

(c) Instructions for the preparation and submission of a classification request that is eligible for 15 day handling are as follows:

(1) If the software product meets only the criteria in paragraph (a)(1) of this supplement, you must prepare a classification request. Send the original to the Bureau of Export Administration. Send a copy by Express Mail to:

Attn.: 15 day Encryption Request Coordinator P.O. Box 246 Annapolis Junction, MD 20701-0246.

(2) You must provide the following information in a cover letter to the classification request:

(i) Clearly state at the top of the page "Mass Market Software and Encryption—15 Day Expedited Review Requested";

(ii) State that you have reviewed and determined that the software subject of the classification request, meets the criteria of paragraph (a)(1) of this Supplement;

(iii) State the name of the single software product being submitted for review. A separate classification request is required for each product;

(iv) State that a duplicate copy, in accordance with paragraph (c)(1) of this Supplement, has been sent to the 15 day Encryption Request Coordinator; and

(v) Ensure that the information provided includes brochures or other documentation or specifications relating to the software, as well as any additional information which you believe would assist in the review process.

(3) Contact the Bureau of Export Administration on (202) 482–0092 prior to submission of the classification to facilitate the submission of proper documentation.

Supplement No. 7 to Part 742—Review Criteria for Exporter Key Escrow or Key Recovery Development Plans

Exporter Key Recovery Plan

(1) Export of 56-bit digital encryption standard (DES) or equivalent strength encryption products, without key recovery, will be permitted, in exchange for specific commitments to key recovery products and services and a key management infrastructure. After a one-time review of the strength of the product, the 56-bit DES or equivalent strength products will be eligible for export License Exception KMI, provided that the exporter submits an acceptable plan.

(2) Acceptable plans include: export licenses issued for, and demonstrations of, key recovery products to appropriate U.S. agencies; plans describing products under development with key recovery features (see paragraph (3) of this Supplement), and for distributors, a plan describing intentions to offer for distribution key recovery products.

(3) Following are topical areas to include in the plan, which should be submitted to the Department of Commerce, Bureau of Export Administration, in the form of a letter from senior corporate management:

(i) Steps the applicant has taken or will take (depending on its line of business) to develop, produce, distribute, market, and/or transition to encryption products with key recovery features. The plan should include benchmarks and milestones for incorporating key recovery features into products and services, and for the supporting key management infrastructure, including key recovery agent(s); and

(ii) Provision, at the applicant's discretion, of other information to indicate commitment to the development of a key management infrastructure, such as participation in U.S. Government pilot programs, current key recovery products or services provided, role in NIST's Technical Advisory Committee on a Key Management Infrastructure, participation in other encryption policy committees or groups, or other support for the key management infrastructure.

(4) Renewal of License Exception KMI must be sought by sending a letter to BXA every six months reporting progress in meeting milestones set forth in the exporter's plan for key recovery products and services.

PART 744—[AMENDED]

27. Part 744 is amended by adding a new § 744.9 to read as follows:

§ 744.9. Restrictions on technical assistance by U.S. persons with respect to encryption items.

(a) *General prohibition.* No U.S. person may, without a license from BXA, provide technical assistance (including training) to foreign persons with the intent to aid a foreign person in the development or manufacture outside the United States of encryption commodities and software that, if of United States origin, would be controlled for "EI" reasons under ECCN 5A002 or 5D002. Note that this prohibition does not apply if the U.S. person providing the assistance has a license or is otherwise entitled to export the encryption commodities and software in question to the foreign person(s) receiving the assistance. Note in addition that the mere teaching or discussion of information about cryptography, including, for example, in an academic setting, by itself would not establish the intent described in this section, even where foreign persons are present.

(b) *Definition of U.S. person.* For purposes of this section, the term U.S. person includes:

(1) Any individual who is a citizen or permanent resident alien of the United States;

(2) Any juridical person organized under the laws of the United States or any jurisdiction within the United States, including foreign branches; and

(3) Any person in the United States.

(c) *License review standards.* Applications involving activities described in this section will be reviewed on a case-by-case basis to determine whether the activity is consistent with U.S. national security and foreign policy interests.

PART 748—[AMENDED]

28. Section 748.3 is amended by adding a new paragraph (b)(3) to read as follows:

§ 748.3 Classification and Advisory Opinions.

* * * * *

(b) * * *

(3) Classification requests for a one-time Department of Commerce review of encryption software transferred from the U.S. Munitions List consistent with E.O. 13026 of November 15, 1996 (61 FR 58767) and pursuant to the Presidential Memorandum of that date are required prior to export to determine eligibility for release from EI controls. Refer to Supplement No. 6 to part 742 for instructions on submitting such requests for mass market encryption software. For requests for Key Escrow, Key Recovery, or Recovery encryption products, include the word "Encryption" in Block 24: Additional Information.

* * * * *

PART 750—[AMENDED]

29. Section 750.3 is amended by adding a new paragraph (b)(2)(v) to read as follows:

§ 750.3 Review of license applications by BXA and other government agencies and departments.

* * * * *

(b) * * *

(2) * * *

(v) The Department of Justice is concerned with controls relating to encryption items.

PART 768—[AMENDED]

30. Section 768.1(b) is revised to read as follows:

§ 768.1 Introduction.

* * * * *

(b) *Scope.* This part applies only to the extent that items are controlled for national security purposes. This part does not apply to encryption items that were formerly controlled on the U.S. Munitions List and that were transferred to the Commerce Control List consistent with E.O. 13026 of November 15, 1996 (61 FR 58767) and pursuant to the Presidential Memorandum of that date, which shall not be subject to any mandatory foreign availability review procedures.

* * * * *

31. Section 768.3 is amended by adding a new sentence at the end of paragraph (a) to read as follows:

§ 768.3 Foreign availability assessment.

(a) * * * The effect of any such determination on the effectiveness of foreign policy controls may be considered independent of this part.

* * * * *

PART 772—[AMENDED]

32. Part 772 is amended by adding new definitions of "Encryption items," "Encryption object code," "Encryption software," and "Encryption source code," in alphabetical order and by revising the definitions of "Advisory Committee on Export Policy (ACEP)," "Commodity," "Export Administration Review Board (EARB)," and "Operating Committee (OC)," to read as follows:

PART 772—DEFINITIONS OF TERMS

* * * * *

Advisory Committee on Export Policy (ACEP). The ACEP voting members include the Assistant Secretary of Commerce for Export Administration, and Assistant Secretary-level representatives from the Departments of State, Defense, Justice (for encryption exports), Energy, and the Arms Control and Disarmament Agency. The appropriate representatives of the Joint Chiefs of Staff and the Director of the Nonproliferation Center of the Central Intelligence Agency are non-voting members. The Assistant Secretary of Commerce for Export Administration is the Chair. Appropriate acting Assistant Secretary, Deputy Assistant Secretary or equivalent strength of any agency or department may serve in lieu of the Assistant Secretary of the concerned agency or department. Such representatives, regardless of rank, will speak and vote on behalf of their agencies or departments. The ACEP may invite Assistant Secretary-level representatives of other Government agencies or departments (other than those identified above) to participate in the activities of the ACEP when matters of interest to such agencies or departments are under consideration. Decisions are made by majority vote.

* * * * *

Commodity. Any article, material, or supply except technology and software.

Note that the provisions of the EAR applicable to the control of software (e.g. publicly available provisions) are not applicable to encryption software. Encryption software is controlled because, like the items controlled under ECCN 5A002, it has a functional capacity to encrypt information on a computer system, and not because of any informational or theoretical value that such software may reflect, contain or represent, or that its export may convey to others abroad.

* * * * *

Encryption items. The phrase encryption items includes all encryption commodities, software, and technology that contain encryption features and are subject to the EAR. This does not include encryption items specifically designed, developed, configured, adapted or modified for military applications (including command, control and intelligence applications) which are controlled by the Department of State on the U.S. Munitions List.

Encryption object code. Computer programs containing an encryption source code that has been compiled into a form of code that can be directly executed by a computer to perform an encryption function.

Encryption software. Computer programs that provide capability of encryption functions or confidentiality of information or information systems. Such software includes source code, object code, applications software, or system software.

Encryption source code. A precise set of operating instructions to a computer that, when compiled, allows for the execution of an encryption function on a computer.

* * * * *

Export Administration Review Board (EARB). EARB voting members are the Secretary of Commerce, the Secretary of State, the Secretary of Defense, the Secretary of Energy, the Attorney General (for encryption exports), and the Director of the Arms Control and Disarmament Agency. The Chairman of the Joint Chiefs of Staff and the Director of Central Intelligence are non-voting members. The Secretary of Commerce is the Chair of the EARB. No alternate EARB members may be designated, but the acting head or deputy head of any agency or department may serve in lieu of the head of the concerned agency or department. The EARB may invite the heads of other Government agencies or departments (other than those identified in this definition) to participate in the activities of the EARB when matters of interest to such agencies or departments

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are under consideration. Decisions are made by majority vote.

* * * * *

Operating Committee (OC). The OC voting members include representatives of appropriate agencies in the Departments of Commerce, State, Defense, Justice (for encryption exports), and Energy and the Arms Control and Disarmament Agency. The appropriate representatives of the Joint Chiefs of Staff and the Director of the Nonproliferation Center of the Central Intelligence Agency are non-voting members. The Department of Commerce representative, appointed by the Secretary, is the Chair of the OC and serves as the Executive Secretary of the Advisory Committee on Export Policy. The OC may invite representatives of other Government agencies or departments (other than those identified in this definition) to participate in the activities of the OC when matters of interest to such agencies or departments are under consideration.

* * * * *

PART 774—[AMENDED]

33. In Supplement No. 1 to part 774 (the Commerce Control List), Category 5—Telecommunications and Information Security is amended by revising ECCNs 5A002, 5D002 and 5E002, to read as follows:

Category 5—Telecommunications and Information Security

* * * * *

II. Information Security

* * * * *

5A002 Systems, Equipment, Application Specific "Electronic Assemblies", Modules or Integrated Circuits for "Information Security", and Specially Designed Components Therefor

License Requirements

Reason for Control: NS, AT, EI
Control(s) Country Chart
NS applies to entire entry—NS Column 1
AT applies to entire entry—AT Column 1

EI applies only to encryption items transferred from the U.S. Munitions List to the Commerce Control List consistent with E.O. 13026 of November 15, 1996 (61 FR 58767) and pursuant to the Presidential Memorandum of that date. Refer to § 742.15.

License Exceptions

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: N/A
Items:

a. Designed or modified to use "cryptography" employing digital techniques to ensure "information security";

b. Designed or modified to perform cryptanalytic functions;

c. Designed or modified to use "cryptography" employing analog techniques to ensure "information security";

Note: 5A002.c does not control the following:

1. Equipment using "fixed" band scrambling not exceeding 8 bands and in which the transpositions change not more frequently than once every second;

2. Equipment using "fixed" band scrambling exceeding 8 bands and in which the transpositions change not more frequently than once every ten seconds;

3. Equipment using "fixed" frequency inversion and in which the transpositions change not more frequently than once every second;

4. Facsimile equipment;

5. Restricted audience broadcast equipment; and

6. Civil television equipment;

d. Designed or modified to suppress the compromising emanations of information-bearing signals;

Note: 5A002.d does not control equipment specially designed to suppress emanations for reasons of health and safety.

e. Designed or modified to use cryptographic techniques to generate the spreading code for "spread spectrum" or hopping code for "frequency agility" systems;

f. Designed or modified to provide certified or certifiable "multilevel security" or user isolation at a level exceeding Class B2 of the Trusted Computer System Evaluation Criteria (TCSEC) or equivalent;

g. Communications cable systems designed or modified using mechanical, electrical or electronic means to detect surreptitious intrusion.

Note: 5A002 does not control:

a. "Personalized smart cards" or specially designed components therefor, with any of the following characteristics:

1. Not capable of message traffic encryption or encryption of user-supplied data or related key management functions therefor; or

2. When restricted for use in equipment or systems excluded from control under the note to 5A002.c, or under paragraphs b through h of this note.

b. Equipment containing "fixed" data compression or coding techniques;

c. Receiving equipment for radio broadcast, pay television or similar restricted audience television of the consumer type, without digital encryption and where digital decryption is limited to the video, audio or management functions;

d. Portable or mobile radiotelephones for civil use (e.g., for use with commercial civil cellular radiocommunications systems) that are not capable of end-to-end encryption;

e. Decryption functions specially designed to allow the execution of copy-protected "software", provided the decryption functions are not user-accessible;

f. Access control equipment, such as automatic teller machines, self-service statement printers or point of sale terminals, that protects password or personal identification numbers (PIN) or similar data to prevent unauthorized access to facilities but does not allow for encryption of files or text, except as directly related to the password or PIN protection;

g. Data authentication equipment that calculates a Message Authentication Code (MAC) or similar result to ensure no alteration of text has taken place, or to authenticate users, but does not allow for encryption of data, text or other media other than that needed for the authentication;

h. Cryptographic equipment specially designed and limited for use in machines for banking or money transactions, such as automatic teller machines, self-service statement printers or point of sale terminals.

5D002 Information Security "Software"

License Requirements

Reason for Control: NS, AT, EI
Control(s) *Country Chart*
NS applies to entire entry—NS Column 1
AT applies to entire entry—AT Column 1

EI controls apply to encryption software transferred from the U.S. Munitions List to the Commerce Control List consistent with E.O. 13026 of November 15, 1996 (61 FR 58767) and pursuant to the Presidential Memorandum of that date. Refer to § 742.15 of the EAR.

Note: Encryption software is controlled because of its functional capacity, and not because of any informational value of such software; such software is not accorded the

same treatment under the EAR as other "software"; and for export licensing purposes encryption software is treated under the EAR in the same manner as a commodity included in ECCN 5A002. License Exceptions for commodities are not applicable.

Note: Encryption software controlled for EI reasons under this entry remains subject to the EAR even when made publicly available in accordance with part 734 of the EAR, and it is not eligible for the General Software Note ("mass market" treatment under License Exception TSU for mass market software). After a one-time BXA review, certain encryption software may be released from EI controls and made eligible for the General Software Note treatment as well as other provisions of the EAR applicable to software. Refer to § 742.15(b)(1) of the EAR, and Supplement No. 6 to part 742.

License Exceptions

CIV: N/A
TSR: N/A

List of Items Controlled

Unit: $ value
Related Controls: N/A
Related Definitions: 5D002.a controls "software" designed or modified to use "cryptography" employing digital or analog techniques to ensure "information security".
Items:

a. "Software" specially designed or modified for the "development", "production" or "use" of equipment or "software" controlled by 5A002, 5B002 or 5D002.

b. "Software" specially designed or modified to support "technology" controlled by 5E002.

c. Specific "software" as follows:

c.1. "Software" having the characteristics, or performing or simulating the functions of the equipment controlled by 5A002 or 5B002;

c.2. "Software" to certify "software" controlled by 5D002.c.1;

c.3. "Software" designed or modified to protect against malicious computer damage, e.g., viruses;

Note: 5D002 does not control:

a. "Software required" for the "use" of equipment excluded from control under the Note to 5A002;

b. "Software" providing any of the functions of equipment excluded from control under the Note to 5A002.

5E002 "Technology" According to the General Technology Note for the "Development", "Production" or Use of Equipment Controlled by 5A002 or 5B002 or "Software" Controlled by 5D002

License Requirements

Reason for Control: NS, AT, EI
Control(s) Country Chart

NS applies to entire entry—NS Column 1

AT applies to entire entry—AT Column 1

EI controls applies only to encryption technology transferred from the U.S. Munitions List consistent with E.O. 13026 of November 15, 1996 (61 FR 58767) and pursuant to the Presidential Memorandum of that date. Refer to § 742.15 of the EAR.

License Exceptions

CIV: N/A

TSR: N/A

List of Items Controlled

Unit: N/A

Related Controls: N/A

Related Definitions: N/A

Items:

The list of items controlled is contained in the ECCN heading.

34. In Supplement No. 2 to Part 774 the "General Software Note" is revised to read as follows:

Supplement No. 2 to Part 774—General Technology and Software Notes

I. *General Technology Note.* * * *

* * * * *

II. *General Software Note.* License Exception TSU ("mass market" software) is available to all destinations, except Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria, for release of software that is generally available to the public by being:

a. Sold from stock at retail selling points, without restriction, by means of:

1. Over the counter transactions;

2. Mail order transactions; or

3. Telephone call transactions; and

b. Designed for installation by the user without further substantial support by the supplier.

Note: License Exception TSU for mass market software does not apply to encryption software controlled for EI reasons under ECCN 5D002. Encryption software may become eligible after a one-time BXA review according to the provision of § 742.15(b)(1) of the EAR.

Dated: December 23, 1996.

Sue E. Eckert,

Assistant Secretary for Export Administration.

[FR Doc. 96–33030 Filed 12–26–96; 8:45 am]

BILLING CODE 3510–33–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release Nos. 33–7376; 34–38068; IC–22413; File No. S7–12–96]

RIN 3235–AG78

Odd-Lot Tender Offers by Issuers

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission ("Commission") is adopting an amendment to Rule 13e–4 under the Securities Exchange Act of 1934 ("Exchange Act"). The amendment removes the rule's requirement that an issuer cash tender offer made to odd-lot holders specify a record date of ownership for eligibility to tender into the offer. The amendment enables issuers to conduct continuous, periodic, or extended odd-lot offers for their equity securities. The Commission also is granting a class exemption from Rule 10b–13, and a temporary class exemption from Rule 10b–6, under the Exchange Act to permit issuers to conduct odd-lot offers, to "round-up" odd-lots on behalf of odd-lot holders, and to make purchases of their securities otherwise than pursuant to the odd-lot offer.

EFFECTIVE DATE: December 30, 1996.

FOR FURTHER INFORMATION CONTACT: Lauren C. Mullen, Attorney, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Stop 5–1, Washington, DC 20549, at (202) 942–0772.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

The Commission is adopting an amendment to paragraph (h)(5) of Rule 13e–4 ("Rule 13e–4" or "Rule")[1] under the Exchange Act,[2] and is granting a class exemption from Rule 10b–13,[3] and a temporary class exemption from Rule 10b–6,[4] under the Exchange Act in connection with issuers' odd-lot tender offers. The amendment, which was published for comment on April 25, 1996 ("Proposing Release"),[5] and the class exemptions permit issuers to conduct continuous, periodic, or extended odd-lot offers for their equity

[1] 17 CFR 240.13e–4.
[2] 15 U.S.C. 78a *et seq.*
[3] 17 CFR 240.10b–13.
[4] 17 CFR 240.10b–6.
[5] Securities Exchange Act Release No. 37132 (April 25, 1996), 61 FR 18306.

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securities without seeking exemptions from Rules 10b–6, 10b–13, and 13e–4 from the Commission.

II. Discussion of the Amendment

Rule 13e–4 governs cash tender and exchange offers by issuers for their equity securities. Paragraph (h)(5) of Rule 13e–4 excepts issuers' odd-lot offers from the provisions of the Rule, other than the "all holders" and "best price" provisions of paragraphs (f)(8)(i) and (f)(8)(ii), respectively.[6] In an odd-lot offer, the offer to purchase is limited to securityholders who own fewer than 100 shares of the subject security.

Prior to this amendment, paragraph (h)(5) of Rule 13e–4 required an issuer making an odd-lot offer to set a record date prior to the offer's announcement for the purpose of determining a securityholder's eligibility to participate in the offer. As discussed in the Proposing Release, the record date requirement was imposed to prevent certain perceived abuses.[7] The Commission's experience with odd-lot offers, and the two comments received in response to the Proposing Release, indicate that such abuses rarely, if ever, occur. Therefore, to reduce the regulatory burdens for issuers conducting odd-lot offers, and to eliminate the need for the Commission to grant exemptions from Rule 13e–4 on a case-by-case basis for extended odd-lot offers, the Commission proposed amending Rule 13e–4 to delete the record date requirement from paragraph (h)(5). The amendment was proposed to permit issuers to conduct odd-lot offers on a continuous, extended, or periodic basis, and also to enable odd-lot holders who obtain their holdings prior to or during the odd-lot offer to participate in the offer.

The Commission has determined to adopt the amendment to Rule 13e–4(h)(5) as proposed, with a minor modification.[8] In order to provide issuers with flexibility, the rule as amended permits, but does not require, an issuer to set a record date for eligibility to participate in an odd-lot offer.

One commenter requested clarification regarding the appropriate procedures under the Rule for notifying beneficial holders of odd-lots about the offer. As previously noted, paragraph (h)(5) of Rule 13e–4 excepts issuers from the Rule's requirements other than the "all holders" and "best price" provisions. Nonetheless, in proposing paragraph (h)(5), the Commission noted an issuer's affirmative duty under the Exchange Act, and various rules promulgated thereunder, to disclose material information to its shareholders as well as its own interest in the success of an odd-lot offer.[9] In adopting the odd-lot exception, the Commission further stated that odd-lot offers are required to be extended equally to beneficial holders and record holders.[10]

The ability to participate equally means that beneficial holders should have the same access to information about the offer as record holders.[11] Accordingly, while Rule 13e–4(h)(5) does not contain dissemination requirements, an issuer or its agent must take reasonable steps to disseminate information about an odd-lot offer to beneficial holders in a manner comparable to the dissemination to record holders.

The same commenter also suggested excepting issuer tender offers made to a class of shareholders owning, in the aggregate, less than five percent of the issuer's outstanding securities; this commenter also suggested redefining the term "odd-lot" to include more than 99 shares. The Commission believes that the odd-lot exception to Rule 13e–4 is meant to cover an offer for economically *de minimis* holdings, *e.g.*, an amount of securities for which high transaction costs create a disincentive for trading the shares and which also is too small to warrant servicing by the issuer. Moreover, increasing the exception's threshold to an amount greater than 99 shares would raise various concerns under the Rule, including the "all-holders" provisions. Nevertheless, the Commission recognizes that the odd-lot exception is intended to allow issuers to reduce the number of small shareholdings where the costs to issuers of servicing small shareholders, and the costs to shareholders of selling small holdings, are disproportionate to the value of the security. Accordingly, the Commission will consider, on a case-by-case basis, issuer offers involving tenders of more than 99 shares from each holder, where such offers involve a number of securities that represent a *de minimis* proportion of the value of the issuer's outstanding securities.[12]

III. Class Exemption From Rule 10b–13 and Temporary Class Exemption From Rule 10b–6

As discussed in the Proposing Release, odd-lot offers also raise issues under Rule 10b–13, which prohibits an issuer conducting a cash tender or exchange offer from purchasing the same security that is the subject of the offer (or any other security which is immediately convertible into or exchangeable for such security) otherwise than pursuant to the offer. Rule 10b–13 is designed, *inter alia*, to prevent larger shareholders from demanding greater or different consideration for the tender of their shares than that which is paid pursuant to the tender offer. Larger shareholders are ineligible to participate in odd-lot offers because, by definition, an odd-lot offer is available only to shareholders owning 99 or fewer shares of the issuer's securities. Accordingly, the Commission believes that purchases of an issuer's securities otherwise than pursuant to an odd-lot offer do not raise the concerns that Rule 10b–13 is designed to address.

The Commission, therefore, hereby grants an exemption from Rule 10b–13 to permit any issuer or agent acting on behalf of an issuer in connection with an odd-lot offer to purchase or arrange to purchase the security that is the subject of the offer (or any other security which is immediately convertible into or exchangeable for such security) otherwise than pursuant to the odd-lot offer from the time that the odd-lot offer is publicly announced or otherwise made known to odd-lot holders, until the offer's expiration. Among other things, this will allow the issuer or its agent to purchase the issuer's securities to satisfy requests of odd-lot holders to

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[6] 17 CFR 240.13e–4(h)(5); *see* Securities Exchange Act Release No. 19988 (July 21, 1983), 48 FR 34251 ("Release No. 34–19988") (adopting the paragraph now designated as (h)(5) of Rule 13e–4, which excepts odd-lot offers from the Rule's requirements).

Rule 13e–4(f)(8)(i) requires that the tender offer be open to all securityholders of the class of securities subject to the tender offer. 17 CFR 240.13e–4(f)(8)(i). Rule 13e–4(f)(8)(ii) requires that consideration paid to any securityholder pursuant to an issuer tender offer be the highest consideration paid to any other security holder during such tender offer. 17 CFR 240.13e–4(f)(8)(ii).

[7] *See* Securities Exchange Act Release No. 19246 (November 17, 1982), 47 FR 53398, 53400 ("Release 34–19246") (proposing adoption of the paragraph now designated as (h)(5) of Rule 13e–4).

[8] One commenter suggested that the Commission exempt issuers that conduct odd-lot offers from the broker-dealer registration requirements under Section 15(a) of the Exchange Act. The Commission notes that this commenter's concerns were specifically addressed by the staff in *Letter regarding Shareholder Communications Corporation* (July 25, 1996), 1996 SEC. No-Act. LEXIS 610. This letter discusses the extent to which issuers may participate in an odd-lot offer without requiring registration as a broker-dealer.

[9] Release No. 34–19246, 47 FR at 53399 n. 18.

[10] Release No. 34–19988, 48 FR at 34252.

[11] *Cf.* paragraph (e)(1)(ii) of Rule 13e–4, 17 CFR 240.13e–4(e)(1)(ii), and paragraph (a)(2) of Rule 14a–7 under the Exchange Act, 17 CFR 240.14a–7(a)(2), respectively.

[12] The Commission, through its Division of Market Regulation, will consider requests regarding such programs. Such requests should be directed to the Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Stop 5–1, Washington, DC 20549 at (202) 942–0772.

"round-up" their holdings to 100 shares.

Also, the Commission today is adopting Regulation M under the Exchange Act, the Securities Act of 1933,[13] and the Investment Company Act of 1940,[14] and is rescinding Rule 10b–6 under the Exchange Act, among other rules.[15] Rule 102 of Regulation M, which along with Rule 101 replaces Rule 10b–6, contains an exception that permits issuers to purchase odd-lots while engaged in a distribution of the same or related securities. This exception allows issuers to conduct odd-lot tender offers, including continuous, periodic, or extended odd-lot offers, during a distribution of the same or related securities. The exception also allows issuers to purchase securities on behalf of odd-lot holders who wish to "round-up" their holdings to a round lot (*i.e.*, 100 shares).[16] The exceptions for odd-lot transactions under Regulation M will accomplish the same relief intended by the class exemption from Rule 10b–6 that was discussed in the Proposing Release.[17] The exception for odd-lot transactions from Rule 102 of Regulation M, and a similar exception from Rule 101 for distribution participants and their affiliated purchasers, will be effective as of 60 days from publication of Regulation M in the **Federal Register**.

To accommodate odd-lot offers in the interim, the Commission hereby grants an exemption from Rule 10b–6 on a temporary basis to permit an issuer, or an agent acting on behalf of the issuer, to bid for or purchase odd-lots, or to effect transactions to allow odd-lot holders to "round-up" their holdings to 100 shares during an odd-lot offer conducted pursuant to Rule 13e–4(h)(5), during a distribution for the purposes of Rule 10b–6. This class exemption will terminate as of the effective date of Regulation M.

IV. Regulatory Flexibility Act Analysis

The Chairman of the Securities and Exchange Commission certified in connection with the Proposing Releasn that the proposed amendment to Rule 13e–4 and the proposed class exemptions from Rules 10b–6 and 10b–13, if adopted, would not have a significant impact on a substantial number of small entities. None of the comments addressed the certification.

V. Effects on Competition and Other Findings

Section 23(a)(2) of the Exchange Act[18] requires the Commission, in adopting rules under the Exchange Act, to consider the anti-competitive effects of such rules, if any, and to balance any impact against regulatory benefits gained in terms of furthering the purposes of the Exchange Act. Furthermore, Section 2 of the Securities Act of 1933[19] and Section 3 of the Exchange Act,[20] as amended by the recently enacted National Securities Markets Improvement Act of 1996 ("Markets Improvement Act"),[21] provide that whenever the Commission is engaged in rulemaking, and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission also shall consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.

The Commission has considered the amendment to Rule 13e–4 and the class exemption from Rule 10b–13 in light of the standards cited in Sections 3 and 23(a)(2) of the Exchange Act and believes that, for the reasons stated herein, the adoption of the amendment and the granting of the class exemption will promote efficiency for issuers conducting odd-lot offers, will have no adverse effect on capital formation, and will not impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act.

The Commission finds, in accordance with the Administrative Procedure Act,[22] that the adoption of the amendment to Rule 13e–4 and the class exemptions from Rules 10b–6 and 10b–13 relieve mandatory restrictions and are exemptive in nature. Accordingly, the foregoing action becomes effective immediately.

VI. Statutory Basis

Pursuant to Sections 3(b), 9(a)(6), 10(b), 13(e), 14(e), and 23(a) of the Exchange Act; 15 U.S.C. 78c(b), 78i(a)(6), 78j(b), 78m(e), 78n(e), and 78w(a); the Commission amends Rule 13e–4 in Chapter II of Title 17 of the Code of Federal Regulations by amending paragraph (h)(5) of § 240.13e–4.

List of Subjects in 17 CFR Part 240

Brokers, Confidential business information, Fraud, Reporting and recordkeeping requirements, Securities.

Text of the Proposed Amendment

For the reasons set out in the preamble, the Commission amends Title 17, Chapter II of the Code of Federal Regulations as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78w, 78x, 78*ll*(d), 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. Section 240.13e–4 is amended by revising paragraph (h)(5) to read as follows:

§ 240.13e–4 Tender offers by issuers.

* * * * *

(h) * * *

(5) Offers to purchase from security holders who own an aggregate of not more than a specified number of shares that is less than one hundred: *Provided, however*, That:

(i) The offer complies with paragraph (f)(8)(i) of this section with respect to security holders who own a number of shares equal to or less than the specified number of shares, except that an issuer can elect to exclude participants in an issuer's plan, as that term is defined in § 242.100 of Regulation M, or to exclude security holders who do not own their shares as of a specified date determined by the issuer; and

(ii) The offer complies with paragraph (f)(8)(ii) of this section or the consideration paid pursuant to the offer is determined on the basis of a uniformly applied formula based on the market price of the subject security;

* * * * *

Dated: December 20, 1996.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–33061 Filed 12–27–96; 8:45 am]

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[13] 15 U.S.C. 77a *et seq.*

[14] 15 U.S.C. 80a–1 *et seq.*

[15] Securities Exchange Act Release No. 38067 (December 20, 1996).

[16] Additionally, the Commission notes that sales of tendered odd-lots into the open market are not subject to Rules 101 and 102 of Regulation M (or Rule 10b–6) where such sales do not satisfy the magnitude and special selling efforts and selling methods elements of a distribution for purposes of those provisions.

[17] Proposing Release, 61 FR at 18307.

[18] 15 U.S.C. 78w(a)(2).

[19] 15 U.S.C. 77b.

[20] 15 U.S.C. 78c.

[21] Pub. L. No. 104–290, § 106, 110 Stat. 3416 (1996).

[22] 5 U.S.C. 553(d).

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17 CFR Parts 240 and 270

[Release No. 34–38073, IC–22415, File No. S7–32–96]

RIN 3235–AH10

Securities Transactions Exempt From Transaction Fees

AGENCY: Securities and Exchange Commission.

ACTION: Final Rule.

SUMMARY: The Securities and Exchange Commission ("SEC" or "Commission") is adopting amendments to Rule 31–1 under the Securities Exchange Act of 1934 and an amendment to Rule 24e–2 under the Investment Company Act of 1940. The purpose of these amendments is to conform Rules 31–1 and 24e–2 to recently enacted legislation. Rule 31–1 is being amended to conform the Rule to legislation which extends transaction fees to transactions in OTC securities (other than bonds, debentures, and other evidences of indebtedness) subject to prompt last-sale reporting.

EFFECTIVE DATES: Section 270.24e–2 paragraph (a) is effective December 30, 1996.

Section 240.31–1 Preliminary Notes and paragraph (f) are revised effective January 1, 1997.

Section 240.31–1 is revised effective September 1, 1997.

Section 240.31–1 Preliminary Note is revised effective October 1, 1997.

FOR FURTHER INFORMATION CONTACT: David Oestreicher, Esq. or James McHale, Esq. regarding the amendments to Rule 31–1 under the Securities Exchange Act of 1934 at 202/942–0173 or 202/942–0190; Office of Market Supervision, Division of Market Regulation, Mail Stop 5–1. For further information regarding the amendment to Rule 24e–2 under the Investment Company Act of 1940, please contact Robin Gross at 202/942–0640; Office of Regulatory Policy, Division of Investment Management, Mail Stop 10–2, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC. 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to recently enacted legislation, beginning January 1, 1997, transaction fees will be collected on all Nasdaq securities. Initially, for transactions occurring over-the-counter ("OTC") these fees will be collected pursuant to the Omnibus Consolidated Appropriations Act for Fiscal Year 1997 ("Appropriations Act").[1] Beginning on September 1, 1997, these fees will be collected under Section 31 of the Exchange Act as amended.

The amendments to Rule 31–1[2] under the Securities Exchange Act of 1934 ("Exchange Act") will modify, effective January 1, 1997, the existing exemption from transaction fees for Nasdaq securities contained in Rule 31–1 so that transactions in OTC securities occurring on a national securities exchange pursuant to unlisted trading privileges ("UTP") would be subject to transaction fees collected by national securities exchanges. The amendments also would revise the Preliminary Notes to Rule 31–1 in three phases to coincide with legislative changes. The amendments will be effective January 1, 1997, September 1, 1997, and October 1, 1997. Moreover, the Commission also is taking action to eliminate the existing exemption for Nasdaq securities in its entirety. Finally, the amendments clarify that off-exchange transactions in OTC securities subject to UTP will be subject to section 31(d) of the Exchange Act, as amended (rather than section 31(c)).

The Commission also is adopting an amendment to Rule 24e–2 under the Investment Company Act of 1940 ("Investment Company Act"), the rule that governs the payment of fees by certain registered investment companies for additional securities registered on a post-effective amendment to a registration statement.

II. Background

Section 31 of the Exchange Act[3] currently requires transaction fees to be paid to the Commission based on sales of securities registered on a national securities exchange. Specifically, section 31 requires every national securities exchange to pay an annual fee to the Commission based on the aggregate dollar amount of the sale of securities (other than bonds, debentures, and other evidences of indebtedness) transacted on that exchange.[4] In addition, section 31 requires payment of similar fees by broker-dealers for OTC transactions in securities registered on a national securities exchange ("third market trades").[5] Section 31 also provides the Commission with authority to exempt any sale of securities or any class of sales of securities from imposition of the transaction fee if the Commission finds that such exemption is consistent with the public interest, the equal regulation of markets and brokers and dealers, and the development of a national market system.[6]

In September 1985, the Commission allowed exchanges to trade OTC securities without listing these securities, on a UTP basis ("OTC/UTP securities").[7] A collateral effect of this action would have been to subject securities principally traded OTC (*i.e.* Nasdaq securities) to section 31 fees, even though section 31 was not designed to apply to transactions in such securities.[8] Therefore, pursuant to its exemptive authority, the Commission amended Rule 31–1 to exempt transactions in Nasdaq securities from section 31 by adding paragraph (f).[9] This exemption was predicated on the Commission's belief that it was preferable to address the application of section 31 fees to the OTC market in a uniform and orderly manner, rather than through the automatic application

[1] Pub. L. 104–208, 110 Stat. 3009 (1996).

[2] 17 CFR 240.31–1

[3] 15 U.S.C. 78ee.

[4] The fee is equal to 1/300 of one percent of the aggregate dollar value of securities sold.

[5] For transactions otherwise than on a national securities exchange, the fee is currently paid by the broker-dealer on the sale side of the transaction. If, however, there is no broker-dealer on the sale side of the transaction, then the broker-dealer on the buy side of the transaction is required to pay the fee. Where no broker-dealer is involved in the transaction, no fee is required. See Rule 31–1.

[6] In response to The National Securities Markets Improvement Act of 1996, the Commission plans at a later time to solicit comment on a prior Commission proposal to exempt certain transactions effected after regular trading hours from the imposition of transaction fees. See Securities Exchange Act Release No. 29238 (May 28, 1991), 56 FR 25056 (June 3, 1991).

[7] The Commission's grant of UTP was conditioned on, among other things, the Commission approving a joint plan to consolidate exchange and OTC quotations and transaction reports in OTC securities upon which UTP are granted. See Securities Exchange Act Release No. 22412 (September 16, 1985), 50 FR 38640 (September 24, 1985); and Securities Exchange Act Release No. 22413 (September 16, 1985), 50 FR 38515 (September 23, 1985).

[8] As a technical matter, under section 12(f)(6) of the Exchange Act (15 U.S.C. 781(f)(6)), securities trading OTC, which are also admitted to UTP on an exchange are deemed to be "registered." Therefore, if construed literally, section 31 would have required payment of fees by the exchange(s) for transactions in OTC/UTP securities occurring on the exchange, as well as by broker-dealers trading such securities OTC. Similarly, stocks that were listed on a regional exchange and then received concurrent Nasdaq National Market System ("NMS") designation would have been subject to section 31, *i.e.*, both the exchange and OTC trades in such securities would have been subject to section 31 transaction fees.

[9] See Securities Exchange Act Release No. 23229 (May 13, 1986), 51 FR 18578 (May 21, 1986). The Commission amended the Rule again in June 1987. See Securities Exchange Act Release No. 24635 (June 23, 1987), 52 FR 24149 (June 29, 1987). In May 1988, the Commission extended the effectiveness of Rule 31–1(f) for an additional year. See Securities Exchange Act Release No. 25671 (May 6, 1988), 53 FR 17180 (May 16, 1988). Finally, in May 1989, the Commission extended the effectiveness of Rule 31–1(f) indefinitely. See Securities Exchange Act Release No. 26790 (May 6, 1989), 54 FR 20524 (May 12, 1989).

of section 31 as a result of an exchange's decision to trade OTC/UTP securities or the concurrent designation of Nasdaq/NMS securities.[10] In light of recent legislation, however, the exemption afforded to these Nasdaq securities is no longer appropriate.

III. Discussion

On September 30, 1996, the SEC's appropriation for fiscal year 1997 was enacted as part of the Appropriations Act. In addition to funding the agency for fiscal year 1997, the Appropriations Act extends transaction fees to all sales of securities transacted otherwise than on a national securities exchange (other than bonds, debentures and other evidences of indebtedness) subject to prompt last-sale reporting,[11] effective January 1, 1997.[12]

On October 11, 1996, The National Securities Markets Improvement Act of 1996 ("Improvement Act"),[13] was signed into law. The Improvement Act amends section 31 of the Exchange Act to extend transaction fees to transactions in OTC securities subject to prompt last sale reporting, effective September 1, 1997.[14] The Improvement Act also explicitly amends section 31 of the Exchange Act to provide that, effective October 1, 1997, the transaction fee arising out of the sale of third market trades will be payable by each national securities association.[15] The Improvement Act further amends section 31, effective October 1, 1997, to require payment of section 31 fees to the Commission two times per year, instead of one time per year as section 31 presently requires.[16]

Currently, sales of OTC/UTP securities occurring on a national securities exchange are exempted from section 31 fees. This exemption is no longer appropriate in view of Congress' express intention to extend transaction fees to all OTC securities subject to prompt last sale reporting. The Commission believes that the law intends fees on transactions in Nasdaq securities to apply equally, whether such transactions occur on an exchange or OTC. Accordingly, the Commission is eliminating, effective January 1, 1997, the current exemption in Rule 31–1(f) with respect to transactions in those Nasdaq securities occurring on a national securities exchange pursuant to OTC/UTP. As a result, as of January 1, 1997, the same fees will apply to OTC and exchange trades in Nasdaq securities, consistent with the equal regulation of markets, brokers and dealers, and the development of a national market system.

The Commission also is phasing in amendments to the Preliminary Notes to Rule 31–1 on three dates (January 1, 1997, September 1, 1997, and October 1, 1997), to make them consistent with the changes in law. Finally, effective September 1, 1997, the Commission is implementing a technical amendment to Rule 31–1 to clarify that fees arising out of off-exchange transactions in OTC/UTP securities will be collected pursuant to section 31(d) of the Exchange Act, and not section 31(c).[17] In amending the Rule, the Commission has considered the amendments' impact on efficiency, competition, and capital formation.[18]

Because the Appropriations Act extends transaction fees to the OTC market effective January 1, 1997, the Commission is issuing this release and amending Rule 31–1 on an emergency basis. A delay in amending the Rule could lead to confusion over the responsibilities of those persons affected by the new legislation.

Although the Administrative Procedure Act ("APA") states that an agency must provide general notice of proposed rulemaking and an opportunity for comment, these requirements do not apply if the agency, for good cause, finds that those procedures are "impracticable, unnecessary, or contrary to the public interest."[19] The Commission finds that good cause exists, and that notice and comment are unnecessary, because the amendments to Rule 31–1 are being adopted to make the Rule consistent with the Appropriations Act and the Improvement Act. In addition, the Commission finds that good cause exists, and that notice and comment are unnecessary for the amendment to Rule 24e–2 under the Investment Company Act (eliminating the $100 minimum fee), because the Commission has ceased collecting the fee pursuant to the Improvement Act.

Moreover, although the APA generally requires publication of an adopted rule at least thirty days before its effective date,[20] this requirement does not apply if the agency determines, for good cause, not to provide pre-effective publication. As mentioned above, a delay in amending Rule 31–1 until after the January 1, 1997 effective date of the Appropriations Act could lead to confusion over the responsibilities of those persons affected by the legislation. Accordingly, the Commission finds good cause not to provide pre-effective publication for the amendments to Rule

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[10] Without the exemption, the application of section 31 fees to all transactions in particular OTC securities would have depended entirely on exchange decisions to trade OTC/UTP securities, or on issuer decisions to retain an exchange listing despite the stock being designated an Nasdaq/NMS security.

[11] The Commission notes that Congress intended transaction fees to be applied to OTC securities subject to prompt last sale reporting in the same circumstances as section 31 fees currently are applied to transactions in exchange-traded securities. Accordingly, all of the exemptions presently contained in Rule 31–1 (for example, initial public offering transactions) will apply to transactions in securities subject to the Appropriations Act fee, except for the exemption for Nasdaq securities in paragraph "(f)" of Rule 31–1.

[12] Specifically, the Appropriations Act provides that effective January 1, 1997, every national securities association shall pay to the Commission a fee at a rate of 1/300th of one percent of the aggregate dollar amount of sales transacted by or through any member of such association otherwise than on a national securities exchange (of securities) (other than bonds, debentures, and other evidences of indebtedness), subject to prompt last sale reporting pursuant to the rules of the Commission or a registered national securities association, excluding any sales for which (a) fee is paid under section 31 of the Exchange Act. Moreover, the legislation requires every national securities association to pay the fee on or before September 30, 1997, with respect to transactions and sales occurring during the period beginning on January 1, 1997, and ending at the close of August 31, 1997. Beginning September 1, 1997, a similar fee will be required by section 31(d) of the Exchange Act as amended by Title IV of the National Securities Markets Improvement Act of 1996. See section III, C "Off-Exchange Trades of OTC Securities," *infra*.

[13] Pub. L. No. 104–290, 110 Stat. 3416 (1996).

[14] Specifically, section 31(d)(1) of the Exchange Act will provide, in part, that "(e)ach national securities association shall pay to the Commission a fee at a rate equal to 1/300 of one percent of the aggregate dollar amount of sales transacted by or through any member of such association otherwise than on a national securities exchange of securities (other than bonds, debentures, and other evidences of indebtedness) subject to prompt last sale reporting pursuant to the rules of the Commission or a registered national securities association, excluding any sales for which a fee is paid under subsection (c) * * *."

[15] Presently, section 31 requires broker-dealers to remit directly to the Commission transaction fees arising out of third market trades. This procedure will continue until October 1, 1997. See section III, D "Third Market Transactions," *infra*.

[16] Section 31(e) will require payment of all transaction fees on or before March 15, with respect to transactions occurring during the period beginning on the preceding September 1 and ending at the close of the preceding December 31. The fee for transactions occurring during the period beginning on the preceding January 1 and ending at the close of the preceding August 31, will be payable to the Commission on September 30. Pursuant to section 31(g) of the Exchange Act, as amended, the Commission will publish in the **Federal Register** notices of the fee rates applicable under section 31 for each fiscal year, beginning with fiscal year 1998.

[17] The Commission notes that the purpose of this exemption is to carry out the intent of Congress, based on the revenue projections used by Congress at the time of the Appropriations Act and the Improvement Act, that transaction fees for these types of trades be collected pursuant to section 31(d) of the Exchange Act.

[18] 15 U.S.C. 78c(f) and 15 U.S.C. 80a–2(c).

[19] 5 U.S.C. 553(b)(B).

[20] 5 U.S.C. 553(d).

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31–1. The Commission also finds that good cause exists not to provide pre-effective publication for the amendment to Rule 24e–2 under the Investment Company Act because the amendment is intended to eliminate a source of confusion for registrants and a delay would only serve to prolong the potential confusion of registrants. Finally, under 5 U.S.C. 804, the revisions to Rules 31–1 and 24e–2 are exempt from the definition of the term "rule" for purposes of Chapter 8, entitled "Congressional Review of Agency Rulemaking," because the revisions are to rules of "agency organization, procedure, or practice * * *" and conform agency practice and procedure to that required by the Appropriations Act and the Improvement Act.

The following sections describe the interim and permanent obligations of each national securities exchange, national securities association and broker-dealer with regard to the payment of transaction fees.

A. Exchange-Registered Securities Transacted on an Exchange

The only substantive change for a national securities exchange remitting transaction fees arising out of the sale of exchange-registered securities [21] on the exchange is the timing for payment of such fees.[22] As noted above, the amendments made to section 31 by the Improvement Act require, among other things, payment of transaction fees two times per year, instead of one time per year. This change, however, does not go into effect until October 1, 1997, and will not affect the fee payment schedule until January 1, 1998. Accordingly, the fee arising out of transactions occurring between January 1, 1996 and December 31, 1996 will be payable on March 15, 1997. Likewise, the fee arising out of transactions occurring between January 1, 1997 and December 31, 1997 will be payable to the Commission on March 15, 1998. Pursuant to section 31(e), however, the section 31 fee arising from transactions that occur between January 1, 1998 and August 31, 1998, will be due to the Commission on or before September 30, 1998. The fee arising from transactions between September 1, 1998 and December 31, 1998, will be payable to the Commission on or before March 15, 1999. This payment schedule will continue in this manner indefinitely.

B. OTC Securities Transacted on an Exchange Pursuant to OTC/UTP

Effective January 1, 1997, Rule 31–1(f) will be amended to effectively include within the coverage of existing section 31 of the Exchange Act transactions in those Nasdaq securities occurring on a national securities exchange pursuant to OTC/UTP. Therefore, beginning January 1, 1997, every national securities exchange will be responsible for remitting transaction fees to the Commission for exchange transactions in OTC/UTP securities, pursuant to existing section 31 of the Exchange Act. Effective October 1, 1997, every national securities exchange will be responsible for the payment of these fees pursuant to section 31(b) of the Exchange Act, as revised by the Improvement Act.

Once section 31(e) of the Exchange Act becomes effective on October 1, 1997, the transaction fee payable by an exchange arising from the sale of OTC/UTP securities on such exchange will be payable in two installments per year. Accordingly, the payment schedule for fees arising out of transactions in OTC/UTP securities is identical to the payment schedule for fees arising out of transactions in exchange-registered securities effected on an exchange.[23]

C. Off-Exchange Trades of OTC Securities

As discussed above, both the Appropriations Act and section 31 as amended by the Improvement Act extend transaction fees to securities (other than bonds, debentures and other evidences of indebtedness) traded otherwise than on a national securities exchange, and subject to prompt last sale reporting pursuant to the rules of the Commission or a registered national securities association. The phrase "securities subject to prompt last sale reporting" as used in the legislation includes securities designated as Nasdaq National Market securities,[24] securities designated as Nasdaq SmallCap securities,[25] and securities traded on the NASD's Bulletin Board system ("OTCBB").[26] Moreover, although the NASD's rules do not require transaction reporting for certain types of transactions, if the underlying securities are subject to prompt last sale reporting, the NASD is responsible for collecting a transaction fee even if the particular transaction is not subject to last-sale reporting.[27]

Pursuant to the Appropriations Act, fees arising from off-exchange transactions in OTC securities occurring between January 1, 1997 and August 31, 1997 will be payable to the Commission by a national securities association on or before September 30, 1997.[28] Pursuant to sections 31(d) and 31(e) of the Exchange Act as amended by the Improvement Act, transaction fees arising from such trades occurring from September 1, 1997 to December 31, 1997 will be due from a national securities association on March 15, 1998.[29] Off-exchange transactions in OTC securities occurring between January 1, 1998 and August 31, 1998 will result in a fee due to the Commission from a national securities association on or before September 30, 1998. Fees due for such transactions occurring between September 1, 1998 and December 31, 1998 will be payable on or before March 15, 1999. This payment schedule will continue in this manner indefinitely.

D. Third Market Transactions

Broker-dealers will continue to remit transaction fees arising out of third

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[21] As used herein, the term "exchange-registered securities" refers to those securities registered on a national securities exchange by an issuer taking an affirmative action (*e.g.* filing Form 8–A), and not OTC securities deemed "registered" under section 12(f)(6) of the Exchange Act based on OTC/UTP trading. *Cf.* note 8, *supra*.

[22] The Commission also notes that, as a result of the amendments to Rule 31–1 made herein, effective January 1, 1997, every national securities exchange will be responsible for remitting section 31 transaction fees based on sales of OTC/UTP securities transacted on such exchange. See "OTC Securities Transacted on an Exchange pursuant to OTC/UTP," section III, B, *infra*.

[23] See Section III, A, "Exchange-Registered Securities Transacted on an Exchange," *supra*.

[24] See National Association of Securities Dealers, Inc. ("NASD") Rule 4632.

[25] See NASD Rule 4642.

[26] See NASD Rule 6550.

[27] Among other trades, NASD Rule 4632(e) excludes from its transaction reporting requirements odd-lot transactions, and purchases or sales of securities effected upon the exercise of an option. The NASD, however, is required to collect fees on both of these types of transactions, unless the underlying security is not subject to prompt last sale reporting. The NASD also is required to collect transaction fees for after-hours trades in securities subject to prompt last sale reporting. The Commission notes, however, that no transaction fee will arise for transactions where the buyer and seller have agreed to trade at a price substantially unrelated to the current market for the security, *e.g.* to enable the seller to make a gift. See NASD Rules 4632(e)(5), 4642(e)(4), 6420(e)(5), and 6620(e)(3). Finally, the Commission notes that as prompt last sale reporting is extended to additional securities, such securities will become subject to transaction fees.

[28] Even though Rule 31–1(f) will continue to exempt these types of transactions from existing Section 31 of the Exchange Act until September 1, 1997, when section 31(d) of the Exchange Act takes effect, these transactions will be covered by the Appropriations Act beginning January 1, 1997.

[29] Effective September 1, 1997, fees arising out of off-exchange trades of OTC securities subject to OTC/UTP will be payable pursuant to section 31(d). A clarifying amendment to Rule 31–1(f) will become effective on September 1, 1997, in order to exempt these types of trades from the payment of fees under section 31(c). As a result, fees arising out of these types of transactions will be collected pursuant to Section 31(d). As noted above, this technical amendment is necessary in order to carry out the intent of Congress that all trades in OTC securities be treated equally no matter where those trades occur.

market trades directly to the Commission until October 1, 1997, pursuant to existing section 31 of the Exchange Act. Section 31(c) of the Exchange Act as amended by the Improvement Act, requires fees arising out of third market trades to be paid by each national securities association effective October 1, 1997.[30] Specifically, the fee arising from third market transactions occurring between January 1, 1997 and September 30, 1997 will be payable by each broker-dealer on or before March 15, 1998, pursuant to current section 31 of the Exchange Act. Based on the Improvement Act's amendments to section 31, the fee arising from third market transactions occurring between October 1, 1997 and December 31, 1997 also will be due from a national securities association on or before March 15, 1998. The fee arising from third market transactions occurring between January 1, 1998 and August 31, 1998 will be due from a national securities association on or before September 30, 1998. For third market trades occurring between September 1, 1998 and December 31, 1998, the transaction fee is due from a national securities association on or before March 15, 1999. This payment schedule will continue in this manner indefinitely.

E. Options Transactions

With respect to options transactions occurring on a national securities exchange, the options exchanges, or the Options Clearing Corporation ("OCC") on behalf of the exchanges, will continue to be responsible for the payment of section 31 fees on such options transactions.[31] Moreover, any sale of exchange-registered securities to or by a person exercising an exchange-registered option contract shall require the exchange itself or the OCC on behalf of the exchange to pay a section 31 fee in an amount determined on the basis of the exercise price. In addition, as a result of the Appropriations Act, effective January 1, 1997, any sale of OTC securities (subject to prompt last sale reporting) to or by a person exercising an exchange-registered option contract shall require payment of a transaction fee, in an amount determined on the basis of the exercise price, by the appropriate national securities association or the OCC on behalf of the association.[32] Further, when section 31(d) of the Exchange Act becomes effective on September 1, 1997, any sale of securities covered by section 31(d) to or by a person exercising an exchange-registered option contract will require payment of a section 31 fee, in an amount determined on the basis of the exercise price, by the appropriate national securities association or the OCC on behalf of such association.

With regard to transactions in OTC options, no transaction fee will arise because these securities are not currently subject to prompt last sale reporting.[33] However, broker-dealers will continue to remit section 31 fees directly to the Commission for any sale of exchange-registered securities to or by a person exercising an OTC option, in an amount determined on the basis of the exercise price, until October 1, 1997, when these fees will be collected by the appropriate national securities association.[34] Moreover, as a result of the Appropriations Act and the Reform Act, effective January 1, 1997, any sale of OTC securities to or by a person exercising an OTC option also shall require payment of a transaction fee, in an amount determined on the basis of the exercise price, by the appropriate national securities association.[35]

V. Amendment to Rule 24e–2 Under the Investment Company Act

The Commission is adopting an amendment to Rule 24e–2 under the Investment Company Act of 1940, the rule that governs the payment of fees by certain registered investment companies for additional securities registered on a post-effective amendment to a registration statement filed under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) ("Securities Act"). The amendment eliminates the $100 minimum fee currently in the Rule. The Rule's $100 minimum fee was designed to correspond to the $100 minimum fee requirement under section 6(b) of the Securities Act (15 U.S.C. 77f(b)), which was eliminated by the Improvement Act. The Commission ceased collecting the fee under Rule 24e–2 on October 11, 1996 and the amendment would eliminate a source of confusion for registrants.

V. Effects on Competition and Regulatory Flexibility Act Considerations

Section 23(a)(2) of the Exchange Act,[36] requires the Commission, in adopting rules under the Exchange Act, to consider the competitive effects of such rules, if any, and to balance any impact with the regulatory benefits gained in terms of furthering the purposes of the Exchange Act. As noted above, in amending Rule 31–1 the Commission is merely conforming the Rule to recently enacted legislation. Moreover, adoption of the amendment to Rule 31–1 will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. The amendment will promote efficiency and capital formation by equalizing the treatment of exchange-listed and OTC securities.

The Regulatory Flexibility Act[37] is not applicable to the revisions to Rule 31–1, nor is it applicable to the amendment to Rule 24e–2 under the Investment Company Act. The Regulatory Flexibility Act's flexibility analysis requirements are limited to rulemaking for which the Commission would be required by the APA to publish general notice of proposed rulemaking.[38]

The Paperwork Reduction Act does not apply because the proposed amendments do not impose recordkeeping or information collection requirements, or other collections of information which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

VI. Statutory Basis

The amendments to Rule 31–1 under the Exchange Act are being adopted pursuant to 15 U.S.C. 78a *et seq.*, particularly sections 23(a) and 31 of the Exchange Act, and pursuant to Pub. L. No. 104–208. The amendment to Rule 24e–2 under the Investment Company Act is being adopted pursuant to 15

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[30] Section 31(d) of the Exchange Act as amended by the Improvement Act, excludes any sales for which a fee is paid under section 31(c).

[31] The Commission notes that this transaction fee arises on the options transaction regardless of whether the underlying security is traded on a national securities exchange, or otherwise than on an exchange. Moreover, the payment schedule for fees arising out of options transactions occurring on a national securities exchange is the same as for exchange-registered equity securities discussed above.

[32] The payment schedule for these fees is the same as the payment schedule for off-exchange trades of OTC securities discussed above.

[33] Pursuant to the Appropriations Act and the Improvement Act, should options traded otherwise than on a national securities exchange become subject to prompt last sale reporting in the future, transaction fees also will be applicable to those options transactions. Accordingly, effective October 1, 1997, the Preliminary Notes to Rule 31–1 will provide for the collection of section 31 fees for transactions in OTC options subject to prompt last sale reporting.

[34] See section III, D, "Third Market Transactions," *supra*.

[35] The Commission notes that the NASD, as the only currently registered national securities association, will be responsible for the collection of these fees effective January 1, 1997.

[36] 15 U.S.C. 78w(a)(2).

[37] 5 U.S.C. 601–612.

[38] 5 U.S.C. 603(a). As noted above, the Commission is not required to solicit public comment due to the nature of the Commission's revisions to Rule 31–1.

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U.S.C. 80a–1 *et seq.*, 80a–37, and 80a–39 unless otherwise noted.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

VII. Text of the Amendments

For the reasons set forth above, the Commission amends part 240 of chapter II, title 17 of the Code of Federal Regulations as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78w, 78x, 78*ll*(d), 79q, 79t, 80a 20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. Effective January 1, 1997, § 240.31–1 is amended by revising the Preliminary Notes and paragraph (f) to read as follows:

§ 240.31–1 Securities transactions exempt from transaction fees.

Preliminary Notes

If a sale of a security for which a fee is paid under section 31 of the Act is effected on a national securities exchange, the transaction fee must be paid by that exchange. With regard to sales of securities for which a fee is paid under section 31, effected otherwise than on a national securities exchange, the fee is to be paid by the registered broker or dealer on the sale side of the transaction. When there is no registered broker or dealer on the sale side of the transaction (as, for example, where a third market dealer purchases securities for its own account from a public customer), the fee is to be paid by the registered broker or dealer on the purchase side of the transaction. Where no registered broker or dealer is involved in the transaction, no fee arises.

The fee for options transactions occurring on a national securities exchange is to be paid by the exchange itself, or by the Options Clearing Corporation on behalf of the exchange, and such fee is to be computed on the basis of the option premium (market price) for the sale of the option, and the exercise price of the option in the event of its exercise. In addition, any sale of securities for which a fee is paid under section 31, occurring otherwise than on a national securities exchange, to or by a person exercising an option contract shall require payment of a section 31 fee, in an amount determined on the basis of the exercise price, by the registered broker or dealer selling the securities. If there is no registered broker or dealer on the sale side of such transaction, then the fee is to be paid by the registered broker or dealer on the purchase side of the transaction. If no registered broker or dealer is involved in the transaction, no fee arises.

* * * * *

(f) Transactions in Nasdaq securities as defined in § 240.11Aa3–1 (Rule 11Aa3–1 under the Act) except for:

(1) Transactions in those Nasdaq securities for which transaction reports are collected, processed, and made available pursuant to the plan originally submitted to the Commission pursuant to § 240.17a–15 (subsequently amended and redesignated as Rule 11Aa3–1) under the Act, which plan was declared effective as of May 17, 1974; and

(2) Transactions in those Nasdaq securities occurring on a national securities exchange pursuant to unlisted trading privileges.

3. Effective September 1, 1997, § 240.31–1 is revised to read as follows:

§ 240.31–1 Securities transactions exempt from transaction fees.

Preliminary Notes

If a sale of a security for which a fee is paid under section 31 of the Act is effected on a national securities exchange, the transaction fee must be paid by that exchange. With regard to sales of securities for which a fee is paid under section 31, effected otherwise than on a national securities exchange (except those securities for which a fee is paid under section 31(d)), the fee is to be paid by the registered broker or dealer on the sale side of the transaction. When there is no registered broker or dealer on the sale side of the transaction (as, for example, where a third market dealer purchases securities for its own account from a public customer), the fee is to be paid by the registered broker or dealer on the purchase side of the transaction. Where no registered broker or dealer is involved in the transaction, no fee arises.

The fee for options transactions occurring on a national securities exchange is to be paid by the exchange itself, or by the Options Clearing Corporation on behalf of the exchange, and such fee is to be computed on the basis of the option premium (market price) for the sale of the option, and the exercise price of the option in the event of its exercise. In addition, any sale of securities for which a fee is paid under section 31 (except those securities for which a fee is paid under section 31(d)), occurring otherwise than on a national securities exchange, to or by a person exercising an option contract, shall require payment of a section 31 fee, in an amount determined on the basis of the exercise price, by the registered broker or dealer selling the securities. If there is no registered broker or dealer on the sale side of such transaction, then the fee is to be paid by the registered broker or dealer on the purchase side of the transaction. If no registered broker or dealer is involved in the transaction, no fee arises. Finally, any sale of securities for which a fee is paid under section 31(d), to or by a person exercising an option contract, shall require payment of a section 31 fee, in an amount determined on the basis of the exercise price, by the appropriate national securities association or by the Options Clearing Corporation on behalf of the association.

(a) The following shall be exempt from section 31 of the Act:

(1) Transactions in securities offered pursuant to an effective registration statement under the Securities Act of 1933 (except transactions in put or call options issued by the Options Clearing Corporation) or offered in accordance with an exemption from registration afforded by section 3(a) or 3(b) thereof (15 U.S.C. 77c(a) or 77c(b)), or a rule thereunder.

(2) Transactions by an issuer not involving any public offering within the meaning of section 4(2) of the Securities Act of 1933 (15 U.S.C. 77d(2));

(3) The purchase or sale of securities pursuant to and in consummation of a tender or exchange offer;

(4) The purchase or sale of securities upon the exercise of a warrant or right (except a put or call), or upon the conversion of a convertible security; and

(5) Transactions which are executed outside the United States and are not reported, or required to be reported, to a transaction reporting association as defined in § 240.11Aa3–1 (Rule 11Aa3–1 under the Act) and any approved plan filed thereunder;

(b) Over-the-counter ("OTC") transactions in OTC securities which are subject to unlisted trading privileges on a national securities exchange shall be exempt only from section 31(c) of the Act.

4. Effective October 1, 1997, the Preliminary Note to § 240.31–1 is revised to read as follows:

§ 240.31–1 Securities transactions exempt from transaction fees.

Preliminary Note

The section 31 fee for options transactions occurring on a national securities exchange, or transactions in options subject to prompt last sale reporting occurring otherwise than on an exchange, is to be paid by the exchange or the national securities association itself, respectively, or the Options Clearing Corporation on behalf of the exchange or association, and such fee is to be computed on the basis of the option premium (market price) for the sale of the option. In the event of the exercise of an option, whether such option is traded on an exchange or otherwise, a section 31 fee is to be paid by the exchange or the national securities association itself, or the Options Clearing Corporation on behalf of the exchange or association, and such fee is to be computed on the basis of the exercise price of the option.

* * * * *

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

5. The authority citation for part 270 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, 80a–37, 80a–39 unless otherwise noted;

* * * * *

6. Section 270.24e–2 is amended by revising paragraph (a) to read as follows:

§ 270.24e–2 Computation of fee.

* * * * *

(a) The fee to be paid at the time of filing of such amendment shall be calculated in the manner specified in section 6(b) of the Securities Act of 1933 except that, for the purposes of such calculation, the maximum aggregate price at which the securities are proposed to be offered may be deemed to be the maximum aggregate offering price, as determined by Rule 457(d) (17 CFR 230.457(d)) under the Securities Act of 1933, of:

(1) The amount of securities (number of shares or other units) being registered reduced by;

(2) The amount of securities (number of shares or other units) of the same class redeemed or repurchased by the issuer in its previous fiscal year (which amount of securities must, for purposes of this paragraph (a)(2), be reduced by the amount of any securities used in a reduction made by the issuer with respect to such shares pursuant to paragraph (c) of section 24f–2 of the Act during the current fiscal year) provided that, when more than one such amendment is filed by an issuer in any one fiscal year, the total amount of securities used for such reductions during any fiscal year in which such reductions are made may not exceed the total amount of securities which were redeemed or repurchased by the issuer during its previous fiscal year; and

* * * * *

Dated: December 23, 1996.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–33056 Filed 12–24–96; 2:38 pm]

BILLING CODE 8010–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 2

[Docket No. RM96–6–000; Order No. 592]

Inquiry Concerning the Commission's Merger Policy Under the Federal Power Act; Policy Statement

Issued December 18, 1996.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Policy statement.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations to update and clarify the Commission's procedures, criteria and policies concerning public utility mergers in light of dramatic and continuing changes in the electric power industry and the regulation of that industry. The purpose of this Policy Statement is to ensure that mergers are consistent with the public interest and to provide greater certainty and expedition in the Commission's analysis of merger applications.

EFFECTIVE DATE: December 18, 1996.

FOR FURTHER INFORMATION CONTACT:

Jan Macpherson (Legal Matters), Kimberly D. Bose (Legal Matters), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426; Telephone: (202) 208–0921, (202) 208–2284.

Wilbur C. Earley (Technical Matters), Office of Economic Policy, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426; Telephone: (202) 208–0023.

Michael A. Coleman (Technical Matters), Office of Electric Power Regulation, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426; Telephone: (202) 208–1236.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Commission's Public Reference Room, Room 2A, 888 First Street, N.E., Washington, D.C. 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397 if dialing locally or 1–800–856–3920 if dialing long distance. CIPS is also available through the Fed World System (by Modem or Internet). To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400 or 1200bps full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this final rule will be available on CIPS in ASCII indefinitely and WordPerfect 5.1 format for one year. The complete text on diskette in Wordperfect format may also be purchased from the Commission's copy contractor, LaDorn Systems Corporation, also located in Room 2A, 888 First Street, N.E., Washington, D.C. 20426.

The Commission's bulletin board system also can be accessed through the FedWorld system directly by modem or through the Internet. To access the FedWorld system by modem:

- Dial (703) 321–3339 and logon to the FedWorld system
- After logging on, type: /go FERC

To access the FedWorld system through the Internet, a telnet application must be used either as a stand-alone or linked to a Web browser:

- Telnet to: fedworld.gov
- Select the option: [1] FedWorld
- Logon to the FedWorld system
- Type: /go FERC

or

- Point your Web Browser to: http://www.fedworld.gov
- Scroll down the page to select FedWorld Telnet Site
- Select the option: [1] FedWorld
- Logon to the FedWorld system
- Type: /go FERC

Policy Statement Establishing Factors the Commission Will Consider in Evaluating Whether a Proposed Merger Is Consistent With the Public Interest

Issued December 18, 1996.

I. Introduction

This Policy Statement updates and clarifies the Federal Energy Regulatory Commission's (Commission) procedures, criteria and policies concerning public utility mergers in light of dramatic and continuing changes in the electric power industry and corresponding changes in the regulation of that industry. The Commission believes it is particularly important to refine and modify its merger policy at this critical juncture for the electric industry. The Commission recognizes that the electric industry now is in the midst of enormous technological, regulatory and economic

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changes. At the heart of these changes is the transition to competitive power supply markets, prompted in part by this Commission's open access transmission policies. These changes are fundamental, and mergers and consolidations are among the strategic options available for companies seeking to reposition themselves in response to the emerging competitive business landscape.

In this Policy Statement, the Commission has two broad goals. First, we intend to ensure that future mergers are consistent with the competitive goals of the Energy Policy Act of 1992 (EPAct) [1] and the Commission's recent Open Access Rule.[2] This means that the Commission, in applying the Federal Power Act standard that mergers must be consistent with the public interest, must account for changing market structures and pay close attention to the possible effect of a merger on competitive bulk power markets and the consequent effects on ratepayers. Second, the Commission believes that as the pace of industry change increases, market participants require greater regulatory certainty and expedition of regulatory action in order to respond quickly to rapidly changing market conditions. Accordingly, this Policy Statement offers procedural innovations and more specific information that we would expect applicants to file to facilitate the Commission acting more quickly on merger requests. [3]

We will generally take into account three factors in analyzing proposed mergers: the effect on competition, the effect on rates, and the effect on regulation. First, our analysis of the effect on competition will more precisely identify geographic and product markets and will adopt the Department of Justice/Federal Trade Commission Merger Guidelines (Guidelines) as the analytical framework for analyzing the effect on competition. The Guidelines adopt a five-step procedure for analyzing mergers

First, the Agency assesses whether the merger would significantly increase concentration and result in a concentrated market, properly defined and measured. Second, the Agency assesses whether the merger, in light of market concentration and other factors that characterize the market, raises concern about potential adverse competitive effects. Third, the Agency assesses whether entry would be timely, likely and sufficient either to deter or to counteract the competitive effects of concern. Fourth, the Agency assesses any efficiency gains that reasonably cannot be achieved by the parties through other means. Finally, the Agency assesses whether, but for the merger, either party to the transaction would be likely to fail, causing its assets to exit the market.[4]

By applying an analytic "screen" based on the Guidelines early in the merger review process, the Commission will be able to identify proposed mergers that clearly will not harm competition.

Second, in assessing the effect of a proposed merger on rates, we will no longer require applicants and intervenors to estimate the future costs and benefits of a merger and then litigate the validity of those estimates. Instead, we will require applicants to propose appropriate rate protection for customers. The most promising and expeditious means of addressing this issue is for parties to engage in a pre-filing consensus-building effort that will result in a filing that includes appropriate rate protection. If merger applicants and their affected wholesale customers are able to agree on appropriate ratepayer safeguards, it should not be necessary to set this aspect of the merger for hearing.[5] Even where the parties have been unable to come to an agreement before the merger is filed, they should continue to attempt to negotiate a settlement. While there are several potential mechanisms available, which we discuss herein, adequate ratepayer protection will necessarily depend on the particular circumstances of the merging utilities and their ratepayers. There is no one-size-fits-all approach, and the Commission strongly encourages parties to resolve this issue without a formal hearing. However, we also recognize the possibility that parties may not be able to reach an agreement on appropriate ratepayer protection and that there may be situations in which the Commission nevertheless would be able to approve a merger. This could occur either after a hearing or on the basis of parties' filings if we determine that the applicants' proposal sufficiently insulates the ratepayers from harm.

Finally, with regard to the effect of the merger on regulation, we will adopt the approach we have used in recent cases. With respect to shifts of regulatory authority to the Securities and Exchange Commission (SEC) where the applicants will be part of a registered public utility holding company, they may either commit themselves to abide by this Commission's policies with regard to affiliate transactions, or we will set the issue for hearing. With respect to the merger's effect on state regulation, where the state commissions have authority to act on the merger, we intend to rely on the state commissions to exercise their authority to protect state interests.

In order to provide more certainty and expedition in our handling of merger applications, this Policy Statement explains how merger applicants should address each of the three factors as part of their case-in-chief in support of their application. For the effect on competition factor, applicants who demonstrate that their merger passes the market power screen established in this Policy Statement will establish a presumption that the merger raises no market power concerns. In that event, a trial-type hearing on this factor should not be necessary. We are also setting forth guidance on the other two factors and ways to resolve any concerns about these factors without a trial-type hearing.

For mergers that do not pass the market power screen, we will engage in a more detailed analysis, which may include a trial-type hearing. As discussed below, if we find that a merger will have an adverse effect on competition, and if the additional factors examined do not mitigate or counterbalance the adverse competitive effects of the merger, we may impose various remedies where necessary to make a merger consistent with the public interest.

In this Policy Statement, we also provide guidance on what kind of evidence is needed for each factor. Thus, applicants will be able to provide the necessary information at the outset. This should provide more certainty and help focus our review on specific issues that require more scrutiny. We believe that the additional information that we would expect parties to file will expedite the merger review process and enable the Commission to act on section 203 applications more quickly. We intend to process most merger applications within 12–15 months after

[1] Energy Policy Act of 1992, Pub. L. No. 102–486, 106 Stat. 2776, 2905 (1992).

[2] *See* Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, (Open Access Rule) 61 FR 21540 (May 10, 1996), III FERC Stats. & Regs. ¶ 31,036 (1996), *reh'g pending*.

[3] In the near future, the Commission will also issue a notice of proposed rulemaking to set forth more specific filing requirements consistent with this Policy Statement and additional procedures for improving the merger hearing process.

[4] U.S. Department of Justice and Federal Trade Commission, *Horizontal Merger Guidelines*, issued April 2, 1992, 57 FR 41552 (1992).

[5] Parties may choose to use alternative dispute resolution or other settlement processes to reach mutually agreeable ratepayer protection resolutions.

the applications are completed, as discussed below under "Procedures."

In general, we expect that a merger approved by the Commission will satisfy each of the three factors that form the basis of our merger review, *i.e.*, post-merger market power must be within acceptable thresholds or be satisfactorily mitigated, acceptable customer protections must be in place, and any adverse effect on regulation must be addressed. However, we recognize that there may be unusual circumstances in which, for example, a merger that raises competitive concerns may nevertheless be in the public interest because customer benefits (such as the need to ensure reliable electricity service from a utility in severe financial distress) may clearly compel approval. Consistent with the Guidelines, the Commission would continue to account for such circumstances and could, in a particular case, conclude that on balance the merger is consistent with the public interest.

Finally, the Commission recognizes that, as the industry evolves to meet the challenges of a more competitive marketplace, new types of mergers and consolidations will be proposed. For example, in addition to mergers between public utilities, market participants already are considering restructuring options that include mergers between public utilities and natural gas distributors and pipelines, consolidations of electric power marketer businesses with other electric or gas marketer businesses, and combinations of jurisdictional electric operations with other energy services.[6] As a consequence, our merger policy must be sufficiently flexible to accommodate the review of these new and innovative business combinations that are subject to our jurisdiction under section 203 and to determine their implications on competitive markets. We believe that the analytical framework articulated in this Policy Statement provides a suitable methodology for determining whether such mergers will be consistent with the public interest.[7] However, it will not be necessary for the merger applicants to perform the screen analysis or file the data needed for the screen analysis in cases where the merging firms do not have facilities or sell relevant products in common geographic markets. In these cases, the proposed merger will not have an adverse competitive impact (*i.e.*, there can be no increase in the applicants' market power unless they are selling relevant products in the same geographic markets) so there is no need for a detailed data analysis. If the Commission is unable to conclude that the applicants meet this standard, the Commission will require the applicants to supply the competitive analysis screen data described in Appendix A.

II. Background

Section 203(a) of the Federal Power Act (FPA) provides that no public utility shall sell, lease, or otherwise dispose of the whole of its facilities that are subject to the Commission's jurisdiction, or any part thereof with a value in excess of $50,000, or by any means whatsoever, directly or indirectly, merge or consolidate such facilities with those of any other person, or purchase, acquire, or take any security of another public utility without first securing the Commission's approval.[8] Section 203(a) also says that "if the Commission finds that the proposed * * * [merger] will be consistent with the public interest, it shall approve the same."[9] Under section 203(b), the Commission may approve a proposed merger "in whole or in part and upon such terms and conditions as it finds necessary or appropriate. * * *" This power is to be exercised "to secure the maintenance of adequate service and the coordination in the public interest of facilities subject to the jurisdiction of the Commission."[10]

Thirty years ago, in the *Commonwealth* case,[11] the Commission set forth six non-exclusive factors for evaluating mergers:

(1) the effect of the proposed merger on competition;

(2) the effect of the proposed merger on the applicants' operating costs and rate levels;

(3) the reasonableness of the purchase price;

(4) whether the acquiring utility has coerced the to-be-acquired utility into acceptance of the merger;

(5) the impact of the merger on the effectiveness of state and federal regulation; and

(6) the contemplated accounting treatment. Of these factors, the first two—the effect on competition and the effect on costs and rates—have presented the most significant issues in recent merger cases.

Since *Commonwealth*, however, both the electric utility industry and utility regulation have changed dramatically. The Commission's Open Access Rule[12] describes these changes at length. Advances in technology now allow scale economies to be exploited by smaller-size units, thereby allowing smaller new plants to be brought on line at costs below those of the large plants of the 1970s and earlier.[13] Technological advances in transmission have made possible the economic transmission of electric power over long distances at higher voltages.[14] State public utility commissions have been relying more on competitive contracting as the primary vehicle for adding new generating capacity.[15] This Commission has authorized market-based rates for wholesale electricity sales when it has found that the public utilities lack market power.

In 1992, a landmark change occurred when Congress enacted the EPAct. That statute permitted new power suppliers, called exempt wholesale generators, to enter wholesale power markets, and expanded the Commission's authority to require transmitting utilities to provide eligible third parties with transmission access. In 1996, consistent with the competitive goals of EPAct, the Commission adopted a sweeping regulatory policy change with the promulgation of the Open Access Rule. That rule requires each public utility that owns, operates or controls interstate transmission facilities to file an open access transmission tariff that offers both network and point-to-point service. The rule is designed to remedy the undue discrimination that is inherent when a utility does not offer truly comparable transmission service to others, and to promote competitive bulk power markets. Thus, EPAct and the Commission's Open Access Rule have fundamentally changed federal regulation of the electric utility industry. In addition, many states are contemplating retail access, which may

[6] See, for example, among others, the proposed merger of Enron Corporation with Portland General Corporation (Docket No. ER96–36–000) and the proposed acquisition of PanEnergy Corporation by Duke Power Company, announced November 25, 1996.

[7] We recognize that, as some energy products possibly become more suitable alternatives to others, or as the combination of complementary energy services possibly affects barriers to entry, the focus of our analysis may have to be adjusted to encompass those products, markets, and factors that are relevant to analyzing the exercise of market power in the future business environment.

[8] While many types of transactions, including relatively minor ones, may require section 203 authorization, this Policy Statement focuses on mergers.

[9] 16 U.S.C. 824b(a) (1994).

[10] 16 U.S.C. 824b(b) (1994).

[11] *See* Commonwealth Edison Company (Commonwealth), Opinion No. 507, 36 F.P.C. 927, 936–42 (1966), *aff'd sub nom.* Utility Users League v. FPC, 394 F.2d 16 (7th Cir. 1968), *cert. denied*, 393 U.S. 953 (1969).

[12] *See* Open Access Rule, 61 FR at 21540.

[13] *See Id.* at 21544.

[14] *See Id.* at 21544–45.

[15] *See* Paul L. Joskow, Regulatory Failure, Regulatory Reform, and Structural Change in the Electrical Power Industry, in Brookings Papers on Econ. Activity, Microeconomics 125 (1989).

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prompt even more significant changes in the industry.

Because these changes have implications for the Commission's regulation of mergers,[16] we issued a Notice of Inquiry (NOI)[17] soliciting comments on whether our thirty-year-old criteria for evaluating mergers should be revised. While most commenters agree that we should revise our merger policies, there are differences of opinions on the general direction of the change needed. The comments are summarized in Appendix D.[18]

III. Discussion

A. General Comments on Revising Merger Policy

1. Direction of Change

As noted above, under section 203, the Commission evaluates mergers to determine whether they are "consistent with the public interest." Congress did not intend the Commission to be hostile to mergers.[19] We have found that the transaction taken as a whole must be consistent with the public interest.[20] Thus, even if certain aspects of a proposed merger are detrimental, the merger can still be consistent with the public interest if there are countervailing benefits that derive from the merger.[21]

Almost all commenters argue that we need to revise our merger policies and standards in light of the changes in the industry.[22] On one side, many commenters argue that mergers may prevent markets from becoming truly competitive.[23] On the other side, some commenters suggest that the Commission should approve a merger unless harm to the public interest is demonstrated.[24] These commenters claim that most mergers are procompetitive and should be approved unless a problem is identified.

We do not agree either with commenters who argue that we should actively encourage mergers or those who argue that we should discourage them. The statutory standard is that a merger must be "consistent with" the public interest. While we believe that the Commission has broad flexibility in determining what is in the public interest, particularly in light of changing conditions in the industry, we do not read the statutory language as creating a presumption against mergers.[25] Nor are we prepared to presume that all mergers are beneficial. It is the applicants' responsibility to demonstrate that the merger is consistent with the public interest.

We believe that if the Commission is to fulfill its statutory responsibilities, it must determine what is consistent with the public interest in light of conditions in the electric industry in general as well as the specific circumstances presented by a proposed merger. In an era of traditional, cost-of-service based regulation, the Commission defined its public interest responsibilities consistent with that structure. Today, we believe that the public interest requires policies that do not impede the development of vibrant, fully competitive generation markets. We are refining our analysis of the effects of proposed mergers on competition in order to protect the public interest in the development of such highly competitive markets, as discussed below.

The Commission's interpretation of the public interest standard has never been static. In the *El Paso* case,[26] we explained that our view of what it takes to mitigate market power sufficiently to allow approval of a merger had evolved over time. We pointed out that as the industry had become more competitive, we began examining market power in transmission more closely, and that comparable access was now required. Moreover, we explained in *El Paso* that while in the past we had focused only on *increases* in market power, we no longer believed that we could find any merger to be consistent with the public interest, whether or not the merger created increased market power, unless the merging utilities provided open access. We adopted this revised view of the public interest in light of EPAct's goal of encouraging greater wholesale competition and the significant increase in actual competition.

2. How to Implement New Policies

We are adopting our new policies through this Policy Statement rather than through other means, such as acting on a case-by-case basis or through a rulemaking. While some commenters suggested other means,[27] we believe that a Policy Statement is needed. Proceeding on a case-by-case basis would not give applicants and intervenors the guidance needed to facilitate the presentation of the kinds of well-focused evidence and arguments that will improve and expedite the merger review process. On the other hand, a binding rule would be too rigid at this time. Because the industry continues to change rapidly, we must maintain flexibility in fulfilling our statutory responsibilities.

Commenters disagree on whether we should apply the new policy to pending merger proposals.[28] Those proposing mergers have been on notice since we issued the NOI that the Commission is considering revising its criteria for evaluating proposed mergers. In several recent merger hearing orders, we have discussed the NOI and have indicated that we intend to evaluate pending proposals in light of any new criteria we might adopt.[29] We do not believe that any applicants will be seriously disadvantaged by application of this policy to pending cases. Our analysis of the effect of a proposed merger on competition has been evolving for some time, particularly since the enactment of EPAct and the issuance of the Open Access Rule. Thus, we are not applying radically new analyses or standards. The same is true of the other two remaining factors, the effects on regulation and on rates. We will address the specific application of the policy to pending cases on a case-by-case basis. If necessary, we will require the parties to supplement the record in any pending case, and we do not expect that this will cause any substantial delay. In fact, if anything, we expect this Policy Statement will make it easier to resolve any remaining issues, because of our clarification of our policies.

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[16] Many of the commenters in the Open Access Rule proceeding suggested that the Commission reevaluate its merger policy in concert with the open access rulemaking. *See* Open Access Rule at 61 FR 21555.

[17] *See* Inquiry Concerning the Commission's Merger Policy Under the Federal Power Act, Docket No. RM96-6-000, 61 FR 4596 (February 7, 1996), FERC Stats. & Regs. ¶ 35,531.

[18] Appendix C sets forth the full names and acronyms of the commenters.

[19] Pacific Power & Light Co. v. FPC, 111 F.2d 1014, 1016 (9th Cir. 1940) (*PP&L*); *also see* Northeast Utilities Service Co. v. FERC (*NU*), 993 F.2d 937 (1st Cir. 1993).

[20] Entergy Services Inc. and Gulf States Utilities Company (*Entergy*), Opinion No. 385, 65 FERC ¶ 61,332 at 62,473 (1993), *order on reh'g*, Opinion No. 385-A, 67 FERC ¶ 61,192 (1994), *appeal pending*.

[21] *See NU*, 993 F.2d at 945.

[22] See Appendix D, Section IA.

[23] For example, APPA, NRECA at 7-8; ELCON at 12-13.

[24] For example, Utilicorp United at 2, 7, 10.

[25] In *NU*, 993 F.2d at 947, the court pointed out that the FPA differs from the Bank Merger Act in that the latter contains an "implicit presumption that mergers are to be disapproved."

[26] El Paso Electric Company and Central and Southwest Services Inc., 68 FERC ¶ 61,181 61,914-15 (1994), *dismissed*, 72 FERC ¶ 61,292 (1995).

[27] See Appendix D at Section IB.

[28] *Id.*

[29] Union Electric Company and Central Illinois Public Service Company (Union Electric), 77 FERC ¶ 61,026 (1996), *reh'g pending*; Public Service Company of Colorado and Southwestern Public Service Company (PS Colorado), 75 FERC ¶ 61,325 (1996), *reh'g pending*; Baltimore Gas & Electric and Potomac Electric Power Company, 76 FERC ¶ 61,111 (1996).

B. Effect on Competition and Remedies

1. Background

In response to the NOI, we received many comments on our market power analysis. Commenters generally divide into two groups, one recommending stricter scrutiny of the effect of mergers on competition, while the other argues that less concern is warranted in today's more competitive environment.

Those in the first group support more stringent scrutiny because they believe that mergers can cause competitive harm, particularly in a transitional era. Many commenters[30] argue that mergers increase generation market power, increase monopsony buying power, encourage self-dealing, discourage alternative suppliers under retail access, and tend to preserve certain competitive advantages associated with vertical integration. These commenters criticize the analysis the Commission has been using to evaluate mergers. They argue that the Commission has not given enough consideration to important factors, including generation dominance, the effect of transmission constraints on competition, the merged company's ability to exercise market power in localized areas and in short-term energy sales, the effects on markets in which little or no effective competition exists, and the significant anticompetitive advantages that vertically integrated utilities possess as a result of the long-existing statutory and regulatory system.

The second broad group of commenters[31] argues that mergers are procompetitive. These commenters maintain that mergers lower costs, create economies of scale and geographic scope, create large strong competitors, allow rapid movement into new markets, allow diversification to minimize shareholder exposure to business fluctuation, and let the most efficient companies operate facilities, among other reasons.

2. Discussion

a. The role of competition. The electric industry's rapid restructuring, and the Commission's regulatory response to it, have made the effect of mergers on competition, and the way the Commission evaluates that effect, critically important.

The Open Access Rule was a watershed for electric industry regulation. In the Rule, we recognized that, where it exists, competition has become the best way to protect the public interest and to ensure that electricity consumers pay the lowest possible price for reliable service. Before the Open Access Rule, the Commission took the approach that traditional regulation could cure many market power problems. The size of the company, the territory it covered, and the assets it held did not matter greatly because regulatory oversight could hold market power in check. Indeed, the creation of larger utilities allowed some utilities to take advantage of scale economies and pass the cost savings on to consumers under regulatory supervision.

With the open transmission access resulting from the Open Access Rule and the continuing evolution of competitive wholesale power markets, we believe that competition is now the best tool to discipline wholesale electric markets and thereby protect the public interest. But the competition needed to protect the public interest will not be efficient and deliver lower prices in poorly structured markets. For example, a concentration of generation assets that allows a company to dominate a market will dampen or preclude the benefits of competition. In sum, as customer protection is increasingly dependent upon vibrant competition, it is critically important that mergers be evaluated on the basis of their effect on market structure and performance.

This means that the Commission must find ways to assess more accurately the competitive impact of merger proposals. In doing so, however, we must be sensitive to another pressing concern: the industry's need for more analytic and procedural certainty from the Commission. The increased pace of merger proposals has tested our ability to respond in a timely way. We recognize that merger proposals are business decisions made in response to market pressures and opportunities. Some merger proposals may strengthen weak firms and create stronger competitors. Some, however, may result in firms that will dominate or manipulate electricity markets and thwart competition. In either case, applicants are entitled to timely decisions from this Commission. The policies and procedures adopted in this Policy Statement are intended to promote that goal.

b. Definition of markets. An accurate assessment of the effect on markets depends on an accurate definition of the markets at issue. The Commission's current analytic approach defines geographic markets in a manner that does not always reflect accurately the economic and physical ability of potential suppliers to access buyers in the market. This approach uses what has come to be known as a hub-and-spoke method. It identifies affected customers as those that are directly interconnected with the merging parties. It then identifies potential suppliers as: (1) those suppliers that are directly interconnected with the customer (the "first-tier" suppliers); and (2) those suppliers that are directly interconnected with the merging parties and that the customer thus can reach through the merging parties' open access transmission tariff (the "second-tier" suppliers).

A drawback of this method of defining geographic markets is that it does not account for the range of parameters that affect the scope of trade: relative generation prices, transmission prices, losses, and transmission constraints. Taking these factors into account, markets could be broader or narrower than the first- or second-tier entities identified under the hub-and-spoke analysis. For example, a supplier that is directly interconnected with a buyer may not be an economic supplier to that buyer if transmission capability across that interconnection is severely constrained or if the transmission charges are greater than the difference between the decremental cost of the buyer and the price at which the supplier is willing to sell. In contrast, a supplier that is three or four "wheels" away from the same buyer may be an economic supplier if the sum of the wheeling charges and the effect of losses is less than the difference between the decremental cost of the buyer and the price at which the supplier is willing to sell. In other words, mere proximity is not always indicative of whether a supplier is an economic alternative.

Another concern with the approach we have used in the past is its analytic inconsistency. It defines the scope of the market to include the directly interconnected utilities that are accessible due to the applicants' open access tariff, but does not expand the market to recognize the access afforded by other utilities' tariffs. This was acceptable before open access was established as an industry-wide requirement for public utilities. Now that virtually all public utilities have open access transmission tariffs on file, it is no longer appropriate to recognize only the effect of certain entities' tariffs on the size of the market.

In modifying our competitive analysis, we are adopting the Guidelines as the basic framework for evaluating the competitive effects of merger proposals. The Guidelines are a well-

[30] These include, for example, CA Com, Joint Consumer Advoc., APPA, NRECA, Environmental Action *et al.*, RUS, Salt River, Lubbock, Wisconsin Customers, and TAPS.

[31] Such as UtiliCorp, Southern, PanEnergy, and Southwestern.

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accepted standard approach for evaluating the competitive effects of mergers, and they received substantial support from commenters.

c. Use of the Guidelines. The Guidelines set out five steps for merger analysis: (1) define markets likely to be affected by the merger and measure the concentration and the increase in concentration in those markets; (2) evaluate whether the extent of concentration and other factors that characterize the market raise concerns about potential adverse competitive effects; (3) assess whether entry would be timely, likely, and sufficient to deter or counteract any such concern; (4) assess any efficiency gains that reasonably cannot be achieved by other means; and (5) assess whether either party to the merger would be likely to fail without the merger, causing its assets to exit the market. We note, however, that the Guidelines are just that—guidelines. They provide analytical guidance but do not provide a specific recipe to follow. Indeed, applying the Guidelines to the electric power industry is one of our biggest analytic challenges, both because the industry is evolving very rapidly and because the industry has some unique features, such as very limited opportunities for storage (hence the importance of time-differentiated markets). An analysis that follows the Guidelines still requires many assumptions and judgments to fit specific fact situations.

While this Policy Statement provides guidance on how the Commission intends to more sharply focus its analysis of a merger's effect on competition, we cannot reduce this analysis to a purely mechanized computation of the same data inputs for all merger applications. Rather, the Commission will need to evaluate the relevant product and geographic markets affected by each merger proposal; these markets, in turn, depend on the specific characteristics of the merger applicants and the products and markets in which they potentially trade. Consequently, mergers may require analysis of different product and geographic markets due to factors (such as the existence of constrained transmission paths) that affect the size of a particular market or the hours in which trade of the product is critical to determine whether merger applicants possess market power. Such distinguishing factors will need to be identified and analyzed on a case-by-case basis. Thus, the analytical process explained in this Policy Statement is a framework under which appropriate adjustments may be required to be incorporated to take account of factors unique to a merger. Furthermore, as noted above, this Policy Statement also is intended to be sufficiently flexible to accommodate the kinds of new merger proposals that will be presented to the Commission as the energy industry evolves to meet the challenges of a more competitive marketplace.

We note that the Guidelines contemplate using remedies to mitigate any harm to competition. There will be mergers where, at the end of an analysis, market power concerns persist but that could be made acceptable with measures to mitigate potential market power problems. We encourage applicants to identify market power problems and to propose remedies for such problems in their merger proposals. In many cases, such a remedy could avoid the need for a formal hearing on competition issues and thus result in a quicker decision. As discussed further in Section III B (2)(e), if a proposed long-term remedy is not capable of being effectuated at the time the merger is consummated, applicants may propose effective interim remedial measures.

d. Analytic screen. It is important to give applicants some certainty about how filings will be analyzed and what will be an adequate showing that the merger would not significantly increase market power. This will allow applicants to avoid or minimize a hearing on this issue. Consequently, we will to use an analytic screen (described in Appendix A) that is consistent with the Guidelines. If applicants satisfy this analytic screen in their filings, they typically would be able to avoid a hearing on competition. We would expect applicants to perform the screen analysis as part of their application and to supply the Commission and the public with electronic files of all data used in the analysis as well as other related specified data. The Commission will need this information in order to perform its competitive analysis. If an adequately supported screen analysis shows that the merger would not significantly increase concentration, and there are no interventions raising genuine issues of material fact that cannot be resolved on the basis of the written record, the Commission will not set this issue for hearing. Applicants may, of course, submit an alternative competitive analysis in addition to the screen.

The Commission believes that the screen will be a valuable analytical tool in all cases. It is conservative enough so that parties and the Commission can be confident that an application that clears the screen would have no adverse effect on competition. The screen also will be valuable in identifying potential competitive problems early in the process. The result will be more narrowly focused issues at hearings when they are necessary. We also note that the screen is intended to be somewhat flexible. It sets out a general method, but we will consider other methods and factors where applicants properly support them.

We believe that the analytic screen will produce a reliable, conservative analysis of the competitive effects of proposed mergers. However, it is not infallible. In some cases, the screen may not detect certain market power problems. There also may be disputes over the data used by applicants or over the way applicants have conducted the screen analysis. These claims may be raised through interventions and by the Commission staff. However, such claims must be substantial and specific. In other words, they should focus on errors in or other factual challenges to the data or assumptions used in the analysis, or whether the analysis has overlooked certain effects of the merger. Unsupported, general claims of harm are insufficient grounds to warrant further investigation of an otherwise comprehensive analysis developed by the applicants. Intervenors may also file an alternative competitive analysis, accompanied by appropriate data, to support their arguments. The Commission realizes that the need for more rigor in intervention showings could require additional efforts by potential intervenors. We will therefore routinely allow 60 days from filing for intervenors and others to comment on a merger filing.[32]

A detailed illustrative description of the analytic screen that we will use is in Appendix A. The following is a brief summary of the screen. There are four steps the applicant must complete and the Commission will follow:

(1) *Identify the relevant products.* Relevant products are those electricity products or substitutes for such products sold by the merging entities.

(2) *Geographic markets: identify customers who may be affected by the merger.* Generally, these would include, at a minimum, all entities directly interconnected to a merging party and those that historical transaction data indicate have traded with a merging party.

[32] Merger applicants that wish to facilitate the merger review process should serve potential intervenors with copies of their filing (via overnight delivery), including electronic versions, when they file their applications with the Commission. *Cf.* Open Access Rule, 61 FR 21618 n.510.

(3) *Geographic markets: identify potential suppliers that can compete to serve a given market or customer.* Suppliers must be able to reach the market both physically and economically. There are two parts to this analysis. One is determining the economic capability of a supplier to reach a market. This is accomplished by a delivered price test, which accounts for the supplier's relative generation costs and the price of transmission service to the customer, including ancillary services and losses. The second part evaluates the physical capability of a supplier to reach the customer, that is, the amount of electric energy a supplier can deliver to a market based on transmission system capability.

(4) *Analyze concentration.* Concentration statistics must be calculated and compared with the market concentration thresholds set forth in the Guidelines.[33]

The usefulness of the screen analysis depends critically on the data that are supplied with the application. These data are described in Appendix A. Applicants should file in electronic format the data specified as well as any other data used in their analysis.

If the Guidelines' thresholds are not exceeded, no further analysis need be provided in the application. As stated earlier, if an adequately supported screen analysis shows that the merger would not significantly increase concentration, and there are no interventions raising genuine issues of material fact that cannot be resolved on the basis of the written record, the Commission will not set this issue for hearing. If the thresholds are exceeded, then the application should present further analysis consistent with the Guidelines. The Commission will also consider any applicant-proposed remedies at this stage. If none is presented, or if the analysis does not adequately deal with the issues, we will need to examine the merger further.

The Commission will set for hearing the competitive effects of merger proposals if they fail the above screen analysis, if there are problems concerning the assumptions or data used in the screen analysis, or if there are factors external to the screen which put the screen analysis in doubt. We may also set for hearing applications that have used an alternative analytic method the results of which are not adequately supported. As discussed in Section III F, the Commission will attempt to summarily address issues where possible and may use procedural mechanisms that permit us to dispose of issues without having a trial-type hearing.

e. *Mitigation.* Although a competitive analysis pursuant to the Guidelines may show that a proposed merger would have anticompetitive effects, the Commission may be able to approve the merger as consistent with the public interest if appropriate mitigation measures can be formulated. In the past, in some cases the Commission has conditionally approved a merger if applicants agreed to conditions necessary to mitigate anticompetitive effects. In some instances, applicants themselves have voluntarily offered commitments to address various concerns.[34] Commenters suggested a variety of conditions that we could impose (or remedies that applicants could adopt voluntarily) to solve competitive problems with a merger. These include, for example, the formation of an Independent System Operator (ISO), divestiture of assets, elimination of transmission constraints, efficient regional transmission pricing, and offering an open season to allow the merging utilities' customers to escape from their contracts. Other commenters oppose some or all of these remedies. Some commenters also argue that we should monitor the situation after a merger and impose any new remedies that are needed; other commenters oppose such post-merger review.[35]

As noted, the Commission's review of merger applications has frequently resulted in the development of particular conditions that are designed to remedy problems associated with the merger. These conditions are imposed as part of our approval of the merger application. We expect that practice to continue. For example, we expect the competition analysis to focus extensively on generation market power and on whether a proposed merger exacerbates market power problems. We also expect applicants to propose remedies for market power problems identified in their analysis. It is our hope that as our market power analysis becomes more refined to cope with changing circumstances in the industry, applicant-proposed remedies or mitigation strategies will also become more refined or tailored to address the identified harm. Of course, one remedy that an applicant could consider is to propose to divest a portion of its generating capacity so that its market share falls below the share that poses anticompetitive concerns under the Guidelines. This remedy is discussed in the Appendix A section entitled "Competitive Analysis Screen."

Similarly, an applicant's ability to exercise generation market power may be affected by transmission constraints and transmission pricing. In particular, the scope of the geographic market may be limited both by transmission constraints and by the need to pay cumulative transmission rates in order to transmit power across the systems of the merging utilities and neighboring utilities. It is likely that both market concentration and the applicant's market share would be greater within such a circumscribed geographic market. Hence, the opportunity to exercise market power also would be greater. Potential remedies for such market power could include the following. First, a proposal by the applicants to turn over control of their transmission assets to an ISO might mitigate market power. In particular, an ISO might facilitate the implementation of efficient transmission pricing and thereby expand the effective scope of the geographic market. Second, an up-front, enforceable commitment to upgrade or expand transmission facilities might mitigate market power, because the constraint relieved by such an upgrade or expansion no longer would limit the scope of the relevant geographic market. These and other remedies also are discussed in Appendix A. We intend to tailor conditions and remedies to address the particular concerns posed by a merger on a case-by-case basis.

If an applicant does not propose appropriate remedies to mitigate the anticompetitive impact of a merger, the Commission intends to fashion such remedies during the course of its consideration of an application.

We do not intend to rely on post-merger review or on new remedies

[33] The Guidelines address three ranges of market concentration: (1) an unconcentrated post-merger market—if the post-merger Herfindahl-Hirschman Index (HHI) is below 1000, regardless of the change in HHI the merger is unlikely to have adverse competitive effects; (2) a moderately concentrated post-merger market—if the post merger HHI ranges from 1000 to 1800 and the change in HHI is greater than 100, the merger potentially raises significant competitive concerns; and (3) a highly concentrated post-merger market—if the post-merger HHI exceeds 1800 and the change in the HHI exceeds 50, the merger potentially raises significant competitive concerns; if the change in HHI exceeds 100, it is presumed that the merger is likely to create or enhance market power.

[34] *E.g.*, Northeast Utilities Services Company/Re Public Service Company of New Hampshire, 50 FERC ¶ 61,266, *reh'g denied*, 51 FERC ¶ 61,177, *clarification*, 52 FERC ¶ 61,046 (1990), *order on reh'g*, 58 FERC ¶ 61,070 (1992), *order on reh'g*, 59 FERC ¶ 61,042 (1992), *aff'd in part sub nom.* Northeast Utilities Services Company v. FERC, 993 F.2d 937 (1st Cir. 1993); Midwest Power Systems, Inc. and Iowa-Illinois Gas & Electric Company, 71 FERC ¶ 61,386 (committed to offer wholesale requirements customers an open season).

[35] The comments on remedies are summarized in more detail in Appendix D, Section VI D.

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imposed after a merger is approved. We must find that a merger is consistent with the public interest before we approve a merger.[36] Moreover, heavy reliance on post-merger review would expose the merging entities to too much uncertainty. However, as the Commission has noted in past merger cases, the Commission does retain authority under section 203(b) to issue supplemental orders for good cause shown as it may find necessary or appropriate.[37]

The Commission acknowledges that many of the solutions that would mitigate market power or anticompetitive effects cannot be implemented quickly and, in fact, could take an extended period to accomplish (*e.g.*, siting and constructing new transmission lines to alleviate a transmission constraint, divestiture of generation assets, formation of an ISO). While long-term remedies may be necessary to allow the Commission to determine that a merger is consistent with the public interest, a requirement to satisfy such conditions prior to consummating a merger may jeopardize the ability of parties to merge. In turn, customers will experience unnecessary delays in receiving benefits accruing from the merger. Therefore, we will entertain proposals by merger applicants to implement interim mitigation measures that would eliminate market power concerns during the period that it takes to put in place the long-term remedies necessary to address the anticompetitive effects of their proposed merger.[38] Such interim measures must fully and effectively address the specific market power problems identified for the merger but should not be viewed as substitutes for the long-term remedies required by the Commission. Applicants should implement long-term remedies as quickly as practical.

C. Effect on Rates

1. Background

In determining whether a merger is consistent with the public interest, one of the factors we have considered is the effect the proposed merger will have on costs and rates. In the past we have considered whether the elimination of the independence of the companies and resulting combination of the facilities of the separate entities would be likely to lead to unnecessary rate increases or inhibit rate reductions.[39] We have also been concerned with whether the merged companies would be able to operate economically and efficiently as a single entity.[40] In connection with these concerns, the Commission has investigated applicants' claims about the potential costs and benefits of their proposed mergers and weighed that information to determine whether the costs are likely to exceed the benefits. Our investigations have frequently required trial-type hearings. Although we have considered the applicants' burden of proof to be met by a generalized showing of likely costs and benefits,[41] these hearings have often been time-consuming, and there has been considerable controversy over whether the estimates of future costs and benefits are truly meaningful. Moreover, there has been controversy over the position we have taken that benefits are to be "counted" even if they could reasonably be obtained by means other than the merger. There also has been controversy over the allocation of the projected merger benefits.[42]

In more recent cases, the Commission has focused on ratepayer protection. We have either accepted a hold harmless commitment (a commitment from the applicant that any net merger-related costs will not raise rates) or have set for hearing the issue of whether the applicants' hold harmless commitment or some other proposed ratepayer protection was adequate. For example, in *Primergy*, the Commission held that wholesale ratepayers would be adequately protected if the applicants were to commit that, for a period of four years after the merger is consummated, the merging companies would not seek to increase rates to wholesale requirements customers.

In *PS Colorado*,[43] the applicants submitted evidence on costs and benefits, but also proposed a hold harmless commitment. We noted several concerns with the hold harmless commitment, pointing out that it did not cover most of the merger-related costs.[44] We set for hearing the issue of whether the applicants' hold harmless commitment provided adequate protection for ratepayers (those who receive unbundled generation and transmission services as well as those who receive bundled service) and, if not, what ratepayer protection mechanisms would be sufficient. We did not set for hearing the effect on rates as such; that is, we did not instruct the administrative law judge to conduct a factual investigation into the alleged costs and benefits of the merger. In *Cincinnati Gas & Electric Company and PSI Energy, Inc.*, the Commission modified the hold harmless provision, stating that the applicants would have the burden of convincingly demonstrating in future section 205 filings that their wholesale customers had, in fact, been held harmless; that is, they would have to show any rate increase was not related to the merger.[45] The applicants would be required to make an affirmative showing in their initial case-in-chief that their proposed rates did not reflect merger-related costs unless such costs were offset by merger-related benefits.[46]

In *Union Electric*,[47] the applicants proposed an open season guarantee for the first five years after the merger was consummated. The open season guaranteed that existing wholesale customers could terminate their contracts by giving notice on the day the applicants filed for a rate increase affecting that customer. The Commission was concerned that the open season commitment might not provide adequate protection for wholesale ratepayers (those that receive bundled generation and transmission service as well as those that receive unbundled generation or transmission service) and set that issue for hearing. We stated that if at hearing it was determined that the open season

[36] For example, an expansion or upgrade of facilities to alleviate a transmission constraint would not be an acceptable mitigation measure unless uncertainties about the utilities' ability to complete the upgrade or expansion are resolved prior to consummation of the merger.

[37] *See* FPA section 203(b), 16 U.S.C. § 824b(b) (1994).

[38] For example, an applicant could sell its transmission rights on congested transmission paths to third parties or not trade in markets where it has market power until long-term remedies are implemented.

[39] Commonwealth, 36 FPC at 938.

[40] Edison, 47 FERC ¶ 61,196 at 61,672 (1989).

[41] Entergy Services Inc. (*Entergy*), 65 FERC ¶ 61,332, at 62,473 (1993), *order on reh'g*, 67 FERC ¶ 61,192 (1994), *appeal pending*.

[42] These benefits have included items such as fuel cost savings; bankruptcy resolution; reducing administrative and general costs; lowering net production costs; and eliminating or deferring construction of new generating units.

[43] 75 FERC at 62,043–44.

[44] The commitment was not to seek an increase in base rates for five years after the merger. We found, however, that this provided little protection, since the five years would be over before most of the claimed merger savings were projected to be realized. Moreover, the applicants proposed to amortize merger-related costs over five years, but their hold harmless commitment covered only costs that would be "booked to the merger" through the first two years.

[45] See Cincinnati Gas & Electric Company and PSI Energy, Inc., 64 FERC ¶ 61,237 at 62,714 (1993), order withdrawing authorization of merger and instituting settlement procedures, 66 FERC ¶ 61,028, order denying rehearing and approving settlements and unilateral offers as conditioned and modified, 69 FERC ¶ 61,005 (1994), order granting clarification, 69 FERC ¶ 61,088 (1994).

[46] Id. at 62,714.

[47] 77 FERC ¶ 61,026 at 61,107–08 (1996), reh'g pending.

commitment was not adequate protection, a determination should be made as to what ratepayer protection mechanisms might be suitable for the proposed merger.

In response to the NOI, only a few commenters suggest that we dispose of the effect on rates factor altogether.[48] Most commenters consider this factor to be essential in deciding whether to approve a merger.[49] However, commenters differ on how this factor should be assessed.

2. Discussion

We disagree with the argument presented by a few commenters that we need not be concerned about the effect of a merger on rates in this competitive environment because prices will be set by market forces and customers can choose their suppliers accordingly. Also, while it may be true that most of the rate issues in connection with the typical merger affect retail ratepayers and are subject to state jurisdiction, the Commission in order to ensure that a merger is consistent with the public interest still must protect the merging utilities' wholesale ratepayers and transmission customers from the possible adverse effects of the merger. As mentioned in our discussion above on the effect on competition and in our discussion in the Open Access Rule, we recognize that even in an open access environment, markets may not work perfectly or even well.[50] This is particularly the case during the transition from a monopoly.cost-of-service market structure to a competitive market-based industry. For instance, during the transition some customers may be unable to take immediate advantage of competition because of contractual commitments or because of stranded costs obligations. Furthermore, because transmission remains effectively a natural monopoly and will continue to be regulated on a cost-of-service basis, the Commission has reason to be concerned that mergers do not affect transmission rates adversely. For these reasons, we will not abandon the effect on rates factor.[51]

Rather than requiring estimates of somewhat amorphous net merger benefits and addressing whether the applicant has adequately substantiated those benefits, we will focus on ratepayer protection. Merger applicants should propose ratepayer protection mechanisms to assure that customers are protected if the expected benefits do not materialize. The applicant bears the burden of proof to demonstrate that the customer will be protected. This puts the risk that the benefits will not materialize where it belongs—on the applicants.

Furthermore, we believe that the most promising and expeditious means of addressing ratepayer protection is for the parties to negotiate an agreement on ratepayer protection mechanisms. The applicants should attempt to resolve the issue with customers even before filing, and should propose a mechanism as part of their filing. Even if these negotiations have not succeeded by the time of filing, the parties should continue to try to reach a settlement. What constitutes adequate ratepayer protection necessarily will depend on the particular circumstances of the merging utilities and their ratepayers, and we strongly encourage parties to minimize contentious issues and to resolve them without the time and expense of a formal hearing. Parties may not be able to reach an agreement on an appropriate ratepayer protection and the Commission may still be able to approve the merger. As mentioned earlier, this could occur either after a hearing or on the basis of parties' filings if we determine that the applicants' proposal sufficiently insulates the ratepayers from harm.

As described above, the Commission has accepted a variety of hold harmless provisions, and parties may consider these as well as other mechanisms if they appropriately address ratepayer concerns. Among the types of protection that could be proposed are:

- *Open season for wholesale customers*—applicants agree to allow existing wholesale customers a reasonable opportunity to terminate their contracts (after notice) and switch suppliers. This allows customers to protect themselves from merger-related harm.
- *General hold harmless provision*—a commitment from the applicant that it will protect wholesale customers from any adverse rate effects resulting from the merger for a significant period of time following the merger. Such a provision must be enforceable and administratively manageable.
- *Moratorium on increases in base rates (rate freeze)*—applicants commit to freezing their rates for wholesale customers under certain tariffs for a significant period of time.[52]
- *Rate reduction*—applicants make a commitment to file a rate decrease for their wholesale customers to cover a significant period of time.[53]

Although each mechanism provides some benefit to ratepayers, we believe that in the majority of circumstances the most meaningful (and the most likely to give wholesale customers the earliest opportunity to take advantage of emerging competitive wholesale markets) is an open season provision. We urge merger applicants to negotiate with customers before filing and to offer an adequate open season proposal or other appropriate ratepayer protection mechanism in their merger applications. If intervenors raise a substantial question as to the adequacy of the proposal, parties should continue to pursue a settlement. If no agreement can be reached, we may decide the issue on the written record or set the issue for hearing.

D. Effect on Regulation

When the Commission in *Commonwealth* referred to impairment of effective regulation by this Commission and appropriate state regulatory authorities, its concern was with ensuring that there is no regulatory gap.[54] The potential for impairment of effective regulation at the Federal level has been increased by the *Ohio Power* decisions.[55] That case holds that if the SEC approves a contract for sales of non-power goods or services between affiliates in a registered holding company, this Commission in its rate review may not disallow any part of the payment under the contract in order to protect ratepayers against affiliate abuse.[56]

In recent cases, the Commission has developed its policy regarding the effect of proposed mergers on both state and Federal regulation. For instance, *PS Colorado* involved the creation of a new multistate registered holding company. On the question of a shift of regulation from the state commissions to this Commission, we declined to order a

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[48] *See* Appendix D, section III(A).

[49] *Id.*

[50] *See* Open Access Rule, 61 FR at 21553.

[51] In the past, we have referred to this factor as the "effect on costs and rates." However, the basic concern is with the effect on rates. Accordingly, we will refer to it as the "effect on rates."

[52] A rate freeze, however, does not insulate the merged utility from a rate reduction if the Commission, pursuant to section 206, determines that the utility's rates are no longer just and reasonable. Also, in circumstances in which ratepayers clearly would be entitled to a rate reduction in the absence of the merger, *e.g.*, expiration of a current surcharge or some other clearly defined circumstance, a simple rate freeze may not provide adequate ratepayer protection.

[53] Whether these types of proposals are appropriate in a particular case will depend on the circumstances of the merging companies and the customers and the details of the proposals.

[54] Cinergy, 64 FERC at 61,710 n. 278; Commonwealth, 36 FPC at 931.

[55] Ohio Power Company v. FERC, 954 F.2d, 779, 782–86 (D.C. Cir. 1992), *cert. denied*, 498 U.S. 73 (1992) (*Ohio Power*).

[56] *Cf.* AEP Power Marketing, Inc., 76 FERC ¶ 61,307 at 62,515 (1996).

hearing, noting that the state commissions had authority to disapprove the merger and that they did not argue that their regulation would be impaired. On the question of a shift of authority from this Commission to the SEC, we pointed out that pre-merger, we had authority to review for rate purposes all the costs the companies incurred, but if the merger were approved, under *Ohio Power* we would lose that authority if the SEC approved an inter-affiliate transaction. Thus, the costs could be flowed through to ratepayers, even if the goods or services were obtained at an above-market price or the costs were imprudently incurred. To guard against this possibility, we gave the applicants two options.[57] They could either choose to have the issue set for hearing, or they could agree to abide by our policies on intra-system transactions.[58]

In response to the NOI, commenters generally argue that it is important for the Commission to continue to look at the effect of a merger on the effectiveness of state and Federal regulation.[59]

2. Discussion

We will continue to examine the effect on regulation as a factor in our analysis of proposed mergers and will use the approach adopted in *PS Colorado* and subsequent cases. Thus, in situations involving registered public utility holding companies, we will require the applicants to choose between two options and to make that choice clear in their filing. They may commit themselves to abide by this Commission's policies with respect to intra-system transactions within the newly-formed holding company structure, or they may go to hearing on the issue of the effect of the proposed registered holding company structure on effective regulation by this Commission. If applicants choose the first option, we will set the issue for hearing only if intervenors raise credible arguments that because of special factual circumstances, the commitment will not provide sufficient protection.

With respect to the effect of a merger on state regulatory authority, where a state has authority to act on a merger, as in *PSColorado*, we ordinarily will not set this issue for a trial-type hearing. The application should tell us whether the states have this authority. If the state lacks this authority and raises concerns about the effect on regulation, we may set the issue for hearing; we will address these circumstances on a case-by-case basis.

E. Other Commonwealth Factors

The other *Commonwealth* factors are evidence of coercion, the proposed accounting treatment, and the reasonableness of the purchase price.

These three factors elicited very little comment. As to evidence of coercion, a few commenters suggest that this should be evaluated by the marketplace rather than by the regulatory process.[60] Several commenters say that this factor should be considered only if someone demonstrates that it is relevant.[61] OK Com is among the few commenters who favor retaining this factor. It suggests that coercion is a means by which some companies will try to gain oligopolistic control of the market in the coming competitive environment.

As to accounting treatment, some commenters support elimination of accounting concerns as a factor.[62] PaineWebber notes that most recent mergers were mergers of equals, involving minimal premiums over current market prices. It suggests that a similar market discipline would likely cause shareholders to reject merger transactions involving large merger premiums and excessive amortization. Florida and Montaup argue that the accounting treatment of a merger should not be an issue for hearing unless an applicant seeks treatment different from the Commission's standards. Southern Company contends that the Commission's analysis of this factor should be subsumed within the analysis of the merger's impact on costs and rates.

NY Com and OK Com are concerned about the accounting consequences of mergers. OK Com favors keeping the historical cost approach to accounting for plant acquisitions during mergers and business combinations until competitive market structures are achieved at the national, regional, and state levels. NY Com also urges the Commission to continue to require unrestricted access to all books and records of newly merged entities.

We also received a few comments on looking at the reasonableness of the purchase price as a factor. A number of commenters[63] urge that the Commission not substitute its judgment for the workings of market forces, which will determine the reasonableness of the purchase price. Others[64] believe that this issue should be examined only if its relevance is raised. However, OK Com argues that purchase price still has some relevance in this era of diversification. It is concerned that the purchase price may be based on expected returns on non-regulated investments, which, if they fail to materialize, may dilute the value of utility stock.

We will no longer consider these three matters as separate factors. Any evidence of coercion will be considered as part of our analysis of the effect of the merger on competition. We have treated the reasonableness of the purchase price as an issue only insofar as it affects rates, so this issue is subsumed in the effect on rates factor. As for the proposed accounting treatment, this is not really a factor to be balanced along with other factors; proper accounting treatment is simply a requirement for all mergers.[65]

If a merger application seeks to recover acquisition premiums through wholesale rates, we will address the issue in post-merger rate applications. However, the Commission historically has not permitted rate recovery of acquisition premiums.

F. Procedures for Handling Merger Cases

We received many suggestions as to how to improve our procedures for handling merger cases. The commenters focused particularly on the need for certainty and the need to expedite the process, at least for some mergers. They suggested various screens or hold harmless provisions. Some suggested that we set forth filing requirements. There were also many comments on coordination with other agencies that are reviewing the merger.[66]

Although we plan to issue a Notice of Proposed Rulemaking in the near future to set forth more specific filing requirements consistent with this Policy Statement and additional procedures for improving the merger hearing process, we have determined that the best way to improve the Commission's handling

[57] 75 FERC at 62,045–46.

[58] *Accord*, Union Electric, 77 FERC at 61,108–09 (state expressed concern over shift of regulatory authority from itself and this Commission to SEC; Commission noted that state had authority to disapprove merger).

[59] Appendix B at Section IV.

[60] East Texas Coop., EEI, PaineWebber, and Southern Company.

[61] Florida and Montaup.

[62] East Texas Coop, EEI, and PaineWebber. Although they do not support keeping this factor, EEI and PaineWebber suggest that in light of broad industry changes, this may be the right time for a generic re-examination of accounting concerns, of which accounting for mergers could be a part.

[63] CINergy, East Texas Coop, EEI, PaineWebber, and Southern.

[64] Florida and Montaup.

[65] *See, e.g.*, Public Service Company of Colorado and Southwestern Public Service Company, 75 FERC ¶61,325 (1996); Entergy Services, Inc. and Gulf States Utilities Company, Opinion No. 385, 65 FERC ¶61,332 (1993), *order on reh'g*, 67 FERC ¶61,192 (1994).

[66] Appendix D, Section VI.

of merger proposals is to update our merger review policy. As outlined in this Policy Statement, we will generally limit the number of factors we examine in order to determine whether a merger is in the public interest.

The principal area that will require a fact-based review is the effect of a proposed merger on competition. By using the Guidelines as a screen and by informing applicants of the type of information we expect them to file with us when they apply, we hope to expedite our review of applications considerably.

As discussed above under "Effect on Competition," "Effect on Rates," and "Effect on Regulation," we are setting forth for each factor guidance to enable merger applicants ordinarily to avoid a trial-type hearing or to have a hearing focused on limited issues. Moreover, we have set forth above under "Effect on Competition" and in Appendix A the information that we think we need at this point to determine whether a merger would impair competition. We have also discussed ways to mitigate anticompetitive effects. Our consideration of the other two factors, the effect on rates and the effect on regulation, should not require a lot of data or analysis, since we will be relying primarily on the applicants' commitments. This should make it possible for applicants to make filings that can be processed more quickly. The Commission intends to propose a rule to set forth detailed filing requirements.

Another step that can make our processing of merger applications more efficient is to discourage redundant or irrelevant pleadings. We agree with commenters who argue that we should not consider extraneous issues, and we will not consider interventions that raise matters unrelated to the merger. Moreover, in the past, the process has been bogged down by repetitive filings such as answers to answers. We will not consider such filings, nor will we consider "new" information unless it is genuinely new and relevant.

With all the streamlining changes discussed above, we believe that we will be able to act on mergers more quickly after a *complete* application is filed. A complete application is one that adequately and accurately describes the merger being proposed and that contains all the information necessary to explain how the merger is consistent with the public interest, including an evaluation of the merger's effect on competition, rates, and regulation.[67] We expect applicants to be able to provide all the necessary information, given the guidance in this Policy Statement. We also emphasize that applicants should not expect speedy action if their merger proposals change, as has frequently happened in the past. The Commission cannot be expected to act quickly on a moving target. If applicants change the mechanism or terms under which they intend to merge or supplement the supporting information in their application, the Commission's review process will restart.

Once we have a *complete* application, we will make every reasonable effort to issue an initial order 60–90 days after the comment period closes. An initial order could take any of several actions, including: requesting additional information from the applicants or intervenors; setting some or all issues for a trial-type or paper hearing; approving the merger; or rejecting the merger. If we determine in the initial order that further procedures are necessary, we will choose among the available procedural options based on the completeness of the record before us, the types of issues that need to be resolved (factual, policy or legal), and the need to give parties adequate due process. However, we are hopeful that the guidance in this Policy Statement will result in more complete applications and more focused and detailed interventions and that we will be able to act summarily on many (or in some cases all) issues in the initial order.

If the Commission determines in an initial order that trial-type or paper hearing procedures are necessary, we believe that we will be able to issue a final order on most applications within 12–15 months from the date that the completed application was filed. We emphasize that this assumes no significant changes in the proposal; any such changes will start the process over and will require that a new notice be issued. Of course, some applications will take more time than others. For example, if a merger raises extraordinarily complex factual disputes, or if the development of competitive remedies or hold harmless agreements is entirely deferred to the hearing, case processing may take longer. On the other hand, if a merger falls below the HHI screen, the applicants propose adequate ratepayer protection mechanisms, and the applicants make the commitments necessary to assuage our concerns about the effect on regulation, we should be able to act much more quickly.

The Commission believes that in order to meet routinely the target dates we have set forth in this Policy Statement, it is appropriate to reexamine whether our procedures for processing merger applications, including hearing procedures, can be tailored better to meet the specific needs of participants in merger proceedings. To that end, in the proposed rulemaking on information filing requirements (see note 3), we will also request public comment on merger processing procedures.

We will not delay our processing of merger applications to allow the states to complete their review, as some commenters suggest. However, we will be willing to consider late interventions by state commissions where it is practicable to do so. In cases where a state commission asks us to address the merger's effect on retail markets because it lacks adequate authority under state law, we will do so.

In response to commenters who are concerned that our decisions be consistent with those of other agencies, we note that since we are adopting the *Guidelines* as a framework for our analysis of the effect on competition, our analysis should be generally consistent with the DOJ's and the FTC's analyses.

G. Other Issues

According to FERC Policy Project, recent changes in the industry may make mergers financially unattractive without planning and operational changes; these changes can harm the environment. FERC Policy Project argues that we should revise our rule that provides that merger applications will not generally require preparation of an EIS or EA. The rule "categorically excludes" mergers unless circumstances indicate that the action may be a major Federal action significantly affecting the qualify of the human environment.[68] FERC Policy Project also argues that the effect on the environment should be considered as a factor in deciding whether to approve a merger. Moreover, it believes we should require applicants to provide with their applications information on the environmental effects of the merger and that we should require mitigation of environmental effects through various means.

The Commission has recognized that a particular merger can have environmental effects and has been willing to study the issue in an

[67] The information would include all applicable exhibits and accompanying testimony and other data that will constitute applicants' showing that the merger is consistent with the public interest. In addition, a copy of all applications or other information filed with other regulatory bodies regarding the merger must be provided to the Commission to initiate our review process.

[68] 18 CFR 380.4 (a)(16) and (b).

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individual case where it is justified.[69] We do not see the need to change our regulation, which explicitly addresses the possibility that an EA or EIS may, on rare occasions, be needed. However, both our categorical exclusion rule and the absence of environmental concerns from the list of three factors in this Policy Statement reflect the simple fact that most mergers do not present environmental concerns.

Low-Income Representatives argues that the "public interest" standard requires us to consider matters such as the need for service to all households, the need for consumer input into the decisions made by utilities, and other matters. We clarify that the three factors discussed in this Policy Statement are not necessarily the only factors that make up the public interest, and, if appropriate, we will consider other matters that are under our jurisdiction. However, we believe such matters as the need for service to all households are more appropriately the concern of the states.

IV. Administrative Effective Date and Congressional Notification

Under the terms of 5 U.S.C. 553 (d)(2), this Policy Statement is effective immediately. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, that this Policy Statement is not a major rule within the meaning of section 351 of the Small Business Regulatory Enforcement Act of 1996.[70] The Commission is submitting the Merger Policy Statement to both Houses of Congress and to the Comptroller General.

List of Subjects in 18 CFR Part 2

Administrative Practice and Procedure, Electric power, Natural gas, Pipelines, Reporting and recordkeeping requirements.

By the Commission.

Lois D. Cashell,

Secretary.

In consideration of the foregoing, the Commission amends Part 2, Chapter I, Title 18 of the Code of Federal Regulations as set forth below.

PART 2—GENERAL POLICY AND INTERPRETATIONS

1. The authority citation for Part 2 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 792–825r, 2601–2645; 42 U.S.C. 4321–4361, 7101–7352.

2. Part 2 is amended by adding § 2.26, to read as follows:

§ 2.26 Policies concerning review of applications under section 203.

(a) The Commission has adopted a Policy Statement on its policies for reviewing transactions subject to section 203. That Policy Statement can be found at 77 FERC ¶ 61,263 (1996). The Policy Statement is a complete description of the relevant guidelines. Paragraphs (b)–(e) of this section are only a brief summary of the Policy Statement.

(b) *Factors Commission will generally consider.* In determining whether a proposed transaction subject to section 203 is consistent with the public interest, the Commission will generally consider the following factors; it may also consider other factors:

(1) The effect on competition;
(2) The effect on rates; and
(3) The effect on regulation.

(c) *Effect on competition.* Applicants should provide data adequate to allow analysis under the Department of Justice/Federal Trade Commission Merger Guidelines, as described in the Policy Statement and Appendix A to the Policy Statement.

(d) *Effect on rates.* Applicants should propose mechanisms to protect customers from costs due to the merger. If the proposal raises substantial issues of relevant fact, the Commission may set this issue for hearing.

(e) *Effect on regulation.* (1) Where the merged entity would be part of a registered public utility holding company, if applicants do not commit in their application to abide by this Commission's policies with regard to affiliate transactions, the Commission will set the issue for a trial-type hearing.

(2) Where the affected state commissions have authority to act on the transaction, the Commission will not set for hearing whether the transaction would impair effective regulation by the state commission. The application should state whether the state commissions have this authority.

(3) Where the affected state commissions do not have authority to act on the transaction, the Commission may set for hearing the issue of whether the transaction would impair effective state regulation.

Note: These Appendices will not appear in the *Code of Federal Regulations.*

Appendix A—Competitive Analysis Screen

The analytic screen provides applicants with a standard analytic method and data specification to allow the Commission to quickly determine whether a proposed merger presents market power concerns. Some past merger cases were delayed or set for hearing because an adequate analysis was not part of the application or because sufficient data that would allow the Commission to corroborate or independently check applicants' conclusions was not provided in the application. This is especially true regarding the effect that transmission prices and capability may have on the scope of the geographic market. The chances for hearings and delays will be reduced if the screen analysis and data described below are filed with the application.

A. Consistency With DOJ Guidelines

In this policy statement, the Commission has adopted the DOJ Merger Guidelines (the Guidelines)[1] as the basic framework for evaluating the competitive effects of proposed mergers. The analytic screen applies the Guidelines. Before describing the screen, the Guidelines are briefly summarized so that the screen's consistency with them is clear.

In general, the Guidelines set out five steps for merger analysis: (1) assess whether the merger would significantly increase concentration; (2) assess whether the merger could result in adverse competitive effects; (3) assess whether entry could mitigate the adverse effects of the merger; (4) assess whether the merger results in efficiency gains not achievable by other means; and (5) assess whether, absent the merger, either party would likely fail, causing its assets to exit the market.

The analytic screen focuses primarily on the Guidelines— first step. This step can be broken down into two components:

Defining product and geographic markets that are likely to be affected by a proposed merger and measuring concentration in those markets. The products to consider are those sold by the merging parties. The Guidelines suggest a way of defining geographic markets based on identifying the suppliers that are feasible alternative suppliers to the merged firm from a buyer's perspective: the hypothetical monopolist test. Essentially, if a hypothetical and unregulated monopoly that owned all the supplies inside the geographic market being tested could profitably sustain a small but significant price increase (i.e., suppliers external to the market are not, by definition, sufficiently good substitutes for the buyers in the market), then the limit of the geographic market has been reached.[2] The sustainability of a price increase depends on both sellers entering the market and the response of buyers to the increase. The concentration of suppliers included in the market is then measured (by summary statistics such as the Herfindahl-Hirschman Index, or HHI, and single seller market share)

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[69] *See* Southern California Edison Company, 47 FERC ¶ 61,196 (1989), *order on reh'g,* 49 FERC 61,091 (1989).

[70] 5 U.S.C. 804 (2).

[1] U.S. Department of Justice and Federal Trade Commission, *Horizontal Merger Guidelines,* 57 FR 41552 (1992).

[2] The Guidelines suggest that a 5% price increase be used for the test, but allow that larger or smaller price increases may also be appropriate. DOJ Guidelines at 41555.

and used as an indicator of the potential for market power.

Evaluating the change in concentration using the Guidelines' thresholds to indicate problematic mergers. The Guidelines address three ranges of market concentration: (1) an unconcentrated post-merger market—if the post-merger HHI is below 1000, regardless of the change in HHI the merger is unlikely to have adverse competitive effects; (2) a moderately concentrated post-merger market—if the post merger HHI ranges from 1000 to 1800 and the change in HHI is greater than 100, the merger potentially raises significant competitive concerns; and (3) a highly concentrated post-merger market—if the post-merger HHI exceeds 1800 and the change in the HHI exceeds 50, the merger potentially raises significant competitive concerns; if the change in HHI exceeds 100, it is presumed that the merger is likely to create or enhance market power.[3]

If the concentration analysis indicates that a proposed merger may significantly increase concentration in any of the relevant markets, the Guidelines suggest examination of other factors that either address the potential for adverse competitive effect or that could mitigate or counterbalance the potential competitive harm. Such factors include the ease of entry in the market and any efficiencies stemming from the merger.[4] If the additional factors examined do not mitigate or counterbalance the adverse competitive effects of the merger, remedial conditions would be explored at this stage.

B. Analytic Screen Components

There are four steps to the screen analysis.

1. Identify the Relevant Products

The first step is to identify one or more products sold by the merging entities. Products may be grouped together when they are good substitutes for each other from the buyer's perspective. If two products are not good substitutes, an entity with market power can raise the price of one product and buyers would have a limited ability to shift their purchases to other products. In the past, the Commission has analyzed three products: non-firm energy, short-term capacity (firm energy), and long-term capacity.[5] These remain reasonable products under the prevailing institutional arrangements, and applicants should recognize such products in their analysis. Other product definitions may also be acceptable. For example, the lack of on-site buyer storage creates products differentiated by time. Thus, peak and off-peak energy (seasonal and daily) may be distinct products.

The Commission encourages parties to propose even more precise definitions of relevant products where appropriate. Indeed, we would expect to see greater precision in product differentiation as market institutions develop.

2. Geographic Markets: Identify Customers Who May Be Affected by the Merger

This is the first of a two-step process of determining the geographic size of the market. To identify customers potentially affected by a merger, at a minimum, applicants should include all entities directly interconnected to either of the merging parties. Additional entities should be included in the analysis if historical transaction data indicates such entities have been trading partners with a merging party. Applicants and others may argue either that there are other customers to be included as relevant buyers or that identified customers are not relevant buyers. Intervenors also may argue that other customers not identified by the applicants will be affected by the merger.

3. Geographic Markets: Identify Potential Suppliers to Each Identified Customer

This second, and key, step in determining the size of the geographic market is to identify those suppliers that can compete to serve a given market or customer and how much of a competitive presence they are in the market. Alternative suppliers must be able to reach the market both economically and physically. There are two parts to this analysis. One is determining the economic capability of a supplier to reach a market. This is accomplished by a delivered price test. The second part evaluates the physical capability of a supplier to reach a market, i.e., the amount of the defined product a supplier can deliver to a market based on transmission capacity availability.

Supply and demand conditions in electricity markets vary substantially over time, and the market analysis must take those varying conditions into account. Applicants should present separate analyses for each of the major periods when supply and demand conditions are similar. One way to do this is to group together the hours when supply and demand conditions are similar; for example, peak, shoulder and off-peak hours. There may even be smaller groupings to reflect periods of significantly constrained transmission capability available for suppliers to reach a market.

The screen analysis also examines historical trade data as a check on which suppliers should be included in the relevant markets.

a. *Delivered price test.* The screen analysis should first identify those suppliers with the potential to economically supply power to the destination market or customer. The merging companies as well as non-traditional suppliers should be included in this test to identify potential suppliers. Basically, suppliers should be included in a market if they could deliver the product to a customer at a cost no greater than 5% above the competitive price to that customer.[6] The delivered cost of the product to the relevant market for each potential supplier is found by adding the potential supplier's variable generation costs and all transmission and ancillary service charges that would be incurred to make the delivery.[7] Thus, the farther away a supplier, the more transmission and ancillary service prices that must be added to its power costs. Suppliers that would have to traverse a non-open access system can be included as potential suppliers only to the extent they have firm access rights. The analysis should also take into account the effect of line losses on the economics of trade with a distant supplier.

If a supplier can deliver the product to the market at a cost no more than 5% above the market price,that supplier should be included in the geographic market. Applicants are expected to provide product-specific delivered price estimates for each destination market or customer.

The delivered price test uses the following data. Applicants should provide in electronic format these data and any other data relied upon in their analysis.

- *Transmission prices.* Applicants should use the ceiling prices in utilities' open access tariffs on file with the Commission. Where a non-jurisdictional entity's transmission system is involved, the ceiling price in its "NJ" tariff should be used. If the entity has not filed an "NJ" tariff, applicants should use their best efforts to secure or estimate transmission ceiling prices. Prices that are not found in a tariff on file with the Commission should be adequately supported. While we are aware that ceiling prices are frequently discounted, this screen analysis is to be conservative. Applicants may present an additional alternative analysis using discounted prices if they can support it with evidence that discounting is and will be available.
- *Potential suppliers' generation costs.* The Commission will consider various measures of costs. Applicants are free to use any appropriate cost data as long as it is verifiable and supported with reasoned analysis. Possibilities include generating plant cost data from the FERC Form 1 annual reports or unit specific data. Another is system lambda data. Either of these data can be used to calculate a potential supplier's costs at various time periods. Other measures or data sources may also be appropriate. The Commission has not reached a firm conclusion on a specific cost measure.
- *Competitive market price.* Electricity markets have not sufficiently matured yet to exhibit single market clearing prices for various products. In addition, price discovery is difficult because the reporting of actual transaction prices is still in its formative stage. Until market institutions mature enough to reveal single market clearing prices, applicants may use surrogate measures as long as they are properly supported. For example, a buyer's system lambda may be used because a buyer is not likely to purchase from a supplier that is more costly than its own costs of production

[3] DOJ Guidelines at 41558.

[4] In assessing market concentration, the Guidelines state "* * * market share and concentration data provide only the starting point for analyzing the competitive impact of a merger." DOJ Guidelines at 41558 .

[5] See Baltimore Gas & Electric and Potomac Electric Power Company, 76 FERC ¶ 61,111 (1996) at 61,572. The factor that is considered in evaluating long term capacity markets is the effect of a merger on barriers to entry into those markets.

[6] The Guidelines suggest a 5% price threshold but acknowledge that others may be appropriate. Applicants have the burden of justifying a different price threshold.

[7] This would include the unbundled transmission rates of a seller that is a vertically integrated public utility.

at specific times.[8] Another possibility might be the price at which the affected customer has been purchasing power.

For each supplier, the screen analysis should then show the amount of each product the supplier could supply to the market. Generation capacity measures are appropriate for this showing.[9] Different capacity measures should be used, as appropriate, for different products. It is also appropriate, even desirable, to use several measures for one product. Given that competitive analysis is an inexact science and that electricity markets are changing rapidly, using several measures for a particular product will corroborate the result of the analysis. While the Commission has not firmly decided on specific measures for analyzing products, the following discussion of capacity measures is intended to offer guidance on this matter. These are some ways to measure a supplier's ability to supply a particular product to a market. They are not product definitions.

• *Economic capacity.* This is the most important of the measures because it determines which suppliers may be included in the geographic market. Economic capacity is that from generating units whose variable costs are such that they could deliver energy to a relevant market, after paying all necessary transmission and ancillary service costs, at a price close to the competitive price in the relevant market. For example, if the average competitive price in the wholesale market is 2.2 cents/kWh during a particular period, all capacity that can sell into the market at 2.3 cents/kWh (5% above the competitive price) should be included in the market. If a seller has no economic capacity, it should not be considered in the market at this stage of the analysis. The economic capacity measure provides a sense of which suppliers own or control the largest shares of low cost generating capacity that has a pronounced competitive advantage over higher cost capacity in the market.[10]

• *Available economic capacity.* This measure indicates how much economic capacity a supplier identified in the previous step might actually have available to sell into a market. It includes capacity from generating units that are not used to serve native load (or are contractually committed) and whose variable costs are such that they could deliver energy to a market at a price close to the competitive price in the market. The presumption underlying this measure is that the lowest running cost units are used to serve native load and other firm contractual obligations and would not be available for other sales. As competition develops, this presumption may not be valid.[11] Because of its focus on variable costs, available economic capacity is useful for evaluating energy (in contrast to capacity) markets.

• *Uncommitted capacity.* This traditional measure is useful for evaluating intermediate-capacity markets. For each supplier included in the relevant market, this measure is computed by subtracting native load and firm contractual obligations from total capacity.

• *Total capacity.* Total capacity has traditionally been used by the Commission and others to analyze markets. While this measure does not account for native load obligations and does not capture the availability or cost of generation, and thus is not useful for a delivered price analysis, it does provide a sense of the overall size of a supplier that is included in the relevant market.

b. *Accounting for transmission capability.* Once the suppliers that might economically supply the product to a market or customer are identified, and the relevant capacity measures are calculated, each supplier's capacity measures should be adjusted to account for how much of the product that seller can physically deliver to that market. The extent of transmission capability determines the extent of a supplier's ability to physically reach a market.

The flows on a transmission system can be very different under different supply and demand conditions (e.g. peak vs. off-peak). Consequently, the amount and price of transmission available for suppliers to reach wholesale buyers at different locations throughout the network can vary substantially over time. If this is the case, the analysis should treat these narrower periods separately and separate geographic markets should be defined for each period.

It is important to assess accurately the amount of transmission capability available for each supplier's use. The key to incorporating transmission limitations into the merger analysis is to include each supplier in the relevant market only to the extent of the transmission capability available to them. This would be calculated as the combination of the available transmission capability (ATC)[12] and any firm transmission rights held by the supplier that are not committed to long-term transactions.

In many cases, multiple suppliers could be subject to the same transmission path limitation to reach the same destination market and the sum of their economic generation capacity could exceed the transmission capability available to them. In these cases, the ATC must be allocated among the potential suppliers for analytic purposes. There are various methods for accomplishing this allocation. Applicants should support the method used.

Applicants should also present evidence regarding how transmission capability will be affected by the merger. Transmission line loadings are likely to change as a result of the merging parties" combined operations. These changes are likely to result in transmission availability that is different from historical experience. Applicants should include in their application the following data: hourly TTC[13] and hourly firm and non-firm ATC, and firm transactions between relevant control areas. The ATC and TTC data should come directly from the OASIS systems once they are implemented. Until then, applicants should file estimates of TTC and ATC with data or other background material that will allow the Commission to verify that the estimates are reasonable. Given these data, the Commission will be able to assess independently the amount of generation capacity that may be available to the market by each supplier.

c. *Trade data check.* It would be expected that there be some correlation between the suppliers included in the market by the delivered price test and those actually trading in the market. As a check, actual trade data should be used to compare actual trade patterns with the results of the delivered price test. For example, it may be appropriate to include current trading partners in the relevant market even if the above analysis indicates otherwise. Alternatively, if there has been little or no trade between a customer and a specific supplier, it may be appropriate to exclude that supplier from the market, unless the applicants can show why it should be included prospectively. The lack of open access in the past may have prevented trade between the entities but trade may be more likely in an open access environment. Applicants should file historical trade data showing transactions between potential suppliers identified in the steps discussed above and the customers in question. The trade data filed should identify the supplier, customer, and characteristics of the transactions (duration, firmness, etc.). Any adjustments to the suppliers included in the market under the delivered price test must be fully supported.

4. *Analyze concentration.* The final step in the screen analysis is to analyze the effect of the proposed merger on market concentration and competition. To do so, concentration" statistics should be calculated using the capacity measures discussed above for each relevant market identified. In cases where limited transmission capability during certain time periods results in a number of time differentiated markets, concentration statistics should be calculated for each. Both HHIs and single firm market share statistics should be presented for both pre- and post-

[8] System lambda data are usually reported by control area. For smaller entities that are within a control area, the area's system lambda may be a reasonable proxy for the cost of energy from the marginal resource.

[9] The DOJ Guidelines support using capacity measures in industries with homogenous products, such as electricity. DOJ Guidelines, at 41557. We note that energy measures (MWH) may also be appropriate.

[10] Economic capacity and similar measures were recommended by the DOJ and FTC. See FTC comments at 10 and DOJ comments, Appendix at 8.

[11] For example, in a market with full retail access and a bid-based power exchange, all generation units would be in the market.

[12] As used by the industry, ATC is a measure of the transfer capability remaining in the physical transmission network for further commercial activity over and above already committed uses. See for example, NERC, *Available Transfer Capability Definitions and Determination*, June 1996 at page 2. In hours when ATC is zero, a transmission constraint is said to be binding. This prevents the dispatcher from scheduling any additional transactions between the two points in the constrained direction.

[13] As used by the industry, total transmission capability (TTC) is the amount of electric power that can be transferred over the interconnected network in a reliable manner while meeting all of a specific set of defined pre- and post-contingency conditions. NERC, *id.* at page 2.

merger conditions.[14] In calculating HHIs and market shares, the relevant generation capacity of the customers in each market should be included in the denominator of the ratio statistics. For example, if the economic capacity measure is being used, then the customer's economic capacity should be included. Such capacity would be available and turned to as a response to a significant price increase by external suppliers.

The HHI measures should be compared with the thresholds given in the DOJ Merger Guidelines. The Guidelines address three ranges of market concentration: (1) an unconcentrated post-merger market—if the post-merger HHI is below 1000, the merger is unlikely to have adverse competitive effects regardless of the change in HHI; (2) moderately concentrated post-merger market—if the post merger HHI ranges from 1000 to 1800 and the change in HHI is greater than 100, the merger potentially raises significant competitive concerns; and (3) highly concentrated post-merger market—if the post-merger HHI exceeds 1800 and the change in the HHI exceeds 50, the merger potentially raises significant competitive concerns; if the change in HHI exceeds 100, it is presumed that the merger is likely to create or enhance market power.[15]

If the Guidelines' thresholds are not exceeded, no further analysis need be provided in the application. We emphasize, however, that the Guidelines are just that: guidelines. There will undoubtedly be instances where concentration statistics may fall just above or just below the thresholds for concern and some additional analysis or judgement is needed.[16] For example, if a proposed merger's effect on concentration falls just below a threshold, the Commission might still want to see further analysis if intervenors have raised significant concerns regarding the proposed merger. It is reasoned analysis, not blind faith in the thresholds, that must carry the day.

Instances where high concentration is indicated in markets that are defined by fairly short-lived periods of low transmission capability will require additional analysis. The concern with high concentration in a market is that firms will be able to raise prices substantially and adversely impact the market. Relatively short periods of high concentration could be significant if the concentration is high enough. The factors that affect whether such a situation is problematic are the degree of concentration, as measured by HHI statistics, and how long that concentration lasts. High concentration is an indicator for how easy it would be for firms to behave strategically (e.g., collude, or if concentration is high enough, act unilaterally) to raise prices. It is a proxy measure for the degree to which prices could be raised. This, together with the length of time the concentration lasts, gives some idea of the potential severity of anticompetitive impact.

The Commission has insufficient experience to adopt at this time specific thresholds for the various possible combinations of HHI and length of time at which the constrained periods would be problematic. Applicants and other parties are strongly encouraged to analyze short-lived periods of high concentration using the framework discussed above and to support the conclusions drawn from it. There may be cases in which the applicant may be able to show that the anticompetitive effect of constrained transmission availability is *de minimis*. While the Commission has insufficient experience to establish a specific *de minimis* test in this policy statement, applicants may argue in a specific case that the anticompetitive effect of a constraint is *de minimis*. We offer the following general guidance to applicants that seek to make such a showing regarding short-lived transmission constraints. First, peak periods may be more problematic than other periods, because the opportunity to exercise market power likely would lead to significantly higher prices during those hours. Second, some level of market concentration above the DOJ threshold may be acceptable if the applicant can show that there are multiple sellers in the constrained area and/or that there are multiple holders of capacity into the constrained area. And finally, our concern with short-lived periods of high concentration is greater if the merged firm will have market-based pricing authority. Without such authority, the firm may not be able to substantially raise prices.

If the DOJ Guideline concentration thresholds are exceeded, including instances where short-lived periods of high concentration are indicated to be problematic, then the application should present further analysis consistent with steps 2 to 5 in the Guidelines. The additional analysis could address the potential for adverse competitive effects, the potential for entry in the market and the role entry could play in mitigating the increased market power, any efficiency gains that reasonably could not be achieved by other means, and whether, but for the merger, either party would likely fail causing its assets to exit the market.

If entry is considered as a potential mitigating factor, applicants should address entry barriers, such as the time needed to install any necessary transmission capacity. All entry barriers should be addressed, even if they are not controlled by the applicants. Good market structure can be stymied by entry barriers, regardless of the source, e.g., transmission constraints on a neighboring utility's system.

C. Data

The usefulness of this screen depends on the quality and comprehensiveness of the data filed with the application. The data needed for the screen generally are publicly available. It is important for applicants to file electronically all data used for the screen analysis, including supporting data, and the data specified in this policy statement.[17] The Commission must be able to check on the applicants' analysis independently. To do so, the Commission must have ready access to the data. Otherwise, data requests could result in delay. If there are problems in obtaining or understanding the data, the Commission is interested in developing informal means, such as technical conferences, to gather additional needed data or resolve questions or misunderstandings concerning the screen analysis, before the Commission addresses the merger. This approach could reduce the time needed to get useable data and perhaps reduce the need to set a merger for evidentiary hearing.

D. Other Considerations

We note that the above description of the analytic screen focuses only on monopoly (seller) power. This is not intended to exclude monopsony (buyer) power as a relevant consideration. An analysis of monopsony power should be developed if appropriate. Long-term purchases and sales data for interconnected entities are already collected and could be used to assess buyer concentration in the same way that seller concentration is calculated. In any event, intervenors may raise this issue if it is a concern.

The Commission understands that the screen analysis described in this policy statement will evolve with industry restructuring and market maturation. For example, as unbundling occurs, companies may have market power for sales from individual generating units (e.g., "must-run units"). In addition, markets are developing in response to competition and are spawning new products and increasingly short term exchanges. Markets will probably be differentiated by product (e.g., firm and non-firm energy and reactive power), by time (e.g., peak, off-peak) or by geography (e.g., markets separated by transmission constraints). The definition of relevant geographic and product markets must account for these new realities. Further, methods for trading and information availability are changing. As regional institutions, such as ISOs, and regional markets develop, transmission services may no longer be a series of transactions based on utility-by-utility corporate boundaries, but rather single regional transactions. This will

[14] Post-merger geographic markets could include more or fewer suppliers than the pre-merger markets due to the effect of combining transmission rates. In cases where the merged company will charge a single system wide transmission rate, the merger will result in just one transmission rate where there were two before the merger. Thus, after the merger, some suppliers that were excluded from some destination markets could be included if the elimination of one of the transmission charges allows them to economically reach the market. While a stable geographic market would be preferable for analytic reasons, the effect described here reflects the reality of current transmission pricing policy and market organization. A buyer inside the transmission area of one of the merging companies could see higher transmission rates as a result of a single system rate for the merged company thereby decreasing the competitive options available to it. We also note that a decrease in transmission prices paid could result in increased demand, congestion, and no increase of suppliers in some markets.

[15] DOJ Guidelines, at 41558.

[16] The Guidelines state that the HHI statistics provide a useful framework for merger analysis but they suggest "greater precision than is possible with the available economic tools and information. Other things being equal, cases falling just above and just below a threshold present comparable competitive issues." Guidelines, at 41558.

[17] The data that should be electronically filed in an application is listed in Appendix B.

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have important implications for entry, customer response to price changes, and the number of suppliers that have competitive delivered prices.

The means of our analysis may also change. For example, flow based network models that include constraints on transmission networks are likely to be needed for the screen analysis. In the future, the Commission will have to rely less on methods that use costs to assess markets. Generation cost data will become increasingly sensitive, market participants will be less willing to report them, and accounting costs will be increasingly irrelevant to market behavior. The Commission will rely more on actual transaction prices because they will be more available as market institutions such as ISOs and power exchanges produce this information and because they are a better measure of market boundaries. New market institutions will change the ability to exercise market power. High transactions costs of trading tend to exclude competitors. Transactions costs include the costs of obtaining information, searching for trading partners, and completing a transaction. Further, the improved ability of buyers to respond quickly to price changes can significantly reduce market power. ISOs provide one vehicle for reducing transactions costs and making information available to traders via such means as the OASIS. Real-time pricing provides buyers with an improved ability to respond quickly to price changes.

We note that we intend to apply the analytic screen to mergers between firms that are not solely engaged in electricity markets, *e.g.*, electric-gas mergers. However, it will not be necessary for the merger applicants to perform the screen analysis or file the data needed for the screen analysis in cases where the merging firms do not have facilities or sell relevant products in common geographic markets. In these cases, the proposed merger will not have an adverse competitive impact (*i.e.*, there can be no increase in the applicants' market power unless they are selling relevant products in the same geographic markets) so there is no need for a detailed data analysis. If the Commission is unable to conclude that the applicants meet this standard, the Commission will require the applicants to supply the competitive analysis screen data described in Appendix A.

D. Remedy

A problematic merger may be made acceptable if certain remedial actions are taken. In some cases, the Commission may recommend them if we determine that a proposed merger will cause significant adverse effects on competition without a remedy. In other cases, the applicants may propose certain actions to be taken if the Commission approves the proposed merger. We offer the following guidance concerning standards for remedies and specific remedial options.

1. Standards

Any remedies proposed by the applicants or relied upon by the Commission to mitigate the anticompetitive effect of a proposed merger should meet the following standards.

Nexus. Remedies should be clearly designed to mitigate the specific competitive problems identified in the analysis.

Approval of other authorities. Full and effective mitigation must be in place at the time the merger is consummated. Some, and maybe all, of the possible remedies to market power require the approval of other Federal, state and local authorities. For example, local authorities must approve many aspects of transmission line siting and construction and state commissions would surely have to approve any divestiture of generating plants also used to provide retail service. Promises to the Commission that such actions will be taken in exchange for merger approval are empty if not accompanied by all approvals necessary. We recognize, however, that final approvals may require quite some time to secure. In such cases, we will consider interim mitigation measures that can be implemented more quickly so as not to unduly delay a merger's consummation. We will require, however, that any interim measure must be fully effective in mitigating the identified market power problems.

Specificity. Remedial commitments must specify exactly which facilities are affected by the commitment, e.g., which generating unit(s) will be divested.

2. Remedial options

The remedies discussed in this section are intended to mitigate the market concentration problem caused by the merger. We stress that the options discussion is meant only as guidance and not as an exhaustive list of potentially acceptable remedies.

(a) *Require transmission expansion.* Limitations on available transmission capability that prevent competitors from participating in a market can give substantial market power to incumbents in the market. Conditioning merger approval on eliminating a known constraint could help to mitigate this type of market power. Where constraints on other systems are a problem, the applicants would also be required to seek transmission expansion on those systems. As with relieving constraints on their own system, applicants should show that all necessary approvals have been secured before the Commission could approve the merger. This process does not need to wait for the Commission to identify a problem. Applicants wanting fast approval could include this as part of the application.

(b) *No trade over constrained paths.* If constrained paths are responsible for market concentration problems and they cannot be relieved for any reason, the company could agree to not use those paths for its own off-system trade when other transmission service requests are pending. This condition would keep the merged company from exercising market power in trade in the constrained areas.

(c) *Generation plant divestiture.* In concentrated markets, including those subject to severe and long lasting transmission limitations, splitting up different generating units into independent and separately owned companies could reduce horizontal market power. Where there are only a few generating units in the market area, divesting those units to just a few owners may not mitigate the market power problem. In such a case, one alternative might be to divest the ownership rights to each unit's energy and capacity to a number of owners. The unit could then be operated as a competitive joint venture and parts of its output could be bid or sold independently.

(d) *Defer to an ISO's analysis and mitigation efforts.* Although ISOs are just now in their formative changes, they hold some promise of playing a part in mitigating certain sources of market power. Applicants' membership in, or commitment to join, an ISO with the authority necessary to mitigate market power could allow the Commission to rely on the ISO to identify and remedy market power problems. The ISO would have access to more information than does the Commission and would possess greater technical expertise to assess problems. More importantly, the ISO would have the proper incentives to mitigate the problems if the ISO's governing body is broadly comprised of market participants. This potential role for ISOs highlights the critical importance of balanced ISO governance.

An ISO would also be a mitigating influence on market power to the extent that it attracts new entrants into a market. An ISO assures comparable and independent access to all customers. These institutional guarantees will serve both to attract new entrants and to encourage continued participation in markets that would otherwise be dominated by vertically integrated utilities.

ISOs are generally thought to be the proper vehicle for dealing with vertical market power, e.g., ensuring transmission expansion or preventing the strategic manipulation of generation dispatch. An ISO would be able to deal with horizontal market power issues to the extent it has the ability to control the dispatch or prices paid to generators. For example, an ISO could identify units with market power (such as must-run units) and those units could be subject to contracts that mitigate those units' ability to raise prices excessively. To take advantage of this option, applicants would be expected to show that: (1) the ISO meets the Commission's standard for independence; (2) already exists or will come into existence before the merger is completed; (3) has a mandate to identify both vertical and horizontal market power issues; and (4) has the authority to either remedy any problems it finds or bring those that it cannot remedy to the Commission.

(e) *Real-time pricing.* Real-time pricing, when combined with other mitigation measures, could help constrain the ability of a firm to raise prices excessively. Buyers who can see the higher prices in real time can respond by conserving. This makes demand more elastic, thereby making it more difficult to exercise market power.

APPENDIX B.—DATA USED FOR COMPETITIVE ANALYSIS SCREEN

Analysis and data element	Sources[1]
Delivered Price Test:	
Hourly System Lambda	FERC Form No. 714.
Plant Generation Costs/Capability	FERC Form No. 1.
Unit Generation Costs:	
Heat Rates	EIA Form 860.
Fuel Costs	FERC Form 423.
Transmission Rates	Filed tariffs, Applicants' filing.
Transmission Capability Test:	
Hourly Capability (ATC)	OASIS, Applicants' filing.
Total Capability	OASIS, NERC Reports.
Developing Capacity Measures:	
Hourly System Lambda	FERC Form No. 714.
Plant Generation Costs/Capability	FERC Form No. 1.
Unit Generation Costs:	
Heat Rates	EIA Form 860.
Fuel Costs	FERC Form 423.
Transmission Rates	Filed tariffs, Applicants" filing.
Adjusting for LT Sales, Purchases, and NUGS:	
Trade Data (Firm Capacity ales)	FERC Form No. 1, OE–411, NERC Reports, Applicants' filing.
Adjusting for Tx Capability:	
Hourly/Total Capability (ATC, TTC)	OASIS, NERC Reports Applicants' filing.

[1] Most of the data listed is publicly available, however the Applicants should assemble the data and file it electronically with their merger application.

APPENDIX C.—COMMENTERS ON MERGER NOTICE OF INQUIRY

Short name	Commenter
APPA	American Public Power Association.
Attorneys General *et al.*	Attorneys General of the States of Iowa, Maine, Maryland, Minnesota, Oklahoma and Wisconsin.
CA Com	California Public Utilities Commission.
Carolina Association	Carolina Utility Customers Association, Incorporated.
Centerior	Centerior Energy Corporation.
Central and South West	Central and South West Corporation.
CINergy	CINergy Corporation.
Colorado Municipals	Colorado Association of Municipal Utilities.
Com Ed	Commonwealth Edison Company.
Competitive Coalition	Coalition for a Competitive Electric Market.
Diamond and Edwards	Diamond, Joseph and Edwards, Jon D.
DOE	U.S. Department of Energy.
DOJ	U.S. Department of Justice.
East Texas Coop	East Texas Electric Cooperative, Incorporated.
Economists	Economists Incorporated (Mark W. Frankena).
EEI	Edison Electric Institute.
EGA	Electric Generation Association.
Environmental Action *et al.*	Environmental Action Foundation and Consumer Federation of America.
FERC Policy Project	Project for Sustainable FERC Energy Policy.
Florida and Montaup	Florida Power Corporation and Montaup Electric Company.
FTC	Bureau of Economics of the Federal Trade Commission.
Georgia Municipal	Municipal Electric Authority of Georgia.
Hawes and Behrends	Hawes, Douglas W. and Behrends, Sam (IV).
Illinois Industrials	Illinois Industrial Energy Consumers.
IN Com	Indiana Utility Regulatory Commission.
Industrial Consumers	Electricity Consumers Resource Council, American Iron and Steel Institute, and Chemical Manufacturers Association.
International Brotherhood	International Brotherhood of Electrical Workers.
Joint Consumer Advoc.	Joint Consumer Advocates of Maryland People's Counsel.
KS Com	Kansas Corporation Commission.
Low-Income Representatives	Consolidated Low-Income Representatives.
Lubbock	Lubbock Power & Light.
Madison G&E	Madison Gas and Electric Company.
MidAmerican	MidAmerican Energy Company.
Missouri Basin	Missouri Basin Municipal Power Agency.
MN Public Service	Minnesota Department of Public Service.
MO Com	Missouri Public Service Commission.
NARUC	National Association of Regulatory Utility Commissioners.
NIEP	National Independent Energy Producers.
NM Industrials	New Mexico Industrial Energy Consumers.
NRECA	National Rural Electric Cooperative Association.
NRRI	National Regulatory Research Institute.

APPENDIX C.—COMMENTERS ON MERGER NOTICE OF INQUIRY—Continued

Short name	Commenter
NV Com	Public Service Commission of Nevada.
NY Com	Public Service Commission of the State of New York.
OH Com	Public Utilities Commission of Ohio.
OK Com	Oklahoma Corporation Commission.
OK Industrials	Oklahoma Industrial Energy Consumers.
Otter Tail	Otter Tail Power Company.
PA Com	Pennsylvania Public Utility Commission.
PaineWebber	PaineWebber Incorporated.
PanEnergy	PanEnergy Corporation.
PP&L	Pennsylvania Power & Light Company.
PS Colorado	Public Service Company of Colorado.
RUS	Rural Utilities Service.
Salt River	Salt River Project.
Sierra Pacific	Sierra Pacific Power Company.
Southern Company	Southern Company Services, Incorporated.
Southwestern Electric	Southwestern Electric Cooperative, Incorporated.
Southwestern PS	Southwestern Public Service Company.
TAPS	Transmission Access Policy Study Group.
TDU Systems	Transmission Dependent Utility Systems.
Texas Industrials	Texas Industrial Energy Consumers.
Texas Utilities	Texas Utilities Electric Company.
TX Com	Public Utility Commission of Texas.
UtiliCorp	UtiliCorp United Incorporated.
WI Com	Public Service Commission of Wisconsin.
Wisconsin Customers	Wisconsin Wholesale Customers.
Wisconsin PS	Wisconsin Public Service Corporation.

Appendix D—Summary of Comments on Merger Policies

I. General Comments on Revising the Commission's Merger Policy

A. Direction of Change

Almost all commenters argue that we need to revise our merger policies and standards in light of the changes in the industry. However, they do not agree on the direction of the change. On one side, many commenters argue that mergers may prevent markets from becoming truly competitive. [1] On the other side, some commenters suggest that the Commission should approve a merger unless harm to the public interest is demonstrated.[2] These commenters claim that most mergers are procompetitive and should be approved unless a problem is identified.

Commenters [3] who argue that moving to a more competitive market warrants stricter merger approval criteria are concerned that the recent wave of mergers threatens the development of competitive markets. For example, Industrial Consumers and TAPS believe that the Commission's current policy is too lax. These commenters offer numerous reasons for opposing mergers, including the detrimental effects of large "mega-utilities" and diversion of management's attention from cost minimization. RUS fears that mega-utilities could have market power in generation and political power at the state and federal levels that could suppress competition in transmission and distribution. Madison G&E is also concerned about the challenge mega-utilities pose to effective state regulation. UtiliCorp notes that the need for efficient dispositions and transfers of capital, which are critical to the transition from a regulated to a competitive industry, warrant a revised merger policy.

Many of these commenters criticize the "consistent with" standard as we have interpreted it—that is, as a "do no harm" standard. They argue that this approach, which was developed in an era of tight regulation, is inconsistent with the public interest in the transition to a competitive environment.[4] Joint Consumer Advoc. suggests that a merger is not consistent with the public interest unless dollars invested in a merger could not have been used otherwise to lower costs more.

Numerous commenters [5] argue that we should revise our merger criteria because of general industry restructuring due to open access or new state and federal laws and policies that provide incentives to merge.

On the other hand, commenters who support more relaxed merger criteria argue that the marketplace can best decide the future path of the industry. They argue that the Commission's current policy is simply too stringent; [6] we should recognize that the transformation to a competitive industry requires a certain amount of industry reshuffling, best accomplished without the Commission's intervention.

For example, CINergy believes that consolidation may be a necessary step toward industry rationalization and disaggregation as companies seek critical mass to spin off generation. This suggests that we should monitor the merger process closely, but not try to predict or dictate the path of industry restructuring. Similarly, Central and South West says that the nearly 150 control areas and the utilities that operate them will not survive competitive restructuring and that mergers may allow market forces to bring about a competitive and workable market structure. UtiliCorp notes that mergers and acquisitions are likely to increase as utilities act to improve their ability to compete in increasingly competitive markets. Some of these commenters argue for automatic approval of a merger if no harm to the public interest is demonstrated. PanEnergy and Hawes and Behrends believe that certain types of mergers are either procompetitive or have no effect on competition and warrant a streamlined approval process.

The Commission also received comments from parties that neither favor nor oppose mergers but suggest a revised approach, for a variety of reasons. For example, NIEP and Diamond and Edwards believe that as markets become more competitive and the Commission reduces some aspects of its regulatory scrutiny, merger standards should be adjusted so that they more closely track traditional antitrust principles. On the other hand, PA Com and KS Com support a "wait and see" approach. PA Com comments that reevaluating merger policy may be premature at this time because the Open Access Rule is being reviewed by the industry and power pools do not have to file their open access tariffs until December 31, 1996. KS Com believes that the public interest and state and federal review processes will benefit if a

[1] For example, APPA, NRECA at 7–8; ELCON at 12–13.

[2] For example, Utilicorp at 2, 7, 10.

[3] Among others, APPA, NRECA, EEI, Texas Utilities, Southern, East Texas Coop (endorsing the joint petition of APPA/NRECA and comments of NRECA), NIEP, Colorado Municipals (endorsing the views of APPA), IN Com, DOJ, Joint Consumer Advoc., TAPS, TX Com, and NY Com.

[4] East Texas Coop, Joint Consumer Advoc., and TAPS.

[5] These commenters include Texas Utilities, Southern, DOJ, TAPS, TX Com, NARUC, and APPA.

[6] UtiliCorp, PaineWebber, Texas Utilities, Southwestern, and Southern.

consistent view of the appropriate markets and regulatory framework, designed to achieve an efficient and sustainable generation market, is developed before merger evaluation standards.

Project argues that our merger policies must ensure that the market functions under rules that promote environmental quality and economic efficiency; specifically, a policy of sustainability.

B. How to Implement New Policies

We received a few comments on whether to adopt our new policies on a case-by-case basis, through a policy statement, or through a rulemaking.[7]

Commenters also expressed differing views on whether our new policies should be applied to pending mergers. Lubbock urges the Commission evaluate all pending mergers under the new merger standards. Wisconsin Customers recommend, however, that the new merger policy be applied only to mergers filed after the date of issuance of the NOI.

Enviromental Action *et al.* recommends that mergers be prohibited until the Commission's new merger policy is established through a NOPR process. However, if mergers are not prohibited during this period, there should be a moratorium on unconditional approvals; any mergers approval should be conditional and required to conform to the merger final rule.

The Pennsylvania Commission urges the Commission to let competitive wholesale restructuring develop before approving mergers among the members of power pools.

On the other side, Florida and Montaup argue that any new rule resulting from this proceeding should apply only to merger applications filed after the effective date of a final rule. Merger applications filed before that date should be considered under the filing requirements and standards in effect at the time of their filing. EEI and UtiliCorp request that the Commission move quickly to review those merger applications already before it without waiting to develop a new merger policy.

II. Comments Concerning Effect on Competition

A. Defining the Relevant Markets

1. Defining Product Markets

Some commenters emphasize that relevant product markets should be established from the buyer's perspective, that is, in terms of the delivered product.[8] Such an approach would examine generation and transmission in combination, since neither is of use to a customer by itself. They add that in an open access environment, where transmission rates will remain regulated, transmission should be viewed as a substitute for local generation, rather than as a separate market.[9]

Commenters suggest that the Commission examine two or more product markets. However, there is little consensus on which markets to consider. For example, Environmental Action, *et al.* suggests existing generation, new generation, transmission, retail aggregation and sales, physical distribution, demand side management services, ancillary services associated with generation transmission and distribution, and fuels. Industrial Consumers suggests firm and non-firm bulk power, short-term capacity, short-term energy, long-term capacity, and energy and transmission services. To minimize opportunities for affiliate abuse, RUS recommends examining at least markets for generation, transmission, and ancillary services. For applying the Guidelines to the electric power industry, DOJ and FTC suggest that we look at four product markets: short-term energy, intermediate-term energy, long-term capacity, and ancillary services. FTC notes that sales to differently situated customers may constitute separate markets if differential pricing is feasible. APPA proposes similar markets, but suggests considering short-term energy or capacity. EEI proposes a short-term energy and capacity market (up to about two years) and a medium-term (two- to five-year) capacity contract market involving capacity and associated energy sales from excess capacity from existing facilities. MO Com suggests focusing on the commodities market (hourly energy from existing generation facilities) and the contracts market (capacity and energy from existing and new generation). NIEP proposes two broad product markets, generation sales and retail sales. Several commenters suggest that the Commission consider ancillary services as a product market.[10]

Other commenters argue that long-term product markets should not be subject to market power analysis. For example, EEI says that the long-term capacity market where sales from new capacity compete with long-term contracts for sales from existing capacity should not be subject to the analysis. APPA makes the same argument for long-run sales from new capacity, since such capacity represents potential entry. Similarly, UtiliCorp argues that we should disregard the long-run generation product market because of our finding in the Open Access Rule that long-run markets are generally competitive. CINergy believes that open access, the absence of artificial impediments to expansion of generation capacity by existing suppliers, and the prospect of entry into the generation business by new suppliers preclude market power in the long run. However, DOJ questions the presumption that utilities do not have market power over long-run energy and capacity.

Com Ed argues that the Commission should disregard short-term energy markets because these markets involve buyers who are able to make purchases to replace energy otherwise available at a higher cost, such as from the buyer's own installed capacity. The cost of energy from such otherwise available capacity effectively limits the price at which short-term energy is offered.

Several commenters cite the need to consider the temporal characteristics of product markets. For example, Florida and Montaup suggest dividing them into short-term and medium-term markets and further dividing these into various product markets as appropriate to the area. Others[11] suggest that delivered capacity and energy be analyzed under market conditions during peak and off-peak hours and summer and winter conditions.

As to whether the Commission should examine only the wholesale market, leaving concerns over retail competition to the states, Southern says yes. Several commenters believe that we should also examine the impact on retail competition.[12] They suggest that the Commission has both the authority[13] and the responsibility to examine the impact of mergers on actual or potential retail competition.

2. Defining Geographic Markets

We received a significant response from commenters on various aspects of defining relevant geographic markets. Most of these comments relate to the approaches (such as generic versus case-by-case) to defining markets, factors that are important to consider in defining markets, and the use of modeling.

DOJ and others[14] define the relevant geographic market as the area in which the seller operates and to which the purchaser can turn for supplies. They suggest that the best way to determine which suppliers are in the relevant market is to look at the physical location of the generating unit (as opposed to disposition of power from the unit). DOJ suggest that we could determine the geographic markets immediately for the electric utility industry for the United States through a rulemaking or technical conference.

Some commenters urge the Commission to recognize the effects of open access on the extent of geographic markets.[15] For example, the Commission should revise its current two-tier analysis because open access will broaden the relevant geographic market beyond two tiers. EEI suggests that the Commission first define the smallest geographic area (under the trading patterns existing before open access) and then broaden the market as choices available to the purchasers increase under open access.

However, some commenters are skeptical that defining the geographic market to include suppliers two or more tiers away is

[7] For example, DOJ, East Texas Coop, OH Com, NRECA, and Southwestern Electric suggest a rulemaking as the vehicle to implement the Commission's new merger policy; CINergy advocates a case-by-case approach; APPA suggests a combination of various methods; DOJ suggests that we convene a technical conference immediately to delineate the relevant geographic markets for the electric utility industry for the entire U.S. DOJ says that this would greatly facilitate the Commission's (and DOJ's) review of merger applications and enable the Commission quickly to establish safe harbors or screens for any merger application based upon changes in market concentration for a known geographic market.

[8] For example, EEI, UtiliCorp, and Centerior.

[9] These include, for instance, EGA, Low-Income Representatives, NIEP, and TAPS.

[10] These include, for example, Industrial Consumers, DOJ, Enviromental Action *et al.*, CA Com, CINergy, and UtiliCorp.

[11] *E.g.* Madison G&E and CINergy.

[12] These include PP&L, DOJ, and TAPS.

[13] Citing *FPC* v. *Conway*, 426 U.S. 271 (1976).

[14] *E.g.*, EEI, Wisconsin Customers, APPA, and TX Com.

[15] *E.g.*, Industrial Consumers, RUS, UtiliCorp, EEI, Wisconsin Customers, Texas Utilities, TDU Systems, and CINergy.

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a wise approach. For example, RUS warns that defining the market too broadly can understate the problems in sparsely populated areas. It argues that the Commission must allow competitors to present evidence that the market is narrower than the first or second tier. TDU Systems question whether suppliers two tiers away can put competitive pressure on the merging utilities. It explains that a seller two transmission charges away incurs transmission costs of approximately 15 to 20 percent of the product price, which is significantly higher than the 5 percent price increase used by the antitrust agencies. Wisconsin Customers argue that the Commission's method of defining the geographic market results in markets that are too large because all first-tier utilities are included, which leads to underestimates of the true market power of the merged entity. RUS emphasizes that the price increase test in the *Guidelines* is inadequate in an industry emerging from a monopoly situation and in which mega-utilities could rapidly acquire excessive market power.

Other commenters suggest various approaches to defining geographic markets. For example, NIEP proposes that Electric Reliability Council areas be used. Many commenters emphasize the importance of the actual behavior of the grid in defining relevant markets. RUS recommends that a separate geographic market for each state be defined for mergers involving utilities or holding companies operating in more than one state. TX Com argues that we must consider the *future* geographic scope of markets.

MO Com suggests three models of competition in defining relevant markets: the utility, the wholesale, and the retail direct access models. The utility model considers utility/non-utility generator competition to meet jurisdictional loads with no retail access. The wholesale model expands the utility model to consider direct access to all wholesale customers, and the retail model expands the wholesale model to reflect direct access to all end-use customers.

Many commenters list factors to consider in defining relevant geographic markets. The most significant factors discussed are transmission constraints and transmission pricing. There is a wide-spread view that we must take account of transmission constraints, particularly because constraints can lead to shifting geographic markets over time and the ability to wield market power in local markets.[16] For example, DOJ, EGA, and TAPS argue that the Commission should give great emphasis to transmission constraints, since they can be exacerbated by mergers and can lead to significant market power in localized areas. Wisconsin PS and Madison G&E note the importance of assessing transmission constraints both alone and together with strategically located generation to give an advantage to a merging entity's own power sales.

CINergy emphasizes that the extent to which transmission constraints are binding is critical for accurately assessing market conditions. It will be necessary to develop market concentration statistics that account for the distribution of capacity beyond a binding constraint and that include only realistically available supplies inside the area bounded by the constraints. MO Com emphasizes the importance of determining whether constraints will prevent alternative suppliers from having access to the customers of the merged utilities. If available transfer capability is reduced as a result of the merger, the merger increases market power. Even if the merger expands transfer capability as the number of alternative generation sources decreases, the increase in transfer capability may be of little value unless it increases access to generation alternatives. MO Com believes that the burden should be on the applicants to show that limits on transfer capability would not allow them to exercise market power. Further, the Commission should require applicants to have sufficient transfer capability available to meet the net import requirements for base-load power that might be requested by current customers.

On the other hand, Southern cautions the Commission against over-emphasizing transmission constraints, noting that isolated or short-term constraints should not affect the definition of the relevant geographic market. Constraints should be considered only if they impede wholesale trade. Moreover, Southern questions our authority to order the construction of transmission facilities to alleviate constraints. In assessing the significance of transmission constraints, the Commission should consider the ability of new generation to locate in the region, mitigating the problem; the feasibility of alternative transactions (such as transmission capacity resale or arrangements with brokers) to bypass the constraint; and the possibility that new power sales would simply displace existing sales, reducing the likelihood that the constraint would occur.

Finally, various commenters recognize that constraints depend on time and location, which may make defining the relevant market difficult.[17] For example, constraints may be affected by line loadings on a system that vary over the course of a day, week, or year. As a result, increases in congestion on transmission lines under high load conditions can change the boundaries of the relevant geographic market. EEI makes similar arguments, suggesting that time-differing transmission use patterns lead to similarly differing relevant geographic markets if constraints arise during peak periods. DOJ and TAPS note that constraints are affected by how the transmission system is operated in terms of, for example, dispatch, decisions on which utilities to make sales to or purchases from, equipment ratings, maintenance outage scheduling, and decisions concerning equipment sizing and locations. Thus, we should investigate the possibility of operational manipulation of transmission systems that gives merging utilities a competitive advantage.

Enviromental Action *et al.* suggests that the extent of the geographic market may be unclear because transmission constraints are physical or economic barriers to electricity sales in many locations. DOJ and TX Com caution the Commission not to rely too heavily on historical patterns of trade in determining transmission constraints because open access could create very different constraints in the future.

The second factor mentioned by many commenters as significant in defining the geographic market is transmission costs.[18] For example, Madison G&E believes that pancaking of transmission rates can influence the extent of the market; moreover, postage stamp rates and distance-sensitive rates will lead to different numbers of competitors. FTC believes that geographic markets defined in terms of distance-sensitive rates would correspond to underlying cost conditions more accurately than markets defined in terms of postage stamp pricing. The MO Com proposes that merging utilities be required to specify the market region where they have a strong competitive influence and file a study showing both short- and long-run marginal transmission costs for the region. Industrial Consumers notes that transmission costs include stranded costs.

Commenters mention various other factors as important in defining geographic markets. Some note that institutional arrangements can affect the extent of the market.[19] FTC notes that differences in the degree and sources of geographic competition may arise from temporal distinctions between product markets such as existing transmission and generating obligations.

FTC suggests that computer models of transmission systems be used to simulate the effects of a small, non-transitory price increase imposed by groupings of power suppliers over various alternative geographic areas. This would allow us to determine whether the price increase would be profitable for a hypothetical monopolist and, therefore, which of the areas are relevant geographic markets. FTC also suggests that the Commission consider developing sufficient data and system modeling tools to be able to screen mergers expeditiously, examining the likely relevant geographic market under different assumptions about future transmission rates, different projected transmission improvements, and different generation siting assumptions. However, Madison G&E opposes the use of models. It says that models do not address conditions in the market for delivered capacity and are inherently incapable of taking into account strategic behavior or the potential effectiveness of threats.

Some commenters offer their views on the merits of a generic verses case-by-case

[16] Industrial Consumers, FTC, Lubbock, EEI, Wisconsin PS, DOJ, TAPS, NY Com, Enviromental Action *et al.*, Southern, TX Com, RUS, Centerior, CINergy, UtiliCorp, MO Com, and CINergy all support this view.

[17] *E.g.*, DOJ, EGA, Enviromental Action *et al.*, TX Com, and TAPS.

[18] *E.g.*, DOJ, FTC, TAPS, NY Com, TDU Systems, EEI, Industrial Consumers, CINergy, Centerior, TDU Systems, MO Com, Madison G&E, and Com Ed. DOJ argues that it is vital that the Commission quickly replace its case-by-case approach to transmission pricing with a general rule to avoid a merger policy that is inconsistent, inefficient, and inequitable.

[19] *E.g.*, EEI, FTC, Industrial Consumers, and Centerior.

approach to defining markets. For example, Southern believes that the Commission should perform case-specific analyses in which it weighs the effects of significantly reduced entry barriers and open access. Diamond and Edwards disagree, suggesting that this approach is not consistent and that a better approach would be to look at a large area and determine subregions based on trade patterns. Wisconsin Customers warn that using theoretical bases to determine the boundaries of the relevant markets can be misleading because market power can be exercised even on an hourly basis.

B. Determining the Effect on Competition

Many commenters recommend that once the relevant markets have been defined, the Commission determine the effect of a merger on competition by examining market shares, market concentration, and ease of entry.

1. Market Shares

Commenters offer various views on how to measure market shares and how frequently to do so. They generally argue for more frequent calculation of market shares, particularly for energy products.

DOJ suggests that market shares can be assigned based on production, sales, or capacity. It favors capacity because electricity is a homogenous product and because the capability of producing can be readily translated into actual sales. FTC suggests, similarly, that market shares may reflect either output or capacity. It argues that in homogeneous product markets, capacity is a better measure, while in differentiated product markets, output-based measures are usually a better indicator of firms' future competitive significance. The structure of intermediate and long-term markets is reasonably measured by capacity, and the structure of short-term markets is reasonably measured by output if differentiating factors such as reliability and access are important. Madison G&E suggests that market shares for delivered firm capacity be measured by uncommitted capacity, while market shares for energy be measured by the amount of deliverable energy at competitive prices during the time period in question. EEI suggests examining market shares associated with installed capacity and uncommitted capacity or energy that are excess to the capacity committed to serve native load customers, existing contracts, and other obligations. Southern Company believes that excess capacity is a better indicator of a merging entity's ability to exercise market power than is total capacity.

Others also suggest that when calculating market shares, we exclude contractually-obligated capacity; for example, FTC emphasizes that capacity or output that is contractually obligated may not be relevant to calculating market shares of potential suppliers for other customers. For instance, supply that is contractually obligated to local load is unlikely to be a part of the market for short-term capacity. Similarly, Southern Company claims that capacity committed to serve native load, wholesale requirements service, or sales outside the relevant market should not be considered.

As to the frequency with which market shares should be calculated, several commenters note that generation dominance can create anticompetitive effects in localized markets during certain times (daily, seasonally) due to transmission constraints. Madison G&E would calculate market shares beginning with the year in which the merger is expected to be consummated and several years into the future. It believes that market shares for energy should be calculated for peak and off-peak periods. Similarly, CINergy proposes examining market conditions monthly for energy markets to address problems of market power in particular periods.

As a final word of caution, DOJ states that not all market shares are equal. For example, a utility may possess market power that is disproportionate to its market share if the marginal costs of that utility's generators are closest to the market-clearing price for electricity in that market.

2. Measuring Market Concentration

There is wide support among the commenters for using HHI analysis to measure concentration in relevant markets, but many suggest modifications. For example, EEI suggests that considerable judgment is needed to arrive at the combination of HHIs that best reflects an appropriate structural analysis of market power. If several suppliers have enough excess capacity to meet anticipated incremental market requirements, the Commission can treat each as having an equal contribution to market concentration. EGA suggests that we consider reasonably predictable effects of recent or ongoing changes in market conditions, such as the creation of ISOs, in interpreting market concentration and market share data.

Several commenters suggest that HHI analysis be used as a "screen" for market power to create some sort of "safe harbor" allowing mergers to be quickly approved if they meet certain tests.[20] For example, Southern Company believes that the Commission should establish threshold HHI levels that would be safe harbors in the merger review process. It contends that increases in market concentration resulting from mergers often do not pose a significant threat to competition, and that mergers are a means by which industries and individual firms adjust to market change to maximize efficiency and consumer welfare. Similarly, UtiliCorp endorses HHI screens, but suggests that we consider the transitional circumstances of the electric utility industry in designing the screens. The Commission should analyze the effects of the merger under criteria similar to those contained in the *Guidelines* if the merger does not pass the screen.

EEI and APPA argue that the Commission need not be concerned about mergers with a post-merger HHI at or below 2000 (that is, five equal-sized firms). However, EEI emphasizes that selection of a particular threshold value is based upon judgment, not science. The Commission may want to consider specifying more refined thresholds based on experience in wholesale power markets. Precise numerical HHI thresholds are less important than how these thresholds are used, that is, as screening devices to distinguish mergers that are clearly benign from those requiring further scrutiny. The Commission should be mindful that HHI analyses are based on historical data and that changing regulation and market developments that increase competition may allow the use of higher HHI thresholds or a more liberal interpretation of results. On the other hand, Central and South West proposes that where HHI values are up to 2500, there should be a rebuttable presumption that the region is workably competitive. It believes that the market will eventually encompass all synchronously connected regions under the Commission's jurisdiction.

Some commenters caution against putting too much emphasis on HHI analysis, suggesting that the Commission look at additional factors.[21] For example, Wisconsin PSC asserts that HHIs (incorporating transmission constraints) can be used as a screen but should not substitute for the Commission identifying potential discriminatory practices in areas such as maintenance, planning, system modeling, equipment ratings, system design, operation control, and use of generation, all of which Wisconsin PSC asserts affect transmission constraints.

Other commenters suggest standards other than HHI analysis for determining if market power would result from a merger.[22] Some would require having at least five reasonably comparable suppliers, no single dominant supplier, and reasonably free entry to all segments of the relevant market. Diamond and Edwards opposes this view, stating that the number of firms and level of competition are only loosely related; competition can be intense with only two firms or nonexistent with many firms. It suggests that the Commission entertain the possibility that in the intermediate term, competition among the few (such as between regions), with appropriate market power mitigation measures such as ISOs, retail access, or divestiture, may be necessary as the industry moves toward "workable competition."

NIEP argues that a merger should be presumed to be anticompetitive if the merged entity would have a 20 percent market share, based on either generation sales or retail sales within a reliability council area. Com Ed disagrees, contending that for an undifferentiated product like electric power, the *Guidelines* suggest a higher figure of 35 percent. NIEP further argues that mergers not presumptively anticompetitive would still be scrutinized on the basis of whether the merged firm could sustain a 5 percent price increase.

Centerior and Com Ed oppose HHI analysis. Centerior believes that HHI measures are inadequate to measure market dominance. Rather, an assessment of market power should be based on the number and characteristics of a customer's options. For example, if a customer could look at several generation options and combine them with

[20] This "safe harbor"-type issue is discussed further below under "Procedures for Handling Merger Cases."

[21] *E.g.*, East Texas Coop and Wisconsin PSC.

[22] For example, IN Com, Industrial Consumers, and Enviromental Action *et al.*

available transmission, so that there are several "delivered power" options, a proposed merger should be acceptable. Centerior notes that EEI's criteria do not account for the potential loss of native load customers, which could create excess capacity that, under HHI analysis, could lead to a finding of market power. An adequate market power screen could be based on regional concentration of competing utilities in the relevant market and/or market shares, as proposed by EEI.

Com Ed objects to any market concentration ratio for energy or even capacity markets based on a capacity measure because the capacity that utilities have available to make economy energy sales fluctuates constantly, depending on system conditions. Only generating units operating on the margin are capable of conferring any degree of market power, and identification of those units requires a rigorous analysis of the mix of generating units controlled by all utilities who could participate in the market. This leads Com Ed to conclude that generating capacity is not a meaningful indicator of market power in the markets for either capacity or energy. As an alternative to looking at market concentration ratios, Com Ed suggests that we review actual competitive conditions and assess the potential for anticompetitive behavior by determining whether there are feasible market manipulation mechanisms that are likely to succeed. Com Ed argues that for the Commission must recognize as a competitive issue the likely effects of a proposed merger on the operations and costs of neighboring utility systems, including effects on the loadings of their transmission systems. EGA shares a similar view, specifically recommending that the Commission focus on whether the merger will increase the transmission costs of potential competitors.

3. Ease of Entry

The Commission received a number of comments on considering the possibility of entry by new competitors in assessing market power. These comments address both the types of entry barriers that might exist in the industry and the importance of entry analysis.

Commenters suggest that there are various barriers to entry in this industry.[23] These include existing law and regulation and economic incentives created by a utility's role as monopolist and competitor; regulatory approval requirements; the amount of time it takes to move from planning to operation of new facilities; the existence of excess capacity in the relevant market; economies of scale and capital requirements; favorable location and access to raw materials; and access to distribution channels (including access to transfer capability of the transmission system and pancaked transmission pricing).

Some commenters believe that entry is a critical factor in merger analysis. For example, Joint Consumer Advoc. and TAPS argue that careful analysis will indicate significant barriers to entry. TAPS notes that measures of market dominance such as concentration indicate whether a utility currently can dictate price levels, while analysis of barriers to entry indicates whether a utility can foreclose competition prospectively. NY Com urges the Commission to focus its analysis of barriers to entry on factors such as transmission power flow analyses, availability of generation plants, reserve margins, load pocket constraints, and system stability.

Several commenters are skeptical that entry analysis, as done in the *Guidelines*, makes sense for the electric utility industry; they argue that entry will not mitigate market power. For example, Industrial Consumers notes that the *Guidelines* recognize that market power can be defeated if entry is "easy," that is, timely, likely, and sufficient to deter or counteract the anticompetitive effects. However, Industrial Consumers believes that entry into the transmission and distribution business is not easy—nor accomplishable in two years—given the nature of monopoly franchises, obstacles to siting, and "need justification" standard for regulatory approval. Stranded cost recovery also raises a significant barrier to entry by a new participant into the market, even under open access.

DOJ notes that market entry is not likely to mitigate the anticompetitive effects of a merger when there is chronic excess capacity because a new entrant would have to recover both operating and fixed costs, while the merged entity would need to recover only operating costs until excess supply is eliminated. FTC doubts that entry is significant for most electric power merger cases because it may take more than two years to complete new generation and transmission facilities (due to lags in regulatory approvals and construction). These forms of entry are unlikely to respond to an anticompetitive merger in time to deter or constrain the exercise of market power. APPA also believes that potential entry is not an effective restraint where existing capacity is concentrated.

On the other hand, CINergy suggests that even in the short run, pricing behavior can be constrained by potential entry because customers can make long-term commitments to purchase from developers of new generation resources and incumbent suppliers will account for potential long-term load losses in setting their prices in the short run. Southern Company argues that with open access, entry is now easy.

4. Factors Affecting the Market Analysis That Can Change Over Time

There is substantial support among the commenters for the use of dynamic standards, at least to some degree, rather than static standards that may become obsolete as competitive energy markets develop. Some[24] recommend that we consider both immediate and long-range effects of mergers. Others[25] believe that any anticompetitive consequences should be evaluated not only in the context of the industry as it is structured today (vertically-integrated utilities serving both at wholesale and retail), but also as to how the industry may evolve. UtiliCorp argues that we should also consider the current state of transition in the industry when we examine merger applications that do not satisfy the market concentration and competition screen. It notes that requirements contracts currently in effect impede competition, but will cause the potential anticompetitive effects of mergers to be exaggerated because more alternatives will be available when the contracts expire.

Most commenters argue that, although open access may enlarge geographic markets and lower entry barriers, we should not expect that market power problems will disappear so that merger analysis will not be needed in the future. They believe that factors such as transmission constraints and lack of true comparability in the use of open access tariffs will continue to warrant market power and merger analysis.[26]

UtiliCorp recommends that the Commission consider the contingencies of retail competition and restructuring as we analyze the future impacts on competition of market concentration, market power and mergers. Southern Company contends that the Commission should not consider retail competition issues because state regulators are effective watchdogs who protect the interests of retail customers and assess the impact of mergers on competition in retail markets.

Wisconsin PS argues that opening retail markets to competition will result in substantial uncommitted capacity on the systems of merging utilities and will put pressure on them to market capacity through a more intense use of their transmission systems. Centerior suggests that the market analysis may need to consider the effect of competition policies promulgated by the state at the retail level in the future. Excess capacity may increase if retail customers get the right to select a new supplier based solely on lower rates. Therefore, a utility that did not have market power in the past may find that it has increased excess capacity and may thus acquire market power.

CINergy suggests that restructuring should be considered in the review of mergers only if there is a plan already approved by the state regulator, with a set implementation schedule beginning within three years of the consummation of the proposed merger. Future potential changes in the basic structure or regulation of the industry should be addressed by exercising the continuing authority to supplement merger orders under section 203(b), including the possibility of requiring divestiture.

5. Consideration of the Separate Effects of a Merger of Transmission and Distribution Facilities

A horizontal merger of vertically integrated utilities can be viewed as a generation merger, a transmission merger, and a distribution merger. A merger of transmission-owning utilities may have various effects on the grid, such as better planning, coordination, fewer pancaked rates, and strategic control of regional

[23] These commenters include, *e.g.*, Enviroment Action *et al.*, FTC, Madison G&E, MO Com, IN Com, and NY Com.

[24] *E.g.*, Lubbock and Low-Income Representatives.

[25] *E.g.*, Com Ed and CINergy.

[26] *E.g.*, FTC, East Texas Coop, and Industrial Consumers.

transmission grids. NIEP urges the Commission to recognize that mergers of entities that own only transmission should not raise substantial competitive concerns if the transmission is operated by an ISO. CA Com and DOJ intimate that mergers may occur in order to avoid pancaked rates. CA Com recommends that the Commission use the open access tariffs to remove the anticompetitive factor of pancaking and thus make mergers less attractive.

Several commenters address the effects of mergers at the distribution level.[27] Some argue that the consolidation of distribution assets and the creation of large retail monopsonists are competitive concerns that we should address. IN Com believes that physical and economic interactions blur the distinction between the wholesale and retail sectors, requiring that the effects on the retail market be considered to analyze the merger implications in the wholesale market. It would reject a merger that has negative retail effects even if the merger has positive effects in the wholesale market.

Other commenters fault the Commission for disregarding market power in the distribution sector of the industry. They suggest that mergers are likely to increase barriers to entry into the distribution market and monopsony power over sellers of generation.[28] As larger distribution systems are created through mergers, smaller, independent generators may be disadvantaged because they lack the resources required to meet thousand-megawatt solicitations with complicated delivery requirements. Environmental Action et al. also contends that the larger distribution systems created by vertical mergers heighten the opportunity for anticompetitive self-dealing between the distribution and generation arms and diminish the prospect for effective retail competition.

6. Vertical Mergers

Com Ed suggests that, in the future, vertical or conglomerate mergers rather than horizontal mergers may offer strategic opportunities to utilities. It recommends that our merger policy be flexible enough to deal with differences in the concerns raised by such mergers and horizontal mergers.

7. Application to Electric Power Purchases

A few commenters raised the issue of monopsony power stemming from mergers. Joint Consumer Advoc. points out that a utility may exercise monopsony power over sellers of generation, obtaining power at a lower price than its competitors.

8. Linked Consideration of Contemporaneous Mergers That Have Interdependent Market Effects

Several commenters argue that the Commission should consider such mergers on a cumulative basis.[29] Some argue that one merger may alter the boundaries of the relevant geographic market in which the other merger occurs; that is, transmission constraints in one market may be altered by new economy energy transactions associated with a merger in a neighboring market. APPA suggests consolidating contemporaneous proceedings that have interdependent market effects. Colorado Municipals notes that regulating the cumulative effect of contemporaneous mergers may be difficult.

III. Comments Concerning the Effect on Costs and Rates Factor

A. General Comments

Many commenters consider the effect on costs and rates to be a critical factor in deciding whether to approve a merger.[30] In fact, DOJ notes that the *Guidelines* recognize that some otherwise anticompetitive mergers may be justifiable because they produce important net efficiencies that, on balance, benefit competition and consumers (for example, through rate decreases).

However, commenters supporting this approach differ on how the costs and rates standard should be applied in cases where competitive harm is shown. For example, TDU Systems suggests that when a merger lessens competition, the Commission should not give substantial weight to cost savings and other benefits that could be achieved absent the merger. Moreover, the burden should be on the applicants to show that benefits not attainable without the merger outweigh the harm. IN Com recommends that applicants be required to show a low probability of harm to competition and to show significant, quantifiable net benefits to consumers. CINergy believes that the consideration of benefits should be limited to ratepayer protection and that applicants should be allowed to make an affirmative showing that such benefits will flow back to the ratepayers.

Other commenters argue that the costs and rates factor should be abandoned. For instance, Com Ed suggests that analysis of costs and rates has no place in an emerging competitive arena as long as mergers do not harm the competitive market, because prices will be set by market forces and customers can choose their suppliers based on price. Southwestern PS supports this view, arguing that most regulatory cost and rate issues that remain relevant are retail-related and under state jurisdiction; the Commission should defer to state commissions on such matters.

Others state that the analysis of the effect of the merger on rates is one of the most costly components of a merger analysis.[31] They assert that in a competitive environment, there will be little need for the Commission to speculate about future costs, as utility managers will be reluctant to enter into mergers that would increase costs.

EEI argues that elimination of the costs and rates analysis would substantially reduce the time to prepare a merger application and the Commission's time to process it. Although merger efficiencies can be substantial, their measurement and allocation serve a limited purpose in the Commission's analysis. Merger applicants should not be required (but can volunteer) to demonstrate merger efficiencies as part of a filing.

B. Determining the Net Benefits

We received a variety of comments on how to determine the benefits of a merger, the costs of the merger, and the degree to which one offsets the other. Many parties stress the importance of rate reductions.[32] International Brotherhood contends that in an era when customers should be able to anticipate rate reductions from competition, rate freezes are not sufficient. Com Ed agrees that consideration of cost and rate impacts may still be appropriate for segments of the industry that are not competitive (transmission and distribution). The KS Com asserts that cost savings from combining the merging companies' stand-alone transmission and distribution systems should be evaluated and that we should require assurances that efficient transactions cannot be arbitrarily discouraged in favor of the merged entity. Some contend that we should look at the effect of a merger on the costs and rates of competitors; however, they admit that this may be another way of assessing the effect of the merger on competition.

Many commenters[33] assert that no weight should be given to efficiencies and benefits that can be obtained by means other than the merger. CA Com suggests that formation of ISOs may provide many of the transmission operational and efficiency benefits typically claimed by merger applicants. Others suggest that the Open Access Rule will facilitate coordination among utilities so that in some cases, mergers will not be required to achieve economies.[34] Some argue that we should refuse to count as a merger benefit the substitution of efficient practices for inefficient practices that could be achieved without a merger.[35] Personnel reductions may be one example, as many businesses are downsizing without merging. OK Com contends that many of the efficiencies proposed to be passed along to customers through lower rates may actually reflect unavoidable cost reductions forced upon the merging utilities by competition.

However, Southern Company cautions that, in assessing what merger savings could be achieved through coordination without a merger, the Commission must consider section 1 of the Sherman Act, which prohibits certain joint actions as anticompetitive and restricts the sharing of information between competitors. What appear to be benefits achievable outside the merger may only be achievable if the companies illegally collude.

NY Com proposes that, instead of relying on claimed merger benefits related to scale economies, the Commission should look at the results of the merger: how the merger will affect price, ease of competitive entry, and quality of service (for example, closings of customer service centers). Environmental Action *et. al.* believes that, in comparing

[27] *E.g.*, CCEM and NIEP.

[28] *E.g.*, Joint Consumer Advoc, Enviromental Action *et al.*

[29] *E.g.*, APPA, NRECA, Enviromental Action *et al.*, Joint Consumer Advoc., and Colorado Municipals.

[30] *E.g.*, CINergy, TDU Systems, IN Com, DOJ, and Centerior.

[31] *E.g.*, CINergy, PaineWebber.

[32] *E.g.*, NV Com, NRECA, Joint Consumer Advoc., and TX Com.

[33] Including APPA, EA & CF of A, IN Com, East Texas Coop, Otter Tail, and Industrial Consumers.

[34] *E.g.*, Enviromental Action *et al.*, IN Com.

[35] *E.g.*, Industrial Consumers and Enviromental Action *et al.*

costs and benefits, the acquisition cost and its rate treatment should be considered; it suggests that the Commission reject a merger if the merged company intends to seek recovery of the acquisition premium from captive customers. OK Com is concerned that mergers may require utilities to incur costs such as construction of transmission lines to meet the integration requirement.

Some commenters contend that the Commission should not count claimed savings if the applicants are not willing to bear the risk of not achieving the savings.[36] They say that the level of claimed savings is typically insignificant compared to total company costs. Industrial Consumers argues that the concept of savings from "deferral" of capacity is meaningless.

With respect to how net benefits of a merger should be calculated, some commenters maintain that claimed savings should be discounted to present value, as cost savings tomorrow are worth less than cost savings today.[37] RUS recommends that the Commission calculate the "revenues gained" by the prospective merged entity, adapted from the revenues lost approach set forth in Open Access Rule for determining stranded cost exposure on a net present value basis.[38]

Several commenters contend that the savings claimed for previously approved mergers did not materialize. They urge the Commission to scrutinize claimed savings more carefully.[39]

Low-Income Representatives recommends that the Commission carefully scrutinize claimed savings to ensure that cost reduction does not mean service or quality reduction. Enviromental Action *et al.* notes that despite the vigorous efforts made by merging companies to win merger approvals with promises of rate reductions, little time is spent in Commission proceedings reviewing the effects on rates. It believes that more scrutiny on rates in the merger proceeding will establish more clearly, before final commitments are made, who is bearing what risk. It also explains that there are good reasons to be skeptical about savings from a proposed consolidation of generating assets because studies suggest that unit scale economies are reached at 400 MW and multi-unit plant economies at 1600 MW. Similarly, NRRI states that for the majority of firms in the industry, average costs would not be reduced through the expansion of generation, numbers of customers, or the delivery system.

C. Allocation of Benefits and Costs

Several commenters raise the issue of how net benefits should be allocated between investors and customers. East Texas Coop says that net benefits should not include any part of the benefits allocated to shareholders; benefits not allocated to ratepayers cannot be claimed as a benefit to the public interest. APPA and NRECA want the Commission to develop standards for allocating cost savings and other benefits among customers, ratepayers, and shareholders. NY Com further proposes that requiring merger applicants to share claimed savings between customers and shareholders would discourage utilities from overstating the claimed benefits of a merger.

Some commenters argue that an acquisition premium is a cost of the merger that should not be recoverable from ratepayers if it would lead to an increase in rates.[40] NY Com contends that allowing recovery of such premiums from ratepayers may inflate purchase prices and result in exaggerated claims of merger savings to increase chances of approval, rewarding the purchaser. OK Com would give rate consideration to an acquisition adjustment for mergers determined to be consistent with the public interest, and says that states should have a role in defining the public interest. Enviromental Action et al. would prohibit the merger if the merged utility has a retail sales monopoly and the state does not have a policy of excluding the acquisition premium from retail rates.

Enviromental Action *et al.* also believes that the proper cost allocation arrangement for a merging company, where the customer groups have different cost histories associated with different assets, is to have the price charged by the seller in inter-affiliate transactions be a market price. In this manner, the "buying" customers will take the power only if it is the best price on the market, and the "selling" customers will receive a reward commensurate with their risk. If the merging companies cannot, under this treatment, come up with sufficient benefits to satisfy the acquired company, the merger does not meet market standards and should not be approved. Enviromental Action *et al.* claims that any other approach makes the acquiring company's ratepayers unwilling donors to the financial success of an expansion strategy.

IV. Comments Concerning the Effect on Regulation Factor

Most commenters agree that regulatory impact continues to be relevant and important. EEI argues that mergers could affect regulatory effectiveness either through impacts arising from the transfer of authority from one regulatory jurisdiction to another or problems associated with cost allocation. EEI notes that merger does not change the Commission's authority over transmission in interstate commerce and sales for resale nor state commission authority over retail rates. Neither does merger affect the Commission's ongoing jurisdiction to determine cost allocation and to specify proper accounting treatment of cost allocations generically.

Several commenters stress that mergers resulting in multi-jurisdiction utilities and creating possible federal preemption deserve special attention.[41] OK Com also argues that regional regulatory bodies may be necessary in the future and is concerned that mergers can interfere with their effectiveness and formation.

CINergy dismisses the relevance of the effect on regulation, given that the Commission has held that a transfer of jurisdiction from one regulatory body to another in no way implies that regulation will be any less effective.[42] CINergy agrees with the Commission's holding and suggest that the regulatory effectiveness criteria be eliminated.

Others commenters stress the importance of this factor, but link it to other factors. Southern Company recommends that analysis of this factor should be subsumed within analysis of the merger's impact on costs and rates. APPA believes that the analysis of the merger's impacts on regulation should be linked to a requirement that merger produce affirmative public benefits, including structural changes that enhance competition and reduce the need for regulation. It also argues that the Commission should give deference to state action when assessing the impact on state regulation, although the Commission must make the final call on this factor.

V. Comments Concerning the Other Commonwealth Factors

The other *Commonwealth* factors are evidence of coercion, the proposed accounting treatment, and the reasonableness of the purchase price. These factors elicited very little comment. As to evidence of coercion, a few commenters suggest that this should be evaluated by the marketplace rather than by the regulatory process.[43] Several commenters say that this factor should only be considered if someone demonstrates that it is relevant.[44] OK Com is among very few commenters who favor the retention of coercion as a criterion. It suggests that coercion is a means by which some companies try to gain oligopolistic control of the market in the coming competitive environment.

As to the accounting treatment, some commenters support elimination of accounting concerns as a factor.[45] PaineWebber notes that most recent mergers were mergers of equals, involving minimal premiums over current market prices. It suggests that a similar market discipline would likely cause shareholders to reject merger transactions involving large merger premiums and excessive amortization. Florida and Montaup argue that the accounting treatment of a merger should not be an issue for hearing unless an applicant seeks treatment different from the Commission's standards. Southern Company contends that the Commission's analysis of

[36] *E.g.*, Joint Consumer Advoc., TX Com, and Enviromental Action *et al.*

[37] Industrial Consumers, East Texas Coop, and RUS.

[38] Open Access Rule, 61 FR at 21662.

[39] Joint Consumer Advoc., TX Com, Industrial Consumers, and NRECA.

[40] *E.g.*, Joint Consumer Advoc. and NY Com.

[41] NV Com, WI Com and NRECA.

[42] Entergy Services, Inc. and Gulf States Utilities Company, 62 FERC ¶ 61,073 at 61,373–74, *order on reh'g*, 64 FERC ¶ 61,001 (1993), *appeal pending*, 94–1414 (D.C. Cir).

[43] East Texas Coop., EEI, PaineWebber, and Southern.

[44] Florida and Montaup.

[45] East Texas Coop., EEI, and PaineWebber. Although they do not support keeping this factor, EEI and PaineWebber suggest that in light of broad industry changes, this may be the right time for a generic re-examination of accounting concerns, of which accounting for mergers could be a part.

this factor should be subsumed within the analysis of the merger's impact on costs and rates.

NY Com and OK Com are concerned about the accounting consequences of mergers. OK Com favors retention of the historical cost approach to accounting for plant acquisitions during mergers and business combinations until competitive market structures are achieved at the national, regional, and state levels. NY Com also urges the Commission to continue to require unrestricted access to all books and records of newly merged entities.

We also received a few comments on looking at the reasonableness of the purchase price as a factor. A number of commenters[46] urge that the Commission should not substitute its judgment for that of market forces, which will determine the reasonableness of the purchase price. Others[47] believe this issue should be examined only if its relevance is raised. However, OK Com argues that purchase price retains some relevance in this era of diversification. It is concerned that the purchase price may be based on expected returns on non-regulated investments, which, if they fail to materialize, may dilute utility stock.

VI. Procedures for Handling Merger Cases

A. Comments Concerning Filing Requirements

Some commenters[48] urge the Commission not only to spell out the precise standards it will use to review merger applications, but also to establish understandable filing requirements that clearly identify the necessary information on the effects of the proposed merger on competition and on rates. East Texas Coop says that having more substantive filing requirements and early access to computer studies and simulations would benefit all parties and the Commission. Low-Income Representatives believes that a merger applicant should be required to show that there is workable competition for each customer class in any market in which it participates. NY Com proposes that the Commission require merger applicants to submit estimates of the price elasticity of both supply and demand in the relevant markets, and an analysis of entry barriers to new supply. Southern Company advocates the adoption of filing requirements designed to support use of the *Guidelines*, as modified for the electric power industry.

Commenters also recommend that the Commission adopt new filing requirements to enhance and expedite our analysis of the rate impacts of merger applications. Florida and Montaup argue that the Commission should set out filing requirements related to merger cost and savings, which would have to be met only if the applicants claim that the merger results in consumer savings. International Brotherhood asks the Commission to require merger applicants to file an economic impact statement analyzing the effect of the proposed savings (many achieved through layoffs) on the economy of the communities served.

Project proposes that the Commission require merger applicants to include an assessment of the environmental and related economic impacts of the planning and operational changes that are expected to result from the merger. The required information would include changes in dispatch, resource planning procedures, and resource acquisition plans; changes in emissions of SO_2, NO_X, CO_2, and particulates; and changes in resources devoted to research and development, DSM programs, and renewable technology investments.

Many utility commenters want a faster merger consideration process.[49] Some claim that delays in processing merger applications harm the public interest in various ways: utilities lose the ability to respond to market forces quickly (thereby retarding procompetitive restructuring efforts); benefits to consumers are postponed; investors experience uncertainty (creating problems in capital markets and the efficient flow of capital); utility employees lose productivity as doubts linger about their future roles; and the public loses confidence in the regulatory process. Some commenters argue that we could act faster if we looked at any one or two of the *Commonwealth* factors.[50]

Com Ed believes that in the coming competitive marketplace, it will be important for the Commission not to allow the merger approval process to become captive to intervenors, who allegedly are often seeking merely to gain a competitive advantage through delay. Noting that the DOJ and FTC initial review process can be completed within 30 days, Com Ed and others question why the Commission's review needs to take significantly longer.

Some commenters ask for faster merger consideration for certain types of mergers,[51] particularly for uncontested applications; mergers between a utility and a non-utility firm; mergers between affiliates; and mergers between small, non-dominant utilities. Haves and Brehrenda also advocate expedited treatment for: a disaggregation (an internal disaggregation within a holding company, a spin-off to shareholders, and a disaggregation coupled with a merger); a merger of a jurisdictional electric utility with a gas utility; a combination of non-interconnected electric utilities; and a merger of a jurisdictional utility with a company that is not an electric utility, even if the latter owns a power marketer.

Some utility commenters[52] recommend that we identify specific time frames or themselves suggest time frames for the Commission either to rule on the application or to request further information. Florida and Montaup argue that we should not routinely set all merger cases for hearing. The Commission should use procedures that would allow intervenors to conduct voluntary discovery before an application is set for full hearing and refer the proceeding to an Administrative Law Judge (ALJ) for the limited purpose of resolving discovery issues. Another suggestion is that we streamline discovery and coordinate the activities of parties with similar positions during the hearing and the briefing phases of cases set for hearing by working the ALJ.[53]

On the other hand, some commenters argue that mergers that create large utilities are being processed too quickly.[54] They say that intervenors do not have time to obtain information and develop a case. Some of these commenters urge the Commission to lengthen the time period for interventions in merger proceedings, and to permit intervenors to conduct discovery during this period. East Texas Coop also requests that the Commission not allow answers to protests and not allow merger applicants to have a formal right to "the last word."

APPA and East Texas Coop both oppose the adoption of strict time schedules for Commission action. Many commenters urge the Commission not to approve a merger before it can assess adequately the effects of increased concentration in the industry.

B. Safe Harbor Suggestions

DOJ and EGA urge the Commission to "refine and sharpen" the focus of its merger review analysis so that mergers are processed more efficiently, with desirable mergers receiving swift approval, while undesirable mergers are set for hearing.

Other commenters[55] suggest that we use a two-stage process allowing a merger passing a safe harbor test to be approved quickly. EEI proposes detailed regulations covering pre-filing consultation, initial filing requirements, a two-step review process based on an initial market power screen (consisting of an initial filing and an initial finding order), the hearing process, appeal, and interests to be balanced by the proposed regulations.

Commenters generally suggest that the first stage analysis be simple, with basic filing requirements and, if the applicants pass certain merger screens, approval would be automatic or quick, perhaps with a paper hearing. Applications that do not pass the merger screen would face additional, more detailed filing requirements and a more in-depth second stage analysis, probably with a trial-type hearing. Some would allow ample opportunity to settle, however, and so avoid a lengthy hearing.

EEI urges that if a merger does not pass the initial merger review screen, it should not be rejected; rather, this merely indicates that the Commission needs to consider other evidence regarding the merger's impact on the competitive market.

East Texas Coop's two-stage procedure has a slight variation: the opportunity for an intervenor to show that a proposed merger will result in the strategic control of

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[46] CINergy, East Texas Coop, EEI, PaineWebber, and Southern.

[47] Florida and Montaup.

[48] Missouri Basin, NIEP, Centerior, Florida and Montaup, APPA, and Southern.

[49] *E.g.*, Texas Utilities, Southwestern PS, Sierra Pacific, Southern Company, UtiliCorp, and EEI.

[50] *E.g.*, Southwestern, Southern, and PS Colorado.

[51] UtiliCorp, PaineWebber, PanEnergy, Com Ed, Centerior, Southern, APPA, NRECA.

[52] *E.g.*, Sierra Pacific, UtiliCorp, MidAmerican, and PP&L.

[53] PP&L.

[54] *E.g.*, International Brotherhood, Joint Consumer Advoc., East Texas Coop, and Enviromental Action *et al.*

[55] *E.g.*, Texas Utilities, Southern, EGA, [illegible], CINergy, East Texas Coop, and NRECA.

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transmission assets, even if the merger application passes the Commission's stage-one screens.

Some commenters[56] propose that if the safe harbor screens are satisfied, the merger should be approved automatically, either by the Commission's staff under delegated authority or under a "limited review" procedure. Under the "limited review" procedure, the case would be referred to an ALJ with a short time schedule to render a decision, after which approval would be granted by staff through delegated authority unless the ALJ or staff determines that the issue should be considered by the Commission. PanEnergy also argues that an unopposed merger should be approved by delegated authority without a hearing.

Various factors were suggested for setting the screens. Commenters suggest that the Commission consider the merged company's absolute size, its market share, its ownership or control of transmission, its affiliation with suppliers of competing forms of energy (such as natural gas), absolute market concentration, the effect of the merger on market concentration, whether a small group of firms could act in a collusive or coordinated manner, whether the acquisition is by a new entrant, and the existence of barriers to entry in the wholesale generation market in which the merged entity would participate, among other factors.

A number of commenters[57] recommend that the Commission use market concentration screens similar to those adopted by DOJ and FTC. With regard to the HHI screen used in the *Guidelines*, DOJ uses two HHI screens for a horizontal merger: (1) the increase in the HHI caused by the merger, and (2) the post-merger HHI. The *Guidelines* indicate that a merger falls within a safe harbor if the post-merger HHI for the relevant market is no higher than 1,000 or the increase in the HHI is no more than 50. (The HHI approaches 0 if there is a large number of small competitors, and is 10,000 if there is just one firm.) APPA would screen from full analysis any merger for which the market's post-merger HHI is less than 1000.

Other commenters[58] oppose a safe harbor or two-stage screening process to expedite merger approval. Some argue that this proposal would not give the Commission enough time to closely scrutinize the effects of the merger on such important factors as barriers to entry and short-term monopoly rates. PP&L argues that the Commission should not use merger screens until it has more experience with analyzing mergers in a more competitive electric market.

C. Coordination With Other Agencies

Many commenters say that the Commission should coordinate its consideration with that of other state or federal agencies. The New York Commission calls for improved coordination between the Commission and the states in order to give the industry clear regulatory guidance on the treatment of mergers during the transition to competition. NARUC, CA Com, and IN Com suggest several alternative coordination options. Commenters offered the following specific proposals on how the Commission could coordinate better its merger review with those of the states.

First, several commenters support having a "scheduling conference" with the Commission and all state regulatory agencies. NARUC suggests that, when the Commission receives a merger application, we should convene a scheduling conference with representatives of the relevant state commissions to coordinate the schedules for the federal and state reviews of the merger applications. Such an arrangement would permit each agency to consider the merger proposal fully, while also providing state regulators with the means of conveying their views to the Commission. Sierra Pacific urges us to rely more frequently on joint conferences with state regulators.[59] Such an approach would expedite the processing of mergers, limit unnecessary duplication of procedures, and produce more uniform federal-state results.

Second, several commenters recommend that the Commission let state regulatory commissions complete their review and then comment in the Commission's proceeding.[60] NARUC and others observe[61] that during the state proceeding, state regulators cannot take a position in a Commission proceeding without prejudging the outcome of the state proceeding. They ask that the Commission defer its decision until after state proceedings have been concluded, or that we give states a reasonable opportunity to conclude their proceedings before they must file testimony here. Similarly, APPA argues that the Commission should give deference under FPA section 201(b) to state determinations by adapting our procedures to allow states to intervene after state review is completed. The Commission could distinguish between two kinds of state intervenors: state consumer advocates or executive branch representatives, who must meet the same intervention requirements as do other parties; and state commissions acting in parallel on the same merger application, who would file later.

Third, a number of commenters say that there should be some joint federal-state vehicle to coordinate merger consideration with state regulators, such a joint filing requirement, a joint record, or a joint proceeding.[62] Environmental Action *et al.* suggests that a merger application should be filed as one document with the Commission and relevant state regulatory commissions at the same time. PP&L asks that we require any state applications to be filed simultaneously with and attached to the Commission application. NARUC suggests that a joint record be developed by the Commission and the states. It also suggests that the Commission consider a joint proceeding. However, PP&L opposes this, arguing that because state commission issues and procedures might differ considerably from those before the Commission, joint or concurrent hearings probably would not save any resources and could complicate the hearing process. Accordingly, PP&L argues that we should continue to process mergers separately from the states.

Fourth, some parties say that the Commission should defer to state commissions on certain matters. Some argue for deference regarding a merger's effect on retail costs and rates.[63] PaineWebber argues that the responsibility for determining the effects of a merger on retail customers is not subject to this Commission's review. NARUC, however, says that both state and federal regulatory agencies should evaluate a merger's effect on rates, as well as on generation competition and on access to transmission facilities. Similarly, some parties argue that the Commission should generally defer to state commissions regarding the impact of mergers on competition in retail markets.[64]

Another suggestion is raised by the Ohio PUC, which proposes a specific new process for federal-state coordination of merger consideration. The purpose is to analyze market power in unbundled electric service markets, with the Commission assessing the merger's effect on transmission market power and the state commissions assessing the merger's impact on generation and distribution market power. The proposal contains five steps: (1) the applicants file their applications simultaneously at both the federal and state levels; (2) each state commission determines whether the merging utility operating in the state has pre-merger market power (with the several states sharing their data resources, methodologies, and modeling capabilities, and possibly undertaking a joint review); (3) the Commission analyzes the transmission systems affected by the merger, relying on a *Guideline*-type analysis to assure that transmission constraints do not create barriers to entry by competing generators; (4) all regulators then collaborate to determine if the merging entities will likely possess any regional post-merger market power; and (5) the merger is either approved outright, approved with conditions, or set for hearing by the various regulators. Whether it is set for hearing would depend on whether there is agreement among the state regulators that the applicants will possess no local or regional generation market power, and whether the Commission determines that no transmission barriers to market entry can be identified.

DOJ urges the Commission to adopt the *Guidelines* so that there will be consistency between DOJ and the Commission. As discussed above, many others echo this view. PP&L urges the Commission routinely to obtain the views of DOJ and the FTC about each merger application. Further, PP&L suggests that the Commission could require an evidentiary hearing if DOJ or the FTC suggests that a hearing is necessary or opposes the merger. PP&L also proposes that the Commission require the filing of the Premerger Notification forms that merging

[56] *E.g.*, Hawes and Behrends.

[57] *E.g.*, Utilicorp.

[58] *E.g.*, PP&L, Joint Consumer Advoc.

[59] *Citing* Subpart M of our Rules of Practice and Procedure (sections 1301, *et seq.*)

[60] *E.g.*, NARUC, APPA, KS Com, Environmental Action, *et al.*

[61] KS Com, Environmental Action, *et al.*

[62] NARUC and Sierra Pacific.

[63] *E.g.*, Southwestern.

[64] Southern, NY Com, and OH Com.

parties must file with the DOJ and the FTC under the Hart-Scott-Rodino Antitrust Improvements Act.[65] PP&L claims that the information in these forms would be useful to the Commission in evaluating mergers.

Several commenters argue that we should limit the scope of merger proceedings to issues that are directly related to the merger and not allow intervenors to raise extraneous issues or extract concessions.[66] Moreover, we should not use merger proceedings as an alternative means of promoting or requiring the generic restructuring of the electric industry.[67]

D. Remedies

No commenter says that a merger must be rejected if it fails initially to satisfy the public interest test. Commenters recommend certain courses of action to remedy the initial failure. These include items such as: settlement; a merger condition closely related to the difficulty (*i.e.*, divestiture, releasing wholesale customers); and voluntary mitigation measures.

Several commenters ask the Commission to monitor the effects of a merger after it is approved either to verify claimed benefits or to detect anticompetitive effects that escaped the analysis.[68] We could grant relief from negative effects or impose new conditions.[69] APPA recommends that approval of a merger be conditioned on a post hoc review of market performance, including consideration of the effect on rates. EGA suggests that the Commission should impose "provisional" or "contingent" conditions on a merger; that is, conditions that the merged companies must comply with if certain future circumstances occur.

CINergy suggests post-merger analysis as an alternative to extensive pre-merger analysis. It urges the Commission not to burden merger applicants with a requirement to forecast potential merger effects under various industry and state restructuring scenarios. Such a requirement would paralyze the merger application process and yield only speculative results. CINergy suggests that, if the Commission does ask for such an extensive analysis, we should offer merger applicants the alternative of filing a new market analysis every three years for ten years after merger approval; as a condition of merger approval, the applicants would agree that if the Commission finds too much market power in a new market analysis, they will implement any necessary mitigation measures, including generation divestiture.

On the other hand, some commenters advise against post-merger reviews and conditions.[70] They argue that ongoing Commission review or a suggestion that approval may be reversed would introduce uncertainty in the market and prevent the proper pricing of a merger.

Most commenters do not deny that the Commission has authority under section 203 to impose conditions on its approval of a merger. Rather, some commenters debate the scope of such conditions.[71] Several say that the Commission has the authority to impose conditions only if there is a detriment to the public interest, and then only in ways related to the specific detrimental effects. Florida and Montaup asserts that there is no authority to order divestiture as a condition.

Project recognizes that NEPA does not expand our powers under the FPA. However, it says that the Commission has ample authority under the FPA, given its NEPA obligations, to condition its approval of mergers to promote NEPA goals and policies.

Several commenters urge the Commission to impose a particular condition on its approval of all or most mergers. Their principal argument is that mergers generally have a negative effect on competition. Recently, the Commission counterbalanced this effect by requiring open transmission access, which enhanced competition. The Commission should replace the open access condition with a new condition that enhances competition to ensure that the merger is procompetitive. TAPS, for example, supports this view.

Other commenters would impose a condition only to remedy a specific problem. For example, EGA and DOJ argue that the Commission should impose a procompetitive condition only to prevent harm to competition. TDU Systems suggests that the Commission consider mitigation of harm to competition only after it has assessed the likely competitive consequences of an unconditioned merger on the market structure. TDU Systems also believes that we should remedy each likely anticompetitive effect of a merger, even in cases in which the merger overall seems likely to have public benefits. Enviromental Action *et al.* would approve mergers with anticompetitive effects only if the Commission can impose conditions that will mitigate the anticompetitive effects of the merger.

Some commenters distinguish imposing a condition on a merger (for example, an open access tariff that must be filed for the merger to be approved) from conditional approval of a merger (the merger is approved for now but if it has a negative effect, the approval can be revoked or made subject to a new condition). Several commenters (*e.g.*, NRECA, PP&L and RUS) caution the Commission to use only sparingly its authority to approve mergers on a conditional basis. While this "reach-back" authority may be appropriately used in "fast-track" merger approvals, it should not be routinely relied upon as a substitute for either the rejection or mitigation of mergers that are likely to have significant anticompetitive effects.

Centerior argues that conditioning authority should be used sparingly and only in those situations where the Commission finds that there is a high possibility of specific harm to competition. Commenters offer several arguments against imposing a generic merger condition or having a low threshold for imposing a condition.

Not all mergers are alike, so it is not appropriate to impose the same condition on all merger approvals, according to others.[72] A condition should be related to the effects of a specific merger.

Southern argues that any generic merger conditions would go far beyond the approach of the *Guidelines*, which are aimed merely at preventing mergers that would "create or enhance market power or facilitate its exercise." Generic merger conditions are typically designed to require merger applicants to establish positive merger benefits, contrary to FPA and antitrust precedent. Some argue that we should not use merger approval as a tool for achieving an unrelated policy goal. They say that this would discourage procompetitive mergers.[73]

Commenters proposed over a dozen specific conditions for merger approval. Some conditions are proposed for all mergers and others to remedy a problem with a specific merger. Most of the suggested conditions are designed to mitigate market power or to ensure that rates do not increase as a result of the merger. The proposals are to require the merged company to:

(a) Form an ISO. Some urge the Commission to require merging parties to form an ISO or to participate in a regional ISO, resulting in single-system, regionwide, nonpancaked transmission rates.[74] For instance, the WI Com would require an ISO or transmission divestiture where the merging companies own a major transmission bottleneck. Otter Tail and Industrial Consumers view the ISO as one possible way to mitigate market power.

(b) Divest generation or transmission assets. Some commenters support generation divestiture as a remedy for an anticompetitive merger.[75] The FTC believes that this remedy would remove the anticompetitive effect of the merger without hampering its procompetitive or efficiency-enhancing aspects. Wisconsin PS would impose divestiture only if it would prevent the exercise of market power. Project would require all merging companies to separate their distribution assets and functions from the generation business within a reasonable time, creating legally and functionally separate entities to provide the different services.

Wisconsin Customers appear to advocate divestiture of transmission from generation and distribution as a condition of all merger approvals. It sees divestiture as preferable to an ISO because the Commission would not have to perpetually construct rules to avoid unfair use of the transmission system and then monitor compliance.

Both Southern and Centerior oppose divestiture as a drastic action that would probably kill efficient mergers or limit the ability of the merged company to compete.

(c) Reform transmission pricing. Several commenters argue that elimination of rate

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[65] 15 U.S.C. § 18a (Supp. 1996).

[66] *E.g.*, Southwestern, Com Ed.

[67] *E.g.*, Southwestern, Southern.

[68] *E.g.*, APPA, Joint Consumers Advoc., NRECA.

[69] *E.g.*, APPA, EGA, NRECA.

[70] Among others, PaineWebber.

[71] For example, FTC, PS Colorado, Southwestern, and Southern.

[72] For example, Southern, DOJ, FTC, and Wisconsin PS.

[73] For example, Com Ed, Southwestern, DOJ, FTC, Paine Webber, EEI, Wisconsin PS, and Florida and Montaup.

[74] TAPS, Wisconsin Customers, WI Com, and APPA.

[75] For example, FTC, PP&L, Wisconsin Customers, and Lubbock.

pancaking should be a condition for all mergers.[76]

APPA and TDU Systems urge the Commission to codify or apply as a general condition its current requirement of single system transmission pricing for all merged systems, unless the applicants show a public interest basis for different treatment. TDU Systems also suggests that all merging parties be prevented from reducing the transmission capacity presently available for use by transmission customers. Environmental Action *et al.* would prohibit market pricing for power transactions among affiliates of merged companies in regions lacking regional transmission pricing.

(d) Eliminate transmission constraints. Some commenters state that transmission constraints should be addressed by conditioning the approval of the merger on the applicants' building facilities to alleviate the constraints or taking other measures to eliminate local market power.[77]

Competitive Coalition and TDU Systems suggest that where two constrained systems are merging, divestiture of transmission assets should always be considered.

Southern Company cautions against becoming overly concerned with remedying transmission constraints by imposing conditions or by market definition, since other potential remedies or alternatives exist.

(e) Have retail access. Competitive Coalition realizes that the Commission's authority does not extend to ordering direct access at the retail level, but suggests that the concerns over monopsony would be eliminated if merging parties offered open-access distribution. Industrial Consumers, supported by Otter Tail, recommend that, where necessary to avoid anticompetitive effects, we condition approval of mergers by adjacent suppliers on their agreement to provide nondiscriminatory direct access or a finding that a state's adoption of a direct access initiative avoids anticompetitive concerns.

(f) Forego stranded cost recovery. Several commenters see a need to require all merging parties to forego stranded cost recovery in order to mitigate market power.[78]

(g) Reform contracts. Commenters argue that all merging utilities should be required to offer an open season for all of their wholesale requirements contracts and transmission contracts. UtiliCorp argues that many utilities and wholesale customers remain bound to requirements contracts that impede their ability to take advantage of the benefits of the recent competitive influences in the market.[79]

To achieve unrestricted wholesale competition, Competitive Coalition calls for the complete unbundling of transmission services to be required of all merger applicants, including the transmission services contained in existing requirements contracts. It would also extend the unbundling requirement to the transmission services embodied in pooling or bilateral coordination and joint transmission agreements to which merger applicants are parties.

(h) Eliminate affiliate advantage. APPA urges the Commission to adopt standard conditions for utility mergers to govern affiliate transactions.

(i) Monitor achievement of claimed benefits. Joint Consumer Advoc. argues that there should be a mechanism to monitor whether claimed benefits are actually achieved, but does not offer any specific proposals.

(j) Freeze or reduce rates. Several commenters advocate guaranteed cost reductions to be passed on to consumers or rate freezes by the merger applicants.[80] This would be a condition to overcome the potentially anticompetitive effects of the merger and to ensure that claimed benefits of the merger are received.

Environmental Action *et al.* believes that a better approach than rate freezes is to simply set rates appropriately.

Florida and Montaup argues that the Commission should not require rate freezes as a condition of approving a merger or a condition to avoiding a hearing on a rate freeze. WI Com discounts the value of a four-year rate freeze if a utility will no longer have restrictions on its pricing other than the market by the year 2000. It prefers a market structure that ensures that customers have access to many suppliers, none of which will be able to exercise significant market power over the long term.

CINergy, with support from OK Com, argues that rather than debating claims of net benefits, the Commission should protect customers by requiring all merging companies to commit not to recover merger-related costs from ratepayers. Low-Income Representatives would condition all mergers to: (1) continue existing rates, payment programs, protections regarding customer service, and shut-offs for low-income consumers; and (2) assure no impact on attaining or maintaining universal service.

(k) *Retain generation reserve sharing and other coordination arrangements.* TAPS and TDU Systems believe that the Commission should consider imposing a requirement that all merged utilities engage in joint planning and joint ownership of future facilities, continue to offer basic reserve sharing and coordination services, and continue to offer cost-based firm full requirements and partial requirements service.

(l) Maintain reliability and the quality of service. International Brotherhood would require every merger application to contain a plan to maintain or improve reliability and the quality of service.

(m) Eliminate economic impacts. International Brotherhood would require every merger application to demonstrate a lack of adverse economic impact on the economy of the communities served.

(n) Eliminate environmental impacts. Project would condition mergers to mitigate significant adverse environmental impacts identified in an environmental assessment. It would require applicants to bring existing generation units up to standards comparable to the environmental restrictions on their competitors, in effect, to hold the environment harmless from merger-related impacts.

[FR Doc. 96–32766 Filed 12–27–96; 8:45 am]

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[76] For example, OK Com, NV Com, CCEM, and TDU Systems.

[77] For example, Florida and Montaup and Wisconsin PS.

[78] Industrial Consumers, Otter Tail, TAPS, and Wisconsin Customers.

[79] For example, UtiliCorp, CCEM, Wisconsin Customers, and Southwestern Electric.

[80] Joint Consumer Advoc., Industrial Consumers, Otter Tail, CINergy, Illinois Industrials, and Texas Industrials.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 96F–0101]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of triisopropanolamine as a component of phosphorous acid, cyclic butylethyl propanediol, 2,4,6-tri-*tert*-butylphenyl ester, as a stabilizer for olefin polymers intended for use in contact with food. This action is in response to a petition filed by General Electric Co.

DATES: Effective December 30, 1996; written objections and requests for a hearing by January 29, 1997.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 19, 1996 (61 FR 31141), FDA announced that a food additive petition (FAP 6B4507) had been filed by General Electric Co., 1 Lexan Lane, Mt. Vernon, IN 47620–9364. The petition proposed to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the safe use of triisopropanolamine as a component of phosphorous acid, cyclic butylethyl propanediol, 2,4,6-tri-*tert*-butylphenyl ester, as a stabilizer for olefin polymers intended for use in contact with food. The additive, triisopropanolamine, was identified in the filing notice (61 FR

31141) as being a component of the stabilizer, phosphorous acid, cyclic butylphenyl propanediol, 2,4,6-tri-*tert*-butylphenyl ester. The correct identity of the stabilizer is phosphorous acid, cyclic butylethyl propanediol, 2,4,6-tri-*tert*-butylphenyl ester and is used throughout this final rule.

FDA has evaluated the data in the petition and other relevant material. The agency concludes that the proposed use of the additive is safe, that the additive will achieve its intended technical effect, and therefore, that the regulations in § 178.2010 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before January 29, 1997, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

§ 178.2010 [Amended]

2. Section 178.2010 *Antioxidants and/or stabilizers for polymers* is amended in the table in paragraph (b) in the entry for "Phosphorous acid, cyclic butylethyl propanediol, 2,4,6-tri-*tert*-butylphenyl ester (CAS Reg. No. 161717–32–4" by adding the phrase ", which may contain not more than 1 percent by weight of triisopropanolamine (CAS Reg. No. 122–20–3)" before the period.

Dated: December 19, 1996.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–33099 Filed 12–27–96; 8:45 am]

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21 CFR Part 201

[Docket No. 92N–0165]

Specific Requirements on Content and Format of Labeling for Human Prescription Drugs; Revision of "Pediatric Use" Subsection in the Labeling; Extension of Compliance Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; extension of compliance date.

SUMMARY: The Food and Drug Administration (FDA) is extending the compliance date of a final rule, that published in the **Federal Register** of December 13, 1994. The document revised the "Pediatric use" subsection of the professional labeling requirements for prescription drugs. This final rule extends to April 7, 1997, the date for submission of supplemental applications to comply with the new regulation for those manufacturers who notify FDA in writing by January 29, 1997 of their intent to submit a supplement. The agency is taking this action in response to a request for an extension of the compliance date.

EFFECTIVE DATE: December 30, 1996

FOR FURTHER INFORMATION CONTACT: Erica L. Keys, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1046.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 13, 1994 (59 FR 64240), FDA published a final rule that amended its regulations governing the content and format of labeling for human prescription drug products. The regulation revised the "Pediatric use" subsection of the professional labeling requirements for prescription drugs (21 CFR 201.57(f)(9)) to provide for the inclusion of more complete information about the use of a drug in the pediatric population (ages birth to 16 years). The regulation requires sponsors to reexamine existing data to determine whether the "Pediatric use" subsection of the labeling can be modified based on adequate and well-controlled studies in adults and other information supporting pediatric use, and, if appropriate, submit a supplemental application to comply with the new requirements by December 13, 1996. The final regulation gave manufacturers 2 years in which to submit supplements, in response to comments requesting that FDA extend the 1–year implementation period originally proposed.

On November 6, 1996, FDA sent a letter to 250 manufacturers asking them to notify the agency whether and when they intended to file supplements. FDA has received responses from only 40 manufacturers. On November 20, 1996, the Pharmaceutical Research and Manufacturers of America (PhRMA) requested that FDA extend the compliance date of the final rule because some of their members with large numbers of products had encountered unexpected problems in gathering the required information.

The absence of adequate pediatric labeling continues to present a significant public health issue and the level of response to the December 13, 1994, final rule is cause for concern. To

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identify appropriate next steps to address this issue, it is essential that FDA identify the number of supplements that will be filed. Therefore, FDA is extending the compliance date under the following condition. If a manufacturer notifies FDA in writing by January 29, 1997, of their intent to submit a supplement, the agency will not consider the manufacturer's supplement to be late if it is received by April 7, 1997.

Because this action only extends the compliance date, FDA finds that there is good cause to dispense with a notice of proposed rulemaking, under 5 U.S.C. 553(b)(3)(B), as impracticable and unnecessary and is publishing this revision as a final rule effective December 30, 1996.

Dated: December 23, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–33098 Filed 12–27–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR PARTS 1301 and 1311

[DEA Number 140R]

RIN NUMBER 1117–AA34

Registration and Reregistration Application Fees

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Final rule; remanded for further notice and comment.

SUMMARY: On October 6, 1992, Congress passed the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1993, Pub. L. No. 102–395, 106 Stat. 1828 (1992) (codified at 21 U.S.C. 886a) (Act). In section 886a(3) of this Act, Congress directed that "fees charged by the DEA under its Diversion Control Program (DCP) shall be set at a level that ensures the recovery of the full costs of operating the various aspects of the (diversion control) program." On December 18, 1992, DEA published its proposal to adjust the existing registration fee schedule. 57 FR 60,148. After notice and comment, DEA published a Final Rule on March 22, 1993, setting the new registration fees. 58 FR 15,272.

Following publication of the final rule, a complaint was filed by the American Medical Association (AMA) and others in the United States District Court for the District of Columbia. On July 5, 1994, the district court issued its final order granting the government's motion for summary judgment, and thus disposed of all claims with respect to all parties. *American Medical Association* v. *Reno*, 857 F. Supp. 80 (D.D.C. 1994). The AMA appealed. On June 27, 1995, the United States Court of Appeals for the District of Columbia Circuit issued its decision holding that DEA's rulemaking was inadequate and that the rule must be remanded, without being vacated, to the DEA for further proceedings in which DEA provides both an opportunity for meaningful notice and comment on, and an explanation of, the components of the diversion control program. 57 F.3d 1129 (D.C. Cir. 1995) On August 29, 1995, the United States Court of Appeals for the District of Columbia Circuit remanded this action to the district court with instructions. On November 22, 1995, the District Court remanded the matter to DEA for proceedings consistent with the opinion of the United States Court of Appeals for the District of Columbia Circuit. This document responds to that requirement and provides a description of the components of the fee-funded diversion control program.

DATES: Comments and objections must be submitted on or before March 31, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Telephone (202) 307–7297.

SUPPLEMENTARY INFORMATION: The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1993 (Pub. L. 102–395) required that DEA recover the costs associated with the DCP through fees charged by DEA under that program. Therefore, DEA published a notice of proposed rulemaking (NPRM) in the **Federal Register** on December 18, 1992 (57 FR 60148) proposing to amend the fees set forth in Title 21, Code of Federal Regulations (21 CFR), §§ 1301.11 and 1311.11. On March 22, 1993, following notice and comment, DEA published a final rule in the **Federal Register** amending the fees.

DEA's rulemaking was challenged in court, in part on the grounds that it failed to provide adequate notice or explanation of the costs and scope of the DCP to be funded through the fees. While the United States District Court upheld the rule, on appeal, the United States Court of Appeals, District of Columbia Circuit decided on August 29, 1995, that the rulemaking was to be remanded, without being vacated, to DEA in order to identify the components of the fee-funded DCP and provide a brief explanation of why DEA deemed each component to be part of that program. Such description was to provide the opportunity for meaningful notice and comment regarding the established fee. *AMA, et al.* v. *Janet Reno, Attorney General, et al.*, 57 F.3d 1129 (D.C. Cir. 1995). In response to the decision of the court, the following explanation of the various components of the DCP is provided. Since the court did not vacate the final rule, DEA is not republishing either the original NPRM or final rule. Persons seeking further information regarding those notices should see the December 18, 1992 issue of the **Federal Register** (57 FR 60148) for the NPRM and the March 22, 1993 issue of the **Federal Register** (58 FR 15272) for the final rule.

Background of The Budget Item "Diversion Control Program"

The Comprehensive Drug Abuse Prevention and Control Act of 1970 (Pub. L. 91–513, commonly known as the Controlled Substances Act and the Controlled Substances Import and Export Act (CSA)), established the current Federal authority and programs to control the manufacture, distribution, importation, exportation and dispensing of "controlled substances" and to prevent the diversion of such substances from legitimate medical, scientific, research, and industrial channels into the illicit traffic. The CSA established a system of scheduling of substances, registration of legitimate handlers, production quotas, dispensing and distribution controls, record-keeping and reporting, import/export provisions, and penalties for violations of the CSA. It also mandated administrative and enforcement provisions, and cooperative efforts with state and local authorities. Additionally, as discussed in the later section regarding international activities, the United States has obligations under the United Nations Single Convention on Narcotic Drugs, 1961 (1961 Convention), and the Convention on Psychotropic Substances, 1971 (1971 Convention) (referred to collectively as the international treaties), to which it is a party, with respect to international control and cooperation to prevent the diversion of controlled substances. The CSA programs relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances are the domestic mechanism for implementing these treaty provisions. Over the past 25 years, the CSA has

been amended to include various enhancements and refinements needed to achieve the goals of the CSA and fulfill the U.S.'s obligations under international treaties in an ever changing milieu of diversion, abuse and illicit trafficking of drugs. These modifications include, among others, the Narcotic Addict Treatment Act of 1974 (Pub. L. 93–281), The Psychotropic Substance Act of 1978 (Pub. L. 95–633), the Diversion Control Amendments of 1984 (Pub. L. 98–473), the Anti-Drug Abuse Act of 1986 (Pub. L. 99–570), and the Anabolic Steroids Control Act of 1990 (Pub. L. 101–647).

In executing the CSA mandates and international treaty obligations related to the registration and control of the manufacture, distribution, dispensing, importation and exportation of controlled substances, Congress and the DEA (and its predecessor agency the Bureau of Narcotics and Dangerous Drugs, BNDD) established an identified work force and programs generally known as the DCP. Within DEA, the programmatic authority and responsibility for this effort is exercised by the Office of Diversion Control (OD) using the Congressionally authorized resources identified in the budget category DCP which are committed to those responsibilities and programs.

Historically, for the purposes of budget formulation and appropriation, only resources, along with their individual "modular" or overhead costs, devoted to diversion control efforts, were administratively identified as the DCP within the annual budget request to Congress. Other resources which support a broad range of DEA activities, including "Diversion Control", were carried for administrative purposes in the budget formulation and appropriation process under other budget categories, such as legal support. For example, DEA's Office of Chief Counsel, which is carried as part of the DEA Budget Category "Management and Administration," exists primarily to provide legal support to the entire agency. Although that office has a full section devoted to "Diversion Control" support, such as legal interpretation, DEA registration revocation actions, and quota hearings, no resources of the Office of Chief Counsel are included in the "DCP" category of DEA's annual budget submission, since the overall Chief Counsel function is not primarily devoted to Diversion Control and is carried elsewhere in the DEA budget.

Since 1970, the CSA has provided that the Attorney General "is authorized to promulgate rules and regulations and to charge reasonable fees" relating to the registration and control of the manufacture, distribution, dispensing, import, and export of controlled substances. See 21 U.S.C. 821 and 958. Prior to 1993, the fees collected solely for registration to handle controlled substances were deposited into the general fund of the United States Treasury; they did not accrue to DEA.

In October 1992, during the annual Congressional appropriation process, Congress established the "Diversion Control Fee Account." This was an amendment to the Department of Justice and Related Agencies Appropriations Act, and did not purport to realign or curtail any DEA programs, activities, or priorities; the amendment established legislatively the future funding mechanism for Congressionally approved resources related to "the operation of the diversion control program." In setting the parameters for this funding mechanism, Congress identified the functions and resources within DEA which have historically been assigned to the administratively determined budget category "DCP", as submitted by DEA, the Department of Justice, Office of Management and Budget, and the President of the United States. Any future Congressionally approved adjustment of resources devoted to these components, or Congressionally approved realignment of appropriated resources from other DEA budget categories which are related to the registration and control of the manufacture, distribution, and dispensing of controlled substances and herein identified, will be encompassed in the Diversion Control Fee Account.

Diversion Control Program and Responsibilities

The components of the DCP have their basis in the CSA and international treaties to which the U.S. is a party. The resources approved by Congress are directed toward these responsibilities. The components of the DCP as they relate to the specific provisions of the CSA and the treaties are set forth below:

Regulatory Development and Maintenance

(21 U.S.C. 821—Rules and regulations.)

The CSA sets the requirements with respect to the control of the manufacture, distribution, and dispensing of controlled substances. Development and refinement of the regulations set out in 21 CFR Parts 1301–1308, 1311–1312, and 1316 are an essential part of the DCP, for they establish the specific procedures and guidelines that are necessary to implement the requirements of the CSA.

The control of drug diversion and abuse is not static. Shifts in health care practices, patterns of diversion and drug abuse, drug treatment, industry practices, and technology present an ever-changing milieu of diversion and abuse. Regulatory changes are necessary to adjust to these shifts. The Attorney General (AG) is authorized to promulgate rules and regulations relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances. See 21 U.S.C. 821. The AG has delegated that authority to DEA. See 28 CFR 0.100(b) and 0.104.

DEA, through the DCP, is responsible for regulatory development or change. In order to carry out these functions DEA employs a specialist staff that identifies the need for regulatory change or development, performs the research and data collection in support of changes, promulgates the regulatory changes, and provides guidance to DEA personnel, other regulatory and law enforcement personnel, and industry regarding the regulatory requirements.

Activities in support of these functions include meetings and national conferences with representatives of the regulated industry, representatives of the law enforcement community, and other interested parties to discuss the current regulatory program and identify areas that may need to be addressed. There are five different industry workgroups: Practitioner, Distributor, Manufacturer, Pharmacy, and Mid-Level Practitioner. Meetings with each workgroup are scheduled on a regular basis. In addition, separate national conferences are held approximately every 24 months for the pharmaceutical manufacturers and distributors and for drug control personnel. In addition to the administrative work required to prepare for such meetings and conferences, including the solicitation of agenda topics from the attendees, DCP personnel conduct research and prepare position papers and briefing materials regarding the various agenda topics.

If regulatory change is needed, DCP personnel conduct the research, reviews of scientific and technical literature and other Federal and state laws and regulations; collect data; and consult with industry, law enforcement/regulatory sources, or other interested parties. Following drafting and publication of the notice of proposed rulemaking, personnel review all comments and determine whether substantive issues have been raised that require adjustment to the proposed regulations. In drafting the final rule, issues raised in the comments are

addressed and, where appropriate, adjustments to the proposed regulations are made to accommodate any substantive issues. Following establishment of new regulations, DCP staff prepare and distribute interpretations, guidelines and informational material regarding the new requirements for DEA personnel, industry, and other law enforcement/regulatory personnel. As needed, direct consultations to clarify the requirements of new regulations are also held with industry and law enforcement/regulatory groups.

In addition to the activities relating to regulatory changes, DCP personnel respond to requests from industry and law enforcement/regulatory personnel for information and interpretation of existing regulatory requirements and policy; respond to congressional inquiries regarding issues related to controlled substances; draft legislation relating to controlled substances; and prepare testimony and briefings for congressional hearings on the diversion of controlled substances.

Classification of Substances

(21 U.S.C. 811, 812, and 813—Authority to Control; Authority and criteria for classification of Substances; Schedules of Controlled Substances; Treatment of analogues; 1961 Convention, Articles 2 and 3—Substances under control; Changes in the scope of control; 1971 Convention, Articles 2 and 3—Scope of control; Control of preparations)

The authority to control substances of abuse is central to the effective application of the CSA and DEA's programs relating to the registration and control of the manufacture, distribution and dispensing of controlled substances. The CSA provides the criteria for the classification of substances into five schedules of control. The DCP collects, monitors, and analyzes data for recommendations to add, transfer between, or delete from such schedules any drug or other substance. These activities include the development of methodologies to predict and confirm the abuse potential of substances and combinations of substances; the application of scientific knowledge concerning the actual and relative potential of abuse of substances; the collection and appraisal of international scientific literature and information from DEA, and other Federal, state, local and foreign sources regarding the abuse, abuse and trafficking of substances; and the maintenance of liaison and information exchange with the Department of Health and Human Services (HHS) and other domestic and international agencies, such as the World Health Organization and the International Narcotics Control Board, having similar scientific, regulatory, law enforcement, and drug control interests.

In addition to collecting information regarding the control of substances, DEA provides scientific and other information for international, national, and state scheduling of substances; responds to scheduling petitions and reviews and determines the status of controlled, excepted, excluded, or exempted drugs and analogues; and provides training, guidance, expert testimony, assistance and/or information on drug control and classification to law enforcement agencies, the scientific community, industry, the public, and other interested parties.

DEA has initiated over a dozen drug reviews of both controlled and non-controlled substances in the recent past. Examples of controlled substances reviewed are fenfluramine, methylphenidate, flunitrazepam, quazepam, dronabinol, and marijuana (to Schedule II for medical or industrial use). The review of noncontrolled substances being considered for control include ketamine, butorphanol, gamma hydroxy butyrate, and carisoprodol to determine if control of the manufacture, distribution, and dispensing of the substances is appropriate. Each review requires a comprehensive study of the national and international scientific literature regarding the properties and use of the drugs, the current national and international controls over the drugs, data regarding annual production and consumption, and information from domestic and international law enforcement, regulatory, and medical sources regarding the diversion, trafficking, and abuse of the drugs. As appropriate, action may be taken, through formal rulemaking on the record with opportunity for hearing, to schedule, reschedule, or decontrol the drugs.

Identification of Controlled Substances

(21 U.S.C. 825—Labeling and packaging; 1961 CONVENTION, ARTICLE 30—Trade and distribution; 1971 CONVENTION, ARTICLE 10—Warnings on packages)

In conjunction with the classification of substances as controlled under the law, the CSA and international treaties require that such substances contain certain identifying symbols, warnings, and seals. DCP personnel monitor compliance with the requirements of 21 U.S.C. 821 as promulgated by 21 CFR 1302 pertaining to labeling and packaging requirements by reviewing 200 to 300 labels per year which are collected by DEA or are submitted to DEA by manufacturers. Additionally, DCP personnel provide interpretation of the requirements to registrants and Federal and state authorities, and review and enforce the requirements on an ongoing operational basis.

Registration

(21 U.S.C. 822, 823, 824, 957, 958—Persons required to register; Registration Requirements; Denial, revocation, or suspension of registration; 1961 Convention, Article 30—Trade and distribution; 1971 Convention, Article 8—Licenses)

Another component of the DCP is the registration of those persons authorized to manufacture, distribute, dispense, import, or export controlled substances. The CSA requires that every person who manufactures, distributes, dispenses, imports, or exports a controlled substance shall obtain a registration, and establishes the requirements for such registration. The CSA also includes provisions relating to the denial, revocation, or suspension of registrations. The international treaties require that the signatories allow trade and distribution of controlled substances only under license.

DEA manages and operates the registration and reregistration process for over 900,000 handlers of controlled substances. DCP personnel process an average of 300,000 renewal applications and 48,000 new applications per year. The process includes reviewing the forms, processing and accounting for the fees, entering the appropriate data into the registration system, obtaining corrections from applicants when appropriate, and referring the applications to the appropriate office for review of the applicant's qualifications and bona fides for registration. Applications for the bulk manufacture or importation of Schedule I and II controlled substances require the preparation of notices of application for publication in the **Federal Register**. New applications to conduct research with Schedule I controlled substances and for narcotic treatment programs must be evaluated and considered in conjunction with the Food and Drug Administration. Further, all new applications for registration must be examined and evaluated with the appropriate state authorities to ensure that the applicant has been granted the appropriate state authorization.

DCP personnel process over 150,000 requests per year from registrants for modification of registration (name, address, drug schedule changes, etc.), voluntary retirement of registration, or

for order forms; respond to over 10,000 telephonic inquiries per month from applicants and registrants regarding registration; respond to Freedom of Information Act and Congressional requests regarding registrant information; and prepare affidavits and certification statements regarding the registration status of DEA registrants and applicants for use in DEA hearings and other proceedings.

DCP personnel also prepare and distribute registrant information to other DEA elements, Federal, state and local regulatory personnel, and registrants for the purpose of confirming registrant status; and initiate studies and new systems to support and enhance the registration program.

Records and Reports

(21 U.S.C. 827, 828 AND 829—Records and Reports of Registrants; Order Forms; Prescriptions; 1961 CONVENTION, ARTICLES 19, 20, AND 30—Estimates of drug requirements, Statistical returns furnished to the Board; Trade and distribution; 1971 CONVENTION, ARTICLES 11, 16 AND 9—Records and Reports to be furnished by the parties; Prescriptions)

The CSA and international conventions provide for the maintenance of a system of records and accountability for controlled substances by authorized handlers. Registrants are required by the CSA to maintain records and inventories of controlled substances manufactured, received, distributed, dispensed, imported, exported, or otherwise disposed of; make such records available for inspection and copying; and make certain reports to the Attorney General (DEA).

Establishment and enforcement of the record-keeping and reporting provisions of the CSA and examination of the records to identify potential diversion constitute a substantial part of the DCP activities. With respect to records, program personnel conduct comprehensive cyclic investigations of registrants' records and inventories to ensure the integrity of the diversion control system. Investigations of registrants for failure to comply with the record-keeping and reporting provisions of the CSA are conducted and the appropriate administrative, civil, or criminal action is pursued. Additional discussion of these investigations can be found in the section relating to Enforcement Activities.

DCP personnel conduct a variety of duties utilizing various reports required to be submitted by registrants. As part of the closed system to control the manufacture, distribution and dispensing of controlled substances, registrants must make reports to DEA regarding the bulk or dosage form manufacture of all Schedule I and II controlled substances, all narcotic controlled substances in Schedules III–V, and certain psychotropic controlled substances in Schedules III and IV; and the repackaging and relabeling of and the distribution of all Schedule I and II controlled substances and all narcotic controlled substances in Schedule III. In addition, registrants must provide copies of order forms documenting the distribution of Schedule I and II controlled substances, excessive purchase and suspicious order reports, theft or loss reports, and reports of the disposal of controlled substances.

The order forms, excessive purchase, suspicious order, and theft or loss of reports are reviewed by DCP personnel, both on an individual basis and with reference to other reports that have been filed to determine whether further investigation is required. Theft or loss data are also electronically compiled and tracked to allow for identification of suspicious or unusual local, regional, or national trends in the theft or loss of controlled substances.

Manufacturing reports are reviewed by DCP personnel to determine if registrants are complying with quota requirements and to determine various trends and availability of substances. The information is then extracted and collated for domestic manufacturing reports required by the U.N. conventions.

DCP personnel receive and process over 9,500 reports per year regarding controlled substances distributions, commonly referred to as "ARCOS" reports, from approximately 1,400 registrants. The reports contain data regarding approximately 14,000,000 controlled substances transactions per year. Each report must be processed, corrected, and entered into the ARCOS system. From this, as mandated by the CSA, DEA operates a diversion targeting system for DEA and state and local officials. In addition, special reports regarding regional distribution and distributions to specific registrants are generated as needed.

Production Quotas

(21 U.S.C. 826—Production Quotas for Controlled Substances; 1961 CONVENTION, ARTICLE 21—Limitations on Manufacture and Importation; 1971 CONVENTION, ARTICLE 5—Limitation of use to medical and scientific purposes)

The CSA and international treaties require that DEA determine the total quantity of certain controlled substances that is necessary for medical, scientific, research, and industrial use in the U.S. and that the manufacture of such substances be limited accordingly through a system of production quotas.

In fulfilling this mandate, the DCP collects and analyzes information regarding the legitimate use, trafficking and abuse of Schedule I and II controlled substances in the U.S. from such sources as manufacturing and distribution reports, treatment and prescription utilization data, case data, drug abuse indicators, and HHS estimates of medical use. Based on the information collected, more than 1200 manufacturing and procurement quotas are established annually for Schedule I and II controlled substances. Aggregate production quotas are then determined for each basic class of controlled substance in Schedule I and II. Notices regarding the aggregate production quotas are provided to the **Federal Register** for publication. The DCP monitors the manufacture, utilization, trafficking and abuse of controlled substances against the quotas, processes requests for adjustments to specific quotas, and, where appropriate, drafts notices adjusting specific quotas for publication in the **Federal Register**. To facilitate the quota process, DCP staff also conduct training seminars for the industry. The DCP conducts domestic and international reviews of controlled substances utilization trends and coordinates with the UN control and scientific bodies regarding such trends, and prepares reports concerning the domestic manufacture of controlled substances.

Import and Export of Controlled Substances

(21 U.S.C. 952, 953, 954 AND 958—Importation of controlled substances; Exportation of controlled substances; Transshipment and in-transit shipment of controlled substances; 1961 CONVENTION, ARTICLE 31—Special provisions relating to international trade; 1971 CONVENTION, ARTICLE 12—Provisions relating to international trade)

The CSA and the international treaties require that controlled substance imports and exports be subject to registration requirements; be allowed only when necessary to provide for the medical, scientific, or other legitimate needs of the United States; and be subject to a system of permits or declarations for each individual importation or exportation. Further, the U.N. International Narcotics Control Board (INCB), which administers the international conventions, establishes annual "estimates" of the amount of

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Schedule I and II narcotic drugs that each country may import.

In addressing these requirements, the DCP operates a system of declarations and permits for imports and exports. Under this system, DCP personnel receive and examine requests for permission to import or export controlled substances to determine if they are in compliance with the CSA, the international treaties, and the laws of the country that is involved in the transaction. DCP personnel maintain records of all controlled substance imports and exports, and of international treaty and specific foreign country provisions relating to the import and export of controlled substances. DCP personnel also monitor all Schedule I and II narcotic imports and exports to insure that they are consistent with the legitimate needs of the United States and the INCB estimates. If an import or export appears inconsistent with legitimate need or will exceed the estimates, DCP personnel will examine the circumstances of the request to import or export. DEA will subsequently either pursue a course of action to comply with the international obligations or initiate proceedings to deny the request to import or export.

As required by the international conventions, DCP personnel prepare reports of controlled substances imports and exports for submission to the UN control bodies; provide support and assistance to foreign governments in the establishment and maintenance of import/export control programs; and coordinate with foreign authorities and the INCB in monitoring the international commerce of controlled substances.

International Activities

The registration and control of the manufacture, distribution, and dispensing of controlled substances is not restricted by domestic borders. The CSA's system of controls was not developed, and is not administered, parochially; it is part of a global system comprised of international laws and obligations designed to establish a consistent, worldwide structure of control of the manufacture, distribution, and dispensing of controlled substances to prevent the compromise of any country's systems of controls by preventing the diversion of pharmaceutical controlled substances from one country for abuse in another. The international treaties mandate that each party to the conventions shall establish a domestic program of controls relating to the registration and control of the manufacture, distribution (including import/export), and dispensing of controlled substances. The treaty provisions include requirements for licensure, scheduling, quotas, records and reports, import/export investigation, control and cooperation, prescriptions, penalties, and mutual assistance. The international community, through the International Narcotics Control Board and the Commission on Narcotic Drugs, continuously monitors the workings of the treaties and recommends and adopts resolutions to maintain the safeguards against trafficking, with which the United States is obliged to comply. The United States participates in the debates and discussions to insure that its interests are considered.

The United States' obligations under the conventions are recognized in the specific language of the CSA and the implementing regulations (see 21 USC 801, 801(a), 811(d)(1), 823(a) and 958(a), and 21 CFR 1307.02). Further, upon the United States becoming a signatory to the Psychotropic Convention, Congress acknowledged that before the Senate could ratify the convention, the CSA would have to be amended to bring it into compliance with the requirements of the convention, acknowledging that the conventions are an integral part of the United States' programs regarding the registration and control of the manufacture, distribution, dispensing, import, and export of controlled substances. By implementing the CSA and ratifying the international treaties, Congress recognized that a strong domestic program relating to the registration and control of the manufacture, distribution, dispensing, import, and export of controlled substances is inter-dependent on the establishment and maintenance of strong international controls.

In meeting the U.S. treaty obligations, the DCP participates in international policy activities, including the development and formulation of United Nations (UN) resolutions, position papers, other background documents, and briefing materials relating to controlled substances for use by U.S. delegations to several UN bodies. DCP personnel also participate in a number of international conferences and meetings related to drug control. For example, in Fiscal Year (FY) 1995 there were two such conferences which were organized, sponsored, and funded jointly by DEA and the European Union (EU): the first was held in Austria to improve the design and administration of, and cooperation regarding, controlled substance and chemical controls in the Commonwealth of Independent States (CIS) [the former Soviet Republics] which was attended by representatives from the CIS, EC and the INCB. The second conference was held in Istanbul regarding illicit drug traffic, the diversion of psychotropic substances, and chemical controls in the Middle East, which was attended by national authorities in the region, the EC, Interpol, and the INCB. The DEA share of the costs for these multi-topic conferences (approximately 50% of total conference cost) was split between the free account and appropriated funds in approximation to the subject matter covered. In FY 1995, DCP personnel also participated in the annual Commission on Narcotic Drugs meeting in Austria, a meeting with EC officials in Spain to discuss programs to control the manufacture and distribution of steroids, and an INCB drug training seminar for African drug control authorities regarding the establishment of effective national controls of the manufacture and distribution of controlled substances. The fee account expenditures for these activities totaled less than $150,000 in FY 1995.

In addition to those activities directly related to the administration of the controls under the international conventions, DCP personnel conduct conferences and operational initiatives with representatives from the appropriate foreign governments regarding specific controlled substances to provide and collect information regarding the use and abuse of the substances and, where necessary, to promote the strengthening of controls of the manufacture, distribution, dispensing, import, and export of the substances to prevent their diversion from international sources into the United States. Recent examples include meetings with officials of several European governments to discuss programs relating to pain management, the distribution and use of methylphenidate, narcotic treatment programs, and the medical use of marihuana, and meetings with officials in Colombia and Mexico regarding the manufacture and distribution of products containing flunitrazepam which are being illegally distributed and abused in the U.S.

The DCP compiles and analyzes information on the U.S. production and distribution of, and estimated needs for narcotic and psychotropic substances, as well as trafficking data, and prepares periodic reports for submission to the UN.

The above demonstrates the variety of international activities that fall within the purview of the Diversion Control Fee Account by virtue of the United States' obligations under the international conventions relating to the

registration and control of the manufacture, distribution, and dispensing of controlled substances. However, these activities, as funded through the fee account, are limited to those carried out by personnel assigned to domestic offices of DEA; expenses of diversion personnel assigned to overseas positions are funded by appropriated funds, not through the Diversion Control Fee Account, even though they may conduct activities in support of the DCP.

Enforcement Activities

(21 U.S.C. 841, 842, 843, 853, 875, 876, 878, 879, 880, 881, 883, 886, 960, 961, and Related Penalty and Enforcement Proceedings Sections—Penalties for violations of the CSA, and related enforcement proceedings; 1961 CONVENTION, ARTICLES 36 AND 37—Penal provisions; Seizure and Confiscation; 1971 CONVENTION, ARTICLE 22—Penal provisions)

The DCP has responsibility for monitoring, in large part through investigations, all activities related to legitimately manufactured substances for which registration is required or excepted and where those controls are circumvented or disregarded. As such, it initiates and conducts investigations of individuals and institutions which are suspected of violating the CSA or which undermine public confidence in the safety and authenticity of controlled substances found within pharmaceutical and health care channels. The targets and types of investigations conducted by the DCP pursuant to 21 U.S.C. 821 are identified below.

(1) Registrants and their agents or employees suspected of diverting controlled substances from legitimate channels;

(2) Persons who engage in the smuggling, theft, robbery and/or trafficking of pharmaceutical controlled substances, including, where appropriate, identifying and immobilizing their sources of supply, whether domestic or foreign, through enforcement of the controls relating to the manufacture, distribution, import, export, and dispensing of controlled substances;

(3) Persons, both registered and non-registered, who conduct controlled substances activities for which they do not have the required DOA or state authorization;

(4) Persons who obtain pharmaceutical controlled substances from registrants through fraud, deceit, or circumvention of the controls on manufacturing, distribution, or dispensing, i.e. fraudulent use of another person's DEA registration number to obtain controlled substances, doctor shoppers, prescription forgers, etc.;

(5) The trafficking by non-registrants in controlled substances which are fraudulently promoted as legitimate therapies (such as "herbal remedies" sold "under the counter" which actually contain a controlled substance);

(6) Persons who use their DEA registrations to assist in the diversion or misuse of controlled substances for other than medical purposes, such as health care fraud, self-abuse, trading controlled substances for non-medical purposes, etc.

A majority of the efforts of the field elements of the DCP is devoted to the investigation of manufacturing, distributing, dispensing, importing, and exporting activities under the requirements of the law and regulations and to collecting evidence and preparing material in support of administrative, civil, and criminal proceedings against violators. The investigations conducted by DCP personnel fall into three categories.

Pre-Registrant Investigations

The CSA requires that all individuals and institutions proposing to manufacture, distribute, or dispense controlled substances must obtain a registration from the Attorney General who is further authorized to inspect the establishment of a registrant or applicant for registration. DEA Diversion Investigators and registration personnel must insure that all applicants for registration and reregistration are authorized to conduct the activities for which they are applying within their jurisdiction. DEA Diversion Investigators are required to inspect the physical premises, interview appropriate applicant personnel, conduct employee background checks, and review record-keeping and security procedures for manufacturers, distributors, importers, exporters, and narcotic treatment programs to determine if the proposed registration is consistent with the public interest.

Cyclic Investigations

In exercising the controls of the CSA, DCP personnel conduct periodic investigations of all controlled substance manufacturers, distributors, importers, exporters, and narcotic treatment programs for the purpose of (1) ensuring that the registrants are complying with the requirements of the CSA by maintaining effective controls and procedures to prevent the diversion of controlled substances, and (2) detecting criminal or civil violations by such registrants or practices which undermine or neglect such controls. See 21 CFR 1316.01–1316.13. In the course of conducting such investigations, DCP personnel perform a wide variety of activities. These include taking a physical inventory of controlled substances; interviewing the appropriate registrant personnel; reviewing records relating to the receipt, distribution, and disposal of controlled substances; verifying transactions against the records of other registrants; reviewing manufacturing/distribution records and reports to ascertain their accuracy and validity; inspecting and testing the adequacy of physical and procedural safeguards to detect and deter diversion; identifying and pursuing questionable or illegal distributions; and collecting samples of controlled substances.

Complaint Investigations

Complaint investigations are those investigations that may result in an administrative, civil, or criminal complaint being filed against the subject for violations of the CSA or regulations. Complaint investigations are initiated upon information or evidence received from public sources, other law enforcement or regulatory personnel, or review of registrant records or reports, etc., that violations of the CSA have, or may have, occurred. DCP personnel undertake investigative activities to determine the type and extent of the violations, the identity of the violators, and the source and methods of diversion. The types of investigative activities performed include: audits of controlled substance records, examination and collection of related business records, prescription surveys, interviews and debriefings, undercover purchases of evidence, reviews of manufacturer/distribution records and reports, service of administrative inspection warrants and search warrants, and intelligence gathering and analysis.

The conduct of complaint investigations often involves cooperation and coordination with other Federal, state, and local law enforcement and regulatory officials and occasionally international officials. In some instances, investigations may also involve cooperation and coordination with members of the legitimate drug industry. Investigators, in conjunction with other agencies, evaluate and pursue evidence of health care fraud, falsification of records, and other crimes that can establish key elements of proof that controlled substance violations have occurred.

Upon completion of the investigation, a number of actions may be undertaken depending on the severity of the

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violations. The case may be referred to the United States Attorney's Office or State's Attorney for civil or criminal prosecution. Violators may be referred for an enforcement hearing pursuant to 21 U.S.C. 883 and 21 CFR 1316.31, at which the registrant is provided with details regarding alleged violations and afforded the opportunity to present his/her views and proposed actions to come into compliance with the law. The investigation may result in an administrative hearing, pursuant to a show cause order, to determine whether registration of the person should be revoked or denied.

Cooperative Efforts

(21 U.S.C. 801, 801a, 872, and 873—Congressional findings; Education and research programs of Attorney General; Cooperative Arrangements; 1961 Convention, Preamble; 1971 Convention, Article 21—Action against the illicit traffic)

DEA is not alone in the efforts to combat the diversion of controlled substances. There are related authorities regarding the control of the manufacture, distribution, dispensing, import, and export of controlled substances in other Federal, state, and local regulatory and law enforcement agencies. In addition, the national and local organizations representing the pharmaceutical and health care industry actively participate in diversion control efforts. Internationally, there are foreign government agencies and international organizations, such as the United Nations International Narcotics Control Board and the Drug Control Program which administer the requirements of the international conventions; the World Health Organization, which is involved with international drug scheduling matters; and Interpol which helps coordinate international law enforcement activities directed against the international traffic in licitly produced controlled substances, committed to the establishment and maintenance of consistent international control of the manufacture, distribution, and dispensing of controlled substances. The CSA and the international treaties, recognizing the need for a coordinated effort against diversion, demand cooperative efforts between the interested parties.

As noted, the DCP engages in extensive cooperative efforts with other officials involved in diversion control activities. DCP personnel meet regularly with state and local law enforcement and regulatory personnel to share information, identify areas of concern, and coordinate joint initiatives and investigations. DCP personnel also provide special training regarding controlled substances diversion to local regulatory and law enforcement personnel and hold a national conference regarding the control and diversion of controlled substances approximately every 24 months, to which regulatory and law enforcement administrators from each state and territory are invited. DCP personnel also engage in a variety of activities with UN bodies, international organizations, and foreign governments in meeting the U.S. responsibilities under the international conventions.

In addition to its activities with other law enforcement and regulatory agencies, the DCP maintains an active program of liaison with the pharmaceutical industry. DCP activities in this area include scheduling biannual workgroup meetings with five different industry groups (manufacturers, distributors, pharmacies, practitioners, and mid-level practitioners) and a national industry conference held approximately every 24 months, which is attended by representatives from the national associations representing the controlled substances industry and by individual registrants. DCP personnel also prepare and conduct training sessions at universities for medical and pharmacy students, make presentations to industry conferences and meetings, participate in the development of pharmacy certification examinations; and draft for publication articles regarding the controlled substances laws and programs.

To assist registrants in understanding and complying with the controlled substances laws, DCP personnel create informational manuals (Pharmacist's Manual, Practitioner's Manual, Mid-Level Practitioner's Manual, and the Security Outline to the Controlled Substances Act) which are distributed to registrants. Where new laws or regulations require, specific guides and informational circulars are prepared and made available to the affected parties. DCP personnel also meet directly with individual registrants to provide information and assistance regarding the controlled substances laws.

New Initiatives

Since publication of the proposed rule in 1993, DEA has established two new initiatives, the National Forensic Laboratory Information System (NFLIS) and the Tactical Diversion Squads (TDS), which were not previously identified in the rulemaking. Each of these initiatives will enhance the DCP's ability to administer and enforce the program relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances, and investigate and act against persons who would violate those controls, as discussed above. Congress has been notified of these new initiatives and has approved funding for them.

The collection of accurate and validated data concerning the abuse of controlled substances and the scientific review of actual or potential drugs of abuse is a necessary function for scheduling controlled substances, setting quotas for manufacturing levels, and to provide more effective leadership in establishing drug policy under the CSA. The NFLIS will provide in a single system information from analyzed drug evidence associated with criminal activity collected from non-Federal forensic laboratories across the country. That information must currently be obtained by separate contacts with individual laboratories across the country. The system will also enhance the investigative ability of DCP personnel by allowing efficient and quick identification of local, regional, and national division and abuse trends and distribution patterns of diverted and abused controlled substances.

The TDS program is a modernization of a program that was operated in the late 1970's and early 1980's in as many as 24 states in a form designed to address present diversion trends. DEA has received approval to fund the formation of two enforcement teams consisting of Federal, state, and local law enforcement personnel fully dedicated to the investigation and prosecution of persons involved in the diversion of controlled substances from legitimate manufacturing, distributing, and dispensing sources. The program will allow the unification of separate, and sometimes disparate, Federal, state, and local information, authorities, and enforcement programs; provide State and local law enforcement authorities with assistance in developing more effective enforcement programs against diversion; and help coordinate the various jurisdictional responsibilities of agencies that otherwise may hinder investigations and prosecutions of those involved in the diversion of controlled substances. Funding has also been provided to establish another 2 to 3 TDS's in 1997.

Budget and Appropriations

In order to accomplish the mandates of the CSA and the international treaties, Congress in past years authorized and appropriated funds within the "Diversion Control Decision Unit" of the DEA Salaries and Expenses Appropriation. The President's annual budget request to Congress contained

proposed appropriations for the Department of Justice, including the DEA. DEA's budget requests are required to meet OMB policy guidelines for budget preparation. [OMB Circular No. A–11]

Once Congress and the President approve the appropriation level, funds are made available from the appropriate source in the U.S. Treasury. Prior to fiscal year 1993, registration fees collected under the CSA were deposited into the general fund of the U.S. Treasury. Prior to fiscal year 1993, registration fees collected under the CSA were deposited into the general fund of the U.S. Treasury and scored to DEA's Salaries and Expenses Appropriation. [31 U.S.C. 3302; 21 U.S.C. 821; OMB Circular No. A–25 (1959)].

On October 6, 1992, the President signed the Departments of Commerce, Justice and State, the Judiciary and Related Agencies Appropriations Act of 1993, Pub. L. No. 102–395, 102d Cong. 2d Sess., 106 Stat. 1828, 1835 (1992) ("Appropriations Act") (DEA Salaries and Expenses Appropriation). Section 111(b) of the Appropriations Act established in the U.S. Treasury, for fiscal year 1993 and thereafter, a separate account, to be known as the Diversion Control Fee Account. The Appropriations Act directed that "[n]otwithstanding [a]ny [o]ther [p]rovision of [l]aw * * *] fees charged by the Drug Enforcement Administration under its Diversion Control Program shall be set at a level that ensures the recovery of the full costs of operating the various aspects of that program". Congress specified that the amount "required to be refunded" to DEA from the Diversion Control Fee Account for fiscal year 1994 and thereafter "shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years".

For fiscal year 1993, in order to provide the opportunity to establish and implement a new fee structure to meet the legislative requirement, Congress appropriated funds, as it had in past years, for the DCP from the general fund of the U.S. Treasury, less $12 million. The $12 million was to be funded through increased CSA registration fees established as a result of the creation of the Diversion Control Fee Account in 1993. Congress further directed in the Appropriations Act that "[a]ny proposed changes in the amounts designated in said budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate fifteen days in advance".

The fiscal year 1997 resources for the DCP, as authorized by Congress, include 598 full-time employees charged with the responsibility for overseeing the activities of one of the largest pharmaceutical industries in the world to ensure controlled substances are manufactured, imported, exported, distributed, and dispensed for legitimate medical and scientific reasons.

These resources includes a staff of Diversion Investigators, Special Agents, Administrative Law Judges, program analysts, pharmacologists, chemists, information systems specialists, registration assistants, examiners, and management and support staff assigned to field offices across the country and assigned to DEA Headquarters. Overhead and program expenses include salaries and employee benefits (retirement, health and life insurance); travel; rent and utilities; equipment and supplies, including vehicles, computers, communications, furniture, etc.

In the overall Budget process, the estimated cost per full time employee is based on a module which includes salary and overhead items. Modular costs are part of the specific Congressionally approved positions, as they are with the positions within the rest of the DEA Budget. For example, when Congress authorized 588 positions for the DCP in 1994, included therein are the modular costs of maintaining those positions (such as rent, equipment, per diem and travel, background investigation costs, etc.)

There are separate DEA activities which support the DCP, but are covered elsewhere in the DEA Salaries and Expenses Budget and are therefore not supported by CSA Registration Fees. Examples of this include: Support provided by the Attorneys in DEA's Office of Chief Counsel Diversion/ Regulatory Section; laboratory Services support; DEA Automated Data Processing systems support (except ARCOS and CSA); Office of Training staff, DEA Management and Administrative support; Office of Congressional and Public Affairs; Intelligence Support and Diversion Investigators assigned overseas.

Resources not initially identified in the 1993 **Federal Register** establishing the fee (57 FR 60,148 and 58 FR 15,272) which have been subsequently approved and funded through CSA registration fees as part of the above discussed DCP components include: (1) Congressional approval in FY 1994 for 11 Special Agents to enforce the Anabolic Steroid Control Act; (2) Transfer of 7 positions and associated costs previously provided for in the DEA Salaries and Expenses Budget for operation of the ARCOS and CSA data systems—these systems exist at DEA solely to support the DCP; (3) Authorization to establish a National Forensic Laboratory Information System (as discussed above); (4) Authorization to expand assistance and cooperation with state and local law enforcement with the establishment of Tactical Diversion Squads (as discussed above).

While DEA's budget is formulated, reviewed, and approved on an annual basis, the majority of DEA registrations, from which the fees to fund DCP activities are derived, are issued for a three year term. Further, the registrant population is not evenly distributed across the three year registration cycle; current figures indicate approximately 320,103 renewals will be received for October 1996 to September 1997, 305,200 renewals for October 1997 to September 1998, and 290,698 for October 1998 to September 1999. Thus, attempting to calculate the fee on an annual basis would preclude a uniform application of the costs of the DCP for each year across either the entire registrant population or the registrants that would renew in each of the individual years. Either a return to a one year registration term for all registrants or a multi-year fee schedule would be necessary.

Rather than establish an annual registration, which would impose an enormous burden on both the registrants and DEA, a fee schedule which averages income over three years was adopted. Use of the three year fee schedule allows for (1) uniform application of fees necessary to cover the costs of the DCP across the entire registrant population, (2) accommodation of such factors as inflation and an uneven number of registration renewals in each of the individual years, and (3) minimizing the administrative burden associated with frequent adjustment to the fee schedule. Use of a multi-year cycle does, however, require that estimated fee collection and funding authorization figures be used in calculating the fees.

During the transition to the Diversion Fee Account (DFA) system in FY 93, funding was provided from the general fund in the United States Treasury to cover the period leading up to the implementation date of the DFA. Because the rule implementing the Diversion Fee Account system became effective two months early, a $7 million surplus resulted. Additional surplus funds have accrued as a result of DEA estimates of the costs of the program, as reflected in the Congressional Budget Authorization, that were greater than the actual expenses, in part due to

hiring constraints within DEA that resulted in a diversion investigator vacancy rate of between 50 and 70 positions from 1993 to present; and DEA estimates of fee income that were less than the actual income. As a result, the DFA surplus was 45 million dollars as of September, 1996.

While some surplus in the DFA is necessary to cover the variations in the fees collected each year and the need for some carry-over funds from one fiscal year to the next, the current surplus exceeds the amounts necessary to insure the fiscal continuity of the DCP. However, the surplus will delay the need for any fee increases for a number of years; based on out-year projections for collections and appropriations, the surplus will begin to be drawn down in FY 98 and will be exhausted by FY 2001.

Conclusion

In sum, DEA is mandated to maintain a multi-faceted endeavor encompassing scientific, cooperative, regulatory, criminal, and international programs to prevent the diversion of controlled substances to illicit uses. The DCP has been authorized and has served for the past 25 years as an effective vehicle for carrying out these mandates. Creation of the Diversion Control Fee Account in 1993 altered the funding mechanism of the program, but not its duties, objectives, or priorities.

The Acting Deputy Administrator of the Drug Enforcement Administration hereby certifies that this rule will not have a significant economic impact upon entities whose interests must be considered under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The majority of DEA registrants are practitioners, pharmacies, and hospital/clinics, for whom the annual impact of the fee increase is $50.00 per registrant. Further, the total annual impact of the fee increase for the entire registrant population is less than $50 million. However, consistent with the principles of the Regulatory Flexibility Act, DEA gave consideration to alternative approaches to the fee schedule.

Since 1971, the CSA has permitted the Attorney General to collect fees relating to the registration and control of the manufacture, distribution, import, export and dispensing of controlled substances (21 U.S.C. 821 and 958). DEA and its predecessor agency have collected such fees pursuant to a schedule based upon the five basic activities cited in the law. That fee schedule was proposed for public comment as part of the regulations to implement the CSA which were finalized in 1971. The ration of fees was: A distributor's fee is 50% of the manufacturer's fee and a dispenser's fee is 16–20% of the distributor's fee. The fee ratios have remained consistent for the past 25 years and have not been the subject of any substantive comment or objection by the regulated industry.

The **Federal Register** notice proposing the new fee structure (57 FR 60148, December 18, 1992) specifically noted that this fee schedule was to be continued since the administrative structure to collect it was well established and operating efficiently. There were no practical or substantive alternative proposals submitted on the record regarding the fee structure. Individual interest groups questioned the possibility of alternative structures after the rule was finalized.

In reaching the decision to propose the existing fee ratio as the basis for establishing the new fees, several alternatives were discussed by DEA, including:

(1) Establish a fee based on volume of drugs handled by individual registrants. This was rejected as impractical on several grounds: (a) DEA has no way of determining the volume handled; (b) the volume changes due to a variety of market, health care, and competition issues, thus requiring frequent modification of individual fees; and (c) DEA would be unable to budget due to income fluctuations.

(2) Establish a fee based upon DEA work hours expended per class of registrant. This was rejected as impractical because: (a) Work hours vary from year to year based upon particular drug problems, identification of violative firms, political or mandated priorities, travel restrictions, and many other factors; (b) due to the degree of control established over the past years, less work hours are currently expended at the wholesale level than at the retail level; however indications of diversion at the wholesale level will always receive priority attention. Therefore, this measure would fluctuate year to year, causing an administrative burden on both the registrants and DEA due to frequent fee modifications.

(3) Establish a different fee for various types of practitioner activities (i.e., hospital, medical doctor, dentist, veterinarian, narcotic treatment program, teaching institution). Again , this was rejected as impractical because: (a) Many of the same issues in items 1 and 2 above apply equally; (b) a new administrative system to handle 8–10 registration categories, rather than five, would have to be created, with attendant costs of computer programming, staffing, form design, printing, inventory, etc.; and (c) an entirely new system of criteria would have to be developed to distinguish between categories (i.e., a general practice dentist may prescribe less than a general practice M.D., but an oral surgeon may prescribe more; a small rural hospital/clinic my utilize less controlled substances than an M.D. specialist in cancer treatment).

(4) Charge for Order Forms (DEA 222) used to order Schedule II drugs. This was impractical because: (a) A substantial number of registrants are not registered for Schedule II so an additional fee system would have to be used for registrants in Schedules III–V; and (b) order form volume is not reflective of activity, i.e., practitioners who prescribe rather than dispense do not use many order forms.

Therefore, although various options were considered, none offered a feasible alternative, each would require the establishment of complex, labor-intensive, expensive new programs (the cost of which would be borne by the registrants) with complicated fee schedules that would be difficult to understand and administer. The existing fee structure, which is operating efficiently and is well understood by the registrant population, remained the most suitable choice.

This document has been drafted and reviewed in accordance with Executive Order 12866. The Acting Deputy Administrator of the Drug Enforcement Administration has determined that this is not a significant action under the provisions of Executive Order 12866, section 3(f); accordingly this rule has not been reviewed by the Office of Management and Budget. This action involves the implementation of non-discretionary mandate under the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act of 1993 (Pub. L. 102–395), the annual impact of which is less than $100 million.

This action has been analyzed in accordance with the principles and criteria contained in E.O. 12612, and it has been determined that the rule has no implications which would warrant the preparation of a Federalism Assessment.

Dated: December 20, 1996.

James S. Milford,

Acting Deputy Administrator, Drug Enforcement Administration.

[FR Doc. 96–32953 Filed 12–27–96; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF STATE

Bureau of Political-Military Affairs

22 CFR Part 121

Amendment to the International Traffic In Arms Regulations

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule amends the International Traffic in Arms Regulations by removing from the U.S. Munitions List (USML), for transfer to the Department of Commerce's Commerce Control List (CCL), all cryptographic items except those specifically designed, developed, configured, adapted, or modified for military applications (including command, control and intelligence applications).

EFFECTIVE DATE: December 30, 1996.

FOR FURTHER INFORMATION CONTACT: Rose Biancaniello, Office of Defense Trade Controls, Department of State, Telephone (703) 812–2568 or FAX (703) 875–6647 ATTN: Regulatory Change, Cryptographic Items.

SUPPLEMENTARY INFORMATION: On October 1, 1996, the Administration announced a decision to transfer from the USML to the CCL all cryptographic items designated in USML Category XIII(b), except those specifically designed, developed, configured, adapted, or modified for military applications (including command, control and intelligence applications). New control procedures and regulations have been developed for the CCL that will provide for strong national security and foreign policy controls to all destinations and end users worldwide for these items. Enhanced interagency review of CCL licenses for these items has been established. This decision does not result in the decontrol of any of these items.

In order to ensure an orderly transition, the Department of Commerce is providing special authorization in a revision to the Export Administration Regulations being published in parallel with this amendment for U.S. persons to ship the remaining balances of outstanding USML licenses and to continue to carry-out overseas activities authorized by other approvals (e.g., distribution agreements), without applying for a new Department of Commerce license, through filing of Shippers' Export Declarations (SEDs) with District Directors of Customs and direct reporting to the Department of Commerce on previously authorized distribution activities. U.S. persons are advised to consult the Department of Commerce's EAR publication for details. Therefore, effective upon the date of this publication, all USML licenses and other approvals issued by the Department of State, in accordance with ITAR, for Category XIII(b) items being removed from the USML are no longer valid.

In carrying out the decision, Category XIII(b) of the USML is amended.

This amendment involves a foreign affairs function of the United States and, thus, is excluded from the procedures of Executive Order 12866 (68 FR 51735) and 9 U.S.C. 553 and 554. However, interested parties are invited to submit written comments to the Department of State, Office of Defense Trade Controls, ATTN: Regulatory Change, Cryptographic Items, Room 200, SA–6, Washington, DC 20520–0602.

List of Subjects in 22 CFR Part 121

Arms and Munitions, Exports.

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, Part 121, is amended as follows:

PART 121—THE UNITED STATES MUNITIONS LIST

1. The authority citation for Part 121 continues to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90–629 Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); E.O. 11958, 42 FR 4311; 22 U.S.C. 2658.

2. In § 121.1, Category XIII(b) is revised to read as follows:

§ 121.1 General. The United States Munitions List.

* * * * *

Category XIII—Auxiliary Military Equipment

* * * * *

(b) Military Information Security Systems and equipment, cryptographic devices, software, and components specifically designed or modified therefor (i.e., such items when specifically designed, developed, configured, adapted or modified for military applications (including command, control and intelligence applications)). This includes:

(1) Military cryptographic (including key management) systems, equipment, assemblies, modules, integrated circuits, components or software with the capability of maintaining secrecy or confidentiality of information or information systems, except cryptographic equipment and software as follows:

(i) Tracking, telemetry and control (TT&C) encryption/decryption when embedded in a commercial communications satellite identified in ECCN 9A004a of the Export Administration Regulations; embedded means that the device or system cannot feasibility be removed from the satellite and that it cannot be used for other purposes.

(2) Military cryptographic (including key management) systems, equipment, assemblies, modules, integrated circuits, components of software which have the capability of generating spreading or hopping codes for spread spectrum systems or equipment.

(3) Military cryptanalytic systems, equipment, assemblies, modules, integrated circuits, components or software.

(4) Military systems, equipment, assemblies, modules, integrated circuits, components or software providing certified or certifiable multi-level security or user isolation exceeding class B2 of the Trusted Computer System Evaluation Criteria (TCSEC) and software to certify such systems, equipment or software.

(5) Ancillary equipment specifically designed or modified for paragraphs (b)(1), (2), (3), and (4) of this category.

* * * * *

Dated: December 23, 1996.

Lynn E. Davis,

Under Secretary of State for Arms Control and International Security Affairs.

[FR Doc. 96–33010 Filed 12–26–96; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8702]

RIN 1545–AT42

Certain Transfers of Domestic Stock or Securities by U.S. Persons to Foreign Corporations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to certain transfers of stock or securities of domestic corporations by United States persons to foreign corporations pursuant to the corporate organization, reorganization, or liquidation provisions of the Internal Revenue Code. These final regulations modify the rules contained in the temporary regulations to reflect certain taxpayer comments received in response to those temporary regulations. This

action is necessary to provide the public with guidance to comply with the Tax Reform Act of 1984.

DATES: These regulations are effective January 29, 1997. For dates of applicability of these regulations, see § 1.367(a)–3(c)(11).

FOR FURTHER INFORMATION CONTACT: Philip L. Tretiak at (202) 622–3860 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545–1478. Responses to these collections of information are required in order for U.S. shareholders that transfer stock or securities in section 367(a) exchanges to qualify for an exception to the general rule of taxation under section 367(a)(1).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The estimated one-time burden per respondent: 10 hours.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

On May 16, 1986, temporary and proposed regulations under sections 367 (a) and (d) and section 6038B were published in the **Federal Register** (51 FR 17936). These regulations were published to provide the public with guidance necessary to comply with changes made to the Internal Revenue Code by the Tax Reform Act of 1984. The IRS and the Treasury Department later issued Notice 87–85 (1987–2 C.B. 395), which set forth substantial changes to the 1986 regulations, effective with respect to transfers occurring after December 16, 1987. A further notice of proposed rulemaking, containing rules under section 367(a), as well as under section 367(b), was published in the **Federal Register** on August 26, 1991 (56 FR 41993). The 1991 proposed section 367(a) regulations were generally based upon the positions announced in Notice 87–85, but the regulations made certain modifications to Notice 87–85, particularly with respect to transfers of stock or securities of foreign corporations. Subsequently, the IRS and the Treasury Department issued Notice 94–46 (1994–1 C.B. 356), announcing modifications to the positions set forth in Notice 87–85 (and the 1991 proposed regulations) with respect to transfers of stock or securities of domestic corporations occurring after April 17, 1994.

Most recently, temporary and proposed regulations were published in the **Federal Register** on December 26, 1995 (60 FR 66739 and 66771). The temporary regulations, which are generally effective for transfers occurring after April 17, 1994, but cease to be effective when the final regulations take effect, generally incorporated the positions announced in Notice 94–46, with certain modifications. These final regulations generally follow the rules set forth in the temporary regulations, with changes as described below.

Explanation of Provisions

Section 367(a)(1) generally treats a transfer of property (including stock or securities) by a U.S. person to a foreign corporation in connection with an exchange described in section 332, 351, 354, 356 or 361 as a taxable exchange unless the transfer qualifies for an exception to this general rule.

Rules that address transfers of stock or securities of domestic corporations are contained in the final regulations described herein. Rules that address transfers of stock or securities of foreign corporations under section 367(a) are contained in Notice 87–85.

The final regulations retain the general rules set forth in the temporary regulations, which provide that a U.S. person that exchanges stock or securities in a U.S. target company (UST) for stock of a foreign corporation (the transferee foreign corporation (or TFC)) in an exchange described in section 367(a) will qualify for nonrecognition treatment if certain reporting requirements are satisfied and each of the following conditions is met:

(i) U.S. transferors must receive no more than 50 percent of the voting power and value of the stock of the TFC in the transfer (*i.e.*, the 50-percent ownership threshold is not exceeded);

(ii) U.S. officers, directors and 5-percent or greater shareholders of the U.S. target must not own, in the aggregate, more than 50 percent of the voting power and value of the TFC immediately after the transfer (*i.e.*, the control group case does not apply);

(iii) The U.S. person (exchanging U.S. shareholder) either must not be a 5-percent transferee shareholder immediately after the transfer or, if the U.S. person is a 5-percent transferee shareholder, must enter into a 5-year gain recognition agreement (GRA) with respect to the UST stock or securities it exchanged. (Without such GRA, the transfer by the 5-percent transferee shareholder will not qualify for nonrecognition treatment; however, transfer by other U.S. transferors not subject to the GRA requirement may qualify if all other requirements are met.); and

(iv) The active trade or business requirement must be satisfied.

If one or more of the foregoing requirements is not satisfied, the transfer by the U.S. person of stock or securities of a domestic corporation in exchange for stock of a TFC is taxable under section 367(a).

In response to suggestions from commentators, however, the final regulations make a number of modifications to the temporary regulations, principally in two areas: (i) the treatment of transfers of "other property" in the context of the 50-percent ownership threshold requirement, and (ii) the active trade or business requirement.

Transfers of "Other Property"

Under the temporary regulations, if U.S. transferors receive more than 50 percent of the stock (by vote or value) of the TFC, the 50-percent ownership threshold is exceeded and the transfer is taxable under section 367(a)(1). The temporary regulations define a "U.S. transferor" as a U.S. person who transfers (directly, indirectly or constructively) stock or securities of the U.S. target company or "other property" for stock of the TFC in an exchange described in section 367. Persons who transfer U.S. target company stock or other property are presumed to be U.S. persons.

The inclusion of "other property" in the class of tainted transferred property was designed to prevent the avoidance of the 50-percent ownership threshold through "stuffing" transactions. For example, assume that FC, a foreign corporation, and UST, an unrelated U.S. corporation, seek to combine their

operations in a new foreign joint venture company (JV). The shareholders of each company will transfer their respective stock interests in UST and FC to JV in a transaction that would qualify as a section 351 exchange unless the transaction was taxable under section 367(a)(1). Assume that FC has all foreign shareholders. The value of the stock of UST is 550x; the value of the stock of FC is 450x. Because UST is more valuable than FC, UST's shareholders would receive more than 50 percent of JV's stock. Consequently, even if the transaction would otherwise qualify for an exception to the general rule of taxation under section 367(a)(1), the transaction would be taxable because the 50-percent ownership threshold would be exceeded. If, however, a U.S. person (X) contributed at least 100x in cash (or property) to JV, JV would not issue more than 50 percent of its stock to the UST shareholders, and, therefore, the 50-percent ownership threshold would not be exceeded. The temporary regulations, however, treat X as a U.S. transferor, so that the 50-percent ownership threshold would be exceeded in this case.

Commentators have pointed out that the term "other property" raises issues in the joint venture context that are broader than the "stuffing" example described above. Because the term "other property" is broad enough to include stock of a foreign company, the transfer of UST stock could be taxable under section 367(a)(1) even if UST were less valuable than the foreign "target" company (i.e., in cases where U.S. transferors would receive less than 50 percent of the stock of the joint venture company/TFC). Assume similar facts as in the earlier example, except that FC is widely-held and the shareholders of UST receive 40 percent of the stock of JV, while the shareholders of FC receive the remaining 60 percent. No cash or any other property is transferred to the JV. In such case, if the stock of FC constitutes "other property," UST shareholders would not qualify for an exception to section 367(a)(1) if they were unable to prove that the U.S. shareholders of FC, if any, received no more than 10 percent of the stock of JV in the exchange.

Although the IRS and the Treasury Department remain concerned with "stuffing" transactions, the final regulations consider the active trade or business test to be the primary safeguard for preventing tax-motivated transactions from qualifying for an exception under these section 367(a) regulations. In particular, because the active trade or business test addresses "stuffing" transactions that occur within the 36-month period prior to the acquisition, the final regulations eliminate consideration of transfers of other property with regard to the 50-percent ownership threshold. Thus, any TFC stock received by U.S. persons in exchange for transfers of other property will not be taken into account in determining whether the 50-percent ownership threshold is exceeded.

Active Trade or Business Test: In General

The final regulations modify the "active trade or business" requirement that must be satisfied for a U.S. transferor to qualify for an exception to the general rule of taxability under section 367(a)(1).

Under the requirement contained in the temporary regulations, no exception under section 367(a)(1) is available unless (i) the TFC or an affiliate was engaged in an active trade or business for the entire 36-month period prior to the exchange (the 36-month test), and (ii) such business was substantial in relation to the business of the U.S. target company (the substantiality test). For this purpose, an affiliate is generally defined by reference to the rules in section 1504(a) (without the exclusion of foreign corporations).

The active trade or business test under the final regulations includes (i) a modified 36-month test, (ii) a new anti-avoidance rule requiring that the transaction not be undertaken with an intention that the TFC cease its active trade or business, and (iii) a modified substantiality test. The final regulations make a number of other modifications and clarifications to the active trade or business test. For example, the final regulations permit the TFC to consider only an 80-percent owned foreign subsidiary (referred to as a "qualified subsidiary"), and not an affiliate, to satisfy the active trade or business test on its behalf.

Active Trade or Business Test: 36-Month Test and Intent Test

Under the 36-month test contained in the temporary regulations, the TFC or an affiliate is required to be engaged in an active trade or business for the entire 36 months immediately preceding the date of the transfer. Under the final regulations, this test can be satisfied by acquired businesses that have a 36-month operating history, unless they are acquired with the principal purpose of satisfying the active trade or business test.

In addition to the 36-month test, the active trade or business test in the final regulations contains a requirement that the transaction not be undertaken with an intention that the TFC cease its active business. The IRS and the Treasury Department believe that if a TFC with a 36-month active business history does not intend to maintain such business, but is only used as a vehicle to acquire the UST, an "inversion" transaction rather than a synergy of two businesses has been effected.

Under the temporary regulations, there is uncertainty as to whether an affiliate of a newly-formed TFC can satisfy the active trade or business test on behalf of the TFC for the (36-month) period prior to the exchange. Subject to a stuffing rule, the final regulations clarify that, for purposes of determining whether a TFC satisfies the 36-month test, the TFC may take into account an active business of a company that is a qualified subsidiary immediately after the transaction, even if such company was not a qualified subsidiary for all or part of the 36 months prior to the transaction. Thus, for example, if the TFC is a new foreign joint venture company, it will not be disqualified from satisfying the active trade or business test solely because its qualifying active trade or business was engaged in by a qualified subsidiary whose stock is received in the exchange.

Under the temporary regulations, it is unclear whether a newly-formed joint venture TFC could satisfy the active trade or business test if, in the transaction, it received both stock of a UST (from U.S. transferors) and an active trade or business (*i.e.*, a foreign branch) that had been operating for at least 36 months prior to the exchange (from foreign transferors). This uncertainty arose because the active trade or business test in the temporary regulations required that either the TFC or an affiliate satisfy the 36-month requirement. Although the temporary regulations did not intend to establish a preference for transfers of stock (*i.e.*, affiliates) vis-a-vis assets, the temporary regulations did not expressly provide that a TFC could utilize a newly-transferred foreign branch to satisfy the TFC's active trade or business requirement.

The final regulations clarify that, subject to a stuffing rule, the TFC may satisfy the active trade or business test if it receives in the exchange foreign assets that constituted an active trade or business during such 36-month period.

Active Trade or Business Test: Qualified Subsidiaries

The final regulations permit a TFC to take into account only qualified subsidiaries, rather than affiliates, to satisfy the active trade or business test.

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This aspect of the active trade or business test has been narrowed because the IRS and the Treasury Department do not believe that a TFC should satisfy the active trade or business exception merely because its parent company (or an affiliate of the parent company) is engaged in an active trade or business.

For example, assume that foreign parent (FP), which is engaged in an active business outside the United States (either directly or through a subsidiary), forms a foreign subsidiary (FS) and contributes cash to FS. Shareholders of a U.S. target company (UST) then transfer all of the stock of UST in exchange for 20 percent of the stock of FS in a transaction described in sections 368(a)(1)(B) and 367(a). If FS is permitted to satisfy the active trade or business test by taking into account FP's business, UST has effectively "gone offshore" in an inversion transaction. Because the shareholders of UST receive stock of FS (which is the TFC), and not FP, such shareholders will have no interest in FP's active business. In contrast, if the shareholders received stock of FP in an exchange described in section 367(a), such persons would participate in FP's active business, and the active trade or business test under the final regulations would be satisfied.

Active Trade or Business Test: Partnership Interests

The temporary regulations did not address whether the TFC could satisfy the active trade or business requirement by taking into account an interest in a partnership engaged in an active trade or business.

The final regulations permit a TFC (or a qualified subsidiary) to take into account the active trade or business engaged in outside the United States by any qualified partnership as there defined.

Active Trade or Business Test: Substantiality Test

Under the temporary regulations, the second prong of the active trade or business requirement is the substantiality test. The active trade or business of the TFC is required to be "substantial" vis-a-vis the active trade or business of the UST, but the temporary regulations do not define substantiality.

The final regulations modify the substantiality requirement. Under the final regulations, the substantiality test no longer compares the active trade or business of the TFC vis-a-vis the UST. Instead, it requires that the entire value of the TFC be at least equal to the entire value of the UST at the time of the transaction. However, for this purpose, the value of the TFC may include the value of assets (including stock) acquired within the 36-month period prior to the transaction only if (i) such assets were acquired in the ordinary course of business, or (ii) such assets (or their proceeds) do not produce and are not held for the production of passive income (as defined under section 1296(b)), and were not acquired with the principal purpose of satisfying the active trade or business test. A special rule applies if the asset acquired by the TFC in the 36-month period prior to the exchange is stock of a qualified subsidiary or qualified partnership engaged in an active trade or business. In such case, the value of the stock or partnership interest may be taken into account, but must be reduced in accordance with the principles described above.

When formulating the substantiality test under the final regulations, the IRS and the Treasury Department considered and rejected other alternatives considered to be more complex and burdensome for taxpayers. For example, a comparison of the active business of the TFC vis-a-vis the active business of the UST for the 36-month period prior to the acquisition, taking into account the property, payroll and sales of the two companies, was considered and rejected.

Indirect and Constructive Transfers

One commentator suggested that the IRS clarify the definition of "U.S. Transferor" contained in the temporary regulations, which refers to a U.S. person who transfers "directly, indirectly or constructively" UST stock or other property. The IRS and the Treasury Department believe that the reference to "direct, indirect and constructive" transfers may have been unclear and, thus, the final regulations delete such reference. Such technical modification does not modify the substantive law in which indirect and constructive transfers may be treated as transfers subject to section 367(a)(1) (see § 1.367(a)–1T(c)(2) with respect to the "indirect" stock transfer rules; constructive transfers include, but are not limited to, section 367(a) transfers that result from section 304 transactions and section 367(a) transfers that result from a change in classification of an entity from a foreign partnership to a foreign corporation).

GRA Term

Under the temporary regulations, a 5-percent transferee shareholder is required to file a GRA. The duration is 5 years if all U.S. transferors own less than 50 percent of the total voting power and total value of the TFC stock immediately after the transfer. The duration of the GRA is 10 years if the U.S. transferors own 50 percent or more of the TFC stock immediately after the transaction, or if the 5-percent transferee shareholder is unable to prove that all U.S. transferors own less than 50 percent of the total voting power and total value of the TFC immediately after the transfer. Thus, in determining whether a 5- or 10-year GRA is appropriate, the temporary regulations take into account cross-ownership (*i.e.*, consideration of stock owned independently of the transaction) by all U.S. transferors, and contain a presumption that a 10-year GRA is required.

For example, assume that UST shareholders receive 30 percent of the stock of the TFC in a nonrecognition transaction that qualifies for an exception under section 367(a). Assume further that one UST shareholder, X, a U.S. person, transfers stock of UST in the section 367(a) exchange and owns 5 percent of the TFC after the transaction. Under the temporary regulations, X is required to file a 10-year GRA unless X can prove that all U.S. transferors in the aggregate own less than 50 percent of the voting power and value of the TFC immediately after the transfer (taking into account the 30 percent received in the transaction by U.S. target shareholders plus any other stock that such persons may own independently of the transaction). If the companies are publicly traded or widely held, it is burdensome and may be impractical for X to rebut the presumption that U.S. transferors own 50 percent or more of the TFC stock.

In response to comments received and in the interest of simplification, the final regulations provide that any 5-percent transferee shareholder that is required to file a GRA upon the transfer of domestic stock or securities is required to file a 5-year GRA; 10-year GRAs will no longer be required in the case of 5-percent transferee shareholders who transfer domestic stock or securities.

Other Areas in Which Comments Were Received

After careful consideration by the IRS and the Treasury Department, the positions set forth in the temporary regulations were generally not modified in response to certain comments other than those described above. For example, the final regulations did not modify: (i) The amount of stock U.S. transferors could receive without exceeding the ownership threshold (*i.e.*, not more than 50 percent), (ii) testing the 50-percent ownership threshold at

the time of the exchange, and (iii) the presumption that all shareholders of the U.S. target company are U.S. persons.

PLR Option in Limited Instances

The final regulations provide that, in limited instances, the IRS may consider issuing private letter rulings to taxpayers that (i) satisfy all of the requirements contained in these regulations, with the exception of the active trade or business test, or (ii) make a good faith effort, but are unable to establish non-adverse applicability of the ownership attribution rules. The IRS and the Treasury Department are aware that the active trade or business test is mechanical in nature and, thus, in limited instances, a taxpayer may demonstrate an ongoing and substantial active trade or business even though it fails to meet the test set forth in the final regulations. However, in no event will the IRS rule on the issue of whether a TFC acquired an active business with the principal purpose of satisfying the 36-month test and/or the substantiality test.

Other Matters

The IRS and the Treasury Department expect to issue additional final regulations under section 367(a) to address the transfer of stock or securities of foreign corporations and other matters contained in the 1991 proposed regulations not addressed herein. Until the 1991 proposed regulations are finalized, the positions originally announced in Notice 87–85 will continue to govern the availability of section 367(a) exceptions for transfers of stock or securities of foreign corporations. See § 1.367(a)–3(d).

Special Analyses

It has been determined that this regulation is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It is hereby certified that this regulation does not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the number of U.S. target companies that are acquired by foreign corporations in nonrecognition transactions subject to section 367(a), and thus are subject to collection of information, is estimated to be only 100 per year. Moreover, because these regulations will primarily affect large shareholders and U.S. multinational corporations with foreign operations, it is estimated that very few of the 100 transactions will involve small entities. Thus, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Philip L. Tretiak of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.367(a)–3 is added to read as follows:

§ 1.367(a)–3 Treatment of transfers of stock or securities to foreign corporations.

(a) *In general.* This section provides rules concerning the transfer of stock or securities by a U.S. person to a foreign corporation in an exchange described in section 367(a). In general, a transfer of stock or securities by a U.S. person to a foreign corporation that is described in sections 351, 354 (pursuant to a reorganization described in section 368(a)(1)(B)) or section 361 (a) or (b) is subject to section 367(a)(1) and, therefore, is treated as a taxable exchange, unless one of the exceptions set forth in paragraph (c) or (d) of this section or § 1.367(a)–3T(b) applies. For additional rules relating to an exchange involving a foreign corporation in connection with which there is a transfer of stock, see section 367(b) and the regulations under that section. For additional rules regarding a transfer of stock or securities in an exchange described in section 361 (a) or (b), see section 367(a)(5) and any regulations under that section.

(b) [Reserved] For further guidance, see § 1.367(a)–3T(b).

(c) *Transfers by U.S. persons of stock or securities of domestic corporations to foreign corporations*—(1) *In general.* Except as provided in section 367(a)(5), a transfer of stock or securities of a domestic corporation by a U.S. person to a foreign corporation that would otherwise be subject to section 367(a)(1) under paragraph (a) of this section shall not be subject to section 367(a)(1) if the domestic corporation the stock or securities of which are transferred (referred to as the U.S. target company) complies with the reporting requirements in paragraph (c)(6) of this section and if each of the following four conditions is met:

(i) Fifty percent or less of both the total voting power and the total value of the stock of the transferee foreign corporation is received in the transaction, in the aggregate, by U.S. transferors (*i.e.*, the amount of stock received does not exceed the 50-percent ownership threshold).

(ii) Fifty percent or less of each of the total voting power and the total value of the stock of the transferee foreign corporation is owned, in the aggregate, immediately after the transfer by U.S. persons that are either officers or directors of the U.S. target company or that are five-percent target shareholders (as defined in paragraph (c)(5)(iii) of this section) (*i.e.*, there is no control group). For purposes of this paragraph (c)(1)(ii), any stock of the transferee foreign corporation owned by U.S. persons immediately after the transfer will be taken into account, whether or not it was received in the exchange for stock or securities of the U.S. target company.

(iii) Either—

(A) The U.S. person is not a five-percent transferee shareholder (as defined in paragraph (c)(5)(ii) of this section); or

(B) The U.S. person is a five-percent transferee shareholder and enters into a five-year agreement to recognize gain with respect to the U.S. target company stock or securities it exchanged in the form provided in § 1.367(a)–3T(g); and

(iv) The active trade or business test (as defined in paragraph (c)(3) of this section) is satisfied.

(2) *Ownership presumption.* For purposes of paragraph (c)(1) of this section, persons who transfer stock or securities of the U.S. target company in exchange for stock of the transferee foreign corporation are presumed to be U.S. persons. This presumption may be rebutted in accordance with paragraph (c)(7) of this section.

(3) *Active trade or business test*—(i) *In general.* The tests of this paragraph (c)(3), collectively referred to as the

active trade or business test, are satisfied if:

(A) The transferee foreign corporation or any qualified subsidiary (as defined in paragraph (c)(5)(vii) of this section) or any qualified partnership (as defined in paragraph (c)(5)(viii) of this section) is engaged in an active trade or business outside the United States, within the meaning of § 1.367(a)–2T(b) (2) and (3), for the entire 36-month period immediately before the transfer;

(B) At the time of the transfer, neither the transferors nor the transferee foreign corporation (and, if applicable, the qualified subsidiary or qualified partnership engaged in the active trade or business) have an intention to substantially dispose of or discontinue such trade or business; and

(C) The substantiality test (as defined in paragraph (c)(3)(iii) of this section) is satisfied.

(ii) *Special rules.* For purposes of paragraphs (c)(3)(i) (A) and (B) of this section, the following special rules apply:

(A) The transferee foreign corporation, a qualified subsidiary, or a qualified partnership will be considered to be engaged in an active trade or business for the entire 36-month period preceding the exchange if it acquires at the time of, or any time prior to, the exchange a trade or business that has been active throughout the entire 36-month period preceding the exchange. This special rule shall not apply, however, if the acquired active trade or business assets were owned by the U.S. target company or any affiliate (within the meaning of section 1504(a) but excluding the exceptions contained in section 1504(b) and substituting "50 percent" for "80 percent" where it appears therein) at any time during the 36-month period prior to the acquisition. Nor will this special rule apply if the principal purpose of such acquisition is to satisfy the active trade or business test.

(B) An active trade or business does not include the making or managing of investments for the account of the transferee foreign corporation or any affiliate (within the meaning of section 1504(a) but excluding the exceptions contained in section 1504(b) and substituting "50 percent" for "80 percent" where it appears therein). (This paragraph (c)(3)(ii)(B) shall not create any inference as to the scope of § 1.367(a)–2T(b) (2) and (3) for other purposes.)

(iii) *Substantiality test*—(A) *General rule.* A transferee foreign corporation will be deemed to satisfy the substantiality test if, at the time of the transfer, the fair market value of the transferee foreign corporation is at least equal to the fair market value of the U.S. target company.

(B) *Special rules.* (*1*) For purposes of paragraph (c)(3)(iii)(A) of this section, the value of the transferee foreign corporation shall include assets acquired outside the ordinary course of business by the transferee foreign corporation within the 36-month period preceding the exchange only if either—

(*i*) Both—

(*A*) At the time of the exchange, such assets or, as applicable, the proceeds thereof, do not produce, and are not held for the production of, passive income as defined in section 1296(b); and

(*B*) Such assets are not acquired for the principal purpose of satisfying the substantiality test; or

(*ii*) Such assets consist of the stock of a qualified subsidiary or an interest in a qualified partnership. See paragraph (c)(3)(iii)(B)(*2*) of this section.

(*2*) For purposes of paragraph (c)(3)(iii)(A) of this section, the value of the transferee foreign corporation shall not include the value of the stock of any qualified subsidiary or the value of any interest in a qualified partnership, held directly or indirectly, to the extent that such value is attributable to assets acquired by such qualified subsidiary or partnership outside the ordinary course of business and within the 36-month period preceding the exchange unless those assets satisfy the requirements in paragraph (c)(3)(iii)(B)(*1*) of this section.

(*3*) For purposes of paragraph (c)(3)(iii)(A) of this section, the value of the transferee foreign corporation shall not include the value of assets received within the 36-month period prior to the acquisition, notwithstanding the special rule in paragraph (c)(3)(iii)(B)(*1*) of this section, if such assets were owned by the U.S. target company or an affiliate (within the meaning of section 1504(a) but without the exceptions under section 1504(b) and substituting "50 percent" for "80 percent" where it appears therein) at any time during the 36-month period prior to the transaction.

(4) *Special rules*—(i) *Treatment of partnerships.* For purposes of this paragraph (c), if a partnership (whether domestic or foreign) owns stock or securities in the U.S. target company or the transferee foreign corporation, or transfers stock or securities in an exchange described in section 367(a), each partner in the partnership, and not the partnership itself, is treated as owning and as having transferred, or as owning, a proportionate share of the stock or securities. See § 1.367(a)–1T(c)(3).

(ii) *Treatment of options.* For purposes of this paragraph (c), one or more options (or an interest similar to an option) will be treated as exercised and thus will be counted as stock for purposes of determining whether the 50-percent threshold is exceeded or whether a control group exists if a principal purpose of the issuance or the acquisition of the option (or other interest) was the avoidance of the general rule contained in section 367(a)(1).

(iii) *U.S. target has a vestigial ownership interest in transferee foreign corporation.* In cases where, immediately after the transfer, the U.S. target company owns, directly or indirectly (applying the attribution rules of sections 267(c) (1) and (5)), stock of the transferee foreign corporation, that stock will not in any way be taken into account (and, thus, will not be treated as outstanding) in determining whether the 50-percent threshold under paragraph (c)(1)(i) of this section is exceeded or whether a control group under paragraph (c)(1)(ii) of this section exists.

(iv) *Attribution rule.* Except as otherwise provided in this section, the rules of section 318, as modified by the rules of section 958(b) shall apply for purposes of determining the ownership or receipt of stock, securities or other property under this paragraph (c).

(5) *Definitions*—(i) *Ownership statement.* An ownership statement is a statement, signed under penalties of perjury, stating—

(A) The identity and taxpayer identification number, if any, of the person making the statement;

(B) That the person making the statement is not a U.S. person (as defined in paragraph (c)(5)(iv) of this section);

(C) That the person making the statement either—

(*1*) Owns less than 1 percent of the total voting power and total value of a U.S. target company the stock of which is described in Rule 13d–1(d) of Regulation 13D (17 CFR 240.13d–1(d)) (or any rule or regulation to generally the same effect) promulgated by the Securities and Exchange Commission under the Securities and Exchange Act of 1934 (15 USC 78m), and such person did not acquire the stock with a principal purpose to enable the U.S. transferors to satisfy the requirement contained in paragraph (c)(1)(i) of this section; or

(*2*) Is not related to any U.S. person to whom the stock or securities owned by the person making the statement are attributable under the rules of section 958(b), and did not acquire the stock

with a principal purpose to enable the U.S. transferors to satisfy the requirement contained in paragraph (c)(1)(i) of this section;

(D) The citizenship, permanent residence, home address, and U.S. address, if any, of the person making the statement; and

(E) The ownership such person has (by voting power and by value) in the U.S. target company prior to the exchange and the amount of stock of the transferee foreign corporation (by voting power and value) received by such person in the exchange.

(ii) *Five-percent transferee shareholder.* A five-percent transferee shareholder is a person that owns at least five percent of either the total voting power or the total value of the stock of the transferee foreign corporation immediately after the transfer described in section 367(a)(1). For special rules involving cases in which stock is held by a partnership, see paragraph (c)(4)(i) of this section.

(iii) *Five-percent target shareholder and certain other 5-percent shareholders.* A five-percent target shareholder is a person that owns at least five percent of either the total voting power or the total value of the stock of the U.S. target company immediately prior to the transfer described in section 367(a)(1). If the stock of the U.S. target company (or any company through which stock of the U.S. target company is owned indirectly or constructively) is described in Rule 13d–1(d) of Regulation 13D (17 CFR 240.13d–1(d)) (or any rule or regulation to generally the same effect), promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 USC 78m), then, in the absence of actual knowledge to the contrary, the existence or absence of filings of Schedule 13–D or 13–G (or any similar schedules) may be relied upon for purposes of identifying five-percent target shareholders (or a five-percent shareholder of a corporation which itself is a five-percent shareholder of the U.S. target company). For special rules involving cases in which U.S. target company stock is held by a partnership, see paragraph (c)(4)(i) of this section.

(iv) *U.S. Person.* For purposes of this section, a U.S. person is defined by reference to § 1.367(a)–1T(d)(1). For application of the rules of this section to stock or securities owned or transferred by a partnership that is a U.S. person, however, see paragraph (c)(4)(i) of this section.

(v) *U.S. Transferor.* A U.S. transferor is a U.S. person (as defined in paragraph (c)(5)(iv) of this section) that transfers stock or securities of one or more U.S. target companies in exchange for stock of the transferee foreign corporation in an exchange described in section 367.

(vi) *Transferee foreign corporation.* A transferee foreign corporation is the foreign corporation whose stock is received in the exchange by U.S. persons.

(vii) *Qualified Subsidiary.* A qualified subsidiary is a foreign corporation whose stock is at least 80-percent owned (by total voting power and total value), directly or indirectly, by the transferee foreign corporation. However, a corporation will not be treated as a qualified subsidiary if it was affiliated with the U.S. target company (within the meaning of section 1504(a) but without the exceptions under section 1504(b) and substituting "50 percent" for "80 percent" where it appears therein) at any time during the 36-month period prior to the transfer. Nor will a corporation be treated as a qualified subsidiary if it was acquired by the transferee foreign corporation at any time during the 36-month period prior to the transfer for the principal purpose of satisfying the active trade or business test, including the substantiality test.

(viii) *Qualified partnership.* (A) Except as provided in paragraph (c)(5)(viii)(B) or (C) of this section, a qualified partnership is a partnership in which the transferee foreign corporation—

(*1*) Has active and substantial management functions as a partner with regard to the partnership business; or

(*2*) Has an interest representing a 25 percent or greater interest in the partnership's capital and profits.

(B) A partnership is not a qualified partnership if the U.S. target company or any affiliate of the U.S. target company (within the meaning of section 1504(a) but without the exceptions under section 1504(b) and substituting "50 percent" for "80 percent" where it appears therein) held a 5 percent or greater interest in the partnership's capital and profits at any time during the 36-month period prior to the transfer.

(C) A partnership is not a qualified partnership if the transferee foreign corporation's interest was acquired by that corporation at any time during the 36-month period prior to the transfer for the principal purpose of satisfying the active trade or business test, including the substantiality test.

(6) *Reporting requirements of U.S. target company.* (i) In order for a U.S. person that transfers stock or securities of a domestic corporation to qualify for the exception provided by this paragraph (c) to the general rule under section 367(a)(1), in cases where 10 percent or more of the total voting power or the total value of the stock of the U.S. target company is transferred by U.S. persons in the transaction, the U.S. target company must comply with the reporting requirements contained in this paragraph (c)(6). The U.S. target company must attach to its timely filed U.S. income tax return for the taxable year in which the transfer occurs a statement titled "Section 367(a)—Reporting of Cross-Border Transfer Under Reg. § 1.367(a)–3(c)(6)," signed under penalties of perjury by an officer of the corporation to the best of the officer's knowledge and belief, disclosing the following information—

(A) A description of the transaction in which a U.S. person or persons transferred stock or securities in the U.S. target company to the transferee foreign corporation in a transfer otherwise subject to section 367(a)(1);

(B) The amount (specified as to the percentage of the total voting power and the total value) of stock of the transferee foreign corporation received in the transaction, in the aggregate, by persons who transferred stock or securities of the U.S. target company. For additional information that may be required to rebut the ownership presumption of paragraph (c)(2) of this section in cases where more than 50 percent of either the total voting power or the total value of the stock of the transferee foreign corporation is received in the transaction, in the aggregate, by persons who transferred stock or securities of the U.S. target company, see paragraph (c)(7) of this section;

(C) The amount (if any) of transferee foreign corporation stock owned directly or indirectly (applying the attribution rules of sections 267(c) (1) and (5)) immediately after the exchange by the U.S. target company;

(D) A statement that there is no control group within the meaning of paragraph (c)(1)(ii) of this section;

(E) A list of U.S. persons who are officers, directors or five-percent target shareholders and the percentage of the total voting power and the total value of the stock of the transferee foreign corporation owned by such persons both immediately before and immediately after the transaction; and

(F) A statement that includes the following—

(*1*) A statement that the active trade or business test described in paragraph (c)(3) of this section is satisfied by the transferee foreign corporation and a description of such business;

(*2*) A statement that on the day of the transaction, there was no intent on the

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part of the transferee foreign corporation (or its qualified subsidiary, if relevant) or the transferors of the transferee foreign corporation (or qualified subsidiary, if relevant) to substantially discontinue its active trade or business; and

(3) A statement that the substantiality test described in paragraph (c)(3)(iii) of this section is satisfied, and documentation that such test is satisfied, including the value of the transferee foreign corporation and the value of the U.S. target company on the day of the transfer, and either one of the following—

(*i*) A statement demonstrating that the value of the transferee foreign corporation 36 months prior to the acquisition, plus the value of any assets described in paragraph (c)(3)(iii)(B) of this section (including stock) acquired by the transferee foreign corporation within the 36-month period, less the amount of any liabilities acquired during that period, exceeds the value of the U.S. target company on the acquisition date; or

(*ii*) A statement demonstrating that the value of the transferee foreign corporation on the date of the acquisition, reduced by the value of any assets not described in paragraph (c)(3)(iii)(B) of this section (including stock) acquired by the transferee foreign corporation within the 36-month period, exceeds the value of the U.S. target company on the date of the acquisition.

(ii) For purposes of this paragraph (c)(6), an income tax return will be considered timely filed if such return is filed, together with the statement required by this paragraph (c)(6), on or before the last date for filing a Federal income tax return (taking into account any extensions of time therefor) for the taxable year in which the transfer occurs. If a return is not timely filed within the meaning of this paragraph (c)(6), the District Director may make a determination, based on all facts and circumstances, that the taxpayer had reasonable cause for its failure to file a timely filed return and, if such a determination is made, the requirement contained in this paragraph (c)(6) shall be waived.

(7) *Ownership statements.* To rebut the ownership presumption of paragraph (c)(2) of this section, the U.S. target company must obtain ownership statements (described in paragraph (c)(5)(i) of this section) from a sufficient number of persons that transfer U.S. target company stock or securities in the transaction that are not U.S. persons to demonstrate that the 50-percent threshold of paragraph (c)(1)(i) of this section is not exceeded. In addition, the U.S. target company must attach to its timely filed U.S. income tax return (as described in paragraph (c)(6)(ii) of this section) for the taxable year in which the transfer occurs a statement, titled "Section 367(a)—Compilation of Ownership Statements Under Reg. § 1.367(a)–3(c)," signed under penalties of perjury by an officer of the corporation, disclosing the following information:

(i) The amount (specified as to the percentage of the total voting power and the total value) of stock of the transferee foreign corporation received, in the aggregate, by U.S. transferors;

(ii) The amount (specified as to the percentage of total voting power and total value) of stock of the transferee foreign corporation received, in the aggregate, by foreign persons that filed ownership statements;

(iii) A summary of the information tabulated from the ownership statements, including—

(A) The names of the persons that filed ownership statements stating that they are not U.S. persons;

(B) The countries of residence and citizenship of such persons; and

(C) Each of such person's ownership (by voting power and by value) in the U.S. target company prior to the exchange and the amount of stock of the transferee foreign corporation (by voting power and value) received by such persons in the exchange.

(8) *Certain transfers in connection with performance of services.* Section 367(a)(1) shall not apply to a domestic corporation's transfer of its own stock or securities in connection with the performance of services, if the transfer is considered to be to a foreign corporation solely by reason of § 1.83–6(d)(1).

(9) *Private letter ruling option.* The Internal Revenue Service may, in limited circumstances, issue a private letter ruling to permit the taxpayer to qualify for an exception to the general rule under section 367(a)(1) if—

(i) A taxpayer is unable to satisfy all of the requirements of paragraph (c)(3) of this section relating to the active trade or business test of paragraph (c)(1)(iv) of this section, but such taxpayer meets all of the other requirements contained in paragraphs (c)(1)(i) through (c)(1)(iii) of this section, and such taxpayer is substantially in compliance with the rules set forth in paragraph (c)(3) of this section; or

(ii) A taxpayer is unable to satisfy any requirement of paragraph (c)(1) of this section due to the application of paragraph (c)(4)(iv) of this section. Notwithstanding the preceding sentence, in no event will the Internal Revenue Service rule on the issue of whether the principal purpose of an acquisition was to satisfy the active trade or business test, including the substantiality test.

(10) *Examples.* This paragraph (c) may be illustrated by the following examples:

Example 1. Ownership presumption. (i) FC, a foreign corporation, issues 51 percent of its stock to the shareholders of S, a domestic corporation, in exchange for their S stock, in a transaction described in section 367(a)(1).

(ii) Under paragraph (c)(2) of this section, all shareholders of S who receive stock of FC in the exchange are presumed to be U.S. persons. Unless this ownership presumption is rebutted, the condition set forth in paragraph (c)(1)(i) of this section will not be satisfied, and the exception in paragraph (c)(1) of this section will not be available. As a result, all U.S. persons that transferred S stock will recognize gain on the exchange. To rebut the ownership presumption, S must comply with the reporting requirements contained in paragraph (c)(6) of this section, obtaining ownership statements (described in paragraph (c)(5)(i) of this section) from a sufficient number of non-U.S. persons who received FC stock in the exchange to demonstrate that the amount of FC stock received by U.S. persons in the exchange does not exceed 50 percent.

Example 2. Filing of Gain Recognition Agreement. (i) The facts are the same as in *Example 1*, except that FC issues only 40 percent of its stock to the shareholders of S in the exchange. FC satisfies the active trade or business test of paragraph (c)(1)(iv) of this section. A, a U.S. person, owns 10 percent of S's stock immediately before the transfer. All other shareholders of S own less than five percent of its stock. None of S's officers or directors owns any stock in FC immediately after the transfer. A will own 15 percent of the stock of FC immediately after the transfer, 4 percent received in the exchange, and the balance being stock in FC that A owned prior to and independent of the transaction. No S shareholder besides A owns five percent or more of FC immediately after the transfer. The reporting requirements under paragraph (c)(6) of this section are satisfied.

(ii) The condition set forth in paragraph (c)(1)(i) of this section is satisfied because, even after application of the presumption in paragraph (c)(2) of this section, U.S. transferors could not receive more than 50 percent of FC's stock in the transaction. There is no control group because five-percent target shareholders and officers and directors of S do not, in the aggregate, own more than 50 percent of the stock of FC immediately after the transfer (A, the sole five-percent target shareholder, owns 15 percent of the stock of FC immediately after the transfer, and no officers or directors of S own any stock of FC immediately after the transfer). Therefore, the condition set forth in paragraph (c)(1)(ii) of this section is satisfied. The facts assume that the condition set forth in paragraph (c)(1)(iv) of this section is satisfied. Thus, U.S. persons that are not five-percent transferee shareholders will not recognize gain on the exchange of S shares

for FC shares. A, a five-percent transferee shareholder, will not be required to include in income any gain realized on the exchange in the year of the transfer if he files a 5-year gain recognition agreement (GRA) and complies with section 6038B.

Example 3. Control Group. (i) The facts are the same as in *Example 2*, except that B, another U.S. person, is a 5-percent target shareholder, owning 25 percent of S's stock immediately before the transfer. B owns 40 percent of the stock of FC immediately after the transfer, 10 percent received in the exchange, and the balance being stock in FC that B owned prior to and independent of the transaction.

(ii) A control group exists because A and B, each a five-percent target shareholder within the meaning of paragraph (c)(5)(iii) of this section, together own more than 50 percent of FC immediately after the transfer (counting both stock received in the exchange and stock owned prior to and independent of the exchange). As a result, the condition set forth in paragraph (c)(1)(ii) of this section is not satisfied, and all U.S. persons (not merely A and B) who transferred S stock will recognize gain on the exchange.

Example 4. Partnerships. (i) The facts are the same as in *Example 3*, except that B is a partnership (domestic or foreign) that has five equal partners, only two of whom, X and Y, are U.S. persons. Under paragraph (c)(4)(i) of this section, X and Y are treated as the owners and transferors of 5 percent each of the S stock owned and transferred by B and as owners of 8 percent each of the FC stock owned by B immediately after the transfer. U.S. persons that are five-percent target shareholders thus own a total of 31 percent of the stock of FC immediately after the transfer (A's 15 percent, plus X's 8 percent, plus Y's 8 percent).

(ii) Because no control group exists, the condition in paragraph (c)(1)(ii) of this section is satisfied. The conditions in paragraphs (c)(1)(i) and (iv) of this section also are satisfied. Thus, U.S. persons that are not five-percent transferee shareholders will not recognize gain on the exchange of S shares for FC shares. A, X, and Y, each a five-percent transferee shareholder, will not be required to include in income in the year of the transfer any gain realized on the exchange if they file 5-year GRAs and comply with section 6038B.

(11) *Effective date.* This paragraph (c) applies to transfers occurring after January 29, 1997. However, taxpayers may elect to apply this section in its entirety to all transfers occurring after April 17, 1994, provided that the statute of limitations of the affected tax year or years is open.

(d) *Transfers of stock or securities of foreign corporations.* For guidance, see Notice 87–85 (1987–2 C.B. 395). See § 601.601(d)(2) of this chapter.

(e) through (h) [Reserved]. For further guidance, see § 1.367(a)–3T(e) through (h).

Par. 3. In § 1.367(a)–3T, paragraphs (a), (c) and (d) are revised to read as follows:

§ 1.367(a)–3T Treatment of transfers of stock or securities to foreign corporations (temporary).

(a) [Reserved]. For further information, see § 1.367(a)–3(a).

* * * * *

(c) and (d) [Reserved]. For further information, see § 1.367(a)–3(c) and (d).

* * * * *

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority for citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 5. Section 602.101, paragraph (c) is amended by revising the entry for 1.367(a)–3T and adding an entry to the table in numerical order to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(c) * * *

CFR part or section where identified and described	Current OMB control No.
. . . . .	
1.367(a)–3	1545–0026 1545–1478
1.367(a)–3T	1545–0026
. . . . .	

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: December 11, 1996.

Donald C. Lubick,
Assistant Secretary of the Treasury.

[FR Doc. 96–32375 Filed 12–27–96; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division

Office of the Secretary

29 CFR Parts 1 and 5

Procedures for Predetermination of Wage Rates (29 CFR Part 1); Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction and to Certain Nonconstruction Contracts (29 CFR Part 5)

AGENCY: Wage and Hour Division, Employment Standards Administration, Office of the Secretary, Labor.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule the continued suspension of the regulations previously issued under the Davis-Bacon and Related Acts at 29 CFR 1.7(d), 29 CFR 5.2(n)(4), and 29 CFR 5.5(a)(1)(ii) and suspended at 58 FR 58954 (Nov. 5, 1993), while the Department conducts additional rulemaking proceedings to determine whether further amendments should be made to those regulations. These regulations govern the employment of "semi-skilled helpers" on federally-financed and federally-assisted construction contracts subject to the prevailing wage standards of the Davis-Bacon and Related Acts (DBRA).

EFFECTIVE DATE: December 30, 1996.

FOR FURTHER INFORMATION CONTACT: William W. Gross, Director, Office of Wage Determinations, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3028, 200 Constitution Avenue, NW, Washington, DC 20210. Telephone (202) 219–8353. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

This rule does not contain any new information collection requirements and does not modify any existing requirements. Thus, the rule contains no reporting or recordkeeping requirements subject to the Paperwork Reduction Act of 1995.

II. Background

On May 28, 1982, the Department published revised final regulations, 29 CFR Part 1, Procedures for Predetermination of Wage Rates, and 29 CFR Part 5, Subpart A—Davis-Bacon and Related Acts Provisions and Procedures (47 FR 23644 and 23658, respectively), which, among other things, would have allowed contractors to use semi-skilled helpers on Davis-Bacon projects at wages lower than those paid to skilled journeymen, wherever the helper classification, as defined in the regulations, was "identifiable" in the area. These rules represented a reversal of a longstanding Department of Labor practice by allowing some overlap between the duties of helpers and the duties of journeymen and laborers. To protect against possible abuse, a provision was include limiting the number of helpers which could be used on a covered project to a maximum of two helpers for every three journeymen. *See* 29 CFR 1.7(d), 29 CFR 5.2(n)(4), 29 CFR 5.5(a)(1)(ii)(A), and 29 CFR 5.5(a)(4)(iv) (1982).

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As a result of a lawsuit brought by the Building and Construction Trades Department, AFL–CIO, and a number of individual unions, implementation of the regulations was enjoined. *Building and Construction Trades Department, AFL–CIO, et al.* v. *Donovan, et al.*, 553 F. Supp. 352 (D.D.C. 1982). The U.S. Courts of Appeals for the District of Columbia issued a decision upholding the Department's authority to allow increased use of helpers and approving the regulatory definition of a helper's duties, but struck down the provision for issuing a helper wage rate where helpers were "identifiable," thereby requiring a modification to the regulations to provide that a helper classification be "prevailing" in the area before it may be used. *Building and Construction Trades Department, AFL–CIO, et al.*, v. *Donovan, et al.*, 712 F.2d 611 (D.C. Cir. 1983), *cert. denied*, 464 U.S. 1069 (1984).

Following a new round of notice-and-comment rulemaking, DOL published a final rule in the **Federal Register** (54 FR 4234) on January 27, 1989, to add the requirement that the use of a particular helper classification must prevail in an area in order to be recognized, and to define the circumstances in which the use of helpers would be deemed to prevail. (54 FR 4234). Following the Court's lifting of the injunction by Order dated September 24, 1990, the Department published a **Federal Register** notice on December 4, 1990, implementing the helper regulations effective February 4, 1991 (55 FR 50148).

In April 1991, Congress passed the Dire Emergency Supplemental Appropriations Act of 1991, Public Law 102–27 (105 Stat. 130), which was signed into law on April 10, 1991. Section 303 of Public Law 102–27 (105 Stat. 152) prohibited the Department of Labor from spending any funds to implement or administer the helper regulations. In support of the prohibition, Chairman Ford of the House Education and Labor Committee stated that "Congress should insist that the administration recognize that authorizing legislation is the only appropriate vehicle for dealing with fundamental changes in the operation of the Davis-Bacon Act." In compliance with the Congressional directive, the Department did not implement or administer the helper regulations for the remainder of fiscal year 1991.

After fiscal year 1991 concluded and subsequent continuing resolutions expired, a new appropriations act was passed which did not include a ban restricting the implementation of the helper regulations. The Department issued All Agency Memorandum No. 161 on January 29, 1992, instructing the contracting agencies to include the helper contract clauses in contracts for which bids were solicited or negotiations were concluded after that date.

During the course of the ongoing litigation in this matter, the U.S. Court of Appeals for the District of Columbia (by decision dated April 21, 1992) upheld the rule defining the circumstances in which helpers would be found to prevail and the remaining helper provisions, but invalidated the provision of the regulations that prescribe a maximum ratio governing the use of helpers (*Building and Construction Trades Department, AFL–CIO* v. *Martin*, 961 F.2d 269 (D.C. Cir. 1992)). To comply with this ruling, on June 26, 1992, the Department issued a **Federal Register** notice removing the ratio provision at 29 CFR 5.5(a)(4)(iv) from the Code of Federal Regulations. (57 FR 28776).

Subsequently, Section 103 of the 1994 Department of Labor Appropriations Act, Public Law 102–112, prohibited the Department of Labor from expending funds to implement or administer the helper regulations during fiscal year 1994. Accordingly, on November 5, 1993, the Department published a **Federal Register** notice (58 FR 58954) suspending the helper regulations and reinstituting the Department's prior policy regarding the use of helpers. The 1995 Department of Labor Appropriations Act again barred the Department form expending funds to implement the helper regulations (Section 102, Public Law 103–333); this prohibition extended midway through fiscal 1996 through several continuing resolutions. There was no such prohibition in the Department of Labor's Appropriations Act for the remainder of fiscal 1996, Public Law 104–134, signed into law by President Clinton on April 26, 1996, of for fiscal 1997.

On August 2, 1996, the Department published in the **Federal Register** (61 FR 40366) a proposal to continue the suspension of the helper regulations previously issued while the Department conducts additional rulemaking proceedings to determine whether further amendments should be made to those regulations. Public comments were invited for 30 days.

In response to this proposal, the Department received forty-seven comments, including submissions by the Associate Builders and Contractors, Inc. (ABC), the Associated General Contractors of America (AGC), the National Association of Home Builders (NAHB), the Coalition to Repeal the Davis-Bacon Act (CRDBA),the National Alliance for Fair Contracting, the American Subcontractors Association, the American Society of Civil Engineers (ASCE), the Building and Construction Trades Department, AFL–CIO (BCTD), the Sheet Metal Workers' International Association, and the Laborers' International Union of North America (LIUNA), individual contractors, local chapters of unions and industry associations, and individuals.

Summary of Comments and Discussion

Among the many comments received by the Department, relatively few directly addressed the issue of whether the Department should continue the suspension of the helper regulations temporarily while it engages in rulemaking on possible amendments to those regulations. The bulk of the comments focused on the merits of flaws of the substance of the underlying helper regulations themselves, or on the factors that led the Department to consider amending the regulations.

The issue addressed by the proposal, however, is not whether the Secretary should or should not repeal or amend the helper regulations for the reasons set forth in the NPRM. Those are issues that will be fully explored in an upcoming notice of proposed rulemaking proceeding concerning the substantive aspects of the helper regulations. However, because the Secretary's decision to seek public comments on whether the helper regulations should continue to be suspended pending the outcome of the substantive rulemaking proceedings is obviously intertwined with his conclusion that the helper regulations need to be reexamined, we discuss below both categories of comments, beginning with those that address the proposed temporary suspension.

Comments Concerning the Proposed Temporary Continuation of the Suspension

The Department expressed its concern in the NPRM that implementing the regulations immediately, during the pendency of rulemaking to consider amending the regulations, could create disruption and uncertainty for both the federal contracting community and the federal agencies. In light of the length of time it would take to fully implement the regulations so that helpers could actually be used on federal construction, and given that shortly after the regulations would be come effective the regulations could change, the Department requested specific comment on whether continuing the suspension during rulemaking would be advisable.

Three comments were received that directly addressed this issue. The BCTD agreed with the Department, stating that the "proposed rule is the most prudent and responsible action under the circumstances" to "avoid the disruption and uncertainty that implementation of the current 'helper' regulations would cause during the short period of time that it will take to complete formal rulemaking."

On the other hand, the AGC disagreed that implementation would be short-term or would create unwarranted disruption. It also disagreed with the Department as to how long it would actually take to implement the regulations if the suspension were lifted immediately. The AGC noted that when the ratio provision was withdrawn by the Department in June 1992, the General Services Administration published a rule amending the FAR and DFAR in September 1992. The AGC claims that since those amendments have been suspended, not withdrawn, "there is no reason to believe that delays, if any, would be more than minimal." The AGC also stated that "there is no reason to believe that additional 'substantive rulemaking' will be completed, and implementation initiated, within one year."

The ABC in its comments did not directly address this issue, but rather asserted:

> While engaging in this predetermined rulemaking, the agency thinks it will take too long (60 days) to implement the existing regulations and that this will disrupt public bidding practices. (In other words, the government should not be allowed to save money in its construction projects, or to recognize prevailing practices, where the savings will not be of long duration.)

First, the Department believes that it would take substantially longer than 60 days to fully implement the helper regulations. This view is fully supported by the Department's past experience with the helper regulations. If the Department were to begin implementation of the suspended rule immediately, the rule itself would provide a 60-day effective date to allow affected parties time to come into compliance, and would apply only to contracts for which bids are advertised or negotiations concluded after that date. Bid solicitations to which the regulations will apply must be advertised for at least 30–60 days before a contract is awarded. Thus, following the effective date of the regulations there will be another 30 to 60 days before contracts potentially containing helper contract clauses could be signed.

Conforming changes in government procurement regulations (the "FAR" and "DFAR") and standard contract forms would also be needed, a process which has sometimes taken several months. Amendments to the FAR and DFAR following the Department's 1992 notice of implementation had sixty-day effective dates. As noted previously in the NPRM, when the Department implemented the helper rule in January 1992, conforming changes in the FAR and DFAR did not actually become effective until November 1992, approximately ten months after the Department issued its notice implementing the rule. The AGC correctly notes that these changes to the FAR and DFAR also included amendments necessitated by the Department's June 1992 final rule.

Furthermore, a contractor can use helpers in accordance with the helper regulations only if (1) the contract contains a wage determination with a helper classification and rate or (2) the contractor awarded the contract requests that a helper classification be added to the wage determination and the Department determines that the use of the helper classification is a prevailing practice in the area in which the work will be performed. The time necessary for the Department to perform wage determination and prevailing practice surveys would further lengthen the period before contractors could lawfully pay their workers at helper rates.

Furthermore, it continues to be the Department's intention to complete a substantive rulemaking action within approximately one year. Because of the substantial length of time it would take to implement the helper regulations, any saving that might be gained from implementation of the helper regulations during the rulemaking period would be minimal, particularly in light of the disruption and uncertainty which would be caused by implementing the rule while the Department is engaged in rulemaking.

In sum, the comments have provided no information which would change the Department's belief that the suspended regulation, if immediately implemented, "would be effective for only a brief period, if at all, before the Department expects [to] complete substantive rulemaking proceedings" and that "repeated changes in the regulations within a short period of time would create unwarranted disruption in the contracting process of federal agencies" and uncertainty in the contracting community as a whole.

Whether the proposal to continue the suspension meets the requirements of the Administrative Procedure Act (APA).

Many of the contractors which commented on the proposal expressed the view that the proposal violates the APA. The comments of the NAHB are illustrative. The NAHB stated that the Department is "already refusing to enforce the current helper regulations, and the comment period has not yet ended," in violation of the APA requirement that agencies follow their own regulations, and may lawfully repeal or suspend those regulations only after the public has been given notice and allowed to comment. The NAHB also contended that the Department's "decision to suspend the regulations is clearly an arbitrary and capricious one," because the Department has stated the need for additional substantive rulemaking on the helper regulation but has not yet proposed any changes.

The ABC also contended that the current rulemaking violates the APA and is arbitrary and capricious because there was no notice and comment on the continued suspension of the regulation while the Department engages in notice and comment rulemaking on whether to further continue the suspension during substantive rulemaking. In other words, ABC claimed that the failure to implement the rules while conducting rulemaking on whether to continue to suspend the rules violates the APA.

The BCTD commented that it does not believe the proposal violates the APA; rather, its view is that the proposal is necessary to satisfy the APA. The BCTD commented that one of the reasons it supports the proposed rule is that it believes it is necessary in order to avoid violating the APA. The BCTD expressed the view that the Department was not required to lift the suspension or begin notice and comment rulemaking immediately after the signing of the current Appropriations Act. On the other hand, the BCTD believes that the suspension could not continue indefinitely without the benefit of public notice and comment. The publication of the August 2, 1996, proposed rule for comment, however, alleviates that concern.

It is the Department's belief that the contention that the continued suspension of the helper regulations violates the APA arises from the faulty premise that the helper regulations are currently in effect, and therefore must be enforced until such time as they are amended or repealed after appropriate notice and comment proceedings. However, the helper regulations are not now in effect, and have not been in effect at any time during the past three years. The helper regulations were properly suspended by notice published in the **Federal Register** on November 5,

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1993, in response to the enactment of the prohibition on expending funds to implement the regulations which was contained in the Department's 1994 Appropriations Act. While the Department's current Appropriations Act does not contain such a prohibition, that Act did not have the effect of lifting the suspension. Because the suspension of the helper regulation had been effected through rulemaking action in the **Federal Register**, action by the Department in the **Federal Register** was necessary to lift the suspension. Thus, the proposed rule does not suspend the helper regulations; they were already lawfully suspended.

Furthermore, even if the Secretary's continuation of the suspension were construed as a postponement of the (as yet unestablished) effective date of the helper regulations to allow time for notice and comment, it is the view of the Department that the APA permits the Department to seek comments before a final determination concerning implementation of the rule is made. It is the Department's view that delay for the sole purpose of seeking public comments accords with both the language and underlying objectives of the APA—particularly where the public has never had an opportunity to comment on the rule in its present form (without a ratio provision) and over fourteen years have passed since the Department first issued the rule.

It is also the Department's view that it has not acted arbitrarily and capriciously in undertaking the current rulemaking. The purpose of the proposed rule is to solicit public comment "concerning whether or not to continue the suspension of the helper regulation while further action is being taken with respect to possibly amending the rule." 61 FR 40367. The Department has not decided to repeal the helper regulations; nor has the Department made a final decision to amend the regulations. The Department has, however, concluded that the basis and effect of the semi-skilled helper regulations should be reexamined.

The Department believes that the reasons set forth in the NPRM provide a reasonable basis for the decision to seek public comments before making any decision concerning implementation of the rule. Implementation of the regulation, on a short-term basis during the pendency of the substantive rulemaking procedure, would affect relatively few contracts, and yet could potentially create substantial disruption and uncertainty in the federal procurement process. Consequently, the Department believes it was entirely appropriate and consistent with the objectives of the APA to seek comments from affected parties before deciding how to proceed.[1]

Comments Concerning the Reasons for the Department's Decision To Initiate Rulemaking Proceedings Proposing Further Amendments to the Suspended Helper Rule

Many of the comments received addressed the reasons given by the Department for initiating substantive rulemaking concerning the helper rule. The specific question posed by the current proposed rule is whether to continue the suspension of the helper regulation while the Department further considers such substantive issues and what, if any, amendments it should propose to address them. The time for full consideration of substantive issues is after the Department has published a proposal that would further amend the helper rule and the public has had the opportunity to comment on that proposal. But given that most of the comments received addressed the Department's substantive concerns with the helper regulations, and that the need to address those concerns is what led the Department to propose the continued suspension of the regulations, it is appropriate to summarize and discuss those comments here.

The Department explained in the NPRM that it has decided to reexamine the helpers regulations to consider whether further amendment is warranted. Data gathered during the brief period during which the helper regulation was effective suggest that the use of helpers may not be as widespread as initially thought. The Department is also preparing an updated economic impact analysis based in part on data sources not previously available. As a result of the Department's experience in attempting to develop enforcement guidelines and the removal of the ratio requirement from the regulation, the Department is very concerned that administration of the helper regulation, and the policing of potential abuse of the helper classification, may be more difficult than initially anticipated. Finally, the Department stated that it is concerned about the potential impact of the regulation on formal apprenticeship and training programs.

Use of helpers may not be as widespread as initially thought.

The belief that use of helpers was widespread was a key assumption underlying the Department's development of the helper regulation. Many of the contractors and contractors' associations submitting comments questioned the Department's stated concern that the use of helpers might not be as widespread as it had initially assumed, and its reliance upon prevailing wage survey results when the helper regulation was in effect as the basis for that statement. The ABC, relying upon its assertion that helpers are utilized extensively in the open-shop sector, also points to BLS statistics showing a flat or slightly declining level of unionization during the period 1989–1992 to question the legitimacy of the Department's concern.

In the proposed rule published in August 1987, the Secretary projected that helpers would be determined to be prevailing in two-thirds to 100 percent of all craft classifications. 52 FR 31369. This was amended by the statement (without quantification) in the final rule that this would be reduced somewhat to the extent that collectively bargained rates were recognized as prevailing and did not provide for use of a helper classification. 54 FR 4242.

The Secretary's actual experience with the regulation presented a starkly different picture. In contrast to the estimate published in 1987 that helpers would prevail in at least two-thirds of all craft classifications, the Secretary found that use of helpers prevailed with respect to only 69, or 3.9 percent, of the 1763 classifications included in the 78 prevailing wage surveys completed during the period the rule was in effect.[2] These numbers are even lower if one looks only at the nonunion sector—where it had been assumed in the past that helpers would almost always be found to prevail. Of the 69 helper classifications found to prevail, 21 were prevailing based on the practice of union contractors.[3]

Furthermore, the Secretary found that use of helpers was not the prevailing practice in *any* classifications in 43 of the 78 surveys conducted, covering 229 of 328 counties surveyed.[4] These

[1] The question of the proposed rule's adequacy under the APA is currently before the U.S. District Court for the District of Columbia in the matter of *Associated Builders and Contractors, Inc., et al.* v. *Reich*, Civil Action No. 96–1490 CRR. The views of both the Department and the ABC are discussed in greater length in the pleadings filed in the case.

[2] Not included in the 69 helper classifications are instances where the number of helpers actually used or the number of contractors using helpers was insufficient to determine a prevailing rate.

[3] Fifteen of the 21 union help classifications were elevator constructor helpers—a classification historically recognized nationwide in the union sector of the elevator constructor trade.

[4] Note that the survey results have been re-checked and the numbers revised slightly since publication of the proposed rule. Compare 61 FR 40367. Both the ABC and the AGC questioned the results obtained in the 78 surveys, citing a 1996 GAO report on the Davis Bacon wage determination

surveys included 2 surveys in which the schedule reflected entirely collectively bargained rates, 10 surveys in which the schedule reflected entirely open shop rates, and 66 mixed schedules, 51 of which reflected 50 percent or more open shop rates. In 13 of the 35 surveys where a helper classification was issued, the only helper classification found to prevail was a union helper. A total of only 48 open shop helper classifications were found to prevail. Thus open shop helper classifications were found to prevail in only 20 of 78 surveys conducted, covering only 52 of 328 counties surveyed.

ABC in its comments attempts to dismiss this data as "statistically insignificant." However, the extraordinary divergences between the actual data and the projection used as a basis for adopting the helper regulations clearly support the Secretary's conclusion that "the basis and effect of the semi-skilled helper regulations should be reexamined." 61 FR 40367. Moreover, ABC's reference to statistics that show a decline in unionization fails to explain the dramatic discrepancy between the Secretary's project in the 1987 proposed rule and the data compiled from actual wage surveys during 1992 and 1993.

Data not previously available when the helper regulations were originally proposed and promulgated also show a lower use of helpers than was originally believed and, therefore, support the Secretary's determination that the helper regulations require further examination. For example, Bureau of Labor Statistics ("BLS") tabulations from the 1995 Current Population Survey ("CPS") show that helpers comprise only 1.3 percent of the total construction employment. Employment data from the Occupational Employment Statistics ("OES") program, which have formed the basis for earlier analyses of helper employment, show that helpers comprise 9.4 percent of the total construction workforce—higher than the CPS data but a much lower incidence than the Department's economic impact analysis in 1987 and 1989 would suggest. However, the OES figure is based on a helper definition which appears to correspond to what is commonly considered to be laborer's or tenders' work and does not appear to envision that helpers use tools of the trade—an important component of the definition in the suspended regulation.

Potential Cost Savings

The potential cost savings to be realized from implementation of the helper regulation was cited by many of the commenters who opposed the temporary continuation of the suspension. Many claimed that implementation of the helper regulation could save the government up to $600 million a year, based on the Department's earlier economic impact analysis.

LIUNA expressed its view that implementation of the helper rule would not significantly reduce the cost of federal and federally-assisted construction projects. They believe the cost estimates developed in the course of rulemaking on the helper regulations were overly simplistic, failing to account for the productivity costs of replacing higher wage, skilled workers with lower wage, less skilled workers. Another commenter stated the view that semi-skilled workers increase project costs due to increased safety violations and worker's compensation claims, and lower productivity.

The data discussed above indicate that helpers may be found to prevail at a much lower rate than previously assumed. The Department is preparing a preliminary regulatory impact analysis which will discuss the Department's updated estimate of costs and benefits relating to the proposed regulation in preparation, and will include projected savings if the suspended helper rule were implemented. This analysis will be published for notice and comment with the proposed rule.

Potential for Abuse

Both the ABC and the AGC challenged the Department's concern that the helper regulation may create an unwarranted potential for abuse of the helper classification to justify payment of wages which are less than the prevailing wage in the area. The AGC does not believe there is any more potential for abuse with respect to the helpers regulation than there is with respect to the Department's procedures for identifying other classifications, calculating prevailing wages, or conforming classifications. The ABC stated that if helpers prevail in only a few areas, the position it ascribes to the Department, then it is not likely that there would be any significant amount of abuse.

The extent to which helpers prevail in particular areas does not bear on whether the use of helpers will be abused where they do prevail. Moreover, the issue of what, if any, changes need to be made to prevent potential abuse is one of the primary reasons the Department has decided to reexamine the helper rule. The Department notes that the helper classification as currently defined is unique in being based on subjective standards such as skill level and supervision, rather than an objective test of work performed. The Department is concerned that such a subjective standard may be more difficult to enforce.

Three commenters, all of whom supported the proposal to continue the suspension, expressed their concern that the definition of a helper contained in the regulation would lead to abuse and misclassification. One commenter submitted anecdotal evidence of intentional misclassification under a State wage determination law that allowed the use of helpers, and the two others believe it will be very difficult to enforce the regulation against contractors who would call the majority of their workforce helpers, including workers whose skill-levels qualify them as journeymen.

Both the ABC and the AGC reject the notion that the regulation is more difficult to administer without the ratio provision, and neither finds it relevant that the public never had the opportunity to comment on the possible impact on the regulation of eliminating the ratio. LIUNA on the other hand believes the regulation without such a ratio is significantly different from what was originally proposed, and believes that the failure to submit the regulation without the ratio for public comment renders it legally deficient.

The elimination of the ratio cap provisions from the helper regulation, under which there could be no more than two helpers for every three journeymen, is one of the primary reasons the Department is concerned that the regulations may be more difficult to enforce than anticipated, and more subject to abuse. As the proposed rules published in 1981, 1987 and 1996 uniformly reflect, this ratio provision was intended specifically to limit the potential for abuse of the helper classification. 46 FR 41456 (Aug. 14, 1981); 52 FR 31366 (Aug. 1987); 61 FR 40367 (Aug. 2, 1996). The D.C. Circuit echoed the Secretary's concern with potential abuse of the helper regulations in its 1983 decision when the Court observed that "[t]he change may mean that some unscrupulous contractors will find it easier to shift what the prevailing practice denominates journeyman work

process. GAO/HEHS–96–130, May 1996. It is inappropriate to draw conclusions concerning the accuracy of survey results based on the GAO report. The report did not examine or verify the accuracy of wage determination data, survey response rates, or calculation of prevailing wages. It focused on the policies and procedures utilized to prevent the use of inaccurate data, and proposed changes to strengthen those policies and procedures.

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onto helpers * * * ." 712 F.2d at 629. The Court, like the Secretary, concluded that the numeric ratio "increase[s] the likelihood that gross violation will be caught, or at least that evasion will not get too far out of line * * * ." *Id.* at 630. While the D.C. Circuit invalidated the specific ratio selected by the Secretary in its 1992 decision, nothing in that opinion suggests that a ratio is not an important element of the regulation, nor does it purport to preclude the Secretary from adopting such a measure designed to curb the potential for abuse so long as the Secretary adequately explains his actions. *See Building & Construction Trades Dept.*, 961 F.2d at 276–277.

The regulation was modified as a result of the 1992 court decision, to eliminate the numerical ratio of helpers to journeymen. Although that ratio was one of the principal protections against abuse of the new helper definition, the public never had an opportunity to comment on whether other changes to the regulation, or an alternative ratio, was appropriate in light of the elimination of the ratio provision.

In the course of attempting to develop enforcement guidelines for the regulations while they were in effect, it became apparent that the helper definition may be more difficult to administer and enforce than anticipated, and more difficult to administer than other aspects of the wage determination structure. Because a helper as defined in the suspended regulation is the only classification with duties that are specifically intended to overlap with the duties performed by other classifications, the Department believed that the ratio cap was a necessary buffer against potential contractor abuse and misclassification. The Department is concerned that the elimination of the ratio provision may greatly increase the possibility that misclassifications will go unchecked. The Department therefore continues to be concerned that the suspended regulation as written should be reexamined through notice and comment rulemaking.

Effect on Apprenticeship and Training

Several of those who supported the proposed continuation of the suspension believe that the helper regulation would have a negative impact on formal apprenticeship and training programs. They claim that the ability to pay apprentices a wage lower than that paid to journeymen is a significant incentive for contractors to participate in formal training programs. They also claim that the availability of lower paid helpers would cause contractors to withdraw from such programs and would threaten private funding for apprenticeship and training. They believe that this poses a threat both to the industry, which would face shortages of skilled, trained labor, and to the individual workers who would find themselves in dead-end, low skilled jobs without adequate opportunity to increase their skills. Both the ABC and the AGC, however, believe such concerns are unfounded, and both observe that the Department provided no new evidence on this topic in the proposal.

The contractors who wrote to oppose the suspension proposal did not directly address the impact the helper regulation would have on apprenticeship and training. But some of them did describe how they use helpers, suggesting that they view helpers not as a separate and distinct classification but as an entry-level position in which workers acquire skills to move up to the journey level, much like an apprentice. These commenters endorsed the helper regulations (and opposed their continued suspension, even temporarily) because they allow workers to gain experience; promote training of unskilled workers; provide the semi-skilled with an opportunity to gain experience; and provide the unskilled with a first step to higher paying jobs.

Some of these commenters, however, described helpers in a way that is not incompatible with apprenticeship programs. One company noted that it is not practical to enroll abundant numbers of semi-skilled workers in apprenticeship training programs. Another viewed the helper position as a pre-apprentice opportunity for unskilled workers to acquire the skills necessary to enter an apprenticeship program.

These comments taken together confirm the Department's view that the potential impact of the helper regulation on apprenticeship programs is not fully understood, and should be revisited through further rulemaking.

Additional Comments

A large number of those opposed to the proposed rule also raised two additional issues. First, commenters stated that contractors that use helpers would be more able to compete for federal construction contracts if the helper regulation were implemented immediately. Second, commenters contend that women and minorities are more likely to be employed as helpers; therefore immediate implementation of the helper regulations would increase employment opportunities for those groups. LIUNA, on the other hand, stated that women and minorities are more likely to be employed as laborers and therefore would be harmed by implementation of the helper regulation.

LIUNA also stated its view that the Department's position on the impact of the helper regulation on other occupational classifications shifted without explanation during the prior rulemaking on the suspended regulation. LIUNA notes that throughout the rulemaking the Department had assumed that helpers would replace laborers as well as journeymen, but significantly changed its position in the 1989 final rule, in which it assumed that helpers would replace only journeymen. They also cite developments within the industry that have rendered obsolete the understanding of laborers as unskilled workers, making it more difficult to use skill-level as a basis for distinguishing between laborers and helpers. Thus, it is LIUNA's view that the impact of the helper regulations upon laborers should be reexamined before the regulations are implemented.

That certain contractors, who utilize "helpers" as that term is defined in the suspended regulations, may benefit from implementation of the helper regulations, does not negate either the need to reexamine the practicality and enforceability of such regulations or the advisability of continuing the suspension of these regulations during such reexamination. Moreover, the disagreement among the commenters as to the degree and nature of the potential effect of the helper regulations upon the employment of women and minorities, as well as the employment of laborers, provides even additional support for the Secretary's decision to further reexamine the helper regulations through additional rulemaking.

Conclusion

For the foregoing reasons and after consideration of all of the comments submitted in response to the proposed rule published on August 2, 1996, in the **Federal Register** (61 FR 40366), the helper regulations previously issued under the Davis-Bacon and Related Acts at 29 CFR 1.7(d), 29 CFR 5.2(n)(4) and 29 CFR 5.5(a)(1)(ii) and suspended at 58 FR 58954 (Nov. 5, 1993), are suspended until the Department either (1) issues a final rule amending (and superseding) the suspended helper regulations; or (2) determines that no further rulemaking is appropriate, and issues a final rule reinstating the suspended regulations. The Department expects these proceedings to be completed within approximately one year.

V. Administrative Procedure Act

The APA at 5 U.S.C. 553(d)(3) requires that the effective date for a

regulation be not less than 30 days from the date of publication unless there is "good cause" shown for an earlier date. This rule does not require affected persons to take any actions to prepare for its implementation. Furthermore, a delay in the effective date could cause confusion among the affected public as to whether the previously suspended rule is in effect in the meantime. Therefore the Department finds good cause to have this rule effective immediately.

VI. Executive Order 12866; § 202 of the Unfunded Mandates Reform Act of 1995

As stated in the notice of proposed rulemaking, the Department is treating this rule as a "significant regulatory action" within the meaning of sec. 3(f)(2) of Executive Order 12866 because the alternative to the proposed rule—lifting of the suspension and implementing the helper regulations while rulemaking is ongoing—could possibly interfere with actions planned or taken by other government agencies.

The AGC contends that the proposal for further rulemaking is inconsistent with Executive Order No. 12866, Section 202 of the Unfunded Mandates Reform Act of 1995, the Small Business Regulatory Enforcement Fairness Act and the Regulatory Flexibility Act. The AGC claims that the concerns expressed by the Department in the proposed rule regarding implementation of the helper regulations are "vague" and not "supported by reliable data." Relying upon the Department's own previous cost analysis conducted in 1987 and published along with the final rule at 54 FR 4242 (1989), the AGC claims that "the Department's contention that no cost would be incurred by continuing the suspension of the helper regulations is simply not true," and that failure to implement the helper regulations will "cost the federal government, taxpayers and the construction industry hundreds of millions of dollars." Finally, the AGC asserts that "the Department's proposal is a 'major rule' and requires both an economic and regulatory flexibility analysis in full compliance with Executive Order No. 12866 and the Small Business Regulatory Enforcement Fairness Act."

The AGC's comments address potential savings of implementation of the helper regulations, rather than the impact of continuing the suspension. As noted above, the Department is preparing a preliminary regulatory impact analysis which will discuss the Department's estimate of the costs and benefits of the proposed rule in preparation, including any savings that might be realized from implementation of the helper regulations as they now stand. This analysis will be published for notice and comment concomitant with the Department's regulatory proposals concerning the employment of helpers on Davis-Bacon projects.

As discussed above, the Congressional action of lifting the prohibition against implementing the regulation did not itself reinstate the suspended regulation, and a notice or other rulemaking action by the Department was necessary to lift the suspension on the helper regulation. It is the Department's view, therefore, that the suspension has continued in effect since October 1993, and that the suspension continues in effect today. This rule, which continues the previously existing suspension, merely preserves the status quo. Therefore the Department concludes that there will be no cost savings from the continuation of the suspension of the helper regulations that has been in effect since November 1993 during the substantive rulemaking proceedings.

Moreover, as discussed above, a substantial period of time is required before the regulations would be implemented by their incorporation into contracts, and the Department's experience in the period in 1992 and 1993 when the suspended regulation was in effect was that relatively few surveys were completed in which helpers were found to prevail. Thus, any potential savings that would be lost from a failure to implement the helper regulations during the rulemaking period would be minimal.

Accordingly, the Department has concluded that this rule, which continues the suspension of the helper rule and therefore is a continuation of the status quo, will not have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy or a sector of the economy.

Because this rule will not have a significant economic impact, no economic analysis is required. For the same reason, this rule does not constitute a "major rule" within the meaning of § 804(2) of the Small Business Regulatory Enforcement Fairness Act.

VII. Regulatory Flexibility Act

The AGC contends that the Department's conclusion that the proposed continuation of the suspension "will have no significant impact on small entities is also contradicted by its 1987 estimate. * * *"

Again, the AGC's comments address the potential savings of implementation of the helper regulations, rather than the costs or savings of continuing the suspension. This regulation is merely a continuation of the status quo. Therefore the Department has determined that the rule does not have a significant economic impact on a substantial number of small entities.

Furthermore, the Department has determined that if the current suspension were lifted and the helper regulation implemented, there would not be a significant economic impact on a substantial number of small entities during the interim period prior to completion of rulemaking action on the helper regulations—expected to be completed within a year. Because of the lag times in agency procedures to amend their regulations and incorporate the contract clauses, and the relatively small number of helper classifications which the Department found prevailing in its surveys in 1992 and 1993, it is unlikely that a substantial number of small entities would have the opportunity to use helper classifications during the period before the rulemaking is completed. Accordingly, the rule is not expected to have a "significant economic impact on a substantial number of small entities" within the meaning of the Regulatory Flexibility Act, and the Department has certified to this effect to the Chief Counsel for Advocacy of the Small Business Administration. Thus, a regulatory flexibility analysis is not required.

VIII. Document Preparation

This document was prepared under the direction and control of Maria Echaveste, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

Signed at Washington, D.C., this 23rd day of December 1996.

Gene Karp,

Deputy Assistant Secretary for Employment Standards.

[FR Doc. 96–33054 Filed 12–27–96; 8:45 am]

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29 CFR Part 4

RIN 1215–AA76

Service Contract Act; Labor Standards for Federal Service Contracts

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule a new methodology for establishing minimum health and

welfare benefits requirements under the McNamara-O'Hara Service Contract Act (SCA). In this document, the Department of Labor (DOL or the Department) also issues a variance, pursuant to Section 4(b) of the Act, to reflect the Department's practice of issuing prevailing fringe benefit determinations on a nationwide basis, rather than separately for classes of employees and localities. This document also contains other minor, clarifying modifications that conform the regulations to a 1985 court decision, a 1983 treaty, a 1996 intergovernmental compact, and more recent amendments to the Fair Labor Standards Act (FLSA) minimum wage provisions.

EFFECTIVE DATE: June 1, 1997.

FOR FURTHER INFORMATION CONTACT: William Gross, Director, Division of Wage Determinations, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3506, 200 Constitution Avenue, NW, Washington, DC 20210; telephone (202) 219–8353. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

This rule does not contain any new or added reporting or recordkeeping requirements subject to the Paperwork Reduction Act of 1980 (Pub. L. 96–511). The existing information collection requirements contained in Regulations, 29 CFR Part 4, were previously approved by the Office of Management and Budget under OMB control number 1215–0150. The general Fair Labor Standards Act (FLSA) recordkeeping requirements which are restated in Part 4 were approved by the Office of Management and Budget under OMB control number 1215–0017.

II. Background

The McNamara-O'Hara Service Contract Act of 1965 (SCA) requires that the Department determine locally-prevailing wages and fringe benefits for the various classes of service employees performing contract work subject to the SCA. Federal service contracts over $2,500 (if the predecessor contract was not subject to a collective bargaining agreement) are required to contain wage determinations issued by DOL that specify the minimum monetary wages and fringe benefits that must be paid to the various classes of workers who perform work on the service contract, based upon rates determined by DOL to be prevailing in the locality where the work is to be performed. However, because fringe benefit data are not generally available on an occupation-specific or on a locality basis, DOL has issued fringe benefit determinations for health and welfare based on nationwide data ever since SCA was enacted.[1]

The Service Employees International Union (SEIU) sued DOL in March 1991 in the United States District Court for the District of Columbia over the longstanding administrative practice, since 1976, of issuing two nationwide rates for health and welfare fringe benefits, and for failure to periodically update SCA health and welfare fringe benefit levels which, at that time, had not been updated since 1986 (*SEIU* v. *Martin*, CA No. 91–0605 (JFP) (D.D.C. April 1, 1992)). Following a remand to the Department for exhaustion of administrative remedies, the DOL's Board of Service Contract Appeals remanded the matter to the Wage and Hour Division to consider alternative methodologies for implementing the statutory objectives. Accordingly, the Administrator of the Wage and Hour Division, by Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on May 2, 1996 (61 FR 19770), proposed for public comment various alternative methodologies based on data from the U.S. Bureau of Labor Statistics, Employment Cost Index (ECI). Due to the time constraints, it was not feasible to publish the required regulatory impact analysis for comment with the proposed rule.

The Department thereafter developed information on the occupational mix of service employees engaged in the performance of SCA-covered contracts. Based on data collected by the Federal Procurement Data System for Fiscal Year 1994, the Department conducted a survey which provided specific information on service contract employment by occupation within SIC industry classifications. By Notice published in the **Federal Register** on October 25, 1996 (61 FR 55239), the Department published its preliminary regulatory impact analysis containing estimates of the economic impact of the various proposed alternatives.

In an action filed by the SEIU in the U.S. District Court for the District of Columbia, the court set a deadline for publication of this final rule of December 24, 1996. *SEIU* v. *Reich*, CA No. 91—0605 (August 27, 1996).

In response to the proposed rulemaking, the Department received 80 comments. This included comments from seven Federal agencies: Department of the Army, Department of the Navy, Department of the Air Force, Defense Commissary Agency, U.S. Postal Service, Environmental Protection Agency (EPA), and National Aeronautics and Space Administration (NASA). Comments were received from six union organizations: Service Employees International Union (SEIU), the American Federation of Labor-Congress of Industrial Organizations (AFL–CIO), the International Union of Operating Engineers, the Laborers' International Union of North America (LIUNA), District No. 5—ITPE, NMU/MEBA (AFL–CIO), and the International Association of Bridge, Structural and Ornamental Iron Workers. The Contract Services Association of America (CSA), which according to its comment represents more than 240 companies that provide technical and support services to 37 Federal agencies, provided detailed comments, and thirty-three of its member contractors separately submitted comments concurring with CSA's position. Several major government service contractors, including Johnson Controls, Lockheed Martin, Raytheon Aerospace, Aspen Systems Corporation, and Kay and Associates, Inc., also provided comments. In addition, the law firm of Hogg, Allen, Norton & Blue, which stated that it represents a large number of service contractors throughout the country, commented on the Department's proposal.

Thirteen firms which employ or provide employment services to disabled workers under the NISH program and the Javitz-Wagner-O'Day Act (JWOD) submitted comments. The National Star Route Mail Contractor's Association and six mail hauling firms also filed comments. Fringe Insurance Benefits, Inc., which markets and provides services to the Contractors and Employees Retirement Trust Fund and several health plans designed specifically for prevailing wage employees, provided its comments. ACIL, which represents firms performing scientific testing and engineering services, also commented on the Department's proposal.

III. Comments and Analysis of Alternatives

Summary of Comments

A majority of the commenters favored Alternative I, which would provide for a single fringe benefit rate based on ECI all-industry data. The CSA supported the Alternative I methodology, and thirty-three of its member contractors concurred separately with CSA's position. Both the Department of the Army and the Department of the Navy

[1] For a complete description of the history and content of the current methodology, see the *Background* section of the Notice of proposed rulemaking published at 61 FR 19770 (May 2, 1996).

preferred Alternative I. Alternative I was also supported by Lockheed Martin and Kay and Associates, Inc. (KAI).

Little support was offered by the commenters for Alternatives II, III or IV, including the variations of these alternatives. The Defense Commissary Agency and four firms which employ disabled workers supported Alternative II–A, which would provide separate benefit levels for six major occupational groupings, primarily because it would be the least costly in their particular circumstances. None of the commenters favored Alternative II–B, which would provide a single fringe benefit rate based on the occupational mix of service employees engaged in the performance of SCA-covered contracts, or Alternative II–C, which would provide for two benefit levels based on combining occupational groupings into two categories. Alternative III, under which separate rates would apply to each of four geographic regions, was supported by only three commenters. Alternative IV, which would provide for a fringe benefit rate based on a percentage of wages paid was endorsed by Aspen Systems Corporation, which desired a high benefit package for its employees, and three firms which wanted a low benefit package.

The Air Force strongly supported Alternative V–A, which would continue the current methodology of applying two benefit levels based on ECI size-of-establishment data. NASA, EPA, and the U.S. Postal Service, and 3 other organizations also supported this alternative. Three commenters supported Alternative V–B, a variation of the current methodology in that it would be applied by the size, rather than nature, of the contract and the lower benefit level would be based on "total benefit" rather than "insurance only" ECI data.

The unions commenting favored none of the proposed alternatives, choosing instead to propose another alternative, which would preserve the two-tier benefit system, but would use a different methodology for calculating the lower "insurance" benefit rate. The unions proposed that this lower rate be based on all-industry insurance only data, rather than "size-of-establishment" insurance data, and that those firms not providing health insurance be eliminated from the data (*i.e.*, eliminating the "zeros"). The unions also proposed including data on fringe benefits paid to public employees in the low level fringe benefit calculation.

Another alternative was also proposed by Fringe Insurance Benefits, Inc., under which the Department would issue a single level for health insurance which would be the same for all employees, and an additional amount for pension which would vary based upon wages or job classification.

More detailed discussion of the comments on each of the alternatives proposed follows:

Alternative I: Issue a single benefit level based upon ECI data for workers in private industry. The commenters who supported the Alternative I methodology did so generally for three basic reasons. First, they preferred its simplicity in establishing a uniform benefit rate for all employees and the consequent ease with which contractors could administer this rate and the government could verify SCA compliance. Commenters also believed that this methodology would eliminate the possibility of contractors manipulating employee classifications in order to obtain a competitive advantage, which might happen under some of the other proposed methodologies, thus ensuring a "level playing field for bidders."

Secondly, many commenters preferred Alternative I because it does not discriminate between classes of employees based on the kind of job they have or the location of their employment, and because it is easy for employees to understand and would result in fewer morale problems. KAI complained that because on some military installations the $2.56 "total benefit" package applies to some contracts while the $.90 "insurance" applies to others, it has lost highly qualified employees to a different company working at the same base location which paid the same wage but with the higher $2.56 benefit rate. According to KAI, its employees "never understand or accept why someone else on the same base receives $2.56 per hour in benefits in comparison to the $.90 they receive." Vinnell Corporation echoed this concern, stating as follows:

> We have long believed that the two tier fringe benefit rate methodology used for service contracts is discriminatory and creates a disparate impact on those individuals working on projects where the lower rate is applicable. One of Vinnell's current service contracts is at a location where the higher fringe rate is applicable because the project was derived from an A–76 procurement action approximately 15 years ago. At that same location we have a second project where the lower fringe rate is applicable. We find it inconceivable that two carpenters, both working for Vinnell on different service contracts but at the same military installation and receiving the same wage rate should not also receive the same fringe benefit rate.

KAI was also concerned that a two-tiered system "results in added administrative costs and negates the cost savings associated with economies of scale."

Finally, many commenters preferred the Alternative I methodology because, as CSA stated in its comments, it produces a benefit rate which is "sufficient to allow all service contractors to purchase a good benefit package for employees that would cover a range of health and welfare benefits for all contract workers." Many commenters expressed their belief that due to the continually rising cost of benefit packages, the current "insurance only" benefit rate of $.90 per hour is simply insufficient to purchase any meaningful benefit package, especially one that would include adequate health insurance. KAI offered the following concrete example:

> In 1993, $.89 per hour of benefits allowed the contractor to provide a benefit package with 3 personal days, $10,000.00 of life insurance, profit sharing contribution, dental insurance, and medical insurance with a $250.00 deductible and supplemental accident insurance. The $.90 per hour of benefits in 1996 allows the contractor to provide a benefit package with 4 personal days, zero life insurance, profit sharing contribution, zero dental insurance, and a medical plan with a $350.00 deductible and no supplemental accident insurance.

Contractors favoring Alternative I also believe that the resulting increase in the benefit level for many of their employees would aid them in attracting and retaining qualified employees to work on service contracts with the Federal government.

Both the Department of the Army and the Department of the Navy supported the establishment of a single health and welfare benefit rate to be issued on all SCA wage determinations. The Army stated that it supports one flat rate "in the interests of simplicity and acquisition streamlining." The Army preferred a "single rate" methodology because it believes that the standards currently used by DOL to apply the high benefit rate have no rational basis. The Army cited as an example the Department's policy of applying the high rate to "OMB Circular A–76" contracts.[2] The Army stated that if DOL is to continue with a two-rate methodology, it must "publish clear understandable and fair guidance to explain when each rate is applied."

The Army appears to regard the $1.89 rate as acceptable since it "splits the

[2] OMB Circular A–76 actions are solicitations with potential for displacement of Federal civilian workers. The rationale behind applying the high benefit level to such contracts is that Federal workers whose jobs are being converted to the private sector should not suffer an abrupt decrease in their benefits.

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difference between the 'low' and the 'high' fringe rate." However, the Army believes that "it is important that the contracting agencies have the ability to challenge that one rate by industry. If rates are significantly lower for a particular industry, then DOL should deviate from the one rate and set a lower rate for that industry."

The Navy similarly concludes that "[t]he single rate is far more justifiable in terms of both contracting for services and compliance within established employer wage and benefit programs." The Navy also expressed belief that DOL has applied the current "high" health and welfare benefit level in an artificial manner. Like the Army, the Navy specifically mentioned the OMB Circular A–76 contracts involving displacement of Federal employees as an example of improper application of the high benefit rate. The Navy stated that once the high rate is applied to such a contract, it continues to apply indefinitely to follow-on contracts, and consequently, "many service contracts contain the artificially high benefit level while the prevailing rates for those contracts are considerably lower."

The Navy also stated that "information available within the Federal Employees Health Benefits Program" would provide a sound basis for establishing a single benefit rate. The Navy is concerned that implementation of the $1.89 rate would create a significant cost increase that might result in "the federal contracting agencies' inability to continue funding certain services, or existing service levels, or [cause agencies] to reconsider decisions to contract out such services to the private sector," thus causing a reduction in the service contract workforces. The CSA also was concerned that "[i]ncreased cost to government agencies could result in downsizing of contracts and layoffs of employees."

On the other hand, the Department of the Air Force opposed the Alternative I methodology on the bases that the $1.89 ECI-based rate is too costly and not appropriate for any contractor, being "too low for employees of large companies or with high-skilled workers and too high for employees of small companies or low-skilled employees." The Air Force, however, agreed with the Army and the Navy that "[t]he current problems with the two rate system stem from the inconsistent application of the two fringe benefit levels resulting in confusion and frustration by Federal contracting agencies, contractors, and service contractors." The Air Force further stated that "[t]he inflexibility, for example, in applying the 'high' fringe benefit rate to A–76 [Federal employee displacement] solicitations and then maintaining the high benefit level regardless of the type of continued circumstances of the contract has created the climate for complaints and attacks on the two level system."

The Defense Commissary Agency believed that Alternative I would be cost-prohibitive for its contracting purposes since that agency normally uses "service occupations" that would be paid the "low" health and welfare benefit rate under the current methodology.

Another disadvantage to the Alternative I methodology, specifically mentioned by CSA, is that the all-industry ECI data upon which the Alternative I benefit rate would be based includes "zeros"—that is data from companies that do not provide the benefit surveyed, thus resulting in a lower rate that does not accurately reflect the actual cost of such benefits. This concern was also reflected in the unions' alternative proposal for determining health and welfare benefit rates, which is separately discussed below.

Many commenters expressed concern that lowering the current high "total benefit" rate to the Alternative I single benefit rate would result in serious employee morale problems and disruption in benefits. Accordingly, as will be more fully discussed below, many commenters favored some type of "grandfathering" or "phase-in" mechanism to ameliorate the disruptive effects resulting from a change in the health and welfare benefit rate methodology.

The unions unanimously opposed the single rate methodology provided in Alternative I primarily because it would reduce existing benefits currently received by those service contract workers to which the higher level "total benefits" rate applies. They believed that Alternative I met their primary criterion of establishing a rate high enough to purchase health insurance coverage, but nonetheless found this alternative unacceptable because it would eliminate the existing "total benefits" rate. SEIU also opposed Alternative I for the specific reasons that it excludes public employee data and fails to give "due consideration" to Federal employee rates.

Alternative II–A: Issue a single benefit level for each of six major occupational groupings based on ECI data for all workers in each of these groupings in private industry. This alternative was favored by the Defense Commissary Agency and four firms which employ workers with disabilities pursuant to programs sponsored under the Javitz-Wagner-O'Day Act (JWOD), based primarily on their view that this alternative would be the least costly in their individual circumstances. The Defense Commissary Agency recommended use of Alternative II–A because the "service occupations" it normally uses "really would justify only a rate of $.62 per hour." Eastern Carolina Vocational Center (ECVC), which operates a work center for disabled individuals, explained that Alternative II would be the best alternative for its operations based on cost reasons. While ECVC acknowledged that Alternative II–A may be the most expensive to the government as a whole, it would be the least costly where ECVC was concerned since its workers fall within the second lowest paid occupational group (handlers, equipment cleaners, helpers and laborers, which would receive fringe benefits of $1.24 per hour [based on 1995 ECI data] under this alternative).

Most of the commenters who opposed adoption of Alternative II–A believed that it would be too difficult to administer and enforce, and would result in "additional costs to the contractor, and ultimately to the contracting agency, for personnel and systems to administer the program." The Air Force was concerned that the increase in the complexity of accounting resulting from this alternative would pose "additional compliance difficulties for contractors and [Wage-Hour] investigators."

Commenters also expressed concern that too much subjectivity would be inherent in the administration of this alternative. Both CSA and Aspen Systems Corporation specifically stated that utilization of this alternative could lead to gamesmanship involving manipulation of classifications by contractors during the competitive bidding process.

Many commenters expressed their belief that minimum fringe benefit rates differentiating among various groups of employees under Alternative II–A would not reflect the prevailing practice in the service contracting industry and would be unfair to employees in lower-paid occupations. CSA stated that a "vast majority" of its member companies "provide the same level of benefits to all workers, except those workers who are covered under a Collective Bargaining Agreement or a prevailing wage law." The AFL–CIO also stated that employers generally provide the same rate of fringe benefits, particularly health insurance, to all employees working on the same

contract. The AFL–CIO further stated that "a system based on occupational groupings that would provide different employees working for the same employer under the same contract with widely different fringe benefits simply could not be considered to be prevailing since such a system is rarely found among employers."

Several contractors stated that, especially on those contracts with a mix of labor categories, there could be a high potential for discrimination problems arising under the Internal Revenue Code in view of the large disparity between the various benefit rates. Several commenters were also concerned that having the various benefit levels under Alternative II–A would create serious labor and morale problems. In addressing this point, the AFL–CIO stated as follows:

> [Q]uality health insurance is needed by all service workers regardless of their occupational groupings. The cost of insurance is the same for the custodian as for the computer technician. Establishing different minimum fringe benefit levels based on occupational titles or groupings probably would lead to different levels of health care among service workers, creating basic problems in the workplace.

Finally, several commenters, including Fringe Insurance Benefits, Inc., opposed this alternative because the $.62 rate for "service occupation" employees would not be sufficient for such employees to obtain any meaningful health insurance.

Alternative II–B: Issue a single benefit rate adjusted to reflect the difference between the BLS ECI occupational universe and the actual mix of comparable occupations on SCA contracts. No commenters favored this alternative; Lockheed Martin was the only commenter to provide any favorable comments concerning this alternative.[3] Lockheed Martin believes that the benefit rate produced under this methodology would be less than the $1.89 rate produced under Alternative I and that it "would be more reflective of prevailing benefit levels of SCA type contracts." Lockheed Martin also believed this alternative to be easy to administer.

Most commenters opposed Alternative II–B simply because they believed it to be too complicated, CSA believed that "the data required to effectively accomplish this may be too difficult to obtain and may have too much error to be effective." Aspen Systems expressed concern that this alternative would be difficult for the government to implement, thus creating delay, and that it was unclear as to which agency would have the authority to set the single benefit rate. Several commenters, including the AFL–CIO and the Air Force, questioned the accuracy of the Department's calculation of the occupational mix of service employees contained in the regulatory impact analysis, which formed the basis of the cost estimate for this alternative. The Air Force also believes this alternative to be the most inflationary of all those proposed.

Alternative II–C: Issue two benefit levels based on combining the occupational groupings. This alternative likewise garnered no support from any commenters. Many commenters had the same objections to this alternative that they had to Alternative II–A. The commenters generally complained that this alternative would be too complex administratively, and would be discriminatory against workers in certain types of occupations leading to employee morale problems. Aspen Systems believed that there would be too much subjectivity in determining under which of the two broad occupational groupings certain classifications would fall.

Alternative III: Issue a single rate for each of four geographic regions based on ECI data for all workers in private industry. This alternative was endorsed by Goodwill Industries, Inc. of Eastern Nebraska and Southwest Iowa, which stated that this alternative "would provide the least financial burden to the Federal Government and provide a significant increase in benefits to [its] employees," and by the EPA, which believed this alternative to be "among the most prudent cost effective alternatives."[4]

Commenters which opposed this alternative stated that regional data is not an adequate substitute for locality data, especially since this methodology would not take into consideration fringe benefit differences within a particular region. One commenter noted that the District of Columbia and Mississippi would be located in the same region, yet the labor costs in these two regions are significantly different. Similarly, the AFL–CIO points out that prevailing rates in San Francisco, which is located in the Western region, are much more likely to be similar to the prevailing rates in Boston than to the prevailing rates in Boise, Idaho, which is also in the Western region. Commenters therefore questioned the usefulness of the geographic breakdown embodied in Alternative III.

Several commenters also pointed out that fringe benefits are provided to employees within a company on a similar basis without reference to geographic location and that benefit plans to which employers subscribe are not structured to take into account geographical differences. CSA and its member companies disliked Alternative III, finding it too difficult to administer because it would possibly require four separate benefit plans. They were also concerned that implementation of this alternative would necessitate major payroll, accounting and administrative changes, and would be especially problematic with regard to employees who work in more than one region. CSA was also concerned as to how contract bids would be evaluated in situations where place of performance of the service contract would be determined by the location of the successful bidder. Finally, CSA believed that this alternative "could cause non-compliance with IRS discrimination rules on pension plans." Hogg, Allen, Norton & Blue was concerned that the establishment of a higher benefit for one geographic region than another might give rise to "control group issues under ERISA."

Alternative IV: Issue a single fringe benefit rate (as a percent of wages) based on the relationship between the ECI all-private industry "total benefit" rate and the ECI all-private industry average wage rate. This alternative was endorsed by Aspen Systems Corporation and three firms which employ workers with disabilities pursuant to programs sponsored under the JWOD. Aspen Systems believed that this alternative would provide positive incentive to employees "in the sense that the higher an employee's hourly wage, the higher the employee's fringe benefit rates." Aspen Systems also stated that implementation of this methodology would aid firms in attracting and retaining employees in high level classifications, such as specialty and technical personnel. Aspen Systems did not view this alternative as being too burdensome from an administrative standpoint and recommended that the methodology be applied as a percentage of each individual employee's wages rather than of an average based on all wages paid under a contract. The JWOD firms which favored this alternative appeared to do so because the percentage methodology when applied to the wage rates typically paid to their low-wage employees would serve to decrease their labor costs and enhance their competitiveness.

Many commenters believed that this alternative would not be

[3] Lockheed Martin supported Alternative I.

[4] EPA equally supported Alternative V–A.

administratively feasible. For example, Johnson Controls stated that many of its contracts are not staffed with administrative personnel who could adequately perform the requirements associated with this alternative. The Air Force was also specifically concerned that applying multiple fringe benefit rates on a contract would impose an excessive administrative burden on contractors, particularly small contractors such as those operating under the Small Business Administration's "8a" program and the "NISH" programs. The Air Force also believes that the complexity of accounting inherent in this alternative would pose added compliance difficulties for contractors and Wage-Hour investigators alike. Fringe Insurance Benefits, Inc. was concerned that use of this alternative would provide incentives for employers to intentionally misclassify employees.

Several commenters stated that a methodology providing for multiple fringe benefit rates would naturally lead to problems of inequity and morale in the workforce. CSA and the AFL–CIO both expressed concern that lower paid workers might not be able to obtain adequate health insurance under this alternative. Finally, Fringe Insurance Benefits, Inc., while pointing out that "the cost of health has no relationship to wages," stated that this methodology is "inconsistent with the traditional approach of providing all non-exempt employees with the same health benefit level."

Alternative V–A: Issue two fringe benefit levels based on BLS ECI size-of-establishment data for all workers in private industry (Current methodology—applied based on nature of contract). The Air Force, NASA, EPA and the United States Postal Service specifically recommended this alternative. Moreover, several commenters, including Johnson Controls and Hogg, Allen, Norton & Blue, even though they did not choose this alternative, believe this to be the least disruptive alternative since it most closely approximates the present two-level methodology.

The Air Force believes this to be the least costly of all the alternatives proposed and that experience over the past twenty years shows that a methodology providing a two-tier system would best "meet the needs of large or high-skill contractors and provide a representative rate for the small and low-skill contractors." The Air Force further believes that "[t]he current problems with the two rate system stem from the inconsistent application of the two fringe benefit levels resulting in confusion and frustration by Federal contracting agencies, contractors, and service employees." The Air Force favored establishment of regulations that would "place a high fringe benefit level only on large dollar contracts and contracts that require the use of a highly skilled workforce."

The United States Postal Service preferred this alternative so that "the current methods of calculating wages and benefits for highway transportation contract employees would be continued." The Postal Service's preference stems from its desire to preserve the status quo with respect to the Department's current policy of special treatment of the mail transportation industry.

The primary objections to this alternative are that the two levels are inconsistently and subjectively applied to contracts and that the insurance level is too low to provide adequate benefits and/or attract and retain qualified employees. SEIU points out that "size-of-establishment" data has no direct correlation to the population of establishments performing SCA contracts and the types of contracts to which the two benefit levels apply, *i.e.*, the size of the business has no relationship to the nature of the service contract or to the level of benefit applied under the current methodology. SEIU and the AFL–CIO both stated that the "size-of-establishment" approach for the lower "insurance" rate has been rejected by the Department's Board of Service Contract Appeals.

Alternative V–B: Issue two fringe benefit levels based on BLS ECI size-of-establishment data for all workers in private industry (variation of current methodology—applied by size/number of employees on contract; lower fringe benefit rate based on "total benefit" level). This alternative was favored only by CCAR Services, Inc., an employer of persons with disabilities, whose primary concern was that an increase in the cost of benefit packages would result in a reduction in the number of employees on government service contracts.

The Air Force opposed this alternative because of the problems attendant to its application. The Air Force notes that ECI fringe benefit data is based on the number of employees in the firm, whereas the suggested application would be based on the number of employees on the contract. The Air Force believes this illogical given that many large firms that would normally pay high fringe benefit rates have contracts that utilize only a small number of employees. CSA states that employees would be penalized for working on smaller contracts and that it would be difficult to attract and retain highly skilled workers on small contracts. Finally, Job Options, Inc. states this alternative would lead to a perception by employees of arbitrariness and unfairness since "there is really no difference from the workers point of view whether or not he or she works for a large or small employer, the workers' needs are the same. Therefore, to either penalize or reward them based on the size of the employer seems unfair to employees."

Other Alternatives

Unions' Proposal

The union commenters suggested an alternative methodology that would maintain the existing "two-tier" system, including the "total benefits" rate (currently at $2.56) utilizing the current methodology, but would provide a different methodology for determining only the lower "insurance" rate.[5] SEIU and the AFL–CIO both stated that the Department should continue to set the lower fringe benefit rate based on the cost that employers pay for insurance because BLS data shows that insurance is the only benefit which a majority of service workers receive. However, rather than using the ECI size-of-establishment data currently used to determine the "insurance" rate, the unions recommended using ECI all-industry data, but only after those establishments that reported no health insurance costs are factored out of the survey data, *i.e.*, after eliminating the "zeros." The unions argued that inclusion of "zeros" as amounts paid for health insurance distorts the cost of health insurance paid by employers which actually provide health insurance, and therefore artificially deflates the prevailing fringe benefit rate. The AFL–CIO believes that its proposal would bring the "insurance level" cost within the range of $2.00.[6] As discussed below, the unions" proposal also would include State, local and Federal data in the computation. They argue that inclusion of State and local data is appropriate because nothing in the Act suggests that prevailing rates are based only on private industry. They further suggest

[5] SEIU recommends that the "Total Benefits" rate should be "frozen at $2.56 until such time as the ECI data for all benefits for establishments of 100 or more employees rises above the $2.56" because the ECI data for 1995 and 1996 fell below this rate.

[6] Fringe benefit data with "zeros" excluded is not currently available from BLS. SEIU claims in its comments that BLS has informed them that "establishments with zero health care benefits can be eliminated from the ECI data by some programming changes * * *"

that inclusion of Federal rates is appropriate because of the statutory provision for the Department to give "due consideration" to the rates paid Federal employees.

As an alternative, SEIU suggested that the "insurance" rate could be based on data derived from the Federal Employee Health Benefits Program (FEHBP). According to SEIU, the family coverage contribution rate under the FEHBP program was $1.65 in 1996, whereas a blend of single and family coverage rates as reflected in the actual cost per employee to the Federal government would amount to approximately $1.30 per hour. Apparently, SEIU would support either of these two rates as the basis for the "insurance" rate.

The Army believes that the unions' proposal to change the "low" rate methodology, but retain the methodology for computing the "high" rate as it now stands is a "protectionist stance * * * that cannot be defended." The Army states that if DOL decides to continue with a two-rate methodology, the rationale for each rate must be the same. In other words, it would be illogical and inconsistent to determine the lower "insurance" rate based on all-industry data, while continuing to determine the higher "total benefits" rate based only on "size-of-establishment" data.

Insurance Plus Variable Rate

Fringe Insurance Benefits, Inc. (FIBI) recommended implementation of "a prevailing rate for health insurance that is level and consistent for all employees on the contract and a pension rate that is based on either wages or job classification." Under this method, health care costs for each class of employee would be consistent, but other fringe benefits such as pension amount would vary by occupation or wage rate. FIBI suggested that this method would better conform to actual market place practices. Furthermore, FIBI suggested that the Department closely review the National Association of Insurance Commissioners' Small Employer Health Insurance Availability Model Act.

"Due Consideration" and Inclusion of State and Local Data

Five organizations commented concerning the appropriate procedure for the Department to give due consideration to the wage and fringe benefits paid Federal employees, as required by the Act. Three unions and one contractor stated that due consideration should be given to the wage and fringe benefit rates being paid Federal employees in making SCA wage determinations. SEIU stated that due consideration was intended to narrow the disparity between the compensation received by Federal employees and service contract workers. SEIU's view is that Wage and Hour has made no attempt to determine the cost of Federal employees' fringe benefit in order to close the gap. The AFL–CIO contends that the Department cannot rationally maintain that it gives "due consideration" to Federal wage and fringe benefit rates, as required by the statute, when Federal workers are excluded from the data on which the SCA fringe benefit rates are based. LIUNA and Lockheed Martin concurred that in computing the insurance level, ECI insurance benefit costs from all civilian sectors, including government employees, should be used.

The unions strongly supported the inclusion of fringe benefits paid to all public employees, including State and local as well as Federal employees, in SCA fringe benefit rate determinations. According to SEIU, data on fringe benefits paid State and local government employees is readily available in that the ECI now publishes data on fringe benefits paid to "civilian workers" including both private and State and local workers combined. SEIU and the AFL–CIO also maintain that data on fringe benefits paid to Federal workers, which SEIU states is "readily available" from the Office of Personnel Management, should also be factored into the fringe benefit rates. SEIU states that fringe benefits received by State, local, and Federal workers "tend to be higher than the fringe benefits paid in private industry" and their exclusion artificially suppresses the rates currently published by the Department. The unions pointed out that neither the Act nor the regulations make a distinction between private and public service employees, and therefore, there is no basis for excluding public sector fringe benefit data.

In contrast, the Air Force states that if ECI fringe benefit data is to be used, State and local government fringe benefit data should be excluded. The Air Force states that not only are fringe benefits paid by these entities ordinarily above the levels provided by local private industry, but that a disproportionate number of these employees are represented by unions. These factors would tend to skew the data and results, just as would the inclusion of Federal government data. Furthermore, the CSA states that the benefit rate should be based on private industry data and does not believe that the Department should explore the cost and feasibility of expanding ECI to include fringe benefits of State and local workers.

"Grandfathering" or "Phase-In"

Nine organizations provided comments concerning the possibility of "grandfathering" and/or "phasing-in" any of the proposed alternative health and welfare benefit rate(s). CSA and its member contractors specifically recommend that the current "total benefit" level of $2.56 be "grandfathered" throughout the life of all existing contracts, including all options and extensions, and that all new contracts and recompetitions convert to the new health and welfare rate at the time of award. The Navy concurs that "the revised benefit rate should be implemented only at the resolicitation of a contract, or the new solicitation of contract services." The Navy also states that "[a]ny existing contract would continue with the same present benefit level through the end of that contract, regardless of options or extensions." The Navy did not specifically indicate whether its "grandfathering" scheme would apply only to the "total benefit" level or would also apply to the current "insurance" level of $.90 as well. The Army also agrees that "implementation should occur when a contract is being resolicited or a new requirement is being awarded." The Army anticipates that this would allow implementation "to occur over a period of one to four years, given the fact that most contracts are for a five year term."

KIA, on the other hand, suggested that contracts subject to the $2.56 level be "grandfathered to protect the current level until such time as the lower single level of $1.89 can catch up to it." Hogg, Allen, Norton & Blue also offered this suggestion. These commenters generally believe that this approach would protect incumbent employees against a reduction in their fringe benefits upon recompetition and would protect incumbent contractors against predatory pricing practices by non-incumbents at the time of recompetition. They believe that grandfathering the high benefit level until the new rate catches up, provided it is not cost-prohibitive for the agencies involved, would cause the least disruption for contractors and employees alike.

SEIU states that equity dictates that no employee's benefits should be cut back. In addition, LIUNA believes it appropriate for the Secretary of Labor to issue an exemption or variance for purposes of preserving the current high benefit rate. Another organization concurred, stating that because of the inevitable employee dissatisfaction resulting from a reduction in benefits,

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contracts should be grandfathered to protect the current level "until any lower level H & W rate can catch up because failure to do so would negatively impact employee morale and retention."

The AFL–CIO proposes a two-year phase-in approach for implementation of its recommended new "insurance" rate. The AFL–CIO recommended that implementation of the new "insurance" rate start with all contract anniversary dates after September 30, 1997, and that only one-half of the difference between the current rate and the new rates which would otherwise apply for fiscal year 1998 be implemented at that time. On the next anniversary date of the contract, the second half of the increase would be implemented.

The Air Force strongly opposes grandfathering the high fringe benefit level should a final rule be adopted to change to a methodology other than Alternative V–A. The Air Force objects to the Department artificially retaining higher fringe benefit rates, which they do not believe to be supported by the surveys. The Air Force recommends a "phase-in" period whereby the rate[s] would "take effect only upon recompetition of each contract." The Air Force believes that, while a phase-in period would not reduce the eventual cost of the benefit increase, it would at least serve to "reduce the immediate negative impact on employees facing layoffs."

The Defense Commissary Agency recommends against a permanent grandfathering at the current rate because that agency believes that the current rates are already too high for the type of work for which it contracts. Instead, the Defense Commissary Agency recommends a phase-in period of two years, with half the reduction occurring the first year, and movement to the then-current rate the second year.

Analysis

Based on a careful review of the comments and further analysis of the various alternatives, the Department has concluded that Alternative I best accords with the Department's dual responsibilities to determine fringe benefits which prevail, and to select a methodology which is administrable and not unduly disruptive for employees, contractors, contracting agencies, and the Department. Currently there are no occupation-specific or locality-based fringe benefit data available. Furthermore, virtually all commenters opposed any alternative which would result in their having to pay different fringe benefits to different classes of workers or in different parts of the country. While recognizing that no methodology will satisfy all parties interested in the service contracting process, the Department believes that Alternative I represents a reasonable application of the statutory requirement to establish prevailing fringe benefit rates and best meets the concerns expressed by the commenters to the Department's proposal. (See also the discussion below concerning the Department's issuance of a variance under Section 4(b) of the Act.)

Pursuant to the Alternative I methodology, the applicable fringe benefit level would be based on employer costs per hour worked for all benefits—excluding holidays and vacations, which are separately determined, and excluding benefits otherwise required by law, such as social security, unemployment insurance, and workers' compensation payments—as reported annually by the BLS Employment Cost Index (ECI) study of employer costs for employee compensation in the private sector (i.e., all workers, all industries, all establishment sizes, and all occupations). Under this "total benefits" approach, the Department will issue a single nationwide health and welfare fringe benefit level applicable to all employees engaged in the performance of SCA-covered contracts, based on the average cost [7] for the following compensation components:

(1) sick and other leave (excluding vacation and holiday leave);

(2) insurance, consisting of life, health, and sickness and accident insurance plans;

(3) retirement and savings, consisting of pension and savings and thrift plans; and

(4) other benefits not otherwise required by law.

The Department chooses Alternative I because, as noted by many commenters, this determination method is simple to understand and to comply with, and relatively simple to administer and enforce. The Department also chooses Alternative I because it is consistent with the Department's general practice of using cross-industry data which is not differentiated by size-of-firm in determining prevailing wage rates. The Department has concluded that use of size-of-firm data should not be continued because the Department's application of the two benefit levels did not in fact correspond to the size of the employer, and because review of the survey conducted in preparation of the Department's impact analysis (61 FR 55239, October 25, 1996) led the Department to conclude that the low "insurance" level which was applied to most contracts was particularly inappropriate for the large numbers of white collar and skilled blue collar workers employed on Federal service contracts.

Furthermore, the Department prefers Alternative I over the current methodology (Alternative V–A) because it addresses concerns expressed by commenters that the current two-tier system has been inconsistently and subjectively applied. This approach is also preferable because it applies the same minimum hourly benefit level for all service employees and does not require any subjective judgments as to which benefit level to apply based on the type of contract or employee. Accordingly, adoption of Alternative I will largely avoid the potential for employee morale problems and perceptions of unfairness and inequity that are inherent in the current system and in those alternatives that would establish different rates for different occupations (Alternatives II–A, II–C, and IV).

The Department also notes that Alternative I provides a benefit level that is sufficient for service contract employees to obtain meaningful health insurance coverage and will allow service contractors to obtain and retain qualified employees. This is consistent with the Department's goals of encouraging employers to provide a high quality and high performance work place. In contrast, the current low insurance fringe benefit level, because it is based on only "small" employers and averages in those employers which provide no fringe benefits, has resulted in a fringe benefit level significantly lower than the level actually paid by employers in private industry.

Alternative I also is consistent with the desire of almost all commenters that health and welfare fringe benefit rates be based upon nationwide data. The Department agrees with those commenters which opposed the alternative (III) which would base rates on the four regional breakdowns because it does not take into account the potentially wider prevailing rate disparities *within* regions and because employers commented that they generally provide similar benefits to their employees regardless of location.

The Department has decided not to mix State and local government fringe benefit data with ECI private industry data in determining the fringe benefit

[7] The cost of the benefit components in the BLS ECI study is an average based on data from all employers in the survey, including those employers that do not provide the particular benefit. Averaging in these "zeros" gives consideration to the degree to which a benefit in fact is paid by employers.

level applicable under this methodology. The Department has concluded that the determination of the prevailing fringe benefit level should be based only on private industry data since this is the sector that competes for government contracts. Public employee benefit rates are not representative of the benefit levels paid by the universe of private firms that comprises SCA contractors. Rather, fringe benefit levels paid by State and local governments are substantially different than private industry, and consequently, inclusion of such data would inappropriately skew the fringe benefit determination.

The Department has also concluded that inclusion of Federal fringe benefit data is not feasible.[8] The Department has not been able to obtain usable cost data for Federal benefits other than health and life insurance. The pension system provides a defined benefit package for one group of employees[9] and a defined contribution system for others, with contributions which vary according to the level of contributions by employees. Pension and sick leave both vary with the pay of employees. Thus, it is apparent that data on fringe benefits paid to Federal employees would not readily mix with ECI private industry data. However, the Department has taken "due consideration" of the Federal benefit system in its selection of Alternative I, which utilizes "total benefits" data and will bring SCA fringe benefit levels more into line with Federal benefits.

The Department shares the view of many commenters that any change in the methodology should avoid the serious adverse effect of a substantial reduction in fringe benefits for those service employees currently employed on contracts subject to the "total benefit" level. We anticipate that employers paying the higher benefits in accordance with past determinations of the Department will face the Hobson's choice of cutting fringe benefits for their workers (possibly losing them to employers who are not Federal service contractors which pay higher fringe benefit packages) or becoming uncompetitive. Similarly, Federal agencies may lose the continuity of services provided by major contractors which may become uncompetitive, or by valuable employees who leave because of the reduction in their fringe benefits.

Accordingly, the Department has concluded that the current "total benefit" level should be grandfathered at the present rate ($2.56 per hour) until the single benefit provided by Alternative I (all-industry, all-occupation average) reaches or exceeds $2.56. This grandfathered rate will apply to all contracts which currently contain the high, "total benefit" level, and future solicitations for those contracts. The grandfathered rate will not apply to contracts for new services.

The Department also believes it is necessary to allow contracting agencies (which may have budgeted based upon existing fringe benefit levels) and contractors (which will likely need to develop new fringe benefit plans) a period of time in which to prepare for the change in minimum fringe benefit levels. Accordingly, the new methodology established by this final rule will apply only to wage determinations issued on or after June 1, 1997. This date was selected so that the new rate will apply to contracts solicited and options exercised for the fiscal year beginning October 1, 1997. For the same budgetary and planning reasons, the Department has also concluded that a four-year phase-in of the rate set by the new methodology would be appropriate. The Department believes that this approach is preferable to the alternative suggestion of applying the new rate only to new solicitations, and not to extensions and options on existing contracts, because it is more equitable. Furthermore, the Department is concerned about potentially serious problems in applying the proper fringe benefit determination because of difficulties in ascertaining whether the wage determination is needed for a new contract or exercise of an option.

As discussed above, most of the alternative methodologies proposed did not garner significant support from commenters, though they were fully considered by the Department in light of the rulemaking record.

The Department did not select Alternative II–A, which would set different rates for each of six occupational groups, because it would be much more difficult for contractors to administer and for Wage-Hour to enforce. The Department considered it significant that commenters stated that providing different levels of benefits according to occupation is contrary to the common practice of employers providing the same benefit program to most employees, and that it would be difficult for insurance carriers to accommodate. Commenters also agreed generally that having different benefit levels based upon occupation would create serious labor-management and morale problems. The Department also shares the concern expressed by several commenters about subjectivity inherent in this alternative and the possibility that some contractors might attempt to manipulate the classifications in order to obtain a competitive advantage.

Alternative II–B is similar to Alternative I in that it would provide a single benefit level for all employees and all contracts. However, no commenters responded favorably to this new concept for computing health and welfare fringe benefits, which would set the fringe benefit level based upon available information regarding the mix of occupations used on Federal service contracts. Under this alternative, fringe benefit rates would be determined based upon the survey the Department conducted last year which formed the basis for its impact analysis. Commenters generally expressed little confidence in the Department's efforts to determine the occupational mix on SCA-covered contracts.

The Department did not select Alternative II–C for many of the same reasons it declined to adopt Alternative II–A. Reducing the occupational groupings from six to two would decrease the frequency of having different levels paid to groups of employees on the same contract. However, where that situation arose, there still would be a distinct possibility of perceptions of discrimination and consequent employee morale problems. Moreover, determining the appropriate mixing and weighting of the various occupational group rates would be difficult.

The Department rejected Alternative III because the Department agrees with the many commenters expressing the belief that establishing benefit rates on a regional basis offers no significant advantage over using a nationwide rate. To the contrary, regional data does not reflect variations in labor costs and fringe benefit rates *within* a region, which, as the commenters pointed out, are often more substantial than variations among regions. Moreover, this option would be inconsistent with the reportedly common practice among employers, including service contractors, of providing similar fringe benefits to most employees nationwide, without regard to either occupation or geographic location. This alternative would be particularly problematic to those government service contractors which perform contracts for similar services at various facilities and installations throughout the country. It

[8] Inclusion of Federal benefits would likely have little impact in any event. For example, Federal health insurance would affect the insurance level by no more than a few cents per hour.

[9] The level of the defined benefit plan presumably is also affected by the fact that participating employees do not receive credit towards Social Security benefits for their period of Government service.

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could also create serious administrative problems for service contractors whose contracts require performance in multiple locations that fall within different regions.

Alternative IV (benefits based on a fixed percentage of each employee's wages) was not chosen by the Department primarily because of the extreme difficulty that would be posed by its administrative requirements. Several commenters expressed serious concern that the additional administrative and recordkeeping requirements that would be associated with this alternative would simply be too burdensome, especially for smaller contractors. Although the Department is of the view that there is a correlation between wage levels and fringe benefits paid when viewed across the entire workforce, the Department recognizes that individual employers reportedly provide the same or similar benefit packages to most employees (especially insurance benefits), without regard to wage levels. Moreover, the Department agrees with the commenters that this alternative has the greatest potential for creating problems of inequity and morale in the workf orce. The Department also notes that under this alternative many lower paid workers simply would not receive adequate health insurance.

As discussed above, the Department decided against continuing the methodology proposed under Alternative V-A or the variation proposed under Alternative V-B primarily because of the lack of evidence justifying continued use of ECI "size-of-establishment" data, which has been difficult to defend before the Board of Service Contract Appeals, and commenter concerns regarding the manner in which the two rates have been applied and the resulting effects on the morale of the work force.

The Department also seriously considered the union proposal. The Department was concerned about the lack of opportunity for comment on this specific alternative. Furthermore, the Department believes that the union proposal, which would maintain the existing "two-tier" system, including the current method for determining the high "total benefits" rate, while providing a revised methodology for determining the lower "insurance" rate, would be difficult to support given that the two rates would be based on inconsistent methodologies. Under the union proposal, the high "total benefit" rate would continue to be set based on ECI "size-of-establishment" data for large firms (establishments with 100 or more employees). However, the Department's use of "size-of-establishment" data was successfully challenged in proceedings before the BSCA. Though the specific challenge was to the use of ECI "size-of-establishment" data as a basis for the low "insurance" rate, the Department believes that any legal shortcomings identified in that action would likely apply as well to the use of such data in establishing the "total benefit" level. Neither the comments nor the Department's own survey provided evidence to refute the Department's statement in its Notice of Proposed Rulemaking (61 FR 19773) that the major problem with the continued use of "size-of-establishment" data is that there is little evidence to show that the average benefit level for small firms corresponds best to benefits paid by private employers on contracts similar to most SCA contracts, or that the benefit level paid by large firms corresponds to the rates paid by employers on contracts to which the "total benefit" package has been applied under SCA. Thus, just as there is questionable justification for relying upon "size-of-establishment" data as the basis for the "insurance" rate, there is equally questionable basis for relying upon such data in setting the "total benefit" rate. Finally, the union proposal would continue to raise concerns about the potential for inconsistent and subjective application of the two levels.

The Department also rejected the alternative suggested by the FIBI. Like the union alternative, this alternative had not been offered for public comment. It has the distinct advantage of being consistent with many employers' reported practice of providing one insurance benefit package to their employees, while providing pension or other benefits at a level varying with wages. However, the Department is concerned that this proposal would be difficult and burdensome to administer, requiring detailed recordkeeping.

IV. Comments and Analysis of Other Fringe Benefit Issues

Variance Under Section 4(b) of the Act

Approximately ten organizations commented regarding the Department's proposal to issue a variance under Section 4(b) of the Act from the statutory requirement that the Secretary determine prevailing fringe benefits for the various classes of service employees in the locality.

Johnson Controls stated that using a single nationwide rate "does not reflect the economic factors of the local geographic areas for the prevailing benefits from a competitive and comparability standpoint. Nationwide average data is skewed and does not reflect a valid depiction of benefits when compared with local geographic prevailing benefit data." However, Johnson Controls did not identify any source of locality-based fringe benefit data nor did it support the use of regional data as proposed in Alternative III. Rather, Johnson Controls opposed use of such regional data because it would not take into consideration "the economic fringe benefit differences within the region."

SEIU stated that the absence of available data that could be used to set the fringe benefit rates on a locality basis is universally recognized. SEIU therefore supported the Department's proposal that "a variance be permitted to establish national fringe benefit rates on the grounds that there is no reliable locality data available which would permit the department to establish fringe benefit rates on a locality basis." The AFL-CIO believed that "only a national 'insurance level' rate is practical and consistent with the SCA." The AFL-CIO favored nationwide rates not only because of the absence of reliable locality-based data, but also because many insurance plans operate on a national basis and Federal service contractors often operate in multiple locations.

District No. 5—ITPE, NMU/MEBA (AFL–CIO) stated that they strongly support the position of the AFL–CIO that the fringe benefit rates should be uniform throughout the nation. In addition, the CSA recommended that the Department continue to issue health and welfare benefits on a national level stating that employers typically provide similar benefits regardless of location. Most of CSA's member companies felt that the utilization of locality-based fringe benefit data for selected metropolitan areas is not a desirable practice. Further, they felt that the benefits derived from collecting the data on a locality basis would not be worth the considerable survey costs.

The Air Force also did not favor using locality-based fringe benefit data for certain metropolitan areas. In their opinion, the resulting disparity in fringe benefit rates for large metropolitan areas versus the remainder of the nation would be inequitable and discriminatory to those workers outside the metropolitan areas.

Pony Express stated that any plan should take into account the differences in pay and fringes by region or locality.

After review of the comments, the Department has concluded that it is

appropriate to issue a variance from the statutory requirement in Section 2(a)(2) of the Act that the Secretary determine the fringe benefits to be prevailing for the "various classes of service employees" "in the locality." Fringe benefit data simply are not available for specific classes of employees or localities. Furthermore, it is evident from the comments that there would be significant administrative burdens to employers in providing fringe benefit plans which vary by locality or by class of employee. Such a system would be contrary to the reportedly common practice by employers, as evidenced by the comments, of providing one fringe benefit package to most employees. Any other system would likely also result in significant morale problems among employees.

Therefore, the Department has determined that a variance is necessary and proper in the public interest. Furthermore, the Department has determined that in light of the reportedly common practice of employers providing the same fringe benefit plan to most employees, a variance to provide a uniform nationwide level of benefits would be in accord with the remedial purposes of the Act to protect prevailing labor standards.

Different Benefit Levels for Certain Industries

The National Star Route Mail Contractors' Association and their member organizations support the current method used by the Department for setting wage and fringe benefit rates for the mail hauling industry. The Department sets wage and fringe benefit rates for the mail hauling industry for four geographic regions based on a special survey by the U.S. Postal Service. Wage determinations applicable to this industry contain monetary amounts due for health and welfare and pension benefits.

In addition, both the Department of the Army and the Department of the Navy supported having variation in fringe benefit rates under certain circumstances. Specifically, the Army stated that if a national rate were the standard, it would be important that the contracting agencies have the ability to challenge that one rate by industry. Moreover, if rates are found to be significantly lower for a particular industry, then the DOL should deviate from that one rate and set a lower rate for that industry. The Department of the Navy supported having a single health and welfare benefit rate for all SCA wage determinations. At the same time, however, it suggested use of the Section 4(b) variance procedure to prevent impairment of the Government's business where the agency can show that the fringe benefit rate determined under these regulations "would prevent adequate contract competition."

After review of the comments, and in consideration of the limited circumstances where special wage rates and fringe benefit rates are currently issued for certain industries, the Department has determined that it is appropriate to allow variances to permit industry-specific fringe benefits in certain limited circumstances upon application of the contracting agency. Such variations from the single nationwide rate will be allowed only on a showing that the variation is necessary and proper in the public interest or to avoid the serious impairment of government business. This might be satisfied, for example, where an agency is unable to obtain contractors willing to bid on the services because the service will be performed at the contractor's facility by employees performing work for the Government and other customers, and as a result, paying the required SCA fringe benefits would cause undue disruption to the contractor's own work force and pay practices. In all cases, in order to obtain a variance, it will also be necessary for the contracting agency to provide comprehensive data from a valid survey demonstrating the prevailing fringe benefits for the specific industry (not broad ECI data), in order to demonstrate that the variance is in accordance with the remedial purpose of the Act to protect prevailing labor standards.

This variance procedure does not constitute an opportunity to request a separate fringe benefit package for every class of employee or industry, but rather will require a showing of special circumstances. As discussed, it is evident from the ECI that practices do in fact vary widely among industries and occupations. Such an industry-by-industry or occupation-by-occupation approach has already been rejected through the consideration of the various alternatives and the decision to issue fringe benefit determinations without regard to occupation and based on cross-industry data.

If the criteria for granting a variance are met, and industry-specific data are found to be adequate for establishing an alternative prevailing fringe benefit determination, the party presenting such data will be responsible for updating the data on a regular basis. If the data are not regularly updated, then future procurements will be subject to the standard cross-industry determination.

Significant support was received for continuing the special fringe benefit determination for the mail transportation industry. The regulation acknowledges the appropriateness of industry determinations under certain conditions; the specific merits of such an approach for the mail industry is not appropriately an issue for this rulemaking proceeding, but will receive the Department's prompt attention.

Average Cost

Approximately 15 organizations commented regarding the average cost issue. Under the Department's regulations at § 4.175, fringe benefit contributions (or cash payments in lieu thereof) must ordinarily be made with respect to each service employee in the amount specified on the wage determination for all hours worked on the contract up to 40 hours per week. However, the regulations at § 4.175(b) prescribe a different compliance rule where the wage determination specifically identifies the benefit as an "average cost." Under the "average cost" fringe benefit determination, a contractor's contributions to a "bona fide" fringe benefit plan may vary among employees so long as total contributions for all hours worked (not just hours up to 40 in a workweek) by service employees on a particular contract average at least the specified amount per hour per service employee. In practice this average cost methodology is used only for the high "total benefits" fringe benefit rate.

CSA (and its 35 or so member organizations which filed comments in general support of CSA's comments) supported the average cost concept because of the flexibility it permits employers in the establishment of fringe benefit plans. Specifically, the CSA (and CSA member organizations which concurred with CSA's comments) stated that average cost is the preferred method because it allows companies to offer benefits in a comprehensive package that provides a variety of options. It allows for flexible benefit design for employees and helps service contractors to remain competitive. CSA stated that the average cost concept is the basis for the development of group insurance premiums, and that it allows for more efficiency in auditing. CSA believed that eliminating average cost would cause such an administrative burden on larger employers with self-insured medical plans that such an option would no longer be feasible. CSA also believed that the average cost concept allows small companies to obtain relief from administrative burdens by "outsourcing benefits administration and/or

purchasing 'packaged service contract benefit plans.'"

National Star Route Mail Contractors' Association and seven member organizations strongly oppose the use of an average cost concept. While acknowledging that some type of average cost concept "may be advisable," National Star Route believes that any advantages would be outweighed by the significant administrative and bookkeeping difficulties inherent in such a system, especially in circumstances where "an employee works on several contracts covered by different wage determinations." National Star Route was also concerned that use of average cost would result in substantial decreases in benefits for large numbers of service employees, would not guarantee equal benefits to all employees, and would create the possibility that some employees would not be provided with any benefits (*e.g.*, employees not working enough hours to become eligible for medical coverage). In short, National Star Route believes that "[i]nstead of averaging, employees should be benefitted on their individual basis."

National Star Route also believes that an averaging system would necessitate delay in some fringe benefit payments, since that averaging process would have to await the closing of the pay period. Finally, National Star Route expressed strong opposition to any methodology that would require its members to make fringe benefit payment for hours worked over 40. It stated that this would create such an increase in their overall labor costs that they might be rendered non-competitive against railroads, airlines and "various transportation groups within the U.S. Postal Service itself," thus causing the trucking industry to lose its market share of mail transportation.

Other commenters opposed to the average cost concept stated that the unequal division of benefits would unfairly disadvantage single versus married employees and short-term versus long-term employees. Some commenters foresaw the possibility that "a handful of very compensated employees could tilt the average high enough to meet the minimum average benefit with little or no contributions to the 'average' employee."

The Air Force also opposed the average cost concept in conjunction with any of the proposed fringe benefit methodologies. The Air Force believes that average cost allows some workers to receive preferential compensation based on personal circumstances, and that some companies use average cost to "exclude specific workers or to cause portions of their work force to suffer at the expense of more favored groups." The Air Force is of the opinion that it is more appropriate "for workers with higher risks or with more costly health care plans to pay these costs individually and not cause other workers to pay disproportionate shares of earnings or benefits to subsidize others." The Air Force also recommends that regulations be adopted to limit the hourly fringe benefit contributions to the standard 40 hour work week since "this is routinely done for both the private sector and government sector benefit plans."

The Department has concerns as to whether it is appropriate to expand the average cost concept to the basic fringe benefit level to be established under Alterative I. The Department is concerned that this concept, which would involve a radical change for most contractors, did not receive sufficient attention in the comments to warrant further action at this time. The Department is also concerned about the inequities of averaging, which allows contractors to make arbitrary determinations to deny fringe benefits altogether to some workers or classes of workers. Currently this system, which may be difficult to understand and administer for small contractors, is utilized primarily by sophisticated major contractors. Furthermore, the average cost concept requires payments or contributions at the prescribed fringe benefit level with respect to all hours worked, including hours over 40. Therefore this method could increase the costs of some contracts where the employees work a significant amount of overtime.

On the other hand, the Department recognizes the advantages of allowing averaging across a workforce where a contractor has an elaborate fringe benefit system with variable costs based on factors such as choice of health benefit plans, and pension and sick leave contributions, and payments which vary based on wages. The Department is considering further rulemaking on this issue and would welcome additional comments, including comments on any revisions to the current averaging method which may be appropriate. If there is significant support, the Department will consider further rulemaking. In the meantime, the Department is making no change in the regulation at § 4.175(b).

V. Comments and Analysis of Other Issues

Time-Frame for Section 4(c) Substantial Variance Hearings

The SCA and the regulations provide a procedure to request a determination that collectively bargained wages and fringe benefit rates required to be paid pursuant to Section 4(c) of the Act are "substantially at variance" from prevailing local wages or fringe benefits. The Department requested comments on a proposal suggested by the National Performance Review (NPR) that the regulations be tightened to provide a 60-day time-frame for completion of substantial variance hearings.

Seven organizations commented concerning the Section 4(c) variance issue. SEIU, AFL–CIO, CSA, District No. 5—ITPE, NMU/MEBA (AFL–CIO), and the LIUNA strongly opposed the proposal to reduce the 60-day time limit to conduct the entire Section 4(c) hearing process. They believed that the proposed restricted time frame for the completion of substantial variance hearings is totally impractical and should, therefore, be rejected. In fact, they believe the current time-frame of 60 days from the issuance of an Order of Reference until the opening of the hearing to be too short; they recommended that if any changes in the time-frames were to be made, the deadline should be extended.

The unions stated that this "fast track" approach, suggested by the National Performance Review without input from workers and unions, ignores the practical difficulties of litigation. They point out that in most instances where the contracting agency requests a substantial variance hearing, "the agency has enjoyed the benefit of months spent assembling the data that it will use to challenge the wage rates negotiated between the service contractor and the unions. The new time frame suggested essentially forces the service contractor or union to proceed to the substantial variance hearing without the time necessary to assemble the supportive evidence."

The Army suggested that the time frame be expanded to within 90 to 120 days. They stated that the current system can take years and affords no relief to the agencies.

In contrast, the Air Force strongly supported any effort to reduce the amount of time in the substantial variance process. The Air Force stated that reducing the time-frames will force the parties to address the issues in a prompt manner, while simplifying the process, and stated that an unbiased third party should be able to look at the

facts and determine if the data supports the existence of a substantial variance. They assert that the fact that the contractor must continue to pay the rates being challenged in the hearing makes it imperative that a timely and final decision be made. Finally, the Air Force recommended that regulations be implemented to stay the payment of rates that are being challenged until the final decision is made. In this regard, the Air Force stated as follows:

> The current structure forces the contracting agency into paying the cost of the increased rate or rates until a decision is made. This leaves the contracting agency no way to recover funds paid on rates that are ultimately determined to be substantially at variance. If rates are deemed to be at variance, this results in legal victory without proper cost recovery. If the rates were temporarily frozen this would not result in a loss if the final determination was made that rates did not substantially vary. It would simply delay the payment long enough for that decision to be made and applied.

The regulations currently provide a period of only 85 days from the date of the Order of Reference to the Chief Administrative Law Judge to appoint an administrative law judge (ALJ) to conduct a hearing, to the date of the ALJ decision. It is believed that this time-frame, if followed, provides a sufficiently fast track for proceedings. In addition, the Department has initiated a procedure to alert affected parties (union, contractor and agency, as appropriate) when a request for a substantial variance proceeding is received, in order to allow additional preparation time.

Other Proposals

The Department also proposed certain minor, technical modifications necessitated by amendments to the FLSA, a 1985 court decision, a 1983 treaty, and a 1986 intergovernmental compact. The Department received no comments on these minor proposals and has decided to proceed with these proposed minor changes.

In order to conform to more recent amendments to the FLSA establishing a new minimum wage, § 4.2 is revised to delete the reference to now out-of-date minimum wage rates; likewise, the tip credit example in Section 4.6(q) is modified to delete the language in the proviso that is based on the minimum wage rates provided by the 1978 amendments to the FLSA.

The text of § 4.112, which was invalidated by the 1985 court decision in *AFL-CIO* v. *Donovan*, 757 F.2d 330 (D.C. Cir. 1985), is modified to reinstate the language of the previous regulations as they appeared in the July 1, 1983, edition of the CFR. Final regulations published on October 27, 1983 (48 FR 49736), among other things, established a new provision in 29 CFR 4.112 that would have excluded from the Act's coverage contracts under which only a minor or incidental portion of the services would be performed within the geographical limits of the United States as defined in the Act. The D.C. Circuit held that this new provision had been adopted in violation of the notice-and-comment requirements of the Administrative Procedure Act. Under the restored language, which conforms to the Department's practice in the administration of this provision since the 1985 decision, if a service contract is performed in part within and in part outside the United States, any portion performed in the United States is covered.

In addition, the restored regulatory language includes changes that were necessary to conform to more recent enactments pertaining to the geographic scope of the SCA. As indicated in § 4.112, the SCA covers contract services furnished "in the United States," as that phrase is defined in Section 8(d) of the Act. The geographical area included within this definition was changed in the invalidated 1983 regulation to conform to the Treaty of Friendship Between the United States and the Republic of Kiribati, T.I.A.S. No. 10777, ratified June 21, 1983, by excluding Canton Island. The regulations are further amended to take into consideration changes necessitated by the 1986 Compact of Free Association between the United States and the Governments of Marshall Islands and the Federated States of Micronesia, set forth at 48 U.S.C. 1901 note, to exclude the Eniwetok Atoll, and the Kwajalein Atoll. In addition, pursuant to the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, set forth at 48 U.S.C. 1801 note, all laws not explicitly dealt with elsewhere in the Covenant which are applicable to Guam and are of general application to the States, are applicable to the Commonwealth of the Northern Mariana Islands (CNMI). Because the SCA is applicable to Guam, the regulation is amended to add the CNMI.

VI. Conclusion

For the foregoing reasons and after consideration of all of the comments submitted in response to the proposed rule published on May 2, 1996, in the **Federal Register** (61 FR 19770) and the preliminary regulatory impact analysis published in the **Federal Register** on October 25, 1996 (61 FR 55239), the Department is making the following changes in the regulations:

The Department has decided to issue a new § 4.52 [10] to set forth the methodology for determining future prevailing fringe benefit determinations. The Department is adopting the methodology provided in Alternative I as the appropriate methodology for establishing minimum health and welfare benefit rates under the SCA. Pursuant to this methodology, the fringe benefit rate will be based on nationwide ECI data for all employees in private industry, and will include all benefits (excluding holidays and vacation, "benefits otherwise required by law", and supplemental pay such as shift differentials, considered to be wages under SCA).

This methodology replaces the current methodology of issuing two benefit rates, "insurance" and "total benefit," based on ECI size-of-establishment data, which have applied to SCA contracts on the basis of the nature of the contract. However, the Department has decided to "grandfather" the current "total benefit" rate at its present level ($2.56) until the rate determined in accordance with Alternative I equals or exceeds $2.56. This grandfathered rate will apply to those contracts which currently are subject to the "total benefit" level, and to future solicitations for such contracts; the grandfathered rate will not apply to solicitations for new services.

The regulations will also allow for a four-year "phase-in" period under which only one-quarter of the difference between the current "insurance" rate and the new all-industry rate will be implemented for wage determinations issued on or after June 1, 1997. One-third of the remainder of the increase would be implemented the following year, and one-half of the remainder the following year. Beginning June 1, 2000, the new methodology will be fully implemented.

The Department has also decided that it is necessary and proper in the public interest and in accordance with the remedial purposes of the Act to protect prevailing labor standards to issue a variance pursuant to Section 4(b) of the Act and § 4.123 of the regulations from the Act's provisions that require fringe benefit determinations be made for various classes of workers in the locality. Pursuant to this variance, the Department will issue a nationwide level of benefits applicable to all classes of employees. The Department has also

[10] Existing 4.52 and subsequent sections are renumbered accordingly.

provided a procedure to permit contracting agencies to request a variance to allow industry-specific fringe benefits in certain limited circumstances. Finally, the regulation will continue to recognize as prevailing those situations (ordinarily where the provisions of a collective bargaining agreement are found to prevail) where a single fringe benefit rate is paid with respect to a majority of the workers in an occupation in a locality.

VII. Executive Order 12866/Small Business Regulatory Enforcement Fairness Act

On the assumption that the change in methodology for determining prevailing fringe benefits would have an annual impact on the economy of $100 million or more, the Department prepared and sought comments on its preliminary regulatory impact analysis (61 FR 55239 (October 25, 1996)). As discussed below, the Department has now completed its final regulatory impact analysis and has concluded that this rule, after full implementation, will have an annual effect on the economy of $100 million or more. Therefore the Department has concluded that the rule is economically significant within the meaning of Executive Order 12866, and that the rule is a major rule within the meaning of Section 804(2) of the Small Business Regulatory Enforcement Fairness Act. However, the rule does not require an economic impact analysis under Section 202 of the Unfunded Mandates Reform Act of 1995 because it will not require State, local, or tribal government, or private sector expenditures, in excess of $100 million in any one year; rather, the costs of the increases in fringe benefits will be borne by the Federal government.

Discussion of Comments

Five commenters provided specific comments regarding the Wage and Hour Division's SCA Occupational Employment Survey and Impact Analysis: the AFL-CIO, the Contract Services Association, the Navy, the Air Force, and the Army. Their comments concerned six areas:

Survey Purpose: The Army and Navy were critical of the survey for being directed exclusively toward Federal contractors whose wages and benefits are already established by DOL's own wage determinations, not by the labor market of the locality where the services are performed. At the same time, the Navy contended that "prevailing benefits are unattainable by any reasonable or affordable survey effort." The Air Force criticized the survey because it did not survey "prevailing rates" in the locality labor market.

These comments reflect a misunderstanding of the purpose of the survey. The survey only sought information on occupational employment under the SCA, along with the relevant wage determination issued for each contract. As stated in several communications with each Federal agency asked to participate in the survey, its purpose was to "estimate the distribution of employment by occupation on contracts covered by the McNamara-O'Hara Service Contract Act." As noted in the preliminary impact analysis, wage data utilized in the analysis were from the Bureau of Labor Statistics, Employment Cost Index, not from the fringe benefits paid by these contractors or from the wage determinations used for these contracts.

Survey Procedures: The Army, Navy and Air Force were critical of the survey procedures. Specifically, the Navy contended that receipt of the survey material was the first notification contracting agencies received from DOL that such a survey was being conducted. The Navy also contended that the survey methodology had not been discussed or coordinated ahead of time with the contracting agencies. The Air Force claimed that the survey was developed without agency Labor Advisor input. The Army stated that there was not meaningful coordination and communication between DOL and the Army.

As summarized in the preliminary impact analysis, the then U.S. Army Labor Advisor fully participated in the work group that helped design the survey procedures and materials. Staff of the Office of Federal Procurement Policy also participated in this process, which was initiated in April 1995. In June 1995, the U.S. Air Force and General Services Administration Labor Advisors participated in pilot testing the survey process and materials, and were specifically requested to provide ideas for improvement. The initial survey mailing was to each Federal Procurement Agency's Federal Procurement Executive, in September 1995. In that transmittal from the Wage and Hour Administrator, top agency procurement officers were asked to "designate a data collection coordinator to assume overall responsibility for your agency's role in this special study." Several of these designees were the agency Labor Advisor, or comparable agency staff. These coordinators were asked to "contact each of the offices responsible for contracts selected for this survey * * * and ensure that data collection instructions are properly followed)." Throughout the course of the survey, written and telephone contacts were maintained between the Wage and Hour Division and participating survey coordinators.

Survey Universe: The Contract Services Association, Navy, and Air Force had concerns regarding the reliability of the survey universe. The Contract Services Association and the Air Force stated that the universe under represents the actual population of covered FTEs, especially contracts under $25,000. At the same time, the Navy claimed that the universe overstated the number of contracts, by including procurements that actually were not covered by SCA.

The preliminary impact analysis acknowledges that the FPDS excludes certain segments of the contract universe. "For example, it does not contain data from the U.S. Postal Service, Air Force/Army Exchange Service, and most contracts under $25,000. Therefore, since the impact analysis is based upon a sample drawn from the FPDS population, estimates made only represent the covered contracts included in the FPDS, and should not be considered as representing the universe of all covered contracts. For this reason, the focus of the Impact Analysis was on the relative differences among costs likely to be generated by each alternative listed." (61 FR 55246) As with many large surveys, it should be expected that some sampled units may be wrongly included because they should not have been included in the population. Therefore, the questionnaires returned with notation by the contracting offices indicating that the contract was not covered by SCA were excluded from the survey and were used to correct the population of SCA-covered contract obligations by SIC. These corrections were based upon an assumption by the Wage and Hour Division that those closest to contract administration are best informed regarding SCA coverage.

Survey Findings: Both the Air Force and the Navy contended that the survey overestimates the number of contracts assigned the current high ($2.56) health and welfare benefit level and underestimates the number assigned the low ($0.90) level. The Navy stated: "If one were to accept the contention made in DOL's survey impact report, that the "high" health and welfare benefit level is paid on a large percentage of all service contracts, that conclusion would be due in part to DOL's own historical practice of applying that benefit level artificially." The Navy further stated that the majority of contract workers are paid at or near the low health and

welfare benefit level, while an Air Force internal study concluded that 64 percent of FTEs are at the low level and 19 percent at the high.

In fact, the survey did *not* find a large number of *contracts* at the high health and welfare benefit level. Table 4 of the preliminary impact analysis clearly shows 80.7 percent of contracts at the low level, 14.3 percent at the high level, and 5.0 percent set by collective bargaining agreement pursuant to Section 4(c) of the Act. The survey did find 42.5 percent of FTEs at the high level, 34.1 percent at the low, and 23.4 percent under Section 4(c). Of course, there is no reason to believe that such ratios are necessarily the same for all agencies.

Survey Reliability: Four of the five commenting parties questioned survey reliability. The Contract Services Association, Air Force, and AFL–CIO expressed concern over the survey's "7 percent" response rate. In addition, the Contract Services Association and the Air Force questioned the size and representativeness of the sample. The AFL–CIO claimed that nonresponse to the survey was a source of systematic bias and error, resulting in population estimates not reflective of the SCA population.

As explained in the preliminary impact analysis, the survey usable response rate was 20.2 percent of the sample (not 7 percent). The sample, which was selected by contract value within industry group, represented 35 percent of the number of contracts in the population, and 63 percent of population contract value. Usable responses to the survey represented 7.2 percent of *population* contracts and 19 percent of contract value. At the same time, the apparent similarity to the FPDS data in the universe by industry appears to limit the potential for bias of the estimates obtained from the sample data. The process whereby FTE/contract value ratios (by occupational group within industry group), once established, were applied to the population (not the sample) to estimate FTE totals would also tend to limit the potential for bias caused by the low response rate.

Impact Analysis: The Air Force claimed that the survey underestimates the number of FTEs at the low health and welfare benefit level, and therefore that the impact analysis underestimates cost increases associated with the various alternatives. Based on its survey of Air Force contracts, the agency developed its own estimate of the cost of the current size-of-firm methodology ($612,202,240) and of the cost of Alternative I, based on increasing the low benefit to $1.89 ($970,503,040). The Air Force then compared its estimate of the cost of Alternative I to its calculation of the DOL estimates [11] ($720,462,080 and $961,800,320, respectively, according to the Air Force). Therefore, the Air Force concludes that a total annual cost increase of $358,300,800 would be incurred by accepting "DOL's proposed single fringe benefit alternative of $1.89 per hour," and not the "DOL estimate" of $241,338,240.

Even assuming that the results of Air Force's survey of the number of contracts/employees subject to the two current fringe benefit rates could be generalized to other agencies, the Air Force analysis appears to be incorrect in four respects: (1) In doing its calculations of the DOL estimate, the Air Force seems to have mistakenly multiplied the low benefit health and welfare amount ($0.90) times the high benefit FTE total (117,200), and the high benefit amount ($2.56) times the low benefit FTE total (94,100). Therefore the Air Force underestimated the DOL current cost estimate by $79,741,585. (2) By underestimating current costs by almost $80 million, alternative cost increases were overestimated by a like amount. (3) The Air Force cost computations for Alternative I assumed the Department would continue to issue the high rate for contracts currently receiving that rate. Although comments were solicited on the issue of grandfathering the high rate, the Department's estimate was not based on this assumption. (4) The Air Force computations for combining the $2.56 with a $1.89 level appear to have understated costs by over $5 million.

Final Regulatory Impact Analysis

After review of the comments, the Department has concluded that there is no reason to change its estimates of the relative costs of the various alternatives projected, as set forth in the preliminary regulatory impact analysis.

The Department has now obtained 1996 ECI data, which shows that the all-private-industry, all-employee rate under Alternative I would increase from $1.89 (1995 data) to $1.91 (1996 data) per hour. The Department therefore has computed the cost of the alternative selected utilizing 1996 data, and based on the survey projection that 44.5 percent of covered employees (94,048 FTE) are employed on contracts currently subject to the low ($.90) benefit, and 55.5 percent (117,215 FTE) are employed on contracts currently subject to the high ($2.56) benefit:

1. The cost of prevailing fringe benefits determined in accordance with the curren' methodology:

Cost for employees receiving benefits of $.90 per hour: $.90 × 94,048 FTE × 2080 hrs. = $176,057,856

Cost for employees receiving benefits of $2.56 per hour: $2.56 × 117,215 FTE × 2080 hrs. = $624,146,432

Cost of current methodology: $176,057,856 + $624,146,432 = $800,204,288 ($3788 per FTE)

2. The first-year increase in the cost of the new methodology, i.e., the cost of increasing the fringe benefits for employees currently receiving $.90 per hour by $.25 per hour (one-fourth of the increase to $1.91): $.25 × 94,048 FTE × 2080 hrs. = $48,904,960 ($231 per FTE)

Thus the first-year increase in costs caused by the new methodology would be less than $50 million per year. In succeeding years it can be anticipated that the increase in fringe benefits costs for employees receiving the low rate may be somewhat higher than $.25 per hour as the cost of fringe benefits varies from year to year. However, it is anticipated that this increase will be more than offset by savings where contracts currently requiring fringe benefits of $2.56 are not succeeded by new contracts for substantially the same services; contracts for new services which would have received the $2.56 rate under the former procedures will receive the new "all-industry, all-employee" rate at the rate it is being phased in.

By the fourth year, if the $1.91 rate were to hold, the increased annual cost would be approximately: $1.01 × 94,048 FTE × 2080 hrs. = $197,576,038 ($935 per FTE)

The administrative burden, if any, of the various alternatives proposed is discussed in some detail in the preamble above. From the comments, it is evident that the alternative chosen is among the least burdensome of the various alternatives, since it does not involve paying different benefits to different workers on the same contract or in different regions of the country. However, during the period where both rates are issued, those contractors which have contracts subject to both rates (as is sometimes currently the case) will continue to have the burden of administering two benefit programs. In addition, the change in the fringe benefit rate will involve the administrative burden of contractors making changes in their fringe benefit plans to accommodate changed fringe

[11] The Department's proposed impact analysis as published in the **Federal Register** did not set forth a total cost for the various methodologies, but rather advised the public of the cost per FTE. Therefore the Air Force did its own calculations of the Department's estimated cost.

benefit rates, both during the transition period and as prevailing benefits change over time.

The Department has not been able to obtain data which would allow it to quantify the benefits to the affected workers and to society of providing workers prevailing fringe benefits, or to quantify any indirect effects on jobs, productivity, or the Federal deficit, and no such data was provided by commenters. A significant issue raised in the comments, as discussed above, is the concern that the current low "insurance" rate is not high enough to provide meaningful health insurance to employees. The Department believes, as stated by many commenters, that the rate established through the selected methodology will allow employers to provide meaningful health benefits, with the concomitant direct benefit to the employees and indirect benefit to society from a healthier work force, including reduced pressure on public health resources.

IX. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, Public Law 96–354 (94 Stat. 1164; 5 U.S.C. 601 *et seq.*), Federal agencies are required to prepare a final regulatory flexibility analysis that describes the anticipated impact of a rule on small entities. After review of the comments received and consideration of the various alternatives, the Department has prepared the following regulatory flexibility analysis regarding this rule:

(1) *The need for and objectives of the rule.*

SCA requires that the Department of Labor (DOL) determine locally-prevailing wages and fringe benefits for the various classes of service employees performing contract work subject to the SCA. Contracts over $2,500 (if the predecessor contract was not subject to a collective bargaining agreement) are required to contain wage determinations issued by DOL that specify the minimum monetary wages and fringe benefits that must be paid to the various classes of workers who perform work on the service contract, based upon rates determined by DOL to be prevailing in the locality where the work is to be performed. As discussed previously, fringe benefit data are not generally available on an occupation-specific or on a locality basis, which prompted DOL to issue fringe benefit determinations for health and welfare based on nationwide data ever since SCA was enacted.

The Service Employees International Union (SEIU) sued DOL in March 1991 in the United States District Court for the District of Columbia over the longstanding administrative practice, since 1976, of issuing two nationwide rates for health and welfare fringe benefits, and for failure to periodically update SCA health and welfare fringe benefit levels which, at that time, had not been updated since 1986 (SEIU v. Martin, CA No. 91–0605 (JFP) (D.D.C. April 1, 1992)). In this court challenge, the district court remanded the case to DOL for exhaustion of administrative remedies and final agency action, which led to the decisions of DOL's Board of Service Contract Appeals that remanded the matter to the Wage and Hour Division to consider alternative methodologies for implementing the statutory objectives (BSCA Case No. 92–01 (August 28, 1992) and Case No. 93–08 (September 23, 1993)). Based on the Board's decisions, the Department decided that the best process for developing a methodology to establish prevailing SCA fringe benefits consistent with statutory requirements would be to propose various alternatives through rulemaking. In the meantime, SEIU moved the district court to reopen its case against the Department. The district court dismissed the case without prejudice to SEIU's right to reopen for reconsideration upon a showing that DOL has not adopted a final rule in this matter by July 31, 1996 (*SEIU* v. *Reich*, CA No. 91–0605 (CRR) (D.D.C. January 19, 1996)).

On May 2, 1996, the Administrator of the Wage and Hour Division published a Notice in the Federal Register (61 FR 19770) proposing for public comment various alternative fringe benefit determination methodologies. As explained in the proposed rule, however, it was not feasible to publish a regulatory impact analysis for comment with the proposed rule. At the time the Department was completing the development of data on the occupational mix of service contract employees in order to provide a basis for the impact analysis. That analysis was completed and published for comment on October 25, 1996 (61 FR 55239). In the meantime, the Court set a deadline for publication of the final rule of December 24, 1996. *SEIU* v. *Reich*, CA No. 91–0605 (August 27, 1996).

(2) *Summary of significant issues raised by the public comments in response to the initial regulatory flexibility analysis.*

The Department received a number of comments regarding the economic impact analysis and the survey that was conducted to determine the occupational mix on Federal service contracts. Those comments are specifically addressed in the economic impact analysis section above. No comments were received on the initial regulatory flexibility analysis.

(3) *Number of small entities covered under the rule.*

The definition of "small business" varies considerably depending upon the policy issues and circumstances under review, the industry being studied, and the measures used. The Small Business Administration's Office of Advocacy generally uses employment data as a basis for size comparisons, with firms having fewer than 100 employees or fewer than 500 employees defined as small.[12]

Statistics published by the Internal Revenue Service indicate that in 1990, an estimated 20.4 million business tax returns were filed for 4.4 million corporations, 1.8 million partnerships, and 14.2 million sole proprietorships, most of which are "small"—fewer than 7,000 would qualify as large businesses if an employment measure of 500 employees or less is used to define small and medium-sized businesses.[13]

Federal procurement data are compiled and reported by the Federal Procurement Data Center (FPDC) in the *Federal Procurement Data System Federal Procurement Report* (Washington, D.C.: U.S. Government Printing Office). The value of Federal contracts and volume of contract "actions" are currently reported individually to the FPDC for contract actions exceeding $25,000; actions of less than $25,000 are reported only in the aggregate. A contract "action" differs from an initial contract "award" because a single contract may involve more than one action—for example, a modification to an initial contract award is reported to the FPDC as a separate action and may involve the obligation or de-obligation of funds.

Small businesses were awarded $58.8 billion of the $184.2 billion spent by the Federal government on goods and services in Fiscal Year (FY) 1989, including $31.6 billion awarded directly to small firms and $27.2 billion awarded to small subcontractors by Federal

[12] The State of Small Business: A Report of the President Transmitted to the Congress (1991), together with The Annual Report on Small Business and Competition of the U.S. Small Business Administration (United States Government Printing Office, Washington, D.C., 1991), p. 19. A more detailed breakdown also used is: under 20 employees, very small; 20–99, small; 100–499, medium-sized; and over 500, large. In general, a business bidding on a government contract is regarded as small if it has fewer than 500 employees (see p. 221).

[13] U.S. Department of the Treasury, Internal Revenue Service, SO Bulletin (Spring 1990) Table 19; reprinted by SBA in The State of Small Business (1991), Id., p. 21.

prime contractors.[14] Small firms accounted for more than one-half (51.3 percent) of the value of contracts under $25,000, but only 14.1 percent of those over $25,000 in FY 1989.[15] Since FY 1979 when the FPDC first began reporting procurement data regularly, the share of Federal procurement dollars awarded to small firms has fluctuated between 14 and 16 percent over the entire period—for FY 1989 it was 14.1 percent overall.

Of the major product/service categories under which contract actions are reported to the FPDC, the "other services" category (which includes a variety of non-construction activities ranging from technical, sociological, administrative, and other professional services, to installation, maintenance, and repair of equipment) amounted to 28.9 percent of the total Federal prime contract actions reported individually in FY 1989. Small businesses were awarded $6.8 billion or 14.7 percent of the contract dollars awarded for services in FY 1989.[16]

This FPDS data on small business awards does not correlate precisely with the number of contract actions or contract dollars awarded that are subject to the SCA. However, the "services" category can be considered a reliable proxy for analyzing the universe of SCA-covered contracts reported to the FPDC that may be awarded to small businesses. Of a total 502,138 contract actions valued at $177.8 billion that were individually reported to the FPDC in FY 1992 (i.e., actions over $25,000 each), 82,957 contract actions, valued at $18.1 billion, were classified as subject to the SCA.[17] Of these awards, we estimate that $2.66 billion (14.7 percent) went to small businesses. These figures, however, do not include any portion of the contract actions not individually reported but reported in summary to the FPDC, which totaled 19.6 million contract actions valued at $22.02 billion.[18] Based upon the percentage of contract actions and contract dollars in the services category that were reported individually to FPDC as being subject to SCA, we estimate that an additional 2,905,696 actions, valued at $2.2 billion, of the actions reported in summary to the FPDC were subject to SCA. Of these awards, we estimate that $1.1 billion (50 percent) went to small businesses.

No current employment data are available by size of business that would relate to Federal contracts awarded subject to SCA. (The SBA measures employment change on a current basis for each small- or large-business-dominated industry using Bureau of Labor Statistics payroll data.[19])

(4) *Reporting, Recordkeeping and Other Compliance Requirements of the Rule.*

All SCA-covered contractors (including small businesses) are required to maintain records specified under 29 CFR Part 4 that demonstrate compliance with the statutory requirements to furnish equivalent fringe benefits or cash equivalents at not less than prevailing rates.

This final rule, which relates to the procedures to be followed by DOL for determining prevailing health and welfare fringe benefits to be paid to service employees working on Federal service contracts covered by SCA, contains no new reporting, recordkeeping, or other compliance requirements applicable to small businesses. Although some of the proposed alternatives likely would have involved additional recordkeeping obligations, the alternative selected does not require any additional recordkeeping. In fact, contractor comments regarding the ease of administration and compliance under this alternative were an important factor in selecting the alternative.

(5) *Description of the steps taken to minimize the significant economic impact on small entities consistent with the objectives of the Service Contract Act.*

As noted in the discussion of the various alternatives, the methodology selected (Alternative I) was clearly the alternative favored by most employers, many of which were small businesses. The factual, policy and legal reasons for selecting Alternative I and the reasons for rejecting the other alternatives are fully addressed in the discussion of the various alternatives. A key factor underlying the support of Alternative I by many employers, including many small entities, was the ease of administration and compliance under this alternative. In addition, this alternative was favored because it produces a benefit rate that is sufficient to allow all service contractors to purchase a reasonable benefit package for all contract workers. Under the current two-tier benefit structure, the low level benefit has been generally considered to be too low for employers to purchase even a minimal health and welfare package for their workers.

Proposed Alternatives II—IV were generally viewed by most commenters as being administratively difficult, especially for small employers. Notwithstanding the greater administrative burden, these alternatives were favored by some because they yielded a lower fringe benefit rate for many workers. For service contractors in general, however, these alternatives would have imposed significant administration and compliance difficulties.

List of Subjects in 29 CFR Part 4

Administrative practice and procedures, Employee benefit plans, Government contracts, Investigations, Labor, Law enforcement, Minimum wages, Penalties, Recordkeeping requirements, Reporting requirements, Wages.

Accordingly, for the reasons set out in the preamble, 29 CFR Part 4 is amended as set forth below:

PART 4—LABOR STANDARDS FOR FEDERAL SERVICE CONTRACTS

1. The authority citation for Part 4 continues to read as follows:

Authority: 41 U.S.C. 351, et seq., 79 Stat. 1034, as amended in 86 Stat. 789, 90 Stat. 2358; 41 U.S.C. 38 and 39; 5 U.S.C. 301; and 108 Stat. 4101(c).

2. Section 4.2 of Subpart A is revised to read as follows:

§ 4.2 Payment of minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 under all service contracts.

Section 2(b)(1) of the Service Contract Act of 1965 provides in effect that, regardless of contract amount, no contractor or subcontractor performing work under any Federal contract the principal purpose of which is to furnish services through the use of service employees shall pay any employees engaged in such work less than the minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

3. The introductory text of § 4.6(q) of Subpart A is revised to read as follows:

§ 4.6 Labor standard clauses for Federal service contracts exceeding $2,500.

* * * * *

(q) Where an employee engaged in an occupation in which he or she customarily and regularly receives more than $30 a month in tips, the amount of tips received by the employee may be credited by the employer against the minimum wage required by Section 2(a)(1) or 2(b)(1) of the Act to the extent permitted by section 3(m) of the Fair

[14] The State of Small Business, *supra* at 220.

[15] Ibid.

[16] Id., pp. 223, 226 & 235–237.

[17] Federal Procurement Data System Standard Report, Fiscal Year 1992, Fourth Quarter, pp. 74–75.

[18] Id., p. 74.

[19] Id., p. 34.

Labor Standards Act and Regulations, 29 CFR Part 531. To utilize this proviso:

* * * * *

§§ 4.52 through 4.55 [Redesignated as §§ 4.53 through 4.56]

4. Sections 4.52 through 4.55 of Subpart B are redesignated as §§ 4.53 through 4.56 respectively.

5. A new § 4.52 is added to read as follows:

§ 4.52 Fringe benefit determinations.

(a) Wage determinations issued pursuant to the Service Contract Act ordinarily contain provisions for vacation and holiday benefits prevailing in the locality. In addition, wage determinations contain a prescribed minimum rate for all other benefits, such as insurance, pension, etc., which are not required as a matter of law (i.e., excluding Social Security, unemployment insurance, and workers' compensation payments and similar statutory benefits), based upon the sum of the benefits contained in the U.S. Bureau of Labor Statistics, Employment Cost Index (ECI), for all employees in private industry, nationwide (and excluding ECI components for supplemental pay, such as shift differential, which are considered wages rather than fringe benefits under SCA). Pursuant to Section 4(b) of the Act and § 4.123, the Secretary has determined that it is necessary and proper in the public interest, and in accord with remedial purposes of the Act to protect prevailing labor standards, to issue a variation from the Act's requirement that fringe benefits be determined for various classes of service employees in the locality.

(b) The minimum rate for all benefits (other than holidays and vacation) which are not legally required, as prescribed in paragraph (a) of this section, shall be phased in over a four-year period beginning June 1, 1997. The first year the rate will be $.90 per hour plus one-fourth of the difference between $.90 per hour and the rate prescribed in paragraph (a) of this section; the second year the rate will be increased by one-third of the difference between the rate set the first year and the rate prescribed; the third year the rate will be increased by one-half of the difference between the rate set in the second year and the rate prescribed; and the fourth year and thereafter the rate will be the rate prescribed in paragraph (a) of this section.

(c) Where it is determined pursuant to § 4.51(b) that a single fringe benefit rate is paid with respect to a majority of the workers in a class of service employees engaged in similar work in a locality, that rate will be determined to prevail notwithstanding the rate which would otherwise be prescribed pursuant to this section. Ordinarily, it will be found that a majority of workers receive fringe benefits at a single level where those workers are subject to a collective bargaining agreement whose provisions have been found to prevail in the locality.

(d) A significant number of contracts contain a prevailing fringe benefit rate of $2.56 per hour. Generally, these contracts are large base support contracts, contracts requiring competition from large corporations, contracts requiring highly technical services, and contracts solicited pursuant to A–76 procedures (displacement of Federal employees), as well as successor contracts thereto. The $2.56 benefit rate shall continue to be issued for all contracts containing the $2.56 benefit rate, as well as resolicitations and other successor contracts for substantially the same services, until the fringe benefit rate determined in accordance with paragraphs (a) and (b) of this section equals or exceeds $2.56 per hour.

(e) *Variance procedure.* (1) The Department will consider variations requested by contracting agencies pursuant to Section 4(b) of the Act and § 4.123, from the methodology described in paragraph (a) of this section for determining prevailing fringe benefit rates. This variation procedure will not be utilized to routinely permit separate fringe benefit packages for classes of employees and industries, but rather will be limited to the narrow circumstances set forth herein where special needs of contracting agencies require this procedure. Such variations will be considered where the agency demonstrates that because of the special circumstances of the particular industry, the variation is necessary and proper in the public interest or to avoid the serious impairment of government business. Such a demonstration might be made, for example, where an agency is unable to obtain contractors willing to bid on a contract because the service will be performed at the contractor's facility by employees performing work for the Government and other customers, and as a result, paying the required SCA fringe benefits would cause undue disruption to the contractor's own work force and pay practices.

(2) It will also be necessary for the agency to demonstrate that a variance is in accordance with the remedial purpose of the Act to protect prevailing labor standards, by providing comprehensive data from a valid survey demonstrating the prevailing fringe benefits for the specific industry. If the agency does not continue to provide current data in subsequent years, the variance will be withdrawn and the rate prescribed in paragraph (a) of this section will be issued for the contract.

6. Section 4.112 of Subpart C is revised to read as follows:

§ 4.112 Contracts to furnish services "in the United States."

(a) The Act and the provisions of this part apply to contract services furnished "in the United States," including any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf lands as defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Wake Island, and Johnston Island. The definition expressly excludes any other territory under the jurisdiction of the United States and any United States base or possession within a foreign country. Services to be performed exclusively on a vessel operating in international waters outside the geographic areas named in this paragraph would not be services furnished "in the United States" within the meaning of the Act.

(b) A service contract to be performed in its entirety outside the geographical limits of the United States as thus defined is not covered and is not subject to the labor standards of the Act. However, if a service contract is to be performed in part within and in part outside these geographic limits, the stipulations required by § 4.6 or § 4.7, as appropriate, must be included in the invitation for bids or negotiation documents and in the contract, and the labor standards must be observed with respect to that part of the contract services that is performed within these geographic limits. In such a case the requirements of the Act and of the contract clauses will not be applicable to the services furnished outside the United States.

Signed at Washington, D.C., on this 24th day of December, 1996.

Gene Karp,

Deputy Assistant Secretary for Employment Standards.

[FR Doc. 96–33222 Filed 12–26–96; 10:05 am]

BILLING CODE 4510–27–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 2

RIN 2900–AH00

Delegation of Subpoena Authority and Description of Means of Service

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule an interim rule amending the Department of Veterans Affairs (VA) regulations concerning authority of VA officials to issue subpoenas by revoking the delegation of authority to the Inspector General and subordinate officials and by adding a delegation of authority to the Under Secretary for Health and certain subordinate officials. The interim rule also amended the regulations by specifying the means of service for VA subpoenas. The intended effect of this rule is to make the Department's delegations of subpoena power consistent with legal authority and to ensure that VA has the means to obtain information necessary to determine whether individuals are entitled to income-based benefits.

EFFECTIVE DATE: December 30, 1996.

FOR FURTHER INFORMATION CONTACT: Barry M. Tapp, Deputy Assistant General Counsel (023A), Office of the General Counsel, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington DC 20420, (202) 273–6334.

SUPPLEMENTARY INFORMATION: On August 10, 1995, VA published in the **Federal Register** (60 FR 40756) an interim rule as described in the *Summary* portion of this document. A 61-day comment period ended October 10, 1995, and no comments were received.

This final rule affirms the information in the interim rule document concerning the Regulatory Flexibility Act.

Accordingly, the interim rule amending 38 CFR part 2 which was published at 60 FR 40756 on August 10, 1995, is adopted as a final rule without change; except that the authority citation for the provisions in this final rule was changed in a document published in the **Federal Register** on May 7, 1996 (1 FR 20438), and this document leaves in place the new authority citation.

Approved: November 19, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

[FR Doc. 96–33075 Filed 12–27–96; 8:45 am]

BILLING CODE 8320–01–P

38 CFR Parts 3 and 14

RIN 2900–AI39

Miscellaneous Regulations

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) adjudication regulations by removing an unnecessary provision that states all decisions will conform to the statutes and regulations of the Department of Veterans Affairs and to the precedent opinions of the General Counsel. The intended effect of this amendment is to eliminate unnecessary regulations. This document also makes clarifying changes to the regulations concerning criteria for determining need for aid and attendance, and to those dealing with the effect of written precedent opinions of the General Counsel.

EFFECTIVE DATE: This amendment is effective December 30, 1996.

FOR FURTHER INFORMATION CONTACT: Steve Tomasek, Consultant, Procedures Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, telephone (202) 273-7256.

SUPPLEMENTARY INFORMATION: 38 CFR 3.101 states that all decisions of the Department of Veterans Affairs will conform to the statutes and regulations of the Department of Veterans Affairs and to the precedent opinions of the General Counsel. That an agency must comply with its governing statutes and its own regulations, which have the force and effect of law, is such a fundamental legal concept that a regulation specifically requiring such compliance is unnecessary.

38 CFR 14.507 indicates that General Counsel opinions designated as precedential will be considered binding on VA officials as legal interpretations of general applicability. This document revises 38 CFR 14.507(b) to more clearly state that precedent opinions are binding on VA officials and employees in subsequent matters involving a legal issue decided by the precedent opinion. Accordingly, there is no need to state separately in part 3 that VA decisions must conform to VA precedent opinions. For the foregoing reasons, this document amends VA adjudication regulations by removing section 3.101.

This document revises 38 CFR 14.507(b) by adding at the end thereof a sentence stating that an opinion designated as a precedent is binding on VA officials and employees in subsequent matters involving a legal issue decided in the precedent opinion, unless there has been a material change in a controlling statute or regulation or the opinion has been overruled or modified by a subsequent precedent opinion or judicial decision. Also, a minor conforming change is made to 38 CFR 14.507(a). These changes merely clarify the provisions of the current regulation.

Currently, 38 CFR 14.507(b) authorizes the VA General Counsel to designate as a "precedent opinion" any General Counsel opinion having significance beyond the particular case or matter at issue in the opinion. The term "precedent" has a well-established legal meaning indicating an interpretation of law by a competent authority which is considered binding or persuasive in subsequent cases involving the same issue of law. Further, section 14.507(b) currently provides that General Counsel precedent opinions are subject to the provisions of 5 U.S.C. 552(a)(1), which requires Federal agencies to publish in the **Federal Register**, among other things, "interpretations of general applicability formulated and adopted by the agency." Although section 14.507(b) presently indicates that General Counsel precedent opinions will be generally applicable and binding on VA employees and officials with respect to matters involving the same question of law, we believe it would be helpful to state the binding effect of precedent opinions in clearer terms.

This document also revises the heading of section 3.352 of the adjudication regulations. Currently the heading reads "Criteria for permanent need for aid and attendance and 'permanently bedridden.'" The heading is revised to read "Criteria for determining need for aid and attendance and 'permanently bedridden.'" The revised heading more accurately indicates that section 3.352 concerns entitlement to increased pension, compensation, or dependency and indemnity compensation based on an individual's need for the regular aid and attendance of another person without regard to whether or not such need is permanent.

Since this rulemaking merely removes an unnecessary nonsubstantive provision and makes clarifying changes, the Secretary finds under 5 U.S.C. 553(b) that prior notice and comment are unnecessary and that there is a basis for dispensing with a 30-day delay of the effective date.

The Secretary hereby certifies that these regulatory amendments would not have a significant impact on a

substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The amendments would not directly affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

There are no applicable Catalog of Federal Domestic Assistance program numbers.

List of Subjects

38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans.

38 CFR Part 14

Administrative practice and procedure, Claims, Courts, Foreign relations, Government employees, Lawyers, Legal services, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Surety bonds, Trusts and trustees, Veterans.

Approved: December 9, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 parts 3 and 14 are amended as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 3.101 [Removed]

2. Section 3.101 is removed.

3. The section heading of § 3.352 is revised to read as follows:

§ 3.352 Criteria for determining need for aid and attendance and "permanently bedridden."

PART 14—LEGAL SERVICES, GENERAL COUNSEL

4. The authority citation for part 14 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 2671–2680; 38 U.S.C. 501(a), 5502, 5902–5905, unless otherwise noted.

§ 14.507 [Amended]

5. In § 14.507, the first sentence of paragraph (a) is amended by removing the words "is a change" and adding, in their place, the words "has been a material change", and paragraph (b) is amended by adding at the end thereof the words "An opinion designated as a precedent opinion is binding on Department officials and employees in subsequent matters involving a legal issue decided in the precedent opinion, unless there has been a material change in a controlling statute or regulation or the opinion has been overruled or modified by a subsequent precedent opinion or judicial decision."

[FR Doc. 96–33076 Filed 12–27–96; 8:45 am]

BILLING CODE 8320–01–P

38 CFR Part 19

RIN 2900–AI59

Appeals Regulations: Notice of Board of Veterans' Appeals Decisions

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs' (VA) Appeals Regulations for appeals to the Board of Veterans' Appeals (Board) by removing provisions that do not conform to recent legislation.

EFFECTIVE DATE: December 30, 1996.

FOR FURTHER INFORMATION CONTACT: Steven L. Keller, Chief Counsel, Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202–565–5978).

SUPPLEMENTARY INFORMATION: Section 509 of the Veterans' Benefits Improvements Act of 1996, Public Law 104–275, § 509, 110 Stat. 3322, 3344, amended 38 U.S.C. 7104(e) to permit the Board to mail copies of its decision to the claimant's representative or to use any other means of delivery likely to result in delivery within the same time as would be expected with mailing by first-class mail. 38 CFR 19.8 previously reflected the old provisions of 38 U.S.C. 7104(e) that permitted decision delivery only by mailing. This document removes from § 19.8 material on Board decision delivery that does not conform to the new legislation and makes nonsubstantive changes to the remaining material in § 19.8 concerning preservation of claimants' privacy interests in simultaneously contested claims.

This final rule concerns agency procedure or practice and, pursuant to 5 U.S.C. 553, is exempt from notice and comment requirements.

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule will affect VA beneficiaries and will not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirement of sections 603 and 604.

List of Subjects in 38 CFR Part 19

Administrative practice and procedure, Claims, Veterans.

Approved: December 16, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 19 is amended as set forth below:

PART 19—BOARD OF VETERANS' APPEALS: APPEALS REGULATIONS

1. The authority citation for part 19 continues to read as follows:

Authority: 38 U.S.C. 501(a).

2. Section 19.8 is revised to read as follows:

§ 19.8 Content of Board decision, remand, or order in simultaneously contested claims.

The content of the Board's decision, remand, or order in appeals involving a simultaneously contested claim will be limited to information that directly affects the issues involved in the contested claim. Appellate issues that do not involve all of the contesting parties will be addressed in one or more separate written decisions, remands, or orders that will be furnished only to the appellants concerned and their representatives, if any.

(**Authority:** 5 U.S.C. 552a(b), 38 U.S.C. 5701(a))

[FR Doc. 96–33077 Filed 12–27–96; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 12

RIN 1090–AA59

Administrative and Audit Requirements and Cost Principles for Assistance Programs

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: This final rule is in response to the "Omnibus Consolidated Appropriations Act of 1997," and the "Energy and Water Development Appropriations Act, 1997." Section 307(a) of Public Law 104–208 required

that no funds made available in the Act may be expended by an entity unless the entity agrees that in expending the funds they will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c; popularly known as the "Buy American Act"). As it did for awards governed by this provision made since FY 1993, the Department continues to interpret this requirement to apply to assistance programs. Section 307(b)(1) of Public Law 104–208 again states that it is the sense of Congress that all equipment and products purchased with funds made available in the Act should be American-made. Likewise, the Department is again taking the position that Congressional intent is different for awards made by the Bureau of Reclamation. As such, only the provisions in the regulation addressing the sense of Congress (section 12.700 and the notice requirements (sections 12.710) will apply to awards made by the Bureau of Reclamation using appropriated funds for FY 1997.)

In addition, a minor correction is being made to a cite in the definition of "domestic and product" in Section 12.705.

EFFECTIVE DATE: December 30, 1996.

FOR FURTHER INFORMATION CONTACT: Debra E. Sonderman, (Director, Procurement and Property Management Systems), (202) 208–3336.

SUPPLEMENTARY INFORMATION: On September 30, 1996, the Omnibus Consolidated Appropriations Act of 1997 ("the Act") was signed into law Section 307(a) of the Act was entitled "Compliance with Buy American Act." The section applied to funds appropriated or transferred pursuant to the Act for the purchase of any equipment or product that may be authorized to be purchased with financial assistance. Section 307(b)(1) expressed the "sense of the Congress" that entities receiving the assistance purchase only American-made equipment and products.

Section 307(b)(2) required that in providing the financial assistance under the Act, the Secretary shall provide to each recipient of the assistance a notice describing the requirement. As in prior years, no other specific guidance was given regarding the implementation of this requirement.

The Department is revising Subpart E of 43 CFR Part 12, to implement these requirements for awards made using appropriated funds for FY 1997. No specific guidance was provided by Congress, so the Department decided to continue its implementation of these requirements based upon the final rule published in the **Federal Register** on July 19, 1994 (59 FR 36713).

Because of the applicability of different appropriation acts and the fact that the requirements are different, the notice in subparagraph (b) of section 12.710 has been changed to account for the reference to language in Public Law 104–208. A separate notice included in subparagraph (c) of section 12.710 has been amended to account for the reference to language in Public Law 104–206 and its use only for awards made by the Bureau of Reclamation.

Finding of Good Cause for Waiver of Proposed Rulemaking and for Making Rule Effective upon Publication

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is usually the practice of the Department to offer interested parties the opportunity to comment on proposed regulations. However, the Department waives notice and comment on these regulations under section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)). This section provides that notice and comment for rulemaking is not required when the agency for good cause finds that notice and public procedures are impracticable, unnecessary, or contrary to the public interest.

The Department believes public comment on the revision of this regulation is unnecessary because the substance of these provisions is based on statutory requirements governing the award of assistance with appropriated funds for FY 1997, that the Department is unable to change.

The Administrative Procedure Act provides that rules be published at least 30 days prior to their effective date, except as otherwise provided by an agency on a finding of good cause (5 U.S.C. 553(d)(3)). In this case, because this requirement is a statutory condition of expenditure of appropriated funds in this fiscal year, the Department has determined that the rule must be effective upon publication.

Executive Order 12866, Paperwork Reduction Act, and Regulatory Flexibility Act

This rule was not subject to Office Management and Budget review under Executive Order 12866.

The Department has determined that this rule will not have a significant economic impact on small entities since it is anticipated that no additional costs will be imposed on a substantial number of small entities as a result of the rule. This rule does not contain a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Environmental Effects

The Department has determined that this rule does not constitute a major Federal action having a significant impact on the human environment under the National Environmental Policy Act of 1969.

List of Subjects in 43 CFR Part 12

Administrative practice and procedure, Contract programs, Cooperative agreements, Grant programs, Grants administration, Reporting and recordkeeping requirements.

Dated: December 4, 1996.

Bonnie R. Cohen,

Assistant Secretary—Policy, Management and Budget.

Title 43 of the Code of Federal Regulations, part 12 is amended as follows:

PART 12—ADMINISTRATIVE AND AUDIT REQUIREMENTS AND COST PRINCIPLES FOR ASSISTANCE PROGRAMS

1. The authority citation for part 12 is revised to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 6101 note, 7501, 41 U.S.C. 252a, 701 *et seq;* sec. 501, Pub. L. 104–206, 110 Stat. 2984; sec. 307, Pub. L. 104–208, 110 Stat. 3009; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12674, 3 CFR, 1989 Comp., 215; E.O. 12689, 3 CFR, 1989 Comp., p. 235; E.O. 12731, 3 CFR, 1990 Comp., p. 306; OMB Circular A–102; OMB Circular A–110; OMB Circular A–128; and OMB Circular A–133.

2. Section 12.700 is revised to read as follows:

§ 12.700 Scope.

This subpart implements section 307 of the Omnibus Consolidated Appropriations Act of 1997 (Public Law 104–208, 110 Stat. 3009) and section 501 of the Energy and Water Development Appropriations Act, 1997 (Public Law 104–206, 110 Stat. 2984). For awards made under the authority of section 307(a) of Public Law 104–208, this subpart requires that no funds made available in the Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c; popularly known as the "Buy American Act"). It applies to procurement contracts under grants and cooperative agreements which provide for the purchase of equipment and products. Section 501 of Public Law 104–206, 110 Stat. 2984, only applies to

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awards made by the Bureau of Reclamation. In addition, for these awards, there is only a requirement that in providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the Secretary, to the greatest extent practicable, will provide to the entity a notice describing a statement within the Act made by Congress. This statement concerns the sense of the Congress that to the greatest extent practicable, all equipment and products purchased with funds made available in the Act, should be American-made. Therefore, for Fiscal Year 1997 awards, only the requirements in Section 12.700 and 12.710 will apply to awards made by the Bureau of Reclamation.

3. Section 12.705 is amended by revising the fourth sentence included in the definition of domestic end product to read as follows:

§ 12.705 Definitions.

* * * * *

Domestic end product * * *

Components of foreign origin of the same class or kind for which determinations have been made in accordance with Section 12.710(d) (3) and (4) are treated as domestic. * * *

* * * * *

4. Paragraphs (a), (b), and (c) of Section 12.710 are revised to read as follows:

§ 12.710 Policy.

(a) In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available under Public Law 104–208, it is the sense of Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) In awarding financial assistance under Public Law 104–208, 110 Stat. 3009, bureaus and offices excluding the Bureau of Reclamation will provide to each recipient of the assistance the following notice:

Notice: Pursuant to Sec. 307 of the Omnibus Consolidated Appropriations Act of 1997, Public Law 104–208, 110 Stat. 3009, please be advised of the following:

In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(c) In awarding financial assistance using funds made available under Public Law 104–206, to the greatest extent practicable, the Bureau of Reclamation will provide to each recipient of the assistance the following notice:

Notice: Pursuant to Sec. 501 of the Energy and Water Development Appropriations Act, 1997, Public Law 104–206, 110 Stat. 2984, please be advised of the following:

It is the sense of the Congress, that to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

* * * * *

[FR Doc. 96–33033 Filed 12–27–96; 8:45 am]

BILLING CODE 4310–RF–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1313

[STB Ex Parte No. 541]

Railroad Contracts

AGENCY: Surface Transportation Board, DOT.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (Board) adopts revised regulations governing contracts under 49 U.S.C. 10709 that are entered into between one or more rail carriers and one or more purchasers of rail services for the transportation of agricultural products. The revised regulations reflect the reduced regulatory oversight of rail transportation contracts introduced by the ICC Termination Act of 1995, Public Law 104–88, 109 Stat. 803 (1995) (ICCTA).

EFFECTIVE DATE: These rules are effective on January 29, 1997.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5660. (TDD for the hearing impaired: (202) 927–5721.)

SUPPLEMENTARY INFORMATION: In a notice of proposed rulemaking (NPR) served October 17, 1996 (61 FR 54144), the Board proposed revised regulations to reflect the reduced regulatory oversight of rail transportation contracts introduced by the ICCTA. The revised regulations were proposed by the Board after consideration of comments received from major shipper and carrier interests in response to an advance notice of proposed rulemaking served March 26, 1996 (61 FR 13147).

Comments in response to the NPR were received from the Association of American Railroads, the Kansas Grain and Feed Association, the Montana Wheat and Barley Committee (MWBC), and the National Grain and Feed Association. None of the commenters objects to the proposed regulations, and we will adopt them without substantive change.

While not objecting to the proposed regulations, *per se*, MWBC states that it is difficult and expensive for many small grain shippers to obtain timely information regarding contract summary filings, and that, in the past, many grain shippers have been unaware of contracts that might affect them until after the complaint period has passed. MWBC suggests that the Board institute a procedure to post the contract summaries filed each day on a "world wide web internet page readily accessible to the grain shippers."

The Board does not currently have the capability to disseminate information, either its own decisions or materials filed with it, over the Internet. We do, however, support improvements in the dissemination of information, and are in the process of developing capability to disseminate information electronically in the future. Nevertheless, we cannot at this time determine the feasibility of disseminating electronically materials filed with us, such as railroad contract summaries, and thus cannot grant MWBC's request at this time. However, we are certainly prepared to consider alternative requirements as they become feasible.

In the meantime, it is important to note that the filing requirements contained in the proposed regulations have been in effect for many years, and other shippers and shipper groups have apparently been able to meet their information needs under the existing filing requirements, as no commenter other than MWBC has raised the issue. We are aware of the existence of independent service providers (generally referred to as watching services) that monitor contract summary filings for their clients and advise them when filings of interest are made. MWBC might wish to investigate the feasibility of using such a service.[1] Additionally, MWBC can investigate the feasibility of obtaining the needed information directly from the rail carriers pursuant to the information availability requirements of § 1313.5(a)(2) of the proposed regulations.

Small Entities

The Board certifies that these rules will not have a significant economic effect on a substantial number of small entities. They merely eliminate obsolete

[1] MWBC states that mail delivery from Washington takes as long as 5 to 6 days, but the watching services advise us that they can and do send contract summaries to their clients by facsimile transmission.

provisions where regulatory oversight was eliminated, reflect certain other modest changes effected by the ICCTA, and largely continue existing contract disclosure requirements for agricultural products.

Environment

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1313

Agricultural products, Contract summaries, Rail carriers, Transportation contracts.

Decided: December 17, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons and Commissioner Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, the Board revises part 1313 of title 49, chapter X, of the Code of Federal Regulations to read as follows:

PART 1313—RAILROAD CONTRACTS FOR THE TRANSPORTATION OF AGRICULTURAL PRODUCTS

Sec.

1313.1 Scope; definition of terms.
1313.2 Contract summary filing requirement.
1313.3 Board review; contract disapproval.
1313.4 Filing procedures and formats for contract summaries.
1313.5 Contract and contract summary availability.
1313.6 Contract summary for agricultural commodities.
1313.7 Contract summary for grain products—involving a port.
1313.8 Contract summary for grain products—not involving a port.
1313.9 Grounds for complaints and contract review.
1313.10 Procedures for complaints and discovery.

Authority: 49 U.S.C. 721(a) and 10709.

§ 1313.1 Scope; definition of terms.

(a) This part addresses the provisions of 49 U.S.C. 10709 that require rail carriers to file with the Board a summary of each contract for the transportation of agricultural products (including grain, as defined in 7 U.S.C. 75 and products thereof) and that allow complaints to be filed with the Board regarding such contracts.

(b) The provisions of this part do not apply to any transportation that is exempted from the Board's contract regulation pursuant to an exemption issued under 49 U.S.C. 10502 or former 49 U.S.C. 10505 (repealed effective January 1, 1996).

(c) For purposes of this part, the term contract means an agreement, including any amendment thereto, entered into by one or more rail carriers and one or more purchasers of rail services to provide specified transportation of agricultural products (including grain, as defined in 7 U.S.C. 75 and products thereof) under specified rates and conditions. The term amendment includes contract modifications agreed to by the parties.

(d) An amended contract is treated as a new contract under this part. Remedies are revived and review is again available, upon complaint.

§ 1313.2 Contract summary filing requirement.

(a) Rail carriers subject to the jurisdiction of the Surface Transportation Board under 49 U.S.C. 10501 must promptly file with the Board a summary of each contract entered into for the transportation of agricultural products.

(b) Contract summaries not in compliance with this part may be rejected by the Board. If a contract summary is rejected, it will be considered as not filed, and the carrier must promptly file a corrected contract summary to replace the rejected summary.

§ 1313.3 Board review; contract disapproval.

(a) Board review. (1) No later than 30 days after a contract summary is filed, the Board may, on complaint, begin a proceeding to review such contract on the grounds described in § 1313.9.

(2) If the Board begins a proceeding, it shall determine, within 30 days after the proceeding is commenced, whether the contract is in violation of 49 U.S.C. 10709.

(b) Contract disapproval. If the Board finds that the contract is in violation of 49 U.S.C. 10709, it will:

(1) Disapprove the contract; or

(2) Where the Board finds unreasonable discrimination, in accordance with 49 U.S.C. 10709(g)(2)(B)(i), order the contracting carrier(s) to provide to the complainant(s) rates and service substantially similar to those contained in the contract at issue, with such differences in terms and conditions as are justified by the evidence.

(c) *Applicable rates/charges if a contract is disapproved.* If the Board disapproves a contract (or contract amendment), the appropriate non-contract rates/charges (or the contract provisions otherwise in effect) will be applicable.

§ 1313.4 Filing procedures and formats for contract summaries.

(a) *Filing of Summaries.* (1) Two copies of each contract summary, containing the applicable information specified in §§ 1313.6, 1313.7, or 1313.8, as appropriate, must be filed with the Board as soon as possible, but no longer than 7 days after the date of the contract (or contract amendment).

(2) The outside envelope or wrapper containing one or more contract summaries must be prominently marked "Rail Contract Summary" and addressed to: Tariffs Branch, Surface Transportation Board, Washington, DC 20423.

(3) A transmittal letter identifying the submitted publication(s), and the name and telephone number of a contact person, must accompany each filing of one or more contract summaries. Each transmittal letter shall clearly indicate in the upper left-hand corner thereof:

(i) The assigned alpha code of the filing carrier;

(ii) The number of summaries transmitted;

(iii) The filing fee enclosed, the account number to be billed, or the credit card to be charged;

(iv) The transmittal number if the filer utilizes transmittal numbers; and

(v) If the filing fee is charged to a credit card, the information must include the credit card number and expiration date, and an authorized signature.

(b) *Contract summary title page.* The title page of each contract summary must contain only the following information:

(1) In the upper right corner, the contract summary number (see paragraph (c) of this section), followed by the amendment number if an amended contract summary.

(2) In the center of the page, the filing carrier's name, followed by the words "CONTRACT SUMMARY" or "AMENDED CONTRACT SUMMARY", as applicable, in large print.

(3) Date of contract and its effective date.

(4) In the center lower portion, the individual submitting the filing, and the name of the individual(s) for service of complaints (if not the same individual). If not otherwise noted, a complainant may rely on service to the individual submitting the filing.

(c) *Contract summary numbering system.* (1) The contract summary identification number must include the word "STB," the standard carrier alphabetic code for the filing railroad (limited to four letters), the letter "C," and a sequential number, with each separated by a hyphen. The following is

an example: the 357th contract summary filed by the Conrail would have the following identification number: "STB–CR–C–357."

(2) At its option, the carrier may issue contract summaries with nonconsecutive numbers if it assigns blocks of numbers for specific uses. An index to the blocks of reserved numbers shall be filed with the Board.

(d) *Format requirements for contract summary information.* (1) The contract summary must enumerate and have each item required in §§ 1313.6, 1313.7 or 1313.8 of this part, as applicable, completed. When the item does not pertain to the contract, the term "Not Applicable" ("NA") shall be used.

(2) Changes in prior contract summaries must be underscored and must be followed by the words "addition," "deletion," "extension," "cancellation," or other appropriate descriptive phrase in parentheses. If the change to the contract is only in confidential matter, a statement to that effect must be made in the amended contract summary and must indicate the particular feature to which the change applies (i.e., rate, special feature, etc.). If "not applicable" is permitted in the original summary under §§ 1313.6 through 1313.8 of this part, the amended summary may use "not applicable" with a notation that a change pertained only to confidential data.

(3) Amended contract summaries may not substitute phrases such as "not applicable" or "no change" where disclosure was required in the original contact summary (such as in the commodity description); amended contract summaries must set forth all required non-confidential terms in the contract, whether amended or not.

§ 1313.5 Contract and contract summary availability.

(a)(1) A contract summary filed under these rules shall be made available for public inspection in the Tariffs Branch of the Surface Transportation Board.

(2) A contract summary filed under these rules also shall be made available by the carrier(s) participating in the contract, upon reasonable request.

(b) Where not already required by § 1313.10(a)(5) of this part, the contract for which a summary is filed under these rules shall be provided immediately to the Board, upon request, for its use in carrying out its functions under the statute.

§ 1313.6 Contract summary for agricultural commodities.

(a) *Summary information.* The summary of a contract for the transportation of agricultural commodities must contain the following information:

(1) *Carrier names.* A list, alphabetically arranged, of the corporate names of all carriers that are parties to the contract, and their addresses for service of complaints.

(2) *Specific commodity.* The specific commodity or commodities to be transported under the contract. Vague commodity descriptions such as "grain" are not permitted, even if that is the commodity description in the contract.

(3) *Shipper identity.* The specific identity of the shipper party to the contract, as well as any other party or parties on whose behalf that shipper is acting (to the extent known).

(4) *Specific origins, destinations, transit points, and other shipper facilities.* (i) Each specific origin and destination point to and from which the contract applies. Vague descriptions such as "various points in Kansas" are not acceptable. Broad geographic descriptions such as "all stations in Kansas" are permitted only to the extent such terms are actually used in the contract and such origins and destinations are subject to specific identification by reference to available publications.

(ii) Each port involved.

(iii) Each transit point identified in the contract.

(iv) Each shipper facility affecting performance under the contract (if not included in the origin/destination points or transit points), to the extent identified in the contract or known to the contracting parties.

(5) *Contract duration.* (i) The date on which the contract has or will become applicable to the transportation services covered by the contract.

(ii) The termination date of the contract, and any terms for automatic extension or renewal of the contract.

(iii) Any provisions for optional extension.

(6) *Rail car data.* (i) Either the information in paragraph (a)(6)(A) of this section or the certified statement in paragraph (a)(6)(B) of this section as follows:

(A) The number of dedicated cars (or, at the carrier's option, car days), by major car type, to be used to fulfill the contract or contract options, including those that are:

(*1*) Available and owned by the carrier(s) listed in paragraph (a)(1) of this section;

(*2*) Available and leased by those carrier(s), with average number of bad-order cars identified; and

(*3*) (Optional) On order (for ownership or lease), along with delivery dates.

(B) A certified statement that:

(*1*) The shipper will furnish the rail cars used for the transportation provided under the contract, and that those rail cars will not be leased from the carrier; or

(*2*) The contract is restricted to services which do not entail car supply.

(ii) For contract summaries filed on or before September 30, 1998, a certified statement that the cumulative equipment total for all contracts for the transportation of agricultural commodities (including forest products, but not including wood pulp, wood chips, pulpwood or paper) does not exceed 40 percent of the capacity of carrier-owned and -leased cars by applicable car type.

(7) *Rates and charges.* (i) The specific base rates and/or charges that would apply without the contract.

(ii) A summary of any escalation provisions in the contract.

(8) *Volume.* All volume, car and/or train size requirements, as set forth in the contract, including:

(i) Movement type (single-car, multiple-car, unit-train).

(ii) Minimum and actual volume requirements under the contract, by applicable period(s) (annual, quarterly, etc.).

(iii) Volume breakpoints affecting the contract.

(9) *Special features.* The existence (but not the terms or amount) of any special features, such as transit-time commitments, credit terms, discounts, switching, special demurrage, guaranteed or minimum percentages, etc.

(b) *Supplemental information.* In the event a complaint is filed that is directed at a carrier's ability to fulfill its common carrier obligation with carrier-furnished cars, the carrier(s) shall immediately supplement the information contained in the contract summary by submitting to the Board, and supplying to the complainant, additional data on the cars used to fulfill the challenged contract. This additional data shall include (by major car type used to fulfill the contract):

(1) Total bad-car orders;

(2) Assigned car obligations; and

(3) Free-running cars.

§ 1313.7 Contract summary for grain products—involving a port.

(a) *Summary information.* The summary of a contract for the transportation of grain products that involves service to or from a port must contain the following information:

(1) *Carrier names.* A list, alphabetically arranged, of the corporate names of all carriers that are parties to

the contract, and their addresses for service of complaints.

(2) *Specific commodity.* The specific commodities to be transported under the contract. Broad commodity descriptions such as "grain products" are permitted only to the extent that is the commodity description in the contract.

(3) *Contract duration.* (i) The date on which the contract has or will become applicable to the transportation services covered by the contract.

(ii) The termination date of the contract, and any terms for automatic extension or renewal of the contract.

(4) *Rates and charges.* (i) The specific base rates and/or charges that would apply without the contract.

(ii) The existence (but not the terms or amount) of any escalation provisions.

(5) *Volumes.* The existence (but not the terms or amount) of any provisions regarding movement type (e.g. single-car, multiple-car, unit-train) or minimum volume requirements.

(6) *Special features.* The existence (but not the terms or amount) of special features such as transit time commitments, guaranteed car supply, minimum percentage of traffic requirements, credit terms, discounts, etc.

(7) *Rail car data.* Either the information in paragraph (a)(7)(i) of this section or the certified statement in paragraph (a)(7)(ii) of this section as follows:

(i) The number of dedicated cars (or, at the carrier's option, car days), by major car type, to be used to fulfill the contract or contract options, including those that are:

(A) Available and owned by the carrier(s) listed in paragraph (a)(1) of this section;

(B) Available and leased by those carrier(s), with average number of bad-order cars identified; and

(C) (Optional) On order (for ownership or lease), along with delivery dates.

(ii) A certified statement that:

(A) The shipper will furnish the rail cars used for the transportation provided under the contract, and that those rail cars will not be leased from the carrier; or

(B) The contract is restricted to services which do not entail car supply.

(8) *Ports.* (i) The port(s) involved.

(ii) Either the mileages (rounded to the nearest 50 miles) between the port and each inland origin or destination, or the specific inland origin and destination points.

(b) *Supplemental information.* In the event a complaint is filed that is directed at a carrier's ability to fulfill its common carrier obligation with carrier-furnished cars, the carrier(s) shall immediately supplement the information contained in the contract summary by submitting to the Board, and supplying to the complainant, additional data on the cars used to fulfill the challenged contract. This additional data shall include (by major car type used to fulfill the contract):

(1) Total bad-car orders;

(2) Assigned car obligations; and

(3) Free-running cars.

§ 1313.8 Contract summary for grain products—not involving a port.

(a) *Summary information.* The summary of a contract for the transportation of grain products that does not involve service to or from a port must contain the information specified in § 1313.7, paragraphs (a)(1), (2), (3) and (7). It must also contain the information specified in § 1313.7(a)(6) if the contract contains such terms.

(b) *Supplemental information.* In the event a complaint is filed that is directed at a carrier's ability to fulfill its common carrier obligation with carrier-furnished cars, the carrier(s) shall immediately supplement the information contained in the contract summary by submitting to the Board, and supplying to the complainant, additional data specified in § 1313.7(b).

§ 1313.9 Grounds for complaints and contract review.

(a) A complaint may be filed against a contract covered by this part:

(1) By any shipper on the ground that such shipper individually will be harmed because the contract unduly impairs the ability of the contracting rail carrier or carriers to meet their common carrier obligations to the complainant under 49 U.S.C. 11101;

(2) By a port on the ground that such port individually will be harmed because the contract will result in unreasonable discrimination against such port; and

(3) By a shipper of agricultural commodities on the ground that such shipper individually will be harmed because:

(i) The rail carrier has unreasonably discriminated by refusing to enter into a contract with such shipper for rates and services for the transportation of the same type of commodity under similar conditions to the contract at issue, and that such shipper was ready, willing, and able to enter into such a contract at a time essentially contemporaneous with the period during which the contract at issue was offered; or

(ii) The contract constitutes a destructive competitive practice.

(b) *Unreasonable discrimination,* for purposes of paragraph (a)(3)(i) of this section, has the same meaning as the term has under 49 U.S.C. 10741.

§ 1313.10 Procedures for complaints and discovery.

(a) *Complaints, discovery petitions, replies, and appeals*—(1) *Initial filing.* Complaints must be filed by the 18th day after the contract summary is filed. Any discovery petition must accompany the complaint.

(2) *Complaint.* A complaint must contain the correct, unabbreviated names and addresses of the complainant(s) and defendant(s). The complainant must set out the statutory provisions under which it has standing to file a complaint, and its reasons for requesting that the Board find the challenged contract unlawful.

(3) *Discovery petition.* A discovery petition must note on the front page "Petition for Discovery of Rail Contract" and note the contract (and any applicable amendment) number. It should provide the following information:

(i) *Standing—grounds.* The ground upon which the petitioner's complaint is based under § 1313.9.

(ii) *Standing—affected party.* Pertinent information regarding the petitioner's actual or potential participation in the relevant market, including:

(A) The nature and volume of petitioner's relevant business.

(B) The relevant commodities that petitioner ships or receives.

(C) Comparisons of the petitioner's commodities, locations of shipping facilities and serving carriers, actual or potential traffic patterns and serving carrier(s), with the traffic patterns and serving carrier(s) identified in the contract summary. State whether petitioner is a consignor or consignee.

(D) The petitioner's ability to ship the commodity in question at a time generally simultaneous with the challenged contract.

(E) The potential effect of the contract on the petitioner's relevant business.

(F) Any additional supporting information, including prior negotiations, if any.

(iii) *Relevance.* The relevance of the information sought to the petitioner's challenge to the contract.

(iv) *Nexus.* Where the complaint challenges a carrier's ability to perform its common carrier obligation, the nexus between the information sought and the common carrier obligation of the contracting carrier(s).

(4) *Service of pleadings.* The complainant must certify that 2 copies of the complaint, and discovery petition if filed, have been sent to the

contracting carrier(s) either by hand, express mail, or other overnight delivery service the same day as filed at the Board. The contracting carrier shall in turn serve the contracting shipper with a copy of the complaint and petition. Replies shall be served in the same manner on complainant/petitioner.

(5) *Submission of contract.* Immediately upon the filing of a complaint, the rail carrier filing the contract summary shall forward to the Board, by hand, express mail, or other overnight delivery service, the subject contract or amended contract.

(6) *Replies.* Replies to the complaint/petition are due within 5 days from the date of filing of the complaint/petition, and in no event later than noon on the 23rd day following filing of the contract summary.

(7) *Copies.* An original and 10 copies of complaints, petitions and replies must be filed with the Board in a package marked "Confidential Rail Contract Material".

(8) *Discovery appeals.* If action on a petition for discovery is taken under delegated authority, that action may be appealed to the Board, subject to the following:

(i) An appeal must be received within 2 days of the initial decision, but in no event later than the 28th day after the contract summary is filed.

(ii) The appeal must be marked "Appeal of Delegated Authority Action Regarding Rail Contract Discovery".

(iii) Telegraphic notice or its equivalent must be given to the opposing parties.

(iv) Replies to the appeal must be filed within one day after the appeal is filed.

(v) An original and 10 copies of appeals and replies must be filed with the Board.

(9) *Furnishing of information.* If discovery is granted, the carrier must furnish the required information to the petitioner by the 1st working day after the Board issues its decision.

(b) *Informal discovery.* (1) Prior to filing a petition for formal discovery under paragraph (a) of this section, a petitioner may request discovery from the carrier.

(2) The carrier must promptly grant or deny the request.

(3) Agreements between carriers and shippers for informal discovery are permitted under these rules.

(c) *Confidentiality.* If confidential contract data are filed with the Board in a pleading, the party filing these data should submit them as a separate package, clearly marked on the outside "Confidential Material Subject to Protective Order." The order in paragraph (d) of this section applies to the parties specified in the order who receive confidential information through proceedings before the Board or through informal discovery.

(d) *Protective order.* Petitioner and carriers, and their duly authorized agents, shall limit to the contract complaint proceeding the use of contract information or other confidential commercial information which may be revealed in the contract, the complaint, reply, or in any other pleading relating to the contract. This restriction shall be a condition to release of any contract term to a petitioner/complainant and shall operate similarly on a carrier in possession of confidential information which may be contained in a complaint, petition for discovery, or request for informal disclosure. Any information pertaining to parties to the contract or subject to the contract (including consignors, consignees and carriers), or pertaining to the terms of the contract, or relating to the petitioner's/complainant's confidential commercial information, must be kept confidential. Neither the information nor the existence of the information shall be disclosed to third parties, except for: consultants or agents who agree, in writing, to be bound by this regulation; information which is publicly available; information which, after receipt, becomes publicly available through no fault of the party seeking to disclose the information after it has become publicly available, or is acquired from a third party free of any restriction as to its disclosure. The petitioner/complainant or carrier must take all necessary steps to assure that the information will be kept confidential by its employees and agents. No copies of the contract terms or other confidential information are to be retained by the parties not originally privy to the data subsequent to the termination of the proceeding.

(e) *Contract review proceeding.* If the Board institutes a proceeding to review the contract, the complainant's case-in-chief is due 9 days after the institution of the proceeding, but no later than 39 days after the filing of the contract summary. Replies are due 16 days after the institution of the proceeding, but no later than 46 days after the filing of the contract summary.

[FR Doc. 96–33152 Filed 12–27–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 960129019–6019–01; I.D. 110896C]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Correction to a closure.

SUMMARY: This document contains a correction to a closure (I.D. 110896C) which was published Friday, November 15, 1996 (61 FR 58491).

EFFECTIVE DATE: 1200 hours, Alaska local time (A.l.t.), November 9, 1996, until 2400 hours, A.l.t., December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The closure that is the subject of this correction prohibited directed fishing for Pacific cod by vessels using trawl gear in the Bering Sea and Aleutian Islands Management Area.

Need for Correction

As published, the closure contained an incorrect effective date.

Correction of Publication

Accordingly, the publication on November 15, 1996, of the closure (I.D. 110896C), which was the subject of FR Doc. 96–29246, is corrected as follows:

On page 58491, in the third column, the **EFFECTIVE DATE** is corrected to read as follows:

EFFECTIVE DATE: 1200 hours, Alaska local time (A.l.t.), November 9, 1996, until 2400 hours, A.l.t., December 31, 1996.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 23, 1996.

Gary Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 96–33179 Filed 12–27–96; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 251
Monday, December 30, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 96–083–1]

Importation of Cotton and Cotton Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: We are soliciting public comment on whether and how our regulations for importing cotton (including seed cotton, cottonseed, cotton lint and linters, cottonseed products, and cotton waste) and cotton covers into the United States need to be changed. In particular, we are seeking information, including technical data, concerning what mitigation measures are appropriate to ensure that cotton and cotton covers do not present a significant risk of introducing pink bollworm or other pests of cotton that either do not occur in the United States or are not widely distributed within the United States.

DATES: Consideration will be given only to comments received on or before March 31, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96–083–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 96–083–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. James Petit de Mange, Staff Officer, Import-Export Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236, (301) 734–6799.

SUPPLEMENTARY INFORMATION:

Background

The regulations for importing cotton (including seed cotton, cottonseed, cotton lint and linters, cottonseed products, and cotton waste) and cotton covers into the United States are contained in 7 CFR 319.8 through 319.8–27 (referred to below as the regulations). The regulations are intended to prevent imported cotton and cotton covers from introducing into this country pests of cotton that either do not occur in the United States or are not widely distributed within the United States.

We are reviewing the regulations, which have not been amended since 1962, to determine whether and how they should be updated.

Currently, § 319.8 of the regulations lists the following as regulated articles:

(1) Any parts or products of plants of the genus Gossypium, including seed cotton; cottonseed; cotton lint, linters, and other forms of cotton fiber (except yarn, thread, and cloth); cottonseed hulls, cake, meal, and other cottonseed products, except oil; waste; and any other unmanufactured parts of cotton plants; and

(2) Second-hand burlap and other fabrics, shredded or otherwise, that have been used for, or are the kinds ordinarily used for, containing cotton, grains and grain products, field seeds, agricultural roots, rhizomes, tubers, or other underground crops.

The regulations provide that regulated articles may not be imported or offered for entry into the United States, except as permitted by the regulations.

Under the regulations, cottonseed cake and cottonseed meal are eligible for entry if, upon inspection on arrival, the cottonseed cake or cottonseed meal is found free from contamination. Cottonseed cake or meal is considered to be contaminated if it contains cottonseed, or seed cotton or other material that may carry the pink bollworm, the golden nematode of potatoes, flag smut disease, or other injurious plant diseases or insect pests. Lint, linters, and waste are also eligible for entry without further restriction if an inspector can determine that they have been so processed by bleaching, dyeing, or other means as to have removed all cottonseed and destroyed all insect life. Unprocessed lint, linters, and waste (whether uncompressed, compressed, or compressed to high density) are generally not eligible for entry unless they are vacuum fumigated, or consigned to an approved mill or plant for processing, after arrival in the United States. Cotton covers, including bags, slit bags, and parts of bags, in most cases also must be vacuum fumigated or consigned to an approved mill or plant for processing.

There are special provisions in the regulations for cotton and cotton products imported into the United States from Mexico. Lint, linters, and waste from areas of Mexico not considered free of pink bollworm are eligible for entry if they are vacuum fumigated or consigned to an approved mill or plant for processing after arrival in the United States, or if they are moved into the generally infested pink bollworm regulated area of the United States. If moved into the generally infested pink bollworm regulated area of the United States, they are immediately subject to the regulations in 7 CFR 301.52 through 301.52–10, which are intended to prevent the spread of pink bollworm within the United States. We do not currently recognize any areas of Mexico as being free of pink bollworm; however, the regulations also provide that, contingent upon the West Coast of Mexico and Northwest Mexico being free from infestations of the pink bollworm and other plant pests of concern, certain regulated articles from those areas are eligible for entry subject to inspection upon arrival to determine that they are free from hazardous plant pest conditions.

Through this advance notice of proposed rulemaking, we are soliciting public comment on whether and how the regulations need to be changed. In particular, we are seeking information, including technical data, concerning what mitigation measures, or combinations of mitigation measures, are appropriate to ensure that imported cotton and cotton products do not present a significant risk of introducing into the United States pink bollworm or other pests of cotton that either do not occur in the United States or are not

widely distributed within the United States. For example:

- Should cotton lint, linters, and waste be eligible for entry without further restriction if compressed to a density of 22 lbs. or greater per cubic foot?
- Should lint, linters, and waste produced by a saw gin with saw lint cleaners be eligible for entry without further restriction?
- Should we consider mitigation measures other than fumigation and acid-delinting for imported cottonseed?
- Should we allow the commercial importation of seed cotton? Why or why not? And if we should, under what conditions?
- Should cotton products generated from various types of processing, such as cottonseed hulls, empty bolls for decorative purposes, cotton comber noils, cotton gin motes, etc., be regulated? If so, which products should we regulate, what pests should we be concerned about, and how could the risk be mitigated? If not, why not?
- Should cottonseed imported for consignment to an oil press, feed lot, or other processing at an approved mill or plant be required to undergo fumigation at the port of entry? Why or why not?
- Very few vacuum fumigation facilities exist in the United States. As a result, the Animal and Plant Health Inspection Service has allowed cotton to be fumigated at normal atmospheric pressure. Are there other alternatives to vacuum fumigation, including alternatives to fumigation, that we should consider? Should we allow fumigation to be conducted prior to arrival in the United States? Why or why not? And if we should, under what conditions?
- Should we place restrictions on which ports cotton may be offered for entry into the United States? If cotton is allowed to move between ports in the United States prior to treatment or processing, what safeguards should be employed during transit?
- Should we restrict the importation of used cotton-picking equipment and used ginning equipment? If so, why and how?

We are interested in public comment on these questions and on any other issues related to the regulation of imported cotton, cotton products, and covers. We will use all the responses we receive to help us determine whether and how our regulations need to be changed.

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151-167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.2(c).

Done in Washington, DC, this 19th day of December 1996.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–33127 Filed 12–27–96; 8:45 am]

BILLING CODE 3410–34–P

Federal Crop Insurance Corporation

7 CFR Parts 401 and 457

RIN 0563–AB03

Hybrid Sorghum Seed Endorsement; and Common Crop Insurance Regulations, Hybrid Sorghum Seed Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes specific crop provisions for the insurance of hybrid sorghum seed. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current Hybrid Sorghum Seed Endorsement with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current Hybrid Sorghum Seed Endorsement to the 1997 and prior crop years.

DATES: Written comments, data, and opinions on this proposed rule will be accepted until close of business February 28, 1997 and will be considered when the rule is to be made final. The comment period for information collections under the Paperwork Reduction Act of 1995 continues through February 28, 1997.

ADDRESSES: Interested persons are invited to submit written comments to the Chief, Product Development Branch, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131. Written comments will be available for public inspection and copying in room 0324, South Building, United States Department of Agriculture, 14th and Independence Avenue, S.W., Washington, D.C., 8:15 a.m. to 4:45 p.m, est, Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Ron Nesheim, Program Analyst, Research and Development Division, Product Development Branch, Federal Crop Insurance Corporation, at the Kansas City, MO, address listed above, telephone (816) 926-7730.

SUPPLEMENTARY INFORMATION:

Executive Order No. 12866

The Office of Management and Budget (OMB) has determined this rule to be exempt for the purposes of Executive Order No. 12866, and, therefore, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

The title of this information collection is "Catastrophic Risk Protection Plan and Related Requirements including, Common Crop Insurance Regulations; Hybrid Sorghum Seed Crop Insurance Provisions." The information to be collected includes a crop insurance application and an acreage report. Information collected from the application and acreage report is electronically submitted to FCIC by the reinsured companies. Potential respondents to this information collection are producers of hybrid sorghum seed that are eligible for Federal crop insurance.

The information requested is necessary for the reinsured companies and FCIC to provide insurance and reinsurance, determine eligibility, determine the correct parties to the agreement or contract, determine and collect premiums or other monetary amounts, and pay benefits.

All information is reported annually. The reporting burden for this collection of information is estimated to average 16.9 minutes per response for each of the 3.6 responses from approximately 1,755,015 respondents. The total annual burden on the public for this information collection is 2,676,932 hours.

FCIC is requesting comments on the following: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information gathering technology.

Comments regarding paperwork reduction should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

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The Office of Management and Budget (OMB) is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after submission to OMB. Therefore, a comment to OMB is best assured of having full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulation.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for state, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than large entities. Under the current regulations, a producer is required to complete an application and acreage report. If the crop is damaged or destroyed, the insured is required to give notice of loss and provide the necessary information to complete a claim for indemnity. The producer must also annually certify to the previous years production if adequate records are available to support the certification. The producer must maintain the production records to support the certified information for at least three years. This regulation does not alter those requirements. The amount of work required of the insurance companies delivering and servicing these policies will not increase significantly from the amount of work currently required. This rule does not have any greater or lesser impact on the producer. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order No. 12372

This program is not subject to the provisions of Executive Order No. 12372, which require intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order No. 12778

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in sections (2)(a) and 2(b)(2) of Executive Order No. 12778. The provisions of this rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR parts 11 and 780 must be exhausted before any action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

FCIC proposes to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section, 7 CFR 457.112, Hybrid Sorghum Seed Crop Insurance Provisions. The new provisions will be effective for the 1998 and succeeding crop years. These provisions will replace and supersede the current provisions for insuring hybrid sorghum seed found at 7 CFR 401.109 (Hybrid Sorghum Seed Endorsement). FCIC also proposes to amend 7 CFR 401.109 to limit its effect to the 1997 and prior crop years. FCIC will later publish a regulation to remove section 401.109 and reserve that section.

This rule makes minor editorial and format changes to improve the Hybrid Sorghum Seed Endorsement's compatibility with the Common Crop Insurance Policy. In addition, FCIC is proposing substantive changes in the provisions for insuring hybrid sorghum seed as follows:

1. Section 1—Add definitions for the terms "adjusted yield," "approved yield," "bushel," "certified seed test," "county yield," "FSA," "field run," "good farming practices," "hybrid sorghum seed processor contract," "insurable interest," "interplanted," "local market price," "minimum guaranteed payment," "non-seed amount," "planted acreage," "planting pattern," "practical to replant," "sample," "seed amount," "seed production," and "written agreement" for clarification.

2. Section 2—Unit division provisions are amended to include producer's reporting responsibilities to qualify for optional units. Also, clarifies that optional units are available if the hybrid sorghum seed processor contract specifies that it is a specific number of acres that are under contract and not a specified amount of production.

3. Section 4—Change the contract change date to November 30 in order to maintain an adequate time period between the contract change date and the revised cancellation date.

4. Section 5—Change the cancellation and termination dates to March 15. This change is necessary to standardize the cancellation and termination dates with the sales closing dates, which were changed to 30 days earlier for spring planted crops to comply with the requirements of the Federal Crop Insurance Reform Act of 1994.

5. Section 6—Require the producer to certify that a hybrid sorghum seed processor contract has been executed and certify the amount of any minimum guaranteed payment from the seed company. Certification of a hybrid seed processor contract on or before the acreage reporting date is needed to establish the insurability of the crop before a loss is likely and ensures a market for the crop. The producer must also certify any minimum guaranteed payment under the contract because a minimum guaranteed payment will affect insurance premium and the amount of indemnity.

6. Section 7(c)—Specify conditions under which a seed producer who is also a seed company can establish an insurable interest in the insured crop. There is an inherent conflict of interest when the producer is also the processor

who will provide the records of the producer. These conditions are needed to ensure the eligibility of the processor for crop insurance.

7. Section 8(c)—Clarify that any acreage damaged prior to the final planting date must be replanted unless it is not practical to replant.

8. Section 11(a)—Clarify the size of representative crop samples required when damage is discovered.

9. Section 14—Add provisions for providing insurance coverage by written agreement. FCIC has a long standing policy of permitting certain modifications of the insurance contract by written agreement for some policies. This amendment allows FCIC to tailor the policy to a specific insured in certain instances. The new section will cover application for, and duration of, written agreements.

List of Subjects in 7 CFR 401 and 457

Hybrid sorghum seed endorsement, Crop insurance, Hybrid sorghum seed.

Proposed Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby proposes to amend 7 CFR parts 401 and 457 as follows:

PART 401—GENERAL CROP INSURANCE REGULATIONS—REGULATIONS FOR THE 1988 AND SUBSEQUENT CONTRACT YEARS

1. The authority citation for 7 CFR part 401 continues to read as follows:

Authority: 7 U.S.C. 1506(l) and 1506(p).

2. Section 401.109 introductory paragraph is revised to read as follows:

§ 401.109 Hybrid sorghum seed endorsement

The provisions of the Hybrid Sorghum Seed Endorsement for the 1988 through 1997 crop years are as follows:

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1994 AND SUBSEQUENT CONTRACT YEARS

3. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l) and 1506(p).

4. Section 457.112 is added to read as follows:

§ 457.112 Hybrid Sorghum Seed Crop Insurance Provisions

The Hybrid Sorghum Seed Crop Insurance Provisions for the 1998 and succeeding crop years are as follows:

FCIC policies:

Department of Agriculture

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Hybrid Sorghum Seed Crop Provisions

If a conflict exists among the Basic Provisions (§ 457.8), these crop provisions, and the Special Provisions; the Special Provisions will control these crop provisions and the Basic Provisions; and these crop provisions will control the Basic Provisions.

1. Definitions

Adjusted yield—The yield per acre that results from multiplying the approved yield by the coverage level percentage.

Amount of insurance per acre—The number of dollars determined by multiplying the county yield for the coverage level you select by the price election you select, and subtracting any minimum guaranteed payment. If the minimum guaranteed payment is stated in a unit of measure other than dollars, it will be converted to a dollar amount by multiplying the number of bushels guaranteed by the price election you selected.

Approved yield—The yield per acre that a specific type or variety is expected to produce determined from yield records provided by the seed company or other acceptable information.

Bushel—Fifty-six pounds avoirdupois of the insured crop.

Certified seed test—A warm germination test performed according to specifications of the "Rules for Testing Seeds" of the Association of Official Seed Analysts.

Commercial hybrid sorghum seed—The offspring produced by crossing a male and female parent plant, each having a different genetic character. This offspring is the product intended for use by an agricultural producer to produce a commercial field sorghum crop for grain or forage.

County yield—A yield contained in the Actuarial Table that is used to calculate your amount of insurance.

Days—Calendar days.

Dollar value per bushel—The value determined by dividing your amount of insurance for timely planted acreage by the adjusted yield.

FSA—The Farm Service Agency, an agency of the United States Department of Agriculture, or a successor agency.

Female parent plants—Sorghum plants that are grown for the purpose of producing commercial hybrid sorghum seed and have had their stamens removed.

Field run—Commercial hybrid sorghum seed production before it has been processed or screened.

Final planting date—The date contained in the Special Provisions for the insured crop by which the crop must initially be planted in order to be insured for the full amount of insurance per acre.

Good farming practices—The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used to determine the amount of insurance, or are required by the hybrid sorghum seed processor contract and recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Harvest—Combining, threshing or picking of the female parent plants to obtain commercial hybrid sorghum seed.

Hybrid sorghum seed processor contract—A written agreement between the hybrid sorghum seed crop producer and a seed company containing, at a minimum:

(a) The producer's promise to plant and grow male and female parent plants, and to deliver all commercial hybrid sorghum seed produced from such plants to the seed company;

(b) The seed company's promise to purchase all the commercial hybrid sorghum seed produced by the producer; and

(c) Either a fixed price per unit of measure (bushels, hundredweight, etc.) of the commercial hybrid sorghum seed or a formula to determine the value of such seed. Any formula for establishing the value must be based on data provided by a public third party that establishes or provides pricing information to the general public, based on prices paid in the open market (*e.g.*, commodity futures exchanges) to be acceptable for the purpose of this policy.

Inadequate germination—Germination of less than 80 percent of the commercial hybrid sorghum seed as determined by using a certified seed test on clean seed.

Insurable interest—Your share of the financial loss that occurs in the event seed production is reduced by a cause of loss defined under this crop insurance contract.

Interplanted—Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

Irrigated practice—A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated amount of insurance on the irrigated acreage planted to the insured crop.

Late planted—Acreage planted to the insured crop during the late planting period.

Late planting period—The period that begins the day after the final planting date for the insured crop and ends 25 days after the final planting date.

Local market price—The cash price offered by buyers in the area for any production from the female parent plants that is not considered commercial hybrid sorghum seed under the terms of this policy.

Male parent plants—Sorghum plants grown for the purpose of pollinating female parent plants.

Minimum guaranteed payment—A minimum amount (usually stated in dollars or bushels) specified in your hybrid sorghum seed processor contract that will be paid or credited to you by the seed company regardless of the quantity of seed produced.

Non-seed amount—The dollar amount obtained by multiplying the number of bushels of non-seed production to count by the local market price determined on the earlier of the date the non-seed production is sold or the date of final inspection for the unit.

Planted acreage—Land in which seed has been placed by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice. The insured crop must be planted in rows wide enough to permit mechanical cultivation. Acreage planted in any other manner will not be insurable unless otherwise provided by the Special Provisions or by written agreement.

Planting pattern—The arrangement of the rows of the male and female parent plants in a field. An example of a planting pattern is four consecutive rows of female parent plants, two consecutive rows of male parent plants.

Practical to replant—In lieu of the definition of "Practical to replant" contained in section 1 of the Basic Provisions (§ 457.8), practical to replant is defined as our determination, after loss or damage to the insured crop, based on factors, including but not limited to moisture availability, condition of field, time to crop maturity, and marketing window, that replanting the insured crop will allow the crop to adequately pollinate and attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant after the end of the late planting period unless replanting is generally occurring in the area. Determination of practical to replant will take into consideration the planting dates specified in the hybrid sorghum seed processor contract in accordance with section 8(c).

Prevented planting—Inability to plant:

(a) The female parent plant seed with proper equipment by:

(1) The final planting date designated in the Special Provisions for the insured crop in the county; or

(2) The end of the late planting period; or

(b) The male parent plant seed with proper equipment at a time sufficient to assure adequate pollination of the female parent plants in accordance with the production management practices of the seed company. You must have been unable to plant the female or male parent plant seed due to an insured cause of loss that has prevented the majority of producers in the surrounding area from planting the same crop.

Sample—For the purpose of the certified seed test, at least 3 pounds of field run sorghum seed for each type or variety of commercial hybrid sorghum seed grown on the unit.

Seed amount—The dollar amount obtained by multiplying the number of bushels of seed production to count for each type or variety of commercial hybrid sorghum seed grown on the unit by the applicable dollar value per bushel for that type or variety, and totaling the products of each type or variety.

Seed company—A corporation that possesses all licenses for marketing commercial hybrid sorghum seed required by the state in which it is domiciled or operates, and which possesses or has contracted facilities with enough storage and drying capacity to accept and process the insured crop within a reasonable amount of time after harvest.

Seed production—All seed produced by female parent plants with a germination rate of at least 80 percent, as determined by a certified seed test.

Timely planted—Planted on or before the final planting date designated in the Special Provisions for the insured crop in the county.

Type—Grain sorghum, forage sorghum, or sorghum sudan parent plants.

Variety—The name, number or code assigned to a specific genetic cross by the seed company or the Special Provisions for the insured crop in the county.

Written agreement—A written document that alters designated terms of this policy in accordance with section 14.

2. Unit Division

(a) Unless limited by the Special Provisions, a unit as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), (basic unit) may be divided into optional units only if, for each optional unit, you meet all the conditions of this section or if a written agreement to such division exists.

(b) Optional units are available if the hybrid sorghum seed processor contract specifies that it is a specific number of acres that are under contract and not a specified amount of production.

(c) If you do not comply fully with these provisions, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We may combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined into a basic unit, that portion of the additional premium paid for the optional units that have been combined will be refunded to you.

(d) All optional units you selected for the crop year must be identified on the acreage report for that crop year.

(e) The following requirements must be met for each optional unit:

(1) You must have records, which can be independently verified, of planted acreage and production for each optional unit for at least the last crop year used to determine your amount of insurance.

(2) You must plant the crop in a manner that results in a clear and discernable break in the planting pattern at the boundaries of each optional unit;

(3) You must have records of marketed production or measurement of stored production from each optional unit maintained in such a manner that permits us to verify the production from each optional unit, or the production from each unit must be kept separate until loss adjustment is completed by us; and

(4) Each optional unit must meet one or more of the following criteria, as applicable:

Optional Units by Section, Section Equivalent, or FSA Farm Serial Number: Optional units may be established if

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each optional unit is located in a separate legally identified section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands, as the equivalent of sections for unit purposes. In areas that have not been surveyed using the systems identified above, or another system approved by us, or in areas where such systems exist but boundaries are not readily discernable, each optional unit must be located in a separate farm identified by a unique FSA Farm Serial Number.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

(a) In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), you may select only one price election for all the hybrid sorghum seed in the county insured under this policy unless the Special Provisions provide different price elections by type or variety, in which case you may elect one price election for each hybrid sorghum seed type or variety designated in the Special Provisions. The price elections you choose for each type or variety must have the same percentage relationship to the maximum price offered by us for each type or variety. For example, if you choose 100 percent of the maximum price election for one specific type or variety, you must also choose 100 percent of the maximum price election for all other types or varieties.

(b) The production reporting requirements contained in section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8) are not applicable to this contract.

4. Contract Changes

In accordance with section 4 (Contract Changes) of the Basic Provisions (§ 457.8), the contract change date is November 30 preceding the cancellation date.

5. Cancellation and Termination Dates

In accordance with section 2 (Life of Policy, Cancellation, and Termination) of the Basic Provisions (§ 457.8), the cancellation and termination dates are March 15.

6. Report of Acreage

In addition to the requirements of section 6 (Report of Acreage) of the Basic Provisions (§ 457.8), you must:

(a) Report, by type and variety, the location and insurable acreage of the insured crop;

(b) Report any acreage that is uninsured, including that portion of the total acreage occupied by male parent plants; and

(c) Certify that you have a hybrid sorghum seed processor contract and, if applicable, report the amount of any minimum guaranteed payment.

7. Insured Crop

(a) In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all the female parent plants in the county for which a premium rate is provided by the actuarial table:

(1) In which you have a share;

(2) That are grown under a hybrid sorghum seed processor contract executed before the acreage reporting date;

(3) That are planted for harvest as commercial hybrid sorghum seed in accordance with the requirements of the hybrid sorghum seed processor contract; and

(4) That are not (unless allowed by the Special Provisions or by written agreement):

(i) Planted with a mixture of female and male parent seed in the same row;

(ii) Planted for any purpose other than for commercial hybrid sorghum seed;

(iii) Interplanted with another crop; or

(iv) Planted into an established grass or legume.

(b) An instrument in the form of a "lease" under which you retain control of the acreage on which the insured crop is grown and that provides for delivery of the crop under substantially the same terms as a hybrid sorghum seed processor contract will be treated as a contract under which you have an insurable interest in the crop.

(c) A commercial hybrid sorghum seed producer who is also a commercial hybrid sorghum seed company may be able to establish an insurable interest if the following requirements are met:

(1) The seed company must be a corporation and have an insurable interest in the hybrid sorghum seed crop;

(2) The Board of Directors of the seed company must have instituted a corporate resolution that sets forth essentially the same terms as a hybrid sorghum seed processor contract. Such corporate resolution will be considered a contract under the terms of the hybrid sorghum seed crop insurance policy;

(3) Sales records for at least the previous years' seed production must be provided to confirm that the seed company has produced and sold seed. If such records are not available, the crop may only be insured under the Coarse Grains Crop Provisions; and

(4) Our inspection of the storage and drying facilities determines that they satisfy the requirements for a seed company.

8. Insurable Acreage

In addition to the provisions of section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8), we will not insure any acreage:

(a) Planted and occupied exclusively by male parent plants;

(b) Not in compliance with the rotation requirements contained in the Special Provisions or, if applicable, required by the hybrid sorghum seed processor contract; or

(c) Of the insured crop damaged before the final planting date, to the extent that the remaining stand will not produce at least 90 percent of the adjusted yield, unless such acreage is replanted or we agree that it is not practical to replant. If we determine that it is practical to replant and the seed company will not extend the planting date stipulated in the hybrid sorghum seed processor contract, we will delete the affected acreage from your report of acreage, and that acreage will not be insured under these crop provisions.

9. Insurance Period

(a) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), insurance attaches after:

(1) The female parent plant seed is completely planted in accordance with the hybrid sorghum seed processor contract and the production practices of the seed company, on or before the final planting date designated in the Hybrid Sorghum Seed Special Provisions, except as allowed in section 13(c); and

(2) The male parent plant seed is completely planted in accordance with production practices for the variety being produced.

(b) In accordance with the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), the calendar date for the end of the insurance period is the November 30 immediately following planting.

10. Causes of Loss

(a) In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), insurance is provided only against the following causes of loss that occur during the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects, but not damage due to insufficient or improper application of pest control measures;

(4) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) Failure of the irrigation water supply, if caused by an insured peril that occurs during the insurance period.

(b) In addition to the causes of loss not insured against under section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), we will not insure against any loss of production due to:

(1) The use of unadapted, incompatible, or genetically deficient male or female parent plant seed;

(2) Frost or freeze after the date set by the Special Provisions;

(3) Failure to follow the requirements stated in the hybrid sorghum seed processor contract or production management practices of the seed company;

(4) Inadequate germination, even if it's the result of an insured cause of loss, unless you have provided adequate notice under section 11(b)(1) and the crop is inspected and the loss is appraised by us before harvest is completed; or

(5) Failure to plant the male parent plant seed at a time or in a manner sufficient to assure adequate pollination of the female parent plants, unless you are prevented from planting the male parent plant seed.

11. Duties in the Event of Damage or Loss

(a) In accordance with the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), the representative samples of the unharvested crop must be at least one complete planting pattern of the male and female parent plant rows and extend the entire length of each field in the unit. The samples must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

(b) In addition to your duties under section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8):

(1) You must give us notice of probable loss at least 15 days before the beginning of harvest if you anticipate inadequate germination on any unit; and

(2) You must provide a completed copy of your hybrid sorghum seed processor contract.

12. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:

(1) For any optional unit, we will combine all optional units for which such production records were not provided; or

(2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) You will not receive an indemnity payment on a unit if the seed company refuses to provide us with records we require to determine the dollar value per bushel of production for each variety.

(c) In the event of loss or damage covered by this policy, we will settle your claim on any unit by:

(1) Multiplying the insured acreage by its respective amount of insurance per acre;

(2) Subtracting the total of the production to count for the seed amount and the non-seed amount from the result of section 12(c)(1); and

(3) Multiplying the result of section 12(c)(2) by your share.

(d) The total production (bushels) to count from all insurable acreage on the unit will include all seed and non-seed production as specified in section (e) through (g) below.

(e) Production to be counted as seed production will include:

(1) All appraised production as follows:

(i) Not less than the adjusted yield for acreage:

(A) That is abandoned;

(B) Put to another use without our consent;

(C) That is damaged solely by uninsured causes; or

(D) For which you fail to provide acceptable production records;

(ii) Production lost due to uninsured causes;

(iii) Mature unharvested production with a germination rate of at least 80 percent of the commercial hybrid sorghum seed as determined by a certified seed test. Any such production may be adjusted in accordance with section 12(g);

(iv) Immature appraised production;

(v) Potential production on insured acreage that you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end if you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) Harvested production that you deliver as commercial hybrid sorghum seed to the seed company stated in your hybrid sorghum seed processor contract, regardless of quality, unless the production has inadequate germination.

(f) Production to be counted as non-seed production will include all harvested or mature appraised production that does not qualify as seed production to count as specified in section 12(e). Any such production may be adjusted in accordance with section 12(g).

(g) For the purpose of determining the quantity of mature production:

(1) Commercial hybrid sorghum seed production will be:

(i) Increased 0.12 percent for each 0.1 percentage point of moisture below 13.0 percent; or

(ii) Decreased 0.12 percent for each 0.1 percentage point of moisture in excess of 13.0 percent.

(2) When records of commercial hybrid sorghum seed production provided by the seed company have been adjusted to a basis of 13.0 percent moisture and 56 pound avoirdupois bushels, section 12(g)(1) above will not apply to harvested production. In such cases, records of the seed company used for determining the next years approved yield will also be used to determine the amount of production to count: provided, such production records are calculated on the same basis as that used to determine the approved yield.

13. Late Planting and Prevented Planting

(a) In lieu of provisions contained in the Basic Provisions (§ 457.8) regarding acreage initially planted after the final planting date and the applicability of a

Late Planting Agreement Option, insurance will be provided for acreage planted to the insured crop during the late planting period (see section 13(c)), and acreage you were prevented from planting (see section 13(d)). These coverages provide reduced amounts of insurance. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for late planted acreage or prevented planting acreage exceeds the liability on such acreage, coverage for those acres will not be provided, no premium will be due, and no indemnity will be paid for such acreage.

(b) You must provide written notice to us not later than the acreage reporting date if you were prevented from planting.

(c) Late Planting

(1) For hybrid sorghum seed acreage planted during the late planting period, the amount of insurance for each acre will be reduced for each day planted after the final planting date by:

(i) One percent per day for the 1st through the 10th day; and

(ii) Two percent per day for the 11th through the 25th day.

(2) In addition to the requirements of section 6 (Report of Acreage) of the Basic Provisions (§ 457.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of hybrid sorghum seed continues after the final planting date, or you are prevented from planting during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Special Provisions for the insured crop; or

(ii) Five days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period)

(1) If you were prevented from timely planting hybrid sorghum seed, you may elect:

(i) To plant hybrid sorghum seed during the late planting period. The amount of insurance for such acreage will be determined in accordance with section 13(c)(1);

(ii) Not to plant this acreage to any crop except a cover crop not for harvest. You may also elect to plant the insured crop after the late planting period. In either case, the amount of insurance for such acreage will be 50 percent of the amount of insurance for timely planted acres. For example, if your amount of insurance for timely planted acreage is $200 per acre, your prevented planting amount of insurance would be $100 per acre ($200 multiplied by 0.50). If you elect to plant the insured crop after the late planting period, production to count for such acreage will be determined in accordance with section 12; or

(iii) Not to plant the intended crop but plant a substitute crop for harvest, in which case:

(A) No prevented planting amount of insurance will be provided for such acreage if the substitute crop is planted on or before the 10th day following the final planting date for the insured crop; or

(B) An amount of insurance equal to 25 percent of the amount of insurance for timely planted acres will be provided for such acreage, if the substitute crop is planted after the 10th day following the final planting date for the insured crop. If you elected the Catastrophic Risk Protection Endorsement or excluded this coverage, and plant a substitute crop, no prevented planting coverage will be provided. For example, if your amount of insurance for timely planted acreage is $200 per acre, your prevented planting amount of insurance would be $50 per acre ($200 multiplied by 0.25). You may elect to exclude prevented planting coverage when a substitute crop is planted for harvest and receive a reduction in the applicable premium rate. If you wish to exclude this coverage, you must so indicate, on or before the sales closing date, on your application or on a form approved by us. Your election to exclude this coverage will remain in effect from year to year unless you notify us in writing on our form by the applicable sales closing date for the crop year for which you wish to include this coverage. All acreage of the crop insured under this policy will be subject to this exclusion.

(2) Amounts of insurance for timely, late, and prevented planting acreage within a unit will be combined to determine the amount of insurance for the unit. For example, assume you insure one unit in which you have a 100 percent share. The unit consists of 185 acres of the same type and variety of which 150 acres are occupied by the female parent plants. (The acreage occupied by the male parent plants (35 acres) is not insurable, and is not eligible for coverage under this section.) The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres were not planted but are eligible for a prevented planting amount of insurance. The amount of insurance for the unit will be computed as follows:

(i) For the timely planted acreage, multiply the per acre amount of insurance for timely planted acreage by the 50 acres planted timely;

(ii) For the late planted acreage, multiply the per acre amount of insurance for timely planted acreage by 93 percent and multiply the result by the 50 acres planted late; and

(iii) For prevented planting acreage, multiply the per acre amount of insurance for timely planted acreage by:

(A) Fifty percent and multiply the result by the 50 acres you were prevented from planting, if the acreage is eligible for prevented planting coverage, and if the acreage is left idle for the crop year, or if a cover crop is planted not for harvest. Prevented planting compensation hereunder will not be denied because the cover crop is hayed or grazed; or

(B) Twenty-five percent and multiply the result by the 50 acres you were prevented from planting, if the acreage is eligible for prevented planting coverage, and if you elect to plant a substitute crop for harvest after the 10th day following the final planting date for the insured crop. (This paragraph (B) is not applicable, and prevented planting coverage is not available under these crop provisions, if you elected the Catastrophic Risk Protection Endorsement or you elected to exclude prevented planting coverage when a substitute crop is planted (see section 13(d)(1)(iii)).

Your premium will be based on the result of multiplying the per acre amount of insurance for timely planted acreage by the 150 acres in the unit.

(3) You must have the inputs available to plant and produce the intended crop with the expectation of at least producing the approved yield. Proof that these inputs were available may be required.

(4) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), the insurance period for prevented planting coverage begins:

(i) On the sales closing date contained in the Special Provisions for the insured crop in the county for the crop year the application for insurance is accepted; or

(ii) For any subsequent crop year, on the sales closing date for the insured crop in the county for the previous crop year, provided continuous coverage has been in effect since that date. For example: If you make application and purchase insurance for hybrid sorghum seed for the 1998 crop year, prevented planting coverage will begin on the 1998 sales closing date for hybrid sorghum seed in the county. If the hybrid sorghum seed coverage remains in effect

for the 1999 crop year (is not terminated or canceled during or after the 1998 crop year), prevented planting coverage for the 1999 crop year began on the 1998 sales closing date. Cancellation for the purpose of transferring the policy to a different insurance provider when there is no lapse in coverage will not be considered terminated or canceled coverage for the purpose of the preceding sentence.

(5) The acreage to which prevented planting coverage applies will not exceed the total eligible acreage on all FSA Farm Serial Numbers in which you have a share, adjusted for any reconstitution that may have occurred on or before the sales closing date. Eligible acreage for each FSA Farm Serial Number is determined as follows:

(i) If you participate in any program administered by the United States Department of Agriculture that limits the number of acres that may be planted for the crop year, the acreage eligible for prevented planting coverage will not exceed the total acreage permitted to be planted to the insured crop.

(ii) If you do not participate in any program administered by the United States Department of Agriculture that limits the number of acres that may be planted, and unless we agree in writing on or before the sales closing date, eligible acreage will not exceed the greater of:

(A) The number of acres planted to the hybrid sorghum seed on the FSA Farm Serial Number during the previous crop year; or

(B) One-hundred percent of the simple average of the number of acres planted to hybrid sorghum seed during the crop years that you certified to determine your yield.

(iii) Acreage intended to be planted under an irrigated practice will be limited to the number of acres for which you had adequate irrigation facilities prior to the insured cause of loss which prevented you from planting.

(iv) A prevented planting amount of insurance will not be provided for any acreage:

(A) That does not constitute at least 20 acres or 20 percent of the acreage in the unit, whichever is less (Acreage that is less than 20 acres or 20 percent of the acreage in the unit will be presumed to have been intended to be planted to the insured crop planted in the unit, unless you can show that you had the inputs available before the final planting date to plant and produce another insured crop on the acreage);

(B) For which the actuarial table does not designate a premium rate unless a written agreement designates such premium rate;

(C) Used for conservation purposes or intended to be left unplanted under any program administered by the United States Department of Agriculture;

(D) On which another crop is prevented from being planted, if you have already received a prevented planting indemnity, guarantee, or amount of insurance for the same acreage in the same crop year, unless you provide adequate records of acreage and production showing that the acreage was double-cropped in each of the last 4 years in which the insured crop was grown on the acreage;

(E) which the insured crop is prevented from being planted, if any other crop is planted and fails, or is planted and harvested, hayed or grazed on the same acreage in the same crop year, (other than a cover crop as specified in section (d)(2)(iii)(A) of this section, or a substitute crop allowed in section (d)(2)(iii)(B), unless you provide adequate records of acreage and production showing that the acreage was double-cropped in each of the last 4 years in which the insured crop was grown on the insured acreage;

(F) When coverage is provided under the Catastrophic Risk Protection Endorsement if you plant another crop for harvest on any acreage you were prevented from planting in the same crop year, even if you have a history of double-cropping. If you have a Catastrophic Risk Protection Endorsement and receive a prevented planting indemnity, guarantee, or amount of insurance for a crop and are prevented from planting another crop on the same acreage, you may only receive the prevented planting indemnity, guarantee, or amount of insurance for the crop on which the prevented planting indemnity, guarantee, or amount of insurance is received; or

(G) For which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes.

(v) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of hybrid sorghum seed acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent share. The acreage is located in a single FSA Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of hybrid sorghum seed on one optional unit and 40 acres of hybrid sorghum seed on the second optional unit, your prevented planting eligible acreage would be reduced to zero (*i.e.*,100 acres eligible for prevented planting coverage minus 100 acres planted equals zero).

(6) In accordance with the provisions of section 6 (Report of Acreage) of the Basic Provisions (§ 457.8), you must report by unit any insurable acreage that you were prevented from planting. This report must be submitted on or before the acreage reporting date. For the purpose of determining acreage eligible for a prevented planting amount of insurance, the total amount of prevented planting and planted acres cannot exceed the maximum number of acres eligible for prevented planting coverage. Any acreage you report in excess of the number of acres eligible for prevented planting coverage, or that exceeds the number of eligible acres physically located in a unit, will be deleted from your acreage report.

14. Written Agreement

Designated terms of this policy may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 14(e);

(b) The application for a written agreement must contain all variable terms of the contract between you and us that will be in effect if the written agreement is not approved;

(c) If approved, the written agreement will include all variable terms of the contract, including, but not limited to, crop type or variety, the guarantee, premium rate, and price election;

(d) Each written agreement will only be valid for one year (If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy); and

(e) An application for a written agreement submitted after the sales closing date may be approved if, after a physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

Signed in Washington, D.C., on December 20, 1996.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 96–33069 Filed 12–27–96; 8:45 am]

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7 CFR Parts 401 and 457

General Crop Insurance Regulations, Fresh Market Tomato Minimum Value Option, and Fresh Market Tomato (Dollar Plan) Endorsement; and Common Crop Insurance Regulations, Fresh Market Tomato (Dollar Plan) Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes specific crop provisions for the insurance of fresh market (dollar plan) tomatoes. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current Fresh Market Tomato (Dollar Plan) Endorsement and the Fresh Market Tomato Minimum Value Option with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current Fresh Market Minimum Value Option and the Fresh Market Tomato (Dollar Plan) Endorsement to the 1997 and prior crop years.

DATES: Written comments, data and opinions on this proposed rule will be accepted until close of business January 29, 1997, and will be considered when the rule is to be made final. The comment period for information collections under the Paperwork Reduction Act of 1995 continues through February 25, 1997.

ADDRESSES: Interested persons are invited to submit written comments to the Chief, Product Development Branch, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131. Written comments will be available for public inspection and copying in room 0324, South Building, United States Department of Agriculture, 14th and Independence Avenue, S.W., Washington, D.C., 8:15 a.m. to 4:45 p.m., est, Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Linda Williams, Program Analyst, Research and Development Division, Product Development Branch, Federal Crop Insurance Corporation, at the Kansas City, MO, address listed above, telephone (816) 926-7730.

SUPPLEMENTARY INFORMATION:

Executive Order No. 12866

The Office and Management Budget (OMB) has determined this rule to be exempt for the purposes of Executive Order No. 12866, and, therefore, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

The title of this information collection is "Catastrophic Risk Protection Plan and Related Requirements including, Common Crop Insurance Regulations; Fresh Market Tomato (Dollar Plan) Crop Insurance Provisions." The information to be collected includes a crop insurance application and an acreage report. Information collected from the application and acreage report is electronically submitted to FCIC by the reinsured companies. Potential respondents to this information collection are producers of fresh market tomatoes that are eligible for Federal crop insurance.

The information requested is necessary for the reinsured companies and FCIC to provide insurance and reinsurance, determine eligibility, determine the correct parties to the agreement or contract, determine and collect premiums or other monetary amounts, and pay benefits.

All information is reported annually. The reporting burden of this collection of information is estimated to average 16.9 minutes per response for each of the 3.6 responses from approximately 1,755,015 respondents. The total annual burden on the public for this information collection is 2,669,932 hours.

FCIC is requesting comments for the following: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms or information gathering technology.

Comments regarding paperwork reduction should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after submission to OMB. Therefore, a comment to OMB is best assured of having full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulation.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for state, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than large entities. Under the current regulations, a producer is required to complete an application and acreage report. If the crop is damaged or destroyed, the insured is required to give notice of loss and provide the necessary information to complete a claim for indemnity. This regulation does not alter those requirements. The amount of work required of the insurance companies delivering and servicing these policies will not increase significantly from the amount of work currently required. This rule does not have any greater or lesser impact on the producer. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order No. 12372

This program is not subject to the provisions of Executive Order No. 12372, which require intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order No. 12778

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in subsections 2(a) and 2(b)(2) of Executive Order No. 12778. The provisions of this rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR parts 11 and 780 must be exhausted before any action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

FCIC proposes to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section, 7 CFR 457.139, Fresh Market Tomato (Dollar Plan) Crop Insurance Provisions. The new provisions will be effective for the 1998 and succeeding crop years. These provisions will replace and supersede the current provisions for insuring fresh market tomatoes (dollar plan) found at 7 CFR 401.137 (Fresh Market Tomato Minimum Value Option) and 7 CFR 401.139 (Fresh Market Tomato (Dollar Plan) Endorsement). FCIC also proposes to amend § 401.137 and § 401.139 to limit their effect to the 1997 and prior crop years. FCIC will later publish a regulation to remove and reserve § 401.137 and § 401.139.

This rule makes minor editorial and format changes to improve the Fresh Market Tomato Minimum Value Option and the Fresh Market Tomato (Dollar Plan) Endorsement's compatibility with the Common Crop Insurance Policy. In addition, FCIC is proposing substantive changes in the provisions for insuring fresh market tomatoes (dollar plan) as follows:

1. *Section 1*—Add definitions for the terms "carton," "days," "FSA," "good farming practices," "interplanted," "irrigated practice," "planted acreage," "practical to replant," "row width," "tropical depression," and "written agreement" for clarification.

Clarify the definition of crop year to specify that the crop year begins on the first day of the earliest planting period for fall-planted tomatoes and continues through the end of the insurance period for spring-planted tomatoes.

Clarify the definition of excess rain to specify that it is an amount of precipitation that is sufficient to directly damage the crop. Previous regulations defined excessive rain as a minimum of 10 inches of rain within a 24-hour period. This change will provide coverage for crop damage that occurs when a lesser amount of precipitation is received.

Change the definition of freeze to specify that freeze occurs when low air temperatures cause ice to form in the cells of the plant or its fruit to encompass conditions found in both frost and freeze.

Change the definition of harvest to clarify and remove the term marketable. Tomatoes picked from the vine are considered harvested whether marketable or not.

2. *Section 3(a)*—Clarify that an insured may select only one coverage level (and the corresponding amount of insurance designated in the Actuarial Table for the applicable planting period and practice) for all the tomatoes planted in the county insured under the policy.

3. *Section 3(b)*—Clarify that the amounts of insurance the insured chooses for each planting period and practice must have the same percentage relationship to the maximum amount of insurance offered by FCIC for each planting period and practice.

4. *Section 8(c)(4)*—Clarify that plum or cherry tomatoes are not insurable unless allowed by a written agreement. Previous regulations did not provide crop insurance coverage for plum or cherry tomatoes. This change will allow expansion of fresh market tomato crop insurance coverage into other areas.

5. *Section 9(b)(2)*—Allow an insured to elect not to replant damaged tomatoes that were initially planted within the fall or winter planting periods, provided the final planting date for the planting period has passed and damage occurs after 30 days of transplanting or after 60 days of direct seeding. With this election, the insured may collect an indemnity and that particular acreage will be uninsurable for the next planting period. The insured may also elect to replant such tomato acreage, collect a replanting payment under section 12, and maintain the initial planting period coverage. This change incorporates and standardizes procedures utilized in the fresh market vegetable crops.

6. *Section 10(f)(2)*—Change the calendar date for the end of the insurance period from 140 days to 125 days after the date of transplanting or replanting with transplants. This change incorporates the actual number of days for transplanted tomatoes to reach maturity and for the crop to be harvested.

7. *Section 11(a)(6)*—Tropical depression has replaced cyclone as an insured cause of loss. This change will standardize tropical depression as an insured cause of loss among fresh market vegetable crops.

8. *Section 14(b)(2)*—Modify claim for indemnity calculations by providing calculations for catastrophic risk protection coverage and for coverage other than catastrophic risk protection. This provision includes the use of the catastrophic risk protection price election equivalent to determine the total dollar of production to count for indemnity purposes. This change is necessary to assure that producers that are insured based on a dollar amount of insurance are indemnified comparable to producers that are insured based on an actual production history (APH) yield basis.

9. *Section 14(c)*—Remove the provision requiring that unharvested potential production in excess of 30 cartons after the second harvest for ground culture tomatoes (third harvest for staked tomatoes) be included in the value of appraised production to be counted. Consistent with other fresh market vegetable crops, this provision will be contained in the loss adjustment procedures.

10. *Section 14(c)(2)(iv)*—Require the insured to continue to care for acreage when the insured does not agree with the appraisal on that acreage. Production to count for such acreage will be determined using the harvested production if the crop is harvested, or our reappraisal if the crop is not harvested.

11. *Section 14(c)(3)*—Change the value to count for harvested production to the dollar amount obtained by subtracting the allowable cost from the price received (this resulting price must not be less than the minimum value shown in the Special Provisions), and multiplying this result by the number of cartons harvested. Current regulations allow the value of sold production to be

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as low as zero. Also, clarify that harvested mature tomatoes that are damaged or defective due to insurable causes and are not marketable will not be counted as production. These changes are made to assure that the minimum value specified in the Special Provisions will be the lowest value considered for any marketable harvested production unless the insured selected the minimum value option.

12. *Section 15*—Add provisions for providing insurance coverage by written agreement. FCIC has a long standing policy of permitting certain modifications of the insurance contract by written agreement for some policies. This amendment allows FCIC to tailor the policy to a specific insured in certain instances. The new section will cover the procedures for and duration of written agreements.

13. *Section 16*—Permit the insured to select the minimum value option by electing Option I or Option II on the application. A separate form no longer will be required.

List of Subjects in 7 CFR Parts 401 and 457

Crop insurance, Fresh market tomatoes.

Proposed Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby proposes to amend 7 CFR parts 401 and 457, as follows:

PART 401—GENERAL CROP INSURANCE REGULATIONS—REGULATIONS FOR THE 1988 AND SUBSEQUENT CONTRACT YEARS

1. The authority citation for 7 CFR part 401 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

2. Section 401.137 introductory paragraph is revised to read as follows:

§ 401.137 Fresh market tomato minimum value option.

The provisions of the Fresh Market Tomato Minimum Value Option for the 1991 through the 1997 crop years are as follows:

* * * * *

3. Section 401.139 introductory paragraph is revised to read as follows:

§ 401.139 Fresh market tomato (dollar plan) endorsement.

The provisions of the Fresh Market Tomato Crop Insurance Endorsement for the 1991 through the 1997 crop years are as follows:

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1994 AND SUBSEQUENT CONTRACT YEARS

4. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

5. 7 CFR part 457 is amended by adding a new § 457.139 to read as follows:

§ 457.139 Fresh Market Tomato (Dollar Plan) Crop Insurance Provisions.

The Fresh Market Tomato (Dollar Plan) Crop Insurance Provisions for the 1998 and succeeding crop years are as follows:

FCIC policies:

United States Department of Agriculture

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Fresh Market Tomato (Dollar Plan) Crop Provisions

If a conflict exists among the Basic Provisions (§ 457.8), these crop provisions, and the Special Provisions; the Special Provisions will control these crop provisions and the Basic Provisions; and these crop provisions will control the Basic Provisions.

1. Definitions

Acre—43,560 square feet of land when row widths do not exceed six feet, or if row widths exceed six feet, the land area on which at least 7,260 linear feet of rows are planted.

Carton—Twenty-five (25) pounds of the insured crop.

Crop year—In lieu of the definition of "crop year" contained in section 1 (Definitions) of the Basic Provisions (§ 457.8), crop year is a period of time that begins on the first day of the earliest planting period for fall-planted tomatoes and continues through the last day of the insurance period for spring-planted tomatoes. The crop year is designated by the calendar year in which spring-planted tomatoes are harvested.

Days—Calendar days.

Direct marketing—Sale of the insured crop directly to consumers without the intervention of an intermediary such as a wholesaler, retailer, packer, processor, shipper or buyer. Examples of direct marketing include selling through an on-farm or roadside stand, farmer's market, and permitting the general public to enter the field for the purpose of picking all or a portion of the crop.

Excess rain—An amount of precipitation sufficient to directly damage the crop.

FSA—The Farm Service Agency, an agency of the United States Department of Agriculture, or a successor agency.

Freeze—The formation of ice in the cells of the plant or its fruit, caused by low air temperatures.

Good farming practices—The cultural practices generally in use in the county for the crop to make normal progress toward maturity and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Harvest—The picking of tomatoes on the unit.

Interplanted—Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

Irrigated practice—A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed for the insured crop to make normal progress toward maturity.

Mature green tomato—A tomato that:

(1) Has a glossy waxy skin that cannot be torn by scraping;

(2) Has well-formed, jelly-like substance in the locules;

(3) Has seeds that are sufficiently hard so as to be pushed aside and not cut by a sharp knife in slicing; and

(4) Shows no red color.

Plant stand—The number of live plants per acre prior to the occurrence of an insurable cause of loss.

Planted acreage—Land in which, for each planting period, transplants or seed have been placed manually or by a machine appropriate for the insured crop and planting method, at the correct depth, into soil that has been properly prepared for the planting method and production practice. For each planting period, tomatoes must initially be planted in rows. Acreage planted in any other manner will not be insurable unless otherwise provided by the Special Provisions or by written agreement.

Planting period—The period of time designated in the Actuarial Table in which the tomatoes must be planted to be considered fall, winter or spring-planted tomatoes.

Potential production—The number of cartons of mature green or ripe tomatoes with a classification size of 6 x 7 (2-$^{9}/_{32}$ inch minimum diameter) or larger, that the tomato plants will or would have produced per acre by the end of the

insurance period, assuming normal growing conditions and practices.

Practical to replant—In lieu of the definition of "Practical to replant" contained in section 1 of the Basic Provisions (§ 457.8), practical to replant is defined as our determination, after loss or damage to the insured crop, based on factors, including but not limited to moisture availability, condition of the field, marketing windows, and time to crop maturity, that replanting to the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period (inability to obtain plants or seed will not be considered when determining if it is practical to replant).

Replanting—Performing the cultural practices necessary to replace the tomato seed or transplants and then replacing the tomato seed or transplants in the insured acreage with the expectation of growing a successful crop.

Ripe tomato—A tomato that has a definite break in color from green to tannish-yellow, pink or red.

Row width—The widest distance from the center of one row of plants to the center of an adjacent row of plants.

Tropical depression—A system identified by the U.S. Weather Service as a tropical depression, and for the period of time so designated, including tropical storms, gales, and hurricanes.

Written agreement—A written document that alters designated terms of this policy in accordance with section 15.

2. Unit Division

(a) A unit as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), (basic unit) will be divided by planting period.

(b) Unless limited by the Special Provisions, these basic units may be further divided into optional units if, for each optional unit you meet all the conditions of this section or if a written agreement for such further division exists.

(c) If you do not comply fully with these provisions, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined into a basic unit, that portion of the premium paid for the purpose of electing optional units will be refunded to you for the units combined.

(d) All optional units established for a crop year must be identified on the acreage report for that crop year.

(e) The following requirements must be met for each optional unit:

(1) You must have records, which can be independently verified, of planted acreage and production for each optional unit for at least the last crop year in which the insured crop was planted;

(2) You must plant the crop in a manner that results in a clear and discernable break in the planting pattern at the boundaries of each optional unit;

(3) You must have records of marketed production or measurement of stored production from each optional unit maintained in such a manner that permits us to verify the production from each optional unit, or the production from each unit must be kept separate until loss adjustment is completed by us; and

(4) Each optional unit must be located in a separate legally identified section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands, as the equivalent of sections for unit purposes. In areas that have not been surveyed using the systems identified above, or another system approved by us, or in areas where such systems exist but boundaries are not readily discernable, each optional unit must be located in a separate farm identified by a single FSA Farm Serial Number.

3. Amounts of Insurance and Production Stages

(a) In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), you may select only one coverage level (and the corresponding amount of insurance designated in the Actuarial Table for the applicable planting period and practice) for all the tomatoes in the county insured under this policy.

(b) The amount of insurance you choose for each planting period and practice must have the same percentage relationship to the maximum price offered by us for each planting period and practice. For example, if you choose 100 percent of the maximum amount of insurance for a specific planting period and practice, you must also choose 100 percent of the maximum amount of insurance for all other planting periods and practices.

(c) The amount of insurance available under the catastrophic risk protection plan of insurance will be specified in the Actuarial Table.

(d) The production reporting requirements contained in section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), do not apply to fresh market dollar plan tomatoes.

(e) The amounts of insurance per acre are progressive by stages as follows:

Stage	Percent of amount of insurance per acre that you selected	Length of time if direct seeded	Length of time if transplanted
1	50	From planting through the 59th day after planting	From planting through the 29th day after planting.
2	75	From the 60th day after planting until the beginning of stage 3.	From the 30th day after planting until the beginning of stage 3.
3	90	From the 90th day after planting until the beginning of the final stage.	From the 60th day after planting until the beginning of the final stage.
Final	100	Begins the earlier of 105 days after planting, or the beginning of harvest.	Begins the earlier of 75 days after planting, or the beginning of harvest.

(f) Any acreage of tomatoes damaged in the first, second, or third stage to the extent that the majority of producers in the area would not normally further care for it, will be deemed to have been destroyed. The indemnity payable for such acreage will be based on the stage the plants had achieved when the damage occurred.

4. Contract Changes

In accordance with section 4 (Contract Changes) of the Basic Provisions (§ 457.8), the contract change date is April 30 preceding the cancellation date.

5. Cancellation and Termination Dates

In accordance with section 2 (Life of Policy, Cancellation, and Termination) of the Basic Provisions (§ 457.8), the cancellation and termination dates are July 31.

6. Report of Acreage

In addition to the requirements of section 6 (Report of Acreage) of the Basic Provisions (§ 457.8), you must report on or before the acreage reporting date contained in the Special Provisions for each planting period:

(a) All the acreage of tomatoes in the county insured under this policy in which you have a share; and

(b) The row width.

7. Annual Premium

In lieu of the premium amount determinations contained in section 7 (Annual Premium) of the Basic Provisions (§ 457.8), the annual premium amount for each cultural practice (e.g. fall direct seeded irrigated) is determined by multiplying the final stage amount of insurance per acre by the premium rate for the cultural practice as established in the Actuarial Table, by the insured acreage, by your share at the time coverage begins, and by any applicable premium adjustment factors contained in the Actuarial Table.

8. Insured Crop

In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all the tomatoes in the county for which a premium rate is provided by the Actuarial Table:

(a) In which you have a share;

(b) That are:

(1) Planted to be harvested and sold as fresh market tomatoes;

(2) Planted within the planting periods designated in the Actuarial Table;

(3) Grown under an irrigated practice;

(4) Grown on acreage covered by plastic mulch except where the Special Provisions allows otherwise;

(5) Grown by a person who in at least one of the three previous crop years:

(i) Grew tomatoes for commercial sale; or

(ii) Participated in managing a fresh market tomato farming operation;

(c) That are not:

(1) Interplanted with another crop;

(2) Planted into an established grass or legume;

(3) Grown for direct marketing; or

(4) Plum or cherry type tomatoes, unless allowed by written agreement.

9. Insurable Acreage.

(a) In lieu of the provisions of section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8), that prohibit insurance attaching if a crop has not been planted in at least one of the three previous crop years, we will insure newly cleared land or former pasture land planted to fresh market tomatoes.

(b) In addition to the provisions of section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8):

(1) You must replant any acreage of tomatoes damaged during the planting period in which initial planting took place whenever less than 50 percent of the plant stand remains: and

(i) It is practical to replant;

(ii) If, at the time the crop was damaged, the final day of the planting period has not passed; and

(iii) The damage occurs within 30 days of transplanting or 60 days of direct seeding.

(2) Whenever tomatoes initially are planted during the fall or winter planting periods and the conditions specified in sections 9(b)(1) (ii) and (iii) are not satisfied, you may elect:

(i) To replant such acreage and collect any replant payment due as specified in section 12. The initial planting period coverage will continue for such replanted acreage.

(ii) Not to replant such acreage and receive an indemnity based on the stage of growth the plants had attained at the time of damage. However, such an election will result in the acreage being uninsurable in the subsequent planting period.

(3) We will not insure any acreage which, in the preceding planting period was planted to tomatoes (except as allowed in sections 9(b) (1) and (2)), peppers, eggplants, or tobacco unless the soil has been fumigated or otherwise properly treated.

10. Insurance Period

In lieu of the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), coverage begins on each unit or part of a unit the later of the date we accept your application, or when the tomatoes are planted in each planting period. Coverage ends at the earliest of:

(a) Total destruction of the tomatoes on the unit;

(b) Abandonment of the tomatoes on the unit;

(c) The date harvest should have started on the unit on any acreage which will not be harvested;

(d) Final adjustment of a loss on the unit;

(e) Final harvest; or

(f) The calendar date for the end of the insurance period as follows:

(1) 140 days after the date of direct seeding or replanting with seed; and

(2) 125 days after the date of transplanting or replanting with transplants.

11. Causes of Loss

(a) In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), insurance is provided only against the following causes of loss that occur during the insurance period:

(1) Excess rain;

(2) Fire;

(3) Freeze;

(4) Hail;

(5) Tornado;

(6) Tropical depression; or

(7) Failure of the irrigation water supply, if caused by an insured cause of loss that occurs during the insurance period.

(b) In addition to the causes of loss excluded in section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), we will not insure against any loss of production due to:

(1) Disease;

(2) Insect infestation; or

(3) Failure to market the tomatoes, unless such failure is due to actual physical damage caused by an insured cause of loss that occurs during the insurance period.

12. Replanting Payments

(a) In accordance with section 13 (Replanting Payment) of the Basic Provisions (§ 457.8), a replanting payment is allowed if, due to an insured cause of loss, more than 50 percent of the plant stand will not produce tomatoes and it is practical to replant.

(b) The maximum amount of the replanting payment per acre will be the result obtained by multiplying $175.00 by your insured share.

(c) In lieu of the provisions contained in section 13 (Replanting Payment) of the Basic Provisions (§ 457.8), limiting a replanting payment to one each crop year, only one replanting payment will be made for acreage planted during each planting period within the crop year.

13. Duties in the Event of Damage or Loss

In addition to the requirements contained in section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), if you intend to claim an indemnity on any unit you must also give us notice not later than 72 hours after the earliest of:

(a) The time you discontinue harvest of any acreage on the unit;

(b) The date harvest normally would start if any acreage on the unit will not be harvested; or

(c) The calendar date for the end of the insurance period.

14. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:

(1) For any optional unit, we will combine all optional units for which such production records were not provided; or

(2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage in each stage by the amount of insurance per acre for the final stage;

(2) Multiplying each result in section 14(b)(1) by the percentage for the applicable stage (see section 3(e));

(3) Total the results of section 14(b)(2);

(4) Subtracting either of the following values from the result of section 14(b)(3):

(i) For other than catastrophic risk protection coverage, the total value of production to be counted (see section 14(c)); or

(ii) For catastrophic risk protection coverage, the result of multiplying the total value of production to be counted (see section 14(c)) by:

(A) Sixty percent for the 1998 crop year; or

(B) Fifty-five percent for 1999 and subsequent crop years; and

(3) Multiplying the result of section 14(b)(4) by your share.

(c) The total value of production to count from all insurable acreage on the unit will include:

(1) Not less than the amount of insurance per acre for the stage for any acreage:

(i) That is abandoned;

(ii) Put to another use without our consent;

(iii) That is damaged solely by uninsured causes; or

(iv) For which you fail to provide acceptable production records;

(2) The value of the following appraised production will not be less than the dollar amount obtained by multiplying the number of cartons of appraised tomatoes times the minimum value per carton shown in the Special Provisions for the planting period:

(i) Potential production on any acreage that has not been harvested the second time for ground-culture tomatoes (the third time for staked tomatoes);

(ii) Unharvested mature green tomatoes (unharvested production that is damaged or defective due to insurable causes and is not marketable will not be counted as production to count);

(iii) Production lost due to uninsured causes; and

(iv) Potential production on insured acreage that you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) We may require you to continue to care for the crop so that a subsequent appraisal may be made or the crop harvested to determine actual production (If we require you to continue to care for the crop and you do not do so, the original appraisal will be used); or

(B) You may elect to continue to care for the crop, in which case the amount of production to count for the acreage will be the harvested production, or our reappraisal if the crop is not harvested.

(3) The total value of all harvested production from the insurable acreage will be the dollar amount obtained by subtracting the allowable cost contained in the Special Provisions from the price received for each carton of tomatoes (this result may not be less than the minimum value shown in the Special Provisions for any carton of tomatoes), and multiplying this result by the number of cartons of tomatoes harvested. Harvested production that is damaged or defective due to insurable causes and is not marketable, will not be counted as production to count.

15. Written Agreements

Designated terms of this policy may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 15(e);

(b) The application for a written agreement must contain all variable terms of the contract between you and us that will be in effect if the written agreement is not approved;

(c) If approved, the written agreement will include all variable terms of the contract, including, but not limited to, crop type or variety, and premium rate;

(d) Each written agreement will only be valid for one year (If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy); and

(e) An application for a written agreement submitted after the sales closing date may be approved if, after a physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

16. Minimum Value Option

(a) The provisions of this option are continuous and will be attached to and made a part of your insurance policy, if:

(1) You elect *either* Option I *or* Option II of the Minimum Value Option on your application, or on a form approved by us, on or before the sales closing date for the initial crop year in which you wish to insure fresh market tomatoes (dollar plan) under this option, and pay the additional premium indicated in the Actuarial Table for this optional coverage; and

(2) You have not elected coverage under the Catastrophic Risk Protection Endorsement.

(b) In lieu of the provisions contained in section 14(c)(3), the total value of harvested production will be determined as follows:

If you selected Option I of the Minimum Value Option, the total value of harvested production will be as follows:

(i) For sold production, the dollar amount obtained by subtracting the allowable cost contained in the Special Provisions from the price received for each carton of tomatoes (this result may not be less than $2.00 for any carton of tomatoes), and multiplying this result by the number of cartons of tomatoes sold; and

(ii) For marketable production that is not sold, the dollar amount obtained by multiplying the number of cartons of such tomatoes on the unit by the minimum value shown in the Special Provisions for the planting period (harvested production that is damaged or defective due to insurable causes and is not marketable will not be counted as production).

(2) If you selected Option II of the Minimum Value Option, the total value of harvested production will be as provided in section 16(b)(1), except that the dollar amount specified in section (16)(b)(1)(i) may not be less than zero.

(c) This option may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding

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the crop year for which the cancellation of this option is to be effective.

Signed in Washington, D.C. on December 20, 1996.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 96–33066 Filed 12–27–96; 8:45 am]

BILLING CODE 3410–FA–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 35

[Docket No. PRM–35–14]

IsoStent, Inc.; Withdrawal of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking: Withdrawal.

SUMMARY: The Nuclear Regulatory Commission (NRC) is withdrawing, at the petitioner's request, a petition for rulemaking (PRM–35–14) filed by IsoStent, Inc. By a letter dated May 9, 1996, the petitioner requested that the NRC amend its regulations by adding a new section to address permanently implanted intraluminal stents, including phosphorus-32 and strontium-89 radioisotope stents. The petitioner also requested that the NRC add a new section to specify training and experience requirements for qualified physicians responsible for placing radioisotope stents in patients. The NRC published a **Federal Register** notice on June 27, 1996 (61 FR 33388) announcing receipt of the petition. Recently, in another letter dated October 24, 1996, the petitioner requested that the petition be withdrawn based on public comments received by the NRC on this petition, and other information.

ADDRESSES: A copy of the petitioner's letter requesting the withdrawal of the petition is available for public inspection, or copying for a fee, at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

Single copies of the petitioner's letter may be obtained free of charge by writing to the Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone: 301–415–7163 or Toll Free: 800–368–5642, or E-mail MTL@NRC.GOV.

Dated at Rockville, Maryland, this 23rd day of December 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–33149 Filed 12–27–96; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL ELECTION COMMISSION

11 CFR Part 104

[Notice 1996–21]

Recordkeeping and Reporting by Political Committee: Best Efforts

AGENCY: Federal Election Commission.

ACTION: Extension of comment period.

SUMMARY: On October 9, 1996, the Federal Election Commission published a Notice of Proposed Rulemaking requesting comments on proposed changes to its regulations requiring treasurers of political committees to exercise best efforts to obtain and report the complete identification of each individual who contributes more than $200 per calendar year. The Commission has decided to extend the comment period until January 31, 1997.

DATES: Comments must be received on or before January 31, 1997.

ADDRESSES: Comments must be made in writing and addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, N.W., Washington, D.C. 20463.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, or Ms. Rosemary C. Smith, Senior Attorney, at (202) 219–3690 or toll free (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission has initiated a rulemaking to determine what changes should be made to its regulations at 11 CFR 104.7(b) (1) and (3) in light of the recent court decision in *Republican National Committee* v. *Federal Election Commission*, 76 F.3d 400 (D.C. Cir. 1996), *petition for cert. filed*, 65 U.S.L.W 3186 (U.S. Sept. 9, 1996) (No. 96–415). The Notice of Proposed Rulemaking indicated that the comment period ended on December 6, 1996. 61 F.R. 52901 (Oct. 9, 1996). The Commission received several comments and one request to extend the comment period. The Commission notes that those who were engaged in general election activity or who are engaged in concluding their 1996 election activities may not have found it possible to submit timely comments. Accordingly, the Commission has concluded that it would be appropriate to extend the comment period until January 31, 1997 to allow commenters sufficient time to prepare their comments and suggestions.

Dated: December 24, 1996.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 96–33138 Filed 12–27–96; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 202

[Regulation B; Docket No. R–0876]

Equal Credit Opportunity

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Board is withdrawing a proposed amendment to Regulation B (Equal Credit Opportunity) that would have eliminated the general prohibition on collecting data relating to an applicant's sex, race, color, religion, and national origin.

DATES: This proposed rule is withdrawn December 24, 1996.

FOR FURTHER INFORMATION CONTACT: Jane Jensen Gell, Sheilah Goodman or Natalie Taylor, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667 or 452–2412; for the hearing impaired *only*, Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

I. Background

The Equal Credit Opportunity Act (ECOA) makes it unlawful for creditors to discriminate in any aspect of a credit transaction on the basis of sex, race, color, religion, national origin, marital status, age (provided the applicant has the capacity to contract), because all or part of an applicant's income derives from any public assistance, or because an applicant has in good faith exercised any right under the Consumer Credit Protection Act. The ECOA, which is implemented by the Board's Regulation B, is generally silent regarding what information a creditor may collect from an applicant. Regulation B prohibits creditors from asking for or otherwise noting an applicant's sex, race, color,

and national origin, except in connection with home mortgage loans. The regulation also prohibits creditors from collecting information concerning an applicant's religion.

On April 26, 1995, the Board published for public comment a proposed amendment that would eliminate these prohibitions; the proposed amendment would have allowed, but not required, creditors to collect these data for any credit products. (60 FR 20436.) Creditors that collected these data would not have been required to report or disclose them to the public. The Board proposed that if a creditor requested this information and the applicant chose not to provide it, the creditor would have been prohibited from collecting the information through visual observation or other means. The regulation would have continued to bar creditors from considering this information in a credit decision.

II. Comments Received

Approximately 250 comment letters were received. Nearly 70 percent of them opposed the Board's proposal; the majority of these comments were from creditors and their trade associations. These commenters generally expressed concern that the amendment would lead to mandatory data collection and result in substantially increased costs and burden. In addition, these commenters raised concerns about the quality of the data that would be obtained, given that supplying the information would be voluntary and not all applicants would choose to provide it.

Of the 30 percent of commenters that supported the Board's proposal, approximately half were creditors and half were community representatives. Both groups believed that the data would allow creditors to better identify underserved groups and design programs that would address unmet credit needs. Creditors who supported the proposal believed that it would reduce compliance burden (by allowing them to streamline training and use one application form for multiple credit products, for example). These creditors also stated that having the data would give them the ability to evaluate their compliance with fair lending laws.

III. Discussion

In 1977, when the Board chose to prohibit creditors from collecting these data, the policy choice was seen as a way to discourage discrimination: If creditors did not have these data, they could not use them to discriminate. In addition, the prohibition was intended to emphasize that factors unrelated to creditworthiness such as sex or race should not be part of the credit decision.

The fundamental question raised by the proposal is whether the rule prohibiting data collection furthers the ECOA's goal of preventing discrimination in credit transactions. The comments, while helpful, tended to focus on practical issues (such as data quality) rather than how best to ensure fair lending. Ultimately, there is no easy way to measure the extent to which discrimination occurs in credit transactions, nor the effect the rule has had on the incidence of discrimination. It is impossible to know precisely how, if at all, lifting the prohibition and making these data available would affect creditors' actions. On the one hand, it is likely that the prohibition has helped to prevent discrimination in at least some credit transactions. On the other hand, creditors have collected data in connection with mortgage loan applications for nearly twenty years, and there is no indication from this experience that data collection increases the potential for discrimination.

In the past the Congress has expressed interest in this issue, at least with respect to data collection for small business loans. Given this history, and the significant policy issues involved in any decision to remove the prohibition, the Board believes that this is an issue more appropriate for the Congress to consider. Consequently, the Board is withdrawing the proposed amendment pending further congressional guidance.

IV. Regulatory Flexibility Analysis

The Board's Office of the Secretary has determined that no analysis is needed since the proposal is being withdrawn.

By order of the Board of Governors of the Federal Reserve System, December 23, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–33088 Filed 12–27–96; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD08–96–058]

33 CFR Part 117

Notice of Public Meeting; Bordeaux Railroad Bridge, West Nashville, TN

AGENCY: Coast Guard, DOT.

ACTION: Notice of public meeting.

SUMMARY: The U.S. Coast Guard announces a forthcoming public meeting for the presentation of views concerning the hazard to navigation and use of the Bordeaux Railroad Bridge between West Nashville, Tennessee, and Buena Vista Springs, Tennessee.

DATE: The meeting will be held at 9 a.m., January 8, 1997.

ADDRESSES: The meeting will be held in Room A–761 at the Federal Courthouse, 801 Broadway (Broadway and 8th Street), Nashville, Tennessee.

(b) Written comments may be submitted to the docket. Comments will be available for examination or copying from 8 a.m. to 4 p.m., Monday through Friday, except Federal holidays, at the office of the Director, Western River Operations, Bridge Branch, 1222 Spruce Street, St. Louis, Missouri 63103–2832.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Wiebusch, (314) 539–3900, extension 378.

SUPPLEMENTARY INFORMATION: As a result of the Coast Guard Authorization Act of 1991 (P.L. 102–241, dated December 19, 1991) the Bordeaux Railroad Bridge was declared to be unreasonably obstructive to navigation. Information available to the Coast Guard indicates that the bridge has not been used for rail traffic since December 1991. Based on this information, the structure no longer appears to meet the definition of a bridge and may require removal from the water. All interested parties shall have full opportunity to be heard and to present their views as to whether removal of this bridge is needed, giving due consideration to the necessities of free and unobstructed water navigation.

Any person who wishes, may appear and be heard at this public meeting. Persons planning to appear and be heard are requested to notify the Director, Western Rivers Operations, Bridge Branch, 1222 Spruce Street, St. Louis, Missouri 63103–2832, Telephone: 314–539–3900 extension 378, any time prior to the meeting and indicate the amount of time required. Depending upon the number of scheduled statements, it may be necessary to limit the amount of time allocated to each person. Any limitations of time allocated will be announced at the beginning of the meeting. Written statements and exhibits may be submitted in place of, or in addition to, oral statements and will be made a part of the public docket. Such written statements and exhibits may be delivered at the meeting or mailed to the Director, Western Rivers Operations, Bridge Branch. Transcripts of the meeting will be made available for purchase upon request.

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Authority: 33 U.S.C. 513; 49 CFR 1.46(c)(3).

Dated: December 13, 1996.

T.W. Josiah,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 96–33191 Filed 12–27–96; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

Disposal of National Forest Timber; Cancellation of Timber Sale Contracts

RIN 0596–AB21

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the existing rules on cancellation of timber sale contracts, permits, and other such instruments authorizing the sale or harvest of timber or other forest products to clarify when, why, and by whom contracts may be cancelled, to remove redundant provisions, and to provide a new formula for compensation when the government must cancel timber sale contracts. This proposed rule also would limit financial liability of the United States on certain contracts, remove cancellation limits applicable to the length of the contract term, and define the contractual terms "purchaser", "modification", "partial cancellation", and "cancellation". The proposed rule would also require that all sales are to be laid out in identifiable units. These changes are necessary because the Forest Service is unable to continue bearing most of the financial risk and burden of contract cancellation arising from compliance with increasingly complex and rigorously enforced environmental laws and regulations. This proposed rule would reasonably reallocate risk between the Government and private parties, thereby protecting the U.S. taxpayer from unreasonable and excessive financial damages arising from cancellation of timber sale contracts and other such instruments.

DATES: Comments must be received in writing by February 13, 1997.

ADDRESSES: Send written comments to Director, Timber Management Staff (2400), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090.

The public may inspect comments received on this proposed rule in the Office of the Director, Wing 3NW, Auditors Building, 201 14th Street, SW, Washington, DC 20250. Parities wishing to view comments are encouraged to call ahead (202–205–0893) to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Rex Baumback, Timber Management Staff, (202) 205–0855.

SUPPLEMENTARY INFORMATION: The rules at Title 36, Code of Federal Regulations (CFR), part 223 govern the sale of National Forest System timber. Section 223.30 provides that each timber sale contract will be consistent with plans, environmental standards, and other management requirements. Section 223.30 sets forth specific management requirements for timber sales contracts in addition to general compliance with environmental standards and resource management plans, for example, fire protection and suppression, minimizing increases in erosion, regeneration of timber, and so forth. Sections 223.40 and 223.116 set out the current bases for cancellation of timber sale contracts by either the Government or the purchaser and prescribe the amount of damages, if any, in the event of cancellation.

Section 223.40 requires that timber sale contracts, permits, and other such instruments with terms longer than 2 years provide for cancellation when necessary to prevent serious environmental damage or when they are significantly inconsistent with land management plans adopted or revised in accordance with section 6 of the Forest and Rangeland Renewable Resources Act of 1974, as amended (16 U.S.C. 1601, *et seq.*) and 36 CFR part 219—Planning.

Section 223.116 provides that timber sale contracts and permits may be cancelled based on specifically listed conditions. This section also authorizes the Chief of the Forest Service to cancel contracts and places limitations on the re-delegation of cancellation authority to Regional Foresters.

Background

Under existing regulations, purchasers may request cancellation of contracts if, as a result of catastrophic damage caused by forces beyond the control of the purchaser, the value of the remaining timber is materially diminished. The Government may cancel contracts under any of the following conditions: (1) By mutual agreement with the purchaser when such action is to the advantage of the United States or not prejudicial to its interests; (2) for purchaser's violation of contract terms; (3) for purchaser's conviction of violation of criminal statutes or for violation of civil standards, orders, permits, or other regulations, issued by a Federal agency, State agency, or political subdivision thereof, for the protection of environmental quality, on National Forest System land, unless compliance with such laws or regulations would preclude performance of other contractual requirements; and (4) upon determination by the Chief of the Forest Service that operations under the contract would result in serious environmental degradation or resource damage.

Unlike government-wide rules governing procurement contracts, the existing cancellation regulation places an inappropriate amount of the financial liability on the Forest Service when the agency must, for reasons of public policy or statutory direction, cancel a timber sale contract or permit. In an effort to address this issue, the agency published a proposed rule to revise its rules on cancellation of timber sale contracts, permits, and other such instruments in the **Federal Register** on August 31, 1990, at 55 FR 35683–35686. No public comment was received as a result of this publication. After subsequent review of the cancellation regulation, the agency identified additional changes that are needed but that were not included in the proposed rule. Therefore, the agency is publishing a new proposed rule and inviting public comments.

The need for the revised contract cancellation procedures and expanded use of identifiable units for all forest product sales arises from the changing circumstances over the last two decades surrounding forest product sales and the increasing likelihood that a forest product sales may have to be changed in order to comply with the law. Consequently, the Federal manager must have contractual flexibility in order to maintain compliance with the law within reasonable economic limits.

Under the existing regulation when a sale is cancelled, the Forest Service pays a purchaser's out-of-pocket costs for a purchaser's operations up to the date of cancellation. The Forest Service also compensates the purchaser for the presumptive increased cost of acquiring comparable timber to replace the timber lost through cancellation, without regard to whether the purchaser actually purchases replacement timber. By holding inventory in a rising market, a purchaser generally earns a profit under the existing rules. In a falling market, the current rule shields the purchaser from loss that otherwise would be incurred if the contract had not been cancelled by the Forest Service.

Given the inability of the Forest Service to predict or control the need to adjust management practices to respond

to environmental statutes or other requirements, it is no longer appropriate for the Forest Service to guarantee purchasers a replacement supply of timber or to assure them a margin of profit in the event of cancellation. Moreover, this policy is very costly to the taxpayer. For example, in addition to paying out-of-pocket expenses, the Forest Service has already had to pay approximately $9 million to cover purchaser's replacement timber costs that resulted primarily from contract cancellations or partial contract cancellations in Arizona and New Mexico to protect the Mexican spotted owl and northern goshawk. There is also $57 million in unresolved lawsuits and contract claims related to contract cancellation. Further, this amount of potential liability does not include potential damages that may result from cancellation of the 77 timber sales involved in the *Silver* v. *Thomas* (CIV–94–1610–PHX–CAM) injunction in Arizona and New Mexico or the Section 318 timber sales that are the subject of the Rescissions Act and related litigation in Oregon and Washington.

By statute, the agency is required to pay from available appropriations any timber contract claim that arises from a dispute with a purchaser (41 U.S.C. 612(c)). Because cancellation costs come out of the agency's current budget, providing for lost profits adversely affects all Forest Service operations, including other timber operations and non-timber programs. If timber is to be sold, neither the Forest Service nor the taxpayer can justify assuming risks of this magnitude. The benefits and burdens must be shared by all users, purchasers and the general public alike. Furthermore, as a practical matter, the agency is not appropriated enough funds to provide for replacement compensation for all the timber sales that may need to be cancelled, in whole or in part, in order to comply with environmental laws. Accordingly, although cancellation of contracts by the Forest Service remains in the public interest, the Forest Service has concluded that it is no longer in the public interest for the agency to bear more than out-of-pocket expenses in these instances, nor is it fiscally feasible, given the increasing uncertainty surrounding National Forest System timber sales.

This uncertainty is caused by several factors. Developing case law on environmental and related statutes and regulations, such as the Endangered Species Act, the Clean Water Act, and the Clean Air Act, in conjunction with increasing amounts of new information on the environmental effects and resource impacts of various activities on National Forest System land has led to constantly changing and more rigorous management requirements. The uncertainty surrounding timber sales is compounded by a growing competition and public concern for the National Forests' limited resources. For example, the Forest Service may be forced to cancel or substantially modify existing timber sale contracts and permits if the Fish and Wildlife Service, an agency of the Department of the Interior, lists an animal or plant species as a threatened species under the Endangered Species Act. Specifically, in response to the listing of the red-cockaded woodpecker as an endangered species under the Endangered Species Act in 1973 and subsequent discovery of new information in 1989, the Forest Service was required to reevaluate its management practices throughout the woodpecker's range on National Forests in the South. This re-evaluation resulted in modification and cancellation of several existing timber sale contracts.

In addition, the Forest Service has recently been judicially compelled to cancel or modify additional timber sale contracts in order to protect the Mexican spotted owl and marbled murrelet, which are both listed as a threatened species under the Endangered Species Act. This has also happened with the northern spotted owl. Further, there are proposals that the Fish and Wildlife Service list the goshawk, other owl species, and some species of Pacific salmon under the Endangered Species Act.

Modification or cancellation of existing legal contractual obligations is not limited, however, to efforts to comply with the Endangered Species Act. In one case, the activities of a private landowner upstream from a National Forest resulted in stream sediment loading to such a level that sale activities on adjoining National Forest land would have violated the Clean Water Act. As a result, the Forest Service had to alter its timber harvesting plans for the area adjacent to that stream. If timber sales had been under contract within the area adjacent to that stream, contract cancellation and payment of compensation to the purchaser would have been required to avoid violations of the Clean Water Act.

The Forest Service takes every precaution before authorizing a particular activity on National Forest System lands to ensure that its authorization conforms with existing laws and with existing conditions on the ground at the time of the authorization. However, when deciding to go forward with such projects, the Forest Service must plan for potential intervening events and circumstances. Given the increasing pressures on forest resources from a variety of sources, it is essential that Forest Service officials have flexibility to adjust management activities on National Forest System lands and associated contractual arrangements without incurring enormous financial liability. Reasonable limits to the Government's exposure to financial liability and burden of risk in the event of such adjustments are imperative to protect the public's financial interests. Without reasonable limits to such exposure, spiraling costs to the Forest Service could seriously reduce future timber sale offerings.

Provisions of the Proposed Rule

Section 223.30

To accomplish the needed changes, the agency proposes to revise 36 CFR 223.30 to include a new paragraph (g) which would provide that all timber sale contracts, permits, and other such instruments authorizing the sale or harvest of timber or other forest products must identify subdivision(s), payment unit(s), cutting unit(s), clearcutting unit(s), understory harvest unit(s), individual tree marked area(s), or harvest unit(s) within a designated sale area boundary. Under this revision, the District Ranger or other Forest Service official responsible for sale layout would be required to consider, among others, the following factors when determining whether or not the sale area is to be divided into more than one unit: Type of forest product; type of sale; acreage; volume; topography; density of product within the area; value of the sale; and management needs. Sales that are divided into two or more harvest units are divisible.

This provision would extend the harvest unit layout concept that is now used only in timber sale contracts using FS Form 2400–6 to all other contract forms, permits, and other such instruments authorizing the sale or harvest of timber or other forest products. Under this provision, all timber sale instruments which may reasonably be divided into two or more units would be treated similarly for purposes of modification, partial cancellation, or cancellation. This revision would add uniformity to the timber administration process and also extend the application of damage limiting provisions to all forest product sale instruments.

To accommodate this new paragraph (g), existing paragraphs (g) and (h) would be designated as paragraphs (h) and (i) respectively.

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Section 223.40

Section 223.40 would be revised to require that all contracts, permits, and other such instruments authorizing the harvest of trees or other forest products provide for cancellation. The current requirement that only contracts two years in length or longer contain a provision for cancellation would be removed. No current basis supports a different standard of liability for short term contract than for contracts with terms of two (2) or more years.

This proposed revision would also eliminate potential confusion in the use of the terms "cancellation" and "termination." This proposed rule would define these terms as synonymous when used in timber sale contracts, permits, or other such instruments. The proposed rule would also revise the title of § 223.40 to read "Cancellation procedures." Further, the proposed revision would restructure § 223.40 to include the provisions currently found in § 223.116, thus incorporating all of the requirements relating to cancellation of contracts, permits, and other such instruments into one section and, thereby eliminating the redundancy and confusion of having two separate sections on cancellation. Section 223.116 would be removed in its entirety.

The proposed rule would also substantially revise the existing provisions of § 223.40 and § 223.116. First, a new paragraph (a) would define "purchaser" for purposes of this section as a holder of a National Forest System timber sale contract, permit, or other such instrument authorizing the sale and harvest of forest products. The new paragraph (a) of the proposed rule would also define the terms "partial cancellation" of a timber sale contract. This definition is included in response to a recent court decision, *Stone Forest Industries* v. *United States*, 973 F.2d 1548 (Fed. Cir. 1992), in which the court found that the timber sale contract was not divisible. "Partial cancellation" would be defined as the elimination of one or more, but not all, of the identifiable harvest units from a timber sale contract and is based upon the divisibility of the timber sale contract into units. Thus, this regulation would incorporate the concept of divisibility, which would be adopted in 36 CFR 223.30, and, thereby, would eliminate any ambiguity regarding the ability of the Forest Service to partially cancel a contract. Partial cancellation would afford the Forest Service flexibility in today's uncertain climate by allowing as much of a timber sale to be harvested as is legally allowable while avoiding a breach of contract as a whole.

Additionlly, the terms "modification" and "cancellation" would be defined to eliminate any confusion that might arise as to their meaning in relation to partial cancellation and use in executing timber sale contract changes. Modification would be defined as the elimination of a portion but not all of a harvest unit or units. The timber sale contract provides for rate redetermination in the event of unilateral modification. Cancellation is defined as the cancellation or termination of contract requirement(s) for removal of the remaining timber or other forest products from all of the identifiable harvest units under the timber sale contract, permit, or other timber sale instrument.

Mutual modifications and cancellations as provided in the current regulation at 36 CFR 223.112 and 36 CFR 223.116(2) would also be provided for in this proposed regulation at 223.40(c)(2). Compensation for a mutually agreed upon contract change would be provided for in the mutual agreement between the parties. Mutual agreements between the Forest Service and a purchaser can only be made if the agreement is to the advantage of the United States or not prejudicial to its interests.

Proposed paragraph (b) is a revision and expansion of provisions presently in 36 CFR 223.40 and 36 CFR 223.116 and would limit to the Chief the authority to cancel a timber sale contract, permit, or other such instrument based upon a determination by the Chief that continued operations under such contracts will result in the violation of a statute or regulation or will unreasonably conflict with management of other forest resources. Proposed paragraph (b)(1) would authorize the cancellation or partial cancellation of a timber sale by the Chief before operations result in a situation where a Federal statute or regulation would be violated, thereby giving the Forest Service the authority to pro-actively manage and avoid environmental crises. Causes for cancellation or partial cancellation under proposed paragraph (b)(1) would include, for example, the need to prevent inconsistencies with approved land and resource management plans adopted pursuant to 36 CFR part 219; damage to cultural resources; and unacceptable adverse impacts to Federally-listed threatened or endangered species. Proposed paragraph (b)(2) would provide for the cancellation or partial cancellation of a timber sale contract, permit, or other such instrument by the Chief, upon determination by the Chief that operation of the sale may unreasonably conflict with the management of other forest resources. For example, (b)(2) would provide for cancellation or partial cancellation in order to prevent unreasonable conflict with sensitive species listed by Regional Foresters pursuant to the Forest Service Mutual Chapter 2670 or published in the **Federal Register**.

Paragraph (c) of proposed § 223.40 would set forth the conditions under which a contract, permit, or other such instrument for removal of National Forest System timber or other forest products may be cancelled. Existing paragraphs (a)(1)–(a)(3) of § 223.116 would become paragraphs (c)(1), (c)(2), and (c)(3) of § 223.40 and remain substantially the same. Both paragraphs (b) and (c) of revised § 223.40 would require the cancellation decisions to be based upon an administrative record.

Paragraph (c)(1) would provide for cancellation by the Government in the event of a material breach of continued violation of the terms of the contract, permit, or other such instrument. This is consistent with the principle of law that failure to perform a material element of the contract constitutes a breach and merits cancellation of the contract. It also establishes that continued, intentional violation of the contract which prevents timely performance may merit cancellation of the contract.

Paragraph (c)(2) would slightly revise text now in § 223.116(a)(2) by adding the phrases, "for reasons other than those listed in this section," and would provide that a contract may be cancelled in whole or in part by mutual agreement upon application of the purchaser or at the request of the Government with consent of the purchaser. The proposed paragraph (c)(2) would limit mutual cancellation or partial cancellation to cases in which it is determined to be in the best interests of the United States.

Paragraph (c)(3) would incorporate and revise existing § 223.116(a)(3) and provide that, upon application of the purchaser or upon notice by the Forest Service, the contract may be cancelled in whole or in part if the value of the timber remaining to be cut is diminished materially because of catastrophic damage caused by forces beyond the control of the purchaser or the Forest Service. This proposed provision would change the current rule by also authorizing the Forest Service to cancel a contract in the event of catastrophic damage. Since the very nature of damage resulting from a catastrophe can adversely affect the Government to the same extent as the

purchaser, logic and equity demand that the Government should have the ability to cancel in whole or in part the contract, permit, or other such instrument under these circumstances.

Paragraphs (c)(4) and (c)(5) would incorporate and revise existing § 223.116(a)(4). The two causes for cancellation that are presently combined in paragraph (a)(4) would be divided into separate paragraphs to clarify and distinguish between the judicial and administrative causes that may result in cancellation. Paragraph (c)(4) would clarify that contracts, permits, or other such instruments authorizing the harvesting of trees or other forest products may be cancelled upon any conviction of a purchaser for violation of a Federal or State criminal statute, when such violation is in any way connected with obtaining, attempting to obtain, selling, trading, or processing public timber, or obtaining, attempting to obtain, or performing a public contract or subcontract.

Paragraph (c)(5) would permit cancellation of timber sale contracts, permits, or other such instruments authorizing the harvesting of trees or other forest products upon the conviction of the purchaser for a violation of civil standards, orders, permits, or other regulations written for the protection of the environment.

Cancellation under paragraphs (c)(4) or (c)(5) would be an administrative action intended to ensure that the Government does business only with reasonable parties, that is, parties who possess a satisfactory record of integrity and business ethics.

A new proposed paragraph (c)(6) would provide the authority to cancel or partially cancel a contract, permit, or other such instrument authorizing the harvesting of trees or other forest products as a result of a court order or court approved settlement agreement. This proposed paragraph also would permit cancellation even though a sale contract, permit, or other such instrument is not specifically named in an order or settlement agreement if the Forest Service determines that the order or settlement agreement would be applicable to the conditions existing on the area governed by the contract, permit, or other such instrument. This paragraph is necessary for the Government to properly and efficiently respond to litigation over National Forest management and competing resource uses and would remove any ambiguity or potential misinterpretation over the agency's cancellation authority in light of court orders or court approved settlements.

Paragraph (d) of the proposed rule would provide that any timber sale contract, permit, or any other such instrument for the sale or harvest of timber or forest products containing individually identifiable harvest units may be partially cancelled without the Forest Service incurring liability for the entire contract. Paragraph (d) would also provide that when a timber sale is partially cancelled, a duty to perform the remaining portion of the contract continues with the purchaser, in most cases.

The present method for determining reasonable compensation to the purchaser is described at §§ 223.40 and 223.116(a)(5). Proposed 223.40(e) would provide the basis for determining compensation, if any, in the event a contract is cancelled for any reason. Proposed paragraph (e)(1)(i) provides that limited compensation, in the form of out-of-pocket expenses, would be provided when contracts, permits, or other such instruments are cancelled or partially cancelled pursuant to paragraphs (b)(1), (b)(2), or (c)(6), except where the Forest Service finds the purchaser contributed to the reason(s) for cancellation. These provisions allow the Government to cancel or partially cancel contracts, permits, or other such instruments in order to, among other things, comply with a court order, federal statute or regulation, or avoid adverse conflicts with other environmental resources. Out-of-pocket expenses are a fair way of allocating part of the risk associated with these cancellations or partial cancellations. Proposed paragraph (e)(1) would limit out-of-pocket expense to unrecovered costs actually paid out and arising from acquiring and performing the contract, and would expressly exclude attorney's fees, unrealized or lost profits, replacement cost of timber, or any other anticipatory losses by the purchaser.

Proposed paragraph (e)(1)(i) provides an exception to the payment of out-of-pocket expenses in situations where fairness dictates that the purchaser absorb their own expenses. Specifically, the exception excludes compensation in situations where the purchaser contributes to the cancellation reason(s) such as the violation of a statute. In most cases, such a situation would be treated as a breach or as another cancellation reason included under proposed paragraph (e)(1)(ii). Consequently, the (e)(1)(i) exception to the payment of out-of-pocket expenses is intended to apply only where no other cancellation reason is applicable. This exception would also exclude compensation in situations where either the purchaser or both the purchaser and the Government may be responsible for the cancellation reason(s).

Proposed paragraph (e)(1)(ii) would provide that no compensation would be given for cancellations or partial cancellations pursuant to paragraphs (c)(1), (3), (4), or (5). Compensation would be inappropriate for contracts, permits, or other such instruments cancelled pursuant to paragraphs (c)(1), (4), or (5) because the cancellation would be the result of a purchaser's failure to satisfactorily perform a contract, permit, or other such instrument or the result of a purchaser's failure to comply with appropriate law, orders, rules, regulations, or standards. It would also be unreasonable for the Government to compensate such a purchaser for unrecovered costs when the cancellation results from a purchaser's own bad faith acts.

Furthermore, compensation for a cancellation or partial cancellation involving a catastrophe pursuant to proposed paragraph (c)(3) would also be inappropriate. The purchaser has the option under the terms of a timber sale contract for a contract modification and rate redetermination as well as the option to request that a contract be cancelled. If it is in the purchaser's best interest to request a cancellation, the Government should not be obligated to do more than cancel the contract, permit, or other such instrument and accept the return of damaged and/or devalued timber. Likewise, if the Government elects to cancel or partially cancel a contract as a result of a catastrophic event, equitable treatment of both parties to the contract would dictate there be no compensation given.

Cancellations or partial cancellations pursuant to proposed paragraph (c)(2) would be the result of a request for cancellation or partial cancellations originating from either the purchaser or the Government and would require the consent and agreement of the other party. The agreement reached between the parties may or may not include a financial settlement as part of the terms of the agreement. Proposed paragraph (e)(2) permits but does not require compensation for the purchaser. To require compensation for the purchaser would unfairly restrict the bargaining position of the Government when a contract, permit, or other such instrument is cancelled or partially cancelled by written mutual agreement.

Section 223.116

The procedure that has been in place for determining the value of comparable replacement timber, based on timber sold within the past 6 months on the same National Forest (§ 223.40 and

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§ 223.116 (a)(5)), is often difficult and not workable. This method fails to provide the necessary flexibility to deal with different circumstances faced in individual timber sale cancellations or partial cancellations. Additionally, comparable replacement timber is becoming increasingly expensive and exposes the Forest Service and the taxpayer to excessive liability. Further, there is no assurance that there will be comparable sales sold within the 6 months prior to the cancellation or partial cancellation. Therefore, the proposal does not retain the current procedures.

Finally, paragraph (b) of § 223.116 would be replaced because it is redundant. The Secretary of Agriculture has delegated full authority to the Chief to administer the National Forest System timber sale program (7 CFR 2.42). The Chief delegates his authorities to lower level officials or reserves authority through the Forest Service Manual except as otherwise noted in the regulations at part 223.

Environmental Impact

This proposed rule would establish uniform criteria to be considered when a timber sale contract, permit, or other such instrument authorizing the sale or harvest of timber or other forest products must be cancelled or partially cancelled. Section 31.1b–2 of the Forest Service Handbook 1909.15 (57 FR 43180; September 18, 1992) excludes from documentation in an environmental assessment or impact statement "rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions." Paragraph d of Section 31.1b further excludes "proposing changes in contract terms and conditions or terms and conditions of special use authorizations." The agency's preliminary assessment is that this rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement. A final determination will be made upon adoption of the final rule.

Controlling Paperwork Burdens on the Public

This rule does not require any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 not already approved for use and, therefore, imposes no additional paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) and implementing regulations at 5 CFR part 1320 do not apply.

No Takings Implications

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630. It has been determined that the proposed rule does not pose a risk of a taking of Constitutionally-protected private property because these proposed regulations apply to the discretionary use of Federally owned land.

Unfunded Mandates Reform

Pursuant to Title II of this Unfunded Mandates Reform Act of 1995, which the President signed into law on March 22, 1995, the Department has assessed the effects of this rule on State, local, and tribal governments and the private sector. This rule does not compel the expenditure of $100 million or more by any State, local, or tribal governments or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Regulatory Impact

This proposed rule was reviewed under USDA procedures and determined to be a significant rule under Executive Order 12866 on Regulatory Planning and Review because of the expected strong public interest in the proposed rule. Accordingly, this proposed rule is subject to OMB review under Executive Order 12866. However, this proposed rule will not have an annual effect of $100 million or more on the economy, or substantially increase prices or costs for consumers, individual industries, Federal, State or local governments, or geographic regions. Furthermore, it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This proposed rule will not limit the amount of National Forest System timber to be offered for sale or restrict competition for such timber. Rather, this proposed rule would remove the unreasonable degree of financial risk currently borne by the Federal Government in the event of timber sale contract cancellation and thus limit the Federal financial liability to reasonable risks.

In addition, this proposed rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), and it has been determined that this action will not have a significant economic impact on a substantial number of small entities as defined by that act.

Civil Justice Reform Act

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule were adopted, (1) all State and local laws and regulations that are in conflict with this proposed rule or which would impede its full implementation would be preempted; (2) the proposed rule may be given retroactive effect on existing contracts that contain limiting compensation provisions; and (3) it would not require administrative proceedings before parties may file suit in court challenging its provisions.

List of Subjects in 36 CFR Part 223

Exports, Government contracts, National forests, Reporting requirements, and Timber sales.

Therefore, for the reasons set forth in the preamble, part 223 of chapter II of title 36 of the Code of Federal Regulations is proposed to be amended as follows:

PART 223—SALE AND DISPOSAL OF NATIONAL FOREST SYSTEM TIMBER

1. The authority citation for part 223 continues to read as follows:

Authority: 90 Stat. 2958, 16 U.S.C. 472a; 98 Stat. 2213, 16 U.S.C. 618, unless otherwise noted.

Subpart B—Timber Sale Contracts

2. Amend § 223.30 by redesignating paragraphs (g) and (h) as paragraphs (h) and (i) respectively and adding new paragraph (g) to read as follows:

§ 223.30 Consistency with plans, environmental standards, and other management requirements.

* * * * *

(g) Identification and designation of individually separable subdivision(s), payment unit(s), cutting unit(s), clearcutting unit(s), understory harvest unit(s), overstory harvest unit(s), individual tree marked area(s), or harvest unit(s) within a designated sale area boundary. Whenever reasonably feasible, the District Ranger or other Forest Service official responsible for sale layout shall divide the sale or permit area into two or more units, thereby making the contract divisible.

* * * * *

3. Revise § 223.40 to read as follows:

§ 223.40 Cancellation procedures.

Timber sale contracts, permits, and other such instruments authorizing the harvesting of trees or other forest products, shall provide for cancellation

of partial cancellation for the reasons specified in paragraph (b) and (c) of this section. For the purposes of this section, the terms "cancellation" and "termination" as used in this section and in timber sale contracts, permits, and other such instruments are synonymous and may be used interchangeably.

(a) *Definitions.* The following definitions apply to the provisions of this section.

(1) *Purchaser* means, for the purpose of this section, any holder of a National Forest System timber sale contract, permit, or other such instrument authorizing the harvest of timber or other forest products.

(2) *Partial Cancellation* means the elimination of one or more, but not all, of the identifiable harvest units from a timber sale contract, permit, or other such instrument.

(3) *Modification* means the elimination of a portion of, but not all of, an identifiable harvest unit or units from a timber sale contract, permit, or other such instrument.

(4) *Cancellation* means the termination of contract requirement(s) for the removal of the remaining timber or other forest products from all of the identifiable harvest units of a timber sale contract, permit, or other such instrument.

(b) *Cancellation actions reserved to the Chief.* Based upon review of the administrative record, the Chief of the Forest Service shall cancel or partially cancel any timber sale contract, permit, and other such instrument authorizing the sale and harvest of trees or other forest products upon a determination that one or both of the following:

(1) Continued operation of the timber sale contract, permit, or other such instrument will result in the violation of a Federal statute or regulation; and/or

(2) Continued operation of the timber sale contract, permit, or other such instrument will unreasonably conflict with the management of other forest resources.

(c) *Other cancellation actions.* Based upon review of the administrative record, the Chief of the Forest Service, or other Forest Service official to whom such authority is delegated, may cancel or partially cancel, timber sale contracts, permits, or other such instruments authorizing the sale and harvest of trees or other forest products for any of the following reasons:

(1) For material breach or continued violation of their terms.

(2) Upon application or with the consent of the purchaser, for reasons other than those listed in this section, when such action is of advantage to the United States or not prejudicial to its interests.

(3) Upon application of the purchaser or by notice of the Forest Service, when catastrophic damage caused by forces beyond the control of either the purchaser or the Forest Service materially diminishes the value of the timber remaining to be cut because of substantial damage to the timber itself or because of physical change in the sale area or access to the timber.

(4) For a conviction of a purchaser for violation of any Federal or State criminal statute, when such violation is in any way connected with obtaining, attempting to obtain, selling, trading, or processing public timber, or obtaining, attempting to obtain, or performing a public contract or subcontract.

(5) Upon final agency or judicial determination of a purchaser's violation of civil standards, orders, permits, or other regulations for the protection of environmental quality issued by a Federal agency, State agency, or political subdivision thereof, in the conduct of operations under such regulations on National Forest System land.

(6) To comply with a Federal court order or a court approved settlement agreement, regardless of whether the sale is named in such an order, upon determination by the Forest Service that the order applies to the conditions existing on the sale.

(d) *Partial Cancellation.* Any timber sale contract, permit, or other such instrument for the sale or harvest of timber or forest products that contains individually identifiable harvest units may be partially cancelled without the Forest Service incurring liability for breach of the entire contract. When a timber sale is partially cancelled, a purchaser retains the duty to perform the remaining portions of the contract, unless, based upon evidence provided by the purchaser, the Contracting Officer determines that it would be uneconomical for the purchaser to perform the remaining portion of the contract.

(e) *Compensation.* (1) In the event of cancellation or partial cancellation by the Government of a contract, permit, or other such instrument under paragraphs (b) and (c) of this section, compensation, if any, is to be determined as follows:

(i) If the cancellation or partial cancellation is made pursuant to paragraph (b)(1), (b)(2), or (c)(6) of this section, the purchaser may receive compensation for out-of-pocket expenses, except where the Forest Service finds the purchaser contributed to the reason(s) for cancellation. Out-of-pocket expenses include only unrecovered costs arising from acquiring and performing the contract prior to cancellation. Out-of-pocket expenses do not include attorney's fees, lost profits, replacement cost of timber, or any other anticipatory losses by the purchaser. All such expense claims must be submitted, along with supporting documentation, to the Contracting Officer, pursuant to the Contract Disputes Act of 1978 (41 U.S.C. 605).

(ii) If the cancellation or partial cancellation is made pursuant to paragraphs (c)(1), (3), (4), or (5) of this section, the purchaser shall not receive any compensation.

(2) If the cancellation or partial cancellation by the government is made pursuant to paragraph (c)(2) of this section, compensation to either party will be determined subject to such terms as may be included in a written mutual agreement between the parties.

§ 223.116 [Removed]

4. Remove § 223.116 in its entirety.

Dated: May 3, 1996.

David G. Unger,

Associate Chief.

Editorial Note: This document was received in the Office of the Federal Register on December 23, 1996.

[FR Doc. 96–32937 Filed 12–27–96; 8:45 am]

BILLING CODE 3410–11–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5671–7]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete the Carter Industrials site from the National Priorities List; request for comments.

SUMMARY: The United States Environmental Protection Agency (EPA) Region 5 announces its intent to delete the Carter Industrials Site from the National Priorities List (NPL) and requests public comment on this action. The NPL is codified as Appendix B of 40 CFR Part 300. It is part of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which U.S. EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended. This action is

being taken by U.S. EPA, because it has been determined that all responses under CERCLA have been implemented and U.S. EPA, in consultation with the State of Michigan, has determined that no further response is appropriate. Moreover, U.S. EPA and the State have determined that remedial activities conducted at the Site to date have been protective of public health, welfare, and the environment.

DATES: Comments concerning the proposed deletion of the Site from the NPL may be submitted on or before January 29, 1997.

ADDRESSES: Comments may be mailed to Rita Garner-Davis (SRJ) Associate Remedial Project Manager, Superfund Division, U.S. EPA, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604. Comprehensive information on the site is available at U.S. EPA's Region 5 office and at the local information repository located at: Detroit Public Library, Main Library—Reference Department, 5201 Woodward Avenue, Detroit, Michigan. Requests for copies of documents should be directed to the Region 5 Docket Office. The address and phone number for the Regional Docket Officer is Jan Pfundheller (H–7J), U.S. EPA, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–5821.

FOR FURTHER INFORMATION CONTACT: Rita Garner-Davis (SRJ) Associate Remedial Project Manager, Superfund Division, U.S. EPA, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886–2440 or Derrick Kimbrough (P–19J), Office of Public Affairs, U.S. EPA, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886–9749.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

The U.S. Environmental Protection Agency (EPA) Region 5 announces its intent to delete the Carter Industrials Site from the National Priorities List (NPL), which constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and requests comments on the proposed deletion. The EPA identifies sites that appear to present a significant risk to public health, welfare or the environment, and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to Section 300.425(e)(3) of the NCP, (40 CFR 300.425(e) (3)), any site deleted from the NPL remains eligible for Fund-financed remedial actions if the conditions at the site warrant such action.

The U.S. EPA will accept comments on this proposal for thirty (30) days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the history of this site and explains how the site meets the deletion criteria.

Deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Furthermore, deletion from the NPL does not in any way alter U.S. EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist in Agency management.

II. NPL Deletion Criteria

The NCP establishes the criteria the Agency uses to delete Sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making this determination, U.S. EPA will consider, in consultation with the State, whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

III. Deletion Procedures

Upon determination that at least one of the criteria described in 300.425(e) has been met, U.S. EPA may formally begin deletion procedures once the State has concurred. This **Federal Register** notice, and a concurrent notice in the local newspaper in the vicinity of the Site, announce the initiation of a 30-day comment period. The public is asked to comment on U.S. EPA's intention to delete the Site from the NPL. All critical documents needed to evaluate U.S. EPA's decision are included in the information repository and the deletion docket.

Upon completion of the public comment period, the U.S. EPA Regional Office will prepare a Responsiveness Summary responding to each significant comment and any significant new data submitted during the comment period. This document shall be included in the final deletion package. The public is welcome to contact the U.S. EPA Region 5 Office to obtain a copy of this responsiveness summary. If U.S. EPA ultimately determines the deletion from the NPL is appropriate, final notice of deletion will be published in the **Federal Register** and the final deletion package shall be placed in the local information depository.

IV. Basis for Intended Site Deletion

The basis for deleting the Carter Industrials Site from the NPL is that actions taken first by EPA and the State of Michigan and then by a group of responsible parties have cleaned up the Site, such that no further response actions are appropriate.

The Carter Industrials Site is located at 4690 Humboldt Street in Detroit, Michigan. The Site covers about 3.5 acres in a mixed residential and light industrial area near downtown. For many years it was used to store and salvage scrap metal, including oil-filled electrical equipment. During salvage operations, dielectric fluids containing PCBs were spilled onto the ground, contaminating site soils. Contaminated soil then spread into the surrounding area via run-off, wind-blown dust, and tracking of spilled materials and contaminated soil by vehicular traffic.

In May 1986, the Michigan Department of Natural Resources (MDNR) took soil samples at the Site, revealing high levels of PCB contamination. On June 4, 1986, MDNR referred the Site to the Emergency Response Program of the U.S. EPA (Region 5). On June 6, 1986, U.S. EPA began to remove PCB contamination from residential areas bordering the Site and to consolidate it on the Carter Industrials property. Contaminated soil was placed in piles which were then maintained so as to prevent any further exposure to PCBs while EPA considered options for a permanent remedy.

On March 31, 1989, EPA listed the Site on the NPL. On September 19, 1991, EPA issued a Record of Decision (ROD), selecting low-temperature thermal desorption as the remedy. The ROD called for a desorption unit to be constructed on-site through which contaminated soil would have been treated and contamination removed. Treated soil that did not meet stipulated cleanup levels was to have been placed in a landfill constructed on the Carter

property. In September, 1992, 14 potentially responsible parties ("the Carter Group") signed a consent decree under which they agreed to implement the remedy EPA selected.

On February 28, 1995, EPA amended the Record of Decision to change the remedy from the low-temperature thermal desorption of PCBs to off-site disposal. The major components of the amended remedy included: (1) Excavation of soil on the Carter Site and from designated properties in the neighborhood near the Site containing one part per million (ppm) or more PCBs. (2) Demolition of contaminated buildings on the Site. (3) Disposal of contaminated soil and debris at an approved permitted, off-site landfill. (4) Stabilization of material containing high concentrations of lead prior to disposal. (5) Air monitoring and dust suppression during remedial activities. (6) Removal of underground storage tanks and their contents from the Site in accordance with Michigan regulations. (7) Restoration of areas where demolition or excavation took place. (8) Maintenance of all existing site safety measures, including fence, security guards, operation and maintenance of surface water runoff collection and treatment system during remedial activities.

The Carter Group began implementation of the amended remedy on August 1, 1995, and completed work on June 21, 1996. Contaminated material from the Carter Site was shipped to the Model City Landfill in Model City, New York—an EPA-approved landfill with a permit to handle PCBs. In addition to completing the work required under the amended Record of Decision, the Carter Group also cleaned out sewer lines where PCB contamination from the Carter Site may have collected. This action ensured that sewer-line sludge containing PCBs would not be washed into the Detroit River, with resulting harm to human health or the environment.

EPA, with the concurrence of the State of Michigan, has determined that all appropriate responses under CERCLA at the Carter Industries Superfund Site have been completed, and no further CERCLA response is appropriate in order to provide protection of human health and the environment. Therefore, EPA proposes to delete the site from the NPL.

Dated: December 18, 1996.

David A. Ullrich,

Acting Regional Administrator, U.S. EPA, Region 5.

[FR Doc. 96–32975 Filed 12–27–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Chapter IV

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

29 CFR Chapter XXV

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Chapter I

Health Insurance Portability

AGENCY: Department of Health and Human Services, Health Care Financing Administration; Department of Labor, Pension and Welfare Benefits Administration; and Department of the Treasury, Office of Tax Policy and Internal Revenue Service (the Agencies).

ACTION: Solicitation of comments.

SUMMARY: The Agencies have received comments from the public on a number of issues arising under the portability, access, and renewability provisions of the Health Insurance Portability and Accountability Act of 1996. Further comments from the public are welcome.

DATES: The Agencies have requested that comments be submitted on or before February 3, 1997.

ADDRESSES: For convenience, written comments should be submitted with a signed original and 3 copies to the Health Care Financing Administration (HCFA) at the address specified below. HCFA will provide copies to each of the Agencies for their consideration. All comments will be available for public inspection and copying in their entirety.

Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–886–N, P.O. Box 26688, Baltimore, Maryland 21207

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses:

Room 309–G, Hubert Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201, or

Room C5–09–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850

Alternatively, comments may be submitted electronically via the HCFA e-mail address at: iritf@hcfa.gov. Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD–886–N. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department of Health and Human Services offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone (202) 690–7890).

FOR FURTHER INFORMATION CONTACT: Suzanne Long, Health Care Financing Administration, at 410–786–0970 (not a toll-free number); Diane Pedulla, Department of Labor, Office of the Solicitor, Plan Benefits Security Division, at 202–219–4597 (not a toll-free number); or Russ Weinheimer, Internal Revenue Service, at 202–622–4695 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) was enacted on August 21, 1996 (Public Law 104–191). HIPAA amended the Public Health Service Act (PHSA), the Employee Retirement Income Security Act of 1974 (ERISA), and the Internal Revenue Code of 1986 (Code) to provide for, among other things, improved portability and continuity of health insurance coverage in the group and the individual insurance markets, including group health plan coverage provided in connection with employment. Health coverage is regulated in part by the Federal government, under the PHSA, ERISA, the Code, and other Federal provisions, and in part by the States.

The portability, access, and renewability provisions of HIPAA are set forth in Title XXVII of the PHSA, Part 7 of Subtitle B of Title I of ERISA, and Subtitle K of the Code (referred to below as the HIPAA portability provisions). The HIPAA portability provisions are designed to improve the availability and portability of health insurance coverage by limiting exclusions for preexisting conditions and providing credit for prior coverage, guaranteeing availability of health coverage for small employers, prohibiting discrimination against employees and dependents based on health status, and guaranteeing renewability of health coverage for employers and individuals. The HIPAA

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portability provisions also include rules for the group and individual insurance markets that guarantee access to individual coverage for people who lose their group coverage. These provisions also set forth requirements imposed on health insurance issuers.

Sections 101(g)(4), 102(c)(4), and 401(c)(4) of HIPAA provide that the Secretaries of Health and Human Services, Labor, and Treasury shall each issue, not later than April 1, 1997, such regulations as may be necessary to carry out these provisions. The Agencies have been working actively to develop these regulations.

Comments

Comments have been received from the public on a number of issues arising under the HIPAA portability provisions. The purpose of this announcement is to advise the public that further comments on all issues under the HIPAA portability provisions are welcome in order that comments may be taken into account, to the extent practicable, before April 1, 1997.

In particular, in response to questions already received, the Agencies are considering whether to include in the regulations a model certification that generally could be used to certify an individual's period of creditable coverage. Under sections 2701(e)(1) and 2743 of the PHSA, section 701(e)(1) of ERISA, and section 9801(e)(1) of the Code, a certification of creditable coverage is required to be provided on certain occasions, such as when an individual loses coverage. The model certification might include information identifying the parties involved, whether the individual has at least 18 months of coverage under the plan without a 63-day break, and, if not, the start and end dates of coverage periods (and any related waiting period), but not information about the particular benefits provided under the plan. (Under this approach, information about the particular benefits provided under a plan would have to be furnished only in the event that another plan or issuer, after receiving the model certification, requests additional information under section 2701(e)(2) of the PHSA, section 701(e)(2) of ERISA, and section 9801(e)(2) of the Code.) Comments are invited on whether a model certification of an individual's period of creditable coverage would be helpful.

Signed at Washington, DC this 24th day of December 1996.

Bruce Vladeck,

Administrator, Health Care Financing Administration, Department of Health and Human Services.

Robert J. Doyle,

Director, Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, Department of Labor.

J. Mark Iwry,

Associate Chief Counsel, Office of Tax Policy, Department of the Treasury.

Sarah Hall Ingram,

Associate Chief Counsel, (Employee Benefits and Exempt Organizations), Internal Revenue Service, Department of the Treasury.

[FR Doc. 96–33293 Filed 12–27–96; 8:45 am]

BILLING CODE 4120–01–M; 4830–01–M; 4510–29–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 5 and 90

[ET Docket No. 96–256; FCC 96–475]

Revision of the Experimental Radio Service Regulations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: By this *Notice of Proposed Rule Making* (Notice) the Commission proposes to revise the Experimental Radio Service (ERS) rules in order to promote technical innovation and new services by encouraging experiments; ensure that experimental licenses do not result in abuse of the Commission's processes; and reorganize the Part 5 regulatory structure, including eliminating unnecessary and burdensome experimental regulations. The proposed action should encourage experimentation, remove unnecessary regulatory burdens upon ERS applicants, and prohibit abuses of the ERS processes.

DATES: Comments must be filed on or before February 10, 1997, and reply comments February 28, 1997. Written comments by the public on the proposed and/or modified information collections are due February 10, 1997. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before February 28, 1997.

ADDRESSES: Comments and reply comments should be sent to the Office of Secretary, Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W. Washington, D.C. 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W:, Washington, D.C. 20503 or via the Internet to fain—t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Thomas Derenge at (202) 418-2451 or Rodney Small at (202) 418-2452. Internet: tderenge@fcc.gov or rsmall@fcc.gov, Office of Engineering and Technology, Federal Communications Commission, For additional information concerning the information collections contained in this *Notice!* should contact Dorothy Conway at (202) 418-0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, ET Docket 96-256, FCC 96-475, adopted December 13, 1996, and released December 20, 1996. The item proposes to: permit longer license terms; permit blanket licensing of related multiple experiments by a single entity and of fixed and mobile stations that are part of the same experiment, and permit electronic filing of experimental applications; encourage student experiments by issuing licenses to schools, as well as to individual students, and by permitting use of additional frequencies; modify the rules regarding special temporary authorizations (STAs) to encourage temporary experimental demonstrations and experiments at trade shows, while limiting STAs to single short-term, non-renewable authorizations; limit the size and scope of each market study on a case-by-case basis, and immediately terminate any such study that the Commission determines to be in excess of this size and scope; and consolidate and reorganize the experimental rules structure.

This *Notice* contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law No. 104–13. It has been submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding.

The full text of this Commission decision, including the proposed rules appendix, is available for inspection and copying during normal business hours in the FCC Reference Center

(Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857-3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Summary of Notice

1. By this action, we propose to revise Part 5 of our rules, which governs the Experimental Radio Service (ERS). We take this action to promote technical innovation and new services by encouraging experiments; ensure that experimental licenses do not result in abuse of our processes; eliminate unnecessary and burdensome experimental regulations; and protect public safety frequencies.

2. Experimental licenses are currently granted for two years. We believe that it may be beneficial to certain segments of the communications industry—in particular companies which desire to conduct experiments that involve ongoing research and development to provide for a longer license period. We believe that permitting such entities to obtain long-term experimental licenses may encourage them to conduct long-term research and development. Long-term licenses will decrease the regulatory burden on our licensees and on our staff which processes renewal applications. Therefore, we request comment on the establishment of a new class of experimental license, with a five-year term, to support long-term operations. This additional option would give applicants the flexibility to apply for either a two-year or five-year license, depending on their needs. We request comment specifically on the appropriate length for such an extended license period. We also request comment on whether this new class of experimental license should be limited to certain parties, such as those involved in long-term product development, or whether any applicant should be permitted to apply for an extended license as long as it provides sufficient justification.

3. We propose to permit blanket licensing of related multiple experiments by a single entity and of fixed and mobile stations that are part of the same experiment. Currently, we require a separate application for fixed and mobile stations; and, under normal circumstances, separate licenses for each phase of an experimental program. However, many experimental projects involve a system containing several fixed stations or combinations of fixed and mobile stations, or involve at least loosely-related experiments. Requiring separate applications for the components of the experimental systems or the different experiments in these cases is a disincentive to the filing of applications and is burdensome to the public and to our staff.

4. We also propose to permit electronic filing of experimental applications. Our Part 5 rules currently do not accommodate electronic filing of experimental applications. Accordingly, we propose to create a new section to permit our Office of Engineering and Technology to accept electronic signatures. We request comment on this proposal and on further steps that would facilitate the electronic filing of experimental applications.

5. We also propose to encourage student experiments by issuing licenses to schools, as well as to individual students, and by permitting use of additional frequencies. We believe that if there is an ongoing experimental radio program at a school, students would be more likely to become involved than if they are required to apply for an individual license. We also propose to modify the frequency bands used for student authorizations. The 2483.5–2500 MHz band is part of the currently authorized 2450–2500 MHz band that is used for student experimental use, but the 2483.5–2500 MHz band is no longer normally assigned for experimental use of any kind because of the need to protect satellite allocations in that band. Therefore, we propose to delete the 2483.5–2500 MHz band from the set of frequencies designated for student authorizations, and replace it with two bands that will provide far greater bandwidth. Specifically, we propose to provide the new bands 2402–2450 MHz and 10.00–10.50 GHz for such use. We request comment on whether student experiments can be accommodated in the 2402–2450 MHz and 10.00–10.50 GHz bands without causing harmful interference to existing users. Additionally, we request comment on whether the 5725–5825 MHz band should be made available for student authorizations. The 5725–5825 MHz band would provide an additional option for student experimentation; however, we note that the band is currently under consideration for unlicensed National Information Infrastructure (U–NII) devices, which are intended to provide wireless wideband networking options to the public including schools, libraries, and health care facilities. If these U–NII devices achieve a high level of deployment in schools, there could eventually be a conflict between U–NII and student use of this band.

6. We also encourage special temporary authorizations (STAs) by making them independent of other experimental licenses and by expediting processing of STAs where circumstances warrant; Currently, our rules require that an applicant for an STA already have an experimental license prior to receiving an STA. However, it has been our experience that in many instances entities that have requirements for an STA do not have an experimental license and that the need for an STA is independent of the need for such a license. Accordingly, we believe that our current rules discourage some entities from obtaining STAs. Further, our current rules do not contemplate expedited processing of STA applications, even though in some circumstances the need for an STA may arise unexpectedly. Therefore, we propose to modify the rules to remove the requirement that an applicant have an experimental license before applying for an STA, and further propose to include a provision for preferential processing of STA applications in cases in which an applicant sets forth compelling reasons why such an authorization must be granted expeditiously.

7. Additionally, we propose to limit the size and scope of each market study on a case-by-case basis, and to immediately terminate any such study that we determine to be in excess of this size and scope. During the last several years, a number of parties have obtained experimental licenses in order to undertake market studies of new services. In 1983, when we last reviewed our experimental rules, we believed that limited market experiments would provide us with significant useful information about the viability of new products in the marketplace. While this has proven to be the case in a number of instances, in other instances our processes have been abused by companies attempting to establish commercial businesses under the guise of experimental licenses. We note that the purpose of limited market studies is to obtain information about the viability of new products in the marketplace, and not to circumvent our normal licensing processes. Accordingly, we propose that as a condition of granting such authorizations, licensees must limit the size and scope of each study. We shall determine the appropriate limits for market studies on a case-by-case basis and terminate any such study that exceeds these limits. An applicant desiring to perform a limited market study would be expected to submit a narrative describing in detail the proposed study and its objectives.

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8. We further propose to limit STAs to single short-term, non-renewable authorizations. While STAs are granted for a period of no more than six months, some licensees have repeatedly sought to extend the same STA. This process has been wasteful of our resources. We realize that unforeseen delays can in some instances cause a planned short term experimental project to exceed six months, but we believe that some action is necessary in order to reduce the administrative and paperwork burden and to prevent abuse of our STA process. Accordingly, we propose to add language to our rules stating that in the absence of extenuating circumstances no extensions of STAs will be granted.

9. We also propose to eliminate the requirement that experimental licensees contact our Compliance and Information Bureau (CIB) before commencing operation. This notification requirement was intended to assist us in investigating any instances of reported interference. However, it has been our experience that experimental operations have rarely resulted in interference complaints. Further, improvements in our experimental license database have made it easier for our staff to identify the cause of any interference problem that may arise. Finally, in cases in which there is a reasonable chance of interference, we can place a condition on the license requiring that the licensee notify our Experimental Licensing Branch (ELB) prior to commencement of the operation. Accordingly, we believe that the existing notification requirements are unnecessary and propose to delete them. However, we request comment on this proposal and whether the removal of these requirements could result in the potential for increased interference from experimental operations.

10. We further propose to eliminate rules that specify that a construction permit be obtained in conjunction with an experimental license and that expiration dates of experimental licenses be distributed over the 12 calendar months. For a number of years, we have accepted a combined application for construction permit and license to operate an experimental station and have issued only one instrument of authority for the ERS. As a matter of administrative convenience and clarification, we propose to remove all references to obtaining a construction permit for experimental authorizations. Further, we propose to delete the rules that specify that the expiration dates of experimental licenses will be distributed over the twelve calendar months, in accordance with the alphabetical distribution of the names of the licensees. Our experience has been that the constant flow of applications results in an acceptable distribution of license applications, and for several years it has been our standard operating practice to issue a license for a two-year period from the date of grant and to act on any renewal requests upon expiration of this period. Implementation of a 5-year experimental license also will substantially facilitate the renewal process.

11. We also propose to add language to Part 5 to ensure that experiments avoid public safety frequencies and propose to consolidate and reorganize the rules. Specifically, we propose to transfer wildlife and ocean buoy tracking operations from Part 5 to Part 90, and solicit comment on transferring rules governing broadcasting experiments that are not directed toward improvement of the technical phases of operation and service of licensed broadcast stations from Part 74 to Part 5. Currently, Section 5.108 governs wildlife and ocean buoy tracking operations in the 40.66–40.70 MHz and 216–220 MHz bands for the tracking of, and telemetry of scientific data from, such operations. These operations were originally placed under Part 5 because there was no other appropriate rule section to accommodate them. Recently, however, the Commission has established the Location and Monitoring Service under Part 90, which provides for regular licensing of radio tracking functions. Additionally, the Commission recently established under Part 90 the Low Power Radio Service in the 216–217 MHz band that includes, among other things, tracking of stolen goods. Accordingly, we believe that wildlife and ocean buoy tracking operations would now be more appropriately governed as Part 90 services, and we so propose herein to recategorize them. However, we note that Part 90 has more specific eligibility requirements than Part 5. While we do not believe that transferring wildlife and ocean buoy tracking operations would create a situation where an entity qualified under Part 5 would be ineligible under Part 90, we request comment on this issue.

12. In addition, our Experimental License Branch has also received a number of applications for use of broadcast frequencies by experimental operations of a broadcast nature. Currently, such experiments are accommodated under our Auxiliary Broadcasting rules, Part 74, and not Part 5. We believe that a consolidation of all experimental rule subparts into Part 5 may be desirable to eliminate redundancy, any confusion created by having separate bodies of experimental rules, and to increase the efficiency of the Commission's processes. Accordingly, we solicit comment on transferring Subpart A of Part 74—Experimental Broadcast Operations—to Part 5. We request comment on whether such a change is desirable and, if so, on whether Subpart A of Part 74 should be made a separate subpart of Part 5 or fully integrated with the proposed three subparts of Part 5.

Initial Regulatory Flexibility Analysis

13. As required by Section 603 of the Regulatory Flexibility Act,[1] the Commission has prepared an Initial Flexibility Analysis (IRFA) of the expected significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rule Making (Notice) to "Amendment of Part 5 of the Commission's Rules to Revise the Experimental Radio Service Regulations." Written public comments are requested on the IRFA. Comments must be identified in response to the IRFA and must be filed by the deadlines for comments on the Notice provided in paragraph 26. The Secretary shall send a copy of this Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act.

14. *Need for and Objectives of the Proposed Rule.* We believe that the Experimental Radio Service (ERS) rules have become outdated and must change to keep pace with an evolving telecommunications industry. The competitive and rapidly developing telecommunications market has demonstrated the increased importance and the usefulness of the ERS. The ERS continues to be utilized to foster development of new service concepts and technologies that stimulate economic growth, create new jobs, and increase spectrum utilization and efficiency. The ERS rules were last updated in 1983 and contain obsolete practices and unnecessary regulations. We propose to modernize the ERS and improve the experimental licensing process by encouraging experiments and streamlining and updating Part 5 of the rules. Additionally, the proposals would eliminate outdated and cumbersome regulatory requirements and unnecessary paperwork.

15. *Legal Basis.* The proposed action is authorized by Sections 4(i), 303(c), 303(f), 303(g) and 303(r) of the

[1] 5 U.S.C. § 603.

Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 303(c), 303(f), 303(g) and 303(r). These provisions authorize the Commission to make such rules and regulations as may be necessary to encourage more effective use of radio in the public interest.

16. *Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply.* For purposes of this Notice, the RFA defines a "small business" to be the same as a "small business concern" under the Small Business Act , 15 U.S.C. § 632, unless the Commission has developed one or more definitions that are appropriate to its activities.[2] Under the SBA, a "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any individual criteria established by the Small Business Administration (SBA).[3]

17. The Commission has not developed a definition of small entities applicable to experimental licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radiotelephone companies. SBA has defined a small business for Standard Industrial Classification (SIC) category 4812 (Radiotelephone Communications) to be small entities when they have fewer than 1500 employees.[4]

18. The Commission processes approximately 1,000 applications a year for experimental radio operations. About half of these are renewals and the other half are for new licenses. The majority of experimental licenses are issued to companies such as Motorola and Department of Defense contractors such as Northrop, Lockheed and Martin Marietta. Businesses such as these may have as many as 200 licenses at one time. The majority of these applications, 70 percent, are from entities such as these. Given this fact, the remaining 30 percent of applications, we assume, for purposes of our evaluations in the IRFA, will be awarded to small entities, as that term is defined by the SBA.

19. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.* Our proposals are intended to decrease the regulatory burden on all experimental license applicants, including small entities. For example, we propose to permit applicants the option of applying for a five-year experimental license, in addition to maintaining the current two-year license. We anticipate that a longer term license would reduce the number of renewal applications, and thereby decrease the regulatory burden. We are also proposing to remove an unnecessary requirement that STA applicants hold experimental licenses, and are clarifying the STA rules. We are also proposing to replace existing Sections 5.55(a) and 5.55(b) of our rules with a single provision that would allow an applicant to apply for all of the stations in its experimental system, including fixed stations and associated mobile units, on one experimental license application; and similarly to modify Section 5.62 to permit the filing of only a single application for multiple experiments, when doing so would be appropriate for the proposed project. Additionally, this action proposes to increase the opportunities for students to obtain experimental authorizations, proposes to remove requirements that certain licensees notify the FCC's field offices prior to commencing operations, and proposes to eliminate obsolete rules. These changes should have a positive effect on small entities; however, we are unable to quantify all potential effects on such entities. We invite specific comments on this point by interested parties.

20. *Significant Alternatives Minimizing the Impact on Small Entities and Consistent with the Stated Objectives.* We believe that our proposed actions to revise our ERS rules will eliminate unnecessary and burdensome regulations for small entities. Section 303(g) of the Communications Act of 1934, as amended, charges the Commission with encouraging the larger and more effective use of radio in the public interest. We have considered the alternative of not making the proposed revisions; however, we believe that would not serve the public interest and would continue to place an unnecessary burden on licensees. We solicit comment on specific alternatives to the proposed rule changes listed in the Notice. Some or all of the proposals may be adopted or altered in future actions in this proceeding.

21. *Federal Rules That Duplicate, Overlap, or Conflict With the Proposed Rule:* None.

22. *Paperwork Reduction Act.* This *Notice* contains either a proposed or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this *Notice*, as required by the Paperwork Reduction Act of 1995, Public Law No. 104–13. Public and agency comments are due at the same time as other comments on the *Notice*; OMB comments are due February 28, 1997. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: N/A.

Title: Amendment of Part 5 of the Commission's Rules to Revise the Experimental Radio Service Regulations.

Form No.: N/A.

Type of Review: New Collection.

Respondents: Individuals or households, Business or other for-profit, not-for-profit institutions, and State, Local or Tribal Government.

Number of Respondents: 428.

Estimated Time Per Response: 1 hour.

Total Annual Burden: 681 hours.

Needs and Uses: The Third Party requirements are made necessary by Sections 5.85(d), 5.85(e), and 5.93(b) of the Notice of Proposed Rule Making revising Part 5 of the Commission's Rules governing the Experimental Radio Service. They are as follows: (1) pursuant to Section 5.85(d), when applicants are using public safety frequencies to perform experiments of a public safety nature, the license may be conditioned to require coordination between the experimental licensee and appropriate frequency coordinator and/or all public safety licensees in its area of operation; (2) pursuant to Section 5.85(e), the Commission may, at its discretion, condition any experimental license or special temporary authority (STA) on the requirement that before commencing operation, the new licensee coordinate its proposed facility with other licensees that may receive interference as a result of the new licensee's operations; and (3) pursuant to Section 5.93(b), unless other stated in the instrument of authorization, licenses granted for the purpose of limited market studies requires the licensee to inform anyone participating in the experiment that the service or device is granted under an experimental authorization and is strictly temporary. In all cases, it is the responsibility of the licensee to coordinate with other users.

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[2] See 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 5 U.S.C. § 632).

[3] 15 U.S.C. § 632.

[4] 13 C.F.R. § 121.201 Standard Industrial Classification (SIC) Code 4812.

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Coordination is necessary to avoid harmful interference, and notification to participants of limited market studies is necessary to indicate that the experiment is temporary.

List of Subjects in

47 CFR Part 5

Radio.

47 CFR Part 90

Communications equipment, Radio.

Federal Communications Commission.

Shirley S. Sugga,

Chief, Publications Branch.

[FR Doc. 96–33144 Filed 12-27–96; 8:45 am]

BILLING CODE 6712-01-P

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47 CFR Part 63

[IB Docket No. 96–261, FCC 96–484]

International Settlement Rates

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: On December 19, 1996, the Federal Communications Commission released a Notice of Proposed Rulemaking ("NPRM") that proposes changes to the Commission's international settlement benchmark rates that will move settlement rates closer to the underlying costs of providing international termination services. The Commission believes that proposals made in the NPRM are necessary in light of the significant changes that have occurred in the global telecommunications market in recent years. The NPRM represents the next step in an ongoing effort by the Commission, many foreign governments, and multilateral organizations such as the International Telecommunications Union ("ITU") and the Organization for Economic Cooperation and Development ("OECD") to lower international telephone costs by reforming the international accounting rate system.

DATES: Comments are due on or before February 7, 1997, and reply comments are due on or before March 10, 1997.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathryn O'Brien, Attorney-Advisor, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418–1470.

SUPPLEMENTARY INFORMATION:

Summary of Notice of Proposed Rulemaking

1. On December 19, 1996, the Commission released a Notice of Proposed Rulemaking in the Matter of International Settlement Rates, IB Docket No. 96–261 (FCC 96–484) that proposes options for revising international settlement rate benchmarks that will move settlement rates closer to the underlying costs of providing international termination services. The NPRM seeks comment on several alternate methods for calculating benchmark rates in the absence of reliable data on the costs foreign carriers incur to terminate international traffic. The method proposed in the NPRM relies on the three network elements identified by the ITU to provide international service: international transmission facilities, international switching facilities, and national extension (domestic transport and termination). Benchmarks would be developed using foreign carriers' tariffed prices to calculate, on a country-by-country basis, a price for each of these three network elements. The prices for each network element would be aggregated to calculate a "tariffed components price" for each country.

2. The NPRM proposes three benchmark ranges, based on a country's level of economic development under the World Bank and ITU's classification scheme—high income countries (GNP per capita of $8,956 or more); upper middle and lower middle income countries ($726–8,955); and low income countries ($726 or less). The NPRM combines the two middle income categories because the proposed method of calculating benchmark rates would result in benchmarks that are almost identical. The proposed rule would base the upper end of the range for each development category on an average of the prices of the three network elements (or the tariffed components prices) for all countries in that category. This would result in upper ranges of approximately 15¢ for carriers in high income countries; 19¢ for carriers in upper middle and lower middle income countries; and 23¢ for carriers in low income countries. For the lower end of each development category's benchmark, the NPRM proposes using an estimate of the incremental cost per minute of terminating international traffic. The NPRM estimates that this cost would be between 6¢ to 9¢. The NPRM also asks for comment on other alternative methodologies for setting benchmark rates.

3. The NPRM recognizes the potential adjustment problems for foreign carriers that could result from an immediate shift to more cost-based settlement rates. The NPRM therefore proposes a transition schedule for negotiating settlement rates within the benchmark ranges based on countries' levels of economic development. The NPRM proposes a one year transition schedule for U.S. carriers negotiating with carriers in upper income countries; a two year schedule for middle income countries; and a four year schedule for low income countries. The NPRM proposes, though, to consider additional flexibility in the application of the benchmarks beyond this transition schedule for U.S. carriers serving low income and middle income countries that demonstrate an actual commitment to introducing competitive reforms. Under the proposed rule, the Commission would consider carrier-initiated requests for additional flexibility on a case-by-case basis.

4. The NPRM proposes to place conditions on various types of authorizations to provide U.S. international services in order to address potential competitive distortions in the U.S. market for international services that could result from above-cost settlement rates. The NPRM first proposes to condition a carrier's authorization to provide facilities-based service to an affiliated market on the foreign affiliate offering all U.S. international carriers a settlement rate within the benchmark range. Under the proposed rule, the Commission could, if it subsequently learned that the carrier's service offering has caused a distortion of competition on the route in question, require that settlement rates on that route be no more than the lower end of the benchmark range, or could revoke the authorization of the carrier to serve the affiliated market. Second, the NPRM proposes to grant all carriers' applications for resale of private lines to provide switched service on the condition that accounting rates on the route or routes in question are within the benchmark range. The proposed rule would allow the Commission, if it learned that competition on the route was being distorted, to order all authorized U.S. private line resale international carriers not to use their authorization to provide international private line resale services until settlement rates on that route are at the low end of the benchmark range. The NPRM also seeks comment on whether the benchmark conditions should be used in conjunction with the

Commission's effective competitive opportunities ("ECO") test adopted in its *Foreign Carrier Entry Order*, should replace the ECO test, or whether the Commission should modify the ECO test in light of the benchmark conditions.

5. The NPRM seeks comment on several measures to support U.S. carriers' efforts to negotiate lower settlement rates and identifies additional, stronger measures that may be necessary to reduce settlement rates with foreign carriers that have strongly resisted such reductions. The NPRM also asks how the Commission should encourage U.S. carriers to reflect any reductions they receive in their settlement rates. Initial Regulatory Flexibility Analysis

6. Initial Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1990, 5 U.S.C. §§ 601–612, the Commission's Initial Regulatory Flexibility Analysis with respect to the NPRM is as follows:

A. Reason for Action

The NPRM seeks comment on possible changes in the benchmark ranges applied to settlement rates for international message telephone service between U.S. facilities-based carriers and foreign carriers and related issues. The Commission believes that its benchmark rates should be revised to reflect recent technological improvements, their associated cost reductions, and the market structure changes occurring in the global telecommunications market. The Commission also believes these revisions are necessary to move settlement rates closer to the actual costs incurred by foreign carriers to terminate international traffic.

B. Objectives

The objective of this proceeding is to attain reform in the international accounting rate system and thereby help ensure lower international calling prices for consumers. In particular, this proceeding seeks to remove the primary obstacle to accounting rate reform—the anticompetitive effects of substantially above-cost settlement rates. The Commission would achieve this objective by revising its benchmark settlement rates so that they more closely resemble the underlying costs of providing international termination services.

C. Legal basis

The NPRM is adopted pursuant to Sections 1, 4(i), 201–205 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 201–205, and 303(r).

D. Description, Potential Impact, and Number of Small Entities Affected

The Commission has not developed a definition of small entities applicable to international facilities-based common carriers. Therefore, the applicable definition of small entity is the definition under the Small Business Administration ("SBA") rules applicable to Communications Services, Not Elsewhere Classified. This definition provides that a small entity is expressed as one with $11.0 million or less in annual receipts. Based on preliminary 1995 data, at present there are 29 international facilities-based common carriers that qualify as small entities pursuant to the SBA's definition. The number of small international facilities-based common carriers has been growing significantly, and by the end of 1996 that number could increase to approximately 50. The revised benchmark rates would apply to all international facilities-based common carriers, including small entities, that enter into an operating agreement with a foreign carrier that provides for the payment of settlement rates. The Commission notes that the revised benchmark rates should result in lower settlement rates for carriers. After evaluating the comments in this proceeding, the Commission will further examine the impact of any rule changes on small entities and set forth findings in the Final Regulatory Flexibility Analysis. The Secretary shall send a copy of the NPRM to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, Public Law No. 96–354, 94 Stat. 1164, 5 U.S.C. 601, *et seq.* (1981).

E. Reporting, Recordkeeping and Other Compliance Requirements

None.

F. Federal Rules Which Overlap, Duplicate or Conflict With the Commission's Proposal

None.

G. Any Significant Alternatives Minimizing Impact on Small Entities and Consistent With Stated Objectives

NPRM solicits comments on a variety of alternative methodologies for calculating benchmark settlement rates, but these have no impact on small entities. The NPRM also solicits comments on enforcement mechanisms that may be necessary to support U.S. carriers, including small entities, in their negotiations with foreign carriers. The Commission seeks comment on the impact of these alternatives on small entities.

H. Comments are Solicited

Written comments are requested on this Initial Regulatory Flexibility Analysis. These comments must be filed in accordance with the same filing deadlines set for comments on the other issues in the NPRM, but they must have a separate and distinct heading designating them as responses to the Regulatory Flexibility Analysis. The Secretary shall send a copy of the NPRM to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. § 601, *et seq.*

Ordering clauses

7. Accordingly, it is ordered that, pursuant to Sections 1, 4(i), 201–205, and 303(r) of the Communications Act of 1994, as amended, 47 U.S.C. §§ 151, 154(i), 201–205, and 303(r) a notice of proposed rulemaking is hereby adopted.

8. It is further ordered that the Secretary shall send a copy of this notice of proposed rulemaking, including the regulatory flexibility certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with paragraph 603(a) of the Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.* (1981).

List of Subjects in 47 CFR Part 43

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 96–33142 Filed 12–27–96; 8:45 am]

BILLING CODE 6712–01–P

VOL 61 ISS 251 DE 30 1996 UMI

Notices

Federal Register
Vol. 61, No. 251
Monday, December 30, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Beaver Creek Salvage Timber Sale and Other Restoration Projects, Wallowa-Whitman National Forest, Union County, Oregon

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an environmental impact statement (EIS) for a set of proposals to implement a salvage timber sale and several other related restoration and rehabilitation projects within the Beaver Creek Project Area. The EIS will tier to the 1990 Land and Resource Management Plan (Forest Plan) for the Wallowa-Whitman National Forest, which provides the overall management direction for the area. The Forest Service proposed action will be consistent with the Forest Plan.

The proposed projects are primarily located with the Beaver Creek Municipal Watershed in the Beaver Creek, West Fork Beaver Creek, and Beatty Creek drainages on the La Grande Ranger District, approximately 15 air miles south and west of La Grade, Oregon. The project area consists of 16,000 acres. The following activities are proposed: (1) Salvage of dead and down trees to reduce fuel loadings, harvest of other trees to improve stand health and vigor; (2) development of associated road systems; (3) construction of a reduced fuel corridor system; (4) exchange of a low quality stand of allocated old growth for another stand of high quality old growth; (5) completion of structure protection measures; (6) implementation of bank and instream water quality restoration practices in areas of known damage; and (7) re-intoduction of fire in a portions of the project area to reduce fuel loadings and enhance a ponderosa pine site.

The projects would be implemented from Fiscal Year 1998 into the year 2000. The agency invites written comments and suggestions on the scope of this project. In addition, the agency gives notice of this analysis so that interested and affected people are aware of how they may participate and contribute to the planning process and final decision.

DATES: Comments concerning the scope of the analysis should be received in writing by January 31, 1997.

ADDRESSES: Send written concerns and comments to Robert P. Rainville, District Ranger, La Grande Ranger District, 3502 Highway 30, La Grande, Oregon 97850.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and EIS to Cindy Whitlock, Project Coordinator, 3502 Highway 30, La Grande, Oregon 97850, phone (541) 962–8501.

SUPPLEMENTARY INFORMATION: The purpose of the Forest Service proposal is to maintain, protect and enhance water quality within the project area through creation of a fuel reduction corridor network (18 miles of fuel reduction corridors), reduction of fuel loadings through salvage of the insect killed existing dead timber (5.0 million board feet (MMBF) from 892 acres), proactive management of other high priority stands to improve stand growth and vigor to meet long term desired ecosystem and management goals (1.0 MMBF from 299 acres), implementation of riparian restoration activities (5 miles of project area streams), and improvement of the old growth network within the area by replacing allocation of poor quality stands with ones of higher quality. The proposed action will be consistent with the Forest Plan, which provides goals, objectives, standards and guidelines of the various activities and land allocations on the forest.

The Forest Plan allocates the project area into four management areas (MAs): (MA1) Timber Production Emphasis, less than 1% (12 acres); (MA3A) Wildlife/Timber, 86% (14,000 acres-Big game summer range); MA3) wildlife/ Timber, 2% (309 acres); (MA15) Old Growth Preservation, 9% (1,400 acres). Private lands (320 acres) and also included within the project area boundary (2% of the area). Although excluded from Forest Service activities, project access and the condition of private lands will be considered during alternative development and when analyzing potential cumulative effects.

The Key issues identified to date include:

1. Wildlife Habitat—(short-term and long-term considerations, big game and non-game habitat needs, road construction and densities, and old growth effectiveness/availability).
2. Stand Health—(tree mortality, reduced tree stocking levels, progression to the desired future condition)
3. Water Quality/Riparian Health, Fisheries—(water quality, quantity, flow, temperature, and timing, and riparian vegetation condition).
4. Economics
5. Roadless Area Character

A range of project alternatives will be considered, including a no-action alternative. Based on the issues gathered through scoping, the action alternatives will vary in (1) the amount and location of acres considered for treatment, (2) the amount of road constructed for access, (3) the silvicultural and post-harvest treatments prescribed, (4) the number, type, and location of rehabilitation projects, and (5) the amount of time needed to move the area toward its Desired Future Condition.

Public participation will be especially important at several points during the analysis, beginning with the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State, local agencies, tribes and other individuals or organizations who may be interested in or affected by the proposed project. This input will be used in preparation of the draft EIS. Continued scoping and public participation efforts will be used by the interdisciplinary team to identify new issues, determine alternatives in response to the issues, and determine the level of analysis needed to disclose potential biological, physical, economic, and social impacts associated with this project. The scoping process includes:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a relevant previous environmental process.

4. Exploration of additional alternatives based on the issues identified during the scoping process.

5. Identification of potential environmental effects of the proposed action and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by August,1997. The EPA will publish a notice of availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date the EPA notice appears in the **Federal Register**. At that time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. It is important that those interested in the management of the Wallowa-Whitman National Forest participate at that time.

The Forest Service believes it is important to give reviewers notice, at this early stage, of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EI must structure their participation in the environmental review of the proposal so that it is meaningful and alerts the agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 f. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc,* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed actions, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS or merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

The final EIS is scheduled for completion by January, 1998. In the final EIS, the Forest Service is required to respond to substantive comments received during the comment period for the draft EIS. Robert M. Richmond, Forest Supervisor of the Wallowa-Whitman National Forest, is the responsible official. He will decide which, if any, of the proposed project alternatives will be implemented. His decision and reason for the decisions will be documented in the Record of Decision. That decision will be subject to Forest Service appeal regulations (36 CFR Part 217).

Dated: December 19, 1996.

R.M. Richmond,

Forest Supervisor.

[FR Doc. 96–33192 Filed 12–27–96; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the procurement list.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: January 29, 1997.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603-7740.

SUPPLEMENTARY INFORMATION: On September 20, November 1 and 8, 1996, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (61 F.R. 49435, 56511 and 57849) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Pallet Base and Cover Assembly

8140–01–341–0916
8140–01–160–0231
8140–00–084–0377
8140–01–339–4789
8140–01–160–0230
8140–01–090–5793
8140–01–273–6043
8140–01–291–2524

Services

Janitorial/Custodial

U.S. Courthouse, 300 S. Fourth Street, Minneapolis, Minnesota

Switchboard Operation

Department of Veterans Affairs, New Jersey Health Care System, East Orange, New Jersey

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Louis R. Bartalot,

Associate Director for Facility Operations.

[FR Doc. 96–33122 Filed 12–27–96; 8:45 am]

BILLING CODE 6353–01–P

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

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SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 29, 1997.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commissary Shelf Stocking and Custodial
Fort Monroe, Virginia
NPA: Association for Retarded Citizens of the Peninsula, Inc., Hampton, Virginia.
Janitorial/Custodial
Richmond (Hunter Holmes McGuire) VAMC, Richmond, Virginia
NPA: Richmond Goodwill Industries, Inc., Richmond, Virginia.

Louis R. Bartalot,

Associate Director for Operations.

[FR Doc. 96–33123 Filed 12–27–96; 8:45 am]

BILLING CODE 6353–01–P

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities,

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 29, 1997.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Stake/Lath, Survey, Wood
5510–00–NSH–0044 thru -0097
(Requirements for the USDA Forest Service, Fort Jones, California)
NPA: Siskiyou Opportunity Center, Mt. Shasta, California.
Gloves, Patient Examining
6515–00–NIB–0053 (Small)
6515–00–NIB–0054 (Medium)
6515–00–NIB–0055 (Large)
(75% of the Government's requirement for gloves of this quality in 132 VA Hospitals (list available upon request))
NPA: Bosma Industries for the Blind, Inc. Indianapolis, Indiana.

Services

Grounds Maintenace
Mountain Home Air Force Base, Idaho
NPA: Trace, Inc., Eagle, Idaho.
Mailroom Operation
Department of Housing and Urban Development, Richmond, Virginia
NPA: Virginia Industries for the Blind, Richmond, Virginia.

Louis R. Bartalot,

Associate Director for Operations.

[FR Doc. 96–33124 Filed 12–27–96; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This collection has been submitted under the emergency PRA procedures.

Agency: Bureau of Export Administration.

Title: Commercial Encryption Items Transferred from the Department of State to the Department of Commerce.

OMB Control Number: n/a.

Form Number: n/a.

Type of Request: New collection—Emergency Review.

Burden: 7,720 Hours.

Number of Respondents: 3,000.

Avg. Hrs. Per Response: 1/2 to 40 hours.

Needs and Uses: On October 6, 1995, the administration announced liberalizations on export controls for encryption items. The administration's initiative will make it easier to use stronger encryption products, both at home and abroad, to protect their privacy, intellectual property and other valuable information. It will support the growth of electronic commerce, increase the security of the global information, and sustain the economic competitiveness of U.S. encryption product manufacturers during the transition to a key management infrastructure.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Frequency: On occasion.

Respondents's Obligation: Mandatory.

OMB Desk Officer: Victoria Baecher-Wassmer (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Acting DOC Forms Clearance Officer, (202) 482–3272, U.S. Department of Commerce, room 5327, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to Victoria Baecher-Wassmer, OMB Desk Officer, room 10201, New Executive Office Building, Washington, D.C. 20503.

Dated: December 20, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–33172 Filed 12–27–96; 8:45 am]

BILLING CODE 3510–DT–P

Bureau of the Census

1997 Economic Censuses Classification Report

ACTION: Proposed agency information collection activity; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before February 28, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information of copies of the information collection instrument(s) and instructions should be directed to William Bostic, Bureau of the Census, Room 2641, Building 3, Washington, D.C. 20233–6100 and 301–457–2672 or E-mail at William.G.Bostic.Jr@Info.Census.Gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau is the preeminent collector of timely, relevant and quality data about the people and the economy of the United States. Economic data are the Census Bureau's primary program commitment during non-decennial census years. The economic census, conducted under authority of Title 13 U.S.C., is the primary source of facts about the structure and functioning of the Nation's economy and features unique industry and geographic detail. Economic census statistics serve as part of the framework for the national accounts and provide essential information for government, business, and the general public.

The 1997 Economic Census will cover virtually every sector of the U.S. economy. The Census Bureau will implement the new North American Industry Classification System (NAICS) in the 1997 Economic Census. The implementation of the NAICS as a replacement for the 1987 Standard Industrial Classification (SIC) system will require contacting businesses to collect classification information to update the 1997 Economic Census mailing lists.

Accurate and reliable industry and geographic codes are critical to the Bureau of Census statistical programs. New businesses are assigned industry classification by the Social Security Administration (SSA). However, many of these businesses in manufacturing and mining cannot be assigned detailed industry codes because insufficient information is provided on Internal Revenue Service (IRS) Form SS–4. In addition, many of these businesses when matched against the Bureau of Labor Statistics (BLS) classification system cannot be assigned a detailed classification code.

In order to provide detailed manufacturing and mining industry data reflecting NAICS for the 1997 Economic Censuses and the Standard Statistical Establishment List (SSEL), these partially coded businesses must be assigned detailed classification codes.

This data collection, Form NC–9926, is designed to obtain detailed classification information for the partially coded single-unit manufacturing and mining industries including changes from the SIC to NAICS and provide current information on physical locations for establishments below the mail cutoff.

The failure to collect this classification information will have an adverse effect on the quality and usefulness of economic statistics and severely hamper the Census Bureau's ability to implement NAICS in the 1997 Economic Censuses.

II. Method of Collection

The Census Bureau will select establishments to receive this survey from the Census Bureau's SSEL. The Census Bureau will mail the NC–9926 to single-unit manufacturing and mining establishments to obtain needed four-digit industry codes and subindustry detail for small establishments in selected four-digit industries in the apparel area, Major Groups 22 and 23. In addition, this form will be mailed to small manufacturing and mining establishments which could not be assigned a classification code when matched against the Bureau of Labor Statistics classification system. The NC–9926 will contain a list of 6-digit codes and descriptions. Respondents are to select the activity which best describes their business by checking the box next to the activity listed or describe their principal business activity if no box can be checked.

III. Data

OMB Number: Not Available.

Form Number: NC-9926.

Type of Review: Regular Review.

Affected Public: Small businesses or other small for profit organizations.

Estimated Number of Respondents: 105,000.

Estimated Total Per Response: 5 minutes.

Estimated Total Annual Burden Hours: 8,750.

Estimated Total Annual Cost: The cost to government for this survey is included in the total cost of the 1997 Economic Census, estimated to be $218 million.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 USC, Sections 131 and 224.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: December 19, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–33171 Filed 12–27–96; 8:45 a.m.]

BILLING CODE 3510–07–P

International Trade Administration

[A–201–805]

Circular Welded Non-Alloy Steel Pipe and Tube From Mexico: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to requests from two respondents, the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on circular welded non-alloy steel pipe and tube from Mexico. This review covers two manufacturers and exporters of the subject merchandise. The period of review ("POR") is November 1, 1994, through October 31, 1995.

We preliminarily determine that sales have been made below normal value ("NV"). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs to assess antidumping duties equal to the difference between export price ("EP") and NV.

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument: (1) a statement of the issue; and (2) a brief summary of the argument.

EFFECTIVE DATE: December 30, 1996.

FOR FURTHER INFORMATION CONTACT: John Drury, Charles Rast, Robin Gray or Linda Ludwig, Enforcement Group III—Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Room 7866, Washington, D.C. 20230; telephone (202) 482–0414 (Drury), (202) 482–5811 (Rast), (202) 482–0196 (Gray), or (202) 482–3833 (Ludwig).

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Background

The Department published an antidumping duty order on circular welded non-alloy steel pipe and tube from Mexico on November 2, 1992 (57 FR 49453). The Department published a notice of "Opportunity to Request an Administrative Review" of the antidumping duty order for the 1994/95 review period on November 1, 1995 (60 FR 55541). On November 29, 1995, respondent Hylsa S.A. de C.V. ("Hylsa") requested that the Department conduct an administrative review of the antidumping duty order on circular welded non-alloy steel pipe and tube from Mexico. On November 30, 1995, respondent Tuberia Nacional S.A. de C.V. ("TUNA") requested that the Department conduct an administrative review of this order. We initiated this review on December 8, 1995. *See* 60 FR 44414 (September 15, 1995).

Under Section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of administrative reviews if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. On July 19, 1996, the Department extended the time limits for preliminary and final results in this case. *See Extension of Time Limit for Antidumping Duty Administrative Reviews*, 61 FR 40603 (August 5, 1996).

The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of the Review

The review of "circular welded non-alloy steel pipe and tube" covers products of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, bevelled end, threaded, or threaded and coupled). Those pipes and tubes are generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications. Standard pipes and tubes are intended for the low pressure conveyance of water, steam, natural gas, air and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protection of electrical wiring, such as conduit shells.

The scope is not limited to standard pipe and fence tubing, or those types of mechanical and structural pipe that are used in standard pipe applications. All carbon steel pipes and tubes within the physical description outlined above are included within the scope of this review, except line pipe, oil country tubular goods, boiler tubing, cold-drawn or cold-rolled mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished rigid conduit. In accordance with the Final Negative Determination of Scope Inquiry (56 FR 11608, March 21, 1996), pipe certified to the API 5L line pipe specification, or pipe certified to both the API 5L line pipe specifications and the less-stringent ASTM A–53 standard pipe specifications, which fall within the physical parameters as outlined above, and entered as line pipe of a kind used for oil and gas pipelines, are outside of the scope of the antidumping duty order.

Imports of these products are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.3010.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. These HTS item numbers are provided for convenience and customs purposes. The written descriptions remain dispositive.

The POR is November 1, 1994 through October 31, 1995. This review covers

sales of circular welded non-alloy steel pipe and tube by Hylsa and TUNA.

Verification

As provided in section 782(i)(3) of the Act, we verified information provided by the respondents using standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports.

Transactions Reviewed

In accordance with section 751 of the Act, the Department is required to determine the EP and NV of each entry of subject merchandise during the relevant review period.

In determining NV, based on our review of the submissions by Hylsa, the Department determined that Hylsa need not report "downstream" sales in the home market, which constituted a small quantity of Hylsa's home market sales. *See Letter to Shearman & Sterling from the Department* (August 9, 1996), a copy of which, as well as copies of other letters and memoranda referred to in this notice, are available in Room B–099 of the Department's Central Records Unit. Thus, Hylsa did not report downstream sales in the home market. Hylsa's downstream home market sales are properly excluded from our determination of NV because they were not made in the usual commercial quantities, in the ordinary course of trade, nor at the same level of trade as the EP sales. *See* Section 773 (a)(1) (A) and (B) of the Act. TUNA, on the other hand, has reported its downstream sales, and in accordance with Section 773 of the Act these sales have been used in our determination of NV for this respondent.

Product Comparisons

In accordance with section 771(16) of the Act, we considered each circular welded non-alloy steel pipe and tube product produced by the respondents, covered by the descriptions in the "Scope of the Review" section of this notice, *supra*, and sold in the home market during the POR, to be a foreign like product for purposes of determining appropriate product comparisons to U.S. sales of circular welded non-alloy steel pipe and tube. For each of the products produced by the respondents within the scope of the A–201–805 order, we examined the categories of merchandise listed in Section 771 (16) of the Act for purposes of model matching. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in Appendix VI of the Department's March 22, 1996, antidumping questionnaire. In making the product comparisons, we matched each foreign like product based on the physical characteristics reported by the respondent and verified by the Department. Where sales were made in the home market on a different weight basis from the U.S. market (e.g. theoretical versus actual weight), we converted all quantities to the same weight basis, using the conversion factors supplied by the respondents, before making our fair-value comparisons.

The Department's practice is to use a methodology which accounts for distortionary inflation in instances where such inflation existed during the period of review. *See* Preliminary Results of Antidumping Duty Administrative Review, Gray Portland Cement and Clinker from Mexico 61 FR 51676 (October 3, 1996); Final Determination of Sales at Less Than Fair Value, Certain Fresh Cut Flowers from Mexico 52 FR 6361 (March 3, 1987). In this case, consistent with our prior practice, we determined that distortionary inflation existed during the period of review. *See Letter to Shearman & Sterling from the Department* (August 9, 1996). In order to take into account the rate of inflation in Mexico during the POR, we compared each foreign like product to a product exported to the U.S. and sold in the same month. Where there were no sales of identical merchandise in the home market to compare to U.S. sales within the same month, we compared U.S. sales to the next most similar foreign like product (on the basis of the characteristics listed in Appendix VI of the Department's March 22, 1996, antidumping questionnaire) which was sold in the same month.

Fair-Value Comparisons

To determine whether sales of circular welded non-alloy steel pipe and tube by the respondents to the United States were made at less than fair value, we compared EP to NV, as described in the "Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(2), we compared individual U.S. transactions to monthly weighted average NVs.

Date of Sale

Depending on the channel of trade and on the date after which the key terms of sale could not be changed, we treated one of the following dates as the date of the sale: the date of the invoice or the date of shipment.

Export Price

We calculated the price of United States sales based on EP, in accordance with section 772(a) of the Act, when the subject merchandise was sold to unaffiliated purchasers in the United States prior to the date of importation.

For both respondents, we calculated EP based on packed prices to unaffiliated customers in the United States. Where appropriate, in accordance with Section 772 of the Act, we made deductions from the starting price for foreign inland freight, foreign brokerage and handling, international freight, insurance, U.S. inland freight, U.S. brokerage and handling, and U.S. Customs duties. For Hylsa, we disallowed certain rebates which were claimed. (See Analysis Memo to the File from John Drury and Charlie Rast, dated *December* 19, 1996.)

Normal Value

Based on a comparison of the aggregate quantity of home-market and U.S. sales, we determined that the quantity of the foreign like product sold in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the price at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade.

Where appropriate, in accordance with Section 773(a)(6)(A) of the Act, we deducted rebates, discounts, inland freight, inland insurance, and packing. Based on our verification of home-market sales responses, we made adjustments to NV, where appropriate, for differences in credit expenses (offset where applicable by interest income), and post-sale warehousing. We also made adjustments, where appropriate, for home-market indirect selling expenses to offset U.S. commissions in EP comparisons.

In comparisons to EP sales, we also increased NV by U.S. packing costs in accordance with section 773(a)(6)(A) of the Act. We made adjustments to NV for differences in cost attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act. In accordance with the Department's practice, we

based NV on constructed value ("CV") where, for the most similar product match, the difference in merchandise adjustment for any product comparison exceeded 20 percent.

Hylsa

Based on our analysis and verification of home-market sales responses, we are disallowing adjustments for additional inland freight and a steel supplier rebate. For additional inland freight, we attempted, through our analysis and conversations with company officials, to confirm the accuracy of the claimed adjustment. We determined at verification that the company may not have used its own calculation methodology correctly, since the numbers used in the calculation may not have accurately reflected actual inland freight. In addition, we do not believe that the allocation methodology is accurate. At verification, we found that additional inland freight may have been allocated to certain home market sales to which no freight charges should apply. *See* Memorandum Reporting Verification of Sections A–C Questionnaire Response Submitted by Hylsa.

For the steel supplier rebate, we disallowed the adjustment because we did not consider the acquisition of the coil from a division of Hylsa to be a purchase but, rather, considered it to be a cost input. Hylsa's Tubular Products division obtains coil from the Flat Products division. These are two divisions within the same corporate entity. Therefore, we have not treated the transfer of coil as a sale. Rather than use the claimed rebate in the calculation of EP, which would be appropiate if we treated the acquisition of the coil as a sale, we used the cost of the acquisition, which we verified, in the calculation of Cost of Production, in accordance with Section 773 (b)(3)(A). *See Offshore Jackets and Piles from Japan, 51 FR 11788* (April 7, 1986).

Differences in Levels of Trade

As set forth in section 773(a)(1)(B)(I) of the Act and in the Statement of Administrative Action which accompanied the passage of the URAA (H.R. Doc. No. 316, 103rd Cong., 2nd Sess. 829–831 (1994)) ("SAA"), to the extent practicable, the Department will calculate NV based on sales at the same level of trade as the U.S. sales. When the Department is unable to find sales in the comparison market at the same level of trade as the U.S. sale(s), the Department may compare sales in the U.S. and foreign markets at different levels of trade. *See also Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy*, 61 FR 30326 (June 14, 1996).

In accordance with section 773(a)(7)(A), if sales at different levels of trade are compared, the Department will adjust the NV to account for the difference in level of trade if two conditions are met. First, there must be differences between the actual selling functions performed by the seller at the level of trade of the U.S. sale and the level of trade of the normal-value sale. Second, the differences between the levels of trade must affect price comparability as evidenced by a pattern of consistent price differences between sales at the different levels of trade in the market in which NV is determined.

In order to determine that there is a difference in level of trade, the Department must find that two sales have been made at different phases of marketing, or the equivalent. Different phases of marketing necessarily involve differences in selling functions, but differences in selling functions (even substantial ones) are not alone sufficient to establish a difference in the level of trade. Similarly, seller and customer descriptions (such as "distributor" and "wholesaler") are useful in identifying different levels of trade, but are insufficient to establish that there is a difference in the level of trade.

In implementing these principles in this review, we obtained information about the selling activities of the producers/exporters associated with each phase or marketing, or the equivalent. We asked each respondent to establish a claimed LOTs based on these marketing activities and selling functions. In reviewing the selling functions reported by the respondents, we considered all types of selling activities that had been performed on both a qualitative and quantitative basis. To test the claimed LOTs, we analyzed the selling activities associated with the marketing phases which respondents reported. In applying this test, we expect that, if a party claims that LOTS are different for different groups of sales through different channels, the functions and activities of the seller should be either dissimilar or different for each channel. The Department does not only count activities, but weighs the overall function performed at each claimed level of trade. In determining whether separate LOTs existed in the home market, pursuant to section 773 (a)(1)(B)(i) of the Act, we considered the selling functions reflected in the starting price of the home market sales before any adjustment. Below is a summary of our findings:

A. Hylsa

In its questionnaire responses, Hylsa stated that there were no differences in its selling activities by customer categories within each market. In order to confirm independently the absence of separate levels of trade within or between the U.S. and home markets, we examined Hylsa's questionnaire responses for indications that Hylsa's functions as a seller differed qualitatively and quantitatively among customer categories. Where possible, we further examined whether each selling function was performed on a substantial portion of sales. *See Proposed Regulations*, 61 FR at 7348.

Hylsa sold to end-users in the U.S. market. In the home market, Hylsa sold to local distributors and end-users. Hylsa performed essentially the same selling functions at the same stage of distribution on sales to all its home-market customers, as well as to U.S. customers. Thus, our analysis of the questionnaire response leads us to conclude that sales within or between each market are not made at different levels of trade. Accordingly, we preliminarily find that all sales in the home market and the U.S. market were made at the same level of trade. Therefore, all price comparisons are at the same level of trade and an adjustment pursuant to section 773(a)(7)(A) is unnecessary.

B. TUNA

TUNA sells subject merchandise directly to the United States. In the home market, it either sells through Lamina y Placa (an affiliated company) to end users (Channel 1) or to affiliated distributors/resellers which are part of the Associates Division (Channel 2) *See Questionnaire Response for Section A* (April 19, 1996).

In its questionnaire responses, TUNA stated that its home-market sales through affiliated distributors (Channel 2) were at a different level of trade than its other home-market sales directly from Lamina y Placa (Channel 1) and U.S. sales. The respondent indicated that a greater number of selling functions are provided to these home market affiliated resellers than to either U.S. customers or unaffiliated end-users which purchase directly from Lamina y Placa in the home market.

In order to confirm independently the presence of separate levels of trade within or between the U.S. and home markets, we examined TUNA's questionnaire responses for indications of substantive differences in selling functions, and reviewed this issue during the sales verification in Mexico.

Where possible, we further examined whether each selling function was performed on a substantial portion of sales. *See Proposed Regulations*, 61 FR at 7348.

At verification, the company TUNA adequately supported its claim that the home market affiliated distributors perform selling functions which, on a qualitative and quantitative basis, are different from the functions performed on either TUNA's other home market sales (i.e. sales made through Lamina y Placa directly to unaffiliated end-users, or Channel 1) or respondent's sales to U.S. customers their U.S. sales. In general, we found that the customers which purchased subject merchandise through Channel 1 were larger than those who made purchases through Channel 2. In addition, sales made through Channel 2 involved added layers of expenses such as distribution (e.g. transportation and storage) and sales expenses (the cost of added sales personnel and other related expenses). Finally, Lamina y Placa provided services and additional selling functions to affiliates that it did not provide to non-affiliated customers. *See Verification Exhibit 48 and Supplemental Questionnaire Response Exhibit 5* (August 9, 1996).

Thus, our analysis of the questionnaire responses leads us to conclude that sales within the home market by Lamina y Placa to unaffiliated end-users, and sales by affiliated resellers to unaffiliated end-users, were at two different levels of trade. Sales to the United States were at the same LOT as sales by Lamina y Placa to unaffiliated end users. To the extent possible, we will compare sales made in the U.S. to sales made directly by Lamina y Placa to unaffiliated end users in the home market (Channel 1), which are at the same level of trade as the U.S. sales. To the extent that it is necessary to match U.S. sales to home market sales at a different level of trade (Channel 2), we will first compare home market sales at the two different levels of trade to determine if there was a pattern of price differences at the two levels of trade. If we determine that there is a pattern of price differences, for any U.S. sales that are matched to home market sales of a different level of trade, we will make a level of trade adjustment.

Cost-of-Production Analysis

Petitioners alleged, on July 23, 1996 (with respect to Hylsa), and July 9, 1996 (with respect to TUNA), that Hylsa and TUNA sold circular welded non-alloy steel pipes and tubes in the home market at prices below COP. Based on these allegations, in accordance with Section 773(b) of the Act, the Department determined, on August 26, 1996 (for Hylsa), and on August 9,1996 (for TUNA), that it had reasonable grounds to believe or suspect that Hylsa and TUNA had sold the subject merchandise in the home market at prices below the COP. See Letter to Shearman and Sterling and Decision Memorandum (August 26, 1996) and Letter to White and Case and Decision Memorandum (August 9, 1996). We therefore initiated cost investigations with regard to Hylsa and TUNA in order to determine whether the respondents made home-market sales during the POR at prices below their COP within the meaning of section 773(b) of the Act.

Before making any fair-value comparisons, we conducted the COP analysis described below.

A. Calculation of COP

We calculated the COP based on the sum of each respondent's cost of materials and fabrication for the foreign like product, plus amounts for home-market selling, general, and administrative expenses ("SG&A"), and packing costs in accordance with section 773(b)(3) of the Act.

Based on our verifications of the cost responses submitted by Hylsa and TUNA, we adjusted each company's reported COP to reflect certain adjustments to the cost of manufacturing and general and administrative expenses.

B. Test of Home-Market Prices

We used the respondent's weighted-average COP, as adjusted (see above), for the period November 1, 1994, through October 31, 1995. We compared the weighted-average COP figures to home-market sales of the foreign like product as required under section 773(b) of the Act. In determining whether to disregard home-market sales made at prices below the COP, we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home-market prices (not including VAT), less any applicable movement charges, discounts, and rebates.

C. Results of COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POR were at prices less than the COP, we found that sales of that model were made in "substantial quantities" within an extended period of time, in accordance with sections 773(b)(2)(B) and (C) of the Act, and were not at prices which would permit recovery of all costs within an extended period of time, in accordance with section 773(b)(2)(B) of the Act. When we found that below-cost sales had been made in "substantial quantities" and were not at prices which would permit recovery of all costs within a reasonable period of time, we disregarded the below-cost sales in accordance with section 773(b)(1) of the Act. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product, and calculated NV based on CV.

D. Calculation of CV

In accordance with section 773(e) of the Act, we calculated CV based on the sum of respondents' cost of materials, fabrication, SG&A, U.S. packing costs, interest expenses, and profit. In accordance with sections 773(e)(2)(A), we based SG&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. For selling expenses, we used the weighted-average home-market selling expenses. Based on our verification of the cost responses submitted by Hylsa and TUNA, we adjusted each company's reported CV to reflect adjustments to COM and G&A. We also made adjustments, where appropriate, for home-market indirect selling expenses to offset U.S. commissions in EP comparisons.

Reimbursement

In pre-verification comments, Petitioners requested that the Department examine the issue of reimbursement for both TUNA and Hysla. For TUNA, we preliminarly determine that there was no reimbursement based upon the verification of TUNA's U.S. affiliate. For Hylsa, the issue is moot since the sales in question were found to be without margins at this time.

Currency Conversion

For purposes of the preliminary results, we made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. Section 773A(a) directs the

Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a "fluctuation." In accordance with the Department's practice, we have determined that a fluctuation exists when the daily exchange rate differs from a benchmark by 2.25 percent. *See, e.g., Certain Stainless Steel Wire Rods from France: Preliminary Results of Antidumping Duty Administrative* Review (61 FR 8915, 8918—March 6, 1996). The benchmark is defined as the rolling average of rates for the past 40 business days. When we determined a fluctuation existed, we substituted the benchmark for the daily rate. However, for the preliminary results we have not determined that a fluctuation exists, and we have not substituted the benchmark for the daily rate.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margins exist:

Circular Welded Non-Alloy Steel Pipes and Tubes

Producer/Manufacturer/Exporter	Weighted-Average Margin (percent)
Hylsa	1.36
TUNA	1.77

Parties to this proceeding may request disclosure within five days of publication of this notice and any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication of this notice. The Department will publish a notice of the final results of the administrative review, including its analysis of issues raised in any written comments or at a hearing, not later than 180 days after the date of publication of this notice.

Cash Deposit

The following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of circular welded non-alloy steel pipe and tube from Mexico entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a) of the Tariff Act: (1) The cash deposit rate for each respondent will be the rate established in the final results of this administrative review; (2) exporters not covered in this review, but covered in the LTFV investigation, the cash deposit rate will continue to be the company-specific rate published from the LTFV investigation; (3) if the exporter is not a firm covered in this review, or the original LTFV, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 32.62 percent, the "all others" rate made effective by the LTFV investigations. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR §353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. §1675(a)(1)) and 19 CFR §353.22.

Dated: December 20, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–33173 Filed 12–27–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–832]

Pure Magnesium From the People's Republic of China: Notice of Initiation of New Shipper Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of new shipper antidumping duty administrative review: pure magnesium from the People's Republic of China.

SUMMARY: The Department of Commerce (the Department) has received a request to conduct a new shipper administrative review of the antidumping duty order on pure magnesium from the People's Republic of China (PRC), which has a May anniversary date. In accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended, and 19 CFR 353.22(h)(1995) of our Interim Regulations, we are initiating this new shipper administrative review.

EFFECTIVE DATE: December 30, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas O. Barlow or Kris Campbell, Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Telephone: (202) 482–0410 or 482–4733, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department has received a timely request from Taiyuan Heavy Machinery Import and Export Corporation (Taiyuan), in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended, (the Act) and 19 CFR 353.22(h) of the Department's Interim Regulations (60 FR 25130, 25134 (May 11, 1995)) (Interim Regulations), for a new shipper administrative review of the antidumping duty order on pure magnesium from the PRC [60 FR 25691 (May 12, 1995)). Because the calendar month in which the anniversary of the date of publication of this order is May, the semi-annual anniversary months are May and November.

Initiation of New Shipper Administrative Review

In its request, Taiyuan certified that it did not export the subject merchandise to the United States during the period of investigation (POI) (April 1, 1993 through March 31, 1994) and that it is not affiliated with any exporter or producer who exported the subject merchandise to the United States during the POI. Accompanying its request, Taiyuan provided certifications which indicate the date the merchandise was first entered for consumption in the United States, that it is not affiliated with any other company, and that it did not under its current or a former name export the subject merchandise to the United States during the POI. Therefore, in accordance with section 751(a)(2)(B)(i) of the Act and 19 CFR 353.22(h) (1) and (6), we are initiating a new shipper review of the antidumping duty order on pure magnesium from the PRC.

Further, in its request Taiyuan certified that its export activities are not controlled by the government of the PRC

or any other government entity. However, it is the Department's practice with non-market economies (NMEs) to require information regarding *de jure* and *de facto* government control over a company's export activities to establish its eligibility for an antidumping duty rate separate from the country-wide rate. Accordingly, we will issue a separate-rates questionnaire to Taiyuan and seek additional information from the government of the PRC, as appropriate. If the responses from Taiyuan and the government of the PRC adequately demonstrate that Taiyuan is not subject to *de jure* and *de facto* government control with respect to its exports of pure magnesium, the review will proceed. If, on the other hand, the responses do not demonstrate Taiyuan's eligibility for a separate rate, Taiyuan will be deemed to be affiliated with other companies that exported during the POI which did not establish their entitlement to a separate rate and we will terminate the new shipper review.

If this review proceeds normally, we will issue the preliminary results of this review not later than 180 days from the date on which this review is initiated and the final results within 90 days after issuance of the preliminary results, unless these time limits are extended in accordance with section 751(a)(2)(B)(iv) of the Act and section 353.22(h)(7)(ii) of the Interim Regulations.

Antidumping duty proceeding	Period to be reviewed
Pure Magnesium: People's Republic of China:	
A–570–832; Taiyuan Heavy Machinery Import and Export Corporation	12/01/95–11/30/96

We will instruct the U.S. Customs Service to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by the above listed company, in accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR 353.22(h)(4)(1995).

Interested parties must submit applications for disclosure under administrative protective order in accordance with section 353.34(b) of the Department's regulations (19 CFR 353.34(b)(1995)).

This initiation and this notice are in accordance with section 751(a)(2)(B) of the Act (19 U.S.C. 1675(a)(2)(B)) and section 353.22(h) of the Interim Regulations.

Dated: December 17, 1996.

Barbara R. Stafford,

Deputy Assistant Secretary, Antidumping/ Countervailing Duty Enforcement.

[FR Doc. 96–33176 Filed 12–27–96; 8:45 am]

BILLING CODE 3510–DS–P

[A-588-703]

Certain Welded Carbon Steel Standard Pipes and Tubes From India; Extension of Time Limits of New Shippers Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limits of new shippers review.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results in the new shippers review of the antidumping duty order on certain welded carbon steel standard pipes and tubes from India, covering the period May 1, 1995, through April 31, 1996, because the Department has concluded that the review is extraordinarily complicated.

EFFECTIVE DATE: December 30, 1996.

FOR FURTHER INFORMATION CONTACT: Davina Hashmi, Office of Antidumping/ Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–5760.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce has received requests to conduct a new shippers review of the antidumping duty order on certain welded carbon steel standard pipes and tubes from India. On June 27, 1996, the Department initiated this new shippers review covering the period May 1, 1995, through April 31, 1996, in accordance with 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act). The Department has initiated a sales-below-cost investigation of the respondents in this review. We would not be able to complete this sales-below-cost investigation and incorporate that analysis in the margin calculations for our preliminary results of review within the deadline contained in section 751(a)(2)(B)(iv) of the Act. For this reason, we conclude that this new shippers review is extraordinarily complicated (see Memorandum from Laurie Parkhill to Barbara R. Stafford, Recommendation to Extend New Shippers Review Schedule, December 19, 1996). Therefore, in accordance with section 751(a)(2)(B)(iv) of the Act, the Department is extending the time limit for completing the preliminary results of review until April 23, 1997.

This extension is in accordance with section 751(a)(2)(B)(iv) of the Act.

Dated: December 19, 1996.

Barbara R. Stafford,

Deputy Assistant Secretary of AD/CVD Enforcement.

[FR Doc. 96–33177 Filed 12–27–96; 8:45 am]

BILLING CODE 3510–DS–P

[C-357-403, C-357-005]

Oil Country Tubular Goods From Argentina and Cold-Rolled Carbon Steel Flat Products From Argentina: Preliminary Results of Countervailing Duty Administrative Reviews/Intent To Terminate Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative reviews; intent to terminate administrative reviews.

SUMMARY: The Department of Commerce ("the Department") is conducting administrative reviews of the countervailing duty order on Oil Country Tubular Goods (OCTG) from Argentina for the periods 1992, 1993, and 1994, pursuant to section 751(a) of the Tariff Act of 1930, as amended (the "Act"). Also pursuant to section 751(a), the Department is conducting reviews of the countervailing duty order on Cold-Rolled Carbon Steel Flat Products (Cold-Rolled Steel) from Argentina for the periods 1992 and 1993.

The Department is also conducting changed circumstances reviews of the orders on OCTG and Cold-Rolled Steel from Argentina pursuant to section 751(b) of the Act. *Initiation of Changed Circumstances Countervailing Duty Administrative Reviews: Leather from Argentina, Wool from Argentina, Oil Country Tubular Goods from Argentina, and Cold-Rolled Carbon Steel Flat Products from Argentina*, 61 FR 14553 (April 2, 1996) (*Changed Circumstances*

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Reviews). These reviews are focused on the legal effect, if any, of Argentina's status as a "country under the Agreement," within the meaning of 19 U.S.C. §1303(a)(1) (1988; repealed 1994), as of September 20, 1991, on the countervailing duty orders covering leather, wool, OCTG, and Cold-Rolled Steel.

Because the administrative reviews cover periods after September 20, 1991, we have had to consider in these administrative reviews a question which is also at issue in the changed circumstances reviews—that is, whether the Department has the authority to assess countervailing duties on unliquidated entries of subject merchandise occurring after Argentina became a "country under the Agreement" and before January 1, 1995, the date that Argentina became a "Subsidies Agreement country" within the meaning of section 701(b) of the Act.

The Department preliminarily determines that it lacks the authority to assess countervailing duties on entries of OCTG and Cold-Rolled Steel from Argentina made on or after September 20, 1991 and on or before December 31, 1994. As a result, we intend to terminate the pending administrative reviews of the countervailing duty order on OCTG covering 1992, 1993, and 1994, as well as the pending administrative reviews of the countervailing duty order on Cold-Rolled Steel covering 1992 and 1993. The question of the Department's authority to assess duties on unliquidated entries of the subject merchandise made on or after January 1, 1995 under these orders (and whether to revoke these orders) remains to be determined in the context of the ongoing changed circumstances reviews.

If the final results of these administrative reviews remain the same as these preliminary results, we will instruct the U.S. Customs Service to liquidate all entries of OCTG and Cold-Rolled Steel subject to these administrative reviews without regard to countervailing duties as detailed in the *Preliminary Results of Reviews* section of this notice. Suspension of liquidation will continue at a cash deposit rate of zero for OCTG, as indicated in the section below entitled *Suspension of Liquidation*. Interested parties are invited to comment on these preliminary results. (*See Public Comment* section of this notice.)

EFFECTIVE DATE: December 30, 1996.

FOR FURTHER INFORMATION CONTACT: Dana Mermelstein or Megan Waters, Office CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-2786.

SUPPLEMENTARY INFORMATION:

Background

On November 27, 1984, the Department published in the **Federal Register** (49 FR 46564) the countervailing duty order on OCTG from Argentina. The countervailing duty order on Cold-Rolled Steel from Argentina was published in the **Federal Register** (49 FR 18006) on April 26, 1984.

On November 1, 1995, November 10, 1994, and November 3, 1993, the Department published its annual notice of "Opportunity to Request Administrative Review" (60 FR 55540, 59 FR 56034, and 58 FR 58682) regarding the OCTG countervailing duty order. We received timely requests for each of these administrative reviews and we initiated the reviews pursuant to section 751(a) of the Act. The review of OCTG covering the period January 1 through December 31, 1994, was initiated on December 15, 1995 (60 FR 64413). The review of OCTG covering the period January 1 through December 31, 1993, was initiated on December 15, 1994 (59 FR 64650). The review of OCTG covering the period January 1 through December 31, 1992, was initiated on December 17, 1993 (58 FR 65964).

On April 7, 1994 and April 9, 1993, the Department published its annual notice of "Opportunity to Request Administrative Review" (59 FR 16615 and 58 FR 18374) regarding the countervailing duty order on Cold-Rolled Steel from Argentina. We received timely requests for each of these administrative reviews and we initiated the reviews pursuant to section 751(a) of the Act. The review of Cold-Rolled Steel covering the period January 1 through December 31, 1993, was initiated on May 12, 1994 (59 FR 24683). The review of Cold-Rolled Steel covering the period January 1 through December 31, 1992, was initiated on May 27, 1993 (58 FR 30767).

The Ceramica Decision

On September 6, 1995, the Court of Appeals for the Federal Circuit (CAFC) held, in a case involving imports of dutiable ceramic tile, that Mexico became a "country under the Agreement" within the meaning of 19 U.S.C. §1303(a)(1) (1988; repealed 1994) on the date that it signed its "Understanding" with the United States "Regarding Subsidies and Countervailing Duties" ("Mexican MOU"). *Ceramica Regiomontana* v. *United States*, 64 F.3d 1579, 1583 (Fed. Cir. 1995) (*Ceramica*). According to the court, language in the agreement which suggested a later date (*i.e.*, only for pending and new investigations) was "trumped" by the statute. *Id.*

Once Mexico became a country under the Agreement, the court declared, the Department could not assess countervailing duties on tile from that country under former section 303(a)(1) of the Act. 64 F.3d at 1582. "After Mexico became a 'country under the Agreement,' the only provision under which ITA could continue to impose countervailing duties was section 1671." *Id.*

One of the prerequisites to the assessment of countervailing duties under 19 U.S.C. 1671 (1988) is an affirmative injury determination. *See also Id.* at §1671e. However, at the time the countervailing duty order on ceramic tile was issued, the requirement of an affirmative injury determination under U.S. law was not applicable. Therefore, the court looked to see whether the statute contained any means by which the order on tile could receive an injury test. Specifically, the court looked at section 104(b) of the Trade Agreements Act of 1979, Public Law N. 96–39 (July 20, 1979) (1979 Act).

Section 104(b) was designed to provide an injury test for certain countervailing duty orders issued under former section 303 prior to the effective date of the 1979 Act (which established Title VII and, in particular, section 701 of the Act). However, in order to induce other countries to accede to the 1979 Subsidies Code (or substantially equivalent agreements), the window of opportunity was intentionally limited. In order to qualify (i) the exporting nation had to be a country under the Agreement (*e.g.*, a signatory of the Subsidies Code) by January 1, 1980, (ii) the order had to be in existence on January 1, 1980 (*i.e.*, the effective date of Title VII), and (iii) the exporting country (or in some instances its exporters) had to request the injury test on or before January 2, 1983.

The countervailing duty order on ceramic tile from Mexico was issued in 1982 and Mexico did not become a country under the Agreement until April 23, 1985. Therefore, the court held that, in the absence of an injury test and the statutory means to provide one, the Department could not assess countervailing duties on ceramic tile and ordered the Department to revoke the order effective April 23, 1985. *Ceramica*, 64 F.3d at 1583.

The Argentine Memorandum of Understanding

The effective date of the Understanding Between the United States of America and the Republic of Argentina Regarding Subsidies and Countervailing Duties (Argentine MOU), under which Argentina attained the status of a "country under the Agreement," was September 20, 1991. Therefore, in consideration of the *Ceramica* decision, on April 2, 1996, the Department initiated changed circumstances reviews of the orders on Leather, Wool, OCTG and Cold-Rolled Steel from Argentina. *Changed Circumstances Reviews*, 61 FR at 14553. The Department initiated these reviews to determine whether Argentina's status as a "country under the Agreement" affects its authority to assess countervailing duties on unliquidated entries of subject merchandise occurring after September 20, 1991. As part of this inquiry, the Department will determine whether the requests for injury investigations received by the U.S. International Trade Commission under section 753(a) of the Act in connection with the countervailing duty orders covering Leather, Wool, and OCTG from Argentina have any bearing on the Department's authority to assess duties on entries occurring on or after January 1, 1995.

Scope of the Reviews

OCTG from Argentina.

Imports covered by this order include shipments of Argentine oil country tubular goods. Oil country tubular goods include hollow steel products of circular cross-section intended for use in the drilling of oil or gas and oil well casing, tubing and drill pipe or carbon or alloy steel, whether welded or seamless, manufactured to either American Petroleum Institute (API) or proprietary specifications. The scope covers both finished and unfinished OCTG. The products covered in this review are provided for under item numbers of the *Harmonized Tariff Schedule* (HTS): 7304.20.20, 7304.20.40, 7304.20.50, 7304.20.60, 7304.20.80, 7304.39.00, 7304.51.50, 7304.20.70, 7304.59.60, 7304.59.80, 7304.90.70, 7305.20.40, 7305.20.60, 7305.20.80, 7305.31.40, 7305.31.60, 7305.39.10, 7305.39.50, 7305.90.10, 7305.90.50, 7306.20.20, 7306.20.30, 7306.20.40, 7306.20.60, 7306.20.80, 7306.30.50, 7306.50.50, 7306.60.70, 7306.90.10. The HTS subheadings are provided for convenience and Customs purposes. The written description remains dispositive.

Cold-Rolled Steel from Argentina.

Imports covered by this order include shipments of Argentine cold-rolled carbon steel flat products, whether or not corrugated or crimped; whether or not painted or varnished and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 12 inches in width and under 0.1875 inches in thickness whether or not in coils; as currently provided for under the following item numbers of the HTS: 7209.11.00, 7209.12.00, 7209.13.00, 7209.14.00, 7209.21.00, 7209.22.00, 7209.23.00, 7209.24.00, 7209.31.00, 7209.32.00, 7209.33.00, 7209.34.00, 7209.41.00, 7209.42.00, 7209.43.00, 7209.44.00, 7209.90.00, 7210.70.00, 7211.30.50, 7211.41.70, 7211.49.50, 7211.90.00, 7212.40.50. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Preliminary Results of Reviews / Intent To Terminate Administrative Reviews

Unliquidated entries of subject merchandise which occurred on or after September 20, 1991 and on or before December 31, 1994, involve the same set of pertinent facts as the Department faced in connection with the countervailing duty order on ceramic tile from Mexico.

First, at the time the countervailing duty orders on Mexico and Argentina were issued, the requirement of an affirmative injury determination under U.S. law was not applicable. Second, both countries concluded similar agreements with the United States which resulted in their becoming "countries under the Agreement" within the meaning of former section 303(a)(1) of the Act. Third, at the time Mexico and Argentina qualified as countries under the Agreement, the assessment of countervailing duties on subsequent entries of dutiable merchandise became dependent upon a finding of subsidization and injury in accordance with section 701 of the Act. Fourth, none of the transition rules in the statute can be applied to the subject entries. Specifically, section 104 of the 1979 Act only applies to countervailing duty orders issued before January 1, 1980. Also, there is a question, at issue in the changed circumstances reviews, whether section 753 of the Act applies to these orders. In all events, however, it is clear that section 753 does not apply to entries occurring on or before December 31, 1994.

Therefore, we preliminarily determine that the Department cannot assess duties on entries made on or after September 20, 1991 and on or before December 31, 1994. If these preliminary results are made final, the Department will terminate these administrative reviews. However, we intend to complete the pending 1991 administrative reviews of these two orders in order to determine the appropriate countervailing duty assessment rate for those 1991 entries made prior to September 20, 1991. The question of the Department's authority to assess duties on unliquidated entries of OCTG made on or after January 1, 1995 remains to be determined in the context of the ongoing changed circumstances reviews.

Suspension of Liquidation

The suspension of liquidation for entries of Cold-Rolled Steel and OCTG from Argentina made on or after January 1, 1991 and before September 20, 1991 will continue pending the completion of the 1991 administrative reviews. The suspension of liquidation for entries of OCTG from Argentina made on or after January 1, 1995 will continue, at the cash deposit rate of zero. Because the countervailing duty order on Cold-Rolled Steel was revoked effective January 1, 1995 (60 FR 40568), the Department instructed Customs to discontinue the suspension of liquidation for entries made on or after that date.

Public Comment

Interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. We request that parties limit arguments in the case briefs to the issue of whether the Department has the authority to assess countervailing duties on shipments of OCTG and Cold-Rolled Steel from Argentina entered on or after September 20, 1991 and on or before December 31, 1994. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 C.F.R. §355.38.

The Department will publish the final results of these administrative reviews, including the results of its analysis of

issues raised in any case or rebuttal brief or at a hearing.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)).

Dated: December 20, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–33175 Filed 12–27–96; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology

[Docket No. 961121324–6364–02]

RIN 0693–ZA14

Announcement of Availability of Funding for Focused Program Competitions—Advanced Technology Program (ATP)

AGENCY: National Institute of Standards and Technology, Technology Administration, Commerce.

ACTION: Notice.

SUMMARY: The Technology Administration's National Institute of Standards and Technology (NIST) announces the availability of funding for two Focused Program competitions under the Advanced Technology Program (ATP) for fiscal year 1997, targeted on specific technology areas. The two Focused Program competitions being held are: (1) Motor Vehicle Manufacturing Technology (97–02) and (2) Information Infrastructure for Healthcare (97–03). This notice provides general information for these Focused Program competitions.

DATES: Proposal due dates and other specific instructions will be published in the Commerce Business Daily (CBD) at the time the competitions are announced. Dates, times, and locations of Proposers' Conferences held for interested parties considering applying for funding will also be announced in the CBD.

ADDRESSES: Information on the ATP may be obtained from the following address: National Institute of Standards and Technology, Advanced Technology Program, Administration Building (Bldg. 101), Room A407, Quince Orchard & Clopper Roads, Gaithersburg, MD 20899–0001.

Additionally, information on the ATP is available on the Internet through the World Wide Web (WWW) at http://www.atp.nist.gov.

FOR FURTHER INFORMATION CONTACT: Requests for ATP information, application materials, and/or to have your name added to the ATP mailing list for future mailings may also be made by:

(a) Calling the ATP toll-free "hotline" number at 1–800–ATP–FUND or 1–800–287–3863. You will have the option of hearing recorded messages regarding the status of the ATP or speaking to one of our customer representatives who will take your name and address. If our representatives are all busy when you call, leave a message after the tone. To ensure that the information is entered correctly, please speak distinctly and slowly and spell the words that might cause confusion. Leave your phone number as well as your name and address;

(b) Sending a facsimile (fax) to 301–926–9524 or 301–590–3053; or

(c) Sending electronic mail to atp@nist.gov. Include your name, full mailing address, and phone number.

SUPPLEMENTARY INFORMATION:

Background

The statutory authority for the ATP is Section 5131 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418, 15 U.S.C. 278n), as modified by Public Law 102–245. The ATP implementing regulations are published at 15 CFR Part 295. The Catalog of Federal Domestic Assistance (CFDA) number and program title for the ATP are 11.612, Advanced Technology Program (ATP).

The ATP is a rigorously competitive cost-sharing program designed to assist United States industry/businesses pursue high-risk, enabling technologies with significant commercial/economic potential. The ATP provides multi-year funding to single companies and to industry-led joint ventures to pursue research and development (R&D) projects with high-payoff potential for the nation. The ATP accelerates enabling technologies that, because they are risky, are unlikely to be developed in time to compete in rapidly changing world markets without such a partnership between industry and the Federal government. The ATP challenges industry to take on projects characterized by high technical risk but commensurately high potential payoff to the nation. Proposers must provide credible arguments as to the project feasibility.

The funding instrument used in ATP awards is a "cooperative agreement." Through the cooperative agreement, the ATP fosters a government-industry partnership to accomplish a public purpose of support or stimulation. NIST plays a substantial role in these awards by providing technical assistance and monitoring the technical work and business progress.

Funding Availability

An estimated $10 million to $15 million in first year funding is available for each of the two Focused Program Competitions. The ATP reserves the right to utilize for any competition more or less funding than the amounts stated above. The actual number of proposals funded will depend on the quality of the proposals received and the amount of funding requested in the highest ranked proposals. Outyear funding beyond the first year is contingent on the approval of future Congressional appropriations and satisfactory project performance.

Eligibility Requirements, Selection Criteria, and Proposal Review Process

The eligibility requirements, selection criteria, and the proposal review process are discussed in detail in the ATP implementing regulations published at 15 CFR Part 295.

Funding Amounts, Award Period and Cost Sharing (Matching) Requirements

(a) Single companies can receive up to $2 million of ATP funds for up to 3 years. Single companies do not have to provide matching funds, but they are reimbursed for direct costs only. Single companies are responsible for securing funding for all overhead/indirect costs.

(b) Joint ventures can receive a minority share of the total project costs for up to 5 years. Joint ventures must cost-share (matching funds) more than 50 percent of the total project costs (direct plus indirect costs) for each quarter that the ATP funds the project. Subcontractors funded under an ATP cooperative agreement may not contribute towards the matching-fund requirement.

Application Forms and Proposal Preparation Kit

A new November 1996 version of the ATP Proposal Preparation Kit is available upon request from the ATP at the address and phone numbers noted in this notice. Note that the ATP mailed the Kit to all those individuals whose names are currently on the ATP mailing list. The Kit contains proposal cover sheets, other required forms, background material, and instructions for submission of proposals. All proposals must be prepared in accordance with the instructions in the Kit.

Submission of Revised Proposals

An applicant may submit a full proposal that is a revised version of a

full proposal submitted to a previous ATP competition. NIST will examine such proposals to determine whether substantial revisions have been made. Where the revisions are determined not to be substantial, NIST reserves the right to score and rank, or where appropriate, to reject, such proposals based on reviews of the previously submitted proposal.

Other Requirements

(a) Federal Policies and Procedures. Recipients and subrecipients are subject to all Federal laws and Federal and Department of Commerce policies, regulations, and procedures applicable to Federal financial assistance awards as identified in the cooperative agreement award.

(b) Past Performance. Unsatisfactory performance under prior Federal awards may result in a proposal not being considered for funding.

(c) Pre-award Activities. If applicants incur any costs prior to an award being made, they do solely at their own risk of not being reimbursed by the Government. Only written authorization from the NIST Grants Officer will obligate NIST to cover pre-award costs.

(d) No Obligation for Future Funding. If a proposal is selected for funding, NIST has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of NIST.

(e) Delinquent Federal Debts. No award of Federal funds shall be made to an applicant or recipient who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, a negotiated repayment schedule is established and at least one payment is received, or other arrangements satisfactory to NIST are made.

(f) Name Check Review. All for-profit and non-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management, honesty, or financial integrity.

(g) Primary Applicant Certification. All primary applicants (including all joint venture participants) must submit a completed form CD–511, "Certifications Regarding Debarment, Suspension, and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanation is hereby provided:

(1) *Nonprocurement Debarment and Suspension.* Prospective participants, as defined at 15 CFR part 26, section 105 are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

(2) *Drug-Free Workplace.* Grantees (as defined at 15 CFR part 605) are subject to 15 CFR 26, subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

(3) *Anti-Lobbying.* Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 USC 1352, "Limitations on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and,

(4) *Anti-Lobbying Disclosures.* Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, Appendix B.

(h) Lower Tier Certification. Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying" and Form SF–LLL, "Disclosure of Lobbying Activities." Although the CD–512 is intended for the use of primary recipients and should not be transmitted to NIST, the SF–LLL submitted by any tier recipient or subrecipient should be forwarded in accordance with the instructions contained in the award document.

(i) False Statements. A false statement on any application for funding under ATP may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

(j) Intergovernmental Review. The ATP does not involve the mandatory payment of any matching funds from state or local government and does not affect directly any state or local government. Accordingly, the Department of Commerce has determined that Executive Order 12372, "Intergovernmental Review of Federal Programs" is not applicable to this program.

(k) American-Made Equipment and Products. Applicants are hereby notified that they are encouraged, to the greatest extent practicable, to purchase American-made equipment and products with the funding provided under this program in accordance with Congressional intent.

(l) Paperwork Reduction Act. This notice contains collection of information requirements subject to the Paperwork Reduction Act (PRA) which have been approved by the Office of Management and Budget (OMB Control No. 0693–0009). Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control No.

Dated: December 23, 1996.

Samuel Kramer,

Associate Director.

[FR Doc. 96–33133 Filed 12–27–96; 8:45 am]

BILLING CODE 3510–13–P

[Docket No. 961030302–6302–01]

RIN 0693–ZA12

Physics Laboratory 1997 Summer Undergraduate Research Fellowships (SURF)—Partnerships in Atomic, Molecular and Optical (AMO) Physics

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: Through Summer Undergraduate Research Fellowship, the program "SURFing the Physics, Lab: A Partnership for AMO Physics" will provide an opportunity for the Physics Laboratory of the National Institute of Standards and Technology and the National Science Foundation to join in partnership with American colleges and universities, to encourage outstanding physics students to pursue scientific careers. This program will function by exposing students to the world class atomic, molecular, optical and radiation physicists and facilities in the NIST Physics Laboratory, and by strengthening undergraduate AMO physics curricula by forming the basis of ongoing collaborations. The NIST

program director will work with physics department chairs and directors of multi-disciplinary centers of excellence to identify outstanding undergraduates (including graduating seniors) who would benefit from off-campus summer research in an honors academy environment. We recommend a group of two candidates plus one alternate to be nominated by each institution, although larger or smaller groups will be given equal consideration. The selected group of about twenty-give (25) students will spend approximately twelve (12) weeks at the Physics Laboratory's Gaitherburgh, MD campus, working one-on-one with NIST staff physicists actively engaged in projects that combine the quest for fundamental knowledge and direct applications to problems of national importance. The 12-week stipend for the summer of 1997 will be $3600. Students and NIST research advisors will be paired, based on the student's background and interests, in the spring. This allows for adequate dialog between the student, the student's physics professors and the NIST advisor. It also ensures that the student arrives at NIST ready to contribute, and prepares the student's physics professor for follow-up in the fall. Good overlap of research interest will facilitate collaborations between NIST and the participating academic partners. The students will live in a nearby furnished apartment complex and participate in the many NIST seminars and in a weekly SURFing the Physics Lab Summer Seminar Series. The students will all present a research seminar at NIST and be encouraged to participate in a local or national scientific conference during the following academic year. Given the significant lack of diversity in the present physics work force, we encourage students from under-represented groups to apply. Costs for this program (stipend, travel and housing) will be shared by NIST, NSF and the participating schools.

DATES: Proposals must be received no later than the close of business February 14, 1997.

ADDRESSES: Applicants must submit one signed original plus two (2) copies of the proposal along with the Grant Application, Standard Form 424 (Rev. 4/92) to: Physics Laboratory, Attn: Dr. Paul D. Lett, National Institute of Standards and Technology, Building 221, Room A–167, Gaithersburg, MD 20899–0001.

FOR FURTHER INFORMATION CONTACT: Dr. Paul D. Lett, (301) 975–6559.

SUPPLEMENTARY INFORMATION:

Catalog of Federal Domestic Assistance Name and Number

Measurement and Engineering Research and Standards; 11.609

Authority

The Act of March 3, 1901, as amended (15 U.S.C. 278g–l) authorizes the National Institute of Standards and Technology to expend up to 1 per centum of the funds appropriated for activities of NIST in any fiscal year, as the Director deems appropriate, for financial assistance awards in the form of cooperative agreements to students at institutions of higher learning within the United States. These students must show promise as present or future contributors to the missions of NIST. Cooperative Agreements are awarded to assure continued growth and progress of science and engineering in the United States, including the encouragement of women and minority students to continue their professional development.

Program Description

The objective of this partnership is to build a mutually beneficial relationship between the student, the institution of higher learning, and NIST. This is the fourth year of a program partially funded by the NSF Physics Division as a Research Experience for Undergraduates Site (REU). Between 20 and 50% of the associated student stipends, travel and housing will be provided in cost sharing by the individual participating institutions.

NIST is one of the nation's premiere institutions for the physical sciences and, as the lead agency for technology transfer, is providing a strong interface between government, industry, and academia; on-site researchers at NIST come from a broad range of colleges and industries. Owing to its unique mission to support the U.S. economy by working with industry, NIST embodies a special science culture, developed from a large and well-equipped research staff that enthusiastically blends programs that address the immediate needs of industry with longer-term research that anticipates future needs. This synergy occurs in few other places and enables the Physics Laboratory to offer unique research and training opportunities for undergraduates, providing them a research-rich environment and exposure to state of the art equipment, as well as to scientists at work and to professional contacts that represent future employment possibilities.

Attending to the long term needs of many U.S. high-technology industries, NIST's Physics Laboratory conducts basic research in the areas of quantum, electron, optical, atomic, molecular, and radiation physics. This is complemented by applied research devoted to overcoming barriers to the next technological revolution, in which individual atoms and molecules will serve as the fundamental building blocks of electronic and optical devices. To achieve these goals, staff develop and utilize highly specialized equipment, such as polarized electron microscopes, scanning tunneling microscopes, lasers, and x-ray and synchrotron radiation sources. Research projects can be theoretical or experimental, and will range in focus from quantum electrodynamics, through trapping atoms and choreographing molecular collisions, to ionizing radiation. SURF students will work one-on-one with our nation's top physical scientists both from NIST and from some of our nation's leading, high tech industries. It is anticipated that successful SURF students will move from a position of reliance on guidance from their research advisors to one of research independence during the twelve-week period. One goal of this partnership is to provide opportunities for our nation's next generation of scientists and engineers to engage in world-class scientific research at NIST, especially in ground-breaking areas of emerging technologies. This carries with it the hope of motivating these individuals to pursue a Ph.D. in physics and to consider research careers. SURFing the Physics Lab will attempt to forge partnerships with NSF and with post-secondary institutions that demonstrate strong, hands-on undergraduate science curricula, especially those with a demonstrated commitment to the education of women, minorities and students with disabilities. This program will be open to all U.S. citizens interested in AMO physics.

Eligibility

Colleges and universities with degree granting programs in areas of AMO physics.

Funding Availability

The NIST Physics Laboratory will commit approximately $45,000 to support cooperative agreements under this program. The NIST Physics Laboratory's REU Program is anticipating renewal of funding by the NSF at a level between $50,000 and $70,000 per year. The anticipated direct and indirect cost for stipends, travel and housing and conference attendance for up to twenty-five students is about

$150,000. The actual number of awards made under this announcement will depend on the level of cost sharing by our academic partners. The issuance of awards is contingent upon the availability of funding.

Proposal Review Process

All proposals will be reviewed by a panel of three NIST scientists appointed by the Program Director. Proposals should include the following:

(A) Student Information:

(1) official transcript for each student nominated with a recommended G.P.A. of 3.0 or better;

(2) a personal statement from each student and statement of commitment to participate in the 1997 SURF program, including a description of the student's prioritized research interests;

(3) a resume for each student; and

(4) two letters of recommendation for each student. All references to student include the proposed alternate.

(B) Information About the Applicant Institution:

(1) description of the applicant's education and research philosophy, faculty interests, on-campus research program(s) and opportunities, and overlapping research interests of NIST and the institution; and

(2) a statement addressing issues of academic credit and commitment to cost sharing.

Application Kit

An application kit, containing all required application forms and certifications is available by calling Marilyn King at (301) 975–3200. An application kit includes the following:

SF 424 (Rev 4/92)—Application for Federal assistance

SF 424A (Rev 4/92)—Budget information—Non-Construction Programs

SF 424B (Rev 4/92)—Assurances—Non-Construction Programs

CD 511 (7/91)—Certification regarding debarment, suspension, and other responsibility matters; drug-free workplace requirements and lobbying

CD 512 (7/91)—Certification regarding debarment, suspension, ineligibility and voluntary exclusions—lower tier covered transactions and lobbying

SF-LLL Disclosure of lobbying activities

Evaluation Criteria

Evaluation of Student's Academic Ability and Commitment to Program Goals (35%): Includes, but is not limited to, evaluation of the following: Completed course work; expressed research interest; prior research experience; grade point average in courses relevant to program; career plans; honors and activities.

Evaluation of Applicant Institution's Commitment to Program Goals (35%): Includes, but is not limited to, evaluation of the following: Institution's focus on AMO physics; overlap between research interests of the institution and NIST; emphasis on undergraduate hands-on research; undergraduate participation in research conferences/programs; on-campus research facilities; past participation by students/institution in such programs; and commitment to educate women/minorities, and persons with disabilities. Evaluation of Applicant Institution's Cost Sharing (30%): In the spirit of a true partnership, successful applicants will be encouraged to contribute matching funds. A suggested level of participation would be to directly cover student travel (one round trip by common carrier) and housing costs (approximately $1500); a higher level of participation, such as partial payment of the student's stipend, stated intent to support the participating students at a research conference, and/or awarding of academic credit, will be given extra merit in the evaluation process.

Award decisions shall be based upon total evaluation score.

Award Period

The 1997 Physics Laboratory SURFing Partnership is anticipated to run between May 27 through August 15, 1997; adjustments may be made to accommodate specific academic schedules (e.g., a limited number of 10-week cooperative agreements).

Paperwork Reduction Act

The Standard Form 424 and other Standard Forms in the application kit are subject to the requirements of the Paperwork Reduction Act and have been approved by OMB under Control Nos. 0348–0043, 0348–0044, 0348–0040, and 0348–0046.

Additional Requirements

Primary Application Certifications

All primary applicants must submit a completed form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations must be provided:

1. Nonprocurement debarment and suspension. Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

2. Drug-free workplace. Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

3. Anti-lobbying. Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater.

4. Anti-lobbying disclosure. Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR Part 28, Appendix B.

5. Lower-tier certifications. Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to NIST. SF–LLL submitted by any tier recipient or subrecipient should be submitted to NIST in accordance with the instructions contained in the award document.

Preaward Activities

Applicants who incur any costs prior to an award being made do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that may have been provided, there is no obligation on the part of NIST to cover preaward costs.

No Obligation for Future Funding

If an application is accepted for funding, DOC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of NIST.

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Past Performance

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

False Statements

A false statement on an application is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Delinquent Federal Debts

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

1. The delinquent account is paid in full,
2. A negotiated repayment schedule is established and at least one payment is received, or
3. Other arrangements satisfactory to DoC are made.

Indirect Costs

The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed direct cost dollar amount in the application whichever is less.

Purchase of American-made Equipment and Products

Applicants are hereby notified that they are encouraged, to the greatest practicable extent, to purchase American-made equipment and products with funding provided under this program.

Federal Policies and Procedures

Recipients and subrecipients under the Physics Laboratory Program shall be subject to all Federal laws and Federal and Departmental regulations, policies, and procedures applicable to financial assistance awards. The SURF program does not directly affect any state or local government. Applicants are reminded of the applicability of Executive Order 12372, "Intergovernmental Review of Federal Programs."

Executive Order Statement

This funding notice was determined to be "not significant" for purses of Executive Order 12866.

Dated: December 18, 1996.

Samuel Kramer

Associate Director.

[FR Doc. 96–33134 Filed 12–27–96; 8:45 am]

BILLING CODE 3510–13–M

Announcement of Meeting of National Conference on Weights and Measures

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Interim Meeting of the National Conference on Weights and Measures will be held January 12 through 16, 1997, at the Doubletree Hotel, Rockville, MD. The meeting is open to the public.

The National Conference on Weights and Measures is an organization of weights and measures enforcement officials of the States, counties, and cities of the United States, and private sector representatives. The interim meeting of the conference, as well as the annual meeting to be held next July (a notice will be published in the **Federal Register** prior to such meeting), brings together enforcement officials, other government officials, and representatives of business, industry, trade associations, and consumer organizations to discuss subjects that relate to the field of weights and measures technology and administration.

Pursuant to section 2(5) of its Organic Act (15 U.S.C. 272(5)), the National Institute of Standards and Technology acts as a sponsor of the National Conference on Weights and Measures in order to promote uniformity among the States in the complex of laws, regulations, methods, and testing equipment that comprises regulatory control by the States of commercial weighing and measuring.

DATES: The meeting will be held January 12–16, 1997.

LOCATION OF MEETING: Doubletree Hotel, Rockville, MD.

FOR FURTHER INFORMATION CONTACT: Dr. Gilbert Ugiansky, Executive Secretary, National Conference on Weights and Measures, P.O. Box 4025, Gaithersburg, Maryland 20885. Telephone: (301) 975–4005.

Dated: December 18, 1996.

Samuel Kramer,

Associate Director.

[FR Doc. 96–33135 Filed 12–27–96; 8:45 am]

BILLING CODE 3510–13–M

Evaluation of Coastal Zone Management Programs and National Estuarine Research Reserve

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of intent to evaluate.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Alabama, American Samoa and Louisiana Coastal Zone Management Programs and the Apalachicola (FL) National Estuarine Research Reserve Program.

These evaluations will be conducted pursuant to section 312 and 315 of the Coastal Zone Management Act of 1972 (CZMA), as amended. The CZMA requires a continuing review of the performance of states with respect to coastal program implementation and reserve management. Evaluation of Coastal Zone Management Programs and National Estuarine Research Reserves requires findings concerning the extent to which a state has met the national objectives, adhered to its coastal program document or reserve Management Plan approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA. The evaluations will include a site visit, consideration of public comments, and consultations with interested Federal, State, and local agencies and members of the public. Public meetings are held as part of the site visits.

Notice is hereby given of the dates of the site visits for the listed evaluations, and the dates, local times, and locations of public meetings during the site visits.

The Alabama Coastal Zone Management Program site visit will be from February 3–7, 1997. A public meeting will be on Wednesday, February 5, 1997, at 6:00 p.m., in the International Trade Center, 250 Water Street, Mobile, Alabama.

The Apalachicola National Estuarine Research Reserve in Florida, site visit will be from February 10–14, 1997. A public meeting will be held on Wednesday, February 12, 1997, at 7:00 p.m., at the Apalachicola NERR Headquarters, 261 7th Street, Apalachicola, Florida.

The American Samoa Coastal Zone Management Program site visit will be from February 24–28, 1997. A public meeting will be on Wednesday, February 26, 1997, at 4:30 p.m., at the Rainmaker Hotel, Tapa Room.

The Louisiana Coastal Zone Management Program site visit will be from February 24–28, 1997. A public meeting will be on Wednesday, February 26, 1997, at 7:00 p.m., at the State Lands and Natural Resources Building, Mineral Board Hearing Room, 625 North Fourth Street, Baton Rouge, Louisiana.

The States will issue notice of the public meeting(s) in a local newspaper(s) at least 45 days prior to the public meeting(s), and will issue other timely notices as appropriate.

Copies of the State's most recent performance reports, as well as OCRM's notifications and supplemental request letters to the States, are available upon request from OCRM. Written comments from interested parties regarding these Programs are encouraged and will be accepted until 15 days after the public meeting. Please direct written comments to Vickie A. Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910. When the evaluation is completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

FOR FURTHER INFORMATION CONTACT: Vickie A. Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, (301) 713–3090, ext. 126.

Federal Domestic Assistance Catalog 11.419. Coastal Zone Management Program Administration.

Dated: December 20, 1996.

Dr. David L. Evans,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 96–33086 Filed 12–27–96; 8:45 am]

BILLING CODE 3510–08–M

National Oceanic and Atmospheric Administration

[I.D. 121996C]

North Pacific Fishery Management Council; Committee Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Northwest Crab Industry Advisory Committee (PNCIAC), will meet on January 6, 1997, in Seattle, WA.

DATES: The meeting will be held on January 6, 1997, from 9:00 a.m. to 1:00 p.m.

ADDRESSES: The meeting will be held at Leif Erickson Lodge Hall, 2245 NW 57th Street, Seattle, WA.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252; telephone: 907–271–2809.

FOR FURTHER INFORMATION CONTACT: Arni Thomson, Alaska Crab Coalition; telephone: 206–547–7560.

SUPPLEMENTARY INFORMATION: The PNCIAC's agenda includes the following:

1. Alaska Department of Fish and Game proposal for a cost recovery funded observer program.
2. Emergency petition for revised pot limits in the Bristol Bay red king crab fishery.
3. Proposal to reduce the minimum size limit of Bristol Bay red king crab to 6 inches.
4. Other related crab management issues.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Arni Thomson, Alaska Crab Coalition, 206–547–7560, at least 5 working days prior to the meeting date.

Dated: December 23, 1996.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 96–33180 Filed 12–27–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 122096A]

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council will hold a public meeting.

DATES: The meeting will be held on January 9, 1997, beginning at 9:00 a.m. and will run until business for the day is concluded. The meeting will reconvene on January 10, 1997, at 8:00 a.m. and will run until business for the day is concluded.

ADDRESSES: The meeting will be held at the Red Lion Downtown Portland, 1401 SW Lincoln, Portland, OR 97201, in the Multnomah Falls Room.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Lawrence D. Six, Executive Director; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to develop options for long term management of the limited entry fixed gear sablefish fishery.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Eric Greene at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: December 23, 1996.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 96–33181 Filed 12–27–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 122396D]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of an application for modification 1 to scientific research permit 991 (P599) and issuance of an amendment of enhancement permit 747 (P45H).

SUMMARY: Notice is hereby given that the California Department of Water Resources in Sacramento, CA (CDWR) has applied in due form for modification 1 to scientific research permit 991 and that an amendment of enhancement permit 747 was issued to the U.S. Fish and Wildlife Service in Sacramento, CA (FWS) authorizing takes of an endangered species.

DATES: Written comments or requests for a public hearing on the modification application must be received on or before January 29, 1997.

ADDRESSES: The application and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401); and

Director, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (310–980–4016).

Written comments or requests for a public hearing should be submitted to the Chief, Endangered Species Division, Office of Protected Resources.

SUPPLEMENTARY INFORMATION: CDWR requests modification 1 to permit 991, and the amendment of permit 747 was issued, under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–227).

For modification 1 to permit 991, CDWR (P599) requests an additional annual take of juvenile, endangered, Sacramento River winter-run chinook salmon (*Oncorhynchus tshawytscha*) associated with a new scientific research study. CDWR proposes a fisheries study of the Yolo Bypass, a floodplain adjacent to the Sacramento River where large numbers of salmon are trapped when high flows recede. The objectives of the study include estimation of the number of juvenile salmon diverted to, and successfully emigrating from, the Bypass; identification of habitats in the Bypass used for salmon rearing; estimation of the number of salmon trapped in the Yolo Bypass after floodwaters recede; and measurement of salmon growth and feeding in the Bypass versus the Sacramento River. Study results will be used to provide recommendations for ecosystem restoration options, to identify actions to minimize adverse effects to juvenile salmon, and to make habitat restoration efforts as harmless to fish as possible. ESA-listed fish will be captured in the Yolo Bypass, handled, and released in the mainstem Sacramento River. A percentage of associated indirect mortalities is also requested. Modification 1 is requested for the duration of the permit. Permit 991 expires on June 30, 1999.

On November 27, 1996, NMFS amended FWS's enhancement permit 747 (P45H) extending the expiration date of the permit. Permit 747 was issued to FWS on August 8, 1991 and was due to expire on November 30, 1996. Permit 747 authorizes annual takes of adult and juvenile, endangered, Sacramento River winter-run chinook salmon (*Oncorhynchus tshawytscha*) associated with an artificial propagation program at FWS's Coleman National Fish Hatchery and a captive broodstock program. In October, 1996, FWS applied for a new permit (P45W) to replace permit 747 (61 FR 53899, October 16, 1996). However, due to the time required to process the new permit request, permit 747 would have expired before the new permit could be issued. To avoid a lapse in FWS's endangered species take authorization, permit 747 was amended to expire on January 31, 1997.

Those individuals requesting a hearing on the permit modification request should set out the specific reasons why a hearing would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the above application summary are those of the applicant and do not necessarily reflect the views of NMFS.

Dated: December 23, 1996.

Barbara Schroeder,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–33178 Filed 12–27–96; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Proposed Amendments to the Price Limit and Trading Halt Provisions in Domestic Stock Index Futures Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of proposed amendments to the price limit and trading halt provisions in domestic stock index futures contracts listed on the Chicago Mercantile Exchange, Kansas City Board of Trade, and New York Futures Exchange.

SUMMARY: The Chicago Mercantile Exchange (CME), Kansas City Board of Trade (KCBT), and New York Futures Exchange (NYFE) have submitted proposals to modify existing "circuit breaker" and related price limit provisions in those exchanges' domestic stock index futures contracts. The Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before January 14, 1997.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 1155 21st Street NW, Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521 or by electronic mail to secretary@cftc.gov. Reference should be made to the proposed amendments to circuit breaker and price limit provisions in domestic stock index futures contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Steve Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, 1155 21st Street NW, Washington, DC 20581, telephone 202–418–5277. Facsimile number: (202) 418–5527. Electronic mail: ssherrod@cftc.gov.

SUPPLEMENTARY INFORMATION: The CME, KCBT, and NYFE have proposed changes to each of the opening, intermediate, and overall daily price limits, including the circuit breaker trigger levels, for their domestic stock index futures contracts.[1] The submissions were made in response to a proposal from the New York Stock Exchange (NYSE) to raise the levels of its "circuit breaker" trading halt triggers. Specifically, the NYSE proposes to increase the trigger for a one-half hour trading halt to 350 points in the Dow Jones Industrial Average (DJIA)[2] from 250 DJIA points and to increase the trigger for a one hour trading halt to 550 points in the DJIA from 400 DJIA points. That proposal is currently under review by the Securities and Exchange Commission (SEC). Notice of that proposal was given in the **Federal Register** on December 19, 1996 (61 FR 67087).

The proposed amendments to the S&P 500 futures contract (the most actively traded domestic stock index futures contract) are shown in Table 1 below. The proposed amendments to other domestic stock index futures contracts generally are comparable to those in the S&P 500 futures contract.

TABLE 1.—CURRENT AND PROPOSED CME S&P 500 PRICE LIMIT SCHEDULE

Price limit	Current level	Proposed level
Opening	+/−5	+/−7
Initial Decline	−12	−15
Second Decline	−20	−30
First Circuit Breaker	−30	−45
Second Circuit Breaker	−50	−70
Daily Price Limit	+/−70	−90
Globex After Hours Session	+/−12	+/−15

For comparison purposes, Tables 2 and 3 below show the current and proposed price limit provisions in the S&P 500 futures contract and the approximate DJIA equivalents for those limits that correspond to the levels that

[1] The affected CME contracts are the CME Standard & Poor's 500 Stock Price Index (S&P 500), the S&P MidCap 400 Stock Price Index, the S&P 500/BARRA Growth Index, the S&P 500/BARRA Value Index, the Russell 2000 Stock Price Index, the Major Market Index, and the Nasdaq 100 Index. The affected KCBT contracts are the Value Line Index and the Mini Value Line Index. The affected NYFE contracts are the NYSE Composite Index and the PSE Technology Index.

[2] "Dow Jones Industrial Average" is a service mark of the Dow Jones Corporation.

trigger the one-half hour and one-hour trading halts on the NYSE. The tables show "approximate DJIA equivalents" as a range of levels for each such circuit breaker. In that regard, recently, the level of the DJIA has been about eight and one-half times higher than the level of the S&P 500. Therefore, the lower number in each range was calculated by multiplying the level of the S&P 500 circuit breaker price limit by eight, while the higher number in each range was calculated by multiplying the level of the S&P 500 circuit breaker price limit by nine.

TABLE 2.—CURRENT CME AND NYSE CIRCUIT BREAKER PROVISIONS

CME S&P 500		NYSE trading halt level (DJIA points)
Circuit breaker price limit	Approximate DJIA equivalents (points)	
30 points	240–270	250
50 points	400–450	400

TABLE 3.—PROPOSED CME AND NYSE CIRCUIT BREAKER PROVISIONS

CME S&P 500		NYSE trading halt level (DJIA points)
Circuit breaker price limit	Approximate DJIA equivalents points	
45 points	360–405	350
70 points	560–630	550

The Division requests comment on the proposed amendments. Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5097.

Other materials submitted by the CME, KCBT, and NYFE in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 C.F.R. Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 C.F.R. 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 C.F.R. 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed amendments, or with respect to other materials submitted by the CME, KCBT, and NYFE should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 1155 21st Street, NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on December 23, 1996.

Blake Imel,

Acting Director.

[FR Doc. 96–33073 Filed 12–27–96; 8:45 am]

BILLING CODE 6351–01–P

Applications of the New York Cotton Exchange for Designation as a Contract Market in Futures and Options on the U.S. Dollar—South African Rand, Australian Dollar—U.S. Dollar, and New Zealand Dollar—U.S. Dollar Currency Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures and option contracts.

SUMMARY: The New York Cotton Exchange (NYCE or Exchange) has applied for designation as a contract market in futures and options on three currency contracts; the U.S. Dollar—South African Rand, Australian Dollar—U.S. Dollar, and New Zealand Dollar—U.S. Dollar.

The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before January 29, 1997.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW, Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418-5521, or by electronic mail to secretary@cftc.gov. Reference should be made to the NYCE U.S. Dollar—South African Rand, Australian Dollar—U.S. Dollar, and New Zealand Dollar—U.S. Dollar futures and option contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Stephen Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street, Washington, DC, 20581, telephone 202–418–5277, Facsimile number: (202) 418–5527. Electronic mail: ssherrod@cftc.gov

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5100.

Other materials submitted by the NYCE in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 C.F.R. Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 C.F.R. 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 C.F.R. 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the NYCE, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street, NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on December 20, 1996.

Blake Imel,

Acting Director.

[FR Doc. 96–33074 Filed 12–27–96; 8:45 am]

BILLING CODE 6351–01–P

Sunshine Act Meeting

TIME AND DATE: 2:00 p.m., Tuesday, January 21, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C. Lobby Level Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Presentation by the National Futures Association on ongoing projects
Final rules on financial reporting cycle and debt-equity ration requirements
Quarterly Objectives
Update on Commission activities

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–33233 Filed 12–26–96; 11:14 am]

BILLING CODE 6351–01–M

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., Friday, January 24, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule enforcement reviews.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–33234 Filed 12–26–96; 11:14 am]

BILLING CODE 6351–01–M

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Friday, January 24, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–33235 Filed 12–26–96; 11:14 am]

BILLING CODE 6351–01–M

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., Monday, January 27, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–33236 Filed 12–26–96; 11:14 am]

BILLING CODE 6351–01–M

Sunshine Act Meeting

TIME AND DATE: 10:30 a.m., Monday, January 27, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Objectives.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–33237 Filed 12–26–96; 11:14 am]

BILLING CODE 6351–01–M

Sunshine Act Meeting

TIME AND DATE: 2:00 p.m., Monday, January 27, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–33238 Filed 12–26–96; 11:14 am]

BILLING CODE 6351–01–M

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Friday, January 31, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–33239 Filed 12–26–96; 11:14 am]

BILLING CODE 6351–01–M

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Friday, January 3, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–33240 Filed 12–26–96; 8:45 am]

BILLING CODE 6351–01–M

Sunshine Act Meeting

TIME AND DATE: 2:00 p.m., Monday, January 6, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–33241 Filed 12–26–96; 11:14 am]

BILLING CODE 6351–01–M

Sunshine Act Meeting

TIME AND DATE: 11:00 p.m., Friday, January 10, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–33242 Filed 12–26–96; 11:14 am]

BILLING CODE 6351–01–M

Sunshine Act Meeting

TIME AND DATE: 2:00 p.m., Monday, January 13, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–33243 Filed 12–26–96; 11:14 am]

BILLING CODE 6351–01–M

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Friday, January 17, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–33244 Filed 12–26–96; 11:14 am]

BILLING CODE 6351–01–M

CONSUMER PRODUCT COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission, Washington, DC 20207.

TIME AND DATE: Wednesday, January 8, 1997, 10:00 a.m.

LOCATION: Room 420, East West-Towers, 4330 East-West Highway, Bethesda, MD.

STATUS: Open to the public.

MATTER TO BE CONSIDERED:

Batting Helmet Face Guard Petition—HP 95–1 The staff will brief the Commission on Petition HP 95–1 from the American Academy of Facial Plastic and Reconstructive Surgery requesting that the Commission issue a rule to require face guards on children's batting helmets.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East-West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: December 26, 1996.

Sadye E. Dunn,

Secretary.

[FR Doc. 96–33302 Filed 12–26–96; 2:43 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF EDUCATION

President's Advisory Commission on Educational Excellence for Hispanic Americans; Meeting

AGENCY: President's Advisory Commission on Educational Excellence for Hispanic Americans, ED.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the President's Advisory Commission for Educational Excellence for Hispanic Americans (Commission) and describes the functions of the Commission. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend.

DATES AND TIMES: Friday, January 17, 9:00 a.m.—5:45 p.m. (est) and Saturday, January 18, 1997, 9:00 a.m.—4:00 p.m. (est).

ADDRESSES: American Council on Education; One Dupont Circle, NW; Washington, D.C.

FOR MORE INFORMATION CONTACT: Edmundo DeLeon, Special Assistant, White House Initiative on Educational Excellence for Hispanic Americans (Initiative) at 202–401–1411 (telephone), 202–401–8377 (FAX), ed__DeLeon@ed.gov (e-mail) or mail: U.S. Department of Education, 600 Independence Ave. S.W., room 2115; Washington, D.C. 20202–3601.

SUMMARY INFORMATION: The Commission was established under Executive Order 12900 (February 22, 1994) to provide the President and the Secretary of Education with advice on (1) the progress of Hispanic Americans toward achievement of the National Goals and other standards of educational accomplishment; (2) the development, monitoring, and education for Hispanic Americans; (3) ways to increase, State, county, private sector and community involvement in improving education; and (4) ways to expand and complement Federal education initiatives.

As an open meeting to the public, the theme of the two day session is "implementing collaborative community partnerships". These partnerships will be explored by the Commission and the public in terms of recommendations made in the Commission's September 1996 report to the President, Our Nation on the Fault Line: Hispanic American Education, and grouped by key issues: early childhood, K–12, higher education, public policy, foundations and corporations, and public affairs (outreach).

Records are kept of all Commission proceedings and are available for public inspection at the Initiative, room 2115, 600 Independence Ave., S.W., from 9:00 a.m. to 5:00 p.m. (est).

Dated: December 23, 1996.

Edward Augustus,

Acting Assistant Secretary.

[FR Doc. 96–33045 Filed 12–27–96; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Environment, Safety and Health

Environment, Safety and Health: Public Forums To Gather Scientific Data, Information and Views Relevant to a Department of Energy (DOE) Beryllium Standard

AGENCY: Office of Environment, Safety and Health, DOE.

ACTION: Notice of public data gathering Forums and opportunity to submit written comments.

SUMMARY: The Department of Energy (the Department or DOE) will hold two public forums to gather scientific data, information and views that will assist DOE in developing a notice of proposed rulemaking intended to help establish a health standard to protect DOE and DOE contractor employees from occupational exposure to beryllium. The Department urges those individuals or organizations with an interest in this topic to attend and participate in the forums as well as submit to DOE written comments and data on this subject.

DATES: The dates for the public forums are listed below. January 15 and 16, 1997, 9:00 a.m. to 4:30 p.m. each day in Albuquerque, NM; and January 22 and 23,1997, 9:00 a.m. to 4:30 p.m. each day in Oak Ridge, TN.

To ensure that all interested individuals have an opportunity to participate, those who would like to make an oral presentation should call in advance of the forum to schedule a 10-minute block of time. These requests should be submitted to the Department no later than 4:30 p.m., eastern standard time, on January 10, 1997, for the Albuquerque forum and no later than 4:30 p.m., eastern standard time, on January 17, 1997, for the Oak Ridge forum. Written comments and data (5 copies) must be received by the Department on or before February 7, 1997.

ADDRESSES: Requests to speak at the public forums, written comments and scientific data (5 copies of each) should be addressed to Jacqueline D. Rogers, U.S. Department of Energy, Office of Environment, Safety and Health, EH–51, 270CC, 19901 Germantown Road, Germantown, MD 20874–1290; 301–903–5684. The public data gathering forums will be held at the following locations.

Albuquerque, New Mexico:

The Albuquerque Convention Center, West Building, Picuris Room—Lower Level, 401 Second Street, NW., Albuquerque, NM 87185,

Oak Ridge, Tennessee:

The American Museum of Science and Energy, Auditorium, 300 South Tulane Avenue, Oak Ridge, TN 37830.

FOR FURTHER INFORMATION CONTACT: Jacqueline D. Rogers, U.S. Department of Energy, Office of Environment, Safety and Health, EH–51, 270CC, 19901 Germantown Road, Germantown MD 20874–1290, 301–903–5684.

David Weitzman, U.S. Department of Energy, Office of Environment, Safety and Health, EH–51, 270CC, 19901 Germantown Road, Germantown MD 20874–1290, 301–903–5401.

Paul Wambach, U.S. Department of Energy, Office of Environment, Safety and Health, EH–61, 270CC, 19901 Germantown Road, Germantown MD 20874–1290, 301–903–7373.

SUPPLEMENTARY INFORMATION:

1. Background

The Department of Energy is gathering data, views and other relevant information to develop a health standard to control occupational exposure to beryllium at DOE facilities. The Department has a long history of beryllium use because of the element's many nuclear applications. Beryllium metal and ceramics are used in weapons, as reactor moderators or reflectors, and as reactor fuel element cladding. Inhalation of beryllium dust or particles can cause chronic beryllium disease (CBD), which is a granulomatous lung disease caused by a delayed hypersensitivity response to beryllium in the lung.

The current DOE permissible exposure limits (PELs) for beryllium were adopted in 1970 from the Occupational Safety and Health Administration's health standard, 29 CFR 1910.1000, Air Contaminant—Table Z-2. After the PELs were adopted, the industry experienced a significant reduction in the incidence rate of the disease. This led to the belief that CBD was occurring only among workers who had been exposed to high levels of beryllium decades earlier (i.e., in the 1940s). DOE is now discovering cases of CBD among workers who were first exposed in the 1970s and 1980s. DOE has found that some of these cases are occurring among workers who were exposed to levels well below the PEL for beryllium.

Although a small amount of research and production involving beryllium continues, the workers at risk for CBD are primarily those who were exposed prior to cessation of weapons production in 1989. However, as decontamination and decommissioning (D&D) work accelerates, DOE is concerned that more workers will be at risk for beryllium exposure.

DOE has concluded that current beryllium standards may not be adequate to protect workers. Therefore, DOE is gathering data, views and other relevant information to develop a revised standard for occupational exposure to beryllium at DOE facilities.

2. Public Forums and Written Comment Opportunity

DOE is holding the two public forums and inviting written comments in order to gather scientific data, information, and the views of DOE and DOE contractor employees (beryllium workers and their representatives) line managers, industrial hygienists, safety professionals, physicians, health professionals, scientists, and others. DOE is also inviting individuals in academic institutions, general industry, trade associations, and other government agencies who have expertise in the health effects, exposure monitoring, appropriate controls, and medical monitoring for beryllium to participate.

To help focus oral and written comment, DOE includes in this Notice a set of questions covering a variety of beryllium-related topics. Responses to these questions would be extremely helpful. Participants should bring 5 copies of their oral presentation to the forum and submit them at the registration desk. In order to accommodate as many participants as possible, individual oral presentations will be limited to 10 minutes, unless the presiding official determines that a different allocation of time is appropriate.

Questions for Comment

The Department is especially interested in answers supported by evidence and rationale whenever possible, to the following questions.

1. Should an 8-hour time weighted average (TWA) permissible exposure limit (PEL) other than the current 2 ug/m3 be adopted? If so, what level should be established? Please provide evidence for establishing a different PEL.

2. Should a short-term exposure limit (STEL) be established for intermittent exposures? If so, at what level should the STEL be set? Please provide evidence for establishing a STEL.

3. Should an action level be adopted? If so, what should the action level be? What actions should be triggered by this exposure level? Please provide evidence for establishing an action level.

4. Should a policy of maintaining exposures as low as reasonably achievable (ALARA) be adopted? Please provide evidence and rationale for adopting an ALARA policy.

5. If an ALARA policy is adopted, is the personal monitoring needed to measure performance feasible?

6. If a level was recommended in questions 1 through 3, is the recommended level technologically and economically feasible? Please provide evidence for establishing feasibility.

7. Will the introduction of a more stringent beryllium standard in any way reduce the demand for beryllium-containing products? If so, to what extent will (or can) the demand for these products be reduced and what would be the losses to industries that are affected?

8. Please describe the job titles and provide job descriptions for workers exposed to beryllium. Describe the operations that present the potential for beryllium exposure, each worker's location relative to sources of beryllium and the activities that the workers perform during the operation. In particular, if you are involved with decontamination and decommissioning work, please characterize the types of activities in this work where beryllium exposures can occur.

9. Please describe the frequency and duration of activities with potential or actual beryllium exposures. Identify the number of employees potentially exposed (i.e., workers not directly exposed but in an area where beryllium is used or working on tasks where exposures are negligible due to existing controls) as well as those with known exposures.

10. What is the lowest practical limit of detection of the sampling and analytical method for beryllium for both an 8-hour TWA PEL and a STEL?

11. What would be an appropriate monitoring strategy for airborne beryllium? What are the cost implications of different strategies? Would an appropriate strategy seek to demonstrate compliance with an exposure level, or seek to measure typical exposures? Should statistical methods be used to determine the sample size that is large enough to obtain the desired degree of precision in estimating the airborne beryllium exposure?

12. Are there exposure models that predict the incident of beryllium-related death and disease? Please provide references to these models.

13. Is smear sampling accurate enough to be acceptable for evaluation of beryllium contamination on all surfaces? Please provide evidence of smear sampling's efficacy for determining removal efficiencies.

14. Should statistical methods be used to determine the sample size that is large enough to obtain the desired degree of precision in estimating the beryllium contamination for the surface area of concern? Please provide evidence and rationale for statistical methods used to evaluate surface contamination.

15. Should any permissible surface contamination level be considered acceptable for workers who are

beryllium sensitive? If so, what is the acceptable level? Please provide evidence and rationale for acceptable surface contamination level.

16. Are there any indications that establishing ultra-low permissible surface contamination levels would provide any additional protection to workers? Please provide evidence of the health protection benefits and cost of implementing various permissible surface contamination levels, for example, the "stop work level."

17. What standards for contamination control should be applied to beryllium operations? Please provide descriptions of current practices for swipe sampling, levels acceptable in access controlled areas, levels acceptable for facilities and equipment released for uncontrolled use, and work rules for personal hygiene.

18. What engineering and work practice controls are routinely applied for beryllium work? How do the various controls compare with respect to efficiency in reducing exposures? Please support your answer with exposure data and a discussion of the time and cost required for implementation of various controls.

19. Could current beryllium exposures be reduced by the use of additional available engineering controls and work practices? Would such reductions be economically feasible? Please support your answer with a discussion of additional available controls, their efficiency in reducing exposures, and the associated time and cost for implementation.

20. Are there unique conditions in work settings where beryllium is produced or used that make engineering controls infeasible?

21. Are there conditions under which respirators use should be permitted? If so, what are the conditions? What respirator fit testing requirements should be included in the standard and when should such testing be required?

22. To the extent you might be able to forecast possible beryllium control measures, what would be the possible financial impacts of incremental spending for such controls by your facility? How large an effect is incremental spending on beryllium controls likely to have on the costs of products or services that you provide?

23. What examinations and tests should be included in a medical monitoring program aimed at the early detection of chronic beryllium disease? What should the time interval be between periodic medical examinations or tests?

24. What criteria should be used to determine who must be included in a medical monitoring program? Using this criteria, how many current workers at your facility would be included in the medical monitoring program.

25. Do you currently have a medical monitoring program for workers exposed to beryllium? What does this program entail (i.e., identify required tests, examinations, frequencies, costs, criteria for inclusion in the program). How many of your current workers are in the medical monitoring program?

26. Are estimates available of the medical costs associated with beryllium-related disease? Please provide references to these estimates.

27. Regarding current policies for medical removal:

a. What are the current practices and criteria for removing overexposed workers from beryllium jobs?

b. What specific biological indicators or clinical test results are currently used to determine overexposure?

c. For workers who have been removed from jobs because of beryllium overexposure, what alternate types of jobs were they given? Does this assignment have any impact on wages, position classification, etc.? How long does this reassignment usually last?

d. Are reassigned workers ever returned to jobs that include beryllium activities? If so, what are the criteria for returning?

The draft agenda for the forums is as follows:

Draft Agenda

Opening remarks
Presentations by Participants (10 minutes per speaker)
Next Steps—Closing

Issued in Washington, DC, on December 19, 1996.

Tara O'Toole,

Assistant Secretary Environment, Safety and Health.

[FR Doc. 96–33129 Filed 12–27–96; 8:45 am]

BILLING CODE 6450–01–P

Idaho Operations Office; Notice of Solicitation

SUMMARY: The U.S. Department of Energy (DOE) Idaho Operations Office (ID), in accordance with the Financial Assistance regulations in 10 CFR 600, announces competitive Solicitation Number DE–PS07–97ID13507 for DOE's Greenhouse of the Future Program. With this solicitation DOE intends to make a financial assistance award to support the Greenhouse of the Future Program.

AVAILABILITY OF SOLICITATION: Prospective applicants should send a written request for a copy of the solicitation and a DOE application instruction package (which includes standard forms, assurances and certifications) to the U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, MS–1221, Idaho Falls, Idaho 83401–1563, Attn: SOL DE–PS07–97ID13507, Connie Osborne, Contract Specialist (Telephone Number: 208–526–0093). Requests transmitted by facsimile at (208) 526–5548 will be accepted. It is advised that prospective applicants submit their requests in writing no later than January 17, 1997.

SUPPLEMENTARY INFORMATION: The DOE Agriculture Office is interested in promoting new agriculture technologies to reduce energy consumption in an environmentally sound way. The goals of the Greenhouse of the Future Research Program is to: Promote and advance U.S. greenhouse technologies and encourage U.S. universities (targeted at the undergraduate research level) to develop innovative greenhouse technologies.

DOE anticipates awarding one Financial Assistance Grant in accordance with DOE Financial Assistance regulations appearing at Title 10 of the Code of Federal Regulations, Chapter II, Subchapter H, Part 600 if funding is available. Federal funds available for this solicitation are expected to be $20,000 for the 12-month research period. The $20,000 will be used for greenhouse research and travel expenses to the Epcot® Floral and Garden Show. Travel expenses shall not exceed $5000. No fee or profit will be paid to the award recipients. The Catalog of Federal Domestic Assistance Number for this program is 81.104. Applicants must identify a project period which does not exceed 12 months. Applications identifying a project period for 12 months or less will be eligible for funding of $20,000 for the entire project period. The period of performance is anticipated to be 12 months. The successful applicant will be required to submit a final report at the end of the 12 month period to DOE. The objective of this solicitation is to promote the development of environmentally sound, new technologies for greenhouse food and floral production with the objective of conserving energy. To ensure that the competition elicits creative ideas, and not simply prototype fabrication capabilities, the contest will be a design competition, where the university teams submit conceptual ideas of their particular technologies. Interdisciplinary teamwork is strongly encouraged, particularly from the undergraduate level. Proposed projects should consider total systems

integration to include energy conservation, pollution reduction, pest management, and crop productivity.

The statutory authority for this program is Sec 107 of the Energy Reorganization Act of 1974, Public Law 93488, 88 Stat. 1240 (U.S.C. 5817) and Federal Non-Nuclear Energy Research and Development Act of 1974. Public Law 93–577, 88 Stat.1878 (42 U.S.C. 5901 et seq.). A copy of the solicitation may be accessed on DOE–ID's home page using Universal Resource Locator address: http://www.inel.gov/procurement/index.html. The deadline for receipt of applications is 3:00 p.m. MST February 27, 1997.

Procurement Request Number: 07–97ID13507.000.

Dated: December 23, 1996.

R. Jeffrey Hoyles,

Director, Procurement Services Division.

[FR Doc. 96–33195 Filed 12–27–96; 8:45 am]

BILLING CODE 6450–01–P

Secretary of Energy Advisory Board; Notice of Open Meeting.

AGENCY: Department of Energy.

SUMMARY: Consistent with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Secretary of Energy Advisory Board—Electric System Reliability Task Force.

Dates and Times: Thursday, January 16, 1997, 8:30 AM—5:00 PM.

Place: JW Marriott Hotel, Capital Ballroom—Salon E, 1331 Pennsylvania Avenue, NW., Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT: Richard C. Burrow, Secretary of Energy Advisory Board (AB–1), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–1709.

SUPPLEMENTARY INFORMATION:

Background

The electric power industry is in the midst of a complex transition to competition, which will induce many far-reaching changes in the structure of the industry and the institutions which regulate it. This transition raises many reliability issues, as new entities emerge in the power markets and as generation becomes less integrated with transmission.

Purpose of the Task Force

The purpose of the Electric System Reliability Task Force is to provide advice and recommendations to the Secretary of Energy Advisory Board regarding the critical institutional, technical, and policy issues that need to be addressed in order to maintain the reliability of the nation's bulk electric system in the context of a more competitive industry.

Tentative Agenda

8:30—9:15 Opening Remarks
Hazel R. O'Leary, Secretary of Energy
Bob Hanfling, Chairman, Secretary of Energy Advisory Board
Phil Sharp, Chairman, Electric System Reliability Task Force
9:15—9:30 Task Force Member Introductions
9:30—9:45 Break
9:45—10:30 Institutional Reliability Issues
Mike Gent, National Electric, Reliability Council
11:15 Technical Reliability Issues
Karl Stahlkopf, Electric Power, Research Institute
11:15—11:45 State Reliability Perspectives
Duncan Kincheloe, Missouri, Public Utility Commission
11:45—1:00 Lunch
1:00—1:30 Federal Policy Issues
Charles B. Curtis, Deputy Secretary of Energy
1:30—2:00 Public Comment
2:00—4:30 Development of a Task Force Work Plan
4:30 Adjourn

This tentative agenda is subject to change. The final agenda will be available at the meeting.

Public Participation

The Chairman of the Task Force is empowered to conduct the meeting in a fashion that will, in the Chairman's judgment, facilitate the orderly conduct of business. During its meeting in Washington, D.C. the Task Force welcomes public comment. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Task Force will make every effort to hear the views of all interested parties. Written comments may be submitted to David Cheney, Acting Executive Director, Secretary of Energy Advisory Board, AB–1, 1000 Independence Avenue, SW., Washington, DC 20585.

Minutes

Minutes and a transcript of the meeting will be available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 9:00 AM and 4:00 PM, Monday through Friday except Federal holidays.

Issued at Washington, DC, on December 23, 1996.

Gail Cephas,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–33130 Filed 12–27–96; 8:45 am]

BILLING CODE 6450–01–P

Energy Information Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

SUMMARY: The Energy Information Administration (EIA) is soliciting comments concerning the proposed new form EIA–902, "Geothermal Heat Pump Manufacturers Survey."

DATES: Written comments must be submitted on or before February 28, 1997. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below of your intention to do so as soon as possible.

ADDRESSES: Send comments to James Holihan, Office of Coal, Nuclear, Electric, and Alternate Fuels, EI–522, Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585–0650, (202) 426–1147 (telephone number), (202) 426–1308 (fax number), JHolihan@eia.doe.gov (e-mail address).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to James Holihan at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. 93–275) and the Department of Energy Organization Act (Pub. L. 95–91), the Energy Information Administration is obliged to carry out a central, comprehensive, and unified energy data and information program. As part of this program, EIA collects, evaluates, assembles, analyzes, and disseminates data and information related to energy resource reserves, production, demand, and technology, and related economic and statistical information relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs.

The Energy Information Administration, as part of its continuing effort to reduce paperwork and respondent burden (required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13)), conducts a presurvey consultation program to provide the general public and other Federal agencies with an opportunity to comment on proposed and/or continuing reporting forms. This program helps to ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

II. Current Actions

Form EIA–902 will be submitted in 1997 for approval by the Office of Management and Budget for a period not in excess of three years pursuant to Section 3507(d) of the Paperwork Reduction Act of 1980 (Pub. L. 96–511). EIA is providing this opportunity for the public to review and comment on the draft survey form and instructions.

This survey is a new collection. Data that would be collected on Form EIA–902 include the number of geothermal heat pumps shipped by type, regional destinations by type, type of customers, and distributions by market sector.

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in item II. The following guidelines are provided to assist in the preparation of responses.

General Issues

EIA is interested in receiving comments from persons regarding:

A. Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility. Practical utility is the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What enhancements can EIA make to the quality, utility, and clarity of the information to be collected?

As a Potential Respondent

A. Are the instructions and definitions clear and sufficient? If not, which instructions require clarification?

B. Can data be submitted in accordance with the due date specified in the instructions?

C. Public reporting burden for this collection is estimated to average two hours per response. Burden includes the total time, effort, or financial resources expended to generate, maintain, retain, or disclose or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

Please comment on (1) the accuracy of our estimate and (2) how the agency could minimize the burden of the collection of information, including the use of automated collection techniques or other forms of information technology.

D. EIA estimates that respondents to this survey will not incur any reporting costs other than the reporting burden cited above. What is the estimated (1) total dollar amount annualized for capital and start-up costs and (2) recurring annual dollar amount of operation and maintenance and purchase of services costs associated with this data collection? The estimates should take into account the costs associated with generating, maintaining, and disclosing or providing the information.

E. Do you know of any other Federal, State, or local agency that collects similar data? If you do, specify the agency, the data element(s), and the methods of collection.

As a Potential User

A. Can you use data at the levels of detail indicated on the form?

B. For what purpose would you use the data? Be specific.

C. Are there alternate sources of data and do you use them? If so, what are their deficiencies and/or strengths?

D. For the most part, information is published by EIA in U.S. customary units, e.g., cubic feet of natural gas, short tons of coal, and barrels of oil. Would you prefer to see EIA publish more information in metric units, e.g., cubic meters, metric tons, and kilograms? If yes, please specify what information (e.g., coal production, natural gas consumption, and crude oil imports), the metric unit(s) of measurement preferred, and in which EIA publication(s) you would like to see such information.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form. They also will become a matter of public record.

Statutory Authority: Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

Issued in Washington, D.C. December 24, 1996.

Yvonne Bishop,

Director, Office of Statistical Standards, Energy Information Administration.

[FR Doc. 96–33197 Filed 12–27–96; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Research

Energy Research Financial Assistance Program Notice 97–05 Energy Biosciences

AGENCY: Department of Energy (DOE).

ACTION: Notice inviting grant preapplications

SUMMARY: The Office of Basic Energy Sciences of the Office of Energy Research (ER), U.S. Department of Energy (DOE) invites preapplications from potential applicants for research funding in the Energy Biosciences program area. The intent in asking for a preapplication is to save the time and effort of applicants in preparing and submitting a formal project application that may be inappropriate for the program. The preapplication should consist of a two- to three-page concept paper on the research contemplated for an application to the Energy Biosciences program. The concept paper should focus on the scientific objectives and significance of the planned research, and include an outline of the approaches planned, and any other information relating to the planned research. No budget information or biographical data need be included; nor is an institutional endorsement necessary. The preapplication gives us the opportunity to advise potential applicants on the suitability of their research ideas to the mission of the DOE Energy Biosciences program. A response indicating the appropriateness of submitting a formal application will be sent from the Division of Energy Biosciences office in time to allow for an adequate preparation period for a formal application.

DATES: For timely consideration, all preapplications should be received by February 28, 1997. However, earlier

submissions will be gladly accepted. A response to timely preapplications will be communicated by April 18, 1997. The deadline for receipt of formal applications is June 18, 1997.

ADDRESSES: Preapplications referencing Program Notice 97–05 should be forwarded to: U.S. Department of Energy, Office of Basic Energy Sciences, ER–17, Division of Energy Biosciences, 19901 Germantown Road, Germantown, MD 20874–1290, Attn: Program Notice 97–05. Fax submissions are acceptable, Fax Number (301) 903–1003.

FOR FURTHER INFORMATION CONTACT: Ms. Pat Snyder, Division of Energy Biosciences, Office of Basic Energy Sciences, ER–17, 19901 Germantown Road, Germantown, MD 20874–1290, telephone (301) 903–2873; E-mail pat.snyder@oer.doe.gov.

SUPPLEMENTARY INFORMATION: Before preparing a formal application, potential applicants should submit a brief preapplication, which consists of two to three pages of narrative describing research objectives. These will be reviewed relative to the scope and the research needs of the Energy Biosciences program. The Energy Biosciences program has the mission of generating *fundamental* biological information about plants and non-medical related microorganisms that can provide support for future energy related biotechnologies. The objective is to pursue *basic* biochemical, genetic and physiological investigations that may contribute towards providing alternate fuels, petroleum replacement products, energy conservation measures as well as other technologies such as phytoremediation related to DOE programs. Areas of interest include bioenergetic systems, including photosynthesis; control of plant growth and development, including metabolic, genetic, and hormonal and ambient factor regulation, metabolic diversity, ion uptake, transport and accumulation, stress physiology and adaptation; genetic transmission and expression; plant-microbial interactions, plant cell wall structure and function; lignocellulose degradative mechanisms; mechanisms of fermentations, genetics of neglected microorganisms, energetics and membrane phenomena; thermophile (molecular basis of high temperature tolerance); microbial interactions; and one-carbon metabolism, which is the basis of biotransformations such as methanogenesis. The objective is to discern and understand basic mechanisms and principles.

Funds are expected to be available for new grant awards in FY 1998. The magnitude of these funds available and the number of awards which can be made will depend on the budget process. The awards made during FY 1996 averaged close to $100,000 per year, mostly for a three-year duration. The principal purpose in using preapplications at this time is to reduce the expenditure of time and effort of all parties. Information about development and submission of applications, eligibility, limitations, evaluations and selection processes, and other policies and procedures may be found in the 10 CFR Part 605 and the Guide. The Application Guide for the Office of Energy Research Financial Assistance Program for formal submissions and copies of 10 CFR Part 605 are available from U.S. Department of Energy, Office of Basic Energy Sciences, ER–17, Division of Energy Biosciences, 19901 Germantown Road, Germantown, MD 20874–1290. Telephone requests may be made by calling (301) 903-2873. Instructions for preparation of an application are included in the application guide. Electronic access to ER's Financial Assistance Guide is possible via the Internet using the following Web site address: http://www.er.doe.gov/production/grants/grants.html.

The Catalog of Federal Domestic Assistance number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR Part 605.

Issued in Washington, D.C., on December 17, 1996.

John R. Clark,

Associate Director for Resource Management, Office of Energy Research.

[FR Doc. 96–33196 Filed 12–27–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[FERC–592]

Agency Information Collection Under Review by the Office of Management and Budget

December 24, 1996.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of request submitted for review to the Office of Management and Budget.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has submitted the energy information collection listed in this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Any interested person may file comments on the collection of information directly with OMB and should address a copy of those comments to the Commission, as explained below. The Commission did not receive any public comments in response to an earlier **Federal Register** notice of September 18, 1996 (61 FR 49121–49122).

DATES: Comments must be filed on or before January 29, 1997.

ADDRESSES: Address comments to Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Commission Desk Officer, 726 Jackson Place N.W., Washington, D.C. 20503. A copy of the comments should also be sent to Federal Energy Regulatory Commission, Division of Information Services, Attention: Mr. Michael Miller, 888 First Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415 and by e-mail at mmiller@ferc.fed.us.

SUPPLEMENTARY INFORMATION:

Description: The energy information collection submitted to OMB for review contains:

1. Collection of Information: FERC–592, "Marketing Affiliates of Interstate Pipelines".

2. Sponsor: Federal Energy Regulatory Commission.

3. Control No.: 1902–0157. The Commission is now requesting that OMB approve a three year extension of these mandatory collection requirements.

4. Necessity of Collection of Information: Submission of the information is necessary to enable the Commission to carry out its responsibilities in implementing provisions of the Natural Gas Policy Act and the Natural Gas Act (NGA). The Commission monitors the information maintained by interstate natural gas pipeline for transactions of transportation, sales, and storage activities between the pipelines and their marketing affiliates. The information is used to deter undue discrimination by pipeline companies in favor of their marketing affiliates. The information is also used by non-affiliated shippers or others (such as state commissions) to determine whether they have been harmed by affiliate preference and, in some cases, to prepare evidence for formal proceedings following the filing of a complaint. Additionally, pipelines provide 24-hour electronic access of this information to any interested party.

5. Respondent Description: The respondent universe currently comprises approximately 60 interstate natural gas pipelines.

6. Estimated Burden: 3,500 total burden hours, 60 respondents, 60 responses annually, 58.3 hours per response (average).

Statutory Authority: Sections 311, 501 and 504 of the Natural Gas Policy Act (15 U.S.C. 3301–3432) (P.L. 95–621) and Sections 4, 5, 7, 8, 10, 14, 16 and 20 of the Natural Gas Act (NGA). (15 U.S.C. 717–717w).

Lois D. Cashell,

Secretary.

[FR Doc. 96–33111 Filed 12–27–96; 8:45 am]

BILLING CODE 6717–01–M

[FERC–585]

Agency Information Collection Under Review by the Office of Management and Budget

December 24, 1996.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of request submitted for review to the Office of Management and Budget.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has submitted the energy information collection listed in this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Any interested person may file comments on the collection of information directly with OMB and should address a copy of those comments to the Commission, as explained below. The Commission did not receive any public comments in response to an earlier **Federal Register** notice of August 12, 1996 (61 FR 41779–41780).

DATES: Comments must be filed on or before January 29, 1997.

ADDRESSES: Address comments to Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Commission Desk Officer, 726 Jackson Place NW., Washington, DC 20503. A copy of the comments should also be sent to Federal Energy Regulatory Commission, Division of Information Services, Attention: Mr. Michael Miller, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415 and by e-mail at mmiller@ferc.fed.us.

SUPPLEMENTARY INFORMATION:

Description: The energy information collection submitted to OMB for review contains:

1. Collection of Information: FERC–585, "Reporting of Energy Shortages and Contingency Plans under PURPA 206."

2. Sponsor: Federal Energy Regulatory Commission.

3. Control No.: 1902–0138. The Commission is now requesting that OMB approve a three year extension of these mandatory collection requirements.

4. Necessity of Collection of Information: Submission of the information is necessary to enable the Commission to carry out its responsibilities in implementing provisions of Section 206 of the Public Utility Regulatory Policies Act of 1979 (PURPA). Section 206, Continuance of Service, of PURPA, Pub.L. 95–617, 92 Stat. 3117 added to the Federal Power Act (FPA) Section 202, subsection (g) requiring the Commission to establish rules to require each public utility to report to the Commission and appropriate State regulatory authorities: (1) any anticipated shortage of electric energy or capacity which would affect the utility's ability to serve its customers; and (2) submit and periodically revise, contingency plans respecting shortages of electric energy or capacity which would equitably accommodate service to both direct retail customers and those served by utilities supplied at wholesale by the public utility.

The Commission uses the contingency plan information to evaluate and formulate appropriate options for action in the event of an anticipated shortage is reported or materializes. If the contingency plan data is not provided, the statutory provisions of the FPA and PURPA will not have been complied with, and information will not be available to assess whether utilities have planned for shortage conditions and/or developed plans with due consideration for equitable customer treatment, as required by the established statute.

The Commission also uses this information to ensure itself and firm power wholesale customers that both are kept informed about utility contingency plans and anticipated shortages of energy and capacity and to ensure that direct and indirect customers would be treated without undue prejudice or disadvantage during actual shortages.

5. Respondent Description: The respondent universe currently comprises approximately 110 public utilities. In the normal course of a public utility's operations, contingency plans are prepared and usually reviewed and updated periodically. However, the burden on each utility will vary primarily with respect to the number and size of wholesale customers and utility system customers supplied by the reporting utility. The number of respondents is based on the actual number of responses that were received by the Commission over the last three years.

6. Estimated Burden: 511 total burden hours, 7 respondents, 7 responses annually, 73 hours per response. The average annual burden hours is the weighted average of burden hours required for updating contingency plans (50 hours) per response [1]) and for reporting of anticipated shortages (100 hours per response [1]).

Statutory Authority: Sections 206 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601) (P.L. 95–617) and Section 202, of the Federal Power Act (FPA). (16 U.S.C. 824a(g)).

Lois D. Cashell,

Secretary.

[FR Doc. 96–33112 Filed 12–27–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER97–360–000]

American Energy Solutions, Inc.; Notice of Issuance of Order

December 24, 1996.

American Energy Solutions, Inc. (AESI) submitted for filing a rate schedule under which AESI will engage in wholesale electric power and energy transactions as a marketer. AESI also requested waiver of various Commission regulations. In particular, AESI requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by AESI.

On December 5, 1996, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by AESI should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, AESI is authorized to issue securities and assume obligations or

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[1] Rounded off.

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liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of AESI's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is January 6, 1997. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 96–33188 Filed 12–27–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–197–000]

Chandeleur Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

December 23, 1996.

Take notice that on December 18, 1996, Chandeleur Pipe Line Company (Chandeleur) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to become effective June 1, 1997;

Pro Forma Sheet Nos. 18, 19, 19A, 19B, 21, 22, 27, 28, 29, 31, 32, 33, 34, 35, 36, 37, 38, 39, 44, 45, 46, 47, 48, 49, 50, 64A, 65, 66, 67, 68, and 69

Chandeleur states that the pro forma tariff sheets are filed implementing tariff changes purporting to incorporate Gas Industry Standard Board (GISB) natural gas pipeline business procedures and Pro Forma Sheet Nos. 88–100 which were moved due to the above changes.

Chandeleur states that the purpose of this filing is to comply with the Commission's Order No. 587 issued July 17, 1996, in Docket No. RM96–1–000. In Order No. 587, Chandeleur Pipe Line Company is required to file *pro forma* tariff sheets incorporating the GISB standardize procedures for critical business practices—nominations; allocations, balancing, and measurement; invoicing; and capacity release—and standardized mechanism for electronic communication between Chandeleur and its Shippers. Chandeleur has made numerous changes in its tariff to implement by June 1, 1996 for Chandeleur standardize natural gas business procedures and the capability to provide natural gas business transactions via EDI-formatted files (GISB Compliant).

Chandeleur states that it is serving copies of the filing to its customers, State Commissions and interested parties.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before January 8, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–33052 Filed 12–27–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–3–22–000]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

December 23, 1996.

Take notice that on December 3, 1996, CNG Transmission Corporation (CNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets with a proposed effective date of January 1, 1997:

Thirteenth Revised Sheet No. 31
Twenty-Third Revised Sheet No. 32
Twenty-Third Revised Sheet No. 33
Tenth Revised Sheet No. 34
Thirteenth Revised Sheet No. 35
Thirteenth Revised Sheet No. 36

CNG states that the purpose of its filing is to adjust CNG's Account No. 858 rates to update CNG's annual Transportation Cost Rate Adjustment (TCRA) to reflect changes in rates made by upstream pipelines after CNG made its Annual TCRA filing on September 30, 1996 and accepted by letter order dated October 31, 1996. CNG states that it is making this out of cycle filing to reflect rate changes by Tennessee Gas Pipeline Company, as a result of the Commission-approved settlement in Docket No. RP95–112–000, and Texas Eastern Transmission Corporation as a result of its filing in Docket No. RP97–50–000. The annual impact of this filing is a total cost reduction of $3.6 million. The effect of the proposed update to the TCRA on each component of CNG's rates is more fully summarized in the workpapers attached to CNG's filing.

CNG states that copies of its filing are being mailed to CNG's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests were due to be filed in accordance with Section 154.210 of the Commission's Regulations. Any person wishing to become a party must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–33053 Filed 12–27–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–156–000]

Hopkinton LNG Corporation; Notice of Application

December 24, 1996.

Take notice that on December 16, 1996, Hopkinton LNG Corporation (Hopkinton), One Main Street, Cambridge, Massachusetts 02142–9150, filed in Docket No. CP97–156–000, an abbreviated application, pursuant to Section 7(c) of the Natural Gas Act and the Commission's regulations, for a limited jurisdiction certificate of public convenience and necessity, authorizing it to employ and operate in interstate commerce its existing LNG facility located in Hopkinton, Massachusetts, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Hopkinton states that it currently operates its LNG facility for the provision of services to support the local distribution operations of its affiliated local natural gas distribution utility, Commonwealth Gas Company (ComGas). Hopkinton explains that due to federal and state level restructuring activities, Hopkinton anticipates that it may, in the future, have excess capacity in its LNG facilities that is not required by Hopkinton to serve ComGas on a firm basis. Hopkinton says it seeks the

Commission's authorization to lease certain excess capacity in its LNG facility to its affiliated marketing company, COM/Energy Resources, Inc. (Resources). Hopkinton states that Resources will then utilize such leased capacity solely to support its own natural gas marketing activities, and will not provide any LNG storage, liquefaction or vaporization services to third parties. Hopkinton further states that the authorization it requests is in all relevant respects identical to the authorizations which the Commission has granted to United Cities Gas Company in FERC Docket Nos. CP93–507–000 and CP94–753–000.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 7, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a motion to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the Natural Gas and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Hopkinton to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–33186 Filed 12–27–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–152–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

December 24, 1996.

Take notice that on December 13, 1996, Koch Gateway Pipeline Company (Koch Gateway), Post Office Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP97–152–000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct a 2-inch tap and a 2-inch meter station in Hinds County, Mississippi, to serve Tri-State Tile & Brick (Tri-State). Koch Gateway makes such request under its blanket certificate issued in Docket No. CP82-430-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Koch Gateway proposes to install the new delivery point on its existing lateral line in Hinds County, to satisfy Tri-State's request for 1,200 MMBtu of natural gas per day, on an interruptible basis. It is stated that the volumes proposed for delivery to Tri-State will be delivered pursuant to Koch Gateway's blanket transportation certificate authorized in Docket No. CP88–6–000 and under Koch Gateway's ITS Rate Schedule.

The estimated cost of constructing the proposed facilities is $60,000. Koch Gateway indicates that Tri-State will reimburse its construction cost.

Koch Gateway avers that its tariff provides for comprehensive delivery points, as well as comprehensive receipt points, for all ITS shippers. Koch Gateway therefore, states that any qualified shipper on Koch Gateway's system can potentially deliver natural gas to Tri-State. It is further stated that such services will be within the entitlements of their respective transportation agreements and pursuant to Koch Gateway's blanket transportation certificate.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–33185 Filed 12–27–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER97–135–000]

Manner Technologies, L.L.C.; Notice of Issuance of Order

December 24, 1996.

Manner Technologies, L.L.C. (Manner Technologies) submitted for filing a rate schedule under which Manner Technologies will engage in wholesale electric power and energy transactions as a marketer. Manner Technologies also requested waiver of various Commission regulations. In particular, Manner Technologies requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Manner Technologies.

On December 9, 1996, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protect the blanket approval of issuances of securities or assumptions of liability by Manner Technologies should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Manner Technologies is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Manner Technologies'

issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is January 8, 1997. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E. Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 96–33114 Filed 12–27–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–196–000]

Mid Louisiana Gas Company; Notice of Proposed Changes in FERC Gas Tariff

December 23, 1996.

Take Notice that on December 18, 1996, Mid Louisiana Gas Company (Mid Louisiana) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with a proposed effective date of January 20, 1997:

Original Sheet No. 1B
First Revised Sheet No. 188
First Revised Sheet No. 189

Mid Louisiana states that the filing of the Revised Tariff Sheet is in response to Commission Orders 582 and 582–A, in Docket No. RM95–3–000 and RM95–3–001 wherein the Commission revised the filing and reporting requirements for interstate natural gas companies with regard to rate schedules and tariffs.

Pursuant to Section 154.7(a)(7) of the Commission's Regulations, Mid Louisiana respectfully requests waiver of any requirement of the Regulations in order to permit the tendered tariff sheets to become effective January 20, 1997, as submitted.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–33051 Filed 12–27–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–160–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

December 23, 1996.

Take notice that on December 19, 1996, NorAm Gas Transmission Company (NorAm), filed in Docket No. CP97–160–000, an application pursuant to NorAm's authority granted in Docket No. CP82–284–001 and Section 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205, and 157.211) for authorization to construct and operate certain facilities in Arkansas to deliver gas to ARKLA, a distribution division of NorAm Energy Corporation (ARKLA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

NorAm specifically proposes to operate an existing delivery tap on NorAm's Line KM–12 for delivery of natural gas to ARKLA. NorAm states that ARKLA plans to utilize the existing tap as a second feed for its Rural Extension No. 75. It is stated that the tap is located in Section 5, Township 18 South, Range 15 West, Union County, Arkansas.

It is further stated that ARKLA would construct a 2-inch U-Shape meter station at its cost and convey ownership to NorAm and NorAm supervise the installation and operation of the meter station at an estimated cost of $200. NorAm states that the estimated volumes to be delivered through this tap are approximately 850,000 MMBtu annually and 240 MMBtu on a peak day. NorAm further states that ARKLA would reimburse NorAm for the construction costs.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or noticed of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–33046 Filed 12–27–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–396–013]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

December 23, 1996.

Take notice that on December 16, 1996, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume 1, Second Revised Sheet No. 314C, to be effective on December 16, 1996.

Tennessee states that it is filing the subject tariff sheet in compliance with the November 18, 1996 Order on Rehearing of the Commission issued in Docket No. RP95–396–002, et al. Tennessee Gas Pipeline Company, 77 FERC ¶ 61,187 (1996) ("November 18th Order"). Tennessee states that the revised tariff sheet clarifies that parties "bumped" as a result of an intra-day nomination change may renominate to delivery points as well as receipt points.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with 18 CFR Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Copies of this filing are on file with the Commission and available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–33049 Filed 12–27–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–157–000]

Texas Eastern Transmission Corporation; Notice of Request Under Blanket Authorization

December 24, 1996.

Take notice that on December 17, 1996, Texas Eastern Transmission Corporation (TETCO), 5400 Westheimer

Court, Houston, Texas 77056–5310 filed in Docket No. CP97–157–000 a request pursuant to §§ 157.205, and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for approval and permission to construct and install a delivery point for Union Natural Gas Pipeline Company (Union Natural) to enable Union Natural to make deliveries to the City of Magnolia, Texas, under the blanket certificate issued in Docket No. CP82–535–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

TETCO states that it proposes to construct and install a point of delivery on TETCO's Line No. 11 located in Montgomery County, Texas. TETCO indicates that it will deliver up to 800 Dth per day of firm transportation service for Union Natural pursuant to TETCO's Rate Schedule FT–1. TETCO asserts that such service will be performed utilizing existing capacity on TETCO's system and will have no impact on TETCO's peak day or annual deliveries. TETCO submits that its proposal herein will be accomplished without detriment or disadvantage to TETCO's other customers. It is indicated that the total estimated expenses for the delivery point, including an allowance for federal income taxes, are $38,069 for which Union Natural has agreed to reimburse TETCO.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–33187 Filed 12–27–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–211–007]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

December 23, 1996

Take notice on December 18, 1996, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1, which tariff sheets are listed on Attachment A attached to the filing. The proposed effective date for the tariff sheets is January 1, 1997.

Transco states that the purpose of the instant filing is to comply with the Commission's order dated December 3, 1996 in Docket No. RP96–211–005 (the December 3 Order). The December 3 Order directed Transco within 15 days from the date of the Order to (i) refile to eliminate a perceived limitation on capacity releases or file support for the limitation based on operational reasons, (ii) refile to eliminate its proposed TCQ limitations from its tariff or explain fully such provision, and (iii) refile pro forma tariff sheets as actual tariff sheets effective December 1, 1996. The revised tariff sheets comply with the requirement of the December 3 Order, save for the effective date of the tariff sheets.

Transco states that it is serving copies of that instant filing to customers, State Commissions and other interested parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–33050 Filed 12–27–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–5–29–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

December 24, 1996.

Take notice that on December 19, 1996 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, Second Revised Twenty-eighth Revised Sixth Revised Sheet No. 28 and First Revised Thirtieth Revised Sixth Revised Sheet No. 28, with a proposed effective August 1, 1996 and December 1, 1996, respectively.

Transco states that the purpose of the instant filing is to track rate and fuel changes attributable to storage service purchased from Texas Eastern Transmission Corporation (TETCO) under its Rate Schedule X–28 the costs of which are included in the rates and charges payable under Transco's Rate Schedule S–2. This tracking filing is being made pursuant to Section 26 of the General Terms and Conditions of Transco's Volume No. 1 Tariff.

Transco states that included in Appendix B attached to the filing is an explanation of the rate and fuel changes and details regarding the computation of the revised Rate Schedule S–2 rates.

Transco states that copies of the filing are being mailed to each of its S–2 customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–33190 Filed 12–27–96; 8:45 am]

BILLING CODE 6717–01–M

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[Docket No. ER96–2879–000]

US Energy, Inc.; Notice of Issuance of Order

December 24, 1996.

US Energy, Inc. (US Energy) submitted for filing a rate schedule under which US Energy will engage in wholesale electric power and energy transactions as a marketer. US Energy also requested waiver of various Commission regulations. In particular, US Energy requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by US Energy.

On December 11, 1996, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by US Energy should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, US Energy is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of US Energy's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is January 10, 1997. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 96–33113 Filed 12–27–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EG97–10–000, et al.]

CMS Morocco Operating Company SCA, et al.; Electric Rate and Corporate Regulation Filings

December 23, 1996.

Take notice that the following filings have been made with the Commission:

1. CMS Morocco Operating Company SCA

[Docket No. EG97–10–000]

On October 31, 1996, CMS Morocco Operating Company SCA ("Applicant"), with its principal office at c/o CMS Generation Co., Fairlane Plaza South, 330 Town Center Drive, Suite 1000, Dearborn, Michigan 48126, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations. On December 19, 1996, Applicant filed an amendment to this application. In its amendment, Applicant states that it is a company duly incorporated under the laws of Morocco. Applicant also amends the first line of Section IV(3) of its application by deleting the word "directly" because it may create unnecessary ambiguity. All other aspects of its Application remain unchanged. Applicant believes these changes should have no material impact on its application for determination of exempt wholesale generator status.

Applicant will operate two existing 330 MW coal-fired units and operate two additional 348 MW units to be constructed. Electric energy produced by the Facility will be sold at wholesale to the state-owned Office National de l'Electricite. In no event will any electric energy be sold to consumers in the United States.

Comment date: January 13, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. City of Las Cruces, New Mexico

[Docket No. EL97–16–000]

Take notice that on December 13, 1996, the City of Las Cruces, New Mexico tendered for filing a petition for exemption in lieu of filing fee for a petition for a declaratory order.

Comment date: January 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Resale Power Group of Iowa, Inc. v. IES Utilities, Inc.

[Docket No. EL97–17–000]

Take notice that on December 18, 1996, pursuant to Section 306 of the Federal Power Act, 16 U.S.C. 824e, and Rule 206 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 385.206, Resale Power Group of Iowa, Inc.(RPGI), c/o Farmers Electric Cooperative, Inc., 5047 Cosgrove Road S.W., Kalona, Iowa, 52247, filed a complaint against IES Utilities, Inc. (IES Utilities). The complaint requests that the Commission issue an order directing IES Utilities to file a jurisdictional contract with the Commission. The contract at issue is a Joint Transmission Agreement (JTA) which governs IES Utilities' use of certain transmission facilities for which RPGI has provided capital to construct and in which RPGI members hold undivided joint interests. Under the JTA, in return for its use of the transmission facilities, IES Utilities pays RPGI a "transmission use fee" that IES collects in other rates. RPGI asserts that such contract is required to be filed with the Commission pursuant to Section 205(c) of the Federal Power Act.

Comment date: January 31, 1997, in accordance with Standard Paragraph E at the end of this notice. Answers to the complaint shall be due on or before January 31, 1997.

4. Arizona Public Service Company

[Docket Nos. ER96–2999–000, ER97–31–000]

Take notice that on December 17, 1996, Arizona Public Service Company (APS) tendered for filing a request that the Amendment to APS' FERC Electric Coordination Tariff, Original Volume No. 1 (Tariff), filed November 12, 1996, be allowed an effective date of September 6, 1996 in order to coincide with the execution date of the Service Agreement with Edison Source Energy in Docket ER96–2999–000.

A copy of this filing has been served on all parties on the Service List.

Comment date: January 2, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Exact Power Company, Inc.

[Docket No. ER97–382–000]

Take notice that on November 20, 1996, Exact Power Company, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: January 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Central Illinois Light Company

[Docket No. ER97-767-000]

Take notice that on December 11, 1996, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61602, tendered for filing with the Commission a substitute Index of Customers under its Coordination Sales Tariff and service agreements for two new customers.

CILCO requested an effective date of December 9, 1996.

Copies of the filing were served on all affected customers and the Illinois Commerce Commission.

Comment date: January 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. NIPSCO Energy Services, Inc.

[Docket No. ER97-768-000]

Take notice that on December 12, 1996, NIPSCO Energy Services, Inc., tendered for filing an executed Power Sales Enabling Agreement between NIPSCO Energy Services, Inc. and Valero Power Services Company.

Under the Power Sales Enabling Agreement, NIPSCO Energy Services, Inc. may sell power and energy to Valero Power Services Company pursuant to the Power Sales Tariff filed by NIPSCO Energy Services, Inc. in docket No. ER96-1431-000 and allowed to become effective by the Commission on May 29, 1996, as NIPSCO Energy Services, Inc. FERC Rate Schedule 1. Northern Indiana Public Service Company and NIPSCO Energy Services, Inc., 75 FERC ¶61,213 (1996). NIPSCO Energy Services, Inc. and Valero Power Services Company have requested that the Service Agreement be allowed to become effective as of December 15, 1996.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: January 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Southern Company Services, Inc.

[Docket No. ER97-769-000]

Take notice that on December 12, 1996, Southern Company Services, Inc. (SCSI), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (collectively referred to as Southern Companies) filed seven (7) service agreements under Southern Companies' Market-Based Rate Power Sales Tariff (FERC Electric Tariff, Original Volume No. 4) with the following entities: (i) Stand Energy Corporation; (ii) Sonat Power Marketing, L.P.; (iii) Southeastern Power Administration; (iv) Valero Power Services Company; (v) Industrial Energy Applications, Inc.; (vi) Western Power Services, Inc.; and (vii) Enron Power Marketing, Inc. SCSI states that the service agreements will enable Southern Companies to engage in short-term market-based rate transactions with this entity.

Comment date: January 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. UtiliCorp United Inc.

[Docket No. ER97-770-000]

Take notice that on December 12, 1996, UtiliCorp United Inc., tendered for filing on behalf of its operating division, Missouri Public Service, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 10, with PanEnergy Trading and Market Services, L.L.C. The Service Agreement provides for the sale of capacity and energy by Missouri Public Service to PanEnergy Trading and Market Services, L.L.C. pursuant to the tariff, and for the sale of capacity and energy by PanEnergy Trading and Market Services, L.L.C. to Missouri Public Service pursuant to PanEnergy Trading and Market Services, L.L.C.'s Rate Schedule No. 1.

UtiliCorp also has tendered for filing a Certificate of Concurrence by PanEnergy Trading and Market Services, L.L.C.

UtiliCorp requests waiver of the Commission's Regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: January 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. UtiliCorp United Inc.

[Docket No. ER97-771-000]

Take notice that on December 12, 1996, UtiliCorp United Inc., tendered for filing on behalf of its operating division, WestPlains Energy-Colorado, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 11, with PanEnergy Trading and Market Services, L.L.C. The Service Agreement provides for the sale of capacity and energy by WestPlains Energy-Colorado to PanEnergy Trading and Market Services, L.L.C. pursuant to the tariff, and for the sale of capacity and energy by PanEnergy Trading and Market Services, L.L.C. to WestPlains Energy-Colorado pursuant to PanEnergy Trading and Market Services, L.L.C.'s Rate Schedule No. 1.

UtiliCorp also has tendered for filing a Certificate of Concurrence by PanEnergy Trading and Market Services, L.L.C.

UtiliCorp requests waiver of the Commission's Regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: January 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. PacifiCorp

[Docket No. ER97-772-000]

Take notice that on December 12, 1996, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, the August 5, 1996, Long-Term Power Sales Agreement (Agreement) between PacifiCorp and Utah Municipal Power Agency (UMPA).

Copies of this filing were supplied to UMPA, the Public Utility Commission of Oregon, Public Service Commission of Utah, and the Washington Utilities and Transportation Commission.

PacifiCorp requests an effective date of January 1, 1997 to be assigned to the Agreement.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464-6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: January 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Illinois Power Company

[Docket No. ER97-773-000]

Take notice that on December 12, 1996, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois, 62525, tendered for filing a modification to its Power Sales (PS) Tariff, proposing to modify the billing section to provide that when IP obtains transmission service under its own open access tariff for power sales made under the power sales tariff, it will separately state the prices for wholesale generation, transmission services and ancillary services.

Illinois Power has requested an effective date of February 10, 1997.

Comment date: January 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Interstate Power Company

[Docket No. ER97-774-000]

Take notice that on December 12, 1996, Interstate Power Company (IPW), tendered for filing a Transmission Service Agreement between IPW and Dairyland Power Cooperative

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(Dairyland). Under the Transmission Service Agreement, IPW will provide firm point-to-point transmission service to Dairyland.

Comment date: January 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. UtiliCorp United Inc.

[Docket No. ER97–775–000]

Take notice that on December 12, 1996, UtiliCorp United Inc., tendered for filing on behalf of its operating division, WestPlains Energy-Kansas, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 12, with PanEnergy Trading and Market Services, L.L.C. The Service Agreement provides for the sale of capacity and energy by WestPlains Energy-Kansas to PanEnergy Trading and Market Services, L.L.C. pursuant to the tariff, and for the sale of capacity and energy by PanEnergy Trading and Market Services, L.L.C. to WestPlains Energy-Kansas pursuant to PanEnergy Trading and Market Services, L.L.C.'s Rate Schedule No. 1.

UtiliCorp also has tendered for filing a Certificate of Concurrence by PanEnergy Trading and Market Services, L.L.C.

UtiliCorp requests waiver of the Commission's Regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: January 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Cinergy Services, Inc.

[Docket No. ER97–776–000]

Take notice that on December 12, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy and Powertec International, L.L.P.

Cinergy and Powertec International, L.L.P. are requesting an effective date of December 1, 1996.

Comment date: January 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. West Texas Utilities Company

[Docket No. ER97–777–000]

Take notice that on December 12, 1996, West Texas Utilities Company (WTU), submitted for filing the Denison Dam Pooling Agreement, dated December 12, 1996, between Tex-La Electric Cooperative of Texas, Ins. and Rayburn country Electric Cooperative, Inc. and West Texas Utilities Company. Under the Agreement, WTU will dispatch, schedule, receive and backup power and energy from the Southwestern Power Administration's (SWPA's) Denison Dam for the account of Tex-La and Rayburn.

WTU seeks an effective date of December 13, 1996, and, accordingly, seeks waiver of the Commission's notice requirements. WTU served copies of the filing on Tex-La, Rayburn, SWPA and the Public Utility Commission of Texas.

Comment date: January 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. NXIS, LLC

[Docket No. ER97–778–000]

Take notice that on December 12, 1996, NXIS, LLC, a California limited liability company, tendered for filing its FERC Electric Rate Schedule No. 1 to be effective on the earlier of the date of the Commission's order in the proceeding or February 12, 1997, and requested that the Commission grant blanket authorization for NXIS, LLC to make wholesale sales of electric power in interstate commerce at rates to be negotiated with the purchaser, that the Commission waive the cost of service filing requirements of 18 CFR 35.12, and grant such other waivers and authorizations as have been granted to other power marketers.

Comment date: January 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Ohio Valley Electric Corporation

[Docket No. ER97–779–000]

Take notice that on December 12, 1996, Ohio Valley Electric Corporation (OVEC), tendered for filing a Service Agreement dated December 6, 1996, for Non-Firm Point-to-Point Transmission Service (the Service Agreement) between AIG Trading Corporation (AIG) and OVEC. OVEC proposes an effective date of December 6, 1996 and requests waiver of the Commission's notice requirement to allow the requested effective date. The Service Agreement provides for non-firm transmission service by OVEC to AIG.

In its filing, OVEC states that the rates and charges included in the Service Agreement are the rates and charges set forth in OVEC's Order No. 888 compliance filing (Docket No. OA96–190–000).

A copy of this filing was served upon AIG.

Comment date: January 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Delmarva Power & Light Company

[Docket No. ER97–780–000]

Take notice that on December 12, 1996, Delmarva Power & Light Company (Delmarva), tendered for filing a service agreement providing for non-firm point-to-point transmission service from time to time to Tennessee Power Company pursuant to Delmarva's open access transmission tariff. Delmarva asks that the Commission set an effective date for the service agreement of December 10, 1996, the date on which it was executed.

Comment date: January 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Delmarva Power & Light Company

[Docket No. ER97–781–000]

Take notice that on December 12, 1996, Delmarva Power & Light Company (Delmarva), tendered for filing service agreements providing for firm point-to-point transmission service to Duke Louis Dreyfus pursuant to Delmarva's open access transmission tariff.

Delmarva states that a copy of the filing was provided to Duke/Louis Dreyfus.

Comment date: January 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Delmarva Power & Light Company

[Docket No. ER97–782–000]

Take notice that on December 12, 1996, Delmarva Power & Light Company (Delmarva), tendered for filing service agreements providing for firm point-to-point transmission service to the City of Dover pursuant to Delmarva's open access transmission tariff.

Delmarva states that copies of the filing were provided to the City of Dover and its agent, Duke/Louis Dreyfus.

Comment date: January 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Illinois Power Company

[Docket No. ER97–783–000]

Take notice that on December 12, 1996, Illinois Power Company tendered for filing a summary of its activity for the second and third quarters of 1996 under its Market Based Rate Tariff, FERC Electric Tariff, Original Volume No. 7.

Comment date: January 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Maine Electric Power Company

[Docket No. ER97–785–000]

Take notice that on December 13, 1996, Maine Electric Power Company (MEPCO), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement entered into with Morgan Stanley Capital Group Inc. Service will be provided pursuant to

MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO-FERC Electric Tariff, Original Volume No. 1, as supplemented.

Comment date: January 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Central Maine Power Company

[Docket No. ER97–786–000]

Take notice that on December 13, 1996, Central Maine Power Company (CMP), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement entered into with Equitable Power Services Company. Service will be provided pursuant to CMP's Open Access Transmission Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 3, as supplemented.

Comment date: January 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Maine Electric Power Company

[Docket No. ER97–787–000]

Take notice that on December 13, 1996, Maine Electric Power Company (MEPCO), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement entered into with Equitable Power Services Company. Service will be provided pursuant to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented.

Comment date: January 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. H. Peter Burg

[Docket No. ID–2401–001]

Take notice that on November 27, 1996, H. Peter Burg (Applicant) tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions:
Director, President and Chief Operating
Ohio Edison Company
Director
KeyBank National Association, an affiliate of KeyCorp.

Comment date: January 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Carol A. Cartwright

[Docket No. ID–2672–001]

Take notice that on November 27, 1996, Carol A. Cartwright (Applicant) tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions:
Director,
Ohio Edison Company
Director
KeyBank National Association, an affiliate of KeyCorp.

Comment date: January 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Cedar Falls Utilities Light & Power

[Docket No. OA97–71–000]

Take notice that on December 4, 1996, Cedar Falls Utilities Light & Power tendered for filing a request for waiver of separation of functions.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. New England Power Company

[Docket No. OA97–89–000]

Take notice that on December 16, 1996, New England Power Company amended tariff sheets unbundling its FERC Electric Tariffs, Original Volume Nos. 5 and 6, and an unexecuted Service Agreement under its Open Access Tariff, Original Volume No. 9, in compliance with Order 888.

Comment date: January 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. Empire District Electric Company

[Docket No. OA97–93–000]

Take notice that on December 17, 1996, Empire District Electric Company tendered for filing a request for waiver of the Standards of Conduct.

Comment date: January 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

31. The Washington Water Power Company

[Docket No. TX97–3–000]

Take notice that on December 16, 1996, The Washington Water Power Company (WWP) filed with the Federal Energy Regulatory Commission an application requesting that the Commission order Puget Sound Power Company (Puget) as a transmitting utility to provide transmission services pursuant to Section 211 *et seq* of the Federal Power Act. This is the second request of WWP for such service, the first request having been given Docket No. TX97–2–000. WWP has also moved to consolidate the two dockets.

WWP is seeking transmission services from Puget to deliver wholesale electric power to Whatcom County PUD No. 1 for ultimate delivery to Tosco Refining Company (Tosco) in Ferndale, Washington, pursuant to a contract between WWP and Tosco. Puget has declined to provide the service. The service is proposed to commence on November 21, 1996 and terminate at 0000 hours, January 1, 2001, with a total capacity of up to 30 megawatts of firm transmission service.

Comment date: January 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

32. Black Hills Power and Light Company

[Docket No. ER96–2588–000]

Take notice that on December 17, 1996, Black Hills Power and Light Company tendered for filing an amendment in the above-referenced docket.

Comment date: January 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–33184 Filed 12–27–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. ER97–757–000, et al.]

Pennsylvania Power & Light Company, et al.; Electric Rate and Corporate Regulation Filings

December 20, 1996.

Take notice that the following filings have been made with the Commission:

1. Pennsylvania Power & Light Company

[Docket No. ER97–757–000]

Take notice that on December 11, 1996, Pennsylvania Power & Light Company (PP&L), filed a Service Agreement, dated November 4, 1996, with Wisconsin Electric Co. (Wisconsin) for the sale of capacity and/or energy under PP&L's Short Term Capacity and Energy Sales Tariff. The Service

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Agreement adds Wisconsin as an eligible customer under the Tariff.

PP&L requests an effective date of December 11, 1996, for the Service Agreement.

PP&L states that copies of this filing have been supplied to Wisconsin and to the Pennsylvania Public Utility Commission.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Pennsylvania Power & Light Company

[Docket No. ER97–758–000]

Take notice that on December 11, 1996, Pennsylvania Power & Light Company (PP&L), filed a Service Agreement dated September 18, 1996, with Carolina Power & Light Company (Carolina Power) under PP&L's FERC Electric tariff, Original Volume No. 1. The Service Agreement adds Carolina Power as an eligible customer under the Tariff.

PP&L requests an effective date of December 11, 1996, for the Service Agreement.

PP&L states that copies of this filing have been supplied to Carolina Power and to the Pennsylvania Public Utility Commission.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

113. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER97–759–000]

Take notice that on December 11, 1996, GPU Service, Inc. (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (GPU Energy), filed an executed Service Agreement between GPU and IUC Power Services (IUC Pwr Ser), dated November 25, 1996. This Service Agreement specifies that IUC Pwr Ser has agreed to the rates, terms and conditions of GPU Energy's Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995 in Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co., Docket No. ER95-726-000 and allows GPU and IUC Pwr Ser to enter into separately scheduled transactions under which GPU Energy will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than GPU Energy's cost of service.

GPU requests a waiver of the Commission's notice requirements for good cause shown and an effective date of November 25, 1996 for the Service Agreement.

GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. PacifiCorp

[Docket No. ER97–760–000]

Take notice that on December 11, 1996, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, Service Agreements with Portland General Electric Company and Utah Associated Municipal Power Systems under, PacifiCorp's FERC Electric Tariff, Original Volume No. 11.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464-6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. UtiliCorp United Inc.

[Docket No. ER97–761–000]

Take notice that on December 11, 1996, UtiliCorp United Inc. (UtiliCorp) filed service agreements with Tennessee Power Company for service under its non-firm point-to-point open access service tariff for its operating divisions, Missouri Public Service, WestPlains Energy-Kansas and WestPlains Energy-Colorado.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Cinergy Services, Inc.

[Docket No. ER97–762–000]

Take notice that on December 11, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Non-Firm Power Sales Standard Tariff (the Tariff) entered into between Cinergy and Paragould Light & Water Commission.

Cinergy and Paragould Light & Water Commission are requesting an effective date of December 1, 1996.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. NIPSCO Energy Services, Inc.

[Docket No. ER97–763–000]

Take notice that on December 11, 1996, NIPSCO Energy Services, Inc., tendered for filing an executed Power Sales Enabling Agreement between NIPSCO Energy Services, Inc. and Alpena Power Company.

Under the Power Sales Enabling Agreement, NIPSCO Energy Services, Inc. may sell power and energy to Alpena Power Company pursuant to the Power Sales Tariff filed by NIPSCO Energy Services, Inc. in Docket No. ER96–431–000 and allowed to become effective by the Commission on May 29, 1996, as NIPSCO Energy Services, Inc. FERC Rate Schedule 1. Northern Indiana Public Service Company and NIPSCO Energy Services, Inc., 75 FERC ¶ 61,213 (1996). NIPSCO Energy Services, Inc. and Alpena Power Company have requested that the Service Agreement be allowed to become effective as of December 15, 1996.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. NIPSCO Energy Services, Inc.

[Docket No. ER97–764–000]

Take notice that on December 11, 1996, NIPSCO Energy Services, Inc., tendered for filing an executed Power Sales Enabling Agreement between NIPSCO Energy Services, Inc. and The Power Company of America.

Under the Power Sales Enabling Agreement, NIPSCO Energy Services, Inc. may sell power and energy to The Power Company of America pursuant to the Power Sales Tariff filed by NIPSCO Energy Services, Inc. in Docket No. ER96-1431-000 and allowed to become effective by the Commission on May 29, 1996, as NIPSCO Energy Services, Inc. FERC Rate Schedule 1. Northern Indiana Public Service Company and NIPSCO Energy Services, Inc., 75 FERC ¶ 61,213 (1996). NIPSCO Energy Services, Inc. and The Power Company of America have requested that the Service Agreement be allowed to become effective as of December 15, 1996.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Revelation Energy Resources Corp.

[Docket No. ER97-765-000]

Take notice that on December 11, 1996, Revelation Energy Resources Corporation (RER), tendered for filing pursuant to Rule 205 of the Commission's Rules of Practice and Procedure an Application for Blanket Approvals, Waivers and Order Approving Rate Schedule, requesting authorization to engage in electric power and energy transactions as a marketer. RER also requests certain authorizations, waiver of certain regulations, and an order accepting its proposed FERC Electric Rate Schedule No. 1, which provides for the sale of electric energy and/or capacity at negotiated rates.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Central Illinois Light Company

[Docket No. ER97-766-000]

Take notice that on December 11, 1996, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61602, tendered for filing with the Commission a substitute Index of Point-to-Point Transmission Service Customers under its Open Access Transmission Tariff and service agreements for four new customers.

CILCO requested an effective date of December 4, 1996.

Copies of the filing were served on all affected customers and the Illinois Commerce Commission.

Comment date: January 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Hoffmann-La Roche Inc.

[Docket No. QF80-20-001]

On December 16, 1996, Hoffmann-La Roche Inc. tendered for filing a supplement to its filing in this docket.

This supplement pertains to the technical aspects of the facility. No determination has been made that these submittals constitute a complete filing.

Comment date: January 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96-33115 Filed 12-27-96; 8:45 am]

BILLING CODE 6717-01-P

[Project No. 11163-000 Maine/New Hampshire]

Consolidated Hydro Maine, Inc.; Notice of Availability of Environmental Assessment

December 23, 1996.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a new license for the South Berwick Hydroelectric Project, located on the Salmon Falls River in the towns of South Berwick, Maine and Rollinsford, New Hampshire and has prepared a final Environmental Assessment (EA) for the project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the existing project and has concluded that approval of the project, with appropriate environmental protection or enhancement measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 2A, of the Commission's offices at 888 First Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 96-33048 Filed 12-27-96; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 2551-004-MI and 2579-010-IN]

Indiana Michigan Power Company; Notice of Availability of Environmental Assessment

December 23, 1996.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the applications for new license for two existing licensed hydropower projects on the St. Joseph River owned and operated by the Indiana Michigan Power Company: the Buchanan Project, No. 2551, located in Berrien County, Michigan; and the Twin Branch Project, No. 2579, located in St. Joseph County, Indiana. Subsequently, the Commission's staff prepared one Environmental Assessment (EA) that discusses the relicensing of the two projects.

In the EA, staff evaluates the potential environmental impacts that would result from the continued operation of the projects. Staff concludes that relicensing the projects with appropriate enhancement measures would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference and Files Maintenance Branch, Room 2A, of the Commission's offices at 888 First Street NE., Washington, DC 20426.

For further information, please contact Jim Haimes Environmental Coordinator, at (202) 219-2780.

Lois D. Cashell,

Secretary.

[FR Doc. 96-33047 Filed 12-27-96; 8:45 am]

BILLING CODE 6717-01-M

Notice of Minor New License

December 24, 1996.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Minor New License.

b. Project No.: 2032-001.

c. Dated filed: September 25, 1996.

d. Applicant: Lower Valley Power & Light, Inc.

e. Name of Project: Strawberry.

f. Location: On the Strawberry Creek, in Lincoln County, Wyoming.

g. Filed Pursuant to: Federal Power Act, 16 USC 791(a)-825(r).

h. Applicant Contact: Mr. Winston G. Allred, Lower Valley Power & Light, Inc., 345 North Washington Street, P.O. Box 188, Ofton, WY 83110, (307) 886-3175.

i. FERC Contact: Héctor M. Pérez, (202) 219-2843.

j. Deadline for filing interventions and protests: March 4, 1997.

k. Status of Environmental Analysis: This application is not ready for environmental analysis at this time—see attached paragraph E.

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l. Brief Description of Project: The project consists of: (1) A 22-foot-high, 110-foot-long reinforced concrete gravity dam with a 24-foot-long right abutment, a 40-foot-long overflow spillway with a crest elevation of 7,020 feet NGVD, a 16-foot-long intake sluice section, and a 30-foot-long left abutment; (2) a reservoir with a surface area of 2.8 acres at normal pool elevation of 7,021 feet; (3) an 11,300-foot-long, 36-inch-diameter steel penstock; (4) a powerhouse with three turbine-generator units with a total installed capacity of 1,500 kilowatts; (5) a substation; and (6) other appurtenances.

m. This notice also consists of the following standard paragraph: B1, and E.

B1. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

E. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will notify all persons on the service list and affected resource agencies and Indian tribes. If any person wishes to be placed on the service list, a motion to intervene must be filed by the specified deadline date herein for such motions. All resource agencies and Indian tribes that have official responsibilities that may be affected by the issues addressed in this proceeding, and persons on the service list will be able to file comments, terms and conditions, and prescriptions within 60 days of the date the Commission issues a notification letter that the application is ready for an environmental analysis. All reply comments must be filed with the Commission within 105 days from the date of that letter.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Lois D. Cashell,

Secretary.

[FR Doc. 96–33189 Filed 12–27–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5672–2]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Lead-based Paint Abatement and Repair Maintenance Study in Baltimore

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Lead-Based Paint Abatement and Repair Maintenance Study in Baltimore (EPA ICR No. 1603.03, OMB Control No. 2070–0123). The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 29, 1997.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1603.03.

SUPPLEMENTARY INFORMATION:

Title: Lead-Based Paint Abatement and Repair Maintenance Study in Baltimore (EPA ICR No.1603.03, OMB Control No. 2070–0123) expiring 1/31/97. This is a request for an extension of a currently approved collection.

Abstract: The EPA is sponsoring a study of private households in Baltimore, Maryland to investigate lead-based paint abatement practices. Low-cost practical repair and maintenance approaches to the problem of lead-based paint and lead-contaminated dust in U.S. Housing will also be examined.

From each study household EPA is periodically collecting both environmental and biological samples as well as questionnaire data over a three-year period. EPA is collecting samples of interior surface dust, exterior soil, and drinking water from study dwellings for lead analysis, as well as collecting blood for lead analysis from children living in such dwellings. A structured questionnaire is being used to collect relevant data on occupational, behavioral, and housing characteristics that can influence lead exposure.

EPA will use this study to evaluate low-cost lead abatement strategies. The study findings will be used by the Department of Housing and Urban Development (HUD) in preparing a report to Congress. The Centers for Disease Control (CDC) will use the study findings to provide guidance to state and local childhood lead poisoning prevention programs. The final report may be used directly by state and local agencies, private property owners, and managers of public and Indian housing to decide on cost-effective methods of addressing lead poisoning and lead abatement concerns.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on September 12, 1996 (FR 48152); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 6.5 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and

requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Households.

Estimated Number of Respondents: 105.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 683 hours.

Estimated Total Annualized Cost Burden: $20,941.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No.1603.03 and OMB Control No. 2070–0123 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA 725 17th Street, NW, Washington, DC 20503.

Dated: December 24, 1996.

Stephen T. Vineski,

Acting Director, Regulatory Information Division.

[FR Doc. 96–33139 Filed 12–27–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5672–1]

Science Advisory Board; Notification of Public Advisory Committee Meetings; January 1997

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that several committees of the Science Advisory Board (SAB) will meet on the dates and times described below. All times noted are Eastern Time. All meetings are open to the public, however, seating is limited and available on a first come basis. Documents that are the subject of SAB reviews are normally available from the originating EPA office and are *not* available from the SAB Office. Public drafts of SAB reports are available to the Agency and the public from the SAB office. Details on availability are noted below.

1. Executive Committee (EC)

The Science Advisory Board's (SAB's) Executive Committee (EC) will conduct a public meeting on Wednesday and Thursday, January 15–16, 1997. The meeting will convene at 8:30 am in the Administrator's Conference Room 1103—West Tower of the U.S. Environmental Protection Agency Headquarters Building at 401 M Street SW, Washington, DC 20460, and adjourn no later than 5:30 pm each day.

At this meeting, the Executive Committee will receive updates from its committees and subcommittees concerning their recent and planned activities. As part of these updates, some committees will present draft reports for Executive Committee review and approval. Expected drafts include: (a) Disinfection Byproducts Research Plan Review Report (Drinking Water Committee); and (b) Marsh Management Report (Ecological Processes and Effects Committee)

The Post-Report Activities Subcommittee, appointed by the Chair following the last meeting, will present recommendations to guide SAB members' behavior as it relates to discussing SAB reports once they have been transmitted to the Administrator.

Other items currently on the agenda include the following:

(a) Discussions with Agency officials: (1) Ms. Jeanie Nelson, Counsel to the Administrator, *subject:* Impact of the SAB's Beyond the Horizon Report on EPA programs; and (2) Dr. Penny Fenner-Crisp, *subject:* Activities of the Food Quality Protection Act Advisory Committee, and Activities of the Advisory Committee on Endocrine Disruptors.

(b) A Consultation on the assessment of Peer Review at EPA.

(c) On Wednesday afternoon, a subset of the Executive Committee will function as a "Lookout Panel" by meeting with leaders of the Agency's Office of Pesticides Program to consider different 20-year scenarios of the future.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning the meeting or who wishes to submit comments should contact Dr. Donald G. Barnes, Designated Federal Official for the Executive Committee, Science Advisory Board (1400), U.S. EPA, Washington, DC 20460, phone (202)–260–4126; fax (202)–260–9232; or via Email at: BARNES.DON@EPAMAIL.EPA.GOV. Copies of the draft meeting agenda and available draft reports listed above can be obtained from Ms. Priscilla Tillery-Gadson at the above phone and fax numbers or via the Internet at: TILLERY.PRISCILLA@EPAMAIL.EPA.GOV.

2. Integrated Risk Project: Risk Reduction Options Subcommittee (RROS)

The Risk Reduction Options Subcommittee (RROS) of the Science Advisory Board's (SAB) Integrated Risk Project (IRP) will meet Thursday and Friday, January 16–17, 1997. Through the courtesy of the School of Public Policy the meeting will be held in Press Room A (conference room) and Skyboxes 21, 22 and 23 (breakout rooms) in the Bill Moore Student Success Center, Georgia Institute of Technology, Atlanta GA. The meeting will begin at 8:30 am Thursday and end by 5:00 pm Friday.

The Student Success Center is located between the stadium and Tech Tower just north of North Avenue, off the main entrance to Georgia Tech. To reach the Success Center from North Avenue, go up the stairs immediately before the pedestrian overpass on North Avenue. To reach the Student Success Center from MARTA (the subway), get off at the North Avenue stop, and walk west on North Avenue until you reach the pedestrian overpass (just before the main entrance to Tech), go up the stairs. The Student Success Center is the first building on the right after crossing the lawn at the top of the stairs. It is attached to the stadium, to the west of the Wardlaw Center.

PURPOSE OF THE MEETING: The main purpose of the meeting is to discuss and test a draft methodology for developing risk reduction options for environmental problems. The Subcommittee's activities are part of an SAB project to update the 1990 SAB report, Reducing Risk: Setting Priorities and Strategies for Environmental Protection. In a letter dated October 25, 1995, to Dr. Matanoski, Chair of the SAB Executive Committee, Deputy Administrator Fred Hansen charged the SAB to: (a) Develop an updated ranking of the relative risk of different environmental problems based upon explicit scientific criteria; (b) provide an assessment of techniques and criteria that could be used to discriminate among emerging environmental risks and identify those that merit serious, near-term Agency attention; (c) assess the potential for risk reduction and propose alternative technical risk reduction strategies for the environmental problems identified; and (d) identify the uncertainties and data quality issues associated with the relative rankings. The project is being conducted by several SAB panels, including RROS, working at the direction of an ad hoc Steering

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Committee established by the Executive Committee.

FURTHER INFORMATION: An agenda and a roster can be obtained from the Subcommittee Secretary, Mrs. Dorothy Clark, tel. (202) 260–8414, fax (202) 260–7118, or Email CLARK.DOROTHY@EPAMAIL.EPA.GOV. Members of the public desiring additional information about the meeting should contact Mrs. Kathleen Conway, Designated Federal Official, Risk Reduction Options Subcommittee, Science Advisory Board (1400), U.S. EPA, 401 M Street, SW, Washington, DC 20460; telephone/voice mail at (202) 260–2558; fax at (202) 260–7118; or via Email at CONWAY.KATHLEEN@EPAMAIL.EPA.GOV.

Members of the public who wish to make a brief oral presentation to the Committee must contact Mrs. Conway in writing (by letter or by fax—see previously stated information) no later than 12 noon Eastern Time, Wednesday, January 8, 1997 in order to be included on the Agenda. Public comments will be limited to five minutes per speaker or organization. The request should identify the name of the individual who will make the presentation, the organization (if any) they will represent, any requirements for audio visual equipment (e.g., overhead projector, 35mm projector, chalkboard, etc), and at least 35 copies of an outline of the issues to be addressed or the presentation itself.

3. Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM) Review Subcommittee (MARSSIMRS) of the Radiation Advisory Committee (RAC)

The Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM) Review Subcommittee (MARSSIMRS) of the Science Advisory Board's (SAB's) Radiation Advisory Committee (RAC), will review the technical basis of the draft Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM), dated December 1996 in a public meeting on Wednesday, January 22 and Thursday, January 23, 1997. The meeting will begin at 9:00 am on Wednesday, January 22, 1997 and end no later than 5:00 pm Thursday, January 23, 1996. On the morning of the first and second day of the meeting, Wednesday, January 22, 1997 and Thursday, January 23, 1997, the MARSSIMRS will meet in South Conference Room No. 4 from 9:00 am. to 12:00 noon at the U.S. Environmental Protection Agency Headquarters Building, 401 M Street, SW, Washington, D.C. 20460. On the afternoon of each day January 22 and 23, 1996, from 1:00 pm to 5:00 pm, the MARSSIMRS Workgroups will meet in "break-out" sessions for each of three MARSSIMRS workgroups in South Conference Room Numbers 8, 10, and 12, and may also utilize the Science Advisory Board Conference Room 2103 in Waterside Mall, depending on space needs at that time. Workgroup No. 1 will deal with Integration Issues, Workgroup No. 2 will deal with Monitoring, and Workgroup No. 3 will deal with Statistics. The Subcommittee previously met on July 31 and August 1, 1996 (See **Federal Register** Vol. 61, No. 123, Tuesday, June 25, 1996, pages 32796–32798) to plan for the upcoming review.

The charge to the Subcommittee is as follows: (a) Is the overall approach to the planning, data acquisition, data assessment, and data interpretation as described in the MARSSIM technically acceptable? (b) Are the methods and assumptions for demonstrating compliance with a dose- or risk-based regulation technically acceptable?

Are the hypothesis and statistical tests and their method of application appropriate?

The draft document being reviewed by the MARSSIMRS at this meeting is the draft MARSSIM Manual, dated December 1996. Copies of this draft document are available from the originating EPA office (see below) and are *not* available from the SAB Office. The EPA document number is EPA 402–R–96–018. A limited supply of single copies of this document will be available at no cost at the meeting on January 22 and 23, 1997. This document will also be available via the INTERNET at http://www.epa.gov/ radiation/ cleanup around mid-December. This EPA document will also be available from the National Technical Information Service (NTIS) in this same time-frame (mid-December) for a fee. The NTIS document number is NTIS–PB97–117659. The NTIS sales desk is open between 8:30 am and 5:00 pm Eastern Time, Monday through Friday at (703) 487–4650. For the hearing impaired, call (703) 487–4639. For RUSH service (which entails an additional fee), call 1–800–NTIS. Fax orders can be sent to (703) 321–8547. To order by mail, send orders to: NTIS, 5285 Port Royal Road, Springfield, VA 22161. The background documents that support this review, as well as the draft MARSSIM, dated December 1996 (EPA draft document number EPA 402–R–96–018; also referred to as NUREG–1575)) will be available in the Agency's Air and Radiation Docket around mid-December. Please address written inquiries as follows: USEPA, Attn: Air and Radiation Docket, Mail Stop 6102, Air Docket No. A–96–44, Room M1500, First Floor, Waterside Mall, 401 M Street, SW, Washington, DC 20460. The docket may be inspected from 8:00 am to 4:00 pm, Monday through Friday, excluding Federal holidays, in Room M1500. A reasonable fee may be charged for copies of docket materials. Inquiries regarding access to the public information docket should be directed to Mr. Mark Doehnert, ORIA Staff at (202) 233–9386. To discuss technical aspects of the draft document or any supporting or background information, please contact Mr. Doehnert, Radiation Protection Division (6603J), Office of Radiation and Indoor Air (ORIA), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, tel. (202) 233–9386; FAX (202) 233–9650; Email at DOEHNERT.MARK@EPAMAIL.EPA.GOV.

Members of the public who wish to make a brief oral presentation at this meeting must contact Mrs. Diana L. Pozun in writing (via fax or letter), Staff Secretary, in writing via fax (202) 260–7118 or Email POZUN.DIANA@EPAMAIL.EPA.GOV) no later than noon, Eastern Time on Wednesday, January 15, 1997, in order to have time reserved on the agenda. For a copy of the proposed agenda, please contact Ms. Pozun at the numbers given above. For questions regarding technical issues to be discussed, please contact Dr. K. Jack Kooyoomjian, Designated Federal Official, Science Advisory Board (1400), US EPA, 401 M Street, SW, Washington DC 20460, by telephone at (202) 260–2560, fax at (202) 260–7118, or via the Email at: KOOYOOMJIAN.JACK@EPAMAIL.EPA.GOV.

4. Radiation Advisory Committee (RAC)

The Radiation Advisory Committee (RAC) of the Science Advisory Board (SAB) will conduct a planning, coordination and review meeting on Friday, January 24, 1997 from 9:00 a.m. and ending no later than 3:00 p.m. that day. The RAC last met on July 31 & August 1, 1996 (See **Federal Register** Vol. 61, No. 123, Tuesday, June 25, 1996, pages 32796–32798). The meeting will take place at the Washington Information Center Conference Room No. 17. If additional space is needed, the RAC may also utilize the Science Advisory Board Conference Room 2103 at the U.S. Environmental Protection Agency Headquarters Building, 401 M Street, SW, Washington, D.C. 20460. Additional space needs will be

determined at the time of the meeting. Expected topics include the following: an update on the recently initiated MARSSIM review; discussions on the Office of Radiation and Indoor Air (ORIA) efforts to revise the NORM (Naturally-Occurring Radioactive Material) Draft Scoping Document; an update on the status of the Biological Effects of Ionizing Radiation (BEIR) VI study and the scoping study for BEIR VII, a briefing on the conclusions of the National Academy of Science review of the risk of Electro-Magnetic Fields (EMF), and continued discussion on ORIA's radon activities. Other topics will be reviewed as time permits.

To discuss technical aspects of the ORIA projects, or any supporting or background information, please contact Mr. Brian Littleton, (6601J), Office of Radiation and Indoor Air (ORIA), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, tel. (202) 233–9216; fax (202) 233–9651; or Email: LITTLETON.BRIAN-@EPAMAIL.EPA.GOV.

Members of the public who wish to make a brief oral presentation at this meeting must contact Mrs. Diana L. Pozun, Staff Secretary, in writing (via fax or letter) fax (202) 260–7118 or Email POZUN.DIANA@EPAMAIL.EPA.GOV) no later than noon eastern time Wednesday, January 15, 1997, in order to have time reserved on the agenda. For a copy of the proposed agenda, please contact Ms. Pozun at the numbers given above. For questions regarding technical issues to be discussed, please contact Dr. K. Jack Kooyoomjian, Designated Federal Official, Science Advisory Board (1400), US EPA, 401 M Street, SW, Washington DC 20460, tel. (202) 260–2560, fax (202) 260–7118, or via Email at: KOOYOOMJI-AN.JACK@EPAMAIL.EPA.GOV.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, for meetings, opportunities for oral comment will usually be limited to no more than five minutes per speaker and no more than thirty minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date (usually one week before the meeting), may be mailed to the relevant SAB committee or subcommittee; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Information concerning the Science Advisory Board, its structure, function, and composition, may be found in The FY1996 Annual Report of the Staff Director which is available from the SAB Committee Evaluation and Support Staff (CESS) by contacting US EPA, Science Advisory Board (1400), Attention: CESS, 401 M Street, SW, Washington, DC 20460 or via fax (202) 260–1889. Additional information concerning the SAB can be found on the SAB Home Page at: HTTP://WWW.EPA/SCIENCE1/.

Dated: December 23, 1996.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 96–33141 Filed 12–27–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5671–9]

Release of Volume 1, Framework for Risk-Management Decision-Making—January 29, 1997—Risk Assessment and Risk Management

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Commission on Risk Assessment and Risk Management, established as an Advisory Committee under Section 303 of the Clean Air Act Amendments of 1990, will release Volume 1, *Framework for Risk-Management Decision-Making*, of its two volume final report on January 29. It is anticipated that Volume 2 will be released at the end of February. A public meeting will be held on January 29, 1997; however, the exact location and time has yet to be determined. Another **Federal Register** notice will be issued with that information. If you are interested in participating and miss the time and location notification in the second **Federal Register**, please fax a note to 202–233–9540 with your name and fax number so we can fax you the information directly.

If you are unable to attend, but wish to receive a copy of the final report, either fax your request to 202–233–9540, mail your request to the Commission on Risk Assessment and Risk Management, 529 14th Street NW, Room 452, Washington, DC 20045, or obtain via the internet at http://www.riskworld.com. Be sure to indicate your complete mailing address and a phone number where you can be reached. *If you have already requested a copy of the draft report, it is not necessary to send another request.* Everyone who requested a draft report will be sent Volume 1 immediately following the public meeting and Volume 2 when it becomes available.

If you need additional information, please call 202–233–9537. The report will not be available prior to January 29, 1997.

Dated: December 19, 1996.

Gail Charnley,

Executive Director, Commission on Risk Assessment and Risk Management.

[FR Doc. 96–33140 Filed 12–27–96; 8:45 am]

BILLING CODE 6560–50–M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

President's Committee of Advisors on Science and Technology; Meeting

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for a meeting of the President's Committee of Advisors on Science and Technology (PCAST), and describes the functions of the Committee. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES AND PLACE: January 15, 1997. NASA Headquarters, Program Review Center (PRC), Ninth Floor, Room 9H40, 300 E. Street, S.W., Washington, D.C. 20546–0001.

TYPE OF MEETING: Open.

PROPOSED SCHEDULE AND AGENDA: The PCAST will meet in an open session during the morning of Wednesday, January 15, 1997, beginning at approximately 9:30 a.m. The meeting will focus on concluding the 1996 PCAST panel activities as well as on current activities of the Office of Science and Technology Policy (OSTP) and the National Science and Technology Council (NSTC). This session will end at approximately 12:00 Noon.

The morning session may be interrupted for the PCAST to gather at the White House to be introduced to the President and/or Vice President of the United States.

FOR FURTHER INFORMATION: For information regarding time, place, and agenda, please call Jeanie Hall at (202) 456–6100 prior to 3:00 p.m. on Friday, January 10, 1997. Other questions may be directed to Angela Phillips Diaz, Executive Secretary for PCAST, or Andrea Razzaghi, Acting Policy Analyst for PCAST, at (202) 456–6100. Please note that public seating for this meeting

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is limited, and is available on a first-come, first-served basis.

SUPPLEMENTARY INFORMATION: The President's Committee of Advisors on Science and Technology was established on November 23, 1993, by Executive Order 12882, as amended, and continued through September 30, 1997, by Executive Order 12974. The purpose of PCAST is to advise the President on matters of national importance that have significant science and technology content, and to assist the President's National Science and Technology Council in securing private sector participation in its activities. The Committee members are distinguished individuals appointed by the President from non-Federal sectors. The PCAST is co-chaired by John H. Gibbons, Assistant to the President for Science and Technology, and by John Young, former President and CEO of Hewlett-Packard Company.

Dated: December 20, 1996.

Barbara Ann Ferguson,

Assistant Director for Budget and Administration Office of Science and Technology Policy.

[FR Doc. 96–33043 Filed 12–24–96; 10:36 am]

BILLING CODE 3170–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 201–200063–15

Title: NYSA–ILA Tonnage Assessment Agreement

Parties: New York Shipping Association International Longshoremen Association

Synopsis: The proposed amendment reduces certain tonnage assessment rates in the Port of New York and New Jersey.

By order of the Federal Maritime Commission.

Dated: December 23, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–33071 Filed 12–27–96; 8:45 am]

BILLING CODE 6730–01–M

Request for Additional Information

Agreement No.: 202–007540–069

Title: United States Atlantic and Gulf/Southeastern Caribbean Agreement

Parties:

Crowley American Transport, Inc.
NPR, Inc., d/b/a/ Navieras
Sea-Land Service Inc.
Caribbean General Maritime, Ltd.
King Ocean Service
Seaboard Marine, Ltd.
Tecmarine Lines, Inc.
Tropical Shipping and Construction Co., Ltd.

Synopsis: Notice is hereby given that the Federal Maritime Commission pursuant to section 6(d) of the Shipping Act of 1984, 46 U.S.C. app. § 1705, has requested additional information from the parties to the Agreement in order to complete the statutory review of Agreement No. 202–007540–069 as required by the 1984 Act. This action extends the review period as provided in section 6(c) the Act.

By order of the Federal Maritime Commission

Dated: December 23, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–33070 Filed 12–27–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number. Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the OMB 83-I and supporting statement and the approved collection of information instrument will be placed into OMB's public docket files. The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collections of information are necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collections, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before February 28, 1997.

ADDRESSES: Comments, which should refer to the OMB control number or agency form number, should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M-P-500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Alexander T. Hunt, Office of Information and Regulatory Affairs,

Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Robert T. Maahs, Supervisory Financial Analyst (202-872-4935) or Tina Robertson, Supervisory Financial Analyst (202-452-2949). A copy of the proposed form, the Paperwork Reduction Act Submission (OMB 83-I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.Mary M. McLaughlin, Chief, Financial Reports Section (202-452-3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Dorothea Thompson (202-452-3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

GENERAL INFORMATION

Under the Bank Holding Company Act of 1956, as amended, the Board is responsible for the supervision and regulation of all bank holding companies. The FR Y-9 and FR Y-11 series of reports historically have been, and continue to be, the primary source of financial information on bank holding companies and their nonbanking activities between on-site inspections. Financial information, as well as ratios developed from these reports, are used to detect emerging financial problems, to review performance for pre-inspection analysis, to evaluate bank holding company mergers and acquisitions, and to analyze a holding company's overall financial condition and performance as part of the Federal Reserve System's overall supervisory responsibilities.

Proposal to approve under OMB delegated authority the revision of the following reports:

1. Report title: Consolidated Financial Statements for Bank Holding Companies
Agency form number: FR Y-9C
OMB control number: 7100-0128
Frequency: Quarterly
Reporters: Bank holding companies
Annual reporting hours: 188,682
Estimated average hours per response: Range from 5 to 1,250 hours
Number of respondents: 1,389
Small businesses are affected.

General description of report: The information collection is mandatory 12 U.S.C. 1844(b) and (c) and 12 CFR 225.5(b). Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form.

Data reported on the FR Y-9C, Schedule HC-H, Column A, requiring information on "assets past due 30 through 89 days and still accruing" and memoranda item 2 are confidential pursuant to Section (b)(8) of the Freedom of Information Act 5 U.S.C. 552(b)(8).

The FR Y-9C consolidated financial statements are currently filed by top-tier bank holding companies with total consolidated assets of $150 million or more and by lower-tier bank holding companies that have total consolidated assets of $1 billion or more. In addition, all multibank bank holding companies with debt outstanding to the general public or engaged in certain nonbank activities, regardless of size, must file the FR Y-9C. The following bank holding companies are exempt from filing the FR Y-9C, unless the Board specifically requires an exempt company to file the report: bank holding companies that are subsidiaries of another bank holding company and have total consolidated assets of less than $1 billion; bank holding companies that have been granted a hardship exemption by the Board under section 4(d) of the Bank Holding Company Act; and foreign banking organizations as defined by section 211.23(b) of Regulation K.

The report includes a balance sheet, income statement, and statement of changes in equity capital with supporting schedules providing information on securities, loans, risk-based capital, deposits, average balances, off-balance sheet activities, past due loans, and loan charge-offs and recoveries.

The Federal Reserve proposes revisions to the FR Y-9C that would be effective with the March 31, 1997, reporting date. Most of the proposed new items are needed to maintain consistency with comparable items recently proposed or previously added to the commercial bank Reports of Condition and Income (Call Report). The proposed revisions to the FR Y-9C consist of combining or eliminating several line items, revising the reporting for assets sold with recourse, implementing Financial Accounting Standards Board Statement Number 125, Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities, for reporting transfers and servicing of financial assets, and adding the reporting of credit derivative instruments. The result of these revisions would be a net reduction of fifteen reporting items on the FR Y-9C. The proposed revisions do not include Call Report changes that were proposed by the Federal Financial Institutions Examination Council to improve the monitoring of interest rate risk exposures.

The Federal Reserve is attempting to minimize reporting burden by making appropriate reporting revisions in a manner consistent with the Call Report and effective with the same reporting period. In addition, revisions and clarifications to existing instructions would be incorporated into this report.

2. Report title: Parent Company Only Financial Statements for Large Bank Holding Companies
Agency form number: FR Y-9LP
OMB control number: 7100-0128
Frequency: Quarterly
Reporters: Bank holding companies
Annual reporting hours: 30,819
Estimated average hours per response: Range from 2.0 to 13.5 hours
Number of respondents: 1,716
Small businesses are affected.

General description of report: The information collection is mandatory 12 U.S.C. 1844(b) and (c) and 12 CFR 225.5(b). Confidential treatment is not routinely given to the information in these reports. However, confidential treatment for the report information, in whole or in part, can be requested in accordance with the instructions to the form.

The FR Y-9LP includes standardized financial statements filed quarterly on a parent company only basis from each bank holding company that files the FR Y-9C. In addition, for tiered bank holding companies, a separate FR Y-9LP must be filed for each lower tier bank holding company if the top tier bank holding company files the FR Y-9C. The following bank holding companies are exempt from filing the FR Y-9LP, unless the Board specifically requires an exempt company to file the report: bank holding companies that have been granted a hardship exemption by the Board under section 4(d) of the Bank Holding Company Act; and foreign banking organizations as defined by section 211.23(b) of Regulation K.

The Federal Reserve proposes minor revisions to the FR Y-9LP to maintain consistency with the revisions proposed to the FR Y-9C, and would be effective with the March 31, 1997, reporting date.

3. Report title: Parent Company Only Financial Statements for Small Bank Holding Companies
Agency form number: FR Y-9SP
OMB control number: 7100-0128
Frequency: Semiannual
Reporters: Bank holding companies
Annual reporting hours: 32,295

Estimated average hours per response: Range from 1.5 to 6.0 hours
Number of respondents: 4,306
Small businesses are affected.

General description of report: The information collection is mandatory 12 U.S.C. 1844(b) and (c) and 12 CFR 225.5(b). Confidential treatment is not routinely given to the information in these reports. However, confidential treatment for the report information, in whole or in part, can be requested in accordance with the instructions to the form.

The FR Y-9SP is a parent company only financial statement filed by one-bank holding companies with total consolidated assets of less than $150 million on a semiannual basis. This report, an abbreviated version of the more extensive FR Y-9LP, is designed to obtain basic balance sheet and income statement information, information on intercompany transactions, and data for capital adequacy evaluation.

The Federal Reserve proposes minor revisions to the FR Y-9SP to maintain consistency with the revisions proposed to the FR Y-9C, and would be effective with the June 30, 1997, reporting date.

4. *Report title*: Quarterly Financial Statements of Nonbank Subsidiaries of Bank Holding Companies
Agency form number: FR Y-11Q
OMB control number: 7100-0244
Frequency: Quarterly
Reporters: Bank holding companies
Annual reporting hours: 6,845
Estimated average hours per response: Range from 3.0 to 8.0 hours
Number of respondents: 276
Small businesses are affected.

General description of report: The information collection is mandatory 12 U.S.C. 1844(b) and (c) and 12 CFR 225.5(b). Confidential treatment is not routinely given to most of the data in these reports. However, confidential treatment for the report information, in whole or in part, can be requested in accordance with the instructions to the form. FR Y-11Q, memorandum item 7.a, "loans and leases past due 30 through 89 days" and FR Y-11Q, memorandum item 7.d, "loans and leases restructured and included in past due and nonaccrual loans" are confidential pursuant to Section (b)(8) of the Freedom of Information Act 5 U.S.C. 552(b)(8).

The FR Y-11Q is filed quarterly by the top tier bank holding companies for each nonbank subsidiary of a bank holding company with total consolidated assets of $150 million or more in which the nonbank subsidiary has total assets of 5 percent or more of the top-tier bank holding company's consolidated Tier 1 capital, or where the nonbank subsidiary's total operating revenue equals 5 percent or more of the top-tier bank holding company's consolidated total operating revenue. The report consists of a balance sheet, income statement, off-balance-sheet items, information on changes in equity capital, and a memoranda section.

The Federal Reserve proposes minor revisions to the FR Y-11Q to maintain consistency with the revisions proposed to the FR Y-9C, and would be effective with the March 31, 1997, reporting date.

5. *Report title*: Annual Financial Statements of Nonbank Subsidiaries
Agency form number: FR Y-11I
OMB control number: 7100-0244
Frequency: Annual
Reporters: Bank holding companies
Annual reporting hours: 6,560
Estimated average hours per response: Range from .4 to 8.0 hours
Number of respondents: 2,050
Small businesses are affected.

General description of report: The information collection is mandatory 12 U.S.C. 1844(b) and (c) and 12 CFR 225.5(b). Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the report information, in whole or in part, can be requested in accordance with the instructions to the form. FR Y-11I, Schedule A, item 7.a, "loans and leases past due 30 through 89 days" and FR Y-11I, Schedule A, item 7.d, "loans and leases restructured and included in past due and nonaccrual loans" are confidential pursuant to Section (b)(8) of the Freedom of Information Act 5 U.S.C. 552(b)(8).

The FR Y-11I is filed annually by the top tier bank holding companies for each of their nonbank subsidiaries that are not required to file a quarterly FR Y-11Q. The FR Y-11I report consists of similar balance sheet, income statement, off-balance-sheet, and change in equity capital information that is included on the FR Y-11Q. In addition, the FR Y-11I also includes a loan schedule to be submitted only by respondents engaged in credit extending activities.

The Federal Reserve proposes minor revisions to the FR Y-11I to maintain consistency with the revisions proposed to the FR Y-9C, and would be effective with the December 31, 1997, reporting date.

Board of Governors of the Federal Reserve System, December 24, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–33161 Filed 12–27–96; 8:45am]
BILLING CODE 6210–01–F

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System
ACTION: Notice

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number. Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the OMB 83-I and supporting statement and the approved collection of information instruments will be placed into OMB's public docket files. The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collections of information are necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collections, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before February 28, 1997.

ADDRESSES: Comments, which should refer to the OMB control number (or agency form number), should be addressed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M-P-500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed forms and instructions, the Paperwork Reduction Act Submission (OMB 83-I), supporting statement, and other doucments that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Mary M. McLaughlin, Chief, Financial Reports Section (202-452-3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Dorothea Thompson (202-452-3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal to approve under OMB delegated authority the extension, with revision, of the following reports:

1. *Report title*: Weekly Report of Eurodollar Liabilities Held by Selected U.S. Addressees at Foreign Offices of U.S. Banks
Agency form number: FR 2050
OMB control number: 7100-0068
Frequency: Weekly
Reporters: Large foreign branches and banking subsidiaries of U.S. banks
Annual reporting hours: 2,860
Estimated average hours per response: 1.0
Number of respondents: 54 branches, 1 subsidiary
Small businesses are not affected.

General description of report: This information collection is voluntary (12 U.S.C. 248(a)(2), 353 et seq., 461, 602, and 625) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: This report collects data on overnight and term Eurodollars held by certain U.S. residents in selected foreign branches and subsidiaries of U.S. commercial banks and Edge and agreement corporations. The data are used for the construction of the Eurodollar component of the monetary aggregates and for analysis of banks' liability management practices.

Under the proposed revisions the reporting threshold would be raised from a weekly average of $200 million to $350 million in Eurodollar liabilities. Additions and deletions to the reporting panel would be made only annually. The number of data items collected would be reduced from 4 to 2. As a result of the redefinition of the M2 monetary aggregate in February 1996, the overnight Eurodollar component of M2 was moved to the non-M2 component of M3, where the term component currently is included. Since the separation of the two nonnegotiable Eurodolllar items (overnight and term) is no longer necessary, they would be combined into a single item, and the memorandum item would be dropped from the report.

The revised report would be implemented as of the reporting week ending Monday, March 31, 1997.

2. *Report title*: Quarterly Report of Assets and Liabilities of Large Foreign Offices of U.S. Banks
Agency form number: FR 2502q
OMB control number: 7100-0079
Frequency: Quarterly
Reporters: Large foreign branches and banking subsidiaries of U.S. banks
Annual reporting hours: 7,266
Estimated average hours per response: 3.5
Number of respondents: 483 branches, 36 subsidiaries
Small businesses are not affected.

General description of report: This information collection is mandatory (12 U.S.C. 248(a)(2), 353 et seq., 461, 602, and 625) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: This report collects assets and liability information from foreign branches and subsidiaries of U.S. commercial banks and Edge and agreement corporations. A separate schedule collects information on Eurodollar liabilities payable to certain U.S. addressees. The data are used in the construction of the monetary aggregates and to monitor flows of funds between banks and their branches. The data also are combined with data from other sources to develop a profile of the total exposure of U.S. banks to individual countries. Together with data from the Department of the Treasury, the FR 2502q provides information that the Bank for International Settlements compiles from all G-10 countries on international banking market developments. In addition, data from the FR 2502q are used by the Department of Commerce to estimate the capital accounts portions of the balance of payments.

Under the proposed revisions, the reporting threshold for branches would be raised from $150 million to $500 million in total assets. The number of data items collected on the Eurodollar schedule would be reduced from three to one, and updates and clarifications would be made to the reporting form and instructions.

The revised report would be implemented on the March 31, 1997, as-of date.

Board of Governors of the Federal Reserve System, December 24, 1996

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–33162 Filed 12–27–96; 8:45AM]

BILLING CODE 6210–01–F

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System

ACTION: Notice

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1995, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number. Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the OMB 83-I and supporting statement and the approved collection of information instrument will be placed into OMB's public docket files. The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the

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proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before February 28, 1997.

ADDRESSES: Comments, which should refer to the OMB control number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M-P-500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form and instructions, the Paperwork Reduction Act Submission (OMB 83-I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Mary M. McLaughlin, Federal Reserve Board Clearance Officer (202-452-3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Dorothea Thompson (202-452-3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal to approve under OMB delegated authority the extension, with revision, of the following report:

1. Report title: Application for Employment with the Board of Governors of the Federal Reserve System ("Application")
Agency form number: FR 28
OMB control number: 7100-0181
Frequency: on occasion
Reporters: applicants for employment with the Board
Annual reporting hours: 8,500
Estimated average hours per response: 1.0
Number of respondents: 8,500
Small businesses are not affected.

General description of report: This information collection is required to obtain or retain a benefit (12 U.S.C. 244 and 248(1)) and is given confidential treatment under the Privacy Act (5 U.S.C. 552(a)) and the Freedom of Information Act (5 U.S.C. 552(b)(2) and b(6)).

Abstract: The Federal Reserve Board proposes to extend the Application, with revisions, for three years. The purpose of the Application is to collect information to determine the qualifications, suitability, and availability of applicants for employment with the Board. The Application asks about education, training, employment, and other information covering the period since the Applicant left high school.

The proposed revisions include substantively revising several items. There are no proposed deletions. The Board further proposes revising text to comply with current law, to reflect changes in societal language preferences, and to reflect changes in the Board's *Rules Regarding Equal Opportunity*.

Board of Governors of the Federal Reserve System, December 24, 1996

William W. Wiles,

Secretary of the Board.

[FR Doc. 96-33163 Filed 12-27-96; 8:45am]

BILLING CODE 6210-01-F

[Docket No. R-0841]

Revenue Limit on Bank-Ineligible Activities of Subsidiaries of Bank Holding Companies Engaged in Underwriting and Dealing in Securities

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: The Board is increasing from 10 percent to 25 percent the amount of total revenue that a nonbank subsidiary of a bank holding company (a so-called section 20 subsidiary) may derive from underwriting and dealing in securities that a member bank may not underwrite or deal in. The revenue limit is designed to ensure that a section 20 subsidiary will not be engaged principally in underwriting and dealing in such securities in violation of section 20 of the Glass-Steagall Act. Based on its experience supervising these subsidiaries and developments in the securities markets since the revenue limitation was adopted in 1987, the Board has concluded that a company earning 25 percent or less of its revenue from underwriting and dealing would not be engaged principally in that activity for purposes of section 20.

EFFECTIVE DATE: March 6, 1997.

FOR FURTHER INFORMATION CONTACT: Gregory A. Baer, Managing Senior Counsel (202/452-3236), Thomas M. Corsi, Senior Attorney (202/452-3275), Legal Division; Michael J. Schoenfeld, Senior Securities Regulation Analyst (202/452-2781), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC.

SUPPLEMENTARY INFORMATION:

I. Background

Section 20 of the Glass-Steagall Act provides that a member bank of the Federal Reserve System may not be affiliated with a company that is "engaged principally" in underwriting and dealing in securities. [1] In 1987, the Board first interpreted that phrase to allow bank affiliates to engage in underwriting and dealing in bank-ineligible securities—that is, those securities that a member bank would not be permitted to underwrite or deal in—when the Board approved applications by three bank holding companies to underwrite and deal in commercial paper, municipal revenue bonds, mortgage-backed securities, and consumer-receivable-related securities (hereafter, "tier-one securities"). [2] In

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[1] 12 U.S.C. 377.

[2] *Citicorp, J.P. Morgan & Co., and Bankers Trust New York Corp.*, 73 Federal Reserve Bulletin 473 (1987) (hereafter, *1987 Order*), *aff'd, Securities Industry Ass'n* v. *Board of Governors*, 839 F.2d 47,

1989, the Board allowed five bank holding companies to underwrite and deal in all debt and equity securities (hereafter, "tier-two securities").[3]

Currently, forty-one subsidiaries of bank holding companies are authorized to engage in underwriting and dealing activities that are not authorized for a member bank. Fifteen of these so-called section 20 subsidiaries have authority to underwrite and deal in tier-one securities pursuant to the *1987 Order*. Pursuant to the *1989 Order*, twenty-three section 20 subsidiaries have authority to underwrite and deal in all tier-two securities, and three may underwrite and deal in all debt securities.

The Board has established a revenue test to determine whether a company is "engaged principally" in underwriting and dealing for purposes of section 20. The revenue test provides that a section 20 subsidiary may not derive more than 10 percent of its total revenue from underwriting and dealing in bank-ineligible securities. The Board arrived at this revenue test through a series of interpretive steps, in a series of orders.

The Board interpreted the meaning of "engaged principally" in its 1987 order allowing Bankers Trust New York Corporation to engage in private placement of commercial paper.[4] Having satisfied itself that the "engaged principally" language of section 20 must allow some level of underwriting and dealing,[5] the Board was required to choose between two alternative meanings of "principal." The first meanings of "principal," advocated by the applicant, included definitions such as "chief," "main," or "largest," and translated into allowing underwriting and dealing to constitute up to 50 percent of the section 20 subsidiary's business or, alternatively, to constitute anything other than its largest business (collectively, the "largest activity interpretation"). The second meaning included definitions such as "primary," "substantial," "leading," "important," or "outstanding" and translated into a stricter limitation on underwriting and dealing—that is, allowing underwriting and dealing subject to a limit somewhat lower than 49 percent of the applicants' business.[6] Based on the purposes and legislative history of Glass-Steagall Act, the Board chose the latter interpretation.[7]

The Board further found in the *Bankers Trust* order that the best measure of the underwriting and dealing activity for purposes of section 20 was the gross revenue derived from that activity.[8] The *Bankers Trust* order found that a company deriving less than five percent of revenue would be in compliance with section 20, but did not attempt to identify the maximum percentage of revenue permitted by the statute.

Finally, in its *1987 Order*, the Board translated its interpretation of "engaged principally" into a quantitative limit on the amount of gross revenue that could permissibly be derived from underwriting and dealing. The Board found that underwriting and dealing in bank-ineligible securities would not be a "substantial" activity for a section 20 subsidiary if the gross revenue derived from that activity did not exceed 5 to 10 percent of the total gross revenue of the subsidiary.[9] As a prudential matter, the Board initially limited ineligible revenue to 5 percent of total revenue in order to gain experience in supervising such subsidiaries. In 1989, the Board allowed section 20 subsidiaries to increase their underwriting and dealing revenue to 10 percent of total revenue.[10]

No changes were made to the revenue test in subsequent orders until, in January 1993, the Board allowed section 20 subsidiaries to use an alternative revenue test that was indexed to account for changes in interest rates since 1989.[11] The Board found that historically unusual changes in the level and structure of interest rates had distorted the revenue test as a measure of the relative importance of ineligible securities activity in a manner that was not anticipated when the 10 percent limit was adopted in 1989. In particular, the Board found that because bank-eligible securities (such as U.S. government securities) tended to be shorter term than ineligible securities, an increase in the steepness of the yield curve had caused the revenue earned by at least some section 20 subsidiaries from holding eligible securities to decline in relation to ineligible revenue, even as the relative proportion of eligible and ineligible securities activities being conducted by these subsidiaries remained unchanged.[12] Five section 20 subsidiaries are currently operating under this indexed test; use of the test has not been more widespread because the systems necessary to administer it are expensive and complicated.

II. Proposed Change to Revenue Limit

On July 31, 1996, the Board proposed to maintain the revenue measure but increase the revenue limit from 10 percent of total revenue to 25 percent.[13] The Board based this proposed increase on the experience it has gained through supervision of the section 20 subsidiaries over a nine-year period. The Board stated its belief that the limitation of 10 percent of total revenue it adopted in 1987, without benefit of this experience, had unduly restricted the underwriting and dealing activity of section 20 subsidiaries. The Board noted that changes in the product mix that section 20 subsidiaries are permitted to offer and developments in the securities markets had affected the relationship between revenue and activity since 1987.

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66 (2d Cir.), *cert. denied*, 486 U.S. 1059 (1988) (hereafter, *Citicorp*); *Chemical New York Corp., Chase Manhattan Corp., Bankers Trust New York Corp., Citicorp, Manufacturers Hanover Corp., and Security Pacific Corp.*, 73 Federal Reserve Bulletin 731 (1987) (approving underwriting and dealing in consumer-receivable-related securities, after having deferred decision for 60 days in its *1987 Order*).

[3] *J.P. Morgan & Co., The Chase Manhattan Corp., Bankers Trust New York Corp., Citicorp, and Security Pacific Corp.*, 75 Federal Reserve Bulletin 192 (1989) (hereafter *1989 Order*), *aff'd, Securities Industries Ass'n* v. *Board of Governors*, 900 F.2d 360 (D.C. Cir. 1990) (hereafter, *SIA II*).

[4] *Bankers Trust New York Corporation*, 73 Federal Reserve Bulletin 138 (1987) (hereafter, *Bankers Trust*).

[5] *Bankers Trust* order at 141; *1987 Order* at 474.

[6] *Bankers Trust* order at 140–42; *see also 1987 Order* at 477–78, 482–83.

[7] *Bankers Trust* order at 142.

[8] *Bankers Trust* order at 145; *1987 Order* at 483–485. In terms of what revenue to consider, the Board ruled that securities that a member bank was authorized to underwrite under section 16 of the Glass-Steagall Act (for example, U.S. government securities) were not covered by the prohibition of section 20; accordingly, the Board decided that revenue derived from underwriting and dealing in such securities should not count as underwriting and dealing for purposes of section 20. Rather, only revenue earned on "ineligible securities"—those that a member bank could not underwrite or deal in—was counted toward the section 20 limit. *1987 Order* at 478; *Citicorp*, 839 F.2d at 62.

The Board also established a test based on the company's share of the market in a particular security, but this market share test was subsequently struck down by the Second Circuit. The court of appeals held that "by using the term 'engaged principally,' Congress indicated that its principal anxiety was over the perceived risk to bank solvency resulting from their over-involvement in securities activity. A market share limitation simply does not further reduce this congressional worry." *Citicorp*, 839 F.2d at 68.

[9] *1987 Order* at 485.

[10] 75 FR 751 (1989).

[11] *Order Approving Modifications to the Section 20 Orders*, 79 Federal Reserve Bulletin 226 (1993) (hereafter, *1993 Modification Order*).

[12] *1993 Modification Order* at 228. Under the indexed revenue test, current interest and dividend revenue from eligible and ineligible activities for each quarter are increased or decreased by an adjustment factor provided by the Board. The adjustment factors, which are calculated for securities of varying durations, represent the ratio of interest rates on Treasury securities in the most recent quarter to those in September 1989. Section 20 subsidiaries may use the adjustment factors to "index" actual interest and dividend revenue based upon the average duration of their eligible and ineligible securities portfolios.

[13] 61 FR 40643 (August 5, 1996).

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III. General Summary of Comments

The Board received 42 public comments: 26 from banks, bank holding companies and their trade groups; three from securities firms and one of their trade groups; and the remainder from members of Congress, a community group, a think tank, the Conference of State Bank Supervisors, and individuals. Thirty-four commenters favored the proposal, and eight opposed. The banking industry comments generally supported the proposal, and the securities industry comments generally opposed. The remaining comments were mixed.

Several banking industry commenters asked the Board to raise the revenue limit higher than 25 percent, generally to 49 percent. Several banking industry commenters also asked the Board to supplement the revenue test with an asset-based test or a sales volume test.

The securities industry commenters argued that comprehensive reform of the financial services industry is necessary and can be accomplished only through legislative action. The Securities Industry Association (SIA) expressed concern that if the Board were to increase the revenue limit to 25 percent, banks and bank affiliates would have little or no incentive to support a financial services modernization bill, because they would have received by rule much of the relief they would have sought in legislation. [14] Securities industry commenters also argued that securities, insurance, and other financial services firms would be placed at a competitive disadvantage with banks.

Several commenters opposed the increase in the limits on the grounds that the Board had previously rejected in its *1987 Order* any percentage limit greater than 10 percent. Commenters also stated that a level of ineligible securities activity giving rise to 25 percent of revenue must be considered "substantial" and therefore to constitute being principally engaged in that activity.

The SIA argued that a 25 percent limit as a measure of "substantial" was inconsistent with other laws that establish presumptions on a percentage basis, including the Bank Holding Company Act and regulations of the Board and the other banking agencies. The SIA also argued that raising the revenue limit to 25 percent could well render section 20 meaningless by permitting affiliations between member banks and the largest investment banks in the country, and would thus be contrary to the intent of Congress in enacting the Glass-Steagall Act to divorce commercial and investment banking.

A community group argued that allowing bank holding companies to expand further into securities underwriting without increased scrutiny under the Community Reinvestment Act would result in further neglect by banks and bank holding companies of the credit needs of low- and moderate-income neighborhoods and households and small businesses. The commenter argued that banks affiliated with section 20 subsidiaries have closed branches and reduced services to the public, and therefore that the operation of section 20 subsidiaries has had adverse effects on the public. The commenter argued that one of the problems that Congress meant to address with the Glass-Steagall Act was the diversion of financial resources in the banking system to the securities markets—a diversion that allowed and encouraged speculation in the securities markets and removed such funds from use in the retail banking business. Finally, the commenter argued that allowing expanded securities underwriting and dealing could undermine confidence in U.S. banks during declines in the securities markets.

The Board received five comment letters from members of Congress. Four Representatives supported the Board's proposal, and one opposed it.

IV. Final Order

A. Introduction

Interpreting section 20 is a difficult task. The language of the statute is "intrinsically ambiguous," [15] and further inquiry into the legislative history is therefore necessary to interpret it. As the Board noted in its *1987 Order*, this inquiry "requires application of a statute adopted over 50 years ago in very different circumstances to a financial services marketplace that technology and other competitive forces have altered in a manner and to an extent never envisioned by the enacting Congress." [16] Furthermore, although the general purpose of the Glass-Steagall Act was to divorce commercial and investment banking, the express language of section 20 clearly allows some level of investment banking for bank affiliates. [17]

Although a few commenters criticized the Board for preempting the Congress by reviewing its section 20 orders, the Board has in fact delayed a review of its section 20 orders in the hope that Congressional action would make such a review unnecessary. The Board continues to believe that reform of the laws governing this nation's financial services is needed in order to ensure that our nation's financial system remains innovative and competitive and provides services to customers at the lowest possible cost. The Board does not believe that an increase in the revenue limit detracts from the need for comprehensive reform and does not intend for this step to substitute for such reform. Rather, the Board is exercising its statutory responsibility to administer section 20 in light of significant changes to the securities markets in the years since the Board first analyzed its terms.

Summary

After considering the comments received, the Board has decided to adopt the proposal and amend its section 20 orders to allow up to 25 percent of total revenue to be earned from underwriting and dealing in bank-ineligible securities. The Board has concluded that a 25 percent revenue limit is consistent with section 4(c)(8) of the Bank Holding Company Act and section 20 of the Glass-Steagall Act.

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[14] Seven members of the SIA wrote separately to dissent from its views. The commenters noted that the association had recently supported other, non-comprehensive legislative reform of financial services regulation.

[15] *Citicorp*, 839 F.2d at 63; *cf. Board of Governors v. Agnew*, 329 U.S. 441, 446 (1947) (the related term "primarily engaged" is susceptible to a range of "accepted and common meanings").

[16] *1987 Order* at 475.

[17] The premise for this divorce was that the affiliation of commercial banking had yielded abuses that had to be corrected. *See generally Investment Company Instit. v. Camp*, 401 U.S. 617, 629-34 (1970) (discussing legislative history). However, recent research indicates that this premise may have been inaccurate. *See* James S. Ang and Terry Richardson, *The Underwriting Experience of Commercial Bank Affiliates Prior to the Glass-Steagall Act: A Reexamination of Evidence for Passage of the Act*, 18 J. Banking and Finance 351, 385 (1994) ("We have found no evidence that bonds underwritten by the security affiliates of commercial banks as a group [from 1926-1934] were in *any* way inferior to the bonds underwritten by investment banks. . . . Bank affiliate issue default rates were lower, *ex ante* yields were lower, *ex post* prices were higher and yield/price relation no different than investment bank issues."); Randall S. Kroszner and Raghuram G. Rajan, *Is the Glass-Steagall Act Justified? A Study of the U.S. Experience with Universal Banking Before 1933*, 84 Amer. Econ. Rev. 810, 829 ("Not only did bank affiliates underwrite higher-quality issues [from 1921-29], but also we find that the affiliate-underwritten issues performed better than comparable issues underwritten by independent investment banks."); George J. Benston, *The Separation of Commercial and Investment Banking: The Glass-Steagall Act Revisited and Reconsidered* 41 (1990) ("The evidence from the pre-Glass-Steagall period is totally inconsistent with the belief that banks' securities activities or investments caused them to fail or caused the financial system to collapse.").

C. Glass-Steagall Act Analysis

Based on its nine years of experience supervising section 20 subsidiaries, the Board has concluded that a company whose ineligible revenue approaches 10 percent of total revenue is neither engaged principally, nor on the verge of being engaged principally, in underwriting and dealing for purposes of section 20. The Board has decided that a section 20 subsidiary will not be engaged principally in such activities so long as ineligible revenue does not exceed 25 percent of total revenue.

In reaching this decision, the Board has not revisited its decisions, beginning with its *Bankers Trust* order in 1987, that the "engaged principally" standard of section 20 must be interpreted as "substantial" or "primary," rather than as "chief" or "main" or "largest." The Board did not propose such a reinterpretation. Similarly, the Board has not revisited its use of revenue as the appropriate measure of business activity.

The Board has reviewed, however, its decision in the *1987 Order* that underwriting and dealing in bank-ineligible securities would be a "substantial activity" of a section 20 subsidiary if such underwriting and dealing generated more than 10 percent of the section 20 subsidiary's total revenue. The Board has concluded that the 10 percent revenue limit unduly restricts the underwriting and dealing activity of section 20 subsidiaries to a level that falls short of "principal engagement" for purposes of section 20. This conclusion is based on the Board's experience with the section 20 subsidiaries through the process of examination and supervision. The conclusion is also supported by identifiable changes in the relationship between gross revenue and underwriting and dealing activity since the Board's *1987 Order*.

First, a given level of activity in underwriting and dealing in tier-two securities pursuant to the *1989 Order* generally yields substantially higher revenue than an equivalent level of activity in underwriting and dealing in tier-one securities pursuant to the *1987 Order*. Underwriting fees for tier-two securities are significantly larger than fees for tier-one securities, particularly with respect to equity securities and non-investment-grade debt securities. [18] Similarly, bid/offer spreads on many corporate bonds and other tier-two securities are significantly wider than the spreads on tier-one securities. Put another way, the Board has concluded that (all else being equal) a company that maintained a constant level of underwriting and dealing activity over the past nine years but shifted its product mix to include tier-two securities would have seen a significant increase in ineligible revenue.

Commenters confirmed this experience. One large bank holding company noted that since receiving approval in late 1994 to engage in corporate debt and equity activities, it had earned "an ever increasing level of revenue derived from ineligible securities underwriting and dealing activities without a corresponding percentage increase in the number or size of the transactions involving ineligible securities. The factor primarily responsible for this revenue increase is . . . the revenues generated by corporate—particularly high yield—debt activities. The same level of corporate debt activity as a percentage of total transactions yields greater ineligible revenues than a comparable number of transactions involving commercial paper or municipal revenue bonds."

Second, a converse trend has developed with respect to eligible revenue, where market changes have reduced the eligible revenue derived from a given level of activity. Most notably, increased competition in brokerage services has diminished revenue as a function of activity. [19] Lower commissions have required companies to increase volume in order to maintain a given level of eligible revenue. This market change particularly affects any company with a large retail investor base—generally those operating under the 1987 Order—that wishes to engage in any significant level of ineligible securities activities, as it must generally rely on brokerage activities in order to generate eligible revenue. In contrast, the overwhelming majority of companies operating under the 1989 Order have an institutional investor base and generate eligible revenue through underwriting and dealing in bank-eligible securities.

Finally, relative securities returns have varied over the years, changing the mix of eligible and ineligible revenue. As noted above, interest rate changes have reduced eligible interest revenue relative to ineligible interest revenue. For the great majority of companies that have elected not to use the indexed revenue test, these interest rate changes have continued to skew their reported ratio of ineligible to total revenue, though to a far lesser extent since a recent clarification to the revenue limit, which stated that interest earned on most investment-grade debt securities is treated as eligible income. [20] In addition, short term interest rates have on balance declined over the period, and equity prices have trended higher. Therefore, companies with tier-two powers who are engaged in equity securities activity may well have seen an increase in their ratio of ineligible revenue to total revenue.

Commenters supported this conclusion. Seven bank holding company commenters and two bank trade associations specifically noted that these developments had affected their institutions or members. None of the commenters opposed to an increase in the revenue limit disputed the Board's analysis. [21]

The Board recognizes that one reason underwriting and dealing spreads are higher for some activities than for others is to compensate for risk. The risks of holding high-yield bonds in inventory, for example, are higher than the risks of holding commercial paper, which is short-term and generally issued by a highly rated company and backed by a bank line of credit. However, in the Board's experience, as confirmed by the commenters, these wider spreads have resulted in higher revenue even after accounting for losses attributable to pricing, credit or other risks. [22] In the Board's experience, the ability to earn these higher profits derives from financial innovation in structuring transactions, ability to foresee shifting public needs gained from an experienced sales force, research on the

[18] *See, e.g., Investment Dealer's Digest* 12 (Feb. 19, 1996); *Investment Dealer's Digest* 19 (February 15, 1988).

[19] *See, e.g., The Economist* 9 (April 15, 1995) ("Commissions on listed securities as a percentage of the value of trade in these instruments have fallen from 70-90 basis points in the early 1980s to below 40 basis points. Even for over-the-counter trading . . . returns have fallen from 80-90 basis points to around 20 basis points.")

[20] 61 FR 48953 (1996).

[21] One commenter stated that the Board was precluded from changing its view that ineligible revenue in excess of 10 percent would violate section 20 because once the Board had made a reasonable interpretation of a statute, and that interpretation was affirmed by a court, the Board may not thereafter adopt a position inconsistent with that interpretation. This statement is incorrect as a matter of law. *See, e.g., Smiley v. Citibank (South Dakota), N.A.*, 116 S.Ct. 1730, 1734 (1996) (agency may reverse an earlier position and receive judicial deference so long as the change is not "sudden and unexplained"). As demonstrated above, the Board's amendment to the revenue limit is based on nine years of experience supervising section 20 subsidiaries and identifiable market and regulatory developments since the initial interpretation.

[22] The same point can be made with respect to the indexed revenue test, which took into account an increase in the steepness of the yield curve. Such a change in the shape of the yield curve may be caused by a rise in expected future interest rates, with no increase in interest rate risk.

issuer that is credited by the market, the ability to use marketing expertise to avoid losses, and accuracy in pricing.[23] Each of these skills yields greater rewards with respect to tier-two securities than tier-one securities, as tier-two securities generally trade in thinner markets where the frequency of trading is lower, the number of intermediaries smaller, and therefore the ability to gain a competitive advantage is greater.

Although the point was not raised by the commenters, the Board recognizes that these market and regulatory developments may have affected each section 20 subsidiary differently, depending on the products it offers and the duration of its interest rate-sensitive assets. However, the Board continues to believe that only a single revenue limit should govern.[24] Any standard that attempted to reflect the characteristics of each security approved for a section 20 subsidiary would be unworkable. Determination of compliance on a case-by-case basis would appear to be the only alternative to a quantitative test. The Board is concerned that such a practice could lead to substantial uncertainty among section 20 subsidiaries as well as the potential for inconsistent interpretations of the statute among section 20 subsidiaries and examiners. Therefore, the Board continues to prefer to use a single, bright-line standard.

Although not disputing the Board's analysis, one commenter stated that any amount of activity rising to 25 percent of total activity was by definition "substantial" and therefore inconsistent with the Glass-Steagall Act. The Board disagrees. The Board has used a "substantial activity" test as a way of determining whether a section 20 subsidiary is "engaged principally" in underwriting and dealing. This reading is consistent with the general interpretation of "principal" as meaning "primary," "substantial," "leading," important," or "outstanding"[25] and with the definition of substantial as "an essential part, point or feature."[26] The Board believes that an activity that represents less than 25 percent of a firm's total activity—or, put another way, where 75 percent of the firm's activity is in other areas—is not per se a "principal," "primary," "substantial," "leading," "important," outstanding," or "essential" part of that firm's activity.

The Board notes that its decision is consistent with an interpretation of a parallel statute. As several commenters noted, the New York State Banking Department has taken the position that a company would not be "engaged principally" in underwriting and dealing for purposes of New York State's "little Glass-Steagall Act"—which contains the same "engaged principally" standard as section 20—if underwriting and dealing was 25 percent or less of its total business activities.[27]

Several commenters urged the Board to adopt a greater increase in the revenue limit—to 50 percent or, in one case, 33 percent—on the grounds that such an increase would be consistent with safety and soundness and not pose risks to banks affiliated with a section 20 subsidiary. The Board notes, however, that although safety and soundness is clearly a relevant factor under the Bank Holding Company Act, the Board has limited authority to interpret section 20 based on whether underwriting and dealing activities can be conducted consistent with safety and soundness. Congress itself has decided when a company's risks of underwriting and dealing are too great to allow affiliation with a bank: whenever they constitute a principal activity of that company. Thus, even if the Board were to find that affiliation posed minimal risks, that finding would not allow the Board to raise the section 20 revenue limit to 100 percent. Nor would a finding that affiliation poses extreme risks allow the Board to lower the section 20 revenue limit to zero (though the Bank Holding Company Act, discussed below, could).

Commenters raised two objections to the proposed increase in the revenue limit based on the volume of underwriting and dealing that it would allow. One commenter stated that even under a 10 percent revenue limit, several section 20 subsidiaries were among the largest underwriters in the United States and that therefore an increase in the limit was unjustified. The Board notes that in its *1987 Order* first authorizing the establishment of a section 20 subsidiary, it required that underwriting and dealing in each security not exceed 5 percent of the total domestic underwriting and dealing in that security. As noted above, this market share test was struck down by the Second Circuit as unsupported by the language, legislative history, and purposes of the Glass-Steagall Act.

Other commenters argued that if the threshold for the revenue test were increased from 10 percent to 25 percent, then banks would be permitted to affiliate with the nation's largest investment banks, contrary to the express purpose of section 20 of the Glass-Steagall Act.[28] This argument is basically a restatement of the market share test. The relevant question for purposes of interpreting the Glass-Steagall Act is whether the Board's interpretation would have allowed banks to affiliate with the securities affiliates of the 1920s and 1930s[29] or companies engaged in activities similar to those affiliates, not whether it would allow banks to affiliate with the investment banks of today. Although data are sketchy, the Board believes that securities firms deriving more than 25 percent of their income from underwriting and dealing in securities were common in the pre-Glass-Steagall period, and thus that the revenue limit the Board is adopting today is consistent with the purposes of the Act.[30] The

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[23] *See generally* Ernest Bloch, Inside Investment Banking (2d ed. 1989); 81-104, 248-73; Kenneth Garbade, Securities Markets 473-74, 493-97 (1982).

[24] In *Citicorp*, the petitioner argued that because the Board's interpretation of section 20 necessitated regulation, it a fortiori contravened the Act. The court of appeals rejected this argument, "The Board's interpretation is one that attempts to walk the line that Congress laid down." 839 F.2d at 66.

[25] *Bankers Trust* order at 141-42.

[26] *The Shorter Oxford English Dictionary*, 2172 (3d ed. 1973), *cited in Citicorp*, 839 F.2d at 64.

[27] See Letter from Jill Considine, Superintendent of Banks, New York State Banking Department, to Morgan Guaranty Trust Company and Bankers Trust Company (Dec. 23, 1986). Although one commenter argued that a 25 percent limit is inconsistent with percentage limits established in other banking statutes and regulations, those statutes do not rest on an interpretation of the phrase "engaged principally." Moreover, the most prominent example cited by the commenter, the presumption of control in the Bank Holding Company Act, is consistent with a 25 percent revenue limit, as it establishes a presumption of control over a bank holding company based on ownership of 25 percent or more of the company's securities. See 12 U.S.C. 1841(a)(2). The difference between a test of "25 percent or less" (under section 20) and a test of "less than 25 percent" (under the Bank Holding Company Act) is infinitesimal.

[28] Similarly, although one commenter argued that a 25 percent revenue limit could allow underwriting and dealing to be the first or second largest activity in the section 20 subsidiary, the Board believes that the relationship to total revenue, not the relationship to other activities, is controlling.

[29] By the time of the enactment of Glass-Steagall, the major securities affiliates of banks had been dissolved. W. Nelson Peach, *The Security Affiliates of National Banks* 158 (1941). Thus, the Glass-Steagall Act was aimed at preventing a recurrence of earlier abuses—most particularly, those leading up to the stock market crash of 1929—rather than at conditions prevailing at the time of its passage.

[30] *See, e.g., Agnew*, 329 U.S. at 445 (finding that in 1943 one of the nation's leading underwriters, Eastman, Dillon & Co., earned between 26 percent and 40 percent of its revenue by underwriting securities). A description of the nation's two largest securities affiliates by an observer of the time appears to indicate that they derived revenue substantially in excess of 25 percent of its revenue from underwriting and dealing. "The volume of securities originated and distributed by [the National City Company, a securities affiliate of National City Bank,] was so large that it was necessary to have a separate vice-president in charge of securities issued by industrial

Board notes that while the largest section 20 subsidiaries currently derive substantial eligible revenue from the U.S. Treasury market, the federal government was running a budgetary surplus in the pre-Glass-Steagall period, and the outstanding federal debt and therefore the market for government securities were small.[31] Thus, most securities affiliates of that period could not have derived substantial eligible revenue from underwriting and dealing in government securities.

Second, although not relevant to the statutory interpretation, the Board is not convinced that a 25 percent revenue limit would allow unlimited affiliation between banks and investment banks for purposes of section 20. Adverse commenters provided no data to support their assertion that it would. The Board has reviewed the publicly available financial information for a sample of the largest investment banks, and it is not apparent that they would be in compliance with a 25 percent revenue limit.[32]

D. Bank Holding Company Act Analysis.

In its *1987 Order* and *1989 Order*, the Board concluded that the applicants' proposed underwriting and dealing activities were closely related to banking and could be expected to result in significant benefits to the public in the form of increased competition, greater convenience to customers, increased efficiency and maintenance of domestic and international competitiveness.[33] The Board's experience in supervising section 20 subsidiaries has borne out this conclusion, and the Board has now concluded that a further increase in the revenue limit to 25 percent would extend these benefits.[34] Numerous commenters stressed that an increase in the revenue limit would allow section 20 subsidiaries to operate more efficiently and compete more effectively domestically and globally. Such competition should benefit both institutional and individual customers by increasing customer choice and lowering prices. Furthermore, commenters indicated that a higher limit would facilitate the creation of new section 20 subsidiaries, thereby increasing competition.

The Board has also concluded, as it had in its original orders, that an increase in the revenue limit will not cause any adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices that would outweigh the projected public benefits.[35] Accordingly, these benefits will not come at an increased risk to the safety and soundness or reputation of the nation's banks or to the federal safety net. Bank holding companies have demonstrated over the past nine years that they are able to manage the risks of investment banking, and section 20 subsidiaries operate as separately capitalized subsidiaries of a bank holding company, outside the control of any affiliated bank and therefore outside the protections of the federal safety net.[36] Section 20 subsidiaries must register as broker-dealers and remain subject to the capital regulations of the Securities Exchange Commission.

Protection against unfair competition and undue concentration of resources is provided by the antitrust laws and special anti-tying restrictions applicable only to banks,[37] which prohibit a bank from using its products to require or induce customers to use the products of its securities affiliate. A section 20 subsidiary is also subject to the consumer protection and anti-fraud provisions of the Securities Exchange Acts of 1933 and 1934.[38] In the Board's experience, competition in the securities markets remains vibrant.

The Community Reinvestment Act does not provide for consideration of a bank's community lending performance in deciding whether a nonbanking activity is permissible under section 4 of the Bank Holding Company Act or in deciding what level of underwriting and dealing activity is permitted by section 20 of the Glass-Steagall Act. In any event, the Board believes that expanded securities activities by bank holding companies will not adversely affect low- and moderate-income neighborhoods and households or small businesses. At least one study has shown that section 20 subsidiaries bring a larger proportion of smaller-sized issues and lower-credit-rated new issues of non-financial firms to market than do independent investment banks.[39] Although banks affiliated with section 20 subsidiaries have closed branches since 1987, particularly over the past few years, these closings are intrinsic to the consolidation that is occurring in the banking industry. Commenters provided no evidence that a bank with a securities affiliate is more likely to close branches than a like-sized bank without one.[40] More importantly, the number of branch offices nationwide has increased each year between 1987 and 1995, and the population per branch has declined each year.[41] Finally, regardless of the activities of its nonbanking affiliates, a bank's record for lending continues to be subject to review and rating under the Community Reinvestment Act.

V. Indexed Revenue Test

In conjunction with today's order, the Board is eliminating its alternative indexed revenue test, which as noted

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corporations, a vice-president in charge of municipal securities, a vice-president in charge of railroad securities, a vice-president in charge of foreign work, a vice-president in charge of accounting and treasury work, and a vice president in charge of the selling organization." *See* Peach at 94. Similarly, from 1917 to 1927, the securities affiliate of Chase National Bank of New York, Chase Securities Corporation, "was identified only with major issues of bonds, offering such bonds at wholesale without public notice." *Id.* at 96.

[31] *See* Robert J. Gordon, *The American Business Cycle: Continuity and Change* 382 (1986); Benjamin M. Friedman, *The Changing Roles of Debt and Equity in Financing U.S. Capital Formation* 96, Table 6.2 (1982).

[32] Determining the ineligible revenue of independent investment banks is difficult because they do not segregate ineligible revenue from eligible revenue in their annual reports or the FOCUS reports that they file with the Securities Exchange Commission. For example, an investment bank may report a given figure for interest and dividends earned on securities without a separate breakdown of what percentage of that amount was earned from government securities, and many of the largest firms are primary dealers in government securities.

[33] *See 1987 Order* at 489-90; *1989 Order* at 200-02.

[34] The Board reached the same conclusion when it reviewed its section 20 orders in 1994. *See* 59 FR 35516-35517 (1994).

[35] *Accord 1987 Order* at 490-502; *1989 Order* at 202-10. Two commenters disagreed with this analysis, pointing to recent claims made against Bankers Trust Corporation regarding derivatives trading, an NASD action against Citicorp for failing to ensure that brokers complied with continuing education requirements, and the Board's 1996 enforcement action against Swiss Bank Corporation for violating the revenue limit. The Board has concluded that these isolated incidents are not sufficient to question the safety and soundness of underwriting and dealing generally. Moreover, the Citicorp and Swiss Bank actions were compliance issues that did not result in losses to either the section 20 subsidiary or an affiliated bank, or in any other safety and soundness problems. While Bankers Trust did suffer from abuses in its derivatives activities, these were bank-eligible activities that were conducted at the bank as well as the section 20 subsidiary. The section 20 revenue limit does not constrain this activity.

[36] The federal safety net includes deposit insurance, access to the Federal Reserve's discount window, and access to the payments system.

[37] 12 U.S.C. 1972(1).

[38] 15 U.S.C. 77a-77z; 15 U.S.C. 78a-78ll.

[39] Amar Gande, Manju Puri, et al., *Bank Underwriting of Debt Securities: Modern Evidence*, in *Bank Structure and Competition* 651 (1996) (working paper).

[40] *Cf. A Review and Evaluation of Federal Margin Regulations: A Study by the Staff of the Board of Governors of the Federal Reserve System* (December 1984) (concluding that concerns that securities credit diverts funds from more productive uses are unfounded).

[41] *See* Stephen A. Rhoades, *Bank Mergers and Industrywide Structure, 1980-94: Staff Study of Board of Governors of the Federal Reserve System* 25 (1996); Myron L. Kwast, *United States Banking Consolidation: Current Trends and Issues* Table 3 (1996) (paper presented to OECD).

above is indexed to account for changes in interest rates since 1989. The Board has concluded that distortion of the revenue limit from interest rate fluctuations has been addressed by today's increase in the revenue limit and by the recent clarification of the revenue limit, which stated that interest earned on most investment-grade debt securities is treated as eligible income.

VI. Section 32 of the Glass-Steagall Act

Also in conjunction with today's order, the Board intends to interpret section 32 of the Glass-Steagall Act generally to prohibit interlocks between a bank and any company that derives more than 25 percent of its total revenue from underwriting and dealing in bank-ineligible securities. Section 32 prohibits personnel interlocks between a member bank and any company "primarily engaged" in underwriting and dealing in securities.[42] Since 1987, the Board has interpreted "engaged principally" under section 20 and "primarily engaged" under section 32 consistently.[43] The Board and the courts have noted that section 20 should be interpreted at least as strictly as section 32 because "the dangers resulting from affiliation are arguably greater than those resulting only from personnel interlocks."[44]

The Board has not, however, measured compliance with section 32 and section 20 in the same manner, relying on a more qualitative analysis for purposes of section 32. This difference is largely attributable to the fact, as noted above, that the Board does not gather detailed revenue information from securities companies other than section 20 subsidiaries. Furthermore, while the Board must continuously monitor compliance with section 20, and is thus in need of a bright-line test, inquiries under section 32 are infrequent.

Thus, in 1958, the Board established a nine-part guideline for determining compliance with section 32 that included "the dollar volume of business of the kinds described in section 32 engaged in by the firm or organization" and "the percentage ratio of such dollar volume to the dollar volume of the firm's total business." However, the Board did not establish a revenue or dollar volume limit. A subsequent staff letter noted that "the Board generally has determined that a securities firm, which [sic] receives 10 percent of its gross income from section 32 business, is 'primarily engaged' within the meaning of [section 32]," and the Board in its *1987 Order* noted that the Board had developed a "general guideline" to that effect. The Board has never, however, imposed a specific limitation in order to enforce compliance with section 32, and has found firms deriving more than 10 percent of their revenue from underwriting and dealing not to be primarily engaged. Nor has the Board ever reviewed the appropriateness of its 10 percent guideline since its apparent adoption in the 1950s, despite significant developments in the securities markets since that time.

In light of those developments and the Board's action on the section 20 revenue limit, the Board will generally find a securities firm to be primarily engaged in underwriting and dealing for purposes of section 32 when more than 25 percent of its total revenue derives from underwriting and dealing in bank-ineligible securities.

By order of the Board of Governors of the Federal Reserve System, December 20, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–32944 Filed 12–27–96; 8:45 am]

BILLING CODE 6210–01–P

[42] 12 U.S.C. 78.

[43] *Bankers Trust* order at 142. The Board relied on the Supreme Court's interpretation of section 32 in *Agnew* in determining that "engaged principally" denotes substantial activity as opposed to the largest activity. However, the *Agnew* Court did not translate its interpretation of "primarily engaged" into a limitation on revenue or any other test of business activity.

[44] *Citicorp* at 67.

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 22, 1997.

A. Federal Reserve Bank of Cleveland (R. Chris Moore, Senior Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. FJSB Bancshares, Inc., Fort Jennings, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Fort Jennings State Bank, Fort Jennings, Ohio.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Waterfield Bank Corp., Indianapolis, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Mitchell, Mitchell, Indiana.

Board of Governors of the Federal Reserve System, December 23, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–33089 Filed 12–27–96; 8:45 am]

BILLING CODE 6210–01–F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the

assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 24, 1997.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Amcore Financial, Inc., Rockford, Illinois; to acquire 100 percent of the voting shares of First National Bancorp, Inc., Monroe, Wisconsin, and thereby indirectly acquire First National Bank & Trust, Monroe, Wisconsin.

2. Michigan Heritage Bancorp, Inc., Novi, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Michigan Heritage Bank, Novi, Michigan (in organization).

3. Vanderbilt Holding Company, Inc., Fairfax, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Fairfax State Savings Bank, Fairfax, Iowa.

4. Vermilion Bancorp, Inc., Danville, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of American Savings Bank of Danville, Danville, Illinois.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Union Planters Corporation, Memphis, Tennessee; to acquire 100 percent of the voting shares of SBT Bancshares, Inc., Selmer, Tennessee, and thereby indirectly acquire Selmer Bank & Trust Company, Selmer, Tennessee.

C. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. TRP Acquisition Corporation, Burr Ridge, Illinois; to becoming a bank holding company by acquiring at least 19.9 percent of the voting shares of Trans Pacific Bancorp, San Francisco, California, and thereby indirectly acquire Trans Pacific National Bank, San Francisco, California.

Board of Governors of the Federal Reserve System, December 24, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–33160 Filed 12-27-96; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Meeting of the National Bioethics Advisory Commission

SUMMARY: Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), this notice is hereby given to announce open meetings of the National Bioethics Advisory Commission (NBAC). The purposes of the meetings are to address: (I) The protection of the rights and welfare of human research subjects and (ii) the management and use of genetic information.

DATES: January 9, 1997, 8:00 a.m.–4:30 p.m. and January 10, 1997, 8:30 a.m.–12:00 p.m.

PLACE: The Madison Hotel, 15th and M Sts, N.W., Washington, D.C. 20005.

SUPPLEMENTARY INFORMATION: The President established the National Bioethics Advisory Commission (NBAC) by Executive Order 12975, October 3, 1995. The purpose of the NBAC is to provide advice and make recommendations to the National Science and Technology Council, and other appropriate entities on bioethical issues arising from research on human biology and behavior and the applications, including the clinical applications, of that research.

National Bioethics Advisory Commission Meeting, The Madison Hotel, Washington, D.C., Thursday, January 9, 1997

Tentative Agenda

Morning Session

8:00 a.m.—Call to order and Opening Remarks by Chair
8:15 a.m.—Discussion of the activities of the NBAC Human Subjects Subcommittee
10:15 a.m.—Break
10:30 a.m.—Discussion of the activities of the NBAC Genetics Subcommittee
12:30 p.m.—Lunch

Afternoon Session

1:45 p.m.—Continuation of morning discussions
3:00 p.m.—Break
3:15 p.m.—Discussion of future NBAC activities
4:00 p.m.—Public Comment
4:30 p.m.—Adjourn

National Bioethics Advisory Commission, The Madison Hotel, Washington, D.C. Friday, January 10, 1997

Tentative Agenda

8:00 a.m.—Meeting of the Genetics Subcommittee of the National Bioethics Advisory Commission
10:00 a.m.—Break
10:30 a.m.—Meeting of the Human Subjects Subcommittee of the National Bioethics Advisory Commission
12:30 p.m.—Adjourn

Public Participation

The two days of meetings are open to the public with attendance limited to space available. Members of the public who wish to make oral statements should contact NBAC at the address or telephone number listed below as soon as possible, prior to the meeting. Reasonable provisions will be made to include on the agenda presentations by persons requesting an opportunity to speak. Individuals who plan to attend the meeting and need special assistance, such as sign language interpretation or other special accommodations, should also contact NBAC at the address or telephone number listed below as soon as possible prior to the meeting. Persons who wish to file written statements with NBAC may do so at any time.

FOR FURTHER INFORMATION CONTACT: Patricia Norris, Communications Director, National Bioethics Advisory Commission, MSC–7508, 6100 Executive Boulevard, Suite 3C01, Rockville, Maryland 20892–7508, telephone 301–402–4242, fax number 301–480–6900.

Dated: December 20, 1996.

Philip R. Lee,

Assistant Secretary for Health.

[FR Doc. 96–33091 Filed 12–27–96; 8:45 am]

BILLING CODE 4160–17–M

Health Care Financing Administration

[HCFA–R–187]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* National Provider System(NPS); *Form No.:* HCFA–R–187; *Use:* HHS is consolidating provider enumeration across programs. The NPS will be used in program operations and management to assign provider identification numbers, i.e., billing numbers for claims processing and payment. It will replace the current Medicare Physician and eligibility System (MPIES) and UPIN; it will replace the enumeration functions of the Medicare OSCAR, CLIA, and NSC provider numbering systems. *Frequency:* On occasion; *Affected Public:* Federal Government, State, Local or Tribal Government, Individuals or Households, Business or other for-profit, and Not-for-profit institutions; *Number of Respondents:* 88; *Total Annual Hours:* 23,000.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: December 12, 1996.

Edwin J. Glatzel,

Director, Management Analysis and Planning Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–33150 Filed 12–27–96; 8:45 am]

BILLING CODE 4120–03–P

Medicaid Bureau; Statement of Organization, Functions, and Delegations of Authority

Part F of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), (**Federal Register**, Vol. 59, No. 60, pp. 14628–14662, dated Tuesday, March 29, 1994, and **Federal Register**, Vol. 59, No. 132, pg. 35528, dated Tuesday, July 12, 1994) is amended to reflect changes to the subordinate structure within HCFA's Medicaid Bureau.

The Medicaid Bureau is streamlining their organization by abolishing its current substructure and creating a new organization comprised of six offices with no subordinate levels. The offices are functionally grouped to support services provided to specific Medicaid Bureau customers. Within the new structure operational and policy functions are no longer separated but are combined in each office.

The specific amendments to Part F are described below:

• Section F.10.A.5. (Organization) is amended to read as follows:

5. Medicaid Bureau (FAB)

a. Office of Long Term Care Services (FAB4)

b. Office of Medical Services (FAB5)

c. Office of Beneficiary Services (FAB6)

d. Office of Financial Services (FAB7)

e. Office of Information Systems and Data Analysis (FAB8)

f. Office of Program and Organizational Services (FAB9)

• Section F.20.A.5. (Functions) is amended to read as follows:

a. Office of Long Term Care Services (FAB4)

• Formulates, evaluates, and prepares policies, specifications for regulations, instructions, preprints, and procedures related to Medicaid payment and coverage policy for continuing and long-term care.

• Provides oversight of planning, development, implementation, and monitoring of Medicaid program operations in regional offices and State Medicaid agencies related to the provision and payment for continuing and long-term care, both institutional and non-institutional.

• Reviews State Plan Amendments related to continuing and long-term care, provides consultation to regional offices, and makes recommendations for approval and disapproval.

• Oversees and coordinates the assessment process for the operational implementation of the Medicaid program for continuing and long-term care under State plans and home and community-based services waivers.

• Provides ongoing policy and operational support, in concert with the Office of Research and Demonstrations, for Section 1115 demonstrations in continuing and long-term care.

• Provides authoritative interpretation of Medicaid coverage and payment policy for continuing and long-term care for providers, Regional Offices, State governments, Congressional Staffs, other agencies of the Federal government, interest groups and the general public.

• Develops, evaluates, and reviews policies and operational implementation of the entire range of continuing and long-term care services under Medicaid including all institutional and non-institutional sources of care, including: home and community-based services including waivers and State plan issues, nursing facilities, intermediate care facilities for persons with mental retardation/developmental disabilities, psychiatric services for persons under age 21, hospice, home health, personal care, private duty nursing, habilitation, rehabilitation, physical therapy, occupational therapy, respiratory therapy, speech therapy, language and hearing services, residential treatment

facilities, private non-medical institutions, medical day care, subacute care, community supported living arrangements, behavioral/mental health, substance abuse treatment, pre-admission screening and annual resident review (PASARR) and case management.

• Develops and interprets policy and oversees operational implementation of a wide range of areas as they impact continuing and long-term care services, including: comparability, sufficiency, amount, duration and scope of services, the Boren Amendment, provider appeals, essential community providers of LTC, provider qualifications including conditions of participation for Medicaid providers, distinct part issues, and inmates of public institutions.

• Serves as focal point for enforcing State agency compliance with statute, regulations and instructions as they affect continuing and long-term care.

• Develops and puts in place strategies to assure new and existing legislation, regulations and policy for Medicaid continuing and long-term care is implemented effectively, including: development of written guidance, best practices information, training materials, technical assistance to States through telecommunications and on-site visits, data bases etc.

• Assumes principal responsibility for Bureau implementation of continuing and long-term care objectives in the MB and HCFA strategic plans.

• Supports cross-cutting activities in relation to functional areas of responsibilities involving: (1) Section 1115 waivers, (2) quality of care initiatives, (3) health care reform, (4) fraud and abuse strategies, (5) legislative development, (6) communication strategy and implementation, and (7) internal budget and contracting.

b. Office of Medical Services (FAB5)

• Develops, interprets, and reviews Medicaid coverage and payment policies and procedures pertaining to maternal and child health services, family planning services, sterilization, hysterectomy, abortion, teenage pregnancy services, vaccines for children, school-based health services, nutrition services, early intervention services, pregnancy related services, lab and X-ray services, dental services, nurse-midwife services, pediatric nurse practitioner services/certification family services, transportation services, TB related services, medical day care, prescribed drugs, dentures and prosthetic devices and eyeglasses, other diagnostic, screening and preventive services, physician services and all other non-LTC services, provider appeals, and Indian health services; comparability and sufficiency of services and uniform availability of services statewide (hereafter designated as medical and remedial care services).

• Formulates, evaluates, and prepares policies, specifications for regulations, instructions, preprints, procedures and general instructions related to Medicaid medical and remedial care coverage and payment activities.

• Makes recommendations for legislative changes to improve program policy and ease of administration.

• Reviews State plan amendments and makes recommendations on approvals/disapprovals.

• Provides interpretations of Medicaid medical and remedial care coverage payment policies to regional offices, congressional staffs, other Departments of the Federal government, interest groups, and State agencies.

• Provides medical advice and consultation pertaining to the Medicaid program.

• Reviews, with the Office of Research and Demonstrations, research and demonstration agendas in the area of Medicaid medical and remedial care coverage and payment.

• Identifies, studies, and makes recommendations for modifying Medicaid medical and remedial care payment and coverage policies to reflect changes in recipient health care needs, program objectives, and the health care delivery system.

• Develops, evaluates, and reviews Medicaid coverage and payment hospital policies (including hospital Boren Amendment issues and Disproportionate Share Hospitals), regulations, and procedures pertaining to services provided by hospitals and Christian Science Sanitoriums under Medicaid; and Early and Periodic Screening, Diagnosis and Treatment (EPSDT) under Medicaid.

• Reviews requests for waivers under Section 1915 (c) and (d) of the Social Security Act.

• Monitors State medical and remedial care compliance to State plan and oversees the compliance process.

• Provides interpretations of policies to regional offices, congressional staffs, other Departments of the Federal government, interest groups and State agencies.

• Coordinates with other HCFA bureaus, divisions, and offices, the Social Security Administration, and other departmental components in the development of medical and remedial care policies.

• Provides policy, operational and systems support for implementation of the Medicaid drug rebate program.

• Coordinates with the Bureau of Data Management and Strategy and the States in the development of systems specifications for the format, transmission methods, data entry, maintenance, and modification of drug product data submitted by manufacturers.

• Develops and disseminates drug rebate technical notes, letters to Medicaid State Agencies, and acceptance letters to drug manufacturers. Processes signed drug rebate agreements.

• Maintains liaison with, and provides technical assistance to drug manufacturers, Medicaid State agencies, pharmaceutical associations, private sector vendors, and other parties regarding the drug rebate program.

• Establishes and maintains telephone "hotline" in answering queries regarding the monthly Consumer Price Index Urban and current Manufacturer and State address information.

• Prepares an annual report to Congress on drug product and expenditure data.

• Supports cross-cutting activities in relation to functional areas of responsibilities involving: (1) Section 1115 waivers, (2) quality of care initiatives, (3) health care reform, (4) fraud and abuse strategies, (5) legislative development, (6) communication strategy and implementation, and (7) internal budgeting and contracting.

c. Office of Beneficiary Services (FAB6)

• Provides beneficiary casework services by responding to written and person inquiries and inquires made by other interested parties on behalf of beneficiaries which are directed to the bureau.

• Uses HCFA hotline to improve beneficiary access to the bureau.

• Develops with partners and stakeholders a network of contacts to facilitate casework and outreach to beneficiaries.

• Working with States and Regional Offices, develops and implements strategies to inform individuals of benefits available and how to gain access to the program.

• Develops consumer information directed at informing beneficiaries on a variety of programmatic issues.

• Identifies and develops reports on significant trends identified through casework activities.

• Serves as ombudsperson for beneficiaries through representation on

workgroups and at meetings within and outside HCFA.

• In conjunction with partners and stakeholders, develops strategies for addressing and overseeing eligibility and service access issues for beneficiaries.

• Develops strategies for addressing and overseeing quality issues for beneficiaries.

• Serves as the focal point in the bureau for special populations such as Native Americans, HIV/AIDS, individuals in rural areas, the homeless and migrants.

• Develops multi-faceted initiatives focused on priority program areas and special need of special populations.

• Collaborates with Federal and State agencies and private organizations to identify and eliminate barriers and improve health status of Medicaid beneficiaries.

• Works with Regional Offices to identify States' needs and coordinates initiatives for technical assistance, information exchange and capacity for addressing beneficiary issues.

• Develops, interprets and issues Medicaid policies and procedures for implementing mandatory and optional eligibility groups, financial eligibility requirements and non-financial eligibility requirements such as age, disability, residence and citizenship and beneficiary appeals.

• Develops, interprets and issues Medicaid policies and procedures for eligibility administration and beneficiary rights and responsibilities, confidentiality, outstationing of eligibility workers and other technical policies such as advance directives and state wideness.

• Develops, implements and coordinates a system for reviewing the States' performance of Income Eligibility Verification System (IEVS) requirements. Develops and interprets regulations and policies for States to establish IEVS.

• Evaluates and contributes to development of policies for Aid to Families with Dependent Children and Supplemental Security Income which have impact on Medicaid eligibility (including welfare reform proposals).

• Develops, directs and operates a national quality control program to determine the effectiveness of Medicaid State agencies' performance in the area of Medicaid eligibility determinations and negative case actions. As part of this function, the team establishes, maintains and disseminates MEQC schedules, develops Regional office reporting requirements, reviews State corrective action plans, participates in development of fiscal disallowances and preparing recommendations for waivers of disallowances.

• Encourages State to develop alternatives to the traditional Medicaid Quality Control (MEQC) program through MEQC pilots and participates in the development, review and approval tracking and development of reports relative to such pilots.

• Develops with partners strategies and guideline outside MEQC for monitoring State's eligibility policies and operations and evaluates finding resulting from these monitoring activities.

• Provides consultation on State plan amendments and prepares disapproval actions.

• Recommends specific action for new or proposed legislation on eligibility and beneficiary related issues.

• Provides consultation on eligibility aspects of Home and Community-based waivers.

• Prepares specifications for regulation, State plan preprints and manual instructions in program areas within the scope of this team's responsibilities.

• Maintains liaison with the Social Security Administration, Administration for Families and Children, Public Health Services, USDA and other Federal and State agencies that provide assistance and services to Medicaid beneficiaries.

• Supports cross-cutting activities in relation to functional areas of responsibilities involving: (1) Section 1115 waivers, (2) quality of care initiatives, (3) health care reform, (4) fraud and abuse strategies, (5) legislative development, (6) communication strategy and implementation, and (7) internal budgeting and contracting.

• Serves as the focal point for Medicaid third party liability (TPL) operating instructions and policy guidance to Medicaid State agencies and regional offices.

• Develops and implements the regulations and operating instructions for regional offices and States to implement TPL programs.

• Reviews proposed legislation and regulations for potential impact on TPL operations and makes recommendations for changing regulations to improve TPL program administration.

• Investigates and corrects problems in TPL operational implementation by Medicaid State agencies.

• Assists regional offices in resolving operating issues involving various operational policies affecting TPL.

• Develops, interprets, and issues policies under Medicaid to ensure the appropriate allocation of health care/ administrative costs under the Medicaid Bureau Strategic Plan.

• Develops, interprets and issues policies for third-party liability provisions; the liability of recipients and applicants for payment of coinsurance, deductible, and other cost sharing amounts; payment of premiums; cost avoidance; coordination of benefits; free care; cross-over claims; and estate recoveries.

d. Office of Financial Services (FAB7)

• Participates in the development and evaluation of proposed legislation or other remedies to improve financial programs and services.

• Reviews proposed legislation, regulations, and operating initiatives for their impact and to respond to congressional inquiries.

• Prepares regulations, manuals, program guidelines, general instructions, reporting instructions, and other written products related to financial policies, operations, and services.

• Serves as Medicaid Bureau liaison with the Office of Inspector General and the Department of Justice regarding audit services.

• Provides oversight and coordinates the national Medicaid medical assistance and administrative costs budgets and justifications. Develops and maintains budget preparation and execution policies and procedures used by States and regional offices.

• Formulates the national Medicaid operating and President's budget for medical assistance payments and administrative costs.

• Develops information necessary to support the budget submissions and congressional budget justifications. Develops, implements, and maintains the Medicaid budget preparation and execution policies and procedures for use by the States and Regional Offices (ROs) in administering the Medicaid program.

• Prepares the Congressional Quarterly Status of Funds report using State agency, RO, and Central Office data. Performs statistical and analytical reviews of State agency and RO submissions to establish historical trends and projections of the Medicaid program expenditures.

• Conducts onsite reviews of State agencies and ROs to determine methodologies used for budget preparation and execution and to evaluate capability and accuracy of the various systems.

• Establishes policies and procedures by which Medicaid State agencies and regional offices submit quarterly budget estimates and reports and administers

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the State grants process for administrative and program payments.

• Maintains financial control over grants to States for Public Assistance (Medical Assistance Program) under Section 1903(d) of the Social Security Act.

• Reviews State expenditure reports together with recommendations regarding the allocability of expenditures provided by the RO, determines whether the recommended action is consistent with Federal law and regulations, prepares recommendations as to appropriate action attempts to resolve all issues with the ROs, documents unresolved issues to be referred to the appropriate HCFA authority for decisions, and incorporates the results of decisions in grants.

• Prepares grant award documents.

• Provides technical assistance and training to regional financial management staff in the monitoring of expenditures to assure full accountability for expenditures and develops appropriate financial management instructions.

• Reviews all State claims for Federal payment under Title XIX of the Social Security Act including regional office disallowances of State claims.

• Serves as the focal point for the defense of disallowance decisions before the Department Appeals Board.

• Ensures consistency with Federal laws, regulations, and policy in all actions that may result in disallowances of State claims for FFP. Reviews, secures necessary clearances, and provides technical assistance to regional offices in deferrals and disallowance notifications.

• Ensures the timely recovery of Federal funds and related interest; tracks disallowances from initiation through issuance, appeal and recovery of the Federal share of expenditures, preparing periodic reports on the status of disallowance actions; assists in the defense of disallowances, providing technical assistance to the Department Appeals Board (DAB) and legal staffs of the Departments of Health and Human Services and Justice in administrative or judicial appeals of Medicaid disallowances; and disseminates and implements all DAB and Court decisions.

• Provides oversight, administration, maintenance, and amendments and revisions of the Medicaid Budget and Expenditure System.

• Develops, coordinates, and maintains an automated system for budgets, grants, and expenditure reports and produces periodic reports from this system.

• Directs regional office financial reviews and audits of State agencies and oversees the Medicaid claims processing review activity.

• Directs the national financial management review process to monitor State Medicaid expenditures, develops financial management review guides, establishes the national schedule of reviews and provides instructions and technical assistance to ensure that reviews and policies are consistently implemented.

• Monitors regional office Medicaid financial management participating in onsite reviews and preparing periodic reports of activities and results and national performance.

• Collects, evaluates, and develops related information and calculates the Federal fiscal year National DSH payment target and State DSH allotments.

• Develops the **Federal Register** notice to publish the Federal fiscal year National DSH target and State DSH allotments.

• Establishes policies and procedures by which Medicaid State agencies and regional offices submit quarterly budget and expenditure information on State receipts under donation and taxes programs in accordance with the provisions of the Medicaid statute and regulations.

• Collects, evaluates, and develops information and reporting on State receipts of donations and taxes.

• In coordination with the regional offices, calculates States' limits on receipts of donations and taxes and any applicable reduction in Federal financial participation.

• Prepares regulations, manuals program guidelines, and other instructions related to donations and taxes provisions.

• Provides interpretations of established Medicaid policies to regional offices, congressional staffs, and other departmental offices on donations and taxes provisions.

• Establishes HCFA payment policy for Medicaid administrative costs. Responsible for operational policies regarding availability of Federal Financial Participation (FFP), designation of appropriate FFP rates, and for issuing interpretations to regional offices regarding operational FFP issues.

• Develops and coordinates the fiscal aspects of the Medicaid program, and sets and interprets Federal funding policies and regional office and State operational procedures.

• Provides the definitive interpretation of Federal funding of State Medicaid administrative costs, operational policies on the allocability and availability of Federal financial participation (FFP), and the appropriate FFP rates.

• Participates with HCFA components in development, review, and evaluation of State health system reforms under State Section 1115 waiver programs.

• Participates in development, implementation, oversight and negotiation activities related to the financial and budget neutrality provisions of the States' Section 1115 programs, managed care and other health care reform initiatives, including reporting, rate setting, and conditions of Federal financial participation.

• Performs statistical and analytical reviews of State agency and RO submissions to establish historical trends and projections of the Medicaid budget estimates and program expenditures related to States' Section 1115 programs, managed care and other health care reform initiatives.

• Participates in onsite reviews of State agencies and ROs for oversight, technical assistance and negotiation of issues related to the provisions of States' Section 1115 programs and health care reform initiatives.

• Develops evaluates, interprets and reviews policies, regulations, standards and procedures, and provides operational oversight, pertaining to physician referral provisions.

• Provides oversight for the implementation and continuing operational support related to physician referral.

• Develops, plans and executes analytical studies to identify programmatic, operational or management areas of fiscal vulnerability or which impact the fiscal integrity of the Medicaid program.

• Performs financial analyses of and makes recommendations for addressing areas of fiscal vulnerability.

• In partnership with States, develops approaches to improve the fiscal integrity of the Medicaid program and reduce areas of fiscal vulnerability.

• Supports cross-cutting activities in relation to functional areas of responsibilities involving: (1) Section 1115 waivers, (2) quality of care initiatives, (3) health care reform, (4) fraud and abuse strategies, (5) legislative development, (6) communication strategy and implementation, and (7) internal budgeting and contracting.

e. Office of Information Systems and Data Analysis (FAB8)

• Serves as the Bureau's focal point to improve State/Federal decision making through the effective use of information.

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• Develops information requirements for decision making in State/Federal health care programs through its leadership role in defining information requirements via customer input, and reconciles information needs.

• Develops staff capability for information analysis by incorporating data and statistical analysis techniques into program/policy training, providing tools and materials necessary to facilitate data and information analysis, and ensures teams needing these skills are staffed with such members experienced in their use.

• Serves as clearinghouse for information on Medicaid programs and data availability to support comparative analyses.

• Monitors and tracks Medicaid population through 2082 and the Medicaid Statistical Information System data.

• Develops and maintains an automated system providing State-by-State inventories of Medicaid program characteristics.

• Develops, implements, and directs mathematical and statistical procedures, including sampling, precision, universe identification, etc., in support of the Medicaid quality control and assessment programs, as well as other Medicaid program activities.

• Provides statistical support and performs analyses related to Federal and State Medicaid program design quality and operations.

• Assists BDMS in setting standards to assure data accuracy and consistency through the development of data definitions, system edits, etc.

• Develops and maintains a centralized State data profile to support State and regional efforts to foster improvements to State program design via the assistance of technological advances made by other States and the private sector, including state-of-the-art technology in electronic data processing.

• Coordinates with all State Medicaid agencies, in conjunction with HCFA regional offices and BDMS, implementation of system coding and other changes related to the Medicare program's Physician Payment Reform initiative and other data initiatives such as common coding, uniform billing, and electronic data interchange.

• Develops, plans and executes analytical studies at the request of the Bureau Director; analyzes current Medicaid policies to identify weaknesses, define options for change, and assess their impact; and effectively communicates and disseminates findings associated with the program analyses and policy studies described above.

• Analyzes large-scale databases and designs population-based surveys and other analyses to enhance program operations and policy coherency.

• Provides the bureau with internal systems expertise to produce and interpret operational performance indicators from the manipulation of computer-stored financial and program data and to review the integrity of systems operating within the Bureau.

• Serves as a focal point for Medicaid funding requests and coordinates with the appropriate components within HCFA and the Department and prepares the recommendations for final decisions regarding approval or disapproval.

• Directs the development and issuance of regulations, specifications, requirements, procedures, and instructional material to implement and maintain operational systems for processing Medicaid claims/encounter data and defines their application to the States and program recipients.

• Monitors Medicaid automated systems requirements, standards and procedures pertaining to the review and evaluation of State agency automated data processing, claims/encounter data processing, information retrieval systems, and integrated eligibility systems, in terms of their development, operations and funding to determine State compliance with published Federal requirements.

• Performs periodic reviews of State systems to identify deficiencies with regard to failing to meet performance standards developed by these and other HCFA staff.

• Reviews and approves State agency requests for Federal Financial Participation (FFP) associated with the cost of developing and operating Medicaid claims/encounter data processing, information retrieval systems, as well as integrated eligibility systems.

• Provides policy guidance for the application of conceptual equivalency in the determination of whether uncertified automated systems meet the Federal Medicaid Management Information System (MMIS) requirements, as well as provides technical guidance to HCFA components involved in the development of MMIS re-certification standards.

• Central coordination/liaison office for working with other HCFA components (e.g. BDMS, BPO, HSQB, ORD, etc.) on data and system-related issues. Similarly relates to other governmental agencies and the private sector on Medicaid issues, in concert with BDMS' overall strategy/guidance.

• Promotes standardized electronic data interchange (EDI) and its adoption by States; works with Regional Offices, the National Uniform Billing Committee, and other health care claims/encounter work groups toward this end together with the State Medicaid Director's Association, the Medicare program and other interested parties for purposes of developing national standards.

• Participates on the American National Standards Institute (ANSI) committees (and other similar groups) regarding data elements for eligibility, health care services, coverage, payment, etc. information.

• Monitors State electronic verification/claims submission/processing/payment systems, as well as HCPCS issues, and the conversion of the HCFA 1450 and 1500 to electronic formats.

• Coordinates with all State Medicaid Agencies the adoption of national standards for paper and electronic data interchange-based administrative transactions such as claims, encounters, remittance advice and eligibility inquiries.

f. Office of Program and Organizational Services (FAB9)

• Promote and support States' development of Medicaid program transitions to health system reform.

• Provide leadership to the Medicaid Bureau's coordinating activities related to State-initiated health system reforms accomplished through Statewide Section 1115 projects.

• Serve as the Medicaid Bureau's clearinghouse for information on State reform initiatives; identify needs and coordinate initiatives for technical assistance, information exchange and capacity building to further States' progress toward program reforms.

• Implement collaborative initiatives among Federal and State agencies and private organizations, for complementary efforts to improve health service delivery and/or financing in priority areas.

• Support management of Medicaid strategic planning, through analyses of data, trends and external forces, assessment of program activities in light of planned objectives, and coordination of Medicaid planning activities with other agencies and organizations.

• Serves as liaison with and ombudsman for the Medicaid regional components. Ensure that meaningful dialogue, instead of just one-way information flow, occurs during teleconferences and conferences.

Ensures involvement and participation by ORD and OMC when necessary to resolve operational conflicts impacting the Medicaid program. Represents the regions at leadership meetings of the Bureau, and provides leadership on Bureau priorities for regional office work.

• Compile and analyze other bureaus' plans to the extent they affect Medicaid resource use in the regions or in the bureau.

• Provide leadership in the development and revisions of the HCFA workplan related to the bureau's responsibilities or of the Medicaid Bureau work plan. Prepare Medicaid Bureau strategies.

• Represent the Bureau with AAORM staff. Participate in AAORM conference calls with the Regional Administrators and provide alerts to the leadership of the Medicaid Bureau when issues arise that will affect the Bureau's planning.

• Provide leadership within the Medicaid in the development of legislative implementation plans.

• Provides leadership on the evaluation of the Medicaid Bureau's structure and on the development and implementation of the means for dealing with the results of evaluations.

• Evaluates Medicaid operations and leadership, and HCFA-wide policies and programs to develop, coordinate, and implement bureau-wide management, budget, personnel and administrative policies and programs. Leads the design, implementation, and operation of Bureau processes, methods and policy to be followed by all subdivisions of the Bureau in the areas of budget and financial operations, procurement, work planning, personnel, management analysis and evaluation, administrative and general services, and equal employment opportunity.

• Executes the budget for the bureau through the issuance of staff and dollar controls, budget allowances for administrative expenditures, and employment ceilings to the Bureau Director and team managers.

• Provides advice and assistance with regard to the development, coordination and control of manual issuances. Interprets and produces various program information reports.

• Serves as focal point for public information (e.g., newsletter articles, FOIA and Privacy Act requests, etc.). Plans, directs and coordinates the Bureau's paperwork burden reduction and information collection budget programs.

• Provides leadership of a program to ensure that the Bureau is responsive to States, regional offices, other central office components and the public. Directs a Bureau-wide tracking and control system on correspondence, policies, regulations, action documents, etc., and provides training and technical assistance on standards for content of written documents.

• Represents the Medicaid Bureau and participates on teams charged with redesigning HCFA-wide administrative and management programs, policies and procedures.

• Serves as focal point for the General Accounting Office and the Office of the Inspector General reports relating to MB and coordinates other operational reviews of and within MB (e.g., internal control reviews).

• Develops and conducts a curriculum and courses to develop or increase the knowledge of the Medicaid program of staff from the MB, regional offices, States, and other partners and stakeholders.

• Coordinates, tracks, and produces reports on State plan amendments, home and community-based waivers, State plan preprints, legislative proposals (A19s), regulations, correspondence, and Section 1115 health care reform waivers.

• Develops and maintains general program compliance policies and tracks status of compliance issues.

• Serves as the liaison and coordinator between the public and other Federal agencies and the MB to address the needs of such individuals and organizations. These activities include securing appropriate attendees at meetings, participants on workgroup and teams, and tracking the MB resources committed to such activities.

• Develops and maintains a bureau administrative protocol and develops instructions for MB, regional offices, and States on submission and processing State plan amendments.

• Directs the Bureau's ADP activities relating to development, implementation, and administration of mainframe and PC-based ADP systems.

• Ensures adherence to all HCFA Automated Data Processing (ADP) security measures, policies, and procedures and assists with the development, modification, and review of ADP policies.

• Provides bureau support on issues related to microcomputer systems. Serves as the primary bureau contact point in coordinating with the Bureau of Data Management and Strategy on issues associated with system applications.

Dated: September 20, 1996.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 96–33094 Filed 12–27–96; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4061–N–04]

Announcement of Funding Awards for Fiscal Year 1996 for Section 8 Family Self-Sufficiency Program Coordinators

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year (FY) 1996 to housing agencies (HAs) under the Section 8 Family Self-Sufficiency (FSS) program. The purpose of this Notice is to publish the names and addresses of the award winners and the amount of the awards made available by HUD to provide funding for FSS program coordinators.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Operations Division, Office of Rental Assistance, Office of Public and Indian Housing, Room 4220, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410–8000, telephone (202) 708–0477. (This telephone number is not toll-free.) A telecommunications device for hearing- and speech-impaired individuals (TTY) is available at 1–800–877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: The purpose of the rental voucher and rental certificate programs is to assist eligible families to pay the rent for decent, safe, and sanitary housing. The FY 96 awards announced in this notice were selected for funding consistent with the provisions in the Notice of Funding Availability (NOFAs) published in the **Federal Register** on July 26, 1996 (61 FR 39261).

The funding for FSS service coordinators allows housing agencies to employ a coordinator to work with the Program Coordinating Committee and with local service providers to assure that program participants are linked to the supportive services they need to achieve self-sufficiency.

A total of $9,316,949 of grant funds was awarded to 289 recipients. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of those awards as shown on the attachment.

Dated: December 23, 1996.

Michael B. Janis,

General Deputy, Assistant Secretary for Public and Indian Housing.

FY 1996 SECTION 8 FAMILY SELF-SUFFICIENCY COORDINATORS FUNDING (CDBG FUNDS)

Field office	Housing agency name	Address	Amount
BOSTON	LYNN HOUSING AUTHORITY	174 SOUTH COMMON STREET LYNN, MA 01905.	$42,000
	LOWELL HOUSING AUTHORITY	350 MOODY STREET LOWELL, MA 01853	42,500
	ACTON HOUSING AUTHORITY	68 WINDSOR AVENUE ACTON, MA 01720	29,505
	DENNIS HOUSING AUTHORITY	167 CENTER STREET SOUTH DENNIS, MA 02660.	31,395
	GLOUCESTER HOUSING AUTHORITY	P.O. BOX 1599 GLOUCESTER, MA 01931	32,274
	SALEM HOUSING AUTHORITY	27 CHARTER STREET SALEM, MA 01970	41,250
	SAUGUS HOUSING AUTHORITY	19 TALBOT STREET SAUGUS, MA 01906	31,662
	WAKEFIELD HOUSING AUTHORITY	26 CRESCENT STREET WAKEFIELD, MA 01880.	22,776
	LEOMINISTER HOUSING AUTHORITY	100 MAIN STREET LEOMINISTER, MA 01453.	38,105
	NORWOOD HOUSING AUTHORITY	40 WILLIAM SHYNE CIRCLE NORWOOD, MA 02062.	37,298
	EVERETT HOUSING AUTHORITY	90 CHELSEA STREET EVERETT, MA 02149.	42,500
	MELROSE HOUSING AUTHORITY	910 MAIN STREET MELROSE, MA 02176	24,773
	ANDOVER HOUSING AUTHORITY	100 MORTON STREET ANDOVER, MA 01810.	42,500
	MILFORD HOUSING AUTHORITY	45 BIRMINGHAM COURT MILFORD, MA 01757.	12,480
	DANVERS HOUSING AUTHORITY	14 STONE STREET DANVERS, MA 01923	21,060
	WOBURN HOUSING AUTHORITY	59 CAMPBELL STREET WOBURN, MA 01801.	42,500
	WAYLAND HOUSING AUTHORITY	106 MAIN STREET WAYLAND, MA 01778	17,306
	READING HOUSING AUTHORITY	22 FRANK D. TANNER DRIVE READING, MA 01867.	24,975
	ATTLEBORO HOUSING AUTHORITY	37 CARLON STREET ATTLEBORO, MA 02703.	22,984
	SHREWSBURY HOUSING AUTHORITY	36 N. QUINSIGAMOND AVENUE SHREWSBURY, MA 01545.	24,012
Totals			623,855
HARTFORD	MILFORD HA	P.O. BOX 291, MAIN OFFICE MILFORD, CT 06406.	16,208
	ANSONIA HA	75 CENTRAL STREET ANSONIA, CT 06401.	42,214
	NORWALK HA	24½ MONROE STREET SOUTH NORWALK, CT 06856.	34,466
	TORRINGTON HA	TORRINGTON TOWERS TORRINGTON, CT 06790.	39,446
	HARTFORD HA	475 FLATBUSH AVENUE HARTFORD, CT 0616.	42,078
Totals			174,412
MANCHESTER	Keene Housing Authority	105 Castle Street KEENE, NH 03431	33,270
	BURLINGTON HOUSING AUTHORITY	230 St. Paul Street BURLINGTON, VT 05401.	32,053
	BANGOR HOUSING AUTHORITY	161 Davis Road BANGOR, ME 04401	32,942
	Westbrook Housing Authority	P.O. BOX 349 WESTBROOK, ME 04098	42,995
	Augusta Housing Authority	16 Cony Street CITY CENTER PLAZA AUGUSTA, ME 04330.	22,429
Totals			163,689
PROVIDENCE	PAWTUCKET HOUSING AUTHORITY	214 ROOSEVELT AVENUE PAWTUCKET, RI 02862.	34,042
	RHODE ISLAND HOUSING & MORTGAGE FINANCE.	44 WASHINGTON STREET PROVIDENCE, RI 02903.	38,513
	NORTH PROVIDENCE HOUSING AUTHORITY.	945 CHARLES STREET NORTH PROVIDENCE, RI 02904.	32,500
Totals			105,055
NEW YORK	CITY OF PORT JERVIS	P.O. BOX 1002 PORT JERVIS, NY 12771	27,497
	VILLAGE OF KIRYAS JOEL	500 FOREST ROAD SUITE 202 MONROE, NY 10905.	42,500
	TOWN OF BABYLON	P.O. BOX 2791 NORTH BABYLON, NY 11703.	42,250
	NORTH FORK H.A	110 SOUTH STREET GREENPORT, NY 11944.	42,000

FY 1996 SECTION 8 FAMILY SELF-SUFFICIENCY COORDINATORS FUNDING (CDBG FUNDS)—Continued

Field office	Housing agency name	Address	Amount
Totals			154,247
BUFFALO	Gloversville Housing Authority	181 WEST STREET GLOVERSVILLE, NY 12078.	25,069
	Town of Colonie	MEMORIAL TOWN HALL NEWTONVILLE, NY 12128.	40,681
	Cohoes Housing Authority	100 MANOR AVENUE COHOES, NY 12047	34,199
	City of Fulton	125 WEST BROADWAY FULTON, NY 13069.	26,250
Totals			126,199
NEWARK	NEPTUNE HOUSING AUTHORITY	1910 ALBERTA AVENUE NEPTUNE, NJ 07753.	34,000
	PASSAIC COUNTY HOUSING AUTHORITY	ADMIN BUILDING 401 GRAND STREET PATERSON, NJ 07505.	33,450
	FORT LEE HOUSING AUTHORITY	1403 TERESA DRIVE FORT LEE, NJ 07024.	41,600
	BOOTON HOUSING AUTHORITY	125 CHESTNUT STREET BOONTON, NJ 07005.	42,000
	LONG BRANCH HOUSING AUTHORITY	P.O. BOX 335 GARFIELD COURT LONG BRANCH, NJ 07740.	42,500
	MILVILLE HOUSING AUTHORITY	P.O. BOX 803 MILVILLE, NJ 08332	36,169
	LAKEWOOD HOUSING AUTHORITY	317 SAMPSON AVENUE LAKEWOOD, NJ 08701.	42,500
	WOODBRIDGE HOUSING AUTHORITY	10 BUNNS LANE WOODBRIDGE, NJ 07095.	40,386
	NEW JERSEY DCA	CN 806 101 S. BROAD STREET TRENTON, NJ 08625.	41,543
	WARREN COUNTY HOUSING AUTHORITY.	415 B FRONT STREET BELVDERE, NJ 07060.	42,500
	WEEHAWKEN HOUSING AUTHORITY	525 GREGORY AVENUE WEEHAWKEN, NJ 07087.	41,918
	PLAINFIELD HOUSING AUTHORITY	510 E. FRONT STREET PLAINFIELD, NJ 07060.	40,500
	LAKEWOOD TOWNSHIP HOUSING AUTHORITY.	600 KENNEDY BLVD. LAKEWOOD, NJ 08701.	42,500
	WEST ORANGE HOUSING AUTHORITY	66 MAIN STREET WEST ORANGE, NJ 07052.	40,000
	EAST ORANGE HOUSING AUTHORITY	160 HALSTED STREET EAST ORANGE, NJ 07018.	42,500
Totals			604,066
PHILADELPHIA	DAUPHIN COUNTY	501 Mohn Street P.O. Box 7598 STEELTON, PA 17113.	35,561
	BERKS COUNTY	1803 Butter Lane READING, PA 19606	28,080
	HARRISBURG	PO BOX 3461 HARRISBURG, PA 17105	38,350
	MONTOUR COUNTY	One Beaver Place DANVILLE, PA 17821	42,500
	LANCASTER CITY	333 Church St. LANCASTER, PA 17602	40,134
	LUZERNE COUNTY	250 First Avenue KINGSTON, PA 18704	36,855
	WILMINGTON	400 Walnut Street WILMINGTON, DE 19801.	40,714
	ADAMS COUNTY	139–143 Carlisle St. GETTYSBURG, PA 17325.	34,300
	CUMBERLAND COUNTY	114 N. Hanover St. CARLISLE, PA 17013	13,500
	SUNBURY	705 Market St. P.O. Box 458 SUNBURY, PA 17801.	26,047
	WILKES-BARRE	50 Lincoln Plaza WILKES-BARRE, PA 18702.	39,180
	NORTHUMBERLAND COUNTY	50 Mahoning Street MILTON, PA 17847	26,047
Totals			401,268
BALTIMORE	ST. MARY'S COUNTY HOUSING AUTHORITY.	P.O. BOX 653 GOVERN. CENTER LEONARDTOWN, MD 20650.	42,500
	ANNE ARUNDEL COUNTY HOUSING AUTHORITY.	7885 GORDON COURT GLEN BURNIE, MD 21060–2817.	30,222
	HOUSING AUTHORITY OF CALVERT COUNTY.	150 MAIN STREET, SUITE 101 PRINCE FREDERICK, MD 20678.	25,000
	CECIL COUNTY HOUSING AGENCY	129 E. MAIN STREET ELKTON, MD 21921	39,042
	HOUSING AUTHORITY OF THE CITY OF HAVRE.	D129 E. MAIN STREET ELKTON, MD 21921.	26,336
	WASHINGTON COUNTY HOUSING AUTHORITY.	33 WEST WASHINGTON STREET HAGERSTOWN, MD 21740–4834.	21,541
	HOUSING AUTHORITY OF THE CITY OF HAGERST.	35 W. BALTIMORE STREET HAGERSTOWN, MD 21741–2859.	21,541
Totals			206,182

FY 1996 SECTION 8 FAMILY SELF-SUFFICIENCY COORDINATORS FUNDING (CDBG FUNDS)—Continued

Field office	Housing agency name	Address	Amount
CHARLESTON	RALEIGH COUNTY HOUSING AUTHORITY.	P. O. BOX BD BECKLEY, WV 25801	26,957
	KANAWHA COUNTY HOUSING AUTHORITY.	P. O. BOX 3826 CHARLESTON, WV 25338	30,000
	BENWOOD HOUSING AUTHORITY	2200 MARSHALL STREET BENWOOD, WV 26031.	29,431
	HUNTINGTON HOUSING AUTHORITY	P. O. BOX 2183 HUNTINGTON, WV 25722	28,339
	WEIRTON HOUSING AUTHORITY	525 COVE ROAD WEIRTON, WV 26062	13,105
Totals			127,832
PITTSBURGH	Butler County Housing Authority	111 South Cliff Street BUTLER, PA 16003	42,500
	Altoona Housing Authority	2700 Pleasant Valley Blvd. ALTOONA, PA 16602.	42,500
Totals			85,000
RICHMOND	Albermarle County Office of Housing	401 McIntire Road CHARLOTTESVILLE, VA 22902.	29,124
	Lee County/Wise County RHAs	P.O. Box 665 JONESVILLE, VA 24263	29,012
	Cumberland Plateau Regional Hsg. Auth.	P. O. Box 1328 LEBANON, VA 24266	30,365
	Portsmouth Redevelopment and Hsg Auth.	P. O. Box 1098 PORTSMOUTH, VA 23705	34,511
Totals			123,012
WASHINGTON DC	Housing Authority of the City of Rockvil	14 MOOR DRIVE ROCKVILLE, MD 20850	42,500
	Virginia Redevelopment and Housing Autho	601 S. BELVIDERE RICHMOND, VA 23220	42,500
Totals			85,000
ATLANTA	BRUNSWICK HOUSING AUTHORITY	P.P. BOX 1118 BRUNSWICK, GA 31521–1118.	27,584
Totals			27,584
BIRMINGHAM	BESSEMER	P.O. BOX 1390 BESSEMER, AL 35021	29,599
	JEFFERSON COUNTY	3700 INDUSTRIAL PARKWAY BIRMINGHAM, AL 35217.	28,765
	FLORENCE	303 N. PINE STREET FLORENCE, AL 35630.	36,182
	OZARK	P.O. BOX 566 OZARK, AL 36361	30,500
Totals			125,046
CARIBBEAN/PUERTO RICO	MUNICIPALITY OF CAROLINA	P.O. BOX 8 CAROLINA, PR 00985–0008	18,945
	MUNICIPALITY OF HORMIGUEROS	P.O. BOX 97 HORMIGUEROS, PR 00660	42,500
	MUNICIPALITY OF PONCE	P.O. BOX 1709 PONCE, PR 00733	22,088
	MUNICIPALITY OF BAYAMON	P.O. BOX 2988 BAYAMON, PR 00620	17,330
	MUNICIPALITY OF AGUAS BUENAS	P.O. BOX 128 AGUAS BUENAS, PR 00767	16,483
Totals			117,346
COLUMBIA	Conway Housing Authority	2303 LEONARD AVENUE CONWAY, SC 29527.	15,066
	Greenwood Housing Authority	P.O. BOX GREENWOOD, SC 29648	30,000
	Myrtle Beach Housing Authority	P.O. BOX MYRTLE BEACH, SC 29578	36,594
	Anderson Housing Authority	1335 EAST RIVER STREET ANDERSON, SC 29624.	29,110
	Charleston Co. Housing & Redevelopment	P.O. BOX 6188 CHARLESTON, SC 29405	21,861
Totals			132,631
GREENSBORO	WESTERN CAROLINA COMM. ACTION	P.O. BOX 685, HENDERSONVILLE, NC 28793.	25,784
	MACON PROGRAM FOR PROGRESS	P.O. BOX 700, FRANKLIN, NC 28734	19,012
	STATESVILLE HOUSING AUTHORITY	433 S. MEETING ST., STATESVILLE, NC 28677.	37,905
	SANFORD HOUSING AUTHORITY	P.O. BOX 636, SANFORD, NC 27331	29,747
	SANDHILLS COMM. ACTION AGENCY	P.O. BOX 937, CARTHAGE, NC 28327	42,500
	TWIN RIVERS OPPORTUNITIES, INC.	P.O. BOX 1482, NEW BERN, NC 28563	32,500
	LAURINBURG HOUSING AUTHORITY	P.O. BOX 1437, LAURINBURG, NC 28353	36,549
	ROCKY MOUNT HOUSING AUTHORITY	P.O. BOX 4717, ROCKY MOUNT, NC 27803.	28,506
	HIGH POINT HOUSING AUTHORITY	P.O. BOX 1779, HIGH POINT, NC 27261	27,990
	GREENSBORO HOUSING AUTHORITY	P.O. BOX 21287, GREENSBORO, NC 27420.	42,500
	ASHEBORO HOUSING AUTHORITY	P.O. BOX 609, ASHEBORO, NC 27204	29,805
	TOWN OF EAST SPENCER	P.O. BOX 367, EAST SPENCER, NC 28039	33,864
	GRAHAM HOUSING AUTHORITY	P.O. BOX 88, GRAHAM, NC 27253	20,000
	GREENVILLE HOUSING AUTHORITY	P.O. BOX 1426, GREENVILLE, NC 27835	26,105
Totals			433,767
JACKSON	MS REGIONAL HOUSING AUTHORITY #VII.	P.O. BOX 886 MCCOMB, MS 39648–0886	22,557
	MS REGIONAL HOUSING AUTHORITY #VIII.	P.O. BOX 2347 GULFPORT, MS 39505–2347.	34,923
	MS REGIONAL HOUSING AUTHORITY #V	P.O. BOX 419 NEWTON, MS 39345–0419	25,700
Totals			83,180

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FY 1996 SECTION 8 FAMILY SELF-SUFFICIENCY COORDINATORS FUNDING (CDBG FUNDS)—Continued

Field office	Housing agency name	Address	Amount
JACKSONVILLE	BOCA RATON HA	201 W. PALMETTO PARK RD BOCA RATON, FL 33432.	26,208
	DELAND HA	300 SUNFLOWER CIRCLE DELAND, FL 32734.	38,806
	DAYTONA BEACH HA	118 CEDAR STREET DAYTONA BEACH, FL 32114.	34,895
	RIVIERA BEACH HA	2014 WEST 17TH COURT RIVIERA BEACH, FL 33404.	33,809
	PASCO COUNTY HA	14517 7TH ST. DADE CITY, FL 33523	34,900
	HERNANDO COUNTY HA	820 KENNEDY BLVD BROOKSVILLE, FL 34601.	34,849
	GAINESVILLE HA	1900 S.E. 4TH STREET GAINESVILLE, FL 32602.	34,250
	WALTON COUNTY HA	161 E. SLOSS AVENUE DEFUNIAK SPRINGS, FL 32433.	33,892
	VOLUSIA COUNTY HA	123 W. INDIANA AVENUE DELAND, FL 32720.	27,116
Totals			298,725
KNOXVILLE	CROSSVILLE HOUSING AUTHORITY	P.O. BOX 425 202 IRWIN AVENUE CROSSVILLE, TN 38557.	30,000
	KINGSPORT HOUSING AUTHORITY	P.O. BOX 44 KINGSPORT, TN 37662	35,395
Totals			65,395
NASHVILLE	JACKSON HOUSING AUTHORITY	P.O. BOX 3188 JACKSON, TN 38303–0188	35,630
Totals			35,630
LOUISVILLE	BOONE COUNTY ASST HOUSING DEPT	P.O. BOX 536 BURLINGTON, KY 41005	31,167
	HSG AUTH OF FLOYD COUNTY	P.O. BOX 687 PRESTONBURG, KY 41653	24,628
	HSG AUTH OF GREENUP CO (JOINT)	1448 DIEDERICH BLVD. RUSSELL, KY 41169.	39,997
	CITY OF BOWLING GREEN HSG & CD	1017 COLLEGE STREET BOWLING GREEN, KY 42102.	35,530
	HSG AUTH OF SOMERSET	P.O. BOX 449 SOMERSET, KY 42502	29,700
	HSG AUTH OF CYNTHIANA (JOINT)	P.O. BOX 351 CYNTHIANA, KY 41031	26,976
	CUMBERLAND VALLEY REG HSG AUTH	P.O. BOX 806 BARBOURVILLE, KY 40906	20,850
	HSG AUTH OF GEORGETOWN	139 SCROGGIN PARK GEORGETOWN, KY 40324.	22,000
	CITY OF PADUCAH SECT 8 (JOINT)	P.O. BOX 2267 PADUCAH, KY 42001	29,844
	KENTUCKY HOUSING CORPORATION	1231 LOUISVILLE ROAD FRANKFORT, KY 40601.	33,745
Totals			294,437
CHICAGO	WAUKEGAN HA	200 UTICA STREET WAUKEGAN, IL 60085	40,000
	BLOOMINGTON HA	104 E. WOOD BLOOMINGTON, IL 61701	37,509
	MADISON COUNTY HA	1609 OLIVE STREET COLLINSVILLE, IL 62234.	33,915
	CHAMPAIGN HA	P.O. BOX 183 URBANA, IL 61801	26,600
	EAST ST LOUIS HA	700 N. 20TH STREET EAST ST. LOUIS, IL 62205.	36,723
Totals			174,747
CLEVELAND	JEFFERSON METROPOLITAN HOUSING AUTHORITY.	815 NORTH SIXTH STREET STEUVENVILLE, OH 43952.	40,357
	MEDINA METROPOLITAN HOUSING AUTHORITY.	860 WALTER ROAD MEDINA, OH 44256	28,451
	TUSCARAWAS METROPOLITAN HOUSING AUTHORITY.	125 EAST HIGH NEW PHILADELPHIA, OH 44663.	42,354
	PORTAGE METROPOLITAN HOUSING AUTHORITY.	2832 STATE ROUTE 59 RAVENNA, OH 44266.	34,950
	BOWLING GREEN HOUSING AGENCY	304 NORTH CHURCH STREET BOWLING GREEN, OH 43402.	28,100
Totals			174,242
COLUMBUS	Morrow Housing Authority	9 WEST HIGH STREET MT. GILEAD, OH 43338.	28,800
	Logan Housing Authority	116 NORTH EVERETT STREET BELLEFONTAINE, OH 43311.	32,240
	Vinton Housing Authority	P.O. BOX 487 MCARTHUR, OH 45661	29,952
	Marietta Housing Authority	301 PUTNAM STREET MARIETTA, OH 45750.	32,448
	Springfield Housing Authority	437 EAST JOHN STREET SPRINGFIELD, OH 45505.	42,500
	Delaware Housing Authority	P.O. BOX 1292 DELAWARE, OH 43105	36,000
	Pickaway Housing Authority	176 RUSTIC DRIVE CIRCLEVILLE, OH 43113.	22,048
Totals			223,988

FY 1996 SECTION 8 FAMILY SELF-SUFFICIENCY COORDINATORS FUNDING (CDBG FUNDS)—Continued

Field office	Housing agency name	Address	Amount
CINCINNATI	Warren Housing Authority	990 EAST RIDGE DRIVE LEBANON, OH 45036.	26,946
	Middletown Housing Authority	435 CITY CENTRE MALL MIDDLETOWN, OH 45402.	20,280
Totals			47,226
DETROIT	Plymouth Housing Commission	1160 SHERIDAN PLYMOUTH, MI 48170	38,339
	Redford Township Housing Comm.	12121 HEMINGWAY REDFORD, MI 48239	27,000
	Saginaw Housing Commission	2811 DAVENPORT SAGINAW, MI 48602	42,500
	Wayne County Housing Commission	600 RANDOLPH DETROIT, MI 48226	32,703
	Westland Housing Commission	32715 DORSEY ROAD WESTLAND, MI 48185.	28,000
Totals			168,542
GRAND RAPIDS	WYOMING HOUSING COMMISSION	2450 36TH STREET, SW WYOMIN, MI 49509.	33,529
	LANSING HOUSING COMMISSION	310 SEYMOUR LANSING, MI 48933	32,160
	MUSKEGON HOUSING COMMISSION	1080 TERRACE STREET MUSKEGON, MI 49442.	37,428
	KENT COUNTY HOUSING COMMISSION	741 E. BELTLINE AVE, NE GRAND RAPIDS, MI 49505.	38,610
Totals			141,727
INDIANAPOLIS	Delaware County Housing Authority	2401 SOUTH HADDIX AVENUE MUNCIE, IN 47302.	28,074
	Goshen Housing Authority	302 SOUTH FIFTH STREET GOSHEN, IN 46526.	31,817
	Hammond Housing Authority	7329 COLUMBIA CIRCLE WEST HAMMOND, IN 46324.	31,838
	Peru Housing Authority	701 EAST MAIN STREET PERU, IN 46970	25,326
	Kokomo Housing Authority	210 EAST TAYLOR STREET KOKOMO, IN 46903.	18,156
	Gary Housing Authority	578 BROADWAY GARY, IN 46402	28,769
	Vincennes Housing Authority	501 HART STREET VINCENNES, IN 47591	17,500
Totals			181,480
MILWAUKEE	Kenosha HA	625—52ND STREET, ROOM 99 KENOSHA, WI 53140.	36,402
	Dunn County HA	1424 STOUT ROAD MEMOMONIE, WI 54751.	31,024
	Green Bay HA	100 N. JEFFERSON STREET, ROOM 608, GREEN BAY, WI 54301.	39,608
	Eau Claire County HA	COURTHSE, ROOM 1590, 731 OXFORD AVE EAU CLAIRE, WI 54703.	30,056
	Walworth County HA	COURTHOUSE ANNEX, W3929 COUNTY NN, ELKHORN, WI 53121.	30,550
Totals			167,640
MINNEAPOLIS	SE MN MULTI-COUNTY HRA	134 EAST SECOND STREET WABASHA, MN 55981.	27,830
	BRAINERD HRA	410 EAST RIVER ROAD BRAINERD, MN 56401.	38,209
	BLOOMINGTON HRA	2215 W. OLD SHAKOPEE ROAD BLOOMINGTON, MN 55431.	26,047
	SCOTT COUNTY HRA	16049 FRANKLIN TRAIL SE 104 PRIOR LAKE, MN 55372.	14,590
	SOUTHCENTRAL MN MULTI-COUNTY HRA.	410 JACKSON P.O. BOX 3464 MANKATO, MN 56002.	29,246
	NW MN MULTY-COUNTY HRA	P.O. BOX 128 MENTOR, MN 56736	30,000
	SOUTH ST PAUL HRA	125 THIRD AVE N SOUTH ST. PAUL, MN 55075.	36,680
	KANDIYOHI COUNTY HRA	P.O. BOX 1359 WILLMAR, MN 56201	40,614
	WASHINGTON COUNTY HRA	321 BROADWAY AVE ST. PAUL PARK, MN 55071.	22,004
Totals			265,220
FT. WORTH	SAN ANGELO HOUSING AUTHORITY	PO BOX 1751 SAN ANGELO, TX 76902	28,206
	PLANO HOUSING AUTHORITY	1581 AVENUE K PLANO, TX 75074	29,502
	MIDLAND COUNTY HOUSING AUTH	600 B NORTH BAIRD MIDLAND, TX 79701	32,812
Totals			90,520
ALBUQUERQUE	Bernalillo County	620 Lomas Blvd. NW ALBUUERQUE, NM 87102.	37,361
	Santa Fe County	P.O. Box 276 SANTA FE, NM 87504–0276	35,500
	Dona Ana County	2407 W. Picacho, Suite A–2 LAS CRUCES, NM 88005.	32,947
	Clovis	P.O. Box 1240 CLOVIS, NM 88102	27,900
	Truth or Consequences	108 South Cedar St. TRUTH OR CONSEQUENCES, NM 87901.	42,500

FY 1996 SECTION 8 FAMILY SELF-SUFFICIENCY COORDINATORS FUNDING (CDBG FUNDS)—Continued

Field office	Housing agency name	Address	Amount
	Alamogordo Housing Authority/	C/O P.O. BOX 336 ALAMOGORDO, NM 88310.	42,500
	Las Cruces	926 S. San Pedro St. LAS CRUCES, NM 88001.	87,073
	Region IV	104 W. 2nd CLOVIS, NM 88101	30,000
Totals			275,781
HOUSTON	CITY OF BEAUMONT	P.O. BOX 1312 BEAUMONT, TX 77708	30,276
	CITY OF BAYTOWN	805 NAZRO ST. BAYTOWN, TEXAS 77520	33,372
Totals			63,648
LITTLE ROCK	Housing Authority of Conway	335 S. Mitchell CONWAY, AR 72032	23,400
	Hope Housing Authority	720 Texas Street HOPE, AR 71801	15,514
	Mississippi County Pub. Fac. Board	808 West Keiser OSCEOLA, AR 72370	28,500
	Harrison Housing Agency	P.O. Box 1715 HARRISON, AR 72601	32,500
	Northwest Regional Housing Authority	P.O. Box 699 HARRISON, AR 72601	32,500
	Housing Authority of Siloam Springs	P.O. Box 280 SILOAM SPRINGS, AR 72761.	27,970
	Housing Authority of North Little Rock	P.O. Box 516 NORTH LITTLE ROCK, AR 72115.	25,000
Totals			185,384
NEW ORLEANS	TERREBONNE PARISH	P.O. BOX 2768 HOUMA, LA 70361	19,000
	WEBSTER PARISH POLICE JURY	P.O. BOX 876 MINDEN, LA 71058	21,770
Totals			40,770
OKLAHOMA CITY	NORMAN HA	700 N. BERRY RD. NORMAN, OK 73069	33,581
	STILLWATER	807 S. LOWRY STILLWATER, OK 74074	30,000
Totals			63,581
SAN ANTONIO	Corpus Christi Public Housing Authority	3701 Ayers Street CORPUS CHRISTI, TX 78415.	27,040
	Travis County Housing Authority	P.O. Box 1748 AUSTIN, TX 78767	31,500
	Hidalgo County Housing Authority	1800 N. Texas Blvd. WESLACO, TX 78596	33,665
	Harlingen Public Housing Authority	P.O. Box 1669 HARLINGEN, TX 78551	29,515
	Cameron County Housing Authority	P.O. Box 5806 BROWNSVILLE, TX 78520	34,290
	Pharr Public Housing Authority	211 West Audrey PHARR, TX 78577	37,700
	Kingsville Public Housing Authority	P.O. Box 847, 100 West Corral KINGSVILLE, TX 78363.	41,677
	Edinburg Public Housing Authority	P.O. Box 295 EDINBURG, TX 78540	32,000
Totals			267,387
KANSAS CITY	Fort Scott Housing Authority	P.O. Box 269, 315 Scott Avenue FORT SCOTT, KS 66701.	11,200
	Ray County Housing Authority	302 N. Camden St. RICHMOND, MO 64085	9,516
	Manhattan Housing Authority	P.O. Box 1024 MANHATTEN, KS 66505–1024.	29,950
	Jasper County Housing Authority	305 Virginia, P.O. Box 207 JOPLIN, MO 64802–0270.	21,526
	Liberty Housing Authority	101 E. Kansas, P.O. Box 159 LIBERTY, MO 64068.	30,281
	NEK–CAP, Inc	Pleasant View, RR# 4, P.O. Box 380 HIAWATHA, KS 66434.	28,858
	Missouri Housing Development	3435 Broadway KANSAS CITY, MO 64111	33,280
	ECKAN, Inc	602 Maple, P.O. Box 100 OTTAWA, KS 66067.	26,557
	Southwest Kansas Area Agency	Central and Gunsmoke, P.O. Box 1636 DODGE CITY, KS 67801.	27,600
Totals			218,768
DES MOINES	Sioux City	Box 447	35,000
	Council Bluffs	505 South Sixth St. COUNCIL BLUFFS, IA 51501.	29,936
	Ft. Dodge	700 South 17th Street FT. DODGE, IA 50501.	42,486
	Dubuque	1805 Central Avenue DUBUQUE, IA 52001	28,050
	Central IA Regional HA	1111 9th Street, Suite 390 DES MOINES, IA 50314.	42,500
	Iowa Northland Regional HA	2530 University Avenue, Suite #5 WATERLOO, IA 50701.	35,000
	Southern IA Regional HA	219 N. Pine Street	30,015
	Northwest IA Regional HA	919 2nd Avenue, SW, Box 446 SPENCER, IA 51301.	32,490
	North IA Regional HA	217 Second Street, SW MASON CITY, IA 50401.	42,500
	Upper Explorerland Regional HA	134 W. Greene St., Box 219	36,300
	Eastern IA Regional HA	Suite 330, Nesler Centre, Box 1140 DUBUQUE, IA 52004.	39,280
	Waterloo	620 Mulberry St., Suite 102, Box 120	25,040

FY 1996 SECTION 8 FAMILY SELF-SUFFICIENCY COORDINATORS FUNDING (CDBG FUNDS)—Continued

Field office	Housing agency name	Address	Amount
	Ottumwa/Albia PHAs (Joint Apps)	102 W. Finley Avenue OTTUMWA, IA 52501.	31,880
Totals			451,477
OMAHA	CENTRAL NEBRASKA JT HA	P.O. BOX 509 LOUP CITY, NE 68853	23,264
	GOLDENROD JOINT HA	P.O. BOX 280 WISNER, NE 68791	25,922
	NORFOLK HA	111 SOUTH 1ST STREET NORFOLK, NE 68701.	30,000
	KEARNEY HA	2715 AVENUE I KEARNEY, NE 68847	26,513
	NORTHEAST NEBRASKA JT HA	507 7TH STREET, SUITE 401 SIOUX CITY, IA 51102.	27,170
Totals			132,869
ST. LOUIS	St. Charles HA	1041 Olive Street ST. CHARLES, MO 63301.	28,176
	Ripley County PHA	3019 Fair Street POPLAR BLUFF, MO 63902.	23,714
	Franklin County PHA	P.O. Box 920 HILLSBORO, MO 63050	27,500
	Phelps County PHA	101 West Tenth Street ROLLA, MO 65401	21,504
Totals			100,894
DENVER	ARVADA HOUSING AUTHORITY	P.O. BOX 8101 ARVADA, CO 80002	32,400
	FORT COLLINS HOUSING AUTHORITY	1715 W. MOUNTAIN AVE. FORT COLLINS, CO 80521.	32,625
Totals			65,025
DENVER (ONAP)	UTAH PAIUTE HOUSING AUTHORITY	665 NORTH 100 EAST CEDAR CITY, UT 84720.	38,610
Totals			38,610
SAN FRANCISCO	MADERA HOUSING AUTHORITY	205 NORTH "G" ST. MADERA, CA 93637	31,147
	BENICIA HOUSING AUTHORITY	28 RIVERHILL DR. BENICIA, CA 94510	42,500
	NAPA HOUSING AUTHORITY	1115 SEMINARY ST. NAPA, CA 94559	42,500
	KINGS HOUSING AUTHORITY	P.O. BOX 355 HANFORD, CA 93232	38,166
	VACAVILLE HOUSING AUTHORITY	40 ELDRIDGE AVE, SUITES 1–5 VACAVILLE, CA 95687.	42,500
	FAIRFIELD HOUSING AUTHORITY	823–B JEFFERSON ST. FAIRFIELD, CA 94533.	28,610
Totals			225,423
LOS ANGELES	City of Carlsbad HRA	2965 ROOSEVELT STREET, "B" CARLSBAD CA 92008.	24,180
	Housing Authority City of Norwalk	12700 NORWALK BLVD. P.O. BOX 1030 NORWALK, CA 90651.	38,171
	City of Oceanside Housing Dept	NEVADA ST. ANNEX 300 N. COAST HIGHWAY OCEANSIDE, CA 92504.	46,422
	City of Pomona Housing Authority	CITY HALL 505 S. GAREY AVE P.O. BOX 660 POMONA, CA 91769.	33,446
	Lakewood Housing Authority	5050 N. CLARK AVE LAKEWOOD, CA 90712.	39,986
Totals			182,205
PHOENIX	Housing Authority of the City of Yuma	1350 W. Colorado St. YUMA, AZ 85364	18,230
	City of Mesa Housing Authority	415 N. Pasadena MESA, AZ 85201	40,000
Totals			58,230
SACRAMENTO	Dept of Housing & Community Development	P.O. Box 952054 SACRAMENTO, CA 95814.	20,930
	El Dorado County	937 Spring Street PLACERVILLE, CA 95667.	36,148
	Shasta County	1670 Market Street, Suite 300 REDDING, CA 96001.	35,334
	City of Roseville	405 Vernon Avenue, Suite 1 ROSEVILLE, CA 95678.	40,688
	City of Redding	760 Parkview Avenue REDDING, CA 96001	42,500
Totals			175,600
SEATTLE	KITSAP COUNTY	9265 BAYSHORE DRIVE, NW SILVERDALE, WA 98383.	40,147
	BELLINGHAM	208 UNITY STREET, LOWER LEVEL BELLINGHAM, WA 98225.	32,854
	PASCO & FRANKLIN COUNTY	820 NO. 1ST AVENUE PASCO, WA 99301	29,921
	THURSTON COUNTY	503 W 4TH AVENUE OLYMPIA, WA 98501	37,123
	JEFFERSON COUNTY	802 SHERIDAN, 3RD FLOOR PORT TOWNSEND, WA 98368.	25,585
	SPOKANE (MULTI-COUNTY PHA)	55 WEST MISSION, 104 SPOKANE, WA 99201.	42,500
	KENNEWICK	421 SO. TACOMA STREET KENNEWICK, WA 98336.	42,000
	CLALLAM COUNTY	2603 SO. FRANCIS ST. PORT ANGELES, WA 98362.	36,594

FY 1996 SECTION 8 FAMILY SELF-SUFFICIENCY COORDINATORS FUNDING (CDBG FUNDS)—Continued

Field office	Housing agency name	Address	Amount
	RICHLAND	650 GEORGE WASHINGTON WAY RICHLAND, WA 99352.	19,500
	ISLAND COUNTY	7 NW 6TH ST. COUPEVILLE, WA 98239	35,228
Total			341,452
PORTLAND	SOUTHWESTERN IDAHO COOPERATIVE HA.	1108 West Finch Drive NAMPA, ID 83651	26,496
	MID-COLUMBIA HOUSING AGENCY	506 East Second Street THE DALLES, OR 97058.	27,007
	CENTRAL OREGON REGIONAL HA	2445 SW Canal Blvd REDMOND, OR 97756.	27,840
	IDAHO HOUSING & FINANCE ASSOCIATION.	565 W. Myrtle Street, PO Box 7899 BOISE, ID 83707.	37,633
	YAMHILL COUNTY HA	414 North Evans Street, PO Box 865 MCMINNVILLE, OR 97128.	30,364
	LINCOLN COUNTY HA	1039 NW Nye Street, PO Box 1470 NEWPORT, OR 97365.	26,515
	NORTHWEST OREGON HA	1508 Exchange Street ASTORIA, OR 97103	25,100
Totals			200,955
National Total			9,316,949

[FR Doc. 96–33164 Filed 12–27–96; 8:45 am]
BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Gas Pipeline Right-of-Way Permit Application Crossing Fish and Wildlife Service National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.
ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service (Service) advises the public that Peoples Natural Gas Company of Rochester, Minnesota has applied for the installation of a 2" O.D. plastic natural gas pipeline across Service land tract H–2b in Houston County, Minnesota. The project will temporarily impact .10 of an acre.11This Notice informs the public that the Service will be proceeding with the processing of the application, the compatibility determination and the approval processing which includes the preparation of the terms and conditions of the permit. The natural gas pipeline will provide reliable and cost-effective energy to the residents of the Shore Acre subdivision of La Crescent, Minnesota.
DATES: Written comments should be received on or before January 29, 1997 to receive consideration by the Service.
ADDRESSES: Comments should be addressed to: Regional Director; U.S. Fish and Wildlife Service, Bishop Henry Whipple Federal Building, 1 Federal Drive, Fort Snelling, Minnesota; 55111–4056. Attention: John Connors, Realty Specialist.
FOR FURTHER INFORMATION CONTACT: John Connors, Realty Specialist, at the above Fort Snelling Regional Office address (612/725–3564 or FAX 612/725–3557).
SUPPLEMENTARY INFORMATION: The refuge manager, for the Upper Mississippi River National Wildlife and Fish Refuge, has approved the route of the pipeline that lies within a strip of land 20 feet wide and 213.5 feet long. It will be located in that part of the Northeast Quarter of the Northeast Quarter (NE¼NE¼) of Section 14, Township 104 North, Range 4 West, of the Fifth Principal Meridian, Houston County, Minnesota.

Right-of-way applications for pipelines are to be filed in accordance with section 28 of the Mineral Leasing Act of 1920 (30 U.S.C.), as amended by the Act of November 16, 1973 (37 Stat. 576, Pub. L. 93–153).

Dated: December 18, 1996.

William F. Hartwig,
Regional Director.

[FR Doc. 96–33038 Filed 12–27–96; 8:45 am]
BILLING CODE 4310–55–M

Geological Survey

Request for Public Comments on Proposed Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposed information collection described below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). Copies of the proposed collection instrument may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Public comments on the proposal should be made within 30 days directly to: Desk Officer for the Interior Department, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; and the Bureau of Clearance Officer, U.S. Geological Survey, 208 National Center, Reston, Virginia 20192, Telephone (703) 648–7313.

As required by OMB regulations at 5 CFR 1320.8(d)(1), the U.S. Geological Survey solicits specific public comments regarding the proposed information collection as to:

1. Whether the collection of information is necessary for the proper performance of the functions of the bureau, including whether the information will have practical utility;
2. The accuracy of the bureau's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
3. The utility, quality, and clarity of the information to be collected; and,
4. How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: On-Demand System for Printing USGS Maps.

OMB approval number: New Collection.

Abstract: Customers for USGS maps will be invited to indicate their satisfaction with an experimental, on-demand version of a USGS topographic map as compared to the standard printed edition of the same map. Potential respondents will be mailed an evaluation package consisting of sample maps and a short questionnaire. Those electing to respond will then use the postage-paid questionnaire to answer specific questions about the

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experimental map and to submit additional comments they may wish to offer. Information from respondents will be used to evaluate a point-of-sale map printing system the USGS intends to develop under a cooperative research and development agreement with private industry. The proposed collection is limited in scope to the on-demand printing system and its output products, and to the suitability of these experimental products to meet respondent applications for USGS maps.

Bureau form number: None.

Frequency: An estimated 2–3 surveys per year as indicated by technical milestones reached during the course of the on-demand development project and by customer reaction to initial map products generated from the on-demand system.

Description of respondents: General public USGS map purchasers; dealers of USGS maps.

Estimated completion time: 0.1 hours per response.

Annual responses: 1,000.

Annual burden hours: 100 hours.

Bureau clearance officer: John Cordyack, 703–648–7313.

Dated: November 26, 1996.

Richard E. Witmer,

Acting Chief, National Mapping Division.

[FR Doc. 96–33170 Filed 12–27–96; 8:45 am]

BILLING CODE 4310–31–M

Bureau of Indian Affairs

National Tribal Consultation

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of tribal consultation meeting—tribal trust account holders and allottees.

SUMMARY: Notice is hereby given that the Bureau of Indian Affairs, will conduct four (4) consultation meetings with any Indian Tribe, band, nation, allottee group, individual allottee, other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the trust programs and services provided by the United States to Indians because of their status as Indians.

The purpose of these consultation meetings is to obtain oral and written comments regarding the options presented in the "Proposed Legislative Options in Response to Tribal Trust Fund Reconciliation Project Results" (Options Paper), delivered to the U.S. Congress and mailed to 554 tribal governments, as well as tribal account holders on December 11, 1996. The options were developed by the Department of the Interior as a preliminary proposal for settling disputed balances in the Tribal trust fund accounts based on the result of a five-year reconciliation project.

The report contains the settlement proposals of the Advisory Board as an attachment. The Options Paper was submitted to Congress in accordance with Section 304 of the American Indian Trust Fund Management Reform Act of 1994 (the Act).

DATES: Four consultation sessions will be conducted:

January 6, 1997, Portland, OR, Red Lion—Lloyd Center 1000 N.E. Multnomah, Portland, OR, 97232, 800–733–5466, or 503–281–6111. The session will begin at 9:30 am and adjourn at 5:00 pm.

January 8, 1997, Denver, CO, The Renaissance Hotel, 3801 Quebec St., Denver, CO, 80207, 303–399–7500. The session will begin at 8:30 am and adjourn at 5:00 pm.

January 10, 1997, Phoenix, AZ, Hyatt Regency, 122 North Second Street, Phoenix, AZ, 85004, 602–257–1110, 800–228–9000. The session will begin at 8:30 am and adjourn at 5:00 pm.

January 24, 1997, Washington, DC, Grand Hyatt Washington at Washington Center, Washington, DC, 202–582–1234. The session will begin at 1:00 pm and adjourn at 5:00 pm.

Public attendance may be limited to the space available.

FOR FURTHER INFORMATION CONTACT: Michael Chapman, Special Assistant, Deputy Commissioner, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, N.W., Washington, DC, 20240, 202–208–5116, FAX 202–208–5320.

SUPPLEMENTARY INFORMATION: The purpose of these consultation meetings is to provide Indian Tribal trust account holders and allottees an opportunity for participation in the development of final options for the U.S. Congress to resolve Tribal trust fund claims. The objectives of the consultation meeting are:

- Achieve a settlement that is fair.
- Achieve the most resource-efficient settlement of claims (in terms of conserving federal government and Tribal time, money, and staff, including attorneys' and expert witness fees).
- Encourage settlement by providing incentives to settle and by providing disincentives to litigation.
- Use the most informal settlement processes available rather than litigation to encourage Tribal participation.
- Obtain funding for the settlement without reducing appropriations for the BIA budget and Tribal programs.
- Achieve final agreement on account balances through September 30, 1995, as required by the Act.

The Options Paper presented to Congress incorporates many of the settlement recommendations of the Special Trustee's Advisory Board, which was created by Section 306 of the Act. The Advisory Board's settlement proposals were submitted to the Secretary on September 24, 1996, and were the result of a series of consultations between the Special trustee, his Advisory Board and several Tribes. As requested by the Special Trustee, the Advisory Board's recommendations were appended to the Options Paper. The Options Paper describes where there was agreement or disagreement with the Advisory Board's recommendations.

All oral and written comments presented by Tribes and individuals at these consultation meetings will be recorded, transcribed and taken into consideration by the agency.

Summaries of the meetings will be available for public inspection and copying ten days following the meeting.

Written comments must be submitted on or before February 12, 1997 to: U.S. Department of the Interior, Bureau of Indian Affairs, Public Information Office, Attn: Ralph Gonzales, Room 4546, M.S. MIB–4542, 1849 C Street, N.W., Washington, D.C. 20240.

Dated: December 23, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–33132 Filed 12–27–96; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[AK–962–1410–00–P; AA–9265]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(1), will be issued to Calista Corporation for approximately 21.9 acres. The lands involved are in the vicinity of Nunivak Island, Alaska.

Seward Meridian, Alaska

T. 2 S., R. 98 W.,
Sec. 18.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the *Anchorage*

Daily News. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until January 29, 1997 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Patricia A. Baker,

Land Law Examiner, ANCSA Team, Branch of 962 Adjudication.

[FR Doc. 96–33193 Filed 12–27–96; 8:45 am]

BILLING CODE 4310–63–P

[AK–962–1410–00–P]

Notice for Publication; AA–9253, Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(1), will be issued to Calista Corporation for approximately 3.0 acres. The lands involved are in the vicinity of Nunivak Island, Alaska.

Seward Meridian, Alaska

T. 3 S., R. 96 W.,
Sec. 29.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Anchorage Daily News. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513-7599 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until January 29, 1997 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Patricia A. Baker,

Land Law Examiner, ANCSA Team, Branch of 962 Adjudication.

[FR Doc. 96–33194 Filed 12–27–96; 8:45 am]

BILLING CODE 4310–63–P 4510–29–P

[AZ–054–07–7122–14–X218; AZ–054–97–01]

Arizona, Temporary Closure of Selected Public Lands in La Paz County, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Temporary closure of selected public lands in La Paz County, Arizona, during the Operation of the 1997 SCORE Parker 400 Desert Race.

SUMMARY: The Lake Havasu Field Office Manager announces the temporary closure of selected public lands under its administration. This action is being taken to help ensure public safety and prevent unnecessary environmental degradation during the official permitted running of the 1997 SCORE Parker 400 Desert Race.

DATES: January 23, 1997, through January 26, 1997.

SUPPLEMENTARY REGULATIONS: Specific restrictions and closure periods are as follows:

Designated Course

1. The portion of the course comprised of BLM lands, roads and ways south of the Bill Williams River. East and north of AZ Highway 72 and west of Wenden Road is closed to public vehicle use from 6:00 p.m. Thursday, January 23, 1997, to 12:00 noon Sunday, January 26, 1997 (Mountain Standard Time).

2. Vehicles are prohibited from the following four Wilderness Areas and one Wilderness Study Area (WSA):

a. AZ–054–12 (Gibraltar Mountain)
b. AZ–054–15A (Swansea)
c. AZ–054–71 (Buckskin Mountains)
d. AZ–054–17 (East Cactus Plain)
e. AZ–054–14A/B (Cactus Plain WSA)

3. The entire area encompassed by the designated course and all areas within 1 mile outside the designated course are closed to all vehicles except authorized and emergency vehicles. Access routes leading to the course are closed to vehicles.

4. Vehicle parking or stopping along Bouse Road, Shea Road, and Swansea Road is prohibited except for the designated spectator areas.

5. Spectator viewing is limited to two designated spectator areas located at:

a. South and North of Shea Road as signed, app. 7 miles east of Parker, Arizona.

b. Bouse Road, also known as Swansea Road as signed, app. 2 miles and 5 miles north of Bouse, Arizona.

6. The following regulations will be in effect for the duration of the closure:

Unless otherwise authorized, no person shall:

a. Camp in any area outside of the designated spectator areas.

b. Enter any portion of the race course or any wash located within the race course, including all portions of Osborne Wash.

c. Spectate or otherwise be located outside of the designated spectator areas.

d. Cut or collect firewood of any kind, including dead and down wood or other vegetative material.

e. Be in possession of any alcoholic beverage unless that person has reached the age of 21 years.

f. Possess, discharge, or use firearms, other weapons, or fireworks.

g. Park, stop, or stand any vehicle outside of the designated spectator areas.

h. Operate any vehicle, including an off-highway vehicle (OHV), which is not legally registered for street and highway operation, including operation of such a vehicle in spectator viewing areas, along the race course, and in designated pit areas.

i. Park any vehicle in violation of posted restrictions, or in such a manner as to obstruct or impede normal or emergency traffic movement or the parking of other vehicles, create a safety hazard, or endanger any person, property or feature. Vehicles so parked are subject to citation, removal and impoundment at the owner's expense.

j. Take any vehicle through, around or beyond a restrictive sign, recognizable barricade, fence or traffic control barrier.

k. Fail to keep their site free of trash and litter during the period of occupancy or fail to remove all personal equipment, trash, and litter upon departure.

l. Violate quiet hours by causing an unreasonable noise as determined by the authorized officer between the hours of 10 pm and 6 am Arizona time.

m. Allow any pet or other animal in their care to be unrestrained at any time.

Signs and maps directing the public to the designated spectator areas will be provided by the Bureau of Land Management and the event sponsor.

The above restrictions do not apply to emergency vehicles and vehicles owned by the United States, the State of

Arizona or to La Paz County. Vehicles under permit for operation by event participants must follow the race permit stipulations. Operators of permitted vehicles shall maintain a maximum speed limit of 35 on all La Paz County and BLM roads and ways. Authority for closure of public lands is found in 43 CFR Part 8340, Subpart 8341; 43 CFR Part 8360, Subpart 8364.1, and 43 CFR Part 8372. Persons who violate this closure order are subject to arrest and, upon conviction, may be fined not more than $100,000 and/or imprisoned for not more than 12 months.

FOR FURTHER INFORMATION CONTACT: Mark Harris, BLM Ranger, or Myron McCoy, Outdoor Recreation Planner, Lake Havasu Field Office, 2610 Sweetwater Avenue, Lake Havasu City, Arizona 86406, (520) 505–1200.

Dated: December 16, 1996.

MarLynn D. Spears,

Acting Field Manager.

[FR Doc. 96–33087 Filed 12–27–96; 8:45 am]

BILLING CODE 4310–32–M

[WO–230–1150–00–24 A]

Proposed Decision Record and Finding of No Significant Impact for the Continuation of Interim Strategies for Managing Anadromous Fish-Producing Watersheds in Eastern Oregon and Washington and Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (40 CFR 1502.2), and the Federal Land Policy and Management Act of 1976, (43 CFR 1610.3–2 and 1610.5–3), the Department of the Interior, Bureau of Land Management (BLM), provides notice of availability of the Proposed Decision Record and Finding of No Significant Impact for the Extension of the Interim Strategies for Managing Anadromous Fish-producing Watersheds in Eastern Oregon and Washington and Idaho. This program has generally been known as the PACFISH strategy. The proposed continuation of the interim PACFISH strategies will provide the framework to guide supplemental protective measures and analysis procedures for all applicable land and resource allocations and management direction until the long term strategy of the Interior Columbia Basin Ecosystem Management Project (ICBEMP) is complete. This is expected to be for the next 1 to 2 years in the applicable portions of the Prineville, Vale and Spokane Districts in eastern Oregon and Washington and all Bureau managed lands in Idaho. This proposed decision extends the original PACFISH strategy originally approved for an 18 month period in early 1995.

ADDRESSES: Copies of the proposed decision are available upon request by contacting the Oregon State Office, Bureau of Land Management, 1515 SW 5th Avenue, PO Box 2965, Portland, Oregon 97298 or the Idaho State Office, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho 83709. This document has been sent to all those individuals and groups who were on the mailing list for the related environmental assessment for the PACFISH extension. The full supporting record for the proposed PACFISH strategy extension, including the environmental assessment, is also available for inspection in the Oregon and Idaho State Offices, at the addresses shown above in the respective public rooms or land offices during normal office hours.

FOR FURTHER INFORMATION CONTACT: Michael Crouse, Oregon State Office, Bureau of Land Management, 1515 SW 5th Avenue, PO Box 2965, Portland, Oregon 97208. He can be reached at telephone 503–952–6068 or facsimile machine at 503–952–6021. Information is also available from Ervin Cowley, Idaho State Office, 1387 South Vinnell Way, Boise, ID 83709. He can be reached at telephone 208–373–3810 or facsimile machine 208–373–3805.

SUPPLEMENTARY INFORMATION: The proposed strategy is the same as the original PACFISH interim strategy, except that the interim period has been extended beyond the original 18 month period due to delays in the ICBEMP.

Virtually no changes to the proposed decisions have been made, however, some clarifying language has been made in response to concerns about monitoring and coordination with interested State and local governments and tribal interests.

The proposed decision will become effective 30 days from this notice unless appealed and successfully stayed under 43 CFR Part 4. Unless such an action occurs, the proposed decision will be implemented without further notice.

Dated: December 23, 1996.

Mat Millenbach,

Deputy Director, Bureau of Land Management.

[FR Doc. 96–33032 Filed 12–27–96; 8:45 am]

BILLING CODE 4310–84–P

[UT–940–1430–01; UTU 74938]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 38,102.78 acres of public surface/mineral estate and 6,675.20 acres of public mineral estate in Washington County to protect a desert tortoise reserve and a Washington County watershed. This notice closes the lands for up to 2 years from surface entry and mining. The lands will remain open to public land sale, exchange, recreation and public purpose and mineral leasing. An additional 17,210.01 acres of non-federal surface/mineral estate and 6,675.20 acres of non-federal surface estate would also be segregated if acquired by the United States during the 2 year period.

DATES: Written Comments must be received by March 31, 1997. An open house is scheduled for Wednesday, January 22, 1997 at the Dixie Resource Area Office, 345 Riverside Drive, St. George, Utah 84770. Interested parties may visit the open house beginning at 3:00 pm with public comment at 3:30 pm and also beginning at 7:00 pm with public comment at 7:30 pm.

ADDRESSES: Comments should be sent to the Utah State Director, BLM, P.O. Box 45155, Salt Lake City, Utah 84145–0155.

FOR FURTHER INFORMATION CONTACT: Michael Barnes, Salt Lake District Office, (801) 977–4372.

SUPPLEMENTARY INFORMATION: On November 4, 1996, a petition/application was approved allowing the Bureau of land Management to file an application to withdraw the following described public land from settlement, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

Salt Lake Meridian

T. 41 S., R. 13 W.,
- Sec. 17, Lots 3, 5, thru 8, SE¼NW¼, NE¼SW¼, S½SW¼, SE¼;
- Sec. 18, Lots 2, 7, 8, 10, 11, 13, and 15 thru 23, W½NE¼, E½NW¼, W½SE¼, SE¼SE¼;
- Sec. 19, Lots 1 thru 11, 13 thru 18, N½NE¼, SW¼NE¼;
- Sec. 20, Lots 1 and 2, E½, E½W½, NW¼NW¼,SW¼SW¼;
- Sec. 21, Lots 1 thru 4, W½E½, W½;
- Sec. 22, Lots 2, 3, 8, and 9, SW¼SW¼;
- Sec. 27, W½NW¼;,
- Sec. 28, NE¼NE¼, NW¼NW¼, NW¼SE¼;,
- Sec. 29, N½NE¼, N½S½N½, N½S½SW¼NE¼, SE¼SE¼SW¼NE¼,

S½SE¼NE¼, NE¼NW¼, N½SW¼SW¼NW¼, NE¼NE¼SE¼, N½NW¼NE¼SE¼;,
Sec. 30, Lots 2, 3, 4, and 15 thru 19, NE¼SE¼.
T. 41 S., R. 14 W.,
Sec. 13, SE¼NE¼, S½S½, NE¼SE¼;
Sec. 15, Lots 1 thru 8, W½E½, W½;
Sec. 17, E½, SE¼NW¼, SW¼;
Sec. 18, Lots 7 and 8, SE¼SW¼, S½SE¼;
Sec. 19, Lots 1 thru 8, E½, E½W½;
Sec. 20, All;
Sec. 21, All;
Sec. 22, Lots 1 thru 8, W½E½, W½;
Sec. 23, W½,SW¼, embracing that portion of land west of I–15 corridor;
Sec. 24, All;
Sec. 25, Lots 1 thru 10, SW¼NE¼, NE¼SW¼NW¼, E½SE¼NW¼, NW¼SE¼NW¼, E½NE¼SW¼, E½W½NE¼SW¼, SE¼SW¼, W½SE¼;
Sec. 26, Lot 4, embracing that portion of land west of I–15 corridor;
Sec. 27, Lots 1 thru 9, N½NE¼, SE¼NE¼, SE¼SW¼, SW¼SW¼, embracing that portion of land west of I–15 corridor;
Sec. 28, All;
Sec. 29, All;
Sec. 30, Lots 1 thru 8, E½, E½W½;
Sec. 34, N½NW¼, SW¼NW¼, embracing that portion of land north and west of I–15 corridor.
T. 41 S., R. 15 W.,
Sec. 13, W½, SE¼;
Sec. 14, All;
Sec. 15, Lots 1 thru 4, E½, E½W½;
Sec. 16, Lots 1 thru 4, S½S½;
Sec. 17, Lots 1 thru 4, N½, S½S½;
Sec. 18, Lots 1 thru 9, NE¼, E½NW¼, NE¼SW¼;
Sec. 19, Lots 1 thru 4, E½, E½W½;
Sec. 20, E½, NW¼, N½SW¼, SW¼SW¼SW¼, E½SE¼SW¼SW¼, W½SW¼SE¼SW¼;
Sec. 21, All;
Sec. 22, All;
Sec. 23, All;
Sec. 24, All;
Sec. 25, All;
Sec. 26, N½, SE¼;
Sec. 27, N½, SW¼;
Sec. 28, E½, E½2W½, SW¼SW¼;
Sec. 29, SE¼SE¼;
Sec. 30, Lots 1 thru 4, W½E½, E½W½;
Sec. 31, Lots 1 thru 4, E½, E½W½;
Sec. 32, NE¼, NW¼SW¼, SE¼SW¼, E½SE¼, SW¼SE¼;
Sec. 33, All;
Sec. 34, NW¼.
T. 41 S., R. 16 W.,
Sec. 5, Lots 1 thru 11, SW¼NE¼, S½NW¼, SW¼, W½SE¼;
Sec. 6, Lots 1 thru 11, S½NE¼, SE¼NW¼,E½SW¼, SE¼;
Sec. 7, Lots 1 thru 4, E½, E½W½;
Sec. 8, Lots 1 thru 4, W½E½, W½;
Sec. 10, Lot 4;
Sec. 11, Lots 1 and 4, E½, SE¼NW¼;
Sec. 12, All;
Sec. 13, Lots 1 thru 8, S½N½, S½;
Sec. 14, Lots 1, 2, 7, 8, S½N½, NE¼SE¼;
Sec. 15, E½NE¼;
Sec. 17, Lots 1 thru 4, W½E½, W½;
Sec. 18, Lots 1 thru 4, E½, E½W½;
Sec. 19, Lots 1 thru 4, E½, E½W½;
Sec. 20, All;
Sec. 21, W½;
Sec. 24, E½, E½W½;
Sec. 25, E½, E½W½;
Sec. 29, All;
Sec. 30, Lot 1, NE¼, E½SE¼;
Sec. 31, NE¼NE¼;
T. 41 S., R. 17 W.,
Sec. 1, Lots 1 thru 12, S½;
Sec. 12, All;
Sec. 13, All;
Sec. 24, N½N½, SW¼NE¼, SE¼NW¼;
T. 42 S., R. 15 W.,
Sec. 6, Lots 3 thru 7, SE¼NW¼, E½SW¼;
Sec. 7, Lots 1 thru 4, E½W½;
Sec. 20, NW¼SW¼.
T. 42 S., R. 16 W.,
Sec. 1, Lots 1 thru 4, S½N½, S½;
Sec. 3, Lot 1, SE¼NE¼, NE¼SE¼;
Sec. 12, N½, E½SW¼, SE¼;

The reserved Federal mineral interest proposed to be withdrawn is described as follows:

Salt Lake Meridian

T. 41 S., R. 15 W.,
Sec. 28, W½NW¼, NW¼SW¼;
Sec. 29, NE¼, S½N½SW¼SW¼, S½SW¼SW¼, SE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 30, E½E½;
Sec. 32, NW¼, NE¼SW¼, NW¼SE¼; (reserved Federal minerals)
T. 41 S., R. 16 W.,
Sec. 4, S½;
Sec. 9, All;
Sec. 10, W½;
Sec. 14, Lots 3 thru 6;
Sec. 15, W½;
Sec. 21, E½;
Sec. 22, W½;
Sec. 25, E½SE¼SW¼SW¼;
Sec. 27, SW¼NE¼, NW¼NW¼, S½NW¼, SW¼, W½SE¼;
Sec. 28, E½, N½NW¼, SE¼NW¼, NE¼SW¼;
Sec. 30, Lot 2, E½W½, W½SE¼;
Sec. 31, NW¼NE¼, SE¼NE¼;
Sec. 33, N½NE¼, SE¼NE¼;
Sec. 34, W½NE¼, NW¼, E½SW¼, SE¼;
Sec. 35, E½SE¼SE¼.
T. 41 S., R. 17 W.,
Sec. 24, SE¼NE¼, SW¼NW¼, S½.
T. 42 S., R. 15 W.,
Sec. 17, Lots 7, 9, and 10;
Sec. 18, Lots 1 thru 4;
Sec. 19, Lot 1, NE¼, E½NW¼;
Sec. 20, W½NW¼;
T. 42 S., R. 16 W.,
Sec. 3, Lots 3 and 4;
Sec. 13, NE¼, E½NW¼, SE¼SE¼SW¼NW¼, S½NE¼SE¼SW¼NW¼, E½SW¼SE¼SW¼NW¼, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 24, N½NE¼.

The following described non-federal lands, if subsequently acquired by the United States, will be subject to the terms and conditions of the temporary segregation:

Salt Lake Meridian

T. 41 S., R. 13 W.,
Sec. 17, Lot SW¼SE¼, NW¼SW¼;
Sec. 19, Patented Mining Claims;
Sec. 27, N½NE¼, SW¼NE¼, W½SE¼NE¼, E½W½. W½SW¼, W½E½SW¼, W½SE¼;
Sec. 28, S½NE¼, N½NW¼NE¼, NE¼NW¼, E½SW¼, NE¼SE¼, S½SE¼;
Sec. 29, NW¼NW½;
Sec. 30, Lots 13, and 14, SE¼NE¼.
T. 41 S., R. 14 W.,
Sec. 16, All;
Sec. 31, Lots 1 thru 8, E½, E½W½;
Sec. 32, All;
Sec. 33, Lots 1 thru 8, S½NE¼, NE¼SW¼, N½NW¼SE¼, embracing that portion of land north and west of I–15 corridor.
T. S., R. 15 W.,
Sec. 16 N½;
Sec. 20, N½S½SW¼, W½SE¼SW¼SW¼, E½SW¼SE¼SW¼, SE¼SE¼SW¼;
Sec. 26, SW¼;
Sec. 27, SE¼;
Sec. 29, NW¼, N½SW¼, N½N½SW¼SW¼;
Sec. 32, SW¼SW¼;
Sec. 34, E½,SW¼;
Sec. 35 All;
Sec. 36, All.
T. 41 S., R. 16 W.,
Sec. 15,W½W½SE¼;
Sec. 16 All;
Sec. 22, W½E½;
Sec. 28 SE¼SW¼;
Sec. 30, Lot 3;
Sec. 32, N½;
Sec. 33, SW¼NE¼, NE¼NW¼, NE¼NW¼NW¼, S½NW¼NW¼, S½NW¼, N½N½N½SW¼, E½SE¼;
Sec. 34, E½NE¼, W½SW¼;
Sec. 36, All.
T. 42 S., R. 14 W.,
Sec. 5, Lots 2, 3, 4, SW¼NW¼, embracing that portion of land north west of I–15 corridor;
Sec. 6, Lots 1 thru 6, S½NE¼, SE¼NW¼, NE¼SW¼, N½N½SE¼, embracing that portion of land north west of I–15 corridor;
Sec. 7, Lot 7, embracing that portion of land north west of I–15 corridor
T. 42 S., R. 15 W.,
Sec. 1, Lots 1 thru 11, S½NE¼, SE¼NW¼, N½SE¼;
Sec. 2, Lots 1 thru 10, S½NW¼, N½SW¼;
Sec. 3, Lots 1 thru 5, S½NE¼, SE¼NW¼, N½NW¼SW¼;
Sec. 4, Lots 1 thru 15, SE¼SE¼;
Sec. 5, Lots 1 thru 16;
Sec. 6, Lots 1 thru 2, S½NE¼, SE¼;
Sec. 7, E½;
Sec. 8, Lots 1 thru 16;
Sec. 9, Lots 1 thru 8, E½;
Sec. 12, NW¼NE¼NE¼, NW¼NE¼, NW¼SW¼NE¼, N½NW¼, N½SE¼,NW¼;
Sec. 16, Lots 1 thru 5, W½E½NE¼, W½NE¼, NE¼SW¼, NW¼SE¼;
Sec. 17, Lots 1 thru 6, 8, 11 thru 16;
Sec. 18, Lots 5 thru 14, SE¼SW¼, SW¼SE¼;
Sec. 19, Lots 2, NE¼SW¼, N½SE¼, N½N½S½SE¼.
T. 42 S., R. 16 W.,
Sec. 2, Lots 1 thru 4, S½N½, S½;

Sec. 3, Lot 2, SW¼NE¼, NW¼SE¼, SE¼SE¼;
Sec. 11, N½, NE¼SW¼, E½SE¼SW¼, SE¼;
Sec. 12, W½SW¼;
Sec. 13, NW¼NW¼, NE¼SW¼NW¼, W½SE¼SW¼NW¼, E½SW¼SE¼;
Sec. 14, N½NE¼, NE¼NE¼NW¼;
Sec. 24, NE¼SE¼NE¼.

The area described contains 61,987.99 acres in Washington County. Of that acreage the Bureau of Land Management manages the public surface/mineral estate of 38,102.78 acres, and the public mineral estate of 6,675.20 acres. The remaining 17,210.01 acres are non-Federal lands.

The purpose of the withdrawal is to protect a desert tortoise reserve and a Washington County watershed. The reserve is to protect the habitat of the desert tortoise, bald eagle, peregrine falcon, Mexican spotted owl, ferruginous hawk, southwestern willow fly catcher, Merriams kangaroo rat, woundfin minnow and the Virgin River chub. All of the species have been designated as sensitive, threatened or endangered by the United States Fish and Wildlife Service.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Utah State Director of the Bureau of Land Management.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The uses which may be permitted during the segregative period are uses such as leases, licenses, permits, rights-of-way, land sales, recreation and public purpose and land exchanges.

G. William Lamb,

State Director.

[FR Doc. 96–33102 Filed 12–27–96; 8:45 am]

BILLING CODE 4310–DQ–M

National Park Service

30 Day Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: National Park Service, The Department of the Interior.

ACTION: Notice of submission to OMB and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13), this notice announces the National Park Service's (NPS) intention to request an extension for a currently approved information collection request used in the Historic Preservation Tax Incentives Program administered by the NPS.

The Primary Purpose of the Information Collection Request: Section 47 of the Internal Revenue Code requires that the Secretary of the Interior certify to the Secretary of the Treasury upon application by owners of historic properties for Federal tax benefits, (a) the historic character of the property, and (b) that the rehabilitation work is consistent with that historic character. The National Park Service administers the program in partnership with the Internal Revenue Service. The Historic Preservation Certification Application is used by the National Park Service to evaluate the condition and historic significance of buildings undergoing rehabilitation for continued use, and to evaluate whether the rehabilitation work meets the Secretary of the Interior's Standards for Rehabilitation.

DATES: Comments on this notice must be received by January 29, 1997 to be assured of consideration.

The bureau solicits public comments as to:

1. Whether the collection of information is necessary for the proper performance of the functions of the bureau, including whether the information will have practical utility;
2. The accuracy of the bureau's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
3. The quality, utility, and clarity of the information to be collected; and,
4. How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

ADDRESSES: Send comments to: Desk Officer, Interior Department, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503. Also send a copy of your comments to: Michael Auer, National Park Service, P.O. Box 37127, Washington, D.C. 20013; 202–343–9578.

All responses to this notice will be summarized and given to OMB. All comments will become a matter of public record. Copies of the proposed Information Collection Request can be obtained from Michael J. Auer, Ph.D., Heritage Preservation Services, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127.

FOR FURTHER INFORMATION CONTACT: Michael Auer, 202–343–9578.

SUPPLEMENTARY INFORMATION:

1. *Title:* Historic Preservation Certification Application.

2. *Summary:* Request for an extension for a currently approved information collection request used in the Historic Preservation Tax Incentives Program administered by the National Park Service.

3. *Need for information and proposed use:* To enable the Secretary of the Interior to make certifications to the Secretary of the Treasury concerning historic buildings undergoing rehabilitation for the purposes of a Federal income tax credit.

4. Respondents are owners of historic buildings, or qualified long-term lessees. The number of respondents is estimated to be 3,000 per year. The frequency of response is on occasion, as requested by owners of buildings (one response per respondent).

5. The total annual reporting and recordkeeping burden is estimated to be 7,500 hours.

6. Comments may be submitted to the Office of Management and Budget (OMB).

7. 30 days from date of publication of this notice.

Dated: December 23, 1996.

Terry N. Tesar,

Information Collection Clearance Officer.

[FR Doc. 96–33039 Filed 12–27–96; 8:45 am]

BILLING CODE 4310–70–P

Draft Environmental Impact Statement/ General Management Plan National Park of American Samoa Territory of American Samoa; Notice of Availability

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190, as amended), the National Park Service (NPS), Department of the Interior, has prepared a Draft Environmental Impact Statement identifying and evaluating potential impacts of a proposed General Management Plan (DEIS/GMP) for the National Park of American Samoa, Territory of American Samoa. When approved, the plan will guide management actions during the next 15–20 years.

PROPOSAL: The DEIS/GMP identifies and analyzes management strategies necessary for the long-term preservation

of the national park's natural, cultural, and subsistence resources and the development of an interpretive services program. The NPS proposes (Alternative A) to operate this national park in a manner that is consistent with *fa'asamoa*, the traditional Samoan way. The DEIS/GMP also proposes the development of facilities needed to operate this new national park. Developments identified within the national park are to be limited; all major visitor use facilities proposed are to be developed outside of national park boundaries. Samoan villages located near the national park are to be encouraged to provide traditional kinds of services for visitors to the national park.

ALTERNATIVES: In addition to the proposed action, three alternatives are identified. Alternative B ("no action") is a continuation of the existing situation, with no additional facilities developed to operate the national park. Under this alternative, there would be inadequate management of natural and cultural resources, and visitor services would be substandard. This alternative would not achieve the purposes of this national park's authorizing legislation. Alternative C identifies "minimum requirements" and would limit developments and management actions to those needed to meet legislative requirements to make this national park operational in such a manner that provides for primary visitor use and resource protection. Alternative D proposes the development of a visitor center within the national park and the retention of the existing park administrative headquarters, but is otherwise the same as the proposed action.

INFORMATION: The Superintendent will arrange traditional meetings with each of the village chief councils in the villages of Afono, Fagasa, Pago Pago, and Vatia on the island of Tutuila; Faleasao, Fitiuta, and Ta'u on the island of Ta'u; and Ofu and Olosega on the islands of Ofu and Olosega.

In addition, general public information meetings will be scheduled in Pago Pago on the island of Tutuila—details on the dates, time, and location of these information meetings will be published in local newspapers several weeks in advance. National park management and planning officials will be present at all sessions to present the DEIS/GMP and the alternatives, to receive oral and written comments, and to answer questions.

COMMENTS: Review copies of the DEIS/GMP are available at park headquarters in the Pago Plaza in Pago Pago, American Samoa; at the Pacific Island System Support Office in Honolulu, Hawaii; and at the American Samoa Community College library in Mapusaga.

Written comments must be submitted not later than 60 days after publication of a notice of filing of the DEIS/GMP in the **Federal Register** by the Environmental Protection Agency. Comments on the DEIS/GMP may be sent to the Superintendent, National Park of American Samoa, Pago Pago, American Samoa, 96799 (or to the Park Planner, National Park Service, Pacific Island System Support Office, 300 Ala Moana Blvd., Box 50165, Honolulu, Hawaii 96850). The Park's telephone number is (011–684) 633–7082 and the fax number is (011–684) 633–7085. The System Support Office telephone number is (808) 541–2693 and the fax number is (808) 541–3696.

Dated: December 20, 1996.

Bruce M. Kilgore,

Acting Field Director, Pacific West Area.

[FR Doc. 96–33137 Filed 12–27–96; 8:45 am]

BILLING CODE 4310–70–P

Office of Surface Mining Reclamation and Enforcement

Abandoned Mine Land Reclamation Program Guidelines

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of revised guidelines for abandoned mine land reclamation programs and projects.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) has revised the Abandoned Mine Land Reclamation Program Guidelines which were published March 6, 1980 (45 FR 14810). Comments were requested in the Notice of Intent to revise these guidelines published May 22, 1995 (45 FR 27123). Based on comments received, amendments to the Surface Mining Control and Reclamation Act of 1977 and policies adopted by OSM since 1980, the guidelines have been revised and are printed below.

EFFECTIVE DATE: December 30, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Gene Krueger, Chief, Division of Reclamation Support, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, N.W. Washington, D.C. 20240. Telephone: (202) 208–2937.

SUPPLEMENTARY INFORMATION: The Abandoned Mine Land (AML) Reclamation Program Guidelines are issued to provide general guidance to States, Indian Tribes, the U.S. Department of Agriculture, and OSM in the administration of reclamation activities carried out under programs authorized by Title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.) (SMCRA). These guidelines are considered to be statements of policy and do not establish new legal requirements or obligations on the public and are subject to change at the discretion of OSM.

The term "as amended" was added to the revised guidelines to indicate that guidelines reflect all amendments to SMCRA.

The definition of eligible lands has been expanded to include certain lands abandoned after August 3, 1977, in accordance with amendments to Section 404 of SMCRA and that definition has been included in Section A of these guidelines. The definition coincides with the definition of eligible lands found at 30 CFR 870.5.

Reference to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and its relationship to AML reclamation has been included in these guidelines at section C.5., Toxic Materials.

A new subpart, B.3.a.(1)(d), was added to allow special consideration for AMD sites and the utilization of the Appalachian Clean Streams Initiative (ACSI).

A new subpart, B.5.e., was added to indicate that coal seams left in place were deemed unrecoverable during reclamation and any future attempts to mine such seams would have to comply with permit requirements in place at the time of new mining.

The entire section titled "Experimental and Demonstration Practices" was eliminated because the Act, as amended, no longer provides for funding experimental and demonstration practices. However, new language was included in item B.3.b.(2) to allow for test plots and/or field trials when necessary to determine which technology is best suited to a particular problem area.

Incorrect regulatory cites, brought about by statutory and/or regulatory changes, were corrected.

Some portions of the proposed guidelines were edited for clarification or to eliminate redundant and verbose language.

Comments were requested on the proposed guidelines and a total of seven comments were received. Six were from State authorities and one from the Navajo Nation. All comments received were considered in the process of drafting the final guidelines and are

available for inspection at the address listed above. A "response to comments" document has been prepared by OSM and is available on request by contacting the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Availability of Copies

Additional copies of the revised guidelines are available for inspection and may be obtained at the following offices:

OSM, Department of the Interior, Room 120 South Interior Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, (202) 208–5365.

OSM, Appalachian Regional Coordinating Center, Three Parkway Center, Pittsburgh, Pennsylvania 15220, (412) 937–2828.

OSM, Mid-Continent Regional Coordinating Center, 501 Belle Street, Alton, Illinois 62002, (618) 463–6460.

OSM, Western Regional Coordinating Center, 1999 Broadway, Suite 3320, Denver, Colorado 80202, (303) 672–5500.

Dated: December 23, 1996.

Kathrine Henry,

Acting Director, Office of Surface Mining Reclamation and Enforcement.

Abandoned Mine Land (AML) Reclamation Program Guidelines for Reclamation Programs and Projects

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A. Definitions

1. Abandoned Property—Real and personal property, associated with past mining activities, that has been forsaken or deserted by an owner. This includes real estate, structures, and equipment.

a. Abandoned Structures—Abandoned permanent improvements or fixtures firmly attached to the land and considered as part of real property. Abandoned structures include but are not limited to coal tipples, coal washers, storage and grading facilities, loading docks, rail spurs, concrete foundations, dams, reservoirs, and bridges. Other items such as crushers, elevators, bins, loaders, conveyors and similar equipment are within this definition if firmly affixed to the land.

b. Abandoned Equipment—Abandoned movable items not affixed to the land. Such items are considered as personal property and include equipment and dismantled machinery not affixed to the land and which could be moved. These items include but are not limited to shovels, scrapers, tires, machinery parts, trailers, trucks, electrical substations on skids, feeders, and loaders.

c. Disposal—The act of sale, federal utilization, demolition, removal, and the burning and burial of scrap or other debris resulting from abandoned structures and equipment.

2. Act—The Surface Mining Control and Reclamation Act of 1977 enacted as Public Law 95–87 (30 U.S.C. 1201 et seq.), as amended.

3. Administering Agency—The agency that has the responsibility for carrying out a reclamation program or project. This includes OSM for federal reclamation projects; U.S.D.A., Natural Resources Conservation Service (NRCS) for the Rural Abandoned Mine Program; designated State reclamation agencies for projects carried out under an approved State Reclamation Plan; and Indian tribes for projects carried out under an approved Indian Reclamation Plan.

4. Eligible Lands—Lands and water which were mined for coal or which were affected by such mining, wastebanks, coal processing, or other coal mining processes and left or abandoned in either an unreclaimed or inadequately reclaimed condition prior to August 3, 1977, and for which there is no continuing reclamation responsibility. Provided, however, that lands and water damaged by coal mining operations after that date and on or before November 5, 1990, may also be eligible for reclamation if they meet the requirements specified in 30 CFR 874.12 (d) and (e). Eligible lands and water for noncoal reclamation purposes are those sites that meet the eligibility requirements specified in Section 409 of the Act or, following certification of the completion of all known coal problems, those in 30 CFR 875.14. For additional eligibility requirements for water projects, see 30 CFR 874.14, and for lands affected by remining operations, see Section 404 of the Act.

5. Emergency—A sudden danger condition or impairment that constitutes

a situation with a high probability of substantial physical harm to the health, safety, or general welfare of people before the danger can be abated under normal program procedures.

6. Hydrologic Balance—The relationship between the quality and quantity of water inflow to water outflow from an abandoned mine land site. The relationship includes water storage and transfer within hydrologic units as they now exist or may have existed.

7. Toxic Materials—Earth materials or wastes resulting from mining operations which, if acted upon by air, water, or micro-biological processes are likely to produce chemical or physical conditions in soils or water that are detrimental to the biota or water use.

B. Program Considerations

1. Land, Water, or Mineral Rights Required for Reclamation

a. Consent Requirements and Responsibility

In addition to the rights of entry required by 30 CFR 877, other consents required by the specific type of reclamation program should be obtained. In water limited areas reclamation programs that propose to restore or alter water quality or quantity should not be undertaken until the appropriate water right consents are obtained. If the mineral estate is severed from the surface estate, consents should be obtained from both parties. All necessary consents should be obtained for a time period sufficient to complete the reclamation activities. The administering agency has the responsibility to assure that no reclamation work is carried out without such consents.

b. Written Consent Versus Police Power

Written consent from the owner of record and lessee or his authorized agent should be the preferred means for obtaining agreements to enter lands in order to carry out reclamation work. Entry by use of police power is restricted to those reclamation projects that will protect public health, safety, and general welfare as authorized under Sections 407(a), 407(b), 409(c), and 410 of the Act, as amended, and should be undertaken only after due care and deliberation has exhausted all possibilities of obtaining written consents.

c. Monitoring and Maintenance

Written consent by the landowner should include considerations for monitoring and maintenance, including rights of entry as necessary.

d. Property Acquisition

Acquisition of property may be undertaken only under the conditions specified in Sections 407 and 409 of the Act, as amended.

2. Jurisdictional Responsibilities

a. Reclamation Program Legal Requirements

The administering agency should ensure compliance with all applicable Federal, State, Tribal, and local laws and coordination with the appropriate agencies as necessary.

b. Environmental Evaluation Requirements

Appropriate steps to achieve compliance with the National Environmental Policy Act of 1969 (NEPA) must be undertaken for every proposed AML reclamation project. Authorization by the Council on Environmental Quality (CEQ) at 40 CFR 1506.11 to abate emergency conditions without preparing an environmental document does not relieve OSM or the States/Tribes of the responsibility to complete consultation duties or obtain necessary permits in accordance with other Federal, State and local laws.

(1) Where emergency circumstances at the site require immediate abatement action, and the environmental document cannot be completed prior to the initiation of action, OSM and the States are authorized to act, but the action taken must be limited to that necessary to control the immediate impacts of the emergency.

(2) Actions which remain to be taken at the site of an emergency after the abatement of the immediate impacts require the preparation of an environmental document.

c. Interstate Coordination Requirements

Where reclamation is proposed that may affect adjoining States or other jurisdictional authorities, the administering agency should coordinate planning and implementation of these projects with those entities.

3. Selection Criteria (Nonemergency)

a. Reclamation Site Ranking

Procedures for selecting nonemergency sites to carry out reclamation activities should incorporate weighting factors to rank the proposed sites in accordance with priorities established in Section 403 of the Act. General instructions for determining the AML priority of a site are contained in the OSM Abandoned Mine Land Inventory Manual. Noncoal sites must comply with Section 409 or 411 as appropriate. Negative weights should be considered for adverse impacts resulting from the proposed project. Generally, reclamation of lower priority projects should not be initiated until all known higher priority projects have been completed, are in the process of being reclaimed, or have been approved for funding by the Secretary. However, lower priority projects, or contiguous work may be undertaken in conjunction with high priority projects in accordance with these guidelines.

(1) The administering agency may give priority consideration to reclamation projects where:

(a) The landowner(s) consent to participate in post reclamation maintenance activities of the area;

(b) Reclamation provides multiple benefits to the landowner(s) and where those benefits have a greater cumulative value than other projects, and/or;

(c) Reclamation provides offsite public benefits.

(d) Acid Mine Drainage (AMD) is a major problem and/or the Appalachian Clean Streams Initiative (ACSI) can be utilized in restoration of streams polluted with AMD.

b. Reclamation Considerations

The following items should be considered in determining whether a nonemergency site should be reclaimed.

(1) The lands proposed for reclamation are eligible as defined by Section 404, 409, or 411 of the Act.

(2) Problems associated with the site can be abated by utilizing current available technology or horizon technology with a high probability of success to prevent or minimize present or future adverse effects. When necessary to determine which technology is best suited to a particular problem area, test plots and/or field trials are allowed. Such activities are appropriate and do not constitute "research" as prohibited by the Act, as amended.

(3) Reclamation can be carried out in a manner that minimizes maintenance to achieve a self-sustaining reclamation solution. Self-sustaining implies reclamation which is permanent and stable under the prevailing environmental and land-use conditions utilizing current technology. Projects which require continuous maintenance and/or operating costs should be undertaken only if a commitment exists to bear these indefinite costs.

(4) Reclamation activities can be planned in a manner that is cost effective and compatible with the proposed post reclamation land use as intended by the landowner(s).

(5) Reclamation activities and post reclamation land use is cost effective

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and compatible with surrounding land uses, complies with local, State, tribal, and Federal requirements, and is acceptable to the community involved.

(6) If the project area is to be remined or developed in the foreseeable future and these activities will eliminate the adverse effects of past mining, reclamation should only be undertaken where the offsite adverse impacts from the affected area are so severe as to cause significant danger to public health and safety or to the environment if not abated before the proposed remining or development takes place.

c. Reclamation Extent

The amount of reclamation performed on a site depends upon the priority, funding available, and technology available for reclaiming the site. When it is cost effective to do so, consideration should be given to including lower priority problems in the reclamation plan when contracting for the elimination of a high priority problem. However, the primary purpose of the reclamation should be to address the higher priority problems. Factors that should be considered in determining the amount of reclamation to be done at a site include—

(1) The total area of affected land and water.

(2) Uniformity/diversity of the problem(s) over the entire site.

(3) Minimum reclamation needed to restore the site and additional low priority work needed, if any.

(4) Availability of funds.

(5) Cost effectiveness of the proposed work.

(6) Proposed post reclamation land use.

(7) Onsite, offsite, and multiple land use benefits.

(8) Post reclamation maintenance required and landowner participation in that maintenance.

(9) Accommodating landowner(s) land use and treatment requests, if possible without incurring additional costs above that required for the minimum reclamation needed.

(10) The possibility of remining.

d. Cooperative Efforts

In addition to the landowner consent requirements described in Section B Part 1 of these guidelines, a maintenance agreement between the administering agency and the landowner(s) may be incorporated as part of the reclamation plan to insure the continued success of the reclamation project. Estimated costs as well as financial and administrative responsibilities should be recognized in any agreement.

e. Joint Projects

Joint undertakings between the administering agency and the landowner(s) or other local, State, tribal, or Federal agencies are supported and encouraged.

4. Emergency Projects

a. Authority for Emergency Reclamation

Authorities and requirements for rights of entry to carry out emergency reclamation projects are contained in Section 410 of the Act.

b. Emergency Project Considerations.

(1) Emergencies are differentiated from Priority 1 projects by interpretation of the phrases "sudden danger" and "high probability of substantial physical harm" in the definition of "emergency" contained in these guidelines.

(2) Justification for emergency action must be based on whether immediate action is crucial to eliminate the danger of harm to persons. The time element referenced by the phrase "before the danger can be abated under normal program operation procedures" means that the danger is so imminent that time is not available for normal project contractual procedures.

(3) A limited amount of nonemergency work may be conducted in conjunction with emergency abatement if such work is cost effective in reclaiming the entire project site.

c. Emergency Project Examples

The following list illustrates examples of sudden situations with a high probability of causing substantial physical harm to the health, safety, and general welfare of people:

(1) Subsidence suddenly occurring in or near populated areas or roadways.

(2) Mine water "blow-outs" in or near highly used pubic areas.

(3) Landslides caused by movement of spoil material or mass movement due to drainage or seepage from abandoned coal mines threatening to destroy homes and businesses or block roads and stream channels.

(4) Actual or potential failure of unstable coal refuse impoundments, processing waste banks, or abandoned sediment control structures caused by unusual precipitation events significantly imperiling downstream populated areas.

(5) Mine or coal refuse fires that impair the health or safety of residents in populated areas.

d. Abatement Procedures

(1) Reclamation procedures are site specific and often cannot be determined until after onsite inspection and evaluation of the nature of the emergency, number of people affected, resources available, and existing time constraints.

(2) Emergency reclamation need not resemble final restoration. The objective of emergency reclamation is to stabilize the problem and eliminate the danger to the public. Additional reclamation, to fully reclaim the area, may be carried out under regular reclamation programs at a later date or, as noted above at Part 4.b.(3), may be performed in conjunction with emergency work if cost effective.

5. Incidental Recovery of Coal in Conjunction With Reclamation Activities

a. Resource Recovery Potential

Prior to conducting reclamation activities on land containing coal refuse piles, coal waste impoundments, or abandoned mine workings with remaining coal resources, the economic and technical feasibility of further coal recovery should be evaluated for that project area. The State administering agency determines if any coal can be recovered and may consult the State regulatory authority, as necessary, in making this determination.

b. Incidental Recovery of Coal

If coal is recovered during reclamation and is determined to be incidental to the reclamation activities, the associated coal recovery activity is exempt from Title V regulations, in accordance with Section 528 of the Act and 30 CFR Part 707. The State regulatory authority is responsible for determining the exemption and is responsible for enforcing the requirements of 30 CFR Part 707. Exemption criteria include:

(1) Coal recovery must be incidental to reclamation activities.

(2) The project must be government-financed as defined in 30 CFR Part 707.

(3) All coal recovered must be contained within the project area.

c. Active Mining Permit Requirements

If coal recovery is not incidental to the reclamation project or does not meet other requirements for exemption, the State regulatory authority will ensure that all permits required under Title V are obtained before reclamation activities commence.

d. Recovered Coal Disposition

Any revenues received from the sale of coal which was recovered incidental to reclamation should be deposited to the Fund pursuant to Section 401(b)(4) of the Act or otherwise used to offset the cost of reclamation. Applicable consents

should clearly authorize the extraction of coal and communicate the disposition of the coal and associated revenues.

e. Future Coal Recovery

If the mineral estate under the area to be reclaimed contains unmined coal seams, reclamation activities should include reasonable and cost effective efforts to protect the future recoverability of those seams. However, coal seams left in place during reclamation will be deemed to be unrecoverable at the time of reclamation and any future attempts to mine such seams will have to comply with any permit requirements in place at the time the new mining is proposed.

6. Abandoned Structures and Equipment

a. Investigation

(1) The administering agency should perform an onsite investigation of abandoned structures or equipment and encourage the landowner(s) to recover any salvage value by disposal prior to the initiation of any reclamation project.

(2) The onsite investigation should be conducted by the administering agency and should address—

(a) The type, quantity, age, and apparent condition of all abandoned structures or equipment.

(b) The structural soundness, visual quality, historical significance, effect on proposed reclamation activities, and land uses in the area. The structural soundness of the structure should be evaluated in relation to public health, safety, general welfare, and the post reclamation use.

(c) The disposal or retention of the structures or equipment in accordance with local, State, tribal, and Federal laws.

(d) Methods to eliminate the safety hazards associated with structures or equipment that are retained on the reclaimed site.

b. Ownership Rights

The landowner(s) may recover any salvage value by disposal of the abandoned structures or equipment prior to the initiation of any reclamation project. The administering agency is responsible for securing consent to dispose of or modify the abandoned structures or equipment not disposed of by the landowner(s).

c. Disposal Revenues or Benefits

Any revenues or benefits received from the sale or use of abandoned structures or equipment as a result of reclamation should be used to offset the cost of reclamation or deposited to the Fund pursuant to Section 401(b)(4) of the Act. All such revenues or benefits should be documented in the project file.

7. Borrow and Disposal Areas

a. Site Selection

The borrow and disposal areas created by reclamation activities should be subject to and conducted in accordance with applicable local, State, tribal, or Federal reclamation requirements. Borrow and disposal areas should be located on the site of the reclamation project if possible. Offsite borrow and disposal areas should be utilized only when no onsite area is available and it is necessary to protect the health and safety of the public, provide an area more suitable for reclamation and less prone to constitute a hazard in itself, produce an improved land use, or protect the environment.

b. Adverse Impacts

Adverse impacts of the selected areas should be minimized by disturbing the smallest possible area; providing adequate drainage, dust, and erosion control measures; protecting historic and cultural values; protecting visual esthetics; protecting fish and wildlife values; protecting the health and the safety of the community and the public; and reclaiming the borrow and disposal area after termination of the project.

8. Program and Project Evaluation

a. General Evaluation Considerations

Reclamation activities are to be evaluated on a regular basis to determine the effectiveness of the program/project in reclaiming abandoned lands. The objective is to identify those abatement/control methodologies that have been effective over time as well as those with demonstrated deficiencies that need to be improved or changed. Project evaluation measures the success or failure of the applied techniques while program evaluation determines the effectiveness of the overall program, including regulations and policies. Evaluation efforts include, but are not limited to, recording accomplishments, making onsite reviews before, during, and after reclamation, and analyzing fund management.

b. Evaluation Report

The administering agency will prepare a report on its findings and recommendations. Recommendations should be used to modify program operations on future reclamation activities so that deficiencies will not reoccur. If requested, the report should be made available to other agencies in order to share information and improve the AML program nationwide.

9. Maintenance of Reclamation Work

a. Planned Maintenance

Reclamation should be done in a manner to minimize or eliminate continued long-term maintenance. When long-term maintenance is required, it should be identified during the planning and design stages and should be developed in cooperation with the landowner(s) and/or appropriate agencies through formal agreement. Maintenance plans should include maintenance requirements, inspection schedules, technical assistance needed, and funding requirements.

b. Unplanned Maintenance

AML projects often involve conditions unforeseen during the design period, that may affect the achievement of permanent reclamation and long term stability. Reclamation programs should develop and implement general policies for performing post construction monitoring to address unanticipated maintenance needs. The plan should include, at a minimum:

(1) A plan for post construction monitoring of sites to determine maintenance needs;

(2) A procedure for determining when and when not to perform additional maintenance when problems are identified in the field;

(3) A procedure to determine when a site has reached long term stability, and that future monitoring is unneeded, including a landowner notification policy;

(4) A method for dealing with situations where landowner practices make future maintenance unproductive.

10. Noncoal Projects

a. Guideline Applicability

States with approved reclamation plans may undertake noncoal reclamation projects under the specific provisions in Section 409 of the Act or after certification that all coal related problems have been reclaimed, as authorized in Section 411 of the Act.

b. Priorities Under Section 409

Noncoal projects to be reclaimed under Section 409 of the Act must be at the request of the Governor of the State or the governing body of an Indian tribe and must comply with the priorities stated in Section 403(a)(1), except that the term "coal" does not apply. The reclamation must be for the protection of public health, safety, general welfare,

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and property from extreme danger of adverse mining practices.

c. Priorities Under Section 411

Noncoal projects to be reclaimed under Section 411 of the Act may not proceed until the State has certified that all coal problems have been resolved. Planning and design work for reclamation of noncoal projects may commence prior to completion of all coal projects.

C. Site Considerations

1. Mine Drainage

a. General Considerations

The reclamation plan should attempt to minimize or control mine drainage and include procedures to treat impounded waters containing toxic materials prior to release. At-source control measures are preferred over long-term treatment methods to eliminate or minimize maintenance.

b. At-Source Control Measures

Controlling or minimizing mine drainage at its source can be accomplished by—

(1) Mine-sealing techniques, including grout curtains and slurry trenching. Factors to be considered when planning to seal mines are the potential to develop hydrostatic heads, the accessibility of the area, and the integrity of the surrounding geologic formations.

(2) Infiltration control and water diversion. Factors to be considered include topography, control of surface water, effects on ground water, the control of water passage through openings, and the storm event design.

(3) Daylighting, the surface mining procedures and excavation processes utilized to expose underground mine works for partial or complete removal of the remaining material underlying the surface. Factors to be considered include the depth of overburden, marketability of the mineral, and safety measures.

c. Treatment Measures

Secondary treatment of mine drainage can be carried out by the addition of neutralizing agents. Permanent treatment facilities should be designed to minimize operation and maintenance costs and should only be considered if no other means exists to abate the problem. Written assurance, from the landowner or any other interested party, should be obtained that the treatment facilities will be maintained after appropriations for the abandoned mine land program cease.

d. Coal Refuse Piles and Coal Waste Embankments

Methods of reclaiming land containing coal refuse, coal wastes, or abandoned workings include, but are not limited to—

(1) Removing the coal refuse or coal waste to an environmentally acceptable site, subject to all appropriate approvals;

(2) Burying the refuse or waste, diverting water away from or around the reclaimed area whenever possible or layering the reuse material with clay or other impervious material, when practical, to prevent water infiltration and contamination;

(3) Treating the refuse pile in place by—

(a) Diverting water around the coal refuse and/or waste,

(b) Collecting and conveying drainage from the refuse pile for safe disposition (an approved water pollution control facility should be used if needed to meet quality standards),

(c) Grading and contouring waste structures to drain water off the disposal site,

(d) Covering the refuse with a suitable thickness of nontoxic or nonacid-forming material or treating the refuse with lime or other material to prevent acid or other toxic drainage, or

(e) Any combination of the above treatments.

2. Active Slides and Slide-Prone Areas

a. Site Evaluation Factors

Factors that should be considered on a case-by-case basis in the evaluation of slides or slide-prone areas include—

(1) The topography of the ground surface as an indication of past landslide activity and potential instability. Topographic data collected should include contour maps at 2- to 5-foot intervals, surface drainage characteristics, locations of ponded surface water, and slope profiles.

(2) The geology of the subsurface. Rock formations and geologic structure including folds, faults, joints, and shear zones should be identified whenever possible. This information may be useful in comparing the landslide potential of various areas.

(3) The soil or spoil material. Description of the slide-prone material should include its texture, permeability, and engineering properties as well as the related soil-rock ratios.

(4) Ground water sources. Springs and seeps, dump areas, adits, auger holes, drill holes, and coal seams should be identified.

(5) Vegetative cover. Vegetation will affect the stability of the slide or slide-prone area. Deep masses of roots may provide sufficient reinforcement to distort the geometry of the slide and trees with deep tap roots may curtail severe movement. Vegetative cover within a landslide area should be compared to that within the surrounding area and with that present at known landslide areas.

(6) Other physical factors. These include timber coverage or lack of it on slopes, parent material and volume of spoil, proximity to other slides, or other data specific to the slide area which may be helpful in designing the best structural specifications for stabilizing the area.

(7) U.S. Geological Survey slide-prone maps, U.S. Department of Agriculture soil maps, and other related data.

b. Remedial Measures

Reclamation and stabilization of slide areas may be achieved by one or more of the following methods, typically a combination of—

(1) Removing unstable material or by terracing.

(2) Installing surface and/or subsurface drainage such as rip-rap channels, french drains, pumping wells, etc.

(3) Installing support and reinforcement systems such as retaining walls, gabions, vertical pilings, etc.

(4) Revegetation.

3. Erosion and Sedimentation

a. Erosion and Sediment Control Considerations

Erosion and sediment control measures should be designed in accordance with Federal, State and local laws and should—

(1) Minimize erosion from the reclamation site and adjacent lands, minimize water pollution from sediment, acid drainage, and other toxic materials, and provide conditions suitable for the planned land use.

(2) Maintain the soil resource within acceptable soil loss limits. Allowable sheet and rill erosion rates should be commensurate with the soil resulting from reclamation. Information relative to allowable soil loss limits may be obtained from local NRCS Office.

(3) Expose the least amount of land at any one time, with the more hazardous areas exposed for the shortest time and during the season when extreme rainfall is least likely to occur.

(4) Complete reclamation activities so Revegetation can take place at the most advantageous time of year.

(5) Control foot and vehicular traffic and grazing until vegetation is established.

b. Erosion Control Practices

Well established vegetation is generally the most cost-effective means of erosion control. Other methods may include one or more of the following, in conjunction with vegetation, to achieve temporary and/or permanent erosion control.

(1) Mulches may be used for temporary erosion control and in some cases stabilizing agents such as gravel, stone, and concrete blocks may be used for permanent protection.

(2) Permanent structural measures may be used to divert runoff, reduce slope length, and provide for an effective runoff disposal system.

(3) Temporary vegetation and/or structural measures may be needed for erosion control during reclamation. Provisions should be made to remove the temporary control measures and stabilize the area when they are no longer needed.

c. Sediment Trapping Practices

When erosion controls are incapable of preventing excessive sediment buildup, either during reclamation or permanently, the excess sediment should be controlled to prevent offsite contamination.

(1) Temporary sediment control measures such as filter strips, sediment traps, and sediments basins, should be stabilized and maintained during their planned life.

(2) Permanent sediment basins should be maintained and the sediment removed when it accumulates to the design level. The use of permanent sediment basins should be minimized because of the continuing maintenance responsibility.

4. Vegetation

a. Existing Vegetation Inventory and Evaluation

The administering agency should complete an inventory and evaluation of existing vegetation and site conditions prior to developing the design and specifications for a project. The permanent vegetation selected to cover the reclaimed mine land should be compatible with the site characteristics and the intended land use of the reclaimed and surrounding land and provide adequate erosion control.

b. Vegetative Requirements

The vegetation portion of the project design and specifications should be developed considering requirements itemized for each of the following cases:

(1) In areas where the present plant species are inadequate or undesirable and only a change in vegetation is needed—

(a) Necessary erosion and sediment control structures should be installed to protect the area from excessive erosion and sedimentation during the vegetation establishment period. Temporary vegetation may be used alone or in combination with a mulch or other stabilizing agent in accordance with the needs of the site.

(b) The newly planted area should be protected from excessive use, especially livestock grazing, during the establishment period.

(2) In areas where changes in topography and vegetation are needed—

(a) Changes in topography should be made to improve esthetics aspects of the site, permit establishment of desirable vegetative cover, and insure compatibility with the planned land use;

(b) Temporary vegetation should be used to protect stockpiles of soil materials for a short time or to provide temporary cover until the permanent vegetation is established.

(3) In areas where the present spoil material is unsuited for vegetation the spoil material should be covered or replaced with material that will support the desired vegetation. If covering or replacement costs are prohibitive, attempts should be made to create a suitable plant growth medium upon which vegetation may be established.

(4) In areas where alteration of the site to support vegetation is impractical sediment should be confined to the immediate area if feasible. Surface runoff should be treated to an acceptable level of quality before discharging offsite if necessary.

5. Toxic Materials

a. Sampling and Analysis Consideration

The administering agency should sample sites suspected of containing administering agency should sample sites suspected of containing toxic materials. Chemical and/or physical analyses may include, but are limited to;

(1) pH (paste).

(2) SMP Buffer (tests pH of solution prior to weathering).

(3) Net acidity or alkalinity, or potential acidity.

(4) Total sulfur (sulfate and sulfide).

(5) Electrical conductivity (mmhos/cm).

(6) N,K,P and USDA texture class when material is to be used as post-reclamation plant growth medium.

(7) Organic matter (quantity and type).

(8) Visual and/or microscopic identification of potential toxic or acid forming materials.

b. Planning Considerations

The administering agency should consider the following items in their planning efforts on projects containing toxic materials:

(1) Critical toxic limits.

(2) Containment or segregation of toxic materials using sealed pits or embankments and/or covering the toxic materials with compacted clay or some other suitable material.

(3) Site preparation, including grading, backfilling, scarification, and application of appropriate growing medium, chemical fertilizers, lime gypsum, mulches, or sludge.

(4) Water management control, including surface and subsurface drainage, sediment control, and soluble toxic elements.

(5) Necessary monitoring and required maintenance, if any.

c. Sites Eligible Under CERCLA. AML sites containing AMD or other toxic material may be eligible for clean-up under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) if included on the national priority list (NPL). Listing of a site on MPL makes the site ineligible for AML funding.

6. Hydrologic Balance

a. Planning Considerations

After identification of areas needing restoration of the hydrologic balance, the administering agency should consider the following items in their planning.

(1) Evaluation of procedures needed to reduce or eliminate pollution to receiving surface and subsurface waters, including technical and economic constraints.

(2) Potential beneficial and/or adverse effects of proposed restoration activities on offsite hydrologic systems.

(3) Post reclamation land use of the site and surrounding area.

b. Surface-Water Considerations

Restoration of surface drainage should maximize erosional and ecological stability. Factors to be considered include, but are not limited to:

(1) Type of reconstruction materials to be used, stream gradient, fish and wildlife habitat, and compatibility with adjoining undisturbed surface drainage.

(2) Use of the reclaimed area as a source of ground-water recharge and the potential for downstream flooding.

(3) Feasibility of long-term, self-maintaining erosion control measures to enhance stream and flood plain stability.

(4) Construction of water impoundments which do not adversely

affect the restoration of the hydrologic balance and are in accordance with applicable local, State, tribal, or Federal requirements.

c. Ground-Water Considerations

Restoration of ground water should be done in a manner that will not diminish or degrade water leaving the site. Factors to be considered include, but are not limit to:

(1) Evaluation of the re-established water table, relative to the reclaimed land surface.

(2) Evaluation of the ground-water recharge capacity, considering the underlying aquifers and backfill materials.

(3) Identification of toxic and/or acid forming materials and procedures to eliminate or minimize contamination of the water table.

7. Public Health and Safety

a. Dump Sites

Abandoned mine sites used as dumps are usually excellent breeding places for insect and vermin and could pose a hazard to public health. The presence of a dump in an abandoned mine site should not be considered the primary reason for reclamation, but may be considered in raising the site priority in the same objective category. Prior to any reclamation work on dumps, the local, State and/or tribal agency should be encouraged to abate the problem under other existing authorities and consulted regarding proper disposal methods.

b. Highwall Danger

Highwalls may create a significant danger to public health or safety when there is public use of the area above the highwall and/or there is evidence of sloughing that may damage structures or block roads and stream channels. Reclamation techniques include, but are not limited to:

(1) Reducing the highwall height,

(2) Backfilling and grading the highwall to a stable slope, or

(3) Providing a physical barrier to limit accessibility and material movement.

c. Mine Opening and Subsidence

(1) The administering agency should consider the following items when planning for subsidence control projects:

(a) Exploratory drilling to determine the locations, size, and condition of abandoned underground mine openings with the potential to subside (except in emergencies).

(b) Proximity to populated areas with high public use.

(c) Notification to all local, State, and tribal land use planning agencies of potential subsidence areas.

(2) Restricting entry to mine openings by constructing physical barriers and/or fencing for emergency situations until the opening can be properly reclaimed.

d. Radiation Emission

Where radiation constitutes a potential public health or safety problem, the administering agency should coordinate with other pertinent agencies prior to reclamation activity. Normally, this coordination is done during the development of the State reclamation standards for radiation.

e. Domestic Water Supplies

Control measures designed to protect or restore domestic water supplies should consider the number of people affected, the type and concentration of pollutant(s), and the type and cost of control technology. Clean-up or restoration of domestic water supplies should be restricted to source control where possible.

f. Surface and Underground Mine Fires

Only fires associated with abandoned mines or in virgin seams associated with other abandoned mine reclamation problems are eligible for Title IV funding.

(1) Prior to initiating control or extinguishment efforts, geologic investigations should be carried out to determine the extent of the fire and the amount of remaining combustible material.

(2) Reclamation design and procedures should include method to control or eliminate hazardous gases, fumes, and other types of air pollution associated with the fire.

g. Hazardous/Explosive Gases

Toxic gases, other than those associated with mine fires, may require site specific control or treatment procedures. For example, methane seeking into a residence must be vented and should be monitored for a reasonable amount of time to ensure the area is safe. Whenever possible gases should be vented or sealed off at their source.

8. Esthetics and Visual Values

Reclaimed lands should, to the extent that it is feasible, conform to the visual aspects of the surrounding landscape. The reclamation design and procedures should take into consideration the proximity to public high use areas and the visual impact within the context of the viewing distance.

a. Visual Degraders

The administering agency determines what conditions are visually degrading and should be considered for visual improvement. Visual degraders may include, but are not limited to, highwalls, erosion, discolored water, haul roads, refuse piles, slurry ponds, spoil piles, abandoned mining equipment and structures, garbage and refuse dumps, open pits, and deforestation.

b. Esthetics Problem Solutions

Solutions for esthetics problems may involve removal of offensive material or condition, strategic placement of screening materials, and/or the use of appropriate plant species. Guidelines and standard to evaluate visual resources developed by the U.S. Forest Service, NRCS, U.S. Bureau of Land Management, National Park Service, and other agencies should be adapted for use in evaluating and planning visual solutions.

9. Fish and Wildlife Values

a. Project Identification Requirements

The administering agency should periodically provide a list of proposed and on-going abandoned mine land activities to the conservation or land management agencies with responsibilities for fish and wildlife or their habitats and should request pertinent information and suggestions from these agencies.

b. Determining Fish and Wildlife Values and Goals

The administering agency should review information provided by the conservation and land management agencies with responsibilities for fish and wildlife or their habitats to determine the pre-reclamation fish and wildlife values of abandoned mine land sites. The administering agency should then determine the fish and wildlife goals for each project, in relation to that project's determined fish and wildlife values and the program priority objectives.

c. Planning Considerations

The administering agency should encourage the consideration of fish and wildlife values in all reclamation activities, including those whose primary purposes for reclamation are related to public health, safety, or general welfare. If fish and wildlife values are determined to be among the goals of the reclamation efforts, the administering agency should incorporate them into the reclamation plan.

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d. Installing and Maintaining Established Fish and Wildlife Habitat Values

The administering agency should insure that all fish and wildlife measures contained in the selected plan are implemented and should encourage the landowner(s) to maintain them at or above the planned level.

10. Air Quality

a. Air Quality Standards

All reclamation activities should be conducted in accordance with applicable local, State, tribal, or Federal air quality standards.

b. Coordination Requirements

Local, State, tribal, or Federal air quality officials should be contacted prior to reclamation planning activities for requirements concerning air quality permit procedures, applicable standards, and possible control measures.

c. Air Quality Degradation and Improvement

Long-term air quality improvements which will result from reclamation should have priority over possible short-term air quality degradation caused by reclamation construction.

[FR Doc. 96–33108 Filed 12–27–96; 8:45 am]
BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement

SUMMARY: The Department of Justice (DOJ), National Institute of Corrections (NIC) announces the availability of funds in FY'97 for a cooperative agreement to fund a "Criminal Justice System Project: A Program of Training and Technical Assistance for Selected State and Local Jurisdictions."

PURPOSE: The National Institute of Corrections is seeking proposals for a cooperative agreement to help criminal justice policy teams in five state and local jurisdictions develop and implement purposeful, informed policies on the design, use, capacity, and cost of selected components of their system of correctional options for pre-trial and sentenced offenders. The Criminal Justice System Project team will be a collaborative effort between NIC program staff and the cooperative agreement recipient.

AUTHORITY: Public Law 93–415.

FUNDS AVAILABLE: Funding for the project is limited to a maximum total amount of $305,000 (direct and indirect costs) for one cooperative agreement for the first twelve months of a three-year effort. Based on the availability of funds, funding for the two, subsequent, one-year phases are projected at roughly the same level ($305,000 per year). The approval for the second and third years will be made to the successful applicant from this solicitation—provided the recipient performs satisfactorily in the first 12-month period. Funds may not be used for construction, or to acquire or build real property.

DEADLINE FOR RECEIPT OF APPLICATIONS: Applications must be received in NIC's Washington Offices by 4:00 p.m., Eastern time on Friday, January 31, 1997.

ADDRESSES AND FURTHER INFORMATION: Requests for the application kit, which includes further details on the project's objectives, etc., should be directed to Judy Evens, Grants Control Office, National Institute of Corrections, 320 First Street, N.W., Room 5007, Washington, D.C. 20534 or by calling 800–995–6423, ext. 159 or 202–307–3106, ext. 159.

All technical and/or programmatic information on this announcement should be directed to Ms. Phyllis Modley at the above address or by calling 800–995–6423, ext. 133 or 202–307–3106, ext 133, or by E-mail at: pmodley@bop.gov.

Eligible Applicants

An eligible applicant is any private, non-profit organization or institution, or individual.

Review Consideration

Applications received under this announcement will be subjected to an NIC 3 to 5 member Peer Review Process.

Number of Awards

One (1).

NIC Application Number

97DO1. This number should appear as a reference line in your cover letter and also in box 11 of Standard Form 424.

Other Information

Applicants are advised that the narrative description of their program, not including the budget justification or Standard Form 424, attachments and appendices should not exceed forty (40), double-spaced typed pages.

Executive Order 12372

This program is subject to the provisions of Executive Order 12372. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. Applicants (other than Federally-recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC), a list of which is included in the application kit, along with further instructions on proposed projects serving more than one State.

The Catalog of Federal Domestic Assistance number is: 16.603.

Dated: December 23, 1996.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 96–33167 Filed 12–27–96; 8:45 am]
BILLING CODE 4410–36–M

Solicitation for a Cooperative Agreement

SUMMARY: The Department of Justice (DOJ), National Institute of Corrections (NIC) announces the availability of funds in FY'97 for a cooperative agreement to fund a "Structured Release and Violation Guidelines for Paroling Authorities" project.

PURPOSE: The National Institute of Corrections is seeking proposals for a cooperative agreement to assist selected paroling authorities in establishing consistent, responsible, and objective parole release decision making processes and procedures—and consistent violation response guidelines—at the state level. Examples of types of needs identified during earlier initiatives include data and risk assessment issues; dissatisfaction with current parole release and violation policies and procedures; and lack of written policy regarding release or violation responses. Release and violation concerns require paroling authorities to articulate their goals; and to develop consistent and explicit policies. To address these issues assistance will be provided to approximately five state paroling authorities, with the precise number receiving assistance to be determined by resource allocation as proposed by the awardee. The "Structured Release and Violation Guidelines for Paroling Authorities" project will be a collaborative effort between NIC program staff and the cooperative agreement recipient.

AUTHORITY: Public Law 93–415.

FUNDS AVAILABLE: The award will be limited to a maximum total amount of $150,000 (direct and indirect costs) and project activity must be completed within 18 months of award.

Funds may not be used for construction, or to acquire or build real property.

DEADLINE FOR RECEIPT OF APPLICATIONS: Applications must be received in NIC's Washington office by 4:00 p.m., Eastern time on Friday, January 31, 1997.

ADDRESSES AND FURTHER INFORMATION: Requests for the application kit, which includes further details on the project's objectives, etc., should be directed to Judy Evens, Grants Control Office, National Institute of Corrections, 320 First Street, N.W., Room 5007, Washington, D.C. 20534 or by calling 800–995–6423, ext. 159 or 202–307–3106, ext. 159.

All technical and/or programmatic information on this announcement should be directed to Mr. Kermit Humphries at the above address or by calling 800–995–6423, ext. 136 or 202–307–3995, ext. 136, or by E-Mail via khumphrie@bop.gov.

Eligible Applicants

An eligible applicant is any private, non-profit organization or institution, or individual.

Review Consideration

Applications received under this announcement will be subject to an NIC 3 to 5 member Peer Review Process.

Number of Awards

One (1).

NIC Application Number

97C03. This number should appear as a reference line in your cover letter and also in box 11 of Standard Form 424.

Other Information

Applicants are advised that the narrative description of their program, not including the budget justification or Standard Form 424, attachments and appendixes should not exceed forty (40), double-spaced typed pages.

Executive Order 12372

This program is subject to the provisions of Executive Order 12372. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. Applicants (other than Federally-recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC), a list of which is included in the application kit, along with further instructions on proposed projects serving more than one State.

The Catalog of Federal Domestic Assistance number is: 16.603

Dated: December 23, 1996.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 96–33168 Filed 12–27–96; 8:45 am]

BILLING CODE 4410–36–M

Solicitation for a Cooperative Agreement

SUMMARY: The Department of Justice (DOJ), National Institute of Corrections (NIC) announces the availability of funds in FY 97 for a cooperative agreement to fund a "Responding to Probation and Parole Violations At the Local Level" project.

PURPOSE: Regardless of whether probation and parole agencies are administered at the state or local level, their response to violations significantly impact the demand for and use of jail beds and resources in local communities. Judicious use of intermediate responses—both while processing the violation and at disposition—can provide swift and appropriate responses for certain types of probation and parole violation behavior; while responsibly considering public safety, offender needs, institutional crowding, and resource allocation.

The Institute's Community Corrections Division will provide financial assistance in the form of a cooperative agreement to an agency or organization. This initiative emphasizes policy development by local teams including key decision makers and administrators like judges, county commissioners, local sheriffs, and probation and/or parole executives. Up to eight local jurisdictions from each of two states will be invited to participate in this project. Components of the initiative include, in part:

The awardee (organization receiving the cooperative agreement) will work with NIC in announcing the opportunity and selecting the states and local jurisdictions that will participate; they will work with the local jurisdictions on-site for the purpose of data and policy analysis before the seminar, as well as providing post-seminar technical assistance. Teams from local jurisdictions will attend a three to five day seminar with other jurisdictions from their state, and the awardee will be responsible for all seminar costs except participant transportation. A monograph will be prepared by the awardee to assess and document the impact of changes in probation and parole violation practices on participating jurisdictions. Use of video conferencing is encouraged to augment on-site activities when the technology satisfies project needs and is cost effective.

The "Responding to Probation and Parole Violations At the Local Level" project will be a collaborative effort between NIC program staff and the cooperative agreement recipient.

AUTHORITY: Public Law 93–415.

FUNDS AVAILABLE: The award will be limited to a maximum total amount of $225,000 (direct and indirect costs) and project activity must be completed within 18 months of award.

Funds may not be used for construction, or to acquire or build real property.

DEADLINE FOR RECEIPT OF APPLICATIONS: Applications must be received in NIC's Washington office by 4:00 p.m., Eastern time on Friday, January 31, 1997.

ADDRESSES AND FURTHER INFORMATION: Requests for the application kit, which includes further details on the project's objectives, etc., should be directed to Judy Evens, Grants Control Office, National Institute of Corrections, 320 First Street NW., Room 5007, Washington, DC 20534 or by calling 800–995–6423, ext. 159 or 202–307–3106, ext. 159.

All technical and/or programmatic information on this announcement should be directed to Mr. Kermit Humphries at the above address or by calling 800–995–6423, etc. 136 or 202–307–3995, ext. 136, or by E-Mail via khumphrie@bop.gov.

Eligible Applicants

An eligible applicant is any private, non-profit organization or institution, or individual.

Review Consideration

Applications received under this announcement will be subjected to an NIC 3 to 5 member Peer Review Process.

Number of Awards

One (1).

NIC Application Number

97C04. This number should appear as a reference line in your cover letter and also in box 11 of Standard Form 424.

Other Information

Applicants are advised that the narrative description of their program, not including the budget justification or Standard Form 424, attachments and appendices should not exceed forty (40), double-spaced typed pages.

Executive Order 12372

This program is subject to the provisions of Executive Order 12372. Executive Order 12372 allows States the

option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. Applicants (other than Federally-recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC), a list of which is included in the application kit, along with further instructions on proposed projects serving more than one State.

The Catalog of Federal Domestic Assistance number is: 16.603.

Dated: December 23, 1996.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 96–33169 Filed 12–27–96; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 96-93; Exemption Application No. D-10240, et al.]

Grant of Individual Exemptions; Beall Corporation 401(k) Profit Sharing Plan (the Plan), et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Beall Corporation 401(k) Profit Sharing Plan (the Plan), Located in Portland, OR

[Prohibited Transaction Exemption 96–93; Exemption Application No. D–10240]

Exemption

The restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1)(A) through (E) of the Code shall not apply to the cash sale (the Sale) by the Plan of four acres of unimproved real property (the Land) to the Diamond Beall Development Corporation, an Oregon general partnership and party in interest with respect to the Plan, provided that the following conditions are satisfied: (1) the Sale is a one-time transaction for cash; (2) the Plan experiences no losses nor incurs any expenses as a result of the Sale; (3) the Plan receives in cash the greater of $479,160, or the fair market value of the Land as determined at the time of the Sale; and (4) the terms of the Sale are no less favorable to the Plan than those it would have received in similar circumstances when negotiated at arm's length with unrelated third parties.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on October 25, 1996 at 61 FR 55321.

FOR FURTHER INFORMATION CONTACT: Mr. Gary H. Lefkowitz of the Department, telephone (202) 219-8881. (This is not a toll-free number.)

First Chicago NBD Corporation (FCNBD) Located in Chicago, Illinois

[Prohibited Transaction Exemption 96-94; Exemption Application No. D–10361]

Exemption

I. Transactions

A. Effective October 8, 1996, the restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the following transactions involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and an employee benefit plan when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.A.(1) or (2).

Notwithstanding the foregoing, section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 for the acquisition or holding of a certificate on behalf of an Excluded Plan by any person who has discretionary authority or renders investment advice with respect to the assets of that Excluded Plan.[1]

B. Effective October 8, 1996, the restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code shall not apply to:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the certificates is (a) an obligor with respect to 5 percent or less of the fair market value of obligations or

[1] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3-21(c).

receivables contained in the trust, or (b) an affiliate of a person described in (a); if:

(i) The plan is not an Excluded Plan;

(ii) Solely in the case of an acquisition of certificates in connection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group and at least 50 percent of the aggregate interest in the trust is acquired by persons independent of the Restricted Group;

(iii) A plan's investment in each class of certificates does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition; and

(iv) Immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice are invested in certificates representing an interest in a trust containing assets sold or serviced by the same entity.[2] For purposes of this paragraph B.(1)(iv) only, an entity will not be considered to service assets contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates, provided that the conditions set forth in paragraphs B.(1)(i), (iii) and (iv) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.B.(1) or (2).

C. Effective October 8, 1996, the restrictions of sections 406(a), 406(b) and 407(a) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a trust, provided:

(1) Such transactions are carried out in accordance with the terms of a binding pooling and servicing arrangement; and

(2) The pooling and servicing agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they purchase certificates issued by the trust.[3]

Notwithstanding the foregoing, section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act or from the taxes imposed by reason of section 4975(c) of the Code for the receipt of a fee by a servicer of the trust from a person other than the trustee or sponsor, unless such fee constitutes a "qualified administrative fee" as defined in section III.S.

D. Effective October 8, 1996, the restrictions of sections 406(a) and 407(a) of the Act, and the taxes imposed by sections 4975(a) and (b) of the Code by reason of sections 4975(c)(1)(A) through (D) of the Code, shall not apply to any transactions to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider described in section 3(14)(F), (G), (H) or (I) of the Act or section 4975(e)(2)(F), (G), (H) or (I) of the Code), solely because of the plan's ownership of certificates.

II. General Conditions

A. The relief provided under Part I is available only if the following conditions are met:

(1) The acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as they would be in an arm's-length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not subordinated to the rights and interests evidenced by other certificates of the same trust;

(3) The certificates acquired by the plan have received a rating at the time of such acquisition that is in one of the three highest generic rating categories from either Standard & Poor's Structured Rating Group (S&P's), Moody's Investors Service, Inc. (Moody's), Duff & Phelps Credit Rating Co. (D&P) or Fitch Investors Service, L.P. (Fitch);

(4) The trustee is not an affiliate of any member of the Restricted Group. However, the trustee shall not be considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the servicer pursuant to the terms of a pooling and servicing agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the sum of all payments made to and retained by the sponsor pursuant to the assignment of obligations (or interests therein) to the trust represents not more than the fair market value of such obligations (or interests); and the sum of all payments made to and retained by the servicer represents not more than reasonable compensation for the servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connection therewith; and

(6) The plan investing in such certificates is an "accredited investor" as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission under the Securities Act of 1933.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, nor any obligor, unless it or any of its affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under Part I, if the provision of subsection II.A.(6) above is not satisfied with respect to acquisition or holding by a plan of such certificates, provided that (1) such condition is disclosed in the prospectus or private placement memorandum; and (2) in the case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees will be required to make a written representation regarding compliance with the condition set forth in subsection II.A.(6) above.

III. Definitions

For purposes of this exemption:

A. *Certificate* means:

(1) A certificate—

[2] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[3] In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions.

(a) That represents a beneficial ownership interest in the assets of a trust; and

(b) That entitles the holder to pass-through payments of principal, interest, and/or other payments made with respect to the assets of such trust; or

(2) A certificate denominated as a debt instrument—

(a) That represents an interest in a Real Estate Mortgage Investment Conduit (REMIC) within the meaning of section 860D(a) of the Internal Revenue Code of 1986; and

(b) That is issued by and is an obligation of a trust;

with respect to certificates defined in (1) and (2) above for which FCNBD or any of its affiliates is either (i) the sole underwriter or the manager or co-manager of the underwriting syndicate, or (ii) a selling or placement agent.

For purposes of this exemption, references to "certificates representing an interest in a trust" include certificates denominated as debt which are issued by a trust.

B. *Trust* means an investment pool, the corpus of which is held in trust and consists solely of:

(1) Either

(a) Secured consumer receivables that bear interest or are purchased at a discount (including, but not limited to, home equity loans and obligations secured by shares issued by a cooperative housing association);

(b) Secured credit instruments that bear interest or are purchased at a discount in transactions by or between business entities (including, but not limited to, qualified equipment notes secured by leases, as defined in section III.T);

(c) Obligations that bear interest or are purchased at a discount and which are secured by single-family residential, multi-family residential and commercial real property (including obligations secured by leasehold interests on commercial real property);

(d) Obligations that bear interest or are purchased at a discount and which are secured by motor vehicles or equipment, or qualified motor vehicle leases (as defined in section III.U);

(e) "Guaranteed governmental mortgage pool certificates," as defined in 29 CFR 2510.3–101(i)(2);

(f) Fractional undivided interests in any of the obligations described in clauses (a)–(e) of this section B.(1);[4]

(2) Property which had secured any of the obligations described in subsection B.(1);

(3) Undistributed cash or temporary investments made therewith maturing no later than the next date on which distributions are to be made to certificateholders; and

(4) Rights of the trustee under the pooling and servicing agreement, and rights under any insurance policies, third-party guarantees, contracts of suretyship and other credit support arrangements with respect to any obligations described in subsection B.(1).

Notwithstanding the foregoing, the term "trust" does not include any investment pool unless: (i) the investment pool consists only of assets of the type which have been included in other investment pools, (ii) certificates evidencing interests in such other investment pools have been rated in one of the three highest generic rating categories by S&P's, Moody's, D & P, or Fitch for at least one year prior to the plan's acquisition of certificates pursuant to this exemption, and (iii) certificates evidencing interests in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. *Underwriter* means:

(1) FCNBD;

(2) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with FCNBD; or

(3) Any member of an underwriting syndicate or selling group of which FCNBD or a person described in (2) is a manager or co-manager with respect to the certificates.

D. *Sponsor* means the entity that organizes a trust by depositing obligations therein in exchange for certificates.

E. *Master Servicer* means the entity that is a party to the pooling and servicing agreement relating to trust assets and is fully responsible for servicing, directly or through subservicers, the assets of the trust.

F. *Subservicer* means an entity which, under the supervision of and on behalf of the master servicer, services receivables contained in the trust, but is not a party to the pooling and servicing agreement.

G. *Servicer* means any entity which services receivables contained in the trust, including the master servicer and any subservicer.

H. *Trustee* means the trustee of the trust, and in the case of certificates which are denominated as debt instruments, also means the trustee of the indenture trust.

I. *Insurer* means the insurer or guarantor of, or provider of other credit support for, a trust. Notwithstanding the foregoing, a person is not an insurer solely because it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust.

J. *Obligor* means any person, other than the insurer, that is obligated to make payments with respect to any obligation or receivable included in the trust. Where a trust contains qualified motor vehicle leases or qualified equipment notes secured by leases, "obligor" shall also include any owner of property subject to any lease included in the trust, or subject to any lease securing an obligation included in the trust.

K. *Excluded Plan* means any plan with respect to which any member of the Restricted Group is a "plan sponsor" within the meaning of section 3(16)(B) of the Act.

L. *Restricted Group* with respect to a class of certificates means:

(1) Each underwriter;

(2) Each insurer;

(3) The sponsor;

(4) The trustee;

(5) Each servicer;

(6) Any obligor with respect to obligations or receivables included in the trust constituting more than 5 percent of the aggregate unamortized principal balance of the assets in the trust, determined on the date of the initial issuance of certificates by the trust; or

(7) Any affiliate of a person described in (1)–(6) above.

M. *Affiliate* of another person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. *Control* means the power to exercise a controlling influence over the

[4] It is the Department's view that the definition of "trust" contained in III.B. includes a two-tier structure under which certificates issued by the first trust, which contains a pool of receivables described above, are transferred to a second trust which issues securities that are sold to plans. However, the Department is of the further view that, since the exemption provides relief for the direct or indirect acquisition or disposition of certificates that are not subordinated, no relief would be available if the certificates held by the second trust were subordinated to the rights and interests evidenced by other certificates issued by the first trust.

management or policies of a person other than an individual.

O. A person will be "*independent*" of another person only if:

(1) Such person is not an affiliate of that other person; and

(2) The other person, or an affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to any assets of such person.

P. *Sale* includes the entrance into a forward delivery commitment (as defined in section Q below), provided:

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's-length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to sales are met.

Q. *Forward delivery commitment* means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificates from, the other party).

R. *Reasonable compensation* has the same meaning as that term is defined in 29 CFR 2550.408c-2.

S. *Qualified Administrative Fee* means a fee which meets the following criteria:

(1) the fee is triggered by an act or failure to act by the obligor other than the normal timely payment of amounts owing in respect of the obligations;

(2) the servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) the ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the pooling and servicing agreement; and

(4) the amount paid to investors in the trust will not be reduced by the amount of any such fee waived by the servicer.

T. *Qualified Equipment Note Secured By A Lease* means an equipment note:

(1) which is secured by equipment which is leased;

(2) which is secured by the obligation of the lessee to pay rent under the equipment lease; and

(3) with respect to which the trust's security interest in the equipment is at least as protective of the rights of the trust as would be the case if the equipment note were secured only by the equipment and not the lease.

U. *Qualified Motor Vehicle Lease* means a lease of a motor vehicle where:

(1) the trust holds a security interest in the lease;

(2) the trust holds a security interest in the leased motor vehicle; and

(3) the trust's security interest in the leased motor vehicle is at least as protective of the trust's rights as would be the case if the trust consisted of motor vehicle installment loan contracts.

V. *Pooling and Servicing Agreement* means the agreement or agreements among a sponsor, a servicer and the trustee establishing a trust. In the case of certificates which are denominated as debt instruments, "Pooling and Servicing Agreement" also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

W. *FCNBD* means First Chicago NBD Corporation and its affiliates.

The Department notes that this exemption is included within the meaning of the term "Underwriter Exemption" as it is defined in section V(h) of Prohibited Transaction Exemption 95-60 (60 FR 35925, July 12, 1995), the Class Exemption for Certain Transactions Involving Insurance Company General Accounts at 35932.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on November 13, 1996 at 61 FR 58244.

WRITTEN COMMENTS: The Department received one written comment, which was submitted by the applicant to make two corrections or clarifications with respect to the proposed exemption. The first correction pointed out name changes for D&P and Fitch, two of the rating agencies which will be rating the certificates. The appropriate name changes have been made in the operative language. The applicant also stated that representation 6 of the proposed exemption should be modified. The representation had indicated that "For tax reasons, the trust must be maintained as an essentially passive entity." The applicant noted that recent tax changes have liberalized or eliminated the requirement that the trust be maintained as an essentially passive entity, but FCNBD has agreed to represent that any trust issuing securities in reliance on the exemption will be maintained as an essentially passive entity.

The Department has considered the entire record, including the comments submitted by the applicant, and has determined to grant the exemption as amended in response to the applicant's comments.

FOR FURTHER INFORMATION CONTACT: Gary Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Zions Bancorporation and Affiliated Companies (Zions), Located in Salt Lake City, Utah

[Prohibited Transaction Exemption 96-95; Exemption Application No. L–10338]

Exemption

The restrictions of sections 406(a) and (b) of the Act shall not apply to the reinsurance of risks and the receipt of premiums therefrom by Zions Life Insurance Company (ZLIC) in connection with an insurance contract sold by American Bankers Life Insurance Company to provide group life and accidental death and dismemberment insurance to employees of Zions (the Plan), provided the following conditions are met:

(a) ZLIC—

(1) Is a party in interest with respect to the Plan by reason of a stock or partnership affiliation with Zions that is described in section 3(14)(E) or (G) of the Act,

(2) Is licensed to sell insurance or conduct reinsurance operations in at least one State as defined in section 3(10) of the Act,

(3) Has obtained a Certificate of Authority from the Insurance Commissioner of its domiciliary state which has neither been revoked nor suspended, and

(4)(A) Has undergone an examination by an independent certified public accountant for its last completed taxable year immediately prior to the taxable year of the reinsurance transaction; or

(B) Has undergone a financial examination (within the meaning of the law of its domiciliary State, Arizona) by the Insurance Commissioner of the State of Arizona within 5 years prior to the end of the year preceding the year in which the reinsurance transaction occurred.

(b) The Plan pays no more than adequate consideration for the insurance contracts;

(c) No commissions are paid with respect to the direct sale of such contracts or the reinsurance thereof; and

(d) For each taxable year of ZLIC, the gross premiums and annuity considerations received in that taxable year by ZLIC for life and health insurance or annuity contracts for all

employee benefit plans (and their employers) with respect to which ZLIC is a party in interest by reason of a relationship to such employer described in section 3(14)(E) or (G) of the Act does not exceed 50% of the gross premiums and annuity considerations received for all lines of insurance (whether direct insurance or reinsurance) in that taxable year by ZLIC. For purposes of this condition (d):

(1) the term "gross premiums and annuity considerations received" means as to the numerator the total of premiums and annuity considerations received, both for the subject reinsurance transactions as well as for any direct sale or other reinsurance of life insurance, health insurance or annuity contracts to such plans (and their employers) by ZLIC. This total is to be reduced (in both the numerator and the denominator of the fraction) by experience refunds paid or credited in that taxable year by ZLIC.

(2) all premium and annuity considerations written by ZLIC for plans which it alone maintains are to be excluded from both the numerator and the denominator of the fraction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on November 6, 1996 at 61 FR 57477.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, D.C., this 24th day of December, 1996.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor

[FR Doc. 96-33182 Filed 12-27-96; 8:45 am]

BILLING CODE 4510-29-P

[Application No. D-10253, et al.]

Proposed Exemptions; The Retirement Plan for Salaried and Certain Hourly Employees of Keebler Company (the Plan)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

Unless otherwise stated in the Notice of Proposed Exemption, all interested persons are invited to submit written comments, and with respect to exemptions involving the fiduciary prohibitions of section 406(b) of the Act, requests for hearing within 45 days from the date of publication of this Federal Register Notice. Comments and request for a hearing should state: (1) the name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N-5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N-5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

VOL 61 ISS 251 DE 30 1996 UMI

The Retirement Plan for Salaried and Certain Hourly Employees of Keebler Company (the Plan), Located in Elmhurst, Illinois

[Application No. D-10253]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the leasing by the Plan of certain improved real property (the Property) to Keebler Company (the Employer), a party in interest with respect to the Plan, (2) the potential future purchase of the Property by the Employer pursuant to the Employer's right of first refusal, as stipulated in the lease, and (3) the "make whole agreement," and any payments thereunder, whereby the Employer will make the Plan whole, in the event that the Plan sells the Property to an unrelated party at a net loss.

This proposed exemption is subject to the following conditions:

(1) The Plan is represented for all purposes with respect to the lease by a qualified, independent fiduciary;

(2) The terms and conditions of the lease are and continue to be at least as favorable to the Plan as those the Plan could obtain in a comparable arm's length transaction with an unrelated party;

(3) The rent paid to the Plan under the lease is and continues to be no less than the fair market rental value of the Property, as established by a qualified, independent appraiser;

(4) The rent is adjusted, at a minimum, every three years (upwards only), based upon an updated independent appraisal;

(5) The lease is a net lease, under which the Employer as the tenant is obligated for all operating expenses, including maintenance, taxes, insurance, and utilities;

(6) The independent fiduciary for the Plan represents that it has reviewed the terms and conditions of the lease on behalf of the Plan and believes the lease is in the best interests of and appropriate for the Plan;

(7) The independent fiduciary monitors and enforces compliance with the terms and conditions of the lease and of the exemption for the duration of the lease;

(8) The independent fiduciary expressly approves any improvements by the Employer over $100,000 to the Property and any renewal of the lease beyond the initial term;

(9) In the event that the Employer exercises its right of first refusal under the lease, the Employer purchases the Property from the Plan for an amount which is the greater of: (a) the original acquisition cost of the Property, plus the cost of any improvements, paid by the Plan, or (b) the fair market value of the Property as of the date of the sale, as established by a qualified, independent appraiser selected by the independent fiduciary;

(10) In the event that the Plan sells the Property to an unrelated party at a net loss (taking into account the cost of any improvements and all selling expenses paid by the Plan), the Employer makes the Plan whole, within 15 days after the date of such sale, by paying the Plan cash in an amount equal to the difference between: (a) the original acquisition cost of the Property, plus the cost of any improvements and all selling expenses, paid by the Plan, and (b) the amount of the sale proceeds received by the Plan; and

(11) At all times, the fair market value of the Property represents no more than 25 percent of the total assets of the Plan.

EFFECTIVE DATE: This exemption, if granted, will be effective as of April 15, 1996.

Summary of Facts and Representations

1. The Plan is a defined benefit plan sponsored by the Employer. The Employer, a Delaware corporation, is engaged in the business of making cookies, crackers, ice cream cones, and snacks and is located in Elmhurst, Illinois. The Plan had total assets of $200,697,537, as of December 31, 1994. The Plan had 7,496 participants and beneficiaries, as of April 1, 1996. The trustee of the Plan is the Northern Trust Company (Northern Trust). The Chicago Trust Company (Chicago Trust), the successor to the Chicago Title & Trust company, is the Subtrustee with respect to the Plan's investment in employer real property by virtue of a Subtrust Agreement with Northern Trust, entered into as of January 5, 1981 and amended as of April 10, 1985.

2. Among the assets of the Plan is the Property, which is currently being leased to the Employer. The Property consists of a land area of 7.36 acres and a one-story multi-purpose warehouse and manufacturing facility of 100,676 sq. ft. The Property is located at 2201 Cabot Boulevard West, Langhorne, Pennsylvania. It is represented that the Property is not near any other real property owned or used by the Employer. It is further represented that the Property is not subject to any debt.

3. The Property was appraised by Messrs. Christopher J. Hall and L. Edward Klein, M.A.I., of Binswanger Real Estate Appraisal, both independent general real estate appraisers certified in the State of Pennsylvania. Messrs. Hall and Klein employed all three basic valuation methodologies (cost, sales comparison, and income) utilized in the appraisal field and concluded that the fair market value of the fee simple interest of the Property was $2,550,000, as of December 1, 1995. Messrs. Hall and Klein also examined four other comparable leases and concluded, as of that same date, that the Property had a fair market rental value of $3.25 per sq. ft. ($327,200 per annum, rounded), if leased on a net basis. Finally, Messrs. Hall and Klein concluded that the fair market value of the leased fee interest of the Property, which is being leased to the Employer pursuant to a 15-year lease at above market rent, was $4,100,000, as of December 1, 1995.

The appraisal states that the zoning of the Property is M–1, Light Manufacturing, which restricts its use to various industrial and office uses. The highest and best use of the Property, if vacant, is as an industrial building. The highest and best use of the Property, as improved, is its continued use as a warehouse/distribution facility.

4. As previously noted, the Property is being leased to the Employer pursuant to a 15-year lease, whose term commenced on September 13, 1991. Until recently, the Plan was also leasing to the Employer a second parcel of real property located in Valencia, California (the California Property) for an 11-year term expiring on March 31, 1996. It is represented that together such leases, because they involved "qualifying employer real property," were statutorily exempt under section 408(e) of the Act.[1] However, on April 15, 1996, the California Property was sold by the Plan to the Employer for $2,350,000, again, pursuant to a statutory exemption under section 408(e) of the Act.[2] Prior

[1] Section 408(e) of the Act provides an exemption from sections 406 and 407 of the Act for certain transactions involving "qualifying employer real property," as that term is defined in section 407(d)(4) of the Act. However, the Department expresses no opinion herein as to whether the leasing of either the Property or the California Property to the Employer complied with the requirements of section 408(e) of the Act.

[2] The Department expresses no opinion herein as to whether the sale of the California Property complied with the requirements of section 408(e) of the Act. Further, the Department expresses no

to that date, the applicant submitted a request for an administrative exemption from the Department for the continued leasing to the Employer of the sole remaining parcel of real property in the Plan, retroactive to the date of the sale of the California Property.

5. The interests of the Plan with respect to the lease are represented by the Subtrustee Chicago Trust, acting as an independent fiduciary for the Plan. Chicago Trust, whose fees are paid by the Plan, represents that it is unrelated to and independent of the Employer. Chicago Trust represents that it has extensive experience as a fiduciary under the Act, that it is knowledgeable as to the subject transactions, and that it acknowledges and accepts its duties, responsibilities, and liabilities in acting as a fiduciary with respect to the Plan.

6. The lease provides for a primary term of 15 years, which may be extended at the option of the lessee for three successive terms of five years each, upon the express approval of the independent fiduciary. It is represented that the Employer currently pays to the Plan rent in the amount of $5.12 per sq. ft. ($515,497 per annum), which significantly exceeds the fair market rental value of $327,200 per annum established for the Property. The lease provides for annual rent increases based upon a return of income as a percentage of the Plan's original disbursement of $4.3 million for the Property (with such percentage ranging from 10.0% in 1992 to 14.01% in 2006, the final lease year). The fair market rental value of the Property is to be redetermined every three years, based upon an updated independent appraisal. If the appraised fair market rental value exceeds the rent being paid by the Employer, the rent will be increased to a level that is not less than the appraised fair market rental value. If the appraised value is less than the rent being paid by the Employer, the then current rent will remain in effect.

The lease is a net lease, under which the rent is an absolutely net return to the Plan as landlord and is not subject to deductions for any expenses relating to the Property. The Employer as tenant is obligated for all operating expenses, including maintenance, taxes, insurance, and utilities. The lease permits the Employer to remodel and make structural changes and additions to the Property at the Employer's expense, so long as such improvements comply with all applicable governmental regulations. Any expense over $100,000 must be expressly approved by the independent fiduciary. Any improvements or renovations of the property will belong to the Plan upon termination of the lease. The Employer will indemnify and hold the Plan harmless for all claims and demands arising from or in any way relating to the Property.

7. In the event that the independent fiduciary determines it is in the best interests of the Plan to sell the Property, the lease grants the Employer the right of first refusal. If the Employer exercises its right of first refusal, the Employer will purchase the Property from the Plan for an amount which is the greater of: (a) the original acquisition cost of the Property, plus the cost of any improvements, paid by the Plan, or (b) the fair market value of the Property as of the date of the sale, as established by a qualified, independent appraiser selected by the independent fiduciary. Any such sale would be a one-time transaction for cash, and the Plan would incur no expenses relating to the sale.

If the Plan sells the Property to an unrelated party during the term of the lease, the Employer will continue to be bound as tenant under the lease for the duration of the lease. Further, if the Plan sells the Property to an unrelated party at a net loss (taking into account the cost of any improvements and all selling expenses paid by the Plan), the Employer will make the Plan whole, within 15 days after the date of such sale, by paying the Plan cash in an amount equal to the difference between: (a) the original acquisition cost of the Property, plus the cost of any improvements and all selling expenses, paid by the Plan, and (b) the amount of the sale proceeds received by the Plan.

8. Chicago Trust, acting as an independent fiduciary for the Plan, represents that it has reviewed the terms and conditions of the lease on behalf of the Plan and determined that such terms and conditions are at least as favorable to the Plan as those the Plan could obtain in a comparable arm's length transaction with an unrelated party. Chicago Trust further represents it believes that the lease is in the best interests of and appropriate for the Plan and that it will monitor and enforce compliance with the terms and conditions of the lease and of the exemption for the duration of the lease.

The initial decision to invest a portion of the Plan's assets in real estate was made by the Employer. In its role as Subtrustee, Chicago Trust has the exclusive authority to hold and manage the Plan's employer real property. Accordingly, Chicago Trust made the decisions to sell the California Property and to retain the Property for the Plan. With respect to the latter, Chicago Trust took into account the fact that a forced sale of the Property to an unrelated party would have caused the Plan to incur a substantial loss, as well as depriving the Plan of rental income at an above market rate (yielding a net investment return not less than 10.0% in the first year and not less than 14.01% in the final lease year). Chicago Trust has also examined the financial viability of the Employer, determined that the Employer's past performance under the lease has been in accordance with its contractual obligations, and concluded that the Employer will continue to be a good tenant.

9. In summary, the applicant represents that the proposed transactions satisfy the statutory criteria for an exemption under section 408(a) of the Act for the following reasons: (1) the Plan is represented for all purposes with respect to the lease by a qualified, independent fiduciary; (2) the terms and conditions of the lease are and will continue to be at least as favorable to the Plan as those the Plan could obtain in a comparable arm's length transaction with an unrelated party; (3) the rent charged by the Plan under the lease is and will continue to be no less than the fair market rental value of the Property, as established by a qualified, independent appraiser; (4) the rent will be adjusted, at a minimum, every three years (upwards only), based upon an updated independent appraisal; (5) the lease is a net lease, under which the Employer as the tenant is obligated for all operating expenses, including maintenance, taxes, insurance, and utilities; (6) the independent fiduciary for the Plan represents that it has reviewed the terms and conditions of the lease on behalf of the Plan and believes the lease is in the best interests of and appropriate for the Plan; (7) the independent fiduciary will monitor and enforce compliance with the terms and conditions of the lease and of the exemption for the duration of the lease; (8) the independent fiduciary will expressly approve any improvements by the Employer over $100,000 to the Property and any renewal of the lease beyond the initial term; (9) in the event that the Employer exercises its right of first refusal under the lease, the Employer will purchase the Property from the Plan for an amount which is the greater of: (a) the original acquisition cost of the Property, plus the cost of any improvements, paid by the Plan, or (b) the fair market value of the Property as of the date of the sale, as established by

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opinion herein as to whether the acquisition and holding of either the Property or the California Property by the Plan violated any of the provisions of Part 4 of Title I in the Act.

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a qualified, independent appraiser selected by the independent fiduciary; (10) in the event that the Plan sells the Property to an unrelated party at a net loss (taking into account the cost of any improvements and all selling expenses paid by the Plan), the Employer will make the Plan whole, within 15 days after the date of such sale, by paying the Plan cash in an amount equal to the difference between: (a) the original acquisition cost of the Property, plus the cost of any improvements and all selling expenses, paid by the Plan, and (b) the amount of the sale proceeds received by the Plan; and (11) at all times, the fair market value of the Property will represent no more than 25 percent of the total assets of the Plan.

Notice to Interested Persons

Notice of the proposed exemption shall be given to all interested persons by first-class mail or by posting the required information at the Employer's offices within 30 days of the date of publication of the notice of pendency in the **Federal Register.** Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and/or request a hearing with respect to the proposed exemption. Comments and requests for a hearing are due within 60 days of the date of publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Ms. Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Travelers Group Inc. 401(k) Savings Plan (the Plan), Located in New York, New York

[Exemption Application No. D–10269]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a)(1) (A) through (E), 406(a)(2), 406(b)(1), 406(b)(2), and 407(a)(1) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code[3] shall not apply, as of the effective date of this exemption: (1) to the in-kind contribution by Travelers Group Inc. (TGI) of certain options (the Stock Option or Stock Options) into the accounts in the Plan of eligible employees of TGI and its subsidiaries and affiliates (the Employees or Employee); (2) to the holding of the Stock Options by such accounts; and (3) to the exercise of such Stock Options by Employees in order to purchase shares of common stock of TGI (the Stock), provided that: (a) all Employees will be treated in the same manner for the purpose of the allocation of Stock Options to the accounts of such Employees, except that certain highly-paid officers of TGI who are subject to the reporting requirements of section 16(a) of the Securities and Exchange Act of 1934 will not be eligible to receive such contributions of Stock Options; (b) the allocation of the Stock Options to the Plan and the acquisition of such options by the accounts of Employees will occur automatically each year on a uniform basis without any action required by such Employees, and the determination of the number of Stock Options granted to the accounts of each such Employee will be based solely on the compensation earned by such Employee; (c) contributions of Stock Options by TGI to Employees' accounts in the Plan will not be contingent upon contributions by Employees to such Plan; (d) Employees acquire TGI Stock without using cash balances from the Plan or selling assets of the Plan, other than selling a portion of the TGI Stock acquired from the exercise of such Stock Options; (e) no party, other than the individual Employee with respect to his or her own account, or upon the death of such Employee, his or her beneficiary(ies), or in the event of an assignment under a qualified domestic relations order the alternative payee, will have any discretion over the decision to exercise the Stock Options held in such account; (f) the price at which the Stock Options can be exercised will be established by the market value of the TGI Stock as listed on the New York Stock Exchange (NYSE) at the close of the business day prior to the date each Stock Option is granted; (g) the terms and conditions of each of the Stock Options contributed by TGI into Employees' accounts in the Plan will be no less favorable to the Plan than terms obtainable by the Plan under similar circumstances when negotiated at arm's length with unrelated third parties; (h) an independent trustee (the Trustee) will facilitate the sale of the Stock in connection with the exercise of the Stock Options under "sell to cover" transactions, as described herein; (i) the Plan incurs no fees, commissions, or other charges or expenses as a result of its acquisition, holding, or exercise of the Stock Options, other than brokerage fees payable to an unrelated third party broker; and (j) the terms and conditions described herein are at all times satisfied.

EFFECTIVE DATE: This proposed exemption will be effective, as of the beginning of the 1997 plan year.[4]

Summary of Facts and Representations

1. The applicant is TGI, a Delaware corporation. TGI is a diversified financial services holding company engaged, through its subsidiaries, principally in four business segments: (a) investment services; (b) consumer finance services; (c) life insurance services; (d) property and casualty insurance services. TGI is a party in interest with respect to the Plan, pursuant to section 3(14)(C) of the Act. The principal subsidiaries of TGI may also be parties in interest with respect to the Plan. These subsidiaries include but are not limited to, Smith Barney Inc. (Smith Barney), Commercial Credit Company, Primerica Financial Services, Travelers Insurance Company, and Travelers/Aetna Property Casualty Corporation (TAP).

2. The Plan is sponsored and maintained by TGI for its Employees and those of its participating affiliates and subsidiaries. The Plan is an employee benefit plan qualified under section 401(a) of the Code and 401(k) of the Code and is a trust exempt from taxation under section 501(a) of the Code. The administrator of the Plan is a committee (the Plan Administration Committee) appointed by the Board of Directors of TGI.

It is represented that the proposed transactions will only affect those individuals who are actively employed by TGI and its subsidiaries and affiliates. As of April 30, 1996, it is represented that there were 60,000 active Employees of which approximately 70 percent (70%) contributed to the Plan. Further, it is represented that there are 13,265 beneficiaries and participants in the Plan who are not actively employed by TGI and its subsidiaries and affiliates.

It is represented that the Plan is invested in common stock and preferred shares issued by TGI or its subsidiaries and affiliates, fixed income contracts and certain mutual funds and collective trust funds. Several of the fixed income contracts and mutual funds are issued

[3] For purposes of this exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

[4] It is represented that the plan year is the calendar year.

and distributed by certain subsidiaries of TGI. As of January 31, 1996, the date of the most recent Plan valuation, the approximate aggregate fair market value of the assets of the Plan was $2,256,356,498. Of this $2.3 billion in assets of the Plan, approximately $600 million is invested in TGI Stock, $45 million is invested in common stock of TAP, and $168 million is invested in preferred shares of TGI.

3. TGI requests an exemption from the prohibitions of the Act in order to permit the contribution to the Plan of the Stock Options, the holding by the Plan of such contributed Stock Options, and the subsequent exercise of such Stock Options by eligible Employees under certain conditions which are discussed below. The Stock Options contributed to the Plan may not be sold, exchanged, assigned, or otherwise transferred. In this regard, all or a portion of the Stock Options contributed to the Plan either: (a) will be exercised by the Employees; or (b) if unexercised, will expire at the end of the option term, as discussed more fully below.

4. It is represented that Stock Options will be contributed annually into the Plan beginning in the 1997 plan year. It is represented that, in order to facilitate the proposed in-kind contribution of the Stock Options to the Plan, the Plan Administration Committee will create an account in the Plan for each Employee who is eligible to participate in the Plan and is active on the date of each grant of such Stock Options. An eligible Employee is one who had at least one (1) year of service on December 31, of the plan year prior to the year in which the Stock Options are granted, regardless of whether such Employee is otherwise participating in the Plan. However, it is represented that certain highly-paid officers who are subject to the reporting requirements of section 16(a) of the Securities and Exchange Act of 1934 will not be eligible to receive in-kind contributions of Stock Options.

5. The Stock Options will permit each Employee to purchase TGI Stock at the closing price of such Stock (the Exercise Price) on the NYSE on the business day immediately preceding the date of the grant of such Stock Option. The term of each Stock Option will be ten (10) years. In this regard, each Stock Option will expire, if it has not previously been exercised, on the tenth (10th) anniversary of the date upon which such Stock Option was granted.

6. It is anticipated that the number of shares of TGI Stock permitted to be purchased with each Stock Option contributed to an Employee's account will be based on the compensation earned by such Employee in the plan year prior to the year in which the Stock Option is granted, regardless of whether such Employee is otherwise actively participating in the Plan. In this regard, it is anticipated that the number of shares of TGI Stock in a Stock Option contributed to an Employee's account will equal ten percent (10%) of such Employee's eligible pay, divided by the option price. For purposes of this exemption, "eligible pay" is defined as an Employee's base pay and/or commissions for the prior year, plus any bonus accrued by such Employee for the prior year, which is paid in the plan year in which the Stock Option is granted, not to include compensation in excess of $40,000.

For example, assume an Employee is employed on December 31, 1996, and is otherwise eligible to participate in the Plan. Further, assume the price of TGI Stock on the NYSE on March 28, 1997, at the close of business is $60. If such Employee's compensation was $30,000, then 10 percent (10%) of such compensation would equal $3,000. Accordingly, TGI would contribute to the Employee's account a Stock Option which would entitle that Employee upon exercise of such Stock Option to purchase fifty (50) shares of TGI Stock ($3,000 ÷ $60 per share).

7. It is represented that Stock Options will vest immediately upon issuance to the Plan, but will not be immediately exercisable. In this regard, it is represented that an Employee may exercise the Stock Options only in accordance with certain conditions. Generally, once a Stock Option has been contributed to the account of an Employee in the Plan, such Stock Option may only be exercised while such Employee is actively employed by TGI or by any of its subsidiaries or affiliates. While actively employed, an Employee can exercise a Stock Option at a rate of 20 percent (20%) a year, beginning as of the first anniversary of the grant date of such Stock Option. It is represented that an Employee can exercise eligible Stock Options at any time thereafter until the end of the ten (10) year option term, as long as he or she is employed by TGI or employed by any of TGI's subsidiaries or affiliates. In the event of an Employee's separation from service for reasons other than by disability, death, or retirement, all Stock Options which are unexercised and unexpired shall remain in the Employee's account until the *later of:* (a) the normal retirement age of 65 of the Employee; (b) the tenth (10th) anniversary of such Employee's participation in the Plan; or (c) the separation from service of the Employee with an employer participating in the Plan; at which time the Stock Option shall be distributed upon the request of such Employee, in accordance with section 401(a)(14) of the Code.

After terminating employment with TGI or its subsidiaries or affiliates, Employees may not exercise Stock Options, except in the circumstances, as described below. In the event an Employee terminates service by reason of his or her disability, any Stock Options that have not expired and are exercisable immediately before disability shall continue to be exercisable during the period of disability, until such Stock Option expire. In the event of an involuntary termination of employment of an employee, for a period of thirty days following their involuntary termination, participants may exercise options that were exercisable immediately before they were involuntarily terminated. Upon the death of an Employee, prior to his or her termination of employment, all Stock Options that have not expired and were exercisable before such Employee's death continue to be exercisable by the beneficiary(ies) of such Employee until such Stock Options expire. However, the Stock Options will not continue to accrue exercisability after death. In the event an Employee retires at the age of 55 with 5 years of service, all Stock Options that have not expired shall remain exercisable in accordance with the exercisability percentage achieved at the termination of service for a period of three (3) years, or until such Stock Options expire, whichever is shorter. In the event an Employee terminates service on or after attaining normal retirement age of 65 or terminates service after attaining age 59½ with ten (10) of service, all Stock Options that have not expired will continue to accrue exercisability and can be exercised by such Employee for a period of four (4) years or until such Stock Options expire, whichever is shorter.

8. TGI believes that Employees will have the opportunity to exercise eligible Stock Options on a daily basis, where all exercise elections are received before a set time each day. However, should the requirements imposed by the recordkeeper of the Plan prevent the daily exercise of the Stock Options, then it is represented that the frequency of the Employee's ability to exercise Stock Options will be limited to a period of not more often than weekly and not less often than monthly.

9. It is represented that the Employee's decision to exercise a Stock Option will be carried out in the following manner. TGI will designate an

agent to receive the exercise instructions from Employees. In this regard, TGI anticipates that the recordkeeper for the Stock Options will serve as its agent for this purpose. In order to exercise a Stock Option, the Employee will contact the recordkeeper for the Stock Options. Upon receipt of election requests from Employees, it is represented that the recordkeeper intends to aggregate all exercise requests.

It is represented that if an Employee contacts the recordkeeper by the recordkeeper's deadline for aggregation, the entire transaction from exercise request to settlement and receipt of the Stock by the Plan, will require three (3) business days from such deadline. However, if an Employee with an election request contacts the recordkeeper after the recordkeeper's deadline for aggregation, it is represented that the entire process will require, respectively, one (1), five (5), or twenty (20) additional business day(s) for completion, depending on whether the recordkeeper for the Plan establishes a daily, weekly, or monthly deadline for aggregation.

10. After aggregating the Employees' requests to exercise Stock Options, the recordkeeper will contact the Trustee to arrange for the exercise of such Stock Options. Typically, when an option holder exercises his or her right under an option to purchase shares of stock, he or she must pay in cash the exercise price, as set forth in such option. However, if this exemption is granted, Employees will only be allowed to exercise contributed Stock Options through a cashless form of exercise known as a "sell to cover" transaction and may not use any other funds to exercise the Stock Options. Therefore, no other assets that are in the accounts of Employees prior to the "sell to cover" transactions will be used to exercise the Stock Options. In this regard, a "sell to cover" transaction would permit any Employee who decides to exercise one of the Stock Options contributed by TGI to his or her account to authorize the Trustee of the Plan to sell the appropriate number of shares received upon the exercise of such Stock Option in order to obtain cash to pay the Exercise Price to TGI. In this regard, the shares of Stock necessary to be sold to pay for the exercise of Stock Options would be sold on the open market. TGI would receive payment equal to the Exercise Price for the shares of such Stock, and the Plan would receive from TGI the incremental shares of Stock representing the gain realized from the exercise of the Stock Option. In this regard, it is represented that TGI is the source of the Stock transferred to the Plan as a result of the exercise of a Stock Option, and that such Stock will be either treasury stock or previously unissued stock of TGI.

For example, suppose an Employee has a Stock Option to purchase 100 shares of Stock from TGI at $60 per share, and the current market price for such Stock is $75 per share. A "sell to cover" transaction would involve the Employee's exercise of such Stock Option for an Exercise Price of $6,000 (100 shares times $60 per share). To cover this Exercise Price, the Employee would authorize the Trustee to sell on the market eighty (80) of the 100 shares of Stock which were acquired by the Employee from TGI through the exercise of the Stock Option at the current market price of $75 per share ($6,000 ÷ $75). TGI would receive cash in the amount of $6,000 (80 shares times $75 per share), and the Employee's account in the Plan would retain twenty (20) of the 100 shares of Stock acquired from TGI through the exercise of such Stock Option (100 shares minus 80 shares).

11. It is represented that all sales of Stock in connection with "sell to cover" transactions will be executed through a broker either on the NYSE or other nationally recognized exchange on which shares of TGI Stock are traded. In this regard, it is represented that the exclusive purpose of the broker in the "sell to cover" transactions will be to effect sales of the appropriate number of shares of the Stock in order to obtain the Exercise Price in connection with the exercise of Stock Options by the Plan.

It is represented that Smith Barney, a related broker, may be selected by TGI to provide brokerage services to the Plan in connection with the exercise of Stock Options and the sale of Stock to cover the Exercise Price. If brokerage services are provided to the Plan by Smith Barney or other related brokers, it is represented that such brokerage services will be provided without the receipt of commissions, fees, or other compensation by Smith Barney or such related brokers.[5]

In the event that Smith Barney is not chosen by TGI to effect sales of TGI Stock in connection with the exercise of Stock Options by the Plan and the sale of Stock to cover the Exercise Price, it is represented that TGI will authorize the Trustee of the Plan to select a broker, either related or unrelated, to execute such sales of Stock. Once such authorization is given to the Trustee by TGI with respect to a particular "sell to cover" transaction, such authorization will be irrevocable. In this regard, it is represented that under no circumstances will TGI or its subsidiaries and affiliates have the ability to direct the Trustee's selection of which broker will receive the brokerage business of the Plan.

If brokerage services are provided to the Plan by an independent, unrelated broker, it is represented that the Plan will incur expenses for the commission due to such broker. It is further represented that brokerage commissions associated with such execution will be deducted from the gross proceeds of the trade. In this regard, the amount of commission expense incurred will depend on the number of shares of Stock involved in a "sell to cover" transaction, as negotiated between such independent, unrelated broker and the Trustee.

12. It is represented that the shares of TGI Stock realized by an Employee through the exercise of the Stock Options in his or her individual account in the Plan will be tradable at the direction of such Employee and will not be subject to any restriction on the length of time such shares of TGI Stock must be held before such shares are sold and the proceeds invested in an alternative investment choice within the Plan. In this regard, it is represented that at least monthly Employees will have an opportunity to sell Stock acquired through the exercise of the Stock Options in accordance with the terms of the Plan.

13. TGI believes that the transactions which are the subject of this proposed exemption may be prohibited, pursuant to sections 406(a)(1) (A) through (E), 406(a)(2), 406(b)(1), 406(b)(2), and 407(a)(1) of the Act and section 4975(c)(1) (A) through (E) of the Code, and, accordingly, requests exemptive relief. In this regard, TGI believes that its contribution of Stock Options to the Plan and the holding of the Stock Options by the Plan may constitute violations of section 407(a)(1), section 406(a)(1)(E), and section 406(a)(2) of the Act, because the definition of a "qualifying employer security," as set forth in section 407(a) of the Act, includes stock, but does not include stock options or other stock rights. In addition, because TGI may be a fiduciary with respect to the Plan, TGI

[5] TGI maintains that the statutory exemption, pursuant to section 408(b)(2) of the Act, is available to provide exemptive relief for the provision of brokerage services to the Plan by Smith Barney or other related brokers, where Smith Barney or such related brokers do not receive commissions, fees, or other compensation for such services. The Department is offering no view, herein, as to whether the provision of brokerage services to the Plan by Smith Barney or other related brokers, as described, is covered by the statutory exemption provided in section 408(b)(2), nor is the Department providing any relief herein with respect to such brokerage services.

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believes that the exercise of the Stock Options contributed to the Plan and the concurrent transfer of cash to TGI to pay for the exercise of such Stock Options may violate section 406(b)(1) of the Act and section 4975(c)(1)(E) of the Code, for which relief is requested. With respect to section 406(b)(2) of the Act, TGI does not believe that there is a potential for conflicts of interest to occur with respect to the proposed transactions, as the exercise of the Stock Options will be transacted only at the direction of Employees and the necessary sales of TGI Stock to cover the Exercise Price will occur on the open market. Nevertheless, TGI requests relief from the prohibitions imposed by section 406(b)(2) of the Act, in the event it is determined that a transaction may occur with a party whose interests are adverse to the interests of the Plan and of its participants and beneficiaries.

14. TGI maintains that the proposed transactions are in the interest of the Plan and its participants and beneficiaries in that the contribution of the Stock Options will enhance the value of the assets of the Plan. Further, it is represented that the exercise of the Stock Options by the accounts of Employees in the Plan offers an opportunity for economic gain in that the Employees could exercise the Stock Options and purchase Stock from TGI at favorable prices. In this regard, it is represented that during the past nine (9) years TGI Stock has appreciated at a compounded annual rate of nearly 23 percent (23%), excluding dividends.

TGI believes that ownership of TGI Stock by Employees is desirable. In this regard, it is represented that the proposed transactions facilitate the acquisition of TGI Stock into the accounts of lower paid Employees who otherwise would not have the resources to buy such Stock. In addition, Employees acquire TGI Stock without using cash balances in the Plan or the sale of assets of the Plan, other than the sale of the Stock acquired from the exercise of the Stock Options. Further, in the opinion of TGI the "leveraging" effect of the Stock Options, is such that increases in the price of the Stock would create larger increases in the values of the accounts of Employees' than the current match formulas used by TGI in other programs that provide opportunities for Employees to own shares of TGI Stock. In addition, the proposed transactions would encourage long term retirement savings and would permit an Employee to defer paying taxes on the appreciation of the value of the Stock, thus, increasing his or her retirement savings.

15. It is represented that the exemption is protective of the rights of participants and beneficiaries. In this regard, the timing of the decision to exercise the Stock Options is at the discretion of the Employee into whose account such Stock Options have been contributed or is at the discretion of such Employee's beneficiary(ies) or alternative payee, and is only subject to the restrictions on exercisability imposed by TGI, the issuer.

It is further represented that the price at which the Stock Options are exercised will be based on an objective third party source. In this regard, the Exercise Price for the Stock Options will be established by using the closing price for TGI Stock from the NYSE on the business day prior to the grant of such Stock Option. All transactions with respect to the exercise of the Stock Options and the subsequent sale of the TGI Stock realized from such exercise will be executed through the NYSE or other nationally recognized stock exchange.

TGI maintains that additional protection for the Plan and its participants is provided by the appointment of an independent qualified party to be responsible for certain aspects of the proposed transactions. In this regard, as of December 31, 1994, TGI retained Citibank, N.A., an independent party, to serve as the Trustee for the Plan. It is represented that the Trustee's role with respect to the proposed transactions will be to facilitate the sale of shares of Stock in "sell to cover" transactions in connection with the exercise of the Stock Options. In this regard, it is represented that the Trustee will be responsible for selecting and retaining a broker to execute such transactions, unless Smith Barney, a related broker, is selected by TGI to provide brokerage services for the "sell to cover" transactions.

16. TGI maintains that the proposed transactions are administratively feasible in that the level of monitoring required of the Department with respect to this exemption will be minimal. In addition, TGI will bear all of the costs of the exemption application, and TGI will be responsible for the costs associated with notifying interested persons.

17. In summary, TGI represents that the proposed transactions satisfy the criteria of section 408(a) of the Act because: (a) All Employees will be treated in the same manner for the purpose of the allocation of Stock Options to the accounts of such Employees, except that certain highly-paid officers will not be eligible to receive such contribution of Stock Options; (b) lower paid Employees of TGI and its subsidiaries and affiliates will be able to take advantage of the opportunity to acquire TGI Stock; (c) contribution of Stock Options by TGI to the accounts of Employees in the Plan will not be contingent on contributions by Employees to such Plan; (d) the allocation of the Stock Options to the Plan and the acquisition of such options by the accounts of Employees will occur automatically each year on a uniform basis without any action required by such Employees, and the determination of the number of Stock Options granted to the accounts of each Employee will be based solely on the compensation earned by such Employee; (e) Employees will acquire TGI Stock without using cash balances from the Plan or the proceeds from the sale of assets of the Plan, other than the TGI Stock acquired from the exercise of the Stock Options; (f) the contribution of the Stock Options will enhance the value of the assets in the accounts of Employees in the Plan; (g) no party, other than the individual Employee with respect to his or her own account, or upon the death of such Employee his or her beneficiary or in the event of an assignment under a qualified domestic relations order the alternative payee, will have any discretion over the decision to exercise the Stock Options held in such account; (h) the price at which the Stock Options can be exercised will be established by the market value of the TGI Stock as listed on NYSE at the close of business on the day prior to the date each Stock Option is granted; (i) the terms and conditions of each of the Stock Options contributed by TGI into Employees' accounts in the Plan will be no less favorable to the Plan than terms obtainable by the Plan under similar circumstances when negotiated at arm's length with unrelated third parties; (j) the Trustee will facilitate the purchase and sale of the Stock in connection with the exercise of the Stock Options under "sell to cover" transaction, as described herein; (k) the Plan will incur no fees, commissions, or other charges or expenses as a result of its acquisition, holding, or exercise of the Stock Options, other than brokerage fees payable to the unrelated third party broker; (l) shares of TGI Stock realized by an Employee through the exercise of the Stock Options in his or her individual account in the Plan will be tradable at the direction of such Employee at least monthly and will not be subject to any restriction on the length of time such shares can be held before being sold and the proceeds

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invested in alternative investment choices in the Plan; and (m) the terms and conditions described herein will at all times be satisfied.

Notice to Interested Persons

It is represented that the proposed transactions would affect only participants in the Plan who are actively employed by TGI and its subsidiaries and affiliates. Accordingly, all employees of TGI and its subsidiaries and affiliates may be considered interested persons. TGI represents that all interested persons will be provided with a copy of the Notice of Proposed Exemption (the Notice), plus a copy of the supplemental statement (Supplemental Statement), as required, pursuant to 29 CFR 2570.43(b)(2) within fifteen (15) calendar days of publication of the Notice in the **Federal Register.** Notification will be provided to all interested persons by posting at all worksites a copy of the Notice, plus a copy of the Supplemental Statement at those locations within the principal places of employment of employees of TGI which are customarily used for notices regarding labor-management matters for review.

It is further represented that if the exemption is granted, TGI, will, upon request, make available to all interested persons a copy of the final exemption.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 219–8883 (This is not a toll-free number.)

Consolidated Lumber Corp., Pension Plan (the Plan), Located in Clifton, New Jersey

[Application No. D–10344]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406 (a) and 406(b) (1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed sale for cash (the Sale) by the Plan to Consolidated Lumber Corp. (the Employer), the sponsor of the Plan, of certain whole life insurance policies (the Policies) issued by Confederation Life Insurance Company of Canada (Confederation); provided the following conditions are satisfied: (A) All terms and conditions of the Sale are at least as favorable to the Plan as those which the Plan could obtain in arm's-length transactions with unrelated parties; (B) The Plan receives cash consideration from each Sale that is no less than the greater of (1) the fair market value of each of the Policies as of the date of the Sale, or (2) each of the Policies' net cash surrender value as of the date of the Sale; and (C) the Plan does not incur any expenses or suffer any losses with respect to the proposed transactions.

Summary of Facts and Representations

1. The Employer, a New Jersey corporation, is in the business of wholesale distribution of lumber and millwork products in the greater metropolitan area of New York, New York. Messrs. Jess Shirvan, Mark Shirvan, and Neil Shirvan each own 22.61 percent of the Employer and the remaining 32.17 percent of the Employer is owned by Mr. Stanley Shirvan.

The Plan was established by the Employer as of January 1, 1968. As of December 31, 1990, Consolidated Pine, Inc., an Oregon corporation, also became a sponsor of the Plan; and as of April 16, 1993, Consolidated Distribution, Inc., a New Jersey corporation became a sponsor of the Plan.[6]

The Plan is a defined benefit pension plan with 32 participants and total assets of approximately $218,551.44, as of December 16, 1996. The trustee of the Plan is the First Fidelity Bank, N.A., New Jersey located at Newark, New Jersey. The Boards of Directors of the three sponsoring employers of the Plan have investment discretion over the assets of the Plan and the trustee of the Plan expedites the instructions of the Directors of the sponsoring employers.[7]

2. The Plan, which provided for the investment of Plan assets in whole life insurance policies (the Policies), holds 32 Policies issued by Confederation. The purchasing of Policies by the Plan was discontinued as of December 31, 1990, and all existing Policies remain in the Plan. Each Policy provides for death benefits and an investment feature in the form of its cash surrender value.

On August 11, 1994, the Canadian insurance regulatory authorities placed Confederation in receivership. On August 12, 1994, the assets of Confederation in the United States were placed under the regulatory supervision of the insurance authorities of the State of Michigan. Rehabilitation proceedings (Proceedings) were instituted by Michigan in order to protect the interest of all policy owners in the United States, resulting in all Confederation Policies being subject to restrictions which prohibit access to the cash surrender value of the Policies. As a result of the restrictions imposed on Confederation, the Plan is unable to surrender the Policies to Confederation for their cash surrender value and make final distributions to Plan participants.

On August 10, 1995, the Plan notified its participants that the Plan was to terminate as of October 15, 1995. Filings were made on February 8, 1996, for approval of termination of the Plan with the Pension Benefit Guaranty Corporation (PBGC) and the Internal Revenue Service (IRS). The PBGC has a mandatory 60 day review period which expired April 9, 1996, and thereafter the Plan is required to make final distribution of its assets within 180 days unless an extension is obtained from the PBGC. The applicant represents that an extension of an additional six months until April 7, 1997, for final distribution of assets was obtained by the Plan from PBGC. The IRS issued an approval of termination of the Plan as of April 9, 1996.

3. Premium payments on Policies were discontinued by the Plan, causing the decline in cash surrender values of the Policies as charges are debited against the cash surrender values. As of November 7, 1996, the 32 Policies involved in the proposed Sale had a cash surrender value of $103,485.10 less the debits of $23,017.66 leaving a net cash value of $80,467.44.

The Employer proposes to purchase the 32 Policies for not less than the greater of their fair market value on the date of the Sale, or for their net cash surrender value on the date of the Sale.

The Employer proposes this Sale because the Plan is unable to determine when or to what extent it will be able to have access to the net cash surrender values of the Policies under the Michigan Proceedings. As stated above, the Employer and the affiliated corporations that sponsor the Plan are in the process of terminating the Plan and distributing the participants accrued benefits. In order to accomplish this termination and distribution the Plan needs to liquidate the Policies. Therefore the Employer is requesting the proposed exemption in order to liquidate the Policies as soon as possible. The Employer represents that the proposed transactions are necessary

[6] Consolidated Pine, Inc. is wholly owned by Mr. Stanley Shirvan. Five percent of Consolidated Distribution, Inc. is owned by Mr. Stanley Shirvan and Messrs. Neil Shirvan, Jess Shirvan, and Mark Shirvan, each own 31.667 percent.

[7] Mr. Stanley Shirvan is the sole director of the sponsoring employers of the Plan. He is also a shareholder and president of the sponsoring employers.

in order for the participants to avoid any risk associated with the Plan continuing to hold the Policies. The applicant represents that the Employer will bear all expenses which may be incurred with respect to the Sale or the proposed exemption.

4. In summary, the applicant represents that the proposed transaction will satisfy the criteria of section 408(a) of the Act because (a) the Plan will not incur any expenses with respect to the proposed transaction; (b) the Plan will receive on the date of Sale the greater of either the net cash surrender value or the fair market value of the Policies, and (c) the proposed transaction will enable the Plan to avoid the possible losses associated with the continued holding of the Policies.

FOR FURTHER INFORMATION CONTACT: Mr. C.E. Beaver of the Department, telephone (202) 219-8881. (This is not a toll-free number.)

The Chase Manhattan Bank, N.A. (Chase), Located in New York, New York

[Application No. D-10348]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to (1) the proposed granting to Chase, as the representative of lenders (the Lenders) participating in a credit facility, of security interests in limited partnership interests in LF Strategic Real Estate Investors, L.P. (the Partnership) owned by certain employee benefit plans (the Plans) with respect to which some of the Lenders are parties in interest; and (2) the proposed agreements by the Plans to honor capital calls made by Chase in lieu of the Partnership's general partner; provided that (a) the proposed grants and agreements are on terms no less favorable to the Plans than those which the Plans could obtain in arm's-length transactions with unrelated parties; and (b) the decisions on behalf of each Plan to invest in the Partnership and to execute such grants and agreements in favor of Chase are made by a fiduciary which is not included among, and is independent of, the Lenders and Chase.

Summary of Facts and Representations

1. The Partnership is a limited partnership the general partner of which is LF Strategic Realty Investors L.L.C. (the General Partner). The General Partner is a New York limited liability company, and all outstanding membership interests in the General Partner are owned by Lazard Freres and Company, L.L.C. (Lazard) or its affiliates; the managers of the General Partner are individuals employed by the General Partner. The General Partner (or an affiliate) will contribute not less than $20,000,000 to the Partnership. The Partnership has been created specifically to invest in a select portfolio of leading real estate companies (the Selected Companies) which are diversified as to property type and geographic location, and which have established track records, experienced management, and large portfolios of high quality real estate assets. The Partnership will have a maximum term of 10 years, but it is intended that each real estate investment (an Investment) will be liquidated within five to seven years.

2. The General Partner intends to raise a maximum of $650,000,000 of subscriptions for limited partnership interests. The minimum capital commitment (or subscription amount) for each investor in the Partnership (an Investor) is $25,000,000. Capital committed by an Investor pursuant to a subscription agreement (the Subscription Agreement) will be called (a Called Contribution) by the General Partner from time to time as needed to be invested in Investments. Investors will be obligated to fund their subscription amounts pursuant to calls during a three- year period; the General Partner may extend this period for an additional year, but at the end of the period, the subscription agreements will be terminated and no further capital calls may be made thereunder. There are currently 10 Investors having irrevocable, unconditional capital commitments of at least $645,000,000.

3. It is contemplated that the General Partner will incur indebtedness to pay the Partnership's general costs and expenses incurred in connection with many of its investments. In addition, the Partnership may utilize borrowings from third parties (a) for the acquisition of particular investments and for working capital purposes (with the expectation that such acquisition indebtedness will be repaid from the Investors' capital commitments and/or from mortgage debt), and (b) financing and/or credit enhancement in connection with proposed Investments, including providing financing to or on behalf of Selected Companies. This indebtedness will take the form of a credit facility (the Credit Facility) secured by a pledge and assignment of each Investor's capital commitments and by a security in the Investors' Partnership interests. This type of facility will allow the General Partner to consummate Investments quickly without having to finalize the debt/equity structure for an Investment or having to arrange for interim or permanent financing prior to making an Investment. In connection with this Credit Facility, each of the Investors is required to execute documents customarily required in secured financings, including an agreement to unconditionally honor capital calls.

4. Chase will become agent for a group of Lenders providing the Credit Facility to the Partnership. Chase will also be a participating Lender. Repayments will be made generally by the Partnership from Called Contributions, the Investors' capital commitments, proceeds from mortgage financings and proceeds from liquidation of the Partnership's Investments. The Credit Facility is intended to be a 32-month revolving credit with restricted availability levels. The Partnership can use its credit under the Credit Facility either by direct or indirect borrowings or by requesting that letters of credit be issued. All Lenders will participate on a pro rata basis with respect to all cash loans and letters of credit. All such loans and letters of credit will be issued to the Partnership or an entity in which the Partnership owns an interest (a Qualified Borrower), and not to any individual Investor. All payments of principal and interest made by the Partnership or a Qualified Borrower will be allocated pro rata among all Lenders. The applicant represents that the aggregate capital commitments to be pledged will be at least three times the maximum amount of the credit available under the Credit Facility.

5. The stated maturity date for the Credit Facility will be September 30, 1998. Until that time, interest only is payable on the Facility. At the maturity date, the entire unpaid principal balance of the Credit Facility will be due and payable, unless the Credit Facility is extended. The Credit Facility will be a limited recourse obligation of the Partnership, the repayment of which is secured primarily by the assignment by the Partnership of a security interest in both the Investors' capital commitments and the General Partner's right to make capital calls. The capital commitments are fully recourse to all the Investors and the General Partner.

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The General Partner's right to make capital calls will be assigned by the Partnership and General Partner to Chase, as agent under the Credit Facility for the benefit of the Lenders. In the event of default under the Credit Facility, the agent has the right to unilaterally make capital calls on the Investors to pay their unfunded capital commitments, and will apply cash received from such capital calls to any outstanding debt.

6. Under the Credit Facility, it is contemplated that each Investor will execute a security agreement (the Security Agreement) pursuant to which it grants to Chase, for the benefit of each Lender, a security interest and a lien in its Partnership interest. In addition, each Investor will covenant with Chase for the benefit of the Lenders that such Investor will unconditionally honor any capital call made by Chase in accordance with the Subscription Agreement up to the unfunded capital commitment of such Investor.

7. The trusts which hold assets of the Plans (the Trusts) own limited partnership interests as Limited Partners in the Partnership. Some of the Lenders may be parties in interest with respect to some of the Plans in the Trusts by virtue of such Lenders' (or their affiliates') provisions of fiduciary services to such Plans with respect to Trust assets other than the Partnership interests. Chase is requesting an exemption to permit the Trusts to enter into the Security Agreements under the terms and conditions described herein. The Plans and the other Limited Partners with the largest interests in the Partnership and the extent of their respective capital commitments to the Partnership are described as follows:

(a) *Alcoa Master Trust.* The Alcoa Master Trust holds the assets of 13 defined benefit plans (the Alcoa Plans). The total number of participants is approximately 33,000, and the approximate fair market value of the total assets of the Alcoa Plans held in the Master Trust as of December 31, 1995 is $3.6 billion. The fiduciary of the Alcoa Plans generally responsible for investment decisions is the Benefit Investment Committee, which is responsible for reviewing and authorizing the investment in the Partnership to which this proposed exemption relates. The Alcoa Master Trust has made a capital commitment of $25 million to the Partnership.

(b) *Polaroid Pension Trust.* The Polaroid Pension Trust holds the assets of the Polaroid Pension Plan, a defined benefit plan with 13,775 participants and assets of approximately $760 million. The fiduciary of the Polaroid Pension Trust responsible for reviewing and authorizing the investment in the Partnership to which this proposed exemption relates is Polaroid Fund Manager. The Polaroid Pension Trust has undertaken a $25 million capital commitment to the Partnership.

(c) *NYNEX Master Pension Trust.* The NYNEX Master Pension Trust holds the assets of the NYNEX Pension Plan and the NYNEX Management Pension Plan, both defined benefit plans. As of December 31, 1994, the NYNEX Pension Plan had 97,498 participants and approximately $6.6 billion in total assets. The NYNEX Management Pension Plan had 49,880 participants and approximately $7 billion in assets as of December 31, 1994. The fiduciary of the NYNEX Master Pension Trust generally responsible for investment decisions is Mr. Frederick V. Salerno, (Chief Financial Officer/Business Development of NYNEX Corporation). Mr. Salerno is the fiduciary responsible for reviewing and authorizing the investment in the Partnership to which this proposed exemption relates. The NYNEX Master Pension Trust has undertaken a $25 million capital commitment to the Partnership.

(d) *General Motors.* General Motors Corporation has established the Third Plaza Trust (the TP Trust) of which Mellon Bank, N.A. is the trustee, and the Fourth Plaza Trust (the FP Trust), of which Mellon Bank, N.A. is also the trustee, to hold, manage and invest funds for various Plans (the GM Plans). The GM Plans are as follows:

(1) The General Motors Hourly Plan (the GM Hourly Plan), a defined benefit plan with 609,669 participants as of September 30, 1995, and assets with a total value of approximately 37.8 billion dollars on that date. Assets of the GM Hourly Plan are held in the TP Trust. Assets of the Saturn Individual Retirement Plan for Represented Team Members (a defined benefit plan with 7,138 participants as of September 30, 1995), the Saturn Personal Choices Retirement Plan for Non-Represented Team Members (a defined benefit plan with 1,977 participants as of September 30, 1995), the Employees' Retirement Plan for GMAC Mortgage Corporation (a defined benefit plan with 3,106 participants as of December 31, 1995), the National Car Rental System Inc. Hourly Paid Employees Pension Plan (a defined benefit plan with 3,106 participants as of December 31, 1994) and the National Car Rental System Inc. Salaried Employees Pension Plan (a defined benefit plan with 1,439 participants as of December 31, 1994) are also held in the TP Trust. The TP Trust has undertaken a $75 million commitment to the Partnership.

(2) The General Motors Retirement Program for Salaried Employees (the Salaried Plan), a defined benefit pension plan with 218,299 participants as of September 30, 1995, and assets with a total value of approximately 21.7 billion dollars as of that date. Assets of the GM Salaried Plan are held in the FP Trust. The FP Trust has undertaken a total capital commitment of $75,000,000 to the Partnership.

The fiduciary responsible for authorizing and overseeing the GM Plans' investment in the Partnership and, subsequently, for monitoring such investment, is the General Motors Investment Management Corporation (GMIMC). GMIMC is a separately incorporated, wholly owned subsidiary of General Motors Corporation.

(e) The applicant represents that as of the date of the filing of its application for the exemption proposed herein, the only Plans which are Investors are described in paragraphs (a) through (d) above, or are eligible for relief under Prohibited Transaction Exemption 96–23 (PTE 96–23, 61 FR 15975, April 10, 1996), the class exemption for transactions determined by in-house asset managers.[8] The applicant represents that it is possible that one or more other Plans may become Investors at some time in the future, and requests relief for any such Plan under the exemption proposed herein, provided the Plan meets the standards and conditions set forth herein.

8. Investors which are not ERISA-covered plans:

(a) California State Teachers Retirement System, which has undertaken a total capital commitment of $150,000,000;

(b) Commonwealth of Pennsylvania Public School Employees' Retirement System, which has undertaken a total capital commitment of $150,000,000;

(c) New York State Common Retirement Fund, which has undertaken a total capital commitment of $50,000,000;

(d) Public Employees' Retirement Association of Colorado, which has undertaken a total capital commitment of $50,000,000; and

(e) Lazard Freres Real Estate Investors, which has undertaken a total capital commitment of $20,000,000.

9. Chase represents that the Partnership has obtained an opinion of counsel that the Partnership will constitute a "venture capital operating

[8] The Department expresses no opinion herein with respect to the applicability of PTE 96–23 to any such Plans.

company" under the Department's plan asset regulations [29 CFR 2510.3-101(c)] if the Partnership is operated in accordance with the Subscription Agreement and the private placement memorandum distributed in connection with the private placement of the limited partnership interests.[9]

10. Chase represents that the Security Agreement constitutes a form of credit security which is customary among financing arrangements for real estate limited partnerships, wherein the financing institutions do not obtain security interests in the real property assets of the partnership. Chase also represents that the obligatory execution of the Security Agreement by the Investors for the benefit of the Lenders was fully disclosed in the Offering as a requisite condition of investment in the Partnership during the private placement of the limited partnership interests. Chase represents that the only direct relationship between any of the Investors and any of the Lenders is the execution of the Security Agreements. All other aspects of the transaction, including the negotiation of all terms of the Facility, are exclusively between the Lenders and the Partnership. Chase represents that the proposed executions of the Security Agreements will not affect the abilities of the Trusts to withdraw from investment and participation in the Partnership. The only Plan assets to be affected by the proposed transaction are each Plan's limited partnership interests in the Partnership and the related Plan obligations as Investors to respond to drawdowns up to the total amount of each Plan's capital commitment to the Partnership.

11. Chase represents that neither it nor any Lender acts or has acted in any fiduciary capacity with respect to any Trust's investment in the Partnership and that Chase is independent of and unrelated to those fiduciaries (the Trust Fiduciaries) responsible for authorizing and overseeing the Trusts' investments in the Partnership. Each Trust Fiduciary represents independently that its authorization of Trust investment in the Partnership was free of any influence, authority or control by the Lenders. The Trust Fiduciaries represent that the Trust's investments in and capital commitments to the Partnership were made with the knowledge that each Investor would be required subsequently to grant a security interest in the Partnership to the Lenders and to honor drawdowns made on behalf of the Lenders without recourse to any defenses against the General Partner. Each Trust Fiduciary individually represents that it is independent of and unrelated to Chase and the Lenders and that the investment by the Trust for which that Trust Fiduciary is responsible continues to constitute a favorable investment for the Plans participating in that Trust and that the execution of the Security Agreement is in the best interests and protective of the participants and beneficiaries of such Plans.

12. In summary, the applicants represent that the proposed transactions satisfy the criteria of section 408(a) of the Act for the following reasons: (1) The Plans' investments in the Partnership were authorized and are overseen by the Trust Fiduciaries, which are independent of the Lenders; (2) None of the Lenders have any influence, authority or control with respect to the Plans' investments in the Partnership or the Plans' executions of the Security Agreements; and (3) The Trust Fiduciaries invested in the Partnership on behalf of the Plans with the knowledge that the Security Agreements are required of all Limited Partners investing in the Partnership.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 24th day of December, 1996.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 96–33183 Filed 12–27–96; 8:45 am]

BILLING CODE 4510–29–P

[9] The Department expresses no opinion herein as to whether the Partnership will constitute a venture capital operating company under the regulations at 29 CFR 2510.3–101.

INTERNATIONAL BOUNDARY AND WATER COMMISSION

Notice of Public Meeting

AGENCY: Border Environment Cooperation Commission (BECC).

SUMMARY: This notice announces the 11th public meeting of the BECC Board of Directors on Tuesday, February 11, 1997, from 9:00 am–1:00 pm, at the Camino Real Hotel, located at 101 S. El Paso St., in downtown El Paso, Texas.

FOR FURTHER INFORMATION CONTACT: M.R. Ybarra, Secretary, United States Section, International Boundary and Water Commission, telephone: (915) 534–6698; or Tracy Williams, Public Outreach Coordinator, Border Environment Cooperation Commission, P.O. Box 221648, El Paso, Texas 79913, telephone: (011–52–16) 29–23–95; fax: (011–52–16) 29–23–97; e-mail: becc@cocef.interjuarez.com.

SUPPLEMENTARY INFORMATION: The U.S. Section, International Boundary and

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Water Commission, on behalf of the Border Environment Cooperation Commission (BECC), cordially invites the public to attend the 11th Public Meeting of the Board of Directors on Tuesday, February 11, 1997, from 9:00 am–1:00 pm, at the Camino Real Hotel, located at 101 S. El Paso St., in downtown El Paso, Texas.

Proposed Agenda

9:00 am—Opening of Public Meeting
—Approval of Minutes (Action Item)
—Approval of Proposed Agenda (Action Item)
Managers Report
—Status of Project Certification Criteria
Presentation of Project Development Assistance Program
—Public Comment
—Board Consideration (Action Item)
Presentation of Policy on Build, Operate, Transfer Projects
—Public Comment
—Board Consideration (Action Item)
Presentation on the Proposed Procedures Regarding Complaints
—Public Comment
—Board Consideration (Action Item)

General Comments

1:00 pm—Adjourn

Anyone interested in submitting written comments to the Board of Directors on any agenda item should send them to the BECC 15 days prior to the public meeting. Anyone interested in making a brief statement to the Board may do so during the public meeting.

Dated: December 23, 1996.

M.R. Ybarra,

Secretary, U.S. IBWC.

[FR Doc. 96–33101 Filed 12–27–96; 8:45 am]

BILLING CODE 4710–03–P

NATIONAL CREDIT UNION ADMINISTRATION

Community Development Revolving Loan Program for Credit Unions; Notice

AGENCY: National Credit Union Administration.

ACTION: Notice of application period.

SUMMARY: The National Credit Union Administration (NCUA) will accept applications for participation in the Community Development Revolving Loan Program for Credit Unions throughout calendar year 1997, subject to availability of funds. Application procedures for qualified low-income credit unions are set forth in Part 705, NCUA Rules and Regulations.

ADDRESSES: Applications for participation may be obtained from and should be submitted to: NCUA, Office of Community Development Credit Unions, 1775 Duke Street, Alexandria, VA 22314–3428.

DATES: Applications may be submitted throughout calendar year 1997.

FOR FURTHER INFORMATION CONTACT: The Office of Community Development Credit Unions at the above address or telephone (703) 518–6610.

SUPPLEMENTARY INFORMATION: Part 705 of the NCUA Rules and Regulations implements the Community Development Revolving Loan Program for Credit Unions. The purpose of the Program is to assist officially designated "low-income" credit unions in providing basic financial services to residents in their communities which result in increased income, ownership and employment. The Program makes available low interest loans and deposits in amounts up to $300,000 to qualified participating "low-income" credit unions. Program participation is limited to existing credit unions with an official "low-income" designation.

This notice is published pursuant to Part 705.9 of the NCUA Rules and Regulations which states that NCUA will provide notice in the **Federal Register** when funds in the program are available.

By the National Credit Union Administration Board on December 19, 1996.

Becky Baker,

Secretary, NCUA Board.

[FR Doc. 96–33044 Filed 12–27–96; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The National Endowment for the Arts, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collect requirements on respondents can be properly assessed. Currently, the National Endowment for the Arts is soliciting comments concerning the proposed information collection of: Blanket Justification for NEA Funding Application Guidelines FY 1998–FY 2001. A copy of the current information collection request can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before February 289, 1997. The National Endowment for the Arts is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: A.B. Spellman, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Room 516, Washington, DC 20506–0001, telephone (202) 682–5421 (this is not a toll-free number), fax (202) 682–5049.

Murray Welsh,

Director, Administrative Services.

[FR Doc. 96–33055 Filed 12–27–96; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Submission for OMB Review: Comment Request

Title of Proposed Collection: National Survey of Recent College Graduates

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the National Science Foundation (NSF) will publish periodic summaries of proposed projects. Such a notice was published at

Federal Register 51723. No comments were received.

The materials are now being sent to OMB for review. Send any written comments to Desk Officer, OMB, 3145–0177, OIRA, OPMB, Washington, DC 20503. Comments should be received by February 8, 1997.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project

The National Survey of Recent College Graduates (NSRCG), formerly called the New Entrants Survey, has been conducted biennially since 1974. For the 1997 cycle, bachelor's and master's degree recipients in science and engineering from the academic years 1994–95 and 1995–96 will be surveyed. The purpose of the study is to provide national estimates describing the relationship between education and employment for new science and engineering graduates. The study is one of three components of the Scientists and Engineers Statistical Data System (SESTAT), formerly called the Scientific and Technical Personnel Data System (STPDS). In 1997, the NSRCG survey effort will also include a Follow-up panel survey of graduates that received their degrees between 1991 and 1994, inclusive. The purpose of the Follow-up panel survey is to create a historical data set on the same individual permitting longitudinal analysis.

The National Science Foundation Act of 1950, as subsequently amended, includes a statutory charge to ". . . provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and engineering resources, and to provide a source of information for policy formulation by other agencies of the Federal Government." The National Survey of Recent College Graduates is designed to comply with these mandates by providing information on the supply and utilization of newly qualified scientists and engineers. Collected data will be used to produce estimates of the characteristics of new graduates entering the science and engineering labor force. They will also provide necessary input into the SESTAT labor force model, which produces national estimates of the size and characteristics of the country's science and engineering population. The Foundation uses this information to prepare congressionally mandated reports such as *Women and Minorities in Science and Engineering* and *Science and Engineering Indicators*. A public release file of collected data, designed to protect respondent confidentiality, will be made available to researchers on CD–ROM and on the World Wide Web.

To conduct the study, lists of 1994–95 and 1995–96 science and engineering bachelor's and master's degree recipients will be collected from a nationally representative sample of 275 institutions awarding such degrees. The United States Department of Education's Family Policy Compliance Office has reviewed the study's goals and procedures and concluded that postsecondary institutions may provide these lists without violating the Family Education Rights and Privacy Act of 1976 (FERPA). From the collected lists, a sample of approximately 13,500 graduates will be selected for the NSRCG and 14,000 graduates will be selected for the Follow-up panel survey. The sample design includes oversampling of minority graduates and varying sampling rates to represent specific fields of science and engineering. Sample members will be requested to complete a 30 minute interview conducted by telephone and/or mail. The survey will be collected in conformance with the Privacy Act of 1974. Each graduate's participation will be entirely voluntary. NSF will insure that all information collected will be kept strictly confidential and will be used only for research or statistical purposes, analyzing data, and preparing scientific reports and articles.

The graduate sample size for the NSRCG for two academic years covered by this survey cycle (1994–95 and 1995–96) is estimated to be 13,500. An unweighted graduate response rate of 85 percent is anticipated (86 percent was obtained on the previous cycle). The graduate sample size for the Follow-up panel survey is estimated to be 14,000. An unweighted graduate response rate of 95 percent is anticipated for the Follow-up panel survey. The amount of time required to complete the questionnaire is estimated to be 30 minutes for both the NSRCG and the Follow-up panel survey.

Dated: December 23, 1996.

Herman G. Fleming,

NSF Clearance Officer.

[FR Doc. 96–33042 Filed 12–27–96; 8:45 am]

BILLING CODE 7555–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–22414; 812–10446]

PIMCO Advisors Funds, et al.; Notice of Application

December 20, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: PIMCO Advisors Funds ("PAF"), Cash Accumulation Trust ("CAT"), PIMCO Funds, and PIMCO Funds: Equity Advisors Series ("PFEAS") (collectively, the "Funds"), PIMCO Advisors L.P. ("PALP").

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for an exemption from sections 13(a)(2), 13(a)(3), 17(a)(1), 18(f)(1), 22(f) and 22(g) of the Act and rule 2a–7 thereunder and pursuant to section 17(d) of the Act and rule 17d–1 thereunder.

SUMMARY OF APPLICATION: Applicants request an order to amend a prior order (the "Order")[1] that permitted certain entities to enter into deferred fee arrangements with certain of their trustees. The requested order would extend the relief granted in the Order to PALP, PIMCO, Funds, PFEAS and other open-end investment companies in the same "group of investment companies" as the Funds, as that term is defined under Rule 11a–3 under the Act, or any other registered open-end investment company for which PALP, or any entity controlling, controlled by, or under common control with PALP, serves as investment adviser.[2]

FILING DATE: The application was filed on November 27, 1996 and amended on December 19, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be

[1] *Thompson Fund Group*, Investment Company Release Nos. 18894 (Aug. 14, 1992) (notice) and 18939 (Sept. 9, 1992) (order).

[2] All currently existing investment companies that currently intend to rely on the amended order are named as applicants herein.

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received by the SEC by 5:30 p.m. on January 14, 1997, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o Newton B. Schott, Jr., PIMCO Advisors L.P. 2187 Atlantic Street, Stamford, CT 06902.

FOR FURTHER INFORMATION CONTACT: Suzanne Krudys, Senior Attorney, at (202) 942–0641, or Mercer E. Bullard, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representation

1. PAF, CAT, PIMCO Funds and PFEAS are registered as open-end management series investment companies and organized as Massachusetts business trust currently consisting of 16, 1, 19 and 14 separate investment portfolios, respectively.

2. PALP is organized as a Delaware limited partnership and is registered as an investment adviser under the Investment Advisers Act of 1940 (the "Advisers Act"). PALP serves as investment adviser to PAF, CAT and PFEAS. The general partner of PALP is Pimco Partners G.P., a general partnership between an indirect wholly owned subsidiary of Pacific Mutual Life Insurance Company and PIMCO Partners, LLC, a limited liability company controlled by the managing directors of Pacific Investment Management Company ("PIMCO"). PIMCO, an affiliate and subsidiary partnership of PALP, is registered as an investment adviser under the Advisers Act and serves as investment adviser to PIMCO Funds.

3. On September 9, 1992, the SEC issued the Order pursuant to section 6(c) exempting Thomson Fund Group ("TFG") (predecessor of PAF), CAT, and Thomson Advisory Group L.P. ("TAG") (predecessor of PALP) and any registered investment companies for which TAG subsequently serves as adviser from the provisions sections 13(a)(2), 17(a)(1), 18(f)(1), 22(f) and 22(g) and rule 2a–7 and, with respect to the Thomson U.S. Government Fund only (predecessor of PAF U.S. Government Fund), from Section 13(a)(3), and under section 17(d) and rule 17d–1 to permit TFG and CAT to offer deferred compensation arrangements to their trustees who are not "interested persons" within the meaning of section 2(a)(19) of the Act.

4. In November 1994, the investment advisory businesses of TAG and its affiliates were consolidated with the investment advisory businesses of Pacific Financial Asset Management Corporation ("PFAMCo"), then a wholly owned subsidiary of Pacific Mutual, which included the investment advisory businesses of PIMCO (the "Consolidation"). The Consolidation involved the transfer of the investment advisory operations of PFAMCo and its subsidiaries to TAG in return for units of limited partnership interest of TAG and the substitution of PIMCO Partners G.P. for the former general partner of TAG. TAG as a legal entity survived the Consolidation and was subsequently renamed PIMCO Advisors L.P. ("PALP").

5. In order to ensure that PALP, PIMCO Funds, PFEAS and all funds advised by PALP, of any entity controlling, controlled by, or under common control with PALP may rely on the Order, applicants request that the Order be amended to make the relief available not only to investment companies advised by PALP, but also to any open-end investment company in the same "group of investment companies" as the Funds, within the meaning of Rule 11a–3 under the Act and any other open-end investment company for which PALP, or any entity controlling, controlled by, or under common control with PALP, serves as investment adviser. The immediate effect of the amendment would be to render the relief granted in the Order available to PIMCO Funds, should its trustees elect to participate in the deferred compensation plan.

Applicants Legal Analysis

1. Section 6(c) of the Act provides that the SEC may exempt a person, transaction or class of transactions from any provision of the Act or any rule thereunder, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. Section 17(d) of the Act and rule 17d–1 thereunder prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprises or joint arrangement in which the investment company participates. Rule 17d–1 permits the SEC to approve a proposed joint transaction. In determining whether to approve a transaction, the SEC is to consider whether the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation of the investment companies is on a basis different from or less advantageous than that of the other participants.

3. Applicants confirm the arguments made in the original application under the Order and confirm that the terms of applicants' request for an amended order are consistent with the provisions, policies and purposes of the Act, that the requested exemption are necessary or appropriate in the public interest and consistent with the protection of investors, and that each Fund's participation in the proposed arrangements is on a basis no different from or less advantageous than that of any other participant.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. With respect to the requested relief from rule 2a–7, any money market series of a Fund that values its assets using the amortized cost method or the penny rounding method will buy and hold the Underlying Securities that determine the performance of Deferred Fee Accounts to achieve an exact match between such series' liability to pay deferred fees and the assets that offset that liability.[3]

2. If a fund purchases Underlying Securities issued by an affiliated Fund, the Fund will vote such shares in proportion to the votes of all other shareholders of such affiliated Fund.

3. Any Fund that enters into a deferred fee arrangement will comply with all of the terms of the Order.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–33057 Filed 12–27–96; 8:45 am]

BILLING CODE 8010–01–M

[3] The terms Underlying Securities and Deferred Fee Arrangement have the same meaning as under the Order.

[Release No. 34–38071; File No. SR-Amex-96–49]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Amendments to Rule 117 (Circuit Breakers)

December 20, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 16, 1996, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Exchange Rule 117 to increase circuit breaker parameters. The Exchange proposes to implement the revised parameters. The Exchange proposes to implement the revised parameters on a one-year pilot basis.

The text of the proposed rule change is available at the Office of the Secretary, the Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of the basis for the proposed rule change and discussed any comments in received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In conjunction with other major exchanges, the Amex filed a proposal (SR-Amex-88–24 and 88–31) in October 1988 to implement trading halts during significant market declines (generally referred to as "circuit breakers"). Exchange circuit breaker procedures under Amex Rule 117 have been extended most recently by the Commission until April 30, 1997.[1] Amex Rule 117, as amended [2] provides for temporary halts in the trading of all stocks, stock options and index options on the Exchange for one-half hour if the Dow Jones Industrial Average [3] ("DJIA") declines 250 points or more form the previous day's closing value and for one hour if the DJIA declines 400 points from the previous close. The Exchange proposes to amend Rule 117 to increase the parameters that would trigger the 30 minute and one hour halt in trading to 350 points and 550 points, respectively. The Exchange believes these parameters constitute significant market declines, and represent appropriate levels at which to halt trading. The Amex proposes that these changes be implemented on a one-year pilot basis.

The adoption of amendments to Exchange Rule 117 would be contingent upon the adoption of amended rules or procedures substantively identical to Rule 117 by:

(1) All United States stock exchanges and the National Association of Securities Dealers, Inc. with respect to the trading of stocks, stock options and stock index options; and,

(2) All United States futures exchanges with respect to the trading of stock index futures and options on such futures.

The Exchange believes that a trading halt requirement at appropriate levels across all markets will promote stability and investor confidence during periods of significant stress by providing market participants with a reasonable opportunity to become aware of and respond to significant price movements, thereby facilitating in an orderly manner the maintenance of an equilibrium between buying and selling interest.

2. Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5) in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

[1] See Securities Exchange Act Release No. 37890 (October 29, 1996), 61 FR 56983 (November 5, 1996).

[2] See Securities Exchange Act Release No. 37460 (July 19, 1996), 61 FR 39169 (July 26, 1996).

[3] "Dow Jones Industrial Average" is a service mark of Dow Jones & Company, Inc.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–96–49 and should be submitted by January 21, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

[4] 17 CFR 200.30–3(a)(12).

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Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96–33060 Filed 12–27–96; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 34–38069; File No. SR–NASD–96–44]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by National Association of Securities Dealers, Inc. Extending the Pilot Injunctive Relief for an Additional Year

December 20, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on December 9, 1996, NASD Regulation, Inc., ("NASD Regulation") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III, below, which Items have been prepared by NASD Regulation. On December 17, 1996, NASD Regulation submitted an amendment ("Amendment No. 1") to the proposed rule change.[2] On December 18, 1996, NASD Regulation submitted a second amendment ("Amendment No. 2") to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation is herewith filing a proposed rule change to extend for one year the pilot injunctive relief rule, Rule 10335 (formerly Section 47) of the Code of Arbitration Procedure ("Code").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. NASD Regulation has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NASD Regulation's injunctive relief rule, Rule 10335 of the Code, provides a procedure for obtaining injunctive relief in arbitration and for expediting proceedings for injunctive relief in intra-industry disputes. Rule 10335 took effect on January 3, 1996, for a one-year pilot period. In its filing with the Commission, the NASD stated that at the end of the one-year pilot program it would evaluate the efficacy of the Rule to determine if the Rule should be made permanent, the pilot should be extended, or the Rule should be permitted to terminate by its terms.

Between January 3 and December 5, 1996, 237 cases were filed with the NASD seeking injunctive relief under Rule 10335. All of the cases under Rule 10335 involved disputes between member firms and their former registered representative employees (often referred to as "raiding" cases). Of those, 147 settled, 21 were withdrawn, and 56 are pending. The remaining cases were either not eligible for resolution in the NASD's forum (2), closed after a hearing (6) , inactive (4), or could not be processed because of deficiencies in the claim that were not corrected (1). The details concerning cases filed up to September 19, 1996, and the comments solicited by NASD Regulation from some users of the procedures, are set forth in a report from NASD Regulation to the Commission submitted on October 11, 1996. Additional comments were received after October 11, 1996. The report and additional comments may be examined at the places specified in Item III below.

On the basis of NASD Regulation's experience and the comments of the participants, NASD Regulation believes that the procedures set forth in Rule 10335 represent a significant improvement to the procedures for resolving intra-industry disputes; however, NASD Regulation also believes that additional experience with the Rule is necessary to evaluate adequately how the Rule could be improved to meet the needs of the participants more effectively.

Accordingly, NASD Regulation is proposing to extend the injunctive relief Rule as a pilot program for another year. During the next year NASD Regulation will review the comments solicited, will solicit additional comments in a Notice to Members, and will develop modifications or interpretations of the Rule in response thereto.

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act[4] in that extending the effectiveness of the injunctive relief procedures will serve the public interest by enhancing the satisfaction with the arbitration process afforded by expeditious resolution of certain disputes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NASD Regulation did not solicit comments with respect to extending the pilot program. Instead, comments have been solicited in order to aid NASD Regulation in developing changes to the Rule in anticipation of seeking permanent adoption. Those comments are contained in Exhibits 2 and 3 to the filing. Accordingly, NASD Regulation will address these comments, and any additional comments that may be received, in connection with any rule filing seeking to make the Rule a permanent addition to the Code.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room Copies of such filing will also be

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[1] 15 U.S.C. § 78s(b)(1).

[2] Letter from Alden S. Adkins, Vice President and General Counsel, NASD Regulation, Inc., to Katherine A. England, Assistant Director, Division of Market Regulation, SEC, dated December 13, 1996 (indicating final action on the proposed rule change by the NASD Board of Governors).

[3] Letter from Alden S. Adkins, Vice President and General Counsel, NASD Regulation, Inc., to Katherine A. England, Assistant Director, Division of Market Regulation, SEC, dated December 17, 1996 (amending filing to: (1) set forth the language of Rule 10335; (2) amend paragraph (i) of the Rule to show the effective date of the Rule; (3) request accelerated approval of the proposed rule change).

[4] 15 U.S.C. § 78*o–3*.

available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–N–NASD–96–44, and should be submitted by January 21, 1997.

IV. The Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission has reviewed carefully the proposed rule change of NASD Regulation, and concludes that the proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to a national securities association, and particularly with Section 15A(b)(6) of the Act.

Rule 10335 is intended to provide a pilot system within the NASD arbitration forum to process requests for temporary injunctive relief. The Rule is intended principally to facilitate the disposition of employment disputes and related disputes concerning whether registered representatives who move to other firms may transfer their accounts to their new firms. The Commission finds that it is appropriate to extend the pilot for one year. During that time, the Commission and NASD Regulation will be able to evaluate the success of the Rule, to solicit additional comments, to develop modifications or interpretations of the Rule in response to these comments, and to determine whether to extend the pilot further or to make the Rule permanent.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register.** The Commission believes that it is appropriate to approve the proposed rule change on an accelerated basis so that members can continue to have the benefit of injunctive relief in arbitration without interruption. The Rule was previously available through the pilot, and the Commission is extending the pilot only for one year. The Commission believes, therefore, that granting accelerated approval of the proposed rule change is appropriate and consistent with Section 15A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that File No. SR–NASD–93–44, as amended, be, and hereby is, approved on a one-year pilot basis, effective January 3, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

[5] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–33058 Filed 12–27–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38070; File No. SR–OCC–96–19]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to the Expiration Time and Assignment Processing Procedures for Certain Flexibly Structured Foreign Currency Options

December 20, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on December 17, 1996, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–OCC–96–19) as described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to change the expiration time and assignment processing procedures for certain flexibly structured foreign currency options.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change will change the expiration time and assignment processing procedures for certain flexibly structured foreign currency options, including certain flexibly structured cross-rate foreign currency options. Specifically, flexibly structured foreign currency options and flexibly structured cross-rate foreign currency option (collectively referred to as "flexibly structured FCOs") listed for trading after January 14, 1997, and expiring on or after April 1, 1997, will expire at 10:15 a.m. Eastern Time ("ET") instead of 11:59 p.m. ET. Furthermore, OCC propose that all flexibly structured FCOs will be subject to pro rata assignment.

The Philadelphia Stock Exchange ("PHLX") presently trades two types of flexibly structured FCO contracts. They are (1) flexibly structured FCOs for which market participants do not specify an expiration date ("standard flex FCOs") which expire on standard mid-month and end-of-month expiration dates at 11:59 p.m. ET (expiration time is consistent with standard foreign currency option); and (2) custom dated flexibly structured FCOs ("custom dated flex FCOs") for which market participants specify the expiration date and which expire at 10:15 a.m. ET on that expiration date. Exercise notices regarding standard flex FCOs are subject to random assignment processing while pro rata assignment processing is applied to exercise notices regarding custom dated flex FCOs.

PHLX has requested that OCC modify its rules to provide that the expiration time for both types of flexibly structured FCOs be 10:15 a.m. ET on their expiration date, and that exercises in respect thereof be assigned pursuant to OCC's pro-rata procedures.[3] PHLX also has requested that this change be effective for any standard flex FCOs listed for trading after January 14, 1997, with an expiration on or after April 1, 1997. Accordingly, any standard flex FCO contract established on or before January 14, 1997, will expire at 11:59 p.m. ET and be subject to a random assignment process. Currently, there is open interest in standard flex FCO contracts expiring mid-month and end-of-month for the months of March, April, July, September, and October 1997.[4] Since existing standard flex

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries submitted by OCC.

[3] The Commission has already approved a proposed rule change by PHLX regarding the expiration time and assignment procedures for flexibly structured FCOs. Securities Exchange Act Release No. 37718 (September 24, 1996), 61 FR 51479 [File No. SR–PHLX–96–13] (order approving a proposed rule change concerning the trading hours and expiration times for customized foreign currency options).

[4] Notwithstanding the above, PHLX has indicated that it may ask holders of existing series to direct OCC to adjust the expiration time so that such

Continued

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FCOs will be exempt from the new proposed procedures, OCC may be required to run two separate processing cycles, one in the morning and one in the evening. OCC has represented to the Commission that running two separate processing cycles will not adversely affect OCC. Additionally, OCC believes that the change in assignment processing is merely a change in OCC's procedures and does not affect the methodologies of either the random or pro rata assignment process.

OCC is proposing to amend certain definitions in its by-laws to accommodate PHLX's request.[5] The proposed changes to Section 1 of Articles I, XV, and XX of the by-laws should more accurately define the distinction between standard foreign currency options and flexibly structured foreign currency options with respect to expiration dates and times and should clarify that, but for flexibly structured FCOs established on or before January 14, 1997, all flexibly structured FCOs, whether standard flex FCOs or custom dated flex FCOs, will expire at 10:15 a.m. on the expiration date and be subject to a pro rata assignment process. In addition, Section 1.E(4)(iii) is being added to Articles XV and XX of OCC's by-laws as a transitional rule to govern the expiration time and assignment process to be used for existing standard flex FCO contracts and to exempt such standard flex FCO contracts from the proposed rule change. OCC believes that these proposed changes will create uniformity in the expiration time and assignment processing procedure for all flexibly structured FCOs.

OCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act[6] because it is designed to promote the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which OCC consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the file number SR–OCC–96–19 and should be submitted by January 21, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–33059 Filed 12–27–96; 8:45 am]

BILLING CODE 8010–01–M

contracts will expire at 10:15 a.m. ET with pro rata assignment. If the holders and the writers direct OCC to make these adjustments, OCC will act accordingly provided that OCC receives the proper authorizations from all parties involved.

[5] The specific changes to OCC's by-laws are set forth in OCC's proposed rule change, which is unavailable for review through OCC and the Commission's Public Reference Room.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Social Security Ruling SSR 96–10p

Electronic Service Delivery

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling SSR 96–10p. This Policy Interpretation Ruling represents the Social Security Administration's (SSA) policy for allowing our customers to communicate with us electronically by our acceptance of reports, requests, applications, and other information through access methods such as the Internet, video conferencing, and dial-up phone systems. By such methods, we will be able to accept reports, requests, applications, and other information. The Ruling also sets out our policy making electronic and digital signatures the functional equivalent of traditional handwritten signatures in certain situations which will be separately specified by SSA. We call these efforts to provide electronic service options to our customers electronic service delivery (ESD).

This Ruling facilitates our attempts to better serve our customers through the use of electronic service delivery technologies. It is not our intention that customers must conduct business with us electronically. Rather, we are providing our customers with an optional way of doing business while ensuring that the information communicated through ESD methods is as secure and reliable as it is technologically possible and feasible to make it for SSA's activities.

EFFECTIVE DATE: December 30, 1996.

FOR FURTHER INFORMATION CONTACT: Joanne K. Castello, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1711.

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 422.406(b)(1).

Social Security Rulings make available to the public precedential orders, opinions, and statements of policy and interpretations adopted by SSA relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication,

Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

Although Social Security Rulings do not have the force and effect of the law or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 422.406(b)(1), and are to be relied upon as precedents in adjudicating cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance, Program Nos. 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.003 Social Security—Special Benefits for Persons Aged 72 and Over; 96.004 Social Security—Survivors Insurance; 96.005 Special Benefits for Disabled Coal Miners; 96.006 Supplemental Security Income)

Dated: December 19, 1996.

Shirley S. Chater,

Commissioner of Social Security.

Policy Interpretation Ruling Electronic Service Delivery

Purpose: This Policy Interpretation Ruling represents the Social Security Administration's (SSA) policy for allowing our customers to communicate with us electronically through access methods such as the Internet, video conferencing, and dial-up phone systems. By such methods, we will be able to accept reports, requests, applications, and other information. The Ruling also sets out our policy making electronic and digital signatures the functional equivalent of traditional handwritten signatures in certain situations which will be separately specified by SSA. We call these efforts to provide electronic service options to our customers electronic service delivery (ESD).

ESD includes the use of the specific technologies noted above, other current technologies, and future and as yet unidentified technologies which allow SSA's customers to transact business with us via Agency-approved methods. By expanding our service delivery options, we are continuing our efforts to provide world class service to our customers.

Information submitted by our customers using ESD technologies which are consistent with the principles described below and meet:

- Accepted industry standards; and
- SSA privacy, security, fraud detection and prevention, and authentication standards will be considered by SSA to be the functional equivalent of information submitted using traditional paper-based methods.

Determination of the appropriate ESD technologies for a given service will be based upon our evaluation of the sensitivity of the information, potential service impacts on our customers, and the risk factors including fraud detection, prevention, and prosecution, and cost/benefit considerations.

Authority: This Ruling is published under the authority of the Commissioner of Social Security in accordance with 20 CFR 422.406.

Part I

Introduction: As noted in the Agency's Strategic Plan [1] and described in more detail in our Business Plan,[2], SSA is expanding the service options available to our customers in new and innovative ways as technological advances allow. Agency ESD initiatives, based on proven secure technology, will provide our customers with access to SSA to conduct their business in new ways which are convenient for them and efficient for both them and SSA.

SSA has historically relied upon paper-based systems of information collection. Technological advances have reached the point where the use of electronic information collection is efficient, cost-effective, and frequently our customers' preferred method of doing business.

Paper-based information collection systems are perceived as being secure largely because they are the only information collection systems with which most individuals are familiar. The following excerpt from a law journal article provides a historical perspective of the security features of paper-based information collection:

> Traditional paper-based communications accompanied by handwritten signatures provide three essential security characteristics: message integrity, originator authentication, and non-repudiation. Depending on the nature of the communication, an additional security characteristic, confidentiality, may be desired. The efficacy of the various techniques used to ensure the desired level of security in turn depends on the adequacy of the administrative controls associated with their use.
>
> • Message integrity is the assurance that the content of a communication is complete and has not been changed prior to receipt.
>
> • Originator authentication provides assurance that the communication originated from the named source. This is most commonly provided by the handwritten signature, or historically, by the seal of the author.
>
> • Non-repudiation is a stronger form of authentication which relates to the ability of a disinterested third party to reasonably conclude that the identified originator intended to be bound by the substance of the communication. This function is most commonly performed by the original autograph signature affixed to a document having facially adequate message integrity.
>
> • Confidentiality is the ability to limit access to the information contained in a communication. This has generally been accomplished with some combination of security markings, envelopes, seals, trusted messengers, and by the use of codes and ciphers.[3]

The transfer of information in traditional paper-based systems is known as "writing." ESD technologies allow the transfer of information by other than traditional paper-based methods. SSA is adopting a definition of writing which is consistent with modern legal usage and includes electronic information transfer. For example, the U.S. Code includes a definition of writing which is consistent with SSA's purposes:

> "[W]riting" includes printing and typewriting and reproductions of visual symbols by photographing, multigraphing, mimeographing, manifolding, or otherwise.[4]

The Federal Rules of Evidence, which apply to many of the proceedings in the Courts of the United States, define writing as follows:

> "Writings" and "recordings" consist of letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.[5]

This SSA policy making electronic information collection and distribution the functional equivalent of traditional handwritten information collection and distribution is in accord with U.S. law and the Federal Rules of Evidence as shown in these definitions. Accordingly, as SSA approves the use of specific ESD technologies, the products of those technologies will be considered writings by us.

Policy Interpretation: It is the policy of SSA to treat information received and distributed via Agency-approved ESD technologies as the functional equivalent of information received and

[1] SSA Pub. No. 01–001 (September 1991).

[2] SSA Pub. No. 01–008 (April 1996).

[3] Peter N. Weiss, Security Requirements and Evidentiary Issues in the Interchange of Electronic Documents: Steps Toward Developing a Security Policy, The John Marshall Journal of Computer & Information Law, Vol. XII, No. 3, pp. 431–432 (October 1993).

[4] 1 U.S.C. § 1.

[5] Fed. R. Evid. 1001(1). The Advisory Committee notes to this rule make it clear that writings can be created by mechanical or electronic techniques or other forms of information compilation.

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distributed using traditional paper-based methods.

SSA's approval of ESD technologies for use by our customers will mean that the approved technologies provide a sufficient level of security and reliability that they can be an acceptable substitute for traditional paper-based information collection systems as described above, for the purpose of conducting the business of the Agency. Decisions about which ESD technologies are suitable for use with SSA will be made with appropriate input from the SSA components involved in the proposed activity.

Part II

This Policy Interpretation Ruling also addresses the use of electronic and digital signatures. Electronic and digital signatures are an integral factor in many ESD initiatives. Just as technology makes possible the electronic transmission of information for which SSA requires a signature, other technologies provide the means for a document to be "signed" without a traditional handwritten signature.

SSA requires a handwritten signature in only a limited number of situations (e.g., applications for benefits). The circumstances where a signature is required is an issue that is beyond the scope of this Ruling. We are expanding the meaning of the term "signature" to include electronic and digital methods that serve the purpose of originator identification, authentication, and non-repudiation to the extent that is technologically possible and feasible for SSA's activities.

Policy Interpretation: It is the policy of SSA that information for which SSA requires a signature may be signed using SSA-approved signature methods including handwritten, electronic, or digital methods. Approved signature methods will reasonably ensure, to the extent technologically possible and feasible for SSA's activities, that the signer can be identified and that the signer cannot later repudiate the submission of the information.

Conclusion: The early paragraphs of this Policy Interpretation Ruling listed the four essential security characteristics of paper-based information collection. These two policy interpretations were developed to ensure that the four security characteristics described earlier are maintained in all ESD technologies approved by SSA. Originator authentication and non-repudiation are addressed as aspects of the electronic and digital signature policy. Message integrity and confidentiality, although not specifically described in the policy statement endorsing ESD, are implicitly contained in the limitation statement that all ESD technologies must be approved by SSA.[6]

SSA approval of a particular ESD technology will require assurance that the technology is consistent with all appropriate laws and directives. Since the appropriate technology and levels of security will vary based upon the sensitivity of the business application, SSA's selection of the appropriate technology or technologies for a given usage will be based upon consideration of the service impacts on our customers, a risk analysis including fraud detection, prevention, and prosecution concerns, and an analysis of the costs and benefits related to the technology.

In summation, it is SSA policy that all information received and distributed via Agency-approved ESD technologies is the functional equivalent of information received and distributed using traditional paper-based methods. It is also the policy of SSA that information for which a signature is required, can be signed using electronic or digital technologies approved by SSA, provided that the electronic or digital signature reasonably ensures that the signer can be identified and that the signer cannot later repudiate the submission of the information.

These two policy interpretations are being issued to facilitate the Agency's attempts to better serve our customers through the use of ESD technologies. It is not intended that our customers always must conduct business with SSA electronically. Rather, we are providing our customers with an optional way of doing business with us while ensuring that the information provided to, or distributed by, SSA through electronic methods is as secure and reliable as it must be for the purpose for which it is used.

Effective Date: This Policy Interpretation Ruling is effective upon publication in the **Federal Register**.

[FR Doc. 96–33034 Filed 12–27–96; 8:45 am]

BILLING CODE 4190–29–P

[6] For a detailed description of the security features of electronic information transfers in general and digital signatures in particular see generally, M. Baum, Federal Certification Authority Liability and Policy (U.S. Dept. of Commerce, NIST–GCR–94–654 (June 1994)).

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 96–101; Notice No. 1]

Reports, Forms, and Record keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for public comment on proposed collections of information.

SUMMARY: This notice solicits public comments that requires each tire manufacturer to collect and maintain records of the names and addresses of the first purchasers of new tires.

Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under new procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections.

This document describes the collection of data used by a tire manufacturer, when it determines that some of its tires either fail to comply with an applicable safety standard or contain a safety-related defect, for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before February 28, 1997.

ADDRESSES: Comments must refer to the docket and notice numbers cited at the beginning of this notice and be submitted to Docket Section, Room 5109, NHTSA, 400 Seventh St. S.W., Washington, D.C. 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB Clearance Number. It is requested, but not required, that 1 original plus 2 copies of the comments be provided. The Docket Section is open on weekdays from 9:30 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Complete copies of each NHTSA request for collection of information approval may be obtained at no charge from Mr. Ed Kosek, NHTSA Information Collection Clearance Officer, NHTSA, 400 Seventh Street, S.W., Room 6123, Washington, D.C. 20590. Mr. Kosek's telephone number is (202) 366-2589. Please identify the relevant collection of information by referring to its OMB Clearance Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed

collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In compliance with these requirements, NHTSA asks public comment on the following proposed collections of information:

49 CFR Part 574, Tire Identification and Record

Type of Request—Reinstatement, with change, of a previously approved collection for which approval has expired.

OMB Clearance Number—2127–0050.

Form Number—This collection of information uses no standard form.

Requested Expiration Date of Approval—Three years from the approval date.

Summary of the Collection of Information—NHTSA requires each tire manufacturer to collect and maintain records of the names and addresses of the first purchasers of new tires. To carry out this mandate, 49 CFR Part 574 requires tire dealers and distributors to record the names and addresses of retail purchasers of new tires and the identification number(s) of the tire sold.

Description of the need for the information and proposed use of the information—The information is used by a tire manufacturer, when it determines that some of its tires either fail to comply with an applicable safety standard or contain a safety-related defect. With the information on the registration form, the tire manufacturer can notify the first purchaser of the tire and provide the purchaser with any necessary information or instructions.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)—Estimated number is 3,750,000; Frequency of response—occurs each time a tire is sold.

Estimate of the Total Annual Reporting and Record keeping Burden Resulting from the Collection of Information—747,500 hours.

NHTSA estimates that small businesses will need to spend the same 45 seconds per tire sale to register the tires as the larger businesses. It is not possible to reduce this burden further because Congress mandated that the same forms and the same procedures used to register each manufacturer's tires (49 U.S.C. 30117(b)). However, since these small businesses make fewer sales than larger dealers, they will spend less time on tire registrations. The amount of time per sale spent to register tires does not impose an undue burden on the small businesses involved.

Authority: 44 U.S.C. 3506(c); delegation of authority at 49 CFR 1.50.

Dated: December 13, 1996.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–33119 Filed 12-27–96; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 96–109; Notice 1]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for public comment on proposed collections of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under new procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections.

This document describes a collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before February 28, 1997.

ADDRESSES: Comments must refer to the docket and notice numbers cited at the beginning of this notice and be submitted to Docket Section, Room 5109, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB Clearance Number. It is requested, but not required, that 1 original plus 2 copies of the comments be provided. The Docket Section is open on weekdays from 9:30 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Mr. Ed Kosek, NHTSA Information Collection Clearance Officer, NHTSA, 400 Seventh Street, SW, Room 6123, Washington, DC 20590. Mr. Kosek's telephone number is (202) 366-2589. Please identify the relevant collection of information by referring to its OMB Clearance Number.

SUPPLEMENTARY INFORMATION:

Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) how to enhance the quality, utility, and clarity of the information to be collected; and

(iv) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks public comment on the following proposed collection of information:

Insurer Reporting Requirement for 49 CFR Part 544

Type of Request—Reinstatement of clearance.

OMB Clearance Number—2127-054[illegible]

Form Number—This collection of information uses no standard forms.

Requested Expiration Date of Approval—Three years from date of approval.

Summary of the Collection of Information—The Motor Vehicle Theft Law Enforcement Act of 1984 was amended by the Anti Car Theft Act (ACTA) of 1992 (P.L. 102–519) which mandated this information collection. One component of the comprehensive theft prevention package required the Secretary of Transportation (delegated to the National Highway Traffic Safety Administration (NHTSA)) to promulgate a theft prevention standard to provide for the identification of certain motor vehicles and their major replacement parts to impede motor vehicle theft. Section 615 of the ACTA requires insurance companies and rental/leasing companies to provide information to NHTSA on comprehensive insurance premiums which address motor vehicle theft.

Description of the need for the information and proposed use of the information—The insurer's report will be submitted by motor vehicle insurance companies and rental/leasing companies on an annual basis to NHTSA. All rental/leasing companies (which have a fleet of 50,000 or more units in its fleet and are not covered by theft insurance policies issued by motor vehicle insurers) are bound to comply. Specific motor vehicle insurance companies and subject rental and leasing companies are listed in Appendices A, B, and C of Part 544. These reports are required to be submitted in a specified format as shown in Parts 544.5 and 544.6, giving requirements and contents of the report.

The information will be used by NHTSA in exercising its statutory authority to help reduce comprehensive insurance premiums charged by insurers of motor vehicles due to motor vehicle thefts. The report will also show the rate of theft and recoveries of stolen vehicles that they insure by type and other categories.

Without this information, the agency cannot adequately assess the effectiveness of the ACTA as directed by Congress.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)—The respondents are specific vehicle insurance companies, and rental/leasing companies (which have a fleet size of 50,000 or more and are not covered by theft insurance policies issued by motor vehicle insurers). The agency estimates the number of respondents to total 30 vehicle insurance companies and 13 rental/leasing companies. The frequency of response to the collection of information is determined by the number of specific motor vehicle insurance companies, and rental/leasing companies listed in Appendices A, B, and C of Part 544. The lists are updated annually.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting from the Collection of Information—The agency estimates that the reporting burden for this year will be $1,168,090 for 30 insurance companies and $99,840 for approximately 13 rental/leasing companies with a fleet size of 50,000 or more. The reporting burden is based on claim adjusters' salaries, clerical and technical expenses, and labor costs.

Authority: 440 U.S.C. 3506(c); delegation of authority at 49 CFR 1.50.

Dated: October 28, 1996.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–33120 Filed 12–27–96; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 96–100; Notice No. 1]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for public comment on proposed collections of information.

SUMMARY: This notice solicits public comments that labeling requirements ensure that tires are mounted on the appropriate rims; and that the rims and tires are mounted on the vehicles for which they are intended.

Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under new procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections.

This document describes the collection of data used by a tire manufacturer, when it determines that some of its tires either fail to comply with an applicable safety standard or contain a safety-related defect, for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before February 28, 1997.

ADDRESSES: Comments must refer to the docket and notice numbers cited at the beginning of this notice and be submitted to Docket Section, Room 5109, NHTSA, 400 Seventh St. S.W., Washington, D.C. 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB Clearance Number. It is requested, but not required, that 1 original plus 2 copies of the comments be provided. The Docket Section is open on weekdays from 9:30 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Complete copies of each NHTSA request for collection of information approval may be obtained at no charge from Mr. Edward Kosek, NHTSA Information Collection Clearance Officer, NHTSA, 400 Seventh Street, S.W., Room 6123, Washington, D.C. 20590. Mr. Kosek's telephone number is (202) 366–2589. Please identify the relevant collection of information by referring to its OMB Clearance Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks public comment on the following proposed collections of information:

Tires and Rims Labeling

Type of Request—Reinstatement, with change, of a previously approved

collection for which approval has expired.

OMB Clearance Number—2127–0053.

Form Number—This collection of information uses no standard form.

Requested Expiration Date of Approval—Three years from the approval date.

Summary of the Collection of Information—The labeling of motor vehicle tire and rims with information required by the regulations and standards to benefit motor vehicle manufacturers and consumers. Primarily, these labeling requirements (49 CFR Parts 569 & 574) help ensure that tires are mounted on appropriate rims; and that the rims and tires are mounted on vehicles for which they were intended.

Description of the need for the information and proposed use of the information—The agency has not considered methods of collecting the required information and providing it to consumers and tire dealers other than permanently labeling motor vehicles, tires, and rims. The safety information provided on the labels is needed throughout the useful life of the motor vehicle, tire, or rim. The permanent vehicle, tire, and rim labels are required by the federal standards for tires and rims. These standards are legal obstacles to reducing the burden of the labeling requirements.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)—The estimated number of respondents totals 6,673; the frequency of response will be each time a tire or rim is manufactured;

Estimate of the Total Annual Reporting and Record keeping Burden Resulting from the Collection of Information. The yearly burden rate for new tire manufacturers, retreaders and rim manufacturers to label the motor vehicle tires and rims is 264,444 hours.

The labeling requirements apply to all motor vehicle tires and rims intended for use on the nation's highways regardless of the size of the manufacturer or retreader. The burden to small manufacturers and entities resulting from these labeling requirements cannot be adjusted or minimized since all tires and rims must be labeled with this information.

Authority: 44 U.S.C. 3506(c); delegation of authority at 49 CFR 1.50.

Dated: December 13, 1996.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–33121 Filed 12–27–96; 8:45 am]

BILLING CODE 4910–59–P

Research and Special Programs Administration

Second Quarterly Performance Review Meeting on the Contract "Detection of Mechanical Damage in Pipelines" (Contract DTRS–56–96–C–0010)

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of meeting.

SUMMARY: RSPA invites the pipeline industry, in-line inspection ("smart pig") vendors, and the general public to the second quarterly performance review meeting of progress on the contract "Detection of Mechanical Damage in Pipelines." This contract is being performed by Battelle Memorial Institute (Battelle), along with the Southwest Research Institute, and Iowa State University. The contract is a research and development contract to develop in-line inspection technologies using electromagnetic technology to detect and characterize mechanical damage and stress corrosion cracking. There will be a presentation on the status of work on the contract tasks, including a summary of the activity and progress during the past quarter and the projected activity for the next quarter.

DATES: The second quarterly performance review meeting will be held on January 14, 1997 beginning at 8:30 a.m. and ending around 12:30 p.m.

ADDRESSES: The quarterly review meeting will be conducted in the Venice I & II meeting rooms at the Doubletree Guest Suites, 5353 Westheimer Road, Houston, Texas. The hotel's telephone number is (713) 961–9000.

FOR FURTHER INFORMATION CONTACT: Lloyd W. Ulrich, Contracting Officer's Technical Representative, Office of Pipeline Safety, telephone: (202) 366–4556, FAX: (202) 366–4566, e-mail: lloyd.ulrich@rspa.dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

RSPA is holding quarterly public meetings on the status of its contract "Detection of Mechanical Damage in Pipelines" (Contract DTRS–56–96–C–0010) because it recognizes that in-line inspection research is of immediate interest to the pipeline industry and in-line inspection vendors. RSPA plans to make the results available on a quarterly basis throughout the two- or three-year period of the contract. The meetings will allow disclosure of the results to all interested parties at the same time and provide an opportunity for interested parties to ask Battelle clarifying questions concerning the research.

The first meeting was conducted on October 22, 1996, in Washington, DC. This, the second quarterly review meeting, is being held in Houston, Texas, in parallel with a meeting of the Gas Research Institute's (GRI) Nondestructive Evaluation Technical Advisory Group in order to enable significant participation by pipeline operators and inspection vendors. The research contract RSPA has with Battelle is a cooperative effort between GRI and DOT, with GRI providing technical guidance.[1] Future meetings may be conducted in Columbus, Ohio (Battelle); San Antonio, Texas (Southwest Research Institute); Ames, Iowa (Iowa State University); or Chicago, Illinois (Gas Research Institute). It is anticipated that every other meeting will be conducted in Washington, DC. Each of the future meetings will be announced in the **Federal Register** at least two weeks prior to the meeting.

We want the pipeline industry, and in particular, that segment of the industry involved with in-line inspection, to be aware of the status of this contract. To assure that the industry is well represented at these meetings, we have invited the major domestic in-line inspection company (Tuboscope-Vetco Pipeline Services) and the following pipeline industry trade associations: American Petroleum Institute, Interstate Natural Gas Association of America, and the American Gas Association to name an engineering/technical representative, to attend each meeting.

II. The Contract

The Battelle contract is a research and development contract to evaluate and develop in-line inspection technologies for detecting mechanical damage and cracking, such as stress-corrosion cracking (SCC), in natural gas transmission and hazardous liquid pipelines. Third-party mechanical damage is one of the largest causes of pipeline failure, but existing in-line inspection tools cannot always detect or accurately characterize the severity of some types of third-party damage that can threaten pipeline integrity. Although SCC is not very common on pipelines, it usually appears in high-stress, low-population-density areas and only when a limited set of environmental conditions are met. Several attempts have been made to develop an in-line inspection tool for

[1] See the notice of the first quarterly performance review meeting (61 FR 53484; Oct. 11, 1996) for information on the Memorandum of Understanding between DOT and GRI.

SCC, but there is no commercially successful tool on the market.

Under the contract, Battelle will evaluate and advance magnetic flux leakage (MFL) inspection technology for detecting mechanical damage and two electromagnetic technologies for detecting SCC. The focus is on MFL for mechanical damage because experience shows MFL can characterize some types of mechanical damage and can be successfully used for metal-loss corrosion under a wide variety of conditions. The focus for SCC is on electromagnetic technologies that can be used in conjunction with, or as a modification to, MFL tools. The technologies to be evaluated take advantage of the MFL magnetizer either by enhancing signals or using electrical currents that are generated by the passage of an inspection tool through a pipeline.

The contract includes two major tasks during the base two years of the contract, and one major task (Task 3) being considered for an option year to the contract:

Task 1 is to evaluate existing MFL signal generation and analysis methods to establish a baseline from which today's tools can be evaluated and tomorrow's advances measured. Then, it will develop improvements to signal analysis methods and verify them through testing under realistic pipeline conditions. Finally, it will build an experience base and defect sets to generalize the results from individual tools and analysis methods to the full range of practical applications.

Task 2 is to evaluate two inspection technologies for detecting stress corrosion cracks. The focus in Task 2 is on electromagnetic techniques that have been developed in recent years and that could be used on or as a modification to existing MFL tools. Three subtasks will evaluate velocity-induced remote-field techniques, remote-field eddy-current techniques, and external techniques for sizing stress corrosion cracks.

Task 3, if done, will verify the results from Tasks 1 and 2 by tests under realistic pipeline conditions. Task 3 will (1) extend the mechanical damage detection, signal decoupling, and sizing algorithms developed in the basic program to include the effects of pressure, (2) verify the algorithms under pressurized conditions in GRI's 4,700 foot, 24-inch diameter Pipeline Simulation Facility (PSF) flow loop, and (3) evaluate the use of eddy-current techniques for characterizing cold working within mechanical damage.

A drawback of present pig technology is the lack of a reliable pig performance verification procedure that is generally accepted by the pipeline industry and RSPA. The experience gained by the pipeline industry and RSPA with the use of the PSF flow loop in this project will provide a framework to develop procedures for evaluating pig performance. Defect detection reliability is critical if instrumented pigging is to be used as an in-line inspection tool in pipeline industry risk management programs.

The ultimate benefits of the project could be more efficient and cost-effective operations, maintenance programs to monitor and enhance the safety of gas transmission and hazardous liquid pipelines. Pipeline companies will benefit from having access to inspection technologies for detecting critical mechanical damage and stress-corrosion cracks. Inspection tool vendors will benefit by understanding where improvements are beneficial and needed. These benefits will support RSPA's long-range objective of ensuring the safety and reliability of the gas transmission and hazardous liquid pipeline infrastructure.

Issued in Washington, DC on December 24, 1996.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 96–33165 Filed 12–27–96; 8:45 am]

BILLING CODE 4910–60–P

Surface Transportation Board

[STB Finance Docket No. 33312]

Illinois Central Railroad Company—Trackage Rights Exemption—Norfolk Southern Railway Company

Norfolk Southern Railway Company has agreed to grant local trackage rights to Illinois Central Railroad Company over a total of approximately 4 miles of rail line located between the parties' trackage connection at Champaign, IL, and The Anderson's Inc., at Champaign, IL. The transaction was expected to be consummated on December 18, 1996.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33312, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423 and served on: Myles L. Tobin, Associate General Counsel, Illinois Central Railroad Company, 455 North Cityfront Plaza Drive, Chicago, IL 60611–5504.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: December 20, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–33151 Filed 12–27–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the OCC, the Board, and the FDIC (the "agencies") may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid Office of Management and Budget (OMB) control number. The Federal Financial Institutions Examination Council (FFIEC), of which the agencies are members, has recently approved the agencies' publication for public comment of proposed revisions to the Foreign Branch Report of Condition (Foreign Branch Report), which is currently an approved collection of information. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the FFIEC should modify the

proposed revisions prior to giving its final approval. The agencies will then submit the revisions to OMB for review and approval. Comments are invited on: (a) whether the proposed revisions to the following collection of information are necessary for the proper performance of the agencies' functions, including whether the information has practical utility; (b) the accuracy of the agencies' estimate of the burden of the information collection as it is proposed to be revised, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

DATES: Comments must be submitted on or before February 28, 1997.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the OMB control number(s), will be shared among the agencies.

OCC: Written comments should be submitted to the Communications Division, Third Floor, Office of the Comptroller of the Currency, 250 E Street, S.W., Washington, D.C. 20219; Attention: Paperwork Docket No. 1557–0099 [FAX number (202) 874–5274; Internet address: regs.comments@occ.treas.gov]. Comments will be available for inspection and photocopying at that address.

Board: Written comments should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M–P–500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

FDIC: Written comments should be addressed to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. Comments may be hand-delivered to Room F–402, 1776 F Street, N.W., Washington, D.C. 20429, on business days between 8:30 a.m. and 5:00 p.m. Comments may be sent through facsimile to: (202) 898–3838 or by the Internet to: comments@fdic.gov. Comments will be available for inspection at the FDIC Public Information Center, room 100, 801 17th Street, N.W., Washington, D.C., between 9:00 a.m. and 4:30 p.m. on business days.

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed revisions to the collection of information may be requested from the agency clearance officers whose names appear below.

OCC: Jessie Gates, OCC Clearance Officer, or Dionne Walsh, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, S.W., Washington, D.C. 20219.

Board: Mary M. McLaughlin, Board Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551. For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Dorothea Thompson, (202–452–3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

FDIC: Steven F. Hanft, FDIC Clearance Officer, (202) 898–3907, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION:

Proposal to Revise the Following Currently Approved Collection of Information

Title: Foreign Branch Report of Condition.

Form Number: FFIEC 030.

Frequency of Response: Annually, and quarterly for significant branches.

Affected Public: Business or other for profit.

For OCC

OMB Number: 1557–0099.

Estimated Number of Respondents: 234 annual respondents; 59 quarterly respondents.

Estimated Time per Response: 3.9 burden hours.

Estimated Total Annual Burden: 1833 burden hours.

For Board

OMB Number: 7100–0071.

Estimated Number of Respondents: 100 annual respondents; 33 quarterly respondents.

Estimated Time per Response: 3.9 burden hours.

Estimated Total Annual Burden: 904.80 burden hours.

For FDIC

OMB Number: 3064–0011.

Estimated Number of Respondents: 41 annual respondents; 1 quarterly respondent.

Estimated Time per Response: 3.9 burden hours.

Estimated Total Annual Burden: 175.50 burden hours.

General Description of Report: This information collection is mandatory: 12 U.S.C. 321, 324, and 602 (Board); 12 U.S.C. 602 (OCC); and 12 U.S.C. 1828 (FDIC). This information collection is given confidential treatment (5 U.S.C. 552 (b)(8)). Small businesses (that is, small banks) are not affected.

Abstract: This report contains asset and liability information for foreign branches of insured U.S. commercial banks and is required for regulatory and supervisory purposes. The information is used to analyze the foreign operations of U.S. commercial banks. All foreign branches of U.S. banks regardless of charter type file this report with the appropriate Federal Reserve District Bank. The Federal Reserve collects this information on behalf of the U.S. bank's primary federal bank regulatory agency.

Current Actions: New items would be added to the Foreign Branch Report to enhance the agencies' ability to monitor asset quality and the usage of off-balance sheet transactions and to conform the reporting of securities to generally accepted accounting principles (GAAP). The Foreign Branch Report's instructions reference the reporting standards used in the Consolidated Reports of Condition and Income (FFIEC 031; OMB No. 7100–0036 for Board; 3064–0052 for FDIC; 1557–0081 for OCC). The FFIEC 031 instructions are being revised by eliminating instructions that differ from GAAP, effective with the March 1997 report date. Thus, the Foreign Branch Report's instructions would conform to GAAP by reference to the FFIEC 031 instructions. In addition, the criteria used to determine whether a respondent files this report on a quarterly basis would be revised.

Type of Review: Revision.

The FFIEC has approved the agencies' publication of this notice's proposed revisions to the Foreign Branch Report.

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Implementation of these revisions would take place as of the June 30, 1997, report date for quarterly respondents, and as of the December 31, 1997, report date for annual respondents. As is customary for Foreign Branch Report changes, quarterly respondents are advised that, for the June 30, 1997, report date, reasonable estimates may be provided for any new or revised item for which the requested information is not readily available. The specific wording of the captions for the new or revised items discussed below should be regarded as preliminary.

Asset Quality

The Foreign Branch Report currently does not collect information on past due and nonaccrual loans and lease financing receivables. For more than ten years, such information has been collected for the consolidated banking entity as a whole on the FFIEC 031, Consolidated Reports of Condition and Income. The FFIEC 031 form's disclosures have proven to be a valuable source of information about the asset quality of the consolidated banking entity's loan and lease portfolio. The disclosure of similar information on the Foreign Branch Report would identify potential asset quality problems in specific foreign branch operations sooner than would otherwise be possible and improve the agencies' ability to develop appropriate supervisory measures, including the agencies' targeting of examination resources to particular foreign branches.

Three new items would be added to collect information on past due and nonaccrual loans and leases of the foreign branch in a manner consistent with the reporting of such data in the FFIEC 031 form. The items would be "Past due 30 through 89 days and still accruing," "Past due 90 days or more and still accruing," and "Nonaccrual." The collection would cover all loans and leases reported by the branch.

Off-Balance-Sheet Transactions

The Foreign Branch Report currently includes a minimal number of items that disclose a branch's involvement in off-balance-sheet transactions. The agencies propose to expand the number of disclosures on off-balance-sheet transactions to include information on the notional value of exchange swaps, the notional value of other swaps, the amount of unused securities underwriting commitments, the amount of unused commitments on loans and all other lines of credit, and the aggregate amount of all other off-balance-sheet liabilities. The FFIEC 031 form collects similar information on unused commitments and off-balance-sheet transactions; however, the FFIEC 031 form collects more detailed breakdowns for commitments and additional breakdowns for the underlying risk exposures related to swaps. The collection of information on off-balance-sheet activities in the Foreign Branch Report, although less extensive than the off-balance-sheet information collected from the consolidated banking entity on the FFIEC 031 form, would improve the agencies' overall ability to monitor risk exposures resulting from a foreign branch's involvement in off-balance-sheet activities.

In addition, a new item for trading liabilities, including amounts resulting from derivative transactions, would be added in a manner consistent with the reporting of such data in the FFIEC 031 form. The new item would improve the agencies' ability to monitor foreign branch trading operations involving third parties and would be a complement to the existing item for assets held in trading accounts (which is being recaptioned as trading assets to conform this item to the FFIEC 031 form caption).

Securities

The reporting for branch holdings of debt and equity securities would be revised to be consistent with the three GAAP categories as prescribed by Financial Accounting Standards Board Statement No. 115, "Accounting for Certain Investments in Debt and Equity Securities" (FASB 115). FASB 115 established three categories of securities: held-to-maturity securities, available-for-sale securities, and trading securities, each of which has its own basis of accounting. FASB 115 permits an entity to include debt securities in the held-to-maturity category only if it has the positive intent and ability to hold those debt securities to maturity. Under FASB 115, the accounting basis of held-to-maturity debt securities is amortized cost. Securities in the available-for-sale category under FASB 115 are those debt securities not acquired for trading purposes for which an entity does not have the positive intent and ability to hold to maturity and those equity securities with readily determinable fair values that it does not intend to trade as part of its trading account. Under FASB 115, available-for-sale securities are reported at fair value on the balance-sheet. Trading securities are those debt and equity securities that an entity buys and holds principally for the purpose of selling in the near term.

The two existing breakdowns for securities on the Foreign Branch Report would be amended to collect information on debt and equity securities in a manner consistent with the reporting of such data in the FFIEC 031 form which already conforms to FASB 115. Items 4.a. and 4.b. on the Foreign Branch Report would be revised into items for "Held-to-maturity securities" and "Available-for-sale securities." Trading securities would continue to be reported on the Foreign Branch Report in item 5, Trading Assets.

Quarterly Reporting

The Foreign Branch Report is currently filed on a quarterly basis by significant branches, that is, branches with either: (1) total assets of $2 billion or more, or (2) commitments to purchase foreign currencies and U.S. dollar exchange (spot, forwards, and futures) of $5 billion or more. The agencies propose to revise the scope of off-balance-sheet transactions used in the quarterly filing criteria to include all those off-balance-sheet derivatives proposed herein to be covered by the Foreign Branch Report. Thus, the Foreign Branch Report would be filed quarterly by significant branches with either: (1) total assets of $2 billion or more, or (2) commitments to purchase foreign currencies and U.S. dollar exchange (spot, forwards, and futures), all other futures and forwards contracts, options contracts, and the notional value of interest rate swaps, exchange swaps and other swaps of $5 billion or more. The revised criteria are consistent with the expanded disclosures for off-balance-sheet transactions that are part of this proposed revision.

Request for Comment

Comments submitted in response to this notice will be shared among the agencies and will be summarized or included in the agencies' requests for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology as well as other relevant aspects of the information collection request.

Dated: December 20, 1996.

Karen Solomon,

Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, December 23, 1996.

William W. Wiles,

Secretary of the Board.

Dated at Washington, D.C., this 16th day of December, 1996.

Federal Deposit Insurance Corporation

Steven F. Hanft,

Assistant Executive Secretary (Regulatory Analysis).

[FR Doc. 96–33064 Filed 12–27–96; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P

Office of Thrift Supervision

[No. 96-124]

Public Disclosure of Reports of Condition

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice.

SUMMARY: The Office of Thrift Supervision (OTS) revised its Thrift Financial Report (TFR), effective June, 1996. The revisions to the TFR format do not affect the availability of information contained in the TFR. Most information collected in the TFR will continue to be publicly available pursuant to section 5(v) of the Home Owners' Loan Act. Information in certain previously identified areas will continue to not be available to the public because the Director of OTS has determined that the disclosure of such items would not be in the public interest.

EFFECTIVE DATE: December 30, 1996.

FOR FURTHER INFORMATION CONTACT: Patrick G. Berbakos, Director, Financial Reporting Division, (202) 906-6720, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: Pursuant to section 5(v) of the Home Owners' Loan Act, 12 U.S.C. 1464(v), each savings association is required to make reports of condition to OTS in a form established by OTS. Section 5(v) further requires that such reports and all the information they contain be available to the public unless the OTS Director determines that public disclosure of particular information would not protect the safety or soundness of a particular institution or institutions or the Savings Association Insurance Fund, or would not otherwise be in the public interest. If the Director restricts disclosure of any information for savings associations generally, that fact and the reason therefor are to be disclosed in the Federal Register.

On August 7, 1990, OTS gave notice that certain information collected on the TFR would not be publicly disclosed. 55 FR 32168 (August 7, 1990). Over the years, OTS has reviewed and revised the scope of the information not available for public disclosure. [1]

Last year, after public notice and comment, OTS substantially streamlined the TFR, effective June, 1996. This revised TFR format does not substantively impact the disclosure of TFR information, although some information that is not publicly available is now located in a different schedule. All other information collected by the TFR will continue to be made publicly available.

Information on interest-rate-risk data, loans 30-89 days past due, and classified assets will continue to be withheld for the reasons set forth in the August 1990 Notice. As noted in the February 1994 Notice, aggregate CMR data is publicly available for selected industry peer groups.

Interest-rate-risk data continues to be located in Schedule CMR. Schedule PD, Lines 10 and 115 to 150 continues to contain information on Loans 30-89 Days Past Due. Classified Assets, which was located in schedule TA, Lines 400-430 on the old TFR, is now found in schedule VA, Lines 960, 965, 970, and 975 in the streamlined TFR.

Dated: December 19, 1996.

By the Office of Thrift Supervision.

Nicolas P. Retsinas

Director.

[FR Doc. 96–33037 Filed 12–27–96; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

Proposed Information Collection Activity; Public Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Veterans Benefits Administration (VBA) invites the general public and other Federal agencies to comment on this information collection. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). Comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection.

DATES: Written comments and recommendations on the proposal for the collection of information should be received on or before February 28, 1997.

ADDRESSES: Direct all written comments to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. All comments will become a matter of public record and will be summarized in the VBA request for Office of Management and Budget (OMB) approval. In this document VBA is soliciting comments concerning the following information collection:

OMB Control Number: 2900–0178.

Title and Form Number: Monthly Certification of On-the-Job and Apprenticeship Training, VA Form 22–6553d. (**Note:** A reference to VA Form 22–6553d also includes VA Form 22–6553d–1 unless otherwise specified. VA Form 22–6553d–1 contains the same information as VA Form 22–6553d.)

Type of Review: Extension of a currently approved collection.

Need and Uses: The form is used by trainees and employers to report the number of hours worked in on-the-job training programs and apprenticeships, and to report terminations of training in such programs. The information is used by the VA to determine whether a trainee's education benefits are to be continued, changed or terminated, and the effective date of such action.

Current Actions: The VA is authorized to pay education benefits to veterans and other eligible persons pursuing approved programs not leading to a standard college degree under Title 38, U.S.C., Chapters 32 and 35, Title 10, U.S.C., Chapter 1606, and Public Law 96–342, Section 903. Benefits are authorized monthly based upon the number of hours worked by the trainee and verified by the training establishment. The form is completed by the trainee and the training establishment to report to the VA the

[1] Some of this information, Specific Valuation Allowances and Debt Restructured During the Quarter, was later determined to be appropriate for disclosure. Those items were disclosed beginning with the March 1993 TFR. On February 28, 1994, OTS issued a notice that information used to measure interest rate risk originally contained in TFR schedule MR was now found in TFR schedule CMR and would continue to be withheld from disclosure except for aggregate CMR data for selected industry peer groups. 59 FR 9520 (February 28, 1994).

number of hours worked and/or to report the date of termination.

Affected Public: Individuals or households, Business or other for-profit, Not-for-profit institutions, and State, Local or Tribal Government.

Estimated Annual Burden: 4,647 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: Monthly.

Estimated Annual Responses: 55,786.

Estimated Number of Respondents: 14,770.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Department of Veterans Affairs, Attn: Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, Telephone (202) 273–7079 or FAX (202) 275–4884.

Dated: December 16, 1996.

By direction of the Secretary.

Donald L. Neilson, Director,

Information Management Service.

[FR Doc. 96–33079 Filed 12–27–96; 8:45 am]

BILLING CODE 8320–01–P

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Office of Management, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Office of Management (OM) invites the general public and other Federal agencies to comment on this information collection. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). Comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection.

DATES: Written comments and recommendations on the proposal for the collection of information should be received on or before February 28, 1997.

ADDRESSES: Direct all written comments to Barbara Epps, Office of Management (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. All comments will become a matter of public record and will be summarized in the OM request for Office of Management and Budget (OMB) approval. In this document the OM is soliciting comments concerning the following information collection:

OMB Control Number: 2900–0078.

Title: Request to Correspondent for Identifying Information, VA Form Letter 70–2.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Need and Uses: The form letter is used to obtain additional information from a correspondent when the incoming correspondence does not provide sufficient information to identify a specific veteran. Failure to obtain this information may prevent VA from taking action on the correspondence.

Current Actions: The form letter is used by VA personnel to identify a specific veteran, determine the location of a specific file, and to accomplish the action requested by the correspondent such as, process a benefit claim or file material in an individual's claims folder. Completion of VA Form Letter 70–2 is voluntary and failure to furnish the requested information has no adverse effect on either the veteran or the correspondent.

Affected Public: Individuals or households.

Estimated Annual Burden: 3,750 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 45,000.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Department of Veterans Affairs, Attn: Barbara Epps, Office of Management (045A4), 810 Vermont Avenue, NW, Washington, DC 20420, Telephone (202) 273–8013 or FAX (202) 273–5981.

Dated: December 16, 1996.

By direction of the Secretary.

Donald L. Neilson,

Information Management Service.

[FR Doc. 96–33080 Filed 12–27–96; 8:45 am]

BILLING CODE 8320–01–P

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Office of Management, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Office of Management (OM) invites the general public and other Federal agencies to comment on this information collection. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). Comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection.

DATES: Written comments and recommendations on the proposal for the collection of information should be received on or before February 28, 1997.

ADDRESSES: Direct all written comments to Barbara Epps, Office of Management (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. All comments will become a matter of public record and will be summarized in the OM request for Office of Management and Budget (OMB) approval. In this document the OM is soliciting comments concerning the following information collection:

OMB Control Number: 2900–0025.

Title: Request for Consent to Release of Information, VA Form 3288.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Need and Uses: The form is completed by veterans or beneficiaries to provide the VA with a written consent to release records or information. Use of the form ensures an individual gives an informed written consent for the release of records or information about himself/herself that is consistent with the statutory requirements of the Privacy Act of 1974 and the VA's confidentiality statute.

Current Actions: Veterans and their beneficiaries regularly request that copies of documents or information contained in their benefits or medical records be released to third parties, such as insurance companies, physicians and other individuals. The Privacy Act of 1974 (5 U.S.C., 552a) and the VA's confidentiality statute (38 U.S.C., 5701) as implemented by 38 CFR 1.526(a) and 38 CFR 1.576(b) require individuals to provide written consent before documents or information can be disclosed to third parties not allowed to receive records or information under any other provision of law, i.e., routine use of a record in a system of records. VA Form 3288 contains the minimum information that must be provided in

writing before a record or information is released.

Affected Public: Individuals or households.

Estimated Annual Burden: 18,875 hours.

Estimated Average Burden Per Respondent: 7.5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 151,000.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Department of Veterans Affairs, Attn: Barbara Epps, Office of Management (045A4), 810 Vermont Avenue, NW, Washington, DC 20420, Telephone (202) 273–8013 or FAX (202) 273–5981.

Dated: December 16, 1996.

By direction of the Secretary.

Donald L. Neilson,

Information Management Service.

[FR Doc. 96–33081 Filed 12–27–96; 8:45 am]

BILLING CODE 8320–01–P

Proposed Information Collection Activity; Public Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Veterans Benefits Administration (VBA) invites the general public and other Federal agencies to comment on this information collection. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). Comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection.

DATES: Written comments and recommendations on the proposal for the collection of information should be received on or before February 28, 1997.

ADDRESSES: Direct all written comments to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. All comments will become a matter of public record and will be summarized in the VBA request for Office of Management and Budget (OMB) approval. In this document VBA is soliciting comments concerning the following information collection:

OMB Control Number: 2900–0460.

Title and Form Number: Application for Assumption Approval and/or Release From Personal Liability to the Government on a Home Loan, VA Form 26–6381.

Type of Review: Extension of a currently approved collection.

Need and Uses: The form is completed by veterans who are selling their homes by assumption rather than requiring purchasers to obtain their own financing to pay off the loan. The information furnished is essential to determinations for assumption approval, release of liability, and substitution of entitlement.

Current Actions: Title 38, U.S.C., Section 3713(a) provides that when a veteran disposes of his or her interest in the property securing the loan, the VA may, upon request, release the original veteran-borrower from personal liability to the Government only if three requirements are fulfilled. First, the loan must be current. Second, the purchaser must assume all of the veteran's liability to the Government and the mortgage holder on the guaranteed loan. Third, the purchaser must qualify from a credit and income standpoint, to the same extent as if he or she were a veteran applying for a VA-guaranteed loan in the same amount as the loan being assumed.

Affected Public: Individuals or households and Business or other for-profit.

Estimated Annual Burden: 790 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 4,740.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Department of Veterans Affairs, Attn: Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, Telephone (202) 273–7079 or FAX (202) 275–4884.

Dated: December 5, 1996.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 96–33083 Filed 12–27–96; 8:45 am]

BILLING CODE 8320–01–P

Proposed Information Collection Activity; Public Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Veterans Benefits Administration (VBA) invites the general public and other Federal agencies to comment on this information collection. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). Comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection.

DATES: Written comments and recommendations on the proposal for the collection of information should be received on or before February 28, 1997.

ADDRESSES: Direct all written comments to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. All comments will become a matter of public record and will be summarized in the VBA request for Office of Management and Budget (OMB) approval. In this document VBA is soliciting comments concerning the following information collection:

OMB Control Number: 2900–0098.

Title and Form Number: Application for Survivors' and Dependents' Educational Assistance (Under Provisions of Chapter 35, Title 38, U.S.C.), VA Form 22–5490.

Type of Review: Extension of a currently approved collection.

Need and Uses: The form serves as an application for Dependents' Educational Assistance (DEA). The information collection is necessary for the VA to determine the eligibility of a veteran's or serviceperson's children, spouse or surviving spouse to DEA.

Current Actions: Spouses, surviving spouses, and children of veterans must submit evidence to establish eligibility and entitlement to DEA under Title 38, U.S.C., 3513. The VA uses the information to determine if an individual claimant qualifies for DEA benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 8,700 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: Once—Initial Application.

Estimated Number of Respondents: 17,400.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Department of Veterans Affairs, Attn: Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, Telephone (202) 273–7079 or FAX (202) 275–4884.

Dated: December 5, 1996.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 96–33084 Filed 12–27–96; 8:45 am]

BILLING CODE 8320–01–P

Agency Information Collection: Submission for OMB Review; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

OMB Control Number: 2900-0029.

Titles and Form Numbers:

a. Offer to Purchase and Contract of Sale, VA Form 26–6705.

b. Credit Statement of Prospective Purchaser, VA Form 26–6705b.

c. Addendum to VA Form 26–6705, VA Form 26–6705c.

d. Addendum to VA Form 26–6705 (Virginia), VA Form 26–6705d

Type of Review: Revision of a currently approved collection.

Needs and Uses:

a. VA Form 26–6705 is used by the private sector sales broker to submit an offer to the VA on behalf of a prospective purchaser of a VA-acquired property. The form will be prepared for each proposed contract submitted to the VA. If the VA accepts the offer to purchase, it then becomes a contract of sale. The form defines the terms of sale, provides the prospective purchaser with a receipt for his/her earnest money deposit, eliminates the need for separate transmittal of a purchase offer and develops the contract without such intermediate processing steps and furnishes evidence of the station decision with respect to the acceptance of the contract as tendered. Without this information, a determination of the best offer for a property cannot be made.

b. VA Form 26–6705b is used as a credit application to determine the creditworthiness of a prospective purchaser in those instances when the prospective purchaser seeks the VA vendee financing, along with VA Form 26–6705. In such sales, the offer to purchase will not be accepted until the purchaser's income and credit history have been verified and a loan analysis has been completed, indicating loan approval. Without this information, the creditworthiness of a prospective purchaser cannot be determined and the offer to purchase cannot be accepted.

c. VA Form 26–6705c, using the "highest net return/cash equivalent value" (EWCEV) procedure, is intended to simplify the selection process among competing offers and ensure that the offer selected provides the greatest value to the VA. The procedure requires one or more calculations on each offer in order to convert it to a "net to VA" basis which can easily be compared to other offers, and thus enable the VA to be sure that the highest real dollar offer is accepted. The sole purpose of the HNR/CEV is to determine which offer is the most financially advantageous to the VA and in turn, the taxpayers. This procedure is very similar to the calculation prepared on most private sector transactions in order to show the seller what he or she will receive as proceeds of sale.

d. VA Form 26–6705d is an addendum to VA Form 26–6705 for use in Virginia. It includes requirements of State law which must be acknowledged by the purchaser at or prior to closing. A few minor revisions were made to the form and caused no change in burden hours.

Affected Public: Individuals or households.

Estimated Annual Burden: 64,583 hours.

a. VA Form 26–7605–33,333 hours.
b. VA Form 26–6705b–33,500 hours.
c. VA Form 26–6705c–8,333 hours.
d. VA Form 26–6705d–417 hours.

Estimated Average Burden Per Respondent: 14 minutes (average).

a. VA Form 26-7605–20 minutes.
b. VA Form 26-6705b–20 minutes.
c. VA Form 26-6705c–5 minutes.
d. VA Form 26-6705d–5 minutes.

Frequency of Response: Generally one-time.

Estimated Number of Total Respondents: 272,500.

a. VA Form 26–7605—100,000.
b. VA Form 26–6705b—67,500.
c. VA Form 26–6705c—100,000.
d. VA Form 26–6705d—5,000.

ADDRESSES: A copy of this submission may be obtained from Ron Taylor, VA Clearance Officer (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015.

Comments and recommendations concerning this submission should be directed to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–4650. DO NOT send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 30 days of this notice.

FOR FURTHER INFORMATION CONTACT: Ron Taylor, VA Clearance Officer (045A4), (202) 273-8015.

Dated: December 16, 1996.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 96–33078 Filed 12–27–96; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register
Vol. 61, No. 251
Monday, December 30, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 94-022F-2]

RIN 0583-AC24

Use of the Term "Fresh" on the Labeling of Raw Poultry Products

Correction

In rule document 96–31971 beginning on page 66198 in the issue of Tuesday, December 17, 1996 make the following correction:

§381.129 [Corrected]

On page 66200, in the third column, in §381.129(b)(6)(i), in the seventh line, "never" should read "ever".

BILLING CODE 1505–01–D

DEPARTMENT OF EDUCATION

34 CFR Part 86

RIN 1810-AA83

Drug and Alcohol Abuse Prevention

Correction

In rule document 96-31874 beginning on page 66225 in the issue of Tuesday, December 17, 1996 make the following correction:

PART 86 [CORRECTED]

1. On page 66225, in the third column, in the ninth and tenth lines, remove the authority citation.

2. On the same page, in the same column, under amendatory instruction 1., insert "**Authority:** 20 U.S.C. 1145g, unless otherwise noted."

BILLING CODE 1505–01–D

ENVIROMENTAL PROTECTION AGENCY

40 CFR Part 76

[AD–FRL–5666–1]

RIN 2060–AF48

Acid Rain Program; Nitrogen Oxides Emission Reduction Program

Correction

In rule document 96–31839, beginning on page 67112, in the issue of Thursday, December 19, 1996, make the following correction:

§76.5 [Corrected]

On page 67162, in the third column, in amendatory instruction 3., "remaing" should read "removing".

BILLING CODE 1505–01–D

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 410

RIN 3206-AF99

Training

Correction

In rule document 96–31975 beginning on page 66189 in the issue of Tuesday, December 17, 1996, make the following correction:

§410.403 [Corrected]

On page 66197, in the second column, in §410.403(b), in the first line, "reduces" should read "reduced".

BILLING CODE 1505–01–D

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 581

RIN 3206–AH55

Processing Garnishment Orders for Child Support and/or Alimony

Correction

In rule document 96–32137, beginning on page 67378, in the issue of Friday, December 20, 1996, make the following correction:

Appendix A to Part 581 [Corrected]

On page 67378, in the second column, in Appendix A to part 581, insert "*Department of Agriculture*" under the heading **I. Departments**, and above the entry "Office of the Secretary".

BILLING CODE 1505–01–D

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Part II

Department of the Treasury

Comptroller of the Currency
12 CFR Part 12

Federal Reserve System

12 CFR Parts 208 and 211

Federal Deposit Insurance Corporation

12 CFR Part 342

Qualification Requirements for Transactions in Certain Securities, Proposed Rule and Proposed Information Collection Comment Request; Notice

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 12

[Docket No. 96–29]

RIN 1557–AB42

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 211

[Docket No. R–0950]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 342

RIN 3064–AB85

Qualification Requirements for Transactions in Certain Securities

AGENCIES: Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation.

ACTION: Joint notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (banking agencies) propose to adopt a qualification regulation for those banks that engage in bank-direct retail sales or recommendations of certain securities through their employees. Because banks are not required to register as a broker-dealer under the Securities Exchange Act of 1934, as amended, 15 U.S.C. 78 *et seq.* (Securities Exchange Act), the proposed regulation establishes requirements for banks and bank securities representatives that are consistent with the professional qualification requirements for broker-dealers and registered representatives under the Securities Exchange Act and rules thereunder and the rules of the securities self regulatory organizations (SSROs). The banking agencies invite comment on all aspects of the proposal as well as on the specific issues identified in the "Section-by-Section Summary and Request for Comment."

In a separate document published elsewhere in this separate part of the **Federal Register** as a companion Notice of Forms, the banking agencies are proposing to adopt four forms to be used in connection with the regulation: Form SB (Uniform Notice for Sponsoring Bank), Form SBW (Uniform Notice for Sponsoring Bank Withdrawal), Form U–4B (Uniform Application for Bank Securities Representative Registration or Transfer), and Form U–5B (Uniform Termination Notice for Bank Securities Representative Registration). The proposed forms are based on the uniform forms used in the securities industry for broker-dealers and their registered representatives. The use of these proposed forms, along with this proposed regulation, will promote the safe and sound operation of bank retail securities sales programs and customer protection by standardizing the qualification requirements of bank personnel engaged in the retail sale of certain securities.

DATES: Comments on the proposed regulation must be received by February 28, 1997.

ADDRESSES: Comments should be directed to:

OCC: Communications Division, Office of the Comptroller of the Currency, 250 E Street, S.W., Washington DC 20219, Attention: Docket No. 96–29. Comments will be available for public inspection and photocopying at the same location. In addition, comments may be sent by facsimile transmission to FAX number (202) 874–5274 or by Internet mail to REGS.COMMENTS@OCC.TREAS.GOV.

Board: William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and Constitution Avenue, N.W., Washington, D.C. 20551, Attention: Docket No. R–0950, or delivered to room B–2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. Comments may be inspected in room MP–500 between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in § 261.8 of the Board of Governors' rules regarding availability of information, 12 CFR 261.8.

FDIC: Jerry L. Langley, Executive Secretary, Attention: Room F–402, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. Comments may be hand delivered to Room F–402, 1776 F Street, N.W., Washington, DC 20429, on business days between 8:30 a.m. and 5:00 p.m. or transmitted by fax or the internet. The FDIC's fax number is (202) 898–3838 and its Internet address is: COMMENTS@FDIC.GOV. Comments will be available for inspection and photocopying in Room 100, 801 17th Street, NW, Washington, DC between 9:00 a.m. and 5:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT:

OCC: Joseph W. Malott, Examiner, Capital Markets (202) 874–5070, and Joel Miller, Senior Attorney, Securities and Corporate Practices (202) 874–5210.

Board: Howard Amer, Assistant Director, Division of Banking Supervision and Regulation (202) 452–2958, and Angela Desmond, Senior Counsel, Division of Banking Supervision and Regulation (202) 452–3497.

FDIC: William A. Stark, Assistant Director, Division of Supervision, (202) 898–6972; Lisa D. Arquette, Senior Capital Markets Specialist, Division of Supervision, (202) 898–8633; Ann Hume Loikow, Counsel, Regulations and Legislation Section, Legal Division, (202) 898–3796; and Patrick J. McCarty, Counsel, Regulations and Legislation Section, Legal Division, (202) 898–8708.

SUPPLEMENTARY INFORMATION:

Background

In recent years, sales of securities and other nondeposit investment products on bank premises have increased as banks have made these products available to retail customers either directly as brokers [1] or through third parties. As this business has evolved, both the banking agencies and the banking industry have identified the need for banks to manage the reputational and legal risks to banks that could result from customer confusion, to disclose that these investment products are not guaranteed by the bank or insured by the FDIC, and to ensure that banks are aware of the application of the antifraud provisions of the Federal securities laws if material misstatements or omissions occur in connection with sales of securities on bank premises. These concerns arise whether the bank is selling directly to customers or whether SEC-regulated broker-dealers are selling on bank premises.[2]

To address these needs, in 1994, the banking agencies and the Office of Thrift Supervision issued the Interagency Statement on Retail Sales of Nondeposit Investment Products (Interagency Statement), which sets forth guidelines for conducting sales of nondeposit investment products, consistent with principles of safety and

[1] Banks specifically are excluded from the definition of "broker" in section 3(a)(4) of the Securities Exchange Act, 15 U.S.C. 78c(a)(4), and may engage in brokerage transactions without having to register with the Securities and Exchange Commission (SEC).

[2] It is estimated that approximately 87 percent of all sales of securities on bank premises are effected by SEC-regulated broker-dealers. *See* U.S. General Accounting Office, Report to Congressional Requesters: *Bank Mutual Funds Sales Practices and Regulatory Issues* GAO/GGD–95–210, at p. 52 (September 1995); U.S. General Accounting Office, Report to Congressional Requesters: *Banks' Securities Activities—Oversight Differs Depending on Activity and Regulator, GAO/GGD–95–214, at p. 25 (September 1995).*

soundness and customer protection.[3] Among other things, the Interagency Statement provides that banks that engage in the retail recommendation or sale of securities should provide sales personnel with training that is the substantive equivalent of that provided to their securities industry counterparts.

Since adoption of the Interagency Statement, industry participants have commented that it is difficult to measure their compliance with the equivalent training requirement when there are no objective measures of a bank salesperson's training comparable to that provided by the securities industry professional qualifications examinations for broker-dealer sales personnel. To address this issue, the banking agencies approached the SSROs that own the examinations that pertain to the sale of mutual funds[4] and general securities products[5] and requested that the SSROs make the Investment Company/Variable Contracts Products Limited Representative Qualification Examination (Series 6 Examination) and the General Securities Registered Representative Examination (Series 7 Examination) available to bank personnel. The SSROs agreed on the condition that the banking agencies adopt regulations establishing registration and qualification requirements analogous to those applicable to the securities industry.

Adoption of a qualifications regulation for banks and their employees who 2make retail solicitations, recommendations, purchases, or sales of securities will provide a number of benefits in addition to ensuring compliance with the equivalent training requirements of the Interagency Statement. The regulation will ensure that bank sales representatives have adequate product and regulatory knowledge pertaining to those securities being recommended and sold at the retail level. This will promote the safe and sound operation of bank- sponsored sales programs and enhance customer protection. The regulation also will enhance the banking agencies' ability to identify and restrict individuals who are subject to a statutory disqualification and therefore not qualified under the securities laws from soliciting, recommending, purchasing, or selling securities at the retail level on behalf of banks.

Moreover, adoption of the proposed qualification requirements is likely to facilitate individuals seeking to move between banks and broker-dealers without losing their qualifications to sell certain securities in either industry.[6] This would create additional efficiencies for banks and securities firms and opportunities for their employees.

Accordingly, the banking agencies propose to adopt qualification regulations that establish filing requirements for banks and registration, testing, and continuing education requirements for bank securities representatives that are analogous to the professional qualification requirements for broker-dealers under the Securities Exchange Act, and rules thereunder, and the rules of the SSROs. Any filing required to be made to a banking agency will be made at the NASD, which will maintain all information in its Central Registration Depository (CRD), the national/state computer-based registry for broker-dealers and securities personnel.

The proposed use of securities industry qualification examinations and continuing education materials will not alter the statutory scheme for banks or their brokerage activities. No SSRO, including the NASD, obtains jurisdiction over any sponsoring bank or bank securities representative as a result of the proposed rule or the submission of filings to the appropriate Federal banking agency at the NASD. Legal and supervisory authority over banks remains vested exclusively with the appropriate Federal banking agency.

Authority to Issue Regulation

This rulemaking is authorized pursuant to the banking agencies' statutory authority under section 8 of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. 1818, to prevent unsafe and unsound practices by, and to adopt regulations defining safe and sound practices for, banks under their respective jurisdictions.[7] In addition, the banking agencies have the authority to prescribe specific operational and managerial standards, as deemed appropriate, pursuant to section 39p–1(a)(2) of the FDIA, 12 U.S.C. 831p–1(a)(2).

Section-by-Section Summary and Request for Comment

Definitions

Appropriate Qualification Examination.

The proposal defines "appropriate qualification examination" as the Series 6 Examination or the Series 7 Examination, both of which are administered by the NASD.

The Series 6 Examination is the appropriate qualification examination for a bank employee engaged solely in covered transactions of open-end investment company shares, original distribution closed-end investment company shares, unit investment trusts, or variable contracts, including variable life insurance contracts and variable annuity contracts. The Series 7 Examination is the appropriate examination for a bank securities representative who effects transactions in other securities, such as equities and corporate bonds, in addition to the products covered by the Series 6 Examination. A person who passes the Series 7 Examination need not pass the Series 6 Examination.

Bank

The proposal defines "bank" as each institution regulated by the banking agencies, respectively, but does not include affiliates, subsidiaries, or foreign branches of such institutions. ("Foreign branches" located in any Territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands, however, are included in the definition of "bank.") Bank subsidiaries and affiliates engaged in securities sales are already registered with the SEC and are subject to the rules and requirements of the SEC and SSROs.

Bank Securities Representative

The proposal defines "bank securities representative" as any bank officer, director, or employee (collectively, employee) who engages in covered transactions or is designated as the supervisor of a bank employee engaged

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[3] 5 Fed. Bnkg. L. Rep. (CCH) PP 70–001, *et seq.*; Federal Reserve Supervisory Letter, SR 94–11(FIS) (February 17, 1994); Federal Reserve Supervisory Letter, 95–46 (SPE) (September 14, 1995), interpreting the Interagency Statement; OCC Bulletin 94–13 (Nondeposit Investment Sales Examination Procedures) (February 24, 1994); OCC Bulletin 95–52 (Clarification of Interagency Guidelines) (September 22, 1995); FDIC Financial Institutions Letter 9–94 (February 17, 1994); and FDIC Financial Institutions Letter 61–95 (September 13, 1995).

[4] The National Association of Securities Dealers, Inc. (NASD).

[5] The NASD, New York Stock Exchange, Inc. (NYSE), and Municipal Securities Rulemaking Board (MSRB).

[6] Under current SSRO rules, a bank securities representative seeking to move to a broker-dealer must request a waiver from the examination requirements from his or her designated SSRO. To the extent a bank securities representative seeks to engage in the recommendation or sale of municipal securities, the MSRB's 90-day apprenticeship requirement applies. *See* MSRB Rule G–3(a)(iii). To the extent a bank securities representative seeks to become a candidate for registration with an exchange, a training requirement may be required. *See, e.g.*, NYSE Rule 345.15(2).

[7] *Independent Bankers Association* v. *Heimann*, 613 F.2d 1164, 1168–69 (D.C. Cir. 1979), *cert. denied*, 449 U.S. 823; *see also National Petroleum Refiners Assoc.* v. *FTC*, 482 F.2d 672, 680–81 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 951 (1973).

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in covered transactions. Each employee seeking to qualify as a bank securities representative must be sponsored by his or her employing bank. A sponsoring bank must file proposed Form U–4B on behalf of its employees. The Form U–4B includes an application for a bank employee to take either the Series 6 or Series 7 Examination.

Under the section captioned "Optional Designation as a Bank Securities Representative," a bank also may choose to have legal, compliance, and audit personnel take a qualification examination. Even though those individuals are not engaged in retail sales or recommendations of securities, for purposes of this regulation, they will be deemed to be bank securities representatives if they pass a qualification examination and will be required to comply with all the other provisions of the regulation to maintain their registration.

Continuing Education

The proposal defines "continuing education" as the course of study specified in the section captioned "Continuing Education and Training Requirements." These requirements correspond to SSRO continuing education requirements applicable to registered representatives.

Covered Product

The proposal defines "covered product" as having the same meaning as "security" as defined at section 3(a)(10) of the Securities Exchange Act, 15 U.S.C. 78c(a)(10). The definition specifically excludes a government security as defined at section 3(a)(42) of the Securities Exchange Act, 15 U.S.C. 78c(a)(42), because the government securities markets already are subject to a comprehensive statutory and regulatory scheme that addresses the concerns underlying the proposed rule.[8] The definition specifically states that deposits, as defined in section 3(l) of the FDIA, 12 U.S.C. 1813(l), are not covered products.

Covered Transaction

The proposal defines "covered transaction" as a retail solicitation, recommendation, purchase, or sale of a covered product by a bank through its employee regardless of the means through which the solicitation, recommendation, purchase, or sale occurs.[9] For instance, a transaction that takes place via telephone, mail, or other electronic means such as the Internet is included in the definition. Sales personnel in a bank's dealer department who engage in covered transactions (i.e., a retail solicitation, recommendation, purchase, or sale of securities other than government or municipal securities) must comply with this regulation. The term "covered transaction" does not differentiate between those banks that engage in only occasional or a limited number of covered transactions for a retail customer and those banks that establish programs for the retail sale of covered products. Therefore, consistent with the current requirements applicable to the securities industry, all banks that engage in covered transactions, regardless of frequency or volume, would be considered to be in the business of effecting covered transactions and would be required to comply with the regulation.[10]

Consistent with the scope of the Interagency Statement, the term does not include a sale to a fiduciary account administered by a bank, such as statutory and written trust accounts, employee benefit plans, and other types of pension plans normally administered by a trust department. Self-directed IRAs, certain types of Keogh accounts, and other accounts where the customer retains investment discretion are, however, included in the term. Sales of municipal securities by dealer banks registered under section 15B of the Securities Exchange Act, 15 U.S.C. 78o0044, also are excluded because the bank and its sales personnel already are subject to registration and professional qualifications requirements under the Securities Exchange Act and the rules of the MSRB.

Consistent with Rule 3a4–1 promulgated under the Securities Exchange Act, 17 CFR 240.3a4–1, equity and debt offerings by banks of their own securities, such as mutual-to-stock conversions, also are excluded from the definition of "covered transaction" if the securities offerings are consistent with the conditions set forth in that Rule.[11] These offerings tend to be infrequent and generally are subject to special oversight by the banking agencies. Banks engaged solely in the direct retail sale of their own securities are therefore not required to become sponsoring banks. However, if a bank has filed Form SB and becomes a sponsoring bank, it must use its bank securities representatives to solicit, recommend or sell its own securities.

Disciplinary Action

The proposal defines "disciplinary action" for purposes of this regulation as an action resulting in: (1) an employee being "subject to disqualification;" (2) a civil money penalty or fine of $5,000 or more by the SEC or an SSRO; (3) a civil money penalty of $5,000 or more by a banking agency pursuant to 12 U.S.C. 1818 for either a violation of a securities law or regulation, or an unsafe or unsound practice related to a covered transaction; (4) an agreement with the SEC, an SSRO, or a banking agency in connection with a disciplinary proceeding; or (5) an order by the SEC, an SSRO, or a banking agency to enter the continuing education program.

Disciplinary actions must be reported on the forms referred to in the companion Notice of Forms that is being published with this proposal. Information on disciplinary actions will be available to the public. Bank securities representatives that are subject to a disciplinary action as defined under the regulation will be subject to additional continuing education requirements that begin as of the date of the disciplinary action. The "$5,000 or more" figure used in the definition is consistent with the threshold used in the definition of "disciplinary action" in the SSRO rules.

NASD

The proposal defines "NASD" as the National Association of Securities Dealers, Inc., which is an SSRO

[8] See Section 15C of the Securities Exchange Act, 15 U.S.C. 78o-5, and SEC and Treasury rules adopted thereunder. In addition, the banking agencies recently issued a notice of proposed rulemaking, titled Government Securities Sales Practices, that would establish standards concerning the recommendations to customers and the conduct of business by a bank that is a government securities broker or dealer. 61 FR 18470 (April 25, 1996).

[9] Under the Interagency Statement, bank employees located in the routine deposit taking area are generally prohibited from soliciting or recommending nondeposit investment products. Such employees may, however, direct or refer bank customers to bank securities representatives and may receive a fee from the bank for such referral.

[10] The scope of the regulation is intended to be the same as that for SEC-regulated broker-dealers. If the SEC liberalizes the registration or other professional qualification requirements for such broker-dealers, the banking agencies will interpret the regulation in a similar manner.

[11] The bank employee must not be subject to a statutory disqualification under the Securities Exchange Act of 1934, may not receive a commission or other remuneration for selling bank securities, and may not be an associated person of a broker or dealer. In addition, the bank employee must restrict his or her offer and sale activities to certain groups or entities. Further, the bank employee must perform primarily other substantial duties on behalf of the bank, not be an associated person of a broker or dealer within the last 12 months or participate in selling an offering of any issuers securities more than once every 12 months. Finally, a bank employee must restrict his or her activities to preparing and delivering written communications or other means which do not involve oral solicitations, responding to inquiries initiated by a potential purchaser, and performing ministerial and clerical work in effecting any transaction.

registered under section 15A of the Securities Exchange Act, 15 U.S.C. 78o, and NASD Regulation, Inc., the regulatory subsidiary of NASD. The NASD will accept filings and maintain in the CRD information filed with the banking agencies under this regulation.

Sponsoring Bank

The proposal defines "sponsoring bank" as a bank that engages or seeks to engage in the business of effecting covered transactions. A bank that enters into an agreement with a registered broker-dealer enabling registered representatives of the broker-dealer to engage in covered transactions with bank customers, regardless of location, is not a "sponsoring bank," even though the broker-dealer may use dual employees employed by both the bank and the broker-dealer.

Subject to Disqualification

The proposal defines the term "subject to disqualification" as having the same meaning as "statutory disqualification" in section 3(a)(39) of the Securities Exchange Act, 15 U.S.C. 78c(a)(39). Individuals who are subject to an order of removal, prohibition, or suspension by a Federal banking agency pursuant to section 8 (e) or (g) of the FDIA, 12 U.S.C. 1818 (e) or (g), or banks or individuals subject to an order or temporary order pursuant to section 8 (b) or (c) of the FDIA, 12 U.S.C. 1818 (b) or (c), that restricts their fiduciary or securities activities at a depository institution or are subject to a prohibition pursuant to section 19 of the FDIA, 12 U.S.C. 1829(a), are also subject to disqualification. The definition, therefore, makes a bank employee or sponsoring bank subject to disqualification if the employee or bank has been barred, suspended, or enjoined from the banking or securities industries; convicted of any felony in the past 10 years; convicted of a felony or misdemeanor involving the purchase or sale of a security, or other financial crime (such as theft, robbery, or misappropriation of funds); or restricted in his or her employment pursuant to Section 19(a) of the FDIA, 12 U.S.C. 1829(a).

Qualification Requirements

Disqualifications

The proposal sets forth the qualification requirements for both sponsoring banks and bank employees. A bank that is or becomes subject to disqualification shall not engage in a covered transaction unless the appropriate banking agency has granted the bank relief from being subject to disqualification and permits the bank to engage in covered transactions. This section also prohibits a bank employee who is, or becomes, subject to disqualification from engaging in covered transactions unless the employee's sponsoring bank has applied for and obtained the banking agency's approval for that employee to act as a bank securities representative.

Sponsoring Bank Notices

This section requires a bank seeking to engage in covered sales to file a notice. A bank is required to file a completed Form SB [12] with the appropriate Federal banking agency at the NASD containing the bank's name, address, bank identification number, and contact person. Upon receipt of a Form SB, the sponsoring bank will be assigned a unique CRD number for use on all of the filings required under the proposed regulation. Banks that choose to terminate their status as sponsoring banks must file the Form SBW with the appropriate banking agency at the NASD.

Sponsoring Bank Requirements

This section requires a bank sponsoring an employee to act as a bank securities representative to ensure that each employee engaged in a covered transaction is not subject to disqualification and has passed the appropriate qualification examination. A sponsoring bank also must make independent inquiry regarding the background of each sponsored employee. A sponsoring bank should, at a minimum, consult the employee's employers from the last three years and should investigate the good character, business repute, qualifications, and experience of any person the bank intends to sponsor. The sponsoring bank also must complete the designated portion of the Form U–4B and file it, along with a fingerprint card for the employee with the appropriate Federal banking agency at the NASD. The NASD in turn will submit the fingerprint record cards to the Federal Bureau of Investigation for review. A fingerprint card will be required each time an individual is hired by a bank to act as a bank securities representative and will be used to check whether the employee has a civil or criminal record that could subject the individual to disqualification.[13]

A bank may not sponsor an employee to become a bank securities representative if the individual is "subject to disqualification" unless the bank has applied for and received approval from the appropriate banking agency for the individual to engage in covered transactions. The banking agencies will consider, on a case-by-case basis, whether it is in the public interest to authorize either a sponsoring bank that, or a bank employee who, is, or becomes, subject to disqualification to engage in covered transactions. The banking agencies anticipate they will consider factors such as those detailed in SEC Rules of Practice, Rule 193, 17 CFR 201.193 (Applications by Barred Individuals for Consent to Associate), in their evaluation of the particular facts and circumstances. The banking agencies seek comment on whether additional factors should be considered for banks and persons who are, or become, "subject to disqualification." The banking agencies may adopt various processes for considering these applications.

With the exception of those bank employees sponsored under the optional designation as a Bank Securities Representative provision, a bank may not sponsor an employee to become a bank securities representative if the bank does not intend for that individual to engage in the solicitation, recommendation, purchase, or sale of covered products or to supervise covered transactions.

A sponsoring bank is required to file a Form U–5B when a bank securities representative ceases to be an employee of the bank for any reason or ceases to engage in covered sales on behalf of the bank. A bank must provide a copy of Form U–5B and subsequent amendments to the employee.

A sponsoring bank is required to designate one or more individuals, as necessary, to supervise the activities of its bank securities representatives. A supervisor designated by a sponsoring bank need not engage in covered sales but must comply with the qualification requirements for bank securities representatives. Supervisors must take and pass the appropriate qualification examination (either the Series 6 or Series 7 Examination) for the bank securities representatives they supervise.

The banking agencies request comment on whether supervisors should be required to take one of the securities industry supervisor's (principal's) examinations. Commenters

[12] Form SB, Form SBW, Form U–4B, and Form U–5B are published elsewhere in this separate part of the **Federal Register** contemporaneously with the proposed regulation.

[13] The securities industry is subject to fingerprinting requirements under section 17f of the Securities Exchange Act, 15 U.S.C. 78q(f)(2), and Rule 17f–2 promulgated thereunder, 15 CFR 240.17f–2.

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are requested to discuss whether the General Securities Principal's Examination (Series 24), which focuses on the management of an investment banking or securities business, including supervision, solicitation, conduct of business, and training of registered representatives, is relevant or whether one of the other supervisor's examinations (Series 26—Investment Company Products/Variable Contracts Limited Principal; Series 28—Introducing Broker/Dealer Financial and Operations Principal; or Series 8—General Securities Sales Supervisor Examination, for example) would be more appropriate for individuals supervising bank securities representatives whose activities and product offerings are likely to be more limited.

Bank Securities Representative Requirements

This section requires a bank employee seeking to qualify as a bank securities representative to complete designated portions of the Form U–4B and submit this form and a fingerprint card to his or her sponsoring bank. The employee then must pass the appropriate qualification examination and the sponsoring bank must receive approval from the appropriate Federal banking agency prior to the employee engaging in covered transactions. Fingerprint cards and completed Forms U–4B must be filed for employees transferring registration from another sponsoring bank or securities firm but the employee will not have to retake an examination. The Form U–4B requires disclosure of personal and employment information, including whether the employee has been the subject of any disciplinary action (as that term is defined in the proposed regulation) or certain types of customer complaints involving claims of greater than $5,000 or settlements of $10,000 or more. A bank securities representative must advise his or her sponsoring bank within 30 days of an event that renders any information filed on a Form U–4B or U–5B incomplete or inaccurate and must cooperate with the sponsoring bank in filing an amendment to the Form.

Any employee who fails an examination will be permitted to retake the test after a period of 30 days has elapsed from the date of the prior examination, except that any employee who fails to pass an examination three or more times in succession (and each additional time thereafter) must wait 180 days from the date of the last attempt before he or she may again retake the exam. A bank securities representative who has not engaged in covered transactions for a period of two years, or who has not supervised a bank sales representative for a period of two years, must pass the appropriate examination before engaging in covered transactions again. An employee engaged in legal, compliance, internal audit, or similar responsibilities related to covered transactions who has taken an examination pursuant to the optional designation provision and who does not perform any of those functions for a period of two years also must retake the examination before engaging in covered transactions.

Examination Exemptions

This section establishes two exemptions from the examination requirements. First, a bank employee who is qualified as a registered representative pursuant to the rules of an SSRO at the time he or she seeks to qualify as a bank securities representative will not have to retake the examination. As noted earlier, however, a bank securities representative seeking to transfer employment from a sponsoring bank to a broker-dealer will have to apply to the appropriate SSRO for a waiver from retaking any examinations required under applicable SSRO rules and policies.

Second, a sponsoring bank may apply in writing to its appropriate Federal banking agency on behalf of an employee for a waiver of the examination requirement. Applications will be approved only in exceptional cases where good cause is shown. In considering these requests, the banking agencies may accept other evidence of an employee's qualifications to act as a bank securities representative. Advanced age, physical infirmity, or experience in fields ancillary to the investment banking or securities business, would not individually of themselves constitute sufficient grounds to waive the examination requirement. The banking agencies intend to exercise their waiver authority in a manner consistent with the waiver policies of the SSROs.[14] Any bank employee who is eligible for the examination exemption under this paragraph still must satisfy all other qualification, reporting and continuing education requirements of the regulation. A bank securities representative who obtains an examination waiver from a banking agency under this section and who subsequently seeks to work in the securities industry may be required to take an examination or apply to the appropriate SSRO for a waiver of that examination requirement.

Approval of Bank Securities Representative Applications

This section prohibits a sponsoring bank from permitting an employee to act as a bank securities representative until the appropriate banking agency has notified the sponsoring bank that the bank employee's Form U–4B application has been approved. The appropriate banking agency will approve the registrations of bank employees whose applications do not disclose grounds for disqualification and who pass the appropriate qualification examination. Registration may be revoked if, for example, the fingerprint record identifies any action or item indicating that the individual is subject to disqualification.

Grace Period

This section establishes a one-year grace period following the adoption of the final rule for banks and bank employees to comply with the regulation. The grace period will permit banks to file the required notices and arrange for testing and registration of employees without unduly interrupting bank operations. Any bank that is not in compliance with the rule after the grace period expires must cease engaging in covered transactions until the rule's requirements are met. Similarly, any individual who engages in covered transactions who has not complied with all testing and registration requirements by the end of the grace period must cease all covered transaction activities until such requirements are met.

Filing Requirements, Amendments, and Record Retention

This section requires all filings made with the banking agencies under the regulation to be made at the NASD.[15] The NASD ultimately will maintain this filing information on its CRD, the computer-based registry for broker-dealers and securities personnel. Information on the CRD will be made available to the public on the same basis that the NASD makes information regarding broker-dealers and registered representatives available through its Public Disclosure Program.[16] The

[14] *See, e.g.*, NASD Membership and Registration Rule 1070 (Qualification Examinations and Waiver of Requirements), NASD Manual (CCH), p. 3291.

[15] Filings submitted by mail should be sent to the NASD address indicated on the Forms SB, SBW, U–4B and U–5B. When the NASD's CRD becomes available to sponsoring banks, banks will either be required to purchase personal computer software from the NASD to make and access filings directly or will be required to utilize a private service bureau or vendor to make electronic filings.

[16] This information includes disclosure of any investment-related consumer-initiated complaint or

banking agencies expect that members of the public will be able to inquire about the record of sponsoring banks and bank securities representatives using the NASD's toll free telephone number or other means that may become available for CRD inquiries.

The NASD charges cost-based fees for processing all filings, administering tests taken by bank employees, processing fingerprint cards, and for access to the CRD. While the exact fees the NASD will charge sponsoring banks have not yet been established, the banking agencies anticipate that these fees will be consistent with those levied by the NASD upon broker-dealers for comparable services.[17] The NASD may also charge sponsoring banks an initial software modification fee in order to provide banks access to the CRD.

This section also provides that all information submitted on any filing made under the regulation must be true, current, complete, and not misleading at the time and in light of the circumstances under which it is reported. A sponsoring bank must submit an amended filing within 30 days after it learns of any fact or circumstance that causes a filing to be inaccurate or incomplete.

This section further establishes record retention requirements for filings made under the regulation. A bank must retain copies of Forms U–4B and U–5B filed on behalf of any bank employee for at least three years after the employee ceases to act as a bank securities representative or terminates his or her employment with the sponsoring bank. A bank must retain copies of Forms SB and SBW and any applications for waiver of being subject to disqualification for at least three years after it files a Form SBW and terminates covered sales.

The banking agencies welcome comment regarding the timing and content of the proposed filing requirements, including the public availability of information regarding sponsoring banks and their bank securities representatives.

Optional Designation as a Bank Securities Representative

Consistent with SSRO rules, a bank may choose to sponsor an employee engaged in legal, compliance, internal audit, or similar responsibilities for covered transactions, or who provides administrative support functions for bank securities representatives, to take a qualification examination. Under these circumstances, the employee must meet the registration, testing, reporting, and continuing education requirements of a bank securities representative. As long as the individual fills one of the enumerated positions or engages in covered transactions for a sponsoring bank, the employee's registration will remain active.

Applications by Banks and Bank Employees Subject to Disqualification

A bank may file a written application with the appropriate banking agency seeking relief from a disqualification on behalf of itself or an employee. The appropriate banking agency may permit the bank or the employee to engage in covered transactions or act as a bank securities representative if the bank demonstrates to the banking agency why granting relief from a disqualification is consistent with safety and soundness, the public interest, and the protection of investors. In cases in which a disqualification results from an action brought under 12 U.S.C. 1818 or by operation of law under 12 U.S.C. 1829, applications for relief must be sought pursuant to those sections.

Relief granted under this section will not result in the permanent elimination of a disqualification but instead represents approval of a sponsoring bank, or employment as a bank securities representative with the sponsoring bank, under specified terms and conditions. For example, if a bank obtains relief for an employee under this section and the employee later becomes employed by another bank, that bank will have to seek relief from disqualification on behalf of the employee and agree to any special terms or conditions imposed by the appropriate Federal banking agency. Any material change in the terms or conditions under which relief is granted would require the sponsoring bank to seek appropriate relief on behalf of the employee.

Continuing Education and Training Requirements

This section imposes continuing education requirements upon bank securities representatives and sponsoring banks that are comparable to requirements for broker-dealers.

Bank Securities Representative Requirements

The first subsection requires a bank securities representative to complete the securities industry's computerized training program "Regulatory Element" covering securities regulation issues following the individual's second, fifth, and tenth anniversaries of passing the appropriate qualification examination. If an SSRO takes a disciplinary action against an individual based upon activities prior to that person becoming a bank securities representative, a banking agency takes a disciplinary action against a bank securities representative, or an individual is otherwise the subject of a disciplinary action, then the bank securities representative must take the continuing education training program within 120 days of the occurrence of a disciplinary action and following the second, fifth, and tenth anniversaries of the occurrence of a disciplinary action.[18] The proposed regulation requires a bank securities representative who does not comply with the continuing education requirements to cease activities until the representative meets the requirements.

Sponsoring Bank Requirements

The second subsection incorporates the requirements of the SSROs' "Firm Element" and requires sponsoring banks to develop in-house education programs appropriate to the size, structure, scope of products offered, and the bank's policies and procedures for covered transactions. These programs should address, at a minimum, the general investment features of the products and services being offered as well as associated risk factors, suitability and sales practice considerations, and applicable regulatory requirements (including the Interagency Statement). While a bank may choose to use commercial training material and outside vendors to assist in meeting this education requirement, the bank must ensure that the material or program meets the content standards of the proposed rule.

Confidentiality of Qualification Examinations

This section requires banks and bank employees to maintain the confidentiality of the professional qualification examinations and not to

proceeding that: (1) alleges compensatory damages of $5,000 or more, fraud, or wrongful taking of property; or (2) was settled or decided against a sponsoring bank or bank securities representative for $10,000 or more, or found fraud or the wrongful taking of property. *See* Form U–4 (Uniform Application for Securities Industry Registration or Transfer) Question 22I.

[17] *See generally* Schedule A (Section 2) to the NASD By-Laws, NASD Manual (CCH), pp. 1101–03. The NASD may also levy an initial fee to defray the cost of modifying the CRD database for banks. An additional nominal fee may also be collected by the NASD on behalf of the MSRB to defray the MSRB's cost of developing questions for the Series 7 Examination.

[18] This is consistent with comparable SSRO rules. *See, e.g.*, NASD Membership and Registration Rule 1120(a)(3), NASD Manual (CCH) pp. 3381–82.

act in a manner that could compromise the integrity of an examination.

Paperwork Reduction Act

The banking agencies invite comment on:

(1) Whether the proposed collection of information contained in this notice of proposed rulemaking is necessary for the proper performance of each agency's functions, including whether the information has practical utility;

(2) the accuracy of each agency's estimate of the burden of the proposed information collection;

(3) ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

Respondents/recordkeepers are not required to respond to this collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number.

OCC: The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the OMB for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collections of information should be sent to the Office of Management and Budget, Paperwork Reduction Project (1557–0142), Washington, DC 20503, with copies to the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

The collection of information requirements in this proposed rule are found in § 12.12 (c)(1)(iii), (c)(3), and (e)(2), § 12.13 (c) and (d), § 12.15, and § 12.16 (a)(4) and (b)(3).[19] This information is required to identify national banks as sponsoring banks, to qualify bank employees to take the appropriate qualification examination, and to terminate the status as a sponsoring bank or licensed bank securities representative. The information also is required to evidence compliance with the registration and information collection requirements set forth in the proposed regulation. The OCC will use the information to monitor the securities activities in national banks and to assess the qualifications of a national bank employee that wishes to become a bank securities representative. The likely respondents/recordkeepers are national banks.

Estimated average annual burden hours per respondent/recordkeeper: 18 hours.

Estimated number of respondents: 120 national banks.

Estimated total annual reporting and recordkeeping burden: 2,184 hours.

Start-up costs to respondents: None.

Certain records pertaining to the sponsoring bank's filings are to be maintained for the period of time respondent/recordkeeper serves as a sponsoring bank, plus three years thereafter. Records pertaining to bank employees are to be retained for not less than three years after the employee terminates employment with the sponsoring bank or ceases to act as a bank securities representative.

Board: In accordance with section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 35; *see also* 5 CFR 1320 Appendix A Item 1), the Board reviewed the proposed rule under the authority delegated to the Board by the Office of Management and Budget. Send comments on the collections of information to: the Office of Management and Budget, Paperwork Reduction Project (7100–0282), Washington DC 20503, with copies of such comments to be sent to Mary M. McLaughlin, Federal Reserve Board Clearance Officer, Division of Research and Statistics, Mail Stop 97, Board of Governors of the Federal Reserve System, Washington DC 20551.

The requirements in this proposed collection of information will be included in 12 CFR 208. This information collection is needed to register state member banks (Form SB), to qualify certain bank employees to take the appropriate qualification examination (Form U–4B), and to terminate the bank's status as a registered bank (Form SBW) or the employee's status as a licensed bank securities representative (Form U–5B). The Federal Reserve will use the information to monitor the securities sales activities of state member banks and to assess the qualifications of state member bank employees to become registered bank securities representatives. This information collection will be mandatory. The likely respondents are state member banks. Small businesses will not be affected.

The Federal Reserve may not conduct or sponsor, and an organization (or a person) is not required to respond to, any collection of information unless it displays a currently valid OMB control number. The OMB control number for this information collection is 7100–0282.

The reporting burden imposed by the proposed rule is estimated to be 18.2 hours per response. It is estimated that there will be 100 respondents/recordkeepers and a total of 1,820 hours of annual paperwork burden. This burden represents the time needed to complete the four proposed reporting forms: U–4B, U–5B, SB, and SBW. The estimated burden is averaged over the estimated number of filings during the first three years that the proposed rule will be in effect, with most of the filings presumed to occur in the first year, as qualification and registration programs are set up, and with the burden for the second and third years representing estimated turnover in registered bank securities representatives. The estimated burden is further averaged over the size distribution of the likely respondents. The burden associated with other requirements of the proposed rule is discussed in a separate notice published in this issue.

FDIC: The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collections of information should be sent to the Office of Management and Budget, Paperwork Reduction Project (1557–0142), Washington DC 20503, with copies of such comments to be sent to Steven F. Hanft, Office of the Executive Secretary, Room F–454, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, DC 20429.

The collection of information requirements in this proposed rule are found in 12 CFR 342.3(b), 342.3(c) (1) and (3), (e)(2), 342.4(c) and (d), 342.6 and 342.7. The collections consist of notice filings for the Sponsoring Bank as wells as registration applications on behalf of the Bank Securities Representative, 342.3 (b) and (c); examination exemption requests, 342.3(e); required amendments to Sponsoring Bank notices and Bank Securities Representative registrations, 342.4(c); records which the Sponsoring Bank must retain with respect to notice filings, Bank Securities Representative registrations, applications for relief from being "subject to disqualification," and any amendments or other filings submitted, 342.4(d); applications by Sponsoring Banks for relief for itself or a Bank Securities Representative, from being "subject to disqualification," 342.6; and continuing education training programs by Sponsoring Banks and attendance/compliance by Bank Securities Representatives with respect

[19] The Paperwork Reduction Act analysis of the required forms appears in the companion Notice of Forms published by the banking agencies elsewhere in this separate part of the **Federal Register**.

to such continuing education requirements, 342.7.

The likely respondents/recordkeepers are insured nonmember banks.

Estimated average annual burden hours per respondent/recordkeeper: 18 hours.

Estimated number of respondents and/or recordkeepers: 70 state nonmember banks.

Estimated total annual reporting and recordkeeping burden: 1260 hours.

Start-up costs to respondents: None.

Records are to be maintained for the period of time respondent/recordkeeper serves as a sponsoring bank.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 605(b)), the initial regulatory flexibility analysis otherwise required under section 603 of the RFA (5 U.S.C. 603) is not required if the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and the agency publishes such certification and a succinct statement explaining the reasons for such certification in the **Federal Register** along with its general notice of proposed rulemaking.

The banking agencies hereby certify that the proposal will not have a significant economic impact on a substantial number of small entities. The proposal should result in a net benefit to all banks regardless of size that elect to engage in securities activities through licensed bank securities representatives, but the economic impact on small banks will not be significant. Most banks with total assets of under $100 million will not engage in securities activities in a manner covered by this regulation. Rather, a small bank typically will use either a registered broker/dealer who has rented space on the bank's premises or an "introducing broker" who will refer a customer to a dealer that can effect the desired transaction. The few banks with total assets under $100 million that choose to have employees licensed under the proposal will incur costs associated with the securities activities. However, a bank will incur these costs only if it elects to engage in securities activities through bank securities representatives.

Executive Order 12866

The OCC has determined that this proposal is not a significant regulatory action as defined in Executive Order 12866.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4, 109 Stat. 48 (1995) (Unfunded Mandates Act), requires that covered agencies prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires covered agencies to identify and consider a reasonable number of regulatory alternatives before promulgating a rule.

The OCC has determined that the proposal will not result in expenditures by State, local, and tribal governments, or by the private sector, of more than $100 million in any one year. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

List of Subjects

12 CFR Part 12

National banks, Reporting and recordkeeping requirements, Securities.

12 CFR Part 208

Accounting, Agriculture, Banks, banking, Confidential business information, Crime, Currency, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Securities.

12 CFR Part 211

Exports, Federal Reserve System, Foreign banking, Holding companies, Investments, Reporting and recordkeeping requirements.

12 CFR Part 342

Banks, banking, Reporting and recordkeeping requirements, Securities.

Office of the Comptroller of the Currency

12 CFR Chapter I

Authority and Issuance

For the reasons set forth in the joint preamble, part 12 of chapter I of title 12 of the Code of Federal Regulations is proposed to be amended to read as follows:

PART 12—RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS; QUALIFICATION REQUIREMENTS FOR TRANSACTIONS IN CERTAIN SECURITIES

1. The part heading is revised to read as set forth above.

1a. The authority citation for part 12 is revised to read as follows:

Authority: 12 U.S.C. 24, 92a, 93a, 1818, and 1831p–1(a)(2).

2. Sections 12.1 through 12.7 are designed as subpart A and a new subpart heading is added to read as follows:

Subpart A—Recordkeeping and Confirmation Requirements for Securities Transactions

3. In the first line of § 12.1(a), the word "part" is changed to "subpart."

4. In the introductory text to § 12.2, the word "part" is changed to "subpart."

5. In the introductory text to § 12.7, the word "part" is changed to "subpart."

6. A new subpart B, consisting of §§ 12.10 through 12.17, is added to read as follows:

Subpart B—Qualification Requirements for Transactions in Certain Securities

Sec.

12.10 Scope.
12.11 Definitions.
12.12 Qualification requirements.
12.13 Filing requirements, amendments, and record retention.
12.14 Optional designation as a bank securities representative.
12.15 Applications by banks and bank employees "subject to disqualification."
12.16 Continuing education and training requirements.
12.17 Confidentiality of qualification examinations.

Subpart B—Qualification Requirements for Transactions in Certain Securities

§ 12.10 Scope.

This subpart is issued by the Comptroller of the Currency pursuant to 12 U.S.C. 24, 93a, 1818 and 1831p–1(a)(2). It contains rules prescribing operational and managerial standards for national banks, and prescribes training and qualification requirements for bank employees making retail solicitations, recommendations, purchases, or sales of certain securities on behalf of a national bank. It applies to all national banks that engage through bank employees in bank-direct retail

solicitations, recommendations, purchases, or sales of certain securities.

§ 12.11 Definitions.

For purposes of this subpart:

(a) *Appropriate qualification examination* means either the Investment Company/Variable Contracts Products Limited Representative Qualification Examination (Series 6 Examination) or the General Securities Registered Representative Examination (Series 7 Examination), both of which are administered by the NASD. The Series 6 Examination is the appropriate qualification examination for a bank employee engaged solely in covered transactions of open-end investment company shares, original distribution closed-end investment company shares, unit investment trusts, or variable contracts, including variable life insurance contracts and variable annuity contracts. The Series 7 Examination is the appropriate qualification examination for a bank employee soliciting, recommending, purchasing, or selling any other covered product.

(b) *Bank* means any national banking association, any District bank, or any Federal branch or agency of a foreign bank. The term "bank" shall not include a branch of a bank located outside of any State, as defined in section 3(a)(3) of the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1813(a)(3).

(c) *Bank securities representative* means any bank officer, director, or employee (collectively referred to as "employee") who engages in a covered transaction or is designated as the supervisor of a bank securities representative who engages in a covered transaction.

(d) *Continuing education requirements* means the course of study specified in § 12.16.

(e) *Covered product* has the same meaning as "security" as defined at section 3(a)(10) of the Securities Exchange Act, 15 U.S.C. 78c(a)(10). The term shall not include any product that is a deposit as defined in section 3(l) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(l), or any "government security" as defined at section 3(a)(42) of the Securities Exchange Act, 15 U.S.C. 78c(a)(42).

(f) *Covered transaction means* a retail solicitation, recommendation, purchase, or sale of a covered product by a bank through its employee regardless of the means through which the solicitation, recommendation, purchase, or sale occurs. The term shall not include a covered transaction involving a fiduciary account administered by a bank, a sale of a municipal security by a municipal securities dealer bank registered under section 15B of the Securities Exchange Act, 15 U.S.C. 78o–4, or a transaction by a bank in its own securities consistent with the conditions set forth in Securities Exchange Act Rule 3a4–1(a)(4), 17 CFR 240.3a4–1(a)(4).

(g) *Disciplinary action* means an action resulting in:

(1) An individual being "subject to disqualification" as defined in this subpart;

(2) A civil money penalty or fine of $5,000 or more by the Securities and Exchange Commission (SEC) or a securities self regulatory organization (SSRO) as defined in section 3(a)(26) of the Securities Exchange Act, 15 U.S.C. 78c(a)(26);

(3) A civil money penalty of $5,000 or more by a Federal banking agency pursuant to section 8 of the Federal Deposit Insurance Act, 12 U.S.C. 1818, for a securities law violation, or an unsafe or unsound practice related to a covered transaction;

(4) An agreement with the SEC, an SSRO, or Federal banking agency, in connection with a disciplinary proceeding; or

(5) An order by the SEC, an SSRO, or a Federal banking agency to enter the continuing education program.

(h) *NASD* means the National Association of Securities Dealers, Inc., which is an SSRO registered under section 15A of the Securities Exchange Act, 15 U.S.C. 78o, and NASD Regulation, Inc., the regulatory subsidiary of the NASD.

(i) *Sponsoring bank* means a bank that engages in or seeks to engage in the business of effecting covered transactions.

(j) *Subject to disqualification* means:

(1) Subject to a "statutory disqualification" as that term is used in section 3(a)(39) of the Securities Exchange Act, 15 U.S.C. 78c(a)(39);

(2) Subject to an order of removal, prohibition, or suspension by a Federal banking agency pursuant to 12 U.S.C. 1818(e) or (g);

(3) Subject to an order or temporary order pursuant to 12 U.S.C. 1818(b) or (c) that restricts the fiduciary or securities activities of a bank or individual; or

(4) Subject to a prohibition pursuant to 12 U.S.C. 1829(a).

§ 12.12 Qualification requirements.

(a) *Disqualifications.* (1) A bank shall not engage in a covered transaction if it is, or becomes, subject to disqualification, unless it has applied for and received approval to engage in covered transactions from the OCC pursuant to § 12.15.

(2) No bank securities representative shall engage in a covered transaction if he or she is, or becomes, subject to disqualification, unless the bank that employs the bank securities representative has applied for and received approval from the OCC pursuant to § 12.15 for that person to qualify as a bank securities representative.

(b) *Sponsoring bank notices.* (1) A bank seeking to engage in covered transactions shall file a completed Uniform Notice for Sponsoring Bank (Form SB).

(2) A bank seeking to terminate its status as a Sponsoring Bank shall file a Uniform Request for Sponsoring Bank Withdrawal (Form SBW).

(c) *Sponsoring bank requirements.* (1) A bank seeking to sponsor an employee as a bank securities representatives shall:

(i) Make independent inquiry into the individual's employment history, including contacting the employee's previous employers for the past three years and investigating the character, business reputation, qualifications, and experience of the individual;

(ii) Review, complete as appropriate, and file the Uniform Application for Bank Securities Representative Registration or Transfer (Form U–4B) and amendments thereto on behalf of the employee; and

(iii) File a fingerprint record for the employee.

(2) A bank may not sponsor an employee to qualify as a bank securities representative or permit a previously qualified bank securities representative to engage in covered transactions if the individual is, or becomes, subject to disqualification unless the sponsoring bank has applied and received approval for the individual to engage in covered transactions from the OCC under § 12.15. A bank shall not sponsor an employee to qualify as a bank securities representative if it does not intend for the employee to engage in or supervise covered transactions or participate in one of the activities enumerated in § 12.14.

(3) A sponsoring bank shall file a Uniform Termination Notice for Bank Securities Representative Registration (Form U–5B) when the employment of a bank securities representative terminates or when a bank securities representative ceases to engage in covered transactions on behalf of the bank. The Form U–5B shall be filed within 30 days of such termination or cessation and a copy of the Form U–5B, and of any amendments to the Form U–5B, shall be provided concurrently to

the former bank securities representative.

(4) A sponsoring bank shall designate one or more bank securities representatives, as necessary, to supervise the sponsoring bank's covered transactions. A supervisor designated under this subpart shall pass the appropriate qualification examination for any bank securities representative(s) under his or her supervision.

(d) *Bank securities representative requirements.* (1) A bank employee seeking to qualify as a bank securities representative shall complete the Form U–4B, provide a fingerprint record, and pass the appropriate qualification examination.

(2) A bank employee who is eligible for an examination exemption under paragraph (e) of this section must complete a Form U–4B and receive approval under paragraph (f) of this section prior to being qualified as a bank securities representative.

(3) A bank employee who fails to pass the appropriate qualification examination may take the examination again after a period of 30 calendar days has elapsed from the date of the prior examination. However, any bank employee who fails to pass an examination three or more times in succession may not take the examination until 180 days has elapsed from the date of his or her last attempt to pass the examination.

(4) A bank employee shall advise the sponsoring bank within 30 days of any event or occurrence that causes any information on the Form U–4B or Form U–5B to become inaccurate or incomplete and shall cooperate with the sponsoring bank in filing an amendment to the relevant form.

(5) A bank securities representative who does not engage in or supervise covered transactions for a period of two years must retake and pass the appropriate qualification examination prior to acting as a bank securities representative. A bank securities representative is deemed to be engaging in covered transactions if the employee acts in one of the capacities listed in § 12.14.

(e) *Examination exemptions.* (1) A bank employee is not required to take the appropriate qualification examination if he or she already has qualified by taking that examination pursuant to the rules of an SSRO and remains qualified as a registered representative.

(2) Upon written request from a sponsoring bank, the OCC may, in exceptional cases and where good cause is shown, waive the appropriate qualification examination requirement for a bank employee and may accept other evidence of the employee's qualifications to act as a bank securities representative. Advanced age, physical infirmity, or experience in fields ancillary to the investment banking or securities business generally are insufficient for the OCC to waive the examination requirement.

(f) *Approval of bank securities representative qualifications.* No sponsoring bank may permit any bank employee to, and no bank employee shall, act as a bank securities representative until the OCC has approved the bank employee's application for registration or transfer on Form U–4B.

(g) *Grace period.* These qualification requirements apply to all banks and bank employees with respect to covered transactions transacted after [Date One Year After Effective Date of the Final Rule]. Any bank or bank employee that is not in compliance with this subpart after the grace period shall cease engaging in covered transactions until the requirements are met.

§ 12.13 Filing requirements, amendments, and record retention.

(a) All filings required under this subpart shall be filed with the OCC at the NASD.

(b) All information submitted on any filing required under this subpart must be true, current, complete, and not misleading at the time and in light of the circumstances under which it is reported.

(c) A bank shall file an amendment no later than 30 days after learning of facts or circumstances causing a filing to be inaccurate or incomplete.

(d)(1) A bank shall retain copies of all filings made on Forms U–4B and U–5B, including amendments, for not less than three years after the employee terminates employment with the sponsoring bank or ceases to act as a bank securities representative.

(2) A bank shall retain copies of all filings made on Forms SB and SBW and any applications under § 12.15, including amendments, for not less than three years after the bank terminates its status as a sponsoring bank.

§ 12.14 Optional designation as a bank securities representative.

A bank may sponsor an employee who is engaged in legal, compliance, internal audit, or similar responsibilities related to covered transactions or who provides administrative support functions for a bank securities representative, and who is not subject to disqualification (unless a waiver is granted pursuant to § 12.15), to take either the Series 6 or Series 7 Examination. Such sponsored employee must meet all filing and continuing education requirements in order to be deemed to be a bank securities representative for purposes of this subpart.

§ 12.15 Applications by banks and bank employees "subject to disqualification."

A sponsoring bank may seek, by written application to the OCC on behalf of itself or an employee, relief from being subject to disqualification and permission to engage in covered transactions or to qualify as a bank securities representative, as appropriate. The OCC may, consistent with safety and soundness, the public interest, and the protection of investors, grant such relief consistent with its enforcement powers and on such terms and conditions as the OCC considers necessary or appropriate.

§ 12.16 Continuing education and training requirements.

A bank securities representative and a sponsoring bank shall comply with the following continuing education requirements:

(a) *Bank securities representative requirements.* (1) Each bank securities representative shall complete, within 120 days of the second, fifth, and tenth anniversaries of passing the appropriate qualification examination, the Continuing Education Program administered by the NASD.

(2) The required training intervals for bank securities representatives who were registered with an SSRO prior to being employed by the sponsoring bank are measured from the date of SSRO registration. The bank securities representative requirements of the continuing education requirement will be met as of the tenth anniversary of a bank securities representative's registration with a banking agency and/or SSRO, provided the bank securities representative is not subject to paragraph (a)(4) of this section.

(3) If a bank securities representative has been subject to a disciplinary action within the ten years prior to the effective date of this subpart, or at any time since that effective date, the bank securities representative must complete the Continuing Education Program administered by the NASD within 120 days of the disciplinary action and no later than the second, fifth, and tenth anniversaries of the disciplinary action.

(4) Unless otherwise determined by the OCC, any bank securities representative who does not complete the requirements within the prescribed time frames may not perform any bank

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securities representative duties. The OCC may, upon application and a showing of good cause, allow additional time for a bank securities representative to satisfy the Continuing Education program requirements.

(b) *Sponsoring bank requirements.* (1) A sponsoring bank shall not permit any employee to act as a bank securities representative unless the employee has complied with the requirements set forth in paragraphs (a)(1) through (a)(4) of this section.

(2) A sponsoring bank shall maintain a continuing education program for its bank securities representatives. A sponsoring bank, at least annually, shall evaluate and prioritize its training needs and develop or update, as appropriate, a written training plan. The plan must take into consideration the bank's size, organizational structure, and scope of business activities. Programs used to implement a sponsoring bank's training plan must be appropriate for the business of that bank and, at a minimum, must cover the following matters concerning securities products, services, and strategies offered by the bank:

(i) General investment features and associated risk factors;

(ii) Suitability and sales practice considerations;

(iii) Applicable regulatory requirements; and

(iv) Bank policies and procedures for covered transactions.

(3) A sponsoring bank shall administer its continuing education programs in accordance with its annual evaluation and written plan and must maintain records documenting the content of the programs and completion of the programs by its bank securities representatives.

§ 12.17 Confidentiality of qualification examinations.

Every bank and bank employee shall maintain the confidentiality of qualification examinations and shall not remove from an examination center, reproduce, disclose, receive from or pass to any person, or use for study or any other purposes, any portion of an examination, whether of a present or past series, that would compromise the integrity of the examinations, or use in any manner and at any time the questions or answers to the examination.

Dated: December 10, 1996.

Eugene A. Ludwig,

Comptroller of the Currency.

Federal Reserve System

12 CFR Part 208

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR Parts 208 and 211 as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1. The authority citation for part 208 is revised to read as follows:

Authority: 12 U.S.C. 36, 248, 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1816, 1818, 1823(j), 1828(o), 1831p–1, 1831p–1(a)(2), 1831r–1, 2901–2907, 3105, 3310, 3331–3351, and 3906–3909; 15 U.S.C. 78b, 78l(b), 78l(g), 78l(l), 78o–4(c)(5), 78q, 78q–1, and 78w; 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128.

2. A new § 208.25 is added at the end of Subpart A to read as follows:

§ 208.25 Qualification requirements for transactions in certain securities.

(a) *Scope.* This section contains rules prescribing operational and managerial standards for state member banks, prescribes training and qualification requirements for bank employees making retail solicitations, recommendations, purchases, or sales of certain securities on behalf of a state member bank. It applies to all state member banks that engage through bank employees in bank-direct retail solicitations, recommendations, purchases, or sales of certain securities.

(b) *Definitions.* For purposes of this section:

(1) *Appropriate qualification examination* means either the Investment Company/Variable Contracts Products Limited Representative Qualification Examination (Series 6 Examination) or the General Securities Registered Representative Examination (Series 7 Examination), both of which are administered by the National Association of Securities Dealers, Inc. (NASD). The Series 6 Examination is the appropriate qualification examination for a bank employee engaged solely in covered transactions of open-end investment company shares, original distribution closed-end investment company shares, unit investment trusts, or variable contracts, including variable life insurance contracts and variable annuity contracts. The Series 7 Examination is the appropriate qualification examination for a bank employee soliciting, recommending, purchasing, or selling any other covered product.

(2) *Bank* means any state member bank. The term *bank* shall not include a branch of a bank located outside of any State, as defined in section 3(a)(3) of the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1813(a)(3).

(3) *Bank securities representative* means any bank officer, director, or employee (collectively referred to as employee) who engages in a covered transactions or is designated as the supervisor of a bank securities representative who engages in a covered transaction.

(4) *Continuing education requirements* means the course of study specified in paragraph (g) of this section.

(5) *Covered product* has the same meaning as "security" as defined at section 3(a)(10) of the Securities Exchange Act, 15 U.S.C. 78c(a)(10). The term shall not include any product that is a deposit as defined in section 3(l) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(l), or any "government security" as defined at section 3(a)(42) of the Securities Exchange Act, 15 U.S.C. 78c(a)(42).

(6) *Covered transaction* means a retail solicitation, recommendation, purchase, or sale of a covered product by a bank through its employee regardless of the means through which the solicitation, recommendation, purchase, or sale occurs. The term shall not include a such a transaction in a covered product to a fiduciary account administered by a bank, a sale of a municipal security by a municipal securities dealer bank registered under section 15B of the Securities Exchange Act, 15 U.S.C. 78o–4, or a transaction by a bank in its own securities consistent with the conditions set forth in Securities Exchange Act Rule 3a4–1(a)(4), 17 CFR 240.3a4–1(a)(4).

(7) *Disciplinary action* means an action resulting in:

(i) An individual being *subject to disqualification* as defined in paragraph (b)(10) of this section;

(ii) A civil money penalty or fine of $5,000 or more by the Securities and Exchange Commission (SEC) or a securities self-regulatory organization (SSRO) as defined in section 3(a)(26) of the Securities Exchange Act, 15 U.S.C. 78c(a)(26);

(iii) A civil money penalty of $5,000 or more by a Federal banking agency pursuant to section 8 of the Federal Deposit Insurance Act, 12 U.S.C. 1818, for a securities law violation, or an unsafe or unsound practice related to a covered transaction;

(iv) An agreement with the SEC, an SSRO, Federal banking agency, in connection with a disciplinary proceeding; or

(v) An order by the SEC, an SSRO, or a Federal banking agency to enter the continuing education program.

(8) *NASD* means the National Association of Securities Dealers, Inc., which is an SSRO registered under section 15A of the Securities Exchange Act, 15 U.S.C. 78o, and NASD Regulation, Inc., the regulatory subsidiary of the NASD.

(9) *Sponsoring bank* means a bank that engages in or seeks to engage in the business of effecting covered transactions.

(10) *Subject to disqualification* means subject to:

(i) A "statutory disqualification" as that term is used in section 3(a)(39) of the Securities Exchange Act, 15 U.S.C. 78c(a)(39);

(ii) An order of removal, prohibition, or suspension by a Federal banking agency pursuant to 12 U.S.C. 1818 (e) or (g);

(iii) An order or temporary order pursuant to 12 U.S.C. 1818 (b) or (c) that restricts the fiduciary or securities activities of a bank or individual; or

(iv) A prohibition pursuant to 12 U.S.C. 1829(a).

(c) *Qualification requirements*—(1) *Disqualifications.* (i) A bank shall not engage in a covered transaction if it is, or becomes, subject to disqualification, unless it has applied for and received approval to engage in covered transactions from the Board pursuant to paragraph (h) of this section.

(ii) No bank securities representative shall engage in a covered transaction if he or she is, or becomes, subject to disqualification, unless the bank that employs the bank securities representative has applied for and received approval from the Board pursuant to paragraph h of this section for that person to qualify as a bank securities representative.

(2) *Sponsoring bank notices.* (i) A bank seeking to engage in covered transactions shall file a completed Uniform Notice for Sponsoring Bank (Form SB).

(ii) A bank seeking to terminate its status as a Sponsoring Bank shall file a Uniform Request for Sponsoring Bank Withdrawal (Form SBW).

(3) *Sponsoring bank requirements.* (i) A bank seeking to sponsor an employee as a bank securities representative shall:

(A) Make independent inquiry into the individual's employment history, including contacting the employee's previous employers for the past three years and investigating the character, business reputation, qualifications and experience of the individual;

(B) Review, complete as appropriate, and file the Uniform Application for Bank Securities Representative Registration or Transfer (Form U–4B) and amendments thereto on behalf of the employee; and

(C) File a fingerprint record for the employee.

(ii) A bank may not sponsor an employee to qualify as a bank securities representative or permit a previously qualified bank securities representative to engage in covered transactions if the individual is, or becomes, subject to disqualification unless the sponsoring bank has applied and received approval for the individual to engage in covered transactions from the Board under paragraph (h) of this section. A bank shall not sponsor an employee to qualify as a bank securities representative if it does not intend for the employee to engage in or supervise covered transactions or participate in one of the activities enumerated in paragraph (e) of this section.

(iii) A sponsoring bank shall file a Uniform Termination Notice for Bank Securities Representative Registration (Form U–5B) when the employment of a bank securities representative terminates or when a bank securities representative ceases to engage in covered transactions on behalf of the bank. The Form U–5B shall be filed within 30 days of such termination or cessation and a copy of the Form U–5B, and of any amendments to the Form U–5B, shall be provided to the former bank securities representative.

(iv) A sponsoring bank shall designate one or more bank securities representatives to supervise the sponsoring bank's covered transactions. A supervisor designated under this section shall pass the appropriate qualification examination for any bank securities representative(s) under his or her supervision.

(4) *Bank securities representative requirements.* (i) A bank employee seeking to qualify as a bank securities representative shall complete the designated sections of the Form U–4B, provide a fingerprint record, and pass the appropriate qualification examination.

(ii) A bank employee who is eligible for an examination exemption under paragraph (c)(5)(i) of this section must complete a Form U–4B and receive approval under paragraph (c)(6) of this section prior to being qualified as a bank securities representative.

(iii) A bank employee who fails to pass the appropriate qualification examination may take the examination again after a period of 30 calendar days has elapsed from the date of the prior examination. However, any bank employee who fails to pass an examination three or more times in succession may not take the examination until 180 days has elapsed from the date of his or her last attempt to pass the examination.

(iv) A bank employee shall advise the sponsoring bank within 30 days of any event or occurrence that causes any information on the Form U–4B or Form U–5B to become inaccurate or incomplete and shall cooperate with the sponsoring bank in filing an amendment to the relevant form.

(v) A bank securities representative who does not engage in or supervise covered transactions for a period of two years must retake and pass the appropriate qualification examination prior to acting as a bank securities representative. A bank securities representative is deemed to be engaging in covered transactions if the employee acts in one of the capacities listed in paragraph (e) of this section.

(5) *Examination exemptions.* (i) A bank employee is not required to take the appropriate qualification examination if he or she already has qualified by taking that examination pursuant to the rules of an SSRO and remains qualified as a registered representative.

(ii) Upon written request from a sponsoring bank, the Board may, in exceptional cases and where good cause is shown, waive the appropriate qualification examination requirement for a bank employee and may accept other evidence of the employee's qualifications to act as a bank securities representative. Advanced age, physical infirmity, or experience in fields ancillary to the investment banking or securities business generally are insufficient for the Board to waive the examination requirement.

(6) *Approval of bank securities representative qualifications.* No sponsoring bank may permit any bank employee to, and no bank employee shall, act as a bank securities representative until the Board has approved the bank employee's application for registration or transfer on Form U–4B.

(7) *Grace period.* These qualification requirements apply to all banks and bank employees with respect to covered transactions transacted after Date One Year After Effective Date of the Final Rule. Any bank or bank employee that is not in compliance with this section after the grace period shall cease engaging in covered transactions until the requirements are met.

(d) *Filing requirements, amendments, and record retention.* (1) All filings required under this section shall be filed with the Board at the NASD.

(2) All information submitted under this section must be true, current, complete, and not misleading at the time and in light of the circumstances under which it is reported.

(3) A bank shall file an amendment no later than 30 days after learning of facts or circumstances causing a filing to be inaccurate or incomplete.

(4) A bank shall retain copies of all filings:

(i) Made on Forms U–4B and U–5B, including amendments, for not less than three years after the employee terminates employment with the sponsoring bank or ceases to act as a bank securities representative; and

(ii) Made on Forms SB and SBW and any applications under paragraph (f) of this section including amendments for not less than three years after the bank terminates its status as a sponsoring bank.

(e) *Optional designation as a bank securities representative.* A bank may sponsor an employee who is engaged in legal, compliance, internal audit, or similar responsibilities related to covered transactions or who provides administrative support functions for a bank securities representative, and who is not subject to disqualification (unless a waiver is granted pursuant to paragraph (f) of this section), to take the appropriate qualification examination. Such sponsored employee must meet all filing and continuing education requirements of this section in order to be deemed to be a bank securities representative for purposes of this section.

(f) *Applications by banks and bank employees "subject to disqualification."* A sponsoring bank may seek, by written application to the Board on behalf of itself or an employee, relief from being subject to disqualification and permission to engage in covered transactions or to qualify as a bank securities representative, as appropriate. The Board may, consistent with safety and soundness, the public interest, and the protection of investors, grant such relief consistent with its enforcement powers and on such terms and conditions as the Board considers necessary or appropriate.

(g) *Continuing education and training requirements.* A bank securities representative and a sponsoring bank shall comply with the following continuing education requirements:

(1) *Bank securities representative requirements.* (i) Each bank securities representative shall complete, within 120 days of the second, fifth, and tenth anniversaries of passing the appropriate qualification examination, the Continuing Education Program administered by the NASD.

(ii) The required training intervals for bank securities representatives who were registered with an SSRO prior to being employed by the sponsoring bank are measured from the date of SSRO registration. The bank securities representative requirements of the continuing education requirement will be met as of the tenth anniversary of a bank securities representative's registration with a banking agency and/or SSRO, provided the bank securities representative is not subject to paragraph (g)(1)(iv) of this section.

(iii) If a bank securities representative has been subject to a disciplinary action within the ten years prior to the effective date of this section, or at any time since that effective date, the bank securities representative must complete the Continuing Education Program administered by the NASD within 120 days of the disciplinary action and no later than the second, fifth, and tenth anniversaries of the disciplinary action.

(iv) Unless otherwise determined by the Board, any bank securities representative who does not complete the requirements within the prescribed time frames may not perform any bank securities representative duties. The Board may, upon application and a showing of good cause, allow additional time for a bank securities representative to satisfy the Continuing Education program requirements of the bank securities representative requirements.

(2) *Sponsoring bank requirements.* (i) A sponsoring bank shall not permit any employee to act as a bank securities representative unless the employee has complied with the requirements set forth in paragraph (g)(1) of this section.

(ii) A sponsoring bank shall maintain a continuing education program for its bank securities representatives. A sponsoring bank, at least annually, shall evaluate and prioritize its training needs and develop or update, as appropriate, a written training plan. The plan must take into consideration the bank's size, organizational structure, and scope of business activities. Programs used to implement a sponsoring bank's training plan must be appropriate for the business of that bank and, at a minimum, must cover the following matters concerning securities products, services, and strategies offered by the bank:

(A) General investment features and associated risk factors;

(B) Suitability and sales practice considerations;

(C) Applicable regulatory requirements; and

(D) Bank policies and procedures for covered transactions.

(iii) A sponsoring bank shall administer its continuing education programs in accordance with its annual evaluation and written plan and must maintain records documenting the content of the programs and completion of the programs by its bank securities representatives.

(h) *Confidentiality of qualification examinations.* Every bank and bank employee shall maintain the confidentiality of qualification examinations and shall not remove from an examination center, reproduce, disclose, receive from or pass to any person, or use for study or any other purposes, any portion of an examination, whether of a present or past series, that would compromise the integrity of the examinations, or use in any manner and at any time, the questions or answers to the examination.

PART 211—INTERNATIONAL BANKING OPERATIONS (REGULATION K)

1. The authority citation for Part 211 continues to read as follows:

Authority: 12 U.S.C. 221 *et seq.*, 1818, 1841 *et seq.*, 3101 *et seq.*, 3901 *et seq.*

2. Section 211.28 is amended as follows:

a. The section heading is revised;

b. Paragraphs (a) and (b) are redesignated as paragraphs (a)(1) and (a)(2) respectively;

c. A heading is added to paragraph (a);

d. All references to "paragraph (a)" and "paragraph (b)" are revised to read "paragraph (a)(1)" and "paragraph (a)(2)" respectively; and,

e. A new paragraph (b) is added.

The revisions and additions read as follows:

§ 211.28 Provisions applicable to state branches and agencies.

(a) *Limitation on loans to one borrower*—(1) *Limitation.* * * *

* * * * * *

(b) *Retail securities transactions*—(1) *Requirements.* To the extent that an uninsured state branch or a state agency is excluded from the definition of "broker" under section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)) and engages in an activity that would constitute a covered transaction as defined in § 208.25 of the Board's Regulation H (12 CFR 208.25) for a state member bank, the state branch or agency shall be subject to the

requirements of 12 CFR 208.25 in the same manner that such requirements apply to a state member bank.

(2) *Exception.* Nothing in paragraph (b)(1) of this section is intended to apply the requirements of 12 CFR 208.25 to the lawful deposit-taking activities of an uninsured state branch or state agency.

By order of the Board of Governors of the Federal Reserve System, December 11, 1996.

William W. Wiles,

Secretary of the Board.

Federal Deposit Insurance Corporation

12 CFR Part 342

Authority and Issuance

For the reasons set forth in the joint preamble, part 342 of title 12 of the Code of Federal Regulations is proposed to be added as follows:

PART 342—QUALIFICATION REQUIREMENTS FOR TRANSACTIONS IN CERTAIN SECURITIES

Sec.

342.1 Scope.
342.2 Definitions.
342.3 Qualification requirements.
342.4 Filing requirements, amendments, and record retention.
342.5 Optional designation as a bank securities representative.
342.6 Applications by banks and bank employees "subject to disqualification."
342.7 Continuing education and training requirements.
342.8 Confidentiality of qualification examinations.

Authority: 12 U.S.C. 1818 and 1831p–1(a)(2)

§ 342.1 Scope.

This part is issued by the Federal Deposit Insurance Corporation (the Corporation) pursuant to 12 U.S.C. 1818 and 1831p–1(a)(2). It contains rules prescribing operational and managerial standards for state nonmember insured banks (except a District bank) or a foreign bank having an insured branch, and prescribes training and qualification requirements for bank employees making retail solicitations, recommendations, purchases, or sales of certain securities on behalf of a state nonmember insured bank (except a District bank) or a foreign bank having an insured branch. It applies to all state nonmember insured banks (except a District bank) or a foreign bank having an insured branch that engage through bank employees in bank-direct retail solicitations, recommendations, purchases, or sales of certain securities.

§ 342.2 Definitions.

For purposes of this part:

(a) *Appropriate qualification examination* means either the Investment Company/Variable Contracts Products Limited Representative Qualification Examination (Series 6 Examination) or the General Securities Registered Representative Examination (Series 7 Examination), both of which are administered by the NASD. The Series 6 Examination is the appropriate qualification examination for a bank employee engaged solely in covered transactions of open-end investment company shares, original distribution closed-end investment company shares, unit investment trusts, or variable contracts, including variable life insurance contracts and variable annuity contracts. The Series 7 Examination is the appropriate qualification examination for a bank employee soliciting, recommending, purchasing, or selling any other covered product.

(b) *Bank* means any State nonmember insured bank (except a District bank) or a foreign bank having an insured branch. The term "bank" shall not include a branch of a bank located outside of any State, as defined in section 3(a)(3) of the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1813(a)(3).

(c) *Bank securities representative* means any bank officer, director, or employee (collectively referred to as "employee") who engages in a covered transaction or is designated as the supervisor of a bank securities representative who engages in a covered transaction.

(d) *Continuing education requirements* means the course of study specified in § 342.7.

(e) *Covered product* has the same meaning as "security" as defined at section 3(a)(10) of the Securities Exchange Act, 15 U.S.C. 78c(a)(10). The term shall not include any product that is a deposit as defined in section 3(l) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(l), or any "government security" as defined at section 3(a)(42) of the Securities Exchange Act, 15 U.S.C. 78c(a)(42).

(f) *Covered transaction* means a retail solicitation, recommendation, purchase, or sale of a covered product by a bank through its employee regardless of the means through which the solicitation, recommendation, purchase, or sale occurs. The term shall not include a covered transaction involving a fiduciary account administered by a bank, a sale of a municipal security by a municipal securities dealer bank registered under section 15B of the Securities Exchange Act, 15 U.S.C. 78o-4, or a transaction by a bank in its own securities consistent with the conditions set forth in Securities Exchange Act Rule 3a4–1(a)(4), 17 CFR 240.3a4–1(a)(4).

(g) *Disciplinary action* means an action resulting in:

(1) An individual being "subject to disqualification" as defined in this part;

(2) A civil money penalty or fine of $5,000 or more by the Securities and Exchange Commission (SEC) or a securities self-regulatory organization (SSRO) as defined in section 3(a)(26) of the Securities Exchange Act, 15 U.S.C. 78c(a)(26);

(3) A civil money penalty of $5,000 or more by a Federal banking agency pursuant to section 8 of the Federal Deposit Insurance Act, 12 U.S.C. 1818, for a securities law violation, or an unsafe or unsound practice related to a covered transaction;

(4) An agreement with the SEC, an SSRO, or Federal banking agency, in connection with a disciplinary proceeding; or

(5) An order by the SEC, an SSRO, or a Federal banking agency to enter the continuing education program.

(h) *NASD* means the National Association of Securities Dealers, Inc., which is an SSRO registered under section 15A of the Securities Exchange Act, 15 U.S.C. 78o, and NASD Regulation, Inc., the regulatory subsidiary of the NASD.

(i) *Sponsoring bank* means a bank that engages in or seeks to engage in the business of effecting covered transactions.

(j) *Subject to disqualification* means:

(1) a "Statutory disqualification" as that term is used in section 3(a)(39) of the Securities Exchange Act, 15 U.S.C. 78c(a)(39);

(2) An order of removal, prohibition, or suspension by a Federal banking agency pursuant to 12 U.S.C. 1818(e) or (g);

(3) An order or temporary order pursuant to 12 U.S.C. 1818 (b) or (c) that restricts the fiduciary or securities activities of a bank or individual; or

(4) A prohibition pursuant to 12 U.S.C. 1829(a).

§ 342.3 Qualification requirements.

(a) *Disqualifications.* (1) A bank shall not engage in a covered transaction if it is, or becomes, subject to disqualification, unless it has applied for and received approval to engage in covered transactions from the Corporation pursuant to § 342.6.

(2) No bank securities representative shall engage in a covered transaction if he or she is, or becomes, subject to disqualification, unless the bank that employs the bank securities representative has applied for and received approval from the Corporation

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pursuant to § 342.6 for that person to qualify as a bank securities representative.

(b) *Sponsoring bank notices.* (1) A bank seeking to engage in covered transactions shall file a completed Uniform Notice for Sponsoring Bank (Form SB).

(2) A bank seeking to terminate its status as a Sponsoring Bank shall file a Uniform Notice for Sponsoring Bank Withdrawal (Form SBW).

(c) *Sponsoring bank requirements.* (1) A bank seeking to sponsor an employee as a bank securities representative shall:

(i) Make independent inquiry into the individual's employment history, including contacting the employee's previous employers for the past three years and investigating the character, business reputation, qualifications, and experience of the individual;

(ii) Review, complete as appropriate, and file the Uniform Application for Bank Securities Representative Registration or Transfer (Form U–4B) and amendments thereto on behalf of the employee; and

(iii) File a fingerprint record for the employee.

(2) A bank may not sponsor an employee to qualify as a bank securities representative or permit a previously qualified bank securities representative to engage in covered transactions if the individual is, or becomes, subject to disqualification unless the sponsoring bank has applied and received approval for the individual to engage in covered transactions from the Corporation under § 342.6. A bank shall not sponsor an employee to qualify as a bank securities representative if it does not intend for the employee to engage in or supervise covered transactions or participate in one of the activities enumerated in § 342.5.

(3) A sponsoring bank shall file a Uniform Termination Notice for Bank Securities Representative Registration (Form U–5B) when the employment of a bank securities representative terminates or when a bank securities representative ceases to engage in covered transactions on behalf of the bank. The Form U–5B shall be filed within 30 days of such termination or cessation and a copy of the Form U–5B, and of any amendments to the Form U–5B, shall be provided concurrently to the former bank securities representative.

(4) A sponsoring bank shall designate one or more bank securities representatives, as necessary, to supervise the sponsoring bank's covered transactions. A supervisor designated under this part shall pass the appropriate qualification examination for any bank securities representative(s) under his or her supervision.

(d) *Bank securities representative requirements.* (1) A bank employee seeking to qualify as a bank securities representative shall complete the Form U–4B, provide a fingerprint record, and pass the appropriate qualification examination.

(2) A bank employee who is eligible for an examination exemption under paragraph (e) of this section must complete a Form U–4B and receive approval under paragraph (f) of this section prior to being qualified as a bank securities representative.

(3) A bank employee who fails to pass the appropriate qualification examination may take the examination again after a period of 30 calendar days has elapsed from the date of the prior examination. However, any bank employee who fails to pass an examination three or more times in succession may not take the examination until 180 days has elapsed from the date of his or her last attempt to pass the examination.

(4) A bank employee shall advise the sponsoring bank within 30 days of any event or occurrence that causes any information on the Form U–4B or Form U–5B to become inaccurate or incomplete and shall cooperate with the sponsoring bank in filing an amendment to the relevant form.

(5) A bank securities representative who does not engage in or supervise covered transactions for a period of two years must retake and pass the appropriate qualification examination prior to acting as a bank securities representative. A bank securities representative is deemed to be engaging in covered transactions if the employee acts in one of the capacities listed in § 342.5.

(e) *Examination exemptions.* (1) A bank employee is not required to take the appropriate qualification examination if he or she already has qualified by taking that examination pursuant to the rules of an SSRO and remains qualified as a registered representative.

(2) Upon written request from a sponsoring bank, the Corporation may, in exceptional cases and where good cause is shown, waive the appropriate qualification examination requirement for a bank employee and may accept other evidence of the employee's qualifications to act as a bank securities representative. Advanced age, physical infirmity, or experience in fields ancillary to the investment banking or securities business generally are insufficient for the Corporation to waive the examination requirement.

(f) *Approval of bank securities representative qualifications.* No sponsoring bank may permit any bank employee to, and no bank employee shall, act as a bank securities representative until the Corporation has approved the bank employee's application for registration or transfer on Form U–4B.

(g) *Grace period.* These qualification requirements apply to all banks and bank employees with respect to covered transactions transacted after Date one year after effective date of the Final Rule. Any bank or bank employee that is not in compliance with this part after the grace period shall cease engaging in covered transactions until the requirements are met.

§ 342.4 Filing requirements, amendments, and record retention.

(a) All filings required under this part shall be filed with the Corporation at the NASD.

(b) All information submitted on any filing required under this part must be true, current, complete, and not misleading at the time and in light of the circumstances under which it is reported.

(c) A bank shall file an amendment no later than 30 days after learning of facts or circumstances causing a filing to be inaccurate or incomplete.

(d)(1) A bank shall retain copies of all filings made on Forms U–4B and U–5B, including amendments, for not less than three years after the employee terminates employment with the sponsoring bank or ceases to act as a bank securities representative.

(2) A bank shall retain copies of all filings made on Forms SB and SBW and any applications under § 342.6, including amendments, for not less than three years after the bank terminates its status as a sponsoring bank.

§ 342.5 Optional designation as a bank securities representative.

A bank may sponsor an employee who is engaged in legal, compliance, internal audit, or similar responsibilities related to covered transactions or who provides administrative support functions for a bank securities representative, and who is not subject to disqualification (unless a waiver is granted pursuant to § 342.6), to take the appropriate qualification examination. Such sponsored employee must meet all filing and continuing education requirements in order to be deemed to be a bank securities representative for purposes of this part.

§ 342.6 Applications by banks and bank employees "subject to disqualification."

A sponsoring bank may seek, by written application to the Corporation on behalf of itself or an employee, relief from being subject to disqualification and permission to engage in covered transactions or to qualify as a bank securities representative, as appropriate. The Corporation may, consistent with safety and soundness, the public interest, and the protection of investors, grant such relief consistent with its enforcement powers and on such terms and conditions as the Corporation considers necessary or appropriate.

§ 342.7 Continuing education and training requirements.

A bank securities representative and a sponsoring bank shall comply with the following continuing education requirements:

(a) *Bank securities representative requirements.* (1) Each bank securities representative shall complete, within 120 days of the second, fifth, and tenth anniversaries of passing the appropriate qualification examination, the Continuing Education Program administered by the NASD.

(2) The required training intervals for bank securities representatives who were registered with an SSRO prior to being employed by the sponsoring bank are measured from the date of SSRO registration. The bank securities representative requirements of the continuing education requirement will be met as of the tenth anniversary of a bank securities representative's registration with a banking agency and/or SSRO, provided the bank securities representative is not subject to paragraph (a)(4) of this section.

(3) If a bank securities representative has been subject to a disciplinary action within the ten years prior to the effective date of this part, or at any time since that effective date, the bank securities representative must complete the Continuing Education Program administered by the NASD within 120 days of the disciplinary action and no later than the second, fifth, and tenth anniversaries of the disciplinary action.

(4) Unless otherwise determined by the Corporation, any bank securities representative who does not complete the requirements within the prescribed time frames may not perform any bank securities representative duties. The Corporation may, upon application and a showing of good cause, allow additional time for a bank securities representative to satisfy the program requirements.

(b) *Sponsoring bank requirements.* (1) A sponsoring bank shall not permit any employee to act as a bank securities representative unless the employee has complied with the requirements set forth in paragraphs (a)(1) through (a)(4) of this section.

(2) A sponsoring bank shall maintain a continuing education program for its bank securities representatives. A sponsoring bank, at least annually, shall evaluate and prioritize its training needs and develop or update, as appropriate, a written training plan. The plan must take into consideration the bank's size, organizational structure, and scope of business activities. Programs used to implement a sponsoring bank's training plan must be appropriate for the business of that bank and, at a minimum, must cover the following matters concerning securities products, services, and strategies offered by the bank:

(i) General investment features and associated risk factors;

(ii) Suitability and sales practice considerations;

(iii) Applicable regulatory requirements; and

(iv) Bank policies and procedures for covered transactions.

(3) A sponsoring bank shall administer its continuing education programs in accordance with its annual evaluation and written plan and must maintain records documenting the content of the programs and completion of the programs by its bank securities representatives. A bank may choose to use commercial training material and outside vendors to assist in meeting this education requirement if it ensures that the training material or program meets the content standards set forth in paragraph (b)(2) of this section.

§ 342.8 Confidentiality of qualification examinations.

Every bank and bank employee shall maintain the confidentiality of qualification examinations and shall not remove from an examination center, reproduce, disclose, receive from or pass to any person, or use for study or any other purposes, any portion of an examination, whether of a present or past series, that would compromise the integrity of the examinations, or use in any manner and at any time the questions or answers to the examination.

By Order of the Board of Directors.

Dated at Washington, D.C., this 11th day of December, 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–32326 Filed 12–27–96; 8:45 am]

BILLING CODE 4810–33–P, 6210–01–P, 6714–01–P

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Proposed Collection; Comment Request

AGENCIES: Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; and Federal Deposit Insurance Corporation.

ACTION: Notice and request for comments.

SUMMARY: The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the Agencies), as part of their continuing efforts to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on proposed information collections, as required by the Paperwork Reduction Act of 1995. Currently, the Agencies are soliciting comments concerning an information collection titled (MA)—Financial Institutions Securities Qualifications Forms.

DATES: Written comments should be submitted by February 28, 1997.

ADDRESSES: Direct all written comments to:

OCC: Communications Division, Attention: 1557–FISQ, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219. In addition, comments may be sent by facsimile transmission to (202) 874–5274, or by electronic mail to REGS.COMMENTS@OCC.TREAS.GOV.

Board: Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551, or delivered to the Board's mail room between 8:45 and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M–P–500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

FDIC: Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. Comments may be hand-delivered to room F–402, 1776 F Street, N.W., Washington, D.C. 20429, on business days between 8:30 a.m. and 5:00 p.m. Comments may be sent through facsimile to (202) 898–3838 or by the Internet to: COMMENTS@FDIC.GOV. Comments will be available for inspection at the FDIC Public Information Center, room 100, 801 17th Street, N.W., Washington, D.C., between 9:00 a.m. and 4:30 p.m. on business days.

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the collection may be obtained by contacting:

OCC: Jessie Gates or Dionne Walsh, (202) 874–5090, Legislative and Regulatory Activities Division (1557–FISQ), Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219. Internet address: REGS.COMMENTS@OCC.TREAS.GOV.

Board: Mary M. McLaughlin, Board Clearance Officer, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th & C Streets, N.W., Washington, D.C. 20551. For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Dorothea Thompson, (202) 452–3544, Board of Governors of the Federal Reserve System, 20th & C Streets, N.W., Washington, D.C. 20551.

FDIC: Steven F. Hanft, FDIC Clearance Officer, (202) 898–3907, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. Internet address: COMMENTS@FDIC.GOV.

SUPPLEMENTARY INFORMATION:

Title: (MA)—Financial Institutions Securities Qualifications Forms OMB Number: Not yet assigned.

Form Number: Forms SB, SBW, U–4B, and U–5B.

Abstract: This information collection covers the securities qualifications forms for banks and bank employees involved in retail securities sales programs. This information will promote safe and sound operations of financial institution-sponsored securities sales programs and will enhance customer protection. Additionally, the collection will be instrumental in preventing unqualified or disqualified individuals from recommending or selling retail securities on behalf of financial institutions regulated by the OCC, Board, and FDIC.

Type of Review: New Collection.

Affected Public: Businesses or other for-profit.

OCC

Number of Respondents: 120.
Total Annual Responses: 1,248.
Frequency of Response: Occasionally.
Total Annual Burden Hours: 2,184.

Board

Number of Respondents: 100.
Total Annual Responses: 754.
Frequency of Response: Occasionally.
Total Annual Burden: 2,142.

FDIC

Number of Respondents: 70.
Total Annual Responses: 523.
Frequency of Response: Occasionally.
Total Annual Burden Hours: 1,483.

Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 16, 1996.

Karen Solomon,

Director, Legislative and Regulatory Activities Division.

By order of the Board of Governors of the Federal Reserve System, December 16, 1996.

William W. Wiles,

Secretary of the Board.

By Order of the Board of Directors.

Dated at Washington, D.C., this 11th day of December, 1996.

Federal Deposit Insurance Corporation

Jerry L. Langley,

Executive Secretary.

BILLING CODE 4810-33-P, 6210-01-P, 6714-01-P

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OMB APPROVAL	
OMB Number:	XXXXX
Expires:	XXXXX
Estimated average burden hours per response	

FORM SB

UNIFORM NOTICE

FOR SPONSORING BANK

OCC (12/96)
FDIC (12/96)
FRB (12/96)

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FORM SB INSTRUCTIONS

I. GENERAL INSTRUCTIONS

1. **FORM SB** - The Uniform Notice for Sponsoring Banks. Sponsoring Banks are required to file this form with their primary federal banking agency. Filing of the Form is to be made with the Central Registration Depository ("CRD") system which is operated by the National Association of Securities Dealers, Inc. ("NASD"). Sponsoring Banks will be assigned a unique CRD identification number which will be used to identify banks engaged in covered transactions and to identify bank securities representatives. The CRD is also used to track customer complaints and movement of bank securities representatives/registered representatives from one broker-dealer/sponsoring bank employer to the next.

   The NASD is acting as agent for each of the federal banking agencies for purposes of receiving filings from Sponsoring Banks. These instructions apply both to electronic filing with the CRD System as well as filing of paper copies with the NASD.

2. **UPDATING** - By regulation, the Sponsoring Bank must update promptly Form SB information by submitting amendments whenever the information on file becomes materially inaccurate or incomplete for any reason.

3. **CONTACT EMPLOYEE** - The individual listed as the contact employee must be authorized to receive all compliance information, communications, and mailings, and be responsible for disseminating it within the Sponsoring Bank.

4. **FEDERAL INFORMATION LAW AND REQUIREMENTS** - The information in this form is required by the federal banking agencies. See 12 CFR, Part 12 Subpart B (OCC); 12 CFR, Part 208 (FRB); and 12 CFR Part 342 (FDIC). The information is used for regulatory purposes, including deciding whether to grant registration. The federal banking agencies maintain files of the information on this form and, through the NASD, intend to make it publicly available. Sponsoring Banks are not required to file Form SB with the federal banking agencies if the form does not have a current OMB number.

A. PAPER FILING INSTRUCTIONS

1. FORMAT

a. Attach the Execution Page (Page 5) with original manual signatures to the initial Form SB filing and each amendment to the Form. Complete all amended pages in full.

b. Give the name of the Sponsoring Bank and date on each page.

c. Use only the current version or photocopy of Form SB.

I. GENERAL INSTRUCTIONS (Cont'd)

B. ELECTRONIC FILING INSTRUCTIONS

Contact the NASD's CRD ((301) 590-6500) for information and software concerning electronic access to the CRD.

1. FORMAT

a. A full paper Form SB is required when the Sponsoring Bank is filing with the federal banking agency for the first time.

b. All items must be answered and all fields requiring a response must be completed before the filing will be accepted.

c. A Sponsoring Bank must complete the execution screen certifying that Form SB and amendments thereto have been executed properly and that the information contained therein is accurate and complete.

d. To amend information, the Sponsoring Bank must update the appropriate Form SB screens.

e. A paper copy, with original manual signatures, of the initial Form SB filing and amendments must be retained by the Sponsoring Bank and made available for inspection by the bank's federal banking agency.

The mailing address for the federal banking agencies for questions and correspondence regarding Form SB is:

Federal Deposit Insurance Corporation
Office of the Comptroller of the Currency, or
Board of Governors for the Federal Reserve System
c/o NASD Central Registration Depository
P.O. Box 9401
Gaithersburg, Maryland 20898-9401

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II. DISCLOSURE REPORTING PAGE (DRP)

Information concerning the Sponsoring Bank that relates to the occurrence of an event reportable under Item 5 must be provided on the Sponsoring Bank's appropriate DRP (SB).

EXPLANATION OF TERMS

(The following terms are italicized throughout this form)

List of Defined Terms

1. GENERAL

Applicant - The Sponsoring Bank applying on or amending this form.

Bank - any insured depository institution, as defined at 12 U.S.C. 1813(c)(2). Bank shall not include a branch of a bank located outside of any state as defined at 12 U.S.C. 1813 (a)(3).

Central Registration Depository (CRD) - database operated by the NASD.

Covered Sale - means a retail solicitation, recommendation, purchase, or sale of a covered product by a bank through its employees regardless of the means through which the solicitation, recommendation, purchase or sale occurs. The term shall not include a covered transaction involving a fiduciary account administered by a bank, a transaction involving a municipal security by a municipal securities dealer bank registered under section 15B of the Securities Exchange Act of 1934, 15 U.S.C. 78o-4, or a transaction by a bank of its own securities consistent with the conditions set forth in Securities Exchange Act Rule 3a4-1(a)(4), 17 CFR 240.3a4-1(a)(4).

Covered Transaction - has the same meaning as "security" as defined at section 3(a)(10) of the Securities Exchange Act, 15 U.S.C. 78c(a)(10). The term shall not include any product that is a deposit as defined in section 3(1) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(1), or any "government security" as defined at section 3(a)(42) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(42).

Self-Regulatory Organization ("SRO") - means any national securities and commodities exchange, any national securities association (e.g., the NASD), or any registered clearing agency.

Sponsoring Bank - means a bank that engages in or seeks to engage in "covered transactions."

2. FOR THE PURPOSE OF ITEM 5 AND THE CORRESPONDING DISCLOSURE REPORTING PAGES (DRPs):

Charged - Being accused of a crime in a formal complaint, information, or indictment (or equivalent formal charge).

Enjoined - Includes being subject to a mandatory injunction, prohibitory injunction, preliminary injunction or a temporary restraining order.

II. FOR THE PURPOSE OF ITEM 5 AND THE CORRESPONDING DISCLOSURE REPORTING PAGES (DRPs): (Cont'd)

Felony - For *jurisdictions* that do not differentiate between a *felony* or *misdemeanor*, is an offense punishable by a sentence of at least one year imprisonment and/or a fine of at least $1,000.

Foreign Financial Regulatory Agency - Includes (1) a foreign securities authority; (2) other governmental body or foreign equivalent of a *self-regulatory organization* empowered by a foreign government to administer or enforce its laws relating to the regulation of *investment-related* activities; or (3) a foreign membership organization, a function of which is to regulate the participation of its members in *investment-related* activities listed above.

Found - Includes adverse final actions, including consent decrees in which the respondent has neither admitted nor denied the findings, but does not include agreements, deficiency letters, examination reports, memoranda of understanding, letters of caution, admonishments, and similar informal resolutions of matters.

Investment or Investment-Related - Pertaining to securities, commodities, banking, insurance or real estate (including, but not limited to, acting as or being associated with a broker-dealer, issuer, investment company, investment adviser, futures sponsor, bank or savings association).

Involved - Doing an act or aiding, abetting, counseling, commanding, inducing, conspiring with or failing reasonably to supervise another in doing an act.

Jurisdiction - A state, the District of Columbia, any Territory of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or any subdivision or regulatory body thereof.

Minor Rule Violation - A violation of a *self-regulatory organization* rule which has been designated as "minor" pursuant to a plan approved by the U.S. Securities and Exchange Commission. A rule violation may be designated as "minor" under a plan if the sanction imposed consists of a fine of $2,500.00 or less, and if the sanctioned person does not contest the fine. Check with the appropriate *self-regulatory organization* to determine if a particular rule violation has been designated as "minor" for these purposes.

Misdemeanor - For jurisdictions that do not differentiate between a *felony* or *misdemeanor*, is an offense punishable by a sentence of less than one year imprisonment and/or a fine of less than $1,000.

Order - A written directive issued pursuant to statutory authority and procedures, including orders of denial, suspension, or revocation; does not include special stipulations, undertakings or agreements relating to payments, limitations on activity or other restrictions unless they are included in an order.

Proceeding - Includes a formal administrative or civil action initiated by a governmental agency, *self-regulatory organization* or *foreign financial regulatory authority*, a *felony* criminal indictment or information (or equivalent formal charge), or a *misdemeanor* criminal information (or equivalent formal charge), but does not include an arrest or similar charge effected in the absence of a formal

criminal indictment or information (or equivalent formal charge). NOTE: *Investment-related* civil litigation, other than that specified above, is reportable under Item 5H on Form U-4B. An *investigation* is reportable under Item 5G on Form U-4B.

EXECUTION:

The undersigned, states that he/she has executed this form on behalf of, and with the authority of, said Sponsoring Bank. The undersigned and the Sponsoring Bank represent that the information and statements contained herein, including exhibits attached hereto, and other information filed herewith, all of which are made a part hereof, are current, true and complete. The undersigned and Sponsoring Bank further represent that to the extent any information previously submitted is not amended such information is currently accurate and complete.

_____ _____

Date: (MM/DD/YYYY) Name of Sponsoring Bank

BY: _____ _____

Signature Print Name and Title

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FORM SB PAGE 1 (Revised) X-XX	Applicant Name: _____ Date: _____ Bank CRD No.: _____	OFFICIAL USE	official use only

WARNING: Intentional misstatements or omissions of facts may constitute criminal violations

1. (A) Full name of Sponsoring Bank: (B) Sponsoring Bank CRD No.:

(C) Sponsoring Bank's main address: (D) Mailing address, if different:

(E) Area Code/Telephone No.:

2. Contact employee for securities activities of Sponsoring Bank.

Name: Title:

Address: Suite:

City, State: Phone:

3. Type of Charter

State _____ National _____

4. Federal Banking Agency Identification Number (answer one of the items below).

A. OCC Charter # _____ (national banks)

B. FDIC Insurance Certificate # _____ (state chartered, non-members banks); or

C. FRB ID# _____ (state chartered, member banks)

5. Use the appropriate DRP for providing details on "yes" answers to the questions in Item 5. Refer to the Explanation of Terms section of Form SB Instructions for explanations of italicized terms.

CRIMINAL DISCLOSURE

	Yes	No
A. In the past ten years has the *applicant*:		
(1) been convicted of or pled guilty or nolo contendere ("no contest")in a domestic or foreign court to any *felony*?	☐	☐
(2) been *charged* with any *felony*?	☐	☐
B. In the past ten years has the applicant:		
(1) been convicted of or pled guilt or nolo contendere ("no contest")in a domestic or foreign court to a *misdemeanor involving*: investments or an *investment-related* business, or any fraud, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?		
(2) been *charged* with a misdemeanor specified in 5B?	☐	☐

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FORM SB
PAGE 2
(Revised)
X-XX

Applicant Name: _____

Date: _____ Bank CRD No.: _____

OFFICIAL USE

official use only

REGULATORY ACTION DISCLOSURE

	Yes	No
C. Has the U.S. Securities and Exchange Commission or the Commodity Futures Trading Commission ever:		
(1) *found* the applicant to have made a false statement or omission?	☐	☐
(2) *found* the applicant to have been *involved* in a violation of its regulations or statutes?	☐	☐
(3) *found* the applicant to have been a cause of an *investment-related* business having its authorization to do business denied, suspended, revoked, or restricted?	☐	☐
(4) entered an *order* against the applicant in connection with *investment-related activity*?	☐	☐
(5) imposed a civil money penalty on the applicant, or *ordered* the applicant to cease and desist from any activity?	☐	☐
D. Has any other federal regulatory agency, any state regulatory agency, or *foreign financial regulatory authority*:		
(1) ever *found* the *applicant* to have made a false statement or omission or been dishonest, unfair, or unethical?	☐	☐
(2) ever *found* the *applicant* to have been *involved* in a violation of *investment-related* regulations or statutes?	☐	☐
(3) ever *found* the *applicant* to have been a cause of an *investment-related* business having its authorization to do business denied, suspended, revoked, or restricted?	☐	☐
(4) in the past ten years, entered an *order* against the applicant in connection with an *investment-related* activity?	☐	☐
(5) ever denied, suspended, or revoked the *applicant's* registration or license or otherwise, by *order*, prevented it from associating with an investment-related business or restricted its activities?	☐	☐
E. Has any *self-regulatory organization* or commodities exchange:		
(1) *found* the *applicant* to have made a false statement or omission?	☐	☐
(2) *found* the *applicant* to have been *involved* in a violation of its rules (other than a violation designated as a "*minor rule violation*" under a plan approved by the U.S. Securities and Exchange Commission)?	☐	☐
(3) *found* the *applicant* to have been the cause of an *investment-related* business having its authorization to do business denied, suspended, revoked, or restricted?	☐	☐
(4) disciplined the *applicant* by expelling or suspending it from membership, barring or suspending its association with other members, or otherwise restricting its activities?	☐	☐
F. Has the applicant's or a control affiliate's authorization to act as an attorney, accountant, or federal contractor ever been revoked or suspended?	☐	☐
G. Is the applicant or a control affiliate now the subject of any regulatory proceeding that could result in a "yes" answer to any part of 11C, D, or E?	☐	☐

CIVIL JUDICIAL DISCLOSURE

H. (1) Has any domestic or foreign court:		
(a) in the past ten years, enjoined the applicant or a control affiliate in connection with any investment-related activity?	☐	☐
(b) ever found that the applicant or a control affiliate was involved in a violation of investment-related statutes or regulations?	☐	☐
(c) ever dismissed, pursuant to a settlement agreement, and investment-related civil action brought against the applicant or control affiliate by a state or foreign financial regulatory authority?	☐	☐
(2) Is the applicant or a control affiliate now the subject of any civil proceeding that could result in a "yes" answer to any part of 11H(1)?	☐	☐

FORM SB PAGE 3 (Revised) X-XX	Applicant Name: _____ Date: _____ Bank CRD No.: _____	OFFICIAL USE	official use only

FINANCIAL DISCLOSURE

	Yes	No
I. In the past ten years has the applicant or a control affiliate of the applicant ever been a securities firm or a control affiliate of a securities firm that:		
(1) has been the subject of a bankruptcy petition?	☐	☐
(2) has had a trustee appointee or a direct payment procedure initiated under the Securities Investor Protection Act?	☐	☐
J. Has a bonding company ever denied, paid out on, or revoked a bond for the applicant?	☐	☐
K. Does the applicant have any unsatisfied judgements or liens against it?	☐	☐

EXECUTION:

I swear or affirm that all of the information I am filing is correct, that I am authorized to execute this form for the Sponsoring Bank, and that the Sponsoring Bank's books and records will be preserved and available for inspection as required by law.

Date: _____ Name: _____

Telephone No.: ( ) _____

By: (Signature and Title) _____

_____

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CIVIL JUDICIAL ACTION DISCLOSURE REPORTING PAGE (SB)

General Instructions

This Disclosure Reporting Page (DRP SB) is an ☐ initial or ☐ amended response used to report details for affirmative responses to items 5H of Form SB:

Check item(s) being responded to:

5H(1) Has any domestic or foreign court:

☐ (a) in the past ten years, enjoined the applicant in connection with any investment-related activity?

☐ (b) ever found that the applicant was involved in a violation of investment-related statutes or regulations?

☐ (c) ever dismissed, pursuant to a settlement agreement, an investment-related civil action brought against the applicant by a state or foreign financial regulatory authority?

5H(2) ☐ Is the applicant now the subject of any civil proceeding that could result in a yes answer to any part of 5H?

One event may result in more than one affirmative answer within each of the above items. Use only one DRP to report details related to the same event. Unrelated civil judicial actions must be reported on separate DRPs.

PART I

Name of Applicant

Applicant CRD Number

PART II

1. Court Action Initiated by: *(Name the regulator, foreign financial regulatory authority, SRO, commodities exchange, Agency, Firm, Private Plaintiff, etc.)*

2. Relief Sought: *(Temporary Restraining Order, Mandatory Injunction, Preliminary Injunction, etc.)*

3. Filing Date of Court Action: MM/DD/YY

4. Product Type(s):

5. Court formal action was brought in: *(Name of federal, military, state or foreign court)*

6. Location of Court: *(City or County and State or Country)*

7. Docket/Case Number:

8. Not Applicable

9. Describe allegations relating to this court action: *(use reverse side of this sheet for additional comments if necessary.)*

10. Is action currently: *(check one)*
☐ pending ☐ on appeal ☐ final

11. If pending, date notice was served: *(MM/DD/YY)*

12. If on appeal, action requested to: *(provide name of court)*

13. If on appeal, date filed: *(MM/DD/YY)*

IF FINAL OR ON APPEAL, COMPLETE ALL ITEMS BELOW. FOR PENDING ACTIONS, COMPLETE ITEM 21 ONLY.

14. How was the matter resolved? *(Dismissed, Consent, Judgment Rendered, etc.)*

15. Resolution Date: *(MM/DD/YY)*

16. Sanctions: *(Suspended, Censured, etc.)*

17. If Suspended, Enjoined or Barred:

Is suspension/injunction/bar of a fixed duration? *(If no, provide details in Item 21.)* ☐ Yes ☐ No

Suspension/Injunction/Bar Start Date: *(MM/DD/YY)*

Suspension/Bar Injunction/Duration:

Suspension/Injunction/Bar capacity affected: *(Registered Securities Principal, Financial & Operations Principal, Options Trading, etc.)*

18. If requalification by examination was a condition of the disposition:

Is requalification/retraining time-related?

If yes, length of time given to requalify/retrain: *(If no, provide details in Item 21.)*

Type of exam required for requalification:

Has condition been satisfied? ☐ Yes ☐ No

19. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation: *(Fill in amount on appropriate line)*

Penalty/Fine:	$	Date Paid *(MM/DD/YY)*
Restitution:	$	Date Paid *(MM/DD/YY)*
Disgorgement:	$	Date Paid *(MM/DD/YY)*
Other:	$	Date Paid *(MM/DD/YY)*

20. Not Applicable

21. Provide a brief summary of circumstances related to action(s), allegation(s), disposition(s) and/or finding(s) disclosed above. *(Use reverse side of this sheet for additional comments if necessary.)*

CRIMINAL DISCLOSURE REPORTING PAGE (SB)

General Instructions

This Disclosure Reporting Page (DRP SB) is an ☐ initial or ☐ amended response used to report details for affirmative responses to Items 5A or 5B of Form SB:

Check item(s) being responded to:

5A In the past ten years has the applicant:

☐ (1) been convicted or pled guilty or nolo contendere *("no contest")* in a domestic, foreign, or military court to any felony?

☐ (2) been charged with any felony?

5B In the past ten years has the applicant:

☐ (1) been convicted or pled guilty or nolo contendere *("no contest")* in a domestic, foreign or military court to a misdemeanor involving: investments or an investment-related business, or any fraud, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?

☐ (2) been charged with a misdemeanor specified in 5B(1)?

Multiple counts of the same charge arising out of the same event(s) should be reported on the same DRP. Unrelated criminal actions, including separate cases arising out of the same event, must be reported on separate DRPs. Use this DRP to report all charges arising out of the same event. One event may result in more than one affirmative answer to the above items.

Applicable court documents (i.e., criminal complaint, information or indictment as well as judgement of conviction or sentencing documents) must be provided to the CRD if not previously submitted.

PART I

Name of Applicant

Applicant CRD Number

PART II

1. Formal charge(s) were brought in:

Court: *(Name of Federal, Military, State or Foreign Court)* Location of Court: *(City or County and State or Country)* Docket / Case Number:

2. Charge Detail Disclosure: *(Continue on additional Criminal Disclosure Reporting Page SB if more than three charges arise out of the same event.)*

Formal Charge(s) Description:	Charge Date : (MM/DD/YY)	No. of counts	Charge Type (Check one only) Misdemeanor	Charge Type (Check one only) Felony	Plea (Guilty, Not Guilty, etc.)	Charge is currently (check one only)	Appeal Date (MM/DD/YY)	Product Type (If charge is investment related)
1.						☐ Pending ☐ On Appeal ☐ Pre-trial Intervention ☐ Final		
2.						☐ Pending ☐ On Appeal ☐ Pre-trial Intervention ☐ Final		
3.						☐ Pending ☐ On Appeal ☐ Pre-trial Intervention ☐ Final		

IF FINAL, ON APPEAL, OR PRE-TRIAL INTERVENTION, COMPLETE ITEMS 3 AND 4. FOR EACH CHARGE THAT IS PENDING, COMPLETE ONLY ITEM 4.

3. Disposition Detail Disclosure: (Continue on another Criminal Disclosure Reporting Page SB if more than three charges.)

Disposition Type: (Convicted, Acquitted, Dismissed, Pre-Trial Intervention, etc.)	Disposition Date : (MM/YY/DD)	Disposition Detail: Sentence/Penalty (If applicable)	Duration: (If sentence suspension, probation, etc.)	Start Date: (MM/DD/YY)	Penalty/Fine Amount: (If applicable)	Date Paid: (MM/DD/YY)
1.						
2.						
3.						

4. Provide a brief summary of circumstances leading to the charge(s) as well as the disposition. Include the relevant dates when the conduct which was the subject of the charge(s) occurred. *(Use reverse side of this sheet for additional comments if necessary.)*

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REGULATORY ACTION DISCLOSURE REPORTING PAGE (SB)

General Instructions

This Disclosure Reporting Page (DRP BD) is an ☐ initial or ☐ amended response used to report details for affirmative responses to Item 5A and 5B of Form SB:

Check items being responded to:

5c Has the US Securities and Exchange Commission or the Commodity Futures Trading Commission ever:
- ☐ (1) Found the applicant to have made a false statement or omission?
- ☐ (2) Found the applicant to have been involved in a violation of its regulations or statutes?
- ☐ (3) Found the applicant to have been a cause of an investment-related business having its authorization to do business denied, suspended, revoked, or restricted?
- ☐ (4) Entered an order against the applicant in connection with investment-related activity?
- ☐ (5) Imposed a civil money penalty on the applicant, or ordered the applicant to cease and desist from any activity?

5d Has any other federal regulatory agency, any state regulatory agency or foreign financial regulatory authority:
- ☐ (1) Ever found the applicant to have made a false statement, or omission, or been dishonest, unfair, or unethical?
- ☐ (2) Ever found the applicant to have been involved in a violation of investment-related regulations or statutes?
- ☐ (3) Ever found the applicant to have been a cause of an investment-related business having its authorization to do business denied, suspended, revoked or restricted?
- ☐ (4) In the past ten years, entered an order against the applicant in connection with an investment-related activity?
- ☐ (5) Ever denied, suspended or revoked the applicant's registration or license or otherwise, by order, prevented it from associating with an investment-related business or restricted its activities?

5e Has any self-regulatory organization or commodities exchange ever:
- ☐ (1) Found the applicant to have made a false statement or omission?
- ☐ (2) Found the applicant to have been involved in a violation of its rules (other than a violation designated as a "minor rule violation" under a plan approved by the US Securities and Exchange Commission)?
- ☐ (3) Found the applicant to have been the cause of an investment-related business having its authorization to do business denied, suspended, revoked or restricted?
- ☐ (4) Disciplined the applicant by expelling or suspending it from membership, barring or suspending its association with other members, or otherwise restricting its activities?

5f Has the applicant's authorization to act as an attorney, accountant or federal contractor ever been revoked or suspended?

5g Is the applicant now the subject of any regulatory proceedings that could result in a yes answer to any part of 5C, D, or E?

One event may result in more than one affirmative answer within each of the above items. Use only one DRP to report details related to the same event. If an event gives rise to actions by more than one regulator, provide details to each action on a separate DRP.

Part I

Name of Applicant _____ Applicant CRD Number _____

Part II

1. Regulatory action initiated by: *(Name the regulator, foreign financial regulatory authority, SRO or commodities exchange, etc.)*
2. Regulatory action type:
3. Date Initiated: *(MM/DD/YY)*
4. Docket / Case Number:
5. Employing Firm when events occurred:
6. Product Type(s):
7. Describe the allegations related to this regulatory action: *(Use reverse side of this sheet for additional comments if necessary.)*
8. Is regulatory action currently: *(check one)* ☐ pending ☐ on appeal ☐ final
9. If on appeal, regulatory action appealed to: *(SEC, SRO, US Court of Appeals, etc.)*
10. If on appeal, date filed: *(MM/DD/YY)*

IF FINAL OR ON APPEAL, COMPLETE ALL ITEMS BELOW. FOR PENDING ACTIONS, COMPLETE ITEM 19 ONLY.

11. How was the matter resolved? *(settled, consent, etc.)*
12. Resolution date: *(MM/DD/YY)*
13. Sanctions: *(suspended, censured, barred, requalification, etc.)*
14. If Suspended, Enjoined or Barred: Is suspension/injunction/bar of a fixed duration? *(If no, provide details in Item 19.)* ☐ Yes ☐ No; Suspension/Injunction/Bar Start Date: *(MM/DD/YY)*; Suspension/Bar Injunction/Duration:; Suspension/Injunction/Bar capacity affected: *(General Securities Principal, Financial & Operations Principal, Options Trading, etc.)*
15. If requalification by exam/retraining was a condition of the sanction: Is requalification/retraining time-related? If yes, length of time given to requalify/restrain: *(If no, provide details in Item 19.)* Type of exam required for requalification: Has condition been satisfied? ☐ Yes ☐ No
16. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation: (Fill in amount on appropriate line)

Penalty/Fine:	$	Date Paid *(MM/DD/YY)*
Restitution:	$	Date Paid *(MM/DD/YY)*
Disgorgement:	$	Date Paid *(MM/DD/YY)*
Other:	$	Date Paid *(MM/DD/YY)*

17. Not Applicable.
18. Was payment of all or any part of a monetary award, penalty or fine waived? ☐ Yes ☐ No *(If yes, provide details of Waiver in 19 below.)*
19. Provide summary of details related to the action status and (or) disposition and include relevant terms, conditions and dates. *(Use reverse side of this sheet for additional comments if necessary.)*

FORM SBW

OMB APPROVAL	
OMB Number:	XXXXX
Expires:	XXXXX
Estimated average burden hours per response	

UNIFORM NOTICE

FOR SPONSORING BANK

WITHDRAWAL

OCC (12/96)
FDIC (12/96)
FRB (12/96)

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GENERAL INSTRUCTIONS

Filing Requirements

File Form SBW when a Sponsoring Bank ceases to engage in covered sales. Form SBW is to be filed with the appropriate federal banking agency by submitting Form SBW to the NASD's CRD.

Written Submissions:

- Each copy of this Form must be manually signed by the contact employee.
- Type all information.
- Use only the Form SBW or a reproduction of it.
- The mailing address for the Federal Banking Agencies for questions and correspondence regarding Form SB is:

  Federal Deposit Insurance Corporation
  Office of the Comptroller of the Currency, or
  Board of Governors for the Federal Reserve System
  c/o NASD Central Registration Depository
  P.O. Box 9401
  Gaithersburg, Maryland 20898-9401

Electronic Submissions:

Contact the NASD's CRD ((301) 590-6500) for information and software concerning electronic access to the CRD.

- Each submission must be certified by Sponsoring Bank's contact employee.

Definitions

Contact Employee - The individual identified by the Sponsoring Bank on its Form SB who is authorized to receive all compliance information, communications, and mailings, and be responsible for disseminating it within the Sponsoring Bank.

Covered Sale - means a retail solicitation, recommendation, purchase, or sale of a covered product by a bank through its employees regardless of the means through which the solicitation, recommendation, purchase or sale occurs. The term shall not include a covered transaction involving a fiduciary account administered by a bank, a transaction involving a municipal security by a municipal securities dealer bank registered under section 15B of the Securities Exchange Act of 1934, 15 U.S.C. 78o-4, or a transaction by a bank of its own securities consistent with the conditions set forth in Securities Exchange Act Rule 3a4-1(a)(4), 17 CFR 240.3a4-1(a)(4).

Covered Transaction - has the same meaning as "security" as defined at section 3(a)(10) of the Securities Exchange Act, 15 U.S.C. 78c(a)(10). The term shall not include any product that is a deposit as defined in section 3(1) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(1), or any "government security" as defined at section 3(a)(42) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(42).

Sponsoring Bank - means a bank that engages in or seeks to engage in "covered transactions."

FORM SBW Revised X-XX	UNIFORM NOTICE FOR WITHDRAWAL FROM SPONSORING BANK REGISTRATION	OFFICIAL USE

WARNING: Intentional misstatements or omissions of facts may constitute criminal violations

1. (A) Full name of Sponsoring Bank: (B) Sponsoring Bank CRD No.:

(C) Bank's main address: (D) Mailing address, if different:

(E) Area Code/Telephone No.:

2. Date Sponsoring Bank ceased covered transactions:

3. Does the Sponsoring Bank owe any money or securities to any customer or broker-dealer? Yes___ No___
If "yes":

(A) Number of customers owned fund or securities _____

(B) Amount of money owed to: Customers $_____ broker-dealer $ _____

(C) Market value of securities owned to: Customers $_____ broker-dealer $ _____

(D) Arrangements made for payment:

4. Is Sponsoring Bank now the subject of any:
(A) reportable complaint, investigation, or proceeding not reported on Form SB?.....Yes___ No___
(B) unsatisfied judgments or liens not reported on Form SB?.....Yes___ No___
(C) unsatisfied customer claims for funds or securities nor reported under item 3?.....Yes___ No___

Furnish full details for all "yes" answers on an attachment sheet. For any court or regulatory action, give: (1) the sponsoring bank and individual's name, (2) the title and date of the action, (3) the court or body taking the action, and (4) a description of the action.

5. (A) Name, address and telephone number of the person who will have custody of books and records:

(B) Address where books and records will be located, if different:

6. EXECUTION: I swear or affirm that all of the information I am filing is correct, that I am authorized to execute this form for the Sponsoring Bank, and that the Sponsoring Bank's books and records will be preserved and available for inspection as required by law.

Date: Name: Telephone No.: ( )

By: (Signature and Title)

Attachment Sheet for Form SBW

Sponsoring Bank: _____

CRD No.: _____ Date: _____

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OMB No. xxxx-xxxx (OCC) Expires x/xx/xx
xxxx-xxxxx (FDIC) Expires x/xx/xx
xxxx-xxxx (FRS) Expires x/xx/xx
Average hours per response: x.xx

Form U-4B

Uniform Application for Bank Securities Representative Registration or Transfer

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FORM U-4B

UNIFORM APPLICATION FOR BANK SECURITIES REPRESENTATIVE REGISTRATION OR TRANSFER

Public reporting burden for this information collection is estimated to vary from X.X to X,XXX hours per response, with an average of XX.XX hours per response, including time to gather and maintain data in the required form and to review instructions and complete the information collection. Comments regarding this burden estimated or any other aspect of this information collection, including suggestions for reducing the burden, amy be sent to:

Secretary
Board of Governors of the Federal Reserve System
20th and C Streets, NW
Washington, DC 20551

and

Office of Management and Budget
Paperwork Reduction Project (7100-0XXX)
Washington, DC 20503.

GENERAL INSTRUCTIONS

The Form U-4B is the Uniform Application for Bank Securities Representatives Registration or Transfer. The Form is similar, but not identical to, the Form U-4 used to register representatives of broker-dealers, investment advisers or issuers of securities. The Form U-4B is to be used by employees of state and nationally chartered banks which are not required to register as broker/dealers under the Securities Exchange Act of 1934, but which have filed Form SB, Uniform Notice for Sponsoring Bank. These instructions apply to filing Form U-4B with the Federal Banking Agencies.

As noted below, the term "Federal Banking Agency", as used in the Form U-4B, means the Federal Deposit Insurance Corporation (FDIC), the Board of Governors of the Federal Reserve System (FRS) and the Office of the Comptroller of the Currency (OCC). In addition, the term "Sponsoring Bank" shall mean those banks which have filed Form SB, Uniform Notice for Sponsoring Bank.

Where applicable, applicants must complete items 1–22 and all fields requiring a response must be completed before the filing is accepted. Enter "none" or "N/A" (not applicable) where appropriate.

A full, complete Form U-4B is required when filing for the first time.

Use the Disclosure Reporting Pages (DRPs U-4B) to provide details to "Yes" answers to Item 22.

An applicant and the Sponsoring Bank are under a continuing obligation to update information required by Form U-4B as changes occur. Sponsoring Banks are not required to submit a complete Form U-4B when submitting amendments. Rather, the Sponsoring Bank should update only the appropriate sections of Form U-4B and file the applicable pages. Amendments are to be filed promptly and normally no more than 30 days after the occurrence of the event which triggers the requirement to file an amendment.

Filings and amendments must be signed and submitted by the Sponsoring Bank on behalf of the applicant. A paper copy with original manual signatures of the initial Form U-4B and of amendments to the Disclosure Reporting Pages (DRPs U-4B) must be retained by the filing Sponsoring Bank and must be made available for inspection upon regulatory request.

The Federal Banking Agencies mailing address for Filings and correspondence relating to filings is:

Federal Deposit Insurance Corporation,
Federal Reserve System, or
Office of the Comptroller of the Currency (as appropriate)
c/o NASD Central Registration Depository
P.O. Box 9401
Gaithersburg, Maryland 20898-9401

EXPLANATION OF TERMS

The following terms are italicized throughout this form.

For purposes of filing this Form U-4B:

The term **Federal Banking Agency** means the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, or the Office of the Comptroller of the Currency, Department of the Treasury, as appropriate.

The term **Bank Securities Representative** means an employee of a state or nationally chartered bank who has, or will be, engaged in the retail solicitation, recommendation, purchase or sale of covered products as defined in the Federal Bank Agency regulations—12 CFR 342, 12 CFR 208, and 12 CFR 12.

The term **Sponsoring Bank** means a state or nationally chartered bank that engages in the retail solicitation, recommendation, purchase or sale of covered products without registering as a broker/dealer under the Securities and Exchange Act of 1934, and has filed a Form SB Uniform Notice for Sponsoring Bank with the appropriate Federal Banking Agency.

The term **Jurisdiction** means a state, the District of Columbia, the Commonwealth of Puerto Rico, or any subdivision or regulatory body thereof.

The term **Self-Regulatory Organization** ("SRO") means any national securities and commodities exchange, any national securities association (e.g., the NASD), or any registered clearing agency.

The term **Control** means the power to direct or cause the direction of the management or policies of a company, whether through ownership of securities, by contract, or otherwise. Any individual or firm that is a director, partner, or officer exercising executive responsibility (or having similar status or functions) or that directly or indirectly has the right to vote 25 percent or more of the voting securities or is entitled to 25 percent or more of the profits is presumed to control that company.

The term **Appropriate Signatory** means the individual designated by the Sponsoring Bank who is authorized to execute Form U-4B on its behalf. Such individual must meet the criteria, if any, for acting as the "appropriate signatory" as established by the Federal Banking Agency requiring this form to be filed.

The term **Investment-Related** pertains to securities, commodities, banking, insurance, or real estate (including, but not limited to, acting as or being associated with a broker-dealer, issuer, investment company, investment adviser, futures sponsor, bank or savings association).

For purposes of Item 22:

The term **Charged** means being accused of a crime in a formal complaint, information, or indictment (or equivalent formal charge).

The term **Involved** means doing an act or aiding, abetting, counseling, commanding, inducing, conspiring with or failing reasonably to supervise another in doing an act.

The term **Foreign Financial Regulatory Authority** includes a foreign securities authority; other governmental body or foreign equivalent of a *self-regulatory organization* empowered by a foreign government to administer or enforce its laws relating to the regulation of *investment-related* activities; or membership organization, a function of which is to regulate the participation of its members in *investment-related* activities listed above.

The term **Order** means a written directive issued pursuant to statutory authority and procedures, including orders of denial, suspension, or revocation; does not include special stipulations, undertakings or agreements relating to payments, limitations on activity or other restrictions unless they are included in an order.

For the purposes of Items 22.A and 22.B and the corresponding DRP (U-4B):

The term **Felony**, for jurisdictions that do not differentiate between a *felony* or *misdemeanor*, is an offense punishable by a sentence of at least one year imprisonment and/or a fine of at least $1,000. The term also includes a general court martial.

The term **Misdemeanor**, for jurisdictions that do not differentiate between a *felony* or *misdemeanor*, is an offense punishable by a sentence of less than one year imprisonment and/or a fine of less than $1,000. The term also includes a special court martial.

For the purposes of Item 22.E and the corresponding DRP (U-4B):

A **Minor Rule Violation** is a violation of a *self-regulatory organization* rule which has been designated as "minor" pursuant to a plan approved by the U.S. Securities and Exchange Commission. A rule violation may be designated as "minor" under a plan if the sanction imposed consists of a fine of $2,500.00 or less, and if the sanctioned person does not contest the fine. Check with the appropriate *self-regulatory organization* to determine if a particular rule violation has been designated as "minor" for these purposes.

For the purposes of Item 22.G and the corresponding DRP (U-4B):

The term **Investigation** includes grand jury investigations, U.S. Securities and Exchange Commission investigations after the

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"Wells" notice has been given, formal investigations by *SROs* or actions or procedures designated as investigations by *jurisdictions*, but does not include subpoenas, preliminary or routine regulatory inquiries or requests for information, deficiency letters, "blue sheet" requests or other trading questionnaires, or examinations.

The term **Proceeding** includes a formal administrative or civil action initiated by a *Federal Banking Agency*, governmental agency, *self-regulatory organization* or *foreign financial regulatory authority*, a *felony* criminal indictment or information (or equivalent formal charge), or a *misdemeanor* criminal information (or equivalent formal charge), but does not include an arrest or similar charge effected in the absence of a formal criminal indictment or information (or equivalent formal charge). NOTE: *Investment-related* civil litigation, other than that specified above, is reportable under Item 22.H on Form U-4B. An *investigation* is reportable under Item 22.G on Form U-4B.

For the purposes of Item 22.H and the corresponding DRP (U-4B):

The term **Enjoined** includes being subject to a mandatory injunction, prohibitory injunction, preliminary injunction or a temporary restraining order.

For the purposes of Item 22.J and the corresponding DRP (U-4B):

The terms **Resign** or **Resigned** relate to separation from employment with any employer and are not restricted to *investment-related* employment. Include any termination in which the allegations are a proximate cause of the separation, even if the separation was initiated by you.

SPECIFIC INSTRUCTIONS

1. **Last Name.** The applicant's last name will include punctuation(s) when and where appropriate. An entry is required for processing initial and amended Form U-4B filings.

First Name. Do not use nicknames, abbreviations, or modifications to the applicant's first name. An entry is required for processing initial and amended Form U-4B filings.

Middle Name. If the applicant does not have a middle name specify "NONE". Do not leave this field blank. Do not include nicknames, abbreviations, or modifications to the applicant's middle name. This term is required for processing initial and amended Form U-4B filings.

2. **Applicant's CRD #.** The Applicant's CRD number is assigned to the applicant by the Central Registration Depository (CRD) system. If the applicant's CRD number is not known, leave this item blank. New applicants will receive a unique CRD number that is permanently assigned and remains with the individual throughout his or her registration history, regardless of employment changes. It is not necessary to include leading zeros. An entry is not required for processing an initial Form U-4B filing but is required for amended U-4B filings.

Applicant's SS #. Enter the applicant's social security number. Completion of the applicant's SSN is voluntary. However, failure to complete the applicant's SSN may result in confusion regarding who the applicant is and may delay or prevent the processing of the Form U-4B. If the form is being filed on behalf of a foreigner who has not been issued a social security number, indicate "FOREIGNER" in this item. Entry is required in this field for processing of the initial and amended Form U-4B filings.

3. **Sponsoring Bank CRD #.** Sponsoring Banks are assigned a unique CRD number. This number is system generated and uniquely identifies the organization. An entry is required in this field for processing initial and amended Form U-4B filings.

4. **Sponsoring Bank.** This is the Sponsoring Bank's complete name as listed on Form SB. Do not abbreviate, shorten, or modify the name. An entry is required in this field for processing initial and amended Form U-4B filings.

5. **Employment Date.** The filing of the U-4B assumes that the individual is employed with your Sponsoring Bank; therefore, this item requires the month, day, and year of hire rather than the application for registration date. The format should be numeric (e.g., 01/01/1995 equals January 1, 1995). This is a required field for processing the initial Form U-4B filing.

6. **CRD Branch #.** Not applicable for Form U-4B filings.

7. **Billing Code.** The Billing Code is an alpha/numeric value consisting of up to eight characters. It is the responsibility of the Sponsoring Bank to establish and maintain its own set of unique billing codes. If your Sponsoring Bank doe not use CRD billing codes, leave this field blank. This is not a required field.

8. **Office of Employment Address.** Not applicable for Form U-4B filings.

9. **Dual Registration.** Check the appropriate "Yes" or "No" box regarding whether the applicant will maintain dual registration with another broker-dealer or another investment adviser that is not under common ownership or control with the Sponsoring Bank. If you choose "Yes", consult the rules and statutes of the appropriate *Self Regulatory Organization(s)* and *jurisdiction(s)* for prohibitions and liability provisions. Employment with other broker-dealers or investment advisers must be listed in the Employment and Personal History (Item 20.A) on Page 2 of the Form U-4B.

10. **Affiliated Firms.** Not applicable for Form U-4B filings.

11. **Federal Banking Agency.** Check the appropriate Federal Banking Agency box(es) with which the applicant wishes to register. Applicable fees should be submitted with the filing unless the Federal Banking Agency maintains sufficient funds in its CRD account. If an examination is required for registration, the exam will be automatically scheduled and fee(s) charged appropriately. Registration applications will not be processed unless the Sponsoring Bank has filed Form SB or has an application pending.

12. **Mark Registration Category(ies).** Check all appropriate registration categories desired. If the applicant is not qualified for a category of registration requested, the appropriate examination(s) will be scheduled automatically, and the examination fee(s) deducted from the firm's CRD account.

13. **Complete this section only if you are scheduling or rescheduling an exam or continuing education session.** The purpose of this item is to schedule or reschedule examinations or Continuing Education sessions. Checking an exam box will not generate a registration request/approval but will schedule the appropriate examination even if the applicant has previously passed the examination. Check the S101 (Continuing Education session) box will request an unscheduled session even if the applicant has previously satisfied the Continuing Education requirement. An unscheduled session will not fulfill the applicant's Continuing Education requirement.

Signatory Area

Date. This date represents the date the form was signed by the appropriate signatory. The correct format for the date entry is "MM/DD/YYYY." This is required field for U-4B Page 1 amended filings.

Signature of *Appropriate Signatory*. U-4B Page 1 need not be signed on initial or transfer filings. A signature is required when filing U-4B Page 1 as an amendment. If a U-4B Page 1 is being filed to schedule or reschedule an examination, complete Items 1, 2, 3, 4, and 13 only. (If any other items are completed, a signature is required.) NOTE: "Signature" includes a manual signature or an electronically transmitted equivalent.

Type or Print Name. The signatory's full legal name must be displayed under the signature. The name must be typed or printed as it appears in the signature form.

CRD Use Only. Do not mark inside this box. This area is used for administrative purposes only.

14. **Sponsoring Bank CRD #.** Sponsoring Banks are assigned a unique CRD number. This number is system generated and uniquely identifies the organization. An entry is required in this field for processing initial and amended Page 2 Form U-4B filings.

Applicant's Social Security #. Enter the applicant's social security number. Completion of the applicant's SSN is voluntary. However, failure to complete the applicant's SSN may result in confusion regarding who the applicant is and may delay or prevent the processing of the Form U-4B. If the form is being filed on behalf of a foreigner who has not been issued a social security number, indicate "FOREIGNER" in this item. Entry is required in this field for processing of the initial and amended Page 2 Form U-4B filings.

Applicant's CRD #. The Applicant's CRD is assigned to the applicant by the CRD system. If the applicant's CRD number is not known, leave this item blank. New applicants will receive a unique CRD number that is permanently assigned and remains with the individual throughout his or her registration history. It is not necessary to include leading zeros. An entry is required in this field for U-4B Page 2 amended filings.

Personal Data

The name inserted must be the applicant's full legal name.

15. **Last Name.** The applicant's last name will include punctuation(s) when and where appropriate. An entry is required for processing initial and Page 2 Form U-4B amended filings.

First Name. Do not use nicknames, abbreviations, or modifications to the applicant's first name. An entry is required for processing initial and amended Page 2 Form U-4B filings.

Middle Name. If the applicant does not have a middle name specify "NONE". Do not leave this field blank. This item is required for processing initial and amended Form U-4B filings. Do not include nicknames, abbreviations, or modifications to the applicant's middle name.

16. **Maiden/Other Name(s) Known By.** This item is used to record names used, currently or in the past, by the applicant other than the legal name. The field should include other names (maiden, married, alias, or nickname) used by the applicant since adulthood. This is not a required field.

17. **Date of Birth.** The date format should be MM/DD/YYYY. An entry must be in this field to process the initial Form U-4B.

State/Country of Birth. This field is used to record the applicant's place of birth. This is a required field for initial Form U-4B filings.

18. **Sex.** Indicate the appropriate box for gender. This is a required field for initial Form U-4B filings.

Height. The applicant's height must be measured in feet (ft) and inches (in). This is a required field for initial Form U-4B filings.

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Weight. The applicant's weight must be measured in pounds (lbs). This is a required field for initial Form U-4B filings.

Hair Color. This is a two character item. This item is required for processing of the initial Form U-4B.

Eye Color. This is a two character item. This item is required for processing of the initial Form U-4B.

19. **Residential History**

Provide residential addresses for the past file years. The dates "From–To" must be such that there are no gaps greater than three months. Begin with your current residential address. Report changes as they occur. Do ot use Post Office boxes. Use attachment sheet if annitional space is needed.

From Month/Year. The month/year is MM/YYYY. This is a required field for each residence.

To Month/Year. The month/year is MM/YYYY. This is a required field for all residences except the current address.

Street. This item is used to capture the mailing description of the applicant's residence. P.O. Box addresses are not acceptable. Include street name, building #, unit #, apartment #, suite #, slip #, etc.

City. This item is used to capture the name of the city in which the applicant currently, or previously resided. This is a required field for all address history.

State/Country. This item identifies the state code where the applicant resides or resided in the past. Enter the two digit state abbreviation where the applicant resided for each address. If this is a foreign address indicate the country.

ZIP. Enter the applicant's residence nine digit ZIP Code or postal code if a foreign address.

20.A. **Employment and Personal History**

Provide the applicant's employment and personal history for the past ten years. The dates "From–To" must be such that there are no gaps greater than three months. Exclude the firm(s) noted in Items 4 and 10. Include all firm(s) in Item 9. Entries must include the start and end dates, the full name of the company, city and state/country. Account for all time including full and part-time employments, self employment, military service, and homemaking. Also include statuses such as unemployment, full-time education, or travel that lasted for at least one month.

From Month/Year. The month/year format is MM/YYYY. This is a required field for each employment.

To Month/Year. The month/year format is MM/YYYY. This is a required field for all employments.

Name. Enter employment/personal history. Do not abbreviate, shorten, or modify the name. Ten years of employment history is required. Exclude the firms noted in Items 4 and 10 on Page 1 of Form U-4B. This is a required field for each employment and personal history.

***Investment-Related* Business.** Indicate "Yes" or "No" as to whether employer is (was) an *investment-related* business, regardless of the position held by applicant.

City. This item is used to capture the name of the city in which the applicant was employed. This is a required field for all employment and personal history.

State/Country. This item identifies the state or country where the applicant was employed. Enter the two digit state abbreviation where the applicant was employed for each address. If this is a foreign address indicate the country.

Position Held. Provide the applicant's last title or position held with each employer. Provide both functional and administrative titles when possible (e.g., vice president and director).

20.B. **Other Business.** The "Yes" or "No" boxes refer to whether an applicant is currently engaged in any other business either as a proprietor, partner, officer, director, employee, trustee, agent, or otherwise. Exclude non-*investment-related* activity which is exclusively charitable, civic, religious or fraternal and is recognized as tax exempt. If "Yes", complete the Other Business Disclosure Reporting Page included in the Form U-4B.

Signatory Area

Date. This date represents the date the U-4B Page 2 was signed by the *appropriate signatory*. The correct format for the date entry is "MM/DD/YYYY". This is a required field for U-4B Page 2 amended filings.

Signature of *Appropriate Signatory*. Enter the applicant's signature. Signatures are required on Page 2 when the Form U-4B is an amended filing. U-4B Page 2 need not be signed for initial filings. NOTE: "Signature" includes a manual signature or an electronically transmitted equivalent.

Type or Print Name. The signatory's full legal name must be displayed under the signature. The name must be typed as it appears in signature form.

CRD Use Only. Do not mark inside this box. This space is used for administrative purposes only.

21. **Sponsoring Bank CRD #.** Sponsoring Banks are assigned a unique CRD number. This number is system generated and uniquely identifies the organization. An entry is required in this field for processing amended Page 3 Form U-4B filings.

Applicant's Social Security #. Enter the applicant's social security number. Completion of the applicant's SSN is voluntary. However, failure to complete the applicant's SSN may result in confusion regarding who the applicant is and may delay or prevent the processing of the Form U-4B. If the form is being filed on behalf of a foreigner who has not been issued a social security number, indicate "FOREIGNER" in this item. Entry is required in this field for processing of initial and amended Page 3 Form U-4B filings.

Applicant's CRD #. The Applicant's CRD number is assigned to the applicant by the CRD system. If the applicant's CRD number is not known, leave this item blank. New applicants will receive a unique CRD number that is permanently assigned and remains with the individual throughout his or her registration history. It is not necessary to include leading zeros. An entry is not required for processing an initial Form U-4B filing but is required for amended U-4B Page 3 filings.

22. **Disclosure Information.** Check the appropriate "Yes" or "No" response for each question. Complete details explaining any "Yes" answers must be provided on the appropriate Disclosure Reporting Pages (DRPs).

22.A.–M. **Disclosure**

Criminal Disclosure
- 22.A.—Felony Criminal Disclosure
- 22.B.—Misdemeanor Criminal Disclosure

Regulatory Action Disclosure
- 22.C.—Regulatory Action by SEC or CFTC
- 22.D.—Regulatory Action by Federal Banking Agency, other federal regulator, state regulatory, or foreign financial regulator
- 22.E.—Regulatory Action by *SRO* or commodities exchange
- 22.F.—Professional Suspension
- 22.G.—Formal Pending Action/Investigation

Civil Judicial Actions
- 22.H.—Civil/Judicial Actions

Customer Complaints
- 22.I.—Customer Complaints

Terminations
- 22.J.—Terminations for Cause

Financial Page 1
- 22.K.—Bankruptcy and SIPC

Financial Page 2
- 22.L.—Bonding Payouts or Revocations
- 22.M.—Unsatisfied Judgments and Liens

22.N. **Disclosure Certification (Optional).** The certification language contained in Item 22.N allows applicant to certify that all disclosable information on the individual's record has been previously reported on Form U-4B or Form U-5B DRPs. Certification should be used for full Form U-4B filings only, not amended filings. Applicants who have not been previously registered with the NASD, or who have not submitted DRPs for all disclosable information, may not take advantage of the certification option. Use of the certification is optional, and, if chosen, "Yes" answers to the appropriate questions in Items 22.A through M must be provided.

Signatory Area

"Signature" includes a manual signature or an electronically transmitted equivalent.

Date. This represents the date the form was signed by the *appropriate signatory*. The correct format for the date entry is "MM/DD/YYYY". Both the applicant and *appropriate signatory* must date this page only when it is being submitted as an amended filing.

Signature of Applicant. Page 3 need not be signed on initial or transfer filings. A signature is required when filing U-4B Page 3 as an amendment. Enter the applicant's full legal signature as it appears in typed or printed form.

Type or Print Name of Applicant. The applicant's full legal name must be displayed under the signature. The name must be typed or printed as it appears in signature form.

Signature of *Appropriate Signatory*. A signatory entry is not required for initial or transfer filings. This is a required field only when submitting as a U-4B Page 3 amendment.

Type or Print Name of *Appropriate Signatory*. The appropriate signatory's full legal name must be displayed under the signature. The name must be typed or printed as it appears in signature form.

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Uniform Application for Bank Securities Representative Registration or Transfer (Form U-4B)

If amending, complete items 1,2,3,4 and items being amended.

1. Applicant's Name (last, first, middle (specify if none), Jr., Sr., etc.))	2. Applicant's CRD No.	Applicant's SSN

3. Sponsoring Bank CRD No.	4. Sponsoring Bank or Issuer Name (Do not include this employment under Item 20.A, page 2.)

5. Employment Date (MM/DD/YYYY)	6. CRD Branch No.	7. Billing Code (optional)	8. Office of Employment Address
	Not Applicable		Not Applicable

9. Dual Registration

A. Will applicant maintain registrations with firm(s) not under common ownership or control with the Sponsoring Bank named in Item 4 above?
☐ Yes If Yes, list the firm(s) in Item 20.A on page 2.
☐ No

B. Will applicant maintain registration with an investment adviser not under common ownership or control with the Sponsoring Bank in Item 4 above?
☐ Yes If Yes, list the firm(s) in Item 20.A on page 2.
☐ No

10. Affiliated Firms

Not Applicable

11. Federal Banking Agency

☐ OCC ☐ FRS ☐ FDIC

12. Registration Catagory Requested

Mark the registration category(ies) being requested. Qualifying examinations will be automatically scheduled if needed. If you are only scheduling or re-scheduling an exam, skip this item and complete Item 13.

☐ IR - (S6) Investment Company and Variable Contracts Products Rep.
☐ GS - (S7) Full Registration/General Securities Representative

13. Complete this item only if you are scheduling or rescheduling an exam or continuing education session.

☐ S6 ☐ S7 ☐ S101

PRIVACY ACT NOTICE

The Applicant's SSN is requested to differentiate among applicants with the same name. Providing the Applicant's SSN is voluntary. However, failure to provide the Applicant's SSN may result in confusion regarding who the Applicant is and may delay or prevent processing of this application for registration. The information you provide will be for the use of the appropriate Federal banking agency and for other State and Federal agencies and SROs. Maintenance of the information is authorized by sections 8, 9 and 31 of the Federal Deposit Insurance Act (12 U.S.C. 1818, 1819 and 1831).

The *appropriate signatory* area *DOES NOT* have to be completed *UNLESS* this page is being submitted as an amendment.

Date (MM/DD/YYYY)

Signature of *appropriate signatory*

Print or type name of *appropriate signatory*

CRD Use Only

Uniform Application for Bank Securities Representative Registration or Transfer (Form U-4B)—continued

If amending page 2, complete items 14, 15 and items being amended.

14. Sponsoring Bank CRD No.	Applicant's SSN	Applicant's CRD No.

PERSONAL DATA

15. Last Name (Jr., Sr., etc.)	First Name	Middle Name (Specify if none)	16. Maiden/Other Names Known By

17. Date of Birth (MM/DD/YYYY)	State/Country of Birth	18. Sex ☐ M ☐ F	Height (Ft.,In.)	Weight	Hair Color	Eye Color

RESIDENTIAL HISTORY

19. Starting with current address, give all addresses for the past 5 years. Report changes only when they occur. Use the Attachment Sheet if additional space is required.

From Month (MM)	From Year (YYYY)	To Month (MM)	To Year (YYYY)	Street (Do not use a P.O. Box)	City	State/ Country	ZIP Code
		PRESENT					

EMPLOYMENT AND PERSONAL HISTORY

20. A. Provide Complete employment history for the past 10 years, exclude the Sponsoring Bank noted in Item 4. Include all Firm(s) from Item 9. (Account for all time including full and part-time employments, self employment, military service, and homemaking. Also include statuses such as unemployed, full-time education, or travel that lasted for at least one month.) Report changes only when they occur, use Attachment Sheet if additional space is required.

From Month (MM)	From Year (YYYY)	To Month (MM)	To Year (YYYY)	Name	Investment-Related Business?	City	State/ Country	Position Held
					☐ YES ☐ NO			
					☐ YES ☐ NO			
					☐ YES ☐ NO			
					☐ YES ☐ NO			
					☐ YES ☐ NO			
					☐ YES ☐ NO			
					☐ YES ☐ NO			
					☐ YES ☐ NO			
					☐ YES ☐ NO			

20. B. Are you currently engaged in any other business either as a proprietor, partner, officer, director, employee, trustee, agent or otherwise? (Please exclude non investment-related activity which is exclusively charitable, civic, religious or fraternal and is recognized as tax exempt.)

☐ YES ☐ NO If "YES", please complete the Other Business Reporting Page of this form.

PRIVACY ACT NOTICE

The Applicant's SSN is requested to differentiate among applicants with the same name. Providing the Applicant's SSN is voluntary. However, failure to provide the Applicant's SSN may result in confusion regarding who the Applicant is and may delay or prevent processing of this application for registration. The information you provide will be for the use of the appropriate Federal banking agency and for other State and Federal agencies and SROs. Maintenance of the information is authorized by sections 8, 9 and 31 of the Federal Deposit Insurance Act (12 U.S.C. 1818, 1819 and 1831).

The appropriate signatory area *DOES NOT* have to be completed *UNLESS* this page is being submitted as an amendment.

CRD Use Only

Date (MM/DD/YYYY)

Signature of *appropriate signatory*

Print or type name of *appropriate signatory*

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Uniform Application for Bank Securities Representative Registration or Transfer (Form U-4B)—continued

If amending pages 3 and 4, complete Item 21 and items being amended.

21. Sponsoring Bank CRD No.	Applicant's SSN	Applicant's CRD No.

If the answer to any of the following questions is "YES" and you cannot utilize the certification in Item 22N below, Attach complete details of all events or proceedings on appropriate DRP(S).

22. REFER TO THE EXPLANATION OF TERMS SECTION OF FORM U-4B INSTRUCTIONS FOR EXPLANATIONS OF ITALICIZED TERMS.

	YES	NO	
Criminal Disclosure			
A. (1) Have you ever:			
(a) been convicted of or pled guilty or nolo contendere (no contest) in a domestic, foreign, or military court to any *felony*?			1
(b) been *charged* with any *felony*?			2
(2) Based upon activities that occurred while you exercised *control* over it, has an organization ever:			
(a) been convicted of or pled guilty or nolo contendere (no contest) in a domestic or foreign court to any *felony*?			3
(b) been *charged* with any *felony*?			4
B. (1) Have you ever:			
(a) been convicted of or pled guilty or nolo contendere (no contest) in a domestic, foreign or military court to a *misdemeanor involving*: investments or an *investment-related* business or any fraud, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?			5
(b) been *charged* with a *misdemeanor* specified in 22.B.(1)(a)?			6
(2) Based upon activities that occurred while you exercised *control* over it, has an organization ever:			
(a) been convicted of or pled guilty or nolo contendere (no contest) in a domestic or foreign court to a *misdemeanor* specified in 22.B.(1)(a)?			7
(b) been *charged* with a *misdemeanor* specified in 22.B.(1)(a)?			8
Regulatory Disciplinary Actions			
C. Has the U.S. Securities and Exchange Commission or the Commodity Futures Trading Commission ever:			
(1) *found* you to have made a false statement or omission?			9
(2) *found* you to have been *involved* in a violation of its regulations or statutes?			10
(3) *found* you to have been a cause of an *investment-related* business having its authorization to do business denied, suspended, revoked, or restricted?			11
(4) entered an *order* against you in connection with *investment-related* activity?			12
(5) imposed a civil money penalty on you or *ordered* you to cease and desist from any activity?			13
D. Has any Federal banking regulator or other Federal regulatory agency or any state regulatory agency or foreign *financial regulatory authority* ever:			
(1) *found* you to have made a false statement or omission or been dishonest, unfair or unethical?			14
(2) *found* you to have been *involved* in a violation of *investment-related* regulations(s) or statute(s)?			15
(3) *found* you to have been a cause of an *investment-related* business having its authorization to do business denied, suspended, revoked or restricted?			16
(4) entered an *order* against you in connection with *investment-related* activity?			17
(5) denied, suspended, or revoked your registration or license or otherwise, by *order*, prevented you from associating with an *investment-related* business or restricted you activities?			18
E. Has any *self-regulatory organization* or commodities exchange ever:			
(1) *found* you to have made a false statement or omission?			19
(2) *found* you to have been *involved* in a violation of its rules (other than a violation designated as a *"minor rule violation"* under a plan approved by the U.S. Securities and Exchange Commission)?			20
(3) *found* you to have been the cause of an *investment-related* business having its authorization to do business denied, suspended, revoked or restricted?			21
(4) disciplined you by expelling or suspending you from membership, barring or suspending your association with its members, or restricting your activities?			22
F. Has your authorization to act as an attorney, accountant or federal contractor ever been revoked or suspended?			23
G. Have you been notified, in writing, that you are now the subject of any:			
(1) regulatory complaint or *proceeding* that could result in a "yes" answer to any part of 22.C, D, or E? *(If yes, complete the Regulatory Action Disclosure Reporting Page.)*			24
(2) *investigation* that could result in a "yes" answer to any part of 22.A, B, C, D or E? *(If yes, complete the Investigation Disclosure Reporting Page.)*			25

Uniform Application for Bank Securities Representative Registration or Transfer (Form U-4B)—continued

22. Continued

	YES	NO	
Civil Judicial Actions			
H. (1) Has any domestic or foreign court ever:			
(a) *enjoined* you in connection with any *investment-related* activity?			26
(b) *found* that you were *involved* in a violation of any *investment-related* statute(s) or regulation(s)			27
(c) dismissed, pursuant to a settlement agreement, an *investment-related* civil action brought against you by a state or *foreign financial regulatory authority*?			28
(2) Are you named in any pending *investment-related* civil action that could result in a "yes" answer to any part of 22.H(1)?			29
Customer Complaints			
I. Have you ever been the subject of an *investment-related*, consumer initiated complaint or *proceeding* that:			
(1) alleged compensatory damages of $10,000 or more, fraud, or wrongful taking of property?			30
(2) was settled or decided against you for $5,000 or more, or found fraud or the wrongful taking of property?			31
Terminations			
J. Have you ever voluntarily *resigned*, been discharged or permitted to *resign* after allegations were made that accused you of:			
(1) violating *investment-related* statutes, regulations, rules, or industry standards of conduct?			32
(2) fraud or the wrongful taking of property?			33
(3) failure to supervise in connection with *investment-related* statutes, regulations, rules or industry standards of conduct?			34
Financial			
K. Within the past 10 years:			
(1) have you made a compromise with creditors, filed a bankruptcy petition or been the subject of an involuntary bankruptcy petition?			35
(2) based upon events that occurred while you exercised *control* over it, has an organization made a compromise with creditors, filed a bankruptcy petition or been the subject of an involuntary bankruptcy petition?			36
(3) based upon events that occurred while you exercised *control* over it, has a broker or dealer been the subject of an involuntary bankruptcy petition, or had a trustee appointed, or had a direct payment procedure initiated under the Securities Investor Protection Act?			37
L. Has a bonding company ever denied, paid out on, or revoked a bond for you?			38
M. Do you have any unsatisfied judgments or liens against you?			39

DISCLOSURE CERTIFICATION (OPTIONAL)

You may only certify to the accuracy and completeness of the disclosure information in your file if it has been fully provided in DRP format. If DRP(s) are not on file, do not answer these certification boxes. Provide full details of all matters on DRP(s). All appropriate questions in Item 22 must be answered, regardless of whether the certification is being utilized. Refer to the Form U-4B instructions for additional information on the utilization of the certification language.

N. I have received a copy of my disclosure file taken from the CRD system, I acknowledge that all information contained therein is fully disclosed, accurate and in DRP format. I further certify the following:		
(1) I have no new information to add to my disclosure file		40
(2) I have new information to add to my disclosure file which is reported on the appropriate DRP(s)		41
(3) I have updated information, reported on the appropriate DRP(s), which was previously reported		42

PRIVACY ACT NOTICE

The Applicant's SSN is requested to differentiate among applicants with the same name. Providing the Applicant's SSN is voluntary. However, failure to provide the Applicant's SSN may result in confusion regarding who the Applicant is and may delay or prevent processing of this application for registration. The information you provide will be for the use of the appropriate Federal banking agency and for other State and Federal agencies and SROs. Maintenance of the information is authorized by sections 8, 9 and 31 of the Federal Deposit Insurance Act (12 U.S.C. 1818, 1819 and 1831).

The applicant and *appropriate signatory* area *DOES NOT* have to be completed *UNLESS* this page is being submitted as an amendment.

Date (MM/DD/YYYY)	Signature of applicant
	Print or type name of applicant
Date (MM/DD/YYYY)	Signature of *appropriate signatory*
	Print or type name of *appropriate signatory*

CRD Use Only

Uniform Application for Bank Securities Representative Registration or Transfer (Form U-4B)—continued

21. Sponsoring Bank CRD No.	Applicant's SSN	Applicant's CRD No.

PRIVACY ACT NOTICE

The Applicant's SSN is requested to differentiate among applicants with the same name. Providing the Applicant's SSN is voluntary. However, failure to provide the Applicant's SSN may result in confusion regarding who the Applicant is and may delay or prevent processing of this application for registration. The information you provide will be for the use of the appropriate Federal banking agency and for other State and Federal agencies and SROs. Maintenance of the information is authorized by sections 8, 9 and 31 of the Federal Deposit Insurance Act (12 U.S.C. 1818, 1819 and 1831).

APPLICANT AFFIRMATION:

1. I swear or affirm that I have read and understand the items and instructions on this form and that my answers (including attachments) are true and complete to the best of my knowledge. I understand that I am subject to administrative, civil and/or criminal penalties if I give false or misleading answers.

2. I apply for registration with the Federal Banking Agency indicated in Item 11.

3. I authorize all my employers and any other person to furnish to any Federal Banking Agency, jurisdiction, SRO, employer, prospective employer, or any agent acting on its behalf, any information they have, including my creditworthiness, character, ability, business activities, educational background, general reputation, history of my employment and, in the case of former employers, complete reasons for my termination. Moreover, I release each employer, former employer, and each other person from any and all liability, of whatever nature, by reason of furnishing any of the above information, including information reported on the Uniform Termination Notice for Bank Securities Representatives Registration (Form U-5B). I recognize that I may be the subject of any investigative consumer report and waive any requirement of notification with respect to any investigative consumer report ordered by any Federal Banking Agency, jurisdiction, SRO, employer or prospective employer of the nature and scope of the requested investigative consumer report.

4. I authorize the Federal Banking Agency to give any information on the Central Registration Depository to any employer or prospective employer, any federal, state or municipal agency, or any other SRO and I release the Federal Banking Agency and any person acting on their behalf from any and all liability of whatever nature by reason of furnishing such information.

5. I authorize the Federal Banking Agency and any person acting on their behalf to give certain information on the Central Registration Depository concerning me to any person, including the general public. I specifically authorize the release of information regarding my name, CRD #, employment and personal history, and registration categories to any person. In addition, I specifically authorize the release of information regarding criminal and civil actions as well as consumer complaints (both resolved and unresolved), terminations and certain financial disclosure information to any person. I understand the Federal Banking Agency will not disclose social security numbers, residential information, date and location of birth, or gender, but will release all other information in the Central Registration Depository to any person. I release the Federal Banking Agency and any person acting on their behalf from any and all liability of whatever nature by reason of furnishing such information to any person.

6. I understand and certify that the representations in this form apply to all employers with whom I seek registration as indicated in Item 4 of the form. I agree to update this form by causing an amendment to be filed within 30 days of the event occurring which causes any information to become incomplete, misleading or inaccurate. Further, I represent that, to the extent any information previously submitted is not amended, the information provided in this form is currently accurate and complete.

7. I authorize any employer or prospective employer to file on my behalf any information required in this form or any amendment thereto; I certify that I have reviewed and approved the information to be submitted to any Federal Banking Agency on this Form U-4B application; I agree that I will review and approve all disclosure information that will be filed on my behalf; I further agree to waive any objection to the admissibility of the filed records in any criminal, civil, or administrative proceeding.

(All applicants must execute this page.)

Date (MM/DD/YYYY)

Signature of Applicant

Print or type name of Applicant

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Uniform Application for Bank Securities Representative Registration or Transfer (Form U-4B)—continued

21. Sponsoring Bank CRD No.	Applicant's SSN	Applicant's CRD No.

PRIVACY ACT NOTICE

The Applicant's SSN is requested to differentiate among applicants with the same name. Providing the Applicant's SSN is voluntary. However, failure to provide the Applicant's SSN may result in confusion regarding who the Applicant is and may delay or prevent processing of this application for registration. The information you provide will be for the use of the appropriate Federal banking agency and for other State and Federal agencies and SROs. Maintenance of the information is authorized by sections 8, 9 and 31 of the Federal Deposit Insurance Act (12 U.S.C. 1818, 1819 and 1831).

THE SPONSORING BANK MUST COMPLETE THE FOLLOWING:

To the best of my knowledge and belief, the applicant is currently bonded where required, and, at the time of approval, will be familiar with the statutes, rules, regulations, policies and supervisory guidance, and by-laws of the appropriate Federal banking agency with which this application is being filed, and the rules governing bank securities representatives, and will be fully qualified for the position for which application is being made herein. I agree that I will not permit the applicant to act as a bank securities representative without first receiving the approval of the appropriate Federal banking agency.

This Sponsoring Bank has communicated with all of the applicant's previous employers for the past three years and has documentation on file with the names of the persons contacted and the date of contact. In addition, I have taken appropriate steps to verify the accuracy and completeness of the information contained in and with this application.

I have provided the applicant an opportunity to review the information contained herein and the applicant has approved this information and signed the Form U-4B.

The appropriate signatory area must be completed on all initial or amendment filings.

Date (MM/DD/YYYY)

Signature of *appropriate signatory*

Print or type name of *appropriate signatory*

Uniform Application for Bank Securities Representative Registration or Transfer (Form U-4B)—continued

Form U-4B
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OTHER BUSINESS DISCLOSURE REPORTING PAGE

GENERAL INSTRUCTIONS

This Other Business Disclosure Reporting Page (DRP U-4B) is an ☐ INITIAL *OR* ☐ AMENDED response used to report details in support of affirmative responses to *Item 20.B* on Page 2 of the Form U-4B.

20.B. Are you currently engaged in any other business either as a proprietor, partner, officer, director, employee, trustee, agent, or otherwise? *(Please exclude non investment-related activity which is exclusively charitable, civic, religious or fraternal and is recognized as tax exempt.)*

Please provide the following information relevant to each other business disclosed.

Applicant's Name (last, first, middle (specify if none), (Jr., Sr., etc.))		
Applicant's CRD No.	Applicant's SSN	Sponsoring Bank CRD No.

1. Name of Other Business	Investment-Related Business? ☐ Yes ☐ No
2. Address of Other Business (Street, City, State/Country, ZIP Code)	
3. Nature of Other Business	
4. Your Position, Title or Relationship with Other Business	5. Start Date (MM/DD/YYYY) / End Date (MM/DD/YYYY)
6. Your Obligation to Other Business: Approximate Number of Hours/Month:	How many during securities trading hours/month?
7. Briefly describe your duties relating to other business	

1. Name of Other Business	Investment-Related Business? ☐ Yes ☐ No
2. Address of Other Business (Street, City, State/Country, ZIP Code)	
3. Nature of Other Business	
4. Your Position, Title or Relationship with Other Business	5. Start Date (MM/DD/YYYY) / End Date (MM/DD/YYYY)
6. Your Obligation to Other Business: Approximate Number of Hours/Month:	How many during securities trading hours/month?
7. Briefly describe your duties relating to other business	

Date (MM/DD/YYYY)

Signature of applicant

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Uniform Application for Bank Securities Representative Registration or Transfer (Form U-4B)—continued

CRIMINAL DISCLOSURE REPORTING PAGE

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP U-4B) is an ☐ INITIAL *OR* ☐ AMENDED response used to report details for affirmative responses to *Items 22.A and 22.B* on Page 3 of the Form U-4B.

Check ☐ item(s) you are responding to:

22. A. (1) Have you ever:
- ☐ (a) been convicted of or pled guilty or nolo contendere (no contest) in a domestic, foreign, or military court to any *felony*?
- ☐ (b) been charged with any *felony*?

(2) Based upon activities that occurred while you exercised *control* over it, has an organization ever:
- ☐ (a) been convicted of or pled guilty or nolo contendere (no contest) in a domestic or foreign court to any *felony*?
- ☐ (b) been *charged* with any *felony*?

22. B. (1) Have you ever:
- ☐ (a) been convicted of or pled guilty or nolo contendere (no contest) in a domestic, foreign or military court to a *misdemeanor involving*: investments or an *investment-related* business or any fraud, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?
- ☐ (b) been *charged* with a *misdemeanor* specified in 22.B.(1)(a)?

(2) Based upon activities that occurred while you exercised *control* over it, has an organization ever:
- ☐ (a) been convicted of or pled guilty or nolo contendere (no contest) in a domestic or foreign court to a *misdemeanor* specified in 22.B.(1)(a)?
- ☐ (b) been charged with a *misdemeanor* specified in 22.B.(1)(a)?

Use the DRP to report all charges arising out of the same event. One event may result in more than one affirmative answer to the above items.

Multiple counts of the same charge arising out of the same event(s) should be reported on the same DRP. Unrelated criminal actions, including separate cases arising out of the same event, must be reported on separate DRPs.

Applicable court document (i.e., criminal complaint, information or indictment as well as judgment of conviction or sentencing documents) must be provided to the CRD if not previously submitted.

Applicant's Name (last, first, middle (specify if none), (Jr., Sr., etc.))		
Applicant's CRD No.	Social Security No.	Sponsoring Bank CRD No.

1. If charge(s) were brought against an organization over which you exercise(d) control:

Organization Name	Investment-Related Business? ☐ Yes ☐ No	Your Position, Title, or Relationship

2. Formal charge(s) were brought in:

Court *(Name of Federal Military, State or Foreign Court)*	Location of Court *(City or County and State or Country)*	Docket/Case Number

3. Charge Detail Disclosure: (Continue on additional Criminal Disclosure Reporting Page U-4B if more than three charges arise out of the same event.)

Chg#	Formal Charge(s) Description	Charge Date (MM/DD/YYYY)	Number of Counts	Charge Type (check one only)		Plea (Guilty, Not Guilty, etc.)	Charge is Currently (check one only)	Appeal Date (MM/DD/YYYY)	Product Type (if charge is investment-related)
				Misdemeanor	Felony				
1.							☐ Pending ☐ Final ☐ On Appeal ☐ Pre-Trial Intervention		
2.							☐ Pending ☐ Final ☐ On Appeal ☐ Pre-Trial Intervention		
3.							☐ Pending ☐ Final ☐ On Appeal ☐ Pre-Trial Intervention		

IF FINAL, ON APPEAL, OR PRE-TRIAL INTERVENTION, COMPLETE ITEMS 4 AND 5. FOR EACH CHARGE THAT IS PENDING, COMPLETE ONLY ITEM

4. Disposition Detail Disclosure: (Continue on another Criminal Disclosure Reporting Page U-4B if more than three charges.)

Chg#	Disposition Type: (Convicted, Acquitted, Dismissed, Pre-Trail Intervention, etc.)	Disposition Date (MM/DD/YYYY)	Disposition Detail Sentance/Penalty (if applicable)	Duration (if sentence, suspension, probation, etc.)	Start Date (MM/DD/YYYY)	Penalty/Fine Amount (if applicable)	Date Paid (MM/DD/YYYY)
1.							
2.							
3.							

5. Provide a brief summary of circumstances leading to the charge(s) as well as the disposition. Include the relevant dates when the conduct which was subject of the charge(s) occurred. (Use reverse side of this sheet for additional comments if necessary.)

Date (MM/DD/YYYY)

Signature of applicant

Uniform Application for Bank Securities Representative Registration or Transfer (Form U-4B)—continued

Form U-4B
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REGULATORY REPORTING DISCLOSURE REPORTING PAGE

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP U-4B) is an ☐ INITIAL OR ☐ AMENDED response used to report details for affirmative responses to *Items 22.C, 22.D, 22.E, 22.F and 22.G(1)* on Page 3 of the Form U-4B.

Check ☐ item(s) you are responding to:

22. C. Has the U.S. Securities and Exchange Commission or the Commodity Futures Trading Commission ever:
- ☐ (1) *found* you to have made a false statement or omission?
- ☐ (2) *found* you to have been *involved* in a violation of its regulations or statutes?
- ☐ (3) *found* you to have been a cause of an *investment-related* business having its authorization to do business denied, suspended, revoked, or restricted?
- ☐ (4) entered an *order* against you in connection with *investment-related* activity?
- ☐ (5) imposed a civil money penalty on you or ordered you to cease and desist from any activity?

D. Has any Federal banking agency or other Federal regulatory agency or any state regulatory agency or *foreign financial regulatory authority* ever:
- ☐ (1) *found* you to have made a false statement or omission or been dishonest, unfair or unethical?
- ☐ (2) *found* you to have been *involved* in a violation of *investment-related* regulations(s) or statute(s)?
- ☐ (3) *found* you to have been a cause of an *investment-related* business having its authorization to do business denied, suspended, revoked or restricted?
- ☐ (4) entered an order against you in connection with *investment-related* activity?
- ☐ (5) denied, suspended, or revoked your registration or license or otherwise, by *order*, prevented you from associating with an *investment-related* business or restricted you activities?

E. Has any *self-regulatory organization* or commodities exchange ever:
- ☐ (1) *found* you to have made a false statement or omission?
- ☐ (2) *found* you to have been *involved* in a violation of its rules (other than a violation designated as a *"minor rule violation"* under a plan approved by the U.S. Securities and Exchange Commission)?
- ☐ (3) *found* you to have been the cause of an *investment-related* business having its authorization to do business denied, suspended, revoked or restricted?
- ☐ (4) disciplined you by expelling or suspending you from membership, barring or suspending your association with its members, or restricting your activities?

F. ☐ Has your authorization to act as an attorney, accountant or federal contractor ever been revoked or suspended?

G. Have you been notified, in writing, that you are now the subject of any:
- ☐ (1) regulatory complaint or proceeding that could result in a "yes" answer to any part of 22.C, D, or E? *(If this matter has not yet reached a formal pending action, complete the Investigation Disclosure Reporting Page.)*

One event may result in more than one affirmative answer within each of the above items. Use only one DRP to report details related to the same event. If an event gives rise to actions by more than one regulator, provide details to each action on a separate DRP.

Applicant's Name (last, first, middle (specify if none), (Jr., Sr., etc.))		
Applicant's CRD No.	Social Security No.	Sponsoring Bank CRD No.
1. Regulatory Action Initiated by (Name the regulator, foreign financial regulatory authority, SRO or commodities exchange, etc.)	2. Regulatory Action Type	3. Date Initiated MM/DD/YYYY
4. Docket/Case Number	5. Employing Firm when events occurred	6. Product Type(s)
7. Describe the allegations related to this regulatory action (Use reverse side of this sheet for additional comments if necessary.)		
8. Is regulatory action currently (check one) ☐ Pending ☐ On Appeal ☐ Final	9. If on appeal, regulatory action appealed to (SEC, SRO, U.S. Court of Appeals, etc.)	10. If on appeal, date filed (MM/DD/YYYY)

IF FINAL OR ON APPEAL, COMPLETE ALL ITEMS BELOW. FOR PENDING ACTIONS, COMPLETE ITEM 19 ONLY.

11. How was the matter resolved? (Settled, Consent, etc.)	12. Resolution Date (MM/DD/YYYY)	13. Sanctions (Suspended, Censured, Barred, Requalification, etc.)

14. If Suspended, Enjoined or Barred:

Is suspension/injunction/bar of a fixed duration? ☐ Yes ☐ No (If No, provide details in Item 19)	Suspension/Injunction Bar Start Date (MM/DD/YYYY)	Suspension/Injunction Bar Duration	Suspension/Injunction/Bar capacity affected (General Securities Principal, Financial, & Operations Principal, etc.)

15. If requalification by exam/retraining was a condition of the sanction:

Is requalification/retraining time-related? ☐ Yes ☐ No	If yes, length of time given to requalify/retrain: (If No, provide details in Item 19)	Type of exam required for requalification	Has condition been satisfied? ☐ Yes ☐ No

16. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation: (Fill in amount and MM/DD/YYYY in appropriate box)

Penalty/Fine $	Date Paid	Restitution $	Date Paid	Disgorgement $	Date Paid	Other $	Date Paid

17. Were you required to pay any part of the monetary items disclosed in 16: ☐ Yes ☐ No (If yes, fill in amount and MM/DD/YYYY in appropriate box)

Penalty/Fine $	Date Paid	Restitution $	Date Paid	Disgorgement $	Date Paid	Other $	Date Paid

18. Was payment of all or any part of a monetary award, penalty or fine waived? ☐ Yes ☐ No If yes, provide details of Waiver in 19 below.

19. Provide summary of details related to the action status and(or) disposition and include relevant terms, conditions and dates. (Use reverse side of this sheet for additional comments if necessary.)

Date (MM/DD/YYYY)

Signature of applicant

Uniform Application for Bank Securities Representative Registration or Transfer (Form U-4B)—continued

CIVIL JUDICIAL ACTION DISCLOSURE REPORTING PAGE

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP U-4B) is an ☐ INITIAL *OR* ☐ AMENDED response used to report details for affirmative responses to *Item 22.H* on Page 4 of the Form U-4B.

Check ☐ Item(s) you are responding to:
22.H.(1) Has any domestic or foreign court ever:
☐ (a) *enjoined* you in connection with any *investment-related* activity?
☐ (b) *found* that you were *involved* in a violation of any *investment-related* statute(s) or regulation(s)
☐ (c) dismissed, pursuant to a settlement agreement, an *investment-related* civil action brought against you by a state or *foreign financial regulatory authority*?
(2) ☐ Are you named in any pending *investment-related* civil action that could result in a "yes" answer to any part of 22.H.(1)?

One event may result in more than one affirmative answer within each of the above items. Use only one DRP to report details related to the same event. If an event gives rise to actions by more than one regulator, provide details to each action on a separate DRP.

Applicant's Name (last, first, middle (specify if none), (Jr., Sr., etc.))		
Applicant's CRD No.	Social Security No.	Sponsoring Bank CRD No.
1. Court Action Initiated by (Name the regulator, foreign financial regulatory authority, SRO commodities exchange, Agency, Firm, Private Plaintiff, etc.)		
2. Relief Sought (Temporary Restraining Order, Mandatory Injunction, Preliminary Injunction, etc.)		3. Filing Date of Court Action (MM/DD/YYYY)
4. Product Type(s)		
5. Court formal action was brought in (Name of Federal, Military, State or Foreign Court)		
6. Location of Court (City or County and State or Country)		7. Docket/Case Number
8. Employing Firm when events occurred		
9. Describe the allegations related to this court action (Use reverse side of this sheet for additional comments if necessary.)		

10. Is action currently (check one) ☐ Pending ☐ On Appeal ☐ Final	11. If pending, date notice was served (MM/DD/YYYY)	12. If on appeal, action appealed to (provide name of court)	13. If on appeal, date filed (MM/DD/YYYY)

IF FINAL OR ON APPEAL, COMPLETE ALL ITEMS BELOW. FOR PENDING ACTIONS, COMPLETE ITEM 19 ONLY.

14. How was the matter resolved? (Settled, Consent, Judgment Rendered, etc.)	15. Resolution Date (MM/DD/YYYY)	16. Sanctions (Suspended, Censured, etc.)

17. If Suspended, Enjoined or Barred:

Is suspension/injunction/bar of a fixed duration? ☐ Yes ☐ No (If No, provide details in Item 21)	Suspension/Injunction Bar Start Date (MM/DD/YYYY)	Suspension/Injunction Bar Duration	Suspension/Injunction/Bar capacity affected (General Securities Principal, Financial, & Operations Principal, etc.)

18. If requalification by exam is/was a condition of the disposition:

Is requalification time-related? ☐ Yes ☐ No	If yes, length of time given to requalify (If No, provide details in Item 21)	Type of exam required for requalification	Has condition been satisfied? ☐ Yes ☐ No

19. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation: (Fill in amount and MM/DD/YYYY in appropriate box)

Penalty/Fine $	Date Paid	Restitution $	Date Paid	Disgorgement $	Date Paid	Other $	Date Paid

20. Were you required to pay any part of the monetary items disclosed in 19: ☐ Yes ☐ No (If yes, fill in amount and MM/DD/YYYY in appropriate box)

Penalty/Fine $	Date Paid	Restitution $	Date Paid	Disgorgement $	Date Paid	Other $	Date Paid

21. Provide a brief summary of circumstances related to the action(s), allegation(s), disposition(s) and/or finding(s) disclosed above. (Use reverse side of this sheet for additional comments if necessary.)

Date (MM/DD/YYYY)

Signature of applicant

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Uniform Application for Bank Securities Representative Registration or Transfer (Form U-4B)—continued

CUSTOMER COMPLAINT DISCLOSURE REPORTING PAGE

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP U-4B) is an ☐ INITIAL *OR* ☐ AMENDED response used to report details for affirmative responses to *Item 22.l* on Page 4 of the Form U-4B.

Check ☐ Item(s) you are responding to:
22. l. Have you ever been the subject of an *investment-related*, consumer initiated complaint or proceeding that:
☐ (1) alleged compensatory damages of $10,000 or more, fraud, or wrongful taking of property?
☐ (2) was settled or decided against you for $5,000 or more, or *found* fraud or the wrongful taking of property?

One event may result in more than one affirmative answer to the above items; use only one DRP to report all the details related to one customer complaint. Use a separate DRP for each customer complaint.

Applicant's Name (last, first, middle (specify if none), (Jr., Sr., etc.))		
Applicant's CRD No.	Social Security No.	Sponsoring Bank CRD No.
1. Customer Name(s)		2. Customer's State(s) of Residence (2-Letter Abbreviation)
3. Employing Firm or Sponsoring Bank when events giving rise to the complaint occurred		4. Date complaint was received (MM/DD/YYYY)
5. Allegation(s)		
6. Provide a brief summary of events related to the allegation(s) including dates when activities leading to the allegation(s) occurred		
7. Product Type(s)		8. Alleged Compensatory Damage Amount $
9. Is complaint currently pending ☐ Yes ☐ No	If No, how was complaint resolved (No Action, Withdrawn, Denied, Settled, Arbitrated, Litigated, CFTC Reparation, etc.)	If No Action, Denied, or Withdrawn, give date (MM/DD/YYYY)

IF STATUS IS SETTLED, ANSWER 10 AND 13; IF ARBITRATED OR CFTC REEPARATION, ANSWER 11 AND 13; IF LITIGATED, ANSWER 12 AND 13.

10. If SETTLED by you, or on your behalf, without Arbitration, Litigation or Reparation:

Settlement Date (MM/DD/YYYY)	Settlement Amount $	Your Contribution $

11. If ARBITRATED or CFTC REPARATION:

Arbitration/Reparation Claim was filed with (NASD, AAA, NYSE, CBOE, CFTC, etc.)		Date You Received Service (MM/DD/YYYY)
Case/Docket Number	Is Arbitration/Reparation currently pending? ☐ Yes ☐ No	

If Status if FINAL:

Disposition (Settled, Dismissed, Award, Withdrawn, etc.)				Date of Disposition (MM/DD/YYYY)
If disposition resulted in monetary compensation:				
Award Amount $	Settlement Amount $	Reparation Amount $	Your Contribution $	Date Paid (MM/DD/YYYY)

12. If CIVIL LITIGATION:

Court that case was filed in (Name of Federal, State or Foreign Court)	Location of Court (City or County and State or Country)	Docket/Case Number
Is Civil Litigationcurrently pending? ☐ Yes ☐ No		Date You Received Service (MM/DD/YYYY)

If Status if FINAL:

Disposition (Settled, Dismissed, Judgment, Withdrawn, etc.)				Date of Disposition (MM/DD/YYYY)
If disposition resulted in monetary compensation:				
Judgment Amount $	Restitution Amount $	Settlement Amount $	Your Contribution $	Date Paid (MM/DD/YYYY)
Is action currently on appeal? ☐ Yes ☐ No		If on appeal, date filed (MM/DD/YYYY)		

13. Provide details as to any other limits or conditions to disposition. (Use reverse side of tis sheet for additional comments if necessary.)

Date (MM/DD/YYYY)

Signature of applicant

Uniform Application for Bank Securities Representative Registration or Transfer (Form U-4B)—continued

INVESTIGATION DISCLOSURE REPORTING PAGE

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP U-4B) is an ☐ INITIAL *OR* ☐ AMENDED response used to report details for affirmative responses to *Item 22.G* on Page 3 of the Form U-4B.

22. G. (2) Have you been notified, in writing, that you are now the subject of any *investigation* that could result in a "yes" answer to any part of 22.A, B, C, D or E?

Complete this DRP only if you are answering "yes" to Item 22.G.(2). If you answered "yes" to Item 22.G.(1), complete the Regulatory Action DRP. If you have been notified that the *investigation* has been concluded without formal action, complete items 1, 2, 3 and 4 of this DRP to update.

One event may result in more than one *investigation*. If more than one authority is investigating you, use a separate DRP to provide details.

Applicant's Name (last, first, middle (specify if none), (Jr., Sr., etc.))		
Applicant's CRD No.	Social Security No.	Sponsoring Bank CRD No.

1. Notice received from (Name of Regulator, Agency, SRO, etc. initiating the investigation)	2. Notice date (MM/DD/YYYY)
3. Describe briefly the nature of the investigation, if known, or details of the resolution (Use reverse side of this sheet for additional comments if necessary.)	
4. Date Resolved (MM/DD/YYYY)	

Date (MM/DD/YYYY)

Signature of applicant

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Uniform Application for Bank Securities Representative Registration or Transfer (Form U-4B)—continued

TERMINATION DISCLOSURE REPORTING PAGE

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP U-4B) is an ☐ INITIAL *OR* ☐ AMENDED response used to report details for affirmative responses to *Item 22.J* on Page 4 of the Form U-4B.

Check ☐ item(s) you are responding to:

22. J. Have you ever voluntarily *resigned*, been discharged or permitted to *resign after allegations* were made that accused you of:
- ☐ (1) violating *investment-related* statutes, regulations, rules, or industry standards of conduct?
- ☐ (2) fraud or the wrongful taking of property?
- ☐ (3) failure to supervise in connection with *investment-related* statutes, regulations, rules or industry standards of conduct?

One event may result in more than one affirmative answer to the above items. Use only one DRP to report details related to the same termination. Use a separate DRP for each termination reported.

Applicant's Name (last, first, middle (specify if none), (Jr., Sr., etc.))		
Applicant's CRD No.	Social Security No.	Sponsoring Bank CRD No.
1. Firm Name		
2. Termination Type (Discharged, Permitted to Resign, Voluntary, Other)		3. Termination date (MM/DD/YYYY)
4. Allegation Type (Excessive trading activity, misrepresentation, failure to supervise, etc.)		
5. Product Type(s)		
6. Describe circumstances relating to termination. Include event dates and facts to sufficiently describe conduct leading to termination. (Use reverse side of this sheet for additional comments if necessary.)		

Date (MM/DD/YYYY)

Signature of applicant

Uniform Application for Bank Securities Representative Registration or Transfer (Form U-4B)—continued

FINANCIAL DISCLOSURE REPORTING PAGE 1

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP U-4B) is an ☐ INITIAL *OR* ☐ AMENDED response used to report details for affirmative responses to *Items 22.K.(1), 22.K.(2), and 22.K.(3)* on Page 4 of the Form U-4B.

Check ☐ item(s) you are responding to:

22. K. Within the past 10 years:

☐ (1) have you made a compromise with creditors, filed a bankruptcy petition or been the subject of an involuntary bankruptcy petition? (Please fill out SECTION I below.)

☐ (2) based upon events that occurred while you exercised *control* over it, has an organization made a compromise with creditors, filed a bankruptcy petition or been the subject of an involuntary bankruptcy petition? (Please fill out SECTION I below.)

☐ (3) based upon events that occurred while you exercised *control* over it, has a broker or dealer been the subject of an involuntary bankruptcy petition, or had a trustee appointed, or had a direct payment procedure initiated under the Securities Investor Protection Act? (Please fill out SECTION II below.)

If events result in affirmative answers to both 22.K.(1) and 22.K.(2), details to each must be provided on separate DRPs. You must complete Section I and/or Section II as well as Item 18 to complete this DRP.

Applicant's Name (last, first, middle (specify if none), (Jr., Sr., etc.))		
Applicant's CRD No.	Social Security No.	Sponsoring Bank CRD No.

SECTION I

If within the past 10 years you have made a compromise with creditors, filed a bankruptcy petition or been the subject of an involuntary bankruptcy petition or; if within the past 10 years based upon events that occurred while you exercised control over it, an organization made a compromise with creditors, filed a bankruptcy petition or been the subject of an involuntary bankruptcy petition:

1. Action Type (Compromise, Bankruptcy, Declaration, etc.)	2. Action Date (MM/DD/YYYY)

If the financial action relates to an organization over which you exercised(d) control:

3. Organization Name	4. Investment-Related Business? ☐ Yes ☐ No	5. Your Position, Title, Relationship (if applicable)
6. Court (Name of Federal, State, or Foreign Court)		7. Location of Court (City or County and State or Country)
8. Docket/Case Number	9. Chapter Number (if Federal Bankruptcy Filing)	10. Is action currently pending? ☐ Yes ☐ No
11. Disposition Type (Discharged, Released, Dismissed, etc.)		12. Disposition Date (MM/DD/YYYY)
13. Provide brief summary of events leading to action. If not dismissed or closed, explain (Use reverse side of this sheet for additional comments if necessary.)		

SECTION II

If within the past 10 years based upon events that occurred while you exercised control over it, a broker or dealer has been the subject of an involuntary bankruptcy petition, or had a trustee appointed, or had a direct payment procedure initiated under the Securities Investor Protection Act:

1. Action Type (Compromise, Bankruptcy, Declaration, etc.)		2. Action Date (MM/DD/YYYY)
3. Organization Name		4. Your Position, Title, Relationship (if applicable)
5. Court (Name of Federal, State, or Foreign Court)		6. Location of Court (City or County and State or Country)
7. Docket/Case Number	8. Chapter Number (if Federal Bankruptcy Filing)	9. Is action currently pending? ☐ Yes ☐ No
10. Disposition Type (Discharged, Released, Dismissed, etc.)		11. Disposition Date (MM/DD/YYYY)
12. Provide brief summary of events leading to action. If not dismissed or closed, explain (Use reverse side of this sheet for additional comments if necessary.)		

If a SIPA trustee was appointed, complete items 13, 16, and 17. If a direct payment procedure was begun, complete items 13, 14, and 15.

13. Currently Open? ☐ Yes ☐ No	14. The amount paid of agreed to be paid by you $	15. Date Initiated or Filed (MM/DD/YYYY)
16. Trustee Name		17. Trustee Appointment Date (MM/DD/YYYY)

18. Please provide details as to any status disposition. Include details as to creditors, terms, conditions, amounts due and settlement schedule (if applicable). (Use reverse side of this sheet for additional comments if necessary.)

Date (MM/DD/YYYY)

Signature of applicant

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Uniform Application for Bank Securities Representative Registration or Transfer (Form U-4B)—continued

FINANCIAL DISCLOSURE REPORTING PAGE 2

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP U-4B) is an ☐ INITIAL *OR* ☐ AMENDED response used to report details for affirmative responses to *Items 22.L and 22.M* on Page 4 of the Form U-4B.

Check ☐ Item(s) you are responding to:
22. ☐ L. Has a bonding company ever denied, paid out on, or revoked a bond for you? (Please fill out SECTION I below.)
☐ M. Do you have any unsatisfied judgments or liens against you? (Please fill out SECTION II below.)

If multiple, unrelated events result in the same affirmative answer, details must be provided on separate DRPs.

Applicant's Name (last, first, middle (specify if none), (Jr., Sr., etc.))		
Applicant's CRD No.	Social Security No.	Sponsoring Bank CRD No.

SECTION I

If a bonding company ever denied, paid out on, or revoked a bond for you:

1. Firm Name (Policyholder)	
2. Bonding Company Name	
3. Disposition Type (Denied, Revoked, Payout)	4. Disposition Date (MM/DD/YYYY)

5. If disposition resulted in Payout:

Payout Amount $	Date Paid (MM/DD/YYYY)

6. Summarize details of circumstances leading to the necessity of the bonding company action.

SECTION II

If you have an unsatisfied judgment or lien: (Disclose details for only one judgment or lien per DRP.) When you satisfy or otherwise dispose of this judgment or lien, amend the Form U-4B Page 4 and this section to report the outcome.

1. Judgment/Lien Amount			2. Judgment or Lien Holder
3. Judgment/Lien Type (Tax, Civil, Default, Liquidated Damages, etc.)			4. Date Filed MM/DD/YYYY
5. Is Judgment/Lien Outstanding? ☐ Yes ☐ No	If No, provide status date (MM/DD/YYYY)	If No, how was matter resolved? (Released, Discharged, Removed, Satisfied)	
6. Court (Name of Federal, State or Foreign Court)	7. Location of Court (City or County and State or Country)		8. Docket/Case Number
9. Provide brief summary of events leading to the action and any payment schedule details including current status (if applicable) (Use reverse side of this sheet for additional comments if necessary.)			

Date (MM/DD/YYYY)

Signature of applicant

OMB No. xxxx-xxxxx (OCC) Expires x/xx/xx
xxxx-xxxx (FDIC) Expires x/xx/xx
7100-0281 (FRS) Expires x/xx/xx
Average hours per response: x.xx

Form U-5B

Uniform Termination Notice for Bank Securities Representative Registration

11/96

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FORM U-5B

UNIFORM TERMINATION NOTICE FOR BANK SECURITIES REPRESENTATIVE REGISTRATION

Public reporting burden for this information collection is estimated to vary from X.X to X,XXX hours per response, with an average of XX.XX hours per response, including time to gather and maintain data in the required form and to review instructions and complete the information collection. Comments regarding this burden estimated or any other aspect of this information collection, including suggestions for reducing the burden, amy be sent to:

Secretary
Board of Governors of the Federal Reserve System
20th and C Streets, NW
Washington, DC 20551

and

Office of Management and Budget
Paperwork Reduction Project (7100-0XXX)
Washington, DC 20503.

GENERAL INSTRUCTIONS

The Form U-5B is the Uniform Termination Notice for Bank Securities Representative Registration. The form is similar, but not identical, to the Form U-5 used by broker-dealers, investment advisers, and issuers of securities to terminatre registration of an individual in the various self-regulatory organizations and jurisdictions. These instructions apply to filing Form U-5B with the Federal Banking Agencies.

Items 1—18 must be answered and all fields requiring a response must be completed before the filing is accepted. Enter "none" or "N/A" (not applicable) where appropriate.

Use the Disclosure Reporting Page(s) (DRPs U-5B) to provide details to "yes" answers to items 14—18. Although documents are not required with the DRP (U-5B), you may wish to include them as the appropriate Federal banking agency may request them as part of the review process.

Former Bank Securities Representatives are under the continuing jurisdiction of the Federal banking regulators and mya hve to provide information about their activities while associated with the Sponsoring bank. Individuals are required to forward any residential address changes–item 8–for two years following termination or last Form U-5B filing.

Sponsoring Banks have a continuing obligation to amend and update items 14—18 until final disposition, reportable matters that occur and become known after initial submission of this form. A paper copy, with an original manual signature, of the Form U-5B and amendments to Disclosure Reporting Page (DRPs U-5B) may be required to be retained by the filing Sponsoring Bank and may be required to be made available for inspection upon regulatory request.

Amendments to items other than 5 and 14—18 are probilited.

To amend items 14—18, complete only items 1—4 and the item(s) being amended. If additional information relates to the amendment, submit the details on fully completed DRP(s) (U-5B).

The Federal banking agency's mailing address for questions and correspondence is:

Federal Deposit Insurance Corporation,
The Board of Governors of the Federal Reserve System,
and
Office of the Comptroller of the Currency
c/o NASD Central Registration Depository
P.O. Box 9401
Gaithersburg, Maryland 20898-9401

EXPLANATION OF TERMS

The following terms are italicized throughout this form.

For purposes of filing this Form U-5B:

The term **Federal Banking Agency** means the Federal Deposit Insurance Corporation for state nonmember banks, the Board of Governors of the Federal Reserve System for state member banks, and the Office of the Comptroller of the Currency, Department of the Treasury for national banks.

The term **Bank Securities Representative** means an employee of a Sponsoring Bank who is, or was, engaged in the solicitation recommendation purchase or sale of certain securities to retail bank customers.

The term **Sponsoring Bank** means a state or nationally chartered bank which is using the bank exemption in the Securities Exchange Act of 1934, as amended, to solicit, recommend, purchase or sell certain securities through Bank Securities Representatives to retail bank customers.

The term **Jurisdiction** means a state, the District of Columbia, the Commonwealth of Puerto Rico, or any subdivision or regulatory body thereof.

The term **Self-Regulatory Organization ("SRO")** means any national securities and commodities exchange, any national securities association (e.g., the NASD), or any registered clearing agency.

The term **Full Termination** means the terminatin of registration with the appropriate Federal banking agency.

For purposes of item 9:

The term **Misdemeanor**, for jurisdictions that do not differentiate between a felony or misdemeanor, is an offense punishable by a sentence of less than one year imprisonment and/or a fine of less than $1,000. The term also includes a special court martial.

The term **Investment-Related** pertains to securities, commodities, banking, insurance, or real estate (including, but not limited to, acting as or being associated with a broker-dealer, investment comapny, investment banker, futures sponsor, bank, or savings association). Such term specifically includes actions taken by the Federal banking agencies pursuant to Sections 8 and 19 of the Federal Deposit Insurance Act, 12 U.S.C. § 1818 and 1829.

The term **Appropriate Signatory** means the individual designated by the Sponsoring bank who is authorized to execute Form U-5B on its behalf. Such individual must beem the criteria, if any, for acting as the "appropriate signatory" as established by the appropriate Federal banking agency.

For purposes of item 15 and the corresponding DRP (U-5B):

The term **Involved** means doing an act or aiding, abetting, counseling, commanding, inducing, conspiring with or failing reasonably to supervise another in doing an act.

The term **Disciplinary Action** includes a formal action such as a denial, revocation or suspension of a registration, or a censure, fine, cease and desist order, order of prohibition, temporary restraining order, injunction, bar or expulsion, but does not include a minor rule violation, deficency letter, examination report, memorandum of understanding, letter of caution, admonishment, and similar informal resolutions or matters.

The term **Foreign Financial Regulatory Authority** includes a foreign securities authority; any other governmental body or foreign equivalent or a self-regulatory organization empowered by a foreign government to administer or enforce its laws relating to the regulation of investment or investment-related activities; or a membership organization a fanction of which is to regulate the participation of ites members in the activities listed above.

For purposes of item 12:

The term **Date Terminated** means the effective date of the termiantion of the registration or, in the case where registration has not yet been made effective, the date the withdrawal of the application for registration.

For purposes of item 14 and the corresponding DRP (U-5B):

The term **Charged** means being accused of a crime in a formal complaint, information, or indictment, (or equivalent formal charge).

The term **Felony**, for jurisdictions that do not differentiate between a felony or misdemeanor, is an offense punishable by a sentence of at least one year imprisonment and/or a fine of at least $1,000. The term also includes a general court martial.

A **Minor Rule Violation** is a violation of a self-regulatory organization rule which has been designated as "minor" pursuant to a plan approved by the U.S. Securities and Exchange Commission. A rule violation may be designated as "minor" under a plan if the sanction imposed consists of a fine of $2,500.00 or less, and if the sanctioned person does not contest the fine. Check with the appropriate self-regulatory organization to determine if a particular rule violation has been designated as "minor" for these purposes.

For the purposes of Item 16 and the corresponding DRP (U-5B):

The term **Investigation** includes grand jury investigations, U.S. Securities and Exchange Commission investigations after the "Wells" notice has been given, formal investigations by SROs

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or actions or procedures designated as investigations by jurisdictions, but does not include subpoenas, preliminary or routine regulatory inquiries or requests for information, deficiency letters, "blue sheet" requests or other trading questionnaires, or examinations.

The term **Proceeding** includes a formal administrative or civil action initiated by a Federal Banking Agency, governmental agency, self-regulatory organization or foreign financial regulatory authority, a felony criminal indictment or information (or equivalent formal charge), or a misdemeanor criminal information (or equivalent formal charge), but does not include an arrest or similar charge effected in the absence of a formal criminal indictment or information (or equivalent formal charge).

SPECIFIC INSTRUCTIONS

1. **Last Name.** The applicant's last name will include punctuation(s) when and where appropriate. An entry is required for processing initial and amended Form U-5B filings.

First Name. Do not use nicknames, abbreviations, or modifications to the applicant's first name. An entry is required for processing initial and amended Form U-5B filings.

Middle Name. If the applicant does not have a middle name specify "NONE". Do not leave this field blank. Do not include nicknames, abbreviations, or modifications to the applicant's middle name. This term is required for processing initial and amended Form U-5B filings.

2. **Applicant's CRD #.** The Applicant's CRD number is assigned to the applicant by the Federal banking agencies through the Central Registration Depository (CRD) system. It is not necessary to include leading zeros.

Applicant's SS #. Enter the applicant's social security number. Completion of the applicant's SSN is voluntary. However, failure to complete the applicant's SSN may result in confusion regarding who the applicant is and may delay or prevent the processing of the Form U-5B.

3. **Sponsoring Bank or Issuer Name.** This is the Sponsoring Bank's complete name as listed on Form SB, or the issuer's complete name. Do not abbreviate, shorten, or modify the name. An entry is required in this field for processing the initial and amended Form U-5B filings.

4. **Sponsoring Bank CRD #.** Sponsoring Banks are assigned a unique CRD number. An entry is required in this field for processing the initial and amended Form U-5B filings.

5. **Office of Employment Address.** Not applicable for Form U-5B filings.

6. **CRD Branch #.** Not applicable for Form U-5B filings.

7. **Billing Code.** The Billing Code is an alpha/numeric value consisting of up to eight characters. It is the responsibility of the Sponsoring Bank to establish and maintain its own set of unique billing codes. If your Sponsoring Bank doe not use CRD billing codes, leave this field blank. This is not a required field.

8. **Street.** This item is used to capture the physical location of the applicant's residence. Post office boxes are not acceptable. Include street name, building #, unit #, apartment #, suite #, slip #, etc. The applicant is required to update the information for two years after leaving the industry.

City. This item is used to capture the name of the city in which the applicant is currently residing. This is a required field for all address history.

State/Country. This item identifies the state code where the applicant resides or resided in the past. Enter the two digit state abbreviation for the street address provided above. If this is a foreign address indicate the country.

ZIP/Postal Code. Enter the applicant's residence nine digit ZIP Code or postal code if a foreign address.

9. **Affiliated Firms.** Not applicable for Form U-5B filings.

10. **Full Termination.** A "Yes" response will terminate the Bank Securities Representative's registration with the appropriate Federal banking agency.

11. **Federal Banking Agency Termination.** Check the appropriate Federal Banking agency box with which the individual is terminating registration categories.

12. **Date Terminated.** Enter the actual date the termination of registration is effective. The month, day and year are required.

13. **Reason for Termination.** Check the appropriate box. If "Permitted to Resign", "Discharged", or "Other" are checked, provide an explanation.

14.–18. **Disclosure.** Check the appropriate "Yes" or "No" response for each question. Refer to the Explanation of Terms at the front of these instructions. Complete details explaining any "Yes" answers must be provided on the appropriate Disclosure Reporting Pages (DRP U-5):

14 Criminal Disclosure
15 Regulatory Action Disclosure
16 Investigation/Internal Review Disclosure
17 Customer Complaint Disclosure
18 Investigation/Internal Review Disclosure

18. **Internal Review.** Generally, this item is used to report matters of a compliance nature, BUT NOT matters of a competitive nature. Responses should not include situations relating to disputes between the firm and the individual overownership or possession of information or records pertaining to business conducted by the individual.

If answered "Yes," the individual named in item 1 of this form is afforded the opportunity to respond by using Part II of the Investigation/Internal Review Disclosure Reporting Page (U-5B).

19. **Disclosure Certification (Optional).** This certification language contained in item 19 allows the firm to certify that all disclosable information on the individual's record has been previously reported on DRPs (U-4B) or DRPs (U-5B). Firms that have not filed DRPs (U-4B and DRPs (U-5B) for all disclosable information may not take advantage of the certification option. Use of the certification is optional, and, if chosen, "Yes" answers to the appropriate questions in Items 14—18 must be provided.

Signatory Area

"Signature" includes a manual signature or an electronically transmitted equivalent.

Date. This date represents the date the form was signed by the appropriate signatory. The correct format for the date entry is "MM/DD/YYYY."

Signature of Appropriate Signatory. A signatory entry is required for all filings. Enter the full signature as it appears in typed or printed form.

Type or Print Name of Appropriate Signatory. The appropriate signatory's full legal name must be displayed under the signature. The name must be typed or printed as it appears in the signature form.

Person to Contact for Further Information. Enter the name of the person to contact for additional information regarding the matters reported on this form. Include the telephone number for the person listed here.

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Uniform Termination Notice for Bank Securities Representative Registration (Form U-5B)

Only items 14–18 may be amended. To amend, complete only items 1–4 and the item(s) being amended.

1. Applicant's Name (Last, First, Middle (specify if none), Jr., Sr., etc.))		2. Applicant's CRD No.	Applicant's SSN
3. Sponsoring Bank			4. Sponsoring Bank CRD No.
5. Office of Employment Not Applicable	6. CRD Branch # Not Applicable	7. Billing Code (optional)	
8. Current Residential Address (Street, City, State/Country, ZIP Code)			

NOTICE TO THE INDIVIDUAL WHO IS THE SUBJECT OF THIS FILING

As a former Bank Securities Representative of the Sponsoring Bank filing this Form U-5B, you are under the continuing jurisdiction of regulators and may have to provide information about your activities while associated with this Sponsoring Bank. Forward any residential address changes for two years following your termination date or last Form U-5B amendment to:

CRD Address Changes, 9513 Key West Avenue, Rockville, MD 20850-3389.

9. Affiliated Firms
Not Applicable

10. Is this a FULL TERMINATION
☐ Yes ☐ No

11. Federal Banking Agency Termination
A. Registratoin to be terminated with the following:
☐ OCC ☐ FDIC ☐ FRS

12. Date Terminated (MM/DD/YYYY) (This date represent the actual date that the termination of registration is effective.

13. Reason for Termination (Check one)
☐ Voluntary ☐ Deceased ☐ Permitted to Resign ☐ Discharged ☐ Other

Provide an explanation:

PRIVACY ACT NOTICE

The Applicant's SSN is requested to differentiate among applicants with the same name. Providing the Applicant's SSN is voluntary. However, failure to provide the Applicant's SSN may result in confusion regarding who the Applicant is and may delay or prevent processing of this application for registration. The information you provide will be for the use of the appropriate Federal banking agency and for other State and Federal agencies and SROs. Maintenance of the information is authorized by sections 8, 9 and 31 of the Federal Deposit Insurance Act (12 U.S.C. 1818, 1819 and 1831).

Uniform Termination Notice for Bank Securities Representative Registration (Form U-5B)—continued

Applicant's Name (Last, First, Middle)	Social Security No.	Applicant's CRD No.	Sponsoring Bank CRD No.

If the answer to any of the following questions in Items 14, 15, 16, 17 or 18 is "YES", and you cannot utilize the certification in Item 19 below, attach complete details of all events or proceedings on appropriate DRP U-5(s).

If the information in Items 14–18 has already been reported on Form U-4B or Form u-5B, do no resubmit DRPs for these items.

Refer to the explanation of terms section of Form U-5B instructions for explanations of italicized terms.

	YES	NO	
14. Criminal Disclosure			
While employed by or associated with your sponsoring bank, was the individual:			
A. convicted of or did the individual plead guilty or nolo contendere ("no contest") in a domestic, or foreign, or military court to any *felony*?			1
B. charged with any *felony*?			2
C. convicted of or did the individual plead guilty or nolo contendere ("no contest") in a domestic, foreign or military court to a *misdemeanor involving*: investments or an *investment-related* business or any fraud, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?			3
D. charged with a *misdemeanor* specified in 14.C?			4
15. Regulatory Action Disclosure			
While employed by or associated with your sponsoring bank, was the individual *involved* in any *disciplinary* action by a Federal banking agency, domestic or foreign governmental body or *self regulatory organization* (other than those designated as a *"minor rule violation"* under a plan approved by the U.S. Securities and Exchange Commission) with jurisdiction over the *investment-related* businesses?			5
16. Investigation Disclosure			
Currently is, or at termination was, the individual the subject of an *investigation* or *proceeding* by a Federal banking agency, domestic or foreign governmental body or *self-regulatory organization* with jurisdiction over *investment-related* businesses?			6
17. Customer Complaint Disclosure			
While employed by or associated with you sponsoring bank was the individual the subject of an *investment-related*, consumer-initiated *complaint* or proceeding (even if such complaint was received after the individual was no longer employed with your firm) that:			
A. alleged compensatory damages of $10,000 or more, fraud, or wrongful taking of property?			7
B. was settled or decided against the individual for $5,000 or more, or found fraud or the wrongful taking of property?			8
18. Internal Review Disclosure			
Currently is, or at termination was, the individual under internal review for fraud or wrongful taking of property, or violating *investment-related* statutes, regulations, rules or industry standards or conduct?			9

DISCLOSURE CERTIFICATION (OPTIONAL)

You may only certify to the accuracy and completeness of the disclosure information in the individual's file if it has been fully provided in DRP format. If DRP(s) are not on file, do not answer these certification boxes. Provide full details of all matters on DRP U-5B(s). All appropriate questions in Items 14, 15, 16, 17 or 18 above must be answered, regardless of whether the certification is being utilized. Refer to the Form U-5B instructions for additional information on the utilization of the certification language.

This is to certify that details relating to the above answers to Items 14, 15, 16, 17 or 18 have been previously reported on amendments to Form U-4B or Form U-5B filed on behalf of this individual. Updated information will be provided, if needed, as it becomes available to the firm. This is to further certify the following:			
A. There is no additional information to be reported at this time			10
B. There is additional information to disclose that is reported on the appropriate DRP U-5B(s)			11
C. There is updated information, reported on the appropriate DRP U-5B(s), relating to disclosures previously reported			12

I verify the accuracy and completeness of the information contained in and with this form.

Date (MM/DD/YYYY) _____ Signature of *appropriate signatory* _____

Type or print name of *appropriate signatory* _____

Person to contact for further information _____ Telephone No. of person to contact _____

A copy of this form must be provided to the terminated individual.

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Uniform Termination Notice for Bank Securities Representative Registration (Form U-5B)—continued

CRIMINAL DISCLOSURE REPORTING PAGE

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP U-5B) is an ☐ INITIAL *OR* ☐ AMENDED response used to report details for affirmative responses to *Items 14.A, 14.B, 14.C and 14.D* on Page 2 of the Form U-5B.

Check ☐ item(s) being responded to:

14. While employed by or associated with your sponsoring bank, was the individual:
- ☐ A. convicted of or did the individual plead guilty or nolo contendere ("no contest") in a domestic, or foreign, or military court to any *felony*?
- ☐ B. *charged* with any *felony*?
- ☐ C. convicted of or did the individual plead guilty or nolo contendere ("no contest") in a domestic, foreign or military court to a *misdemeanor involving*: investments or an *investment-related* business or any fraud, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?
- ☐ D. *charged* with a *misdemeanor* specified in 14.C?

Use the DRP to report all charges arising out of the same event. One event may result in more than one affirmative answer to the above items.

Multiple counts of the same charge arising out of the same event(s) should be reported on the same DRP. Unrelated criminal actions, including separate cases arising out of the same event, must be reported on separate DRPs.

Applicant's Name (last, first, middle (specify if none), (Jr., Sr., etc.))		
Applicant's CRD No.	Social Security No.	Sponsoring Bank CRD No.

2. Formal charge(s) were brought in:

Court *(Name of Federal Military, State or Foreign Court)*	Location of Court *(City or County and State or Country)*	Docket/Case Number

3. Charge Detail Disclosure: (Continue on additional Criminal Disclosure Reporting Page U-5B if more than three charges arise out of the same event.)

Chg#	Formal Charge(s) Description	Charge Date (MM/DD/YYYY)	Number of Counts	Charge Type (check one only)		Plea (Guilty, Not Guilty, etc.)	Charge is Currently (check one only)	Appeal Date (MM/DD/YYYY)	Product Type (if charge is investment-related)
				Misdemeanor	Felony				
1.							☐ Pending ☐ Final ☐ On Appeal ☐ Pre-Trial Intervention		
2.							☐ Pending ☐ Final ☐ On Appeal ☐ Pre-Trial Intervention		
3.							☐ Pending ☐ Final ☐ On Appeal ☐ Pre-Trial Intervention		

IF FINAL, ON APPEAL, OR PRE-TRIAL INTERVENTION, COMPLETE ITEMS 3 AND 4. FOR EACH CHARGE THAT IS PENDING, COMPLETE ONLY ITEM 4.

Chg#	Disposition Type: (Convicted, Acquitted, Dismissed, Pre-Trail Intervention, etc.)	Disposition Date (MM/DD/YYYY)	Disposition Detail Sentance/Penalty (if applicable)	Duration (If sentance, suspension, probation, etc.)	Start Date (MM/DD/YYYY)	Penalty/Fine Amount (If applicable)	DatePaid (MM/DD/YYYY)
1.							
2.							
3.							

4. Provide a brief summary of circumstances leading to the charge(s) as well as the disposition. Include the relevant dates when the conduct which was subject of the charge(s) occurred. (Use reverse side of this sheet for additional comments if necessary.)

Date (MM/DD/YYYY)

Signature of *appropriate signatory*

Uniform Termination Notice for Bank Securities Representative Registration (Form U-5B)—continued

REGULATORY ACTION DISCLOSURE REPORTING PAGE

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP U-5B) is an ☐ INITIAL *OR* ☐ AMENDED response used to report details for affirmative responses to *Item 15* on Page 2 of the Form U-5B.

15. While employed by or associated with your sponsoring bank, was the individual *involved* in any *disciplinary action* by a Federal banking agency, domestic or foreign governmental body or *self regulatory organization* (other than those designated as a *"minor rule violation"* under a plan approved by the U.S. Securities and Exchange Commission) with jurisdiction over the *investment-related* businesses?

One event may result in more than one affirmative answer to these items. Use only one DRP to report details related to the same event. If an event gives rise to actions by more than one regulator, provide details to each action on a separate DRP.

Applicant's Name (last, first, middle (specify if none), (Jr., Sr., etc.))		
Applicant's CRD No.	Social Security No.	Sponsoring Bank CRD No.

1. Regulatory Action Initiated by (Name the regulator, foreign financial regulatory authority, SRO or commodities exchange, etc.)		2. Regulatory Action Type	3. Date Initiated (MM/DD/YYYY)
4. Docket/Case Number	5. Employing Firm when events occurred	6. Product Type(s)	
7. Describe the allegations related to this regulatory action (Use reverse side of this sheet for additional comments if necessary.)			
8. Is regulatory action currently (check one) ☐ Pending ☐ On Appeal ☐ Final	9. If on appeal, regulatory action appealed to (SEC, SRO, U.S. Court of Appeals, etc.)	10. If on appeal, date filed (MM/DD/YYYY)	

IF FINAL OR ON APPEAL, COMPLETE ALL ITEMS BELOW. FOR PENDING ACTIONS, COMPLETE ITEM 19 ONLY.

11. How was the matter resolved? (Settled, Consent, etc.)	12. Resolution Date (MM/DD/YYYY)	13. Sanctions (Suspended, Censured, Barred, Requalification, etc.)

14. If Suspended, Enjoined or Barred:

Is suspension/injunction/bar of a fixed duration? ☐ Yes ☐ No (If No, provide details in Item 19)	Suspension/Injunction Bar Start Date (MM/DD/YYYY)	Suspension/Injunction Bar Duration	Suspension/Injunction/Bar capacity affected (General Securities Principal, Financial, & Operations Principal, etc.)

15. If requalification by exam/retraining was a condition of the sanction:

Is requalification/retraining time-related? ☐ Yes ☐ No	If yes, length of time given to requalify/retrain: (If No, provide details in Item 19)	Type of exam required for requalification	Has condition been satisfied? ☐ Yes ☐ No

16. If disposition resulted in a fine, penalty, restitution, disgorgement or monetary compensation: (Fill in amount and MM/DD/YYYY in appropriate box)

Penalty/Fine $	Date Paid	Restitution $	Date Paid	Disgorgement $	Date Paid	Other $	Date Paid

17. Were you required to pay any part of the monetary items disclosed in 16: ☐ Yes ☐ No (If yes, fill in amount and MM/DD/YYYY in appropriate box)

Penalty/Fine $	Date Paid	Restitution $	Date Paid	Disgorgement $	Date Paid	Other $	Date Paid

18. Was payment of all or any part of a monetary award, penalty or fine waived? ☐ Yes ☐ No If yes, provide details of Waiver in 19 below.

19. Provide summary of details related to the action status and(or) disposition and include relevant terms, conditions and dates. (Use reverse side of this sheet for additional comments if necessary.)

Date (MM/DD/YYYY)

Signature of *appropriate signatory*

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Uniform Termination Notice for Bank Securities Representative Registration (Form U-5B)—continued

INVESTIGATION/INTERNAL REVIEW DISCLOSURE REPORTING PAGE

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP U-5B) is an ☐ INITIAL *OR* ☐ AMENDED response used to report details for affirmative responses to *Items 16 and 18* of the Form U-5B.

Check ☐ Item(s) you are responding to:

☐ 16. Currently is, or at termination was, the individual the subject of an *investigation* or *proceeding* by a Federal banking agency, domestic or foreign governmental body or *self-regulatory organization* with jurisdiction over *investment-related* businesses?

One event may result in more than one investigation. If more than one authority is investigating the individual, use a separate DRP to provide details.

☐ 18. Currently is, or at termination was, the individual under internal review for fraud or wrongful taking of property, or violating *investment-related* statutes, regulations, rules or industry standards or conduct?

If the individual has been notified that the investigation/internal review has been concluded without formal action, complete Items 1, 2, 3, and 4 of this DRP to update.

Applicant's Name (last, first, middle (specify if none), (Jr., Sr., etc.))		
Applicant's CRD No.	Social Security No.	Sponsoring Bank CRD No.

PART I

1. Notice received from (Name of Regulator, Agency, SRO, etc. initiating the investigation)	2. Notice date (MM/DD/YYYY)
3. Describe briefly the nature of the investigation/internal review, if known, or details of the resolution (Use reverse side of this sheet for additional comments if necessary.)	
4. Date Resolved (MM/DD/YYYY)	

(MM/DD/YYYY)	Signature of *appropriate signatory*

PART II

The individual subject may use this space for details to affirmative answers of Item 18 only.

The individual who is the subject of the internal review may provide a brief summary of this event. The summary must fit within the space provided below. This summary may be sent to: Appropriate Federal Banking Agency, c/o Central Registration Depository, Membership Department, 9513 Key West Ave., Rockville, Maryland 20850-3389.

Date (MM/DD/YYYY) _____ Signature of Individual Subject _____

Uniform Termination Notice for Bank Securities Representative Registration (Form U-5B)—continued

Form U-5B
Page 6 of 6

CUSTOMER COMPLAINT DISCLOSURE REPORTING PAGE

GENERAL INSTRUCTIONS

This Disclosure Reporting Page (DRP U-5B) is an ☐ INITIAL *OR* ☐ AMENDED response used to report details for affirmative responses to *Item 17.A and 17.B* of the Form U-5B.

Check ☐ Item(s) you are responding to:

17. While employed by or associated with your firm, was the individual the subject of an *investment-related*, consumer-initiated complaint or *proceeding* that:

☐ A. alleged compensatory damages of $10,000 or more, fraud, or wrongful taking of property?

☐ B. was settled or decided against the individual for $5,000 or more, or found fraud or the wrongful taking of property

One event may result in more than one affirmative answer to the above items; use only one DRP to report all the details related to one customer complaint. Use a separate DRP for each customer complaint.

Applicant's Name (last, first, middle (specify if none), (Jr., Sr., etc.))		
Applicant's CRD No.	Social Security No.	Sponsoring Bank CRD No.
1. Customer Name(s)		2. Customer's State(s) of Residence (2-Letter Abbreviation)
3. Employing Firm or Sponsoring Bank when events giving rise to the complaint occurred:		4. Date complaint was received (MM/DD/YYYY)
5. Allegation(s)		
6. Provide a brief summary of events related to the allegation(s) including dates when activities leading to the allegation(s) occurred		
7. Product Type(s)		8. Alleged Compensatory Damage Amount $
9. Is complaint currently pending ☐ Yes ☐ No	If No, how was complaint resolved (No Action, Withdrawn, Denied, Settled, Arbitrated, Litigated, CFTC Reparation, etc.)	If No Action, Denied, or Withdrawn, give date (MM/DD/YYYY)

IF STATUS IS SETTLED, ANSWER 10 AND 13; IF ARBITRATED OR CFTC REEPARATION, ANSWER 11 AND 13; IF LITIGATED, ANSWER 12 AND 13

10. If SETTLED by you, or on your behalf, without Arbitration, Litigation or Reparation:

Settlement Date (MM/DD/YYYY)	Settlement Amount $	Your Contribution $

11. If ARBITRATED or CFTC REPARATION:

Arbitration/Reparation Claim was filed with (NASD, AAA, NYSE, CBOE, CFTC, etc.)	Date You Received Service (MM/DD/YYYY)
Case/Docket Number	Is Arbitration/Reparation currently pending? ☐ Yes ☐ No

If Status if FINAL:

Disposition (Settled, Dismissed, Award, Withdrawn, etc.)	Date of Disposition (MM/DD/YYYY)

If disposition resulted in monetary compensation:

Award Amount $	Award Amount $	Settlement Amount $	Individual's Contribution $	Date Paid (MM/DD/YYYY)

12. If CIVIL LITIGATION:

Court that case was filed in (Name of Federal, State or Foreign Court)	Location of Court (City or County and State or Country)	Docket/Case Number
Is Civil Litigation currently pending? ☐ Yes ☐ No		Date the Individual Received Service (MM/DD/YYYY)

If Status if FINAL:

Disposition (Settled, Dismissed, Judgment, Withdrawn, etc.)	Date of Disposition (MM/DD/YYYY)

If disposition resulted in monetary compensation:

Judgment Amount $	Judgment Amount $	Restitution Amount $	Individual's Contribution $	Date Paid (MM/DD/YYYY)

Is action currently on appeal? ☐ Yes ☐ No	If on appeal, date filed (MM/DD/YYYY)

13. Provide details as to any other limits or conditions to disposition. (Use reverse side of this sheet for additional comments if necessary.)

Date (MM/DD/YYYY)

Signature of *appropriate signatory*

[FR Doc. 96–32325 Filed 12–27–96; 8:45 am]
BILLING CODE 4810–33–C, 6210–01–C, 6714–01–C

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December 30, 1996

Part III

Department of Housing and Urban Development

24 CFR Part 901
Public Housing Management Assessment Program; Interim Rule

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 901

[Docket No. FR–3447–I–03]

RIN 2577–AA89

Public Housing Management Assessment Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule implements the proposed revision, published on May 6, 1996, of the Public Housing Management Assessment Program (PHMAP) at 24 CFR part 901. PHMAP applies to public housing agencies (PHAs) and resident management corporations (RMCs), and any other entities under contract to manage public housing, but does not apply to Indian housing authorities, nor to the Family Self-Sufficiency Program authorized under section 23. PHMAP provides policies and procedures to identify PHA management capabilities and deficiencies, and assists HUD State/Area Offices in accountability monitoring and risk management.

DATES: Effective Date: January 29, 1997. Assessments using the requirements of this rule will begin with PHAs whose fiscal years end on March 31, 1997, the final date of the quarter after this rule is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: MaryAnn Russ, Deputy Assistant Secretary for Public and Assisted Housing Operations, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 708–1380. A telecommunications device for hearing or speech impaired persons (TTY) is available at (202) 708–0850. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION: On May 6, 1996, HUD published a proposed rule (61 FR 20358) to revise the entire PHMAP at 24 CFR part 901. Eighty-seven comments were received on the proposed rule. The public comments on the proposed rule and the resulting changes in this rule are discussed below in section II of this preamble.

I. Highlights of Changes From the Proposed Rule

A number of changes, more fully discussed in section II of this preamble, below, have been made to the proposed rule by this interim rule, including the following:

- The definition for "vacancy days: is modified to specify that it pertains to "dwelling" units.
- The definitions and methodologies for both the Performance Funding System (PFS) and PHMAP should be the same as long as feasible, and the language of the new rule reflects that.
- Definitions of the terms "effective lease date," "maintenance plan," and "move-out date" are added.
- The definition of "average turnaround time" is changed to read, ". . . the annual average of the total number of turnaround days between the latter of the legal expiration date of the immediate past lease or the actual move-out date of the former tenant (whenever that occurred, including in some previous fiscal year) and the date a new lease takes effect."
- The threshold for progress in reducing the vacancy rate that applies to a C grade has been changed from 30% to 15 percentage points.
- The term "Reduced Actual Vacancy Rate in Previous 3 Years" is clarified to include the fiscal year being assessed under PHMAP in the 3-year period.
- Dwelling units used for non-dwelling purposes with HUD approval, employee occupied units, and vacant units approved for demolition or disposition are not included as available units in the determination of occupancy/vacancy rates
- For purposes of indicator #2, Modernization, a minimum time is specified between the date HUD's monitoring report or audit is provided to the PHA and the end of the PHA's fiscal year in order to give the PHA sufficient time to correct all findings. The Department has revised components #3 and #4 to reflect a minimum time of 75 calendar days.
- The Department agrees that emergency CGP work does not require prior HUD approval and has revised component #5 of indicator #2, Modernization, to specifically exclude emergency work.
- The Department has added specific language to indicator #4, Work Orders, stating that all preventive maintenance work orders are to be tracked, as well as which type of work orders are exempted from the calculation of this indicator.
- The new resident services and community building indicator is now subdivided into four equally weighted components, and the indicator or the individual components are subject to exclusion based on the particular circumstances of each PHA. The name of this indicator has been renamed "Resident Services and Community Building" to place a more accurate emphasis upon the specific role of PHAs for these functions. PHA's with 100% elderly developments will not be assessed under this indicator. To avoid penalizing small PHAs with active programs, PHAs with fewer than 250 units or with 100% elderly developments may request to be assessed under the indicator at the time of PHMAP certification submission.
- The Resident Services and Community Building indicator has been revised in order to assess PHAs for the functions they perform in operating resident services programs and for resident management or TOP performance only when the PHA is the contract administrator for the program.
- The rule has been changed to state that indicator #8, Security, does not apply to PHAs with fewer than 250 units under management unless the PHA requests to be assessed under the indicator at the time of the PHMAP certification submission.
- Section 901.105(d)(3)(iv) has been clarified in the new rule to state that a PHA's score for indicators #1, #4 and/or #5, after any adjustment(s) for physical condition and/or neighborhood environment, may not exceed the maximum potential weighted points assigned to the respective indicator(s).
- Section 901.115(e) of the proposed rule read, "PHAs with more than 100 units that achieve a total weighted score of less than 60% on indicator (2), modernization, shall be designated as mod-troubled." The Department agrees that these "small" PHAs should also be assessed on their modernization program, and has amended this section accordingly.
- The posting of PHA PHMAP scores is now required at all offices, rather than in all developments.
- The rule makes clear that PHAs are only required to post and report out final PHMAP scores and do not have to post and report any score that is appealed in a timely basis and is under consideration by HUD.
- The rule now specifically permits an appeal from a State/Area Office rejection of a claim for additional scoring adjustment that is based on the physical condition or neighborhood environment of housing developments.
- In sections 901.220(b) and 901.225, the Department has changed the percentage in the new rule to require that 20% of the residents at a PHA in substantial default indicate to HUD their interest in participating in the competitive proposal process.
- The period has been extended to a 60, rather than 45, day submission period for certifications to be submitted following the end of a PHA's fiscal year.

II. Discussion of Public Comments

General Comments

Comment: One comment stated that PHAs should be monitored, but the PHMAP grading system is not the answer.

Response: Congress passed the amendments to the 1937 Act that authorize PHMAP, and it is the clear intent and purpose of Congress to require HUD to assess PHA management performance. The authorizing statute provides specific statutory indicators, and permits, as HUD deems appropriate, up to five additional ones to be used for this purpose.

Comment: Twenty-four comments stated that a truer assessment can be accomplished now than before; overall, the proposed rule is positive; generally pleased with the proposed revisions that eliminate the snapshot indicators; and the proposed rule is a vast improvement over the current PHMAP certification. Many of the commenters commended HUD's effort to streamline the certification process by reducing the number of indicators from 12 to eight and by providing standard definitions for critical terms. The first six indicators are measures of essential property management and a marked improvement over the current system.

Response: The comments are noted by the Department.

Comment: Five comments felt that there should be a transition period to allow adequate time to change computer programs. There should be at least one year to sample the new indicators to see how changes are going to affect individual PHAs. Any revision of the PHMAP should be made effective beginning with the next fiscal year after the new rule has been published. Two comments felt that if Congress has moved the authorization process forward, PHA's should have an "option year" implementation where a PHA has a choice to use either the current PHMAP or the new PHMAP. If the authorization process is stalled, the Department should not implement the new rule.

Response: Most of the data elements required to determine the grade or score for the new indicators are already being maintained by PHAs for reporting requirements for the current PHMAP rule or for other programs. Because of that, a long transition period is not needed. Therefore, assessment under this rule will begin with PHAs whose fiscal year ends the quarter after the publication of this rule (PHAs whose fiscal year ends in the quarter immediately following publication of this revised rule will be assessed under the "old" PHMAP rule). This transition period will permit PHAs to organize their data in order to respond to the new requirements. During the first year of implementation of the new rule, the Department will consider modification and exclusion requests based on special circumstances arising from the initial implementation process. A choice of which set of criteria to use (have PHAs choose under which PHMAP rule, old or new, to be assessed) is not feasible because all PHA's must be assessed using the same indicators for the same period of time (i.e., the same calendar year) in order for the scoring to be comparable and fair. HUD is moving forward with this rule because the implementation of the new PHMAP is not dependant upon Congressional authorization. The new rule is published as an interim rule to indicate HUD's intention to continue to refine and improve PHMAP.

Comment: Three Comments requested the Department not to establish a system which requires PHAs to retroactively retrieve information. The Commenters stated that in areas where "improvement over the last three years" is considered to calculate the grade, the information needed is not readily available to the PHAs in the new format required by the proposed rule. A transition process should be addressed in the new rule to deal with this.

Response: The PHMAP new rule does not require a PHA to retroactively retrieve information unless the PHA chooses to certify to the percentage of improvement within the prior three year period as permitted by some of the indicators. Since whether to make such a certification is the decision of each PHA, a PHA should factor in the additional time to retrieve the necessary information. A transitional period for this reason is deemed to be unnecessary.

Comment: Three Comments felt that with fewer indicators, it will be more difficult for small PHAs to achieve high performer status; a low score on one indicator will have a much greater impact on the total score.

Response: The reinvention and streamlining of the PHMAP process seeks to focus on the most significant management aspects of PHA management and reduce the burden of the PHMAP process while still producing a valid and reliable assessment. However, the use of fewer indicators does not result in a disproportionate impact from any one indicator. The use of modification and exclusion requests allows PHAs the opportunity to justify why they should not be penalized by a performance that does not exactly meet the requirements of an indicator. Even if additional, though less significant, indicators were used in PHMAP, the weighting of indicators according to their significance would reduce their individual impact on the score despite the additional assessment burden that would result.

Comment: One Comment stated that HUD has attempted to add compliance with specific directives to a program that is supposed to rate performance, and that including them in PHMAP waters down the focus and the results of the program. HUD should remove all non-essential components (Section 3 program at 24 CFR part 135, energy/utility management, etc.).

Response: HUD has attempted to limit PHMAP to examining essential aspects of PHA management. Of these, some that deal with compliance issues, such as the energy indicator, are essential because they are statutory. In other indicators, such as Resident Initiatives, which examines, among other subjects, implementation of Section 3 programs, the degree of successful implementation is regarded as a valid measure of a PHA's efforts to encourage partnerships with residents and the local community that help improve management operations at the PHA. However, compliance-related measures have been kept at a minimum in this rule.

Comment: One Comment felt that the State/Area Offices should be given the flexibility to correct shortcomings in the system which could not have been foreseen in advance.

Response: This rule does provide a high degree of the requested flexibility to State/Area Offices. The State/Area Offices assess each PHA within their jurisdiction on an annual basis, and make determinations for high-performing, standard, and troubled PHAs, and troubled PHAs with respect to the program under section 14 (mod-troubled) in accordance with a PHA's PHMAP weighted score. On-site confirmatory reviews may be conducted by the State/Area Offices, which may result in corrections to a PHAs total weighted score, if appropriate. In addition, State/Area Offices make determinations for exclusion and modification requests, perhaps the greatest area of flexibility in the PHMAP rule. At the same time, HUD must ensure that PHMAP is a truly nationwide assessment methodology and that comparable performance by PHAs in different State/Area Offices is rated without regard to the location.

Comment: One Comment stated that the Commenter has worked very hard to achieve high performer status, but cannot achieve it, under the proposed

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PHMAP ratings. Surely, a rating scheme can be formulated that would be equally fair to all PHAs, taking into consideration the huge differences between small and large PHAs, big city and rural PHAs, and the necessity for each to be operated differently.

Response: As indicated in the preamble of the proposed rule, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (92 App. Act) (approved October 28, 1991, Pub. L. 102–139) provided that the evaluation of PHAs must be administered flexibly to ensure that they are not penalized for circumstances beyond their control; and that the weights assigned to indicators must reflect the differences in management difficulty that result from physical condition and neighborhood environment. HUD implements this mandate, which also reflects the concerns expressed in the comment, by permitting PHAs to submit modification and exclusion requests, by limiting the applicability of certain indicators by PHA size, and by assigning additional adjustments to a PHA's PHMAP score based upon physical condition and neighborhood environment.

Comment: Two comments stated that PHMAP scores for PHAs and RMCs should be assessed and scored separately. The purpose of the RMC is to manage and maintain public housing units independent of the PHA. The RMC is an independent body that neither answers to, nor is required to follow the advice of the PHA. Resident groups are being given an enormous amount of responsibility, without the corresponding accountability which puts the PHA in an unfair and untenable position. To relieve the RMC of the necessity of being accountable creates a situation of "smoke and mirrors." Don't let resident management be an illusion; make it real. If the RMC has been deemed eligible and able to manage, it should also be deemed eligible to handle the corresponding success or failure. Do not combine RMC and PHA PHMAP scores.

Response: As discussed in the preamble to the proposed rule, because an RMC enters into a contract with a PHA to perform specific management functions on a development-by-development basis, and because the scope of the management that is undertaken varies, not every indicator that applies to a PHA would be applicable to each RMC. Even if an RMC were to assume all of the management functions for a particular development, 24 CFR 964.225(d), entitled, *Management contract,* and 24 CFR 964.225(h), entitled, *Prohibited activities,* provide that a PHA may enter into a management contract with a resident management corporation, but a PHA may not contract for assumption by the resident management corporation of the PHA's underlying responsibilities to the Department under the ACC. In addition, 24 CFR 964.225(k) requires a PHA to review, not less than annually, an RMC's performance to ensure that it complies with all applicable requirements and meets agreed-upon standards of performance. The ultimate responsibility for the management of all of its developments resides with the PHA, whether it contracts out management or other services to an RMC or any other contractor.

Comment: Two comments stated that the sample worksheet for indicator #6 and the PHMAP certification form are not exactly user friendly. One commenter suggested that HUD redesign these two forms so that they can be readily understood and computer formatted for those PHAs that have such capability. The other commenter stated that the new rule should include a standard questionnaire form for PHA use.

Response: The worksheet and certification form have been redesigned, as applicable, to make them more user friendly. HUD welcomes additional, specific recommendations to improve these documents further.

Comment: One comment felt that PHMAP should be aimed toward identifying a quality and reliable service delivery. Progress of development conditions, resident involvement in the solution of community affairs, as well as independent achievements by the residents should be evidence of growth and should be rewarded with high scores and additional benefits.

Response: Even with the reduction and streamlining of PHMAP to measure only the essential aspects of PHA management, as discussed in previous responses, the significance of resident involvement and achievement are recognized in this rule by maintaining resident involvement as a separate indicator. However, this is only one factor in a program that attempts to assess all of the significant areas of PHA management and a PHA must perform well in each area to receive a high score and additional benefits.

Comment: One comment maintained that the results in the quality of work and development conditions should be evaluated in connection with available resources versus market cost in the jurisdictions.

Response: The current PHMAP regulation contains substantial provisions to ensure that PHAs are not penalized for conditions beyond their control: (1) a PHA may request a modification of any indicator and/or component to compensate for conditions beyond its control; (2) a PHA may request the exclusion of an indicator and/or component for the same reason; (3) without requesting a modification, the current and new PHMAP regulations both allow PHAs to modify the scoring calculations for certain indicators by exempting certain units; and (4) there is a two-stage appeal process available if the PHA fails to find relief under items one, two and three, above. As discussed previously, exclusion and modification requests are processed by the local State/Area Office, which would have the greatest awareness of the resources and market conditions affecting a PHA. These procedures provide the appropriate mechanism to address special circumstances, such as area market costs, affecting a PHA's performance.

Comment: Two comments were concerned with revisions that would require the collection and management of new data when that data is needed solely for PHMAP and is not normally utilized in the management of housing. Such changes to the data collection and processing system are not easily accomplished.

Response: The Department's experience in implementing PHMAP so far has resulted in some refinement in the data necessary to assess management performance. The goal of this rule is to provide a more valid assessment process and HUD believes the data requested will produce this result. HUD will continue to evaluate the appropriateness and usefulness of the information it gathers in its implementation of this rule, and will make adjustments as warranted.

Comment: Three comments stated that the proposed rule should be delayed until Congress has completed action concerning the management assessment criteria of PHAs. Bills in the Senate and the House have provisions that would affect PHMAP. The Senate bill would add two indicators and the House bill would create an accreditation process for PHAs. It is not clear how these provisions may be reconciled. If the final bill contains significant changes, HUD should incorporate them into a new proposed rule re-issued for comment.

Response: HUD believes that this rule, incorporating nearly five years of experience and feedback on the rule first implemented in January 1992, represents an improvement over the existing process. The Department will

fully implement any statutory amendments to PHMAP when they are made, but is also continuing to go forward with this rule to avoid delay in implementing an improved process.

Comment: One comment stated that a PHA's ability to maintain its units will decline due to the budget cuts to all PHAs, thus affecting the PHMAP scores. With no funds for repairs, more units will fail HQS. How are PHAs suppose to improve and maintain housing units when funds are reduced, and PHAs are denied modernization funds?

Response: HUD recognizes that PHAs have not been fully funded. In FY 1996, for example, PHAs received only 89% of their funding eligibility under the Performance Funding System (PFS). To the extent that a PHA can demonstrate its management performance has been adversely affected by funding shortfalls, it should do so in an exclusion/modification request. PHAs are expected and encouraged to do their best, but they cannot be expected to do the impossible. In addition, alternative measures have been implemented such as minimum rents and the new focus on mixed-income housing, which provide PHAs with possible alternative income sources.

Comment: One comment stated that a system designed to measure performance of PHAs nationally must be flexible and accommodate local differences. PHMAP should give consideration to the conditions and level of difficulty involved in owning and operating public housing in poverty impacted and distressed urban areas.

Response: PHMAP is required by statute to take into account the physical condition of a PHA's developments and their neighborhood environment in assessing management. In the previous rule, PHMAP scores could be adjusted, based upon physical condition and neighborhood, by up to 10 points to raise a designation to the next status level. In this rule, the overall PHMAP score of a PHA will be adjusted by adding weighted points that reflect the differences in the difficulty of managing developments that result from the physical condition and/or the neighborhood environment of a PHA's developments.

Comment: Two comments felt that two indicators, Resident Services and Security, are troubling and display a tendency toward meddling and micromanagement. HUD has been trying to retreat from that tendency. Plus, Congress has been cutting funding for PHAs. The commenters felt that these indicators are non-management in nature and are not within the control of the PHA. PHMAP should grade only those indicators which are within the control of the management.

Response: A PHA's management efforts are directed toward developments, which are not just properties or structures, but which are housing: buildings that are people's homes. Because of this, there is a strong relationship between a PHA's management efforts and quality of life for a development's residents. While the PHA cannot mandate or control the positive interaction or advancement of its tenants, it can foster the environment and opportunity for such interaction and advancement. The resident involvement indicator attempts to measure a PHA's success in accomplishing this. On the other hand, a PHA is obligated to manage and respond to the unlawful behavior of tenants whose actions impede the peaceful enjoyment of other tenants. The security indicator addresses the PHA's success in managing this significant housing issue.

Comment: One comment supports extending coverage to alternative management entities.

Response: The Department appreciates this concurrence in its effort to assess and improve the management performance of every PHA.

Comment: One comment urges HUD to adopt those changes that help streamline the process of assessment and to use the simplest methods necessary to achieve a particular goal or outcome.

Response: As discussed above, it is HUD's intention to streamline and improve the PHMAP process with this new rule. Further, HUD is by no means closing the door on additional refinement, but will continue to consider and examine additional ways of improving PHMAP. To this end, this rule is being published as an interim rule.

Comment: One comment felt that it is equally important for PHAs to develop strong relationships with their surroundings and their neighbors. There should be points added or deducted to a PHA's final score based on the role a PHA assumes and its relationship with its surroundings.

Response: The resident involvement indicator in this rule, as did the previous resident initiatives indicator that is being replaced, assesses, in part, a PHA's efforts to involve residents to improve the community in which they live. Beyond this specific aspect of community involvement, it is likely that a well managed PHA, the general goal of PHMAP, is a positive community asset and a good neighbor. The recognition of outstanding individual community contributions and achievements by PHAs is important and receives attention from HUD in special ceremonies rather than in PHMAP, which focuses on the overall, day-to-day management aspects of PHAs.

Comment: One comment felt that there should be a simplified list of indicators to be used for smaller PHAs: vacancy rate; rents uncollected; inspections; and financial management.

Response: The authorizing statute for PHMAP lists seven indicators that must be used in assessing PHAs. This limits HUD's ability to differentiate between large and small PHAs in the indicators used for assessment. However, for indicators #7 and #8, PHAs with fewer than 250 units will not be assessed under these indicators unless they request to be assessed at the time of submission of the PHMAP certification.

Comment: Three comments stated that the proposed rule is more process-oriented and requires the tracking and/or collection of much more data. This is more burdensome and requires additional administrative responsibilities at a time when the level of public housing operating subsidy is being reduced.

Response: Although the Paperwork burden estimate for this rule exceeds the Paperwork burden estimate for the previous rule published on January 17, 1992, a substantial part of that increase results from HUD's recognition that a change in necessary data for assessment purposes will initially require more effort to compile. As was the case for the previous rule, it is expected that as the collection and organization of the data becomes more routine following the first submission, the associated burden will also decrease.

Comment: One comment felt that HUD should look for ways to eliminate regulations, not just change regulations.

Response: In the past year, HUD has undertaken an extensive effort to reinvent and streamline all of its rules, and hundreds of pages of regulations have been eliminated. The statute authorizing PHMAP requires its implementation by regulations, and HUD must follow this Congressional mandate.

Comment: Two comments stated that a continuing concern is that making the annual grade in PHMAP may become the true mission of many PHAs.

Response: HUD does not consider the prospect of PHA's refining their management practices to become high performers under PHMAP year after year to be distressing. The purpose of PHMAP is to assess the quality of PHA management, and in implementing this program, HUD intends for the score

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achieved to be a valid measure of performance. To address situations in which the PHMAP score poorly corresponds to the actual conditions at a PHA, the rule permits the State/Area Office, in exceptional circumstances listed in the rule, to reinstate any review to address particular deficiencies, and to deny or rescind incentives or high performer status, even though a PHA has satisfied all of the indicators for high or standard performer designation. The purpose of this provision is to prevent PHMAP from being an empty, pro forma exercise.

Comment: One comment believes that PHMAP is but one way to evaluate a PHA's management and ultimately, the quality of its stock. PHMAP is not a comprehensive measure of PHA quality and it is too process oriented. Greater emphasis should be placed on key results which more accurately equate with the quality of the housing stock.

Response: The observation in this comment does not quite correspond to the parameters and purpose of PHMAP as established under the authorizing statute. PHMAP evaluates PHA management performance using seven indicators that are made mandatory under the statute, which permits the Department to use up to five additional indicators. These requirements establish limits on what must and what may be used to assess the quality of a PHA's management, and not the quality of its housing stock. The statute explicitly requires HUD to take into account the difficulty of managing developments that result from their physical condition, indicating the Congressional determination that, to some degree, the quality of the housing stock is independent of the PHA's management capability. HUD is obliged to implement PHMAP in a manner consistent with the statute, and attempts to do so in a manner that will produce a valid and reliable result. As the Department hopes this rule demonstrates, HUD is, and will continue to be, receptive to the refinement of PHMAP based upon its administrative experience and the input it receives from PHAs.

Comment: One comment encourages HUD to publish handbook guidance well in advance of the effective date of the new rule so that PHAs may make any planning, record keeping or operational changes required to ensure compliance and performance.

Response: The Department anticipates the issuance of a revised PHMAP Handbook 7460.5 and a new confirmatory review guidebook prior to the applicability date of the new rule.

Comment: One comment stated that the term "approved, funded, on-schedule annual modernization program" is defined in the rule and in the preamble under the discussion of indicator #1. But the term is not used in indicator #1. Is it intended that the term be applied to the exemption for "vacant units undergoing modernization?" If so, it should be made explicit. Is it intended that the term be used in connection with indicator #2? If so, then this term is contrary to the rule's discussion of indicator #2, which includes only CIAP and CGP.

Response: The comment is noted, and the definition for "approved, funded, on-schedule annual modernization program" is superseded by the definition for "vacant units undergoing modernization." The definition in this rule, which includes the Hope VI Program, the Vacancy Reduction Program (VRP), lead based paint risk assessment funding (1992–1995) and any successor program to the CGP or the CIAP, applies to indicators #1, #4 and #5, as appropriate. In addition, the Department intended for all modernization programs to be assessed under indicator #2. For this reason, lead based paint risk assessment funding will be assessed under all five components of indicator #2. However, due to the design of the Hope VI and the VRP, these program areas cannot be assessed under components #1 and #2 under the modernization indicator. Therefore, in completing a PHA's assessment for indicator #2, the State/Area Office will only examine components #3, #4 and #5 for the Hope VI and the VRP. Appropriate language has been added to indicator #2 in the new rule. A similar comment was made with respect to indicators #4 and #5, and this response is also applicable to those two indicators.

Section 901.10 Indicator #1, Vacancy Rate and Unit Turnaround

Component #1, Vacancy Rate

Comment: Many comments agreed with the changes proposed for the indicator and commended the Department for making the indicator a more representative measure of vacancies. Six comments commended the Department for allowing an adjusted vacancy rate to be used for grades above a C. Seven comments stated that this is a much better way to compare vacancy indicator grades and scores since all PHAs will be compared on the same basis. Several comments indicated that this is a more accurate measure of good management and concurred with the proposed rule combining these two indicators whereas currently they are separate. One comment stated that the changes made to indicator #1 are much more equitable than the current indicator requirements and two other comments indicated agreement with adjusting the vacancies by the conditions listed in the rule and with the grading scale for the vacancy rates. Three comments expressed strong support for the change indicating that it will allow HUD to more accurately judge a PHA's vacancy rate.

Response: The Department agrees that, since the adjusted vacancy rate is derived from valid exemptions, PHAs should be able to achieve grades above a C level based on an adjusted vacancy rate. The Department feels that the new component #1 will provide a more representative picture of PHA vacancies than the current indicator. The Department also agrees with the assumption that if a PHA scores C or above in the vacancy component it should not have a problem with turning around vacant units, and that combining current indicators #1 and #5 into the new indicator #1 is a correct decision.

Comment: Four comments stated that the new vacancy indicator is really a measure of the number of vacancies weighted equally to the turnover rate. The comments indicated that the new weighting of turnover will penalize PHAs that have successful programs for families that move out of public housing. Two comments stated that the proposed rule rewards process over product and activity over results, and that the proposal is far more process-oriented and less results-oriented than the present system for counting vacancies. The proposed rule states that vacancy rates should have greater significance than unit turnaround but proposes a scoring system that requires greater reliance on unit turnaround and unit turnover than on the number of units vacant at the end of each month. Eight comments indicated that a 12 month average of the number of units that are vacant at the end of each month should be used. This is normally what is expected in any rental market and the proposed method is too complicated and requires too much staff time to calculate. Another comment stated that the proposed method places as much emphasis on turnaround time as on actual vacancies and suggested using a twelve month average of the number of vacant units on the 10th day of each month to avoid the problem.

Three comments indicated that the new vacancy indicator would not reward actual occupancy. Instead of measuring the number of units vacant at the end of each month, it measures the number of units leased each month and the amount of time required to lease the

units to arrive at a vacancy rate which converts to an occupancy rate. The current method is an honest way to define occupancy levels. Computing the vacancy rate by calculating the ratio of unit vacancy days to unit days available places greater reliance on unit turnaround. It requires PHAs to calculate the vacancy days for all units leased in a given month plus the vacancy days for all units remaining vacant at the end of the month, divided by the total unit days available for occupancy that month.

Six comments stated that this method calculates vacancy days, which is a function of turnover, rather than the actual number of vacant units. For example, if two PHAs have the same number of units and turnaround time, but one has higher *turnover*, the latter will automatically have more vacant days than the former. The vacancy rate should be the average vacancy rate over the past twelve months. Three comments indicated that the current indicator allows PHAs to answer the question, "What is your vacancy rate?" The answer is, "Our vacancy rate is the number of units vacant at the end of the month compared with the number of units available for occupancy." Two comments stated that if a PHA has a high turnover rate because it is moving residents out for private lease-up or home ownership, this too, should be an allowable adjustment to the vacancy rate because PHAs with high move-out rates are adversely affected even though they may have no control over the reasons for the high move-out. Two comments suggested that the snapshot picture be retained.

Three comments indicated that the proposed rule penalizes high turnover rates and provided the following examples: PHA with a high turnover rate but the same unit turnaround time would get a higher vacancy rate than a PHA with lower turnover rate (same unit turnaround time): PHA "Y" with 100 units, and 20 units vacated and filled during the year (10 days average turnaround) would have a .55% vacancy rate; and PHA "Z" with 100 units, and 40 units vacated and filled during the year (10 days average turnaround) would have a 1.10% vacancy rate. A PHA with a high turnover rate and a lower unit turnaround time could get a higher vacancy rate than a PHA with lower turnover rate and a higher unit turnaround time: PHA "A" with 100 units, and 60 units vacated and filled during the year (20 days average turnaround) would have a 3.2% vacancy rate and a B grade. PHA "B" with 100 units, and only 30 units vacated and filled during the year (35 days average turnaround) would have a 2.8% vacancy rate and an A grade, even though it averaged a higher (35 vs. 20) vacancy turnaround rate. There is no basis for rewarding or penalizing a housing authority based on a higher or lower percentage of residents moving out during a year. Turnover rates depend on a variety of factors, many beyond the PHA's control. Some factors are: availability of alternative affordable housing; self-sufficiency programs; resident demographics; eligibility screening and lease enforcement; and HUD required transfers.

Response: The Department agrees that by using a methodology that takes into account circumstances and actions that impact on the occupancy/vacancy status of a unit over the entire course of the PHA's fiscal year, PHAs with high turnover rates will have more vacancy days than comparable PHAs with low turnover rates, assuming that the turnaround time is the same. The Department disagrees, however, with the conclusion that this makes the proposed methodology less useful than one based on taking a snapshot, either on a one-time basis, as is currently the case, or on a monthly basis over a year's time as suggested in some comments. The "snapshot" approach may be easier to implement but it grades the PHA performance based on a single-day measurement that may or may not be representative of the PHA performance in this area over the entire period of time being assessed. If an average based on 12 snapshots is better than one snapshot, then an average based on 365 snapshots will present the most accurate picture.

It is incorrect to state that the measure of vacancies and the measure of turnaround time have been given equal weight in the development of this indicator. The new rule combines the vacancy indicator and the turnaround indicator of the current § 901 into one single indicator that has two components. The first component (with a weight of x2) measures the vacancy rate and, if applicable, the progress a PHA has made in reducing the vacancy rate. The second component (with a weight of x1) measures turnaround time. Because the vacancy rate is a clear manifestation of management effort and reflects the essence of a PHA's mission, it has been weighted more heavily than the unit turnaround component. In addition, the proposed rule would use the second component only when a PHA scores below a C on the first component.

The proposed methodology provides ample opportunities for a PHA to adjust its vacancy days for turnover of units due to reasons such as modernization or that are due to circumstances and actions beyond the control of the PHA, such as court-ordered or HUD-approved desegregation efforts. A PHA also has the option of requesting a modification to the calculation of this component that would take into account any other special factor, such as self-sufficiency activities or security measures implemented by the PHA, that may contribute to a higher than normal turnover of units. The indicator should not be a deterrent or penalty to PHAs that have successful programs that encourage residents to move out of public housing to private market housing opportunities. Success builds upon success and a PHA that is able to work with residents and prepare them for home ownership or private market rental units should not have difficulties in attracting applicants for units that have been vacated.

The Department believes the proposed method of calculating this component to be the most accurate measure of a PHA's performance in this area. Also, contrary to some comments, the proposed method of calculation is the method commonly in use in the real estate industry.

Comment: One comment stated that the proposed rule requires more calculations than the current method and also requires tracking each unit for potential adjustments. This will be difficult for many PHAs and for HUD field staff to verify. The current occupancy rate calculation method is preferred. Three comments indicated that the indicator will take hours more in record keeping. HUD reduces PFS and modernization monies, but expects more and more in reports and record keeping. The proposed method is cumbersome, inconsistent with other HUD definitions for determining vacancy, and increases the difficulty level for calculating vacancy rates.

Two comments stated that the new method of calculating the vacancy rate is far more process-intensive than the previous methods. PHAs should be given the opportunity to take a simple average based upon end-of-month vacancies rather than using the far more complex calculation offered in the proposed rule. Two comments stated that it is poor management practice to calculate vacancy/occupancy percentages one way for the PFS and another way for a management assessment system. Two comments agreed with the expansion and clarification of the units that can be exempted from the adjusted vacancy rate and indicated that the nine

exemptions should remain consistent with reporting under the PFS.

One comment indicated concern with the need to maintain data on the cause of each vacancy, as in the examples presented in the preamble. For large PHAs the data collection and maintenance becomes very difficult. Maintenance of this data is doable, but HUD needs to recognize the impact on PHA data systems if the various categories for adjustment are revised from time to time.

Three other comments stated that this level of evaluating vacancies would be burdensome for large PHAs. To track the actual vacancy rate and have the ability to also accurately calculate an adjusted vacancy rate would require significant alterations to the mainframe computer system programs as well as to standard operating procedures, and large PHAs need ample time to implement these changes. One comment stated that the new component requires that PHAs analyze each vacant unit and in the absence of readily available industry software, this process could prove burdensome for large PHAs. Another comment stated that if HUD retains the methodology of the proposed rule it should provide PHAs with software that do the bulk of the calculation for them.

Response: The Department does not believe that the information collection requirements for this indicator represent an undue burden on PHAs. Most of the data elements required to determine the grade or score for the two components that comprise this indicator are already being maintained by PHAs and used in calculating operating subsidy eligibility under the PFS or used for reporting requirements of other programs. In fact, if PHAs have been maintaining turnaround time data accurately under the previous interim rule, no new data collection will be required, just a change in computation.

The Department understands that a well-run PHA should have a system in place for monitoring occupied units and vacant units and the duration of vacancies. Beyond simply being good business practice, PHAs must monitor turnaround time, both to evaluate the effectiveness of their maintenance and marketing and leasing efforts, and to develop information for the current PHMAP indicator on vacant unit turnaround time. This should pose no more onerous burden on large PHAs than on smaller institutions, and in fact, would probably be even more important to a large PHA, where remote monitoring of large-scale activities is the norm.

In response to the suggestion that HUD should provide software for this purpose, HUD has no plans to develop additional software at this time. In addition, as a matter of policy, HUD cannot be in a position of competing with private-sector software developers.

To a significant extent, the Department has also used definitions and methodologies in this section that are the same as those used in other programs. An example of this consistency is that the adjustment for units vacant for circumstances and actions beyond the PHA's control as defined in § 901.1(a)(9) is the same for both PHMAP and PFS. The Department will issue guidance to PHAs on how to use existing sources of data to calculate each component of this indicator.

Comment: Three comments stated that if HUD wants PHAs to calculate vacancy loss, then HUD should adjust the turnaround indicator to reflect that goal, rather than throwing out the existing common sense method of calculating vacancies. Three other comments indicated that HUD's justification for the new vacancy indicator is the need to calculate vacancy loss like the private sector does. The private sector can estimate dollar value of vacancy loss, but PHAs cannot because PHAs do not realize rental income until the unit is rented. The private sector can "go down their waiting list" or advertise in the paper to pick the tenant who can move in the day the unit is ready and PHAs can't do that. The information can be useful, but the private sector uses it to determine budgets, not to determine vacancy rate.

Response: The Department disagrees with these comments. Neither the current vacancy indicator nor the new vacancy indicator were developed to be a measure of rental revenue lost because of units becoming vacant. The vacancy indicator is not a measure of financial performance, but a measure of the ability of the PHA to maximize occupancy and minimize turnaround time within certain constraints recognized by the Department.

Comment: Several comments addressed the changes in the grading scale. One comment indicated that a vacancy rate of 3% for a grade C is too stringent. Another expressed support for the change from 1% to 3% vacancy rate in order to achieve an A grade, indicating that it makes sense with the national average vacancy rate of 7%. Two comments stated that the current 99% vacancy rate for an A is valid. Another comment expressed concern with the change indicating that a vacancy rate of 7% would yield a C grade and still exclude the unit turnaround component from consideration. One comment stated that it is not clear if the 3% vacancy threshold for not having to report unit turnaround was retained or not. Another comment stated its support for the provision that permits PHAs to choose between adjusted and actual vacancy rate calculation, but suggested that HUD retain the previous interim rule's alternative grade C for a reduction in vacancies of at least 30%.

One comment expressed support for the option that allows a PHA to achieve a C grade if it reduced its actual vacancy rate by at least 15 percentage points within the past three years and has an adjusted vacancy rate of between four and five percent. It also indicated support for somewhat lower grades for PHAs making slower progress. Another comment stated that a PHA can improve by at least 15% and still receive a lower grade by not matching the adjusted vacancy rate requirement.

Response: The Department agrees that a vacancy rate of 3% for a grade C is too stringent and changed that in the proposed rule. The Department believes that the new grading scale is reasonable and takes into account the national average vacancy rate and also takes into account the new method of calculating the vacancy rate, which is more representative of the true performance of PHAs in this area over the period of time being assessed.

The Department is also proposing a different threshold for not having to report unit turnaround. The second component, vacant unit turnaround time, will only apply to PHAs that score below a C grade on the first component. PHAs can achieve a C grade by meeting one of the following conditions: the PHA has an *actual* vacancy rate of greater than 5% and less than or equal to 7%; or an *adjusted* vacancy rate of greater than 3% and less than or equal to 4%; or the PHA reduced its actual vacancy rate by at least 15 percentage points within the past three years and has an adjusted vacancy rate of greater than 4% and less than or equal to 5%.

Regarding the threshold for progress in reducing the vacancy rate that applies to a C grade, the Department changed it from 30% to 15 percentage points. The Department agrees that it is important to recognize and reward significant progress. It also understands that the grade relief should not defeat the balance of the grading scale. The grading scale already provides for a somewhat lower grade (a D) for PHAs with adjusted vacancy rates between four and five percent that do not achieve the 15 percentage points decrease in the actual vacancy rate.

Comment: One comment requested that the term "Reduced Actual Vacancy

Rate in Previous 3 Years" be clarified in order to indicate if the fiscal year being assessed under PHMAP is the third year of that 3-year period or if the 3-year period is prior to the PHMAP year being assessed.

Response: The Department agrees with the comment and the new rule has been changed to state that the fiscal year being assessed is the third year of that three year period. An example will be provided in the revision to the PHMAP Handbook 7460.5.

Comment: One comment stated that the idea of measuring a PHA's performance over the previous three years seems to be unfair and generate inaccurate statistics because of diverse variables that would not remain constant over the years and suggested that each year be measured against its previous year. Another comment indicated that the PHA does not currently have a three-year history of the daily vacancy rate so it must have time to collect this data. It proposed to use the average rate on the last day of each month until it can get the actual daily and adjusted rates. One other comment indicated that it would be extremely difficult to track vacancy days and unit days available for the previous three years and requested that a more accurate and equitable method of calculation be sought so that comparison statistics can remain accurate and consistent.

Response: The Department agrees that due to the change in the method of computation, vacancy rates generated under the two systems cannot be compared unless an adjustment is made to the statistics for the previous two years. Only those PHAs interested in using this grading option (progress in reducing the vacancy rate during the previous three-year period) will have to recompute the vacancy rate for the two years prior to the year being assessed, using the new methodology. Most of the data needed for this will come from the records developed by the PHA to comply with the PHMAP reporting requirements for the current unit turnaround indicator.

Comment: One comment suggested that the five grades be condensed into a "satisfactory" rating (2% adjusted vacancy rate or below); "adequate" rating (2–4%); and "unsatisfactory" rating (over 4%); the five grades could be used as a mechanism for setting goals for troubled PHAs but need not be required for all PHAs.

Response: The Department has some sympathy for the suggestion that the number of evaluation levels be reduced and simplified, but we do not believe it appropriate to address that simplification issue at this time. The biggest reason for maintaining the larger number of evaluation categories is that beyond the pass/fail differentiation, the Department expects to be able to use PHMAP scores, and to some extent, individual indicators, to identify PHAs where performance is clearly superior and worthy of emulation, and at the other extreme, cases where performance indicates a need for the Department's intervention in PHA operations. Five or six "grades" may or may not be the perfect model for this kind of evaluation, but the existing structure appears to be working to date, and in the absence of demonstrable benefits of alternate approaches, HUD does not see a need to revisit this issue at this time.

Comment: One comment stated that it appears to be impossible for PHAs to obtain a grade of D or F if the adjusted vacancy rate is greater than 6%. This is not a true grading system and makes it impossible for PHAs with a high vacancy rate to realize any points for improvement. It would be unfair to compare a PHA with an older housing stock to a PHA which may have newer stock or modernized units.

Response: The comment is partially correct that under the proposed rule an adjusted vacancy rate greater than 6% will result in a PHA receiving a grade of F. If a PHA has an adjusted vacancy rate greater than 6% and less than or equal to 7%, and has reduced its actual vacancy rate by at least 5 percentage points during the past three years, then the PHA would get an E instead of an F. The grading system is not unfair to high vacancy PHAs because it does allow for adjustments in recognition that some types of vacancies are beyond the control of the PHA.

Comment: One comment stated that the actual vacancy rate does not exempt units occupied by employees, units used for resident services and units undergoing modernization. PHAs are penalized by an increase in the actual vacancy rate when these units are not exempted from the actual vacancy rate. This creates the potential for PHAs to eliminate needed resident services by eliminating space for these services in an effort to decrease the vacancy rate. Most PHAs will be prevented from ever using the actual vacancy rate if these units are not exempted.

Response: The Department disagrees with the comment. The rule has been clarified to indicate that units approved for non-dwelling use, employee occupied units and vacant units approved for deprogramming will be completely excluded from the computation of this indicator. Regarding the units undergoing modernization, PHAs are not penalized because these units can also be excluded under the adjusted vacancy rate computation. The grading scale for the vacancy indicator allows PHAs to get all possible grades, including an A, under the adjusted vacancy rate option. There is no real incentive for PHAs to cut back on resident services by eliminating space for these services in an effort to decrease the vacancy rate.

Comment: One comment stated that the increase in difficulty for calculating the vacancy rate will increase the cost of a PHA's annual audit.

Response: The Department believes that the increase in scope of work would not represent a substantial increase in the cost of the audit and that the additional expense, if any, will represent a good investment for the PHA. Since the Department reimburses a PHA for its audit costs, it will reimburse a PHA for any additional audit costs resulting from changes to any of the indicators.

Comment: One comment stated that the proposed calculation counts vacant units *both* during the month and at the end of the month, regardless of reoccupancy during the 30 days.

Response: The Department disagrees. The proposed calculation adds the number of vacant units each day of the year (adjusting for valid exemptions) and divides by the number of unit/days available.

Comment: Three comments proposed that PHAs should be able to choose either the current method or the new method for computing vacancy rates. One of the comments stated that there are currently two methods for calculating the vacancy rate and it seems a bit arbitrary to abolish this flexibility that PHAs utilize to reduce their paperwork requirements. Form HUD–51234 already is a requirement that must be submitted by PHAs and to require a duplication of effort for PHMAP purposes is contrary to good management practices. The comments recommend the use of form HUD–51234 or the new calculation methodology at the discretion of the PHA. This would enable PHAs to retain flexibility in the manner in which they choose to determine the vacancy rate without imposing any additional paperwork burden unless the PHAs elect to do so.

Response: While the Department favors maximum local flexibility, it is impractical to allow PHAs to be able to pick and choose among different methodologies for developing the data for this most important indicator. Allowing that would make it impossible to compare the vacancy rates for different PHAs (and even for the same

PHA over a period of time). The Department believes very strongly that all program participants need to be evaluated under the same basic procedures, especially the same definitions. To do otherwise is to invite complaints that the process compares apples with oranges; the process can't afford to permit the PHAs to elect whether to present "apples or oranges" for evaluation.

Comment: One comment stated that the Department should give consideration to reducing the vacancy standards for a period of time due to the One Strike policy. Improved screening standards will increase the amount of time to process an application. If the Department is seriously concerned about quality of life in PHAs, give the occupancy people time to do their jobs efficiently.

Response: The Department agrees that the implementation of the "One Strike and You're Out" policy and stricter security measures may temporarily increase vacancy and turnover rates at some PHAs. Adequate planning in the implementation of the security measures should help PHAs reduce these temporary problems. After the initial stages, these programs will have a positive impact on the vacancy and turnover rates of PHAs due to the increased security and stability of their public housing communities. Because these situations will greatly vary from PHA to PHA, it would not be proper to make any changes, even temporary ones, to the grading standards of the vacancy indicator. Instead, PHAs that believe that the implementation of stricter security measures related to the "One Strike and You're Out" policy negatively impacted their vacancy rate may submit a modification request along with their PHMAP certification.

Comment: One comment stated that because of the low weight (x1) of the turnaround component relative to the vacancy rate component, the turnaround component is almost unnecessary since it can't change the grade of the indicator in a significant way.

Response: The Department disagrees with the comment. Although the component would not have a big impact in determining the final grade of the indicator, this is in accordance with the position of the Department regarding the interrelation and relative weight of the two components. Because the vacancy rate is a clear manifestation of management effort and reflects the essence of a PHA's mission, it has been weighted more heavily than the vacant unit turnaround component. In addition, the new rule uses the second component only when a PHA scores below a C on the first component. The Department believes that if vacancies are at a C level or above, the PHA does not have a problem with turning around vacant units. It should be noted that the component would have at least a minor impact in the final grade of the indicator (may increase or decrease one grade level) and may add up to 6.66 points to the total PHMAP score.

Comment: One comment stated that the proposed rule requirement for vacant units undergoing modernization is inconsistent with scheduling adjustments that HUD permitted in the past in recognition of the realities that some PHAs face in soliciting bids from contractors for modernization funded work. The proposed time requirement would punish a PHA with few vacancies that may need to "stockpile" vacancies to accumulate sufficient volume of work to obtain competitive bids from contractors. It is recommended that all vacancies covered by a funded, on-schedule modernization program be excluded from the vacancy rate calculation.

Response: The Department disagrees because the small purchase procedure is a viable option for PHAs with few vacancies to accomplish modernization costing less than $100,000 (or a lesser amount as specified by State law). Under this method, PHAs solicit quotes from an adequate number (normally, no less than three) of sources and can award the contract to the offeror with the lowest quote. This method is significantly less time consuming than the normal sealed bid procedure where formal advertising is involved. It is also noted that contractors can be procured for utilization on an as-needed basis, allowing them to begin work immediately.

Comment: One comment stated that the proposed definition of and calculations concerning a vacant unit undergoing modernization seems to be counterproductive; a more equitable way of calculating vacant days would be to count only those vacant days between the completion of the modernization work and the day of tenant move-in or reoccupancy.

Response: The Department disagrees with the comment regarding the adjustment for vacant units undergoing modernization. The adjustments provided in the proposed rule are either activities that the Department wishes to support, such as modernization, or represent circumstances or actions that the Department considers to be beyond the PHA's control. In such cases where these definitions apply to vacant units before the units are included in a HUD-approved modernization budget, the units may be exempted for those other reasons. If the units were vacant prior to being included in the HUD-approved modernization budget for other than the exempted reasons in the rule, the vacancy days accumulated prior to the unit being included in the HUD-approved modernization budget must be included in the vacancy rate calculation as non-exempted vacancy days.

Comment: One comment stated that not excluding the vacancy days that accumulated prior to a unit being included in the HUD-approved modernization budget from the calculation of this indicator could result in substantial dollars wasted to make vacant units temporarily habitable until such time that a modernization plan has been approved by HUD. Dollars invested in temporary major rehabilitation of units located in buildings subsequently placed under modernization are lost because major replacements cannot be salvaged during/after modernization. In order to not provide PHAs with an unintentional PHMAP performance measure incentive to waste limited HUD dollars, vacancy days for units in a building included in a modernization budget which was approved by HUD during the PHMAP assessment year should be exempt regardless of whether or not some units in the building were vacant prior to HUD's approval of the plan.

Another comment recommended excluding from the vacancy calculation units that a PHA has scheduled to modernize but not yet included in the modernization budget, as well as vacant units that have been modernized and are scheduled to be reoccupied. These vacant units should be excluded because the vacancies are part of the normal modernization process and are not the result of poor performance. For example, this PHA has completed modernization of hundreds of apartments for people with mobility impairments, but HUD has not permitted us to rent accessible apartments to non-disabled families. These vacancy days should not be included in the vacancy rate calculation.

Response: The Department disagrees with the comments. The issue of whether to expand the preferential treatment for units undergoing modernization to include units scheduled for modernization but not yet under a modernization budget (for example, units scheduled for modernization in the second year of the CGP Five Year Plan) was discussed as part of the Vacancy Rule negotiated rulemaking proceedings but not adopted. The Department was part of

the consensus that developed the definition of vacant unit undergoing modernization and believes it to be appropriate. For the same reason, the Department does not believe that an adjustment should be given for the time between completion of modernization work and reoccupancy. Once a unit has been modernized, there is no reason to allow an adjustment for the time needed to lease the unit. Marketing and leasing of units is a normal function of a PHA.

The Department also disagrees with the second part of the comment. HUD does not control whether or not a PHA can admit non-disabled applicants to a unit designed for the disabled. If a PHA cannot lease units with accessible facilities to the persons with disabilities, they are free to lease those units to non-disabled applicants (see Handbook 7465.1 REV–2, paragraph 5–2c). The cited handbook urges that a PHA facing such a circumstance "* * * include a provision in the lease requiring the family to move if someone needing that size specially designed unit applies and there is an appropriate unit available for the family originally admitted."

Comment: One comment indicated that the PHA has a large number of competing subsidized units, and certain bedroom sizes and certain handicapped units are very difficult to rent to residents that are actually eligible for them. Another comment stated that the indicator does not accurately reflect the capabilities of a PHA to manage its units; such factors as market conditions greatly impact a PHA's score in this area. One other comment indicated that the rule does not provide enough information on what may be acceptable under changing market conditions and it does not define what constitutes "aggressive marketing and outreach measures" or provide standards by which such goals should be reached or judged.

Response: The Department feels that the new rule adequately addresses the issue of marketing difficulties at § 901.5 and § 901.10(b)(2)(iii). An adjustment may be made to a PHA's vacancy days because of market conditions. In order to justify the adjustment, the PHA will need to document the specific market conditions that exist and document marketing and outreach efforts. The PHA will need to describe when the downturn in market conditions occurred, the location(s) of the unit(s) effected, the likelihood that these circumstances will be mitigated or eliminated in the near term and why the market conditions are such that they are preventing the PHA from occupying, selling, demolishing, rehabilitating, reconstructing, consolidating, or modernizing the vacant units. The Department has provided examples of what constitutes changing market conditions in 24 CFR § 990.102 and will issue further guidance to PHAs on this circumstance in the revision of the PHMAP Handbook 7460.5.

Comment: One comment stated that the grading system for this indicator penalizes PHAs that are actively modernizing their housing stock. To require lower vacancy rates for PHAs actively improving their housing stock through modernization than for PHAs not undertaking the improvements is egregious at best. The scoring of actual and adjusted vacancies appears to be unnecessary since the adjusted vacancy rate only occurs for authorized reasons as defined by HUD. To allow for adjustments to be made and then apply a different scoring criteria is illogical and inconsistent.

Response: The Department disagrees with the comment. The proposed methodology provides ample opportunities for a PHA to adjust its vacancy days for turnover of units due to reasons that are accepted and supported by the Department such as modernization or are due to circumstances and actions beyond the control of the PHA, such as court-ordered or HUD-approved desegregation efforts. A PHA also has the option of requesting a modification to the calculation of this component that would take into account some other factor that is causing frequent turnover of units at the PHA. The Department believes the proposed method of calculating this component to be the most accurate measure of a PHA's performance in this area.

Exemptions

Comment: One comment stated that adjusted vacancies help a poorly performing PHA score better under the proposed rule, but generally will do nothing to assist high-performing PHAs because it is doing the things necessary to prevent these types of vacancies. A high-performing PHA with just normal vacancies is hurt by the proposed rule. Another comment stated that the proposed scoring range is looser and, therefore, objectionable and there are more exemptions. Vacancies have decreased since the advent of PHMAP, just because HUD is grading PHAs and they are concentrating on keeping vacancies low. HUD should not reduce its standards simply to satisfy PHAs who aren't getting the job done. There should be no changes to the current grading standards. HUD is going in the wrong direction by making PHMAP high-performance status so easy to attain as it compromises the credibility of the evaluation process.

Another comment stated that if a PHA chooses an adjusted vacancy rate, it has the potential to exempt vacancy days in nine different categories, some of which are very broad. Under this scenario, it is conceivable that some PHAs will assume responsibility for few vacancy days. One other comment stated that most exemptions are easy to determine or validate except for units uninhabitable "for reasons beyond the PHA's control." Two other comments indicated that "reasons beyond the PHA's control" is vague and may indirectly be within the control of the PHA. Because such an adjustment should be the exception rather than the rule, it should be eliminated. Such units fall into a murky area that some poorly run agencies may be tempted to exploit. It may be difficult to demonstrate that the conditions leading to condemnation by the health department were either within or outside of a PHA's control.

Response: The Department believes that the adjustments are not a function of whether a PHA is a high or poor performer, but a recognition that there are some circumstances and actions that impact on vacancies that are beyond the control of the PHA, such as a natural disaster, or that should be supported, such as modernization. The Department understands that there are often good reasons for unit vacancies, and that a blanket appraisal of unit vacancies as a bad condition glosses over some very real and explicable conditions that affect management of low-income properties in the real world.

The Department believes that it has defined the categories of vacancies completely enough that most of a PHA's vacancies can be clearly identified, and that a PHA has a fair opportunity to explain its situation. Where some number of unit vacancies cannot be adequately explained in terms of the acceptable or allowable categories, the PHA will be held strictly accountable, but where the unit vacancies are within the parameters established by HUD, under the negotiated rulemaking for the PFS vacancy rule, for example, the Department does not believe it fair or reasonable that the PHA should be penalized. The Department agrees that the exemption categories, as presented in the proposed rule, need some clarification and the new rule reflects that. The category mentioned by some of the comments is duplicated in the proposed rule and that duplication will be eliminated in the new rule. The exemptions will remain consistent with the nine exemption categories used under PFS.

Comment: Two comments stated that the language for exemption of units vacant for circumstances and actions beyond the PHA's control (§ 901.10(9)(v)) provides that insufficient funding for otherwise approvable applications made for CIAP funds (only PHAs with less than 250 units are eligible to apply and compete for CIAP funds) are exempted from the calculation of this component. It further provides that this definition will cease to be used if CIAP is replaced by a formula grant. The comments stated that this subsection should apply to CGP, particularly now with the budget reductions. Also, one of the comments stated that vacant units covered in proposed unit demolition and disposition applications should be excluded, even if the applications have yet to be acted upon by HUD.

Response: The Department disagrees and has retained this language in the new rule. The provisions referred to in the comments were taken directly from the new Vacancy Rule published in the **Federal Register** on February 28, 1996 (61 FR 7586). The rule incorporated recommendations of a regulatory negotiation advisory committee. The committee did discuss the issue of providing relief to PHAs (and RMCs) because of insufficient funding for the CIAP and CGP programs. The relief was limited, however, to insufficient funding for an otherwise approvable CIAP application (or failure of a PHA to fund an otherwise approvable RMC request for CGP funds from its PHA). The CIAP is a competitive program with insufficient funding to cover the needs of all approvable funding applications. When the funding program is competitive, a PHA either gets the funding applied for, or it doesn't. However, since the CGP is a formula grant program, with guaranteed yearly funding, a CGP PHA is better able to plan modernization activities in advance and make crucial repairs as necessary.

The Department does not agree with the suggestion that a PHA be able to assume HUD approval of a pending application for demolition or disposition, if the application has not been acted upon at the end of the fiscal year being assessed. There are significant differences between initiating the application process and receiving approval to dispose or demolish.

Comment: Six comments indicated that vacancy days for units that suffer casualty damage, especially by fire, should not be counted until the unit is turned back over to the PHA after the contractor completes the repairs, if applicable, instead of at the time of insurance claim settlement. It is more logical to include casualty-damaged units in the same exemption status as units undergoing modernization or units documented to be uninhabitable for reasons beyond the PHA's control. The exempted vacancy days for units that suffer casualty damage should change to read, "vacant units that have sustained casualty damage until the unit is ready to be leased or 90 days, whichever is earlier."

Response: The Department disagrees with the comment. The indicator retained the current provision that already allows a PHA to make an adjustment for the period of time during which the claim is being adjusted. Since the fire damage to the unit may be minimal or severe, it would not be appropriate for the Department to allow an automatic additional period of time of up to 90 days to repair the unit. PHAs may request a modification to the calculation if they believe they have a situation (severe damage) that warrants a special adjustment.

Comment: One comment recommended substituting the word "permits" for "requires" in § 901.10(a)(4) which exempts vacant units in which resident property has been abandoned, but only if State law requires the property to be left in the unit. The comment added that when a resident abandons a unit, leaving their personal property therein, many small PHAs have no other appropriate space to store such property during the period of time specified by State law before they can legally dispose of the abandoned property.

Response: The Department does not concur in the recommendation. The point of this provision is to limit the period of time when a vacant unit would be exempted from the vacancy count to the period of time that is beyond the PHA's control. The proposed change would expand the provision to cases in which State law "permits" a unit to remain encumbered by abandoned possessions. HUD believes that the existing language—"requires"—is more specific and more limiting, and is more consistent with the intent of this regulation and similar recent regulatory efforts to reduce unit vacancies.

The Department recognizes that some small PHAs might be inconvenienced by having to store abandoned effects for some period of time before disposition, but we are not convinced that such inconvenience is sufficient to justify holding a residential unit off-line. In most cases, laws on abandonment require that the landlord secure abandoned property, not necessarily that they leave such property in place in anticipation of the abandoning family's possible return. If storage space is at a premium, PHAs have the option of renting a storage locker and either deducting the cost of the rental from the proceeds of the sale of the goods, if any, or collecting that cost from the resident, should he/she re-appear.

Comment: One comment stated that the total available units should not include units that are being modernized as a result of Federally mandated work projects (such as a lead-based paint abatement project) that require that the residents be relocated while the work is being performed. All vacant units as a result of Federally mandated work that requires resident relocation should be considered not available for the period of time that the unit is vacant as a result of the required work, including the use of the unit to relocate residents during the course of the work. Another comment stated that the exemptions should include a category for units held to house residents relocated due to comprehensive modernization. When a large development undergoes comprehensive modernization, it is difficult to quickly find units to transfer all residents; a reasonable time limit should be included in the exemption.

Response: The Department partially agrees with the comment. The proposed methodology for calculating the vacancy rate component already permits a PHA to make an adjustment to its vacancy days for units undergoing modernization. A PHA also has the option of requesting a modification to the calculation of this component that would take into account any other special factors or special circumstances that are out of the control of the PHA. The Department does not agree with the suggestion that PHAs be allowed to adjust their vacancy days for units that are not undergoing modernization but are being held vacant for relocation purposes.

Comment: One comment stated that the exemption of units that are uninhabitable is valuable because it allows troubled PHAs to work on renovating units and getting them back into the occupied inventory without being penalized in the vacancy rate calculations.

Response: The Department agrees that this exemption category is valuable, but it should be noted that the category restricts the exempted units to those uninhabitable *for reasons beyond the PHA's control.* The rule further defines these reasons.

Comment: One comment suggested that the rule should be expanded to

specifically exempt vacant days due to transfer of residents resulting from overhoused/underhoused conditions and when for security reasons, a resident must be relocated under a witness protection program.

Response: The Department does not agree with the comment that the new rule include adjustments for vacancy days associated with relocation of residents because of over/underhoused circumstances. This is a situation that should be dealt with by the PHA as part of its normal operations. Adequate planning on the part of the PHA can greatly reduce the amount of time that the units involved in the transfer remain vacant. Vacancies arising as a result of relocation of residents for security reasons may be dealt with under the modification procedures.

Comment: One comment indicated that the rule should clarify whether the PHA can exclude units used for non-dwelling purposes, for resident services, or that are occupied by PHA employees even if HUD has not specifically approved their conversion for non-dwelling purposes.

Response: The Department believes that the relevant rules are sufficiently clear. PHAs may not use dwelling units for non-dwelling purposes without explicit authorization for the conversion, and there should be no expectation that HUD would permit exemption of vacant units used for unauthorized purposes.

Comment: One comment indicated that it appears that § 901.10(a)(3) requires that to be exempted under this item, units have to comply with the two conditions at the same time. The comment added that the exemption should apply if either one of the conditions: high/unsafe levels of toxic materials or structurally unsound, is present.

Response: The Department agrees with the comment that the exemption should apply when either one of the conditions is satisfied. The new rule has been modified to conform with the Vacancy Rule and the subject items are now covered under §§ 901.10(b)(2)(ii) and (b)(2)(iv).

Comment: Two comments observed that there are several categories of units exempted "off-the-top" when calculating adjusted vacancy rate and turnaround time. The comments indicated that HUD should clarify if the exemption of units vacant for circumstances beyond the PHA's control due to changing market conditions is determined by the PHA (self-certified) or reviewed and decided by HUD as a modification. The comments also requested HUD to clarify the exemption of units vacant for circumstances beyond the PHA control due to natural disasters as to who determines or declares the natural disaster condition.

The comments suggested that, because these are excluded "off-the-top" and using a PHA-certified figure, it is left entirely to the PHA to decide if these circumstances apply, when they apply, and then to subtract them out of the calculation. As currently structured, a PHA could unilaterally adjust the figures they report under "adjusted vacancy rate" and "turnaround time" because they believe that "changing market conditions" have caused their units to remain vacant, or because "insufficient CIAP funding" prevented the PHA from occupying the units. *All* market conditions are "changing" to some extent, and no CIAP-funded PHA ever receives "sufficient funding for otherwise approvable applications" to meet *all* of their needs. The real question is, when are these circumstances sufficiently unique and extensive to impact a PHA's ability to occupy its units?

The comments indicated that these two conditions are so subjective and judgmental that they should be addressed through the regular PHMAP modification process. The comments added that it is inappropriate for an allegedly objective assessment process such as PHMAP to allow the entity being assessed (i.e., the PHA) to exercise this degree of unilateral control over their own assessment. This may help to improve PHA grades, but it does nothing for the integrity of the PHMAP assessment process. One comment requested that exemptions be clearly defined, leaving as little subjective determination as possible to HUD field staff. Another comment requested HUD to clarify if the PHA may exempt the units listed when preparing the PHMAP certification or if it should request a modification.

Response: The Department disagrees with the proposition that the PHAs have free rein to define away unit vacancies as a function of natural calamities and/or market circumstances beyond control. These issues were a major source of discussion during the negotiation of the PFS Vacancy Rule, and the language upon which the negotiated rulemaking committee reached agreement is faithfully reproduced in this regulation. For example, the committee deemed the term "natural disaster" sufficiently precise for purposes of establishing a formula for determining PFS eligibility.

In the case of a claim for exemption under any of these "beyond-the-control" criteria, the PHAs can exclude the units when preparing the PHMAP certification, but HUD intends that the burden of proof should fall on the PHA to demonstrate that it has done what it can to remedy the reason(s) for the vacancy. In the case of a "natural disaster" claim, the PHA would be expected to point to a proclamation by the President or the Governor that the county or other local area in question has, in fact, been declared a disaster area. Where a PHA claims extraordinary market conditions, the PHA will be expected to document the market conditions to which it refers (the examples of changing population base and competing projects are the simplest) and the explicit efforts that the PHA has made to address those conditions.

The Department does not believe that it can draft a regulation that concretely defines and delimits all the circumstances that could affect a PHA's capacity to maintain high occupancy levels, nor does HUD deem it advisable to attempt to do so. The PHAs and their parent State and local governments are in the best position to recognize and appreciate specific local circumstances. In this regulation, and in the supporting handbook guidance, we will expect that PHAs will be able to provide data with which to support their self-certifications, and upon which HUD reviewers can verify such self-certifications, but HUD believes that it would be counter-productive to attempt to define further or to limit the scope of PHAs' capacity to describe their real-world situations.

Comment: One comment proposes that an adjustment factor be added for turnovers delayed because the applicant must give 30 to 60 days notice (by lease) to their current landlord before moving.

Response: The Department does not agree with the proposed addition. PHAs should know local conventions on requirements for notice, and plan their own management activities accordingly, projecting expected turnovers and providing notice to applicants that a unit is expected to become available, for example, far enough in advance to avoid delays in leasing. In those cases where special local circumstances make this unfeasible, the PHA may submit a modification request to the indicator.

Comment: One comment requested guidance on HUD's interpretation of units that are vacant "for reasons beyond the PHA's control" asking whether this category includes items such as termite damage, vandalism, or casualty loss that may not be covered by insurance if there is a high deductible. Two other comments asked if the exemption would include units delayed for reoccupancy as a result of heavy

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vandalism since such vandalism is often beyond the PHA's control.

Response: The Department does not consider that the examples cited in the comment fall under the definition of units vacant for reasons beyond the PHA's control. Termite control is similar to other examples of pest control and is considered part of the normal maintenance operations of any standard performance PHA. A well managed PHA should also have insurance coverage for casualty loss (including vandalism) providing enough coverage to enable the PHA to repair the units in case of casualty damage. In cases where special local circumstances may make this unfeasible, the PHA should submit a modification request to the indicator.

Definitions

Comment: One comment stated that the definition of "under construction" as related to force account work should be changed to indicate that force account work has started in the block (as opposed to the specific unit).

Response: The new rule has been changed to indicate that force account work has started either in the unit(s) or in the building(s).

Comment: One comment stated that the term "units available for occupancy" needs to be clearly defined. Some troubled PHAs could argue that a certain number of their units are not available for occupancy because of the extremely poor condition of the units.

Another comment indicated that the term "dwelling unit" is not defined in the proposed rule. It should be defined as a unit that is either leased or available for lease to eligible low-income residents. Another comment stated that the term "available unit" is defined in the preamble and the rule but never used again. Instead, the term "unit" is used in connection to the terms "vacant unit" and "vacancy day". The term "unit days available" is used but no clear connection is ever drawn between it and "available units". HUD should clarify and substitute where necessary.

One comment stated that the term "vacant unit" in the rule is different from the term as used in the preamble. The preamble indicates that "units under lease for non-dwelling uses should not be included..." In other words, these units should be excluded. The rule definition states that units under lease for police substations, social service providers, etc., are treated the same as units under lease to eligible families. If an occupant vacates the unit, it is made available to another social service provider. These units are not available for lease to eligible low-income residents, and as such, should not be treated the same as units which are available in this definition. It should be clarified whether these units will be excluded from the computation of vacant units or if they will be counted as occupied units. Another comment stated that units used for non-dwelling purposes and dwelling units occupied by PHA employees and units used for resident services need to have additional parameters defined. This adjustment may encourage some poorly run PHAs to use these loopholes to get a better adjusted vacancy rate.

Response: The Department agrees that dwelling units used for non-dwelling purposes with HUD approval, employee occupied units, and vacant units approved for demolition or disposition should not be included as available units in the determination of occupancy/vacancy rates and the new rule reflects that change. We also agree with the definition of a "dwelling unit" as a unit that is either leased or available for lease to eligible low-income residents.

Comment: Two comments indicated that while the use of the total unit days available as the denominator in both the actual and adjusted vacancy rates provides a simple procedure, it tends to understate the adjusted vacancy rate. A more accurate calculation would exclude the adjusted vacant units from both the numerator and denominator.

Response: The calculation of the vacancy rate and the use of that rate to determine a given grade for PHMAP purposes has been and continues to be closely linked to the methodology and definitions used in the PFS. Under the PFS, a PHA, when calculating occupancy or vacancy rates, first determines the total number of dwelling units in its inventory (the denominator portion of the rate being calculated). Regulations then permit the PHA to exclude units that have been approved for deprogramming (e.g., demolition or disposition) as they become vacant and units approved for non-dwelling use. These exclusions reflect the permanent nature of the action. Units that are undergoing modernization or are vacant because of circumstances beyond the PHA's control are not excluded from the denominator because these actions are not permanent. By remaining in the denominator, they will continue to be eligible for operating subsidy.

The inclusion of units undergoing modernization or units vacant because of circumstances beyond the PHA's control in the denominator does not make the calculation of the PHMAP adjusted vacancy rate either "more" accurate or "less" accurate. What is necessary is that the two quantities that comprise the rate have a logical relationship to each other. In this case, the relationship is between a PHA's dwelling unit inventory and that portion of the inventory that is vacant during the PHA's fiscal year. Under both PHMAP and PFS, there are incentives to minimize the portion of the inventory that is vacant and both approaches start by looking at the proportion of total vacancies to the dwelling unit inventory. If that rate is low enough, the PHA will maximize its PHMAP grade and its operating subsidy eligibility.

Both PHMAP and PFS also recognize that not all vacancies are "equal." A PHA with a high number of vacant units may still maximize its PHMAP grade and PFS eligibility if it can show that most of the vacant units are undergoing modernization. When one makes an adjustment to the total number of vacancies to exclude those that are undergoing modernization, the PHA is not changing the fact that the unit is still part of the PHA's dwelling unit inventory. This is why the adjustment is only to the numerator portion of the rate and not to the denominator.

Comment: One comment indicated that the term "vacancy day" definition uses the qualifying statement "...unless the vacancy day is exempted for an eligible reason." A "vacancy day" does not lose its status as a "vacancy day" because it is exempted. It simply becomes a "vacancy day that is exempted". This should be clarified because other terms (like "actual vacancy rate" and "adjusted vacancy rate") make reference to it in their definitions. Another comment proposed that the definition for vacancy day should be modified to specify that it pertains to "dwelling" units.

Response: The Department agrees with the comments and the new rule reflects the changes.

Comment: One comment indicated that the term "units available for occupancy" is defined as the number of units identified on a PHA's ACC times the number of days available and asked then what number should be used for units acquired or built during the assessment year? Two comments asked whether occupied units that have not reached Date of Full Availability (DOFA) are counted or excluded until they reach DOFA date.

Response: The definition of number of "units available for occupancy" has been clarified to exclude three categories of units from the number of units identified in the PHA's ACC. The units acquired or built during an assessment year will be added on a prorated basis based on the sum of the

number of days available of each individual unit added to the ACC. The date to be used for determining days available is the date of "End of Initial Operating Period" (EIOP) for the corresponding project. *COMMENT:* One comment stated that the formula used for the calculation of the actual vacancy rate is inconsistent with that used for the completion of PHA financial information and creates the potential for errors when preparing both the PHMAP certification and the annual budget documents. The actual vacancy rate should be consistent throughout all HUD requirements (i.e., form HUD–51234 and budget forms).

Response: The Department agrees that the definitions and methodologies for both PFS and PHMAP should be the same as long as feasible, and the language of the new rule reflects that.

Comment: One comment recommended adding to the list of definitions the terms "move-out date," which is when the PHA regains possession of the unit by the legal expiration of the lease; and "effective lease date," which is the date from which rent is due and payable and all other provisions of the lease are enforceable.

Response: The Department partially agrees with the comment and the new rule includes the definitions. The "effective lease date" is the date when the executed lease contract becomes effective and rent is due and payable and all other provisions of the lease are enforceable. On the other hand, the "move-out date" is the actual date when the resident vacates the unit, which may or may not coincide with the legal expiration of the lease agreement.

Component #2, Unit Turnaround

Comment: Two comments stated that if the turnaround calculation is retained, it should be kept as a separate indicator. Two comments suggested the elimination of this component, because unit turnaround measures efficiency of scheduling maintenance activities, which should be covered by indicators #4 and #5.

Response: The Department disagrees with both of these suggestions. The requirement to measure a PHA's ability to turn around its vacant units is statutory, whether the statutory requirement is carried out by establishing a separate indicator for unit turnaround or by including unit turnaround as a component of a different indicator. The Department agrees with the assumption that if vacancies are at a grade C or above, a PHA does not have a problem with turning around vacant units. The Department also disagrees that unit turnaround solely measures a PHA's efficiency of scheduling maintenance activities. The calculation of unit turnaround also includes down time, which is the time between when the unit is vacated and a work order is issued for the repair of the unit; and lease-up time, which is the time from when maintenance completes the repair of the unit and a new lease takes effect.

Comment: Three comments stated that this component does not accurately measure a PHA's performance in maintaining and leasing their units because nothing in the component shows how many units the PHA had to turn around during the year. These commenters believed the percentage of units that are turned around during the year should be included in the formula. For example, if a PHA has a turnaround time of 20 days, and turned over 45% of their units, and you multiply the turnaround time (20 days) times the percentage of turnover (45%), it equals 20 times 45%, or nine days. You then subtract nine days from the 20 days to equal a turnaround of 11 days. The commenters felt that this is a more accurate measure of a PHA's ability to manage and turnaround per unit. A PHA with a high yearly turnaround is unduly taxed under the current formula.

Response: The Department disagrees with this suggestion because this component is measuring the annual average of time it takes a PHA to turn around its vacant units, rather than measuring the turnover rate, which takes into account how many units the PHA had to turn around during the year.

Comment: Three comments stated that the calculation of unit turnaround includes vacancy days from prior fiscal years, offering little incentive (scoring) under the proposed rule for re-occupying older units. It is recommended that unit turnaround time be capped at one year or 360 days.

Response: The Department disagrees because to do so would result in an inaccurate assessment of a PHA's ability to turnaround all vacant units and would provide no incentive for PHAs to ensure that long-tern vacant units are turned around and reoccupied. In addition, if these units are not included in the calculation of this component, it would result in a skewed perception of a PHA's ability to manage its total maintenance/re-leasing activities. Furthermore, "turnaround time" is a term of art and means all the days that elapse between one tenancy and the next. In the event that unusual or special circumstances exists, a PHA may request a modification to the calculation of this component.

Comment: Two comments feel that this component should be given the same exemptions as in component #1.

Response: The Department agrees and stated so in both the preamble and the regulation of the proposed rule, as well as in the new rule.

Comment: Two comments stated that unit turnaround time should exempt seven days for each PHA-required transfer because one resident has two units tied-up for a week and sometimes longer.

Response: The Department disagrees with this suggestion. Although the total time it took the two units mentioned in the comment to be turned around may have been a week or longer, each unit was turned around on different days, with different individual total turnaround time. The intent of this component is to measure the annual average number of days it takes a PHA to turn around its vacant units, which includes for each vacant unit a total of down time, make ready time, and lease up time.

Comment: Two Comments questioned the definition which states that units are exempted from the vacancy calculation if special conditions exist that are beyond control of the PHA. They inquired whether this definition includes units delayed for reoccupancy as a result of heavy vandalism. They contend that it should because such vandalism is often beyond the PHA's control.

Response: The Department has determined not to specifically include heavy vandalism as part of conditions beyond a PHA's control in this definition since circumstances for individual PHAs will differ. In such a case, a PHA may submit a modification request to exclude such units in the calculation of this component, accompanied by justifying documentation.

Comment: One Comment stated that unit turnaround is assessed based on calendar days rather than working days (25% of the time in 20 calendar days is non-working time). The Commenter contended that it should be based on regular working days since most PHAs cannot afford to pay overtime salary rates.

Response: The Department disagrees and will continue to use calendar days as the standard for all of the PHMAP indicators. Vacancies, rent collection, etc., are not based on working days, and it would be unrealistic to do so. In addition, it is easier to calculate calendar days, especially when using an automated system, due to the necessity of factoring in holidays and weekends when using working days.

Comment: One Comment stated that unit turnaround operates against thorough tenant screening and compliance with city code requirements and, therefore, against the reputation of public housing. These other factors that affect unit turnaround should be considered, including strict lease compliance, terminating residencies or relocating over or underhoused families. The Commenter said that conscientious implementation of HUD policy can create large turnovers, stress maintenance resources and result in poor ratings, while a PHA with no turnovers or even lack of attention to over and under-housing can maintain an excellent rating.

Response: The Department disagrees with this statement because the enforcement of and/or compliance with these factors is part of the ongoing management responsibility of all PHAs. Using good management practices, a PHA should not have a higher turnaround time due to enforcement and/or compliance with the other factors mentioned in the Comment. For example, a PHA that strictly enforces rent collection procedures will typically have fewer evictions since more residents will pay rent in a timely manner. This normally will eliminate the need for evictions or situations where huge balances are built up and the resident vacates as a result of not being able to pay off the indebtedness once court action is taken. If a PHA enforces the lease clauses regarding the upkeep of the unit by occupants through informing the resident of the family's responsibility, providing instruction as necessary, and through inspections, repair, and properly instituted resident charges, units will tend to be in better condition when vacated, thereby reducing needed repairs and subsequently reducing vacant unit turnaround time. Additionally, a lack of attention to over and underhoused residents will affect a PHA's turnover rate, rather than its turnaround time.

Comment: One Comment requested that the Department consider the implementation of an exception to the component whereby, if all but one unit turns over in a timely manner, a PHA can request an exception for a circumstance that was beyond its control. Even one exception can have a big impact in a small PHA.

Response: The Department agrees, and in the event a truly unusual or special circumstance exists, a PHA may submit a modification request that addresses the circumstance(s) beyond its control.

Comment: One Comment stated that assessing this component based on how the PHA fared in the first component is appropriate and the grading is equitable.

Response: The Department agrees, and will continue to examine unit turnaround as the second component under this indicator.

Comment: One Comment stated that if the current turnaround method stays, it should be a measure of when the unit is ready physically for rental and the new tenant has committed to the unit, not necessarily when physical occupancy occurs.

Response: The Department disagrees with the Comment for several reasons. First, there is no guarantee that maintenance staff will start renovations as soon as possible after the unit is vacated. Secondly, there is no guarantee that the first applicant that is offered the unit will accept, thereby leaving the unit vacant for a longer period of time. Thirdly, the Department believes that the definition of turnaround time takes into account the concerns expressed in the Department's first two reasons for disagreeing. A well managed PHA coordinates maintenance and resident selection activities to ensure that as many units as possible are available for occupancy as soon as possible by planning move-ins in advance and notifying applicants as soon as possible. Since the PHMAP assesses management performance, it is appropriate to include the management of the total maintenance/re-leasing activities in this component.

Comment: One Comment (1) disagrees that unit turnaround is an unnecessary component for high performers; (2) feels that this component should be weighted as proposed; (3) believes that an adjusted turnaround time exceeding 30 days is unacceptable performance for any management agency regardless of the vacancy rate; and (4) believes that the need for a turnaround time of 50 days or less to score on this component is a poor standard and would not show the results of what may be clear and significant performance improvements.

Response: The Department disagrees with the first statement because normally, a PHA (whether a standard or high performer) that achieves at least a grade of C for component #1 does not have a problem with turning around vacant units, i.e., unit turnaround is not a factor in a high vacancy rate. The Department agrees with the second statement because the vacancy rate is a clear manifestation of management effort and embodies the essence of a PHA's mission; therefore, it is weighted more heavily than the process-oriented unit turnaround component. It is not clear what the Comment meant in the third statement by "adjusted turnaround time." This term was not referred to in the proposed rule, was not included as a definition, nor was it used in the text of the component. The Department also disagrees with the fourth statement and believes that the range between the grades in this component is equitable for the new rule.

Comment: One Comment stated that the proposed rule provides that the calculation of turnaround time for newly modernized units starts when the unit is turned over to the PHA from the contractor and ends when the lease is effective for the new or returning resident. This provision eliminates a level playing field for measuring the normal turnaround time required by a PHA to restore vacant units to occupancy. The Commenter alleges that this gives unfair advantage to PHAs that did not need to vacate units for modernization and it doubly penalizes PHAs that modernize units for completing modernization on large numbers of units concurrently. The Commenter felt that this component should measure the time it takes PHAs to restore units to occupancy when they vacate for normal move-out reasons.

Response: The Department disagrees with this Comment and believes that this method of calculating unit turnaround does provides a level playing field for PHAs because it provides a standard method that will be used by all PHAs. The Department does not believe that this method of calculating unit turnaround gives an unfair advantage to any PHA, regardless of the scope or type of modernization. A unit that is modernized with the resident in place is not included in the calculation of this indicator because it has not been vacated and subsequently turned around; therefore, there is no advantage to be considered. If a PHA vacates a unit to modernize, the time it took to modernize the unit is not included in unit turnaround time regardless of the number of units completing modernization concurrently. A PHA should be able to plan for move-ins in advance and notify applicants in sufficient time to coincide with the availability of units. This component will continue to measure unit turnaround for whatever reason the unit is vacated and turned around.

Comment: One Comment recommended that average turnaround time be defined as, "the annual average of the total number of turnaround days between the legal expiration date of the immediate past lease (whenever that occurred, including in some previous fiscal year) and the date a new lease takes effect, that being the date from which rent is due and payable and all

other provisions of the lease are enforceable." This allows PHAs to take into consideration the wide variety of local ordinances and State statues that effect the termination of a lease and date the PHA thereby regains possession of the unit.

Response: The Department agrees, in part, with this recommendation, and will change the definition of average turnaround time to read, "...the annual average of the total number of turnaround days between the latter of the legal expiration date of the immediate past lease or the actual move-out date of the former tenant (whenever that occurred, including in some previous fiscal year) and the date a new lease takes effect." This change will take into consideration the wide variety of State and local laws that effect the termination of a lease. By retaining the actual move-out date of the former tenant in the definition, a PHA is not penalized for doing evictions, since in such cases, the resident usually vacates after the legal expiration date of the lease. It should be noted that in the rare case where an applicant executes a lease and moves into the unit prior to the completion of minor repairs, the calculation of turnaround time continues until the repairs to the unit have been completed by the PHA.

Indicator #2, Modernization—§ 901.15

The weight for this indicator has been increased to x1.5 in the new rule to reflect the importance of planning for and allocating scarce modernization funding.

Comment: Ten Comments supported the greater emphasis being given to obligation of funds in relation to expenditure of funds for components #1 and #2.

Response: The Department concurs that by assigning more weight to fund obligation, and less to fund expenditure, the rule largely removes the disincentive for PHAs to accept inferior work products from contractors.

Comment: Two comments recommended that there should be intermediate grades for components #1 and #2 that allow for varying times beyond the required deadlines (e.g., within one year after deadline = C, two years = D, etc.). Interim grades should be adopted to recognize that capacities vary between PHAs and the size of their modernization programs. One method would be: A for 100%, B for 90–99.9%, C for 80–89.9%, D for 70–79.9%, and F for below 70%. If the Department remains adamant that these are too many grades, then at least a grade of C should be available for > 80% but < 100%. Another comment suggested that components #1 and #2 should have more grades (A–F) to allow small amounts of funds to be expended/obligated without scoring an F. For example, 99% of funds obligated/expended would receive a score of B, and 95% of funds obligated/expended would receive a score of C. Another comment recommended that all components should have grades A–F; larger PHAs may have multiple modernization projects being run simultaneously. A problem with just one such project should not be the cause of a failing grade. In addition, another comment recommended that an intermediate grade of C should be created for components #1 and #2 for PHAs that, for example, are one year behind the expenditure or obligation time. Some PHAs may need to accumulate funds over several years in order to fully carry out their strategic plans. Another comment recommended that large PHAs that administer complex, multi-year programs that exceed $100 million in a single year, be given more flexible standards than are proposed for components #1 and #2. The proposed rule refers to the HUD-approved original implementation schedule, and the previous interim rule refers to the HUD-approved revised schedule. HUD should allow a grade of A for these two components where the HUD-approved original or revised implementation schedule allows longer than three years to expend all funds, and the PHA is either in compliance with that schedule or has timely self-executed an extension of the HUD-approved deadline for valid reasons beyond its control.

Response: The Department does not agree with these comments since components #1 and #2 adequately take into account situations where longer times are appropriate in the original implementation schedule or are necessary in the revised implementation schedule due to reasons outside of the PHA's control. The Department believes that it is appropriate to distinguish between time extensions due to reasons outside of the PHA's control (which have no adverse impact on the PHA's score on components #1 and #2) and time extensions due to reasons within the PHA's control (which avoid fund recapture, but have an adverse impact on the PHA's score on components #1 and #2). The Department notes that the need to use leftover funds is a reason for a time extension outside of the PHA's control. In addition, the Department notes that while larger PHAs have more funds to obligate and expend, such PHAs also have greater resources and capacity to implement their programs; therefore, size of program is not appropriate in measuring fund obligation and expenditure performance.

Comment: Six comments expressed concern about how HUD will define "significant findings" for components #3 and #4 in the new rule. This is a very critical issue since HUD staff judgments vary widely from city to city. Significant findings should be really significant. PHAs should have the opportunity to see and comment on the definition.

Response: The Department has revised components #3 and #4 to include a definition of "findings." The Department has eliminated the term "significant" since, by definition, all findings made in connection with HUD monitoring or an audit are significant. Items that are not significant are considered to be observations and are not designated as findings.

Comment: Two comments disagreed that obligation of funds should be weighted higher than expenditure of funds. Often it is easier to enter into a contract than it is to complete one. Emphasis should be on a PHA's planning efforts and its record of delivering promised work.

Response: The Department does not agree with this comment. The Department believes that the more time-consuming part of implementation involves the design work, the bid process, and the award of contract. In the overwhelming majority of cases, fund expenditure occurs routinely after fund obligation, in accordance with the schedule for periodic payments.

Comment: Two comments were unclear about the reporting requirements for a self-executed time extension for obligation of funds and suggested that the Department provide a short list of examples of the types of circumstances "out of the control of the PHA" which would warrant a self-executing extension.

Response: The Department has revised components #1 and #2 to provide additional examples which are: unforeseen delays in contracting or contract administration; and need to use left-over funds from a completed modernization program for additional work. Additional examples will be provided in the revised PHMAP Handbook 7460.5.

Comment: One comment stated that it was not clear what data were being used to score components #1, #2 and #5, and suggested that HUD needs to develop a procedure reflecting PHA performance in the same fiscal year as other PHMAP grades.

Response: The Department scores components #1 and #2 on the basis of Federal Fiscal Year (FFY), not PHA fiscal year, in order to provide a uniform measurement for all PHAs, without regard to the relationship between the construction season and PHA fiscal year. The Department scores components #3, #4, and #5 based on the status of the PHA's modernization program(s) as of the PHA's fiscal year end. The Department intends to continue these bases for scoring.

Comment: One comment noted that the components are well described and the grading is equitable.

Response: The comment is noted by the Department.

Comment: One comment recommended that only fund obligation should be measured since in fact this is the only activity really under a PHA's control, with expenditures affected by contractor progress, litigation, and other outside factors.

Response: Fund expenditure is a performance measure mandated by the 1992 Appropriations Act and, therefore, must be included.

Comment: One comment recommended that the modernization indicator be changed for the assessment of the CGP. Requirements for measurements should be in large percentages rather than items of work (i.e., 33% of all funds three years old or less should be obligated). Further detail should not be required. HUD should model these reporting requirements on those of the CDBG program. There should be flexibility for expenditure rate requirements based on circumstances beyond PHA control, such as contractor default, the discovery of hidden conditions, etc.

Response: The Department believes that the component on fund obligation appropriately assesses performance under the CGP. The CGP provides annual formula funding for modernization. Accordingly, such stable and predictable funding should enable CGP PHAs to plan and implement their modernization programs in an expeditious manner. The Department strongly believes that two years is adequate time for most PHAs to obligate all funds, but provides for a longer time period where appropriate.

Comment: One comment recommended that fund obligation be extended to three years rather than the two proposed.

Response: The Department believes that two years is a more appropriate measure of performance. However, the Department notes that the PHA may propose, and HUD may approve, implementation schedules with fund obligation deadlines of longer than two years due to local differences in work scope and complexity, construction seasons, material or equipment supply, or State/local contracting requirements.

Comment: One comment questioned how HUD will know whether the PHA extended the target date within 30 calendar days after the deadline and whether such extensions were for reasons outside of the PHA's control. These components are not certified by the PHA, but are graded by HUD based on HUD in-house information. HUD will only know what it can gather from LOCCS and from on-site reviews. Assessments will be very inconsistent and of questionable accuracy.

Response: A PHA is currently required to inform HUD if it has extended the target date for fund obligation so that HUD may enter the revised date into the Line of Credit Control System (LOCCS). A PHA also is currently required to report on all time extensions that it issued and the reasons for those extensions in its annual CGP performance and evaluation report for the program year ending June 30. If a PHA issues a time extension between June 30 and September 30, it will be required to inform HUD so that components #1 and #2 may be scored correctly. If the State/Area Office fails to take into account a time extension made by the PHA, the PHA may appeal its score to the State/Area Office so that the corrected information may be used in rescoring.

Comment: One comment stated that component #1 is an example of excessive flexibility, in that a PHA can miss the performance target but still receive a grade A by executing a self-imposed time extension within 30 calendar days after the expenditure deadline so long as the extension is for conditions which the PHA determines is beyond its control. A PHA also can manage this requirement by simply including in its original implementation schedule, a time period longer than three years to expend its modernization funds. The same options are available in connection with component #2.

Response: The Department believes that PHA flexibility to issue time extensions for reasons outside of the PHA's control is critical to streamlining program requirements and is an important tool in expediting program implementation. HUD still approves the original implementation schedule and may require a shorter time period if a PHA proposes a time period that is too long. Also, HUD reviews the basis on which the PHA issues a time extension and, if inappropriate, may withdraw the PHA's authority to do so, thereby requiring that all future time extensions be submitted for prior HUD approval.

Comment: One comment questioned the term "modernization" as used in components #1 and #2. Does it mean CIAP/CGP only, or the larger definition of "modernization" found in the term "approved funded, on-schedule annual modernization program?" The comment contended that the rule uses two different definitions of the term "modernization": one that is CIAP/CGP only; and one that includes more than just CIAP/CGP.

Response: All components apply to both the CGP, the CIAP and lead based paint risk assessment (1992–1995). Only components #3, #4 and #5 apply to funding under the HOPE VI Program and the Vacancy Reduction Program for the assessment of this indicator. The new rule has been revised to include this language.

Comment: One comment recommended that HUD decouple the fund obligation deadline from specific modernization projects. This is in keeping with HUD's approach in the community development program arena where HUD tracks a specified amount of funds obligated each year regardless of the year in which HUD allocated the funds to a locality.

Response: The Department does not agree with this comment since each annual grant must be individually tracked and closed out.

Comment: One comment stated that components #1 and #2 do not measure the adequacy of modernization efforts or address the adequacy of the overall maintenance program of the PHA.

Response: The Department points out that both components are mandated by statute. The Department believes that component #2, fund obligation, is a critical indicator of modernization performance. Neither component is intended to address the adequacy of the PHA's overall maintenance program.

Comment: One comment stated that a PHA's potential score for components #3 and #4 seems to be subject to the timing of a HUD monitoring visit. A PHA should not be graded on these components unless at least three months have elapsed between the date of HUD's monitoring report to the PHA and the end of the PHA's fiscal year; also, the time frame for HUD reviews should be clarified.

Response: The Department agrees that a minimum time should be specified between the date of HUD's monitoring report or audit is provided to the PHA and the end of the PHA's fiscal year in order to give the PHA sufficient time to correct all findings. Accordingly, the Department has revised components #3

and #4 to reflect a minimum time of 75 calendar days.

Comment: One comment stated that a clearer distinction should be established between an "A" and a "C" grade for components #3 and #4; i.e., that a PHA must "have corrected" all findings versus "be in the process of correcting" all findings.

Response: The phrase the "PHA has corrected" all findings means that HUD concurs in the PHA's determination that the violation no longer exists and that HUD is ready to close the finding or has already closed it. The phrase the "PHA is in the process of correcting" all findings means that the violation still exists and the finding is not yet ready to be closed.

Comment: One comment supports an appeal process in the event a PHA and HUD differ on what constitutes "significant findings."

Response: As stated, above, this language has been changed and the term "significant" has been eliminated. In addition, the PHMAP rule at § 901.125 sets forth the PHA's right of appeal.

Comment: One comment recommended that HUD use qualified building inspection firms or inspectors, in combination with qualified HUD engineers as they are available to inspect the physical work that is completed rather than the Corps of Engineers.

Response: The Department intends to use all resources available to it, including the U.S. Army Corps of Engineers, for inspection of approved modernization programs.

Comment: One comment recommended that component #5 be covered under indicator #6, financial management, since financial management of the modernization program is part of the overall financial management of the PHA's programs.

Response: The Department rejects this comment since the modernization budget controls are so integral to implementation performance by a PHA.

Comment: One comment supported the change to component #5 that reflects the flexibility recently provided to CGP PHAs to move work items between approved annual statements and the five-year action plan and to address emergency items not reflected in either document. Another comment noted that emergency CGP work does not require prior HUD approval.

Response: The Department agrees that emergency CGP work does not require prior HUD approval and has revised component #5 to specifically exclude emergency work.

Comment: One comment proposed a new component related to the incorporation of work orders, which are identified by yearly inspections of systems and units and deferred for modernization, in the modernization plan.

Response: The Department does not agree with this comment because all work orders are tracked under indicator #4 in the new rule. A work order deferred for modernization is any work order that is combined with similar work items as defined in § 901.5.

Indicator #3 Rents Uncollected—§ 901.20

Comment: Ten comments supported the simplification of the indicator and the grading method, without further comment.

Response: The comments are noted by the Department.

Comment: Ten comments sought a variety of additional exclusions from "dwelling rent" such as charges for amounts that cannot be collected by the PHA without stopping the eviction process, amounts owed by tenants no longer in possession, disputed amounts, amounts written off, or amounts abated. One PHA thought that the indicator was inconsistent with the one strike policy in indicator #8 because a resident evicted for selling drugs would be charged dwelling rent that could not be collected during the eviction process.

Response: The Department does not agree. The reasons for nonpayment of rent are varied and the specific conditions mentioned are not unique. The purpose of the indicator is to assess a PHA's ability to deal with conditions for nonpayment effectively to collect the rent due; excluding the charges related to all possible reasons for noncollection would defeat the purpose of the indicator. A PHA may request a modification or exclusion to this indicator due to highly unusual or unique circumstances.

Comment: Five comments pointed out inconsistencies in terminology in the indicator that they believed made the indicator unclear. One comment stated that the terminology in § 901.20 doesn't have the same specificity as the summary. The language in § 901.20 needs to be revised to conform with the summary and the definitions. There were four comments regarding the definition of the terms "current dwelling rent billed," "current dwelling rent uncollected," "percent of current dwelling rent," and "rents uncollected."

Response: The terminology referred to in the comments has been changed in the new rule to be consistent.

Comment: Four comments stated that uncollected rent of 2% or less for a grade of A was unduly restrictive and not in line with the private market standard. The comments requested that the 2% be changed to 5% to conform to industry standards.

Response: The Department believes that the percentage for grade A is fair since this grade represents the truly outstanding PHA, rather than the industry standard. The industry standard of 5% is reflected in grade C of this indicator, and denotes standard performance.

Comment: Two comments noted that the indicator is not as simple as it seems since data required by the indicator is not readily available in the accounting system. One comment stated that the method should not be changed from the interim method.

Response: The Department recognizes that accounting systems do not usually collect or compile the specific tenant accounts receivable information required for indicator #3 as proposed; therefore, the proposed indicator has been changed to incorporate information that is collected by PHAs to compile other tenant accounts receivable and financial reports. The major change between the new indicator and the current method is that the new indicator includes only information for tenants in residence during the assessed fiscal year.

Comment: One PHA commented that rent collections are so important that the indicator should have a weight of x3.

Response: The Department agrees that rent collections are important to the financial health of the PHA, and it has the second highest weight of all the indicators. The weighting has been simplified to a ten point scale, with only indicator #1, vacancy rate and unit turnaround, having a weight of x2.

Indicator #4, Work Orders § 901.25

General Comments

Comment: Many comments received were generally supportive of the revised requirements of this indicator. Most indicated that the changes made to this indicator will create a management tool that is more equitable and provide a more accurate measurement of work order completion.

Response: The comments are noted by the Department.

Comment: Four comments stated that recording the time for completing emergency and non-emergency work orders is unnecessary and unproductive. The extra administrative expense to record the time of processing work orders is not justified. One comment stated that this change will put an excessive burden on small PHAs in tracking the time involved on routine

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(non-emergency) work orders due to the many factors which can effect how long it takes to do a work order.

Response: The Department does not agree with this statement. This indicator is a statutory requirement under the PHMAP. The preamble to the PHMAP rule and the new rule state that "implicit in this indicator is the adequacy of the PHA's work order system in terms of how a PHA accounts for and controls its work orders, and its timeliness in preparing/issuing work orders." Therefore, there should not be substantial additional administrative expense since an adequate work order system must be able to track and control work orders from the dates/times of when the work orders were initiated to the dates/times when they were completed.

Comment: Two comments stated that emergency work orders should be at least equal in weight to non-emergency work orders.

Response: The Department believes that since emergency conditions must be abated immediately or no longer than 24 hours from when first reported, the tracking and controlling of non-emergency work orders would provide more accurate information of PHA work order performance. Hence, more weight is given to the PHAs' non-emergency work order activities. However, the weight of the total indicator in the new rule is x1.

Comment: Two comments stated that the definitions for cyclical work orders and preventive maintenance are very similar, which is especially distressing because the proposed rule is very clear in its requirement that the two not be confused.

Response: The Department agrees that there are many instances in which PHAs might not use the work order process to do general cleaning activities, pick up trash or change light bulbs. When they do, these work orders are classified as cyclical work orders and are excluded from component #2, non-emergency work order, calculation. Other examples of cyclical work orders might be work orders that are routinely written each year to replace furnace filters, clean out site and roof storm drains or raking leaves in the fall. Preventive maintenance work orders are usually generated from preventive maintenance inspections. They are primarily related to the modification or repair of physical systems of units, buildings and grounds. The Department will include examples of cyclical and preventive work orders in the revision of the PHMAP Handbook 7460.5.

Comment: Two comments stated that for work orders done by outside contractors, which may take longer to complete or that require special parts, if a vendor has difficulty in securing a part, the PHA would be penalized even though the living conditions in the unit aren't compromised.

Response: The Department does not agree with this comment. The Department has provided up to 25 days for the average time to complete non-emergency work orders in order for a PHA to achieve a grade A for this component. This is quite liberal as compared to the private sector. The few cases that might exceed the 25 day period, due to a wait on a special part, should not significantly impact a final PHMAP score. In regards to emergency work orders, if the emergency condition in a particular unit cannot be corrected or abated within the 24 hour time frame, the resident(s) could be moved out of the unit, which would abate the emergency situation.

Comment: Two comments wants to know if the reduction of days needed to complete work orders affect grades A and B, or is it only taken into consideration when the grade is C or less. Under what conditions may a PHA make such an election? To this, the rule appears to be silent.

Response: The reduction of days needed to complete non-emergency work orders is only taken into consideration when the grade is C or less. The Department has revised the reduction of days needed to complete non-emergency work orders during the preceding three years to conform with other changes in the new rule.

Comment: One comment stated that this indicator is poorly written and needs additional clarification.

Response: The comment is not specific as to where the clarifications are needed. The Department wants a new PHMAP rule that is clear, concise and easy to understand, and welcomes any and all suggestions on how it can achieve that goal. If some areas of the rule are unclear to a reader, or needs further interpretation, he/she can contact the local State/Area Office for assistance.

Comment: One comment stated that PHAs may need technical assistance to construct an effective tracking system without spending scarce funds on additional software or special tracking systems.

Response: The Department agrees with this comment and maintains that PHAs must have in place an adequate work order system that tracks and controls work orders from the dates that they were initially entered into the system to the dates when they were completed. The necessary information to grade emergency and non-emergency work orders should be readily accessible from the data in the PHA's work order system. However, if the PHA's existing system cannot perform the necessary tracking function, it should be a priority of the PHA to up-date the existing system or replace it with one that can. To that end, HUD is always available to provide appropriate technical assistance.

Comment: One comment stated that there should be a one year delay in implementation.

Response: The Department has determined that the revisions in the new PHMAP rule will apply to PHAs with fiscal years ending the quarter after the new PHMAP rule is published in the **Federal Register**.

Comment: One comment stated that this indicator does not provide any means for measuring the effectiveness of a PHA's response to deficiencies identified in inspections.

Response: The Department agrees. Measuring the effectiveness of PHA response to deficiencies is too subjective and would not necessarily be the same from PHA to PHA; PHMAP measures performance.

Comment: One comment stated that a confirmatory review should be required each year by qualified HUD staff or building inspection firms.

Response: The Department disagrees due to the lack of resources. Risk management is used to determine where confirmatory reviews are most needed.

Component #1, Emergency Work Orders

Comment: One comment stated that the evaluation for grading emergency work orders under component #1, is too tight, i.e., 99% of the emergency work orders completed or abated within 24 hours for a grade A and down to 95% completed or abated for a grade F.

Response: The Department does not agree. The Department defines emergency as physical work items that pose an immediate threat to the life, health and safety of residents or that are related to fire safety. If emergency work items cannot be completed or abated within 24 hours, the PHA could move the resident out of the unit until the emergency work is completed or abated. The removal of the resident(s) from the emergency condition is considered abatement. Therefore, correcting or abating an emergency situation should never exceed 24 hours.

Comment: One comment stated that a more specific definition of emergency work orders should be given, possibly including examples.

Response: Emergency means physical work items that pose an IMMEDIATE

threat to life, health, safety, or property, or that are related to fire safety. Some of the more easily definable emergency situations would be: (1) an unhealthy or undrinkable water supply; (2) a gas leak; (3) a broken sanitary sewer line where sewage is ponding on the surface of the ground; (4) failed heating systems in colder winter climates; (5) hazardous electrical systems; non-working smoke detector or fire alarm system; and (7) toxic material situations such as exposure to asbestos or defective lead-based paint. Situations such as leaky roofs, broken windows or stairways might be classified as an emergency depending on specific circumstances and the degree to which the situation is an immediate threat to tenant health, safety or to property. Temporarily covering a hole in the roof or broken window, or closing off a stairwell until the condition can be corrected would be considered emergency abatement and would change these types of work orders from emergency to regular (non-emergency) work orders. The Department will include examples of emergency and non-emergency work orders in the revision of the PHMAP Handbook 7460.5.

Component #2, Non-Emergency Work Orders

Comment: Two comments stated that excluding cyclical work orders from the calculation of this indicator serves to create what must be an unintentional disincentive to devote staff resource time to routine daily maintenance work. The PHA that devotes all of its maintenance resources to competing PHMAP measured work orders while ignoring trash on the grounds and in the hallways will score higher than a PHA that devotes its resources to daily maintenance as well as inspection and resident initiated work orders. Unless the PHMAP rule intends to cause PHAs to place a very low priority on the completion of daily maintenance work orders, work orders generated to accomplish this work should not be excluded from the calculation of this indicator.

Response: The Department disagrees with this suggestion since this component was designed to only measure PHA performance in completing work orders and was never intended to place daily maintenance work at a low priority or ignore trash on the grounds and in the hallways. Normally, tasks such as picking up trash, etc., are performed by laborers and would not be covered by a work order. Work orders exempted for modernization, issued to prepare a vacant unit for re-rental, or issued for the performance of cyclical maintenance are not necessarily the same from PHA to PHA and consequently, would tend to skew the performance grade results from PHA to PHA if they were not exempted.

Comment: One comment stated that preventive maintenance work orders are not exempted from the calculation of this component and should be. This PHA issues over 3,000 work orders for preventive maintenance to be performed on the heating systems over the period of the three to four month non-heating season. If these are included in the count, there is no possible way for this PHA to obtain a high score for this component since the work could never be completed in 25 days or less.

Response: It appears that the work orders described above should be classified as cyclical work orders, which are excluded from the non-emergency calculation. If this is not the case, the PHA does have the option to request HUD's approval of either a modification or exclusion of this indicator.

Comment: One comment stated that to divide work orders among routine and emergency, then determine average number of days it took to complete them assumes that only closed work orders will be counted under this indicator, and any work order that is not closed will be counted against the following fiscal year as we currently do with vacant units. Please clarify.

Response: The calculation of this indicator includes: the number of days in the assessed fiscal year it takes to close active non-emergency work orders carried over from the previous fiscal year; the number of days it takes to complete non-emergency work orders issued and closed during the assessed fiscal year; and the number of days all active non-emergency work orders are open in the assessed fiscal year, but not completed. The new rule includes a definition of the average number of days for non-emergency work orders to be completed.

Comment: One comment stated that this indicator should specifically state that HUD wants all preventive maintenance work orders tracked rather than focusing on exclusions and thus, place proper emphasis on preventive maintenance.

Response: The Department agrees and has added specific language to the new rule stating that all preventive maintenance work orders are to be tracked, as well as which type of work orders are exempted from the calculation of this indicator.

Section 901.30 Indicator #5, Annual Inspection of Units and Systems

General Comments

Comment: Three comments support the improvements in this indicator, particularly reducing the components from four to two and eliminating redundancies.

Response: HUD agrees that it is more appropriate to track all work orders, including inspection generated work orders, under indicator #4. Indicator #5 now focuses more on a PHA's ability to determine short-term maintenance needs and long-term modernization needs.

Comment: Three comments expressed concern about the possible subjective interpretation of the adequacy of a PHA's inspection system by HUD field staff. A clear and reasonable description of an adequate inspection system should be included in the rule.

Response: The preamble to the proposed rule stated that the adequacy of a PHA's inspection program will be part of the confirmatory review in terms of the quality of a PHA's inspections, and how a PHA tracks both inspections and needed repair, and the adequacy of a PHA's inspection system is also included in the new rule. The Department recognizes that what is adequate for one PHA may not be adequate for another PHA, thereby making this term general in concept. Examples of inspection systems will be included in a guidebook on the conduct of confirmatory reviews and in the revised PHMAP Handbook 7560.5.

Comment: Two comments stated that the two components are well described and are graded equitably. However, it should be clarified if damages caused by residents that are not reported to maintenance for prompt repair could be exempted and considered as repairs for code compliance.

Response: If a unique or unusual circumstance were to occur, a PHA could request a modification to this indicator to avoid being penalized for circumstances beyond its control. However, one of the purposes of an annual unit inspection is for a PHA to be able to identify, at least annually, the condition of its housing stock. Since this indicator no longer measures the amount of time it takes to correct unit/system deficiencies, the annual inspection would simply initiate corrective action.

Comment: One comment stated that this indicator is poorly written and needs additional clarification.

Response: The comment is not specific as to where the clarifications are needed. The Department wants a

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new PHMAP rule that is clear, concise and easy to understand, and welcomes any and all suggestions on how it can achieve that goal. If some areas of the rule are unclear to a reader, or needs further interpretation, he/she may contact the local State/Area Office for assistance.

Comment: One comment stated that PHAs must have adequate time to change the manner in which they track annual inspections and needed repairs.

Response: The Department agrees, and the new rule will apply to PHAs whose fiscal year ends the quarter after the publication of this rule in the **Federal Register**.

Comment: One comment recommended that a confirmatory review of this indicator be required each year by HUD or qualified building inspection firms that would track whether each item was completed or whether it was referred to a work order and when the work order was completed.

Response: The Department disagrees because these issues are more properly examined under indicator #4, work orders. Also, due to the lack of resources, risk management is used to determine where confirmatory reviews are most needed. However, when HUD conducts a confirmatory review of indicator #4, the items mentioned in the comment are verified and confirmed.

Comment: One comment stated that component #2 should have a higher weight. The commenter suggested that there should be a new component that requires a monthly walk through of the common areas, with the results of these inspection being available for HUD monitoring.

Response: The Department disagrees with both parts of the comment. HUD believes that the inspection of units and the inspection of systems are equally important to the quality of a PHA's housing stock and, therefore, each component is weighted equally. The Department believes that adding a new component that requires a monthly walk through of the common areas would result in the micromanagement of PHAs.

Comment: One comment asked why the proposed certification form asks the question, "Percent of units meeting HQS."

Response: This question has always been on the certification form. The Department requests this information for trending and statistical purposes.

Comment: One comment felt that this indicator has been severely weakened. Poor property management may be rewarded simply because inspections have been conducted. The necessary follow-up to correct identified deficiencies is not addressed in the proposed rule.

Response: The Department disagrees with this comment because inspection generated repair items are tracked under indicator #4, work orders.

Comment: One comment suggested that units under proposed demolition and disposition applications that are vacant should be excluded from this indicator.

Response: The Department does not agree with this comment. There have been and will continue to be significant differences between initiating the application process and receiving approval to dispose or demolish.

Comment: One comment does not agree with the exemption of occupied units that the PHA has made two documented attempts to inspect because this could become an excuse for PHAs with poor inspection programs.

Response: The Department disagrees that such a situation is likely to happen because the language of the exemption goes on to state that PHAs may claim this exemption only if it can document that appropriate legal action (up to and including eviction of the legal or illegal occupant(s)), has been taken under the provisions of the lease to ensure that the unit can be subsequently inspected.

Comment: One comment observed that the expanded definition of what units are excluded from the calculations are an improvement. It seems logical to exclude units in the same category as in the vacancy indicator. However, there is concern about the exclusion of "units vacant for circumstances and actions beyond the PHA's control." The concept is too vague. There will be situations cited that may arguably be within an agency's control. HUD should, minimally, identify a short list of examples as a guide to PHAs and HUD State/Area Offices.

Response: The Department agrees and this rule has been revised to specifically state the allowable exemptions for indicator #5.

Comment: One comment agrees with excluding units documented as uninhabitable, but feels the term should be defined (e.g., condemned by local health department). In addition, PHAs with uninhabitable units should indicate what plans they have to demolish and dispose of such units.

Response: The language for this indicator already states that units that are documented to be uninhabitable by order of the local health department may be exempted. To further enumerate all of the possible Federal, State or local agencies that could be involved in such a process is unnecessary since situations differ from PHA to PHA. However, if units have been determined to be in such a state as to be designated uninhabitable, HUD strongly recommends that PHAs at least inspect these units annually to verify the structural integrity of the building. This is particularly important for scattered site units and long-term vacant buildings. In addition, a CGP PHA has to address the physical needs of all of its developments in its Comprehensive Plan.

Component #1, Annual Inspection of Units

Comment: Three comments stated that HQS should remain as the standard, with the PHA expanding on the HQS requirements to include local code items. Otherwise, HUD would need knowledge of many different local codes to properly assess PHA actions. The commenters added that it would be necessary to adapt HQS at the highest local standard or a PHA would have to modify inspection standards based on where the unit was located.

Response: The Department requires that HQS be used as the inspection criteria for PHAs *only* if there are no local occupancy and/or housing codes that cover a PHA's jurisdiction. The PHMAP Handbook 7460.5 requires that a PHA comply with local occupancy and/or housing codes. Rather than expand on the HQS requirements to include local code items, a PHA should expand upon local code requirements to include omitted HQS items. If a PHA is dealing with more than one local occupancy/housing code within its jurisdiction, the PHA should incorporate HQS items into the local occupancy/housing inspection forms for each locality.

Comment: Two comments stated that incorporating maintenance long-term planning into annual inspections would greatly compromise the ability of a PHA to abate common problems. In addition, it is difficult to determine if completion of long-term preventive maintenance functions (exterior painting, etc.) would be included.

Response: The Department disagrees with this comment and believes that just the opposite is likely to occur. A PHA's ability to abate common problems should be greater when a PHA is able to plan for short-term maintenance needs and long-term modernization needs. Such planning will allow a PHA to budget appropriate expenditures from its operating budget and modernization program, thereby avoiding possible budget short falls. With such planning done on an on-going basis, a PHA can focus more resources on day-to-day operations and the abatement of

common problems. In addition, the completion of long-term preventive maintenance items are included at the discretion of each PHA. A PHA may decide to fund all exterior painting out of its operating budget, painting "X" amount of units/buildings each year on a rotating basis. Or, a PHA may decide to include 50% of its exterior painting under its modernization program, and fund the exterior painting of the remaining units out of its operating budget.

Comment: One comment felt that the proposed indicator does not exempt occupied units scheduled for modernization this year or the next. Inspection of occupied units scheduled for imminent modernization should be limited to an inspection of emergency conditions only. It seems wasteful to take the time to write up deficiencies on a unit when specifications have been developed and possibly even bid for the modernization of the unit. One comment stated that the term "referred the deficiency to the current year's or next year's modernization program" is an incredible loophole simply permitting the existence of non-compliant conditions.

Response: This indicator does exempt a vacant unit undergoing modernization as stated in the preamble language and the proposed rule. The Department has added new language to the new rule in order to clarify the circumstances under which work orders can be deferred to modernization. As stated in the definition for this term, only similar items can be deferred by a PHA to be completed in the current year's modernization program, or to be completed in next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the work order was generated.

However, before an item is deferred to modernization, it should be (1) similar to a work item that is in the current year's modernization program, (2) similar to a work item that is in next year's modernization program, or (3) similar to deficiencies noted in other units/buildings and the correction of such deficiencies has not been included in the current or next year's modernization program, but the current or next year's Annual Statement is revised to include the new work item. If the similar deficiency that was deferred for modernization is not corrected in the current or next year's modernization program, the work item may no longer be exempted from the calculation of this indicator and the deficiency reverts back to being tracked through the work order system.

Occupied units shall be inspected, particularly for detection and repair of emergency conditions, as long as they remain occupied. Non-emergency work orders generated during inspection of occupied units scheduled for imminent modernization (this year or the next) should be classified as deferred for modernization and not included in the computation of this indicator as long as the identified deficiencies are part of the work items included in the modernization project.

Comment: One comment stated that it is not clear whether preventive maintenance items, such as repairs to stoves and plumbing, etc., would be recorded or tracked. How are they recorded if completed during the inspection?

Response: All preventive maintenance items should be recorded and tracked through the work order tracking system. This information will enable a PHA to plan for short- and long-term maintenance needs. If a minor deficiency is corrected during an inspection, the PHA should not retroactively issue a work order for that work item. A minor deficiency that is corrected during the inspection is no longer a deficiency, and there is no need to issue a work order. However, any parts used to complete minor repairs made during the course of an annual inspection should be tracked through inventory control.

Comment: One comment was concerned that many PHAs may misinterpret the indicator as suggesting that a PHA must use only local housing/occupancy code or HQS, and nothing else.

Response: A PHA should use local housing and/or occupancy codes, and should expand upon local code requirements to include omitted HQS items, when applicable. In cases where there is no local occupancy and/or housing code or the local code is less stringent than HQS, the PHA should use HQS.

Component #2, Annual Inspection of Systems

Comment: One comment stated that there is no definition provided for the term "maintenance plan" and yet it is used as a factor of measure for indicator #5, component #2. The use of this term appears to be with an appropriate intent to allow for the fact that a major system that has been inspected and documented to be in good repair does not require another inspection in the following year. An effective PHA systems maintenance plan could appropriately reschedule the system for inspection three years later. If the system is new, after the first year of operation, testing it might not need to be rescheduled until five years later. A maintenance plan would document the performance of appropriately scheduled preventive maintenance on systems. Only safety systems and those required to be inspected and certified annually by State law for safety reasons should require annual inspection. If the intent of this provision is the use of the term "maintenance plan" is to allow for this fact, it should be clearly stated as such. Otherwise, different Field Offices will be left to subjectively interpret the meaning of this term and its applicability in the determination of PHA performance under indicator #5.

Response: The Department agrees that the term "maintenance plan" should be defined. It is defined in the rule as a comprehensive annual plan of a PHA's maintenance operation by providing the total year's estimated work schedule supported by a staffing plan, contract schedule, materials and procurement plan, training, and approved budget. The plan should establish a strategy for meeting the goals and time frames of the facilities management planning and execution, capital improvements, utilities, and energy conservation activities. The Department disagrees with the rest of the comment because this component examines whether a PHA inspects all of its systems *at least annually* to ensure the viability of the units/buildings and the provision of safe, sanitary and decent housing.

Section 901.35 Indicator #6, Financial Management

Component #1, Cash Available

Comment: Eight comments specifically approved of combining the cash and energy/utility consumption components; three more comments specifically approved of the cash available component.

Response: The comments are noted by the Department.

Comment: Three comments objected to the combination of cash available with energy/utility consumption and/or to the use of one or the other as a measure of financial management. Commenters stated that energy is not a measure of financial management and that available cash is not a measure of energy management.

Response: The Department disagrees. Although the amount of cash on hand is not by itself a measure of energy management, efficiencies in operation and in energy/utility consumption will reduce expenditures and thereby affect cash available.

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Comment: Nine comments stated that the indicator should include other factors such as ratio of reserves to expenses over a period of time, an assessment of audit findings, average monthly cash reserves instead of a "snapshot" of cash available at fiscal year end, ability to maintain expenses within budget, ability to maintain an adequate reserve level for contingencies, or that the existing interim indicators should be retained.

Response: The Department does not disagree that there are a number of additional factors that could be measured as an indication of good financial management. However, the review of existing PHMAP procedures was done with the intent of streamlining and of limiting the number and content of the indicators to the basic information that could be used for performance measurement. This review process intentionally resulted in fewer, not more, indicator measurements. Maintaining a minimum level of liquidity was determined to be a basic requirement for financial management that should be an essential part of performance measurement.

Comment: Nine comments expressed concern that the terms "cash available," "cash reserves," and "routine operating expenses" were not adequately defined and would lead to inconsistent reporting on the part of PHAs. One comment stated that the sample worksheet should be revised to be computer friendly. One comment stated that the "Analysis of General Fund Cash Balance" should be used in lieu of the sample worksheet. One comment stated that the sample worksheet should match the information on form HUD–52595, Balance Sheet, because it would be difficult for small PHAs to identify accounts receivable/payable that would be active within 30 days.

Response: The Department notes that the sample worksheet is intended as guidance to the PHA in determining the cash available to meet routine operating expenditures, but its use is optional. "Routine operating expenses" are identified on the worksheet as being those reported on form HUD–52599, Statement of Operating Receipts and Expenditures, Line 520, Total Routine Expense. If a PHA experiences one-time expenditures in a given year that would distort the use of Line 520 information for the indicator, the PHA may request a modification. If PHAs follow the practice of aging their accounts receivable/payable, determining those that would be active within 30 days should not be a problem, and if the accrual information is immaterial to the computation, it need not be included. The use of information directly from form HUD–52595, Balance Sheet, would be possible only in the case of a PHA with no programs other than the management of PHA-owned rental. For the same reason, the Department does not think that the "Analysis of General Fund Cash Balance," which is based on form HUD–52595, is a substitution for the sample worksheet since the Analysis does not, without further calculation, provide the user with the amount of cash specifically available for PHA-owned rental operations. In any case, the sample worksheet is optional and a PHA may choose to develop its own format and procedures, as long as its results are the same as would be derived by utilizing the optional worksheet.

Comment: Five comments stated that the indicator penalizes PHAs for using reserve dollars to operate, and two comments expressed concern that small PHAs will never be able to accumulate sufficient cash to score well on the indicator.

Response: The Department recognizes that PHAs must make choices in the use of funds and that there are circumstances that may make it difficult to achieve or to sustain a given level of cash, or that may reduce available cash on a short term basis. However, HUD also recognizes that in order to function in a financially responsible manner a PHA must have a minimum amount of cash on hand to cover day-to-day routine expenditures. Available cash to cover one month's routine expenditures would be 8.33% of total routine expenditures; a PHA does not fail this indicator unless the percentage is less than 5%. In order to meet its monitoring responsibilities, it is important that the Department take note of such PHAs and of the circumstances that are affecting their cash flow situation.

Comment: Three comments asked if the cash available calculation was to be adjusted for subsidy proration or year end adjustments for subsidy.

Response: The sample worksheet for indicator #6 has provision for including year end adjustments for subsidy in determining cash availability. The difference between subsidy eligibility and the prorated subsidy amount is not included because the amount of the difference will not be realized in cash payments.

Comment: One comment stated that percentages should be applied to PHAs of all sizes since $3 million in cash for a large PHA might not be enough to cover unexpected financial difficulties. One comment stated that dollars, not percentages, should be applied to all PHAs.

Response: The indicator measures cash available to cover routine expenditures, not unexpected cash needs for emergencies. The new indicator is measured in percentages because a percent gives a more flexible basis for evaluation than a flat dollar amount.

Comment: One comment expressed concern that the indicator would encourage PHAs to exercise poor financial judgment by deferring needed maintenance expenditures in order to maintain a large cash balance and score well on indicator #6.

Response: The Department disagrees. Indicator #6 is but one indicator in a group of indicators intended to measure PHA performance; two other indicators (#4 and #5) measure the PHA's performance in the area of maintenance.

Comment: One comment stated that the available cash should take into consideration funds that might be available from local government to help the PHA.

Response: The Department disagrees that the PHA potential to tap the local government for funds should be automatically included in determining the amount of cash available. Unless the local government is legally required to subsidize the operation of the PHA, there is no assurance that the local government's willingness or ability to provide funds to the PHA will continue in the future.

Component #2, Energy Consumption

In the proposed rule, the Department indicated particular interest in receiving comments from PHAs as to whether they preferred Option A, Option B or the choice of being able to use either option for their PHMAP certification and assessment. Option A compares energy/utility consumption expenses to the average of those computed on a three year rolling base and Option B measures whether or not a PHA has conducted an energy audit and implemented the improvements recommended as a result of the energy audit.

Comment: Nine comments preferred a choice of either Option A or Option B. Four comments stated a preference for Option B.

Response: The Department adopts the preferred approach of the majority of comments, which offers PHAs required to be assessed on this component a choice of either Option A or Option B.

Comment: Five comments stated that the energy/utilities component, Option A, should be based on consumption instead of dollars expended since PHAs don't have any control over the utility rate charged by local utility companies.

Response: The Department agrees and the proposed PHMAP energy/utilities component, Option A, does measure energy/utilities consumption rather than dollars. The sample worksheet for computing Option A compares a PHA's current consumption to its rolling base period consumption. In comparing Line 17 to Line 13 of form HUD–52722B, Adjustment for Utilities Consumption and Rates, the rolling base period consumption is adjusted prior to the comparison with the current year to reflect the current year's rates. Since the same rates are used, the only difference in the amounts compared is due to consumption. The wording of the proposed rule regarding Option A in the preamble may have been confusing in this regard and this option has been revised to refer to energy/utility consumption expenses.

Comment: Three comments stated that the upgrading of equipment, e.g., the addition of security lighting, affects consumption and that PHAs should not be penalized. One comment stated that PHAs should not be penalized for positive initiatives, such as increased utilization by resident initiatives and family self-sufficiency participants, that result in increased consumption for office buildings.

Response: The Department agrees that a PHA should not be penalized for increased energy/utility consumption due to upgrades of equipment such as adding security lighting for safety, etc., and resident initiatives programs. Therefore, with sufficient supporting documentation, a PHA may request a modification to exempt the excess energy/utility consumption from the calculation of the energy/utility component, Option A. The Department anticipates the issuance of a revised PHMAP Handbook 7460.5 subsequent to the effective date of the new rule. Examples of eligible modification requests and required supporting documentation will be included in the Handbook.

Comment: One comment stated that the component should be named "utility consumption" rather than "energy consumption" since water and sewer charges are a utility expense for PHAs, not an energy source.

Response: The name of the component was, in fact, changed from "energy" to "energy/utility" in the proposed rule to reflect the fact that water and sewer charges, which are now included in the consumption measurement, are, as the comment states, a utility expense for PHAs, not an energy source. This component is referred to as "energy consumption" in the new rule, with Option A referred to as "energy/utility consumption expenses."

Comment: One comment stated that the cost of utilities, in comparison with other operating expenses, is not sufficient to justify a PHMAP indicator when other expenses are not measured at all under the PHMAP.

Response: The Department disagrees. Currently, PHA utility expenses exceed $1 billion annually and represent over one-quarter of PHA operating expenses. It is clear that the cost of utilities is a major operating expense that must be addressed on an on-going basis by management. Congress recognized the importance of this issue by including it in the statute as one of the mandatory indicators. Therefore, the cost of utilities must be included in the PHMAP assessment.

Comment: One Comment supported the elimination of measuring energy/utility consumption for those PHAs scoring C or higher for component #1, but stated that the energy audit rule at § 905.302 should be revised to require an audit every five years only for PHAs that score lower than C. Otherwise, the Comment states, comparing energy and utility cost to the average of a three year rolling base should be eliminated as unnecessary.

Response: The Department disagrees. The Department addressed this concern regarding audits for standard and high performers at the time it issued the final rule at 24 CFR part 965 earlier this year. At that time, it was noted that PHA utility expenses exceed $1 billion annually, and the appropriation for operating subsidy for fiscal years 1994 and 1995 was sufficient to fund PHAs at 95% and 96%, respectively. In fiscal year 1996, the appropriation for operating subsidy was only sufficient to fund PHAs at 89%. It is not guaranteed that future appropriations will result in a higher percentage of funding. Hence, the Department must ensure that PHAs conduct audits as one means of holding down operating costs, including the cost of utilities, and ensuring that the limited funds available for operations are used as efficiently as possible.

HUD's Office of Inspector General (OIG) recently completed an Audit Report entitled "Review of Opportunities to Reduce Utility Costs At Public Housing Authorities." The OIG report was based on visits to approximately 63 PHAs that manage 41% of the 1.3 million public housing units nationally. The OIG indicated that, despite past efforts, opportunities for reducing utility costs continue to exist and are cost effective in many instances due to ongoing improvements in technology. PHA managers need to be aware of, evaluate, and give maximum consideration to these ongoing and new opportunities when managing their utility costs. The OIG further states, that, because of improvements in technology, managing utilities is a continuous process that requires an ongoing energy management program.

Comment: One Comment stated that the rule needs a definition of "energy audit" and "cost effective" so that PHAs know how to determine what is "cost effective" and what is not. In addition, the Comment stated that the rule should also cross-reference the location of any applicable HUD guidance on the matter.

Response: The terms referenced by the Commenter have previously been defined at 24 CFR 965.303, PHA-Owned or Leased Projects-Maintenance and Operation. However, as a result of President Clinton's regulatory reinvention efforts and Executive Order 12866, Regulatory Planning and Review, issued by President Clinton on September 30, 1993, HUD commenced a comprehensive review of all of its regulations to determine which regulations could be eliminated and streamlined. One such review was with respect to 24 CFR part 965. The Department favored providing PHAs with more flexibility to meet local custom and eliminated those definitions. The Department still believes that those definitions still represent a reasonable description for those terms and may be used by PHAs. The revised PHMAP Handbook 7460.5 will include cross-references to applicable HUD issuances as appropriate.

Comment: One Comment stated that the energy/utility component could be greatly improved by lowering the standards and recommended adopting a standard of a 10% increase for a grade C level performance and a 4%-5% increase for a grade A.

Response: The Department believes that the current percentage ranges are equitable and that a choice of using Option A or Option B, which the Department has decided to adopt, offers PHAs much greater latitude with regard to the energy/utilities component.

Comment: One Comment stated a preference to let Option A stand as a separate indicator as it does now since Option B (energy audits) is not funded by the Department.

Response: The Department disagrees with this rationale on the basis of its belief that a sound energy management program is fundamental to good property management and that energy audits are a cost of doing business that should be included as a part of an agency's budget.

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Comment: One Comment stated that, for purposes of PHMAP, Option A should be modified to reinstate the HDD factor. One Comment stated that if HDDs are not considered for PHMAP, the rolling base period should be extended so as not to distort energy expenditure trend data due to abnormal weather. One Comment stated that the elimination of the HDD factor no longer offers adjustments for unusually harsh winters.

Response: The Department agrees that HDDs should be considered for purposes of PHMAP if an HDD adjustment would significantly affect a PHA's assessment. For purposes of PHMAP, therefore, a PHA may request a modification to adjust consumption using an HDD adjustment for space heating utilities provided that the same data source is used for the current year as well as the three year rolling base period. The HDD factors used by a PHA are subject to HUD State/Area Office approval.

Comment: One Comment recommended the elimination of Option A due to conditions beyond the control of the PHA (e.g., rate increases) or positive initiatives (e.g., increased resident programs that have resulted in increased consumption to provide facilities for these activities).

Response: As previously discussed, Option A measures only consumption, not rate, increases and increased consumption due to special circumstances, e.g., resident initiatives programs, will be addressed in a revised PHMAP Handbook 7460.5.

Comment: One Comment proposed that Option B be modified to permit a passing grade for PHAs that have conducted an energy audit and have an implementation plan for all items in the audit in that it may not be feasible to implement all recommendations given insufficient funding and other priorities relating to health and safety.

Response: The Department agrees. A PHA may achieve a grade C under Option B if it has completed the energy audit, developed an implementation plan and is on schedule with its implementation schedule, based on available funds. The implementation plan should identify at least the items from the audit, the estimated cost, the planned funding source (e.g., funds from 1998 operating budget, 1998 CGP, etc.) and the anticipated date of completion for each item. The Department has changed the language in the new rule to reflect this comment.

Comment: One Comment expresses concern that at the time of a PHMAP self-certification, an audit report may have just been issued or may be five years old. The Comment states that this would give some PHAs an advantage and force others into an F grade. The Comment also questions whether a PHA should implement all cost effective recommendations, e.g., it may be cost-effective to use gas appliances rather than electric, but could create a carbon monoxide danger in units of a certain design. Other recommendations may be cost-effective over a very long payback period but there may be higher priority needs. The Comment recommends that Option B refer to an energy audit completed at least two years earlier and implementation of all recommendations with a payback period of five years or less unless the PHA has established good cause for not implementing them.

Response: The Comment lacks specificity as to exactly how the Commenter believes that the existence of an audit just issued or which may be five years old will give any PHA an advantage. Not all PHAs are going to do audits at the same time, nor would the Department expect them to. As such, some PHAs will be completing work from a previous audit while other PHAs are planning new work from a recently completed audit. The Department does not have a problem with this sequence as it expects energy management to be a constant, ongoing and evolutionary process. Therefore, HUD has determined not to revise Option B to refer to an energy audit completed at least two years earlier, and not to adopt the suggestion that PHAs implement all recommendations with a payback period of five years or less unless the PHA has established good cause for not implementing them.

The Department has no problem with eliminating an otherwise cost effective energy conservation measure (ECM) if the existing design would render the measure hazardous. Issues such as this should be a consideration during the development of the audit itself. At that point, consideration would have to be given to the cost of work necessary to make the ECM safe. If all costs are considered, including the additional hazard, the ECM would likely not be cost effective.

The Department believes that a two year audit period is excessively short and unnecessarily burdensome on PHAs, and has included in this component the existing five year frequency contained in 24 CFR part 965. As noted above, during HUD's streamlining process of 24 CFR part 965, the definition of cost effective (a pay back period of 15 years or less) was eliminated. HUD favors giving PHAs the flexibility to determine what is cost effective. Therefore, HUD will not adopt the recommendation of requiring incorporation of EMCs with a five year payback. The revised PHMAP Handbook 7460.5 will include cross-references to applicable HUD issuances, as appropriate.

Indicator #7, Resident Services and Community Building—Section 901.40

General Comments

Comment: One comment stated that this indicator combines several distinct elements with the grading system, requiring a PHA to score an A on each element in order to score an A on the indicator. The comment added that these elements should be reorganized as separate components within the indicator and the indicator grade should be a composite of the component scores, as is the pattern in the other PHMAP indicators.

Response: The Department agrees with the comment and the new rule reflects the changes. The new resident services and community building indicator is now subdivided into four equally weighted components, and the indicator or the individual components are subject to exclusion based on the particular circumstances of each PHA. The name of this indicator has been renamed "Resident Services and Community Building" to place a more accurate emphasis upon the specific role of PHAs for these functions.

Comment: One comment suggested that the criteria for this indicator should recognize innovations in program design or implementation beyond the traditional grant programs that often require considerable effort and resourcefulness.

Response: The Department agrees that PHAs should promote innovation in the implementation of resident programs, especially if this results in linkages to additional resources and measurable results. The subdivision of the indicator into four components will provide more flexibility to recognize this type of innovation when assessing the indicator. The Department will provide further guidance, in the form of examples of activities that PHAs could get credit under each one of the components, in the revision of the PHMAP Handbook 7460.5.

Comment: One comment indicated agreement with the reduction of weight factor from triple weight but suggested that a reduction to a weight of x1.5 would be more appropriate.

Response: The Department disagrees with the comment. A weight of x1 in the new 100 point system represents 10% of the score. A weight of x3 in the current 220 point system represents 13.6% of

the score. It should also be considered that some elements of the current resident initiatives indicator are now covered in the new security indicator. The Department feels that the weight assigned to the new resident services and community building indicator is adequate.

Comment: One comment stated support for a PHMAP indicator measuring resident involvement, but expressed disappointment with the language of the proposed rule and indicated that the current rule gives more flexibility and offers a broader base for resident participation. Another comment stated that the proposed scoring aspects of the indicator appear unrealistic. Both comments suggested HUD retain the current indicator.

Response: The Department disagrees that the current resident initiatives indicator should be retained, without changes, in the new rule. The Department agrees that the indicator required some clarification in order to make it easier to assess and score and the new rule reflects those changes.

Comment: Two comments requested that the term "on-going management issues" be defined. The comments argued that this is a very bread term and could create problems if PHAs are required to pass all on-going management issues by the residents because business delays would be very costly. The comments stated that this is not a practical requirement and that the term "ample opportunity" is too vague. Another comment requested that the terms: "Section 3 program," "monitors progress," "issues reports," "encouraged the formation of a resident council," "mechanisms to ensure residents have ample opportunity for input," and "percent of goals met under implementation plan" be defined in the rule.

Response: Many of these terms have either been revised, or the term is defined elsewhere in the Code of Federal Regulations. The Department will add any applicable guidance regarding such terms in the revised PHMAP Handbook 7460.5.

Comment: The Department received several comments regarding applicability of this indicator to small PHAs. One comment stated that it is impossible for small PHAs to organize a workable resident initiatives program with part-time staff and that the indicator imposes too much extra work and is an administrative burden for small PHAs. Another comment indicated that small PHAs don't have the resources to handle this workload and residents don't have the interest. Five comments proposed that PHAs with 100 units or less be exempted from this indicator and that only large PHAs be assessed under it.

Three comments suggested that the indicator be removed for all housing authorities, or revised to consider only PHAs of 250 or more units. The comments proposed that as a minimum, PHAs with 249 or less units should be exempted. The comments argued that HUD has used 249 or less units as criterion for "small housing authorities" for nearly all aspects of funding such as CIAP vs. CGP, Youth Build Grants, Vacancy Reduction Grants, or Tenant Opportunity Program grants. Another comment indicated that maybe this indicator exclusion should be for all PHAs with less than 500 units.

One comment stated that small PHAs should be assessed under the indicator because residents of these PHAs also have a right to involvement in PHA management. One comment indicated that under the proposed changes, HUD has the appearance that it no longer cares what these smaller PHAs are doing. Another comment added that all PHAs should be assessed under the indicator in order to ensure that they are informed of the programs available and are conforming, to the best of their ability, to the Section 3 program. One other comment stated that since many PHAs over the past three years have gotten extensively involved in aspects of resident initiatives, it seems unfair to automatically exclude the efforts of those who have performed and earned merit. Another comment suggested that PHAs with 100% elderly units be excluded from this indicator.

Response: The Department agrees that since it has used fewer than 250 units as a threshold for "small housing authorities" for nearly all aspects of funding, the same criterion should and is being used for applicability of this indicator. This policy is consistent with the Tenant Participation and Tenant Opportunities regulation (24 CFR part 964) which has a participating threshold of 250 units, and it is also utilized in the CGP. In addition, PHA's with 100% elderly developments will not be assessed under this indicator. To avoid penalizing small PHAs with active programs, PHAs with fewer than 250 units or with 100% elderly developments may request to be assessed under the indicator at the time of PHMAP certification submission.

Comment: Two comments indicated that what this indicator measures is not a property management issue, but a social issue related to PHAs. The provision of social service support is not a function of PHA management any more than it is a function of privately owned or Section 8 residential property management.

Response: The Department understands that active resident participation and involvement have a direct affect on property management and are a key element to a successful, well managed public housing community. The Department provided a separate resident initiatives indicator and component on resident involvement in PHMAP because there is considerable evidence that resident services programs can help to promote and sustain housing authority management successes. Various tenant participation initiatives (patrols, neighborhood clean-ups, etc.) can reduce vandalism and project maintenance. Resident employment initiatives get residents involved in positive pursuits and employed residents can act as role models for others. Overall, involving residents in the various facets of property management—as trainees in a landscaping project or as participants in screening prospective residents—can showcase self-improvement and individual responsibility and contribute substantially to building positive and strong public housing communities.

Comment: Two comments requested HUD to clarify if the indicator intends to "examine efforts" or to "require efforts" and argued that it seems that it has been prescribed to require PHAs to develop and administer programs that at times are not funded by HUD, are not long-term commitments by HUD, and in most cases, the results of performance are predicated on the residents' willingness to participate. It is not equitable to score a PHA on items that are beyond the PHA's control. It is equitable to request PHAs to adopt resolutions encouraging participation. Another comment indicated that this is an unfunded mandate.

One comment stated that the performance message has now been confused with compliance items. Another comment indicated that PHMAP is intended to be a performance-based assessment system in which indicators must be written so that standards and criteria are clear, measurable, and capable of being duplicated from one PHA to another. The comment added that too much of this indicator is process-oriented, not performance-based and that adopting programs and "mechanisms" is administrative process and offers no guarantee or measure of results. One other comment stated that the indicator, as currently structured, will be very difficult to grade and will produce very inconsistent results. Three comments recommended that this indicator be

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deleted entirely because it measures process and not outcomes.

Response: This indicator has been revised to hold PHAs accountable only for the functions they perform in operating resident services programs. The indicator has been subdivided into four separate components to make it easier to assess and grade: economic uplift and self-improvement; resident organization, resident involvement; and resident programs management. Each has been reshaped to address the public comments, especially to focus solely on the PHA's responsibilities for resident services. The indicator has been renamed "Resident Services and Community Building" to place a more accurate emphasis upon the specific roles of PHAs for these functions.

In response to concerns about short-term resident initiatives funding, it should be emphasized that PHAs would only be assessed for programs for which it has been funded. PHAs could also get credit for programs implemented through a partnership, for which the funding was made available through another of the partners.

Component #1, Economic Uplift and Self-Improvement

Comment: One comment stated that under the proposed changes, HUD adds a Section 3 requirement that has mixed adherence throughout the country. Another comment indicated that in small communities there are very few Section 3 programs and if there is one and the contractor's contract calls for them to hire Section 3 people, all a PHA can do is inform the residents that they may apply. One other comment argued that the implementation of Section 3 programs and the number of residents hired by the PHA is not a measure of its management. The comment concluded that resident self-sufficiency and related programs don't have any place in a management assessment program.

One comment indicated that to implement Section 3 training, you must have residents willing to participate. It stated that most of their residents are elderly, handicapped or have very small children and many are not able to work. Another comment stated that the Section 3 program may be disadvantageous to large municipalities facing a hiring freeze. Another comment stated that Section 3 is a mandate for any department using federal funds, and should not be a centralized program, as indicator #7 seems to require. It added that there seems to be no final rule for Section 3 in Public Housing (24 CFR part 135) and its status seems in doubt.

One comment mentioned that it does not have a concern with the Section 3 program emphasis because it has a great program now, but it is concerned with future funding and the impact if no new funding is available to continue the program. One comment agreed with the Department's efforts to emphasize the Section 3 program and another comment recommended that PHAs be required to show results in employment efforts in subsequent years to add to the results oriented focus. One other comment stated that it is difficult to be consistently abreast of a PHA performance under Section 3 and resident employment and suggested that it must be a PHA requirement to report resident employment to the HUD office in order to assess this criteria. Another comment stated that Section 3 is already a requirement and argued that PHAs should not get credit for something they are already required to implement. It further suggested that credit be given only for those things that PHAs do that are over and above HUD requirements such as internship programs or on the job training plans and also for using CGP funds to assist resident groups and develop security measures.

Response: The inclusion of an employment-related subcomponent in the resident initiatives indicator reflects the Department's emphasis on economic uplift as a proactive means to reducing dependency, and as mandated by the recent welfare reform legislation. The Department understands that there is considerable evidence that the increase in working families is very beneficial to property management. Because of the importance of this area, the Department wishes to give PHAs credit for the leadership role they can perform in employment-related initiatives. The Department has expanded the definition to include all employment-related initiatives, not just Section 3 or those in the public sector. Section 3 is effective as an interim rule and should be viewed as one tool in employment related initiatives.

In response to comments that the indicator be strengthened, language has been added to the indicator to require the PHA to provide evidence that they have one or more economic uplift and self-improvement programs and partnerships for economic uplift, including but not limited to, Section 3 initiatives. Such opportunities can be provided either directly or through non-PHA partners. The Department believes it is important for PHAs to get credit for their initiatives in promoting employment opportunities for residents. It is expected that PHAs will provide data on the number of residents by development in employment-related programs as well as evidence of the number of residents obtaining employment. PHAs can use Multifamily Tenant Characteristics System information to measure employment.

While the Department is supportive of PHAs efforts to measure employment, the indicator only requires that PHAs implement programs (HUD funded or non-HUD funded through partnerships) in its family occupied developments and set up and implement a system for measuring progress. The Department is not trying to dictate specific numeric employment goals but rather emphasizing activities that help measure PHA effort in implementing these programs.

Component #2, Resident Organization

Comment: One comment stated that HUD's encouragement of a resident council at each family development site assumes that resident councils are an absolute for every family development, regardless of the size of the development. Resident councils for some small developments are not only not necessary, but impractical. Another comment indicated that family developments are often built on scattered sites throughout a wide geographical area. The comment added that it is next to impossible to establish a resident council under these conditions and that this goal should be voluntary in these situations.

Response: Current HUD requirements give PHAs and resident communities the flexibility to determine how resident councils are organized. There is no specific requirement for a resident council at each development. The local public housing community should determine what kind of representation system suits its needs and makes the most sense. In larger developments, a separate resident council is merited. In smaller PHAs, a city-wide council may be more appropriate.

Comment: One comment stated that the current rule is supportive of resident councils and other resident groups while the proposed rule is too restrictive because it only makes reference to resident councils. The comment added that, while highly desirable, it is not always possible to organize and conduct development-wide elections and it urged the Department to reinstate the "or other resident groups" language of the current rule. Three comments suggested that the indicator reference to resident councils at each PHA family development should be changed to specify "HUD recognized resident councils."

Response: HUD is supportive of all resident organizations that work to benefit the residents, but the indicator

does not pretend to cover all possible forms of resident organization. The Department considers that resident councils, as official vehicles of resident representation, should be encouraged and the indicator measures PHA efforts to promote this goal. In regards to the issue of "HUD-recognized resident councils," the Department understand that it is not HUD's role to certify resident councils and that it is the PHA's responsibility to certify if such organizations have been formed in compliance with approved regulations, policies and procedures.

Component #3, Resident Involvement

Comment: Four comments stated that PHAs should not be penalized for lack of participation by the residents provided the PHA promotes self-sufficiency programs and community involvement. The comments indicated that PHAs may offer a variety of programs and training for residents, but they cannot make residents attend and participate. Another two comments recommended that an exclusion of the indicator be permitted in such cases where a PHA can show that the residents are not interested in forming a resident council and do not want to be involved in any of the programs covered by this indicator. One other comment also recommended to make each component potentially able to be excluded, based upon PHA's situation. Two comments stated that this indicator cannot accurately establish levels of participation, interest, etc., of the residents, it only measures the level of opportunities the PHA makes available to its residents. Therefore, it cannot measure performance.

Response: The Department agrees that PHAs cannot be made responsible for lack of interest by residents in organizing resident councils, but PHAs can be assessed on their efforts to promote and facilitate the organization of resident councils by activities such as: facilitating space for meetings, providing training, access to bulletin boards, helping to schedule and promote meetings, approving Board policies and developing PHA procedures for certifying resident councils.

In response to some of the concerns expressed in the comments, the Department changed the indicator to subdivide it into four components. This component measures PHA efforts regarding resident councils, and PHA collaboration and support to existing resident councils or to those that are in the process of being organized. A PHA is not responsible for the formation or continuation of resident councils as these functions are the responsibility of the resident councils. The Department is making the indicator and each of its components subject to exclusion. This would certainly apply to cases where the PHA can show evidence that it has predominately scattered site units and that residents are not interested in these programs. The Department will provide additional guidance to PHAs on this issue in the revision of the PHMAP Handbook 7460.5.

Comment: Three comments indicated that resident involvement is simply not an appropriate measure of a PHA's management capability.

Response: The Department disagrees and as mentioned earlier, believes that active resident participation and involvement have a direct affect on property management and are key elements to a successful, well managed PHA. In addition, there is considerable evidence that resident involvement and resident services programs can help to promote and sustain housing authority management successes.

Resident Surveys

Comment: One comment stated that resident surveys would be time consuming, but may be helpful. Another comment suggested that PHAs should be required to complete a resident survey on the fear of crime and the measure of disorder in each community once a year.

Two comments stated that resident surveys are most important in order to establish programs in which the residents are interested and suggested that PHAs be required to report on whether they conduct resident surveys for modernization or whether the PHA attempts to conduct resident surveys or communicates with newsletters. Five other comments expressed support for resident surveys, with one proposing an annual standardized survey used as a learning tool by PHAs and another three arguing that standardized surveys should only be used as models for PHAs to develop locally oriented surveys.

One comment suggested that resident surveys be optional for well managed PHAs and required under the MOA for troubled PHAs. Another comment stated that conducting resident surveys is a good idea, but HUD should allow PHAs to complete regular surveys in lieu of HUD's mandated ideas of what resident involvement means.

Two comments indicated that PHAs should be encouraged, but not required, to conduct such surveys, with HUD assisting in the development of survey formats and data analysis models that PHAs may use for this purpose. The comments argued that if HUD wishes to use customer satisfaction as the basis for the PHMAP score, then HUD should conduct the survey itself using some type of sampling technique that employs consistent and statistically reliable methods. Another comment expressed concern with the feasibility of implementing this measure in small PHAs with a majority of elderly and residents with disabilities.

Another comment stated that consumer satisfaction is critical in public housing and a survey of residents may be a way to gauge satisfaction. Surveys should not be conducted by PHAs; that would add too much paperwork and residents would feel inhibited to express their true feelings. Surveys should be conducted by private contractors, using a standardized form on a statistically significant sample of residents (using MTCS data to assure a diverse and representative group) from each PHA. The results would be shared with HUD and the PHA.

Ten comments stated that resident surveys as suggested would only amount to more paperwork with few, if any, tangible results. A survey completed by the resident council or advisory board would be more accurate and more useful. Another three comments stated that the present contact with residents is sufficient to adequately assess their level of satisfaction. One comment indicated that no new unfunded tasks should be imposed on PHAs through PHMAP.

Four comments indicated that surveys, by their nature, are subjective in orientation and often reflect the goals of the entity doing the survey. There are too many variables which would affect the responses. To direct PHAs to design and implement their own surveys would be a self-serving exercise of little real value. For HUD to develop a standard survey to be used by every PHA, each with its own set of problems and capabilities, would result in a document devoid of any real meaning. Another two comments stated that surveys are complex to develop and can be resented or distrusted by residents. Four comments expressed concern with the cost to PHAs of implementing resident surveys and indicated that a national format is not a good idea because of the special local conditions. Another comment stated that PHAs shouldn't be penalized for lack of resident response to these surveys.

Two other comments argued that total consumer satisfaction is impossible to achieve and even more difficult to measure. Requiring PHAs to conduct periodic surveys for this purpose is an undue burden, especially on large PHAs

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where housing projects are distant from one another and from the PHA.

One comment recommended that this be a voluntary activity and that it not be included in performance measurements. Another comment requested HUD to provide technical assistance in the area of assessing consumer satisfaction, but discouraged the creation of a new reporting requirement. HUD could distribute information to PHAs on how to design, develop and implement resident satisfaction surveys. It is unrealistic to expect that a single resident survey instrument will necessarily be meaningful to every PHA and every resident population. In times of diminishing operating subsidies, HUD should not force PHAs to conduct such surveys only for the sake of PHMAP.

Response: In response to the comments, the Department decided not to require the implementation of resident surveys as part of the PHMAP process. Although it is not required, PHAs may consider the voluntary use of this optional tool to obtain resident input and to measure resident involvement and satisfaction.

The Tenant Participation and Tenant Opportunities regulation (24 CFR § 964) stipulates that PHAs shall encourage full resident participation and partnership with the PHA. The Department does not want to provide overly specific instructions to PHAs, but instead wants to offer options for alternative approaches for promoting constructive resident participation and customer satisfaction. Therefore, the component on resident participation has been changed to require a PHA to provide evidence that the PHA is providing meaningful ways to communicate and partner with residents concerning the quality of life and housing management services (such as screening, relocation, capital improvements), but is not prescribing the specific method(s).

Possible methods used by PHAs would include, but not be limited to: resident membership on the PHA Board of Commissioners or on specific policy committees that contribute substantially in planning and implementing PHA programs; regular resident consultation through ongoing, scheduled meetings with the PHA-certified duly-elected resident councils; regular communication mechanisms with residents, such as a newsletter, as well as other means such as customer surveys and focus groups.

Component #4, Resident Programs Management

Comment: Several comments stated that PHA performance should not be assessed based on grants and activities that are not under the control of the PHA. Sixteen comments indicated that TOP and TAG are controlled by the resident organization and not by the PHAs and that it would be unfair of HUD to hold PHAs accountable for tenant organization grants that are not under the PHA's control. One of the comments suggested that HUD eliminate this component. Another comment asked if a PHA would get credit if its resident organization implements a TOP grant training.

Response: The Department agrees that PHAs should not be held responsible for resident activities or grants that are not under their control and the new rule reflects these changes. The indicator has been revised in order to assess PHAs for the functions they perform in operating resident services programs and for resident management or TOP performance only when the PHA is the contract administrator for the program.

Comment: One comment stated that in order to meet 90% of the goals as defined in the grants, a PHA would need to adjust those goals under various circumstances, i.e., numbers versus percentages; either the grant plan should allow for a percentage versus an exact number to be included, or the goal must be flexible enough to change when circumstances dictate.

Another two comments indicated that this indicator requires the documentation of achievement of a certain percentage of goals under resident initiative programs, but goals tend to be few and somewhat unquantifiable; such program goals should not be measured by PHMAP unless the goals had been articulated with the understanding that they were to be quantifiable and achievable within the grant term; progress is often in the hands of the tenants and tenant leaders.

Two comments stated that there is general concern that measuring performance in meeting grant goals may be difficult to evaluate and may not be representative of performance. There is a clear incentive for PHAs to establish easily attainable goals to protect a good PHMAP score. We believe the goals for such programs should be set as high as possible and used as targets for achievement. Some other system of measurement should be found. This should be measured in the criteria used to determine management capability in the competition to receive grants.

One comment argued that HUD shouldn't ask PHAs to document goals met under resident initiatives programs. Those programs already have exhaustive reporting requirements.

One comment stated that the standard defined as 90% and 60% of goal attainment under the implementation plan for any and all of the grant programs are too stringent and perhaps inappropriate to the goals being measured. The measure of goal attainment based on implementation strategies is at best subjective and at times affected by conditions beyond the control of the PHA.

One comment indicated concern with the indicator measuring resident involvement via any resident related grants received by the agency. The comment argued that HUD would do better to leave grant measurements with the specific grant processes and perhaps rate PHAs on whether they have a system to become informed about resident related grant opportunities or if they have applied, assuming they have resources to do so.

Another comment indicated that § 901.40(a)(4) attempts to measure compliance in many categorical funding programs in which PHAs are voluntary participants and that have their own contractual requirements and enforcement mechanisms. If HUD were to grade compliance with these contracts under PHMAP, HUD would be unilaterally imposing new contractual provisions that substantially alter the consequences of performance or non-performance. Provisions of this nature should not take effect unless and until they are subject to negotiation between the contracting parties.

One comment stated that applying for social service grants is a PHA option, not a requirement. PHAs that do not elect to apply are appropriately not penalized. How can evaluation of a PHA's performance of optional activities be used as a basis to rate the PHA's management performance?

Response: The Department included resident grant progress as a component of the resident initiatives indicator because it is critical that any available categorical grant funding be utilized effectively to meet the defined work plan objectives of the specific programs. This component would only apply if the PHA has responsibility for administering one or more grant programs.

By applying to these programs, a participating PHA accepts implementation requirements attached to them. Goals for these programs are developed by the PHA and should reflect realistic expectations of what the

PHA proposes to accomplish. The rule reflects some margin of flexibility in grading the percentage of goals achieved. Assessing PHAs on performance in managing grant programs is not new to PHMAP. PHAs are assessed under other areas of their management, including performance in managing grant programs (competitive or formula) such as modernization. In addition, the Department has revised the regulation to eliminate assessment of the resident management or TOP unless the PHA acts as the contract administrator for the resident grantee.

Section 901.45 Indicator #8, Security

General Comments

Comment: There were fifteen comments recommending that indicator #8 not apply to smaller PHAs, described variously as those PHAs with fewer than 500 units, fewer than 250 units, and fewer than 100 units. One comment felt that all PHAs, regardless of size, should be assessed under this indicator because crime and drugs exists everywhere.

Response: In response to the comments received, the Department has determined that indicator #8 will apply to PHAs with 250 or more units under management. To avoid penalizing small PHAs with active programs, PHAs with fewer than 250 units can request to be assessed under the indicator at the time of the PHMAP certification submission. However, PHAs with fewer than 250 units should be keeping records of crime, reporting it to local law enforcement, administering rigorous screening criteria, evicting residents who engage in criminal activity, and meeting the goals specified by categorical grants as good management practices, even though they are not required to be measured on this activity.

Comment: There were two comments specifically supporting "One Strike and You're Out" and screening and eviction policies through indicator #8. Two commenters mentioned that constraints in existing State law or the local court system have made it difficult to comply with the intent of the one strike policy. Two other commenters indicated that PHAs should be required to submit evidence that they have implemented eviction policies that could be monitored through tracking systems.

Response: The Department is pleased that there is a positive response to its one strike policies which are established pursuant to the "Housing Opportunity Program Extension Act of 1996" and PIH implementing guidance (Notice PIH 96–27), which provided additional guidance to PHAs in the areas of screening, lease enforcement and eviction in order to help PHAs fight crime. The one strike policy must be implemented within the context of the applicable State laws and court systems. PHAs will not be required to submit documentation at the time of certification; rather, PHAs are required to maintain supporting documentation for all of the indicators it certifies to for HUD post review. To assist PHAs in setting up and operating successful programs, the Department will provide examples of best practices in the forthcoming revised PHMAP Handbook 7460.5.

Comment: There were four comments that felt that this indicator would place unnecessary administrative burdens on a small PHA that does not have a crime problem and is already cooperating with the local police department. In addition, small PHAs do not have the resources (funds and personnel) to perform the security measures required by this indicator.

Response: Current practices by PHAs show that the cooperation of PHAs and local law enforcement for the collection and reporting of PHA crime information is not always a cost issue. Please note that the Extension Act permits PHAs to request criminal conviction records of adult applicants from the National Crime Information Center (NCIC), police departments and other law enforcement agencies. The Public Housing Drug Elimination Technical Assistance Program can be used to assist PHAs in developing appropriate collection systems and data bases. The Department anticipates that the use of NCIC and other data sources in addition to the technical assistance from HUD will enable PHAs to obtain necessary information in a timely manner.

Comment: Three comments felt that there should be a policy designed for small PHAs and one for large PHAs. It will be very difficult for a small PHA with no security problem and no resident involvement to make a passing grade in this indicator.

Response: Rather than have a separate security indicator for small and large PHAs, the Department has determined that PHAs with fewer than 250 units shall be exempted from this indicator unless the PHA requests to be assessed under the indicator at the time of the PHMAP certification submission.

Comment: Three comments stated that the criteria listed for this indicator are measures of process and not necessarily results. A more appropriate measure would include actual crime data. Also, indicators of vacancy percentage and financial management are directly related to the degree of security in the developments.

Response: This indicator has been revised to reflect the comments received and its components now more accurately measure results. The Department agrees that vacancies and financial management are directly related to security in the developments, but performance in these areas are measured under indicators #1 and #6.

Comment: One comment suggested that this indicator shouldn't apply until adequate time is provided for PHAs to establish the proper documentation, reporting, and tracking criteria to successfully score in this indicator. Another comment strongly requested that HUD require data be provided beginning with the next fiscal year after the effective date of the provisions of this indicator because it would be very difficult to secure data from January 1, 1996, to the present.

Response: The Department has determined that the new rule will apply to PHAs with fiscal years ending the quarter after the new rule is published in the **Federal Register**.

Comment: One comment stated that this indicator combines several distinct elements with the grading system, requiring a PHA to score an A on each element to score an A on the indicator. These elements should be reorganized as separate components within the indicator and the indicator grade should be a composite of the component scores, as is the pattern in the other PHMAP indicators.

Response: The Department will grade this indicator as a composite of the sub-component scores, as is the pattern in other PHMAP indicators.

Comment: One comment felt that security is not a property management issue, but a social issue related to PHAs, and was outside of the PHA's control. Another comment stated that reducing crime and drugs was an appropriate property management issue.

Response: In both public and private property management, crime and drug problems have a direct affect on property management. Because of this, the Department has determined it is critical that this indicator apply to all PHAs with 250 units or more under management.

Comment: One comment stated that this indicator will be very difficult to grade objectively and consistently. The terms "mechanism to track crime-related problems" and "system for taking action" are vague and undefined and need clarification. Two comments questioned the meaning of "document results in screening out" various applicants. One comment felt the proposed measure of PHA actions to appropriately screen out applicants and

evict residents who engage in criminal activity is the only appropriate measure of PHA management performance under this indicator.

Response: The Department has rephrased this component and the first two phrases mentioned are no longer included in the new rule. The third phrase commented on has been revised to say, "can document that it successfully screens out and denies admission to a public housing applicant who * * *" and "can document that it successfully evicts a public housing resident who * * *" This new language more clearly embodies the intent of the one strike policy. The Department agrees with the last comment.

Comment: One comment felt that the term "crime" should be defined to avoid wasting time on crimes that do not affect the safety/security of residents.

Response: The Department has not established one uniform national definition of crime, since different types of crime represent different threats, and vary among communities. HUD believes each PHA should decide what constitutes criminal violations that are unacceptable to the local community. In general, the crimes against which PHAs should screen applicants are those that would pose a threat to the health or safety of other residents or PHA staff, or a financial risk to the PHA. These crimes would be lease violations. These are the crimes against which applicants should be screened and for which violators be evicted.

Comment: One comment stated that § 901.110(e) should state that indicator #8 should be excluded automatically for PHAs with 100 or fewer units.

Response: The Department agrees with this comment and the rule has been changed to state that this indicator does not apply to PHAs with fewer than 250 units under management unless the PHA requests to be assessed under the indicator at the time of the PHMAP certification submission.

Comment: One comment reflected that criteria #2 and #3 deal with screening and evictions. If HUD is to allow a PHA to self-certify on this indicator, the PHA should be required to submit evidence of policies and leases to support the certification.

Response: The Department disagrees and is requiring that a PHA maintain supporting documentation for all of the indicators it certifies to for post review by HUD or the independent auditor rather than submit additional documentation at the time of certification.

Comment: One comment felt that too many communities already have police departments that avoid their responsibilities in public housing "projects" for reasons that include the perception that public housing is a Federal rather than local responsibility. This indicator plays into that mind set, and therefore, hurts the crime fighting goals PHAs and HUD share.

Response: The Department believes that the establishment of one strike leasing, eviction and related processes have already proven to be effective in crime/drug reduction. This indicator has been designed to measure the inplementation of mechanisms that many PHAs have already used successfully in developing safe and secure environments for public housing residents.

Comment: One comment believes that this is the most important indicator for large PHAs where crime is a critical problem, and should have a greater weight than x1.

Response: The Department agrees that this is a very important indictor. This indicator and indicator #7, resident involvement, have a combined total of 20 points in a 100 point scale. The Department feels that this is an equitable distribution when the importance of all of the indicators are considered as a whole.

Comment: One comment thought that PHAs should request help from the HUD State Coordinator in getting assistance from law enforcement agencies.

Response: The Department recommends that a PHA first contact its State/Area Office for technical assistance in obtaining assistance from law enforcement agencies, and to explore alternative solutions. HUD agrees that the State Coordinator and the Area Representative should be advised of unresolved difficulties in implementing the one strike policy. The Department will provide assistance, as appropriate, to further the implementation of the one strike policy.

Comment: One comment suggested that additional criteria should be considered that would give recognition to PHAs that have made tremendous progress in arresting crime and/or have established resident patrols to assist in crime reduction.

Response: The Department appreciates the suggestion, but feels that the appropriate vehicle for such recognition is its Performance Awards Ceremony.

Comment: One comment suggested there be a criterion that measures a PHA's efforts to get resident involvement in citizen patrols.

Response: The Department agrees that citizen patrols are very effective in helping to reduce incidence of crime in a community, and this criterion is indirectly measured under components #1 and/or #4 of this indicator.

Component #1, Tracking and Reporting Crime Related Problems

Comment: Thirty comments felt that PHAs should not be held accountable under indicator #8 for cooperation with local police departments and other community agencies, as this partnership was beyond their control. At least one commenter expressed concern about being able to access criminal data. Another commenter indicated that PHAs do not have the authority to address crime problems.

Response: As a result of these concerns, the Department has determined that PHAs will not be assessed for partnerships with the local police departments and other local agencies, with the exception of grade A. Grade A of this component has been revised to assess a PHA's cooperative system for tracking and reporting incidents of crime to local police authorities. Grades below an A assess only the reporting of incidents of crime to local police authorities. Although PHAs will not be measured under this criterion for grades below an A, it is essential for PHAs to work closely with local and State agencies in order to operate effective crime and drug prevention programs. Also, while PHAs do not specifically have the authority for arrests, they can utilize one strike to deny admission or evict known criminal violators.

Comment: Five comments thought that documentation from local law enforcement agencies might be a method of reporting crime in small housing authorities.

Response: The Department couldn't agree more. All PHAs are encouraged to develop partnership relationships with local law enforcement entities, and all PHAs should be keeping records of crime, reporting it to local law enforcement, administering rigorous screening criteria, and evicting residents who engage in criminal activity.

Comment: One comment stated that HUD shouldn't ask PHAs to try to require their municipal police departments to act beyond the scope of the Cooperation Agreement.

Response: It is not intended that tracking and reporting crime-related problems would in any way mandate PHAs to require their municipal police departments to act beyond the scope of the Cooperation Agreement. A PHA should always act within the scope of the Cooperation Agreement and should never require another agency to act beyond the scope of the Agreement.

Comment: One comment stated that PHAs that complain that they cannot negotiate obtaining monthly calls for service confirm that they have poor relations with their local police departments.

Response: Although this may be true, it is not necessarily through lack of trying. A PHA should continue to negotiate working relationships with local law enforcement entities.

Component #4, Grant Program Goals

Comment: Five comments reflected that this indicator requires the documentation of achievement of a certain percentage of goals under resident initiative programs, but goals tend to be few and somewhat unquantifiable. Such program goals should not be measured by PHMAP unless the goals had been articulated with the understanding that they were to be quantifiable and achievable within the grant term. There is general concern that measuring performance in meeting grant goals may be difficult to evaluate and may not be representative of performance. There is a clear incentive for PHAs to establish easily attainable goals to protect a good PHMAP score. Four of these commenters felt that some other system of measurement should be found, or the indicator eliminated. One commenter proposed that the goals be set as high as possible and used as a target for achievement. Seven commenters indicated that PHAs should not be rated on this indicator unless there was specific funding for all PHAs, and therefore, this program area was an unfunded mandate. One commenter stated that PHAs should only be rated on resident initiatives, not security. One commenter questioned why the goal did not track progress in goal achievement under the Drug Elimination program.

Response: The Department believes that the establishment of one strike leasing, eviction and related processes have already proven to be effective in crime/drug reduction. This indicator has been designed to measure the implementation of mechanisms that many PHAs have already used successfully in developing safe and secure environments for public housing residents. Grant goals are part of the overall evaluation of an application for funding. If a PHA has unrealistic goals, they are either renegotiated, or the PHA does not receive funding.

The Department has determined that security will continue to be a separate indicator because it is integral to good management and can be accomplished without additional funding, or with operating subsidy and comprehensive grant funds. PHAs should make use of these or other allowable funding sources to address crime and security problems. The Department cannot restrict factors to those in the Drug Elimination Program since crime problems affect all PHAs, not only those that have successfully competed for drug elimination grants.

Comment: One comment stated that goal achievement should be measured in terms of program implementation (which it is within the power of the PHA), not impact on crime (which is beyond the control of the PHA). A range from 85% to 100% should be establish for achieving an A grade.

Response: The Department has determined that a PHA will achieve a grade A for this indicator if it is meeting at least 90% of its goals under the implementation plan for any and all of these programs.

Data Collection—§ 901.100

Comment: Thirty comments stated that 45 days to submit the certification is a concern because PHAs are busy completing their year end work. It would cause a problem for small PHAs that have limited human resources to complete all other fiscal year end reports required. The time to submit should remain 90 days. Two comments stated that 45 days to submit its certification would be sufficient time as long as there was a quorum for the Board meeting, and as long as the process works smoothly. Seven comments recommended that certifications should be submitted 60 days following the end of a PHA's fiscal year.

Response: HUD is attempting to balance the need to make the PHMAP scoring as quick and timely as possible, so that it more accurately reflects a PHA's current status, with the additional year end burden it represents to both PHAs and HUD itself. In light of the above comments, the Department has determined that a better balance is achieved with a 60, rather than 45, day submission period, and the rule is amended accordingly.

Comment: Two comments pointed out that PHAs that request and receive an extension to submit their fiscal year end financial reports should also be granted an extension to file their PHMAP certification. Large PHA's must routinely ask for extensions to submit their year end financial statements.

Response: The Department agrees with the comment. To satisfy administrative requirements, PHAs must submit extension requests or waiver requests for both their fiscal year end financial reports and their PHMAP certification. However, a State/Area Office may grant an extension for the submission of year end financial statements for a period of no more than 90 calendar days. Requests for extensions for more than 90 calendar days, or requests for extensions in addition to the initial 90 calendar days, shall be approved by the Assistant Secretary, as well as waivers for the submission of a PHA's PHMAP certification.

Comment: Two comments felt that PHMAP should be more flexible so as not to discourage otherwise outstanding performance due to late submission of required reports or a PHA's inability to review and approve submissions more quickly. Lateness should not have the effect of decimating the performance ratings in all areas rated by PHMAP.

Response: The Department disagrees with this comment, and will retain the option which permits State/Area Offices to award a presumptive rating of failure in all of the PHMAP indicators if required reports have not been submitted to HUD in a timely manner. HUD believes that outstanding performance includes a PHA's ability to submit in a timely manner required reports that are used to calculate the PHA's PHMAP score.

Comment: Two comments felt that the revisions to the rule may require major changes in the systems used to maintain records related to PHMAP. Changes in a PHA's information systems will be both costly and burdensome. It will require PHAs to focus important resources on administrative areas that will not improve the manner in which quality housing is provided to low-income families.

Response: HUD recognizes that, at least initially, the changes made by this rule to improve PHMAP will impose a burden on PHAs who will have to make necessary adjustments in their information systems. As was the case for the previous rule, it is expected that as the collection and organization of the data will become more routine following the first submission, the associated burden will also decrease.

Comment: One comment felt that the time frame for submission should relate to the size of the PHA.

Response: HUD disagrees with this comment. The Department has received comments from small PHAs citing small staffs and from large PHAs citing large administrative burdens to justify changes in the time frame for submission. The Department has concluded that, until experience demonstrates otherwise, the same time frame for submissions should apply to all PHAs.

Comment: One comment felt that the certification form is cumbersome and includes requests for information currently available to HUD, specifically financial data required to be provided to HUD by all PHAs, or more information than currently required. It appears to require inclusion of data necessary for HUD to perform or confirm the calculations made by the PHA, and this is repetitive since PHA audits ensure accuracy in reporting. This is contrary to HUD's intent to require PHAs to certify to information otherwise not available.

Response: The worksheet and certification form have been redesigned to make them more user friendly, as applicable. HUD welcomes additional, specific recommendations to improve these documents further. The Department disagrees that the certification form requests information currently available to HUD. For example, the new certification form financial management question for indicator #6 requests the dollar amount of a PHA's cash reserve available for operations. The requested financial information is not reported on any other required reporting submission. The Department cannot rely totally on audit report confirmation because audit reports are not normally available until after the PHMAP process has been completed for the assessed fiscal year. The certification form requires a PHA to state the raw data that are used to calculate the score of specific indicators to ensure accurate calculation.

Comment: One comment stated that if the purpose is to shorten the time it takes for a PHA to learn its status/score, it may be more appropriate to reduce the amount of time that HUD has to respond. It should not take any more than two weeks to review the PHA submission (one page) and to perform any analysis or calculations for indicators that HUD scores.

Response: HUD is attempting to balance the need to make the PHMAP scoring as quick and timely as possible, so that it more accurately reflects a PHA's current status, with the additional year end burden it represents to both PHAs and HUD itself. In light of the above comments, the Department has determined that a better balance is achieved with a 60, rather than 45, day submission period. State/Area Offices monitor other program areas in addition to the PHMAP, which is just one facet of the Department's overall affordable rental housing efforts. In addition to the section 8 program, State/Area Offices must administer such efforts as modernization programs, resident initiative programs, and drug elimination programs. The Department feels that 60 days for State/Area Offices to complete a PHMAP assessment is equitable in view of other workload requirements.

Comment: One comment reflected that in the preamble to the proposed rule, HUD states that it will require State/Area Offices to give PHAs their PHMAP scores within 45 days from certification, but the proposed rule's text does not contain that requirement. The commenter suggests that HUD include that requirement in the text.

Response: State/Area Offices will be required to meet the 60 day notification period by an internal directive that will be as binding upon them as a regulatory requirement.

Comment: One comment observed that § 901.100(b)(5) stipulates that a PHA's certification will be post-reviewed by HUD during the next on-site review, but is subject to verification at any time. What does this mean? It suggests that verification could be accomplished by some means other than on-site review. It is critical to clearly stipulate in the rule a standard and consistent approach that must be followed by all HUD State/Area Offices in order to validate, document and justify a conclusion that a PHMAP score certified by a PHA should be changed.

Response: On-site reviews are usually conducted pursuant to risk management, and § 901.100(b)(9) simply provides that certification verification can take place at any time notwithstanding the regularly scheduled on-site reviews. In addition, the rule does clearly stipulate a standard and consistent approach to validate, document and justify a conclusion that a PHMAP score certified by a PHA should be changed. The verification language in § 901.100(b)(9) is related to the provision at § 901.115(k), that permits, in exceptional circumstances that constitute a standard and consistent approach, a State/Area Office to reinstate any review as necessary to address particular deficiencies, or deny or rescind incentives or high performer status, even though a PHA has satisfied all of the indicators for high or standard performer designation.

Comment: One comment asked exactly what information does HUD expect to derive from "existing reporting and data forms?" As written, only indicator #2 can be scored by HUD without complete and total reliance on PHA self-certified data. This is an enormous flaw in any allegedly objective assessment process, including PHMAP.

Response: The assessment process is the result of balancing the two objectives of maximizing reliability and minimizing the administrative burden. The Department realizes that the extensive demands upon both its own and PHAs' resources limit what may be appropriately imposed upon PHAs and adequately monitored by the Department. HUD's reliance upon PHA-certified data is backed up by the admittedly small number of on-site reviews HUD is able to conduct, but these reviews do indicate substantial, good faith compliance. HUD attempts to target its monitoring resources as efficiently as possible by focusing on troubled or near troubled PHAs or PHAs in which the factors identified in § 901.115(k) of the rule are present. The required supplement to the independent audit requires a PHA's independent audit to ascertain whether the PHA maintains the data necessary to support its PHMAP certification and whether the PHMAP data are consistent with the PHA's other records. HUD will continue to consider ways in which the reliability of PHMAP may be improved. In addition, the new rule has been revised to state that a PHA may not appeal its PHMAP score to the State/Area Office if the reason the PHA received a failing in any indicator or component was due to the fact that the PHA did not provide justifying documentation to the independent auditor for the indicator(s) the PHA certified to.

Comment: One comment stated that the clause that allows PHAs to include in their PHMAP certifications "any information bearing on the accuracy or completeness of the data being used by HUD in grading an indicator" is confusing. A PHA should certify to the correct data in exactly the manner prescribed by the PHMAP process. If a PHA believes that the data does not fairly represent its performance, it should submit a "modification" request, but the data in the certification shouldn't be changed.

Response: The rule, at § 901.100(b)(3), provides that a PHA may include such information in its certification, rather than through an exclusion or modification request, and that HUD will consider the information in grading the affected indicator. The intent is not to encourage a result that the certified information would be changed, but to encourage a PHA to submit corrected data, late reports, or previously omitted required data at the time it submits its PHMAP certification. This provision allows more flexibility in the PHMAP process, and helps ensure that the most recent data is available to use in completing the PHMAP assessment.

Comment: One comment felt that the provision that suggests a PHA could get

a presumptive F in all PHMAP indicators if the certification is not submitted on time should be clarified. Does this mean all indicators or only those which rely on the certification?

Response: The language states all indicators. This provision at § 901.100 (b)(4) gives HUD a direct and timely way of enforcing the certification requirement. Although compliance with PHMAP is the norm among PHAs, if failure to provide the certification would only result in failing grades for the indicators subject to certification, a PHA may decide to forgo submitting the certification when a passing grade could be achieved without it. This would defeat the purpose of PHMAP to assess the performance of a PHA on all of the indicators.

Computing Assessment Score—§ 901.105

Comment: Two comments agree that the establishment of clear-cut adjustment guidelines is a good addition to PHMAP.

Response: The comment is noted by the Department.

Comment: One comment stated that the physical condition of a project reflects not only the care and maintenance provided by the PHA, it also reflects the attitudes and behavior of residents in some communities. Those cases where the physical condition of the project does not improve regardless of a PHA's efforts to improve and maintain the project in safe and sanitary condition should be considered as a condition beyond the PHA's control, and a modification or exclusion should be allowed for this reason.

Response: The Department disagrees with this comment. If a resident's attitudes and behavior cause maintenance or other physical problems, it then becomes a lease enforcement issue rather than automatic grounds for a modification or exclusion request due to conditions beyond a PHA's control. However, HUD considers modification and exclusion requests individually, and on a case by case basis, and grants or denies them as appropriate.

Comment: One comment stated that the definition of neighborhood is based on census tract and proposed that HUD permits also the option of census block groups. Census blocks allows for more specific definition of demographic characteristics.

Response: The Department agrees that PHAs may use census blocks as well as census track data, as appropriate.

Comment: One comment stated that the proposed rule excludes developments that received comprehensive modernization within the past ten years from receiving additional weight for the physical condition factor. Some PHAs receive comprehensive modernization for a portion of a larger community. When that happens, some proportional additional weight should be allowed for the physical condition factor.

Response: The Department has determined that if only certain units or developments received substantial rehabilitation, the additional weight would be prorated to exclude the units or developments with substantial rehabilitation. The revision to the PHMAP Handbook 7460.5 will include examples of proration.

Comment: One comment suggested that an alternative for weighting could be to provide extra credit for PHAs that, because of aggressive efforts to develop joint programs, are able to mitigate the adverse conditions in the general vicinity of the developments as well as within them.

Response: The Department may not provide an alternative to the physical condition and neighborhood environment factors because they are statutory. A PHA's efforts to mitigate the adverse conditions in the general vicinity of the developments will be recognized by the resident involvement indicator to the extent the PHA involves residents in such efforts. In general, it is expected that a well-managed PHA would have a positive influence on the adverse conditions in its general vicinity, but the PHA's primary responsibility is to conditions within its developments, and this remains the focus of PHMAP.

Comment: One comment felt that adjustments for physical condition and neighborhood environment are too liberal and can result in artificially inflated scores.

Response: The Department disagrees with this comment, since the adjustments for physical condition and/or their neighborhood environment apply to the following three indicators only: indicator #1, vacancy percentage and unit turnaround; indicator #4, work orders; and indicator #5, annual inspection and condition of units and systems.

Comment: One comment reflected that § 901.105(d)(3)(ii) states that developments that have received comprehensive modernization within the past ten years are not eligible for a weighted score for the physical condition factor. Are these developments eligible for the neighborhood factor?

Response: Yes, these developments are eligible for the neighborhood environment factor.

Comment: One comment reflected that § 901.105(d)(3)(iii) states that a PHA that receives a grade of A under indicators #4 and #5 may not claim the additional weight for indicator #1 since the physical condition of its developments is not applicable. Is a PHA eligible for the additional weight for indicator #1 using the neighborhood environment factor?

Response: Yes, such a PHA is eligible for the neighborhood environment factor.

Comment: One comment disagreed that a PHA that receives a grade of A under indicators #4 and #5 may not claim the additional weight for indicator #1 since the physical condition of its developments is not applicable. The ability of management to lease a vacant unit bears a direct relationship to its age and neighborhood environment. A PHA's ability to market a unit and a housing applicant's decision to rent a unit is influenced by the neighborhood conditions and environment in which the development is located. Accordingly, the additional weight for indicator #1 should be permitted. Another comment stated that a PHA could be doing a good job of inspecting units and responding to work orders and still have a high vacancy rate at one or more of its developments due to neighborhood environment (if not also physical condition). A PHA has the right to qualify under either one or both.

Response: The Department disagrees with this comment, and maintains that if a unit is in good physical condition, the age of the unit has little bearing on the ability to rent the unit. HUD believes that well maintained units, as evidenced by an outstanding rating in the areas of work orders and the condition of units and systems, are not eligible for the additional weight for physical condition, since indicators #4 and #5 account for the physical condition of a PHA's units. The additional weight based upon neighborhood environment for indicator #1 is permitted in such a case.

Comment: One comment stated that since PHAs already have the right to seek modifications or exclusions, rewarding PHAs with bonus points seems ludicrous.

Response: The additional weight given the factors of physical condition and neighborhood environment represents the Department's implementation of the statutory mandate to have the weights assigned to various indicators reflect these factors. The use of exclusion and modification

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requests implements the statutory mandate that PHAs not be penalized as a result of circumstances beyond their control.

Comment: One comment stated that the additional points made available to PHAs that demonstrate a significant number of units subject to adverse physical conditions or neighborhood environment, seem significant. If over 50% of a PHA's units are subject to such conditions, a PHA may get no more than one additional point for each of the three indicators that can be adjusted under the rule.

Response: This comment is correct, and the Department believes that this represents a fair and equitable adjustment for the physical condition and neighborhood environment of a PHA's developments.

Comment: One comment stated that the proposed rule also excludes "developments that have received comprehensive modernization funds within the past ten year" from eligibility for the adjustment based on physical condition. This should be revised to make it clear that "comprehensive modernization" does not simply mean the use of any CGP money, but contemplates, for example, "significant capital investments that addresses more than 80% of a development's assessed capital need."

Response: The Department has defined modernization to include not only the CIAP and CGP, but also the Vacancy Reduction Program, Hope VI Program, and any successor program(s) to the CGP or the CIAP. For indicator #2, modernization, all components apply to both the CGP and the CIAP. Only components #3, #4 and #5 apply to funding under the Hope VI Program and the Vacancy Reduction Program for the assessment of indicator #2.

Comment: One comment thought this section should be more explicit in order to allow anyone to actually compute a PHA's score following the instructions, and examples should be provided.

Response: The Department agrees, and examples of how to compute a PHA's score will be included in the revision to the PHMAP Handbook 7460.5.

Comment: One comment stated that the provision for "adjustment for physical condition and neighborhood environment" makes reference to units located in developments over 10 years old that require major capital investment. HUD needs to clarify how that applies to scattered-site projects where the age of the units and buildings will vary greatly.

Response: For scattered site projects, where the age of the units and buildings vary, the Date of Full Availability (DOFA) should be applied. Normally, when a PHA purchases scattered site units, they are rehabilitated prior to occupancy. DOFA also applies in cases where scattered site units are built under new construction.

Comment: One comment pointed out that HUD needs to define how to compute the 5% (of the units) to which the limiting conditions apply for the "adjustment for physical condition and neighborhood environment." Is it individually computed or cumulative (i.e., 5% of physical condition vs. 3% of physical condition plus 2% of neighborhood environment condition).

Response: The percent of units to which the limiting conditions apply is computed as the total number for physical condition (PC) and neighborhood environment (NE) with each unit counted only once if both apply to it (so that a PHA with 10 units both PC and NE + 5 units PC only + 5 units NE only would have 20 eligible units that would be used for purposes of computing the percent applicable to indicators #1, #4 and #5; unless the PHA received a grade of A in indicators #4 and #5, then indicators #4 and #5 would have zero eligible units, and indicator # 1 would have 15 eligible units for purposes of computing the percent). This procedure of adding the number of units to which both conditions apply to the number of units to which only one condition applies is followed because the rule reads, "Any PHA with 5% or more of its units *subject to either or both of the above conditions* shall, if they so choose, be issued a weighted PHMAP score in addition to the regular score based solely upon the certification of the PHA."

Comment: One comment stated that the provision for "adjustment for physical condition and neighborhood environment" states that PHAs will certify to "which of the indicators the extra scoring will be added." How is the PHA to make this determination? What would preclude the PHA to add the points to all three indicators? The sample certification form offers no clarification of this issue, nor does the rule. The PHA should be required to certify the data used to claim the "adjustment."

Response: A PHA does certify to the adjustment for physical condition (PC) and neighborhood environment (NE). It could and should add the points to each of the three indicators to which the weights apply. Example: a 100 unit (scattered site) PHA has 10 units both PC and NE + 10 units PC only + 10 units NE only. In this case .8 is added to indicators #1, #4 and #5 (because both or either conditions apply to at least 30% but less than 40% of the units, and .8 is the weight added for this percentage range), except if indicators #4 and #5 get grades of A, zero is added to indicators #4 and #5, and .7 is added to indicator #1 (because PC does not apply for purposes of indicator #1 when indicators #4 and #5 get grades of A, and so the 10 units would not be counted for indicator #1, leaving 20 eligible units, 20% of the total, for which .7 is the added weight).

Comment: One comment suggested that § 901.105(d)(3)(ii) should read: Units in developments that have received comprehensive modernization within the past ten years are not eligible to be included in the calculation of total PHA units subject to "management difficulties" due to physical condition only.

Response: The Department agrees and has rephrased that section to read: Units in developments that have received substantial rehabilitation within the past ten years are not eligible to be included in the calculation of total PHA units due to physical condition only.

Comment: One comment felt that § 901.105(d)(3)(iv) should be clarified since it is confusing.

Response: The Department agrees, and this has been clarified in the new rule to state that a PHA's score for indicators #1, #4 and/or #5, after any adjustment(s) for physical condition and/or neighborhood environment, may not exceed the maximum potential weighted points assigned to the respective indicator(s).

PHA Request for Exclusion or Modification—§ 901.110

Comment: Two comments stated that the previous interim rule permits a PHA to submit a request if the PHA were to discover and demonstrate "highly unusual circumstances." The commenters urge HUD to retain this mechanism to permit consideration of first-time exclusion/modification requests at the appellate level. It is recognized and expected that HUD would subject such requests to strict scrutiny, but there is no reason why such matters cannot be solved by State/Area Office Directors of Public Housing as part of the appellate process rather than at the Assistant Secretary level.

Response: This stipulation was eliminated because it restricted the grounds for appeal.

Comment: One comment reflected that this section requires that a request for an exclusion or modification be submitted at the time of certification. There has been no understanding from HUD on how it grades certain items or

what time periods are considered for the indicators that HUD grades. PHAs should have the right to request an exclusion or modification on the HUD-graded indicators after HUD has announced the preliminary grades on them.

Response: The indicators scored by HUD are based on information that a PHA submits to HUD on other reports. Therefore, a PHA should know what its HUD graded scores are based on. The interim and proposed rules clearly state "annual" and "immediate past fiscal year," except for components #2–1 and #2–2, where they clearly state Federal fiscal year.

PHA Score and Status—§ 901.115

Comment: Seventeen comments felt that denying high performer status to a PHA if it scores below a C on any indicator is not a good change. It does not make sense to punish a PHA for only one low score; the total numerical rating should be the only determination in high/standard/troubled performer. The commenters noted that under the proposed rule, PHAs with the same overall score could receive different ratings; this does not seem equitable. The overall performance of the PHA operation is being graded, not an indicator. Denying high performer status to a PHA that gets less than a C in any indicator should be dropped from the rule. Two other comments felt that a system that really identifies and rewards outstanding performance is much more desirable.

Response: The Department believes that high performer designation should identify outstanding management performance, and thus stipulates that a PHA shall not be designated as a high performer if it receives less than a C for any indicator. The intent in not to punish a PHA, but rather to recognize PHAs for outstanding management performance. It has always been possible for PHAs to have the same score, but a different designation, when high performer designation was awarded or when troubled designation was withheld.

Comment: One comment notes that § 901.115(g)(1) stipulates that PHMAP incentives or high performer status could be rescinded in the case of a PHA that is operating under a special agreement with HUD. The commenter asks what a special agreement is and how does it bear on a PHA's actual performance rating under PHMAP? Three additional comments strongly opposes sections 901.115(g)(2) and (3), which would allow the State/Area HUD Office to deny or rescind incentives or high performer status for PHAs either involved in litigation that bears directly upon the management of PHAs or are operating under a court order. HUD should require that the "specific explanation" referred to in § 901.115(g) include, at least, a summary of proven fraud, misconduct, or substantial noncompliance. PHAs that can achieve high performer status while operating under these conditions should not be penalized by HUD for continuing to manage operations efficiently and demonstrate positive effort to eliminate obstacles while improving housing conditions for families.

Response: Section 901.115(k) only delineates the exceptional circumstances under which State/Area Offices may deny or rescind initiatives or high performer status. Such actions are not automatic when these exceptional circumstances are present, but are determined on a case by case basis with consideration of the specific circumstances involved. In addition, these determinations may be appealed to the Assistant Secretary, providing an additional safeguard that they will not be made without due deliberation.

Comment: One comment suggested that HUD should submit a written explanation of any PHMAP score of C or below on any indicator not directly certified by the PHA because PHAs are required to submit an Improvement Plan for indicators with grades under C.

Response: The indicators scored by HUD are based on information that a PHA submits to HUD on other reports. Therefore, a PHA should know on what its HUD graded scores are based. Improvement plans are only required for a grade of F and a State/Area Office may require it for every indicator with a grade of D or E.

Comment: One comment observed that in the preamble to the previous interim rule, HUD stated that it would address how the State/Area Offices will determine at which PHAs it would conduct confirmatory reviews in handbook guidance. HUD should at least provide handbook guidance on the factors that the State/Area Office will consider to select a PHA for a confirmatory review.

Response: The Department has provided such guidance in the Field Office Monitoring of Public Housing Agencies (PHAs) Handbook 7460.7 REV–2.

Comment: One comment stated that § 901.115(e) suggests that a "small" PHA (100 units or less) will not be designated as mod-troubled, no matter how bad their program is. This is not reasonable.

Response: Section 901.115(e) of the proposed rule reads, "PHAs with more than 100 units that achieve a total weighted score of less than 60% on indicator (2), modernization, shall be designated as mod-troubled." The Department agrees that these "small" PHAs should also be assessed on their modernization program, and will amend this section accordingly.

Comment: One comment stated that in § 901.115(h), the reference to "paragraph (e)" should be a reference to "paragraph (g)."

Response: HUD agrees and has amended § 901.115(l) to reference § 901.115(k).

Posting of PHA PHMAP Scores

Comment: Four comments felt that the posting of PHA PHMAP scores should be required at all offices, rather than in all developments, since many developments are too small to have an office or any other building where such notice could be posted, and it is virtually impossible to do with scattered site projects. Notice can be mailed to residents where it is impractical or inappropriate to post the notice.

Response: The Department agrees and has amended this section accordingly.

Comment: Three comments felt that it was not clear why the posting of PHMAP scores is necessary, or why are PHAs being singled out when reviews of other public entities are not held up for public scrutiny. To post a score with no explanation is silly and there would be no way to post an explanation. By the same token, to publish in the **Federal Register** is not really fair without offering a PHA an opportunity to explain why they may have scored poorly in a particular area.

Response: This provision was recommended by the Office of Management and Budget in the course of its review of the proposed rule in accordance with Executive Order 12866. These requirements are intended to make the community, and tenants in particular, aware of their PHA's management score and to encourage dialogue among the PHA, residents and the community.

Comment: One comment felt that the rule should make clear that PHAs are only required to post and report out final PHMAP scores and do not have to post and report any score that is appealed in a timely basis and is under consideration by HUD.

Response: The Department agrees and has amended this section accordingly.

Comment: One comment observed that § 901.120(b) references a "handicapped" score. This term is not used elsewhere in the rule. It should be changed to "adjustment for physical

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condition and neighborhood environment".

Response: The Department agrees and will amend this section accordingly.

Comment: One comment stated that § 901.120(c) should explicitly state that a normal "confirmatory review" is to be conducted prior to the issuance of the initial notification letter. This way, the statement in paragraph (c)(1) about "exceptional circumstance" will make sense.

Response: The Department agrees and has added appropriate language to the rule.

Comment: One comment reflects that § 901.120(c)(1) states that the results of a confirmatory review should be explained in writing if the review is conducted after the issuance of the initial notification letter. The results of confirmatory reviews should always be explained in writing to the PHA, regardless of when conducted.

Response: The Department agrees and has added appropriate language to the rule.

Making the Right Decision

The Department specifically expressed its interest in receiving comments concerning ways in which PHAs can receive positive recognition within the context of this regulation for making the right decision.

Comment: One comment stated that it is unreasonable to put forth an assessment system which rewards highly graded performance and not expect actions to be guided by that system.

Response: The Department recognizes that PHMAP scores should not be interpreted as the sole determinant of a PHA's performance, nor should actions be solely guided by the PHMAP. Good management recognizes and balances all variables in the day-to-day operations of a PHA.

Comment: One comment agrees with a PHA doing the right thing. If doing the right thing is important for the PHA, then HUD should also do the right thing. HUD should ensure that PHMAP scores can be adjusted appropriately for any situation that results in lower grading of any indicator that occurs while doing the right thing. Recognition is nice, but PHMAP should be designed in such a way as to actually reward PHAs for right decisions, not simply recognize them outside the program structure.

Response: The Department believes that the ability to request a modification or exclusion of any indicator will usually result in the appropriate adjustments for making the right decision. The Department will continue to explore ways to provide incentives to PHAs for making the right decisions that result in the long-term improvement of overall PHA operations and of a PHA's housing stock. In addition, the Department will recognize such PHAs at the Performance Awards Ceremony.

State/Area Office Functions—§ 901.120

Comment: One comment reflected that § 901.120(2)(c) states the purpose of on-site confirmatory reviews but does not provide a standard applied circumstance under which or manner in which they will be carried out. The new rule should stipulate that an on-site confirmatory review is required before a State/Area Office can decide to change the PHMAP score certified by a PHA, and should include specifically what documentation State/Area Offices must review as a basis for determining the validity of PHA performance certifications. The confirmatory review documentation requirements should be adequate to meet HUD's verification needs while at the same time comply with the Paperwork Reduction Act.

Response: State/Area Offices conduct confirmatory reviews on a risk management basis, as discussed in the Field Office Monitoring of Public Housing Agencies (PHAs) Handbook 7460.7 REV–2. The confirmatory review guidebook and the revised PHMAP Handbook, which will be issued subsequent to the publication of the new rule, will include appropriate guidance regarding the conduct of confirmatory reviews. The rule requires confirmatory reviews of PHAs with 100 or more units before removing a designation of troubled or mod-troubled. In addition, the rule requires a confirmatory review of any PHA that scores less than 60% for its total weighted score, or less than 60% on indicator #2, modernization, before the designation of a PHA as troubled or mod-troubled. Although troubled or mod-troubled pre-designation confirmatory reviews were not previously mandatory, the Department has determined that such reviews can be significant elements of its risk management approach to PHMAP and can maximize the efficient use of its limited resources.

Appeals—§ 901.125

Comment: One comment urged HUD to extend the deadline for appeals to the State/Area to the 30th calendar day after the PHMAP initial notification letter is received. The deadline in the proposed rule of 15 days after mailing is not sufficient time to file a carefully crafted appeal, nor should the time to appeal be measured from the date of mailing. The losing party in a Federal lawsuit has 30 days to appeal. HUD should provide no less time to a PHA that contends it has not been fairly or accurately assessed.

Response: The Department has determined not to change the time frame for a PHA to submit an appeal. The experience of HUD has been that appeals received in Headquarters are well thought out and presented. A PHA that submits an appeal should not have to go through a lengthy process in order to appeal; the documentation and information should be readily available since the PHA would have researched the information in order to submit its certification.

Comment: One comment stated that the proposed rule does not specifically permit an appeal from a State/Area Office rejection of a claim for additional scoring adjustment that is based on the physical condition or neighborhood environment of housing developments. Although the proposed rule appears to cover disputes over the analysis or accuracy of data submitted in support of the claim, it would not cover disputes over whether a PHA maintained adequate documentation to support its claim. The proposed rule covers this type of dispute as it relates to denials of exclusion or modification requests but does not extend to a dispute over weighted scoring. This appears to be an unintended oversight and should be corrected.

Response: HUD agrees and has amended this section accordingly.

Comment: One comment urges HUD to reconsider the amorphous term "data errors" that the proposed rule would carry over from the previous interim rule or in the PHMAP Handbook 7460.5. HUD's failure to explain the meaning of this term could result in ad hoc, overly narrow interpretations by State/Area Offices in individual ratings. HUD should revise this ground for appeal to encompass any dispute over the accuracy, calculation, or interpretation of data employed in the grading process that, if resolved in the PHA's favor, would affect its regular or weighted score.

Response: The Department has changed the language to read, "any dispute over the accuracy, calculation, or interpretation of data employed in the grading process that would affect a PHA's PHMAP score."

Comment: One comment stated that according to § 901.125(a), a PHA could appeal the denial of an exclusion/modification request if that denial has any effect on their total score. This is different from the 5% threshold in the current rule. If this is the intent, it should be explicitly stated.

Response: The Department believes that it is stated explicitly: "A PHA may appeal...the denial of exclusion or modification requests when their denial affects a PHA's total weighted score, * * *" As stated previously, a PHA should have the right to appeal its PHMAP score with as few restrictions as possible.

Comment: One comment thought § 901.125(a)(3) should specify how long the State/Field Offices have to rule on an appeal.

Response: State/Area Offices will be required to meet the 30 day period for responding to appeals by an internal directive that will be as binding upon them as a regulatory requirement.

Comment: One comment stated that § 901.125(a)(5) is duplicative of paragraph (a)(1)(ii).

Response: The Department agrees and has deleted § 901.125(a)(5) from the new rule.

Incentives—§ 901.130

Comment: Five comments stated that HUD should specify the actual HUD requirements that it intends to waive for high and standard performers and supports the extension of any such incentives to standard performers, as the proposed rule accomplishes. The proposed rule falls short of offering any true incentives that would encourage more PHAs to improve their performance. Besides a certificate, the only other incentives mentioned are being relieved from unspecified procedural requirements. But the rule also states that the State/Area Office has the discretion to continue to hold PHAs accountable for those same requirements. HUD must grant additional flexibility, on the record, to standard and high performing agencies. In the past, there seems to have been recognition, but little or no actual relief from administrative burdens.

Response: The Department will cite specific incentives for high and standard performers in the revision of the PHMAP Handbook 7460.5. Incentives are presented in the handbook rather than the regulation to enable the Department to revise the incentives more quickly as conditions and circumstances warrant.

Comment: One comment felt that the administrative burden on PHAs is growing and requested HUD to consider measurable relief such as the elimination of Davis-Bacon or project-based accounting for well-managed PHAs.

Response: The Department cannot eliminate administrative burdens that are separate statutory requirements, such as Davis-Bacon and project-based accounting (applicable to PHAs with 500 or more units). However, the Department's Labor Relations Office is intending to implement a provision that will allow PHAs to obtain only one HUD-determined wage rate determination for a PHA's entire fiscal year.

Comment: One comment suggested that HUD exempt PHAs with three consecutive years of standard or high performing determinations from having to calculate and certify their PHMAP indicators. Rather, the indicators could be subject to the independent public audit (IPA). If, and when, the IPA indicates that a PHA is experiencing significant management problems, it could again be subject to yearly certifications.

Response: The Department disagrees with this suggestion because the independent audit only checks the existence and consistency of a PHA's PHMAP documentation; it does not award a score. In addition, a well managed PHA should have little or no troubled certifying on an annual basis.

Comment: One comment proposes that PHAs designated as high performers for a minimum of three consecutive years be required to certify to PHMAP only every other year unless and until they are designated as something less than high performers. In the event that their PHMAP score slips to standard performer or below, PHAs would revert to annual certifications until they, once again, have established themselves as high performers for three consecutive years. This would not only be a good incentive for PHAs, but also would reduce workload of the HUD offices.

Response: As stated, above, a well managed PHA should have little or no troubled certifying on an annual basis.

Comment: One comment feels that HUD's proposal that representatives of high-performing PHAs may be requested to serve on a Departmental group working with troubled PHAs is not of sufficient benefit to most PHAs. HUD must be willing to provide real cash incentive to the PHAs that perform well, not just pat them on the back. For instance, if high-performing PHAs are able to enter into ventures that provide monies in excess of 100% PFS subsidy, they should be able to keep most, if not all, of it. The ability of high-performing PHAs to generate revenue should not be used to reward low-performing PHAs.

Response: The Department already permits the retention of "other income," as stipulated in Notice PIH 96–24, Performance Funding System Policy Revision to Encourage Public and Indian Housing Authorities to Facilitate Resident Employment and Undertake Entrepreneurial Initiatives, issued April 3, 1996.

Comment: One comment stated that the proposed rule limits incentives to mod high performers that are also overall high performers. This appears to be a change from the previous interim rule, and is unfair. Mod high performers that are overall standard performers should be able to benefit from mod incentives.

Response: The Department disagrees with this comment and believes that only outstanding performance overall and in modernization warrants the high performer designation.

Comment: One comment encourages HUD to permit the State/Area Offices to add incentives to the extent practical and as deemed appropriate.

Response: The Department agrees and has amended the new rule to permit State/Area Offices to add incentives to the extent practical and as deemed appropriate, with prior concurrence of such action by the Assistant Secretary.

Comment: One comment stated that § 901.130(g) of the proposed rule states that the State/Area Office will have discretion to subject a PHA to any requirement that would otherwise be omitted under the specified relief in accordance with § 901.115. What does this mean? It reads like an attempt to catch anything that the rule makers forgot without specifying what. Anything significant that might be recognized at some later date as omitted should be addressed as an amendment to the rule for consistent application nationwide.

Response: This section refers to cases where the specified unusual circumstances listed in § 901.115 exist at a PHA and the State/Area Office determines the necessity of reinstating any review or requirement.

Comment: One comment stated that according to § 901.130(a), both high performers and standard performers will receive incentives. If so, will these incentives be different for each group? If not, what is the advantage of achieving high performer status?

Response: The Department agrees, and will provide separate incentives for both standard and high performers.

Memorandum of Agreement—§ 901.135

Comment: One comment stated that an independent assessment team is not discussed or defined anywhere else in the rule. What is it? What are its functions? How is it assembled? The requirement for an "independent assessment" prior to "troubled" designation should be thoroughly discussed somewhere in the rule.

Response: The Department went through the procurement process to contract with the two consultants that conduct the independent assessments. The function of the two consultants is to conduct an assessment of problem areas independent of HUD, issue a report of findings, and perhaps participate in MOA negotiations. Since the independent assessment is separate from the PHMAP scoring process, the independent assessment is addressed only in § 901.135, Memorandum of Agreement, in the new rule.

Improvement Plan—§ 901.145

Comment: One comment stated that the phrase, "* * * as well as other performance and/or compliance deficiencies as may be identified as a result of an on-site review of the PHA's operations * * *, is too broad and loose. The Improvement Plan shouldn't try to cover everything; this muddies the Improvement Plan and the PHMAP process. This section should specify that additional issues may be added to the Improvement Plan only if HUD and the PHA agree that they are directly related to PHA non-performance in the PHMAP deficiencies.

Response: The Department disagrees with this suggestion and believes that the rule should provide the flexibility to permit identified deficiencies to be addressed as soon as possible, whether they are related to PHMAP or not. This provision allows all identified deficiencies to be addressed in one document.

PHMAP Public Record—§ 901.155

Comment: One comment raised several questions, such as: how do FOIA requirements apply to PHMAP records, if at all; how do these requirements complement each other; are all internal HUD records on the PHMAP assessment included in the "open public record," including those that would be excluded from the normal FOIA request? This should be clarified.

Response: The FOIA does apply to PHMAP. The items listed in § 901.155 ("certifications, the records of exclusion and modification requests, appeals, and designations of status based on physical condition and neighborhood environment") are all public records, and do not make an exclusive or exhaustive list. Also included would be such items as the notification to the PHA, and the State/Area Office scoring sheet. Exemptions authorized under FOIA by 5 U.S.C. 552(b) would still apply. This section is clarified to read, "...as open records, available for public inspection for three years consistent with the Freedom of Information Act (5 U.S.C. 552) and in accordance with any procedures established by the State/Area Office to minimize disruption of normal office operations."

Substantial Default—§ 901.200

Comment: One comment observed that § 901.200 requires HUD to determine a PHA in "substantial default" if that PHA has been designated as troubled and does not show significant improvement (i.e., 10 point increase) in its PHMAP score within one year. The preamble notes that the rationale for this is that "troubled PHAs have already had more than adequate time to implement corrective action, or will have at least one year from the time of its initial troubled designation." This is not correct. Because of the PHMAP score notification process, a PHA would have less than a year to correct deficiencies once it is notified and before the next assessment. The time frame established for improvement is arbitrary and too short for real improvement to take place. It may be reasonable for some PHAs but not for others. Improvement in performance is the function of many factors. This time frame should be changed.

Response: The rule is modified to stipulate one year after final notification.

Notice and Response—§ 901.205

Comment: One comment stated that section (a) stipulates that if information from any other credible source indicates that there may exist events or conditions constituting a substantial breach or default, HUD shall advise a PHA of such information. Before taking further action, except in cases of apparent fraud or criminality, and/or if emergency conditions exist posing an imminent threat to the life, health or safety of residents, HUD shall afford the PHA a timely opportunity to initiate corrective action. This provision lends itself to unintentional abuse. The use of unidentified credible sources as the basis for action on unverified conditions could leave PHAs vulnerable to becoming the victims of political witch hunts. Even emergency conditions allow 24 hours for corrective action. At minimum, a PHA should be afforded 24 hours for emergencies and longer as appropriate for non-emergency conditions to respond with verification that the condition does or does not exist. This provision should be modified accordingly.

Response: "Timely opportunity" varies due to possible individual situations and the Department will provide for a reasonable amount of time for a PHA to initiate corrective action. The Department will consider each situation individually, and on a case by case basis, as appropriate.

Resident Participation in Competitive Proposals—§ 901.220 and Resident Petitions for Remedial Action—§ 901.225

Comment: One comment stated that § 901.220(b) and § 901.225 require at least 5% of the residents at a PHA in substantial default to indicate to HUD their interest in participating in the competitive proposal process. This percentage is unreasonably low. There isn't a PHA in the country that doesn't have at least five people out of 100 eager to get rid of the current PHA management. This doesn't necessarily mean that they know what they are talking about or are right. The Department needs to seriously consider a threshold of interest that is high enough to ensure true interest by the resident population, not just a handful of disgruntled residents.

Response: The Department agrees, and has changed the percentage in the new rule to require that 20% of the residents at a PHA in substantial default indicate to HUD their interest in participating in the competitive proposal process.

Technical Assistance—§ 901.235

Comment: One comment felt that this section is confusing and gives the impression that it is designed to limit HUD's ability to offer technical assistance and should be clarified.

Response: The Department disagrees and thinks this section very specifically states and authorizes under what circumstances HUD may provide technical assistance to troubled or near troubled PHAs.

III. Findings and Certifications

Justification for Interim Rulemaking

Although this rule could have been published as a final rule because it was first published as a proposed rule for prior notice and comment on May 6, 1996 (61 FR 20358), it is being published as an interim rule to communicate HUD's intention to continue to revise and improve the rule. Following a period of implementation and experience with this rule, HUD will again solicit public comment to further refine the PHMAP process.

Paperwork Reduction Act

The information collection requirements for the Public Housing Management Assessment Program have been approved by the Office of Management and Budget in accordance

with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2577–0156. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, local and tribal governments and the private sector. This rule does not impose any Federal mandates on any State, local or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995.

Environmental Review

A Finding of No Significant Impact with respect to the environment, in accordance with HUD regulations at 24 CFR part 50, which implements § 102(2)(C) of the National Environmental Policy Act of 1969, was prepared for the proposed rule and remains applicable. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) has reviewed and approved this rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities, since the rule only establishes management assessment criteria which will be utilized by State/Area Offices for monitoring purposes and the provision of technical assistance to PHAs.

Federalism

The General Counsel, as the Designated Official under Executive Order 12612, Federalism, has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. The rule is intended to promote good management practices by including, in HUD's relationship with PHAs, continuing review of PHAs' compliance with already existing requirements. In addition, the rule carries out, as unobtrusively as possible, a Federal statutory mandate. The rule does not create any new significant requirements of its own. As a result, the rule is not subject to review under the Order.

Family Impact. The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. The rule involves requirements for management assessment of PHAs. Any effect on the family would be indirect. To the extent families in public housing will be affected, the impact of the rule's requirements is expected to be a positive one.

List of Subjects in 24 CFR Part 901

Public housing, reporting and recordkeeping requirements.

Accordingly, part 901 of title 24 of the Code of Federal Regulations is revised to read as follows:

PART 901—PUBLIC HOUSING MANAGEMENT ASSESSMENT PROGRAM

Sec.

901.1 Purpose, program scope and applicability.
901.5 Definitions.
901.10 Indicator #1, vacancy rate and unit turnaround time.
901.15 Indicator #2, modernization.
901.20 Indicator #3, rents uncollected.
901.25 Indicator #4, work orders.
901.30 Indicator #5, annual inspection of units and systems.
901.35 Indicator #6, financial management.
901.40 Indicator #7, resident services and community building.
901.45 Indicator #8, security.
901.100 Data collection.
901.105 Computing assessment score.
901.110 PHA request for exclusion or modification of an indicator or component.
901.115 PHA score and status.
901.120 State/Area Office functions.
901.125 PHA right of appeal.
901.130 Incentives.
901.135 Memorandum of Agreement.
901.140 Removal from troubled status and mod-troubled status.
901.145 Improvement Plan.
901.150 PHAs troubled with respect to the program under section 14 (mod-troubled PHAs).
901.155 PHMAP public record.
901.200 Events or conditions that constitute substantial default.
901.205 Notice and response.
901.210 Interventions.
901.215 Contracting and funding.
901.220 Resident participation in competitive proposals to manage the housing of a PHA.
901.225 Resident petitions for remedial action.
901.230 Receivership.
901.235 Technical assistance.

Authority: 42 U.S.C. 1437d(j); 42 U.S.C. 3535(d).

§ 901.1 Purpose, program scope and applicability.

(a) *Purpose.* This part establishes the Public Housing Management Assessment Program (PHMAP) to implement and augment section 6(j) of the 1937 Act. PHMAP provides policies and procedures to identify public housing agency (PHA), resident management corporation (RMC), and alternative management entity (AME) management capabilities and deficiencies, recognize high-performing PHAs, designate criteria for defining troubled PHAs and PHAs that are troubled with respect to the program under section 14 (Public Housing Modernization Program), and improve the management practices of troubled PHAs and mod-troubled PHAs.

(b) *Program scope.* The PHMAP reflects only one aspect of PHA operations, i.e., the results of its management performance in specific program areas. The PHMAP should not be viewed by PHAs, the Department or other interested parties as an all-inclusive and encompassing view of overall PHA operations. When viewing overall PHA operations, other criteria, including but not limited to, the quality of a PHA's housing stock, compliance issues, Fair Housing and Equal Opportunity issues, Board knowledge and oversight of PHA operation, etc., even though not covered under the PHMAP, are necessary in order to determine the adequacy of overall PHA operations. The PHMAP can never be designed to be the sole method of viewing a PHA's overall operations. A PHA should not manipulate the PHMAP system in the short-term in order to achieve a higher PHMAP score, thereby delaying or negating long-term improvement. Making a correct and viable long-term decision (doing the right thing) may hurt a PHA in the short-term (i.e., lower PHMAP score), but will result in improved housing stock and better overall management of a PHA over the long-term and a higher sustainable PHMAP score.

(c) *Applicability.* (1) The provisions of this part apply to PHAs and RMC/AMEs as noted in the sections of this part. The management assessment of an RMC/AME differs from that of a PHA. Because an RMC/AME enters into a contract with a PHA to perform specific management functions on a development-by-development or program basis, and because the scope of the management that is undertaken

varies, not every indicator that applies to a PHA would be applicable to each RMC/AME.

(2) Due to the fact that the PHA and not the RMC/AME is ultimately responsible to the Department under the ACC, a PHA's score will be based on all of the developments covered by the ACC, including those with management functions assumed by an RMC or AME (pursuant to a court ordered receivership agreement, if applicable). This is necessary because of the limited nature of an RMC/AME's management functions and the regulatory and contractual relationships among the Department, PHAs and RMC/AMEs.

(3) A significant feature of RMC management is that 24 CFR §§ 964.225 (d) and (h) provide that a PHA may enter into a management contract with an RMC, but a PHA may not contract for assumption by the RMC of the PHA's underlying responsibilities to the Department under the Annual Contributions Contract (ACC).

(4) When a PHA's management functions have been assumed by an AME:

(i) If the AME assumes only a portion of the PHA's management functions, the provisions of this part that apply to RMCs apply to the AME (pursuant to a court ordered receivership agreement, if applicable); or

(ii) If the AME assumes all, or substantially all, of the PHA's management functions, the provisions of this part that apply to PHAs apply to the AME (pursuant to a court ordered receivership agreement, if applicable).

(5) To ensure quality management results from a contract between an AME and a PHA, or between an AME and HUD, minimum performance criteria that relate to the PHMAP indicators, as applicable, should be included in such contract. Failure to meet the performance criteria would be a basis for termination of the contract. However, even in the absence of explicit contractual provisions, this part applies to AMEs in accordance with paragraph (b)(4) of this section, above.

§ 901.5 Definitions.

Actual vacancy rate is the vacancy rate calculated by dividing the total number of vacancy days in the fiscal year by the total number of unit days available in the fiscal year.

Adjusted vacancy rate is the vacancy rate calculated after excluding the vacancy days that are exempted for any of the eligible reasons. It is calculated by dividing the total number of adjusted vacancy days in the fiscal year by the total number of unit days available in the fiscal year.

Alternative management entity (AME) is a receiver, private contractor, private manager, or any other entity that is under contract with a PHA, or that is otherwise duly appointed or contracted (for example, by court order, pursuant to a court ordered receivership agreement, if applicable, or agency action), to manage all or part of a PHA's operations. Depending upon the scope of PHA management functions assumed by the AME, in accordance with § 901.1(b)(2), the AME is treated as a PHA or an RMC for purposes of this part and, as appropriate, the terms PHA and RMC include AME.

Assessed fiscal year is the PHA fiscal year that has been reviewed for management performance using the PHMAP indicators. Unless otherwise indicated, the assessed fiscal year is the immediate past fiscal year of a PHA.

Assistant Secretary means the Assistant Secretary for Public and Indian Housing of the Department.

Available units are dwelling units, (occupied or vacant) under a PHA's Annual Contributions Contract, that are available for occupancy, after excluding or adjusting for units approved for non-dwelling use, employee-occupied units, and vacant units approved for deprogramming (units approved for demolition, disposition or units that have been combined).

Average number of days for non-emergency work orders to be completed is calculated by dividing the total of the:

(1) Number of days in the assessed fiscal year it takes to close active non-emergency work orders carried over from the previous fiscal year;

(2) The number of days it takes to complete non-emergency work orders issued and closed during the assessed fiscal year; and

(3) The number of days all active non-emergency work orders are open in the assessed fiscal year, but not completed, by the total number of non-emergency work orders used in the calculation of paragraphs (1), (2) and (3), of this definition.

Average turnaround time is the annual average of the total number of turnaround days between the latter of the legal expiration date of the immediate past lease or the actual move-out date of the former tenant (whenever that occurred, including in some previous fiscal year) and the date a new lease takes effect. Each time an individual unit is re-occupied (turned around) during the fiscal year, the turnaround days for that unit shall be counted in the turnaround time. Average turnaround time is calculated by dividing the total turnaround days for all units re-occupied during the assessed fiscal year by the total number of units re-occupied during the assessed fiscal year.

Cash reserve is the amount of cash available for operations at the end of an annual reporting period after all necessary expenses of a PHA or development have been paid or funds have been set-aside for such payment. The cash reserve computation takes into consideration both short-term accounts receivable and accounts payable.

Confirmatory review is an on-site review for the purposes of State/Area Office verification of the performance level of a PHA, the accuracy of the data certified to by a PHA, and the accuracy of the data derived from State/Area Office files.

Correct means to improve performance in an indicator to a level of grade C or better.

Cyclical work orders are work orders issued for the performance of routine maintenance work that is done in the same way at regular intervals. Examples of cyclical work include, but are not limited to, mopping hallways; picking up litter; cleaning a trash compactor; changing light bulbs in an entryway; etc. (Cyclical work orders should not be confused with preventive maintenance work orders.)

Deficiency means any grade below C in an indicator or component.

Down time is the number of calendar days a unit is vacant between the later of the legal expiration date of the immediate past lease or the actual move-out date of the former resident, and the date the work order is issued to maintenance.

Dwelling rent refers to the resident dwelling rent charges reflected in the monthly rent roll(s) and excludes utility reimbursements, retroactive rent charges, and any other charges not specifically identified as dwelling rent, such as maintenance charges, excess utility charges and late charges.

Dwelling rent to be collected means dwelling rent owed by residents in possession at the beginning of the assessed fiscal year, plus dwelling rent charged to residents during the assessed fiscal year.

Dwelling rent uncollected means unpaid resident dwelling rent owed by any resident in possession during the assessed fiscal year, but not collected by the last day of the assessed fiscal year.

Dwelling unit is a unit that is either leased or available for lease to eligible low-income residents.

Effective lease date is the date when the executed lease contract becomes effective and rent is due and payable and all other provisions of the lease are enforceable.

Emergency means physical work items that pose an immediate threat to life, health, safety, or property, or that are related to fire safety.

Emergency status abated means that an emergency work order is either fully completed, or the emergency condition is temporarily eliminated and no longer poses an immediate threat. If the work cannot be completed, emergency status can be abated by transferring the resident away from the emergency situation.

Emergency work order is a work order, from any source, that involves a circumstance that poses an immediate threat to life, health, safety or property, or that is related to fire safety.

Employee occupied units refers to units that are occupied by employees who are required to live in public housing as a condition of their job, rather than the occupancy being subject to the normal resident selection process.

HQS means Housing Quality Standards as set forth at 24 CFR § 882.109 and amended by the Lead-Based Paint regulation at 24 CFR § 35.

Improvement Plan is a document developed by a PHA, specifying the actions to be taken, including timetables, that may be required to correct deficiencies where the grade for an indicator is a grade D or E, and shall be required to correct deficiencies of failed indicators, identified as a result of the PHMAP assessment when an MOA is not required.

Indicators means the major categories of PHA management functions that are examined under this program for assessment purposes. The list of individual indicators and the way they are graded is provided in § 901.10 through § 901.45.

Lease up time is the number of calendar days between the time the repair of a unit is completed and a new lease takes effect.

Local occupancy/housing codes are the minimum standards for human occupancy, if any, as defined by the local ordinance(s) of the jurisdiction in which the housing is located.

Maintenance plan is a comprehensive annual plan of a PHA's maintenance operation that contains the fiscal year's estimated work schedule and which is supported by a staffing plan, contract schedule, materials and procurement plan, training, and approved budget. The plan should establish a strategy for meeting the goals and time frames of the facilities management planning and execution, capital improvements, utilities, and energy conservation activities.

Major systems include, but are not limited to, structural/building envelopes which include roofing, walls, windows, hardware, flashing and caulking; mechanical systems which include heating, ventilation, air conditioning, plumbing, drainage, underground utilities (gas, electrical and water), and fuel storage tanks; electrical systems which include underground systems, above ground systems, elevators, emergency generators, door bells, electronic security devices, fire alarms, smoke alarms, outdoor lighting, and indoor lighting (halls, stairwells, public areas and exit signs); and transformers.

Make ready time is the number of calendar days between the date the unit is referred to maintenance for repair by a work order and occupancy is notified that the unit is ready for re-occupancy.

Memorandum of Agreement (MOA) is a binding contractual agreement between a PHA and HUD that is required for each PHA designated as troubled and/or mod-troubled. The MOA sets forth target dates, strategies and incentives for improving management performance; and provides sanctions if performance does not result.

Move-out date is the actual date when the resident vacates the unit, which may or may not coincide with the legal expiration of the lease agreement.

Non-emergency work order is any work order that covers a situation that is not an immediate threat to life, health, safety, or property, or that is unrelated to fire safety.

Percent of dwelling rent uncollected is calculated by dividing the amount of dwelling rent uncollected by the total dwelling rent to be collected.

PHA means a public housing agency. As appropriate in accordance with § 901.1(b)(2), PHA also includes AME.

Percentage of emergency work orders completed within 24 hours is the ratio of emergency work orders completed in 24 hours to the total number of emergency work orders. The formula for calculating this ratio is: total emergency work orders completed (or emergency status abated) in 24 hours or less, divided by the total number of emergency work orders.

PHA-generated work order is any work order that is issued in response to a request from within the PHA administration.

Preventive maintenance program is a program under which certain maintenance procedures are systematically performed at regular intervals to prevent premature deterioration of buildings and systems. The program is developed and regularly updated by the PHA, and fully documents what work is to be performed and at what intervals. The program includes a system for tracking the performance of preventive maintenance work.

Preventive maintenance work order is any work done on a regularly scheduled basis in order to prevent deterioration or breakdowns in individual units or major systems.

Reduced actual vacancy rate within the previous three years is a comparison of the vacancy rate in the PHMAP assessment year (the immediate past fiscal year) with the vacancy rate of that fiscal year which is two years previous to the assessment year. It is calculated by subtracting the vacancy rate in the assessment year from the vacancy rate in the earlier year. If a PHA elects to certify to the reduction of the vacancy rate within the previous three years, the PHA shall retain justifying documentation to support its certification for HUD post review.

Reduced the average time it took to complete non-emergency work orders during the previous three years is a comparison of the average time it took to complete non-emergency work orders in the PHMAP assessment year (the immediate past fiscal year) with the average time it took to complete non-emergency work orders of that fiscal year which is two years previous to the assessment year. It is calculated by subtracting the average time it took to complete non-emergency work orders in the PHMAP assessment year from the average time it took to complete non-emergency work orders in the earlier year. If a PHA elects to certify to the reduction of the average time it took to complete non-emergency work orders during the previous three years, the PHA shall retain justifying documentation to support its certification for HUD post review.

Resident-generated work order is a work order issued by a PHA in response to a request from a lease holder or family member of a lease holder.

Resident management corporation (RMC) means the entity that proposes to enter into, or that enters into, a management contract with a PHA in accordance with 24 CFR 964.120. As appropriate in accordance with § 901.1(b)(2), RMC also includes AME.

Routine operating expenses are all expenses which are normal, recurring fiscal year expenditures. Routine expenses exclude those expenditures that are not normal fiscal year expenditures and those that clearly represent work of such a substantial nature that the expense is clearly not a routine occurrence.

Standards equivalent to HQS are housing/occupancy inspection standards that are equal to HUD's Section 8 HQS.

Substantial default means a PHA is determined by the Department to be in violation of statutory, regulatory or contractual provisions or requirements, whether or not these violations would constitute a substantial default or a substantial breach under explicit provisions of the relevant Annual Contributions Contract (ACC) or a Memorandum of Agreement.

Unit days available are the number of days that the available units were available for occupancy in a PHA fiscal year. Unit days available are calculated by adding the number of days that each unit was available for occupancy in the year.

Units approved for non-dwelling use refers to units approved for non-dwelling status for use in the provision of social services, charitable purposes, public safety activities and resident services, or used in the support of economic self-sufficiency and anti-drug activities.

Units vacant due to circumstances and actions beyond the PHA's control are dwelling units that are vacant due to circumstances and actions that prohibit the PHA from occupying, selling, demolishing, rehabilitating, reconstructing, consolidating or modernizing the units. For purposes of this definition, circumstances and actions beyond the PHA's control are limited to:

(1) *Litigation.* The effect of court litigation such as a court order or settlement agreement that is legally enforceable. An example would be units that are required to remain vacant because of fire/police investigations, coroner's seal, or as part of a court-ordered or HUD-approved desegregation effort.

(2) *Laws.* Federal or State laws of general applicability, or their implementing regulations. This category does not include units vacant only because they do not meet minimum housing and building code standards pertaining to construction or habitability under Federal, State, or local laws or regulations, except when these code violations are caused for reasons beyond the control of the PHA, rather than as a result of management and/or maintenance failures by the PHA. Examples of exempted units under this category are: vacant units that are documented to be uninhabitable for reasons beyond the PHA's control due to high/unsafe levels of hazardous/toxic materials (e.g., lead-based paint or asbestos), by order of the local health department or directive of the Environmental Protection Agency, where the conditions causing the order are beyond the control of the PHA, and units kept vacant because they became structurally unsound (e.g., buildings damaged by shrinking/swelling subsoil or similar situations). Other examples are vacant units in which resident property has been abandoned, but only if State law requires the property to be left in the unit for some period of time, and only for the period stated in the law and vacant units required to remain vacant because of fire/police investigations, coroner's seal, or court order.

(3) *Changing market conditions.* Example of units in this category are small PHAs that are located in areas experiencing population loss or economic dislocations that face a lack of demand in the foreseeable future, even after the PHA has taken aggressive marketing and outreach measures. Where a PHA claims extraordinary market conditions, the PHA will be expected to document the market conditions to which it refers (the examples of changing population base and competing projects are the simplest), the explicit efforts that the PHA has made to address those conditions, the likelihood that those conditions will be mitigated or eliminated in the near term, and why the market conditions are such that the PHA is prevented from occupying, selling, demolishing, rehabilitating, reconstructing, consolidating or modernizing the vacant units. In order to justify the adjustment, the PHA will need to document the specific market conditions that exist and document marketing and outreach efforts. The PHA will need to describe when the downturn in market conditions occurred, the location(s) of the unit(s) effected, the likelihood that these circumstances will be mitigated or eliminated in the near term and why the market conditions are such that they are preventing the PHA from occupying, selling, demolishing, rehabilitating, reconstructing, consolidating, or modernizing the vacant units.

(4) *Natural disasters.* These are vacant units that are documented to be uninhabitable because of damaged suffered as a result of natural disasters such as floods, earthquakes, hurricanes, tornadoes, etc. In the case of a "natural disaster" claim, the PHA would be expected to point to a proclamation by the President or the Governor that the county or other local area in question has, in fact, been declared a disaster area.

(5) *Insufficient funding.* Lack of funding for otherwise approvable applications made for Comprehensive Improvement Assistance Program (CIAP) funds (only PHAs with less than 250 units are eligible to apply and compete for CIAP funds). This definition will cease to be used if CIAP is replaced by a formula grant.

(6) *Casualty Losses.* Vacant units that have sustained casualty damage and are pending resolution of insurance claims or settlements, but only until the insurance claim is adjusted, i.e., funds to repair the unit are received. The vacancy days exempted are those included in the period of time between the casualty loss and the receipt of funds from the insurer to cover the loss in whole or in part.

Vacancy day is a day when an available unit is not under lease by an eligible low-income resident. The maximum number of vacancy days for any unit is the number of days in the year, regardless of the total amount of time the unit has been vacant. Vacancy days are calculated by adding the total number of days vacant from all available units that were vacant for any reason during the PHA's fiscal year.

Vacant unit is an available unit that is not under lease to an eligible low-income family.

Vacant unit turnaround work order is a work order issued that directs a vacant unit to be made ready to lease to a new resident and reflects all work items to prepare the unit for occupancy.

Vacant unit undergoing modernization as defined in 24 CFR § 990.102. In addition, the following apply when computing time periods for a vacant unit undergoing modernization:

(1) If a unit is vacant prior to being included in a HUD-approved modernization budget, those vacancy days that had accumulated prior to the unit being included in the modernization budget must be included as non-exempted vacancy days in the calculation.

(2) The calculation of turnaround time for newly modernized units starts when the unit in turned over to the PHA from the contractor and ends when the lease is effective for the new or returning resident. Thus, the total turnaround time would be the sum of the pre-modernization vacancy time, and the post-modernization vacancy time.

(3) Unit-by-unit documentation, showing when a vacant unit was included in a HUD-approved modernization budget, when it was released to the PHA by the contractor, and when a new lease is effective for the new or returning resident, must be maintained by the PHA.

(4) Units remaining vacant more than two FFYs after the FFY in which the modernization funds are approved, may no longer be exempted from the

calculation of the adjusted vacancy rate if the construction contract has not been let. These units may be exempted again, but only after a contract is let.

Vacant units approved for deprogramming exist when a PHA's application for the demolition and/or disposition of public housing units has received written approval from HUD; or when a PHA's application to combine/convert has received written approval from HUD.

Work order is a directive, containing one or more tasks issued to a PHA employee or contractor to perform one or more tasks on PHA property. This directive describes the location and the type of work to be performed; the date and time of receipt; date and time issued to the person or entity performing the work; the date and time the work is satisfactorily completed; the parts used to complete the repairs and the cost of the parts; whether the damage was caused by the resident; and the charges to the resident for resident-caused damage. The work order is entered into a log which indicates at all times the status of all work orders as to type (emergency, non-emergency), when issued, and when completed.

Work order completed during the immediate past fiscal year is any work order that is completed during the PHA's fiscal year regardless of when it may have been received.

Work order deferred for modernization is any work order that is combined with similar work items and completed within the current PHMAP assessment year, or will be completed in the following year if there are less than three months remaining before the end of the PHA fiscal year when the work order was generated, under the PHA's modernization program or other PHA capital improvements program.

§ 901.10 Indicator #1, vacancy rate and unit turnaround time.

This indicator examines the vacancy rate, a PHA's progress in reducing vacancies, and unit turnaround time. Implicit in this indicator is the adequacy of the PHA's system to track the duration of vacancies and unit turnaround, including down time, make ready time, and lease up time. This indicator has a weight of x2.

(a) For the calculation of the actual and adjusted vacancy rate (and, if applicable, unit turnaround time), the following three categories of units (as defined in the rule at § 901.5), that are not considered available for occupancy, will be completely excluded from the computation:

(1) Units approved for non-dwelling use.

(2) Employee occupied units.

(3) Vacant units approved for deprogramming (i.e., demolition, disposition or units that have been combined).

(b) For the calculation of the adjusted vacancy rate and turnaround time, the vacancy days for units in the following categories (fully defined in the rule at § 901.5) shall be exempted:

(1) Vacant units undergoing modernization as defined in § 901.5.

(i) Only vacancy days associated with a vacant unit that meets the conditions of being a unit undergoing modernization will be exempted when calculating the adjusted vacancy rate or, if necessary, the unit turnaround time. Neither vacancy days associated with a vacant unit prior to that unit meeting the conditions of being a unit undergoing modernization nor vacancy days associated with a vacant unit after construction work has been completed or after the time period for placing the vacant unit under construction has expired shall be exempted.

(ii) A PHA must maintain the following documentation to support its determination of vacancy days associated with a vacant unit that meets the conditions of being a unit undergoing modernization:

(A) The date on which the unit met the conditions of being a vacant unit undergoing modernization: and

(B) The date on which construction work was completed or the time period for placing the vacant unit under construction expired.

(2) Units vacant due to circumstances and actions beyond the PHA's control as defined in § 901.5. Such circumstances and actions may include:

(i) Litigation, such as a court order or settlement agreement that is legally enforceable.

(ii) Federal or, when not preempted by Federal requirements, State law of general applicability or their implementing regulations.

(iii) Changing market conditions.

(iv) Natural disasters.

(v) Insufficient funding for otherwise approvable applications made for CIAP funds. This definition will cease to be used if CIAP is replaced by a formula grant.

(vi) Vacant units that have sustained casualty damage and are pending resolution of insurance claims or settlements, but only until the insurance claim is adjusted. A PHA must maintain at least the following documentation to support its determination of vacancy days associated with units vacant due to circumstances and actions beyond the PHA's control:

(A) The date on which the unit met the conditions of being a unit vacant due to circumstances and actions beyond the PHA's control;

(B) Documentation identifying the specific conditions that distinguish the unit as a unit vacant due to circumstances and actions beyond the PHA's control as defined in § 901.5;

(C) The actions taken by the PHA to eliminate or mitigate these conditions; and

(D) The date on which the unit ceased to meet such conditions and became an available unit.

(E) This supporting documentation is subject to review and may be requested for verification purposes at any time by HUD.

(c) *Component #1, vacancy percentage and progress in reducing vacancies.* A PHA may choose whether to use the actual vacancy rate, the adjusted vacancy rate or a reduction in the actual vacancy rate within the past three years. This component has a weight of x2.

(1) *Grade A:* The PHA is in one of the following categories:

(i) An actual vacancy rate of 3% or less; or

(ii) An adjusted vacancy rate of 2% or less.

(2) *Grade B:* The PHA is in one of the following categories:

(i) An actual vacancy rate of greater than 3% and less than or equal to 5%; or

(ii) An adjusted vacancy rate of greater than 2% and less than or equal to 3%.

(3) *Grade C:* The PHA is in one of the following categories:

(i) An actual vacancy rate of greater than 5% and less than or equal to 7%; or

(ii) An adjusted vacancy rate of greater than 3% and less than or equal to 4%; or

(iii) The PHA has reduced its actual vacancy rate by at least 15 percentage points within the past three years and has an adjusted vacancy rate of greater than 4% and less than or equal to 5%.

(4) *Grade D:* The PHA is in one of the following categories:

(i) An actual vacancy rate of greater than 7% and less than or equal to 9%; or

(ii) An adjusted vacancy rate of greater than 4% and less than or equal to 5%; or

(iii) The PHA has reduced its actual vacancy rate by at least 10 percentage points within the past three years and has an adjusted vacancy rate of greater than 5% and less than or equal to 6%.

(5) *Grade E:* The PHA is in one of the following categories:

(i) An actual vacancy rate of greater than 9% and less than or equal to 10%; or

(ii) An adjusted vacancy rate of greater than 5% and less than or equal to 6%; or

(iii) The PHA has reduced its actual vacancy rate by at least five percentage points within the past three years and has an adjusted vacancy rate of greater than 6% and less than or equal to 7%.

(6) *Grade F:* The PHA is in one of the following categories:

(i) An actual vacancy rate greater than 10%; or

(ii) An adjusted vacancy rate greater than 7%; or

(iii) An adjusted vacancy rate of greater than 6% and less than or equal to 7% and the PHA has not reduced its actual vacancy rate by at least five percentage points within the past three years.

(d) *Component #2, unit turnaround time.* This component is to be completed only by PHAs scoring below a grade C on component #1. This component has a weight of x1.

(1) *Grade A:* The average number of calendar days between the time when a unit is vacated and a new lease takes effect for units re-occupied during the PHA's assessed fiscal year, is less than or equal to 20 calendar days.

(2) *Grade B:* The average number of calendar days between the time when a unit is vacated and a new lease takes effect for units re-occupied during the PHA's assessed fiscal year, is greater than 20 calendar days and less than or equal to 25 calendar days.

(3) *Grade C:* The average number of calendar days between the time when a unit is vacated and a new lease takes effect for units re-occupied during the PHA's assessed fiscal year, is greater than 25 calendar days and less than or equal to 30 calendar days.

(4) *Grade D:* The average number of calendar days between the time when a unit is vacated and a new lease takes effect for units re-occupied during the PHA's assessed fiscal year, is greater than 30 calendar days and less than or equal to 40 calendar days.

(5) *Grade E:* The average number of calendar days between the time when a unit is vacated and a new lease takes effect for units re-occupied during the PHA's assessed fiscal year, is greater than 40 calendar days and less than or equal to 50 calendar days.

(6) *Grade F:* The average number of calendar days between the time when a unit is vacated and a new lease takes effect for units re-occupied during the PHA's assessed fiscal year, is greater than 50 calendar days.

§ 901.15 Indicator #2, modernization.

This indicator is automatically excluded if a PHA does not have a modernization program. This indicator examines the amount of unexpended funds over three Federal fiscal years (FFY) old, the timeliness of fund obligation, the adequacy of contract administration, the quality of the physical work, and the adequacy of budget controls. All components apply to both the Comprehensive Grant Program (CGP), the Comprehensive Improvement Assistance Program (CIAP) and lead based paint risk assessment funding (1992–1995), and any successor program(s) to the CGP or the CIAP. Only components #3, #4 and #5 apply to funding under the Hope VI Program and the Vacancy Reduction Program for the assessment of this indicator. This indicator has a weight of x1.5.

(a) *Component #1, unexpended funds over three Federal fiscal years (FFYs) old.* This component has a weight of x1.

(1) *Grade A:* The PHA has no unexpended funds over three FFYs old or is able to demonstrate one of the following:

(i) The unexpended funds are leftover funds and will be recaptured after audit;

(ii) There are no unexpended funds past the original HUD-approved implementation schedule deadline that allowed longer than three FFYs; or

(iii) The PHA has extended the time within 30 calendar days after the expenditure deadline and the time extension is based on reasons outside of the PHA's control, such as need to use leftover funds, unforeseen delays in contracting or contract administration, litigation, material shortages, or other non-PHA institutional delay.

(2) *Grade F:* The PHA has unexpended funds over three FFYs old and is unable to demonstrate any of the above conditions; or the PHA requests HUD approval of a time extension based on reasons within the PHA's control.

(b) *Component #2, timeliness of fund obligation.* This component has a weight of x2.

(1) *Grade A:* The PHA has no unobligated funds over two FFYs old or is able to demonstrate one of the following:

(i) There are no unobligated funds past the original HUD-approved implementation schedule deadline that allowed longer than two FFYs; or

(ii) The PHA has extended the time within 30 calendar days after the obligation deadline and the time extension is based on reasons outside of the PHA's control, such as need to use leftover funds, unforeseen delays in contracting or contract administration, litigation, material shortages, or other non-PHA institutional delay.

(2) *Grade F:* The PHA has unobligated funds over two FFYs old and is unable to demonstrate any of the above two conditions; or the PHA requests HUD approval of a time extension based on reasons within the PHA's control.

(c) *Component #3, adequacy of contract administration.* For the purposes of this component, the term "findings" means a violation of a statute, regulation, Annual Contributions Contract or other HUD requirement in the area of contract administration. This component has a weight of x1.5.

(1) *Grade A:* Based on HUD's latest on-site inspection and/or audit, where a written report was provided to the PHA at least 75 calendar days before the end of the PHA's fiscal year, there were no findings related to contract administration or the PHA has corrected all such findings.

(2) *Grade C:* Based on HUD's latest on-site inspection and/or audit, where a written report was provided to the PHA at least 75 calendar days before the end of the PHA's fiscal year, there were findings related to contract administration and the PHA is in the process of correcting all such findings.

(3) Grade F: Based on HUD's latest on-site inspection and/or audit, where a written report was provided to the PHA at least 75 calendar days before the end of the PHA's fiscal year, there were findings related to contract administration and the PHA has failed to initiate corrective actions for all such findings or those actions which have been initiated have not resulted in progress toward remedying all of the findings.

(d) *Component #4, quality of the physical work.* For the purposes of this component, the term "findings" means a violation of a statute, regulation, Annual Contributions Contract or other HUD requirement in the area of physical work quality. This component has a weight of x3.

(1) *Grade A:* Based on HUD's latest on-site inspection, where a written report was provided to the PHA at least 75 calendar days before the end of the PHA's fiscal year, there were no findings related to the quality of the physical work or the PHA has corrected all such findings.

(2) *Grade C:* Based on HUD's latest on-site inspection, where a written report was provided to the PHA at least 75 calendar days before the end of the PHA's fiscal year, there were findings related to the quality of the physical

work and the PHA is in the process of correcting all such findings.

(3) *Grade F:* Based on HUD's latest on-site inspection, where a written report was provided to the PHA at least 75 calendar days before the end of the PHA's fiscal year, there were findings related to the quality of the physical work and the PHA has failed to initiate corrective actions for all such findings or those actions which have been initiated have not resulted in progress toward remedying all of the findings.

(e) *Component #5, adequacy of budget controls.* This component has a weight of x1.

(1) *Grade A:* The CGP PHA has expended modernization funds only on work in HUD-approved CGP Annual Statements, CGP Five-Year Action Plan, excluding emergencies, or CIAP Budgets, or has obtained prior HUD approval for required budget revisions. The CIAP PHA has expended modernization funds only on work in HUD-approved CIAP Budgets or related to originally approved work or has obtained prior HUD approval for required budget revisions.

(2) *Grade F:* The *CGP PHA* has expended modernization funds on work that was not in HUD-approved CGP Annual Statements, CGP Five-Year Action Plan, excluding emergencies, or CIAP Budgets, and did not obtain prior HUD approval for required budget revisions. The *CIAP PHA* has expended modernization funds on work that was not in HUD-approved CIAP Budgets or was unrelated to originally approved work and did not obtain prior HUD approval for required budget revisions.

§ 901.20 Indicator #3, rents uncollected.

This indicator examines the PHA's ability to collect dwelling rent owed by residents in possession during the immediate past fiscal year by measuring the balance of dwelling rents uncollected as a percentage of total dwelling rents to be collected. This indicator has a weight of x1.5.

(a) *Grade A:* The percent of dwelling rent uncollected in the immediate past fiscal year is less than or equal to 2% of total dwelling rent to be collected.

(b) *Grade B:* The percent of dwelling rent uncollected in the immediate past fiscal year is greater than 2% and less than or equal to 4% of total dwelling rent to be collected.

(c) *Grade C:* The percent of dwelling rent uncollected in the immediate past fiscal year is greater than 4% and less than or equal to 6% of total dwelling rent to be collected.

(d) *Grade D:* The percent of dwelling rent uncollected in the immediate past fiscal year is greater than 6% and less than or equal to 8% of total dwelling rent to be collected.

(e) *Grade E:* The percent of dwelling rent uncollected in the immediate past fiscal year is greater than 8% and less than or equal to 10% of total dwelling rent to be collected.

(f) *Grade F:* The percent of dwelling rent uncollected in the immediate past fiscal year is greater than 10% of total dwelling rent to be collected.

§ 901.25 Indicator #4, work orders.

This indicator examines the average number of days it takes for a work order to be completed, and any progress a PHA has made during the preceding three years to reduce the period of time required to complete maintenance work orders. Implicit in this indicator is the adequacy of the PHA's work order system in terms of how a PHA accounts for and controls its work orders, and its timeliness in preparing/issuing work orders. This indicator has a weight of x1.

(a) *Component #1, emergency work orders completed within 24 hours or less.* All emergency work orders should be tracked. This component has a weight of x1.

(1) *Grade A:* At least 99% of emergency work orders were completed or the emergency was abated within 24 hours or less during the PHA's immediate past fiscal year.

(2) *Grade B:* At least 98% of emergency work orders were completed or the emergency was abated within 24 hours or less during the PHA's immediate past fiscal year.

(3) *Grade C:* At least 97% of emergency work orders were completed or the emergency was abated within 24 hours or less during the PHA's immediate past fiscal year.

(4) *Grade D:* At least 96% of emergency work orders were completed or the emergency was abated within 24 hours or less during the PHA's immediate past fiscal year.

(5) *Grade E:* At least 95% of emergency work orders were completed or the emergency was abated within 24 hours or less during the PHA's immediate past fiscal year.

(6) *Grade F:* Less than 95% of emergency work orders were completed or the emergency was abated within 24 hours or less during the PHA's immediate past fiscal year.

(b) *Component #2, average number of days for non-emergency work orders to be completed.* All non-emergency work orders that were active during the assessed fiscal year should be tracked (including preventive maintenance work orders), except non-emergency work orders from the date they are deferred for modernization, issued to prepare a vacant unit for re-rental, or issued for the performance of cyclical maintenance. This component has a weight of x2.

(1) *Grade A:* All non-emergency work orders are completed within an average of 25 calendar days.

(2) *Grade B:* All non-emergency work orders are completed within an average of greater than 25 calendar days and less than or equal to 30 calendar days.

(3) *Grade C:* The PHA is in one of the following categories:

(i) All non-emergency work orders are completed within an average of greater than 30 calendar days and less than or equal to 40 calendar days; or

(ii) The PHA has reduced the average time it takes to complete non-emergency work orders by at least 15 days during the past three years.

(4) *Grade D:* The PHA is in one of the following categories:

(i) All non-emergency work orders are completed within an average of greater than 40 calendar days and less than or equal to 50 calendar days; or

(ii) The PHA has reduced the average time it takes to complete non emergency work orders by at least 10 days during the past three years.

(5) *Grade E:* The PHA is in one of the following categories:

(i) All non-emergency work orders are completed within an average of greater than 50 calendar days and less than or equal to 60 calendar days; or

(ii) The PHA has reduced the average time it takes to complete non-emergency work orders by at least 5 days during the past three years.

(6) *Grade F:* The PHA is in one of the following categories:

(i) All non-emergency work orders are completed within an average of greater than 60 calendar days; or

(ii) The PHA has not reduced the average time it takes to complete non-emergency work orders by at least 5 days during the past three years.

§ 901.30 Indicator #5, annual inspection of units and systems.

This indicator examines the percentage of units that a PHA inspects on an annual basis in order to determine short-term maintenance needs and long-term modernization needs. Implicit in this indicator is the adequacy of the PHA's inspection program in terms of the quality of a PHA's inspections, and how a PHA tracks both inspections and needed repairs. All occupied units are required to be inspected. This indicator has a weight of x1.

(a) Units in the following categories are exempted and not included in the calculation of the total number of units,

and the number and percentage of units inspected. Systems that are a part of individual dwelling units that are exempted, or a part of a building where all of the dwelling units in the building are exempted, are also exempted from the calculation of this indicator:

(1) Occupied units where the PHA has made two documented attempts to inspect, but only if the PHA can document that appropriate legal action (up to and including eviction of the legal or illegal occupant(s)), has been taken under provisions of the lease to ensure that the unit can be subsequently inspected.

(2) Units vacant for the full immediate past fiscal year for the following reasons, as defined at § 901.5:

(i) Vacant units undergoing modernization; and

(ii) Vacant units that are documented to be uninhabitable for reasons beyond a PHA's control due to:

(A) High/unsafe levels of hazardous/toxic materials;

(B) By order of the local health department or a directive of the Environmental Protection Agency;

(C) Natural disasters; and

(D) Units kept vacant because they became structurally unsound.

(b) *Component #1, annual inspection of units.* This component refers to an inspection using either the local housing and/or occupancy code, or HUD HQS if there is no local code or the local code is less stringent that HQS. This component has a weight of x1.

(1) *Grade A:* The PHA inspected 100% of its units and, if repairs were necessary for local code or HQS compliance, either completed the repairs during the inspection; issued work orders for the repairs; or referred similar work items to the current year's modernization program, or to next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was completed.

(2) *Grade B:* The PHA inspected less than 100% but at least 97% of its units and, if repairs were necessary for local code or HQS compliance, either completed the repairs during the inspection; issued work orders for the repairs; or referred similar work items to the current year's modernization program, or to next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was completed.

(3) *Grade C:* The PHA inspected less than 97% but at least 95% of its units and, if repairs were necessary for local code or HQS compliance, either completed the repairs during the inspection; issued work orders for the repairs; or referred similar work items to the current year's modernization program, or to next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was completed.

(4) *Grade D:* The PHA inspected less than 95% but at least 93% of its units and, if repairs were necessary for local code or HQS compliance, either completed the repairs during the inspection; issued work orders for the repairs; or referred similar work items to the current year's modernization program, or to next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was completed.

(5) *Grade E:* The PHA inspected less than 93% but at least 90% of its units and, if repairs were necessary for local code or HQS compliance, either completed the repairs during the inspection; issued work orders for the repairs; or referred similar work items to the current year's modernization program, or to next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was completed.

(6) *Grade F:* The PHA has failed to inspect at least 90% of its units; or failed to correct deficiencies during the inspection or issue work orders for the repairs; or failed to refer similar work items to the current year's modernization program, or to next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was completed.

(c) *Component #2, annual inspection of systems.* This component examines the inspection of buildings and sites according to the PHA's maintenance plan, including performing the required maintenance on structures and systems in accordance with manufacturer's specifications and established local/PHA standards, or issuing work orders for maintenance/repairs, or including identified deficiencies in this year's modernization program, or in next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was performed. This component has a weight of x1.

(1) *Grade A:* The PHA inspected all major systems at 100% of its buildings and sites, according to its maintenance plan. The inspection included performing the required maintenance on structures and systems in accordance with manufacturer's specifications and established local/PHA standards, or issuing work orders for maintenance/repairs, or including identified deficiencies in the current year's modernization program, or in next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was performed.

(2) *Grade B:* The PHA inspected all major systems of at least a minimum of 90% but less than 100% of its buildings and sites, according to its maintenance plan. The inspection included performing the required maintenance on structures and systems in accordance with manufacturer's specifications and established local/PHA standards, or issuing work orders for maintenance/repairs, or including identified deficiencies in the current year's modernization program, or in next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was performed.

(3) *Grade C:* The PHA inspected all major systems of at least a minimum of 80% but less than 90% of its buildings and sites, according to its maintenance plan. The inspection included performing the required maintenance on structures and systems in accordance with manufacturer's specifications and established local/PHA standards, or issuing work orders for maintenance/repairs, or including identified deficiencies in the current year's modernization program, or in next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was performed.

(4) *Grade D:* The PHA inspected all major systems of at least a minimum of 70% but less than 80% of its buildings and sites, according to its maintenance plan. The inspection included performing the required maintenance on structures and systems in accordance with manufacturer's specifications and established local/PHA standards, or issuing work orders for maintenance/repairs, or including identified deficiencies in the current year's modernization program, or in next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was performed.

(5) *Grade E:* The PHA inspected all major systems of at least a minimum of 60% but less than 70% of its buildings and sites, according to its maintenance plan. The inspection included performing the required maintenance on structures and systems in accordance with manufacturer's specifications and established local/PHA standards, or

issuing work orders for maintenance/repairs, or including identified deficiencies in the current year's modernization program, or in next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was performed.

(6) *Grade F:* The PHA failed to inspect all major systems of at least 60% of its buildings and sites and perform the required maintenance on these systems in accordance with manufacturers specifications and established local/PHA standards, or did not issue work orders for maintenance/repairs, or did not include identified deficiencies in the current year's modernization program, or in next year's modernization program if there are less than three months remaining before the end of the PHA fiscal year when the inspection was performed.

§ 901.35 Indicator #6, financial management.

This indicator examines the amount of cash reserves available for operations and, for PHAs scoring below a grade C on cash reserves, energy/ utility consumption expenses. This indicator has a weight of x1.

(a) *Component #1, cash reserves.* This component has a weight of x2.

(a) *Grade A:* Cash reserves available for operations are greater than or equal to 15% of total actual routine expenditures, or the PHA has cash reserves of $3 million or more.

(2) *Grade B:* Cash reserves available for operations are greater than or equal to 12.5%, but less than 15% of total actual routine expenditures.

(3) *Grade C:* Cash reserves available for operations are greater than or equal to 10%, but less than 12.5% of total actual routine expenditures.

(4) *Grade D:* Cash reserves available for operations are greater than or equal to 7.5%, but less than 10% of total actual routine expenditures.

(5) *Grade E:* Cash reserves are greater than or equal to 5%, but less than 7.5% of total actual routine expenditures.

(6) *Grade F:* Cash reserves available for operations are less than 5% of total actual routine expenditures.

(b) *Component #2, energy consumption.* Either option A or option B of this component is to be completed only by PHAs that score below a grade C on component #1. Regardless of a PHA's score on component #1, it will not be scored on component #2 if all its units have tenant paid utilities. Annual energy/utility consumption expenses includes water and sewage usage. This component has a weight of x1.

(1) *Option A, annual energy/utility consumption expenses.*

(i) *Grade A:* Annual energy/utility consumption expenses, as compared to the average of the three years' rolling base consumption expenses, have not increased.

(ii) *Grade B:* Annual energy/utility consumption expenses, as compared to the average of the three years' rolling base consumption expenses, have not increased by more than 3%.

(iii) *Grade C:* Annual energy/utility consumption expenses, as compared to the average of the three years' rolling base consumption expenses, have increased by more than 3% and less than or equal to 5%.

(iv) *Grade D:* Annual energy/utility consumption expenses, as compared to the average of the three years' rolling base consumption expenses, have increased by more than 5% and less than or equal to 7%.

(v) *Grade E:* Annual energy/utility consumption expenses, as compared to the average of the three years' rolling base consumption expenses, have increased by more than 7% and less than or equal to 9%.

(vi) *Grade F:* Annual energy/utility consumption expenses, as compared to the average of the three years' rolling base consumption expenses, have increased by more than 9%.

(2) *Option B, energy audit.*

(i) *Grade A:* The PHA has completed or updated its energy audit within the past five years and has implemented all of the recommendations that were cost effective.

(ii) *Grade C:* The PHA has completed or updated its energy audit within the past five years, has developed an implementation plan and is on schedule with the implementation plan, based on available funds. The implementation plan identifies at a minimum, the items from the audit, the estimated cost, the planned funding source, and the anticipated date of completion for each item.

(iii) *Grade F:* The PHA has not completed or updated its energy audit within the past five years, or has not developed an implementation plan or is not on schedule with its implementation plan, or has not implemented all of the recommendations that were cost effective, based on available funds.

§ 901.40 Indicator #7, Resident Services and Community Building.

This indicator examines the PHA's efforts to deliver quality customer services and to encourage partnerships with residents, resident organizations, and the local community, including non-PHA service providers, that help improve management operations at the PHA; and to encourage programs that promote individual responsibility, self improvement and community involvement among residents and assist them to achieve economic uplift and develop self-sufficiency. Also, if applicable, this indicator examines PHA performance under any special HUD grant(s) administered by the PHA. PHAs can get credit for performance under non-HUD funded programs if they choose to be assessed for these programs. PHAs with fewer than 250 units or with 100% elderly developments will not be assessed under this indicator unless they request to be assessed at the time of PHMAP certification submission. This indicator has a weight of x1.

(a) *Component #1, economic uplift and self-improvement.* PHAs will be assessed for all the programs that the PHA has HUD funding to implement. Also, PHAs can get credit for implementation of programs through partnerships with non-PHA providers, even if the programs are not funded by HUD or the PHA, if they choose to be assessed for them. PHAs must select either to be assessed for all or none of the non-HUD funded programs. This component has a weight of x1.

(1) *Grade A:* The PHA Board of Commissioners, by resolution, has adopted one or more economic uplift and self-improvement programs, examples include but are not limited to, the Section 3 program, homeownership, PHA support for resident education, training, child-care, job-placement programs, Head Start, etc., and the PHA can document that it has implemented these programs in developments covering at least 90% of its family occupied units, either directly or through partnerships with non-PHA providers, and the PHA monitors performance under the programs and issues reports concerning progress, including residents receiving services and residents employed, under these programs.

(2) *Grade C:* The PHA Board of Commissioners, by resolution, has adopted one or more economic uplift and self-improvement programs, including but not limited to, the programs described in grade A, above, and the PHA can document that it has implemented these programs in developments covering at least 60% of its family occupied units, either directly or through partnerships with non-PHA providers, and the PHA staff monitors performance under the programs and issues reports to the Board concerning progress, including residents receiving

services and residents employed, under these programs.

(3) Grade F: The PHA Board of Commissioners, by resolution, has not adopted one or more economic uplift and self-improvement programs, including but not limited to, the programs described in grade A, above, or the PHA has not implemented these programs in developments covering at least 60% of its family occupied units, either directly or through partnerships with non-PHA providers.

(b) *Component* #2, resident organization. This component has a weight of x1.

(1) *Grade A:* The PHA can document formal recognition of, a system of communication and collaboration with, and support for resident councils where these exist, and where no resident council exists, the PHA can document its encouragement for the formation of such councils.

(2) *Grade F:* The PHA cannot document formal recognition of, or a system of communication and collaboration with, or document its support for resident councils where these exist, or where no resident council exists, the PHA cannot document its encouragement for the formation of such councils.

(c) *Component* #3, resident involvement. Implicit in this component is the need to ensure a PHA's delivery of quality customer services to residents. This component has a weight of x1.

(1) *Grade A:* The PHA Board of Commissioners, by resolution, provides for resident representation on the Board and committees, and the PHA has implemented measures that ensure the opportunity for regular resident input into plans and the evaluation for ongoing quality of life and housing management conditions, including but not limited to, modernization and development programs, screening and other occupancy matters, relocation, the operating budget, resident programs, security and maintenance programs.

(2) *Grade C:* The PHA Board of Commissioners, by resolution, provides for resident representation on the Board and committees, and the PHA has implemented measures that ensure the opportunity for regular resident input into plans and the evaluation for ongoing quality of life and housing management conditions in the modernization and development programs and at least three of the remaining six areas described in grade A, above.

(3) *Grade F:* The PHA Board of Commissioners, by resolution, did not provide for resident representation on the Board and committees, or the PHA has not implemented measures that ensure the opportunity for regular resident input into plans and the evaluation for ongoing quality of life and housing management conditions in the modernization and development programs and at least three of the remaining six areas described in grade A, above.

(d) *Component* #4, *resident programs management.* This component examines a PHA's management of HUD funded resident programs. However, PHAs can also get credit for performance under non-HUD funded programs if they choose to be assessed for them. PHAs must select either to be assessed for all or none of the non-HUD funded programs. This component has a weight of x1.

(1) *Grade A:* If the PHA has any HUD funded special programs that benefit the residents, including but not limited to, the Family Investment Center (FIC), Youth Sports (YS), Food Banks, Health Clinics, Youth Apprenticeship Program (YAP), Family Self-Sufficiency (FSS), or a Resident Management (RM) or Tenant Opportunity Programs (TOP) where the PHA is the contract administrator, the PHA can document that it is meeting at least 90% of its goals under the implementation plan for any and all of these programs.

(2) *Grade C:* If the PHA has any HUD-funded special programs that benefit the residents, including but not limited to, the programs described in grade A, above, the PHA can document that it is meeting at least 60% of its goals under the implementation plan for any and all of these programs.

(3) *Grade F:* If the PHA has any HUD-funded special programs that benefit the residents, including but not limited to, the programs described in grade A, above, the PHA cannot document that it is meeting at least 60% of its goals under the implementation plan for all of these programs.

§ 901.45 Indicator #8, security.

This indicator evaluates the PHAs performance in tracking crime related problems in their developments, reporting incidence of crime to local law enforcement agencies, the adoption and implementation of tough applicant screening and resident eviction policies and procedures, and, as applicable, PHA performance under any HUD drug prevention or crime reduction grant(s). PHAs can get credit for performance under non-HUD funded programs if they choose to be assessed for these programs. PHAs with fewer than 250 units will not be assessed under this indicator unless they request to be assessed at the time of PHMAP certification submission. This indicator has a weight of x1.

(a) Component #1, Tracking and Reporting Crime Related Problems. This component has a weight of x1.

(1) *Grade A:* The PHA Board, by resolution, has adopted policies and the PHA has implemented procedures and can document that it (1) tracks crime and crime-related problems in at least 90% of its developments, and (2) has a cooperative system for tracking and reporting incidents of crime to local police authorities to improve law enforcement and crime prevention.

(2) *Grade C:* The PHA Board, by resolution, has adopted policies and the PHA has implemented procedures and can document that it (1) tracks crime and crime-related problems in at least 60% of its developments, and (2) reports incidents of crime to local police authorities to improve law enforcement and crime prevention.

(3) *Grade F:* The PHA Board, by resolution, has not adopted policies and the PHA has not implemented procedures or cannot document that it (1) tracks crime and crime-related problems in at least 60% of its developments, or (2) reports incidents of crime to local police authorities to improve law enforcement and crime prevention.

(b) *Component* #2, *Screening of Applicants.* This component has a weight of x1.

(1) *Grade A:* The PHA Board, by resolution, has adopted policies and the PHA has implemented procedures and can document that it successfully screens out and denies admission to a public housing applicant who:

(i) Has a recent history of criminal activity involving crimes to persons or property and/or other criminal acts that would adversely affect the health, safety or welfare of other residents or PHA personnel;

(ii) Was evicted, because of drug-related criminal activity, from housing assisted under the U.S. Housing Act of 1937, for a minimum of a three year period beginning on the date of such eviction, unless the applicant has successfully completed, since the eviction, a rehabilitation program approved by the public housing agency;

(iii) The PHA has reasonable cause to believe is illegally using a controlled substance; or

(iv) The PHA has reasonable cause to believe abuses alcohol in a way that causes behavior that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents or PHA personnel.

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(2) *Grade C:* The PHA Board, by resolution, has adopted policies and the PHA has implemented procedures, but cannot document results in successfully screening out and denying admission to a public housing applicant who meets the criteria as described in grade A, above.

(3) *Grade F:* The PHA has not adopted policies or has not implemented procedures that result in screening out and denying admission to a public housing applicant who meets the criteria as described in grade A, above, or the screening procedures do not result in the denial of admission to a public housing applicant who meets the criteria as described in grade A, above.

(c) *Component #3, Lease Enforcement.* This component has a weight of x1.

(1) *Grade A:* The PHA Board, by resolution, has adopted policies and the PHA has implemented procedures and can document that it appropriately evicts any public housing resident who:

(i) The PHA has reasonable cause to believe engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or PHA personnel;

(ii) The PHA has reasonable cause to believe engages in any drug-related criminal activity (as defined at section 6(l) of the 1937 Act (42 U.S.C. 1437d(l)) on or off the PHA's property; or

(iii) The PHA has reasonable cause to believe abuses alcohol in such a way that causes behavior that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents or PHA personnel.

(2) *Grade C:* The PHA Board, by resolution, has adopted policies and the PHA has implemented procedures, but cannot document results in appropriately evicting any public housing resident who meets the criteria as described in grade A, above.

(3) *Grade F:* The PHA has not adopted policies or has not implemented procedures that document results in the eviction of any public housing resident who meets the criteria as described in grade A, above, or the eviction procedures do not result in the eviction of public housing residents who meet the criteria as described in grade A, above.

(d) *Component #4, Grant Program Goals.* This component examines a PHA's management of HUD-funded drug prevention or crime reduction programs. However, PHAs can also get credit for performance under non-HUD funded programs if they choose to be assessed for them. PHAs must select either to be assessed for all or none of the non-HUD funded programs. This component has a weight of x1.

(1) *Grade A:* If the PHA has any special drug prevention program or crime reduction program funded by any HUD funds, the PHA can document that the goals are related to drug and crime rates, and it is meeting at least 90% of its goals under the implementation plan for any and all of these programs.

(2) *Grade C:* If the PHA has any special drug prevention program or crime reduction program funded by any HUD funds, the PHA can document that the goals are related to drug and crime rates, and it is meeting at least 60% of its goals under the implementation plan for any and all of these programs.

(3) *Grade F:* If the PHA has any special drug prevention program or crime reduction program funded by any HUD funds, the PHA does not have a system for documenting or cannot document that the goals are related to drug and crime rates, or cannot document that it is meeting 60% or more of its goals under the implementation plan for any and all of these programs.

§ 901.100 Data collection.

(a) Information on some of the indicators will be derived by the State/Area Office from existing reporting and data forms.

(b) A PHA shall provide certification as to data on indicators not collected according to paragraph (a) of this section, by submitting a certified questionnaire within 60 calendar days after the end of the fiscal year covered by the certification:

(1) The certification shall be approved by PHA Board resolution, and signed and attested to by the Executive Director.

(2) PHAs shall maintain documentation for three years verifying all certified indicators for HUD on-site review.

(3) A PHA may include along with its certification submission, rather than through an exclusion or modification request, any information bearing on the accuracy or completeness of the data used by HUD (corrected data, late reports, previously omitted required reports, etc.) in grading an indicator. HUD will consider this assertion in grading the affected indicator.

(4) If a PHA does not submit its certification, or submits its certification late, appropriate sanctions may be imposed, including a presumptive rating of failure in all of the PHMAP indicators, which may result in troubled and mod-troubled designations.

(5) A PHA that cannot provide justifying documentation to HUD during the conduct of a confirmatory review, or other verification review(s), for any indicator(s) or component(s) certified to, shall receive a failing grade in that indicator(s) or component(s), and its overall PHMAP score shall be lowered.

(6) If the data for any indicator(s) or component(s) that a PHA certified to cannot be verified by HUD during the conduct of a confirmatory review, or any other verification review(s), the State/Area Office shall change a PHA's grade for any indicator(s) or component(s), and its overall PHMAP score, as appropriate, to reflect the verified data obtained during the conduct of such review.

(7) A PHA that cannot provide justifying documentation to the independent auditor for the indicator(s) or component(s) that the PHA certified to, as reflected in the audit report, shall receive a grade of F for that indicator(s) or component(s), and its overall PHMAP score shall be lowered.

(8) A PHA's PHMAP score for individual indicators or components, or its overall PHMAP score, may be changed by the State/Area Office pursuant to the data included in the independent audit report, as applicable.

(9) A PHA's certification and supporting documentation will be post-reviewed by HUD during the next on-site review as determined by risk management, but is subject to verification at any time. Appropriate sanctions for intentional false certification will be imposed, including suspension or debarment of the signatories, the loss of high performer designation, a lower grade for individual indicators and a lower PHMAP total weighted score.

(c) For those developments of a PHA where management functions have been assumed by an RMC, the PHA's certification shall identify the development and the management functions assumed by the RMC. The PHA shall obtain a certified questionnaire from the RMC as to the management functions undertaken by the RMC. The PHA shall submit the RMC's certified questionnaire along with its own. The RMC's certification shall be approved by its Executive Director or Chief Executive Officer of whatever title.

§ 901.105 Computing assessment score.

(a) Grades within indicators and components have the following point values:

(1) Grade A = 10.0 points;
(2) Grade B = 8.5 points;
(3) Grade C = 7.0 points;
(4) Grade D = 5.0 points;
(5) Grade E = 3.0 point; and
(6) Grade F = 0.0 points.

(b) If indicators or components are designated as having additional weight

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(e.g., x1.5 or x2), the points in each grade will be multiplied times the additional weight.

(c) Indicators will be graded individually. Components within an indicator will be graded individually, and then will be used to determine a single grade for the indicator, by dividing the total number of component points by the total number of component weights and rounding off to two decimal places. The total number of component weights for this purpose includes a one for components that are unweighted (i.e., they are weighted x1, rather than x1.5 or x2).

(d) *Adjustment for physical condition and neighborhood environment.* The overall PHMAP score will be adjusted by adding additional points that reflect the adjustment to be given to the differences in the difficulty of managing developments that result from physical condition and neighborhood environment:

(1) Adjustments shall apply to the following three indicators only:

(i) Indicator #1, vacancy rate and unit turnaround;

(ii) Indicator #4, work orders; and

(iii) Indicator #5, annual inspection and condition of units and systems.

(2) Definitions of physical condition and neighborhood environment are:

(i) *Physical condition:* refers to units located in developments over ten years old that require major capital investment in order to meet local codes or minimum HQS standards, whichever is applicable. This excludes developments that have been comprehensively modernized.

(ii) *Neighborhood environment:* refers to units located within developments where the immediate surrounding neighborhood (that is a majority of the census tracts or census block groups on all sides of the development) has at least 51% of families with incomes below the poverty rate as documented by the latest census data.

(3) Any PHA with 5% or more of its units subject to either or both of the above conditions shall, if they so choose, be issued an adjusted PHMAP score in addition to the regular score based solely upon the certification of the PHA. The adjusted score shall be calculated as follows:

Percent of units subject to physical condition and/or neighborhood environment	Extra points
At least 5% but less than 10%	.5
At least 10% but less than 20%	.6
At least 20% but less than 30%	.7
At least 30% but less than 40%	.8
At least 40% but less than 50%	.9
At least 50%	1.0

(i) These extra points will be added to the score (grade) of the indicator(s) to which these conditions may apply. A PHA is required to certify on form HUD–50072, PHMAP Certification, the extent to which the conditions apply, and to which of the indicators the extra scoring points should be added.

(ii) Units in developments that have received substantial rehabilitation within the past ten years are not eligible to be included in the calculation of total PHA units due to physical condition only.

(iii) A PHA that receives a grade of A under indicators #4 and/or #5 may not claim the additional adjustment for indicator #1 based on physical condition of its developments, but may claim additional adjustment based on neighborhood environment.

(iv) A PHA that receives the maximum potential weighted points on indicators #1, #4 and/or #5 may not claim any additional adjustment for physical condition and/or neighborhood environment for the respective indicator(s).

(v) A PHA's score for indicators #1, #4 and/or #5, after any adjustment(s) for physical condition and/or neighborhood environment, may not exceed the maximum potential weighted points assigned to the respective indicator(s).

(4) If only certain units or developments received substantial rehabilitation, the additional adjustment shall be prorated to exclude the units or developments with substantial rehabilitation.

(5) The Date of Full Availability (DOFA) shall apply to scattered site units, where the age of units and buildings vary, to determine whether the units have received substantial rehabilitation within the past ten years and are eligible for a adjusted score for the physical condition factor.

(6) PHAs shall maintain supporting documentation to show how they arrived at the number and percentage of units out of their total inventory that are subject to adjustment.

(i) If the basis was neighborhood environment, the PHA shall have on file the appropriate maps showing the census tracts or census block groups surrounding the development(s) in question with supporting census data showing the level of poverty. Units that fall into this category but which have already been removed from consideration for other reasons (permitted exemptions and modifications and/or exclusions) shall not be counted in this calculation.

(ii) For the physical condition factor, a PHA would have to maintain documentation showing the age and condition of the units and the record of capital improvements, indicating that these particular units have not received modernization funds.

(iii) PHAs shall also document that in all cases, units that were exempted for other reasons were not included in the calculation.

§ 901.110 PHA request for exclusion or modification of an indicator or component.

(a) A PHA shall have the right to request the exclusion or modification of any indicator or component in its management assessment, thereby excluding or modifying the impact of those indicator's or component's grades in its PHMAP total weighted score.

(b) Exclusion and modification requests shall be submitted by a PHA at the time of its PHMAP certification submission to the State/Area Office along with supporting documentary justification, rather than during the appeal process.

(c) Requests for exclusions and modifications that do not include supporting documentary justification will not be considered.

(d) Indicator #2, modernization, shall be automatically excluded by the State/Area Office if a PHA does not have an open modernization program.

(e) Indicator #7, resident services and community building, shall be automatically excluded by the State/Area Office for PHAs with fewer than 250 units, or with 100% elderly developments, unless they request to be assessed at the time of the PHMAP certification submission.

(f) Indicator #8, security, shall be automatically excluded by the State/Area Office for PHAs with fewer than 250 units unless they request to be assessed at the time of the PHMAP certification submission.

§ 901.115 PHA score and status.

(a) PHAs that achieve a total weighted score of 90% or greater shall be designated high performers. A PHA shall not be designated as a high performer if it scores below a grade of C for any indicator. High performers will be afforded incentives that include relief from reporting and other requirements, as described in § 901.130.

(b) PHAs that achieve a total weighted score of 90% or greater on its overall PHMAP score and on indicator #2, modernization, shall be designated mod-high performers.

(c) PHAs that achieve a total weighted score of less than 90% but not less than 60% shall be designated standard. Standard performers will be afforded incentives that include relief from reporting and other requirements, as described in § 901.130.

(d) PHAs that achieve a total weighted score of less than 60% shall be designated as troubled.

(e) PHAs that achieve 60% of the maximum calculation for indicator #2, modernization, shall be designated as mod-troubled.

(f) Each PHA shall post a notice of its final PHMAP score and status in appropriate conspicuous and accessible locations in its offices within two weeks of receipt of its final score and status. In addition, HUD will publish every PHA's score and status in the **Federal Register**.

(g) A PHA that cannot provide justifying documentation to HUD during the conduct of a confirmatory review, or other verification review(s), for any indicator(s) or component(s) certified to, shall receive a failing grade in that indicator(s) or component(s), and its overall PHMAP score shall be lowered.

(h) If the data for any indicator(s) or component(s) that a PHA certified to cannot be verified by HUD during the conduct of a confirmatory review, or any other verification review(s), the State/Area Office shall change a PHA's grade for any indicator(s) or component(s), and its overall PHMAP score, as appropriate, to reflect the verified data obtained during the conduct of such review.

(i) A PHA that cannot provide justifying documentation to the independent auditor for the indicator(s) or component(s) that the PHA certified to, as reflected in the audit report, will receive a grade of F for that indicator(s), and its overall PHMAP score will be lowered.

(j) A PHA's PHMAP score for individual an indicator(s), component(s) or its overall PHMAP score may be changed by the State/Area Office pursuant to the data included in the independent audit report, as applicable.

(k) In *exceptional circumstances*, even though a PHA has satisfied all of the indicators for high or standard performer designation, the State/Area Office may conduct any review as necessary, including a confirmatory review, and deny or rescind incentives or high performer status, as described in paragraphs (a) and (b) of this section in the case of a PHA that:

(1) Is operating under a special agreement with HUD;

(2) Is involved in litigation that bears directly upon the management of a PHA;

(3) Is operating under a court order;

(4) Demonstrates substantial evidence of fraud or misconduct, including evidence that the PHA's certification of indicators is not supported by the facts, resulting from such sources as a confirmatory review, routine reports and reviews, an Office of Inspector General investigation/audit, an independent auditor's audit or an investigation by any appropriate legal authority; or

(5) Demonstrates substantial noncompliance in one or more areas (including areas not assessed by the PHMAP). Areas of substantial noncompliance include, but are not limited to, noncompliance with statutes (e.g., Fair Housing and Equal Opportunity statutes); regulations (e.g., 24 CFR § 85); or the Annual Contributions Contract (ACC) (e.g., the ACC, form HUD–53012A, Section 4, Mission of the PHA). Substantial noncompliance would cast doubt on the PHA's capacity to preserve and protect its public housing developments and operate them consistent with Federal law and regulations.

(l) When a State/Area Office Public Housing Director acts for any of the reasons stated in paragraph (k) of this section, the State/Area Office will send written notification to the PHA with a specific explanation of the reasons. An information copy will be forwarded to the Assistant Secretary for Public and Indian Housing.

(m) A PHA may appeal denial of high performer status in accordance with § 901.125.

§ 901.120 State/Area Office functions.

(a) The State/Area Office will assess each PHA within its jurisdiction on an annual basis:

(1) The State/Area Office will make determinations for high-performing, standard, troubled PHAs and mod-troubled PHAs in accordance with a PHA's PHMAP weighted score.

(2) The State/Area Office will also make determinations for exclusion and modification requests.

(b) Each State/Area Office will notify each PHA of the PHA's grade and the grade of the RMC (if any) assuming management functions at any of the PHA's developments, in each indicator; the PHA's management assessment total weighted score and status, and if applicable; its adjustment for physical condition and neighborhood environment; any determinations concerning exclusion and modification requests; and any deadline date by which appeals must be received. PHA notification should include offers of pertinent technical assistance in problem areas, suggestions for means of improving problem areas, and areas of relief and incentives as a result of high performer status. The PHA must notify the RMC (if any) in writing, immediately upon receipt of the State/Area Office notification, of the RMC's grades.

(c) An on-site confirmatory review may be conducted of a PHA by HUD. The purpose of the on-site confirmatory review is to verify those indicators for which a PHA provides certification, as well as the accuracy of the information received in the State/Area Office pertaining to the remaining indicators.

(1) Whenever practicable, a confirmatory review should be conducted by HUD prior to the issuance of a PHA's initial notification letter. The results of the confirmatory review shall be included in the PHA's initial notification letter.

(2) If, in an exceptional circumstance, a confirmatory review is conducted after the State/Area Office issues the initial notification letter, the State/Area Office shall explain the results of the confirmatory review in writing, correct the PHA's total weighted score, as appropriate, and reissue the initial notification letter to the PHA.

(3) The State/Area Office shall conduct a confirmatory review of a PHA with 100 or more units under management that scores less than 60% for its total weighted score, or less than 60% on indicator #2, modernization, before initially designating the PHA as troubled or mod-troubled. The results of the confirmatory review shall be included in the PHA's initial notification letter.

(4) The State/Area Office shall conduct a confirmatory review on a yearly basis of all troubled and mod-troubled PHAs.

(5) The State/Area Office shall conduct a confirmatory review of a PHA with 100 or more units under management prior to the removal of troubled or mod-troubled designation.

(6) Independent confirmatory reviews (team members from other State/ Area Offices) shall be conducted of troubled PHAs with 1250 or more units under management prior to the removal of troubled designation.

(d) A PHA that cannot provide justifying documentation to HUD during the conduct of a confirmatory review, or other verification review(s), for any indicator(s) or component(s) certified to, shall receive a failing grade in that indicator(s) or component(s), and its overall PHMAP score shall be lowered by the State/Area Office. The State/Area Office shall explain to the PHA the reason(s) for the change(s) in writing,

correct the PHA's grade for an individual component(s) and/or indicator(s) and total weighted score, as appropriate, and reissue the initial notification letter to the PHA.

(e) If the data for any indicator(s) or component(s) that a PHA certified to cannot be verified by HUD during the conduct of a confirmatory review, or any other verification review(s), the State/Area Office shall change a PHA's grade for any indicator(s) or component(s), and its overall PHMAP score, as appropriate, to reflect the verified data obtained during the conduct of such review. The State/Area Office shall explain to the PHA the reason(s) for the change(s) in writing, correct the PHA's grade for an individual component(s) and/or indicator(s) and total weighted score, as appropriate, and reissue the initial notification letter to the PHA.

(f) A PHA that cannot provide justifying documentation to the independent auditor for the indicator(s) or component(s) that the PHA certified to, as reflected in the audit report, will receive a grade of F for that indicator(s), and its overall PHMAP score will be lowered by the State/Area Office. The State/Area Office shall explain to the PHA the reason(s) for the change(s) in writing, correct the PHA's grade for an individual component(s) and/or indicator(s) and total weighted score, as appropriate, and reissue the initial notification letter to the PHA.

(g) A PHA's PHMAP score for an individual indicator(s), component(s) or its overall PHMAP score may be changed by the Area/State Office pursuant to the data included in the independent audit report, as applicable. The State/Area Office shall explain to the PHA the reason(s) for the change(s) in writing, correct the PHA's grade for an individual component(s) and/or indicator(s) and total weighted score, as appropriate, and reissue the initial notification letter to the PHA.

(h) Determinations on appeals and on petitions to remove troubled or mod-troubled status will be made by the State/Area Office.

(i) Determinations of intentional false certifications will be made by the State/Area Office. State/Area Offices shall consult with the local Office of Inspector General for guidance in cases of determinations of intentional false certification.

(j) In exceptional circumstances, the State/Area Office may deny or rescind a PHA's status as a standard or high performer, in accordance with § 901.115(i), so that it will not be entitled to any of the areas of relief and incentives.

(k) The State/Area Office will maintain PHMAP files for public inspection in accordance with § 901.155.

§ 901.125 PHA right of appeal.

(a) A PHA has the right to appeal its PHMAP score to the State/Area Office, including a troubled designation or a mod-troubled designation. A PHA may appeal its management assessment rating on the basis of data errors (any dispute over the accuracy, calculation, or interpretation of data employed in the grading process that would affect a PHA's PHMAP score), the denial of exclusion or modification requests when their denial affects a PHA's total weighted score, the denial of an adjustment based on the physical condition and neighborhood environment of a PHA's developments, or a determination of intentional false certification:

(1) A PHA may appeal its management assessment rating to the State/Area Office only for the reasons stated in paragraph (a) of this section:

(i) A PHA may not appeal its PHMAP score to the State/Area Office unless it has submitted its certification to the State/Area Office.

(ii) A PHA may not appeal its PHMAP score to the State/Area Office if the reason the PHA received a deficient grade in any indicator or component was due to the fact the PHA did not submit a required report in a timely manner or without an approved time extension.

(iii) A PHA may not appeal its PHMAP score to the State/Area Office if the reason the PHA received a failing grade in any indicator or component was due to the fact that the PHA did not provide justifying documentation to the independent auditor for any indicator(s) or component(s) the PHA certified to.

(2) The appeal shall be submitted to the State/Area Office and shall include supporting documentary justification of the reasons for the appeal.

(3) The State/Area Office will make determinations on initial appeals and will transmit the determination of the appeal to the PHA in a notification letter that will also include the date and place for submitting any further appeal.

(4) Appeals submitted to the State/Area Office without appropriate documentation will not be considered and will be returned to the PHA.

(b) Appeals of rescission of high performer designation shall be made directly to the Assistant Secretary for Public and Indian Housing.

(c) A PHA may appeal the denial of an initial appeal by the State/Area Office to the Assistant Secretary for Public and Indian Housing for the following reasons:

(1) Initial appeals denying high performer designation;

(2) Initial appeals denying the removal of troubled designation;

(3) Initial appeals denying the removal of mod-troubled designation;

(4) The denial of an appeal of a determination of intentional false certification;

(5) Data errors;

(6) The denial of exclusion or modification requests when their denial affects a PHA's total weighted score;

(7) The denial of an adjustment based on the physical condition and neighborhood environment of a PHA's developments;

(8) The refusal of a petition in accordance with § 901.140 to remove troubled or mod-troubled designations.

(d) A PHA may appeal its management assessment rating to the Assistant Secretary for Public and Indian Housing only for the reasons stated in paragraph (c) of this section.

(e) A PHA may not appeal its PHMAP score to the Assistant Secretary unless it has submitted its certification to the State/Area Office.

(f) Appeals submitted to the Assistant Secretary for Public and Indian Housing without appropriate documentation will not be considered and will be returned to the PHA.

(g) The date and place by which any appeal must be submitted will be specified in the letter from the State/Area Office notifying the PHA of any determination or action. For example, the State/Area Office initial notification letter or denial of initial appeal letter will specify the date and place by which appeals must be received. The date specified will be the 15th calendar day after the letter is mailed, not counting the day the letter is mailed. If the 15th day falls on a weekend or holiday, the date specified will be the next day that is not on a weekend or a holiday. Any appeal not received by the specified time and place will not be considered.

§ 901.130 Incentives.

(a) A PHA that is designated high performer or standard performer will be relieved of specific HUD requirements, effective upon notification of high or standard performer designation.

(b) A PHA shall not be designated a mod-high performer and be entitled to the applicable incentives unless it has been designated an overall high performer.

(c) High-performing PHAs, and RMCs that receive a grade of A on each of the indicators for which they are assessed, will receive a Certificate of

Commendation from the Department as well as special public recognition.

(d) Representatives of high-performing PHAs may be requested to serve on Departmental working groups that will advise the Department in such areas as troubled PHAs and performance standards for all PHAs.

(e) State/Area Offices may award incentives to PHAs on an individual basis for a specific reason(s), such as a PHA making the right decision that impacts long-term overall management or the quality of a PHA's housing stock, with prior concurrence from the Assistant Secretary.

(f) Relief from any standard procedural requirements does not mean that a PHA is relieved from compliance with the provisions of Federal law and regulations or other handbook requirements. For example, although a high or standard performer may be relieved of requirements for prior HUD approval for certain types of contracts for services, it must still comply with all other Federal and State requirements that remain in effect, such as those for competitive bidding or competitive negotiation (see 24 CFR 85.36):

(1) PHAs will still be subject to regular independent auditor (IA) audits.

(2) Office of Inspector General (OIG) audits or investigations will continue to be conducted as circumstances may warrant.

(g) In exceptional circumstances, the State/Area Office will have discretion to subject a PHA to any requirement that would otherwise be omitted under the specified relief, in accordance with § 901.115(i).

§ 901.135 Memorandum of Agreement.

(a) After consulting the independent assessment team and reviewing the report identified in section 6(j)(2)(b) of the 1937 Act, a Memorandum of Agreement (MOA), a binding contractual agreement between HUD and a PHA, shall be required for each PHA designated as troubled and/or mod-troubled. The scope of the MOA may vary depending upon the extent of the problems present in the PHA, but shall include:

(1) Baseline data, which should be raw data but may be the PHA's score in each of the indicators identified as a problem, or other relevant areas identified as problematic;

(2) Annual and quarterly performance targets, which may be the attainment of a higher grade within an indicator that is a problem, or the description of a goal to be achieved, for example, the reduction of rents uncollected to 6% or less by the end of the MOA annual period;

(3) Strategies to be used by the PHA in achieving the performance targets within the time period of the MOA;

(4) Technical assistance to the PHA provided or facilitated by the Department, for example, the training of PHA employees in specific management areas or assistance in the resolution of outstanding HUD monitoring findings;

(5) The PHA's commitment to take all actions within its control to achieve the targets;

(6) Incentives for meeting such targets, such as the removal of troubled or mod-troubled designation and Departmental recognition for the most improved PHAs;

(7) The consequences of failing to meet the targets, including such sanctions as the imposition of budgetary limitations, declaration of substantial default and subsequent actions, limited denial of participation, suspension, debarment, or the imposition of operating funding and modernization thresholds; and

(8) A description of the involvement of local public and private entities, including PHA resident leaders, in carrying out the agreement and rectifying the PHA's problems. A PHA shall have primary responsibility for obtaining active local public and private entity participation, including the involvement of public housing resident leaders, in assisting PHA improvement efforts. Local public and private entity participation should be premised upon the participant's knowledge of the PHA, ability to contribute technical expertise with regard to the PHA's specific problem areas and authority to make preliminary/tentative commitments of support, financial or otherwise.

(b) A MOA shall be executed by:

(1) The PHA Board Chairperson and accompanied by a Board resolution, or a receiver (pursuant to a court ordered receivership agreement, if applicable) or other AME acting in lieu of the PHA Board;

(2) The PHA Executive Director, or a designated receiver (pursuant to a court ordered receivership agreement, if applicable) or other AME-designated Chief Executive Officer;

(3) The Director, State/Area Office of Public Housing, except as stated in (d) of this section; and

(4) The appointing authorities of the Board of Commissioners, unless exempted by the State/Area Office.

(c) The Department encourages the inclusion of the resident leadership in MOA negotiations and the execution of the MOA.

(d) Upon designation of a large PHA (1250 or more units under management) as troubled, the State/Area Office shall make a referral to HUD Headquarters for appropriate recovery intervention and the execution of an MOA by the Assistant Secretary for Public and Indian Housing.

(e) A PHA will monitor MOA implementation to ensure that performance targets are met in terms of quantity, timeliness and quality.

§ 901.140 Removal from troubled status and mod-troubled status.

(a) A PHA has the right to petition the State/Area Office for the removal of a designation as troubled or mod-troubled.

(b) A PHA may appeal any refusal to remove troubled and mod-troubled designation to the Assistant Secretary for Public and Indian Housing in accordance with § 901.125.

(c) A PHA with fewer that 1250 units under management will be removed from troubled status by the State/Area Office upon a determination by the State/Area Office that the PHA's assessment reflects an improvement to a level sufficient to remove the PHA from troubled status, or mod-troubled, i.e., a total weighted management assessment score of 60% or more, and upon the conduct of a confirmatory review for PHAs with 100 or more units under management.

(d) A PHA with 1250 units or more under management will be removed from troubled status by the Assistant Secretary for Public and Indian Housing upon a recommendation by the State/Area Office when a PHA's assessment reflects an improvement to a level sufficient to remove the PHA from troubled or mod-troubled status, i.e., a total weighted management assessment score of 60% or more, and upon the conduct of an independent confirmatory review (team members from other State/Area Offices).

§ 901.145 Improvement Plan.

(a) After receipt of the State/Area Office notification letter in accordance with § 901.120(b) or receipt of a final resolution of an appeal in accordance with § 901.125 or, in the case of an RMC, notification of its indicator grades from a PHA, a PHA or RMC shall correct any deficiency indicated in its management assessment within 90 calendar days.

(b) A PHA shall notify the State/Area Office of its action to correct a deficiency. A PHA shall also forward to the State/Area Office an RMC's report of its action to correct a deficiency.

(c) If the State/Area Office determines that a PHA or RMC has not corrected a deficiency as required within 90 calendar days after receipt of its final

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notification letter, the State/Area Office may require a PHA, or a RMC through the PHA, to prepare and submit to the State/Area Office an Improvement Plan within an additional 30 calendar days:

(1) The State/Area Office shall require a PHA or RMC to submit an Improvement Plan, which includes the information stated in (d) of this section, for each indicator that a PHA or RMC scored a grade of F.

(2) The State/Area Office may require, on a risk management basis, a PHA or RMC to submit an Improvement Plan, which includes the information stated in paragraph (d) of this section, for each indicator that a PHA scored a grade D or E, as well as other performance and/or compliance deficiencies as may be identified as a result of an on-site review of the PHA's operations.

(d) An Improvement Plan shall:

(1) Identify baseline data, which should be raw data but may be the PHA's score in each of the indicators identified as a problem in a PHA's or RMC's management assessment, or other relevant areas identified as problematic;

(2) Describe the procedures that will be followed to correct each deficiency; and

(3) Provide a timetable for the correction of each deficiency.

(e) The State/Area Office will approve or deny a PHA's or RMC's Improvement Plan, and notify the PHA of its decision. A PHA must notify the RMC in writing, immediately upon receipt of the State/Area Office notification, of the State/Area Office approval or denial of the RMC's Improvement Plan.

(f) An Improvement Plan that is not approved will be returned to the PHA with recommendations from the State/Area Office for revising the Improvement Plan to obtain approval. A revised Improvement Plan shall be resubmitted by the PHA or RMC within 30 calendar days of its receipt of the State/Area Office recommendations.

(g) If a PHA or RMC fails to submit an acceptable Improvement Plan, or to correct deficiencies within the time specified in an Improvement Plan or such extensions as may be granted by HUD, the State/Area Office will notify the PHA of its or the RMC's noncompliance. The PHA, or the RMC through the PHA, will provide HUD its reasons for lack of progress in submitting or carrying out the Improvement Plan within 30 calendar days of its receipt of the noncompliance notification. HUD will advise the PHA as to the acceptability of its reasons for lack of progress and, if unacceptable, will notify the PHA that it will be subject to sanctions provided for in the ACC and HUD regulations.

§ 901.150 PHAs troubled with respect to the program under section 14 (mod-troubled PHAs).

(a) PHAs that achieve a total weighted score of less than 60% on indicator #2, modernization, may be designated as mod-troubled.

(b) PHAs designated as mod-troubled may be subject, under the Comprehensive Grant Program, to a reduction of formula allocation or other sanctions (24 CFR § 968, Subpart C) or under the Comprehensive Improvement Assistance Program to disapproval of new funding or other sanctions (24 CFR § 968, Subpart B).

§ 901.155 PHMAP public record.

The State/Area Office will maintain PHMAP files, including certifications, the records of exclusion and modification requests, appeals, and designations of status based on physical condition and neighborhood environment, as open records, available for public inspection for three years consistent with the Freedom of Information Act (5 U.S.C. 552) and in accordance with any procedures established by the State/Area Office to minimize disruption of normal office operations.

§ 901.200 Events or conditions that constitute substantial default.

(a) The Department may determine that events have occurred or that conditions exist that constitute a substantial default if a PHA is determined to be in violation of Federal statutes, including but not limited to, the 1937 Act, or in violation of regulations implementing such statutory requirements, whether or not such violations would constitute a substantial breach or default under provisions of the relevant ACC.

(b) The Department may determine that a PHA's failure to satisfy the terms of a Memorandum of Agreement entered into in accordance with § 901.135 of this part, or to make reasonable progress to meet time frames included in a Memorandum of Agreement, are events or conditions that constitute a substantial default.

(c) The Department shall determine that a PHA that has been designated as troubled and does not show significant improvement (10 percentage point increase) in its PHMAP score within one year after final notification of its PHMAP score are events or conditions that constitute a substantial default:

(1) A PHA shall be notified of such a determination in accordance with § 901.205(c).

(2) A PHA may waive, in writing, receipt of explicit notice from the Department as to a finding of substantial default, and voluntarily consent to a determination of substantial default. The PHA must concur on the existence of substantial default conditions which can be remedied by technical assistance, and the PHA shall provide the Department with written assurances that all deficiencies will be addressed by the PHA. The Department will then immediately proceed with interventions as provided in § 901.210.

(d) The Department may declare a substantial breach or default under the ACC, in accordance with its terms and conditions.

(e) The Department may determine that the events or conditions constituting a substantial default are limited to a portion of a PHA's public housing operations, designated either by program, by operational area, or by development(s).

§ 901.205 Notice and response.

(a) If information from an annual assessment, as described in § 901.100, a management review or audit, or any other credible source indicates that there may exist events or conditions constituting a substantial breach or default, the Department shall advise a PHA of such information. The Department is authorized to protect the confidentiality of the source(s) of such information in appropriate cases. Before taking further action, except in cases of apparent fraud or criminality, and/or in cases where emergency conditions exist posing an imminent threat to the life, health, or safety of residents, the Department shall afford the PHA a timely opportunity to initiate corrective action, including the remedies and procedures available to PHAs designated as "troubled PHAs," or to demonstrate that the information is incorrect.

(b) In any situation determined to be an emergency, or in any case where the events or conditions precipitating the intervention are determined to be the result of criminal or fraudulent activity, the Assistant Secretary is authorized to intercede to protect the residents' and the Department's interests by causing the proposed interventions to be implemented without further appeals or delays.

(c) Upon a determination or finding that events have occurred or that conditions exist that constitute a substantial default, the Assistant Secretary shall provide written notification of such determination or finding to the affected PHA. Written notification shall be transmitted to the Executive Director, the Chairperson of the Board, and the appointing

authority(s) of the Board, and shall include, but need not necessarily be limited to:

(1) Identification of the specific covenants, conditions, and/or agreements under which the PHA is determined to be in noncompliance;

(2) Identification of the specific events, occurrences, or conditions that constitute the determined noncompliance;

(3) Citation of the communications and opportunities to effect remedies afforded pursuant to paragraph (a) of this section;

(4) Notification to the PHA of a specific time period, to be not less than 10 calendar days, except in cases of apparent fraud or other criminal behavior, and/or under emergency conditions as described in paragraph (a) of this section, nor more than 30 calendar days, during which the PHA shall be required to demonstrate that the determination or finding is not substantively accurate; and

(5) Notification to the PHA that, absent a satisfactory response in accordance with paragraph (d) of this section, the Department will take control of the PHA, using any or all of the interventions specified in § 901.210, and determined to be appropriate to remedy the noncompliance, citing § 901.210, and any additional authority for such action.

(d) Upon receipt of the notification described in paragraph (c) of this section, the PHA must demonstrate, within the time period permitted in the notification, factual error in the Department's description of events, occurrences, or conditions, or show that the events, occurrences, or conditions do not constitute noncompliance with the statute, regulation, or covenants or conditions to which the PHA is cited in the notification.

§ 901.210 Interventions.

(a) Interventions under this part (including an assumption of operating responsibilities) may be limited to one or more of a PHA's specific operational areas (e.g., maintenance, modernization, occupancy, or financial management) or to a single development or a group of developments. Under this limited intervention procedure, the Department could select, or participate in the selection of, an AME to assume management responsibility for a specific development, a group of developments in a geographical area, or a specific operational area, while permitting the PHA to retain responsibility for all programs, operational areas, and developments not so designated.

(b) Upon determining that a substantial default exists under this part, the Department may initiate any interventions deemed necessary to maintain decent, safe, and sanitary dwellings for residents. Such intervention may include:

(1) Providing technical assistance for existing PHA management staff;

(2) Selecting or participating in the selection of an AME to provide technical assistance or other services up to and including contract management of all or any part of the public housing developments administered by a PHA;

(3) Assuming possession and operational responsibility for all or any part of the public housing administered by a PHA; and

(4) The provision of intervention and assistance necessary to remedy emergency conditions.

(c) HUD may take the actions described in this part sequentially or simultaneously in any combination.

§ 901.215 Contracting and funding.

(a) Upon a declaration of substantial default or breach, and subsequent assumption of possession and operational responsibility, the Department may enter into agreements, arrangements, and/or contracts for or on behalf of a PHA, or to act as the PHA, and to expend or authorize expenditure of PHA funds, irrespective of the source of such funds, to remedy the events or conditions constituting the substantial default.

(b) In entering into contracts or other agreements for or on behalf of a PHA, the Department shall comply with requirements for competitive procurement consistent with 24 CFR 85.36, except that, upon determination of public exigency or emergency that will not permit a delay, the Department can enter into contracts or agreements on a noncompetitive basis, consistent with the standards of 24 CFR 85.36(d)(4).

§ 901.220 Resident participation in competitive proposals to manage the housing of a PHA.

(a) When a competitive proposal to manage the housing of a PHA in substantial default is solicited in a Request for Proposals (RFP) pursuant to section 6(j)(3)(A)(i) of the 37 Act, the RFP, in addition to publishing the selection criteria, will:

(1) Include a requirement for residents to notify the Department if they want to be involved in the selection process; and

(2) Include a requirement for the PHA that is the subject of the RFP to post a notice and a copy of the RFP in a prominent location on the premises of each housing development that would be subject to the management chosen under the RFP, for the purposes of notifying affected residents that:

(i) Invites residents to participate in the selection process; and

(ii) Provides information, to be specified in the RFP, on how to notify the Department of their interest.

(b) Residents must notify the Department by the RFP's application due date of their interest in participating in the selection process. In order to participate, the total number of residents that notify the Department must equal at least 20 percent of the residents, or the notification of interest must be from an organization or organizations of residents whose membership must equal at least 20 percent of the PHA's residents.

(c) If the required percentage of residents notify the Department, a minimum of one resident may be invited to serve as an advisory member on the evaluation panel that will review the applications in accordance with applicable procurement procedures. Resident advisory members are subject to all applicable confidentiality and disclosure restrictions.

§ 901.225 Resident petitions for remedial action.

The total number of residents that petition the Department to take remedial action pursuant to sections 6(j)(3)(A)(i) through (iv) of the 1937 Act must equal at least 20 percent of the residents, or the petition must be from an organization or organizations of residents whose membership must equal at least 20 percent of the PHA's residents.

§ 901.230 Receivership.

(a) Upon a determination that a substantial default has occurred and without regard to the availability of alternate remedies, the Department may petition the court for the appointment of a receiver to conduct the affairs of the PHA in a manner consistent with statutory, regulatory, and contractual obligations of the PHA and in accordance with such additional terms and conditions that the court may provide. The court shall have authority to grant appropriate temporary or preliminary relief pending final disposition of any petition by HUD.

(b) The appointment of a receiver pursuant to this section may be terminated upon the petition to the court by the PHA, the receiver, or the Department, and upon a finding by the court that the circumstances or conditions that constituted substantial

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default by the PHA no longer exist and that the operations of the PHA will be conducted in accordance with applicable statutes and regulations, and contractual covenants and conditions to which the PHA and its public housing programs are subject.

§ 901.235 Technical assistance.

(a) The Department may provide technical assistance to a PHA that is in substantial default.

(b) The Department may provide technical assistance to a troubled or non-troubled PHA if the assistance will enable the PHA to achieve satisfactory performance on any PHMAP indicator. The Department may provide such assistance if a PHA demonstrates a commitment to undertake improvements appropriate with the given circumstances, and executes an Improvement Plan in accordance with § 901.145.

(c) The Department may provide technical assistance to a PHA if without abatement of prevailing or chronic conditions, the PHA can be projected to be designated as troubled by its next PHMAP assessment.

(d) The Department may provide technical assistance to a PHA that is in substantial default of the ACC.

(e) The Department may provide technical assistance to a PHA whose troubled designation has been removed and where such assistance is necessary to prevent the PHA from being designated as troubled within the next two years.

Dated: December 10, 1996.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

[FR Doc. 96–32469 Filed 12–27–96; 8:45 am]

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federal register

Monday
December 30, 1996

Part IV

Department of Transportation

Research and Special Programs Administration

49 CFR Part 171 et al.

Prohibition of Oxygen Generators as Cargo in Passenger-Aircraft; Final Rule and Prohibition of Oxidizers Aboard Aircraft; Proposed Rule

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171 and 173

[Docket No. HM–224; Amdt. Nos. 171–146; and 173–254]

RIN 2137–AC89

Prohibition of Oxygen Generators as Cargo in Passenger- Aircraft

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: RSPA is prohibiting the transportation of oxygen generators as cargo on board passenger-carrying aircraft. This rule applies to both foreign and domestic passenger-carrying aircraft entering, leaving or operating in the United States, and to any person offering an oxygen generator for transportation on any passenger-carrying aircraft.

EFFECTIVE DATE: This final rule is effective December 31, 1996.

FOR FURTHER INFORMATION CONTACT: William E. Vincent, Director, Office of Policy and Program Support, (202) 366–4831, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street SW., Washington DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

On May 24, 1996, RSPA published in the **Federal Register** an interim final rule temporarily prohibiting, until January 1, 1997, the transportation of chemical oxygen generators as cargo on passenger-carrying aircraft. 61 FR 26418. This prohibition applies to domestic and foreign air carriers operating passenger-carrying aircraft entering, leaving or operating in the United States, and to any person offering a chemical oxygen generator for transportation as cargo on any of these aircraft.

This interim final rule was issued under the authority delegated to RSPA by the Secretary of Transportation, in 49 CFR 1.53(b), to issue regulations implementing the Federal hazardous material transportation law, 49 U.S.C. 5101–5127. Enforcement of the Federal hazardous material transportation law and the Hazardous Materials Regulations (HMR, 49 CFR Parts 171–180) issued under that law is shared by RSPA and four modal administrations within the Department of Transportation: Federal Aviation Administration (FAA), Federal Highway Administration, Federal Railroad Administration, and United States Coast Guard. FAA has primary enforcement authority concerning transportation of hazardous materials by air. 49 CFR 1.47(k).

RSPA does not regulate, and the HMR do not apply to, components of the aircraft itself. Accordingly, the May 24, 1996 interim final rule does not apply to chemical oxygen generators that are installed in the cabins of many aircraft to provide oxygen in emergencies to passengers and crew members. The prohibition in the May 24, 1996 interim final rule also does not apply to compressed oxygen in cylinders.

The May 24, 1996 interim final rule included the following definition of an oxygen generator to which the prohibition applies: "Oxygen generator (chemical) means a device containing chemicals that upon activation release oxygen as a product of chemical reaction." 49 CFR 171.8 (61 FR 26419). Exceptions to the prohibition are provided for a chemical oxygen generator that meets the specific safety requirements of 49 CFR 175.10(a)(7), for medical use of passengers in the passenger cabin, and for small oxygen generators for personal use that are transported as checked baggage in accordance with 49 CFR 175.10(a)(24). 49 CFR 173.21(k) (61 FR 26419). As discussed below, in a separate rulemaking proceeding in Docket No. HM–224A, RSPA is proposing elimination of the exception in 49 CFR 175.10(a)(24) for small personal oxygen generators.

II. NTSB Recommendations

The May 24, 1996 interim final rule responds in part to the following two recommendations of the National Transportation Safety Board (NTSB) that RSPA:

> In cooperation with the Federal Aviation Administration, permanently prohibit the transportation of chemical oxygen generators as cargo on board any passenger or cargo aircraft when the generators have passed expiration dates, and the chemical core has not been depleted. (A–96–29) (Class I, Urgent Action)
>
> In cooperation with the Federal Aviation Administration, prohibit the transportation of oxidizers and oxidizing materials (e.g., nitric acid) in cargo compartments that do not have fire or smoke detection systems. (A–96–30) (Class I, Urgent Action)

These recommendations were issued as part of NTSB's ongoing investigation of the May 11, 1996 accident involving the loss of ValuJet Airlines Flight 592. Preliminary evidence indicates that chemical oxygen generators were being carried in a cargo compartment on board Flight 592 and may have caused, or contributed to the severity of, the accident. NTSB and FAA are continuing to investigate this accident and issues concerning whether the chemical oxygen generators in the cargo compartment on board Flight 592 were offered for transportation, and were being transported, in accordance with the applicable requirements of the HMR. Nonetheless, RSPA issued the May 24, 1996 interim final rule to prevent any similar incidents involving chemical oxygen generators as cargo on passenger-carrying aircraft while RSPA could consider whether to make this prohibition permanent. In the separate rulemaking in Docket No. HM–224A, RSPA addresses the remaining parts of the NTSB recommendations by proposing to prohibit oxidizers from being transported aboard all passenger-carrying aircraft and in those inaccessible cargo compartments on cargo aircraft that lack fire or smoke detection and suppression systems (i.e., Class D compartments, *see* 14 CFR 25.857).

III. Comments and Other Matters Considered

RSPA received five comments on the interim final rule. As discussed below, RSPA is permanently prohibiting the transportation of oxygen generators (chemical) as cargo on passenger-carrying aircraft. This prohibition is consistent with the July 1996 amendment to the 1995–96 Edition of the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air. (The HMR authorize the transportation of hazardous materials within the United States by aircraft in accordance with the ICAO Technical Instructions. 49 CFR 171.11.)

Two commenters recommended that the prohibition in the interim final rule be made permanent and extended to cargo aircraft. According to the Air Line Pilots Association (ALPA), similar crash scenarios "can produce the same amount of destruction" for both cargo and passenger-carrying aircraft. ALPA stated that oxygen generators pose a significant potential hazard to all aircraft and that the "line of demarcation" is not the number of persons on board an aircraft that might be lost, but whether the aircraft could withstand the potential hazard and be landed safety without loss of life or the aircraft.

A consultant who previously worked for FAA as a hazardous material inspector and coordinator expressed his concern that chemical oxygen generators should be forbidden for

transport by any type of aircraft. He stated that it is difficult, if not impossible, for an air carrier to insure that these items are in safe condition for transportation. He believes that airlines could normally transport replacement generators by ground and keep a supply at strategic locations, to avoid the need to carry them as cargo on their own airplanes, but he indicated that a limited exemption might be appropriate to allow replacements to be transported to overseas or remote areas. A private citizen also expressed her concern about hazardous materials contained in passengers' baggage. She recommended a prohibition against transportation of any material having the remotest possibility of endangering those on board an aircraft.

The Air Transport Association (ATA) supported the interim final rule but recommended that RSPA not rule out the possibility of reauthorizing the air transportation of chemical oxygen generators at a future date. ATA expressed its understanding that the oxygen generators carried aboard ValuJet Flight 592 "were unnecessarily and perhaps improperly offered for transportation by aircraft." It stated that, "since chemical oxygen generators were first installed in aircraft in lieu of oxygen bottles, tens of thousands have been safely transported by airlines in compliance with regulations" and also "as part of the aircraft's installation." ATA urged RSPA and FAA to address the "two possible failure modes" for these devices, inadequate safety devices and high ambient temperatures, through regulations that would require protective devices (such as a locking pin and a protective cap) and research into packaging methodologies that would provide thermal protection. ATA recommended that these issues receive further analysis "before RSPA totally forecloses the possibility of the resupply of chemical oxygen generators for installation in air carrier fleets via the combination air carriers' cargo system." ATA also indicated that air carriers had sought for many years, and would welcome, an increase in enforcement directed at offerors who fail to properly disclose shipments of hazardous materials.

A European supplier of aircraft oxygen equipment stated that it was necessary to allow chemical oxygen generators to be transported on passenger-carrying aircraft in order to repair planes on which the oxygen equipment had malfunctioned. This company indicated it is often requested to supply replacement equipment within four hours, because an aircraft is not permitted to take off before the defective equipment is replaced. This commenter stated that this happens "monthly several times all over the world," and asked if there was an exemption for an "aircraft on ground" situation. Otherwise, it stated, a forwarding agency would have to wait for a cargo-only aircraft, which operate less frequently.

RSPA recognizes that the oxygen generators involved in the ValuJet accident appear to have been shipped in violation of the HMR, and RSPA continues to believe that these generators may be safely transported in compliance with the HMR, including the conditions of the approvals under which the generators are offered for transportation by their original manufacturers. However, these devices appear to be unique in that, if handled improperly, they can both generate sufficient heat to set adjacent materials on fire and also provide oxygen to intensify a fire. The potential for loss of life and damage to property justify this prohibition and the consequence that any generators needed as replacement parts must be transported by ground or by cargo-only aircraft.

At the present time, RSPA is continuing this prohibition as limited to passenger-carrying aircraft. RSPA believes that any decision to prohibit chemical oxygen generators from cargo aircraft should only follow public notice and an opportunity for further comment. A prohibition against transporting any oxidizers in Class D compartments of cargo aircraft, as proposed under docket HM–224A, would apply to chemical oxygen generators. In that proceeding, among others, RSPA will continue to evaluate the hazards posed by chemical oxygen generators to determine what additional requirements, if any, are needed to insure their safe transportation.

ALPA also recommended removing the exceptions provided in 49 CFR 175.10(a) (7) and (24). The first subparagraph allows the transportation of an oxygen generator provided by the air carrier for medical use of a passenger in the passenger cabin. The exception solely applies to the transportation of those oxygen generators that are for use by on-board passengers and does not provide for the transportation of medical oxygen generators for the purposes of staging or positioning. ALPA believes that the availability of gaseous oxygen makes this part of the exception unnecessary. RSPA is not eliminating this part of subparagraph 175.10(a)(7) at this time because there is insufficient information on the potential effect on airline passengers with breathing difficulties, and the public interest would require public notice and comment before making this type of change to the HMR. RSPA may consider removing oxygen generators from subparagraph (a)(7) in a future rulemaking.

The exception in 49 CFR 175.10(a)(24) allows a small oxygen generator intended for personal use to be transported as a passenger's checked baggage under certain circumstances, including the approval of the air carrier. ALPA believes that passengers are unaware of this requirement, and therefore fail to notify the carrier, because of a lack of public awareness programs and procedures for informing passengers that they must contact the carrier before checking baggage containing an oxygen generator. ALPA also stated that there is no practical means of assuring that the person owning this type of oxygen generator has been educated in how to inspect and maintain the generator as specified in the HMR, and there is no way for the air carrier to examine the generator to verify compliance with the conditions in subsection 175.10(a)(24). ALPA pointed out that the United Kingdom's Civil Aviation Authority has prohibited the transportation of these personal oxygen generators on passenger-carrying aircraft.

ALPA's arguments in favor of eliminating the exception in subsection 175.10(a)(24) warrant further consideration. At the same time, RSPA believes that any such change should follow public notice and comment. Accordingly, RSPA is proposing to eliminate 49 CFR 175.10(a)(24) in the proposed rule in docket No. HM–224A. ALPA's recommendation and supporting comments will be considered in that proceeding.

IV. Effective Date

Because of the potential safety risk posed by continued transportation of oxygen generators as cargo in passenger-carrying aircraft, RSPA has determined that good cause exists for making this rule effective less than 30 days following its issuance.

V. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is considered a significant regulatory action under section 3(f) of Executive Order 12866 and therefore is subject to review by the Office of Management and Budget. The rule is significant according to the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

The changes adopted in this rule should not result in any significant additional costs to persons subject to the HMR. About 150,000 of these oxygen generators are installed on about 1,000 U.S. passenger-carrying aircraft. Because of their typical effective life of about twelve years, it is not necessary to frequently transport these generators as uninstalled or not-in-use materials. In addition, alternative transportation is available for these generators because this rule does not prohibit or inhibit their transportation by highway, rail, water or cargo aircraft. Because of the minimal economic impact of this rule, a full regulatory evaluation is not warranted.

Executive Order 12612

This final rule has been analyzed in accordance with the principles and criteria in Executive Order 12612 ("Federalism") and does not have sufficient Federalism impacts to warrant the preparation of a federalism assessment.

Regulatory Flexibility Act

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. There are limited adverse economic impacts on small businesses or other organizations because this rule imposes a limited prohibition on certain persons subject to the HMR.

Paperwork Reduction Act

There are no information collection requirements in this final rule.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

In consideration of the foregoing, the interim rule amending 49 CFR parts 171 and 173 which was published at 61 FR 26418 on May 24, 1996, is adopted as a final rule with the following change:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. The authority citation for Part 173 is revised to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45, 1.53.

2. In § 173.21, paragraph (k) is revised to read as follows:

§ 173.21 Forbidden materials and packages.

* * * * *

(k) Notwithstanding any other provision of this subchapter, including §§ 171.11 and 175.10(a)(2) of this subchapter, an oxygen generator (chemical) as cargo on a passenger-carrying aircraft. This prohibition does not apply to an oxygen generator for medical or personal use of a passenger that meets the requirements of § 175.10(a)(7) or § 175.10(a)(24) of this subchapter.

Issued in Washington, DC on December 23, 1996, under authority delegated in 49 CFR part 1.

Kelley S. Coyner,

Acting Administrator, Research and Special Programs Administration.

[FR Doc. 96–33036 Filed 12–27–96; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173 and 175

[Docket No. HM–224A; Notice No. 96–26]

RIN 2137–AC92

Prohibition of Oxidizers Aboard Aircraft

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: RSPA proposes to amend the Hazardous Material Regulations to prohibit the carriage of oxidizers, including compressed oxygen, in passenger carrying aircraft and in Class D compartments on cargo aircraft. This proposal specifically analyzes the prohibition of oxidizers in Class D cargo compartments. RSPA plans to issue a supplemental notice of proposed rulemaking further analyzing the prohibition on the carriage of oxidizers aboard passenger carrying aircraft in Class B and C cargo compartments. RSPA is also proposing to add a shipping description to the Hazardous Materials Table for chemical oxygen generators and to require approval of a chemical oxygen generator that is transported with its means of initiation attached. These requirements would apply to foreign and domestic aircraft entering, leaving, or operating within the United States. The purpose of these proposals is to enhance air transportation safety.

DATES: Comments must be received by February 28, 1997.

ADDRESSES: Address comments to the Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, room 8421, 400 Seventh Street, SW, Washington, DC 20590–0001. Comments should identify the docket number and be submitted in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed, stamped postcard. The Dockets Unit is located in the Department of Transportation headquarters building (Nassif Building) at the above address on the eighth floor. Public dockets may be reviewed there between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John A. Gale, Office of Hazardous Materials Standards, (202) 366–8553, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street SW, Washington DC 20590–0001; or Gary Davis, Office of Flight Standards, (202) 267–8166, Federal Aviation Administration, U.S. Department of Transportation, 800 Independence Avenue, SW, Washington DC 20591.

SUPPLEMENTARY INFORMATION:

I. Background

The National Transportation Safety Board (NTSB) is investigating the May 11, 1996, crash of a passenger-carrying aircraft which resulted in 110 fatalities. Preliminary evidence indicates that chemical oxygen generators were carried as cargo on board the aircraft and may have caused or contributed to the severity of the accident. On May 24, 1996, RSPA published an interim final rule (IFR) in the **Federal Register** (61 FR 26418) under Docket HM–224 which temporarily prohibits the offering for transportation and transportation of chemical oxygen generators as cargo aboard in passenger carrying aircraft. The period for submitting comments on the interim final rule in Docket HM–224 closed July 23, 1996. After completing evaluation of the comments received, and the risks posed by oxygen generators, RSPA will issue a final rule under Docket HM–224 to make the prohibition permanent, terminate or modify the prohibition, or otherwise amend provisions of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171 through 180) that apply to oxygen generators. The proposal in this NPRM for amendments to 49 CFR 171.11 and 172.101 are based on the existing (temporary) prohibition against transporting chemical oxygen generators as cargo aboard passenger carrying aircraft. These proposals may be modified in a final rule, as appropriate, to consider the further final rule to be issued under Docket HM–224.

On May 31, 1996, NTSB issued two recommendations to RSPA, as follows:

In cooperation with the Federal Aviation Administration, permanently prohibit the transportation of chemical oxygen generators as cargo on board any passenger or cargo aircraft when the generators have passed their expiration dates, and the chemical core has not been depleted. (Class I, Urgent Action) (A–96–29)

In cooperation with the Federal Aviation Administration, prohibit the transportation of oxidizers and oxidizing materials (e.g., nitric acid) in cargo compartments that do not have fire or smoke detection systems. (Class I, Urgent Action) (A–96–30)

The actions proposed in this notice are responsive, in part, to the NTSB recommendations and are based on RSPA's preliminary assessment of the hazards posed by oxidizers. In its recommendations to RSPA, the NTSB cited three previous incidents in which oxidizers caused fires aboard aircraft. In each of these incidents, there were apparent or known serious violations of the HMR. RSPA and FAA are not aware of any fire aboard an aircraft having been caused directly by transport of oxidizers in conformance with the HMR. However, RSPA and FAA agree with the NTSB that, in certain circumstances, oxidizers can contribute to the severity of a fire and may pose an unreasonable risk when transported in inaccessible cargo compartments which are not required to be equipped with fire or smoke detection systems or fire suppression (i.e., fire-extinguishing) systems.

II. Cargo Compartments Aboard Aircraft

Various design features incorporated into a cargo compartment's design are intended to control or extinguish any fire which might occur in that compartment. Under the Federal Aviation Regulations (FAR), cargo compartments are classified into five categories, Classes A, B, C, D, and E (see 14 CFR 25.857). In brief, a Class A compartment is one which is easily accessible in flight and in which the presence of a fire would be easily discovered by a crewmember. A Class B compartment is one in which any part of the compartment is accessible in flight to a crewmember with a hand held fire extinguisher and has an approved smoke detector or fire detector system. A Class C compartment is not accessible but has an approved smoke detector or fire detector system, an approved built-in fire-extinguishing system, means to control ventilation so that the extinguishing agent can control any fire that may start within the compartment, and means to exclude hazardous quantities of smoke, flames or extinguishing agent from any compartment occupied by crew or passengers.

A Class D compartment is not accessible but is one in which a fire occurring in it will be completely confined without endangering the safety of the airplane or the occupants, ventilation is controlled so that any fire likely to occur will not progress beyond safe limits, compartment volume does not exceed 1,000 cubic feet, and there are means to exclude hazardous quantities of smoke, flames or noxious gases from any compartment occupied

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by crew or passengers. A Class D compartment is not required to have a fire or smoke detection system or a fire suppression system. Its design is intended to confine and control the severity of a fire. It generally is not sealed sufficiently to extinguish a fire, but is designed to limit air flow enough to prevent a significant fire. For a compartment of 500 cubic feet (cu. ft.) or less, an air flow of 1500 cu. ft. per hour (three air exchanges per hour) is acceptable.

A Class E compartment is one used on cargo-only aircraft which has an approved smoke or fire detection system, means to shut off the ventilating airflow and means to exclude hazardous quantities of smoke, flames or noxious gases from the flight crew compartment.

III. Oxidizers Under the HMR

Under the HMR, an oxidizer (Division 5.1) is a material that may, generally by yielding oxygen, cause or enhance the combustion of other materials (see 49 CFR 173.127). Materials in Division 5.1 are subdivided into Packing Groups I, II, or III, a relative ranking corresponding to high, moderate or low risks posed by the material. Packing groups are assigned to specifically named materials in the § 172.101 Hazardous Materials Table (Table). For generic entries, such as "Oxidizing solid, n.o.s." ("n.o.s." means "not otherwise specified"), packing groups are assigned by analogy with existing entries in the Table for liquids, and by test results for solids. Certain gases (Class 2), most notably oxygen, are also oxidizers under the HMR and, even though they are not classed as such, they are required to be identified with the OXIDIZER or OXYGEN label.

IV. Oxidizers Aboard Aircraft

Liquid oxidizers in Packing Group I are very reactive and have the ability to initiate and substantially intensify fires. These materials are forbidden for transportation by passenger-carrying aircraft and are permitted only in restricted quantities aboard cargo-only aircraft. Most oxidizers will not initiate fires when spilled or released, but will intensify fires from other sources. Many of these materials are permitted for transport aboard passenger-carrying and cargo-only aircraft. When transported by aircraft, these materials are subject to per package quantity limits specified in the Table, and to aircraft quantity limits specified in § 175.75.

Oxidizers currently authorized for transportation by aircraft in Class D cargo compartments generally will not initiate a fire. The potential hazard posed by them is that, if a fire were to occur elsewhere in the compartment, in the absence of a fire suppression system, the fire may burn long enough to involve the oxidizer. The oxidizer would then provide an oxygen-enriched environment which could intensify the fire and override the limited safety features of the compartment.

In the absence of a fire caused by another source, oxidizers currently authorized for air transportation and offered in conformance with the HMR present very little risk to aircraft, crew or passengers. The threat of a serious risk arises from the mixing of oxidizers with baggage and other cargo which are potential sources of fire. Over the past twenty years, virtually all fires aboard aircraft in passenger baggage or cargo involved forbidden materials or serious violations of the HMR.

V. Prohibition of Oxidizers Aboard Aircraft in Class D Cargo Compartments

Knowledge of the May 11, 1996, crash has increased awareness of the hazards posed by hazardous materials in transportation, and increased the vigilance on the part of the public, airlines, commercial shippers and the Federal Government. While this should result in fewer instances involving transportation of forbidden materials aboard aircraft, fires initiated by forbidden materials in passenger baggage and cargo likely will not be totally eliminated. Further, because Class D cargo compartments are not required to be equipped with smoke or fire detection systems or fire-extinguishing systems, oxidizers could become involved in and substantially intensify a cargo compartment fire thereby contributing to the severity of an incident and, possibly, the loss of life and property. For these reasons, RSPA and FAA agree with the NTSB recommendation to prohibit the transportation of oxidizers in cargo compartments that do not have fire or smoke detection systems. Therefore, RSPA proposes to amend § 175.85 to prohibit the loading or transportation in a Class D cargo compartment of a package for which an OXIDIZER or OXYGEN label (see §§ 172.426 and 172.405) is required under Subpart E of Part 172. These restrictions would apply to both foreign and domestic aircraft entering, leaving or operating in the United States.

The proposed prohibition against transportation of oxidizers as cargo in Class D compartments (and the possible expansion of this proposed prohibition to Class B and C compartments, as discussed in Part VI, below) would not affect the exception in 49 CFR 175.10(a)(7) for operator-supplied oxygen for a passenger's use during flight. However, in this NPRM, RSPA is proposing an editorial change to this section to clarify that this exception applies only to oxygen provided for use by an onboard passenger and does not allow the air carrier to transport medical oxygen devices as cargo in order to move them to the locations where they will be needed, at a later time, for use by passengers.

At the present time, a passenger's own medical oxygen cylinder may be transported as cargo on passenger-carrying aircraft in compliance with the HMR, but the passenger's own cylinder may not be transported in the passenger cabin. 49 CFR 175.85(a). If RSPA ultimately prohibits the carriage of all oxidizers, including gaseous oxygen, in Class B, C, and D compartments on passenger-carrying aircraft, a passenger would not be able to ship its own medical oxygen on the same airplane. The passenger would have to arrange for another supply of oxygen at destination, rather than using a cylinder that the passenger owns.

FAA supports a complete removal of oxidizers from passenger-carrying aircraft, as proposed, but also believes that, if it is necessary to allow a passenger to transport its own oxygen cylinder for use at destination, it is far safer to stow the cylinder in the passenger cabin, under the control of and accessible to the airline crew, than in an inaccessible cargo compartment. FAA does not believe that it is prudent to allow for the carriage of compressed oxygen in an inaccessible Class D compartment. It believes that, if an oxygen cylinder is involved in a fire, the release of oxygen will intensify the fire. Because the Class D cargo compartment does not contain detection or suppression devices and because it is inaccessible to crew, a fire that might otherwise be survivable has an increased risk of becoming fatal. Thus, FAA believes that it would be safer to carry personal medical oxygen cylinders in the cabin because the crew could quickly remove the cylinders from any fire area in the cabin. This is in contrast to the complete inability of the crew to remove compressed oxygen from an inaccessible Class D cargo compartment.

RSPA expressly invites comments on this and any other alternatives (to completely prohibiting passenger-owned oxygen cylinders) that would accommodate passengers with breathing difficulties that need their own supply of oxygen at destination. These comments should indicate whether, and how many, passengers actually ship their own medical oxygen cylinders on

the same airplane in order to have a supply of oxygen at their destination.

RSPA also invites air carriers to submit comments on the effect of the prohibition on current practices of using passenger-carrying aircraft to "stage" or position the oxygen cylinders that airlines provide to passengers with breathing difficulties for use during flight under 49 CFR 175.10(a)(7). The proposed prohibition would have the effect of requiring air carriers to ship their own cylinders by ground transportation or by cargo-only aircraft, rather than using their own passenger-carrying aircraft to move these devices to locations for passenger use.

FAA is working on a related action to require that Class D compartments be clearly marked so that cargo-handling personnel will be able to recognize them.

RSPA and FAA have tentatively determined that the costs of the requirements of this proposal would be $25 million over ten years ($17 million, present value). RSPA and FAA have also tentatively determined that the benefits of this proposal will outweigh the costs if it saves nine or more lives over the next ten years.

VI. Prohibition of Oxidizers As Cargo on All Passenger Carrying Aircraft

RSPA is proposing to extend the prohibition on oxidizers to Class B and C aircraft cargo compartments, effectively prohibiting the carriage of oxidizers on passenger carrying aircraft. RSPA plans on issuing an SNPRM further developing and analyzing this part of our proposed rule in the very near future. Although the proposal has not been fully developed, it is being proposed in this document for two reasons: (1) we would like to take advantage of the intervening time to seek public comment that can be used in development of the SNPRM; to the extent that commenters can very quickly provide us with their comments and supporting data, we will consider them in developing the SNPRM; and (2) we believe that, in preparing comments on the prohibition in "D" compartments, commenters should consider the possibility that any final rule could include a prohibition on all passenger carrying aircraft.

VII. Oxygen Generators: Shipping Description and Small Personal Oxygen Generators

A. Shipping Description

Currently, under the HMR, the most appropriate shipping description for an oxygen generator (chemical) containing sodium chlorate as the primary constituent is "Oxidizing solid, n.o.s., 5.1, UN1479, II." RSPA does not believe that this name adequately describes an oxygen generator. In particular, the name does not communicate to an air carrier the fact that the material is not authorized on passenger carrying aircraft. Therefore, consistent with changes recently adopted into the International Civil Aviation Organizations Technical Instructions for the Transport of Dangerous Goods By Air, RSPA proposes to add the following description to the Hazardous Materials Table (Table) "Oxygen generator, chemical, 5.1 UN3353, II." RSPA also is proposing to revise §§ 171.11, 171.12, and 171.12a to require the use of the new name in international transportation.

The second sentence of proposed § 171.11(d)(14) and the word "Forbidden" in Column 9A of the proposed Table entry for "Oxygen generator, chemical" are based on the existing (temporary) prohibition against transporting chemical oxygen generators aboard passenger-carrying aircraft. These proposals may be modified in a final rule, as appropriate, to consider the further final rule to be published under Docket HM–224. The UN identification number assigned to the proposed shipping name "Oxygen generator, chemical" in the Table may be revised if the UN Committee of Experts on the Transport Of Dangerous Goods adopts a different identification number in its Recommendations on the Transport of Dangerous Goods.

In addition, RSPA believes that the hazards posed by an oxygen generator, chemical that is shipped with its means of initiation attached require special approval. Therefore, consistent with the prohibitions and conditions specified in § 173.21, RSPA is proposing a separate requirement that oxygen generator, chemical that is shipped with its means of initiation attached must: (1) be classed and approved by the Associate Administrator for Hazardous Materials Safety; (2) incorporate at least two safety features that will prevent unintentional activation of the generator; and (3) when transported by air, be contained in a packaging prepared and originally offered for transportation by the approval holder. RSPA is also proposing to require that each shipper of an approved oxygen generator have a copy of the approval and that the approval number be marked on the outside of the package.

B. Small Personal Oxygen Genenerators

In the interim final rule RSPA published under Docket HM–224, RSPA prohibited the transportation of oxygen generators by passenger carrying aircraft. An exception was provided for personal oxygen generators that meet the conditions of § 175.10(a)(24). Section 175.10(a)(24) requires that the person carrying the oxygen generator receive the approval of the operator of the aircraft and that the personal oxygen generators conform to the following: (1) a six foot drop test without loss of contents or activation; (2) be equipped with at least two positive means of preventing unintentional activation; (3) be well insulated, and when actuated the temperature on any external surface does not exceed 212 degrees Fahrenheit; (4) be in the manufacturer's original packaging which must include a sealed outer wrapping or clear-evidence that the generator has not been tampered with; and (5) be marked to indicate conformance with § 175.10(a)(24).

In its comments to the interim final rule, the Air Line Pilots Association (ALPA) requested that the exception for small personal oxygen generators in § 175.10(a)(24) be removed. Though § 175.10(a)(24) requires passengers to notify operators when there are oxygen generators in their baggage, ALPA stated that an aircraft operator has no way of knowing that these small chemical oxygen generators are being carried in a passenger's checked baggage because there are no public awareness programs or procedures for notifying passengers that passengers are to contact operators before they offer bags containing generators as checked baggage. ALPA also stated that there is no realistic way to know when or that the person who purchased or who intends to carry oxygen generators has been educated in the proper way to inspect and maintain them as specified in the HMR. ALPA went on to say that there is no way for an operator to examine the units to verify that a passenger is in compliance with these requirements. ALPA also pointed out that the Civil Aviation Authority of the United Kingdom has banned personal oxygen generators on passenger-carrying aircraft.

RSPA believes that adequate public notice and comment should be provided before the exception in § 175.10(a)(24) is removed. Therefore, RSPA is proposing, in this NPRM, to remove the exception provided in § 175.10(a)(24) for small personal oxygen generators.

VIII. Request for Additional Comments

RSPA requests any available information concerning the costs and benefits of this proposed action. RSPA is requesting information concerning the hazards posed by oxidizers in aircraft cargo compartments that have fire detection or suppression systems. Please

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provide detailed cost information to RSPA as to the manner by which you would incur costs as the result of the proposed ban of oxidizers including all germane monetary and qualitative cost information. RSPA also solicits comments from those foreign operators who would incur costs as the result of this proposal. Although our evaluation has not been able to determine any apparent cost impact on cargo aircraft carriers, RSPA recognizes there could, nonetheless, be a potential cost impact. As the result of this concern, RSPA solicits information from cargo aircraft operators who find they would incur costs from implementation of the proposed rule. Potentially impacted shippers are asked to provide detailed information on the manner by which they would incur costs.

There may also be adverse impacts on airlines if they routinely use passenger-carrying aircraft to transport, as cargo, oxygen cylinders which are normally installed on aircraft and must be periodically retested or refilled. RSPA has not assessed the costs associated with prohibiting the shipment of oxygen cylinders on passenger carrying aircraft. Therefore, RSPA requests any available information concerning the costs and benefits of banning oxygen cylinders, as cargo, aboard passenger carrying aircraft. Please provide detailed information as to the manner by which you would incur costs. In particular, RSPA is requesting information on the number of cylinders of oxygen which are transported each day on passenger carrying aircraft. What is the typical size of these containers? What other means of transportation are available? What are the cost differences to the airlines for using these other means of transportation?

By limiting the prohibition on oxidizers to packages required to be labeled OXIDIZER and OXYGEN, the prohibition would not apply to oxidizers classed as consumer commodities, ORM–D, under the provisions of § 173.152, or as consumer commodities, Class 9, as permitted under § 171.11. RSPA requests comments regarding whether it would be appropriate to extend this prohibition to consumer commodities which are oxidizers or whether quantity limits should be imposed on these materials in § 175.75.

IX. Future Rulemaking

RSPA, in coordination with FAA, has initiated a study to assess the risks associated with the transportation of hazardous materials in aircraft cargo compartments. As an initial step, RSPA held a meeting in Cambridge, Massachusetts on October 22, 1996, for purposes of identifying accident scenarios, probabilities of occurrence, and expected consequences. In attendance were representatives from the NTSB, FAA, Air Transport Association, Chemical Manufacturers Association, Air Line Pilots Association, International Air Line Passenger Association and several aircraft manufacturers. Based on the outcome of this study, RSPA may initiate a rulemaking to ban additional hazardous materials. RSPA requests comments regarding whether it would be appropriate to extend this prohibition to other materials which may pose hazards similar to oxidizers, such as organic peroxides. Comments are requested as to the costs and benefits of these possible actions.

X. Regulatory Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule is considered a significant regulatory action under section 3(f) of Executive Order 12866 and was reviewed by the Office of Management and Budget. The rule is considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034). A preliminary regulatory evaluation is available for review in the public docket.

Executive Order 12612

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism"). The Federal hazardous materials transportation law (49 U.S.C. 5101–5127) contains an express preemption provision that preempts State, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

(i) the designation, description, and classification of hazardous material;

(ii) the packing, repacking, handling, labeling, marking, and placarding of hazardous material;

(iii) the preparation, execution, and use of shipping documents pertaining to hazardous material and requirements respecting the number, content, and placement of such documents;

(iv) the written notification, recording, and reporting of the unintentional release in transportation of hazardous material; or

(v) the design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous material.

Because RSPA lacks discretion in this area, preparation of a federalism assessment is not warranted. Title 49 U.S.C. 5125(b)(2) provides that DOT must determine and publish in the **Federal Register** the effective date of Federal preemption. That effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. This proposed rule would require oxidizers to be transported in certain types of cargo compartments aboard aircraft. RSPA solicits comments on whether the proposed rule would have any effect on State, local or Indian tribe requirements and, if so, the most appropriate effective date of Federal preemption.

Regulatory Flexibility Act

I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities. This proposed rule applies to air carriers, most of whom are not small entities.

Paperwork Reduction Act

This proposed rule does not propose any new information collection requirements.

Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Reporting and recordkeeping requirements.

49 CFR Part 172

Hazardous materials transportation, Hazardous waste, Labeling, Marking, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 175

Air carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Parts 171, 172, 173 and 175 would be amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

2. In § 171.11, paragraph (d)(14) is added to read as follows:

§ 171.11 Use of ICAO Technical Instructions.

* * * * *

(d) * * *

(14) An oxygen generator (chemical) must be classed, approved, and described in accordance with the requirements of this subchapter. Except as provided in § 175.10(a)(7) of this subchapter, oxygen generators (chemical) may not be transported on passenger carrying aircraft (see § 173.21 of this subchapter).

3. In § 171.12, paragraph (b)(17) is added to read as follows:

§ 171.12 Import and export shipments.

* * * * *

(b) * * *

(17) An oxygen generator (chemical) must be classed, approved, and described in accordance with the requirements of this subchapter.

* * * * *

4. In § 171.12a, paragraph (b)(16) is added to read as follows:

§ 171.12a Canadian shipments and packagings.

* * * * *

(b) * * *

(16) An oxygen generator (chemical) must be classed, approved, and described in accordance with the requirements of this subchapter.

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

5. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

6. In the § 172.101 Hazardous Materials Table, the following entry is added in appropriate alphabetical order:

§ 172.101 Purpose and use of hazardous materials table.

* * * * *

SECTION 172.101.—HAZARDOUS MATERIALS TABLE

Symbols (1)	Hazardous materials descriptions and proper shipping names (2)	Hazard class or division (3)	Identification numbers (4)	PG (5)	Label Codes (6)	Special provisions (7)	(8) Packaging authorizations (§ 173.***) Exceptions (8A)	Nonbulk (8B)	Bulk (8C)	(9) Quantity limitations Passenger aircraft/ rail (9A)	Cargo aircraft only (9B)	(10) Vessel stowage requirements Location (10A)	(10A) Other (10B)
.	.	.	.	.	.	.	.	.	.	.	.	.	.
	Oxygen generator, chemical	5.1	UN3353	I	5.1	57	None	211	None	Forbidden	15 kg	D	58, 59, 68, 106
				II	5.1	57	None	212	None	Forbidden	25 kg	D	58, 59, 68, 106
.	.	.	.	.	.	.	.	.	.	.	.	.	.

7. In 172.102, in paragraph (c)(1), Special Provision 57 is added to read as follows:

§ 172.102 Special provisions.

* * * * *

(c) * * *

(1) * * *

57 An oxygen generator, chemical that is shipped with its means of initiation attached must: (1) be classed and approved by the Associate Administrator for Hazardous Materials Safety; (2) incorporate at least two safety features that will prevent unintentional activation of the generator; and (3) when transported by cargo-only aircraft, be contained in a packaging prepared and originally offered for transportation by the approval holder. Each offerer of an approved oxygen generator must have a copy of the approval, and the approval number must be marked on the outside of the package.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

8. The authority citation for Part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45, 1.53.

§ 173.21 [Amended]

9. In § 173.21, in paragraph (k), the words "or § 175.10(a)(24)" are removed.

PART 175—CARRIAGE BY AIRCRAFT

10. The authority citation for Part 175 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 175.10 [Amended]

11. In § 175.10, in paragraph (a)(7), the wording "a passenger" is revised to read "an onboard passenger" and paragraph (a)(24) is removed and reserved.

12. In § 175.85, paragraph (d) is added to read as follows:

§ 175.85 Cargo location.

* * * * *

(d) No person may load or transport in a Class D cargo compartment, as defined in 14 CFR 25.857(c), a package containing a hazardous material for which an OXIDIZER or OXYGEN label is required under Subpart E of Part 172 of this subchapter (see § 172.426 or § 172.405 of this subchapter, respectively).

* * * * *

Issued in Washington, DC on December 20, 1996, under the authority delegated in 49 CFR part 106.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 96–33035 Filed 12–27–96; 8:45 am]

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December 30, 1996

Part V

Environmental Protection Agency

40 CFR Part 228
Ocean Dumping; Amendment of Site Designation; Final Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

Ocean Dumping; Amendment of Site Designation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) amends the site designation for the San Francisco Deep Ocean Disposal Site (SF-DODS), an existing deep ocean dredged material disposal site located off San Francisco, California, by establishing a new temporary disposal volume limit of 4.8 million cubic yards per year, and by extending the time period during which the disposal site would be managed under the temporary disposal volume limit by two years (through December 31, 1998). This amendment is necessary in order to allow the SF-DODS to remain an option for disposal of dredged material from authorized projects, while documentation addressing comprehensive long term dredged material management for the region is being completed. The amendment is intended to provide the region with continued access to an environmentally appropriate dredged material disposal alternative. It is emphasized that this action does not constitute or imply EPA Region 9's or the Corps San Francisco District's approval of actual ocean disposal of dredged materials. Before a permit allowing such ocean disposal may be issued, alternatives to ocean disposal must be considered and a need for the disposal established under the Marine, Protection, Research, and Sanctuaries Act (MPRSA). EPA Region 9 or the Corps San Francisco District will deny permits when either agency determines that feasible environmentally preferable alternatives are available, including beneficial use.

Under today's final rule, the SF–DODS will remain designated as an available alternative for the disposal of suitable dredged material removed from the San Francisco Bay region and other nearby harbors or dredging sites for two years (through December 31, 1998). However, EPA is not setting a permanent annual disposal volume limit at this time, as originally envisioned in the August 11, 1994 site designation Final Rule. Instead, EPA is extending the existing interim management of the site at a new and reduced temporary disposal volume limit of 4.8 million cubic yards per year. A decision on a permanent disposal volume limit will be made by the end of this extension period, based on the comprehensive dredged material management planning process or based on a separate alternatives-based EPA evaluation of the need for ocean disposal. All other aspects of the August 11, 1994 SF-DODS designation Final Rule, including the provisions of the Site Management and Monitoring Plan (SMMP) will remain in full effect.

EFFECTIVE DATE: This final regulation becomes effective on December 30, 1996.

ADDRESSES: Send questions or comments to: Mr. Allan Ota, Ocean Disposal Coordinator, U.S. Environmental Protection Agency, (EPA) (WTR-2), 75 Hawthorne Street, San Francisco, California 94105, telephone (415) 744-1980.

FOR FURTHER INFORMATION CONTACT: Mr. Allan Ota, Ocean Disposal Coordinator, U.S. Environmental Protection Agency, Region 9 (WTR-2), 75 Hawthorne Street, San Francisco, California 94105, telephone (415) 744-1980.

SUPPLEMENTARY INFORMATION: In addition to the proposed rule (61 FR 54112), the primary supporting documents for this designation amendment are the *Final Environmental Impact Statement (EIS) for Designation of a Deep Water Ocean Dredged Material Disposal Site off San Francisco, California* (August 1993), the *Long-Term Management Strategy (LTMS) for the Placement of Dredged Material in the San Francisco Bay Region, Draft Policy Environmental Impact Statement/Programmatic Impact Report* (April, 1996), and the SF-DODS designation Final Rule [40 CFR 228.12(b)(70), 59 FR 41243 (August 11, 1994), subsequently republished as 40 CFR 228.15(l)(3), 59 FR 61128 (November 29, 1994), all of which are available for public inspection at the following locations:

1. EPA Region 9, Library, 75 Hawthorne Street, 13th Floor, San Francisco, California.
2. ABAG/MTC Library, 101 8th Street, Oakland, California.
3. Alameda County Library, 3121 Diablo Avenue, Hayward,California.
4. Bancroft Library, University of California, Berkeley, California.
5. Berkeley Public Library, 2090 Kittredge Street, Berkeley,California.
6. Daly City Public Library, 40 Wembley Drive, Daly City,California.
7. Environmental Information Center, San Jose State University,125 South 7th Street, San Jose, California.
8. Half Moon Bay Library, 620 Correas Street, Half Moon Bay,California.
9. Marin County Library, Civic Center, 3501 Civic Center Drive,San Rafael, California.
10. North Bay Cooperative Library, 725 Third Street, Santa Rosa,California.
11. Oakland Public Library, 125 14th Street, Oakland, California.
12. Richmond Public Library, 325 Civic Center Plaza, Richmond,California.
13. San Francisco Public Library, Civic Center, Larkin & McAllister, San Francisco, California.
14. San Francisco State University Library, 1630 Holloway Avenue,San Francisco, California.
15. San Mateo County Library, 25 Tower Road, San Mateo,California.
16. Santa Clara County Free Library, 1095 N. Seventh Street, San Jose, California.
17. Santa Cruz Public Library, 224 Church Street, Santa Cruz,California.
18. Sausalito Public Library, 420 Litho Street, Sausalito,California.
19. Stanford University Library, Stanford, California.

A. Regulated Entities

Entities potentially regulated by this action are persons or entities seeking permits to dump material into ocean waters at the SF–DODS, under the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. 1401 et seq.. The rule would primarily be of relevance to parties in the San Francisco area seeking permits from the U.S. Army Corps of Engineers for the ocean dumping of dredged material at the SF–DODS as well as the U.S. Army Corps of Engineers itself. Potentially regulated categories and entities seeking to use the SF–DODS include:

Category	Examples of potentially regulated entities
Industry	Ports seeking dredged material ocean dumping permits for SF–DODS use.
	Marinas seeking dredged material ocean dumping permits for SF–DODS use.
	Shipyards seeking dredged material ocean dumping permits for SF–DODS use.
	Berth owners seeking dredged material ocean dumping permits for SF–DODS use.

Category	Examples of potentially regulated entities
State/local/ tribal governments.	Local governments owning ports or berths seeking dredged material ocean dumping permits for SF–DODS use.
Federal	US Army Corps of Engineers for its projects proposing to use the SF–DODS.
Government	Federal agencies seeking dredged material ocean dumping permits for SF–DODS use.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by the action. This table lists types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in this table could also be regulated. To determine whether your organization is potentially regulated by this action, you should carefully consider whether your organization is subject to the requirement to obtain an ocean dumping permit in accordance with the Purpose and Scope provisions of Section 220.1 of Title 40 of the Code of Federal Regulations, and you wish to use the SF–DODS. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION, CONTACT** section.

B. Background

Section 102(c) of the MPRSA of 1972, as amended, 33 U.S.C. Sections 1401 et seq., gives the Administrator of EPA authority to designate sites where ocean dumping may be permitted. By publication of a Final Rule in the **Federal Register** on August 11, 1994 (59 FR 41243), EPA Region 9 designated SF–DODS as an ocean dredged material disposal site under the MPRSA, and readers are referred to that rulemaking for further information on the site. In that Final Rule, EPA designated SF–DODS for continued use for a period of 50 years, with an interim capacity of six million cubic yards of dredged material per calendar year until December 31, 1996. It was assumed that by that date, a comprehensive evaluation of long term dredged material management needs for the overall San Francisco Bay region would have been conducted, which would have evaluated the potential for alternatives to ocean disposal, and which could therefore serve as a basis for establishing a permanent disposal volume limit for SF–DODS.

Since the August 11, 1994 site designation Final Rule, significant effort has in fact gone toward development of a comprehensive dredged material management approach for the region. In particular, the multi-agency draft Policy Environmental Impact Statement/ Programmatic Environmental Impact Report entitled *Long-Term Management Strategy (LTMS) for the Placement of Dredged Material in the San Francisco Bay Region* (LTMS draft EIS/R) was published on April 17, 1996. The LTMS draft EIS/R evaluates the overall dredged material management needs and disposal or reuse potential for the San Francisco Bay area over the next 50 years, including not only ocean disposal, but also in-Bay disposal (placement at designated sites within the San Francisco estuary that are managed under Section 404 of the Clean Water Act), and upland or wetland disposal or reuse. The policy alternatives evaluated in the LTMS draft EIS/R include varying levels of dredged material disposal or reuse in each of these three placement environments. The potential environmental and socioeconomic effects of each policy alternative are evaluated in the LTMS draft EIS/R. Selection of one of the alternative policy approaches set forth in the LTMS draft EIS/R could therefore serve as an appropriate basis for designating a permanent disposal volume limit for SF–DODS, as originally envisioned.

However, the LTMS Final EIS/R process is not yet complete. Public comments on the LTMS draft EIS/R were accepted through July 19, 1996, and over 60 substantive comment letters were received, many of which suggested that significant changes should be made before finalizing the EIS/R. Several comment letters expressed the view that the programmatic document was inadequate and that a revised draft EIS/R should be prepared. Other comment letters recommended that a detailed Management Plan, outlining the specific actions that state and federal agencies would take to implement any of the alternatives in the draft EIS/R, should be prepared prior to finalizing the programmatic EIS/R. It thus is apparent that an LTMS final EIS/R and Record of Decision will not be available in time to serve as the basis for establishing a permanent disposal volume limit for the SF–DODS before the December 31, 1996 expiration of the interim period specified in the August 11, 1994 site designation Final Rule.

Because of this situation, and in order to provide for a maximum of public comment opportunities about the overall policy approach that should be selected for long-term dredged material management(including the role of ocean disposal), EPA published a Proposed Rule (61 FR 54112) on October 17, 1996 to extend the period during which the SF–DODS would be managed under a temporary disposal volume limit. In that proposed rule, options were presented to solicit public comment both on the appropriate length for a new temporary extension, and for an appropriate temporary disposal volume limit.

A range of approaches to determining an appropriate temporary disposal volume limit for SF-DODS was presented by EPA in the proposed rule. These included: (1) Revising the disposal volume limit based on an updated estimate of overall dredging and potential ocean disposal needs for the San Francisco area; (2) revising the disposal volume limit based on one of the alternatives presented in the LTMS draft EIS/R; (3) revising the disposal volume limit to accommodate only those specific projects currently approved for ocean disposal (plus an additional volume to accommodate a limited number of new projects in the near term); and (4) leaving unchanged the existing disposal volume limit of six million cubic yards per year. As discussed in the preamble to the proposal, based on the site designation EIS, original August 1994 site designation rulemaking, and subsequent site monitoring results, no significant adverse environmental impacts are expected in association with the original interim disposal volume limit of six million cubic yards per year. All of the proposed rule's options for a continued temporary disposal volume limit reflected either a decrease, or no change, in potential disposal activity at the SF-DODS.

Five options also were presented in the proposed rule regarding extension of the date for management of the site under the temporary capacity limit. These options included extension periods of six months, one year, 18 months, two years, and an indefinite period tied to completion of the LTMS final EIS/R. EPA specifically solicited public comments on this range of options for an extended temporary site management period, as well as comments addressing other interim site management periods or alternatives that involve no extension at all.

C. Description of Final Rule

After considering the comments received on the proposed rule and the current status of the LTMS EIS/R, today's final rule reduces the temporary

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volume capacity from 6 million cubic yards per year to 4.8 million cubic yards per year and extends site availability under that capacity for two years (through December 31, 1998). This is done in the final rule by amending 40 CFR 228.15(l)3) to reflect the new temporary volume limit and date.

Extending site use at this time under a temporary disposal volume limit will allow the LTMS EIS/R process to continue, without precluding final selection of any of the LTMS EIS/R's overall dredged material management alternatives. Other than establishing an interim disposal volume limit and setting a new timeframe for designating a permanent disposal volume limit, the provisions of the August 11, 1994 site designation Final Rule would be unchanged by today's amendments. Responses to the comments received on the proposal and its options are presented in Section D below.

D. Response to Comments on the Proposed Rule

A total of eleven letters and one telephone call commenting on the proposed rule were received. These included letters from two federal and two state agencies, two Bay area ports, one port association, two dredging/port industry associations, three environmental groups (signing one letter), and a natural resources law firm representing area fishermen's organizations. In addition, a "no comment" phone call was received from one federal agency. Finally, one letter incorporated by reference the commentor's earlier comments on the original (1994) site designation action, and on the LTMS draft Policy EIS/Programmatic EIR.

Citing information similar to that provided in the proposed rule, all nine of the agency, port, and industry comment letters supported Volume Option 4: Retain existing six million cubic yard per year interim disposal volume limit for the SF-DODS. All but one of these commenters also supported either Extension Option 1: Two-year extension to interim site management, or the potentially longer time period under Extension Option 5: Unspecified period of interim site management (one agency comment letter did not specify a preferred time-frame). In contrast, the other commenters supported substantially lower disposal volume limits (a variation of Volume Option 3: Interim disposal volume limit based on specific projects currently approved for ocean disposal, that would allow no more than four million cubic yards of disposal per year), and a shorter extension period (Extension Option 4: Six-month extension to interim site management). EPA's response to these comments is presented in the following paragraphs.

Establish a Permanent Annual Disposal Volume Limit Now

Three of the comment letters recommended that EPA issue a final (permanent) annual ocean disposal volume limit now, rather than extend interim site management any longer. These commenters noted their agreement with the statement in the proposed rule that sufficient information now exists for EPA to establish a permanent limitation, based on publication of the LTMS draft Policy EIS/Programmatic EIR, public comments received pursuant to that draft EIS/EIR, and site monitoring conducted to date. One commenter supported a permanent disposal volume limit of one- to two-million cubic yards per year based on the LTMS draft EIS/EIR alternatives; other commenters did not specify a preference for the size of a permanent disposal volume limit.

Response. EPA agrees that sufficient technical information exists on which to appropriately base a final (permanent) annual disposal volume limit for the SF-DODS. However, as discussed in the preamble to the proposed rule, EPA prefers to extend the existing, interim management of the disposal site while the consideration of permanent region-wide dredged material disposal alternatives continues via the LTMS process. It is unfortunate that the LTMS Policy EIS/Programmatic EIR was not finalized as originally envisioned before the end of the initial interim site management period. However, the purposes behind providing an interim site management period in the first place—i.e., to better consider long-term management options and to maximize public input opportunities—remain relevant today. In the event that the LTMS EIS/EIR process is still not completed by the end of the new extended interim site management period, EPA expects to resolve the issue of a final (permanent) disposal volume limit based on an independent evaluation of the information available at that time.

Interim Disposal Volume Limit of Six Million Cubic Yards Per Year is Excessive

Commenters criticized a disposal volume limit of six million cubic yards per year and argued that a maximum of four million cubic yards per year should be set. They raised several specific arguments, including: (1) The original designated volume limit of six million cubic yards per year was excessive and flawed; (2) the LTMS draft Policy EIS/Programmatic EIR uses a revised (lower) estimate of 4.8 million cubic yards of sediment per year that on average may be suitable for ocean disposal, but even this estimate was conservative; (3) EPA has provided no evidence that there is any need for ocean disposal in excess of four million cubic yards per year (there is no demonstrated need to provide allowance for projects in addition to those anticipated at this time; (4) it is inappropriate to define ocean disposal needs based on the lack of currently available alternatives; and (5) reducing the disposal limit at this time would not prejudice the ongoing LTMS process, whereas not reducing it in light of the LTMS's own new dredging estimates would prejudice the process. Each of these comments is addressed in the following paragraphs.

(1) The original (six million cubic yard per year) disposal limit was excessive and flawed at the time of the original site designation in 1994. In addition, the modeling at that time, which indicated that six million cubic yards per year could be disposed without adverse environmental impact, is irrelevant, since the legal standard requires EPA to minimize ocean disposal.

Response. EPA's original site designation EIS and rulemaking were based on the most up-to-date information that was appropriate to use at the time. The primary document supporting the original site designation for the SF-DODS was the Environmental Impact Statement (EIS) for Designation of a Deep Water Ocean Dredged Material Disposal Site off San Francisco, California. The draft EIS was published by EPA in December, 1992, and the final EIS was published in August, 1993. A proposed rule for site designation was subsequently published in the **Federal Register** on March 18, 1994, and the site designation final rule was published on August 11, 1994. The site designation became effective on September 12, 1994.

During the two years between publication of the draft EIS and the final designation of the ocean disposal site, new estimates of long-term dredging were being developed under the LTMS process. They were not, however, finalized for use in the final site desigation process. A series of base closure decisions during this general timeframe necessitated re-evaluation of long-term dredging needs. A final report was prepared, based on dredging project information as current as 1993, but was not published until 1995. This final report, Analysis of San Francisco Regional Dredging Quantity Estimate,

Dredging Project Profiles, and Placement Profiles, containing the new dredging estimates was published on September 28, 1995 (and incorporated as Appendix E in the LTMS draft Policy EIS/Programmatic EIR, dated April, 1996). Hence new, finalized estimates of long-term dredging needs were not completed, nor was there consensus on their use, at the time of the original site designation. EPA therefore evaluated (in part via computer modeling) the potential effects of six million cubic yards of disposal in one year as a reasonable worst-case scenario. Since this evaluation showed that significant adverse effects would not be expected at that level of disposal, lower disposal levels similarly would not be expected to cause significant effects. EPA believes that the modeling studies conducted for the original site designation therefore remain relevant to today's action to extend interim site use at 4.8 million cubic yards per year.

EPA has always recognized the need for caution in using any estimates of long-term, average dredging needs as the basis for site management decisions. Notwithstanding any overall disposal limit that may be set, project-by-project review must still occur and the need for ocean disposal must be determined in each case. EPA and the USACE will not approve any disposal that would be expected to cause significant adverse environmental effects individually or cumulatively. In this regard, too, the modeling studies showing that there should be no significant adverse environmental impacts from six million cubic yards per year of disposal at SF–DODS remain relevant. Today's new lower estimates could conceivably be superseded at some future date by higher estimates, if circumstances change substantially. If this were to occur, it would be appropriate to evaluate whether a higher level of ocean disposal could occur without causing significant adverse environmental effects. (The existing modeling results would not be adequate to establish whether disposal levels higher than six million cubic yards per year might be environmentally acceptable.) However, even if a higher disposal "need" were to exist in the future, higher levels of disposal would not be allowed if they would result in the Ocean Dumping Criteria being violated.

(2) The new long-term estimate of dredged material potentially suitable for ocean disposal which was used in the LTMS draft Policy EIS/Programatic EIR is 4.8 million cubic yards per year. Even that figure is conservative, because there is no evidence that more than four million cubic yards needs ocean disposal. Therefore an interim disposal limitation of no more than four million cubic yards per year should be established for the SF–DODS.

Response. EPA believes that the best and most appropriate current estimate of the long-term, average volume of dredged material that may be suitable for ocean disposal is 4.8 million cubic yards per year, as documented in the LTMS draft Policy EIS/Programmatic EIR. This volume represents a "high-end" estimate, taking into account projects and trends reasonably foreseeable at this time, and thus reflects a reasonable worst-case scenario. However, it is also an estimated average, and may not be sufficient in years of especially high dredging if alternative disposal sites are not available. For example, there are currently two large dredging projects authorized to use the SF–DODS and, if these are conducted simultaneously, four million cubic yards could in fact be disposed at the site in one year (1997). There is thus immediate "evidence" that at least four million cubic yards may occasionally need ocean disposal. However, a disposal limit set at four million cubic yards per year might not allow any other projects to use the SF–DODS in 1997, which could result in more disposal at existing sites within San Francisco Bay than would otherwise be necessary. In contrast, a disposal limit of 4.8 million cubic yards per year as represented by Volume Option 1 in the Proposed Rule (or the greater limits under Volume Options 3 and 4) would continue to allow consideration of ocean disposal as a potentially practicable alternative for new proposed projects.

(3) Four million cubic yards per year would allow currently authorized projects to proceed; there is no evidence of any need to provide for other than currently authorized projects at this time.

Response. As discussed in the response to the immediately preceding comment, a four million cubic yard per year disposal volume limit at the SF–DODS could in some circumstances (possibly as early as 1997) limit the range of practicable alternatives for new proposed projects. This in turn could result in more disposal at existing sites within San Francisco Bay than would otherwise be necessary. Of course, opportunities for beneficial reuse and upland disposal are also evaluated on a project-by-project basis. However, as documented in the LTMS draft Policy EIS/Programmatic EIR, beneficial reuse and upland disposal opportunities are generally very limited at the present time. The LTMS draft EIS/EIR therefore discussed the likelihood that the majority of dredged material generated in the near term would have to be managed at aquatic disposal sites (i.e., at the SF–DODS in combination with existing San Francisco Bay disposal sites), until additional beneficial reuse or upland disposal sites become available. It is EPA's determination that, in general and to the extent practicable, disposal of suitable dredged material at the SF–DODS is environmentally preferable to disposal at existing sites within San Francisco Bay. EPA therefore believes that restricting disposal at the SF–DODS to only currently approved projects during the extended interim use period may result in cumulative effects that could otherwise be avoided.

(4) It is inappropriate to define ocean disposal needs based on the lack of currently available alternatives.

Response. As discussed in the LTMS draft Policy EIS/Programmatic EIR, it is expected that in the near term management of dredged material from the San Francisco Bay area will require a greater emphasis on aquatic disposal sites than on beneficial reuse or upland disposal sites, due to lack of available opportunities for such reuse or upland diposal at this time. It is therefore appropriate to establish disposal volume limits that are sufficient to manage the reasonably foreseeable aquatic disposal needs, provided that no significant adverse environmental effects would occur at that level of disposal. (Modeling studies and subsequent site monitoring have in fact indicated that no significant adverse environmental effects are expected at the SF–DODS at disposal volumes even at the level of six million cubic yards per year.)

Over time, as the LTMS participants seek additional beneficial reuse or upland disposal sites, less overall reliance on aquatic disposal is anticipated. In the meantime, the primary alternative to ocean disposal is disposal at the existing designated sites within San Francisco Bay. As noted in the response to the immediately preceding comment, it is EPA's determination that, in general and to the extent practicable, disposal of suitable dredged material at the SF–DODS is environmentally preferable to disposal at existing sites within San Francisco Bay. Availability of in-Bay sites should therefore be limited to projects where a practicable alternatives analysis allows use of such sites. Thus, EPA's decision about a disposal volume limit for the SF–DODS is based not only on the current lack of beneficial reuse or upland disposal alternatives, but also in the current limited availability of

alternative aquatic disposal sites within San Francisco Bay, and the relative risks, impacts, and management opportunities afforded at those sites compared to the SF–DODS. In addition, project-by-project review must still occur and the need for ocean disposal must be determined in each case. Notwithstanding any overall disposal limit that may be set, EPA and the USACE will not approve any disposal at SF–DODS that would be expected to cause significant adverse environmental effects individually or cumulatively.

(5) Reducing the disposal limit at this time would not prejudice the ongoing LTMS process, whereas not reducing it in light of the LTMS's own new dredging estimates could be viewed as negative.

Response. EPA agrees that the revised LTMS estimate of long-term, average dredging quantities for the San Francisco Bay area reflects substantial new information that was not fully available at the time of the original SF–DODS designation. EPA has therefore applied this new information under the same approach that was used in the original designation action, and has determined that an annual disposal volume limit of 4.8 million cubic yards is appropriate. Use of this information, which was developed as part of the LTMS process, should not prejudice final decisions made as a result of the LTMS process. Final decisions will continue to be based on the most current information developed in that process. Prejudice is more likely to occur if EPA does not apply the most up-to-date information developed in that process.

Interim Site Management Period Should Not Exceed Six Months

Comments supporting the Proposed Rule's Extension Option 4: Six-month extension to interim site management, were based on two main considerations. First, that a six-month extension would allow for a total of over one year since the LTMS draft Policy EIS/Programmatic EIR was published (and approximately eight years since the LTMS process was initiated), which should be sufficient time to complete a final EIS/EIR. Second, that there is no need to tie the SF-DODS extension period decision to the timing of the Record of Decision following the LTMS final EIS/EIR. Each of these issues is addressed in the following responses.

(1) A six-month extension would allow for a total of over one year since the LTMS draft Policy EIS/Programmatic EIR was published (and approximately eight years since the LTMS process was initiated). This should be sufficient time to produce a final EIS/EIR.

Response. Over 60 letters, comprising over 1,000 individual comments, were received on the LTMS draft Policy EIS/Programmatic EIR. Many of these comments recommended that substantive revisions be made before the EIS/EIR is be finalized. In addition, unlike more typical "project" EIS/EIRs, responding to the comments received on the policy/program issues will require the collaboration and consensus of all the state and federal LTMS agencies. This process is more time-consuming than if the proposed action, and all the specific decisions needed to define and implement it, were to be within the authority of a single agency. Similarly, the experience of the LTMS agencies to date has been that evaluation of the policy/program issues in this process cannot be carried out through contractual support. Since this is a policy EIS/EIR, the majority of the analysis and written revisions must be done by agency staff. All available staff resources from each of the LTMS agencies are being assigned to finalizing the EIS/EIR (along with the related draft Management Plan). If the Policy EIS/Programmatic EIR is finalized earlier than expected, a permanent disposal volume limit for the SF-DODS can be established earlier than the end of the two-year extension period.

(2) There is no need to tie the SF-DODS extension period to the timing of the Record of Decision following the LTMS final EIS/EIR. Response. EPA agrees that the overall process could be accelerated, without significantly affecting public input, by publishing the proposed rule for a permanent disposal volume limit at the same time as the LTMS final EIS/EIR is published. The comment periods for the two actions could thus occur simultaneously, and the permanent disposal volume limit could become effective at the same time that the Record of Decision is signed by the federal agencies, rather than weeks to months later.

The LTMS Agencies Should Apply More Resources to Accelerate Finalizing the LTMS EIS/EIR

Some commenters recommended that the LTMS agencies accelerate the overall LTMS EIS/EIR schedule, thus allowing for a shorter interim management period for the SF–DODS, by applying additional staff and other resources to the EIS/EIR. In particular, they noted that the LTMS agencies have moved forward with implementation of a pilot joint-agency Dredged Material Management Office (DMMO) for permit application processing, before the EIS/EIR has been finalized and before other important documents (such as the Site Management and Monitoring Implementation Manual for the SF–DODS) have been prepared.

Response. With the exception of staff resources assigned to DMMO, all the available staff resources from each of the LTMS agencies are being assigned to finalizing the EIS/EIR (along with the related draft Management Plan). EPA recognizes that this leaves limited the resources available to produce other documents—such as the SMMP Implementation Manual—as quickly as would be desirable. Staff assigned to the DMMO are addressing current permit application information as it comes in. These applications and related reports would have to be evaluated by each of the member agencies, whether this is done individually or jointly under the auspices of the DMMO. The DMMO is expected to reduce the overall amount of time the agencies spend on directing and reviewing sediment evaluations for dredging projects, thus freeing resources that would otherwise not be available for the EIS/EIR effort. Thus, little or no benefit could be gained by delaying the establishment of the DMMO, or reducing staff allocated to it.

The LTMS Agencies Should Apply More Resources to Establishing Beneficial Reuse Alternatives

One commenter also recommended that the LTMS agencies apply more resources to identifying and implementing beneficial reuse or upland disposal alternatives. Such alternatives would presumably reduce the need for the two-year interim timeframe and/or the 4.8 million cubic yards per year interim disposal volume limit for the SF–DODS. In particular, the commenter noted that a new potential opportunity for large-scale reuse of dredged material in the Sacramento-San Joaquin River Delta has been suggested in another forum (the CalFed process), and that this new possibility should be pursued vigorously by the agencies.

Response. EPA agrees that a greater potential for beneficial reuse than projected by the LTMS draft EIS/EIR may exist, including the particular opportunity referred to by this commenter. Beneficial reuse has been identified as one of the issues that will be addressed for the final LTMS Policy EIS/Programmatic EIR. The LTMS agencies intend to explore ways to maximize the coordination among the programs that are looking into such opportunities, in order to maximize the beneficial reuse of Bay area dredged material to the extent practicable over time. Other beneficial reuse

opportunities may be identified during the interim management period for the SF–DODS, as well. To the extent that such opportunities become available, EPA and the USACE will require that they are evaluated in the practicable alternatives analysis for projects seeking aquatic disposal during the interim management period for the SF–DODS.

Other Comments Incorporated by Reference

One letter incorporated by reference the commentor's earlier letters about the original (1994) SF–DODS designation action, and about the LTMS draft Policy EIS/Programmatic EIR.

Response. EPA responded to the comments received regarding the original SF–DODS designation as a part of the Response to Comments section of that final rule, published in the **Federal Register** on August 11, 1994. EPA intends to respond fully to the commenter's letter about the LTMS draft Policy EIS/Programmatic EIR as a part of the overall response to comments on that document now being prepared by the LTMS agencies. Today's extension of the interim site management period for the SF–DODS is more limited in scope and purpose than the actions under consideration in the LTMS process. Moreover, the purpose of today's extension is to allow for the programmatic LTMS EIS/EIR process to be completed, including responding to comments received. Today's action in no way prejudices the ability to respond to the commenter's letter on the LTMS EIS/EIR, and in no way precludes the selection of any alternative evaluated in that document. Therefore, it is appropriate that the comments in the referenced letter are not addressed as part of today's action, to the extent that they coincide with the comments addressed herein.

E. Compliance With Other Laws and Executive Orders

Consistency With the Coastal Zone Management Act

EPA prepared a Coastal Consistency Determination (CCD) document based on the evaluations presented in the August, 1993 site designation EIS. The CCD evaluated whether the proposed action—designation of "Alternative Site 5" (now SF–DODS) as described in the site designation EIS as an ocean disposal site for up to 50 years, and with an annual capacity of six million cubic yards of dredged material meeting ocean disposal criteria—would be consistent with the provisions of the Coastal Zone Management Act. The CCD was formally presented to the California Coastal Commission (Commission) at their public hearing on April 12, 1994. The Commission staff report recommended that the Commission concur with EPA's CCD, and the Commission voted unanimously to concur on the CCD without revision.

Since the approved CCD was based on 50 years of site use at up to six million cubic yards of dredged material per year, and since these parameters are not exceeded by this action, this final rule extending interim disposal site management does not require additional Commission review.

Endangered Species Act Consultation

During the development of the August, 1993 site designation EIS, EPA consulted with the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS) pursuant to provisions of the Endangered Species Act, regarding the potential for designation and use of any of the alternative ocean disposal sites under study to jeopardize the continued existence of any federally listed threatened or endangered species. This consultation process is fully documented in the August, 1993 site designation EIS. NMFS and FWS concluded that none of the three alternative disposal sites, including Alternative Site 5, if designated and used for disposal of dredged material meeting ocean disposal criteria as described in the EIS, would jeopardize the continued existence of any federally listed threatened or endangered species.

This consultation was based on site use at up to six million cubic yards of dredged material per year, for 50 years. Since these parameters are not exceeded by this action, and since conditions have not changed for any of the listed or candidate threatened or endangered species potentially affected by disposal site use, this final rule extending interim disposal site management does not require additional Endangered Species Act consultation.

Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant," and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to lead to a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This final rulemaking should have minimal impact on permittees. The final rule merely extends the period of time during which the existing SF–DODS may be used under existing interim management provisions. It thus has been determined that this final rule is not a "significant regulatory action" under the terms of Executive Order 12866, and is therefore not subject to OMB review.

Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996

The Regulatory Flexibility Act (RFA) provides that, whenever an agency promulgates a final rule under 5 U.S.C. 553, an agency must prepare a regulatory flexibility analysis (RFA) unless the head of the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities (5 U.S.C. §§ 604 & 605). EPA has determined that this final rule will not have a significant economic impact on small entities since the amended site designation will only have the effect of providing a continuing disposal option for dredged material. The final rule merely extends the current period of interim management of the SF–DODS. Consequently, EPA's action will not impose any additional economic burden on small entities such as small private dredging operations that seek authorization for the dumping of dredged materials. For this reason, the Regional Administrator certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, that the final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 et seq., is intended to minimize the reporting and record-keeping burden on the regulated community, as well as to minimize the cost of Federal information collection and dissemination. In general, the Act requires that information requests and record-keeping requirements affecting

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ten or more non-Federal respondents be approved by the Office of Management and Budget. Since this final rule does not establish or modify any information or record-keeping requirements, it is not subject to the requirements of the Paperwork Reduction Act.

The Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or sections 202 and 205 of the UMRA. As is explained elsewhere in this preamble, the final rule merely extends the period of time during which the existing SF–DODS may be managed by the Federal government under existing interim provisions. Accordingly, it imposes no new enforceable duty on any State, local or tribal governments or the private sector. Even if this final rule did contain a Federal mandate, it would not result in annual expenditures of $100 million or more for State, local, and tribal governments in the aggregate, or the private sector. Thus this final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

For the foregoing reasons, EPA also has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Thus the requirements of Section 203 of UMRA do not apply to this rule.

Compliance With Administrative Procedure Act

The Administrative Procedure Act (APA), 5 U.S.C. 551 et seq., generally requires that substantive rules be published 30 days prior to their effective date except:

"(1) A substantive rule which grants or recognizes an exemption or relieves a restriction; * * * or (3) as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d).

EPA is issuing today's final rule as effective December 30, 1996, under the provisions of 5 U.S.C. 553(d). As is explained elsewhere in this preamble, today's final rule is intended to assure that the SF–DODS remains available for use as a disposal alternative for suitable dredged material. In the absence of today's rule, after December 31, 1996, Federal projects and permit applicants that need to use the ocean disposal alternative (including the Port of Oakland project already using the site) would not be able to use the SF–DODS unless the additional step of site selection under MPRSA § 103 was undertaken by the USACE. By extending the current deadline, and avoiding this result, today's final rule has the effect of removing a restriction and thus meets the exception specified in 5 U.S.C. 553(d). In addition, the Agency believes today's rule meets the "good cause" exception of 5 U.S.C. 553(d)(3). As previously noted, failure to extend the current deadline before it expires could adversely affect the Port of Oakland Harbor project, which is currently authorized to dispose of project dredged material at the SF–DODS, and which received such authorization after environmental assessment, demonstration of a need for ocean disposal, and opportunity for public comment. Issuing today's final rule as immediately effective would avoid potential disruption of this ongoing and already authorized project. At the same time, issuance of the final rule as immediately effective would *not* result in additional use of the site by other potential dumpers. Because issuance of an immediately-effective rule is necessary to avoid disruption of an already approved, ongoing, and environmentally acceptable use of the SF–DODS on which the public has already had the opportunity to comment, and an immediate effective date does not result in usage by any other dumpers, the Agency has determined that there is good cause within the meaning of 5 U.S.C. 553(d)(3) to issue this rule as effective December 30, 1996.

List of Subjects in 40 CFR Part 228

Environmental Protection, Water Pollution Control.

Dated: December 20, 1996

Alexis Strauss,

Acting Regional Administrator, EPA Region 9.

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is amended as set forth below.

PART 228—[AMENDED]

1. The authority citation for part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

§ 228.15 [Amended]

2. Section 228.15, paragraphs (l)(3)(vii) and (l)(3)(x) are amended by removing the words "December 31, 1996" each time they occur, and adding in their place, "December 31, 1998".

3. Section 228.15, paragraph (l)(3)(vii) is amended by removing the words "6 million cubic yards" and adding in their place, "4.8 million cubic yards".

[FR Doc. 96–32976 Filed 12–27–96; 8:45 am]

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Monday
December 30, 1996

Part VI

Environmental Protection Agency

40 CFR Part 61

National Emissions Standards for Radionuclide Emissions From Facilities Licensed by the Nuclear Regulatory Commission and Federal Facilities not Covered by Subpart H; Final Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[FRL-5670-5]

RIN 2060–AE 39

National Emissions Standards for Radionuclide Emissions From Facilities Licensed by the Nuclear Regulatory Commission and Federal Facilities not Covered by Subpart H

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: EPA is rescinding 40 CFR part 61, subpart I (subpart I) as it applies to Nuclear Regulatory Commission (NRC) or NRC Agreement State licensed facilities other than commercial nuclear power reactors. Subpart I is a National Emission Standard for Hazardous Air Pollutants (NESHAPs) which was published on December 15, 1989 and which limits radionuclide emissions to the ambient air from NRC-licensed facilities. As required by section 112(d)(9) of the Clean Air Act as amended in 1990, EPA has determined that the NRC regulatory program for licensed facilities other than commercial nuclear power reactors protects public health with an ample margin of safety, the same level of protection that would be afforded by continued implementation of subpart I.

DATES: This rule is effective December 30, 1996. Under section 307(b)(1) of the Clean Air Act, judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit no later than February 28, 1997.

FOR FURTHER INFORMATION CONTACT: Gale Bonanno, Center for Federal Guidance and Air Standards and Communications, Radiation Protection Division, 6602J, Office of Radiation and Indoor Air, Environmental Protection Agency, Washington, DC 20460 (202) 233-9219, or Eleanor Thornton, at the same address (202) 233-9773.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities affected by this action include facilities, other than commercial nuclear power generators, licensed by the Nuclear Regulatory Commission (NRC) or an NRC Agreement State. Subpart I continues to apply to federal facilities not owned or operated by the Department of Energy (DOE) ("non-DOE" federal facilities) and not licensed by the NRC. Facilities owned or operated by the Department of Energy are regulated under 40 CFR part 61 subpart H. The Agency notes that radionuclide NESHAPs subparts other than subpart I continue to apply as stated in each regulation to the owners and operators of uranium mill tailings piles, e.g., 40 CFR part 61 subpart W. This action does not affect regulation of radionuclides under statutes other than the CAA, e.g. Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601).

Affected categories and entities include:

Category	Examples of facilities
NRC-Licensees	Uranium fuel cycle (those engaged in the conversion of uranium ore to produce electric power, e.g., uranium mills, fuel fabrication plants). Facilities licensed to use or possess nuclear materials such as hospitals, medical research facilities, radiopharmaceutical manufacturers, laboratories, etc.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of facilities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in § 1.100 of today's rule which amends part 61 of Title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular facility, consult the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Docket

Docket A-92-50 (cross-referenced with Dockets A-79-11 & A-92-31) contains the rulemaking record. The docket is available for public inspection between the hours of 8 A.M. and 5:30 P.M., Monday through Friday, in room M1500 of Waterside Mall, 401 M Street, SW, Washington, DC 20460. A reasonable fee may be charged for copying. The fax number is 202-260-4400.

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I. Background

A. Regulatory History

On October 31, 1989, EPA promulgated National Emission Standards for Hazardous Air Pollutants (NESHAPs) under Section 112 of the Clean Air Act to control radionuclide emissions to the ambient air from a number of different source categories. 54 FR 51654 (December 15, 1989). Subpart I of 40 CFR part 61 covers two groups of facilities: (1) Facilities licensed and regulated by the Nuclear Regulatory Commission (NRC) and individual Agreement States ("NRC licensed facilities"), and (2) federal facilities which are not licensed by the NRC and are not owned or operated by the Department of Energy ("non-DOE federal facilities"). The first group is diverse, and includes facilities which have received a license to use or possess nuclear materials such as hospitals, medical research facilities, radiopharmaceutical manufacturers, laboratories and industrial facilities, as well as facilities involved in the uranium fuel cycle (the conversion of uranium ore to electric power) such as

uranium mills and fuel fabrication plants. EPA estimates there are approximately 22,000 such NRC and Agreement State licensed facilities in the United States (this figure includes those facilities using only sealed sources).

The present rulemaking concerns all NRC licensed facilities other than commercial nuclear power reactors, which are the subject of a separate rulemaking (60 FR 46206, Sept. 5, 1995). Non-DOE federal facilities not licensed by the NRC are not affected in any way by the present rulemaking. Subpart I limits radionuclide emissions from NRC licensed facilities to the ambient air to that amount which would cause any member of the public to receive in any year an effective dose equivalent (ede) no greater than 10 millirem (mrem), of which no more than 3 mrem ede may be from radioiodine. These limits were established pursuant to an EPA policy for section 112 pollutants first announced in the benzene NESHAP (54 FR 38044, September 14, 1989), utilizing the two-step process outlined in the vinyl chloride decision. *Natural Resources Defense Council* v. *EPA*, 824 F.2d 1146, (D.C. Cir. 1987)(*Vinyl Chloride*).

When subpart I was originally promulgated in December 1989, EPA simultaneously granted reconsideration of the subpart based on information received late in the rulemaking on the subject of duplicative regulation by NRC and EPA of NRC licensed facilities and on the potential negative effects of the standard on nuclear medicine. EPA established a comment period to receive further information on these subjects, and granted a 90-day stay of subpart I as permitted by Clean Air Act (CAA) section 307(d)(7)(B), 42 U.S.C. 7607 (d)(7)(B). That stay expired on March 15, 1990; and was subsequently extended on several occasions. (See 55 FR 10455, March 21, 1990; 55 FR 29205, July 18, 1990; and 55 FR 38057, September 17, 1990).

EPA later stayed subpart I for NRC and Agreement State licensees other than nuclear power reactors while EPA was collecting the additional information necessary to make a determination under section 112(d)(9) of the 1990 CAA Amendments. See 56 FR 18735 (April 24, 1991), and 40 CFR 61.109(a). However, on September 25, 1992, the U.S. Court of Appeals for the DC Circuit issued a decision that EPA had exceeded its authority by staying subpart I while the Agency was collecting information needed to make a determination under section 112(d)(9). *Natural Resources Defense Council* v. *Reilly*, 976 F.2d 36 (D.C. Cir. 1992)(*NRDC*). The stay for licensees other than nuclear power reactors expired before the NRDC decision could be implemented on November 15, 1992, and subpart I took effect for these licensees on November 16, 1992. EPA subsequently issued a notice confirming the effectiveness of subpart I for licensees other than nuclear power reactors. See 59 FR 4228 (January 28, 1994).

B. Clean Air Act Amendments of 1990

In 1990, Congress enacted legislation comprehensively amending the CAA, which included a section addressing the issue of regulatory duplication between EPA and NRC. CAA section 112(d)(9) provides that, "[N]o standard for radionuclide emissions from any category or subcategory of facilities licensed by the Nuclear Regulatory Commission (or an Agreement State) is required to be promulgated under [section 112] if the Administrator determines, by rule, and after consultation with the Nuclear Regulatory Commission, that the regulatory program established by the Nuclear Regulatory Commission pursuant to the Atomic Energy Act for such category or subcategory provides an ample margin of safety to protect the public health." This provision enables EPA to eliminate duplication of effort between EPA and NRC in instances where EPA can determine that the NRC program provides protection of public health equivalent to that required by the CAA.

C. Reconsideration of Subpart I

After the adoption of section 112(d)(9), EPA reviewed the information available to the Agency, including the information provided during the Agency's reconsideration of subpart I, to decide whether it could determine for particular categories of NRC licensees that the NRC regulatory program protects public health with an ample margin of safety. EPA's initial analysis focused on two general issues: (1) whether the NRC regulatory program in practice results in sufficiently low doses to protect the public health with an ample margin of safety; and (2) whether the NRC program is sufficiently comprehensive and thorough and administered in a manner which will continue to protect public health in the future.

After reviewing the available information for licensees other than nuclear power reactors, EPA concluded that it lacked sufficient information concerning actual air emissions from these facilities to make the substantive determination contemplated by section 112(d)(9). Accordingly, EPA undertook an extensive study in order to determine the doses resulting from radionuclide emissions at facilities other than nuclear power reactors. As discussed in detail in section II.A.1, EPA surveyed a randomly selected subset of all licensed facilities, as well as a group of "targeted" facilities chosen because of an expectation that they would have higher air emissions. See Draft Background Information Document, "NESHAPs Rulemaking on Nuclear Regulatory Commission and Agreement State Licensees Other Than Nuclear Power Reactors" EPA-430-R-92-011 (November 1992), Docket Entry A-92-50, II-B-1.

After evaluating the results of its study, reviewing the then current NRC regulatory program, and considering the likely effect of revisions of the NRC program which were pending at that time and of additional measures which NRC had agreed to adopt pursuant to a Memorandum of Understanding (MOU) with EPA (see section II.A.2), EPA proposed to rescind subpart I for NRC and Agreement State licensees other than nuclear power reactors on December 1, 1992. See 57 FR 56877 (December 1, 1992).

II. Rationale for Final Rule to Rescind 40 CFR Part 61, Subpart I for NRC and Agreement State Licensees

A. 1992 Proposal to Rescind Subpart I for Licensees Other Than Nuclear Power Reactors

The 1992 proposal to rescind subpart I for NRC licensees other than nuclear power reactors was based on EPA's extensive study of those licensees and on commitments made by NRC in an MOU with EPA. *See* 57 FR 56877 (December 1, 1992).

1. EPA Study of Air Emissions From NRC Licensed Facilities

In order to determine whether NRC licensees other than nuclear power reactors were in compliance with those emission limits deemed necessary by EPA to protect public health, EPA undertook a comprehensive study to determine the doses that resulted from emissions from these facilities. See Draft Background Information Document, "NESHAPs Rulemaking on Nuclear Regulatory Commission and Agreement State Licensees Other Than Nuclear Power Reactors" EPA-430-R-92-011 (November 1992), Docket Entry A-92-50, II-B-1. A major component of this study was a survey and analysis of a randomly selected subset of the approximately 6,000 NRC and Agreement State licensees using unsealed sources. These consist of hospitals, radiopharma-

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manufacturers and distributors, and laboratories for which the doses and other emissions data were not well characterized. In order to gather the necessary information, EPA sent a letter under the authority of section 114 of the CAA to the selected facilities requiring them to submit specific information concerning their emissions and proximity to the exposed population. Doses were then determined by EPA using the COMPLY computer program which was specified in subpart I for determining compliance with the standard. EPA also investigated a group of "targeted" facilities selected for their potential to cause high doses.

EPA obtained Office of Management and Budget approval to send questionnaires to as many as 670 of the approximately 6,000 facilities, requesting release rates and the other necessary parameters. Since facilities handling only sealed sources do not present the potential for airborne emissions, they had been exempted from the NESHAP and were also excluded from analysis in the EPA study. Because EPA could not accurately determine in advance whether a given NRC or Agreement State licensee handled only sealed sources and would therefore be excluded from the analysis, the Agency over sampled in order to obtain the required number of responses.

A sample of at least 300 facilities was needed in order to be 95 percent confident that EPA could establish a dose level below which the doses caused by air emissions from 99 percent of the facilities lie. Over 600 letters were sent to a random subset of NRC or Agreement State licensees. Responses were submitted by all but three facilities and 367 of the responses were determined to be from facilities using unsealed sources.

The COMPLY computer program was used to estimate doses to the most exposed individuals located near the facilities. The National Oceanic and Atmospheric Administration's data base was used for meteorological data for the sites. Many facilities were contacted to obtain clarification or site-specific information. The dose to the nearest resident to each facility was calculated from the facility-specific information taken from the questionnaire and using meteorological data from the closest weather station.

A second component of the study was the targeted facilities, which fell into three sub-groups: (a) facilities determined to have potential for large emissions and which were not fully characterized in previous evaluations (examples included research reactors, rare earth producers, waste incinerators, low level waste facilities, and large university hospitals); (b) facilities with potential for large emissions which were more adequately characterized in previous assessments (these included fuel cycle facilities such as uranium mills, fuel fabrication plants, UF6 conversion plants); (c) atypical activities for which no formal evaluations had been made (these included activities such as depleted uranium weapons testing).

For facilities in sub-group (a), the data needed to characterize the emissions and doses were obtained from existing NRC docket information, supplemented as necessary with requests for missing data under authority of CAA section 114. The results of the previous assessments for facilities in sub-group (b) were summarized and updated to include more recent information. For the third sub-group, EPA reviewed the activity in question to ascertain the potential for significant airborne emissions, and evaluated the doses for these activities found to involve potentially significant emissions.

After evaluating both the randomly surveyed 367 facilities and the specifically targeted facilities using the COMPLY computer program, EPA determined that the highest estimated dose received by any member of the public from airborne emissions of radionuclides from any facility was 8.0 mrem/yr ede. Thus, none of the facilities evaluated appeared to cause a dose exceeding the levels established by the Administrator in the radionuclides NESHAPs. The median dose for the population is 0.00069 mrem/yr. *See* Draft Background Information Document, "NESHAPs Rulemaking on Nuclear Regulatory Licensees Other Than Nuclear Power Reactors" EPA 430–R–92–011 (November 1992), Docket Entry A–92–50, II–B–1 at 4–11. When the results of the survey were statistically extrapolated to the entire population of NRC or Agreement State licensees, EPA concluded that emissions from virtually all of the facilities were expected to be below the limits established by EPA. After evaluating the results of the study, EPA concluded that current emissions by NRC and Agreement State licensees other than nuclear power reactors result in doses less than the level found by EPA to provide an ample margin of safety to protect the public health.

2. Memorandum of Understanding (MOU) Between EPA and NRC

In an MOU executed on September 4, 1992, NRC committed to take several actions to implement "As Low As Reasonably Achievable" (ALARA) requirements for NRC licensees other than nuclear power reactors. This MOU was published on December 22, 1992, at 57 FR 60778.

Although the NRC regulatory program included mandatory dose limits that were higher than those established by subpart I, EPA's study demonstrated that the actual operation of the existing NRC program had resulted in lower doses to the public than those which would be allowed under subpart I. The steps established by the MOU reflected an expectation by EPA that new mandatory ALARA requirements would operate to constrain future increases in radionuclide emissions by NRC licensees which might otherwise be permissible under the NRC program.

Under the provisions of the MOU, NRC agreed to develop and issue a regulatory guide on the design and implementation of a radiation protection program to ensure that doses resulting from effluents from licensed facilities would remain ALARA. *See* section II.B.2 below. NRC agreed that the guide would describe the types of administrative programs and objectives which would be considered acceptable in satisfying the requirements of 10 CFR 20.1101(b), and establish a specific design goal of 10 mrem/yr ede to the maximally exposed individual for radionuclide air emissions from affected NRC and Agreement State licensees. *See* NRC Regulatory Guide 8.37, "ALARA Levels for Effluents from Materials Facilities," July 1993, Docket Entry A–92–50, II–F–4.

B. Events Subsequent to the 1992 Proposal

1. Changes to NRC Regulatory Program After the 1992 Proposal

After EPA published its 1992 proposal to rescind subpart I, major revisions to NRC's regulations at 10 CFR Part 20 became effective. NRC's revised rule (effective January 1994) implements 1987 Presidential guidance on occupational radiation protection and the recommendations of scientific organizations to establish risk-based limits and a system of dose limitation in accordance with the guidance published by the International Commission on Radiation Protection (ICRP). In adopting the risk-based methodology, the NRC reduced the allowable dose limit for members of the public from 500 mrem/yr ede to 100 mrem/yr ede from all pathways, which is then subject to further reduction under the ALARA provisions. Of the 100 mrem/yr ede, NRC allows only 50 mrem/yr ede by the air pathway, according to their Derived

Air Concentration tables, which is then subject to further reduction under the ALARA provisions.

Another significant revision of Part 20 codified the ALARA principle, which previously was only general guidance for NRC licensees other than nuclear power reactors. All licensees must now conduct operations in a manner that keeps doses to both workers and members of the public ALARA. This is defined to mean:

> making every reasonable effort to maintain exposures to radiation as far below the dose limits in this part as is practical consistent with the purpose for which the licensed activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed materials in the public interest.

10 CFR 20.1003. 56 FR 23360, 23392 (May 21, 1991).

2. EPA Concerns Regarding Basis for Required Statutory Finding Under Section 112(d)(9)

Based on the record compiled as part of its proposal to rescind subpart I for NRC licensees other than nuclear power reactors, EPA was able to conclude that the vast majority of NRC and Agreement State licensees were in compliance with the 10 mrem/yr standard established by subpart I. However, after reviewing the language of the final Regulatory Guide issued by NRC pursuant to the September 4, 1992 MOU, EPA concluded that there was no element in the NRC regulatory program which expressly required or assured that licensees other than nuclear power reactors would maintain air emissions of radionuclides below EPA's 10 mrem/yr standard. See NRC Regulatory Guide 8.37, "ALARA Levels for Effluents from Materials Facilities," July 1993, Docket Entry A–92–50, II–F–4. Thus, it was not possible for the Agency to determine that radionuclide emissions to the ambient air would consistently and predictably remain below the EPA standard in the future if EPA were to proceed with rescission, or that NRC or the individual Agreement States would be in a position to require a particular licensee who did exceed 10 mrem/yr to reduce radionuclide emissions.

Another concern regarding the adequacy of the NRC program to support rescission of subpart I for licensees other than nuclear power reactors arose as part of an investigation by the General Accounting Office (GAO) of NRC's administration of its Agreement State program. Licenses for facilities other than nuclear power reactors are often administered by individual Agreement States rather than by NRC. In a report entitled "Nuclear Regulation: Better Criteria and Data Would Help Ensure Safety of Nuclear Materials," the GAO found that "NRC lacks criteria and data to evaluate the effectiveness of its two materials programs [agreement and non-agreement state]," and that "For agreement-state programs, NRC does not have specific criteria or procedures to determine when to suspend or revoke an inadequate or incompatible program." GAO/RCED–93–90 Nuclear Materials Regulation at 3 (April 1993). In subsequent Congressional testimony concerning the GAO findings, the NRC Commissioners acknowledged that NRC criteria and procedures should be improved, and stated that NRC was developing new criteria to assess the adequacy and compatibility of individual Agreement State programs, and new procedures which would govern suspension and termination of Agreement State programs.

As contemplated by CAA section 112(d)(9), EPA and NRC entered into consultations intended to resolve these concerns. The ALARA program, which requires NRC licensees to reduce emissions to the extent feasible below the mandatory ceiling in 10 CFR Part 20, was the principal focus of subsequent discussions between EPA and NRC. In these discussions, EPA and NRC discussed various NRC proposals for a rule which would "constrain" emissions from NRC licensees other than nuclear power reactors, either by establishing a rebuttable presumption that emissions causing a dose exceeding 10 mrem/yr are not ALARA, or by expressly finding that ALARA requires licensees to maintain emissions at or below the 10 mrem/yr level. During the course of these discussions, a new concern also emerged as to whether the NRC policies on Agreement States which were under development would enable NRC to require that a "constraint level" be a mandatory element of compatibility. See letter from Mary D. Nichols, EPA Assistant Administrator for Air and Radiation, to NRC Chairman Ivan Selin, July 6, 1994, Docket Entry A–92–50, IV–C–4.

On July 22, 1994, NRC proposed a "constraint level" rule which would have required each licensee to develop an ALARA program to maintain or achieve emissions resulting in a dose at or below 10 mrem/yr or, in the alternative, to "justify" a conclusion that emissions resulting in a dose exceeding 10 mrem/yr are ALARA. See letter from NRC Chairman Ivan Selin to EPA Administrator Carol M. Browner, July 22, 1994, Docket Entry A–92–50, IV–D–74. That correspondence also noted that new procedures to assure the adequacy and compatibility of Agreement States were under development, and indicated that NRC would also propose to require Agreement States to adopt the proposed "constraint level" rule as a matter of compatibility.

After reviewing the "constraint level" rule proposed by NRC on July 22, 1994, EPA concluded that the proposed provision permitting licensees to "justify" emissions in excess of 10 mrem/yr left uncertainty as to whether NRC or an individual Agreement State might accept or countenance as ALARA emissions resulting in a dose exceeding 10 mrem/year. As a consequence, EPA was concerned that it would still not be able to determine that future radionuclide emissions from affected licensees would be consistently and predictably at levels resulting in a dose below 10 mrem/yr, or that NRC or an individual Agreement State would be able to compel a licensee to reduce emissions if the 10 mrem/yr level were exceeded. EPA then advised NRC that EPA did not consider it prudent to proceed with rescission of subpart I for NRC licensees other than nuclear power reactors based on a record which might not adequately support the legal determination required by section 112(d)(9). Docket Entry A–92–50, IV–C–4.

3. NRC Actions Responsive to EPA Concerns

On December 21, 1994, after further considering the concerns expressed by EPA, NRC proposed to EPA a "constraint" rule construing ALARA as requiring each licensee to limit air emissions to a level resulting in a dose no greater than 10 mrem/yr. *See* letter from NRC Chairman Ivan Selin to EPA Administrator Carol M. Browner, December 21, 1994, Docket Entry A–92–50, IV–D–26. Under this proposal, exceeding the NRC constraint level would not itself be a violation, but any licensee exceeding the 10 mrem/yr constraint would be required to report the exceedance and to take corrective measures to prevent a recurrence. On March 14, 1995, NRC confirmed that it intended to make the proposed constraint rule a matter of Division Level 2 compatibility, which requires each Agreement State to incorporate in its program provisions at least as stringent as those established by the NRC rule. See letter from Robert M. Bernero, Director of the NRC Office Of

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Nuclear Material Safety and Safeguards, to Mary D. Nichols, EPA Assistant Administrator for Air and Radiation, March 14, 1995, Docket Entry A–92–50, IV–D–27.

NRC has also taken steps which address concerns regarding the adequacy of criteria and procedures for the Agreement State program. NRC published a draft policy statement concerning adequacy and compatibility criteria, 59 FR 37269 (July 21, 1994), and a draft policy statement setting forth procedures which permit suspension or termination of individual Agreement State programs. 59 FR 40059 (August 5, 1994). In the March 14, 1995 letter, NRC assured EPA that the final policy statement on compatibility criteria would be consistent with the NRC proposal to make the NRC "constraint level" rule a matter of Division Level 2 compatibility.

After reviewing the proposed rule described in the December 21, 1994 letter and the additional assurances provided in the March 14, 1995 letter, EPA advised NRC that it had concluded that adoption by NRC of the proposals and policies set forth in these letters should be sufficient to resolve the Agency's stated concerns regarding its ability to make the finding required to support rescission under CAA Section 112(d)(9). See letter from EPA Administrator Carol M. Browner to NRC Chairman Ivan Selin, March 31, 1995, Docket Entry A–92–50, IV–C–5. In that correspondence, EPA also stated its intent to publish a notice requesting supplementary comment concerning the proposed rule to rescind subpart I for NRC licensees other than nuclear power reactors in conjunction with the publication by NRC of its proposed constraint rule.

4. EPA's Notice Reopening the Comment Period

EPA published a notice reopening the comment period for the rulemaking to rescind subpart I. 60 FR 50161, (September 28, 1995). The Notice reaffirmed EPA's proposal to rescind subpart I, described the expected proposed revisions to the NRC program which would support EPA's rescission, and invited additional comment on the sufficiency of the revisions to the NRC program to support the finding required by section 112(d)(9). The Agency extended the period for submitting comments in response to the Notice until February 22, 1996, to allow the public time to review NRC's proposed constraint rule prior to submitting comments to EPA. NRC published the proposed constraint rule on December 13, 1995. 60 FR 63984.

5. NRC Constraint Level for Air Emissions of Radionuclides and NRC Agreement State Policies and Procedures

On December 10, 1996, Commissioners adopted a final "constraint" rule modifying the NRC radiation protection program codified at 10 CFR part 20. 61 FR 65120. The final regulations adopted by NRC establish a constraint of 10 mrem/yr total effective dose equivalent (TEDE) [1] for dose to members of the public from air emissions of radionuclides from NRC licensed facilities other than commercial nuclear power reactors. 10 CFR section 20.1101(d). A dose constraint is defined as "a value above which specified licensee actions are required." 10 CFR section 20.1003, as amended. Thus, the final rule codifies a numerical value, 10 mrem/yr TEDE, for NRC's application of its ALARA principles contained in 10 CFR part 20 for radioactive air emissions from NRC licensees other than commercial nuclear power reactors. In the event that the 10 mrem/yr constraint is exceeded, the exceedance must be reported to NRC by the licensee within 30 days and the licensee must also provide a description of the circumstances of the exceedance and describe the corrective steps that have been or will be taken to ensure that the exceedance will not reoccur. 10 CFR section 20.2203(b)(l)(iv); 61 FR at 65121. NRC regulations provide for licensees to propose corrective steps and NRC will approve such actions (e.g., installation of filters, installation of a new pump, etc.) if appropriate to effectuate a decrease in dose. 10 CFR section 20.1101(d); 61 FR at 65123. *See also Memorandum* to Docket A–92–50 from Gale Bonanno, Workgroup Chair, December 16, 1996, Docket Entry A–92–50, IV–B–1 (analyzing final "constraint" rule).

The final constraint rule has been assigned a Division Level 2 compatibility. 61 FR at 65126. Thus, the Agreement States must address the constraint rule in their regulations, but they may adopt more restrictive requirements than the constraint rule. The Commission plans to revise and finalize draft NRC Regulatory Guide 8.37 as Regulatory Guide 4.20 at the time of implementation of their rule. This Regulatory Guide will outline methods for demonstrating compliance with the constraint level and the elements of the report required to be submitted in the event the constraint level is exceeded. This Guide will also express the Commission's belief that based on EPA's study and NRC's ongoing licensing and inspection program, the constraint level for doses to members of the public from air emissions of radionuclides as codified at section 20.1101(d) is easily achievable by all materials licensees.

In addition, the Commission recently approved, in principle, final policy statements entitled "Statement of Principles and Policy for the Agreement State Program" and "Policy Statement on Adequacy and Compatibility of Agreement State Programs". 60 FR 39463 (August 2, 1995). These documents describe the principles of the Agreement State program including the roles and responsibilities of NRC and the States in administering the program, and outline a general framework for determining which NRC program elements and requirements should be implemented by the Agreement States.

NRC provided additional information to EPA regarding the Commission's authority to suspend or terminate Agreement State programs. *See* letter from Martin Malsch, NRC Deputy General Counsel to Ramona Trovato, Director of EPA's Office of Radiation and Indoor Air, November 19, 1996, Docket Entry A–92–50, IV–G–8. As discussed above, the Commissioners approved the final "constraint" rule as a matter of Division 2 compatibility, meaning that Agreement States "will have to include an essentially identical or more restrictive legally binding generic requirement in their regulatory program." *Id.* The correspondence notes that in the event an Agreement State adopts a standard which is less stringent than the constraint rule, "NRC would be legally authorized to take a variety of actions with respect to the State program, including probation, suspension or termination of the program." *Id.*

Moreover, periodic reviews of the Agreement State programs are conducted by NRC to ensure that those programs are compatible with NRC's regulatory program and adequate to protect the public health. *Id.* The review process and criteria for such reviews are contained in NRC's Integrated Materials Performance Evaluation Program (IMPEP) issued on September 12, 1995, a copy of which is contained in the docket for this rulemaking. As noted in the correspondence, procedures were provided to the Commissioners on April 25, 1996, which will be applied by NRC if circumstances warrant the future suspension or termination of Agreement State programs. *Id.* The correspondence

[1] NRC expresses dose in total effective dose equivalent (TEDE), while subpart I expresses dose in effective dose equivalent (EDE). These two terms are equivalent.

thus concludes that "the IMPEP, together with designation of the constraint rule as category 2 for compatibility purposes, provide objective criteria to be used in assessing Agreement State regulation of air emissions and would provide a satisfactory legal basis for any NRC action required to address deficiencies in Agreement State programs including, if necessary, suspension or revocation of the Agreement State program." *Id. at 2*

III. Final Rule to Rescind 40 CFR Part 61, Subpart I for NRC and Agreement State Licensees

A. EPA Determination Under CAA Section 112(d)(9)

Section 112(d)(9) authorizes EPA to decline to regulate radionuclide emissions from NRC licensees under the CAA provided that EPA determines, by rule, and after consultation with NRC, that the regulatory scheme established by NRC protects the public health with an ample margin of safety. The legislative history of section 112(d)(9) provides clear guidance as to what is meant by "an ample margin of safety to protect the public health" and what process the Administrator should follow in making that determination in a rulemaking proceeding under section 112(d)(9). The Conference Report accompanying S.1630 points out that the "ample margin of safety" finding under section 112(d)(9) is the same "ample margin of safety" requirement that governed the development of standards promulgated under section 112 of the CAA prior to its amendment in 1990. The conferees also made clear that the process the Administrator is expected to follow in making any such determination under section 112(d)(9) is the process "required under the decision of the U.S. Court of Appeals in *NRDC* v. *EPA*, 824 F.2d 1146 (D.C. Cir. 1987) (*Vinyl Chloride*)." H. Rep. No. 101–952, 101st Cong., 2d Sess. 339 (1990), reprinted in 1 A Legislative History of the Clean Air Act Amendments of 1990, at 1789 (1993) (hereinafter "Legislative History CAAA90").

From the language of section 112(d)(9), it is apparent that where EPA has already specifically determined what level of emissions must be achieved to provide an "ample margin of safety," that level is the benchmark by which EPA must evaluate the adequacy of the NRC program. EPA specifically found when it promulgated 40 CFR part 61, subpart I, that 10 mrem/yr would provide the requisite "ample margin of safety." EPA conducted a two-step "ample margin of safety" analysis when it promulgated subpart I in 1989, and EPA hereby incorporates that analysis by reference as part of its present finding.

As EPA interprets section 112(d)(9), the Agency may rescind the subpart I NESHAP as it applies to NRC licensed facilities other than commercial nuclear power reactors if the Agency (1) consults with NRC, (2) engages in public notice and comment rulemaking, and (3) finds that the separate NRC regulatory program provides an equivalent level of public health protection (i.e., an ample margin of safety) as would be provided by implementation of subpart I. While a rulemaking to rescind a standard applicable to NRC licensees may commence prior to incorporation of all necessary elements in the NRC regulatory program, the elements of the NRC program must be deemed adequate by EPA to fully satisfy the statutory standard at the time EPA takes final action.

Section 112(d)(9) does not require exact equivalence between the EPA and NRC programs applicable to a particular category of licensees before EPA may decline to regulate radionuclide air emissions from that category. This construction of section 112(d)(9) was expressly affirmed by the Court of Appeals in its unpublished Memorandum opinion denying the petition for review of EPA's rescission of subpart I as applied to nuclear power reactors. Unpublished Opinion, *Sierra Club, et al.*, v. *Environmental Protection Agency*, No.95–1562 (D.C. Cir. October 22, 1996) at 4. Section 112(d)(9) requires that EPA conclude that implementation of the NRC program as a whole will achieve substantive protection of the public health equivalent to or better than that which would be achieved by enforcement of the EPA standard. Thus, if the NRC program as a whole will assure that air emissions from all affected licensees remain below the EPA standard, the NRC program may be deemed to provide an ample margin of safety, regardless of whether this results from enforcement by NRC of a single numerical standard.

Based on its study of NRC and Agreement State licensees, EPA has already determined that current air emissions from such licensees cause doses which are in compliance with the 10 mrem/yr standard in subpart I. However, as EPA construes section 112(d)(9), EPA must also evaluate the ability of the NRC and Agreement State program to assure that emissions remain below the level required to provide an "ample margin of safety." Thus, in deciding whether EPA may decline to regulate a particular category or subcategory of NRC or Agreement State licensees presently regulated under subpart I, EPA construes section 112(d)(9) as requiring that EPA determine: (1) that emissions from NRC licensees (or Agreement State licensees when authority to regulate the licensees has been assumed by the State) in that category or subcategory will be consistently and predictably at or below a level resulting in a dose of 10 mrem/yr, and (2) that NRC (or the Agreement States) can and will require any individual licensee in that category or subcategory with emissions that cause a dose exceeding 10 mrem/yr to reduce the emissions sufficiently that the dose will not exceed 10 mrem/yr.

EPA has previously concluded that radionuclide emissions to the ambient air from NRC and Agreement State licensees other than nuclear power reactors are generally well below the level that would result in a dose exceeding 10 mrem/yr. EPA experience in administration of subpart I since it became effective confirms this conclusion. Out of the thousands of licensees subject to the standard, only 16 facilities reported radionuclide air emissions exceeding the EPA standard for calendar year 1993 and only one facility reported emissions exceeding the EPA standard for calendar year 1994. No facilities reported exceeding the subpart I 10 mrem/yr standard for calendar year 1995. See Memorandum to Docket A–92–50 from Byron Bunger, December 18, 1996, Docket Entry A–92–50, IV–B–2 (Appendix to final rulemaking describing EPA's experience implementing Subpart I). Most of the reported exceedances were resolved through EPA approval of appropriate site-specific adjustments to the input parameters for COMPLY, the computer code used for calculating doses. The one exceedance not resolved through adjustments to the input parameters for COMPLY was satisfactorily resolved by the facility.

EPA concludes that the final adoption by NRC of the NRC constraint rule and the satisfactory resolution by NRC of prior deficiencies in NRC Agreement State policies and procedures resolve all remaining concerns regarding the adequacy of the NRC program to provide an "ample margin of safety" and support the requisite determination for rescission under CAA section 112(d)(9). Promulgation of the NRC constraint rule assures that radionuclide emissions by the affected licensees will be consistently and predictably below a level which would result in a dose exceeding 10 mrem/yr, and that NRC can require an individual licensee who exceeds the 10 mrem/yr level to take

corrective actions to reduce emissions. By making the NRC constraint rule a matter of Division Level 2 compatibility, NRC has assured EPA that those licensees regulated by individual Agreement States also will be subject to the 10 mrem/yr constraint level and will be required to report and correct any exceedances of that level. Finally, the adoption by NRC of policies establishing specific criteria for adequacy and compatibility, and procedures for suspension or termination of Agreement State programs resolves the Agency's concerns regarding the ability of NRC to act if it determines that an Agreement State program is inadequate or incompatible.

EPA is confident that NRC has the capability to enforce the provisions of the constraint rule through its inspection and enforcement programs. According to NRC, NRC's inspection program is based on conducting on-site inspections of each licensee's facility at frequencies determined partly by the size of the operation and the amount of radioactive materials the licensee is authorized to possess. Inspection frequencies appear to vary from a high of once per year for large licensees to once every five years for very small licensees. However, EPA understands that the majority of licensees authorized to possess any significant amounts of radioactive materials are inspected at frequencies ranging from one to three years. The Agency also notes that inspection frequencies may be adjusted by NRC as needed, and increased for licensees who have been subjected to certain NRC enforcement actions.

NRC's enforcement program is addressed in the NRC's Enforcement Policy, NUREG-1600, "General Statement of Policy and Procedure for NRC Enforcement Actions," (60 FR 34381, June 30, 1995). All violations identified through inspections and investigations are subject to civil enforcement action and may also be subject to criminal prosecution. After an apparent violation is identified, the severity is evaluated in order to determine the appropriate enforcement sanction. Severity levels range from Level I for the most significant violations, to Level IV for those of more than minor concern. Minor violations are not subject to formal enforcement action. The NRC uses three primary enforcement sanctions: Notices of Violation, civil penalties, and orders. A Notice of Violation (NOV) sets forth one or more violations of a legally binding requirement and normally requires a response from the licensee describing the reasons for the violation, the corrective steps taken or planned, and the date when actions will be complete. A civil penalty is a monetary fine considered for Severity Level III violations and are normally assessed for Severity Level I and II violations and knowing and conscious violations of the reporting requirements of Section 206 of the Energy Reorganization Act. In addition to NOVs and civil penalties, orders may be used to modify, suspend, or revoke licenses. Orders may require additional corrective actions, such as removing specified individuals from licensed activities or requiring additional controls or outside audits. Persons adversely affected by orders that modify, suspend, or revoke a license, or that take other action may request a hearing.

In addition to the inspection and enforcement programs, NRC conducts periodic reviews of the Agreement State radiation control programs. During those reviews, the NRC staff evaluates whether (1) the Agreement State has a compatible regulatory program, (2) the Agreement State is periodically conducting inspections of licensed activities involving agreement material to provide reasonable assurance of safe licensee operations and to determine compliance with its regulatory requirements, and (3) the Agreement State is taking timely enforcement action against licensees, when necessary, through legal sanctions authorized by state statutes and regulations.

Based on the above analysis, EPA is today determining that the NRC regulatory program for licensees other than commercial nuclear power reactors provides an ample margin of safety to protect the public health under CAA section 112(d)(9).

IV. Summary of Major Comments and Responses to Comments From 1992 NPRM and Notice Reopening Comment Period

This section briefly describes the major comments EPA received in response to the Agency's rulemaking to rescind subpart I for NRC and Agreement State licensed facilities other than commercial nuclear power reactors. EPA received numerous written comments in response to the December 1, 1992, proposal and the September 28, 1995, notice inviting additional comments. The Agency also received comments during public hearings conducted on January 14, 1993 and February 29, 1996. Additionally, the Agency received comments on the specific issue of whether to rescind subpart I for facilities other than commercial nuclear power reactors during the comment period for other rulemakings, e.g., the proposed stays discussed above. The Agency stated at the time of those rulemakings that such comments would be addressed in the context of this rulemaking on rescission. Comments received by the Agency during the pendency of this rulemaking, together with relevant comments received in other rulemakings, are addressed in the Response to Comments Document which has been placed in the docket for this rulemaking.

A major concern expressed by commenters relates to the lack of any provision in the Atomic Energy Act (AEA) equivalent to the broad authority to file citizen suits provided by Clean Air Act section 304. Commenters asserted that the absence of a citizen suit provision applicable to the NRC regulatory program would prevent a determination by EPA that the EPA and NRC regulatory programs are equally stringent. While EPA believes that this difference in the respective enabling statutes of the two agencies could be properly considered by EPA as one factor in deciding whether or not to exercise its discretion to rescind, EPA does not believe that this difference precludes the substantive finding required by section 112(d)(9). When Congress adopted section 112(d)(9), Congress was aware that the CAA includes citizen suit authority and that the AEA has no comparable provisions. Despite this difference, Congress clearly envisioned that circumstances might be such that EPA would make the finding required by section 112(d)(9) of the CAA. EPA notes that the same argument concerning the absence of citizen suit authority was recently rejected by the District of Columbia Court of Appeals in an unpublished opinion upholding the Agency's rescission of subpart I for nuclear power reactors. Unpublished Opinion, *Sierra Club, et al.*, v. *Environmental Protection Agency*, No.95-1562 (D.C. Cir. October 22, 1996).

In making today's ample margin of safety determination under section 112(d)(9), the Agency considered whether future emissions from licensees will be consistently and predictably at or below a level resulting in a dose of 10 mrem/yr and whether, in the event a licensee exceeds that level, NRC or an Agreement State can and will require the licensee to reduce emissions. In the event that the NRC regulatory program does not assure that licensee emissions result in doses at or below 10 mrem/year, any interested person may petition EPA to initiate a rulemaking to reinstate subpart I. Furthermore, EPA can act on its own initiative to reconsider the rescission if new information indicates

that the public health is not protected with an ample margin of safety.

Some commenters were also concerned about the regulatory authority of the states and how actions such as this rescission, taken pursuant to section 112(d)(9), might affect the states' authority under the CAA to establish radionuclide air emission standards. This issue was addressed in a July 2, 1993, letter from Robert M. Bernero, Director of the Office of Nuclear Material Safety and Safeguards to Margo Oge, Director of EPA's Office of Radiation and Indoor Air. Docket Entry A-92-50, IV-D-21. Mr. Bernero stated that the NRC Office of General Counsel has examined the CAA, and relevant portions of the legislative history, "and has concluded that the passage of the 1990 CAA amendments had no effect on the preexisting power of the States under section 116 [sic] to establish radionuclide air emission standards, regardless of any action EPA might take pursuant to section 112(d)(9)." EPA concurs with NRC's construction. NRC has also stated in the preamble to the final constraint rule that "[T]he Commission believes that [CAA section 112(d)(9] clarifies that EPA's determination regarding NRC and Agreement State licensees has no effect on the existing authority of States to impose air emission standards that are more stringent than those of EPA." Furthermore, as noted earlier, the Commission's designation of the constraint rule as a Division Level 2 matter of compatibility allows the Agreement States to set more stringent standards than the NRC constraint rule. 61 FR 65120, 65126 (December 10, 1996). In addition, this issue was extensively discussed by the Senate during floor debate for the 1990 CAA amendments. Passage of the "Simpson Amendment" (section 112(d)(9)) failed on the first vote due to concerns that the amendment somehow affected states' rights and the question of state authority had to be addressed before the amendment ultimately succeeded in passage. As explained by Senator Burdick, "Section 112(d)(9) provides for State authority for radionuclide emissions in the same manner and to the same extent as does existing section 116" of the CAA, which contains the provision that "nothing in this Act shall preclude or deny the right of any state or political subdivision thereof to adopt or enforce any standard or limitation respecting emissions of air pollutants ***" April 3, 1990 Congressional Record S3798.

Some commenters object to the EPA rescission based on the argument that the NRC constraint rule is not an enforceable standard. As discussed above, section 112(d)(9) does not require exact equivalence between the EPA and NRC regulatory programs before EPA may decline to regulate radionuclide emissions from a particular category or subcategory of NRC licensees. Rather, section 112(d)(9) requires EPA to determine that the NRC regulatory program as a whole will protect public health to the same or greater level as would implementation of subpart I. The study conducted by EPA as described above, the Agency's experience in implementing subpart I since it became effective in 1992, and NRC's recent adoption of the constraint rule and Agreement State policies provide ample basis for EPA to conclude that public health will be protected to the same level as would be achieved through continued implementation of subpart I. Although the NRC constraint level is not like the EPA standard in subpart I, in that exceeding the constraint is not itself an actionable violation, the constraint level is a value above which licensees must take actions to reduce emissions. Thus, EPA may conclude that future doses to members of the public caused by emissions of radionuclides from this category of facilities will be predictably and consistently at or below 10 mrem/yr and that NRC can and will take action in the event a facility exceeds the 10 mrem/yr level.

Commenters also expressed concern that the constraint rule does not limit doses from radioiodine to the 3 mrem/yr level of subpart I. Doses resulting from emissions of radioiodines were specifically considered as part of the EPA study described in detail above. The study demonstrated that no facility surveyed emitted a level of radioiodines causing a dose above 1 mrem/yr, and extrapolation of the survey data indicated that no licensed facility was expected to have emissions exceeding the EPA standard. Based on all of the information now available concerning the activities of NRC and Agreement State licensees, EPA believes that it is very unlikely that any licensee who is in compliance with the constraint level for all radionuclides of 10 mrem/yr will have radioiodine emissions exceeding the present EPA standard. Accordingly, EPA does not consider the absence of a separate limit for radioiodines in the NRC program to be a factor which will prevent the NRC program from providing an ample margin of safety.

Some commenters expressed an additional concern regarding the adequacy of the constraint rule based on the fact that Agreement States have three years in which to adopt the constraint rule after it has been finally adopted by NRC. The commenters are apparently concerned that there will be up to a three year gap in regulatory coverage in some individual Agreement States before a state version of the constraint rule can be adopted. EPA understands this hypothetical concern, but believes that it is misplaced for the following reason. The general ALARA requirement is already legally enforceable in every Agreement State. Whatever the opinion of any individual Agreement State in the past as to what ALARA requires an individual licensee to do, the constraint rule constitutes an authoritative conclusion by NRC that ALARA consistently requires that each licensee at least achieve emissions no greater than 10 mrem/yr. In light of the expert determination by NRC that licensees can readily achieve levels less than 10 mrem/yr, it would be difficult if not impossible for individual Agreement States to properly construe existing ALARA requirements less stringently. While EPA does not expect any individual Agreement State to accept emissions exceeding 10 mrem/year as ALARA, even before adoption of that State's own constraint level, were this to occur EPA would initiate consultations with NRC concerning the adequacy of that State's program and consider taking action to reimpose an EPA standard if the problem were not promptly corrected. EPA also notes that existing radionuclide standards adopted under State authority are not affected by today's rescission.

The Agency also received several comments on the differences in compliance calculation methodologies between NRC and EPA. The computer code used to calculate compliance with Subpart I, COMPLY, considers inhalation, immersion, ingestion, and exposure to contaminated ground. Commenters question how the NRC constraint level, which only considers inhalation and immersion, could provide an ample margin of safety to protect the public health. As explained above, EPA does not believe that section 112(d)(9) requires that every program element in the NRC program be exactly equivalent to the corresponding element in the EPA program. Such a construction would frustrate the evident Congressional intent to relieve licensees of duplicative regulation. Rather, section 112(d)(9) requires only that EPA conclude that the regulatory programs as a whole will provide the same level of protection of public health. While there are differences in the calculation methodologies used by EPA and NRC, EPA does not expect the differences in the manner in which doses are

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calculated to lead to significant differences in the resultant level of protection of public health. While 16 facilities reported exceeding the subpart I standard for calendar year 1993, that number decreased significantly with no facilities reporting exceedances for calendar year 1995. See Memorandum to Docket A-92-50 from Byron Bunger, December 18, 1996, Docket Entry A-92-50, IV-B-2 (Appendix for final rulemaking describing EPA's experience implementing subpart I).

Another commenter was concerned that subpart I controls emissions of NARM [Naturally Occurring and Accelerator Produced Radioactive Materials] that are not subject to NRC licensing. EPA recognizes that emissions of NARM by NRC licensees are not formally subject to NRC licensure. However, although subpart I is nominally applicable to emissions of both licensed materials and NARM, EPA did not adopt subpart I in the first place based on any concern that emissions of unlicensed radionuclide materials by NRC licensees would present any hazard to public health. However, the definition of public dose in 10 CFR 20.1003 states: "Public dose means the dose received by a member of the public from exposure to radiation and/or radioactive material released by a licensee, or to any other source of radiation under the control of the licensee. Public dose does not include occupational dose or doses received from background radiation, from any medical administration the individual has received, or from voluntary participation in medical research programs." The section on "any other source of radiation under the control of the licensee" suggests that NRC licensees are required to protect the public from most NARM co-mingled with their licensed material, but not background radiation." Moreover, in a letter to EPA, NRC stated that such emissions already are controlled and will continue to be controlled to levels which protect the public with an ample margin of safety. See Docket Entry A-92-50, IV-D-21. NRC explained that "At NRC-licensed facilities, as a practical matter, licensees will control NARM emissions as if they were byproduct material emissions." Id. at p. 2.

V. Judicial Review

Any petition for judicial review of the final rule must be filed in the United States Court of Appeals for the District of Columbia on or before February 28, 1997. Only an objection to this rule which was raised with reasonable specificity during the period for public comment (including public hearings) may be raised as part of any petition for judicial review.

VI. Miscellaneous

A. Paperwork Reduction Act

There are no information collection requirements in this final rule.

B. Executive Order 12866

Under Executive Order 12866, (58 FR 57735, October 4, 1993) the Agency must determine whether this regulation, if promulgated, is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This action is a significant regulatory action as that term is defined in Executive Order 12866, since it raises novel legal or policy issues. Thus, EPA has determined that rescinding subpart I as it applies to facilities licensed by the NRC or NRC Agreement States which are not engaged in the generation of commercial nuclear power is a "significant regulatory action" under the terms of Executive Order 12866 due to the presence of novel policy issues and is therefore subject to OMB review.

C. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not "major" as defined by 5 U.S.C. 804(2) because it will not result in an annual effect on the economy of $100 million or more; there is no major increase in costs or prices to consumers, industries, governments or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation and United States firms" ability to compete with foreign counterparts.

D. Regulatory Flexibility Analysis

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. EPA has also determined that this rule will not have a significant impact on a substantial number of small entities. Today's final action is deregulatory; effectively reducing the regulatory burden on NRC licensees other than commercial nuclear power reactors by rescinding the applicable regulatory requirements.

E. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the Agency must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

The Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative because this final rule is estimated to result in expenditures by State, local, and tribal governments or the private sector of less than $100 million in any one year. Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments. As discussed in the preamble, the final rule has the effect of reducing overall regulatory burdens on

NRC licensed facilities other than commercial nuclear power reactors.

List of Subjects in 40 CFR Part 61

Environmental protection, Air pollution control, Benzene, Hazardous substances, Radionuclides, Radon, Vinyl Chloride.

Dated: December 20, 1996.

Carol M. Browner,

Administrator.

Part 61 of chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 61—[AMENDED]

1. The authority citation for part 61 continues to read as follows:

Authority: 42 U.S.C. 7401, 7412, 7414, 7416, 7601.

2. Part 61 is amended by revising the heading for subpart I and by revising § 61.100 to read as follows:

Subpart I—National Emission Standards for Radionuclide Emissions From Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H

§ 61.100 Applicability.

The provisions of this subpart apply to facilities owned or operated by any Federal agency other than the Department of Energy and not licensed by the Nuclear Regulatory Commission, except that this subpart does not apply to disposal at facilities regulated under 40 CFR part 191, subpart B, or to any uranium mill tailings pile after it has been disposed of under 40 CFR part 1E2, or to low energy accelerators.

§ 61.101 [Amended]

3. Section 61.101 is amended by removing paragraphs (a) and (e) and redesignating paragraphs (b), (c), (d) and (f) as (a), (b), (c), and (d) respectively.

§ 61.107 [Amended]

4. Section 61.107 is amended by removing and reserving paragraph (c)(1).

[FR Doc. 96–32977 Filed 12–27–96; 8:45 am]

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Part VII

The President

Executive Order No. 13032—Further Amendment to Executive Order No. 12964

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Title 3—

The President

Executive Order 13032 of December 26, 1996

Further Amendment to Executive Order No. 12964

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.), and to facilitate the work of the Commission on United States-Pacific Trade and Investment Policy, it is hereby ordered that Executive Order 12964 of June 21, 1995, as amended by Executive Order 12987 of January 31, 1996, is further amended in section 2 by deleting in the first sentence "December 31, 1996" and inserting "February 28, 1997" in lieu thereof.

William J. Clinton

THE WHITE HOUSE,
December 26, 1996.

[FR Doc. 96–33336
Filed 12–27–96; 10:25 am]
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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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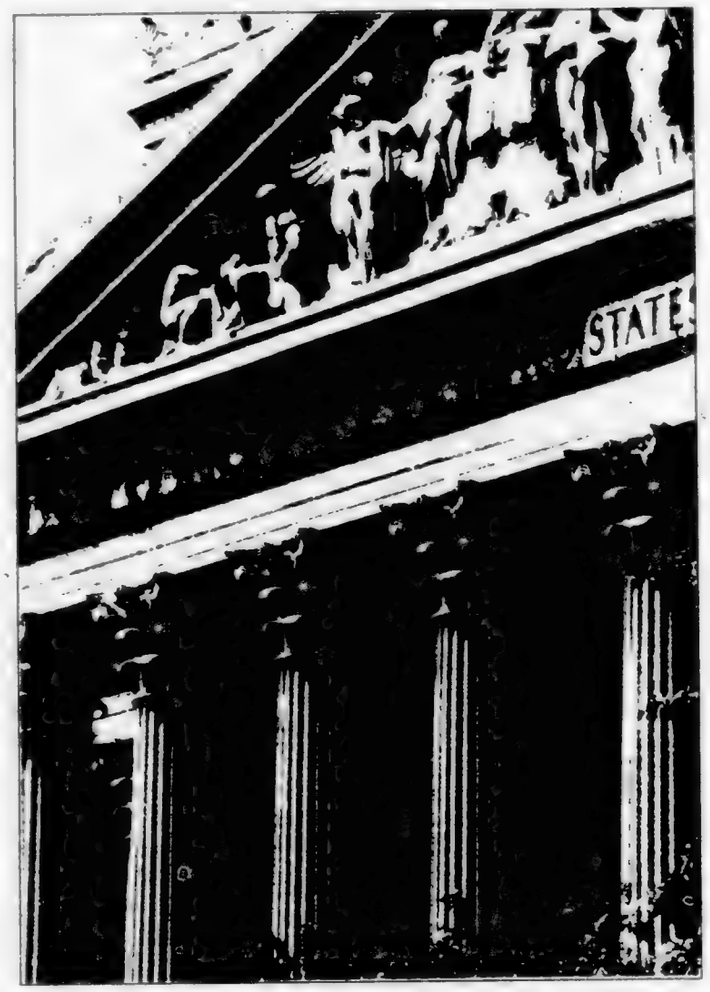
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Presidential Documents

Title 3—

The President

Executive Order 13033 of December 27, 1996

Adjustments of Certain Rates of Pay and Allowances

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the laws cited herein, it is hereby ordered as follows:

Section 1. *Statutory Pay Systems.* The rates of basic pay or salaries of the statutory pay systems (as defined in 5 U.S.C. 5302(1)), as adjusted under 5 U.S.C. 5303(a), are set forth on the schedules attached hereto and made a part hereof:

(a) The General Schedule (5 U.S.C. 5332(a)) at Schedule 1;

(b) The Foreign Service Schedule (22 U.S.C. 3963) at Schedule 2; and

(c) The schedules for the Veterans Health Administration of the Department of Veterans Affairs (38 U.S.C. 7306, 7404; section 301(a) of Public Law 102–40) at Schedule 3.

Sec. 2. *Senior Executive Service.* The rates of basic pay for senior executives in the Senior Executive Service, as adjusted under 5 U.S.C. 5382, are set forth on Schedule 4 attached hereto and made a part hereof.

Sec. 3. *Executive Salaries.* The rates of basic pay or salaries for the following offices and positions, which remain unchanged pursuant to section 637 of the Treasury, Postal Service, and General Government Appropriations Act, 1997, as incorporated in section 101(f) of Public Law 104–208, are set forth on the schedules attached hereto and made a part hereof:

(a) The Executive Schedule (5 U.S.C. 5312–5318) at Schedule 5;

(b) The Vice President (3 U.S.C. 104) and the Congress (2 U.S.C. 31) at Schedule 6; and

(c) Justices and judges (28 U.S.C. 5, 44(d), 135, 252, and 461(a)) at Schedule 7.

Sec. 4. *Uniformed Services.* Pursuant to section 601 of Public Law 104–201, the rates of monthly basic pay (37 U.S.C. 203(a)), the rates of basic allowances for subsistence (37 U.S.C. 402), and the rates of basic allowances for quarters (37 U.S.C. 403(a)) for members of the uniformed services and the rate of monthly cadet or midshipman pay (37 U.S.C. 203(c)) are set forth on Schedule 8 attached hereto and made a part hereof.

Sec. 5. *Locality-Based Comparability Payments.* (a) Pursuant to sections 5304 and 5304a of title 5, United States Code, locality-based comparability payments shall be paid in accordance with Schedule 9 attached hereto and made a part hereof.

(b) The Director of the Office of Personnel Management shall take such actions as may be necessary to implement these payments and to publish appropriate notice of such payments in the **Federal Register**.

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Sec. 6. *Effective Dates.* Schedule 8 is effective on January 1, 1997. The other schedules contained herein are effective on the first day of the first applicable pay period beginning on or after January 1, 1997.

Sec. 7. *Prior Orders Superseded.* Executive Order 12984 of December 28, 1995, and Executive Order 12990 of February 29, 1996, are superseded.

William J Clinton

THE WHITE HOUSE,
December 27, 1996.

Billing code 3195–01–P

SCHEDULE 1--GENERAL SCHEDULE

(Effective on the first day of the first applicable pay period beginning on or after January 1, 1997)

	1	2	3	4	5	6	7	8	9	10
GS-1	$12,669	$13,091	$13,512	$13,932	$14,355	$14,602	$15,017	$15,436	$15,454	$15,844
2	14,243	14,583	15,055	15,454	15,628	16,088	16,548	17,008	17,468	17,928
3	15,542	16,060	16,578	17,096	17,614	18,132	18,650	19,168	19,686	20,204
4	17,447	18,029	18,611	19,193	19,775	20,357	20,939	21,521	22,103	22,685
5	19,520	20,171	20,822	21,473	22,124	22,775	23,426	24,077	24,728	25,379
6	21,758	22,483	23,208	23,933	24,658	25,383	26,108	26,833	27,558	28,283
7	24,178	24,984	25,790	26,596	27,402	28,208	29,014	29,820	30,626	31,432
8	26,777	27,670	28,563	29,456	30,349	31,242	32,135	33,028	33,921	34,814
9	29,577	30,563	31,549	32,535	33,521	34,507	35,493	36,479	37,465	38,451
10	32,571	33,657	34,743	35,829	36,915	38,001	39,087	40,173	41,259	42,345
11	35,786	36,979	38,172	39,365	40,558	41,751	42,944	44,137	45,330	46,523
12	42,890	44,320	45,750	47,180	48,610	50,040	51,470	52,900	54,330	55,760
13	51,003	52,703	54,403	56,103	57,803	59,503	61,203	62,903	64,603	66,303
14	60,270	62,279	64,288	66,297	68,306	70,315	72,324	74,333	76,342	78,351
15	70,894	73,257	75,620	77,983	80,346	82,709	85,072	87,435	89,798	92,161

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SCHEDULE 2--FOREIGN SERVICE SCHEDULE

(Effective on the first day of the first applicable pay period beginning on or after January 1, 1997)

Step	Class 1	Class 2	Class 3	Class 4	Class 5	Class 6	Class 7	Class 8	Class 9
1	$70,894	$57,446	$46,548	$37,718	$30,563	$27,322	$24,425	$21,835	$19,520
2	73,021	59,169	47,944	38,850	31,480	28,142	25,158	22,490	20,106
3	75,211	60,944	49,383	40,015	32,424	28,986	25,912	23,165	20,709
4	77,468	62,773	50,864	41,215	33,397	29,855	26,690	23,860	21,330
5	79,792	64,656	52,390	42,452	34,399	30,751	27,491	24,575	21,970
6	82,186	66,596	53,962	43,725	35,431	31,674	28,315	25,313	22,629
7	84,651	68,594	55,581	45,037	36,494	32,624	29,165	26,072	23,308
8	87,191	70,651	57,248	46,388	37,589	33,603	30,040	26,854	24,007
9	89,806	72,771	58,966	47,780	38,716	34,611	30,941	27,660	24,727
10	92,161	74,954	60,735	49,213	39,878	35,649	31,869	28,490	25,469
11	92,161	77,203	62,557	50,690	41,074	36,718	32,825	29,344	26,233
12	92,161	79,519	64,433	52,211	42,306	37,820	33,810	30,225	27,020
13	92,161	81,904	66,366	53,777	43,576	38,955	34,824	31,131	27,831
14	92,161	84,361	68,357	55,390	44,883	40,123	35,869	32,065	28,666

SCHEDULE 3--VETERANS HEALTH ADMINISTRATION SCHEDULES
DEPARTMENT OF VETERANS AFFAIRS

(Effective on the first day of the first applicable pay period beginning on or after January 1, 1997)

Schedule for the Office of the Under Secretary for Health
(38 U.S.C. 7306)*

Deputy Under Secretary for Health	$120,399 **
Associate Deputy Under Secretary for Health	115,319 ***
Assistant Under Secretaries for Health	111,920 ***

	Minimum	Maximum
Medical Directors	$95,491	$108,225 ***
Service Directors	83,147	103,261
Director, National Center for Preventive Health	70,894	103,261

Physician and Dentist Schedule

Director Grade	$83,147	$103,261
Executive Grade	76,777	97,849
Chief Grade	70,894	92,161
Senior Grade	60,270	78,351
Intermediate Grade	51,003	66,303
Full Grade	42,890	55,760
Associate Grade	35,786	46,523

Clinical Podiatrist and Optometrist Schedule

Chief Grade	$70,894	$92,161
Senior Grade	60,270	78,351
Intermediate Grade	51,003	66,303
Full Grade	42,890	55,760
Associate Grade	35,786	46,523

Physician Assistant and Expanded-Function Dental Auxiliary Schedule ****

Director Grade	$70,894	$92,161
Assistant Director Grade	60,270	78,351
Chief Grade	51,003	66,303
Senior Grade	42,890	55,760
Intermediate Grade	35,786	46,523
Full Grade	29,577	38,451
Associate Grade	25,452	33,084
Junior Grade	21,758	28,283

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* This schedule does not apply to the Assistant Under Secretary for Nursing Programs or the Director of Nursing Services. Pay for these positions is set by the Under Secretary for Health under 38 U.S.C. 7451.

** Pursuant to section 7404(d)(1) of title 38, United States Code, the rate of basic pay payable to this employee is limited to the rate for level IV of the Executive Schedule, which is $115,700.

*** Pursuant to section 7404(d)(2) of title 38, United States Code, the rate of basic pay payable to these employees is limited to the rate for level V of the Executive Schedule, which is $108,200.

**** Pursuant to section 301(a) of Public Law 102-40, these positions are paid according to the Nurse Schedule in 38 U.S.C. 4107(b) as in effect on August 14, 1990, with subsequent adjustments.

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SCHEDULE 4--SENIOR EXECUTIVE SERVICE

(Effective on the first day of the first applicable pay period beginning on or after January 1, 1997)

ES-1	$97,000
ES-2	101,600
ES-3	106,200
ES-4	111,900
ES-5	115,700
ES-6	115,700

SCHEDULE 5--EXECUTIVE SCHEDULE

(Effective on the first day of the first applicable pay period beginning on or after January 1, 1997)

level I	$148,400
level II	133,600
level III	123,100
level IV	115,700
level V	108,200

SCHEDULE 6--VICE PRESIDENT AND MEMBERS OF CONGRESS

(Effective on the first day of the first applicable pay period beginning on or after January 1, 1997)

Vice President	$171,500
Senators	133,600
Members of the House of Representatives	133,600
Delegates to the House of Representatives	133,600
Resident Commissioner from Puerto Rico	133,600
President pro tempore of the Senate	148,400
Majority leader and minority leader of the Senate	148,400
Majority leader and minority leader of the House of Representatives	148,400
Speaker of the House of Representatives	171,500

SCHEDULE 7--JUDICIAL SALARIES

(Effective on the first day of the first applicable pay period beginning on or after January 1, 1997)

Chief Justice of the United States	$171,500
Associate Justices of the Supreme Court	164,100
Circuit Judges	141,700
District Judges	133,600
Judges of the Court of International Trade	133,600

SCHEDULE 8--PAY AND ALLOWANCES OF THE UNIFORMED SERVICES
(Effective on January 1, 1997)

Part I--MONTHLY BASIC PAY

YEARS OF SERVICE (COMPUTED UNDER 37 U.S.C. 205)

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26
COMMISSIONED OFFICERS															
O-10	**$7,360.20	$7,619.10	$7,619.10	$7,619.10	$7,619.10	$7,911.60	$7,911.60	$8,349.90	$8,349.90	$8,947.20	$8,947.20	$9,546.30*	$9,546.30*	$9,546.30*	$10,140.90*
O-9	6,522.90	6,693.90	6,836.70	6,836.70	6,836.70	7,010.40	7,010.40	7,302.00	7,302.00	7,911.60	7,911.60	8,349.90	8,349.90	8,349.90	8,947.20
O-8	5,908.20	6,085.50	6,229.80	6,229.80	6,229.80	6,693.90	6,693.90	7,010.40	7,010.40	7,302.00	7,619.10	7,911.60	8,106.60	8,106.60	8,106.60
O-7	4,909.20	5,243.10	5,243.10	5,243.10	5,478.30	5,478.30	5,795.70	5,795.70	6,085.50	6,693.90	7,154.40	7,154.40	7,154.40	7,154.40	7,154.40
O-6	3,638.40	3,997.50	4,259.70	4,259.70	4,259.70	4,259.70	4,259.70	4,259.70	4,404.60	5,100.90	5,361.30	5,478.30	5,795.70	5,991.60	6,285.60
O-5	2,910.30	3,417.00	3,653.40	3,653.40	3,653.40	3,653.40	3,763.50	3,966.60	4,232.40	4,549.20	4,809.60	4,955.70	5,128.80	5,128.80	5,128.80
O-4	2,452.80	2,987.10	3,186.30	3,186.30	3,245.40	3,388.50	3,619.80	3,823.20	3,997.50	4,173.30	4,287.90	4,287.90	4,287.90	4,287.90	4,287.90
O-3 ***	2,279.40	2,548.50	2,724.90	3,014.70	3,159.00	3,272.10	3,449.40	3,619.80	3,708.60	3,708.60	3,708.60	3,708.60	3,708.60	3,708.60	3,708.60
O-2 ***	1,987.80	2,170.80	2,608.20	2,695.80	2,751.60	2,751.60	2,751.60	2,751.60	2,751.60	2,751.60	2,751.60	2,751.60	2,751.60	2,751.60	2,751.60
O-1 ***	1,725.90	1,796.10	2,170.80	2,170.80	2,170.80	2,170.80	2,170.80	2,170.80	2,170.80	2,170.80	2,170.80	2,170.80	2,170.80	2,170.80	2,170.80
COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER															
O-3E	-	-	-	$3,014.70	$3,159.00	$3,272.10	$3,449.40	$3,619.80	$3,763.50	$3,763.50	$3,763.50	$3,763.50	$3,763.50	$3,763.50	$3,763.50
O-2E	-	-	-	2,695.80	2,751.60	2,838.90	2,987.10	3,101.40	3,186.30	3,186.30	3,186.30	3,186.30	3,186.30	3,186.30	3,186.30
O-1E	-	-	-	2,170.80	2,319.30	2,404.50	2,491.80	2,578.20	2,695.80	2,695.80	2,695.80	2,695.80	2,695.80	2,695.80	2,695.80

* Basic pay for these officers is limited to the rate of basic pay for level V of the Executive Schedule, which is $9,016.80 per month.

** While serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, basic pay for this grade is calculated to be $11,189.40, regardless of cumulative years of service computed under section 205 of title 37, United States Code. Nevertheless, actual basic pay for these officers is limited to the rate of basic pay for level V of the Executive Schedule, which is $9,016.80 per month.

*** Does not apply to commissioned officers who have been credited with over 4 years of active duty service as an enlisted member or warrant officer.

SCHEDULE 8--PAY AND ALLOWANCES OF THE UNIFORMED SERVICES (PAGE 2)

YEARS OF SERVICE (COMPUTED UNDER 37 U.S.C. 205)

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 5	Over 6	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26
WARRANT OFFICERS															
W-5	-	-	-	-	-	-	-	-	-	-	-	$3,963.60	$4,113.60	$4,232.70	$4,410.90
W-4	$2,322.30	$2,491.80	$2,491.80	$2,548.50	$2,664.60	$2,781.90	$2,898.60	$3,101.40	$3,245.40	$3,359.40	$3,449.40	3,560.70	3,679.80	3,794.40	3,966.60
W-3	2,110.80	2,289.60	2,289.60	2,319.30	2,346.30	2,517.90	2,664.60	2,751.60	2,838.90	2,923.80	3,014.70	3,132.30	3,245.40	3,245.40	3,359.40
W-2	1,848.60	2,000.10	2,000.10	2,058.30	2,170.80	2,289.60	2,376.60	2,463.60	2,548.50	2,638.20	2,724.60	2,810.40	2,923.20	2,923.20	2,923.20
W-1	1,540.20	1,765.80	1,765.80	1,913.40	2,000.10	2,085.90	2,170.80	2,260.20	2,346.30	2,433.60	2,517.30	2,608.20	2,608.20	2,608.20	2,608.20
ENLISTED MEMBERS															
E-9*	-	-	-	-	-	-	$2,701.80	$2,762.40	$2,824.80	$2,889.90	$2,954.70	$3,011.70	$3,169.80	$3,293.40	$3,478.50
E-8	-	-	-	-	-	$2,265.60	2,330.70	2,391.90	2,454.00	2,519.10	2,576.40	2,639.70	2,794.80	2,919.30	3,106.50
E-7	$1,581.90	$1,707.90	$1,770.60	$1,833.00	$1,895.40	1,955.70	2,018.40	2,081.40	2,175.30	2,237.10	2,298.90	2,329.20	2,485.50	2,609.10	2,794.80
E-6	1,360.80	1,483.50	1,545.00	1,610.70	1,671.30	1,731.30	1,794.90	1,887.30	1,946.70	2,009.40	2,040.00	2,040.00	2,040.00	2,040.00	2,040.00
E-5	1,194.30	1,299.90	1,362.90	1,422.30	1,515.90	1,577.70	1,639.80	1,700.40	1,731.30	1,731.30	1,731.30	1,731.30	1,731.30	1,731.30	1,731.30
E-4	1,113.60	1,176.30	1,245.60	1,341.60	1,394.70	1,394.70	1,394.70	1,394.70	1,394.70	1,394.70	1,394.70	1,394.70	1,394.70	1,394.70	1,394.70
E-3	1,049.70	1,107.00	1,151.10	1,196.70	1,196.70	1,196.70	1,196.70	1,196.70	1,196.70	1,196.70	1,196.70	1,196.70	1,196.70	1,196.70	1,196.70
E-2	1,010.10	1,010.10	1,010.10	1,010.10	1,010.10	1,010.10	1,010.10	1,010.10	1,010.10	1,010.10	1,010.10	1,010.10	1,010.10	1,010.10	1,010.10
E-1**	900.90	900.90	900.90	900.90	900.90	900.90	900.90	900.90	900.90	900.90	900.90	900.90	900.90	900.90	900.90
E-1***	833.40	-	-	-	-	-	-	-	-	-	-	-	-	-	-

* While serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy or Coast Guard, Chief Master Sergeant of the Air Force, or Sergeant Major of the Marine Corps, basic pay for this grade is $4,227.90, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

** Applies to personnel who have served 4 months or more on active duty.

*** Applies to personnel who have served less than 4 months on active duty.

SCHEDULE 8--PAY AND ALLOWANCES OF THE UNIFORMED SERVICES (PAGE 3)

Part II--BASIC ALLOWANCE FOR QUARTERS RATES

Pay Grade	Without dependents Full rate*	Partial rate**	With dependents
COMMISSIONED OFFICERS			
O-10	$824.70	$50.70	$1,015.20
O-9	824.70	50.70	1,015.20
O-8	824.70	50.70	1,015.20
O-7	824.70	50.70	1,015.20
O-6	756.60	35.60	914.10
O-5	728.70	33.00	881.10
O-4	675.30	26.70	776.70
O-3	541.20	22.20	642.60
O-2	429.30	17.70	548.70
O-1	361.50	13.20	480.50
COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER			
O-3E	$584.40	$22.20	$850.60
O-2E	496.80	17.70	623.10
O-1E	427.20	13.20	575.70
WARRANT OFFICERS			
W-5	$686.10	$25.20	$749.70
W-4	609.30	25.20	687.30
W-3	512.10	20.70	629.70
W-2	454.80	15.90	579.30
W-1	380.70	13.80	501.00
ENLISTED MEMBERS			
E-9	$500.40	$18.60	$659.70
E-8	459.30	15.30	608.10
E-7	392.40	12.00	564.60
E-6	355.20	9.90	521.70
E-5	327.60	8.70	469.20
E-4	285.00	8.10	408.00
E-3	279.60	7.80	379.80
E-2	227.10	7.20	361.50
E-1	202.50	6.90	361.50

* Payment of the full rate of basic allowance for quarters at these rates to members of the uniformed services without dependents is authorized by section 403 of title 37, United States Code, and Part IV of Executive Order 11157, as amended.

** Payment of the partial rate of basic allowance for quarters at these rates to members of the uniformed services without dependents who, under section 403(b) or (c) of title 37, United States Code, are not entitled to the full rate of basic allowance for quarters, is authorized by section 1009(c)(2) of title 37, United States Code, and Part IV of Executive Order 11157, as amended.

Part III--BASIC ALLOWANCE FOR SUBSISTENCE

Officers (per month) $154.16

Enlisted Members (per day):

	E-1 (less than 4 months of active duty)	All Other Enlisted
When on leave or authorized to mess separately	$ 6.79	$ 7.36
When rations in-kind are not available	7.65	8.30
When assigned to duty under emergency conditions where no messing facilities of the United States are available	10.16	10.99

Part IV--RATE OF MONTHLY CADET OR MIDSHIPMAN PAY

The rate of monthly cadet or midshipman pay authorized by section 203(c) of title 37, United States Code, is $558.04.

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SCHEDULE 9--LOCALITY-BASED COMPARABILITY PAYMENTS

(Effective on the first day of the first applicable pay period beginning on or after January 1, 1997)

Locality Pay Area[1]	Rate
Atlanta, GA	5.65%
Boston-Worcester-Lawrence, MA-NH-ME-CT	7.97%
Chicago-Gary-Kenosha, IL-IN-WI	8.13%
Cincinnati-Hamilton, OH-KY-IN	6.75%
Cleveland-Akron, OH	5.51%
Columbus, OH	6.62%
Dallas-Fort Worth, TX	6.40%
Dayton-Springfield, OH	5.66%
Denver-Boulder-Greeley, CO	7.06%
Detroit-Ann Arbor-Flint, MI	8.14%
Houston-Galveston-Brazoria, TX	11.52%
Huntsville, AL	5.18%
Indianapolis, IN	5.49%
Kansas City, MO-KS	5.10%
Los Angeles-Riverside-Orange County, CA	9.46%
Miami-Fort Lauderdale, FL	6.74%
Milwaukee-Racine, WI	5.58%
Minneapolis-St. Paul, MN-WI	6.53%
New York-Northern New Jersey-Long Island, NY-NJ-CT-PA	9.15%
Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD	7.28%
Pittsburgh, PA	5.07%
Portland-Salem, OR-WA	6.13%
Richmond-Petersburg, VA	5.27%
Sacramento-Yolo, CA	6.56%
St. Louis, MO-IL	5.18%
San Diego, CA	7.07%
San Francisco-Oakland-San Jose, CA	10.66%
Seattle-Tacoma-Bremerton, WA	6.62%
Washington-Baltimore, DC-MD-VA-WV	7.11%
Rest of U.S	4.81%

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[1]Locality Pay Areas are defined in 5 CFR 531.603.

[FR Doc. 96–33384
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Rules and Regulations

Federal Register
Vol. 61, No. 252
Tuesday, December 31, 1996

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Economic Analysis Staff

7 CFR Ch. XXXIX

Removal of CFR Chapter

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This final rule removes the regulations of the Economic Analysis Staff (EAS) relating to its organization and functions and availability of information to the public, to reflect an internal reorganization of the Department of Agriculture, which abolished EAS.

EFFECTIVE DATE: December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Virginia Taylor, Office of the Chief Economist, United States Department of Agriculture, Room 227–E, Jamie L. Whitten Federal Building, Washington, D.C. 20250–3810, or call (202) 720–5955.

SUPPLEMENTARY INFORMATION: The Freedom of Information Act (FOIA) requires each Federal agency to publish in the **Federal Register** regulations regarding its organization and functions and the manner in which the public may obtain information from the agency. Part 3900 set out the organization and functions of EAS. Part 3901 set out the regulations of EAS for obtaining information under the Freedom of Information Act. Pursuant to a reorganization of the Department of Agriculture, EAS was integrated into the Office of the Chief Economist. This document removes Parts 3900 and 3901.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required. Further, since the rule relates to internal agency management it is exempt from the provisions of Executive Orders 12866 and 12988. In addition, this action is not a rule as defined by the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Chapter XXXIX

Availability of information to the public; organizations and functions.

CHAPTER XXXIX [REMOVED]

Accordingly, under the authority of 5 U.S.C. 301 and 552, 7 CFR Chapter XXXIX is removed.

Done this 23rd of December, 1996, at Washington, D.C.

Keith Collins,

Chief Economist.

[FR Doc. 96–33063 Filed 12–30–96; 8:45 am]

BILLING CODE 3410–01–M

Agricultural Marketing Service

7 CFR Part 58

[DA–96–10]

RIN 0581–AB43

Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products: Revision of User Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service is increasing the fees charged for services provided under the dairy inspection and grading program. This rule will yield an estimated $272,000 in fiscal year 1997. The program is a voluntary, user-fee program conducted under the authority of the Agricultural Marketing Act of 1946, as amended. This action increases the hourly rate to $47.00 per hour for continuous resident services and $52.00 per hour for nonresident services between the hours of 6:00 a.m. and 6:00 p.m. The fee for nonresident services between the hours of 6:00 p.m. and 6:00 a.m. would be $57.20 per hour. These fees represent an increase of four dollars per hour. The fees are being increased to cover the costs of recent salary increases and locality adjustments, the costs necessary to maintain adequate levels of service during changing production and purchasing patterns within the dairy industry, the continued full funding for standardization activities, and other operating costs.

EFFECTIVE DATE: January 5, 1997.

FOR FURTHER INFORMATION CONTACT: Lynn G. Boerger, USDA/AMS/Dairy Division, Dairy Grading Branch, Room 2750–South Building, P.O. Box 96456, Washington, D.C. 20090–6456, (202) 720–9381.

SUPPLEMENTARY INFORMATION: This rule has been determined to be not significant for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have preemptive effect with respect to any State or local laws, regulations or policies. This rule is not intended to have retroactive effect. There are no administrative procedures which must be exhausted prior to any judicial challenge to this rule or the application of its provisions.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) 5 U.S.C. 601 *et seq.*, the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

There are more than 600 users of Dairy Grading Branch's inspection and grading services. Many of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.601). This rule will raise the fee charged to businesses for voluntary inspection services and grading services for dairy and related products. Even though the fee will be raised, the increase is approximately 8.6 percent and will not significantly affect these entities. These businesses are under no obligation to use these services, and any decision on their part to discontinue the use of the services would not prevent them from marketing their products. The Agricultural Marketing Service (AMS) estimates that overall this rule will yield an additional $272,000 during fiscal year 1997. The rule reflects certain fee increases needed to recover the cost of inspection and grading services rendered in accordance with the Agricultural Marketing Act (AMA) of 1946.

The Agricultural Marketing Service (AMS) has determined that this action will not have a significant impact on a

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substantial number of small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601).

The Agricultural Marketing Act of 1946, as amended, authorizes the Secretary of Agriculture to provide Federal dairy grading and inspection services that facilitate marketing and help consumers obtain the quality of dairy products they desire. The Act provides that reasonable fees be collected from the users of the services to cover, as nearly as practicable, the cost of maintaining the program.

Since the costs of the grading program are covered entirely by user fees, it is essential that fees be increased when necessary to cover the cost of maintaining a financially self-supporting program. The last fee increase under this program became effective on October 1, 1995. Since that time, Congress increased the salaries of Federal employees by 2.9 percent as of January 7, 1996, which included locality pay. Also, there have been normal increases in other nonpay operating costs that include utilities, office space, and reimbursable travel. In addition, recent congressional action may result in additional salary increases of 3.0 percent in 1997. Although the program's operating reserves were adequate to cover the January 7, 1996, salary increase, this will not be the case for 1997 salary increases, and a fee increase is needed.

The grading program fees need to be increased to cover the costs associated with maintaining adequate levels of service during shifting production patterns within the dairy industry. The industry changes include plant consolidations, geographical shifts of dairy production areas, and changes in the types of dairy products being manufactured and offered for inspection and grading services. To minimize the necessary fee increase, the Department has initiated cost-reduction efforts which include the reduction of staff and program overhead.

On November 14, 1996, the Agricultural Marketing Service published in the **Federal Register** (61 FR 58345) for public comment a document proposing a $4.00 increase in the hourly fee for both resident and nonresident programs. No comments were received.

Pursuant to 5 U.S.C. 553, it is hereby found that good cause exists for not delaying the effective date of this action until 30 days after publication of this final rule in the **Federal Register**. A revenue shortfall warrants putting the higher rates into effect as quickly as possible. The increase in fees is essential for effective management and operation of the program and to satisfy the intent of the Agricultural Marketing Act of 1946. A proposed rule setting forth proposed fee increases was published in the **Federal Register** on November 14, 1996 (61 FR 58345). Therefore, the provisions of this final rule are known to interested parties.

Accordingly, the program fees are being increased as set forth below.

Program Changes Adopted in the Final Rule

This rule document makes the following changes in the regulations implementing the dairy inspection and grading program:

1. Increases the hourly fee for nonresident services from $48.00 to $52.00 for services performed between 6:00 a.m. and 6:00 p.m. The nonresident hourly rate is charged to users who request an inspector or grader for particular dates and amounts of time to perform specific grading and inspection activities. These users of nonresident services are charged for the amount of time required to perform the task and undertake related travel plus travel costs.

2. Increases the hourly fee for continuous resident services from $43.00 to $47.00. The resident hourly rate is charged to those who are using grading and inspection services performed by an inspector or grader assigned to a plant on a continuous, year-round resident basis.

List of Subjects in 7 CFR Part 58

Dairy products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 58 is amended as follows:

PART 58–GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS

1. The authority citation for Part 58 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. Section 58.43 is revised to read as follows:

§ 58.43 Fees for inspection, grading, and sampling.

Except as otherwise provided in §§ 58.38 through 58.46, charges shall be made for inspection, grading, and sampling service at the hourly rate of $52.00 for service performed between 6:00 a.m. and 6:00 p.m. and $57.20 for service performed between 6:00 p.m. and 6:00 a.m., for the time required to perform the service calculated to the nearest 15-minute period, including the time required for preparation of certificates and reports and the travel time of the inspector or grader in connection with the performance of the service. A minimum charge of one-half hour shall be made for service pursuant to each request or certificate issued.

3. Section 58.45 is revised to read as follows:

§ 58.45 Fees for continuous resident services.

Irrespective of the fees and charges provided in §§ 58.39 and 58.43, charges for the inspector(s) and grader(s) assigned to a continuous resident program shall be made at the rate of $47.00 per hour for services performed during the assigned tour of duty. Charges for service performed in excess of the assigned tour of duty shall be made at a rate of 1½ times the rate stated in this section.

Dated: December 24, 1996.

Lon Hatamiya,

Administrator.

[FR Doc. 96–33267 Filed 12–30–96; 8:45 am]

BILLING CODE 3410–02–P

Federal Crop Insurance Corporation

7 CFR Parts 401 and 457

RIN 0563–AB03

Common Crop Insurance Regulations; Florida Citrus Fruit Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes specific crop provisions for the insurance of Florida citrus. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current Florida Citrus Endorsement with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current Florida Citrus Endorsement to the 1997 and prior crop years.

EFFECTIVE DATE: January 30, 1997.

FOR FURTHER INFORMATION CONTACT: Bill Klein, Program Analyst, Research and Development Division, Product Development Branch, Federal Crop Insurance Corporation, United States

Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order No. 12866

The Office of Management Budget (OMB) has determined this rule to be exempt for the purposes of Executive Order No. 12866, and, therefore, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

The information collection requirements contained in these regulations were previously approved by OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0563–0003 at the proposed rule stage.

The amendments set forth in this final rule contains information collections that have been cleared by OMB under the provisions of 44 U.S.C. chapter 35.

No public comments were received.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector.

This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) of state, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than large entities. Under the current regulations, all producers are required to complete an application and acreage report. If the crop is damaged or destroyed, insureds are required to give notice of loss and provide the necessary information to complete a claim for indemnity. This regulation does not alter those requirements. The amount of work required of the insurance companies delivering and servicing these policies will not increase significantly from the amount of work currently required. This rule does not have any greater or lesser impact on the producer. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order No. 12372

This program is not subject to the provisions of Executive Order No. 12372, which require intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order No. 12778

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order No. 12778. The provisions of this rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR parts 11 and 780 must be exhausted before action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

On Friday, March 15, 1996, FCIC published a proposed rule in the **Federal Register** at 61 FR 10699–10703 to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section, 7 CFR 457.107 (Florida Citrus Fruit Crop Insurance Provisions). The new provisions will replace and supersede the current provisions for insuring Florida citrus found at 7 CFR 401.143 and will be effective for the 1998 and succeeding crop years. Section 401.143 will also be amended to restrict its effect to the 1997 and prior crop years. By separate rule, § 401.143 will be removed and that section will be reserved.

Following publication of the proposed rule, the public was afforded 30 days to submit written comments, data, and opinions. A total of 32 comments were received from the crop insurance industry. The comments received and FCIC's response are as follows:

Comment: The crop insurance industry expressed concern that the proposed changes shown in the **Federal Register** were to be effective for the 1997 crop year.

Response: FCIC originally intended that the proposed rule be made final prior to the contract change date and in sufficient time to provide the industry and insureds time to be made aware of the changes and make adjustments as needed. When the proposed rule was not published until March 15, 1996, it was no longer possible to publish a final rule prior to the April 15, 1996, contract change date. The relevant sections have been amended to specify that the changes will not be implemented until the 1998 crop year.

Comment: One comment from the crop insurance industry questioned why optional units were allowed by both (or either) legal description and non-contiguous land for Florida citrus fruit, whereas in other citrus policies, optional units are offered by one or the other or by non-contiguous land only. They questioned whether regional differences are significant enough to preclude standardization.

Response: The unit structure in the proposed rule was intended to be the same as that contained in the current policy. The current policy allows optional units by legal description or by non-contiguous acreage. The provision has been amended to clarify the apparent ambiguity created in the proposed rule.

Comment: The crop insurance industry stated that the proposed varying levels of deductibles ranging from 25 percent to 50 percent of damage represents a substantial change from the current 10 percent of damage deductible and "will create an insurance product that is substantially deficient in providing desired protection for growers." They requested that the 10 percent deductible level be reinstated in the final rule.

Response: FCIC does not have the authority to offer a 10 percent

deductible for any crop. Section 508(b)(6) and 508(c)(6) of the Federal Crop Insurance Act, as amended, only allows coverage up to 85 percent of the individual yield, which requires more than 15 percent damage before an indemnity would be due. FCIC does not currently offer 85 percent coverage for any actual production history based policy. Implementation of an 85 percent coverage for Florida citrus fruit is being considered for the 1998 crop year. If approved, this coverage level will be shown on the County Actuarial Table. Therefore, no change has been made in the provisions.

Comment: The crop insurance industry expressed concern that the only justification for changing the 10 percent deductible was to make the provisions more compatible with the Common Crop Insurance Policy. The current program participation is high with the implementation of crop insurance reform and the loss ratio is low, in short the program works. It appears that change is only for change's sake.

Response: Although the timing of this change coincides with the Florida Citrus Fruit Crop Insurance Provisions being brought under the Common Crop Insurance Policy, the change is mandated by the above stated limitation contained in the Federal Crop Insurance Act, as amended.

Comment: The crop insurance industry expressed concern that the 10 percent deductible change would undermine their attempts to encourage "buy-up" sales. Producers buy CAT because they believe that the current program (limited and full coverage) is overpriced.

Response: FCIC has no choice but to increase the deductible to be in compliance with the Federal Crop Insurance Act, as amended. With the new coverage levels, "buy up" coverage should provide a level of coverage that will meet the insured's risk management needs.

Comment: One comment from the crop insurance industry criticized FCIC for not taking into account the needs of producers in making rules. While the proposed changes may favorably impact premium, the coverage will no longer be reasonable.

Response: FCIC met with producers and with the Florida Citrus Association, who both provided input and suggestions for the draft Florida Citrus Fruit Crop Provisions. Although FCIC is aware of the industry's opposition to replacing the 10 percent deductible with a proportional deductible, the Federal Crop Insurance Act, as amended, does not allow a 10 percent deductible.

Comment: One comment from the crop insurance industry suggested that a large majority of producers take CAT coverage because they feel the premium for limited and additional coverage is too high based on their assessment of the risk. The program is working with the current deductibles and does not need to be changed.

Response: FCIC has no choice but to change the current coverage levels. Under the new program, a series of different level deductibles will have separate rates and will allow producers to chose more appropriate levels of coverage, which should result in increased participation in limited and buy-up insurance.

Comment: One comment from the crop insurance industry was a request that the language in section 3(a), "You may select only one percent of the maximum dollar amount of insurance * * *", be clarified. They understand the language to mean that only one level of coverage may be selected for each type of citrus fruit insured.

Response: FCIC has added language to clarify the intent of section 3(a). If more than one kind of citrus fruit is included within a type and each citrus fruit has a different maximum amount of insurance, the insured must select the same coverage level for each kind of citrus fruit. For example, if an insured chooses the 75 percent coverage level for Naval Oranges, then the insured must also choose the 75 percent coverage level for Tangerines since both are included as Type IV citrus fruit.

Comment: One comment from the crop insurance industry suggests that neither ineligibility nor a reduction of benefits should be based on the age of the citrus tree. They contend that trees planted at a higher density can produce a marketable crop in as little as three years. They propose that eligibility be based on production of 100 boxes per acre on a unit basis.

Response: The proposed rule for Florida Citrus Fruit Crop Insurance Provisions authorized insuring trees that have not reached the fifth growing season after being set out either in the Special Provisions or by written agreement. Thus, if the 100 box requirement proves reasonable after review of the grove's production potential, coverage can be provided. Therefore, no change will be made in the provisions.

Comment: One comment from the crop insurance industry maintained that adding the proportional deductible to limited and additional insurance would serve to push producers to CAT.

Response: Currently more than 90 percent of the Florida citrus fruit producers have opted for CAT coverage, even with the availability of a 10 percent deductible. With a properly rated proportional deductible, insureds should find the limited and additional levels of insurance to be more affordable and a better risk management tool.

Comment: The crop insurance industry recommended establishing a contract change date earlier than March 15. Recommendations ranged from December 31 to February 28.

Response: FCIC would be willing to move the contract change date earlier if sufficient price and yield data were available to accurately estimate amounts of insurance. Currently, the data available is incomplete before February and the Actuarial Division believes that moving the date earlier than March 15 will not allow sufficient time to utilize the most recent information. For example, a major January freeze will have a significant effect on citrus fruit production and prices. Therefore, no change will be made to the provisions.

Comment: The crop insurance industry recommended that two amounts of insurance be offered. One amount would apply to trees 5 to 7 years and the other for trees more than 7 years. The five year limit could be waived if after inspection it was determined that the acreage could produce 100 boxes per acre.

Response: The current actuarial basis for insuring three age groups was based on National Agricultural Statistics Service (NASS) data and extensive research. If further study indicates that insuring based on two age groups would be more equitable, this change can be made in the actuarial table and need not be specified in the policy. Therefore, no change will be made to the provisions.

Comment: One comment from the crop insurance industry recommended that reclaimed land be made insurable. Insurability would be based on an inspection for both buy-up and CAT, with no written agreement required.

Response: There is reclaimed land that has been rated and, therefore, it is insurable. Other reclaimed land has not been rated and is not insurable except by written agreement. The insurability of reclaimed lands is provided in the Special Provisions. The rating of unrated reclaimed land is an underwriting issue which will be considered for possible future implementation.

Comment: The crop insurance industry recommended that Type II (Late Oranges) be covered as fresh fruit if records demonstrate the crop has been sold as fresh. Either designate Type II as

"fresh fruit" or add varieties to Type II such as 024 Late Orange Juice, and 025 Late Orange Fresh.

Response: FCIC agrees with the concept of insuring certain late oranges as fresh fruit. After studying the recommendation it was determined that these late oranges should be added to Type VII, as Late Oranges "Fresh".

Comment: The crop insurance industry recommended that insurance attach at fruit set so that there would be no gap in coverage.

Response: FCIC does not have sufficient underwriting information to change the date insurance attaches at this time. FCIC is currently researching other methods for insuring Florida citrus and one area of study is the date insurance should attach.

Comment: One comment from the crop insurance industry recommended that FCIC cover excessive rain and excessive wind damage that did not occur in conjunction with a hurricane or tornado. Fresh fruit blown from the tree and fresh fruit that is scarred or adulterated and cannot be marketed as fresh fruit due to excessive rain or wind would be adjusted on a fresh fruit basis.

Response: Insuring damage resulting from excess wind or rain not associated with a hurricane or tornado would greatly increase risk and the associated premium. This change could not be made without a notice and comment period. Therefore, no change will be made to the provisions.

Comment: One comment from the crop insurance industry stated that some flexibility may be needed for obtaining signatures and for mail time if a transfer takes place shortly before the acreage reporting date, but the transfer form does not reach the company office until after the acreage reporting date.

Response: If the transferor or the transferee signs the properly completed transfer form and gives the form to the crop insurance agent on or before the acreage reporting date, this requirement will be met. Therefore, no change will be made to the provisions.

Comment: One comment from the crop insurance industry recommended revising the language in section 10(b)(2)(ii), "Citrus fruit will be considered undamaged potential production if it is: (i) Or could be marketed as fresh fruit;" to "Citrus fruit will be considered undamaged potential production if it is: (i) Marketed or could be marketed as fresh fruit;".

Response: FCIC agrees and has revised the provision accordingly.

Comment: One comment from the crop insurance industry recommended that section 10(c)(2)(ii) be amended to delete pink and red grapefruit because proposed changes make it a "juice only" fruit.

Response: FCIC agrees with the comment and has deleted the words "pink and red grapefruit of Type III" from section 10(c)(2)(ii).

Comment: One comment from the crop insurance industry recommended that pink and red grapefruit of citrus Type III needs to be omitted from the fruit that are considered a total loss as a result of hail damage in section 10(h).

Response: FCIC agrees with the comment and has deleted the words "pink and red grapefruit of citrus Type III" from section 10(h).

Comment: One comment from the crop insurance industry recommended that the crop provisions be expanded to allow insureds to insure one crop of grapefruit as fresh fruit and a separate crop as juice.

Response: FCIC agrees to implement the recommendation and has removed the language in section 6 which required producers to insure all their grapefruit under a single type. Acreage of fresh and processing grapefruit will be identified separately on the acreage report.

Comment: The crop insurance industry recommended that the levels of juice content for types I, II, and III used to determine damage whenever a producer's records are deemed unacceptable be amended as follows:

Type I—52 pounds of juice per box
Type II—54 pounds of juice per box
Type III—45 pounds of juice per box

These recommendations are based on improvements in processing technologies and processing equipment implemented during the past few years and documented weighted averages for the last three seasons.

Response: FCIC agrees and has made the changes in section 10.

Comment: One comment from the crop insurance industry recommended that the written agreement language be more flexible and allow continuous coverage from year to year if no substantive changes occur.

Response: Written agreements are intended to provide a deviation from the terms of the policy or to extend coverage. If it is appropriate to continue the practice, the policy or Special Provisions should be amended to include the change or new coverage. Therefore, no change will be made to the provisions.

In addition to the changes described above, and minor reformatting and word changes for clarity, FCIC has made the following changes:

1. Section 1—Added the definition of "amount of insurance (acre)" "FSA" and changed the definition of "citrus fruit type" to add Late Oranges Fresh to Type VII, and changed the definition of "good farming practices," "non-contiguous," and "written agreement," for clarification.

2. Section 6—Removed language that provided that we could exclude from insurance, or limit the amount of insurance on, any acreage that was not insured the previous crop year. This language was not deemed to be necessary because because we currently inspect new acreage or acreage added to an existing unit.

3. Section 8(a)(1)—Clarified that if the application is submitted less than 10 days before the date insurance attaches, insurance will not attach until 10 days after receipt of the application. This provision is designed to prevent producers from applying for insurance only when they believe a loss is probable.

4. Section (8)(b)—Clarify that no premium will be due if the producer relinquishes an insurable interest in any insurable acreage of Florida citrus on or before the acreage reporting date of any crop year, unless a transfer of coverage and right to an indemnity is completed and the insurance provider is notified in writing on or before the acreage reporting date. The transferee must meet the eligibility requirements contained in this policy and the form must be subsequently approved by the insurance provider.

List of Subjects in 7 CFR Parts 401 and 457

Crop insurance, Florida citrus endorsement, Florida citrus fruit.

Final Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby amends 7 CFR parts 401 and 457 as follows:

PART 401—GENERAL CROP INSURANCE REGULATIONS—REGULATIONS FOR THE 1988 AND SUBSEQUENT CONTRACT YEARS

1. The authority citation for 7 CFR part 401 continues to read as follows:

Authority: 7 U. S. C. 1506(l), 1506(p).

2. Section 401.143 introductory paragraph is revised to read as follows:

§ 401.143 Florida citrus endorsement.

The provisions of the Florida Citrus Endorsement, for the 1990 through 1997 crop years are as follows:

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1994 AND SUBSEQUENT CONTRACT YEARS

3. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

4. 7 CFR part 457 is amended by adding a new § 457.107 to read as follows:

§ 457.107 Florida Citrus Fruit Crop Insurance Provisions.

The Florida Citrus Fruit Crop Insurance Provisions for the 1998 and succeeding crop years are as follows:

Department of Agriculture

Federal Crop Insurance Corporation

Florida Citrus Fruit Crop Provisions

If a conflict exists among the Basic Provisions (§ 457.8), these Crop Provisions, and the Special Provisions; the Special Provisions will control these Crop Provisions and the Basic Provisions; and these Crop Provisions will control the Basic Provisions.

1. Definitions

Amount of insurance (acre)—The dollar amount determined by multiplying the Reference Maximum Dollar Amount shown on the Actuarial Table for the citrus fruit times the coverage level you elect, times your share.

Box—A standard field box as prescribed in the State of Florida Citrus Fruit Laws.

Citrus fruit type—Any of the following:

(1) Type I—Early and mid-season oranges;

(2) Type II—Late oranges juice;

(3) Type III—Grapefruit for which freeze damage will be adjusted on a juice basis;

(4) Type IV—Navel Oranges, Tangelos and Tangerines;

(5) Type V—Murcott Honey Oranges (also known as Honey Tangerines) and Temple Oranges;

(6) Type VI—Lemons and Limes; and

(7) Type VII—Grapefruit for which freeze damage will be adjusted on a fresh fruit basis, and late oranges fresh.

Days—Calendar days.

FSA—Farm Service Agency, an agency of the United States Department of Agriculture or a successor agency.

Freeze—The formation of ice in the cells of the fruit caused by low air temperatures.

Good farming practices—The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce the expected yield for the type and age of citrus fruit, and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Harvest—The severance of mature citrus fruit from the tree by pulling, picking, or any other means, or collecting the marketable fruit from the ground.

Hurricane—A windstorm classified by the U.S. Weather Service as a hurricane.

Interplanted—Acreage on which two or more crops are planted in any form of alternating or mixed pattern.

Non-contiguous land—Any two or more tracts of land whose boundaries do not touch at any point, except that land separated only by a public or private right-of-way, waterway, or an irrigation canal, will be considered as contiguous.

Potential production—Citrus fruit that would have been produced had damage not occurred, including citrus fruit that:

(1) Was harvested before damage occurred;

(2) Remained on the tree after damage occurred; and

(3) Was lost from either an insured or uninsured cause;

But not including citrus fruit that:

(1) Was lost before insurance attached for any crop year;

(2) Was lost by normal dropping; or

(3) Any tangerines that normally would not meet the 210 pack size (2 and 4/16 inch minimum diameter) under United States Standards by the end of the insurance period for tangerines.

Written agreement—A written document that alters designated terms of this policy in accordance with section 11.

2. Unit Division

(a) A unit as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), (basic unit) will be divided into basic units by each citrus fruit type shown in section 1 of these crop provisions or designated in the Special Provisions.

(b) Unless limited by the Special Provisions, these basic units may be divided into optional units if, for each optional unit you meet all the conditions of this section or if a written agreement to such division exists.

(c) Basic units may not be divided into optional units on any basis other than as described in this section.

(d) If you do not comply fully with these provisions, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined into a basic unit, that portion of the additional premium paid for the optional units that have been combined will be refunded to you for the units combined.

(e) All optional units you selected for the crop year must be identified on the acreage report for that crop year.

(f) Each optional unit must meet one of the following criteria, as applicable:

(1) *Optional Units by Section, Section Equivalent, or Farm Service Agency (FSA) Farm Serial Number:* Optional units may be established if each optional unit is located in a separate legally identified section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands, as the equivalent of sections for unit purposes. In areas that have not been surveyed using the systems identified above, or another system approved by us, or in areas where such systems exist but boundaries are not readily discernable, each optional unit must be located in a separate farm identified by a single FSA Farm Serial Number; or

(2) *Optional Units on Acreage Located on Non-Contiguous Land:* Optional units may be established if each optional unit is located on non-contiguous land.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8):

(a) You may select only one coverage level for each Florida citrus fruit type shown in section 1 of these crop provisions or designated in the Special Provisions, that you elect to insure. If different amounts of insurance are available for citrus fruit within a type, you must select the same coverage level for each citrus fruit. For example, if you choose the 75 percent coverage level for a specific citrus fruit within a type, you must also choose the 75 percent coverage level for all other citrus fruit within that type.

(b) In lieu of the production reporting date contained in section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), potential production for each unit will be determined during loss adjustment.

(c) By the sales closing date contained in the Special Provisions, for the first year of insurance for acreage interplanted with another citrus fruit crop, and anytime the planting pattern of such acreage is changed, you must report the following:

(1) The age of the interplanted trees and type if applicable;

(2) The planting pattern; and

(3) Any other information we request in order to establish your amount of insurance.

(d) We will reduce acreage or the amount of insurance or both, as necessary, based on our estimate of the effect of the interplanted citrus fruit trees on the insured citrus fruit crop. If you fail to notify us of any circumstance that may reduce the acreage or amount of insurance, we will reduce the acreage or amount of insurance or both as necessary any time we become aware of the circumstance.

4. Contract Changes

In accordance with section 4 (Contract Changes) of the Basic Provisions (§ 457.8), the contract change date is March 15 preceding the cancellation date.

5. Cancellation and Termination Dates

In accordance with section 2 (Life of Policy, Cancellation, and Termination) of the Basic Provisions (§ 457.8), the cancellation date is April 30 preceding the crop year. The termination date is April 30 of the crop year.

6. Insured Crop

(a) In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all acreage of each citrus fruit type that you elect to insure, in which you have a share, that is grown in the county shown on the application, and for which a premium rate is quoted in the actuarial table.

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(b) In addition to the citrus fruit not insurable in section 8 (Insured Crop) of the Basic Provisions (§ 457.8), we do not insure any citrus fruit:

(1) That cannot be expected to mature each crop year within the normal maturity period for the type;

(2) Produced by trees that have not reached the fifth growing season after being set out, unless otherwise provided in the Special Provisions or by a written agreement to insure such citrus fruit;

(3) Of "Meyer Lemons" and oranges commonly known as "Sour Oranges" or "Clementines"; or

(4) Of the Robinson tangerine variety, for any crop year in which you have elected to exclude such tangerines from insurance. (You must elect this exclusion prior to the crop year for which the exclusion is to be effective, except that for the first crop year you must elect this exclusion by the later of April 30 or the time you submit the application for insurance.)

(c) Upon our approval, prior to the date insurance attaches, you may elect to insure or exclude from insurance any insurable acreage that has a potential production of less than 100 boxes per acre. If you:

(1) Elect to insure such acreage, we will consider the potential production to be 100 boxes per acre when determining the amount of loss; or

(2) Elect to exclude such acreage, we will disregard the acreage for all purposes related to this contract.

(d) In addition to the provisions in Section 6(f) (Report of Acreage) of the Basic Provisions (§ 457.8), if you fail to notify us of your election to insure or exclude acreage, and the potential production from such acreage is 100 or more boxes per acre, we will determine the percent of damage on all of the insurable acreage for the unit, but will not allow the percent of damage for the unit to be increased by including such acreage.

7. Insurable Acreage

In lieu of the provisions in section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8), that prohibit insurance attaching to a crop planted with another crop, citrus fruit interplanted with another citrus fruit crop is insurable unless we inspect the acreage and determine that it does not meet the requirements contained in your policy.

8. Insurance Period

(a) In accordance with the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8):

(1) Coverage begins on May 1 of each crop year, except that for the year of application if your application is received by us after April 21, but prior to May 1, insurance will attach on the 10th day after your properly completed application, acreage, and production reports are received in our local office, unless we inspect the acreage during the 10 day period and determine that it does not meet the requirements for insurability contained in your policy. You must provide any information that we require for the crop to determine the condition of the grove to be insured.

(2) The calendar date for the end of the insurance period for each crop year is:

(i) January 31 for tangerines and navel oranges;

(ii) April 30 for lemons, limes, tangelos, early and mid-season oranges; and

(iii) June 30 for late oranges, grapefruit, Temple, and Murcott Honey Oranges.

(b) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8):

(1) If you acquire an insurable share in any insurable acreage after coverage begins, but on or before the acreage reporting date of any crop year, and if after inspection we consider the acreage acceptable, then insurance will be considered to have attached to such acreage on the calendar date for the beginning of the insurance period.

(2) If you relinquish your insurable share on any insurable acreage of citrus fruit on or before the acreage reporting date of any crop year, insurance will not be considered to have attached to, no premium will be due and no indemnity paid for, such acreage for that crop year unless:

(i) A transfer of coverage and right to an indemnity, or a similar form approved by us, is completed by all affected parties;

(ii) We are notified by you or the transferee in writing of such transfer on or before the acreage reporting date; and

(iii) The transferee is eligible for crop insurance.

9. Causes of Loss

(a) In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), insurance is provided only against the following causes of loss that occur within the insurance period:

(1) Fire, unless weeds and other forms of undergrowth have not been controlled or pruning debris has not been removed from the grove;

(2) Freeze;

(3) Hail;

(4) Hurricane; or

(5) Tornado.

(b) In addition to the causes of loss excluded in section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), we will not insure against damage or loss of production due to:

(1) Any damage to the blossoms or trees; or

(2) Inability to market the citrus fruit for any reason other than actual physical damage from an insurable cause specified in this section. For example, we will not pay you an indemnity if you are unable to market due to quarantine, boycott, or refusal of any person to accept production.

10. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:

(1) For any optional units, we will combine all optional units for which such production records were not provided; or

(2) For any basic units, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for the units.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Calculating the amount of insurance for the unit by multiplying the number of acres by the respective dollar amount of insurance per acre for the citrus fruit and multiplying that result by your share;

(2) Calculating the average percent of damage to the respective citrus fruit, rounded to the nearest tenth of a percent (0.1%). The percent of damage will be the ratio of the number of boxes of citrus fruit considered damaged from an insured cause divided by the undamaged potential production. Citrus fruit will be considered undamaged potential production if it is:

(i) Marketed or could be marketed as fresh fruit;

(ii) Harvested prior to inspection by us; or

(iii) Harvested within 7 days after a freeze;

(3) Subtracting the coverage level percentage from 100 percent;

(i) Subtracting this result from the result of section (10)(b)(2); and

(ii) If the result section (10)(b)(3)(i) is positive, dividing this result by the coverage level percentage;

(4) Multiplying the result of section (10)(b)(3)(ii) by the amount of insurance for the unit for the respective citrus fruit.

(For example, if the average percent of damage is 70 percent and the coverage level is 75 percent (the deductible is 25 percent), the amount payable is 60 percent times the amount of insurance (70% damage - 25 % level deductible)=45% (45% ÷ 75%) 60% adjusted damage times the amount of insurance); and

(5) Totaling all such results of section (10)(b)(4) to determine the amount payable for the unit.

(c) Citrus fruit of Types IV, V, and VII that are seriously damaged by freeze, as determined by a fresh-fruit cut of a representative sample of fruit in the unit in accordance with the applicable provisions of the State of Florida Citrus Fruit laws, and that are not or could not be marketed as fresh fruit, will be considered damaged to the following extent:

(1) If less than 16 percent of the fruit in a sample shows serious freeze damage, the fruit will be considered undamaged; or

(2) If 16 percent or more of the fruit in a sample shows serious freeze damage, the fruit will be considered 50 percent damaged, except that:

(i) For tangerines of Type IV, damage in excess of 50 percent will be the actual percent of damaged fruit; and

(ii) Citrus of Types IV (except tangerines), V, and VII, if it is determined that the juice loss in the fruit exceeds 50 percent, such percent will be considered the percent of damage.

(d) Notwithstanding the provisions of section 10(c) of these crop provisions as to citrus fruit of Types IV, V, and VII, in any unit that is mechanically separated using the specific-gravity (floatation) method into undamaged and freeze-damaged fruit, the amount of damage will be the actual percent of freeze-damaged fruit not to exceed 50 percent and will not be affected by subsequent fresh-fruit marketing. However, the 50 percent limitation on mechanically-separated, freeze-damaged fruit will not apply to tangerines of citrus fruit Type IV.

(e) Any citrus fruit of Types I, II, III, and VI damaged by freeze, but that can be processed into products for human

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consumption, will be considered as marketable for juice. The percent of damage will be determined by relating the juice content of the damaged fruit to:

(1) The average juice content of the fruit produced on the unit for the three previous crop years based on your records, if they are acceptable to us; or

(2) The following juice content, if acceptable records are not furnished:

(i) Type I—52 pounds of juice per box
(ii) Type II—54 pounds of juice per box
(iii) Type III—45 pounds of juice per box
(iv) Type VI—43 pounds of juice per box

(f) Any citrus fruit on the ground that is not collected and marketed will be considered as 100 percent damaged if the damage was due to an insured cause.

(g) Any citrus fruit that is unmarketable either as fresh fruit or as juice because it is immature, unwholesome, decomposed, adulterated, or otherwise unfit for human consumption due to an insured cause will be considered as 100 percent damaged.

(h) Citrus fruit of Types IV, V, and VII that are unmarketable as fresh fruit due to serious damage from hail as defined in the applicable United States Standards for Grades of Florida fruit will be considered totally lost.

11. Written Agreements

Designated terms of this policy may be altered by written agreement in accordance with the following:

(a) You must apply to us in writing for each written agreement no later than the sales closing date, except as provided in section 11(e);

(b) The application for a written agreement must contain all variable terms of the contract between you and us that will be in effect if the written agreement is not approved;

(c) If approved by us, the written agreement will include all variable terms of the contract, including, but not limited to, crop type and variety, the guarantee, premium rate, and price election;

(d) Each written agreement will be valid for one year (if the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy); and

(e) An application for a written agreement submitted after the sales closing date may be approved if, after a physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

Signed in Washington, DC, on December 20, 1996.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 96–33068 Filed 12–30–96; 8:45 am]

BILLING CODE 3410–FA–P

Federal Crop Insurance Corporation

7 CFR Part 404

Commodity Credit Corporation

7 CFR Part 1437

RIN 0560–AE85

Implementation of the Noninsured Crop Disaster Assistance Program Provisions of the Federal Agriculture Improvement and Reform Act of 1996

AGENCIES: Commodity Credit Corporation, Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule moves the noninsured crop disaster assistance program (NAP) provisions currently in 7 CFR part 404 to 7 CFR part 1437, and implements the amendments to NAP made in Title I of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act). The 1996 Act changes the administration of the program from the Federal Crop Insurance Corporation (FCIC) to the Secretary through the Commodity Credit Corporation. The NAP program will continue to be operated through the Farm Service Agency (FSA). Other amendments include the addition of seed crops and aquaculture (including ornamental fish) as crops eligible for benefits under this part, and relaxes the acreage and production reporting requirements.

EFFECTIVE DATE: December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Leona Dittus, Director, Emergency and Noninsured Assistance Program Division, FSA, USDA, AG Box 0526, P. O. Box 2415, Washington, D.C. 20013–2415. Telephone (202) 720–3168.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule is issued in conformance with Executive Order 12866 and has been determined to be significant and has been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because neither FSA nor the CCC is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

Executive Order 12778

The final rule has been reviewed in accordance with Executive Order 12778. The provisions of this final rule preempt State laws to the extent such laws are inconsistent with the provisions of this rule. The provisions of this rule are not retroactive. Before any judicial action may be brought concerning the provisions of this rule, the administrative remedies must be exhausted.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Unfunded Mandates

The provisions of the Unfunded Mandates Reform Act of 1995 are not applicable to this rule because neither FSA nor CCC is required by 5 U.S.C. 553 or any other provision of the law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Small Business Regulatory Enforcement Fairness Act of 1996

The Agency gave notice of the proposed rule and accepted comments from the public prior to the publication of the final rule. After the publication of the final rule, Congress passed both the 1996 Act and the Small Business Regulatory Enforcement Fairness Act of 1996. Due to fact that this rule makes slight changes to a rule that was already final when Congress passed these two Acts, it has been determined in accordance with section 808 of the Small Business Regulatory Enforcement Fairness Act of 1996, that it is impracticable, unnecessary and contrary to the public interest to require this rule to conform to the requirements of section 801 of that Act. Accordingly, this rule is effective upon publication in the **Federal Register**.

Paperwork Reduction Act

The amendments to 7 CFR 1437 set forth in this final rule involve a change in the existing information collection requirements. In accordance with the Paperwork Reduction Act of 1995, CCC received approval from OMB for the

collection of information in this rule that is not related to acreage reports. That collection was cleared as a revision to OMB docket number 0563–0016 at the time this rule was proposed. No comments were received regarding information collections contained in OMB docket 0563–0016.

Upon analysis of the current clearances of information collections associated with the Noninsured Crop Disaster Assistance Program (NAP), CCC found that information collection of acreage reports for this program are not currently approved by OMB. The agency has submitted an emergency information collection request (ICR) to OMB for the approval of these reports as necessary for the proper functioning of the program.

A copy of this emergency ICR, with applicable supporting documentation, may be obtained from Sean O'Neill, FSA, ENAPD, NAB, room 6701–S, STOP 0526, P.O. Box 2415, Washington, DC 20013–2415. Comments and questions about the ICR listed below should be directed to the Office of Information and Regulatory Affairs, Attn. OMB Desk Officer for Agriculture, Office of Management and Budget, Room 10202, Washington, DC 20503 ((202) 395–7340).

Title: Annual Certification Requirements, Assignment of Payments, and Power of Attorney (7 CFR Parts 12, 718, 1437, and 720).

OMB Control Number: 0560–0004.

Description: To be eligible for NAP benefits, producers must report all acreage in the county of the eligible crop (for each planting in the event of multiple planting) in which the producer has a share. Because NAP assistance is calculated on a unit basis, similar to catastrophic risk protection, it is necessary that producers report all acreage of the crop in which they have an interest in the county, not just the acreage which suffered a loss. The 1996 Act mandates the use of a producer's actual production history over a four to ten year period, necessitating precise records. The FSA–578 acreage report form is used under the NAP to collect data used to determine a producer's production of a crop and loss of production (on a yield basis) in the event a disaster occurs. The acreage report is also used in determining the estimated NAP area loss for a crop. If the annual planted acreage were not known the task of determining area, crop, crop production, and producer eligibility for the NAP could be difficult.

Executive Order 12612

It has been determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Federal Assistance Programs

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Background

Title I of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) enacted on April 4, 1996, changes the administration of the noninsured crop disaster assistance program (NAP) from Federal Crop Insurance (FCIC) to the Secretary of Agriculture through the Commodity Credit Corporation. NAP will continue to be operated through the Farm Service Agency. Because the program will now be administered by the Commodity Credit Corporation (CCC), the NAP regulations will be moved from 7 CFR part 404 to 7 CFR part 1437. Upon publication of this rule, the current provision for NAP will be removed from part 404 and that part will be reserved.

The regulation reflects a change in references from FCIC and FCIC Manager to CCC and Executive Vice President, CCC, or a designee. Other major changes include:

(1) Section 1437.11 is amended to include seed crops and aquacultural species (including ornamental fish) as crops eligible for benefits under this part.

(2) Section 1437.17 is amended to provide that producers are required to report production for acreage previously reported to CCC as being planted by the immediately subsequent crop year acreage reporting date for the crop.

List of Subjects in 7 CFR Parts 404 and 1437

Agricultural commodities, Disaster assistance, reporting and recordkeeping requirements.

For reasons set out in the Preamble and under the authority of 5 U.S.C. 553, 7 CFR Chapters IV and XIV are amended as set forth below:

CHAPTER XIV—[AMENDED]

1. Chapter XIV is amended by adding part 1437 to read as follows:

Part 1437—NONINSURED CROP DISASTER ASSISTANCE PROGRAM REGULATIONS FOR THE 1996 AND SUCCEEDING CROP YEARS

Sec.

1437.1 Applicability.
1437.2 Administration.
1437.3 Definitions.
1437.4 Eligibility.
1437.5 Assistance
1437.6 Area.
1437.7 Yield Determinations.
1437.8 Acreage and Production Reports.
1437.9 Loss Requirements.
1437.10 Application for Payment and Notice of Loss.
1437.11 Payments for Reduced Yield and Prevented Planting.
1437.12 Multiple Benefits.
1437.13 Payment and income limitations.
1437.14 Violations of Highly Erodible Land and Wetland Conservation Provisions
1437.15 Violations Regarding Controlled Substances.
1437.16 Misrepresentation and scheme or device.
1437.17 Refunds to the Corporation.
1437.18 Offsets and assignments.
1437.19 Cumulative Liability.
1437.20 Appeals.
1437.21 Estates, trusts, and minors.
1437.22 Death, incompetence, or disappearance.
1437.23 OMB control numbers.

Authority: 15 U.S.C. 714b and 714c; and 7 U.S.C. 7333

§ 1437.1 Applicability.

For the 1996 and susbsequent crop years, NAP is intended to provide eligible producers of eligible crops with protection comparable to the catastrophic risk protection plan of crop insurance. NAP is also designed to help reduce production risks faced by producers of crops for which Federal crop insurance under the Federal Crop Insurance Act, as amended, is not available. NAP will reduce financial losses that occur when natural disasters cause a catastrophic loss of production or prevented planting of an eligible crop. Payment eligibility is based on an expected yield for the area and the producer's approved yield based on actual production history, or a transitional yield if sufficient production records are not available. Production for both the applicable area expected yield and the individual producer approved yield for the unit must fall below specified percentages in order to be eligible for payments under this part.

The provisions contained in this part are applicable to each eligible producer and each eligible crop for which catastrophic coverage is not otherwise available.

§ 1437.2 Administration.

(a) NAP is administered under the general supervision of the Executive Vice-President, CCC (Administrator, Farm Service Agency), and shall be carried out by State and county FSA committees (State and county committees).

(b) State and county committees, and representatives and their employees, do not have authority to modify or waive any of the provisions of the regulations of this part.

(c) The State committee shall take any action required by these regulations that the county committee has not taken. The State committee shall also:

(1) Correct, or require a county committee to correct any action taken by such county committee that is not in accordance with the regulations of this part; or

(2) Require a county committee to withhold taking any action that is not in accordance with this part.

(d) No provision or delegation to a State or county committee shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

(e) The Deputy Administrator may authorize State and county committees to waive or modify deadlines, except statutory deadlines, and other program requirements in cases where lateness or failure to meet such other requirements does not adversely affect operation of the program.

(f) The State committee will, in accordance with this part, recommend the geographical size and shape of the area where a natural disaster has occurred, and whether the area eligibility requirement has been satisfied. The recommendation of eligibility must be approved by the Executive Vice President, CCC, or a designee.

(g) The Executive Vice President, CCC, or a designee, will determine all yields and prices under this part.

§ 1437.3 Definitions.

The definitions set forth in this section shall be applicable for all purposes of administering the noninsured crop disaster assistance program. The terms defined in part 718 of this title and 1400 of this chapter shall also be applicable, except where those definitions conflict with the definitions set forth in this section.

Act means the Federal Agriculture Improvement and Reform Act of 1996, Public Law 104–127 (7 U.S.C. 7201 et seq).

Actual production history means the history determined in accordance with part 400, subpart G, of this title, except that when referring to NAP the terms of subpart G will mean as follows:

Insurance terms	NAP terms
Agent	Local office representative.
Claim	Application for payment.
Claim for indemnity	Application for payment.
Indemnity payment	NAP payment.
Insurable acreage	Eligible acreage.
Insurable cause	Natural disaster.
Insurable crop	Eligible crop.
Insurance company	Provider.
Insurance purposes	NAP purposes.
Insured	Eligible producer.
Insured producer	Eligible producer.
Uninsurable acreage	Ineligible acreage.
Uninsurable production.	Ineligible production.
Uninsured cause of loss.	Assigned production appraisal
Uninsured production	Ineligible production

Approved yield means an actual production history yield calculated and approved by CCC, used to determine any NAP payment in accordance with part 400, subpart G, of this title.

Aquacultural species means any species of aquatic organism grown as food for human consumption, or fish raised as feed for fish that are consumed by humans, or ornamental fish propagated and reared in an aquatic medium by a commercial operator on private property in water in a controlled environment.

Area means the geographic region recommended by the State FSA committee, and approved by CCC in accordance with § 1437.6, where a natural disaster has occurred which may qualify producers in the area for NAP payments.

Assigned yield means a yield assigned for a crop year in the base period, in accordance with part 400, subpart G, of this title, if the producer does not file an acceptable production report by the production reporting date.

Average market price means the price, or dollar equivalent on an appropriate basis; for example, pound, bushel, ton, for an eligible crop established by CCC for determining NAP payments. Such price will be on a harvested basis without the inclusion of transportation, storage, processing, packing, marketing or other post-harvest expenses and will be based, in part, on historical data.

Catastrophic coverage means a catastrophic risk protection plan of insurance offered by FCIC in accordance with part 402 of this title.

CCC means the Commodity Credit Corporation, a wholly owned Government corporation within the United States Department of Agriculture.

County expected yield means the eligible crop yield established by the State FSA committee and approved by CCC for the county. Such yield information may be obtained from National Agricultural Statistics Service, Cooperative States Research, Education, and Extension Service, credible nongovernmental studies, yields in similar areas, and similar reference material. For planted annual crops, such yield will be based on the acreage planted for harvest.

Crop year means the period of time within which the crop is normally grown and designated by the calendar year in which the crop is normally harvested in the area. For crops harvested over two calendar years, the crop year will be the calendar year in which the majority of the crop would have been harvested. For crops grown over more than two calendar years, each year in the growing period will be considered as a separate crop year designated by the calendar year in which the crop sustained a loss. For crops for which catastrophic coverage is available, the crop year will be as defined by such coverage.

Eligible crop means an agricultural commodity for which catastrophic coverage is not available and which is commercially produced for food or fiber as specified in this part. Eligible crop shall also include floricultural, ornamental nursery, and Christmas tree crops, turfgrass sod, seed crops, aquaculture (including ornamental fish), and industrial crops. In the case of a crop that historically has multiple plantings in the same crop year that are planted or are prevented from being planted, each planting may be considered a different crop for determining payments under this part. In the case of a crop that has different varieties or types, each variety or type may be considered a separate crop for determining payments under this part, if CCC determines there is a significant difference in price or yield between the varieties or types.

Expected area yield means the eligible crop yield established and approved by CCC for the geographic area.

Forage means land covered with grass or other vegetation, produced under such range management practices as are necessary to sustain sufficient quality and quantity of grass or vegetation each year to be suitable for grazing or mechanical harvest to feed livestock in a commercial operation. NAP benefits

for forage produced on any Federal or state owned lands are available only for seeded forage.

Good farming practices means the cultural practices generally used in the area for the crop to make normal progress toward maturity and produce at least the individual unit approved yield. The practices are normally those recognized by Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the area.

Harvested means a single harvest crop is considered harvested when the producer has, by hand or mechanically, removed the crop from the field. Crops with multiple harvests in one year or harvested over multiple years are considered harvested when the producer has, by hand or mechanically, removed at least one mature crop from the field. The crop is considered harvested once it is removed from the field and placed in a truck or other conveyance, except:

(1) Hay is considered harvested when in the bale, whether removed from the field or not; and

(2) Grazing is not considered harvesting for the purpose of determining a payment rate factor.

Livestock means any farm or other animal excluding aquacultural species and, including but not limited to domestic avian, ruminant, equine, and swine species grown or maintained for any purpose.

Local office means the FSA office or other USDA office designated by CCC.

Native forage means grass or other vegetation occurring naturally without seeding.

Natural disaster means damaging weather, including but not limited to drought, hail, excessive moisture, freeze, tornado, hurricane, excessive wind, or any combination thereof; or adverse natural occurrence such as earthquake, flood, or volcanic eruption; or related condition, including but not limited to heat, insect infestation, or disease, which occurs as a result of an adverse natural occurrence or damaging weather occurring prior to or during harvest that directly causes, accelerates, or exacerbates the destruction or deterioration of an eligible crop, as determined by the Secretary.

Ornamental fish means a decorative fish produced in a commercial fishery for sale.

Ornamental nursery crop means a decorative plant grown in a container or controlled environment for commercial sale.

Prevented planting means the inability to plant a crop with proper equipment during the planting period for the crop or commodity. A producer must prove that the producer intended to plant the eligible crop and that such crop could not be planted due to natural disaster reasonably related to the basis for the area designation under § 1437.6, as determined by the Executive Vice President. The natural disaster that caused the prevented planting must have occurred after the final planting date for the previous crop year and before the final planting date for the crop year in which a request for NAP payment was made. For crops with multiple plantings in a single crop year and one crop has been harvested, the natural disaster must occur, after the harvest of the harvested crop and before the end of the planting period for the next planting of the crop.

Production report means a written record showing the commodity's annual production and used to determine the producer's yield for NAP purposes. The report contains yield history by unit, if applicable, including planted acreage for annual crops, eligible acreage for perennial crops, and harvested and FCIC or CCC appraised production for the previous crop years. This report must be supported by verifiable written records, measurement of farm-stored production, or by other records of production approved by CCC. Information contained in an application for payment is considered a production report for the unit for the crop year for which the application was filed.

Qualifying gross revenues means:

(1) With respect to a person who receives more than 50 percent of such person's gross income from farming, ranching, and forestry operations, the annual gross income for the taxable year from such operations; and

(2) With respect to a person who receives 50 percent or less of such person's gross income from farming, ranching, and forestry operations, the person's total gross income for the taxable year from all sources.

Reseeded or replanted crop means the same crop planted on the same acreage after the first planting of the crop has failed.

Seed crop means a crop produced for the purpose of, or intended for use as, commercial propagation for sale.

Seeded forage means acreage which is mechanically seeded with grasses or other vegetation at regular intervals, at least every 7 years, in accordance with good farming practices.

Share means the producer's percentage of interest in the eligible crop as an owner, operator, or tenant. For the purpose of determining eligibility for payments under this part, the producer's share will not exceed the producer's share at the earlier of the time of loss or the beginning of harvest. Acreage or interest attributed to a spouse, child, or member of the same household may be considered part of the producer's share unless such individual is considered to be a separate person under part 1400 of this chapter.

Type or Variety means a scientifically recognized subspecies of a crop or commodity having a particular characteristic or set of characteristics.

Unit means, for NAP, all acreage of the eligible crop in the county for the crop year:

(1) In which the person has 100 percent crop share; or

(2) Which is owned by one person and operated by another person on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the crop on such land will be considered as owned by the lessee. No unit other than that stated herein will be permitted.

§ 1437.4 Eligibility.

(a) Eligible crops are any commercial agricultural crop (excluding livestock and their by-products), commodity, or acreage of a commodity grown for food or fiber for which catastrophic coverage is not available under part 402 of this title. Different types or varieties of a crop or commodity may be treated as a separate eligible crop, if CCC determines there is a significant difference in price or yield.

(b) NAP payments will be made available for:

(1) Any commercial crop grown for food;

(2) Any commercial crop planted and grown for livestock consumption, including but not limited to grain and forage crops;

(3) Any commercial crop grown for fiber, excluding trees grown for wood, paper, or pulp products;

(4) Any commercially produced aquacultural species (including ornamental fish);

(5) Floriculture crops;

(6) Ornamental nursery crops;

(7) Christmas tree crops;

(8) Turfgrass sod;

(9) Industrial crops;

(10) Seed Crops; and

(11) Any crop, for which crop insurance under the Federal Crop Insurance Act is available in the county, that is affected by a natural disaster that is not named as an insurable peril under the producer's crop insurance policy.

(c) NAP payments will not be available for any acreage in any area for any crop for which catastrophic coverage is available, unless the loss

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was caused by a natural disaster that is not covered by catastrophic coverage and all other eligibility requirements under this part are satisfied.

§ 1437.5 Assistance.

(a) Producers who are eligible to receive NAP payments for crop years 1996 through 1998 will receive assistance against loss in yield greater than 50 percent of the producer's approved yield for the eligible crop payable at 60 percent of the established average market price for the crop.

(b) Producers who are eligible to receive NAP payments after crop year 1998 will receive assistance against loss in yield greater than 50 percent of the producer's approved yield for the eligible crop payable at 55 percent of the established average market price for the crop.

(c) CCC will adjust the NAP payment rate for crops that are produced with significant and variable expenses that are not incurred because the crop acreage was prevented from being planted or planted but not harvested.

(d) NAP payments will be determined by unit based on all the acreage and production of the crop and eligible prevented from being planted acreage of the crop.

(e) Each producer's NAP payment will be based on the producer's share of the eligible crop.

§ 1437.6 Area.

(a) For the purposes of this part, acreage affected by a natural disaster, or any adjustment thereto, will be included in the area recommended by the state FSA committee and submitted to CCC for approval, regardless of whether the commodity produced on the affected acreage suffered a loss.

(b) Except for eligible areas identified in paragraph (f) of this section, an approved area shall include at least five producers of crops on separate and distinct farms for which the area has been approved for NAP payments. Notwithstanding this provision, CCC may approve an area having fewer than five producers if the Executive Vice President, or a designee, determines that such area will suffer significant economic consequences as a result of the disaster.

(c) An area may be designated as follows:

(1) A county;

(2) Aggregated acreage that is at least 320,000 acres; or

(3) Aggregated acreage with not less than $80 million average value for all crops produced annually.

(d) If the aggregated acreage affected by the natural disaster does not meet the minimum requirement specified in paragraph (c) (2) or (3) of this section, the aggregated acreage will be expanded by adding acres from around the affected acreage, until the minimum requirement is met.

(e) The area may not be defined in any manner that intentionally includes or excludes producers or crops.

(f) Notwithstanding the provisions of paragraphs (a) and (c) of this section, for areas outside the 50 states of the United States, the area shall include 10 or more producers of the crop except CCC may approve an area outside the 50 United States having fewer than 10 producers of the crop for which the area is requested if the Executive Vice President determines that such area will suffer significant economic consequences as a result of the disaster.

§ 1437.7 Yield determinations.

(a) CCC will establish expected area yields for eligible crops for each county or area for which the NAP is available, using available information, which may include, but is not limited to, National Agricultural Statistics Service data, Cooperative State Research, Education, and Extension Service records, Federal Crop Insurance Corporation data, credible nongovernment studies, yields in similar areas, and reported approved yield data. For planted annual crops, such yields will be based on the acreage planted for harvest.

(b) CCC may make county yield adjustments taking into consideration different yield variations due to different farming practices in the county such as: irrigated, nonirrigated, organic, nonorganic, different types and varieties of a crop and intended use.

(c) In establishing expected area yields for eligible crops:

(1) If the approved area corresponds to a single county, the expected area yield will be the yield established by CCC for that county, including any adjustments permitted by this section;

(2) If the approved area encompasses portions of counties or more than one county, the expected area yield will be the weighted average of the yields established by CCC for those counties in the area, including any adjustments permitted by this section; and

(3) CCC may adjust expected area yields if:

(i) The cultural practices, including the age of the planting or plantings, are different from those used to establish the yield; or

(ii) The expected area yield established on a state or county level is determined to be incorrect for the area.

(d) CCC will establish approved yields for purposes of providing assistance under this part. Approved yields for the eligible crop will be based on the producer's actual production history in accordance with the provisions of part 400, subpart G, of this title.

(e) The approved yield established for the producer for the year in which the NAP payments are offered will be equal to the average of the consecutive crop year yields, as established by CCC, reported and certified by that producer for that eligible crop.

(f) If a producer receives an assigned yield for a year of natural disaster because production records were not submitted by the production reporting deadline, the producer will be ineligible to receive an assigned yield for the year of the next natural disaster unless adequate production records for the eligible crop from all the interim crop years are provided to the local office. The producer shall receive a zero yield for those years the producer is ineligible to receive an assigned yield.

(g) CCC will select certain producers on a random or targeted basis and require those selected to provide records acceptable to CCC to support the information provided. Producers may also be required to support the yield certification at the time of loss adjustment or on post-audit. Each certification must be supported by records acceptable to CCC. Failure to produce records acceptable to CCC will result in CCC establishing the yield in accordance with actual production history and may subject the producer to criminal and civil false claims actions under various Federal statutes as well as refund of any amount received. In addition, sanctions, as set out at § 1437.16, may be imposed for false certification.

(h) Records acceptable to CCC may include:

(1) commercial receipts, settlement sheets, warehouse ledger sheets, or load summaries if the eligible crop was sold or otherwise disposed of through commercial channels provided the records are reliable or verifiable; and

(2) Such documentary evidence as is necessary in order to verify the information provided by the producer if the eligible crop has been sold, fed to livestock, or otherwise disposed of other than through commercial channels such as contemporaneous measurements, truck scale tickets, and contemporaneous diaries, provided the records are reliable or verifiable.

(i) Any producer who has a contract to receive a guaranteed payment for production, as opposed to delivery, of an eligible crop will have the production adjusted upward by the amount of the production corresponding

to the amount of the contract payment received.

(j)(1) Producers will not be eligible to receive an assigned yield if the acreage of the crop in a county for the crop year has increased by more than 100 percent over any year in the preceding seven crop years, unless:

(i) The producer provides adequate records of production costs, acres planted, and yield for the crop year for which NAP payments are being sought; or

(ii) CCC determines that the records provided under this paragraph are inadequate. CCC may require proof that the eligible crop could have been marketed at a reasonable price had the crop been harvested.

(2) The provisions of this section will not apply if:

(i) The crop has been inspected prior to the occurrence of a loss by a third party acceptable to CCC; or

(ii) The FSA county executive director, with the concurrence of the FSA state director, makes a recommendation for an exemption from the requirements and such recommendation is approved by CCC.

§ 1437.8 Acreage and production reports.

(a) Producers must file one or more acreage reports at the local office no later than the date specified by CCC for each crop the producer wants to insure future eligibility for the NAP program. The acreage report may be filed by the farm operator. Any producer will be bound by the acreage report filed by the farm operator unless the producer files a separate acreage report prior to the acreage reporting date.

(b) Acreage reports required by paragraph (a) must include all of the following information:

(1) All acreage in the county of the eligible crop (for each planting in the event of multiple planting) in which the producer has a share;

(2) The producer's share at the time of planting or the beginning of the crop year;

(3) The FSA farm serial number;

(4) The crop, practice, and intended use;

(5) All persons sharing in the crop (including the identity of any person having an interest in the crop as producer) and the person's employer identification number or social security number, if the person wishes to receive any payment under the Act;

(6) The date the crop was planted; and

(7) Acreage prevented from being planted.

(c) For each crop for which an acreage report is filed in accordance with this section, the producer must report the production for that acreage by the immediately subsequent crop year acreage reporting date for the crop.

(d) A person's failure to submit the required information by the designated acreage reporting dates may result in the denial of payments under this part. If there is a change of ownership, operation, or share within the farming operation after the acreage reporting date, the local office must be notified not later than 30 calendar days after the change and proof of the change must be provided to maintain eligibility for payments under this part.

§ 1437.9 Loss requirements.

(a) To qualify for payment under this part, the loss or prevented planting of the eligible crop must be due to a natural disaster.

(b) Assistance under this part will not cover losses due to:

(1) The neglect or malfeasance of the producer;

(2) The failure of the producer to reseed or replant to the same crop in the county where it is customary to reseed or replant;

(3) The failure of the producer to follow good farming practices for the commodity and practice;

(4) Water contained or released by any governmental, public, or private dam or reservoir project, if an easement exists on the acreage affected for the containment or release of the water;

(5) Failure or breakdown of irrigation equipment or facilities; or

(6) Except for tree crops and perennials, inadequate irrigation resources at the beginning of the crop year.

(c) A producer of an eligible crop will not receive payments under this part unless the projected average or actual yield for the crop, or an equivalent measurement if yield information is not available, in the area falls below 65 percent of the expected area yield. Once this area, and all other, eligibility requirements have been satisfied:

(1) A reduced yield payment will be made to a producer if the total quantity of the eligible crop that the producer is able to harvest on the unit is less than 50 percent of the approved yield for the crop due to natural disaster reasonably related to the basis for the area designation under § 1437.6, factored for the share of the producer for the crop. Production from the entire unit will be used to determine whether the producer qualifies for a payment under this part. The quantity will not be reduced for any quality consideration unless a zero value is established; and

(2) A prevented planting payment under this part will be made if the producer is prevented from planting more than 35 percent of the total eligible acreage intended for planting to the eligible crop. Producers must have intended to plant the crop and prove that they were prevented from planting the crop due to natural disaster reasonably related to the basis for the area designation under § 1437.6, and the producer may be required to prove that such producer had the resources available to plant, grow, and harvest the crop, as applicable.

(d) NAP payments under this part for prevented planting will not be available for:

(1) Tree crops and other perennials, unless the producer can prove resources were available to plant, grow, and harvest the crop, as applicable;

(2) Land that planting history or conservation plans indicate would remain fallow for crop rotation purposes; or

(3) Land used for conservation purposes or intended to be or considered to have been left unplanted under any program administered by USDA, including the Conservation Reserve Program and Wetland Reserve Program.

§ 1437.10 Application for payment and notice of loss.

(a) Any person with a share in the eligible crop who would be entitled to a payment under this part must provide a notice of damage or loss within 15 calendar days after the occurrence of the prevented planting (the end of the planting period) or recognizable damage to the crop. The notice must be filed at the local office serving the area where the producer's unit is located. The farm operator may provide the notice for all producers with an interest in the crop. All producers on a farm will be bound by the operator's filing or failure to file the application for payment unless the individual producers elect to timely file their notice.

(b)(1) Applications for payments under this part must be filed, on Form FCI–74, by the applicant with the local office no later than the first acreage reporting date for the crop in the crop year immediately following the crop year in which the loss occurred.

(2) If the producer chooses not to harvest the crop, all eligible acres and crop units for which the producer intends to make an application for payment must be left intact until the units have been appraised or released by an FCIC or CCC approved loss adjuster.

(3) If the producer harvests the crop, the producer must provide such documentary evidence of crop production as CCC may require which

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may include leaving representative samples of the crop for inspection.

(c) Failure to make timely application or to supply the required documentary evidence shall result in the denial of payments under this part.

§ 1437.11 Payments for reduced yields and prevented planting.

In the event that the area loss requirement has been satisfied for the crop and either:

(a) The producer has sustained a loss in yield in excess of 50 percent of the producer's approved yield established for the crop, the NAP low yield payment will be determined by:

(1) Multiplying the producer's approved yield by the total eligible acreage planted to the eligible crop;

(2) Multiplying the product of paragraph (a)(1) by 50 percent;

(3) Subtracting the total production from the total eligible acreage from the result in paragraph (a)(2);

(4) Multiplying the product of paragraph (a)(3) by the producer's share of the eligible crop;

(5) Multiplying the result of paragraph (a)(4) by the applicable payment factor in accordance with § 1437.5(c); and

(6) Multiplying the result in paragraph (a)(5) by:

(i) For the 1996 through 1998 crop years, 60 percent of the average market price, as determined by CCC, or any comparable coverage, as determined by CCC; or

(ii) For the 1999 and subsequent years, 55 percent of the average market price, as determined by CCC, or any comparable coverage, as determined by CCC; or

(b) The producer has been unable to plant at least 35 percent of the acreage intended for the eligible crop, the NAP payment will be determined by:

(1) Multiplying the producer's acreage intended to be planted to the eligible crop by 35 percent;

(2) Subtracting the result in (b)(1) from the number of eligible prevented planting acres as determined in § 1437.9(c)(2);

(3) Multiplying the result of (b)(2) by the producer's share of the eligible crop;

(4) Multiplying the producer's approved yield by the result of (b)(3);

(5) Multiplying the result of (b)(4) by the approved prevented planting payment factor in accordance with § 1437.5(c); and

(6) Multiplying the result of (b)(5) by:

(i) For the 1996 through 1998 crop years, 60 percent of the average market price, as determined by CCC, or any comparable coverage, as determined by CCC; or

(ii) For the 1999 and subsequent years, 55 percent of the average market price, as determined by CCC, or any comparable coverage, as determined by CCC.

§ 1437.12 Multiple benefits.

If a producer is eligible to receive payments under this part and benefits under any other program administered by the Secretary for the same crop loss, the producer must choose whether to receive the other program benefits or payments under this part. The producer is not eligible for both. Such election does not relieve the producer from the requirements of making a production and acreage report. However, if the other USDA program benefits are not available until after an application for benefits has been filed under this part, the producer may refund the total amount of the payment to the local office from which the payment was received.

§ 1437.13 Payment and income limitations.

(a) NAP payments shall not be made:

(1) In excess of $100,000 per person per crop year under this part, or

(2) To a person who has qualifying gross revenues in excess of $2 million for the most recent tax year preceding the year for which assistance is requested.

(b) Simple interest on payments to the producer which are delayed will be computed on the net payments ultimately found to be due, from and including the 31st day after the latter of the date the producer signs, dates, and submits a properly completed application for payment on the designated form, the date disputed applications are adjudicated, or the date the area and crop is approved for NAP payments. Interest will be paid unless the reason for failure to timely pay is due to the producer's failure to provide information or other material necessary for the computation or payment.

§ 1437.14 Violations of Highly Erodible Land and Wetland Conservation Provisions.

The provisions of part 12 of this title, apply to this part.

§ 1437.15 Violations Regarding Controlled Substances.

The provisions of § 718.11 of this title apply to this part.

§ 1437.16 Misrepresentation and scheme or device.

(a) If CCC determines that any producer has misrepresented any fact or has knowingly adopted, participated in; or benefitted from, any scheme or device that has the effect of defeating, or is designed to defeat the purpose of this part, such producer will not be eligible to receive any payments applicable to the crop year for which the scheme or device was adopted.

(b) If any misrepresentation, scheme or device, or practice has been employed for the purpose of causing CCC to make a payment which otherwise would not make under this part:

(1) CCC will withhold all or part of the payment that would otherwise be due.

(2) All amounts paid by CCC to any such producer, applicable to the crop year in which the offense occurred, must be refunded to CCC together with interest and other amounts as determined in accordance with this part.

(3) CCC may impose such other penalties or administrative sanctions as authorized by section § 1437.19.

(c) Scheme and device may include, but is not limited to:

(1) Concealing any information having a bearing on the application of the rules of this part;

(2) Submitting false information to the CCC or any county or state FSA committee; or

(3) Creating fictitious entities for the purpose of concealing the interest of a person in the farming operation.

§ 1437.17 Refunds to the CCC.

In the event that there is a failure to comply with any term, requirement, or condition for payment made in accordance with this part, or the payment was established as a result of erroneous information provided by any person, or was erroneously computed, all such payments or overpayments will be refunded to CCC on demand, plus interest determined in accordance with part 1403 of this chapter.

§ 1437.18 Offsets and assignments.

(a) Except as provided in paragraph (b), any payment or portion thereof to any person shall be made without regard to questions of title under State law and without regard to any claim or lien against the crop, or proceeds thereof, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings found at part 1403 of this chapter shall be applicable to payments under this part.

(b) Any producer entitled to any payment may assign any payments in accordance with regulations governing assignment of payment found at part 1404 of this chapter.

§ 1437.19 Cumulative liability.

(a) The liability of any producer for any payment or refunds, which is

determined in accordance with this part to be due to CCC will be in addition to any other liability of such producer under any civil or criminal fraud statute or any other statute or provision of law including, but not limited to, 15 U.S.C. 714; 18 U.S.C. 286, 287, 371, 641, 651, 1001, 1014; 15 U.S.C. 714m; and 31 U.S.C. 3729.

(b) All producers on the unit receiving payments under this part will be jointly and severally liable to repay any unearned payments under this part.

§ 1437.20 Appeals.

The appeal, reconsideration, or review of all determinations made under this part, except the eligibility provisions for crops, areas, or producers for which there are no appeal rights because they are determined rules of general applicability, must be in accordance with part 780 of this title.

§ 1437.21 Estates, trusts, and minors.

(a) Program documents executed by persons legally authorized to represent estates or trusts will be accepted only if such person furnishes evidence of the authority to execute such documents.

(b) A minor who is otherwise eligible will be eligible for payments under this part only if such person meets one of the following requirements:

(1) The minor establishes that the right of majority has been conferred on the minor by court proceedings or by statute;

(2) A guardian has been appointed to manage the minor's property and the applicable program documents are executed by the guardian; or

(3) A bond is furnished under which the surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

§ 1437.22 Death, incompetence, or disappearance.

In the case of death, incompetence or disappearance of any person who is eligible to receive payments under this part, such payments will be disbursed in accordance with part 18 of this title.

§ 1437.23 OMB control numbers.

These regulations amend the information collection requirements previously approved by the Office of Management and Budget ("OMB") under OMB control number 0563–0016.

Chapter IV [AMENDED]

Part 404 [REMOVED]

2. 7 CFR part 404 is removed.

Signed at Washington, D.C., on December 24, 1996.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

Signed at Washington, D.C., on December 27, 1996.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 96–33264 Filed 12–30–96; 8:45 am]

BILLING CODE 3410–05–P

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV96–905–2FR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Procedures to Limit the Volume of Small Florida Red Seedless Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule adds a section to the rules and regulations currently prescribed under the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida. The marketing order is administered locally by the Citrus Administrative Committee (committee). This rule establishes procedures for limiting the volume of small red seedless grapefruit entering the fresh market during the first 11 weeks of each season. The committee believes these procedures could be used, when necessary, to help stabilize the market and improve grower returns.

EFFECTIVE DATE: January 30, 1997.

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Southeast Marketing Field Office, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883–2276; telephone: (941) 299–4770, Fax: (941) 299–5169; or Caroline Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2522–S, Washington, D.C. 20090–6456; telephone: (202) 720–8139, Fax: (202) 720–5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Marketing Order No. 905 (7 CFR Part 905), as amended, regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this final rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 100 handlers subject to regulation under the marketing order and approximately 11,000 producers of citrus in the regulated area. Small agricultural service firms, which include handlers, have been defined by the Small Business Administration (13 CFR

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121.601) as those whose annual receipts are less than $5,000,000 and small agricultural producers, are defined as those whose annual receipts are less than $500,000. The majority of these handlers and producers of citrus grown in Florida may be classified as small entities.

This final rule adds procedures to the rules and regulations sections of the order. It does not establish any volume regulation. Any implementation of these procedures concerning regulation will require further committee action and additional public rulemaking by the Department.

However, if the procedures in this rule were used and volume regulations established, all growers and handlers would be impacted equitably. Before any implementation would occur, the committee would meet and consider any and all economic data available. The goal of this rule is to provide an additional tool, if needed, to help stabilize the price of red grapefruit. In the past three seasons, during the period covered by this rule, prices of red seedless grapefruit have fallen from an average f.o.b. of $7.80 per box to an average f.o.b. of $5.50 per box. On tree prices for fresh red seedless grapefruit have declined steadily from $9.60 per box during the 1989–90 season, to $3.45 per box during the 1994–95 season. In many cases, prices during the past two seasons have provided returns less than production costs. This price reduction is forcing many small producers out of business. A stabilized price that returns a fair market value would be beneficial to both small and large producers and handlers.

Therefore, based on this information, the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

The order provides for the establishment of grade and size requirements for Florida citrus. These grade and size requirements are designed to provide fresh markets with citrus fruit of acceptable quality and size, thereby maintaining consumer confidence for fresh Florida citrus. This helps create buyer confidence and contributes to stable marketing conditions. This is in the interest of producers, handlers, and consumers, and is designed to increase returns to Florida citrus producers. The current minimum grade standard for red seedless grapefruit is U.S. No. 1, and the minimum size requirement is size 56 (at least 3$^{5}/_{16}$ inches in diameter).

This rule establishes procedures for limiting the volume of small red seedless grapefruit entering the fresh market during the first 11 weeks of each season. The red seedless grapefruit season runs from mid-September to May. This rule provides an additional tool under the order to help stabilize the market and improve returns to growers. These changes were recommended by the committee at its meeting on May 24, 1996, by a 10 to 4 vote.

Section 905.52 of the Florida citrus marketing order provides authority to limit shipments of any grade or size, or both, of any variety of Florida citrus. Such limitations may restrict the shipment of a portion of a specified grade or size of a variety. Under such a limitation, the quantity of such grade or size that may be shipped by a handler during a particular week shall be established as a percentage of the total shipments of such variety by such handler in a prior period, established by the committee and approved by the Secretary, in which the handler shipped such variety. This rule adds § 905.153 to the rules and regulations, establishing a specified prior period and other procedures necessary to limit the volume of small red seedless grapefruit, sizes 48 and 56, entering the fresh market during the first 11 weeks of the season.

Currently, there are no limitations on the amount of size 48 and size 56 red seedless grapefruit that can be shipped to market. This rule in itself does not limit shipments, but outlines procedures to do so if needed. Implementation of these procedures to limit shipments would require further rulemaking.

The committee recommended this rule to address problems currently facing the industry. For the past few seasons, returns on red seedless grapefruit have been at all time lows, often not returning the cost of production. Fifty-nine percent of red seedless grapefruit is shipped to fresh market channels. There is a processing outlet for grapefruit not sold into the fresh market. The vast majority of processing is squeezing the grapefruit for juice. Because of the properties of the juice of red seedless grapefruit, including problems with color, the processing outlet is limited, and not currently profitable.

Several areas of new plantings in the southern growing region are just beginning to bear fruit. Young trees normally produce mostly small fruit when they first come into production. Florida producers and handlers realize that these new acres will add to the abundance of small sizes of red seedless grapefruit.

The committee believes that to stabilize the market and improve returns to producers, demand for fresh red seedless grapefruit must be stabilized and increased. One problem contributing to the current state of the market is the excessive number of small sized grapefruit shipped early in the marketing season. While there is a market for early grapefruit, the shipment of large quantities of small red seedless grapefruit in a short period, oversupplies the fresh market for these sizes and negatively impacts the market for all sizes.

The committee believes that the overshipment of smaller sized red seedless grapefruit early in the season has contributed to below production cost returns for producers. Based on statistical information from past seasons, there is an indication that once shipments of sizes 48 and 56 reach levels above 250,000 cartons a week, prices decline on those and most other sizes of red seedless grapefruit. Thus, even though later in the season the crop has sized to naturally limit the amount of smaller sizes available for shipment, the price structure in the market has already been negatively affected.

For the majority of the season, larger sizes return better prices than smaller sizes. If these small grapefruit were allowed to remain on the tree to increase in size and maturity, they could provide greater returns to producers. Delaying the harvest of small sizes may also extend the season, thereby increasing the total volume of fresh shipments and improving producer returns. Without volume regulation, the industry has been unable to limit the shipments of small sizes. The committee believes that if shipments of small sizes could be maintained at around 250,000 cartons a week, prices should stabilize and demand for larger, more profitable sizes should increase.

Similar procedures to this rule are already in place for Dancy tangerines under § 905.152. While the committee has not utilized these procedures for several years, they were successfully implemented for several seasons.

Under these procedures, the authority to limit the shipment of sizes 48 and 56 red seedless grapefruit will only be available for the 11-week period from the third Monday in September (week #1) through the first Sunday in December (week #11), hereinafter called the regulatory period. The committee recommended these weeks for regulation because the majority of small sizes are shipped during this period. By the end of the regulatory period, fruit has begun to size naturally, and there are fewer small sizes available.

The committee may recommend that only a certain percentage of size 48 (3$^{9}/_{16}$ minimum diameter in inches) and size 56 (3$^{5}/_{16}$ minimum diameter in inches) red seedless grapefruit be made available for shipment into fresh market channels for any week or weeks during the regulatory period. Should the committee decide to recommend the limitation of shipments of sizes 48 and 56 red seedless grapefruit, they would meet and recommend to the Secretary a percentage on which to base the amount of sizes 48 and 56 that could be shipped during a particular week or weeks during the regulatory period. The committee realizes that markets for those sizes do exist. Therefore, the percentage set could not be less than 25 percent of the calculated shipment base. These procedures are designed not to eliminate shipments of sizes 48 and 56, but to keep them from saturating the entire market.

Section 905.52 provides that whenever any size limitation restricts the shipment of a portion of a specified size, the quantity of such size that may be shipped by a handler during a particular week shall be established as a percentage of the total shipments of such variety by such handler in such prior period as established by the committee and approved by the Secretary.

This final rule establishes the prior period as an average week within the immediately preceding five seasons. An average week would be calculated as follows. The total red seedless grapefruit shipments by a handler during the 33-week period beginning the third Monday in September and ending the first Sunday in May during the past five seasons would be added and divided by five to establish an average season. This average season is then divided by the 33 weeks in a season to derive the average week. This week is the basis for each shipper for each of the 11 weeks contained in the regulation period.

To illustrate, suppose Handler A shipped a total of 50,000 cartons, 65,000 cartons, 45,000 cartons, 80,000 cartons, and 25,000 cartons of red seedless grapefruit in the last five seasons, respectively. Adding these season totals and dividing by five yields an average season of 53,000 cartons. The average season would then be divided by 33 weeks to yield an average week, in this case, 1,606 cartons. This would be Handler A's base.

The committee chose to use the past five seasons for the average season to provide the most accurate picture of an average season. The use of an average week helps adjust for variations in growing conditions that may affect when fruit matures in different seasons and growing areas. The committee believes that this definition of prior period provides each handler with an equitable base from which to establish shipments.

The average week for handlers with less than five previous seasons of shipments is to be calculated by averaging the total shipments for the seasons they did ship red seedless grapefruit during the immediately preceding five years and dividing that average by 33. New handlers with no record of shipments would have no prior period on which to base their average week. Therefore, if a volume regulation was established before such handlers have shipped any red seedless grapefruit, the new handlers could ship small sizes as a percentage of their total shipments equal to the percentage applied to other handlers' base. Once new handlers have established shipments, the average week would be calculated as an average of the weeks they have shipped during the current season.

To use these new procedures, the committee would meet and recommend a base percentage of sizes 48 and 56 that could enter the fresh market in any week or weeks from the first Monday in September through the first Sunday in December. If approved by the Secretary, this percentage would be applied to each handler's average week of fresh shipments to determine the amount (allocation) of sizes 48 and 56 red grapefruit each handler could ship. Each regulation period would begin Monday at 12:00 a.m. and end at 11:59 p.m. the following Sunday, since most handlers keep records based on Monday being the beginning of the work week.

When a size limitation is recommended to restrict the shipment during a particular week, the committee would compute each handler's allotment by multiplying the handler's average week by the percentage established by regulation for that week. Such set percentage could vary from week to week, but could not be less than 25 percent. The committee would notify each handler prior to the particular week of the quantity of sizes 48 and 56 red seedless grapefruit such handler could handle during a particular week.

To provide handlers with some flexibility, these procedures provide allowances for overshipments, loans, and transfers of allotment. These allowances should allow handlers the opportunity each week to supply their markets while limiting the impact of small sizes.

During any regulation week for which the Secretary has fixed the percentage of sizes 48 and 56 red seedless grapefruit, any person who has received an allotment could handle, in addition to their weekly allotment, an amount of size 48 and 56 red seedless grapefruit not to exceed 10 percent of that week's allotment. The quantity of overshipments would be deducted from the handler's allotment for the following week. Overshipments would not be allowed during week 11 because there would be no allotments the following week from which to deduct the overshipments.

If handlers fail to use their entire allotments in a given week, the amounts undershipped would not be carried forward to the following week. However, a handler to whom an allotment has been issued could lend or transfer all or part of such allotment (excluding the overshipment allowance) to another handler. In the event of a loan of allotment, each party would, prior to the completion of the loan agreement, notify the committee of the proposed loan and date of repayment. If a transfer of allotment is desired, each party would promptly notify the committee so that proper adjustments of the records could be made. In each case, the committee would confirm in writing all such transactions prior to the following week. The committee could also act on behalf of handlers wanting to arrange allotment loans or participate in the transfer of allotment. Repayment of an allotment loan would be at the discretion of the handlers party to the loan.

In considering these procedures, the committee discussed several possible alternatives. One alternative considered was an amendment to the marketing order. The amendment would have changed the language regarding the "prior period" in section 905.52. However, this alternative was rejected because of the time required to amend the order.

The committee also discussed limiting or eliminating only shipments of size 56 grapefruit. However, the committee found that it is important to include both sizes 48 and 56 for this regulation to be effective. Also, the committee did not want to eliminate a size entirely. They realize there is a market for small sizes and wish to allow handlers to take advantage of this market without negatively affecting the market for other sizes.

Other concerns were raised during discussion of these procedures. One committee member questioned whether these procedures would allow him to continue to increase his business. It was explained that this action would only put tools in place to allow the limitation

of just a certain percentage of the smaller sized red seedless grapefruit. A handler would not in any way be limited from shipping any amount of larger sizes. Another concern raised was the impact these procedures would have on harvesting. It was explained again that this rule would just establish procedures. However, if implemented, it would require more selective picking of only the sizes desired, something that many producers are doing already.

After a lengthy discussion, the committee decided that it needs to have available a tool to regulate shipments of small sized red seedless grapefruit early in each marketing season. The committee voted to recommend the establishment of these procedures to provide them with that tool.

The committee reports that it expects that more red seedless grapefruit will be produced in Florida during the 1996–97 season than last season. The committee also expects that supplies of fresh Florida red seedless grapefruit will be adequate to meet consumer demand during the entire 1996–97 season.

This rule does not affect the order provision that handlers may ship up to 15 standard packed cartons (12 bushels) of fruit per day exempt from grade and size requirements. Fruit shipped in gift packages that are individually addressed and not for resale, and fruit shipped for animal feed are also exempt from grade and size requirements under specific conditions. Also, fruit shipped to commercial processors for conversion into canned or frozen products or into a beverage base are not subject to the handling requirements under the order.

Section 8(e) of the Act requires that whenever grade, size, quality or maturity requirements are in effect for certain commodities under a domestic marketing order, including grapefruit, imports of that commodity must meet the same or comparable requirements. This rule does not change the minimum grade and size requirements under the order. Therefore, no change is necessary in the grapefruit import regulations as a result of this action.

The proposed rule concerning this action was published in the August 28, 1996, **Federal Register** (61 FR 44187), with a 30-day comment period ending September 27, 1996. Twenty four comments were received, thirteen in favor and seven in opposition to the proposed rule. The thirteen comments in favor were from handlers and growers. In addition, four comments were received from handlers and growers after the closing date for comments. These comments were in favor of the proposed rule and raised no new issues for those received prior to the close of the comment period.

In his comment, the manager of the committee stated that the committee went to great lengths to ensure that the entire Florida citrus industry was included in the development of the proposed rule. At all times the interests of consumers of fresh Florida grapefruit were foremost.

Ten commenters supporting this action mentioned that past history has shown that the overshipment of small sizes early in the season has resulted in reduced prices. They believe the provisions of this rule should be sufficient to address this problem. One commenter stated that this rule, if instituted, would allow the committee to bring the early volume of small size red grapefruit more closely in line with the normal industry shipments occurring later in the season. Historically, it is in the early weeks of a season when shipments of these small size red grapefruit have substantially exceeded 25 percent of total shipments, resulting in market gluts and the collapse of prices.

Ten commenters stated that regulation to control small sizes in the early season would have a stabilizing effect on the market. Several stated that the rule would provide a mechanism to improve orderly marketing of small size red grapefruit during the early season without causing hardships for any growers or handlers.

Nine of the commenters in favor of the regulation mentioned the provision that limits the percentage set to a minimum of 25 percent. Many of these believe that this will prevent excessive limitation, while allowing handlers to service their customers. Several also said that the 25 percent lower limit assures a good flow to market of these small size red grapefruit. Implementing these procedures could hold shipments of small sizes closer to the percentage shipped during the latter part of the season.

In five of the comments supporting the regulation, the regulatory period of eleven weeks was referenced. The commenters believe that the period of regulation contemplated is when the industry has repeatedly experienced overshipment of small sizes. After the first week in December, the movement of smaller fruit becomes more stable, reducing the need for regulation.

In regards to allotment, eight of the comments cited and supported the flexibility the provisions afford handlers to acquire additional allotment when needed. In their comments, they recognized the overshipment provisions, the ability to transfer allotment, and allotment loans, indicating that handlers should be able to find adequate allotment to meet market demand.

Seven comments in opposition to the proposed rule were received. One of the opposing comments stated that grapefruit should be marketed when ripe. Although grapefruit is a perishable commodity, mature red grapefruit can be stored on the tree and picked as needed to provide the market with a more even distribution of supplies during the season. This on-tree storage feature is particularly valuable early in the season when a large portion of the crop is often mature but small in size. By leaving the fruit on the tree, it can continue to grow to a larger size, and larger sizes usually yield a higher price, thereby increasing returns to growers.

Another of the opposing comments stated that early picking and shipping help avoid losses from weather related problems (frost). A freeze is a possibility in any season. Industry practices and grove location have combined to work to minimize freeze damage and to extend the grapefruit marketing season. The provisions of this rule would not prevent handlers from marketing fruit early. Implementing these procedures would only restrict the movement of small red grapefruit. It is the glut of small red grapefruit that damages the market for all sizes. Based on its analysis, the Economic Analysis Branch, of the Fruit and Vegetable Division, of the AMS, (EAB) has determined that during each of the last three seasons, the on-tree equivalent price for sizes 48 and 56 red Florida grapefruit has dropped below $1.00 per carton. These low prices also pulled the prices for larger sizes down. With on-tree prices dropping below cost of production, the impact on the industry may be similar to the effects of the freeze.

One opposing comment stated that under this regulation, returns to the packinghouse and grower would be lower, the season would be shortened, and that farm laborers would be dismissed earlier. The committee believes using these procedures could increase returns to growers while providing consumers an adequate supply of the commodity in the marketplace. Implementing these procedures could actually lengthen the season. If the grapefruit remain on the tree longer, they will increase in size and be of greater value later in the season. An extended season would also benefit laborers who would be needed for a longer period of time. The aim of this rule is to establish procedures that may be used to provide steady supplies at reasonable and stable prices, thereby

protecting the interests of growers, packers, workers in the industry, and consumers of red grapefruit.

Several opposing comments were received concerning the rule and the possible loss of market share, particularly in export markets that demand sizes 48 and 56, to other grapefruit growing areas. If the provisions of this rule are implemented, handlers will still be able to ship a percentage of small size grapefruit to those markets that require them and use larger sizes to fill their other markets. The provisions established by this rule would prevent market restrictions below 25 percent. Based on past seasons, even if percentages were established at 25 percent, ample quantities should be available to furnish those markets which demand small sizes.

The purpose of implementing this rule would not be to eliminate small size red grapefruit. It is merely to prevent a surplus of small size red grapefruit from damaging the overall grapefruit market.

Another commenter opposing the rule expressed concern that market share could be lost to Texas. According to the EAB, limiting shipments of small Florida grapefruit would probably not result in a major shift to Texas grapefruit because the Texas industry is much smaller and would have higher freight costs to some markets supplied by Florida.

One opposing comment stated that the rule had not been fully explained. The committee has had this rule under advisement since it received industry requests in December 1995. The committee started holding subcommittee meetings in February 1996 and held many informal meetings with industry groups to discuss the proposal. On May 16, 1996, another subcommittee meeting was held, and people who had demonstrated opposition were specifically invited to make comments and get their opinions on record. Throughout the process, the proposal was modified based on questions and concerns of the industry. These changes were shared at industry meetings and through committee mailings.

On May 23, 1996, the committee met and recommended this regulation after much discussion. Several different motions were offered at this meeting. Prior to any vote, the motions were carefully restated, so that members understood the issue they were voting on. All motions advanced were discussed and there was opportunity for questions.

One commenter opposed the method of calculating allotments. He believes that because he has not shipped much fruit early in past seasons that his allotment will not reflect his true shipments. The committee discussed several methods of measuring a handler's volume to determine this base. It was decided that shipments for the five previous years from the period from the third Monday in September to the first Sunday the following May should be used for calculation purposes. This bases allotment on a 33 week period of shipments, not just a handler's early shipments. This was done specifically to accommodate small shippers or light volume shippers, who may not have shipped much grapefruit in the early season. This method of calculation provides a fair allocation of allotment.

This commenter also expressed concern regarding whether his allotment would be enough to cover his customer base. The provisions of this rule provide flexibility through several different options. Handlers have the privilege to transfer, borrow or loan allotment based on their needs in a given week. Handlers also have the option of overshipping their allotment by 10 percent in a week, as long as the overshipment is deducted from the following week's shipments.

One opposing comment stated that restricting movement of grapefruit could do more harm than good and interfere with the orderly marketing of this product. These procedures are designed to promote orderly marketing. The purpose is to furnish sufficient supplies of red grapefruit to fresh markets early in the season, while avoiding the possible price-depressing effect of saturating the market with small sizes. This is particularly important during the first few months of the season when supplies of small sizes are heaviest. The declaration of policy in the Act includes a provision concerning establishing and maintaining such orderly marketing conditions as will provide, in the interest of producers and consumers, an orderly flow of the supply of a commodity throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices.

Utilizing these procedures will contribute to the Act's objectives of orderly marketing and improving producers' returns. According to EAB, since sizes 48 and 56 red grapefruit are a small part of the total supply of Florida red grapefruit, limiting shipments of these sizes would have only a moderate effect on the total quantity shipped. It may, however, help to prevent the average price for all Florida red grapefruit from being reduced to below the cost of production.

Many opposition comments addressed the proposed rule as if it were in place and implemented. As previously stated, this rule merely establishes procedures. To implement these procedures, the committee would hold public meetings to discuss and recommend a percentage of size regulation to the Secretary. Additional rulemaking would be required, and there would be additional opportunity to comment.

After thoroughly analyzing the comments received and other available information, the Department has concluded that this final rule is appropriate, and that no changes to the rule are being made in response to the comments.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements that are contained in this rule have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0094.

After consideration of all relevant material presented, including the information and recommendations submitted by the committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

For the reasons set forth in the preamble, 7 CFR part 905 is amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR Part 905 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new § 905.153 is added to read as follows: § 905.153 Procedure for determining handlers' permitted quantities of red seedless grapefruit when a portion of sizes 48 and 56 of such variety is restricted.

(a) For the purposes of this section, the prior period specified in § 905.52 is hereby established as an average week within the immediately preceding five seasons. Each handler's average week shall be computed by adding the total volume of red seedless grapefruit handled in the immediately preceding five seasons and dividing the total by 165. The average week for handlers with less than five previous seasons of

shipments shall be calculated by adding the total volume of shipments for the seasons they did ship red seedless grapefruit, divide by the number of seasons, divide further by 33. New handlers with no record of shipments could ship size 48 and 56 red seedless grapefruit as a percentage of total shipments equal to the percentage applied to other handlers' average week; once such handlers have recorded shipments, their average week shall be calculated as an average of total shipments for the weeks they have shipped red seedless grapefruit during the current season. When used in the regulation of red seedless grapefruit, the term season means the weeks beginning the third Monday in September and ending the first Sunday in the following May. The term regulation period means the 11 weeks beginning the third Monday in September and ending the first Sunday in December of the current season.

(b) When a size limitation restricts the shipment of a portion of sizes 48 and 56 red seedless grapefruit during a particular week as provided in § 905.52, the committee shall compute the quantity of sizes 48 and 56 red seedless grapefruit that may be shipped by each handler by multiplying the handler's calculated average week shipments of such grapefruit by the percentage established by regulation for red seedless grapefruit for that week.

(c) The committee shall notify each handler of the quantity of size 48 and 56 red seedless grapefruit such handler may handle during a particular week.

(d) During any regulation week for which the Secretary has fixed the percentage of sizes 48 and 56 red seedless grapefruit, any person who has received an allotment may handle, in addition to their total allotment available, an amount of size 48 and 56 red seedless grapefruit up to 10 percent greater than their allotment. The quantity of the overshipment shall be deducted from the handler's allotment for the following week. Overshipments will not be allowed during week 11. If the handler fails to use his or her entire allotment, the under shipment is not carried forward to the following week.

(e) Any handler may transfer or loan any or all of their shipping allotment (excluding the overshipment allowance) of size 48 and 56 red seedless grapefruit to any other handler. Each handler party to such transfer or loan shall promptly notify the committee so the proper adjustment of records may be made. In each case, the committee shall confirm in writing all such transactions, prior to the following week, to the handlers involved. The committee may act on behalf of handlers wanting to arrange allotment loans or participate in the transfer of allotments.

Dated: December 24, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–33268 Filed 12–30–96; 8:45 am]

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7 CFR Parts 1004, 1005, 1007, 1011, and 1046

[DA–96–15]

Milk in the Middle Atlantic, Carolina, Southeast, Tennessee Valley and Louisville-Lexington-Evansville Marketing Areas; Termination of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document terminates the base-excess payment plan provisions of the Middle Atlantic, Carolina, Southeast, Tennessee Valley, and Louisville-Lexington-Evansville Federal milk marketing orders due to the expiration of legislative authority to incorporate base-excess plans in Federal milk marketing orders on December 31, 1996.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 690–1932, e-mail address Nicholas__X__Memoli@usda.gov.

SUPPLEMENTARY INFORMATION: The Department is issuing this final rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may request modification or exemption from such order by filing with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended, the Agricultural Marketing Service has considered the economic impact of this action on small entities and believes that this rule could have a significant economic impact on a substantial number of small entities. For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a "small business" if it has an annual gross revenue of less than $500,000, and a dairy products manufacturer is a "small business" if it has fewer than 500 employees. For the purposes of determining which dairy farms are "small businesses," the $500,000 per year criterion was used to establish a production guideline of 326,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most "small" dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500 employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

This rule terminates the base-excess plan provisions of five Federal milk orders. Producers with earned base will no longer receive base prices as in the past, but will be paid at least the uniform price throughout the year for their hundredweight of milk.

Under a base-excess payment plan, a producer is paid a "base price" for "base milk" and an "excess price" for production in excess of base milk. During the base-paying period of a base-excess plan, base prices are higher than the uniform prices computed for those months, while the excess prices are below the uniform prices. Using a representative period of May 1996, the difference between the base and uniform prices in the five orders was not greater than $0.26/cwt., while the difference between the uniform and excess prices ranged from $0.45 to $2.81/cwt.

The economic impact of the termination of base-excess plans is likely to be threefold. First, for those producers who have been most successful in shifting their herd's production from the spring to the fall, there will be a reduction in total revenue. The loss in revenue would be determined by multiplying the producer's total hundredweight of milk by the uniform price and subtracting that figure from the producer's base milk at the estimated base price plus the excess milk at the estimated excess price. This calculation would have to be computed for each month of the base-paying period. On the other hand, for those producers who have made no effort to shift production from the spring to the fall, there is likely to be an economic windfall at the difference between the uniform price multiplied by their total production and what the producer's milk would have earned using base and excess prices.

A second economic impact for producers under Orders 5, 7, 11, and 46 will be experienced by those producers who were planning to go out of business and sell their base at the end of the base-building period, but before the start of the base-paying period. These producers will lose the amount of money that they could have realized by selling their base. For example, during the 1995 base-building period, 5500 producers earned base in the Southeast market. The average daily base for a single producer was 2,933 lbs. Based on the average price per pound for base in 1995 ($1.62/lb. based on figures obtained from the Market Administrator's office), an average producer in the Southeast could have obtained $4,751.46 from the sale of such base in 1997.

The final effect of the base-excess plan termination is impossible to measure in advance of the facts. Under the base and excess plans in Orders 5, 7, 11 and 46, dairy farmers who were not on a market during the base-building period are discouraged from pooling their milk on the market during the base-paying period because they would only receive the excess price for their milk. Without a base and excess plan, however, there would be no such disincentive. Theoretically, therefore, it is possible that producers who are not normally associated with these markets will become associated with them during the flush production months to take advantage of a price difference between these generally deficit, high Class I utilization markets and the producers' normal, lower utilization, lower-priced market. To what extent the attachment of this additional milk will lower the uniform price in the 5 base-excess plan markets cannot be determined at this time.

Regardless of the possible economic effects which may result from termination of seasonal base plans upon small entities, there is no alternative to this termination action since the underlying statutory authority expires on December 31, 1996.

In considering the impact of this action on small businesses, the termination of seasonal base plans will also cause a reduction in paperwork. Base-excess plans generate a large volume of paperwork for the Market Administrator's office, as well as for cooperative associations and handlers' with non-member supplies. Termination of such plans will place less of a regulatory burden on those responsible for recordkeeping, administration, and compliance with these provisions.

Statement of Consideration

This order of termination is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and of the orders regulating the handling of milk in the Middle Atlantic, Carolina, Southeast, Tennessee Valley, and Louisville-Lexington-Evansville marketing areas.

It is determined that notice of proposed rulemaking and public procedure thereon is impracticable, unnecessary and contrary to the public interest. The expiration of authority to incorporate seasonal base plans in Federal milk marketing orders on December 31, 1996, necessitates the termination of base-excess plan provisions.

The Department received several letters requesting that seasonal base plans be suspended, rather than terminated. While the Department considered suspending the provisions, we concluded that an order provision cannot be suspended once the underlying legislative authority for that provision has expired. Nevertheless, should Congress pass future legislation authorizing seasonal base plans, it could provide for an expedited procedure to reinstate the order provisions.

After consideration of all relevant material, and other available information, it is hereby found and determined that effective January 1, 1997, the provisions of each of the orders specified below do not tend to effectuate the declared policy of the Act:

List of Subjects in 7 CFR Parts 1004, 1005, 1007, 1011, and 1046

Milk marketing orders.

For the reasons set forth in the preamble, 7 CFR Parts 1004, 1005, 1007, 1011, and 1046 are amended as follows.

1. The authority citation for 7 CFR Parts 1004, 1005, 1007, 1011, and 1046 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

§ 1004.61 [Amended]

2. In § 1004.61, paragraph (b) is removed and reserved, and the section heading and introductory text are revised to read as follows:

§ 1004.61 Computation of weighted average differential price and producer nonfat milk solids price.

For each month the market administrator shall compute a "weighted average differential price" and a "producer nonfat milk solids price", as follows:

* * * * *

§ 1004.63 [Amended]

3. In § 1004.63, the words "the weighted average differential price for base milk and" are removed, and the section heading is revised to read as follows:

§ 1004.63 Announcement of weighted average differential price, nonfat milk solids price and producer nonfat milk solids price.

* * * * *

§ 1004.73 [Amended]

4. In § 1004.73, paragraph (a) introductory text is amended by removing the word "base", paragraph (a)(1) is amended by removing the phrase "for base milk computed pursuant to § 1004.61(b)" and the word "base", and paragraph (b) is removed.

§ 1004.75 [Amended]

5. In § 1004.75, paragraph (a), the words "for-base milk computed pursuant to § 1004.61(b)" are removed.

§§ 1004.90, 1004.91, 1004.92, 1004.93, 1004.94 and 1004.95 [Removed]

6. § 1004.90 and the undesignated centerheading preceding it, and §§ 1004.91 through 1004.95 are removed.

PART 1005—MILK IN THE CAROLINA MARKETING AREA

§ 1005.32 [Amended]

7. In § 1005.32, paragraph (a) is removed and reserved.

§ 1005.61 [Amended]

8. In § 1005.61, paragraph (a) introductory text is amended by removing the words "of June through January", paragraph (a)(6) is amended by removing the words "for the months of June through January", paragraph (b)

is removed, and the section heading is revised to read as follows:

§ 1005.61 Computation of uniform price (including weighted average price).

* * * * *

§ 1005.62 [Amended]

9. In § 1005.62 paragraph (b) is revised to read as follows:

§ 1005.62 Announcement of uniform price and butterfat differential.

* * * * *

(b) The 11th day after the end of each month the uniform price pursuant to § 1005.61 for such month.

§ 1005.71 [Amended]

10. In § 1005.71, paragraph (a)(2)(i), the letter "(s)" at the end of the word "price(s)" is removed.

§ 1005.73 [Amended]

11. In § 1005.73, paragraph (a)(2) introductory text is amended by removing the letter "(s)" at the end of the word "price(s)" and the words "or base milk and excess milk", paragraph (c)(2) is amended by removing the word "appropriate" and the letter "(s)" at the end of the word "price(s)", paragraphs (d)(4) and (5) are amended by removing the letter "(s)" at the end of the word "rate(s)" everywhere it appears, and paragraph (d)(3) is removed and reserved.

§ 1005.74 [Amended]

12. § 1005.74 is amended by removing the letter "(s)" at the end of the word "price(s)".

§ 1005.75 [Amended]

13. In § 1005.75, paragraph (a) is amended by removing the words "and the uniform price for base milk".

§§ 1005.90, 1005.91, 1005.92, 1005.93, and 1005.94 [Removed]

14. § 1005.90 and the undesignated centerheading preceding it, and §§ 1005.91 through 1005.94 are removed.

PART 1007—MILK IN THE SOUTHEAST MARKETING AREA

§ 1007.32 [Amended]

15. In § 1007.32, paragraph (a) is removed and reserved.

§ 1007.61 [Amended]

16. In § 1007.61, paragraph (a) introductory text is amended by removing the words "of June through January", paragraph (a)(6) is amended by removing the words "for the months of June through January", paragraph (b) is removed, and the section heading is revised to read as follows:

§ 1007.61 Computation of uniform price (including weighted average price).

* * * * *

§ 1007.62 [Amended]

17. In § 1007.62, paragraph (b) is amended by removing the word "applicable" and the letter "(s)" at the end of the word "price(s)".

§ 1007.71 [Amended]

18. In § 1007.71, paragraph (a)(2)(i) is amended by removing the letter "(s)" at the end of the word "price(s)".

§ 1007.73 [Amended]

19. In § 1007.73, paragraph (a)(1) is amended by removing the phrase "or if the producer had no established base upon which to receive payments during the base paying months of February through May,", paragraph (a)(2) introductory text is amended by removing the letter "(s)" at the end of the word "price(s)" and the words "or base milk and excess milk", paragraph (d)(2) is amended by removing the word "appropriate" and the letter "(s)" at the end of the word "price(s)", paragraphs (f)(4) and (5) are amended by removing the letter "(s)" at the end of the word "rate(s)" and the word "(are)" wherever they appear, and paragraph (f)(3) is removed and reserved.

§ 1007.74 [Amended]

20. In § 1007.74, the letter "s" at the end of the word "prices" and the words "for base and excess milk" are removed.

§ 1007.75 [Amended]

21. In § 1007.75, paragraph (a) is amended by removing the phrase "and the uniform price for base milk".

§§ 1007.90, 1007.91, 1007.92, 1007.93, and 1007.94 [Removed]

22. § 1007.90 and the undesignated centerheading preceding it, and §§ 1007.91 through 1007.94 are removed.

PART 1011—MILK IN THE TENNESSEE VALLEY MARKETING AREA

§ 1011.32 [Amended]

23. In § 1011.32, paragraph (a) is removed and reserved.

§ 1011.61 [Amended]

24. In § 1011.61, paragraph (a) introductory text is amended by removing the words "of July through February", paragraph (b) is removed, and the section heading is revised to read as follows:

§ 1011.61 Computation of uniform price (including weighted average price).

* * * * *

§ 1011.62 [Amended]

25. In § 1011.62 paragraph (b) is amended by removing the word "applicable" and the letter "s" at the end of the word "prices".

§ 1011.71 [Amended]

26. In § 1011.71, paragraph (a)(2)(i) is amended by removing the letter "s" at the end of the word "prices".

§ 1011.73 [Amended]

27. In § 1011.73, paragraph (a)(2) introductory text is amended by removing the phrase "or base milk and excess milk" and the letter "(s)" at the end of the word "price(s)", paragraph (c)(2) is amended by removing the word "appropriate" and the letter "(s)" at the end of the word "price(s)", paragraphs (d) (4) and (5) are amended by removing the letter "(s)" at the end of the word "rate(s)" wherever it appears, and paragraph (d)(3) is removed and reserved.

§ 1011.74 [Amended]

28. In § 1011.74, the letter "(s)" at the end of the word "price(s)" is removed.

§ 1011.75 [Amended]

29. In § 1011.75, paragraph (a) is amended by removing the words "and the uniform price for base milk".

§§ 1011.90, 1011.91, 1011.92, 1011.93, and 1011.94 [Removed]

30. § 1011.90 and the undesignated centerheading preceding it, and §§ 1011.91 through 1011.94 are removed.

PART 1046—MILK IN THE LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

§ 1046.32 [Amended]

31. In § 1046.32, paragraph (d) is removed and reserved.

§ 1046.61 [Amended]

32. In § 1046.61, paragraph (a) introductory text is amended by removing the words "of July through February", paragraph (b) is removed, and the section heading is revised to read as follows:

§ 1046.61 Computation of uniform price (including weighted average price).

* * * * *

§ 1046.62 [Amended]

33. In § 1046.62, paragraph (b) is amended by removing the word "applicable" and the letter "(s)" at the end of the word "price(s)".

§ 1046.71 [Amended]

34. In § 1046.71, paragraph (a)(2)(i) is amended by removing the word

"applicable" and the letter "(s)" at the end of the word "price(s)".

§ 1046.73 [Amended]

35. In § 1046.73, the last sentence in paragraph (a) is removed, paragraph (b) introductory text is amended by removing the letter "(s)" at the end of the word "price(s)" and the words "or base milk and excess milk", paragraphs (d) (4) and (5) are amended by removing the letter "(s)" at the end of the word "rate(s)" everywhere it appears, and paragraph (d)(3) is removed and reserved.

§ 1046.74 [Amended]

36. In § 1046.74, the letter "(s)" at the end of the word "price(s)" is removed.

§ 1046.75 [Amended]

37. In § 1046.75, paragraph (a) is amended by removing the phrase "and the uniform price for base milk".

§§ 1046.90, 1046.91, 1046.92, 1046.93, and 1046.94 [Removed]

38. § 1046.90 and the undesignated centerheading preceding it, and §§ 1046.91 through 1046.94 are removed.

Dated: December 23, 1996.

Michael V. Dunn,

Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 96–33000 Filed 12–30–96; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 242

[INS. No. 1827–96]

RIN 1115–AE69

Administrative Deportation Procedures for Aliens Convicted of Aggravated Felonies Who Are Not Lawful Permanent Residents

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: In accordance with section 442(d) of the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), this final rule adds a new paragraph to the administrative deportation proceedings regulation. The new paragraph explains how the Immigration and Naturalization Service (Service) will conduct administrative deportation proceedings without immigration court hearings for certain aliens convicted of aggravated felonies in light of two recent statutory changes. The Service is promulgating this final rule to comply with the statutory requirement that the Service publish an implementing regulation by January 1, 1997. The final rule states that the Service will continue to process aliens under the current regulation until March 3, 1997, and will suspend administrative deportation proceedings from March 3, 1997, until the effective date of the implementing regulations for the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

EFFECTIVE DATE: March 3, 1997.

FOR FURTHER INFORMATION CONTACT: Leonard C. Loveless, Detention and Deportation Officer, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone (202) 514–2865.

SUPPLEMENTARY INFORMATION: Section 130004(a) of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322, created a new section 242A(b) of the Act, 8 U.S.C. 1252a(b), to provide for the deportation without an immigration court hearing of certain aliens convicted of aggravated felonies. On August 24, 1995, the Service published a final rule at 60 FR 43954 to create 8 C.F.R. 242.25 that implemented section 242A(b) of the Act. Section 442 of the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) modified section 242A(b) and required that the Attorney General publish implementing regulations by January 1, 1997, to take effect 60 days after publication.

On September 30, 1996, however, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Public Law 104–208. Section 304(c) of the IIRIRA, effective April 1, 1997, further amended administrative deportation proceedings by nullifying some of the amendments made by the AEDPA and by renumbering the statutory section from section 242A(b) of the Act to section 238(b).

The AEDPA amendments would require significant changes in operational procedures and forms that are not worthwhile, given that those amendments will be effective only for approximately 1 month. For example, the AEDPA added the requirement that administrative deportation proceedings be "conducted in, or translated for the alien into, a language the alien understands." This provision would require the Service to translate all documents used in the proceedings, rather than only the Form I–851, Notice of Intent to Issue Final Administrative Deportation Order. (Current translation and explanation requirements are set forth in 8 CFR 242.25(b)(2)(iv)). Since the IIRIRA has eliminated the statutory translation requirement, it would be unduly burdensome to implement this requirement for 1 month.

Accordingly, as a policy matter, the Service has determined that these implementing regulations will simply announce a suspension of the operation of administrative deportation proceedings, which includes the issuance of both Form I–851 and Form I–851A, Final Administrative Order of Deportation, until the implementing regulations for the IIRIRA, under separate notice of proposed rulemaking, are effective. The Service will continue to process aliens under the current version of 8 CFR 242.25 until March 3, 1997. From that date until the IIRIRA amendments to administrative deportation take effect, the Service will cease all administrative deportation proceedings. During that period, aliens otherwise amenable to administrative deportation will be placed instead in regular deportation proceedings before an immigration judge. This change does not affect the enforceability of administrative deportation orders previously entered.

The Service has determined that the publication of this rule as a final rule is based upon the "good cause" exceptions found at 5 U.S.C. 553(b)(3)(B). The Service has determined that public notice and comment on this rule is impracticable because of the January 1, 1997, statutory deadline for publishing a final rule. In addition, public notice and comment is unnecessary because the final rule makes no change that affects an individual's rights. It simply continues until March 3, 1997, the existing rules governing administration deportation. On that date, the Service will suspend administrative deportation proceedings, and proceed under existing regulations governing regular deportation proceedings. Since there will be public notice and comment on the IIRIRA amendments to administrative deportation proceedings, public notice and comment on this final rule is unnecessary.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities because the affected parties are individual aliens who have been ordered deported from the United States.

Executive Order No. 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order No. 12612

The regulation adopted herein will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order No. 12988

The rule meets the applicable standards set forth in sections 3(a) and (3)(b)(2) of E.O. 12988.

List of Subjects in 8 CFR Part 242

Administrative practice and procedure, Aliens, Deportation.

Accordingly, part 242 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALL ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

1. The authority citation for part 242 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1186a, 1251, 1252, 1252 note, 1252a, 1252b, 1254, 1362; 8 CFR part 2.

2. In section 242.25 a new paragraph (i) is added to read as follows:

§ 242.25 Proceedings under section 242A(b) of the Act.

* * * * *

(i) Effective March 3, 1997, the Service will cease issuance of both Form I–851 and Form I–851A. The Service retains the authority to execute at any time Form I–851A that is final before March 3, 1997. The Service will resume the issuance of Form I–851 and Form I–851A after April 1, 1997, pursuant to regulations implementing section 238(b) of the Act, as amended by the Illegal Immigration Reform and Responsibility Act of 1996.

Dated: December 20, 1996.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 96–33092 Filed 12–24–96; 10:56 am]

BILLING CODE 4410–01–M

FEDERAL ELECTION COMMISSION

11 CFR Part 9038

[Notice 1996–22]

Examinations and Audits

AGENCY: Federal Election Commission.

ACTION: Correcting amendments.

SUMMARY: This document contains a correction to final regulations which were published June 16, 1995 (60 FR 31854). The regulations relate to the notification of repayment determinations.

EFFECTIVE DATE: December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, N.W., Washington, D.C. 20463, (202) 219–3690 or toll free (800) 424–9530.

SUPPLEMENTARY INFORMATION: On June 16, 1995, the Commission published final rules revising its regulations governing public financing of presidential primary election candidates. 60 FR 31854 (June 16, 1995). These regulations implement provisions of the Presidential Primary Matching Payment Account Act. Unfortunately, the June 16, 1995 **Federal Register** document contained a nonsubstantive error which may prove to be confusing. The error occurred when the **Federal Register** typeset the document for publication. The Commission is publishing this document to correct the error.

List of Subjects in 11 CFR Part 9038

Administrative practice and procedure, Campaign funds.

PART 9038—EXAMINATIONS AND AUDITS

Accordingly, 11 CFR Part 9038 is corrected by making the following correcting amendment:

1. The authority citation for Part 9038 continues to read as follows:

Authority: 26 U.S.C. 9038 and 9039(b).

§ 9038.2 Repayments. [Corrected]

2. In section 9038.2, in the last sentence of paragraph (a)(2), the word "purchases" is revised to read "purposes".

Dated: December 26, 1996.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 96–33292 Filed 12–30–96; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Regulation D; Docket No. R–0929]

Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System is amending its Regulation D regarding reserve requirements of depository institutions issued pursuant to section 19 of the Federal Reserve Act in order to simplify and update it and reduce regulatory burden. The amendments to modernize Regulation D are in accordance with the Board's policy of regular review of its regulations and the Board's review of its regulations under section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

EFFECTIVE DATE: April 1, 1997.

FOR FURTHER INFORMATION CONTACT: Ann Owen, Economist, Division of Monetary Affairs (202/736–5671); Sue Harris, Economist, Division of Research and Statistics (202/452–3490); or Rick Heyke, Staff Attorney, Legal Division (202/452–3688), Board of Governors of the Federal Reserve System. For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452–3544), Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Background

As part of its policy of regular review of its regulations, and consistent with section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Riegle Act), the Board of Governors of the Federal Reserve System (Board) is amending its Regulation D regarding reserve requirements of depository institutions (12 CFR part 204) issued pursuant to section 19 of the Federal Reserve Act. Section 303 of the Riegle Act requires each federal banking agency to review and streamline its regulations and written policies to improve efficiency, reduce unnecessary costs, and remove

inconsistencies and outmoded and duplicative requirements. The amendments are designed to reduce regulatory burden and simplify and update the Regulation.

The Board published a notice of proposed rulemaking in the **Federal Register** on June 17, 1996 (61 FR 30545) that solicited comments on the proposed amendments described below. In general, the amendments deleted transitional rules relating to the expansion of reserve requirements to nonmember depository institutions, the authorization of NOW accounts nationwide, and other matters that no longer have a significant effect. The Board received a total of 22 comments on the proposal. Comments were received from 9 banking organizations, 8 trade associations, 4 Federal Reserve banks, and one savings bank. Of the comments, 17 generally expressed agreement with the proposal as far as it went.

An issue by issue discussion follows.

Time Deposits

Section 204.2(c)(1) currently defines time deposits as deposits from which the depositor may not make withdrawals within six days after the date of deposit (or notice of withdrawal) or partial withdrawal unless such withdrawals are subject to an early withdrawal penalty. Under certain circumstances specified in footnote 1, a time deposit may be paid before maturity without imposing the early withdrawal penalty. A time deposit generally may be paid without penalty from the seventh day after deposit through maturity, absent partial withdrawals. The imposition of an early withdrawal penalty is required under the time deposit definition only during the first six days after deposit. The proposal clarified that the footnote is not intended to impose a prohibition on withdrawals before maturity, but to permit penalty-free withdrawals under certain circumstances during the period when the imposition of an early withdrawal penalty otherwise would otherwise be required.

Six commenters supported the proposal to reword footnote 1 in order to avoid any implication that time deposits generally may not be paid before maturity without penalty, while three others, without disagreeing with the proposal, noted that they had no experience of confusion resulting from the footnote. The final rule adopts the proposal as proposed.

Nonpersonal Time Deposits

The definition of nonpersonal time deposit in § 204.2(f)(1)(iii) and (iv) distinguishes between transferable time deposits originally issued before October 1, 1980, and those issued on or after that date. Since the Board believes that most of these deposits have since matured, the Board believes that this distinction is no longer meaningful and proposed to delete it. Three commenters specifically supported the proposal on the basis that this was an obsolete distinction. The Board is adopting this proposal as proposed.

Section 204.2(f)(3) requires that a nonpersonal time deposit with a stated maturity or notice period of 1½ years or more either be subject to a minimum withdrawal penalty of 30 days' interest (if withdrawn more than six days but within 1½ years after the date of deposit) or be treated as a deposit with an original maturity or notice period of less than 1½ years. Since 1991, the reserve requirement ratio has been set at zero for all time deposits regardless of maturity. Moreover, since 1991, the form for reporting reservable liabilities (Form FR 2900) has not required depository institutions to report the amount of time deposits by category of maturity. The requirement to treat time deposits not subject to a minimum penalty of 30 days' interest as having an initial maturity of less than 1½ years is thus of no practical significance. The Board therefore proposed to delete it and footnote 2 to § 204.2(c)(1)(i), which refers to it.

Three commenters specifically supported this proposal. Another commenter expressed concern that by eliminating the requirement, the Board would be unable to distinguish between maturities of time deposits in the future. If, in the future, the Board should wish to distinguish between time deposits based on maturity, the Board could amend Regulation D and/or its reporting forms as appropriate, and could consider at that time whether an additional early withdrawal penalty would be warranted for longer-term deposits. Therefore, the Board is adopting this proposal as proposed.

Eurocurrency Liabilities

The definition of Eurocurrency liabilities in § 204.2(h)(1) includes an amount equal to certain assets that were held by a depository institution's International Banking Facility or by non-United States offices of the depository institution or of an affiliated Edge or agreement corporation and that were acquired from the depository institution's United States offices on or after October 7, 1979. The Board proposed to delete the exclusion of assets acquired before October 7, 1979, because the Board believes that the amount of these assets is immaterial. The Board received no specific comments on this proposal and is adopting it as proposed.

Allocation of Reserve Requirements Exemption

The allocation of the reserve requirements exemption specified in § 204.3(a)(3)(i) requires that the exemption be allocated first to net transaction accounts in the form of NOW (and similar) accounts and second to other transaction accounts. This provision was related to the phase-in of reserve requirements for nonmember banks and the authorization of NOW and similar transaction accounts nationwide. Since the phase-in is now complete and nonmember institutions are subject to the same reserve requirements as member banks, the provision has ceased to have any effect, and the Board proposed to delete it. Two commenters expressed support for the proposed deletion. Another commenter, while noting that the requirement is obsolete, described its elimination as entirely technical. The Board is adopting this proposal as proposed.

Deductions Allowed in Computing Reserves

The deduction in § 204.3(f)(1) limits the amount of cash items in process of collection and balances subject to immediate withdrawal due from domestic depository institutions that may be subtracted from an institution's NOW accounts. Amounts in excess of this limit may be subtracted from other transaction accounts. Since the phase-in of reserve requirements for nonmember banks is now complete, all types of transaction accounts are subject to the same reserve requirements. Therefore, this limitation has ceased to have any effect and the Board proposed to delete it. One commenter specifically supported the Board's proposed deletion, and the Board is adopting this proposal as proposed.

Federal Reserve Credit for Depository Institutions Maintaining Pass-Through Balances

Section 19(e) of the Federal Reserve Act prohibits member banks from acting as the medium or agent of a nonmember bank in applying for or receiving discounts from a Federal Reserve Bank except by permission of the Board. Regulation A, Extensions of Credit by Federal Reserve Banks (12 CFR Part 201), was amended in 1993 to delegate authority for granting this permission to the Federal Reserve Bank that extends the credit. 12 CFR 201.6(d). The Board

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correspondingly proposed to amend § 204.3(i)(5)(iv) of Regulation D effectively to complete the delegation of this authority to the Federal Reserve Bank that extends the credit. One commenter specifically supported this proposal, and the Board is adopting it as proposed.

Transition Rules

The regulation currently includes in § 204.4(a) a transition rule for depository institutions outside of Hawaii that were nonmembers of the Federal Reserve System on July 1, 1979, and that remained nonmembers. With the completion of the phase-in of reserves for such nonmembers on September 10, 1987, this rule ceased to have any effect. Section 204.4(b) contains a transition rule for depository institutions that were not members between July 1, 1979, and September 1, 1980, and that subsequently became members; since reserve requirements for nonmember institutions are fully phased in, this rule also has ceased to have any effect. Section 204.4(d) contains a transition rule for nonmember depository institutions that were engaged in business in Hawaii on August 1, 1978, and that remained nonmembers; this rule ceased to have any effect on January 7, 1993. Therefore, the Board proposed to delete these rules. The Board received three comments supporting the proposed deletion of §§ 204.4(a) and (b), and no comments on its proposed deletion of § 204.4 (d). The Board is adopting these proposals as proposed.

Section 204.4(c) sets forth a transition rule for *de novo* depository institutions with daily average reservable liabilities of less than $50 million whereby their reserve requirement is 40 percent of the reserves otherwise required in maintenance periods during the first quarter after commencing business, increasing to 100 percent in maintenance periods during the eighth and succeeding quarters. The low reserve tranche of a depository institution's net transaction accounts is currently subject to a reserve requirement of 3 percent, as compared with 10 percent for its net transaction accounts in excess of the low reserve tranche. The *de novo* transition rules precede creation of the low reserve tranche in 1982. The low reserve tranche cutoff is indexed to net transaction accounts of all depository institutions; as a result, the cutoff has increased from $25 million initially to $49.3 million for 1997. Thus, almost all transaction accounts of *de novo* depository institutions that could avail themselves of this transition rule are now covered by the low reserve tranche. Moreover, beginning in 1982, $2 million of reservable deposits have been subject to a zero percent reserve requirement; this exemption is indexed to total reservable liabilities of all depository institutions and has increased to $4.4 million for 1997.

In addition, a depository institution's vault cash may be used to meet its reserve requirement. Since *de novo* depository institutions generally have relatively low levels of deposits in relation to the reserve requirement exemption and the low reserve tranche cutoff, most are able to meet reserve requirements with vault cash and the others maintain minimal reserve balances. (Currently 56 depository institutions are receiving *de novo* phase-ins, and 52 of them are fully meeting their reserve requirements with vault cash.) This rule provides minimal benefits in terms of reducing required reserve balances of *de novo* institutions and unnecessarily complicates the processing of deposit reporting and reserve calculations. Consequently, the Board proposed to delete it. In order to avoid disrupting economic expectations based on the *de novo* transition rule, however, the Board proposed to grandfather any institution covered by the *de novo* transition rule on the effective date of the amendments for purposes of determining its required reserves. The Board received two comments supporting its proposal to delete § 204.4(c) and is adopting this proposal as proposed. As proposed, the Board will also grandfather any institution covered by the *de novo* transition rule on the effective date of the amendments.

Section 204.4(e) governs transition requirements in cases of mergers and consolidations. Paragraph (e)(1) covers "similar" mergers, where all depository institutions are subject to the same transition rules, and paragraph (e)(2) covers "dissimilar" mergers, where the institutions are subject to different transition rules. Currently, no institution is subject to the "dissimilar" merger transition rules. With the phase-in of reserve requirements for nonmember institutions, the transition rules (other than the merger and *de novo* rules) have become inoperative. Moreover, as discussed above, the *de novo* rules no longer have a significant effect in most cases. Therefore, the difference between the "similar" and "dissimilar" merger rules is minimal. In addition, the *de novo* rules would be eliminated under the proposal, with the result that all mergers would be "similar" mergers and the "dissimilar" merger rule would be inapplicable. Therefore, the Board proposed to delete the "dissimilar" merger transition rule and apply the current "similar" merger transition rule to all mergers. The Board received two comments supporting its proposed deletion of § 204.4(e), and is adopting this proposal as proposed.

Reserve Ratios

Section 204.9(b) sets forth the reserve ratios in effect during the last reserve computation period prior to September 1, 1980, for use in transition adjustments that are no longer applicable. The Board proposed to delete the section, and received two comments supporting its proposal. The Board is adopting this proposal as proposed.

Deposit Definitions

Many commenters also commented on provisions of Regulation D other than the proposed changes. Nine commenters suggested that the Board clarify the definition of "savings deposit," and a number of them also suggested that the Board also rewrite the definitions of "time deposit," "demand deposit," and/or "transaction account." One commenter suggested the use of bullet points to distinguish limitations on transfers from exceptions to such limitations. Two commenters appended suggested language designed to clarify the definition of savings account, principally by shortening the sentences.

The Board is publishing concurrently with this notice in the **Federal Register** a notice of proposed rulemaking to amend the definition of "savings deposit" in order to clarify it, and to amend the definition of "transaction account" in order to clarify it and conform it to the amended definition of "savings account."

One commenter, a trade association, pointed out that many of the questions that it receives regarding the savings deposit definition reflect increased interest in home banking and a consequent desire to avoid any limitation on transfers effected by means of a home computer. Another commenter opined that aggregating the different types of transfers and withdrawals affected by the limitation adds to consumer confusion and increases the monitoring problem for depository institutions, and, together with two other commenters, suggested that the Board eliminate all restrictions on point-of-sale and telephone transfers.[1]

[1] One of these commenters also suggested that the Board pay interest on reserve balances or support legislation to that effect.

On the issue of transfers by means of home computers, the current regulation states explicitly that any "telephonic (including data transmission) agreement, order, or instruction" is included in the six transfers and withdrawals limitation. Therefore home banking transfers are included in the limitation.

One commenter requested guidance on the requirement for a penalty of 7 days' simple interest in the event of a withdrawal from a time deposit within 6 days. In particular, this commenter expressed confusion in the case of a second withdrawal within 6 days after a partial withdrawal. In the case of a time deposit account deposited in one lump sum, the Board regards a partial withdrawal from the time deposit as a withdrawal of the entire deposit followed by a new deposit of the balance retained. The regulation therefore provides that a "time deposit from which partial early withdrawals are permitted must impose additional early withdrawal penalties of at least seven days' simple interest on amounts withdrawn within six days after each partial withdrawal." 12 CFR 204.2(c)(1)(i).

The same commenter, in reliance upon a service purporting to explain the Board's regulations, believed that 7 days' simple interest must be charged on withdrawals within 6 days of an additional deposit to the same time deposit. The Board believes that a bank may account for deposits and withdrawals either in order of deposit (FIFO) or in inverse order of deposit (LIFO).[2] Therefore, the regulation does not prescribe an accounting policy to be applied to such withdrawals. However, the Board does expect that a depository institution will be consistent in its choice of policy in this regard.

Another commenter, a trade association, asked if all demand deposits should contain the right to require 7 days' notice of withdrawal pursuant to § 204.2(b)(2). The demand deposits described in § 204.2(b)(2) are in addition to the demand deposits described in § 204.2(b)(1), which do not require 7 days' notice of withdrawal. The demand deposits described in § 204.2(b)(2) are considered demand deposits despite the fact that they may require 7 days' notice of withdrawal.

The Board, in light of the comments received, also considered whether substantive revisions to the definitions of the different types of deposits could be implemented in an effort to simplify the regulation further. It concluded that the practical scope for any such redefinitions is limited. The Board notes that Section 19 of the Federal Reserve Act establishes separate ranges for required reserve ratios on transaction accounts and nonpersonal time and savings deposits, and provides no authority for imposing reserve requirements on personal time and savings deposits. This statutory requirement for different reserve treatment of the various types of deposits creates a need for regulatory definitions to distinguish between the various types of deposits. Moreover, technological change and financial innovation have led to a proliferation of types of deposits and transfer arrangements. Many depository institutions have implemented so-called "retail sweep" programs in order to reduce their reserve requirements. These programs have already resulted in a substantial decline in transaction accounts and required reserves. The more widespread adoption of these programs that is evidently in process could impair the predictability of overall reserve demand and hence adversely affect the ability of the Federal Reserve to gauge the supply of reserves consistent with its intended monetary policy stance. These developments could eventually suggest changes in the structure of reserve requirements, potentially including changes in deposit definitions. Depending on the type of change that might be found appropriate, such a change could require legislation or be implemented administratively. The Federal Reserve will continue to monitor closely developments in the federal funds market for evidence about how lower levels of required reserves may influence the implementation of monetary policy and the appropriate structure of reserve requirements. Under the circumstances, the Board believes that a major revision of the definitions that serve as the basis for determining the liabilities against which reserves are required is not appropriate at the present time.

Other Comments

One commenter suggested that Regulation D contain an explicit cross reference to the Board Interpretation on multiple savings accounts treated as transaction accounts (12 CFR 204.133, FRRS 2–286). Another believed that the Board's notice of August 25, 1992 (57 **Federal Register** 38417) discussing several Regulation D issues should be included in the regulation because of difficulty in obtaining a copy. A third suggested that Board Interpretations and Staff Opinions related to Regulation D be streamlined and made consistent with the final rule. Two others suggested that this guidance be replaced with an official staff commentary. The Board will consider streamlining its guidance related to Regulation D or issuing an official staff commentary.

However, the Board believes that specific cross references in the regulation to selected interpretations could be construed to mean that the other guidance is of less importance, and therefore the Board believes that such cross references generally should be avoided.

A Federal Reserve Bank commented that sweeps into and out of retail savings accounts should be prohibited, because of the economic waste involved in this form of avoidance of the transaction limitations otherwise applicable to savings accounts. Alternatively, if the Board permits these sweep accounts, the applicable limitations should be spelled out in the regulation. Another commenter and an industry trade association similarly requested clarification on sweep accounts in the regulation. Regulation D currently limits transfers from savings accounts, with certain exceptions, to six per month or monthly statement cycle. The Board believes that the regulation is clear that two separate accounts, established by agreement with the depositor, one of which is a transaction account and the other of which is a savings account, can be structured so that transfers between the two accounts can take place provided that no more than six transfers and/or withdrawals from the savings account will take place in any month or statement cycle, and so that the savings account will otherwise meet the qualifications required by Regulation D.

A bank holding company objected to the transfer limitations on savings accounts, stating that competitive pressures in the market for business deposits combine with these limitations to make necessary alternative products such as sweep repurchase agreements, with consequent additional legal and system support costs that serve no economic purpose. The commenter suggested that the Board support possible legislation to remove some of these restrictions. Section 19 of the Federal Reserve Act requires the Board to distinguish transaction accounts from other accounts, because it requires different reserve requirements for transaction accounts and other accounts. (Currently, net transaction accounts in excess of the low reserve tranche are subject to a 10 percent

[2] The Board proposed in 1991 to require LIFO accounting in the case of multiple credits. See 56 FR 15522, 15526. In response to comments opposing the proposal, the Board withdrew it.

reserve requirement whereas nonpersonal time deposits are subject to a zero percent reserve requirement and personal time deposits are exempt from reserve requirements by statute.) The Board has based the distinction between transaction accounts and other accounts on the depositor's convenience of access and consequent ability to use savings deposits for transactional purposes.

Another bank requested additional guidance on sweeps from major accounts, principally those held by corporations and partnerships. The commenter has implemented a master repurchase agreement for these accounts to replace a previous arrangement involving funds secured by Treasury and federal agency securities, and requested guidance with respect to agreements and collateral. Regulation D clearly excludes from the definition of deposit any obligation that "arises from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States government or any agency thereof that the depository institution is obligated to repurchase." 12 CFR 204.2(a)(1)(vii)(B). In order for a repurchase obligation to qualify under this exclusion and be thus exempted, in effect, from the requirements of Regulations D and Q, the transaction generally must meet regulatory requirements for agreements to repurchase government securities under the Government Securities Act of 1986 (as amended). See, *e.g.*, 17 CFR parts 403, 404, and 450.

A trade association suggested that the Regulation D definition of demand deposit should preempt a state law provision applicable to its members, which defines demand deposit to include any deposit withdrawable within 30 days. The definition in Regulation D is for the purpose of calculating reserve requirements (since demand deposits are included in transaction accounts) and is also employed in Regulation Q. The Board is not aware of any circumstances under which the state law impairs the effectiveness of these regulations.

One Federal Reserve bank reported receiving a number of requests from depository institutions and bank holding companies for the elimination of member bank pass-through restrictions and of the requirement that reserves passed through a correspondent be held in the Federal Reserve district where the respondent is located. The pass-through restrictions are based on section 19(c) of the Federal Reserve Act, which states that reserve balances of member banks must be held at the Federal Reserve bank of which the bank maintaining the balance is a member, and on operating considerations. The Board will be considering these issues further in light of the growth in interstate banking arrangements that span Federal Reserve district lines.

Finally, § 204.3(i)(1)(ii), which specifies procedure for changes in correspondent-respondent relationships for required reserve balances, incorrectly refers to Reserve Banks' operating circulars that do not exist; § 204.3(i)(4)(ii), which assigns to correspondents responsibility for respondents' required reserve balances, incorrectly refers to "penalties" for reserve deficiencies rather than "charges"; and § 204.7(a)(1), which discusses charges for reserve deficiencies, incorrectly refers to "the 2 percent carryover provided in § 204.3(h)," whereas § 204.3(h) provides a carryover of 4 percent or $50,000, whichever is greater. Accordingly, the Board is replacing "in its operating circular" by "in its discretion," replacing "penalties" by "charges" in § 204.3(i)(4)(ii) and simplifying § 204.7(a)(1) to refer to "the carryover provided in § 204.3(h)." Similarly, the references to "penalty-free band" in § 204.3(h) are replaced by references to "charge-free band."

Final Rule

The Board is adopting the revisions to Regulation D substantially as proposed. In addition, the Board is correcting the references to penalties in the sections on correspondent's responsibility and reserve deficiencies, and clarifying the carryover reference in the section on reserve deficiencies. No substantive change to these two sections is intended.

Final Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires an agency to publish a final regulatory flexibility analysis with any notice of proposed rulemaking. One of the requirements of a final regulatory flexibility analysis (5 U.S.C. 604(a))—a statement of the need for, and the objectives of, the rule—is contained in "Background" above. The Regulation D amendments being proposed require no additional reporting or recordkeeping requirements and do not overlap with other federal rules.

A second requirement for the final regulatory flexibility analysis is a summary of the issues raised by the public comments in response to the initial regulatory flexibility analysis that was included in the notice of proposed rulemaking. The Board received no comments specifically related to the initial regulatory flexibility analysis, and the comments it received on the rule are discussed in "Background" above.

The third requirement for the final regulatory flexibility analysis is a description of any significant alternatives to the rule consistent with the stated objectives of the applicable statutes and designed to minimize any significant impact of the rule on small entities. The rule will apply to all depository institutions regardless of size, except that the transition rule for *de novo* institutions applies only to institutions with total transaction accounts, nonpersonal time deposits, and Eurocurrency liabilities of less than $50 million.

Except for the transition rules relating to dissimilar mergers and *de novo* institutions, the amendments are burden-reducing and no appropriate alternatives to the provisions in the proposal were found which would further reduce burdens. (The Board considered whether substantive revisions to the definitions of deposits could be implemented in an effort to simplify the regulation further, and concluded that a major revision of the definitions is not appropriate at present. See "Background" above.) The current transition rules for dissimilar mergers provide a minor temporary potential reduction in reserve requirements for certain merged institutions. However, no institution is currently benefitting from the dissimilar merger rules. The transition rules for *de novo* institutions, which are only applicable to institutions with reservable liabilities of less than $50 million and provide only a temporary benefit, have become much less significant with the increase in the low-reserve tranche cutoff ($49.3 million for 1997). Partly for this reason, only 56 institutions are currently receiving *de novo* phase-in benefits and only 4 of these institutions are not fully meeting their reserve requirements with vault cash. In order to avoid disrupting economic expectations based on the *de novo* transition rule, any institution covered by the *de novo* transition rule on the effective date of the amendments will be grandfathered for the purpose of determining its required reserves. Therefore, the Board believes that the amendments will not have a significant adverse economic impact on a substantial number of small entities.

A number of the comments included suggestions with respect to other provisions of Regulation D that could reduce burdens on all depository institutions, especially with respect to distinguishing time and savings deposits from transaction accounts. The

Board's responses to these comments are set forth under "Background" above.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act notice of 1995 (44 U.S.C. Ch. 3506; 5 CFR Part 1320, Appendix A.1), the Board has reviewed the rule under the authority delegated to the Board by the Office of Management and Budget. No collection of information pursuant to the Paperwork Reduction Act is contained in the rule.

List of Subjects in 12 CFR Part 204

Banks and banking, Federal Reserve System, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the Board is amending part 204 of chapter II of title 12 as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

1. The authority citation for part 204 continues to read as follows:

Authority: 12 U.S.C. 248(a), 248(c), 371a, 461, 601, 611, and 3105.

2. Section 204.2 is amended as follows:

a. In paragraph (c)(1)(i) introductory text, the introductory text of footnote 1 is amended by removing "before maturity" and adding in its place "during the period when an early withdrawal penalty would otherwise be required under this part", removing "the" after "imposing" and adding in its place "an", removing "penalties" and adding in its place "penalty", and footnote 2 is removed.

b. In paragraphs (c)(1)(iv)(C), (c)(1)(iv)(E), and (d)(2), footnotes 3 through 5 are redesignated as footnotes 2 through 4, respectively, and footnote 6 is removed.

c. Paragraph (f)(1)(iii) is revised.

d. Paragraph (f)(1)(iv) is removed and paragraph (f)(1)(v) is redesignated as paragraph (f)(1)(iv).

e. In newly redesignated paragraphs (f)(1)(iv)(C) and (f)(1)(iv)(E), footnotes 7 and 8 are redesignated as footnotes 5 and 6, respectively.

f. Paragraph (f)(3) is removed and footnote 9 is removed.

g. In paragraph (h)(1)(ii)(A), footnote 10 is redesignated as footnote 7 and is amended by removing "(1) that were acquired before October 7, 1979, or (2)".

h. In paragraph (h)(2)(ii), footnote 11 is redesignated as footnote 8 and is amended by revising "Footnote 10" to read "footnote 7".

i. In paragraph (t), footnote 12 is redesignated as footnote 9, and footnote reference 2 is redesignated as footnote reference 9. The revisions are as follows:

§ 204.2 Definitions.

* * * * *

(f)(1) * * *

(iii) A transferable time deposit. A time deposit is transferable unless it contains a specific statement on the certificate, instrument, passbook, statement or other form representing the account that it is not transferable. A time deposit that contains a specific statement that it is not transferable is not regarded as transferable even if the following transactions can be effected: a pledge as collateral for a loan, a transaction that occurs due to circumstances arising from death, incompetency, marriage, divorce, attachment, or otherwise by operation of law or a transfer on the books or records of the institution; and

* * * * *

3. Section 204.3 is amended as follows:

a. Paragraph (a)(3)(i) is removed and the paragraph designation (a)(3)(ii) is removed.

b. Paragraph (f)(1) is revised.

c. In paragraphs (h)(1) and (h)(2), the words "required clearing balance penalty-free band" are revised to read "required charge-free band".

d. Paragraph (i)(1)(ii) is amended in the last sentence by removing "in its operating circular" and adding in its place "in its discretion".

e. Paragraph (i)(4)(ii) is amended by removing "penalties" in the second sentence and "penalty" in the third sentence and adding in their place "charges" and "charge", respectively.

f. Paragraph (i)(5)(iv) is removed.

The revisions are as follows:

§ 204.3 Computation and maintenance

* * * * *

(f) *Deductions allowed in computing reserves.* (1) In determining the reserve balance required under this part, the amount of cash items in process of collection and balances subject to immediate withdrawal due from other depository institutions located in the United States (including such amounts due from United States branches and agencies of foreign banks and Edge and agreement corporations) may be deducted from the amount of gross transaction accounts. The amount that may be deducted may not exceed the amount of gross transaction accounts.

* * * * *

4. Section 204.4 is revised to read as follows:

§ 204.4 Transitional adjustments in mergers

In cases of mergers and consolidations of depository institutions, the amount of reserves that shall be maintained by the surviving institution shall be reduced by an amount determined by multiplying the amount by which the required reserves during the computation period immediately preceding the date of the merger (computed as if the depository institutions had merged) exceeds the sum of the actual required reserves of each depository institution during the same computation period, times the appropriate percentage as specified in the following schedule:

Maintenance periods occurring during quarters following merger or consolidation	Percentage applied to difference to compute amount to be subtracted
1	87.5
2	75.0
3	62.5
4	50.0
5	37.5
6	25.0
7	12.5
8 and succeeding	0

§ 204.7 [Amended]

5. Section 204.7 is amended in paragraph (a)(1) by removing "after application of the 2 percent carryover provided in § 204.3(h)" and adding in its place "after application of the carryover provided in § 204.3(h)".

6. Section 204.8 is amended as follows:

a. In paragraph (a)(2)(i)(B)(*5*), footnotes 13 and 14 are redesignated as footnotes 10 and 11, respectively.

b. In paragraph (a)(3)(v), footnotes 15 and 16 are redesignated as footnotes 12 and 13, respectively, and revised to read as follows:

§ 204.8 International banking facilities.

(a) *Definitions.* * * *

(3) * * *

(v) * * * [12] * * * [13] * * *

* * * * *

§ 204.9 [Amended]

7. Section 204.9 is amended by removing paragraph (b), by redesignating paragraphs (a)(1) and (a)(2) as paragraphs (a) and (b), respectively.

[12] See footnote 10.

[13] See footnote 11.

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By order of the Board of Governors of the Federal Reserve System, December 24, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–33158 Filed 12–30–96; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–279–AD; Amendment 39–9867; AD 96–26–04]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes. This action requires a one-time inspection to detect fatigue cracking of the vertical beam webs and chords of the nose wheel well (NWW) at body station (BS) 300 and BS 320, and repair, if necessary. This action also requires inspections to detect fatigue cracking of the inner chord and web of the fuselage frames at BS 300 and BS 320, and repair, if necessary. This amendment is prompted by a report indicating that the fuselage frames at BS 300 and BS 320 severed approximately 10 inches outboard of the NWW side panel and resulted in accelerated fatigue cracking and subsequent failure of the adjacent NWW vertical beams. The actions specified in this AD are intended to detect and correct such fatigue cracking, which could result in collapse of the NWW pressure bulkhead and subsequent rapid decompression of the airplane.

DATES: Effective January 6, 1997.

Comments for inclusion in the Rules Docket must be received on or before March 3, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–279–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

FOR FURTHER INFORMATION CONTACT: Bob Breneman, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–2776; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received a report indicating that the flight crew of a Boeing Model 747–200 series airplane heard a loud noise below the cockpit area during flight descent. The flight continued with an uneventful landing. Investigation revealed that the left-hand side wall of the nose wheel well (NWW) was bulging. Further investigation revealed that the fuselage frames at body stations (BS) 300 and BS 320 had severed approximately 10 inches outboard of the NWW side panel. Additionally, the vertical beam of the NWW at BS 300 contained multiple cracks in the inner chord, a severed web, and a cracked and deformed outer chord. The vertical beam of the NWW at BS 320 also was found to have a severed web and cracks in the radius of the inner chord, as well as severe damage to numerous horizontal stiffeners and clips. The apparent cause of this cracking is fatigue.

Fatigue cracking of the BS 300 and BS 320 fuselage frames in the area of the NWW, if not detected and corrected in a timely manner, could result in collapse of the NWW pressure bulkhead, and subsequent rapid decompression of the airplane.

Other Relevant Rulemaking

The FAA previously issued AD 90–06–14, amendment 39–6544 (55 FR 10045, March 19, 1990), which is applicable to certain Boeing Model 747 series airplanes. [A correction of that rule was published in the **Federal Register** on May 18, 1990 (55 FR 20590).] That AD requires repetitive visual inspections to detect fatigue cracking of the vertical beams, webs, clips, side wall web, top panel and intercostals of the NWW. That AD requires that the initial inspection be accomplished prior to the accumulation of 10,000 total flight cycles, and that repetitive inspections be accomplished at intervals of 1,500 or 3,000 flight cycles, depending on the inspection method used.

The FAA also issued AD 91–11–01, amendment 39–6997 (56 FR 22306, May 15, 1991), which also is applicable to certain Boeing Model 747 series airplanes. That AD requires the inspection to detect fatigue cracking of the fuselage frames adjacent to the NWW, prior to the accumulation of 16,000 flight cycles. That AD provides an optional terminating modification that entails installing new fuselage frames (including the frames adjacent to the NWW) with improved durability. That modification is required prior to the accumulation of 20,000 flight cycles in accordance with AD 90–06–06 (aging fleet AD).

The airplane involved in the incident described previously had accumulated 14,341 total flight cycles at the time of structural failure. A visual inspection to detect cracking of the vertical beams of the NWW in accordance with AD 90–06–14 had been performed only 621 cycles prior to the reported failure. The fuselage frames in its NWW area had not yet been replaced with the new, improved durability frames in accordance with AD 91–11–01.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other Boeing Model 747 series airplanes of the same type design, this AD is being issued to detect and correct fatigue cracking of BS 300 and BS 320 fuselage frames adjacent to the NWW, which could result in collapse of the NWW pressure bulkhead and possibly result in rapid decompression of the airplane. This AD requires repetitive visual inspections to detect fatigue cracking of the inner chord and web of the left and right side of fuselage frames at BS 300 and BS 320, from the NWW side panel outboard to stringer 39. This AD also requires a one-time visual inspection to detect fatigue cracking of the vertical beam webs and chords of the NWW at BS 300 and BS 320. This AD also requires that any cracking detected during those inspections be repaired in accordance with a method approved by the FAA.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the

Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 96–NM–279–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–26–04 Boeing: Amendment 39–9867. Docket 96–NM–279–AD.

Applicability: Model 747 series airplanes having line numbers 1 through 678 inclusive; on which the Section 41 frame replacement in zone 1 specified in Boeing Service Bulletin 747–53–2272 has not been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of body station (BS) 300 and BS 320 fuselage frames adjacent to the nose wheel well (NWW), which could result in collapse of the NWW pressure bulkhead, and subsequent rapid decompression of the airplane, accomplish the following:

(a) Prior to the accumulation of 10,000 total flight cycles, or within 50 flight cycles after the effective date of this AD, whichever occurs later, perform a detailed visual inspection to detect fatigue cracking of the inner chord and web of the left side and right side of BS 300 and BS 320 fuselage frames from the nose wheel well (NWW) side panel outboard to stringer 39, in accordance with normal maintenance practices. Pay particular attention to the area where the NWW vertical beam inner chord interfaces with the fuselage frame.

(1) If no cracking is detected, repeat the detailed visual inspection thereafter at intervals not to exceed 100 flight cycles.

(2) If any cracking is detected, prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(b) Prior to the accumulation of 10,000 total flight cycles, or within 50 flight cycles after the effective date of this AD, whichever occurs later, perform a detailed one-time visual inspection to detect fatigue cracking of the left and right side vertical beam webs and chords of the NWW at BS 300 and BS 320, in accordance with normal maintenance procedures.

(1) If no cracking is detected, no further action is required by this paragraph.

(2) If any cracking is detected, prior to further flight, repair in accordance with a method approved by the Manager, Seattle ACO.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) This amendment becomes effective on January 6, 1997.

Issued in Renton, Washington, on December 20, 1996.

S. R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–33041 Filed 12–30–96; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 301, and 602

[TD 8703]

RIN 1545–AS04; RIN 1545–AU47

Automatic Extension of Time for Filing Individual Income Tax Returns; Automatic Extension of Time To File Partnership Return of Income, Trust Income Tax Return, and U.S. Real Estate Mortgage Investment Conduit Income Tax Return

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

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SUMMARY: This document contains final regulations that reflect new and simpler procedures for an individual to obtain an automatic extension of time to file an individual income tax return. This document also contains final regulations that provide new and simpler procedures for a partnership, trust, and Real Estate Mortgage Investment Conduit (REMIC) to obtain an automatic extension of time to file partnership, trust, and REMIC returns.

EFFECTIVE DATE: The regulations are effective December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Margaret A. Owens, (202) 622–6232 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control numbers 1545–1479 and 1545–0148. Responses to this collection of information are required to obtain a benefit (an automatic 4-month extension of time to file an individual income tax return or an automatic 3-month extension of time to file a partnership return of income, a trust income tax return, or a REMIC income tax return).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

Estimates of the reporting burden in these final regulations are reflected in the burden estimates of either Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return, or Form 8736, Application for Automatic Extension of Time To File U.S. Return for a Partnership, REMIC or for Certain Trusts.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

Extensions for Individual Income Tax Returns

On January 4, 1996, temporary regulations (TD 8651) providing new and simpler procedures for individuals to obtain an automatic extension of time to file an individual income tax return were published in the **Federal Register** (61 FR 260). A notice of proposed rulemaking (IA–41–93) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (61 FR 338).

Written comments responding to the notice of proposed rulemaking were received. No public hearing was requested or held. After consideration of all the comments, the temporary regulations under sections 6081 and 6651 relating to the automatic extension of time to file individual income tax returns are adopted as revised by this Treasury Decision, and the corresponding temporary regulations are removed. The comments and revisions are discussed below in the section on Explanation of Provisions and Summary of Comments.

Extensions for Partnership Returns of Income and Trust Income Tax Returns

On April 5, 1988, temporary regulations (TD 8190) relating to the automatic extension of time to file partnership returns of income and trust income tax returns were published in the **Federal Register** (53 FR 11066). A notice of proposed rulemaking (LR–29–88) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (53 FR 11103).

In accordance with section 860F(e), REMICs have been generally treated as partnerships with regard to extensions of time to file. A REMIC has been allowed an automatic 3-month extension of time to file if (1) an application was prepared on Form 8736, (2) the application was signed by the person duly authorized, (3) the application was filed on or before the date Form 1066, U.S. Real Estate Mortgage Investment Conduit Income Tax Return, was due, (4) the application showed the full amount properly estimated as tax, and (5) the application was accompanied by full remittance of the amount properly estimated as tax that was unpaid as of the date prescribed for filing Form 1066.

Written comments responding to the notice of proposed rulemaking and the request for comments were received. No public hearing was requested or held. After consideration of all the comments, the temporary regulations under section 6081 relating to the automatic extension of time to file partnership returns of income, trust income tax returns, and REMIC income tax returns are adopted as revised by this Treasury decision, and the corresponding temporary regulations are removed. The comments and revisions are discussed below.

Explanation of Provisions and Summary of Comments

These final regulations provide that individuals may obtain an automatic 4-month extension of time to file an individual income tax return without remitting the unpaid amount of any tax properly estimated to be due with the application for extension of time to file. Under these final regulations, an individual's inability to pay is not a condition for obtaining an automatic 4-month extension. However, taxpayers are encouraged to make payments in order to minimize interest and penalties imposed on unpaid amounts.

The final regulations remove the regulatory requirement that Forms 4868 be signed.

Most commentators responded favorably to the proposed and temporary regulations. Some commentators suggested that the IRS should develop a bulk method for submitting applications for automatic extensions so that return preparers could submit a list of the required information for all their clients on one Form 4868. The final regulations provide that the IRS may prescribe other methods for submitting an application in lieu of a paper application on Form 4868. In April 1996, the IRS provided a method of filing Forms 4868 electronically through the Electronic Transmitted Documents System. See Publication 1346. The IRS continues to offer this method of filing Forms 4868. If there is still a need for other methods, suggestions should be sent to: CC:DOM:CORP:R (REG–209643–93), Room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044.

One commentator recommended that the requirement to "properly estimate" the tax be dropped, since payment of the unpaid amount of tax due is not a condition of obtaining an automatic 4-month extension of time to file an individual income tax return. The requirement has been retained to assist taxpayers in determining the amount of interest and penalties for which they will be liable if timely tax payments are not made, and to thereby encourage

payments, as large as possible, with the application for extension of time to file.

The final regulations provide the requirements for partnerships, trusts, and REMICs to obtain an automatic 3-month extension of time to file partnership, trust, and REMIC returns. The final regulations remove the regulatory requirement that Forms 8736 be signed. Notwithstanding the current instructions to Form 8736, an unsigned Form 8736 will be processed. In addition, these final regulations provide that trusts and REMICs may obtain an automatic 3-month extension of time to file a trust income tax return or a REMIC income tax return without remitting the unpaid amount of any tax properly estimated to be due with the application for extension of time to file.

The final regulations provide that the IRS may prescribe additional methods of obtaining an extension of time to file in lieu of a paper application on Form 8736.

Some commentators suggested that allowing automatic extensions for partnership returns of income and trust income tax returns will give rise to filing difficulties for partners and trust beneficiaries. The Treasury and the IRS took this concern into account when limiting partnership and trust extensions to 3 months rather than the 4 months permitted individuals.

Special Analyses

It has been determined that these final regulations are not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the notices of proposed rulemaking preceding the regulations were issued prior to March 29, 1996, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, a copy of the notice of proposed rulemaking providing an automatic extension of time to file an individual income tax return that precedes these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal authors of these regulations are Margaret A. Owens, and Philip E. Bennet, Office of the Assistant Chief Counsel (Income Tax & Accounting), IRS. However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1, 301, and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding new entries in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.6081–2 also issued under 26 U.S.C. 6081(a).

Section 1.6081–4 also issued under 26 U.S.C. 6081(a).

Section 1.6081–6 also issued under 26 U.S.C. 6081(a).

Section 1.6081–7 also issued under 26 U.S.C. 6081(a). * * *

Par. 2. Section 1.6081–2 is added to read as follows:

§ 1.6081–2 Automatic extension of time to file partnership return of income.

(a) *In general.* A partnership required to file a return of income on Form 1065, U.S. Partnership Return of Income, for any taxable year will be allowed an automatic 3-month extension of time to file the return after the date prescribed for filing the return if an application under this section is filed in accordance with paragraph (b) of this section. In the case of a partnership described in § 1.6081–5(a)(1), the automatic extension allowed under this section runs concurrently with an extension of time to file granted pursuant to § 1.6081–5(a).

(b) *Requirements.* In order to satisfy this paragraph (b), an application for an automatic extension under this section must be—

(1) Submitted on Form 8736, Application for Automatic Extension of Time To File U.S. Return for a Partnership, REMIC or for Certain Trusts, or in any other manner as may be prescribed by the Commissioner;

(2) Filed on or before the later of—

(i) The date prescribed for filing the partnership return (without regard to any extensions of the time for filing such return); or

(ii) The expiration of any extension of time to file granted such partnership pursuant to § 1.6081–5(a); and

(3) Filed with the Internal Revenue Service office designated in the application's instructions.

(c) *Payment of section 7519 amount.* An automatic extension of time for filing a partnership return under this section does not extend the time for payment of any amount due under section 7519, relating to required payments for entities electing not to have a required taxable year.

(d) *Section 444 election.* An automatic extension of time for filing a partnership return will run concurrently with any extension of time for filing a return allowed because of section 444, relating to the election of a taxable year other than a required taxable year.

(e) *Effect of extension on partner.* An automatic extension of time for filing a partnership return under this section does not operate to extend the time for filing a partner's income tax return or the time for the payment of any tax due on the partner's income tax return.

(f) *Termination of automatic extension.* The district director, including the Assistant Commissioner (International), or the director of a service center may terminate at any time an automatic extension by mailing to the partnership a notice of termination. The notice must be mailed at least 10 days prior to the termination date designated in such notice. The notice of termination must be mailed to the address shown on Form 8736 or to the partnerships's last known address.

(g) *Penalties.* See section 6698 for failure to file a partnership return.

(h) *Coordination with § 1.6081–1.* Except in undue hardship cases, no extension of time for filing a partnership return of income will be granted under § 1.6081–1 until an automatic extension has been allowed pursuant to the provisions of this section.

(i) *Effective date.* This section is effective for applications for an automatic extension of time to file a partnership return of income filed on or after December 31, 1996.

§ 1.6081–2T [Removed]

Par. 3. Section 1.6081–2T is removed.

§ 1.6081–3T [Removed]

Par. 4. Section 1.6081–3T is removed.

Par. 5. Section 1.6081–4 is amended as follows:

1. Paragraphs (a) and (c) are revised.

2. Paragraphs (d) and (e) are added.

The revised and added provisions read as follows:

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§ 1.6081–4 Automatic extension of time for filing individual income tax returns.

(a) *In general*—(1) *Period of extension.* An individual who is required to file an individual income tax return will be allowed an automatic 4-month extension of time to file the return after the date prescribed for filing the return provided the requirements contained in paragraphs (a)(2), (3), and (4) of this section are met. In the case of an individual described in § 1.6081–5(a)(5) or (6), the automatic 4-month extension will run concurrently with the extension of time to file granted pursuant to § 1.6081–5.

(2) *Manner for submitting an application.* An application must be submitted—

(i) On Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return; or

(ii) In any other manner as may be prescribed by the Commissioner.

(3) *Time and place for filing application.* Except in the case of an individual described in § 1.6081–5(a)(5) or (6), the application must be filed on or before the date prescribed for filing the individual income tax return. In the case of an individual described in § 1.6081–5(a)(5) or (6), the application must be filed on or before the expiration of the extension of time to file granted pursuant to § 1.6081–5. The application must be filed with the Internal Revenue Service office designated in the application's instructions.

(4) *Proper estimate of tax.* An application for extension must show the full amount properly estimated as tax for the taxable year.

(5) *Coordination with § 1.6081–1.* Except in undue hardship cases, no extension of time for filing an individual income tax return will be granted under § 1.6081–1 until an automatic extension has been allowed pursuant to the provisions of this paragraph (a).

* * * * *

(c) *Termination of automatic extension.* The district director, including the Assistant Commissioner (International), or the director of a service center may terminate at any time an automatic extension by mailing to the taxpayer a notice of termination. The notice must be mailed at least 10 days prior to the termination date designated in such notice. The notice of termination must be mailed to the taxpayer at the address shown on Form 4868 or to the taxpayer's last known address.

(d) *Penalties.* See section 6651 for failure to file an individual income tax return or failure to pay the amount shown as tax on the return. In particular, see § 301.6651–1(c)(3) of this chapter (relating to a presumption of reasonable cause in certain circumstances involving an automatic extension of time for filing an individual income tax return).

(e) *Effective date.* This section is effective for applications for an automatic extension of time to file an individual income tax return filed on or after December 31, 1996.

§ 1.6081–4T [Removed]

Par. 6. Section 1.6081–4T is removed.

Par. 7. Section 1.6081–6 is added under the undesignated centerheading "Extension of Time for Filing Returns" to read as follows:

§ 1.6081–6 Automatic extension of time to file trust income tax return.

(a) *In general.* A trust required to file an income tax return on Form 1041, U.S. Income Tax Return for Estates and Trusts, for any taxable year will be allowed an automatic 3-month extension of time to file the return after the date prescribed for filing the return if an application under this section is filed in accordance with paragraph (b) of this section.

(b) *Requirements.* To satisfy this paragraph (b), an application for an automatic extension under this section must—

(1) Be submitted on Form 8736, Application for Automatic Extension of Time To File U.S. Return for a Partnership, REMIC or for Certain Trusts, or in any other manner as may be prescribed by the Commissioner;

(2) Be filed on or before the date prescribed for filing the trust income tax return with the Internal Revenue Service office designated in the application's instructions; and

(3) Show the full amount properly estimated as tax for the trust for the taxable year.

(c) *Effect of extension on beneficiary.* An automatic extension of time to file a trust income tax return under this section will not operate to extend the time for filing the income tax return of a beneficiary of the trust or the time for the payment of any tax due on the beneficiary's income tax return.

(d) *Termination of automatic extension.* The district director, including the Assistant Commissioner (International), or the director of a service center may terminate at any time an automatic extension by mailing to the trust a notice of termination. The notice must be mailed at least 10 days prior to the termination date designated in such notice. The notice of termination must be mailed to the address shown on Form 8736 or to the trust's last known address.

(e) *Penalties.* See section 6651 for failure to file a trust income tax return or failure to pay the amount shown as tax on the return.

(f) *Coordination with § 1.6081–1.* Except in undue hardship cases, no extension of time for filing a trust income tax return will be granted under § 1.6081–1 until an automatic extension has been allowed pursuant to the provisions of this section.

(g) *Effective date.* This section is effective for applications for an automatic extension of time to file a trust income tax return filed on or after December 31, 1996.

Par. 8. Section 1.6081–7 is added under the undesignated centerheading "Extension of Time for Filing Returns" to read as follows:

§ 1.6081–7 Automatic extension of time to file Real Estate Mortgage Investment Conduit (REMIC) income tax return.

(a) *In general.* A Real Estate Mortgage Investment Conduit (REMIC) required to file an income tax return on Form 1066, U.S. Real Estate Mortgage Investment Conduit Income Tax Return, for any taxable year will be allowed an automatic 3-month extension of time to file the return after the date prescribed for filing the return if an application under this section is filed in accordance with paragraph (b) of this section.

(b) *Requirements.* To satisfy this paragraph (b), an application for an automatic extension under this section must—

(1) Be submitted on Form 8736, Application for Automatic Extension of Time To File U.S. Return for a Partnership, REMIC or for Certain Trusts, or in any other manner as may be prescribed by the Commissioner;

(2) Be filed on or before the date prescribed for filing the REMIC income tax return with the Internal Revenue Service office designated in the application's instructions; and

(3) Show the full amount properly estimated as tax for the REMIC for the taxable year.

(c) *Effect of extension on residual or regular interest holders.* An automatic extension of time to file a REMIC income tax return under this section will not operate to extend the time for filing the income tax return of a residual or regular interest holder of the REMIC or the time for the payment of any tax due on the residual or regular interest holder's income tax return.

(d) *Termination of automatic extension.* The district director, including the Assistant Commissioner (International), or the director of a

service center may terminate at any time an automatic extension by mailing to the REMIC a notice of termination. The notice must be mailed at least 10 days prior to the termination date designated in such notice. The notice of termination must be mailed to the address shown on Form 8736 or to the REMIC's last known address.

(e) *Penalties.* See sections 6698 and 6651 for failure to file a REMIC income tax return or failure to pay the amount shown as tax on the return.

(f) *Coordination with § 1.6081–1.* Except in undue hardship cases, no extension of time for filing a REMIC income tax return will be granted under § 1.6081–1 until an automatic extension has been allowed pursuant to the provisions of this section.

(g) *Effective date.* This section is effective for applications for an automatic extension of time to file a REMIC income tax return filed on or after December 31, 1996.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 9. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805. * * *

Par. 10. Section 301.6651–1 is amended by revising paragraph (c)(3) to read as follows:

§ 301.6651–1 Failure to file tax return or to pay tax.

* * * * *

(c) * * *

(3) If, for a taxable year ending on or after December 31, 1995, an individual taxpayer satisfies the requirement of § 1.6081–4(a) of this chapter (relating to automatic extension of time for filing an individual income tax return), reasonable cause will be presumed, for the period of the extension of time to file, with respect to any underpayment of tax if—

(i) The excess of the amount of tax shown on the individual income tax return over the amount of tax paid on or before the regular due date of the return (by virtue of tax withheld by the employer, estimated tax payments, and any payment with an application for extension of time to file pursuant to § 1.6081–4 of this chapter) is no greater than 10 percent of the amount of tax shown on the individual income tax return; and

(ii) Any balance due shown on the individual income tax return is remitted with the return.

* * * * *

§ 301.6651–1T [Removed]

Par. 11. Section 301.6651–1T is removed.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 12. The authority citation for part 602 continues to read as follow:

Authority: 26 U.S.C. 7805.

Par. 13. In § 602.101, paragraph (c) is amended by removing the entries for §§ 1.6081–2T, 1.6081–3T, and 1.6081–4T from the table, revising the entry for § 1.6081–4, and adding the following entries in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(c) * * *

CFR part or section where identified and described	Current OMB control No.
. . . . .	
1.6081–2	1545–0148 1545–1054 1545–1036
. . . . .	
1.6081–4	1545–0188 1545–1479
1.6081–6	1545–0148 1545–1054
1.6081–7	1545–0148 1545–1054
. . . . .	

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved: December 11, 1996.

Donald C. Lubick,

Acting Assistant Secretary of the Treasury.

[FR Doc. 96–32379 Filed 12–30–96; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

28 CFR Part 92

RIN 1105–AA47

Office of Community Oriented Policing Services; FY 1996 Police Corps Program

AGENCY: Office of the Police Corps and Law Enforcement Education, Office of Community Oriented Policing Services, Department of Justice.

ACTION: Final rule.

SUMMARY: This rule adopts without change an interim rule published by the Office of Community Oriented Policing Services, U.S. Department of Justice, in the **Federal Register** on September 24, 1996, which established a framework for the Police Corps, authorized by the Police Corps Act, Title XX, Subtitle A of the Violent Crime Control and Law Enforcement Act of 1994. One comment was received before the comment period expired on October 24, 1996.

DATES: Final rule is effective December 31, 1996.

FOR FURTHER INFORMATION CONTACT: L. Anthony Sutin, Deputy Director/General Counsel, Office of Community Oriented Policing Services, U.S. Department of Justice, 1100 Vermont Avenue, NW., Washington, DC 20530; telephone (202) 514–3750.

SUPPLEMENTARY INFORMATION: The purpose of this rule is to provide guidance to States and individuals interested in applying to participates in the Police Corps. The rule addresses eligibility requirements, application criteria and procedures, and certain post-application requirements. The rule is not intended to be a comprehensive compilation of the administrative requirements of the Police Corps; the authorizing statute (42 U.S.C. 14091 *et seq.*) is quite detailed in a number of respects and those requirements and provisions are not repeated in the regulation (but are set forth in the following overview). In addition, other program requirements and procedures will be formulated by the participating States in light of their circumstances and needs.

One commenter requested that college and university police forces be made eligible for assignment of Police Corps officers. The rule does not address this issue beyond restating the statute's requirement that Police Corps participants be assigned to a "State or local police force." The Office intends to defer to participating States the determination of whether a particular college or university police force qualifies as a "State or local police force" under the laws of those particular States and meet the other statutory requirements for receiving an assignment of Police Corps officers.

Based on other inquiries received by the Office relating to the program, the following additional points of background clarification are offered. First, while the Police corps does make available educational assistance to dependent children of fallen law enforcement officers, this assistance is limited to children of officers who served in a State that participate in the Police Corps. See 28 CFR 92.2(c)(3). Second, nothing in the statute or rule requires Police Corps participants who will receive scholarships for graduate study to resign their officer position upon commencement of graduate study,

to the extent consistent with their employment and educational commitments.

The Office of Community Oriented Policing Services is adopting the interim rule as final without change.

The Catalog of Federal Domestic Assistance Number for the Police Corps is 16.712.

Administrative Requirements

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Office of Community Oriented Policing Services has determined that this final rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and, accordingly, this final rule has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

The Director, Office of the Police Corps and Law Enforcement Education, Office of Community Oriented Policing Services, in accordance with the Regulatory Flexibility Act, codified at 5 U.S.C. 605(b), has reviewed this regulation and, by approving it, certifies that this regulation will not have a significant economic impact on a substantial number of small entities. This final rule builds upon the statutory outline of a program providing scholarships and educational assistance to individuals in exchange for a commitment to serve as a law enforcement officer for four years, and the award of such scholarships or assistance imposes no requirements on small businesses or other small entities.

Paperwork Reduction Act

Information collection associated with this regulation has been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1995. The OMB control number for this collection is 1103–0035.

List of Subjects in 28 CFR Part 92

Law enforcement officers, Scholarships and fellowships, Student aid.

Accordingly, the interim rule adding 28 CFR part 92, which was published in the **Federal Register** on September 24, 1996, at 61 FR 49971, is adopted as a final rule without change.

Dated: December 19, 1996.

Joseph E. Brann,

Director.

[FR Doc. 96–33294 Filed 12–30–96; 8:45 am]

BILLING CODE 4410–AT–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 244 and 245

[FRL–5670–6]

Solid Waste Programs; Management Guidelines for Beverage Containers and Resource Recovery Facilities Guidelines; Removal of Obsolete Guidelines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is removing from the Code of Federal Regulations (CFR) two guidelines pertaining to solid waste management which are obsolete. The activities addressed in these 1976 guidelines have been included in numerous state and local statutes and regulations and other Federal rules, or have been superseded by such Presidential actions as Executive Order 12873, "Federal Acquisition, Recycling, and Waste Prevention." Deleting these guidelines from the CFR will have no measurable impact on solid waste management.

In the proposed rules section of today's **Federal Register**, EPA is proposing to withdraw Parts 244 and 245 from Title 40 of the CFR. The accompanying proposal incorporates the contents of this direct final rule. If adverse comments are received on that notice of proposed rulemaking, EPA will withdraw the direct final rule and address the comments received in a subsequent final rule. No additional opportunity for public comment will be provided.

DATES: This final rule will be effective on March 3, 1997 unless EPA receives adverse comments on the accompanying proposal within January 30, 1997. If such adverse comment is received, EPA will withdraw this direct final rule, and provide timely notice in the **Federal Register**.

ADDRESSES: Written comments (one original and two copies) should reference docket number F–96–MRBF–FFFFF and be addressed to: RCRA Docket and Information Center (RIC), Office of Solid Waste (5305W), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Supporting docket materials can be viewed at and hand deliveries of comments can be made to the following address: Crystal Gateway I, first floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m. Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling 703 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page.

FOR FURTHER INFORMATION CONTACT: Deborah Gallman, (703) 308–7276, U.S. EPA, Office of Solid Waste and Emergency Response, 401 M Street, S.W., (5306W), Washington, D.C. 20460, or the RCRA Hotline, phone (800) 424–9346 or TDD (800) 553–7672 (hearing impaired) or (703) 412–9810 or TDD (703) 412–3323 in the Washington, D.C., metropolitan area.

SUPPLEMENTARY INFORMATION:

I. Authority

This rule is being issued under the authority of sections 1008, 2002, 6001, and 6004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and the Hazardous and Solid Waste Amendments of 1984; 42 U.S.C. 6961.

II. Introduction

On March 4, 1995, the President directed all Federal agencies and departments to conduct a comprehensive review of the regulations they administer and by June 1, 1995, to identify those rules that are obsolete or unduly burdensome. EPA has conducted a review of all its rules, including rules issued under the Resource Conservation and Recovery Act (RCRA). Based on that review, EPA is today withdrawing parts 244 and 245 from the CFR. In addition to the removal of parts 244 and 245, the EPA of Office of Solid Waste and Emergency Response identified a number of other rules that were obsolete as a matter of law or policy, and rules that needed clarifications in order to make certain provisions easier to read and understand. EPA has already published rules to address this (see 60 FR 33912 and 61 FR 18501) and plans to publish additional actions to further eliminate unnecessary rules and clarify others as appropriate. The Office of Solid Waste and Emergency Response intends to continue to evaluate its regulations to determine if they can be further simplified or stremlined.

III. Obsolete Guidelines

A. 40 CFR Part 244—Solid Waste Management Guidelines for Beverage Containers

On September 21, 1976, EPA issued guidelines for reducing beverage container waste. The guidelines, published in 40 CFR Part 244, were mandatory for Federal facilities and recommended for adoption by state and local governments and private agencies. These guidelines were intended to achieve a reduction in beverage container solid waste and litter, resulting in savings in waste collection and disposal costs to the Federal government. They were also intended to achieve the conservation and more efficient use of energy and other resources through the development of effective beverage distribution and container collection systems. The guidelines would achieve these goals by making all beverage containers on Federal facilities returnable and by encouraging reuse or recycling of the returned containers. To accomplish the return of a beverage container, a deposit of at least five cents on each returnable beverage container was to be paid upon purchase by the consumer and refunded to the consumer. The guidelines allowed Federal agencies not to implement the provisions in various situations where the requirements were not practical.

When these guidelines were promulgated in 1976, there were few other requirements for recycling beverage containers or other materials. Since then, Federal agencies have met the challenge of recycling by implementing, in-house or by contract, programs for collection of a number of recyclable materials, including beverage containers. Many state and local governments now require or encourage such collection programs. Under RCRA Section 6001, Federal facilities must meet such municipal or state recycling requirements. Furthermore, in 1993, President Clinton issued Executive Order 12873, "Federal Acquisition, Recycling, and Waste Prevention." Section 705 of the Executive Order requires each Executive agency that has not already done so to initiate a program to promote cost effective waste prevention and recycling of reusable materials at all of its facilities. Recycling programs implemented pursuant to Section 705 must be compatible with applicable state and local governments to promote recycling and waste reduction in the community.

During the first year after E.O. 12873 was signed, many Federal departments and agencies implemented or expanded recycling programs. To make this effort more efficient, the General Services Administration (GSA) provides contracts for collection of recyclables in many Federal offices. For more information on Federal collection programs and examples of agency accomplishments, see the docket to this rule.

With the implementation of RCRA Section 6001, E.O. 12873, and state and local recycling collection mandates and programs, there is no longer a need for separate guidelines for Federal facilities on beverage containers. Indeed, these other requirements establish a more comprehensive and integrated recycling program. Therefore, EPA is withdrawing 40 CFR Part 244.

B. 40 CFR Part 245—Resource Recovery Facilities Guidelines

On September 21, 1976, EPA issued guidelines for resource recovery facilities that were applicable to the recovery of resources from residential, commercial, or institutional solid wastes. The guidelines delineated minimum actions for Federal agencies for planning and establishing resource recovery facilities. Resource recovery facilities were defined in the guidelines as "any physical plant that processes residential, commercial, or institutional solid wastes biologically, chemically, or physically, and recovers useful products, such as shredded fuel, combustible oil or gas, steam, metal, glass, etc. for recycling." In addition, the guidelines included recommended actions for state, interstate, regional, and local governments. These guidelines applied to all Federal agencies with jurisdiction over any real property or facility, the operation or administration of which involved such agency in residential, commercial, or institutional solid waste disposal activities either in-house or by contract. Federal land that was used solely for the disposal of non-Federal solid waste was not considered real property or a facility for the purpose of these guidelines.

Since the promulgation of Part 245, more comprehensive programs and guidelines have been developed to address Federal and state solid waste activities related to resource recovery facilities. For example, the 40 CFR Part 256 guidelines, promulgated in July, 1979, were developed to assist in the development and implementation of state solid waste management plans, in accordance with Section 4002(b) of the Solid Waste Disposal Act as amended by RCRA. These guidelines address the minimum requirements for approval of state plans, including resource recovery programs, facility planning and implementation. In particular, Section 256.30 requires that state plans address policies and strategies for resource recovery, conservation activities, and local government contracts for the supply of solid waste to resource recovery facilities. Also, § 256.40 requires that state plans "provide for adequate resource conservation, recovery, storage, treatment and disposal facilities and practices necessary to use or dispose of solid and hazardous waste in an environmentally sound manner." Since the promulgation of Part 256, many states have developed Federally approved solid waste management plans, and in some cases the state requirements are more stringent than the Federal guidelines. Under RCRA section 6001 Federal facilities must comply with such state resource recovery requirements.

The activities promoted under 40 CFR Part 245, dealing with recovery of resources and resource recovery facilities, are also addressed in many state and local recycling programs mentioned above and in many comprehensive statewide solid waste management laws enacted since 1976. These laws and programs provide a more integrated framework for resource recovery facilities than 40 CFR Part 245 does. Since 40 CFR Part 256 and related state and local laws incorporate the older Part 245 requirements for facility planning and implementation for resource recovery programs, the guidelines in 40 CFR Part 245 are considered obsolete. Accordingly, EPA is removing these resource recovery guidelines from the CFR.

IV. Analysis under Executive Order (E.O.) 12866, the Unfunded Mandates Reform Act of 1995, and the Paperwork Reduction Act

Because the withdrawal of these guidelines from the CFR reflects their current obsolescence and has no regulatory impact, this action is not a "significant" regulatory action within the meaning of E.O. 12866, and does not impose any Federal mandate on state, local, or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995. For the same reasons, their deletion from the CFR does not affect requirements under the Paperwork Reduction Act.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally requires an agency to prepare, and make available for public comment, a

regulatory flexibility analysis that describes the impact of a proposed or final rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant adverse economic impact on a substantial number of small entities. Today's rule is deregulatory in nature. The effect of today's final rule is to remove obsolete guidelines which are mandatory only for Federal facilities. Therefore, I certify that today's rule will not have a significant economic impact on a substantial number of small entities. As a result, no Regulatory Flexibility Analysis is needed.

VI. Submission To Congress And The General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 244

Environmental Protection, Beverages, Government property, Recycling.

40 CFR Part 245

Government property, Recycling.

Dated: December 20, 1996.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble and under the authority of 42 U.S.C. sections 6907, 6912, 6961, and 6964, Title 40, Chapter I of the Code of Federal Regulations is amended as follows:

PART 244—[REMOVED]

1. Part 244 is removed.

PART 245—[REMOVED]

2. Part 245 is removed.

[FR Doc. 96–32967 Filed 12–30–96; 8:45 am]

BILLING CODE 6560–60–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 401 and 405

[BPD–869–CN]

Medicare Program; Waiver of Recovery of Overpayments

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction notice.

SUMMARY: On September 19, 1996, we published a final rule (61 FR 49269), which duplicated in HCFA's regulations the content of two sections of the Social Security Administration's (SSA) regulations concerning waiver of recovery of overpayments. Since SSA was restructuring its regulations to apply only to the Federal Old-Age, Survivors and Disability Insurance Program, we established the content of these sections in 42 CFR part 405 to preserve the content of the SSA regulations that are applicable to the Medicare Program. This notice corrects an error in the authority citation in that document.

EFFECTIVE DATE: These regulations are effective on October 21, 1996.

FOR FURTHER INFORMATION CONTACT: David Walczak, (410) 786–4475.

SUPPLEMENTARY INFORMATION: On September 19, 1996, we published a final rule (61 FR 49269) concerning waiver of recovery of overpayments. This notice corrects an error in the authority citation in that document.

On page 49271, in column one, under part 405, amendment 1, the authority citation for part 405, "**Authority:** Secs. 1102, 1862, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395y, and 1895hh)." is corrected to read, "**Authority:** Secs. 1102, 1861, 1862(a), 1871, 1874, and 1881 of the Social Security Act (42 U.S.C. 1302, 1395x, 1395y(a), 1395hh, 1395kk, and 1395rr), and sec. 353 of the Public Health Service Act (42 U.S.C. 263a), unless otherwise noted."

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: December 19, 1996.

Michael W. Carleton,

Acting Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 96–33090 Filed 12–30–96; 8:45 am]

BILLING CODE 4120–01–P

42 CFR Parts 417 and 434

[OMC–010–F]

RIN 0938–AF74

Medicare and Medicaid Programs; Requirements for Physician Incentive Plans in Prepaid Health Care Organizations

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations established by a March 27, 1996, final rule with comment period. The regulations govern physician incentive plans operated by Federally-qualified health maintenance organizations and competitive medical plans contracting with the Medicare program, and certain health maintenance organizations and health insuring organizations contracting with the Medicaid program.

As explained in the March 27 rule, the provisions of this final rule will also have an effect on certain entities subject to the physician referral rules in section 1877 of the Social Security Act.

DATES: *Effective date.* These regulations are effective on January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Beth Sullivan, (410) 786–4596.

SUPPLEMENTARY INFORMATION:

I. Background

A. Introduction

Prepaid health care organizations, such as health maintenance organizations (HMOs), competitive medical plans (CMPs), and health insuring organizations (HIOs) are entities that provide enrollees with comprehensive, coordinated health care in a cost-efficient manner. The goal of prepaid health care delivery is to control health care costs through preventive care and case management and provide enrollees with affordable, coordinated, quality health care services. Titles XVIII and XIX of the Social Security Act (the Act) authorize contracts with prepaid health care organizations (hereinafter referred to as "organizations" or "prepaid plans") for the provision of covered health services to Medicare beneficiaries and Medicaid recipients, respectively. Such organizations may contract under either a risk-based or cost-reimbursed contract.

B. Medicare

Section 1876 of the Act authorizes the Secretary to enter into contracts with eligible organizations (HMOs that have been Federally qualified under section

1310(d) of the Public Health Service Act and CMPs that meet the requirements of section 1876(b)(2) of the Act) to provide Medicare-covered services to beneficiaries and specifies the requirements the organizations must meet. Payment under these contracts may either be made on a risk capitation basis, under which a fixed amount is paid per Medicare enrollee per month, or on a reasonable cost basis, under which costs are reimbursed retrospectively. Implementing Federal regulations for the organization and operation of Medicare HMOs and CMPs, contract requirements, and conditions for payment are located at 42 CFR 417.400 through 417.694.

The amount paid to risk HMOs/CMPs is the projected actuarial equivalence of 95 percent of what Medicare would have paid if the beneficiaries had received services from fee-for-service providers or suppliers. Organizations paid on a risk basis are liable for any difference between the Medicare prepaid amounts and the actual costs they incur in furnishing services, and they are therefore "at risk."

Cost-reimbursed organizations are paid monthly interim per capita payments that are based on a budget. Later, a retrospective cost settlement occurs to reflect the reasonable costs actually incurred by the organization for the covered services it furnished to its Medicare enrollees.

C. Medicaid

Section 1903(m) of the Act specifies requirements that must be met for States to receive Federal financial participation (FFP) for contracts with organizations (HMOs, and certain HIOs) to furnish, either directly or through arrangements, specific arrays of services on a risk basis. Federal implementing regulations for these contract requirements and conditions for payment are located at 42 CFR part 434.

States determine the per capita monthly rates that are to be paid to risk-based organizations. FFP is available for these payments at the matching rate applicable in the State as long as HCFA determines that the contracts comply with detailed requirements in section 1903(m)(2)(A) and 42 CFR part 434.

II. Legislative and Regulatory History

Section 9313(c) of the Omnibus Budget Reconciliation Act of 1986 (OBRA '86), Public Law 99–509, prohibited, effective April 1, 1989, hospitals and prepaid health care organizations with Medicare or Medicaid risk contracts from knowingly making incentive payments to a physician as an inducement to reduce or limit services to Medicare beneficiaries or Medicaid recipients. Under the OBRA '86 provisions, parties who knowingly made or accepted these payments would have been subject to specified civil money penalties. Additionally, the provisions required that the Secretary report on incentive arrangements in HMOs and CMPs. Section 4016 of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87), Public Law 100–203, extended the original implementation date for the OBRA '86 physician incentive provisions to April 1, 1991. Subsequently, sections 4204(a) and 4731 of the Omnibus Budget Reconciliation Act of 1990 (OBRA '90), Public Law 101–508, repealed, effective November 5, 1990, the prohibition of physician incentive plans in prepaid health care organizations and enacted requirements, effective January 1, 1992, for regulating these plans.

Specifically, section 4204(a)(1) of OBRA '90 added paragraph (8) to section 1876(i) of the Act to specify that each Medicare contract with a prepaid health care organization must stipulate that the organization must meet the following requirements if it operates a physician incentive plan:

- That it not operate a physician incentive plan that directly or indirectly makes specific payments to a physician or physician group as an inducement to limit or reduce medically necessary services to a specific individual enrolled with the organization.
- That it disclose to us its physician incentive plan arrangements in detail that is sufficient to allow us to determine whether the arrangements comply with Departmental regulations.
- That, if a physician incentive plan places a physician or physician group at "substantial financial risk" (as defined by the Secretary) for services not provided directly, the prepaid health care organization: (1) Provide the physician or physician group with adequate and appropriate stop-loss protections (under standards determined by the Secretary) and (2) conduct surveys of currently and previously enrolled members to assess the degree of access to services and the satisfaction with the quality of services.

Section 4204(a)(2) of OBRA '90 amended section 1876(i)(6)(A)(vi) of the Act to add violations of the above requirements to the list of violations that could subject a prepaid health care organization to intermediate sanctions and civil money penalties.

Section 4731 of OBRA '90 enacted similar provisions for the Medicaid program by amending sections 1903(m)(2)(A) and 1903(m)(5)(A) of the Act.

Section 13562 of OBRA '93 amended section 1877 of the Act, which prohibits physicians from referring Medicare patients to an entity for the furnishing of certain designated health services if the physician (or an immediate family member) has a financial relationship with that entity. A financial relationship can consist of either an ownership or investment interest in the entity or a compensation arrangement with the entity. OBRA '93 provides an exception to the section 1877 physician referral prohibition that incorporates the physician incentive plan rules implemented in this final rule. Under this exception, compliance with these physician incentive rules is one of several conditions that must be satisfied if a physician's or family member's personal services compensation arrangement with an entity involves compensation that varies based on the volume or value of referrals. OBRA '93 also extended the provisions in section 1877 to Medicaid.

In the December 14, 1992 issue of **Federal Register**, we published, in conjunction with the Office of Inspector General, our proposal for implementing the requirements in sections 4204(a) and 4731 of OBRA '90 (57 FR 59024). On March 27, 1996, again in conjunction with the Office of Inspector General, we published, at 61 FR 13430, a final rule with comment period that set forth in regulations incentive plan requirements that govern Federally-qualified HMOs and CMPs contracting with the Medicare program and certain HMOs and HIOs contracting with the Medicaid program. On September 3, 1996, we published, at 61 FR 46384, a final rule correction that clarified and changed some of the dates by which prepaid health plans had to comply with the requirements of the March 27 rule. Readers who desire additional background information are referred to the above cited **Federal Register** documents.

III. Provisions of the March 27, 1996 Rule

This section contains a brief summary of the provisions of the March 27, 1966 rule. If we received public comments on a particular provision, a fuller description of the provision is given in section IV of this preamble (Analysis of and Responses to Public Comments), and we indicate that in this section. Note that we do not describe below those provisions of the March 27, 1996 rule that amended 42 CFR Part 1003 (Civil Money Penalties, Assessments

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and Exclusions) since they are not the subject of this revised final rule.

The requirements for physician incentive plans are set forth in § 417.479. Paragraph (a) of that section specifies that the contract between HCFA and an HMO or CMP must specify that the HMO or CMP may operate a physician incentive plan only if: (1) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services furnished to an individual enrollee, and (2) the stop-loss protection, enrollee survey, and disclosure requirements of § 417.479 are met.

Section 417.479(b) provides that the physician incentive plan requirements apply to physician incentive plans between HMOs/CMPs and individual physicians or physician groups with whom the HMOs or CMPs contract to provide medical services to enrollees. It further provides that the requirements apply only to physician incentive plans that base compensation (in whole or in part) on the use or cost of services furnished to Medicare beneficiaries or Medicaid recipients.

Section 417.479(c) defines the following terms for purposes of § 417.479: Bonus, capitation, payment, physician group, physician incentive plan, referral services, risk threshold, and withhold.

Section 417.479(d) prohibits payment of any kind made directly or indirectly under the incentive plan as an inducement to reduce or limit medically necessary services covered under the HMO's or CMP's contract that are furnished to an individual enrollee.

Section 417.479(e) sets forth a general rule for determining when substantial financial risk occurs. (See section IV.)

Section 417.479(g) mandates that, if an HMO or CMP operates an incentive plan that places physicians or physician groups at substantial financial risk, it must conduct enrollee surveys that meet specified requirements and ensure that all physicians and physician groups at substantial financial risk have either aggregate or per-patient stop-loss protection that meets specified requirements. (See section IV.)

Section 417.479(h) requires that organizations with physician incentive plans disclose information about those plans to us and to any Medicare beneficiary who requests it. (See section IV.)

Section 417.479(i) sets forth requirements related to subcontracting arrangements. (See section IV.)

Section 417.479(j) specifies that we may apply intermediate sanctions, or the Office of Inspector General may apply civil money penalties, if we determine that an HMO or CMP fails to comply with the physician incentive plan requirements. In addition, failure to comply with the physician incentive plan requirements was added to the list of bases for imposition of sanctions at § 417.500.

The March 27, 1996 final rule also amended the Medicaid rules at § 434.70 (Conditions for Federal financial participation (FFP)) to specify that FFP is available in expenditures for payments to an HMO or HIO only if it complies with the physician incentive plan requirements. The final rule also incorporated these requirements into §§ 434.44 (Special rules for certain HIOs) and 434.67 (Sanctions against HMOs with risk comprehensive contracts).

IV. Analysis of and Responses to Public Comments

We received 38 timely items of correspondence on the March 27, 1996 final rule with comment period. Commenters included prepaid plans, national and local associations of managed care providers, physician associations, a State medical association, and consumer advocacy groups. This section of the preamble contains a summary of the comments and our responses. Note that a national association that indicated that it represents approximately 1,000 health plans and identified below as "a major association" submitted comments. Although some of the comments below are attributed only to the major association, individual health plans also made some of these same comments.

Applicability

Comment: A commenter asked whether the regulations apply to enrollees who are enrolled through the prepaid plan's commercial line of business if the enrollees are also Medicare beneficiaries. For example, if an individual who is over 65 but is actively working is covered by the prepaid plan's commercial product through his or her employer, would the physician incentive arrangement between the prepaid plan and the physician(s) treating that individual under the commercial product be subject to the regulations?

Response: Yes, the regulations apply to these plans. The employer's plan is the first payer, and the Medicare capitation payment is adjusted downward, but the enrollee is still a Medicare beneficiary.

Comment: One commenter stated that the regulation defines "physician group" as a corporation or other group that "*distributes income* from the practice among *members*." [Emphasis added by commenter.] The commenter stated that community health centers (CHCs) are clearly not included within this definition. As a result, the commenter is unable to ascertain whether plans contracting with CHCs will be required to provide to CHCs the stop-loss protection described in the regulation. The commenter recommends that the definition of "physician group" be changed as regards distribution of income and membership so as to include CHCs. The commenter pointed out the following: CHCs are by definition public or private nonprofit entities. As tax-exempt entities, they cannot "distribute" income like a for-profit entity does. CHC physicians are not "members" of the corporation. Usually they are employees or, in some instances, contractors.

Response: We disagree that the definition needs to be revised. We believe the commenter has misinterpreted the definition as describing profit sharing among the members of a for-profit entity. The term "income" does not equate to "profits." The definition does include CHCs.

Disclosure

We received several comments concerning the disclosure requirements in the March 27 rule. Specifically, § 417.479(h)(1) requires each HMO or CMP with a physician incentive plan to provide us with information concerning its physician incentive plans as required or requested by us. The disclosure must contain the following information in detail sufficient to enable us to determine whether the incentive plan complies with the requirements of § 417.479:

- Whether services not furnished by the physician or physician group are covered by the incentive plan. If only the services furnished by the physician or physician group are covered by the plan, disclosure of other aspects of the plan need not be made.
- The type of incentive arrangement.
- If the incentive plan involves a withhold or bonus, the percent of the withhold or bonus.
- The amount and type of stop-loss protection.
- The panel size, and if patients are pooled, the pooling method used.
- In the case of a capitated physician or physician group, capitation paid to primary care physicians for the most recent year broken down by percent for primary care services, referral services to specialists, and hospital and other types of provider services.

• In the case of an HMO or CMP that is required to conduct beneficiary surveys, the survey results.

Section 417.479(h)(2) requires an HMO or CMP to provide the above information to us (1) upon application for a contract; (2) upon application for a service area expansion; and (3) within 30 days of a request by us. This section also requires an HMO or CMP to notify us at least 45 days before implementing a change in the type of incentive plan, a change in the amounts of risk or stop-loss protection, or expansion of the risk formula to cover services not furnished by the physician group that the formula had not included previously.

Section 417.479(h)(3) of the March 27 rule requires an HMO or CMP to provide the following information to any Medicare beneficiary who requests it:

• Whether it uses a physician incentive plan that affects the use of referral services.

• The type of incentive arrangement.

• Whether stop-loss protection is provided.

• If it was required to conduct a beneficiary survey, a summary of the survey results.

Section 417.479(i) requires a prepaid plan that contracts with a physician group that places the individual physician members at substantial financial risk for services they do not furnish to disclose to us any incentive plan between the physician group and its individual physicians that bases compensation to the physician on the use or cost of services furnished to Medicare beneficiaries or Medicaid recipients. The disclosure must include the information specified in § 417.479 (h)(1)(i) through (h)(1)(vii) and be made at the times specified in § 417.479(h)(2).

Section 434.70(a) provides that Federal financial participation is available in expenditures for payment to HMOs or HIOs only for periods that the HMO or HIO has (1) supplied the information listed in § 417.479(h)(1) to the State Medicaid agency; and (2) supplied the information on physician incentive plans listed in § 417.479(h)(3) to any Medicaid recipient who requests it. The timeframes for disclosure to the State Medicaid agency are the same as those for Medicare.

Comment: One commenter suggested that health plans be permitted to deem themselves to have transferred substantial financial risk without having to describe to us the specific incentive arrangements and analyses of each arrangement. The commenter also questioned our authority for requiring disclosure of incentive arrangements and believed that disclosure presents an enormous administrative burden. The commenter asked: If an HMO agrees to provide stop-loss and to conduct surveys, must it still disclose the information to HCFA as required by the regulation?

Response: Yes, under the statute and the regulation, health plans must disclose this information. This information serves many purposes. For example, it will be used to monitor compliance, evaluate the impact of the regulation, and ensure the delivery of high quality health care. In addition, this information will be useful to beneficiaries in ensuring that they get needed care. Section 1876(i)(8) of the Act requires the HMO or CMP provide the Secretary with descriptive information regarding the plan that is sufficient to permit the Secretary to determine whether the plan is in compliance with the physician incentive plan requirements. Congress clearly intended health plans to disclose information about the nature of physician incentive compensation arrangements and the extent to which physicians are being placed at substantial risk by the arrangements.

In preparing both the March 27 regulation and these amendments and clarifications, we have tried to limit the information being reported to only that which is essential for us to carry out this explicit statutory responsibility to ensure that plans are in compliance. We are not requiring extensive detail about the compensation arrangements being used, but rather are seeking information about the general nature and scope of these arrangements.

Comment: One commenter believed that the information to be disclosed to us under the regulation is proprietary and should be protected under the Freedom of Information Act (FOIA). The commenter stated that we should adopt the same policy we use for disclosure of a risk contractor's adjusted community rating (ACR). The commenter believed that the physician incentive information merits comparable treatment.

Response: To the degree that physician incentive information constitutes "trade secrets or commercial or financial information obtained from a person [that is] privileged or confidential," the information will be protected from release under exemption (b)(4) of the FOIA (5 U.S.C. 552(b)(4).) In accordance with 45 CFR 5.65 (c) and (d), the submitter of such information may designate all or part of the information as confidential and exempt from disclosure at the time the information is submitted to the government. Also, the Freedom of Information and Privacy Office, HCFA, upon receipt of a FOIA request for the information, will ask that the involved submitter specify what it believes to be confidential commercial or financial information. In both situations, we will follow procedures set forth at 45 CFR 5.65(d), with the initial disclosure decisions independently made by our Freedom of Information Officer. The information specified as available to a beneficiary upon request will be available under FOIA. For instance, whether or not the incentive plan covers referral services, the type of incentive arrangement (for example, withhold or capitation), and whether adequate stop-loss protection is in place would be available under FOIA.

Comment: One commenter did not believe that disclosure requirements would pose an undue burden on plans, because "plans routinely provide information to patients at the time of enrollment." The commenter stresses the time that notice is provided as well as the substance of what is provided. The commenter believed that all financial information should be provided at enrollment (and annually thereafter), but also notes that plans should report information regarding the scope of benefits and procedures for review of grievances. The commenter stated that one of its internal publications includes a statement on incentive plans, asserting that these plans "should be disclosed to the patient upon enrollment and at least annually thereafter." The commenter elaborated on that assertion by stating, "[we] strongly support disclosure to patients of physician incentive plans affecting Medicare and Medicaid patients" and "strongly support disclosure by all managed care plans to patients of information regarding the scope of benefits and procedures for review of grievances."

The commenter also stated the disclosures are necessary to serve as notice to patients that incentives exist. The commenter went on to state that it believes the information is necessary in place of outcomes measures until such measures are widely accepted and available.

In contrast, a major association of health plans asked that we give plans broad discretion to decide how this information will be presented.

Another commenter contended that section 1876(i)(8) of the Act does not give us the authority to require that a prepaid plan release information about its incentive plans to Medicare beneficiaries and Medicaid recipients, and that there is no such grant of authority in parallel medical provisions. The commenter added that, even if it

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were to assume that a general authority conferred upon us allows us to impose this obligation, the regulation goes far beyond what the commenter believes to be reasonable. The commenter noted that, under the regulation, every beneficiary or recipient in the country, regardless of location and regardless of the relationship to the prepaid plan, may obtain information about the incentive plan. The commenter recommended that only enrollees of the prepaid plan or beneficiaries or recipients who file an application to join the plan should be entitled to obtain the information. The commenter also recommended that the information be limited to the following: (1) Whether the physician has an arrangement with the prepaid plan that has the potential to compensate him or her for controlling the services he or she provides; (2) that the amount of risk is limited because of stop-loss protection; and (3) the results of any enrollee survey will be provided, upon request, including information about quality of care.

Response: Some of the information may be confidential and will be protected by FOIA. Nonetheless, we intend to require plans to publish in the evidence of coverage (EOC) notices that beneficiaries can request summary information on the HMO's physician incentive plans. These EOC notices are available at enrollment. We will provide further guidance on this in the future.

On the question of our legal authority to require disclosure to beneficiaries, we believe that in requiring disclosure of information on physician incentive plans, Congress intended that this information be used in the best interests of the beneficiary. While the statute refers only to disclosure of this information to the Secretary, this information is clearly of interest to beneficiaries as well. Requiring plan disclosure directly is simply more efficient than having the Secretary provide this information to beneficiaries, which the Secretary clearly has legal authority to do.

We do not agree that this information should be made available only to an enrollee or applicant for enrollment in a managed care plan. This information is potentially very important and useful to a beneficiary in deciding whether to select managed care rather than fee-for-service care and which of the available managed care plans to select.

Comment: A major association of health plans stated that we should make available to the public all the information on incentive plans that we and the States receive. The commenter did not explain why the information should be made public, but just noted that there is "no valid reason to keep this information from the public" and that publication would allow health policy researchers to better understand the relationship between specific risk arrangements and access and quality of care provided to enrollees.

Response: We plan to publish aggregate information on physician incentive plans obtained under the regulation; therefore, the information will be public. Publication of additional information, beyond that specified in the regulation, however, would be a substantial administrative task and would not advance the purposes of the law.

Comment: One commenter stated that requiring the HMO or CMP to collect information about incentive plans operated by physician groups or subcontractors is not the most efficient or effective means of collecting the necessary information. The commenter suggested that we collect the information directly from the physician groups and subcontractors. This commenter believed we should allow a physician group to attest that it has no physician incentive plan or no physician incentive plan related to use of referral services for Medicare or Medicaid enrollees and that HMOs should be allowed to rely upon that attestation.

Response: The HMO/CMP is responsible for ensuring that the requirements of this regulation are met if a physician group or individual physicians are placed at substantial financial risk by a subcontractor or physician group. Requiring that the HMO or CMP collect the information ensures that it is aware of all arrangements subject to the regulations. In addition, since lines of communication between the physician group or subcontractor and the prepaid plan are already in place, the HMO or CMP is the most efficient conduit for the disclosure of information. We will allow physician groups to make attestations and will provide further guidance on this item. We will also develop a disclosure form that will describe the minimum amount of information that the prepaid plan must obtain from physician groups.

Substantial Financial Risk

We received significant comments on our definition of "substantial financial risk." Section 417.479(e) provides that substantial financial risk occurs when an incentive arrangement places a physician or physician group at risk for amounts beyond the risk threshold (25 percent), if the risk is based on the use or costs of referral services. Amounts at risk based solely on factors other than a physician's or physician group's referral levels do not contribute to the determination of substantial financial risk.

Section 417.479(f) provides that physician incentive plans with any of the following features place physicians at substantial financial risk if the risk is based (in whole or in part) on use or costs of referral services, and the patient panel size is not greater than 25,000 patients, or is greater than 25,000 patients.only as a result of pooling patients:

- Withholds greater than 25 percent of potential payments.
- Withholds less than 25 percent of potential payments if the physician or physician group is potentially liable for amounts exceeding 25 percent of potential payments.
- Bonuses greater than 33 percent of potential payments minus the bonus.
- Withholds plus bonuses if the withholds plus bonuses equal more than 25 percent of potential payments. The threshold bonus percentage for a particular withhold percentage may be calculated using the formula: Withhold % = −0.75(Bonus %)+25%.
- Capitation arrangements if—
  + The difference between the maximum possible payments and minimum possible payments is more than 25 percent of the maximum possible payments; or
  + The maximum and minimum possible payments are not clearly explained in the physician's or physician group's contract.
- Any other incentive arrangements that have the potential to hold a physician or physician group liable for more than 25 percent of potential payments.

Section 417.479(f) defines "potential payments" as the maximum anticipated total payments (based on the most recent year's utilization and experience and any current or anticipated factors that may affect payment amounts) that could be received if use or costs of referral services were low enough.

Comment: A major association contended that the methodology for determining substantial financial risk is flawed because a substantial number of affected prepaid plans will be viewed as transferring substantial financial risk and be subject to the stop-loss and enrollee survey requirements. The association pointed out that we stated in the proposed rule that the original choice of a 25 percent threshold for substantial financial risk was based on the assumption that only "outlier" risk levels would be considered "substantial." The association contends

that our methodology in fact covers "mainstream" arrangements, and thus implicitly suggests that they are outliers. The association believes that the proportion of outliers in a given population should be quite small (typically in the range of 5 percent) and that a methodology that purports to only identify outliers is invalid to the extent it includes a proportion of the population beyond that represented by the extreme. The association has concluded, based on extensive communications with its membership and its work group, that application of the methodology in the March 27 rule will result in the inclusion of substantial numbers of what it contends to be "mainstream" incentive arrangements as involving substantial financial risk. The association stated that, based upon information from its member organizations, a large number of plans combine capitation or withholds with bonuses, and the result is that the risk level exceeds 25 percent.

The association reminded us that, in the preamble of the proposed rule, we stated that we anticipate most prepaid plans will not incur significant additional costs because most of them already meet the requirements that are specified in this regulation, but that if new information regarding the influence of various elements of physician incentive plans becomes available, we will evaluate it to determine if the approach in our proposed regulations should be reconsidered. The association contended that a reevaluation of this structure is clearly necessary at this time and that the regulations need to be modified to address five areas: (1) The association believes that the risk threshold should be refined to allow for the transfer of a larger portion of risk for referral services; (2) the association believes that the regulation needs a mechanism to estimate the amount of risk transferred if a precise calculation cannot be made; (3) the association recommends that maximum and minimum thresholds be calculated based on standards that are more "realistic" in its view; (4) the association would like more latitude in the pooling rules to allow large physician groups that spread risk across large total numbers of health plan patients to be exempt from the requirements; and (5) the association suggests that a good cause exemption be available to allow for the approval of physician incentive plans that, for policy reasons, should not be considered as transferring substantial financial risk, although the circumstances were not envisioned when the regulations were drafted.

To achieve the above objectives, the association presented a number of recommendations. These recommendations and our response to each of them follow, but first we respond to the above comment that many plans would be identified as outliers.

Response: At the time we were developing these regulations in proposed form, it was our understanding that most physician incentive plans created financial incentives to reduce unnecessary referrals through the use of bonuses or withholds or some combination of the two. On the assumption that a specific amount of payment was "at risk" (whether an amount withheld when referrals are high or a bonus paid if they are low), we had to come up with a threshold beyond which risk would be considered "substantial." As the commenting association correctly notes, we used an outlier approach to determine what level of risk would be considered "substantial" under this methodology. This resulted in a figure of 25 percent of potential payments. It is our view that 25 percent represents a significant amount of income to lose. This may be in addition to discounts that physicians may give to various patients or prepaid plans. Many consumer and physician groups, in fact, believe that 25 percent is too high. We now recognize that an increasing number of plans use capitation arrangements under which referral service costs must be covered with capitation amounts, and that these plans will be determined to be at substantial financial risk if the maximum and minimum potential payments are not clearly explained in the physician's or physician group's contract. Raising the risk threshold to a higher level will not affect these plans since they would still be deemed to involve substantial financial risk and trigger stop-loss insurance requirements. However, in most of these cases, the physicians already have stop-loss protection comparable to the requirements of this regulation. With regard to suggestions to lower the threshold, here, again, changing the threshold would not affect these plans. We thus believe that the 25 percent threshold should remain in place.

Recommendation: The association recommended that an exception to the 25 percent risk threshold be created for certain bonus arrangements. This exception would permit prepaid plans to supplement their incentive programs by offering an opportunity for a bonus, in addition to capitation payments or withholds, or an opportunity for an additional bonus where a bonus is already in place. The supplemental bonus could not exceed 15 percent of the "payments."

Response: Under the March 27, 1996 rule, any combination of incentive arrangements that exceeds the 25 percent threshold, whether labeled a bonus or withhold, puts the physician or physician group at substantial financial risk. We adopted this policy towards bonuses because (1) if the same amount of money is at risk based on referral levels, it should not matter whether this money is labeled a withhold or a bonus, and (2) we did not want plans to avoid these rules merely by "re-labeling" withholds or other arrangements as bonuses. The incentive arrangement described in this comment would exceed the 25 percent threshold for substantial financial risk as we interpret this term and, accordingly, should not be permitted in our view.

Recommendation: The association recommended that a prepaid plan that capitates physicians or physician groups be permitted to estimate the portion of the capitation allocated to referral services for purposes of determining whether there is substantial financial risk. This is because it is the association's belief that many large prepaid plans do not have, and cannot obtain, this information. The association believes that the regulatory requirement that contracts specify the allocation between services provided by the physician or physician group and the amount allocated for referral services (provided outside the physician group or the physician's practice) has two objectives: (1) To provide a basis for the calculation of risk transference to determine whether substantial financial risk is transferred; and (2) to apprise the physician or physician group of the portion of its capitation "at risk." The association contends that we could achieve the first of these two objectives by allowing the prepaid plan to estimate the expected portion of referrals through the use of historical data or actuarial tables. The prepaid plan could be required to certify that its decision was made in good faith based on the best available data. In accepting this proposal, the association contends that we would be meeting our responsibilities under E.O. 12866 to find an alternative regulatory approach that imposes the least burden on society while still achieving its objective.

The association questioned whether the second objective it has presumed, to apprise the physician or physician group of the portion of its capitation "at

risk," is meaningful today since physicians are far more aware of the implications of risk assumption than they once were.

As an alternative approach, the association suggested that the physician/physician group put in the contract the estimated portion of services that would not be provided by the physician or physician group. The association stated that, although this amount may change over time, it would not support revisions to the contract to reflect changes made within the discretion of the individual physician or physician group. The association notes that this alternative approach would not be the most desirable because it would require the burdensome step of recontracting with large numbers of physicians.

Response: As indicated in the March 27, 1996 rule, prepaid plans have the option of specifying in the contract maximum and minimum payment amounts. As long as the difference between these amounts does not exceed 25 percent of the maximum amount, the physician or physician group is not at substantial financial risk. Without specifying these limits, physicians who are capitated for all services are potentially at risk of losing 100 percent of their income. Given this potential loss, they may feel the pressure to reduce necessary services.

Prepaid plans have the opportunity to include a provision in their contract with a physician group that would require the physician group to specify the level of potential risk for referral services. Relying on historical or actuarial data may not be reflective of risk in current contracts. While it may be true that physicians today are more aware of the implications of risk assumption, there is no evidence that the ability to manage this risk has substantially changed. Further, while physician groups may want the flexibility to change risk sharing arrangements on an ad hoc basis, we have to question the impact of these changes on patient care decisions.

Recommendation: The association recommends that the regulation be amended to allow for the pooling of the total prepaid enrollment from the prepaid plan and across prepaid plans for purposes of determining substantial financial risk. The regulation exempts from the requirements of the regulations physicians or physician groups who provide services to 25,000 Medicare or Medicaid enrollees of the prepaid plan. The association maintains that this approach, which does not allow for the pooling of patients, is unnecessarily and inappropriately rigid and conservative. The association stated that it believed the 25,000 patient exemption is permitted because physician groups with a patient base this large can assume the risk for referral services greater than the risk threshold without the need for stop-loss coverage. As the number of enrollees under the responsibility of the physician group increases, so does the ability of the physician group to assume that risk. The association believed that this risk is reduced regardless of whether the patients are Medicare, Medicaid, or commercial. Similarly, this risk is reduced regardless of whether the patients are the enrollees of a single prepaid plan or the enrollees of several prepaid plans. Thus, for purposes of qualifying for the substantial financial risk exemption, a prepaid plan should be allowed to consider the total number of prepaid enrollees served by a physician group. These pooled enrollees should, in the association's view, include all enrollees of that prepaid plan and enrollees of other prepaid plans that have selected the physician or physician group, provided that the physician or physician group is at risk for the provision of services to those enrollees.

Response: In the preamble, we provided evidence from analyses by Rossiter and Adamache (1990) (Health Care Financing Review, vol. 12, prepaid plan. 19–30) that supported the decision that physician groups with more than 25,000 patients are able to adequately spread risk and are so unlikely to lose money that we could determine them to not be at substantial financial risk.

We have decided to allow pooling of Medicare, Medicaid, and commercial members for purposes of determining substantial financial risk because this kind of pooling is consistent with the rationale for permitting pooling (that is, the spreading of risk). The physician group may also pool patients across more than one managed care plan with which it has a contract. Note, however, that, as revised by this final rule, § 417.479(h)(1)(v) allows for pooling of patients for purposes of determining substantial financial risk and meeting various stop-loss requirements. This section then specifies that pooling is permitted only if: (1) Pooling is otherwise consistent with the relevant contracts governing the compensation arrangements for the physician or physician group; (2) the physician or physician group is at risk for referral services with respect to each of the categories of patients being pooled; (3) the terms of the compensation arrangements permit the physician or physician group to spread the risk across the categories of patients being pooled; (4) the distribution of payments to physicians from the risk pool is not calculated separately by patient category; and (5) the terms of the risk borne by the physician or physician group are comparable for all categories of patients being pooled.

In general, the purpose of these conditions is to ensure that all patients included in the risk pool are being treated under comparable payment arrangements; that is, the risk or reward to the physician or physician group would be the same for referring services for any individual patient in the pool. The patient categories refer to Medicare, Medicaid, and commercial members. The type of incentive arrangements, such as withholds and capitation would usually be the same throughout the pool to be considered comparable. Pools over the 25 percent risk threshold can be combined with those arrangements below the 25 percent risk threshold. The pool represents the total dollars on which the payout is made to the doctor or the stop-loss threshold is assessed.

This final rule, however, eliminates the arrangement that allows the HMO, CMP, or HIO to pool across physician groups to reduce the stop-loss requirements. We believe physician behavior is influenced by the number of patients using the physician group, rather than total enrollment in the HMO, CMP, or HIO. A physician group that has a small number of patients does not spread its risk throughout the prepaid plan, but only within its group. Allowing pooling across groups does not provide patients enough protection.

Recommendation: The association recommended that the regulations apply a "reasonableness test" in calculating compensation under a physician incentive plan. The association noted that plans often use formulas to calculate the amount of the withhold to be returned or the bonus to be distributed. These formulas allow for distributions of a certain percentage of savings to the physician or physician group when utilization or costs are less than projected. These arrangements often do not cap the upside potential gain from a bonus although natural limits may exist because there is no expectation that the scenario in which no services are provided will occur. The physicians and physician groups understand these de facto limits, and it would be unnecessarily burdensome to require prepaid plans to amend thousands of contracts to insert bonus limits in their contracts. The regulations should be amended to confirm that prepaid plans may use an amount for purposes of determining the maximum

payment that is realistic rather than the theoretical highest payment level. The same standard should be applied in calculating minimum levels.

Response: We believe that past behavior is no guarantee of future behavior. Physicians could still feel the pressure if they are placed at substantial financial risk, regardless of past payments. Therefore, the incentive plan contracts must contain these limits explicitly.

Recommendation: The association recommends that the regulation should allow for a "good cause" exemption from the requirements of the regulation in the event that substantial financial risk is transferred. The association argued that in an ever-changing health care delivery system, the regulation should provide for flexibility to adapt to unanticipated circumstances. The association notes that our regulations frequently allow for good cause exemptions from requirements, and it contends that circumstances may arise in the future that merit an exemption from the regulatory requirements. According to the association, inclusion of a good cause exemption would give us the flexibility to approve appropriate physician incentive plans without the need to amend our regulations. An example of one instance in which a good cause exemption may be appropriate is if the prepaid plan can demonstrate that the physician group is assured of receiving compensation on an encounter basis comparable to or at a certain percentage of the resource-based relative value scale fee schedule amount.

The association stated that it is currently exploring functional ways in which a good cause exemption could be designed and appropriately implemented.

Response: We have no legal authority to permit plans to fail to comply with the rules in section 1876(i)(8) for "good cause." Moreover, even if we did, we do not know of any systematic basis for providing a good cause exemption to this regulation. The example cited by the commenter can be written into the contract to ensure that the physician receives a certain percentage of the fee schedule amount. However, the issue is not guaranteeing a minimum level of income. Rather it is setting parameters so that decisions are not made because of a concern with unforseen circumstances, such as adverse selection, bad incentive plan design, etc. Our goal is to protect beneficiaries in these circumstances.

Comment: A group that advocates on behalf of individuals with disabilities recommended that we consider alternative methods to determine the appropriate levels of stop-loss insurance for those involved in the care of persons or communities who are at high risk for unexpected, adverse medical events (For example, urban providers with a high patient load of pregnant women with histories of substance abuse). The group stated that these providers may have difficulties determining an accurate estimate of expected expenditures based on a previous year's per-patient costs. The group suggested that other methods to determine substantial financial risk may include:

(1) The use of several years of longitudinal data to determine a realistic substantial risk level (in order to adjust for the periodicity of certain illnesses); or

(2) The use of retrospective analyses to determine the incidence of unexpected events within the provider's pool, with adjustments made to correct for current levels of expected "substantial risk" related to the likelihood of these previous events.

This group further recommended that we examine alternative methods of determining substantial risk for providers who are likely to care for "medically needy" eligibles. The association gave the following example, a preferred provider organization (PPO) medical specialist provider may care for a substantial number of persons with life-threatening illness, such as cancer, Alzheimer's or AIDS. If patients switch from private to public health insurance while under the care of the medical provider (due to "spending down" into poverty), the provider's determination of "substantial risk" may be underestimated. In this case, the PPO medical specialist may be subject to various levels of financial incentives (through both private and public funded health plans) without having to demonstrate adequate quality of care or financial liability provisions.

Response: The goal of the substantial financial risk analysis is to determine whether stop-loss protection is needed. The stop-loss protection is designed to provide protection if the physician group experiences patients with a greater than average risk. Thus, there is no need to set a different substantial financial risk threshold for high risk cases. The stop-loss protection addresses this concern.

Comment: A commenter recommended that we consider lowering the threshold at which plans are required to provide stop-loss coverage for CHCs. The commenter suggested that we consider whether it is appropriate to compare risks to CHCs with risks to other kinds of primary care providers. The commenter pointed out that CHCs provide services almost exclusively to Medicaid/Medicare beneficiaries and impoverished uninsured patients. Thus, CHCs essentially have no capacity to generate revenues to offset losses sustained on referrals under a capitated rate. In addition, the commenter suggested that the schedule reducing the amount of protection required should be modified so that it decreases more slowly as a CHC's patient panel increases. The commenter said such a change is justified because CHCs may incur even greater risk as their capitated patient enrollment increases because the CHC's patients are likely to be in poorer health than the average patient.

Response: We are giving additional consideration to the impact of the current risk threshold on physician incentive plans with CHCs. During the implementation of this regulation, we will collect data on the impact of the 25 percent threshold on CHCs, and consider whether some form of relief may be appropriate. We are concerned, however, that lowering the threshold as the commenter suggests would require a substantial number of these centers to provide stop-loss protection to their physicians that they may not be able to afford.

Comment: A commenter asked whether ancillary services are considered referral services.

Response: For purposes of § 411.479, if the physician group performs the ancillary services then the services are not referral services. If the physician group refers patients to other providers of services for the ancillary services, then the services are referral services.

Comment: A commenter pointed out that a response in the March 27 final rule at 61 FR 13438, column 2, states that, if the HMO uses a combination of withhold and/or bonus arrangements, these arrangements will be aggregated for purposes of determining whether the physician is placed at substantial financial risk. The commenter adds that, in column 3 of that page, however, the response states that we are not requiring disclosure of every incentive arrangement between a physician group and its physicians, only those under which the physician is placed at substantial financial risk. A prepaid plan wanted to know how it could be expected to know that in the aggregate the arrangements created substantial financial risk if the physician group is not required to disclose the individual arrangements.

Response: The above comment reflects a misconception. The quote from the third column addresses what

information must be disclosed by the prepaid plan to us, not what information the physician group must disclose to the prepaid plan. It is incumbent upon the prepaid plan to obtain from the physician group all the information that it needs to determine whether individual physicians are placed at substantial financial risk. This can be a subject addressed as part of the contract negotiations between the prepaid plan and the physician group.

Comment: A commenter stated that the methodology used to determine substantial financial risk has consequences that they believe we never intended. For example, certain bonus arrangements could be construed as transferring substantial financial risk. The commenter described a program under which bonuses that are added to a base capitation are aimed at rewarding the primary care physician (PCP) for high quality care, full service capacity, long office hours, accepting all new patients, and cost-effectiveness. The commenter offered the following illustration: a PCP might get $10.50 per member/per month (PMPM) as capitation, $1.50 PMPM for scoring well on member surveys and office record reviews, $1.00 PMPM for being open to new patients, and $1.50 PMPM for having average utilization. The total compensation would then be $14.50 PMPM. The commenter stated it does not believe that these quality performance and service bonuses are the "substantial financial risk" with which we are concerned. The commenter stated that there is no downside risk here, but there is the ability to add to income for good performance. If the intent is to include these bonus arrangements, the commenter wanted to know whether the relevant amount was the maximum attainable bonus or the average bonus paid to all PCPs in the network. The commenter also pointed out that, in applying our methodology to calculate substantial financial risk, a physician who is paid a higher quality office component than a second physician (both with the same utilization), would be found to have assumed a greater financial risk than the second, even though the first physician's revenues were greater.

Response: While we are supportive of a quality bonus payment, there is very limited experience with its use, and whether a physician will actually receive it is speculative. We will revisit the issue when more information is available on the nature, extent, and experience with quality bonuses.

Subcontracting

A number of commenters, including a major association, made the same comment on the provisions of section 417.479(i), which requires that the disclosure, stop-loss protection, and survey requirements of § 417.479 be satisfied when an HMO or CMP contracts with a physician group that places the individual physician members at substantial financial risk for services they do not furnish. The major association's comment, which was the most comprehensive, is presented below.

Comment: One major association challenged our legal authority to reach arrangements between a contracting physician group and its individual physicians (or between an "intermediate entity" and physicians or a physician group). The association pointed out that section 1876(i)(8)(B) of the Act defines a physician incentive plan as—

> any compensation arrangement *between* an eligible organization and physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization. [Emphasis added by the association.]

The association argued that, regardless of the policy considerations that favor extending the reach of these rules to subcontracts (for example, the possibility that failure to do so could create a "loophole" that could be abused), doing so was inconsistent with the "plain meaning" of this statute. The association accordingly contended that our interpretation was legally impermissible, regardless of the policy considerations in its favor.

The association also argued that expanding the scope of the regulation to cover other incentive plans without a new opportunity for notice and comment violated the Administrative Procedure Act (APA). The association pointed out that the APA requires that there be a general notice of proposed rulemaking published in the **Federal Register** that includes, among other things, the terms or substance of a proposed rule or a description of the subjects and issues involved. The association included the following quotation from a decision by the Court of Appeals for the District of Columbia Circuit discussing a standard that the court applied for determining whether the APA requirement has been met:

> Statutory duty to submit proposed rule for comment does not include obligation to provide new opportunities for comments whenever final rule differs from proposed rule; rather, an agency adopting final rules that differ from proposed rules is required to renotice when changes are so major that original notice did not adequately frame subjects for discussion. (*Air Transport Association of America* v. *C.A.B.*, 732 F.2d 219 (D.C. Cir. 1984))

The association argued that revising the proposed rule to extend its provisions to subcontractor arrangements was a sufficiently "major" change that a new notice and opportunity for comment was required under the above standard.

Finally, the association contended that support for its position could be found in language from earlier legislation directing HHS to study incentive arrangements. This language referred to "incentive arrangements offered by health maintenance organizations and competitive medical plans to physicians."

Response: We believe that in referring both to individual "physician[s]" and to "physician group[s]," Congress intended to cover all incentive arrangements that could provide incentives for a physician treating an HMO enrollee to reduce or limit services; both those affecting only an individual physician and those affecting a group of physicians as a whole. A letter from the original author of this legislation confirms that this was his intent in drafting this language.

As noted above, the association attempts to place significance on the use of the word "between" in the definition of physician incentive plan in section 1876(i)(8)(B) (quoted above). The association reads this as limiting the scope of the definition of physician incentive plan to arrangements in a contract directly between a prepaid plan and a physician or physician group. In fact, however, an individual physician who serves a prepaid plan's enrollees as a member of a physician group does have a relationship with that prepaid plan, albeit an indirect one. There is an indirect but clear link "between" that physician and the prepaid plan whose enrollees the physician treats. The only difference is that instead of a single direct contract between the physician and the prepaid plan, the physician has a contract with the group, and the group in turn contracts with the prepaid plan.

Even though this is a two or more step arrangement rather than a single direct contract, there nonetheless is a physician incentive plan involving the prepaid plan's enrollees that exists "between" the physician providing services to a prepaid plan's enrollees and the prepaid plan that is accountable for these services. There is simply an added layer of organization and legal arrangements "between" the physician and the prepaid plan. During our review

of applications for Medicare contracts, we currently review the plan's contracting arrangements to ensure that subcontracts actually signed by the physician at the "retail" end of the prepaid plan's health care delivery network inform physicians of their responsibility to carry out the prepaid plan's obligations under section 1876. This longstanding practice is fully consistent with our view that an individual physician contract with a physician group is part of the total arrangement "between" that physician and the prepaid plan that is accountable for the services the physician is providing to the plan's members. For instance, we hold the plan accountable for the quality of care delivered by all components subcontracting with the plan including the care delivered by the physicians.

For all of the above reasons, we believe that it is fully consistent with the words of the statute to reach all incentive arrangements that exist "between" doctors providing the care and a prepaid plan accountable for that care, whether they are contained in a physician's contract with a physician group or other intermediate entity, or in the contract the group or entity has with the prepaid plan. (With respect to the association's reliance on language in past legislation, we do not believe that it has any relevance in interpreting section 1876(i)(8). Indeed, it is inconsistent with the language in section 1876(i)(8), since it references only arrangements with a physician, and not those with a physician group.)

In addition to being consistent with the words of the statute, we believe that our interpretation is consistent with the purpose of the statute, which is to protect Medicare beneficiaries enrolled in prepaid plans from the possible effects of financial incentives to deny or limit medically necessary care. It is irrelevant to this statutory objective whether incentives are contained in the prepaid plan's contract with a physician group, or in the group's contract with the physician. It is fully consistent with the intent and purpose of section 1876(i)(8) to reach any plan that could contain the incentives Congress wanted to address. As suggested above, it also would make no sense to establish a regulatory scheme that could be circumvented simply by erecting a "protective shield" between the prepaid plan and individual physicians in the form of an intermediate entity or physician group structure. The possibility of such a "loophole" permitting plans to circumvent these regulations was a major factor in our decision to extend the reach of these regulations to subcontractors.

We also disagree with the association that the change we made in the final rule violated the APA under the standards of the *Air Transport Association* case cited by the association. Indeed, we believe that this type of revision is precisely the kind the court had in mind when it wrote that there is no "obligation to provide new opportunities for comments whenever a final rule differs from a proposed rule." We believe that it is clear that this is *not* a change "so major that original notice did not adequately frame [the] subject [] for discussion." Clearly the "original notice" *did* "frame" this as a "subject [] for discussion," since commenters in fact commented on this question. A second notice thus was not required under the *Air Transport* decision.

In any event, even if a second opportunity to comment had been required under the *Air Transport* standard, any such requirement has now been satisfied through the notice and comment process culminating in this revised rule.

Stop-loss

We received several comments on the stop-loss requirements in the March 27 rule. Section 417.479(g)(2) requires that HMOs or CMPs that operate incentive plans that place physicians or physician groups at substantial financial risk ensure that these physicians or physician groups have either aggregate or per-patient stop-loss protection in accordance with the following requirements:

- If aggregate stop-loss protection is provided, it must cover 90 percent of the costs of referral services (beyond allocated amounts) that exceed 25 percent of potential payments.
- If the stop-loss protection provided is based on a per-patient limit, the stop-loss limit per patient must be determined based on the size of the patient panel. In determining patient panel size, the patients may be pooled using one of the approved methods (discussed below) if pooling is consistent with the relevant contract between the physician or physician group and the prepaid plan. Stop-loss protection must cover 90 percent of the costs of referral services that exceed the per patient limit. The per-patient stop-loss limit is as follows:
  - Less than 1,000 patients—$10,000.
  - 1,000 to 10,000 patients—$30,000.
  - 10,000 to 25,001 patients—$200,000.
  - Greater than 25,000 patients:
    + Without pooling patients—none; and
    + As a result of pooling patients—$200,000.

Section 417.479(h)(1)(v) provides that, for purposes of determining panel size, patients may be pooled according to one of the following methods:

- Including commercial, Medicare, and/or Medicaid patients in the calculation of the panel size.
- Pooling together, by the HMO or CMP, of several physician groups into a single panel.

Section 417.479(g)(2)(iii) provides that the HMO or CMP may provide the stop-loss protection directly or purchase it, or the physician or physician group may purchase the stop-loss protection. This section also provides that, if the physician or physician group purchases the stop-loss protection, the HMO or CMP must pay the portion of the premium that covers its enrollees or reduce the level at which the stop-loss protection applies by the cost of that protection.

Comment: A major association stated that enormous confusion exists among its membership as to the meaning and application of the stop-loss provisions. The association urged us to reevaluate not only the substantive requirements, but the manner in which we expressed the information and to explain more clearly our intentions. The association's comments on this issue fall into two categories: (1) The obligation for payment of the stop-loss coverage and (2) the substantive requirements for stop-loss. In making its comments, the association also offered recommendations for amendments to the regulations. We summarize the association's comments and recommendations below:

Comment 1. The association believed that the responsibility of paying for the stop-loss protection should be a negotiable issue between the HMO or CMP and its physician group or physician. The association argued that the language used in section 1876(i)(8) of the Act requiring HMOs or CMPs to provide stop-loss can be reasonably interpreted to impose an obligation that the stop-loss coverage be made available to the physician or physician group.

The association also maintained that public policy supports allowing the financial responsibility for stop-loss coverage to be determined between the parties and not mandated by us. The association noted that a common element in a capitation arrangement between an organization and a physician group is a requirement that stop-loss be obtained to protect the physician group from undue risk. This stop-loss could be purchased by the prepaid plan or by the physician group.

The association stated that typically, these arrangements provide that the physician group, and not the prepaid plan, has the responsibility to pay for the stop-loss coverage. Another option the association noted would be to give the physician group the option either of purchasing the stop-loss coverage made available by the prepaid plan or purchasing the stop-loss coverage itself. The association pointed out that in all cases, the cost of the stop-loss coverage is an element of the compensation (the capitation would be reduced if the prepaid plan pays for the stop-loss coverage and would be higher if the physician group does).

The association stated that stop-loss coverage at the levels required by the regulations is very expensive to obtain and that requiring prepaid plans to bear that cost would result in an enormous financial burden shifted from physician groups to prepaid plans. To avoid this, and consistent with the discussion above, the association recommended that we allow the prepaid plan and the physician group or physician to negotiate the financial responsibility for the stop-loss coverage.

Response: After further analysis, and for the reasons set forth in the above comment, we are amending the regulation to require only that the HMO or CMP provide us proof that the physician groups have adequate stop-loss protection in place. We believe this is consistent with the primary goal of the regulation of ensuring that if the physicians are at substantial risk, they have adequate stop-loss protection. In addition, we have further information that physician groups may have access to more affordable stop-loss as a result of their participation in a number of HMOs or CMPs.

Comment 2. The association recommended that we revise the regulations to reflect what it believes to be more appropriate stop-loss levels, to account for existing stop-loss arrangements, and to provide an appropriate means of applying the stop-loss requirements to bonus and withhold arrangements. The association believed that the stop-loss limits are inappropriately low. It stated that a $10,000 limit might be appropriate for a panel size less than 250 patients, but is not reasonable for a 1,000 patient panel. The association stated that one of its members projects that the cost of stop-loss over $10,000 for hospital services for a Medicare enrollment would be about 20 percent of the total medical cost; this could be about $80 to $100 per member per month depending on geographic area. Therefore, the association believed that it is incumbent upon us to reevaluate the stop-loss limits and to replace the existing limits with ones that are more appropriate and less costly to obtain.

In addition, the association maintained that the stop-loss requirements fail to identify how prepaid plans can analyze stop-loss coverage that is already being provided to the physicians or physician groups to determine whether it meets the regulatory standard. The association stated that while it assumes we would allow prepaid plans to obtain "credit" for stop-loss coverage that already exists, it may be exceedingly difficult to compare the coverage. For example, existing stop-loss coverage may have a lower attachment point (that is, deductible), but higher coinsurance amounts or vice versa. Some stop-loss coverage may vary by disease. Also, some coverage may vary depending on whether the cost is related to inpatient care or specialty care. Some prepaid plans apply individual and aggregate stop-loss simultaneously. Some stop-loss limits are linked to utilization levels and not cost levels. Some physician groups decline the coverage offered by the prepaid plan because it may be less costly to obtain the coverage for all their patients rather than only those who are enrollees of a single prepaid plan. In light of this, the association recommended that we do the following:

- Reevaluate the stop-loss limits in light of actuarial input on the appropriate need for stop-loss coverage and its cost.
- Allow a prepaid plan to retain the services of an actuary who would assign an actuarial value to the stop-loss coverage currently being provided to the physician or physician group. Allow the prepaid plan to meet the stop-loss requirements by providing (that is, making available) the difference between the actuarial value of the requirement and the value of the stop-loss currently being provided to the physician or physician group. The prepaid plan, in consultation with its actuary, could convert this difference into an actuarial equivalent in order that the new coverage be consistent with the nature of the stop-loss coverage already provided to the physician or physician group. The association stated that this recommendation is intended to accomplish two objectives: (1) The prepaid plan would obtain credit for stop-loss coverage already provided to the physician or physician group; (2) the prepaid plan would have more flexibility in determining how the requirement was met; for example, if it wished, the prepaid plan could meet the requirement by building on the structure of its existing stop-loss coverage.

A second issue raised by the association concerns the applicability of the stop-loss requirements to withhold and bonus arrangements. When physicians or physician groups are at risk for referral services under a capitation arrangement, stop-loss coverage would protect the physician group or physician from excessive costs. In contrast, when an organization uses withholds or bonuses as its incentive arrangements, no large potential economic loss would occur at which the stop-loss would attach. The association recommended that we rethink the application of the stop-loss requirements to withhold and bonus situations. It also argued that we should amend our regulation to allow for adjustments in the stop-loss attachment points to account for inflation; that is, as health care costs increase, the limits need to be raised accordingly. Otherwise, the stop-loss coverage provided by the prepaid plan would become unduly and inappropriately comprehensive.

Response: Based on actuarial analyses and consultation with experts knowledgeable about current stop-loss insurance practices, this final rule makes a number of changes to the stop-loss provision. Because many of the stop-loss arrangements currently in place differentiate between professional services and hospital or other institutional services, we are revising § 417.478(g)(2)(ii) to permit prepaid plans and physician groups to choose either a single combined limit or separate limits for professional services and institutional services. We are also revising the categories of patient panel size to increase the number of categories and smooth out the gradation of attachment points. This final rule establishes the following limits:

Panel Size	Single Combined Limit	Separate Institutional Limit	Separate Professional Limit
1–1000	*$6,000	*$10,000	*$3,000
1,001–5000	30,000	40,000	10,000
5,001–8,000	40,000	60,000	15,000
8,001–10,000	75,000	100,000	20,000*
10,001–25,000	150,000	200,000	25,000
> 25,000	none	none	none

The asterisks indicate that, at this level, stop-loss insurance is impractical. The premiums would be prohibitively expensive. Plans and physician groups clearly should not be putting physicians at financial risk for panel sizes this small. It is our understanding that doing so is not common. For completeness, however, we do show what the limits would be in these circumstances.

In regard to the comments on bonuses and withholds, we specifically indicated that when bonuses and withholds put physicians at substantial financial risk, the physicians need to have stop-loss protection. The legislation and regulation require that all forms of incentive arrangements that put physicians at substantial financial risk have stop-loss protection. Even though current stop-loss policies may not cover bonuses and withholds, this is the requirement of this regulation. Thus, if current policies do not cover these arrangements, the prepaid plans, physician groups, and/or the reinsurance companies must arrange for protection against losses that can occur due to withholds or the potential loss of bonus payments.

With regard to the suggestion that we account for inflation, we will be periodically reviewing the requirements of this regulation in light of new or more complete information about compensation arrangements and their impact on patients. We will consider this and other recommendations again in the future.

Comment: A commenter asked how frequently panel size can be updated and how soon this increased panel size can be reflected in higher stop-loss limits for the group. The commenter also asked whether an HMO that increases enrollment in a physician panel and correspondingly raises its stop-loss limits must refile its physician incentive arrangement with us.

Response: There is no limitation on the frequency with which panel size can be updated.

Comment: One commenter noted that the stop-loss protection required by this regulation would cover only 90 percent of the costs of referral services that exceed 25 percent of potential payments. The commenter believed that the financial incentive to reduce or withhold referral services to Medicare patients could, in this situation, be overwhelming. The commenter said this would be particularly true in situations in which the physician treated an atypical mix of patients requiring referrals for specialty care.

Response: We adopted our position based upon comments on the proposed rule. As indicated in the preamble to the March 27, 1996 final rule, this policy is currently used by many prepaid plans and has worked well to ensure that physicians are sensitive to avoid the furnishing of unnecessary services. Recent information from prepaid plans and actuaries confirms that this 90/10 standard is consistent with actual practices and policies. We set the ratio at the high end of the continuum of ratios used in the industry since they range from 90/10 to 75/25. Thus, we have allowed for limited risk sharing beyond the stop-loss limits. Further, as indicated in the preamble to the March 1996 rule, we made changes in the stop-loss limits to adjust for the incorporation of this additional risk sharing.

Comment: A major organization representing physicians believed that we should require a reduced, but still substantial, amount of stop-loss for plans with enrollment in excess of 25,000 patients.

Response: As stated earlier, evidence from analyses by Rossiter and Adamache supports the decision that physician groups with more than 25,000 patients are able to adequately spread risk. Therefore we concluded that they are not at substantial financial risk. The commenter did not provide any data or rationale that would lead us to a different conclusion. Note also that the change made by this final rule discussed earlier that eliminates pooling by the prepaid plan across physician groups to achieve the 25,000 base should alleviate the commenter's concern.

Survey

We received a single comment on the enrollee survey provisions in the rule. Section 417.479(g)(1) requires that HMOs or CMPs that operate incentive plans that place physicians or physician groups at substantial financial risk conduct enrollee surveys. These surveys must—

- Include either all current Medicare/Medicaid enrollees of the HMO or CMP and those who have disenrolled (other than because of loss of eligibility in Medicaid or relocation outside the HMO's or CMP's service area) in the past 12 months, or a sample of these same enrollees and disenrollees.
- Be designed, implemented, and analyzed in accordance with commonly accepted principles of survey design and statistical analysis.
- Address enrollees/disenrollees satisfaction with the quality of the services provided and their degree of access to the services.
- Be conducted no later than 1 year after the effective date of the incentive plan, and at least every 2 years thereafter.

Comment: A major organization suggested that we require health plans to use a standardized survey questionnaire designed by HCFA; require health plans to oversample disenrollees and persons with chronic conditions or high cost illnesses; provide detailed instructions to plans on survey design; and publish a comparison report card of all survey results.

Response: The final rule did not specify that the plans conduct a separate survey for this regulation because most plans already administer surveys that meet the requirements of this regulation. We do, however, recognize the value of having a standardized survey instrument and have developed one, as part of our effort to measure and improve quality of care, that can be used to satisfy the requirements of this regulation.

We have, in concert with the Agency for Health Care Policy and Research through the latter's CAHPS process

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(Consumer Assessments of Health Plans Study), sponsored the development of a Medicare-specific consumer satisfaction instrument, so that the unique health care concerns of the senior population are adequately addressed. CAHPS is a 5-year project whose purpose is to develop a set of standardized consumer satisfaction instruments usable across all populations; subpopulation specific modules are being developed not only for the Medicare population, but also for Medicaid, the chronically ill and disabled, and children.

We have notified plans of our intention to require all Medicare contracting plans that have had a Medicare contract for at least 1 year as of January 1, 1997 to participate in this CAHPS survey. The CAHPS Medicare survey will be administered by an independent third-party contractor to the Government, secured through an open, competitive bidding process. The primary purpose of the survey is to provide information to consumers that will enable them to make plan-to-plan comparisons and thereby to make better-informed health plan choices. Key results of the survey will be published in a comparability chart that contains cost and benefit information on all Medicare contracting plans.

We will consider participation by a plan in the CAHPS survey as satisfying the requirements of this regulation, subject to the following two additional considerations. First, the current version of CAHPS does not contain a module addressed to disenrollees. Efforts are underway to develop such a module, which may be available by 1998. For 1997, we are preparing guidelines to managed care plans on how to satisfy the requirement to survey disenrollees. That guidance will be available in the spring of 1997.

Second, as noted above, under the requirements of our quality initiative, plans that received their initial Medicare contract after January 1, 1996, are not required to participate in the CAHPS survey until calendar year 1998. There will likely be plans, however, that received their first contract after January 1, 1996, that will be required to meet the enrollee and disenrollee survey requirements of this regulation in calendar year 1997. Those plans may wish to use the CAHPS survey to meet this requirement.

We have issued an operational policy letter explaining this requirement in more detail (See OPL number 96.045, December 3, 1996).

Oversampling for the chronically ill and disabled, dually eligible, and various racial and ethnic groups is a complex issue. Strategies for doing so are being seriously considered. We will be forwarding additional guidance to managed care plans.

It should also be noted that the CAHPS survey collects information at the level of the managed care plans, without distinguishing among patients of various physician groups within the plan. Ideally, the survey required under this regulation, however, should do so. We will accept the CAHPS survey as satisfying this regulation at this time, while we continue to evaluate additional measures that might be taken to collect information by physician group.

Finally, we will not require that the Medicaid version of the CAHPS survey be administered by HMOs with Medicaid contracts. However, we are willing to assist States that wish to require administration of the CAHPS Medicaid survey.

Other Comments

We received other comments that were not specifically directed to the provisions of the regulation. Since these comments do not directly address the regulations, we are not responding to them in this preamble.

We also want to clarify an inconsistency that occurred in the preamble to the March 27, 1996 final rule. While the regulation text was accurate in specifying that subcontracts were covered by the regulations, we were inconsistent in different sections of the preamble. In the first column at 61 FR 13439, we indicated that subcontracts are covered, while in the second and third column of the same page we indicated that they were not covered. The statements in the second and third column were incorrect.

V. Provisions of this Final Rule

This final rule reflects the March 27, 1996 final rule with comment period, with changes. Many of the substantive change listed below have been discussed in section IV of this preamble. Those that have not are explained below.

- Section 417.479(b) is revised to clarify that the physician incentive plan requirements also apply to subcontracting arrangements.
- Section 417.479(f), which describes arrangements that cause substantial financial risk, is revised to permit pooling by physician groups of patients across prepaid plans. A technical change is also made to change "possible payments" wherever it appears to "potential payments". This latter change reflects the fact that "potential payments" is the term defined in the paragraph's introductory text.
- In § 417.479(g), which sets forth the requirements that HMOs and CMPs that place physicians or physician groups at substantial financial risk must meet, the following changes are made:

+ Paragraph (g)(1) is revised to require that the enrollee survey be conducted no later than 1 year after the effective date of the Medicare contract and at least annually thereafter.

+ Paragraph (g)(2)(ii) is revised to establish new stop-loss limits based either on a single combined limit or on separate limits for professional services and institutional services.

+ Paragraph (g)(2)(iii) is removed to eliminate the requirement that the HMO or CMP pay for the stop-loss protection.

- In § 417.479(h), which concerns disclosure requirements, the following changes are made:

+ Paragraph (h)(1)(iv) is revised to specify that the HMO or CMP must provide us with proof that the physician or physician group has adequate stop-loss protection, including the amount and type of stop-loss protection.

+ Existing paragraph (h)(1)(v) is removed to eliminate, as an approved method of pooling, pooling together, by the organization, of several physician groups into a single panel. A new paragraph (h)(1)(v) is added to permit pooling, by a physician group, of patients across prepaid plans. New paragraph (h)(1)(v) also specifies the conditions under which pooling is permitted.

+ Paragraph (h)(2) is revised to change when the HMO or CMP must provide the required information. The current regulation requires this to be done upon application for a contract, upon application for a service area expansion, within 30 days of a request by us, and at least 45 days before implementing certain changes in the incentive plan. We have changed this to make it an annual requirement. This first submission must be done prior to approval of a new contract, with subsequent submissions prior to each renewal of the contract. This change is intended to simplify the requirement and reduce the reporting burden on the prepaid plans.

In addition we now specify, in paragraph (h)(2)(ii), that an HMO or CMP must provide the capitation data for the previous calendar year to us by April 1 of each year. This change is being made to eliminate confusion about the reporting period and ensure consistency.

- In § 434.70, which concerns conditions for FFP, paragraph (a)(3) is revised to—

+ Eliminate the requirement that the HMO or HIO must disclose certain

information within 30 days of a request by the State or HCFA.

+ To specify that an HMO or HIO must provide the capitation data for the previous calendar year to the State Medicaid agency by April 1 of each year.

+ Eliminate the requirement that the HMO or HIO submit the required information at least 45 days before implementing certain changes in its incentive plan.

VI. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, agencies are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. This final rule contains information collections that are subject to review by OMB under the Paperwork Reduction Act of 1995. The title, description, and respondent description of the information collections are shown below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and collecting and reviewing the collection of information.

We are, however, requesting an emergency review of these regulations. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to OMB the following requirement for emergency review. We are requesting an emergency review because the collection of this information is needed prior to the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320, to ensure compliance with the physician incentive regulation necessary to implement congressional intent with respect to incentive arrangements between managed care entities and their contracting providers. We cannot reasonably comply with the normal clearance procedures because public harm is likely to result due to the delay in reporting and monitoring of these incentives. If emergency clearance is not provided, we will be forced to postpone the collection of these data for 12 months due to the timing of contract cycles.

We are requesting that OMB provide a 5-day public comment period with a 2-day OMB review period and a 180-day approval. During this 180-day period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. Then we will submit the requirements for OMB review and an extension of this emergency approval.

Type of Information Request: New collection.

Title of Information Collection: Incentive Arrangement Disclosure Form and Supporting Regulations 42 CFR 417.479 (g)(1), 417.479(h)(1) and (h)(2), 417.479(i), and 434.70(a)(3).

Form Number: HCFA–R–201.

Use: Incentive Arrangement Form and supporting regulations will be used to monitor physician incentive plans.

Frequency: Annually.

Affected Public: Nonprofit and for profit HMOs, CMPs, and HIOs.

Number of Respondents: 450.

Total Annual Responses: 450.

Total Annual Hours Requested: 45,000.

To request copies of the proposed paperwork collections referenced above, call the Reports Clearance Office at (410) 786–1326.

The sections in these final regulations that contain information collection requirements are:. §§ 417.479 (h)(1) and (h)(2), 417.479(i), 434.70(a)(3), and 417.479(g)(1), (and § 434.70(a)(3) for Medicaid) of this document. However, the information collection requirements referenced in §§ 417.479(g)(1) and 434.70(a)(3) of this final rule, described below, are currently pending approval by OMB (under the title "HEDIS 3.0 (Health Plan Data and Information Set) and supporting regulations 42 CFR 417.470 and 42 CFR 417.126").

The information collection requirements at existing §§ 417.470(h)(1) and (h)(2), 417.479(i), and 434.70(a)(3) were established by the March 27, 1996 final rule with comment period. These sections of the regulations specify that disclosure concerning physician incentive plans must be made to us or the State, as appropriate. The requirements apply to physician incentive plans between prepaid plans and individual physicians or physician groups with whom they contract to furnish medical services to enrollees. The requirements apply only to physician incentive plans that base compensation on the use or cost of services furnished to Medicare beneficiaries or Medicaid recipients. Under the existing regulations, a prepaid plan must provide the information upon application for a contract; upon application for a service area expansion; at least 45 days before implementing certain changes in its incentive plan, and within 30 days of a request by us or the State. This rule would amend the regulations by removing the requirements that disclosure be made upon application for a service area expansion, within 30 days of a request by us or the State, and at least 45 days before implementing certain changes in the incentive plan. It would add that disclosure must be made prior to the approval of a new contract or agreement and annually thereafter. These changes should reduce the reporting burden on prepaid plans. At the time we published the March 1996 rule, we estimated that approximately 600 entities will submit the information. We estimated the burden as 8 hours per response. As discussed in section IV above, we received numerous comments stating that we greatly underestimated the burden associated with complying with the disclosure requirements and suggesting alternative approaches. We now estimate that approximately 450 prepaid plans will disclose information. We estimate that the burden per response will be 100 hours, for an annual total burden of 45,000 hours. This estimate includes time spent by subcontractors in furnishing information to the prepaid plan.

Existing § 417.479(g)(1) (and § 434.70(a)(3) for Medicaid) concern prepaid plans that operate physician incentive plans that place physicians or physician groups at substantial financial risk and require them to conduct enrollee surveys that include either all current Medicare/Medicaid enrollees in the prepaid plan and those who have disenrolled (other than because of loss of eligibility in Medicaid or relocation outside the prepaid plan's) in the past 12 months, or a sample of these same enrollees and disenrollees. These surveys are required to be conducted annually.

The information collection and recordkeeping requirements, referenced in § 417.479 (h)(1) and (h)(2), 417.479(g)(1), 417.479(i), and 434.70(a)(3) of these regulations are not effective until they have been approved by OMB. The agency has submitted a copy of this final rule with comment period to OMB for its review of these information collections. A notice will be published in the **Federal Register** when approval is obtained. Interested persons are invited to send comments regarding this burden or any other aspect of these collections of information, including any of the following subjects: (1) The necessity and utility of the information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection

techniques or other forms of information technology to minimize the information collection burden.

Comments on these information collections should be mailed directly to the following address:

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydt, HCFA Desk Officer.

In addition, comments may be faxed to: Allison Herron Eydt at (202) 395–6974.

A copy of the comments may be mailed to the following address: Health Care Financing Administration, Office of Financial and Human Resources, Management Analysis and Planning Staff, Room C2–26–17, 7500 Security Boulevard, Baltimore, MD 21244–1850.

We will also be undertaking an overall evaluation of all of the reporting and disclosure requirements in this regulation within the next year, to assess the value of the information compared with the burden of reporting. All of the disclosure and reporting requirements, and any related forms, will continue to be subject to review under the Paperwork Reduction Act.

VII. Regulatory Impact Statement

Consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), we prepare a regulatory flexibility analysis unless the Secretary certifies that a rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all HMOs, CMPs, and HIOs to be small entities.

In addition, section 1102(b) requires the Secretary to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b), we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

In the preambie to the March 27, 1996 rule, which provided an opportunity for comments, we stated that we had decided not to prepare a regulatory flexibility analysis because we believed that few incentive plans will require changes to comply with the regulations. A major association of health plans, which submitted comments on behalf of its membership, strongly disagreed with this position.

The association maintained that the regulations, as adopted, will result in substantial administrative and financial burdens on a large number of organizations. The association requested that, in light of the information it was providing to us in its other comments, we reconsider our decision not to prepare a regulatory impact analysis.

A number of commenters believed that, in estimating a burden of 8 hours per response, we had grossly underestimated the time and financial resources that need to be expended to comply with the disclosure requirements. These commenters stated that this problem may be alleviated to some extent if the prepaid plans were allowed to agree that all or some of their physician incentive programs resulted in substantial financial risk without having to disclose to us the detailed information specified in the Regulations. One commenter added that the regulations, in essence, require prepaid plans to act as information gathering conduits for information related to physician group and/or subcontractor incentive plans. The commenter stated that this is not the most efficient or effective means and that a preferable approach is for us to solicit the information directly from the physician group or subcontractor. The commenter recommended that we adopt a uniform and standardized calculation and attestation form that prepaid plans could use to solicit the information.

Another commenter stated that the stop-loss limits are inappropriately low and, because of this, the cost of stop-loss coverage is very high. The commenter maintains that this rule results in substantial financial burdens on a large number of prepaid plans.

The suggestions offered by the commenters have been addressed in section IV above. With regard to our assessment of the impact of the March 27, 1966 rule, we have reviewed our assessment. In this review, we used information developed by a major accounting firm at the request of a major association, which was shared with us.

Based on survey data from Mathematica (1995), approximately one-third of prepaid plans capitate their physicians for all services. This means that, of approximately 300 Medicare prepaid plans, about 100 plans will capitate for all services. Of approximately 300 Medicaid HMOs and HIOs, approximately one-half will have Medicare contracts and, thus, do not add to the total. Of the remaining 150 Medicaid plans, many will be relatively new Medicaid plans. Most new Medicaid plans do not capitate their physicians for all services. Therefore, we estimate that there will be a total of 25 Medicaid prepaid plans in addition to the 100 Medicare plans that capitate for all services. These 125 plans will have to provide stop-loss insurance. Very few plans that use bonuses or withholds will exceed the substantial risk threshold.

Of the 125 plans that will need to provide stop-loss insurance, most of these plans already have such coverage. Taking into account the changes made by this final rule, we estimate that approximately 44 prepaid plans (35 percent) will need to increase their stop-loss coverage. The cost of this additional coverage is estimated at approximately $65 million. Since the affected entities are large, $65 million represents a very small percentage of their gross annual income. In addition, we expect that some of the $65 million will be offset by monies received from the insurers because of the increased coverage.

With regard to the financial burden associated with complying with the disclosure requirements, we continue to estimate that approximately 450 plans will need to comply with the disclosure requirements. We now estimate the burden to be 100 hours per response, at a cost of $20 per hour. This includes the burden on the physician groups and subcontractors in furnishing information to the prepaid plan. Thus, we estimate the total impact of the disclosure requirements at $900,000 per year.

This rule changes the frequency of the survey requirements (from biennially to annually), we believe that this imposes very little additional burden on prepaid plans since most plans already conduct annual surveys. In addition, as discussed in section V of the preamble, this rule changes when disclosure must be made to HCFA or the State Medicaid agency. While this rule adds that disclosure must be made upon the contract or agreement renewal or anniversary date, it removes other circumstances under which disclosure must be made. We believe the overall effect of these changes as to when disclosure must be made is to reduce the reporting burden on the affected prepaid plans.

We are not preparing analyses of this final rule for either the RFA or section 1102(b) of the Act because we have determined, and the Secretary certifies, that this rule will not have a significant economic impact on a substantial number of small entities or a significant economic impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

VIII. Waiver of Delayed Effective Date

We ordinarily provide for final rules to be effective no sooner than 30 days after the date of publication unless we find good cause to waive the delay.

This final rule amends existing regulations that set forth the requirements that certain managed care organizations must meet in order to contract with the Medicare and/or Medicaid program. A number of the changes made by this final rule either reduce the burden associated with the regulations or recognize existing industry practices. Since many managed care Medicare and Medicaid contracts renew on January 1, if this final rule does not become effective until after that date, the benefits that result from the changes made by this rule will not be realized until 1998. Therefore, we find that it would be against the public interest to delay the effective date of this final rule.

Chapter IV of title 42 is amended as set forth below:

PART 417—HEALTH MAINTENANCE ORGANIZATIONS, COMPETITIVE MEDICAL PLANS, AND HEALTH CARE PREPAYMENT PLANS

A. Part 417 is amended as follows:

1. The authority citation for part 417 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. In § 417.479, paragraph (g) introductory text and paragraph (g)(1) introductory text are republished; paragraph (g)(2)(iii) is removed; paragraph (b), paragraph (f) introductory text, paragraphs (f)(5), (g)(1)(iv), (g)(2)(ii), (h)(1)(iv), (h)(1)(v), and (h)(2) are revised to read as follows:

§ 417.479 Requirements for physician incentive plans.

* * * * *

(b) *Applicability.* The requirements in this section apply to physician incentive plans between HMOs and CMP and individual physicians or physician groups with which they contract to provide medical services to enrollees. The requirements in this section also apply to subcontracting arrangements as specified in § 417.479(i). These requirements apply only to physician incentive plans that base compensation (in whole or in part) on the use or cost of services furnished to Medicare beneficiaries or Medicaid recipients.

* * * * *

(f) *Arrangements that cause substantial financial risk.* For purposes of this paragraph, *potential payments* means the maximum anticipated total payments (based on the most recent year's utilization and experience and any current or anticipated factors that may affect payment amounts) that could be received if use or costs of referral services were low enough. The following physician incentive plans cause substantial financial risk if risk is based (in whole or in part) on use or costs of referral services and the patient panel size is not greater than 25,000 patients:

* * * * *

(5) Capitation, arrangements, if—

(i) The difference between the maximum potential payments and the minimum potential payments is more than 25 percent of the maximum potential payments; or

(ii) The maximum and minimum potential payments are not clearly explained in the physician's or physician group's contract.

* * * * *

(g) *Requirements for physician incentive plans that place physicians at substantial financial risk.* HMOs and CMPs that operate incentive plans that place physicians or physician groups at substantial financial risk must do the following:

(1) Conduct enrollee surveys. These surveys must—

* * * * *

(iv) Be conducted no later than 1 year after the effective date of the Medicare contract and at least annually thereafter.

(2) * * *

(ii) If the stop-loss protection provided is based on a per-patient limit, the stop-loss limit per patient must be determined based on the size of the patient panel and may be a single combined limit or consist of separate limits for professional services and institutional services. In determining patient panel size, the patients may be pooled in accordance with paragraph (h)(1)(v) of this section. Stop-loss protection must cover 90 percent of the costs of referral services that exceed the per patient limit. The per-patient stop-loss limit is as follows:

Panel size	Single combined limit	Separate institutional limit	Separate professional limit
1–1000	$6,000	$10,000	$3,000
1,001–5000	30,000	40,000	10,000
5,001–8,000	40,000	60,000	15,000
8,001–10,000	75,000	100,000	20,000
10,001–25,000	150,000	200,000	25,000
> 25,000	none	none	none

* * * * *

(h) * * *

(1) * * *

(iv) Proof that the physician or physician group has adequate stop-loss protection, including the amount and type of stop-loss protection.

(v) The panel size and, if patients are pooled, the method used. Pooling is permitted only if: it is otherwise consistent with the relevant contracts governing the compensation arrangements for the physician or physician group; the physician or physician group is at risk for referral services with respect to each of the categories of patients being pooled; the terms of the compensation arrangements permit the physician or physician group to spread the risk across the categories of patients being pooled; the distribution of payments to physicians from the risk pool is not calculated separately by patient category; and the terms of the risk borne by the physician or physician group are comparable for all categories of patients being pooled. If these conditions are met, the physician or physician group may use either or both of the following methods to pool patients:

(A) Pooling any combination of commercial, Medicare, or Medicaid patients enrolled in a specific HMO or CMP in the calculation of the panel size.

(B) Pooling together, by a physician group that contracts with more than one HMO, CMP, health insuring organization (as defined in § 434.2 of

this chapter), or prepaid health plan (as defined in § 434.2 of this chapter) the patients of each of those entities.

* * * * *

(2) *When disclosure must be made to HCFA.* (i) HCFA will not approve an HMO's or CMP's application for a contract unless the HMO or CMP has provided to it the information required by paragraphs (h)(1)(i) through (h)(1)(v) of this section. In addition, an HMO or CMP must provide this information to HCFA upon the effective date of its contract renewal.

(ii) An HMO or CMP must provide the capitation data required under paragraph (h)(1)(vi) for the previous calendar year to HCFA by April 1 of each year.

* * * * *

PART 434—CONTRACTS

B. Part 434 is amended as follows:

1. The authority citation for part 434 continues to read as follows:

Authority: Secs. 1102 of the Social Security Act (42 U.S.C. 1302).

2. In § 434.44, paragraph (a)(1) is revised to read as follows:

§ 434.44 Special rules for certain health insuring organizations.

(a) * * *

(1) Subject to the general requirements set forth in § 434.20(d) concerning services that may be covered; § 434.20(e), which sets forth the requirements for all contracts; the additional requirements set forth in §§ 434.21 through 434.38; and the Medicaid agency responsibilities specified in subpart E of this part; and

* * * * *

3. In § 434.70, paragraph (a) introductory text is republished, and paragraph (a)(3) is revised to read as follows:

§ 434.70 Condition for FFP.

(a) FFP is available in expenditures for payments to contractors only for the periods that—

* * * * *

(3) The HMO, HIO (or, in accordance with § 417.479(i) of this chapter, the subcontracting entity) has supplied the information on its physician incentive plan listed in § 417.479(h)(1) of this chapter to the State Medicaid agency. The information must contain detail sufficient to enable the State to determine whether the plan complies with the requirements of §§ 417.479 (d) through (g) of this chapter. The HMO or HIO must supply the information required under §§ 417.479 (h)(l)(i) through (h)(1)(v) of this chapter to the State Medicaid agency as follows:

(i) Prior to approval of its contract or agreement.

(ii) Upon the contract or agreements anniversary or renewal effective date.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; Program No. 93.774, Medicare—Supplementary Medical Insurance Program; and Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: December 17, 1996.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: December 20, 1996.

Donna E. Shalala,

Secretary.

[FR Doc. 96–33330 Filed 12–30–96; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 960129018–6018–01; I.D. 122396A]

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish of the Gulf of Alaska; Pacific Cod for Processing by the Inshore Component in the Western and Central Regulatory Areas

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Directed fishing opening.

SUMMARY: MFS is opening directed fishing for Pacific cod for vessels catching Pacific cod for processing by the inshore component in the Western and Central Regulatory Areas of Gulf of Alaska (GOA). This action is necessary to fully utilize the total allowable catch (TAC) of Pacific cod for the inshore component in the Western and Central Regulatory Areas of the GOA.

EFFECTIVE DATE: 1200 hrs, Alaska local time (A.l.t.), January 1, 1997, until 2400 hrs, A.l.t., December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the GOA (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20 (c)(2)(i), the interim TAC of Pacific cod for vessels catching Pacific cod for processing by the inshore component in the Western and Central Regulatory Areas was established by the Interim 1997 Harvest Specifications for Groundfish (61 FR 64299, December 4, 1996) as 3,393 metric tons (mt) and 7,722 mt, respectively.

Vessels catching Pacific cod for processing by the inshore component in the Western and Central Regulatory Areas were prohibited from directed fishing for Pacific cod under § 679.20 (d)(1)(iii) in order to reserve amounts anticipated to be needed for incidental catch in other fisheries (61 FR 64299, December 4, 1996). NMFS has determined that sufficient TAC is available to allow a directed fishery. Therefore, NMFS is terminating the previous closure and is opening directed fishing for Pacific cod for processing by the inshore component in the Western and Central Regulatory Areas.

Classification

This action is taken under 50 CFR 679.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 24, 1996.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 96–33290 Filed 12–30–96; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 252
Tuesday, December 31, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 96–077–1]

Change in Disease Status of Costa Rica Because of Exotic Newcastle Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to declare Costa Rica free of exotic Newcastle disease (END). Declaring Costa Rica free of END appears to be appropriate because the country has had no clinical, pathological, or laboratory confirmation of END for the last 5 years. This proposed rule would remove the prohibition on the importation into the United States, from Costa Rica, of poultry and poultry products.

DATES: Consideration will be given only to comments received on or before March 3, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96–077–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 96–077–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Michael David, Senior Staff Veterinarian, Animal Program, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1228, (301) 734–5034.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation into the United States of specified animals and animal products in order to prevent the introduction into the United States of various animal diseases, including exotic Newcastle disease (END). END is a contagious, infectious, and communicable disease of poultry.

Section 94.6(a)(1) of the regulations provides that END exists in all countries of the world except those listed in § 94.6(a)(2), which have been declared to be free of END. We will consider declaring a country to be free of END if there have been no reported cases of the disease in that country for at least the previous 1-year period and no vaccinations for END have been administered to poultry in that country for at least the previous 1-year period.

There has been no documented case of END in Costa Rica for the last 5 years, based on morbidity and mortality reports provided by the industry and the government of Costa Rica, on clinical reports from the field, and on the lack of any typical lesions noted on necropsies. Based on these considerations, the government of Costa Rica has requested that the U.S. Department of Agriculture (USDA) declare Costa Rica free of END.

The Animal and Plant Health Inspection Service (APHIS) reviewed the documentation submitted by the government of Costa Rica in support of its request, and a team of APHIS officials traveled to Costa Rica in 1994 to conduct an on-site evaluation of the country's animal health program with regard to the END situation in Costa Rica. The evaluation consisted of a review of Costa Rica's official veterinary services, laboratory and diagnostic procedures, vaccination practices, and administration of laws and regulations intended to prevent the introduction of END into Costa Rica through the importation of animals, meat, or animal products. The results of this on-site visit, and subsequent evaluation, allows APHIS officials to conclude that Costa Rica is free of END.

Therefore, based on the information discussed above, we are proposing to amend § 94.6(a)(2) by adding Costa Rica to the list of countries declared to be free of END. This proposed action would remove the prohibition on the importation, from Costa Rica, of poultry and poultry products.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This proposed rule, if adopted, would amend the regulations in 9 CFR part 94 by adding Costa Rica to the list of countries declared to be free of END. This action would remove the prohibition on the importation into the United States, from Costa Rica, of poultry and fresh, chilled, and frozen meat of poultry, although those importations would be subject to certain restrictions. Based on available information, the Department does not anticipate a major increase in exports of poultry or poultry products from Costa Rica into the United States as a result of this proposed rule.

The commercial chicken industry in Costa Rica is very small relative to the industry in the United States. Costa Rica has about two million mature multipliers (those birds producing other birds for human consumption). By comparison, there are nearly 120 million multiplier hens and pullets of laying age in the United States. We do not expect any movement from Costa Rica into the United States of live chickens, chicks, or hatching eggs. These products are used for genetic stock, and, as Costa Rica imports most of its genetic stock (much of it from the United States), it would not be economically feasible for them to produce genetic stock for export.

We also do not expect a significant change in the importation of poultry products from Costa Rica as a result of this proposed rule. We expect that any poultry product imports would most likely be chicken meat. Costa Rica produced 60,424 metric tons of chicken meat in 1995, while the United States produced 11.5 million metric tons of chicken meat in the same year. Before any poultry meat could be imported into the United States from Costa Rica, the packing facilities in Costa Rica would require the approval of the Food Safety and Inspection Service (FSIS), USDA. Further, it is unlikely that Costa Rica would or could direct a significant portion of its chicken meat production

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exclusively to the United States. Even if Costa Rica were to export all of its chicken meat production to the United States, however, that amount would represent less than one percent of U.S. production. Therefore, declaring Costa Rica free of END should not lead to a significant change in the importation of chicken meat into the United States. Thus, this proposed rule is expected to have no more than a minimal impact on domestic producers of poultry products, whether small or large.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 94 would be amended as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 would continue to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

§ 94.6 [Amended]

2. In § 94.6, paragraph (a)(2) would be amended by adding "Costa Rica," immediately after "Chile,".

Done in Washington, DC, this 20th day of December 1996.

A. Strating,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–33118 Filed 12–30–96; 8:45 am]

BILLING CODE 3410–34–P

9 CFR Part 94

[Docket No. 96–076–1]

Pork and Pork Products from Mexico Transiting the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to allow fresh, chilled, and frozen pork and pork products from the Mexican State of Baja California to transit the United States, under certain conditions, for export to another country. Currently, we allow such pork and pork products from the Mexican States of Sonora, Chihuahua, and Yucatan to transit the United States for export. Otherwise, the movement of fresh, chilled, or frozen pork and pork products into the United States from Mexico is prohibited because of hog cholera in Mexico. Baja California has not had an outbreak of hog cholera since 1985 and it appears that fresh, chilled, and frozen pork and pork products from Baja California could transit the United States under seal with minimal risk of introducing hog cholera.

DATES: Consideration will be given only to comments received on or before March 3, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96–076–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 96–076–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Michael David, Senior Staff Veterinarian, Animals Program, National Center for Import and Export, VS, APHIS, USDA, 4700 River Road Unit 39, Riverdale, MD 20737–1231, (301) 734–5034.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) prohibit or restrict the importation of certain animals and animal products into the United States to prevent the introduction of certain animal diseases. Section 94.9 of the regulations prohibits the importation of pork and pork products into the United States from countries where hog cholera exists, unless the pork or pork products have been treated in one of several ways, all of which involve heating or curing and drying.

Because hog cholera exists in Mexico, pork and pork products from Mexico must meet the requirements of § 94.9 to be imported into the United States. However, under § 94.15, pork and pork products that are from certain Mexican States and that are not eligible for entry into the United States in accordance with the regulations may transit the United States for immediate export if certain conditions are met. This provision was added to the regulations in 1992, following a United States Department of Agriculture investigation of the hog cholera situation in Sonora, Mexico, and a determination that pork and pork products from Sonora could transit the United States, under certain conditions, with minimal risk of introducing hog cholera. The Mexican State of Chihuahua was included in this provision in a final rule published in the **Federal Register** on November 15, 1995 (60 FR 57313–57315, Docket No. 95–037–2). The Mexican State of Yucatan was included in this provision in a final rule published in the **Federal Register** on June 25, 1996 (61 FR 32646–32647, Docket No. 95–093–2).

Mexico's Director of Animal Health has requested that we allow pork and pork products from the Mexican State of Baja California to transit the United States for export under the same conditions that currently apply to pork and pork products from Sonora, Chihuahua, and Yucatan. In response, officials of the Animal and Plant Health Inspection Service (APHIS) met in August 1096 in Baja California with Mexican representatives knowledgeable in disease prevention, epidemiology, and diagnostic methods. The team reviewed the hog cholera situation in Baja California (discussed below) and recommended granting Mexico's request.

The last outbreak of hog cholera in the Mexican State of Baja California occurred in March 1985. Vaccination for hog cholera was discontinued in 1986. Mexico officially recognized Baja

California as free of hog cholera on October 16, 1991.

The team found three factors contributing to Baja California's apparent successes in remaining free of hog cholera: The lack of any significant swine production in the State of Baja California; Baja California's location; and controls by Mexico's Division of Animal Health on the movement into Baja California of pork, pork products, and live swine.

There is little swine production in Baja California. Pork processed in Baja California is obtained primarily from the Mexican State of Sonora and from the United States. There are only two Federal inspection system Tipo de Internacional Federal (TIF) plants that handle pigs in the State of Baja California. Of these facilities, one is a slaughter plant that kills an average of 200 pigs per week, and the other is a processing plant that receives mostly frozen carcasses from either a TIF plant in Sonora or from the United States.

Baja California is bordered on the north and northwest by the United States and the Mexican State of Sonora, which are both free of hog cholera. To the west of Baja California is the Pacific Ocean and to the east is the Gulf of California. South of Baja California is the Mexican State of Baja California Sur, which was declared hog cholera free by Mexico in May of 1994.

As required by the Mexican Government, Baja California and other States recognized by Mexico as free of hog cholera may only import live swine and pork from other hog cholera-free States and countries. The Mexican Government requires shipments from hog cholera-free countries to be accompanied by a certificate of origin issued by that country's veterinary authorities and by a certificate of import issued by the Mexican veterinary authorities. Baja California and other States recognized by Mexico as being free of hog cholera also require and issue their own permits and health certificates, further ensuring that the products originate in a hog cholera-free area. In addition, live swine and pork imported into these hog cholera-free States must be shipped in sealed trucks, and all shipments are inspected at inspection stations located either on State lines or at international ports of entry.

Under these circumstances, we believe that there would be little, if any, risk of introducing hog cholera into the United States by allowing pork and pork products from Baja California to transit the United States for export under the same conditions that currently apply to pork and pork products from Sonora, Chihuahua, and Yucatan.

As applied to pork and pork products from Baja California, these conditions would be as follows:

1. Any person wishing to transport pork or pork products from Baja California through the United States for export must first obtain a permit for importation from APHIS. The application for the permit tells APHIS who will be involved in the transportation, how much and what type of pork and pork products will be transported, when they will be transported, and the method and route of shipment.

2. The pork or pork products must be packaged in Baja California in a leakproof container and sealed with a serially numbered seal approved by APHIS. The container must remain sealed at all times while transiting the United States.

3. The person moving the pork or pork products through the United States must inform the APHIS officer at the United States port of arrival, in writing, of the following information before the pork or pork products arrive in the United States: The time and date that the pork or pork products are expected at the port of arrival in the United States, the time schedule and route of the shipments through the United States, the permit number, and the serial numbers of the seals on the containers.

4. The pork or pork products must transit the United States under Customs bond.

5. The pork or pork products must be exported from the United States within the time period specified on the permit.

Any pork or pork products exceeding the time limit specified on the permit or transiting in violation of any of the requirements of the permit or the regulations may be destroyed or otherwise disposed of at the discretion of the Administrator, APHIS, pursuant to section 2 of the Act of February 2, 1903, as amended (21 U.S.C. 111).

We believe that applying these same safeguards to shipments of pork and pork products from Baja California would prevent tampering with the shipments, ensure that the shipments actually leave the United States, and otherwise ensure that shipments would not present a risk of introducing hog cholera into the United States. Therefore, we are proposing to amend § 94.15 to allow pork and pork products from the Mexican State of Baja California to transit the United States for export under the same conditions that currently apply to pork and pork products from Sonora, Chihuahua, and Yucatan.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This proposed rule would allow fresh, chilled, and frozen pork and pork products from the Mexican State of Baja California to transit the United States, under certain conditions, for export to another country.

There appears to be little risk of hog cholera exposure from shipments of pork and pork products from Baja California transiting the United States. Assuming that proper risk management techniques continue to be applied in Mexico, and that accident and exposure risk would be minimized by proper handling during transport, the risk of exposure to hog cholera from pork in transit from Mexico through the United States would be minimal.

Shipments of pork and pork products from Baja California transiting the United States could economically benefit some U.S. entities as a result of this rulemaking since they would be involved in the transportation of the pork and pork products within the United States (from the port of entry to the port of embarkation). The additional economic activity from such trucking activities is estimated to be no more than $49,250 per year, assuming 200 trips per year would be made, which is approximately the level of current shipments from Sonora through the United States. No interagency or governmental effects are expected in connection with this proposal.

Mexico is a net pork importer, with Mexican imports representing 7 to 8 percent of production. With favorable income growth expected in Mexico due to trade liberalization, pork exports are expected to be limited. Furthermore,

facilitating export opportunities for the Mexican pork industry may provide incentives for continued efforts to eradicate hog cholera from infected Mexican States where it still exists.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and

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regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

The information collection and recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) included in this proposed rule have been approved under OMB control number 0579–0040.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 94 would be amended as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), VELOGENIC VISCEROTROPIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 would continue to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

§ 94.15 [Amended]

2. In § 94.15, paragraph (b), the introductory text and paragraph (b)(2) would be amended by adding the words "Baja California," immediately before the word "Chihuahua".

Done in Washington, DC, this 20th day of December 1996.

A. Strating,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–33117 Filed 12–30–96; 8:45 am]

BILLING CODE 3410–34–P

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Regulation D, Docket No. R–0956]

Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking.

SUMMARY: In conjunction with a final rule printed elsewhere in today's **Federal Register**, the Board of Governors of the Federal Reserve System is proposing to amend its Regulation D regarding reserve requirements of depository institutions issued pursuant to section 19 of the Federal Reserve Act, in order further to reduce regulatory burden and simplify and update requirements. This proposal would clarify the definition of "savings deposit," consistent with comments the Board received on its earlier proposal, and similarly clarify the definition of "transaction account" and conform it to the amended definition of "savings deposit." This proposal is in accordance with the Board's policy of regular review of its regulations and the Board's review of its regulations under section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

DATES: Comments must be received by February 4, 1997.

ADDRESSES: Comments should be directed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551, Attention: Docket No. R–0956, or delivered to Room B–2222, Eccles Building, between 8:45 a.m. and 5:15 p.m. Comments may be inspected in Room MP–500 between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in § 261.8 of the Board of Governors' rules regarding availability of information, 12 CFR 261.8.

FOR FURTHER INFORMATION CONTACT: Ann Owen, Economist, Division of Monetary Affairs (202/736–5671); Sue Harris, Economist, Division of Research and Statistics (202/452–3490); Rick Heyke, Staff Attorney, Legal Division (202/452–3688). For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Earnestine Hill or Dorothea Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION:

Background

The Board of Governors of the Federal Reserve System (Board) published a notice of proposed rulemaking in the **Federal Register** on June 17, 1996 (61 FR 30545) that solicited comments on proposed amendments to its Regulation D, Reserve Requirements of Depository Institutions (12 CFR Part 204). The Board received nine comments suggesting that the Board clarify the definition of "savings deposit," and a number of them also suggested that the Board rewrite the definitions of "time deposit," "demand deposit," and/or "transaction account." One commenter suggested the use of bullet points to distinguish limitations on transfers from exceptions to such limitations. Two commenters appended suggested language designed to clarify the definition of savings account, principally by shortening the sentences.

In response to these comments, the Board is proposing to amend the definition of "savings deposit" in an effort to clarify it. The proposal similarly would amend the definition of "transaction account" to clarify it and to conform it to the amended definition of "savings deposit." The amendments are intended to be nonsubstantive and would codify certain Board and staff interpretations. For example, the proposal makes clear that a transfer ordered by messenger does count against the limitation on transfers applicable to savings accounts if the messenger is in the employ of, or acting as agent of, the depository institution. The proposal also clarifies that transfers from savings accounts to repay overdrafts do not benefit from the exception for transfers to repay loans and associated expenses at the same depository institution. The proposal distinguishes more clearly between transfers from savings accounts subject to both the 6 per month and the 3 per month limitations and those subject only to the 6 per month limitation by specifying that the 6 per month limitation applies to preauthorized transfers, telephone and data transmission orders, checks, drafts, debit cards and similar orders to the depository institution whether given directly to the depository institution by the depositor or delivered to the depository institution through and payable to third parties. In contrast, the 3 per month limitation applies to transfers made by check, draft, debit card, or similar order to the depository institution delivered through and payable to third parties. Home banking transfers remain subject to the six per month limitation.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires an agency to publish an initial regulatory flexibility analysis with any notice of proposed rulemaking. Two of the requirements of an initial regulatory flexibility analysis (5 U.S.C. 603(b))—a description of the reasons why action by the agency is being considered and a statement of the objectives of, and legal basis for, the proposed rule—are contained in "Background" above. The proposed rules require no additional reporting or recordkeeping requirements and do not overlap with other federal rules.

Another requirement for the initial regulatory flexibility analysis is a

description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply. The proposal will apply to all depository institutions regardless of size.

The amendments are burden-reducing. Therefore, the Board believes that the amendments will not have a significant adverse economic impact on a substantial number of small entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act notice of 1995 (44 U.S.C. Ch. 3506; 5 CFR Part 1320, Appendix A.1), the Board has reviewed the rule under the authority delegated to the Board by the Office of Management and Budget. No collection of information pursuant to the Paperwork Reduction Act is contained in the rule.

List of Subjects in 12 CFR Part 204

Banks, banking, Federal Reserve System, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the Board proposes to amend part 204 of chapter II of title 12 as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

1. The authority citation for part 204 continues to read as follows:

Authority: 12 U.S.C. 248(a), 248(c), 371a, 461, 601, 611, and 3105.

2. Section 204.2 is amended as follows:

a. Paragraphs (b)(2) and (b)(3)(ii)(A) are amended by removing "paragraph (d)(2) of this section" and adding in its place "paragraph (d) of this section".

b. Paragraph (d) is revised.

c. In the introductory text of paragraph (e) and in paragraphs (e)(2), (e)(3), and (e)(4), all references to "paragraph (d)(2) of this section" are revised to read "paragraph (d) of this section".

d. Paragraph (e)(4) is further amended by removing "another account of the depositor at the same institution (including *transaction account*)" and adding in its place "another account of the depositor (including a *transaction account*)", and by removing the third and fourth sentences in their entirety. The revision reads as follows:

§ 204.2 Definitions.

* * * * *

(d)(1) *Savings deposit* means a deposit or account—

(i) With respect to which the depositor may be (but is not ordinarily) required by the depository institution to give written notice of an intended withdrawal not less than seven days before withdrawal is made;

(ii) That is not payable on a specified date, or after a specified period of time after the date of deposit;

(iii) From which the depositor is limited to no more than six transfers per month (or similar period of at least four weeks) to another account (including a transaction account) of the depositor or to a third party, by means of a preauthorized transfer, a telephone or data transmission order, or a check, draft, debit card, or similar order to the depository institution whether given directly to the depository institution by the depositor or delivered to the depository institution through and payable to third parties; and

(iv) From which no more than three of such six transfers may be made by check, draft, debit card, or similar order to the depository institution by the depositor delivered to the depository institution through and payable to third parties.[4]

(2) The limitations in paragraph (d)(1) of this section do not apply to:

(i) Transfers from a savings account for the purpose of repaying loans (other than overdrafts on a transaction account) and associated expenses at the same depository institution (as originator or servicer);

(ii) Transfers of funds from a savings account to another account of the same depositor at the same institution when the transfers are requested by mail, by messenger (not in the employ of or acting as agent of the depository institution), at an automated teller machine, or in person at an office of the depository institution;

(iii) Withdrawals from a savings account when such withdrawals are requested by mail, by messenger (not in the employ of, or acting as agent of, the depository institution), or at an automated teller machine, or in person at an office of the depository institution; or

(iv) Withdrawals requested by telephone or data transmission and paid by means of a check mailed to the depositor.

(3)(i) A *preauthorized transfer* means any transfer from the account of the depositor by the depository institution to pay a third party:

(A) Upon written or oral instruction to the institution (including any order received through an automated clearing house (ACH)); or

(B) At a predetermined time or on a fixed schedule.

(ii) A *withdrawal* means any payment to the depositor.

(4) *Savings deposit* does not include funds deposited to the credit of the depository institution's own trust department where the funds involved are utilized to cover checks or drafts. Such funds are *transaction accounts*.

* * * * *

By order of the Board of Governors of the Federal Reserve System, December 24, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–33159 Filed 12–30–96; 8:45 am]

BILLING CODE 6210–01–P

[4] In order to ensure that no more than the permitted number of withdrawals or transfers are made, for an account to come within the definition in paragraph (d) of this section, a depository institution must either:

(a) Prevent withdrawals or transfers of funds from this account that are in excess of the limits established by paragraph (d) of this section, or

(b) Adopt procedures to monitor those transfers on an *ex post* basis and contact customers who exceed the established limits on more than an occasional basis.

For customers who continue to violate those limits after they have been contacted by the depository institution, the depository institution must either close the account and place the funds in another account that the depositor is eligible to maintain, or take away the transfer and draft capacities of the account.

An account that authorizes withdrawals or transfers in excess of the permitted number is a transaction account regardless of whether the authorized number of transactions are actually made. For accounts described in paragraph (d) of this section, the institution at its option may use, on a consistent basis, either the date on the check, draft, or similar item, or the date the item is paid in applying the limits imposed by that section.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

12 CFR Part 226

[Regulation Z; Docket No. R–0954]

24 CFR Part 3500

[Regulation X; Docket No. FR–4184–P–01]

RIN 2502–AG86

Advance Notice of Proposed Rulemaking on Improvement of Disclosures Under the Real Estate Settlement Procedures Act and the Truth in Lending Act

AGENCIES: Office of the Assistant Secretary for Housing—Federal Housing Commissioner (HUD); Board of Governors of the Federal Reserve System (the Board) (collectively, the agencies).

ACTION: Advance notice of proposed rulemaking.

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SUMMARY: This notice is issued jointly by HUD and the Board to initiate fact finding that will assist the agencies in revising disclosures to consumers under the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act (TILA). The Economic Growth and Regulatory Paperwork Reduction Act of 1996 requires the agencies to simplify and improve these disclosures where possible, and to provide a single format satisfying the requirements of RESPA and TILA. To ensure that these disclosures meet the consumer protection goals of the statutes with minimal compliance burdens, HUD and the Board are soliciting comments from the public on what specific regulatory or legislative changes might achieve these goals. Following the consideration of the public comments and the agencies' own reviews, HUD and the Board plan to publish proposed amendments to their respective regulations, as appropriate, by March 1997.

DATES: Comments are due January 30, 1997.

ADDRESSES: Comments regarding this advance notice of proposed rulemaking may be sent to either agency.

HUD: Comments to HUD should be addressed to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of comments received will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

Board: Comments to the Board should refer to Docket No. R–0954, and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. Comments also may be delivered to Room B–2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street, N.W. (between Constitution Avenue and C Street) at any time. When possible, comment letters should use a standard Courier typeface with a type size of 10 or 12 characters per inch. This will enable the Board to convert the text into machine-readable form through electronic scanning, and will facilitate automated retrieval of comments for review. Also, if accompanied by an original document in paper form, comments may be submitted on 3½ inch or 5¼ inch computer diskettes in any IBM-compatible DOS-based format. Comments received will be available for inspection in Room MP–500 of the Martin Building between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding availability of information.

FOR FURTHER INFORMATION CONTACT:

HUD: David R. Williamson, Director, Office of Consumer and Regulatory Affairs, Room 9146, telephone (202) 708–4560; or for legal questions, Kenneth A. Markison, Assistant General Counsel for GSE/RESPA, Grant E. Mitchell, Senior Attorney for RESPA, or Rodrigo J. Alba, Attorney, Office of General Counsel, Room 9262, telephone (202) 708–1550. For hearing- and speech-impaired persons, these numbers may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1–800–877–8339. The address for the above-listed persons is: Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, DC 20410.

Board: Sheilah A. Goodman or Manley Williams, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667 or (202) 452–2412; for the hearing impaired only, Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452–3544. The telephone numbers for the agencies are not toll-free.

SUPPLEMENTARY INFORMATION:

I. Background

On September 30, 1996, the President approved the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (Title II of the Omnibus Consolidated Appropriations Act, 1997) (Pub. L. 104–208, 110 Stat. 3009) (the 1996 Act). Section 2101 of the 1996 Act requires the Board and HUD to simplify and improve the disclosures given in a mortgage transaction subject to TILA and RESPA, and to create a single disclosure that will satisfy the requirements of both statutes. The 1996 Act imposes a six-month deadline for the publication of any proposed regulations necessary to carry out the required changes within the context of the existing statutes. If legislation is necessary to accomplish the purpose of section 2101, the Board and HUD are required to submit legislative recommendations to the Congress.

A. The Real Estate Settlement Procedures Act

The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 *et seq.*) was enacted in large measure to ensure that the home-buying public is afforded timely and effective information about costs of settlement in mortgage transactions. To achieve this goal, RESPA mandates disclosures at various points in the home financing process for transactions involving "federally related mortgage loans," which include most financial transactions creating a lien on owner-occupied residential structures. RESPA is implemented by HUD's Regulation X (24 CFR part 3500).

Section 5 of RESPA (12 U.S.C. 2604) and §§ 3500.6 and 3500.7 of Regulation X, require that no later than three days after loan application, potential borrowers be provided with a Special Information Booklet and a good faith estimate of charges that they are likely to incur in connection with the settlement. If the lender requires the use of a particular settlement service provider and imposes any part of the cost on the borrower, the lender must provide an additional disclosure informing the borrower of the required use and identifying the designated provider and its relationship to the lender, along with an estimate of the charges imposed by the provider.

Section 6 of RESPA (12 U.S.C. 2605) requires that borrowers be provided with disclosures regarding the possibility of mortgage servicing transfers. These disclosure requirements are subject to the same delivery requirements as the good faith estimate.

Section 4 of RESPA (12 U.S.C. 2603) and § 3500.8 of Regulation X provide that, at or before closing, the borrower must receive a HUD-prescribed settlement statement, the HUD–1 form, or in transactions where there is no seller (refinancings, home equity loans and lines of credit), either the HUD–1 or the HUD–1A form. Under section 4, the forms must itemize all costs imposed on the borrower and the seller in connection with the settlement. Under § 3500.10 of Regulation X, the person conducting the settlement must, if requested, provide the borrower with a preliminary settlement statement one day prior to settlement.

Section 8 of RESPA (12 U.S.C. 2607) and § 3500.15 of Regulation X set forth additional disclosure requirements for referrals among related business entities. Specifically, RESPA creates an exemption providing that referrals to affiliates do not violate section 8 so long as certain conditions are satisfied. This provision's disclosure component provides that the business arrangement must be disclosed and a written estimate of the charges or range of charges generally made by the provider

must be supplied to the person being referred.

For purposes of this fact finding effort, the agencies are focusing on those disclosures for which consolidation between RESPA and TILA is possible. RESPA and Regulation X impose other disclosure requirements in the mortgage finance process, including initial and annual escrow account statements (12 U.S.C. 2609(c); 24 CFR 3500.17(g)–(i)) and notice of transfer of servicing (12 U.S.C. 2605(b); 24 CFR 3500.21(d)). Since these two areas of RESPA do not seem amenable to consolidation, however, the agencies do not contemplate any joint action regarding them at this time.

B. The Truth in Lending Act

The purpose of the Truth in Lending Act (TILA) (15 U.S.C. 1601 *et seq.*) is to promote the informed use of consumer credit by requiring disclosures about credit terms and costs. The TILA requires creditors to disclose the cost of credit as a dollar amount (the finance charge) and as an annual percentage rate (the APR). Uniformity in creditors' disclosures is intended to assist consumers in comparison shopping. The TILA requires additional disclosures for a loan secured by a consumer's home and permits consumers to rescind certain transactions that involve their principal dwelling. The act is implemented by the Board's Regulation Z (12 CFR part 226). An official staff commentary interprets the regulation.

The disclosure rules that creditors must follow depend upon the type of credit the creditor is offering. For example, Subpart B of Regulation Z (§§ 226.5 through 226.16) concerns open-end credit, such as home equity lines of credit. Subpart C (§§ 226.17 through 226.24), sets forth the provisions for closed-end credit, including purchase-money and refinance mortgage transactions.

Section 226.5a sets forth general disclosure requirements for home equity lines of credit, including format and timing rules. Section 226.17 contains the general disclosure requirements for closed-end credit, including format and timing rules. Section 226.18 provides the specific disclosures that must be given in all closed-end credit transactions, such as the APR, finance charge, and payment schedule. Section 226.19 provides that in purchase-money mortgage transactions subject to RESPA, good faith estimates of the disclosures required under § 226.18 must be provided within three days of application. That section also describes the special disclosures required for variable-rate transactions secured by the consumer's principal dwelling.

Disclosure requirements for assumptions, refinancings, and variable-rate adjustments are set forth in § 226.20. The requirements for transactions subject to the right of rescission appear in § 226.23. The agencies are focusing only on those disclosures where consolidation seems possible. Since the disclosures related to variable-rate adjustments and the right of rescission do not seem to be ones which could be consolidated, the Board does not contemplate any changes to these disclosures at this time.

Subpart E (§§ 226.31 through 226.33) contains the disclosure requirements for particular types of home mortgage transactions. Section 226.31 sets forth general disclosure requirements for these transactions, including format and timing rules. Section 226.32 contains the disclosure requirements for certain closed-end home mortgages with an annual percentage rate or points and fees above a certain level. Section 226.33 sets out the disclosure requirements for reverse mortgages.

II. The Simplification Process

HUD and the Board have begun a review of Regulations X and Z to simplify, improve, and unify the disclosure requirements under RESPA and TILA as those statutes currently exist. The following table illustrates certain disclosures that may be relevant to this simplification process—most of which are mandated by the statutes.

Timing	TILA 12 CFR 226	RESPA 24 CFR 3500
At or before referral		Affiliated business arrangement disclosure (3500.15).
At or before application	Home equity line of credit booklet and disclosure (226.5a). Adjustable rate booklet and disclosure (226.19b).	
Within three days of application	TILA disclosure (including APR and finance charge) (226.19a).	Special information booklet (3500.6). Good faith estimate (3500.7). Required providers (3500.7). Initial transfer of servicing disclosure (3500.21).
Three days before closing/consummation.	Section 32 disclosures (226.32). Reverse mortgage disclosures (226.33).	
One day before closing/consummation.		Right to inspect HUD–1 or HUD–1A (3500.10).
At closing/consummation	TILA disclosure (226.18) Rescission notice (226.23)	HUD–1 or HUD–1A (3500.8). Initial escrow account statement (within 45 days of closing) (3500.17).

A. Past Efforts

During the past several years, the agencies have been actively working together to try to ensure that TILA and RESPA regulations are as consistent as possible. Much of this was addressed in 1994 by HUD when it amended Regulation X to cover subordinate lien loans, and subsequently by the Board in updates to the Regulation Z commentary. For example, the regulations now use similar definitions for the terms "assumption," "refinance," "business day," and "business purpose."

Where possible, the agencies also have worked to streamline disclosure requirements. For example, Regulation Z permits creditors to substitute both the good faith estimate and the settlement statement required under RESPA for the itemization of the "amount financed" under TILA. Similarly, Regulation X permits Regulation Z's disclosure for home equity lines of credit to substitute for RESPA disclosures.

Where the requirements of the statutes do not overlap but are related, the agencies have provided guidance on

compliance issues. For example, the Regulation Z commentary has been revised to avoid conflict between the RESPA escrow accounting rules and TILA's rules on calculating prepaid finance charges, such as private mortgage insurance.

HUD and the Board recognize that this revision process requires a careful balancing of competing interests. Consumers need timely and accurate information in order to make decisions, but too much information may confuse or intimidate the consumer, and thus may be counterproductive. Creditors need clear and workable rules that do not unnecessarily drive up compliance costs, which could lead to higher settlement costs for consumers. Therefore, the benefits of improvements to the regulations will be weighed against the cost of implementing and complying with those changes.

B. Issues for Comment

HUD and the Board request public comment on specific ways to simplify and improve the present disclosure scheme. To the extent possible, comments should be clearly separated into two parts: (1) Those that entail regulatory changes within the existing statutory framework, and (2) Those that require legislative change. The agencies request:

1. Specific recommendations on how disclosures presently required under RESPA and TILA can be made more consistent (including how the disclosures can be combined, simplified, or improved); and how the timing and format of such disclosures can be made more compatible.

2. Recommendations about ways to enhance the educational value for consumers of any of the present disclosures, including suggestions as to alternative methods of disclosure.

3. Any reports, documents, articles or other material that will assist the agencies in the present task.

After consideration of the public comments on this advance notice of proposed rulemaking and the agencies' own review, HUD and the Board will coordinate the publication of proposed amendments to their regulations to simplify and improve the present disclosure scheme, to the extent that the current statutory framework permits. Subsequently, the agencies also may submit recommendations to the Congress for legislative changes necessary to improve disclosure requirements.

By order of the Board of Governors of the Federal Reserve System, December 26, 1996.

William W. Wiles,

Secretary of the Board.

Dated: December 23, 1996.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 96–33299 Filed 12–30–96; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1915

[Docket No. S–051]

RIN No. 1218–AB51

Safety Standards for Fire Protection for Shipyard Employment

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Notice of public meeting.

SUMMARY: The Occupational Safety and Health Administration is announcing the second public meeting of the Fire Protection for Shipyard Employment Negotiated Rulemaking Advisory Committee.

DATES: The public meeting will be held on February 4 through February 6, 1997. The sessions will run from 9:00 a.m. to approximately 4:00 p.m. each day.

Membership for this Committee has been drawn from shipyard operators, labor, professional associations, public interests and government agencies. Members of the Committee represent the interests of all groups interested in, or significantly affected by, the outcome of the rulemaking.

ADDRESSES: The public meeting will be in Jacksonville, Florida, at the Holiday Inn, 1617 North First Street, Jacksonville, Florida 32250; telephone numbers (904) 249–9071 and (800) 590–4767.

Any written comments in response to this notice should be sent, in quadruplicate, to the following address: Docket Office, Docket S–051, Room N–2625, 200 Constitution Ave., N.W., Washington, D.C. 20210; Telephone (202) 219–7894.

FOR FURTHER INFORMATION CONTACT: OSHA, U.S. Department of Labor, Office of Information and Consumer Affairs, Room N–3647, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Telephone: (202) 219–8151.

SUPPLEMENTARY INFORMATION:

I. Background

Fire protection in shipyard employment has been regulated by OSHA'S general industry standards for fire protection, 29 CFR 1910.155 through 1910.165, Subpart L. In enforcement activities, OSHA has also used Section (5)(a)(1) of the Occupational Safety Health Act ("the Act"), the General Duty Clause, which requires each employer to,

> furnish to each of his employees employment and a place of employment which are free from recognized hazards causing or likely to cause death or serious physical harm.

The general industry standards, which address fire brigades, portable fire extinguishers, standpipe and hose systems, automatic sprinkler systems, fixed extinguishing systems, fire detection systems, and employee alarm systems, cover primarily landside shipyard operations. Fire hazards on board vessels are not covered by the general industry standards. Moreover, the general industry standards are in need of review and revision and do not completely address hazards that are unique to shipyard employment. The Agency believes a standard promulgated under § 6(b) of the Act will more effectively reduce the risks of fire in the shipyard and on board vessels.

OSHA is using the negotiated rulemaking (Neg/Reg) process to develop a proposed standard for fire protection covering all shipyard employment. The shipyard stakeholders from all sectors strongly support consensual rulemaking efforts like negotiated rulemaking. OSHA believes this process will result in a proposed standard whose provisions will effectively protect employees working throughout the shipyard. (See OSHA's Notice of Intent to Form a Negotiated Rulemaking Committee to Develop a Proposed Rule on Fire Protection in Shipyard Employment, 61 FR 28824, June 6, 1996, for a detailed explanation of why OSHA is using negotiated rulemaking to develop its proposed standard and for general information on the negotiated rulemaking process). The goal of this negotiated rulemaking is a proposed rule and supporting documentation that is acceptable to all members.

The first meeting of this Advisory Committee took place in Portland, Oregon, October 15–17, 1996. The Members were introduced and the negotiated rulemaking process and the legal requirements for OSHA rulemaking were explained to them. Following discussion, the Members

adopted ground rules for the Committee. In addition, the Committee set forth substantive issues that needed to be resolved, established work groups and began discussing scope and application, fire prevention and fire fighting.

II. The Key Issues in this Rulemaking

The key issues to be addressed as part of these negotiations include:

1. *Scope and Application*

Should Subpart P apply to all shipyard employment? How will the standard affect out-of-yard/plant firefighters such as those employed by a municipal fire department?

2. *Controls and Work Practices*

What controls and work practices will provide adequate protection for employees? Should OSHA require hot work permits? Should OSHA require training for all fire fighters? Should OSHA incorporate U.S. Coast Guard regulations in this standard? Is there any difference in controls and work practices on landside vs. onboard vessels and vessel sections? Should OSHA require the employer to secure (deactivate) all fire fighting systems onboard vessels when they arrive in the yard?

3. *Fire Brigades*

Should OSHA require each shipyard to have an in-yard/plant fire brigade?

4. *Written Fire Plans*

Should OSHA require written fire plans for landside and onboard vessels? If so, what provisions need to be included in the plans? Should OSHA include a requirement for de-watering (removal of firefighting water from the vessel) of vessels when fighting a fire on board a vessel?

5. *Technological Advances*

What advances in fire technology have occurred since OSHA's general industry standards were promulgated? Which of these advances should be incorporated into the shipyard standard?

6. *Costs of Fire Protection*

What costs would be incurred by shipyards in meeting the various provisions of a new standard? Calculations should include costs of acquiring new equipment, instituting new engineering controls and work practices, and costs of training employees. Are there cost savings or other benefits that could be expected with the promulgation of identical rules for all of shipyard employment? If so, what would be the magnitude of savings?

7. *Appendices*

Should OSHA include technical information in an appendix or appendices? If so, should it (they) be mandatory?

III. The Agenda for the February 4–6, 1996, Meeting

1. The meeting will be opened and the roll taken.
2. The minutes from the first meeting which was held October 15–17, 1996, in Portland, Oregon will be presented for acceptance by the Committee.
3. The tentative agenda for this meeting will be reviewed and changes made, if necessary.
4. The Fire Watches work group will present its draft regulatory text and preamble.
5. Each work group chairperson will report on his or her work group's progress.
6. The draft Scope and Application section will be presented for the Committee's review.
7. Breakout sessions will occur as needed throughout the meeting.
8. The Committee will establish the time and date for the next meeting.

The Advisory Committee's facilitator, relying on the information presented to him by OSHA as well as the considerable input from the various interests during convening efforts, will identify and present other substantive issues to be resolved by this Committee, as time permits. OSHA requests that all interested parties bring their calendars to facilitate the development of a tentative schedule of committee meetings, site visits and workgroup meetings.

IV. Public Participation

All interested parties are invited to attend this public meeting at the time and place indicated above. No advanced registration is required. Seating will be available to the public on a first-come, first-served basis. Individuals with disabilities wishing to attend should contact Ms. Theda Kenney at (202) 219–8061 to obtain appropriate accommodations no later than January 17, 1997.

In addition, members of the general public may request an opportunity to make oral presentations to the Committee. The facilitator of the Committee will decide to what extent oral presentations by members of the public may be permitted at the meeting. Oral presentations may include statements of fact and opinions, but shall not include any questioning of the Committee Members or other participants unless these questions have been specifically approved by the facilitator.

Part 1912 of Title 29 of the Code of Federal Regulations will apply generally. The reporting requirements of § 1912.33 have been changed pursuant to § 1912.42 to help meet the special needs of this Committee. Specifically, § 1912.33 requires that verbatim transcripts be kept of all advisory committee meetings. Producing a coherent transcript requires a certain degree of formality. The Assistant Secretary has determined pursuant to § 1912.42 that such formality might interfere with the free exchange of information and ideas during the negotiations, and that the OSH Act would be better served by simply requiring detailed minutes of the proceedings without a formal transcript.

Minutes of the previous meeting and materials prepared for the Committee will be available for public inspection at the OSHA Docket Office, N–2625, 200 Constitution Ave., NW., Washington, D.C. 20210; Telephone (202) 219–7894.

Any written comments should be directed to Docket No. S–051, and sent in quadruplicate to the following address: OSHA Docket Office, U.S. Department of Labor, Room N–2625, 200 Constitution Ave., NW., Washington, DC 20210; Telephone (202) 219–7894.

V. Authority

This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, pursuant to section 3 of the Negotiated Rulemaking Act of 1990, 104 Stat. 4969, Title 5 U.S.C. 561 *et seq.*; and Section 7(b) of the Occupational Safety and Health Act of 1970, 84 Stat. 1597, Title 29 U.S.C. 656.

Signed at Washington, D.C., this 24th day of December, 1996.

Joseph A. Dear,

Assistant Secretary of Labor.

[FR Doc. 96–33223 Filed 12–30–96; 8:45 am]

BILLING CODE 4510–26–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 244 and 245

[FRL–5670–7]

Solid Waste Programs; Management Guidelines for Beverage Containers and Resource Recovery Facilities Guidelines; Removal of Obsolete Guidelines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: On March 4, 1995, the President directed all Federal agencies

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and departments to conduct a comprehensive review of the regulations they administer and, by June 1, 1995, to identify those rules that are obsolete or unduly burdensome. EPA has conducted a review of its rules, including rules issued under the Resource Conservation and Recovery Act (RCRA). Based on the review, EPA is today proposing to remove from the Code of Federal Regulations (CFR) two guidelines pertaining to solid waste management which are obsolete. The activities addressed in these 1976 guidelines have been included in numerous state and local statutes and regulations and other Federal rules, or have been superseded by such Presidential actions as Executive Order 12873, "Federal Acquisition, Recycling, and Waste Prevention." These guidelines are now obsolete because: the need for Part 244 guidelines for Federal facilities on beverage containers has passed with the implementation of state and local recycling mandates and requirements, RCRA Section 6001 requirements, and Executive Order 12873, and Part 245 requirements are incorporated into state and local laws and Part 256, which addresses the requirements for facility planning and implementation of resource recovery programs.

Therefore, deleting these guidelines from the CFR will have no measurable impact on solid waste management.

In the rules and regulations section of today's **Federal Register**, EPA is also promulgating a direct final rule to withdraw Parts 244 and 245 from Title 40 of the Code of Federal Regulations (CFR). A detailed rationale for the removal of these guidelines is set forth in the direct final rule and is incorporated herein. Potential commenters should consult that notice. If no adverse comments are received in response to this notice, no further activity is contemplated in relation to this proposed rule and Parts 244 and 245 will be withdrawn. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments on this proposed rule must be received by January 30, 1997.

ADDRESSES: Written comments (one original and two copies) should reference docket number F–96–MRBP-FFFFF and be addressed to: RCRA Docket and Information Center (RIC), Office of Solid Waste (5305W), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Supporting docket materials can be viewed at and hand deliveries of comments can be made to the following address: Crystal Gateway I, first floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m. Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling 703 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page.

FOR FURTHER INFORMATION CONTACT: Deborah Gallman (703) 308–7276, U.S. EPA, Office of Solid Waste and Emergency Response, 401 M Street, S.W., (5306W), Washington, D.C. 20460, or the RCRA Hotline, phone (800) 424–9346 or TDD (800) 553–7672 hearing impaired or (703) 412–9810 or TDD (703) 412–3323 in the Washington, D.C., metropolitan area.

SUPPLEMENTARY INFORMATION:

I. Authority

This rule is being proposed under the authority of sections 1008, 2002, 6001, and 6004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and the Hazardous and Solid Waste Amendments of 1984; 42 U.S.C. 6961.

II. Additional Information

For additional information, see the corresponding direct final rule published in the rules and regulations section of this **Federal Register**.

III. Analysis under Executive Order (E.O.) 12866, the Unfunded Mandates Reform Act of 1995, and the Paperwork Reduction Act

Because the withdrawal of these guidelines from the CFR reflects their current obsolescence and has no regulatory impact, this action is not a "significant" regulatory action within the meaning of E.O. 12866, and does not impose any Federal mandate on state, local, or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995. For the same reasons, their deletion from the CFR does not affect requirements under the Paperwork Reduction Act.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally requires an agency to prepare, and make available for public comment, a regulatory flexibility analysis that describes the impact of a proposed or final rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant adverse economic impact on a substantial number of small entities. This proposed rule is deregulatory in nature. The effect of the proposed rule is to remove obsolete guidelines which are mandatory only for Federal facilities. Therefore, I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities. As a result, no Regulatory Flexibility Analysis is needed.

List of Subjects

40 CFR Part 244

Environmental protection, Beverages, Government property, Recycling.

40 CFR Part 245

Government property, Recycling.

Dated: December 20, 1996.

Carol M. Browner,

Administrator.

[FR Doc. 96–32968 Filed 12–30–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

42 CFR Part 1001

Solicitation of New Safe Harbors and Modifications to Existing Safe Harbors

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Notice of intent to develop regulations.

SUMMARY: In accordance with section 205 of the Health Insurance Portability and Accountability Act of 1996, this notice solicits proposals and recommendations for developing new and modifying existing safe harbor provisions under the Medicare and State health care programs' anti-kickback statute, as well as developing new OIG Special Fraud Alerts.

DATES: To assure consideration, public comments must be delivered to the address provided below by no later than 5 p.m. on March 3, 1997.

ADDRESSES: Please mail or deliver your written comments to the following

address: Office of Inspector General, Department of Health and Human Services, Attention: OIG–11–N, Room 5246, Cohen Building, 330 Independence Avenue, S.W. Washington, DC 20201.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commencing, please refer to file code OIG–11–N. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 5541 of the Office of Inspector General at 330 Independence Avenue, S.W., Washington, D.C., on Monday through Friday of each week from 8:00 a.m. to 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Joel Schaer, (202) 619–0089, OIG Regulations Officer.

SUPPLEMENTARY INFORMATION:

I. Background

A. The OIG Safe Harbor Provisions

Section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) provides criminal penalties for individuals or entities that knowingly and willfully offer, pay, solicit or relieve remuneration in order to induce business reimbursed under the Medicare or State health care programs. The offense is classified as a felony, and is punishable by fines of up to $25,000 and imprisonment for up to 5 years.

The types of remuneration covered specifically include kickbacks, bribes, and rebates, whether made directly or indirectly, overtly or covertly, or in cash or in kind. In addition, prohibited conduct includes not only remuneration intended to induce referrals of patients, but remuneration intended to induce the purchasing, leasing, ordering, or arranging for any good, facility, service, or item paid for by Medicare or State health care programs.

Since the statute on its face is so broad, concern has been expressed for many years that some relatively innocuous commercial arrangements are technically covered by the statute and are, therefore, subject to criminal prosecution. As a response to the above concern, the Medicare and Medicaid Patient and Program Protection Act of 1987, section 14 of Public Law 100–93, specifically required the development and promulgation of regulations, the so-called "safe harbor" provisions, designed to specify various payment and business practices which, although potentially capable of inducing referrals of business under the Medicare and State health care programs, would not be treated as criminal offenses under the anti-kickback statute (section 1128B(b) of the Social Security Act; 42 U.S.C. 1320a–7b(b)) and would not serve as a basis for a program exclusion under section 1128(b)(7) of the Social Security Act; 42 U.S.C. 1320a–7(b)(7). The OIG safe harbor provisions have been developed "to limit the reach of the statute somewhat by permitting certain non-abusive arrangements, while encouraging beneficial and innocuous arrangements" (56 FR 35952, July 29, 1991). Health care providers and others may voluntarily seek to comply with these provisions so that they have the assurance that their business practices are not subject to any enforcement action under the anti-kickback statute or program exclusion authority.

To date, the OIG has developed and codified in 42 CFR 1001.952 a total of 13 final safe harbors that describe practices that are sheltered from liability, and is continuing to finalize 8 additional safe harbor provisions (see the OIG notice of proposed rulemaking at 58 FR 49008, September 21, 1993).

B. OIG Special Fraud Alerts

In addition, the OIG has also periodically issued Special Fraud Alerts to give continuing guidance to health care providers with respect to practices the OIG regards as unlawful. These Special Fraud Alerts provide the OIG with a means of notifying the health care industry that we have become aware of certain abusive practices which we plan to pursue and prosecute, or bring civil and administrative action, as appropriate. The Special Fraud Alerts also serve as a tool to encourage industry compliance by giving providers an opportunity to examine their own practices. The OIG Special Fraud Alerts are intended for extensive distribution directly to the health care provider community, as well as those charged with administering the Medicare and Medicaid programs.

In developing these Special Fraud Alerts, the OIG has relied on a number of sources and has consulted directly with experts in the subject field, including those within the OIG, other agencies of the Department, other Federal and State agencies, and from those in the health care industry. To date, eight individual Special Fraud Alerts have been issued by the OIG and subsequently reprinted in the **Federal Register** on December 19, 1994 (59 FR 65372), August 10, 1995 (60 FR 40847) and June 17, 1996 (61 FR 30623)

II. Section 205 of Public Law 104–191

The Health Insurance Portability and Accountability Act of 1996, Public Law 104–191, effective August 21, 1996, now requires the Department to provide additional formal guidance regarding the application of the anti-kickback statute and the safe harbor provisions, as well as other OIG health care fraud and abuse sanctions. Among the provisions set forth in section 205 of Public Law 104–191 is the requirement that the Department develop and publish an annual notice in the **Federal Register** formally soliciting proposals for (1) modifying existing safe harbors, (2) developing new safe harbors and OIG Special Fraud Alerts, and (3) issuing requests for advisory opinions. After considering such proposals and recommendations, the Department, in consultation with the Department of Justice, will consider the issuance of new and modified safe harbor regulations, as appropriate. In addition, the OIG will consider the issuance of additional Special Fraud Alerts. Finally, in accordance with the statute, the OIG will formally begin accepting requests for advisory opinions on February 21, 1997. Regulations establishing the procedures and a process for accepting and issuing advisory opinions are being prepared for separate publication in the **Federal Register** and will be issued in the near future.

Criteria for Modifying and Establishing Safe Harbor Provisions

In accordance with the statute, we will consider a number of factors in considering proposals for new or modified safe harbor provisions, such as the extent to which the proposals would affect an increase or decrease in—

- Access to health care services;
- The quality of health care services;
- Patient freedom of choice among health care providers;
- Competition among health care providers;
- The cost to Federal health care programs;
- The potential overutilization of the health care services; and
- The ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

In addition, we will also take into consideration the existence (or nonexistence) of any potential financial benefit to a health care professional or provider that may vary based on their decisions of whether to (1) order a health care item or service, or (2) arrange for a referral of health care items or services to a particular practitioner or provider.

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Criteria for Developing Special Fraud Alerts

In determining whether to issue additional Special Fraud Alerts, we will also consider whether, and to what extent, those practices that would be identified in new Fraud Alerts may result in any of the consequences set forth above, and the volume and frequency of the conduct that would be identified in these Special Fraud Alerts.

III. Solicitation of Public Comments

In order to address the requirements of section 205 of Public Law 104–191, we are requesting public comments from affected provider, practitioner, supplier and beneficiary representatives regarding the development of proposed or modified safe harbor regulations and new Special Fraud Alerts. A detailed explanation of justification or empirical data supporting the suggestion would prove helpful in our considering and drafting new or modified safe harbor regulations and Special Fraud Alerts.

Dated: December 20, 1996.

June Gibbs Brown,

Inspector General, Department of Health and Human Services.

Approved: December 20, 1996.

Donna E. Shalala,

Secretary.

[FR Doc. 96–33277 Filed 12–30–96; 8:45 am]

BILLING CODE 4150–04–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 96–220; FCC 96–426]

Non-Voice Non-Geostationary Mobile Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has proposed rules and policies to govern the second processing round for the non-voice, non-geostationary mobile satellite service ("NVNG MSS") also referred to as the "Little LEO" service. The Commission's proposals include limiting the licensees in the second processing round to "new entrants;" adopting strict financial rules; adopting rules requiring licensees to time-share spectrum with existing commercial and government licensees; and seeking comment on conducting auctions if mutual exclusivity arises.

DATES: Comments must be submitted on or before January 6, 1997; reply comments must be submitted on or before January 13, 1997.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Paula Ford, International Bureau, Satellite Policy Branch, (202) 418–0760; Brian Carter, International Bureau, Satellite Policy Branch, (202) 418–2119; Kathleen Campbell, International Bureau, Satellite Policy Branch (202) 418–0753.

Summary of Notice of Proposed Rulemaking

1. This Notice of Proposed Rulemaking ("NPRM") reflects the Commission's commitment to licensing applicants in the second processing round to provide Little LEO service and the Commission's continued efforts to promote competition in the U.S. satellite services market. With this NPRM, we propose service rules and polices for the licensing of three applicants in the second processing round.

2. In order to promote multiple entry and competition, the Commission proposes to limit the participation in the second processing round to pending applicants who are not Little LEO licensees or affiliated with a Little LEO licensee. We propose to identify an applicant as an affiliate if the applicant: (1) Directly or indirectly controls or influences a licensee; (2) is directly or indirectly controlled or influenced by a licensee; or (3) is directly or indirectly controlled or influenced by a third party or parties that also have the power to control or influence a licensee.

3. Given that future entry may not be possible in the Little LEO service and grant to an under-financed applicant will likely prevent a capitalized applicant from going forward, we propose to amend the current financial standard to require that each applicant demonstrate that it has finances necessary to construct, launch, and operate the entire system for a year. In cases where there are more applicants than the spectrum can accommodate, a grant to an under-financed space station applicant may preclude a capitalized applicant from implementing its system, and delay service to the public. In the past we have required a stringent financial showing in such cases.

4. We propose to license three Little LEO systems to operate in particular spectrum blocks: the first system in the 149.81 MHz/400.5050–400.5517 MHz bands; the second in the 148.905–149.81 MHz/137–138 MHz bands; the third system in the 149.95–150.05 MHz/400.150–400.5050 MHz/400.645–401.0 MHz bands. The proposal requires all systems to time-share the spectrum and coordinate use of the spectrum with users of the bands. In the 137–138 MHz band, the Little LEO licensee would have to time-share spectrum with meteorological satellites of the National Oceanic and Atmospheric Administration. The Little LEO system operating in the 400.150–400.5050 MHz and 400.645–401 MHz bands would have to time-share the spectrum with meteorological satellites of the Department of Defense.

5. We also request comments on a number of other issues. If we have more qualified applicants than available spectrum in which they can operate, we asked for comment on how to resolve mutually exclusive applications and whether we should conduct an auction. We also ask for comment on effective methods of preventing transmissions into countries which have not authorized Little LEO service. Little LEO earth terminals have the physical capability to roam from one region or country to the next. Because of their inherent mobility, users may attempt to operate their earth terminals in a country in which the Little LEO licensee is not authorized to operate. In order to protect against this, we seek comment on methods to address this such as requiring each Little LEO user terminal to be equipped with position determination capabilities. In addition, we seek comment on whether we should adopt limitations on licensee's ability to enter into exclusive arrangements with other countries concerning communications to and from the United States. An exclusive arrangement may foreclose other Little LEO licensees from serving a foreign market and preventing that licensee from providing global service.

6. Finally, we also ask parties to submit amended applications on or before January 27, 1997 to operate in the spectrum blocks outlined in the NPRM. Amended applications must comply with the proposed rules. However, applicants are required to demonstrate finances sufficient to construct and operate only two satellites in their system for a year. Applicants will be allowed to further amend their applications once the Report and Order has been released only to the extent necessary because of the new obligations we have proposed that are different from the proposals in the Notice. If we adopt a strict financial standard we will allow applicants to amend their applications.

Ordering Clauses

7. Accordingly, it is ordered that pursuant to the authority contained in Sections 1, 4(i), 4(j), 301, 303, 308, and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 301, 303, 308, and 309(j), notice is hereby given of our intent to adopt the policies and rules set forth in this Notice and that comment is sought on all the proposals in this Notice.

8. It is further ordered that E-SAT, Inc.'s Petition for Rulemaking in Establishing Rules for Licensing Second-Round Applicants in the Non-voice, Non-geostationary Mobile Satellite Service dated February 14, 1996 and requesting that the Commission initiate a rulemaking proceeding to develop regulations for processing the second-round Little LEO applications is granted.

9. It is further ordered that the Secretary shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Public Law No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

Administrative Matters

10. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules. See generally 47 CFR §§ 1.1202, 1.1203, and 1.1206(a). The Sunshine Agenda period is the period of time that commences with the release of public notice that a matter has been placed on the Sunshine Agenda and terminates when the Commission (1) releases the text of a decision or order in the matter; (2) issues a public notice stating that the matter has been deleted from the Sunshine Agenda; or (3) issues a public notice stating that the matter has been returned to the staff for further consideration, whichever occurs first. 47 CFR 1.1202(f). During the Sunshine Agenda period, no presentations, *ex parté* or otherwise, are permitted unless specifically exempted. 47 CFR 1.1203.

11. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before January 6, 1997 and reply comments on or before January 13, 1997. To file formally in this proceeding, you must file an original and five copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments send additional copies to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the Federal Communications Commission, Reference Center, Room 239, 1919 M Street, N.W. Washington, D.C. 20554. For further information concerning this rulemaking contact Paula Ford at (202) 418–0760 or Virginia Marshall (202) 418–0778.

Initial Regulatory Flexibility Act Statement

12. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis ("IRFA") of the expected impact on small entities of the proposals suggested in this document. The IRFA is set forth in Appendix A of the NPRM. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the NPRM, but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Secretary shall send a copy of this NPRM, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Public Law 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

List of Subjects in 47 CFR Part 25

Satellites.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

Rule Changes

Part 25 of the Commission's Rules and Regulations, Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 25—SATELLITE COMMUNICATIONS

1. The authority citation for Part 25 continues to read as follows:

Authority: Secs. 25.101 to 25.601 issued under Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 101–104, 76 Stat. 419–427; 47 U.S.C. 701–744; 47 U.S.C. 554.

2. Sections 25.259 and 25.260 are added to Subpart C to read as follows:

§ 25.259 Time Sharing Between NOAA Meteorological Satellites and NVNG Satellites in the 137–138 MHz Band.

(a) An NVNG licensee time-sharing spectrum in the 137–138 MHz band shall not transmit signals into the "protection areas" of National Oceanic and Atmospheric Administration ("NOAA") satellites. The protection area shall be calculated by using ephemeris data and an earth station elevation angle of zero degrees towards the NOAA satellite. The NVNG licensee is responsible for obtaining the necessary ephemeris data. This information shall be updated system-wide on at least a biweekly basis.

(b) NVNG licensees shall establish a 24-hour per day contact person and telephone number so that claims of harmful interference into the NOAA earth stations and other issues can be reported and resolved expeditiously. This contact information shall be made available to NOAA.

(c) NVNG satellites shall be designed to cease transmissions automatically if, within a forty-eight hour period, a valid reset signal has not been received from the NVNG gateway Earth station. All NVNG satellites shall be capable of instantaneous shutdown on any sub-band upon command from the gateway earth station.

§ 25.260 Time Sharing Between DoD–NOAA Meteorological Satellites and NVNG Satellites in the 400.15–401 MHz band.

(a) An NVNG licensee time-sharing spectrum in the 400.15–401.0 MHz band shall not transmit signals into the "protection areas" of Department of Defense ("DoD")-National Oceanic and Atmospheric Administration ("NOAA") meteorological satellites. The protection area shall be calculated by using ephemeris data and an earth station elevation angle of zero degrees toward the DoD–NOAA meteorological satellite. The NVNG licensee is responsible for obtaining the necessary ephemeris data. This information shall be updated system-wide on at least a weekly basis.

(b) NVNG licensees shall establish a 24-hour per day contact person and telephone number so that claims of harmful interference into DoD–NOAA earth station users and other operational issues can be reported and resolved expeditiously. This contact information shall be made available to DoD–NOAA.

(c) NVNG satellites shall be designed to cease transmissions automatically if, within forty-eight hours, a valid reset signal has not been received from the NVNG gateway earth station. All NVNG satellites shall be capable of instantaneous shutdown on any sub-

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band upon command from the gateway earth station.

(d) Notwithstanding other provisions of this section, NVNG satellites sharing the 400.15–401 MHz with DoD–NOAA meteorological satellites shall implement within ninety minutes of receiving notice of a DoD–NOAA system frequency change, all appropriate modifications and updates to operate on a non-interference basis in accordance with subsection (a), above.

(e) At DoD–NOAA's instruction, the Little LEO System-3 operator will test, up to four times a year, the Little LEO system's ability to implement a DoD–NOAA requested frequency change.

[FR Doc. 96–33143 Filed 12–30–96; 8:45 am]

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47 CFR Part 61

[CC Docket Nos. 87–313 and 93–197, FCC 96–454]

Policy and Rules Concerning Rates for Dominant Carriers; Revisions to Price Cap Rules for AT&T

AGENCY: Federal Communications Commission.

ACTION: Proposed Rules; termination.

SUMMARY: This Order terminates as moot proceedings concerning the treatment of AT&T Corp.'s (AT&T) offerings of promotions and optional calling plans (OCPs) under price cap regulation in light of the Commission's determination that AT&T is non-dominant and the resultant removal of AT&T's services from price cap regulation.

DATES: Proceedings were terminated November 26, 1996.

FOR FURTHER INFORMATION CONTACT: Joel Taubenblatt, 202–418–1513.

SUPPLEMENTARY INFORMATION: The text of the Commission's Order in CC Dockets Nos. 87–313 and 93–197, FCC 96–454, adopted November 21, 1996, and released November 26, 1996, appears below:

I. Introduction

1. In this Order, we terminate as moot proceedings concerning the treatment of AT&T Corp.'s (AT&T) offerings of promotions and optional calling plans (OCPs) under price cap regulation [1] in light of our determination that AT&T is non-dominant and the resultant removal of AT&T's services from price cap regulation.[2]

II. Background

2. In 1989, the Commission replaced traditional rate of return regulation with an incentive-based system of regulation, called price caps, for most of AT&T's services.[3] To implement the price cap system, the Commission defined three categories of AT&T services, or baskets, and defined a price cap index (PCI) for each basket.[4] The basket structure was designed so that AT&T would not be able to raise prices for services in one basket in order to lower prices for dissimilar services in another basket. Therefore, a change in rates in one basket or in services outside of price caps would not affect either the PCI or the actual price index (API) [5] for the other baskets.

3. The Commission was silent in the AT&T Price Cap Order as to the treatment of promotional rates under price caps.[6] After the Commission adopted the price cap rules, AT&T filed tariffs for a significant number of promotions in which it treated the rates associated with these offerings as rate reductions for purposes of API calculations. MCI Telecommunications Corporation (MCI) and Sprint Communications Company LP (Sprint) sought reconsideration of the AT&T Price Cap Order, requesting clarification of the price cap treatment of promotions. In the AT&T Price Cap Reconsideration Order, the Commission decided to exclude promotions from the price cap index prospectively. It reasoned that including promotional rates in price caps would give AT&T a greater degree of flexibility than warranted to offset the discounted promotional rates with increases in residential and small business rates within Basket 1.[7]

4. AT&T sought judicial review of the AT&T Price Cap Reconsideration Order. The United States Court of Appeals for the District of Columbia Circuit found that the Commission's decision to exclude promotional tariffs from the price cap index was not a reasoned decision supported by the record. The court remanded the AT&T Price Cap Reconsideration Order to the Commission with instructions either to show that its action was a clarification of the original AT&T Price Cap Order, or to "offer a reasoned explanation of why promotional rates should be treated differently from other rates." [8]

5. In response, the Commission vacated its prior decision on this issue and issued the Promotions NPRM in Docket 87–313.[9] In the Promotions NPRM, the Commission tentatively concluded that promotions should be excluded from price cap regulation prospectively. The Commission found that AT&T was able to insulate itself from revenue losses created by promotional discounts by raising its rates for other residential services in Basket 1.[10] The Commission relied upon evidence that AT&T had taken advantage of any downward price flexibility generated by promotions to raise other rates in Basket 1, thereby keeping aggregate rates at the price cap maximum. According to the Commission, "[p]ermitting promotional offerings to be used as a basis for raising basic schedule rates, without limitation, would strongly encourage the proliferation of excessive promotional offerings and undercut the efficiency incentives of the price cap program." [11] As an alternative, the Commission sought comment on whether to treat promotions as either new or restructured services.[12]

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[1] Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87–313, Order and Notice of Proposed Rulemaking, 8 FCC Rcd 3715 (1993), 58 FR 31936, June 7, 1993 (Promotions NPRM); Revisions to Price Cap Rules for AT&T, CC Docket No. 93–197, Notice of Proposed Rulemaking, 8 FCC Rcd 5205 (1993), 58 FR 44157, August 19, 1993 (OCP NPRM); Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87–313, and Revisions to Price Cap Rules for AT&T, CC Docket No. 93–197, Further Notice of Proposed Rulemaking, 10 FCC Rcd 7854 (1995), 60 FR 28774, June 2, 1995 (Further NPRM).

[2] Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrier, 11 FCC Rcd 3271 (1995) (AT&T Reclassification Order), recon. pending. In a subsequent order, the Commission removed AT&T's remaining price cap services, international services, from price cap regulation. Motion of AT&T Corp. to be Declared Non-Dominant for International Service, Order, FCC 96–209 (rel. May 14, 1996).

[3] Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87–313, Notice of Proposed Rulemaking, 2 FCC Rcd 5208 (1987), 52 FR 33962, September 9, 1987; Further Notice of Proposed Rulemaking, 3 FCC Rcd 3195 (1988), 53 FR 22356, June 15, 1988; Report and Order and Second Further Notice of Proposed Rulemaking, 4 FCC Rcd 2873 (1989), 54 FR 19836, May 8, 1989 (AT&T Price Cap Order); Erratum, 4 FCC Rcd 3379 (1989); Memorandum Opinion and Order on Reconsideration, 6 FCC Rcd 665 (1991), 56 FR 5952, February 14, 1991 (AT&T Price Cap Reconsideration Order), remanded sub nom. AT&T v. FCC, 974 F.2d 1351 (D.C.Cir. 1992) (Remand Order). Those services that are not under price cap regulation are subject to streamlined regulation, which reduces their regulatory obligations under Part 61 of the Commission's rules, 47 CFR Part 61.

[4] See Further NPRM, 10 FCC Rcd at 7855–56, for an explanation of how the price cap index is calculated.

[5] The API represents a weighted average of actual prices of the services within the basket. *Id.*

[6] *Id.* at 7857.

[7] AT&T Price Cap Reconsideration Order at 671.

[8] Remand Order, 974 F.2d at 1355.

[9] Promotions NPRM, 8 FCC Rcd 3715.

[10] *Id.* at 3716.

[11] *Id.*

[12] *Id.* at 3717. Under price cap regulation, a service is classified as new if it provides an additional option to a service, but does not replace the existing service. A service is classified as a restructured offering if it replaces an existing service. See Sections 61.44(g), 61.46(b), and 61.47(b) of the Commission's rules, 47 CFR §§ 61.44(g), 61.46(b), and 61.47(b).

6. In the OCP NPRM, the Commission tentatively concluded that the ReachOut category of services (i.e., most domestic MTS OCPs) should be removed from Basket 1 because there is substantial competition among providers of discounted residential services.[13] The Commission sought comment on whether the treatment of OCPs under the AT&T price cap plan should be changed, and, if so, in what manner. Specifically, the Commission sought comment on whether it should adjust the API or the PCI for Basket 1 to reflect the removal of OCPs from Basket 1. As an alternative to removal of OCPs from price cap regulation, it asked for comment on whether OCPs should remain subject to price cap regulation, but be placed in a separate basket.[14]

7. Because the issues presented in determining the regulatory treatment of promotions and OCPs were closely related, we consolidated these issues in a Further Notice of Proposed Rulemaking.[15] In the Further NPRM, we made several tentative conclusions. We determined that Basket 1 domestic MTS promotions, domestic MTS OCPs, and basic schedule MTS offerings exhibit significant cross-elasticities of demand and are generally offered to the same class of customers, *i.e.*, residential customers, following the removal of AT&T's domestic commercial services from price cap regulation.[16] If we removed domestic MTS OCPs and promotions from price caps, the result would be that some of AT&T's offerings of domestic MTS for residential customers would be streamlined while retaining price cap regulation for similar offerings to the same class of customers. We declined to take this step and determined that the issue of further streamlining of OCPs and promotions might be better considered together with AT&T's motion for non-dominant status in a separate proceeding. We did propose, however, a number of related modifications to AT&T's price cap plan. Specifically, we recommended that, because promotions and OCPs are simply different ways of pricing the same service, they should be redefined as alternative pricing plans (APPs) for domestic, residential MTS, which co-exist with the basic domestic MTS rate schedule.[17]

8. On October 23, 1995, we released an order granting AT&T's motion to be reclassified as a non-dominant carrier.[18] The Commission defined the relevant product and geographic market for AT&T, under the Competitive Carrier paradigm,[19] as the interstate, domestic, interexchange market.[20] We then decided that the appropriate standard to evaluate AT&T's reclassification request was whether AT&T possessed market power in the overall relevant market, even if AT&T has the ability to control the prices of one or more services. Applying this standard to the record, the Commission concluded that the market structure characteristics and the indicia of market conduct and performance all indicate that AT&T lacks market power in the interstate, domestic, interexchange market.[21]

9. The Commission noted that the reclassification of AT&T as a non-dominant carrier would free AT&T from price cap regulation for its residential, operator, 800 directory assistance, and analog private line services.[22] By subsequent order, we removed AT&T's international services from price cap regulation as well, thus completing the process of ending price cap regulation of AT&T.[23]

III. Discussion

10. In the AT&T Reclassification Order, we granted AT&T's motion to be reclassified as a non-dominant carrier.[24] The reclassification of AT&T as a non-dominant carrier resulted in the end of price cap regulation for AT&T's residential, operator, 800 directory assistance, and analog private line services. Since AT&T's domestic MTS, including promotions and OCPs, is no longer subject to price caps, the issues raised in our tentative conclusions and proposals in the Further NPRM concerning whether to remove promotions and OCPs from price cap regulation are now moot. Similarly, the issues raised by the D.C. Circuit in the Remand Order in CC Docket No. 87–313 are moot. Accordingly, we will terminate as moot CC Docket Nos. 87–313 and 93–197.

IV. Ordering Clause

11. Accordingly, it is ordered that CC Docket Nos. 87–313 and 93–197 are terminated as moot.

List of Subjects in 47 CFR Part 61

Communications common carriers.

Federal Communications Commission

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 96–32934 Filed 12–30–96; 8:45 am]

BILLING CODE 6712–01–P

[13] OCP NPRM, 8 FCC Rcd at 5205–6. The price cap system's treatment of OCPs differs from that accorded promotions. OCPs are included in a separate service category (the ReachOut service category) from the basic MTS service categories within Basket 1, whereas promotions are included in the applicable MTS service categories. Changes in OCP rates, therefore, are not subject to the same limitations on rate changes as the basic schedule service categories. Further NPRM, 10 FCC Rcd at 7859.

[14] The Commission also proposed a number of other changes to the price cap rules in the OCP NPRM, including whether to remove commercial, 800 Directory Assistance, and analog private line services from price caps. In the Report and Order in CC Docket No. 93–197, 10 FCC Rcd 3009 (1995), 60 FR 4569, January 24, 1995 (Commercial Services Price Cap Order), the Commission resolved these issues, removed commercial services from price cap regulation, and deferred the question of the regulatory treatment of OCPs to this proceeding.

[15] Further NPRM, 10 FCC Rcd 7854.

[16] *Id.* at 7861.

[17] *Id.* at 7862.

[18] AT&T Reclassification Order, 11 FCC Rcd 3271.

[19] Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor, CC Docket No. 79–252, Notice of Inquiry and Proposed Rulemaking, 77 FCC 2d 308 (1979), 44 FR 67445, November 26, 1979; First Report and Order, 85 FCC 2d 1 (1980), 45 FR 76148, November 18, 1980; Further Notice of Proposed Rulemaking, 84 FCC 2d 445 (1981), 46 FR 10924, February 5, 1981; Second Further Notice of Proposed Rulemaking, FCC 82–187, 47 FR 17308 (1982); Second Report and Order, 91 FCC 2d 59 (1982), 47 FR 37889, August 27, 1982; Order on Reconsideration, 93 FCC 2d 54 (1983); Third Further Notice of Proposed Rulemaking, 48 FR 28292 (1983); Third Report and Order, 48 FR 46791 (1983); Fourth Report and Order, 95 FCC 2d 554 (1983), 48 FR 52452, November 18, 1983, *vacated, AT&T* v. *FCC*, 978 F.2d 727 (D.C.Cir. 1992), *cert. denied, MCI Telecommunications Corp.* v. *AT&T*, 113 S.Ct. 3020 (1993); Fourth Further Notice of Proposed Rulemaking, 96 FCC 2d 922 (1984), 49 FR 11856, March 28, 1984; Fifth Report and Order, 98 FCC 2d 1191 (1984), 49 FR 34624, September 4, 1984; Sixth Report and Order, 99 FCC 2d 1020 (1985), 50 FR 1215, January 10, 1985, *vacated, MCI Telecommunications Corp.* v. *FCC*, 765 F.2d 1186 (D.C.Cir. 1985) (collectively referred to as the Competitive Carrier proceeding).

[20] AT&T Reclassification Order, 11 FCC Rcd at 3292.

[21] *Id.* at 3347.

[22] *Id.* at 3281.

[23] Motion of AT&T Corp. to be Declared Non-Dominant for International Service, Order, FCC 96–209 (rel. May 14, 1996).

[24] AT&T Reclassification Order, 11 FCC Rcd 3271.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Status Reviews for the Alexander Archipelago Wolf and Queen Charlotte Goshawk

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of status reviews; extension of comment period.

SUMMARY: The Fish and Wildlife Service (Service) provides notice that the comment period on the rangewide status reviews for the Queen Charlotte goshawk (*Accipiter gentilis laingi*) and the Alexander Archipelago wolf (*Canis lupus ligoni*) is extended. The Service solicits any information, data,

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comments, and suggestions from the public, other government agencies, the scientific community, industry, or other interested parties concerning the status of these species.

DATES: The comment period, originally scheduled to close January 21, 1997, is extended and will now close on February 5, 1997. Any comments received by the closing date will be considered in the findings.

ADDRESSES: Comments and materials should be sent to Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services, 3000 Vintage Blvd., Suite 201, Juneau, Alaska 99801-7100.

FOR FURTHER INFORMATION CONTACT: Mr. John Lindell at the above address (907/586-7240).

SUPPLEMENTARY INFORMATION:

Background

The Service will issue separate findings on petitions to list the Queen Charlotte goshawk and the Alexander Archipelago wolf under the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Queen Charlotte Goshawk

The Queen Charlotte goshawk occurs in forested areas throughout coastal mainland and insular areas of British Columbia, Canada, and southeastern Alaska. On May 9, 1994, the Service received a petition to list the Queen Charlotte goshawk as endangered under the Act, from Mr. Peter Galvin of the Greater Gila Biodiversity Project, Silver City, New Mexico, and nine copetitioners including, the Southwest Center for Biological Diversity, the Biodiversity Legal Foundation, Greater Ecosystem Alliance, Save the West, Save America's Forests, Native Forest Network, Native Forest Council, Eric Holle, and Don Muller. On August 26, 1994, the Service announced a 90-day finding (59 FR 44124) that the petition presented substantial information indicating that the requested action may be warranted, and opened a public comment period until November 25, 1994. The Service extended the public comment period until February 28, 1995, through two subsequent **Federal Register** notices on January 4, 1995 (60 FR 425), and February 24, 1995 (60 FR 10344). The Service issued its 12-month finding on June 29, 1995 (60 FR 33784), indicating that listing the Queen Charlotte goshawk under the Act was not warranted.

On July 16, 1995, the petitioners filed a 60-day notice of intent to sue the Service over its 12-month finding, and on November 17, 1995, they filed suit in the United States District Court for the District of Columbia challenging the not warranted finding made by the Service. As a result of the court proceedings the Service is reevaluating the status of the Queen Charlotte goshawk. The Service is requesting any information, data, comments, and suggestions from the public, other government agencies, the scientific community, industry, or other interested parties concerning the status of this species.

Alexander Archipelago Wolf

The Alexander Archipelago wolf occurs in forested areas of insular and mainland southeast Alaska, from Dixon Entrance (US/Canada border) to Yakutat Bay, including all large islands of the Alexander Archipelago except Admiralty, Baranof, and Chichagof islands. On December 17, 1993, the Service received a petition to list the Alexander Archipelago wolf as threatened under the Act, from the Biodiversity Legal Foundation, Eric Holle and Martin J. Berghoffen. A 90-day finding was made by the Service that the petition presented substantial information indicating that the requested action may be warranted. The 90-day finding was announced (59 FR 26476) and a status review was initiated on May 20, 1994. The public comment period was open between May 20, and October 1, 1994 (59 FR 26476 and 59 FR 44122). The Service announced its finding that listing the Alexander Archipelago wolf was not warranted on February 23, 1995 (60 FR 10056).

The petitioners issued a 60-day notice of intent to sue over the Service's not warranted finding on November 13, 1995. On February 7, 1996, they filed suit in the United States District Court for the District of Columbia challenging the not-warranted finding made by the Service. As a result of the court proceedings the Service is reevaluating the status of the Alexander Archipelago wolf. The Service is requesting any information, data, comments, and suggestions from the public, other government agencies, the scientific community, industry, or other interested parties concerning the status of this species.

Author

This primary author of this notice is Janet E. Hohn, U.S. Fish and Wildlife Service, Alaska Region, 1011 E. Tudor Road, Anchorage, Alaska 99503.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1544).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Export, Import, Reporting and recordkeeping requirements, Transportation.

Dated: December 24, 1996.

Robyn Thorson,

Acting Regional Director, Region 7, Fish and Wildlife Service.

[FR Doc. 96–33255 Filed 12–30–96; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 61, No. 252
Tuesday, December 31, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–832]

Pure Magnesium from the People's Republic of China (PRC): Initiation of New Shipper Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) has received a request to conduct a new shipper administrative review of the antidumping duty order on pure magnesium from the PRC. In accordance with 19 CFR 353.22(h), we are initiating this administrative review.

EFFECTIVE DATE: December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Everett Kelly or Dorothy Tomaszewski, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–4194 or 482–0631, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

SUPPLEMENTARY INFORMATION:

Background

The Department has received a timely request from Taiyuan Heavy Machinery Import and Export Corporation (Taiyuan), in accordance with interim regulation 19 CFR 353.22(h) (1995), for a new shipper review of the antidumping duty order on pure magnesium from the PRC which has a May anniversary date. Taiyuan has certified that it did not export pure magnesium to the U.S. during the period of investigation (POI), and that it is not affiliated with any exporter or producer which did export pure magnesium during the POI. This certification is in accordance with section 751(a)(2)(B)) of the Tariff Act of 1930 as amended, and the Department's interim regulations, 19 CFR 353.22(h). Therefore, we are initiating the new shipper review as requested. However, it is the Department's usual practice with non-market economies to require information regarding *de Jure* and *de facto* government control over a company's export activities to establish its eligibility for an antidumping duty rate separate from the country-wide rate. Accordingly we will issue a separate rates questionnaire to Taiyuan and seek additional information from the PRC government (as appropriate), allowing 30 days for response. If the responses from Taiyuan and the PRC government indicate adequately that Taiyuan is not subject to either *de Jure* or *de facto* government control with respect to its exports of pure magnesium, the review will proceed. If, on the other hand, Taiyuan does not demonstrate its eligibility for a separate rate, Taiyuan will be deemed to be affiliated with other companies that exported during the POI that did not establish their entitlement to a separate rate, and the review will be terminated.

Initiation of Review

In accordance with section 751(a)(2)(B)(ii) of the Act and 19 CFR 353.22(h)(6), we are initiating a new shipper review of the antidumping duty order on pure magnesium from the PRC. We intend to issue the final results of review not later than 270 days from the date of publication of this notice.

Antidumping Duty Proceeding	Period to be Reviewed
PRC: Pure Magnesium, A-570–832:	
Taiyuan Heavy Machinery Import and Export	05/01/96–10/31/96

Upon an affirmative separate rates determination, we will instruct the U.S. Customs Service to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by the above listed companies, in accordance with 19 CFR 353.22(h)(4).

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b).

This initiation and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 353.22(h).

Dated: December 20, 1996.

Jeffrey P. Bialos,

Principal Deputy Assistant Secretary, Import Administration.

[FR Doc. 96–33174 Filed 12–30–96; 8:45 am]
BILLING CODE 3510–DS–M

[A–489–501]

Notice of Final Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipe and Tube From Turkey

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On July 5, 1996, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on certain welded carbon steel pipe and tube from Turkey. The review covers shipments of this merchandise to the United States during the period May 1, 1994, through April 30, 1995.

Based on our analysis of the comments received, the correction of certain clerical and computer program errors, and the correction of errors found at verification, we have changed the preliminary results. The final results

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are listed below in the section "Final Results of Review."

EFFECTIVE DATE: December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Jennifer Stagner, Brian Smith (Erbosan), or Gabriel Adler (Borusan), Office of AD/CVD Enforcement II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1673, (202) 482–1766, and (202) 482–1442, respectively.

SUPPLEMENTARY INFORMATION:

Background

This review covers two manufacturers/exporters to the United States of the subject merchandise, the Borusan Group (Borusan) and Erviyas Boru Sanayii ve Ticaret A.S. (Erbosan), and the period May 1, 1994, through April 30, 1995. On July 5, 1996, the Department of Commerce (the Department) published in the **Federal Register** the Preliminary Results of Administrative Review of the Antidumping Duty Order on Certain Welded Carbon Steel Pipe and Tube from Turkey (61 FR 35188) (Preliminary Results). We issued supplemental questionnaires to Borusan and Erbosan in July 1996; we received the responses in August 1996. Verification was conducted in September 1996. We received case and rebuttal briefs on November 12, 1996, and November 19, 1996, respectively.

The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

Imports covered by this review are shipments of certain welded carbon steel pipe and tube products with an outside diameter of 0.375 inch or more but not over 16 inches, of any wall thickness. These products are currently classifiable under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. These products, commonly referred to in the industry as standard pipe and tube, are produced to various American Society for Testing and Materials (ASTM) specifications, most notably A–120, A–53 or A–135.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Product Comparisons

In accordance with section 777A(d)(2) of the Act, we calculated for Borusan transaction-specific Export Prices (EPs) and compared them to normal value (NV) based on either weighted-average home market prices or constructed values. For Erbosan, we calculated transaction-specific EPs and compared them to NV based on weighted-average home market prices only. The EPs and NVs were calculated and compared by product characteristics and, where possible, at the same level of trade (see "Level of Trade" section below). For price-to-price comparisons, we compared identical merchandise, where possible. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we made similar comparisons based on the characteristics listed in the Department's antidumping questionnaire. For both Borusan and Erbosan, we excluded certain reported products in the home market from our analysis because the merchandise was not part of the foreign like product. For Erbosan, we found that there were U.S. sales of certain products for which there were no home market sales of identical or similar products sold in the same month. As discussed in the *Preliminary Results*, we did not apply the Department's 90/60 day rule because Turkey experienced hyperinflation during the period of review (POR). In general, where no match can be found for a U.S. sale, the Department would normally resort to CV as the basis of NV. In this case, however, no specific request was made by the Department that Erbosan provide CV in these instances. Therefore, as facts available, we assigned the U.S. sales without home market matches the average of the calculated margins. In determining what to use as facts available, we considered whether Erbosan cooperated to the best of it ability using the criteria set for in section 776(b) of the Act. We determined that Erbosan met all these criteria and concluded that an adverse inference should not be made (see Erbosan Sales Comment 1 below).

Level of Trade

As set forth in section 773(a)(1)(B)(i) of the Act and in the Statement of Administrative Action (SAA) accompanying the URAA at 829–831, to the extent practicable, the Department will calculate NV based on sales at the same level of trade as the U.S. sale. When the Department is unable to find sale(s) in the comparison market at the same level of trade as the U.S. sale(s), the Department may compare sales in the U.S. and foreign markets at a different level of trade. See Final Determination of Sales at Less than Fair Value; Certain Pasta from Italy, 61 FR 30326 (June 14, 1996) (Pasta from Italy).

In accordance with section 773(a)(7)(A) of the Act, in comparing U.S. sales to NV sales, the Department will adjust the NV to account for any difference in level of trade if two conditions are met. First, the sales must in fact be made at different levels of trade, which can exist only if there are differences between the actual selling functions performed by the seller at the level of trade of the U.S. sale and the level of trade of the NV sale. Second, the difference must affect price comparability as evidenced by a pattern of consistent price differences between sales at the different levels of trade in the market in which NV is determined.

In order to determine that there is a difference in level of trade, the Department must find that two sales have been made at different stages of marketing, or the equivalent. Different stages of marketing necessarily involve differences in selling functions, but differences in selling functions (even substantial ones) are not alone sufficient to establish a difference in the level of trade. Similarly, seller and customer descriptions (such as "distributor" and "wholesaler") are useful in identifying different levels of trade, but are insufficient to establish that there is a difference in the level of trade. See Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada: Preliminary Results of Antidumping Duty Administrative Review, 61 FR 51891, 51895–96 (October 4, 1996) (Steel from Canada).

In implementing this principle in this review, we examined information regarding the selling activities of the producers/exporters associated with each stage of marketing, or the equivalent. In addition, we examined any claimed levels of trade (LOTs) reported by each respondent.

In reviewing the selling functions reported by the respondents, we considered all types of selling activities, both claimed and unclaimed, that had been performed. In analyzing whether separate LOTs existed in this review, we found that no single selling activity in the pipe and tube industry was sufficient to warrant a separate LOT (see Notice of Proposed Rulemaking and Request for Public Comments, 61 FR 7307, 7348 (February 27, 1996)). For this review, we determined that the following selling functions and activities are relevant to the pipe and tube industry: (1) Inventory maintenance; (2) technical services; (3) warranty services; (4) customer advice and product information; (5) delivery arrangements; (6) sales from warehouse vs. direct sales; and (7) direct advertising. We did not consider trade discounts as a selling function (see Pasta from Italy).

When examining claimed LOTs, we analyzed the selling activities associated with the classes of customers and marketing stages the respondents reported. In applying this analysis, we expect that, if claimed LOTs are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar. The Department not only counts activities, but weighs the overall function performed for each claimed level of trade. In determining whether separate LOTs existed in the home market, pursuant to section 773(a)(1)(B)(i) of the Act, we considered the selling functions reflected in the starting price of the home market sales before any adjustment.

A. Borusan

Borusan claimed that it has three LOTs in the home market: (1) Direct sales; (2) reseller back-to-back sales; and (3) reseller inventory sales. It reported only one LOT in the U.S. market (i.e., trading companies). We agree with Borusan that one LOT exists in the U.S. market because Borusan has one chain of distribution and one customer category in the U.S. market. However, based on our practice, as stated recently in Steel from Canada, we have determined, for the reasons described below, that there are not three, but only two LOTs in the home market.

The first step in this analysis requires that the Department identify the different stages of marketing. We find that there are two stages of marketing: (1) Sales shipped directly to distributors/wholesalers (direct sales and reseller back-to-back sales); and (2) warehouse sales to retailers (reseller inventory sales).

After determining the number of marketing stages, we must then examine whether the selling functions performed by the seller support Borusan's claimed LOTs or the separate marketing stages determined by the Department. For the claimed LOTs in the home market, we did not find that there were three distinct sets of selling functions performed by the seller. Rather, we found two distinct sets of selling functions performed by the seller, which reflected the two marketing stages determined by the Department. Thus, we concluded that there are two distinct LOTs in the home market based on the marketing stages and selling functions performed by the seller at those stages.

Next we examined the selling functions performed by the seller with respect to both markets to determine if U.S. sales can be matched to home market sales at the same LOT. See Sales Comment 3 for a complete discussion; see also Memorandum to the File from the Team, dated December 17, 1996.

Based on our analysis, we determined that there is one U.S. LOT and two home market LOTs, one of which we determined to be identical in aggregate selling functions to that at which sales are made to the United States. We compared sales at the sole LOT in the U.S. market to sales at the identical home market LOT. If no home market match was available at the same LOT in the same month as the U.S. sale, we compared sales at the sole LOT in the U.S. market to sales at the other LOT in the home market. We then examined whether a LOT adjustment was appropriate for Borusan when comparing sales at its U.S. LOT to sales at the non-identical LOT.

To determine whether an LOT adjustment was necessary, we examined, on a monthly basis, the prices of comparable product categories, net of all adjustments, between sales at the identical home market LOT and sales at the non-identical home market LOT. We did not find a consistent pattern of price differences between sales at these LOTs. Therefore, for non-identical LOT matches, we made no LOT adjustments. If no home market match was found, we compared EP to constructed value.

It is now the Department's practice to calculate, to the extent possible, a CV by LOT, using the selling expenses and profit determined for each LOT in the comparison market. See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Thailand and the United Kingdom; Preliminary Results of Antidumping Duty Administrative Reviews, Termination of Administrative Reviews, and Partial Termination of Administrative Reviews, 61 FR 35713, 35718 (July 8, 1996). However, because the record of this review does not include selling expense and profit data specific to each LOT, we have calculated a CV for each product without regard to LOTs.

B. Erbosan

Erbosan made no claim that different levels of trade existed. However, the Department must still examine whether there are different levels of trade when the information on the record permits adequate analysis of the issue (see Pasta from Italy). In determining whether separate levels of trade actually existed between the U.S. and home markets, we first examined Erbosan's marketing stages. In reviewing the chains of distribution and customer categories reported in the home market, we found no differences between the reported chains/categories. Thus, we found only one stage of marketing in the home market. For the U.S. market, Erbosan had only one chain of distribution and one customer category. Thus, we determined that Erbosan has one stage of marketing in the U.S. market.

As described above, it is still necessary to examine the selling functions performed to determine whether separate levels of trade exist between these market stages. Our analysis was based on the selling functions we examined at verification. Based on information contained on the record and our verification findings, we determine that there are no differences in the selling functions performed in the home market within the LOT. Thus, for purposes of our final results, we have considered all sales in the home market to be at one LOT. In reviewing the same selling functions for the U.S. market, we found that the home market LOT is not similar in aggregate selling functions to that found in the United States. Thus, we determined that Erbosan has one LOT in the home market and a different one in the U.S. market. See Memorandum to the File from the Team, dated December 17, 1996.

If the Department determines that a LOT adjustment is warranted, and if information on the same product and company is not available in order to make such an adjustment, the Department may consider the sales of other products by the same company or the selling experience of other producers in the foreign market for the same product (or other products) in

order to make an adjustment. See SAA at 830.

In this case, we found no information on the record which would enable us to make a level of trade adjustment. Thus, we compared Erbosan's sales at the sole LOT in the U.S. market to its sales at the sole home market LOT without making a LOT adjustment.

Fair Value Comparisons

To determine whether sales of pipe and tube to the United States were made at less than fair value, we compared the EP to the NV, as described in the "Export Price" and "Normal Value" sections of this notice.

Export Price

We calculated EP in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and Constructed Export Price (CEP) methodology was not otherwise warranted based on the facts of this investigation.

A. Borusan

We calculated EP based on the same methodology used in the Preliminary Results, except that we deducted payments made by Borusan to its customers in the United States (see Sales Comment 4B below).

B. Erbosan

We based EP on prices to unaffiliated purchasers in the United States. We made deductions from the starting price (gross unit price), where appropriate, for foreign inland freight, foreign brokerage and handling expenses, and international freight. Furthermore, we added countervailing duties imposed on the subject merchandise to offset export subsidies, pursuant to section 772(c)(1)(C) of the Act.

Normal Value

A. Borusan

We calculated NV as noted in the "Price to Price Comparisons" and "Price to CV Comparisons" sections of this notice.

B. Erbosan

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared Erbosan's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Since Erbosan's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of its U.S. sales of the subject merchandise, we determined that the home market was viable. We calculated NV as noted in the "Price to Price Comparisons" section of this notice.

Cost of Production Analysis

As discussed in the Preliminary Results, the Department conducted an investigation to determine whether Borusan made home market sales during the POR at prices below its cost of production (COP) within the meaning of section 773(b) of the Act. No below-cost allegation was made with respect to Erbosan. Before making any fair value comparisons, we conducted the COP analysis described below.

A. Calculation of COP

We calculated the COP based on the sum of Borusan's cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general, and administrative expenses (SG&A) and packing costs in accordance with section 773(b)(3) of the Act. As noted in the Preliminary Results, we used Borusan's reported monthly COP figures which were based on the current production costs incurred during each month of the POR. This was done in order to avoid the distortive effect of inflation on our comparison of costs and prices. We relied on the reported COP amounts with the following exceptions:

1. We calculated a weighted-average per-unit variable cost of manufacturing and total cost of manufacturing for each product;
2. We recalculated Borusan's SG&A expenses (*see* Cost Comment 2 below);
3. We recalculated Borusan's interest expenses (*see* Cost Comment 3 below);
4. We recalculated the reported product costs to reflect product-specific weight-savings ratios where available (*see* Cost Comment 4 below); and
5. We adjusted the cost of a product for which an average coil cost had been reported, to account for a more expensive input coil for that product.

B. Test of Home Market Prices

As stated in the Preliminary Results, we used Borusan's adjusted monthly COP amounts and the wholesale price index from the government of Turkey's State Institute of Statistics to compute an annual weighted average COP for the POR. We compared the weighted-average COP figures to home market sales of the foreign like product as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges, rebates, and direct selling expenses.

C. Results of COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product were at prices less than the COP, we disregarded the below-cost sales where such sales were found to be made at prices which would not permit the recovery of all costs within a reasonable period of time (in accordance with section 773(b)(2)(D) of the Act). Where all sales of a specific product were at prices below the COP, in accordance with section 773(b)(1) of the Act, we disregarded all sales of that product, and calculated NV based on CV, in accordance with section 773(e) of the Act.

We found that, for certain products, more than 20 percent of Borusan's home market sales were sold at below the COP and, therefore, that below-cost sales were made within an extended period of time in substantial quantities. We also determined that these below-cost sales were made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. We therefore excluded these sales from our analysis and used the remaining above-cost sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. For those pipe and tube products for which there were no above-cost sales in the ordinary course of trade, we compared export prices to CV.

D. Calculation of CV

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of Borusan's cost of materials, fabrication, SG&A and U.S. packing costs as reported in the U.S. sales databases. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the actual amounts incurred and realized by Borusan in connection with the production and sale of the foreign like product in the ordinary course of trade (*i.e.*, sales disregarded under section 773(b)(1) of the Act pursuant to the cost test and under section 773(e)(2) of the Act not at arm's length), for consumption in the foreign country (see Sales Comment 8 below). We calculated CV based on the

methodology described in the calculation of COP above and added an amount for profit. For selling expenses, we used the weighted-average home market selling expenses.

Price-to-Price Comparisons

A. Borusan

For those comparison products for which there were sales at prices above the COP, we based NV on home market prices. We calculated NV based on FOB mill/warehouse or delivered prices to unaffiliated customers, or prices to affiliated customers which were determined to be at arm's length. We calculated NV based on the same methodology used in the Preliminary Results, with the following exceptions:

1. We deducted advertising and warranty expenses (see Sales Comment 9 below).

2. We set to zero the warehousing and freight expenses reported for back-to-back sales, based on our findings at verification. See sales verification report at 1.

3. For certain reseller sales, we revised the warehousing and freight expenses, based on our findings at verification. See sales verification report at 12–13.

B. Erbosan

We based NV on home market prices. We calculated NV based on FOB factory prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for discounts and rebates, and we added interest revenue. In accordance with section 773(a)(6) of the Act, we deducted home market packing costs and added U.S. packing costs.

We adjusted for differences in the circumstances of sale, in accordance with section 773(a)(6)(C)(iii) of the Act. These circumstances included differences in imputed credit expenses. Based on our verification findings, we recalculated home market credit expenses.

We also made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. Based on our verification findings, we added an amount for thinner and lacquer costs to the variable manufacturing cost and total cost of manufacture for all U.S. products. We also added an amount for pipe straightening expenses to the costs for certain U.S. products. Finally, we removed the amount for packing expenses from the costs reported for all products. We indexed the reported monthly costs to the end of the period using the wholesale price index for Turkey. Next, we calculated average variable and total costs of manufacturing by product based on sales quantities of the U.S. and home market sales. (We used sales quantities because production quantities were not available and because we assume that sales quantities are a close approximation to production quantities.) We then indexed the average variable and total costs of manufacturing to restate them in the currency value of each respective month. The adjusted monthly variable costs of manufacturing for U.S. and home market products were then compared to arrive at the difference in merchandise adjustment. To determine whether Erbosan's affiliated sales were made at arm's length, we compared the gross unit prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing (see Final Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Carbon Steel Flat Products from Argentina, 58 FR 37062, 37077 (July 9, 1993)). We excluded all of these sales from our analysis because they did not pass the arm's length test in our analysis. See 19 CFR 353.45(a).

Price-to-CV Comparisons

For Borusan, where we compared CV to export prices, we deducted from CV the weighted-average home market direct selling expenses and added to CV the weighted-average U.S. product-specific direct selling expenses.

Currency Conversion

The Department's preferred source for daily exchange rates is the Federal Reserve Bank. However, the Federal Reserve Bank does not track or publish exchange rates for the Turkish Lira. Therefore, we made currency conversions based on the daily exchange rates from the Dow Jones Service, as published in the Wall Street Journal.

Section 773A(a) directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a "fluctuation." It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from a benchmark rate by 2.25 percent. The benchmark rate is defined as the rolling average of the rates for the past 40 business days. See Final Determination of Sales at Less Than Fair Value: Certain Pasta from Turkey, 61 FR 30309 (June 14, 1996) (Pasta from Turkey).

However, we believe that it is appropriate in this case to use actual daily exchange rates for currency conversion purposes, rather than the benchmark rate. As noted in Policy Bulletin 96–1: Currency Conversions, 61 FR 9434 (March 8, 1996), the Department is continuing to examine the appropriateness of the currency conversion policy in situations where the foreign currency depreciates substantially against the dollar over the POR. In those situations, it may be appropriate to rely on daily exchange rates. When the rate of domestic price inflation is significant, as it is in this case, it is important that we use as a basis for NV home market prices that are as contemporaneous as possible with the date of the U.S. sale. This is to minimize the extent to which calculated dumping margins are overstated or understated due solely to price inflation that occurred in the intervening time period between the U.S. and home market sales. For this reason, we have used the daily exchange rates for currency conversion purposes.

Further, section 773A(b) directs the Department to allow a 60 day adjustment period when a currency has undergone a sustained movement. Such an adjustment period is required only when the foreign currency is appreciating against the U.S. dollar. See SAA at 842. No adjustment period is warranted in this review, because the Turkish Lira generally remained constant or depreciated against the dollar during the POR.

Verification

In accordance with section 353.25(c)(2)(ii) of the Department's regulations, we verified information provided by Borusan and Erbosan using standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. We found certain errors at verification of both Borusan and Erbosan, and have corrected for these errors in our final results. For reasons stated in our preliminary results, we verified the questionnaire responses submitted by both respondents after the preliminary results were issued.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the petitioners and Borusan. We received rebuttal comments from the petitioners and both respondents.

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A. Borusan

Cost Comments

Comment 1: Facts Available

The petitioners argue that Borusan's COP and CV data should be rejected in favor of the facts available. According to the petitioners, Borusan deviated from its normal accounting system in preparing its COP and CV responses without obtaining authorization from the Department for the methodologies used.

Specifically, the petitioners argue that Borusan departed from its normal accounting practices in that it:

(a) Had the ability to track production costs on a product-specific basis, but did not do so;

(b) Reported costs for products that had no production in a particular month;

(c) Had the ability to report product-specific raw material costs but failed to do so;

(d) Did not provide yields on a product-specific basis even though it had at its disposal more accurate product-specific conversion factors;

(e) Provided a single weight conversion factor even though it had at its disposal more accurate product-specific conversion factors;

(f) Did not provide adequate verification support for the arm's length nature of materials purchases from affiliated parties;

(g) Failed to accurately report factory-specific overhead;

(h) Misled the Department about its interest rate calculation;

(i) Failed to report freight costs to its customers; and

(j) Provided incorrect difference in merchandise (difmer) information because of the same deficiencies alleged with respect to the general cost data.

According to the petitioners, these departures from Borusan's normal accounting system might have resulted in the allocation of costs away from the subject merchandise and the foreign like product, with little chance of detection. The petitioners contend that the burden of creating an adequate response, including fully disclosing its record keeping and reporting capabilities, rested with Borusan. Citing *Olympic Adhesives, Inc.* v. *United States*, 899 F.2d 1565, 1572 (Fed. Cir. 1990), the petitioners contend that if respondents are allowed to make unilateral decisions about the information to be provided they would be able to artificially lower antidumping margins by providing selected information.

Borusan argues that the submitted COP data was based on its normal cost accounting system to the extent permitted by the Department's questionnaires, and that departures from the normal system were made only in response to the Department's questionnaire requirements. According to Borusan, the Department requested that COP data be submitted on a basis different than that used in the normal course of business to record costs. Borusan claims that it attempted to recalculate current costs with as much product-specificity as possible, and that the underlying source data was verified satisfactorily by the Department. Borusan further contends that no elements of the reported costs were unverified.

DOC Position

We disagree with the petitioners' contention that the methodologies used by Borusan to prepare its COP responses warrant wholesale rejection of those responses and the use of facts available. Section 776(a)(1) states that if necessary information is not available on the record, the Department "shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title." Section 782(e) provides that the Department shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the Department if: (1) The information is submitted by the deadline established for its submission; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the Department with respect to the information; and (5) the information can be used without undue difficulties. Accordingly, in using the facts available, the Department may disregard information submitted by a respondent if any of the five criteria has not been met.

We conducted numerous tests, described in our cost verification report and summarized below, which supported the overall reasonableness of the reported data. Although we agree that, in certain instances, Borusan's reported costs did not reflect the same level of product-specificity as the costs maintained in its normal course of business, we have been able to adjust the reported costs to reflect more product-specific data available on the record. Further, in the case of unreported movement expenses affecting the integrity of our cost test for certain sales, we have applied partial facts available that ensure the viability of that test. Since Borusan's reported costs are in general reliable, and deficiencies in those costs can be remedied via data on the record and the application of partial facts available, we find that the application of total facts available is not warranted.

Below, we discuss each of the points raised by the petitioners as enumerated above:

(a) The petitioners have challenged the lack of product specificity of Borusan's material and overhead costs. With respect to material costs, we note that the cost questionnaire issued by the Department to Borusan on May 23, 1996, requested that Borusan submit its COP data on a current cost basis (*i.e.*, that materials costs for merchandise shipped in a particular month be valued at the average inventory value of those materials during the month of production) in order to account for the effect of hyperinflation on production costs. However, in the normal course of business, Borusan records production costs on a historical cost basis (*i.e.*, Borusan records material costs at the average purchase price during the month of production, a practice which does not reflect the effect of inflation between purchase and usage of the inputs). Consequently, Borusan was obligated to recalculate its material costs. Throughout this review, we have found no evidence that Borusan could have feasibly provided current costs at the same level of product-specificity as the historical costs that it records in the normal course of business. However, the reported material costs did reflect the grade of the input coil, which was the principal variant in material cost observed at verification, and we fully verified the material costs reported at this level of detail (see item (c) below). As for transformation costs, the reported figures reflect a reasonable level of product-specific detail (see item (g) below). Given that the current cost methodology was requested by the Department, and that Borusan provided such data at a more aggregate yet nonetheless reasonable level, it would be inappropriate to infer that the lesser degree of product specificity inherent in Borusan's reported costs reflects an attempt by Borusan to artificially reduce antidumping margins.

(b) Borusan's reporting of a current COP for all products in every month of the POR, despite the fact that certain products were not produced in every month, did not artificially lower the COP of the merchandise that was

actually produced. Borusan calculated the cost that would have been incurred to produce one unit of each unique product in their product line for each month of the POR based on the average per-unit material costs during that month (see, *e.g.*, Silicon Metal from Brazil; Final Results of Antidumping Duty Administrative Review, 59 FR 42806 (August 19, 1994)). The average per-ton cost of material inputs (*e.g.*, steel coil) in a particular month is independent of which particular models are produced, and thus Borusan's reporting of current costs for certain products for which there was no production does not imply an underallocation of costs.

(c) We agree that Borusan did not report material costs at the same level of product-specificity that is recorded in the normal course of business. (In the normal course of business, on a historical cost basis, Borusan tracks its material costs for every production run, so that each batch of pipe of a specified type and size absorbs the costs of the materials used in the production of that batch.) However, in submitting its costs on a current basis, Borusan did calculate grade-specific costs; as explained in our verification report, we observed that grade B pipe reflected a higher material cost for more expensive coil inputs than were used for grade A pipe. *See* cost verification report at 8. We fully verified that the submitted costs reconciled to the company's records by tracing the coil costs to invoices for material purchases and associated freight, material inventory subsidiary ledgers, and cost center records. *Id.* at 18–20.

In reviewing Borusan's material purchases and production techniques we did not find evidence that factors other than the grade of the input coil (such as coil thickness) would have had a significant impact on product-specific material costs. With respect to thickness, we noted that sample invoices for purchases of coils of varying thicknesses reflected identical per-ton coil costs regardless of the thickness of the coil. See cost verification report at 17, note 9.

We did discover at verification that Borusan had used high-cost API coil for one production run of a standard pipe product in April 1995. In its response, Borusan averaged the higher cost of the API coil across all pipe products rather allocating this cost to the specific product for which API coil was used as an input. API coil is a specialized input for the production of line pipe, and because of its comparatively high cost, Borusan does not normally use it for production of standard pipe. Borusan stated that it used such coil for one run of standard pipe in April 1995 due to excess inventory, and we found no evidence that Borusan routinely uses API coil in the production of standard pipe. We have adjusted the April 1995 cost of the pipe product manufactured from API coil to reflect the higher cost of the input.

(d) Borusan calculated average monthly yields (i.e., the percentage of each material input not wasted in the production process) across all pipe products, rather than providing the production-specific yields Borusan records in the normal course of business. (In the normal course of business, Borusan tracks slitting, welding, and testing scrap for each batch of pipe.) Borusan claimed that reporting product-specific yields under a current cost methodology would have required prohibitive work and effort because it would have had to individually identify the production run corresponding to each sale of subject merchandise. Borusan did not explain whether its records would have allowed it to submit an average monthly yield for each product, and due to time constraints this issue was not pursued at verification. We note, however, that during the plant tour we observed that the manufacturing process for the various dimensions and types of subject merchandise is uniform, and would be unlikely to generate significantly different yields for different products. (In other words, the material lost in the production of a ton of two inch galvanized pipe should not be significantly different than the material lost in the production of a ton of six-inch black ungalvanized pipe.) Given this, and the absence of evidence on the record of this review to suggest that different Borusan pipe products have materially different yields, we are accepting in this review the reported average figures as a reasonable measure of yields for the subject merchandise. However, we emphasize that the Department requires that yields (like other elements of cost) be reported on as product-specific a basis as is feasible given a respondent's records, and that Borusan should be prepared to demonstrate that reported yields are consistent with our practice in future reviews of the antidumping order.

(e) Borusan reported its costs using a single weight conversion factor even though it had at its disposal more accurate product-specific conversion factors. (See Cost Comment 4 below.) The more specific conversion factors are on the record of this review, and we have been able to adjust the reported costs using these data, obviating the need for the use of facts available.

(f) At verification we found, without exception, that sample purchases of materials by Kartal Boru (Borusan's affiliate producer) from affiliated parties had been marked up over the price charged by the manufacturer. The wording in our report was not meant to suggest that we had found any evidence of materials purchases at less than arm's length.[1]

(g) We disagree that Borusan failed to accurately report product- and size-specific overhead. In the normal course of business Borusan calculates an average transformation cost for all products passing through each cost center. However, given that the Gemlik plant has several welding lines and that welding costs are the largest component of total transformation costs, Borusan reported product- and size-specific welding costs using productivity ratios (i.e., by calculating the total tons of each product, by size, passing through each line per hour). See cost verification report at 22. Thus, Borusan calculated welding costs at a greater level of detail than is recorded in the normal course of business.

We saw no evidence at verification that this methodology resulted in an underallocation of transformation costs to subject merchandise. On the contrary, we noted that non-subject merchandise such as line pipe has much higher welding productivity ratios than standard pipe, and therefore it would have been in the respondent's interest to have reported an average welding cost for all pipe rather than the product-specific welding costs actually submitted.

(h) We disagree with the petitioners" claim that Borusan did not adequately explain the basis for its interest rate calculation. Borusan explained the basis for its calculation on pages 8–10 of the July 24, 1996, response, well before verification.[2]

(i) We agree that Borusan did not report freight expenses incurred in certain shipments of merchandise from affiliated resellers directly to customers. Section 776(a)(1) of the Act states that if necessary information is not available on the record, the Department shall use the facts otherwise available in reaching the applicable determination under this

[1] The cost verification report noted that "*for selected purchases of coil*, the affiliates mark-up the price from the unaffiliated producer of the coil in their invoice to [Kartal Boru]." (Emphasis added). See cost verification report at 17. This was not intended to imply that not all purchases of coil selected for verification reflected a mark-up.

[2] We note, however, that we have recalculated the interest expenses submitted in that response consistent with our practice of basing interest expenses on the consolidated group of companies (see Comment 3 below).

title. In this case, Borusan chose not to report these freight expenses. As Borusan did not act to the best of its ability in responding to our request for such information pursuant to section 782(e)(4) of the Act, we have therefore drawn an adverse inference under the authority provided by section 776 of the Act. As facts available, we are assigning the highest freight rate per kilogram to those sales with no freight reported from the affiliated resellers to the customers.

(j) As discussed above, we have found Borusan's cost calculations to be generally adequate, and the difmer data are no less reliable.[3]

In conclusion, we find that Borusan's cost calculations are, on the whole, reasonable. In those instances where Borusan's submitted calculations are not as product specific as possible or are otherwise deficient, we have adjusted the calculations based on more specific data on the record or applied partial facts available. Therefore, the application of total facts available is not warranted.

Comment 2: Adjustments to Borusan's SG&A

The petitioners argue that the Department should ensure that certain stockyard movement expenses, certain year-end adjustments by Borusan's auditor, and a net assets tax should be included in Borusan's SG&A. The petitioners also argue that certain home market freight expenses which were not reported in the sales database should be included in Borusan's SG&A for purposes of calculating COP.

Borusan agrees that the stockyard movement expenses should be included in SG&A for the final results of review, and notes that at verification it provided a revised schedule of SG&A expenses including the stockyard movement expenses. Borusan also agrees that the year-end adjustments and the net asset tax should be included in SG&A. However, Borusan argues that the freight expenses in question (involving shipments by affiliated resellers from their warehouse to end customers) are minimal in amount and unrelated to production of merchandise and, therefore, should not be included in SG&A.

DOC Position

We agree with both parties that Borusan's SG&A figure should include both the stockyard movement expenses, the auditor's year-end adjustments, and the net assets tax. We have revised the SG&A used in our final calculations accordingly.

We agree with the petitioners that Borusan failed to report movement expenses incurred by home market affiliated resellers, but disagree that these expenses should be included in Borusan's SG&A. The movement expenses incurred by the affiliated resellers are related to sales activities on behalf of Borusan's domestic sales, and are unrelated to Borusan's production activities. Had they been reported, these movement expenses would have been deducted from the home market prices for the specific sales in which they were incurred, rather than added to COP. Since Borusan failed to report these expenses, we have drawn the adverse inference that reporting of the expenses would have resulted in the affected sales failing the cost test. *See* Comment 1 above.

Comment 3: Interest Rate Factor

The petitioners argue that the Department should use an interest expense factor calculated on the basis of the monthly interest expenses of the consolidated group of companies of which Borusan is a member (*i.e.*, the interest expense of Borusan Holding Company). The petitioners also argue that the Department should not offset interest expenses by the amount of foreign exchange gains.

Borusan does not disagree that the Department should use an interest expense factor calculated on the basis of the interest expenses of the consolidated group of companies, but argues that the rate suggested by the petitioners is exaggerated and factually unfounded. Borusan notes that only annual (rather than monthly) consolidated interest expenses could be provided. Borusan also contends that the Department verified that foreign exchange income was primarily short-term in nature and that this income should be offset against interest expenses.

DOC Position

We agree with the petitioners that Borusan's interest expenses should be calculated on the basis of the interest expenses of the consolidated group of companies. While our normal practice is to require monthly interest calculations (see, e.g., Pasta from Turkey), we agree with Borusan that doing so in this case would have imposed an unreasonable burden (see section 782(c)(1) of the Act) given that many of the companies in the group do not prepare monthly schedules of interest expenses in the ordinary course of business and that the group as a whole prepares only semi-annual consolidation of expenses (see cost verification report at 25). We therefore have relied on the annual interest expenses for the consolidated group. However, in order to follow our normal practice as closely as possible, we have allocated these expenses to each month of the POR using the ratio of monthly to annual interest expenses for the four largest firms of the Borusan group, which Borusan provided in its cost response of June 10, 1996.

We agree with the petitioners that foreign exchange gains should not be used to offset the interest expenses. At verification, we found that the vast majority of the foreign exchange gains were not debt-related, but rather involved export sales activities (*i.e.*, the gains arising from foreign-currency denominated export receivables). Since the foreign exchange gains are unrelated to interest, it would be inappropriate to offset interest expenses by these gains and we have not done so.

Comment 4: Weight Savings Gains

The petitioners argue that Borusan had the ability to provide weight-savings ratios (*i.e.*, the ratio of theoretical weight of pipe to actual weight of pipe) for each product but deliberately provided an average ratio for all products. According to the petitioners, the Department should either disallow the weight-savings adjustment or, in the alternative, recalculate Borusan's costs to reflect product-specific weight-savings ratios wherever the record permits identification of such ratios.

Borusan argues that the weight-savings adjustment is necessary for an apples-to-apples comparison of prices to costs, since materials costs are incurred on an actual weight basis and sales prices are charged on a theoretical weight basis. According to Borusan, the Department verified the accuracy of the weight-savings data and the reasonableness of the underlying methodology. Borusan does not rebut the petitioners' argument that product-specific weight-savings data should be used wherever available on the record.

DOC Position

We agree with Borusan that the weight-savings adjustment is necessary for a proper comparison of Borusan's sales prices to costs because of the difference in the weight bases. At the same time, we agree with the petitioners that the product-specific weight-savings factors should be used wherever available. As discussed in our verification report, Borusan calculated a weight-savings rate on a product- and size-specific basis for pipe and tube with diameters between ½" and 6",

[3] As with the general cost data, we have recalculated Borusan's difmer data to reflect product- and size-specific weight savings ratio where available; see Comment 4 below.

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which account for a large majority of Borusan's sales. These rates were then averaged, and the average was applied to all products. See cost verification report at 16. Given that specific weight-savings ratios for Borusan's products are on the record for most sales, there is no reason to use an average ratio where product-specific ratios are available. Accordingly, for these final results, we have revised the submitted cost data to reflect product- and size-specific weight-savings gain ratios where available; where such ratios are not available, we have applied the weighted-average ratio calculated by Borusan.

Comment 5: Imputed Selling Expenses for Constructed Value

The petitioners argue that the Department neglected to include imputed selling expenses such as credit expenses and inventory carrying costs in the calculation of constructed value. The petitioners cite to Import Administration's Policy Bulletin 94.6 (March 25, 1994) in support of their position.

Borusan argues that, to the extent that the Department includes imputed selling expenses in the buildup of constructed value, imputed and actual interest expenses must not be double counted.

DOC Position

We disagree with the petitioners that imputed selling expenses must be included in the calculation of constructed value. Under the URAA, for both COP and CV, the statute provides that SG&A be based on actual amounts incurred by the exporter for production and sale of the foreign like product. Our previous practice with respect to COP was to compute selling expenses exclusive of credit and inventory carrying costs because these are imputed amounts that the Department relies on to measure the effect of specific respondent selling practices in the United States and the comparison market. Since the new law provides that the Department compute SG&A for both COP and CV using the actual data of the exporter, in order to ensure consistent treatment of COP and CV we no longer include imputed selling expenses in CV.

Comment 6: Weighted-Average Cost of Production

The petitioners argue that the Department should calculate a weighted-average COP, and apply facts available for any product for which production quantities or COP data are not available.

DOC Position

For the preliminary results, the Department calculated a simple-average COP because monthly production quantities had not yet been reported. At verification, we confirmed that Borusan had reported production quantities and cost data for all products. Since the Department's normal practice is to calculate weighted-average costs of production (see e.g., Pasta from Turkey), we have done so for these final results.

Comment 7: Initiation of Cost Investigation

Borusan argues that the Department should not have initiated a sales-below-cost investigation in this review because the petitioners' cost allegation was not submitted until over three months after the regulatory deadline for such allegations. Borusan further contends that the allegation did not provide reasonable grounds to suspect that Borusan had made below-cost sales, since it contained a number of errors and failed to account for hyperinflation in Turkey. In addition, Borusan claims that subsequent discovery of below-cost sales cannot justify the improper initiation of a below-cost investigation.

The petitioners argue that the Department has the discretion to extend the deadline for allegations of sales below cost when a questionnaire response is received after the deadline for such allegations, and that the deficiencies in the allegation alleged by Borusan were factually incorrect and immaterial to the decision to initiate a cost investigation. In addition, the petitioners contend that there is no "exclusionary" rule that would compel the Department to ignore a finding of sales below cost even if an investigation was initiated pursuant to an untimely and unsupported allegation.

DOC Position

We agree with the petitioners. With respect to the timeliness issue, as explained in detail in the memorandum from Laurie Parkhill to Holly Kuga dated May 3, 1996, initiating the sales-below-cost investigation, we found that a number of extenuating circumstances beyond the petitioners" control (including the delayed issuance of the questionnaire and receipt of the questionnaire response, and the extended closures of the Department due to the Federal budget crisis and a blizzard) warranted an extension of the deadline for filing of a sales-below-cost allegation, as permitted under 19 C.F.R. 353.31(c)(1)(ii). See also Notice of Final Results of Antidumping Duty Administrative Review: Certain Forged Steel Crankshafts From the United Kingdom, 60 FR 52150, 52153 (October 5, 1995) (noting that the Secretary will use its discretion in setting a deadline for a COP allegation where a relevant response is "untimely or incomplete").

With respect to the allegation itself, we found that it provided reasonable grounds to believe or suspect that Borusan had made below-cost sales. Borusan fails to note that the petitioners submitted a revised allegation correcting for the errors noted by the respondent, and that the revised allegation still provided evidence of below-cost sales. Moreover, the Department considered Borusan's hyperinflation argument, and determined that the petitioners' methodology was reasonable given the information available to them. (The Department made appropriate adjustments to account for the hyperinflation problem identified by Borusan in the course of conducting the sales-below-cost investigation.) Because the sales-below-cost investigation was initiated pursuant to a timely and reasonable allegation, Borusan's argument that a finding of sales below cost cannot be used to justify the improper initiation of a sales-below-cost investigation is moot.

Comment 8: Offset to Interest Expenses for Short-Term Interest Income

Borusan claims that short-term interest income should be allowed as an offset to interest expenses, since the Department verified the sources and short-term nature of such income. The petitioners do not dispute Borusan's claim that the sources and short-term nature of the income in question were adequately verified.

DOC Position

We agree with Borusan, and have offset interest expenses (based on the consolidated group of companies) accordingly.

Sales Comments

Comment 1: Home Market Sales of Bitumen-Coated Pipe

Borusan argues that it properly excluded sales of bitumen-coated pipe from its home-market sales listing. According to Borusan, bitumen-coated pipe is not within the scope of the antidumping order in this review, and in any event its cost is sufficiently high to ensure that the Department would never compare U.S. sales of standard pipe to home-market sales of bitumen-coated pipe.

The petitioners claim that bitumen-coated pipe is within the scope of the order on standard pipe from Turkey,

and should have been reported. According to the petitioners, the cost differences alleged by Borusan, although reviewed by the Department at the verification of Borusan's sales responses, were not subject to the same kinds of procedures followed at the verification of Borusan's cost responses. Therefore, they argue the difmer test performed at verification is not accurate.

DOC Position

In performing its dumping calculations, the Department's practice is to match U.S. sales of subject merchandise to home market sales of subject merchandise. Where no identical matches exist, the Department compares the U.S. sales to sales of the foreign like product, provided that merchandise is within a 20 percent difmer threshold (*i.e.*, the ratio of the difference of the variable cost of manufacture of the two products over the total cost of manufacture of the product sold in the United States must not exceed 20 percent). If there are no home market sales of similar merchandise within the 20 percent difmer threshold, the Department resorts to CV. See Import Administration Policy Bulletin: Number 92.2, July 28, 1992, Differences in Merchandise; 20 percent Rule. In the instant review, Borusan had no sales of bitumen-coated pipe in the United States, so sales of bitumen-coated pipe in the home market would not have served for identical matches. Further, at verification we noted that the difmer between a standard pipe product and that same product coated with bitumen exceeded the 20 percent threshold for comparison of similar products, so home-market sales of bitumen-coated pipe would not have served for comparison to U.S. sales of similar merchandise.[4]

In the Preliminary Results, the Department inadvertently included an incorrect description of the scope of this order. Based on the actual scope language, which makes no distinctions based on surface coating, we conclude that bitumen-coated pipe is within the scope. Because bitumen-coated pipe did not serve for comparison to U.S. sales of similar merchandise, however, it is immaterial that Borusan failed to report these sales.

Comment 2: VAT Drawback

Borusan argues that the Department failed to make a circumstance of sale (COS) adjustment for VAT drawback in the preliminary results. Borusan states that the statute (19 U.S.C. 1677b(a)(6)(C)(iii)) requires the Department to make an adjustment for circumstances of sale that are different between the U.S. and home market products—as the Department does with imputed credit expenses. It claims that under Turkish VAT law, Borusan is required to pay a 15 percent VAT on all imported materials used for domestic consumption. Eventually, the company will be reimbursed for the VAT at the time of the sale to the customer. However, in the time period between payment and reimbursement, Borusan bears the financial cost of the VAT (which it characterizes as an interest-free loan to the Turkish government). Borusan argues that this is a real and substantial cost because Turkey is a hyperinflationary economy. It states that it does not have to pay VAT on imported materials used in exported products and that this differing VAT treatment has a direct impact on the expense of making sales in the U.S. and home markets. According to Borusan, this difference is a difference in the circumstance of sale and therefore should be allowed for the final results.

The petitioners argue that the Department should not grant the VAT adjustment because eligibility for an adjustment for drawback of duties is limited to a rebate of duties paid and rebated (19 U.S.C. 1677a(c)(1)(B)). They contend that no case precedent nor statutory authority exists that would allow the Department to grant such an adjustment. The Department's regulations state that the Department will make a reasonable allowance for a bona fide difference in the circumstances of the sales when those circumstances bear a direct relationship to the sales compared. See 19 C.F.R. 353.56(a)(1). The petitioners argue that, unlike credit expenses which represent a cost of carrying the purchaser's debt (directly related to a sale), the VAT drawback relates to the cost of purchasing raw materials. It is an imputed cost associated with the purchase of raw materials, and is therefore a cost of production. They cite to Departmental practice which is to not make a circumstance of sale adjustment for differences in the costs of production. See Final Administrative Review: Certain Welded Carbon Steel Standard Pipe from India, 57 FR 54360 (November 18, 1992). According to the petitioners, if the Department does not consider the VAT to be part of the COP, it should consider it a general expense as it did in past cases; in Certain Welded Carbon Steel Pipes and Tubes from Thailand, 61 FR 56515 (November 1, 1996), the Department treated interest expenses on financing raw material imports as a general expense.

DOC Position

We agree with petitioners, and have disallowed a COS adjustment for imputed interest resulting from delayed "reimbursement" of VAT paid on inputs. Allowing Borusan such an adjustment would involve imputing an expense incurred not between Borusan and its customers, but between Borusan, its supplier, and the government. "[W]hile such a[n expense] may affect the notion of true economic cost to [Borusan], it tells us nothing about the difference in prices that result from the different circumstances of sale." See *Federal-Mogul Corp.* v. *United States*, 839 F. Supp. 881, 885 (November 30, 1993).

Furthermore, while the amount of the imputed expense cannot be quantified until Borusan makes a sale to a domestic customer, it is incurred regardless of whether Borusan actually makes such a sale. In other words, there is no direct relationship between the imputed expense and the sales being examined. Accordingly, there is no basis for the Department to make a COS adjustment.

Comment 3: Level of Trade

In the preliminary results, for Borusan, the Department determined that there was one LOT in the U.S. market and three levels of trade in the home market and did not distinguish between customer class within a LOT. The petitioners argue that the Department should reject Borusan's claimed distinctions between LOTs A (mill direct sales) and B (reseller back-to-back sales) and combine them into one LOT. They contend the selling functions between Borusan's claimed levels of trade show little differences in the sales staff functions between Borusan and its affiliates—only a difference in that LOT B involves handling of sales paperwork. The petitioners cite to the Department's proposed regulations (Proposed Regulations at 61 FR 7348), noting that "small differences in the functions of the seller will not alter the level of trade." According to the petitioners, the sales functions performed at LOT B are similar to those performed for export

[4] Contrary to the petitioners' argument, during the sales verification the Department verified the cost differences between standard pipe and similar pipe covered with bitumen using the identical procedures followed at the cost verification. *See* sales verification report at 5–6, stating that the cost differences were verified "using the same procedures followed in the [cost] verification"; see also sales verification exhibit 19, including Borusan records supporting the costs in question. Also, we note that Borusan did not volunteer the difmer data for bitumen-coated products; these data were requested by the Department's verifiers. *See* sales verification report at 5.

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sales. Thus, the petitioners argue that no adjustment should be made between U.S. sales and home market sales of LOT B.

The petitioners further argue that the Department should continue to make no distinctions between customer class within a LOT because the record does not indicate any consistent pricing differences between the customer classes within the claimed levels of trade.

Finally, the petitioners argue that no LOT adjustment should be granted for LOT C sales (reseller inventory sales) because any adjustments for differences in levels of trade must be linked to differences in selling functions resulting in a consistent pattern of price difference. They argue that Borusan did not establish such a link nor any consistent patterns of price differences.

Borusan states that the Department was correct in its analysis of the levels of trade in the preliminary results. It argues that it has demonstrated three distinct levels of trade in the home market, which the Department verified. Its LOT A sales involve high volume sales to a small number of customers; LOTs B and C involve smaller quantities and have relatively higher selling expenses. Borusan claims that this results in higher prices for sales at LOT B and C than those at LOT A. It further notes that the Department, in its own analysis, found a consistent pattern of price differences between sales at the different levels of trade in its preliminary results. Thus, Borusan argues that the Department should continue to make the same distinctions in the final results.

DOC Position

We agree with the petitioners with respect to finding one LOT for Borusan's claimed LOTs A and B. As discussed above in the "Level of Trade" section, the Department first examines whether there are separate market stages in a particular market. In this case, we found that there were two stages. The Department must then determine whether there are identical selling functions between the market stages. In this case, the selling functions examined are stated in the "Level of Trade" section above. (In the preliminary results, we also examined agent coordination of production and delivery and general vs. specialty sales staff—we discuss these two functions below as well.) We found that the selling functions were identical between Borusan's claimed LOTs A and B. Thus, we combined these sales into one LOT. See Memorandum from the Team to the File, dated December 17, 1996.

In our preliminary results, we considered agent coordination of production and delivery and general vs. specialty sales staff to be selling functions in our LOT analysis. At verification, we noted the differences between the sales staff among the Borusan Group. (We confirmed that the home market resellers had a general sales staff whereas Borusan and Dagitim had specialty sales staff.) However, the SAA states that "a sales subsidiary created merely to perform the role of a *de facto* sales department is not an appropriate basis for adjustment." Thus, for purposes of these final results, we did not consider these to be selling functions and did not incorporate them into the LOT analysis.

Finally, we agree with the petitioners with respect to not making a LOT adjustment for Borusan. However, we note the Department will normally make a LOT adjustment when there are consistent price differences at different levels of trade, not customer categories as stated by the petitioners. As discussed above in the "Level of Trade" section, we found that there were no consistent price differences between the two home market levels of trade. Thus, we made no adjustment when comparing U.S. sales to home market sales made at the non-identical level of trade.

Comment 4: Countervailing Duty Adjustment

A. Formula. The petitioners argue that Borusan's calculation of the amount of countervailing duty (CVD) to be added to U.S. selling price is incorrect. They argue that the Department should instead simply apply the CVD rate (7.26%) to the entered value of each transaction and use that amount for the addition and the rebate of CVD duties.

Borusan contends that the formula used to calculate the CVD adjustment is accurate and was examined by the Department at verification. Thus, the Department should use Borusan's reported amounts in its final results.

DOC Position

We tested the formula used by Borusan for the individual sales that were examined at verification and noted no discrepancies. See sales verification report (at page 9). Thus, we have used the values reported by Borusan in its sales listings for our calculations of export price.

B. Adjustment to export price. The petitioners argue that the Department must, in calculating export price, deduct funds that Borusan provides to its customers equal to the amount of countervailing duties. The petitioner contends that these payments are rebates, and that the Department normally reduces U.S. price by the amount of such rebates. Borusan argues that while applicable precedent supports the addition of countervailing duties in the export price calculation, it prohibits the Department from treating Borusan's payments to the importer of amounts equal to the countervailing duty as rebates.

DOC Position

We agree that the statute requires that we add to the price in the United States the amount of countervailing duties attributable to export subsidies, and have done so. However, the payments to Borusan's unaffiliated customer's amounted to a post-sale price adjustment or rebate and have been deducted in the calculation of export price.

Comment 5: Antidumping Duties

The petitioners contend that Borusan made an agreement to reimburse antidumping duties. Borusan argues that the petitioners' allegation is false because it has never reimbursed, nor agreed to reimburse, its customers for antidumping duties. Borusan further contends that the Department found no evidence of such at verification.

DOC Position

We agree with Borusan. The Department found no evidence of reimbursement of antidumping duties. Because of the proprietary nature of this comment, we are unable to further discuss this issue; a complete discussion of the issue is contained in a decision memorandum. *See* Memorandum from the Team to Barbara R. Stafford, dated December 23, 1996.

Comment 6: Duty Drawback

The petitioners argue that Borusan is not entitled to a drawback adjustment because its exported eligibility ratios exceeded certain limitations on drawback allowed by the Turkish government. They contend that Borusan's duty drawback should not be allocated to sales that were not eligible to receive such a drawback; to do so would violate the Department's duty drawback test, which requires importation of sufficient duty-exempted raw materials to cover the exports against which drawback is claimed. (See Steel Wire Rope from the Republic of Korea, 60 FR 63499, 63505–06 (December 11, 1995) (SWR from Korea).) They argue that, although the Turkish government allows this to occur, the adjustment must meet the Department's test.

Borusan argues that it reported drawback that it had actually received and that it complied with the Turkish provisions. It notes that the Department fully verified the drawback documentation and traced the information to Borusan's accounting records.

DOC Position

We agree with Borusan. In determining whether a duty drawback adjustment is appropriate, the Department applies a two-prong test to establish that: (1) The import duty and rebate are directly linked to, and dependent upon, one another; and (2) there were sufficient imports of raw materials to account for the drawback received on the exported product. See, *e.g.*, SWR from Korea.

Based on information contained in Borusan's questionnaire responses and on the Department's findings at verification, the respondent's methodology for calculating a duty drawback adjustment meets both elements of the test.

It is not disputed that Borusan meets the Department's first requirement. Regarding the second requirement, the Department verified Borusan's drawback applications, which documented sufficient imports of raw materials to account for the drawback claimed. In the drawback applications reviewed by the Department, it was shown on import certificates that sufficient imports of raw materials existed for the claimed exported amounts of finished pipe. Thus, duty drawback is being applied to all of Borusan's U.S. sales.

Comment 7: Credit Expense

The petitioners argue that the Department should calculate a single interest rate for credit expenses on both the U.S. and home markets because it treats money as fungible. They note that in Certain Welded Carbon Steel Pipes and Tubes from Thailand; Final Results of Antidumping Duty Administrative Review, 61 FR 56515, 56519 (November 1, 1996), the Department allowed the respondents to move credit expenses on imported coil purchases to the companies' SG&A from cost of manufacture on the basis that such financing is fungible. According to the petitioners, the Department should consider whether a company's foreign- and domestic-currency-denominated borrowing should be equally applied to all sales.

Borusan states that the Department's longstanding practice is to calculate credit expenses using a weighted-average short-term borrowing rate which reflects the currency in which the sale was invoiced (see Final Determination of Sales at Less Than Fair Value: Disposable Pocket Lighters from Thailand, 60 FR 14263, 14269 (March 16, 1995)). According to Borusan, interest rates are not fungible; they are tied to inflation rates of the currency in which the loan is denominated. Borusan cites a recent Departmental determination, where the Department stated that "the measure of the company's extension of credit would be based on an interest rate tied to the currency in which its receivables are denominated" (see Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods from Austria, 60 FR 33551, 33555 (June 28, 1995) (OCTG from Austria)).

DOC Position

We agree with Borusan. As the Department has noted in a recent investigation:

> A company selling in a given currency * * * is effectively lending to its purchasers in the currency in which its receivables are denominated * * * for the period from shipment of its goods until the date it receives payment from its purchaser. Thus, when sales are made in, and future payments are expected in, a given currency, the measure of the company's extension of credit should be based on an interest rate tied to the currency in which its receivables are denominated. Only then does establishing a measure of imputed credit recognize both the time value of money and the effect of currency fluctuations on repatriating revenue.

See OCTG from Austria, 60 FR 33551, 33555. Thus, based on the Department's practice, we are valuing credit expenses using the interest rate applicable to the currency of the sale.

We find the petitioners argument regarding fungibility to be misguided. The Department's policy of using the interest rate applicable to the currency of a sale reflects the commercial reality that different currencies have different costs of borrowing.

Comment 8: CV Profit

The petitioners argue that the Department should base its CV profit calculation on above-cost sales and sales made at arm's length, in accordance with 19 U.S.C. 1677b(e)(2)(A) and 1677(15). According to the petitioners, the Department stated in Pipe from Thailand that its policy is to include only above cost sales in its calculation of profit.

Borusan states that the statute does not limit the sales to be used by the Department in calculating average profit, other than that the sales must be from the same "general category of products." Borusan notes that the SAA states that the "general category of merchandise" will encompass a category broader than the foreign like product and that the Department has the discretion to determine the general categories. SAA at 840. It argues that the statute does not imply that the exclusion of below-cost sales (19 U.S.C. 1677b(e)(2)(A)) is applicable to the alternative methodologies (19 U.S.C. 1677b(e)(2)(B)). Borusan claims that this interpretation was upheld by the Court of International Trade in *Torrington* v. *United States*, Slip. Op. 96–163 (CIT October 3, 1996). According to Borusan the statute states that for determining the amount of profit used for constructed value, the profit will be based on the "actual amounts incurred and realized" by the producer "in connection with the production and sale of a foreign like product." Thus, Borusan argues that the Department should include below cost sales in its profit calculation.

DOC Position

Section 773(e)(2)(A) of the Act specifies that profit for CV be computed using only those sales of the foreign like product that were made in the ordinary course of trade. Section 771(15) of the Act, in turn, provides that sales and transactions considered outside the course of trade include, "among others," sales disregarded under section 773(b)(1) pursuant to the cost test and under section 773(e)(2) as not at arm's length. See also SAA at 839–40. We found that Borusan had made sales in the home market that were disregarded either pursuant to the cost test or because they were not at arm's length (see the "Normal Value" and "Cost of Production Analysis" sections above). Thus, we have not used these sales in computing profit for CV.

The *Torrington* case cited by Borusan relates to the law as it existed before January 1995. In that case, the profit amount discussed was the statutory minimum of eight percent. As noted above, this practice has been superseded by the new statute.

Comment 9: Clerical Errors Contained in the Preliminary Results

Borusan states that the Department made the following clerical errors in its preliminary results: (1) It failed to deduct advertising and warranty expenses in calculating normal value when it had deducted these expenses in the LOT adjustment program; and (2) it eliminated certain products from the matching analysis that should have been included.

The petitioners agree that advertising and warranty expenses should be deducted. However, the petitioners argue that the products in question should not be included in the product concordance (*i.e.*, the matching analysis) and further argue that any products produced to the DIN 2458 specification should also be excluded. The petitioners contend that (a) the excluded products have not been proven to be an appropriate match to ASTM A–53 (U.S. products) as has the DIN 2440/44 standard; (b) DIN 2458 is not listed with other standard pipe products in Borusan's product brochure; and (c) the excluded products are made to nonstandard diameters.

DOC Position

We agree with Borusan. We have corrected for these errors in our final results. At verification, we examined those products that were excluded from our product comparison analysis. We found that all products but one—boiler tube—were subject merchandise, and, therefore, should have been included in our product comparisons.

B. Erbosan

Comment 1: Facts Available

The petitioners argue that the Department should base its final results for Erbosan on total adverse facts available for the following reasons: (1) Erbosan failed to comply with the Department's regulations regarding service of questionnaire responses; and (2) Erbosan's data is unusable. Regarding the first point, the petitioners contend that they were not served with Erbosan's questionnaire response until seven months after it was filed with the Department. A supplemental questionnaire response was filed without much supporting documentation and, according to the petitioners, contained serious deficiencies with the reported variable costs of manufacture. Thus, a large proportion of information was provided to the Department at verification which they had no opportunity to review. Furthermore, the petitioners argue that the verification exhibits were unreadable. Overall, the petitioners argue, Erbosan's failure to provide this information in proper form and on a timely basis precluded them from filing an allegation of sales made below the COP.

Regarding its second point, the petitioners contend that Erbosan's data is unusable because: (a) It failed to differentiate between grades of pipe; and, (b) there is a high rate of errors for its reporting of the dates of sale. If the Department does not find that adverse facts available is appropriate, they suggest applying an additional difference-in-merchandise adjustment for the differences in the grades.

The petitioners argue that with the absence of its due process rights [5] and usable data, the Department should base the final results for Erbosan on facts available. As facts available it should choose either (a) 28.28 percent, the highest margin assigned to any Turkish respondent since the order; or (b) the margin resulting from the use of Erbosan's submitted data.

Erbosan contends that it tried to cooperate and follow the Department's procedures to the best of its ability, without any outside assistance. It notes that, although late, the petitioners did receive Erbosan's questionnaire response and has possessed all of Erbosan's submissions for several months. It also notes that the petitioners did not argue that they had insufficient time to review information to provide comments on the Department's verification or preparing their case brief. Further, the petitioners were aware at the time of the preliminary determination that the Department would be requesting additional information from Erbosan and that it might use Erbosan's information for the final results. Erbosan agrees that certain copies of the verification exhibits were illegible, but notes that the petitioners did not request more legible copies. Erbosan contends that the petitioners had ample time to comment on the information submitted on the record and defend their interest in this proceeding. Therefore, the Department should not base Erbosan's final margin on facts available.

Regarding the grade differences, Erbosan argues that the record shows that there is no difference in its cost of producing both grades. It notes that the Department verified this and noted this in its verification report. Erbosan believes that, even if it should have reported the grades separately, it does not render the response unusable.

Regarding the misreporting of the dates of sale, Erbosan contends that the sales in question are outside the POR. It notes that the Department found no other occurrences in which the date of sale was reported in the wrong month. Thus, Erbosan argues that this is a minor error and does not undermine the data used for purposes of the Department's analysis.

DOC Position

We disagree with the petitioners that the Department should determine Erbosan's submissions as untimely and/or unusable and resort to total adverse facts available for the final results. As described in the preliminary results, a number of extenuating circumstances prevented the petitioners and the Department from performing adequate analyses of Erbosan's data before the preliminary results. Among these reasons are the delayed issuance of the questionnaire and, therefore, of receipt of the questionnaire response, and the extended closures of the Department due to a blizzard and the Federal budget crisis. This led to the Department's decision to assign facts available for the preliminary results, present an additional supplemental questionnaire to Erbosan, and verify Erbosan's response to that supplemental questionnaire.

We agree that the petitioners were not initially served with Erbosan's questionnaire response until seven months after it was filed with the Department. However, we disagree that this precluded the petitioners from making a cost allegation. In the case of Borusan, the petitioners were granted their request for additional time for filing of a sales below cost allegation despite the late date at which Borusan's questionnaire responses were submitted to the Department. Likewise, the petitioners could have made a similar request in the case of Erbosan.

We agree with the petitioners that there was not much support documentation on the record prior to verification and the reported variable costs of manufacture were deficient. However, as explained in the notice of preliminary results, although the Department requested the respondent to support its claim that there were identical matches for all U.S. sales, the Department failed to note the apparent discrepancy in the respondent's initial questionnaire response that differences in merchandise did exist. Furthermore, the Department failed to address Erbosan's claim that the Turkish economy was hyperinflationary at the time of the POR by providing standard instructions regarding administrative reviews conducted within hyperinflationary economies. (These instructions were provided to Borusan when the Department re-issued section D of the questionnaire with the

[5] The petitioners cite to (1) the statute which states that "[i]nformation that is submitted on a timely basis to the [Department] * * * shall be subject to comment by other parties to the proceeding" (see 19 U.S.C. 1677m(g)); and (2) the SAA which states "all interested parties be informed of the essential facts under consideration that form the basis for a determination in sufficient time for the parties to the proceeding to defend their interest" (see H. Doc. No. 316, 103d Cong., 2d Sec. 871).

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hyperinflation text.) Therefore, we find Erbosan's failure to report its cost data properly as inadvertent, not uncooperative.

Regarding the additional points the petitioners raised with respect to Erbosan's data as unusable, we disagree that Erbosan failed to differentiate between grades of pipe or that there is a high rate of errors for reporting dates of sale. Under section 776(a)(2)(D) of the Act, the Department is authorized to use facts available if an interested party provides necessary information, but the information cannot be verified. In this case, however, based on our verification findings, we find that Erbosan's cost data and sales data are accurate. Regarding the cost data, we found no distinction between the steel costs of grade A and grade B, and that Erbosan's cost accounting records indicate the cost of steel is inclusive of both grades for all products. Therefore, we disagree that the Department should apply an additional difmer adjustment for the differences in grades. Regarding the sales data, we find that the incorrect dates of sale for certain transactions resulted in either those sales now being outside the POR or resulted in minor changes in the month the sale was made for the remaining transactions. Since Erbosan's errors are minor in nature, we made the necessary corrections based on our verification findings and are using Erbosan's data in the final results.

Comment 2: Correction for Errors Found at Verification

The petitioners contend that, if the Department does not base the margin on facts available, it should correct for the errors discovered at verification. These errors include omitted home market sales, understated brokerage and handling, overstated discounts for home market sales, and incorrect variable and total costs of manufacture (including the grade differences as mentioned above in Comment 1).

Erbosan agrees that these errors, except for the grade differences (as noted in Comment 1), should be corrected for the final results.

DOC Position

We agree with the respondent. Except for the adjustment for steel grade differences, we have corrected the errors identified above in the final results. We did not make adjustment for steel grade differences to variable and total costs of manufacture because we found no difference between actual costs for pipes with different grades, but with the same dimension and size, sold in either market. Moreover, we found no cost difference between grade A and grade B steel in Erbosan's accounting records.

Final Results of Review

As a result of our review, we determine that the following margins exist for the period May 1, 1994, through April 30, 1995:

Manufacturer/ exporter	Review period	Margin (percent)
Borusan	5/1/94–4/30/94	3.15
Erbosan	5/1/94–4/30/94	25.01

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to Customs.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of this administrative review, as provided by section 751(a) of the Act: (1) The cash deposit rate for Borusan and Erbosan will be the rate established above; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less than fair value (LTFV) investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in these final results of review or the LTFV investigation; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be 14.74 percent, the "all others" rate established in the LTFV investigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as final reminder to importers of their responsibility to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also is the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 C.F.R. 353.34(d). Failure to comply is a violation of the APO.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 C.F.R. 353.22.

Dated: December 24, 1996.

Jeffrey P. Bialos,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–33296 Filed 12–30–96; 8:45 am]

BILLING CODE 3510–DS–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Wool and Man-Made Fiber Textile Products Produced or Manufactured in Bulgaria

December 24, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

Pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC), the Bilateral Textile Agreement, effected by exchange of notes dated April 22 and May 2, 1996, between the Governments of the United States and Bulgaria establishes limits for the period beginning January 1, 1997 and extending through December 31, 1997.

In the letter published below, the Chairman of CITA directs the

Commissioner of Customs to establish the 1997 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 24, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act, the Uruguay Round Agreement on Textiles and Clothing (ATC) and the Bilateral Textile Agreement, effected by exchange of notes dated April 22 and May 2, 1996 between the Governments of the United States and Bulgaria; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1997, entry into the United States for consumption and withdrawal from warehouse for consumption of wool and man-made fiber textile products in the following categories, produced or manufactured in Bulgaria and exported during the twelve-month period beginning on January 1, 1997 and extending through December 31, 1997, in excess of the following levels of restraint:

Category	Twelve-month limit
410/624	2,282,937 square meters of which not more than 823,698 square meters shall be in Category 410.
433	12,300 dozen.
435	22,146 dozen.
442	14,350 dozen.
444	67,164 numbers.
448	25,345 dozen.

Imports charged to these category limits for the period January 1, 1996 through December 31, 1996 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreements Act, the Uruguay Round Agreement on Textiles and Clothing and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–33200 Filed 12–30–96; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Costa Rica

December 24, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: December 30, 1996.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limit for Category 443 is being increased by application of swing, reducing the limit for Categories 342/642 to account for the increase.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 60 FR 65299, published on December 19, 1995). Also see 61 FR 3002, published on January 30, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 24, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 24, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Costa Rica and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996.

Effective on December 30, 1996, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
342/642	360,678 dozen.
443	231,447 numbers.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1995.

The guaranteed access levels for the foregoing categories remain unchanged.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–33202 Filed 12–30–96; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Limits and Guaranteed Access Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Costa Rica

December 24, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

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ACTION: Issuing a directive to the Commissioner of Customs establishing limits and guaranteed access levels.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The import restraint limits and Guaranteed Access Levels (GALs) for textile products, produced or manufactured in Costa Rica and exported during the period January 1, 1997 through December 31, 1997 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish limits and guaranteed access levels for 1997.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996).

Requirements for participation in the Special Access Program are available in **Federal Register** notices 51 FR 21208, published on June 11, 1986; 52 FR 26057, published on July 10, 1987; 54 FR 50425, published on December 6, 1989; 55 FR 21047, published on May 22, 1990, and 61 FR 49439, published on September 20, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 24, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1997, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Costa Rica and exported during the twelve-month period beginning on January 1, 1997 and extending through December 31, 1997, in excess of the following restraint limits:

Category	Twelve-month limit
340/640	955,921 dozen.
342/642	352,884 dozen.
347/348	1,610,938 dozen.
443	211,766 numbers.
447	11,418 dozen.

Imports charged to these category limits for the period January 1, 1996 through December 31, 1996 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future according to the provisions of the Uruguay Round Agreements Act, the ATC, and any administrative arrangements notified to the Textiles Monitoring Body.

Also pursuant to the Uruguay Round Agreements Act and the ATC; and under the terms of the Special Access Program, as set forth in 51 FR 21208 (June 11, 1986), 52 FR 26057 (July 10, 1987) and 54 FR 50425 (December 6, 1989), you are directed to establish guaranteed access levels for properly certified cotton, wool and man-made fiber textile products in the following categories which are assembled in Costa Rica from fabric formed and cut in the United States and re-exported to the United States from Costa Rica during the period beginning on January 1, 1997 and extending through December 31, 1997:

Category	Guaranteed access level
340/640	650,000 dozen.
342/642	250,000 dozen.
347/348	1,500,000 dozen.
443	200,000 numbers.
447	4,000 dozen.

Any shipment for entry under the Special Access Program which is not accompanied by a valid and correct certification and Export Declaration in accordance with the provisions of the certification requirements established in the directive of May 15, 1990 shall be denied entry unless the Government of Costa Rica authorizes the entry and any charges to the appropriate specific limit. Any shipment which is declared for entry under the Special Access Program but found not to qualify shall be denied entry into the United States.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of U.S.C.553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.96–33204 Filed 12–30–96; 8:45 am]

BILLING CODE 3510–DR–F

Consolidation and Amendment of Export Visa Requirements to Include the Electronic Visa Information System for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Korea

December 24, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs consolidating and amending visa requirements.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

In exchange of notes dated November 12, 1996 and December 11, 1996, the Governments of the United States and the Republic of Korea agreed to amend the existing visa arrangement for textile products, produced or manufactured in Korea and exported on and after January

1, 1997. The amended arrangement consolidates existing and new provisions of the export visa arrangement, including provisions for the Electronic Visa Information System (ELVIS). In addition to the ELVIS requirements, shipments will continue to be accompanied by an original visa stamped on the front of the original commercial invoice issued by the Government of the Republic of Korea. Goods which currently require an exempt certificate shall not require an ELVIS transmission, but will continue to require the exempt certificate.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to amend the existing visa requirements for textile products produced or manufactured in Korea and exported on and after January 1, 1997.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 60 FR 65299, published on December 19, 1995). Also see 56 FR 18574, published on April 23, 1991. Information regarding the 1997 CORRELATION will be published in the **Federal Register** at a later date.

Interested persons are advised to take all necessary steps to ensure that textile products that are entered into the United States for consumption, or withdrawn from warehouse for consumption, will meet the visa requirements set forth in the letter published below to the Commissioner of Customs.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 24, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on April 17, 1991, as amended, by the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit entry of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Korea for which the Government of the Republic of Korea has not issued an appropriate export visa or exempt certification.

Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Export Visa Arrangement, effected by exchange of notes dated November 12, 1996 and December 11, 1996, between the Governments of the United States and the Republic of Korea; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1997, entry into the Customs territory of the United States (i.e., the 50 states, the District of Columbia and the Commonwealth of Puerto Rico) for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in Categories 200–239, 300–369, 400–469, 600–670 and 800–899, including part categories and merged categories (see Annex A), produced or manufactured in Korea and exported on and after January 1, 1997 for which the Government of the Republic of Korea has not issued an appropriate export visa or Electronic Visa Information System (ELVIS) transmission fully described below. Should additional categories, part categories or merged categories become subject to import quota the entire category(s), part category(s) or merged category(s) shall be included in the coverage of this arrangement.

A visa must accompany each commercial shipment of the aforementioned textile products. A circular stamped marking in blue ink will appear on the front of the original commercial invoice. The original visa shall not be stamped on duplicate copies of the invoice. The original invoice with the original visa stamp will be required to enter the shipment into the United States. Duplicates of the invoice and/or visa may not be used for this purpose.

Each visa stamp shall include the following information:

1. The visa number. The visa number shall be in the standard nine digit letter format, beginning with one numeric digit for the last digit of the year of export, followed by the two character alpha country code specified by the International Organization for Standardization (ISO) (the code for Korea is "KR"), and a six digit numerical serial number identifying the shipment; e.g., 7KR123456.

2. The date of issuance. The date of issuance shall be the day, month and year on which the visa was issued.

3. The original signature of the issuing official of the Government of the Republic of Korea.

4. The correct category(s), merged category(s), part category(s), quantity(s) and unit(s) of quantity in the shipment as set forth in the U.S. Department of Commerce Correlation and in the Harmonized Tariff Schedule of the United States, annotated or successor documents, shall be reported in the spaces provided within the visa stamp (e.g., "Cat. 340–510 DOZ").

Quantities must be stated in whole numbers. Decimals or fractions will not be accepted. Merged category quota merchandise may be accompanied by either the appropriate merged category visa or the correct category visa corresponding to the actual shipment (e.g., Categories 347/348 may be visaed as 347/348 or if the shipment consists solely of Category 347 merchandise, the shipment may be visaed as "Category 347," but not as "Category 348").

U.S. Customs shall not permit entry if the shipment does not have a visa, or if the visa number, date of issuance, signature, category, quantity or units of quantity are missing, incorrect or illegible, or have been crossed out or altered in any way. If the quantity indicated on the visa is less than that of the shipment, entry shall not be permitted. If the quantity indicated on the visa is more than that of the shipment, entry shall be permitted and only the amount entered shall be charged to any applicable quota.

If the visa is not acceptable then a new visa must be obtained from the appropriate export association through their Korean suppliers, or a visa waiver may be issued by the U.S. Department of Commerce at the request of the Government of the Republic of Korea in Washington, DC, and presented to the U.S. Customs Service before any portion of the shipment will be released. The waiver, if used, only waives the requirement to present a visa with the shipment. It does not waive the quota requirement.

If the visaed invoice is deficient, the U.S. Customs Service will not return the original document after entry, but will provide a certified copy of that visaed invoice for use in obtaining a new correct original visaed invoice, or a visa waiver.

If a shipment from Korea has been allowed entry into the commerce of the United States with either an incorrect visa or no visa, and redelivery is requested but cannot be made, the shipment will be charged to the correct category limit whether or not a replacement visa or waiver is provided.

ELVIS Requirements:

A. Each ELVIS message will include the following information:

I. The visa number. The visa number shall be in the standard nine digit letter format, beginning with one numeric digit for the last digit of the year of export, followed by the two character alpha country code specified by the International Organization for Standardization (ISO) (the code for Korea is "KR"), and a six digit numerical serial number identifying the shipment; e.g., 7KR123456.

II. The date of issuance. The date of issuance shall be the day, month and year on which the visa was issued.

III. The correct category(s), merged category(s), part category(s), quantity(s) and unit(s) of quantity in the shipment as set forth in the U.S. Department of Commerce Correlation and in the Harmonized Tariff Schedule of the United States, annotated or successor documents.

IV. The quantity of the shipment in the correct units of quantity.

V. The manufacturer ID code.

B. Entry of a shipment shall not be permitted:

I. if an ELVIS transmission has not been received for the shipment from the country of origin;

II. if the ELVIS transmission for that shipment is missing any of the following:

a. visa number
b. category or part category
c. quantity
d. unit of measure
e. date of issuance
f. manufacturer ID number

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III. if the ELVIS transmission for the shipment does not match the information supplied by the importer or the Customs Broker acting as an agent on behalf of the importer, with regard to any of the following:

a. visa number

b. category or part category

c. unit of measure

IV. if the quantity being entered is greater than the quantity transmitted.

V. if the visa number has previously been used, except in the case of a split shipment, or cancelled, except when an entry has been made using the visa number.

C. A new, correct ELVIS transmission from the country of origin is required before a shipment that has been denied entry for one of the circumstances mentioned in paragraph 3.B.I–V will be released.

D. A new, correct ELVIS transmission from the country of origin is required for entries made using a visa waiver under the procedures as previously described. Visa waivers will only be considered for paragraph 3.B.I., if the shipment qualifies as a one-time special purpose shipment that is not part of an ongoing commercial enterprise, or legitimate classification disputes.

E. Shipments will not be released for forty-eight hours in the event of a system failure. If system failure exceeds forty-eight hours, for the remaining period of the system failure the U.S. Customs Service will release shipments on the basis of the paper visaed document.

If import quotas are in force, U.S. Customs Service shall charge only the actual quantity in the shipment to the correct category limit. If a shipment from Korea has been allowed entry into the commerce of the United States with either an incorrect ELVIS transmission, or no ELVIS transmission, and redelivery is requested but cannot be made, the shipment will be charged to the correct category limit whether or not a replacement visa or waiver is provided or a new ELVIS message is transmitted.

Annex B lists all products exempt from quantitative levels of the agreement with the Government of the Republic of Korea.

Other Provisions.

Merchandise imported for the personal use of the importer and not for resale, regardless of value, and properly marked commercial sample shipments valued at U.S.$250 or less, do not require a visa, exempt certification, or ELVIS transmission for entry and shall not be charged to agreement levels, if applicable. All other commercial shipments of the above mentioned require a visa or exempt certification for entry.

The visa and certification stamps remain unchanged.

The actions taken concerning the Government of the Republic of Korea with respect to imports of textiles and textile products in the foregoing categories have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1). This letter will be published in the **Federal Register**.

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Annex A

Part Categories

224–V	Velvet: only HTS numbers 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020.
224–O	Other than velvet: all HTS numbers except those in 224–V.
340–D	Dress shirts: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030.
340	Other than dress shirts: all HTS numbers except those in 340–D.
359–H	Headwear: only HTS numbers 6505.90.1540 and 6505.90.2060.
359–O	Other: all HTS numbers except those in 359–H.
369–L	Luggage: only HTS numbers 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015 and 4202.92.6090.
369–O	Other: all HTS numbers except those in 369–L.
459–W	Woven headwear: only HTS number 6505.90.4090.
459–O	Other: all HTS numbers except those in 459–W.
640–D	Dress shirts: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.3030 and 6205.90.4030.
640–O	Other than dress shirts: all HTS numbers except those in 640–D.
641–Y	Blouses with two or more colors in the warp and/or filling: only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.
641	Other: all HTS numbers except those in 641–Y.
659–H	Headwear: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.
659–S	Swimwear: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.
659–O	Other: all HTS numbers except those in 659–H and 659–S.
669–P	Polypropylene bags: only HTS numbers 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000.
669–O	Other: all HTS numbers except those in 669–P.
670–L	Luggage: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025.
670–O	Other: all HTS numbers except those in 670–L.

Annex A—Continued

Merged Categories

300/301
317/326
613/614
619/620
625/626/627/628/629
333/334/335
338/339
342/642
347/348
351/651
353/354/653/654
445/446
633/634/635
638/639
645/646
647/648
369–L/670–L/870

Annex B

Exempt Products Requiring Exempt Certification (No Visa or ELVIS transmission required)

1. Chima—The long, formless and ample skirt portion of the traditional Korean chima-chogori dress set.
2. Chogori—The short halter-type blouse or top portion of the traditional Korean chima-chogori dress set.
3. Bosun—An ankle boot-type article, wholly of cloth, worn by Korean women indoors.
4. Fabrics—not to exceed 24x48 inches in size, containing hand embroidered or hand painted Korean scenes, and used primarily as decorations or art objects.
5. Handmade carpets—i.e., in which the pile was inserted, knotted by hand and classified by the U.S. Customs Service under HTS 5701.10.1600, 5701.10.4000 (formerly 5701.10.2010) or 5703.20.1000.
6. Korean-style handbags and other flatgoods of the type considered by the U.S. Customs Service to be classified as luggage— Women's and children's handbags, billfolds, card cases, coin purses, eyeglass cases and similar flatgoods.
7. Martial Arts Uniforms.
8. Toys for animals.

[FR Doc. 96–33201 Filed 12–30–96; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Sri Lanka

December 23, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Helen L. LeGrande, International Trade Specialist, Office of Textiles and

Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limit for Categories 351/651 is being adjusted for special carryforward and to undo special shift previously applied. Therefore, the special shift subtracted from the limit for Categories 352/652 is being cancelled.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to increase the limit for Categories 352/652. The limit for Categories 351/651 remains unchanged.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 60 FR 65299, published on December 19, 1995). Also see 60 FR 66265, published on December 21, 1995; and 61 FR 29357, published on June 10, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 23, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 15, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Sri Lanka and exported during the period which began on January 1, 1996 and extends through December 31, 1996.

Effective on December 31, 1996, you are directed to increase the limit for Categories 352/652 to 1,497,620 dozen [1].

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.96–33203 Filed 12-30–96; 8:45 am]

BILLING CODE 3510–DR–F

[1] The limit has not been adjusted to account for any imports exported after December 31, 1995.

DEPARTMENT OF ENERGY

Notice of Intent

AGENCY: Department of Energy.

ACTION: Notice of Intent.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare an Environmental Impact Statement (EIS) on the management of a portion of the aluminum-clad spent nuclear fuel [1] at the Savannah River Site. The Department's objective is to identify and implement appropriate actions to safely and efficiently manage all aluminum-clad spent nuclear fuel and targets assigned to the Savannah River Site, including placing these materials in forms suitable for disposition. To this end, this EIS will cover that portion of the aluminum-clad spent nuclear fuel inventory currently in storage at the Savannah River Site, as well as aluminum-clad foreign, domestic and government research reactor aluminum-clad spent nuclear fuel that has been assigned to, but has not yet been received at the Savannah River Site. Approximately 188 metric tons of spent nuclear fuel and targets currently stored at the SRS are not considered within the scope of this EIS because the Department has already decided on the management strategy for these materials. The spent nuclear fuel included in this EIS consists of approximately 62 metric tons heavy metal of spent nuclear fuel: 34 metric tons currently at the Savannah River Site and 28 metric tons, foreign and domestic, to be shipped to the Savannah River Site. This Notice of Intent briefly describes the proposed DOE action and alternatives, announces the schedule for the public scoping meeting, and solicits public involvement.

DATES: DOE invites comments on the proposed scope of the SRS Spent Nuclear Fuel Management EIS from the public. Comments must be postmarked or submitted by fax or electronic mail by March 3, 1997 to ensure consideration in the preparation of the draft EIS. DOE will consider late comments to the extent practicable. DOE will conduct an informational workshop and public scoping meeting on January 30, 1997, from 1:00 p.m. to 4:00 p.m. and 6:00 p.m. to 9:00 p.m., at the North Augusta Community Center, 101 Brookside Drive, North Augusta, South Carolina. The purpose of the workshop and scoping meeting is to discuss spent nuclear fuel management issues at the SRS and provide an opportunity for the public to assist the Department in determining the appropriate scope of the EIS. The date, time and location of the workshop and scoping meeting that appear in this Notice will be announced in the SRS Environmental Bulletin and local newspapers well in advance of the meeting.

ADDRESSES: Questions and comments concerning the SRS Spent Nuclear Fuel Management EIS and comments on the scope of the EIS can be submitted in writing to Andrew R. Grainger, NEPA Compliance Officer, Savannah River Operations Office, P.O. Box 5031, Aiken, South Carolina 29804–5031. Internet addresses are drew.grainger@srs.gov or nepa@barms036.b-r.com. Questions and comments may also be submitted by telephone or fax to the toll-free telephone number 1–800–242–8269.

For general information on the DOE NEPA process, contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585; telephone (202) 586–4600 or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

DOE needs to safely and efficiently manage all aluminum-clad spent nuclear fuel and targets assigned to the SRS until ultimate disposition. The management alternatives could involve the use of existing, modified, or new facilities or processes, consistent with DOE policies regarding the protection of the environment, public and worker safety and health, nonproliferation, and recent DOE decisions regarding the

[1] Aluminum-clad spent nuclear fuel is nuclear reactor fuel that has been withdrawn from a reactor following irradiation, the constituent elements of which have not been separated. The "spent nuclear fuel" consists primarily of the fuel (usually enriched uranium), fission products, and the aluminum structural material that serves as cladding. For the purposes of the SRS Spent Nuclear Fuel Management EIS, spent nuclear fuel also includes uranium/neptunium target materials, blanket subassemblies, pieces of fuel, and debris.

programmatic management of spent nuclear fuel and the decision to accept and manage in the United States foreign research reactor spent nuclear fuel containing uranium enriched in the United States.

Spent Nuclear Fuel Currently Stored at the SRS

The current SRS inventory of spent nuclear fuel consists of approximately 222 metric tons[2] heavy metal (MTHM, which is the uranium mass, excluding cladding, alloy materials and structural materials). The inventory includes various forms, as follows: (a) SRS spent production reactor fuels consisting of aluminum-clad highly enriched uranium; (b) aluminum-clad targets or slugs containing plutonium or other isotopes; (c) aluminum-clad spent nuclear fuels from offsite domestic and foreign research reactors; and (d) offsite research and test reactor spent nuclear fuels clad in zirconium, stainless steel, or other materials. The SRS spent production reactor fuels, targets and slugs are currently stored under water in the K-, and L-Reactor disassembly basins, while the offsite domestic and foreign research reactor spent nuclear fuel is stored under water in the Receiving Basin for Offsite Fuels. Foreign research reactor spent nuclear fuel is also scheduled to be stored in the L-Reactor disassembly basin.

The spent nuclear fuel and targets that are the subject of the SRS Spent Nuclear Fuel Management EIS will be: that portion of the spent nuclear fuel and targets (34 metric tons) currently stored at the SRS that has been determined to be stable, but whose management pending ultimate disposition has not yet been determined under an environmental impact statement prepared under the National Environmental Policy Act; and approximately 28 metric tons heavy metal of spent nuclear fuel consisting of the foreign research reactor spent nuclear fuel that will be shipped to SRS over the next 13 years, and the DOE and domestic research reactor spent nuclear fuel that will be shipped to SRS for the foreseeable future (i.e., until at least the year 2035).

The proposed action and alternatives considered in this EIS would be consistent with recent Departmental decisions regarding the programmatic management of spent nuclear fuel (Record of Decision, Spent Nuclear Fuel and Idaho National Engineering Laboratory Environmental Restoration and Waste Management Programmatic Environmental Impact Statement, 60 FR 28680 (June 1, 1995), and Amendment of Record of Decision, 61 FR 9441 (March 8, 1996), and Departmental decisions to accept and manage foreign research reactor spent nuclear fuel in the United States (Record of Decision, Environmental Impact Statement on a Proposed Nuclear Weapons Nonproliferation Policy Concerning Foreign Research Reactor Spent Nuclear Fuel, 61 FR 25092, May 17, 1996).

Approximately 188 metric tons of spent nuclear fuel and targets currently stored at the SRS are not considered within the scope of this EIS because the Department has already decided on the management strategy for these materials. These materials were evaluated in the Interim Management of Nuclear Materials (IMNM) EIS (DOE/EIS–0220, October 1995). In that EIS, DOE considered alternatives for stabilizing spent nuclear fuel and other radioactive materials stored at the SRS that DOE determined could not be safely stored over the next decade in their present condition. Following completion of the IMNM EIS, DOE decided (60 FR 65300, December 19, 1995) to stabilize the Mark-31 targets, 81 failed Taiwan Research Reactor elements, and a failed Experimental Breeder Reactor II element (totaling about 159 MTHM) by dissolving them in the F-Canyon facility and by reducing the plutonium component to metal in the FB-Line facility, after which the resulting materials would be stored. Subsequently, DOE announced its decision (61 FR 6633, February 21, 1996) to stabilize Mark-16 and Mark-22 production reactor spent fuels by processing them and blending down the highly enriched uranium component to low enriched uranium in SRS facilities. Other aluminum-clad targets stored in the reactor basins would be stabilized by dissolving them in the canyon facilities and storing the solutions in the SRS high-level waste tanks for eventual conversion to a glass form in the Defense Waste Processing Facility. The glass logs would then be stored at the SRS until ultimate disposition. While these materials are considered spent fuel, their management is not considered within the scope of the SRS Spent Nuclear Fuel Management EIS because, once stabilized, they will be suitable for disposition under existing DOE programs. Accordingly, no other management alternatives need be considered.

The management and disposition of the 62 MTHM[3] are the subject of this EIS. Table 1 provides information on the spent nuclear fuel inventory currently located at the SRS that the Department plans to evaluate in this EIS.

[2] A metric ton is 1,000 kilograms, equal to about 2,200 pounds.

[3] The 34 MTHM currently stored at SRS do not include about 22 MTHM spent fuel clad in stainless steel or zirconium and stored in the Receiving Basin for Offsite Fuels. This material will be shipped to the Idaho National Engineering Laboratory for management there (60 FR 28680, June 1, 1995).

TABLE 1.— EXISTING SRS INVENTORY OF ALUMINUM-CLAD SNF (AS OF SEPTEMBER 30, 1996) TO BE EVALUATED IN EIS

Fuel type	Location	Number of items	Units	Metric tons heavy metal
Fuels:				
Mark-14	RBOF [1]	1	Can [2]	<0.001
Taiwan Research Reactor	RBOF	62	Cans	8.7
Experimental Breeder Reactor	RBOF	59	Cans	16.7
Sodium Experimental Reactor	RBOF	36	Cans	2.1
Argonne National Laboratory Janus Reactor	RBOF	19	Assemblies [3]	0.003
Advanced Thermal Source Reactor	RBOF	21	Assemblies	0.003
Massachusetts Institute of Technology Reactor	RBOF	56	Assemblies	0.016
University of Missouri Research Reactor	RBOF	112	Assemblies	0.049
Rhode Island Nuclear Center Reactor	RBOF	70	Assemblies	0.004
University of Michigan Reactor	RBOF	48	Assemblies	0.034
University of Virginia Reactor	RBOF	44	Assemblies	6.062
Nereide (French) Research Reactor	RBOF	46	Assemblies	0.035
Japanese Material Test Reactor	RBOF	71	Assemblies	0.017
French Hot Flux Research Reactor	RBOF	4	Assemblies	0.026
Oak Ridge Research Reactor	RBOF	165	Assemblies	0.111
Sterling Forest	RBOF	678	Cans	0.094
		200	Assemblies	0.028
Urgent Relief Receipts	RBOF	252	Assemblies	0.05
Targets:				
Mark-42 targets	RBOF	7	Assemblies	<0.1
Mark-18 americium-241 targets	RBOF	65	targets [4]	<0.1
Special curium and other targets	RBOF	114	slugs [5]	<0.1
Total				About 34 MTHM

[1] The Receiving Basin for Offsite Fuels facility at the SRS.
[2] The term "can" indicates that the spent nuclear fuel was placed in an aluminum can, which was then sealed to provide a suitable storage container for the fuel element(s).
[3] The term "assembly" refers to the nuclear fuel in its assembled form (i.e., fuel, cladding and handling features are all present). In this case, the term "assembly" is synonymous with "fuel element."
[4] The term "target" refers to uranium or transuranic material, clad in aluminum, that was irradiated in a reactor for the purpose of producing special isotopes, e.g., plutonium-238.
[5] The term "slug" normally refers to a disassembled target.

Foreign Research Reactor Fuel Assigned to the SRS. Following completion of the *EIS on a Proposed Nuclear Weapons Nonproliferation Policy Concerning Foreign Research Reactor Spent Nuclear Fuel*, DOE and the Department of State decided to implement a new foreign research reactor spent nuclear fuel policy by accepting from foreign reactors spent nuclear fuel containing uranium enriched in the United States (Record of Decision, 61 FR 25092. May 17, 1996). Implementation of this policy will result in the acceptance of up to 22,700 foreign research reactor spent fuel elements (about 19.2 MTHM) by the United States. Of this number, about 17,800 are aluminum-clad fuel elements (about 18.2 MTHM) which have been assigned to the Savannah River Site for management. The remaining foreign research reactor spent fuel elements (about 1 MTHM) have been assigned to the Idaho National Engineering Laboratory for management.

In the Record of Decision (61 FR 25092, May 17, 1996) for the EIS on a Proposed Nuclear Weapons Nonproliferation Policy Concerning Foreign Research Reactor Spent Nuclear Fuel, DOE decided to implement a three-point strategy for managing these fuel elements. First, DOE has started an accelerated program to identify, develop, and demonstrate one or more non-processing, cost-effective treatment or packaging technologies to prepare the foreign research reactor spent nuclear fuel for disposition. The purpose of any new facilities that might be constructed to implement these technologies would be to change the foreign research reactor spent nuclear fuel into a form that is suitable for geologic disposal without necessarily separating the fissile materials. Examples of such treatment technologies could include: press and dilute/poison, melt and dilute/poison, plasma arc treatment, electrometallurgical treatment, glass materials oxidation and dissolution, dissolve and vitrify, direct disposal in small packages, and direct co-disposal with high-level waste.

In conjunction with the examination of new technologies, variations of conventional direct disposal methods would also be explored. After treatment or packaging, the foreign research reactor spent nuclear fuel would be managed on site in dry storage. (After such treatment or packaging, the spent nuclear fuel would then be in a condition often referred to as "road ready," meaning that no further packaging or treatment would be required before being transported off-site for continued storage or disposal.) DOE would select, develop, and implement, if appropriate, one or more of these treatment or packaging technologies by the year 2000. DOE is committed to avoiding indefinite storage of this spent nuclear fuel in a form that is unsuitable for disposal.

Should a new treatment or packaging technology not be ready for implementation by the year 2000, the second part of the strategy would involve use of F-Canyon to chemically separate some foreign research reactor spent nuclear fuel elements while the F-Canyon facility is operating in order to stabilize "at-risk" materials (i.e., materials that pose a health or safety concern) in accordance with the Implementation Plan for Defense Nuclear Facilities Safety Board Recommendation 94–1. DOE would use the F-Canyon to process only that quantity of foreign research reactor fuel that could be accommodated by the available canyon capacity. Current schedules show that this activity could take place after the year 2000. As part

of the assessment and analysis of this contingency, DOE committed to commission or conduct an independent study of the nonproliferation and other implications of processing spent nuclear fuel from foreign research reactors. The results of this study will be applicable to all the spent nuclear fuel within the scope of the SRS Spent Nuclear Fuel Management EIS and will be incorporated into a final decision on spent nuclear fuel management at SRS.

The third part of the strategy for managing foreign research reactor spent nuclear fuel is embodied in a program of closely monitoring such fuel placed in wet storage at the SRS. DOE is presently unaware of any technical basis for believing that the foreign research reactor spent nuclear fuel cannot be safely stored until one or more of the new packaging or treatment technologies becomes available. Nevertheless, if health and safety concerns involving any of the foreign research reactor spent fuel materials are identified prior to development of an appropriate treatment or packaging technology, DOE would use the F-Canyon to process the affected spent nuclear fuel materials, while F-Canyon is operating to stabilize the at-risk materials.

DOE and Domestic Research Reactor Fuel to be Shipped to SRS. Following completion of the Programmatic Spent Nuclear Fuel and Idaho National Engineering Laboratory Environmental Restoration and Waste Management EIS, DOE decided that the SRS will be the management site of aluminum-clad fuel that is currently in or may become a part of DOE's inventory (DOE reactor fuel, excluding spent fuel at the Hanford site, university and other domestic research test reactor fuel, and fuel from foreign research reactors) (Record of Decision, 60 FR 28680, June 1, 1996) and Amendment to the Record of Decision, 61 FR 9441, March 8, 1996). This decision will result in the shipment of about 4,500 aluminum-clad spent fuel elements to the SRS from the Idaho National Engineering Laboratory and up to 9,600 aluminum-clad spent fuel elements from domestic DOE and research reactors (for a total of about 10 MTHM). Table 2 provides information on the expected future receipts of spent nuclear fuel at the SRS that the Department plans to evaluate in this EIS.

TABLE 2.—EXPECTED FUTURE RECEIPTS OF SPENT NUCLEAR FUEL AT THE SAVANNAH RIVER SITE

Source	Number of elements	MTHM
Domestic Research Reactors	9,600	6.2
Foreign Research Reactors	17,800	18.2
Idaho National Engineering Laboratory	4,500	3.8
Total	About 31,900 elements	About 28.2 MTHM

Alternatives:

DOE will evaluate several alternatives for the management of both the aluminum-clad spent nuclear fuel currently stored at the Savannah River Site and the foreign and domestic research reactor spent nuclear fuel that is expected to be shipped to the Savannah River Site in the future. Each of the following alternatives will be considered for the spent nuclear fuel currently in storage and that is expected to be shipped to the SRS.

Continued Wet Storage (No Action)

The no action alternative would continue storage of spent fuel in the Receiving Basin for Offsite Fuel and the L-Reactor disassembly basin. Future receipts of domestic and foreign fuel would be stored at these locations. This alternative also involves continuation of the enhanced monitoring program and water chemistry management activities at the basins to ensure the safe storage of spent fuel. Under this alternative, DOE would also use the F-Canyon (or H-Canyon) facility to process those fuel elements that are determined to present health and safety vulnerabilities during wet storage, in accordance with the Records of Decision for the Proposed Nuclear Weapons Nonproliferation Policy Concerning Foreign Research Reactor Spent Nuclear Fuel EIS (61 FR 25092, May 17, 1996) and the Interim Management of Nuclear Material EIS (60 FR 65300 and 61 FR 6633, December 19, 1995 and February 21, 1996 respectively). Because each alternative evaluated in this EIS involves some period of wet storage prior to implementation, the potential for processing fuels which are determined to present health and safety vulnerabilities is applicable to all the alternatives. DOE notes that processing for health and safety reasons is already authorized under existing analyses.

New Processing/Packaging Technologies

This alternative would include evaluating one or more cost-effective treatment or packaging technologies as described in the Record of Decision (61 FR 25092, May 17, 1996) for the Proposed Nuclear Weapons Nonproliferation Policy Concerning Foreign Research Reactor Spent Nuclear Fuel EIS. Most of these technologies would employ packaging or processing activities that would not separate fissile material from fission products. In the SRS Spent Nuclear Fuel Management EIS, DOE will evaluate the potential impacts of the application of these technologies to the spent nuclear fuel that is the subject of this EIS for the purpose of placing these materials in forms suitable for geologic disposal.

Dry Storage

This alternative assesses the potential impacts associated with the construction and operation of a facility (Transfer and Storage Facility) to receive, characterize, condition, package, and dry store SNF prior to shipment to a geologic repository for disposal. DOE would evaluate dry storage for managing existing stable spent nuclear fuel inventories as well as future receipts.

Conventional Processing

This alternative would involve processing spent nuclear fuel in the existing chemical separation facilities. For foreign research reactor spent fuel, this alternative would be applicable only to address health and safety concerns, as described above. For stable non-foreign research reactor SNF, DOE would evaluate the potential environmental impacts associated with processing, even where not required for health or safety concerns. This alternative could result in the separation of some fissile materials (generally, highly enriched uranium) from the spent nuclear fuel, which would be blended down to low-enriched uranium prior to removing the material from the processing facility complex. Low-enriched uranium is not weapons-grade nuclear material. Some amount of plutonium-239 would also be separated.

However, there would be no plutonium-239 separated from the vast majority of the fuel, even in instances where plutonium-239 may be present. Plutonium-239 separation would only occur in cases where it was required in order to ensure criticality safety in high-level waste tanks and the subsequent high-level waste vitrification process. In any case, no effort would be made to maintain the purity of the plutonium-239. DOE would process the plutonium to metal for storage in accordance with the DOE standard for storage of plutonium prior to the application of International Atomic Energy Agency (IAEA) safeguards. Any separated plutonium-239 would be placed under IAEA control when such controls are instituted.

Identification of Environmental and Other Issues

DOE has identified the following issues for analysis in the EIS. Additional issues may be identified during the scoping process, and DOE specifically solicits comments on the appropriateness of these issues for consideration in the EIS.

1. Public and worker safety: radiological and nonradiological impacts of the alternatives, including potential effects on workers and the public from the normal operation and accident conditions.

2. Impacts to plants, animals, and habitat, including impacts to wetlands, and threatened and endangered species and their habitat.

3. The consumption of natural resources and energy including water, natural gas, and electricity.

4. Socioeconomic impacts to affected communities from the operations labor force and any required construction labor force, and support services, in the SRS region of influence.

5. Potential disproportionately high or adverse human health or environmental impacts on minority and low-income populations.

6. Transportation of spent nuclear fuel to the Savannah River Site. DOE believes that these impacts are adequately addressed in other environmental impact statements and intends to incorporate the analysis by reference into this EIS.

7. Impacts on cultural resources, historic, archaeological, scientific, or culturally important sites.

8. Status of compliance with all applicable Federal, state, and local statutes and regulation; required Federal and state environmental consultations and notifications; and DOE orders on waste management, waste minimization initiatives, and environmental protection.

9. Potential impact on U.S. nonproliferation policy, especially as the actions considered may produce weapons usable fissile materials that may need to be safeguarded.

10. Cumulative impacts from the proposed action and other past, present, and reasonably foreseeable actions at the Savannah River Site.

11. Potential irreversible and irretrievable commitments of resources.

Related Documents

The following documents, which are available for review at DOE Reading Rooms, contain information related to the issues to be addressed in the SRS Spent Nuclear Fuel EIS.

U.S. Department of Energy. 1995. Department of Energy Programmatic Spent Nuclear Fuel Management and Idaho National Engineering Laboratory Environmental Restoration and Waste Management Programs Final Environmental Impact Statement, DOE/EIS–0203F. Idaho Operations Office, Idaho Falls, ID, April 1996.

U.S. Department of Energy. 1996. Final Environmental Impact Statement on a Proposed Nuclear Weapons Nonproliferation Policy Concerning Foreign Research Reactor Spent Nuclear Fuel, DOE/EIS–0218F. Assistant Secretary for Environmental Management, Washington, D.C. February 1996.

U.S. Department of Energy. 1995. Final Environmental Impact Statement, Interim Management of Nuclear Materials, DOE/EIS–0220. Savannah River Operations Office, Aiken, South Carolina. October 1995.

U.S. Department of Energy. 1995. Facility Utilization Strategy for the Savannah River Site Chemical Separations Facilities. Savannah River Operations Office, Aiken, South Carolina. December 1995.

U.S. Department of Energy. 1994. Environmental Assessment of Urgent-Relief Acceptance of Foreign Research Reactor Spent Nuclear Fuel, DOE/EA–0912. Washington, D.C. April 1994.

Issued in Washington, D.C., this 23rd day of December 1996.

Peter N. Brush,

Principal Deputy Assistant Secretary, Environment, Safety and Health.

[FR Doc. 96–33131 Filed 12–30–96; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5672–7]

Agency Information Collection Activities: Proposed Collection; Comment Request: Safe Drinking Water Act State Revolving Fund Program Guidance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB): Safe Drinking Water Act State Revolving Fund Program Guidance, insert OMB Control Number. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects for the proposed information collection as described below.

DATES: Comments must be submitted on or before March 3, 1997.

ADDRESSES: Comments may be mailed to Clifford Yee, Office of Wastewater Management (4204), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC. 20460.

FOR FURTHER INFORMATION CONTACT: Clifford Yee (202) 260–5822; FAX: (202) 260–0116; E-mail: yee.clifford@epamail.epa.gov.

SUPPLEMENTAL INFORMATION:

Affected Entities: Entities potentially affected by this action are the fifty states, Puerto Rico, and the recipients of assistance in each of these jurisdictions.

Title: Safe Drinking Water Act State Revolving Fund Program Guidance.

Abstract: The Safe Drinking Water Act (SDWA) Amendments of 1996 (Pub. L. 104–182) authorize the creation of Drinking Water State Revolving Fund (DWSRF) programs in each state and Puerto Rico to assist public water systems to finance the costs of infrastructure needed to achieve or maintain compliance with SDWA requirements and to protect public health. Section 1452 authorizes the Administrator of the U. S. Environmental Protection Agency (EPA) to award capitalization grants to the states and Puerto Rico which, in turn, provide low-cost loans and other types of assistance to eligible drinking water systems.

The information collection activities will occur primarily at the program level through the: (1) Capitalization

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Grant Application and Agreement/State Intended Use Plan, (2) Biennial Report, (3) Annual Audit, and (4) Assistance Application Review.

(1) Capitalization Grant Application and Agreement/State Intended Use Plan: The State must prepare a capitalization grant application that includes an Intended Use Plan (IUP) outlining in detail how it will use all the funds covered by the capitalization grant. States may, as an alternative, develop the IUP in two parts. One part that identifies the distribution and uses of funds among the various set-asides and the DW–SRF. The second part addresses project funding to be provided by the DW–SRF itself.

(2) Biennial Report: The state must agree to complete and submit a biennial report on the uses of the capitalization grant. The scope of the report must cover the DW–SRF and all other non-SRF activities included under the capitalization grant agreement. States which jointly administer DW–SRF and CW–SRF programs, in accordance with Section 1452(g)(1), may submit reports (according to the schedule specified for each program) which cover both programs.

(3) Annual Audit: The state must agree to conduct or have conducted a separate audit of its capitalization grant. The scope of the audit will cover the DW–SRF and all other activities included in the capitalization grant agreement. States which jointly administer DW–SRF and CW–SRF programs, in accordance with Section 1452(g)(1), may submit audits which cover both programs but which report financial information for each program separately.

(4) Assistance Application Review: States assist local applicants seeking financial assistance in preparing DW–SRF loan applications. States then review completed loan applications and verify that proposed projects will comply with applicable federal and state requirements.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

Burden Statement:

(1) Capitalization Grant Application and Agreement/State Intended Use Plan.

1997: 51 States × 360 Hours = 18,360 Burden Hours
1998: 51 States × 300 Hours = 15,300 Burden Hours
1999: 51 States × 300 Hours = 15,300 Burden Hours

(2) Biennial Report.

1997: 51 States × 200 Hours = 10,200 Burden Hours
1999: 51 States × 250 Hours = 12,750 Burden Hours

(3) Annual Audit.

1997: 51 States × 80 Hours = 4,080 Burden Hours
1998: 51 States × 80 Hours = 4,080 Burden Hours
1999: 51 States × 80 Hours = 4,080 Burden Hours

(4) Loan Application Review.

1997: 51 States × 60 Applications × 40 Hours = 122,400 Burden Hours
1998: 51 States × 75 Applications × 40 Hours = 153,000 Burden Hours
1999: 51 States × 90 Applications × 40 Hours = 183,600 Burden Hours

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; and transmit or otherwise disclose the information.

Dated: December 20, 1996.

Alfred W. Lindsey,

Acting Director, Office of Wastewater Management.

[FR Doc. 96–33261 Filed 12–30–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5668–8]

Agency Information Collection Activities for Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability of Information Collection Request (ICR) and Supporting Statement.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing ICR to the Office of Management and Budget (OMB): *Information Collection Request for 40 CFR part 51 and 52 Prevention of Significant Deterioration and Nonattainment New Source Review:* OMB No. 2060–003, Exp. March 31, 1997. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted to the EPA on or before March 3, 1997.

ADDRESSES: Comments should be addressed to Dennis Crumpler, NSR ICR Project Manager, Integrated Implementation Group, Information Transfer and Program Integration Division (MD–12), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, North Carolina 27711. Copies of the ICR Renewal draft Supporting Statement and other background information may be obtained from the ICR Project Manager at the address above, or it may be retrieved electronically from the NSR Bulletin Board ("News/Bulletins" Menu) located on the Office of Air Quality Planning And Standards Technology Transfer Network (TTN). Access to the TTN is via a computer and communications software at (919) 541–5742. The TTN may be accessed via Internet at the following addresses. TELNET:<ttnbbs.rtpnc.epa.gov>; FTP:<ttnftp.rtpnc.epa.gov>; and WWW:<ttnwww.rtpnc.epa.gov>. For assistance in accessing the TTN, contact the TTN Help Desk at (919) 541–5384 in Research Triangle Park, North Carolina, 1:00 p.m. to 5:00 p.m. eastern standard time.

FOR FURTHER INFORMATION CONTACT: Dennis Crumpler, the current NSR ICR project manager at (919) 541–0871.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which must submit an application for a permit

to construct a new or modify an existing source of air pollution, permitting agencies which review the permit applications, and members of the public who are due the opportunity to comment on permitting actions.

Title: *Information Collection Request for 40 CFR part 51 and 52 Prevention of Significant Deterioration and Nonattainment New Source Review:* OMB No. 2060–007, Exp. March 31, 1997. Abstract: Part C of the Clean Air Act (Act)—"Prevention of Significant Deterioration," and part D—"Plan Requirements for Nonattainment Areas" requires all States to adopt preconstruction review programs for new or modified stationary sources of air pollution. Implementing regulations for State adoption of these two NSR programs into their State Implementation Plan (SIP) are promulgated at 40 CFR 51.160 through 51.166 and appendix S. Federal permitting regulations are promulgated at 40 CFR 52.21 for PSD areas that are not covered by a SIP program.

In order to receive a construction permit for a major new source or major modification, the applicant must conduct the necessary research, perform the appropriate analyses and prepare the permit application with documentation to demonstrate that their project meets all applicable statutory and regulatory NSR requirements. Specific activities and requirements are listed and described in the draft Supporting Statement for the ICR.

Permitting agencies, either State, local or Federal, review the permit application to affirm the proposed source or modification will comply with the Act and applicable regulations. The permitting Agency then provides for public review of the proposed project and issues the permit based on its consideration of all technical factors and public input. The EPA, more broadly, reviews a fraction of the total applications and audits the State and local programs for their effectiveness. Consequently, information prepared and submitted by the source is essential for the source to receive a permit, and for Federal, State and local environmental agencies to adequately review the permit application and thereby properly administer and manage the NSR programs.

To facilitate adequate public participation, information that is submitted by sources as a part of their permit application, should generally be a matter of public record. See sections 165(a)(2) and 110(a)(2) (C), (D) and (F) of the Act. Notwithstanding, to the extent that the information required for the completeness of a permit is proprietary, confidential, or of a nature that it could impair the ability of the source to compete in the market place, that information is collected and handled according to EPA's policies set forth in title 40, chapter 1, part 2, subpart B—Confidentiality of Business Information (see 40 CFR part 2). See also section 114(c) of the Act.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Since the last ICR renewal in September 1995, there have been no regulatory changes to affect the previous estimates of the number of respondents or the hourly burdens relative to the activities associated with NSR requirements.[1] Consequently the estimated average annual burden to industry respondents for this collection of information is approximately 649 hours for each of 320 part C PSD permits (responses); 445 hours for each of 590 part D nonattaiment permits, and about 8 hours for each of 19,500 minor source permits. The projected industry costs are approximately $31 thousand for each part C source, $21 thousand for part D sources, and $380 for each minor NSR source. These costs are determined by multiplying the estimated number of hours for each burden category by $47.00 per hour. This hourly rate represents a mixture of 75 percent technical staff and 25 percent management effort. Hourly rates for in-house and contractor effort are believed to be the same; although an average 30 percent of the burden is believed to be contracted. The estimated total annual burden to industry respondents is about 626 thousand hours and a commensurate cost of $30.6 million which includes direct costs of about $1.2 million for preconstruction monitoring. The estimated burden to State and local permitting Agencies is 272 hours per part C permit, 109 hours for a part D permit and 10 hours for a minor NSR permit. The cumulative burden and cost is 346 thousand hours and $12.8 million. The annual estimated burden for the EPA is 16 thousand hours and $594 thousand.

The NSR permit application burden and cost is up-front, so it does not require amortization over the life of the source. There are no operating and maintenance costs. All reporting and compliance monitoring costs associated with the implementation of a source's permitting requirements should be reflected in the burden associated with compliance assurance monitoring regulations, and the appropriate SIP or operating permit program. Therefore, the second and third year ICR burden and costs of the NSR program are zero for each respondent, and the net present value of the costs of the NSR rules are equal to the cost of the first year outlay. Because the average number of permits issued each year is expected to remain relatively constant, the program is expected to result in the same average burden and cost each year.

Based on limited information, EPA has estimated that few small businesses will experience a significant adverse

[1] On July 23, 1996 the EPA proposed regulatory revisions that if adopted would substantially reduce overall burden of the NSR programs, primarily by reducing the number of sources that would require a major source permit. See 61 FR 38249. The ICR will be revised coincident with the promulgation of the final rulemaking expected in early 1998.

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impact due to administrative burden of the NSR Program. The projected burden also reflects consideration of environmental justice factors, which may influence certain major source permitting actions.

The EPA will consider all comments submitted in response to this notice when preparing the ICR renewal and supporting statement for submittal to OMB.

Dated: December 20, 1996.

Robert G. Kellam,

Director, Information Transfer and Program Integration Division.

[FR Doc. 96–33262 Filed 12–30–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5673–2]

Agency Information Collection Activities: Proposed Collection; Comment Request; Request for Information for the Bioremediation Field Initiative Database Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Request for Information for the Bioremediation Field Initiative Database Systems, EPA ICR No. 1672.01, OMB Control No. 2080048, expires 04/30/97. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before March 3, 1997.

ADDRESSES: Office of Research and Development. A copy of the ICR without charge, can be obtained at: http://www.epa.gov/ORD/WebPubs/biorem

FOR FURTHER INFORMATION CONTACT: Fran Kremer, 513–569–7346, KREMER.FRAN@EPAMAIL.EPA.GOV

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those that are involved in the use of innovative technologies at Superfund sites, such as state and local governments, businesses, and nonprofit institutions.

Title: Request for Information for the Bioremediation Field Initiative Database Systems, OMB Control No. 20800048, expires 04/30/97.

Abstract: This is an ICR renewal for gathering information on the design, operation, and performance of biological treatment technologies from remediation experts and managers working at sites where biological treatment technologies are being tested or implemented. The authority for collecting information on innovative treatment technologies is described at Section 311 of the Superfund Amendments and Reauthorization Act, Section 8003 of the Resource Conservation and Recovery Act, Section 7001 of the Oil Pollution Act, and Section 10 of the Toxic Substance Control Act. The information will help the EPA to deploy innovative technologies more quickly at Superfund and other sites.

Selected respondents are asked to complete and return, via mail, a two-part questionnaire. The first part requests general site information, such as location, contacts, contaminants, and legislative authority under which the site is being remediated. The second part requests site-specific biotechnology information, such as the stage of the operation, wastes and media being treated, cleanup level goals, and the performance and cost of the treatment. All responses are strictly voluntary. Following the initial questionnaire, respondents receive followup questionnaires on a semi-annual basis to update the information already provided. EPA has developed an easy-to-use PC-based version of the questionnaire that is currently in use. To run the electronic questionnaire, the user must have access to a Windows-capable IBM-compatible PC, preferably 486-class or better. The PC questionnaire has several benefits:

- Questions that apply only under particular circumstances (i.e., are dependent on previous responses) are only presented to the user as necessary.
- Data validations are performed optionally as the user is filling out the questionnaire and are required when a respondent is ready to submit the data to EPA. Data validation conditions are reported with an explanation of the problem/situation and recommended corrective action(s).
- Pick lists are provided for several questions, so that user may choose an item from a list rather than enter the full text using the keyboard.

Repsondents may utilize either the paper- or the PC-based questionnaire, whichever they prefer. In each case, when respondents are updating the site records for sites that are already in the Bioremediation Field Intitative database, the questionnaire shows the site's complete responses from past questionnaires, so that information that has not changed need not be reentered. Respondents with access to the Internet may express comments or request assistance using an e-mail account that is identified in each questionnaire mailing. Each form of the questionnaire is updated occasionally between data collection cycles to include prominent new technologies and contaminants as they are identified in prior collection efforts.

EPA compiles information from completed questionnaires into the Bioremediation Field Initiative computer database. EPA developed a software program called the Bioremediation in the Field Search System (BFSS) to search, view, and report information in the database. BFSS is available to the public via computerized bulletin boards, or interested parties may obtain a copy of BFSS by mail by calling the Bioremediation Field Initiative hotline (513 569–7562) and requesting a copy. The next update to BFSS (scheduled for the Spring of 1997) is also anticipated to be available on the Internet. The Bioremediation Field Initiative database currently contains information on over 465 sites, and approximately 100 new sites are expected to be included in the next update of BFSS. Anyone with access to an IBM-compatible 286–AT class computer equipped with DOS 3.3 or better may run BFSS. The Bioremediation Field Initiative database also has appeared in the Bioremediation in the Field bulletin, published quarterly and distributed to approximately 3,500 addressees who have registered for Bioremediation Field Initiative mailings. Each site contains contact information for one or more individuals associated with the regulatory authority or application of bioremediation technology at the site. Remediation professionals may contact individuals with common site conditions to share information. Summary statistics may be drawn from the database to elucidate trends in bioremediation.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the

functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The following burden figures are taken from the currently approved ICR (Attachment A):

Respondent type	Burden hours
First-time respondents	5.0
Update respondents	1.0
No-change respondents	0.5
Nonrespondents	0.25
Total	6.75

Respondents type	Respondents			
	Period one	Period two	Yearly	Total burden hours
First-time respondents	50	50	100	500.0
Update respondents	499	482	931	931.0
No-change respondents	129	139	268	134.0
Nonrespondents	102	110	212	53.0
Total	730	781	1511	161[illegible].0

(First-time respondents fill out a questionnaire for the first time, entering data for a site not previously included in the Bioremediation Field Initiative database. Update respondents receive a questionnaire containing the current record of site data in the Bioremediation Field Initiative database and enter information to make the information current. No-change respondents receive a questionnaire containing the current record of site data in the Bioremediation Field Initiative database, review the information and find that it is current; therefore, they need not modify information to make the site current. Nonrespondents receive the questionnaire, review it, and elect not to respond.)

Each year, the burden figures increase somewhat, as first-time respondents are added to the database. In subsequent years, first-time respondents will be divided among the other respondent types. This growth is offset slightly as sites are removed from the data collection cycle—most typically if the site activity is completed, but for other reasons as well.

For the purposes of this burden estimate, burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information, search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: December 20, 1996.

Robert A. Olexsey,

Director, LRPCD.

[FR Doc. 96–33263 Filed 12–30–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5673–1]

California State Nonroad Engine and Vehicle Pollution Control Standards; Authorization of State Standards; Notice of Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice regarding authorization of state standards.

SUMMARY: EPA is authorizing California to enforce regulations for exhaust emission standards and test procedures for nonroad recreational vehicles and engines including: off-road motorcycles, all-terrain vehicles (ATVs), golf carts, go-karts 25 horsepower and above, and specialty vehicles less than 25 horsepower; pursuant to section 209(e) of the Clean Air Act.

ADDRESSES: The Agency's decision document containing an explanation of the Administrator's decision, as well as all documents relied upon in reaching that decision, including those submitted by the California Air Resources Board (CARB), are available for public inspection in the Air and Radiation Docket and Information Center in Docket A–95–17 during the working hours of 8:00 a.m. to 5:30 p.m., at the Environmental Protection Agency, Air Docket (6102), Room M–1500, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. Copies of the decision can be obtained from EPA's Vehicle Program and Compliance Division by contacting David Dickinson, as noted below.

FOR FURTHER INFORMATION CONTACT: David Dickinson, Attorney/Advisor, Vehicle Program and Compliance Division (6405J), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Telephone: (202)233–9256. Electronic mail: dickinson.david@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: I have decided to authorize California to enforce regulations for standards and test procedures for nonroad engines and vehicles pursuant to section 209(e) of the Clean Air Act, as amended (Act), 42 U.S.C. 7543. These regulations establish exhaust emission standards and test procedures for off-road motorcycles and

ATVs produced on or after January 1, 1997, establish a zero-emission standard for golf carts produced on or after January 1, 1997, establish exhaust emission standards and test procedures for go-karts 25 horsepower and above produced on or after January 1,1997, and established that specialty vehicles less than 25 horsepower and under, produced on or after January 1, 1995 (please see the discussion below for when enforcement of standards for such vehicles may take place), comply with the current exhaust emission standards applicable to utility equipment engines in California and further comply with a second tier of standards commencing January 1, 1999. A comprehensive description of these California regulations can be found in the decision document for this authorization and in materials submitted by CARB.

On the basis of the record before me, I cannot make the findings required to deny authorization under section 209(e)(2) of the Act. Therefore, I am authorizing California to enforce these regulations.

On June 21, 1995, EPA published a notice of opportunity for a public hearing and a request for written comments concerning an authorization request received from the California Air Resources Board (CARB).[1] EPA received no request for a hearing and therefore no hearing was held. EPA received written comments from the New York State Department of Environmental Conservation, Toro Company, Ransomes Cushman Ryan, and CARB. Consequently, this determination is based on the written submissions from CARB, the written comments submitted in response to the above-mentioned notice, and all other relevant information.[2]

Section 209(e) of the Act as amended, 42 U.S.C. 7543(e), addresses state regulation of nonroad engines and vehicles. EPA issued on July 20, 1994 a final regulation to implement section 209(e).[3] Section 209(e)(1) preempts states from regulating new engines which are used in construction equipment or vehicles or used in farm equipment or vehicles and which are smaller than 175 horsepower and new locomotives or new engines used in locomotives. The section 209(e) regulation sets forth definitions for these preempted categories of engines.

For those pieces of equipment or vehicles other than those a State is permanently preempted from regulating under section 209(e)(1), the State of California may promulgate standards regulating such equipment or vehicles provided California complies with section 209(e)(2). The section 209(e) rule provides that if certain criteria are met, the Administrator shall authorize California to adopt and enforce standards and other requirements relating to the control of emissions from such vehicles or equipment. The criteria include consideration of whether California arbitrarily and capriciously determined that its standards are, in the aggregate, at least as protective of public health and welfare as applicable Federal standards; whether California needs state standards to meet compelling and extraordinary conditions; and whether California's standards and accompanying enforcement procedures are consistent with section 209.

California determined that its standards and test procedures would not cause California emission standards, in the aggregate, to be less protective of public health and welfare as the applicable Federal standards. Information presented to me by parties opposing California's authorization request did not demonstrate that California arbitrarily or capriciously reached this protectiveness determination. Therefore, I cannot find California's determination to be arbitrary or capricious.

CARB has continually demonstrated the existence of compelling and extraordinary conditions justifying the need for its own motor vehicle pollution control program. In addition, CARB provided information regarding actions taken by the California Legislature in an effort to address the current air quality conditions in California, directing CARB to consider adopting regulations for off-road engines. No information has been submitted to demonstrate that California no longer has a compelling and extraordinary need for its own program. Based on previous showings in the context of nonroad authorizations and CARB's submissions to the record regarding the status of air quality in the state, I agree that compelling and extraordinary conditions warrant the need for California's own emissions program. Thus, I cannot deny the waiver on the basis of the lack of compelling and extraordinary conditions.

CARB has submitted information that the requirements of its emission standards and test procedures do not violate the permanent preemption provisions of section 209(e)(1), do not violate the motor vehicle preemption provisions of section 209(a), and are technologically feasible and present no inconsistency with Federal requirements and are, therefore, consistent with section 209 of the Act.

No information has been submitted to demonstrate that California did not satisfy its burden of demonstrating that its emission standards and test procedures do not violate section 209(e)(1). No information has been submitted to demonstrate that California's emission standards and test procedures violate section 209(a). Information submitted to me by parties opposing California's authorization request did not satisfy the burden of persuading EPA that the standards are not technologically feasible within the available lead time, considering costs. In addition, no information has been submitted to demonstrate that California's certification test procedures are inconsistent with Federal certification test procedures. Accordingly, I cannot make the determinations required for a denial of this authorization request under section 209(e) of the Act, and therefore, I authorize the State of California to enforce these regulations.

As explained in the decision document noted above and by the section 209(e) regulation, California can not enforce its standards and test procedures for recreational vehicles until it receives authorization from EPA. Therefore, California is now authorized to enforce its standards and test procedures for specialty vehicles below 25 horsepower and to enforce its standards and test procedures for other recreational vehicles according to the enforcement dates set forth within the recreational vehicle regulation.

My decision will affect not only persons in California but also the manufacturers outside the State who must comply with California's requirements in order to produce nonroad vehicle engines for sale in California. For this reason, I hereby determine and find that this is a final action of national applicability.

Under section 307(b)(1) of the Act, judicial review of this final action may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Petitions for review must be filed by March 3, 1997. Under section 307(b)(2) of the Act, judicial review of this final action may not be obtained in subsequent enforcement proceedings.

As with past waiver decisions, this action is not a rule as defined by Executive Order 12866. Therefore, it is exempt from review by the Office of Management and Budget as required for rules and regulations by Executive Order 12866.

[1] 60 FR 32314 (June 21, 1995).

[2] This information is contained in Docket A–95–17.

[3] See 59 FR 36969 (July 20, 1994) codified at 40 C.F.R. Part 85, Subpart Q, §§ 85.160–85.1606.

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In addition, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 6601(2). Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

Finally, the Administrator has delegated the authority to make determinations regarding authorizations under section 209(e) of the Act to the Assistant Administrator for Air and Radiation.

Dated: December 23, 1996.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 96–33260 Filed 12–30–96; 8:45 am]

BILLING CODE 5560–50–P

[FRL–5672–9]

Proposed Settlement Agreement; Ozone Nonattainment Areas; 15% VOC FIPs for Washington, D.C., Baltimore MD, and Philadelphia PA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement.

SUMMARY: In accordance with Section 113(g) of the Clean Air Act ("Act"), as amended, 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement concerning litigation instituted against the Environmental Protection Agency ("EPA") by the Sierra Club Legal Defense Fund, et. al. The lawsuit concerns EPA's alleged failure to perform a nondiscretionary duty with respect to promulgating a federal implementation plan ("FIP") to reduce volatile organic compound ("VOC") emissions by fifteen percent [15%] from 1990 levels, under Act section 182(b)(1), in the Washington, D.C., Baltimore MD, and Philadelphia ozone nonattainment areas.

For a period of thirty [30] days following the date of publication of this notice, the Agency will receive written comments relating to the settlement agreement. EPA or the Department of Justice may withhold or withdraw consent to the proposed settlement agreement if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

Copies of the settlement agreement are available from Phyllis Cochran, Air and Radiation Division (2344), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, (202) 260–7606. Written comments should be sent to Howard J. Hoffman at the above address and must be submitted on or before January 30, 1997.

Dated: December 24, 1996.

Scott C. Fulton,

Acting General Counsel.

[FR Doc. 96–33266 Filed 12–30–96; 8:45 am]

BILLING CODE 5560–50–M

ENVIRONMENTAL PROTECTION AGENCY (EPA)

[FRL–5672–4]

Gulf of Mexico Program's Joint Policy Review Board and Management Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting of the Joint Policy Review Board and Management Committee of the Gulf of Mexico Program.

SUMMARY: The Gulf of Mexico Program's Joint Policy Review Board and Management Committee will hold a meeting at the Doubletree Hotel, New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT: James D. Giattina, Director, Gulf of Mexico Program Office, Building 1103, Room 202, John C. Stennis Space Center, Stennis Space Center, MS 39529–6000, at (601) 688–3726.

SUPPLEMENTARY INFORMATION: A meeting of the Joint Policy Review Board and Management Committee of the Gulf of Mexico Program will be held at the Doubletree Hotel, 300 Canal Street, New Orleans, LA. The committee will meet from 10:00 a.m. to 3:00 p.m. on January 29. Agenda items will include: Overview of the GMP Process Model; Management Committee Organizational Recommendations; Hypoxia; Shellfish; and Education and Outreach. The meeting is open to the public.

James D. Giattina,

Director, Gulf of Mexico Program.

POLICY REVIEW BOARD & MANAGEMENT COMMITTEE MEETING—AGENDA JANUARY 29, 1997

	Topic	Lead	Desired outcome
Tuesday, January 29:			
10:00–10:15 am	Welcome—Review of the Meeting Objectives and Agenda	Jan Saginaw Jimmy Palmer	Official opening of the meeting and identification of any final adjustments to the meeting agenda.
10:15–10:30 am	Overview of the GMP Process Model	Jim Giattina	Consensus agreement between the partners on a formal workflow process model for the GMP.
10:30–11:00 am	Presentation of the MC Organizational Recommendations	Roxane Dow Stan Meiberg	Comprehensive understanding of the recommendations.
11:00–11:45 am	Discussion—Organziational Recommendations	Roxane Dow Stan Meiberg	Consensus agreement between the partners on a final organizational structure for the GMP.
11:45–12:00 noon	Break (Set-up Time for Working Lunch)		
12:00–12:45 pm	"Hypoxia" —Discusison of Current Plans and Activities for FY 97	Hiram Boone—IMT (Natural Resources Conservation Service)	Consensus agreement between the partners to move ahead on plans and activities presented.
12:45–1:15 pm	"Shellfish" —Discussion of Current Plans and Activities for FY 97	Tom Herrington—IMT (Food & Drug Administration)	Consensus agreement between the partners to move ahead on plans and activities presented.
1:15–1:30 pm	Break		

POLICY REVIEW BOARD & MANAGEMENT COMMITTEE MEETING—AGENDA JANUARY 29, 1997—Continued

	Topic	Lead	Desired outcome
1:30–1:45 pm	"Education & Outreach" —Discussion of Current Plans and Activities for FY 97	Bob Baker—IMT (National Park Service)	Consensus agreement between the partners to move ahead on plans and activities presented.
1:45–2:30 pm	Partners Roundtable —Discussion of Current and Emerging Opportunities to Enhance Program Success and Effectiveness	Jim Giattina	To promote an open exchange of ideas as to ways of seizing the maximum return on the partners investment in the GMP.
2:30–3:00 pm	Summary of Meeting Agreements	Jim Giattina	Summary consensus on agreements and directions established.
3:00 pm	Workshop Adjourned		

[FR Doc. 96–33265 Filed 12–30–96; 8:45 am]
BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Crisis Counseling Assistance and Training

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: FEMA gives notice that the extension period for the Oklahoma regular crisis counseling program for disaster survivors of the Oklahoma City bombing is extended from 180 days to 11 months. The severity of the emotional trauma resulting from the bombing warrants an extension of an additional 11 months.

EFFECTIVE DATE: February 1, 1997.

FOR FURTHER INFORMATION CONTACT: Ron Goins, Human Services Division, Response and Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4677.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) is charged with coordinating Federal disaster assistance under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Act) when the President has declared a major disaster. FEMA provided funding for a regular crisis counseling program to help those suffering the trauma resulting from the April 19, 1995, bombing of the Alfred P. Murrah Federal Building.

FEMA received a request from the State of Oklahoma to extend the otherwise applicable time limitations authorized by section 416 of the Act, so that the State can provide additional mental health services that are critically needed for citizens during the recovery operation. The extent of the emotional impact on all citizens of Oklahoma is of such magnitude that continuation of disaster mental health counseling beyond the normal crisis counseling time period is necessary.

The Director, Center for Mental Health Services (CMHS), as the delegate to FEMA for the Secretary, Department of Health and Human Services, helps FEMA implement crisis counseling training and assistance. FEMA believes there was a well-established need for continuation of the regular crisis counseling program beyond a 90-day extension. Based upon the sound CMHS recommendation, FEMA has approved an 11-month extension to the time period for the Oklahoma regular crisis counseling program.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dated: December 16, 1996.

Lacy Suiter,

Associate Director.

[FR Doc. 96–33126 Filed 12–30–96; 8:45 am]
BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 27, 1997.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Pontotoc BancShares Corp., Pontotoc, Mississippi; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Pontotoc, Pontotoc, Mississippi.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Laguna Bancshares, Inc., Big Lake, Texas, and Laguana Bancshares of Delaware, Inc., Dover, Delaware; to

become bank holding companies by acquiring 100 percent of the voting shares of Big Lake Bank, N.A., Big Lake, Texas.

2. Waggoner National Bancshares, Inc., Vernon, Texas, and Vernon Bancshares, Inc., Dover, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of The Waggoner National Bank of Vernon, Vernon, Texas.

C. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. BSM Bancorp, Santa Maria, California; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Santa Maria, Santa Maria, California.

2. Bank SinoPac, Taipei, Taiwan, Republic of China, and SinoPac Bancorp, Los Angeles, California; to become bank holding companies by acquiring 100 percent of the voting shares of Far East National Bank, Los Angeles, California.

Board of Governors of the Federal Reserve System, December 26, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–33301 Filed 12-30-96; 8:45 am]

BILLING CODE 6210-01-F

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 16, 1997.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Bank of Montreal, Toronto, Canada; to engage *de novo* through its subsidiary, Cebra, Inc., Toronto, Canada, in providing mortgage lending software to potential borrowers and in data processing activities, pursuant to § 225.25(b)(7)) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, December 26, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–33300 Filed 12-30-96; 8:45 am]

BILLING CODE 6210-01-F

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, January 6, 1997.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: December 27, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96-33385 Filed 12-27-96; 3:03 pm]

BILLING CODE 6210-01-P

FEDERAL TRADE COMMISSION

[Dkt. C–3679]

Ford Motor Company; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, a Michigan-based automobile manufacturer from making any representation about the efficacy of any automotive cabin air filter in the reduction or removal of pollutants, unless such representations are true and the respondent possesses reliable and competent scientific evidence to substantiate such representations.

DATES: Complaint and Order issued August 22, 1996.[1]

FOR FURTHER INFORMATION CONTACT: Linda Badger, Federal Trade Commission, San Francisco Regional Office, 901 Market Street, Suite 570, San Francisco, CA 94103, (415) 356–5270.

SUPPLEMENTARY INFORMATION: On Thursday, April 18, 1996, there was published in the **Federal Register**, 61 FR 16920, a proposed consent agreement with analysis In the Matter of Ford Motor Company, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

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(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 96–33288 Filed 12–30–96; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3695]

Hyde Athletic Industries, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, a Massachusetts-based corporation from misrepresenting that footwear made wholly abroad is made in the United States, and the consent order contains a provision indicating that the respondent would not be in violation of the order if the company makes truthful statements concerning domestic production of footwear, as long as it is accompanied by certain disclosures.

DATES: Complaint and Order issued December 4, 1996[1].

FOR FURTHER INFORMATION CONTACT: C. Steven Baker, Federal Trade Commission, Chicago Regional Office, 55 East Monroe St., Suite 1860, Chicago, IL 60603. (312) 353–8156.

SUPPLEMENTARY INFORMATION: On Wednesday, September 18, 1996, there was published in the **Federal Register**, 61 FR 49141, a proposed consent agreement with analysis In the Matter of Hyde Athletic Industries, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

[1] Copies of the Complaint, the Decision and Order, and Commissioner Starek's statement are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45).

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 96–33282 Filed 12–30–96; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3697]

NGC Corporation; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order permits, among other things, NGC Corporation ("NGC"), a Texas-based corporation, to acquire certain natural gas transportation and processing assets from Chevron Corporation, and requires NGC to divest the Mont Belvieu I plant to a Commission-approve buyer. If the transaction is not completed as specified, the consent order requires the respondent to agree to a Commission-appointed trustee.

DATES: Complaint and Order issued December 12, 1996.[1]

FOR FURTHER INFORMATION CONTACT: Arthur, Nolan, FTC/S–2105, Washington, D.C. 20580. (202) 326–2615.

SUPPLEMENTARY INFORMATION: On Monday, September 16, 1996, there was published in the **Federal Register**, 61 FR 48697, a proposed consent agreement with analysis In the Matter of NGC Corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to divest, as set forth in the propose consent agreement, in disposition of this proceeding.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 96–33280 Filed 12–30–96; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3675]

NordicTrack, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, a Minnesota-based manufacturer of exercise equipment from misrepresenting the benefits, efficacy, or performance of such products in promoting weight loss or weight maintenance, and requires the respondent to possess reliable evidence to substantiate such claims in the future.

DATES: Complaint and Order issued June 17, 1996.[1]

FOR FURTHER INFORMATION CONTACT: Kerry O'Brien, Federal Trade Commission, San Francisco Regional Office, 901 Market Street, Suite 570, San Francisco, CA 94103. (415) 356–5270.

SUPPLEMENTARY INFORMATION: On Thursday, February 29, 1996, there was published in the **Federal Register**, 61 FR 7795, a proposed consent agreement with analysis In the Matter of NordicTrack, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 96–33289 Filed 12–30–96; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

[Dkt. C–3682]

Precision Moulding Co., Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, a California-based supplier of wood products used to construct frames for artists' canvases from requesting, suggesting, urging or advocating that any competitor raise, fix or stabilize prices or price levels, and from entering into any agreement or conspiracy to fix, raise or maintain prices.

DATES: Complaint and Order issued September 3, 1996.[1]

FOR FURTHER INFORMATION CONTACT: Michael Antalics, FTC/S–2627, Washington, D.C. 20580. (202) 326–2821.

SUPPLEMENTARY INFORMATION: On Tuesday, June 25, 1996, there was published in the **Federal Register**, 61 FR 32824, a proposed consent agreement with analysis In the Mater of Precision Moulding Co., Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has order the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6,38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 96–33285 Filed 12–30–96; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3681]

Raytheon Company; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order requires, among other things, a Massachusetts-based high technology company to erect an information "firewall" for the duration of the Navy competition, and prohibits the dissemination of any non-public information concerning Raytheon's procurement of Chrysler Technologies Holding, Inc. ("CTH") officials or employees, or receiving any non-public information concerning the bid.

DATES: Compliant and Order issued September 3, 1996.[1].

FOR FURTHER INFORMATION CONTACT: James Holden, FTC/S–2308, Washington, D.C. 20580. (202) 326–2963.

SUPPLEMENTARY INFORMATION: On Thursday, June 20, 1996, there was published in the **Federal Register**, 61 FR 31526, a proposed consent agreement with analysis In the Matter of Raytheon Company, for the purpose of soliciting publish comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46, Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 96–33286 Filed 12–30–96; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3696]

RBR Productions, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, a New Jersey-based company and its officer from misrepresenting the health, safety and environmental benefits of its beauty salon disinfectant products and aerosol spray, and requires the respondents to possess reliable and competent scientific evidence to substantiate such representations.

DATES: Complaint and Order issued December 10, 1996.[1]

FOR FURTHER INFORMATION CONTACT: Janet Evans, FTC/S–4002, Washington, D.C. 20580. (202) 326–2125.

SUPPLEMENTARY INFORMATION: On Friday, August 16, 1996, there was published in the **Federal Register**, 61 FR 42616, a proposed consent agreement with analysis in the Matter of RBR Productions, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 96–33281 Filed 12–30–96; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. 9274]

RustEvader Corporation, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, David F. McCready, a Pennsylvania-based former owner and officer of RustEvader Corporation, from representing that the products he markets are effective in preventing or substantially reducing corrosion in motor vehicle bodies or making any representation concerning the performance, efficacy or attributes of such products, unless such representations are true and the respondent possesses competent and

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

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[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 10580.

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reliable evidence to substantiate such claims, and from misrepresenting the existence or results of any test or study. In addition, the consent order requires the respondent to pay $200,000 in consumer redress.

DATES: Complaint issued August 30, 1995. Order issued October 30, 1996.[1]

FOR FURTHER INFORMATION CONTACT: Michael Milgrom, Federal Trade Commission, Cleveland Regional Office, 668 Euclid Avenue, Suite 520–A, Cleveland, OH. 44144. (216) 522–4210.

SUPPLEMENTARY INFORMATION: On Tuesday, July 9, 1996, there was published in the **Federal Register**, 61 FR 36065, a proposed consent agreement with analysis In the Matter of RustEvader Corporation, et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 96–33283 Filed 12–30–96; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3699]

Telebrands Corp., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, a Virginia-based mail order company and its officer from representing that their antenna improves television and radio reception, provides the best, crispest, clearest or most focused television reception achievable without cable installation, and requires any claim concerning the relative or absolute performance, attributes, or effectiveness of any product intended to improve a television's or radio's reception, sound, or image to be truthful and substantiated by competent and reliable evidence.

DATES: Complaint and Order issued December 13, 1996.[1]

FOR FURTHER INFORMATION CONTACT: Donald D'Amato, Federal Trade Commission, New York Regional Office, 150 William Street, 13th Floor, New York, N.Y. 10038–2063. (212) 264–1223.

SUPPLEMENTARY INFORMATION: On Tuesday, October 8, 1996, there was published in the **Federal Register**, 61 FR 52797, a proposed consent agreement with analysis In the Matter of Telebrands Corp., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments have been received, the Commission has ordered the issuance of the compliant in the form contemplated by the agreement, made it jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 96–33279 Filed 12–30–96; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3680]

Young & Rubicam Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, a New York-based advertising agency from making any pollution-removal claims for Ford Motor Company's MicronAir Filtration System or any similar cabin air filtration system, unless such representations are true and the respondent possesses reliable and competent scientific evidence to substantiate such representations.

DATES: Complaint and Order issued August 22, 1996.[1]

FOR FURTHER INFORMATION CONTACT: Linda Badger, Federal Trade Commission, San Francisco Regional Office, 901 Market Street, Suite 570, San Francisco, CA 94103, (415) 356–5270.

SUPPLEMENTARY INFORMATION: On Thursday, April 18, 1996, there was published in the **Federal Register**, 61 FR 16922, a proposed consent agreement with analysis In the Matter of Young & Rubicam Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 96–33287 Filed 12–30–96; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3686]

Zygon International, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, a Washington-based company and its owner, that manufacture and advertise learning accelerating, memory enhancing, weight loss, and vision improving products and devices, from making any claims concerning the performance, benefits, efficacy, or safety of any product or service they market, unless they possess competent and reliable evidence to substantiate such claims, and requires the respondents to pay $195,000 into escrow accounts for consumer redress programs.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

DATES: Complaint and Order issued September 24, 1996.[1]

FOR FURTHER INFORMATION CONTACT: Dan Forbes, FTC/S–4002, Washington, D.C. 20580. (202) 326–2831.

SUPPLEMENTARY INFORMATION: On Wednesday, April 17, 1996, there was published in the **Federal Register**, 61 FR 16798, a proposed consent agreement with analysis In the Matter of Zygon International, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 96–33284 Filed 12–30–96; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meetings

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meetings.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Privacy and Confidentiality.

Times and Dates: 9 a.m.–5 p.m.—January 13–14, 1997.

Place: Third Floor Meeting Room, Best Western-Key Bridge, 1850 North Fort Myer Drive, Arlington, VA 22209.

(The hotel is located one half block from the Rosslyn Metrorail station.)

Times and Dates: 9 a.m.–5 p.m.—February 3–4, 1997; 9 a.m.–5 p.m.—February 18–19, 1997.

Place: Hubert H. Humphrey Building, 200 Independence Avenue, SW, Room 503A, Washington, D.C. 20201.

(The Humphrey Building is located one block from Federal Center SW Metrorail station.)

Status: Open.

Purpose

Under the administrative simplification subtitle of the Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104–191, section 264) the Secretary of Health and Human Services is required to submit a report to the Congress containing detailed recommendations on standards with respect to the privacy of individually identifiable health information. The report is due in August 1997.

The Secretary is required to consult the National Committee on Vital and Health Statistics in preparing these recommendations. As part of the consultation process the Committee will submit recommendations to the Secretary in the Spring of 1997. The Committee is holding hearings in the course of developing its recommendations.

The purpose of the hearings is to explore in detail the options, choices, and trade-offs that must be a part of any health privacy legislation. To the greatest extent possible, the discussion will focus on specific alternatives that have been identified in legislative proposals, on the consequences for patients and institutions of new rules for use and disclosure of health data, and on how legislation will operate in the real world. Issues will cover the full range of fair information practices, patient rights, limitations on use and disclosure of identifiable information, health identification number, preemption of state laws, and privacy-enhancing technology.

Specifically, comment will be sought on policies for the use and disclosure of individually-identifiable health information from the following types of entities and with respect to the following subject areas:

A. Public Health Agencies and Health Researchers.

B. Health System Oversight Activities (Public and Private) and Law Enforcement.

C. Health Care Providers; Claims Processors and other Intermediaries.

D. Insurers and Employers; Pharmaceutical Industry.

E. Federal Agencies; Social Welfare Agencies; Technology.

F. Privacy and Patient Interest Groups.

The Committee is inviting specific witnesses to address these issues.

Members of the public who wish to provide comments may do so in the form of written statements, to be received by the completion of the last meeting, addressed as follows: NCVHS Subcommittee on Privacy and Confidentiality, c/o Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, 440D Humphrey Building, 200 Independence Avenue, S.W., Washington, DC 20201, (for delivery services, address is 200 Independence Ave., SW)

The meetings are open to the public, with attendance limited to space available. There will be a period of time at the end of each day of hearings for members of the public to make oral statements, not exceeding 3 minutes in length, on the subjects being considered by the committee. Members of the pubic who wish to speak are asked to place their names on a list in the hearing room on the day of the meeting. The number of speakers will be limited by the time available, and speakers will be heard in the order in which they place their names on the list. Written comments are encourage; please provide 20 copies.

NOTICE: For meetings in the Humphrey Building please observe the following: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey building by non-government employees. Thus, persons without a government identification card should plan to arrive at the building each day either between 8:30 and 9:00 a.m. or 12:20 and 1:00 p.m. so they can be escorted to the meeting. Entrance to the meeting at other times during the day cannot be assured.

CONTACT PERSON FOR MORE INFORMATION: Substantive program information as well as roster of committee members may be obtained from John P. Fanning, Office of the Assistant Secretary for Planning and Evaluation, DHHS, Room 440D Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. 20201, telephone (202) 690–7100, e-mail jfanning@osaspe.dhhs.gov; or Marjorie S. Greenberg, Acting Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 436–7050.

Dated: December 23, 1996.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 96–33256 Filed 12–30–96; 8:45 am]

BILLING CODE 4151–04–M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

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Health Resources and Services Administration

Emergency Medical Services for Children Demonstration Grants

AGENCY: Health Resources and Services Administration (HRSA), DWHHS.

ACTION: Notice of availability of funds.

SUMMARY: The HRSA in collaboration with the National Highway Traffic Safety Administration (NHTSA) announces that approximately $4.1 million in fiscal year (FY) 1997 funds will be available for grants authorized under section 1910 of the PHS Act. These discretionary grants will be made to States or accredited schools of medicine to support projects for the expansion and improvement of emergency medical services for children (EMSC). Within the HRSA, EMSC grants are administered by the Maternal and Child Health Bureau (MCHB).

The NHTSA participated with the MCHB in developing program priorities for the EMSC program for FY 1997. The NHTSA will share the Federal monitoring responsibilities for EMSC awards made during FY 1997 and will continue to provide ongoing technical assistance and consultation in regard to the required collaboration/linkages between applicants and their Highway Safety Offices and Emergency Medical Services Agencies for the State(s). Grantees funded under this program are expected to work collaboratively with the State agency or agencies administering the Maternal and Child Health (MCH) and the Children with Special Health Needs (CSHN) programs under the MCH Services Block Grant, Title V of the Social Security Act (42 U.S.C. 701).

The PHS is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS led national activity for setting priority areas. The EMSC grant program will directly address the Healthy People 2000 objectives related to emergency medical services and trauma systems linking prehospital, hospital, and rehabilitation services in order to prevent trauma deaths and long-term disability. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325 (telephone 202–783–3238).

The PHS strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care or early childhood development services are provided to children.

ADDRESSES: Federal Register notices and application guidance for MCHB programs are available on the World Wide Web via the Internet at address: http://www.os.dhhs.gov/hrsa/mchb. Click on the file name you want to download to your computer. It will be saved as a self-extracting (Macintosh or) WordPerfect 5.1 file. To decompress the file once it is downloaded, type in the file name followed by a <return>. The file will expand to a WordPerfect 5.1 file.

For applicants for Emergency Medical Services for Children Demonstration Grants who are unable to access application materials electronically, a hard copy (Revised PHS form 5161–1, approved under OMB clearance number 0937–0189) must be obtained from the HRSA Grants Application Center. The Center may be contacted by: Telephone Number: 1–888–300–HRSA, FAX Number: 301–309–0579, E-mail Address: HRSA.GAC@ix.netcom.com. Completed applications should be returned to: Grants Management Officer (CFDA #93.127), HRSA Grants Application Center, 40 West Gude Drive, Suite 100, Rockville, Maryland 20850.

DATES: The application deadline date is April 11, 1997. Competing applications will be considered to be on time if they are either: (1) Received on or before the deadline date, or (2) postmarked on or before the deadline date and received in time for orderly processing. Applicants should request a legibly dated receipt from a commercial carrier or the U.S. Postal Service, or obtain a legibly dated U.S. Postal Service postmark. Private metered postmarks will not be accepted as proof of timely mailing.

Late competing applications or those sent to an address other than specified in the **ADDRESS** section will be returned to the applicant.

FOR FURTHER INFORMATION: Requests for technical or programmatic information from MCHB should be directed to Jean Athey, Ph.D., or Mark E. Nehring, D.M.D., M.P.H., Division of Maternal, Infant, Child and Adolescent Health, Maternal and Child Health Bureau, Health Resources and Services Administration, Room 18A–39, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone 301–443–2250. Requests for technical or programmatic information from NHTSA should be directed to Garry Criddle, R.N., CDR, USCG/USPHS, Department of Transportation, NHTSA EMS Division, NTS–42, 400 Seventh Street SW, Washington, DC 20590, telephone 202–366–5440. Requests for information concerning fiscal, business or administrative management issues should be directed to: Maria Carter, Grants Management Specialist, Grants Management Branch, Maternal and Child Health Bureau, 5600 Fishers Lane, Room 18–12, Rockville, Maryland 20857, telephone 301–443–1440.

The EMSC program funds three national EMSC resource centers that are available to provide technical assistance and support to applicants, particularly in the areas of: (1) Understanding EMSC terminology; (2) developing a manageable approach to EMSC implementation; (3) obtaining local support for the grant application process; (4) facilitating development of community linkages for a collaborative effort; (5) identifying products of previously-funded EMSC projects of interest to potential applicants; (6) offering advice on grant writing; and (7) data collection and analysis. Applicants may contact: James Seidel, M.D., Ph.D., or Deborah Henderson, R.N., M.A., National EMSC Resource Alliance, Research and Education Institute, Harbor/UCLA Medical Center, 1001 West Carson Street, Suite S, Torrance, CA 90502, telephone 310–328–0720; or Jane Ball, R.N., Dr. P.H., EMSC National Resource Center, Children's National Medical Center, Emergency Trauma Services, 111 Michigan Ave., N.W., Washington, DC 20010, telephone 202–745–5188; or J. Michael Dean, M.D., National EMSC Data Analysis Resource Center, University of Utah School of Medicine, 309 Park Building, Salt Lake City, UT 84112, telephone 801–588–3280.

SUPPLEMENTARY INFORMATION:

Program Background and Objectives

The Emergency Medical Services for Children statute (Section 1910 of the PHS Act, as amended) establishes a program of two-year grants to States, through a State-designated agency, or to accredited medical schools within States, for projects for the expansion and improvement of emergency medical services for children who need treatment for trauma or critical illness. For purposes of this grant program, the term "State" includes the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Northern Mariana

Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia. The term "school of medicine" is defined as having the same meaning as set forth in Section 799(1)(A) of the PHS Act (42 U.S.C. 295p(1)(A)). "Accredited" in this context has the same meaning as set forth in section 799(1)(E) of the PHS Act (42 U.S.C. 295p(1)(E)). It is the intent of this grant program to stimulate further development or expansion of ongoing efforts in the States to reduce the problems of life-threatening pediatric trauma and critical illness. The Department does not intend to award grants which would duplicate grants previously funded under the Emergency Medical Services Systems Act of 1972 or which would be used simply to increase the availability of emergency medical services funds allotted to the State under the Preventive Health Services Block Grant.

Eligible Applicants

State governments and accredited schools of medicine are the only eligible applicants for funding under the EMSC program. It is anticipated that the application for planning and implementation funds will come, in most States, from the organization responsible for EMS for children, which will most likely be the Emergency Medical Services agency in the State. Because the purpose of the partnership grants is to solidify the integration of a pediatric perspective within the basic EMS system, the only eligible applicant for that category is the State EMS agency, unless the State specifically requests and designates another State entity or a school of medicine and provides a convincing justification for doing so. Because of the importance of linking EMS activities with the system of care for children, the involvement of the State MCH program in all grant categories is strongly encouraged. Such involvement could be demonstrated either by a co-signed application or by a letter of support.

If the applicant is a school of medicine, the application must be endorsed by the State EMS office. The State's endorsement constitutes an acknowledgement that the applicant has consulted with the State and that the State has been assured that the applicant will work with the State on the proposed project. No application from a school of medicine will be considered for funding without the endorsement. Further information on application endorsements can be found in the program guidance. Any State (or medical school within that State) may apply for any category of grant, subject to the following considerations:

- For Category (1) Planning Grants, States (or medical schools within those States) that have received prior EMSC State systems grants may not apply for a planning grant.
- For Category (2) Implementation Grants, applications from States (and medical schools within those States) that have not previously received EMSC program funds, or that have received only partial support under this program as part of a regional alliance, will receive preference for funding in this category. This means that approved applications from States (and medical schools within those States) with no or very limited prior EMSC program support will be funded ahead of approved applications from outside this group.
- For Category (3) State Partnership Grants, States that have previously received EMSC funds may apply for a State partnership grant, as long as they will not also be receiving implementation or "enhancement" funds during the project period of the partnership grant. States that have not previously received EMSC funds are advised to apply first for planning category funds.
- For Category (4) Targeted Issues Grants, eligibility is not affected by previous receipt of other EMSC funding.

Funding of an application for a planning grant or for an implementation grant bars a State from future competitions for that category.

Funding Categories

There will be four categories of competition for funding this year: State planning grants, State implementation grants, State partnership grants, and targeted issue grants.

Category (1): State Planning Grants

Planning grants are intended for States that have never received an EMSC grant and that are not at a stage of readiness to initiate a full-scale implementation project. States (or medical schools within those States) that have not received prior EMSC implementation grants are the only applicants eligible for this category. Planning grants are designed to enable a State to assess needs and develop a strategy to begin to address those needs. Funds may be used to hire staff to assist in the assessment of EMSC needs of the State; obtain technical assistance from national, State, regional or local resources; help formulate a State plan for the integration of EMSC services into the existing State EMS plan; and conduct a needs assessment. A comprehensive approach, addressing physical, psychological, and social aspects of EMSC along the continuum of care, should be reflected. An ongoing working relationship with Federal EMSC program staff and resource center staff, beginning with the initiation of a planning grant application, is desirable. The project period is one year.

Category (2): State Implementation Grants

Implementation grants will improve the capacity of a State's EMS program to address the particular needs of children. Implementation grants are used to assist States in integrating research-based knowledge and state-of-the-art systems development approaches into the existing State EMS, MCH and CSHN systems, using the experience and products of previous EMSC grantees. The program components of these grants should reflect the goals of the MCHB/NHTSA Five Year Plan for EMSC. This plan outlines the direction of the EMSC program and identifies specific objectives for the program. It builds on the 1993 report for EMSC conducted by a blue ribbon Institute of Medicine panel. The plan will be included with the application kit. Depending upon the appropriation of funds, project periods are up to two years.

Proposals are sought which include strategies and/or models to ensure that pediatric emergency care is family centered. "Family centered" includes the following key elements: maximum possible involvement of families in all phases of the EMSC continuum of care; clear and continuous communication between family members and the emergency care team; attention to the psychological needs of all family members; cultural competence of providers; consumer (parental) involvement in planning and needs assessment; organizational support for the formation of parent involvement groups; and ongoing partnerships with such groups. For this competition, we intend to fund applications from States (and medical schools within those States) that have not as yet received support, or that have received only partial support under this program as part of a regional alliance. This means that approved applications from States (and medical schools within those States) with no or very limited prior EMSC program support will be funded before approved applications from outside this group.

Applications will not be accepted for both planning grants and state implementation grants simultaneously from the same State.

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Category (3): State Partnership Grants

State partnership grants will fund activities that represent the next logical step or steps to take to institutionalize EMSC within EMS and to continue to improve and refine EMSC. The program components of these grants should reflect the goals and objectives of the MCHB/NHTSA Five Year Plan for EMSC. For example, funding might be used to improve linkages between local and regional or State agencies, to develop pediatric standards for a region, or to assure effective field triage of the child in physical or emotional crisis to appropriate facilities and/or other resources. States that have previously received EMSC funds may apply for a State partnership grant, as long as they will not also be receiving continuation funding for a State implementation grant or a previously awarded "System Enhancement Grant" during the project period of the State partnership grant. The project period is up to two years, depending upon the availability of funds.

Category (4): Targeted Issue Grants

The fourth funding category is that of targeted issue grants on topics of importance to EMSC. Targeted issue grants are intended to address specific, focused issues related to the development of EMSC capacity. Proposals under this category must have a well-conceived methodology for evaluation of the impact of the activity. The EMSC Five Year Plan identifies several activities judged to be appropriate for support through targeted issue grants for FY 1997. They include the following:

1. Cost-Benefit Analyses Related to EMSC

Very little information is available on the costs related to different aspects of EMSC, and yet such information is critical to decision making. Projects in this category may include topics such as the following:

- Evaluation of the cost effectiveness of different EMSC program configurations (such as different approaches to medical control, categorization, and regionalization).
- Assessment of the marginal incremental cost of different approaches to improving EMSC.
- Evaluation of the benefits vs. costs of different treatment modalities.

2. Implications of Managed Care for EMSC

The changes in reimbursement mechanisms due to managed care are having profound effects on the provision of medical care. It is unclear how these changes may affect pediatric emergency care. Projects in this category may include topics such as:

- Analyses of the impact of managed care and other financing mechanisms on pediatric emergency medical services.
- Analyses of the impact of differing reimbursement policies in contiguous jurisdictions on pediatric patients.
- Demonstrations and analyses of collaborative activities with managed care plans designed to improve access and/or quality of pediatric emergency care.

3. Evaluations of EMSC Components

If EMSC is to improve and provide quality services, evaluation is critical. Projects in this category may include topics such as:

- Development of quality standards for the care of children within the EMS system and analyses of how well the system performs.
- Pilot testing and evaluation of model quality improvement programs in EMS/EMSC.
- Models to determine if the right patients are getting to the right levels of care.
- Analyses of outcomes for children using EMS systems.
- National study to identify and document the extent to which EMSC components have been implemented in each State.

4. Risk-Taking Behaviors of Children and Adolescents

EMS and emergency department health professionals are uniquely positioned to provide interventions to reduce the incidence of injuries or medical conditions (e.g., noncompliant child or adolescent with a chronic condition, such as diabetes) resulting from risk-taking behavior. Projects in this category can be directed to development and evaluation of materials and strategies in one of the following areas:

- Unintentional injury prevention
- Violence or suicide prevention
- Illegal drug usage
- Integration of mental health services with preventive interventions (injury or medical)

Projects are especially sought to develop, implement, and evaluate model guidelines for emergency departments to use following injury to reduce risk-taking behaviors. Projects are also sought that link prevention with managed care quality indicators.

5. Models for Improving the Care of Culturally Distinct Populations

Health care providers are often required to meet the needs of culturally and ethnically distinct children and families, but little training is provided in this area. Projects in this category can be directed to one or more of the following:

- Development, implementation and evaluation of education and training programs in cultural sensitivity for prehospital providers, nurses, and physicians.
- Development (or translation), implementation, and evaluation of discharge, injury prevention and health care materials for low literacy populations and for culturally and/or ethnically distinct populations.

6. Children's Emergencies in Disasters

Local, regional, and State disaster plans typically do not address the training and equipment necessary to meet the special needs of children in disasters. Projects in this category should seek to overcome these deficiencies and assess the outcome. Curricula are not being solicited in this category. Examples of projects appropriate for this category include the following:

- Development and evaluation of a strategy to integrate pediatrics into existing disaster plans, in particular focusing on the following components: Training, equipment, psychosocial support, system access and cost reimbursement, shelter services, and mitigation.
- Identification of key data to be collected and analysis of data on children's health and mental health needs in disasters.

7. Coordination Between Primary Care Providers and EMSC

Primary care providers are important partners on the EMSC team; however, their role is often overlooked, particularly with respect to injury prevention, emergency care, and discharge planning. Projects in this category may include topics that promote collaboration between primary care providers and EMS, including topics such as the following:

- Implementation and evaluation of model programs designed to improve a primary care provider's office-preparedness to handle increased patient acuity and emergencies.
- Development and evaluation of an information system to provide access to patient information and to enhance communication and coordination between emergency care providers and primary care providers.

Proposals may be submitted on emerging issues that are not included in the above list. However, any such proposal must demonstrate relevance to

the EMSC Five Year Plan and must make a persuasive argument that the issue is particularly critical. The justification provided should clearly link the activities in the application with the Plan's objectives. The project period is up to two years, depending upon the availability of funds.

Availability of Funds

Approximately $4.1 million will be available for competitive grants. It is anticipated that a total of 47 grants will be awarded for the project periods shown in the four identified funding categories:

Category	Grants	Amount	Project Period (year(s))
State Planning Grants	2	$ 50,000	1
State Implementation Grants	4	250,000	2
State Partnership Grants	32	60,000	2
Targeted Issue Grants	7	50–150,000	2

Special Concerns

HRSA's Maternal and Child Health Bureau places special emphasis on improving service delivery to women, children and youth from communities with limited access to comprehensive care. In order to assure access and cultural competence, it is expected that projects will involve individuals from the populations to be served in the planning and implementation of the project. The Bureau's intent is to ensure that project interventions are responsive to the cultural and linguistic needs of special populations, that services are accessible to consumers, and that the broadest possible representation of culturally distinct and historically underrepresented groups is supported through programs and projects sponsored by the MCHB. This same special emphasis applies to improving service delivery to children with special health care needs.

In keeping with the goals of advancing the development of human potential, strengthening the Nation's capacity to provide high quality education by broadening participation in MCHB programs of institutions that may have perspectives uniquely reflecting the Nation's cultural and linguistic diversity, and increasing opportunities for all Americans to participate in and benefit from Federal public health programs, HRSA will place a funding priority on projects from Historically Black Colleges and Universities (HBCU) or Hispanic Serving Institutions (HSI) in all categories in this notice for which applications from academic institutions are encouraged. This is in conformity with the Federal Government's policies in support of White House Initiatives on Historically Black Colleges and Universities (Executive Order 12876) and Educational Excellence for Hispanic Americans (Executive Order 12900). An approved proposal from a HBCU or HSI will receive a 0.5 point favorable adjustment of the priority score in a 4 point range before funding decisions are made.

Evaluation Protocol

A maternal and child health discretionary grant project, including any project awarded as part of the Emergency Medical Services for Children Demonstration Grants program, is expected to incorporate a carefully designed and well planned evaluation protocol capable of demonstrating and documenting measurable progress toward achieving the project's stated goals. The protocol should be based on a clear rationale relating the grant activities, the project goals, and the evaluation measures. Wherever possible, the measurements of progress toward goals should focus on health outcome indicators, rather than on intermediate measures such as process or outputs. A project lacking a complete and well-conceived evaluation protocol as part of the planned activities will not be funded.

Project Review and Funding

The Department will review applications in the preceding funding categories as competing applications and will fund those which, in the Department's view, are consistent with the statutory purpose of the program, with particular attention to children from culturally distinct populations and children with special health care needs; and that best meet the purposes of the EMSC program and address achievement of applicable Healthy People 2000 objectives related to emergency medical services and trauma systems.

Review Criteria

The review of applications will take into consideration the following criteria:

- For Category (1) State Planning Grants:

—Evidence of the State's commitment to improve pediatric emergency care services and to continue with EMSC program implementation.

—The adequacy of the applicant's proposed method to identify problems and conduct a needs assessment.

—Evidence of the applicant's understanding of obstacles to EMSC activity in the past, and the completeness of proposed strategies to overcome these obstacles.

—The adequacy of the applicant's proposed planning process for improving EMSC.

—The soundness of the methods the applicant will use to: (1) recruit, select and assemble appropriate participants, including members of culturally distinct populations, with demonstrated expertise and experience in EMS; trauma systems; child health issues; and emergency care for children; and (2) obtain input from potential consumers (i.e., families) of a State EMSC plan.

—Reasonableness of the proposed budget, soundness of the arrangements for fiscal management, effectiveness of use of personnel, and likelihood of project completion within the proposed grant period.

- For Category (2) State Implementation Grants:

—The adequacy of the applicant's understanding of the problem of pediatric trauma and critical illness in the State and/or project area, including the special problems of (a) children with special health care needs and their families; and (b) minority children and families (including American Indian/Alaska Natives, and Native Hawaiians).

—The appropriateness of project objectives and outcomes in relation to the specific nature of the problems identified by the applicant.

—The adequacy of the proposed methodology for achieving project goals and objectives.

—The soundness of the plan for evaluating progress in achieving project objectives and outcomes.

—The adequacy of the plan for organizing and carrying out the project.

—The reasonableness of the proposed budget and soundness of the applicant's plans for fiscal management.

—The qualifications and experience of the Project Director and proposed staff.

—The extent to which the applicant will employ products and expertise of EMSC programs in other States, especially of current and former grantees of the Federal EMSC program. Such resources include, but are not limited to, technical assistance and consultation.

—The extent to which the applicant demonstrates the involvement and participation of consumers (i.e., families) and parent involvement groups in planning, needs assessment, and project implementation.

—The extent to which the project gives special emphasis to the concerns identified in the Special Concerns section (see page 19–20).

—The evidence that the applicant will collaborate and coordinate with other participants in the EMSC continuum including, but not limited to, the State EMS agency (if not the applicant) the State MCH/CSHN agency, the State Highway Safety Office, other relevant State agencies, tribal nations, State and local professional organizations, private sector voluntary organizations, business organizations, parent advocacy groups, consumer or community representatives, hospital organizations, and any other ongoing Federally-funded projects in EMS, injury prevention, and rural health.

—The extent to which the applicant demonstrates a multi-disciplinary approach to EMSC system development, including providers at all levels (e.g., physicians, nurses, EMTs, social workers, and others appropriate to project activities).

—The adequacy of the applicant's plan to integrate pediatric emergency care into the primary care delivery system.

—The adequacy with which the applicant addresses institutionalization of the proposed project.

• For Category (3) State Partnership Grants:

—The adequacy of the applicant's plan to institutionalize EMSC into EMS.

—The evidence that the applicant will collaborate and coordinate with other participants in the EMSC continuum including, but not limited to, the State MCH/CHSN agency, the State Highway Office, tribal nations, State and local professional organizations, private sector voluntary organizations, parent advocacy groups, consumer or community representatives, hospital organizations, and any other ongoing Federally-funded projects in EMS, injury prevention, and rural health.

—The reasonableness of the proposed budget and soundness of the applicant's plans for fiscal management.

• For Category (4),Targeted Issue Grants:

—The appropriateness of project objectives and outcomes in relation to the specific nature of the problems identified by the applicant.

—The adequacy of the proposed methodology for achieving project goals and outcome objectives.

—The soundness of the plan for evaluating progress in achieving project objectives and outcomes.

—The reasonableness of the proposed budget and soundness of the arrangements for fiscal management.

—The adequacy of the plan for organizing and carrying out the project.

—The qualifications and experiences of the Project Director and proposed staff.

—The extent to which the project addresses the issues raised in the section on Special Concerns.

—The relevance of the proposed project to the MCHB/NHTSA Five Year Plan for EMSC.

Allowable Costs

The HRSA may support reasonable and necessary costs of EMSC Demonstration Grant projects within the scope of approved projects. Allowable costs may include salaries, equipment and supplies, travel, contracts, consultants, and others, as well as indirect costs as negotiated. The HRSA adheres to administrative standards reflected in the Code of Federal Regulations, 45 CFR Part 92 and 45 CFR Part 74.

Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements (approved under OMB No. 0937–0195). Under these requirements, community-based nongovernmental applicants must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprised of proposed health services grant applications submitted by community-based nongovernmental organizations within their jurisdictions. Community-based non-governmental applicants are required to submit the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted no later than the Federal application receipt due date:

(a) A copy of the face page of the application (SF 424).

(b) A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

The project abstract may be used in lieu of the one-page PHSIS, if the applicant is required to submit a PHSIS.

Executive Order 12372

This program has been determined to be a program which is subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs by appropriate health planning agencies, as implemented by 45 CFR Part 100. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application packages to be made available under this notice will contain a listing of States which have chosen to set up such a review system and will provide a single point of contact (SPOC) in the States for review. Applicants (other than federally-recognized Indian tribal governments) should contact their State SPOCs as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. The due date for State process recommendations is 60 days after the application deadline for new and competing awards. The granting agency does not guarantee to "accommodate or explain" for State process recommendations it receives after that date. (See Part 148, Intergovernmental Review of PHS Programs under Executive Order 12372 and 45 CFR Part 100 for a description of the review process and requirements).

The OMB Catalog of Federal Domestic Assistance number is 93.127.

Dated: December 23, 1996.

Ciro V. Sumaya,

Administrator.

[FR Doc. 96–33097 Filed 12–30–96; 8:45 am]

BILLING CODE 4160–15–P

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body are scheduled to meet during the month of February 1997:

Name: HRSA AIDS Advisory Committee.

Time: February 25–26, 1997 8:00 a.m.
Place: JW Marriott Hotel, Capitol Ballroom D, 1331 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

The meeting is open to the public.

Agenda: The topics to be discussed include the Ryan White CARE Act Title IV program; pending HRSA reorganization; and access to treatment advances for HIV/AIDS.

Anyone requiring information regarding the subject Committee should contact Gloria Weissman, AIDS Program Office, Health Resources and Services Administration, Room 18A19, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–3478.

Agenda Items are subject to change as priorities dictate.

Dated: December 23, 1996.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 96–33095 Filed 12–30–96; 8:45 am]

BILLING CODE 4160–15–P

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of meetings of five Substance Abuse and Mental Health Services Administration committees (SAMHSA National Advisory Council, Center for Substance Abuse Prevention National Advisory Council, Center for Substance Abuse Treatment National Advisory Council, Center for Mental Health Services National Advisory Council, and the Advisory Committee for Women's Services) in January 1997.

The first meeting will be a combined session of the committees and will be open and include discussions on parity for alcohol, drug abuse and mental health services; implications of welfare reform for populations that SAMHSA serves; and future directions for the Agency's Knowledge Development and Application program. Attendance by the public will be limited to space available. Interested persons may present information or views, orally or in writing, on issues pending before the committees. Those desiring to make formal presentations should contact Dr. Mary C. Knipmeyer, Acting Associate Administrator for Program and Policy Coordination, SAMHSA, 5600 Fishers Lane, Room 12C–06, Rockville, Maryland, 20857, before January 10, and submit a brief statement of: the general nature of the information or arguments they wish to present, the names, addresses, and telephone number of proposed participants, identification of organizational affiliation, and an indication of the approximate time required to make their comments. Time for presentations may be limited by the number of requests. Photocopies, up to five pages of material, may be distributed at the meeting through the Executive Secretary, if provided by January 10.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee Names:
Substance Abuse and Mental Health Services Administration National Advisory Council
Center for Substance Abuse Prevention National Advisory Council
Center for Substance Abuse Treatment National Advisory Council
Center for Mental Health Services National Advisory Council
Advisory Committee for Women's Services
Meeting Date: January 27, 1997
Place: Hyatt Regency Hotel, 1800 Presidents Street, Reston, Virginia
Open: January 27, 1997, 8:30 a.m. to 6:00 p.m.

The SAMHSA National Advisory Council will hold an individual meeting and a portion of the meeting will be open and will provide orientation sessions about the mission of the Agency for new members. Attendance by the public will be limited to space available. Interested persons may present information or views, orally or in writing, on issues pending before the SAMHSA Council. Those desiring to make formal presentations should notify the contact person before January 10, and submit a brief statement of: the general nature of the information or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments. Time for presentations may be limited by the number of requests, so photocopies may be distributed at the meeting through the Executive Secretary, if provided by January 10.

The meeting of the SAMHSA Council will also include a presentation and discussion of information about the Agency's procurement plans. Therefore, a portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA in accordance with Title 5 U.S.C. 552b(c)(3) and 5 U.S.C. App. 2, Section 10(d).

A summary of the meeting and a roster of Council members may be obtained from: Ms. Susan E. Day, Program Assistant, SAMHSA National Advisory Council, 5600 Fishers Lane, Room 12C–15, Rockville, Maryland 20857. Telephone: (301) 443–4640.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee Name:
Substance Abuse and Mental Health Services Administration National Advisory Council
Meeting
Dates: January 28, 1997
Place: Hyatt Regency Hotel, 1800 Presidents Street, Reston, Virginia
Closed: January 28, 1997, 9:00 a.m. to 9:30 a.m.
Open: January 28, 1997, 10:00 a.m. to 12:00 p.m.
Contact: Toian Vaughn, Executive Secretary, Parklawn Building, Room 12C–15, Telephone: (301) 443–4640, Fax: (301) 443–1450

The Center for Substance Abuse Prevention (CSAP) National Advisory Council will also hold an individual meeting and a portion of the meeting will include the presentation and discussion of the Center's procurement plans. Therefore, a portion of this meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552(b)(3) and 5 U.S.C. App. 2, section 10(d).

The agenda will also include a presentation from the Department of Education, discussions of administrative matters and announcements, and reports of workgroups of the SAMHSA National Advisory Council and the CSAP National Advisory Council.

A summary of this meeting and roster of Council members may be obtained from: Yuth Nimit, Ph.D., Executive Secretary, CSAP National Advisory Council, Rockwall II Building Suite 901, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone: (301) 443–8455.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Center for Substance Abuse Prevention National Advisory Council
Meeting Date: January 28, 1997
Place: Hyatt Regency Hotel, 1800 Presidents Street, Reston, Virginia
Closed: January 28, 1997, 8:30 a.m. to 9:30 a.m.
Open: January 28, 1997, 9:30 a.m. to 4:30 p.m.
Contact: Yuth Nimit, Ph.D., Executive Secretary, Rockwall II Building, Suite 901, Telephone: (301) 443–8455

The Center for Substance Abuse Treatment (CSAT) National Advisory Council will also hold an individual meeting. The meeting will include the

review and discussion of information about the Center's procurement plans. Therefore, a portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552(b)(3) and 5 U.S.C. App. 2, sec. 10(d).

The agenda will also include discussions of the Center's policy issues and current administrative, legislative, and program developments.

A summary of the meeting and roster of Council members may be obtained from: Ms. Joann M. Exline, CSAT, Rockwall II Building, Suite 619, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone: (301) 443–8923.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Center for Substance Abuse Treatment National Advisory Council
Meeting Date: January 28, 1997
Place: Hyatt Regency Hotel, 1800 Presidents Street, Reston, Virginia
Closed: January 28, 1997, 8:45 a.m. to 9:00 a.m.
Open: January 28, 1997, 9:00 a.m. to 5:30 p.m.
Contact: Marjorie M. Cashion, Executive Secretary, Rockwall II Building, Suite 619, Telephone: (301) 443–6077

Dated: December 23, 1996.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 96–33096 Filed 12–30–96; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–00–P; AA–9285]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(1), will be issued to Calista Corporation for approximately 56.45 acres. The lands involved are in the vicinity of Nunivak Island, Alaska.

Seward Meridian, Alaska

T. 3 S., R. 102 W.,
Sec. 10.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Anchorage Daily News. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until January 30, 1997 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Patricia A. Baker,

Land Law Examiner, ANCSA Team, Branch of 962 Adjudication.

[FR Doc. 96–33100 Filed 12–30–96; 8:45 am]

BILLING CODE 4310–33–P

[NV–030–97–1020–24–1 A]

Sierra Front/Northwest Great Basin Resource Advisory Council—Notice of Meeting Locations and Times

AGENCY: Bureau of Land Management, Interior.

ACTION: Resource Advisory Council meeting locations and times.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), the Department of the Interior, Bureau of Land Management (BLM) Council meetings will be held as indicated below. The agenda includes nature of issues to be addressed by RAC, how issues will be raised and how recommendations will be treated, how to deal with statewide issues; issues regarding the Black Rock Desert; BLM's "Vision for the Future" and RAC members predictions for the future; public comment period and determination of the subject matter for future meetings.

All meetings are open to the public. The public may present written comments to the council. Each formal council meeting will have a time allocated for public comments. The public comment period for the council meeting is listed below. Individuals who plan to attend and need further information about the meeting or need special assistance such as sign language interpretation or other reasonable accommodations, should contact Joan Sweetland at the Carson City Field Office, 1535 Hot Springs Road, Carson City, NV 89706, telephone (702) 885–6000.

DATES, TIMES: The council will meet on Friday, January 24th, 1997, at the Bureau of Land Management, Nevada State Office, 850 Harvard Way, Reno, NV 89520–0006 from 8:30 a.m. to 5:00 p.m. Public comment period will be at 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Joan Sweetland, Public Affairs Specialist, Carson City Field Office, telephone (702) 885–6000.

Dated: December 16, 1996.

Karl L. Kipping,

Associate District Manager.

[FR Doc. 96–33221 Filed 12–30–96; 8:45 am]

BILLING CODE 4310–HC–M

[CO–932–1430–01; COC–58828]

Public Land Order No. 7232; Withdrawal of National Forest System Land for the Protection of Loveland Ski Area; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 850 acres of National Forest System land from mining for 50 years to protect recreational resources and facilities at the Loveland Ski Area. The land has been and remains open to such forms of disposition as may by law be made of National Forest System land and to mineral leasing.

EFFECTIVE DATE: December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215-7076, 303-239-3706.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System land is hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. Ch. 2 (1988)), for the protection of planned and existing facilities at the Loveland Ski Area:

Sixth Principal Meridian

Arapaho National Forest

T. 4 S., R. 76 W.,

sec. 15, SE¼SW¼NW¼, SW¼SE¼NW¼, SW¼, W½NW¼SE¼, SE¼NW¼SE¼, SW¼SE¼, and W½SE¼SE¼;
sec. 16, SE¼NE¼SE¼, SW¼SW¼SE¼, E½SW¼SE¼, and SE¼SE¼;
sec. 22, W½NE¼NE¼, W½NE¼, S½SE¼NE¼, NW¼, NE¼SW¼, and N½SE¼;
sec. 23, SW¼SW¼NW¼, S½NE¼SW¼, NW¼SW¼, NE¼SE¼SW¼, and W½SE¼SW¼.

The area described contains 850 acres of National Forest System Land in Clear Creek County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of National Forest System land under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 50 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: December 6, 1996.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 96–33295 Filed 12–30–96; 8:45 am]

BILLING CODE 4310–JB–P

AGENCY FOR INTERNATIONAL DEVELOPMENT

Housing Guaranty Program; Notice of Investment Opportunity

The U.S. Agency for International Development ("USAID") has authorized the guaranty of a loan as evidenced by the guaranteed promissory notes to be issued by Infrastructure Leasing & Financial Services Limited (the "Borrower") as part of USAID's development assistance program. USAID has approved the Tiruppur Area Development Programme for funding under the Financial Institution Reform and Expansion Program ("FIRE") of up to twenty five million dollars ($25,000,000). The proceeds of the loan will be used to finance a portion of the architectural, engineering and construction cost of a water and wastewater delivery, treatment and disposal systems for the City of Tiruppur, India and surrounding areas. At this time, the Borrower has authorized Siebert Brandford Shank & Co. ("Financial Advisor") to request sealed bids from eligible investors to purchase the notes under this program in the amount of twenty-five million U.S. Dollars (US $25,000,000) (the "Notes").

The full repayment of the Notes will be guaranteed by USAID. The USAID guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

The name and address of the Borrower's representatives to be contacted by interested U.S. lenders or investors, and the amount of the loan and project number are indicated below:

$25,000,000

USAID Project No: 386–HG–IV

Housing Guaranty Loan No.: 386–HG–015–AO1, 386–HG–016–AO1

Mr. Shahzaad Dalal, Infrastructure Leasing & Financial Services Ltd., Mahindra Towers, 4th Floor Dr. G.M. Bhosale Marg, Worli, Mumbai, INDIA 011–91–22–493–5148,011–91–22–493–0080 (fax)

Mr. Peter C. Wong, Siebert Brandford Shank & Co., 220 Sansome Street, 15th Floor, San Francisco, CA 94104, 415–439–4450, 415–439–4480 (fax).

Interested lenders and investors should contact the Borrower or its Financial Advisor to obtain a copy of the complete bid package which includes a Preliminary Offering Circular, an Official Bid Form, a Note Purchase Agreement and a Paying and Transfer Agency Agreement (together, the Bid Package) which contain the terms and conditions for the submission of sealed bids on the proposed guaranteed Notes under the Housing Guaranty Program. Interested lenders and investors should submit their bids to the Borrower's representatives, with a copy to USAID, by Wednesday, January 15, 1997, 11:00 a.m. (New York Time). Any bid submitted after the deadline will not be accepted.

The Borrower is currently considering the following structure on the proposed Notes:

Par Amount: U.S. $25,000,000.

Term: 30 years (final maturity).

Interest Rate: Floating rate based on a three-month LIBOR with quarterly reset.

Mandatory Redemption: The amortization of principal on the Notes will begin on May 1, 2007 with equal quarterly mandatory redemption of principal through final maturity on February 1, 2007.

Optional Redemption: The Notes are subject to redemption at the option of the Borrower as more fully described in the Bid Package.

Redemption in Connection with Project Agreement: USAID reserves the right to accelerate the loan in connection with a breach by the Borrower of the Project Agreement, dated March 8, 1994, between USAID and the Borrower; any such redemption would be at par plus accrued interest.

Closing Date: Closing will be within four (4) weeks after the acceptance of bids and award of the Notes to the bidder submitting the lowest effective interest cost to the Borrower. The award of the Notes to the winning bidder and the delivery of the Notes are subject to certain conditions required of the Borrower by USAID as set forth in agreements between USAID and the Borrower.

Lenders and investors eligible to receive the USAID guaranty are those specified in Section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and (4) foreign partnerships or associations wholly owned by U.S. citizens.

Information as to the eligibility of investors and other aspects of the USAID housing guaranty program can be obtained from: Ms. Viviann Gary, Director, Office of Environment and Urban Programs, U.S. Agency for International Development, 1601 Kent Street, Rosslyn, VA 22209, Telephone: (703) 875–4510, Facsimile: (703) 875–4639.

Dated: December 20, 1996.

Michael G. Kitay,

Assistant General Counsel, Bureau for Global Programs, Field Support and Research, U.S. Agency for International Development.

[FR Doc. 96–33312 Filed 12–30–96; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of December, 1996.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be

issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–32,881; National Food Products, Limited, Reading, PA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–32,836; Father & Sons Stores, Scranton, PA
TA–W–32,785; Midas International, Inc., North Brunswick, NJ
TA–W–32,842; Sara Lee Bodywear, Mcadoo, PA
TA–W–32,937; Cogema Resources, Inc., Pathfinder Mines Corp., Shirley Basin Mine, Mills, WY

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–32,894A; AMP, Inc., Gastonia, NC

The investigation revealed that criteria (1) and criteria (3) have not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

TA–W–32,782; Hydro-Fit, Inc., Eugene, OR: September 30, 1995.
TA–W–32,904; James River Corp., Old Town, ME: July 22, 1996.
TA–W–32,897; Kibak Tile, Redmond, OR: October 15, 1995.
TA–W–32,009; Alde, Inc., San Frncisco, CA: November 18, 1995.
TA–W–32,848; Anchor Glass Container Corp., Zanesville Mould Div., Zanesville, OH: October 3, 1995.
TA–W–32,861; Keystone Fireworks & Speciality Co., Dunbar, PA: October 14, 1995.
TA–W–32,890; Lambda Electronics, Inc., McAllen, TX: October 18, 1995.
TA–W–32,894; AMP, Inc., Lowell, NC: October 28, 1995.
TA–W–32,690; Bruckner Manufacturing Corp., (Formerly Faberware, Inc), Bronx, NY: July 29, 1995.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of November and December, 1996.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–01289; Magnatek, Huntington, IN
NAFTA–TAA–01330; Jensports, Div. of Charland Sportswear, New Kensington, PA
NAFTA–TAA–01337; Rayonier, Inc., Port Angeles Mill, Port Angles,
WANAFTA–TAA–01347; AMP, Inc., Erie, PA
NAFTA–TAA–01368; Armour Swift Eckrich, El Paso, TX
NAFTA–TAA–01278; Fabry Glove & Mitten Co., Div., of Saranac Glove Co., Marinette, WI

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–01290; Sara Lee Bodywear, Mcadoo, PA

The investigation revealed that the workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

Affirmative Determinations NAFTA–TAA

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

NAFTA–TAA–01314; Kibak Tile, Redmond, OR: October 14, 1995.
NAFTA–TAA–01315; Hecht Manufacturing Co., Inc., Milwaukee, WI: October 30, 1995.
NAFTA–TAA–01346; Hamilton Beach—Proctor Silex, Inc., Southern Pines, NC: November 19, 1995.
NAFTA–TAA–01319; AMP, Inc., Lowell, NC: October 28, 1995.
NAFTA–TAA–01317; Timberline Forest Products, Burlington, WA: October 25, 1995.
NAFTA–TAA–01334; Wright-Bernet, Inc., Div. of Elkco Group, Inc., Hamilton, OH: November 5, 1995.
NAFTA–TAA–01342; Springs Industries, Springs Window Fashions, City of Industry, CA: October 24, 1995.
NAFTA–TAA–01335; Plaid Clothing Group, Inc., J. Schoeneman, Chambersburg, PA: November 5, 1995.
NAFTA–TAA–01324; Alde, Inc., San Francisco, CA: October 1, 1995.

NAFTA–TAA–01316; Lambda Electronics, Inc., McAllen, TX: October 18, 1995.

NAFTA–TAA–01338; Miller International, Inc., Rocky Mountain Clothing Co., Baxley, GA: October 31, 1995.

I hereby certify that the aforementioned determinations were issued during the month of December, 1996. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: December 20, 1996.

Linda G. Poole,

Acting Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–33225 Filed 12–30–96; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Program Manager of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Program Manager, Office of Trade Adjustment Assistance, at the address show below, not later than January 10, 1997.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than January 10, 1997.

The petitions filed in this case are available for inspection at the Office of the Program Manager, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Ave, NW, Washington, DC 20210.

Signed at Washington, D.C. this 16th day of December, 1996.

Linda G. Poole,

Acting Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX—PETITIONS INSTITUTED ON 12/16/96

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
33,016	Paramount Headware (Wkrs)	Mountain Grove, MO	10/17/96	Baseball Caps.
33,017	Amy Industries (Wkrs)	Fort Gaines, GA	10/06/96	Knit Underwear.
33,018	California Fashion Ind. (Comp).	Los Angeles, CA	11/26/96	Ladies' Apparel.
33,019	Fox Packaging (Wkrs)	McAllen, TX	11/25/96	Plastic and Burlap Bags.
33,020	Weldotron Corp (Comp)	Piscataway, NJ	11/27/96	Automatic Sealer Systems.
33,021	Crown Industries, Inc (Wkrs)	Selma, AL	11/20/96	Sweatpants.
33,022	Quality Apparel Mfg, Inc (Comp).	New Bedford, MA	11/15/96	Children's & Ladies' Apparel.
33,023	Associated Food Stores (Comp).	Pocatello, ID	11/14/96	Grocery Distribution & Warehouse.
33,024	Eagles Nest, Inc (UMWA)	Johnstown, PA	12/04/96	Metallurgical Coal.
33,025	Imco Recycling of Calif. (Comp).	Corona, CA	11/22/96	Recycling Aluminum.
33,026	Clay Sportwear (Wkrs)	Moss, TN	12/02/96	Ladies' Sportswear.
33,027	Hanna Instruments Inc (Comp).	Woonsocket, RI	11/27/96	Meters.
33,028	Fun-Tees, Inc (Comp)	Concord, NC	12/04/96	Men's & Boys' Tee Shirts.
33,029	Willamette Industries (Comp)	Dallas, OR	11/13/96	Plywood.
33,030	General Textiles (Comp)	Murphy, NC	11/25/96	Ladies' Apparel.
33,031	Eaton Corporation (Comp)	Belmond, IA	12/05/96	Engine Valves.
33,032	All-American Apparel, Inc (Wkrs).	Salem, MO	12/05/96	Men's Top Apparel.
33,033	Energy Development Corp (Wkrs).	Houston, TX	12/03/96	Oil & Gas Production, Exploration.
33,034	Bristol Lingerie, Inc (Wkrs)	Bristol, VA	11/12/96	Ladies' Sportswear.
33,035	R.H.O. Industries (UNITE)	Buffalo, NY	11/25/96	Chestpieces; Components.

[FR Doc. 96–33227 Filed 12–30–96; 8:45 am]

BILLING CODE 4510–30–M

Texaco Trading & Transportation, Incorporated; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on August 8, 1996, applicable to all workers of Texaco Trading & Transportation, Incorporated located in Glendive, Montana. The notice was published in the **Federal Register** on August 26, 1996 (61 FR 43791).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations have occurred at Texaco Trading & Transportation, Incorporated in Dickinson, North Dakota. The workers are engaged in activities related to the production of crude oil. Accordingly, the Department is amending the certification to include workers of the subject firm in Dickinson, North Dakota.

The amended notice applicable to TA–W–32,450 is hereby issued as follows:

"All workers of Texaco Trading & Transportation, Incorporated, Glendive, Montana (TA–W–32,450) and Dickinson, North Dakota (TA–W–32,450) who became totally or partially separated from employment on or after May 28, 1995 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C. this 9th day of December 1996.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–33226 Filed 12–30–96; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Program Manager of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Program Manager, Office of Trade Adjustment Assistance, at the address show below, not later than January 10, 1997.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Program Manager, Office of Trade Adjustment Assistance, at the address show below, not later than January 10, 1997.

The petitions filed in this case are available for inspection at the Office of the Program Manager, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 9th day of December, 1996.

Russell T. Kile,

Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX—PETITIONS INSTITUTED ON 12/09/96

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
32,998	Thomas Industry (Wkrs)	Los Angeles, CA	11/22/96	Distribution of Household Light Fixtures.
32,999	Springdale Fashions (Co.)	Clinton, NC	11/19/96	Children's Apparel.
33,000	Pratt and Whitney (Co.)	North Haven, CT	11/25/96	Jet Engines and Engine Parts.
33,001	Professional Mfg., Inc. (Wkrs).	Paris, ID	11/22/96	Motorcycle Helmets, Snowmobile Helmets.
33,002	Ilissa Bridals (UNITE)	New York, NY	12/02/96	Bridal Gowns.
33,003	Maidenform (Wkrs)	Bayonne, NJ	11/24/96	Bras, Panties, Foundations.
33,004	International Medication (Co.)	El Monte, CA	11/25/96	Pharmaceuticals.
33,005	Dystar L.P. (Co.)	Coventry, RI	11/19/96	Textile Dyes.
33,006	East Point Seafood (FCW)	South Bend, WA	11/27/96	Oysters, Crab and Shrimp.
33,007	Barth & Dreyfus Printing (Wkrs).	Albemarle, NC	11/29/96	Printed Kitchen and Bath Towels.
33,008	Dudley Apparel (Wkrs)	Dudley, GA	11/26/96	Men's & Ladies' Pants and Shorts.
33,009	Alde, Inc (UNITE)	San Francisco, CA	11/18/96	Ladies' Apparel.
33,010	Sau Mee Sewing (UNITE)	San Francisco, CA	11/18/96	Ladies' Apparel.
33,011	Joe Manufacturing (UNITE)	San Francisco, CA	11/18/96	Ladies' Apparel.
33,012	Sunny Company (UNITE)	San Francisco, CA	11/18/96	Ladies' Apparel.
33,013	Karen Tang Sewing (UNITE)	San Francisco, CA	11/18/96	Ladies' Apparel.
33,014	Remington Arms Co., Inc. (UMW).	Lonoke, AR	11/06/96	Ammunition for Rifles, Shotguns etc.
33,015	Sunbeam (Comp)	Cookeville, TN	11/18/96	Small Electric Motor Components.

[FR Doc. 96–33229 Filed 12–30–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–32,732]

Hotsey Equipment Company Boyertown, Pennsylvania; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Program Manager of the Office of Trade Adjustment Assistance for workers at Hotsey Equipment Company, Boyertown, Pennsylvania. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–32,732; Hotsy Equipment Company, Boyertown, Pennsylvania (December 13, 1996)

Signed at Washington, D.C. this 18th day of December, 1996.

Russell T. Kile,

Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–33228 Filed 12–30–96; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Underground Retorts

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA5) (44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the Underground Retorts. MSHA is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed below in the Contact section of this notice.

DATES: Submit comments on or before March 3, 1997.

ADDRESSES: Written comments shall be mailed to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via E-mail to psilvey@msha.gov, along with an original printed copy.

Ms. Sivley can be reached at (703) 235-1910 (voice) or (703) 235-5551 (facsimile).

FOR FURTHER INFORMATION CONTACT: George M. Fesak, Director, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 715, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Mr. Fesak can be reached at gfesak@msha.gov (Internet E-mail), (703) 235–8378 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

This regulation pertains to the safety requirements to be followed by the mine operators in the use of underground retorts to extract oil from shale by heat or fire. Prior to ignition of retorts the mine operator must submit a written plan indicating the acceptable levels of combustible gases and oxygen; specifications and location of off-gas monitoring procedures and equipment; procedures for ignition of retorts and details of area monitoring and alarm systems for hazardous gases and actions to be taken to assure safety of miners.

II. Current Actions

This request for information contains provisions whereby mine operators can maintain compliance with the regulations and assure the safety of mining personnel where underground retorts are used.

Type of Review: Reinstatement.

Agency: Mine Safety and Health Administration.

Title: Underground Retorts.

OMB Number: 1219–0096.

Affected Public: Business or other for-profit.

Cite/Reference/Form/etc: 30 CFR 57.22401.

Total Respondents: 1.

Frequency: On occasion.

Total Responses: 1.

Average Time per Response: 160 hours.

Estimated Total Burden Hours: 160 hours.

Estimated Total Burden Cost: none.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 23, 1996.

George M. Fesak,

Director, Program Evaluation and Information Resources.

[FR Doc. 96–33224 Filed 12–30–96; 8:45 am]

BILLING CODE 4510–43–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice (96–146)

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

Copies of patent applications cited are available from the Office of Patent Counsel, Lewis Research Center. Claims are deleted from the patent applications to avoid premature disclosure.

DATES: December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Kent N. Stone, Office of Patent Counsel, Mail Code 0120, Cleveland, OH 44135–3191; telephone (216) 433–2320.

NASA Case No. LEW–16,231–1: Resilient Braided Rope Seal;

NASA Case No. LEW–20,006–1: Oxidation Resistant Ti–A1–Fe Diffusion for FeCrA1Y Coatings on Titanium Aluminides;

NASA Case No. LEW–20,000–1: Single Block Thru-Reflect-Line (TRL) Calibration Standard and Test Fixture for the Cryogenic Characterization of Planar;

NASA Case No. LEW–15,870–1: Low to High Temperature Face Seal.

Dated: December 23, 1996.

Edward A. Frankle,

General Counsel.

[FR Doc. 96–33245 Filed 12–30–96; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB

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for approval the information collection described in this notice, which is used to request copies of land entry records in the National Archives of the United States. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before January 30, 1997 to be assured of consideration.

ADDRESSES: Comments should be sent to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Ms. Maya Bernstein, Desk Officer for NARA, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collections and supporting statements should be directed to Mary Ann Hadyka or Nancy Allard at telephone number 301–713–6730, or fax number 301–713–7270.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for this information collection on August 22, 1996 (61 FR 43388). No comments were received. The previous notice referred in the title of the information collection and description to "land claim records." The actual title of the form is "National Archives Order for Land Entry Files" and this notice correctly carries that title. NARA has submitted the described information collection to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed collection information is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collections; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. In this notice, NARA is soliciting comments concerning the following information collection

Title: National Archives Order for Land Entry Files

OMB number: New collection; number to be assigned.

Agency form number: NATF 84

Type of review: Regular.

Affected public: Individuals who wish to order copies of land entry records in the National Archives of the United States.

Estimated number of respondents: 14,000.

Estimated time per response: 10 minutes.

Frequency of response: On occasion (when respondent wishes to search for or order copies of land entry records in the custody of the National Archives of the United States).

Estimated total annual burden hours: 2,334 (rounded off number).

Abstract: The NATF form 84 will be used by researchers to request that NARA search for and make copies of pages from Federal land entry case files in the custody of the National Archives. These records generally date from 1800 to approximately 1965. Submission of requests on a form is necessary to handle in a timely fashion the volume of requests received for these records (approximately 14,00 per year) and the need to obtain specific information from the researcher to search for the records sought. The form will be printed on carbonless paper as a multi-part form to allow the researcher to retain a copy of his request and NARA to respond to the researcher on the results of the search or to bill for copies if the researcher wishes to order the copies. As a convenience, the form will allow researchers to provide credit card information to authorize billing and expedited mailing of the copies. NARA is not able at present to accept electronic submission of requests; however, we intend to address security of financial information and other issues as we continue our efforts to increase electronic access to NARA and its holdings.

Dated: December 20, 1996.

L. Reynolds Cahoon,

Assistant Archivist for Policy and IRM Services.

[FR Doc. 96–33110 Filed 12–30–96; 8:45 am]

BILLING CODE 7515–01–M

Office of Records Administration; Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) Propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before February 14, 1997. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, College Park, MD 20740. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority,

includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of the Air Force (N1–AFU–96–7). Medical waste management records at medical treatment facilities and base civil engineer offices.

2. Department of the Air Force (N1–AFU–97–4). Implant device and/or medical equipment log/database proposed for long-term retention.

3. Department of Commerce, Patent and Trademark Office (N1–241–96–5). Updated Chapter of a comprehensive schedule, covering records of the Trademark Trial and Appeals Board, the Board of Patent Appeals and Interferences, the Office of the Chief Information Officer, and related program offices.

4. Department of Health and Human Services (N1–468–97–1). Pre-grant clearance files of the Office for Civil Rights.

5. Department of State, Bureau of Consular Affairs (N1–59–97–10). Immigrant Control and Reporting System (ICARS) maintained by Visa Services.

6. Department of State, All Foreign Service Posts (N1–84–97–4). Diversity Visa Applicant System (DVACS).

7. U.S. Agency for International Development, Europe and New Independent States (N1–286–96–3). Routine, facilitative, and duplicative records.

8. Bonneville Power Administration (N1–305–96–2). Records covering billing source data.

9. General Services Administration, Federal Supply Service (N1–137–97–1 through 6). Electronic records relating to sales, transportation, and supplies.

10. Panama Canal Commission (N1–185–96–2). Marine Traffic Control and Ship Data Bank electronic systems.

11. Panama Canal Commission (N1–185–97–1). Communications and mail management records.

12. Susquehanna River Basin Commission (N1–220–96–11). Budget justifications, working papers to reports and comprehensive plans, and subject and intergovernmental affairs files.

13. United States Information Agency, Office of Research N1–306–96–3). Routine, facilitative, and duplicative records of the Office of Research and predecessor units. Policy records scheduled as permanent.

Dated: December 30, 1996.

James W. Moore,

Assistant Archivist for Records Administration.

[FR Doc. 96–33109 Filed 12–30–96; 8:45 am]

BILLING CODE 7515–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–331]

IES Utilities, Inc.; Notice of Withdrawal of Application For Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of IES Utilities Inc. (the licensee) to withdraw its January 30, 1996, application for proposed amendment to Facility Operating License No. 50–331 for the Duane Arnold Energy Center, located in Palo, Iowa.

The proposed amendment would have revised the control rod scram insertion time testing requirements in the plant Technical Specifications.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on February 14, 1996 (61 FR 5814). However, by letter dated February 26, 1996, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated January 30, 1996, and the licensee's letter dated February 26, 1996, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Dated at Rockville, Maryland, this 24th day of December 1996.

For the Nuclear Regulatory Commissions.

Glenn B. Kelly, Sr.,

Project Manager, Project Directorate III–3, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–33251 Filed 12–30–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–133]

Pacific Gas and Electric Company Humboldt Bay Power Plant, Unit No. 3; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Pacific Gas and Electric Company (the licensee) to withdraw its November 23, 1994, application for proposed amendment to Facility Operating License No. DPR–7 for the Humboldt Bay Power Plant, Unit No. 3, located in Humboldt County, California.

The proposed amendment would have revised the facility technical specifications pertaining to liquid radioactive effluent limitations.

The Commission has previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on March 1, 1995 (60 FR 11139). However, by letter dated December 9, 1996, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated November 23, 1994, and the licensee's letter dated December 9, 1996, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Humboldt County Library, 1313 3rd Street, Eureka, California 95501.

Dated at Rockville, Maryland, this 24th day of December 1996.

For the Nuclear Regulatory Commission.

Richard F. Dudley, Jr.,

Senior Project Manager, Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 96–33247 Filed 12–30–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–354]

Public Service Electric & Gas Company and Atlantic City Electric Company (Hope Creek Generating Station); Notice of Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by Public Service Electric & Gas and Atlantic City Electric Company, (the licensees) for an amendment to Facility Operating

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License No. NPF–57, issued to the licensee for operation of the Hope Creek Generating Station located in Lower Alloways Creek Township, Salem County, New Jersey. Notice of Consideration of Issuance of this amendment was not published in the **Federal Register**.

The purpose of the licensee's amendment request was to revise the Hope Creek Generating Station (HCGS) Updated Final Safety Analysis Report, Section 9.2.5, regarding the Station Service Water System and Ultimate Heat Sink.

The NRC staff has concluded that the licensee's request cannot be granted. The licensee was notified of the Commission's denial of the proposed change by a letter dated December 24, 1996.

By January 30, 1997, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to M. J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005–3502, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated August 30, 1996, and (2) the Commission's letter to the licensee dated December 24, 1996.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070.

Dated at Rockville, Maryland, this 24th day of December 1996.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 96–33253 Filed 12–30–96; 8:45 am]

BILLING CODE 7590–01–P

Advisory Committee on Nuclear Waste Seeking Qualified Candidates

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for résumés.

SUMMARY: The Nuclear Regulatory Commission (NRC) is seeking qualified candidates for possible appointment to its Advisory Committee on Nuclear Waste (ACNW). One opening is expected on the committee in mid-1997.

ADDRESSES: Submit résumés to: Ms. Jude Himmelberg, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

FOR FURTHER INFORMATION, CALL: 1–800–952–9678. Please refer to Announcement Number 97–1002.

SUPPLEMENTARY INFORMATION: The ACNW is a part-time advisory group established by the NRC in 1988 to provide independent technical review and advice on the disposal of nuclear waste, including all aspects of nuclear waste disposal facilities, as directed by the Commission. This advice covers activities related to licensing, operation, and closure of high-level and low-level radioactive waste disposal facilities and associated rulemakings, regulatory guides and NRC staff technical positions. The ACNW also reviews performance assessment evaluations of waste disposal facilities.

The committee interacts with representatives of the NRC, the Advisory Committee on Reactor Safeguards, the Department of Energy, other Federal, State, and local agencies, Indian Nations, and private organizations as appropriate.

A wide variety of engineering and scientific skills are needed to conduct the broad-based reviews required in the committee's work. Engineers and scientists are needed with work experience in the high-level and low-level radioactive waste disposal programs coupled with broad experience in a pertinent technical field, such as nuclear engineering and technology, nuclear fuel cycle analysis, geoscience, chemistry, and materials science.

Applicants should have a minimum of 20 years' work experience in related fields, or fields that can be applied directly to the work of the committee, including graduate level education. In addition to the length of the work experience, applicants should have achieved a level of distinction in their discipline and must be able to devote approximately 50-100 days per year to committee business. Most meetings are held in Rockville, Maryland. Some additional travel is required to other sites.

NRC regulations and policies restrict the participation of members in areas where these members have conflicts of interest. The degree to which an individual's participation in ACNW activities will be restricted is considered in the selection progress. Each qualified candidate's financial interests must be reconciled with applicable Federal and NRC rules and regulations prior to final appointment. This might require divestiture of securities issued by nuclear industry entities, or discontinuance of industry-funded research contracts or grants.

A résumé describing the educational and professional background of the candidate, including special accomplishments, professional references, and current address and telephone number should be provided. All qualified candidates will receive careful consideration. Appointment will be made without regard to race, color, religion, national origin, sex, age, or disabilities. Candidates must be citizens of the United States. Applications will be accepted until February 20, 1997.

Dated: December 24, 1996.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 96–33246 Filed 12–30–96; 8:45 am]

BILLING CODE 7590–01–P

Proposed Generic Communication; Degradation of Steam Generator Internals

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of opportunity for public comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to issue a generic letter concerning the degradation of steam generator internals at foreign pressurized-water reactor facilities. The purpose of the proposed generic letter is to (1) re-alert addressees to the previously communicated findings of damage to steam generator internals, namely, tube support plates and tube bundle wrappers, at foreign PWR facilities; (2) emphasize to addressees the importance of performing comprehensive examinations of steam generator internals to ensure steam generator tube structural integrity is maintained in accordance with the requirements of Appendix B to 10 CFR Part 50; and (3) request all addressees to submit information that will enable the NRC staff to verify whether or not the condition of addressees' steam generator

internals comply and conform with the current licensing basis for their respective facilities. The NRC is seeking comment from interested parties regarding both the technical and regulatory aspects of the proposed generic letter presented under the **SUPPLEMENTARY INFORMATION** heading.

The proposed generic letter was endorsed by the Committee to Review Generic Requirements (CRGR) on December 17, 1996. The relevant information that was sent to the CRGR will be placed in the NRC Public Document Room. The NRC will consider comments received from interested parties in the final evaluation of the proposed generic letter. The NRC's final evaluation will include a review of the technical position and, as appropriate, an analysis of the value/impact on licensees. Should this generic letter be issued by the NRC, it will become available for public inspection in the NRC Public Document Room.

DATES: Comment period expires January 30, 1997. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: Submit written comments to Chief, Rules Review and Directives Branch, U.S. Nuclear Regulatory Commission, Mail Stop T–6D–69, Washington, DC 20555–0001. Written comments may also be delivered to 11545 Rockville Pike, Rockville, Maryland, from 7:30 am to 4:15 pm, Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street, N.W. (Lower Level), Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Stephanie M. Coffin, (301) 415–2778.

SUPPLEMENTARY INFORMATION:

NRC Generic Letter 96–XX: Degradation of Steam Generator Internals

Addressees

All holders of operating licenses for pressurized water reactors (PWRs), except those licenses that have been amended to possession-only status.

Purpose

The U.S. Nuclear Regulatory Commission (NRC) is issuing this generic letter to (1) re-alert addressees to the previously communicated findings of damage to steam generator internals, namely, tube support plates and tube bundle wrappers, at foreign PWR facilities; (2) emphasize to addressees the importance of performing comprehensive examinations of steam generator internals to ensure steam generator tube structural integrity is maintained in accordance with the requirements of Appendix B to 10 CFR Part 50; and (3) request all addressees to submit information that will enable the NRC staff to verify whether or not the condition of addressees' steam generator internals comply and conform with the current licensing basis for their respective facilities.

Background

The NRC issued Information Notice (IN) 96–09 and IN 96–09, Supplement 1 to alert addressees to findings of damage to steam generator internals at foreign PWR facilities.

Description of Circumstances

Foreign authorities have reported various steam generator tube support plate damage mechanisms. The affected steam generators are similar, but not identical, to Westinghouse Model 51 steam generators. As previously documented in IN 96–09 and IN 96–09, Supplement 1, one damage mechanism involved the wastage of the uppermost support plate caused by the misapplication of a chemical cleaning process. A second damage mechanism involved broken tube support plate ligaments at the uppermost, and sometimes at the next lower, tube support plates. The support plate ligaments broke near a radial seismic restraint and near an antirotation key; the damage apparently dates back to initial startup of the affected plants. According to foreign authorities, the ligaments may have broken because of excessive stress during the final thermal treatment of the monobloc steam generators, which in turn was caused by inadequate clearance for differential thermal expansion between the support plates, wrapper, and seismic restraints.

As previously documented in IN 96–09, Supplement 1, a third damage mechanism involved wastage not associated with chemical cleaning and affected tube support plates at various elevations. This damage mechanism is active (progressive) and apparently involves a corrosion or erosion-corrosion mechanism of undetermined origin.

The staffs of potentially affected foreign reactors are currently inspecting steam generators for evidence of the various damage mechanisms, both visually and with eddy current testing. Tubes without adequate lateral support are being plugged.

In 96–09, Supplement 1, also documented that cooling transients involving the injection of large quantities of auxiliary feedwater may have been a key factor in the steam generator wrapper drop phenomenon observed at a foreign PWR facility. These cooling transients are believed to have been particularly severe for two units as a result of the use of a special operating procedure to accelerate the transition from hot to cold shutdown. The weight of the wrapper assembly and support plates is borne by six tenons mounted on the steam generator shell. The wrapper is nominally free to expand axially relative to the shell. However, it is postulated that an interference fit developed between the wrapper and the seismic restraints (mounted to the shell) as a result of differential thermal expansion associated with the cooling transients at the seventh support plate elevation. This interference fit prevented axial expansion of the wrapper, which led to excessive vertical bearing loads at the tenon supports, thus causing localized wrapper failure at this location and downward displacement of the wrapper (20 millimeters, maximum). Poor quality wrapper support welds may also have contributed to this failure. Repairs have been implemented at the affected foreign PWR facility. Wrapper dropping is being monitored in all steam generators of similar design. The monitoring is through online instrumentation and through visual inspections during outages. In addition to the wrapper dropping problem, cracking of the wrapper above the original upper support was discovered at the same foreign unit. The cause of the cracking is not yet known.

Discussion

The reported foreign experience highlights the potential for degradation mechanisms that may lead to tube support plate and tube bundle wrapper damage. The steam generator tube support plates support the tubes against lateral displacement and vibration and minimize bending moments in the tubes in the event of an accident. Support plate damage can impair their ability to perform this function and, thus, could potentially lead to the impairment of tube integrity. Vibration-induced fatigue could present a potential problem if tube support plates lose integrity, particularly in areas of high secondary side crossflows. As previously noted in IN 96–09, tube support plate signal anomalies found during eddy current testing of the steam generator tubes may be indicative of support plate damage or ligament cracking. Certain visual and video camera inspections on the secondary side of a steam generator may also provide useful information concerning the degradation of steam

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generator internals. The NRC staff will continue to monitor information on tube support plate and tube bundle wrapper damage as it becomes available from foreign authorities.

This letter also alerts addressees to the importance of performing comprehensive examinations of steam generator internals to ensure steam generator tube structural integrity is maintained in accordance with the requirements of Appendix B to 10 CFR Part 50. Criterion XI of Appendix B, "Test Control," requires, in part, that a test program be established to assure that all testing required to demonstrate that structures, systems, and components will perform satisfactorily in service is identified and performed in accordance with written test procedures which incorporate the requirements and acceptance limits contained in the applicable design documents. The applicable steam generator tube design documents include General Design Criteria (GDCs) 14, 15, 30, 31, and 32 of 10 CFR Part 50, Appendix A and Section III of the ASME Boiler and Pressure Vessel code. Criterion XVI of Appendix B, "Corrective Action," requires in part that measures be established to assure that conditions adverse to quality are promptly identified and corrected.

Requested Information

Within 60 days of the date of this generic letter, each addressee is requested to provide a written report that includes the following information for its facility:

(1) Discussion of the program in place, if any, to detect degradation of steam generator internals and a description of the inspection plans, including the inspection scope, frequency, methods, equipment and criteria, and plans for corrective action in the event degradation is found.

The discussion should include the following information:

(a) Whether past inspection records at the facility have been reviewed for indications of tube support plate signal anomalies from eddy current testing of the steam generator tubes that may be indicative of support plate damage or ligament cracking. If the addressee has performed such a review, include a discussion of the findings.

(b) Whether visual or video camera inspections on the secondary side of the steam generators have been performed at the facility to provide information on the condition of steam generator internals (e.g., support plates, tube bundle wrappers, or other components). If the addressee has performed such inspections, include a discussion of the findings.

(c) Whether degradation of steam generator internals has been detected at the facility, and how the degradation was assessed and dispositioned.

(2) If the addressee currently has no program in place to detect degradation of steam generator internals, the written response should include a discussion of the plans for establishing such a program, or a justification as to why no such program is needed.

Addressees are encouraged to work closely with industry groups on the coordination of inspections, evaluations, and repair options for all types of steam generator degradation that may be found.

The NRC is aware that the industry has developed generic industry guidance on performing steam generator inspections, and that this guidance is continually being updated. If an addressee intends to follow the guidance developed by the industry for this issue, reference to the relevant generic guidance documents is acceptable, and encouraged, as part of the response, as long as the referenced documents have been officially submitted to the NRC. However, additional plant-specific information will be needed.

Required Response

Within 30 days of the date of this generic letter, each addressee is required to submit a written response indicating: (1) Whether or not the requested information will be submitted and (2) whether or not the requested information will be submitted within the requested time period. Addressees who choose not to submit the requested information, or are unable to satisfy the requested completion date, must describe in their response any alternative course of action that is proposed to be taken, including the basis for the acceptability of the proposed alternative course of action.

NRC staff will review the responses to this generic letter and if concerns are identified, affected addressees will be notified.

Address the required written responses to the U.S. Nuclear Regulatory Commission, Attn: Document Control Desk, Washington, D.C. 20555-0001, under oath or affirmation under the provisions of Section 182a, Atomic Energy Act of 1954, as amended, and 10 CFR 50.54(f).

Backfit Discussion

Under the provisions of Section 182a of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.54(f), this generic letter transmits an information request for the purpose of verifying compliance with applicable existing regulatory requirements. Specifically, the requested information will enable the NRC staff to determine whether or not the condition of the addressees' steam generator internals comply and conform with the current licensing basis for their respective facilities. In particular, it would help ascertain whether or not the regulatory requirements pursuant to Appendix B to 10 CFR Part 50 are met, namely, (1) Criterion XI, "Test Control," concerning the establishment of effective test programs for systems, structures and components, and (2) Criterion XVI, "Corrective Action," which requires that measures shall be established to assure that conditions adverse to quality, such as failures, malfunctions, deficiencies, deviations, defective material and equipment, and nonconformances are promptly identified and corrected. Additionally, no backfit is either intended or approved in the context of issuance of this generic letter. Therefore, the staff has not performed a backfit analysis.

Dated at Rockville, Maryland, this 23rd day of December 1996.

For the Nuclear Regulatory Commission.

David B. Matthews,

Acting Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 96–33250 Filed 12–30–96; 8:45 am]

BILLING CODE 7590–01–P

Proposed Generic Communication; Steam Generator Tube Inspection Techniques (M96401)

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of opportunity for public comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to issue a generic letter concerning steam generator tube inspection practices at pressurized-water reactor facilities. The purpose of the proposed generic letter is to (1) emphasize to addressees the importance of performing steam generator tube inservice inspections using qualified techniques in accordance with the requirements of Appendix B to 10 CFR Part 50, and (2) request certain information from addressees to verify whether or not steam generator tube inservice inspection practices comply and conform with the current licensing basis for their respective facilities. The NRC is seeking comment from interested

parties regarding both the technical and regulatory aspects of the proposed generic letter presented under the Supplementary Information heading.

The proposed generic letter was endorsed by the Committee to Review Generic Requirements (CRGR) on December 17, 1996. The relevant information that was sent to the CRGR will be placed in the NRC Public Document Room. The NRC will consider comments received from interested parties in the final evaluation of the proposed generic letter. The NRC's final evaluation will include a review of the technical position and, as appropriate, an analysis of the value/impact on licensees. Should this generic letter be issued by the NRC, it will become available for public inspection in the NRC Public Document Room.

DATES: Comment period expires January 30, 1997. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: Submit written comments to Chief, Rules Review and Directives Branch, U.S. Nuclear Regulatory Commission, Mail Stop T–6D–69, Washington, DC 20555–0001. Written comments may also be delivered to 11545 Rockville Pike, Rockville, Maryland, from 7:30 am to 4:15 pm, Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street, N.W. (Lower Level), Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Phillip J. Rush, (301) 415–2700.

SUPPLEMENTARY INFORMATION:

NRC Generic Letter 96–XX: Steam Generator Tube Inspection Techniques

Addressees

All holders of operating licenses for pressurized water reactors (PWRs), except those licenses that have been amended to possession-only status.

Purpose

The U.S. Nuclear Regulatory Commission (NRC) is issuing this generic letter to (1) emphasize to the addressees the importance of performing steam generator tube inservice inspections using qualified techniques in accordance with the requirements of Appendix B to 10 CFR Part 50, and (2) request certain information from addressees to verify whether or not steam generator tube inservice inspection practices comply and conform with the current licensing basis for their respective facilities.

Background

Steam generator tubing constitutes a significant portion of the reactor coolant pressure boundary (RCPB). The design of the RCPB for structural and leakage integrity is a requirement under Title 10 of the Code of Federal Regulations, Part 50 (10 CFR Part 50), Appendix A. Specifically, the General Design Criteria (GDC) of Appendix A state that the RCPB shall "have an extremely low probability of abnormal leakage" (GDC 14), "shall be designed with sufficient margin to assure that the design conditions of the reactor coolant pressure boundary are not exceeded during any condition of normal operation" (GDC 15), and "shall be designed to permit periodic inspection and testing of important areas and features to assess their structural and leaktight integrity" (GDC 32).

Once a plant is in operation, licensees are required by their technical specifications to perform periodic inservice inspections of the steam generator tubing and to repair or remove from service all tubes with degradation exceeding the tube repair limits. Eddy-current inspection techniques are the primary means by which licensees assess the condition of the steam generator tubes. Such inspections are an important component of the defense-in-depth measures to ensure the structural and leaktight integrity of the steam generator tubes.

The NRC issued Generic Letter (GL) 95–03, "Circumferential Cracking of Steam Generator Tubes," on April 28, 1995. One of the purposes of GL 95–03 was to emphasize the importance of utilizing qualified inspection techniques and equipment capable of reliably detecting steam generator tube degradation.

Criterion IX, "Control of Special Processes," contained in Appendix B to 10 CFR Part 50 states, in part, that "measures shall be established to assure that special processes, including * * * nondestructive testing, are controlled and accomplished by qualified personnel using qualified procedures." Although the main focus of GL 95–03 was to address circumferential steam generator tube cracking, the requirement of using qualified inspection techniques applies to all inspections for all forms of tube degradation.

Criterion XI, "Test Control," requires, in part, that a test program be established to assure that all testing required to demonstrate that structures, systems, and components will perform satisfactorily in service is identified and performed in accordance with written test procedures which incorporate the requirements and acceptance limits contained in applicable design documents.

Licensees have traditionally relied upon eddy-current inspection techniques to assess the condition of their steam generator tubes. Although eddy-current methods are a proven technique for detecting tube degradation, there has been only limited success in demonstrating the capability to accurately depth size indications from the eddy-current signals. Specifically, tube degradation from intergranular attack (IGA) and stress corrosion cracking (SCC), major modes of steam generator tube degradation, are difficult to size with eddy-current inspection techniques because of a number of complicating variables. Through recent inspections and discussions of eddy-current practice with various licensees, the NRC has become aware that several utilities are allowing degraded steam generator tubes to remain in service on the basis of estimates of IGA and SCC degradation depths using eddy-current methods.

Discussion

(1) Evaluation of recent inspection experience. In general, plant technical specifications require the removal from service or the repair of those steam generator tubes with degradation exceeding 40 percent of the nominal tube-wall thickness. Criterion IX in Appendix B to 10 CFR Part 50 requires that nondestructive testing be completed using qualified procedures. Therefore, licensees must be able to demonstrate through the qualification process that an inspection technique used for sizing steam generator tube indications can measure the through-wall penetration of cracks and other forms of degradation with an accuracy commensurate with the "bases" of the tube repair limits in the technical specifications.

Theoretically, there is a relationship between the depth of penetration of a defect and the eddy-current signal response; in practice, however, the relationship between signal voltage or phase angle and the degradation depth is influenced by many other variables. Oxide deposits, variability of tube material properties and geometry, degradation morphology, human factors, and eddy-current data analysis and acquisition practices are some of the factors that can significantly alter a depth estimation of steam generator tube degradation. The NRC is aware that the depth of several specific forms of volumetric steam generator tube degradation can be sized with a reasonable degree of accuracy; however,

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qualifying techniques for sizing of some forms of degradation, e.g., IGA and SCC, has been problematic.

In order to successfully disposition steam generator tube degradation in accordance with the repair limits in the technical specifications and Appendix B to 10 CFR Part 50, the inspection process must be capable of (1) detecting indications of tube degradation, (2) characterizing the mode of degradation, e.g., cracklike, IGA, corrosion induced thinning, or wear and the orientation for cracklike degradation, and (3) accurately sizing the depth of the indication. The term "inspection process" refers to the use of one or a combination of nondestructive inspection techniques to evaluate a specific mode of steam generator tube degradation. This evaluation could potentially include three inspection methods (e.g., eddy current probes)-one for detection, one for characterization, and a third to size the indication. However, the successful qualification of the inspection process requires a qualification of each method (i.e., probe) for the mode of degradation being evaluated in the steam generator tube examinations. Experience has demonstrated that for effective qualification the data set demonstrating the capability of the inspection process should consist, to the extent practical, of service-degraded tube specimens (i.e., specimens removed from operating steam generators), supplemented, as necessary, by tube specimens containing flaws fabricated using alternative methods provided that the nondestructive examination parameter responses from these flaws are fully consistent with actual inservice degradation of the same flaw geometry.

(2) Safety assessment. Steam generator tube degradation is managed through a combination of several defense-in-depth measures including inservice inspection, tube repair criteria, primary-to-secondary leak rate monitoring, water chemistry, operator training, and analyses to ensure safety objectives are met. In addition, on the basis of NRC conclusions regarding the potential consequences of steam generator tube failure events in NUREG–0844, "NRC Integrated Program for the Resolution of Unresolved Safety Issues A–3, A–4, and A–5 Regarding Steam Generator Tube Integrity," the risk from the potential rupture of one or more tubes is small. However, since tube ruptures represent a failure of one of the principal fission product boundaries and present a pathway for a release to the environment bypassing the containment, all reasonable precautions should be taken to prevent such an occurrence.

To verify compliance with Appendix B to 10 CFR Part 50 and the technical specifications, and to maintain a reasonable level of assurance that the structural and leakage integrity margins for steam generator tubes provided in the General Design Criteria (Appendix A to 10 CFR Part 50) are satisfied, the NRC has concluded that it is appropriate for the addressees to review the types of steam generator tube degradation that are being left in service based on sizing, the inspection method being used to perform the sizing for each type of degradation, and the technical basis for the acceptability of each inspection method.

Requested Information

Within 60 days of the date of this generic letter, all addressees are requested to provide the following information: (1) Whether it is their practice to leave steam generator tubes with defects in service, based on sizing, and (2) if the response to item (1) is affirmative, those licensees are requested to submit a written report that includes, for each type of steam generator degradation mechanism, a description of the associated nondestructive examination method being used and the technical basis for the acceptability of the technique used.

Required Response

Within 30 days of the date of this generic letter, addressees are required to submit a written response indicating: (a) Whether or not the requested information will be submitted, and (b) whether or not the requested information will be submitted within the requested time period. Addressees who respond in the affirmative to item (1) under Requested Information and choose not to submit the requested information, or are unable to satisfy the requested completion date, must describe in their response any alternative course of action that is proposed to be taken, including the basis for the acceptability of the proposed alternative course of action.

NRC staff will review the responses to this generic letter and if concerns are identified, affected addressees will be notified.

Address written material to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555–0001, under oath or affirmation under the provisions of Section 182a, Atomic Energy Act of 1954, as amended, and 10 CFR 50.54(f).

Backfit Discussion

This generic letter only requests information from the addressees under the provisions of Section 182a of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.54(f). The information requested will enable the NRC staff to determine whether addressees' steam generator tube inspection practices comply and conform with the current licensing basis for their respective facilities. In particular, it would help ascertain whether or not the regulatory requirements pursuant to Appendix B to 10 CFR Part 50, namely, Criterion IX, "Control of Special Processes," and Criterion XI, "Test Control," are met. Additionally, no backfit is either intended or approved in the context of issuance of this generic letter. Therefore, the staff has not performed a backfit analysis.

Dated at Rockville, Maryland, this 23rd day of December, 1996.

For the Nuclear Regulatory Commission.

David B. Matthews,

Acting Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 96–33248 Filed 12–30–96; 8:45 am]

BILLING CODE 7590–01–P

Proposed Generic Communication; Effectiveness of Ultrasonic Testing Systems in Inservice Inspection Programs

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of opportunity for public comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to issue a generic letter to determine if addressees are taking appropriate action to qualify future ultrasonic testing (UT) examinations. The purpose of the proposed generic letter is to (1) alert addressees to the importance of using equipment, procedures, and examiners (UT systems) capable of reliably detecting and sizing flaws in the performance of comprehensive examinations of reactor vessels and piping, (2) notify addressees about enhancements in UT systems and the significance of these enhancements in plant-specific inservice inspection (ISI) programs, (3) request that all addressees describe the extent to which their piping and reactor pressure vessel ISI activities are being qualified consistent with the objectives of Appendix VIII to Section XI of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code), and (4) require that all addressees send to the NRC a written response to this generic letter relating to the actions and information requested in this letter. The

NRC is seeking comment from interested parties regarding both the technical and regulatory aspects of the proposed generic letter presented under the **SUPPLEMENTARY INFORMATION** heading.

The proposed generic letter was endorsed by the Committee to Review Generic Requirements (CRGR) on December 19, 1996. The relevant information that was sent to the CRGR will be placed in the NRC Public Document Room. The NRC will consider comments received from interested parties in the final evaluation of the proposed generic letter. The NRC's final evaluation will include a review of the technical position and, as appropriate, an analysis of the value/impact on licensees. Should this generic letter be issued by the NRC, it will become available for public inspection in the NRC Public Document Room.

DATES: Comment period expires January 30, 1997. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: Submit written comments to Chief, Rules Review and Directives Branch, U.S. Nuclear Regulatory Commission, Mail Stop T–6D–69, Washington, DC 20555–0001. Written comments may also be delivered to 11545 Rockville Pike, Rockville, Maryland, from 7:30 am to 4:15 pm, Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street, N.W. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Donald G. Naujock (301) 415–2767.

SUPPLEMENTARY INFORMATION:

Generic Letter 96–XX: Effectiveness of Ultrasonic Testing Systems In Inservice Inspection Programs

Addressees

All holders of operating licenses or construction permits for nuclear power reactors, except those licenses that have been amended to possession-only status.

Purpose

The U.S. Nuclear Regulatory Commission (NRC) is issuing this generic letter to (1) Alert addressees to the importance of using equipment, procedures, and examiners capable of reliably detecting and sizing flaws in the performance of comprehensive examinations of reactor vessels and piping, (2) notify addressees about enhancements in ultrasonic testing (UT) systems (Note: As used in this document, "UT systems" refers to the equipment, procedures, or examiners involved in the ultrasonic examination) and the significance of these enhancements in plant-specific inservice inspection (ISI) programs, (3) request that all addressees describe the extent to which their piping and reactor pressure vessel ISI activities are being qualified consistent with the objectives of Appendix VIII (Note: "Consistent with the objectives of Appendix VIII" means in close conformance with Appendix VIII criteria, even though the Appendix has not been formally incorporated into the regulations as a requirement.) To Section XI of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code), and (4) require that all addressees send to the NRC a written response to this generic letter relating to the actions and information requested in this letter.

Background

In the 1970s, operating experience and industry tests indicated a need for improving UT procedures to consistently and reliably detect and characterize flaws during ISI of reactor vessel welds. Also noted was the need for more definitive reporting of results and for more descriptive requirements for essential variables associated with ultrasonic examinations. That need was satisfied with the issuance of Regulatory Guide (RG) 1.150, Revision 1, "Ultrasonic Testing of Reactor Vessel Welds During Preservice and Inservice Examinations," in February 1983. RG 1.150 was incorporated into the technical specifications of many plants.

As the nuclear industry gained more operating experience, the need for improving ISI capabilities became apparent. For example, in the late 1970s, thermal fatigue cracks were found on the inner-blend radius of nozzle-to-vessel surfaces in boiling-water reactor (BWR) feedwater and control rod drive return line nozzles. The NRC staff recommended, in NUREG–0619, "BWR Feedwater Nozzle and Control Rod Drive Return Line Nozzle Cracking," dated November 1980, that licensees develop ISI programs to search for cracks in the inner-blend radii using dye-penetrant, visual, and ultrasonic examinations. The NRC staff recognized the potential for improvements to UT systems, and stated in NUREG–0619 that demonstrated improvements could be used as the basis for modifying the inspection criteria.

Also in the late 1970s, intergranular stress corrosion cracking (IGSCC) was identified in austenitic stainless steel piping. The NRC staff recommended in NUREG–0313, "Technical Report on Material Selection and Processing Guidelines for BWR Coolant Pressure Boundary Piping," dated July 1977, and in subsequent revisions published in July 1980 and January 1988, that a program be established to conduct formal IGSCC performance demonstration testing for UT examiners.

The regulatory guide and NUREG reports were issued as guidance in detecting flaws and in preventing the conditions that could lead to unacceptable flaws.

The need for additional guidance related to performing UT in ISI programs, that were based on requirements in Section XI of the ASME Code, prompted a reexamination of the effectiveness of UT as it was being applied through the ASME Code. The conventional (amplitude-based) UT requirements in the ASME Code establish minimum acceptable inspection standards. In the 1970s and 1980s, the nuclear industry tested UT systems extensively to identify the critical aspects of an effective UT inspection program that would provide a high reliability for detection and characterization of flaws. In the mid-1980s, the NRC and the nuclear industry recognized that the reliability of UT in ISI programs could be significantly improved through performance-demonstration qualification of nondestructive examination equipment, procedures, and examiners.

In 1984, the NRC entered into an agreement, known as the IGSCC Coordination Plan, with the Boiling Water Reactor Owners' Group (BWROG) and the Electric Power Research Institute (EPRI) to coordinate selected activities in regard to training and qualification of personnel using UT to examine piping weldments. As part of the IGSCC Coordination Plan, EPRI administered IGSCC performance demonstration tests to personnel seeking UT qualifications in IGSCC detection and characterization in piping systems.

The nuclear industry set about changing ASME Code requirements for UT from the current minimum inspection standards to inspection standards with performance-based qualifications. The performance-based qualifications would also produce uniform acceptance criteria for evaluating new technology and addressing new forms of degradation. The efforts of the industry to develop performance-based qualification criteria culminated with the publication of Appendix VIII to Section XI of the ASME Code, which was published in

the 1989 Addenda. Appendix VIII, "Performance Demonstration for Ultrasonic Examination Systems," contains detailed requirements for UT performance demonstrations that include statistically based acceptance criteria to detect and size flaws.

The NRC has initiated rulemaking to amend 10 CFR 50.55a to reference Section XI of the ASME Code up to and including the 1995 Edition. After completion of rulemaking, Appendix VIII to Section XI will become a requirement for all licensees. The final rule incorporating Appendix VIII is expected to be issued around July 1998.

Description of Circumstances

Appendix VIII is based on the qualification of equipment, procedures, and examiners using performance demonstrations; whereas, existing requirements in the 1989 (and earlier) Edition of Section XI of the ASME Code are prescriptive, minimum inspection standards. A performance-based qualification program encourages development of improved methods for detecting and characterizing flaws, and facilitates implementing the methods with a defined testing curriculum. The performance demonstrations require that equipment, procedures, and examiners be tested on flawed and notched materials and configurations similar to those found in actual conditions. The nuclear industry created the Performance Demonstration Initiative (PDI) in 1991 to manage implementation of the performance demonstration criteria of Appendix VIII (Note: The PDI activities have been assessed by the NRC staff, as described in the letter from J. Strosnider (NRC) to B. Sheffel (PDI) dated March 6, 1996, and have been found to provide a significantly improved method for qualification of equipment, procedures, and examiners. Overall, the NRC staff found that PDI has established and is in the process of executing a well-planned and effective program to test UT technicians on selected portions of Appendix VIII. Accordingly, the NRC staff finds that UT procedures qualified under the PDI program using performance demonstration methods provide an acceptable level of quality and safety.)

Because performance demonstrations test the ability of equipment, procedures, and examiners to detect and size flaws, the demonstrations raise the performance threshold for examiners conducting ultrasonic inspections. For example, a sampling of individuals tested in the different piping examinations under the PDI program revealed that 22% of them did not satisfy the screening criteria for detection of flaws; 41% did not satisfy the screening criteria for length-sizing; 67% did not satisfy the screening criteria for depth measurement; and 49% did not satisfy the screening criteria for IGSCC. These percentages are based on a sampling that included retests. The PDI tests ensure that the equipment must have adequate sensitivity, the procedures must have sufficient detail, and the individuals must be sufficiently skilled in order to successfully qualify under the PDI program.

The improvements in UT techniques performed using Appendix VIII criteria became apparent in 1993 during the reactor pressure vessel shell weld augmented examination at the Browns Ferry Nuclear Power Plant, Unit 3, and in 1995 during the inspection of piping systems for IGSCC at the Millstone Nuclear Power Station, Unit 1. At Browns Ferry, the equipment, procedures, and examiners were qualified consistent with the objectives of Appendix VIII. The examination revealed 15 flaws that did not meet the ASME Code, Section XI,

Subarticle IWB–3500 acceptance criteria and that required further evaluation. Of the 15 flaws, only 3 would have been recordable using conventional Section XI minimum inspection standards and RG 1.150 criteria, and only 2 of the 3 flaws would have required an analytical evaluation in accordance with Section XI, Subarticle IWB–3600. This experience indicates that flaws large enough to require analytical evaluation might not be detected using current UT standards.

Millstone Unit 1 inspectors performed an augmented UT examination for IGSCC in the welds in reactor system piping. The licensee used a newly developed ultrasonic transducer technology to supplement the original examinations. Before the examination, UT examiners from Millstone who were qualified under the IGSCC Coordination Plan demonstrated the adequacy of the new transducer technology by successfully passing the Appendix VIII performance demonstration test administered through the PDI program. During the augmented examination, the UT inspection personnel examined 264 of the 411 pipe welds and found that 35 welds had cracks. A review of examination records from 1984 through 1994 revealed 211 indications that were previously considered by Level III inspectors to be nonmetallurgical or geometric indications. During the 1995 inspection, 14 of the indications previously identified as nonmetallurgical or geometric were identified as flaws; 3 of these flaws developed through-wall leaks when they were mechanically buffed in preparation for repair by the NRC-approved overlay process. The Appendix VIII qualification by Millstone inspectors using normal IGSCC UT procedures increased the licensee's reliability in detection of IGSCC. The additionally demonstrated capability of the new transducer technology under the PDI-administered program clearly increased the level of confidence in the new transducer technology used to identify previous errors made in flaw disposition.

Although, the above experiences clearly depict the need for improvement by using performance demonstration methods in performing UT examinations of reactor vessels and piping, it should be noted that a safety concern does not exist which would warrant immediate backfitting of Appendix VIII in advance of the rulemaking that has been initiated. The staff has reached this conclusion based on consideration of defense-in-depth measures, Code margins in component design, and leakage monitoring systems. In addition, the staff has been requiring for some time now that selected inspections be performed using performance-based qualified techniques (e.g., IGSCC piping inspections).

Regulatory Requirements

10 CFR 50.55a requires that systems and components of boiling-water and pressurized-water reactors conform to the requirements of the ASME Code, Sections III and XI.

Appendix A to 10 CFR Part 50 Criterion 14 requires that the reactor coolant pressure boundary shall be designed, fabricated, erected, and tested so as to have an extremely low probability of abnormal leakage, of rapidly propagating failure, and of gross rupture.

Criterion XVI of Appendix B to 10 CFR Part 50 requires that measures shall be established to assure that conditions adverse to quality, such as failures, malfunctions, deficiencies, deviations, defective material and equipment, and nonconformances are promptly identified and corrected. In the case of significant conditions adverse to quality, the measures shall assure that the cause of the condition is determined and corrective action taken to preclude repetition. The identification of the significant condition adverse to quality, the cause of the condition, and the corrective action taken shall be documented and reported to appropriate levels of management.

Criterion II of Appendix B to 10 CFR Part 50 requires, in part, that a quality assurance program shall take into account the need for special controls, processes, test equipment, tools, and skills to attain the required quality and the need for verification of quality by inspection and test. It also requires that the program provide for indoctrination and training of personnel performing activities affecting quality, as necessary to assure that suitable proficiency is achieved and maintained.

Discussion

The qualification statistics from PDI discussed above and the issuance of the regulatory guide and staff reports highlight the fact that some UT systems satisfying ASME Code, Section XI amplitude-based UT requirements are less effective in identifying and characterizing certain types of flaws. The experiences at Browns Ferry Unit 3 and Millstone Unit 1 highlight the significant improvements in the effectiveness of UT systems when equipment, procedures, and examiners are qualified through a performance-demonstration program. Therefore, a significant improvement is gained in the effectiveness of UT systems qualified through performance demonstrations (e.g., Appendix VIII) over those satisfying conventional Section XI amplitude-based UT requirements.

The early and accurate detection of flaws in plants is important for maintaining the structural integrity and ensuring the safety function of safety-related systems and components. As plants age, improved reliability in inspection methods, more flexibility in utilizing advanced technology, and a better ability to detect new forms of degradation gain increased importance in ISI programs. The nuclear industry recognizes Appendix VIII as an improvement over the current ISI requirements, and the NRC staff finds that Appendix VIII criteria, as implemented by the PDI program, provide UT results that generally are superior to those of the 1989 (and earlier) Edition of Section XI of the ASME Code. The NRC staff finds that implementation of Appendix VIII criteria enhances the reliability of inspections and provides a significant improvement in the methods used to satisfy existing regulatory requirements and assure plant safety.

Some licensees have already submitted requests to utilize Appendix VIII performance demonstrations as an alternative examination for selective ASME Code, Section XI requirements. Licensees have also submitted requests to the staff to use Appendix VIII criteria in lieu of criteria in Regulatory Guide 1.150. Some licensees are using Appendix VIII concepts in developing alternatives to the IGSCC Coordination Plan, and the NRC staff has already approved the use of either the PDI program or the original IGSCC program for IGSCC qualification of examiners

(**Note:** Letter from W. T. Russell (NRC) to K. P. Donovan (Chairman, Boiling Water Reactor Owners' Group), "Transition From the IGSCC Qualification Program to the Performance Demonstration Initiative Program," March 1, 1996.)

In conclusion, the NRC staff has determined that using only existing ISI requirements for performing UT examinations might not provide reasonable assurance that flaws can be reliably detected and sized in certain areas. The staff considers cracks and flaws in the reactor vessel and other safety-related components to be a concern when the possibility exists for flaws exceeding the ASME Code, Section XI allowable flaw sizes not being reliably detected or sized. Adequate safety exists through defense-in-depth measures, leakage monitoring systems, and Code margins in component design; however, significant improvement in the ability to reliably detect and size flaws in reactor vessels and piping can be achieved using performance demonstration methods. In order to assess whether the margins required by the ASME Code, Section XI are adequately maintained and to ensure compliance with the applicable existing requirements identified above, the NRC has concluded that it is appropriate to request certain actions and information from the addressees, as indicated below.

Requested Actions

In consideration of the information and concerns addressed above, each addressee is requested to perform an evaluation to determine whether its current ISI program ensures that flaws in the reactor vessel and safety-related piping are reliably detected and sized.

If it is determined that flaws in the reactor vessel and safety-related piping cannot be reliably detected and sized, each addressee is expected to take appropriate corrective action in future inspections, in accordance with the requirements of Criteria II and XVI of Appendix B to 10 CFR Part 50, to improve the capability to reliably detect and size flaws.

Requested Information

Within 90 days of the date of this generic letter, addressees are requested to submit a written summary report that includes the following:

1. A brief description of the addressee's evaluation of its ISI program, its determination regarding the capability of its current program to reliably detect and size flaws, and corrective actions taken (if any) in response to the requested actions above.
2. If the addressee is not using and does not plan to use the criteria in Appendix VIII of the ASME Code Section XI or other performance-based methods for the qualification of ISI activities, then provide a discussion of any plans for ensuring the effectiveness of current UT systems in detecting and sizing flaws in the reactor vessel and safety-related piping.
3. If the addressee is using or plans to use Appendix VIII for the qualification of ISI activities, then discuss the extent to which the equipment, procedures, and examiners in your ISI program for the reactor vessel and safety-related piping are (or will be) qualified using Appendix VIII criteria or other performance-based methods. Include in this discussion a description of any alternate examination methods (i.e., IWA–2240 of ASME Code Section XI) in your ISI program that use Appendix VIII or other performance-based examination methods as allowed in applicable sections of 10 CFR 50.55a for inspecting the reactor vessel and safety-related piping.

Required Response

Within 30 days of the date of this generic letter, addressees are required to submit a written response indicating: (1) Whether or not the requested actions will be completed, (2) whether or not the requested information will be submitted, and (3) whether or not the requested information will be submitted within the requested time period.

Addressees who choose not to complete the requested actions, or choose not to submit the requested information, or are unable to satisfy the requested completion date, must describe in their response any alternative course of action that is proposed to be taken, including the basis for establishing the acceptability of the proposed alternative course of action. [For addressees that fail to have or implement appropriate qualification methods for future UT examinations where subsequent inspections find previously unidentified or improperly dispositioned flaws, the staff will consider whether such circumstances (a) are the result of failing to adequately take into account the need for special controls, skills and training needed to ensure suitable proficiency in the conduct of UT examinations contrary to the requirements of Criterion II, Quality

Assurance Program, of Appendix B "Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants," of 10 CFR Part 50; and/or (b) represent inadequate corrective action for known inadequacies contrary to the requirements of Criterion XVI, Corrective Action, of Appendix B, of 10 CFR Part 50.]

Address the required written responses to the U.S. Nuclear Regulatory Commission, *ATTN:* Document Control Desk, Washington, D.C. 20555–0001, under oath or affirmation under the provisions of Section 182a, Atomic Energy Act of 1954, as amended, and 10 CFR 50.54(f). In addition, send a copy to the appropriate regional administrator.

Related Generic Communications

(1) Information Notice 96–32, "Implementation of 10 CFR 50.55a(g)(6)(ii)(A), Augmented Examination of Reactor Vessel," June 5, 1996.

(2) Information Notice 93–20, "Thermal Fatigue Cracking of Feedwater Piping to Steam Generators," March 24, 1993.

(3) Generic Letter 88–01, "NRC Position on IGSCC in BWR Austenitic Stainless Steel Piping," January 25, 1988.

Backfit Discussion

This generic letter transmits an information request pursuant to the provisions of Section 182a of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.54(f) to determine if licensees are taking appropriate action to qualify future UT examinations. To the extent that the actions requested in this letter may result in corrective actions taken by addressees that are considered backfits, the backfits are justified under the compliance exception of the backfit rule, i.e., 10 CFR 50.109 (a)(4)(i).

Dated at Rockville, Maryland, this 23rd day of December, 1996.

For the Nuclear Regulatory Commission.

David B. Matthews,

Acting Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 96–33249 Filed 12–30–96; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38077; File No. SR–Amex–96–43]

Self-Regulatory Organizations; Order Granting Accelerated Approval of a Proposed Rule Change by the American Stock Exchange, Inc., Relating to Extending Trading Hours to Permit the Execution of Matched Orders for Exchange-Listed Securities Which Are Part of a Basket Trade Being Done in Large Part on the New York Stock Exchange's Crossing Session II

December 23, 1996.

I. Introduction

On November 12, 1996, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed a proposed rule change with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] to extend its trading hours to permit the execution of aggregate-price orders for Exchange-listed securities which are part of a basket trade being done in large part on the New York Stock Exchange's ("NYSE") Crossing Session II.

Notice of the proposal was published for comment and appeared in the **Federal Register** on November 26, 1996.[3] No comment letters were received on the proposed rule change. This order approves the Exchange's proposal, on an accelerated basis.

II. Description of the Proposal

When the Exchange implemented an After-Hours Trading ("AHT") facility for single-sided and matched closing price orders,[4] it determined that it would not, at that time, establish an after-hours crossing session for aggregate-price basket trades similar to the NYSE's Crossing Session II.[5] Some member organizations, however, have noted that the Exchange's lack of such a facility has impaired their ability to effect program trades which include Amex-listed stocks. For example, if a firm wanted to do an after-hours program trade based on the S&P 500 Index, it would cross the component stocks listed on the NYSE during Crossing Session II; it would cross those listed on Nasdaq in-house; but it would have to cross most of the Amex-listed component stocks overseas. Because most of the Amex-listed stocks included in the S&P 500 Index are not 19c–3 securities (that is, they were exchange-listed on or prior to April 26, 1979), Exchange Rule 5 (Off Board Trading) applies and prohibits member firms from acting as principal in an upstairs trade in these securities executed in the United States. Due to the time differences, the Exchange believes that executing the Amex component of the basket trade overseas creates administrative difficulties and increased costs for member firms engaging in these transactions.

The Exchange is proposing to create a facility to permit members and member organizations to execute on the Exchange, after normal trading hours, aggregate-price orders for Amex-listed securities which are part of a larger aggregate-price basket trade otherwise being done in the NYSE's Crossing Session II.[6] Operationally, the Exchange's AHT facility for aggregate-price orders would work in the same manner as the NYSE's Crossing Session II. The Exchange's AHT facility for aggregate-price orders would be available from 4 p.m. to 5:15 p.m. (New York p.m. (New York time). After the

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] See Securities Exchange Act Release No. 37965 (November 19, 1996), 61 60135 (November 26, 1996) ("Release No. 37965").

[4] See Securities Exchange Act Release Nos. 29515 (August 2, 1991), 56 FR 37736 (August 8, 1991); 23263 (May 25, 1993), 58 FR 31558 (June 3, 1993); 33561 (February 1, 1994), 59 FR 5789 (February 8, 1994); and 33993 (May 2, 1994), 59 FR 23902 (May 9, 1994).

[5] As part of its overall after-hours trading plan, the NYSE created a facility for the execution of aggregate-price basket orders involving at least 15 NYSE-listed securities with an aggregate minimum value of one million dollars ("Crossing Session II"). In this facility, which is available from 4:00 p.m. to 5:15 p.m., New York time, a member transmits matched buy and sell orders to the NYSE on a facsimile form listing the number of stocks and shares to be traded and the total dollar value of the basket trade. Transactions effected during Crossing Session II are aggregated and reported on Tape A as an administrative message at the close of the session. Only the aggregate share volume and dollar amount of all programs executed during the session are reported. No reports are printed with respect to the individual stocks comprising the baskets. Notwithstanding the foregoing, members and member organizations effecting trades in Crossing Session II are required to submit to the NYSE's Market Surveillance by T+3 the names and the number of shares of each NYSE-listed stock comprising each basket. *See* Securities Exchange Act Release Nos. 33992 (May 2, 1994), 59 FR 23907 (May 9, 1994); and 29237 (May 31, 1991), 56 FR 24853 (June 3, 1991) ("NYSE Crossing Session II Approval Orders").

[6] The Exchange anticipates commencing operation of the facility no earlier than January 2, 1997. The Exchange will provide notice to, and educate, its membership regarding the rules of the facility prior to their implementation. See Letter from William Floyd-Jones, Assistant General Counsel, Legal & Regulatory Policy Division, Amex, to John Ayanian, Attorney, Office of Market Supervision ("OMS"), Division of Market Regulation ("Market Regulation"), Commission, dated December 18, 1996 ("Date of Implementation Letter").

close of the 9:30 a.m. to 4 p.m. trading session, dual Amex/NYSE members and member organizations using the facility would transmit to the NYSE Service Desk a facsimile form to which would specify the number of stocks, aggregate number of shares and the dollar value of the securities to be crossed. NYSE personnel will review the order, and if eligible, execute the NYSE portion of the basket. NYSE Service Desk personnel then will fax the order to the Amex Service Desk. Amex personnel will review the order and execute the Amex portion of the basket.[7] The trade would be executed, and a report transmitted by facsmile to the initiating firm. At the end of the session (5:15 p.m. New York time) the total number of shares[8] and the dollar value of all baskets traded during the session would be aggregated separately by Amex and NYSE personnel for their respective Exchange-listed and NYSE-listed components of the baskets, and the totals would be transmitted to the SIAC for publication on the "Tape" as administrative messages. A print of the NYSE listed portion of the basket would appear on Tape B reflecting the Exchange-listed portion of the basket transactions.

On T+3 members will report to the Exchange the names and number of shares of each Amex-listed stock included in the basket. On T+4, the Exchange will publish this information in its Daily Sales Report.

The Amex will waive all transaction fees in connection with the execution of aggregate price orders for Amex-listed securities which are part of an aggregate-price basket trade otherwise being done in the NYSE's Crossing Session II.

III. Commission Finding and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5)[9] and 11A[10] of the Act. The Commission believes that the Exchange's proposal to extend its trading hours to permit the execution of matched orders for Exchange-listed securities which are part of a basket trade being done in large part on the NYSE Crossing Session II, is reasonably designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, and remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Commission believes that the Exchange's proposal will benefit investors by providing members and member organizations the ability to cross the Amex component(s) of the larger basket trade on the Exchange's AHT facility. The Commission notes that for the Amex-listed portion of the basket to be eligible for execution as an aggregate price order on the Exchange's AHT facility, as proposed herein, the larger basket must be eligible for NYSE's Crossing Session II,[11] and submitted for execution as an aggregate-price order in that exchange's Off-Hours Trading Facility.

Although the execution of an aggregate-price order on the Exchange's AHT facility does not provide a traditional auction market for basket trades, the reality of the marketplace is that these trades currently are being effected off-exchange and, frequently, overseas. By bringing these institutional trades within the purview of U.S. regulatory bodies, the marketplace and the investing public generally benefits, for example, through the Commission and Exchange oversight, trade reporting, and consolidated surveillance.

The Amex has also requested exemptive relief from the requirement of Rule 11Aa3–1(b)(2)(iv) under the Act that the Exchange disseminate on a consolidated basis trading volume for each of the Amex-listed component securities in the aggregate-price order executed on the Exchange's AHT facility.[12] The Amex has proposed a plan under which the Exchange would collect the required trade detail information by T+3 and would publish this information in the Daily Sales Report on T+4. The Commission staff is currently reviewing the Exchange's request for exemptive relief from certain provisions of Rule 11Aa3–1(b)(2)(iv) under the Act. The Commission's approval of the proposed rule change is contingent upon the Commission's granting of the necessary Rule 11Aa3–1(b)(2)(iv) exemptive relief.

The Amex also requested an exemption from Rule 10a–1 under the Act to permit, subject to certain conditions, short sales of certain orders during the AHT session without complying with the "tick" provisions of the Rule.[13] The Commission is currently reviewing the Exchange's request.

The Commission expects the Exchange, through the use of its surveillance procedures, to monitor for, and report to the Commission, any patterns of manipulation or trading abuses or unusual trading activity resulting from the AHT facility.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission notes that Exchange represents that operationally, the Exchange's AHT facility for aggregate-price orders would work in the same manner as the NYSE's Crossing Session II, which the Commission approved in 1994.[14] The Commission also notes that the Exchange will implement the AHT facility for aggregate-price orders no earlier than January 2, 1997.[15] The Commission believes that by granting accelerated approval the Exchange may, in a timely manner, notify and educate its membership regarding the rules of the AHT facility approved in this release, prior to their implementation. Additionally, no comments were received on the proposal, which was subject to the full 21 day notice and comment period.[16]

Accordingly, the Commission believes it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve the proposed rule change on an accelerated basis.

IV. Conclusion

Based on the foregoing, the Commission finds that approval of the Exchange's proposal to extend its

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[7] See Letter from William Floyd-Jones, Assistant General Counsel, Legal & Regulatory Policy Division, Amex, to John Ayanian, Attorney, OMS, Market Regulation, Commission, dated December 10, 1996 ("Amex Letter").

[8] The Amex erroneously indicated in its original filing that the number of stocks in the basket would be transmitted to the Securities Industry Automation Corporation ("SIAC") for publication on the Tape as administrative text messages. The Amex states that, as is currently the case with NYSE's Crossing Session II facility, only the total number of shares and dollar value of such shares in the basket will be transmitted to SIAC on trade date for dissemination. *See* Amex Letter, *supra* note 7.

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78k–1.

[11] See NYSE Crossing Session II Approval Orders, *supra* note 5.

[12] See Letter from William Floyd-Jones, Assistant General Counsel, Legal & Regulatory Policy Division, Amex, to Larry Bergmann, Senior Associate Director, Office of Risk Management and Control, Market Regulation, Commission, dated November 11, 1996 ("Exemptive Relief Letter").

[13] See Exemptive Relief Letter, *supra* note 12. See also Letter from William Floyd-Jones, Assistant General Counsel, Legal & Regulatory Policy Division, Amex, to Blair Corkran, Senior Special Counsel, Office of Risk Management and Control, Market Regulation, Commission, dated December 4, 1996.

[14] See NYSE Crossing Session II Approval Orders, *supra* note 5.

[15] See Date of Implementation Letter *supra* note 6.

[16] See Release No. 37965, *supra* note 3.

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trading hours to permit the execution of aggregate-price orders for Exchange-listed securities which are part of a basket trade being done in large part on the New York Stock Exchange's ("NYSE") Crossing Session II is consistent with the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (File No. SR–Amex–96–43) is approved, contingent upon the Commission's granting of the necessary Rule 11Aa3–1(b)(2)(iv) exemptive relief, on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–33272 Filed 12–30–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38080; File No. SR–CBOE–96–78]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to Circuit Breaker Halts

December 23, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 18, 1996, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change relating to certain market-wide circuit breaker provisions as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend CBOE Rule 6.3B (Trading Halts Due to Extraordinary Market Volatility—"circuit breakers") to increase the levels of decline in the Dow Jones Industrial Average ("DJIA")[3] that would trigger a trading halt on the Exchange pursuant to that Rule.

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set for in sections (A), (B), and (C) below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to conform the circuit breaker trading halt procedures of the CBOE to the circuit breaker trading halt procedures of the New York Stock Exchange, Inc. ("NYSE"), as such procedures are currently proposed to be amended by the NYSE. CBOE Rule 6.3B, which sets forth the CBOE's circuit breaker trading halt procedures, currently contains substantially the same provisions as are contained in NYSE Rule 80B, which sets forth the NYSE's circuit breaker trading halt procedures. On December 11, 1996, the NYSE submitted a rule filing to the Commission designated as File No. SR–NYSE–96–38, which proposed to modify the NYSE's circuit breaker trading halt procedures by proposing to amend NYSE Rule 80B. The CBOE's proposed amendments to Rule 6.3B are intended to maintain the conformity between the circuit breaker trading halt procedures of the CBOE and the NYSE by proposing to amend Rule 6.3B in the same manner that the NYSE is proposing to amend NYSE Rule 80B in File No. SR–NYSE–96–38.

CBOE Rule 6.3B currently provides, in part, that if the DJIA falls 250 or more points below its previous trading day's closing value, trading in all securities on the Exchange will halt for thirty minutes. It further provides that, if on the same day the DJIA drops 400 or more points from its previous trading day's close, trading on the Exchange will halt for one hour. In conformity with the NYSE, the Exchange is now proposing to amend CBOE Rule 6.3B to increase the foregoing circuit breaker levels from 250 points to 350 points and from 400 points to 550 points.

In conformity with the NYSE, the adoption of amendments to CBOE Rule 6.3B would be contingent upon the adoption of amended rules or procedures substantively identical to CBOE Rule 6.3B by (i) all United States stock exchanges and the National Association of Securities Dealers with respect to the trading of stocks, stock options, and stock index options; and (ii) all United States futures exchanges with respect to the trading of stock index futures and options on such futures.

The CBOE's proposed amendments to Rule 6.3B will serve to maintain the coordinated approach of the NYSE, the CBOE, and other markets to trading halt procedures that are applicable during large, rapid market declines. Various studies of the October, 1987 market break noted that the stock, options, and futures markets are interrelated. And, in addition, the Exchange recognizes the Commission's desire to have coordinated mechanisms across these markets to deal with potential strains that may develop during periods of extreme downward volatility.[4] Such a coordinated approach is also in accordance with the recommendations contained in the Report of the Presidential Task Force on Market Mechanisms, which recommended, among other things, that circuit breaker mechanisms, in order to be effective, need to be coordinated across stock, stock index futures, and options markets in order to prevent intermarket problems of the kind experienced in October, 1987.[5]

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that amending Rule 6.3B is consistent with these objectives, in that an all-market circuit breaker trading halt requirement at appropriate levels can be

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[17] 15 U.S.C. 78s(b)(2).

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] "Dow Jones Industrial Average" is a service mark of Dow Jones & Company, Inc.

[4] See Securities Exchange Act Release No. 26198 (October 18, 1988), 53 FR 41637 (October 24, 1988) (Commission order approving proposed rule changes of the CBOE, the National Association of Securities Dealers, Inc., the NYSE, and the American Stock Exchange, Inc. relating to market circuit breakers).

[5] See *Id.* (citing Report of the Presidential Task Force on Market Mechanisms).

expected to promote stability and investor confidence during a period of significant stress by providing market participants with a reasonable opportunity to become aware of and respond to significant price movements, thereby facilitating, in an orderly manner, the maintenance of an equilibrium between buying and selling interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Soliciation of Comments

Interest persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–96–78 and should be submitted by January 21, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–33269 Filed 12–30–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38082; File No. SR–CHX–96–27]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Permanent Approval of Its Pilot Program for Automatic Execution of Limit Orders

December 24, 1996.

I. Introduction

On October 15, 1996, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change seeking permanent approval of its system enhancement relating to the automatic execution of non-marketable limit orders.

Notice of the proposed rule change, together with the substance of the proposal, was provided by issuance of a release,[3] and by publication in the **Federal Register**.[4] No comments were received. This order approves the proposed rule change.

II. Description of the Proposal

The rule change approved today provides permanent approval of the Exchange's system enhancement relating to the automatic execution of non-marketable limit orders. On July 12, 1995, the Commission approved this system enhancement on a pilot basis, with an expiration date of July 31, 1996.[5] The pilot program was extended in a subsequent Commission approval order and is currently scheduled to expire on December 31, 1996.[6] In the Pilot Approval Order, as amended by the Pilot Extension Order, the Commission requested that the CHX provide a report to the Commission, by August 31, 1996, describing its experience with the pilot program. This report has been submitted to the Commission.

The proposed system enhancement ("Auto-Ex") is a feature of the Exchange's automated execution system ("MAX") that CHX specialists may voluntarily choose to activate to execute automatically non-marketable limit orders[7] on the specialist's book. Auto-Ex operates by comparing the size of the CHX-entered limit order against the amount of stock ahead of that order in the primary market when the issue is trading in the primary market at the limit price. The Auto-Ex System begins comparing CHX-entered limit orders when the order's limit price equals the bid (for a limit order to buy) or offer (for a limit order to sell) quoted in the primary market.[8] Thereafter, the Auto-Ex system keeps track of all prints in the primary market and automatically executes the limit order once the required size prints in the primary market.[9] As additional limit orders at the same price are received by the specialist, comparisons are made and entered based upon the shares ahead of those limit orders at the time of receipt, including shares ahead on the CHX. The Auto-Ex feature does not permit a limit order to be filled out of sequence.

The Auto-Ex feature executes limit orders in accordance with existing CHX

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[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] See Securities Exchange Act Release No. 37946, November 13, 1996.

[4] See 61 FR 59263, November 21, 1996.

[5] See Securities Exchange Act Release No. 35962 (July 12, 1995), 60 FR 37115 (July 19, 1995) (File No. SR–CHX–95–11) ("Pilot Approval Order").

[6] See Securities Exchange Act Release No. 37442 (July 16, 1996), 61 FR 38491 (July 24, 1996) (File No. SR–CHX–96–18) ("Pilot Extension Order").

[7] A limit order is an order to buy or sell a stated amount of a security at a specified price or at a better price. A limit order is called "marketable" when the prevailing best offer (bid) is equal to or less (greater) than the limit buy (sell) order price.

[8] For example, if the primary market quotation is ¼ bid, ½ offered, 4,000 shares bid and 4,000 shares offered, and a CHX specialist receives a limit order to buy 2,000 shares for ⅛, that limit order will not be compared against the amount of stock ahead of the order in the primary market until such time as the ¼ bid is exhausted and the ⅛ bid becomes the best bid. At that time, the size which is disseminated with the ⅛ bid is the size against which the limit order is compared for Auto-Ex purposes.

[9] For example, assume a CHX specialist receives an agency limit order to buy 2,000 shares of ABC at ½. The primary market quotation is ½ bid, ¾ offered, 5,000 shares bid and CHX order. The Auto-Ex will automatically execute the entire CHX limit 5,000 shares offered, meaning there are 5,000 shares ahead of the order after 7,000 shares print at ½ or better in the primary market. However, when more than 5,000 but less than 7,000 shares print at ½ in the primary market, the order will be flagged with a flashing prompt to alert the specialist that the order may be due at least a partial fill. See CHX Article XX, Rule 37(a) governing primary market protection of certain limit orders.

rules.[10] Auto-Ex is available for all dually traded issues; however, specialists are permitted to choose Auto-Ex on an issue by issue basis.[11] Generally, however, Auto-Ex has been used by specialists for issues which, based on experience, have demonstrated reliable and accurate quotes in the primary market. Limit orders not subject to Auto-Ex will be "flagged" with a prompt to alert the specialist that a fill may be due. The proposal to establish an Auto-Ex feature applies only to non-marketable limit orders. It is not applicable to marketable limit orders or to market orders.

The Exchange states that the purpose of the proposed rule change is to further automate the CHX's trading floor functions, and to improve the CHX's performance in filling limit orders. By providing for automatic execution of limit orders in accordance with existing Exchange rules, the Exchange states that it is eliminating the need for the manual operation required of specialists in determining when and to what extent limit orders are due fills based on primary market prints. The Exchange notes that the manual effort expended by specialists in filling limit orders that are entitled to primary market protection is often time-consuming and can result in errors, particularly when there is heavy trading volume. The Exchange believes that the present proposal will, therefore, directly benefit customers because it will result in more timely fills while eliminating errors resulting from manual execution.

The Exchange also states that the Auto-Ex feature will not change or amend any CHX trading rules, nor will it cause or allow limit orders to be filled under different parameters than under existing rules. Auto-Ex only automates the manner in which limit orders are filled. The Exchange states that it will continue to monitor specialist execution of limit orders through the Market Regulation/Surveillance Department. In addition CHX specialists will continue to be responsible for their books to the same degree as they are now under the manual execution system for limit orders.

[10] Further, the Exchange has stated that the recent adoption of the Order Execution Obligations (Securities Exchange Act Release No. 37619 (August 29, 1996), 61 FR 48290 (September 12, 1996)) will have no impact or effect on the proposed rule change. See Letter from J. Craig Long, Foley & Lardner to Janice Mitnick, Division of Market Regulation, SEC, dated November 8, 1996.

[11] The CHX will limit a specialist's ability to activate and deactivate Auto-Ex by: (1) only permitting a specialist to deactivate Auto-Ex on a certain day each month, which is determined from time to time by the Exchange; and (2) requiring that issues remain on Auto-Ex for a minimum of five trading days.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[12] Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest. The Commission believes that the proposed rule change to provide for the automatic execution of non-marketable limit orders should result in prompt execution of such orders on the Exchange and reduce errors caused by manual execution of limit orders that are entitled to primary market protection, especially during periods of heavy trading volume.

In the Pilot Approval Order, the Commission noted several items to be addressed prior to implementation of the pilot on a permanent basis. The Commission sought clarification regarding the basis upon which issues would be added and removed from Auto-Ex. The Commission also requested clarification that manually-executed limit orders and Auto-Ex limit orders receive an identical quality of execution. Finally, the Commission expressed an interest regarding the length of time between a print in the primary market and the resulting fill on CHX for both issues included in Auto-Ex and those issues not included in Auto-Ex.

In order to address the items noted by the Commission, the Exchange submitted a report summarizing data gathered during the pilot period.[13] The Exchange stated that during the reporting period, five of the 348 issues participating in the pilot were removed. Of those issues removed, three had been added to the pilot in error[14] and two were removed at the specialist's request due to a high volume of activity on the primary market. According to the report submitted by the Exchange, specialists seem to be biased against including issues in Auto-Ex which generate large size orders. The Exchange stated that it believes this bias is due to the fact that the maximum quote size that CQS can disseminate is 99,900. For example, if a specialist on the primary market has a limit order on the book for 400,000, only 99,900 appears on the CHX system. Therefore, once the CHX system registered the execution of 99,900 shares on the primary market, executions would occur on Auto-Ex while more than 300,000 in limit orders still remained in the primary market limit order book. Further, these executions would occur when CHX rules did not yet require the order to be filled.[15] Therefore, to avoid automatic executions when an order fill was not yet required, some specialists for issues which generated larger size orders requested that those issues be removed from Auto-Ex.

The Exchange reported that the length of time between a print in the primary market and an Auto-Ex was less than one second. Further, according to the Exchange report, the length of time between a print in the primary market and a manual CHX order fill averaged 11.623 minutes. The Exchange stated in the report that fifty percent of the manually filled orders are executed in 1½ minutes or less. Although the submitted data appears to suggest that the execution of some manually-executed limit orders was delayed for several hours, the Exchange has confirmed that these orders were not executed late; rather, the prompt to execute was actually premature due to the fact that an order of more than 99,900 shares (in the primary market) was ahead of the CHX order.[16]

The Commission believes that the Exchange reports adequately addresses the potential issues identified by the Commission in the Pilot Approval Order. Specifically, the Commission finds that the report indicates that issues participating in Auto-Ex during the pilot period were added and removed in a fair and non-discriminatory manner. Further the Commission finds that it does not appear that the method of selection of issues for participation in Auto-Ex raised concerns regarding manipulation.

[12] 15 U.S.C. 78f(b).

[13] The report includes data gathered from April 7, 1996 through July 25, 1996. Phone conversation between David Rusoff, Foley & Lardner and Janice Mitnick, SEC on December 16, 1996.

[14] In one case, a stock ticker symbol was incorrectly entered. The other two errors resulted from outdated information. Generally, firms participating in the pilot requested that the Exchange include all of their specialists in the pilot. One error resulted from the addition of an issue marketed by a specialist who had was no longer with the firm requesting participation in AutoEx. Additionally, if a specialist chose to participate in AutoEx, the specialist usually placed all of his or her stocks in the pilot. One error resulted from the fact that the specialist who chose to participate AutoEx was no longer a market maker in the erroneously added stock. Phone conversation between David Rusoff, Foley & Lardner and Janice Mitnick, SEC on December 16, 1996.

[15] See CHX Article XX, Rule 37(a)(3)(c).

[16] See *Id.*

The only factor noted in the report which created a bias regarding the issues selected for inclusion in Auto-Ex appears to be the result of the size limitations of the CQS. As discussed above in detail, the size limitation of CQS, combined with issues which generate large orders, could result in fills being generated on Auto-Ex before the CHX rules require a fill to occur. Finally, the Commission finds that the report data indicates that executions on Auto-Ex are timely, occurring in 1½ minutes or less, and, in most cases, faster than manual executions for issues not included on Auto-Ex. As discussed above, the Commission believes that the proposed rule change should result in prompt execution of non-marketable limit orders and reduce errors caused by manual execution of limit orders that are entitled to primary market protection, especially during periods of heavy trading volume.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (SR–CHX–96–27) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–33270 Filed 12–30–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38078; File No. SR–NYSE–96–37]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposal by the New York Exchange, Inc. Regarding the Limitation of Liability for Use of Facilities

December 23, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 10, 1996, the New York Stock Exchange, Incorporated ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[17] 15 U.S.C. 78s(b)(2).

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to clarify that transactions in baskets that include American Stock Exchange, Inc. ("Amex") listed securities effected through NYSE Crossing Session II are deemed to constitute use of Exchange facilities, as described in Article II, Section 6 of the NYSE Constitution. The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Section (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NYSE Crossing Session II permits members and member organizations to cross multi-stock baskets between 4:00 p.m. and 5:15 p.m. New York time. Baskets must include at least 15 NYSE-listed stocks with an aggregate value of $1 million or more.

The Amex has filed with the Commission a proposed rule change to extend its trading hours to permit the execution of "aggregate-price orders" for Amex-listed securities which are part of a basket being done in large part through the exchange's Crossing Session II.[3] Once approved, the Amex rule change will allow dual NYSE/Amex members and member organizations contemporaneously to execute on the NYSE, the NYSE-listed portion of a basket and on the Amex, the Amex-listed portion of the basket.

To facilitate contemporaneous execution, the NYSE will accept the entire basket order and forward to the Amex the Amex-listed portion of the basket order, provided that the member or member organizations submitting the order is a member of both the NYSE and the Amex. The Amex will execute the Amex portion, report it to the "Tape" and back to the member or member organization, and facilitate any regulatory reports that may be required of the member or member organization with respect to the Amex portion.

The Exchange proposes to clarify that Article II, Section 6 of the NYSE Constitution shall, in addition to all other applications, also apply to any transaction, notice or communication effected through or arising in connection with NYSE Crossing Session II. This includes, but is not limited to, transactions, notices or communications involving a basket consisting of both Exchange-listed securities and securities listed on the Amex. This shall not preclude the applicability of any other provision of the Constitution or Rules that would serve to limit the liability of the Exchange for use by its members and member organizations of Exchange facilities.

The Exchange believes that the proposal is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to promote just and equitable principles of change, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change constitutes a stated interpretation with respect to the meaning, administration, or enforcement of an existing rule, it has become effective pursuant to section 19(b)(3)(A), and Rule 19b-4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and

[3] See Securities Exchange Act Release No. 37965 (November 19, 1996), 61 FR 60135 (November 26, 1996) (File No. SR–Amex–96–43).

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arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and coping at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to SR–NYSE–96–37 and should be submitted by January 21, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–33273 Filed 12–3–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38075; File No. SR–NYSE–96–35]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Incorporated Relating to a One-Time Fee for Additional Specialist Principal Activity Reporting System ("SPAR") Feed Lines

December 23, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 5, 1996, the New York Stock Exchange, Incorporated ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[4] 17 CFR 200.30–3(a)(12).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule establishes a one-time fee for additional Specialist Principal Activity Reporting System ("SPAR") feeds. The proposed implementation date for the fee is December 9, 1996.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to respond to the needs of NYSE's constituents with respect to overall competitive market conditions and customer satisfaction.

The SPAR system provides the specialists with information about their daily trading activity. Due to current design limitations, a specialist can only receive information from one feed which the NYSE provides free of charge to any specialist firm that requests it. Since information is required by various locations, the NYSE has developed a system which can provide the information to up to four different remote member firm addresses. Any specialist firm requesting from one to three additional SPAR feeds would pay a one-time fee of $10,000.00 for the additional feeds. This charge will cover incremental design and development work required to support this effort, as well as any on-site communications work required at the member firm's location. Circuits and line costs, and any telecommunications maintenance are provided by other vendors and are the responsibility of each specialist firm, not the New York Stock Exchange.

2. Statutory Basis

The basis for the proposed rule change is the requirement under Section 6(b)(4) of the Act[1] that an Exchange have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its services.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective upon filing pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder.[2] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No.

[1] 15 U.S.C. 78f(b)(4).

[2] 15 U.S.C. 78s(b)(3)(A) and 17 CFR 19b–4(e).

SR–NYSE–96–35 and should be submitted by January 21, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–33271 Filed 12–30–96; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice No. 2496]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea and Associated Bodies Working Group on Stability and Load Lines and on Fishing Vessels Safety; Notice of Meeting

The Working Group on Stability and Load Lines and on Fishing Vessels Safety of the Subcommittee on Safety of Life at Sea will conduct an open meeting at 9 a.m. on Thursday, January 16, 1997, in Room 6103, at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001. This meeting will discuss the upcoming 41st Session of the Subcommittee on stability and Load Lines and on Fishing Vessels Safety (SLF) and associated bodies of the International Maritime Organization (IMO) which will be held on January 26–30, 1998, at the IMO Headquarters in London, England.

Items of discussion will include the following:

a. Development of Model Stability Booklets and Loading Manuals at the IMO,

b. Harmonization of damage stability provisions in the IMO instruments,

c. Tanker stability follow up from SLF 40 and MSC 67, and

d. Safety aspects of ships engaged in a ballast water exchange.

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing: Mr. Paul Cojeen, U.S. Coast Guard Headquarters, Commandant (G–MSE–2), Room 1308, 2100 Second Street, SW., Washington, DC 20593–0001 or by calling (202) 267–2988.

Dated: December 26, 1996.

Russell A. LaMantia,

Chairman, Shipping Coordinating Committee.

[FR Doc. 96–33257 Filed 12–30–96; 8:45 am]

BILLING CODE 4710–07–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Sector Advisory Committee for Aerospace Equipment (ISAC 1)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of meeting.

SUMMARY: The Industry Sector Advisory Committee for Aerospace Equipment (ISAC 1) will hold a meeting on January 15, 1997 from 9:00 a.m. to 2:00 p.m. The meeting will be open to the public from 11:45 a.m. to 12:05 p.m.

DATES: The meeting is scheduled for January 15, 1997, unless otherwise notified.

ADDRESSES: The meeting will be held at the Department of Commerce in Room 4830, located at 14th Street and Constitution Avenue, NW., Washington, DC, unless otherwise notified.

FOR FURTHER INFORMATION CONTACT: Fred Elliott, Department of Commerce, 14th St. and Constitution Ave., NW., Washington, DC 20230, (202) 482–1233 or Suzanna Kang, Office of the United States Trade Representative, 600 17th St. NW., Washington, DC 20508, (202) 395–6120.

SUPPLEMENTARY INFORMATION: The ISAC 1 will hold a meeting on January 15, 1997 from 9:00 a.m. to 2:00 p.m. The meeting will include a review and discussion of current issues which influence U.S. trade policy. Pursuant to Section 2155(f)(2) of Title 19 of the United States Code and Executive Order 11846 of March 27, 1975, the Office of the U.S. Trade Representative has determined that part of this meeting will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to the operation of any trade agreement and other matters arising in connection with the development, implementation and administration of the trade policy of the United States. During the discussion of such matters, the meeting will be closed to the public from 9:00 a.m. to 11:45 a.m. and 12:05 p.m. to 2:00 p.m. The meeting will be open to the public and press from 11:45 a.m. to 12:05 p.m. when other trade policy issues will be discussed. Attendance during this part of the meeting is for observation only. Individuals who are not members of the committee will not be invited to comment.

Phyllis Shearer Jones,

Assistant United States Trade Representative, Intergovernmental Affairs and Public Liaison.

[FR Doc. 96–33291 Filed 12–30–96; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for reinstatement, without change, of a previously approved collection for which approval has expired. The ICR describes the nature of the information collection and its expected burden. The Federal Register Notice soliciting comments on the following collection of information was published on August 28, 1996 [61 FR 44392].

DATES: Comments must be submitted on or before January 30, 1997.

FOR FURTHER INFORMATION CONTACT: Edward Kosek, (202) 366–2590, and refer to the OMB Control Number.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration (NHTSA)

Title: 49 CFR Part 575—Consumer Information Regulations.

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

OMB Control Number: 2127–0049.

Form Number: N/A.

Affected Public: Motor vehicle manufacturers.

Abstract: NHTSA must ensure that motor vehicle manufacturers comply with 49 CFR Part 575, Consumer Information Regulation Part 575.103—Truck-camper loading and Part 575.105—Utility Vehicles. Part 575.103 (Truck-camper loading) requires that manufacturers of light trucks that are capable of accommodating slide-in campers to provide information on the cargo weight rating and the longitudinal limits within which the center of gravity

for the cargo weight rating should be located. Part 575.105 (Utility vehicles) requires that manufacturers of utility vehicles affix a sticker in a prominent location alerting drivers that the particular handling and maneuvering characteristics of utility vehicles require special driving practices when these vehicles are operated.

Need and Use of the Information: In order to ensure that motor vehicle manufacturers are complying with 49 CFR Part 575, and to provide performance and safety information to new vehicle purchases.

Annual Estimated Burden: The total estimated annual burden is 225 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW, Washington, DC 20503, Attention DOT Desk Officer.

Comments are Invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on December 23, 1996.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 96–33297 Filed 12–30–96; 8:45 am]

BILLING CODE 4910–62–P

Surface Transportation Board

[STB Docket No. AB–480X]

K & E Railway Company—Abandonment Exemption—in Alfalfa, Garfield, and Grant Counties, OK, and Barber County, KS

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10502, the Board exempts the abandonment by K & E Railway Company of its entire 57.69-mile rail line, between milepost 0.60, at or near Kiowa, in Barber County, KS, and milepost 56.98, at or near Blanton, in Garfield County, OK, and between milepost 299.88 and milepost 301.19, near Cherokee, in Alfalfa County, OK, from the prior approval requirements of 49 U.S.C. 10903, and the abandonment of 5.69 miles of the right-of-way between milepost 18.82 and milepost 23.20, and between milepost 299.88 and milepost 301.19, from the offer of financial assistance (OFA) requirements of 49 U.S.C. 10904 and the public use requirements of 49 U.S.C. 10905, subject to historic preservation and environmental conditions.

DATES: With respect to the two line segments exempted from 49 U.S.C. 10904–05, the exemption will be effective on December 31, 1996, and petitions to reopen must be filed by January 27, 1997. With respect to the remainder of the line, provided no formal expression of intent to file an OFA is received, this exemption will be effective on January 30, 1997, formal expressions of intent to file an OFA [1] under 49 CFR 1152.27(c)(2) and requests for a notice of interim trail use/rail banking under 49 CFR 1152.29 must be filed by January 10, 1997; petitions to stay must be filed by January 10, 1997; requests for public use conditions in conformity with 49 CFR 1152.28(a)(2) must be filed by January 21, 1997; and petitions to reopen must be filed by January 27, 1997.

ADDRESSES: Send pleadings referring to STB Docket No. AB-480X to: (1) Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Ave., N.W., Washington, DC 20423, and (2) Petitioner's representative: Karl Morell, Ball Janik LLP, Suite 225, 1455 F St. N.W., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., Room 2229, 1201 Constitution Avenue, N.W., Washington, DC 20423. Telephone: (202) 289 4357–4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: December 23, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–33275 Filed 12–30–96; 8:45 am]

BILLING CODE 4915–00–P

[1] See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[STB Docket Nos. AB–3 (Sub-No. 139X); STB Docket No. AB–423 (Sub-No. 2X)]

Missouri Pacific Railroad Company—Abandonment and Discontinuance Of Operations Exemption—In Houston, Harris County, TX; Houston Belt & Terminal Railway Company—Discontinuance of Operations Exemption—In Houston, Harris County TX

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10502, the Board exempts Missouri Pacific Railroad Company and Houston Belt & Terminal Railway Company from the prior approval requirements of 49 U.S.C. 10903 to permit them, respectively, to abandon and discontinue operations and discontinue operations over a 0.52-mile rail segment of the Columbia Tap Branch (Columbia Tap) extending from the end of the line at E.S. 261+00 to E.S. 288+60 near Houston, [1] and from the offer of financial assistance requirements of 49 U.S.C. 10904 and the public use requirements of 49 U.S.C. 10905, subject to standard employee protective conditions.

DATES: This exemption is effective December 31, 1996. Formal expressions of intent to file an OFA and requests for public use and trail use will not be accepted. Petitions to reopen must be filed by January 21, 1997.

ADDRESSES: Send pleadings referring to STB Docket Nos. AB–3 (Sub-No. 139X) and AB–423 (Sub-No. 2X) to: (1) Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Ave., N.W., Washington, DC 20423, and (2) Petitioners' representatives: Joseph D. Anthofer, 1416 Dodge St., Omaha, NE, 68179–0830, and J. B. Mathis, 501 Crawford, Houston, TX 77002–2192.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–7513. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., Room 2229, 1201 Constitution Ave., N.W., Washington,

[1] MP is operated under common control and management with Union Pacific Railroad Company and Southern Pacific Transportation Company. HB&T is owned by MP and Burlington Northern Santa Fe Railroad Company. HB&T leases and operates property owned by its parent railroads. HB&T operates over and MP owns the line segment proposed for abandonment.

DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: December 23, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–33276 Filed 12–30–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Customs Service

Extension of National Customs Automation Test Regarding Electronic Protest Filing

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice announces Customs plan to extend the test of its electronic filing of protests and to expand the number of test ports. The test will not be opened to new participants at this time. The notice invites public comments concerning any aspect of the test.

EFFECTIVE DATE: The test of electronic filing of protests, which was scheduled to end on October 31, 1996, is now scheduled to extend through April, 1997.

ADDRESSES: Written comments regarding this notice or any aspect of the test of the electronic protest system should be addressed to the Chief, Commercial Compliance Branch, U.S. Customs Service, 1301 Constitution Avenue, N.W., Room 1313, Washington, D.C. 20229–0001.

FOR FURTHER INFORMATION CONTACT: For operational or policy issues: Neil Shannon (202)927–0300. For protest system or automation issues: Steve Linnemann (202) 927–0436.

SUPPLEMENTARY INFORMATION:

Background

On January 30, 1996, a document was published by Customs in the **Federal Register** (61 FR 3086) announcing, as part of the National Customs Automation Program (NCAP), a test regarding the electronic filing of protests. The test, which began on May 1, 1996 and was to last six months, involved transaction sets for the Automated Broker Interface (ABI) allowing the following to be filed electronically and their status to be tracked electronically:

(1) Protests against decisions of the Customs Service under 19 U.S.C. 1514;

(2) Claims for refunds of Customs duties or corrections of errors requiring reliquidation pursuant to 19 U.S.C. 1520(c) and (d); and

(3) Interventions in an importer's protest by an exporter or producer of merchandise from a country that is a party to the North American Free Trade Agreement under § 181.115 of the Customs Regulations.

A total of seventeen entities, consisting of importers, brokers, legal firms and sureties, volunteered to participate in the test. Six of these volunteers are currently operational. Eight ports were originally selected for the tests: Baltimore, Buffalo, Chicago, Los Angeles, Laredo, Los Angeles Airport, New York and Philadelphia.

Extension of Test

The purpose of this notice is to inform the public that Customs has extended the test of electronic filing and query of protests. The test is now extended through April 1997. While the test will not be opened to new participants at this time, Customs will consider expanding the number of ports at which electronic protests may be filed. Customs is considering expanding the test to one or more of the following ports: Charleston (South Carolina), Dallas, El Paso, Houston, Seattle, Miami and New Orleans.

Dated: December 24, 1996.

Albert W. Tennant,

Acting Assistant Commissioner, Office of Field Operations.

[FR Doc. 96–33107 Filed 12–30–96; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF VETERANS AFFAIRS

Agency Information Collection Activities: Proposed Collection; Comment

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Veterans Benefits Administration (VBA) invites the general public and other Federal agencies to comment on this information collection. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)). Comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection.

DATES: Written comments and recommendations on the proposal for the collection of information should be received on or before March 3, 1997.

ADDRESSES: Direct all written comments to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. All comments will become a matter of public record and will be summarized in the VBA request for Office of Management and Budget (OMB) approval. In this document VBA is soliciting comments concerning the following information collection:

OMB Control Number: 2900–0132.

Title and Form Number: Veteran's Application in Acquiring Specially Adapted Housing or Special Home Adaptation Grant, VA Form 26–4555.

Type of Review: Extension of a currently approved collection.

Need and Uses: The form is used to gather the necessary information to determine the veteran's eligibility to specially adapted housing or the special home adaptation grant.

Current Actions: Title 38, U.S.C., Sections 2101(a) and (b), authorizes VA grants for specially adapted housing and special housing adaptations for disabled veterans. The sections specifically outline those determinations that must be made by the VA before such a grant is approved for a particular veteran. VA Form 26–4555 is used to collect information that is necessary for VBA to meet the requirements.

Affected Public: Individuals or households.

Estimated Annual Burden: 133 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 800.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Department of Veterans Affairs, Attn: Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, Telephone (202) 273–7079 or FAX (202) 275–4884.

Dated: December 16, 1996.

By direction of the Secretary:

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 96–33082 Filed 12–30–96; 8:45 am]

BILLING CODE 8320–01–P

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Proposed Information Collection Activity; Public Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Veterans Benefits Administration (VBA) invites the general public and other Federal agencies to comment on this information collection. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)). Comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection.

DATES: Written comments and recommendations on the proposal for the collection of information should be received on or before March 3, 1997.

ADDRESSES: Direct all written comments to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. All comments will become a matter of public record and will be summarized in the VBA request for Office of Management and Budget (OMB) approval. In this document VBA is soliciting comments concerning the following information collection:

OMB Control Number: 2900–0073.

Title and Form Number: Enrollment Certification, VA Form 22–1999. (NOTE: A reference to VA Form 22–1999 also includes VA Forms 22–1999–1, 22–1999–2, and 22–1999–3 unless otherwise specified. VA Forms 22–1999–1, 22–1999–2, and 22–1999–3 contain the same information as VA Form 22–1999.)

Type of Review: Extension of a currently approved collection.

Need and Uses: The information collected on VA Form 22–1999 is used by the VA to determine the amount of educational benefits payable to the trainee during the period of enrollment or training and to determine whether the trainee has requested an advanced payment of benefits. Without the information, the VA would not have a basis upon which to make payment.

Current Actions: The VA is authorized to pay education benefits to veterans and other eligible persons pursuing approved programs of education under Title 38, U.S.C., Chapters 30, 32, and 35, Title 10, U.S.C., Chapter 1606, and Public Law 96–342, Sections 901 and 903. Educational institutions and job establishments are required to report information concerning the enrollment or reenrollment into training of veterans, service persons, reservists, and other eligible persons. In certain cases, the VA is authorized to make payment in advance if the trainee requests an advanced payment. In these cases, VA Form 22–1999 serves as the trainee's request for an advanced payment as well as the educational institution's report of the trainee's enrollment.

Affected Public: Business or other for-profit, not-for-profit institutions, and State, Local or Tribal Government.

Estimated Annual Burden: 110,344 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion (The number of responses per respondent will vary according to the number of trainees who receive VA benefits at the educational institution or job training establishment during a 12-month period).

Estimated Annual Responses: 662,068.

Estimated Number of Respondents: 7,481.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Department of Veterans Affairs, Attn: Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, Telephone (202) 273–7079 or FAX (202) 275–4884.

By direction of the Secretary.

Dated: December 16, 1996.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 96–33085 Filed 12–30–96; 8:45 am]

BILLING CODE 8320–01–P

federal register

Tuesday
December 31, 1996

Part II

Department of Health and Human Services

Health Resources and Services Administration

Lists of Designated Primary Medical Care, Mental Health, and Dental Health Professional Shortage Areas; Notice

VOL 61 ISS 252 DE 31 1996 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Lists of Designated Primary Medical Care, Mental Health, and Dental Health Professional Shortage Areas

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: This notice provides lists of all areas, population groups, and facilities designated as primary medical care, mental health, and dental health professional shortage areas (HPSAs) as of September 30, 1996. HPSAs are designated or withdrawn by the Secretary of Health and Human Services (HHS) under the authority of section 332 of the Public Health Service (PHS) Act.

FOR FURTHER INFORMATION CONTACT: For further information on the HPSA designations listed below, or to request additional designations or withdrawals or reinstatement of a withdrawn designation, please contact Evan R. Arrindell, D.S.W., Director, Division of Shortage Designation, Bureau of Primary Health Care, Health Resources and Services Administration, 4350 East-West Highway, Bethesda, Maryland 20814 (301–594–0816).

SUPPLEMENTARY INFORMATION:

1. Background

Section 332 of the PHS Act provides that the Secretary of HHS shall designate HPSAs based on criteria established by regulation. HPSAs are defined in section 332 to include (1) urban and rural geographic areas, (2) population groups, and (3) facilities with shortages of health professionals. Section 332 further requires that the Secretary annually publish a list of the designated geographic areas, population groups, and facilities. The list of HPSAs is to be reviewed at least annually and revised as necessary. The Health Resources and Services Administration's (HRSA) Bureau of Primary Health Care (BPHC) has the responsibility for designating and updating HPSAs.

Public or private nonprofit entities are eligible to apply for assignment of National Health Service Corps (NHSC) personnel to provide primary health services in or to these HPSAs. NHSC health professionals with a service obligation may serve only in federally designated HPSAs. Programs with clinical training sites located in HPSAs are eligible to receive priority for certain residency training program grants administered by HRSA's Bureau of Health Professions.

Several programs administered by the Health Care Financing Administration also use the HPSA designation. Certain qualified providers in HPSAs are eligible for increased levels of Medicare and Medicaid reimbursement.

2. Development of the Designation and Withdrawal Lists

Criteria for designating HPSAs were published as final regulations (42 CFR Part 5) in 1980. Criteria were then defined for each of seven health professional types (primary medical care, dental, psychiatric, vision care, podiatric, pharmacy, and veterinary care). The criteria for correctional facility HPSAs were revised at 54 FR 8738 in 1989, and the criteria for psychiatric HPSAs were expanded to mental health HPSAs at 57 FR 2477 in 1992. The currently-funded PHS programs which use the HPSA designations involve only the primary medical care, mental health, or dental HPSAs.

Individual requests for designation or withdrawal of a particular area, population group, or a facility as a HPSA are received and reviewed continuously by HRSA's BPHC. The review process includes routine submission of such requests to the appropriate State Health Planning and Development Agency (SHPDA) and/or a unit of the State Health Department, the Governor, and other interested organizations and individuals for their comments and recommendations. Requests regarding primary medical care and mental health HPSAs are also submitted to the appropriate State medical society for comment, and dental HPSA requests are submitted to the appropriate State dental society.

Annually, lists of designated HPSAs are provided to all SHPDAs and/or State health departments, State medical and dental societies and others, together with a request to review and update the data on which the designations are based. Emphasis is placed on updating those designations which are more than 3 years old or where significant changes relevant to the designation criteria have occurred.

Recommendations for possible additions, continuations, revisions or withdrawals from the HPSA list are reviewed by the BPHC, and the review findings are provided by letter to the agency or individual requesting action or providing data, with copies to other interested organizations and individuals. These letters constitute the official notice of designation as a HPSA, rejection of recommendations for HPSA designation, revision of a HPSA designation, and/or advance notice of pending withdrawals from the HPSA list. Designations (or revisions of designations) are effective as of the date of the notification letter from BPHC. Proposed withdrawals become effective only after interested parties in the area affected have been afforded the opportunity to submit additional information to the BPHC in support of its continued or revised designation. If no new data are submitted or if the BPHC review confirms the proposed withdrawal, it becomes effective upon publication in the **Federal Register** of a list of HPSAs that does not include the proposed withdrawals.

This notice contains three lists of designated HPSAs. Each list (primary medical care, mental health, and dental) includes all those areas, population groups, and facilities which were designated HPSAs as of September 30, 1996. This notice incorporates the most recent annual review of designated HPSAs and supersedes the HPSA list published in the **Federal Register** on October 2, 1995.

3. Format of Lists

Each list of designated HPSAs (primary medical care, mental health, and dental) is arranged by State. Within each State, the list is first presented by county. If only a portion (or portions) of a county is (are) designated, or if the county is part of a larger designated service area, or if a population group residing in the county or a facility located in the county has been designated, the name of the service area, population group, or facility involved is listed under the county name. Counties which have a geographic HPSA designation in addition to one or more facility designations within the county are indicated by a (g) following the county name.

Following the county listing, a list of any designated service areas is presented, identifying their component parts—counties, towns, townships, census tracts (CTs), minor civil divisions (MCDs), census county divisions (CCDs), block numbering areas (BNAs), or magisterial districts, as defined by the Bureau of the Census. Those counties (or parts of counties included in service areas) which are classified as nonmetropolitan are indicated by an asterisk (*). "Nonmetropolitan" refers to those counties not included in the definition of metropolitan areas established by the Office of Management and Budget (OMB Bulletin 94–07 dated July 5, 1994).

Following the service area listing, a list of designated population groups (if any) is presented identifying each group and the geographic area wherein it resides. Following the population group listing, a list by name and location of any separately designated facilities (including prisons, correctional institutions, health centers, or hospitals) is presented.

In addition to the specific listings included in this notice, all Indian tribes which meet the definition of such tribes referenced in Section 4(d) of Public Law 94–437, the Indian Health Care Improvement Act of 1976, are automatically designated as population groups with primary medical care and dental health professional shortages.

4. Future Updates of Lists of Designated HPSAs

The lists of HPSAs below consist of all those which were designated as of September 30, 1996. It should be noted that additional HPSAs may have been designated by letter since September 30. The appropriate agencies and individuals have been or will be notified of these actions by letter.

Any designated HPSA listed below is subject to withdrawal from designation if new information received and confirmed by HRSA indicates that the relevant data for the area involved have significantly changed since its designation or that incorrect or incomplete data were used in making the original designation.

All requests for new designations, updates, or withdrawals should be based on the relevant criteria in regulations published at 42 CFR Part 5 (1995).

Dated: December 13, 1996.

Ciro V. Sumaya,

Administrator.

PRIMARY MEDICAL CARE: Alabama
County Listing

County Name
Autauga
Population Group: Med Ind—Autauga Co
Baldwin
Service Area: Atmore/Century (AL/FL)
*Barbour
Service Area: Clayton
*Bibb
Blount
Bullock
Service Area: Bullock-Macon
*Butler
*Chambers
Service Area: La Fayette
Population Group: Med Ind—Valley
*Cherokee
*Chilton
*Choctaw
*Clarke
Service Area: Coffeeville

PRIMARY MEDICAL CARE: Alabama
County Listing

County Name
Service Area: Grove Hill/Fulton
*Cleburne
Colbert
Service Area: Cherokee
*Conecuh
*Coosa
*Covington
Service Area: South Covington
*Crenshaw
*Cullman
Population Group: Med Ind—Cullman Co
Dale
Population Group: Low Inc—Dale Co
*Dallas
Population Group: Low Inc—Dallas
*De Kalb
Elmore
*Escambia
Service Area: Atmore/Century (AL/FL)
Etowah
Population Group: Med Ind—Etowah Co
*Fayette
Population Group: Med Ind—Fayette Co
*Franklin
Population Group: Pov Pop—Red Bay/ Vina/Belmont (AL/MS)
*Geneva
Greene
Service Area: Greene-Hale
Hale
Service Area: Greene-Hale
*Henry
*Jackson
Population Group: Med Ind—Jackson Co
Jefferson
Population Group: Pov Pop—Central Birmingham
*Lamar
Lawrence
Limestone
Population Group: Low Inc—Limestone Co
*Lowndes
Macon
Service Area: Bullock-Macon
Madison
Population Group: Low Inc—C Huntsville
*Marion
Population Group: Low Inc—Marion Co
*Marshall
Population Group: Med Ind—Marshall Co
Mobile
Service Area: North Mobile
Population Group: Pov Pop—E Mobile/ Prichard
Facility: Univ S. Al. Chldrns Md. Ctr.
*Monroe
Service Area: Atmore/Century (AL/FL)
Population Group: Med Ind—Monroeville
Montgomery
Population Group: Med Ind—Montgomery Co
Morgan
Population Group: Low Inc—Morgan Co
*Perry
*Pickens
*Randolph
Russell
Service Area: Cottonton/Hurtsboro
Shelby
St Clair
*Sumter
*Tallapoosa

PRIMARY MEDICAL CARE: Alabama
County Listing

County Name
Service Area: Camp Hill
Tuscaloosa
Population Group: Low Inc—Tuscaloosa Co
*Walker
Population Group: Med Ind—Walker Co
*Washington
*Wilcox
*Winston

PRIMARY MEDICAL CARE: Alabama
Service Area Listing

Service Area Name
Atmore/Century (AL/FL)
County—Baldwin
Parts:
C.T. 101
County—Escambia
Parts:
C.T. 9703–9707
County—Monroe
Parts:
C.T. 9862
Bullock-Macon
County—Bullock
County—Macon
Camp Hill
County—Tallapoosa
Parts:
Camp Hill CCD
Dadeville CCD
Tallassee CCD
Cherokee
County—Colbert
Parts:
Cherokee CCD
Clayton
County—Barbour
Parts:
Clayton CCD
Clio CCD
Louisville CCD
Coffeeville
County—Clarke
Parts:
Coffeeville CCD
Cottonton/Hurtsboro
County—Russell
Parts:
Cottonton-Seale CCD
Hurtsboro CCD
Greene-Hale
County—Hale
Grove Hill/Fulton
County—Clarke
Parts:
Fulton CCD
Grove Hill CCD
La Fayette
County—Chambers
Parts:
Five Points CCD
Lafayette CCD
Milltown CCD
North Mobile
County—Mobile
Parts:
C.T. 58–60
South Covington
County—Covington
Parts:

PRIMARY MEDICAL CARE: Alabama
Service Area Listing

Service Area Name

Falco CCD
Florala CCD

PRIMARY MEDICAL CARE: Alabama
Population Group Listing

Population Group

Low Inc—C Huntsville
County—Madison
Parts:
C.T. 1
C.T. 2.01–2.02
C.T. 3.01–3.02
C.T. 7.01–7.02
C.T. 8
C.T. 10–13
C.T. 15–16
C.T. 20–24
C.T. 25.01–25.02
Low Inc—Dale Co
County—Dale
Parts:
Low Income
Low Inc—Dallas
County—Dallas
Parts:
Low Inc
Low Inc—Limestone Co
County—Limestone
Parts:
Low Income
Low Inc—Marion Co
County—Marion
Parts:
Low Income
Low Inc—Morgan Co
County—Morgan
Parts:
Low Income
Low Inc—Tuscaloosa Co
County—Tuscaloosa
Parts:
Low Income
Med Ind—Autauga Co
County—Autauga
Parts:
Medically Indigent
Med Ind—Cullman Co
County—Cullman
Parts:
Medically Indigent
Med Ind—Etowah Co
County—Etowah
Parts:
Medically Indigent
Med Ind—Fayette Co
County—Fayette
Parts:
Medically Indigent
Med Ind—Jackson Co
County—Jackson
Parts:
Medically Indigent
Med Ind—Marshall Co
County—Marshall
Parts:
Medically Indigent
Med Ind—Monroeville
County—Monroe
Parts:
Beatrice CCD
Frisco City CCD

PRIMARY MEDICAL CARE: Alabama
Population Group Listing

Population Group

Monroeville CCD
Peterman CCD
Vredenburgh CCD
Med Ind—Montgomery Co
County—Montgomery
Parts:
Medically Indigent
Med Ind—Valley
County—Chambers
Parts:
Lanett CCD
Langdale CCD
Med Ind—Walker Co
County—Walker
Parts:
Medically Indigent
Pov Pop—Central Birmingham
County—Jefferson
Parts:
C.T. 3–5
C.T. 7–8
C.T. 11–12
C.T. 14–16
C.T. 19.02
C.T. 22
C.T. 23.03–23.04
C.T. 24
C.T. 27
C.T. 29
C.T. 30.01–30.02
C.T. 31–34
C.T. 39–40
C.T. 42
C.T. 45
C.T. 51.01
C.T. 55
Pov Pop—E Mobile/Prichard
County—Mobile
Parts:
C.T. 1–3
C.T. 4.01–4.02
C.T. 5–6
C.T. 7.01–7.02
C.T. 8
C.T. 10.01–10.02
C.T. 11
C.T. 12.01
C.T. 13.01–13.02
C.T. 14
C.T. 15.01–15.02
C.T. 16
C.T. 23.01–23.02
C.T. 24
C.T. 26
C.T. 38.01
C.T. 39.01–39.02
C.T. 40–50
Pov Pop—Red Bay/Vina/Belmont (AL/MS)
County—Franklin
Parts:
Red Bay CCD
Vina CCD

PRIMARY MEDICAL CARE: Alabama
Facility Listing

Facility Name

FCI Talladega
Univ S. Al. Chldrns Md. Ctr.
County—Mobile

PRIMARY MEDICAL CARE: Alaska
Census Area Listing

Census Area Name

*Aleutians East Borough
*Aleutians West Borough
Anchorage Borough
Population Group: Low Inc—N. Anchorage City
Facility: Cook Inlet Pre-Trial Fac.
Facility: Highland Mtn/Meadow Crk Corr. C.
*Bethel Area
*Bristol Bay Borough
*Denali Borough
*Fairbanks North Star Boro
Population Group: Med Ind—Fairbanks North Star Boro
*Haines Borough
*Kenai Peninsula Borough
Facility: Spring Creek Corr. C.
Facility: Wildwood Corr. C.
*Lake And Peninsula Borough
*Matanuska-Susitna Borough
Service Area: Talkeetna/Trapper Creek
Facility: Palmer Corr. C.
*Nome Area
Service Area: St. Lawrence Is.
Service Area: Unalakleet
*North Slope Borough
*Northwest Arctic Borough
*Prince Of Wales-Outer Ket
*Skagway-Hoonah-Angoon Borough
*Southeast Fairbanks
*Valdez-Cordova Area
Service Area: Valdez/Whittier
*Wade Hampton Borough
*Wrangell-Petersburg Area
*Yakutat Borough
*Yukon-Koyukuk

PRIMARY MEDICAL CARE: Alaska
Service Area Listing

Service Area Name

St. Lawrence Is.
Census Area—Nome Area
Parts:
Gambell Vil.
Savoonga Vil.
Talkeetna/Trapper Creek
Census Area—Matanuska-Susitna Borough
Parts:
Block Group 1
Block Group 3
Chase CDP
Skwentna CDP
Talkeetna CDP
Trapper Creek CDP
Unalakleet
Census Area—Nome Area
Parts:
Koyuk Vil.
Shaktoolik Vil.
St. Michaels Vil.
Stebbins Vil.
Unalakleet City
Valdez/Whittier
Census Area—Valdez-Cordova Area
Parts:
Prince William Sound Sub

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PRIMARY MEDICAL CARE: Alaska
Population Group Listing

Population Group
Low Inc—N. Anchorage City
Census Area—Anchorage Borough
Parts:
C.T. 5–6
C.T. 7.01–7.03
C.T. 8.01–8.02
C.T. 9.01–9.02
C.T. 10–11
C.T. 14–16
C.T. 19–21
C.T. 22.02
Med Ind—Fairbanks North Star Boro
Census Area—Fairbanks North Star Boro
Parts:
Med Ind

PRIMARY MEDICAL CARE: Alaska
Facility Listing

Facility Name
Cook Inlet Pre-Trial Fac.
Census Area—Anchorage Borough
Highland Mtn/Meadow Crk Corr. C.
Census Area—Anchorage Borough
Palmer Corr. C.
Census Area—Matanuska-Susitna Borough
Spring Creek Corr. C.
Census Area—Kenai Peninsula Borough
Wildwood Corr. C.
Census Area—Kenai Peninsula Borough

PRIMARY MEDICAL CARE: Arizona
County Listing

County Name
*Apache
Service Area: Ganado/Rough Rock
Service Area: Kayenta
Population Group: Low Inc—St Johns/Springerville
*Cochise
Service Area: Bowie
Service Area: Elfrida
Service Area: Tombstone
Population Group: Low Inc—Douglas
Population Group: Med Ind—Bisbee
*Coconino
Service Area: Hopi
Service Area: Kanab/Fredonia (UT/AZ)
Service Area: Page/Tuba City
*Gila
Service Area: Young
*Graham
Service Area: Bonita-Klondyke
Service Area: Pima
Service Area: San Carlos
*La Paz
Service Area: Parker
Maricopa
Service Area: Gila Bend
Population Group: Med Ind—Guadalupe
Population Group: Med Ind—Central/S Phoenix
Population Group: Med Ind/MFW—Chandler/Queen Creek
Population Group: Med Ind/MFW—El Mirage
Population Group: Pov Pop/MFW—Buckeye
Facility: FCI Phoenix
Facility: Maricopa Co. Jails

PRIMARY MEDICAL CARE: Arizona
County Listing

County Name
Mohave
Service Area: Dolan Springs
Service Area: Hurricane/Mohave North (UT/AZ)
Service Area: Needles/Topock (CA/AZ)
*Navajo
Service Area: Ganado/Rough Rock
Service Area: Heber/Overgaard
Service Area: Hopi
Service Area: Kayenta
Pima
Service Area: Ajo
Service Area: Arivaca
Service Area: Continental
Population Group: Med Ind—Catalina
Population Group: Med Ind—South Tucson
Population Group: Pov Pop—Marana
Facility: FCI Tucson
Facility: Pima Co Adult Detention Ctr
Pinal
Service Area: San Pedro Valley
Service Area: Superior
Population Group: Med Ind/MFW—Central/West Pinal
Facility: INS Med Fac—Florence
*Santa Cruz
*Yavapai
Service Area: Mayer/Humboldt
Service Area: Seligman
Yuma
Service Area: Somerton
Service Area: Wellton/Mohawk

PRIMARY MEDICAL CARE: Arizona
Service Area Listing

Service Area Name
Ajo
County—Pima
Parts:
Ajo CCD
Arivaca
County—Pima
Parts:
C.T. 43.05
Bonita-Klondyke
County—Graham
Parts:
Bonita-Klondyke CCD
Bowie
County—Cochise
Parts:
Bowie CCD
Continental
County—Pima
Parts:
C.T. 41.02
Dolan Springs
County—Mohave
Parts:
C.T. 9502
C.T. 9504–9505
Elfrida
County—Cochise
Parts:
Elfrida Division
Ganado/Rough Rock
County—Apache
Parts:
C.T. 9701
C.T. 9775
C.T. 9778

PRIMARY MEDICAL CARE: Arizona
Service Area Listing

Service Area Name
County—Navajo
Parts:
C.T. 9653
C.T. 9675
Gila Bend
County—Maricopa
Parts:
C.T. 7233
Heber/Overgaard
County—Navajo
Parts:
C.T. 9607
Hopi
County—Coconino
Parts:
Hopi CCD
County—Navajo
Parts:
Hopi CCD
Hurricane/Mohave North (UT/AZ)
County—Mohave
Parts:
Mohave North CCD
Kanab/Fredonia (UT/AZ)
County—Coconino
Parts:
Kaibab CCD
Kayenta
County—Apache
Parts:
Dennehotso CCD
County—Navajo
Parts:
Western CCD
Mayer/Humboldt
County—Yavapai
Parts:
Humboldt CCD
Needles/Topock (CA/AZ)
County—Mohave
Parts:
C.T. 9521
Page/Tuba City
County—Coconino
Parts:
Tuba City CCD
Parker
County—La Paz
Parts:
C.T. 202–204
Pima
County—Graham
Parts:
Pima CCD
San Carlos
County—Graham
Parts:
San Carlos CCD
San Pedro Valley
County—Pinal
Parts:
San Manuel CCD
Seligman
County—Yavapai
Parts:
Ashfork CCD
Somerton
County—Yuma
Parts:
C.T. 114–116
Superior
County—Pinal

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PRIMARY MEDICAL CARE: Arizona
Service Area Listing

Service Area Name

Parts:
C.T. 2
C.T. 4
Tombstone
County—Cochise
Parts:
C.T. 4
Wellton/Mohawk
County—Yuma
Parts:
Wellton Division
Young
County—Gila
Parts:
C.T. 9806–9807

PRIMARY MEDICAL CARE: Arizona
Population Group Listing

Population Group

Low Inc—Douglas 4
County—Cochise
Parts:
Douglas Div
Low Inc—St Johns/Springerville
County—Apache
Parts:
C.T. 9702–9705
Med Ind—Bisbee
County—Cochise
Parts:
Bisbee CCD
Med Ind—Catalina
County—Pima
Parts:
C.T. 47.07
Med Ind—Central/S Phoenix
County—Maricopa
Parts:
C.T. 1115–1124
C.T. 1126–1133
C.T. 1135–1161
C.T. 1162.02–1162.04
C.T. 1163–1165
C.T. 1166.02
C.T. 1167.02–1167.04
Med Ind—Guadalupe
County—Maricopa
Parts:
C.T. 3200.02
Med Ind—South Tucson
County—Pima
Parts:
C.T. 1–12
C.T. 13.01–13.02
C.T. 14
C.T. 20–24
C.T. 25.01–25.02
C.T. 37.01–37.03
C.T. 38–39
C.T. 41.03–41.04
C.T. 43.01
C.T. 43.08–43.09
Med Ind/MFW—Central/West Pinal
County—Pinal
Parts:
Casa Grande CCD
Coolidge CCD
Eloy CCD
Florence CCD
Maricopa-Stanfield CCD
Med Ind/MFW—Chandler/Queen Creek

PRIMARY MEDICAL CARE: Arizona
Population Group Listing

Population Group

County—Maricopa
Parts:
C.T. 5227.03
C.T. 5227.19
C.T. 5229.02
C.T. 5231.02
Med Ind/MFW—El Mirage
County—Maricopa
Parts:
C.T. 405.02
C.T. 405.09
C.T. 608–609
C.T. 610.03–610.08
C.T. 612–614
C.T. 821
C.T. 822.01–822.02
C.T. 1125.05–1125.06
Pov Pop—Marana
County—Pima
Parts:
C.T. 44.08–44.09
Pov Pop/MFW—Buckeye
County—Maricopa
Parts:
C.T. 506–507

PRIMARY MEDICAL CARE: Arizona
Facility Listing

Facility Name

FCI Phoenix 1
County—Maricopa
FCI Tucson
County—Pima
INS Med Fac—Florence
County—Pinal
Maricopa Co. Jails
County—Maricopa
Pima Co Adult Detention Ctr
County—Pima

PRIMARY MEDICAL CARE: Arkansas
County Listing

County Name

*Arkansas
Service Area: Dewitt
*Boone
Service Area: Lead Hill
*Bradley
Service Area: Hermitage
*Chicot
Service Area: Dermott/Mcgehee
Population Group: Low Inc—Eudora/Lake Village
*Clark
Service Area: Glenwood/Amity
*Clay
*Cleburne
*Cleveland
Crawford
Service Area: West Fork/Mountainburg
Crittenden
*Dallas
Service Area: Bearden
Service Area: Carthage
Service Area: Sparkman
*Desha
Service Area: Dermott/Mcgehee
Service Area: Snow Lake
*Drew
Service Area: Dermott/Mcgehee

PRIMARY MEDICAL CARE: Arkansas
County Listing

County Name

Faulkner
Service Area: Greenbrier
Service Area: Vilonia
*Franklin
Population Group: Low Inc—Franklin Co
*Grant
*Howard
Service Area: Umpire
*Izard
Service Area: Horseshoe Bend
Jefferson
Service Area: Altheimer
Service Area: North Pine Bluff
Service Area: Redfield
Service Area: Richland
*Johnson
Service Area: Oark
*Lafayette
*Lawrence
*Lincoln
*Logan
Lonoke
Population Group: Pov Pop—Cabot
*Marion
Service Area: Lead Hill
*Monroe
Service Area: Clarendon/Holly Grove
*Montgomery
*Nevada
*Newton
*Ouachita
Service Area: Bearden
Service Area: Reader
Service Area: Stephens
*Perry
*Phillips
*Pike
Service Area: Glenwood/Amity
*Poinsett
*Polk
Service Area: Grannis/Wickes
*Pope
Service Area: Hector
*Prairie
Pulaski
Service Area: College Station
*Randolph
*Searcy
Sebastian
Service Area: Diamond
*Sharp
*St Francis
*Union
Service Area: Strong
*Van Buren
Washington
Service Area: West Fork/Mountainburg
Service Area: West Washington
*Woodruff
*Yell
Service Area: Havana

PRIMARY MEDICAL CARE: Arkansas
Service Area Listing

Service Area Name

Altheimer
County—Jefferson
Parts:
C.T. 1.02
C.T. 1.85
C.T. 7

PRIMARY MEDICAL CARE: Arkansas
Service Area Listing

Service Area Name

Bearden
  County—Dallas
    Parts:
      Holly Springs Twp
  County—Ouachita
    Parts:
      Carroll Twp
      Cleveland Twp
      Freeo Twp
      Union Twp
      Valley Twp
Carthage
  County—Dallas
    Parts:
      Chester Twp.
      Smith Twp.
      Willow Twp.
Clarendon/Holly Grove
  County—Monroe
    Parts:
      Cache Twp.
      Cleburne Twp
      Cypress Ridge Twp.
      Duncan Twp.
      Hindman Twp.
      Jackson Twp.
      Keevil Twp.
      Montgomery Twp.
      Pine Ridge Twp.
      Raymond Twp.
      Roc Roe Twp.
      Smalley Twp.
College Station
  County—Pulaski
    Parts:
      C.T. 2
      C.T. 4–5
      C.T. 40.01
      C.T. 40.03
      C.T. 40.05
Dermott/Mcgehee
  County—Chicot
    Parts:
      Bowie Twp
  County—Desha
    Parts:
      Bowie Twp
      Clayton Twp
      Franklin Twp
      Halley Twp
      Richland Twp
  County—Drew
    Parts:
      Bartholomew Twp
      Collins Twp
      Franklin Twp
Dewitt
  County—Arkansas
    Parts:
      Arkansas Twp
      Barton Twp
      Bayou Meto Twp
      Brewer Twp
      Chester Twp
      Crockett Twp
      Garland Twp
      Keaton Twp
      La Grue Twp
      Point De Luce Twp
      Prairie Twp
      Stanley Twp
Diamond
  County—Sebastian
    Parts:
      Diamond Twp.
      Hartford Twp.
      Jim Fork Twp.
      Mississippi Twp.
      Sugarloaf Twp.
Glenwood/Amity
  County—Clark
    Parts:
      Amity Twp.
  County—Pike
    Parts:
      Antoine Twp.
      Clark Twp.
      Eagle Twp.
      Mountain Twp.
      Self Creek Twp.
Grannis/Wickes
  County—Polk
    Parts:
      Ozark Twp.
      White Twp.
Greenbrier
  County—Faulkner
    Parts:
      Benton Twp
      California Twp
      Enola Twp.
      Hardin Twp
      Matthews Twp.
      Mount Vernon Twp.
      Mountain Twp.
      Union Twp.
      Walker Twp.
Havana
  County—Yell
    Parts:
      Bluffton Twp.
      Briggsville Twp.
      Crawford Twp.
      Dutch Creek Twp.
      Gravelly Hill Twp.
      Herring Twp.
      Ions Creek Twp.
      Richland Twp.
      Riley Twp.
      Waveland Twp.
Hector
  County—Pope
    Parts:
      Center Twp.
      Freeman Twp.
      Griffin Twp.
      Jackson Twp.
      Liberty Twp.
      Martin Twp.
      Phoenix Twp.
      Smyrna Twp.
Hermitage
  County—Bradley
    Parts:
      Eagle Twp.
      Marion Twp.
      Ouachita Twp.
      Palestine Twp.
      River Twp.
      Sumpter Twp.
      Washington Twp.
Horseshoe Bend
  County—Izard
    Parts:
      Baker Twp.
      Franklin Twp.
      Jefferson Twp.
      New Hope Twp.
      Violet Hill Twp.
Lead Hill
  County—Boone
    Parts:
      Sugar Loaf Twp
  County—Marion
    Parts:
      Crockett Twp.
      Franklin Twp.
      Keesee Twp.
      Sugarloaf Twp.
North Pine Bluff
  County—Jefferson
    Parts:
      C.T. 5.02
      C.T. 6
      C.T. 6.99
      C.T. 10–13
      C.T. 14.02
      C.T. 21.01
Oark
  County—Johnson
    Parts:
      Batson Twp.
      Dickerson Twp.
      Hill Twp.
      Low Gap Twp.
      Mulberry Twp.
Reader
  County—Ouachita
    Parts:
      Behestian Twp.
      Red Hill Twp.
Redfield
  County—Jefferson
    Parts:
      Barraque Twp
      Jefferson Twp
Richland
  County—Jefferson
    Parts:
      C.T. 8
Snow Lake
  County—Desha
    Parts:
      Mississippi Twp
Sparkman
  County—Dallas
    Parts:
      Manchester Twp.
      Nix Twp.
      Owen Twp.
Stephens
  County—Ouachita
    Parts:
      Jefferson Twp.
      Liberty Twp.
      Smackover Twp.
Strong
  County—Union
    Parts:
      Harrison Township
      Lapile Township
Umpire
  County—Howard
    Parts:
      Burg Twp.
      Clay Twp.

PRIMARY MEDICAL CARE: Arkansas
Service Area Listing

Service Area Name

Duckett Twp.
Mountain Twp.
Umpire Twp.
Vilonia
County—Faulkner
Parts:
Bristol Twp.
Cypress Twp.
Eagle Twp.
Harve Twp.
Newton Twp.
Palarm Twp.
Wilson Twp.
West Fork/Mountainburg
County—Crawford
Parts:
Chester Twp
Mountainburg Twp
Porter Twp.
Sand Point Twp.
Shepherd Twp.
Upper Twp.
Whitley Twp.
Winfrey Twp.
County—Washington
Parts:
Crawford Twp.
Durham Twp.
Lees Creek Twp.
Reed Twp.
Valley Twp.
West Fork Twp.
White River Twp.
Winslow Twp.
West Washington
County—Washington
Parts:
Boston Twp.
Cane Hill Twp.
Cove Creek Twp.
Dutch Mills Twp.
Illinois Twp.
Morrow Twp.
Prairie Grove Twp.
Price Twp.
Rheas Hill Twp.
Starr Hill Twp.
Vineyard Twp
Wedington Twp.

PRIMARY MEDICAL CARE: Arkansas
Population Group Listing

Population Group

Low Inc—Eudora/Lake Village
County—Chicot
Parts:
Carlton Twp
Planters Twp
Low Inc—Franklin Co
County—Franklin
Parts:
Low Inc
Pov Pop—Cabot
County—Lonoke
Parts:
Caroline Twp
Goodrum Twp
Magness Twp
Oak Grove Twp
Ward Twp
York Twp

PRIMARY MEDICAL CARE: California
County Listing

County Name

Alameda
Service Area: Central Oakland
Service Area: East Oakland
Service Area: West Berkeley
Population Group: Inmates—FCI Dublin
*Alpine
Service Area: Markleeville
Butte
Service Area: Biggs/Gridley/Live Oak
Service Area: Feather Falls
Service Area: Oroville/Palermo
Population Group: Low Inc—Paradise
*Calaveras
Service Area: San Andreas
Service Area: West Point/Wilseyville
Population Group: Low Inc—Angels
*Colusa
Contra Costa
Service Area: East Contra Costa
*Del Norte
Population Group: Low Inc—Del Norte Co
El Dorado
Service Area: Georgetown Divide
Fresno
Service Area: Coalinga
Service Area: Firebaugh/Mendota
Service Area: Huron
Service Area: Kerman
Service Area: Laton/Riverdale
Service Area: San Joaquin-Tranquility
Population Group: Low Inc—Edison/Easton
Population Group: Pov Pop/MFW—Reedley/Parlier/Orange
Facility: Valley Medical Center
*Glenn
Service Area: Orland
Service Area: Willows
*Humboldt
Service Area: Willow Creek
Population Group: Low Inc—Rio Dell/Scotia
Population Group: Low Inc—Fortuna
Population Group: Low Inc—Ferndale
Population Group: Low Inc—Blue Lake
Population Group: Low Inc—North Coastal
Population Group: Low Inc—Eureka/Arcata
*Imperial
Service Area: Brawley/Calipatria-Westmorland
Service Area: Calexico
Service Area: East Imperial
Service Area: El Centro
Service Area: West Imperial
Population Group: Medicaid—Winterhaven-Bard
Facility: INS Med Fac—El Centro
*Inyo
Service Area: Death Valley
Kern
Service Area: Arvin/Lamont
Service Area: Frazier Park
Service Area: Se Kern, Boron, California City
Service Area: Taft
Service Area: Tehachapi
Population Group: Inmates—FPC Boron
Population Group: Low Inc—Lake Isabella
Population Group: Low Inc—E Bakersfield/Lakeview
Population Group: Medicaid—Ridgecrest
Population Group: MFW/Low Inc—Delano/Mcfarland

PRIMARY MEDICAL CARE: California
County Listing

County Name

Population Group: Pov/MFW—Buttonwillow/Wasco/Shafter
*Kings
Service Area: Avenal
Service Area: Corcoran
*Lassen
Service Area: Adin-Lookout
Population Group: Low Inc—Susanville
Los Angeles
Service Area: Avalon/Goodyear/Main
Service Area: E San Pedro/Wilmington/Long Beach Port
Service Area: East Compton
Service Area: East L.A./City Terrace
Service Area: Figueroa/Firestone/Gr Meadows/Watts
Service Area: N. El Monte/S. El Monte
Service Area: Pico Rivera South
Service Area: Santa Catalina Island
Population Group: Inmates—MDC Los Angeles
Population Group: Low Inc—Venice/South Santa Monica
Population Group: Low Inc—Pacoima/Sun Valley North
Population Group: Low Inc—Mission Hills/San Fernando
Population Group: Low Inc—El Sereno/Highland Park
Facility: FCI Terminal Island
Facility: Harbor-Ucla Med Ctr Ambulatory Clinics
Facility: INS Med Fac—San Pedro
Facility: Long Beach Comprehensive Hlth Ctr
Facility: Martin Luther King Jr. Gen Hosp
Madera
Service Area: Chowchilla
Service Area: Madera West/Southwest
Marin
Service Area: Bolinas/Stinson Beach
*Mariposa
Service Area: Mariposa/Coulterville
*Mendocino
Service Area: Boonville/Navarro/Philo/Yorkville
Service Area: Covelo
Service Area: Laytonville/Leggett
Service Area: Redwood/Potter Valley
Merced
Population Group: Low Inc/MFW—Gustine
*Modoc
Service Area: Adin-Lookout
Service Area: Surprise Valley
Service Area: Tule Lake
*Mono
Service Area: Mono North/Topaz Walker
Service Area: Mono South/Mammoth Lakes
Monterey
Service Area: Coastal/Big Sur/Lucial
Service Area: E Salinas/N Central Salinas
Service Area: Pajaro
Napa
Population Group: Low Inc—Southern Napa Co
Population Group: Low Inc/MFW—Northern Napa Co
Orange
Population Group: Low Inc—Central Santa Ana

PRIMARY MEDICAL CARE: California
County Listing

County Name

Population Group: Low Inc/MFW—San Juan Capistrano
Placer
Service Area: Colfax-Summit
Service Area: Foresthill/Back Country
Population Group: Low Inc—Lake Tahoe/Tahoe City
Riverside
Service Area: Chuckwalla/Desert Center/Eagle Mt
Service Area: Idyllwild/Pine Cove
Service Area: Palo Verde/Blythe
Service Area: S Coachella Valley/Mecca
Sacramento
Service Area: Galt
Population Group: Pov Pop—South Sacramento
*San Benito
Service Area: Hollister/San Juan Bautista
Service Area: San Benito/Bitterwater
San Bernardino
Service Area: Helendale/Silver Lakes
Service Area: Needles/Topock (CA/AZ)
Service Area: Red Mountain/Trona
Service Area: S Barstow-Victorville/Adelanto/Apple Val
Service Area: 29 Palms/Yucca Valley
Population Group: Low Inc—Lake Arrowhead
Population Group: Pov. Pop.—Big Bear Lake
San Diego
Service Area: Borrego Springs
Service Area: Encanto/Lincoln Acres/National City
Service Area: Golden Hills/Logan Heights
Service Area: Mountain Empire
Service Area: Ramona
Service Area: San Ysidro
Population Group: Inmates—MCC San Diego
Population Group: Low Inc—El Cajon
Population Group: Low Inc—City Heights/Downtown
Population Group: Medicaid—Vista/Oceanside/Carlsbad
San Francisco
Population Group: Low Inc—South Of Market
San Joaquin
Service Area: South And East Stockton
Population Group: Low Inc—Escalon/Manteca/Ripon
San Mateo
Service Area: E Menlo Park/E Palo Alto
Santa Barbara
Service Area: Cuyama
Service Area: Guadalupe
Facility: USP Lompoc
Santa Cruz
Service Area: Watsonville
Shasta
Service Area: Central Shasta/Shingletown/Whitmore
Service Area: E Shasta—Burney/Cassel/Fall River Mill
Service Area: Sacramento Canyon/Castella/Lakehead/O'Br
Service Area: Southwest Shasta
Population Group: Medicaid—Central-North Redding

PRIMARY MEDICAL CARE: California
County Listing

County Name

Population Group: Medicaid—South Redding-Anderson
Facility: Shasta Primary Care Clinic
*Sierra
Service Area: Downieville
*Siskiyou
Service Area: Butte Valley/Dorris
Service Area: Etna/Ft. Jones
Service Area: Happy Camp
Service Area: McCloud-Medicine Lake
Service Area: Tule Lake
Population Group: Low Inc—Dunsmuir
Population Group: Low Inc—Mt Shasta/Weed
Solano
Service Area: Dixon
Sonoma
Service Area: Cloverdale
Service Area: Guerneville
Service Area: Sonoma Valley
Population Group: Low Inc—Petaluma
Population Group: Low Inc—Healdsburg/Geyserville
Stanislaus
Service Area: West Modesto
Population Group: Low Inc—Hughson
Population Group: Low Inc—Turlock
Population Group: Low Inc—Newman
Population Group: Medicaid—Oakdale/Riverbank
Sutter
Service Area: Biggs/Gridley/Live Oak
Service Area: Meridian/Robbins
Population Group: Low Inc—Sutter/Yuba City
*Tehama
Service Area: Corning/Sw East Tehama/Las Molinas
Service Area: Red Bluff
*Trinity
Service Area: Hayfork/Forest Glen/Peanut
Service Area: Mad River/Ruth/Zenia
Service Area: Willow Creek
Tulare
Service Area: Porterville
Service Area: Springville
Service Area: Woodlake/Three Rivers
Population Group: Low Inc/MFW—Exeter/Ivanhoe/Lindsay
Population Group: Pov/MFW—Visalia
*Tuolumne
Population Group: Medicaid—Tuolumne Co
Ventura
Population Group: Low Inc/MFW—Ventura
Yolo
Service Area: East Yolo
Service Area: Esparto
Service Area: Knights Landing
Yuba
Population Group: Low Inc—Sutter/Yuba City
Population Group: Low Inc—Yuba Foothills

PRIMARY MEDICAL CARE: California
Service Area Listing

Service Area Name

Adin-Lookout
County—Lassen
Parts:
Big Valley CCD

PRIMARY MEDICAL CARE: California
Service Area Listing

Service Area Name

County—Modoc
Parts:
Adin-Lookout CCD
Arvin/Lamont
County—Kern
Parts:
C.T. 62–64
Avalon/Goodyear/Main
County—Los Angeles
Parts:
C.T. 2281–2289
C.T. 2291–2294
C.T. 2311
C.T. 2318–2319
C.T. 2328
C.T. 2392–2393
C.T. 2395–2396
C.T. 5328–5329
Avenal
County—Kings
Parts:
C.T. 17
Biggs/Gridley/Live Oak
County—Butte
Parts:
C.T. 34–36
County—Sutter
Parts:
C.T. 507
Bolinas/Stinson Beach
County—Marin
Parts:
C.T. 1321
Boonville/Navarro/Philo/Yorkville
County—Mendocino
Parts:
C.T. 112
Borrego Springs
County—San Diego
Parts:
C.T. 210
Brawley/Calipatria-Westmorland
County—Imperial
Parts:
C.T. 101–107
C.T. 123.02
Butte Valley/Dorris
County—Siskiyou
Parts:
C.T. 2
Calexico
County—Imperial
Parts:
C.T. 119–122
Central Oakland
County—Alameda
Parts:
C.T. 4053–4063
C.T. 4065
C.T. 4070–4072
Central Shasta/Shingletown/Whitmore
County—Shasta
Parts:
C.T. 126
Chowchilla
County—Madera
Parts:
C.T. 2–3
Chuckwalla/Desert Center/Eagle Mt
County—Riverside
Parts:
C.T. 456

PRIMARY MEDICAL CARE: California
Service Area Listing

Service Area Name

Cloverdale
County—Sonoma
Parts:
C.T. 1541–1542
Coalinga
County—Fresno
Parts:
C.T. 79.98
C.T. 80–81
Coastal/Big Sur/Lucial
County—Monterey
Parts:
C.T. 115
Colfax-Summit
County—Placer
Parts:
C.T. 219.01–219.02
C.T. 220.01–220.02
Corcoran
County—Kings
Parts:
C.T. 13–16
Corning/Sw East Tehama/Las Molinas
County—Tehama
Parts:
C.T. 9–11
C.T. 12.98
Covelo
County—Mendocino
Parts:
C.T. 101
Cuyama
County—Santa Barbara
Parts:
C.T. 18
Death Valley
County—Inyo
Parts:
C.T. 7
Dixon
County—Solano
Parts:
C.T. 2533.98
C.T. 2534
Downieville
County—Sierra
Parts:
West Sierra CCD
E Menlo Park/E Palo Alto
County—San Mateo
Parts:
C.T. 6117–6120
C.T. 6121.98
E Salinas/N Central Salinas
County—Monterey
Parts:
C.T. 5–9
C.T. 13
C.T. 17–18
E San Pedro/Wilmington/Long Beach Port
County—Los Angeles
Parts:
C.T. 2941–2943
C.T. 2945–2949
C.T. 2949.99
C.T. 2961
C.T. 2961.99–2962.00
C.T. 2962.99
C.T. 2971
C.T. 2971.99
C.T. 5727–5729
C.T. 5755–5756

PRIMARY MEDICAL CARE: California
Service Area Listing

Service Area Name

C.T. 5756.99–5757.00
C.T. 5757.99
E Shasta—Burney/Cassel/Fall River Mill
County—Shasta
Parts:
C.T. 127
East Compton
County—Los Angeles
Parts:
C.T. 5416.01–5416.02
C.T. 5420
C.T. 5421.01–5421.02
C.T. 5422
C.T. 5424.01–5424.02
C.T. 5704
East Contra Costa
County—Contra Costa
Parts:
C.T. 3010
C.T. 3020.01–3020.02
C.T. 3031–3032
C.T. 3040
East Imperial
County—Imperial
Parts:
C.T. 124
East L.A./City Terrace
County—Los Angeles
Parts:
C.T. 5303–5306
C.T. 5308–5311
C.T. 5312.01–5312.02
C.T. 5313.01–5313.02
C.T. 5315.01–5315.02
C.T. 5316.01–5316.02
C.T. 5317.01–5317.02
East Oakland
County—Alameda
Parts:
C.T. 4073–4075
C.T. 4084–4097
C.T. 4102–4104
East Yolo
County—Yolo
Parts:
C.T. 101.01–101.02
C.T. 102.01
C.T. 102.03–102.04
C.T. 103
C.T. 105.06
El Centro
County—Imperial
Parts:
C.T. 108–111
C.T. 112.01–112.02
C.T. 113–117
C.T. 118.01–118.03
Encanto/Lincoln Acres/National City
County—San Diego
Parts:
C.T. 30.01–30.02
C.T. 31.01–31.02
C.T. 32.02
C.T. 33
C.T. 114
C.T. 114.99–115.00
C.T. 116–122
Esparto
County—Yolo
Parts:
C.T. 115 (Esparto)
Etna/Ft. Jones

PRIMARY MEDICAL CARE: California
Service Area Listing

Service Area Name

County—Siskiyou
Parts:
C.T. 6 (Fort Jones CCD)
C.T. 8 (Etna CCD)
Feather Falls
County—Butte
Parts:
C.T. 24 (Esparto)
Figueroa/Firestone/Gr Meadows/Watts
County—Los Angeles
Parts:
C.T. 2397–2398
C.T. 2400
C.T. 2402–2414
C.T. 2420–2423
C.T. 2426–2427
C.T. 2430–2431
C.T. 5349–5350
C.T. 5351.01–5351.02
C.T. 5352–5354
C.T. 5404
Firebaugh/Mendota
County—Fresno
Parts:
C.T. 83
C.T. 84.01–84.02
Foresthill/Back Country
County—Placer
Parts:
C.T. 202
Frazier Park
County—Kern
Parts:
C.T. 33.02
Galt
County—Sacramento
Parts:
C.T. 94.01–94.02
C.T. 95
Georgetown Divide
County—El Dorado
Parts:
C.T. 306.01–306.03
Golden Hills/Logan Heights
County—San Diego
Parts:
C.T. 34.02
C.T. 35–36
C.T. 38
C.T. 38.99–39.00
C.T. 40–41
C.T. 45–50
C.T. 50.99–51.00
C.T. 51.99–52.00
Guadalupe
County—Santa Barbara
Parts:
C.T. 25
Guerneville
County—Sonoma
Parts:
C.T. 1537.01–1537.02
C.T. 1543
C.T. 1543.99
Happy Camp
County—Siskiyou
Parts:
C.T. 5
Hayfork/Forest Glen/Peanut
County—Trinity
Parts:
C.T. 3.98

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PRIMARY MEDICAL CARE: California
Service Area Listing

Service Area Name

Helendale/Silver Lakes
County—San Bernardino
Parts:
C.T. 116–117
Hollister/San Juan Bautista
County—San Benito
Parts:
C.T. 1.98
C.T. 2–7
C.T. 9
Huron
County—Fresno
Parts:
C.T. 78
Idyllwild/Pine Cove
County—Riverside
Parts:
C.T. 444.01–444.03
Kerman
County—Fresno
Parts:
C.T. 39–41
Knights Landing
County—Yolo
Parts:
C.T. 114
Laton/Riverdale
County—Fresno
Parts:
C.T. 74
C.T. 77
Laytonville/Leggett
County—Mendocino
Parts:
C.T. 102
Mad River/Ruth/Zenia
County—Trinity
Parts:
C.T. 4
Madera West/Southwest
County—Madera
Parts:
C.T. 4
C.T. 5.02–5.05
C.T. 6.01–6.02
C.T. 7–10
Mariposa/Coulterville
County—Mariposa
Parts:
Coulterville CCD
Mariposa CCD
Markleeville
County—Alpine
Parts:
Markleeville CCD
McCloud-Medicine Lake
County—Siskiyou
Parts:
C.T. 12
Meridian/Robbins
County—Sutter
Parts:
C.T. 509
Mono North/Topaz Walker
County—Mono
Parts:
C.T. 1
Mono South/Mammoth Lakes
County—Mono
Parts:
C.T. 2
Mountain Empire
County—San Diego
Parts:
C.T. 211
N. El Monte/S. El Monte
County—Los Angeles
Parts:
C.T. 4315
C.T. 4323–4328
C.T. 4331–4335
C.T. 4337–4340
Needles/Topock (CA/AZ)
County—San Bernardino
Parts:
C.T. 105–107
Orland
County—Glenn
Parts:
C.T. 101–102
Oroville/Palermo
County—Butte
Parts:
C.T. 25–33
Pajaro
County—Monterey
Parts:
C.T. 101.98
C.T. 102.01–102.02
Palo Verde/Blythe
County—Riverside
Parts:
C.T. 459–462
Pico Rivera South
County—Los Angeles
Parts:
C.T. 5007–5009
C.T. 5023–5025
C.T. 5026.01–5026.02
C.T. 5027
C.T. 5029.02
C.T. 5320–5322
Porterville
County—Tulare
Parts:
C.T. 33–41
C.T. 45
Ramona
County—San Diego
Parts:
C.T. 208.01
C.T. 208.04
C.T. 208.97–208.98
Red Bluff
County—Tehama
Parts:
C.T. 2
C.T. 4–8
Red Mountain/Trona
County—San Bernardino
Parts:
C.T. 89.01
Redwood/Potter Valley
County—Mendocino
Parts:
C.T. 108
S Barstow-Victorville/Adelanto/Apple Val
County—San Bernardino
Parts:
C.T. 91.02–91.04
C.T. 97.04–97.06
C.T. 98
C.T. 99.01–99.03
C.T. 100.03–100.08
S Coachella Valley/Mecca
County—Riverside
Parts:
C.T. 456.01–456.02
Sacramento Canyon/Castella/Lakehead/O'Br
County—Shasta
Parts:
C.T. 125
San Andreas
County—Calaveras
Parts:
C.T. 2–3
San Benito/Bitterwater
County—San Benito
Parts:
C.T. 8
San Joaquin-Tranquility
County—Fresno
Parts:
C.T. 82
San Ysidro
County—San Diego
Parts:
C.T. 100.01–100.05
C.T. 100.07–100.09
C.T. 101.03–101.04
C.T. 101.06–101.09
C.T. 102–105
Santa Catalina Island
County—Los Angeles
Parts:
C.T. 5990–5991
Se Kern, Boron, California City
County—Kern
Parts:
C.T. 55.03–55.06
C.T. 56–59
Sonoma Valley
County—Sonoma
Parts:
C.T. 1501–1502
C.T. 1503.01–1503.02
C.T. 1504–1505
South And East Stockton
County—San Joaquin
Parts:
C.T. 1–3
C.T. 5–8
C.T. 8.99
C.T. 16–26
C.T. 27.01–27.02
C.T. 28–29
C.T. 36.01–36.02
C.T. 37–39
Southwest Shasta
County—Shasta
Parts:
C.T. 124
Springville
County—Tulare
Parts:
C.T. 27
Surprise Valley
County—Modoc
Parts:
Surprise Valley Division
Taft
County—Kern
Parts:
C.T. 33.03–33.04
C.T. 34–36
Tehachapi

PRIMARY MEDICAL CARE: California
Service Area Listing

Service Area Name

County—Kern
Parts:
C.T. 60.01–60.02
C.T. 61
Tule Lake
County—Modoc
Parts:
Tule Lake CCD
County—Siskiyou
Parts:
C.T. 1 (Tule Lake CCD)
Watsonville
County—Santa Cruz
Parts:
C.T. 1101–1103
C.T. 1104.98
C.T. 1105–1107
C.T. 1223
C.T. 1224.97–1224.98
C.T. 1225.98
West Berkeley
County—Alameda
Parts:
C.T. 4220–4223
C.T. 4230–4234
C.T. 4240
West Imperial
County—Imperial
Parts:
C.T. 123.01
West Modesto
County—Stanislaus
Parts:
C.T. 15
C.T. 16.01–16.02
C.T. 17
C.T. 22–24
C.T. 31
West Point/Wilseyville
County—Calaveras
Parts:
C.T. 4–5
Willow Creek
County—Humboldt
Parts:
C.T. 101 (Trinity-Klamath
County—Trinity
Parts:
C.T. 2 (lower Trinity)
Willows
County—Glenn
Parts:
C.T. 103–105
Parts:
C.T. 5990–5991
Woodlake/Three Rivers
County—Tulare
Parts:
C.T. 1
C.T. 7
29 Palms/Yucca Valley
County—San Bernardino
Parts:
C.T. 104.02–104.03
C.T. 104.05–104.09

PRIMARY MEDICAL CARE: California
Population Group Listing

Population Group

Inmates—FCI Dublin
County—Alameda
Parts:
FCI Dublin
Inmates—FPC Boron
County—Kern
Parts:
FPC Boron
Inmates—MCC San Diego
County—San Diego
Parts:
MCC San Diego
Inmates—MDC Los Angeles
County—Los Angeles
Parts:
MDC Los Angeles
Low Inc—Angels
County—Calaveras
Parts:
C.T. 1
Low Inc—Blue Lake
County—Humboldt
Parts:
C.T. 9
C.T. 12
Low Inc—Central Santa Ana
County—Orange
Parts:
C.T. 744.05
C.T. 745.01
C.T. 746.01–746.02
C.T. 747.01–747.02
C.T. 748.01–748.02
C.T. 748.05–748.06
C.T. 749.01–749.02
C.T. 750.01–750.02
C.T. 751
C.T. 752.01–752.02
Low Inc—City Heights/Downtown
County—San Diego
Parts:
C.T. 14–15
C.T. 22–24
C.T. 25.01–25.02
C.T. 26
C.T. 27.01
C.T. 27.04–27.06
C.T. 34.01
C.T. 42–44
C.T. 53–58
C.T. 58.99
C.T. 60–61
Low Inc—Del Norte Co
County—Del Norte
Parts:
Low Income
Low Inc—Dunsmuir
County—Siskiyou
Parts:
C.T. 11
Low Inc—E Bakersfield/Lakeview
County—Kern
Parts:
C.T. 10
C.T. 11.01–11.03
C.T. 12–15
C.T. 20–22
C.T. 23.01–23.02
C.T. 24–26
C.T. 30
Low Inc—Edison/Easton
County—Fresno
Parts:
C.T. 2–4

PRIMARY MEDICAL CARE: California
Population Group Listing

Population Group

C.T. 7–13
C.T. 15
C.T. 18–20
C.T. 38.01–38.03
C.T. 42.01
Low Inc—El Cajon
County—San Diego
Parts:
C.T. 153.01–153.02
C.T. 156.01–156.02
C.T. 157.01–157.02
C.T. 158–161
C.T. 162.01–162.02
C.T. 163
C.T. 164.01–164.02
C.T. 165.01–165.02
Low Inc—El Sereno/Highland Park
County—Los Angeles
Parts:
C.T. 1831.01–1831.02
C.T. 1832–1833
C.T. 1835–1838
C.T. 1991
C.T. 1992.01–1992.02
C.T. 1993
C.T. 1998
C.T. 2011–2012
C.T. 2013.01–2013.02
C.T. 2014.01–2014.02
C.T. 2015.01–2015.02
C.T. 2016–2017
C.T. 5307
Low Inc—Escalon/Manteca/Ripon
County—San Joaquin
Parts:
C.T. 49.01
C.T. 49.98
C.T. 50.01–50.02
C.T. 51.01
C.T. 51.06
C.T. 51.08–51.20
Low Inc—Eureka/Arcata
County—Humboldt
Parts:
C.T. 1
C.T. 1.99–2.00
C.T. 3–8
C.T. 10–11
C.T. 103–107
Low Inc—Ferndale
County—Humboldt
Parts:
C.T. 112
Low Inc—Fortuna
County—Humboldt
Parts:
C.T. 108–110
Low Inc—Healdsburg/Geyserville
County—Sonoma
Parts:
C.T. 1538–1540
Low Inc—Hughson
County—Stanislaus
Parts:
C.T. 28
C.T. 29.01–29.02
Low Inc—Lake Arrowhead
County—San Bernardino
Parts:
C.T. 108–110
Low Inc—Lake Isabella
County—Kern

PRIMARY MEDICAL CARE: California
Population Group Listing

Population Group

Parts:
C.T. 52.01–52.02
Low Inc—Lake Tahoe/Tahoe City
County—Placer
Parts:
C.T. 201.01–201.07
Low Inc—Mission Hills/San Fernando
County—Los Angeles
Parts:
C.T. 1042.01–1042.02
C.T. 1044.01
C.T. 1061.02
C.T. 1064.01
C.T. 1066.01–1066.02
C.T. 1070
C.T. 1091
C.T. 1094–1095
C.T. 3201–3203
Low Inc—Mt Shasta/Weed
County—Siskiyou
Parts:
C.T. 9–10
Low Inc—Newman
County—Stanislaus
Parts:
C.T. 32
C.T. 33.98
C.T. 34.98
C.T. 35
Low Inc—North Coastal
County—Humboldt
Parts:
C.T. 102
Low Inc—Pacoima/Sun Valley North
County—Los Angeles
Parts:
C.T. 1041.01–1041.02
C.T. 1043
C.T. 1044.02
C.T. 1045–1046
C.T. 1047.01–1047.02
C.T. 1048
C.T. 1210–1212
C.T. 1218–1219
C.T. 1221–1222
Low Inc—Paradise
County—Butte
Parts:
C.T. 17–23
Low Inc—Petaluma
County—Sonoma
Parts:
C.T. 1506.01–1506.04
C.T. 1507–1511
C.T. 1512.01–1512.02
C.T. 1513.01–1513.04
Low Inc—Rio Dell/Scotia
County—Humboldt
Parts:
C.T. 111
Low Inc—South Of Market
County—San Francisco
Parts:
C.T. 122–125
C.T. 176.02
C.T. 176.98
C.T. 177–178
C.T. 179.01–179.02
C.T. 179.99–180.00
C.T. 201.98
C.T. 226–229
C.T. 607

PRIMARY MEDICAL CARE: California
Population Group Listing

Population Group

Low Inc—Southern Napa Co
County—Napa
Parts:
C.T. 2001–2014
Low Inc—Susanville
County—Lassen
Parts:
Honey Lake CCD
Madeline Plains CCD
Susanville CCD
Westwood CCD
Low Inc—Sutter/Yuba City
County—Sutter
Parts:
C.T. 501–504
C.T. 505.01–505.02
C.T. 506.01–506.02
C.T. 508
C.T. 510
County—Yuba
Parts:
C.T. 401–407
C.T. 409.00–409.02
C.T. 410
Low Inc—Turlock
County—Stanislaus
Parts:
C.T. 36.02–36.05
C.T. 37
C.T. 38.01–38.03
C.T. 39.03–39.07
Low Inc—Venice/South Santa Monica
County—Los Angeles
Parts:
C.T. 2722
C.T. 2723.02
C.T. 2731–2739
C.T. 2751–2752
C.T. 2755
C.T. 7018.01–7018.02
C.T. 7019–7021
C.T. 7022.01–7022.02
C.T. 7026
C.T. 7028.03
Low Inc—Yuba Foothills
County—Yuba
Parts:
C.T. 411
Low Inc/MFW—Exeter/Ivanhoe/Lindsay
County—Tulare
Parts:
C.T. 8
C.T. 14–16
C.T. 25–26
C.T. 28
Low Inc/MFW—Gustine
County—Merced
Parts:
C.T. 20
Low Inc/MFW—Northern Napa Co
County—Napa
Parts:
C.T. 2015–2020
Low Inc/MFW—San Juan Capistrano
County—Orange
Parts:
C.T. 421.03
C.T. 421.05–421.10
C.T. 422.01
C.T. 422.03–422.04
C.T. 423.10–423.13
C.T. 423.22–423.23

PRIMARY MEDICAL CARE: California
Population Group Listing

Population Group

Low Inc/MFW—Ventura
County—Ventura
Parts:
Camarillo CCD
Fillmore-Piru CCD
Las Posas CCD
Los Padres CCD
Meiners Oaks-Ojai CCD
Oxnard CCD
Santa Paula CCD
Ventura CCD
Medicaid—Central-North Redding
County—Shasta
Parts:
C.T. 101–119
Medicaid—Oakdale/Riverbank
County—Stanislaus
Parts:
C.T. 1
C.T. 2.01–2.03
C.T. 3
C.T. 4.01–4.02
Medicaid—Ridgecrest
County—Kern
Parts:
C.T. 53
C.T. 54.01–54.04
C.T. 55.01
Medicaid—South Redding-Anderson
County—Shasta
Parts:
C.T. 120–123
Medicaid—Tuolumne Co
County—Tuolumne
Parts:
Medicaid Eligible
Medicaid—Vista/Oceanside/Carlsbad
County—San Diego
Parts:
C.T. 178.01
C.T. 178.03
C.T. 178.05–178.08
C.T. 179–184
C.T. 185.01
C.T. 185.04
C.T. 185.07–185.08
C.T. 185.97–185.98
C.T. 186.01
C.T. 186.03
C.T. 186.05–186.07
C.T. 192.02–192.04
C.T. 193
C.T. 194.01–194.02
C.T. 195
C.T. 196.01–196.02
C.T. 197.01–197.02
C.T. 198.01–198.02
C.T. 199.01–199.03
C.T. 200.05–200.12
C.T. 203.01
Medicaid—Winterhaven-Bard
County—Imperial
Parts:
C.T. 125
MFW/Low Inc—Delano/Mcfarland
County—Kern
Parts:
C.T. 46–48
C.T. 49.01–49.02
C.T. 50
Pov Pop—South Sacramento
County—Sacramento

PRIMARY MEDICAL CARE: California
Population Group Listing

Population Group

Parts:
C.T. 27–28
C.T. 30
C.T. 31.01–31.02
C.T. 32.01–32.02
C.T. 35.01–35.02
C.T. 36–37
C.T. 44.01–44.02
C.T. 45
C.T. 46.01–46.02
Pov Pop/MFW—Reedley/Parlier/Orange Cove
County—Fresno
Parts:
C.T. 63
C.T. 65
C.T. 66.01–66.02
C.T. 67
C.T. 68.01–68.02
C.T. 69
Pov. Pop.—Big Bear Lake
County—San Bernardino
Parts:
C.T. 112–115
Pov/MFW—Buttonwillow/Wasco/Shafter
County—Kern
Parts:
C.T. 37
C.T. 39–45
Pov/MFW—Visalia
County—Tulare
Parts:
C.T. 9
C.T. 10.01–10.02
C.T. 11–13
C.T. 17.01–17.02
C.T. 18–19
C.T. 20.01–20.05

PRIMARY MEDICAL CARE: California
Facility Listing

Facility Name

FCI Terminal Island
County—Los Angeles
Harbor-Ucla Med Ctr Ambulatory Clinics
County—Los Angeles
INS Med Fac—El Centro
County—Imperial
INS Med Fac—San Pedro
County—Los Angeles
Long Beach Comprehensive Hlth Ctr
County—Los Angeles
Martin Luther King Jr. Gen Hosp
County—Los Angeles
Shasta Primary Care Clinic
County—Shasta
USP Lompoc
County—Santa Barbara
Valley Medical Center
County—Fresno

PRIMARY MEDICAL CARE: Colorado
County Listing

County Name

Adams
Service Area: Bennett/Strasburg
Service Area: Commerce City
Population Group: Low Inc—Thornton
Population Group: MSFW—Ft Lupton/Brighton
*Alamosa

PRIMARY MEDICAL CARE: Colorado
County Listing

County Name

Population Group: Low Inc—Alamosa Co
Arapahoe
Service Area: Bennett/Strasburg
*Archuleta
*Baca
*Bent
Boulder
Population Group: Low Inc—Boulder City
Population Group: MSFW—Ft Lupton/Brighton
Population Group: Pov Pop—Lafayette/Louisville
*Chaffee
Service Area: Northern Chaffee
*Cheyenne
*Clear Creek
*Conejos
Population Group: Med Ind—Conejos Co
*Costilla
*Crowley
*Custer
*Delta
Population Group: Low Inc—Delta Co
Denver
Service Area: Globeville
Service Area: Montbello
Population Group: Homeless—Downtown Denver
*Dolores
Douglas
Facility: FCI Englewood
*Eagle
Service Area: Eagle-Gypsum
El Paso
Service Area: Calhan-Yoder
Population Group: Low Income—Colorado Springs
*Elbert
Service Area: Limon
*Fremont
Facility: FCI Florence
Facility: USP Florence
*Garfield
Service Area: Rifle
*Gilpin
*Hinsdale
*Huerfano
Service Area: Gardner
Population Group: Low Inc—E Huerfano
*Jackson
*Kiowa
*Kit Carson
*Lake
*Las Animas
Population Group: Low Inc—Las Animas Co
Lincoln
Service Area: Limon
*Logan
Service Area: Crook/Fleming
*Mesa
Service Area: Collbran
*Mineral
*Moffat
Service Area: Rangely
*Montrose
Service Area: Nucla/Norwood
Population Group: Low Inc—East Montrose/Ouray
*Morgan
Population Group: Low Inc—Morgan Co
*Otero

PRIMARY MEDICAL CARE: Colorado
County Listing

County Name

Population Group: Med Ind Pop—Otero Co
*Ouray
Population Group: Low Inc—East Montrose/Ouray
*Park
Service Area: Fairplay
Service Area: Lake George
*Phillips
Population Group: Low Inc—Phillips Co
*Prowers
Pueblo
Population Group: Med Ind—Pueblo Co
*Rio Blanco
Service Area: Meeker
Service Area: Rangely
*Rio Grande
*Routt
Service Area: Oak Creek/Yampa
*Saguache
*San Juan
*San Miguel
Service Area: Nucla/Norwood
Sedgwick
Service Area: Julesburg (CO/NB)
*Teller
Service Area: Cripple Creek
*Washington
Weld
Population Group: MSFW—Ft Lupton/Brighton

PRIMARY MEDICAL CARE: Colorado
Service Area Listing

Service Area Name

Bennett/Strasburg
County—Adams
Parts:
East Adams Division
County—Arapahoe
Parts:
East Arapahoe Division
Calhan-Yoder
County—El Paso
Parts:
C.T. 39.01
C.T. 46
Collbran
County—Mesa
Parts:
Collbran CCD
Commerce City
County—Adams
Parts:
C.T. 87.03
C.T. 87.05–87.06
C.T. 88.01–88.02
C.T. 89.01
C.T. 89.52
Cripple Creek
County—Teller
Parts:
Cripple Creek CCD
Crook/Fleming
County—Logan
Parts:
Crook CCD
Fleming CCD
Eagle-Gypsum
County—Eagle
Parts:
Eagle-Gypsum CCD

PRIMARY MEDICAL CARE: Colorado
Service Area Listing

Service Area Name
Fairplay
County—Park
Parts:
Fairplay CCD
Gardner
County—Huerfano
Parts:
Gardner CCD
Globeville
County—Denver
Parts:
C.T. 15
C.T. 35
Julesburg (CO/NB)
County—Sedgwick
Lake George
County—Park
Parts:
Lake George CCD
Limon
County—Elbert
Parts:
Agate CCD
Simla CCD
County—Lincoln
Meeker
County—Rio Blanco
Parts:
Meeker CCD
Montbello
County—Denver
Parts:
C.T. 83.04–83.06
C.T. 83.11–83.12
Northern Chaffee
County—Chaffee
Parts:
Buena Vista CCD
Nucla/Norwood
County—Montrose
Parts:
Nucla CCD
County—San Miguel
Parts:
Norwood CCD
Oak Creek/Yampa
County—Routt
Parts:
Oak Creek Division
Yampa Division
Rangely
County—Moffat
Parts:
Artesia CCD
County—Rio Blanco
Parts:
Rangely CCD
Rifle
County—Garfield
Parts:
Grand Valley CCD
New Castle CCD
Rifle CCD

PRIMARY MEDICAL CARE: Colorado
Population Group Listing

Population Group
Homeless—Downtown Denver
County—Denver
Parts:
C.T. 16

PRIMARY MEDICAL CARE: Colorado
Population Group Listing

Population Group
C.T. 20
C.T. 24.01–24.02
C.T. 25
C.T. 26.01–26.02
C.T. 27.01–27.03
Low Inc—Alamosa Co
County—Alamosa
Parts:
Low Income
Low Inc—Boulder City
County—Boulder
Parts:
C.T. 121.01–121.02
C.T. 122.02–122.05
C.T. 123
C.T. 124.01
C.T. 126.02
C.T. 126.04
Low Inc—Delta Co
County—Delta
Parts:
Low Inc
MFW
Low Inc—E Huerfano
County—Huerfano
Parts:
La Veta CCD
Walsenburg CCD
Low Inc—East Montrose/Ouray
County—Montrose
Parts:
Montrose CCD
Olathe CCD
County—Ouray
Parts:
Low Income
Low Inc—Las Animas Co
County—Las Animas
Parts:
Low Income
Low Inc—Morgan Co
County—Morgan
Parts:
Low Income
Low Inc—Phillips Co
County—Phillips
Parts:
Low Income
Low Inc—Thornton
County—Adams
Parts:
C.T. 85.05–85.06
C.T. 85.15–85.18
C.T. 90.01–90.03
C.T. 91.02
C.T. 92.01–92.03
C.T. 93.04
C.T. 93.06–93.10
C.T. 93.13–93.18
C.T. 94.01
C.T. 94.03
C.T. 94.05–94.07
C.T. 95.01–95.02
C.T. 95.53
C.T. 96.03–96.06
C.T. 97.50
Low Income—Colorado Springs
County—El Paso
Parts:
13.01
14.00
15.00

PRIMARY MEDICAL CARE: Colorado
Population Group Listing

Population Group
16.00
17.00
21.01
21.02
22.00
23.00
26.00
27.00
28.00
29.00
33.02
45.01
52.00
53.00
54.00
Med Ind—Conejos Co
County—Conejos
Parts:
Medically Indigent
Med Ind—Pueblo Co
County—Pueblo
Parts:
Medically Indigent
Med Ind Pop—Otero Co
County—Otero
Parts:
Medically Indigent
MSFW—Ft Lupton/Brighton
County—Adams
Parts:
C.T. 85.13–85.14
C.T. 86.01–86.02
County—Boulder
Parts:
C.T. 128
C.T. 132.01
C.T. 132.04
C.T. 133.02
C.T. 133.05–133.08
C.T. 134.01–134.02
C.T. 135.01
C.T. 135.03–135.04
County—Weld
Parts:
MSFW
Pov Pop—Lafayette/Louisville
County—Boulder
Parts:
C.T. 127.98
C.T. 129.01–129.02
C.T. 130.02
C.T. 130.98
C.T. 131.02–131.05

PRIMARY MEDICAL CARE: Colorado
Facility Listing

Facility Name
FCI Englewood
County—Douglas
FCI Florence
County—Fremont
USP Florence
County—Fremont

PRIMARY MEDICAL CARE: Connecticut
County Listing

County Name
Fairfield
Service Area: Central/East Bridgeport
Service Area: South End Stamford

PRIMARY MEDICAL CARE: Connecticut
County Listing

County Name

Service Area: Southwest Bridgeport
Population Group: Inmates—FCI Danbury
Population Group: Low Inc—Stratford
Population Group: Low Inc—Danbury
Population Group: Low Inc—S Norwalk
Hartford
Service Area: Charter Oak/Frog Hollow/Parkville/Barry
Service Area: North-Central Hartford
Population Group: Low Inc—Central New Britain
Middlesex
Population Group: Med Ind/Homeless—C Middletown
New Haven
Service Area: Central Waterbury
Service Area: Fair Haven
Population Group: Low Inc—Central New Haven
Population Group: Low Inc—West Haven
Population Group: Low Inc—Meriden
Population Group: Med Ind—Ansonia
New London
Service Area: Central Groton
Population Group: Low Inc—Norwich
Population Group: Low Inc—Central New London
Tolland
Population Group: Low Inc—Rockville
Windham
Population Group: Low Inc—Town Of Windham

PRIMARY MEDICAL CARE: Connecticut
Service Area Listing

Service Area Name

Central Groton
County—New London
Parts:
C.T. 7022–7023
C.T. 7025
C.T. 7027–7028
Central Waterbury
County—New Haven
Parts:
C.T. 3501–3505
C.T. 3508
C.T. 3512
C.T. 3514
Central/East Bridgeport
County—Fairfield
Parts:
C.T. 713–717
C.T. 735–736
C.T. 738–744
Charter Oak/Frog Hollow/Parkville/Barry
County—Hartford
Parts:
C.T. 5001–5002
C.T. 5019
C.T. 5027–5030
C.T. 5043
C.T. 5045–5046
C.T. 5049
Fair Haven
County—New Haven
Parts:
C.T. 1421
C.T. 1423–1425
C.T. 1426.01–1426.02
North-Central Hartford

PRIMARY MEDICAL CARE: Connecticut
Service Area Listing

Service Area Name

County—Hartford
Parts:
C.T. 5005
C.T. 5008–5018
C.T. 5020
C.T. 5022
C.T. 5034–5035
C.T. 5037
South End Stamford
County—Fairfield
Parts:
C.T. 222–223
Southwest Bridgeport
County—Fairfield
Parts:
C.T. 702–712

PRIMARY MEDICAL CARE: Connecticut
Population Group Listing

Population Group

Inmates—FCI Danbury
County—Fairfield
Parts:
FCI Danbury
Low Inc—Central New Britain
County—Hartford
Parts:
C.T. 4159–4162
C.T. 4166
C.T. 4168
C.T. 4171
Low Inc—Central New Haven
County—New Haven
Parts:
C.T. 1402–1409
C.T. 1413
C.T. 1415–1416
Low Inc—Central New London
County—New London
Parts:
C.T. 6901
C.T. 6903–6906
C.T. 6906.99–6907.00
C.T. 6907.99
Low Inc—Danbury
County—Fairfield
Parts:
C.T. 2101–2114
Low Inc—Meriden
County—New Haven
Parts:
C.T. 1701.01–1701.02
C.T. 1702.01–1702.02
C.T. 1703–1717
Low Inc—Norwich
County—New London
Parts:
Bozrah Town
Franklin Town
Griswold Town
Lisbon Town
Montville Town
Norwich Town
Preston Town
Sprague Town
Voluntown Town
Low Inc—Rockville
County—Tolland
Parts:
C.T. 5301–5302
Low Inc—S Norwalk

PRIMARY MEDICAL CARE: Connecticut
Population Group Listing

Population Group

County—Fairfield
Parts:
C.T. 440–442
C.T. 444–445
Low Inc—Stratford
County—Fairfield
Parts:
Stratford Town
Low Inc—Town Of Windham
County—Windham
Parts:
Windham Town
Low Inc—West Haven
County—New Haven
Parts:
West Haven Town
Med Ind—Ansonia
County—New Haven
Parts:
Ansonia Town
Derby Town
Seymour Town
Med Ind/Homeless—C Middletown
County—Middlesex
Parts:
C.T. 5411
C.T. 5415–5416
C.T. 5421

PRIMARY MEDICAL CARE: DELAWARE
County Listing

County Name

New Castle
Service Area: Middletown-Odessa
Service Area: Wilmington—Southbridge

PRIMARY MEDICAL CARE: DELAWARE
Service Area Listing

Service Area Name

Middletown-Odessa
County—New Castle
Parts:
C.T. 166–169
Wilmington—Southbridge
County—New Castle
Parts:
C.T. 1
C.T. 6.01–6.02
C.T. 7–9
C.T. 15–17
C.T. 19–23
C.T. 154–155

PRIMARY MEDICAL CARE: District Of Columbia
County Listing

County Name

Dist Of Columbia
Service Area: Anacostia
Service Area: Brentwood
Service Area: East Capitol St. (Far S.E.)
Service Area: Mt. Pleasant/Upper Cardozo
Service Area: South Capitol
Service Area: Suitland
Population Group: Homeless—Downtown Washington
Facility: Lorton Max Corr Fac

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PRIMARY MEDICAL CARE: District Of Columbia
Service Area Listing

Service Area Name

Anacostia
County—Dist Of Columbia
Parts:
C.T. 74.01
C.T. 74.03–74.04
C.T. 74.06–74.09
C.T. 75.02–75.04
C.T. 76.01
C.T. 76.05

Brentwood
County—Dist Of Columbia
Parts:
C.T. 47
C.T. 79.01
C.T. 79.03
C.T. 80.01
C.T. 84.02
C.T. 84.10
C.T. 85.10
C.T. 86
C.T. 88.02–88.04
C.T. 89.03–89.04
C.T. 91.02

East Capitol St. (Far S.E.)
County—Dist Of Columbia
Parts:
C.T. 77.03
C.T. 77.07–77.09
C.T. 78.03–78.04
C.T. 78.06–78.09
C.T. 96.02–96.03
C.T. 99.03–99.07

Mt. Pleasant/Upper Cardozo
County—Dist Of Columbia
Parts:
C.T. 25.02
C.T. 27.01–27.02
C.T. 28.01–28.02
C.T. 29–30
C.T. 36–39
C.T. 43

South Capitol
County—Dist Of Columbia
Parts:
C.T. 60.20
C.T. 64.10
C.T. 71–72

Suitland
County—Dist Of Columbia
Parts:
C.T. 73.02
C.T. 98.01–98.08

PRIMARY MEDICAL CARE: District Of Columbia
Population Group Listing

Population Group

Homeless—Downtown Washington
County—Dist Of Columbia
Parts:
C.T. 40.01–40.02
C.T. 41
C.T. 42.02
C.T. 46
C.T. 48.01–48.02
C.T. 49.01–49.02
C.T. 50–51
C.T. 52.10
C.T. 52.20
C.T. 53.01–53.02
C.T. 54.01–54.02

PRIMARY MEDICAL CARE: District Of Columbia
Population Group Listing

Population Group

C.T. 55.01–55.02
C.T. 56
C.T. 57.01–57.02
C.T. 58–59

PRIMARY MEDICAL CARE: District Of Columbia
Facility Listing

Facility Name

Lorton Max Corr Fac
County—Dist Of Columbia

PRIMARY MEDICAL CARE: Florida
County Listing

County Name

Alachua
Population Group: Medicaid—Alachua Co
*Baker
Population Group: Medicaid/MFW—Baker Co
Facility: Baker Corr Inst
Bay
Population Group: Medicaid—Bay Co
Bradford (g)
Facility: Florida State Prs
Brevard
Population Group: Medicaid/MFW—Brevard Co
Facility: Brevard Corr Inst
Broward
Population Group: Pov/MFW—Pompano
*Calhoun (g)
Facility: Calhoun Corr Inst
Charlotte
Population Group: Low Inc—Charlotte Co
*Citrus
Population Group: Medicaid—Citrus Co
Clay
Service Area: Keystone Heights
Collier
Service Area: Everglades
Service Area: Imokalee
*Columbia
Population Group: Pov Pop—Columbia Co
Dade
Service Area: Model Cities
Service Area: Southern Dade (Homestead)
Service Area: Wynwood
Population Group: Inmates—MCC Miami
Population Group: Low Inc—North Beach
Population Group: Low Inc—Little Havana
Population Group: Low Inc—South Beach
Facility: Coconut Grove Comm Hth Ctr
Facility: Doris Ison Comm Hlth Ctr
Facility: Jackson Mem. Hosp. Outpt. Clinics
Facility: S Florida Recept Ctr
*De Soto
Population Group: Pov/MFW—Desoto Co
*Dixie (g)
Facility: Cross City Corr Inst
Duval
Population Group: Low Inc—N Jacksonville
Escambia
Service Area: Atmore/Century (AL/FL)
Facility: Century Corr Inst
*Franklin
Population Group: Med Ind—Franklin Co
Gadsden

PRIMARY MEDICAL CARE: Florida
County Listing

County Name

*Gilchrist
Glades
Service Area: Glades/Hendry
*Gulf
Population Group: Medicaid—Gulf Co
*Hamilton
*Hardee
*Hendry
Service Area: Glades/Hendry
Facility: Hendry Corr Inst
Hernando
Population Group: Medicaid/MFW—Hernando Co
*Highlands
Population Group: Low Inc/MFW—Highlands Co
Facility: Avon Park Corr Inst
Hillsborough
Service Area: East Tampa/Ybor City
Population Group: Pov/MFW—E Hillsborough
*Holmes (g)
Facility: Holmes Corr Inst
*Indian River
Population Group: Medicaid/MFW—Indian River Co
*Jackson
Population Group: Medicaid—Jackson Co
Facility: Apalachee Correctional Inst
Facility: FCI Marianna
*Jefferson
*Lafayette (g)
Facility: Mayo Corr Inst
Lake
Population Group: MSFW—Lake/Orange
Lee
Population Group: Medicaid/MSFW—Lee Co
Leon
Population Group: Low Inc—Bond Community
Facility: FCI—Tallahassee
*Levy
*Liberty
Facility: Liberty Corr Inst
*Madison
Manatee
Population Group: Medicaid/MFW—Manatee Co
Marion
Population Group: Medicaid/MFW—Marion Co
Martin
Service Area: Indiantown
*Monroe
Population Group: Medicaid—Monroe Co
Okaloosa
Population Group: Inmates—FPC Elgin
Population Group: Low Inc—Crestview
Facility: Okaloosa Corr Inst
*Okeechobee
Population Group: Medicaid/MFW—Okeechobee Co
Orange
Population Group: MSFW—Lake/Orange
Osceola
Population Group: Low Inc—Osceola
Palm Beach
Service Area: West Palm Beach
Population Group: MFW—Belle Glade/Pahokee
Pasco

PRIMARY MEDICAL CARE: Florida
County Listing

County Name

Population Group: Pov/MFW—Eastern Pasco
Facility: Zephryhills Corr Inst
Pinellas
Population Group: Pov Pop—Inner St. Petersburg
Polk
Service Area: Frostproof/Lake Wales
Service Area: Polk City/Eva
*Putnam
Seminole
Population Group: Medicaid/MFW—Seminole Co
St Johns
Population Group: Medicaid/MFW—St. Johns Co
St Lucie
Population Group: Pov/MFW—St. Lucie Co
*Sumter (g)
Facility: Sumter Corr Inst
*Suwannee
*Taylor
*Union (g)
Facility: North Florida Reception Ctr.
Volusia
Population Group: Medicaid/MFW—Volusia Co
*Wakulla
*Walton (g)
Facility: Walton Corr Inst
*Washington
Population Group: Medicaid—Washington Co

PRIMARY MEDICAL CARE: Florida
Service Area Listing

Service Area Name

Atmore/Century (AL/FL)
County—Escambia
Parts:
C.T. 38–40
East Tampa/Ybor City
County—Hillsborough
Parts:
C.T. 10
C.T. 17–19
C.T. 30–44
C.T. 49–51
Everglades
County—Collier
Parts:
C.T. 111.01–111.02
Frostproof/Lake Wales
County—Polk
Parts:
C.T. 142–144
C.T. 154–158
C.T. 160
C.T. 161.98
Glades/Hendry
County—Glades
County—Hendry
Imokalee
County—Collier
Parts:
C.T. 112.01–112.03
C.T. 113–114
Indiantown
County—Martin
Parts:
Indiantown CCD

PRIMARY MEDICAL CARE: Florida
Service Area Listing

Service Area Name

Keystone Heights
County—Clay
Parts:
Keystone Heights CCD
Model Cities
County—Dade
Parts:
C.T. 4.06
C.T. 8.01–8.02
C.T. 9.01–9.03
C.T. 10.01–10.04
C.T. 11.03
C.T. 15.01–15.02
C.T. 16.01–16.02
C.T. 17.01–17.02
C.T. 18.01–18.03
C.T. 19.01
C.T. 19.03–19.04
C.T. 23
Polk City/Eva
County—Polk
Parts:
C.T. 116
C.T. 123–124
Southern Dade (Homestead)
County—Dade
Parts:
C.T. 103–105
C.T. 106.02
C.T. 107.01
C.T. 108–109
C.T. 110.01–110.02
C.T. 111
C.T. 112.01–112.02
C.T. 113
C.T. 114.98
West Palm Beach
County—Palm Beach
Parts:
C.T. 20–26
Wynwood
County—Dade
Parts:
C.T. 14.01–14.02
C.T. 20.01
C.T. 20.03–20.04
C.T. 21
C.T. 22.01–22.02
C.T. 25–26
C.T. 27.01–27.02
C.T. 28–29

PRIMARY MEDICAL CARE: Florida
Population Group Listing

Population Group

Inmates—FPC Elgin
County—Okaloosa
Parts:
FPC Elgin
Inmates—MCC Miami
County—Dade
Parts:
MCC Miami
Low Inc—Bond Community
County—Leon
Parts:
C.T. 1
C.T. 4–6
C.T. 10.01
C.T. 11.01–11.02
C.T. 12–14

PRIMARY MEDICAL CARE: Florida
Population Group Listing

Population Group

Low Inc—Charlotte Co
County—Charlotte
Parts:
Low Income
Low Inc—Crestview
County—Okaloosa
Parts:
C.T. 203–207
Low Inc—Little Havana
County—Dade
Parts:
C.T. 30.02
C.T. 36.02
C.T. 49.01–49.02
C.T. 50.01–50.02
C.T. 51
C.T. 52.01
C.T. 53.01–53.02
C.T. 54.01–54.02
C.T. 55.01–55.02
C.T. 56
C.T. 57.03–57.04
C.T. 58.01
C.T. 61.01–61.02
C.T. 62
C.T. 63.01–63.02
C.T. 64.01–64.03
C.T. 65
Low Inc—N Jacksonville
County—Duval
Parts:
C.T. 1
C.T. 1.99–2.00
C.T. 2.99–3.00
C.T. 3.99–4.00
C.T. 5
C.T. 9–19
C.T. 26–29
C.T. 107–109
C.T. 112–116
C.T. 118
C.T. 121
Low Inc—North Beach
County—Dade
Parts:
C.T. 39.01–39.02
C.T. 39.04–39.06
Low Inc—Osceola
County—Osceola
Parts:
Low Inc
Low Inc—South Beach
County—Dade
Parts:
C.T. 42–45
Low Inc/MFW—Highlands Co
County—Highlands
Parts:
Low Income
MFW
Med Ind—Franklin Co
County—Franklin
Parts:
Medically Indigent
Medicaid—Alachua Co
County—Alachua
Parts:
Medicaid Eligible
Medicaid—Bay Co
County—Bay
Parts:
Medicaid Eligible

PRIMARY MEDICAL CARE: Florida
Population Group Listing

Population Group

Medicaid—Citrus Co
  County—Citrus
    Parts:
      Medicaid Eligible
Medicaid—Gulf Co
  County—Gulf
    Parts:
      Medicaid Eligible
Medicaid—Jackson Co
  County—Jackson
    Parts:
      Medicaid Eligible
Medicaid—Monroe Co
  County—Monroe
    Parts:
      Medicaid Eligible
Medicaid—Washington Co
  County—Washington
    Parts:
      Medicaid Eligible
Medicaid/MFW—Baker Co
  County—Baker
    Parts:
      Medicaid Eligible/MFW
Medicaid/MFW—Brevard Co
  County—Brevard
    Parts:
      Medicaid Eligible/MFW
Medicaid/MFW—Hernando Co
  County—Hernando
    Parts:
      Medicaid Eligible/MFW
Medicaid/MFW—Indian River Co
  County—Indian River
    Parts:
      Medicaid/Mig Fmwkrs
Medicaid/MFW—Manatee Co
  County—Manatee
    Parts:
      Medicaid Eligible/MFW
Medicaid/MFW—Marion Co
  County—Marion
    Parts:
      Medicaid Eligible/MFW
Medicaid/MFW—Okeechobee Co
  County—Okeechobee
    Parts:
      Medicaid Eligible/MFW
Medicaid/MFW—Seminole Co
  County—Seminole
    Parts:
      Medicaid Eligible/MFW
Medicaid/MFW—St. Johns Co
  County—St Johns
    Parts:
      Medicaid Eligible/MFW
Medicaid/MFW—Volusia Co
  County—Volusia
    Parts:
      Medicaid Eligible/MFW
Medicaid/MSFW—Lee Co
  County—Lee
    Parts:
      Medicaid Eligible/MSFW
MFW—Belle Glade/Pahokee
  County—Palm Beach
    Parts:
      C.T. 80.01–80.02
      C.T. 81.01–81.02
      C.T. 82.01–82.03
      C.T. 83.01–83.02
MSFW—Lake/Orange

PRIMARY MEDICAL CARE: Florida
Population Group Listing

Population Group

  County—Lake
    Parts:
      MSFW .
  County—Orange
    Parts:
      MSFW
Pov Pop—Columbia Co
  County—Columbia
    Parts:
      Pov Pop
Pov Pop—Inner St. Petersburg
  County—Pinellas
    Parts:
      C.T. 201.01
      C.T. 203.01
      C.T. 204–208
      C.T. 209.95
      C.T. 210.95
      C.T. 212–213
      C.T. 213.99–214.00
      C.T. 215
      C.T. 216.95
      C.T. 218.95
      C.T. 219.95
      C.T. 220
      C.T. 234–235
Pov/MFW—Desoto Co
  County—De Soto
    Parts:
      Pov Pop/MFW
Pov/MFW—E Hillsborough
  County—Hillsborough
    Parts:
      C.T. 121.03–121.06
      C.T. 122.01
      C.T. 122.03–122.04
      C.T. 123.01–123.02
      C.T. 124–131
      C.T. 132.01–132.02
      C.T. 133.01–133.02
      C.T. 133.04–133.05
      C.T. 134.01–134.03
      C.T. 135.01–135.02
      C.T. 136–138
      C.T. 139.02–139.05
      C.T. 140.01–140.03
      C.T. 141.01
      C.T. 141.03–141.04
Pov/MFW—Eastern Pasco
  County—Pasco
    Parts:
      C.T. 319
      C.T. 320.01–320.02
      C.T. 321.01–321.02
      C.T. 322–329
      C.T. 330.01–330.04
      C.T. 331
Pov/MFW—Pompano
  County—Broward
    Parts:
      C.T. 103.01–103.02
      C.T. 107
      C.T. 303–306
      C.T. 308.01
Pov/MFW—St. Lucie Co
  County—St Lucie
    Parts:
      Pov Pop/MFW

PRIMARY MEDICAL CARE: Florida
Facility Listing

Facility Name

Apalachee Correctional Inst
  County—Jackson
Avon Park Corr Inst
  County—Highlands
Baker Corr Inst
  County—Baker
Brevard Corr Inst
  County—Brevard
Calhoun Corr Inst
  County—Calhoun
Century Corr Inst
  County—Escambia
Coconut Grove Comm Hth Ctr
  County—Dade
Cross City Corr Inst
  County—Dixie
Doris Ison Comm Hlth Ctr
  County—Dade
Florida State Prs
  County—Bradford
FCI—Tallahassee
  County—Leon
FCI Marianna
  County—Jackson
Hendry Corr Inst
  County—Hendry
Holmes Corr Inst
  County—Holmes
Jackson Mem. Hosp. Outpt. Clinics
  County—Dade
Liberty Corr Inst
  County—Liberty
Mayo Corr Inst
  County—Lafayette
North Florida Reception Ctr.
  County—Union
Okaloosa Corr Inst
  County—Okaloosa
S Florida Recept Ctr
  County—Dade
Sumter Corr Inst
  County—Sumter
Walton Corr Inst
  County—Walton
Zephryhills Corr Inst
  County—Pasco

PRIMARY MEDICAL CARE: Georgia
County Listing

County Name

*Atkinson
*Bacon
  Population Group: Pov Pop—Bacon Co
*Baker
*Banks
Bartow
  Population Group: Low Inc—Bartow Co
*Ben Hill
  Population Group: Pov Pop—Ben Hill Co
*Berrien
*Brantley
*Brooks
Bryan
  Service Area: Pembroke
*Burke
  Population Group: Low Inc—Burke Co
*Butts
*Calhoun
  Population Group: Pov Pop—Calhoun Co
*Camden
  Service Area: Woodbine

PRIMARY MEDICAL CARE: Georgia
County Listing

County Name

*Candler
Population Group: Low Inc—Candler Co
*Charlton
Population Group: Low Inc—Charlton Co
Chatham
Population Group: Pov Pop—N W Savannah
Chattahoochee
*Chattooga
Cherokee
Clarke
Population Group: Low Inc—Central City Athens
*Clay
*Clinch
Cobb
Population Group: Low Inc—Central Marietta
*Colquitt
*Cook
*Crawford
*Crisp
Population Group: Low Inc—Crisp Co
Dade
Population Group: Pov Pop—Dade Co
*Dawson
De Kalb
Service Area: South Decatur/Candler/Mcafee
*Decatur
Population Group: Low Inc—Decatur Co
*Dodge
Population Group: Low Inc—Dodge Co
*Dooly
Population Group: Low Inc—Dooly Co
Dougherty
Service Area: East Albany
Service Area: South Albany
Douglas
Population Group: Low Inc—Douglasville
Effingham
*Elbert
Population Group: Pov Pop—Elbert Co
*Emanuel
*Evans
Population Group: Low Inc—Olgethorpe Co
Population Group: Low Inc—Evans Co
Fannin
Population Group: Low Inc—Fannin Co
Forsyth
Population Group: Pov Pop—Forsyth Co
*Franklin
Population Group: Low Inc—Franklin Co
Fulton
Service Area: Atlanta/Southside
Service Area: West Atlanta
Population Group: Med Ind—Palmetto
Facility: USP—Atlanta
*Gilmer
Population Group: Low Inc—Gilmer Co
*Glascock
*Gordon
Population Group: Low Inc—Gordon
*Grady
Population Group: Pov Pop—Grady Co
*Greene
*Habersham
Population Group: Low Inc—Habersham Co
*Hall
Population Group: Low Inc—Hall Co

PRIMARY MEDICAL CARE: Georgia
County Listing

County Name

*Hancock
*Haralson
Population Group: Low Inc—Haralson Co
*Hart
Population Group: Low Inc—Hart Co
*Heard
Henry
Population Group: Low Inc—Henry Co
Houston
Population Group: Low Inc—Houston Co
*Irwin
Jackson
Population Group: Low Inc—Jackson Co
*Jasper
*Jeff Davis
Population Group: Low Inc—Jeff Davis Co
*Jefferson
*Jenkins
Population Group: Low Inc—Jenkins Co
*Johnson
Jones
Population Group: Pov Pop—Jones Co
*Lamar
Population Group: Low Inc—Lamar Co
*Lanier
*Laurens
Population Group: Low Inc—Laurens Co
Lee
*Liberty
*Lincoln
*Long
*Lumpkin
Population Group: Low Inc—Lumpkin Co
Madison
Population Group: Low Inc—Madison Co
*Marion
Population Group: Low Inc—Marion Co
*McIntosh
*Meriwether
*Mitchell
Montgomery
Service Area: Montgomery/Wheeler
*Morgan
Population Group: Low Inc—Morgan Co
*Murray
Muscogee/Columbus
Population Group: Pov Pop—Central Muscogee
Paulding
Peach
Service Area: Fort Valley
Pickens
Population Group: Low Inc—Pickens Co
*Pierce
Population Group: Low Inc—Pierce Co
*Pike
Population Group: Low Income—Pike Co
*Polk
*Putnam
*Rabun
*Randolph
Population Group: Pov Pop—Randolph Co
*Schley
Population Group: Low Inc—Schley Co
*Screven
*Seminole
Spaulding
Population Group: Low Inc—Spalding Co
Stewart
Population Group: Low Inc—Stewart/Webster
*Talbot

PRIMARY MEDICAL CARE: Georgia
County Listing

County Name

*Tattnall
*Taylor
Population Group: Low Inc—Taylor Co
*Telfair
*Terrell
*Toombs
Population Group: Med Ind—Toombs Co
*Towns
Population Group: Low Inc—Towns Co
*Treutlen
*Turner
Twiggs
*Union
Population Group: Low Inc—Union Co
Walker
Walton
Population Group: Low Inc—Walton Co
*Ware
Population Group: Low Inc—Ware Co
*Warren
*Washington
Population Group: Pov Pop—Washington Co
*Wayne
Facility: FCI Jesup
Webster
Population Group: Low Inc—Stewart/Webster
Wheeler
Service Area: Montgomery/Wheeler
*White
*Whitfield
Population Group: Low Inc—Whitfield Co
*Wilcox
Population Group: Low Inc—Wilcox Co
*Wilkes
*Wilkinson
*Worth

PRIMARY MEDICAL CARE: Georgia
Service Area Listing

Service Area Name

Atlanta/Southside
County—Fulton
Parts:
C.T. 44
C.T. 46.95
C.T. 48
C.T. 49.95
C.T. 50
C.T. 52–53
C.T. 55.01–55.02
C.T. 56–58
C.T. 63–64
C.T. 67
C.T. 68.01–68.02
C.T. 69–73
East Albany
County—Dougherty
Parts:
C.T. 1–2
C.T. 101–102
C.T. 103.01–103.02
C.T. 107–108
Fort Valley
County—Peach
Parts:
Fort Valley CCD
Montgomery/Wheeler
County—Montgomery
County—Wheeler

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PRIMARY MEDICAL CARE: Georgia
Service Area Listing

Service Area Name
Pembroke
County—Bryan
Parts:
C.T. 201 (Pembroke CCD)
South Albany
County—Dougherty
Parts:
C.T. 12 (Pembroke CCD)
C.T. 14.01–14.02
C.T. 15
C.T. 106.01–106.02
South Decatur/Candler/McAfee
County—De Kalb
Parts:
C.T. 205–209
C.T. 227
C.T. 231.01
C.T. 235.01–235.02
C.T. 236–237
West Atlanta
County—Fulton
Parts:
C.T. 8
C.T. 22–26
C.T. 36–41
C.T. 42.95
C.T. 43
C.T. 60–62
C.T. 66.02
C.T. 78.04
C.T. 80
C.T. 81.01–81.02
C.T. 82.01–82.02
C.T. 83.01–83.02
C.T. 84–85
C.T. 86.01–86.02
C.T. 87.01–87.02
Woodbine
County—Camden
Parts:
Woodbine CCD

PRIMARY MEDICAL CARE: Georgia
Population Group Listing

Population Group
Low Inc—Bartow Co
County—Bartow
Parts:
Low Income
Low Inc—Burke Co
County—Burke
Parts:
Low Income
Low Inc—Candler Co
County—Candler
Parts:
Low Income Pop
Low Inc—Central City Athens
County—Clarke
Parts:
C.T. 1–7
C.T. 9–10
Low Inc—Central Marietta
County—Cobb
Parts:
C.T. 307–308
C.T. 309.02
Low Inc—Charlton Co
County—Charlton
Parts:
Low Income

PRIMARY MEDICAL CARE: Georgia
Population Group Listing

Population Group
Low Inc—Crisp Co
County—Crisp
Parts:
Low Income
Low Inc—Decatur Co
County—Decatur
Parts:
Low Income
Low Inc—Dodge Co
County—Dodge
Parts:
Low Income
Low Inc—Dooly Co
County—Dooly
Parts:
Low Income
Low Inc—Douglasville
County—Douglas
Parts:
C.T. 803
Low Inc—Evans Co
County—Evans
Parts:
Low Income
Low Inc—Fannin Co
County—Fannin
Parts:
Low Income
Low Inc—Franklin Co
County—Franklin
Parts:
Low Income
Low Inc—Gilmer Co
County—Gilmer
Parts:
Low Income
Low Inc—Gordon
County—Gordon
Parts:
Low Income
Low Inc—Habersham Co
County—Habersham
Parts:
Low Inc
Low Inc—Hall Co
County—Hall
Parts:
Low Income
Low Inc—Haralson Co
County—Haralson
Parts:
Low Income
Low Inc—Hart Co
County—Hart
Parts:
Low Income
Low Inc—Henry Co
County—Henry
Parts:
Low Income
Low Inc—Houston Co
County—Houston
Parts:
Low Income
Low Inc—Jackson Co
County—Jackson
Parts:
Low Income
Low Inc—Jeff Davis Co
County—Jeff Davis
Parts:
Low Income

PRIMARY MEDICAL CARE: Georgia
Population Group Listing

Population Group
Low Inc—Jenkins Co
County—Jenkins
Parts:
Low Income
Low Inc—Lamar Co
County—Lamar
Parts:
Low Income
Low Inc—Laurens Co
County—Laurens
Parts:
Low Income
Low Inc—Lumpkin Co
County—Lumpkin
Parts:
Low Income
Low Inc—Madison Co
County—Madison
Parts:
Low Income
Low Inc—Marion Co
County—Marion
Parts:
Low Income
Low Inc—Morgan Co
County—Morgan
Parts:
Low Income
Low Inc—Oglethorpe Co
County—Evans
Parts:
Low Income
Low Inc—Pickens Co
County—Pickens
Parts:
Low Income
Low Inc—Pierce Co
County—Pierce
Parts:
Low Income
Low Inc—Schley Co
County—Schley
Parts:
Low Income
Low Inc—Spalding Co
County—Spaulding
Parts:
Low Income
Low Inc—Stewart/Webster
County—Stewart
Parts:
Stewart County
County—Webster
Parts:
Webster County
Low Inc—Taylor Co
County—Taylor
Parts:
Low Income
Low Inc—Towns Co
County—Towns
Parts:
Low Income
Low Inc—Union Co
County—Union
Parts:
Low Income
Low Inc—Walton Co
County—Walton
Parts:
Low Income
Low Inc—Ware Co

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PRIMARY MEDICAL CARE: Georgia
Population Group Listing

Population Group

County—Ware
Parts:
Low Income
Low Inc—Whitfield Co
County—Whitfield
Parts:
Low Income
Low Inc—Wilcox Co
County—Wilcox
Parts:
Low Income
Low Income—Pike Co
County—Pike
Parts:
Low Income
Med Ind—Palmetto
County—Fulton
Parts:
C.T. 104
C.T. 105.04–105.06
Med Ind—Toombs Co
County—Toombs
Parts:
Medically Indigent
Pov Pop—Bacon Co
County—Bacon
Parts:
Pov Pop
Pov Pop—Ben Hill Co
County—Ben Hill
Parts:
Pov Pop
Pov Pop—Calhoun Co
County—Calhoun
Parts:
Pov Pop
Pov Pop—Central Muscogee
County—Muscogee/Columbus
Parts:
C.T. 1
C.T. 13
C.T. 15
C.T. 18–20
C.T. 22–25
C.T. 27–28
C.T. 29.01–29.02
C.T. 30–34
Pov Pop—Dade Co
County—Dade
Parts:
Pov Pop
Pov Pop—Elbert Co
County—Elbert
Parts:
Pov Pop
Pov Pop—Forsyth Co
County—Forsyth
Parts:
Pov Pop
Pov Pop—Grady Co
County—Grady
Parts:
Pov Pop
Pov Pop—Jones Co
County—Jones
Parts:
Pov Pop
Pov Pop—N W Savannah
County—Chatham
Parts:
C.T. 1
C.T. 3

PRIMARY MEDICAL CARE: Georgia
Population Group Listing

Population Group

C.T. 6.01
C.T. 8–13
C.T. 15
C.T. 17–28
C.T. 32
C.T. 33.01–33.02
C.T. 36.01–36.02
C.T. 37
C.T. 44–45
C.T. 101.01
C.T. 106.04
Pov Pop—Randolph Co
County—Randolph
Parts:
Pov Pop
Pov Pop—Washington Co
County—Washington
Parts:
Pov Pop

PRIMARY MEDICAL CARE: Georgia
Facility Listing

Facility Name

FCI Jesup
County—Wayne
USP—Atlanta
County—Fulton

PRIMARY MEDICAL CARE: Hawaii
County Listing

County Name

*Hawaii
Service Area: Hamakua
Service Area: Kau District
Service Area: Pahoa
Honolulu
Population Group: Low Inc—Kokua/Kalihi-Palama
*Maui/Kalawao
Service Area: Hana/Haiku
Service Area: Island Of Lanai
Service Area: Island Of Molokai

PRIMARY MEDICAL CARE: Hawaii
Service Area Listing

Service Area Name

Hamakua
County—Hawaii
Parts:
C.T. 219–221
Hana/Haiku
County—Maui/Kalawao
Parts:
C.T. 301–302
Island Of Lanai
County—Maui/Kalawao
Parts:
C.T. 316
Island Of Molokai
County—Maui/Kalawao
Parts:
C.T. 317–319
Kau District
County—Hawaii
Parts:
C.T. 212
Pahoa
County—Hawaii
Parts:
C.T. 211

PRIMARY MEDICAL CARE: Hawaii
Population Group Listing

Population Group

Low Inc—Kokua/Kalihi-Palama
County—Honolulu
Parts:
C.T. 51–57
C.T. 57.99–58.00
C.T. 59–61
C.T. 62.01–62.02
C.T. 63.01–63.02
C.T. 64.01–64.02
C.T. 65–66

PRIMARY MEDICAL CARE: Idaho
County Listing

County Name

Ada
Facility: Idaho State Pen.
*Adams
*Bannock
Service Area: Malad City/Downey
Benewah
Service Area: St. Maries
*Bingham
Service Area: American Falls
Population Group: MSFW—E Snake River Valley
*Blaine
Service Area: Carey
*Boise
*Bonner
Service Area: Clark Fork
Service Area: Priest River
*Bonneville
Population Group: MSFW—Bonneville Co
Butte
Service Area: Arco/Mackay
*Camas
Canyon
Service Area: Nyssa (OR/ID)
Population Group: MSFW—S. Treasure Valley
*Caribou
*Cassia
Service Area: Albion/Malta
Service Area: Oakley
Population Group: MSFW—E. Magic Valley
*Clark
*Clearwater
Service Area: Pierce/Weippe
*Custer
Service Area: Arco/Mackay
Service Area: Challis
Service Area: Stanley
*Franklin
*Fremont
*Gem
Population Group: MSFW—N. Treasure Valley (ID/OR)
*Gooding
Population Group: MSFW—W. Magic Valley
*Idaho
Service Area: Elk City
Service Area: Riggins
*Jefferson
Service Area: Mud Lake
Population Group: MSFW—E Snake River Valley
*Jerome
Population Group: MSFW—W. Magic Valley

PRIMARY MEDICAL CARE: Idaho
County Listing

County Name

*Kootenai
  Service Area: St. Maries
*Lemhi
*Lewis
  Service Area: Winchester
*Madison
  Population Group: MSFW—Madison Co
*Minidoka
  Service Area: Minidoka
  Population Group: MSFW—E. Magic Valley
Oneida
  Service Area: Malad City/Downey
*Owyhee
  Service Area: Grand View/Bruneau
  Service Area: N.W. Owyhee
  Population Group: MSFW—S. Treasure Valley
*Payette
  Service Area: New Plymouth
  Population Group: MSFW—N. Treasure Valley (ID/OR)
*Power
  Service Area: American Falls
  Population Group: MSFW—E. Magic Valley
*Teton
*Twin Falls
  Service Area: Buhl
  Population Group: MSFW—W. Magic Valley
*Valley
  Service Area: Cascade (C.T. 9701)
*Washington
  Population Group: MSFW—N. Treasure Valley (ID/OR)

PRIMARY MEDICAL CARE: Idaho
Service Area Listing

Service Area Name

Albion/Malta
  County—Cassia
    Parts:
      Albion CCD
American Falls
  County—Bingham
    Parts:
      Aberdeen CCD
  County—Power
    Parts:
      American Falls CCD
      Rockland CCD
Arco/Mackay
  County—Custer
    Parts:
      Mackay Division
Buhl
  County—Twin Falls
    Parts:
      Buhl CCD
      W. Salmon Falls CCD
Carey
  County—Blaine
    Parts:
      Carey CCD
Cascade(C.T. 9701)
  County—Valley
    Parts:
      C.T. 9701
Challis
  County—Custer

PRIMARY MEDICAL CARE: Idaho
Service Area Listing

Service Area Name

    Parts:
      Challis CCD
Clark Fork
  County—Bonner
    Parts:
      Clark Fork Division
Elk City
  County—Idaho
    Parts:
      Elk City Division
Grand View/Bruneau
  County—Owyhee
    Parts:
      Bruneau CCD
      Grand View CCD
Malad City/Downey
  County—Bannock
    Parts:
      C.T. 19 (S Bannock CCD)
  County—Oneida
Minidoka
  County—Minidoka
    Parts:
      Minidoka Division
Mud Lake
  County—Jefferson
    Parts:
      Hamer CCD
      Roberts CCD
N.W. Owyhee
  County—Owyhee
    Parts:
      Homedale CCD
      Marsing CCD
      Murphy CCD
New Plymouth
  County—Payette
    Parts:
      New Plymouth CCD
Nyssa (OR/ID)
  County—Canyon
    Parts:
      Parma CCD
      Wilder CCD
Oakley
  County—Cassia
    Parts:
      Oakley CCD
Pierce/Weippe
  County—Clearwater
    Parts:
      Pierce-Headquarters Division
      Weippe Division
Priest River
  County—Bonner
    Parts:
      Blanchard-Glengary CCD
      Priest River CCD
Riggins
  County—Idaho
    Parts:
      Riggins Division
St. Maries
  County—Kootenai
    Parts:
      Harrison CCD
      Worley CCD
Stanley
  County—Custer
    Parts:
      Stanley CCD
Winchester

PRIMARY MEDICAL CARE: Idaho
Service Area Listing

Service Area Name

  County—Lewis
    Parts:
      Winchester Division

PRIMARY MEDICAL CARE: Idaho
Population Group Listing

Population Group

MSFW—Bonneville Co
  County—Bonneville
    Parts:
      MSFW
MSFW—E Snake River Valley
  County—Bingham
    Parts:
      MSFW
  County—Jefferson
    Parts:
      MSFW
MSFW—E. Magic Valley
  County—Cassia
    Parts:
      MSFW
  County—Minidoka
    Parts:
      MSFW
  County—Power
    Parts:
      MSFW
MSFW—Madison Co
  County—Madison
    Parts:
      MSFW
MSFW—N. Treasure Valley (ID/OR)
  County—Gem
    Parts:
      MSFW
  County—Payette
    Parts:
      MSFW
  County—Washington
    Parts:
      MSFW
MSFW—S. Treasure Valley
  County—Canyon
    Parts:
      MSFW
  County—Owyhee
    Parts:
      MSFW
MSFW—W. Magic Valley
  County—Gooding
    Parts:
      MSFW
  County—Jerome
    Parts:
      MSFW
  County—Twin Falls
    Parts:
      MSFW

PRIMARY MEDICAL CARE: Idaho
Facility Listing

Facility Name

Idaho State Pen.
  County—Ada

PRIMARY MEDICAL CARE: Illinois
County Listing

County Name

Alexander

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PRIMARY MEDICAL CARE: Illinois
County Listing

County Name

Service Area: Cairo
*Brown
*Carroll
*Cass
*Clay
Clinton
Cook
Service Area: Auburn Gresham
Service Area: Austin
Service Area: Douglas/Armour Sq/Near South Side
Service Area: Humboldt Park
Service Area: Logan Square
Service Area: New City
Service Area: North Lawndale
Service Area: Oakland/Grand Blvd./Kenwood/Wash. Pk.
Service Area: Riverdale/West Pullman
Service Area: Roseland/Pullman/Burnside
Service Area: S Lawndale
Service Area: South Chicago
Service Area: South Deering
Service Area: West Englewood/Englewood
Service Area: West/East Garfield Park
Population Group: Hmlss—Uptown/Near North Side/Loop
Population Group: Inmates—MCC Chicago
Population Group: Low Inc—Chatham/Avalon Pk/Gr Grand Cro
Population Group: Low Inc—South Shore
Population Group: Low Inc—Near West Side (Pt)
Facility: Alivio Med Ctr
Facility: Erie Family Hc (Teens)
Facility: Erie Family Hc (West Town)
Facility: Erie Family Hc (Seniors)
Facility: Erie Family Hc (Humboldt Park)
Facility: Family Wellness Ctr (C.T. 4808)
Facility: Fantus Outpt Clinic—Cook Co Hosp
Facility: Il Masonic Med Ctr Outpt Clinic
Facility: Infant Welfare Society
Facility: Pcc Community Wellness Ctr
*Cumberland
*De Witt
*Edgar
*Edwards
*Fulton
Service Area: Lewistown/Astoria
*Gallatin
Hardin
*Hardin
Service Area: Hardin/Pope
Service Area: Hardin/Pope
*Henderson
*Iroquois
Service Area: Hoopeston
*Jackson
Population Group: Med Ind—Jackson Co
*Jasper
Jersey
*Jo Daviess
Service Area: Stockton/Warren
*Johnson
Kankakee
Service Area: Pembroke
*Lawrence
Population Group: Low Inc—Lawrence Co
Macon
Population Group: Low Inc—Decatur City
*Macoupin
Madison

PRIMARY MEDICAL CARE: Illinois
County Listing

County Name

Service Area: East St. Louis
Population Group: Med Ind—Alton/Wood River
*Massac
Population Group: Med Ind—Massac Co
Mercer
Service Area: Aledo/Alexis
Ogle
Service Area: Polo
Pope
*Pope
Service Area: Hardin/Pope
Service Area: Hardin/Pope
Pulaski
Service Area: Cairo
Rock Island
Population Group: Medicaid—Quad-Cities (IA/IL)
*Scott
St Clair
Service Area: East St. Louis
*Stark
*Union
*Vermilion
Service Area: Hoopeston
*Warren
Service Area: Aledo/Alexis
*Washington
Service Area: Nashville
*Wayne
*White
Population Group: Low Inc—White Co
Will
Service Area: Eastside Joliet
Facility: Joliet Corr Inst
*Williamson
Facility: USP Marion
Winnebago
Service Area: Rockford Westside

PRIMARY MEDICAL CARE: Illinois
Service Area Listing

Service Area Name

Aledo/Alexis
County—Warren
Parts:
Spring Grove Twp
Auburn Gresham
County—Cook
Parts:
C.T. 7101–7115
Austin
County—Cook
Parts:
C.T. 2501–2524
Cairo
County—Pulaski
Douglas/Armour Sq/Near South Side
County—Cook
Parts:
C.T. 3301–3305
C.T. 3401–3406
C.T. 3501–3515
East St. Louis
County—Madison
Parts:
C.T. 4007
County—St Clair
Parts:
C.T. 5004–5006
C.T. 5009–5014

PRIMARY MEDICAL CARE: Illinois
Service Area Listing

Service Area Name

C.T. 5021–5022
C.T. 5024.01
C.T. 5024.03–5024.04
C.T. 5025
C.T. 5027–5030
C.T. 5041
C.T. 5042.01
C.T. 5044
Eastside Joliet
County—Will
Parts:
C.T. 8812–8813
C.T. 8820–8822
C.T. 8824–8825
C.T. 8830
Hardin/Pope
County—Pope
County—Pope
Hoopeston
County—Iroquois
Parts:
Fountain Creek Twp
Lovejoy Twp
Prairie Green Twp
County—Vermilion
Parts:
Butler Twp
Grant Twp
Middlefork Twp
Ross Twp
South Ross Twp
Humboldt Park
County—Cook
Parts:
C.T. 2301–2318
Lewistown/Astoria
County—Fulton
Parts:
Astoria Twp
Bernadotte Twp
Cass Twp
Farmers Twp
Isabel Twp
Kerton Twp
Lewistown Twp
Liverpool Twp
Pleasant Twp
Putman Twp
Vermont Twp
Waterford Twp
Woodland Twp
Logan Square
County—Cook
Parts:
C.T. 2201–2229
Nashville
County—Washington
Parts:
Beaucoup Township
Bolo Township
Covington Township
Du Bois Township
Johannisburg Township
Lively Grove Township
Nashville Township
Oakdale Township
Okawville Township
Pilot Knob Township
Plum Hill Township
Venedy Township
New City
County—Cook

PRIMARY MEDICAL CARE: Illinois
Service Area Listing

Service Area Name

Parts:
C.T. 6101–6122
North Lawndale
County—Cook
Parts:
C.T. 2901–2927
Oakland/Grand Blvd./Kenwood/Wash. Pk.
County—Cook
Parts:
C.T. 3601–3605
C.T. 3701–3704
C.T. 3801–3820
C.T. 3901–3907
C.T. 4001–4006
Pembroke
County—Kankakee
Parts:
Pembroke Twp.
Polo
County—Ogle
Parts:
Brookville Twp
Buffalo Twp
Eagle Point Twp
Forreston Twp
Leaf River Twp
Lincoln Twp
Maryland Twp
Mount Morris Twp
Pine Creek Twp
Woosung Twp
Riverdale/West Pullman
County—Cook
Parts:
C.T. 5301–5306
C.T. 5401
Rockford Westside
County—Winnebago
Parts:
C.T. 10–11
C.T. 21
C.T. 24–29
C.T. 31–32
Roseland/Pullman/Burnside
County—Cook
Parts:
C.T. 4701
C.T. 4901–4914
C.T. 5001–5003
S Lawndale
County—Cook
Parts:
C.T. 3001–3020
South Chicago
County—Cook
Parts:
C.T. 4601–4610
South Deering
County—Cook
Parts:
C.T. 5101–5105
Stockton/Warren
County—Jo Daviess
Parts:
Apple River Twp.
Berreman Twp.
Derinda Twp.
Nora Twp.
Pleasant Valley Twp.
Rush Twp.
Stockton Twp.
Thompson Twp.

PRIMARY MEDICAL CARE: Illinois
Service Area Listing

Service Area Name

Wards Grove Twp.
Warren Twp.
Woodbine Twp.
West Englewood/Englewood
County—Cook
Parts:
C.T. 6701–6720
C.T. 6801–6814
West/East Garfield Park
County—Cook
Parts:
C.T. 2601–2610
C.T. 2701–2719

PRIMARY MEDICAL CARE: Illinois
Population Group Listing

Population Group

Hmlss—Uptown/Near North Side/Loop
County—Cook
Parts:
Edgewater (C.T. 301–309)
Lakeview(C.T. 601–634)
Lincoln Park(C.T.701–720
Loop (C.T. 3201–3206)
Near N Side(C.T.801–819
Uptown(C.T. 310–321)
Inmates—MCC Chicago
County—Cook
Parts:
MCC Chicago
Low Inc—Chatham/Avalon Pk/Gr Grand Cro
County—Cook
Parts:
C.T. 4401–4409
C.T. 4501–4503
C.T. 6901–6915
Low Inc—Decatur City
County—Macon
Parts:
C.T. 1–3
C.T. 4.97–4.98
C.T. 5.98
C.T. 6–9
C.T. 16
C.T. 20
Low Inc—Lawrence Co
County—Lawrence
Parts:
Low Income
Low Inc—Near West Side (Pt)
County—Cook
Parts:
C.T. 2801–2828
C.T. 2838–2843
Low Inc—South Shore
County—Cook
Parts:
C.T. 4301–4314
Low Inc—White Co
County—White
Parts:
Low Income
Med Ind—Alton/Wood River
County—Madison
Parts:
Alton Twp
Wood River Twp
Med Ind—Jackson Co
County—Jackson
Parts:
Medically Indigent

PRIMARY MEDICAL CARE: Illinois
Population Group Listing

Population Group

Med Ind—Massac Co
County—Massac
Parts:
Medically Indigent
Medicaid—Quad-Cities (IA/IL)
County—Rock Island
Parts:
Medicaid Eligibles

PRIMARY MEDICAL CARE: Illinois
Facility Listing

Facility Name

Alivio Med Ctr
County—Cook
Erie Family Hc (Humboldt Park)
County—Cook
Erie Family Hc (Seniors)
County—Cook
Erie Family Hc (Teens)
County—Cook
Erie Family Hc (West Town)
County—Cook
Family Wellness Ctr (C.T. 4808)
County—Cook
Fantus Outpt Clinic—Cook Co Hosp
County—Cook
Il Masonic Med Ctr Outpt Clinic
County—Cook
Infant Welfare Society
County—Cook
Joliet Corr Inst
County—Will
Pcc Community Wellness Ctr
County—Cook
USP Marion
County—Williamson

PRIMARY MEDICAL CARE: Indiana
County Listing

County Name

Adams
*Benton
*Brown
*Carroll
*Crawford
*Franklin
*Grant
Population Group: Low Inc—Grant Co
*Greene
Harrison
Service Area: Elizabeth
Service Area: Fredricksburg
Howard
Population Group: Med Ind—Kokomo
*Jasper
Population Group: Low Inc—Jasper Co
*Jennings
*Knox
Service Area: Bicknell
*La Porte
Population Group: Low Inc—La Porte Co
*Lagrange
Lake
Service Area: East Chicago
Service Area: Gary
Marion
Service Area: Blackburn (Indianapolis)
Service Area: Forest Manor (Indianapolis)
Service Area: Highland-Brookside (Indianapolis)

PRIMARY MEDICAL CARE: Indiana
County Listing

County Name

Service Area: Near North Side (Indianapolis)
Service Area: South Central Indianapolis
Service Area: Southwest Indianapolis
*Newton
*Noble
*Ohio
*Owen
*Perry
Facility: Branchville Training Ctr
*Pike
Porter
Population Group: Low Inc—Porter Co
*Putnam
Facility: Indiana State Farm
*Randolph
*Ripley
Service Area: Osgood/Versailles
*Rush
Population Group: Low Inc—Rush Co
Scott
*Spencer
St Joseph
Service Area: Southwest South Bend
*Starke
*Sullivan
*Switzerland
Tippecanoe
Population Group: Low Inc—Tippecanoe Co
Vermillion
Service Area: Northern Vermillion
Vigo
Population Group: Inmates—USP Terre Haute
*Warren
*Washington
Service Area: Fredricksburg
*White

PRIMARY MEDICAL CARE: Indiana
Service Area Listing

Service Area Name

Bicknell
County—Knox
Parts:
Vigo Twp
Washington Twp
Widner Twp
Blackburn (Indianapolis)
County—Marion
Parts:
C.T. 3501–3502
C.T. 3511–3512
C.T. 3515
East Chicago
County—Lake
Parts:
C.T. 301–310
Elizabeth
County—Harrison
Parts:
Boone Township
Posey Township
Taylor Township
Forest Manor (Indianapolis)
County—Marion
Parts:
C.T. 3225–3227
C.T. 3505–3508
C.T. 3523

PRIMARY MEDICAL CARE: Indiana
Service Area Listing

Service Area Name

Fredricksburg
County—Harrison
Parts:
Blue River Twp
Morgan Twp
County—Washington
Parts:
Posey Twp
Gary
County—Lake
Parts:
C.T. 101
C.T. 102.98
C.T. 103–134
C.T. 411–412
C.T. 413.01
Highland-Brookside (Indianapolis)
County—Marion
Parts:
C.T. 3526–3527
C.T. 3544–3545
C.T. 3547–3551
Near North Side (Indianapolis)
County—Marion
Parts:
C.T. 3517
C.T. 3519
C.T. 3521
C.T. 3528
C.T. 3531–3532
Northern Vermillion
County—Vermillion
Parts:
Eugene Twp
Highland Twp
Vermillion Twp
Osgood/Versailles
County—Ripley
Parts:
Brown Twp.
Center Twp.
Johnson Twp.
Otter Creek Twp.
Shelby Twp.
Washington Twp.
South Central Indianapolis
County—Marion
Parts:
C.T. 3556–3557
C.T. 3559
C.T. 3562
C.T. 3569–3572
C.T. 3578–3580
Southwest Indianapolis
County—Marion
Parts:
C.T. 3414–3415
C.T. 3417
C.T. 3424–3426
C.T. 3563–3564
C.T. 3581
Southwest South Bend
County—St Joseph
Parts:
C.T. 6
C.T. 17–24
C.T. 27
C.T. 29–30

PRIMARY MEDICAL CARE: Indiana
Population Group Listing

Population Group

Inmates—USP Terre Haute
County—Vigo
Parts:
USP Terre Haute
Low Inc—Grant Co
County—Grant
Parts:
Low Income
Low Inc—Jasper Co
County—Jasper
Parts:
Low Income
Low Inc—La Porte Co
County—La Porte
Parts:
Low Income
Low Inc—Porter Co
County—Porter
Parts:
Low Income
Low Inc—Rush Co
County—Rush
Parts:
Low Income
Low Inc—Tippecanoe Co
County—Tippecanoe
Parts:
Low Income
Med Ind—Kokomo
County—Howard
Parts:
Kokomo City

PRIMARY MEDICAL CARE: Indiana
Facility Listing

Facility Name

Branchville Training Ctr
County—Perry
Indiana State Farm
County—Putnam

PRIMARY MEDICAL CARE: Iowa
County Listing

County Name

*Adair
Service Area: Redfield
*Benton
Black Hawk
Population Group: Medicaid—Blackhawk Co
*Boone
Service Area: Dayton/Gowrie
Bremer
Service Area: Sumner/Tripoli
*Buchanan
*Butler
*Calhoun
Service Area: Dayton/Gowrie
*Cedar
Service Area: Lowden/Lost Nation
*Cherokee
Service Area: Kingsley/Anthon/Mapleton
*Clayton
Service Area: Elkader/Strawberry Point
*Clinton
Service Area: Lowden/Lost Nation
Dallas
Service Area: Redfield
*Davis
*Delaware

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PRIMARY MEDICAL CARE: Iowa
County Listing

County Name

Service Area: Elkader/Strawberry Point
*Fremont
Service Area: Glenwood/Tabor
*Greene
Service Area: Dayton/Gowrie
*Grundy
Service Area: Grundy
*Guthrie
Service Area: Guthrie Center
Service Area: Redfield
*Hamilton
Service Area: Dayton/Gowrie
*Hancock
*Harrison
Service Area: Onawa (IA/NE)
*Jackson
Service Area: Lowden/Lost Nation
*Jones
*Kossuth
*Louisa
*Lyon
Service Area: Rock Rapids
*Madison
Service Area: Redfield
Mills
Service Area: Glenwood/Tabor
*Monona
Service Area: Kingsley/Anthon/Mapleton
Service Area: Onawa (IA/NE)
*O Brien
*Plymouth
Service Area: Kingsley/Anthon/Mapleton
Service Area: Le Mars/Akron
Pottawattamie
Service Area: Oakland
Scott
Service Area: Lowden/Lost Nation
Population Group: Medicaid—Quad-Cities (IA/IL)
*Tama
*Taylor
*Webster
Service Area: Dayton/Gowrie
Woodbury
Service Area: Kingsley/Anthon/Mapleton
Service Area: Onawa (IA/NE)
Population Group: Medicaid—Sioux City

PRIMARY MEDICAL CARE: Iowa
Service Area Listing

Service Area Name

Dayton/Gowrie
County—Boone
Parts:
Dodge Twp
Grant Twp
Pilot Mound Twp
County—Calhoun
Parts:
Reading Twp
County—Greene
Parts:
Dawson Twp
Paton Twp
County—Hamilton
Parts:
Marion Twp
Webster Twp
County—Webster
Parts:
Burnside Twp

PRIMARY MEDICAL CARE: Iowa
Service Area Listing

Service Area Name

Clay Twp
Dayton Twp
Gowrie Twp
Hardin Twp
Lost Grove Twp
Roland Twp
Sumner Twp
Webster Twp
Yell Twp
Elkader/Strawberry Point
County—Clayton
Parts:
Boardman Twp
Cass Twp
Cox Creek Twp
Grand Meadow Twp
Highland Twp
Lodomillo Twp
Marion Twp
Monona Twp
Sperry Twp
Wagner Twp
County—Delaware
Parts:
Honey Creek Twp
Richland Twp
Glenwood/Tabor
County—Fremont
Parts:
Green Twp
Monroe Twp
Riverside Twp
Scott Twp
County—Mills
Grundy
County—Grundy
Parts:
Black Hawk Twp
Colfax Twp
Lincoln Twp
Melrose Twp
Palermo Twp
Pleasant Valley Twp
Shiloh Twp
Washington Twp
Guthrie Center
County—Guthrie
Parts:
Baker Twp
Bear Grove Twp
Beaver Twp
Cass Twp
Dodge Twp
Grant Twp
Highland Twp
Jackson Twp
Orange Twp
Richland Twp
Seely Twp
Thompson Twp
Union Twp
Valley Twp
Victory Twp
Kingsley/Anthon/Mapleton
County—Cherokee
Parts:
Grand Meadow Twp
County—Monona
Parts:
Cooper Twp
Grant Twp
Maple Twp

PRIMARY MEDICAL CARE: Iowa
Service Area Listing

Service Area Name

County—Plymouth
Parts:
Elkhorn Twp
Garfield Twp
County—Woodbury
Parts:
Arlington Twp
Banner Twp
Floyd Twp
Grange Twp
Grant Twp
Kedron Twp
Liston Twp
Little Sioux Twp
Miller Twp
Morgan Twp
Moville Twp
Oto Twp
Rock Twp
Rutland Twp
Union Twp
West Fork Twp
Willow Twp
Wolf Creek Twp
Le Mars/Akron
County—Plymouth
Parts:
America Twp
Elgin Twp
Fredonia Twp
Grant Twp
Henry Twp
Johnson Twp
Liberty Twp
Marion Twp
Meadow Twp
Plymouth Twp
Portland Twp
Preston Twp
Remsen Twp
Sioux Twp
Stanton Twp
Union Twp
Washington Twp
Westfield Twp
Lowden/Lost Nation
County—Cedar
Parts:
Inland Twp
Massillon Twp
Springfield Twp
County—Clinton
Parts:
Liberty Twp
Sharon Twp
Spring Rock Twp
County—Jackson
Parts:
Monmouth Twp
County—Scott
Parts:
Liberty Twp
Oakland
County—Pottawattamie
Parts:
Belknap Twp
Carson Twp
Center Twp
Grove Twp
James Twp
Knox Twp
Layton Twp

PRIMARY MEDICAL CARE: Iowa
Service Area Listing

Service Area Name

Lincoln Twp
Macedonia Twp
Pleasant Twp
Silver Creek Twp
Valley Twp
Washington Twp
Waveland Twp.
Wright Twp.
Onawa (IA/NE)
County—Harrison
Parts:
Jackson Twp
Little Sioux Twp
County—Monona
Parts:
Ashton Twp
Belvidere Twp
Center Twp
Fairview Twp
Franklin Twp
Jordan Twp
Kennebec Twp
Lake Twp
Lincoln Twp
Onawa City
Sherman Twp
Sioux Twp
Soldier Twp
Spring Valley Twp
St Clair Twp
West Fork Twp
Willow Twp
County—Woodbury
Parts:
Lakeport Twp
Sloan Twp
Willow Twp
Redfield
County—Adair
Parts:
Lincoln Twp
County—Dallas
Parts:
Linn Twp
Union Twp
County—Guthrie
Parts:
Penn Twp
Stuart Twp
County—Madison
Parts:
Madison Twp
Penn Twp
Rock Rapids
County—Lyon
Parts:
Allison Twp
Cleveland Twp
Dale Twp
Doon Twp
Elgin Twp
Garfield Twp
Grant Twp
Larchwood Twp
Liberal Twp
Midland Twp
Riverside Twp
Rock Twp
Sioux Twp
Wheeler Twp
Sumner/Tripoli
County—Bremer

PRIMARY MEDICAL CARE: Iowa
Service Area Listing

Service Area Name

Parts:
Dayton Twp
Frederika Twp
Fremont Twp
Le Roy Twp
Sumner City
Sumner #2 Twp

PRIMARY MEDICAL CARE: Iowa
Population Group Listing

Population Group

Medicaid—Blackhawk Co
County—Black Hawk
Parts:
Medicaid Eligible
Medicaid—Quad-Cities (IA/IL)
County—Scott
Parts:
Medicaid Eligible
Medicaid—Sioux City
County—Woodbury
Parts:
C.T. 7–8
C.T. 10
C.T. 12–16

PRIMARY MEDICAL CARE: Kansas
County Listing

County Name

*Brown
Population Group: Medicaid—Brown Co
*Chase
Chautauqua
Service Area: Elk/Chautauqua
*Cherokee
*Cheyenne
*Clark
Service Area: Ashland
*Cloud
*Doniphan
Douglas
Population Group: Low Inc—Douglas Co
*Edwards
Elk
Service Area: Elk/Chautauqua
*Ellsworth
*Gray
*Jackson
*Jefferson (g)
Facility: USP Leavenworth
*Jewell
*Kearny
*Kingman
*Kiowa
*Lincoln
*Linn
*Lyon
Population Group: Low Inc—Lyon Co
*Marion
*Norton
*Osage
*Osborne
*Pawnee
*Phillips
*Pratt
*Rawlins
*Reno
Population Group: Low Inc—Reno Co
*Republic
*Rooks

PRIMARY MEDICAL CARE: Kansas
County Listing

County Name

*Russell
*Smith
*Stevens
*Wabaunsee
*Wallace
*Wichita
Wyandotte
Population Group: Low Inc—Wyandotte Co

PRIMARY MEDICAL CARE: Kansas
Service Area Listing

Service Area Name

Ashland
County—Clark
Parts:
Center Twp
Englewood Twp
Sitka Twp
Elk/Chautauqua
County—Chautauqua
County—Elk

PRIMARY MEDICAL CARE: Kansas
Population Group Listing

Population Group

Low Inc—Douglas Co
County—Douglas
Parts:
Low Income
Low Inc—Geary Co
Parts:
Low Income
Low Inc—Lyon Co
County—Lyon
Parts:
Low Income
Low Inc—Reno Co
County—Reno
Parts:
Low Income
Low Inc—Wyandotte Co
County—Wyandotte
Parts:
Low Income
Medicaid—Brown Co
County—Brown
Parts:
Medicaid

PRIMARY MEDICAL CARE: Kansas
Facility Listing

Facility Name

USP Leavenworth
County—Jefferson

PRIMARY MEDICAL CARE: Kentucky
County Listing

County Name

*Adair
*Allen
*Anderson
*Ballard
*Bath
Population Group: Med Ind—Bath Co
*Bell
Service Area: Western Harlan
Service Area: Williamsburg/Saxton
Boyd

PRIMARY MEDICAL CARE: Kentucky
County Listing

County Name

Facility: FCI Ashland
*Bracken
*Breathitt
*Breckinridge
Population Group: Low Inc—Breckinridge Co
Bullitt
Service Area: Lebanon Junction
*Butler
Campbell
Population Group: Pov Pop—Inner City Newport
*Carroll
Carter
*Casey
*Clay (g)
Facility: FCI Manchester
*Clinton
*Crittenden
*Cumberland
Population Group: Low Inc—Cumberland Co
*Edmonson
*Elliott
*Estill
Fayette
Population Group: Low Inc—N Central Lexington
*Fleming
*Floyd
Population Group: Low Inc—Mud Creek
*Gallatin
*Garrard
Population Group: Med Ind—Garrard Co
*Grant
*Grayson
Population Group: Med Ind—Grayson Co
*Green
Population Group: Low Inc—Green Co
*Hancock
*Harlan
Service Area: Cumberland
Service Area: Upper Clover
Service Area: Western Harlan
Population Group: Med Ind—Harlan/Evarts/Grays Knob
Facility: Clover Fork Clinic
*Hart
*Henry
*Hickman
*Jackson
*Knott
*Knox
*Laurel
*Lawrence
Population Group: Low Inc—Lawrence Co
*Lee
*Leslie
*Letcher
Population Group: Low Inc—Letcher Co
*Lewis
*Livingston
*Logan
Population Group: Med Ind—Logan Co
*Lyon
Madison
Population Group: Low Inc—Madison Co
*Magoffin
*Martin
Population Group: Low Inc—Martin Co
*McLean
*Meade

PRIMARY MEDICAL CARE: Kentucky
County Listing

County Name

*Menifee
*Morgan (g)
Facility: Eastern Ky. Corr. Complex
*Muhlenberg
*Nicholas
*Ohio
Oldham
Facility: Ky. State Ref.
*Owen
*Owsley
*Pendleton
*Perry
Service Area: Ary
Service Area: Buckhorn
Population Group: Med Ind—Hazard
*Pike
Population Group: Low Inc—Pike
*Powell
*Robertson
*Rockcastle
*Spencer
Population Group: Med Ind—Spencer Co
*Todd
*Trigg
*Trimble
*Washington
Population Group: Med Ind—Washington Co
*Wayne
Population Group: Med Ind—Wayne Co
*Whitley
Service Area: Williamsburg/Saxton
*Wolfe
Population Group: Med Ind—Wolfe Co

PRIMARY MEDICAL CARE: Kentucky
Service Area Listing

Service Area Name

Ary
County—Perry
Parts:
Dice Division
Buckhorn
County—Perry
Parts:
Buckhorn CCD
Cumberland
County—Harlan
Parts:
Cumberland CCD
Lebanon Junction
County—Bullitt
Parts:
Lebanon Junction CCD
Upper Clover
County—Harlan
Parts:
Upper Clover Division
Western Harlan
County—Bell
Parts:
Tejay Division
County—Harlan
Parts:
Alva Division
Williamsburg/Saxton
County—Bell
Parts:
Pruden-Fonde CCD
County—Whitley
Parts:

PRIMARY MEDICAL CARE: Kentucky
Service Area Listing

Service Area Name

Pearl CCD
Saxton CCD
Siler CCD
Williamsburg CCD

PRIMARY MEDICAL CARE: Kentucky
Population Group Listing

Population Group

Low Inc—Breckinridge Co
County—Breckinridge
Parts:
Low Income
Low Inc—Cumberland Co
County—Cumberland
Parts:
Low Income
Low Inc—Green Co
County—Green
Parts:
Low Income
Low Inc—Lawrence Co
County—Lawrence
Parts:
Low Income
Low Inc—Letcher Co
County—Letcher
Parts:
Low Income
Low Inc—Madison Co
County—Madison
Parts:
Low Income
Low Inc—Martin Co
County—Martin
Parts:
Low Income
Low Inc—Mud Creek
County—Floyd
Parts:
McDowell CCD
Mud Creek CCD
Wheelwr-Weeksbury CCD
Low Inc—N Central Lexington
County—Fayette
Parts:
C.T. 1–5
C.T. 8–14
C.T. 18–19
C.T. 38.01
Low Inc—Pike
County—Pike
Parts:
Low Inc
Med Ind—Bath Co
County—Bath
Parts:
Medically Indigent
Med Ind—Garrard Co
County—Garrard
Parts:
Medically Indigent
Med Ind—Grayson Co
County—Grayson
Parts:
Medically Indigent
Med Ind—Harlan/Evarts/Grays Knob
County—Harlan
Parts:
Cawood Div
Harlan Div
Poor Fork Div

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PRIMARY MEDICAL CARE: Kentucky
Population Group Listing

Population Group

Wallins Creek Div
Med Ind—Hazard
County—Perry
Parts:
Defiance-Vigor CCD
Hazard CCD
Krypton CCD
Viper CCD
Med Ind—Logan Co
County—Logan
Parts:
Medically Indigent
Med Ind—Spencer Co
County—Spencer
Parts:
Medically Indigent
Med Ind—Washington Co
County—Washington
Parts:
Medically Indigent
Med Ind—Wayne Co
County—Wayne
Parts:
Medically Indigent
Med Ind—Wolfe Co
County—Wolfe
Parts:
Medically Indigent
Pov Pop—Inner City Newport
County—Campbell
Parts:
C.T. 501–506

PRIMARY MEDICAL CARE: Kentucky
Facility Listing

Facility Name

Clover Fork Clinic
County—Harlan
Eastern Ky. Corr. Complex
County—Morgan
FCI Ashland
County—Boyd
FCI Manchester
County—Clay
Ky. State Ref.
County—Oldham

PRIMARY MEDICAL CARE: Louisiana
Parish Listing

Parish Name

Acadia
Population Group: Low Inc—Acadia Co
*Allen
Population Group: Inmates—Fdc Oakdale II
Facility: FCI Oakdale I
Ascension
Service Area: Ascension/Northeast Iberville
*Assumption
*Avoyelles
*Beauregard
Population Group: Med Ind—Beauregard Par
*Bienville
Caddo
Service Area: North Caddo
Facility: David Raines Chc (C.T. 246)
Facility: LSU Med Ctr (Opd)
Calcasieu
Service Area: North Lake Charles

PRIMARY MEDICAL CARE: Louisiana
Parish Listing

Parish Name

Service Area: Vinton
Facility: Moss Reg Med Ctr Outpt Clinic
*Caldwell
*Cameron
*Catahoula
*Claiborne
Population Group: Med Ind—Claiborne Par
*Concordia
*De Soto
East Baton Rouge
Service Area: Eden Park
Service Area: Nw Baton Rouge
Facility: Ambul. Clinic—Long Hosp.
*East Carroll
*East Feliciana
*Franklin
*Grant
*Iberia
Population Group: Medicaid—Iberia Par
*Iberville
Service Area: Ascension/Northeast Iberville
Population Group: Low Inc—Iberville Par
*Jackson
Jefferson
Service Area: Lafitte
Service Area: Old Kenner/River Town
Lafourche
Service Area: S E Lafourche
*Lasalle
*Lincoln
Livingston
*Madison
*Morehouse
Population Group: Low Inc—Morehouse Par
*Natchitoches
Population Group: Medicaid—Natchitoches Co
Orleans
Service Area: Algiers/Fischer
Service Area: Desire/Florida
Service Area: Lower 9th Ward
Service Area: Midtown-Seventh Ward
Service Area: New Orleans East
Service Area: St. Bernard
Population Group: Low Inc—Irish Channel
Facility: Med Ctr Of La At New Orleans
Ouachita
Population Group: Med Ind—Ouachita Par
Plaquemines
*Pointe Coupee
Rapides
Population Group: Low Inc—Rapides Par
Facility: Long Reg Med Ctr Outpt Clinic
*Richland
Population Group: Low Inc—Richland Par
*Sabine
St Charles
*St Helena
St James
Service Area: Vacherie
St John The Baptist
Service Area: Vacherie
St Landry
Population Group: Med Ind—St. Landry Par
St Martin
*St Mary
*Tangipahoa
*Tensas
Terrebonne
Service Area: Dulac

PRIMARY MEDICAL CARE: Louisiana
Parish Listing

Parish Name

Facility: So. Louisiana Med. Ctr.
*Union
*Vermilion
*Vernon
*Washington
Population Group: Med Ind—Washington Par
Webster
*West Carroll
*West Feliciana
Population Group: Low Inc—W Feliciana Parish
*Winn

PRIMARY MEDICAL CARE: Louisiana
Service Area Listing

Service Area Name

Algiers/Fischer
Parish—Orleans
Parts:
C.T. 1–4
C.T. 6.01–6.05
C.T. 6.13
Ascension/Northeast Iberville
Parish—Iberville
Parts:
Ward 4–5
Desire/Florida
Parish—Orleans
Parts:
C.T. 11
C.T. 11.99
C.T. 13.01–13.04
C.T. 14.01–14.02
C.T. 15–16
C.T. 17.03
C.T. 17.06
C.T. 17.98
Dulac
Parish—Terrebonne
Parts:
District G
District H
District I
Eden Park
Parish—East Baton Rouge
Parts:
C.T. 8–10
C.T. 12–16
C.T. 21–22
C.T. 24–25
Lafitte
Parish—Jefferson
Parts:
C.T. 277.02
C.T. 278.09
C.T. 279
C.T. 279.99
Lower 9Th Ward
Parish—Orleans
Parts:
C.T. 7.01–7.02
C.T. 8
C.T. 9.01–9.04
Midtown-Seventh Ward
Parish—Orleans
Parts:
C.T. 18–23
C.T. 26–31
C.T. 34–36
C.T. 39–40

PRIMARY MEDICAL CARE: Louisiana
Service Area Listing

Service Area Name

C.T. 44.01–44.02
New Orleans East
Parish—Orleans
Parts:
C.T. 17.20–17.29
C.T. 17.32–17.33
North Caddo
Parish—Caddo
Parts:
C.T. 248–250
C.T. 251.98
North Lake Charles
Parish—Calcasieu
Parts:
C.T. 2–4
C.T. 14–15
Nw Baton Rouge
Parish—East Baton Rouge
Parts:
C.T. 1–5
C.T. 6.01–6.02
C.T. 7.01–7.02
C.T. 11.02–11.04
C.T. 30.01–30.02
C.T. 31.01–31.02
C.T. 33–34
Old Kenner/River Town
Parish—Jefferson
Parts:
C.T. 205.05
C.T. 206–210
C.T. 236–237
S E Lafourche
Parish—Lafourche
Parts:
District 8
District 9
District 10
District 12
District 13
District 14
District 15
District 11
St. Bernard
Parish—Orleans
Parts:
C.T. 33.05–33.07
Vacherie
Parish—St James
Parts:
District 5
District 6
District 7
Parish—St John The Baptist
Parts:
District 1
Vinton
Parish—Calcasieu
Parts:
C.T. 35–36

PRIMARY MEDICAL CARE: Louisiana
Population Group Listing

Population Group

Inmates—Fdc Oakdale II
Parish—Allen
Parts:
Fdc Oakdale II
Low Inc—Acadia Co
Parish—Acadia
Parts:
Low Income
Low Inc—Iberville Par
Parish—Iberville
Parts:
Dist. 1
Dist. 8
Dist. 9
Dist. 10
Dist. 11
Dist. 12
Dist. 2
Dist. 6
Dist. 7
Low Inc—Irish Channel
Parish—Orleans
Parts:
C.T. 77–80
C.T. 81.01–81.02
C.T. 82–89
Low Inc—Morehouse Par
Parish—Morehouse
Parts:
Low Income
Low Inc—Rapides Par
Parish—Rapides
Parts:
Low Income
Low Inc—Richland Par
Parish—Richland
Parts:
Low Income
Low Inc—W Feliciana Parish
Parish—West Feliciana
Parts:
Low Income
Med Ind—Beauregard Par
Parish—Beauregard
Parts:
Medically Indigent
Med Ind—Claiborne Par
Parish—Claiborne
Parts:
Medically Indigent
Med Ind—Ouachita Par
Parish—Ouachita
Parts:
Medically Indigent
Med Ind—St. Landry Par
Parish—St Landry
Parts:
Medically Indigent
Med Ind—Washington Par
Parish—Washington
Parts:
Medically Indigent
Medicaid—Iberia Par
Parish—Iberia
Parts:
Medicaid Eligible
Medicaid—Natchitoches Co
Parish—Natchitoches
Parts:
Medicaid Eligible

PRIMARY MEDICAL CARE: Louisiana
Facility Listing

Facility Name

Ambul. Clinic—Long Hosp.
Parish—East Baton Rouge
David Raines Chc (C.T. 246)
Parish—Caddo
FCI Oakdale I
Parish—Allen
Long Reg Med Ctr Outpt Clinic
Parish—Rapides
Lsu Med Ctr (Opd)
Parish—Caddo
Med Ctr Of La At New Orleans
Parish—Orleans
Moss Reg Med Ctr Outpt Clinic
Parish—Calcasieu
So. Louisiana Med. Ctr.
Parish—Terrebonne

PRIMARY MEDICAL CARE: Louisiana
Facility Listing

Facility Name

FCI Oakdale I
Parish—Allen
Long Reg Med Ctr Outpt Clinic
Parish—Rapides
Lsu Med Ctr (Opd)
Parish—Caddo
Med Ctr Of La At New Orleans
Parish—Orleans
Moss Reg Med Ctr Outpt Clinic
Parish—Calcasieu
So. Louisiana Med. Ctr.
Parish—Terrebonne

PRIMARY MEDICAL CARE: Maine
County Listing

County Name

Androscoggin
Service Area: Jay/Livermore Falls
*Aroostook
Service Area: Ashland
Service Area: Danforth
Service Area: Fort Kent
Service Area: Island Falls
Service Area: St. Francis
Service Area: Van Buren
Population Group: Low Inc—Fort Fairfield
Population Group: Low Inc—Lincoln
Cumberland
Service Area: Casco Bay Islands
Service Area: Parsonfield (ME/NH)
Population Group: Med Ind—Portland
*Franklin
Service Area: Jay/Livermore Falls
Service Area: Rangeley
Service Area: Rumford
Population Group: Low Inc—Kingfield Pcaa
*Hancock
Population Group: Med Ind—Bar Harbor
Population Group: Med Ind—Blue Hill Pcaa #40
*Kennebec
Service Area: Jay/Livermore Falls
Service Area: Richmond
*Knox
Population Group: Med Ind—Blue Hill Pcaa #40
*Lincoln
Service Area: Richmond
*Oxford
Service Area: Bethel
Service Area: Jay/Livermore Falls
Service Area: Parsonfield (ME/NH)
Service Area: Rangeley
Service Area: Rumford
Population Group: Med Ind—Norway
Penobscot
Service Area: Danforth
Service Area: Dexter
Service Area: Howland
Service Area: Island Falls
Population Group: Low Inc—Lincoln
*Piscataquis
Service Area: Bingham
Service Area: Milo
Population Group: Low Inc—Skowhegan
*Sagadahoc
Service Area: Richmond
*Somerset
Service Area: Bingham
Service Area: Dexter
Service Area: Jackman

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PRIMARY MEDICAL CARE: Maine
County Listing

County Name

Population Group: Low Inc—Skowhegan
Waldo
Population Group: Med Ind—Belfast
*Washington
Service Area: Danforth
Service Area: Eastport
Service Area: Jonesport
Service Area: Topsfield
Population Group: Med Ind—Calais
Population Group: Med Ind—Milbridge
York
Service Area: Parsonfield (ME/NH)

PRIMARY MEDICAL CARE: Maine
Service Area Listing

Service Area Name

Ashland
County—Aroostook
Parts:
Ashland Town
Garfield Plt
Masardis Town
Nashville Plt
Oxbow Plt
Portage Lake Town
Bethel
County—Oxford
Parts:
Bethel Town
Gilead Town
Greenwood Town
Newry Town
North Oxford Unorg.
Upton Town
Woodstock Town
Bingham
County—Piscataquis
Parts:
Kingsbury Plantation
County—Somerset
Parts:
Bingham Town
Brighton Plantation
Caratunk Town
Moscow Town
Northeast Somerset Unorg.
Pleasant Ridge Plantation
Solon Town
The Forks Plantation
West Forks Plantation
Casco Bay Islands
County—Cumberland
Parts:
Cliff Is.
Cushing Is.
Great Chebeague Is.
Great Diamond Is.
Little Chebeague Is.
Little Diamond Is.
Long Is.
Peak'S Is.
Danforth
County—Aroostook
Parts:
Bancroft Town
Orient Town
Weston Town
County—Penobscot
Parts:
Drew Plantation
Kingman Unorg.

PRIMARY MEDICAL CARE: Maine
Service Area Listing

Service Area Name

Prentiss Plantation
County—Washington
Parts:
Danforth Town
Dexter
County—Penobscot
Parts:
Corinna Twn.
Dexter Twn.
Garland Twn.
County—Somerset
Parts:
Cambridge Twn.
Ripley Twn.
Eastport
County—Washington
Parts:
Eastport City
Passamaquoddy Pleasant Point Res
Pembroke Town
Perry Town
Fort Kent
County—Aroostook
Parts:
Eagle Lake Twn.
Fort Kent Twn.
Frenchville Twn.
Madawaska Twn.
New Canada Twn.
St. Agatha Twn.
Wallagrass Plt.
Winterville Plt.
Howland
County—Penobscot
Parts:
Burlington Twn.
E. Central Penobscot Unorg
Edinburg Twn.
Enfield Twn.
Howland Twn.
Lagrange Twn.
Lowell Twn.
Maxfield Twn.
Passadumkeag Twn.
Seboeis Plt.
Island Falls
County—Aroostook
Parts:
Crystal Town
Dyer Brook Town
Hersey Town
Island Falls Town
Moro Plt
S Aroostook Unorg
Sherman Town
County—Penobscot
Parts:
Mt Chase Town
N Penobscot Unorg
Patten Town
Stacyville Town
Jackman
County—Somerset
Parts:
Dennistown Plantation
Jackman Town
Moose River Town
Jay/Livermore Falls
County—Androscoggin
Parts:
Livermore Falls Town
Livermore Town

PRIMARY MEDICAL CARE: Maine
Service Area Listing

Service Area Name

County—Franklin
Parts:
Jay Town
County—Kennebec
Parts:
Fayette Town
County—Oxford
Parts:
Canton Town
Hartford Town
Sumner Town
Jonesport
County—Washington
Parts:
Addison Town
Beals Town
Centerville Town
Columbia Falls Town
Jonesboro Town
Jonesport Town
Milo
County—Piscataquis
Parts:
Atkinson Twn.
Brownville Twn.
Lake View Plnt
Medford Twn.
Milo Twn.
N.E. Piscataquis Unorg.
S.E. Piscataquis Unorg.
Sebec Twn.
Parsonfield (ME/NH)
County—Cumberland
Parts:
Baldwin Town
County—Oxford
Parts:
Hiram Town
Porter Town
County—York
Parts:
Cornish Town
Limerick Town
Parsonsfield Town
Rangeley
County—Franklin
Parts:
Coplin Plantation
Dallas Plantation
Eustis Town
Madrid Town
North Franklin Unorg.
Rangeley Plantation
Rangeley Town
Sandy River Plantation
County—Oxford
Parts:
Lincoln Plantation
Magalloway Plantation
North Oxford Unorg.
Richmond
County—Kennebec
Parts:
Litchfield Town
County—Lincoln
Parts:
Dresden Town
County—Sagadahoc
Parts:
Bowdoinham Town
Richmond Town
Rumford

PRIMARY MEDICAL CARE: Maine
Service Area Listing

Service Area Name

County—Franklin
Parts:
Carthage Twn.
Weld Twn.
County—Oxford
Parts:
Andover Twn.
Byron Twn.
Dixfield Twn.
Hanover Twn.
Mexico Twn.
Milton Unorg.
Peru Twn.
Roxbury Twn.
Rumford Twn.
St. Francis
County—Aroostook
Parts:
Allagash Town
St. Francis Town
St. John Plantation
Topsfield
County—Washington
Parts:
Codyville Plt
Grand Lake Stream Plt
N Washington Unorg
Passamaquoddy Indian Res
Talmadge Town
Topsfield Town
Vanceboro Town
Waite Town
Van Buren
County—Aroostook
Parts:
Grand Isle Town
Hamlin Town
Van Buren Town

PRIMARY MEDICAL CARE: Maine
Population Group Listing

Population Group

Low Inc—Fort Fairfield
County—Aroostook
Parts:
Caswell Town
Fort Fairfield Town
Limestone Town
Low Inc—Kingfield Pcaa
County—Franklin
Parts:
Carrabassett Valley Town
E C Franklin Unorg. Terr
Kingfield Town
Phillips Town
Wyman Unorg. Terr
Low Inc—Lincoln
County—Aroostook
Parts:
Macwahoc Plt
County—Penobscot
Parts:
Carroll Plt
Chester Town
Lakeville Town
Lee Town
Lincoln Town
Mattawamakeag Town
Springfield Town
Twombley Unorg
Webster Plt
Winn Town
Woodville Town
Low Inc—Skowhegan
County—Piscataquis
Parts:
Wellington Town
County—Somerset
Parts:
Anson Town
Athens Town
Canaan Town
Cornville Town
Embden Town
Harmony Town
Highland Plantation
Madison Town
Mercer Town
New Portland Town
Norridgewock Town
Skowhegan Town
Smithfield Town
Starks Town
Med Ind—Bar Harbor
County—Hancock
Parts:
Bar Harbor Town
Cranberry Isles Town
Frenchboro Town
Mount Desert Isle Town
Southwest Harbor Town
Swans Island Town
Tremont Town
Med Ind—Belfast
County—Waldo
Parts:
Belfast City
Belmont Town
Brooks Town
Jackson Town
Knox Town
Liberty Town
Monroe Town
Montville Town
Morrill Town
Northport Town
Searsmont Town
Searsport Town
Stockton Springs
Swanville Town
Waldo Town
Med Ind—Blue Hill Pcaa#40
County—Hancock
Parts:
Blue Hill Town
Brooklin Town
Brooksville Town
Castine Town
Deer Isle Town
Penobscot Town
Sedgwick Town
Stonington Town
Surry Town
County—Knox
Parts:
Isle Au Haut Town
Med Ind—Calais
County—Washington
Parts:
Alexander Town
Baileyville Town
Baring Town
Calais City
Charlotte Town
Cooper Town
Crawford Town
Meddybemps Town
Plantation #21
Princeton Town
Robbinston Town
Med Ind—Milbridge
County—Washington
Parts:
Beddington Town
Cherryfield Town
Columbia Town
Deblois Town
Harrington Town
Milbridge Town
Steuben Town
Med Ind—Norway
County—Oxford
Parts:
Buckfield Town
Hebron Town
Norway Town
Otisfield Town
Oxford Town
Paris Town
Waterford Town
West Paris Town
Med Ind—Portland
County—Cumberland
Parts:
C.T. 1–3
C.T. 3.99–4.00
C.T. 5–6
C.T. 9–10
C.T. 12–14

PRIMARY MEDICAL CARE: Maryland
County Listing

County Name

Allegany
Service Area: Hancock (MD/PA/WV)
Anne Arundel
Service Area: Owensville
Baltimore City (Indep)
Service Area: North Central Baltimore
Service Area: O'Donnell Heights
Service Area: Orleans Square
Service Area: West Baltimore
Population Group: Low Inc—Belair Road/ Brehm's Lane
Population Group: Low Inc—Park West
Population Group: Medicaid—South Baltimore City
Facility: Healthcare For The Homeless
*Caroline
Population Group: Medicaid—Caroline Co
Cecil
Population Group: Medicaid—Cecil Co
*Dorchester
Population Group: Medicaid—Dorchester Co
*Kent
Population Group: Medicaid—Kent Co
Queen Annes
Population Group: Medicaid—Centreville/ Queenstown
*Somerset
Population Group: Medicaid—Somerset Co
Washington
Service Area: Hancock (MD/PA/WV)

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PRIMARY MEDICAL CARE: Maryland
County Listing

County Name

*Wicomico
Population Group: Medicaid—Wicomico Co
*Worcester
Population Group: Medicaid—Berlin/Ocean City
Population Group: Medicaid—Snow Hill/Pocomoke

PRIMARY MEDICAL CARE: Maryland
Service Area Listing

Service Area Name

Hancock (MD/PA/WV)
County—Allegany
Parts:
Dist. 1 (orleans)
County—Washington
Parts:
Dist. 15 (Indian Spring)
Dist. 5 (hancock)
North Central Baltimore
County—Baltimore City (Indep)
Parts:
C.T. 805
C.T. 901–909
C.T. 1204
O'Donnell Heights
County—Baltimore City (Indep)
Parts:
C.T. 2606.04
Orleans Square
County—Baltimore City (Indep)
Parts:
C.T. 103
C.T. 105
C.T. 201–202
C.T. 601–603
C.T. 701–704
C.T. 802
C.T. 803.01–803.02
C.T. 804
C.T. 806–808
Owensville
County—Anne Arundel
Parts:
C.T. 7012–7014
C.T. 7070
C.T. 7080.98
West Baltimore
County—Baltimore City (Indep)
Parts:
C.T. 1801–1803
C.T. 1901–1903
C.T. 2001–2005

PRIMARY MEDICAL CARE: Maryland
Population Group Listing

Population Group

Low Inc—Belair Road/Brehm's Lane
County—Baltimore City (Indep)
Parts:
C.T. 801.01–801.02
C.T. 2601.02
C.T. 2602.01–2602.03
C.T. 2603.01–2603.03
C.T. 2604.02
C.T. 2604.98
C.T. 2701.01
Low Inc—Park West
County—Baltimore City (Indep)
Parts:

PRIMARY MEDICAL CARE: Maryland
Population Group Listing

Population Group

C.T. 1512–1513
C.T. 2716–2717
C.T. 2718.01–2718.02
C.T. 2801.01
Medicaid—Berlin/Ocean City
County—Worcester
Parts:
Dist. 3 (Berlin)
Dist. 4 (Newark)
Dist. 5 (St. Martin)
Dist. 10 (Ocean City)
Medicaid—Caroline Co
County—Caroline
Parts:
Medicaid Eligible
Medicaid—Cecil Co
County—Cecil
Parts:
Medicaid Eligible
Medicaid—Centreville/Queenstown
County—Queen Annes
Parts:
Dist. 1 (Dixon)
Dist. 2 (Church Hill)
Dist. 3 (Centreville)
Dist. 5 (Queenstown)
Dist. 6 (Ruthsburg)
Dist. 7 (Crumpton)
Medicaid—Dorchester Co
County—Dorchester
Parts:
Medicaid Eligible
Medicaid—Kent Co
County—Kent
Parts:
Medicaid Eligible
Medicaid—Snow Hill/Pocomoke
County—Worcester
Parts:
Dist. 1 (Pocomoke)
Dist. 2 (Snow Hill)
Dist. 7 (Atkinsons)
Dist. 8 (Stockton)
Medicaid—Somerset Co
County—Somerset
Parts:
Medicaid Eligible
Medicaid—South Baltimore City
County—Baltimore City (Indep)
Parts:
C.T. 2101.01
C.T. 2102.01
C.T. 2301–2303
C.T. 2401
C.T. 2404
C.T. 2502.03–2502.05
C.T. 2502.07
C.T. 2503.01–2503.03
C.T. 2504.01–2504.02
C.T. 2505–2506
Medicaid—Wicomico Co
County—Wicomico
Parts:
Medicaid Eligible

PRIMARY MEDICAL CARE: Maryland
Facility Listing

Facility Name

Healthcare For The Homeless
County—Baltimore City (Indep)

PRIMARY MEDICAL CARE: Massachusetts
County Listing

County Name

Bristol
Population Group: Low Inc—C New Bedford
Essex
Service Area: North Lawrence
Service Area: South Lynn
Population Group: Low Inc—Salem/East Peabody
*Franklin
Service Area: Athol-Orange
Service Area: Mohawk
Hampden
Service Area: Gateway Regional Dist
Population Group: Hispanic Pop—Holyoke
Population Group: Low Inc—Springfield
Hampshire
Service Area: Gateway Regional Dist
Service Area: Hampshire Regional Dist
Middlesex
Service Area: Community Health Network Area #16
Population Group: Low Inc—Somerville
Plymouth
Service Area: Hull
Suffolk
Service Area: Community Health Network Area #16
Service Area: N. Dorchester
Service Area: Roxbury
Service Area: S. Dorchester
Population Group: Hmlss—Boston
Population Group: Low Inc—Brighton/Allston
Worcester
Service Area: Athol-Orange
Population Group: Low Inc—Worcester

PRIMARY MEDICAL CARE: Massachusetts
Service Area Listing

Service Area Name

Athol-Orange
County—Franklin
Parts:
Erving Town
New Salem Town
Orange Town
Warwick Town
Wendell Town
County—Worcester
Parts:
Athol Town
Petersham Town
Phillipston Town
Royalston Town
Community Health Network Area #16
County—Middlesex
Parts:
Everett City
Malden City
County—Suffolk
Parts:
Chelsea City
Revere City
Winthrop Town
Gateway Regional Dist
County—Hampden
Parts:
Blandford Town
Chester Town
Montgomery Town
Russell Town

PRIMARY MEDICAL CARE: Massachusetts
Service Area Listing

Service Area Name
County—Hampshire
Parts:
Huntington Town
Middlefield Town
Worthington Town
Hampshire Regional Dist
County—Hampshire
Parts:
Chesterfield Town
Cummington Town
Goshen Town
Plainfield Town
Westhampton Town
Williamsburg Town
Hull
County—Plymouth
Parts:
Hull Town
Mohawk
County—Franklin
Parts:
Ashfield Twn.
Buckland Twn.
Charlemont Twn.
Colrain Twn.
Conway Twn.
Hawley Twn
Heath Twn.
Rowe Twn.
Shelburne Twn.
N. Dorchester
County—Suffolk
Parts:
C.T. 901–924
North Lawrence
County—Essex
Parts:
C.T. 2501–2516
Roxbury
County—Suffolk
Parts:
C.T. 801–809
C.T. 811–821
S. Dorchester
County—Suffolk
Parts:
C.T. 1001–1005
C.T. 1006.01–1006.02
C.T. 1007–1009
C.T. 1010.01–1010.02
C.T. 1011.01–1011.02
South Lynn
County—Essex
Parts:
C.T. 2055–2072

PRIMARY MEDICAL CARE: Massachusetts
Population Group Listing

Population Group
Hispanic Pop—Holyoke
County—Hampden
Parts:
City Of Holyoke
Hmlss—Boston
County—Suffolk
Parts:
Long Is Shelter/Ct 1501
Pc Clinic/Bc Hosp/Ct 710
Pine Street Inn/Ct 712
Shattuck Ctr/Ct 1101.02
St. Francis Hse/Ct 1206

PRIMARY MEDICAL CARE: Massachusetts
Population Group Listing

Population Group
Low Inc—Brighton/Allston
County—Suffolk
Parts:
C.T. 1
C.T. 2.01–2.02
C.T. 3
C.T. 4.01–4.02
C.T. 5.01–5.02
C.T. 6.01–6.02
C.T. 7.01–7.02
C.T. 8.01–8.02
Low Inc—C New Bedford
County—Bristol
Parts:
C.T. 6504–6509
C.T. 6510.02
C.T. 6511–6518
C.T. 6518.99–6519.00
C.T. 6520–6527
Low Inc—Salem/East Peabody
County—Essex
Parts:
C.T. 2041–2046
C.T. 2047.01–2047.02
C.T. 2104–2109
Low Inc—Somerville
County—Middlesex
Parts:
C.T. 3501–3515
Low Inc—Springfield
County—Hampden
Parts:
C.T. 8001
C.T. 8002.01–8002.02
C.T. 8003–8010
C.T. 8011.01–8011.02
C.T. 8012–8013
C.T. 8014.01–8014.02
C.T. 8015.01–8015.03
C.T. 8016.01–8016.05
C.T. 8017–8025
C.T. 8026.01–8026.02
Low Inc—Worcester
County—Worcester
Parts:
C.T. 7301–7303
C.T. 7304.01–7304.02
C.T. 7305–7307
C.T. 7308.01–7308.02
C.T. 7309.01–7309.02
C.T. 7310
C.T. 7311.01–7311.02
C.T. 7312.01–7312.02
C.T. 7313–7319
C.T. 7320.01–7320.02
C.T. 7321
C.T. 7322.01–7322.03
C.T. 7323–7328
C.T. 7329.01–7329.02
C.T. 7330
C.T. 7331.01–7331.02

PRIMARY MEDICAL CARE: Michigan
County Listing

County Name
*Alcona
*Alger
Facility: Alger Max Fac
Allegan
Service Area: Allegan
Service Area: South Haven/Bangor

PRIMARY MEDICAL CARE: Michigan
County Listing

County Name
*Alpena
Population Group: Low Inc—Alpena Co
*Antrim
Service Area: Mancelona
Population Group: Low Inc—East Jordan
Arenac
Service Area: Sterling/Standish
Bay
Service Area: Sterling/Standish
*Benzie
Berrien
Population Group: Low Inc—South Berrien Co
Population Group: Low Inc—North Berrien Co
*Branch
Population Group: Low Inc—Branch Co
Facility: Crane Women's Fac
Calhoun
Population Group: Medicaid—Calhoun Co
*Cass
Service Area: Dowagiac
Service Area: Three Rivers
*Charlevoix
Service Area: Beaver Island
Population Group: Low Inc—East Jordan
*Cheboygan
Population Group: Low Inc—Cheboygan Co
*Chippewa
Population Group: Low Inc—Chippewa Co
Facility: Chippewa Cty Corr Inst
*Clare
Crawford
Population Group: Low Inc—Crawford Co
*Delta
Population Group: Low Inc—Delta Co
*Dickinson
Population Group: Low Inc—Dickinson Co
Genesee
Service Area: Otter Lake
Population Group: Low Inc—Flint
*Gladwin
*Gogebic
Service Area: Ewen
Service Area: Ironwood/Hurley (MI/WI)
*Grand Traverse
Service Area: Buckley/Fife Lake
*Gratiot
Population Group: Low Inc—Gratiot Co
Facility: Mid Michigan Temporary Fac
*Hillsdale
*Houghton
Population Group: Low Inc—Houghton Co
*Huron
Service Area: Pigeon
Service Area: Port Austin
Population Group: Low Inc—Harbor Beach/Bad Axe
*Ionia
Population Group: Low Inc/MFW—Ionia Co
Facility: Handlon Mi Training Unit
Facility: Ionia Maximum Fac
Facility: Ionia Temporary Fac
Facility: Michigan Ref
*Iosco
Service Area: Hale/Whittemore/Prescott
Population Group: Low Inc—E Iosco Co
Iron
Service Area: Iron River/Crystal Falls
*Isabella
Population Group: Low Inc—Isabella Co

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PRIMARY MEDICAL CARE: Michigan
County Listing

County Name

Jackson
  Population Group: Low Inc—Ne Jackson City
  Facility: State Prs.—South Michigan
Kalamazoo
  Population Group: Low Inc—N Kalamazoo City
*Kalkaska
Kent
  Population Group: Low Inc—Grand Rapids
  Population Group: MSFW—N Kent Co
*Keweenaw
*Lake
Lapeer
  Service Area: Brown City
  Service Area: Marlette/Kingston
  Service Area: Otter Lake
  Facility: Thumb Regional Fac
*Leelanau
  Service Area: Northport/Suttons Bay
*Lenawee
  Service Area: Morenci
  Facility: Gus Harrison Regional Fac
*Luce
  Population Group: Medicaid—Luce Co
Macomb
  Facility: Macomb Corr Fac
*Marquette
  Service Area: Gwinn
  Service Area: Western Marquette
  Facility: Marquette Branch Prs
*Mason
  Population Group: Low Inc/MFW—Mason Co
*Mecosta
*Menominee
  Service Area: E. Marinette/S. Menominee(MI/WI)
  Service Area: Northern Menominee
*Missaukee
Monroe
  Service Area: Carleton
  Population Group: Medicaid Pop.—South Monroe
*Montcalm
  Service Area: Northern Montcalm
  Population Group: Low Inc—Southern Montcalm
  Facility: Carson City Regional Fac
*Montmorency
Muskegon
  Population Group: Low Inc—Muskegon City
  Population Group: Low Inc—Northern Muskegon Co
  Facility: Brooks Regional Fac
  Facility: Muskegon Corr Fac
  Facility: Muskegon Temporary Fac
*Newaygo
  Population Group: Low Inc—Newaygo Co
Oakland
  Population Group: Low Inc—Pontiac
*Oceana
*Ogemaw
  Service Area: Hale/Whittemore/Prescott
  Service Area: Rose City/Lupton
  Service Area: West Branch
*Ontonagon
  Service Area: Ewen
  Population Group: Low Inc—North Ontonagon
*Osceola

PRIMARY MEDICAL CARE: Michigan
County Listing

County Name

*Oscoda
Ottawa
  Population Group: Low Inc—Central Holland
  Population Group: MFW—Ottawa Co
*Presque Isle
*Roscommon
Saginaw
  Service Area: East Side Saginaw
*Sanilac
  Service Area: Brown City
  Service Area: Marlette/Kingston
  Population Group: Low Inc—Deckerville/Sandusky
*Schoolcraft
  Population Group: Low Inc—Schoolcraft Co
St Clair
  Service Area: Algonac
  Service Area: Yale
  Population Group: Low Inc—Port Huron/Marysville
*St Joseph
  Service Area: Three Rivers
*Tuscola
  Service Area: Marlette/Kingston
  Service Area: Otter Lake
  Service Area: Pigeon
Van Buren
  Service Area: Dowagiac
  Service Area: South Haven/Bangor
Wayne
  Service Area: Airport/Conner (N.E. Detroit)
  Service Area: Chene (S. Central Detroit)
  Service Area: Eastside Detroit
  Service Area: Hamtramck
  Service Area: Highland Park
  Service Area: Inkster
  Service Area: Mackenzie/Brooks
  Service Area: Nolan/State Fair/Davison/Pershing
  Service Area: Outer Drive/Van Dyke
  Service Area: Southwest Detroit
  Service Area: Tireman/Chadsey
  Facility: Michigan Hospital & Medical Centers
  Facility: Ryan Regional Fac
*Wexford
  Service Area: Buckley/Fife Lake

PRIMARY MEDICAL CARE: Michigan
Service Area Listing

Service Area Name

Airport/Conner (N.E. Detroit)
  County—Wayne
    Parts:
      C.T. 5037
      C.T. 5039–5048
      C.T. 5052–5053
      C.T. 5107–5109
Algonac
  County—St Clair
    Parts:
      Algonac City
      Clay Twp
      Cottrellville Twp
      Ira Twp
      Marine City City
Allegan
  County—Allegan
    Parts:

PRIMARY MEDICAL CARE: Michigan
Service Area Listing

Service Area Name

      Allegan City
      Allegan Twp.
      Cheshire Twp.
      Clyde Twp.
      Dorr Twp.
      Hopkins Twp.
      Lee Twp.
      Leighton Twp.
      Martin Twp.
      Monterey Twp.
      Salem Twp.
      Trowbridge Twp.
      Valley Twp.
      Watson Twp.
      Wayland City
      Wayland Twp.
Beaver Island
  County—Charlevoix
    Parts:
      Peaine Township
      St. James Township
Brown City
  County—Lapeer
    Parts:
      Burnside Twp.
  County—Sanilac
    Parts:
      Brown City
      Elk Twp.
      Flynn Twp.
      Maple Valley Twp.
      Speaker Twp.
Buckley/Fife Lake
  County—Grand Traverse
    Parts:
      Fife Lake Twp
      Grant Twp
      Mayfield Twp
      Paradise Twp
  County—Wexford
    Parts:
      Greenwood Twp
      Hanover Twp
      Liberty Twp
      Wexford Twp
Carleton
  County—Monroe
    Parts:
      Ash Township
      Exeter Township
      London Township
Chene (S. Central Detroit)
  County—Wayne
    Parts:
      C.T. 5111
      C.T. 5161–5162
      C.T. 5177–5179
      C.T. 5183–5188
Dowagiac
  County—Cass
    Parts:
      Dowagiac City
      La Grange Township
      Marcellus Township
      Penn Township
      Pokagon Township
      Silver Creek Township
      Volinia Township
      Wayne Township
  County—Van Buren
    Parts:
      Decatur Township

PRIMARY MEDICAL CARE: Michigan
Service Area Listing

Service Area Name
Hamilton Township
Hartford City
Hartford Township
Keeler Township
Porter Township
E. Marinette/S. Menominee(MI/WI)
County—Menominee
Parts:
Ingallston Twp.
Mellen Twp.
Menominee City
Menominee Twp.
East Side Saginaw
County—Saginaw
Parts:
C.T. 1–11
C.T. 110
Eastside Detroit
County—Wayne
Parts:
C.T. 5121–5124
C.T. 5126
C.T. 5129
C.T. 5132–5136
C.T. 5139–5143
C.T. 5145–5157
Ewen
County—Gogebic
Parts:
Marenisco Twp
Watersmeet Twp
County—Ontonagon
Parts:
Bergland Twp
Haight Twp
Interior Twp
Matchwood Twp
McMillan Twp
Rockland Twp
Stannard Twp
Gwinn
County—Marquette
Parts:
Ewing Township
Forsyth Township
Turin Township
Wells Township
Hale/Whittemore/Prescott
County—Iosco
Parts:
Burleigh Twp
Grant Twp
Plainfield Twp
Reno Twp
Sherman Twp
Whittemore City
County—Ogemaw
Parts:
Logan Twp
Richland Twp
Hamtramck
County—Wayne
Parts:
C.T. 5520–5526
Highland Park
County—Wayne
Parts:
C.T. 5530–5537
Inkster
County—Wayne
Parts:
C.T. 5701–5710

PRIMARY MEDICAL CARE: Michigan
Service Area Listing

Service Area Name
Iron River/Crystal Falls
County—Iron
Ironwood/Hurley (MI/WI)
County—Gogebic
Parts:
Bessemer City
Bessemer Twp
Erwin Twp
Ironwood City
Ironwood Twp
Wakefield City
Wakefield Twp
Mackenzie/Brooks
County—Wayne
Parts:
C.T. 5341–5344
C.T. 5347
C.T. 5350–5355
C.T. 5363–5368
C.T. 5370–5373
C.T. 5378
C.T. 5451–5454
Mancelona
County—Antrim
Parts:
Chestonia Township
Custer Township
Helena Township
Kearney Township
Mancelona Township
Star Township
Marlette/Kingston
County—Lapeer
Parts:
Burlington Twp.
County—Sanilac
Parts:
La Motte Twp.
Marlette Twp.
County—Tuscola
Parts:
Dayton Twp.
Fremont Twp
Kingston Twp.
Koylton Twp.
Morenci
County—Lenawee
Parts:
Fairfield Township
Medina Township
Morenci City
Ogden Township
Riga Township
Seneca Township
Nolan/State Fair/Davison/Pershing
County—Wayne
Parts:
C.T. 5064–5080
C.T. 5102–5106
Northern Menominee
County—Menominee
Parts:
Cedarville Twp
Daggett Twp
Faithorn Twp
Gourley Twp
Harris Twp
Holmes Twp
Lake Twp
Meyer Twp
Nadeau Twp
Spalding Twp

PRIMARY MEDICAL CARE: Michigan
Service Area Listing

Service Area Name
Stephenson City
Stephenson Twp
Northern Montcalm
County—Montcalm
Parts:
Belvidere Twp
Cato Twp
Day Twp
Douglass Twp
Maple Valley Twp
Pierson Twp
Pine Twp
Reynolds Twp
Winfield Twp
Northport/Suttons Bay
County—Leelanau
Parts:
Centerville Twp.
Cleveland Twp.
Kasson Twp.
Leelanau Twp.
Leland Twp.
Solon Twp.
Suttons Bay Twp.
Otter Lake
County—Genesee
Parts:
Forest Township
County—Lapeer
Parts:
Deerfield Township
Marathon Township
North Branch Township
Rich Township
County—Tuscola
Parts:
Arbela Township
Millington Township
Watertown Township
Outer Drive/Van Dyke
County—Wayne
Parts:
C.T. 5035–5036
C.T. 5049–5051
C.T. 5061–5063
Pigeon
County—Huron
Parts:
Brookfield Twp.
Caseville Twp.
Fairhaven Twp.
McKinley Twp.
Sebewaing Twp.
Winsor Twp.
County—Tuscola
Parts:
Columbia Twp.
Port Austin
County—Huron
Parts:
Dwight Twp.
Gore Twp.
Hume Twp.
Huron Twp.
Lake Twp.
Pointe Aux Barques Twp.
Port Austin Twp.
Rose City/Lupton
County—Ogemaw
Parts:
Cumming Twp
Goodar Twp

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PRIMARY MEDICAL CARE: Michigan
Service Area Listing

Service Area Name

- Hill Twp
- Rose City
- Rose Twp

South Haven/Bangor
- County—Allegan
  - Parts:
    - Casco Twp.
    - Ganges Twp.
- County—Van Buren
  - Parts:
    - Arlington Twp.
    - Bangor City
    - Bangor Twp.
    - Columbia Twp.
    - Covert Twp.
    - Geneva Twp.
    - Lawrence Twp.
    - South Haven City
    - South Haven Twp.

Southwest Detroit
- County—Wayne
  - Parts:
    - C.T. 5208–5209
    - C.T. 5211–5214
    - C.T. 5231–5238
    - C.T. 5240–5243
    - C.T. 5245
    - C.T. 5247–5248

Sterling/Standish
- County—Bay
  - Parts:
    - Gibson Twp
    - Mount Forest Twp
    - Pinconning City
    - Pinconning Twp

Three Rivers
- County—Cass
  - Parts:
    - Newberg Twp
    - Porter Twp
- County—St Joseph
  - Parts:
    - Colon Twp
    - Constantine Twp
    - Fabius Twp
    - Florence Twp
    - Flowerfield Twp
    - Leonidas Twp
    - Lockport Twp
    - Mendon Twp
    - Nottawa Twp
    - Park Twp
    - Three Rivers City

Tireman/Chadsey
- County—Wayne
  - Parts:
    - C.T. 5221–5222
    - C.T. 5251–5258
    - C.T. 5260–5265
    - C.T. 5335–5337
    - C.T. 5345–5346

West Branch
- County—Ogemaw
  - Parts:
    - Churchill Twp
    - Edwards Twp
    - Foster Twp
    - Horton Twp
    - Klacking Twp
    - Mills Twp
    - Ogemaw Twp
    - West Branch City

PRIMARY MEDICAL CARE: Michigan
Service Area Listing

Service Area Name

- West Branch Twp

Western Marquette
- County—Marquette
  - Parts:
    - Champion Twp.
    - Humboldt Twp.
    - Michigamme Twp.
    - Republic Twp.

Yale
- County—St Clair
  - Parts:
    - Berlin Twp
    - Brockway Twp
    - Emmett Twp
    - Greenwood Twp
    - Kenockee Twp
    - Lynn Twp
    - Mussey Twp
    - Riley Twp
    - Yale City

PRIMARY MEDICAL CARE: Michigan
Population Group Listing

Population Group

Low Inc—Alpena Co
- County—Alpena
  - Parts:
    - Low Income

Low Inc—Branch Co
- County—Branch
  - Parts:
    - Low Income

Low Inc—Central Holland
- County—Ottawa
  - Parts:
    - C.T. 223–225

Low Inc—Cheboygan Co
- County—Cheboygan
  - Parts:
    - Low Income

Low Inc—Chippewa Co
- County—Chippewa
  - Parts:
    - Low Income

Low Inc—Crawford Co
- County—Crawford
  - Parts:
    - Low Income

Low Inc—Deckerville/Sandusky
- County—Sanilac
  - Parts:
    - Argyle Twp
    - Austin Twp
    - Bridgehampton Twp
    - Custer Twp
    - Delaware Twp
    - Elmer Twp
    - Evergreen Twp
    - Forester Twp
    - Greenleaf Twp
    - Marion Twp
    - Minden Twp
    - Moore Twp
    - Sandusky City
    - Sanilac Twp
    - Watertown Twp
    - Wheatland Twp

Low Inc—Delta Co
- County—Delta
  - Parts:
    - Low Income

PRIMARY MEDICAL CARE: Michigan
Population Group Listing

Population Group

Low Inc—Dickinson Co
- County—Dickinson
  - Parts:
    - Low Income

Low Inc—E Iosco Co
- County—Iosco
  - Parts:
    - Alabaster Twp
    - Au Sable Twp
    - Baldwin Twp
    - East Tawas City
    - Oscoda Twp
    - Tawas Twp
    - Tawas City City
    - Wilber Twp

Low Inc—East Jordan
- County—Antrim
  - Parts:
    - Banks Twp
    - Central Lake Twp
    - Echo Twp
    - Forest Home Twp
    - Jordan Twp
    - Torch Lake Twp
    - Warner Twp
- County—Charlevoix
  - Parts:
    - Boyne City City
    - Boyne Valley Twp
    - Chandler Twp
    - East Jordan City
    - Evangeline Twp
    - Eveline Twp
    - Hudson Twp
    - Marion Twp
    - Melrose Twp
    - Norwood Twp
    - South Arm Twp
    - Wilson Twp

Low Inc—Flint
- County—Genesee
  - Parts:
    - C.T. 1–11
    - C.T. 14–15
    - C.T. 17–29
    - C.T. 103.02
    - C.T. 103.04
    - C.T. 122.02

Low Inc—Grand Rapids
- County—Kent
  - Parts:
    - C.T. 1–10
    - C.T. 11.01–11.02
    - C.T. 12–46
    - C.T. 116
    - C.T. 118.01–118.02
    - C.T. 126.01–126.02

Low Inc—Gratiot Co
- County—Gratiot
  - Parts:
    - Low Income

Low Inc—Harbor Beach/Bad Axe
- County—Huron
  - Parts:
    - Bad Axe City
    - Bingham Twp
    - Bloomfield Twp
    - Chandler Twp
    - Colfax Twp
    - Grant Twp
    - Harbor Beach City
    - Lincoln Twp

PRIMARY MEDICAL CARE: Michigan
Population Group Listing

Population Group
Meade Twp
Oliver Twp
Paris Twp
Rubicon Twp
Sand Beach Twp
Sheridan Twp
Sherman Twp
Sigel Twp
Verona Twp
Low Inc—Houghton Co
County—Houghton
Parts:
Low Income
Low Inc—Isabella Co
County—Isabella
Parts:
Low Income
Low Inc—Muskegon City
County—Muskegon
Parts:
C.T. 1–5
C.T. 6.01–6.02
C.T. 7–8
C.T. 11–13
C.T. 14.01–14.02
C.T. 19.02
C.T. 21
C.T. 26.01
Low Inc—N Kalamazoo City
County—Kalamazoo
Parts:
C.T. 1
C.T. 2.01–2.02
C.T. 3
C.T. 4.02
C.T. 5–6
C.T. 8.01–8.02
C.T. 9–10
Low Inc—Ne Jackson City
County—Jackson
Parts:
C.T. 1–4
C.T. 6–7
C.T. 10–13
Low Inc—Newaygo Co
County—Newaygo
Parts:
Low Income
Low Inc—North Berrien Co
County—Berrien
Parts:
Bainbridge Twp
Benton Charter Twp
Benton Harbor City
Coloma City
Coloma Twp
Hagar Twp
Pipestone Twp
Sodus Twp
Watervliet Twp
Watervliet City
Low Inc—North Ontonagon
County—Ontonagon
Parts:
Bohemia Twp
Carp Lake Twp
Greenland Twp
Ontonagon Twp
Low Inc—Northern Muskegon Co
County—Muskegon
Parts:
Blue Lake Twp

PRIMARY MEDICAL CARE: Michigan
Population Group Listing

Population Group
Cedar Creek Twp
Dalton Twp
Fruitland Twp
Holton Twp
Montague Twp
Montague City
White River Twp
White Hall City
Whitehall Twp
Low Inc—Pontiac
County—Oakland
Parts:
C.T. 1410
C.T. 1412–1418
C.T. 1420–1427
Low Inc—Port Huron/Marysville
County—St Clair
Parts:
Burtchville Twp
Casco Twp
China Twp
Clyde Twp
Columbus Twp
East China Twp
Fort Gratiot Twp
Grant Twp
Kimball Twp
Marysville City
Port Huron Twp
Port Huron City
St Clair Twp
St Clair City
Wales Twp
Low Inc—Schoolcraft Co
County—Schoolcraft
Parts:
Low Income
Low Inc—South Berrien Co
County—Berrien
Parts:
Baroda Twp
Berrien Twp
Bertrand Twp
Bridgman City
Buchanan City
Buchanan Twp
Chickaming Twp
Galien Twp
Lake Charter Twp
New Buffalo Twp
New Buffalo City
Niles City
Niles Twp
Oronoko Twp
Three Oaks Twp
Weesaw Twp
Low Inc—Southern Montcalm
County—Montcalm
Parts:
Bloomer Twp
Bushnell Twp
Carson City City
Crystal Twp
Eureka Twp
Evergreen Twp
Fairplain Twp
Ferris Twp
Greenville City
Home Twp
Montcalm Twp
Richland Twp
Sidney Twp

PRIMARY MEDICAL CARE: Michigan
Population Group Listing

Population Group
Stanton City
Low Inc/MFW—Ionia Co
County—Ionia
Parts:
Low Income
MFW
Low Inc/MFW—Mason Co
County—Mason
Parts:
Low Income
MFW
Medicaid—Calhoun Co
County—Calhoun
Parts:
Medicaid Eligible
Medicaid—Luce Co
County—Luce
Parts:
Medicaid Eligible
Medicaid Pop.—South Monroe
County—Monroe
Parts:
Bedford Twp.
Erie Twp.
Ida Twp.
La Salle Twp.
Luna Pier City
Summerfield Twp.
Whiteford Twp.
MFW—Ottawa Co
County—Ottawa
Parts:
MFW
MSFW—N Kent Co
County—Kent
Parts:
Algoma Twp
Cedar Springs City
Courtland Twp
Nelson Twp
Oakfield Twp
Rockford City
Solon Twp
Sparta Twp
Spencer Twp
Tyrone Twp

PRIMARY MEDICAL CARE: Michigan
Facility Listing

Facility Name
Alger Max Fac
County—Alger
Brooks Regional Fac
County—Muskegon
Carson City Regional Fac
County—Montcalm
Chippewa Cty Corr Inst
County—Chippewa
Crane Women'S Fac
County—Branch
Gus Harrison Regional Fac
County—Lenawee
Handlon Mi Training Unit
County—Ionia
Ionia Maximum Fac
County—Ionia
Ionia Temporary Fac
County—Ionia
Macomb Corr Fac
County—Macomb
Marquette Branch Prs

PRIMARY MEDICAL CARE: Michigan
Facility Listing

Facility Name

County—Marquette
Michigan Hospital & Medical Centers
County—Wayne
Michigan Ref
County—Ionia
Mid Michigan Temporary Fac
County—Gratiot
Muskegon Corr Fac
County—Muskegon
Muskegon Temporary Fac
County—Muskegon
Ryan Regional Fac
County—Wayne
State Prs.—South Michigan
County—Jackson
Thumb Regional Fac
County—Lapeer

PRIMARY MEDICAL CARE: Minnesota
County Listing

County Name

*Aitkin
Service Area: Floodwood
Service Area: Mille Lacs
*Beltrami
Service Area: Northome/Blackduck
*Blue Earth
Service Area: Wells
*Cass
Clay
Service Area: Ada/Halstad/Twin Valley
Service Area: Barnesville
Service Area: Hawley
*Cook
Service Area: Silver Bay
*Crow Wing
Service Area: Mille Lacs
*Faribault
Service Area: Wells
Grant
Service Area: Elbow Lake/Dalton
Hennepin
Service Area: Near North—Minneapolis
Population Group: Am In—Hennepin Co
Population Group: Hmlss—Inner City Minneapolis
Population Group: Low Inc—N Minneapolis
*Itasca
Service Area: Bigfork
Service Area: Northome/Blackduck
*Jackson
Service Area: Jackson/Lakefield
*Kanabec
Service Area: Mille Lacs
*Kandiyohi
Service Area: Belgrade/Brooten
*Kittson
Service Area: Karlstad
*Koochiching
Service Area: Northome/Blackduck
*Lake
Service Area: Silver Bay
*Lincoln
Service Area: Tyler/Lake Benton
*Lyon
Service Area: Tracy
Service Area: Tyler/Lake Benton
*Mahnomen
*Marshall
Service Area: Karlstad
Service Area: Warren

PRIMARY MEDICAL CARE: Minnesota
County Listing

County Name

*Mille Lacs
Service Area: Mille Lacs
*Morrison
Service Area: Albany
Service Area: Mille Lacs
*Murray
Norman
Service Area: Ada/Halstad/Twin Valley
*Otter Tail
Service Area: Elbow Lake/Dalton
Service Area: Pelican Rapids
*Pipestone
Service Area: Pipestone
Service Area: Tyler/Lake Benton
Polk
Service Area: Ada/Halstad/Twin Valley
Service Area: Crookston
Service Area: Warren
*Pope
Service Area: Belgrade/Brooten
Ramsey
Service Area: Summit-Dale
Population Group: Am In—St. Paul
Population Group: Span Sp—St. Paul City
*Red Lake
*Redwood
Service Area: Tracy
*Rock
Service Area: Pipestone
St Louis
Service Area: Cook/Orr
Service Area: Floodwood
Population Group: Inmates—FPC Duluth
Stearns
Service Area: Albany
Service Area: Belgrade/Brooten
*Wabasha
Service Area: Plainview
*Waseca
Service Area: Wells
*Wilkin
Service Area: Barnesville
*Winona
Service Area: Plainview

PRIMARY MEDICAL CARE: Minnesota
Service Area Listing

Service Area Name

Ada/Halstad/Twin Valley
County—Clay
Parts:
Felton City
Felton Township
Hagen Township
Ulen City
Ulen Township
County—Polk
Parts:
Hubbard Township
Nielsville City
Scandia Township
Albany
County—Morrison
Parts:
Elmdale City
Elmdale Twp
Upsala City
County—Stearns
Parts:
Albany City
Albany Twp

PRIMARY MEDICAL CARE: Minnesota
Service Area Listing

Service Area Name

Avon City
Avon Twp
Holdingford City
Holding Twp
Krain Twp
St. Anthony City
Barnesville
County—Clay
Parts:
Alliance Twp
Barnesville City
Barnesville Twp
Comstock City
Elkton Twp
Holy Cross Twp
Humboldt Twp
Parke Twp
Skree Twp
Tansem Twp
County—Wilkin
Parts:
Atherton Twp
Deerhorn Twp
Manston Twp
Mitchell Twp
Prairie View Twp
Rothsay City
Tanberg Twp
Wolverton Twp
Belgrade/Brooten
County—Kandiyohi
Parts:
Burbank Township
Colfax Township
County—Pope
Parts:
Bangor Township
Chippewa Falls Townsh
Gilchrist Township
Lake Johanna Township
Sedan City
County—Stearns
Parts:
Belgrade City
Brooten City
Crow Lake Township
Crow River Township
North Fork Township
Bigfork
County—Itasca
Parts:
Bearville Township
Bigfork City
Bigfork Township
Carpenter Township
Effie Unorg.
Effie City
Grattan Township
Kinghurst Township
Lake Jessie Township
Liberty Township
Marcell Township
Northeast Itasca Unorg.
Pomroy Township
Stokes Township
Wirt Township
Cook/Orr
County—St Louis
Parts:
Alango Twp
Angora Twp
Beatty Twp

PRIMARY MEDICAL CARE: Minnesota
Service Area Listing

Service Area Name
Cook City
Field Twp
Gheen Unorg.
Lake Vermillion Unorg.
Leiding Twp
Linden Grove Twp
Morcom Twp
Northeast St. Louis Unorg
Northwest St. Louis Unorg
Orr City
Owens Twp
Portage Twp
Sturgeon Twp
Willow Valley Twp
Crookston
County—Polk
Parts:
Andover Twp
Badger Twp
Belgium Twp
Beltrami City
Chester Twp
Climax City
Crookston Twp
Crookston City
Erskine City
Euclid Twp
Fairfax Twp
Fanny Twp
Fertile City
Fisher Twp
Fisher City
Garden Twp
Garfield Twp
Gentilly Twp
Godfrey Twp
Grove Park Twp
Hammond Twp
Hill River Twp
Kertsonville Twp
Keystone Twp
King Twp
Knute Twp
Lessor Twp
Liberty Twp
Lowell Twp
Mc Intosh City
Mentor City
Nesbitt Twp
Onstad Twp
Parnell Twp
Reis Twp
Roome Twp
Russia Twp
Sletten Twp
Tabor Twp
Tilden Twp
Trail City
Tynsid Twp
Vineland Twp
Winger Twp
Winger City
Woodside Twp
Elbow Lake/Dalton
County—Otter Tail
Parts:
Dalton City
Tumuli Township
Floodwood
County—Aitkin
Parts:
Ball Bluff Twp

PRIMARY MEDICAL CARE: Minnesota
Service Area Listing

Service Area Name
Balsam Twp
Cornish Twp
Northeast Aitkin Unorg
Turner Twp
County—St Louis
Parts:
Arrowhead Twp
Cedar Valley Twp
Cotton Twp
Elmer Twp
Fine Lakes Twp
Floodwood City
Floodwood Twp
Halden Twp
Kelsey Twp
Meadowlands Twp
Meadowlands City
Ness Twp
Northland Twp
Payne Twp
Potshot Lake Unorg
Prairie Lake Twp
Toivola Twp
Van Buren Twp
Hawley
County—Clay
Parts:
Cromwell Township
Eglon Township
Hawley City
Hawley Township
Highland Grove Townsh
Riverton Township
Spring Prairie Townsh
Jackson/Lakefield
County—Jackson
Parts:
Alpha City
Belmont Township
Des Moines Township
Enterprise Township
Heron Lake Township
Hunter Township
Jackson City
Lakefield City
Middletown Township
Minneota Township
Okabena City
Petersburg Township
Rost Township
West Heron Lake Township
Wisconsin Township
Karlstad
County—Kittson
Parts:
Arveson Twp
Deerwood Twp
Halma City
Jupiter Twp
Karlstad City
Norway Twp
Pelan Twp
Spring Brook Twp
County—Marshall
Parts:
Augsberg Twp
Lincoln Twp
Nelson Park Twp
Strandquist City
West Valley Twp
Wright Twp
Mille Lacs

PRIMARY MEDICAL CARE: Minnesota
Service Area Listing

Service Area Name
County—Aitkin
Parts:
Hazelton Twp.
Idun Twp.
Jewett Twp.
Lakeside Twp.
Malmo Twp.
McGrath City
Seavey Twp
Wealthwood Twp.
Williams Twp.
County—Crow Wing
Parts:
Garrison City
Garrison Twp.
Roosevelt Twp.
County—Kanabec
Parts:
Ford Twp.
Hay Brook Twp.
Hillman Twp.
County—Mille Lacs
Parts:
Bradbury Twp.
Dailey Twp
East Side Twp.
Isle City
Isle Harbor Twp.
Kathio Twp.
Lewis Twp.
Mudgett Twp.
Onamia City
Onamia Twp.
South Harbor Twp.
Wahkon City
County—Morrison
Parts:
Hillman City
Leigh Twp.
Mount Morris Twp.
Richardson Twp.
Near North—Minneapolis
County—Hennepin
Parts:
C.T. 20–23
C.T. 27–29
C.T. 32–35
C.T. 41–42
Northome/Blackduck
County—Beltrami
Parts:
Battle Township
Blackduck City
Cormant Township
Durand Township
Funkley City
Hagali Township
Hines Township
Hornet Township
Kelliher City
Kelliher Township
Langor Township
Nebish Township
O'Brien Township
Quiring Township
Shooks Township
Shotley Brook Unorg.
Shotley Township
Summit Township
Waskish Township
Woodrow Township
County—Itasca

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PRIMARY MEDICAL CARE: Minnesota
Service Area Listing

Service Area Name

- Parts:
  - Alvwood Township
  - Ardenhurst Township
  - Moose Park Township
  - Nore Township
  - Third River Township
- County—Koochiching
  - Parts:
    - Mizpah City
    - Northome City
    - Northome Unorg.
    - Northwest Koochiching Unorg.

Pelican Rapids
- County—Otter Tail
  - Parts:
    - Candor Township
    - Dora Township
    - Dunn Township
    - Erhard City
    - Erhards Grove Township
    - Lida Township
    - Maplewood Township
    - Norwegian Grove Township
    - Pelican Rapids City
    - Pelican Township
    - Scambler Township
    - Star Lake Township
    - Trondhjem Township
    - Vergas City

Pipestone
- County—Pipestone
  - Parts:
    - Burke Twp
    - Eden Twp
    - Edgerton City
    - Elmer Twp
    - Grange Twp
    - Gray Twp
    - Hatfield City
    - Holland City
    - Ihlen City
    - Jasper City
    - Osborne Twp
    - Pipestone City
    - Rock Twp
    - Sweet Twp
    - Trosky City
    - Troy Twp
    - Woodstock City
- County—Rock
  - Parts:
    - Battle Plain Twp
    - Denver Twp
    - Hardwick City
    - Rose Dell Twp

Plainview
- County—Wabasha
  - Parts:
    - Elgin City
    - Elgin Twp.
    - Highland Twp.
    - Millville City
    - Oakwood Twp.
    - Plainview City
    - Plainview Twp.
    - Watopa Twp.
- County—Winona
  - Parts:
    - Whitewater Twp.

Silver Bay
- County—Lake
  - Parts:
    - Beaver Bay City
    - Beaver Bay Twp.
    - Crystal Bay Twp.
    - Lake No. 1 Twp.
    - Silver Bay City

Summit-Dale
- County—Ramsey
  - Parts:
    - C.T. 324–327
    - C.T. 335–340
    - C.T. 354–355

Tracy
- County—Lyon
  - Parts:
    - Amiret Twp.
    - Balaton City
    - Custer Twp.
    - Garvin City
    - Monroe Twp.
    - Rock Lake Twp.
    - Sodus Twp.
    - Tracy City
- County—Redwood
  - Parts:
    - Gales Twp.
    - Johnsonville Twp.
    - North Hero Twp.
    - Revere City
    - Springdale Twp.
    - Walnut Grove City

Tyler/Lake Benton
- County—Lincoln
  - Parts:
    - Arco City
    - Diamond Lake Township
    - Hope Township
    - Lake Benton City
    - Lake Benton Township
    - Lake Stay Township
    - Marshfield Township
    - Tyler City
- County—Lyon
  - Parts:
    - Coon Creek Township
    - Florence City
    - Shelburne Township
- County—Pipestone
  - Parts:
    - Aetna Township
    - Fountain Prairie Township
    - Ruthton City

Warren
- County—Marshall
  - Parts:
    - Alma Township
    - Alvarado City
    - Argyle City
    - Big Woods Township
    - Bloomer Township
    - Boxville Township
    - Comstock Township
    - Foldahl Township
    - Fork Township
    - McCrea Township
    - Middle River Township
    - Oak Park Township
    - Oslo City
    - Parker Township
    - Sinnott Township
    - Stephen City
    - Tamarac Township
    - Vega Township
    - Wanger Township
    - Warren City
    - Warrenton Township
- County—Polk
  - Parts:
    - Angus Township
    - Brislet Township
    - Farley Township

Wells
- County—Blue Earth
  - Parts:
    - Danville Township
- County—Faribault
  - Parts:
    - Bricelyn City
    - Brush Creek Township
    - Clark Township
    - Dunbar Township
    - Easton City
    - Foster Township
    - Kiester City
    - Kiester Township
    - Lura Township
    - Minnesota Lake City
    - Minnesota Lake Townsh
    - Seely Township
    - Walnut Lake Township
    - Walters City
    - Wells City
- County—Waseca
  - Parts:
    - Vivian Township
    - Waldorf City

PRIMARY MEDICAL CARE: Minnesota
Population Group Listing

Population Group

Am In—Hennepin Co
- County—Hennepin
  - Parts:
    - American Indian

Am In—St. Paul
- County—Ramsey
  - Parts:
    - American Indian—St. Paul

Hmlss—Inner City Minneapolis
- County—Hennepin
  - Parts:
    - C.T. 44–48
    - C.T. 53–54
    - C.T. 57–63
    - C.T. 71–74
    - C.T. 78–79

Inmates—FPC Duluth
- County—St Louis
  - Parts:
    - FPC Duluth

Low Inc—N Minneapolis
- County—Hennepin
  - Parts:
    - C.T. 7–10
    - C.T. 13–16

Span Sp—St. Paul City
- County—Ramsey
  - Parts:
    - Spanish Speaking—St. Paul

PRIMARY MEDICAL CARE: Mississippi
County Listing

County Name

*Adams

PRIMARY MEDICAL CARE: Mississippi
County Listing

County Name

Service Area: North Natchez
Amite
Service Area: Centreville/Liberty
*Benton
*Bolivar
Population Group: Med Ind—Bolivar/Sunflower
*Calhoun
*Carroll
*Chickasaw
*Choctaw
*Claiborne
*Clarke
*Clay
*Coahoma
Population Group: Med Ind—Coahoma Co
*Copiah
*Covington
De Soto
Service Area: Hernando
Forrest
Service Area: East Leaf River
*George
*Greene
Hancock
Harrison
Population Group: Med Ind—Harrison Co
Hinds
Service Area: Utica
*Holmes
*Humphreys
*Itawamba
Jackson
Population Group: Pov Pop—Jackson Co
*Jasper
*Jefferson
*Jefferson Davis
*Jones
*Kemper
*Lauderdale
Population Group: Med Ind—Lauderdale Co
*Lawrence
*Leake
*Leflore
Madison
*Marion
*Marshall
*Monroe
*Montgomery
*Neshoba
*Newton
*Noxubee
*Panola
*Pearl River
*Prentiss
*Quitman
Rankin
Service Area: Puckett
*Scott
*Smith
*Stone
*Sunflower
Population Group: Med Ind—Bolivar/Sunflower
Facility: Mississippi State Pen.
*Tallahatchie
*Tate
*Tippah
*Tishomingo
Population Group: Pov Pop—Red Bay/Vina/Belmont (AL/MS)

PRIMARY MEDICAL CARE: Mississippi
County Listing

County Name

*Walthall
*Warren
Population Group: Low Inc—Warren Co
*Washington
*Wayne
*Webster
Wilkinson
Service Area: Centreville/Liberty
*Winston
*Yalobusha
*Yazoo

PRIMARY MEDICAL CARE: Mississippi
Service Area Listing

Service Area Name

Centreville/Liberty
County—Wilkinson
East Leaf River
County—Forrest
Parts:
C.T. 1
C.T. 4–6
C.T. 105
Hernando
County—De Soto
Parts:
C.T. 709–712
North Natchez
County—Adams
Parts:
C.T. 2–4
Puckett
County—Rankin
Parts:
C.T. 209
Utica
County—Hinds
Parts:
C.T. 113

PRIMARY MEDICAL CARE: Mississippi
Population Group Listing

Population Group

Low Inc—Warren Co
County—Warren
Parts:
Low Income
Med Ind—Bolivar/Sunflower
County—Bolivar
Parts:
Medically Indigent
County—Sunflower
Parts:
Med. Ind. Pop.
Med Ind—Coahoma Co
County—Coahoma
Parts:
Medically Indigent
Med Ind—Harrison Co
County—Harrison
Parts:
Medically Indigent
Med Ind—Lauderdale Co
County—Lauderdale
Parts:
Medically Indigent
Pov Pop—Jackson Co
County—Jackson
Parts:
Pov Pop

PRIMARY MEDICAL CARE: Mississippi
Population Group Listing

Population Group

Pov Pop—Red Bay/Vina/Belmont (AL/MS)
County—Tishomingo
Parts:
Dist. 4
Dist. 5

PRIMARY MEDICAL CARE: Mississippi
Facility Listing

Facility Name

Mississippi State Pen.
County—Sunflower

PRIMARY MEDICAL CARE: Missouri
County Listing

County Name

Andrew
*Atchison
*Bates
*Benton
*Bollinger
*Cape Girardeau
Population Group: Low Inc—Cape Girardeau
*Carroll
*Carter
Cass
*Cedar
*Chariton
*Clark
Clay
Population Group: Medicaid—Clay Co
*Cooper
*Crawford
*Dade
*Dallas
*Daviess
*De Kalb
*Dent
*Douglas
*Gentry
Greene
Service Area: Ash Grove
Population Group: Pov Pop—North Springfield
*Grundy
*Harrison
*Hickory
*Holt
*Howard
*Howell
Population Group: Poverty—Howell Co
Jackson
Population Group: Low Inc—Eastern Jackson
Population Group: Medicaid—Central K C
Jefferson
Service Area: Hillsboro/De Soto
*Johnson
*Knox
*Laclede
*Lewis
Lincoln
*Maries
*McDonald
*Mercer
*Mississippi
*Montgomery
*New Madrid
Population Group: Medicaid—New Madrid/Sikeston

PRIMARY MEDICAL CARE: Missouri
County Listing

County Name

*Oregon
*Osage
*Ozark
*Perry
*Pike
*Pulaski
Ray
*Reynolds
*Ripley
*Schuyler
*Scotland
*Scott
Population Group: Medicaid—New Madrid/Sikeston
*Shannon
St Louis
Population Group: Pov Pop—West St Louis
Population Group: Pov Pop—North St Louis
St Louis City (Indep)
Population Group: Pov Pop—West St Louis
Population Group: Pov Pop—Grace Hill/Cochran
Population Group: Pov Pop—North St Louis
Population Group: Pov Pop—Southeast St Louis
*Stoddard
*Stone
*Taney
*Texas
*Washington
*Wayne
Webster
*Worth

PRIMARY MEDICAL CARE: Missouri
Service Area Listing

Service Area Name

Ash Grove
County—Greene
Parts:
Boone No. 1 Twp
Boone No. 2 Twp
Cass Twp
Walnut Grove Twp
Hillsboro/De Soto
County—Jefferson
Parts:
Big River Twp
Central Twp
Plattin Twp
Valle Twp

PRIMARY MEDICAL CARE: Missouri
Population Group Listing

Population Group

Low Inc—Cape Girardeau
County—Cape Girardeau
Parts:
Low Income
Low Inc—Eastern Jackson
County—Jackson
Parts:
C.T. 112–113
C.T. 114.01
C.T. 114.03–114.04
C.T. 115–116

PRIMARY MEDICAL CARE: Missouri
Population Group Listing

Population Group

C.T. 122–124
C.T. 134.04
C.T. 135–136
C.T. 137.01–137.04
C.T. 138–140
C.T. 141.01
C.T. 141.03–141.06
C.T. 142.01–142.02
C.T. 143
C.T. 145
C.T. 146.01–146.02
C.T. 147
C.T. 148.01–148.02
C.T. 149–151
Medicaid—Central K C
County—Jackson
Parts:
C.T. 49–55
C.T. 56.01–56.02
C.T. 57
C.T. 58.01–58.02
C.T. 60–67
C.T. 75–77
C.T. 78.01–78.02
C.T. 79–80
C.T. 87–89
C.T. 96
Medicaid—Clay Co
County—Clay
Parts:
Medicaid Eligible
Medicaid—New Madrid/Sikeston
County—New Madrid
Parts:
Medicaid Eligible
County—Scott
Parts:
Medicaid Eligible
Pov Pop—Grace Hill/Cochran
County—St Louis City (Indep)
Parts:
C.T. 1085
C.T. 1096–1097
C.T. 1202–1203
C.T. 1213–1214
C.T. 1222
C.T. 1255–1257
C.T. 1266–1267
Pov Pop—North Springfield
County—Greene
Parts:
C.T. 1–2
C.T. 5–9
C.T. 17
C.T. 18.01–18.02
C.T. 19–21
C.T. 31
C.T. 32.01–32.02
C.T. 33
Pov Pop—North St Louis
County—St Louis
Parts:
C.T. 2139–2140
County—St Louis City (Indep)
Parts:
C.T. 1061–1067
C.T. 1071–1075
Pov Pop—Southeast St Louis
County—St Louis City (Indep)
Parts:
C.T. 1018
C.T. 1156–1157

PRIMARY MEDICAL CARE: Missouri
Population Group Listing

Population Group

C.T. 1164–1165
C.T. 1172–1174
C.T. 1181
C.T. 1185
C.T. 1221
C.T. 1224
C.T. 1231–1234
C.T. 1241–1243
C.T. 1246
Pov Pop—West St Louis
County—St Louis
Parts:
C.T. 2159–2161
County—St Louis City (Indep)
Parts:
C.T. 1051.98
C.T. 1052–1055
C.T. 1121
Poverty—Howell Co
County—Howell
Parts:
Poverty

PRIMARY MEDICAL CARE: Montana
County Listing

County Name

*Big Horn
*Blaine
Carter
*Carter
Service Area: Fallon
Service Area: Fallon
*Chouteau
Service Area: Big Sandy
Service Area: Fort Benton
*Custer
Service Area: Fallon
*Daniels
Fallon
Fallon
Service Area: Fallon
Service Area: Fallon
*Gallatin
Service Area: Ennis/W. Yellowstone
Service Area: Three Forks/Manhattan
*Garfield
*Glacier
*Granite
*Hill
Service Area: Big Sandy
*Judith Basin
*Lewis And Clark
Service Area: Choteau
*Lincoln
Service Area: Eureka
Service Area: Troy
*Madison
Service Area: Ennis/W. Yellowstone
*McCone
*Musselshell
*Park
Service Area: Gardiner/Yellowstone (MT/WY)
*Phillips
*Pondera
*Powder River
*Powell (g)
Facility: Montana State Prs
*Prairie
*Richland
Service Area: Culbertson

PRIMARY MEDICAL CARE: Montana
County Listing

County Name

*Roosevelt
Service Area: Culbertson
Service Area: Poplar/Wolf Point
Rosebud
Service Area: Forsyth/Colstrip
*Sanders
*Silver Bow
Population Group: Med Ind—Silver Bow Co
*Sweet Grass
*Teton
Service Area: Choteau
Treasure
Service Area: Forsyth/Colstrip
*Valley
Population Group: Low Inc—Valley Co
Wibaux
*Wibaux
Service Area: Fallon
Service Area: Fallon
*Yellowstone Park
Service Area: Gardiner/Yellowstone (MT/WY)

PRIMARY MEDICAL CARE: Montana
Service Area Listing

Service Area Name

Big Sandy
County—Chouteau
Parts:
Big Sandy CCD
County—Hill
Parts:
Rocky Boy CCD
Choteau
County—Lewis And Clark
Parts:
Augusta CCD
County—Teton
Parts:
Choteau CCD
Fairfield CCD
Culbertson
County—Richland
Parts:
Fairview Division
County—Roosevelt
Parts:
East Roosevelt Division
Ennis/W. Yellowstone
County—Gallatin
Parts:
West Yellowstone Division
County—Madison
Parts:
Harrison Division
Madison Valley Division
Virginia City Division
Eureka
County—Lincoln
Parts:
Eureka CCD
Fallon
County—Custer
Parts:
Shirley-Ismay Division
County—Wibaux
County—Wibaux
Forsyth/Colstrip
County—Treasure
Fort Benton

PRIMARY MEDICAL CARE: Montana
Service Area Listing

Service Area Name

County—Chouteau
Parts:
Fort Benton CCD
Geraldine CCD
Gardiner/Yellowstone (MT/WY)
County—Park
Parts:
Gardiner-Cooke Division
County—Yellowstone Park
Parts:
Yellowstone National Park Divisi
Poplar/Wolf Point
County—Roosevelt
Parts:
Fort Peck Res. CCD
Three Forks/Manhattan
County—Gallatin
Parts:
Manhattan Division
Three Forks Division
Troy
County—Lincoln
Parts:
Troy CCD

PRIMARY MEDICAL CARE: Montana
Population Group Listing

Population Group

Low Inc—Valley Co
County—Valley
Parts:
Low Income
Med Ind—Silver Bow Co
County—Silver Bow
Parts:
Medically Indigent

PRIMARY MEDICAL CARE: Montana
Facility Listing

Facility Name

Montana State Prs
County—Powell

PRIMARY MEDICAL CARE: Nebraska
County Listing

County Name

Antelope
Service Area: Antelope
Boone
Service Area: Albion
Brown
Service Area: North Central
*Burt
Service Area: Oakland
Service Area: Onawa (IA/NE)
Cass
Cedar
Service Area: Cedar/Dixon
*Cherry
*Cuming
Service Area: West Point
*Custer
Service Area: Arnold
Service Area: Burwell/Ord
*Dawes
Service Area: Crawford
Deuel
Service Area: Julesburg (CO/NB)
*Dixon

PRIMARY MEDICAL CARE: Nebraska
County Listing

County Name

Service Area: Cedar/Dixon
Service Area: Wayne/Wakefield
*Dodge
Service Area: West Point
Douglas
Population Group: Medicaid—NE/SE OMAha
*Dundy
Frontier
Service Area: Cambridge
Service Area: Curtis
Furnas
*Furnas
Service Area: Cambridge
Service Area: Cambridge
Garfield
Service Area: Burwell/Ord
*Gosper
Service Area: Cambridge
*Greeley
Service Area: Albion
Service Area: Howard/St Paul
*Harlan
Hayes
Service Area: Hayes/Hitchcock
Hitchcock
Service Area: Hayes/Hitchcock
Howard
Service Area: Howard/St Paul
*Johnson
*Kearney
Keya Paha
Service Area: North Central
*Kimball
Lancaster
Facility: Lancaster Dept Of Corr
*Lincoln
Service Area: Arnold
*Logan
Service Area: Arnold
Loup
Service Area: Burwell/Ord
*Madison
Service Area: Albion
Service Area: Antelope
*Merrick
*Morrill
*Platte
Service Area: Albion
*Richardson
Population Group: Low Inc—Richardson Co
Rock
Service Area: North Central
*Saunders
Service Area: Wahoo
*Scotts Bluff
Population Group: Medicaid—Scotts Bluff
*Sheridan
*Sherman
Sioux
Service Area: Crawford
*Stanton
*Thayer
*Thurston
Population Group: Winnebago Indian Res
Valley
Service Area: Burwell/Ord
Wayne
Service Area: Wayne/Wakefield
*Webster

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PRIMARY MEDICAL CARE: Nebraska
County Listing

County Name

Wheeler
Service Area: Burwell/Ord

PRIMARY MEDICAL CARE: Nebraska
Service Area Listing

Service Area Name

Albion
County—Greeley
Parts:
Spalding Prec
County—Madison
Parts:
Newman Grove City
Shell Creek Prec
County—Platte
Parts:
St Bernard Twp
Walker Twp
Antelope
County—Madison
Parts:
Jefferson Precinct
Tilden City
Arnold
County—Custer
Parts:
Arnold Township
Cliff Township
Custer Township
Delight Township
Elm Township
Grant Township
Hayes Township
Triumph Township
Wayne Township
Wood River Township
County—Lincoln
Parts:
Antelope Precinct
Garfield Precinct
County—Logan
Parts:
Gandy Precinct
Logan Precinct
Stapleton No. 2 Precinct
Burwell/Ord
County—Custer
Parts:
Comstock Prec
Corner Prec
Douglas Grove Prec
Sargent Prec
Spring Creek Prec
West Union Prec
County—Wheeler
Cambridge
County—Frontier
Parts:
Garfield Precinct
Grant Precinct
Knowles Precinct
County—Gosper
Parts:
Elk Creek Precinct
Highland Precinct
Union Precinct
West Muddy Precinct
Alliance Precinct
Parts:
Beaver Precinct
East Valley Precinct

PRIMARY MEDICAL CARE: Nebraska
Service Area Listing

Service Area Name

Indianola Precinct
Lebanon Precinct
Missouri Ridge Precinct
North Valley Precinct
Tyrone Precinct
Cedar/Dixon
County—Dixon
Parts:
Clark Township
Concord Township
Daily Township
Galena Township
Hooker Township
Newcastle Township
Otter Creek Township
Ponca City
Ponca Township
Silver Creek Township
Spring Bank Township
Crawford
County—Dawes
Parts:
Precinct No. 11
Precinct No. 7
Precinct No. 10
Precinct No. 9
County—Sioux
Curtis
County—Frontier
Parts:
Allen Precinct
Clearwater Precinct
Curtis City
Curtis Precinct
Earl Precinct
Fairview Precinct
Harrison Precinct
Horrell Precinct
Laird Precinct
Laws Precinct
Lincoln Precinct
Logan Precinct
Moorefield Precinct
Muddy Precinct
North Star Precinct
Orafino Precinct
Osborn Precinct
Plum Creek Precinct
Russell Precinct
Sheridan Precinct
Sherman Precinct
Stockville Precinct
Weaver Precinct
Zimmer Precinct
Hayes/Hitchcock
County—Hitchcock
Howard/St Paul
County—Greeley
Parts:
Greeley Precinct
Scotia Precinct
Wolbach No. 1 Precinct
Wolbach No. 2 Precinct
County—Howard
Julesburg (CO/NB)
County—Deuel
North Central
County—Rock
Oakland
County—Burt
Parts:
Arizona Township

PRIMARY MEDICAL CARE: Nebraska
Service Area Listing

Service Area Name

Bell Creek Township
Craig Township
Everett Township
Logan Township
Oakland Township
Oakland City
Pershing Township
Summit Township
Tekamah City
Onawa (IA/NE)
County—Burt
Parts:
Decatur Twp
Quinnebaugh Twp
Riverside Twp
Silver Creek Twp
Wahoo
County—Saunders
Parts:
Ashland Twp
Center Twp
Chapman Twp
Chester Twp
Clear Creek Twp
Douglas Twp
Elk Twp
Green Twp
Marble Twp
Marietta Twp
Mariposa Twp
Newman Twp
Oak Creek Twp
Richland Twp
Rock Creek Twp
South Cedar Twp
Stocking Twp
Union Twp
Wahoo City
Wahoo Twp
Wayne/Wakefield
County—Dixon
Parts:
Emerson Twp
Logan Twp
Wakefield Twp
County—Wayne
West Point
County—Cuming
Parts:
Beemer Township
Bismarck Township
Blaine Township
Cuming Township
Elkhorn Township
Garfield Township
Grant Township
Lincoln Township
Logan Township
Monterey Township
Neligh Township
Sherman Township
St. Charles Township
West Point City
Wisner Township
Wisner City
County—Dodge
Parts:
Cuming Township
Pebble Township
Scribner City
Webster Township

PRIMARY MEDICAL CARE: Nebraska
Population Group Listing

Population Group
Low Inc—Richardson Co
County—Richardson
Parts:
Low Income
Medicaid—NE/SE OMAha
County—Douglas
Parts:
C.T. 3
C.T. 6–12
C.T. 13.01–13.02
C.T. 14–16
C.T. 18–19
C.T. 39–41
C.T. 51–54
C.T. 59.01–59.02
C.T. 60
C.T. 61.01–61.02
Medicaid—Scotts Bluff
County—Scotts Bluff
Parts:
Medicaid Eligible
Winnebago Indian Res
County—Thurston
Parts:
Omaha Indian Res
Winnebago Indian Res.

PRIMARY MEDICAL CARE: Nebraska
Facility Listing

Facility Name
Lancaster Dept Of Corr
County—Lancaster

PRIMARY MEDICAL CARE: Nevada
County Listing

County Name
Carson City (Indep)
Population Group: Low Inc—E Carson City (Indep)
Population Group: Native Am-Washoe Indian Tribe
Facility: Nv St Corr Fac (North)
*Churchill
Population Group: Native Am-Fallon Reservation And Colony
Clark
Service Area: Central/N Central Las Vegas
Service Area: Indian Springs
Service Area: Moapa Valley
Service Area: Searchlight/Davis Dam
Service Area: Virgin Valley
Facility: Nv St Corr Fac (South)
*Douglas
Service Area: Topaz Lake
Population Group: Native Am-Washoe Indian Tribe
*Elko
*Esmerelda
Service Area: Coaldale/Silverpeak
Service Area: Tonopah/Esmeralda
*Eureka
*Lander
*Lyon
Service Area: Dayton/Fernley/Silver Springs
Service Area: Smith/Yerington
*Mineral
Nye
Service Area: Beatty
Service Area: Gabbs

PRIMARY MEDICAL CARE: Nevada
County Listing

County Name
Service Area: Pahrump
Service Area: Round Mountain
Service Area: Tonopah/Esmeralda
*Pershing
*Storey
Washoe
Service Area: Gerlach
Service Area: Incline Village
Service Area: Wadsworth
Population Group: Med Ind—Reno/Sparks
*White Pine (g)
Facility: Nv St Corr Fac (East)

PRIMARY MEDICAL CARE: Nevada
Service Area Listing

Service Area Name
Beatty
County—Nye
Parts:
Amargosa Valley CCD
Beatty CCD
Central/N Central Las Vegas
County—Clark
Parts:
C.T. 3.01–3.02
C.T. 4
C.T. 5.02–5.04
C.T. 6–9
C.T. 11
C.T. 35
C.T. 36.02
C.T. 37–38
C.T. 39.97–39.98
C.T. 40
C.T. 43–46
Coaldale/Silverpeak
County—Esmerelda
Parts:
Silverpeak CCD
Dayton/Fernley/Silver Springs
County—Lyon
Parts:
Dayton CCD
Fernley CCD
Silver Springs CCD
Gabbs
County—Nye
Parts:
Gabbs CCD
Gerlach
County—Washoe
Parts:
Gerlach CCD
Incline Village
County—Washoe
Parts:
Incline Village CCD
Indian Springs
County—Clark
Parts:
C.T. 58.98
Moapa Valley
County—Clark
Parts:
C.T. 59
Pahrump
County—Nye
Parts:
Crystal Twp
Pahrump CCD
Yucca Flat CCD

PRIMARY MEDICAL CARE: Nevada
Service Area Listing

Service Area Name
Round Mountain
County—Nye
Parts:
Round Mountain CCD
Searchlight/Davis Dam
County—Clark
Parts:
C.T. 57
Smith/Yerington
County—Lyon
Parts:
Smith CCD
Yerington Twp
Tonopah/Esmeralda
County—Esmerelda
Parts:
Goldfield CCD
County—Nye
Parts:
Ralston CCD
Tonopah CCD
Topaz Lake
County—Douglas
Parts:
Pine Nut CCD
Topaz Lake CCD
Virgin Valley
County—Clark
Parts:
C.T. 56.02–56.03
Wadsworth
County—Washoe
Parts:
Pyramid Lake Division

PRIMARY MEDICAL CARE: Nevada
Population Group Listing

Population Group
Low Inc—E Carson City (Indep)
County—Carson City (Indep)
Parts:
C.T. 1
C.T. 5–6
C.T. 9–10
Med Ind—Reno/Sparks
County—Washoe
Parts:
C.T. 1–4
C.T. 7
C.T. 9
C.T. 10.03–10.05
C.T. 11.01–11.03
C.T. 12–15
C.T. 17–19
C.T. 21.01–21.02
C.T. 22.03–22.05
C.T. 24.01–24.02
C.T. 25
C.T. 26.01
C.T. 26.03–26.04
C.T. 27.02
C.T. 28
C.T. 29.01–29.02
C.T. 30
C.T. 31.01
C.T. 31.03
C.T. 31.05–31.06
C.T. 33.01
Native Am-Fallon Reservation And Colony
County—Churchill
Parts:

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PRIMARY MEDICAL CARE: Nevada
Population Group Listing

Population Group

Fallon Colony
Fallon Reservation
Native Am-Fort Modermitt Reservation
  Parts:
    Fort Modermitt Res
Native Am-Washoe Indian Tribe
  County—Douglas
    Parts:
      Dresslerville Ranch
      Washoe Ranch
  County—Carson City (Indep)
    Parts:
      Carson Colony
Native Am-Winnemucca Colony
  Parts:
    Winnemucca Colony

PRIMARY MEDICAL CARE: Nevada
Facility Listing

Facility Name

Nv St Corr Fac (East)
  County—White Pine
Nv St Corr Fac (North)
  County—Carson City (Indep)
Nv St Corr Fac (South)
  County—Clark

PRIMARY MEDICAL CARE: New Hampshire
County Listing

County Name

*Carroll
  Service Area: Parsonfield (ME/NH)
*Coos
  Service Area: Upper Connecticut Valley (NH/VT)
  Population Group: Low Inc—Berlin
*Grafton
  Service Area: Baker River Valley
  Service Area: Haverhill/Wells River (NH/VT)
Hillsborough
  Service Area: Central Manchester
  Service Area: Hillsboro/Weare
  Population Group: Low Inc—E Nashua
Merrimack
  Service Area: Hillsboro/Weare
Rockingham
  Service Area: Raymond
Strafford
  Population Group: Low Inc—Strafford Co
*Sullivan
  Service Area: Hillsboro/Weare

PRIMARY MEDICAL CARE: New Hampshire
Service Area Listing

Service Area Name

Baker River Valley
  County—Grafton
    Parts:
      Rumney Twn.
      Warren Twn.
      Wentworth Twn.
Central Manchester
  County—Hillsborough
    Parts:
      C.T. 4–5
      C.T. 13–16
      C.T. 19–20
Haverhill/Wells River (NH/VT)
  County—Grafton
    Parts:
      Bath Twn.
      Benton Twn.
      Haverhill Twn.
      Landaff Twn.
      Lisbon Twn.
      Monroe Twn.
      Piermont Twn.
Hillsboro/Weare
  County—Hillsborough
    Parts:
      Antrim Twn.
      Deering Twn.
      Hillsborough Twn.
      Weare Twn.
      Windsor Twn.
  County—Merrimack
    Parts:
      Henniker Twn.
  County—Sullivan
    Parts:
      Washington Twn.
Parsonfield (ME/NH)
  County—Carroll
    Parts:
      Effingham Town
      Freedom Town
Raymond
  County—Rockingham
    Parts:
      Deerfield Twn.
      Epping Twn.
      Fremont Twn.
      Nottingham Twn.
      Raymond Twn.
Upper Connecticut Valley (NH/VT)
  County—Coos
    Parts:
      Clarksville Town
      Colebrook Town
      Columbia Town
      Dixville Town
      Errol Town
      Millsfield Twp
      Pittsburg Town
      Stewartstown Town
      Wentworth Location

PRIMARY MEDICAL CARE: New Hampshire
Population Group Listing

Population Group

Low Inc—Berlin
  County—Coos
    Parts:
      Berlin City
      Cambridge Twp
      Dummer Town
      Gorham Town
      Jefferson Town
      Kilkenny Twp
      Milan Town
      Randolph Town
      Shelburne Town
      Stark Town
      Success Twp
Low Inc—E Nashua
  County—Hillsborough
    Parts:
      C.T. 105–109
Low Inc—Strafford Co
  County—Strafford
    Parts:
      Low Income

PRIMARY MEDICAL CARE: New Jersey
County Listing

County Name

Atlantic
  Service Area: Atlantic City—Northside/Inlet
  Population Group: Low Inc—West Atlantic
Camden
  Population Group: Med Ind—Camden
Cumberland
  Population Group: Low Inc—Cumberland/Olivet
  Facility: FCI Fairton
Essex
  Service Area: Airport/Port Newark
  Service Area: City Of Orange
  Service Area: East Orange City
  Service Area: Vailsburg
  Population Group: Pov Pop—Irvington
  Facility: Essex County Jail
Hudson
  Service Area: Jersey City
Mercer
  Population Group: Medicaid—Trenton City
Middlesex
  Population Group: Low Inc—Perth Amboy
  Population Group: Low Inc—New Brunswick
Monmouth
  Service Area: City Of Asbury Park
  Service Area: Western Red Bank
  Population Group: Low Inc—Central Long Branch
Ocean
  Population Group: Low Inc—Lakewood
Passaic
  Service Area: Downtown Paterson
  Service Area: Northside Paterson
  Service Area: Passaic
Salem
  Population Group: Low Inc—Cumberland/Olivet
  Population Group: Med Ind/MFW—West Salem Co
Sussex
  Service Area: South Sussex
Union
  Population Group: Low Inc—E Elizabeth
Warren
  Population Group: Low Inc—S Warren Co

PRIMARY MEDICAL CARE: New Jersey
Service Area Listing

Service Area Name

Airport/Port Newark
  County—Essex
    Parts:
      C.T. 74
      C.T. 75.01–75.02
      C.T. 98
Atlantic City—Northside/Inlet
  County—Atlantic
    Parts:
      C.T. 11–19
      C.T. 24–25
City Of Asbury Park
  County—Monmouth

PRIMARY MEDICAL CARE: New Jersey
Service Area Listing

Service Area Name

Parts:
C.T. 8070.02–8070.04
C.T. 8071
C.T. 8072.97–8072.98
C.T. 8073
City Of Orange
County—Essex
Parts:
C.T. 181–189
Downtown Paterson
County—Passaic
Parts:
C.T. 1811–1815
C.T. 1816.01–1816.02
C.T. 1817.01–1817.02
C.T. 1818
C.T. 1820
C.T. 1822–1823
C.T. 1829
East Orange City
County—Essex
Parts:
East Orange City
Jersey City
County—Hudson
Parts:
C.T. 1–8
C.T. 9.01–9.02
C.T. 10–11
C.T. 12.01–12.02
C.T. 13–15
C.T. 16.01–16.02
C.T. 17–40
C.T. 41.01–41.02
C.T. 42–56
C.T. 58.01–58.02
C.T. 59–63
Northside Paterson
County—Passaic
Parts:
C.T. 1802–1809
Passaic
County—Passaic
Parts:
C.T. 1752–1755
C.T. 1758–1759
South Sussex
County—Sussex
Parts:
Andover Twp
Andover Boro
Branchville Boro
Byram Twp
Frankford Twp
Franklin Boro
Fredon Twp
Green Twp
Hamburg Boro
Hampton Twp
Hardyston Twp
Hopatcong Boro
Lafayette Twp
Newton Town
Ogdensburg Boro
Sparta Twp
Stanhope Boro
Stillwater Twp
Sussex Boro
Vernon Twp
Wantage Twp
Vailsburg
County—Essex

PRIMARY MEDICAL CARE: New Jersey
Service Area Listing

Service Area Name

Parts:
C.T. 19–25
Western Red Bank
County—Monmouth
Parts:
C.T. 8034

PRIMARY MEDICAL CARE: New Jersey
Population Group Listing

Population Group

Low Inc—Central Long Branch
County—Monmouth
Parts:
C.T. 8055–8056
C.T. 8058.01–8058.02
Low Inc—Cumberland/Olivet
County—Cumberland
Parts:
Low Income
County—Salem
Parts:
Pittsgrove Twp
Low Inc—E Elizabeth
County—Union
Parts:
C.T. 302–307
C.T. 308.01–308.02
C.T. 309–314
Low Inc—Lakewood
County—Ocean
Parts:
Lakewood Twp
Low Inc—New Brunswick
County—Middlesex
Parts:
C.T. 52–59
Low Inc—Perth Amboy
County—Middlesex
Parts:
C.T. 40–50
Low Inc—S Warren Co
County—Warren
Parts:
Alpha Boro
Belvidere Town
Franklin Twp
Greenwich Twp
Harmony Twp
Lopatcong Twp
Oxford Twp
Phillipsburg Town
Pohatcong Twp
Washington Boro
Washington Twp
White Twp
Low Inc—West Atlantic
County—Atlantic
Parts:
C.T. 104.01–104.03
C.T. 105.01
C.T. 105.03–105.04
C.T. 106–111
C.T. 112.01–112.02
C.T. 113
C.T. 114.01–114.02
C.T. 115–116
C.T. 117.01–117.02
C.T. 118.05
C.T. 119–122
Med Ind—Camden
County—Camden

PRIMARY MEDICAL CARE: New Jersey
Population Group Listing

Population Group

Parts:
C.T. 6001–6020
Med Ind/MFW—West Salem Co
County—Salem
Parts:
Alloway Twp
Carneys Point Twp
Elmer Boro
Elsinboro Twp
Lower Alloways Creek Twp
Mannington Twp
Oldmans Twp
Penns Grove Boro
Pennsville Twp
Pilesgrove Twp
Quinton Twp
Salem City
Upper Pittsgrove Twp
Woodstown Boro
Medicaid—Trenton City
County—Mercer
Parts:
C.T. 1–17
C.T. 19–24
Pov Pop—Irvington
County—Essex
Parts:
C.T. 119
C.T. 121–126
C.T. 128–133

PRIMARY MEDICAL CARE: New Jersey
Facility Listing

Facility Name

Essex County Jail
County—Essex
FCI Fairton
County—Cumberland

PRIMARY MEDICAL CARE: New Mexico
County Listing

County Name

Bernalillo
Service Area: North Valley
Service Area: Southwest Valley
Population Group: Low Inc/Hmlss—Albuquerque Central
*Catron
*Chaves
Population Group: Med Ind—Chaves Co
*Cibola
*Curry
*De Baca
Dona Ana
Service Area: Hatch
Service Area: Southern Dona Ana
Facility: Southern N.M. Corr. Fac.
*Grant
Service Area: Cliff/Gila
*Guadalupe
*Harding
*Hidalgo
*Lea
Service Area: Jal/Eunice
Service Area: Northern Lea
*Lincoln
Service Area: Carrizozo
Service Area: Corona
*Luna
*McKinley

PRIMARY MEDICAL CARE: New Mexico
County Listing

County Name

*Mora
*Otero
  Service Area: Cloudcroft
*Rio Arriba
  Service Area: Coyote
  Service Area: Penasco/Truchas/Embudo
  Service Area: Rio Chama
  Service Area: Tierra Amarilla
  Service Area: Western Rio Arriba
*Roosevelt
  Population Group: Low Inc—Roosevelt Co
*San Juan
  Population Group: Am In—San Juan Co
*San Miguel
  Service Area: Pecos/Villanueva
Sandoval
  Service Area: Cuba
  Service Area: Southern Sandoval
Santa Fe
  Service Area: Santa Fe/La Familia
  Population Group: Low Inc—Cerrillos/Madrid
*Sierra
*Socorro
  Service Area: Claunch
  Service Area: Magdalena
*Taos
  Service Area: Penasco/Truchas/Embudo
  Service Area: Questo/Arroyo Hondo
  Service Area: Tres Piedras
*Torrance
*Union
Valencia

PRIMARY MEDICAL CARE: New Mexico
Service Area Listing

Service Area Name

Carrizozo
  County—Lincoln
    Parts:
      Carrizozo CCD
Claunch
  County—Socorro
    Parts:
      Claunch CCD
Cliff/Gila
  County—Grant
    Parts:
      Pinos Altos Division
      Tyrone Division
Cloudcroft
  County—Otero
    Parts:
      S.E. Otero CCD
Corona
  County—Lincoln
    Parts:
      Corona CCD
Coyote
  County—Rio Arriba
    Parts:
      Coyote CCD
Cuba
  County—Sandoval
    Parts:
      Cuba CCD
      Jemez CCD
Hatch
  County—Dona Ana
    Parts:
      Hatch CCD

PRIMARY MEDICAL CARE: New Mexico
Service Area Listing

Service Area Name

Jal/Eunice
  County—Lea
    Parts:
      Eunice CCD
      Jal CCD
Magdalena
  County—Socorro
    Parts:
      Magdalena Division
North Valley
  County—Bernalillo
    Parts:
      C.T. 29
      C.T. 30.01–30.02
      C.T. 31
      C.T. 32.01–32.02
      C.T. 35.01–35.02
      C.T. 36
Northern Lea
  County—Lea
    Parts:
      Lovington CCD
      Tatum CCD
Pecos/Villanueva
  County—San Miguel
    Parts:
      Pecos CCD
      Villanueva CCD
Penasco/Truchas/Embudo
  County—Rio Arriba
    Parts:
      Chimayo Division
      Dixon Division
  County—Taos
    Parts:
      Penasco Division
      Picuris Division
Questo/Arroyo Hondo
  County—Taos
    Parts:
      Arroyo Hondo CCD
      Questa CCD
Rio Chama
  County—Rio Arriba
    Parts:
      Rio Chama CCD
Santa Fe/La Familia
  County—Santa Fe
    Parts:
      C.T. 3
      C.T. 7–9
      C.T. 10.02
      C.T. 12
Southern Dona Ana
  County—Dona Ana
    Parts:
      Anthony Division
      South Dona Ana Division
Southern Sandoval
  County—Sandoval
    Parts:
      C.T. 103–104
      C.T. 105.01–105.02
Southwest Valley
  County—Bernalillo
    Parts:
      C.T. 23
      C.T. 24.01–24.02
      C.T. 43
      C.T. 44.01–44.02
      C.T. 45.01–45.02
      C.T. 46.02–46.04

PRIMARY MEDICAL CARE: New Mexico
Service Area Listing

Service Area Name

Tierra Amarilla
  County—Rio Arriba
    Parts:
      Tierra Amarilla CCD
      Vallecitas CCD
Tres Piedras
  County—Taos
    Parts:
      Tres Piedras CCD
Western Rio Arriba
  County—Rio Arriba
    Parts:
      Jicarilla CCD
      Western Rio Arriba CCD

PRIMARY MEDICAL CARE: New Mexico
Population Group Listing

Population Group

Am In—San Juan Co
  County—San Juan
    Parts:
      American Indian
Low Inc—Cerrillos/Madrid
  County—Santa Fe
    Parts:
      Blk Grp 8 Of Ct 103.03
      Blk Grp 3 Of Ct 103.06
Low Inc—Roosevelt Co
  County—Roosevelt
    Parts:
      Low Income
Low Inc/Hmlss—Albuquerque Central
  County—Bernalillo
    Parts:
      C.T. 14–15
      C.T. 20–22
      C.T. 25–28
Med Ind—Chaves Co
  County—Chaves
    Parts:
      Medically Indigent

PRIMARY MEDICAL CARE: New Mexico
Facility Listing

Facility Name

Southern N.M. Corr. Fac.
  County—Dona Ana

PRIMARY MEDICAL CARE: New York
County Listing

County Name

Albany
  Service Area: Westerlo-Rensselaerville
*Allegany
  Service Area: Arcade
  Service Area: Letchworth
  Service Area: Wellsville
Bronx
  Service Area: High Bridge
  Service Area: Hunts Point
  Service Area: Morris Heights
  Service Area: Morrisania
  Service Area: Mott Haven/Point Morris
  Service Area: Soundview
  Service Area: Tremont/West Farms
  Facility: Nyc Corr. Fac./Rikers Island
Broome
  Service Area: Deposit
  Service Area: Whitney Point Pcaa

PRIMARY MEDICAL CARE: New York
County Listing

County Name

Population Group: Low Inc—Binghamton
*Cattaraugus
Service Area: Arcade
Service Area: Randolph/Ellicottville
Service Area: Tri-County
Population Group: Seneca Nation—Cattaraugus Res
Cayuga
Service Area: Aurora
Service Area: Cato
Service Area: Groton/Moravia
Population Group: Low Inc—Auburn Pcsa
Population Group: Pov Pop—Oswego City
Chautauqua
Service Area: Dunkirk-Fredonia
Service Area: Tri-County
Service Area: Westfield
Population Group: Low Inc—Union City (PA/NY)
Population Group: Seneca Nation—Cattaraugus Res
*Chenango
Service Area: Cincinnatus/De Ruyter
Service Area: Greene
Population Group: Low Inc—Hamilton/Sherburne
*Clinton
Service Area: Dannemora
Population Group: Low Inc—Malone
*Columbia
Service Area: Southeast Columbia
*Cortland
Service Area: Cincinnatus/De Ruyter
Population Group: Low Inc—Cortland
*Delaware
Service Area: Deposit
Service Area: Hancock/Walton
Service Area: Hobart/Stamford
Service Area: Margaretville/Andes
Dutchess
Service Area: N. Harlem Valley—Dutchess
Population Group: Low Inc—Beacon
Erie
Service Area: Black Rock/Riverside
Service Area: Tri-County
Population Group: Medicaid—P.S. 84 Area
Population Group: Medicaid—Lower West Side
Population Group: Medicaid—Ellicott Neighborhood
Population Group: Seneca Nation—Cattaraugus Res
Facility: Children's Hosp Pc Clinics—C.T. 67.02
*Essex
Service Area: Central Adirondack
Service Area: East Central Essex
Service Area: Schroon-Ticonderoga
Service Area: Warrensburg
Facility: FCI Raybrook
*Franklin
Service Area: Canton-Potsdam
Population Group: Low Inc—Malone
Facility: Bare Hill Corr Fac
Genesee
Service Area: Genesee
*Greene
*Hamilton
Service Area: Central Adirondack
Service Area: South Hamilton
Herkimer
Service Area: West Winfield

PRIMARY MEDICAL CARE: New York
County Listing

County Name

*Jefferson
Service Area: Alexandria Bay
Service Area: Gouverneur
Population Group: Pov Pop—Watertown
Kings
Service Area: Bedford-Stuyvesant
Service Area: Bushwick
Service Area: Coney Isl/Brighton Bch/W Brighton
Service Area: Crown Heights—Brooklyn
Service Area: East Ny-Brooklyn
Service Area: Williamsburg
Population Group: Inmates—MDC Brooklyn
*Lewis
Service Area: Camden
Livingston
Service Area: Letchworth
Service Area: N. Livingston
Madison
Service Area: Cincinnatus/De Ruyter
Population Group: Low Inc—Hamilton/Sherburne
Monroe
Service Area: Jordan
Service Area: Westside (Rochester)
New York
Service Area: Alphabet City—Lower East Side
Service Area: East Harlem
Service Area: Washington Heights—Inwood
Service Area: West Central Harlem
Population Group: Inmates—MCC New York
Population Group: Low Inc—Upper West Side
Population Group: Pov/Homeless—Chelsea
Oneida
Service Area: Camden
Service Area: West Winfield
Population Group: Low Inc—Hamilton/Sherburne
Population Group: Medicaid—Utica
Onondaga
Population Group: Pov Pop—Syracuse
Orange
Population Group: Low Inc—Newburgh City
Orleans
Service Area: Oak Orchard
Oswego
Service Area: Pulaski
Population Group: Low Inc—Fulton
Population Group: Pov Pop—Oswego City
*Otsego
Service Area: Cherry Valley
Service Area: Southeast Otsego
Service Area: Southwest Otsego
Service Area: Western Otsego
Queens
Service Area: Long Island City
Service Area: South Jamaica
Population Group: Medicaid—Rockaway
Rockland
Population Group: Low Inc—Monsey/New Square
Saratoga
Service Area: Corinth/Luzerne
Schenectady

PRIMARY MEDICAL CARE: New York
County Listing

County Name

Population Group: Low Inc—Hamilton Hill/Mt Pleasant
Schoharie
Service Area: Cherry Valley
Service Area: Hobart/Stamford
Service Area: Southern Schoharie
*Seneca
Service Area: South Seneca
*St Lawrence
Service Area: Alexandria Bay
Service Area: Canton-Potsdam
Service Area: Gouverneur
Population Group: Low Inc—Massena
*Steuben
Service Area: Elkland (NY/PA)
*Sullivan
Service Area: Cochecton
Population Group: Low Inc—Liberty
Tioga
Service Area: Whitney Point Pcsa
*Tompkins
Service Area: Groton/Moravia
Warren
Service Area: Corinth/Luzerne
Service Area: Schroon-Ticonderoga
Service Area: Warrensburg
Washington
Service Area: Pawlet/Granville (VT/NY)
Service Area: Schroon-Ticonderoga
Westchester
Population Group: Medicaid/Hispanic—Port Chester
*Wyoming
Service Area: Arcade
Service Area: Genesee
Service Area: Letchworth
Facility: Attica Corr Fac

PRIMARY MEDICAL CARE: New York
Service Area Listing

Service Area Name

Alexandria Bay
County—Jefferson
Parts:
Alexandria Town
Cape Vincent Town
Clayton Town
Lyme Town
Orleans Town
Philadelphia Town
Theresa Town
County—St Lawrence
Parts:
Hammond Town
Alphabet City—Lower East Side
County—New York
Parts:
C.T. 10.02
C.T. 20
C.T. 22.01–22.02
C.T. 24
C.T. 26.01–26.02
C.T. 28
Arcade
County—Allegany
Parts:
Centerville Town
Rushford Town
County—Cattaraugus
Parts:
Farmersville Town

PRIMARY MEDICAL CARE: New York
Service Area Listing

Service Area Name
Freedom Town
Machias Town
Yorkshire Town
County—Wyoming
Parts:
Arcade Town
Eagle Town
Java Town
Orangeville Town
Sheldon Town
Wethersfield Town
Aurora
County—Cayuga
Parts:
Genoa Town
Ledyard Town
Scipio Town
Springport Town
Venice Town
Bedford-Stuyvesant
County—Kings
Parts:
C.T. 11
C.T. 23
C.T. 25
C.T. 27
C.T. 29.01–29.02
C.T. 31
C.T. 33
C.T. 35
C.T. 179
C.T. 181
C.T. 183
C.T. 185–01–185.02
C.T. 187
C.T. 189
C.T. 191
C.T. 193
C.T. 195
C.T. 197
C.T. 199
C.T. 201
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C.T. 235
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C.T. 243
C.T. 245
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C.T. 249
C.T. 251
C.T. 253
C.T. 255
C.T. 257
C.T. 259.01–259.02
C.T. 261
C.T. 263
C.T. 265

PRIMARY MEDICAL CARE: New York
Service Area Listing

Service Area Name
C.T. 267
C.T. 269
C.T. 271.01–271.02
C.T. 273
C.T. 275
C.T. 277
C.T. 279
C.T. 281
C.T. 283
C.T. 285.01–285.02
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C.T. 291
C.T. 293
C.T. 295
C.T. 297
C.T. 299
C.T. 301
C.T. 303
C.T. 307
C.T. 309
C.T. 311
C.T. 313
C.T. 315
C.T. 317.01–317.02
C.T. 319
C.T. 321
C.T. 323
C.T. 325
C.T. 327
C.T. 329
C.T. 331
C.T. 333
C.T. 335
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C.T. 341
C.T. 343
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C.T. 353
C.T. 355
C.T. 357
C.T. 359
C.T. 361
C.T. 363
C.T. 365.01–365.02
C.T. 367
C.T. 369
C.T. 371
C.T. 373
C.T. 375
C.T. 377
C.T. 379
C.T. 381

PRIMARY MEDICAL CARE: New York
Service Area Listing

Service Area Name
C.T. 383
C.T. 385
C.T. 387
Black Rock/Riverside
County—Erie
Parts:
C.T. 55–59
Bushwick
County—Kings
Parts:
C.T. 389

PRIMARY MEDICAL CARE: New York
Service Area Listing

Service Area Name
C.T. 391
C.T. 393
C.T. 395
C.T. 397
C.T. 399
C.T. 401
C.T. 403
C.T. 405
C.T. 407
C.T. 409
C.T. 411
C.T. 413
C.T. 415
C.T. 417
C.T. 419
C.T. 421
C.T. 423
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C.T. 433
C.T. 435
C.T. 437
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C.T. 441
C.T. 443
C.T. 445
C.T. 447
C.T. 453
C.T. 455.97–455.98
C.T. 465
C.T. 473
C.T. 477
C.T. 481
C.T. 483
C.T. 487
C.T. 489
C.T. 491
C.T. 493
C.T. 495
C.T. 497
C.T. 501
C.T. 503
C.T. 505
C.T. 511
C.T. 513
C.T. 527
C.T. 1142.01–1142.02
Camden
County—Lewis
Parts:
Osceola Town
County—Oneida
Parts:
Annsville Town
Camden Town
Florence Town
Vienna Town
Canton-Potsdam
County—Franklin
Parts:
Dickinson Twn.
Waverly Twn.
County—St Lawrence
Parts:
Canton Twn.
Colton Twn.
Hopkinton Twn.
Parishville Twn.
Pierrepont Twn.
Potsdam Twn.
Stockholm Twn.

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PRIMARY MEDICAL CARE: New York
Service Area Listing

Cato
  County—Cayuga
    Parts:
  Cato Town
  Conquest Town
  Ira Town
  Victory Town
Central Adirondack
  County—Essex
    Parts:
  Newcomb Town
  County—Hamilton
    Parts:
  Indian Lake Town
  Long Lake Town
Cherry Valley
  County—Otsego
    Parts:
  Cherry Valley Town
  Roseboom Town
  Springfield Town
  County—Schoharie
    Parts:
  Sharon Town
Cincinnatus/De Ruyter
  County—Chenango
    Parts:
  Lincklaen Town
  Pitcher Town
  County—Cortland
    Parts:
  Cincinnatus Town
  Cuyler Town
  Freetown Town
  Harford Town
  Lapeer Town
  Marathon Town
  Taylor Town
  Willet Town
  County—Madison
    Parts:
  De Ruyter Town
Cochecton
  County—Sullivan
    Parts:
  Callicoon Town
  Cochecton Town
  Delaware Town
  Fremont Town
  Highland Town
  Tusten Town
Coney Isl/Brighton Bch/W Brighton
  County—Kings
    Parts:
  C.T. 326
  C.T. 328
  C.T. 330
  C.T. 340
  C.T. 342
  C.T. 348.01–348.02
  C.T. 350
  C.T. 352
  C.T. 354
  C.T. 356
  C.T. 360.01–360.02
  C.T. 362
  C.T. 364
Corinth/Luzerne
  County—Saratoga
    Parts:
  Corinth Town
  Day Town
  Edinburg Town
  Hadley Town
  County—Warren
    Parts:
  Lake Luzerne Town
  Stony Creek Town
Crown Heights—Brooklyn
  County—Kings
    Parts:
  C.T. 508
  C.T. 794
  C.T. 796
  C.T. 798
  C.T. 800
  C.T. 802
  C.T. 804
  C.T. 806
  C.T. 810
  C.T. 812
  C.T. 814
  C.T. 816
  C.T. 818
  C.T. 820
  C.T. 822
  C.T. 824
  C.T. 856
  C.T. 864
  C.T. 866
  C.T. 868
  C.T. 870
  C.T. 872
  C.T. 874.01–874.02
  C.T. 876
  C.T. 878
  C.T. 880
  C.T. 882
  C.T. 884
  C.T. 886
  C.T. 888
  C.T. 890
  C.T. 892
  C.T. 894
  C.T. 896
  C.T. 898
  C.T. 900
  C.T. 902
Dannemora
  County—Clinton
    Parts:
  Dannemora Town
  Saranac Town
Deposit
  County—Broome
    Parts:
  Colesville Twn.
  Sanford Twn.
  Windsor Twn.
  County—Delaware
    Parts:
  Deposit Twn.
  Tompkins Twn.
Dunkirk-Fredonia
  County—Chautauqua
    Parts:
  Arkwright Twn.
  Charlotte Twn.
  Dunkirk Twn.
  Dunkirk City
  Pomfret Twn.
  Portland Twn.
  Sheridan Twn.
  Stockton Twn.
East Central Essex
  County—Essex
    Parts:
  Elizabethtown Town
  Essex Town
  Keene Town
  Lewis Town
  Moriah Town
  North Hudson Town
  Westport Town
  Willsboro Town
East Harlem
  County—New York
    Parts:
  C.T. 156.02
  C.T. 158.02
  C.T. 160.02
  C.T. 162
  C.T. 164
  C.T. 166
  C.T. 168
  C.T. 170
  C.T. 172.01–172.02
  C.T. 174.01–174.02
  C.T. 178
  C.T. 180
  C.T. 182
  C.T. 184
  C.T. 188
  C.T. 192
  C.T. 194
  C.T. 196
  C.T. 198
  C.T. 202
  C.T. 204
  C.T. 206
  C.T. 210
East Ny-Brooklyn
  County—Kings
    Parts:
  C.T. 904
  C.T. 906
  C.T. 908
  C.T. 910
  C.T. 912
  C.T. 914
  C.T. 916
  C.T. 918
  C.T. 920
  C.T. 922
  C.T. 982
  C.T. 1058
  C.T. 1070
  C.T. 1078
  C.T. 1098
  C.T. 1100
  C.T. 1102
  C.T. 1106
  C.T. 1110
  C.T. 1112
  C.T. 1114
  C.T. 1118
  C.T. 1120
  C.T. 1122
  C.T. 1124
  C.T. 1126
  C.T. 1128
  C.T. 1130
  C.T. 1132
  C.T. 1134
  C.T. 1136
  C.T. 1138
  C.T. 1140
  C.T. 1146
  C.T. 1148

PRIMARY MEDICAL CARE: New York
Service Area Listing

C.T. 1150
C.T. 1152
C.T. 1154
C.T. 1156
C.T. 1158
C.T. 1160
C.T. 1162
C.T. 1164
C.T. 1166
C.T. 1168
C.T. 1170
C.T. 1172.01–1172.02
C.T. 1174
C.T. 1176.01–1176.02
C.T. 1178
C.T. 1180
C.T. 1182.01–1182.02
C.T. 1184
C.T. 1186
C.T. 1188
C.T. 1190.97
C.T. 1192
C.T. 1194
C.T. 1196
C.T. 1200
C.T. 1202.97–1202.98
C.T. 1208
C.T. 1210
C.T. 1214
C.T. 1220

Elkland (NY/PA)
County—Steuben
Parts:
Tuscarora Town
Woodhull Town

Genesee
County—Wyoming
Parts:
Attica Town
Bennington Town

Gouverneur
County—Jefferson
Parts:
Antwerp Twn.
County—St Lawrence
Parts:
De Kalb Twn.
De Peyster Twn.
Edwards Twn.
Fowler Twn.
Gouverneur Twn.
Hermon Twn.
Macomb Twn.
Rossie Twn.

Greene
County—Chenango
Parts:
German Town
Greene Town
McDonough Town
Smithville Town

Groton/Moravia
County—Cayuga
Parts:
Locke Twn.
Moravia Twn.
Sempronius Twn.
Summerhill Twn.
County—Tompkins
Parts:
Groton Twn.

Hancock/Walton
County—Delaware
Parts:
Colchester Town
Hamden Town
Hancock Town
Walton Town

High Bridge
County—Bronx
Parts:
C.T. 53.01
C.T. 57
C.T. 59.01
C.T. 187
C.T. 189
C.T. 193
C.T. 195
C.T. 197
C.T. 199
C.T. 201
C.T. 211
C.T. 213.01–213.02
C.T. 217.02
C.T. 219
C.T. 221
C.T. 223
C.T. 227.02

Hobart/Stamford
County—Delaware
Parts:
Davenport Town
Harpersfield Town
Kortright Town
Stamford Town
County—Schoharie
Parts:
Jefferson Town

Hunts Point
County—Bronx
Parts:
C.T. 91
C.T. 97
C.T. 99
C.T. 105
C.T. 115.01–115.02

Jordan
County—Monroe
Parts:
C.T. 7
C.T. 13–15
C.T. 39
C.T. 43
C.T. 48–53
C.T. 55–56
C.T. 80
C.T. 91–92
C.T. 93.01

Letchworth
County—Allegany
Parts:
Allen Town
Caneadea Town
Granger Town
Hume Town
County—Livingston
Parts:
Portage Town
County—Wyoming
Parts:
Castile Town
Gainesville Town
Genesee Falls Town
Pike Town

Long Island City
County—Queens
Parts:
C.T. 1
C.T. 7
C.T. 19
C.T. 25
C.T. 27
C.T. 29
C.T. 31
C.T. 35
C.T. 37
C.T. 39
C.T. 41
C.T. 43
C.T. 45
C.T. 47
C.T. 49
C.T. 51
C.T. 53
C.T. 55
C.T. 57
C.T. 59
C.T. 171

Margaretville/Andes
County—Delaware
Parts:
Andes Town
Middletown Town
Roxbury Town

Morris Heights
County—Bronx
Parts:
C.T. 53.02
C.T. 205
C.T. 215.01–215.02
C.T. 217.01
C.T. 227.01
C.T. 233.01
C.T. 235.01
C.T. 237.01
C.T. 239
C.T. 241
C.T. 243
C.T. 245
C.T. 247
C.T. 249
C.T. 251
C.T. 253
C.T. 255
C.T. 257

Morrisania
County—Bronx
Parts:
C.T. 47
C.T. 49
C.T. 59.02
C.T. 61
C.T. 65
C.T. 67
C.T. 69
C.T. 121.01
C.T. 123
C.T. 125
C.T. 127.01
C.T. 129.01
C.T. 131
C.T. 133
C.T. 135
C.T. 137
C.T. 139
C.T. 141
C.T. 143
C.T. 145
C.T. 147

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PRIMARY MEDICAL CARE: New York
Service Area Listing

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C.T. 151
C.T. 153
C.T. 155
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C.T. 163
C.T. 165
C.T. 167
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C.T. 181
C.T. 183
C.T. 225
C.T. 227.03
C.T. 229.02
C.T. 367
C.T. 369.02

Mott Haven/Point Morris
County—Bronx
Parts:
C.T. 11
C.T. 15
C.T. 17
C.T. 23
C.T. 25
C.T. 27.01–27.02
C.T. 31
C.T. 33
C.T. 35
C.T. 37
C.T. 39
C.T. 41
C.T. 43
C.T. 71
C.T. 73
C.T. 75
C.T. 77
C.T. 79
C.T. 81
C.T. 83
C.T. 85
C.T. 87
C.T. 89
C.T. 119
C.T. 121.02
C.T. 127.02
C.T. 129.02

N. Harlem Valley—Dutchess
County—Dutchess
Parts:
Amenia Twn.
Dover Twn.
North East Twn.
Pine Plains Twn.
Stanford Twn.
Washington Twn.

N. Livingston
County—Livingston
Parts:
Avon Town
Caledonia Town
Geneseo Town
Groveland Town
Leicester Town
Lima Town
Livonia Town
York Town

Oak Orchard
County—Orleans
Parts:
Albion Town
Barre Towwn
Carlton Town
Clarendon Town
Gaines Town
Kendall Town
Murray Town

Pawlet/Granville (VT/NY)
County—Washington
Parts:
Fort Ann Town
Granville Town
Hampton Town
Hartford Town
Hebron Town
Whitehall Town

Pulaski
County—Oswego
Parts:
Albion Town
Boylston Town
Mexico Town
Orwell Town
Redfield Town
Richland Town
Sandy Creek Town
Williamstown Town

Randolph/Ellicottville
County—Cattaraugus
Parts:
Carrollton Town
Cold Spring Town
Conewango Town
Ellicottville Town
Franklinville Town
Great Valley Town
Humphrey Town
Little Valley Town
Mansfield Town
Napoli Town
New Albion Town
Randolph Town
Red House Town
Salamanca Town
Salamanca City
South Valley Town

Schroon-Ticonderoga
County—Essex
Parts:
Crown Point Town
Schroon Town
Ticonderoga Town
County—Warren
Parts:
Hague Town
County—Washington
Parts:
Dresden Town
Putnam Town

Soundview
County—Bronx
Parts:
C.T. 2
C.T. 4
C.T. 16
C.T. 20
C.T. 24
C.T. 28
C.T. 36
C.T. 38
C.T. 40.01–40.02
C.T. 44
C.T. 46
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C.T. 50
C.T. 52
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C.T. 70
C.T. 72
C.T. 74
C.T. 78
C.T. 84
C.T. 86
C.T. 88
C.T. 98
C.T. 102
C.T. 214

South Hamilton
County—Hamilton
Parts:
Arietta Town
Benson Town
Hope Town
Lake Pleasant Town
Morehouse Town
Wells Town

South Jamaica
County—Queens
Parts:
C.T. 190
C.T. 196
C.T. 198
C.T. 202
C.T. 204
C.T. 206
C.T. 208
C.T. 212
C.T. 244
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C.T. 266
C.T. 270
C.T. 272
C.T. 274
C.T. 276
C.T. 278
C.T. 280
C.T. 410
C.T. 414
C.T. 440
C.T. 442

South Seneca
County—Seneca
Parts:
Covert Twn.
Lodi Twn.
Ovid Twn.

Southeast Columbia
County—Columbia
Parts:
Ancram Town
Copake Town

PRIMARY MEDICAL CARE: New York
Service Area Listing

Gallatin Town
Hillsdale Town
Taghkanic Town
Southeast Otsego
County—Otsego
Parts:
Decatur Town
Maryland Town
Westford Town
Worcester Town
Southern Schoharie
County—Schoharie
Parts:
Blenheim Town
Broome Town
Conesville Town
Fulton Town
Gilboa Town
Southwest Otsego
County—Otsego
Parts:
Butternuts Town
Morris Town
Tremont/West Farms
County—Bronx
Parts:
C.T. 60
C.T. 216.01
C.T. 218
C.T. 220
C.T. 229.01
C.T. 231
C.T. 233.02
C.T. 235.02
C.T. 236
C.T. 237.02
C.T. 240
C.T. 359
C.T. 361
C.T. 363
C.T. 365.01–365.02
C.T. 369.01
C.T. 371
C.T. 373
C.T. 375.01–375.03
C.T. 377
C.T. 379
C.T. 381
C.T. 383
C.T. 385
C.T. 387
C.T. 389
C.T. 391
C.T. 393
C.T. 399.02
Tri-County
County—Cattaraugus
Parts:
Dayton Town
Leon Town
Otto Town
Perrysburg Town
Persia Town
County—Chautauqua
Parts:
Cherry Creek Town
Hanover Town
Villenova Town
County—Erie
Parts:
Brant Town
Collins Town
Eden Town

PRIMARY MEDICAL CARE: New York
Service Area Listing

Evans Town
North Collins Town
Warrensburg
County—Essex
Parts:
Minerva Town
County—Warren
Parts:
Chester Town
Horicon Town
Johnsburg Town
Thurman Town
Warrensburg Town
Washington Heights—Inwood
County—New York
Parts:
C.T. 243.01
C.T. 245
C.T. 247
C.T. 249
C.T. 251
C.T. 253
C.T. 255
C.T. 261
C.T. 263
C.T. 265

PRIMARY MEDICAL CARE: New York
Service Area Listing

Service Area Name
C.T. 267
C.T. 269
C.T. 271
C.T. 273
C.T. 275
C.T. 277
C.T. 279
C.T. 281
C.T. 283
C.T. 285
C.T. 287
C.T. 289
C.T. 291
C.T. 293
C.T. 295
C.T. 297
C.T. 303
C.T. 307
C.T. 309
C.T. 311
Wellsville
County—Allegany
Parts:
Alfred Twn.
Alma Twn.
Almond Twn.
Amity Twn.
Andover Twn.
Angelica Twn.
Belfast Twn.
Birdsall Twn.
Bolivar Twn.
Burns Twn.
Clarksville Twn.
Cuba Twn.
Friendship Twn.
Genesee Twn.
Grove Twn.
Independence Twn.
New Hudson Twn.
Scio Twn.
Ward Twn.

PRIMARY MEDICAL CARE: New York
Service Area Listing

Service Area Name
Wellsville Twn.
West Almond Twn.
Willing Twn.
Wirt Twn.
West Central Harlem
County—New York
Parts:
C.T. 186
C.T. 190
C.T. 197.02
C.T. 200
C.T. 201.02
C.T. 207.02
C.T. 208
C.T. 209.01–209.02
C.T. 211–212
C.T. 213.01–213.02
C.T. 214
C.T. 216
C.T. 217.01–217.02
C.T. 218
C.T. 219.97
C.T. 220
C.T. 221.01–221.02
C.T. 222
C.T. 223.97–223.98
C.T. 224–226
C.T. 227.01–227.02
C.T. 228–230
C.T. 231.01–231.02
C.T. 232–234
C.T. 235.01–235.02
C.T. 236–237
C.T. 239
C.T. 241
C.T. 243.02
West Winfield
County—Herkimer
Parts:
Columbia Town
Litchfield Town
Warren Town
Winfield Town
County—Oneida
Parts:
Bridgewater Town
Westerlo-Rensselaerville
County—Albany
Parts:
Rensselaerville Town
Westerlo Town
Western Otsego
County—Otsego
Parts:
Burlington Town
Edmeston Town
New Lisbon Town
Pittsfield Town
Plainfield Town
Westfield
County—Chautauqua
Parts:
Chautauqua Town
Mina Town
Ripley Town
Sherman Town
Westfield Town
Westside (Rochester)
County—Monroe
Parts:
C.T. 2
C.T. 16–17

PRIMARY MEDICAL CARE: New York
Service Area Listing

Service Area Name

C.T. 23–24
C.T. 27
C.T. 32
C.T. 40–41
C.T. 62–71
C.T. 75
C.T. 87.01–87.02
C.T. 88–90
C.T. 93.02
C.T. 94.01–94.03
C.T. 95
C.T. 96.01–96.04
Whitney Point Pcaa
County—Broome
Parts:
Barker Town
Lisle Town
Nanticoke Town
Triangle Town
County—Tioga
Parts:
Berkshire Town
Richford Town
Williamsburg
County—Kings
Parts:
C.T. 507
C.T. 509
C.T. 515
C.T. 519
C.T. 523
C.T. 525
C.T. 529
C.T. 531
C.T. 533
C.T. 535
C.T. 537
C.T. 539
C.T. 545
C.T. 547
C.T. 549
C.T. 551
C.T. 553
C.T. 555

PRIMARY MEDICAL CARE: New York
Population Group Listing

Population Group

Inmates—MCC New York
County—New York
Parts:
MCC New York
Inmates—MDC Brooklyn
County—Kings
Parts:
MDC Brooklyn
Low Inc—Auburn Pcsa
County—Cayuga
Parts:
Auburn City
Aurelius Town
Brutus Town
Fleming Town
Mentz Town
Montezuma Town
Owasco Town
Sennett Town
Throop Town
Low Inc—Beacon
County—Dutchess
Parts:

PRIMARY MEDICAL CARE: New York
Population Group Listing

Population Group

C.T. 2101–2103
Low Inc—Binghamton
County—Broome
Parts:
C.T. 4–8
C.T. 10–12
Low Inc—Cortland
County—Cortland
Parts:
Cortland City
Cortlandville Town
Homer Town
Preble Town
Scott Town
Solon Town
Truxton Town
Virgil Town
Low Inc—Fulton
County—Oswego
Parts:
Fulton City
Granby Town
Schroeppel Town
Volney Town
Low Inc—Hamilton Hill/Mt Pleasant
County—Schenectady
Parts:
C.T. 203
C.T. 207–209
C.T. 210.01–210.02
C.T. 211.01–211.02
C.T. 214–217
Low Inc—Hamilton/Sherburne
County—Chenango
Parts:
Columbus Town
Otselic Town
Sherburne Town
Smyrna Town
County—Madison
Parts:
Brookfield Town
Eaton Town
Georgetown Town
Hamilton Town
Lebanon Town
Madison Town
County—Oneida
Parts:
Sangerfield Town
Low Inc—Liberty
County—Sullivan
Parts:
Liberty Town
Neversink Town
Rockland Town
Low Inc—Malone
County—Clinton
Parts:
Altona Town
Clinton Town
Ellenburg Town
County—Franklin
Parts:
Bangor Town
Belmont Town
Bombay Town
Brandon Town
Burke Town
Chateaugay Town
Constable Town
Duane Town

PRIMARY MEDICAL CARE: New York
Population Group Listing

Population Group

Fort Covington Town
Malone Town
Moira Town
Westville Town
Low Inc—Massena
County—St Lawrence
Parts:
Brasher Town
Lawrence Town
Louisville Town
Massena Town
Norfolk Town
Low Inc—Monsey/New Square
County—Rockland
Parts:
C.T. 115.03–115.04
C.T. 121–124
Low Inc—Newburgh City
County—Orange
Parts:
Newburgh City
Low Inc—Union City (PA/NY)
County—Chautauqua
Parts:
Clymer Town
French Creek Town
Low Inc—Upper West Side
County—New York
Parts:
C.T. 177
C.T. 179
C.T. 181
C.T. 183
C.T. 185
C.T. 187
C.T. 189
C.T. 191
C.T. 193
C.T. 195
C.T. 197.01
C.T. 199
C.T. 201.01
C.T. 203
C.T. 205
C.T. 207.01
Medicaid —P.S. 84 Area
County—Erie
Parts:
C.T. 27.02
C.T. 29
C.T. 32.01–32.02
C.T. 33.01–33.02
C.T. 34–36
C.T. 39.01–39.02
C.T. 40.01–40.02
C.T. 41–42
C.T. 44.02
C.T. 52.02
C.T. 64
Medicaid—Ellicott Neighborhood
County—Erie
Parts:
C.T. 12
C.T. 13.01–13.02
C.T. 14.01–14.02
C.T. 15–18
C.T. 25.01–25.02
C.T. 26
C.T. 27.01
C.T. 31
Medicaid—Lower West Side
County—Erie

PRIMARY MEDICAL CARE: New York
Population Group Listing

Population Group

Parts:
C.T. 68
C.T. 71.01–71.02
C.T. 72.01
Medicaid—Rockaway
County—Queens
Parts:
C.T. 916.01–916.02
C.T. 916.99
C.T. 918
C.T. 922
C.T. 928
C.T. 934
C.T. 938
C.T. 942.01–942.03
C.T. 952
C.T. 962
C.T. 964
C.T. 972
C.T. 992
C.T. 998
C.T. 1008
C.T. 1010
C.T. 1032
Medicaid—Utica
County—Oneida
Parts:
C.T. 201
C.T. 202.01–202.02
C.T. 203–206
C.T. 207.01–207.02
C.T. 208.01–208.03
C.T. 209–210
C.T. 211.01–211.03
C.T. 212.01–212.02
C.T. 213.01–213.03
C.T. 214.01–214.04
C.T. 215
C.T. 216.01–216.02
C.T. 217.01–217.02
Medicaid/Hispanic—Port Chester
County—Westchester
Parts:
C.T. 78–82
Pov Pop—Oswego City
County—Cayuga
Parts:
Sterling Twn.
County—Oswego
Parts:
Hannibal Twn.
Minetto Twn.
New Haven Twn.
Oswego Twn.
Oswego City
Scriba Twn.
Pov Pop—Syracuse
County—Onondaga
Parts:
City Of Syracuse
Pov Pop—Watertown
County—Jefferson
Parts:
Brownville Twn.
City Of Watertown
Hounsfield Twn.
Le Ray Twn.
Pamelia Twn.
Rutland Twn.
Watertown Twn.
Pov/Homeless—Chelsea
County—New York

PRIMARY MEDICAL CARE: New York
Population Group Listing

Population Group

Parts:
Homeless
C.T. 93
C.T. 95
C.T. 97
C.T. 99
C.T. 101
C.T. 103
C.T. 109
C.T. 111
C.T. 113
C.T. 115
C.T. 117
Seneca Nation—Cattaraugus Res
County—Cattaraugus
Parts:
Cattaraugus Res
County—Chautauqua
Parts:
Cattaraugus Res
County—Erie
Parts:
Cattaraugus Res

PRIMARY MEDICAL CARE: New York
Facility Listing

Facility Name

Attica Corr Fac
County—Wyoming
Bare Hill Corr Fac
County—Franklin
Children's Hosp Pc Clinics—C.T. 67.02
County—Erie
FCI Raybrook
County—Essex
Nyc Corr. Fac./Rikers Island
County—Bronx

PRIMARY MEDICAL CARE: North Carolina
County Listing

County Name

Alamance
Population Group: Med Ind—Alamance Co
Alexander
*Anson
*Beaufort
Service Area: Bayboro—Aurora
Service Area: Belhaven—Swan Quarter
*Bertie
*Bladen
Brunswick
Caldwell
Service Area: Western Caldwell
*Carteret
Service Area: Eastern Carteret
*Caswell
Catawba
Population Group: Pov Pop—Catawba Co
Chatham
*Cherokee
Service Area: Hot House/Shoal Creek
*Clay
*Cleveland
Population Group: Med Ind—Cleveland Co
*Columbus
Cumberland
Population Group: Low Inc—Cumberland Co
Currituck
*Dare

PRIMARY MEDICAL CARE: North Carolina
County Listing

County Name

Service Area: Hatteras
*Duplin
Population Group: Low Inc—Duplin Co
Durham
Population Group: Medicaid—Durham Co
Edgecombe
Franklin
*Gates
*Graham
*Granville
Facility: FCI Butner
*Greene
Guilford
Service Area: Inner City Greensboro
*Halifax
Service Area: Littleton
*Harnett
Service Area: Western Harnett
Population Group: Pov Pop—Angier/Buies Creek
*Henderson
Population Group: MFW—Henderson/Polk
*Hertford
Population Group: Med Ind—Hertford Co
*Hoke
*Hyde
Service Area: Belhaven—Swan Quarter
Johnston
Population Group: Low Inc/MFW—Johnston Co
*Jones
*Lenoir
Service Area: East Kinston
*Macon
Service Area: Franklin
Madison
Mecklenburg
Service Area: Central Charlotte
*Montgomery
Nash
Population Group: MFW—Nash/Wilson
New Hanover
Population Group: Low Inc—New Hanover Co
*Northampton
Onslow
Pamlico
Service Area: Bayboro—Aurora
*Pender
*Polk
Population Group: MFW—Henderson/Polk
Randolph
*Robeson
*Sampson
Population Group: Low Inc/MFW—Sampson Co
*Scotland
Population Group: Med Ind—Scotland Co
*Stanly
Population Group: Pov Pop—Stanly Co
Stokes
Service Area: Danbury
*Swain
Population Group: Low Inc—Swain Co
*Tyrrell
Union
*Warren
Service Area: Littleton
Service Area: Warrenton
*Washington
Wayne
Population Group: Low Inc—Wayne Co

PRIMARY MEDICAL CARE: North Carolina
County Listing

County Name

*Wilson
Population Group: MFW—Nash/Wilson
Population Group: Pov Pop—Wilson Co
*Yancey
Population Group: Low Inc—Yancey Co

PRIMARY MEDICAL CARE: North Carolina
Service Area Listing

Service Area Name

Bayboro—Aurora
County—Beaufort
Parts:
Richland Twp
County—Pamlico
Belhaven—Swan Quarter
County—Beaufort
Parts:
Bath Township
Pantego Township
County—Hyde
Parts:
Currituck Township
Fairfield Township
Lake Landing Township
Lake Mattamuskeet Unorg.
Swan Quarter Township
Central Charlotte
County—Mecklenburg
Parts:
C.T. 1
C.T. 4–8
C.T. 36–37
C.T. 38.98
C.T. 39.01–39.02
C.T. 40–42
C.T. 43.02
C.T. 44–52
Danbury
County—Stokes
Parts:
C.T. 701–703
East Kinston
County—Lenoir
Parts:
C.T. 101–105
C.T. 107
Eastern Carteret
County—Carteret
Parts:
Atlantic Twp.
Cedar Island Twp.
Davis Twp.
Harkers Island Twp.
Marshallberg Twp.
Merrimon Town
Portsmouth Twp.
Sea Level Twp.
Smyrna Twp.
Stacy Twp.
Straits Twp
Franklin
County—Macon
Parts:
Burningtown Twp
Cartoogechaye Twp
Cowee Twp
Ellijay Twp
Flats Twp
Franklin Twp
Millshoal Twp
Nantahala Twp
Smiths Bridge Twp.
Hatteras
County—Dare
Parts:
Hatteras Twp
Kinnakeet Twp
Hot House/Shoal Creek
County—Cherokee
Parts:
Hot House Twp.
Shoal Creek Twp.
Inner City Greensboro
County—Guilford
Parts:
C.T. 101
C.T. 107.02
C.T. 108.01
C.T. 110
C.T. 111.01
C.T. 112–115
Littleton
County—Halifax
Parts:
Brinkleyville Township
Butterwood Township
Littleton Township
County—Warren
Parts:
Fishing Creek Township
Judkins Township
Warrenton
County—Warren
Parts:
Fork Township
Hawtree Township
Nuttbush Township
River Township
Roanoke Township
Sandy Creek Township
Shocco Township
Sixpound Township
Smith Creek Township
Warrenton Township
Western Caldwell
County—Caldwell
Parts:
Globe Twp.
Johns River Twp.
Mulberry Twp.
Patterson Twp.
Wilson Creek Twp.
Western Harnett
County—Harnett
Parts:
Anderson Creek Twp.
Barbecue Twp.
Johnsonville Twp.
Lillington Twp.
Stewarts Creek Twp.
Upper Little River Twp.

PRIMARY MEDICAL CARE: North Carolina
Population Group Listing

Population Group

Low Inc—Cumberland Co
County—Cumberland
Parts:
Low Income
Low Inc—Duplin Co
County—Duplin
Parts:
Low Income
Low Inc—New Hanover Co
County—New Hanover
Parts:
Low Income
Low Inc—Swain Co
County—Swain
Parts:
Low Income
Low Inc—Wayne Co
County—Wayne
Parts:
Low Income
Low Inc—Yancey Co
County—Yancey
Parts:
Low Income
Low Inc/MFW—Johnston Co
County—Johnston
Parts:
Low Inc/MFW
Low Inc/MFW—Sampson Co
County—Sampson
Parts:
Low Inc/MFW
Med Ind—Alamance Co
County—Alamance
Parts:
Medically Indigent
Med Ind—Cleveland Co
County—Cleveland
Parts:
Medically Indigent
Med Ind—Hertford Co
County—Hertford
Parts:
Medically Indigent
Med Ind—Scotland Co
County—Scotland
Parts:
Medically Indigent
Medicaid—Durham Co
County—Durham
Parts:
Medicaid Eligible
MFW—Henderson/Polk
County—Henderson
Parts:
MFW
County—Polk
Parts:
Mig. Pop.
MFW—Nash/Wilson
County—Nash
Parts:
MFW
County—Wilson
Parts:
Mig Pop
Pov Pop—Angier/Buies Creek
County—Harnett
Parts:
Black River Twp.
Neills Creek Twp.
Pov Pop—Catawba Co
County—Catawba
Parts:
Pov Pop
Pov Pop—Stanly Co
County—Stanly
Parts:
Pov Pop

PRIMARY MEDICAL CARE: North Carolina
Population Group Listing

Population Group

Pov Pop—Wilson Co
  County—Wilson
    Parts:
      Pov Pop

PRIMARY MEDICAL CARE: North Carolina
Facility Listing

Facility Name

FCI Butner
  County—Granville

PRIMARY MEDICAL CARE: North Dakota
County Listing

County Name

*Adams
  Service Area: Lemmon (SD/ND)
*Barnes
  Service Area: Wimbledon
*Benson
Billings
  Service Area: Belfield/Medora
*Bottineau
  Service Area: Mohall
*Bowman
  Service Area: Bowman/Scranton/Rhame
*Burke
  Service Area: Kenmare/Bowbells
  Service Area: Powers Lake/Columbus
*Dickey
  Service Area: Ellendale/Edgeley (ND/SD)
  Service Area: Oakes/Forman
*Divide
*Dunn
*Eddy
*Emmons
*Foster
*Golden Valley
Grand Forks
  Service Area: Northwood
*Kidder
  Service Area: Harvey
  Service Area: Medina
*La Moure
  Service Area: Ellendale/Edgeley (ND/SD)
  Service Area: La Moure
Logan
*Logan
  Service Area: Wishek/Napoleon
  Service Area: Wishek/Napoleon
*McHenry
McIntosh
  Service Area: Wishek/Napoleon
*McKenzie
*McLean
Morton
  Service Area: West Morton/East Stark
*Nelson
  Service Area: McVille
  Service Area: Northwood
*Oliver
*Pembina
*Pierce
  Service Area: Harvey
*Renville
  Service Area: Kenmare/Bowbells
  Service Area: Mohall
*Richland
  Service Area: Hankinson/Lidgerwood (ND/SD)
*Rolette

PRIMARY MEDICAL CARE: North Dakota
County Listing

County Name

Sargent
  Service Area: Oakes/Forman
*Sheridan
  Service Area: Harvey
*Sioux
*Slope
*Stark
  Service Area: Belfield/Medora
  Service Area: West Morton/East Stark
*Steele
  Service Area: Mayville/Finley
  Service Area: Northwood
*Stutsman
  Service Area: Medina
  Service Area: Wimbledon
*Traill
  Service Area: Mayville/Finley
*Ward
  Service Area: Kenmare/Bowbells
*Wells
  Service Area: Harvey

PRIMARY MEDICAL CARE: North Dakota
Service Area Listing

Service Area Name

Belfield/Medora
  County—Stark
    Parts:
      Belfield City
      South Heart City
      West Stark Unorg.
Bowman/Scranton/Rhame
  County—Bowman
    Parts:
      Adelaide Twp.
      Amor Twp.
      Bowman City
      Bowman Twp.
      Boyesen Twp.
      Buena Vista Twp.
      Fischbein Twp.
      Gascoyne City
      Gascoyne Twp.
      Gem Twp.
      Goldfield Twp.
      Grainbelt Twp.
      Grand River Twp.
      Haley Twp.
      Hart Unorg.
      Ladd Twp.
      Langberg Twp.
      Marion Twp.
      Minnehaha Twp.
      Nebo Twp.
      Rhame City
      Rhame Twp.
      Scranton City
      Scranton Twp.
      Star Twp.
      Stillwater Twp.
      Talbot Twp.
      Whiting Twp.
Ellendale/Edgeley (ND/SD)
  County—Dickey
    Parts:
      Ada Township
      Albertha Township
      Albion Township
      Elden Township
      Ellendale City
      Ellendale Township

PRIMARY MEDICAL CARE: North Dakota
Service Area Listing

Service Area Name

      Elm Township
      Forbes City
      Fullerton City
      German Township
      Grand Valley Township
      Hamburg Township
      Kent Township
      Kentner Township
      Keystone Township
      Lorraine Township
      Maple Township
      Merricourt City
      Monango City
      Northwest Township
      Porter Township
      Potsdam Township
      Spring Valley Township
      Valley Township
      Van Meter Township
      Whitestone Township
      Wright Township
      Yorktown Township
      Young Township
  County—La Moure
    Parts:
      Edgeley City
      Golden Glen Township
      Kulm City
      Nora Township
      Norden Township
      Pomona View Township
      Ray Township
      Swede Township
      Wano Township
      Willowbank Township
Hankinson/Lidgerwood (ND/SD)
  County—Richland
    Parts:
      Barney Twp.
      Belford Twp.
      Brandenburg Twp.
      Brightwood Twp.
      Danton Twp.
      Devillo Twp.
      Dexter Twp.
      Duerr Twp.
      Elma Twp.
      Fairmount City
      Fairmount Twp.
      Grant Twp.
      Great Bend City
      Greendale Twp.
      Hankinson City
      La Mars Twp.
      Liberty Grove Twp.
      Lidgerwood City
      Mantador City
      Moran Twp.
      Waldo Twp.
      Wyndmere City
      Wyndmere Twp.
Harvey
  County—Kidder
    Parts:
      Atwood Twp
      Clear Lake Twp
      Kickapoo Twp
      Merkel Twp
      Northwest Twp
      Robinson City
      Robinson Twp
      Stewart Twp

PRIMARY MEDICAL CARE: North Dakota
Service Area Listing

Service Area Name

Tuttle City
Tuttle Twp
County—Pierce
Parts:
Alexander Twp
Antelope Lake Twp
Elling Twp
Hagel Twp
S Pierce Unorg
Truman Twp
White Twp
County—Wells
Parts:
Bremen Twp
Bull Moose Twp
Chaseley Twp
Crystal Lake Twp
Delger Twp
Fairville Twp
Fessenden City
Forward Twp
Fram Twp
Germantown Twp
Hamberg City
Hamberg Twp
Harvey City
Heimdal Twp
Hillsdale Twp
Lynn Twp
Manfred Twp
Norway Lake Twp
Oshkosh Twp
Pony Gulch Twp
Rusland Twp
Silver Lake Twp
St Anna Twp
Valhalla Twp
Wells Twp
West Norway Twp
Western Twp
Kenmare/Bowbells
County—Burke
Parts:
Bowbells City
Bowbells Twp.
Carter Twp.
Dimond Twp.
Flaxton City
Kandiyohi Twp.
Lakeview Twp.
Minnesota Twp.
North Star Twp.
North Burke Unorg.
Richland Twp.
Roseland Twp.
Vanville Twp.
Ward Twp.
County—Renville
Parts:
Fairbanks Twp.
Grover Twp.
Ivanhoe Twp.
McKinney Twp.
Prosperity Twp.
Rockford Twp.
Roosevelt Twp.
Stafford Twp.
Tolley City
County—Ward
Parts:
Baden Twp.
Denmark Twp.

PRIMARY MEDICAL CARE: North Dakota
Service Area Listing

Service Area Name

Elmdale Twp.
Greenbush Twp.
Kenmare City
Kenmare Twp.
Sauk Prairie Twp.
Spencer Twp.
La Moure
County—La Moure
Parts:
Adrian Twp.
Badger Twp.
Berlin City
Black Loam Twp.
Blue Bird Twp.
Dean Twp.
Dickey City
Gladstone Twp.
Glen Twp.
Glenmore Twp.
Grand Rapids Twp.
Grandview Twp.
Greenville Twp.
Henrietta Twp.
Jud City
Kennison Twp.
La Moure City
Litchville Twp.
Marion City
Mildkelson Twp.
Ovid Twp.
Pearl Lake Twp.
Prairie Twp.
Raney Twp.
Roscoe Twp.
Russell Twp.
Ryan Twp.
Saratoga Twp.
Sheridan Twp.
Verona City
Lemmon (SD/ND)
County—Adams
Parts:
E Adams Unorg
Gilstrap Twp
North Lemmon Twp
Orange Twp
South Fork Twp
Mayville/Finley
County—Steele
Parts:
Broadlawn Twp
Carpenter Twp
Colgate Twp
Easton Twp
Edendale Twp
Enger Twp
Finley City
Finley Twp
Franklin Twp
Golden Lake Twp
Greenview Twp
Hope City
Hugo Twp
Luverne City
Melrose Twp
Primrose Twp
Riverside Twp
Sherbrooke Twp
Willow Lake Twp
County—Traill
McVille
County—Nelson

PRIMARY MEDICAL CARE: North Dakota
Service Area Listing

Service Area Name

Parts:
Adler Township
Bergen Township
Central Township
Clara Township
Dahlen Township
Dayton Township
Dodds Township
Enterprise Township
Field Township
Forde Township
Hamlin Township
Illinois Township
Lakota City
Lakota Township
Lee Township
Leval Township
McVille City
Melvin Township
Michigan City City
Michigan Township
Nash Township
Nesheim Township
Osago Township
Pekin City
Petersburg City
Petersburg Township
Rubin Township
Sarnia Township
Tolna City
Wamduska Township
Williams Township
Medina
County—Kidder
Parts:
Allen Twp.
Buckeye Twp.
Bunker Twp.
Crystal Spring Twp.
Dawson City
Graf Twp.
Haynes Twp.
Manning Twp.
Peace Twp.
Quinby Twp.
Sibley Twp,
South Kidder Unorg.
Steele City
Tanner Twp.
Tappen City
Tappen Twp.
Valley Twp.
Vernon Twp.
Weiser Twp.
Westford Twp.
Williams Twp.
Woodlawn Twp.
County—Stutsman
Parts:
Bloomenfield Twp.
Chase Lake Unorg.
Chicago Twp.
Cleveland City
Flint Twp.
Germania Twp.
Griffin Twp.
Iosco Twp.
Medina City
Newbury Twp.
Peterson Twp.
Sinclair Twp.
St. Paul Twp.

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PRIMARY MEDICAL CARE: North Dakota
Service Area Listing

Service Area Name

Stirton Twp.
Streeter City
Streeter Twp.
Valley Spring Twp.
Weid Twp.
Mohall
County—Bottineau
Parts:
Antler City
Antler Township
Blaine Township
Cut Bank Township
Hoffman Township
Lansford City
Lansford Township
Renville Township
Sherman Township
Wheaton Township
County—Renville
Parts:
Brandon Township
Callahan Township
Clay Township
Colquhoun Township
Eden Valley Township
Grano City
Grassland Township
Hamerly Township
Hamlet Township
Hurley Township
Lockwood Township
Loraine City
Mohall City
Sherwood City
Northwood
County—Grand Forks
Parts:
Arvilla Twp
Avon Twp.
Elm Grove Twp.
Grace Twp.
Larimore City
Larimore Twp
Lind Twp.
Logan Center Twp.
Loretta Twp.
Moraine Twp.
Niagara City
Niagara Twp.
Northwood City
Northwood Twp.
Pleasant View Twp.
Washington Twp.
County—Nelson
Parts:
Aneta City
Ora Twp.
Rugh Twp.
County—Steele
Parts:
Beaver Creek Twp.
Newburgh Twp.
Sharon City
Sharon Twp.
Westfield Twp.
Oakes/Forman
County—Dickey
Parts:
Bear Creek Township
Clement Township
Divide Township
Hudson Township

PRIMARY MEDICAL CARE: North Dakota
Service Area Listing

Service Area Name

James River Valley To
Lovell Township
Ludden City
Oakes City
Port Emma Township
Riverdale Township
County—Sargent
Powers Lake/Columbus
County—Burke
Parts:
Battleview Township
Clayton Township
Cleary Township
Columbus City
Colville Township
Dale Township
Fay Township
Foothills Township
Forthun Township
Garness Township
Harmonious Township
Keller Township
Larson City
Leaf Mountain Township
Lignite City
Lucy Township
Portal City
Portal Township
Powers Lake City
Short Creek Township
Soo Township
Thorson Township
Vale Township
West Morton/East Stark
County—Morton
Parts:
Almont City
Engelter Twp
Glen Ullin City
Hebron City
New Salem City
West Morton Unorg
County—Stark
Parts:
East Stark Unorg
Richardton City
Taylor City
Wimbledon
County—Barnes
Parts:
Ashtabula Twp.
Baldwin Twp.
Dazey City
Dazey Twp.
Edna Twp.
Ellsbury Twp.
Grand Prairie Twp.
Lake Town Twp.
Leal City
Minnie Lake Twp.
Pierce Twp.
Pillsbury City
Rogers City
Rogers Twp.
Sibley City
Sibley Trail Twp.
Uxbridge Twp.
Wimbledon City
County—Stutsman
Parts:
Ashland Twp.
Courtenay Twp.

PRIMARY MEDICAL CARE: North Dakota
Service Area Listing

Service Area Name

Courtenay City
Durham Twp.
Gray Twp.
Spiritwood Lake City
Wishek/Napoleon
County—McIntosh

PRIMARY MEDICAL CARE: Ohio
County Listing

County Name

*Adams
*Ashtabula
Service Area: Orwell
*Athens
Population Group: Med Ind—Athens Co
*Brown
Butler
Service Area: Eastern Hamilton
Service Area: West Middletown
Carroll
Clark
Service Area: Southwest Side (Springfield)
Columbiana
Service Area: East Liverpool (OH/PA/WV)
*Coshocton
Population Group: Med Ind—Coshocton Co
Cuyahoga
Service Area: East Cleveland
Service Area: Hough/Norwood/Glenville
Service Area: Lee Miles (Cleveland)
Service Area: Mt Pleasant/Union-Miles/Corlett
Service Area: Western Collinwood
Population Group: Med Ind—Near West/Westside/Edgewater
Population Group: Medicaid—Clark-Fulton/Denison/Tremont
Population Group: Medicaid Pop—Central/Fairfax/Kinsman
Facility: Free Clinic Of Greater Cleveland
Fairfield
Population Group: Low Inc—Lancaster/Baltimore
*Fayette
Franklin
Service Area: Lower Linden (N.E. Columbus)
Service Area: Near North/University
Service Area: Near Southside (Columbus)
Population Group: Low Inc—Franklinton (Columbus)
*Guernsey
Service Area: Cambridge
Service Area: Freeport
Hamilton
Service Area: East & Lower Price Hill/S Fairmont
Service Area: East End (Cincinnati)
Service Area: Millvale
Service Area: West End (Cincinnati)
Service Area: Winton Hills (Cincinnati)
*Hardin
*Harrison
Service Area: Cadiz/Scio/Hopedale
Service Area: Freeport
*Henry
Population Group: Med Ind—Henry Co
*Highland
Population Group: Low Inc—Highland Co
*Hocking

PRIMARY MEDICAL CARE: Ohio
County Listing

County Name

Population Group: Med Ind—Hocking Co
*Jackson
Jefferson
Service Area: East Liverpool (OH/PA/WV)
Lawrence
Population Group: Low Inc—Lawrence Co
Lucas
Service Area: Center City/Dorr (Toledo)
Service Area: East Toledo
Service Area: Near Southside Toledo
Mahoning
Service Area: Eastside Youngstown
*Meigs
*Monroe
Service Area: New Matamoras
Service Area: Woodsfield
Montgomery
Service Area: West Dayton
*Morgan
*Morrow
*Perry
*Pike
Portage
Population Group: Med Ind—Portage Co
*Putnam
Population Group: Med Ind—Putnam Co
Richland
Population Group: Med Ind—Richland Co
*Ross
Facility: Ross Corr INS
Facility: Ross Corr. I.
*Sandusky
Population Group: Low Inc/MFW—Sandusky Co
*Scioto
Population Group: Med Ind—Scioto Co
Facility: Southern Ohio Corr. I.
Stark
Service Area: Ne Canton
Summit
Service Area: Akron (Southeast Side)
Trumbull
Service Area: Orwell
Service Area: The Flats (Warren)
*Tuscarawas
Service Area: Freeport
*Vinton
Washington
Service Area: New Matamoras

PRIMARY MEDICAL CARE: Ohio
Service Area Listing

Service Area Name

Akron (Southeast Side)
County—Summit
Parts:
C.T. 5014
C.T. 5031–5035
C.T. 5038
Cadiz/Scio/Hopedale
County—Harrison
Parts:
Archer Twp.
Athens Twp.
Cadiz Twp.
Franklin Twp.
German Twp.
Green Twp.
Monroe Twp.
North Twp.
Rumley Twp.
Short Creek Twp.
Stock Twp.
Cambridge
County—Guernsey
Parts:
Adams Twp.
Cambridge Twp.
Center Twp.
Jackson Twp.
Jefferson Twp.
Knox Twp.
Liberty Twp.
Millwood Twp.
Monroe Twp.
Oxford Twp.
Richland Twp.
Spencer Twp.
Valley Twp.
Westland Twp.
Wheeling Twp.
Wills Twp.
Center City/Dorr (Toledo)
County—Lucas
Parts:
C.T. 27–28
C.T. 31–37
C.T. 39
East & Lower Price Hill/S Fairmont
County—Hamilton
Parts:
C.T. 87
C.T. 89
C.T. 91–96
C.T. 103
East Cleveland
County—Cuyahoga
Parts:
C.T. 1501
C.T. 1503–1504
C.T. 1511–1518
East End (Cincinnati)
County—Hamilton
Parts:
C.T. 43–44
C.T. 47.02
East Liverpool (OH/PA/WV)
County—Columbiana
Parts:
Center Twp
East Liverpool City
Elk Run Twp
Franklin Twp
Hanover Twp
Liverpool Twp
Madison Twp
Middleton Twp
St. Clair Twp
Unity Twp
Washington Twp
Wayne Twp
Wellsville City
Yellow Creek Twp
County—Jefferson
Parts:
Brush Creek Twp
Saline Twp
East Toledo
County—Lucas
Parts:
C.T. 46
C.T. 47.01–47.02
C.T. 48
C.T. 48.99–49.00
C.T. 50–53
Eastern Hamilton
County—Butler
Parts:
C.T. 3–4
C.T. 6
C.T. 7.01–7.02
Eastside Youngstown
County—Mahoning
Parts:
C.T. 8001–8007
C.T. 8040
Freeport
County—Guernsey
Parts:
Londonderry Twp
Madison Twp
Washington Twp
County—Harrison
Parts:
Freeport Twp
Moorefield Twp
Nottingham Twp
Washington Twp
County—Tuscarawas
Parts:
Perry Twp
Hough/Norwood/Glenville
County—Cuyahoga
Parts:
C.T. 1112–1113
C.T. 1114.01–1114.02
C.T. 1115–1118
C.T. 1119.01–1119.02
C.T. 1121–1128
C.T. 1161–1168
C.T. 1181–1185
C.T. 1186.01–1186.02
C.T. 1189
Lee Miles (Cleveland)
County—Cuyahoga
Parts:
C.T. 1217–1219
C.T. 1221–1223
Lower Linden (N.E. Columbus)
County—Franklin
Parts:
C.T. 7.10
C.T. 7.20
C.T. 7.30
C.T. 9.10
C.T. 9.20
C.T. 14–15
C.T. 75.11–75.12
C.T. 75.20
Millvale
County—Hamilton
Parts:
C.T. 28
C.T. 77
C.T. 85.02
C.T. 86.01
Mt Pleasant/Union-Miles/Corlett
County—Cuyahoga
Parts:
C.T. 1155
C.T. 1198–1199
C.T. 1204–1206
C.T. 1207.01–1207.02
C.T. 1208.01–1208.02
C.T. 1211–1213

PRIMARY MEDICAL CARE: Ohio
Service Area Listing

Service Area Name
C.T. 1214.01–1214.02
C.T. 1215–1216
C.T. 1275
Ne Canton
County—Stark
Parts:
C.T. 7002–7005
C.T. 7018
C.T. 7124
Near North/University
County—Franklin
Parts:
C.T. 10
C.T. 11.10
C.T. 12–13
C.T. 16–17
C.T. 18.10
C.T. 18.20
C.T. 20
C.T. 20–22
C.T. 32
Near Southside (Columbus)
County—Franklin
Parts:
C.T. 54.20
C.T. 55
C.T. 56.10
C.T. 56.20
C.T. 58.20
C.T. 59–61
C.T. 87.10
C.T. 87.20
C.T. 87.30
C.T. 87.40
Near Southside Toledo
County—Lucas
Parts:
C.T. 38
C.T. 40–42
C.T. 54
New Matamoras
County—Monroe
Parts:
Benton Twp
Jackson Twp
County—Washington
Parts:
Grandview Twp
Independence Twp
Liberty Twp
Ludlow Twp
Orwell
County—Ashtabula
Parts:
Colebrook Twp
Hartsgrove Twp
Morgan Twp
New Lyme Twp
Orwell Twp
Rome Twp
Trumbull Twp
Windsor Twp
County—Trumbull
Parts:
Bloomfield Twp
Greene Twp
Gustavus Twp
Kinsman Twp
Mesopotamia Twp
Southwest Side (Springfield)
County—Clark
Parts:
C.T. 1–3
C.T. 8
C.T. 9.01–9.02
C.T. 10
C.T. 11.01–11.02
C.T. 12
The Flats (Warren)
County—Trumbull
Parts:
C.T. 9205–9207
West Dayton
County—Montgomery
Parts:
C.T. 2–4
C.T. 6–7
C.T. 9–10
C.T. 13
C.T. 35–42
C.T. 44–45
C.T. 602–603
C.T. 702.01–702.02
C.T. 703
West End (Cincinnati)
County—Hamilton
Parts:
C.T. 2
C.T. 3.01–3.02
C.T. 4
C.T. 8
C.T. 14–15
West Middletown
County—Butler
Parts:
C.T. 128–132
C.T. 140
Western Collinwood
County—Cuyahoga
Parts:
C.T. 1169
C.T. 1171.01–1171.02
C.T. 1172.01–1172.02
C.T. 1173–1175
C.T. 1179
C.T. 1261
Winton Hills (Cincinnati)
County—Hamilton
Parts:
C.T. 80
Woodsfield
County—Monroe
Parts:
Adams Twp
Bethel Twp
Center Twp
Franklin Twp
Green Twp
Lee Twp
Malaga Twp
Ohio Twp
Perry Twp
Salem Twp
Seneca Twp
Summit Twp
Sunsbury Twp
Switzerland Twp
Washington Twp
Wayne Twp

PRIMARY MEDICAL CARE: Ohio
Population Group Listing

Population Group
Low Inc—Franklinton (Columbus)
County—Franklin
Parts:
C.T. 41–44
C.T. 50–51
Low Inc—Highland Co
County—Highland
Parts:
Low Income
Low Inc—Holmes Co
Parts:
Low Income
Low Inc—Lancaster/Baltimore
County—Fairfield
Parts:
Amanda Twp
Berne Twp
Bloom Twp
Clear Creek Twp
Greenfield Twp
Hocking Twp
Lancaster City
Liberty Twp
Madison Twp
Pleasant Twp
Richland Twp
Rush Creek Twp
Walnut Twp
Low Inc—Lawrence Co
County—Lawrence
Parts:
Low Income
Low Inc/MFW—Sandusky Co
County—Sandusky
Parts:
Low Income
MFW
Med Ind—Athens Co
County—Athens
Parts:
Medically Indigent
Med Ind—Coshocton Co
County—Coshocton
Parts:
Medically Indigent
Med Ind—Henry Co
County—Henry
Parts:
Medically Indigent
Med Ind—Hocking Co
County—Hocking
Parts:
Medically Indigent
Med Ind—Near West/Westside/Edgewater
County—Cuyahoga
Parts:
C.T. 1011.01–1011.02
C.T. 1012–1019
C.T. 1021.01
C.T. 1022–1026
C.T. 1031–1039
Med Ind—Portage Co
County—Portage
Parts:
Medically Indigent
Med Ind—Putnam Co
County—Putnam
Parts:
Medically Indigent
Med Ind—Richland Co
County—Richland
Parts:
Medically Indigent

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PRIMARY MEDICAL CARE: Ohio
Population Group Listing

Population Group

Med Ind—Scioto Co
County—Scioto
Parts:
Medically Indigent
Medicaid—Clark-Fulton/Denison/Tremont
County—Cuyahoga
Parts:
C.T. 1027–1029
C.T. 1041–1042
C.T. 1042.99–1043.00
C.T. 1044–1049
C.T. 1051–1055
C.T. 1056.01–1056.02
Medicaid Pop—Central/Fairfax/Kinsman
County—Cuyahoga
Parts:
C.T. 1079
C.T. 1087–1089
C.T. 1091–1093
C.T. 1096–1099
C.T. 1101–1103
C.T. 1129
C.T. 1131–1139
C.T. 1141–1145
C.T. 1147–1148

PRIMARY MEDICAL CARE: Ohio
Facility Listing

Facility Name

Free Clinic Of Greater Cleveland
County—Cuyahoga
Ross Corr INS
County—Ross
Ross Corr. I.
County—Ross
Southern Ohio Corr. I.
County—Scioto

PRIMARY MEDICAL CARE: Oklahoma
County Listing

County Name

*Adair
*Alfalfa
Population Group: Low Inc—Woods/Alfalfa
*Atoka (g)
Facility: Stringtown Corr. C.
*Beaver
*Blaine
Service Area: Watonga
*Bryan
*Caddo
Canadian
Facility: FCI El Reno
*Carter
Service Area: Velma-Alma/Healdton North
*Choctaw
Cleveland
Facility: Lexington Corr. C.
*Coal
Creek
Population Group: Low Inc—Mounds
*Dewey
Service Area: Vici/Dewey South
*Harmon
Population Group: Medicaid—Harmon Co
*Haskell
*Hughes
Service Area: Allen
*Jackson
*Johnston

PRIMARY MEDICAL CARE: Oklahoma
County Listing

County Name

*Kiowa
*Latimer
*Le Flore
*Lincoln
Logan
*Marshall
*Mayes
McClain
*McCurtain
*McIntosh
*Nowata
Service Area: Chelsea/New Alluwe
Service Area: Nowata
*Okfuskee
Oklahoma
Service Area: Luther
Service Area: N.E. Oklahoma Co
Service Area: S.E. Oklahoma City
*Okmulgee
Population Group: Low Inc—Mounds
*Pittsburg
Service Area: Quinton
*Pontotoc
Service Area: Allen
Pottawatomie
Service Area: Konawa
*Pushmataha
Service Area: Finley-Rattan/Antlers
*Roger Mills
Rogers
Service Area: Chelsea/New Alluwe
*Seminole
Service Area: Konawa
Sequoyah
*Stephens
Service Area: Velma-Alma/Healdton North
*Tillman
Tulsa
Service Area: North Tulsa
Population Group: Am In—Tulsa
*Washita
Service Area: Southwest Washita
*Woods
Population Group: Low Inc—Woods/Alfalfa

PRIMARY MEDICAL CARE: Oklahoma
Service Area Listing

Service Area Name

Allen
County—Hughes
Parts:
South Hughes CCD
County—Pontotoc
Parts:
Northeast Pontotoc CCD
Chelsea/New Alluwe
County—Nowata
Parts:
Alluwe CCD
County—Rogers
Parts:
Chelsea CCD
Finley-Rattan/Antlers
County—Pushmataha
Parts:
Antlers CCD
Finley-Rattan CCD
Konawa
County—Pottawatomie
Parts:
Maud CCD

PRIMARY MEDICAL CARE: Oklahoma
Service Area Listing

Service Area Name

Wanette-Asher CCD
County—Seminole
Parts:
Konawa CCD
Seminole South CCD
Luther
County—Oklahoma
Parts:
C.T. 1061.01
C.T. 1081.03
C.T. 1089–1090
N.E. Oklahoma Co
County—Oklahoma
Parts:
C.T. 1080.03
C.T. 1080.05
C.T. 1080.10–1080.11
C.T. 1088.01
C.T. 1088.03–1088.04
North Tulsa
County—Tulsa
Parts:
C.T. 2–10
C.T. 12–14
C.T. 57
C.T. 62
C.T. 79
C.T. 80.01–80.02
C.T. 91.01
Nowata
County—Nowata
Parts:
Lenapah-Delaware CCD
Nowata CCD
South Coffeyville-Wann Cc
Quinton
County—Pittsburg
Parts:
Quinton CCD
S.E. Oklahoma City
County—Oklahoma
Parts:
C.T. 1039
C.T. 1048
C.T. 1053–1054
C.T. 1073.04
Southwest Washita
County—Washita
Parts:
Southwest Washita CCD
Velma-Alma/Healdton North
County—Carter
Parts:
Healdton North Division
County—Stephens
Parts:
Velma-Alma Division
Vici/Dewey South
County—Dewey
Parts:
Dewey South CCD
Vici CCD
Watonga
County—Blaine
Parts:
Geary CCD
Watonga CCD

PRIMARY MEDICAL CARE: Oklahoma
Population Group Listing

Population Group

Am In—Tulsa

PRIMARY MEDICAL CARE: Oklahoma
Population Group Listing

Population Group

County—Tulsa
Parts:
American Indian
Low Inc—Mounds
County—Creek
Parts:
C.T. 215
County—Okmulgee
Parts:
Beggs Division
Low Inc—Woods/Alfalfa
County—Alfalfa
Parts:
Low Income
County—Woods
Parts:
Low Inc
Medicaid—Harmon Co
County—Harmon
Parts:
Medicaid Eligible

PRIMARY MEDICAL CARE: Oklahoma
Facility Listing

Facility Name

FCI El Reno
County—Canadian
Lexington Corr. C.
County—Cleveland
Stringtown Corr. C.
County—Atoka

PRIMARY MEDICAL CARE: Oregon
County Listing

County Name

*Baker
Service Area: Halfway
*Benton
Service Area: Alsea
Clackamas
Service Area: Estacada
Service Area: Mt. Hood
Population Group: MSFWs—Western Clackamas Co
*Columbia
Service Area: Clatskanie
Service Area: Vernonia
*Coos
Service Area: Powers
*Curry
Service Area: Port Orford
Population Group: Low Inc—Brookings
*Deschutes
Service Area: La Pine
*Douglas
Service Area: Drain/Yoncalla
Service Area: Glendale
Population Group: Med Ind—Roseburg
*Gilliam
Service Area: Arlington
Service Area: Condon
*Grant
*Harney
*Hood River
Population Group: MSFW—Hood River Co
Jackson
Service Area: Rogue River
Service Area: Shady Cove
Population Group: Med Ind—Medford
Population Group: MFW—Ashland/Phoenix

PRIMARY MEDICAL CARE: Oregon
County Listing

County Name

*Josephine
Service Area: Applegate-Williams
Service Area: Cave Junction
Service Area: Glendale
Population Group: Med Ind—Grants Pass
*Klamath
Service Area: Bly
Service Area: Chiloquin
Population Group: Med Ind/MFW—Klamath Falls
*Lake
Service Area: Silver Lake
Lane
Service Area: Lowell
Service Area: McKenzie
Service Area: Oakridge
Service Area: Triangle Lake/Swisshome
Population Group: Low Inc—Florence
*Lincoln
Population Group: Low Inc—De Lake
*Linn
Service Area: Mill City/Gates/Detroit
*Malheur
Service Area: Jordan Valley
Service Area: Nyssa (OR/ID)
Service Area: Vale
Population Group: MSFW—N. Treasure Valley (ID/OR)
Facility: Snake River Corr. I.
Marion
Service Area: Mill City/Gates/Detroit
Population Group: Low Inc/MFW—Marion/Polk
Facility: State Corr. I.
*Morrow
Service Area: Boardman
Multnomah
Population Group: Low Inc/Homeless—Burnside(Portland)
Polk
Service Area: Willamina/Grand Ronde
Population Group: Low Inc/MFW—Marion/Polk
*Sherman
Service Area: Moro/Grass Valley
Service Area: Wasco
*Tillamook
Service Area: Pacific City/Cloverdale
Population Group: Low Inc—Tillamook
*Umatilla
Population Group: MSFW—Umatilla
Facility: E Oregon Corr I
*Union
Service Area: Cove/Union
Service Area: Elgin
*Wasco
Service Area: Maupin/Dufur
Washington
Population Group: MSFW—Washington
*Wheeler
Service Area: Fossil
Service Area: Mitchell
Yamhill
Population Group: MSFW—Yamhill
Facility: FCI Sheridan

PRIMARY MEDICAL CARE: Oregon
Service Area Listing

Service Area Name

Alsea
County—Benton

PRIMARY MEDICAL CARE: Oregon
Service Area Listing

Service Area Name

Parts:
Southwest Benton CCD
Applegate-Williams
County—Josephine
Parts:
Williams CCD
Arlington
County—Gilliam
Parts:
Arlington Div.
Bly
County—Klamath
Parts:
Langell CCD
Boardman
County—Morrow
Parts:
Boardman Division
Cave Junction
County—Josephine
Parts:
Cave Junction CCD
Wilderville CCD
Chiloquin
County—Klamath
Parts:
Chiloquin CCD
Cresent Lake CCD
Clatskanie
County—Columbia
Parts:
Clatskanie Division
Marshland Division
Condon
County—Gilliam
Parts:
Condon Div.
Cove/Union
County—Union
Parts:
Cove CCD
Union CCD
Drain/Yoncalla
County—Douglas
Parts:
Elkton-Drain CCD
Kellogg-Yoncalla CCD
Elgin
County—Union
Parts:
Elgin CCD
Estacada
County—Clackamas
Parts:
Estacada Division
Fossil
County—Wheeler
Parts:
Fossil CCD
Glendale
County—Douglas
Parts:
South Umpqua CCD
County—Josephine
Parts:
Northwest Josephine CCD
Halfway
County—Baker
Parts:
Eagle Valley CCD
Halfway CCD
Jordan Valley

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PRIMARY MEDICAL CARE: Oregon
Service Area Listing

Service Area Name

County—Malheur
Parts:
Jordan CCD
La Pine
County—Deschutes
Parts:
C.T. 9902–9905
Lowell
County—Lane
Parts:
Lowell CCD
Maupin/Dufur
County—Wasco
Parts:
Dufur CCD
McKenzie
County—Lane
Parts:
McKenzie CCD
Mill City/Gates/Detroit
County—Linn
Parts:
Mill City CCD
County—Marion
Parts:
Mill City CCD
Mitchell
County—Wheeler
Parts:
Mitchell CCD
Moro/Grass Valley
County—Sherman
Parts:
Moro CCD
Mt. Hood
County—Clackamas
Parts:
Mount Hood Division
Nyssa (OR/ID)
County—Malheur
Parts:
Adrian CCD
Nyssa CCD
Owyhee CCD
Oakridge
County—Lane
Parts:
Oakridge Division
Pacific City/Cloverdale
County—Tillamook
Parts:
Beaver Division
Neskowin Division
Port Orford
County—Curry
Parts:
Port Orford CCD
Powers
County—Coos
Parts:
Powers Div.
Rogue River
County—Jackson
Parts:
Northwest Jackson CCD
Sams Valley CCD
Shady Cove
County—Jackson
Parts:
Butte Falls-Prospect Division
Shady Cove Division
Silver Lake
County—Lake
Parts:
Silver Lake-Ft Rock CCD
Triangle Lake/Swisshome
County—Lane
Parts:
Middle Siuslaw-Triangle Lake Div
Vale
County—Malheur
Parts:
Brogan Division
Juntura Division
Vale Division
West Vale Division
Vernonia
County—Columbia
Parts:
Vernonia Division
Wasco
County—Sherman
Parts:
Wasco CCD
Willamina/Grand Ronde
County—Polk
Parts:
Willamina CCD

PRIMARY MEDICAL CARE: Oregon
Population Group Listing

Population Group

Low Inc—Brookings
County—Curry
Parts:
Brookings CCD
Harbor CCD
Low Inc—De Lake
County—Lincoln
Parts:
De Lake CCD
Depoe CCD
Low Inc—Florence
County—Lane
Parts:
North Siuslaw CCD
South Siuslaw CCD
Low Inc—Tillamook
County—Tillamook
Parts:
Bay City CCD
Tillamook CCD
Low Inc/Homeless—Burnside(Portland)
County—Multnomah
Parts:
C.T. 21
C.T. 51
Low Inc/MFW—Marion/Polk
County—Marion
Parts:
Low Income/MFW
County—Polk
Parts:
Low Inc/MFW
Med Ind—Grants Pass
County—Josephine
Parts:
C.T. 3604–3608
C.T. 3610–3613
Med Ind—Medford
County—Jackson
Parts:
Medford Div

PRIMARY MEDICAL CARE: Oregon
Population Group Listing

Population Group

Med Ind—Roseburg
County—Douglas
Parts:
Calapooia CCD
Melrose CCD
Roseburg CCD
Tenmile CCD
Med Ind/MFW—Klamath Falls
County—Klamath
Parts:
Keno CCD
Klamath Falls CCD
Malin CCD
Merrill CCD
MFW—Ashland/Phoenix
County—Jackson
Parts:
Ashland CCD
Eagle Point CCD
Southeast Jackson CCD
Southwest Jackson CCD
MSFW—Hood River Co
County—Hood River
Parts:
MSFW
MSFW—N. Treasure Valley (ID/OR)
County—Malheur
Parts:
MSFW
MSFW—Umatilla
County—Umatilla
Parts:
MSFW
MSFW—Washington
County—Washington
Parts:
MSFW
MSFW—Yamhill
County—Yamhill
Parts:
MSFW
MSFWs—Western Clackamas Co
County—Clackamas
Parts:
Beaver Creek CCD
Canby CCD
Colton CCD
Molalla CCD
Mulino CCD
Northwest Clackamas CCD
Redland CCD
Sandy CCD
Wilsonville CCD
Yoder CCD

PRIMARY MEDICAL CARE: Oregon
Facility Listing

Facility Name

E Oregon Corr I
County—Umatilla
FCI Sheridan
County—Yamhill
Snake River Corr. I.
County—Malheur
State Corr. I.
County—Marion

PRIMARY MEDICAL CARE: Pennsylvania
County Listing

County Name

Adams

PRIMARY MEDICAL CARE: Pennsylvania
County Listing

County Name

Population Group: MFW—Adams/Franklin
Allegheny
Service Area: Arlington Heights/St Clair
Service Area: Homewood-Brushton
Service Area: Manchester
Service Area: McKees Rocks-Stowe
Service Area: North Braddock
Service Area: South Braddock
Service Area: West End Pittsburgh
Population Group: Low Inc—Hill District
Population Group: Low Inc—Mckeesport
Population Group: Pov Pop—East Liberty
*Armstrong
Service Area: Armstrong-Clarion
Service Area: Dayton/Rural Valley
Service Area: Kiski Valley
Service Area: New Bethlehem/Hawthorn
Service Area: Northeast Butler
Beaver
Service Area: East Liverpool (OH/PA/WV)
*Bedford
Service Area: Broad Top/Cromwell
Service Area: Pleasantville
Berks
Population Group: Med Ind—Welsh Mountain
Blair
Service Area: Pleasantville
*Bradford
Service Area: La Porte
Butler
Service Area: Northeast Butler
Cambria
Service Area: Nanty-Glo
Facility: Sci Cresson
*Cameron
Centre
Service Area: Snow Shoe
Population Group: Low Inc—Philipsburg
Chester
Population Group: Med Ind—Welsh Mountain
*Clarion
Service Area: Armstrong-Clarion
Service Area: New Bethlehem/Hawthorn
*Clearfield
Service Area: Mahaffey
Service Area: Snow Shoe
Population Group: Low Inc—Philipsburg
*Clinton
Service Area: Renovo
Service Area: Snow Shoe
*Crawford
Service Area: Conneautville
Population Group: Low Inc—Union City (PA/NY)
Population Group: Med Ind—Titusville
Dauphin
Service Area: Millersburg
Population Group: Med Ind—Harrisburg
Delaware
Population Group: Medicaid—City Of Chester
*Elk
Service Area: Marienville
Erie
Service Area: Southern Erie
Population Group: Low Inc—Union City (PA/NY)
Population Group: Med Ind—Erie City
Fayette
Service Area: Greensboro

PRIMARY MEDICAL CARE: Pennsylvania
County Listing

County Name

Service Area: Markleysburg
Service Area: Republic
*Forest
Service Area: Marienville
Service Area: Tionesta
*Franklin
Service Area: Dry Run
Population Group: MFW—Adams/Franklin
*Fulton
Service Area: Broad Top/Cromwell
Service Area: Hancock (MD/PA/WV)
*Greene
Service Area: Clay/Battelle (WV/PA)
Service Area: Greensboro
Population Group: Pov Pop—Western Greene
*Huntingdon
Service Area: Big Valley
Service Area: Broad Top/Cromwell
Service Area: Mt. Union
*Indiana
Service Area: Dayton/Rural Valley
Service Area: Nanty-Glo
Service Area: North Indiana
Service Area: Punxsutawney
*Jefferson
Service Area: Punxsutawney
*Juniata
Service Area: Middleburg
Service Area: Millerstown
Lancaster
Population Group: Low Inc—Se Lancaster
Population Group: Med Ind—Welsh Mountain
*McKean
Service Area: Coudersport
Facility: FCI Mckean
Mercer
Service Area: Stoneboro
Population Group: Low Inc—Sharon/Farrell
*Mifflin
Service Area: Big Valley
Service Area: McClure
Service Area: Mt. Union
Monroe
Service Area: Mount Pocono
Service Area: South Monroe
Northampton
Population Group: Low Inc—Easton
*Northumberland
Service Area: Herndon
Service Area: Millersburg
Service Area: Shamokin
Perry
Service Area: Millerstown
Philadelphia
Service Area: Pennsport
Service Area: South Philadelphia
Service Area: Upper N. Philadelphia
Service Area: Woodland
*Pike
Service Area: Tafton
*Potter
Service Area: Coudersport
Service Area: Westfield
*Schuylkill
Service Area: Shamokin
Facility: FCI Schuylkill
*Snyder
Service Area: McClure
Service Area: Middleburg
Somerset

PRIMARY MEDICAL CARE: Pennsylvania
County Listing

County Name

Service Area: Confluence
Service Area: Indian Lake
*Sullivan
Service Area: La Porte
*Susquehanna
Service Area: Montrose
*Tioga
Service Area: Blossburg
Service Area: Coudersport
Service Area: Elkland (NY/PA)
Service Area: Mansfield
Service Area: Westfield
*Union
Population Group: Inmates—LSCI Allenwood
Population Group: Inmates—FPC Allenwood
Facility: MSCI Allenwood
Facility: USP Allenwood
Facility: USP Lewisburg
*Venango
Service Area: Tionesta
Population Group: Med Ind—Titusville
*Warren
Population Group: Low Inc—Union City (PA/NY)
Population Group: Med Ind—Titusville
*Wayne
Service Area: Northern Wayne
Westmoreland
Service Area: Kiski Valley
York
Service Area: York

PRIMARY MEDICAL CARE: Pennsylvania
Service Area Listing

Service Area Name

Arlington Heights/St. Clair
County—Allegheny
Parts:
C.T. 1603–1604
C.T. 1606
Armstrong-Clarion
County—Armstrong
Parts:
Brady's Bend Twp.
Madison Twp.
Perry Twp.
Sugarcreek Twp.
Washington Twp.
County—Clarion
Parts:
Brady Twp.
East Brady Boro.
Madison Twp.
Rimersburg Boro.
Big Valley
County—Huntingdon
Parts:
Barree Twp.
Jackson Twp.
Miller Twp.
County—Mifflin
Parts:
Armagh Twp.
Brown Twp.
Menno Twp.
Union Twp.
Blossburg
County—Tioga
Parts:

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PRIMARY MEDICAL CARE: Pennsylvania
Service Area Listing

Service Area Name

Bloss Twp.
Blossburg Boro.
Covington Twp.
Duncan Twp.
Hamilton Twp.
Liberty Boro.
Liberty Twp.
Putnam Twp.
Union Twp.
Ward Twp.
Broad Top/Cromwell
County—Bedford
Parts:
Broad Top Twp
Coaldale Boro
Hopewell Boro
Hopewell Twp
Liberty Twp
Saxton Boro
County—Fulton
Parts:
Dublin Twp
Taylor Twp
Wells Twp
County—Huntingdon
Parts:
Broad Top City Boro
Carbon Twp
Cass Twp
Cassville Boro
Clay Twp
Coalmont Boro
Cromwell Twp
Dublin Twp
Dudley Boro
Hopewell Twp
Lincoln Twp
Orbisonia Boro
Rockhill Furnace Boro
Saltillo Boro
Shade Gap Boro
Springfield Twp
Tell Twp
Three Springs Boro
Todd Twp
Wood Twp
Clay/Battelle (WV/PA)
County—Greene
Parts:
Freeport Twp.
Gilmore Twp.
Springhill Twp.
Wayne Twp.
Coalport
Confluence
County—Somerset
Parts:
Addison Boro.
Addison Twp.
Casselman Boro.
Confluence Boro.
Lower Turkeyfoot Twp.
Upper Turkeyfoot Twp.
Ursina Boro.
Conneautville
County—Crawford
Parts:
Beaver Township
Conneaut Township
Conneautville Borough
Spring Township
Springboro Borough

PRIMARY MEDICAL CARE: Pennsylvania
Service Area Listing

Service Area Name

Summerhill Township
Coudersport
County—McKean
Parts:
Annin Twp
Ceres Twp
Eldred Boro
Eldred Twp
Keating Twp
Liberty Twp
Norwich Twp
Otto Twp
Port Allegany Boro
Smethport Boro
County—Potter
Parts:
Abbott Twp
Allegany Twp
Austin Boro
Bingham Twp
Clara Twp
Coudersport Boro
East Fork Dist
Eulalia Twp
Galeton Boro
Genesee Twp
Hebron Twp
Homer Twp
Keating Twp
Oswayo Boro
Oswayo Twp
Pike Twp
Pleasant Valley Twp
Portage Twp
Roulette Twp
Sharon Twp
Shinglehouse Boro
Stewardson Twp
Summit Twp
Sweden Twp
Sylvania Twp
Ulysses Boro
Ulysses Twp
West Branch Twp
Wharton Twp
County—Tioga
Parts:
Gaines Twp
Dayton/Rural Valley
County—Armstrong
Parts:
Atwood Boro
Cowanshannock Twp
Dayton Boro
Elderton Boro
Plumcreek Twp
Rural Valley Boro
Wayne Twp
County—Indiana
Parts:
Plumville Boro
South Mahoning Twp
Dry Run
County—Franklin
Parts:
Fannet Twp.
Metal Twp.
East Liverpool (OH/PA/WV)
County—Beaver
Parts:
Georgetown Boro
Glasgow Boro

PRIMARY MEDICAL CARE: Pennsylvania
Service Area Listing

Service Area Name

Greene Twp
Hookstown Boro
Ohioville Boro
Elkland (NY/PA)
County—Tioga
Parts:
Deerfield Twp.
Elkland Boro.
Elkland Twp.
Farmington Twp.
Knoxville Boro.
Nelson Twp.
Osceola Twp.
Greensboro
County—Fayette
Parts:
German Twp.
Masontown Boro.
Nicholson Twp.
Point Marion Boro.
Springhill Twp.
County—Greene
Parts:
Dunkard Twp.
Greene Twp.
Greensboro Boro.
Monongahela Twp.
Hancock (MD/PA/WV)
County—Fulton
Parts:
Bethel Twp.
Thompson Twp.
Union Twp.
Herndon
County—Northumberland
Parts:
Herndon Boro.
Jackson Twp.
Jordan Twp.
Washington Twp.
Homewood-Brushton
County—Allegheny
Parts:
C.T. 1207
C.T. 1301–1306
C.T. 5604
C.T. 5606
C.T. 5611–5612
Indian Lake
County—Somerset
Parts:
Central City Boro
Indian Lake Boro
Shade Twp
Shanksville Boro
Stonycreek Twp
Kiski Valley
County—Armstrong
Parts:
Apollo Boro
Bethel Twp
Burrell Twp
Gilpin Twp
Kiskiminetas Twp
Leechburg Boro
North Apollo Boro
Parks Twp
South Bend Twp
County—Westmoreland
Parts:
Allegheny Twp
Avonmore Boro

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PRIMARY MEDICAL CARE: Pennsylvania
Service Area Listing

Service Area Name

- Bell Twp
- East Vandergrift Boro
- Hyde Park Boro
- Oklahoma Boro
- Vandergrift Boro
- Washington Twp
- West Leechburg Boro

La Porte
- County—Bradford
  - Parts:
    - Albany Twp
    - New Albany Boro
    - Overton Twp
    - Wilmot Twp
- County—Sullivan
  - Parts:
    - Cherry Twp
    - Colley Twp
    - Davidson Twp
    - Dushore Boro
    - Eagles Mere Boro
    - Elkland Twp
    - Forks Twp
    - Forksville Boro
    - Hillsgrove Twp
    - La Porte Boro
    - La Porte Twp
    - Shrewsbury Twp

Mahaffey
- County—Clearfield
  - Parts:
    - Bell Twp.
    - Burnside Boro.
    - Burnside Twp.
    - Ferguson Twp.
    - Greenwood Twp.
    - Mahaffey Boro.
    - New Washington Boro.
    - Newburg Boro.

Manchester
- County—Allegheny
  - Parts:
    - C.T. 2107
    - C.T. 2503
    - C.T. 2507–2508

Mansfield
- County—Tioga
  - Parts:
    - Jackson Twp
    - Lawrence Twp
    - Lawrenceville Boro
    - Mansfield Boro
    - Richmond Twp
    - Roseville Boro
    - Rutland Twp
    - Sullivan Twp
    - Tioga Boro
    - Tioga Twp

Marienville
- County—Elk
  - Parts:
    - Millstone Twp.
- County—Forest
  - Parts:
    - Barnett Twp.
    - Green Twp.
    - Howe Twp.
    - Jenks Twp.
    - Kingsley Twp.

Markleysburg
- County—Fayette
  - Parts:
    - Henry Clay Twp.
    - Markleysburg Boro.
    - Ohiopyle Boro.
    - Stewart Twp.
    - Wharton Twp.

McClure
- County—Mifflin
  - Parts:
    - Decatur Twp.
- County—Snyder
  - Parts:
    - Adams Twp.
    - McClure Boro.
    - Spring Twp.
    - West Beaver Twp.

McKees Rocks-Stowe
- County—Allegheny
  - Parts:
    - C.T. 4621
    - C.T. 4626
    - C.T. 4639
    - C.T. 4644

Middleburg
- County—Juniata
  - Parts:
    - Monroe Twp.
    - Susquehanna Twp.
- County—Snyder
  - Parts:
    - Beaver Twp.
    - Beavertown Boro.
    - Centre Twp.
    - Chapman Twp.
    - Franklin Twp.
    - Freeburg Boro.
    - Middleburg Boro.
    - Perry Twp.
    - Union Twp.
    - Washington Twp.
    - West Perry Twp.

Millersburg
- County—Dauphin
  - Parts:
    - Berrysburg Boro.
    - Elizabethville Boro.
    - Gratz Boro.
    - Halifax Boro.
    - Halifax Twp.
    - Jackson Twp.
    - Jefferson Twp.
    - Lykens Twp.
    - Lykens Boro.
    - Mifflin Twp.
    - Millersburg Boro.
    - Pillow Boro.
    - Reed Twp.
    - Rush Twp.
    - Upper Paxton Twp.
    - Washington Twp.
    - Wayne Twp.
    - Wiconisco Twp.
    - Williams Twp.
    - Williamstown Boro.
- County—Northumberland
  - Parts:
    - Lower Mahanoy Twp.

Millerstown
- County—Juniata
  - Parts:
    - Delaware Twp
    - Greenwood Twp
    - Thompsontown Boro

PRIMARY MEDICAL CARE: Pennsylvania
Service Area Listing

Service Area Name

- County—Perry
  - Parts:
    - Buffalo Twp
    - Greenwood Twp
    - Howe Twp
    - Liverpool Boro
    - Liverpool Twp
    - Millerstown Boro
    - Newport Boro
    - Oliver Twp
    - Tuscarora Twp

Montrose
- County—Susquehanna
  - Parts:
    - Auburn Twp.
    - Bridgewater Twp.
    - Brooklyn Twp.
    - Dimock Twp.
    - Forest Lake Twp.
    - Franklin Twp.
    - Harford Twp.
    - Hop Bottom Boro.
    - Jessup Twp.
    - Lathrop Twp.
    - Lenox Twp.
    - Liberty Twp.
    - Montrose Boro.
    - Rush Twp.
    - Silver Lake Twp.
    - Springville Twp.

Mount Pocono
- County—Monroe
  - Parts:
    - Barrett Twp
    - Coolbaugh Twp
    - Mount Pocono Boro
    - Paradise Twp
    - Tobyhanna Twp
    - Tunkhannock Twp

Mt. Union
- County—Huntingdon
  - Parts:
    - Mapleton Boro
    - Mill Creek Boro
    - Mount Union Boro
    - Shirley Twp
    - Shirleysburg Boro
    - Union Twp
- County—Mifflin
  - Parts:
    - Bratton Twp
    - Kistler Boro
    - McVeytown Boro
    - Newton Hamilton Boro
    - Oliver Twp
    - Wayne Twp

Nanty-Glo
- County—Cambria
  - Parts:
    - Barr Twp
    - Blacklick Twp
    - Jackson Twp (Vinco)
    - Nanty-Glo Boro
    - Vintondale Boro
- County—Indiana
  - Parts:
    - Armagh Boro
    - Buffington Twp
    - East Wheatfield Twp
    - Pine Twp
    - West Wheatfield Twp

New Bethlehem/Hawthorn

PRIMARY MEDICAL CARE: Pennsylvania
Service Area Listing

Service Area Name

County—Armstrong
Parts:
Mahoning Twp
Redbank Twp
South Bethlehem Boro
County—Clarion
Parts:
Hawthorn Boro
New Bethlehem Boro
Porter Twp
Redbank Twp
North Braddock
County—Allegheny
Parts:
C.T. 5041
C.T. 5100
C.T. 5120
C.T. 5128–5129
C.T. 5138
C.T. 5140
C.T. 5151
C.T. 5153
North Indiana
County—Indiana
Parts:
Cherry Tree Boro.
East Mahoning Twp.
Grant Twp.
Green Twp.
Marion Center Boro.
Montgomery Twp.
Rayne Twp.
Northeast Butler
County—Armstrong
Parts:
Hovey Twp.
Parker City
County—Butler
Parts:
Allegheny Twp.
Bruin Boro.
Cherry Valley Boro.
Concord Twp.
Eau Claire Boro.
Fairview Boro.
Fairview Twp.
Karns City Boro.
Parker Twp.
Petrolia Boro.
Venango Twp.
Washington Twp.
Northern Wayne
County—Wayne
Parts:
Buckingham Twp.
Damascus Twp.
Lebanon Twp.
Manchester Twp.
Mt. Pleasant Twp.
Preston Twp.
Scott Twp.
Starrucca Boro.
Pennsport
County—Philadelphia
Parts:
C.T. 15
C.T. 18
C.T. 23–28
Pleasantville
County—Bedford
Parts:
East St. Clair Twp.

PRIMARY MEDICAL CARE: Pennsylvania
Service Area Listing

Service Area Name

Kimmel Twp.
King Twp.
Lincoln Twp.
Pleasantville Boro.
Union Twp.
West St. Clair Twp.
County—Blair
Parts:
Greenfield Twp.
Punxsutawney
County—Indiana
Parts:
Banks Twp
Canoe Twp
Glen Campbell Boro
North Mahoning Twp
Smicksburg Boro
West Mahoning Twp
County—Jefferson
Parts:
Beaver Twp
Bell Twp
Big Run Boro
Gaskill Twp
Henderson Twp
McCalmont Twp
Oliver Twp
Perry Twp
Porter Twp
Punxsutawney Boro
Ringgold Twp
Timblin Boro
Worthville Boro
Young Twp
Renovo
County—Clinton
Parts:
Chapman Twp
East Keating Twp
Grugan Twp
Leidy Twp
Noyes Twp
Renovo Boro
South Renovo Boro
Republic
County—Fayette
Parts:
Brownsville Twp
Brownsville Boro
Luzerne Twp
Redstone Twp
Shamokin
County—Northumberland
Parts:
Coal Twp
East Cameron Twp
Herndon Boro
Jackson Twp
Jordan Twp
Little Mahanoy Twp
Shamokin City
Shamokin Twp
Upper Mahanoy Twp.
Washington Twp
West Cameron Twp
Zerbe Twp
County—Schuylkill
Parts:
Eldred Twp
Hubley Twp
Upper Mahantongo Twp
Snow Shoe

PRIMARY MEDICAL CARE: Pennsylvania
Service Area Listing

Service Area Name

County—Centre
Parts:
Boggs Twp
Burnside Twp
Curtin Twp
Howard Boro
Howard Twp
Liberty Twp
Snow Shoe Boro
Snow Shoe Twp
Union Twp
Unionville Boro
County—Clearfield
Parts:
Cooper Twp
Covington Twp
Karthaus Twp
County—Clinton
Parts:
Beech Creek Boro
Beech Creek Twp
West Keating Twp
South Braddock
County—Allegheny
Parts:
C.T. 4824
C.T. 4838
C.T. 4843
C.T. 4850
C.T. 4867–4869
C.T. 4882
South Monroe
County—Monroe
Parts:
Chestnuthill Twp
Eldred Twp
Polk Twp
Ross Twp
South Philadelphia
County—Philadelphia
Parts:
C.T. 13–14
C.T. 19–22
C.T. 30–34
C.T. 36
C.T. 46
Southern Erie
County—Erie
Parts:
Albion Borough
Conneaut Township
Cranesville Borough
Elk Creek Township
Platea Borough
Springfield Township
Stoneboro
County—Mercer
Parts:
Coolspring Twp
Deer Creek Twp
Fairview Twp
Fredonia Boro
French Creek Twp
Jackson Twp
Jackson Center Boro
Lake Twp
Mill Creek Twp
New Lebanon Boro
New Vernon Twp
Perry Twp
Sandy Lake Boro
Sandy Lake Twp

PRIMARY MEDICAL CARE: Pennsylvania
Service Area Listing

Service Area Name

Stoneboro Boro
Tafton
County—Pike
Parts:
Blooming Grove Twp.
Greene Twp.
Lackawaxen Twp.
Palmyra Twp.
Tionesta
County—Forest
Parts:
Harmony Twp
Hickory Twp
Tionesta Boro
Tionesta Twp
County—Venango
Parts:
President Twp
Upper N. Philadelphia
County—Philadelphia
Parts:
C.T. 170–176
C.T. 195–205
West End Pittsburgh
County—Allegheny
Parts:
C.T. 2004
C.T. 2017–2022
C.T. 2024
C.T. 2807–2808
C.T. 2814
C.T. 2816
Westfield
County—Potter
Parts:
Harrison Twp.
Hector Twp.
County—Tioga
Parts:
Brookfield Twp.
Chatham Twp.
Clymer Twp.
Westfield Boro.
Westfield Twp.
Fannet Twp
Parts:
Metal Twp
Woodland
County—Philadelphia
Parts:
C.T. 63
C.T. 65–67
C.T. 69–74
C.T. 76–78
York
County—York
Parts:
C.T. 1–3
C.T. 5
C.T. 7
C.T. 9–12
C.T. 15–16

PRIMARY MEDICAL CARE: Pennsylvania
Population Group Listing

Population Group

Inmates—FPC Allenwood 1
County—Union
Parts:
FPC Allenwood
Inmates—LSCI Allenwood

PRIMARY MEDICAL CARE: Pennsylvania
Population Group Listing

Population Group

County—Union
Parts:
LSCI Allenwood
Low Inc—Easton
County—Northampton
Parts:
C.T. 143–147
Low Inc—Hill District
County—Allegheny
Parts:
C.T. 305
C.T. 314
C.T. 501–502
C.T. 506
C.T. 508–511
Low Inc—Mckeesport
County—Allegheny
Parts:
C.T. 5010
C.T. 5509
C.T. 5512
C.T. 5519–5524
Low Inc—Philipsburg
County—Centre
Parts:
Philipsburg Boro
Rush Twp
South Philipsburg Boro
County—Clearfield
Parts:
Boggs Twp
Brisbin Boro
Chester Hill Boro
Decatur Twp
Graham Twp
Houtzdale Boro
Morris Twp
Osceola Mills Boro
Wallaceton Boro
Woodward Twp
Low Inc—Se Lancaster
County—Lancaster
Parts:
C.T. 1
C.T. 7–9
C.T. 14–16
Low Inc—Sharon/Farrell
County—Mercer
Parts:
C.T. 301–309
Low Inc—Union City (PA/NY)
County—Crawford
Parts:
Bloomfield Twp
Rockdale Twp
Sparta Twp
Spartansburg Boro
County—Erie
Parts:
C.T. 112.01
C.T. 118.01–118.02
C.T. 119
C.T. 120.01–120.02
C.T. 121
County—Warren
Parts:
Columbus Twp
Spring Creek Twp
Med Ind—Erie City
County—Erie
Parts:
C.T. 1–30

PRIMARY MEDICAL CARE: Pennsylvania
Population Group Listing

Population Group

Med Ind—Harrisburg
County—Dauphin
Parts:
C.T. 201–217
Med Ind—Titusville
County—Crawford
Parts:
Athens Twp
Centerville Boro
Hydetown Boro
Oil Creek Twp
Rome Twp
Steuben Twp
Titusville City
Townville Boro
Troy Twp
County—Venango
Parts:
Allegheny Twp
Cherrytree Twp
Oilcreek Twp
Pleasantville Boro
Plum Twp
County—Warren
Parts:
Eldred Twp
Southwest Twp
Med Ind—Welsh Mountain
County—Berks
Parts:
Brecknock Twp
Caernarvon Twp
County—Chester
Parts:
Honey Brook Boro
Honey Brook Twp
County—Lancaster
Parts:
Adamstown Boro
Akron Boro
Brecknock Twp
Caernarvon Twp
Christiana Boro
Denver Boro
Earl Twp
East Cocalico Twp
East Earl Twp
Ephrata Boro
Ephrata Twp
Leacock Twp
New Holland Boro
Paradise Twp
Sadsbury Twp
Salisbury Twp
Terre Hill Boro
Upper Leacock Twp
West Earl Twp
Medicaid—City Of Chester
County—Delaware
Parts:
C.T. 4047–4048
C.T. 4049.01–4049.02
C.T. 4050–4057
C.T. 4058.01–4058.02
C.T. 4059–4060
C.T. 4064.02
MFW—Adams/Franklin
County—Adams
Parts:
Migrant Farmworker
County—Franklin
Parts:

PRIMARY MEDICAL CARE: Pennsylvania
Population Group Listing

Population Group

Migrant Farmworker
Pov Pop—East Liberty
County—Allegheny
Parts:
C.T. 818
C.T. 1016–1017
C.T. 1102
C.T. 1106
C.T. 1111
C.T. 1113–1115
C.T. 1201–1204
C.T. 1208
Pov Pop—Western Greene
County—Greene
Parts:
Aleppo Twp.
Center Twp.
Franklin Twp.
Gray Twp.
Jackson Twp.
Morris Twp.
Richhill Twp.
Washington Twp.
Waynesburg Boro.

PRIMARY MEDICAL CARE: Pennsylvania
Facility Listing

Facility Name

FCI McKean
County—McKean
FCI Schuylkill
County—Schuylkill
MSCi Allenwood
County—Union
Sci Cresson
County—Cambria
USP Allenwood
County—Union
USP Lewisburg
County—Union

PRIMARY MEDICAL CARE: Rhode Island
County Listing

County Name

Newport
Population Group: Low Inc—Newport Co
Providence
Service Area: C Falls/N Pawtucket
Service Area: Northwest Providence
Service Area: Northwest Woonsocket
Population Group: Low Inc—Providence City
Washington
Population Group: Low Inc—West Washington

PRIMARY MEDICAL CARE: Rhode Island
Service Area Listing

Service Area Name

C Falls/N Pawtucket
County—Providence
Parts:
C.T. 108–111
C.T. 149
C.T. 151–153
C.T. 161
Northwest Providence
County—Providence
Parts:

PRIMARY MEDICAL CARE: Rhode Island
Service Area Listing

Service Area Name

Burrillville Town
Foster Town
Glocester Town
Northwest Woonsocket
County—Providence
Parts:
C.T. 172
C.T. 174
C.T. 176
C.T. 178–183

PRIMARY MEDICAL CARE: Rhode Island
Population Group Listing

Population Group

Low Inc—Newport Co
County—Newport
Parts:
Low Income
Low Inc—Providence City
County—Providence
Parts:
C.T. 1–23
C.T. 25–33
C.T. 35–37
Low Inc—West Washington
County—Washington
Parts:
Charlestown Town
Exeter Town
Hopkinton Town
Richmond Town

PRIMARY MEDICAL CARE: South Carolina
County Listing

County Name

*Abbeville
Aiken
Population Group: Low Inc—Aiken Co
*Allendale
Anderson
Population Group: Low Inc—Anderson Co
*Bamberg
*Barnwell
Berkeley
*Calhoun
Charleston
Service Area: Edisto Is
Service Area: Ravenel—Hollywood
Population Group: Low Inc—Sea Islands
Population Group: Pov Pop—Peninsula Charleston
*Chester
*Chesterfield
Service Area: Sandhills
Service Area: Society Hill
*Clarendon
*Colleton
*Darlington
Service Area: Lamar
Service Area: Society Hill
*Dillon
Dorchester
Service Area: St George
Edgefield
*Fairfield
Florence
Service Area: Johnsonville/Brittons Neck
Service Area: Lake City
Service Area: Olanta
*Georgetown

PRIMARY MEDICAL CARE: South Carolina
County Listing

County Name

Service Area: Andrews
Greenville
Service Area: Slater-Marietta
Population Group: Pov Pop—Inner City Greenville
*Hampton (g)
Facility: FCI Estil
Horry
Service Area: Conway/Aynor
Service Area: Little River
*Jasper
*Lancaster
Service Area: Heath Springs
*Lee
Lexington
Service Area: Batesburg/Leesville
Service Area: Pelion-Swansea
*Marion
Service Area: Johnsonville/Brittons Neck
*Marlboro
*McCormick
*Oconee
Population Group: Low Inc—Oconee Co
*Orangeburg
Service Area: Eastern Orangeburg
Service Area: Western Orangeburg
Population Group: Med Ind—Orangeburg
Richland
Service Area: Eastover
Service Area: Hopkins
Population Group: Low Inc—Columbia
Facility: Manning Corr. I.
*Saluda
Spartanburg
Service Area: Woodruff/Enoree
Sumter
Service Area: Olanta
Service Area: Sumter
*Union
*Williamsburg
York
Population Group: Catawba Indian Nation
Population Group: Pov Pop—South Rock Hill

PRIMARY MEDICAL CARE: South Carolina
Service Area Listing

Service Area Name

Andrews
County—Georgetown
Parts:
Andrews CCD
Batesburg/Leesville
County—Lexington
Parts:
Batesburg/Leesville CCD
Gilbert CCD
Conway/Aynor
County—Horry
Parts:
Aynor CCD
Conway CCD
Floyds CCD
Loris CCD
Eastern Orangeburg
County—Orangeburg
Parts:
Bowman Division
Branchville Division
Elloree Division
Eutawville Division

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PRIMARY MEDICAL CARE: South Carolina
Service Area Listing

Service Area Name

- Holly Hill Division
- Vance Division

Eastover
- County—Richland
  - Parts:
    - Eastover Division

Edisto Is
- County—Charleston
  - Parts:
    - C.T. 23.98

Heath Springs
- County—Lancaster
  - Parts:
    - Heath Springs Division
    - Kershaw Division

Hopkins
- County—Richland
  - Parts:
    - Hopkins Division

Johnsonville/Brittons Neck
- County—Florence
  - Parts:
    - Johnsonville Division
- County—Marion
  - Parts:
    - Brittons Neck Division
    - Centenary Division

Lake City
- County—Florence
  - Parts:
    - C.T. 18
    - C.T. 20
    - C.T. 22.01–22.02
    - C.T. 23

Lamar
- County—Darlington
  - Parts:
    - Lake Swamp CCD
    - Lamar CCD

Little River
- County—Horry
  - Parts:
    - C.T. 301
    - C.T. 401–402
    - C.T. 603

Olanta
- County—Florence
  - Parts:
    - Olanta Division
    - Sardis Division
- County—Sumter
  - Parts:
    - Shiloh Division

Pelion-Swansea
- County—Lexington
  - Parts:
    - Pelion CCD
    - Swansea CCD

Ravenel—Hollywood
- County—Charleston
  - Parts:
    - C.T. 24.98
    - C.T. 25

Sandhills
- County—Chesterfield
  - Parts:
    - Jefferson Division
    - McBee Division
    - Pageland Division

Slater-Marietta
- County—Greenville
  - Parts:
    - C.T. 24.01–24.02
    - C.T. 40–41

Society Hill
- County—Chesterfield
  - Parts:
    - B.N.A. 9506 (S. 1/2)
- County—Darlington
  - Parts:
    - C.T. 101

St George
- County—Dorchester
  - Parts:
    - Harleyville CCD
    - Reevesville CCD
    - Ridgeville CCD
    - St George CCD

Sumter
- County—Sumter
  - Parts:
    - Privateer CCD
    - Rembert CCD
    - Shaw-Horatio CCD
    - Sumter CCD
    - Sumter North CCD
    - Sumter Northeast CCD
    - Sumter Southeast CCD
    - Sumter Southwest CCD

Western Orangeburg
- County—Orangeburg
  - Parts:
    - Neeses CCD
    - North CCD
    - Norway CCD
    - Springfield

Woodruff/Enoree
- County—Spartanburg
  - Parts:
    - C.T. 235–237

PRIMARY MEDICAL CARE: South Carolina
Population Group Listing

Population Group

Catawba Indian Nation
- County—York
  - Parts:
    - C.T. 612.02

Low Inc—Aiken Co
- County—Aiken
  - Parts:
    - Low Income

Low Inc—Anderson Co
- County—Anderson
  - Parts:
    - Low Income

Low Inc—Columbia
- County—Richland
  - Parts:
    - C.T. 1–19
    - C.T. 20.01–20.02
    - C.T. 21–28
    - C.T. 105.01–105.02
    - C.T. 106
    - C.T. 107.01–107.03
    - C.T. 108.02–108.04
    - C.T. 109–110
    - C.T. 111.01–111.02
    - C.T. 112.01–112.02
    - C.T. 116.03–116.06
    - C.T. 117.01–117.02

Low Inc—Oconee Co
- County—Oconee

PRIMARY MEDICAL CARE: South Carolina
Population Group Listing

Population Group

Parts:
- Low Income

Low Inc—Sea Islands
- County—Charleston
  - Parts:
    - C.T. 21.01–21.02
    - C.T. 22

Med Ind—Orangeburg
- County—Orangeburg
  - Parts:
    - Cope CCD
    - Orangeburg CCD
    - Orangeburg West CCD

Pov Pop—Inner City Greenville
- County—Greenville
  - Parts:
    - C.T. 1–10
    - C.T. 12.02
    - C.T. 13.01
    - C.T. 21.04–21.05
    - C.T. 21.08
    - C.T. 22.01–22.02
    - C.T. 23.03–23.04

Pov Pop—Peninsula Charleston
- County—Charleston
  - Parts:
    - C.T. 1–18
    - C.T. 33–37
    - C.T. 41–45

Pov Pop—South Rock Hill
- County—York
  - Parts:
    - C.T. 601.01–601.02
    - C.T. 602–603
    - C.T. 604.01–604.02
    - C.T. 605.01–605.02

PRIMARY MEDICAL CARE: South Carolina
Facility Listing

Facility Name

FCI Estil
- County—Hampton

Manning Corr. I.
- County—Richland

PRIMARY MEDICAL CARE: South Dakota
County Listing

County Name

- *Aurora
  - Service Area: Corsica/Armour
  - Service Area: Wessington Springs
- *Bon Homme
- *Brookings
  - Service Area: Flandreau/Elkton
- *Brown
  - Service Area: Ellendale/Edgeley (ND/SD)
- *Buffalo
  - Service Area: Wessington Springs
- *Butte
  - Service Area: Newell
- *Campbell
- *Charles Mix
- *Clark
- *Clay
  - Service Area: Beresford/Alcester
- *Corson
  - Service Area: Isabel
  - Service Area: Lemmon (SD/ND)
  - Service Area: McLaughlin
- *Custer

PRIMARY MEDICAL CARE: South Dakota
County Listing

County Name

Service Area: Custer/Hill
*Davison
Service Area: Corsica/Armour
*Day
*Deuel
*Dewey
Service Area: Eagle Butte
Service Area: Isabel
Douglas
Service Area: Corsica/Armour
*Edmunds
Service Area: Hoven
Service Area: Ipswich/Leola
*Fall River
*Faulk
*Grant
Service Area: Milbank
*Gregory
Service Area: Fairfax
*Hamlin
*Hanson
Service Area: Salem
*Harding
*Hyde
Service Area: Gettysburg
Service Area: Highmore
*Jackson
Jerauld
Service Area: Wessington Springs
*Jones
*Kingsbury
Lincoln
Service Area: Beresford/Alcester
*Lyman
McCook
Service Area: Salem
*Meade
Service Area: Faith
*Mellette
*Miner
Moody
Service Area: Flandreau/Elkton
*MCPherson
Service Area: Ipswich/Leola
Pennington
Service Area: Custer/Hill
Service Area: N. Rapid City
*Perkins
Service Area: Faith
Service Area: Lemmon (SD/ND)
*Potter
Service Area: Gettysburg
Service Area: Hoven
*Roberts
Service Area: Hankinson/Lidgerwood (ND/SD)
Service Area: Milbank
*Sanborn
Service Area: Wessington Springs
*Shannon
*Sully
Service Area: Gettysburg
*Todd
*Turner
*Union
Service Area: Beresford/Alcester
Service Area: Elk Point
*Walworth
Service Area: Hoven
*Ziebach
Service Area: Eagle Butte

PRIMARY MEDICAL CARE: South Dakota
County Listing

County Name

Service Area: Faith
Service Area: Isabel

PRIMARY MEDICAL CARE: South Dakota
Service Area Listing

Service Area Name

Beresford/Alcester
County—Clay
Parts:
Glenwood Twp
County—Lincoln
Parts:
Beresford City
Brooklyn Twp
Pleasant Twp
County—Union
Parts:
Alcester City
Alcester Twp
Beresford City
Big Springs Twp
Emmet Twp
Prairie Twp
Virginia Twp
Corsica/Armour
County—Aurora
Parts:
Aurora Township
Center Township
Truro Township
Washington Township
County—Davison
Parts:
Baker Township
County—Douglas
Custer/Hill
County—Custer
Parts:
Custer City
Pringle Town
West Custer Urorg
County—Pennington
Parts:
Hill City
West Pennington Unorg
Eagle Butte
County—Dewey
Parts:
Eagle Butte City
South Dewey Unorg.
County—Ziebach
Parts:
Eagle Butte City
South Ziebach Unorg.
Elk Point
County—Union
Parts:
Brule Twp.
Elk Point City
Elk Point Twp.
Richland Unorg.
Ellendale/Edgeley (ND/SD)
County—Brown
Parts:
Allison Township
Frederick Town
Frederick Township
Greenfield Township
Liberty Township
Osceola Township
Palmyra Township

PRIMARY MEDICAL CARE: South Dakota
Service Area Listing

Service Area Name

Richland Township
Savo Township
Fairfax
County—Gregory
Parts:
Bonesteel City
East Gregory Unorg
Fairfax Twp
Fairfax Town
Pleasant Valley Twp
Schriever Twp
Southeast Gregory Unorg
St Charles Twp
Star Valley Twp
Faith
County—Meade
Parts:
Eagle Twp.
Faith City
Howard Twp.
North Meade Unorg.
Union Twp.
Upper Red Owl Twp.
County—Perkins
Parts:
Ada Twp.
Antelope Twp.
Beck Twp.
Brushy Twp.
Chance Twp.
Chaudoin Twp.
Duell Twp.
Englewood Twp.
Foster Twp.
Hall Twp.
Highland Twp.
Lone Tree Twp.
Maltby Twp.
Martin Twp.
Moreau Twp.
S.W. Perkins Unorg.
South Perkins Unorg.
Vickers Twp.
Vrooman Twp.
Wells Twp.
West Central Perkins Unor
West Perkins Unorg.
Wyandotte Twp.
County—Ziebach
Parts:
Dupree Unorg.
Dupree City
Flandreau/Elkton
County—Brookings
Parts:
Elkton City
Elkton Twp.
County—Moody
Gettysburg
County—Hyde
Parts:
North Hyde Unorg.
County—Potter
Parts:
C. Potter Unorg.(S.1/2)
E. Potter Unorg.(S.1/2)
Gettysburg City
Lebanon Twn.
W. Potter Unorg.(S.1/2)
County—Sully
Parts:
Agar Twn.

PRIMARY MEDICAL CARE: South Dakota
Service Area Listing

Service Area Name

E. Sully Unorg.(N.1/2)
Onida City
W. Sully Unorg.(N.1/2)
Hankinson/Lidgerwood (ND/SD)
County—Roberts
Parts:
Lien Twp.
New Effington Twn.
Rosholt Twn.
Victor Twp.
White Rock Twn.
White Rock Twp.
Highmore
County—Hyde
Parts:
Central Hyde Unorg
Crow Creek Unorg
Dewey Twp
Highmore City
Valley Twp
William Hamilton Twp
Hoven
County—Edmunds
Parts:
Hillside Twp.
Hudson Twp.
Madison Twp.
County—Potter
Parts:
C. Potter Unorg.(N.1/2)
E. Potter Unorg.(N.1/2)
Hoven Twn.
Tolstoy Twn.
W. Potter Unorg.(N.1/2)
County—Walworth
Parts:
Akaska Twn.
E. Walworth Unorg.(S.1/4)
Lowry City
W. Walworth Unorg.(S.1/4)
Ipswich/Leola
County—Edmunds
Parts:
Adrian Twp
Belle Twp
Bryant Twp
Cleveland Twp
Fountain Twp
Harmony Unorg
Huntley Twp
Ipswich City
Ipswich Twp
Kent Twp
Liberty Twp
Montpelier Twp
North Bryant Twp
Powell Twp
Rosette Twp
Union Twp
Vermont Twp
County—MCPherson
Parts:
Carl Twp
Central MCPherson Unorg
Hoffman Twp
Leola City
Long Lake Town
Wachter Twp
Wacker Twp
Weber Twp
Wetonka Town
Isabel

PRIMARY MEDICAL CARE: South Dakota
Service Area Listing

Service Area Name

County—Corson
Parts:
Pleasant Ridge Township
County—Dewey
Parts:
Isabel City
North Dewey Unorg.
Timber Lake City
County—Ziebach
Parts:
North Ziebach Unorg.
Lemmon (SD/ND)
County—Corson
Parts:
Custer Twp
Delaney Twp
Grand Valley Twp
Lake Twp
Lemon No. 2 Unorg
McIntosh City
Morristown Town
Pioneer Twp
Prairie View Twp
Riverside Twp
Rolling Green Twp
Sherman Twp
Twin Butte Twp
Watauga Twp
West Corson Unorg
County—Perkins
Parts:
Anderson Twp
Barrett Twp
Bison Town
Bison Twp
Burdick Twp
Cash Twp
Castle Butte Twp
Clark Twp
De Witt Twp
Duck Creek Unorg
East Perkins Unorg
Flat Creek Twp
Fredlund Twp
Glendo Twp
Grand River Twp
Horse Creek Twp
Independence Unorg
Lemmon City
Liberty Twp
Lincoln Twp
Lodgepole Twp
Marshfield Twp
Meadow Twp
Plateau Twp
Pleasant Valley Twp
Rainbow Twp
Rockford Twp
Scotch Cap Twp
Sidney Twp
Strool Twp
Trail Twp
Vail Twp
Viking Twp
White Butte Twp

PRIMARY MEDICAL CARE: South Dakota
Service Area Listing

White Hill Twp
Wilson Twp
McLaughlin

PRIMARY MEDICAL CARE: South Dakota
Service Area Listing

County—Corson
Parts:
Cadillac Township
Central Corson Unorg.
Lincoln Township
Mahto Township
McLaughlin City
Mission Township
Northeast Corson Unorg.
Ridgeland Township
Wakpala Township
Walker Township
Milbank
County—Grant
Parts:
Adams Twp
Alban Twp
Albee Town
Blooming Valley Twp
Farmington Twp
Georgia Twp
Grant Center Twp
Kilborn Twp
La Bolt Town
Lura Twp
Madison Twp
Marvin Town
Mazeppa Twp
Melrose Twp
Milbank City
Osceola Twp
Revillo Town
Stockholm Town
Stockholm Twp
Strandburg Town
Troy Twp
Twin Brooks Town
Twin Brooks Twp
Vernon Twp
County—Roberts
Parts:
Garfield Twp
Geneseo Twp
N. Rapid City
County—Pennington
Parts:
C.T. 101–105
C.T. 114–115
Newell
County—Butte
Parts:
East Butte Unorg
Newell City
Union Twp
Vale Twp
Salem
County—Hanson
Parts:
Edgerton Twp
Emery Town
Farmer Town
Spring Lake Twp
Taylor Twp
County—McCook
Wessington Springs
County—Aurora
Parts:
Belford Twp
Bristol Twp
Cooper Twp
Crystal Lake Twp
Eureka Twp
Firesteel Twp

PRIMARY MEDICAL CARE: South Dakota
Service Area Listing

Gales Twp
Hopper Twp
Lake Twp
Palatine Twp
Patten Twp
Plankinton City
Plankinton Twp
Pleasant Lake Twp
Pleasant Valley Twp
White Lake City
White Lake Twp
County—Buffalo
Parts:
Elvira Twp
Southeast Buffalo Unorg
County—Sanborn
Parts:
Floyd Twp
Jackson Twp
Logan Twp
Oneida Twp
Silver Creek Twp
Twin Lake Twp
Union Twp
Warren Twp
Woonsocket City
Woonsocket Twp

PRIMARY MEDICAL CARE: Tennessee
County Listing

County Name

Anderson
Service Area: Briceville- Lake City
*Benton
Bledsoe
Service Area: Dayton/Pikeville/Decatur
Blount
Service Area: Tallassee
*Campbell
Carter
Service Area: Roan Mountain
*Claiborne
*Crockett
*Cumberland
Davidson
Population Group: Low Inc—Waverly-Belmont
Population Group: Low Inc—N Nashville
Population Group: Low Inc—E Nashville
Facility: Metro General Hosp
*Decatur
Dickson
Service Area: Vanleer/Shiloh
Fayette
*Fentress
Population Group: Low Inc—Fentress Co
*Giles
Grainger
*Greene
Service Area: Baileyton
*Grundy
Hamilton
Population Group: Med Ind—Chattanooga
*Hancock
*Hardeman
*Hardin
Hawkins
*Haywood
*Henderson
*Henry
Population Group: Low Inc—Henry Co
*Hickman
*Johnson
*Lake
*Lauderdale
*Lewis
*Lincoln
Service Area: Cash Point—Blanche
Madison
Service Area: E Jackson
*McNairy
Meigs
Service Area: Dayton/Pikeville/Decatur
*Monroe
Population Group: Low Inc—Monroe Co
Montgomery
Service Area: Vanleer/Shiloh
*Moore
*Morgan
*Obion
Service Area: Hornbeak/Samburg
*Overton
Population Group: Low Inc—Overton Co
*Pickett
*Polk
*Putnam
Population Group: Low Inc—Putnam Co
Rhea
Service Area: Dayton/Pikeville/Decatur
*Roane
Rutherford
Service Area: Eagleville
*Scott
Sevier
Shelby
Population Group: Low Inc—Central Memphis
Population Group: Low Inc—Sw Memphis
Population Group: Low Inc—Nw Memphis
Facility: FCI Memphis
*Stewart
*Trousdale
Union
*Van Buren
*Wayne
*Weakley
Service Area: Dresden
*White

PRIMARY MEDICAL CARE: Tennessee
Service Area Listing

Service Area Name

Baileyton
County—Greene
Parts:
Baileyton Division
Briceville- Lake City
County—Anderson
Parts:
Lake City West CCD
Lake City East CCD
New River CCD
Cash Point—Blanche
County—Lincoln
Parts:
Cash Point-Blanche Division
Dayton/Pikeville/Decatur
County—Rhea
Dresden
County—Weakley
Parts:
Chestnut Glade-Dukedom
Dresden CCD
Gleason CCD
Palmersville CCD
E Jackson
County—Madison
Parts:
C.T. 5
C.T. 8–12
Eagleville
County—Rutherford
Parts:
Eagleville Division
Hornbeak/Samburg
County—Obion
Parts:
Hornbeak-Samburg Division
Roan Mountain
County—Carter
Parts:
Laurel Fork CCD
Roan Mountain CCD
Tiger Valley CCD
Tallassee
County—Blount
Parts:
Lanier Division
Vanleer/Shiloh
County—Dickson
Parts:
Vanleer Division
County—Montgomery
Parts:
Palmyra-Shiloh Division

PRIMARY MEDICAL CARE: Tennessee
Population Group Listing

Population Group

Low Inc—Central Memphis
County—Shelby
Parts:
C.T. 13–15
C.T. 28
C.T. 30
Low Inc—E Nashville
County—Davidson
Parts:
C.T. 112–126
Low Inc—Fentress Co
County—Fentress
Parts:
Low Income
Low Inc—Henry Co
County—Henry
Parts:
Low Income
Low Inc—Monroe Co
County—Monroe
Parts:
Low Income
Low Inc—N Nashville
County—Davidson
Parts:
C.T. 133
C.T. 135–144
Low Inc—Nw Memphis
County—Shelby
Parts:
C.T. 1–10
C.T. 18–24
C.T. 90
Low Inc—Overton Co
County—Overton

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PRIMARY MEDICAL CARE: Tennessee
Population Group Listing

Population Group
Parts:
Low Income
Low Inc—Putnam Co
County—Putnam
Parts:
Low Income
Low Inc—Sw Memphis
County—Shelby
Parts:
C.T. 40–69
C.T. 75
C.T. 78.10
C.T. 78.20
Low Inc—Waverly-Belmont
County—Davidson
Parts:
C.T. 161–163
C.T. 170–171
Med Ind—Chattanooga
County—Hamilton
Parts:
C.T. 1–16
C.T. 18–21
C.T. 23–27
C.T. 31
C.T. 115

PRIMARY MEDICAL CARE: Tennessee
Facility Listing

Facility Name
FCI Memphis
County—Shelby
Metro General Hosp
County—Davidson

PRIMARY MEDICAL CARE: Texas
County Listing

County Name
*Anderson
Facility: Beto Prs
Facility: Coffield Prs
Facility: Michael Prs
*Andrews
Population Group: Med Ind—Andrews Co
*Aransas
Archer
*Armstrong
*Atascosa
*Bandera
Bastrop (g)
Facility: FCI Bastrop
*Baylor
*Bee
Bexar
Service Area: San Antonio (West Side)
Service Area: San Antonio (Southside)
Service Area: San Antonio (Eastside)
*Blanco
*Borden
Bowie
Service Area: Dekalb
Brazoria
Facility: Clemens Prs
*Brooks
*Burleson
Caldwell
Cameron
Population Group: Low Inc—Cameron Co
Facility: Corazones Unidos Clinic
Facility: Port Isabel INS Health Facility

PRIMARY MEDICAL CARE: Texas
County Listing

County Name
*Carson
*Castro
*Chambers
*Cherokee
Population Group: Low Inc—Cherokee Co
*Cochran
*Coke
*Coleman
*Collingsworth
Comal
Population Group: Low Inc—New Braunfels
Coryell (g)
Facility: Hilltop Prs
Facility: Hughes Prs
*Crane
*Crockett
*Crosby
*Culberson
Dallas
Service Area: Lisbon
Service Area: South Dallas
Facility: Parkland Mem Hosp Outpt Cl (C.T. 100)
*Deaf Smith
*Delta
Denton
Population Group: Low Inc—N Denton
Dickens
Service Area: Dickens-King
Dimmit
Service Area: Dimmit-Zavala
*Donley
*Duval
El Paso
Service Area: Lower Valley—El Paso
Service Area: South El Paso
Service Area: Southeast El Paso
Facility: FCI La Tuna
Facility: Tx Tech Med. Ambulatory Cl
*Falls (g)
Facility: Hobby Prs
*Fisher
*Foard
*Gaines
*Glasscock
*Goliad
*Gonzales
Population Group: Low Inc—Gonzales Co
*Grimes
Population Group: Inmates—FPC Bryan
Facility: Pack II Prs
*Hale
Population Group: Low Inc/MFW—Hale Co
*Hansford
Hardin
Harris
Service Area: Acres Home
Service Area: Casa De Amigos
Service Area: Galena Park/Jacinto City
Service Area: Ripley
Service Area: Settegast
*Hartley
*Henderson
Population Group: Low Inc—Henderson Co
Hidalgo
Population Group: Low Inc—Hildalgo Co
*Hockley
*Howard
Population Group: Inmates—FCI Big Spring
*Hudspeth

PRIMARY MEDICAL CARE: Texas
County Listing

County Name
*Hunt
Population Group: Low Inc—Hunt Co
*Irion
*Jackson
Jeff Davis
Service Area: Jeff Davis/Marfa
Jefferson
Service Area: Beaumont Inner City
Service Area: Port Arthur Inner City
*Jim Wells
Johnson
*Jones
*Karnes
*Kendall
Population Group: Low Inc—Kendall Co
*Kenedy
*Kent
*Kerr
Population Group: Low Inc—Kerr Co
King
Service Area: Dickens-King
*Kinney
*Knox
*La Salle
*Lamb
*Lampasas
*Lee
Leon
Service Area: Leon/Madison
*Limestone
*Lipscomb
*Live Oak (g)
Facility: FCI Three Rivers
*Loving
Lubbock
Service Area: East Lubbock
Facility: Tx Tech Univ Pc Clinics
*Lynn
Madison
Service Area: Leon/Madison
Facility: Ferguson Prs
*Marion
*Mason
*Maverick
*McMullen
*Medina
*Menard
*Milam
*Mills
*Mitchell
*Moore
Population Group: Low Inc—Moore Co
*Morris
*Motley
*Nacogdoches
Population Group: Low Inc—Nacogdoches Co
*Newton
*Oldham
*Palo Pinto
Population Group: Low Inc—Palo Pinto Co
*Panola
Parker
*Parmer
*Pecos
Population Group: Low Inc—Pecos Co
*Polk
*Presidio
Service Area: Jeff Davis/Marfa
*Rains
*Reagan
*Real

PRIMARY MEDICAL CARE: Texas
County Listing

County Name

*Red River
*Reeves
*Refugio
*Roberts
*Robertson
*Sabine
*San Augustine
*San Jacinto
*San Saba
*Sherman
Smith
  Service Area: Troup
*Starr
*Stephens
*Sterling
*Sutton
*Swisher
Tarrant
  Service Area: Diamond Hill
  Service Area: Poly/Stop Six
*Terrell
*Throckmorton
Travis
  Service Area: Dove Springs
  Service Area: East Austin
  Service Area: South Austin
*Trinity
*Uvalde
  Population Group: Low Inc—Uvalde Co
*Val Verde
*Van Zandt
*Walker
  Facility: Ellis I Prs
  Facility: Goree Prs
  Facility: Wynne Prs
Waller
*Ward
Webb
*Wheeler
  Population Group: Low Inc—Wheeler Co
*Willacy
Wilson
*Winkler
*Wise
*Yoakum
*Zapata
Zavala
  Service Area: Dimmit-Zavala

PRIMARY MEDICAL CARE: Texas
Service Area Listing

Service Area Name

Acres Home
  County—Harris
    Parts:
      C.T. 524
      C.T. 525.02–525.04
      C.T. 530.02
      C.T. 531.01
      C.T. 531.03
Beaumont Inner City
  County—Jefferson
    Parts:
      C.T. 1.03
      C.T. 6–10
      C.T. 15–19
Casa De Amigos
  County—Harris
    Parts:
      C.T. 502
      C.T. 503.01–503.02

PRIMARY MEDICAL CARE: Texas
Service Area Listing

Service Area Name

      C.T. 504
      C.T. 505.01–505.02
      C.T. 506.01–506.02
      C.T. 507.01–507.02
      C.T. 508
      C.T. 509.02–509.03
      C.T. 512
      C.T. 514.01–514.02
      C.T. 515.02
Dekalb
  County—Bowie
    Parts:
      C.T. 116–117
Diamond Hill
  County—Tarrant
    Parts:
      C.T. 1001.02
      C.T. 1002.01–1002.02
      C.T. 1003–1004
      C.T. 1008–1011
      C.T. 1050.01
      C.T. 1050.06
Dickens-King
  County—Dickens
  County—King
Dimmit-Zavala
  County—Dimmit
  County—Zavala
Dove Springs
  County—Travis
    Parts:
      C.T. 24.11–24.13
East Austin
  County—Travis
    Parts:
      C.T. 4.02
      C.T. 8.01–8.04
      C.T. 9.01–9.02
      C.T. 10
      C.T. 18.11–18.12
      C.T. 21.04–21.13
      C.T. 22.01–22.02
      C.T. 22.05
East Lubbock
  County—Lubbock
    Parts:
      C.T. 1
      C.T. 2.01–2.02
      C.T. 3.01–3.02
      C.T. 6.03–6.06
      C.T. 7–14
      C.T. 23–25
Galena Park/Jacinto City
  County—Harris
    Parts:
      C.T. 211–212
Jeff Davis/Marfa
  County—Jeff Davis
  County—Presidio
    Parts:
      Marfa Division
Leon/Madison
  County—Leon
  County—Madison
Lisbon
  County—Dallas
    Parts:
      C.T. 56–57
      C.T. 59.01–59.02
      C.T. 87.01
      C.T. 87.03–87.05
      C.T. 88.01–88.02

PRIMARY MEDICAL CARE: Texas
Service Area Listing

Service Area Name

Lower Valley—El Paso
  County—El Paso
    Parts:
      C.T. 35
      C.T. 37.01–37.02
      C.T. 38.01–38.02
      C.T. 41.03–41.07
      C.T. 42.01–42.02
Poly/Stop Six
  County—Tarrant
    Parts:
      C.T. 1035
      C.T. 1036.01
      C.T. 1037.01–1037.02
      C.T. 1046.01
      C.T. 1046.04
      C.T. 1062.01–1062.02
      C.T. 1063
Port Arthur Inner City
  County—Jefferson
    Parts:
      C.T. 51–65
Ripley
  County—Harris
    Parts:
      C.T. 300.22–300.23
      C.T. 301.01–301.02
      C.T. 302
      C.T. 308.20
      C.T. 309.01–309.03
      C.T. 310–312
      C.T. 313.01–313.02
      C.T. 314.02
      C.T. 319.01
      C.T. 321.01–321.02
San Antonio (Eastside)
  County—Bexar
    Parts:
      C.T. 1101–1104
      C.T. 1109–1110
      C.T. 1301–1306
      C.T. 1307.85
      C.T. 1308–1313
      C.T. 1401
San Antonio (Southside)
  County—Bexar
    Parts:
      C.T. 1402–1412
      C.T. 1416–1418
      C.T. 1501–1522
      C.T. 1609
      C.T. 1610.85
      C.T. 1611–1612
      C.T. 1619–1620
San Antonio (West Side)
  County—Bexar
    Parts:
      C.T. 1105–1108
      C.T. 1601–1606
      C.T. 1607.85
      C.T. 1616
      C.T. 1701–1716
      C.T. 1901–1902
Settegast
  County—Harris
    Parts:
      C.T. 207.01–207.02
      C.T. 208.01
      C.T. 215.01–215.03
      C.T. 216.01–216.02
      C.T. 217.01–217.02
      C.T. 218.03–218.04

PRIMARY MEDICAL CARE: Texas
Service Area Listing

Service Area Name

C.T. 225.03–225.04
C.T. 227
South Austin
County—Travis
Parts:
C.T. 23.04
C.T. 23.10–23.12
C.T. 24.16
South Dallas
County—Dallas
Parts:
C.T. 25
C.T. 27.01–27.02
C.T. 28–29
C.T. 33–38
C.T. 39.01–39.02
C.T. 40
C.T. 93.03–93.04
C.T. 115
C.T. 116.01
South El Paso
County—El Paso
Parts:
C.T. 17–21
C.T. 28–29
Southeast El Paso
County—El Paso
Parts:
C.T. 39.01–39.03
C.T. 40.01–40.02
C.T. 103.10
C.T. 104.01–104.04
C.T. 105
Troup
County—Smith
Parts:
C.T. 21

PRIMARY MEDICAL CARE: Texas
Population Group Listing

Population Group

Inmates—FCI Big Spring
County—Howard
Parts:
FCI Big Spring
Inmates—FPC Bryan
County—Grimes
Parts:
FPC Bryan
Low Inc—Cameron Co
County—Cameron
Parts:
Low Income
Low Inc—Cherokee Co
County—Cherokee
Parts:
Low Income
Low Inc—Gonzales Co
County—Gonzales
Parts:
Low Income
Low Inc—Henderson Co
County—Henderson
Parts:
Low Income
Low Inc—Hildalgo Co
County—Hidalgo
Parts:
Low Income
Low Inc—Hunt Co
County—Hunt

PRIMARY MEDICAL CARE: Texas
Population Group Listing

Population Group

Parts:
Low Income
Low Inc—Kendall Co
County—Kendall
Parts:
Low Income
Low Inc—Kerr Co
County—Kerr
Parts:
Low Income
Low Inc—Moore Co
County—Moore
Parts:
Low Income
Low Inc—N Denton
County—Denton
Parts:
Denton CCD
Pilot Point—Aubrey CCD
Sanger CCD
Low Inc—Nacogdoches Co
County—Nacogdoches
Parts:
Low Income
Low Inc—New Braunfels
County—Comal
Parts:
C.T. 3101–3103
C.T. 3104.01–3104.02
C.T. 3105
C.T. 3106.02
C.T. 3108–3109
Low Inc—Palo Pinto Co
County—Palo Pinto
Parts:
Low Income
Low Inc—Pecos Co
County—Pecos
Parts:
Low Income
Low Inc—Uvalde Co
County—Uvalde
Parts:
Low Income
Low Inc—Wheeler Co
County—Wheeler
Parts:
Low Income
Low Inc/MFW—Hale Co
County—Hale
Parts:
Low Income
MFW
Med Ind—Andrews Co
County—Andrews
Parts:
Medically Indigent

PRIMARY MEDICAL CARE: Texas
Facility Listing

Facility Name

Beto Prs
County—Anderson
Clemens Prs
County—Brazoria
Coffield Prs
County—Anderson
Corazones Unidos Clinic
County—Cameron
Ellis I Prs
County—Walker

PRIMARY MEDICAL CARE: Texas
Facility Listing

Facility Name

Ferguson Prs
County—Madison
FCI Bastrop
County—Bastrop
FCI La Tuna
County—El Paso
FCI Three Rivers
County—Live Oak
Goree Prs
County—Walker
Hilltop Prs
County—Coryell
Hobby Prs
County—Falls
Hughes Prs
County—Coryell
Michael Prs
County—Anderson
Pack II Prs
County—Grimes
Parkland Mem Hosp Outpt Cl (C.T. 100)
County—Dallas
Port Isabel INS Health Facility
County—Cameron
Tx Tech Med. Ambulatory Cl
County—El Paso
Tx Tech Univ Pc Clinics
County—Lubbock
Wynne Prs
County—Walker

PRIMARY MEDICAL CARE: Utah
County Listing

County Name

*Beaver
Population Group: Low Inc—Beaver Co
*Box Elder
Service Area: West Box Elder
*Carbon
Population Group: Low Inc—Carbon Co
*Daggett
Duchesne
Population Group: Low Inc—Duchesne Co
*Emery
*Garfield
Service Area: Panguitch
*Grand
*Iron
Service Area: Enterprise
Service Area: Parowan
*Juab
*Kane
Service Area: Kanab/Fredonia (UT/AZ)
*Millard
*Piute
*Rich
Salt Lake
Population Group: Pov Pop—Kearns
Population Group: Pov Pop—Central City
Population Group: Pov/Homeless—Nw Salt Lake
Facility: Utah State Prison
*San Juan
Service Area: Blanding/Monticello
Service Area: Montezuma Creek
*Sanpete (g)
Facility: Central Utah Corr Fac
*Sevier
*Summit
Service Area: Coalville/Kamas
*Tooele

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PRIMARY MEDICAL CARE: Utah
County Listing

County Name

*Uintah
Utah
  Population Group: Low Inc/Mig—Utah Co
*Wasatch
*Washington
  Service Area: Enterprise
  Service Area: Hurricane/Mohave North (UT/AZ)
*Wayne
Weber
  Population Group: Pov Pop—Central & West Ogden

PRIMARY MEDICAL CARE: Utah
Service Area Listing

Service Area Name

Blanding/Monticello
  County—San Juan
    Parts:
      Blanding CCD
      Monticello CCD
Coalville/Kamas
  County—Summit
    Parts:
      Coalville CCD
      Kamas CCD
Enterprise
  County—Iron
    Parts:
      Beryl-Newcastle Division
  County—Washington
    Parts:
      Enterprise Division
Hurricane/Mohave North (UT/AZ)
  County—Washington
    Parts:
      Hurricane CCD
Kanab/Fredonia (UT/AZ)
  County—Kane
Montezuma Creek
  County—San Juan
    Parts:
      Oljato CCD
      Red Mesa CCD
Panguitch
  County—Garfield
    Parts:
      Escalante CCD
      Panguitch CCD
      Tropic CCD
Parowan
  County—Iron
    Parts:
      Parowan CCD
West Box Elder
  County—Box Elder
    Parts:
      West Box Elder CCD

PRIMARY MEDICAL CARE: Utah
Population Group Listing

Population Group

Low Inc—Beaver Co
  County—Beaver
    Parts:
      Low Income
Low Inc—Carbon Co
  County—Carbon
    Parts:
      Low Income

PRIMARY MEDICAL CARE: Utah
Population Group Listing

Population Group

Low Inc—Duchesne Co
  County—Duchesne
    Parts:
      Low Income
Low Inc/Mig—Utah Co
  County—Utah
    Parts:
      Low Income
Pov Pop—Central & West Ogden
  County—Weber
    Parts:
      C.T. 2002–2005
      C.T. 2008–2009
      C.T. 2011–2013
      C.T. 2018–2019
Pov Pop—Central City
  County—Salt Lake
    Parts:
      C.T. 1014–1021
      C.T. 1023
Pov Pop—Kearns
  County—Salt Lake
    Parts:
      C.T. 1135.05
      C.T. 1135.17
      C.T. 1136–1137
      C.T. 1138.01–1138.03
Pov/Homeless—Nw Salt Lake
  County—Salt Lake
    Parts:
      C.T. 1001
      C.T. 1003.03–1003.04
      C.T. 1004–1006
      C.T. 1024–1027

PRIMARY MEDICAL CARE: Utah
Facility Listing

Facility Name

Central Utah Corr Fac
  County—Sanpete
Utah State Prison
  County—Salt Lake

PRIMARY MEDICAL CARE: Vermont
County Listing

County Name

*Addison
  Service Area: Route 100
*Bennington
  Population Group: Med Ind—Bennington
*Caledonia
  Service Area: Hardwick
  Service Area: Haverhill/Wells River (NH/VT)
  Service Area: Peacham-Barnet
*Essex
  Service Area: Island Pond
  Service Area: Upper Connecticut Valley (NH/VT)
Franklin
  Service Area: Richford-Enosburg
*Lamoille
  Service Area: Hardwick
*Orange
  Service Area: Chelsea
  Service Area: Haverhill/Wells River (NH/VT)
*Orleans
  Service Area: Hardwick
  Service Area: Island Pond

PRIMARY MEDICAL CARE: Vermont
County Listing

County Name

*Rutland
  Service Area: Black River Valley
  Service Area: Pawlet/Granville (VT/NY)
  Service Area: Route 100
*Washington
  Service Area: Hardwick
  Service Area: Mad River Valley
*Windsor
  Service Area: Black River Valley
  Service Area: Route 100

PRIMARY MEDICAL CARE: Vermont
Service Area Listing

Service Area Name

Black River Valley
  County—Rutland
    Parts:
      Mt Holly Town
  County—Windsor
    Parts:
      Cavendish Town
      Ludlow Town
      Plymouth Town
      Reading Town
Chelsea
  County—Orange
    Parts:
      Chelsea Twn.
      Corinth Twn.
      Strafford Twn.
      Tunbridge Twn.
      Vershire Twn.
      Washington Twn.
Hardwick
  County—Caledonia
    Parts:
      Hardwick Twn.
      Walden Twn.
  County—Lamoille
    Parts:
      Wolcott Twn.
  County—Orleans
    Parts:
      Craftsbury Twn.
      Greensboro Twn.
  County—Washington
    Parts:
      Woodbury Twn.
Haverhill/Wells River (NH/VT)
  County—Caledonia
    Parts:
      Groton Twn.
      Ryegate Twn.
  County—Orange
    Parts:
      Newbury Twn.
      Topsham Twn.
Island Pond
  County—Essex
    Parts:
      Avery's Gore
      Brighton Town
      Ferdinand Town
      Lewis Town
      Norton Town
      Warner's Grant
      Warren's Gore
  County—Orleans
    Parts:
      Charleston Town
      Morgan Town

PRIMARY MEDICAL CARE: Vermont
Service Area Listing

Service Area Name

Mad River Valley
  County—Washington
    Parts:
      Fayston Town
      Moretown Town
      Waitsfield Town
      Warren Town
Pawlet/Granville (VT/NY)
  County—Rutland
    Parts:
      Danby Town
      Middletown Springs To
      Mount Tabor Town
      Pawlet Town
      Poultney Town
      Tinmouth Town
      Wells Town
Peacham-Barnet
  County—Caledonia
    Parts:
      Barnet Town
      Peacham Town
Richford-Enosburg
  County—Franklin
    Parts:
      Bakersfield Town
      Berkshire Town
      Enosburg Town
      Fairfield Town
      Franklin Town
      Montgomery Town
      Richford Town
      Sheldon Town
Route 100
  County—Addison
    Parts:
      Granville Twn.
      Hancock Twn.
  County—Rutland
    Parts:
      Pittsfield Twn.
  County—Windsor
    Parts:
      Rochester Twn.
      Stockbridge Twn.
Upper Connecticut Valley (NH/VT)
  County—Essex
    Parts:
      Averill Town
      Bloomfield Town
      Brunswick Town
      Canaan Town
      Lemington Town

PRIMARY MEDICAL CARE: Vermont
Population Group Listing

Population Group

Med Ind—Bennington
  County—Bennington
    Parts:
      Med Ind Pop

PRIMARY MEDICAL CARE: Virginia
County Listing

County Name

*Accomack
  Service Area: Accomack/Northampton
*Alleghany
  Service Area: Alleghany
*Amelia
*Appomattox
Bedford
  Service Area: Big Island
*Bland
Botetourt
  Service Area: Northern Botetourt
*Brunswick
*Buchanan
  Population Group: Med Ind Pop—Buchanan Co
Buckingham
  Service Area: Tri-County(Buck/Fluv/Cumb)
Campbell/Lynchburg
  Service Area: Altavista/Chatham
*Caroline
*Carroll
  Service Area: Laurel Fork
Charles City
  Service Area: Harrison/Tyler
*Charlotte
Chesapeake
  Service Area: South Norfolk
Clifton Forge City (Indep)
  Service Area: Alleghany
Covington City (Indep)
  Service Area: Alleghany
Cumberland
  Service Area: Tri-County(Buck/Fluv/Cumb)
*Dickenson
Dinwiddie/Petersburg
  Facility: FCI Petersburg
Fluvanna
  Service Area: Tri-County(Buck/Fluv/Cumb)
*Franklin
Goochland
  Service Area: Goochland/Fife
*Grayson/Galax
  Service Area: Fries
  Service Area: Trout Dale/Independence
Halifax
  Service Area: Halifax/South Boston
*Halifax/S. Boston
  Service Area: Halifax/South Boston
Hanover
  Service Area: Beaverdam
*Highland
King George
*Lee
  Service Area: Western Lee
  Population Group: Med Ind—Eastern Lee
*Louisa
  Service Area: Beaverdam
*Lunenburg
Mecklenburg
  Service Area: Chase City
*Nelson
New Kent
*Northampton
  Service Area: Accomack/Northampton
*Northumberland
*Page
Pittsylvania/Danville
  Service Area: Altavista/Chatham
Portsmouth City
  Service Area: Downtown Portsmouth
*Richmond
Richmond City
  Service Area: East End Richmond
  Service Area: Old South Richmond
*Rockbridge/Buena Vista
  Service Area: Big Island
*Russell

PRIMARY MEDICAL CARE: Virginia
County Listing

County Name

*Smyth
  Service Area: Saltville
South Boston City (Indep)
  Service Area: Halifax/South Boston
Spotsylvania/Fredericksbg
  Service Area: Beaverdam
*Surry
*Sussex
Washington/Bristol
  Service Area: Saltville
*Westmoreland

PRIMARY MEDICAL CARE: Virginia
Service Area Listing

Service Area Name

Accomack/Northampton
  County—Northampton
Alleghany
  County—Covington City (Indep)
Altavista/Chatham
  County—Campbell/Lynchburg
    Parts:
      C.T. 204.98
      C.T. 205–209
  County—Pittsylvania/Danville
    Parts:
      C.T. 101–107
Beaverdam
  County—Hanover
    Parts:
      C.T. 3201–3202
  County—Louisa
    Parts:
      C.T. 9501
      C.T. 9505
  County—Spotsylvania/Fredericksbg
    Parts:
      C.T. 204.01
Big Island
  County—Bedford
    Parts:
      Peaks Dist
  County—Rockbridge/Buena Vista
    Parts:
      Natural Bridge Dist
Chase City
  County—Mecklenburg
    Parts:
      Bluestone District
      Boydton District
      Buckhorn District
      Chase City District
      Clarksville District
Downtown Portsmouth
  County—Portsmouth City
    Parts:
      C.T. 2107
      C.T. 2110–2111
      C.T. 2113–2114
      C.T. 2117–2121
East End Richmond
  County—Richmond City
    Parts:
      C.T. 201–212
Fries
  County—Grayson/Galax
    Parts:
      Providence Dist.
Goochland/Fife
  County—Goochland
    Parts:

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PRIMARY MEDICAL CARE: Virginia
Service Area Listing

Service Area Name

C.T. 4002–4005
Halifax/South Boston
County—South Boston City (Indep)
Harrison/Tyler
County—Charles City
Parts:
Harrison Dist.
Tyler Dist.
Laurel Fork
County—Carroll
Parts:
Laurel Fork Dist
Northern Botetourt
County—Botetourt
Parts:
C.T. 401–402
Old South Richmond
County—Richmond City
Parts:
C.T. 601–605
C.T. 607.98
C.T. 608.98
Saltville
County—Smyth
Parts:
North Fork Dist
Saltville Dist
County—Washington/Bristol
Parts:
Jefferson Dist
South Norfolk
County—Chesapeake
Parts:
C.T. 201–204
C.T. 205.01–205.02
C.T. 206–207
Tri-County(Buck/Fluv/Cumb)
County—Buckingham
County—Cumberland
County—Fluvanna
Trout Dale/Independence
County—Grayson/Galax
Parts:
Elk Creek District
Wilson Creek District
Western Lee
County—Lee
Parts:
Rose Hill Dist
White Shoals Dist

PRIMARY MEDICAL CARE: Virginia
Population Group Listing

Population Group

Med Ind—Eastern Lee
County—Lee
Parts:
Jonesville Dist
Rocky Station Dist
Yokum Station Dist
Med Ind Pop—Buchanan Co
County—Buchanan
Parts:
Medically Indigent

PRIMARY MEDICAL CARE: Virginia
Facility Listing

Facility Name

FCI Petersburg
County—Dinwiddie/Petersburg

PRIMARY MEDICAL CARE: Washington
County Listing

County Name

*Adams
Facility: Columbia Basin Health Association
Benton
Population Group: MSFW—Benton/Franklin
*Chelan
Population Group: MFW—Chelan/Douglas
*Clallam
Service Area: Clallam Bay-Neah Bay
Population Group: Lower Elwha Indian Tribe
Clark
Population Group: Pov/Homeless/MFW—Vancouver
*Cowlitz
Population Group: Low Inc—Cowlitz Co
*Douglas
Service Area: Grand Coulee
Population Group: MFW—Chelan/Douglas
*Ferry
Service Area: Republic
Population Group: Am In—Colville Res
Franklin
Population Group: MSFW—Benton/Franklin
Facility: Coyote Ridge Corr Inst
*Garfield
*Grant
Service Area: Grand Coulee
Service Area: Royal City
Population Group: Low Inc/MFW—Central Grant Co
Facility: Quincy Valley Hosp.—C.H. Clinic
*Grays Harbor
Service Area: Copalis Beach
Service Area: Neilton
Service Area: Westport
*Jefferson
Service Area: Clallam Bay-Neah Bay
Service Area: Quilcene Bay
King
Population Group: Pov/Homeless—S King Co
Kitsap
Population Group: Low Inc—Bremerton
*Lewis
Service Area: Morton
Population Group: Low Inc—Sw Lewis Co
*Lincoln
Service Area: Grand Coulee
Service Area: Odessa
*Mason (g)
Facility: Wa Corr/Reception Ctr
*Okanogan
Service Area: Twisp/Winthrop
Population Group: Am In—Colville Res
Population Group: MSFW—C Okanogan Co
*Pacific
Service Area: Long Beach
*Pend Oreille
Service Area: Ione/Metaline Falls
Service Area: Newport/Cusick
Pierce
Service Area: Longbranch
Population Group: Low Inc—Eastside Tacoma
Population Group: Low Inc—Lakewood (Sw Pierce Co)
Facility: McNeil Island Corr. C.
*Skagit
Service Area: Concrete

PRIMARY MEDICAL CARE: Washington
County Listing

County Name

Population Group: MSFW—Skagit Co
*Skamania
Snohomish
Service Area: Darrington
Population Group: Low Inc/MFW—W Snohomish Co
Population Group: MSFW—Snohomish
Population Group: Stillaguamish Ind. Tribe
Facility: Twin Rivers Corr C
Spokane
Service Area: Deer Park
Service Area: Rockford
Population Group: Am In—Spokane
*Stevens
Service Area: Chewelah
Service Area: Deer Park
Service Area: Northport
Thurston
Population Group: Low Inc—Thurston South Div
*Wahkiakum
Population Group: Low Inc—Wahkiakum Co
*Walla Walla
Population Group: Low Inc/MFW—Walla Walla
Facility: Wa State Pen
Whatcom
Population Group: MSFW—Whatcom Co
*Whitman
Service Area: Northeast Whitman
Service Area: Rock Lake/La Crosse
Yakima

PRIMARY MEDICAL CARE: Washington
Service Area Listing

Service Area Name

Chewelah
County—Stevens
Parts:
Chewelah CCD
Columbia CCD
Springdale CCD
Clallam Bay-Neah Bay
County—Clallam
Parts:
Clallam Bay-Neah Bay CCD
Forks CCD
County—Jefferson
Parts:
West End CCD
Concrete
County—Skagit
Parts:
Upper Skagit CCD
Copalis Beach
County—Grays Harbor
Parts:
North Beach Division
Darrington
County—Snohomish
Parts:
Cascade Division
Deer Park
County—Spokane
Parts:
Deer Park CCD
County—Stevens
Parts:
Loon Lake CCD
Grand Coulee

PRIMARY MEDICAL CARE: Washington
Service Area Listing

Service Area Name

County—Douglas
Parts:
Bridgeport CCD
County—Grant
Parts:
Coulee City CCD
Grand Coulee CCD
County—Lincoln
Parts:
Wilbur CCD
Ione/Metaline Falls
County—Pend Oreille
Parts:
Ione/Metaline Falls CCD
Long Beach
County—Pacific
Parts:
Peninsula CCD
Longbranch
County—Pierce
Parts:
Lower Peninsula CCD (C.T.)
Morton
County—Lewis
Parts:
Big Bottom CCD
Mineral CCD
Morton CCD
Mossyrock CCD
Neilton
County—Grays Harbor
Parts:
Humptulips CCD
Lake Quinalt CCD
Newport/Cusick
County—Pend Oreille
Parts:
Newport CCD
Northeast Whitman
County—Whitman
Parts:
Rosalia CCD
Steptoe CCD
Tekoa CCD
Northport
County—Stevens
Parts:
Kettle Falls CCD
Odessa
County—Lincoln
Parts:
Odessa CCD
Quilcene Bay
County—Jefferson
Parts:
Quilcene Bay CCD
Republic
County—Ferry
Parts:
Curlew CCD
Orient Sherman CCD
Republic CCD
Rock Lake/La Crosse
County—Whitman
Parts:
La Crosse CCD
Rock Lake CCD
Rockford
County—Spokane
Parts:
Rockford CCD
Royal City
County—Grant
Parts:
Southern Slopes Division
Twisp/Winthrop
County—Okanogan
Parts:
Early Winters Division
Methow Valley Division
Westport
County—Grays Harbor
Parts:
South Shore Div.

PRIMARY MEDICAL CARE: Washington
Population Group Listing

Population Group

Am In—Colville Res
County—Ferry
Parts:
Colville Res CCD
County—Okanogan
Parts:
Colville Res CCD
Am In—Spokane
County—Spokane
Parts:
American Indian
Low Inc—Bremerton
County—Kitsap
Parts:
C.T. 805–806
C.T. 810–813
Low Inc—Cowlitz Co
County—Cowlitz
Parts:
Low Income
Low Inc—Eastside Tacoma
County—Pierce
Parts:
C.T. 618–627
C.T. 628.01–628.02
C.T. 629–635
Low Inc—Lakewood (Sw Pierce Co)
County—Pierce
Parts:
C.T. 714.03–714.05
C.T. 715.01
C.T. 715.03–715.04
C.T. 717.01–717.02
C.T. 718.02–718.04
C.T. 719.01–719.02
C.T. 720
C.T. 721.05–721.08
C.T. 723.06
C.T. 723.08
Low Inc—Sw Lewis Co
County—Lewis
Parts:
Boistfort CCD
Ethel CCD
Olequa CCD
Low Inc—Thurston South Div
County—Thurston
Parts:
Low Income
Low Inc—Wahkiakum Co
County—Wahkiakum
Parts:
Low Income
Low Inc/MFW—Central Grant Co
County—Grant
Parts:
Ephrata—Soap Lake CCD
George CCD
Gloyd CCD
Moses Lake CCD
Quincy CCD
Warden CCD
Wilson Creek CCD
Low Inc/MFW—W Snohomish Co
County—Snohomish
Parts:
Arlington CCD
Edmunds CCD
Everett CCD
Granite Falls CCD
Lake Stevens CCD
Maltby CCD
Marysville CCD
Monroe CCD
MFW
Skykomish CCD
Snohomish CCD
Stanwood CCD
Tulalip CCD
Low Inc/MFW—Walla Walla
County—Walla Walla
Parts:
Low Income
MFW
Lower Elwha Indian Tribe
County—Clallam
Parts:
Agnew-Carlsborg CCD
Crescent CCD
Forks CCD
Port Angeles CCD
Sequim CCD
MFW—Chelan/Douglas
County—Chelan
Parts:
MFW
County—Douglas
Parts:
MFW
MSFW—Benton/Franklin
County—Benton
Parts:
MSFW
County—Franklin
Parts:
MSFW
MSFW—C Okanogan Co
County—Okanogan
Parts:
MSFW
MSFW—Skagit Co
County—Skagit
Parts:
Anacortes CCD
Bayview CCD
Bow CCD
Burlington CCD
Cavanaugh CCD
Clear Lake CCD
Conway CCD
La Conner CCD
Lyman-Hamilton CCD
Mount Vernon CCD
Samish CCD
Sedro-Woolley CCD
MSFW—Snohomish
County—Snohomish

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PRIMARY MEDICAL CARE: Washington
Population Group Listing

Population Group

Parts:
Arlington CCD
Granite Falls CCD
Lake Stevens CCD
Maltby CCD
Marysville CCD
Monroe CCD
Skykomish CCD
Snohomish CCD
Stanwood CCD
MSFW—Whatcom Co
County—Whatcom
Parts:
MSFW
Pov/Homeless—S King Co
County—King
Parts:
C.T. 252–254
C.T. 259
C.T. 291
C.T. 292.01–292.02
C.T. 295.01–295.02
C.T. 296–297
C.T. 298.01
C.T. 305.01–305.02
C.T. 306–308
Pov/Homeless/MFW—Vancouver
County—Clark
Parts:
Battle Ground CCD
Camas CCD
La Center CCD
Orchards CCD
Ridgefield CCD
Vancouver CCD
Stillaguamish Ind. Tribe
County—Snohomish
Parts:
C.T. 531–532
C.T. 534

PRIMARY MEDICAL CARE: Washington
Facility Listing

Facility Name

Columbia Basin Health Association
County—Adams
Coyote Ridge Corr Inst
County—Franklin
McNeil Island Corr. C.
County—Pierce
Quincy Valley Hosp.—C.H. Clinic
County—Grant
Twin Rivers Corr C
County—Snohomish
Wa Corr/Reception Ctr
County—Mason
Wa State Pen
County—Walla Walla

PRIMARY MEDICAL CARE: West Virginia
County Listing

County Name

*Barbour
Berkeley
Population Group: Pov/MSFW—Shenandoah
*Boone
*Braxton
Cabell
Service Area: Guyandotte
*Calhoun
*Clay
Doddridge
Service Area: Doddridge/Salem
*Fayette
Service Area: New Haven
*Gilmer
*Grant
Service Area: Mt Storm
*Greenbrier
Service Area: Greenbrier
Service Area: Rainelle
*Hampshire
Hancock
Service Area: East Liverpool (OH/PA/WV)
*Hardy
Service Area: Baker
*Harrison
Service Area: Doddridge/Salem
*Jackson
Jefferson
Population Group: Pov/MSFW—Shenandoah
Kanawha
Service Area: Cabin Creek
Service Area: Clendenin
Service Area: Pocatalico
*Lewis
*Lincoln
Marshall
Service Area: Cameron
Facility: West Virginia Pen.
*McDowell
*Mercer
Service Area: Matoaka
*Mingo
Service Area: Gilbert
Service Area: Kermit
Service Area: Matewan
*Monongalia
Service Area: Clay/Battelle (WV/PA)
Facility: FCI—Morgantown
*Monroe
Population Group: Inmates—FPC Alderson
*Morgan
Service Area: Hancock (MD/PA/WV)
Service Area: Paw Paw
*Nicholas
Service Area: Rainelle
Service Area: Richwood
*Pendleton
*Pocahontas
Service Area: Marlington
*Preston
Service Area: Bruceton Mills
Service Area: Rowlesburg/Eglon
*Raleigh
Service Area: Northwest Raleigh
*Randolph
Service Area: Huttonsville
Facility: Huttonsville Corr Ctr
*Ritchie
*Roane
*Taylor
*Tucker
*Upshur
Service Area: Rock Cave
Wayne
Service Area: Wayne/Fort Gay
*Webster
*Wetzel
Service Area: Clay/Battelle (WV/PA)

PRIMARY MEDICAL CARE: West Virginia
County Listing

County Name

*Wirt
*Wyoming

PRIMARY MEDICAL CARE: West Virginia
Service Area Listing

Service Area Name

Baker
County—Hardy
Parts:
Capon Dist.
Lost River Dist.
Bruceton Mills
County—Preston
Parts:
Grant Dist.
Cabin Creek
County—Kanawha
Parts:
C.T. 121–122
Cameron
County—Marshall
Parts:
C.T. 208
Clay/Battelle (WV/PA)
County—Monongalia
Parts:
C.T. 114
County—Wetzel
Parts:
C.T. 304
Clendenin
County—Kanawha
Parts:
C.T. 112
Doddridge/Salem
County—Harrison
Parts:
C.T. 316
East Liverpool (OH/PA/WV)
County—Hancock
Parts:
Grant Dist
Gilbert
County—Mingo
Parts:
Stafford Dist.
Greenbrier
County—Greenbrier
Parts:
Anthony Creek Dist
Falling Spring Dist
Frankford Dist
Williamsburg Dist
Guyandotte
County—Cabell
Parts:
C.T. 2
Hancock (MD/PA/WV)
County—Morgan
Parts:
B.N.A. 9707
B.N.A. 9708
Huttonsville
County—Randolph
Parts:
Huttonsville Dist
Middle Fork Dist
Mingo Dist
Valley Bend Dist
Kermit
County—Mingo

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PRIMARY MEDICAL CARE: West Virginia
Service Area Listing

Service Area Name

Parts:
Harvey District
Kermit District
Marlington
County—Pocahontas
Parts:
Edray Dist.
Huntersville Dist.
Marlington Twn.
Matewan
County—Mingo
Parts:
Magnolia Dist.
Matoaka
County—Mercer
Parts:
C.T. 9509
C.T. 9516
Mt Storm
County—Grant
Parts:
Union Dist.
New Haven
County—Fayette
Parts:
C.T. 210–211
Northwest Raleigh
County—Raleigh
Parts:
C.T. 111–112
Paw Paw
County—Morgan
Parts:
C.T. 9709–9710
Pocatalico
County—Kanawha
Parts:
C.T. 108.01–108.02
Rainelle
County—Greenbrier
Parts:
Meadow Bluff Dist.
County—Nicholas
Richwood
County—Nicholas
Parts:
Beaver Dist.
Kentucky Dist.
Wilderness Dist.
Rock Cave
County—Upshur
Parts:
Banks Dist.
Meade Dist.
Rowlesburg/Eglon
County—Preston
Parts:
Reno Dist.
Union Dist.
Wayne/Fort Gay
County—Wayne
Parts:
Butler Dist.
Stonewall Dist.
Union Dist.

PRIMARY MEDICAL CARE: West Virginia
Population Group Listing

Population Group

Inmates—FPC Alderson
County—Monroe

PRIMARY MEDICAL CARE: West Virginia
Population Group Listing

Population Group

Parts:
FPC Alderson
Pov/MSFW—Shenandoah
County—Berkeley
Parts:
MSFW
Pov. Pop.
County—Jefferson
Parts:
Pov Pop

PRIMARY MEDICAL CARE: West Virginia
Facility Listing

Facility Name

FCI—Morgantown
County—Monongalia
Huttonsville Corr Ctr
County—Randolph
West Virginia Pen.
County—Marshall

PRIMARY MEDICAL CARE: Wisconsin
County Listing

County Name

*Adams (g)
Facility: FCI Oxford
*Barron
Service Area: Chetek/Colfax
*Bayfield
Service Area: Hayward/Radisson
Service Area: Washburn/Bayfield
Brown
Service Area: Pulaski
Facility: Green Bay Maximum Security Inst
*Buffalo
Service Area: Arcadia
Service Area: Durand
Service Area: Mondovi
*Burnett
Calumet
*Clark
*Columbia (g)
Facility: Columbia Maximum Security Inst
*Crawford
Service Area: Boscobel
*Dodge
Facility: Dodge Corr Inst
Facility: Fox Lake Medium Security Inst
Facility: Waupun Maximum Security Inst
*Door
Service Area: Sister Bay/Washington Island
Service Area: Sturgeon Bay
Douglas
Service Area: Minong/Solon Springs
*Dunn
Service Area: Chetek/Colfax
Service Area: Durand
Eau Claire
Service Area: Osseo
*Florence
*Fond Du Lac
Facility: Kettle Moraine Medium Security Inst
*Forest
*Grant
Service Area: Boscobel
Service Area: Lancaster/Fennimore
Service Area: Platteville/Cuba City
*Green Lake

PRIMARY MEDICAL CARE: Wisconsin
County Listing

County Name

Service Area: Markesan/Kingston
*Iowa
Service Area: Dodgeville/Mineral Point
Service Area: Platteville/Cuba City
*Iron
Service Area: Ironwood/Hurley (MI/WI)
*Jackson
Service Area: Osseo
*Juneau
Service Area: Hillsboro
Kenosha
Service Area: Kenosha
*Kewaunee
Service Area: Kewaunee City/Algoma
La Crosse
Service Area: Coon Valley/Chaseburg
*Lafayette
Service Area: Darlington/Shullsburg
Service Area: Platteville/Cuba City
*Langlade
Service Area: Elcho
Service Area: Mountain/White Lake
*Lincoln
Service Area: Tomahawk
Marathon
Service Area: Athens/Edgar
Service Area: Tigerton/Birnamwood
Population Group: Low Inc—City Of Wausau
*Marinette
Service Area: E. Marinette/S. Menominee(MI/WI)
Service Area: W. Marinette
*Marquette
Service Area: Montello
*Menominee
Milwaukee
Service Area: Capitol Drive (Milwaukee)
Service Area: Inner City West
Service Area: Inner City South
Service Area: Inner City North (Milwaukee)
Service Area: Juneautown
*Monroe
Service Area: Hillsboro
Service Area: Sparta
*Oconto
Service Area: Mountain/White Lake
Service Area: Oconto/Oconto Falls
Service Area: Pulaski
*Oneida
Service Area: Elcho
Service Area: Tomahawk
Outagamie
Service Area: Clintonville/Marion
*Pepin
Service Area: Durand
Service Area: Mondovi
Pierce
Service Area: Durand
*Polk
Service Area: Frederic/Luck
*Price
Racine
Facility: Racine Medium Security Inst
*Richland
Service Area: Hillsboro
Service Area: Spring Green/Plain
Rock
Service Area: Central Beloit
*Sauk
Service Area: Hillsboro
Service Area: Spring Green/Plain

PRIMARY MEDICAL CARE: Wisconsin
County Listing

County Name

*Sawyer
Service Area: Hayward/Radisson
*Shawano
Service Area: Clintonville/Marion
Service Area: Oconto/Oconto Falls
Service Area: Pulaski
Service Area: Tigerton/Birnamwood
St Croix
Service Area: Baldwin
*Taylor
*Trempealeau
Service Area: Arcadia
Service Area: Galesville/Trempealeau
Service Area: Osseo
*Vernon
Service Area: Coon Valley/Chaseburg
Service Area: Genoa
Service Area: Hillsboro
*Vilas
Service Area: Land O'Lakes/Presque Isle
*Washburn
Service Area: Hayward/Radisson
Service Area: Minong/Solon Springs
Service Area: Spooner/Shell Lake
*Waupaca
Service Area: Clintonville/Marion
Service Area: Tigerton/Birnamwood
*Waushara
Service Area: Wautoma/Plainfield/Wild Rose
Winnebago
Facility: Oshkosh Medium Security Inst

PRIMARY MEDICAL CARE: Wisconsin
Service Area Listing

Service Area Name

Arcadia
County—Buffalo
Parts:
Buffalo Twn.
Cross Twn.
Fountain City
Glencoe Twn.
Milton Twn.
Montana Twn.
Waumandee Twn.
County—Trempealeau
Parts:
Arcadia City
Arcadia Twn.
Dodge Twn.
Athens/Edgar
County—Marathon
Parts:
Athens Vil.
Bern Twn.
Edgar Vil.
Fenwood Vil.
Frankfort Twn.
Halsey Twn.
Johnson Twn.
Rietbrock Town
Wien Town
Baldwin
County—St Croix
Parts:
Baldwin Twn.
Baldwin Vil.
Cady Twn.
Eau Galle Twn.
Emerald Twn.

PRIMARY MEDICAL CARE: Wisconsin
Service Area Listing

Service Area Name

Glenwood City
Glenwood Twn.
Hammond Twn.
Hammond Vil.
Pleasant Valley Twn.
Rush River Twn.
Springfield Twn.
Wilson Vil.
Woodville Vil.
Boscobel
County—Crawford
Parts:
Haney Twn.
Marietta Twn.
Scott Twn.
Steuben Vil.
Wauzeka Twn.
Wauzeka Vil.
County—Grant
Parts:
Bagley Vil.
Blue River Vil.
Boscobel City
Boscobel Twn.
Castle Rock Twn.
Hickory Grove Twn.
Marion Twn.
Millville Twn.
Mount Hope Twn.
Mount Ida Twn.
Muscoda Twn.
Muscoda Vil.
Patch Grove Twn.
Patch Grove Vil.
Watterstown Twn.
Woodman Twn.
Woodman Vil.
Wyalusing Twn.
Capitol Drive (Milwaukee)
County—Milwaukee
Parts:
C.T. 23–28
C.T. 36
C.T. 38–49
C.T. 60–61
C.T. 63–65
Central Beloit
County—Rock
Parts:
C.T. 15–19
Chetek/Colfax
County—Barron
Parts:
Arland Town
Chetek Town
Chetek City
Dallas Town
Dallas Vil
Dovre Town
Maple Grove Town
Prairie Farm Town
Prairie Lake Town
Prairie Farm Vil
Sioux Creek Town
Sumner Town
Turtle Lake Town
Turtle Lake Vil
Vance Creek Town
County—Dunn
Parts:
Boyceville Vil
Colfax Town

PRIMARY MEDICAL CARE: Wisconsin
Service Area Listing

Service Area Name

Colfax Vil
Downing Vil
Grant Town
Hay River Town
Knapp Vil
New Haven Town
Otter Creek Town
Ridgeland Vil
Sand Creek Town
Sheridan Town
Sherman Town
Stanton Town
Tainter Town
Tiffany Town
Wheeler Vil
Wilson Town
Clintonville/Marion
County—Outagamie
Parts:
Bear Creek Vil
Deer Creek Town
Maine Town
County—Shawano
Parts:
Grant Town
Pella Town
County—Waupaca
Parts:
Bear Creek Town
Clintonville City
Dupont Town
Embarrass Vil
Larrabee Town
Marion City
Matteson Town
Union Town
Coon Valley/Chaseburg
County—La Crosse
Parts:
Washington Town
County—Vernon
Parts:
Chaseburg Vil
Coon Town
Coon Valley Vil
Hamburg Town
Darlington/Shullsburg
County—Lafayette
Parts:
Argyle Town
Argyle Vil
Blanchard Town
Blanchardville Vil
Darlington City
Darlington Town
Fayette Town
Gratiot Town
Gratiot Vil
Kendall Town
Lamont Town
Monticello Town
Seymour Town
Shullsburg City
Shullsburg Town
South Wayne Vil
Wayne Town
White Oak Springs Town
Willow Springs Town
Wiota Town
Dodgeville/Mineral Point
County—Iowa
Parts:

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PRIMARY MEDICAL CARE: Wisconsin
Service Area Listing

Service Area Name

Arena Twn.
Arena Vil.
Avoca Vil.
Barneveld Vil.
Blanchardville Vil.
Brigham Twn.
Clyde Twn.
Cobb Vil.
Dodgeville Twn.
Dodgeville City
Eden Twn.
Highland Twn.
Highland Vil.
Hollandale Vil.
Linden Twn.
Linden Vil.
Livingston Vil.
Mineral Point Twn.
Mineral Point City
Montfort Vil.
Moscow Twn.
Muscoda Vil.
Pulaski Twn.
Ridgeway Twn.
Ridgeway Vil.
Waldwick Twn.
Wyoming Twn.

Durand
County—Buffalo
Parts:
Maxville Town
Nelson Town
County—Dunn
Parts:
Dunn Town
Eau Galle Town
Peru Town
Rock Creek Town
Spring Brook Town
Weston Town
County—Pepin
Parts:
Durand Town
Durand City
Frankfort Town
Lima Town
Pepin Town
Pepin Vil
Stockholm Town
Stockholm Vil
Waterville Town
Waubeck Town
County—Pierce
Parts:
El Paso Town
Elmwood Vil
Gilman Town
Maiden Rock Town
Maiden Rock Vil
Plum City Vil
Prescott City
Rock Elm Town
Salem Town
Spring Valley Vil
Spring Lake Town
Union Town

E. Marinette/S. Menominee(MI/WI)
County—Marinette
Parts:
Grover Twn.
Marinette City
Peshtigo Twn.
Peshtigo City
Porterfield Twn.
Wagner Twn.

Elcho
County—Langlade
Parts:
Ainsworth Twn.
Elcho Twn.
Parrish Twn.
Summit Twn.
Upham Twn.
County—Oneida
Parts:
Enterprise Twn.
Schoepke Twn.

Frederic/Luck
County—Polk
Parts:
Bone Lake Town
Clam Falls Town
Frederic Vil
Georgetown Town
Laketown Town
Lorain Town
Luck Town
Luck Vil
McKinley Town
West Sweden Town

Galesville/Trempealeau
County—Trempealeau
Parts:
Caledonia Town
Ettrick Vil
Ettrick Town
Gale Town
Galesville City
Trempealeau Town
Trempealeau Vil

Genoa
County—Vernon
Parts:
Bergen Twn.
De Soto Vil.
Genoa Twn.
Genoa Vil.
Harmony Twn.
Sterling Twn.
Wheatland Twn.

Hayward/Radisson
County—Bayfield
Parts:
Barnes Town
Cable Town
Drummond Town
Grand View Town
Namakagon Town
County—Sawyer
Parts:
Bass Lake Town
Couderay Town
Couderay Vil
Edgewater Town
Exeland Vil
Hayward City
Hayward Town
Hunter Town
Lenroot Town
Meadowbrook Town
Meteor Town
Ojibwa Town
Radisson Town
Radisson Vil
Round Lake Town
Sand Lake Town
Spider Lake Town
Weirgor Town
Winter Town
Winter Vil
County—Washburn
Parts:
Bass Lake Town
Stinnett Town
Stone Lake Town

Hillsboro
County—Juneau
Parts:
Union Center Village
Wonewoc Town
Wonewoc Village
County—Monroe
Parts:
Glendale Town
Kendall Village
Sheldon Town
Wellington Town
County—Richland
Parts:
Bloom Town
Cazenovia Village
Henrietta Town
Westford Town
Yuba Village
County—Sauk
Parts:
Woodland Town
County—Vernon
Parts:
Forest Town
Greenwood Town
Hillsboro City
Hillsboro Town
Ontario Village
Union Town
Whitestown Town

Inner City North (Milwaukee)
County—Milwaukee
Parts:
C.T. 44
C.T. 66–72
C.T. 79–86
C.T. 101–107
C.T. 114–118
C.T. 139–142
C.T. 145–147
C.T. 151

Inner City South
County—Milwaukee
Parts:
C.T. 155–159
C.T. 162–169
C.T. 174–177
C.T. 178.98
C.T. 179
C.T. 180.97–180.98

Inner City West
County—Milwaukee
Parts:
C.T. 62
C.T. 87–90
C.T. 96–100
C.T. 119–123
C.T. 133–138
C.T. 148–149

Ironwood/Hurley (MI/WI)

PRIMARY MEDICAL CARE: Wisconsin
Service Area Listing

Service Area Name

County—Iron
Parts:
Anderson Town
Carey Town
Gurney Town
Hurley City
Kimball Town
Knight Town
Mercer Town
Montreal City
Oma Town
Pence Town
Saxon Town
Juneautown
County—Milwaukee
Parts:
C.T. 108
C.T. 110–113
Kenosha
County—Kenosha
Parts:
C.T. 7–12
C.T. 16
Kewaunee City/Algoma
County—Kewaunee
Parts:
Ahnapee Twn.
Algoma City
Carlton Twn.
Casco Twn.
Casco Vil.
Kewaunee City City
Lincoln Twn.
Pierce Twn.
W. Kewaunee Twn.
Lancaster/Fennimore
County—Grant
Parts:
Beetown Twn.
Bloomington Twn.
Bloomington Vil.
Cassville Twn.
Cassville Vil.
Fennimore City
Fennimore Twn.
Glen Haven Twn.
Lancaster City
Liberty Twn.
Little Grant Twn.
Montfort Vil
North Lancaster Twn.
Potosi Twn.
Potosi Vil.
South Lancaster Twn.
Waterloo Twn.
Wingville Twn.
Land O'Lakes/Presque Isle
County—Vilas
Parts:
Land O'Lakes Town
Presque Isle Town
Winchester Town
Markesan/Kingston
County—Green Lake
Parts:
Kingston Vil
Kingston Town
Mackford Town
Manchester Town
Markesan City
Marquette City
Marquette Town

PRIMARY MEDICAL CARE: Wisconsin
Service Area Listing

Service Area Name

Minong/Solon Springs
County—Douglas
Parts:
Bennett Twn.
Dairyland Twn.
Gordon Twn.
Highland Twn.
Oakland Twn.
Solon Springs Twn.
Solon Springs Vil.
Wascott Twn.
County—Washburn
Parts:
Brooklyn Twn.
Chicog Twn.
Frog Creek Twn.
Gull Lake Twn.
Minong Twn.
Minong Vil.
Mondovi
County—Buffalo
Parts:
Alma City
Alma Town
Belvidere Town
Buffalo City
Canton Town
Cochrane Vil
Dover Town
Gilmanton Town
Lincoln Town
Modena Town
Mondovi City
Mondovi Town
Naples Town
County—Pepin
Parts:
Albany Town
Montello
County—Marquette
Parts:
Crystal Lake Town
Harris Town
Mecan Town
Montello City
Montello Town
Neshkoro Town
Neshkoro Vil
Newton Town
Oxford Town
Oxford Vil
Packwaukee Town
Shields Town
Springfield Town
Westfield Town
Westfield Vil
Mountain/White Lake
County—Langlade
Parts:
Evergreen Town
Langlade Town
White Lake Vil
Wolf River Town
County—Oconto
Parts:
Armstrong Town
Bagley Town
Brazeau Town
Breed Town
Doty Town
Lakewood Town
Riverview Town

PRIMARY MEDICAL CARE: Wisconsin
Service Area Listing

Service Area Name

Townsend Town
Oconto/Oconto Falls
County—Oconto
Parts:
Abrams Twn.
Gillett City
Gillett Twn.
How Twn.
Lena Twn.
Lena Vil.
Little River Twn.
Maple Valley Twn.
Morgan Twn.
Oconto Falls Twn.
Oconto Falls City
Oconto Twn.
Oconto City
Pensaukee Twn.
Spruce Twn.
Stiles Twn.
Suring Vil.
Underhill Twn.
County—Shawano
Parts:
Green Valley Twn.
Osseo
County—Eau Claire
Parts:
Augusta City
Bridge Creek Twn.
Clear Creek Twn.
Fairchild Twn.
Fairchild Vil.
Otter Creek Twn.
County—Jackson
Parts:
Cleveland Twn.
Garfield Twn.
Northfield Twn.
County—Trempealeau
Parts:
Hale Twn.
Osseo City
Strum Vil.
Sumner Twn.
Unity Twn.
Platteville/Cuba City
County—Grant
Parts:
Clifton Town
Cuba City City
Dickeyville Vil
Ellenboro Town
Harrison Town
Hazel Green Town
Hazel Green Vil
Lima Town
Livingston Vil
Paris Town
Platteville City
Platteville Town
Smelser Town
County—Iowa
Parts:
Mifflin Town
Rewey Vil
County—Lafayette
Parts:
Belmont Town
Belmont Vil
Benton Town
Benton Vil

PRIMARY MEDICAL CARE: Wisconsin
Service Area Listing

Service Area Name

Elk Grove Town
New Diggings Town
Pulaski
County—Brown
Parts:
Pittsfield Town
Pulaski Vil
County—Oconto
Parts:
Chase Town
County—Shawano
Parts:
Angelica Town
Maple Grove Town
Sister Bay/Washington Island
County—Door
Parts:
Baileys Harbor Town
Ephraim Vil
Gibraltar Town
Liberty Grove Town
Sister Bay Vil
Washington Town
Sparta
County—Monroe
Parts:
Angelo Town
Cashton Vil
Jefferson Town
Lafayette Town
Leon Town
Little Falls Town
Melvina Vil
New Lyme Town
Norwalk Vil
Portland Town
Ridgeville Town
Sparta City
Sparta Town
Wells Town
Spooner/Shell Lake
County—Washburn
Parts:
Barronett Twn.
Bashaw Twn.
Beaver Brook Twn.
Birchwood Twn.
Birchwood Vil.
Casey Twn.
Crystal Twn.
Evergreen Twn.
Long Lake Twn.
Madge Twn.
Sarona Twn.
Shell Lake City
Spooner Twn.
Spooner City
Springbrook Twn.
Trego Twn.
Spring Green/Plain
County—Richland
Parts:
Buena Vista Twn.
Lone Rock Vil.
County—Sauk
Parts:
Bear Creek Twn.
Franklin Twn.
Honey Creek Twn.
Plain Vil.
Spring Green Vil.
Spring Green Twn.

PRIMARY MEDICAL CARE: Wisconsin
Service Area Listing

Service Area Name

Troy Twn.
Sturgeon Bay
County—Door
Parts:
Brussels Town
Claybanks Town
Egg Harbor Town
Egg Harbor Vil
Forestville Town
Forestville Vil
Gardner Town
Jacksonport Town
Nasewaupee Town
Sevastopol Town
Sturgeon Bay City
Sturgeon Bay Town
Union Town
Tigerton/Birnamwood
County—Marathon
Parts:
Elderon Town
Elderon Vil
Franzen Town
Hatley Vil
Norrie Town
Plover Town
County—Shawano
Parts:
Almon Town
Aniwa Town
Aniwa Vil
Birnamwood Town
Birnamwood Vil
Bowler Vil
Eland Vil
Fairbanks Town
Germania Town
Hutchins Town
Mattoon Vil
Morris Town
Tigerton Vil
Wittenberg Town
Wittenberg Vil
County—Waupaca
Parts:
Big Falls Vil
Harrison Town
Wyoming Town
Tomahawk
County—Lincoln
Parts:
Bradley Town
Harrison Town
King Town
Skanawan Town
Somo Town
Tomahawk City
Tomahawk Town
Wilson Town
County—Oneida
Parts:
Little Rice Town
Lynne Town
Nokomis Town
W. Marinette
County—Marinette
Parts:
Amberg Town
Athelstane Town
Beaver Town
Coleman Vil
Crivitz Vil

PRIMARY MEDICAL CARE: Wisconsin
Service Area Listing

Service Area Name

Dunbar Town
Goodman Town
Lake Town
Middle Inlet Town
Pound Town
Pound Vil
Silver Cliff Town
Stephenson Town
Wausaukee Town
Wausaukee Vil
Washburn/Bayfield
County—Bayfield
Parts:
Barksdale Town
Bayfield Town
Bayfield City
Bayview Town
Bell Town
Clover Town
Delta Town
Eileen Town
Hughes Town
Iron River Town
Kelly Town
Keystone Town
Lincoln Town
Mason Town
Mason Vil
Orienta Town
Oulu Town
Pilsen Town
Port Wing Town
Russell Town
Tripp Town
Washburn City
Washburn Town
Wautoma/Plainfield/Wild Rose
County—Waushara
Parts:
Coloma Town
Coloma Vil
Dakota Town
Deerfield Town
Hancock Town
Hancock Vil
Marion Town
Mount Morris Town
Oasis Town
Plainfield Town
Plainfield Vil
Richford Town
Rose Town
Springwater Town
Wautoma City
Wautoma Town
Wild Rose Vil

PRIMARY MEDICAL CARE: Wisconsin
Population Group Listing

Population Group

Low Inc—City Of Wausau
County—Marathon
Parts:
C.T. 1–2
C.T. 4–5
C.T. 6.01–6.02
C.T. 7

PRIMARY MEDICAL CARE: Wisconsin
Facility Listing

Facility Name
Columbia Maximum Security Inst
  County—Columbia
Dodge Corr Inst
  County—Dodge
Fox Lake Medium Security Inst
  County—Dodge
FCI Oxford
  County—Adams
Green Bay Maximum Security Inst
  County—Brown
Kettle Moraine Medium Security Inst
  County—Fond Du Lac
Oshkosh Medium Security Inst
  County—Winnebago
Racine Medium Security Inst
  County—Racine
Waupun Maximum Security Inst
  County—Dodge

PRIMARY MEDICAL CARE: Wyoming
County Listing

County Name
*Albany
  Service Area: Rock River
*Big Horn
  Service Area: Greybull/Basin
  Service Area: Lovell
*Carbon
*Converse
*Crook
*Johnson
  Service Area: Kaycee
Laramie
  Service Area: Pine Bluffs
*Lincoln
  Service Area: Kemmerer/Cokeville
Natrona
  Service Area: Midwest/Edgerton
*Niobrara
*Park
  Service Area: Gardiner/Yellowstone (MT/WY)
  Service Area: Meeteetse
*Platte
  Service Area: Chugwater
  Service Area: Glendo
  Service Area: Guernsey
*Sublette
*Sweetwater
*Teton
  Service Area: Gardiner/Yellowstone (MT/WY)
*Uinta
  Service Area: Lyman
*Washakie
*Weston

PRIMARY MEDICAL CARE: Wyoming
Service Area Listing

Service Area Name
Chugwater
  County—Platte
    Parts:
      Chugwater Division
Gardiner/Yellowstone (MT/WY)
  County—Park
    Parts:
      Yellowstone National Park Divisi
  County—Teton
    Parts:

PRIMARY MEDICAL CARE: Wyoming
Service Area Listing

Service Area Name
Yellowstone National Park Divisi
Glendo
  County—Platte
    Parts:
      Glendo Division
Greybull/Basin
  County—Big Horn
    Parts:
      Big Horn Central CCD
      Big Horn South CCD
Guernsey
  County—Platte
    Parts:
      Guernsey Division
Kaycee
  County—Johnson
    Parts:
      Kaycee CCD
Kemmerer/Cokeville
  County—Lincoln
    Parts:
      Kemmerer East CCD
      Kemmerer West CCD
Lovell
  County—Big Horn
    Parts:
      Big Horn North CCD
Lyman
  County—Uinta
    Parts:
      Bridger Valley CCD
Meeteetse
  County—Park
    Parts;
      Meeteetse CCD
Midwest/Edgerton
  County—Natrona
    Parts:
      Casper North CCD
Pine Bluffs
  County—Laramie
    Parts:
      Pine Bluffs CCD
Rock River
  County—Albany
    Parts:
      Rock River Division

PRIMARY MEDICAL CARE: American Samoa
County Listing

County Name
Eastern District
  Service Area: Terr. Of American Samoa
Manu'A District
  Service Area: Terr. Of American Samoa
Rose Island
  Service Area: Terr. Of American Samoa
Swains Island
  Service Area: Terr. Of American Samoa
Western District
  Service Area: Terr. Of American Samoa

PRIMARY MEDICAL CARE: American Samoa
Service Area Listing

Service Area Name
Terr. Of American Samoa
  County—Eastern District
  County—Manu'A District

PRIMARY MEDICAL CARE: American Samoa
Service Area Listing

Service Area Name
  County—Rose Island
  County—Swains Island
  County—Western District

PRIMARY MEDICAL CARE: Fed Ste Micronesia
County Listing

County Name
*Chuuk State
*Kosrae State
*Pohnpei State
*Yap State

PRIMARY MEDICAL CARE: Guam
County Listing

County Name
*Guam

PRIMARY MEDICAL CARE: Marshall Islands
County Listing

County Name
Ailinginae
  Service Area: Marshall Islands
Ailinglaplap
  Service Area: Marshall Islands
Ailuk
  Service Area: Marshall Islands
Arno
  Service Area: Marshall Islands
Aur
  Service Area: Marshall Islands
Bikar
  Service Area: Marshall Islands
Bikini
  Service Area: Marshall Islands
Bokak
  Service Area: Marshall Islands
Ebon
  Service Area: Marshall Islands
Enewetak
  Service Area: Marshall Islands
Erikub
  Service Area: Marshall Islands
Jabat
  Service Area: Marshall Islands
Jaluit
  Service Area: Marshall Islands
Jemo Island
  Service Area: Marshall Islands
Kili
  Service Area: Marshall Islands
Kwajalein
  Service Area: Marshall Islands
Lae
  Service Area: Marshall Islands
Lib
  Service Area: Marshall Islands
Likiep
  Service Area: Marshall Islands
Majuro
  Service Area: Marshall Islands
Maloelap
  Service Area: Marshall Islands
Mejit
  Service Area: Marshall Islands
Mili
  Service Area: Marshall Islands

PRIMARY MEDICAL CARE: Marshall Islands
County Listing

County Name

Namorik
Service Area: Marshall Islands
Namu
Service Area: Marshall Islands
Rongelap
Service Area: Marshall Islands
Rongrik
Service Area: Marshall Islands
Taka
Service Area: Marshall Islands
Ujae
Service Area: Marshall Islands
Ujelang
Service Area: Marshall Islands
Utrik
Service Area: Marshall Islands
Wotho
Service Area: Marshall Islands
Wotje
Service Area: Marshall Islands

PRIMARY MEDICAL CARE: Marshall Islands
Service Area Listing

Service Area Name

Marshall Islands
County—Ailinginae
County—Ailinglaplap
County—Ailuk
County—Arno
County—Aur
County—Bikar
County—Bikini
County—Bokak
County—Ebon
County—Enewetak
County—Erikub
County—Jabat
County—Jaluit
County—Jemo Island
County—Kili
County—Kwajalein
County—Lae
County—Lib
County—Likiep
County—Majuro
County—Maloelap
County—Mejit
County—Mili
County—Namorik
County—Namu
County—Rongelap
County—Rongrik
County—Taka
County—Ujae
County—Ujelang
County—Utrik
County—Wotho
County—Wotje

PRIMARY MEDICAL CARE: N. Mariana Islands
County Listing

County Name

Northern Islands
Service Area: Northern Mariana
Rota
Service Area: Northern Mariana
Saipan

PRIMARY MEDICAL CARE: N. Mariana Islands
County Listing

County Name

Service Area: Northern Mariana
Tinian
Service Area: Northern Mariana

PRIMARY MEDICAL CARE: N. Mariana Islands
Service Area Listing

Service Area Name

Northern Mariana
County—Northern Islands
County—Rota
County—Saipan
County—Tinian

PRIMARY MEDICAL CARE: Republic of Palau
County Listing

County Name

*Republic Of Palau

PRIMARY MEDICAL CARE: Puerto Rico
County Listing

County Name

*Adjuntas
Population Group: Pov Pop—Adjuntas
Aguada
Population Group: Pov Pop—Subregion 4A
Aguadilla
Population Group: Pov Pop—Subregion 4A
*Aguas Buenas
Population Group: Pov Pop—Subregion 6B
*Aibonito
Population Group: Pov Pop—Subregion 6B
Anasco
Population Group: Pov Pop—Subregion 4B
*Arroyo
Population Group: Pov Pop—Subregion 5C
*Barranquitas
Population Group: Pov Pop—Barranquitas
*Cabo Rojo
Population Group: Pov Pop—Subregion 4C
*Caguas
Population Group: Pov Pop—Caguas
*Canovanas
Population Group: Pov Pop—Subregion 1B
*Carolina
Population Group: Pov Pop—Subregion 1B
*Catano
Population Group: Pov Pop—Subregion 2A
*Cayey
Population Group: Pov Pop—Subregion 6B
*Ceiba
Population Group: Pov Pop—Subregion 1A
*Cidra
Population Group: Pov Pop—Subregion 6B
*Coamo
Population Group: Pov Pop—Subregion 5B
*Dorado
Population Group: Pov Pop—Subregion 2A
*Fajardo
Population Group: Pov Pop—Subregion 1A
*Guanica
Population Group: Pov Pop—Subregion 5A
*Guayama
Population Group: Pov Pop—Subregion 5C
Guayanilla
Population Group: Pov Pop—Subregion 5A
*Guaynabo

PRIMARY MEDICAL CARE: Puerto Rico
County Listing

County Name

Population Group: Inmates—MDC Guaynabo
Population Group: Pov. Pop.—Guaynabo
*Gurabo
Population Group: Pov. Pop.—Subregion 6C
Hormigueros
Population Group: Pov Pop—Subregion 4C
*Humacao
Population Group: Pov. Pop.—Subregion 6A
*Isabela
Population Group: Pov Pop—Subregion 4A
Juana Diaz
Population Group: Pov Pop—Subregion 5B
*Juncos
Population Group: Pov. Pop.—Subregion 6C
*Lajas
Population Group: Pov Pop—Subregion 4C
*Lares
Population Group: Pov. Pop.—Subregion 3A
*Las Marias
Population Group: Pov. Pop.—Las Marias
*Las Peidras
Population Group: Pov. Pop.—Subregion 6A
*Loiza
Population Group: Pov Pop—Subregion 1B
*Luquillo
Population Group: Pov Pop—Subregion 1A
*Maunabo
Population Group: Pov. Pop.—Subregion 6A
Mayaguez
Population Group: Pov. Pop.—Mayaguez
Moca
Population Group: Pov Pop—Subregion 4A
*Naguabo
Population Group: Pov. Pop.—Subregion 6A
*Patillas
Population Group: Pov Pop—Subregion 5C
Penuelas
Population Group: Pov Pop—Subregion 5A
*Rincon
Population Group: Pov Pop—Subregion 4B
*Rio Grande
Population Group: Pov Pop—Subregion 1A
Sabana Grande
Population Group: Pov Pop—Subregion 4C
*Salinas
Population Group: Pov Pop—Subregion 5C
San German
Population Group: Pov Pop—Subregion 4C
*San Juan
Population Group: Pov Pop—San Juan
*San Lorenzo
Population Group: Pov. Pop.—Subregion 6C
*San Sebastian
Population Group: Pov Pop—Subregion 4A
*Santa Isabel
Population Group: Pov Pop—Subregion 5B
*Toa Alta
Population Group: Pov Pop—Subregion 2A
*Toa Baja
Population Group: Pov Pop—Subregion 2A
*Trujillo Alto
Population Group: Pov Pop—Subregion 1B
*Utuado

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PRIMARY MEDICAL CARE: Puerto Rico
County Listing

County Name

Population Group: Pov. Pop.—Subregion 3A
*Vega Alta
Population Group: Pov Pop—Subregion 2A
*Vega Baja
Population Group: Pov Pop—Vega Baja
Villalba
Population Group: Pov Pop—Subregion 5B
*Yabucoa
Population Group: Pov. Pop.—Subregion 6A
Yauco
Population Group: Pov Pop—Subregion 5A

PRIMARY MEDICAL CARE: Puerto Rico
Population Group Listing

Population Group

Inmates—MDC Guaynabo
County—Guaynabo
Parts:
MDC Guaynabo
Pov Pop—Adjuntas
County—Adjuntas
Parts:
Pov. Pop.
Pov Pop—Barranquitas
County—Barranquitas
Parts:
Pov. Pop.—Barranquitas
Pov Pop—Caguas
County—Caguas
Parts:
Pov. Pop.
Pov Pop—San Juan
County—San Juan
Parts:
Pov. Pop.
Pov Pop—Subregion 1A
County—Ceiba
Parts:
Pov. Pop.
County—Fajardo
Parts:
Pov. Pop.
County—Luquillo
Parts:
Pov. Pop.
County—Rio Grande
Parts:
Pov. Pop.
Pov Pop—Subregion 1B
County—Canovanas
Parts:
Pov. Pop.
County—Carolina
Parts:
*Pov. Pop.
County—Loiza
Parts:
Pov. Pop.
County—Trujillo Alto
Parts:
Pov. Pop.
Pov Pop—Subregion 2A
County—Catano
Parts:
Pov. Pop.
County—Dorado
Parts:
Pov. Pop.
County—Toa Alta

PRIMARY MEDICAL CARE: Puerto Rico
Population Group Listing

Population Group

Parts:
Pov. Pop.
County—Toa Baja
Parts:
Pov. Pop.
County—Vega Alta
Parts:
Pov. Pop.
Pov Pop—Subregion 4B
County—Anasco
Parts:
Pov. Pop.
County—Rincon
Parts:
Pov. Pop.
Pov Pop—Subregion 4C
County—Cabo Rojo
Parts:
Pov. Pop.
County—Hormigueros
Parts:
Pov. Pop.
County—Lajas
Parts:
Pov. Pop.
County—Sabana Grande
Parts:
Pov. Pop.
County—San German
Parts:
Pov. Pop.
Pov Pop—Subregion 4A
County—Aguada
Parts:
Pov. Pop.
County—Aguadilla
Parts:
Pov. Pop.
County—Isabela
Parts:
Pov. Pop.
County—Moca
Parts:
Pov. Pop.
County—San Sebastian
Parts:
Pov. Pop.
Pov Pop—Subregion 5C
County—Arroyo
Parts:
Pov. Pop.
County—Guayama
Parts:
Pov. Pop.
County—Patillas
Parts:
Pov. Pop.
County—Salinas
Parts:
Pov. Pop.
Pov Pop—Subregion 5B
County—Coamo
Parts:
Pov. Pop.
County—Juana Diaz
Parts:
Pov. Pop.
County—Santa Isabel
Parts:
Pov. Pop.
County—Villalba
Parts:

PRIMARY MEDICAL CARE: Puerto Rico
Population Group Listing

Population Group

Pov. Pop.
Pov Pop—Subregion 5A
County—Guanica
Parts:
Pov. Pop.
County—Guayanilla
Parts:
Pov. Pop.
County—Penuelas
Parts:
Pov. Pop.
County—Yauco
Parts:
Pov. Pop.
Pov Pop—Subregion 6B
County—Aguas Buenas
Parts:
Pov. Pop.
County—Aibonito
Parts:
Pov. Pop.
County—Cayey
Parts:
Pov. Pop.
County—Cidra
Parts:
Pov. Pop.
Pov Pop—Vega Baja
County—Vega Baja
Parts:
Pov. Pop.—Vega Baja
Pov. Pop.—Guaynabo
County—Guaynabo
Parts:
Pov. Pop.
Pov. Pop.—Las Marias
County—Las Marias
Parts:
Pov. Pop.
Pov. Pop.—Mayaguez
County—Mayaguez
Pov. Pop.—Subregion 6C
County—Gurabo
Parts:
Pov. Pop.
County—Juncos
Parts:
Pov. Pop.
County—San Lorenzo
Parts:
Pov. Pop.
Pov. Pop.—Subregion 3A
County—Lares
Parts:
Pov. Pop.
County—Utuado
Parts:
Pov. Pop.
Pov. Pop.—Subregion 6A
County—Humacao
Parts:
Pov. Pop.
County—Las Peidras
Parts:
Pov. Pop.
County—Maunabo
Parts:
Pov. Pop.
County—Naguabo
Parts:
Pov. Pop.
County—Yabucoa

PRIMARY MEDICAL CARE: Puerto Rico
Population Group Listing

Population Group

Parts:
Pov. Pop.

PRIMARY MEDICAL CARE: Virgin Islands
County Listing

County Name

*St. Thomas
Service Area: East End St. Thomas

PRIMARY MEDICAL CARE: Virgin Islands
Service Area Listing

Service Area Name

East End St. Thomas
County—St. Thomas
Parts:
East End
Southside
Tutu

MENTAL HEALTH: Alabama
County Listing

County Name

Autauga
Service Area: Catchment Area M–14
Baldwin
Service Area: Catchment Area M–21
Barbour
Service Area: Catchment Area M–19
Bibb
Service Area: Catchment Area M–8
Bullock
Service Area: Catchment Area M–15
Butler
Service Area: Catchment Area M–18
Calhoun
Service Area: Catchment Area M–7
Chambers
Service Area: Catchment Area M–12
Cherokee
Service Area: Catchment Area M–6
Chilton
Service Area: Catchment Area M–11
Choctaw
Service Area: Catchment Area M–10
Clarke
Service Area: Catchment Area M–17
Clay
Service Area: Catchment Area M–9
Cleburne
Service Area: Catchment Area M–7
Coffee
Service Area: Catchment Area M–18
Colbert
Service Area: Catchment Area M–1
Conecuh
Service Area: Catchment Area M–17
Coosa
Service Area: Catchment Area M–9
Covington
Service Area: Catchment Area M–18
Crenshaw
Service Area: Catchment Area M–18
Cullman
Service Area: Catchment Area M–22
Dale
Service Area: Catchment Area M–19
Dallas
Service Area: Catchment Area M–13
De Kalb
Service Area: Catchment Area M–6
Elmore
Service Area: Catchment Area M–14
Escambia
Service Area: Catchment Area M–17
Etowah
Service Area: Catchment Area M–6
Fayette
Service Area: Catchment Area M–4
Franklin
Service Area: Catchment Area M–1
*Geneva
Service Area: Catchment Area M–19
Greene
Service Area: Catchment Area M–10
Hale
Service Area: Catchment Area M–10
*Henry
Service Area: Catchment Area M–19
Houston
Service Area: Catchment Area M–19
Jackson
Service Area: Catchment Area M–20
Lamar
Service Area: Catchment Area M–4
Lauderdale
Service Area: Catchment Area M–1
Lawrence
Service Area: Catchment Area M–2
Lee
Service Area: Catchment Area M–12
Limestone
Service Area: Catchment Area M–2
Lowndes
Service Area: Catchment Area M–14
Macon
Service Area: Catchment Area M–15
Madison
Service Area: Catchment Area M–3
Marengo
Service Area: Catchment Area M–10
Marion
Service Area: Catchment Area M–4
Marshall
Service Area: Catchment Area M–20
Mobile
Service Area: Catchment Area M–16
Monroe
Service Area: Catchment Area M–17
Montgomery
Service Area: Catchment Area M–14
Morgan
Service Area: Catchment Area M–2
Perry
Service Area: Catchment Area M–13
Pickens
Service Area: Catchment Area M–8
Pike
Service Area: Catchment Area M–15
Randolph
Service Area: Catchment Area M–9
Russell
Service Area: Catchment Area M–12
Shelby
Service Area: Catchment Area M–11
Sumter
Service Area: Catchment Area M–10
Talladega
Service Area: Catchment Area M–9
Tallapoosa
Service Area: Catchment Area M–12
Tuscaloosa
Service Area: Catchment Area M–8
*Walker
Service Area: Catchment Area M–4
Washington
Service Area: Catchment Area M–16
Wilcox
Service Area: Catchment Area M–13
Winston
Service Area: Catchment Area M–4

MENTAL HEALTH: Alabama
Service Area Listing

Service Area Name

Catchment Area M–1
County—Colbert
County—Franklin
County—Lauderdale
Catchment Area M–10
County—Choctaw
County—Greene
County—Hale
County—Marengo
County—Sumter
Catchment Area M–11
County—Chilton
County—Shelby
Catchment Area M–12
County—Chambers
County—Lee
County—Russell
County—Tallapoosa
Catchment Area M–13
County—Dallas
County—Perry
County—Wilcox
Catchment Area M–14
County—Autauga
County—Elmore
County—Lowndes
County—Montgomery
Catchment Area M–15
County—Bullock
County—Macon
County—Pike
Catchment Area M–16
County—Mobile
County—Washington
Catchment Area M–17
County—Clarke
County—Conecuh
County—Escambia
County—Monroe
Catchment Area M–18
County—Butler
County—Coffee
County—Covington
County—Crenshaw
Catchment Area M–19
County—Barbour
County—Dale
County—Geneva
County—Henry
County—Houston
Catchment Area M–2
County—Lawrence
County—Limestone
County—Morgan
Catchment Area M–20
County—Jackson
County—Marshall
Catchment Area M–21

MENTAL HEALTH: Alabama
Service Area Listing

Service Area Name

County—Baldwin
Catchment Area M–22
County—Cullman
Catchment Area M–3
County—Madison
Catchment Area M–4
County—Fayette
County—Lamar
County—Marion
County—Walker
County—Winston
Catchment Area M–6
County—Cherokee
County—De Kalb
County—Etowah
Catchment Area M–7
County—Calhoun
County—Cleburne
Catchment Area M–8
County—Bibb
County—Pickens
County—Tuscaloosa
Catchment Area M–9
County—Clay
County—Coosa
County—Randolph
County—Talladega

MENTAL HEALTH: Arizona
County Listing

County Name

Apache
Service Area: N. Arizona Mental Hlth Catch Area
Cochise
Service Area: Southeastern Arizona
Coconino
Service Area: N. Arizona Mental Hlth Catch Area
*Gila
Graham
Service Area: Southeastern Arizona
Greenlee
Service Area: Southeastern Arizona
*La Paz
Mohave
Service Area: N. Arizona Mental Hlth Catch Area
Navajo
Service Area: N. Arizona Mental Hlth Catch Area
Pinal
Santa Cruz
Service Area: Southeastern Arizona
Yavapai
Service Area: N. Arizona Mental Hlth Catch Area
Yuma

MENTAL HEALTH: Arizona
Service Area Listing

Service Area Name

N. Arizona Mental Hlth Catch Area
County—Apache
County—Coconino
County—Mohave
County—Navajo
County—Yavapai
Southeastern Arizona
County—Cochise

MENTAL HEALTH: Arizona
Service Area Listing

Service Area Name

County—Graham
County—Greenlee
County—Santa Cruz

MENTAL HEALTH: Arkansas
County Listing

County Name

Arkansas
Service Area: Pine Bluff C.A.
Ashley
Service Area: Monticello C.A.
Baxter
Service Area: Mountain Home C.A.
Benton
Facility: Benton Detox/Mh Ctr
Boone
Service Area: Mountain Home C.A.
Bradley
Service Area: Monticello C.A.
Calhoun
Service Area: El Dorado
Chicot
Service Area: Monticello C.A.
Clay
Service Area: Jonesboro
Cleburne
Service Area: Batesville
Cleveland
Service Area: Pine Bluff C.A.
Columbia
Service Area: El Dorado
Conway
Service Area: Russellville C.A.
Craighead
Service Area: Jonesboro
Crittenden
Service Area: Helena
Cross
Service Area: Helena
Dallas
Service Area: El Dorado
Desha
Service Area: Monticello C.A.
Drew
Service Area: Monticello C.A.
Faulkner
Service Area: Russellville C.A.
Fulton
Service Area: Batesville
Grant
Service Area: Pine Bluff C.A.
Greene
Service Area: Jonesboro
Hempstead
Service Area: Texarkana C.A.
Howard
Service Area: Texarkana C.A.
Independence
Service Area: Batesville
Izard
Service Area: Batesville
Jackson
Service Area: Batesville
Jefferson
Service Area: Pine Bluff C.A.
Johnson
Service Area: Russellville C.A.
Lafayette
Service Area: Texarkana C.A.
Lawrence
Service Area: Jonesboro

MENTAL HEALTH: Arkansas
County Listing

County Name

Lee
Service Area: Helena
Lincoln
Service Area: Pine Bluff C.A.
Little River
Service Area: Texarkana C.A.
Marion
Service Area: Mountain Home C.A.
Miller
Service Area: Texarkana C.A.
Mississippi
Service Area: Jonesboro
Monroe
Service Area: Helena
Nevada
Service Area: El Dorado
Newton
Service Area: Mountain Home C.A.
Ouachita
Service Area: El Dorado
Perry
Service Area: Russellville C.A.
Phillips
Service Area: Helena
Poinsett
Service Area: Jonesboro
Pope
Service Area: Russellville C.A.
*Prairie
Randolph
Service Area: Jonesboro
Searcy
Service Area: Mountain Home C.A.
Sevier
Service Area: Texarkana C.A.
Sharp
Service Area: Batesville
St. Francis
Service Area: Helena
Stone
Service Area: Batesville
Union
Service Area: El Dorado
Van Buren
Service Area: Batesville
White
Service Area: Batesville
Woodruff
Service Area: Batesville
Yell
Service Area: Russellville C.A.

MENTAL HEALTH: Arkansas
Service Area Listing

Service Area Name

Batesville
County—Cleburne
County—Fulton
County—Independence
County—Izard
County—Jackson
County—Sharp
County—Stone
County—Van Buren
County—White
County—Woodruff
El Dorado
County—Calhoun
County—Columbia
County—Dallas
County—Nevada

MENTAL HEALTH: Arkansas
Service Area Listing

Service Area Name

County—Ouachita
County—Union
Helena
County—Crittenden
County—Cross
County—Lee
County—Monroe
County—Phillips
County—St. Francis
Jonesboro
County—Clay
County—Craighead
County—Greene
County—Lawrence
County—Mississippi
County—Poinsett
County—Randolph
Monticello C.A.
County—Ashley
County—Bradley
County—Chicot
County—Desha
County—Drew
Mountain Home C.A.
County—Baxter
County—Boone
County—Marion
County—Newton
County—Searcy
Pine Bluff C.A.
County—Arkansas
County—Cleveland
County—Grant
County—Jefferson
County—Lincoln
Russellville C.A.
County—Conway
County—Faulkner
County—Johnson
County—Perry
County—Pope
County—Yell
Texarkana C.A.
County—Hempstead
County—Howard
County—Lafayette
County—Little River
County—Miller
County—Sevier

MENTAL HEALTH: Arkansas
Facility Listing

Facility Name

Benton Detox/Mh Ctr
County—Benton

MENTAL HEALTH: California
County Listing

County Name

Fresno
Service Area: West Side Fresno
*Imperial
Kern
Population Group: Low Inc—Arvin/Lamont
Merced
*Tehama

MENTAL HEALTH: California
Service Area Listing

Service Area Name

West Side Fresno
County—Fresno
Parts:
C.T. 78
C.T. 79.98
C.T. 80–83
C.T. 84.01–84.02

MENTAL HEALTH: California
Population Group Listing

Population Group

Low Inc—Arvin/Lamont 3
County—Kern
Parts:
C.T. 62–64

MENTAL HEALTH: Colorado
County Listing

County Name

*Archuleta
Service Area: Southwest Colorado
Baca
Service Area: Southeast Mh Reg
*Bent
Service Area: Southeast Mh Reg
Chaffee
Service Area: West Central Mh Reg
Cheyenne
Service Area: Northeast/East Central Mh Reg
Crowley
Service Area: Southeast Mh Reg
*Custer
Service Area: West Central Mh Reg
Delta
Service Area: Midwestern Mh Reg
*Dolores
Service Area: Southwest Colorado
Elbert
Service Area: Northeast/East Central Mh Reg
Fremont
Service Area: West Central Mh Reg
Gunnison
Service Area: Midwestern Mh Reg
Hinsdale
Service Area: Midwestern Mh Reg
Huerfano
Service Area: Mh Reg 7
Kiowa
Service Area: Southeast Mh Reg
Kit Carson
Service Area: Northeast/East Central Mh Reg
*La Plata
Service Area: Southwest Colorado
Lake
Service Area: West Central Mh Reg
Las Animas
Service Area: Mh Reg 7
Lincoln
Service Area: Northeast/East Central Mh Reg
Logan
Service Area: Northeast/East Central Mh Reg
*Montezuma
Service Area: Southwest Colorado
Montrose
Service Area: Midwestern Mh Reg

MENTAL HEALTH: Colorado
County Listing

County Name

Morgan
Service Area: Northeast/East Central Mh Reg
Otero
Service Area: Southeast Mh Reg
Ouray
Service Area: Midwestern Mh Reg
Phillips
Service Area: Northeast/East Central Mh Reg
Prowers
Service Area: Southeast Mh Reg
Pueblo
Service Area: Mh Reg 7
*San Juan
Service Area: Southwest Colorado
San Miguel
Service Area: Midwestern Mh Reg
*Sedgwick
Service Area: Northeast/East Central Mh Reg
Washington
Service Area: Northeast/East Central Mh Reg
Yuma
Service Area: Northeast/East Central Mh Reg

MENTAL HEALTH: Colorado
Service Area Listing

Service Area Name

Mh Reg 7
County—Huerfano
County—Las Animas
County—Pueblo
Midwestern Mh Reg
County—Delta
County—Gunnison
County—Hinsdale
County—Montrose
County—Ouray
County—San Miguel
Northeast/East Central Mh Reg
County—Cheyenne
County—Elbert
County—Kit Carson
County—Lincoln
County—Logan
County—Morgan
County—Phillips
County—Sedgwick
County—Washington
County—Yuma
Southeast Mh Reg
County—Baca
County—Bent
County—Crowley
County—Kiowa
County—Otero
County—Prowers
Southwest Colorado
County—Archuleta
County—Dolores
County—La Plata
County—Montezuma
County—San Juan
West Central Mh Reg
County—Chaffee
County—Custer
County—Fremont
County—Lake

MENTAL HEALTH: Connecticut
County Listing

County Name

Hartford
  Service Area: Charter Oak Terrace/ Rice Heights

MENTAL HEALTH: Connecticut
Service Area Listing

Service Area Name

Charter Oak Terrace/ Rice Heights
  County—Hartford
    Parts:
      C.T. 5001–5002
      C.T. 5019
      C.T. 5027–5030
      C.T. 5043
      C.T. 5045–5046
      C.T. 5049

MENTAL HEALTH: Delaware
County Listing

County Name

Kent
*Sussex

MENTAL HEALTH: District Of Columbia
County Listing

County Name

The District
  Service Area: Region Iv—Anacostia

MENTAL HEALTH: District Of Columbia
Service Area Listing

Service Area Name

Region Iv—Anacostia
  County—The District
    Parts:
      C.T. 73.01–73.02
      C.T. 73.04
      C.T. 73.08
      C.T. 74.01
      C.T. 74.04
      C.T. 74.06–74.09
      C.T. 74.30
      C.T. 75.02–75.04
      C.T. 76.01
      C.T. 76.03–76.05
      C.T. 77.03
      C.T. 77.07–77.09
      C.T. 97
      C.T. 98.03–98.10
      C.T. 98.20
      C.T. 99.01–99.07

MENTAL HEALTH: Florida
County Listing

County Name

Bradford
  Facility: Florida State Prs
Broward
  Facility: Broward Corr Inst
*Citrus
*Columbia
Dade
  Service Area: Model Cities
*Dixie
*Gilchrist
*Glades
*Hamilton
*Hendry

MENTAL HEALTH: Florida
County Listing

County Name

Hernando
*Highlands
*Holmes
*Jackson
  Facility: Apalachee Corr Inst
*Lafayette
*Lake
*Levy
Manatee
  Population Group: Low Inc—Manatee Cty
Palm Beach
  Service Area: Belle Glade/Pahokee
Santa Rosa
*Sumter
*Suwannee
*Union
Volusia
  Facility: Tomoka Corr Inst
*Washington

MENTAL HEALTH: Florida
Service Area Listing

Service Area Name

Belle Glade/Pahokee
  County—Palm Beach
    Parts:
      Belle Glade/Pahokee CCD
Model Cities
  County—Dade
    Parts:
      C.T. 4.08
      C.T. 8.01–8.02
      C.T. 9.01–9.03
      C.T. 10.01–10.04
      C.T. 11.03
      C.T. 15.01–15.02
      C.T. 16.01–16.02
      C.T. 17.01–17.02
      C.T. 18.01–18.03
      C.T. 19.01
      C.T. 19.03–19.04
      C.T. 23

MENTAL HEALTH: Florida
Population Group Listing

Population Group

Low Inc—Manatee Cty
  County—Manatee
    Parts:
      Low Inc Pop

MENTAL HEALTH: Florida
Facility Listing

Facility Name

Apalachee Corr Inst
  County—Jackson
Broward Corr Inst
  County—Broward
Florida State Prs
  County—Bradford
Tomoka Corr Inst
  County—Volusia

MENTAL HEALTH: Georgia
County Listing

County Name

*Baker
  Service Area: Albany Catchment Area

MENTAL HEALTH: Georgia
County Listing

County Name

Banks
  Service Area: Georgia Mountains
Bartow
  Service Area: Coosa Valley
*Ben Hill
  Service Area: Valdosta-Lowndes
*Berrien
  Service Area: Valdosta-Lowndes
*Brooks
  Service Area: Valdosta-Lowndes
Bryan
  Service Area: Gateway Catchment Area
*Butts
  Service Area: McIntosh Trail Catchment Area
*Calhoun
  Service Area: Albany Catchment Area
Camden
  Service Area: Gateway Catchment Area
Carroll
  Service Area: Chattahoochee-Flint
Catoosa
  Service Area: Mhca 1
*Chatooga
  Service Area: Mhca 1
Cherokee
  Service Area: Georgia Highlands
Colquitt
  Service Area: Thomas Trail
*Cook
  Service Area: Valdosta-Lowndes
Coweta
  Service Area: Chattahoochee-Flint
Dade
  Service Area: Mhca 1
Dawson
  Service Area: Georgia Mountains
De Kalb
  Facility: Georgia Regional Hosp
Decatur
  Service Area: Thomas Trail
Dougherty
  Service Area: Albany Catchment Area
*Early
  Service Area: Albany Catchment Area
*Echols
  Service Area: Valdosta-Lowndes
Fannin
  Service Area: Georgia Highlands
Fayette
  Service Area: McIntosh Trail Catchment Area
Floyd
  Service Area: Coosa Valley
Forsyth
  Service Area: Georgia Mountains
Franklin
  Service Area: Georgia Mountains
Fulton
  Service Area: South Central Fulton
  Service Area: West Fulton Trail
Gilmer
  Service Area: Georgia Highlands
Glynn
  Service Area: Gateway Catchment Area
Gordon
  Service Area: Coosa Valley
Grady
  Service Area: Thomas Trail
Habersham
  Service Area: Georgia Mountains
Hall

MENTAL HEALTH: Georgia
County Listing

County Name

Service Area: Georgia Mountains
Haralson
Service Area: Coosa Valley
Hart
Service Area: Georgia Mountains
Heard
Service Area: Chattahoochee-Flint
Henry
Service Area: McIntosh Trail Catchment Area
*Irwin
Service Area: Valdosta-Lowndes
Lamar
Service Area: McIntosh Trail Catchment Area
Lanier
Service Area: Valdosta-Lowndes
Lee
Service Area: Albany Catchment Area
Liberty
Service Area: Gateway Catchment Area
Long
Service Area: Gateway Catchment Area
*Lowndes
Service Area: Valdosta-Lowndes
Lumpkin
Service Area: Georgia Mountains
McIntosh
Service Area: Gateway Catchment Area
Meriwether
Service Area: Chattahoochee-Flint
*Miller
Service Area: Albany Catchment Area
Mitchell
Service Area: Thomas Trail
Murray
Service Area: Georgia Highlands
Paulding
Service Area: Coosa Valley
Pickens
Service Area: Georgia Highlands
Pike
Service Area: McIntosh Trail Catchment Area
Polk
Service Area: Coosa Valley
Rabun
Service Area: Georgia Mountains
Seminole
Service Area: Thomas Trail
Spalding
Service Area: McIntosh Trail Catchment Area
Stephens
Service Area: Georgia Mountains
*Terrell
Service Area: Albany Catchment Area
Thomas
Service Area: Thomas Trail
*Tift
Service Area: Valdosta-Lowndes
Towns
Service Area: Georgia Mountains
Troup
Service Area: Chattahoochee-Flint
*Turner
Service Area: Valdosta-Lowndes
Union
Service Area: Georgia Mountains
Upson
Service Area: McIntosh Trail Catchment Area

MENTAL HEALTH: Georgia
County Listing

County Name

Walker
Service Area: Mhca 1
White
Service Area: Georgia Mountains
Whitfield
Service Area: Georgia Highlands
*Worth
Service Area: Albany Catchment Area

MENTAL HEALTH: Georgia
Service Area Listing

Service Area Name

Albany Catchment Area
County—Baker
Parts:
Baker
County—Calhoun
Parts:
Calhoun
County—Dougherty
Parts:
Dougherty
County—Early
Parts:
Early
County—Lee
Parts:
Lee
County—Miller
Parts:
Miller
County—Terrell
Parts:
Terrell
County—Worth
Parts:
Worth
Chattahoochee-Flint
County—Carroll
County—Coweta
County—Heard
County—Meriwether
County—Troup
Coosa Valley
County—Bartow
County—Floyd
County—Gordon
County—Haralson
County—Paulding
County—Polk
Gateway Catchment Area
County—Bryan
County—Camden
County—Glynn
County—Liberty
County—Long
County—McIntosh
Georgia Highlands
County—Cherokee
County—Fannin
County—Gilmer
County—Murray
County—Pickens
County—Whitfield
Georgia Mountains
County—Banks
County—Dawson
County—Forsyth
County—Franklin
County—Habersham
County—Hall

MENTAL HEALTH: Georgia
Service Area Listing

Service Area Name

County—Hart
County—Lumpkin
County—Rabun
County—Stephens
County—Towns
County—Union
County—White
McIntosh Trail Catchment Area
County—Butts
County—Fayette
County—Henry
County—Lamar
County—Pike
County—Spalding
County—Upson
Mhca 1
County—Catoosa
County—Chatooga
County—Dade
County—Walker
Pineland
County—Appling
County—Bulloch
County—Candler
County—Evans
County—Jeff Davis
County—Tattnall
County—Toombs
County—Wayne
South Central Fulton
County—Fulton
Parts:
C.T. 44
C.T. 46.95
C.T. 48
C.T. 49.95
C.T. 50
C.T. 52–53
C.T. 55.01–55.02
C.T. 56–58
C.T. 63–64
C.T. 67
C.T. 68.01–68.02
C.T. 69–73
Thomas Trail
County—Colquitt
County—Decatur
County—Grady
County—Mitchell
County—Seminole
County—Thomas
Valdosta-Lowndes
County—Ben Hill
County—Berrien
County—Brooks
County—Cook
County—Echols
County—Irwin
County—Lanier
County—Lowndes
County—Tift
County—Turner
West Fulton Trail
County—Fulton
Parts:
C.T. 60–62
C.T. 77.01–77.02
C.T. 78.02–78.04
C.T. 79–80
C.T. 81.01–81.02
C.T. 82.01–82.02
C.T. 83.01–83.02

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MENTAL HEALTH: Georgia
Service Area Listing

Service Area Name
C.T. 84–85
C.T. 86.01–86.02
C.T. 87.01–87.02
C.T. 88
C.T. 103.01–103.02

MENTAL HEALTH: Georgia
Facility Listing

Facility Name
Georgia Regional Hosp
County—De Kalb

MENTAL HEALTH: Idaho
County Listing

County Name
Adams
Service Area: Mental Hlth Region III
Bonneville
Service Area: Mh Region Vii
Butte
Service Area: Mh Region Vii
Canyon
Service Area: Mental Hlth Region III
Clark
Service Area: Mh Region Vii
Custer
Service Area: Mh Region Vii
Fremont
Service Area: Mh Region Vii
Gem
Service Area: Mental Hlth Region III
Jefferson
Service Area: Mh Region Vii
Lemhi
Service Area: Mh Region Vii
Madison
Service Area: Mh Region Vii
Owyhee
Service Area: Mental Hlth Region III
Payette
Service Area: Mental Hlth Region III
Teton
Service Area: Mh Region Vii
Washington
Service Area: Mental Hlth Region III

MENTAL HEALTH: Idaho
Service Area Listing

Service Area Name
Mental Hlth Region III
County—Adams
County—Canyon
County—Gem
County—Owyhee
County—Payette
County—Washington
Mh Region Vii
County—Bonneville
County—Butte
County—Clark
County—Custer
County—Fremont
County—Jefferson
County—Lemhi
County—Madison
County—Teton

MENTAL HEALTH: Illinois
County Listing

County Name
Adams
Service Area: Quincy/Mt Sterling (Ca 30101)
*Alexander
*Bond
Brown
Service Area: Quincy/Mt Sterling (Ca 30101)
*Cass
*Clark
*Clay
Cook
Service Area: Ashburn/Beverly/Mount Greenwood/Morgan Pa
Service Area: Auburn Gresham/Washington Heights
Service Area: Roseland/Pullman/Riverdale
Service Area: South Chicago
Service Area: South Shore/Chatham/Avalon Park/Burnside
Population Group: Hmlss—Uptown/Near North Side/Loop
*Crawford
*Edwards
*Effingham
*Fayette
*Franklin
*Gallatin
*Hamilton
Hancock
Service Area: Quincy/Mt Sterling (Ca 30101)
*Hardin
*Jackson
*Jasper
*Jefferson
*Johnson
*La Salle
*Lawrence
*Massac
Monroe
*Morgan
*Perry
Pike
Service Area: Quincy/Mt Sterling (Ca 30101)
*Pope
*Pulaski
*Randolph
*Richland
*Saline
Schuyler
Service Area: Quincy/Mt Sterling (Ca 30101)
*Scott
*Union
*Wabash
*Washington
*Wayne
*White
*Williamson

MENTAL HEALTH: Illinois
Service Area Listing

Service Area Name
Ashburn/Beverly/Mount Greenwood/Morgan Pa
County—Cook
Parts:
C.T. 7001–7005
C.T. 7201–7207

MENTAL HEALTH: Illinois
Service Area Listing

Service Area Name
C.T. 7401–7404
C.T. 7501–7506
Auburn Gresham/Washington Heights
County—Cook
Parts:
C.T. 7101–7115
C.T. 7301–7307
Quincy/Mt Sterling (Ca 30101)
County—Adams
County—Brown
County—Hancock
County—Pike
County—Schuyler
Roseland/Pullman/Riverdale
County—Cook
Parts:
C.T. 4901–4914
C.T. 5001–5003
C.T. 5301–5306
C.T. 5401
South Chicago
County—Cook
Parts:
C.T. 4601–4610
C.T. 4801–4805
C.T. 5101–5105
C.T. 5201–5206
C.T. 5501–5502
South Shore/Chatham/Avalon Park/Burnside
County—Cook
Parts:
C.T. 4301–4314
C.T. 4401–4409
C.T. 4501–4503
C.T. 4701
C.T. 6901–6915

MENTAL HEALTH: Illinois
Population Group Listing

Population Group
Hmlss—Uptown/Near North Side/Loop
County—Cook
Parts:
Edgewater (C.T. 301–309)
Lakeview (C.T. 601–634)
Lincoln Park (C.T. 701–720
Loop (C.T. 3201–3206)
Near N Side (C.T. 801–819
Uptown (C.T. 310–321)

MENTAL HEALTH: Indiana
County Listing

County Name
Crawford
*Crawford
Service Area: Southern Indiana Catchment Area
Service Area: Southern Indiana Catchment Area
Dubois
*Dubois
Service Area: Southern Indiana Catchment Area
Service Area: Southern Indiana Catchment Area
Huntington
Service Area: Warsaw
Kosciusko
Service Area: Warsaw
Lake

MENTAL HEALTH: Indiana
County Listing

County Name

Service Area: Gary
Marshall
Service Area: Warsaw
Orange
*Orange
Service Area: Southern Indiana Catchment Area
Service Area: Southern Indiana Catchment Area
Perry
*Perry
Service Area: Southern Indiana Catchment Area
Service Area: Southern Indiana Catchment Area
Spencer
*Spencer
Service Area: Southern Indiana Catchment Area
Service Area: Southern Indiana Catchment Area
Wabash
Service Area: Warsaw
Whitley
Service Area: Warsaw

MENTAL HEALTH: Indiana
Service Area Listing

Service Area Name

Gary
County—Lake
Parts:
C.T. 101
C.T. 102.98–103.00
C.T. 104–134
C.T. 411–412
C.T. 413.01
Southern Indiana Catchment Area
County—Crawford
County—Dubois
County—Orange
County—Perry
County—Spencer
County—Spencer
Warsaw
County—Huntington
County—Kosciusko
County—Marshall
County—Wabash
County—Whitley

MENTAL HEALTH: Iowa
County Listing

County Name

Adair
Service Area: Catchment Area 13
Allamakee
Service Area: Catchment Area 3
*Appanoose
Audubon
Service Area: Catchment Area 13
Bremer
Service Area: Catchment Area 3
Buchanan
Service Area: Catchment Area 3
Buena Vista
Service Area: Mhca 1
Butler
Service Area: Catchment Area 3
*Carroll

MENTAL HEALTH: Iowa
County Listing

County Name

Cass
Service Area: Catchment Area 13
*Cerro Gordo
Cherokee
Service Area: Mhca 1
Chickasaw
Service Area: Catchment Area 3
Clay
Service Area: Mhca 1
Clayton
Service Area: Catchment Area 3
Clinton
Service Area: Clinton/Jackson
*Crawford
*Dallas
Service Area: Catchment Area 13
*Davis
*Decatur
Dickinson
Service Area: Mhca 1
Emmet
Service Area: Mhca 1
Fayette
Service Area: Catchment Area 3
*Floyd
*Franklin
Guthrie
Service Area: Catchment Area 13
*Hancock
Howard
Service Area: Catchment Area 3
Ida
Service Area: Mhca 1
Jackson
Service Area: Clinton/Jackson
*Jasper
*Kossuth
*Lucas
Lyon
Service Area: Mhca 1
Madison
Service Area: Catchment Area 13
*Mitchell
*Monroe
O'Brien
Service Area: Mhca 1
Osceola
Service Area: Mhca 1
Palo Alto
Service Area: Mhca 1
Plymouth
*Plymouth
Service Area: Mhca 1
Service Area: Mhca 1
Pocahontas
Service Area: Mhca 1
*Poweshiek
*Sac
Shelby
Service Area: Catchment Area 13
Sioux
Service Area: Mhca 1
*Wapello
*Wayne
*Winnebago
Winneshiek
Service Area: Catchment Area 3
*Worth
*Wright

MENTAL HEALTH: Iowa
Service Area Listing

Service Area Name

Catchment Area 13
County—Dallas
Parts:
Dallas Twp.
Lincoln Twp.
Linn Twp.
Spring Valley Twp.
Union Twp.
Washington Twp.
County—Adair
County—Audubon
County—Cass
County—Guthrie
County—Madison
County—Montgomery
County—Page
County—Shelby
Catchment Area 3
County—Winneshiek
Clinton/Jackson
County—Jackson
Mhca 1
County—Sioux

MENTAL HEALTH: Kansas
County Listing

County Name

*Barber
*Barton
Butler
*Chase
*Cheyenne
*Clark
*Clay
*Cloud
*Coffey
*Comanche
*Cowley
*Decatur
*Dickinson
*Edwards
*Ellis
*Ellsworth
*Finney
*Ford
*Geary
*Gove
*Graham
*Grant
*Gray
*Greeley
*Greenwood
*Hamilton
*Harper
*Haskell
*Hodgeman
*Jewell
*Kearny
*Kingman
*Kiowa
*Lane
*Lincoln
*Logan
*Lyon
*Marshall
*Meade
*Mitchell
*Morris
*Morton
*Ness
*Norton

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MENTAL HEALTH: Kansas
County Listing

County Name

*Osage
*Osborne
*Ottawa
*Pawnee
*Phillips
*Pottawatomie
*Pratt
*Rawlins
*Reno
*Republic
*Rice
*Riley
*Rooks
*Saline
*Scott
*Seward
*Sheridan
*Sherman
*Smith
*Stafford
*Stanton
*Stevens
*Sumner
*Thomas
*Trego
*Wabaunsee
*Wallace
*Washington
*Wichita

MENTAL HEALTH: Kentucky
County Listing

County Name

Adair
Service Area: Lake Cumberland Catchment Area
Allen
Service Area: Barren River Catchment Area
*Anderson
Barren
Service Area: Barren River Catchment Area
Bath
Service Area: Gateway
Bell
Service Area: Cumberland River B
Boyd
Service Area: Fivco Catchment Area
Boyle
Service Area: Danville
Bracken
Service Area: Buffalo Trace
Breathitt
Service Area: Upper Kentucky River
Breckinridge
Service Area: North Central
Butler
Service Area: Barren River Catchment Area
Caldwell
Service Area: Pennroyal
Carroll
Service Area: Northern Kentucky
Carter
Service Area: Fivco Catchment Area
Casey
Service Area: Lake Cumberland Catchment Area
Christian
Service Area: Pennroyal

MENTAL HEALTH: Kentucky
County Listing

County Name

Clay
Service Area: Cumberland River A
Clinton
Service Area: Lake Cumberland Catchment Area
Crittenden
Service Area: Pennroyal
Cumberland
Service Area: Lake Cumberland Catchment Area
Daviess
Service Area: Green River
Edmonson
Service Area: Barren River Catchment Area
Elliott
Service Area: Fivco Catchment Area
*Estill
Fleming
Service Area: Buffalo Trace
Floyd
Service Area: Mountain
*Franklin
Gallatin
Service Area: Northern Kentucky
Garrard
Service Area: Danville
Grant
Service Area: Northern Kentucky
Grayson
Service Area: North Central
Green
Service Area: Lake Cumberland Catchment Area
Greenup
Service Area: Fivco Catchment Area
Hancock
Service Area: Green River
Hardin
Service Area: North Central
Harlan
Service Area: Cumberland River B
*Harrison
Hart
Service Area: Barren River Catchment Area
Henderson
Service Area: Green River
*Henry
Hopkins
Service Area: Pennroyal
Jackson
Service Area: Cumberland River A
Johnson
Service Area: Mountain
Knott
Service Area: Upper Kentucky River
Knox
Service Area: Cumberland River B
Larue
Service Area: North Central
Laurel
Service Area: Cumberland River A
Lawrence
Service Area: Fivco Catchment Area
Lee
Service Area: Upper Kentucky River
Leslie
Service Area: Upper Kentucky River
Letcher
Service Area: Upper Kentucky River
Lewis

MENTAL HEALTH: Kentucky
County Listing

County Name

Service Area: Buffalo Trace
Lincoln
Service Area: Danville
Livingston
Service Area: Pennroyal
Logan
Service Area: Barren River Catchment Area
Lyon
Service Area: Pennroyal
Madison
Magoffin
Service Area: Mountain
Marion
Service Area: North Central
Martin
Service Area: Mountain
Mason
Service Area: Buffalo Trace
Mc Creary
Service Area: Lake Cumberland Catchment Area
Mc Lean
Service Area: Green River
Meade
Service Area: North Central
Menifee
Service Area: Gateway
Mercer
Service Area: Danville
Metcalfe
Service Area: Barren River Catchment Area
Monroe
Service Area: Barren River Catchment Area
Montgomery
Service Area: Gateway
Morgan
Service Area: Gateway
Muhlenberg
Service Area: Pennroyal
Nelson
Service Area: North Central
*Nicholas
Ohio
Service Area: Green River
Owen
Service Area: Northern Kentucky
Owsley
Service Area: Upper Kentucky River
Perry
Service Area: Upper Kentucky River
Pike
Service Area: Mountain
*Powell
Pulaski
Service Area: Lake Cumberland Catchment Area
Robertson
Service Area: Buffalo Trace
Rockcastle
Service Area: Cumberland River A
Rowan
Service Area: Gateway
Russell
Service Area: Lake Cumberland Catchment Area
Simpson
Service Area: Barren River Catchment Area
*Spencer

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MENTAL HEALTH: Kentucky
County Listing

County Name

Taylor
  Service Area: Lake Cumberland Catchment Area
Todd
  Service Area: Pennroyal
Trigg
  Service Area: Pennroyal
*Trimble
Union
  Service Area: Green River
Warren
  Service Area: Barren River Catchment Area
Washington
  Service Area: North Central
Wayne
  Service Area: Lake Cumberland Catchment Area
Webster
  Service Area: Green River
Whitley
  Service Area: Cumberland River A
Wolfe
  Service Area: Upper Kentucky River

MENTAL HEALTH: Kentucky
Service Area Listing

Service Area Name

Barren River Catchment Area
  County—Allen
  County—Barren
  County—Butler
  County—Edmonson
  County—Hart
  County—Logan
  County—Metcalfe
  County—Monroe
  County—Simpson
  County—Warren
Buffalo Trace
  County—Bracken
  County—Fleming
  County—Lewis
  County—Mason
  County—Robertson
Cumberland River A
  County—Clay
  County—Jackson
  County—Laurel
  County—Rockcastle
  County—Whitley
Cumberland River B
  County—Bell
  County—Harlan
  County—Knox
Danville
  County—Boyle
  County—Garrard
  County—Lincoln
  County—Mercer
Fivco Catchment Area
  County—Boyd
  County—Carter
  County—Elliott
  County—Greenup
  County—Lawrence
Gateway
  County—Bath
  County—Menifee
  County—Montgomery
  County—Morgan

MENTAL HEALTH: Kentucky
Service Area Listing

Service Area Name

  County—Rowan
Green River
  County—Daviess
  County—Hancock
  County—Henderson
  County—Mc Lean
  County—Ohio
  County—Union
  County—Webster
Lake Cumberland Catchment Area
  County—Adair
  County—Casey
  County—Clinton
  County—Cumberland
  County—Green
  County—Mc Creary
  County—Pulaski
  County—Russell
  County—Taylor
  County—Wayne
Mountain
  County—Floyd
  County—Johnson
  County—Magoffin
  County—Martin
  County—Pike
North Central
  County—Breckinridge
  County—Grayson
  County—Hardin
  County—Larue
  County—Marion
  County—Meade
  County—Nelson
  County—Washington
Northern Kentucky
  County—Carroll
  County—Gallatin
  County—Grant
  County—Owen
Pennroyal
  County—Caldwell
  County—Christian
  County—Crittenden
  County—Hopkins
  County—Livingston
  County—Lyon
  County—Muhlenberg
  County—Todd
  County—Trigg
Upper Kentucky River
  County—Breathitt
  County—Knott
  County—Lee
  County—Leslie
  County—Letcher
  County—Owsley
  County—Perry
  County—Wolfe

MENTAL HEALTH: Louisiana
Parish Listing

Parish Name

Acadia
*Allen
*Beauregard
*Caldwell
*Cameron
*De Soto
*East Carroll
*East Feliciana

MENTAL HEALTH: Louisiana
Parish Listing

Parish Name

  Facility: East Louisiana State Hospital
*Evangeline
*Franklin
*Jackson
*Jefferson Davis
Lafourche
*Lincoln
*Madison
*Morehouse
*Natchitoches
Orleans
  Service Area: Desire Florida/Lower 9Th Ward
Ouachita
*Red River
*Richland
*Sabine
*St. Mary
*Tensas
*Union
*Vermilion
*West Carroll

MENTAL HEALTH: Louisiana
Service Area Listing

Service Area Name

Desire Florida/Lower 9Th Ward
  Parish—Orleans
  Parts:
    C.T. 7.01
    C.T. 9.01–9.04
    C.T. 11 (N. Of Derbigny)
    C.T. 14.01–14.02
    C.T. 15–16
    C.T. 17.03
    C.T. 17.14

MENTAL HEALTH: Louisiana
Facility Listing

Facility Name

East Louisiana State Hospital
  Parish—East Feliciana

MENTAL HEALTH: Maine
County Listing

County Name

Aroostook
  Service Area: Mental Health Catchment Area #1
*Franklin
  Service Area: Farmington/Rumford
*Oxford
  Service Area: Farmington/Rumford
Penobscot
  Service Area: Mental Health Catchment Area#1
  Service Area: Piscataquis/N. Penobscot
Piscataquis
  Service Area: Piscataquis/N. Penobscot
*Somerset
*Washington
  Service Area: Greater Washington
  Service Area: Mental Health Catchment Area#1

MENTAL HEALTH: Maine
Service Area Listing

Service Area Name

Farmington/Rumford

MENTAL HEALTH: Maine
Service Area Listing

Service Area Name

County—Oxford
Parts:
Andover Town
Bethel Town
Buckfield Town
Byron Town
Canton Town
Dixfield Town
Gilead Town
Greenwood Town
Hanover Town
Hartford Town
Hebron Town
Lincoln Plt
Magalloway Plt
Mexico Town
Milton Unorg
N Oxford Unorg
Newry Town
Norway Town
Otisfield Town
Oxford Town
Paris Town
Peru Town
Roxbury Town
Rumford Town
S Oxford Unorg
Sumner Town
Upton Town
W Paris Twn
Waterford Town
Woodstock Town
Greater Washington
County—Washington
Parts:
Addison Town
Alexander Town
Baileyville Town
Baring Town
Beals Town
Beddington Town
Calais City
Centerville Town
Charlotte Town
Cherryfield Town
Codyville Plantation
Columbia Falls Town
Columbia Town
Cooper Town
Crawford Town
Cutler Town
Deblois Town
Dennysville Town
East Central Washington Unorg.
East Machias Town
Eastport City
Grand Lake Stream Plantation
Harrington Town
Jonesboro Town
Jonesport Town
Lubec Town
Machias Town
Machiasport Town
Marshfield Town
Meddybemps Town
Milbridge Town
North Washington Unorg.
Northfield Town
Passamaquoddy Indian Township Re
Passamaquoddy Pleasant Point Res
Pembroke Town
Perry Town

MENTAL HEALTH: Maine
Service Area Listing

Service Area Name

Princeton Town
Robbinston Town
Roque Bluffs Town
Steuben Town
Talmadge Town
Topsfield Town
Vanceboro Town
Waite Town
Wesley Town
Whiting Town
Whitneyville Town
Mental Health Catchment Area#1
County—Penobscot
Parts:
Mt. Chase Twn
Patten Twn
Stacyville Twn
County—Washington
Parts:
Danforth
Piscataquis/N. Penobscot
County—Penobscot
Parts:
Carroll Plt.
Chester Twn.
Drew Plt.
E. Millinocket Twn.
Kingman—Unorg.
Lakeville Plt.
Lee Twn.
Lincoln Twn.
Mattawamkeag Twn.
Medway Twn.
Millinocket Twn.
Prentiss Plt.
Springfield Twn.
Webster Plt.
Winn Twn.
Woodville Twn.
County—Piscataquis

MENTAL HEALTH: Maryland
County Listing

County Name

Caroline
Service Area: Eastern Shore
Cecil
*Dorchester
Service Area: Eastern Shore
Kent
Service Area: Northeastern Shore
Queen Anne's
Service Area: Northeastern Shore
*Somerset
Service Area: Southeastern Shore
Talbot
Service Area: Eastern Shore
*Worcester
Service Area: Southeastern Shore

MENTAL HEALTH: Maryland
Service Area Listing

Service Area Name

Eastern Shore
County—Caroline
County—Dorchester
County—Talbot
Northeastern Shore
County—Kent
County—Queen Anne's

MENTAL HEALTH: Maryland
Service Area Listing

Service Area Name

Southeastern Shore
County—Somerset
County—Worcester

MENTAL HEALTH: Massachusetts
County Listing

County Name

Suffolk
Service Area: E Boston—Homeless
Worcester
Population Group: Low Inc—Worcester

MENTAL HEALTH: Massachusetts
Service Area Listing

Service Area Name

E Boston—Homeless
County—Suffolk
Parts:
C.T. 501–512
C.T. 1801–1805

MENTAL HEALTH: Massachusetts
Population Group Listing

Population Group

Low Inc—Worcester 3
County—Worcester
Parts:
Worcester City

MENTAL HEALTH: Michigan
County Listing

County Name

*Arenac
Service Area: Bay/Arenac
Baraga
Service Area: Copper Country
Bay
Service Area: Bay/Arenac
Benzie
Service Area: Manistee
*Charlevoix
*Cheboygan
Chippewa
Service Area: Eastern/Upper Peninsula
Crawford
Service Area: North Central
*Delta
Dickinson
Service Area: Iron Mountain
Gogebic
Service Area: Gogebic
Houghton
Service Area: Copper Country
*Huron
Iosco
Service Area: Au Sable Valley
Iron
Service Area: Iron Mountain
Keweenaw
Service Area: Copper Country
*Lake
Service Area: Lake/Mason/Oceana
*Leelanau
*Lenawee
Mackinac
Service Area: Eastern/Upper Peninsula
Manistee
Service Area: Manistee

MENTAL HEALTH: Michigan
County Listing

County Name

*Mason
Service Area: Lake/Mason/Oceana
Missaukee
Service Area: North Central
*Oceana
Service Area: Lake/Mason/Oceana
Ogemaw
Service Area: Au Sable Valley
Ontonagon
Service Area: Copper Country
Oscoda
Service Area: Au Sable Valley
*Otsego
Roscommon
Service Area: North Central
*St. Joseph
*Tuscola
Facility: Caro Regional Mhc
Wayne
Service Area: East Detroit
Service Area: Northwest Detroit
Population Group: Low Inc—Southwest Detroit
Wexford
Service Area: North Central

MENTAL HEALTH: Michigan
Service Area Listing

Service Area Name

Au Sable Valley
County—Iosco
County—Ogemaw
County—Oscoda
Bay/Arenac
County—Arenac
County—Bay
Copper Country
County—Baraga
County—Houghton
County—Keweenaw
County—Ontonagon
East Detroit
County—Wayne
Parts:
C.T. 5004–5005
C.T. 5013
C.T. 5020
C.T. 5039–5045
C.T. 5121–5124
C.T. 5126
C.T. 5129
C.T. 5132–5136
C.T. 5139–5143
C.T. 5145–5157
C.T. 5161–5164
C.T. 5166–5169
Eastern/Upper Peninsula
County—Chippewa
County—Mackinac
Gogebic
County—Gogebic
Iron Mountain
County—Dickinson
County—Iron
Lake/Mason/Oceana
County—Lake
County—Mason
County—Oceana
Manistee
County—Benzie
County—Manistee

MENTAL HEALTH: Michigan
Service Area Listing

Service Area Name

North Central
County—Crawford
County—Missaukee
County—Roscommon
County—Wexford
Northwest Detroit
County—Wayne
Parts:
C.T. 5341–5347
C.T. 5350–5357
C.T. 5366–5367
C.T. 5371–5373
C.T. 5377–5378
C.T. 5423–5426
C.T. 5451–5454

MENTAL HEALTH: Michigan
Population Group Listing

Population Group

Low Inc—Southwest Detroit
County—Wayne
Parts:
C.T. 5209
C.T. 5211–5215
C.T. 5220–5222
C.T. 5231–5238
C.T. 5240–5243
C.T. 5251–5258
C.T. 5260–5265

MENTAL HEALTH: Michigan
Facility Listing

Facility Name

Caro Regional Mhc
County—Tuscola

MENTAL HEALTH: Minnesota
County Listing

County Name

*Beltrami
*Clearwater
*Crow Wing
Facility: Brainerd Reg Human Serv Ctr
*Hubbard
*Itasca
Service Area: Itasca/Koochiching
*Kittson
*Koochiching
Service Area: Itasca/Koochiching
*Lake Of The Woods
*Mahnomen
*Marshall
*Norman
*Pennington
*Polk
*Red Lake
*Roseau

MENTAL HEALTH: Minnesota
Service Area Listing

Service Area Name

Itasca/Koochiching
County—Itasca
County—Koochiching

MENTAL HEALTH: Minnesota
Facility Listing

Facility Name

Brainerd Reg Human Serv Ctr
County—Crow Wing
Fergus Falls Reg Treat Ctr

MENTAL HEALTH: Mississippi
County Listing

County Name

Adams
Service Area: Catchment Area #11
Alcorn
Service Area: Catchment Area #4
Amite
Service Area: Catchment Area #11
Attala
Service Area: Catchment Area #6
Benton
Service Area: Catchment Area #3
Bolivar
Service Area: Catchment Area #5
Calhoun
Service Area: Catchment Area #2
Carroll
Service Area: Catchment Area #6
Chickasaw
Service Area: Catchment Area #3
Choctaw
Service Area: Catchment Area #7
Claiborne
Service Area: Catchment Area #11
Clarke
Service Area: Catchment Area #10
Clay
Service Area: Catchment Area #7
Coahoma
Service Area: Catchment Area #1
*Copiah
Covington
Service Area: Catchment Area #12
De Soto
Service Area: Catchment Area #2
Forrest
Service Area: Catchment Area #12
Franklin
Service Area: Catchment Area #11
George
Service Area: Catchment Area #14
Greene
Service Area: Catchment Area #12
Grenada
Service Area: Catchment Area #6
Holmes
Service Area: Catchment Area #6
Humphreys
Service Area: Catchment Area #6
Issaquena
Service Area: Catchment Area #5
Itawamba
Service Area: Catchment Area #3
Jackson
Service Area: Catchment Area #14
Jasper
Service Area: Catchment Area #10
Jefferson
Jefferson Davis
Service Area: Catchment Area #11
Service Area: Catchment Area #12
Jones
Service Area: Catchment Area #12
Kemper
Service Area: Catchment Area #10
Lafayette

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MENTAL HEALTH: Mississippi
County Listing

County Name

Service Area: Catchment Area #2
Lamar
Service Area: Catchment Area #12
Lauderdale
Service Area: Catchment Area #10
Lawrence
Service Area: Catchment Area #11
Leake
Service Area: Catchment Area #10
Lee
Service Area: Catchment Area #3
Leflore
Service Area: Catchment Area #6
Lincoln
Service Area: Catchment Area #11
Lowndes
Service Area: Catchment Area #7
Madison
Marion
Service Area: Catchment Area #12
Marshall
Service Area: Catchment Area #2
Monroe
Service Area: Catchment Area #3
Montgomery
Service Area: Catchment Area #6
Neshoba
Service Area: Catchment Area #10
Newton
Service Area: Catchment Area #10
Noxubee
Service Area: Catchment Area #7
Oktibbeha
Service Area: Catchment Area #7
Panola
Service Area: Catchment Area #2
Perry
Service Area: Catchment Area #12
Pike
Service Area: Catchment Area #11
Pontotoc
Service Area: Catchment Area #3
Prentiss
Service Area: Catchment Area #4
Quitman
Service Area: Catchment Area #1
Scott
Service Area: Catchment Area #10
Sharkey
Service Area: Catchment Area #5
*Simpson
Smith
Service Area: Catchment Area #10
Sunflower
Service Area: Catchment Area #6
Facility: Mississippi State Pen.
Tallahatchie
Service Area: Catchment Area #1
Tate
Service Area: Catchment Area #2
Tippah
Service Area: Catchment Area #4
Tishomingo
Service Area: Catchment Area #4
Tunica
Service Area: Catchment Area #1
Union
Service Area: Catchment Area #3
Walthall
Service Area: Catchment Area #11
Warren
Service Area: Catchment Area #15

MENTAL HEALTH: Mississippi
County Listing

County Name

Washington
Service Area: Catchment Area #5
Wayne
Service Area: Catchment Area #12
Webster
Service Area: Catchment Area #7
Wilkinson
Service Area: Catchment Area #11
Winston
Service Area: Catchment Area #7
Yalobusha
Service Area: Catchment Area #2
Yazoo
Service Area: Catchment Area #15

MENTAL HEALTH: Mississippi
Service Area Listing

Service Area Name

Catchment Area #1
County—Coahoma
County—Quitman
County—Tallahatchie
County—Tunica
Catchment Area #10
County—Clarke
County—Jasper
County—Kemper
County—Lauderdale
County—Leake
County—Neshoba
County—Newton
County—Scott
County—Smith
Catchment Area #11
County—Adams
County—Amite
County—Claiborne
County—Franklin
County—Jefferson
County—Lawrence
County—Lincoln
County—Pike
County—Walthall
County—Wilkinson
Catchment Area #12
County—Covington
County—Forrest
County—Greene
County—Jefferson Davis
County—Jones
County—Lamar
County—Marion
County—Perry
County—Wayne
Catchment Area #14
County—George
County—Jackson
Catchment Area #15
County—Warren
County—Yazoo
Catchment Area #2
County—Calhoun
County—De Soto
County—Lafayette
County—Marshall
County—Panola
County—Tate
County—Yalobusha
Catchment Area #3
County—Benton
County—Chickasaw

MENTAL HEALTH: Mississippi
Service Area Listing

Service Area Name

County—Itawamba
County—Lee
County—Monroe
County—Pontotoc
County—Union
Catchment Area #4
County—Alcorn
County—Prentiss
County—Tippah
County—Tishomingo
Catchment Area #5
County—Bolivar
County—Issaquena
County—Sharkey
County—Washington
Catchment Area #6
County—Attala
County—Carroll
County—Grenada
County—Holmes
County—Humphreys
County—Leflore
County—Montgomery
County—Sunflower
Catchment Area #7
County—Choctaw
County—Clay
County—Lowndes
County—Noxubee
County—Oktibbeha
County—Webster
County—Winston

MENTAL HEALTH: Mississippi
Facility Listing

Facility Name

Mississippi State Pen.
County—Sunflower

MENTAL HEALTH: Missouri
County Listing

County Name

Adair
Service Area: Hannibal
Andrew
Service Area: St Joseph
Atchison
Service Area: St Joseph
Audrain
Service Area: Mexico
Barry
Service Area: Nevada
Barton
Service Area: Joplin
Bates
Service Area: Nevada
Benton
Service Area: Nevada
Bollinger
Service Area: Cape Girardeau
Boone
Buchanan
Service Area: St Joseph
Butler
Service Area: Poplar Bluff
Caldwell
Service Area: Chillicothe
Callaway
Service Area: Mexico
Camden

MENTAL HEALTH: Missouri
County Listing

County Name
Service Area: Jefferson City
Cape Girardeau
Service Area: Cape Girardeau
*Carroll
Carter
Service Area: Poplar Bluff
Cass
Service Area: Warrensburg
Cedar
Service Area: Nevada
*Chariton
Clark
Service Area: Hannibal
Clinton
Service Area: St Joseph
Cole
Service Area: Jefferson City
*Cooper
Crawford
Service Area: Rolla
Dade
*Dade
Service Area: Nevada
Davies
Service Area: Chillicothe
Dekalb
Service Area: St Joseph
Dent
Service Area: Rolla
Douglas
Service Area: West Plains
Dunklin
Service Area: Poplar Bluff
Gasconade
Service Area: Rolla
Gentry
Service Area: St Joseph
Grundy
Service Area: Chillicothe
Harrison
Service Area: Chillicothe
Henry
Service Area: Nevada
Hickory
Service Area: Nevada
Holt
Service Area: St Joseph
*Howard
Howell
Service Area: West Plains
Iron
Service Area: Rolla
Jasper
Service Area: Joplin
Jefferson
Service Area: Cape Girardeau
Johnson
Service Area: Warrensburg
Knox
Service Area: Hannibal
Laclede
Service Area: Jefferson City
Lafayette
Service Area: Warrensburg
Lawrence
Service Area: Nevada
Lewis
Service Area: Hannibal
Linn
Service Area: Chillicothe
Livingston
Service Area: Chillicothe

MENTAL HEALTH: Missouri
County Listing

County Name
Macon
Service Area: Hannibal
Madison
Service Area: Cape Girardeau
Maries
Service Area: Rolla
Marion
Service Area: Hannibal
McDonald
Service Area: Joplin
Mercer
Service Area: Chillicothe
Miller
Service Area: Jefferson City
Mississippi
Service Area: Sikeston
*Moniteau
Monroe
Service Area: Mexico
Montgomery
Service Area: Mexico
*Morgan
New Madrid
Service Area: Sikeston
Newton
Service Area: Joplin
Nodaway
Service Area: St Joseph
Oregon
Service Area: West Plains
Osage
Service Area: Jefferson City
Ozark
Service Area: West Plains
Pemiscot
Service Area: Poplar Bluff
Perry
Service Area: Cape Girardeau
*Pettis
Phelps
Service Area: Rolla
Pike
Service Area: Mexico
Pulaski
Service Area: Jefferson City
Putnam
Service Area: Chillicothe
Ralls
Service Area: Mexico
*Randolph
Reynolds
Service Area: Poplar Bluff
Ripley
Service Area: Poplar Bluff
*Saline
Schuyler
Service Area: Hannibal
Scotland
Service Area: Hannibal
Scott
Service Area: Sikeston
Shannon
Service Area: West Plains
Shelby
Service Area: Hannibal
St Louis
Facility: Malcolm Bliss/St Louis State Hosp
St. Clair
Service Area: Nevada
St. Francois
Service Area: Rolla
Ste. Genevieve

MENTAL HEALTH: Missouri
County Listing

County Name
Service Area: Cape Girardeau
Stoddard
Service Area: Sikeston
Sullivan
Service Area: Chillicothe
Texas
Service Area: West Plains
Vernon
Service Area: Nevada
Washington
Service Area: Rolla
Wayne
Service Area: Poplar Bluff
Worth
Service Area: St Joseph
Wright
Service Area: West Plains

MENTAL HEALTH: Missouri
Service Area Listing

Service Area Name
Cape Girardeau
County—Bollinger
County—Cape Girardeau
County—Jefferson
County—Madison
County—Perry
County—Ste. Genevieve
Chillicothe
County—Caldwell
County—Daviess
County—Grundy
County—Harrison
County—Linn
County—Livingston
County—Mercer
County—Putnam
County—Sullivan
Hannibal
County—Adair
County—Clark
County—Knox
County—Lewis
County—Macon
County—Marion
County—Schuyler
County—Scotland
County—Shelby
Jefferson City
County—Camden
County—Cole
County—Laclede
County—Miller
County—Osage
County—Pulaski
Joplin
County—Barry
County—Barton
County—Jasper
County—Lawrence
County—McDonald
County—Newton
Mexico
County—Audrain
County—Callaway
County—Monroe
County—Montgomery
County—Pike
County—Ralls
Nevada
County—Barry

MENTAL HEALTH: Missouri
Service Area Listing

Service Area Name

County—Bates
County—Benton
County—Cedar
County—Dade
County—Henry
County—Hickory
County—Lawrence
County—St. Clair
County—Vernon
Poplar Bluff
County—Butler
County—Carter
County—Dunklin
County—Pemiscot
County—Reynolds
County—Ripley
County—Wayne
Rolla
County—Crawford
County—Dent
County—Gasconade
County—Iron
County—Maries
County—Phelps
County—St. Francois
County—Washington
Sikeston
County—Mississippi
County—New Madrid
County—Scott
County—Stoddard
St Joseph
County—Andrew
County—Atchison
County—Buchanan
County—Clinton
County—Dekalb
County—Gentry
County—Holt
County—Nodaway
County—Worth
Warrensburg
County—Cass
County—Johnson
County—Lafayette
West Plains
County—Douglas
County—Howell
County—Oregon
County—Ozark
County—Shannon
County—Texas
County—Wright

MENTAL HEALTH: Missouri
Facility Listing

Facility Name

Malcolm Bliss/St Louis State Hosp
County—St Louis

MENTAL HEALTH: Montana
County Listing

County Name

*Beaverhead
*Big Horn
*Blaine
Service Area: North-Central Montana
*Carbon
Carter
Service Area: Eastern Montana

MENTAL HEALTH: Montana
County Listing

County Name

*Chouteau
Service Area: North-Central Montana
Custer
Service Area: Eastern Montana
Daniels
Service Area: Eastern Montana
Dawson
Service Area: Eastern Montana
*Deer Lodge
Fallon
Service Area: Eastern Montana
Garfield
Service Area: Eastern Montana
*Glacier
Service Area: North-Central Montana
*Golden Valley
*Granite
*Hill
Service Area: North-Central Montana
*Lake
*Liberty
Service Area: North-Central Montana
*Lincoln
*Madison
McCone
Service Area: Eastern Montana
*Meagher
*Mineral
*Musselshell
Phillips
Service Area: Eastern Montana
*Pondera
Service Area: North-Central Montana
Powder River
Service Area: Eastern Montana
*Powell
Prairie
Service Area: Eastern Montana
*Ravalli
Richland
Service Area: Eastern Montana
Roosevelt
Service Area: Eastern Montana
Rosebud
Service Area: Eastern Montana
*Sanders
Sheridan
Service Area: Eastern Montana
*Silver Bow
*Stillwater
*Sweet Grass
*Teton
Service Area: North-Central Montana
*Toole
Service Area: North-Central Montana
Treasure
Service Area: Eastern Montana
Valley
*Service Area: Eastern Montana
Wibaux
Service Area: Eastern Montana

MENTAL HEALTH: Montana
Service Area Listing

Service Area Name

Eastern Montana
County—Carter
County—Custer
County—Daniels
County—Dawson
County—Fallon

MENTAL HEALTH: Montana
Service Area Listing

Service Area Name

County—Garfield
County—McCone
County—Phillips
County—Powder River
County—Prairie
County—Richland
County—Roosevelt
County—Rosebud
County—Sheridan
County—Treasure
County—Valley
County—Wibaux
North-Central Montana
County—Blaine
County—Chouteau
County—Glacier
County—Hill
County—Liberty
County—Pondera
County—Teton
County—Toole

MENTAL HEALTH: Nebraska
County Listing

County Name

*Antelope
Service Area: Catchment Area 4
*Arthur
Service Area: Catchment Area 2
Banner
Service Area: Catchment Area 1
*Boone
Service Area: Catchment Area 4
Box Butte
Service Area: Catchment Area 1
*Boyd
Service Area: Catchment Area 4
*Brown
Service Area: Catchment Area 4
*Burt
Service Area: Catchment Area 4
*Butler
Service Area: Catchment Area 5
*Cedar
Service Area: Catchment Area 4
*Chase
Service Area: Catchment Area 2
Cherry
Service Area: Catchment Area 4
Cheyenne
Service Area: Catchment Area 1
*Colfax
Service Area: Catchment Area 4
*Cuming
Service Area: Catchment Area 4
Dakota
Service Area: Catchment Area 4
Dawes
Service Area: Catchment Area 1
*Dawson
Service Area: Catchment Area 2
Deuel
Service Area: Catchment Area 1
*Dixon
Service Area: Catchment Area 4
Douglas
Population Group: Medicaid—Eastern Omaha City
Facility: Douglas County Hosp (Mhc)
*Dundy
Service Area: Catchment Area 2

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MENTAL HEALTH: Nebraska
County Listing

County Name

*Fillmore
Service Area: Catchment Area 5
*Frontier
Service Area: Catchment Area 2
*Gage
Service Area: Catchment Area 5
Garden
Service Area: Catchment Area 1
*Gosper
Service Area: Catchment Area 2
*Grant
Service Area: Catchment Area 2
*Hayes
Service Area: Catchment Area 2
*Hitchcock
Service Area: Catchment Area 2
*Holt
Service Area: Catchment Area 4
*Hooker
Service Area: Catchment Area 2
*Jefferson
Service Area: Catchment Area 5
*Johnson
Service Area: Catchment Area 5
*Keith
Service Area: Catchment Area 2
*Keya Paha
Service Area: Catchment Area 4
Kimball
Service Area: Catchment Area 1
*Knox
Service Area: Catchment Area 4
Lancaster
Service Area: Catchment Area 5
*Lincoln
Service Area: Catchment Area 2
*Logan
Service Area: Catchment Area 2
Madison
Service Area: Catchment Area 4
Facility: Norfolk Regional Center
*Mc Pherson
Service Area: Catchment Area 2
Morrill
Service Area: Catchment Area 1
*Nance
Service Area: Catchment Area 4
*Nemaha
Service Area: Catchment Area 5
*Otoe
Service Area: Catchment Area 5
*Pawnee
Service Area: Catchment Area 5
*Perkins
Service Area: Catchment Area 2
*Pierce
Service Area: Catchment Area 4
*Platte
Service Area: Catchment Area 4
*Polk
Service Area: Catchment Area 5
*Red Willow
Service Area: Catchment Area 2
*Richardson
Service Area: Catchment Area 5
*Rock
Service Area: Catchment Area 4
*Saline
Service Area: Catchment Area 5
*Saunders
Service Area: Catchment Area 5
Scotts Bluff
Service Area: Catchment Area 1
*Seward
Service Area: Catchment Area 5
Sheridan
Service Area: Catchment Area 1
Sioux
Service Area: Catchment Area 1
*Stanton
Service Area: Catchment Area 4
*Thayer
Service Area: Catchment Area 5
*Thomas
Service Area: Catchment Area 2
*Thurston
Service Area: Catchment Area 4
*Wayne
Service Area: Catchment Area 4
*York
Service Area: Catchment Area 5

MENTAL HEALTH: Nebraska
Service Area Listing

Service Area Name

Catchment Area 1
County—Banner
County—Box Butte
County—Cheyenne
County—Dawes
County—Deuel
County—Garden
County—Kimball
County—Morrill
County—Scotts Bluff
County—Sheridan
County—Sioux
Catchment Area 2
County—Arthur
County—Chase
County—Dawson
County—Dundy
County—Frontier
County—Gosper
County—Grant
County—Hayes
County—Hitchcock
County—Hooker
County—Keith
County—Lincoln
County—Logan
County—Mc Pherson
County—Perkins
County—Red Willow
County—Thomas
Catchment Area 4
County—Antelope
County—Boone
County—Boyd
County—Brown
County—Burt
County—Cedar
County—Cherry
County—Colfax
County—Cuming
County—Dakota
County—Dixon
County—Holt
County—Keya Paha
County—Knox
County—Madison
County—Nance
County—Pierce
County—Platte
County—Rock
County—Stanton
County—Thurston
County—Wayne
Catchment Area 5
County—Butler
County—Fillmore
County—Gage
County—Jefferson
County—Johnson
County—Lancaster
County—Nemaha
County—Otoe
County—Pawnee
County—Polk
County—Richardson
County—Saline
County—Saunders
County—Seward
County—Thayer
County—York

MENTAL HEALTH: Nebraska
Service Area Listing

Service Area Name

County—Platte
County—Rock
County—Stanton
County—Thurston
County—Wayne
Catchment Area 5
County—Butler
County—Fillmore
County—Gage
County—Jefferson
County—Johnson
County—Lancaster
County—Nemaha
County—Otoe
County—Pawnee
County—Polk
County—Richardson
County—Saline
County—Saunders
County—Seward
County—Thayer
County—York

MENTAL HEALTH: Nebraska
Population Group Listing

Population Group

Medicaid—Eastern Omaha City
County—Douglas
Parts:
C.T. 3
C.T. 6–12
C.T. 16
C.T. 18–19
C.T. 39–41
C.T. 51–54
C.T. 59.01–59.02
C.T. 60
C.T. 61.01–61.02

MENTAL HEALTH: Nebraska
Facility Listing

Facility Name

Douglas County Hosp (Mhc)
County—Douglas
Norfolk Regional Center
County—Madison

MENTAL HEALTH: Nevada
County Listing

County Name

*Elko

MENTAL HEALTH: Nevada
Facility Listing

Facility Name

Nv State Prsn—Carson City

MENTAL HEALTH: New Hampshire
County Listing

County Name

Carroll
Service Area: Mental Hlth Region I
Coos
Service Area: Mental Hlth Region I
*Grafton
Service Area: Mental Hlth Region I
Population Group: Low Inc—E Grafton

MENTAL HEALTH: New Hampshire
Service Area Listing

Service Area Name
Mental Hlth Region I
County—Carroll
County—Coos
County—Grafton
Parts:
Bath Town
Benton Town
Bethlehem Town
Easton Town
Franconia Town
Haverhill Town
Landaff Town
Lincoln Town
Lisbon Town
Littleton Town
Lyman Town
Monroe Town
Piermont Town
Sugar Hill Town
Warren Town
Waterville Valley Town
Woodstock Town

MENTAL HEALTH: New Hampshire
Population Group Listing

Population Group
Low Inc—E Grafton
County—Grafton
Parts:
Alexandria Town
Ashland Town
Bridgewater Town
Bristol Town
Campton Town
Ellsworth Town
Groton Town
Hebron Town
Holderness Town
Plymouth Town
Rumney Town
Thornton Town
Wentworth Town

MENTAL HEALTH: New Jersey
County Listing

County Name
Cape May
Cumberland
Essex
Service Area: East Orange City
Salem

MENTAL HEALTH: New Jersey
Service Area Listing

Service Area Name
East Orange City
County—Essex
Parts:
C.T. 99–118

MENTAL HEALTH: New Mexico
County Listing

County Name
Bernalillo
Service Area: North Valley
Service Area: Southwest Valley
Catron
Service Area: Hlth Planning District 5
Chaves
Service Area: Catchment Area #6
Cibola
Service Area: Catchment Area #3
Colfax
Service Area: Catchment Area #2
Curry
Service Area: Catchment Area #4
De Baca
Service Area: Catchment Area #4
Dona Ana
Facility: S. New Mexico Corr. Fac.
Eddy
Service Area: Catchment Area #6
Grant
Service Area: Hlth Planning District 5
Guadalupe
Service Area: Catchment Area #4
Harding
Service Area: Catchment Area #4
Hidalgo
Service Area: Hlth Planning District 5
Lea
Service Area: Catchment Area #6
Lincoln
Service Area: Catchment Area #6
Luna
Service Area: Hlth Planning District 5
McKinley
Service Area: Catchment Area #1
Mora
Service Area: Catchment Area #2
Otero
Service Area: Catchment Area #6
Quay
Service Area: Catchment Area #4
Rio Arriba
Service Area: Catchment Area #2
Roosevelt
Service Area: Catchment Area #4
*San Juan
Service Area: Catchment Area #1
*San Miguel
Facility: Las Vegas Medical Center
Sandoval
Service Area: Northern Sandoval
Sierra
Service Area: Catchment Area #7
Socorro
Service Area: Catchment Area #7
Torrence
Service Area: Catchment Area #3
Union
Service Area: Catchment Area #4
Valencia (g)
Facility: C. New Mexico Corr. Fac.

MENTAL HEALTH: New Mexico
Service Area Listing

Service Area Name
Catchment Area #1
County—McKinley
County—San Juan
Catchment Area #2
County—Colfax
County—Mora
County—Rio Arriba
Catchment Area #3
County—Cibola
County—Torrence
Catchment Area #4
County—Curry

MENTAL HEALTH: New Mexico
Service Area Listing

Service Area Name
County—De Baca
County—Guadalupe
County—Harding
County—Quay
County—Roosevelt
County—Union
Catchment Area #6
County—Chaves
County—Eddy
County—Lea
County—Lincoln
County—Otero
Catchment Area #7
County—Sierra
County—Socorro
Hlth Planning District 5
County—Catron
County—Grant
County—Hidalgo
County—Luna
North Valley
County—Bernalillo
Parts:
C.T. 29
C.T. 30.01–30.02
C.T. 31
C.T. 32.01–32.02
C.T. 35.01–35.02
C.T. 36
Northern Sandoval
County—Sandoval
Parts:
Cuba CCD
Jemez CCD
Santo Domingo CCD
Southwest Valley
County—Bernalillo
Parts:
C.T. 23
C.T. 24.01–24.02
C.T. 43
C.T. 44.01–44.02
C.T. 45.01–45.02
C.T. 46.02–46.04

MENTAL HEALTH: New Mexico
Facility Listing

Facility Name
C. New Mexico Corr. Fac.
County—Valencia
Las Vegas Medical Center
County—San Miguel
S. New Mexico Corr. Fac.
County—Dona Ana

MENTAL HEALTH: New York
County Listing

County Name
Bronx
Facility: Nyc Corr. Fac./Riker Island
Cayuga
Erie
Service Area: P.S. 84 Neighborhood
*Essex
*Franklin
*Jefferson
*Lewis
Livingston
Monroe
Service Area: Brockport

MENTAL HEALTH: New York
County Listing

County Name

Service Area: Jordan (Rochester)
New York
Service Area: Chinatown/Lower Manhattan
Service Area: Northern Manhattan (Ryan)
*Schuyler
*Seneca
*St. Lawrence

MENTAL HEALTH: New York
Service Area Listing

Service Area Name

Brockport
County—Monroe
Parts:
C.T. 151–152
C.T. 153.01–153.02
C.T. 154
Chinatown/Lower Manhattan
County—New York
Parts:
C.T. 2.01–2.02
C.T. 6
C.T. 8
C.T. 10.01
C.T. 12
C.T. 14.01–14.02
C.T. 15.01
C.T. 16
C.T. 18
C.T. 25
C.T. 27
C.T. 29
C.T. 30.01–30.02
C.T. 31–32
C.T. 34
C.T. 36.01–36.02
C.T. 38
C.T. 41
C.T. 43
C.T. 45
C.T. 55.02
Jordan (Rochester)
County—Monroe
Parts:
C.T. 7
C.T. 13–15
C.T. 39
C.T. 43
C.T. 48–53
C.T. 55–56
C.T. 80
C.T. 90–92
C.T. 93.01
C.T. 94.02–94.04
Northern Manhattan (Ryan)
County—New York
Parts:
C.T. 173
C.T. 175
C.T. 177
C.T. 179
C.T. 181
C.T. 183
C.T. 185–187
C.T. 189–191
C.T. 193
C.T. 195
C.T. 197.01–197.02
C.T. 199–200
C.T. 201.01–201.02
C.T. 203

MENTAL HEALTH: New York
Service Area Listing

Service Area Name

C.T. 205
C.T. 207.01–207.02
C.T. 208
C.T. 209.01–209.02
C.T. 211
C.T. 213.01–213.02
C.T. 216
C.T. 217.01–217.02
C.T. 218
C.T. 219.97
C.T. 220
C.T. 221.01–221.02
C.T. 222
C.T. 223.97–223.98
C.T. 224–226
C.T. 227.01–227.02
C.T. 229
C.T. 233
C.T. 237
C.T. 241
C.T. 245
C.T. 247
P.S. 84 Neighborhood
County—Erie
Parts:
C.T. 27.02
C.T. 29
C.T. 32.01–32.02
C.T. 33.01–33.02
C.T. 34–36
C.T. 39.01–39.02
C.T. 40.01–40.02
C.T. 41–42
C.T. 44.02
C.T. 52.02
C.T. 64

MENTAL HEALTH: New York
Facility Listing

Facility Name

Nyc Corr. Fac./Riker Island
County—Bronx

MENTAL HEALTH: North Carolina
County Listing

County Name

Bertie
Service Area: Roanoke-Chowan
Bladen
Service Area: Southeast Regional
Camden
Service Area: Albemarle
Cherokee
Service Area: Smokey Mountain
Chowan
Service Area: Albemarle
Clay
Service Area: Smokey Mountain
Columbus
Service Area: Southeast Regional
Currituck
Service Area: Albemarle
Dare
Service Area: Albemarle
Duplin
Service Area: Duplin-Sampson
Gates
Service Area: Roanoke-Chowan
Graham
Service Area: Smokey Mountain
Halifax
Service Area: Halifax Mhca
Hertford
Service Area: Roanoke-Chowan
Hyde
Service Area: Tideland
Jackson
Service Area: Smokey Mountain
Macon
Service Area: Smokey Mountain
Martin
Service Area: Tideland
Northampton
Service Area: Roanoke-Chowan
Pasquotank
Service Area: Albemarle
Perquimans
Service Area: Albemarle
Robeson
Service Area: Southeast Regional
Sampson
Service Area: Duplin-Sampson
Scotland
Service Area: Southeast Regional
Surry
Service Area: Surry-Yadkin
Swain
Service Area: Smokey Mountain
Tyrrell
Service Area: Tideland
Washington
Service Area: Tideland
Yadkin
Service Area: Surry-Yadkin

MENTAL HEALTH: North Carolina
Service Area Listing

Service Area Name

Albemarle
County—Camden
County—Chowan
County—Currituck
County—Dare
County—Pasquotank
County—Perquimans
Duplin-Sampson
County—Duplin
County—Sampson
Halifax Mhca
County—Halifax
Roanoke-Chowan
County—Bertie
County—Gates
County—Hertford
County—Northampton
Smokey Mountain
County—Cherokee
County—Clay
County—Graham
County—Haywood
County—Jackson
County—Macon
County—Swain
Southeast Regional
County—Bladen
County—Columbus
County—Robeson
County—Scotland
Surry-Yadkin
County—Surry
County—Yadkin

MENTAL HEALTH: North Carolina
Service Area Listing

Service Area Name

Tideland
*County—Beaufort
County—Hyde
County—Martin
County—Tyrrell
County—Washington

MENTAL HEALTH: North Dakota
County Listing

County Name

Barnes
Service Area: Jamestown (Ca 38004)
Benson
Service Area: Devils Lake Catchment Area
*Bottineau
*Burke
Cavalier
Service Area: Devils Lake Catchment Area
Dickey
Service Area: Jamestown (Ca 38004)
Eddy
Service Area: Devils Lake Catchment Area
Foster
Service Area: Jamestown (Ca 38004)
Griggs
Service Area: Jamestown (Ca 38004)
Lamoure
Service Area: Jamestown (Ca 38004)
Logan
Service Area: Jamestown (Ca 38004)
*McHenry
McIntosh
Service Area: Jamestown (Ca 38004)
*Mountrail
*Pierce
Ramsey
Service Area: Devils Lake Catchment Area
*Renville
Rolette
Service Area: Devils Lake Catchment Area
Stutsman
Service Area: Jamestown (Ca 38004)
Facility: North Dakota State Hosp
Towner
Service Area: Devils Lake Catchment Area
*Ward
Wells
Service Area: Jamestown (Ca 38004)

MENTAL HEALTH: North Dakota
Service Area Listing

Service Area Name

Devils Lake Catchment Area
County—Benson
County—Cavalier
County—Eddy
County—Ramsey
County—Rolette
County—Towner
Jamestown (Ca 38004)
County—Barnes
County—Dickey
County—Foster
County—Griggs
County—Lamoure
County—Logan
County—McIntosh
County—Stutsman
County—Wells

MENTAL HEALTH: North Dakota
Facility Listing

Facility Name

North Dakota State Hosp
County—Stutsman

MENTAL HEALTH: Ohio
County Listing

County Name

Athens
Service Area: Catchment Area #33
Belmont
Service Area: Catchment Area #8
*Coshocton
Cuyahoga
Facility: Cleveland Psych Inst
*Fayette
Service Area: Chillicothe
*Gallia
Geauga
*Guernsey
Harrison
Service Area: Catchment Area #8
*Highland
Service Area: Chillicothe
Hocking
Service Area: Catchment Area #33
*Jackson
*Meigs
Monroe
Service Area. Catchment Area #8
*Morgan
*Muskingum
*Noble
*Perry
*Pike
Service Area: Chillicothe
Richland
Facility: Mansfield Corr Inst
*Ross
Service Area: Chillicothe
Facility: Chillicothe Corr Inst
Facility: Ross Corr Inst
Vinton
Service Area: Catchment Area #33
Washington

MENTAL HEALTH: Ohio
Service Area Listing

Service Area Name

Catchment Area #33
County—Athens
County—Hocking
County—Vinton
Catchment Area #8
County—Belmont
County—Harrison
County—Monroe
Chillicothe
County—Fayette
County—Highland
County—Pike
County—Ross

MENTAL HEALTH: Ohio
Facility Listing

Facility Name

Chillicothe Corr Inst
County—Ross
Cleveland Psych Inst
County—Cuyahoga
Mansfield Corr Inst
County—Richland

MENTAL HEALTH: Ohio
Facility Listing

Facility Name

Ross Corr Inst
County—Ross

MENTAL HEALTH: Oklahoma
County Listing

County Name

*Adair
*Atoka
*Beckham
*Blaine
*Bryan
*Caddo
*Carter
*Cherokee
*Choctaw
*Coal
Comanche
*Cotton
Creek
*Custer
*Dewey
Garfield
*Garvin
*Grant
*Greer
*Harmon
*Haskell
*Hughes
*Jackson
*Jefferson
*Johnston
*Kay
*Kingfisher
*Kiowa
*Latimer
*Le Flore
Logan
*Love
*Marshall
*McCurtain
*Murray
*Noble
*Okfuskee
*Okmulgee
Osage
*Pawnee
*Payne
*Pittsburg
*Pontotoc
*Pushmataha
*Roger Mills
*Seminole
Sequoyah
*Stephens
*Tillman
Wagoner
*Washington
*Washita

MENTAL HEALTH: Oregon
County Listing

County Name

Baker
Service Area: Northeastern Oregon
*Clatsop
*Columbia
Coos
Service Area: Catchment Area 14
Curry
Service Area: Catchment Area 14

MENTAL HEALTH: Oregon
County Listing

County Name

Gilliam
  Service Area: East Columbia
Grant
  Service Area: East Columbia
Harney
  Service Area: Southeastern Oregon
*Josephine
*Klamath
*Lincoln
Malheur
  Service Area: Southeastern Oregon
Morrow
  Service Area: East Columbia
*Tillamook
Umatilla
  Service Area: East Columbia
Union
  Service Area: Northeastern Oregon
Wallowa
  Service Area: Northeastern Oregon
Wheeler
  Service Area: East Columbia

MENTAL HEALTH: Oregon
Service Area Listing

Service Area Name

Catchment Area 14
  County—Coos
  County—Curry
East Columbia
  County—Gilliam
  County—Grant
  County—Morrow
  County—Umatilla
  County—Wheeler
Northeastern Oregon
  County—Baker
  County—Union
  County—Wallowa
Southeastern Oregon
  County—Harney
  County—Malheur

MENTAL HEALTH: Pennsylvania
County Listing

County Name

Adams
  Service Area: Gettysburg/Hanover
Armstrong
  Population Group: Low Inc—Armstrong Co
Beaver
  Population Group: Low Inc—Beaver Co
*Bedford
Carbon
*Clarion
*Clearfield
*Clinton
Columbia
Fayette
*Forest
Huntingdon
  Service Area: Juniata/Mifflin
*Indiana
*Jefferson
Juniata
  Service Area: Juniata/Mifflin
Lycoming
Mifflin
  Service Area: Juniata/Mifflin
Monroe
*Montour
*Northumberland
*Pike
*Snyder
Somerset
*Susquehanna
*Tioga
*Union
*Venango
*Warren
*Wayne (g)
  Facility: Farview State Hosp
Wyoming
York
  Service Area: Gettysburg/Hanover

MENTAL HEALTH: Pennsylvania
Service Area Listing

Service Area Name

Gettysburg/Hanover
  County—Adams
  County—York
    Parts:
      Codorus Township
      Hanover Borough
      Heidelberg Township
      Jackson Township
      Jefferson Borough
      Manheim Township
      New Salem Borough
      North Codorus Township
      Paradise Township
      Penn Township
      Seven Valleys Borough
      Spring Grove Borough
      West Manheim Township
Juniata/Mifflin
  County—Huntingdon
  County—Juniata
  County—Mifflin

MENTAL HEALTH: Pennsylvania
Population Group Listing

Population Group

Low Inc—Armstrong Co
  County—Armstrong
    Parts:
      Low Income
Low Inc—Beaver Co
  County—Beaver
    Parts:
      Low Income

MENTAL HEALTH: Pennsylvania
Facility Listing

Facility Name

Farview State Hosp
  County—Wayne

MENTAL HEALTH: South Carolina
County Listing

County Name

Abbeville
  Service Area: Catchment Area 5
Aiken
  Service Area: Catchment Area 10
Allendale
  Service Area: Catchment Area 11
Anderson
  Facility: Patrick B. Harris Psychiatric Hospital
Bamberg
  Service Area: Catchment Area 14
*Barnwell
  Service Area: Catchment Area 10
Beaufort
  Service Area: Catchment Area 11
Berkeley
  Service Area: Rural Berkeley
Calhoun
  Service Area: Catchment Area 14
Cherokee
  Service Area: Catchment Area 3
Chester
  Service Area: Catchment Area 4
Chesterfield
  Service Area: Catchment Area 12
Clarendon
  Service Area: Catchment Area 9
Colleton
  Service Area: Catchment Area 11
Darlington
  Service Area: Catchment Area 7
Dillon
  Service Area: Catchment Area 12
Edgefield
  Service Area: Catchment Area 5
Florence
  Service Area: Catchment Area 7
Georgetown
  Service Area: Catchment Area 13
Greenwood
  Service Area: Catchment Area 5
Hampton
  Service Area: Catchment Area 11
Horry
  Service Area: Catchment Area 13
Jasper
  Service Area: Catchment Area 11
Kershaw
  Service Area: Catchment Area 9
Lancaster
  Service Area: Catchment Area 4
Laurens
  Service Area: Catchment Area 5
Lee
  Service Area: Catchment Area 9
Marion
  Service Area: Catchment Area 7
Marlboro
  Service Area: Catchment Area 12
McCormick
  Service Area: Catchment Area 5
Newberry
  Service Area: Catchment Area 5
Orangeburg
  Service Area: Catchment Area 14
Richland
  Facility: Broad River Corr. Complex
  Facility: G. Werber Bryan Psychiatric Hospital
Saluda
  Service Area: Catchment Area 5
Spartanburg
  Service Area: Catchment Area 3
Sumter
  Service Area: Catchment Area 9
Union
  Service Area: Catchment Area 3
Williamsburg

MENTAL HEALTH: South Carolina
County Listing

County Name

Service Area: Catchment Area 13
York
Service Area: Catchment Area 4

MENTAL HEALTH: South Carolina
Service Area Listing

Service Area Name

Catchment Area 10
County—Aiken
Parts:
Aiken
County—Aiken
County—Barnwell
Parts:
Barnwell
Catchment Area 11
County—Jasper
Catchment Area 12
County—Marlboro
Catchment Area 13
County—Williamsburg
Catchment Area 14
County—Orangeburg
Catchment Area 3
County—Cherokee
County—Spartanburg
County—Union
Catchment Area 4
County—Chester
County—Lancaster
County—York
Catchment Area 5
County—Abbeville
County—Edgefield
County—Greenwood
County—Laurens
County—McCormick
County—Newberry
County—Saluda
Catchment Area 7
County—Darlington
County—Florence
County—Marion
Catchment Area 9
County—Clarendon
County—Kershaw
County—Lee
County—Sumter
Rural Berkeley
County—Berkeley
Parts:
Bonneau CCD
Cordesville CCD
Cross CCD
Moncks Corner CCD
St. Stephens CCD
Wando CCD

MENTAL HEALTH: South Carolina
Facility Listing

Facility Name

Broad River Corr. Complex
County—Richland
G. Werber Bryan Psychiatric Hospital
County—Richland
Patrick B. Harris Psychiatric Hospital
County—Anderson

MENTAL HEALTH: South Dakota
County Listing

County Name

Aurora
Service Area: Catchment Area 4
Beadle
Service Area: Catchment Area 3
Bennett
Service Area: Catchment Area 11
*Bon Homme
Service Area: Catchment Area 12
Facility: Sd State Pen.—Bon Homme
Brookings
Service Area: Catchment Area 1
Brown
Service Area: Catchment Area 7
Brule
Service Area: Catchment Area 4
Buffalo
Service Area: Catchment Area 2
Butte
Service Area: Catchment Area 11
Campbell
Service Area: Catchment Area 7
*Charles Mix
Service Area: Catchment Area 12
Clark
Service Area: Catchment Area 5
*Clay
Service Area: Catchment Area 12
Codington
Service Area: Catchment Area 5
Corson
Service Area: Catchment Area 8
Custer
Service Area: Catchment Area 11
Facility: Custer State Hospital
Davison
Service Area: Catchment Area 4
Day
Service Area: Catchment Area 7
Deuel
Service Area: Catchment Area 5
Dewey
Service Area: Catchment Area 8
*Douglas
Service Area: Catchment Area 12
Edmunds
Service Area: Catchment Area 7
Fall River
Service Area: Catchment Area 11
Faulk
Service Area: Catchment Area 7
Grant
Service Area: Catchment Area 5
Gregory
Service Area: Catchment Area 10
Haakon
Service Area: Catchment Area 2
Hamlin
Service Area: Catchment Area 5
Hand
Service Area: Catchment Area 3
Hanson
Service Area: Catchment Area 4
Harding
Service Area: Catchment Area 11
Hughes
Service Area: Catchment Area 2
*Hutchinson
Service Area: Catchment Area 12
Hyde
Service Area: Catchment Area 2
Jackson
Service Area: Catchment Area 11

MENTAL HEALTH: South Dakota
County Listing

County Name

Jerauld
Service Area: Catchment Area 3
Jones
Service Area: Catchment Area 2
Kingsbury
Service Area: Catchment Area 5
*Lake
Service Area: Catchment Area 3
Lawrence
Service Area: Catchment Area 11
Lyman
Service Area: Catchment Area 2
Marshall
Service Area: Catchment Area 7
Mc Pherson
Service Area: Catchment Area 7
Meade
Service Area: Catchment Area 11
Mellette
Service Area: Catchment Area 10
Miner
Service Area: Catchment Area 3
Minnehaha
Facility: Sd State Pen.—Minnehaha
Moody
Service Area: Catchment Area 1
Pennington
Service Area: Catchment Area 11
Perkins
Service Area: Catchment Area 8
Potter
Service Area: Catchment Area 7
Roberts
Service Area: Catchment Area 5
Sanborn
Service Area: Catchment Area 4
Shannon
Service Area: Catchment Area 11
Spink
Service Area: Catchment Area 7
Facility: Redfield State Hospital
Stanley
Service Area: Catchment Area 2
Sully
Service Area: Catchment Area 2
Todd
Service Area: Catchment Area 10
Tripp
Service Area: Catchment Area 10
*Union
Service Area: Catchment Area 12
Walworth
Service Area: Catchment Area 7
*Yankton
Service Area: Catchment Area 12
Facility: South Dakota Human Srv Ctr
Ziebach
Service Area: Catchment Area 8

MENTAL HEALTH: South Dakota
Service Area Listing

Service Area Name

Catchment Area 1
County—Brookings
County—Moody
Catchment Area 10
County—Gregory
County—Mellette
County—Todd
County—Tripp
Catchment Area 11

MENTAL HEALTH: South Dakota
Service Area Listing

Service Area Name
County—Bennett
County—Butte
County—Custer
County—Fall River
County—Harding
County—Jackson
County—Lawrence
County—Meade
County—Pennington
County—Shannon
Catchment Area 12
County—Bon Homme
County—Charles Mix
County—Clay
County—Douglas
County—Hutchinson
County—Union
County—Yankton
Catchment Area 2
County—Buffalo
County—Haakon
County—Hughes
County—Hyde
County—Jones
County—Lyman
County—Stanley
County—Sully
Catchment Area 3
County—Beadle
County—Hand
County—Jerauld
County—Lake
County—Miner
Catchment Area 4
County—Aurora
County—Brule
County—Davison
County—Hanson
County—Sanborn
Catchment Area 5
County—Clark
County—Codington
County—Deuel
County—Grant
County—Hamlin
County—Kingsbury
County—Roberts
Catchment Area 7
County—Brown
County—Campbell
County—Day
County—Edmunds
County—Faulk
County—Mc Pherson
County—Marshall
County—Potter
County—Spink
County—Walworth
Catchment Area 8
County—Corson
County—Dewey
County—Perkins
County—Ziebach

MENTAL HEALTH: South Dakota
Facility Listing

Facility Name
Custer State Hospital
County—Custer
Redfield State Hospital
County—Spink

MENTAL HEALTH: South Dakota
Facility Listing

Facility Name
Sd State Pen.—Bon Homme
County—Bon Homme
Sd State Pen.—Minnehaha
County—Minnehaha
South Dakota Human Srv Ctr
County—Yankton

MENTAL HEALTH: Tennessee
County Listing

County Name
Bedford
Service Area: Catchment Area 19
Benton
Service Area: Catchment Area 21
Bledsoe
Service Area: Catchment Area 12 (Part)
Cannon
Service Area: Catchment Area 9
Carroll
Service Area: Catchment Area 21
Carter
Cheatham
Service Area: Catchment Area 14
Chester
Service Area: Catchment Area 24
Claiborne
Service Area: Catchment Area 5
Clay
Service Area: Catchment Area 9
Cocke
Service Area: Catchment Area 5
Coffee
Service Area: Catchment Area 19
Crockett
Service Area: Catchment Area 22
Cumberland
Service Area: Catchment Area 9
De Kalb
Service Area: Catchment Area 9
Decatur
Service Area: Catchment Area 24
Dickson
Service Area: Catchment Area 14
Dyer
Service Area: Catchment Area 22
Fayette
Service Area: Catchment Area 25
Fentress
Service Area: Catchment Area 9
Franklin
Service Area: Catchment Area 19
Gibson
Service Area: Catchment Area 21
Giles
Service Area: Catchment Area 20
Grainger
Service Area: Catchment Area 5
Greene
Service Area: Catchment Area 4
Grundy
Service Area: Catchment Area 12 (Part)
Hamblen
Service Area: Catchment Area 5
Hancock
Service Area: Catchment Area 4
Hardeman
Service Area: Catchment Area 24
Hardin
Service Area: Catchment Area 24
Hawkins
Service Area: Catchment Area 4

MENTAL HEALTH: Tennessee
County Listing

County Name
Haywood
Service Area: Catchment Area 23
Henderson
Service Area: Catchment Area 23
Henry
Service Area: Catchment Area 21
Hickman
Service Area: Catchment Area 20
Houston
Service Area: Catchment Area 14
Humphreys
Service Area: Catchment Area 14
Jackson
Service Area: Catchment Area 9
Jefferson
Service Area: Catchment Area 5
Lake
Service Area: Catchment Area 22
Lauderdale
Service Area: Catchment Area 25
Lawrence
Service Area: Catchment Area 20
Lewis
Service Area: Catchment Area 20
Lincoln
Service Area: Catchment Area 19
Macon
Service Area: Catchment Area 9
Madison
Service Area: Catchment Area 23
Marion
Service Area: Catchment Area 12 (Part)
Marshall
Service Area: Catchment Area 20
Maury
Service Area: Catchment Area 20
Mc Nairy
Service Area: Catchment Area 24
Montgomery
Service Area: Catchment Area 14
Moore
Service Area: Catchment Area 19
Obion
Service Area: Catchment Area 22
Overton
Service Area: Catchment Area 9
Perry
Service Area: Catchment Area 20
Pickett
Service Area: Catchment Area 9
Putnam
Service Area: Catchment Area 9
Rhea
Service Area: Catchment Area 12 (Part)
Robertson
Service Area: Catchment Area 14
*Sequatchie
Service Area: Catchment Area 12 (Part)
Smith
Service Area: Catchment Area 9
Stewart
Service Area: Catchment Area 14
Sumner
Service Area: Catchment Area 31
Tipton
Service Area: Catchment Area 25
Trousdale
Service Area: Catchment Area 31
Unicoi
Union
Service Area: Catchment Area 5
Van Buren

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MENTAL HEALTH: Tennessee
County Listing

County Name

Service Area: Catchment Area 9
Warren
Service Area: Catchment Area 9
Washington
Wayne
Service Area: Catchment Area 20
Weakley
Service Area: Catchment Area 22
White
Service Area: Catchment Area 9
Wilson
Service Area: Catchment Area 31

MENTAL HEALTH: Tennessee
Service Area Listing

Service Area Name

Catchment Area 12 (Part)
County—Bledsoe
County—Grundy
County—Marion
County—Rhea
County—Sequatchie
Catchment Area 14
County—Cheatham
County—Dickson
County—Houston
County—Humphreys
County—Montgomery
County—Robertson
County—Stewart
Catchment Area 19
County—Bedford
County—Coffee
County—Franklin
County—Lincoln
County—Moore
Catchment Area 20
County—Giles
County—Hickman
County—Lawrence
County—Lewis
County—Marshall
County—Maury
County—Perry
County—Wayne
Catchment Area 21
County—Benton
County—Carroll
County—Gibson
County—Henry
Catchment Area 22
County—Crockett
County—Dyer
County—Lake
County—Obion
County—Weakley
Catchment Area 23
County—Haywood
County—Henderson
County—Madison
Catchment Area 24
County—Chester
County—Decatur
County—Hardeman
County—Hardin
County—Mc Nairy
Catchment Area 25
County—Fayette
County—Lauderdale
County—Tipton
Catchment Area 31

MENTAL HEALTH: Tennessee
Service Area Listing

Service Area Name

County—Sumner
County—Trousdale
County—Wilson
Catchment Area 4
County—Greene
County—Hancock
County—Hawkins
Catchment Area 5
County—Claiborne
County—Cocke
County—Grainger
County—Hamblen
County—Jefferson
County—Union
Catchment Area 9
County—Cannon
County—Clay
County—Cumberland
County—De Kalb
County—Fentress
County—Jackson
County—Macon
County—Overton
County—Pickett
County—Putnam
County—Smith
County—Van Buren
County—Warren
County—White

MENTAL HEALTH: Texas
County Listing

County Name

*Anderson
Service Area: LSA 41
*Andrews
Service Area: LSA 38a
*Angelina
Service Area: LSA 11
*Aransas
Service Area: LSA 45
Archer
Service Area: LSA 52
*Atascosa
Service Area: LSA 47
*Austin
Service Area: LSA 33
Bailey
Service Area: LSA 7 Plainview
*Bandera
Service Area: LSA 40
Bastrop
Service Area: LSA 36a
*Baylor
Service Area: LSA 55
*Bee
Service Area: LSA 45
*Blanco
Service Area: LSA 32
*Borden
Service Area: LSA 37a
Bowie
Service Area: LSA 21
Brewster
Service Area: LSA 58
Briscoe
Service Area: LSA 7 Plainview
*Brooks
Service Area: LSA 60
Brown
Service Area: LSA 8 Central

MENTAL HEALTH: Texas
County Listing

County Name

*Burnet
Service Area: LSA 36b
Caldwell
Service Area: LSA 36a
Cameron
Service Area: LSA 30 Lower Rio Grande
*Camp
Service Area: LSA 50
*Cass
Service Area: LSA 21
Castro
Service Area: LSA 7 Plainview
*Cherokee
Service Area: LSA 41
*Childress
Service Area: LSA 53
*Clay
Service Area: LSA 57
*Coke
Service Area: LSA 9
Coleman
Service Area: LSA 8 Central
*Colorado
Service Area: LSA 35
Comal
Service Area: LSA 44
Comanche
Service Area: LSA 8 Central
*Concho
Service Area: LSA 9
*Cooke
Service Area: LSA 28
*Cottle
Service Area: LSA 55
*Crane
Service Area: LSA 54c
*Crockett
Service Area: LSA 9
Culberson
Service Area: LSA 55
*Dawson
Service Area: LSA 38a
*Delta
Service Area: LSA 49a
*Dickens
Service Area: LSA 55
*Dimmit
Service Area: LSA 45
*Duval
Service Area: LSA 60
Eastland
Service Area: LSA 8 Central
*Edwards
Service Area: LSA 40
El Paso
Erath
Service Area: LSA 23
*Falls
Service Area: LSA 63
*Fannin
Service Area: LSA 28
*Fayette
Service Area: LSA 36a
*Fisher
Service Area: LSA 37a
Floyd
Service Area: LSA 7 Plainview
*Foard
Service Area: LSA 55
Fort Bend
Service Area: LSA 35
*Franklin

MENTAL HEALTH: Texas
County Listing

County Name
Service Area: LSA 49a
*Freestone
Service Area: LSA 63
*Frio
Service Area: LSA 45
*Gaines
Service Area: LSA 38a
*Garza
Service Area: LSA 38b
Gillespie
Service Area: LSA 40
*Glasscock
Service Area: LSA 37a
*Gonzales
Service Area: LSA 48
Grayson
Service Area: LSA 28
Gregg
Service Area: LSA 25
Guadalupe
Service Area: LSA 44
Hale
Service Area: LSA 7 Plainview
*Hardeman
Service Area: LSA 55
Harrison
Service Area: LSA 25
*Haskell
Service Area: LSA 52
Hays
Service Area: LSA 32
*Henderson
Service Area: LSA 12
Hidalgo
Service Area: LSA 30 Lower Rio Grande
*Hood
Service Area: LSA 23
*Hopkins
Service Area: LSA 49a
*Houston
Service Area: LSA 11
*Howard
Service Area: LSA 37a
Hudspeth
Service Area: LSA 58
*Hunt
Service Area: LSA 62
*Irion
Service Area: LSA 9
*Jack
Service Area: LSA 57
*Jasper
Service Area: LSA 11
Jeff Davis
Service Area: LSA 58
Jim Hogg
Service Area: LSA 59
*Jim Wells
Service Area: LSA 60
Johnson
Service Area: LSA 34
*Karnes
Service Area: LSA 45
Kaufman
Service Area: LSA 49b
Facility: Terrell State Hospital
*Kendall
Service Area: LSA 40
*Kenedy
Service Area: LSA 60
*Kent
Service Area: LSA 38b

MENTAL HEALTH: Texas
County Listing

County Name
*Kerr
Service Area: LSA 40
*Kimble
Service Area: LSA 40
*King
Service Area: LSA 55
*Kinney
Service Area: LSA 42
*Kleberg
Service Area: LSA 60
*Knox
Service Area: LSA 55
*Lamar
Service Area: LSA 49a
Lamb
Service Area: LSA 7 Plainview
*Lasalle
Service Area: LSA 45
*Lee
Service Area: LSA 36a
Liberty
Service Area: LSA 29
*Limestone
Service Area: LSA 63
*Live Oak
Service Area: LSA 45
*Llano
Service Area: LSA 40
*Loving
Service Area: LSA 54a
*Marion
Service Area: LSA 25
*Martin
Service Area: LSA 38a
*Mason
Service Area: LSA 40
*Matagorda
Service Area: LSA 35
*Maverick
Service Area: LSA 45
Mc Culloch
Service Area: LSA 8 Central
*McMullen
Service Area: LSA 45
*Medina
Service Area: LSA 42
*Menard
Service Area: LSA 40
Mills
Service Area: LSA 8 Central
*Mitchell
Service Area: LSA 37a
*Montague
Service Area: LSA 57
Montgomery
Service Area: LSA 29
*Morris
Service Area: LSA 49a
Motley
Service Area: LSA 7 Plainview
*Nacogdoches
Service Area: LSA 11
*Navarro
Service Area: LSA 19
*Newton
Service Area: LSA 11
*Nolan
Service Area: LSA 37a
Palo Pinto
Service Area: LSA 23
*Panola
Service Area: LSA 25

MENTAL HEALTH: Texas
County Listing

County Name
Parker
Service Area: LSA 23
Parmer
Service Area: LSA 7 Plainview
*Pecos
Service Area: LSA 24a
*Polk
Service Area: LSA 11
Presidio
Service Area: LSA 58
*Rains
Service Area: LSA 12
*Reagan
Service Area: LSA 9
*Real
Service Area: LSA 40
*Red River
Service Area: LSA 21
*Reeves
Service Area: LSA 54a
*Runnels
Service Area: LSA 37b
*Rusk
Service Area: LSA 25
*Sabine
Service Area: LSA 11
*San Augustine
Service Area: LSA 11
*San Jacinto
Service Area: LSA 11
San Patricio
Service Area: LSA 45
San Saba
Service Area: LSA 8 Central
*Schleicher
Service Area: LSA 39
*Scurry
Service Area: LSA 37a
*Shackelford
Service Area: LSA 56
*Shelby
Service Area: LSA 11
Smith
Service Area: LSA 12
Somervell
Service Area: LSA 23
Starr
Service Area: LSA 59
*Stephens
Service Area: LSA 56
*Sterling
Service Area: LSA 9
*Stonewall
Service Area: LSA 52
*Sutton
Service Area: LSA 39
Swisher
Service Area: LSA 7 Plainview
*Terrell
Service Area: LSA 54b
*Terry
Service Area: LSA 38a
*Throckmorton
Service Area: LSA 52
*Titus
Service Area: LSA 49a
Tom Green
Service Area: LSA 9
*Trinity
Service Area: LSA 11
*Tyler
Service Area: LSA 11

MENTAL HEALTH: Texas
County Listing

County Name
Upshur
Service Area: LSA 25
*Upton
Service Area: LSA 54c
*Uvalde
Service Area: LSA 42
*Val Verde
Service Area: LSA 43
*Van Zandt
Service Area: LSA 12
*Walker
Service Area: LSA 29
Waller
Service Area: LSA 33
*Ward
Service Area: LSA 54a
Webb
Service Area: LSA 59
*Wharton
Service Area: LSA 35
*Wilbarger
Service Area: LSA 55
Willacy
Service Area: LSA 30 Lower Rio Grande
Wilson
Service Area: LSA 47
*Winkler
Service Area: LSA 54a
*Wise
Service Area: LSA 57
*Wood
Service Area: LSA 12
*Yoakum
Service Area: LSA 38a
*Young
Service Area: LSA 52
Zapata
Service Area: LSA 59
*Zavala
Service Area: LSA 45

MENTAL HEALTH: Texas
Service Area Listing

Service Area Name
LSA 11
County—Angelina
County—Houston
County—Jasper
County—Nacogdoches
County—Newton
County—Polk
County—Sabine
County—San Augustine
County—San Jacinto
County—Shelby
County—Trinity
County—Tyler
LSA 12
County—Henderson
County—Rains
County—Smith
County—Van Zandt
County—Wood
LSA 19
County—Navarro
LSA 21
County—Bowie
County—Cass
County—Red River
LSA 23
County—Erath

MENTAL HEALTH: Texas
Service Area Listing

Service Area Name
County—Hood
County—Palo Pinto
County—Parker
County—Somervell
LSA 24a
County—Pecos
LSA 25
County—Gregg
County—Harrison
County—Marion
County—Panola
County—Rusk
County—Upshur
LSA 28
County—Cooke
County—Fannin
County—Grayson
LSA 29
County—Liberty
County—Montgomery
County—Walker
LSA 30 Lower Rio Grande
County—Cameron
County—Hidalgo
County—Willacy
LSA 32
County—Blanco
County—Hays
LSA 33
County—Austin
County—Waller
LSA 34
County—Johnson
LSA 35
County—Colorado
County—Fort Bend
County—Matagorda
County—Wharton
LSA 36a
County—Bastrop
County—Caldwell
County—Fayette
County—Lee
LSA 36b
County—Burnet
LSA 37a
County—Borden
County—Fisher
County—Glasscock
County—Howard
County—Mitchell
County—Nolan
County—Scurry
LSA 37b
County—Runnels
LSA 38a
County—Andrews
County—Dawson
County—Gaines
County—Martin
County—Terry
County—Yoakum
LSA 38b
County—Garza
County—Kent
LSA 39
County—Schleicher
County—Sutton
LSA 40
County—Bandera
County—Edwards
County—Gillespie

MENTAL HEALTH: Texas
Service Area Listing

Service Area Name
County—Kendall
County—Kerr
County—Kimble
County—Llano
County—Mason
County—Menard
County—Real
LSA 41
County—Anderson
County—Cherokee
LSA 42
County—Kinney
County—Medina
County—Uvalde
LSA 43
County—Val Verde
LSA 44
County—Comal
County—Guadalupe
LSA 45
County—Aransas
County—Bee
County—Dimmit
County—Frio
County—Karnes
County—Lasalle
County—Live Oak
County—McMullen
County—Maverick
County—San Patricio
County—Zavala
LSA 47
County—Atascosa
County—Wilson
LSA 48
County—Gonzales
LSA 49a
County—Delta
County—Franklin
County—Hopkins
County—Lamar
County—Morris
County—Titus
LSA 49b
County—Kaufman
LSA 50
County—Camp
LSA 52
County—Archer
County—Haskell
County—Stonewall
County—Throckmorton
County—Young*
LSA 53
County—Childress
LSA 54a
County—Loving
County—Reeves
County—Ward
County—Winkler
LSA 54b
County—Terrell
LSA 54c
County—Crane
County—Upton
LSA 55
County—Baylor
County—Cottle
County—Dickens
County—Foard
County—Hardeman
County—King

MENTAL HEALTH: Texas
Service Area Listing

Service Area Name

County—Knox
County—Wilbarger
LSA 56
County—Shackelford
County—Stephens
LSA 57
County—Clay
County—Jack
County—Montague
County—Wise *
LSA 58
County—Brewster
County—Culberson
County—Hudspeth
County—Jeff Davis
County—Presidio
LSA 59
County—Jim Hogg
County—Starr
County—Webb
County—Zapata
LSA 60
County—Brooks
County—Duval
County—Jim Wells
County—Kenedy
County—Kleberg
LSA 62
County—Hunt
LSA 63
County—Falls
County—Freestone
County—Limestone
LSA 7 Plainview
County—Bailey
County—Briscoe
County—Castro
County—Floyd
County—Hale
County—Lamb
County—Motley
County—Parmer
County—Swisher
LSA 8 Central
County—Brown
County—Coleman
County—Comanche
County—Eastland
County—Mc Culloch
County—Mills
County—San Saba
LSA 9
County—Coke
County—Concho
County—Crockett
County—Irion
County—Reagan
County—Sterling
County—Tom Green

MENTAL HEALTH: Texas
Facility Listing

Facility Name

Terrell State Hospital
County—Kaufman

MENTAL HEALTH: Utah
County Listing

County Name

*Carbon

MENTAL HEALTH: Utah
County Listing

County Name

*Daggett
*Duchesne
*Emery
*Grand
*Millard
*Piute
*San Juan
*Sanpete
*Sevier
*Tooele
*Uintah
*Wayne

MENTAL HEALTH: Vermont
County Listing

County Name

Caledonia
Service Area: Northeast Kingdom
Essex
Service Area: Northeast Kingdom
Franklin
Service Area: Franklin/Grand Isle
Grand Isle
Service Area: Franklin/Grand Isle
Orleans
Service Area: Northeast Kingdom

MENTAL HEALTH: Vermont
Service Area Listing

Service Area Name

Franklin/Grand Isle
County—Franklin
County—Grand Isle
Northeast Kingdom
County—Caledonia
County—Essex
County—Orleans

MENTAL HEALTH: Virginia
County Listing

County Name

Accomack
Service Area: Eastern Shore Of Virginia
Amelia
Service Area: Planning Dist XIV
Bland
Service Area: Planning Dist III
*Brunswick
Buchanan
Service Area: Planning Dist II
Buckingham
Service Area: Planning Dist XIV
Carroll
Service Area: Planning Dist III
Charlotte
Service Area: Planning Dist XIV
Cumberland
Service Area: Planning Dist XIV
Danville City
Service Area: Planning Dist XII
Dickenson
Service Area: Planning Dist II
Essex
Service Area: Middle Peninsula/Northern Neck
Franklin
Service Area: Planning Dist XII
Galax City
Service Area: Planning Dist III

MENTAL HEALTH: Virginia
County Listing

County Name

Gloucester
Service Area: Middle Peninsula/Northern Neck
Grayson
Service Area: Planning Dist III
*Halifax/S. Boston
Henry/Martinsville
Service Area: Planning Dist XII
King And Queen
Service Area: Middle Peninsula/Northern Neck
King William
Service Area: Middle Peninsula/Northern Neck
Lancaster
Service Area: Middle Peninsula/Northern Neck
Lunenburg
Service Area: Planning Dist XIV
Martinsville City
Service Area: Planning Dist XII
Mathews
Service Area: Middle Peninsula/Northern Neck
*Mecklenburg
Middlesex
Service Area: Middle Peninsula/Northern Neck
Northampton
Service Area: Eastern Shore Of Virginia
Northumberland
Service Area: Middle Peninsula/Northern Neck
Nottoway
Service Area: Planning Dist XIV
Patrick
Service Area: Planning Dist XII
Pittsylvania/Danville
Service Area: Planning Dist XII
Prince Edward
Service Area: Planning Dist XIV
Richmond
Service Area: Middle Peninsula/Northern Neck
Russell
Service Area: Planning Dist II
Smyth
Service Area: Planning Dist III
Facility: Southwestern Mh Inst
Tazewell
Service Area: Planning Dist II
Westmoreland
Service Area: Middle Peninsula/Northern Neck
Wythe
Service Area: Planning Dist III

MENTAL HEALTH: Virginia
Service Area Listing

Service Area Name

Eastern Shore Of Virginia
County—Accomack
County—Northampton
Middle Peninsula/Northern Neck
County—Essex
County—Gloucester
County—King And Queen
County—King William
County—Lancaster
County—Mathews
County—Middlesex

MENTAL HEALTH: Virginia
Service Area Listing

Service Area Name

County—Northumberland
County—Richmond
County—Westmoreland
Planning Dist II
County—Buchanan
County—Dickenson
County—Russell
County—Tazewell
Planning Dist III
County—Bland
County—Carroll
County—Grayson
County—Smyth
County—Wythe
County—Galax City
Planning Dist XII
County—Franklin
County—Henry/Martinsville
County—Patrick
County—Pittsylvania/Danville
County—Danville City
County—Martinsville City
Planning Dist XIV
County—Amelia
County—Buckingham
County—Charlotte
County—Cumberland
County—Lunenburg
County—Nottoway
County—Prince Edward

MENTAL HEALTH: Virginia
Population Group Listing

Population Group

Pov. Pop.—Huntersville
Parts:
C.T. 21
C.T. 25–34
C.T. 35.01–35.02
C.T. 36–37
C.T. 40.01–40.02
C.T. 41–44
C.T. 46–48

MENTAL HEALTH: Virginia
Facility Listing

Facility Name

Southwestern Mh Inst 3
County—Smyth

MENTAL HEALTH: Washington
County Listing

County Name

*Adams
Asotin
Service Area: Asotin/Garfield
Benton
Service Area: Tri-Cities
Population Group: MFW—Benton/Franklin
Chelan
Service Area: Chelan/Douglas
*Clallam
Facility: Clallam Bay Corr Ctr
*Columbia
*Cowlitz
Douglas
Service Area: Chelan/Douglas
*Ferry
Franklin
Service Area: Tri-Cities
Population Group: MFW—Benton/Franklin Garfield
Service Area: Asotin/Garfield
*Grant
*Grays Harbor
*Jefferson
*Kittitas
*Klickitat
*Lewis
Population Group: Low Inc—Lewis Cty
*Lincoln
*Mason
Population Group: Low Inc—Mason Cty
Facility: Wash/Corr/Reception Ctr
*Okanogan
*Pacific
*Pend Oreille
Pierce
Facility: McNeil Island Corr Ctr
*Skamania
Spokane
Population Group: Am In—Spokane
*Stevens
*Wahkiakum
*Walla Walla
Service Area: Tri-Cities
Facility: Wa State Pen
*Whitman
Yakima
Population Group: MSFW—Yakima Cty

MENTAL HEALTH: Washington
Service Area Listing

Service Area Name

Asotin/Garfield
County—Asotin
County—Garfield
Chelan/Douglas
County—Chelan
County—Douglas
Tri-Cities
County—Benton
County—Franklin
County—Walla Walla
Parts:
Burbank CCD

MENTAL HEALTH: Washington
Population Group Listing

Population Group

Am In—Spokane
County—Spokane
Parts:
Am In Pop
Low Inc—Lewis Cty
County—Lewis
Parts:
Low Inc
Low Inc—Mason Cty
County—Mason
Parts:
Low Inc
MFW—Benton/Franklin
County—Benton
Parts:
MFW
County—Franklin
Parts:
MFW

MENTAL HEALTH: Washington
Population Group Listing

Population Group

MSFW—Yakima Cty
County—Yakima
Parts:
MSFW

MENTAL HEALTH: Washington
Facility Listing

Facility Name

Clallam Bay Corr Ctr
County—Clallam
McNeil Island Corr Ctr
County—Pierce
Wa State Pen
County—Walla Walla
Wash/Corr/Reception Ctr
County—Mason

MENTAL HEALTH: West Virginia
County Listing

County Name

*Barbour
Berkeley
Population Group: Low Inc—E Panhandle (Mh Reg Ix)
Braxton
Service Area: Central (VI–2)
Cabell
Facility: Huntington State Hosp
*Calhoun
Doddridge
Service Area: Central (VI–2)
Gilmer
Service Area: Central (VI–2)
Grant
Service Area: Petersburg (VIII)
Greenbrier
Service Area: Seneca (IV)
Hampshire
Service Area: Petersburg (VIII)
Hardy
Service Area: Petersburg (VIII)
Harrison
Service Area: Central (VI–2)
*Jackson
Jefferson
Population Group: Low Inc—E Panhandle (Mh Reg Ix)
Lewis
Service Area: Central (VI–2)
Facility: Weston State Hosp
Logan
Service Area: Logan/Mingo (II–1)
Marshall
Service Area: Northwood
Mc Dowell
Service Area: Mercer/Mcdowell/Wyoming (I–1)
Mercer
Service Area: Mercer/Mcdowell/Wyoming (I–1)
Mineral
Service Area: Petersburg (VIII)
Mingo
Service Area: Logan/Mingo (II–1)
*Morgan
Population Group: Low Inc—E Panhandle (Mh Reg Ix)
Nicholas
Service Area: Seneca (IV)
Pendleton

MENTAL HEALTH: West Virginia
County Listing

County Name

Service Area: Petersburg (VIII)
*Pleasants
Pocahontas
Service Area: Seneca (IV)
*Randolph
*Ritchie
*Roane
*Tucker
*Tyler
*Upshur
Webster
Service Area: Seneca (IV)
Wetzel
Service Area: Northwood
*Wirt
Wood
Wyoming
Service Area: Mercer/Mcdowell/Wyoming (I–1)

MENTAL HEALTH: West Virginia
Service Area Listing

Service Area Name

Central (VI–2)
County—Braxton
County—Doddridge
County—Gilmer
County—Harrison
County—Lewis
Logan/Mingo (II–1)
County—Logan
County—Mingo
Mercer/Mcdowell/Wyoming (I–1)
County—Mc Dowell
County—Mercer
County—Wyoming
Northwood
County—Marshall
County—Wetzel
Petersburg (VIII)
County—Grant
County—Hampshire
County—Hardy
County—Mineral
County—Pendleton
Seneca (IV)
County—Greenbrier
County—Nicholas
County—Pocahontas
County—Webster

MENTAL HEALTH: West Virginia
Population Group Listing

Population Group

Low Inc—E Panhandle (Mh Reg Ix)
County—Berkeley
Parts:
Berkeley
County—Jefferson
Parts:
Jefferson
County—Morgan
Parts:
Morgan

MENTAL HEALTH: West Virginia
Facility Listing

Facility Name

Huntington State Hosp
County—Cabell
Weston State Hosp
County—Lewis

MENTAL HEALTH: West Virginia
Facility Listing

Facility Name

County—Cabell
Weston State Hosp
County—Lewis

MENTAL HEALTH: Wisconsin
County Listing

County Name

Adams
Service Area: Catchment Area 16
Ashland
Service Area: Catchment Area 3
Barron
Service Area: Catchment Area 2
Bayfield
Service Area: Catchment Area 3
Buffalo
Service Area: Catchment Area 9
Burnett
Service Area: Catchment Area 2
Calumet
*Clark
Columbia
Service Area: Catchment Area 16
Crawford
Service Area: Catchment Area 21
Dane
Facility: Mendota M. H. Inst.
*Dodge
Facility: Dodge Corr Inst
Door
Service Area: Catchment Area #6
Douglas
Service Area: Catchment Area 1
Dunn
Service Area: Catchment Area 7
*Florence
Service Area: Catchment Area #6
Forest
Service Area: Catchment Area 4
Grant
Service Area: Catchment Area 21
Green
Service Area: Catchment Area 21
Iowa
Service Area: Catchment Area 21
Iron
Service Area: Catchment Area 3
Jackson
Service Area: Catchment Area 9
Facility: Jackson Corr Inst
*Jefferson
Juneau
Service Area: Catchment Area 15
Lafayette
Service Area: Catchment Area 21
*Langlade
Service Area: Catchment Area 5
*Lincoln
Service Area: Catchment Area 5
Marathon
Service Area: Catchment Area 5
*Marinette
Service Area: Catchment Area #6
Marquette
Service Area: Catchment Area 16
Menomonee
Service Area: Catchment Area 11
Milwaukee
Service Area: Near North Side—Milwaukee
Facility: Milwaukee Mh Complex
*Monroe
Oneida
Service Area: Catchment Area 4
Pepin
Service Area: Catchment Area 7
Pierce
Service Area: Catchment Area 7
Polk
Service Area: Catchment Area 2
Price
Service Area: Catchment Area 3
Richland
Service Area: Catchment Area 15
Rusk
Service Area: Catchment Area 2
Sauk
Service Area: Catchment Area 15
Sawyer
Service Area: Catchment Area 3
Shawano
Service Area: Catchment Area 11
St. Croix
Service Area: Catchment Area 7
*Taylor
Trempealeau
Service Area: Catchment Area 9
*Vernon
Vilas
Service Area: Catchment Area 4
Washburn
Service Area: Catchment Area 2
Waupaca
Service Area: Catchment Area 11
*Waushara

MENTAL HEALTH: Wisconsin
Service Area Listing

Service Area Name

Catchment Area 1
County—Douglas
Catchment Area #6
County—Door
County—Florence
County—Marinette
Catchment Area 11
County—Menomonee
County—Shawano
County—Waupaca
Catchment Area 15
County—Juneau
County—Richland
County—Sauk
Catchment Area 16
County—Adams
County—Columbia
County—Marquette
Catchment Area 2
County—Barron
County—Burnett
County—Polk
County—Rusk
County—Washburn
Catchment Area 21
County—Crawford
County—Grant
County—Green
County—Iowa
County—Lafayette
Catchment Area 3
County—Ashland
County—Bayfield
County—Iron

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MENTAL HEALTH: Wisconsin
Service Area Listing

Service Area Name

County—Price
County—Sawyer
Catchment Area 4
County—Forest
County—Oneida
County—Vilas
Catchment Area 5
County—Langlade
County—Lincoln
County—Marathon
Catchment Area 7
County—Dunn
County—Pepin
County—Pierce
County—St. Croix
Catchment Area 9
County—Buffalo
County—Jackson
County—Trempealeau
Near North Side—Milwaukee
County—Milwaukee
Parts:
C.T. 18–28
C.T. 38–49
C.T. 60–72
C.T. 79–92
C.T. 98–107

MENTAL HEALTH: Wisconsin
Facility Listing

Facility Name

Dodge Corr Inst
County—Dodge
Jackson Corr Inst
County—Jackson
Mendota M. H. Inst.
County—Dane
Milwaukee Mh Complex
County—Milwaukee

MENTAL HEALTH: Wyoming
County Listing

County Name

*Albany
Service Area: Southeast
*Big Horn
Service Area: Mh Region I
*Campbell
*Carbon
Converse
Service Area: Eastern
*Crook
Service Area: Crook/Weston
*Fremont
*Goshen
Service Area: Southeast
*Hot Springs
Service Area: Mh Region I
Laramie
Service Area: Southeast
*Lincoln
Natrona
Niobrara
Service Area: Eastern
Park
Service Area: Mh Region I
*Platte
Service Area: Southeast
*Sublette
*Sweetwater

MENTAL HEALTH: Wyoming
County Listing

County Name

*Teton
*Uinta
*Washakie
Service Area: Mh Region I
*Weston
Service Area: Crook/Weston

MENTAL HEALTH: Wyoming
Service Area Listing

Service Area Name

Crook/Weston
County—Weston
Eastern
County—Niobrara
Mh Region I
County—Washakie
Northern
Parts:
Johnson
Sheridan
Southeast
County—Platte

MENTAL HEALTH: American Samoa
County Listing

County Name

Eastern District
Service Area: Terr. Of American Samoa
Manu'A District
Service Area: Terr. Of American Samoa
Rose Island
Service Area: Terr. Of American Samoa
Swains Island
Service Area: Terr. Of American Samoa
Western District
Service Area: Terr. Of American Samoa

MENTAL HEALTH: American Samoa
Service Area Listing

Service Area Name

Terr. Of American Samoa
County—Eastern District
County—Manu'A District
County—Rose Island
County—Western District
County—Swains Island

MENTAL HEALTH: Fed Ste Micronesia
County Listing

County Name

*Chuuk State
*Kosrae State
*Pohnpei State
*Yap State

MENTAL HEALTH: Guam
County Listing

County Name

Terr. Of Guam
Service Area: Terr. Of Guam

MENTAL HEALTH: Guam
Service Area Listing

Service Area Name

Terr. Of Guam
County—Terr. Of Guam

MENTAL HEALTH: N. Mariana Islands
County Listing

County Name

*Comnwlth Of N. Mariana Is

MENTAL HEALTH: Republic of Palau
County Listing

County Name

*Republic Of Palau

MENTAL HEALTH: Puerto Rico
County Listing

County Name

*Adjuntas
Service Area: Southern (Ponce) C.A.
*Albonito
Service Area: Southern (Ponce) C.A.
*Anasco
Service Area: Mayaguez Catchment Area
*Aquada
Service Area: Mayaguez Catchment Area
*Aquadilla
Service Area: Mayaguez Catchment Area
*Aquas Buenas
Service Area: Eastern (Caguas) C.A.
*Arecibo
Service Area: Northern (Arecibo) C.A.
*Arroyo
Service Area: Eastern (Caguas) C.A.
*Barceloneta
Service Area: Northern (Arecibo) C.A.
*Barranquitas
Service Area: Northeastern (Bayamon) C.A.
*Bayamon
Service Area: Northeastern (Bayamon) C.A.
*Cabo Rojo
Service Area: Mayaguez Catchment Area
*Caguas
Service Area: Eastern (Caguas) C.A.
*Camuy
Service Area: Northern (Arecibo) C.A.
*Canovanas
Service Area: Fajardo/Loiza C.A.
*Catano
Service Area: Northeastern (Bayamon) C.A.
*Cayey
Service Area: Eastern (Caguas) C.A.
*Ceiba
Service Area: Fajardo/Loiza C.A.
*Ciales
Service Area: Northern (Arecibo) C.A.
*Cidra
Service Area: Eastern (Caguas) C.A.
*Coamo
Service Area: Southern (Ponce) C.A.
*Comerio
Service Area: Northeastern (Bayamon) C.A.
*Corozal
Service Area: Northeastern (Bayamon) C.A.
*Culebra
Service Area: Fajardo/Loiza C.A.
Service Area: Northeastern (Bayamon) C.A.
*Dorado
Service Area: Fajardo/Loiza C.A.
Service Area: Northeastern (Bayamon) C.A.
*Fajardo

MENTAL HEALTH: Puerto Rico
County Listing

County Name

Service Area: Fajardo/Loiza C.A.
*Florida
Service Area: Northern (Arecibo) C.A.
*Guanica
Service Area: Southern (Ponce) C.A.
*Guayama
Service Area: Eastern (Caguas) C.A.
*Guayanilla
Service Area: Southern (Ponce) C.A.
*Gurabo
Service Area: Eastern (Caguas) C.A.
*Hatillo
Service Area: Northern (Arecibo) C.A.
*Hormigueros
Service Area: Mayaguez Catchment Area
*Humacao
Service Area: Eastern (Caguas) C.A.
*Isabella
Service Area: Mayaguez Catchment Area
*Jayuya
Service Area: Southern (Ponce) C.A.
*Juana Diaz
Service Area: Southern (Ponce) C.A.
*Juncos
Service Area: Eastern (Caguas) C.A.
*Lajas
Service Area: Mayaguez Catchment Area
*Lares
Service Area: Northern (Arecibo) C.A.
*Las Marias
Service Area: Mayaguez Catchment Area
*Las Peidras
Service Area: Eastern (Caguas) C.A.
*Loiza
Service Area: Fajardo/Loiza C.A.
*Luquillo
Service Area: Fajardo/Loiza C.A.
*Manati
Service Area: Northern (Arecibo) C.A.
*Maricao
Service Area: Mayaguez Catchment Area
*Maunabo
Service Area: Eastern (Caguas) C.A.
*Mayaguez
Service Area: Mayaguez Catchment Area
*Moca
Service Area: Mayaguez Catchment Area
*Morovis
Service Area: Northern (Arecibo) C.A.
*Naguabo
Service Area: Eastern (Caguas) C.A.
*Naranjito
Service Area: Northeastern (Bayamon) C.A.
*Orocovis
Service Area: Northeastern (Bayamon) C.A.
*Patillas
Service Area: Eastern (Caguas) C.A.
*Penuellas
Service Area: Southern (Ponce) C.A.
*Ponce
Service Area: Southern (Ponce) C.A.
*Quebradillas
Service Area: Northern (Arecibo) C.A.
*Rincon
Service Area: Mayaguez Catchment Area
*Rio Grande
Service Area: Fajardo/Loiza C.A.
*Sabana Grande
Service Area: Mayaguez Catchment Area
*Salinas
Service Area: Southern (Ponce) C.A.
*San German
Service Area: Mayaguez Catchment Area
*San Lorenzo
Service Area: Eastern (Caguas) C.A.
*San Sabastion
Service Area: Mayaguez Catchment Area
*Santa Isabel
Service Area: Southern (Ponce) C.A.
*Toa Alta
Service Area: Northeastern (Bayamon) C.A.
*Toa Baja
Service Area: Northeastern (Bayamon) C.A.
*Utuado
Service Area: Northern (Arecibo) C.A.
*Vega Alta
Service Area: Northeastern (Bayamon) C.A.
*Vega Baja
Service Area: Northern (Arecibo) C.A.
*Vieques
Service Area: Fajardo/Loiza C.A.
*Villalba
Service Area: Southern (Ponce) C.A.
*Yabucoa
Service Area: Eastern (Caguas) C.A.
*Yauco
Service Area: Southern (Ponce) C.A.

MENTAL HEALTH: Puerto Rico
Service Area Listing

Service Area Name

Eastern (Caguas) C.A.
County—Aquas Buenas
County—Arroyo
County—Caguas
County—Cayey
County—Cidra
County—Guayama
County—Gurabo
County—Humacao
County—Juncos
County—Las Peidras
County—Maunabo
County—Naguabo
County—Patillas
County—San Lorenzo
County—Yabucoa
Fajardo/Loiza C.A.
County—Canovanas
County—Ceiba
County—Culebra
County—Fajardo
County—Loiza
County—Luquillo
County—Rio Grande
County—Vieques
Mayaguez Catchment Area
County—Aquada
County—Aquadilla
County—Anasco
County—Cabo Rojo
County—Hormigueros
County—Isabella
County—Lajas
County—Las Marias
County—Maricao
County—Mayaguez
County—Moca

MENTAL HEALTH: Puerto Rico
Service Area Listing

Service Area Name

County—Rincon
County—Sabana Grande
County—San German
County—San Sabastion
Northeastern (Bayamon) C.A.
County—Barranquitas
County—Bayamon
County—Catano
County—Comerio
County—Corozal
County—Dorado
County—Naranjito
County—Orocovis
County—Toa Alta
County—Toa Baja
County—Vega Alta
Northern (Arecibo) C.A.
County—Arecibo
County—Barceloneta
County—Camuy
County—Ciales
County—Florida
County—Hatillo
County—Lares
County—Manati
County—Morovis
County—Quebradillas
County—Utuado
County—Vega Baja
Southern (Ponce) C.A.
County—Adjuntas
County—Albonito
County—Coamo
County—Guanica
County—Guayanilla
County—Jayuya
County—Juana Diaz
County—Penuellas
County—Ponce
County—Salinas
County—Santa Isabel
County—Villalba
County—Yauco

MENTAL HEALTH: Virgin Islands
County Listing

County Name

St. Croix
Service Area: Virgin Islands C.A.
St. John
Service Area: Virgin Islands C.A.
St. Thomas
Service Area: Virgin Islands C.A.

MENTAL HEALTH: Virgin Islands
Service Area Listing

Service Area Name

Virgin Islands C.A.
County—St. Croix
County—St. John
County—St. Thomas

DENTAL: Alabama
County Listing

County Name

*Bibb
Blount
*Bullock
*Butler

DENTAL: Alabama
County Listing

County Name

*Cherokee
*Clay
*Conecuh
*Coosa
*Crenshaw
*De Kalb
  Service Area: Crossville
*Escambia
  Population Group: Low Inc—W Escambia
Etowah
  Population Group: Low Inc—Etowah Co
*Fayette
*Geneva
*Greene
*Hale
*Lamar
*Lowndes
*Macon
*Marengo
Mobile
  Service Area: Bayou La Batre/Grand Bay
  Service Area: East Mobile/Prichard
  Service Area: North Mobile
*Perry
*Pickens
*Pike
  Population Group: Low Inc—Pike Co
Russell
  Service Area: Hurtsboro
*Sumter
*Talladega (g)
  Facility: FCI—Talladega
Tuscaloosa
  Population Group: Pov Pop—Tuscaloosa Co
*Washington
*Wilcox
*Winston

DENTAL: Alabama
Service Area Listing

Service Area Name

Bayou La Batre/Grand Bay
  County—Mobile
    Parts:
      C.T. 66–67
      C.T. 72.02
      C.T. 73
Crossville
  County—De Kalb
    Parts:
      Collinsville CCD
      Crossville CCD
East Mobile/Prichard
  County—Mobile
    Parts:
      C.T. 1–3
      C.T. 4.01–4.02
      C.T. 5–6
      C.T. 7.01–7.02
      C.T. 8
      C.T. 10.01–10.02
      C.T. 11
      C.T. 12.01
      C.T. 13.01–13.02
      C.T. 14
      C.T. 15.01–15.02
      C.T. 16
      C.T. 23.01–23.02
      C.T. 24
      C.T. 26

DENTAL: Alabama
Service Area Listing

Service Area Name

      C.T. 38.01
      C.T. 39.01–39.02
      C.T. 40–50
Hurtsboro
  County—Russell
    Parts:
      Hurtsboro CCD (C.T. 311)
North Mobile
  County—Mobile
    Parts:
      C.T. 58–60

DENTAL: Alabama
Population Group Listing

Population Group

Low Inc—Etowah Co 1
  County—Etowah
    Parts:
      Low Income
Low Inc—Pike Co
  County—Pike
    Parts:
      Low Income
Low Inc—W Escambia
  County—Escambia
    Parts:
      Atmore CCD
      Flomaton CCD
      McCullough-Huxford CCD
Pov Pop—Tuscaloosa Co
  County—Tuscaloosa
    Parts:
      Pov Pop

DENTAL: Alabama
Facility Listing

Facility Name

FCI—Talladega
  County—Talladega

DENTAL: Arizona
County Listing

County Name

*Apache
  Service Area: Fort Defiance
  Service Area: Sweetwater
*Cochise
  Service Area: Elfrida
*Coconino
  Service Area: Tuba City
  Service Area: Williams
*Gila
  Service Area: Miami-Tonto
*Greenlee
*La Paz
Maricopa
  Population Group: Low Inc—Guadalupe
  Population Group: Low Inc—S Phoenix
  Population Group: Low Inc—El Mirage
  Facility: FCI Phoenix
*Navajo
  Service Area: Apache
Pima
  Service Area: Arivaca
  Population Group: Low Inc—Marana
Pinal
  Service Area: Florence
  Service Area: San Manuel
  Population Group: Low Inc—Coolidge/Eloy/Casa Grande

DENTAL: Arizona
County Listing

County Name

*Santa Cruz
Yuma
  Service Area: Wellton
  Population Group: Low Inc—Somerton

DENTAL: Arizona
Service Area Listing

Service Area Name

Apache
  County—Navajo
    Parts:
      Apache CCD
Arivaca
  County—Pima
    Parts:
      Arivaca CCD
Elfrida
  County—Cochise
    Parts:
      Elfrida CCD
Florence
  County—Pinal
    Parts:
      Florence CCD
Fort Defiance
  County—Apache
    Parts:
      Ft Defiance CCD
Miami-Tonto
  County—Gila
    Parts:
      Miami CCD
      Tonto CCD
San Manuel
  County—Pinal
    Parts:
      San Manuel CCD
Sweetwater
  County—Apache
    Parts:
      Sweetwater CCD
Tuba City
  County—Coconino
    Parts:
      Tuba City CCD
Wellton
  County—Yuma
    Parts:
      Wellton CCD
Williams
  County—Coconino
    Parts:
      Williams CCD

DENTAL: Arizona
Population Group Listing

Population Group

Low Inc—El Mirage
  County—Maricopa
    Parts:
      C.T. 405.02
      C.T. 405.09
      C.T. 608–609
Low Inc—Guadalupe
  County—Maricopa
    Parts:
      C.T. 3200.02
Low Inc—Marana
  County—Pima
    Parts:

DENTAL: Arizona
Population Group Listing

Population Group
Marana CCD
Low Inc—S Phoenix
County—Maricopa
Parts:
C.T. 1152–1161
C.T. 1162.02–1162.04
C.T. 1163–1165
C.T. 1166.01–1166.02
Low Inc—Somerton
County—Yuma
Parts:
Somerton CCD
Low Inc-Coolidge/Eloy/Casa Grande
County—Pinal
Parts:
Casa Grande CCD
Coolidge CCD
Eloy CCD

DENTAL: Arizona
Facility Listing

Facility Name
FCI Phoenix
County—Maricopa

DENTAL: Arkansas
County Listing

County Name
*Ashley
Service Area: Parkdale
*Fulton
Jefferson
Population Group: Pov Pop—Altheimer
*Monroe
*Montgomery
*Phillips
*Woodruff

DENTAL: Arkansas
Service Area Listing

Service Area Name
Parkdale
County—Ashley
Parts:
Beech Creek Twp
De Bastrop Twp
Portland Twp
Wilmot Twp

DENTAL: Arkansas
Population Group Listing

Population Group
Pov Pop—Altheimer
County—Jefferson
Parts:
C.T. 1.02
C.T. 1.85
C.T. 7

DENTAL: California
County Listing

County Name
Alameda
Service Area: East Oakland/Fruitvale
Population Group: Inmates—FCI Dublin
Butte
Population Group: Low Inc/MFW—Oroville/Palermo
*Colusa
Population Group: Low Inc/MFW—Colusa Co
*Del Norte
Population Group: Low Inc—Del Norte Co
Fresno
Service Area: San Joaquin/Tranquility
*Humboldt
Population Group: Low Inc—Garberville/Redway
Population Group: Low Inc—Trinity/Klamath
Population Group: Low Inc—Eureka/Arcata
Population Group: Low Inc—Rio Dell/Scotia
Population Group: Low Inc—Fortuna
Population Group: Low Inc—Ferndale
Population Group: Low Inc—Area Around Arcata
Population Group: Low Inc—North Coastal
*Imperial
Service Area: Brawley-Calipatria
Service Area: Calexico
Service Area: East Imperial
Service Area: El Centro
Service Area: West Imperial
Population Group: Medicaid—Winterhaven-Bard
*Inyo
Service Area: Lone Pine
Kern
Service Area: Buttonwillow
Service Area: McFarland/Delano
Service Area: S. Westside/Frazier Park
Service Area: Se Kern/Boron/California City
Service Area: Shafter/Wasco
Population Group: Inmates—FPC Boron
Population Group: Low Inc—N Westside/Taft
Population Group: Medicaid—Arvin-Lamont
*Lassen
Service Area: Honey Lake
Los Angeles
Service Area: Avalon/Goodyear/Main
Service Area: Dominguez/W Compton/Willowbrook
Service Area: East Compton
Service Area: El Sereno/Highland Pk/Lincoln Hts/Mt Was
Service Area: Exposition Park/S Vermont
Service Area: Figueroa/Firestone/Green Meadows/Watts
Service Area: Lynwood/Paramount
Facility: FCI Terminal Island
*Mendocino
Service Area: Boonville/Navarro/Philo/Yorkville
Service Area: Laytonville/Leggett
Service Area: Redwood/Potter Valley
Population Group: Low Inc—Hopland/Ukiah
Population Group: Low Inc—Willits
Monterey
Service Area: Coastal/Big Sur/Lucial
Service Area: E Salinas/N Central Salinas
Service Area: Pajaro
Riverside
Service Area: Chuckwalla/Desert Center/Eagle Mt
Service Area: S Coachella Valley/Mecca
Population Group: Low Inc—Blythe
San Francisco
Population Group: Low Inc—South Of Market
San Mateo
Service Area: East Palo Alto
Santa Barbara
Facility: USP Lompoc
Santa Cruz
Service Area: Watsonville
*Siskiyou
Service Area: Butte Valley/Dorris
Service Area: Happy Camp
Sonoma
Population Group: Low Inc—Guerneville
Population Group: Low Inc—Healdsburg/Geyserville
Sutter
Service Area: Meridian-Robbins
*Tehama
Population Group: Pov Pop—Tehama Co
*Trinity
Service Area: Lower Trinity/Helena/Salyer
Service Area: Mad River/Ruth/Zenia
Tulare
Service Area: Porterville
Ventura
Population Group: Low Inc/MFW—Northern Ventura

DENTAL: California
Service Area Listing

Service Area Name
Avalon/Goodyear/Main
County—Los Angeles
Parts:
C.T. 2281–2289
C.T. 2291–2294
C.T. 2311
C.T. 2318–2319
C.T. 2328
C.T. 2392–2393
C.T. 2395–2396
C.T. 5328–5329
Boonville/Navarro/Philo/Yorkville
County—Mendocino
Parts:
C.T. 112
Brawley-Calipatria
County—Imperial
Parts:
C.T. 101–107
C.T. 123.02
Butte Valley/Dorris
County—Siskiyou
Parts:
C.T. 2
Buttonwillow
County—Kern
Parts:
C.T. 37
Calexico
County—Imperial
Parts:
C.T. 119–122
Chuckwalla/Desert Center/Eagle Mt
County—Riverside
Parts:
C.T. 458
Coastal/Big Sur/Lucial
County—Monterey
Parts:

DENTAL: California
Service Area Listing

Service Area Name

C.T. 115
Dominguez/W Compton/Willowbrook
County—Los Angeles
Parts:
C.T. 5406–5408
C.T. 5409.01–5409.02
C.T. 5410.01–5410.02
C.T. 5411–5415
C.T. 5425–5432
C.T. 5433.01
C.T. 5433.03
C.T. 5433.21–5433.22
C.T. 5434
C.T. 5440
E Salinas/N Central Salinas
County—Monterey
Parts:
C.T. 5–9
C.T. 13
C.T. 17–18
East Compton
County—Los Angeles
Parts:
C.T. 5416.01–5416.02
C.T. 5420
C.T. 5421.01–5421.02
C.T. 5422
C.T. 5424.01–5424.02
C.T. 5704
East Imperial
County—Imperial
Parts:
C.T. 124
East Oakland/Fruitvale
County—Alameda
Parts:
C.T. 4052–4066
C.T. 4070–4078
C.T. 4082–4098
C.T. 4101–4104
East Palo Alto
County—San Mateo
Parts:
C.T. 6117–6120
C.T. 6121.98
El Centro
County—Imperial
Parts:
C.T. 108–111
C.T. 112.01–112.02
C.T. 113–117
C.T. 118.01–118.03
El Sereno/Highland Pk/Lincoln Hts/Mt Was
County—Los Angeles
Parts:
C.T. 1831.01–1831.02
C.T. 1832–1833
C.T. 1835–1838
C.T. 1851
C.T. 1852.01–1852.02
C.T. 1853
C.T. 1990–1991
C.T. 1992.01–1992.02
C.T. 1993–1994
C.T. 1997–1999
C.T. 2011–2012
C.T. 2013.01–2013.02
C.T. 2014.01–2014.02
C.T. 2015.01–2015.02
C.T. 2016–2017
C.T. 5307
Exposition Park/S Vermont
County—Los Angeles
Parts:
C.T. 2312–2317
C.T. 2321–2327
C.T. 2371–2379
C.T. 2381–2383
Figueroa/Firestone/Green Meadows/Watts
County—Los Angeles
Parts:
C.T. 2397–2398
C.T. 2400
C.T. 2402–2414
C.T. 2420–2423
C.T. 2426–2427
C.T. 2430–2431
C.T. 5349–5350
C.T. 5351.01–5351.02
C.T. 5352–5354
C.T. 5404
Happy Camp
County—Siskiyou
Parts:
C.T. 5
Honey Lake
County—Lassen
Parts:
C.T. 406
Laytonville/Leggett
County—Mendocino
Parts:
C.T. 102
Lone Pine
County—Inyo
Parts:
Lone Pine Div.
Lower Trinity/Helena/Salyer
County—Trinity
Parts:
C.T. 2
Lynwood/Paramount
County—Los Angeles
Parts:
C.T. 5362
C.T. 5400
C.T. 5401.01–5401.02
C.T. 5402–5403
C.T. 5405
C.T. 5417–5418
C.T. 5535–5539
Mad River/Ruth/Zenia
County—Trinity
Parts:
C.T. 4
McFarland/Delano
County—Kern
Parts:
C.T. 46–48
C.T. 49.01–49.02
C.T. 50
Meridian-Robbins
County—Sutter
Parts:
C.T. 509
Pajaro
County—Monterey
Parts:
C.T. 101.98
C.T. 102.01–102.02
Porterville
County—Tulare
Parts:
C.T. 33–41
C.T. 45
Redwood/Potter Valley
County—Mendocino
Parts:
C.T. 108
S Coachella Valley/Mecca
County—Riverside
Parts:
C.T. 456.01–456.02
S. Westside/Frazier Park
County—Kern
Parts:
C.T. 33.02
San Joaquin/Tranquility
County—Fresno
Parts:
C.T. 82
Se Kern/Boron/California City
County—Kern
Parts:
C.T. 55.03–55.06
C.T. 56–59
Shafter/Wasco
County—Kern
Parts:
C.T. 39–45
Watsonville
County—Santa Cruz
Parts:
C.T. 1101–1103
C.T. 1104.98
C.T. 1105–1107
C.T. 1223
C.T. 1224.97–1224.98
C.T. 1225.98
West Imperial
County—Imperial
Parts:
C.T. 123.01

DENTAL: California
Population Group Listing

Population Group

Inmates—FCI Dublin
County—Alameda
Parts:
FCI Dublin
Inmates—FPC Boron
County—Kern
Parts:
FPC Boron
Low Inc—Area Around Arcata
County—Humboldt
Parts:
C.T. 9
C.T. 12
Low Inc—Blythe
County—Riverside
Parts:
C.T. 459–462
Low Inc—Del Norte Co
County—Del Norte
Parts:
Low Income
Low Inc—Eureka/Arcata
County—Humboldt
Parts:
C.T. 1
C.T. 1.99–2.00
C.T. 3–8
C.T. 10–11

DENTAL: California
Population Group Listing

Population Group

C.T. 103–107
Low Inc—Ferndale
County—Humboldt
Parts:
C.T. 112
Low Inc—Fortuna
County—Humboldt
Parts:
C.T. 108–110
Low Inc—Garberville/Redway
County—Humboldt
Parts:
C.T. 113
Low Inc—Guerneville
County—Sonoma
Parts:
C.T. 1537.01–1537.02
C.T. 1543
C.T. 1543.99
Low Inc—Healdsburg/Geyserville
County—Sonoma
Parts:
C.T. 1538–1540
Low Inc—Hopland/Ukiah
County—Mendocino
Parts:
C.T. 113–118
Low Inc—N Westside/Taft
County—Kern
Parts:
C.T. 33.03–33.04
C.T. 34–36
Low Inc—North Coastal
County—Humboldt
Parts:
C.T. 102
Low Inc—Rio Dell/Scotia
County—Humboldt
Parts:
C.T. 111
Low Inc—South Of Market
County—San Francisco
Parts:
C.T. 122–125
C.T. 176.02
C.T. 176.98
C.T. 177–178
C.T. 179.01–179.02
C.T. 179.99–180.00
C.T. 201.98
C.T. 226–229
C.T. 607
Low Inc—Trinity/Klamath
County—Humboldt
Parts:
C.T. 101
Low Inc—Willits
County—Mendocino
Parts:
C.T. 106–107
Low Inc/MFW—Colusa Co
County—Colusa
Parts:
Low Income
Migrant
Low Inc/MFW—Northern Ventura
County—Ventura
Parts:
Camarillo CCD
Fillmore-Piru CCD
Las Posas CCD
Los Padres CCD

DENTAL: California
Population Group Listing

Population Group

Meiners Oaks-Ojai CCD
Oxnard CCD
Santa Paula CCD
Ventura CCD
Low Inc/MFW—Oroville/Palermo
County—Butte
Parts:
C.T. 25–33
Medicaid—Arvin-Lamont
County—Kern
Parts:
C.T. 62–64
Medicaid—Winterhaven-Bard
County—Imperial
Parts:
C.T. 125
Pov Pop—Tehama Co
County—Tehama
Parts:
Pov Pop

DENTAL: California
Facility Listing

Facility Name

FCI Terminal Island
County—Los Angeles
USP Lompoc
County—Santa Barbara

DENTAL: Colorado
County Listing

County Name

Adams
Service Area: Commerce City
*Costilla
Denver
Service Area: Eastside (Denver)
Service Area: Montbello
Service Area: Westside (Denver)
Douglas
Facility: FCI Englewood
*Fremont
Facility: FCI Florence
Facility: USP Florence
*Kiowa
*Prowers
Population Group: Low Inc—Prowers Co
*Saguache

DENTAL: Colorado
Service Area Listing

Service Area Name

Commerce City
County—Adams
Parts:
C.T. 87.03
C.T. 87.05–87.06
C.T. 88.01–88.02
C.T. 89.01
C.T. 89.52
Eastside (Denver)
County—Denver
Parts:
C.T. 15–16
C.T. 23
C.T. 24.01–24.02
C.T. 25
C.T. 26.01–26.02
C.T. 27.01–27.03

DENTAL: Colorado
Service Area Listing

Service Area Name

C.T. 28.01–28.03
C.T. 35
C.T. 36.01–36.03
C.T. 41.01–41.02
C.T. 41.04
Montbello
County—Denver
Parts:
C.T. 83.04–83.06
C.T. 83.11–83.12
Westside (Denver)
County—Denver
Parts:
C.T. 2.01–2.02
C.T. 4.01–4.02
C.T. 5.01–5.02
C.T. 6
C.T. 7.01–7.02
C.T. 8
C.T. 9.01–9.03
C.T. 10
C.T. 11.01–11.02
C.T. 13.01–13.02
C.T. 14.01–14.02
C.T. 18–19
C.T. 21
C.T. 45.01–45.02
C.T. 46.01–46.02
C.T. 54.02

DENTAL: Colorado
Population Group Listing

Population Group

Low Inc—Prowers Co
County—Prowers
Parts:
Low Income

DENTAL: Colorado
Facility Listing

Facility Name

FCI Englewood
County—Douglas
FCI Florence
County—Fremont
USP Florence
County—Fremont

DENTAL: Connecticut
County Listing

County Name

Fairfield
Service Area: Central/East Bridgeport
Service Area: Southwest Bridgeport
Population Group: Inmates—FCI Danbury
Hartford
Service Area: Charter Oak/Frog Hollow/Parkville
Middlesex
Population Group: Low Inc—Lower Shoreline
Population Group: Pov/Homeless—Cent. Middletown
New Haven
Population Group: Low Inc—Meriden
New London
Population Group: Low Inc—Lower Shoreline
Population Group: Low Inc—Norwich

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DENTAL: Connecticut
County Listing

County Name
Population Group: Low Inc—New London (Inner City)
Windham
Population Group: Low Inc—Town Of Windham

DENTAL: Connecticut
Service Area Listing

Service Area Name
Central/East Bridgeport
County—Fairfield
Parts:
C.T. 713–717
C.T. 735–736
C.T. 738–744
Charter Oak/Frog Hollow/Parkville
County—Hartford
Parts:
C.T. 5001–5002
C.T. 5019
C.T. 5027–5030
C.T. 5043
C.T. 5045–5046
C.T. 5049
Southwest Bridgeport
County—Fairfield
Parts:
C.T. 702–712

DENTAL: Connecticut
Population Group Listing

Population Group
Inmates—FCI Danbury
County—Fairfield
Parts:
FCI Danbury
Low Inc—Lower Shoreline
County—Middlesex
Parts:
Chester Town
Clinton Town
Deep River Town
Essex Town
Killingworth Town
Old Saybrook Town
Westbrook Town
County—New London
Parts:
Lyme Town
Old Lyme Town
Low Inc—Meriden
County—New Haven
Parts:
Low Income
Low Inc—New London (Inner City)
County—New London
Parts:
C.T. 6901
C.T. 6903–6906
C.T. 6906.99–6907.00
C.T. 6907.99
Low Inc—Norwich
County—New London
Parts:
Bozrah Town
Franklin Town
Griswold Town
Lisbon Town
Montville Town
Norwich Town
Preston Town
Sprague Town
Voluntown Town
Low Inc—Town Of Windham
County—Windham
Parts:
Windham Town
Pov/Homeless—Cent Middletown
County—Middlesex
Parts:
C.T. 5411
C.T. 5415–5418

DENTAL: Delaware
County Listing

County Name
*Sussex

DENTAL: District Of Columbia
County Listing

County Name
Dist Of Columbia
Population Group: Homeless—Downtown D.C.

DENTAL: District Of Columbia
Population Group Listing

Population Group
Homeless—Downtown D.C.
County—Dist Of Columbia
Parts:
C.T. 40.01–40.02
C.T. 41
C.T. 42.02
C.T. 46
C.T. 48.01–48.02
C.T. 49.01–49.02
C.T. 50–51
C.T. 52.10
C.T. 52.20
C.T. 53.01–53.02
C.T. 54.01–54.02
C.T. 55.01–55.02
C.T. 56
C.T. 57.01–57.02
C.T. 58–59

DENTAL: Florida
County Listing

County Name
Collier
Service Area: Everglades
Service Area: Immokalee
Dade
Service Area: Model City
Population Group: Pov/MFW—Homestead
*De Soto
*Franklin
*Gilchrist
Glades
Service Area: Glades/Hendry
*Gulf
*Hamilton
Hendry
Service Area: Glades/Hendry
*Highlands
Hillsborough
Population Group: Pov/MFW—Hillsborough/Manatee
*Holmes
*Jackson
Facility: FCI—Marianna
*Jefferson
*Lafayette
Lake
Population Group: Pov/MFW—Lake Co
Lee
Population Group: Pov/MFW—Lee Co
Leon
Population Group: Low Inc—Bond Community
*Levy
*Madison
Manatee
Population Group: Pov/MFW—Hillsborough/Manatee
Martin
Service Area: Indiantown
Okaloosa
Population Group: Inmates—FPC Elgin
Population Group: Pov Pop—Okaloosa Co
*Okeechobee
Palm Beach
Service Area: Belle Glade/Pahokee
Service Area: West Palm Beach
Pasco
Pinellas
Population Group: Low Inc—Inner St. Petersburg
Polk
Service Area: Frostproof
*Putnam
Seminole
Population Group: Medicaid—Seminole Co
St Lucie
Population Group: Pov/MFW—St Lucie Co
*Sumter
*Suwannee
*Taylor
*Union
*Washington

DENTAL: Florida
Service Area Listing

Service Area Name
Belle Glade/Pahokee
County—Palm Beach
Parts:
C.T. 80.01–80.02
C.T. 81.01–81.02
C.T. 82.01–82.03
C.T. 83.01–83.02
Everglades
County—Collier
Parts:
C.T. 111.01–111.02
Frostproof
County—Polk
Parts:
C.T. 142–144
C.T. 154–155
C.T. 160
C.T. 161.98
Glades/Hendry
County—Hendry
Immokalee
County—Collier
Parts:
C.T. 112.01–112.03
C.T. 113–114

DENTAL: Florida
Service Area Listing

Service Area Name

Indiantown
  County—Martin
    Parts:
      C.T. 17–18
Model City
  County—Dade
    Parts:
      C.T. 4.08
      C.T. 9.01–9.03
      C.T. 10.01–10.04
      C.T. 11.03
      C.T. 14.01
      C.T. 15.01–15.02
      C.T. 17.01–17.02
      C.T. 18.01–18.03
      C.T. 19.01
      C.T. 19.03
      C.T. 20.01–20.02
      C.T. 22.01–22.02
      C.T. 23
West Palm Beach
  County—Palm Beach
    Parts:
      C.T. 21–26

DENTAL: Florida
Population Group Listing

Population Group

Inmates—FPC Elgin 1
  County—Okaloosa
    Parts:
      FPC Elgin
Low Inc—Bond Community
  County—Leon
    Parts:
      C.T. 1
      C.T. 4–6
      C.T. 10.01
      C.T. 11.01–11.02
      C.T. 12–14
Low Inc—Inner St. Petersburg
  County—Pinellas
    Parts:
      C.T. 201.01
      C.T. 203.01
      C.T. 204–208
      C.T. 209.95
      C.T. 210.95
      C.T. 212–213
      C.T. 213.99–214.00
      C.T. 215
      C.T. 216.95
      C.T. 218.95
      C.T. 219.95
      C.T. 220
      C.T. 234–235
Medicaid—Seminole Co
  County—Seminole
    Parts:
      Medicaid Eligible
Pov Pop—Okaloosa Co
  County—Okaloosa
    Parts:
      Pov Pop
Pov/MFW—Hillsborough/Manatee
  County—Hillsborough
    Parts:
      C.T. 121.03–121.06
      C.T. 122.01
      C.T. 122.03–122.04
      C.T. 123.01–123.02

DENTAL: Florida
Population Group Listing

Population Group

C.T. 124–131
C.T. 132.01–132.02
C.T. 133.01–133.02
C.T. 133.04–133.05
C.T. 134.01–134.03
C.T. 135.01–135.02
C.T. 136–138
C.T. 139.02–139.05
C.T. 140.01–140.03
C.T. 141.01
C.T. 141.03–141.04
  County—Manatee
    Parts:
      C.T. 13
      C.T. 14.01–14.02
      C.T. 15.01–15.02
      C.T. 16
      C.T. 19.01
      C.T. 19.03–19.04
      C.T. 1901
Pov/MFW—Homestead
  County—Dade
    Parts:
      C.T. 113–114
Pov/MFW—Lake Co
  County—Lake
    Parts:
      Pov Pop/MFW
Pov/MFW—Lee Co
  County—Lee
    Parts:
      Pov Pop/MFW
Pov/MFW—St Lucie Co
  County—St Lucie
    Parts:
      Pov Pop/MFW

DENTAL: Florida
Facility Listing

Facility Name

FCI—Marianna
  County—Jackson

DENTAL: Georgia
County Listing

County Name

Bryan
*Burke
*Dawson
  Population Group: Low Inc—Dawson Co
De Kalb
  Service Area: East Atlanta
Fulton
  Service Area: Atlanta Southside
  Service Area: West Atlanta
  Facility: Metro Corr Inst
  Facility: USP Atlanta
*Liberty
*Long
*Marion
*McIntosh
*Schley
*Stewart
*Tattnall
*Wayne
  Facility: FCI—Jesup
*Webster

DENTAL: Georgia
Service Area Listing

Service Area Name

Atlanta Southside
  County—Fulton
    Parts:
      C.T. 44
      C.T. 46.95
      C.T. 48
      C.T. 49.95
      C.T. 50
      C.T. 52–53
      C.T. 55.01–55.02
      C.T. 56–58
      C.T. 63–64
      C.T. 67
      C.T. 68.01–68.02
      C.T. 69–73
East Atlanta
  County—De Kalb
    Parts:
      C.T. 205–209
      C.T. 227
      C.T. 231.01
      C.T. 235.01–235.02
      C.T. 236–237
West Atlanta
  County—Fulton
    Parts:
      C.T. 8
      C.T. 22–26
      C.T. 36–41
      C.T. 42.95
      C.T. 43
      C.T. 60–62
      C.T. 66.02
      C.T. 78.04
      C.T. 80
      C.T. 81.01–81.02
      C.T. 82.01–82.02
      C.T. 83.01–83.02
      C.T. 84–85
      C.T. 86.01–86.02
      C.T. 87.01–87.02
      C.T. 88

DENTAL: Georgia
Population Group Listing

Population Group

Low Inc—Dawson Co
  County—Dawson
    Parts:
      Low Income

DENTAL: Georgia
Facility Listing

Facility Name

FCI—Jesup
  County—Wayne
Metro Corr Inst
  County—Fulton
USP Atlanta
  County—Fulton

DENTAL: Hawaii
County Listing

County Name

*Hawaii
  Population Group: Low Inc—West Hawaii
  Population Group: Low Inc—East Hawaii
*Maui
  Service Area: Hana/Haiku
  Service Area: Lanai

DENTAL: Hawaii
Service Area Listing

Service Area Name

Hana/Haiku
  County—Maui
    Parts:
      C.T. 301–302
Lanai
  County—Maui
    Parts:
      Lanai CCD

DENTAL: Hawaii
Population Group Listing

Population Group

Low Inc—East Hawaii
  County—Hawaii
    Parts:
      C.T. 201–206
      C.T. 206.99
      C.T. 207.01–207.02
      C.T. 208.01–208.02
      C.T. 209
      C.T. 210.01–210.02
      C.T. 211
      C.T. 219–221
Low Inc—West Hawaii
  County—Hawaii
    Parts:
      C.T. 212–214
      C.T. 215.01–215.02
      C.T. 215.97–215.98
      C.T. 216–218

DENTAL: Idaho
County Listing

County Name

Ada
  Population Group: Pov Pop—Public Health Dist Iv
*Boise
  Population Group: Pov Pop—Public Health Dist Iv
*Camas
Canyon
  Population Group: Pov/MFW—S Treasure Valley
*Clark
*Elmore
  Population Group: Pov Pop—Public Health Dist Iv
*Gem
  Population Group: Low Inc/MFW—N Treasure Valley
*Idaho
*Jefferson
  Service Area: Hamer
*Lincoln
*Owyhee
  Population Group: Pov/MFW—S Treasure Valley
*Payette
  Population Group: Low Inc/MFW—N Treasure Valley
*Twin Falls
  Population Group: MSFW—Twin Falls Co
*Valley
  Population Group: Pov Pop—Public Health Dist Iv
*Washington
  Population Group: Low Inc/MFW—N Treasure Valley

DENTAL: Idaho
Service Area Listing

Service Area Name

Hamer
  County—Jefferson
    Parts:
      Hamer CCD
      Roberts CCD

DENTAL: Idaho
Population Group Listing

Population Group

Low Inc/MFW—N Treasure Valley
  County—Gem
    Parts:
      Low Income/MFW
  County—Payette
    Parts:
      Low Income/MFW
  County—Washington
    Parts:
      Low Income/MFW
MSFW—Twin Falls Co
  County—Twin Falls
    Parts:
      MSFW
Pov Pop—Public Health Dist Iv
  County—Ada
    Parts:
      Pov Pop
  County—Boise
    Parts:
      Pov Pop
  County—Elmore
    Parts:
      Pov Pop
  County—Valley
    Parts:
      Pov. Pop.
Pov/MFW—S Treasure Valley
  County—Canyon
    Parts:
      Canyon
  County—Owyhee
    Parts:
      Homedale CCD
      Marsing CCD

DENTAL: Illinois
County Listing

County Name

*Adams
  Population Group: Low Inc—Adams Co
*Alexander
Cook
  Service Area: Riverdale (Chicago)
  Population Group: Homeless—Chicago
  Population Group: Inmates—MCC Chicago
*Hardin
*Pope
*Pulaski
*Williamson
  Facility: USP Marion

DENTAL: Illinois
Service Area Listing

Service Area Name

Riverdale (Chicago)
  County—Cook
    Parts:
      C.T. 5401

DENTAL: Illinois
Population Group Listing

Population Group

Homeless—Chicago
  County—Cook
    Parts:
      Comm. Area 3 (Uptown)
      Comm. Area 4 (Lincoln S
      Comm. Area 5 (North Cen
      Comm. Area 6 (Lakeview)
      Comm. Area 7 (Lincoln P
      Comm. Area 8 (Near Nort
      Comm. Area 22 (Logan Squ
      Comm. Area 24 (West Town
      Comm. Area 28 (Near West
      Comm. Area 32 (Loop)
Inmates—MCC Chicago
  County—Cook
    Parts:
      MCC Chicago
Low Inc—Adams Co
  County—Adams
    Parts:
      Low Income

DENTAL: Illinois
Facility Listing

Facility Name

USP Marion
  County—Williamson

DENTAL: Indiana
County Listing

County Name

*Jennings
Marion
  Service Area: Highland-Brookside (Indianapolis)
  Service Area: Near North Side (Indianapolis)
  Service Area: South Central Indianapolis

DENTAL: Indiana
Service Area Listing

Service Area Name

Highland-Brookside (Indianapolis)
  County—Marion
    Parts:
      C.T. 3526–3527
      C.T. 3544–3545
      C.T. 3547–3551
Near North Side (Indianapolis)
  County—Marion
    Parts:
      C.T. 3517
      C.T. 3519
      C.T. 3521
      C.T. 3528
      C.T. 3531–3532
South Central Indianapolis
  County—Marion
    Parts:
      C.T. 3556–3557
      C.T. 3559
      C.T. 3562
      C.T. 3569–3572
      C.T. 3578–3580

DENTAL: Iowa
County Listing

County Name

*Guthrie

DENTAL: Iowa
County Listing

County Name

Service Area: Guthrie Center
Polk
Population Group: Low Inc—City Of Des Moines

DENTAL: Iowa
Service Area Listing

Service Area Name

Guthrie Center
County—Guthrie
Parts:
Baker Twp.
Bear Grove Twp.
Beaver Twp.
Cass Twp.
Dodge Twp.
Grant Twp.
Highland Twp.
Jackson Twp.
Orange Twp.
Richland Twp.
Seely Twp.
Thompson Twp.
Union Twp.
Valley Twp.
Victory Twp.

DENTAL: Iowa
Population Group Listing

Population Group

Low Inc—City Of Des Moines
County—Polk
Parts:
C.T. 11–12
C.T. 17–18
C.T. 21
C.T. 26–27
C.T. 42
C.T. 44
C.T. 48–53

DENTAL: Kansas
County Listing

County Name

*Anderson
*Chase
*Elk
*Greeley
*Haskell
*Hodgeman
*Kearny
*Lane
Leavenworth
Facility: USP Leavenworth
*Mitchell
*Republic
*Scott
Shawnee
Population Group: Low Inc—City Of Topeka
*Wabaunsee
*Wallace
*Wilson

DENTAL: Kansas
Population Group Listing

Population Group

Low Inc—City Of Topeka

DENTAL: Kansas
Population Group Listing

Population Group

County—Shawnee
Parts:
Low Income

DENTAL: Kansas
Facility Listing

Facility Name

USP Leavenworth
County—Leavenworth

DENTAL: Kentucky
County Listing

County Name

*Ballard
Boyd
Facility: FCI Ashland
*Breathitt
Population Group: Low Inc—Breathitt Co
*Clay
Facility: FCI Manchester
*Edmonson
*Estill
*Floyd
Service Area: Mud Creek
*Grant
*Harlan
*Hart
*Jackson
Jefferson
Service Area: West End—Louisville
*Knott
*Larue
*Laurel
Lee
Service Area: Lee/Owsley
*Leslie
*Letcher
Service Area: Blackey/Cornettsville
*McCreary
*Meade
*Menifee
Owsley
Service Area: Lee/Owsley
*Perry
Service Area: Blackey/Cornettsville
*Rockcastle
*Todd
*Wolfe

DENTAL: Kentucky
Service Area Listing

Service Area Name

Blackey/Cornettsville
County—Letcher
Parts:
Blackey CCD
County—Perry
Parts:
Daisy CCD
Lee/Owsley
County—Lee
County—Owsley
Mud Creek
County—Floyd
Parts:
McDowell CCD
Mud Creek CCD
Wheelwright-Weeksbury
West End—Louisville

DENTAL: Kentucky
Service Area Listing

Service Area Name

County—Jefferson
Parts:
C.T. 1–18
C.T. 20–24
C.T. 27–28
C.T. 30
C.T. 34–35

DENTAL: Kentucky
Population Group Listing

Population Group

Low Inc—Breathitt Co
County—Breathitt
Parts:
Low Income

DENTAL: Kentucky
Facility Listing

Facility Name

FCI Ashland
County—Boyd
FCI Manchester
County—Clay

DENTAL: Louisiana
Parish Listing

Parish Name

*Allen
Facility: FCI Oakdale
*Assumption
*Bienville
Caddo
Service Area: Martin Luther King Drive
Service Area: Vivian/Gilliam
Calcasieu
Service Area: North Lake Charles
*Caldwell
*De Soto
East Baton Rouge
Service Area: Eden Park/South Baton Rouge
*East Carroll
*Franklin
*Iberia
Population Group: Medicaid—Iberia Par
*Iberville
Service Area: Carville
Facility: Elayn Hunt Corr Ctr
*Jackson
*Madison
*Morehouse
*Natchitoches
Orleans
Service Area: Desire/Florida
Service Area: Lower 9Th Ward
Population Group: Low Inc—Central City
*Red River
St Landry
Population Group: Low Inc—St. Landry Par
*St Mary
*Tensas
*Union
*Vernon
West Baton Rouge
*West Carroll
*West Feliciana
Facility: La State Pen—Angola
*Winn

DENTAL: Louisiana
Service Area Listing

Service Area Name

Carville
  Parish—Iberville
    Parts:
      District 4
Desire/Florida
  Parish—Orleans
    Parts:
      C.T. 11
      C.T. 11.99–12.00
      C.T. 13.01–13.02
      C.T. 14.01–14.02
      C.T. 15–16
      C.T. 17.03
      C.T. 17.98
Eden Park/South Baton Rouge
  Parish—East Baton Rouge
    Parts:
      C.T. 8–10
      C.T. 12–16
      C.T. 21–22
      C.T. 24–25
Lower 9Th Ward
  Parish—Orleans
    Parts:
      C.T. 7.01–7.02
      C.T. 8
      C.T. 9.01–9.04
Martin Luther King Drive
  Parish—Caddo
    Parts:
      C.T. 246
North Lake Charles
  Parish—Calcasieu
    Parts:
      C.T. 2–4
      C.T. 14–15
Vivian/Gilliam
  Parish—Caddo
    Parts:
      C.T. 248–250
      C.T. 251.98

DENTAL: Louisiana
Population Group Listing

Population Group

Low Inc—Central City
  Parish—Orleans
    Parts:
      C.T. 67–68
      C.T. 79–80
      C.T. 84–86
      C.T. 91–92
      C.T. 93.01–93.02
      C.T. 94
Low Inc—St. Landry Par
  Parish—St Landry
    Parts:
      Low Income
Medicaid—Iberia Par
  Parish—Iberia
    Parts:
      Medicaideligible

DENTAL: Louisiana
Facility Listing

Facility Name

Elayn Hunt Corr Ctr
  Parish—Iberville
FCI Oakdale
  Parish—Allen

DENTAL: Louisiana
Facility Listing

Facility Name

La State Pen—Angola
  Parish—West Feliciana

DENTAL: Maine
County Listing

County Name

Androscoggin
  Service Area: Jay-Livermore
*Aroostook
  Service Area: Allagash
  Service Area: Danforth
  Service Area: Fort Kent
  Service Area: Presque Isle
*Franklin
  Service Area: Jay-Livermore
  Service Area: Rangeley/Kingsfield
*Hancock
  Service Area: Gouldsboro
*Kennebec
  Service Area: Jay-Livermore
*Knox
  Service Area: Penobscot Bay
*Oxford
  Service Area: Jay-Livermore
  Service Area: Rangeley/Kingsfield
Penobscot
  Service Area: Danforth
Waldo
  Population Group: Low Inc—Belfast
*Washington
  Service Area: Danforth
  Service Area: Gouldsboro

DENTAL: Maine
Service Area Listing

Service Area Name

Allagash
  County—Aroostook
    Parts:
      Allagash Town
      Northwest Aroostook Unorg
      St. Francis Town
      St. John Town
Danforth
  County—Aroostook
    Parts:
      Bancroft Town
      Orient Town
      Weston Town
  County—Penobscot
    Parts:
      Drew Plt.
      Kingman Twp.
      Prentiss Plt.
  County—Washington
    Parts:
      Codyville Town
      Danforth Town
      Grand Lake Stream Plt.
      Indian Twp.
      N. Washington Unorg.
      Talmage Town
      Topsfield Town
      Vanceboro Town
      Waite Town
Fort Kent
  County—Aroostook
    Parts:
      Eagle Lake Town
      Fort Kent Town

DENTAL: Maine
Service Area Listing

Service Area Name

      Frenchville Town
      Grand Isle Town
      Hamlin Town
      Madawaska Town
      New Canada Town
      St Agatha Town
      Van Buren Town
      Wallagrass Plt
      Winterville Plt
Gouldsboro
  County—Hancock
    Parts:
      East Hancock Unorg.
      Gouldsboro Town
      Sorrento Town
      Sullivan Town
      Winter Harbor Town
  County—Washington
    Parts:
      Beddington Town
      Cherryfield Town
      Columbia Town
      Deblois Town
      Harrington Town
      Milbridge Town
      Steuben Town
Jay-Livermore
  County—Androscoggin
    Parts:
      Livermore Town
      Livermore Falls Town
  County—Franklin
    Parts:
      Jay Town
  County—Kennebec
    Parts:
      Fayette Town
  County—Oxford
    Parts:
      Canton Town
      Hartford Town
      Sumner Town
Penobscot Bay
  County—Knox
    Parts:
      Matinicus Isle Plantation
      North Haven Town
      Vinalhaven Town
Presque Isle
  County—Aroostook
    Parts:
      Ashland Town
      Blaine Town
      Bridgewater Town
      Caribou City
      Castle Hill Town
      Caswell Town
      Central Aroostook Unorg
      Chapman Town
      Connor Unorg
      Cyr Plt
      E Plt
      Easton Town
      Fort Fairfield Town
      Garfield Plt
      Limestone Town
      Mapleton Town
      Mars Hill Town
      Masardis Town
      Nashville Plt
      New Sweden Town
      Oxbow Plt

DENTAL: Maine
Service Area Listing

Service Area Name

Perham Town
Portage Lake Town
Presque Isle City
Stockholm Town
Wade Town
Washburn Town
Westfield Town
Westmanland Town
Woodland Town
Rangeley/Kingsfield
County—Franklin
Parts:
Carrabassett Valley Town
Coplin Plantation
Dallas Plantation
Eustis Town
Kingsfield Twn
Madrid Town
Phillips Town
Rangeley Town
Rangeley Plantation
Sandy River Plantation
Unorg. Terr.—E.C.Franklin
Wyman Unorg.
County—Oxford
Parts:
Lincoln Plantation
Magalloway Plantation
Unorg. Terr.-N.Oxford

DENTAL: Maine
Population Group Listing

Population Group

Low Inc—Belfast
County—Waldo
Parts:
Belfast City
Belmont Town
Brooks Town
Jackson Town
Knox Town
Liberty Town
Lincolnville Town
Monroe Town
Montville Town
Morrill Town
Northport Town
Searsmont Town
Searsport Town
Stockton Springs Town
Swanville Town
Waldo Town

DENTAL: Maryland
County Listing

County Name

Baltimore City
Population Group: Homeless—Baltimore City
Charles
Population Group: Low Inc—Nanjemoy-Marbury
*Somerset
Population Group: Medicaid—Somerset Co

DENTAL: Maryland
Population Group Listing

Population Group

Homeless—Baltimore City

DENTAL: Maryland
Population Group Listing

Population Group

County—Baltimore City
Parts:
C.T. 302
C.T. 401–402
C.T. 501
C.T. 908–909
C.T. 1001–1002
C.T. 1004
C.T. 1204–1205
C.T. 1701–1702
C.T. 2201.01
Low Inc—Nanjemoy-Marbury
County—Charles
Parts:
District 3, Nanjemoy
District 10, Marbury
Medicaid—Somerset Co
County—Somerset
Parts:
Medicaid Eligibles

DENTAL: Massachusetts
County Listing

County Name

Hampden
Service Area: Worthington
Hampshire
Service Area: Worthington
Suffolk
Service Area: Roxbury
Service Area: South End
Population Group: Low Inc—Allston-Brighton
Worcester
Population Group: Low Inc—Worcester

DENTAL: Massachusetts
Service Area Listing

Service Area Name

Roxbury
County—Suffolk
Parts:
C.T. 801–821
South End
County—Suffolk
Parts:
C.T. 704–712
Worthington
County—Hampden
Parts:
Chester Town
County—Hampshire
Parts:
Chesterfield Town
Cummington Town
Goshen Town
Middlefield Town
Plainfield Town
Worthington Town

DENTAL: Massachusetts
Population Group Listing

Population Group

Low Inc—Allston-Brighton
County—Suffolk
Parts:
C.T. 1
C.T. 2.01–2.02
C.T. 3

DENTAL: Massachusetts
Population Group Listing

Population Group

C.T. 4.01–4.02
C.T. 5.01–5.02
C.T. 6.01–6.02
C.T. 7.01–7.02
C.T. 8.01–8.02
Low Inc—Worcester
County—Worcester
Parts:
C.T. 7301–7303
C.T. 7304.01–7304.02
C.T. 7305–7307
C.T. 7308.01–7308.02
C.T. 7309.01–7309.02
C.T. 7310
C.T. 7311.01–7311.02
C.T. 7312.01–7312.02
C.T. 7313–7319
C.T. 7320.01–7320.02
C.T. 7321
C.T. 7322.01–7322.03
C.T. 7323–7328
C.T. 7329.01–7329.02
C.T. 7330
C.T. 7331.01–7331.02

DENTAL: Michigan
County Listing

County Name

*Alcona
Population Group: Low Inc—Alcona Co
*Alger
Population Group: Low Inc—Alger Co
Allegan
Population Group: Low Inc/MFW—Allegan Co
*Alpena
Population Group: Low Inc—Alpena Co
*Antrim
Population Group: Low Inc/MFW—Antrim Co
*Arenac
Population Group: Low Inc—Arenac Co
*Baraga
Population Group: Low Inc—Baraga Co
*Barry
Population Group: Low Inc/MFW—Barry Co
*Benzie
Population Group: Low Inc/MFW—Benzie Co
Berrien
Population Group: Low Inc—Berrien Co
*Branch
Population Group: Low Inc—Branch Co
Calhoun
Population Group: Low Inc—Calhoun Co
*Cass
Population Group: Low Inc—Cass Co
*Charlevoix
Population Group: Low Inc—Charlevoix Co
*Cheboygan
Population Group: Low Inc—Cheboygan Co
*Chippewa
Population Group: Low Inc—Chippewa Co
*Clare
Population Group: Low Inc—Clare Co
*Crawford
Population Group: Low Inc—Crawford Co
*Delta
Population Group: Low Inc—Delta Co

DENTAL: Michigan
County Listing

County Name

*Dickinson
Population Group: Low Inc—Dickenson Co
*Emmet
Population Group: Low Inc—Emmet Co
Genesee
Service Area: North Flint/Beecher
*Gladwin
Population Group: Low Inc—Gladwin Co
*Gogebic
Population Group: Low Inc—Gogebic Co
*Gratiot
Population Group: Low Inc/MFW—Gratiot Co
*Hillsdale
Population Group: Low Inc—Hillsdale Co
*Houghton
Population Group: Low Inc—Houghton Co
*Huron
Population Group: Low Inc/MFW—Huron Co
*Ionia
Population Group: Low Inc—Ionia Co
*Iosco
Population Group: Low Inc—Iosco Co
*Iron
Population Group: Low Inc—Iron Co
*Isabella
Population Group: Low Inc—Isabella Co
Jackson
Population Group: Low Inc—Ne Jackson City
Facility: Jackson Reg. Clin. Complex
Kalamazoo
Population Group: Low Inc—Northern Kalamazoo City
*Kalkaska
Population Group: Low Inc—Kalkaska Co
Kent
Population Group: Low Inc/MFW—Kent Co
*Keweenaw
Population Group: Low Inc—Keweenaw Co
Lake
Population Group: Low Inc—Lake Co
*Leelanau
Population Group: Low Inc/MFW—Leelanau Co
*Luce
Population Group: Low Inc—Luce Co
*Mackinac
Population Group: Low Inc—Mackinac Co
*Manistee
Population Group: Low Inc/MFW—Manistee Co
*Marquette
Population Group: Low Inc—Marquette Co
*Mason
Population Group: Low Inc/MFW—Mason Co
*Mecosta
Population Group: Low Inc/MFW—Mecosta Co
*Menominee
Population Group: Low Inc—Menominee Co
*Missaukee
Population Group: Low Inc—Missaukee Co
*Montcalm
Population Group: Low Inc/MFW—Montcalm Co
*Montmorency
Population Group: Low Inc—Montmorency Co

DENTAL: Michigan
County Listing

County Name

Muskegon
Population Group: Low Inc/MFW—Muskegon Co
*Newaygo
Population Group: Low Inc/MFW—Newaygo Co
*Oceana
Population Group: Low Inc/MFW—Oceana Co
*Ogemaw
Population Group: Low Inc—Ogemaw Co
*Ontonagon
Population Group: Low Inc—Ontonagon Co
*Osceola
Population Group: Low Inc—Osceola Co
*Oscoda
Population Group: Low Inc—Oscoda Co
*Otsego
Population Group: Low Inc—Otsego Co
Ottawa
Population Group: Low Inc/MFW—Ottawa Co
*Presque Isle
Population Group: Low Inc—Presque Isle Co
*Roscommon
Population Group: Low Inc—Roscommon Co
Saginaw
Service Area: Saginaw East Side
*Sanilac
Population Group: Low Inc/MFW—Sanilac Co
*Schoolcraft
Population Group: Low Inc—Schoolcraft Co
*St Joseph
Population Group: Low Inc—St Joseph Co
*Tuscola
Population Group: Low Inc/MFW—Tuscola Co
Van Buren
Population Group: Low Inc—Van Buren Co
Wayne
Service Area: Southwest Detroit
Population Group: Low Inc—Tireman/Chadsey
Population Group: Low Inc—Central Detroit
Population Group: Low Inc—Eastside Detroit
Population Group: Low Inc—Mackenzie/Brooks
Population Group: Low Inc—Chene
Population Group: Low Inc—Airport/Conner
Population Group: Low Inc—Nolan/State Fair/Davison/Persh
Population Group: Low Inc—Outer Drive/Van Dyke
Population Group: Medicaid—W Wayne
Population Group: Pov Pop—Highland Park
*Wexford
Population Group: Low Inc—Wexford Co

DENTAL: Michigan
Service Area Listing

Service Area Name

North Flint/Beecher
County—Genesee
Parts:
C.T. 1–7
C.T. 19–26
C.T. 103.02–103.04
C.T. 122.02
Saginaw East Side
County—Saginaw
Parts:
C.T. 1–11
C.T. 110
Southwest Detroit
County—Wayne
Parts:
C.T. 5208–5209
C.T. 5211–5214
C.T. 5231–5238
C.T. 5240–5243
C.T. 5245
C.T. 5247–5248

DENTAL: Michigan
Population Group Listing

Population Group

Low Inc—Airport/Conner
County—Wayne
Parts:
C.T. 5037
C.T. 5039–5048
C.T. 5052–5053
C.T. 5107–5109
Low Inc—Alcona Co
County—Alcona
Parts:
Low Income
Low Inc—Alger Co
County—Alger
Parts:
Low Income
Low Inc—Alpena Co
County—Alpena
Parts:
Low Income
Low Inc—Arenac Co
County—Arenac
Parts:
Low Income
Low Inc—Baraga Co
County—Baraga
Parts:
Low Income
Low Inc—Berrien Co
County—Berrien
Parts:
Low Income
Low Inc—Branch Co
County—Branch
Parts:
Low Income
Low Inc—Calhoun Co
County—Calhoun
Parts:
Low Income
Low Inc—Cass Co
County—Cass
Parts:
Low Income
Low Inc—Central Detroit
County—Wayne
Parts:
C.T. 5172–5176
C.T. 5180–5181
C.T. 5201–5207

DENTAL: Michigan
Population Group Listing

Population Group

C.T. 5218
Low Inc—Charlevoix Co
County—Charlevoix
Parts:
Low Income
Low Inc—Cheboygan Co
County—Cheboygan
Parts:
Low Income
Low Inc—Chene
County—Wayne
Parts:
C.T. 5111
C.T. 5161
C.T. 5177–5178
C.T. 5183–5188
Low Inc—Chippewa Co
County—Chippewa
Parts:
Low Income
Low Inc—Clare Co
County—Clare
Parts:
Low Income
Low Inc—Crawford Co
County—Crawford
Parts:
Low Income
Low Inc—Delta Co
County—Delta
Parts:
Low Income
Low Inc—Dickinson Co
County—Dickinson
Parts:
Low Income
Low Inc—Eastside Detroit
County—Wayne
Parts:
C.T. 5121–5124
C.T. 5126
C.T. 5129
C.T. 5132–5136
C.T. 5139–5143
C.T. 5145–5156
Low Inc—Emmet Co
County—Emmet
Parts:
Low Income
Low Inc—Gladwin Co
County—Gladwin
Parts:
Low Income
Low Inc—Gogebic Co
County—Gogebic
Parts:
Low Income
Low Inc—Hillsdale Co
County—Hillsdale
Parts:
Low Income
Low Inc—Houghton Co
County—Houghton
Parts:
Low Income
Low Inc—Ionia Co
County—Ionia
Parts:
Low Income
Low Inc—Iosco Co
County—Iosco
Parts:

DENTAL: Michigan
Population Group Listing

Population Group

Low Income
Low Inc—Iron Co
County—Iron
Parts:
Low Income
Low Inc—Isabella Co
County—Isabella
Parts:
Low Income
Low Inc—Kalkaska Co
County—Kalkaska
Parts:
Low Income
Low Inc—Keweenaw Co
County—Keweenaw
Parts:
Low Income
Low Inc—Lake Co
County—Lake
Parts:
Low Income
Low Inc—Luce Co
County—Luce
Parts:
Low Income
Low Inc—Mackenzie/Brooks
County—Wayne
Parts:
C.T. 5341–5344
C.T. 5347
C.T. 5350–5357
C.T. 5364–5367
C.T. 5370–5373
C.T. 5377–5378
C.T. 5451–5454
Low Inc—Mackinac Co
County—Mackinac
Parts:
Low Income
Low Inc—Marquette Co
County—Marquette
Parts:
Low Income
Low Inc—Menominee Co
County—Menominee
Parts:
Low Income
Low Inc—Missaukee Co
County—Missaukee
Parts:
Low Income
Low Inc—Montmorency Co
County—Montmorency
Parts:
Low Income
Low Inc—Ne Jackson City
County—Jackson
Parts:
C.T. 1–4
C.T. 6–7
C.T. 10–13
Low Inc—Nolan/State Fair/Davison/Persh
County—Wayne
Parts:
C.T. 5064–5080
C.T. 5102–5106
Low Inc—Northern Kalamazoo City
County—Kalamazoo
Parts:
C.T. 1
C.T. 2.01–2.02
C.T. 3

DENTAL: Michigan
Population Group Listing

Population Group

C.T. 4.02
C.T. 5–6
C.T. 8.01–8.02
C.T. 9–10
Low Inc—Ogemaw Co
County—Ogemaw
Parts:
Low Income
Low Inc—Ontonagon Co
County—Ontonagon
Parts:
Low Income
Low Inc—Osceola Co
County—Osceola
Parts:
Low Income
Low Inc—Oscoda Co
County—Oscoda
Parts:
Low Income
Low Inc—Otsego Co
County—Otsego
Parts:
Low Income
Low Inc—Outer Drive/Van Dyke
County—Wayne
Parts:
C.T. 5035–5036
C.T. 5049–5051
C.T. 5061–5063
Low Inc—Presque Isle Co
County—Presque Isle
Parts:
Low Income
Low Inc—Roscommon Co
County—Roscommon
Parts:
Low Income
Low Inc—Schoolcraft Co
County—Schoolcraft
Parts:
Low Income
Low Inc—St Joseph Co
County—St Joseph
Parts:
Low Income
Low Inc—Tireman/Chadsey
County—Wayne
Parts:
C.T. 5221–5222
C.T. 5251–5258
C.T. 5260–5265
C.T. 5335–5337
C.T. 5345–5346
Low Inc—Van Buren Co
County—Van Buren
Parts:
Low Income
Low Inc—Wexford Co
County—Wexford
Parts:
Low Income
Low Inc/MFW—Allegan Co
County—Allegan
Parts:
Low Income
MFW
Low Inc/MFW—Antrim Co
County—Antrim
Parts:
Low Income
MFW

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DENTAL: Michigan
Population Group Listing

Population Group

Low Inc/MFW—Barry Co
County—Barry
Parts:
Low Income
MFW
Low Inc/MFW—Benzie Co
County—Benzie
Parts:
Low Income
MFW
Low Inc/MFW—Gratiot Co
County—Gratiot
Parts:
Low Income
MFW
Low Inc/MFW—Huron Co
County—Huron
Parts:
Low Income
MFW
Low Inc/MFW—Kent Co
County—Kent
Parts:
Low Income
MFW
Low Inc/MFW—Leelanau Co
County—Leelanau
Parts:
Low Income
MFW
Low Inc/MFW—Manistee Co
County—Manistee
Parts:
Low Income
MFW
Low Inc/MFW—Mason Co
County—Mason
Parts:
Low Income
MFW
Low Inc/MFW—Mecosta Co
County—Mecosta
Parts:
Low Income
MFW
Low Inc/MFW—Montcalm Co
County—Montcalm
Parts:
Low Income
MFW
Low Inc/MFW—Muskegon Co
County—Muskegon
Parts:
Low Income
MFW
Low Inc/MFW—Newaygo Co
County—Newaygo
Parts:
Low Income
MFW
Low Inc/MFW—Oceana Co
County—Oceana
Parts:
Low Income
MFW
Low Inc/MFW—Ottawa Co
County—Ottawa
Parts:
Low Income
MFW
Low Inc/MFW—Sanilac Co
County—Sanilac

DENTAL: Michigan
Population Group Listing

Population Group

Parts:
Low Income
MFW
Low Inc/MFW—Tuscola Co
County—Tuscola
Parts:
Low Income
MFW
Medicaid—W Wayne
County—Wayne
Parts:
Allen Park City
Belleville City
Brownstown Twp.
Canton Twp.
Dearborn Hgts. City
Ecorse City
Flat Rock City
Garden City
Gibralter City
Grosse Ile Twp.
Harper Woods City
Huron Twp.
Inkster City
Lincoln Park City
Livonia City
Melvindale City
Northville City
Northville Twp.
Plymouth City
Plymouth Twp.
Redford Twp.
River Rouge City
Riverview City
Rockwood City
Romulus City
Southgate City
Sumpter City
Taylor City
Trenton City
Van Buren Twp.
Wayne City
Westland City
Woodhaven City
Wyandotte City
Pov Pop—Highland Park
County—Wayne
Parts:
C.T. 5530–5537

DENTAL: Michigan
Facility Listing

Facility Name

Jackson Reg. Clin. Complex
County—Jackson

DENTAL: Minnesota
County Listing

County Name

*Koochiching
Population Group: Low Inc—Koochiching Co
Ramsey
Service Area: Summit-Dale
Population Group: Am In—St. Paul
St Louis
Population Group: Inmates—FPC Duluth

DENTAL: Minnesota
Service Area Listing

Service Area Name

Summit-Dale
County—Ramsey
Parts:
C.T. 326–327
C.T. 336–337
C.T. 339–340
C.T. 354–355

DENTAL: Minnesota
Population Group Listing

Population Group

Am In—St. Paul
County—Ramsey
Parts:
C.T. 301–305
C.T. 306.01–306.02
C.T. 307.02–307.04
C.T. 308–317
C.T. 318.01–318.02
C.T. 319–340
C.T. 342
C.T. 344–345
C.T. 346.01–346.02
C.T. 347.01–347.02
C.T. 348–372
C.T. 374.02
C.T. 375
C.T. 376.01–376.02
Inmates—FPC Duluth
County—St Louis
Parts:
FPC Duluth
Low Inc—Koochiching Co
County—Koochiching
Parts:
Low Income

DENTAL: Mississippi
County Listing

County Name

*Amite
*Carroll
*Chickasaw
*Claiborne
*Clarke
*Franklin
*Greene
Hancock
Harrison
Population Group: Pov Pop—Harrison Co
Hinds
Service Area: Jackson Inner City
Service Area: Western Hinds
*Holmes
*Humphreys
Issaquena
Service Area: Issaquena-Sharkey
*Jasper
*Jefferson
*Kemper
*Lawrence
*Leake
*Marshall
*Monroe
Population Group: Pov Pop—Monroe Co
*Montgomery
*Neshoba
*Noxubee
*Panola
*Pearl River

DENTAL: Mississippi
County Listing

County Name

*Perry
*Quitman
*Scott
Population Group: Pov Pop—Scott Co
Sharkey
Service Area: Issaquena-Sharkey
*Smith
*Stone
*Tallahatchie
*Tate
*Tunica
*Walthall
*Wayne
*Webster

DENTAL: Mississippi
Service Area Listing

Service Area Name

Issaquena-Sharkey
County—Issaquena
County—Sharkey
Jackson Inner City
County—Hinds
Parts:
C.T. 5–12
C.T. 16–27
C.T. 30–32
C.T. 39
C.T. 102.01–102.03
C.T. 103.01
C.T. 108.01
C.T. 109.02
Western Hinds
County—Hinds
Parts:
C.T. 105–107
C.T. 112–113

DENTAL: Mississippi
Population Group Listing

Population Group

Pov Pop—Harrison Co
County—Harrison
Parts:
Pov Pop
Pov Pop—Monroe Co
County—Monroe
Parts:
Poverty Pop
Pov Pop—Scott Co
County—Scott
Parts:
Pov Pop

DENTAL: Mississippi
Facility Listing

Facility Name

Mississippi State Pen.

DENTAL: Missouri
County Listing

County Name

*Adair
Population Group: Medicaid—Adair Co
*Chariton
*Holt
*Iron
Jackson
Population Group: Medicaid—Central Kansas City
Population Group: Medicaid—North Kansas City
*Macon
*McDonald
*New Madrid
*Perniscot
*Randolph
Population Group: Medicaid—Randolph Co
St Louis
Population Group: Pov Pop—North St Louis
Population Group: Pov Pop—West St. Louis
St Louis City
Population Group: Pov Pop—North St Louis
Population Group: Pov Pop—West St. Louis
Population Group: Pov Pop—Southeast St. Louis
Population Group: Pov Pop—Grace Hill/Cochran
*Wayne
*Worth

DENTAL: Missouri
Population Group Listing

Population Group

Medicaid—Adair Co
County—Adair
Parts:
Medicaid Eligible
Medicaid—Central Kansas City
County—Jackson
Parts:
C.T. 46–55
C.T. 56.01–56.02
C.T. 57
C.T. 58.01–58.02
C.T. 60–67
C.T. 75–77
C.T. 78.01–78.02
C.T. 79–80
C.T. 87–89
C.T. 96
Medicaid—North Kansas City
County—Jackson
Parts:
C.T. 2–4
C.T. 5.01
C.T. 6–27
C.T. 28.01–28.02
C.T. 29–34
C.T. 35.01–35.02
C.T. 36.01–36.02
C.T. 37–45
C.T. 59.01
Medicaid—Randolph Co
County—Randolph
Parts:
Medicaid Eligible
Pov Pop—Grace Hill/Cochran
County—St Louis City
Parts:
C.T. 1085
C.T. 1096–1097
C.T. 1201–1203
C.T. 1211–1214
C.T. 1222

DENTAL: Missouri
Population Group Listing

Population Group

C.T. 1255–1257
C.T. 1266–1267
Pov Pop—North St Louis
County—St Louis
Parts:
C.T. 2139–2140
County—St Louis City
Parts:
C.T. 1061–1067
C.T. 1071–1075
Pov Pop—Southeast St. Louis
County—St Louis City
Parts:
C.T. 1018
C.T. 1156–1157
C.T. 1164–1165
C.T. 1172–1174
C.T. 1181
C.T. 1185
C.T. 1221
C.T. 1224
C.T. 1231–1234
C.T. 1241–1243
C.T. 1246
Pov Pop—West St. Louis
County—St Louis
Parts:
C.T. 2159–2161
County—St Louis City
Parts:
C.T. 1051.98
C.T. 1052–1055
C.T. 1121

DENTAL: Montana
County Listing

County Name

*Roosevelt
Service Area: Poplar/Wolf Point

DENTAL: Montana
Service Area Listing

Service Area Name

Poplar/Wolf Point
County—Roosevelt
Parts:
Fort Peck Res. CCD

DENTAL: Nebraska
County Listing

County Name

Arthur
Service Area: Arthur/Grant
*Blaine
Douglas
Population Group: Medicaid—Eastern Omaha City
*Frontier
*Furnas
Grant
Service Area: Arthur/Grant
Greeley
Service Area: Greeley/Wheeler
*Hayes
Service Area: Hayes/Hitchcock
Hitchcock
Service Area: Hayes/Hitchcock
Hooker
Service Area: Mullen

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DENTAL: Nebraska
County Listing

County Name

Logan
  Service Area: Logan/MCPherson
*Morrill
MCPherson
  Service Area: Logan/MCPherson
*Scotts Bluff
  Population Group: Medicaid—Scotts Bluff Co
Thomas
  Service Area: Mullen
Wheeler
  Service Area: Greeley/Wheeler

DENTAL: Nebraska
Service Area Listing

Service Area Name

Arthur/Grant
  County—Arthur
  County—Grant
Greeley/Wheeler
  County—Greeley
  County—Wheeler
Hayes/Hitchcock
  County—Hayes
  County—Hitchcock
Logan/MCPherson
  County—Logan
  County—MCPherson
Mullen
  County—Hooker
  County—Thomas

DENTAL: Nebraska
Population Group Listing

Population Group

Medicaid—Eastern Omaha City
  County—Douglas
    Parts:
      C.T. 3
      C.T. 6–12
      C.T. 16
      C.T. 18–19
      C.T. 39–43
      C.T. 50–54
      C.T. 59.01–59.02
      C.T. 60
      C.T. 61.01–61.02
Medicaid—Scotts Bluff Co
  County—Scotts Bluff
    Parts:
      Medicaid Eligible

DENTAL: Nevada
County Listing

County Name

*Churchill
  Service Area: Dixie Valley
Clark
  Service Area: Northeast Clark
  Population Group: Low Inc—Las Vegas
*Elko
  Service Area: Jackpot
  Service Area: Montello/West Wendover
  Service Area: Mountain City/Jarbidge
  Service Area: Wells
*Esmeralda
  Service Area: Coaldale/Silverpeak
  Service Area: Tonopah/Esmeralda
*Eureka
  Service Area: Beowave
  Service Area: Eureka
*Humboldt
  Service Area: McDermitt
  Service Area: Summit Lake
*Lander
  Service Area: Austin
  Service Area: Battle Mountain
*Lincoln
  Service Area: Alamo
*Lyon
*Mineral
Nye
  Service Area: Beatty
  Service Area: Duckwater/Lund
  Service Area: Gabbs
  Service Area: Pahrump
  Service Area: Round Mountain
  Service Area: Tonopah/Esmeralda
*Pershing
*White Pine
  Service Area: Baker
  Service Area: Cherry Creek
  Service Area: Duckwater/Lund

DENTAL: Nevada
Service Area Listing

Service Area Name

Alamo
  County—Lincoln
    Parts:
      Alamo CCD
Austin
  County—Lander
    Parts:
      Austin CCD
Baker
  County—White Pine
    Parts:
      Baker CCD
Battle Mountain
  County—Lander
    Parts:
      Battle Mountain CCD
Beatty
  County—Nye
    Parts:
      Amargosa CCD
      Beatty CCD
Beowave
  County—Eureka
    Parts:
      Beowave CCD
Cherry Creek
  County—White Pine
    Parts:
      Cherry Creek CCD
Coaldale/Silverpeak
  County—Esmeralda
    Parts:
      Silverpeak CCD
Dixie Valley
  County—Churchill
    Parts:
      Dixie Valley CCD
Duckwater/Lund
  County—Nye
    Parts:
      Duckwater CCD
  County—White Pine
    Parts:
      Lund CCD
Eureka
  County—Eureka
    Parts:
      Eureka CCD
Gabbs
  County—Nye
    Parts:
      Gabbs CCD
Jackpot
  County—Elko
    Parts:
      Jackpot CCD
McDermitt
  County—Humboldt
    Parts:
      McDermitt CCD
Montello/West Wendover
  County—Elko
    Parts:
      Montello CCD
      West Wendover CCD
Mountain City/Jarbidge
  County—Elko
    Parts:
      Jarbidge CCD
      Mountain City CCD
Northeast Clark
  County—Clark
    Parts:
      C.T. 56.02–56.03
      C.T. 59
Pahrump
  County—Nye
    Parts:
      Chrystal CCD
      Pahrump CCD
      Yucca Flat CCD
Round Mountain
  County—Nye
    Parts:
      Round Mountain CCD
Summit Lake
  County—Humboldt
    Parts:
      Summit Lake CCD
Tonopah/Esmeralda
  County—Esmeralda
    Parts:
      Goldfield CCD
  County—Nye
    Parts:
      Ralston CCD
      Tonopah CCD
Wells
  County—Elko
    Parts:
      Wells CCD

DENTAL: Nevada
Population Group Listing

Population Group

Low Inc—Las Vegas
  County—Clark
    Parts:
      Las Vegas CCD

DENTAL: New Jersey
County Listing

County Name

Atlantic

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DENTAL: New Jersey
County Listing

County Name

Service Area: Atlantic City
Population Group: Low Inc—West Atlantic Co
Camden
Service Area: Camden City
Cumberland
Population Group: Low Inc/MFW—Cumberland Co
Facility: FCI Fairton
Mercer
Population Group: Medicaid—Trenton
Ocean
Population Group: Medicaid—Lakewood
Salem
Population Group: Medicaid—Salem Co
Union
Service Area: North Central Plainfield
Warren
Population Group: Medicaid—Warren Co

DENTAL: New Jersey
Service Area Listing

Service Area Name

Atlantic City
County—Atlantic
Parts:
C.T. 1–5
C.T. 8
C.T. 11–19
C.T. 23–25
Camden City
County—Camden
Parts:
C.T. 6001–6020
North Central Plainfield
County—Union
Parts:
C.T. 388–390
C.T. 393–395

DENTAL: New Jersey
Population Group Listing

Population Group

Low Inc—West Atlantic Co
County—Atlantic
Parts:
C.T. 104.01–104.03
C.T. 105.01
C.T. 105.03–105.04
C.T. 106–111
C.T. 112.01–112.02
C.T. 113
C.T. 114.01–114.02
C.T. 115–116
C.T. 117.01–117.02
C.T. 118.05
C.T. 119–122
Low Inc/MFW—Cumberland Co
County—Cumberland
Parts:
Low Income
MFW
Medicaid—Lakewood
County—Ocean
Parts:
Lakewood Twp
Medicaid—Salem Co
County—Salem
Parts:
Medicaid Eligible

DENTAL: New Jersey
Population Group Listing

Population Group

Medicaid—Trenton
County—Mercer
Parts:
C.T. 1–24
Medicaid—Warren Co
County—Warren
Parts:
Medicaid Eligible

DENTAL: New Jersey
Facility Listing

Facility Name

FCI Fairton
County—Cumberland

DENTAL: New Mexico
County Listing

County Name

Bernalillo
Service Area: North Valley
Service Area: Southwest Valley
*Catron
*Cibola
*Curry
Population Group: Low Inc—Curry Co
Dona Ana
Service Area: Hatch
Service Area: Southern Dona Ana
Population Group: Dent Ind—Las Cruces
*Guadalupe
*Harding
*Hidalgo
*Luna
*McKinley
*Mora
*Otero
*Rio Arriba
Service Area: North/Western Rio Arriba
Service Area: Penasco/Truchas/Embudo
*Roosevelt
Population Group: Dent Ind—Roosevelt Co
Sandoval
Service Area: Cuba (N. Sandoval)
Santa Fe
Population Group: Dent Ind—Santa Fe Co
*Sierra
*Socorro
*Taos
Service Area: North/Western Rio Arriba
Service Area: Penasco/Truchas/Embudo
Service Area: Questa
*Torrance
*Union

DENTAL: New Mexico
Service Area Listing

Service Area Name

Cuba (N. Sandoval)
County—Sandoval
Parts:
Cuba CCD
Jemez CCD
Santo Domingo CCD
Hatch
County—Dona Ana
Parts:
Hatch CCD
North Valley
County—Bernalillo

DENTAL: New Mexico
Service Area Listing

Service Area Name

Parts:
C.T. 29
C.T. 30.01–30.02
C.T. 31
C.T. 32.01–32.02
C.T. 35.01–35.02
C.T. 36
North/Western Rio Arriba
County—Rio Arriba
Parts:
Coyote Division
Jicarilla Division
Rio Chama Division
Tierra Amarilla Division
Vallecitas Division
Western Rio Arriba Division
County—Taos
Parts:
Tres Piedras Division
Penasco/Truchas/Embudo
County—Rio Arriba
Parts:
Chimayo Division
Dixon Division
County—Taos
Parts:
Penasco Division
Picuris Division
Questa
County—Taos
Parts:
Arroyo Hondo CCD
Questa CCD
Southern Dona Ana
County—Dona Ana
Parts:
Anthony CCD
S. Dona Ana CCD
Southwest Valley
County—Bernalillo
Parts:
C.T. 23
C.T. 24.01–24.02
C.T. 43
C.T. 44.01–44.02
C.T. 45.01–45.02
C.T. 46.02–46.04

DENTAL: New Mexico
Population Group Listing

Population Group

Dent Ind—Las Cruces
County—Dona Ana
Parts:
C.T. 1–9
Dent Ind—Roosevelt Co
County—Roosevelt
Parts:
Dentally Indigent
Dent Ind—Santa Fe Co
County—Santa Fe
Parts:
Dentally Indigent
Low Inc—Curry Co
County—Curry
Parts:
Low Income

DENTAL: New York
County Listing

County Name

Bronx
  Service Area: Morris Heights
  Service Area: Morrisania/High Bridge
  Service Area: Mott Haven/Point Norris
Cayuga
  Service Area: Groton—Moravia
*Chenango
  Service Area: Cincinnatus/Deruyter
*Clinton
  Service Area: Dannemora
*Cortland
  Service Area: Cincinnatus/Deruyter
  Population Group: Low Inc—Cortland
Dutchess
  Population Group: Low Inc—Beacon City
Kings
  Service Area: Bedford-Stuyvesant
  Service Area: Coney Island
  Service Area: Crown Heights
  Service Area: Sunset Park
  Population Group: Inmates—MDC Brooklyn
Madison
  Service Area: Cincinnatus/Deruyter
New York
  Service Area: East Harlem
  Service Area: Lower Eastside
Onondaga
  Population Group: Medicaid—Syracuse
Orange
  Population Group: Low Inc—Port Jervis
  Population Group: Medicaid—City & Town Of Newburgh
Oswego
  Population Group: Low Inc—Pulaski Pcsa
*St Lawrence
  Population Group: Medicaid—Ogdensburg
*Sullivan
  Population Group: Low Inc—Port Jervis
*Tompkins
  Service Area: Groton—Moravia
Westchester
  Population Group: Low Inc—Mt Vernon

DENTAL: New York
Service Area Listing

Service Area Name

Bedford-Stuyvesant
  County—Kings
    Parts:
      C.T. 11
      C.T. 23
      C.T. 25
      C.T. 27
      C.T. 29.01–29.02
      C.T. 31
      C.T. 33
      C.T. 35
      C.T. 179
      C.T. 181
      C.T. 183
      C.T. 185.01–185.02
      C.T. 187
      C.T. 189
      C.T. 191
      C.T. 193
      C.T. 195
      C.T. 197
      C.T. 199
      C.T. 201
      C.T. 203

DENTAL: New York
Service Area Listing

Service Area Name

C.T. 205
C.T. 207
C.T. 213
C.T. 215
C.T. 217
C.T. 219
C.T. 221
C.T. 223
C.T. 225
C.T. 227
C.T. 229
C.T. 231
C.T. 233
C.T. 235
C.T. 237
C.T. 239
C.T. 241
C.T. 243
C.T. 245
C.T. 247
C.T. 249
C.T. 251
C.T. 253
C.T. 255
C.T. 257
C.T. 259.01–259.02
C.T. 261
C.T. 263
C.T. 265
C.T. 267
C.T. 269
C.T. 271.01–271.02
C.T. 273
C.T. 275
C.T. 277
C.T. 279
C.T. 281
C.T. 283
C.T. 285.01–285.02
C.T. 287
C.T. 289
C.T. 291
C.T. 293
C.T. 295
C.T. 297
C.T. 299
C.T. 301
C.T. 303
C.T. 307
C.T. 309
C.T. 311
C.T. 313
C.T. 315
C.T. 317.01–317.02
C.T. 319
C.T. 321
C.T. 323
C.T. 325
C.T. 327
C.T. 329
C.T. 331
C.T. 333
C.T. 335
C.T. 337
C.T. 339
C.T. 341
C.T. 343
C.T. 345
C.T. 347
C.T. 349
C.T. 351
C.T. 353

DENTAL: New York
Service Area Listing

Service Area Name

C.T. 355
C.T. 357
C.T. 359
C.T. 361
C.T. 363
C.T. 365.01–365.02
C.T. 367
C.T. 369
C.T. 371
C.T. 373
C.T. 375
C.T. 377
C.T. 379
C.T. 381
C.T. 383
C.T. 385
C.T. 387
Cincinnatus/Deruyter
  County—Chenango
    Parts:
      Lincklaen Town
      Pitcher Town
  County—Cortland
    Parts:
      Cincinnatus Town
      Cuyler Town
      Freetown Town
      Taylor Town
      Willet Town
  County—Madison
    Parts:
      Deruyter Town
Coney Island
  County—Kings
    Parts:
      C.T. 326
      C.T. 328
      C.T. 330
      C.T. 340
      C.T. 342
      C.T. 348.01–348.02
      C.T. 352
Crown Heights
  County—Kings
    Parts:
      C.T. 213
      C.T. 215
      C.T. 217
      C.T. 219
      C.T. 317.02
      C.T. 319
      C.T. 321
      C.T. 323
      C.T. 325
      C.T. 327
      C.T. 329
      C.T. 331
      C.T. 333
      C.T. 335
      C.T. 337
      C.T. 339
      C.T. 349
      C.T. 351
      C.T. 353
      C.T. 355
      C.T. 357
Dannemora
  County—Clinton
    Parts:
      Dannemora Town
      Saranac Town
East Harlem

DENTAL: New York
Service Area Listing

Service Area Name
County—New York
Parts:
C.T. 156.02
C.T. 158.02
C.T. 160.02
C.T. 162
C.T. 164
C.T. 166
C.T. 168
C.T. 170
C.T. 172.01–172.02
C.T. 174.01–174.02
C.T. 178
C.T. 180
C.T. 182
C.T. 184
C.T. 188
C.T. 192
C.T. 194
C.T. 196
C.T. 198
C.T. 202
C.T. 204
C.T. 206
C.T. 210
Groton—Moravia
County—Cayuga
Parts:
Locke Town
Moravia Town
Sempronius Town
Summerhill Town
County—Tompkins
Parts:
Groton Town
Lower Eastside
County—New York
Parts:
C.T. 10.02
C.T. 20
C.T. 22.01–22.02
C.T. 24
C.T. 26.01–26.02
Morris Heights
County—Bronx
Parts:
C.T. 205
C.T. 213.01–213.02
C.T. 215.01–215.02
C.T. 217.01
C.T. 239
C.T. 243
C.T. 245
C.T. 247
C.T. 249
C.T. 251
C.T. 253
C.T. 255
C.T. 257
Morrisania/High Bridge
County—Bronx
Parts:
C.T. 47
C.T. 49
C.T. 53.01
C.T. 57
C.T. 59.01–59.02
C.T. 61
C.T. 67
C.T. 69
C.T. 121.01
C.T. 123

DENTAL: New York
Service Area Listing

Service Area Name
C.T. 125
C.T. 127.01
C.T. 129.01
C.T. 131
C.T. 133
C.T. 135
C.T. 137
C.T. 139
C.T. 141
C.T. 143
C.T. 145
C.T. 147
C.T. 149
C.T. 151
C.T. 153
C.T. 155
C.T. 157
C.T. 161
C.T. 163
C.T. 165
C.T. 167
C.T. 169
C.T. 171
C.T. 173
C.T. 175
C.T. 177
C.T. 179
C.T. 181
C.T. 183
C.T. 187
C.T. 189
C.T. 193
C.T. 195
C.T. 197
C.T. 199
C.T. 201
C.T. 211
C.T. 213.02
C.T. 217.02
C.T. 219
C.T. 221
C.T. 223
C.T. 225
C.T. 227.02–227.03
C.T. 229.02
C.T. 367
C.T. 369.02
Mott Haven/Point Norris
County—Bronx
Parts:
C.T. 11
C.T. 15
C.T. 17
C.T. 23
C.T. 25
C.T. 27.01–27.02
C.T. 31
C.T. 33
C.T. 35
C.T. 37
C.T. 39
C.T. 41
C.T. 43
C.T. 47
C.T. 49
C.T. 65
C.T. 71
C.T. 73
C.T. 75
C.T. 77
C.T. 79
C.T. 81

DENTAL: New York
Service Area Listing

Service Area Name
C.T. 83
C.T. 85
C.T. 87
C.T. 89
C.T. 119
C.T. 121.02
C.T. 127.02
C.T. 129.02
Sunset Park
County—Kings
Parts:
C.T. 2
C.T. 18
C.T. 20
C.T. 22
C.T. 72
C.T. 74
C.T. 76
C.T. 78
C.T. 80
C.T. 82
C.T. 84
C.T. 86
C.T. 88
C.T. 90
C.T. 92
C.T. 94
C.T. 96
C.T. 98
C.T. 100–102
C.T. 104
C.T. 106
C.T. 108
C.T. 118
C.T. 122
C.T. 143
C.T. 145
C.T. 147

DENTAL: New York
Population Group Listing

Population Group
Inmates—MDC Brooklyn
County—Kings
Parts:
MDC Brooklyn
Low Inc—Beacon City
County—Dutchess
Parts:
Beacon City
Low Inc—Cortland
County—Cortland
Parts:
Cortland City
Cortlandville Town
Homer Town
Preble Town
Scott Town
Solon Town
Truxton Town
Virgil Town
Low Inc—Mt Vernon
County—Westchester
Parts:
C.T. 25–45
Low Inc—Port Jervis
County—Orange
Parts:
Deerpark Town
Greenville Town
Port Jervis City

DENTAL: New York
Population Group Listing

Population Group

County—Sullivan
Parts:
Lumberland Town
Low Inc—Pulaski Pcsa
County—Oswego
Parts:
Albion Town
Boylston Town
Mexico Town
Orwell Town
Redfield Town
Richland Town
Sandy Creek Town
Williamstown Town
Medicaid—City & Town Of Newburgh
County—Orange
Parts:
Newburgh City
Newburgh Town
Medicaid—Ogdensburg
County—St Lawrence
Parts:
De Peyster Town
Lisbon Town
Morristown Town
Ogdensburg Town
Oswegatchie Town
Waddington Town
Medicaid—Syracuse
County—Onondaga
Parts:
C.T. 1–10
C.T. 13–16
C.T. 17.01–17.02
C.T. 18–24
C.T. 27–35
C.T. 36.01–36.02
C.T. 37–46
C.T. 48–60
C.T. 61.01–61.03

DENTAL: North Carolina
County Listing

County Name

*Alleghany
Population Group: MSFW—Johnston/Sampson
*Anson
*Beaufort
Service Area: Richland
*Bertie
*Bladen
Catawba
Population Group: MSFW—Johnston/Sampson
*Clay
*Cleveland
Population Group: MSFW—Johnston/Sampson
Cumberland
Service Area: Eastern Cumberland
*Duplin
Franklin
Gaston
Population Group: Medicaid—Gatson Co
*Gates
*Graham
*Granville
Facility: FCI Butner
*Harnett
Population Group: Low Inc—Harnett Co

DENTAL: North Carolina
County Listing

County Name

*Henderson
Population Group: Low Inc/MFW—Henderson
*Jones
Madison
Service Area: Hot Springs
*Martin
*Northampton
*Pender
*Robeson
Population Group: Pov Pop—Pembroke
*Sampson
Population Group: MSFW—Johnston/Sampson
*Tyrrell
*Washington

DENTAL: North Carolina
Service Area Listing

Service Area Name

Eastern Cumberland
County—Cumberland
Parts:
C.T. 14
C.T. 26–29
Hot Springs
County—Madison
Parts:
Hot Springs Twp
Laurel Twp
Revere Rice Cove Twp
Spring Creek Twp
Walnut Twp
Richland
County—Beaufort
Parts:
Richland Twp

DENTAL: North Carolina
Population Group Listing

Population Group

Low Inc—Harnett Co
County—Harnett
Parts:
Low Income
Low Inc/MFW—Henderson
County—Henderson
Parts:
Low Inc/MFW
Medicaid—Gatson Co
County—Gaston
Parts:
Medicaid Eligible
MSFW—Johnston/Sampson
County—Alleghany
Parts:
Banner Twp
Bentonsville Twp
County—Catawba
Parts:
Elevation Twp
Ingrams Twp
County—Cleveland
Parts:
Meadow Twp
County—Sampson
Parts:
Migrant & Seasonal Farm
Pov Pop—Pembroke
County—Robeson
Parts:
Burnt Swamp Twp
Pembroke Twp
Philadelphus Twp
Smiths Twp

DENTAL: North Carolina
Facility Listing

Facility Name

FCI Butner
County—Granville

DENTAL: North Dakota
County Listing

County Name

*Benson
*Billings
*Burke
*Dunn
*Foster
*Golden Valley
*Kidder
*McKenzie
*Sioux
*Slope
*Towner

DENTAL: Ohio
County Listing

County Name

*Adams
Population Group: Low Inc—Adams Co
Hamilton
Service Area: Avondale
Service Area: East/Lower Price Hill/S Fairmont
Service Area: Millvale
Service Area: Winton Hills (Cincinnati)
Lucas
Population Group: Low Inc—Old West End/Center City/Door
Mahoning
Population Group: Low Inc—Ne Youngstown

DENTAL: Ohio
Service Area Listing

Service Area Name

Avondale
County—Hamilton
Parts:
C.T. 32
C.T. 34
C.T. 66–69
East/Lower Price Hill/S Fairmont
County—Hamilton
Parts:
C.T. 87
C.T. 89
C.T. 91–96
C.T. 103
Millvale
County—Hamilton
Parts:
C.T. 28
C.T. 77
C.T. 85.02
C.T. 86.01

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DENTAL: Ohio
Service Area Listing

Service Area Name

Winton Hills (Cincinnati)
  County—Hamilton
    Parts:
      C.T. 80

DENTAL: Ohio
Population Group Listing

Population Group

Low Inc—Adams Co
  County—Adams
    Parts:
      Low Income
Low Inc—Ne Youngstown
  County—Mahoning
    Parts:
      C.T. 8001–8007
      C.T. 8034–8035
      C.T. 8037
      C.T. 8040–8044
Low Inc—Old West End/Center City/Door
  County—Lucas
    Parts:
      C.T. 8
      C.T. 14–16
      C.T. 21–23
      C.T. 24.01–24.02
      C.T. 25–28
      C.T. 31–37

DENTAL: Oklahoma
County Listing

County Name

*Adair
*Beaver
*Caddo
Canadian
  Facility: FCI El Reno
*Choctaw
*Coal
Creek
*Dewey
*Haskell
*Le Flore
  Service Area: Talihina
*Lincoln
*McCurtain
*Murray
*Okfuskee
Pottawatomie
  Service Area: Konawa
*Pushmataha
  Service Area: Talihina
*Seminole
  Service Area: Konawa
*Tillman
Tulsa
  Population Group: Am In—Tulsa

DENTAL: Oklahoma
Service Area Listing

Service Area Name

Konawa
  County—Pottawatomie
    Parts:
      C.T. 5012.01
      C.T. 5013.98
  County—Seminole
    Parts:
      Konawa CCD

DENTAL: Oklahoma
Service Area Listing

Service Area Name

Seminole South CCD
Talihina
  County—Le Flore
    Parts:
      S. Le Flore CCD
      Talihina CCD
  County—Pushmataha
    Parts:
      N. Pushmataha CCD

DENTAL: Oklahoma
Population Group Listing

Population Group

Am In—Tulsa
  County—Tulsa
    Parts:
      American Indian

DENTAL: Oklahoma
Facility Listing

Facility Name

FCI El Reno
  County—Canadian

DENTAL: Oregon
County Listing

County Name

Clackamas
*Curry
  Service Area: Port Orford
*Gilliam
*Harney
  Population Group: Dent Ind—Harney Co
*Hood River
  Population Group: Low Inc/MFW—Hood River Co
Jackson
  Population Group: Dent Ind—Jackson Co
*Josephine
  Population Group: Low Inc—Josephine Co
Lane
  Population Group: Low Inc—Lowell
*Malheur
  Population Group: Low Inc/MFW—Malheur Co
Marion
  Population Group: Low Inc/MSFW—Marion/Polk/Yamhill
*Morrow
Multnomah
  Population Group: Dent Ind—Multnomah Co
Polk
  Population Group: Low Inc/MSFW—Marion/Polk/Yamhill
*Sherman
*Tillamook
  Population Group: Low Inc—Tillamook Co
*Umatilla
  Population Group: Low Inc/MFW—Umatilla Co
*Wasco
  Population Group: Low Inc/MFW—Wasco Co
Washington
  Population Group: Low Inc/MFW—Washington Co
*Wheeler
Yamhill

DENTAL: Oregon
County Listing

County Name

Population Group: Low Inc/MSFW—Marion/Polk/Yamhill

DENTAL: Oregon
Service Area Listing

Service Area Name

Port Orford
  County—Curry
    Parts:
      Port Orford CCD

DENTAL: Oregon
Population Group Listing

Population Group

Dent Ind—Harney Co
  County—Harney
    Parts:
      Dentally Indigent
Dent Ind—Jackson Co
  County—Jackson
    Parts:
      Dentally Indigent
Dent Ind—Multnomah Co
  County—Multnomah
    Parts:
      Dentally Indigent
Low Inc—Josephine Co
  County—Josephine
    Parts:
      Low Income
Low Inc—Lowell
  County—Lane
    Parts:
      Lowell CCD
Low Inc—Tillamook Co
  County—Tillamook
    Parts:
      Low Income
Low Inc/MFW—Hood River Co
  County—Hood River
    Parts:
      Low Income
      MFW
Low Inc/MFW—Malheur Co
  County—Malheur
    Parts:
      Low Income/MFW
Low Inc/MFW—Umatilla Co
  County—Umatilla
    Parts:
      Low Income
      MFW
Low Inc/MFW—Wasco Co
  County—Wasco
    Parts:
      Low Income
      MFW
Low Inc/MFW—Washington Co
  County—Washington
    Parts:
      Low Income/MFW
Low Inc/MSFW—Marion/Polk/Yamhill
  County—Marion
    Parts:
      Low Income/MFW
  County—Polk
    Parts:
      Low Inc/MFW
  County—Yamhill
    Parts:
      Low Income/MFW

DENTAL: Pennsylvania
County Listing

County Name

Adams
  Population Group: MFW—Adams/Franklin
Beaver
  Population Group: Low Inc—Beaver Co
Berks
  Population Group: Low Inc—Welsh Mountain
*Bradford
  Population Group: Low Inc—Bradford Co
Chester
  Population Group: Low Inc—Welsh Mountain
Dauphin
  Population Group: Dent Ind—Harrisburg
Fayette
  Service Area: Greensboro
*Franklin
  Population Group: MFW—Adams/Franklin
*Greene
  Service Area: Greensboro
*Huntingdon
  Service Area: Cromwell
Lancaster
  Population Group: Low Inc—Welsh Mountain
  Population Group: Low Inc—Se Lancaster City
*Lawrence
  Population Group: Low Inc—Lawrence Co
*McKean
  Facility: FCI Mckean
Mercer
  Population Group: Low Inc—Sharon/Farrell
Philadelphia
  Population Group: Low Inc—Lower North Philadelphia
*Schuylkill
  Facility: FCI—Schuylkill
  Facility: State Corr. I.—Frackville
*Union
  Population Group: Inmates—FPC Allenwood
  Population Group: Inmates—LSCI Allenwood
  Facility: FCI Allenwood
  Facility: USP—Lewisburg
  Facility: USP Allenwood
York
  Service Area: York City

DENTAL: Pennsylvania
Service Area Listing

Service Area Name

Cromwell
  County—Huntingdon
    Parts:
      Clay Twp
      Cromwell Twp
      Dublin Twp
      Orbisonia Boro
      Rockhill Furnace Boro
      Saltillo Boro
      Shade Gap Boro
      Springfield Twp
      Tell Twp
      Three Springs Boro
Greensboro
  County—Fayette
    Parts:
      German Township
      Masontown Borough
      Nicholson Township
      Point Marion Borough
      Springhill Township
  County—Greene
    Parts:
      Dunkard Township
      Greene Township
      Greensboro Borough
      Monongahela Township
York City
  County—York
    Parts:
      C.T. 1–3
      C.T. 5
      C.T. 7
      C.T. 9–12
      C.T. 15–16

DENTAL: Pennsylvania
Population Group Listing

Population Group

Dent Ind—Harrisburg
  County—Dauphin
    Parts:
      C.T. 201–217
Inmates—FPC Allenwood
  County—Union
    Parts:
      FPC Allenwood
Inmates—LSCI Allenwood
  County—Union
    Parts:
      LSCI Allenwood
Low Inc—Beaver Co
  County—Beaver
    Parts:
      Low Income
Low Inc—Bradford Co
  County—Bradford
Low Inc—Lawrence Co
  County—Lawrence
    Parts:
      Low Income
Low Inc—Lower North Philadelphia
  County—Philadelphia
    Parts:
      C.T. 125–149
      C.T. 151–182
      C.T. 192
      C.T. 195
      C.T. 200–201
Low Inc—Se Lancaster City
  County—Lancaster
    Parts:
      C.T. 1
      C.T. 7–9
      C.T. 14–16
Low Inc—Sharon/Farrell
  County—Mercer
    Parts:
      C.T. 301–309
Low Inc—Welsh Mountain
  County—Berks
    Parts:
      Brecknock Twp
      Caernarvon Twp
  County—Chester
    Parts:
      Honey Brook Twp
      Honey Brook Boro
  County—Lancaster

DENTAL: Pennsylvania
Population Group Listing

Population Group

  Parts:
    Adamstown Boro
    Akron Boro
    Brecknock Twp
    Caernarvon Twp
    Christiana Boro
    Denver Boro
    Earl Twp
    East Cocalico Twp
    East Earl Twp
    Ephrata Boro
    Ephrata Twp
    Leacock Twp
    New Holland Boro
    Paradise Twp
    Sadsbury Twp
    Salisbury Twp
    Terre Hill Boro
    Upper Leacock Twp
    West Earl Twp
MFW—Adams/Franklin
  County—Adams
    Parts:
      MFW
  County—Franklin
    Parts:
      MFW

DENTAL: Pennsylvania
Facility Listing

Facility Name

FCI—Schuylkill
  County—Schuylkill
FCI Allenwood
  County—Union
FCI Mckean
  County—McKean
State Corr. I.—Frackville
  County—Schuylkill
USP—Lewisburg
  County—Union
USP Allenwood
  County—Union

DENTAL: Rhode Island
County Listing

County Name

Newport
  Population Group: Low Inc—Newport Co
Providence
  Population Group: Low Inc—Nw Woonsocket
  Population Group: Low Inc—Providence City
  Population Group: Low Inc—C Falls/N Pawtucket
  Facility: Allen Berry Hlth Ctr
  Facility: Central Hlth Ctr Providence
Washington
  Population Group: Low Inc—Wakefield/Kingstown/Narraga

DENTAL: Rhode Island
Population Group Listing

Population Group

Low Inc—C Falls/N Pawtucket
  County—Providence
    Parts:
      C.T. 108–111

DENTAL: Rhode Island
Population Group Listing

Population Group

C.T. 149
C.T. 151–153
C.T. 161
Low Inc—Newport Co
County—Newport
Parts:
Low Income
Low Inc—Nw Woonsocket
County—Providence
Parts:
C.T. 172
C.T. 174
C.T. 176
C.T. 178–183
Low Inc—Providence City
County—Providence
Parts:
C.T. 1–23
C.T. 25–33
C.T. 35–37
Low Inc—Wakefield/Kingstown/Narraga
County—Washington
Parts:
Narragansett Town
S. Kingstown Town

DENTAL: Rhode Island
Facility Listing

Facility Name

Allen Berry Hlth Ctr
County—Providence
Central Hlth Ctr Providence
County—Providence

DENTAL: South Carolina
County Listing

County Name

*Abbeville
Aiken
Service Area: Springfield
*Bamberg
*Beaufort
Service Area: Sheldon
Charleston
Service Area: McClellanville/Sampit-Santee
Service Area: Sea Islands
Cherokee
*Chesterfield
Service Area: Sandhills
*Clarendon
*Colleton
Service Area: Smoaks/Lodge
*Dillon
Dorchester
Service Area: St George
Florence
Service Area: Olanta
*Georgetown
Service Area: McClellanville/Sampit-Santee
*Hampton
Facility: FCI Estill
Horry
Service Area: Little River
Service Area: Loris-Aynor
*Jasper
*Kershaw
Service Area: Bethune/Mt. Pisgah
*Lee
*Marion
*Marlboro

DENTAL: South Carolina
County Listing

County Name

*McCormick
*Orangeburg
Service Area: Eastern Orangeburg
Service Area: Springfield
Richland
Service Area: Eastover
*Saluda
Sumter
*Williamsburg
York
Service Area: Western York

DENTAL: South Carolina
Service Area Listing

Service Area Name

Bethune/Mt. Pisgah
County—Kershaw
Parts:
Bethune CCD
Mt. Pisgah CCD
Eastern Orangeburg
County—Orangeburg
Parts:
Bowman CCD
Branchville CCD
Elloree CCD
Eutawville CCD
Holly Hill CCD
Vance CCD
Eastover
County—Richland
Parts:
Eastover CCD
Hopkins CCD
Horrell Hill CCD
Little River
County—Horry
Parts:
C.T. 301
C.T. 401–402
C.T. 603
Loris-Aynor
County—Horry
Parts:
Aynor CCD
Loris CCD
McClellanville/Sampit-Santee
County—Charleston
Parts:
McClellanville CCD
County—Georgetown
Parts:
Sampit-Santee CCD
Olanta
County—Florence
Parts:
Olanta CCD
Sardis CCD
Sandhills
County—Chesterfield
Parts:
Jefferson CCD
McBee CCD
Pageland CCD
Sea Islands
County—Charleston
Parts:
Edisto Is CCD
James Is CCD
Johns Is CCD
Wadmalaw Is CCD

DENTAL: South Carolina
Service Area Listing

Service Area Name

Sheldon
County—Beaufort
Parts:
Sheldon CCD
Smoaks/Lodge
County—Colleton
Parts:
Lodge CCD
Smoaks CCD
Springfield
County—Aiken
Parts:
Salley CCD
Wagener CCD
County—Orangeburg
Parts:
Springfield CCD
St George
County—Dorchester
Parts:
Harleyville CCD
Reevesville CCD
Ridgeville CCD
St George CCD
Western York
County—York
Parts:
Clover CCD
Hickory Grove CCD
McConnells CCD
York CCD

DENTAL: South Carolina
Facility Listing

Facility Name

FCI Estill
County—Hampton

DENTAL: South Dakota
County Listing

County Name

*Buffalo
*Campbell
*Corson
*Dewey
*Gregory
*Harding
*Jackson
*Lyman
*Meade
Service Area: Faith
*Mellette
*Perkins
*Roberts
*Sanborn
*Shannon
*Todd
Ziebach
Service Area: Faith

DENTAL: South Dakota
Service Area Listing

Service Area Name

Faith
County—Meade
Parts:
Eagle Twp.
Faith City
Howard Twp.

DENTAL: South Dakota
Service Area Listing

Service Area Name
N. Meade Unorg.
Union Twp.
Upper Red Owl Twp.
County—Ziebach

DENTAL: Tennessee
County Listing

County Name
*Bledsoe
*Claiborne
Davidson
Population Group: Pov/Homeless—Nashville
Fayette
Grainger
*Grundy
*Hancock
*Jackson
*Johnson
*Macon
*Morgan
*Pickett
*Scott
Shelby
Service Area: Free The Children Target Area
Facility: FCI Memphis
Union

DENTAL: Tennessee
Service Area Listing

Service Area Name
Free The Children Target Area
County—Shelby
Parts:
C.T. 5
C.T. 18–20

DENTAL: Tennessee
Population Group Listing

Population Group
Pov/Homeless—Nashville
County—Davidson
Parts:
C.T. 113–114
C.T. 117–129
C.T. 133–148
C.T. 160–166
C.T. 168–172

DENTAL: Tennessee
Facility Listing

Facility Name
FCI Memphis
County—Shelby
South Central Corr Ctr .

DENTAL: Texas
County Listing

County Name
*Aransas
Archer
*Armstrong
*Atascosa
Bastrop (g)
Facility: FCI Bastrop
*Bee (g)

DENTAL: Texas
County Listing

County Name
Facility: Garza West & East Units
Bexar
Service Area: East Side (San Antonio)
Service Area: South Side (San Antonio)
Service Area: West Side (San Antonio)
Facility: Bexar Co State Jail
*Borden
*Briscoe
*Brooks
*Burleson
Cameron
*Carson
*Castro
*Cochran
*Coke
Coryell
*Crosby
*Culberson
Dallas
Service Area: South Dallas
*Dawson
*De Witt
*Dickens
Dimmit
Service Area: Dimmit/Zavala
*Donley
*Duval
*Edwards
El Paso
Service Area: Southeast El Paso
*Floyd
*Foard
*Frio
*Gaines
*Garza
*Glasscock
*Goliad
*Gonzales
*Grimes
Population Group: Inmates—FPC Bryan
*Hall
*Hansford
*Hartley
Hidalgo
*Houston
*Howard
Population Group: Inmates—FCI Big Spring
*Hudspeth
*Irion
*Jim Hogg
*Jim Wells
*Kent
*King
*Kinney
*Knox
*La Salle
Liberty
*Loving
*Madison
*Maverick
*Medina
*Mitchell
*Morris
*Motley
*Nacogdoches
Population Group: Low Inc—Nacogdoches Co
*Oldham
*Pecos
*Presidio
*Reeves

DENTAL: Texas
County Listing

County Name
*Roberts
*Robertson
*San Augustine
*San Jacinto
*Schleicher
*Shackelford
*Sherman
*Somervell
*Starr
*Sterling
*Stonewall
*Terrell
*Terry
*Throckmorton
Travis
Service Area: Dove Springs
Service Area: East Austin
Service Area: South Austin
*Trinity
Upshur
*Uvalde
*Val Verde
*Ward
Webb
*Wharton
Population Group: Low Inc—Wharton Co
*Willacy
*Wise
*Yoakum
*Zapata
Zavala
Service Area: Dimmit/Zavala

DENTAL: Texas
Service Area Listing

Service Area Name
Dimmit/Zavala
County—Dimmit
County—Zavala
Dove Springs
County—Travis
Parts:
C.T. 24.11–24.13
East Austin
County—Travis
Parts:
C.T. 4.02
C.T. 8.01–8.04
C.T. 9.01–9.02
C.T. 10
C.T. 18.11–18.12
C.T. 21.04–21.13
C.T. 22.01–22.02
C.T. 22.05
East Side (San Antonio)
County—Bexar
Parts:
C.T. 1101–1104
C.T. 1109–1110
C.T. 1301–1306
C.T. 1307.85
C.T. 1308–1313
C.T. 1401
South Austin
County—Travis
Parts:
C.T. 23.04
C.T. 23.10–23.12
C.T. 24.16
South Dallas
County—Dallas

DENTAL: Texas
Service Area Listing

Service Area Name

Parts:
C.T. 25
C.T. 27.01–27.02
C.T. 28–29
C.T. 33–38
C.T. 39.01–39.02
C.T. 40
C.T. 93.03–93.04
C.T. 115
C.T. 116.01
South Side (San Antonio)
County—Bexar
Parts:
C.T. 1402–1412
C.T. 1416–1418
C.T. 1501–1522
C.T. 1609
C.T. 1610.85
C.T. 1611–1612
C.T. 1619–1620
Southeast El Paso
County—El Paso
Parts:
C.T. 17–21
C.T. 28–32
C.T. 35–36
C.T. 37.01–37.02
C.T. 38.01–38.02
C.T. 39.01–39.03
C.T. 40.01–40.02
C.T. 41.03–41.07
C.T. 42.01–42.02
C.T. 103.10
C.T. 104.01–104.04
C.T. 105
West Side (San Antonio)
County—Bexar
Parts:
C.T. 1105–1108
C.T. 1601–1606
C.T. 1607.85
C.T. 1616
C.T. 1701–1716
C.T. 1901–1902

DENTAL: Texas
Population Group Listing

Population Group

Inmates—FCI Big Spring
County—Howard
Parts:
FCI Big Spring
Inmates—FPC Bryan
County—Grimes
Parts:
FPC Bryan
Low Inc—Nacogdoches Co
County—Nacogdoches
Parts:
Low Income
Low Inc—Wharton Co
County—Wharton
Parts:
Low Income

DENTAL: Texas
Facility Listing

Facility Name

Bexar Co State Jail
County—Bexar
FCI Bastrop
County—Bastrop
Garza West & East Units
County—Bee

DENTAL: Utah
County Listing

County Name

*Daggett
*Duchesne
Population Group: Pov Pop—Duchesne Co
*Emery
Service Area: Castle Dale
*Piute
*Rich
Salt Lake
Facility: Utah St. Prison (Draper)
*San Juan
Service Area: Montezuma Creek
Utah
Population Group: Pov/MFW—Utah Co
*Washington
Service Area: Hildale
*Wayne

DENTAL: Utah
Service Area Listing

Service Area Name

Castle Dale
County—Emery
Parts:
Castle Dale-Huntington Cc
Emery Ferron CCD
Hildale
County—Washington
Parts:
Hildale Town
Montezuma Creek
County—San Juan
Parts:
Oljato CCD
Red Mesa CCD

DENTAL: Utah
Population Group Listing

Population Group

Pov Pop—Duchesne Co
County—Duchesne
Parts:
Pov Pop
Pov/MFW—Utah Co
County—Utah
Parts:
Migrant
Pov Pop

DENTAL: Utah
Facility Listing

Facility Name

Utah St. Prison (Draper)
County—Salt Lake

DENTAL: Vermont
County Listing

County Name

*Essex
Grand Isle

DENTAL: Virginia
County Listing

County Name

Accomack
*Accomack
Service Area: Accomack/Northampton
Service Area: Accomack/Northampton
*Buchanan
*Charlotte
*Dickenson
*King And Queen
*Lee
*Nelson
Service Area: Lovingston
Newport News
Service Area: Newport News
Northampton
*Northampton
Service Area: Accomack/Northampton
Service Area: Accomack/Northampton
Richmond City
Service Area: East End Richmond
*Russell

DENTAL: Virginia
Service Area Listing

Service Area Name

Accomack/Northampton
County—Accomack
County—Northampton
County—Northampton
East End Richmond
County—Richmond City
Parts:
C.T. 201–212
Lovingston
County—Nelson
Parts:
Lovingston Dist
Massies Mill Dist
Schuyler Dist
Newport News
County—Newport News
Parts:
C.T. 302
C.T. 302.99
C.T. 303.98
C.T. 304–306
C.T. 308–309
C.T. 313

DENTAL: Virginia
Facility Listing

Facility Name

FCI—Petersburg

DENTAL: Washington
County Listing

County Name

*Adams
Population Group: Low Inc/MFW—Othello/Royal City
Benton
Population Group: Low Inc/MFW—Benton/Franklin
*Chelan
Population Group: MFW—Chelan/Douglas
*Columbia
Population Group: MSFW-Columbia & Walla Walla
*Douglas
Population Group: MFW—Chelan/Douglas
*Ferry

DENTAL: Washington
County Listing

County Name

Franklin
  Population Group: Low Inc/MFW—Benton/Franklin
  Facility: Coyote Ridge Corr Inst
*Grant
  Population Group: Low Inc/MFW—Central Grant Co
  Population Group: Low Inc/MFW—Othello/Royal City
*Island
  Population Group: Low Inc—Island Co
Kitsap
  Population Group: Low Inc—Central Bremerton
*Lewis
  Service Area: Morton
*Mason
  Facility: Wa Corr/Reception Ctr
*Okanogan
  Population Group: MSFW—Okanogan Co
Pierce
  Population Group: Medicaid—Pierce Co
  Facility: Wa Corr Ctr For Women
*Skagit
  Population Group: Low Inc/MFW—Skagit/Whatcom
Snohomish
  Population Group: Low Inc—Snohomish Co
Spokane
  Population Group: Pov Pop—Spokane
*Wahkiakum
*Walla Walla
  Population Group: MSFW-Columbia & Walla Walla
  Facility: Wa State Pen
Whatcom
  Population Group: Low Inc/MFW—Skagit/Whatcom
Yakima
  Population Group: MSFW—Toppenish/Grandview

DENTAL: Washington
Service Area Listing

Service Area Name

Morton
  County—Lewis
    Parts:
      Big Bottom Division
      Mineral Division
      Morton Division
      Mossyrock Division

DENTAL: Washington
Population Group Listing

Population Group

Low Inc—Central Bremerton
  County—Kitsap
    Parts:
      C.T. 805–806
      C.T. 810–813
Low Inc—Island Co
  County—Island
    Parts:
      Low Income
Low Inc—Snohomish Co
  County—Snohomish
    Parts:
      Low Income

DENTAL: Washington
Population Group Listing

Population Group

Low Inc/MFW—Benton/Franklin
  County—Benton
    Parts:
      Low Income
      MFW
  County—Franklin
    Parts:
      Low Income
      MFW
Low Inc/MFW—Central Grant Co
  County—Grant
    Parts:
      Ephrata-Soap Lake CCD
      George CCD
      Gloyd CCD
      Moses Lake CCD
      Quincy CCD
      Warden CCD
      Wilson Creek CCD
Low Inc/MFW—Othello/Royal City
  County—Adams
    Parts:
      Low Inc/MFW—Adams Co
  County—Grant
    Parts:
      Low Inc/MFW—S Slopes C
Low Inc/MFW—Skagit/Whatcom
  County—Skagit
    Parts:
      Low Income
      MFW
  County—Whatcom
    Parts:
      Low Income
      MFW
Medicaid—Pierce Co
  County—Pierce
    Parts:
      Medicaid Eligible
MFW—Chelan/Douglas
  County—Chelan
    Parts:
      MFW
  County—Douglas
    Parts:
      MFW
MSFW—Okanogan Co
  County—Okanogan
    Parts:
      MSFW
MSFW—Toppenish/Grandview
  County—Yakima
    Parts:
      Mabton CCD
      S Yakima CCD
      Sunnyside CCD
      Toppenish/Wapato CCD
MSFW-Columbia & Walla Walla
  County—Columbia
    Parts:
      MSFW
  County—Walla Walla
    Parts:
      MSFW
Pov Pop—Spokane
  County—Spokane
    Parts:
      Spokane CCD

DENTAL: Washington
Facility Listing

Facility Name

Coyote Ridge Corr Inst
  County—Franklin
Wa Corr Ctr For Women
  County—Pierce
Wa Corr/Reception Ctr
  County—Mason
Wa State Pen
  County—Walla Walla

DENTAL: West Virginia
County Listing

County Name

*Calhoun
*Hampshire
  Service Area: Baker
*Hardy
  Service Area: Baker
Kanawha
  Service Area: Cedar Grove
*Lincoln
*McDowell
*Monongalia
  Service Area: Clay/Battelle (WV/PA)
  Population Group: Inmates—FCI Morgantown
*Monroe
  Population Group: Inmates—FPC Alderson
Wayne
  Service Area: Wayne/Fort Gay
*Wetzel
  Service Area: Clay/Battelle (WV/PA)

DENTAL: West Virginia
Service Area Listing

Service Area Name

Baker
  County—Hampshire
    Parts:
      Capon Dist
  County—Hardy
    Parts:
      Capon Dist
      Lost River Dist
Cedar Grove
  County—Kanawha
    Parts:
      C.T. 118
Clay/Battelle (WV/PA)
  County—Monongalia
    Parts:
      C.T. 114
  County—Wetzel
    Parts:
      C.T. 304
Wayne/Fort Gay
  County—Wayne
    Parts:
      Butler Dist.
      Stonewall Dist.
      Union Dist.

DENTAL: West Virginia
Population Group Listing

Population Group

Inmates—FCI Morgantown
  County—Monongalia
    Parts:
      FCI Morgantown
Inmates—FPC Alderson
  County—Monroe

DENTAL: West Virginia
Population Group Listing

Population Group

Parts:
FPC Alderson

DENTAL: Wisconsin
County Listing

County Name

*Adams
Facility: FCI Oxford
*Forest
Service Area: Mountain
*Langlade
Service Area: Mountain
Milwaukee
Service Area: Inner City West
Service Area: Inner City North (Milwaukee)
Population Group: Low Inc—Inner City South
*Monroe
Population Group: Low Inc—Westby/Cashton
*Oconto
Service Area: Mountain
*Vernon
Population Group: Low Inc—Westby/Cashton

DENTAL: Wisconsin
Service Area Listing

Service Area Name

Inner City North (Milwaukee)
County—Milwaukee
Parts:
C.T. 66–72
C.T. 79–86
C.T. 101–107
C.T. 114–118
C.T. 139–142
C.T. 145–147
C.T. 151
Inner City West
County—Milwaukee
Parts:
C.T. 62
C.T. 87–90
C.T. 96–100
C.T. 119–123
C.T. 133–138
C.T. 148–149
Mountain
County—Forest
Parts:
Blackwell Twn.
Freedom Twn.
Wabeno Twn.
County—Langlade
Parts:
Evergreen Twn.
Langlade Twn.
White Lake Vil.
Wolf River Twn.
County—Oconto
Parts:
Armstrong Twn.
Bagley Twn.
Brazeau Twn.
Breed Twn.
Doty Twn.
Lakewood Twn.
Riverview Twn.
Townsend Twn.

DENTAL: Wisconsin
Population Group Listing

Population Group

Low Inc—Inner City South
County—Milwaukee
Parts:
C.T. 155–159
C.T. 162–169
C.T. 174–177
C.T. 178.98
C.T. 179
C.T. 180.97–180.98
Low Inc—Westby/Cashton
County—Monroe
Parts:
Cashton Vil
Jefferson Town
Melvina Vil
Norwalk Vil
Portland Town
Ridgeville Town
Sheldon Town
Wellington Town
County—Vernon
Parts:
Christiana Town
Clinton Town
Forest Town
Ontario Vil
Westby City
Whitestown Town

DENTAL: Wisconsin
Facility Listing

Facility Name

FCI Oxford
County—Adams

DENTAL: American Samoa
County Listing

County Name

Eastern District
Service Area: Terr. Of American Samoa
Manu'A District
Service Area: Terr. Of American Samoa
Rose Island
Service Area: Terr. Of American Samoa
Swains Island
Service Area: Terr. Of American Samoa
Western District
Service Area: Terr. Of American Samoa

DENTAL: American Samoa
Service Area Listing

Service Area Name

Terr. Of American Samoa
County—Eastern District
*County—Manu'A District
County—Rose Island
County—Swains Island
County—Western District

DENTAL: Fed Ste Micronesia
County Listing

County Name

*Chuuk State
*Kosrae State
*Pohnpei State
*Yap State

DENTAL: Guam
County Listing

County Name

*Guam

DENTAL: Marshall Islands
County Listing

County Name

Ailinginae
Service Area: Marshall Islands
Ailinglaplap
Service Area: Marshall Islands
Ailuk
Service Area: Marshall Islands
Arno
Service Area: Marshall Islands
Aur
Service Area: Marshall Islands
Bikar
Service Area: Marshall Islands
Bikini
Service Area: Marshall Islands
Bokak
Service Area: Marshall Islands
Ebon
Service Area: Marshall Islands
Enewetak
Service Area: Marshall Islands
Erikub
Service Area: Marshall Islands
Jabat
Service Area: Marshall Islands
Jaluit
Service Area: Marshall Islands
Jemo Island
Service Area: Marshall Islands
Kili
Service Area: Marshall Islands
Kwajalein
Service Area: Marshall Islands
Lae
Service Area: Marshall Islands
Lib
Service Area: Marshall Islands
Likiep
Service Area: Marshall Islands
Majuro
Service Area: Marshall Islands
Maloelap
Service Area: Marshall Islands
Mejit
Service Area: Marshall Islands
Mili
Service Area: Marshall Islands
Namorik
Service Area: Marshall Islands
Namu
Service Area: Marshall Islands
Rongelap
Service Area: Marshall Islands
Rongrik
Service Area: Marshall Islands
Taka
Service Area: Marshall Islands
Ujae
Service Area: Marshall Islands
Ujelang
Service Area: Marshall Islands
Utrik
Service Area: Marshall Islands
Wotho
Service Area: Marshall Islands
Wotje
Service Area: Marshall Islands

DENTAL: Marshall Islands
Service Area Listing

Service Area Name
Marshall Islands
County—Ailinginae
County—Ailinglaplap
County—Ailuk
County—Arno
County—Aur
County—Bikar
County—Bikini
County—Bokak
County—Ebon
County—Enewetak
County—Erikub
County—Jabat
County—Jaluit
County—Jemo Island
County—Kili
County—Kwajalein
County—Lae
County—Lib
County—Likiep
County—Majuro
County—Maloelap
County—Mejit
County—Mili
County—Namorik
County—Namu
County—Rongelap
County—Rongrik
County—Taka
County—Ujae
County—Ujelang
County—Utrik
County—Wotho
County—Wotje

DENTAL: N. Mariana Islands
County Listing

County Name
*Mariana Island District

DENTAL: Republic of Palau
County Listing

County Name
*Republic Of Palau

DENTAL: Puerto Rico
County Listing

County Name
*Adjuntas
Aguada
Aguadilla
*Aguas Buenas
*Aibonito
Anasco
*Arecibo
*Arroyo
*Barceloneta
*Barranquitas
*Bayamon
Population Group: Low Inc—Bayamon
Cabo Rojo
*Caguas
Population Group: Low Inc—Caguas
*Camuy
*Canovanas
*Carolina
*Catano
*Cayey
*Ceiba
*Ciales
*Cidra
*Coamo
*Comerio
*Corozal
*Culebra
*Dorado
*Fajardo
Population Group: Low Inc—Fajardo
*Florida
*Guanica
*Guayama
Guayanilla
*Guaynabo
Population Group: Low Inc—Guaynabo
*Gurabo
*Hatillo
Hormigueros
*Humacao
Population Group: Low Inc—Humacao
*Isabela
*Jayuya
Juana Diaz
*Juncos
Population Group: Low Inc—Juncos
*Lajas
*Lares
*Las Marias
*Las Peidras
*Loiza
*Luquillo
*Manati
Population Group: Low Inc—Manati
*Maricao
*Maunabo
Mayaguez
Population Group: Low Inc—Mayaguez
Moca
*Morovis
*Naguabo
*Naranjito
*Orocovis
Population Group: Low Inc—Orocovis
*Patillas
Penuelas
Ponce
Population Group: Low Inc—Ponce
*Quebradillas
*Rincon
*Rio Grande
Sabana Grande
*Salinas
San German
*San Juan
Population Group: Low Inc—San Juan
*San Lorenzo
*San Sebastian
*Santa Isabel
*Toa Alta
*Toa Baja
*Trujillo Alto
*Utuado
*Vega Alta
*Vega Baja
*Vieques
Villalba
*Yabucoa
Yauco

DENTAL: Puerto Rico
Population Group Listing

Population Group
Low Inc—Bayamon
County—Bayamon
Parts:
Low Income
Low Inc—Caguas
County—Caguas
Parts:
Low Income
Low Inc—Fajardo
County—Fajardo
Parts:
Low Income
Low Inc—Guaynabo
County—Guaynabo
Parts:
Low Income
Low Inc—Humacao
County—Humacao
Parts:
Low Income
Low Inc—Juncos
County—Juncos
Parts:
Low Income
Low Inc—Manati
County—Manati
Parts:
Low Income
Low Inc—Mayaguez
County—Mayaguez
Parts:
Low Income
Low Inc—Orocovis
County—Orocovis
Parts:
Low Income
Low Inc—Ponce
County—Ponce
Parts:
Low Income
Low Inc—San Juan
County—San Juan
Parts:
Low Income

DENTAL: Virgin Islands
County Listing

County Name
*St. Croix
Service Area: Fredericksted

DENTAL: Virgin Islands
Service Area Listing

Service Area Name
Fredericksted
County—St. Croix
Parts:
Fredericksted
Northwest
Southwest

[FR Doc. 96–32425 Filed 12–30–96; 8:45 am]
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December 31, 1996

Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Ch. I
Federal Acquisition Regulations; Final Rule

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Circular 90–44; Introduction

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final and interim rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules issued by the FAR Council in this Federal Acquisition Circular (FAC) 90–44. Each rule follows this document in the order listed below. A companion document, the Small Entity Compliance Guide, follows this FAC and may be located on the internet at http://www.gsa.gov/far/compliance.

DATES: For effective dates and comment dates, see separate documents which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears (in the table below) in relation to each FAR case or subject area. For general information, contact Beverly Fayson, Room 4037, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAC 90–44 and specific FAR case number(s).

SUPPLEMENTARY INFORMATION: Federal Acquisition Circular 90–44 amends the Federal Acquisition Regulation (FAR) as specified below:

Item	Subject	FAR case	Analyst
I	Automatic Data Processing Equipment Leasing Costs (Interim)	96–010	Olson
II	Major System Definition	96–322	O'Neill
III	Preaward Debriefings	96–304	DeStefano
IV	Certification Requirements—Drug-Free Workplace	96–311	DeStefano
V	Consideration of Late Offers	95–019	DeStefano
VI	Foreign Differential Pay (Interim)	96–012	Olson
VII	Final Indirect Cost Rates	95–018	Klein
VIII	Modification of Existing Contracts (Interim)	96–606	DeStefano

Item I—Automatic Data Processing Equipment Leasing Costs (FAR Case 96–010)

This interim rule deletes the cost principle at FAR 31.205–2, Automatic Data Processing Equipment (ADPE) Leasing Costs, the ADPE definition at 31.001, and references to the term ADPE found elsewhere in Part 31.

Item II—Major System Definition (FAR Case 96–322)

This final rule amends the definition of "major system" at FAR 2.101 to increase the dollar thresholds applicable to the Department of Defense. The rule implements 10 U.S.C. 2302(5) as amended by Section 805 of the National Defense Authorization Act for Fiscal Year 1997 (Pub. L. 104–201).

Item III—Preaward Debriefings (FAR Case 96–304)

This final rule revises FAR Subpart 15.10 to implement Section 4104 of the Clinger-Cohen Act of 1996 (Pub. L. 104–106). Section 4104 requires that, prior to contract award, contracting officers provide a debriefing to any interested offeror on the reasons for that offeror's exclusion from the competitive range in a competitive negotiation.

Item IV—Certification Requirements—Drug-Free Workplace (FAR Case 96–311)

This final rule amends FAR Parts 9, 13, 23, and 52 to delete the requirement for an offeror to provide a certification regarding a drug-free workplace. The rule implements Section 4301(a)(3) of the Clinger-Cohen Act of 1996 (Pub. L. 104–106).

Item V—Consideration of Late Offers (FAR Case 95–019)

This final rule amends the late bid rule to allow an offer to be accepted if the late receipt was due primarily to Government mishandling after receipt at the Government installation. The rule recognizes the use of hand-carried offers (including delivery by a commercial carrier) as a common business practice and provides flexibility in determining when an offer (bid or proposal) was received at the Government activity, by applying standards used by the General Accounting Office. The rule also expands the definition of acceptable evidence to support acceptance of a late offer and adds a new exception at 52.215–10(a)(5) and 52.215–36(a)(3) which allows consideration of a proposal that was misdirected or misdelivered (not necessarily through mishandling) to an office other than that designated for receipt of offers in the solicitation. These changes do not apply to commercial item solicitations which contain the provision at 52.212–1(f), Late Offers.

Item VI—Foreign Differential Pay (FAR Case 96–012)

This interim rule deletes the prohibition at FAR 31.205–6(e)(2) on the calculation of foreign differential pay based directly on an employee's specific increase in income taxes resulting from assignment overseas.

Item VII—Final Indirect Cost Rates (FAR Case 95–018)

This final rule amends FAR Subpart 42.7 and Part 52 to improve procedures for providing payments to contractors under cost-type contracts by permitting, with certain restrictions, contractor use of billing rates contained in certified final indirect cost rate proposals, providing for Government release of 75 to 90 percent of all fee withholds under physically completed contracts, after receipt of the contractor's certified final indirect cost rate proposal, and establishing a timeframe for contractor submission of final invoices or vouchers.

Item VIII—Modification of Existing Contracts (FAR Case 96–606)

This interim rule amends FAR 43.102 to provide for modification of existing contracts without requiring consideration, upon request of the contractor, to incorporate changes authorized by the Clinger-Cohen Act of 1996 (Pub. L. 104–106).

Dated: December 19, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Federal Acquisition Circular

FAC 90–44

Federal Acquisition Circular (FAC) 90–44 is issued under the authority of the Secretary of Defense, the

Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 90–44 is effective December 31, 1996 except the following items:

Items III, IV, and VIII, January 1, 1997; and

Items V and VII, March 3, 1997.

Dated: December 19, 1996.

Roland A. Hassebrock,

Col., USAF Acting Director, Defense Procurement.

Dated: December 18, 1996.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration.

Dated: December 19, 1996.

Tom Luedtke,

Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 96–32804 Filed 12–30–96; 8:45 am]

BILLING CODE 6820–EP–M

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48 CFR Parts 1 and 31

[FAC 90–44; FAR Case 96–010; Item I]

RIN 9000–AH41

Federal Acquisition Regulation; Automatic Data Processing Equipment Leasing Costs

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule which deletes the definition of automatic data processing equipment (ADPE) and the cost principle concerning ADPE leasing costs. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

DATES: *Effective Date:* December 31, 1996.

Comment Due Date: To be considered in the formulation of a final rule, comments should be submitted to the address given below on or before March 3, 1997.

ADDRESSES: Comments should be submitted to: General Services Administration, FAR Secretariat, 18th & F Streets NW, Room 4037, Washington, DC 20405.

E-Mail comments submitted over the Internet should be addressed to: 96–010@www.ARNET.gov.

FOR FURTHER INFORMATION CONTACT:

Mr. Jeremy Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–44, FAR case 96–010.

SUPPLEMENTARY INFORMATION:

A. Background

The cost principle at FAR 31.205–2, Automatic Data Processing Equipment (ADPE) Leasing Costs, was implemented when ADPE was an emerging technology, had limited applications, and was a substantial cost element on Government contracts. For these early computer systems, the hardware itself constituted the major expense, and that fact, coupled with the risks of ownership of this rapidly evolving technology, justified the detailed scrutiny required under the cost principle. In the current technological environment, however, where hardware costs are no longer such a significant expense and computer systems have become ubiquitous in the workplace, the continued application of FAR 31.205–2 is no longer appropriate and is an unnecessary accounting and administrative burden on contractors. The cost principle at FAR 31.205–36, Rental Costs, adequately protects the Government's interests in this cost area without prescribing overly detailed annual requirements.

This interim rule deletes the cost principle at 31.205–2, the ADPE definition at 31.001, and references to the term "ADPE" found elsewhere in Part 31.

B. Regulatory Flexibility Act

The interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities use simplified acquisition procedures, or are awarded on a competitive, fixed-price basis, and do not require application of the FAR cost principles. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR subparts also will be considered in accordance with 5 U.S.C. 601. Such comments must be submitted separately and cite 5 U.S.C. 601, *et. seq.* (FAR case 96–010) in correspondence.

C. Paperwork Reduction Act

The interim rule deletes the information collection requirement at FAR 31.205–2, which was previously approved by the Office of Management and Budget (OMB) under Control Number 9000–0072.

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that, pursuant to 41 U.S.C. 418b, urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. The rule is necessary because the cost principle at FAR 31.205–2 imposes unnecessary administrative and accounting requirements on contractors and the Government, since it requires contractors to annually demonstrate compliance with a number of specific criteria, including obtaining contracting officer approval in certain circumstances. In order for contractors, and ultimately, the Government, to experience cost savings as quickly as possible, it is necessary that an interim rule be published to eliminate this burdensome and obsolete requirement. However, pursuant to Public Law 98–577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 1 and 31

Government procurement.

Dated: December 19, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR parts 1 and 31 are amended as set forth below:

1. The authority citation for 48 CFR parts 1 and 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 1—FEDERAL ACQUISITION REGULATION SYSTEM

1.106 [Amended]

2. Section 1.106 is amended in the list following the introductory paragraph by removing the FAR segment "31.205–2" and the corresponding OMB control number "9000–0072".

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

31.001 [Amended]

3. Section 31.001 is amended by removing the definition "Automatic data processing equipment (ADPE)".

31.109 [Amended]

4. Section 31.109 is amended by removing paragraph (h)(10) and redesignating paragraphs (h)(11) through (h)(17) as (h)(10) through (h)(16), respectively.

31.205–2 [Removed and reserved]

5. Section 31.205–2 is removed and reserved.

6. Section 31.205–36 is amended in paragraph (a) by revising the first sentence to read as follows:

31.205–36 Rental costs.

(a) This subsection is applicable to the cost of renting or leasing real or personal property acquired under "operating leases" as defined in Statement of Financial Accounting Standards No. 13 (FAS–13), Accounting for Leases. * * *

* * * * *

[FR Doc. 96–32805 Filed 12–30–96; 8:45 am]

BILLING CODE 6820–EP–M

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48 CFR Part 2

[FAC 90–44; FAR Case 96–322; Item II]

RIN 9000–AH42

Federal Acquisition Regulation; Major System Definition

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to revise the dollar thresholds in the definition of "major system" for the Department of Defense. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501–3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–44, FAR case 96–322.

SUPPLEMENTARY INFORMATION:

A. Background

Section 805 of the National Defense Authorization Act for Fiscal Year 1997 (Pub. L. 104–201) amends the definition of "major system" in 10 U.S.C. 2302. This rule revises the definition at FAR 2.101 to conform with Section 805.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90–44, FAR case 96–322), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 2

Government procurement.

Dated: December 19, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Part 2 is amended as set forth below:

PART 2—DEFINITIONS OF WORDS AND TERMS

1. The authority citation for 48 CFR Part 2 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 2.101 is amended in the definition of "Major system" by revising paragraph (a), and adding at the end of paragraph (c) the parenthetical "(10 U.S.C. 2302 and 41 U.S.C. 403)." to read as follows:

2.101 Definitions.

* * * * *

Major system * * *

(a) The Department of Defense is responsible for the system and the total expenditures for research, development, test, and evaluation for the system are estimated to be more than $115,000,000 (based on fiscal year 1990 constant dollars) or the eventual total expenditure for the acquisition exceeds $540,000,000 (based on fiscal year 1990 constant dollars);

* * * * *

[FR Doc. 96–32806 Filed 12–30–96; 8:45 am]

BILLING CODE 6820–EP–M

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48 CFR Parts 5, 13, 14, 15, 19, 25, 33, and 36

[FAC 90–44; FAR Case 96–304; Item III]

RIN 9000–AH13

Federal Acquisition Regulation; Preaward Debriefings

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to implement Section 4104 of the Clinger-Cohen Act of 1996. The rule requires that, prior to contract award, contracting officers provide a debriefing to any interested offeror on the reasons for that offeror's exclusion from the competitive range in a competitive negotiation. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804. The Federal Acquisition Reform Act of 1996 was subsequently renamed the Clinger-Cohen Act of 1996.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph DeStefano at (202) 501–1758 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–44, FAR case 96–304.

SUPPLEMENTARY INFORMATION:

A. Background

Section 4104 of the Clinger-Cohen Act of 1996 (Public Law 104–106) requires that, prior to contract award, contracting officers provide a debriefing to any interested offeror on the reasons for that offeror's exclusion from the competitive range in a competitive negotiation. The contracting officer may refuse a preaward debriefing request if it is not in the best interest of the Government to

conduct a debriefing at that time. Section 4104 also requires that the debriefing include the following information: The agency's evaluation of the significant elements in the offeror's proposal; a summary of the rationale for the offeror's exclusion; and reasonable responses to relevant questions posed by the debriefed offeror as to whether the source selection procedures in the solicitation and applicable regulations were followed by the agency.

A proposed rule requesting public comments was published in the **Federal Register** at 61 FR 32580, June 24, 1996. Five comments were received from four respondents and were considered in developing the final rule.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule provides for earlier debriefings to unsuccessful offerors but does not significantly alter the amount of information provided to unsuccessful offerors.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 5, 13, 14, 15, 19, 25, 33, and 36

Government procurement.

Dated: December 19, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 5, 13, 14, 15, 19, 25, 33, and 36 are amended as set forth below:

1. The authority citation for 48 CFR Parts 5, 13, 14, 15, 19, 25, 33, and 36 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

Chapter 1 [Amended]

2. In the list below, for each section listed in the left column, remove the citation listed in the middle column, and insert the citation in the last column:

Section	Remove	Insert
5.303(b)(2)	15.1002(c)	15.1003(b)
13.106–2(c)(3)	15.1002(c)(2)	15.1003(b)(2)
15.412(d)	15.1002(c)(1)	15.1003(b)(1)
15.609(c)	15.1002(b)	15.1003
19.302(d)(1)	15.1002(b)(2)	15.1003(a)(2)
19.501(h)(1)	15.1002(b)(2)	15.1003(a)(2)
19.501(h)(2)	15.1002(b)(2)	15.1003(a)(2)
25.405(e)	15.1002	15.1003
33.103(f)(3)	15.1004	15.1006
33.104(c)(1)	15.1004	15.1006

PART 14—SEALED BIDDING

3. Section 14.503–1 is amended by revising the second sentence of paragraph (g) to read as follows:

14.503–1 Step one.

* * * * *

(g) * * * Upon written request, the contracting officer shall debrief unsuccessful offerors (see 15.1005 and 15.1006).

* * * * *

PART 15—CONTRACTING BY NEGOTIATION

4. Section 15.612 is amended by revising paragraph (f) to read as follows:

15.612 Formal source selection.

* * * * *

(f) *Notices and debriefings.* See 15.1003, 15.1004, 15.1005, and 15.1006.

5. Subpart 15.10 is revised to read as follows:

Subpart 15.10—Preaward, Award, and Postaward Notifications, Protests, and Mistakes

Sec.

15.1001 Definition.
15.1002 Applicability.
15.1003 Notifications to unsuccessful offerors.
15.1004 Notification to successful offeror.
15.1005 Preaward debriefing of offerors.
15.1006 Postaward debriefing of offerors.
15.1007 Protests against award.
15.1008 Discovery of mistakes.

15.1001 Definition.

Day, as used in this subpart, has the meaning set forth at 33.101.

15.1002 Applicability.

This subpart applies to the use of competitive proposals, as described in 6.102(b), and a combination of competitive procedures, as described in 6.102(c). To the extent practicable, however, the procedures and intent of this subpart, with reasonable modification, should be followed for acquisitions described in 6.102(d): broad agency announcements, small business innovation research contracts, and architect-engineer contracts. However, they do not apply to multiple award schedules, as described in 6.102(d)(3).

15.1003 Notifications to unsuccessful offerors.

(a) *Preaward notices*—(1) *Preaward notices of exclusion from competitive range.* The contracting officer shall promptly notify offerors when they are excluded from the competitive range or otherwise excluded from further consideration. The notice shall—

(i) State the basis for the determination and that a proposal revision will not be considered;

(ii) Advise the offeror that, if a preaward or postaward debriefing is desired, a written request must be submitted to the contracting officer within three days; and

(iii) Indicate that, absent receipt of a timely written request, the Government is not obligated to provide a preaward or a postaward debriefing.

(2) *Preaward notices for small business set-asides.* In a small business set-aside (see subpart 19.5), upon completion of negotiations and determinations of responsibility, but prior to award, the contacting officer shall notify each unsuccessful offeror in writing of the name and location of the apparent successful offeror. The notice also shall state that—

(i) The Government will not consider subsequent revisions of the unsuccessful offeror's proposal; and

(ii) No response is required unless a basis exists to challenge the small

business size status of the apparent successful offeror. The notice is not required when the contracting officer determines in writing that the urgency of the requirement necessitates award without delay.

(b) *Postaward notices.* Within three days after the date of contract award, the contracting officer shall provide written notification to each unsuccessful offeror (unless preaward notice was given under paragraph (a) of this section).

(1) The notice shall include—

(i) The number of offerors solicited;

(ii) The number of proposals received;

(iii) The name and address of each offeror receiving an award;

(iv) The items, quantities, and unit prices of each award (if the number of items or other factors makes listing unit prices impracticable, only the total contract price need be furnished); and

(v) In general terms, the reason the offeror's proposal was not accepted, unless the price information in paragraph (b)(1)(iv) of this section readily reveals the reason. In no event shall an offeror's cost breakdown, profit, overhead rates, trade secrets, manufacturing processes and techniques, or other confidential business information be disclosed to any other offeror.

(2) Upon request, the contracting officer shall furnish the information described in paragraphs (b)(1) (i) through (v) of this section to unsuccessful offerors in solicitations using the simplified acquisition procedures in part 13.

15.1004 Notification to successful offeror.

The contracting officer shall award a contract with reasonable promptness to the successful offeror (selected in accordance with 15.611(d)) by transmitting a written notice of the award to that offeror (but see 15.608(b)). When an award is made to an offeror for less than all of the items that may be awarded to that offeror and additional items are being withheld for subsequent award, each notice shall state that the Government may make subsequent awards on those additional items within the offer acceptance period.

15.1005 Preaward debriefing of offerors.

Offerors excluded from the competitive range or otherwise excluded from further consideration prior to the final source selection decision may request a debriefing before award (10 U.S.C. 2305(b)(6)(A) and 41 U.S.C. 253b(f)–(h)). The process for requesting and conducting preaward debriefings is as follows:

(a) The offeror may request a preaward debriefing by submitting a written request for debriefing to the contracting officer within three days of the receipt of notice of exclusion from the competitive range. If the offeror does not submit a timely request, the offeror need not be given either a preaward or a postaward debriefing. Offerors are entitled to no more than one debriefing on each acquisition.

(b) The contracting officer should provide a debriefing to the offeror as soon as practicable. If providing a preaward debriefing is not in the best interest of the Government at the time it is requested, the contracting officer may delay the debriefing, but shall provide the debriefing no later than the time postaward debriefings are provided under 15.1006. In that event, the contracting officer shall include the information at 15.1006(d) in the debriefing.

(c) Debriefings may be done orally, in writing, or by any other method acceptable to the contracting officer.

(d) The contracting officer or designee shall chair any debriefing session held. Individuals who conducted the evaluation shall provide support.

(e) At a minimum, preaward debriefings shall include—

(1) The agency's evaluation of significant elements in the offeror's proposal;

(2) A summary of the rationale for excluding the offeror from the competitive range; and

(3) Reasonable responses to relevant questions about whether source selection procedures contained in the solicitation, applicable regulations, and other applicable authorities were followed in the process of excluding the offeror from the competitive range.

(f) Preaward debriefings shall not disclose—

(1) The number of offerors;

(2) The identity of other offerors;

(3) The content of other offerors' proposals;

(4) The ranking of other offerors;

(5) The evaluation of other offerors; or

(6) Any of the information prohibited in 15.1006(e).

(g) The contracting officer shall include an official summary of the debriefing in the contract file.

15.1006 Postaward debriefing of offerors.

(a) An offeror shall be debriefed and furnished the basis for the source selection decision and contract award, if its written request is received by the contracting officer within three days after the offeror receives notice of contract award. Offerors that requested a postaward debriefing at the time they were eliminated from the competitive range or otherwise excluded from further consideration prior to the final source selection decision shall also be provided a debriefing at this time. An offeror that failed to submit a timely request under 15.1003(a) or 15.1005(a) is not entitled to a debriefing. When practicable, debriefing requests received more than three days after the offeror receives notice of contract award may be accommodated. However, accommodating such untimely debriefing requests does not extend the time within which suspension of performance can be required, as this accommodation is not a "required debriefing" as described in part 33. To the maximum extent practicable, the debriefing should occur within five days after receipt of the written request.

(b) Debriefings of successful and unsuccessful offerors may be done orally, in writing, or by any other method acceptable to the contracting officer.

(c) The contracting officer or designee shall chair any debriefing session held. Individuals who conducted the evaluation shall provide support.

(d) At a minimum, the debriefing information shall include—

(1) The Government's evaluation of the significant weaknesses or deficiencies in the offeror's proposal, if applicable;

(2) The overall evaluated cost or price and technical rating, if applicable, of the successful offeror and the debriefed offeror;

(3) The overall ranking of all offerors when any ranking was developed by the agency during the source selection;

(4) A summary of the rationale for award;

(5) For acquisitions of commercial end items, the make and model of the item to be delivered by the successful offeror; and

(6) Reasonable responses to relevant questions about whether source selection procedures contained in the solicitation, applicable regulations, and other applicable authorities were followed.

(e) The debriefing shall not include point-by-point comparisons of the debriefed offeror's proposal with those of other offerors. Moreover, the debriefing shall not reveal any information exempt from release under the Freedom of Information Act including—

(1) Trade secrets;

(2) Privileged or confidential manufacturing processes and techniques;

(3) Commercial and financial information that is privileged or confidential, including cost

breakdowns, profit, indirect cost rates, and similar information; and

(4) The names of individuals providing reference information about an offeror's past performance.

(f) The contracting officer shall include an official summary of the debriefing in the contract file.

15.1007 Protests against award.

(a) Before filing a protest, prior to award of a contract, of the exclusion of an offeror from the competitive range (or otherwise from further consideration), use of alternative dispute resolution techniques is encouraged (see subpart 33.2).

(b) Protests against award in negotiated acquisitions shall be treated substantially the same as in sealed bidding (see subpart 33.1).

(c) If, within one year of contract award, a protest causes the agency to issue either a new solicitation or a new request for best and final offers on the protested contract award, the agency shall make available to all prospective offerors for the new solicitation, or original offerors that are requested to submit new best and final offers—

(1) Information provided in any debriefings conducted on the original award about the successful offeror's proposal; and

(2) Other nonproprietary information provided to the original offerors.

15.1008 Discovery of mistakes.

For treatment of mistakes in an offeror's proposal that are discovered before award, see 15.607. Mistakes in a contractor's proposal that are disclosed after award shall be processed in accordance with 14.407–4.

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

6. Section 36.607 is amended by revising paragraph (b) to read as follows:

36.607 Release of information on firm selection.

* * * * *

(b) Debriefings of successful and unsuccessful firms will be held after final selection has taken place and will be conducted, to the extent practicable, in accordance with 15.1004, 15.1006 (b) through (f), and 15.1007(c). Note that 15.1006 (d)(2) through (d)(5) do not apply to architect-engineer contracts.

[FR Doc. 96–32807 Filed 12–30–96; 8:45 am]

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48 CFR Parts 9, 13, 23, and 52

[FAC 90–44; FAR Case 96–311; Item IV]

RIN 9000–AH06

Federal Acquisition Regulation; Certification Requirements—Drug-Free Workplace

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to delete the requirement for an offeror to provide a certification regarding a drug-free workplace. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph DeStefano at (202) 501–1758 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–44, FAR case 96–311.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule implements Section 4301(a)(3) of the Clinger-Cohen Act of 1996 (Pub. L. 104–106). Section 4301(a)(3) amended 41 U.S.C. 701 to eliminate the requirement for an offeror to certify that it will take certain actions to provide a drug-free workplace.

A proposed rule with request for public comment was published in the **Federal Register** at 61 FR 31814, June 20, 1996. No substantive comments were received. The final rule includes only editorial changes to the proposed rule.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because, although the rule eliminates a certification requirement, the underlying policy regarding maintenance of a drug-free workplace has not changed.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 9, 13, 23, and 52

Government procurement.

Dated: December 19, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 9, 13, 23, and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 9, 13, 23, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 9—CONTRACTOR QUALIFICATIONS

2. Section 9.406–2 is amended by revising paragraph (b)(1)(ii) to read as follows:

9.406–2 Causes for debarment.

* * * * *

(b)(1) * * *

(ii) Violations of the Drug-Free Workplace Act of 1988 (Public Law 100–690), as indicated by—

(A) Failure to comply with the requirements of the clause at 52.223–6, Drug-Free Workplace; or

(B) Such a number of contractor employees convicted of violations of criminal drug statutes occurring in the workplace as to indicate that the contractor has failed to make a good faith effort to provide a drug-free workplace (see 23.504).

* * * * *

3. Section 9.407–2 is amended by revising paragraph (a)(4) to read as follows:

9. 407–2 Causes for suspension.

(a) * * *

(4) Violations of the Drug-Free Workplace Act of 1988 (Public Law 100–690), as indicated by—

(i) Failure to comply with the requirements of the clause at 52.223–6, Drug-Free Workplace; or

(ii) Such a number of contractor employees convicted of violations of criminal drug statutes occurring in the workplace as to indicate that the contractor has failed to make a good

faith effort to provide a drug-free workplace (see 23.504);

* * * * *

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

13.111 [Amended]

4. Section 13.111 is amended by removing paragraph (g) and redesignating paragraphs (h) and (i) as (g) and (h), respectively.

PART 23—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

5. Section 23.504 is amended by revising the introductory text of paragraph (a), paragraphs (a)(3) and (b); and by removing paragraph (c) and redesignating (d) as (c). The revised text reads as follows:

23.504 Policy.

(a) No offeror other than an individual shall be considered a responsible source (see 9.104–1(g) and 19.602–1(a)(2)(i)) for a contract that exceeds the simplified acquisition threshold, unless it agrees that it will provide a drug-free workplace by—

* * * * *

(3) Providing all employees engaged in performance of the contract with a copy of the statement required by paragraph (a)(1) of this section;

* * * * *

(b) No individual shall be awarded a contract of any dollar value unless that individual agrees not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing the contract.

* * * * *

5b. In addition to the amendments set forth above, section 23.504 is further amended by removing "calendar" from paragraphs (a)(4)(ii), (a)(5), (a)(6), and the newly designated paragraph (c).

6. Section 23.505 is amended by revising the section heading and the introductory text of paragraph (a); in paragraph (a)(2) by removing "; or" and inserting a period; and by removing paragraph (b), redesignating paragraph (c) as (b) and revising the introductory text of newly designated (b). The revised text reads as follows:

23.505 Contract clause.

(a) Contracting officers shall insert the clause at 52.223–6, Drug-Free Workplace, except as provided in paragraph (b) of this section, in solicitations and contracts—

* * * * *

(b) Contracting officers shall not insert the clause at 52.223–6, Drug-Free Workplace, in solicitations and contracts, if—

* * * * *

7. Section 23.506 is amended by revising paragraph (d) to read as follows:

23.506 Suspension of payments, termination of contract, and debarment and suspension actions.

* * * * *

(d) The specific causes for suspension of contract payments, termination of a contract for default, or suspension and debarment are—

(1) The contractor has failed to comply with the requirements of the clause at 52.223–6, Drug-Free Workplace; or

(2) The number of contractor employees convicted of violations of criminal drug statutes occurring in the workplace indicates that the contractor has failed to make a good faith effort to provide a drug-free workplace.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.223–5 [Removed and reserved]

8. Section 52.223–5 is removed and reserved.

9a. Section 52.223–6 is amended—

(a) In the introductory paragraph by removing "23.505(b)" and inserting "23.505";

(b) By revising the date of the clause heading;

(c) In the introductory text of paragraph (a) by removing the comma following the word "clause" and inserting an emdash "—";

(d) At the end of paragraph (b)(6)(ii) by removing the period and inserting "; and";

(e) By revising paragraph (c); and

(f) In paragraph (d) by removing the "s" from the word "paragraphs".

The revised text reads as follows:

52.223–6 Drug-Free Workplace.

* * * * *

Drug-Free Workplace (Jan. 1997)

* * * * *

(c) The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.

* * * * *

9b. In addition to the amendments set forth above, section 52.223–6 is further amended by removing "calendar" from the introductory text of paragraph (b) each time it appears, from paragraphs (b)(4)(ii) and (b)(5), and the introductory paragraph of (b)(6).

[FR Doc. 96–32808 Filed 12–30–96; 8:45 am]
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48 CFR Parts 14, 15, and 52

[FAC 90–44; FAR Case 95–019; Item V]

RIN 9000–AG89

Federal Acquisition Regulation; Consideration of Late Offers

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to broaden the conditions under which late offers for procurements other than commercial items can be considered. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: March 3, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph DeStefano at (202) 501–1758 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–44, FAR case 95–019.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends the late bid rule to allow an offer to be accepted if the late receipt was due primarily to Government mishandling after receipt at the Government installation. The rule recognizes the use of hand-carried offers (including delivery by a commercial carrier) as a common business practice, and provides flexibility in determining when an offer (bid or proposal) was received at the Government activity, by applying standards used by the General Accounting Office. The rule also expands the definition of acceptable evidence to support acceptance of a late offer and adds a new exception at FAR 52.215–10(a)(5) and 52.215–36(a)(3) which allows consideration of a proposal that was misdirected or misdelivered (not necessarily through mishandling) to an office other than that designated for receipt of offers in the solicitation. These changes do not apply

to commercial item solicitations which contain the provision at FAR 52.212–1(f), Late Offers.

A proposed rule was published in the **Federal Register** at 51 FR 18480, April 25, 1996. Six comments were received from four respondents. All comments were considered in developing the final rule.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule applies only in situations where late offers are received. The late offers to which this case applies are only a small portion of all offers received.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 14, 15, and 52

Government procurement.

Dated: December 19, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 14, 15, and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 14, 15, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PARTS 14—SEALED BIDDING

2. Section 14.304–1 is amended by revising paragraphs (a)(2) and (c) to read as follows:

14.304–1 General.

* * * * *

(a) * * *

(2) It was sent by mail (or telegram or facsimile, if authorized) or hand-carried (including delivery by a commercial carrier) if it is determined by the Government that the late receipt was due primarily to government mishandling after receipt at the Government installation;

* * * * *

(c) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of such installation on the bid wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

* * * * *

PART 15—CONTRACTING BY NEGOTIATION

3. Section 15.412 is amended by revising paragraph (c)(2) to read as follows:

15.412 Late proposals, modifications, and withdrawals of proposals.

* * * * *

(c) * * * (2) the circumstances meet the specific requirements of the provision at 52.215–10, Late Submissions, Modifications, and Withdrawals of Proposals.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 52.214–5 is amended by revising the clause date and paragraph (a)(2), redesignating paragraphs (b), (c), and (d), as (c), (d), and (e), respectively, and adding a new paragraph (b) to read as follows:

52.214–5 Submission of Bids.

* * * * *

Submission of Bids (Feb. 1997)

(a) * * * (2) showing the time and date specified for receipt, the solicitation number, and the name and address of the bidder.

(b) Bidders using commercial carrier services shall ensure that the bid is addressed and marked on the outermost envelope or wrapper as prescribed in subparagraphs (a)(1) and (2) of this provision when delivered to the office specified in the solicitation.

* * * * *

5. Section 52.214–7 is amended by revising the clause date and paragraph (a)(2) to read as follows:

52.214–7 Late Submissions, Modifications, and Withdrawals of Bids.

* * * * *

Late Submissions, Modifications, and Withdrawals of Bids (Feb. 1997)

(a) * * *

(2) Was sent by mail (or telegram or facsimile, if authorized) or hand-carried (including delivery by a commercial carrier) if it is determined by the Government that the late receipt was due primarily to Government mishandling after receipt at the Government installation;

* * * * *

6. Section 52.214–23 is amended by revising the clause date and paragraphs (a)(2) and (e) to read as follows:

52.214–23 Late Submissions, Modifications, and Withdrawals of Technical Proposals under Two-Step Sealed Bidding.

* * * * *

Late Submissions, Modifications, and Withdrawals of Technical Proposals Under Two-Step Sealed Bidding (Feb. 1997)

(a) * * *

(2) Was sent by mail (or telegram or facsimile, if authorized) or hand-carried (including delivery by a commercial carrier) if it is determined by the Government that the late receipt was due primarily to Government mishandling after receipt at the Government installation;

* * * * *

(e) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

* * * * *

7. Section 52.214–32 is amended by revising the clause date and paragraph (a)(1) to read as follows:

52.214–32 Late Submissions, Modifications, and Withdrawals of Bids (Overseas).

* * * * *

Late Submissions, Modifications, and Withdrawals of Bids (Overseas) (Feb. 1997)

(a) * * *

(1) Was sent by mail (or telegram or facsimile, if authorized) or hand-carried (including delivery by a commercial carrier) if it is determined by the Government that the late receipt was due primarily to Government mishandling after receipt at the Government installation; or

* * * * *

8. Section 52.214–33 is amended by revising the clause date and paragraphs (a)(1) and (d) to read as follows:

52.214–33 Late Submissions, Modifications, and Withdrawals of Technical Proposals Under Two-Step Sealed Bidding (Overseas).

* * * * *

Late Submissions, Modifications, and Withdrawals of Technical Proposals Under Two-Step Sealed Bidding (Overseas) (Feb. 1997)

(a) * * *

(1) Was sent by mail (or telegram or facsimile, if authorized) or hand-carried (including delivery by a commercial carrier) if it is determined by the Government that the late receipt was due primarily to Government mishandling after receipt at the Government installation;

* * * * *

(d) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the proposal wrapper, other documentary evidence of receipt maintained

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by the installation, or oral testimony or statements of Government personnel.

* * * * *

9. Section 52.215–9 is amended by revising the clause date and paragraph (a)(2); by redesignating paragraphs (b) through (e) as (c) through (f), respectively and adding a new paragraph (b) to read as follows:

52.215–9 Submission of Offers.

* * * * *

Submission of Offers (Feb. 1997)

(a) * * * (2) showing the time and date specified for receipt, the solicitation number, and the name and address of the offeror.

(b) Offerors using commercial carrier services shall ensure that the proposal is addressed and marked on the outermost envelope or wrapper as prescribed in subparagraphs (a) (1) and (2) of this provision when delivered to the office specified in the solicitation.

* * * * *

10. Section 52.215–10 is amended by revising the clause date and paragraphs (a) and (b); by removing paragraph (c) and redesignating paragraphs (d) through (i) as (c) through (h) respectively; and revising the newly designated (d). The revised text reads as follows:

52.215–10 Late Submissions, Modifications, and Withdrawals of Proposals.

* * * * *

Late Submissions, Modifications, and Withdrawals of Proposals (Feb. 1997)

(a) Any proposal received at the office designated in the solicitation after the exact time specified for receipt of offers will not be considered unless it is received before award is made and—

(1) It was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);

(2) It was sent by mail (or telegram or facsimile, if authorized) or hand-carried (including delivery by a commercial carrier) if it is determined by the Government that the late receipt was due primarily to Government mishandling after receipt at the Government installation;

(3) It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and U.S. Federal holidays.

(4) It was transmitted through an electronic commerce method authorized by the solicitation and was received by the Government not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals;

(5) There is acceptable evidence to establish that it was received at the activity designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers, and the Contracting Officer determines that accepting the late offer would not unduly delay the procurement; or

(6) It is the only proposal received.

(b) Any modification of a proposal or quotation, including a modification resulting from the Contracting Officer's request for "best and final" offer, is subject to the same conditions as in subparagraphs (a)(1) through (a)(5) of this provision.

* * * * *

(d) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

* * * * *

11. Section 52.215–36 is amended by revising the clause date and paragraphs (a) and (b); by removing paragraph (c) and redesignating paragraphs (d), (e), (f), and (g) as (c), (d), (e), and (f); and revising the newly designated paragraph (c) to read as follows:

52.215–36 Late Submissions, Modifications, and Withdrawals of Proposals (Overseas).

* * * * *

Late Submissions, Modifications, and Withdrawals of Proposals (Overseas) (Feb. 1997)

(a) Any proposal received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and—

(1) It was sent by mail (or telegram or facsimile, if authorized) or hand-carried (including delivery by a commercial carrier) if it is determined by the Government that the late receipt was due primarily to Government mishandling after receipt at the Government installation;

(2) It was transmitted through an electronic commerce method authorized by the solicitation and was received by the Government not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals;

(3) There is acceptable evidence to establish that it was received at the activity designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers, and the Contracting Officer determines that accepting the late offer would not unduly delay the procurement; or

(4) It is the only proposal received.

(b) Any modification of a proposal or quotation, including a modification resulting from the Contracting Officer's request for "best and final" offer, is subject to the same conditions as in subparagraphs (a)(1), (2), and (3) of this provision.

(c) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of the installation on the proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

* * * * *

[FR Doc. 96–32809 Filed 12–30–96; 8:45 am]

BILLING CODE 6820–EP–M

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48 CFR Part 31

[FAC 90–44; FAR Case 96–012; Item VI]

RIN 9000–AH43

Federal Acquisition Regulation; Foreign Differential Pay

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule to amend the Federal Acquisition Regulation (FAR) by deleting the prohibition on the calculation of foreign differential pay based directly on an employee's specific increase in income taxes resulting from assignment overseas. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

DATES: *Effective Date:* December 31, 1996.

Comments Due: To be considered in the formulation of a final rule, comments should be submitted to the address given below on or before March 3, 1997.

ADDRESSES: Comments should be submitted to: General Services Administration, Ms. Beverly Fayson, FAR Secretariat, 18th & F Streets NW, Room 4037, Washington, DC 20405.

E-mail comments submitted over internet should be addressed to: 96–012@www.ARNET.gov.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–44, FAR case 96–012.

SUPPLEMENTARY INFORMATION:

A. Background

The current cost principle at FAR 31.205–6 prohibits contractors from calculating any increased compensation for foreign overseas differential pay on the basis of an employee's specific

increase in income taxes resulting from foreign assignment. Instead, contractors must employ an alternative, less accurate approach. This prohibition was intended to prevent a conflict with the policy at 31.205–41(b)(1) that Federal income taxes are unallowable costs. However, FAR 31.205–6(e)(1) explicitly states that contractors may properly consider increased Federal income taxes in the allowable foreign differential pay provided to overseas employees.

B. Regulatory Flexibility Act

The interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities use the simplified acquisition procedures, or are awarded on a competitive, fixed-price basis, and do not require application of the FAR cost principles. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected FAR subpart also will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90–44, FAR case 96–012) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the interim rule does not impose any reporting or recordkeeping requirements which require Office of Management and Budget approval under 44 U.S.C. 3501, *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that, pursuant to 41 U.S.C. 418b, urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. The rule is necessary because the cost principle at FAR 31.205–6 imposes unnecessary administrative and accounting requirements, since it prohibits contractors from calculating differential pay on the basis of an employee's specific increase in income taxes resulting from foreign assignment. Instead, contractors must employ an alternative, less accurate approach that may result in an employee being undercompensated (or overcompensated). It is necessary that an interim rule be published to eliminate expeditiously this unnecessarily burdensome requirement that results in unnecessary administrative costs to contractors and may cause financial hardship on certain individuals. However, pursuant to Public Law 98–577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: December 19, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR part 31 is amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 31.205–6 is amended by revising paragraph (e)(2) to read as follows:

31.205–6 Compensation for personal services.

* * * * *

(e) * * *

(2) Differential allowances for additional Federal, State, or local income taxes resulting from domestic assignments are unallowable.

* * * * *

[FR Doc. 96–32810 Filed 12–30–96; 8:45 am]

BILLING CODE 6820–EP–M

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48 CFR Parts 42 and 52

[FAC 90–44; FAR Case 95–018; Item VII]

RIN 9000–AG88

Federal Acquisition Regulation; Final Indirect Cost Rates

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) concerning the procedures relating to final indirect cost rates to permit, with certain restrictions, increased interim payments to contractors under certain circumstances. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

EFFECTIVE DATE: March 3, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501–3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–44, FAR case 95–018.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR Subpart 42.7 and Part 52 to improve procedures for providing payments to contractors under cost-type contracts by (1) permitting, with certain restrictions, contractor use of billing rates contained in certified final indirect cost rate proposals; (2) providing for Government release of 75 to 90 percent of all fee withholds under physically completed contracts, after receipt of the contractor's certified final indirect cost rate proposal; and (3) establishing a timeframe for contractor submission of final invoices or vouchers.

A proposed rule was published in the **Federal Register** at 61 FR 26766, May 28, 1996. One source submitted comments which were considered in the development of the final rule.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule merely provides for earlier payments to contractors under cost-type contracts.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 42 and 52

Government procurement.

Dated: December 19, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 42 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 42 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 42—CONTRACT ADMINISTRATION

2. Section 42.704 is amended by adding paragraph (e) to read as follows:

42.704 Billing rates.

* * * * *

(e) When the contractor provides to the cognizant contracting officer the certified final indirect cost rate proposal in accordance with 42.705–(b) or 42.705–(b), the contractor and the Government may mutually agree to revise billing rates to reflect the proposed indirect cost rates, as approved by the Government to reflect historically disallowed amounts from prior years' audits, until the proposal has been audited and settled. The historical decrement will be determined by either the cognizant contracting officer (42.705–1(b)) or the cognizant auditor (42.705–2(b)).

3. Section 42.705 is revised to read as follows:

42.705 Final indirect cost rates.

(a) Final indirect cost rates shall be established on the basis of—

(1) Contracting officer determination procedure (see 42.705–1) or

(2) Auditor determination procedure (see 42.705–2).

(b) Within 120 days after settlement of the final indirect cost rates (or longer, if approved in writing by the contracting officer), the contractor shall submit a completion invoice or voucher reflecting the settled amounts and rates on all contracts physically completed in the year covered by the proposal.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 52.216–7 is amended by revising the clause date; redesignating paragraph (d)(4) as (d)(5) and adding a new (d)(4); and by revising paragraph (h)(1) to read as follows:

52.216–7 Allowable Cost and Payment.

* * * * *

Allowable Cost and Payment (Feb 1997)

* * * * *

(d) * * *

(4) Within 120 days after settlement of the final indirect cost rates covering the year in which this contract is physically complete (or longer, if approved in writing by the Contracting Officer), the Contractor shall submit a completion invoice or voucher to reflect the settled amounts and rates.

* * * * *

(h) *Final payment.* (1) Upon approval of a completion invoice or voucher submitted by the Contractor in accordance with paragraph (d)(4) of this clause, and upon the Contractor's compliance with all terms of this contract, the Government shall promptly pay any balance of allowable costs and that part of the fee (if any) not previously paid.

* * * * *

5. Section 52.216–8 is amended by revising the clause date and paragraph (b) to read as follows:

52.216–8 Fixed Fee.

* * * * *

Fixed Fee (Feb 1997)

* * * * *

(b) Payment of the fixed fee shall be made as specified in the Schedule; provided that after payment of 85 percent of the fixed fee, the Contracting Officer may withhold further payment of fee until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the Government's interest. This reserve shall not exceed 15 percent of the total fixed fee or $100,000, whichever is less. The Contracting Officer shall release 75 percent of all fee withholds under this contract after receipt of the certified final indirect cost rate proposal covering the year of physical completion of this contract, provided the Contractor has satisfied all other contract terms and conditions, including the submission of the final patent and royalty reports, and is not delinquent in submitting final vouchers on prior years' settlements. The Contracting Officer may release up to 90 percent of the fee withholds under this contract based on the Contractor's past performance related to the submission and settlement of final indirect cost rate proposals.

(End of clause)

6. Section 52.216–9 is amended by revising the clause date and paragraph (c) to read as follows:

52.216–9 Fixed Fee—Construction.

* * * * *

Fixed Fee—Construction (Feb 1997)

* * * * *

(c) After the payment of 85 percent of the fixed fee, the Contracting Officer may withhold further payment of fee until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the Government's interest. This reserve shall not exceed 15 percent of the total fixed fee or $100,000, whichever is less. The Contracting Officer shall release 75 percent of all fee withholds under this contract after receipt of the certified final indirect cost rate proposal covering the year of physical completion of this contract, provided the Contractor has satisifed all other contract terms and conditions, including the submission of the final patent and royalty reports, and is not delinquent in submitting final vouchers on prior years' settlements. The Contracting Officer may release up to 90 percent of the fee withholds under this contract based on the Contractor's past performance related to the submission and settlement of final indirect cost rate proposals.

(End of clause)

7. Section 52.216–10 is amended by revising the clause date and paragraph (c) to read as follows:

52.216–10 Incentive Fee.

* * * * *

Incentive Fee (Feb. 1997)

* * * * *

(c) *Withholding of payment.* Normally, the Government shall pay the fee to the Contractor as specified in the Schedule. However, when the Contracting Officer considers that performance or cost indicates that the Contractor will not achieve target, the Government shall pay on the basis of an appropriate lesser fee. When the Contractor demonstrates that performance or cost clearly indicates that the Contractor will earn a fee significantly above the target fee, the Government may, at the sole discretion of the Contracting Officer, pay on the basis of an appropriate higher fee. After payment of 85 percent of the applicable fee, the Contracting Officer may withhold further payment of fee until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the Government's interest. This reserve shall not exceed 15 percent of the applicable fee or $100,000, whichever is less. The Contracting Officer shall release 75 percent of all fee withholds under this contract after receipt of the certified final indirect cost rate proposal covering the year of physical completion of this contract, provided the Contractor has satisfied all other contract terms and conditions, including the submission of the final patent and royalty reports, and is not delinquent in submitting final vouchers on prior years' settlements. The Contracting Officer may release up to 90 percent of the fee withholds under this contract based on the Contractor's past performance related to the submission and settlement of final indirect cost rate proposals.

* * * * *

8. Section 52.216–13 is amended by revising the clause date, redesignating paragraph (c)(4) as (c)(5) and adding a new paragraph (c)(4); and by revising the date and paragraph (h) of Alternate I to read as follows:

* * * * *

52.216–13 Allowable Cost and Payment—Facilities.

* * * * *

Allowable Cost and Payment—Facilities (Feb 1997)

* * * * *

(c) * * *

(4) Within 120 days after settlement of the final indirect cost rates covering the year in

which this contract is physically complete (or longer, if approved in writing by the Contracting Officer), the Contractor shall submit a completion invoice or voucher to reflect the settled amounts and rates.

* * * * *

Alternate I (Feb 1997). * * *

* * * * *

(h) *Final Payment.* Upon approval of a completion invoice or voucher submitted by the Contractor in accordance with paragraph (c)(4) of this clause, and upon the Contractor's compliance with all terms of this contract, the Government shall promptly pay any balance of allowable costs not previously paid.

[FR Doc. 96–32811 Filed 12–30–96; 8:45 am]

BILLING CODE 6820–EP–M

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48 CFR Part 43

[FAC 90–44; FAR Case 96–606; Item VIII]

RIN 9000–AH44

Federal Acquisition Regulation; Modification of Existing Contracts

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule to amend the Federal Acquisition Regulation (FAR) to implement Sections 4402 (d) and (e) of the Clinger-Cohen Act of 1996, which authorizes regulations to provide for modification of existing contracts without requiring consideration, upon request of the contractor, to incorporate changes authorized by the Act. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804. The Federal Acquisition Reform Act of 1996 was subsequently renamed the Clinger-Cohen Act of 1996.

DATES: *Effective Date:* January 1, 1997.

Comments Due: To be considered in the formulation of a final rule, comments should be submitted to the address given below on or before March 3, 1997.

ADDRESSES: Comments should be submitted to: General Services Administration, Ms. Beverly Fayson, FAR Secretariat, 18th & F Streets NW, Room 4037, Washington, DC 20405.

E-Mail comments submitted over the Internet should be addressed to: 96–606@www.ARNet.gov.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph DeStefano at (202) 501–1758 in reference to this FAR case. For general information contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–44, FAR case 96–606.

SUPPLEMENTARY INFORMATION:

A. Background

Section 4402(d) of the Clinger-Cohen Act of 1996 (Pub. L. 104–106) states that regulations implementing the Act may provide for modification of existing contracts without consideration, upon request of the contractor, to incorporate changes authorized by the Act. Section 4402(e)(2) also states that nothing in the Act requires the renegotiation or modification of existing contracts to incorporate changes authorized by the Act. This interim rule adopts the policy of encouraging, but not requiring, appropriate modifications without consideration, upon the request of the contractor. If the contracting officer determines that modification of an existing contract is appropriate to incorporate changes authorized by the Act, the modification should insert the current version of the applicable FAR clauses into the contract.

B. Regulatory Flexibility Act

The changes in this interim rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because it enables industry and the Government to gain significant benefits, including the potential reduction of contract costs, by authorizing the incorporation into existing contracts any of the Clinger-Cohen Act changes that will benefit the contracting parties. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and will be provided to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the FAR Secretariat. Comments are invited. Comments from small entities concerning the affected FAR subpart also will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90–44, FAR case 96–606), in correspondence. The IRFA is summarized as follows:

This rule will apply to all large and small entities that currently have a Government contract. Most likely, contractors will not request modification of contracts under $25,000, because the usually short period of performance under these contracts will discourage modification. The number of active contracts over $25,000 held by small entities at any point in time is not readily available. However, in Fiscal Year 1995, small entities were awarded 31,421 contracts (number does not include modifications to contracts) over $25,000. Small entities may or may not request modification of those contracts depending on whether they determine that modification of their specific contracts to incorporate Clinger-Cohen Act of 1996 changes will be advantageous. This rule imposes no new reporting, recordkeeping, or other compliance requirements. This rule is the only practical alternative to implement subsections 4402 (d) and (e) of the Act.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the interim rule does not impose any new reporting or recordkeeping requirements which require Office of Management and Budget approval under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that, pursuant to 41 U.S.C. 418b, urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. The rule is necessary because immediate promulgation of an interim rule will provide significant benefits to industry and the Government. Sections 4402 (d) and (e) of the Clinger-Cohen Act of 1996 authorize contracting officers, if requested by the prime contractor, to modify contracts without requiring consideration to incorporate changes authorized by the Act.

Implementation of Sections 4402 (d) and (e) as an interim rule will enable industry and the Government to gain immediate benefits, including the potential reduction of contract costs. The interim rule authorizes the adoption of any of the rules implementing the Clinger-Cohen Act of 1996 that will benefit the contracting parties. The interim rule should involve no substantial risk to industry, since contractors must affirmatively request adoption of the rules for an existing contract. However, pursuant to Public Law 98–577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Part 43

Government procurement.

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Dated: December 18, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR part 43 is amended as set forth below:

PART 43—CONTRACT MODIFICATIONS

1. The authority citation for 48 CFR part 43 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 43.102 is amended by revising paragraph (c) to read as follows:

43.102 Policy.

* * * * *

(c) The Federal Acquisition Streamlining Act of 1994, Public Law 103–355 (FASA), and Section 4402 of the Clinger-Cohen Act of 1996, Public Law 104–106, authorize, but do not require, contracting officers, if requested by the prime contractor, to modify contracts without requiring consideration to incorporate changes authorized by FASA or Clinger-Cohen Act amendments into existing contracts. Contracting officers are encouraged, if appropriate, to modify contracts without requiring consideration to incorporate these new policies. The contract modification should be accomplished by inserting into the contract, as a minimum, the current version of the applicable FAR clauses.

[FR Doc. 96–32812 Filed 12–30–96; 8:45 am]

BILLING CODE 6820–EP–M

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48 CFR Chapter 1

Federal Acquisition Regulation; Small Entity Compliance Guide

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small entity compliance guide notice.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator for the National Aeronautics and Space Administration as the Federal Acquisition Regulation (FAR) Council. This Small Entity Compliance Guide has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121). It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 90–44 which amend the FAR. None of the rules had a Final Regulatory Flexibility Analysis prepared in accordance with 5 U.S.C. 604. Further information regarding these rules may be obtained by referring to FAC 90–44 which precedes this notice. This document may be obtained from the Internet at http://www.gsa.gov/far/SECG.

FOR FURTHER INFORMATION CONTACT:

Beverly Fayson, FAR Secretariat, (202) 501–4755.

SUPPLEMENTARY INFORMATION:

LIST OF RULES IN FAC 90–44

Item	Subject	FAR case	Analyst
I	Automatic Data Processing Equipment Leasing Costs (Interim)	96–010	Olson.
II	Major System Definition	96–322	O'Neill.
III	Preaward Debriefings	96–304	DeStefano.
IV	Certification Requirements—Drug-Free Workplace	96–311	DeStefano.
V	Consideration of Late Offers	95–019	DeStefano.
VI	Foreign Differential Pay (Interim)	96–012	Olson.
VII	Final Indirect Cost Rates	95–018	Klein.
VIII	Modification of Existing Contracts (Interim)	96–606	DeStefano.

Item I—Automatic Data Processing Equipment Leasing Costs (FAR Case 96–010)

This interim rule deletes the cost principle at 31.205–2, Automatic Data Processing Equipment (ADPE) Leasing Costs, the ADPE definition at 31.001, and references to the term ADPE found elsewhere in part 31.

Item II—Major System Definition (FAR Case 96–322)

This final rule amends the definition of "major system" at FAR 2.101 to increase the dollar thresholds applicable to the Department of Defense. The rule implements 10 U.S.C. 2302(5) as amended by Section 805 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201).

Item III—Preaward Debriefings (FAR Case 96–304)

This final rule revises FAR Subpart 15.10 to implement Section 4104 of the Clinger-Cohen Act of 1996 (Pub. L. 104–106). Section 4104 requires that, prior to contract award, contracting officers provide a debriefing to any interested offeror on the reasons for that offeror's exclusion from the competitive range in a competitive negotiation.

Item IV—Certification Requirements—Drug-Free Workplace (FAR Case 96–311)

This final rule amends FAR Parts 9, 13, 23, and 52 to delete the requirement for an offeror to provide a certification regarding a drug-free workplace. The rule implements Section 4301(a)(3) of the Clinger-Cohen Act of 1996 (Public Law 104–106).

Item V—Consideration of Late Offers (FAR Case 95–019)

This final rule amends the late bid rule to allow an offer to be accepted if the late receipt was due primarily to Government mishandling after receipt at the Government installation. The rule recognizes the use of hand-carried offers (including delivery by a commercial carrier) as a common business practice and provides flexibility in determining when an offer (bid or proposal) was received at the Government activity, by applying standards used by the General Accounting Office. The rule also expands the definition of acceptable evidence to support acceptance of a late offer and adds a new exception at 52.215–10(a)(5) and 52.215–36(a)(3) which allows consideration of a proposal that was misdirected or misdelivered (not necessarily through mishandling) to an office other than that designated for receipt of offers in the solicitation. These changes do not apply to commercial item solicitations which contain the provision at 52.212–1(f), Late Offers.

Item VI—Foreign Differential Pay (FAR Case 96–012)

This interim rule deletes the prohibition at FAR 31.205–6(e)(2) on the calculation of foreign differential pay

based directly on an employee's specific increase in income taxes resulting from assignment overseas.

Item VII—Final Indirect Cost Rates (FAR Case 95–018)

This final rule amends FAR Subpart 42.7 and Part 52 to improve procedures for providing payments to contractors under cost-type contracts by (1) permitting, with certain restrictions, contractor use of billing rates contained in certified final indirect cost rate proposal; (2) providing for Government release of 75 to 90 percent of all fee withholds under physically completed contracts, after receipt of the contractor's certified final indirect cost rate proposals; and (3) establishing a timeframe for contractor submission of final invoices or vouchers.

Item VIII—Modification of Existing Contracts (FAR Case 96–606)

This interim rule is issued pursuant to the Clinger-Cohen Act of 1996 (Pub. L. 104–106) to amend the Federal Acquisition Regulation. It implements Section 4402(d) and (e) which authorizes regulations to provide for modification of existing contracts without requiring consideration, upon request of the contractor, to incorporate changes authorized by the Act.

Dated: September 19, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 96–32813 Filed 12–30–96; 8:45 am]

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Tuesday
December 31, 1996

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 91, et al.
Special Flight Rules, Noise Limitations and Proposed Air Tour Routes in the Vicinity of Grand Canyon National Park; Final Rule, Proposed Rule and Notice

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 93, 121, and 135

[Docket No. 28537; Amendment Nos. 91–253, 93–73, 121–262, 135–66]

RIN 2120–AF93

Special Flight Rules in the Vicinity of Grand Canyon National Park

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule is one part of an overall strategy to further reduce the impact of aircraft noise on the park environment and to assist the National Park Service in achieving its statutory mandate, imposed by Public Law 100–91, to provide for the substantial restoration of natural quiet and experience in Grand Canyon National Park. This action is issued concurrently with: a Notice of Proposed Rulemaking regarding Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park; a Notice of Availability of Proposed Commercial Air Tour Routes for Grand Canyon National Park and Request for Comments; and the Environmental Assessment issued with this final rule. This action amends part 93 of the Federal Aviation Regulations by adding a new subpart to codify the provisions of Special Federal Aviation Regulation No. 50–2, Special Flight Rules in the Vicinity of Grand Canyon National Park; modifies the dimensions of the Grand Canyon National Park Special Flight Rules Area; establishes new and modifies existing flight-free zones; establishes new and modifies existing flight corridors; and establishes reporting requirements for commercial sightseeing companies operating in the Special Flight Rules Area. In addition, to provide further protection for park resources, this final rule prohibits commercial sightseeing operations in the Zuni and Dragon corridors during certain time periods, and limits the number of aircraft that can be used for commercial sightseeing operations in the Grand Canyon National Park Special Flight Rules Area.

EFFECTIVE DATE: May 1, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Neil Saunders, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone: (202) 267–8783. For the Environmental Assessment contact Mr. William J. Marx, Manager, Environmental Programs Division, ATA–300, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone: (202) 267–3075.

SUPPLEMENTARY INFORMATION:

History

Beginning in the summer of 1986, the FAA initiated regulatory action to address increasing air traffic over Grand Canyon National Park (GCNP). On March 26, 1987, the FAA issued Special Federal Aviation Regulation (SFAR) No. 50 (subsequently amended on June 15, 1987; 52 FR 22734) establishing flight regulations in the vicinity of the Grand Canyon. The purpose of the SFAR was to reduce the risk of midair collision, reduce the risk of terrain contact accidents below the rim level, and reduce the impact of aircraft noise on the park environment.

In 1987, Congress enacted Public Law (Pub. L.) 100–91, commonly known as the National Parks Overflights Act. Public Law 100–91 stated, in part, that noise associated with aircraft overflights at GCNP was causing "a significant adverse effect on the natural quiet and experience of the park and current aircraft operations at the Grand Canyon National Park have raised serious concerns regarding public safety, including concerns regarding the safety of park users."

Section 3 of Public Law 100–91 required the Department of the Interior (DOI) to submit to the FAA recommendations to protect resources in the Grand Canyon from adverse impacts associated with aircraft overflights. The law mandated that the recommendations: (1) Provide for substantial restoration of the natural quiet and experience of the park and protection of public health and safety from adverse effects associated with aircraft overflight; (2) with limited exceptions, prohibit the flight of aircraft below the rim of the canyon; and (3) designate flight-free zones except for purposes of administration and emergency operations.

In December 1987, the DOI transmitted its "Grand Canyon Aircraft Management Recommendation" to the FAA, which included both rulemaking and nonrulemaking actions. Public Law 100–91 required the FAA to prepare and issue a final plan for the management of air traffic above the Grand Canyon, implementing the recommendations of the DOI without change unless the FAA determined that executing the recommendations would adversely affect aviation safety. After the FAA determined that some of the DOI recommendations would adversely affect aviation safety, the recommendations were modified to resolve those concerns.

On May 27, 1988, the FAA issued SFAR No. 50–2 revising the procedures for operation of aircraft in the airspace above the Grand Canyon (53 FR 20264, June 2, 1988). SFAR No. 50–2 established a Special Flight Rules Area (SFRA) from the surface to 14,499 feet above mean sea level (MSL) in the area of the Grand Canyon. The SFAR prohibited flight below a certain altitude in each of five sectors of this area, with certain exceptions. The SFAR established four flight-free zones from the surface to 14,499 feet MSL covering large areas of the park. The SFAR provided for special routes for commercial sightseeing operators, which are required to conduct operations under part 135, as authorized by special operations specifications. Finally, the SFAR contained certain terrain avoidance and communications requirements for flights in the area.

A second major provision of section 3 of Public Law 100–91 required the DOI to submit a report to Congress "* * * discussing * * * whether [SFAR No. 50–2] has succeeded in substantially restoring the natural quiet in the park; and * * * such other matters, including possible revisions in the plan, as may be of interest. The report was to include comments by the FAA "regarding the effect of the plan's implementation on aircraft safety." Public Law 100–91 mandated a number of studies related to the effect of overflights on parks.

On September 12, 1994, the DOI submitted its final report and recommendations to Congress. This report, entitled, "Report on Effects of Aircraft Overflights on the National Park System" (Report to Congress), was published in July 1995. The Report to Congress recommended numerous revisions to SFAR No. 50–2 in order to substantially restore natural quiet in GCNP. Recommendation No. 10, which is of particular interest to this rulemaking, states: "Improve SFAR 50–2 to Effect and Maintain the Substantial Restoration of Natural Quiet at Grand Canyon National Park." This recommendation incorporated the following general concepts: Simplification of the commercial sightseeing route structure; expansion of flight-free zones; accommodation of the forecast growth in the air tour industry; phased-in use of quieter aircraft technology; temporal restrictions ("flight-free" time periods); use of the full range of methods and tools for

problem solving; and institution of changes in approaches to park management, including the establishment of an acoustic monitoring program by the National Park Service (NPS) in coordination with the FAA.

On June 15, 1995, the FAA published a final rule that extended the provisions of SFAR No. 50–2 to June 15, 1997 (60 FR 31608). This action allowed the FAA sufficient time to review the NPS recommendations and to initiate and complete appropriate rulemaking action.

Interagency Working Group

On December 22, 1993, Secretary of Transportation Federico Peña and Secretary of the Interior Bruce Babbitt formed an interagency working group (IWG) to explore ways to limit or reduce the impacts from overflights on national parks, including GCNP. Secretary Babbitt and Secretary Peña concurred that increased flight operations at GCNP and other national parks have significantly diminished the national park experience for some park visitors, and that measures can and should be taken to preserve a quality park experience for visitors, while providing access to the airspace over national parks. The FAA has been working closely with the NPS to identify and deal with the impacts of aviation on parks, and the two agencies will continue to identify and pursue the most effective solutions.

The FAA's role in the IWG has been to promote, develop, and foster aviation safety, and to provide for the safe and efficient use of airspace, while recognizing the need to preserve, protect, and enhance the environment by minimizing the adverse effects of aviation on the environment. The NPS' role in the IWG has been to protect public land resources in national parks, preserve environmental values of those areas, including wilderness areas, and provide for public enjoyment of those areas.

In March 1994, the two agencies jointly issued an advance notice of proposed rulemaking (ANPRM) seeking public comment on policy recommendations addressing the effects of aircraft overflights on national parks, including GCNP (59 FR 12740; March 17, 1994). The recommendations presented for comment included voluntary measures, altitude restrictions, flight-free periods, flight-free zones, allocation of noise equivalencies, and incentives to encourage use of quiet aircraft technology. In response to the ANPRM, the FAA received 644 comments that specifically addressed GCNP. These comments were summarized in the NPRM published on July 31, 1996 (61 FR 40120; Notice 96–11).

President's Memorandum

The President, on April 22, 1996, issued a Memorandum for the Heads of Executive Departments and Agencies to address the significant impacts on visitor experience in national parks. Specifically, the President directed the Secretary of Transportation to issue proposed regulations for GCNP that would place appropriate limits on sightseeing aircraft to reduce the noise immediately and make further substantial progress towards restoration of natural quiet, as defined by the Secretary of the Interior, while maintaining aviation safety in accordance with Public Law 100–91.

Notice of Proposed Rulemaking Draft Environmental Assessment

On July 31, 1996 the FAA published an NPRM (61 FR 40120; Notice 96–11), to reduce the impact of aircraft noise on GCNP and to assist the NPS in achieving its statutory mandate imposed by Public Law 100–91 to provide for the substantial restoration of natural quiet and experience in GCNP. Notice 96–11 proposed the following: Codification and amendment to the SFAR 50–2, Special Flight Rules in the Vicinity of GCNP; modification of the dimensions of the Grand Canyon National Park Special Flight Rules Area; establishment of new flight-free zones and flight corridors, as well as modification of existing flight-free zones and flight corridors; establishment of flight-free periods (curfews) and/or an interim moratorium on additional commercial sightseeing air tours or tour operators (caps); and establishment of reporting requirements for commercial sightseeing companies operating in the SFRA. In addition to these areas, the FAA sought comment on a number of questions and alternatives regarding curfews and caps, as well as on the issue of quiet aircraft technology. The comment period for the proposed rule, originally set for 60 days, was subsequently extended for 45 days (61 FR 54716; October 21, 1996) as directed by the Congress in the Federal Aviation Authorization Act of 1996.

On August 21, 1996, the notice of availability of the draft Environmental Assessment (EA) was published in the **Federal Register** (61 FR 43196). Comments on the draft EA were to be received on or before October 4, 1996. This date was subsequently extended, as directed by Congress in the Federal Aviation Authorization Act of 1996, to November 18, 1996.

Comments received in response to this Notice of Availability of the draft EA have been addressed in the final EA published concurrently with this final rule.

Public Meetings

On September 16–20, 1996, in Scottsdale, AZ, and Las Vegas, NV, the FAA held public meetings to obtain additional comment on the Notice 96–11 and on the draft environmental assessment. Comments and the transcripts of these meetings have been placed in the rulemaking docket.

The following information summarizes what occurred at the public meetings on the Grand Canyon NPRM and draft EA, held in Scottsdale, Arizona, September 16 and 17, 1996, and Las Vegas, Nevada, September 19 and 20, 1996.

Senator Reid of Nevada, by proxy in Las Vegas, noted his opposition to the proposed rule. He indicated that 44 percent of the Canyon was already covered by flight-free zones, and that only 14 percent of park airspace is available to the operators now. He also opined that (1) the requirements of Public Law 100–91 (i.e., substantial restoration of natural quiet) have been accomplished by the SFAR; and (2) the new rule would have major adverse impacts on safety and economics. He foresaw devastating financial impacts on the air tour industry and on local communities. Congresswoman Vucanovich of Nevada, also by proxy in Las Vegas, indicated that she was concerned about the effects of the proposed rule on the air tour industry, noting that there were no flight routes specified in Notice 96–11. She believed that flight-free periods/curfews would raise both economic and safety issues. She also believed that an Environmental Impact Statement (EIS), as opposed to an EA, was required under the National Environmental Policy Act (NEPA) based on the highly controversial nature of the NPRM.

The air tour operators talked about potential adverse economic impacts of the NPRM, potential negative impacts on safety—such as compressing more flights into the smaller areas as the result of curfews and additional flight-free zones—and the importance of quiet aircraft technology, and incentives to manufacture and use quieter aircraft, noting specifically that quieter aircraft are far more expensive to purchase and operate than are noisier aircraft. A number of operators emphasized their belief that "SFAR 50–2 works," both from safety and environmental standpoints. Many of these same operators questioned the NPS's

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definitions of natural quiet and substantial restoration thereof, and challenged the science involved, including noise modeling conducted by both FAA and NPS, in measuring the noise impacts of commercial air tour overflights and in assessing the degree to which natural quiet has been restored under SFAR 50–2. Several operators and representatives of aircraft manufacturers offered concrete suggestions as to the kinds of incentives that might prove useful.

As for other aviation interests, general aviation groups expressed concerns about their constituents' ability to transit the park safely and conveniently.

Representatives of environmental groups and individual environmentalists pointed out that the addition of two flight-free zones is misleading, in that aircraft noise can travel from 13–16 miles laterally, so the flight-free zones are not free of noise. A number of environmentalists indicated that the NPS's definition of substantial restoration of natural quiet is too liberal and allows too much aircraft noise. They also pointed out that, in contrast to the lack of control on air tour overflight volume, there are tight controls on all commercial activities on the ground in parks. Environmentalists spoke favorably about the promise of quieter aircraft technology and supported the development of incentives to manufacture and use quieter aircraft.

Representatives of Native American tribes living in and around the Grand Canyon expressed major disappointment with what they viewed as the failure by the FAA and NPS to consult with them adequately on the NPRM and the draft EA. They emphasized that the net effect of the revised rule would be to relocate noise impacts from the park to tribal lands, with concomitant adverse effects on their natural and cultural resources and on the health and safety of tribe members and visitors to tribal lands. They believed that the situation called for an EIS, not an EA.

While the FAA held separate meetings in both Scottsdale, AZ, and Las Vegas, NV, on the NPRM and the EA, a number of commenters at the NPRM meetings addressed the EA as well, and vice versa. The majority of comments from all "sides" of the issue were negative with regard to the EA itself, which many found inadequate for a variety of reasons, including the fact that the range of alternatives was limited to either no action or the proposed alternative, and an overall lack of specificity. Several commenters pointed to inconsistencies between FAA and NPS noise modeling methodologies, which led the agencies to two different conclusions as to the potential effectiveness of the revised rule. Air tour operators pointed out that the potential adverse impacts of the NPRM on their operations, including safety concerns, were not justified in view of FAA's findings that the proposed alternative would not provide any significant improvement in natural quiet, while environmentalists argued that the EA failed to include any alternative which would substantially restore natural quiet to the park. More than a few commenters felt that NEPA compliance in this case required an EIS, not an EA.

One of the few areas of common ground to emerge from these meetings was widespread support for further use of quieter aircraft technology and for the development and implementation of incentives to manufacture and use quieter aircraft.

Congressional Hearings

From October 10 to 11, 1996, Congressional hearings were held by the Aviation Subcommittee of the Senate Committee on Commerce, Science, and Transportation in Las Vegas, Nevada, and Tempe, Arizona. The hearings were held to gather testimony from various entities involved in or affected by the FAA's proposed Special Flight Rules in the Vicinity of Grand Canyon National Park. Senator McCain of Arizona chaired and made opening statements at both field hearings indicating that they were there to examine the impacts of the proposed rule and the draft environmental assessment. He expressed his disappointment in the lack of mention of quiet aircraft technology in Notice 96–11, indicating that he hoped FAA would provide appropriate incentives in the final rule.

The Nevada Congressional delegation (Senator Bryan and Congressman Ensign in person, Senator Reid and Congresswoman Vucanovich by proxy) indicated, at the Las Vegas hearing, their opposition to Notice 96–11 as written, noting safety concerns as well as ones related to economics, NEPA compliance, and the lack of quiet aircraft technology incentives.

The issues raised by Senator McCain and the Arizona delegation were also addressed by others testifying at the field hearings. There were points and counterpoints raised as to the effectiveness of SFAR 50–2 in substantially restoring natural quiet in the Grand Canyon, as mandated by Public Law 100–91; NPS's definition of substantial restoration (50 percent or more of the park quiet at least 75–100 percent of the day); methodology involved in measuring and modeling noise impacts; potential impacts of the new rule on safety in the SFRA; effects of the new rule on general aviation; potential adverse impacts of the rule on the economy of Las Vegas and Nevada; adequacy of the consultation process with Native American tribes; and controls on other users of the park vis-à-vis air tour overflights.

Many of the air tour operators, some of whom had also voiced concerns about the safety implications of Notice 96–11, predicted dire economic consequences for the industry if the NPRM, which included possible caps on operations, curfews, and two additional flight-free zones, went into effect. In response to the operators' economic concerns, Senator McCain reminded them that they had unanimously opposed his bill, which became Public Law 100–91, in 1987, claiming that it would put the entire industry out of business. Instead, he noted, the number of air tour overflights of Grand Canyon had increased from approximately 40,000 per annum in 1987 to the 95,000 reported by the Arizona Republic newspaper during the 12-month period which ended September 30, 1996.

Aside from a commitment to air safety, perhaps the only issue on which all of the interests represented at the field hearings could agree was the need for quiet aircraft technology incentives for both manufacturers and air tour operators. From Senator McCain and members of the Nevada Congressional delegation to the Native American Indian tribal leaders and from environmental groups to air tour operators and aircraft manufacturers, as well as aviation and tourism industry representatives, quieter aircraft technology incentives were viewed as integral to efforts to substantially restore natural quiet to the Grand Canyon while maintaining a viable air tour industry. Among specific suggestions made were providing more attractive routes to quieter aircraft, setting aside a portion of air tour overflight fees to provide loans to air tour operators to invest in further quiet aircraft technology, and lowering fees for those operators using quieter aircraft.

The FAA has considered the statements made at the hearings in developing this final rule and the Notice of Proposed Rulemaking regarding Noise Limitations for Aircraft Operations in the Vicinity of the Grand Canyon National Park found in this part of today's **Federal Register**.

Consultation with Affected Native American Tribes

The Navajo, Hualapai, and Havasupai Native American reservations border GCNP, and several other tribes have cultural ties to the Grand Canyon. The DOT and DOI have satisfied their obligation to consult with these tribes, on a government-to-government basis concerning the possible effects of this rule, as required under applicable statutes, regulations, and Executive Orders. Although they did not elect to do so, the tribes were invited to participate as cooperating agencies in the environmental review process. Their major concerns were recognition of their sovereignty over the airspace, air access, potential noise increases over tribal lands and religious/historic/cultural sites, and the lack of early coordination during the development of the proposed rule. Both DOT and DOI have addressed tribal concerns, including the effects of the rule on economic opportunities of the tribes, in preparing this final rule. The consultation process, and the mitigation commitments made to address tribal concerns, are described in detail in the final EA, a copy of which has been included in the docket for the final rule.

The consultation process, which began with the development of Notice 96–11, for reduction of aircraft noise, will continue. This will include a dialogue in which potentially affected tribes will have the opportunity to identify, on a confidential basis, any religious, cultural, or historic area that may be potentially affected by significant noise increases. The FAA has committed to mitigate any such impacts during the development of air tour routes for GCNP.

Public Input

As previously mentioned, on July 31, 1996, the FAA published Notice 96–11 in the **Federal Register** proposing several actions to reduce the impact of aircraft noise on GCNP and assist the NPS in its efforts to substantially restore natural quiet and experience in the park. Interested persons were invited to participate in this rulemaking action by submitting written data, views, or arguments. In response to this notice, the FAA received approximately 14,000 comments. Almost 95 percent of these comments were form letters, or virtual form letters, stating a position either favoring restrictions on air tour overflights or opposing them, with no substantive discussion. While all comments received were considered before issuing this final rule, the specific comments addressed in this preamble are those that contained substantive information.

The following is an analysis of the pertinent general comments received in response to Notice 96–11. Later in the document the FAA has included a section-by-section analysis of the rule, including a discussion of the relevant comments related to each of these sections, and rationale of the final rule.

Discussion of Pertinent General Comments

Comments were received from industry associations (e.g., Grand Canyon Air Tour Council, United States Air Tour Association, Aircraft Owners and Pilots Association, Helicopter Association International); environmental groups (e.g., Sierra Club, National Parks and Conservation Association); air tour operators; aircraft manufacturers; government officials; and Native American tribes (e.g., Havasupai Tribe, Hualapai Tribe).

Approximately one-third of the comments support overflight restrictions to reduce aircraft noise over GCNP. Many of these commenters say that, even with the current SFAR, the noise problem has worsened as the air tour industry has grown. These commenters want to see the proposal strengthened to preserve the natural quiet of the park and recommend permanent caps on the number of air tour flights (based on the number of flights in 1987 when Public Law 100–91 was passed); expansion of the flight-free zones; stricter curfews; and incentives for the use of quiet aircraft (combined with caps and curfews).

Approximately two-thirds of the comments oppose further overflight restrictions. These commenters argue that SFAR 50–2 has been successful in reducing noise (as shown by visitor surveys); air tour operations allow everyone access to the park and have less environmental impact on the park than do ground visitors; the proposed flight corridors and flight-free zones could create safety problems by causing denser traffic patterns; and the air tour industry would face severe economic consequences.

Statutory Authorities

A few commenters state that Notice 96–11 is basically allowing the NPS to regulate the airspace over the national parks, thereby diluting the authority of the FAA. Others state that the FAA has no authority to regulate noise over the national parks, that the FA Act (now codified in 49 U.S.C.) authorizes the FAA to regulate safety, and to regulate noise only as it concerns aircraft certification.

Several commenters focus on the authority provided in Public Law 100–91. Some of these commenters do not believe that Public Law 100–91 gives the FAA the authority to do more than it has already done in issuing SFAR 50–2. One commenter states that since Public Law 100–91 requires NPS to submit its report on the effectiveness of the airspace management plan to Congress, only Congress was intended to review the NPS recommendations and provide specific guidance on what further agency action, if any, would be appropriate.

A presenter at the Congressional hearing, as well as an individual from the Navajo Area Office of the BIA commenting to the docket, adds that Public Law 102–581 (The Airport and Airway Safety, Capacity, Noise Improvement Transportation Act of 1992) (also related to aircraft noise at the Grand Canyon), called for a report to Congress outlining the FAA's plan to manage increased air traffic over GCNP. As in Public Law 100–91, this report would be used only by Congress for any further action. Another commenter states that the FAA and NPS have done only half of the task mandated under Public Law 100–91 since they have not yet proposed the air tour routes that will be followed. An air tour operator comments that the proposal does not comply with Public Law 100–91 because the statute requires an overflight system that will substantially protect the ground visitor from aircraft noise, while the proposal is based on a standard called percent time audible.

One commenter believes that the FAA has violated the Administrative Procedure Act by not providing a reasonable opportunity for public comment on the meanings of the terms "natural quiet" and "substantial restoration of natural quiet."

Two commenters state that the proposal violates the Americans with Disabilities Act and provisions of the FA Act that guarantee air access to elderly and disabled persons. Counter to these commenters, another commenter states that most handicapped visitors see the park from the rim overlooks and paved rim trails and that such visitors should not be an excuse for the park's inability to achieve its Congressional mandated goal of substantial restoration of natural quiet.

FAA Response: The FAA has broad authority and responsibility to regulate the operation of aircraft and the use of the navigable airspace and to establish safety standards for and regulate the certification of airmen, aircraft, and air carriers. 49 U.S.C. 40101, *et seq.* Subtitle VII of Title 49 U.S.C. provides guidance

to the Administrator in carrying out this responsibility. Moreover, the FAA's authority is not limited to regulation for aviation safety and efficiency.

The FAA has authority to manage the navigable airspace to protect persons and property on the ground. The Administrator is authorized to "prescribe air traffic regulations on the flight of aircraft (including regulations on safe altitudes) for— * * * (B) protecting individuals and property on the ground." 49 U.S.C. 40103(b)(2). In addition, under 49 U.S.C. 44715(a) the Administrator of the FAA, in consultation with the Environmental Protection Agency, is directed to issue such regulations as the FAA may find necessary to control and abate aircraft noise and sonic boom to "relieve and protect the public health and welfare."

The FAA construes these provisions, taken together, to authorize the adoption of this regulation. It is the general policy of the Federal Government that the FAA, like other agencies, will exercise its authority in a manner that will enhance the environment. Section 101 of the National Environmental Policy Act of 1969, as amended 42 U.S.C. 4321 and Executive Order 11514, as amended by Executive Order 11991.

The unambiguous intent of Public Law 100–91 with respect to the Grand Canyon was for the FAA to work cooperatively with the NPS to devise a plan that would safely provide for a substantial restoration of natural quiet while maintaining a viable air tour industry. For this reason Sections 3(b)(3) (A) and (B) provided for an evaluation of the initial plan and any necessary revisions based upon that evaluation. Because the report recommended regulatory action rather than legislative action, the FAA was not constrained to wait for Congressional response. For GCNP, the law specifically addressed the substantial restoration of natural quiet, not the protection of ground visitors.

Public Law 102–581 required the FAA to submit to Congress a report on increased air traffic over GCNP. This report, like the report required to be submitted by Public Law 100–91, did not limit the ability of the FAA to use its general regulatory authority to take appropriate actions in implementing provisions of either report. Indeed, Public Law 102–581 specifically requires a plan of action to "manage increased air traffic over Grand Canyon National Park to ensure aviation safety and to meet the requirements established by such Section 3 of the Act of August 18, 1987, including any measures to encourage or require the use of quiet aircraft technology by commercial air tour operators." Public Law 102–581, Section 134(b)(4).

Both the FAA and NPS recognize that additional work will be necessary in delineation of air tour routes to be followed as well as other actions. In consultation with the NPS, FAA has proposed air tour routes in a separate notice issued concurrently with this final rule. Additionally, in a separate Notice of Proposed Rule Making issued today, further actions to facilitate the substantial restoration of natural quiet to the Grand Canyon have been proposed. Both this final rule and the NPRM acknowledge the need for the development of a Noise Management Plan to further mitigate impacts from commercial overflights. These actions are also taken in full recognition that the restoration of natural quiet to the Canyon will require these additional steps to meet the definitions established for natural quiet. The rationale for the establishment of the percent time audible is included in the NPS report to Congress. While this methodology may differ from some measurements, it assures protection of the ground visitor from aircraft noise. Furthermore, the threshold of audibility used in the NPS model is louder than the level which would be detected by an attentive listener, guaranteeing that virtually all visitors would notice the noise while engaged in normal visitor activities.

The terms "natural quiet" and "substantial restoration of natural quiet" are taken from language in Public Law 100–91. These terms were defined in the Report to Congress issued by the NPS under the direction of that Act. That report has been available to the public and its role in the development of this regulatory proposal has been clearly defined in previous notices, including the ANPRM on this rule. The concepts of "natural quiet" and "substantial restoration of natural quiet" have been the subject of academic research, agency disclosure and adversarial dialogue for a number of years and are used as recognized technical benchmarks in the analysis of the effects of this rule. As such, the terms do not need additional comment under the Administrative Procedure Act.

In addition, the Grand Canyon Enlargement Act specifically provides that the Department of Interior shall submit to the FAA and EPA pursuant to 49 U.S.C. 44715 any recommendations for rules or regulations or other actions he believes appropriate to protect the public health, welfare, and safety or natural environment within the park. After reviewing the submission of the Secretary, the FAA is to take appropriate action.

This action does not violate provisions of the Americans with Disabilities Act or any other guarantees of air access to elderly or disabled persons. The disabled and the elderly will still have a variety of opportunities to view the Grand Canyon by air. In addition, opportunities for ground visits to GCNP will also be as available as they are at present. Provisions for ground access include issuance of special permits to the elderly and handicapped for access to areas closed to automobiles at certain times of the year. Visitor facilities within the park, including overnight accommodations, restaurants and developments are accessible to the handicapped and the elderly.

Impact on Tribal Lands

An individual from a local office of the Bureau of Indian Affairs (BIA) and representatives of Native American tribes affected by this rulemaking state that the FAA and NPS have violated certain treaties, statutes, and Executive Orders by not consulting with the affected tribes during the development of Notice 96–11 and by not analyzing the impact the proposed rule would have on these tribes and their lands.

FAA Response: The FAA disagrees that treaties, statutes, and executive orders have been violated by not consulting with affected Native American tribes. Public involvement is an important part of the rulemaking process. Public hearing activities have included public meetings with interested parties and consultation with Native Americans. The FAA has not yet received concurrence from the Arizona Historic Preservation Officer and the Tribal Historic Preservation Office for the Hualapai Tribe in a determination of no adverse effect pursuant to Section 106. The FAA will continue to consult and work with Native American Nations and Tribes during development of the air tour routes to address any requested measures to minimize noise increases over specifically identified traditional cultural sites as part of the Section 106 process. This includes areas potentially affected by traffic and air tour routes outside the Flight Free Zones.

An initial determination of no adverse effect by the FAA was based upon an analysis of cultural resources in the vicinity of the GCNP as identified by the NPS and knowledge shared by Native American tribes with comtemporary and ancestral involvement with the Grand Canyon. Native Americans tribes may have been reluctant to identify the locations of other specific sites of concern due to a desire to limit public access and preserve their sacred character and integrity. The FAA

commits to preserve the confidentiality of the locations of any specifically identified traditional cultural sites that the Native Americans elect to disclose to the FAA during consultation to establish the air tour routes. The FAA further commits to complete Section 106 consultation before it finalizes and permanently implements the air tour routes and to adopt all measures necessary to support a determination of no adverse effect. The FAA will also adopt all measures necessary to assure that the routes developed to implement the proposed final rule do not substantially interfere with the use of sacred religious sites of the Native American tribes in the vicinity of the GCNP.

As discussed in detail in Chapter 4.2 of the Environmental Assessment (EA), the FAA will continue to consult and work with Native American Tribes pursuant to Section 106, during development of the air tour routes to address any requested measures to minimize noise increases over traditional cultural properties as part of the Section 106 process. This includes areas potentially affected by traffic and air tour routes outside the Flight Free Zones, like the 10–12 miles radius around the confluence of the Little Colorado and Colorado Rivers that was identified by the Hopi Tribe.

The FAA will protect any confidentiality requested to limit public access and preserve the character and integrity of sacred sites. The FAA will complete Section 106 consultation before it finalizes and permanently implements the air tour routes and will adopt all measures necessary to support a determination of no adverse effect. The FAA will also adopt all measures necessary to assure that the routes developed to implement the proposed final rule do not substantially interfere with the religious practices of the Native American tribes.

On June 28, 1995, the FAA and NPS jointly published a notice announcing a public meeting to provide the interested parties with an opportunity to comment on improving SFAR 50–2 (60 FR 33452). The meeting, held on August 30, 1995, yielded 62 speakers representing air tour operators, environmentalists, government, tourist boards, corporations, Native American tribes, and other individuals. An additional 349 public comments were subsequently received during the comment period that ended on September 8, 1995.

The FAA sponsored public meetings, in Scottsdale, Arizona, on September 16 and Las Vegas, Nevada, on September 19, 1996, to receive comments on the NPRM. These meetings were announced in the **Federal Register** on August 30 (61 FR 45921) and in newspapers in Phoenix, Flagstaff, and Kingman, Arizona, and Las Vegas, Nevada, on several dates in early September.

On August 27 and 28, 1996, the FAA hosted a meeting in Flagstaff, Arizona, at which tribal representatives were given the opportunity to express their views on the rule. FAA invited two representatives each from the Hualapai, Havasupai, Hopi, San Juan Southern Paiute, Paiute of Utah, and Kaibab Piaute Tribes, the Pueblo of Zuni, and the Navajo Nation. During the meetings, the Native American representatives were given a detailed briefing by the FAA on changes proposed in the NPRM. Following the briefing, there was a question-and-answer session where FAA and NPS representatives fielded questions on the revised rule. Minutes of the meeting were provided to each tribe that was invited.

Subsequently, from October 14 to 21, 1996, representatives of the FAA met on-site in Arizona, New Mexico, and Utah with representatives of each tribe to further assess the concerns of the Native Americans. Each tribe was offered a briefing on the proposed rule and given the opportunity to ask questions of the FAA representatives.

Other opportunities have been provided for the tribes to make their views known to the DOT. The Hualapai Tribe submitted comments to the Advance Notice for Proposed Rulemaking (ANPRM) jointly issued by the DOT and DOI. One member of the Hualapai Tribe spoke at the Flagstaff public meeting, and the Hualapai Tribe submitted written comments in response to the public meeting. The Hualapai Tribe commented on the need for a socio-economic analysis of the proposed flight restrictions on the Hualapai Nation. The Chairman of the Hualapai Tribe spoke at the Las Vegas public meeting. Written comments have been received into the docket from the Hualapai, Hopi, and Havasupai Tribes.

Additionally, informal discussions covering aircraft overflight matters, among other issues, have taken place between NPS personnel and tribal leaders locally. The DOT and the DOI have received correspondence identifying interests of the Hualapai Tribe, and the DOT and the FAA met with Hualapai leaders on several occasions and heard first hand many of their specific concerns.

Special Federal Aviation Regulation No. 50–2

Several commenters believe that SFAR 50–2 is working and further regulation is not necessary. According to these commenters complaints about noise have been practically eliminated and no accidents have occurred since the SFAR's implementation. Environmentalist groups, however, state that while SFAR 50–2 has improved natural quiet in the front country, erosion of natural quiet is occurring in the backcountry. According to these commenters, Notice 96–11 does not bring GCNP into compliance with Public Law 100–91.

FAA Response: Notwithstanding the value of SFAR 50–2, this regulatory action responds to a clear legislative mandate to substantially restore natural quiet, expressed in Public Law 100–91. As discussed in Notice 96–11, the NPS Report to Congress was based on a number of studies evaluating whether SFAR 50–2 resulted in a substantial restoration of natural quiet. NPS found that, while flight-free zones have helped to limit the areas where aircraft are audible, aircraft of all types are still audible for some percentage of the time at virtually all areas where sound data were collected. NPS also found a correlation between the percentage of time that aircraft are audible and how visitors feel about aircraft sound. Even when aircraft are audible for relatively low percentages of the time, some visitors notice the aircraft and believe that the sound has interfered with their appreciation of natural quiet. Finally, in its Report to Congress, the NPS indicated that if no changes are made to SFAR 50–2, progress to date in the restoration of natural quiet will be lost due to an increase in air tour operations. An NPS analysis using 1989 FAA survey data of commercial sightseeing route activity indicated that 43 percent of GCNP met the NPS criterion for substantially restoring natural quiet. However, a subsequent NPS analysis using 1995 FAA survey data indicated that 31 percent of GCNP met the NPS criterion for substantially restoring natural quiet. These findings led the NPS to conclude that the noise mitigation benefits of SFAR 50–2 are being significantly eroded.

These findings indicate that the current SFAR was not sufficiently adequate in substantially restoring the natural quiet to GCNP. The FAA believes that further regulatory action is therefore necessary to best ensure the substantial restoration of the natural quiet as called for by Public Law 100–91. Additionally, substantial restoration of natural quiet will be further advanced by the NPRM and Notice of Availability of Proposed Commercial Air Tour Routes for Grand Canyon National Park

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and the Comprehensive Noise Management Plan.

Restoration of Natural Quiet

While some commenters are concerned that the proposed action goes too far in regulating the air tour industry in order to satisfy a small group of park users, others believe that it does not go far enough. Some commenters state that the proposal, at best, would only modestly improve natural quiet. Other comments are concerned that "overregulation" in this instance would set a precedent for national parks all over the country.

Another commenter states that the proposal would not achieve the goal of Public Law 100–91 because it would not meet the NPS definition of "natural quiet." According to some commenters the NPS definition of "substantial restoration of natural quiet" is not supported by Public Law 100–91 or the Congressional record. According to these commenters NPS has separated the concept of "natural quiet" from complaints from park visitors by making "natural quiet" a park resource that must be protected whether noise is disturbing park visitors or not. These commenters object to the NPS definition and to using it as a justification for rulemaking. One commenter states that the FAA is on record as having concerns about the NPS definition and recommends withdrawal of Notice 96–11 until the FAA develops a proposed definition and invites comment.

One commenter finds the NPS definition too liberal since it allows half the park to be noisy 25 percent of the day and the other half 100 percent of the day. A presenter at the Congressional hearing says that the intent of Public Law 100–91 was to restore the natural quiet within the flight-free zones only and not the entire park.

The Grand Canyon Air Tour Council (GCATC), which represents a number of air tour operators, states that, because the proposed restrictions do not apply to NPS-operated and other non-tour aircraft (e.g., military, Native American reservations), these aircraft could consume the entire 25 percent audible aircraft cap as defined in "substantial restoration of natural quiet." Thus, air tour operators would be even further restricted.

FAA Response: The NPS defined "natural quiet" and identified it as a natural resource in its 1986 "Aircraft Management Plan Environmental Assessment for Grand Canyon National Park" which underwent extensive public review in 1986 (i.e., "the absence of man-made sounds * * * considered a natural resource"). The term was subsequently discussed in numerous public documents, which have also undergone public review, including NPS Management Policies (1988), and the Advance Notice of Proposed Rulemaking (ANPRM) concerning Overflights of Units of the National Park System published in the **Federal Register** on March 17, 1994.

The authority of the NPS to define the "substantial restoration of natural quiet" is recognized in Public Law 100–91, Public Law 102–581, and in the general authorities of the NPS. The NPS's Management Policies (1988, page 1:3) states that the terms "park resources and values" refer to the "full spectrum of tangible and intangible attributes", including "intangible qualities" such as natural quiet, for which parks have been established and are being managed. National park areas are set aside to preserve their resources as well as their special qualities and experiences unimpaired for the enjoyment of present and future generations. The NPS has the authority and responsibility to manage these areas, including their resources, values and visitors.

The NPS definition of "substantial restoration of natural quiet" involves time, area, and acoustic components. Because many park visitors typically spend limited time in particular sound environments during specific park visits, the amount of aircraft noise present during those specific time periods can have great implications for the visitor's opportunity to experience natural quiet in those particular times and spaces. Those visitors with longer exposures, such as backcountry and river users, have more opportunity to experience a greater variety of natural ambient and aircraft sound conditions, but typically they move through a number of sound environments. Based on its studies, the NPS concluded that the visitors' opportunity to experience natural quiet during their visits and the extent of noise impact depends on a number of factors. These factors include the number of flights, the sound levels of those aircraft, as well as other sound sources at the natural sound environment, and the duration (or amount of time) during that visit that aircraft were audible in specific locations. Integrated measures of noise (such as DNL and L_{eq}) are commonly used to quantify time varying noises such as are described above. Most of the FAA's experience has been in assessing noise impacts in airport and residential environments where people are exposed to a variety of sound conditions in the same basic sound environment over a very long period of time. However, because park environments and the set of conditions typically experienced by park visitors is completely different, the NPS concluded that these integrated measures were, by themselves, inadequate to represent the effect of overflights on park environments and a person's visit. However, the FAA and the NPS agree that L_{eq} integrated over a short time period correlates with park visits and can be useful in assessing park noise impacts.

This action only considers the air tour contribution to the GCNP noise. In other words, noise contributed from other sources is treated separately for purposes of noise modeling analysis.

The NPS will continue to strictly control its rescue, law enforcement, maintenance and critical resource management overflights to minimize their number and effect on park resources and visitors. These flights are made for lifesaving and essential management purposes and will not be a factor in any restrictions on air tour operations.

Discrimination Against Air Tourists vs. Other Users

A number of commenters state that SFAR 50–2 and Notice 96–11 discriminate against air tour visitors to the park, who have little environmental impact on the park, while ignoring the noise, litter, and pollution problems associated with ground users. A few commenters believe that NPS is purposely trying to eliminate air tours from the park. Other commenters point out that air tour visitors are not being discriminated against since all commercial enterprises that use the Grand Canyon are restricted.

FAA Response: The FAA does not agree. The actions by the FAA in addressing mitigation measures associated with noise from commercial air tour operations is additive to actions being taken by the NPS to preserve and protect for future generations the resources of GCNP. Recent actions include the development of a General Management Plan which will greatly restrict automobile use in congested rim areas, provide high occupancy public transit, and establish pedestrian and bicycle trails. Other actions have included restrictions on the operation of diesel buses, on diesel and steam locomotives serving the park, and on outboard engines on river rafts. In addition, the NPS has a long standing administrative practice in the control and mitigation of impacts to resources resulting from visitation through the use of reservation systems for campgrounds and other sites both on the rim and in the inner canyon, as well as providing for times when use types are restricted,

such as the "oar only" season for rafting on the Colorado River. As such, use allocation is a common practice within NPS areas in order to meet the demands of the general provisions of acts relating to the administration of National Park Service Areas (16 U.S.C. 1 *et seq.*) as well as specific park legislation such as Public Law 100–91.

Further, it was not the intent of Public Law 100–91 to ban aircraft from overflying the Grand Canyon. In this regard, the FAA believes that viewing of the canyon from the air is a legitimate and valuable means of appreciating the beauty of the Grand Canyon. This policy is supported by the legislative history of Public Law 100–91 and the objectives states by DOI in its December 1987 recommendations to the FAA. The agency further believes that the resources of the canyon can be protected without an exclusion of aircraft, which would have a major adverse impact on air travel through this area of the southwest. It is the intent of the rule adopted to permit the continuation of aerial viewing of the canyon, and air travel through the area, in a manner consistent with the stated purposes of section 3 of Public Law 100–91 to substantially restore the natural quiet of the Grand Canyon within the boundaries of the national park.

The NPS has had a consistent position for years regarding air tours at the Grand Canyon. As stated on page 184 of the 1994 NPS Report to Congress, one of the six management objectives for the park is: "Provide a quality aerial viewing experience while protecting park resources (including natural quiet) and minimizing conflicts with other park visitors."

Number of Operators and Operator Fees

An environmentalist group states that one third of the Grand Canyon air tour operators dodge fees and that air tour numbers may be twice those reported. Another commenter stated that tribes in the GCNP vicinity should be able to regulate and collect fees for the airspace on their lands as the NPS does.

FAA Response: Fee collection is beyond the scope of Notice 96–11. Through the 1993 Omnibus Budget Reconciliation Act, Congressional action required the NPS to collect a commercial tour use fee of $25 for aircraft with 25 seats or less and $50 for aircraft with more than 25 seats. Collection and enforcement of this fee is the responsibility of the NPS and the NPS can use all information available to assure that fees are collected in accordance with the law. Nevertheless, payment of fees has no direct relationship to this rule. Regarding the collection of fees by Native Americans, Congressional action would be required to authorize the collection of an overflight fee.

Noise Level Surveys, Monitoring, Studies, and Modeling

Some commenters state that the NPS overstated the impact of air tour overflights on park visitors in its 1992 visitor survey. For example, the commenter noted that backcountry users do not venture out of the Bright Angel Flight-free Zone, and some complaints were collected at a time when an aerial search was being made for an escaped convict and NPS service flights were on-going. Furthermore, the commenters complained that the NPS made no attempt to distinguish what type of flights were causing the annoyance.

Other commenters state that the NPS-solicited surveys show an unusually high number of complaints because more complaints are received from solicited surveys than from unsolicited reports.

Another commenter says that some of the survey questions were biased because they used the word "noise" instead of "sound" (e.g., visitor perceptions of aircraft noise versus aircraft sound).

Industry commenters also express doubts about the noise monitoring studies contracted by the NPS. Several commenters state that monitoring sites were directly under, or in close proximity to, the tour routes flown by air tour operators as directed by SFAR 50–2.

Several commenters state that although Public Law 100–91 directed the NPS to distinguish between the impacts caused by sightseeing aircraft and other types of aircraft, the noise monitoring results do not distinguish the amount of noise attributable to different types of aircraft.

Industry commenters also object to the NPS model for noise. One commenter states that the noise model used for establishing predicted aircraft noise impacts eliminated the coefficient of lateral over-the-ground attenuation. BIA states that the NPS established no baseline other than ambient sound levels, which does not differentiate among the impacts on visitors from different types of flights. Another commenter states that the noise analysis is flawed because it was based on NPS estimates of fleet sizes, aircraft use levels, and certificated noise levels for aircraft in that fleet, which do not necessarily indicate the actual noise an aircraft will produce in flight.

FAA Response: The NPS noise level surveys, dose-response studies, and acoustic modeling were conducted by internationally-respected acoustical research firms known for the quality of their work. These firms advised the agency on the design, analysis, and conduct of these surveys and studies. The NPS consulted extensively with these firms to ensure that the conclusions in the NPS report to Congress were drawn directly from study results. The studies were based on standard research methodologies, including statistically valid random samples, and have been reviewed by scientists not affiliated with the NPS or the FAA. They represent the only large-scale, scientifically sound studies of park noise environments and park visitor reactions to aircraft noise in outdoor recreation settings.

Acoustic modeling is the accepted approach for addressing noise concerns over large areas such as Grand Canyon. Noise level measurements only reflect individual site conditions but can be productively used to improve the accuracy of the modeling. Both the FAA and NPS used a standard aircraft noise database and made adjustments based on actual field measurements. The measured ambient background sound levels (the baseline for natural quiet taken from Grand Canyon noise level measurements) were factored into FAA and NPS modeling efforts, and both models were able to factor in terrain effects, albeit to different extents. Finally, data from an FAA survey of air tour operators was used by both agencies to provide the aircraft types, numbers, and routes used in the acoustic modeling. Although the FAA and NPS noise models are quite different, the FAA found sufficient convergence in modeling results to suggest that valid conclusions can be drawn from both models.

NPS acoustic measurements found that the sound of aircraft was measurable for some part of the time at virtually all areas where sound data was collected, including a wide variety of locations and environments well within the flight-free zones as well as near the flight routes. This is consistent with NPS modeling which suggested that aircraft sound can carry 13–16 miles in the eastern end of the Canyon and even further on the western end—enough to fully penetrate to the center of every flight-free zone created by SFAR 50–2.

Results from the 1992 survey show that almost 75 percent of fall backcountry and river oar visitors who heard aircraft responded that they were moderately to extremely annoyed (NPS Report to Congress, Page 139). The NPS

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did not anticipate this level of annoyance from groups supposedly protected by the SFAR and was an important indication to the NPS that additional action was needed to protect quiet in the park. For all categories of visitors, the stronger category "interference," was selected more frequently than the weaker category, "annoyance." Of the visitors who heard aircraft, over 90 percent of fall backcountry visitors and 100 percent of river oar visitors responded that aircraft noise interfered with their appreciation of natural quiet (NPS Report to Congress, Page 192). Both the dose-response study and the survey found visitor results varied by activity and site.

Aircraft noise is the subject of the second largest number of complaints in the park. Complaints are an indicator that a problem may exist, but scientifically valid surveys have been consistently shown to be necessary to accurately measure visitor reactions.

The NPS found that noise from the air tour routes in place under SFAR 50–2 is clearly audible (and was measured) from many locations within Flight-free zones, accounting for the results cited by some commenters. The search for the escaped convict referred to did not affect the study which was suspended during that period.

NPS-contracted acoustic monitoring was conducted with a technician recording the type of aircraft observed and measured. The tour flights all occurred on standard routes and altitudes and were easy to separate from any other aircraft, such as NPS flights and high altitude commercial jets. In fact, pages 187–188 of the NPS report to Congress provide a breakdown of the amount of time aircraft were audible by aircraft type during the study, and also show the variety of sites both within flight-free zones and under or near flight corridors.

In the NPS deliberations that led to development of the survey questions the question of inducing bias by the use of terms, or by the wording or sequence of questions, was very carefully considered and tested before the study. The term "noise" was used in the survey questionnaires very carefully to allow correlations with the large body of aircraft noise research conducted primarily in airport environs. The term "sound" was used where possible, and the analysis of the responses suggested that the terms did not affect the results.

The data and the modeling on which the proposed rule is based are scientifically valid and the best available. The monitoring program resulting from this rule will also provide additional data which will help to further validate and refine the modeling.

In formulating the Comprehensive Noise Management Plan for GCNP, the FAA and the NPS expect to conduct further research regarding visitors' reactions to noise and natural quiet issues to validate the current studies and the two agencies' respective modeling systems.

Section-by-Section Discussion of Final Rule

The following is a brief summary of the major proposals, and the comments, received. The FAA's response to those comments and the final rule action follow.

Section 93.301 Applicability

Proposed § 93.301 described the lateral and vertical dimensions of the SFRA. Notice 96–11 solicited comments on modifying the dimensions of the SFRA by extending the SFRA north-northeast of the confluence of the Little Colorado and Colorado Rivers; extending the SFRA southward below the Bright Angel and Desert View Flight-free Zones; extending the SFRA at the western edge to cover that portion of the Grand Wash Cliffs in the park that was inadvertently omitted from the 1987 NPS Grand Canyon Aircraft Management Recommendation and the original rule; and increasing the altitude of the SFRA ceiling from 14,499 to 17,999 feet MSL.

Comments

Heli USA states that the revised SFRA could affect access to the Grand Canyon West airport.

An individual from the Navajo Area Office of the BIA says that the extension of the SFRA to the north-northeast of the Little Colorado and Colorado Rivers would introduce air traffic into an area outside the current SFRA, over the Marble Canyon and Navajo land, which did not have traffic before.

The Experimental Aircraft Association (EAA), the General Aviation Manufacturers Association (GAMA), and the Aircraft Owners and Pilots Association (AOPA) object to the proposed extension of the SFRA ceiling. EAA states that the FAA has not presented any information showing that any commercial sightseeing aircraft are using or plan to use these altitudes. GAMA says that requiring turbo-charged piston-engine and turboprop turbine-powered aircraft that have optimum operating altitudes between 14,500 and 17,000 feet to take alternate routes around the SFRA will add considerable costs to implementing the rule. AOPA says that the proposed requirement is discriminatory towards general aviation because it forces all general aviation flights over the Grand Canyon to take place at a higher altitude than flights by commercial air tour operators.

Another commenter says that Notice 96–11 is counter to FAA's General Aviation Policy Statement (adopted by the FAA Administrator in 1995), which calls for fostering general aviation and maintaining safety through voluntary compliance and other means to reduce the regulatory burden on general aviation.

Another commenter contends that Notice 96–11 will impact many other aircraft who operate across Northern Arizona between 14,500 MSL and the base of Class A airspace under VFR. The commenter adds that increasing the SFRA altitude would make it impossible to fly over the SFRA without obtaining an ATC clearance to operate in Class A airspace.

The Soaring Society of America, Inc." (SSA) opposes the proposed rule as it applies to quiet and unobtrusive civil aircraft such as sailplanes and gliders. Since airplane and helicopter sightseeing overflights are the perceived cause of the noise problem in the Grand Canyon, the SSA believes the regulations should be tailored specifically toward such aircraft and the FAA should permit sailplanes and gliders to continue to operate under the current SFAR 50–2. SSA refers to the Department of the Interior's Report on Effects of Aircraft overflights on the National Park System which suggests to that society that sailplane "noise" is approximately equal to daytime ambient noise, therefore nothing will be gained by burdening sailplanes and gliders with the proposed rule.

FAA Response and Final Rule Action: In 1989, the FAA revised the southern boundaries of the SFRA in the West Canyon area to establish a corridor to the Grand Canyon West Canyon Airport. This corridor was designed to permit access to the airport to assist the economic development of the Hualapai tribes. Nothing in this final rule modifies the corridor that was established in 1989. The FAA will reserve its response to comments regarding specific routes until after the comment period closes for the Notice of Proposed Routes.

Increasing the SFRA ceiling from 14,499 feet MSL upward to but not including 18,000 feet MSL is intended to prevent commercial sightseeing operators from circumventing the intent of this rule by overflying the fly free zones between 14,500 feet MSL and 17,999 feet MSL.

The upward expansion of the SFRA does not impose a barrier to general aviation aircraft. The effect of the expansion is to regulate commercial sightseeing flight operations pursuant to § 93.315 which permits only those operations authorized in operations specifications.

The Grand Canyon attracts an unusual level of air traffic. The FAA continues to be concerned that safety could be impacted by the concentration of air traffic, including powered and nonpowered aircraft over GCNP. Therefore, it opts not to relax SFRA operating requirements for sailplanes and gliders. The FAA adopts the SFRA as proposed.

Section 93.305 Flight-Free Zones and Flight Corridors

Proposed § 93.305 described the lateral and vertical dimensions of the proposed flight-free zones; proposed creating two new flight-free zones: The Sanup Flight-free Zone and the Marble Canyon Flight-free Zone; proposed merging the Toroweap/Thunder River and Shinumo Flight-free Zones and extending this zone to the park boundary; proposed expanding Desert View Flight-free Zone to the north and east to the GCNP boundary; and proposed extending the current Bright Angel Flight-free Zone to the north to the GCNP boundary.

Proposed § 93.305 also described the five flight corridors that allow access through the canyon area for general aviation and transient operations and routes for commercial sightseeing flights.

The FAA proposed to add two new flight corridors in the proposed Marble Canyon Flight-free Zone. In addition, the FAA proposed to close the Fossil Canyon Corridor, extend the Zuni Point Corridor into a Y-shape in the north, and shift the southern portion of Dragon Corridor to the west. The FAA also proposed that commercial sightseeing aircraft would be allowed to operate in only one direction in the Zuni Point Corridor.

General Comments on Flight-free Zones and Flight Corridors

Safety Comments: Several commenters express concerns about safety if the proposed rule is implemented. According to these commenters, the combination of restricted corridors, changes in route structure, and curfews would increase the density of aircraft in the available airspace, thereby increasing the potential for a mid-air collision.

The NTSB commented that the compression of air traffic into smaller airspace would limit safe maneuverability in marginal weather conditions, funnel air traffic into fewer routes, and in some areas, compress slower single-engine airplanes, helicopters, and higher performance airplanes into the same airspace. This would increase the likelihood of midair collisions in GCNP. The NTSB adds that the FAA should systematically analyze the possible effects of the proposed changes on air safety and ensure that these results are considered before adopting the proposal.

One commenter disagrees with the claim that the proposed rule would create an unsafe environment. The commenter points to the FAA's 1995 Report to Congress, "Report on the Study on Increased Air Traffic over Grand Canyon National Park," which states that it would be highly unlikely that operations would ever approach saturation level. The commenter also points out that the proposed rule allows pilots to make evasive flight maneuvers necessary to maintain safety.

General Aviation: One commenter objects to the proposed flight-free zones because they will effectively ban general aviation from flying over the park. The average general aviation aircraft is not equipped to operate at the minimum altitudes required by the proposal. According to the commenter, the proposed new flight-free areas will prohibit general aviation aircraft from flying directly from Las Vegas to either Albuquerque or Farmington. The commenter asks that general aviation aircraft be allowed to overfly the flight-free areas at altitudes above 10,499 MSL.

Native American Tribal Lands: In a statement given at the Congressional hearing, representatives of the Havasupai Tribe say that a foreseeable result of the proposed changes will push overflights south of GCNP resulting in adverse environmental effects. In a comment subsequently submitted to the docket, representatives of this Tribe say that while reducing the negative impacts of overflights by regulating the airspace within the park is worthwhile, the result will be to increase aircraft noise outside the park, including the Havasupai reservation. The commenter adds that there has been no analysis of the environmental effects of these regulations outside the park boundaries and that "the FAA's unjustified rush to action must be slowed."

Other General Comments: Two commenters remind the FAA that flight-free zones are not noise free zones since noise travels 13 to 16 miles; nor are they entirely flight free since high flying aircraft still overfly them. These commenters point out that while flight corridors are necessary, they are not a solution for the noise problem since they heavily affect several scenic areas in the park, such as Point Imperial, Nankoweap, Cape Final, Unkar, Hermit, Boucher, and Crystal Rapids trails.

FAA Response and Final Rule Action: The comments regarding safety express similar concerns: (1) Flight-free zones require changes to routes, (2) flight-free zones create smaller available airspace, (3) the effect of curfews on the density of air traffic, (4) increased possibility of midair collisions because of route changes and combining aircraft of differing flight characteristics. Each of these general areas of concern will be addressed separately.

Flight-free zones require changes to routes: The modified and new flight-free zones are necessary to comply with the mandate of Public Law 100–91 to achieve substantial restoration of the natural quiet in GCNP. One of the primary responsibilities of the Las Vegas Flight Standards District Office (FSDO), through a special unit, is to provide oversight of the commercial sightseeing operators in the Grand Canyon. The members of this unit are all highly experienced with this subject and have worked closely with the commercial sightseeing operators and the NPS. The Notice of Availability of Proposed Air Tour Routes of GCNP (Notice of Proposed Routes), which is published simultaneously with this final rule, explains how interested persons may obtain detailed information on the routes. The FAA will review the comments received from the public related to the notice of proposed routes and if appropriate, make modifications to the routes.

Flight free zones create smaller available airspace: The FAA agrees with the NTSB that the additional flight-free zones create a smaller airspace for air tour aircraft. The NTSB is concerned that the smaller airspace may limit "safe maneuverability in marginal weather conditions." As in SFAR 50–2, the FAA has specifically included language in § 93.305, Flight-free zones, that will allow air tour aircraft to fly within the flight-free zones "in an emergency or if otherwise necessary for safety of flight." The intent of this language is to allow flight into a flight-free zone for any safety reason including emergencies. This language will also enable pilots to deviate from course to avoid other aircraft and unsafe weather conditions. This provision will be liberally construed when applied in the interests of safety. This should resolve any concern about the ability of an aircraft to maneuver in a smaller available

airspace. Additionally, the FAA agrees with a commenter that the airspace has not approached any unsafe saturation level.

The effect of curfews on the density of air traffic: The FAA agrees that curfews on the west end of GCNP might create a situation whereby large numbers of aircraft could attempt to enter the air tour routes at the same time and along the same routes. Based on the FAA's safety analysis of the air tour flights originating from the Las Vegas area, the FAA has decided to exempt the routes beginning on the western end of the park from any curfew.

However, § 93.316(a) prescribes a fixed curfew. Specifically, no person shall conduct commercial sightseeing operations within the Dragon and Zuni Corridors during the following periods. (1) Summer season (May 1–September 30)—6 p.m. to 8 a.m. daily; and (2) Winter season (October 1–April 30)—5 p.m. to 9 a.m. daily. (See discussion later in the document.)

Increased possibility of midair collisions because of the changes and combining aircraft of differing flight characteristics: In light of these concerns the FAA will change the flow of traffic along the routes on the eastern side of the park (e.g., Dragon corridor) to a clockwise direction. This change will prevent conflict with aircraft merging from other existing and proposed routes. Also, the clockwise direction was designed for other safety reasons. (See discussion/response on Zuni Corridor.) More detail is contained in the Notice of Proposed Routes that is being published simultaneously with this final rule. Regarding combining aircraft of differing flight characteristics, the FAA will continue its practice of separating fixed-wing aircraft from rotary-wing aircraft through altitude restrictions. Experience, cooperation, and a proactive partnership developed between the commercial sightseeing operators and the FAA resulted in flight procedures that are included in the operator's FAA approved operations manual. The FAA believes that these established procedures will prevent potential conflicts.

Likewise, for safety, the rule continues to segregate commercial sightseeing operations from general aviation/transient operations in the SFRA. Commercial operators, under their operations specifications, are held to a higher operational proficiency standard that addresses the complexities of the route systems, terrain, flight corridors, weather norms, etc. It would be unrealistic to impose an equally high proficiency standard for the occasional general aviation pilot. Therefore, the FAA continues to believe that it is necessary to segregate these communities of operators.

General Comments on Commercial Air Tour Routes

Several commenters state that it is difficult to comment on the effects of the proposed changes since the proposed routes are not included in Notice 96–11. Nevertheless, the FAA received some general comments on potential route changes. Twin Otter says that the FAA has not proposed one quieter aircraft route, even though the NPS had proposed, in its Report to Congress, that some flight tour routes be restricted to "quiet aircraft only."

Southwest Safaris says the helicopter operations have been given preferential treatment by the FAA. They are allowed to fly from 500 to 1,500 feet lower than fixed-wing aircraft and to fly shorter routes in the middle of the park. According to the commenter, helicopter tours are on the rise and constitute much of the noise problem.

FAA Response and Final Rule Action: The FAA agrees with the comments that the operators should have an opportunity to comment on proposed routes. Simultaneously with this final rule, the FAA is publishing a Notice of Proposed Routes, which includes the proposed tour routes within the Grand Canyon. Operators will have an opportunity to comment on the proposed routes. The FAA will reserve its response to comments regarding specific routes until after the comment period closes for the Notice of Proposed Routes.

Regarding routes for "quiet aircraft," simultaneously with the final rule, the FAA is publishing an NPRM, Noise Limitations for Aircraft Operations in the Vicinity of the Grand Canyon National Park, which proposes certain routes that will be limited to noise efficient aircraft only.

The FAA disagrees with the comment that helicopter operations have been given preferential treatment. Regarding altitude, the FAA's long-standing policy is to separate helicopters and fixed-wing aircraft because the two classes of aircraft generally have vastly different flight characteristics. Traditionally helicopters, normally slower and more maneuverable than fixed-wing aircraft, have been allowed to fly lower. The FAA intends to continue this safety rationale.

Comments on Marble Canyon Flight-free Zone—Navajo Bridge and North Canyon Corridors

Three commenters support the Marble Canyon Flight-free Zone. The Sierra Club-Grand Canyon Chapter states that the flight-free zone would be of particular benefit, particularly to fishers and river runners, and believes that the rim rather than the river bank should be the eastern boundary of the flight-free zone.

Another commenter suggests that the proposed Marble Canyon Flight-free Zone be modified to protect significant locations such as Blue Spring or other sacred places in the Little Colorado vicinity. Also, according to the commenter, no flights should be allowed over popular side canyon attractions such as North Canyon, South Canyon, Silver Grotto, and Saddle Canyon.

EAA states that the top of all three sections of this flight-free zone should be reduced from 14,000 to 8,500 feet MSL to allow general aviation flights between Las Vegas, Nevada and Farmington, New Mexico.

Twin Otter states that the flight-free zone is too small to be meaningful and would eliminate a popular air tour route.

FAA Response and Final Rule Action: The FAA has reconsidered its proposal for the Marble Canyon flight-free zone in light of the comments received. The FAA has determined that the proposed flight-free zone would provide only a minimal noise mitigation benefit because of the narrow dimensions. In addition, the FAA agrees that the proposed zone could have impacted general aviation flights between Las Vegas and Farmington. Therefore, the final rule eliminates the Marble Canyon Flight-free Zone.

However, the FAA is modifying the minimum sector altitude for this area. (See discussion under § 93.307, Minimum Flight Altitudes.)

Comments on Desert View Flight-free Zone and Zuni Point Corridor

Several commenters state that making Zuni Point Corridor one-way may present safety problems due to inclement weather and unexpected-weather changes in the north canyon. GCATA states that because of the lack of a weather reporting station on the north rim, tour pilots proceeding through the Zuni Point Corridor will be required to make weather decisions in the vicinity of the "Y" on what direction to proceed.

Papillon states that the noise problem over the area between the Little Colorado River confluence and Imperial Point has been exacerbated by the piston-driven single and multiengine six to nine passenger airplanes. To clear the north rim, these airplanes climb. When entering the canyon via Zuni Point

Corridor, these types of airplanes should enter at a higher level, thus eliminating the noisy climb configuration.

The Sierra Club-Grand Canyon Chapter supports the enlargement of the Desert View Flight-free Zone (as does NPCA) but states that the Zuni Northwest Corridor cuts though the Critical Noise Sensitive Area that has Point Imperial at its center. This corridor is also a problem for users of the Saddle Mountain-Nankoweap Basin area. The Sierra Club-Angeles Chapter believes that the proposal should close Zuni Point Corridor because it impacts at least six trails, four permanent stream basins, important archaeological and historical sites, and Papago Point, the only major point on the south rim where one could formerly find solitude and escape the sounds of auto traffic.

FAA Response and Final Rule Action: Concurrent with the publication of this final rule, the FAA is publishing a Notice of Proposed Routes discussing route structures and directions of flights. The FAA will consider pertinent comments received in response to Notice 96–11 regarding routes, as well as any additional comments submitted in response to the Notice of Proposed Routes. In response to the perceived safety problems regarding weather, the FAA will route traffic in a clockwise fashion through the Dragon and Zuni Corridors. This flow will allow operators to better observe weather conditions around the North Rim so as to avoid encountering adverse weather condition in the vicinity of the North Rim, e.g., high winds, low visibility, turbulence, etc. The FAA believes this flow will enhance safety by pilots having the opportunity to take appropriate actions to avoid these conditions. Noise mitigation will be an additional benefit, as aircraft will no longer be climbing as they pass near Point Imperial.

Comments on Bright Angel Flight-free Zone, Zuni Point, and Dragon Corridors

NPCA notes that the NPS has estimated that the one-way restructuring of the Zuni Point Corridor will add 3,800 operations into the Dragon Corridor. Some commenters object to the northern extension of Bright Angel Flight-free Zone. Two other commenters say that the northern extension will lengthen the distance of the Grand Discovery Tour by 20 percent, which will increase operator costs and require operators to fly over the highest points of the north rim, resulting in frequent weather cancellations.

The Sierra Club-Grand Canyon Chapter supports the enlargement of the Bright Angel Flight-free Zone. Twin Otter and Grand Canyon Airlines recommend that the Dragon Corridor be converted within 2 years to a quiet airplane flight corridor. The commenters also recommend that the FAA define what operating characteristics an airplane model must have in order for it to conduct round-trip air tours within Dragon Corridor and then immediately permit such fixed-wing air tours within this corridor (just as the FAA now permits out-and-back helicopter tours).

Grand Canyon Airlines states that SFAR 50–2 management policies have encouraged rotorcraft operators to concentrate on Dragon Corridor tours. Since 1994, when helicopter operators began concentrating their tours within the Dragon Corridor, Grand Canyon Airlines has conducted 35 percent fewer air tours in this area. This commenter wants to be permitted to conduct similar round-trip Dragon Corridor tours to remain competitive if the FAA adopts the extension of the north rim air tour route.

Grand Canyon River Guides believes that the out-and-back helicopter route into Dragon Corridor should be abolished. This route allows helicopters to offer a shorter trip which is similar in cost to the least expensive tour of the larger, quieter fixed wing operators which carry more people with much less impact. According to the commenter, this shorter route is causing a very negative trend as noticed by the increased helicopter traffic on the Dragon Corridor with each passing year.

NATA is pleased that Notice 96–11 establishes the dog-leg within the Dragon Corridor because it would route air traffic away from the only location on the rim of the canyon where air tours and ground visitors interact. Papillon also agrees with the proposed change to relocate the south end of Dragon Corridor to the west.

USATA contends that the current routes that air tour operators fly encompass only 17 percent of the entire park. With the Dragon Corridor "dog leg," the front country areas of the park (where 99 percent of all ground users visit) would be 100 percent protected from air tour noise. If flights were to double or even quadruple, one could expect the number of aircraft seen or heard to remain well within reason at a maximum of less than one aircraft per hour.

The Sierra Club—Grand Canyon Chapter, NPCA, and Grand Canyon River Guides do not support the changes to Bright Angel and Toroweap-Shinumo Flight-free Zones to accommodate the Dragon Corridor dog leg. They argue that these changes would degrade a portion of the park on the south rim that is currently relatively quiet. This area includes Havasupai Point. The Sierra Club suggests extension of the southwest corner of the Bright Angel Flight-free Zone (from 36°09′31″ N, 112°11′15″ W; to approximately 36°02′35″ N, 112°14′30″ W; then southeast along the GCNP boundary).

The Sierra Club also points out that the seventh point (36°01′16″ N, 112°11′39″ W) should be approximately 36°00′58″ N, 112°11′45″ W.

AOPA says that changes to the Dragon Corridor could make navigation extremely difficult and increase the chance that a pilot could inadvertently transgress into a flight-free zone.

FAA Response and Final Rule Action: Flight-free zones are being expanded and/or modified to aid the substantial restoration of the natural quiet, as mandated by Public Law 100–91. As stated by Senator John McCain in the legislative history of Public Law 100–91:

> The purpose of flight-free areas is to provide a location where visitors can experience the park essentially free from aircraft-sound intrusions. The boundaries of these flight-free zones are meant to be drawn to maximize protection to the backcountry users and other sensitive park resources. The extent of these areas should be adequate to ensure that sound from aircraft traveling adjacent to these zones is not detectable from most locations within the zones. It is within these zones that we expect to achieve the substantial restoration of the natural quiet. (Congressional Record—Senate, p. S10799, July 28, 1987).

The FAA agrees that there should be incentives for operators to convert to noise efficient aircraft in the Dragon Corridor; those incentives are addressed in the NPRM being published simultaneously with this final rule.

The FAA agrees with the Sierra Club that the Bright Angel Flight-free Zone boundary description is incorrect, and corrects it in this action.

The FAA has adopted the proposed shift to the west in the Dragon Corridor (the "dog-leg") because it provides important noise mitigation to the Hermit's Basin Region and presents no safety concerns. This action responds to requests made by both the majority of the operators and NPS. By leaving the Dragon Corridor open, this action maintains certain viable commercial sightseeing routes over the canyon while providing greater noise mitigation in other parts of the park from larger flight-free zones. The legislative history of Public Law 100–91 indicates that it was not the intent of the legislation to

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ban aircraft from overflying the Grand Canyon.

The change is consistent with the 1987 NPS recommendation and responds to comments made at the Flagstaff public meeting. These changes provide for noise mitigation while supporting a viable industry at the eastern end of the canyon.

The corridors will remain 2 nautical miles wide for commercial sightseeing operations and 4 nautical miles wide for general aviation and transient operations. The addition of a bend or "dog-leg" in the Dragon Corridor will make navigating the corridor a bit more involved but will be manageable. The revised Grand Canyon VFR Aeronautical Chart will contain latitude/longitude and VFR check points to assist pilots navigating in the area. Specifically, the corridor centerline and "turn-point" will be identified electronically via latitude/longitude coordinates. The "turn-point" will be identified by VOR/DME information from the Grand Canyon VOR. And the corridor and "turn-point" will be identified by topographic features as well.

Comments on Toroweap/Shinumo Flight-free Zone and Tuckup Corridor

Several commenters state that the extension of the Toroweap/Thunder River Flight-free Zone and the merger of Toroweap/Thunder River with the Shinumo Flight-free Zone will eliminate certain routes, thus reducing scenic viewing while extending tour times. One commenter adds that this extension is meaningless because air tour aircraft diverting around National Canyon will still be audible since the flight-free extension is too small for effective noise attenuation.

An individual from the Navajo Area Office of the BIA states that the expansion of Toroweap/Shinumo Flight-free Zone will block flight departures on the Brown 3 route from the Bar 10 airstrip which provides river runner support to the Hualapai Tribe.

Several commenters support expansion of the Toroweap/Shinumo Flight-free Zone and recommend that it be extended even farther back from the south rim to reduce the visual and noise intrusions from air tours. The Sierra Club—Grand Canyon Chapter states this is necessary to address the concern that air tours will fly just outside the flight-free zone boundary over the river corridor. They add that the existing flight-free zone located within a 1.5 nautical mile radius of the Toroweap overlook is inadequate and should be expanded.

The Sierra Club points out an error in the flight-free zone: the second point (112°3'19" W) should be 112°13'19" W and the third point (36°02" N) should be 36°20'02" N.

FAA Response and Final Rule Action: In analyzing the commenters' statements on the extension of the southern boundary, the FAA believes that the commenters are referring to the Blue 1 route. The FAA is soliciting comments in the NPRM that is published simultaneously with this rule regarding the feasibility of limiting a portion of the Blue 1 route in the National Canyon to noise efficient aircraft.

In response to comments regarding routes, the FAA will consider pertinent comments received in response to Notice 96–11, as well as any additional comments submitted in response to the Notice of Proposed Routes.

Any further expansion of the Toroweap Flight-free Zone will need to be considered in the context of the Comprehensive Noise Management Plan.

The FAA disagrees that the rule will result in an adverse effect on the safe operation of the Bar 10 airstrip or black river runner flights.

The FAA agrees with the Sierra Club that the Toroweap/Shinumo Flight-free Zone boundary description is incorrect, and corrects it in this action.

The FAA will reserve its response to comments regarding the Brown 3 commercial sightseeing tour route until after the comment period closes for the Notice of Proposed Routes.

Comments on Sanup Flight-Free Zone

The Sierra Club-Grand Canyon Chapter supports the new Sanup Flight-free Zone. The chapter suggests that boundaries be changed to give some protection to the Shivwits Rim and Sanup Plateau.

AOPA states that the new Sanup Flight-free Zone would force an increase in the minimum enroute altitude for Victor Airway 235 from 10,000 to 14,500 feet MSL between Peach Springs and Mormon Mesa navigational aids; that portion of the airway would be unusable by general aviation aircraft. One commenter feels that this increase would adversely affect safety and cause burdensome requirements for oxygen equipment because of the increased altitude.

EAA wants the ceiling of the flight-free zone lowered for general aviation operations from 14,000 to 8,500 MSL. This change would accommodate general aviation flights between Las Vegas and Albuquerque.

The FAA also received several comments regarding the possible impacts of the proposed Sanup Flight-free Zone on commercial sightseeing tour routes.

FAA Response and Final Rule Action: After analyzing the impact on VFR and IFR traffic, the FAA has adopted the Sanup Flight-free Zone. However, the vertical limits of the Sanup Flight-free Zone will be at 7,999 feet MSL. This will accommodate general aviation aircraft operations between Las Vegas and Albuquerque. By lowering the vertical limit of this flight-free zone, the minimum enroute altitude for V–235 remains unchanged.

In response to comments regarding routes, the FAA will consider pertinent comments received in response to Notice 96–11, as well as any additional comments submitted in response to the Notice of Proposed Routes.

Comments on Elimination of Fossil Corridor

GCATC states that the closure of the Fossil Canyon Corridor could possibly bring an end to Las Vegas-based air tours of GCNP. Although the FAA claims that only a low amount of traffic goes through this corridor, in fact most Las Vegas-based operators conduct air tours over the Blue 1 route which traverses the Fossil Canyon Corridor and adjacent lands. If this corridor were to close, the 200-mile air tour route from Las Vegas to Tusayan would include only approximately 20 miles over less striking portions of the Grand Canyon, including only 4 miles over GCNP. Such a decrease in Grand Canyon overflight would virtually eliminate the demand for such flights.

The individual from the Navajo Area Office of the BIA says that the Hualapai Tribe utilizes the Brown 1A route to support river runner traffic across Kaibab Plateau, which will be eliminated by the closure of the Fossil Corridor, as will the Blue 1A route be eliminated due to closure of the Fossil Corridor.

The Sierra Club-Grand Canyon Chapter and Grand Canyon River Guides support closing the Fossil Canyon Corridor.

FAA Response and Final Rule Action: The FAA recognizes that closing Fossil Canyon Corridor will affect some air tour routes. However, this action is necessary to aid in the goal of substantially restoring natural quiet to the park, as mandated by Public Law 100–91. The FAA believes, based on its 1995 survey of air tour operators and the routes that they fly, that Fossil Canyon Corridor is not heavily used for commercial sightseeing purposes and

those few operators who use it will have alternate routes available.

In response to comments regarding routes, the FAA will consider pertinent comments received in response to Notice 96–11, as well as any additional comments submitted in response to the Notice of Proposed Routes.

Section 93.307 Minimum Flight Altitudes

Proposed § 93.307 set forth different minimum altitudes in sectors and corridors for commercial sightseeing operations and transient and general aviation operations to separate these operations to the maximum extent practical. Notice 96–11 solicited comments concerning minimum altitudes for Navajo Bridge Corridor at 5,000 feet MSL for commercial tour operations and 8,000 feet MSL for general aviation and transient operations.

Comments on Minimum Flight Altitudes

The Northern California Aviation Users Working Group (NCAUWG) says that the NPS did not comply with Public Law 100–91 because it did not establish the "proper minimum altitude which should be maintained by aircraft when flying over units of the National Park System."

Kenai Helicopters, Inc. states that although Notice 96–11 does not change many of the minimum altitudes through the flight corridors, serious consideration for lower altitudes, coupled with noise attenuating flight procedures and maneuvers, should be analyzed in order to restore quiet in the flight-free zones in the best way.

The Sierra Club-Grand Canyon Chapter states that Notice 96–11 will not prevent flights below the canyon rim. This commenter suggests that the minimum flight altitude between Boundary Ridge and Supai be raised to 10,500 feet MSL to prevent aircraft from flying below the rim at Point Imperial, and that the FAA verify minimum flight altitudes for the entire SFRA to prevent below rim flights.

FAA Response and Final Rule Action: The FAA does not agree with these comments. The NPS Report to Congress concluded that establishing a simple minimum altitude for aircraft overflights over all units of the National Park System was neither feasible nor necessary. Instead it recommended that all reasonable methods and tools be used in issue resolution: voluntary agreements, quiet aircraft incentives, spatial zoning, altitude restrictions, operations specifications, and limits on time of operation. Public Law 100–91 mandated much more than an appropriate minimum overflight altitude for GCNP. Specifically, section 3 required the FAA to prepare and issue a comprehensive airspace management plan, which in part provided for provisions prohibiting below rim flights and designation of flight-free zones. Section 3 of Public Law 100–91 prohibits the flight of aircraft below the rim of the Canyon. Consequently, Kenai Helicopters, Inc.'s suggestion is not appropriate. Finally, the FAA believes the clockwise flow through the Zuni and Dragon Corridors will preclude aircraft from flying below the rim at Point Imperial.

In order to simplify the northeast sector of the SFRA, the FAA has combined the Marble Canyon and the North Canyon sector into one sector and renamed this section the Marble Canyon Sector. This sector will have a minimum sector altitude of 8,000 MSL.

Section 93.316 Limitations for Commercial Sightseeing Operations

The FAA proposed several additional methods to help achieve the objective of restoring natural quiet. One such method was flight-free periods (curfews). Proposed § 93.316(a) provided for both a fixed curfew and a variable curfew.

Comments on Fixed and Variable Curfews

A number of commenters (e.g., Twin Otter, HAI, Kenai Helicopters, an individual from the Navajo Area Office of the BIA) say that curfews could create significant congestion and safety problems as air tour operators reschedule aircraft to arrive at the edge of the SFRA at the same time.

GCATA states that GCNP Airport will have a major traffic problem with all Las Vegas operators arriving at the same time for one runway of operations. Also, since all helicopter operators have moved to the Airport, they will be ready for their initial launch of the business day. GCATA asks which operator will get priority, and says that the number of flights could create havoc for the tower operators at the Airport. Another problem is that all airplanes arrive from the west and helicopters will be departing on the east side. GCATA asks how the tower operators would handle this. The commenter believes that the curfews will push airports to their maximum operation and questions if this is safe.

According to Las Vegas McCarran Airport, the majority of air tour operators operate by "banking" Grand Canyon air tour flights. In other words, based on passenger demand during a given period, each operator departs a number of aircraft more or less simultaneously from an origin airport to perform Grand Canyon air tours.

This commenter states that, under the fixed curfew, peak operations in the SFRA are anticipated to occur between 8 a.m. and 10 a.m. Under the variable curfew, total operations are anticipated to increase substantially from 9 a.m. through 1 p.m. In addition, for airports in the Las Vegas region, a total of 60 Grand Canyon air tour operations would be affected by the proposed fixed curfew, and 99 by the proposed variable curfew. These aircraft operations would be required to alter the existing times of operations to non-curfew hours, or operate on the Blue Direct route, which is not considered an air tour route and not subject to the restrictions proposed in either curfew alternative.

Several commenters are concerned about the economic impact of curfews. Heli USA states that the proposed curfews would eliminate 20 percent of its flights and cause severe economic problems.

GCATC says that the FAA's estimate of $6.6 million in annual loss of revenue, as a result of fixed curfews, is underestimated because: (1) The FAA states that all losses would be incurred in the summer season (May 1–September 30), wrongly assuming that all flights during the winter season (October 1–April 30) can be rescheduled. Although rescheduling of some winter flights may be possible, the flexibility of both air tour operators and passengers is limited and, consequently, not all passenger groups can be accommodated under FAA's proposed restricted operating hours. (2) The proposed fixed curfew forces air tour operators to begin tours substantially later and end them substantially earlier than under the dusk-to-dawn flight period currently allowed. For some months, the FAA's proposal may shorten available flight time by 25 to 33 percent, causing operators to lose multiple flights on a daily basis.

Comments from the Grand Canyon Trust state that the FAA's assessment of the costs of basic curfews is fundamentally flawed in that it makes no attempt to anticipate how mismatches between supply and demand are likely to be resolved in the marketplace. Given that Grand Canyon tours are once-in-a-lifetime experiences, and that roughly 60 percent of all visitors are foreigners for whom sightseeing tours are only one part of a more extensive vacation package, consumers are more likely to be relatively price insensitive, particularly at the margin. This implies that operators will likely be able to more

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than offset revenue losses resulting from the flight curfews proposed by the FAA. The commenter suggests that the near-term response of air tour operators to the regulation is likely to be a modest shift in prices upward which will allow them to recover the revenues lost due to canceled flight operations. Over the longer term, operators will be able to replace their existing aircraft with larger, higher capacity aircraft, thereby restoring the balance between supply and demand, gradually bringing down prices and restoring market equilibrium. The overall impact on the industry will likely be negligible, the commenter suggests. GCATA states that variable curfews will be unworkable because operators will not be able to handle advance reservations without knowing if a corridor will be open or shut.

Papillon states that variable flight-free periods would be unacceptable because most air tour passengers must fly in the early or late part of the day and most book their flights 3 to 6 months in advance. The variable flight-free periods would eliminate approximately 80 percent of the flight revenue of operations originating at the GCNP Airport.

An individual from the Navajo Area Office of the BIA says that curfews could create negative impacts to all three Native American tribes in the GCNP vicinity and recommends a specific exemption to Native American tribes for any flights sanctioned by such Native American tribes over their own lands. Alternatively, if tribes' commercial operations are considered as governmental flights, they should be exempted from the SFAR restrictions.

The Sierra Club-Grand Canyon Chapter states that intrusive noise is particularly annoying during the morning and evening hours and that flight-free hours should not be considered a substitute for actual restoration of natural quiet. This commenter recommends flight-free months as well as flight-free periods that would coincide with engine-free raft periods on the river.

Another commenter states that curfew times should be adjusted monthly or on a seasonal basis, and that a time of 2 or 3 hours before sunset would be a better compromise, because tourists particularly enjoy the canyon rims and along the river in the late afternoon and evening light.

Two commenters recommend fixed curfews over variable curfews. Grand Canyon River Guides states that, since the variable curfews would require further data and analysis that could not be accomplished before the end of 1996, the proposed rule should focus on fixed curfews. NPCA believes that variable curfews will take too long to implement. If some tour operators opt for quiet technology while the monitoring is being conducted, it will skew the monitoring results and reward those operators that did not upgrade their equipment. NPCA still supports noise monitoring in consideration of possible curfews for the Comprehensive Noise Management Plan. The NPCA thus recommends the seasonal fixed curfew.

Papillon states that air tours originating in the east end of the canyon normally commence one hour after sunrise and terminate approximately one hour before sunset. The commenter states that present operations basically comply with the proposed fixed curfews and that for 6 months of the year, there are no flights for more than 80 percent of the time. Thus, Papillon recommends no fixed curfews for flights originating out of GCNP airport to the east end of the canyon.

FAA Response and Final Rule Action: The FAA agrees that curfews on the west end of GCNP might create a situation whereby large numbers of aircraft attempt to enter the air tour routes at the same time and along the same routes. Based on the FAA's safety analysis of the air tour flights originating from the Las Vegas area, the FAA has decided to exempt the routes beginning on the western end of the park from any curfew. This should eliminate any impacts on Native American tribes.

However, § 93.316(a) of the final rule prescribes a fixed curfew. Specifically, no person shall conduct commercial sightseeing operations within the Dragon and Zuni Corridors during the following periods. (1) Summer season (May 1–September 30)—6 p.m. to 8 a.m. daily; and (2) Winter season (October 1–April 30)—5 p.m. to 9 a.m. daily.

The FAA has determined that the curfew will increase natural quiet during sunset and sunrise in the most heavily visited portions of GCNP, in the eastern portion of the park. The NPS identified these areas as among the most sensitive parts of the park and these times as when visitors are especially sensitive to noise impacts. Consequently, the fixed curfew makes an important contribution to substantially restoring natural quiet on a daily basis and mitigating noise impacts on the experience of the park visitors in this portion of the Canyon.

This section of the final rule also responds to the President's Memorandum of April 22, 1996, charging the Secretary of Transportation to issue regulations for GCNP that immediately reduce noise and make further substantial progress toward the restoration of natural quiet, as defined by the Secretary of the Interior.

The FAA does not agree that the imposition of a curfew will unduly impact air traffic operations at Grand Canyon National Park Airport. The FAA believes that there are sufficient air traffic control (ATC) procedures to manage those aircraft operating to and from the Grand Canyon National Park Airport, as well as those aircraft transiting the Class D airspace area. These aircraft will continue to receive ATC service on a first-come-first-served basis and, if needed, traffic management procedures will be developed and instituted.

Cap on Commercial Sightseeing Operations

Proposed Cap

Proposed § 93.316(b) set forth a temporary moratorium on increased commercial sightseeing flights. The proposal limited each operator in 1997 and 1998 to the number of monthly operations equal to the monthly operations in the base year August 1, 1995, through July 31, 1996.

Comments on the Proposed Cap

GCATA states that basing the number of monthly operations on the period August 1, 1995, through July 31, 1996 may not work since some operators may have encountered a down year; rather an averagé of the last three years should be used.

Papillon, Twin Otter, and Grand Canyon Airlines state that capping flights regardless of type of aircraft would not provide an incentive to convert to quiet technology, and that caps should only apply to aircraft of conventional sound signature.

The NTSB says that the proposed caps are discussed almost exclusively from the perspective of aircraft noise. The NTSB says that the FAA must also analyze the possible safety impacts of the caps.

GCATC responds to the FAA's suggestions on measures to offset revenue losses from caps, i.e., using larger aircraft; raising commercial sightseeing tour prices; rescheduling flights; and diverting some aircraft to other revenue producing uses. GCATC says that the operations cap will provide no incentive for operators to invest in larger aircraft because it will prevent operators from recouping their investment in an economically feasible time period; operators are constrained in their ability to raise prices because the demand for GCNP air tour operators is relatively elastic; rescheduling flights

has no effect on increasing revenue when the number of flights an operator may fly is limited artificially by regulation; and air tour operators would already be using their aircraft for other purposes if it were economically worthwhile to do so.

A number of commenters (e.g., NPCA, Sierra Club-Grand Canyon Chapter, Wilderness Society, Grand Canyon Trust) say that basing the caps on the number of flights in 1995–96 will not restore the natural quiet and that the caps are too temporary. These commenters recommend that, since Congress identified the overflight problem in 1987, and the flight rate since then has dramatically increased, the FAA should use the 1987 operation levels to determine the caps. In addition, the maximum caps should be permanent. The Sierra Club-Grand Canyon Chapter and NPCA also recommend that the flight caps be in effect until completion and implementation of the comprehensive noise management plan.

Comments from the Grand Canyon Trust state the FAA's assumptions that any type of cap, whether it is on operators, aircraft, passengers, or air tours, will have identical effect is erroneous. Air tour operators can be expected to adjust their pricing structures, aircraft fleets, and tour offerings to maximize net operating revenues under whichever system of caps is adopted. Consequently, the commenter suggests that the actual economic cost of caps to the industry is likely to be small.

Grand Canyon River Guides says that since tour operators were mandated to report and pay for their use of airspace during the base year, those figures should be used by the NPS and the FAA to determine the allocation levels; operators who may have been avoiding user fees by underreporting their operations should not receive any special consideration. This commenter recommends that, once operational limitations are in place, the FAA should require that any new aircraft be quieter than those being replaced, and that, as this shift occurs, the number of aircraft should not be allowed to increase.

Kenai Helicopters proposes that any cap on air tour operators should grandfather the current operators, of whom many have made sizable investments in aircraft and facilities to meet the market demand. Many of these facilities are located on lands with long term (20–25 years) leases that necessitate long term operation potential to stay in business.

Heli USA states that since a large majority of the air carriers operating tours in GCNP are either new or have not reached the capacity of business to pay for their investment, caps based on historical records would be unfair.

Twin Otter and Grand Canyon Airlines state that setting operations caps raises serious administrative problems. For example, Twin Otter says that the "use or lose" rules which apply to air carrier slots would not work at the Grand Canyon since air tour schedules are seasonal and subject to revisions and cancellations for weather. This commenter says that the only fair alternative would be a slot market mechanism like that used to allocate restricted capacity at the High Density Rule airports.

FAA Response and Final Rule Action: In the final rule § 93.316(b) establishes a cap on commercial sightseeing aircraft that can operate in the SFRA. Specifically, this section states that no person may operate more commercial sightseeing aircraft in the Special Flight Rules Area than the highest number of aircraft that appeared on the certificate holder's operations specifications, and that were used for commercial sightseeing operations in the Grand Canyon Special Flight Rules Area, between July 31, 1996 and December 31, 1996.

NPS modeling suggested that between 1988 and 1994, that part of the park experiencing a substantial restoration of natural quiet declined from 43 to 31 percent. The modeling further suggested that by 2010 this area would decline to about only 10 percent of the park. Because the FAA and NPS concur that the best way to address the current erosion of natural quiet and achieve the substantial restoration of natural quiet is through reducing noise at the source (i.e. quieter aircraft), a cap is an interim measure needed to prevent a worsening of the situation prior to implementation of the noise limitations proposed in the NPRM published simultaneously with this final rule. The combination of the final rule and the noise limitations in the NPRM will make possible the substantial restoration of natural quiet mandated by Public Law 100–91.

This section of the final rule also responds to the President's Memorandum of April 22, 1996, charging the Secretary of Transportation to issue regulations for GCNP that place appropriate limits on sightseeing aircraft over GCNP to reduce the noise immediately and make further substantial progress toward restoration of natural quiet, as defined by the Secretary of Interior.

Section 93.317 Commercial Sightseeing Flight Reporting Requirements

Proposed § 93.317 established commercial sightseeing flight reporting requirements. As proposed, during the 5-year period following May 1, 1997, each certificate holder would submit, in a form and manner acceptable to the Administrator, three operational reports yearly to the Las Vegas FSDO. Each report would cover a 4-month period ending April 30, August 31, or December 31, and would be required to be submitted no later than 30 days after the reporting period closes. Certificate holders would be required to provide the aircraft identification number (registration number), departure airport, departure date and time, and route(s) for each operation flown in the SFRA.

Comments on Commercial Sightseeing Flight Reporting Requirements

Two operators state that the reporting requirements would be oppressive and burdensome, and the costs associated with this requirement would be passed on to air tour customers. One of these commenters recommends that if a report is necessary, it should only require date, departure point, and total number of operations by route.

Grand Canyon River Guides says that, compared with the paperwork already necessary to keep pilots and aircraft current, the additional burden of recordkeeping in Notice 96–11 is minor, particularly since operators probably already are keeping track of such things.

FAA Response and Final Rule Action: Commercial tour operators were required by SFAR 50–1 to obtain a Part 135 air carrier operating certificate. The existing reporting requirements under Part 135 for operators using multiengine aircraft would capture the information required by this rule. The FAA believes that any recordkeeping burden imposed by this rule will be minor and related to copying the information into an FAA format. The required information is needed to provide accurate information on GCNP overflights for noise and safety management purposes, to help validate noise models, to determine where noise mitigation is needed, and to provide the basis for more flexible noise management system. The recordkeeping requirements in the final rule therefore are as proposed.

Environmental Review

The FAA conducted an abbreviated scoping process and prepared a Draft Environmental Assessment (EA) for the proposed rule to assure conformance with the National Environmental Policy

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Act of 1969 and all applicable environmental laws. Copies of the Draft EA were circulated to interested parties and placed in the Docket, where it was available for review. The Notice of Availability of the Draft EA was issued on August 21, 1996. The original 45-day comment period, which was scheduled to close on October 4, was extended until November 18, 1996. Based upon the Draft EA and careful review of the public comments, the FAA has determined that a finding of no significant impact (FONSI) is warranted. The final EA and the FONSI were issued on December 24, 1996. Copies have been placed in the public docket for this rulemaking, have been circulated to interested parties, and may be inspected at the same time and location as the final rule.

This final rule constitutes final agency action under 49 U.S.C. 46110. Any party to this proceeding, having a substantial interest may appeal the order to the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia upon petition, filed within 60 days after entry of this Order.

Regulatory Evaluation Summary

Any changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. A regulatory evaluation of the proposal is in the docket.

In conducting these analyses, the FAA has determined that this Final Rule will be "a significant regulatory action" as defined in the Executive Order and the Department of Transportation Regulatory Policies and Procedures. However, this rule will not have a significant impact on a substantial number of small entities.

The final rulemaking will not have a significant impact on international trade. There may be some increase in the U.S. balance-of-payments account as a result of a decrease in foreign expenditures on GCNP tours.

Introduction

To assist the NPS effort to measure aircraft noise levels in GCNP, the Las Vegas Flight Standards District Office (FSDO) conducted a field survey of all operators certificated to provide commercial sightseeing air tours within the GCNP SFRA. The Las Vegas FSDO SFAR No. 50–2 Air Tour Route Usage Report (field survey) detailed information for each operator with regard to the number of operations conducted along each commercial sightseeing air tour route within the GCNP SFRA. This information was further broken down for each type of commercial air tour sightseeing aircraft in the operator's fleet that operated along these routes during the most recent 3 years through early October, 1995. With the exception of the "Blue Direct South" and certain "Brown" routes for fixed wing aircraft and the "Green 3" and "Green 3A" routes for helicopters, all routes identified in the Grand Canyon VFR Aeronautical Chart were identified by GCNP commercial air tour sightseeing operators as routes flown.

To determine the different kinds of commercial sightseeing air tours as well as to estimate the total number of commercial sightseeing air tours, commercial air tour sightseeing passengers, and commercial air tour sightseeing revenue for GCNP, the FAA, utilizing known passenger seating capacities of each type of aircraft used by GCNP commercial air tour sightseeing operators, cross referenced the Las Vegas FSDO field survey detail with tour and cost information as provided in Grand Canyon commercial air tour sightseeing brochures. The estimates derived from this cross referencing form the basis from which the FAA developed the cost estimates for this final rulemaking.

Response to Comments on the Original Regulatory Evaluation

The FAA held public meetings in September 1996 at Scottsdale, AZ and Las Vegas, NV where additional comments were offered and later submitted to the docket. These comments have also been included in the following discussion.

In addition to the individual comments, the FAA received approximately 60 comments from industry and tourism associations (e.g., the Grand Canyon Air Tour Council, Grand Canyon Air Tourism Association, National Air Transportation Association, and the United States Air Tour Association); environmental groups (e.g., Grand Canyon Trust and the Sierra Club); major GCNP air tour operators; certain Federal Agencies (National Park Service, Small Business Administration); and Indian Tribes (Hualapai and Havasupai). Some of the more substantive comments also include commissioned studies in support of their position. Many of the comments with more substantive economic and analytical content however, were also offered by the associations and operators as testimony at the public hearings, and are summarizes below. A full summary of all the comments can be found in the Preamble.

Typically, the comments from GCNP air tour operators and associated trade associations emphasized the negative economic impact the FAA NPRM would have on the overall GCNP air tour industry. Of particular note, several commenters took exception to the FAA assumption that GCNP air tour operators' capital and labor resources were relatively mobile, i.e., the GCNP air tour operator could readily relocate his business to another area of the United States. This concept unfortunately, was poorly worded and misconstrued. The FAA has some information that some commercial air tour sightseeing operators, SFAR 50–2 Tour Route Usage Report, reported such a small volume of commercial air tour sightseeing operations in GCNP as to indicate that the conducting of commercial sightseeing air tours in GCNP was only a part of their overall business. The implication was intended to convey mobility between the operators' GCNP commercial sightseeing air tours and their operations in other non-GCNP commercial air tour sightseeing ventures, presumably while remaining within the GCNP environs. It was not intended to suggest that GCNP operators in general, or in total, could simply start up their commercial air tour sightseeing ventures elsewhere in the United States. The FAA has refined this assumption in the final regulatory evaluation.

Comments were received with regard to certain general economic issues such as (1) locality or market differentiation (e.g., the Las Vegas/Southern Nevada economy as compared with the Tusayan/Northern Arizona economy); (2) the "trickle-down" or multiplier effect; and (3) the internationalism of GCNP tourism. Several commenters note that the NPRM neglected to take into consideration that the majority of the growth associated with GCNP commercial sightseeing air tours derives from the significant growth of Las Vegas, and that the West and East ends of GCNP are analytically distinguishable. The FAA notes that the growth rate utilized in the NPRM regulatory evaluation was derived from a composite of the tower operations of four Las Vegas vicinity airports and

those of Tusayan as reported in the 1994 Tower Activity Forecast (TAF). The compound annual rate of growth of 3.3 percent, therefore, accounts for the different rates of growth at the West and East ends of GCNP. The FAA believes this growth rate is representative of the growth rate of GCNP. Nevertheless, the FAA has incorporated the concept of different rates of growth between the West-end and the East-end in the final rule.

With regard to the concept of the "trickle-down" or multiplier effects of this rule, the Western States Coalition states that the air tour industry is very important to the rural economies of the states surrounding the Grand Canyon and asks the FAA not to further restrict flights in the canyon. Cruise America, Inc., notes that the negative economic impact will trickle down from a reduction in passengers visiting the canyon to a reduction in income for local populations surviving off tourism revenue. Additionally, bus tour companies and European travel wholesalers would be forced to reroute their organized tours, resulting in a detrimental effect of inbound tourism to America, and the efforts of private air carriers who promote North America via operations in the Canyon would also be hurt.

The Grand Canyon Air Tourism Association (GCATA) states that Northern Arizona and its small towns along Rt. 40 are very dependent on the tourist trade, and that any regulation that will have an adverse economic impact or cost an American his or her job must be taken only when there is overwhelming and compelling evidence to support the action. (Air Star Helicopters states that the NPRM would create a loss of pilot and administrative jobs; decrease aircraft, parts and fuel sales; and cause an unnecessary loss of tax revenue). GCATA further notes that the air tour industry is a viable business, both in Las Vegas and Arizona, and contributes an annual input of approximately $250 million. The commenter concludes with the example of Eagle Airlines, a GCNP commercial air tour sightseeing operator located in Las Vegas which currently is building a $40 million dollar complex which will include a Grand Canyon terminal and hanger/office facilities for several operators.

The Grand Canyon Air Tour Council (GCATC) cites the same $250 million revenue base, noting that 1,400 direct jobs are involved, and criticizes the FAA economic impact numbers as seriously understated. GCATC references a study being conducted by the University of Nevada at Las Vegas (UNLV), Center for Business and Economic Research, as support for this position. The draft UNLV study in its submission entitled "The Economic Impact of the Nevada Air Tour Industry: Work-to-Date" estimates an economic impact of the air tour operators to the Grand Canyon on the Clark County (Las Vegas) economy as in excess of $500 million, assuming a loss of 436,925 visitors expected to travel from Las Vegas by air to visit the Grand Canyon in 1996. Clark County air tour operators alone could be expected to lose revenue in the range of $81 million to $117 million, and non-aviation losses were estimated to be in excess of $400 million. Extensive detail of the individual components making up the indirect economic impact, inclusive of individually calculated multipliers for each impact, was also submitted.

In the full regulatory evaluation accompanying the NPRM, the FAA states that its cost estimates and economic analysis are limited to the direct economic impacts on commercial sightseeing air tour operators and customers. The FAA also clearly identifies the generally accepted multiplier of 2.5 in its discussions of costs. The FAA appreciates the detailed information provided by UNLV in its preliminary findings. However, the UNLV results are predicated on the following two somewhat dire assumptions: (1) All Las Vegas GCNP commercial air tour sightseeing operations will cease as a result of this rulemaking; and (2) all Las Vegas tourists who planned to take an air tour of the Canyon as part of their visit to Las Vegas will no longer come to Las Vegas. Furthermore, by incorporating unadjusted input-output coefficients as the individual multiplier factors used to assess the economic impact of this rulemaking, a chain of double counting was introduced that resulted in a total impact far in excess of even the most severe predictions offered in other comments.

Comments were received regarding the importance of foreign commercial air tour sightseeing passengers and foreign tour dollars. The United States Air Tour Association (USA) included statistics indicating that foreign air tour passengers constitute 60 percent of all air tour passenger in the United States. Other commenters estimate a higher percentage of foreign air tour passengers to GCNP, and Heli USA notes that the Grand Canyon is the major reason most international visitors come to Las Vegas. The foreign tourist as a group averages a two-night stay in Las Vegas spending millions of dollars yearly in hotels, restaurants, casinos, and shops.

A representative of Cruise America, Inc., specializing in the rental and sale of recreational vehicles, draws a clear distinction between the Japanese and other Asian tourists who typically travel in large tour groups and German and other European tourists who tend to travel as small family groups and are referred to as "RV Travelers". The former group make up the majority of foreign tourists flying commercial sightseeing air tours out of Las Vegas most of which connect with bus tours of the South Rim; the latter group tend to drive to the Canyon and take the commercial sightseeing air tours originating out of Tusayan. With both groups, the majority typically advance book (or reserve) their activities 3–6 months in advance, and the commenter notes that the inability to pre-reserve the Grand Canyon portion of their trip could potentially remove Arizona and/or Nevada from their planned tour. The FAA appreciates the additional information regarding international tourism to GCNP.

To a lesser extent, commenters also addressed the importance of providing the opportunity to view the Canyon to the physically challenged and otherwise physically unfit to hike, raft or even access the viewer areas of the South Rim. The generally held estimate of the proportion of physically challenged commercial air tour sightseeing passengers is 20 percent or more (Eagle Canyon Airlines). Papillon, however, suggests that while the real estimate of physically challenged commercial air tour sightseeing passengers is closer to 3 percent, a more notable statistic is that fully 80 percent of commercial air tour sightseeing passengers are physically unfit to see the Canyon in any other manner, including the visitor viewing areas of the South Rim. The FAA noted the physically challenged passengers constitute a significant portion of GCNP commercial air tour sightseeing passengers in its NPRM assessment.

Comments addressing the economic impact of the rulemaking on the Native American tribes of the GCNP area were also received by the FAA. Heli USA notes that the combined helicopter industry of Las Vegas yearly pays around $360,000 to the Hualapai Tribe for landing rights in conjunction with the popular commercial sightseeing air tours out of Las Vegas using the Green 4 tour route which also includes the Hualapai River Runners white water rafting program. The commenter also notes that new programs are being introduced with the River Runners and Heli programs with Grand Canyon West which could gross revenues in excess of $1 million in the forthcoming year.

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Comments of the Havasupai Tribe also address the economic impact of lost revenue if the tours conducted along the Green 3 helicopter tour route (Papillon) are impacted by the rulemaking. The Havasupai also note that the current change in the Blue 1 commercial sightseeing air tour route resulting from the merging of the Toroweap/Shinumo Flight-free Zone could have serious adverse affects on Havasupai lands as a prominent tourist attraction. Other issues concerning the impact of this rulemaking on Native American Tribes and their properties are addressed elsewhere in the final rule.

The FAA also received comments regarding the business operations of the commercial air tour sightseeing industry. Alan R. Stephen, President of Twin Otter International (TOIL) on behalf of Grand Canyon Airlines (GCA) states that the FAA's economic analysis demonstrates little understanding of business decision-making. The commenter notes that profits rather than revenues normally drive business investment decisions, and that the relationship between retained earnings (profits) and changes in revenue is best described by the 80–20 principle—a 20 percent reduction in revenue results in an 80 percent reduction in profits. The commenter adds that these profits are highly leveraged by load factor, e.g., operating costs are the same regardless of the number of commercial air tour sightseeing passengers on a tour and the revenue per passenger (ticket price) over break-even constitutes the bottom line profit. (The commenter does not indicate what the minimum break-even number of passengers per commercial sightseeing air tour is). Finally, the commenter notes the high capital intensity of airlines such as Grand Canyon Airlines (GCA), and GCA investment in facilities and equipment is the same regardless of the percentage of its air tour potential is actually flown. GCA also notes increased utilization as the single most important incentive for operators to invest in quiet aircraft technologies.

Further comments on commercial air tour sightseeing profitability were offered by Papillon Grand Canyon Helicopters which notes that the industry is economically fragile and capital intensive, and must stay fully staffed even during the slow season. The result is a significant loss to be overcome at the beginning of each tourist season. The commenter estimates there are 30 to 45 days of potential profit for the year's work and to operate successfully in the aviation business requires optimum utilization of aircraft.

Another determining factor of profitability cited in the comments is the number of commercial sightseeing air tours that can be conducted in a given day. Comments were submitted in reference to the serious potential economic consequences of placing curfews on commercial sightseeing air tours. Heli USA, which offers Las Vegas originating helicopter tours along the Green 4 tour route, states that at least four round trips (turns) must be flown per day per helicopter to enable a company to be financially stable, let alone profitable.

Sundance helicopters, which also offers Las Vegas originating helicopter tours along the Green 4 tour route, confirms four trips as the break-even level of daily operations per helicopter and cites the obvious consequence of the NPRM curfew eliminating the day's final (5 p.m.) commercial sightseeing air tour. Air Vegas Airlines, which flies Beech C–99 (15-seat) fixed-wing aircraft commercial sightseeing air tours along the Blue 1 commercial sightseeing air tour route, indicates that approximately 25 percent of the Air Vegas total revenue is generated by its 7:30 a.m. departure from Las Vegas; elimination of this tour would result in annual revenue losses of approximately $4 million. Air Vegas Airlines also notes that it has invested in excess of $10 million in its fleet of Beech C–99 aircraft and a minimum average of three revenue trips per day is necessary to amortize the acquisition costs.

The FAA appreciates all comments regarding the derivation of business profits for GCNP commercial sightseeing air tour operators. Without accessibility to individual operators' books, the FAA relied on operating revenue, and, to a lesser extent, net operating revenues, and the concomitant changes therein, as proxies for changes in the profitability of commercial air tour sightseeing operations.

Travel time, or its alteration from current practices, was also cited by commenters as a contributing cost of this rulemaking. McCarran International Airport (Las Vegas), through a commissioned study, developed an airspace simulation analysis to estimate the potential effects of the NPRM on aircraft delays, travel times, and operating costs. According to the study, the major contributing factor to increased aircraft delays is contained in the NPRM curfews which will result in higher demand during already congested peak hours at Grand Canyon Airport. The variable curfew would have a much more significant effect on aircraft delays (as much as 4 to 6 minutes per aircraft operation) than the fixed curfew (up to 2 minutes per operation). Some of these delays could be reduced to about one minute per operation (or less) by changing air tour operating strategies to fly non-curfew affected routes during curfew periods. It is not known if flying non-curfew routes would be a viable option for an operator. Air Vegas Airlines comments that the average time to fly the Blue 1 route from Las Vegas to Tusayan takes about 55 minutes; the return on the Blue Direct passenger route requires about 45 minutes.

The rerouting of aircraft onto modified air tour routes results in increases in aircraft travel time of approximately 1 to 2 minutes per aircraft operation depending on the air tour routing alternatives implemented. The operating cost penalty includes the costs of both increased travel times and increased aircraft delays. GCATC adds that, even if some operators could adapt to the new restriction, neither the FAA nor the GCATC has any reason to believe that passengers would be willing to pay more to fly over tightly restricted (and therefore, less desirable) routes. TOIL/GCA note that restricting the Zuni Corridor to one-way traffic would eliminate GCA's important east Canyon air tour (Black 1) which is flown when poor weather conditions otherwise preclude operating GCA's primary "Grand Discovery" air tour, which flies up the Zuni, over the north rim, and back down the Dragon Corridor. (This was also alluded to at the Las Vegas portion of the public meetings by Papillon Grand Canyon Helicopters which notes that the restrictions placed on the Zuni Corridor with a fly-out to the NE over the Painted Desert, provides about 9 minutes of Canyon viewing for a 50-minute Grand Canyon air tour). Finally, TOIL/GCA indicates that with the extension of the Bright Angel Flight-Free Zone to the GCNP boundary, the distance of the Grand Discovery air tour is lengthened by about 20 percent and, therefore, would increase GCA's operating costs by a corresponding 20 percent.

The FAA appreciates the comments relating to curfews and their impact on travel times and alternate tour options. The FAA has taken these comments into consideration from a safety aspect, and refined certain of its originally proposed changes to flight corridors and flight-free zones.

Another major issue raised in the comments received by the FAA concerns the adoption of quiet technology as an alternative means to restore natural quiet. While this issue is addressed elsewhere in the final rule, certain costs associated with this option

are noted. In general, according to TOIL/GCA comments, "quiet" aircraft models tend to be larger in passenger seating capacity than the conventional aircraft they replace and also more expensive. With regard to fixed-wing aircraft, TOIL/GCA identified the Cessna-208 Caravan (9 passenger seats) and the deHaviland DHC–6–300 Vistaliner (19 passenger seats) as the primary quiet replacements for the current, predominately flown Cessna C–207 (6 passenger seats) and C–402/Piper Navajo (9 passenger seats). However, the cost of a new Caravan is approximately $1.3 million and about $1.4 million to purchase a DHC–6–300 Twin Otter, convert and refurbish to the Vistaliner configuration. Alternatively, TOIL/GCA suggests that twelve Cessna C–207's or nine C–402/Piper Navajos could be purchased for the price of one Caravan or one Vistaliner. Scenic Airlines, Inc., offers corresponding prices for the Cessna C–208 Caravan and C–402/Piper Navajo of $1.25 million and $200,000, respectively. Air Vegas Airlines, which operates a fleet of Beech C–99 turbo-props (15 passenger seats), notes that the Beech C–99 is a faster aircraft than most currently operating in the Canyon and that its power settings could be set to reduce noise.

With regard to helicopters, Papillon Grand Canyon Helicopters notes that only the McDonnell Douglas MD500 (MD 520–N, or NOTAR) is certified and qualifies as a "quiet" aircraft. However, Heli USA comments that the NOTAR cannot even perform; tests at the Canyon showed it could only carry 3 passengers on a hot day (the MD 520–N is designed for 4 passengers). This was confirmed by Air Star Helicopters, Inc. which had attempted to operate the MD 520–N as part of its commercial air tour sightseeing fleet. Papillon Grand Canyon Helicopters and McDonnell Douglas both note that McDonnell Douglas has developed the MD600 (6/7 passenger seats) which meets the criteria for quiet aircraft and will be available for delivery in early 1997. (Papillon has one on order and Air Star Helicopters has two on order, all of which are scheduled for delivery in 1997.) The MD600 costs between $1.25 million and $1.5 million depending on cost items over base. Finally, Papillon Grand Canyon Helicopters also notes in its comments that they are developing a 9-passenger seat helicopter (Whisper Jet S55–QT) which is equally as quiet as the MD600 and costs approximately the same making it about 50 percent more cost efficient than the MD600 because of its expanded seating capacity. Delivery of these aircraft are expected within the forthcoming year.

The FAA appreciates the expanded information on "quiet technology" aircraft provided by the commenters, all of whom have taken an advocacy position for these type of aircraft with respect to GCNP commercial sightseeing air tours. The FAA notes, however, that all commenters in support of "quiet technology" aircraft either currently maintain fleets, made up of "quieter aircraft" or are in the process of taking delivery on new quiet aircraft within the year. Quiet technology is addressed elsewhere in this final rule and is the subject of a concurrent Notice of Proposed Rulemaking effort underway.

The above summary of comments reflect the economic issues arising more often from the commenters; the FAA also received occasional comment addressing other economic concerns, as well. Comments by the Office of Advocacy of the Small Business Administration (SBA) on the Regulatory Flexibility Analysis (RFA) challenge the initial RFA findings on the impact on small tour operators because revenue losses were assessed at the aggregate level. The SBA also suggests that a different compliance and reporting requirement or timetables for small entities should be explored, possibly even an exemption from these parts of the rule. Air Vegas Airlines also notes the added cost associated with the training (retraining) of pilots which will be required as a result of the elimination or restructuring of present routes; the commenter uses an example to illustrate his point which suggests that training costs will be burdensome.

The FAA has carefully reviewed the SBA comment and, based on the data available, has analyzed the regulatory flexibility impact using reasonable assumptions—including analyzing revenue losses at the aggregate level. Different compliance and reporting requirements for the smaller entities were also considered.

The SBA had suggested that it would be appropriate to use elasticity of demand information to calculate the extent to which small businesses will recoup costs by increasing fares. The data for this segment of the population, however, are not available. In another example, the SBA had suggested that the FAA evaluate data on profits which "may be available from Dun and Bradstreet." Data on profits from very small entities that would be affected by this proposal are also not available from the recommended source or within the public docket. The SBA also believes that the FAA has not fully addressed significant options for consideration. Given both the qualitative and quantitative costs and benefits, the FAA believes that the best option that minimizes costs and maximizes benefits was chosen. With regard to other concerns made by the SBA and Air Vegas Airlines, the FAA has taken these comments into consideration in producing the final RFA and in estimating costs associated with this rulemaking. (See the accompanying Regulatory Flexibility Analysis for a more complete discussion regarding the alternatives considered to reduce the cost impact of this rulemaking on small entities.)

Costs

The total cost impact of this rulemaking will depend to a large extent on the response to the changes on the part of commercial air tour sightseeing operators. Under a worst case scenario, GCNP commercial air tour sightseeing operators directly impacted by the reconfiguration of the GCNP SFRA could cease commercial air tour sightseeing operations altogether in the Canyon; this essentially would mean the complete elimination of the GCNP commercial air tour sightseeing industry. However, it is expected that the affected commercial air tour sightseeing operators will adapt to the modified routes resulting from the new GCNP SFRA changes by redesigning or offering new commercial sightseeing air tours. The estimated cost impact of the adjustments suggests a continued viable commercial air tour sightseeing industry.

With regard to the consumers of commercial sightseeing air tours, the altered commercial air tour sightseeing routes resulting from the new changes to the GCNP SFRA, will, in some instances, shorten the length of a commercial sightseeing air tour currently offered. In other instances, it will prolong the time a commercial air tour sightseeing passenger spends on a commercial sightseeing air tour, but it will not necessarily prolong the time available to the passenger to view the more prominent features of the Grand Canyon. In still other instances, it will eliminate the most prominent feature of the commercial sightseeing tour. Certain redesigned commercial sightseeing air tours are likely to increase in price to cover the commercial air tour sightseeing operator's added operating costs.

To the extent a commercial sightseeing air tour of GCNP is perceived to be a devaluation in the current service offered, or its value is perceived to be less than its price, commercial air tour sightseeing could be

impacted adversely. However, consumption of goods and services such as commercial sightseeing air tours are typically one-time only events and not repeated by the same consumer. Therefore, the tourist is more likely to be concerned with the current commercial air tour sightseeing offering, and not its perceived loss of value in comparison to previous years.

The preceding paragraph relates to the concept of consumer surplus and the perceived loss thereof. Inherently, there will be a loss of consumer surplus when currently existing GCNP commercial sightseeing air tours are degraded as in the case of eliminating the National Canyon portion of what the FAA refers to as the "Blue 1, Blue Direct" tour. Similarly, with the Zuni Point Corridor becoming one-way, consumers taking an abridged commercial sightseeing air tour which substitutes the Painted Desert to the east of the Canyon for the lost viewing minutes of the Canyon itself, will likely also experience some loss of satisfaction. The FAA, however, is unable to quantitatively estimate these losses in consumer surplus because no consumer surplus valuation of commercial sightseeing air tours is available, and the comparison of the consumer surplus derived from slightly different goods among different individuals (e.g., interpersonal comparisons) can be very misleading. Thus, the FAA is only able to discuss the consumer losses associated with this rulemaking in general terms.

In this analysis, the FAA has assumed that commercial air tour sightseeing operators could recover any increase in operating cost due to this rulemaking by charging their customer more for air tours of GCNP. In fact, it may not always be possible for these operators to recover all the cost increases imposed on them by this rulemaking by raising prices of air tours. Customers are sensitive, in varying degrees, to price increases and react by buying less of those goods and services when their prices are increased. Customers tend to be insensitive to very small increases in prices on goods and services that are infrequently purchased (a one cent increase on the price of a new car is not likely to have any impact on any potential customer's purchasing behavior). Buyers do tend to be very sensitive to large increases on goods and services that are frequently purchased (a one dollar increase in the price of a gallon of milk will result in people buying less milk). At this time, the FAA does not have adequate data to estimate how sensitive customers are to noticeable price increases for air tours of the Grand Canyon. However, the FAA believes that commercial air tour sightseeing operators will be able to recover most of the increased costs imposed by this rule, because the price increases will usually be relatively small (compared to the price of a air tour) so that most potential customers will continue to purchase air tours of the Grand Canyon.

The following discusses the potential cost impact of each change:

(1) Modification of the Special Flight Rules Area (SFRA)

The extension of the GCNP SFRA, which effectively increases the lateral dimensions of the existing SFRA by approximately 2.8 percent, will result in only those costs associated with revising and publishing a new Grand Canyon VFR Aeronautical Chart. Similarly, the increase in altitude of the SFRA ceiling from 14,499 to 17,999 feet msl, which is intended to protect GCNP from the impact of commercial air tour sightseeing aircraft overflying the flight-free zones, will have minimal impact on GCNP commercial air tour sightseeing operators. Its cost will be included under the revision and publishing costs noted above. The FAA considers chart revision to be a part of normal, on-going administrative costs, not costs incurred as a result of this rulemaking action. Neither the chart revision nor the cost associated with a change in altitude over the flight-free zone will have a measurable impact on GCNP commercial air tour sightseeing operators.

(2&3) Modification of existing and establishment of new flight-free zones and flight corridors

The reconfiguration of GCNP flight-free zones and flight corridors will impact all commercial air tour sightseeing routes, and consequently, all revenue ($113.1 million) received by the GCNP commercial air tour sightseeing industry. Approximately $92.5 million, or about 82 percent, of the total revenue generated by the GCNP commercial air tour sightseeing industry is derived from the commercial sightseeing air tours offered on the "Blue 1" tour route. The FAA estimates that the cost impact associated with the elimination of the National Canyon portion of this tour route will be about $2.4 million average annual reduction in net operating revenue (1997–2008) with a likely greater loss of consumer surplus. There will also be some further reduction in net operating revenue associated with the remaining $20.6 million in total commercial air tour sightseeing revenue; most of this will result from the change to one-way traffic in the Zuni Corridor.

A more detailed breakdown of the commercial sightseeing air tour routes effected by this change and an assessment of the potential losses are as follows:

Toroweap/Shinumo Flight-free Zone

(a) The merging of the Toroweap-Thunder River and Shinumo Flight-free Zones and the resulting closing of the Fossil Canyon Corridor will eliminate tour routes "Blue 1A", "Brown 1A", and "Green 3A". In response to the Las Vegas FSDO SFAR 50–2 Tour Route Usage Report, no operators indicated use of the "Green 3A" route, only one operator reported use of the "Brown 1A" route and four operators reported use of the "Blue 1A" route. The merging of the two flight-free zones and resulting elimination of the Fossil Canyon Corridor will only impact the tour offerings of these five operators, only one of which, however, utilizes a single aircraft and offers only the one type of tour in GCNP.

All of these commercial sightseeing air tour packages are part of a larger group designated as "miscellaneous" tours; collectively, they generated total commercial air tour sightseeing revenues of approximately $724,000 in 1995 by providing approximately 1200 tours that carried 6,500 passengers. However, only the one single tour/single aircraft operator with 1995 annual revenue of approximately $9,000 (the forecast annual average for the 12 year period 1997–2008, is $11,500) will be required to develop and competitively offer a completely new tour. The other four operators can readily modify their current tour packages with minimal cost outlay because they already offer established commercial sightseeing air tours along other similar routes.

The single tour/single aircraft operation likely provides transportation to river rafting tours, a "tour" endeavor which can be modified. The only alternative for this operator is elimination as a GCNP commercial air tour sightseeing operator concomitant with the loss of an average annual revenue stream of $11,500 over the 1997–2008 time frame. However, the FAA believes that if this particular operator was unable to adapt, his tour business will not be lost, but rather it will be taken over by another similar operator. Thus, the FAA estimates the cost of this change will be zero revenue loss, but possibly, will lead to the elimination of a single commercial air tour sightseeing operator doing a relatively small amount of business in GCNP.

(b) The southward extension of the Toroweap-Thunder River Flight-free

Zone and concomitant elimination of commercial air tour sightseeing access to the National Canyon portion of what is referred to as the "Blue 1, Blue Direct" commercial sightseeing air tour will result in an estimated average annual reduction of net operating revenue in excess of $2.4 million from 1997 through 2008. The source of this revenue loss is the anticipated reduction in ticket prices. Reduced ticket prices can be expected because commercial air tour sightseeing operators will no longer be offering an aerial tour of the Grand Canyon. Instead they will merely offer a commuter flight to Tusayan as a result of being precluded from offering the National Canyon aerial portion of their former commercial sightseeing air tour.

The estimated average annual reduction in net operating revenue of $2.4 million was derived by subtracting the estimated reduction of $2.5 million in average annual variable operating costs from a total average annual revenue loss of $4.9 million.

Bright Angel Flight-Free Zone

(a) In 1995, according to the SFAR No. 50–2 Air Tour Route Usage Report, 13 operators (fixed-wing aircraft and helicopter) with total revenues of approximately $9.3 million conducted commercial sightseeing air tours along the "Black 1, 1A" and the "Green 1, 1A, 2" tour routes and another five operators with total revenue of approximately $1.4 million conducted helicopter commercial sightseeing air tours in the Dragon Corridor. The total 1995 revenue potentially impacted by this part of the rule is estimated to be about $10.7. The FAA estimates, however, that the average annual increase in variable operating costs resulting from an approximate 20 percent increase in duration of the commercial sightseeing air tours operating on the "Green 1, 1A & 2" will be offset by increased ticket prices. Thus, the FAA estimates no net operating losses associated with the north extension of the Bright Angel Flight-free Zone.

(b) The reconfiguration of the Zuni Point Corridor and the limiting of it to one-way traffic will impact all commercial sightseeing air tours that depend on the current two-way VFR routes to offer a simple fly around type tour of the Zuni Point Corridor. This includes one fixed-wing aircraft and four helicopter GCNP commercial air tour sightseeing operators. The fixed-wing aircraft operator generated commercial air tour sightseeing revenue of approximately $13,000 from this particular tour in 1995, a tour part of the larger group of "miscellaneous" tours. The substitutes for this operator will be the "Black 1, 1A" tour route or flying out to the east over the Painted Desert as a tour route option. Both of these tour route options are expected to increase the tour price by about $10 per passenger, or about $2,600 total annual added cost to the commercial air tour sightseeing consumers based on 260 passengers opting for this tour in 1995.

The four helicopter operators generated 1995 commercial air tour sightseeing revenue of just under $1.5 million flying the "Green 1" commercial air tour sightseeing route in conducting over 3,700 commercial sightseeing air tours with more than 12,800 passengers. Similar options are also available to GCNP commercial air tour sightseeing helicopter operators, i.e., the "Green 1, 1A & 2" ("Zuni Point NW") tour route or the Painted Desert tour route option. Each of these will increase the tour price per passenger by about $45 or $574,400 total annual added cost to the commercial air tour sightseeing consumers based on the 12,800 passengers opting for this tour in 1995.

The total potential increase in 1995 annual costs of this particular alteration in the GCNP SFRA will be about $577,000 ($2,600 plus $574,400) in added consumer costs (increased commercial air tour sightseeing prices) because of the elimination of less costly commercial air tour sightseeing options. The forecast annual average cost for the 12 year period 1997–2008, is just over $740,700 per year. However, adaptation on the part of commercial air tour sightseeing operators to the changes in the Zuni Point Corridor could result in the possible addition of one commercial air tour sightseeing flight per hour through the Dragon Corridor. This will be the outcome if the five affected operators choose the "Zuni Point NW" option as their commercial air tour sightseeing substitute.

There is another cost associated with the one-way limitation of the Zuni Point Corridor in conjunction with the north expansion of the Bright Angel Flight-free Zone. The ticket price increases resulting in added consumer costs detailed above do not fully cover the increase in variable operating costs of the commercial air tour sightseeing operators adopting the new Zuni-Alpha-Dragon Corridors loop. The five new operators of this kind of tour are limited to raising their tour prices to only what is currently being charged the tour consumer by the already established commercial air tour sightseeing operators of this kind of tour. This is captured in the price increases of $10 and $45 for fixed-wing aircraft and helicopter tours, respectively. The difference between what these operators could receive in additional revenue through price increases and the added costs imposed by this rule will result in about $383,000 that the operators must absorb as losses in increased aircraft operating costs. Thus, the full cost of making the Zuni Point Corridor one-way with the north expansion of the Bright Angel Flight-free Zone is $577,000 in increased consumer costs and $383,000 in operator losses.

As previously discussed, while the FAA does not have adequate data to estimate how sensitive customers are to noticeable price increases for air tours of the Grand Canyon, the FAA does believe that commercial air tour sightseeing operators will be able to recover most of the increased costs imposed by this rule, because the price increases will usually be relative small (compared to the price of a air tour) so that most potential customers will continue to purchase air tours of the Grand Canyon. A $10 price increase a relatively small price increase probably will not have a noticeable impact demand for above fixed wing air tours. However, a $45 price increase is a large price increase and could result in a reduction in the demand for the above helicopter air tours. Therefore, the above the estimate for increased revenue from price increases ($577,000) may be an over estimate, and the estimated loss ($383,000) may be an under estimate.

Sanup Flight-free Zone

The creation of the Sanup Flight-free Zone in the southwest portion of GCNP restricts air traffic to one side only of the Colorado River beyond Separation Canyon. This change will effect seven fixed-wing aircraft operators offering commercial sightseeing air tours on the "Blue 2" VFR route and three helicopter operators offering commercial sightseeing air tours on the "Green 4" VFR route. Combined, these 10 GCNP commercial air tour sightseeing operators accounted for approximately $7.7 million total commercial air tour sightseeing revenue in 1995, flying approximately 16,800 commercial sightseeing air tours and 92,800 passengers.

Based on information from the Las Vegas FSDO, 90 percent of GCNP commercial sightseeing air tours conducted on the "Blue 2" and the "Green 4" VFR commercial air tour sightseeing routes turn back at or before Separation Canyon and will therefore, not be directly impacted by this change. Furthermore, there is no evidence to suggest that the remaining 10 percent of the commercial sightseeing air tours that fly beyond Separation Canyon charge a

premium which would result in proportionately greater potential revenue losses. Nor is there substantiated evidence to suggest that the helicopter tours that include ground excursions inside the Hualapai Indian Reservation (a major source of revenue for this Native American tribe derived from landing rights agreements contracted with commercial air tour sightseeing operators) will be impacted because these tours typically extend only as far as Quartermaster Canyon, a point located west of Separation Canyon. The FAA therefore, concludes that this alteration to the GCNP SFRA will have neither a measurable impact on the 10 percent of commercial sightseeing air tours that fly beyond Separation Canyon nor any significant probable loss of consumer surplus.

Desert View Flight-free Zone

No commercial sightseeing air tours are currently conducted in the vicinity of the Desert View Flight-free Zone such that its extension to the north and east will have a direct cost impact on the GCNP commercial air tour sightseeing operators or their passengers. Costs associated with the elongation of the Zuni Point Corridor as a result of the simultaneous extensions of both the Desert View and Bright Angel Flight-free Zones have already been accounted for. Likewise, the costs have been discussed which might be associated with a commercial sightseeing air tour option which exists GCNP to the east flying over the Painted Desert made necessary by limiting Zuni Point Corridor traffic to one-way. The FAA concludes that the expansion of the Desert View Flight-free Zone in and of itself will have no known cost impact on GCNP commercial air tour sightseeing operators or their tour passengers other than what has already been discussed in the context of other modifications.

(4) New Curfew (Basic Fixed Flight-free Period)

The introduction of the new curfew (basic fixed flight-free periods) for commercial air tour sightseeing operations conducted at the East-end of GCNP will result in lost revenue for those operators conducting commercial sightseeing air tours in the Zuni Point and Dragon Corridors. The reduction in time available for commercial air tour sightseeing flights in the Zuni Point and Dragon Corridors as a result of the basic fixed flight-free periods will impact just over 20.0 percent of the daily commercial sightseeing air tours offered in the summer season between May 1 and September 30, and approximately one-third of the daily commercial sightseeing air tours offered in the winter season. (The final rule defines a winter season inclusive of the month of October which, in practice, is a part of the GCNP commercial sightseeing air tour industry's summer season.)

The impact of the basic fixed flight-free periods is most likely to be realized by GCNP operators during the summer season because, as noted previously, commercial air tour sightseeing aircraft are utilized at full operational capacity during the summer season. With the introduction of a temporary freeze on the number of GCNP commercial air tour sightseeing aircraft, however, the only alternative available to GCNP commercial air tour sightseeing operators during the summer season will be to eliminate commercial sightseeing air tours which currently occur during hours included in the basic fixed flight-free period. The FAA expects that some of this loss of revenue could be recovered through ticket price increases, and some of it will be offset as a result of lower variable operating costs due to the reduced number of commercial sightseeing air tours being conducted in the summer. During the winter season, however, the FAA assumes there will be sufficient operational underutilization of aircraft such that GCNP operators will reschedule commercial sightseeing air tours currently operating during the basic fixed flight-free period into non flight-free times.

Based on 1995 estimates, the potential loss of revenue resulting from the summer curfew is nearly $1.8 million or 14.9 percent when compared with the GCNP commercial air tour sightseeing revenue of $12.3 million derived from commercial sightseeing air tours conducted on the East-end of GCNP. (When compared with the total GCNP commercial air tour sightseeing revenue of $113.1 million generated in 1995, the potential loss is 1.6 percent). The estimated amount of average annual commercial air tour sightseeing revenue for the 10-year time period 1997–2008, that could be potentially effected during the summer season, is about $2.4 million (total revenue net of variable aircraft operating cost is $1.4 million).

The FAA estimates that just under 2400 commercial sightseeing air tours will be rescheduled during the rule's basic fixed flight-free period winter season. (Comments offered by commercial sightseeing operators who addressed the curfew issue at the Scottsdale/Las Vegas public hearings, generally maintained that a curfew during the winter season would cause minimal disruption to commercial sightseeing tour schedules.) The resulting air traffic compression during non-curfew times, however, will result in some increase in aircraft activity with a corresponding increase in noise levels in GCNP during the time periods that commercial air tour sightseeing aircraft are permitted to operate.

(5) Reporting Requirements

Section 93.917 will establish operator reporting requirements. All certificate holders operating within the GCNP SFRA will incur costs due to this section during the 5-year time frame (1997 through 2001) that these reporting requirements will be in effect.

The reporting requirements for § 93.917 include:

(a) Each certificate holder will have to establish a system to codify the required information and then update this system (there are no existing reporting requirements).

(b) Three times a year, within 30 days after April 30, August 31, and December 31, each certificate holder will have to submit in writing specific information to the Las Vegas FSDO.

The FAA estimates that it will take each certificate holder one week to establish and set up the reporting system. Thereafter, each operator could use a spreadsheet program to maintain and update daily information; accordingly, a computer specialist will not be needed to set up an operator's report system. The FAA estimates that the total one-time cost in 1995 dollars for all GCNP certificated operators will be approximately $10,550 or about $340 for each operator.

After the initial set up of task 'a' above has been accomplished, updating will be required throughout the entire 5-year time frame of this recordkeeping requirement. The total amount of time needed to update this information will be a function of the number of aircraft that each operator has. The FAA assumes that it will take each operator about 10 minutes per aircraft per day to record the updated information onto a master spreadsheet. The FAA estimates the total annual cost in 1995 dollars for this task for the time period 1997–2001, will be about $70,200, or about $515 per aircraft each year.

Task 'b' above requires written information to be provided to the Las Vegas FSDO three times in each of the years 1997 through 2001. The FAA assumes this will take about one-half of an hour for each operator to compile the information, 15 minutes for each operator to fill out the generic information on the report, and an additional 5 minutes per aircraft for the specific information needed in the

report. The FAA estimates the total annual cost in 1995 dollars for this task for the time period 1997–2001, will be about $900, or about $30 per operator each year.

In addition to the above detailed operator costs, the FAA will incur costs as well. FAA costs will result from the recording and tracking of the information provided by the operators. The FAA assumes this task will be handled by a GS–13 inspector (paid at the full wage, including all fringe benefits, of $34.29/hr) located at the Las Vegas FSDO; thus, no outside contractor will be needed. This inspector will need about one hour to review each operator's report or about 93 hours total each year. The FAA estimates that the total cost to the FAA of this component of the reporting requirement will be approximately $16,000, or about $3,200 annually.

For the operators, total costs sum to approximately $366,000 while the total costs for the FAA sum to approximately $16,000. The total average annual cost of the reporting requirements for the 5-year period 1997 through 2001 is about $76,400 ($73,200 for operators, $3,200 for the FAA).

Temporary Freeze on Number of Aircraft

Assuming the temporary freeze on the number of aircraft introduced with this final rule will conclude with the publication date of the final rule on GCNP Noise Limitations, the FAA estimates the potential impact will be a loss of operator total revenue of approximately $3.9 million ($2.9 million, net of variable aircraft operating costs) owing to the cancellation of nearly 2400 commercial sightseeing air tours carrying 22,350 passengers. These estimates reflect the 3.3 percent compound annual rate of growth in GCNP commercial sightseeing activity. If certain larger, more quiet aircraft are permitted to be substituted such that the total GCNP commercial air tour sightseeing fleet remains unchanged from the level imposed by the freeze, much of this loss of revenue could be negated.

Cost Summary

The FAA estimates that the average annual costs of the six changes contained in the final rule ((1) modification of the SFRA dimensions; (2) establishment of new and modification of existing flight-free zones; (3) establishment of new and modification of existing flight corridors; (4) institution of a curfew (flight-free period) on the East end of GCNP; (5) addition of reporting requirements for commercial air tour sightseeing companies operating in the SFRA; and (6) a temporary freeze on the number of aircraft) is approximately 8.0 million in potential operator revenue losses net of variable aircraft operating costs, added consumer costs, and added federal administrative costs. The breakdown by final rulemaking change(s) is as follows: 1–3) $2.9 million loss of operator revenue net of variable aircraft operating costs with an additional cost to the consumer of $740,700 in increased ticket prices associated with the establishment and modification of flight-free zones and corridors; (4) $76,000 for new operator and FAA recordkeeping and reporting requirements; (5) $1.4 million in revenue loss net of variable aircraft operating costs for the introduction of the basic fixed flight free periods; and 6) $2.9 million in potential revenue loss net of variable aircraft operating costs resulting from the temporary freeze on the number of aircraft.

Benefits

The benefits of noise reduction attributable to this rulemaking can be broadly categorized as use and non-use benefits. Use benefits are the benefits perceived by individuals from the direct use of a resource such as hiking, rafting, or sightseeing. Non-use benefits are the benefits perceived by individuals from merely knowing that a resource is preserved in a given state. The use benefits of this rulemaking have been estimated and are presented below. The non-use benefits attributable to this rulemaking have not been estimated, but are qualitatively discussed.

Economic studies have not been conducted specifically to estimate benefits for this rulemaking. Benefits, are therefore, estimated by combining analogous situations (with value estimates) from existing economic studies with site-specific information related to GCNP and other information to estimate benefits. Certain criteria should be applied to ensure that appropriate studies are selected for purposes of benefits estimation. The criteria used in this rulemaking are listed below.

Selected economic studies must reasonably represent the resources to be valued in terms of physical characteristics, service flows, user characteristics, and available substitutes.

Selected economic studies must be scientifically sound. Studies that are either published in peer-reviewed academic journal or are conducted by a recognized university-associated researcher or established consulting firm are considered to be scientifically sound.

Selected economic studies must use appropriate valuation methodologies. The studies selected to estimate the benefits of this rulemaking conform to each of these criteria.

The site-specific information used in the benefit estimation includes visitation data for GCNP and a visitor survey conducted to document the visitor impacts of aircraft noise within GCNP. The available visitation data for GCNP permits the categorization of visitors into the following groups: back country users (115,500 visitor days), river users, and other visitors (5,801,800 visitor days).

The GCNP visitor survey indicates that these different visitor groups are variously affected by aircraft noise (HBRS, Inc. and Harris Miller Miller & Hanson, Inc. 1993). This survey asked respondents to classify the interference of aircraft noise with their appreciation of the natural quiet of GCNP as either "not at all," "slightly," "moderately," "very much," or "extremely."

The FAA used three economic studies in estimating recreational benefits in terms of consumer surplus. Consumer surplus is the difference between the maximum amount a consumer is willing to pay and what the consumer actually pays. It is a measure of the increase in well being gained by individuals through participation in recreational. The three studies valued recreation activities in or near GCNP as hiking: $43.16 per visitor day; multi-day rafting: $128.21; and other ground sightseeing: $39.71. It is assumed that these values represent the value of participating in the indicated activities at GCNP absent any impact from aircraft noise.

These data and assumptions imply the following total lost values from all aircraft noise in 1995. The total lost value of $29.7 million was calculated as the product of the number of visitor-days, the proportion of visitors affected by aircraft noise, the visitor-day value, and the assumed proportional reduction in the visitor-day value. (See Regulatory Evaluation for details).

The benefit of this rulemaking is that portion of the total lost value that is associated with the resulting noise reduction. The indicated percent reduction in aircraft noise for each year was applied to the total lost value from all aircraft noise to yield the current use benefit for that year. Linear interpolation was used to estimate benefits between the years 1997 to 2000, and 2001 to 2008. A 3 percent discount rate was then applied to calculate the present value of use benefits over the 12 year regulatory evaluation period. Using

a 7 percent discount rate, the present value of the benefits is $136.2 million.

The FAA and the NPS believes that the true representation of benefits from the rule are reflected by the 3 percent discount rate with a resulting value of $172,416,000. Economics literature supports a 3 percent discount rate for natural resource valuation (e.g., Freeman 1993), and recent Federal rulemaking also support a 3 percent discount rate for natural resource valuation (61 FR 453; 61 FR 20584).

Summarizing the above results, the FAA estimates the discounted use benefits of this final rulemaking during the 12-year period 1997–2008 to be $172 million discounted at three percent. In addition to these use benefits, this rulemaking would likely generate non-use benefits. The FAA does not have adequate data to estimate non-use benefits of aircraft noise reduction at the Grand Canyon. However, there are other studies that do suggest the possible existence of significant non-use benefits that can be attributed to this rulemaking.

Benefit/Cost Comparison

The total present value cost (operator revenue loss net of variable aircraft operating costs, ticket price increases, and recording costs) of the final rule will be $42.1 million. The total present value of benefits are $172.0 million. Since the total costs are less than the total benefits, the FAA contends that the final rule will be cost beneficial.

Final Regulatory Flexibility Analysis

By both law and executive order, Federal regulatory agencies are required to consider the impact of final regulations on small entities. Executive Order 12866 "Regulatory Planning and Review", dated September 30, 1993, states that:

Each agency shall tailor its regulations to impose the least burden on society, including individuals, businesses of different sizes, and other entities (including small communities and governmental entities), consistent with obtaining the regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations.

The 1980 "Regulatory Flexibility Act" (RFA), as amended, requires Federal agencies to prepare a final regulatory flexibility analysis of each final rule that will have a significant economic impact on a substantial number of small entities. The definition of small entities and guidance material for making determinations required by the RFA are contained in the **Federal Register** [47 FR 32825, July 29, 1982].

With respect to this final rule, a "small entity" essentially is a commercial sightseeing air tour operator owns or operates nine or fewer aircraft. A significant economic impact on a small entity is defined as an annualized net compliance cost to such a small commercial air tour sightseeing operator. In the case of scheduled operators of aircraft for hire having fewer than 60 passenger seats, a "significant economic impact" or cost threshold, is defined as an annualized net compliance cost level that exceeds $69,800; for unscheduled operators the threshold is $4,900. A substantial number of small entities is defined as a number that is more than one-third of the small commercial sightseeing operators (but not less than eleven operators) subject to the final rule.

The Federal Aviation Administration has determined that this final rule and the NPRM that is being published simultaneously, will have a significant economic impact on all commercial sightseeing operators conducting flights within Grand Canyon National Park, and, therefore, has prepared this final regulatory flexibility analysis of the final rule. A separate regulatory flexibility analysis of the NPRM is contained in that document. The analysis, structured in accordance with section 604 of the RFA as amended requires the following:

1. A succinct statement of the need for and objectives of the final rule;

2. A summary of the significant issues raised by public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;

3. A description of and an estimate of the number of small entities in which the rule will apply or an explanation of why no such estimate is available;

4. A description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for the report or record; and

5. A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

Why FAA Action is Being Considered: The final rule to establish noise limitations for certain aircraft operations in the vicinity of the Grand Canyon National Park stems from the need to further reduce the impact of aircraft noise on the park environment and to assist the National Park Service in achieving its statutory mandate imposed by Public Law 100–91 to provide for the substantial restoration of natural quiet and experience in the Grand Canyon National Park.

Significant Issues Raised by Public Comments: Only one commenter specifically addressed the impact on small businesses. The Small Business Administration (SBA) questioned the findings of the regulatory flexibility analysis contained in the NPRM with respect to the impact on small tour operators because revenue losses were assessed at the aggregate level. The SBA also suggested that a different compliance and reporting requirement or different timetables for small entities should be explored, that the FAA propose performance rather than design standards, and that small entities be considered for exemption from all or part of the rule requirements. The FAA has reviewed the SBA's comment and, they are discussed in the alternatives section of this analysis.

The SBA also suggested that it would be appropriate to use elasticity of demand information to calculate the extent to which small businesses will recoup costs by increasing fares. The data for this segment of the population, however, are not available, but this issue is discussed in the full regulatory analysis of the final rule. The SBA also had suggested that the FAA evaluate data on profits which "may be available from Dun and Bradstreet." However, data on actual profits from very small entities that would be affected by this proposal are not publicly available from the recommended source or within the public docket. In addition, the SBA believes that the FAA has not fully considered other significant options. Given both the qualitative and quantitative costs and benefits, the FAA believes that the best option that minimizes costs and maximizes benefits was chosen. With regard to other concerns made by the SBA, the FAA has taken these comments into consideration in producing the final RFA and in estimating costs associated with this rulemaking.

Description and Estimated Number of Small Entities Effected: The rulemaking will affect commercial air tour sightseeing operators conducting flights

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over the Grand Canyon National Park under 14 CFR part 135. FAA data shows that in 1995, there were 26 potentially affected small commercial sightseeing operators, each owning, but not necessarily operating 9 or fewer aircraft. These operators owned a total of 70 aircraft and the average fleet consisted of about 3 airplanes. The FAA estimates that these 26 operators, will be impacted by the final rule.

Cost of Compliance to Small Entities

Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule

Section 93.917 will establish operator reporting requirements. All certificate holders operating within the GCNP SFRA will incur costs due to this section during the five-year time frame (1997 through 2001) that these reporting requirements will be in effect.

The reporting requirements for section 93.917 include:

(a) Each certificate holder will have to establish a system to codify the required information and then update this system.

(b) Three times a year, within 30 days after April 30, August 31, and December 31, each certificate holder will have to submit in writing specific information to the Las Vegas FSDO.

In developing these costs, the FAA assumes that each operator maintains an existing list of what each one of his/her aircraft is doing each day. The operators require this information for maintenance planning purposes, and such a list will include how many hours are left before the next scheduled inspection and how many flights can be flown before it is due. Since the operators already have this information, the FAA assumes that it could be loaded into a spreadsheet program. The FAA also assumes that the total amount of time needed to process and compile the information is a function of the number of airplanes that the operator has. This work could most likely be performed by a flight dispatcher.

The FAA estimates that it will take each certificate holder one week to establish and set up the reporting system. Thereafter, each operator could use a spreadsheet program to maintain and update daily information; accordingly, a computer specialist will not be needed to set up an operator's reporting system.

The recordkeeping requirement described above will have to be updated throughout the entire five-year time frame. The total amount of time needed to update this information will be a function of the number of aircraft that each operator has. The FAA assumes that it will take each operator about 10 minutes per day to record the updated information onto a master spreadsheet.

In addition, the required information is to be provided to the Las Vegas FSDO three times in each of the years 1997 through 2001. The FAA assumes that this will take about one-half of an hour for each operator to compile the information, 15 minutes for each operator to fill out the generic information on the report and an additional 5 minutes per aircraft for the specific information needed in the report.

The FAA estimates that compliance with the final rule's recordkeeping requirements will impose an additional 61 hours of labor per aircraft each year once the initial set-up of a reporting system had been accomplished. The average annual cost per aircraft will be about $515, but the average annual cost per affected operator will depend on an operator's fleet size. The one-time initial set-up cost for each operator regardless of fleet size will be about $340.

All commercial air tour sightseeing operators will be subject to the recordkeeping requirement costs. The FAA estimates that the maximum annual cost of this requirement will be about $540 per aircraft. If an operator has nine aircraft (the maximum allowable number of aircraft owned to be considered a "small entity"), that operator's annual cost will be about $4,860, which is about $40 below the thresholds for significant cost for scheduled and unscheduled operators.

Zuni Point Corridor

Of the final rule changes, one of the most costly—in terms of increased tour lengths, increased consumer prices, and increased traffic in the Dragon Corridor—will be the restriction of one-way traffic in the Zuni Point Corridor. This change, however, will only impact at most five operators currently offering a two-way tour of the Zuni Point Corridor. The number of operators affected by this requirement is less than one-third of all GCNP commercial air tour sightseeing operators. Thus, a substantial number of small operators will not be significantly impacted.

Basic Fixed Flight-Free Periods

Only the commercial air tour sightseeing operators based in Tusayan or those who have flights entering the GCNP SFRA from the east end of the Grand Canyon will be subject to the basic fixed flight-free periods. The FAA estimates that the average annual cost of this requirement to these operators will be about $30,500 in net operating revenue loss per aircraft on average. Any operator with 9 or fewer aircraft will incur costs that exceed the threshold for significant costs for unscheduled ($4,900) operators, and any operator with from 4 to 9 aircraft will exceed the threshold for significant costs for scheduled ($69,800) operators. Five of the 31 operators conducting commercial sightseeing air tours of GCNP own more than 9 aircraft and will not be considered a "small entity". Six operators own between four and nine aircraft. Thus, this final requirement will not have a significant economic impact on a substantial number of small entities, because only a maximum of six operators out of 31 will be significantly impacted.

The final rule will affect certain operators who conduct air tours between Las Vegas and Tusayan. Currently, these operators follow the Colorado River inside the GCNP during part of that flight. All these operators will no longer be allowed to conduct this flight along the Colorado River, as a result of this final rule. This rule changes these 12 operators from airtour operators to commuter operators.

The FAA estimates that using 1995 as a baseline, the above 12 operators with 82 aircraft will incur average annual revenue losses, net of variable operating costs, of $2,397,900. Therefore, the net impact per aircraft will be about $29,200 ($18,900 discounted). Assuming as a worse case, that all of these operators are unscheduled (which they are not), then the threshold for significant costs would be $4,900. Therefore, all of the operators would suffer a significant economic impact. However, there are only nine small operators (29 percent) that will be adversely affected. The FAA concludes that a substantial number of small entities will not be significantly impacted.

Description of Alternative Actions

This rule is somewhat unique in that most of the economic impact of the rule falls upon small businesses. Consequently, all alternatives considered during formulation of this final rule are actually alternatives related to small entities. Numerous alternatives have been suggested and considered by the many forums that have studied the issue since 1986 when the FAA issued SFAR No. 50 that established flight regulations in the vicinity of the Grand Canyon. In 1994, the DOI submitted a report to Congress containing recommendations for restoring natural quiet in the park. Alternatives that were recommended to be considered, separately or in concert, included simplification of the

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commercial air tour sightseeing route structure, expansion of the flight free zones, phased-in use of quieter aircraft, technology, separation of park ground visitors and air tour overflights, exploiting natural attenuation, reducing duration of noise intrusions, and encouraging use of greater payload aircraft. Many combinations of all of these alternatives or recommendations were considered in developing this rule. The NPRM, inviting public comment was published July 31, 1996. The following month, on August 21, the NPRM Draft Environmental Assessment was published in the **Federal Register** inviting further public comment. Public hearings were held September 16–20 in Scottsdale, Arizona and Las Vegas, Nevada to obtain additional public comment on the NPRM and the draft environmental assessment. Finally, Congressional hearings were held on the issue October 10–11, 1996.

To recount all the alternatives and combination of alternatives that were considered as a result of these actions is beyond the scope of this analysis. Clearly, however, the two primary goals of this rule are to (1) restore natural quiet, and (2) preserve the opportunity for the public to enjoy air tours at GCNP. Integrally connected with the second goal is preservation of the air tour industry serving the park, which is primarily composed of small entities.

Probably the only alternative not considered was to extend the compliance period beyond the year 2008. This alternative was rejected because the President's Memorandum dated April 22, 1996 directed that restoration of the natural quiet be accomplished by 2008. The FAA believes that the least burdensome way for small entities to accomplish restoration of natural quiet by 2008 is through the requirements of this final rule and the NPRM being published at the same time. A brief discussion of specific alternatives to reduce the impact on small entities suggested by the SBA in that agency's comments on the NPRM is as follows:

Lessen Projected Reporting and Recordkeeping Requirements

The FAA considered several ways to lessen the impact of these requirements on small entities. The first way was to not require any reporting by small entities. Another was to require the identical reporting requirements on each firm, regardless of the size of that firm. The third was to tailor the reporting to the size of the firm.

The FAA rejected the first alternative because the vast majority of the firms are small entities. Collecting the information from only large entities would not be useful to establish accurate information on GCNP overflights for noise and safety management purposes. In addition, the FAA would not be able to validate FAA and NPS noise models for use in noise mitigation studies or determine with precision when and where noise mitigation is required. Finally, the FAA would have no basis for creating a more flexible and adaptable noise management system.

The second alternative was to require identical reporting requirements regardless of firm size. This alternative was also rejected because larger firms with more aircraft are likely to create more noise than smaller firms with fewer aircraft. The FAA does not believe that it is reasonable to burden all firms with the identical requirements. The FAA also believes that some information would be lost (if the reporting requirements were made too lenient) or too much unnecessary information would be obtained if all operators had the identical requirements.

The third (chosen) alternative tailored the recordkeeping requirements to the size of the firm. As documented in the regulatory evaluation, much of the information that is being requested is based on the number of aircraft an operator owns or operates. That is, a smaller firm with fewer aircraft would be burdened less than a larger firm with more aircraft.

Propose Performance Based Standards

The SBA suggested that the FAA consider the use of performance rather than design standards as applied to small entities. The FAA is interested in taking advantage of the benefits of performance standards. The agency completed a major study in April, 1996 called "Challenge 2000" to serve as a guide for a comprehensive change program for the FAA to provide essential regulation and enforcement services. These services would be provided with expected levels of resources into the next century. One recommendation of that study was for the agency to evolve performance based regulations. Although the FAA did not identify an opportunity to implement any performance regulations in the final rule, some evolution in that direction is contained in the NPRM being issued simultaneously with this final rule. In the NPRM, aircraft are categorized in accordance with their noise performance, and the noisier performers are proposed to be phased out of air tour service in the vicinity of GCNP.

Exempt Small Entities From Some Provisions of the Rule

The SBA commented that the FAA should explore a much more aggressive approach in considering this alternative. The FAA has attempted to minimize the economic impact of restoring quiet to the park on air tour operators, most of which are the small entities impacted by this rule. But if small entities, which comprise 26 of the 31 operations impacted were exempted from any operational provisions of the rule, the goal of restoring natural quiet to the Grand Canyon would not be achieved. Based on the above discussion, the FAA sees no practical way to exempt small entities from any of the provisions of the final rule.

Statement of Legal and Policy Reasons for Adopting the Rule

The FAA is directed to promote the safe flight of civil aircraft in air commerce by Subtitle VII Part A of Title 49, United States Code. As such, it is the only agency empowered to control aircraft flight in U.S. airspace. Further, Section 3 of Public Law 100–91, commonly known as the National Park Overflight Act, mandated substantial restoration of the natural quiet and experience of the park and protection of public health and safety from adverse effects associated with aircraft overflight.

The primary policy reason for adopting this rule, is that it is the best compromise the FAA has been able to formulate to achieve the mandate of Public Law 100–91 and maintain a viable air tour industry serving GCNP. Further, the President published a memorandum in the **Federal Register** on April 22, 1996 requiring that the goal of restoration of natural quiet as defined by the Secretary of the Interior in accordance with the Overflights Act be completed in the park no later than April 22, 2008.

International Trade Impact Assessment

The FAA has determined that the rulemaking will not affect non-U.S. operators of foreign aircraft operating outside the United States or U.S. trade. It could however, have an impact on commercial air tour sightseeing at GCNP, much of which is foreign.

These changes will effectively reconfigure GCNP flight-free zones and flight corridors, reduce the time available for commercial sightseeing air tours to be conducted and in some cases, prolong the time a commercial air tour sightseeing passenger spends in an airplane not necessarily sightseeing. To the extent a commercial sightseeing air

tour of GCNP is perceived to be a devaluation in the current service offered, commercial air tour sightseeing could be impacted concomitant with a potential loss of revenue.

The United States Air Tour Association estimates that 60 percent of all commercial sightseeing air tourists in the United States are foreign. The Las Vegas FSDO, however, believes this estimate to be considerably higher at GCNP, perhaps as high as 90 percent. The FAA cannot put a dollar value on the portion of the potential loss in commercial air tour sightseeing revenue associated with the loss of foreign tour dollars.

Federalism Implications

The regulations herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12866, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

Section 93.317 contains information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA submitted a copy of this section to the Office of Management and Budget (OMB) for its review, and has received a 1-year clearance to obtain this information (OMB Control No. is 2121–0602).

Conclusion

This rule will reduce the impact of aircraft noise on the park environment in the Grand Canyon. The combination of expanded flight-free zones and closure of the Fossil Corridor will make significant progress toward achieving the NPS's goal of substantial restoration of natural quiet. The NPRM being published today would further assist in accomplishing this goal by a combination of requirements that would limit future use of noisier aircraft and that would provide incentives for the use of quieter aircraft. The initial aircraft phaseout proposed in the accompanying notice, in conjunction with this rule, would provide a significant reduction in noise and make a major contribution toward achieving the Congressional mandate of substantial restoration of natural quiet by the year 2000. Modeling shows that, if the phaseout is adopted as proposed, the substantial restoration objective would be exceeded by 2008. The phase out of noisier aircraft would ensure substantial restoration of natural quiet under conditions where additional noise efficient aircraft are added to the commercial sightseeing fleet as predicted in forecasting models.

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this final rule is a significant regulatory action under Executive Order 12866. In addition, the FAA certifies that this final rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This final rule is considered significant under DOT Regulatory Policies and Procedures.

Other Actions

Comprehensive Noise Management Plan

The rule reflects the understanding of the FAA and NPS that the conversion of the commercial sightseeing aircraft fleet operating in the SFRA to a more noise efficient fleet is the most promising approach to providing for the substantial restoration of natural quiet mandated by Public Law 100–91 and allowing for some measure of growth in the commercial sightseeing industry. To ensure that the rule provides the fairest solution for all parties involved, the FAA and NPS are committed to the joint development of a noise management plan no later than five years after May 1, 1997, the effective date of this rule. It will provide for a more adaptive management system, full resolution of all monitoring and modeling issues, additional public input, and the provision of improved incentives to invest in noise efficient aircraft. The purpose is to further refine the proposal (proposed § 93.319) in the NPRM regarding Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park, published concurrently with this final rule, with the intent of providing for substantial restoration of natural quiet mandated by Public Law 100–91. To ensure development of a flexible and adaptive approach to noise mitigation and management, this plan will, at a minimum, (1) address development of a reliable aircraft operations and noise database, (2) validate and document the most effective uses for FAA and NPS noise models in GCNP, (3) explore how the conversion to a noise efficient fleet can most effectively contribute to the substantial restoration of natural quiet while allowing for growth in the industry, and how, in this context, incentives can best be provided to promote this conversion. The FAA and NPS are committed to an open process that will provide for full public involvement and consultation with Native American tribes.

Park Air Operations

GCNP has one of the most strictly regulated aviation programs within the NPS and the DOI. The park limits use of its contracted aircraft to activities involving life or health-threatening emergencies, administration and/or protection of resources, and for individually approved special purpose missions. Each flight request is reviewed to ensure that it is the most efficient, economical, and effective method of performing the required task consistent with NPS and GCNP goals. These goals include the protection of natural quiet and experience, as reinforced by the park's recently approved General Management Plan. At the earliest possible date, consistent with contracting requirements and budgetary constraints, GCNP will convert to the quietest aircraft available that would also meet mission requirements.

Route Design and Modification

Recognizing that the design/location of tour routes within the SFRA is another critical component in achieving the substantial restoration of natural quiet in GCNP, the FAA, after consultation with the NPS, has proposed air tour routes in a separate notice issued concurrently with this final rule. These routes were designed in light of safety, noise mitigation, and economic considerations. The FAA welcomes and will consider any and all comments regarding these proposed routes, including those received through government-to-government consultation with Native American tribes. Any subsequent modifications to these routes would entail a similar process utilizing the same considerations.

List of Subjects

14 CFR Part 91

Aircraft, Airmen, Air traffic control, Aviation safety, Noise control, Reporting and recordkeeping requirements.

14 CFR Part 93

Air traffic control, Airports, Navigation (Air), Reporting and recordkeeping requirements.

14 CFR Part 121

Aircraft, Airmen, Aviation safety, Charter flights, Safety, Transportation.

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14 CFR Part 135

Air taxis, Aircraft, Airmen, Aviation safety.

Adoption of Amendments

Accordingly, the Federal Aviation Administration (FAA) amends 14 CFR parts 91, 93, 121, and 135 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506–46507, 47122, 47508, 47528–47531.

PART 121—[AMENDED]

2. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 46105.

PART 135—[AMENDED]

3. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

SFAR No. 50–2 [Removed]

4. In parts 91, 121, and 135, Special Federal Aviation Regulation No. 50–2, the text of which appears at the beginning of part 91, is removed.

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

5. The authority citation for part 93 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44719, 46301.

6. In part 93, subpart U is added to read as follows:

Subpart U—Special Flight Rules in the Vicinity of Grand Canyon National Park, AZ

Sec.

93.301 Applicability.
93.303 Definitions.
93.305 Flight-free zones and flight corridors.
93.307 Minimum flight altitudes.
93.309 General operating procedures.
93.311 Minimum terrain clearance.
93.313 Communications.
93.315 Commercial sightseeing flight operations.
93.316 Commercial sightseeing limitations.
93.317 Commercial sightseeing flight reporting requirements.
Appendix to Subpart U—Special Flight Rules in the Vicinity of the Grant Canyon National Park, AZ

Subpart U—Special Flight Rules in the Vicinity of Grand Canyon National Park, AZ

§ 93.301 Applicability.

This subpart prescribes special operating rules for all persons operating aircraft in the following airspace, designated as the Grand Canyon National Park Special Flight Rules Area: That airspace extending from the surface up to but not including 18,000 feet MSL within an area bounded by a line beginning at Lat. 35°55′12″ N., Long. 112°04′05″ W.; east to Lat. 35°55′38″ N., Long. 111°42′12″ W.; north to Lat. 36°16′47″ N., Long. 111°42′17″ W.; to Lat. 36°24′49″ N., Long. 111°47′45″ W.; to Lat. 36°52′23″ N., Long. 111°33′10″ W.; west-northwest to Lat. 36°53′37″ N., Long. 111°38′29″ W.; southwest to Lat. 36°35′02″ N., Long. 111°53′28″ W.; to Lat. 36°21′30″ N., Long. 112°00′03″ W.; west-northwest to Lat. 36°30′30″ N., Long. 112°35′59″ W.; southwest to Lat. 36°24′46″ N., Long. 112°51′10″ W.; thence west along the boundary of Grand Canyon National Park (GCNP) to Lat. 36°14′08″ N., Long. 113°10′07″ W.; west-southwest to Lat. 36°09′50″ N., Long. 114°01′53″ W.; southeast to Lat. 36°06′24″ N., Long. 113°58′46″ W.; thence south along the boundary of GCNP to Lat. 36°00′23″ N., Long. 113°54′11″ W.; northeast to Lat. 36°02′14″ N., Long. 113°50′16″ W.; to Lat. 36°02′16″ N., Long. 113°48′08″ W.; thence southeast along the boundary of GCNP to Lat. 35°58′09″ N., Long. 113°45′04″ W.; southwest to Lat. 35°54′48″ N., Long. 113°50′24″ W.; southeast to Lat. 35°41′01″ N., Long. 113°35′27″ W.; thence clockwise via the 4.2-nautical mile radius of the Peach Springs VORTAC to Lat. 35°28′53″ N., Long. 113°27′49″ W.; northeast to Lat. 35°42′58″ N., Long. 113°10′57″ W.; north to Lat. 35°5751 N., Long. 113°1106 W.; east to Lat. 35°57′44″ N., Long. 112°14′04″ W.; thence clockwise via the 4.3-nautical mile radius of the Grand Canyon National Park Airport reference point (Lat. 35°57′08″ N., Long. 112°08′49″ W.) to the point of origin.

§ 93.303 Definitions.

For the purposes of this subpart:

(a) *Flight Standards District Office* means the FAA Flight Standards District Office with jurisdiction for the geographical area containing the Grand Canyon.

(b) *Park* means Grand Canyon National Park.

(c) *Special Flight Rules Area* means the Grand Canyon National Park Special Flight Rules Area.

§ 93.305 Flight-free zones and flight corridors.

Except in an emergency or if otherwise necessary for safety of flight, or unless otherwise authorized by the Flight Standards District Office for a purpose listed in 93.309, no person may operate an aircraft in the Special Flight Rules Area within the following flight-free zones:

(a) *Desert View Flight-free Zone.* That airspace extending from the surface up to but not including 14,500 feet MSL within an area bounded by a line beginning at Lat. 35°59′58″ N., Long. 111°52′47″ W.; thence east and north along the GCNP boundary to Lat. 36°14′05″ N., Long. 111°48′34″ W.; southwest to Lat. 36°12′06″ N., Long. 111°51′14″ W.; to the point of origin; but not including the airspace at and above 10,500 feet MSL within 1 nautical mile of the western boundary of the zone. The corridor to the west, between the Desert View and Bright Angel Flight-free Zones, is designated the "Zuni Point Corridor." This corridor is 2 nautical miles wide for commercial sightseeing flights and 4 nautical miles wide for transient and general aviation operations.

(b) *Bright Angel Flight-free Zone.* That airspace extending from the surface up to but not including 14,500 feet MSL within an area bounded by a line beginning at Lat. 35°58′39″ N., Long. 111°55′43″ W.; north to Lat. 36°12′41″ N., Long. 111°53′54″ W.; northwest to Lat. 36°18′18″ N., Long. 111°58′15″ W.; thence west along the GCNP boundary to Lat. 36°20′11″ N., Long. 112°06′25″ W.; south-southwest to Lat. 36°09′31″ N., Long. 112°11′15″ W.; to Lat. 36°04′16″ N., Long. 112°17′20″ W.; thence southeast along the GCNP boundary to Lat. 36°01′54″ N., Long. 112°11′24″ W.; thence clockwise via the 4.3-nautical mile radius of the Grand Canyon National Park Airport reference point (Lat. 35°57′08″ N., Long. 112°08′49″ W.) to Lat. 35°59′37″ N., Long. 112°04′29″ W.; thence east along the GCNP boundary to the point of origin; but not including the airspace at and above 10,500 feet MSL within 1 nautical mile of the eastern boundary or the airspace at and above 10,500 feet MSL within 2 nautical miles of the northwestern boundary. The corridor to the east, between this flight-free zone and the Desert View Flight-free Zone, is designated the "Zuni Point Corridor." The corridor to the west, between the Bright Angel and Toroweap/Shinumo Flight-free Zones, is designated the

"Dragon Corridor." This corridor is 2 nautical miles wide for commercial sightseeing flights and 4 nautical miles wide for transient and general aviation operations.

(c) *Toroweap/Shinumo Flight-free Zone.* That airspace extending from the surface up to but not including 14,500 feet MSL within an area bounded by a line beginning at Lat. 36°05′44″ N., Long. 112°19′27″ W.; north-northeast to Lat. 36°10′49″ N., Long. 112°13′19″ W.; to Lat. 36°21′02″ N., Long. 112°08′47″ W.; thence west and south along the GCNP boundary to Lat. 36°10′58″ N., Long. 113°08′35″ W.; south to Lat. 36°10′12″ N., Long. 113°08′34″ W.; thence northeast along the park boundary to Lat. 36°11′51″ N., Long. 113°04′44″ W.; thence counter-clockwise via the 1.5-nautical mile radius of the Toroweap Overlook (Lat. 36°12′55″ N., Long. 113°03′25″ W.) to Lat. 36°13′46″ N., Long. 113°01′54″ W.; thence in an easterly direction along the park boundary to the point of origin; but not including the following airspace designated as the "Tuckup Corridor": at or above 10,500 feet MSL within 2 nautical miles either side of a line extending between Lat. 36°24′42″ N., Long. 112°48′47″ W. and Lat. 36°14′17″ N., Long. 112°48′31″ W.

(d) *Sanup Flight-free Zone.* That airspace extending from the surface up to but not including 8,000 feet MSL within an area bounded by a line beginning at Lat. 36°02′38″ N., Long. 113°21′11″ W.; west to Lat. 36°06′20″ N., Long. 113°51′40″ W.; southeast to Lat. 36°00′07″ N., Long. 113°42′58″ W.; southeast to Lat. 35°59′37″ N., Long. 113°42′47″ W.; to Lat. 35°59′20″ N., Long. 113°43′00″ W.; to Lat. 35°58′40″ N., Long. 113°43′58″ W.; southeast to Lat. 35°50′16″ N., Long. 113°37′13″ W.; thence along the park boundary to the point of origin.

§ 93.307 Minimum flight altitudes.

Except in an emergency, or if otherwise necessary for safety of flight, or unless otherwise authorized by the Flight Standards District Office for a purpose listed in 93.309, no person may operate an aircraft in the Special Flight Rules Area at an altitude lower than the following:

(a) *Minimum sector altitudes.* (1) *Commercial sightseeing flights.* (i) Marble Canyon Sector. Lees Ferry to Boundary Ridge: 6,000 feet MSL.

(ii) *Supai Sector.* Boundary Ridge to Supai Point: 7,500 feet MSL.

(iii) *Diamond Creek Sector.* Supai Point to Diamond Creek: 6,500 feet MSL.

(iv) *Pearce Ferry Sector.* Diamond Creek to the Grand Wash Cliffs: 5,000 feet MSL.

(2) *Transient and general aviation operations.* (i) *Marble Canyon Sector.* Lees Ferry to Boundary Ridge: 8,000 feet MSL.

(ii) *Supai Sector.* Boundary Ridge to Supai Point: 10,000 feet MSL.

(iii) *Diamond Creek Sector.* Supai Point to Diamond Creek: 0,000 feet MSL.

(iv) *Pearce Ferry Sector.* Diamond Creek to the Grand Wash Cliffs: 8,000 feet MSL.

(b) *Minimum corridor altitudes.*

(1) *Commercial sightseeing flights.* (i) *Zuni Point Corridors.* 7,500 feet MSL.

(ii) *Dragon Corridor.* 7,500 feet MSL.

(2) *Transient and general aviation operations.* (i) *Zuni Point Corridor.* 10,500 feet MSL.

(ii) *Dragon Corridor.* 10,500 feet MSL.

(iii) *Tuckup Corridor.* 10,500 feet MSL.

§ 93.309 General operating procedures.

Except in an emergency, no person may operate an aircraft in the Special Flight Rules Area unless the operation is conducted in accordance with the following procedures. **(Note:** The following procedures do not relieve the pilot from see-and-avoid responsibility or compliance with the minimum safe altitude requirements specified in § 91.119 of this chapter.):

(a) Unless necessary to maintain a safe distance from other aircraft or terrain remain clear of the flight-free zones described in § 93.305;

(b) Unless necessary to maintain a safe distance from other aircraft or terrain, proceed through the Zuni Point, Dragon, and Tuckup Flight Corridors described in § 93.305 at the following altitudes unless otherwise authorized in writing by the Flight Standards District Office:

(1) *Northbound.* 11,500 or 13,500 feet MSL.

(2) *Southbound.* 10,500 or 12,500 feet MSL.

(c) For operation in the flight-free zones described in § 93.305, or flight below the altitudes listed in § 93.307, is authorized in writing by the Flight Standards District Office and is conducted in compliance with the conditions contained in that authorization. Normally authorization will be granted for operation in the areas described in § 93.305 or below the altitudes listed in § 93.307 only for operations of aircraft necessary for law enforcement, firefighting, emergency medical treatment/evacuation of persons in the vicinity of the Park; for support of Park maintenance or activities; or for aerial access to and maintenance of other property located within the Special Flight Rules Area. Authorization may be issued on a continuing basis;

(d) Is conducted in accordance with a specific authorization to operate in that airspace incorporated in the operator's operations specifications and approved by the Flight Standards District Office in accordance with the provisions of this subpart;

(e) Is a search and rescue mission directed by the U.S. Air Force Rescue Coordination Center;

(f) Is conducted within 3 nautical miles of Grand Canyon Bar Ten Airstrip, Pearce Ferry Airstrip, Cliff Dwellers Airstrip, or Marble Canyon Airstrip at an altitude less than 3,000 feet above airport elevation, for the purpose of landing at or taking off from that facility; or

(g) Is conducted under an instrument flight rules (IFR) clearance and the pilot is acting in accordance with ATC instructions. An IFR flight plan may not be filed on a route or at an altitude that would require operation in an area described in § 93.305.

§ 93.311 Minimum terrain clearance.

Except in an emergency, when necessary for takeoff or landing, or unless otherwise authorized by the Flight Standards District Office for a purpose listed in § 93.309(c), no person may operate an aircraft within 500 feet of any terrain or structure located between the north and south rims of the Grand Canyon.

§ 93.313 Communications.

Except when in contact with the Grand Canyon National Park Airport Traffic Control Tower during arrival or departure or on a search and rescue mission directed by the U.S. Air Force Rescue Coordination Center, no person may operate an aircraft in the Special Flight Rules Area unless he monitors the appropriate frequency continuously while in that airspace.

§ 93.315 Commercial sightseeing flight operations.

(a) Non-stop sightseeing flights that begin and end at the same airport, are conducted within a 25-statute-mile radius of that airport, and operate in or through the Special Flight Rules Area during any portion of the flight are governed by the provisions of part 119, SFAR 38–2 of parts 121 and 135 of this chapter, part 121, and part 135 of this chapter, as applicable.

(b) No person holding or required to hold an air carrier certificate or an

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operating certificate under SFAR No. 38–2 or part 119 of this chapter may operate an aircraft having a passenger-seat configuration of 30 or fewer seats, excluding each crewmember seat, and a payload capacity of 7,500 or less pounds, in the Special Flight Rules Area except as authorized by the applicable operations specifications.

§ 93.316 Commercial sightseeing limitations.

(a) Unless otherwise authorized by the Flight Standards District Office, no person shall conduct commercial sightseeing operations in the Dragon and Zuni Corridors during the following fixed flight-free periods:

(1) Summer season (May 1–September 30)—6 p.m. to 8 a.m. daily; and

(2) Winter season (October 1–April 30)—5 p.m. to 9 a.m. daily.

(b) No person may operate more commercial sightseeing aircraft in the Special Flight Rules Area than the highest number of aircraft that appeared on the certificate holder's operations specifications, and that were used for commercial sightseeing operations in the Grand Canyon Special Flight Rules Area, between July 31, 1996 and December 31, 1996.

§ 93.317 Commercial sightseeing flight reporting requirements.

Each certificate holder conducting commercial sightseeing flights within the Special Flight Rules Area shall submit in writing, within 30 days after April 30, August 31, and December 31, of each year, to the Flight Standards District Office the following information for each operation within the Special Flight Rules Area for the prior 4-month period:

(a) Identification number (registration number) of each aircraft;

(b) Departure airport;

(c) Departure date and time; and

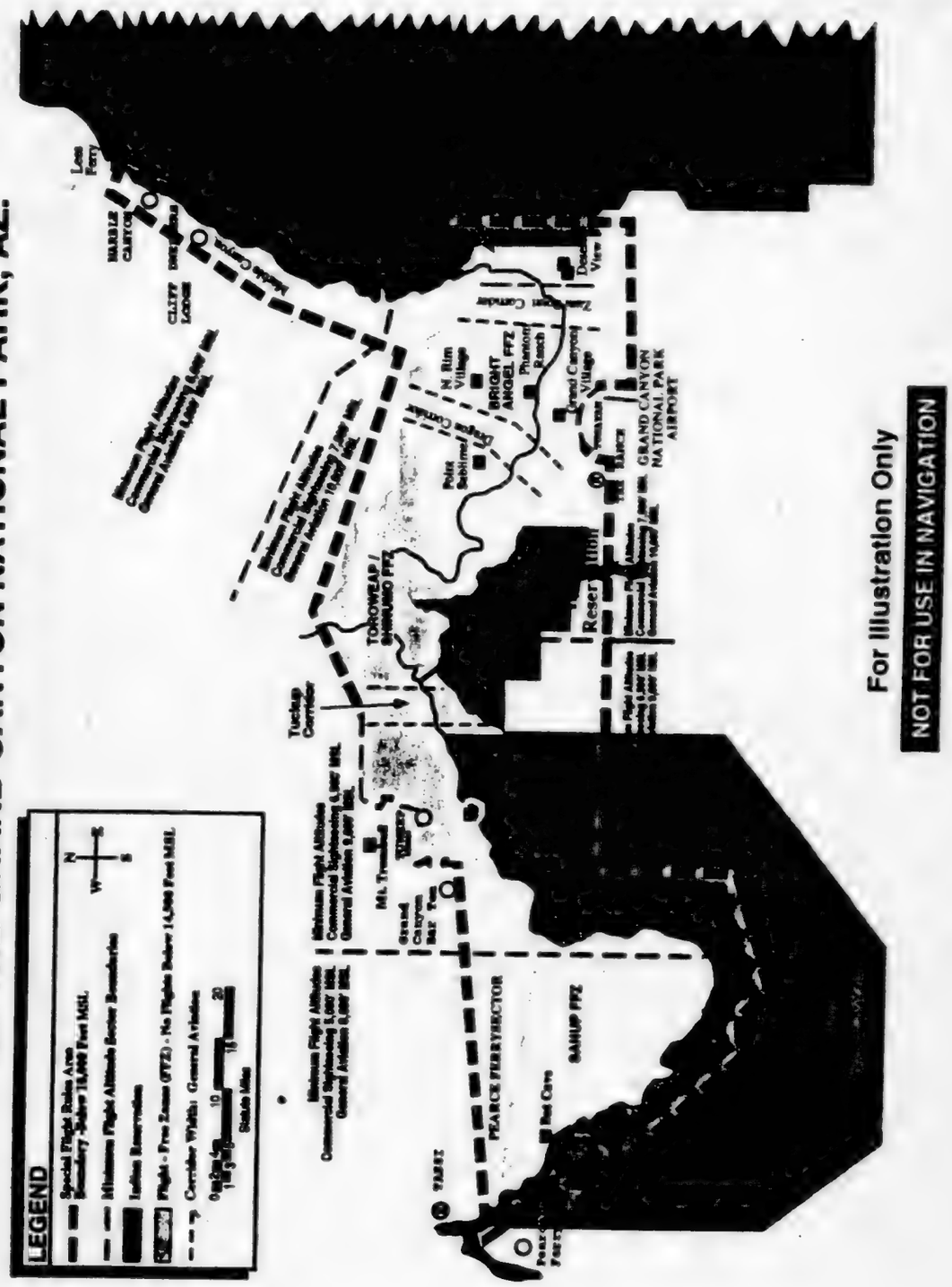
(d) Route(s) flown.

These reporting requirements continue through May 31, 2002.

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Appendix to Subpart U—Special Flight Rules in the Vicinity of the Grand Canyon National Park, AZ

Issued
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Issued in Washington, DC, on December 24, 1996.

Linda Hall Daschle,

Acting Administrator.

[FR Doc. 96–33146 Filed 12–30–96; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. 28770; Notice No. 96–15]

RIN 2120–AG34

Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice of proposed rulemaking proposes to establish noise limitations for certain aircraft operated in the vicinity of Grand Canyon National Park. This notice is one part of an overall strategy to reduce further the impact of aircraft noise on the park environment and to assist the National Park Service in achieving its statutory mandate imposed by Public Law 100–91 to provide for the substantial restoration of natural quiet and experience in Grand Canyon National Park. To this end, this proposed rule is issued concurrently with a final rule affecting the Special Flight Rules in the Vicinity of Grand Canyon National Park, a Notice of Availability of Proposed Commercial Air Tour Routes for the Grand Canyon National Park and Request for Comments, and the Draft Environmental Assessment for this Notice. As mentioned above, this NPRM is issued concurrently with a final rule published elsewhere in this part of this issue of the **Federal Register**. Based on Notice No. 96–11, the final rule adds a new subpart to part 93 to codify and revise the provisions of Special Federal Aviation Regulation (SFAR) No. 50–2, Special Flight Rules in the Vicinity of Grand Canyon National Park.

DATES: Comments must be received on or before March 31, 1997.

ADDRESSES: Comments on this NPRM should be mailed, in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 28770, 800 Independence Avenue, SW., Washington, DC 20591. Comments may also be sent electronically to the Rules Docket by using the following Internet address: nprmcmts@mail.faa.dot.gov. Comments must be marked Docket No. 28770. Comments may be examined in the Rules Docket in Room 915G on weekdays between 8:30 a.m. and 5:00 p.m., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas L. Connor, Mgr, Technology Division, AEE–100, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone: (202) 267–8933. For the draft Environmental Assessment contact Mr. William J. Marx, Division Manager, ATA–300, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, 20591; Telephone: 202–267–3075.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that may result from adopting the proposals in this notice are also invited. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions. Communications should identify the regulatory docket number and be submitted in triplicate to the above specified address. All communications and a report summarizing any substantive public contact with FAA personnel on this rulemaking will be filed in the docket. The docket is available for public inspection both before and after the closing date for receiving comments.

Before taking any final action on this proposal, the Administrator will consider all comments made on or before the closing date for comments, and the proposal may be changed in light of the comments received.

The FAA will acknowledge receipt of a comment if the commenter includes a self-addressed, stamped postcard with the comment. The postcard should be marked "Comments to No. 28770." When the comment is received by the FAA, the postcard will be dated, time stamped, and returned to the commenter.

Availability of the NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Rulemaking, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9677. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future FAA NPRM's should request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes application procedures.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the Federal Register's electronic bulletin board service (telephone: 202–512–1661). Internet users may reach the FAA's webpage at http://www.faa.gov or the **Federal Register's webpage at http://www.access.gpo.gov/su_docs** for access to recently published rulemaking documents.

History

Beginning in the summer of 1986, the FAA initiated regulatory action to address increasing air traffic over Grand Canyon National Park (GCNP). On March 26, 1987, the FAA issued Special Federal Aviation Regulation (SFAR) No. 50 (subsequently amended on June 15, 1987; 52 FR 22734) establishing flight regulations in the vicinity of the Grand Canyon. The purpose of the SFAR was to reduce the risk of midair collision, reduce the risk of terrain contact accidents below the rim level, and reduce the impact of aircraft noise on the park environment.

In 1987, Congress enacted Public Law 100–91, commonly known as the National Parks Overflights Act. The Act stated, in part, that noise associated with aircraft overflights at GCNP was causing "a significant adverse effect on the natural quiet and experience of the park and current aircraft operations at the Grand Canyon National Park have raised serious concerns regarding public safety, including concerns regarding the safety of park users."

Section 3 of Public Law 100–91 required the Department of the Interior (DOI) to submit to the FAA recommendations to protect resources in the Grand Canyon from adverse impacts associated with aircraft overflights. The law mandated that the recommendations: (1) Provide for substantial restoration of the natural quiet and experience of the park and protection of public health and safety from adverse effects associated with aircraft overflight; (2) with limited exceptions, prohibit the flight of aircraft below the rim of the canyon; and (3) designate flight-free zones except for purposes of administration and emergency operations.

In December 1987, the DOI transmitted its "Grand Canyon Aircraft Management Recommendation" to the FAA, which included both rulemaking and nonrulemaking actions. Public Law 100–91 required the FAA to prepare and

issue a final plan for the management of air traffic above the Grand Canyon, implementing the recommendations of the DOI without change unless the FAA determined that executing the recommendations would adversely affect aviation safety. After the FAA determined that some of the DOI recommendations would adversely affect aviation safety, the recommendations were modified to resolve those concerns.

On May 27, 1988, the FAA issued SFAR No. 50–2 revising the procedures for operation of aircraft in the airspace above the Grand Canyon (53 FR 20264, June 2, 1988) SFAR No. 50–2 established a Special Flight Rules Area (SFRA) from the surface to 14,499 feet above mean sea level (MSL) in the area of the Grand Canyon. The SFAR prohibited flight below a certain altitude in each of five sectors of this area, with certain exceptions. The SFAR established four flight-free zones from the surface to 14,499 feet MSL above large areas of the park. The SFAR provided for special routes for commercial sightseeing operators, which are required to conduct operations under part 135, as authorized by special operations specifications. Finally, the SFAR contained certain terrain avoidance and communications requirements for flights in the area.

A second major provision of section 3 of Public Law 100–91 required the DOI to submit a report to Congress "* * * discussing * * * whether [SFAR No. 50–2] has succeeded in substantially restoring the natural quiet in the park; and * * * such other matters, including possible revisions in the plan, as may be of interest." The report was to include comments by the FAA "regarding the effect of the plan's implementation on aircraft safety." The Act mandated a number of studies related to the effect of overflights on parks. The National Park Service (NPS) took longer than originally anticipated to complete the studies because many of the issues involved are on the cutting edge of technical and scientific capability. According to the NPS, measuring natural quiet is different from measuring levels of aircraft noise. On June 15, 1992, the FAA promulgated a final rule to extend the expiration date of SFAR No. 50–2 to June 15, 1995, while the NPS studies and analyses were being conducted (57 FR 26764).

On September 12, 1994, the DOI submitted its final report and recommendations to Congress. This report, entitled, "Report on Effects of Aircraft Overflights on the National Park System," was published in July 1995. The Report recommended numerous revisions to SFAR No. 50–2 that are described below. The NPS Report was based on more than 20 separate studies. These studies included acoustical measurements from GCNP sites, GCNP visitor surveys, noise dose-visitor response analyses, and noise modeling of commercial sightseeing aircraft overflying GCNP using FAA survey data.

The Report concluded that the SFAR had not fully resulted in the substantial restoration of natural quiet in the Grand Canyon, despite the improvements it brought. Further, as of 1994, only about 34 percent of the park could be said to experience a substantial restoration of natural quiet, and that this would drop to little more than 10 percent by the year 2000 if growth continued at the same level as predicted. Only when the NPS made larger flight-free zones and, more importantly, substituted quieter aircraft into the scenario modeled for 2010, was achievement of a substantial restoration possible. The NPS Report to Congress clearly states that reducing noise at the source, as in the use of quieter aircraft, is the most important ingredient in achieving the substantial restoration of natural quiet in the Grand Canyon.

On June 15, 1995, the FAA published a final rule that extended the provisions of SFAR No. 50–2 to June 15, 1997 (60 FR 31608). This action allowed the FAA sufficient time to review the NPS recommendations and to initiate and complete any appropriate rulemaking action.

President Clinton, on April 22, 1996, issued a Memorandum for the Heads of Executive Departments and Agencies to address the significant impacts on visitor experience in national parks. Specifically, the President directed the Secretary of Transportation to issue proposed regulations for the Grand Canyon National Park placing appropriate limits on sightseeing aircraft to reduce the noise immediately and make further substantial progress toward restoration of natural quiet, as defined by the Secretary of the Interior, while maintaining aviation safety in accordance with Public Law 100–91.

In response to the President's directive, on July 31, 1996 (61 FR 40120; Notice No. 96–11), the FAA published an NPRM to reduce the impact of aircraft noise on Grand Canyon National Park (GCNP) and to assist the NPS in achieving its statutory mandate imposed by Public Law 100–91 to provide for the substantial restoration of natural quiet and experience in GCNP. The NPRM proposed and requested comments on the following: (1) Modification of the dimensions of the GCNP SFRA; (2) Establishment of new flight-free zones and flight corridors, as well as modification of existing flight-free zones and flight corridors; (3) Proposed flight-free periods and/or an interim moratorium on additional commercial sightseeing air tours and tour operators; and (4) Establishment of reporting requirements for commercial sightseeing companies operating in the SFRA. In addition to these areas, the FAA sought comment on a number of questions and alternatives regarding curfews and caps on the number of aircraft and operations, as well as on the issue of quiet aircraft technology. The comment period for the proposed rule, originally set for 60 days, was subsequently extended for another 45 days as directed by the Congress in the Federal Aviation Authorization Act of 1996 (61 FR 54716; October 21, 1996). In addition several commenters requested additional time to analyze the complex components of the proposed rule.

On September 16–20, 1996, in Scottsdale, AZ, and Law Vegas, NV, the FAA held public meetings to obtain additional comment on the NPRM and on the draft environmental assessment. Comments and the transcripts of these meetings have been placed in the rulemaking docket for Notice No. 96–11.

The FAA received approximately 14,000 comments in response to the NPRM and the public meetings. The FAA has developed a final rule, based on Notice No. 96–11 and on the public comments to the notice, that is being issued concurrently with this NPRM published elsewhere in this part of this issue of the **Federal Register**.

Interagency Working Group

On December 22, 1993, Secretary of Transportation Federico Peña and Secretary of the Interior Bruce Babbitt formed an interagency working group (IWG) to explore ways to limit or reduce the impacts from overflights on national parks, including GCNP. Secretary Babbitt and Secretary Peña concur that increased flight operations at GCNP and other national parks have significantly diminished the national park experience for some park visitors, and that measures can and should be taken to preserve a quality park experience for visitors, while providing access to the airspace over national parks. The Secretaries see the formation of the working group and the mutual commitment to addressing the impacts of park overflights as the initial steps in a new spirit of cooperation between the two departments to promote an effective balance of missions. The FAA has been working closely with the NPS to identify and deal with the impacts of

aviation on parks, and the two agencies will continue to identify and pursue the most effective solutions. This close cooperation is necessary because the FAA has sole authority for control of the nation's airspace to ensure aviation safety and efficiency, while the NPS is charged with managing the natural and cultural resources in the national park system and providing for public enjoyment of those resources in such a manner that they are unimpaired for the enjoyment of future generations.

The FAA's role in the IWG has been to promote, develop, and foster aviation safety, and to provide for the safe and efficient use of airspace, while recognizing the need to preserve, protect, and enhance the environment by minimizing the adverse effects of aviation on the environment. The NPS' role in the IWG has been to protect public land resources in national parks, preserve environmental values of those areas, and provide for public enjoyment of those areas.

In March 1994, the two agencies jointly issued an advance notice of proposed rulemaking (ANPRM) seeking public comment on policy recommendations addressing the effects of aircraft overflights on national parks, including GCNP (59 FR 12740; March 17, 1994). The recommendations presented for comment included voluntary measures, altitude restrictions, flight-free periods, flight-free zones, allocation of noise equivalencies, and incentives to encourage use of quiet aircraft technology. On the issue of possible incentives for quiet aircraft technology, the ANPRM stated:

> Air tour operators could be encouraged to use relatively quiet aircraft on park overflights. For example, a flight corridor with a good scenic view of the canyon could be limited to aircraft meeting certain noise emission standards. An air tour operator could find it advantageous to convert its entire fleet to such quiet aircraft to incorporate that corridor in its tours. While there is no Federal requirement for aircraft to be manufactured to produce less noise than Stage 3 standards, some aircraft appropriate for air tour operations are quieter than Stage 3. Increased use of such aircraft in air tours would achieve noise mitigation through reducing noise levels on the surface of the park, although this option does not address issues other than noise.

In response to the ANPRM, the FAA received 30,726 comments, including duplicate form letters and several petitions with multiple signatures; the FAA received 24,510 submissions of one form letter with comments addressing the GCNP. Of the total number of comments, 1,975 were distinct letters. This NPRM will discuss only those comments that relate to establishing aircraft noise limitations at GCNP. The remainder of the comments relating to the above noted recommendations may be addressed in a later rulemaking.

Of the 644 comments that specifically addressed GCNP, 337 commenters opposed, while 232 commenters supported, further regulation. Commenters included members of State and local governments; congresspersons; helicopter operators; Native Americans and other individuals; and aviation, environmental, and recreational organizations and associations.

A number of commenters addressed the issue of quiet aircraft technology. Commenters opposing additional regulation of aircraft noise levels argued that quieter aircraft are expensive and incentives to invest in this technology are needed. Alternatively, commenters said that noise budgets are too complex and will not work. Commenters supporting additional regulation urged that incentives to minimize noise per passenger should be established or that an aircraft noise budget should be created. Specifically, a few commenters supported the unconditional adoption of quiet aircraft technology. One commenter suggested dividing aircraft into noise producing classes, with the higher noise class airplanes facing greater restrictions. Other commenters suggested requiring mufflers for all aircraft. The majority of the comments received on this issue, however, raise concerns with the adoption of noise-reduction technology. Many commenters stated that the cost of quiet plane technology is prohibitive at this time. Some commenters suggested adopting noise abatement equipment as it becomes affordable. Other commenters suggested using financial incentives—such as tax incentives, fee abatements, loan programs, and increased allocation on the number of flights allowed—to encourage operators to use quiet-aircraft. One commenter stated that quiet aircraft technology is not an adequate solution for the overflight problem because such aircraft retain impacts and risks other than noise. Another commenter argued that exploring quiet aircraft technology at this time is not a worthwhile endeavor because technology will not be able to address the noise problem in the near future. Another commenter stated that, as an example for commercial operators, those agencies conducting airflights over Noise Sensitive Areas should be required to integrate quieter aircraft into their fleets.

Since the issuance of the joint ANPRM and the formation of the IWG, the FAA and NPS have been working closely to identify and deal with the impacts of aviation on GCNP, and the two agencies will continue to identify and pursue effective solutions. In this spirit of cooperation, the agencies plan to take the following nonregulatory and regulatory actions to achieve the substantial restoration of natural quiet in GCNP.

In addition to the rulemakings concerning GCNP, the IWG is working to develop a nationwide strategy for addressing noise for the national park system, and the FAA will be issuing a rule for limiting noise at Rocky Mountain National Park.

Public Meetings

The FAA has held several public meetings in an effort to obtain public input for the development of additional actions to reduce the impact of aircraft noise on GCNP and assist the NPS in its efforts to restore natural quiet and experience in the park.

On June 28, 1995, the FAA and the NPS jointly published a notice announcing a public meeting to provide the interested parties with an opportunity to comment on improving SFAR No. 50–2 (60 FR 33452). The meeting, held on August 30, 1995, in Flagstaff, AZ, yielded 62 speakers representing air tour operators, environmentalists, government, tourist boards, corporations, Native American tribes, and other individuals. An additional 349 public comments were subsequently received during the comment period that ended on September 8, 1995.

On September 16–20, 1996, in Scottsdale, AZ, and Las Vegas, NV, the FAA held public meetings to obtain additional comment on the NPRM and on the Draft Environmental Assessment for the final rule that is published elsewhere in this issue of the **Federal Register**. Comments and the transcripts of these meetings have been placed in the rulemaking docket for that final rule.

Congressional Hearings

On October 10–11, 1996, Congressional hearings were held by the Aviation Subcommittee of the Senate Committee on Commerce, Science, and Transportation at Las Vegas, Nevada, and Tempe, Arizona. The hearings were held to gather testimony from various entities involved in or affected by the FAA's proposed special flight rules over the Grand Canyon (Notice No. 96–11). Senator John McCain of Arizona made opening statements at both field hearings indicating that they were there

to examine the impacts of the proposed rules and the Draft Environmental Assessment. He hoped the FAA would provide appropriate incentives for quiet air technology in the final rule.

The Nevada Congressional delegation (Senator Bryan and Congressman Ensign in person, Senator Reid and Congresswoman Vucanovich by proxy) indicated, at the Las Vegas hearing, their opposition to Notice No. 96–11 as written, noting safety concerns as well as ones related to economics, NEPA compliance, and the lack of quite air technology incentives.

The issues raised by Senator McCain and other members of the Arizona delegation were also addressed by others testifying at the field hearings. There were points (and often counterpoints) raised as to the effectiveness of SFAR 50–2 in substantially restoring natural quiet in the Grand Canyon, as mandated by Public Law 100–91; the NPS's definition of substantial restoration of (50 percent or more of the park quiet at least 75 percent of the time); methodology involved in measuring and modeling noise impacts; potential impacts of the new rule on safety in the SFRA; effects of the new rule on general aviation; potential adverse impacts of the rule on the economy of Las Vegas and Nevada; the adequacy of the consultation process with Native American tribes; and controls on other uses of the park vis-a-vis air tour overflights.

Many of the air tour operators, some of whom had also voiced concerns about the safety implications of Notice No. 96–11, predicted dire economic consequences for the industry if the NPRM, which included possible caps on operations, curfews, and two additional flight-free zones, went into effect. In response to the operators' economic worries, Senator McCain reminded them that they had unanimously opposed his bill, which became Public Law 100–91, in 1987, claiming that it would put the entire industry out of business. Instead, he noted, the number of air tour overflights of Grand Canyon had increased from approximately 40,000 per annum in 1987 to the 95,000 reported by the Arizona Republic newspaper for the 12-month period which ended September 30, 1996.

Aside from a commitment to air safety, perhaps the only issue on which all of the interests represented at the field hearings appeared to agree was the need for quiet air technology incentives for both manufacturers and air tour operators. From Senator McCain and members of the Nevada Congressional delegation to the Native American tribal leaders and from environmental groups to air tour operators and aircraft manufacturers, as well as aviation and tourism industry representatives, quieter air technology incentives were viewed as integral to efforts to substantially restore natural quiet to the Grand Canyon while maintaining a viable air tour industry. Among specific suggestions made were providing more attractive routes to quieter aircraft, setting aside a portion of air tour overflight fees to provide loans to air tour operators to invest in further quiet air technology, and lowering fees for those operators using quieter aircraft.

The FAA has considered the statements made at the hearings in developing this proposed rule.

Consultation With Affected Native American Tribes

Three Native American reservations border GCNP, and several additional tribes have cultural ties to the Grand Canyon. The DOT and DOI recognize that before taking any action, they have an obligation to consult with these tribes on a government-to-government basis. The consultation process, begun with the development of the proposed and final rule for the reduction of aircraft noise on GCNP, will continue with this process.This will include a continuing dialogue with tribes potentially affected by this proposal and will include direct meetings as well as written consultation. Initial steps have been taken to contact potentially affected tribes of this proposal based on the government-to-government relationships.

Relationship to Final Rule Published Concurrently

As mentioned above, the FAA has developed a final rule, based on Notice No. 96–11 and on the public comments to the notice, that is being issued concurrently with this NPRM as published elsewhere in this part of this issue of the **Federal Register**.

Notice No. 96–11 proposed and requested comments on the following: (1) Modification of the dimensions of the GCNP Special Flight Rules Area (SFRA); (2) Establishment of new flight-free zones and flight corridors, as well as modification of existing flight-free zones and flight corridors; (3) Proposed flight-free periods and/or an interim moratorium on additional commercial sightseeing air tours and tour operators; and (4) Establishment of reporting requirements for commercial sightseeing companies operating in the SFRA. In addition to these areas, the FAA sought comment on a number of questions and alternatives regarding curfews and caps, as well as on the issue of quiet aircraft technology. The final rule for Notice No. 96–11 addresses all of these areas except for the issue of quiet aircraft technology. The FAA did not include requirements on quiet aircraft technology in the final rule, because Notice 96–11 did not propose specific measures on that subject; instead the FAA requested comments and information that would allow the FAA to develop a specific proposal. Based on a review of the comments on quiet technology received on Notice No. 96–11, summarized below, the comments received at the FAA and Congressional public meetings, the comments received on the ANPRM published in 1994, and the NPS Report to Congress, the FAA is issuing this NPRM. Comments received to date on quiet technology will be considered in conjunction with comments submitted in response to this proposed rule.

Comments Concerning Quiet Technology

One commenter states that the largest operators at the Grand Canyon have either converted to quiet technology or are in the process of converting.

Papillon says that quieter aircraft is the solution to the problems raised in the NPRM and, in addition to describing the current technology available, recommends establishing a time frame for transition to quiet technology; establishing guidelines to qualify aircraft as quiet; and encouraging and assisting tour operators to convert their fleets to quiet technology aircraft.

Sierra Club-Grand Canyon Chapter says that the goal should be to completely phase in quiet technology aircraft over the next 10 to 15 years, with no increase and even a decrease in the number of flights. This commenter says that new aircraft should not be louder than the aircraft they replace and that if a noise budget approach is developed, there should be a reduction factor.

The National Parks and Conservation Association (NPCA) asserts the necessity of incorporating quiet flight technology into the rule by noting that sound can travel 13 to 16 miles laterally from aircraft and penetrate deeply into flight-free areas.

A river tour company notes the use of the Thrush TurboPro for drug interdiction. This commenter believes that if the demand were created for "hush kits" on smaller aircraft via FAA rulemaking, manufacturers would develop and produce this type of technology at cheaper prices than are currently available.

Some commenters submitted technical information about quiet

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aircraft that are currently available or being developed. In addition, at the Congressional hearing, the National Aeronautics and Space Administration (NASA) submitted information on research and development efforts (by NASA and the FAA) on quiet aircraft technology for propeller-driven airplanes and rotorcraft. The FAA has considered this information in developing this proposed rule.

Some commenters, such as the Grand Canyon Air Tour Association (GCATA), Twin Otter, and Grand Canyon Airlines say that the proposed rules in Notice No. 96–11 will make it difficult for small operators to generate the revenue to invest in quieter aircraft. These commenters (some of whom have already employed quieter, more expensive aircraft) recommend that incentives such as tax credits, preferred routes and altitudes, elimination of overflight fees, and no curfews or caps, be made available to tour operators who wish to invest in quieter aircraft. Twin Otter and Grand Canyon Airlines add that the use of quieter and larger aircraft would be beneficial by reducing the number of air tour operations required to carry the same number of passengers, which would further reduce noise levels.

Twin Otter and Grand Canyon Airlines recommend withdrawing the NPRM and replacing it with incentives for quiet aircraft technology. Another commenter says that the FAA should not take a regulatory approach; rather, government should work with private enterprise to develop quieter aircraft.

Some commenters (e.g., Grand Canyon Trust, Wilderness Watch, Wilderness Society, Grand Canyon River Guides) state that a stronger rule is needed that would provide incentives for conversion of the existing tour fleet to the quietest aircraft available. Grand Canyon Airlines recommends that interim milestones be set by which existing conventional air tour aircraft fleets are converted to quiet aircraft; these milestones could be similar in concept to those established in 14 CFR part 91 for air carrier compliance with 14 CFR part 36 for Stage 3 certification standards.

McDonnell Douglas Helicopter Systems (MDHS) supports offering economic incentives to encourage air tour operators to operate helicopters equipped with quiet technology. Since 1991, MDHS has provided many quiet technology "No Tail Rotor" (NOTAR) helicopters which are operating effectively in noise-sensitive environments. In addition to the types of incentives mentioned by other commenters (see above), MDHS recommends the use of airspace entry locations based on FAA noise certification data for each type of helicopter. MDHS also recommends that Federal government agencies operating within the national parks should set an example by acquiring and using quiet technology aircraft.

Another commenter suggests allowing those operators who own measurably quieter machinery a 5 percent credit on their allotted number of flight permits. According to the commenter, operators who persist in running noisy aircraft should be subject to penalties restricting their permits.

Another commenter suggests a fee per flight that would encourage the use of larger, quieter aircraft by multiplying that fee by the sound level. This commenter believes that if this is used in conjunction with a limitation on the number of total tour flights permitted, operators would be encouraged to use quieter aircraft.

A BIA representative says that requirements for high-technology quiet aircraft should provide a specific exemption to Native American tribes for any flights sanctioned by such Native American tribes over their own lands.

The FAA agrees that the use of quieter aircraft will, in the long run, provide the most benefit toward restoring natural quiet. As discussed later in this preamble, this proposal contains a phase out schedule for noisier aircraft, a requirement that newly acquired aircraft meet certain acoustic criteria, and an incentive for using quieter aircraft by allowing flights though the proposed National Canyon route to be conducted with only the aircraft that meet this acoustic criteria. The FAA has considered the comments received on Notice No. 96–11 in developing the specific proposals described below.

The FAA and NPS are working together to develop a long-term Comprehensive Noise Management Plan that will address the best available technology, provision of appropriate incentives for investing in quieter aircraft, and appropriate treatment for operators that have already made such investments. As discussed below under "Potential Further Action," the FAA and NPS solicit comments on the types of considerations that should be included in this plan. Both FAA and NPS are committed to the development of a noise management plan over the next 5 years.

The Proposal

This proposed rule has several purposes. The first would be to provide an incentive for the use of quieter aircraft within GCNP. The second would be to establish additional noise limitations to reduce further the impact of aircraft noise on the park environment in the GCNP. The third would lift for the quietest aircraft the immediate temporary cap placed on the number of aircraft permitted to be used for commercial sightseeing operations in GCNP.

National Canyon Corridor

The companion final rule published elsewhere in this part in this issue of the **Federal Register** expands the Toroweap/Shinumo Flight-free Zone to prohibit operations in the airspace area that is now used by operators for commercial sightseeing operations while flying from Las Vegas to Tusayan. This proposal would establish a corridor, referred to as the National Canyon Corridor, within the newly expanded Toroweap/Shinumo Flight-free Zone that would enable operators using GCNP Category C aircraft (the quietest category of aircraft, as discussed below) to reinitiate commercial sightseeing operations along this route from Las Vegas to Tusayan without having to circumnavigate the Toroweap/Shinumo Flight-free Zone.

Phase-Out of Noisier Aircraft

In addition, the purpose of this proposal is to establish additional noise limitations to reduce further the impact of aircraft noise on the park environment in the Grand Canyon National Park. This proposal would accomplish this goal by a combination of requirements that would limit future use of noisier aircraft and that would provide incentives for the use of quieter aircraft. As discussed below, the proposed phase out of the GCNP Category A aircraft would provide a major reduction in noise by the end of the year 2000 and make a major contribution toward achieving the Congressional mandate of substantial restoration of natural quiet. Modeling shows that, if the phase out is adopted as proposed, the substantial restoration objective would be exceeded by 2008. The subsequent phase out of GCNP Category B aircraft would ensure continued restoration of natural quiet, as required by the NPS, even when projected numbers of additional GCNP Category C aircraft are added to the commercial sightseeing fleet.

The FAA has evaluated the noise exposure of existing aircraft used in the GCNP and has divided those aircraft into three categories based on noise per passenger or "noise efficiency": GCNP Category A aircraft includes the least noise efficient aircraft currently in use for sightseeing operations in the vicinity

of the Grand Canyon National Park; GCNP Category B aircraft includes aircraft more noise efficient than Category A aircraft but less noise efficient than the quietest aircraft now available; and GCNP Category C aircraft includes affected aircraft which are the quietest currently available. A detailed discussion of the technological basis for these categorizations is in the following section of this preamble, entitled "Quiet Technology for GCNP."

This proposal would in effect prohibit any further acquisition of GCNP Category A aircraft for use in the SFRA by persons conducting sightseeing operations. Current operators with Category A aircraft could continue to use that number of GCNP Category A aircraft listed on the operator's operations specifications on December 31, 1996, but that use of GCNP Category A aircraft would have to end on or before December 31, 2000.

Current operators of GCNP Category B aircraft would be allowed to continue to use that number of aircraft listed on the operating specifications as of December 31, 1996, and on or before December 31, 2000, as a replacement for GCNP Category A aircraft, but would be required to phase out all of those aircraft on or before December 31, 2008. The proposed phase out schedule would require that on or before December 31, 2002, at least one-quarter of the number of Category B aircraft listed on the operator's operations specifications on December 31, 2000, (the base level) would have to be phased out. The remaining Category B aircraft would have to be phased out in 25 percent increments so that no more than 50 percent of the base level aircraft would be in use after December 31, 2004, 25 percent after December 31, 2006, and all Category B aircraft would have to be phased out on or before December 31, 2008. During the period of time after the effective date of a final rule and on or before December 31, 2000, an operator could replace Category A aircraft with Category B or C aircraft but only on a one-for-one basis.

While the proposed rule would allow the continued use of Categories A and B aircraft by current certificate holders as described above, all aircraft used by new entrants to the affected sightseeing area would have to meet Category C requirements. This means that any person who wants to establish an aircraft sightseeing operation in the affected area after the effective date of a final rule would have to use only Category C aircraft. Also, all new aircraft acquired by present operators above the total number of Category A and B aircraft listed on the operations specifications of each operator on December 31, 1996, would have to be Category C aircraft.

The FAA is soliciting comments on all aspects of the proposed phase-out plan, including the affected aircraft, the schedule and percentage of aircraft that would be affected by any such plan. Comments focusing on the economic and environmental impact of the proposed phase-out would be beneficial.

Comments on Alternative Proposal

Comments are particularly requested on a potential alternative to the proposal to allow an operator to replace Category A aircraft with either Category B or Category C aircraft. Under the alternative, Category A aircraft could only be replaced by Category C aircraft. No interim replacement by Category B would be permitted. Because this would hasten the elimination from the GCNP of all aircraft other than Category C, it is likely to achieve the goal of attaining natural quiet more rapidly than the primary proposal set forth in this notice. This alternative was not incorporated into the current proposal, however, because the FAA's preliminary analysis suggests that it could be significantly more costly to operators. (See the Appendix to the Regulatory Evaluation contained in the docket.) These costs could be particularly burdensome to small entities.

However, if the additional costs of a direct transition from Category A to Category C are lower than they currently appear, and substantial additional environmental benefits may be obtained at reasonable cost, the final rule adopted in this proceeding could incorporate the alternative approach. Before taking final action, therefore, the FAA intends to further refine its cost estimates and the likely burden on small operators. Toward that end, it would be especially helpful if commenters provide specific cost and environmental projections that compare the impact of the primary proposal with the alternative. The FAA requests answers to the following questions, along with any other relevant information commenters wish to provide. Please note that comments accompanied by specific data about costs and/or environmental effects will be more useful than arguments of a general nature.

- From a business economic standpoint, would allowing the interim conversion of Category A aircraft to Category B be less burdensome than direct conversion to Category C?
- Does the cost of Category C aircraft exceed the cost of Category B aircraft? If so, by how much? What options other than direct purchase of Category C aircraft would be available that may have an effect on the economics of conversion?
- What is the availability of used Category C aircraft, and how could the acquisition of used aircraft mitigate the cost of the alternative?
- Are there business reasons that would cause operators to choose to replace Category A aircraft with Category C, even if Category C aircraft are more expensive than Category B aircraft? For example, would the subsequent need to phase out Category B make the option of an interim step undesirable in any event? Similarly, do Category C aircraft offer advantages in operating efficiency, marketability of air tours, repair costs, or other factors that would reduce the overall cost differences between acquiring Category B and Category C aircraft?
- Would other methods of analysis that include such factors as the cost of capital, long-term tax consequences, and other factors be more useful in determining the economic impacts of the conversion? If so, how should those factors be taken into account?
- What would be the noise-reduction consequences of requiring a direct transition from Category A to Category C? The replacement of Category A aircraft (by either Category B or Category C) is likely to make the greatest contribution toward the restoration of natural quiet. Insofar as quantification is possible, it would be useful to understand how much additional benefit could be obtained by going directly to Category C.

Removal of Temporary Cap

Under the companion final rule published today, an immediate temporary cap is placed on the number of aircraft permitted to be used by each operator for commercial sightseeing operations in the Grand Canyon SFRA. If this notice is adopted as proposed, a cap on the total number of Category A and Category B aircraft permitted to operate in GCNP would remain in effect. However, the cap on Category C aircraft would be lifted. As a result, the fleet size of Category C aircraft could grow, subject to safety considerations, market-based considerations, or recommendations from the Comprehensive Noise Management Plan. For a more detailed discussion of this issue, see "Potential Further Action" below.

Quiet Technology for GCNP

This section of the preamble is a summary of a technical paper describing the methodology for classifying noise characteristics for aircraft operating in

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GCNP. The full document has been placed in the docket for this rulemaking and is available for viewing and comment as described above under **ADDRESSES**. To obtain a copy of this document, contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Introduction

In response to comments in the docket for Notice No. 96–11 and those made at public hearings, FAA redoubled its efforts to develop concepts which would provide incentives for tour operators to invest in the best available noise abatement technology. Traditionally, the FAA uses its regulatory authority to impose more stringent national noise standards when it has been determined to be appropriate. By law when deciding on further noise stringency, FAA must ascertain whether the proposal is technologically feasible, economically reasonable, and appropriate to aircraft type. Based upon a joint FAA/NASA research report to Congress on quiet technology [1] and earlier work prepared for the third meeting of the Committee on Aviation Environmental Protection (CAEP) under the International Civil Aviation Organization (ICAO), the FAA determined that the imposition of new national and international noise standards for propeller-driven small airplanes and helicopters is not appropriate at this time. While there is ongoing research by the Federal government to identify future noise abatement technology, current aircraft designs already incorporate most of the available technology within economic reasonableness. At GCNP, there are substantive differences in the noise characteristics of the air tour aircraft in use. Therefore, FAA looked to non-traditional concepts which could offer some incentive for tour operators to improve the GCNP situation.

Noise Efficiency Concept

One theme expressed by some commenters was that the use of quieter, larger aircraft would provide two-fold benefits in reducing noise of each operation and reducing the number of operations to carry the same number of passengers. This theme fits in nicely with the FAA's general policy of using cumulative aircraft noise as an appropriate measure of the potential impact as it accounts for both the number of flights and intensity of their noise. The FAA began to explore noise efficiency concepts as an incentive for operators to utilize aircraft equipped with the best available noise abatement technology in the park. The following attributes were used in judging potential concepts:

- Is based on aircraft noise certification (14 CFR part 36).
- Judges fixed- and rotary-wing aircraft on a common basis.
- Correlates with aircraft performance and operation at GCNP.
- Offers basis for incentives.
- Is manageable.

In addition to these attributes, the concept must be shown to be economically reasonable.

Links to Aircraft Noise Certification

Levels obtained from aircraft noise certification represent the highest quality of data available. The flight tests are conducted under controlled conditions with an FAA representative or designee in attendance to witness the test setup and test activities. Data obtained during these tests are corrected to standard reference conditions as prescribed in 14 CFR part 36. FAA publishes these levels in Advisory Circular 36–1, "Noise Levels for U.S. Certificated and Foreign Aircraft." The current version of this AC is 36–1F dated 6/5/92. Unfortunately there is no single method applicable to all aircraft for determining the certificated noise level. Depending on date of application for type certificate and whether the aircraft is a helicopter or airplane, the noise level could have been obtained from one of 4 different tests, Appendices F, G, H, and J of 14 CFR part 36.

Because these noise certification procedures contain differences in aircraft operation, measurement altitudes, and units of noise, it is not possible to directly compare Appendix F, G, H, and J noise levels. However, FAA has developed a procedure for: (1) Extrapolating from the controlled conditions of a certification test to the operating conditions at GCNP and (2) converting levels to a common noise unit, thus making it possible to judge fixed- and rotary-wing aircraft on a common basis under conditions that pertain to air tour operations over GCNP. Sound Exposure Level (SEL) was selected as the common noise unit. SEL is a basic building block in calculating Equivalent Sound Level (L_{eq}) which is the measure of cumulative noise exposure that FAA is using to assess noise impacts in GCNP. (L_{eq}) is the most common method used to quantify time-varying noises. The Federal government uses a form of equivalent sound level, Day Night Sound Level (DNL), to quantify aircraft noise exposure in the vicinity of airports.

Noise Efficiency Measure

These extrapolation procedures for predicting noise levels applicable to Appendices F, H, and J of 14 CFR part 36 enable one to directly compare propeller-driven small airplanes and helicopters. There is no extrapolation procedure for Appendix G. The noise efficiency criterion for Appendix G noise levels was derived by a method that is explained later. In keeping with the theme of developing a noise efficiency concept, the extrapolated noise levels were examined as a function of the number of seats of the aircraft in the fleet of air tour aircraft operating at GCNP. Since the principal business of these aircraft is to carry sightseers over the park, the number of passenger seats is a logical production (or efficiency) factor.

When the aircraft noise levels are plotted against the number of passengers, there appears to be a break or gap between groups of aircraft that support some NPS findings on "quiet aircraft." The NPS report to Congress identifies the DHC–6–300 Twin Otter ("Vistaliner" version), the Cessna Caravan I, and the McDonnell Douglas "No Tail Rotor" (NOTAR) helicopters as the quietest aircraft currently operating at GCNP. The report further states that NPS expects that these aircraft would qualify under a "quiet aircraft" category.

A line of a demarcation can be drawn between the quietest aircraft and the rest of the air tour fleet. The two components of the line are: (1) Horizontal until greater than 2 passenger seats, and (2) increasing slope at 3 dB per doubling of number of seats. The line is horizontal until the number of seats is greater than 2 because a review of aircraft specification data found that two is the least number of passenger seats found on an aircraft that had been operated as an air tour aircraft in GCNP. Specifying a limit that increases with the number of seats is consistent with FAA's philosophy of rewarding efficiency by allowing aircraft which carry more passengers to emit more noise, thus creating less noise per passenger. For example, the slope of Appendix H noise limit increases at the rate of 3 decibels per doubling of weight. For aircraft in these weight ranges, 3 dB per doubling of number of seats is a comparable growth rate to 3 dB per doubling of weight. Figure 1 shows noise levels of many of the air tour aircraft against the number of passenger seats in the aircraft.

[1] Report of the FAA and NASA to the U.S. Congress Pursuant to Section 308 of the FAA Authorization Act of 1994, "Quiet Aircraft Technology for Propeller-driven Airplanes and Rotorcraft," June 1996.

The area below the solid line in Figure 1 is proposed as the potential objective in the encouragement of compatible noise abatement technology for air tour operations in GCNP. This area is labeled "C" and the aircraft whose SELs fall within this region are "GCNP Category C aircraft." Another dotted line is plotted at 4 decibels above the solid line in Figure 1 which creates two new areas each covering 4 decibels and evenly splits the number of air tour aircraft into these two zones. The two new areas are labeled "A" and "B." Aircraft whose noise levels fall within these new zones are identified as GCNP Category A and GCNP Category B aircraft, respectively. An examination of a recent count of air tour aircraft finds that there are 57 GCNP Category A aircraft, 56 GCNP Category B, and 23 GCNP Category C aircraft operating at GCNP.

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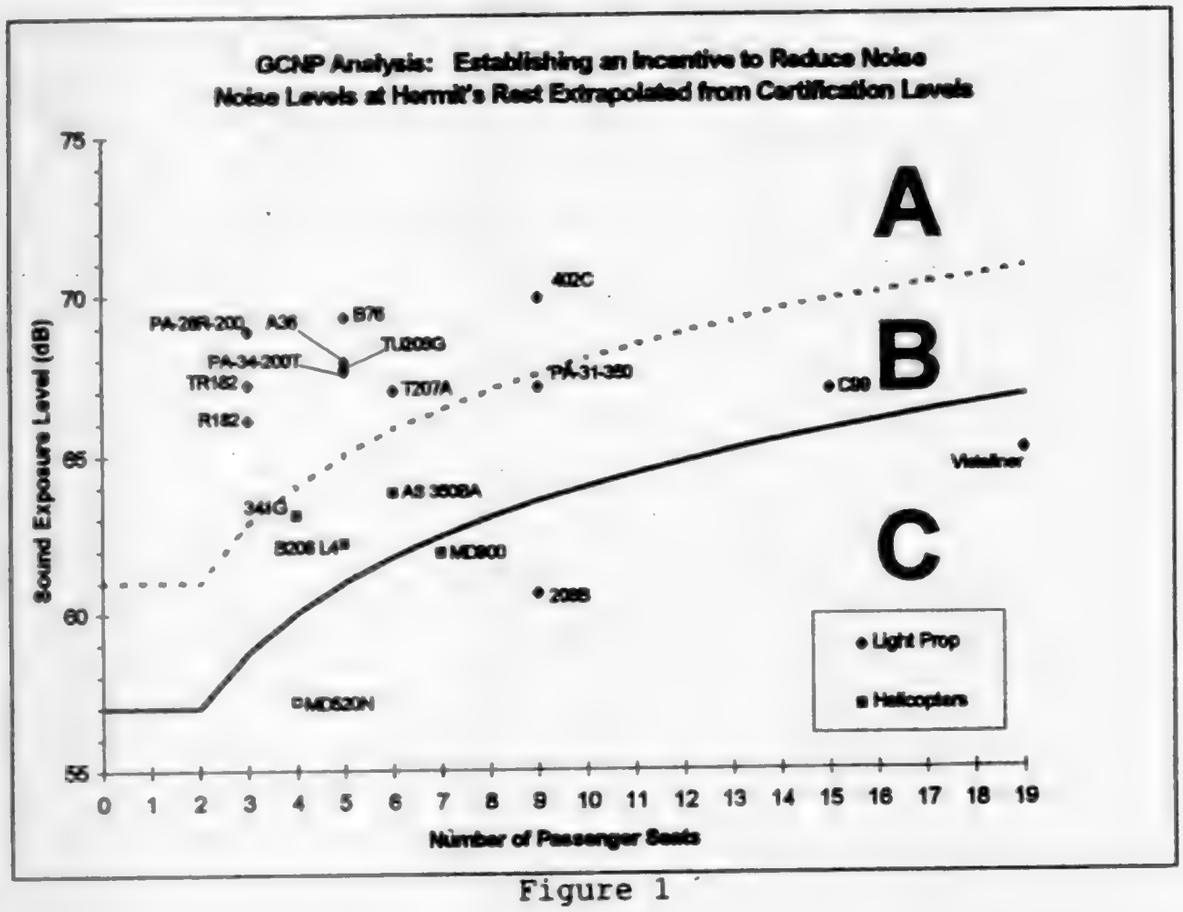


Figure 1

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Noise Efficiency Criteria

The curves in Figure 1 demonstrate the general concept and are the bases for the noise efficiency criteria. A workable criterion should be easy to apply and manage in the field and should be understandable to the operators and general public. The airport community has many years of experience using the certificated noise levels published in FAA's AC 36–1F. These data have been used to establish use restrictions, curfews, and noise budgets at some airports in the country. The certificated noise levels are not only available in advisory circulars which are updated and published periodically but the levels are readily available to the aircraft owners from the aircraft flight manuals (AFM). Thus the development of noise efficiency criteria based on certificated noise levels is proposed not only because of the precedent, but it also eliminates the need for someone in the field to perform the mathematical extrapolation from certification to GCNP conditions by the method that was outlined in the section "Links to Aircraft Noise Certification."

By reversing the process that determined the noise levels in Figure 1, the two lines in Figure 1 are translated into three GCNP noise efficiency criteria for Appendices F, H, and J. These are shown in Figures 2a, 2b, and 2c, respectively. The figures also contain the equations for the GCNP Categories B and C noise efficiency criteria or noise limits. These are the criteria for compliance with the proposed regulation.

As stated earlier, this study did not discover a method to successfully extrapolate Appendix G noise levels to GCNP conditions. When FAA promulgated Appendix G to supersede Appendix F, the change was to replace the level flyover test with a takeoff test. The Appendix G noise limit is 5 decibels higher than the Appendix F noise limit to account for difference in measured noise levels obtained under the different test conditions. Applying that philosophy to this situation, a noise efficiency criterion for Appendix G noise levels can be derived by adding 5 decibels to the criteria for Appendix F. There is no figure in this paper, similar to Figures 2a–c, showing the Appendix G noise efficiency criteria because all of the propeller-driven airplanes currently operating at GCNP predate the promulgation of Appendix G of 14 CFR part 36. The equations of the noise efficiency criteria for Appendix G are found in Appendix B of the proposed rule.

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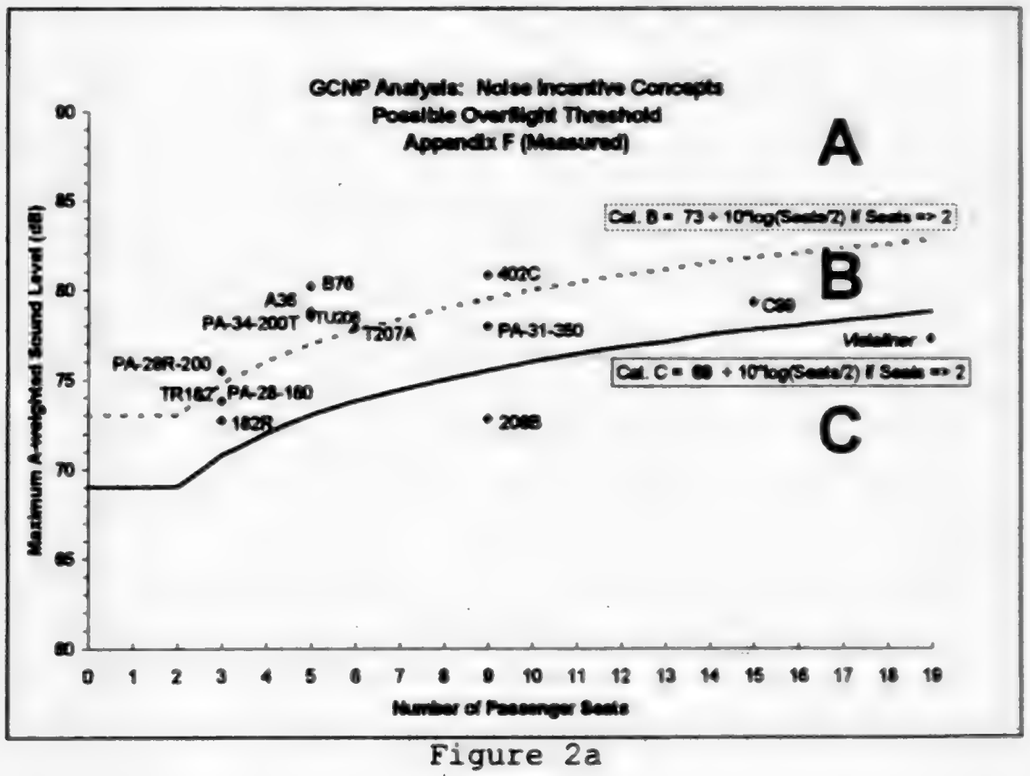

GCNP Analysis: Noise Incentive Concepts
Possible Overflight Threshold
Appendix F (Measured)
A
B
C
Cat. B = 73 + 10*log(Seats/2) if Seats => 2
Cat. C = 69 + 10*log(Seats/2) if Seats => 2
Maximum A-weighted Sound Level (dB)
Number of Passenger Seats
90
85
80
75
70
65
60
0 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19
PA-28R-200
TR182
PA-28-180
182R
A36
PA-34-200T
B76
TU206
T207A
402C
PA-31-350
208B
C99
Vistaliner

Figure 2a

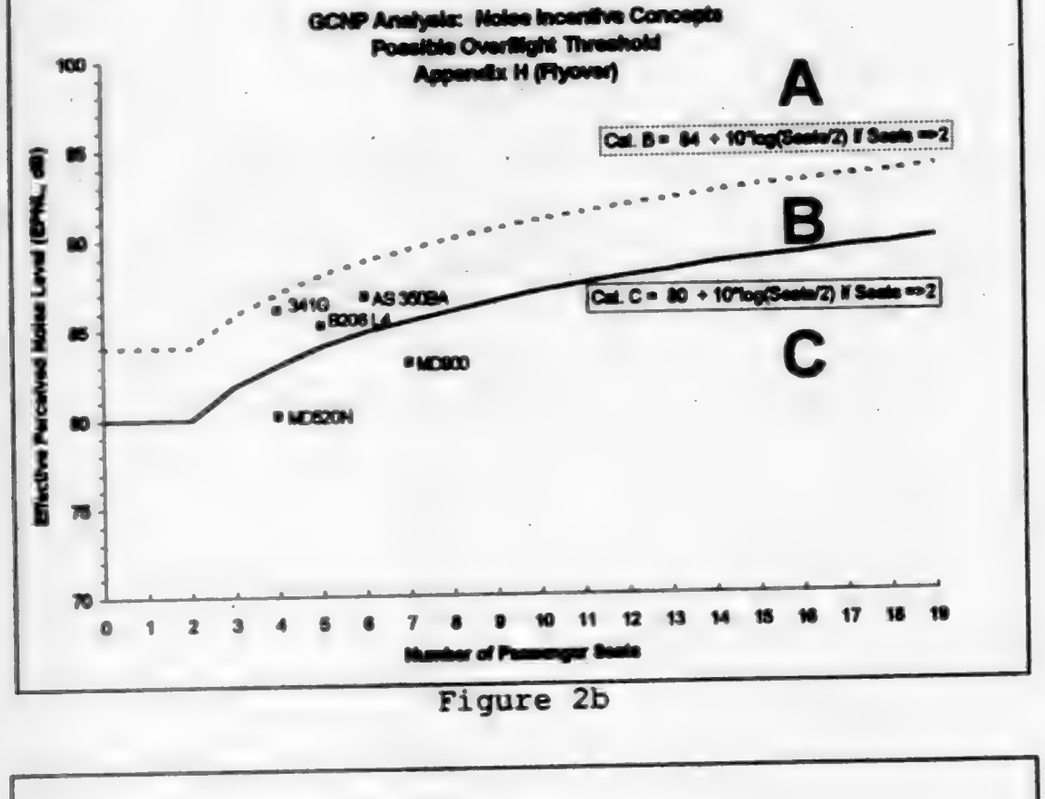


Figure 2b

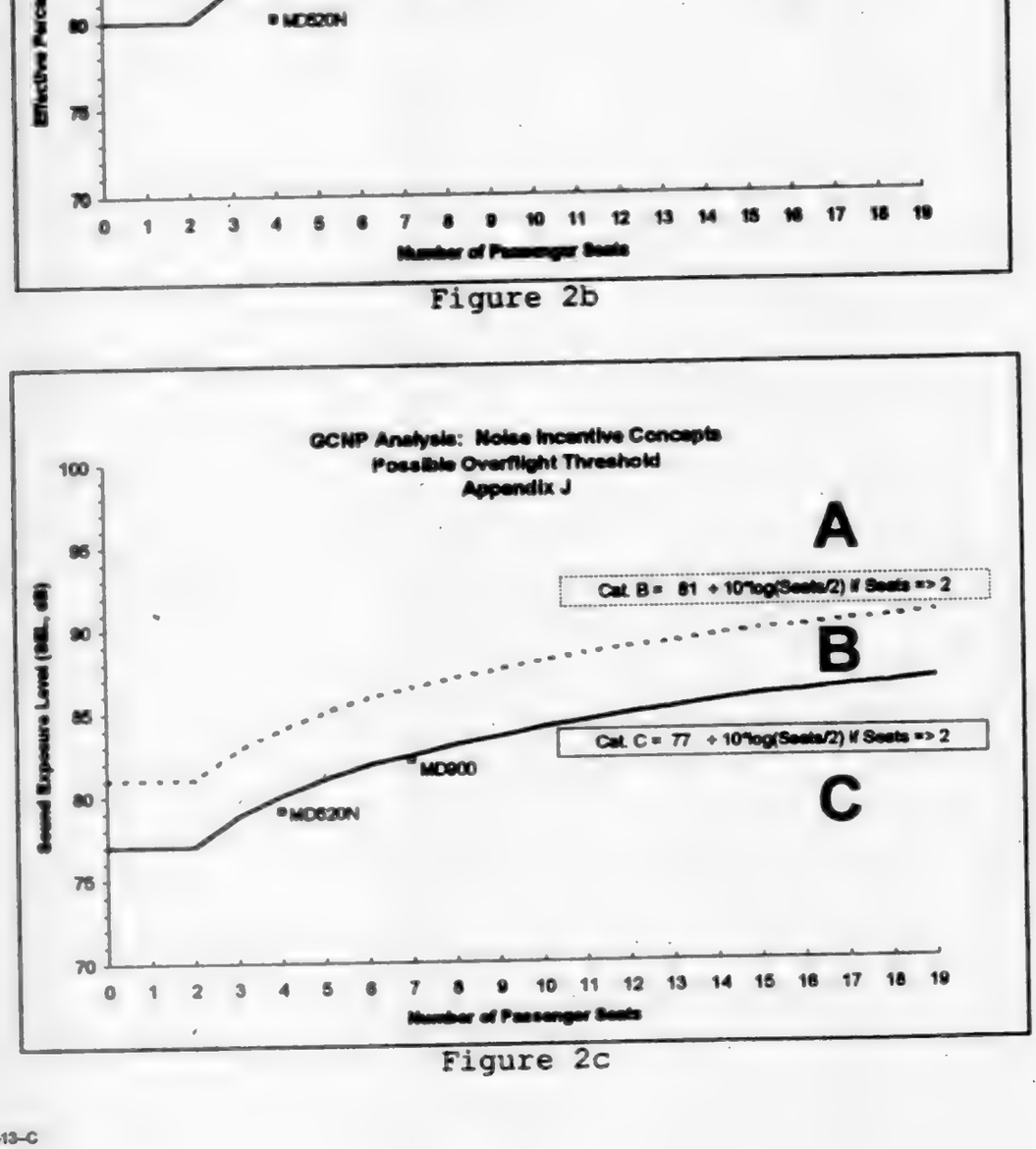


Figure 2c

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Implementation

The proposed GCNP aircraft noise incentive concept links to the aircraft noise certification provisions prescribed in 14 CFR part 36. The incentive criteria will be based upon the noise levels obtained under noise certification conditions. The use of noise certification levels will provide an ability to judge fixed- and rotary-wing aircraft on a common basis.

New aircraft are subject to the provisions of 14 CFR part 36 including the requirement to conduct a noise certification test under controlled conditions. This test is conducted in accordance with an FAA approved test plan and is typically witnessed by FAA personnel unless delegated to an FAA designee. Some aircraft, depending on the date of type certification, were not subject to the noise certification provisions of 14 CFR part 36. Thus noise certification levels are unknown. In the strict sense certification noise tests should be required to establish noise levels for comparative purposes against the GCNP aircraft noise efficiency criteria.

The FAA does not have the authority to mandate that those older aircraft conduct such tests for compliance with the provisions of 14 CFR part 36. However, in order to fully implement the GCNP aircraft noise incentive concept, noise certification levels or estimates of those levels under certification conditions will be required.

Considering the overall cost associated with conducting noise certification tests and establishing noise certification levels it is proposed to offer a hierarchy of noise level data source options for establishing noise levels to fully implement the GCNP aircraft noise incentive concept. FAA plans to publish an Advisory Circular (AC 36–XX) that will facilitate the determination of the noise levels for the GCNP noise efficiency criteria. This AC would list all aircraft operating at Grand Canyon National Park as determined from operations specifications. Noise levels would be specified for each aircraft listed in the AC.

In some cases the noise levels listed in this proposed AC would be the actual FAA approved noise certification levels documented in the FAA approved airplane or rotorcraft flight manuals. These level are typically provided in FAA AC 36–1 and would simply be referenced in the proposed GCNP AC. In other cases where noise certification under 14 CFR part 36 was not required, the noise level could be provided to the FAA by the operator or owner following the hierarchy described below. The owner or operator would have to substantiate to the FAA that the estimated noise level is representative for the subject aircraft.

The following hierarchy of noise level data sources would be documented in the proposed AC and used for all aircraft in determining the noise level for the GCNP aircraft noise incentive concept:

1. US certifications under 14 CFR part 36 with noise certification levels obtained from the FAA approved flight manuals or FAA AC 36–1.

(a) For propeller driven small airplanes the applicable hierarchy of regulations are:

(1) 14 CFR part 36 Appendix F.

(2) 14 CFR part 36 Appendix G.

(b) For helicopters the applicable hierarchy of regulations are:

(1) 14 CFR part 36 Appendix J.

(2) 14 CFR part 36 Appendix H.

2. Foreign certifications under ICAO Annex 16, Volume I with noise certification levels obtained from the approved flight manuals or data approved by the foreign civil aviation authorities, or FAA AC 36–1.

(a) For propeller driven small airplanes the applicable hierarchy of regulations are:

(1) ICAO Annex 16, Volume I Chapter 8.

(2) ICAO Annex 16, Volume I Chapter 10.

(b) For helicopters the applicable hierarchy of regulations are:

(1) ICAO Annex 16, Volume I Chapter 11.

(2) ICAO Annex 16, Volume I Chapter 8.

3. Research or other measurement test data obtained under controlled conditions, documented and corrected to the certification conditions of Appendix F for small propeller driven airplanes and Appendix J for helicopters. Preference would be placed on those data obtained under certification-like conditions and/or those data collected under an FAA sponsored noise research test.

4. FAA approved noise estimation methods that can estimate Appendix F noise levels for small propeller driven airplanes and Appendix J noise levels for helicopters. Currently the following methods may be suitable for use pending FAA approval on a case by case basis.

(a) For propeller driven small airplanes: Method in Section 2.2 of DOT/FAA/AEE–82–1.

(b) For helicopters: SAE/AIR 1989.

As one moves down on the hierarchy the expected level of substantiation (as the representative noise certification level-estimated) by the operator or owner would increase, and the level of FAA scrutiny should be expected to increase.

The resulting noise levels will vary depending upon an operator's or owner's situation related to the above hierarchy. In the case of helicopters the noise levels will be the flyover noise certification level in the noise metric of Effective Perceived Noise Level (EPNL) (14 CFR part 36, Appendix H) or Sound Exposure Level (SEL) (14 CFR part 36, Appendix J). In the case of small propeller-driven airplanes the noise levels will be the flyover (14 CFR part 36, Appendix F) or takeoff (14 CFR part 36, Appendix G) noise certification level in the noise metric of maximum A-weighted sound level. It is estimated that noise levels for virtually all aircraft currently operating in GCNP could be achieved without the need for a complete noise certification test.

All estimated noise certification levels provided in the proposed FAA AC 36–XX would be for the sole and specific purpose of determining compliance with Grand Canyon noise efficiency criteria.

NPS Air Operations

GCNP has one of the most strictly regulated aviation programs within the NPS and the DOI. The park limits use of its contracted aircraft to activities involving life or health-threatening emergencies, administration and/or protection of resources, and for individually approved special purpose missions. Each flight request is reviewed to ensure that it is the most efficient, economical, and effective method of performing the required task consistent with NPS and GCNP goals. These goals include the protection of natural quiet and experience, as reinforced by the park's recently approved General Management Plan. The NPS is revising its contract requirements so that it can contract for quieter aircraft that meet mission requirements, and it is addressing this in budget formulation as a high priority need. The NPS will, to the maximum extent possible, meet or exceed phase-out schedules for the air tour industry at large and will to the maximum extent feasible honor flight-free zones established for the Park. GCNP seeks to make this conversion in advance of the requirements of this rule.

Development of a Comprehensive Noise Management Plan

This proposed rule reflects the understanding of the FAA and NPS that the conversion of the commercial sightseeing aircraft fleet operating in the SFRA to a more noise efficient fleet is

the most promising approach to providing for the substantial restoration of natural quiet mandated by Public Law 100–91 and allowing for some measure of growth in the commercial sightseeing industry. To ensure that the proposed rule provides the fairest solution for all parties involved, the FAA and NPS are committed to the joint development of a noise management plan no later than 5 years from May 1, 1997. It will provide for a more adaptive management system, full resolution of all monitoring and modeling issues, improved public input, and the provision of improved incentives to invest in noise efficient aircraft. The purpose is to further refine the final rule published concurrently with this proposed rule, whose intent is to provide for the substantial restoration of natural quiet mandated by the Overflights Act. To ensure development of a flexible and adaptive approach to noise mitigation and management, this plan will, at a minimum, (1) address development of a reliable aircraft operations and noise database, (2) validate and document the most effective uses for FAA and NPS noise models in GCNP, (3) explore how the conversion to a noise efficient fleet can most effectively contribute to the substantial restoration of natural quiet while allowing for growth in the industry, and how, in this context, incentives can best be provided to promote this conversion. The FAA and the NPS are committed to an open process that will provide for full public involvement.

In the development of the Comprehensive Noise Management Plan, consideration will be given to the inclusion of additional reporting requirements. The final rule published elsewhere in this part of this issue of the **Federal Register** does not require that operators report on their commercial sightseeing operations and aircraft used with the SFRA beyond the year 2002. Some type of additional information after that time will be required. The FAA is requesting comments on the type of information and the method of collecting that information that would be most consistent with this plan. Comments will be considered during the development of the Comprehensive Noise Management Plan.

Potential Further Action

As proposed, the FAA would remove the temporary cap placed on certain aircraft permitted to be used for commercial sightseeing operations in GCNP. This is in response to the cap established by the companion final rule published elsewhere in this part in this issue of the **Federal Register**.

The proposed rule would permit operators conducting commercial sightseeing operations within the SFRA to replace GCNP Category A aircraft with GCNP Category B aircraft until December 31, 2000. According to the proposed requirements of the phase-out, the GCNP Category B aircraft could be used until December 31, 2008. Furthermore, the proposed rule allows the substitution of GCNP Category B aircraft with other GCNP Category B aircraft until December 31, 2008. In this context, should operators be restricted to replacing either GCNP Category A and B aircraft only with GCNP Category C aircraft?

As proposed in this notice, the removal of the cap would enable the fleet size to grow. Fleet conversion to larger and quieter aircraft provides for industry growth and noise reduction. But since there is ultimately some capacity level that is consistent with the substantial restoration of natural quiet, which the FAA and NPS will address in the development of a Comprehensive Noise Management Plan, the FAA is requesting specific comment on how to address this "capacity" issue:

—Should an overall cap on the fleet size be maintained until the Comprehensive Noise Management Plan is completed? Or should the number of Category C aircraft in the fleet be allowed to grow through random addition until it reaches the size recommended in the Comprehensive Noise Management Plan to be in concert with one that will maintain the substantial restoration of natural quiet in GCNP?

—At what size should the fleet be capped? What is the appropriate baseline to establish for imposition of a fleet cap? And if imposed, what would the effect be on transitioning to noise efficient aircraft? What provisions should be made for changes in technology that result in increased aircraft efficiency and sound reduction?

—Should incentives be included in a "flexible" cap that would permit increasing numbers of aircraft based on acquisition of leading edge noise efficient technology by operators? Should growth be tied to an incentive system for existing operators to convert their fleet to more noise efficient aircraft? For example, an operator converting two GCNP Category A aircraft to GCNP Category C aircraft could add an additional GCNP Category C aircraft, for a total of three GCNP Category C aircraft. And an operator converting three GCNP Category B aircraft would be permitted to add one additional GCNP Category C aircraft, for a total of four GCNP Category C aircraft.

—Should caps be applied more selectively to specific routes or corridors that are more noise-sensitive, such as the Dragon Corridor?

The FAA is specifically requesting comments on how to better protect areas adjacent to the Dragon Corridor, identified by the NPS as among the most noise-sensitive areas in the GCNP. To minimize the amount of noise from commercial sightseeing aircraft in the Dragon Corridor, the FAA solicits comments on the following alternatives:

- Removing the two-way loop permitted for helicopters in the Dragon Corridor and reinstating the two-way loop in the Zuni Corridor.
- Accelerating the proposed phase-out schedule for aircraft operating in the Dragon Corridor.
- Permitting only GCNP Category C aircraft to operate in two directions within the Dragon Corridor.

Environmental Review

The FAA has prepared a draft environmental assessment (EA) for this proposed action to assure conformance with the National Environmental Policy Act of 1969. A copy of this draft EA will be circulated to interested parties and placed in the docket, where it will be available for review. For those unable to view the document in the docket, the Draft EA can be obtained from the person listed in the **FOR FURTHER INFORMATION CONTACT** section listed previously. The comment period on the Draft EA will remain open for 90 days from the date of the publication of this Notice. Before the final rule is issued, the FAA will prepare a Final EA and determine whether a Finding of No Significant Impact may be issued or an environmental impact statement is required.

Regulatory Evaluation Summary

Changes to federal regulations must undergo several economic analyses. First, Executive Order 12866 directs Federal agencies to promulgate new regulations or modify existing regulations only if the potential benefits to society justify the costs. Based on the criteria outlined in E.O. 12866, the Department of Transportation has concluded that this rulemaking would constitute a "significant regulatory action" and, as such, must include an analysis of alternative actions. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the

economic impact of regulatory changes on small entities. Finally, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade.

In conducting these assessments, the FAA has determined that the combined quantifiable and non-quantifiable benefits of the proposed rule would exceed costs. The FAA has also determined that the rule would not have any significant impact on international trade. In addition, the FAA has estimated that the rule would have a significant economic impact on a substantial number of small air tour operators. Therefore, a regulatory impact analysis is included as required by law. These analyses, available in the docket, are summarized below.

Introduction

This regulatory evaluation analyzes the costs and benefits of the proposed rulemaking to establish noise limitations for certain aircraft operations over the Grand Canyon National Park (GCNP). The FAA is proposing these limitations to reduce the impact of aircraft noise on the park environment and to assist the National Park Service in achieving its statutory mandate imposed by Public Law 100–91. Public Law 100–91 mandates for the substantial restoration of natural quiet and experience in GCNP. Responding to the law, this proposal would assure the achievement of that mandate through a combination of requirements that would limit the future use of noisier aircraft and provide incentives for the use of quieter aircraft. This NPRM is issued concurrently with a final rule which codifies and revises the provisions of Special Federal Aviation Regulation (SFAR) No. 50–2, Special Flight Rules in the Vicinity of Grand Canyon National Park.

Costs

The FAA estimates that the undiscounted cost of the proposed rule to be $172.6 million, with a present value of $96.7 million. This cost estimate was calculated for the 12-year period, 1997 to 2008, and would be incurred by operators conducting airtour operations at the GCNP. Most of this cost would result from operators having to ultimately replace their Category A and B aircraft with Category C aircraft. Each of the cost categories are described below. The assumptions used to calculate the costs are explained in detail in the full regulatory evaluation.[2]

The FAA has identified five cost components in the NRPM. These components and their respective costs are explained below.

Cost of Certifying Noise Efficiency

Four aircraft—CE–180, CE–206, PA–28–180, and BHT–206–B—predate the noise standard and, therefore, do not have certificated noise levels. To obtain a noise level to use to compare with the GCNP noise efficiency limit, either a computational analysis or a measurement test is required. The estimated costs for this are $18,750 for each aircraft type, and would occur in 1997, so the total cost would be $75,000 (net present value, $70,000).[3]

Cost of Phase-Out

Another cost of the NPRM is the eventual phase-out of Category A and Category B aircraft and replacement with Category C aircraft. Specifically, the cost represents the difference in value of existing aircraft and their replacements and the additional or differential expenses associated with operating the quieter aircraft.

Phase-Out of Category A for Category B Aircraft: The aircraft value differential was calculated by subtracting the value of Category A aircraft from the value of Category B aircraft. The operating cost differentials were similarly calculated and added over the period 1997 to 2000. These aircraft would subsequently need to be replaced by Category C aircraft between 2001 and 2008. The analysis assumes that each existing Category A aircraft would be replaced by a PA–31–350 by 2000, which would then be replaced by a Caravan by 2008. The cost of phasing out Category A for Category B aircraft (and subsequently for Category C aircraft) is $74 million, with a present value of $42 million.

The FAA considered the option of requiring phased-out Category A aircraft to be replaced directly with Category C aircraft instead of allowing operators to temporarily replace Category A aircraft with Category B aircraft. This option was rejected because requiring direct conversion to more expensive Category C aircraft would place a major economic burden on many small business operators during the first four years of the phase-out (1997–2000). The FAA estimates that $72 million more in costs would occur in this period as a result of this option than if transition to Category B was allowed. Some operators may choose to convert directly from Category A to Category C aircraft since it must be done by 2008 anyway, but allowing the flexibility to convert from A to B to Category C provides economic relief to those operators who need it most by allowing them to spread costs over a much longer period and generate additional revenues to offset these costs. Direct conversion from Category A to Category C results in some small earlier noise reductions in the Park, but both approaches lead to the same benefits by the year 2008.

Phase-Out of Category B for Category C Aircraft: The aircraft value differential was calculated by subtracting the value of Category B aircraft from the value of Category C aircraft. (See full regulatory evaluation for list of aircraft.) The operating cost differentials were similarly calculated and added over the period 2001 to 2008. The cost of phasing out Category B for Category C aircraft by 2008 is $62 million, with a present value of $34 million.

Cost of Non-Addition for Category A Aircraft

This non-addition cost is the cost associated with prohibiting additions of Category A aircraft that would otherwise occur in the absence of the proposed rule. It is the cost differential between the price of Category B or C aircraft and Category A aircraft. From 1997 to 2000, all Category A aircraft would need to be converted to Category B aircraft. Thereafter, all Category A aircraft would have to become Category C aircraft. Twelve-year costs sum to $22 million with a present value of $12 million.

Cost of Non-Addition for Category B Aircraft

Similarly, non-addition cost for Category B aircraft is the cost associated with prohibiting Category B additions except for replacement of Category A aircraft. It is the cost differential between the price of Category B aircraft and a Category C aircraft had this proposed rule not been in place. This analysis makes the same aircraft substitutions that are shown in the table above in the section on "Phase-Out of Category B for Category C Aircraft." Total 12-year costs equal $14 million with a present value of $9 million.

Benefits

The benefits of noise reduction attributable to this rulemaking can be broadly categorized as use and non-use benefits. Use benefits are the benefits perceived by individuals from the direct

[2] As required by the Office of Management and Budget (OMB), the present value of this stream was calculated using a discount factor of 7 percent. All dollar values are expressed in 1995 dollars.

[3] While it is possible in the future that another aircraft would be introduced into the GCNP that does not have a certified noise level, such a situation is impossible to predict. All Category B and C aircraft that this analysis assumes airtour operators would convert to have certified noise levels, so no additional costs are anticipated in the future for this cost component.

use of a resource such as hiking, rafting, or sightseeing. Non-use benefits are the benefits perceived by individuals from merely knowing that a resource is preserved in a given state. For example, GCNP clearly has value to people who have not visited the park, but take pleasure from the knowledge of its existence. It also has value to people who may wish to visit the Park at some future date. The non-use benefits attributable to this rulemaking have not been estimated but are described qualitatively. The use benefits of this rulemaking have been estimated and are presented below.

The Final Rule revising SFAR 50–2 contains certain overflight restrictions. The benefits of those restrictions have been estimated and are reported in the Final Rule. The NPRM would further amend SFAR 50–2 and the additional benefits are estimated here. The same methodology and some of the same data used to estimate benefits for the Final Rule are also used to estimate benefits in the NPRM.

Economic studies have not been conducted specifically to estimate benefits for the NPRM. Benefits are, therefore, estimated for analogous situations combining value estimates from existing economic studies with site-specific information related to GCNP and other information. Certain criteria should be applied to ensure that appropriate studies are selected. Those criteria are:

• Selected economic studies must reasonably represent the resources to be valued in terms of physical characteristics, service flows, user characteristics, and available substitutes;

• Selected economic studies must be scientifically sound. Studies that are either published in a peer-reviewed academic journal or are conducted by a recognized university-associated researcher or established consulting firm are considered to be scientifically sound; and

• Selected economic studies must use appropriate valuation methodologies.

The site-specific information used in the benefits estimation includes visitation data for GCNP and a visitor survey conducted to document the visitor impacts of aircraft noise within GCNP. The available visitation data for GCNP permits the categorization of visitors into the following groups: backcountry users, river users, and other visitors. "Other visitors" includes those sightseeing, picnicking, pleasure driving, etc. National Park Service estimates for the number of visitor-days in 1995 for these visitor groups are as follows:

NUMBER OF VISITOR-DAYS IN 1995

Visitor group	Visitor days
Backcountry	115,478
River	168,602
Other	5,517,720
Total	5,801,800

The GCNP visitor survey indicates that these different visitor groups are variously affected by aircraft noise (HBRS, Inc. and Harris Miller Miller & Hanson, Inc. 1993). This survey asked respondents to classify the interference of aircraft noise with their appreciation of the natural quiet of GCNP as either "not at all," "slightly," "moderately," "very much," or "extremely." The percent of visitors indicating these impacts is presented below by visitor group.

VISITORS AFFECTED BY AIRCRAFT NOISE IN GRAND CANYON NATIONAL PARK

Impact	Backcountry visitors[a] (percent)	River visitors[b] (percent)	Other visitors (percent)
Not At All	41.0	45.5	76.0
Slightly	15.0	16.5	11.0
Moderately	13.5	10.0	4.0
Very Much	14.5	12.5	4.0
Extremely	16.0	15.5	5.0

[a] Average for Summer and Fall users.
[b] Average for motor and oar users.
Source: HBRS, Inc. and Harris Miller Miller & Hanson, Inc. 1993.

The economic studies selected for use in the benefit estimation are listed below. These studies value recreational activities in or near GCNP. All dollar amounts are indexed to 1995. The implicit price deflator for GDP was used to index all values (Survey of Current Business, March 1996).

VISITOR-DAY VALUES

Activity	Study[4]	Consumer surplus per visitor-day
Hiking in Arizona	Martin, Russell, and Smith 1974	$43.16
Multi-Day Rafting in Grand Canyon Natl Park	Boyle, Welsh, and Bishop 1988	128.21
Sightseeing in Bryce Canyon Natl Park	Haspel and Johnson 1982	39.71

[4] Reported in Walsh, Johnson, and McKean 1988.

Consumer surplus is the difference between the maximum amount a consumer is willing to pay and what the consumer actually pays. It is a measure of the increase in well-being gained by individuals through participation in recreational activities.

It was assumed that these visitor-day values represent the value of participating in the indicated activities at GCNP absent any impacts from aircraft noise. It should be noted that these values potentially understate the value of participation absent any impacts from aircraft noise to the extent that they were estimated in conditions where aircraft noise was present.

There is no economic study available that estimates the reduction in the value of participation that is attributable to the "slightly," "moderately," "very much," or "extremely" impacts described in the GCNP visitor survey. Therefore, the following reductions were assumed. The results of a sensitivity analysis using lower percentage reductions are reported below.

ASSUMED REDUCTIONS IN VISITOR-DAY VALUES

Impact	Reduction (percent)
Slightly	20
Moderately	40
Very Much	60
Extremely	80

The total lost value for each category was calculated as the product of the number of visitor-days, the proportion

of visitors affected by aircraft noise, the visitor-day value, and the assumed proportional reduction in the visitor-day value. For example the total lost value for river users that were moderately affected is the product of the number of river visitor-days (168,602), the proportion of river users that were moderately affected by aircraft noise (10.0 percent), the visitor-day value for river use ($128.21), and the assumed reduction in the visitor-day value given a moderate impact (40 percent).

Based on the number of visitors to the park in each use category, these data and assumptions imply the following total lost values from all aircraft noise in 1995 as noted in the table below. Approximately 58 percent of these benefits were estimated to be obtained by the final rule revising SFAR 50–2. That leaves approximately 42 percent nf the total available for this NPRM.

TOTAL LOST VALUE FROM ALL AIRCRAFT NOISE IN 1995

Impact	Backcountry visitors	River visitors	Other visitors	Total
Slightly	$149,509	$716,677	$4,819,884	$5,686,070
Moderately	269,116	868,700	3,505,370	4,643,186
Very Much	433,576	1,626,812	5,258,055	7,320,443
Extremely	637,905	2,692,969	8,763,425	12,094,299
Total				29,743,998

The benefit of the proposed rule is that portion of the total lost value that is associated with the resulting noise reduction. Aircraft noise modeling has produced a measures called L_{eq12}, which is a non-linear form. Determining a linear measurement of noise reduction weighted by ground area over different levels requires calculation of the antilog of the contour levels. This process produces an estimated sound energy level that can be compared linearly over varying ground areas. The noise reduction results for this NPRM are presented below.

Average linearized noise measure, weighted by the square miles over which different levels, are predicted to occur according to the following schedule:

Year	No NPRM	With NPRM	Noise reduction (percent)
1997	1,268.33	1,277.70	−0.74
2000	1,268.33	1,087.83	14.23
2008	1,268.33	685.96	45.92

The 45.92% noise reduction by the year 2008 corresponds to the finding in the environmental assessment of this proposed rule that 57.4 percent of the GCNP area will have achieved natural quiet as defined by NPS.

The indicated reduction in aircraft noise for each year was applied to the total lost value from all aircraft noise. Subtracted from that application is the amount applied as estimated benefits for the final rulemaking revising SFAR 50–2. That product yields the current use benefit for that year.

Linear interpolation was used to estimate benefits between the years 1997 to 2000, and 2000 to 2008. A 3 percent discount rate was then applied to calculate the present value of use benefits over the ten year regulatory evaluation period. The economics literature supports a 3 percent discount rate for natural resource valuation (e.g., Freeman 1993). Recent Federal rulemakings also support a 3 percent discount rate for natural resource valuation (61 FR 453; 61 FR 20584). The total indicated benefits represent approximately 22 percent of the total benefits available. The resulting use benefit estimates are presented in the following table.

INDICATED USE BENEFITS OF THE OVERFLIGHT NPRM

Year	Current value	Present value
1997	$(106,234)	$(103,140)
1998	598,389	564,039
1999	1,279,091	1,170,549
2000	1,869,864	1,661,350
2001	2,324,027	2,004,726
2002	2,749,363	2,302,548
2003	3,145,872	2,557,881
2004	3,513,553	2,773,632
2005	3,852,408	2,952,550
2006	4,162,436	3,097,244
2007	4,443,637	3,210,178
2008	4,696,011	3,293,688
Total		25,485,244

It is important to recognize significant uncertainties in this estimation. One uncertainty relates to the percentage reductions in visitor-day values that can be attributed to aircraft noise. It was assumed above that there is a 20 percent reduction for visitors affected "slightly," a 40 percent reduction for visitors affected "moderately," a 60 percent reduction for visitors affected "very much," and an 80 percent reduction for visitors affected "extremely." In recognition of the uncertainty surrounding this assumption, one-half of these percentage reductions were used to calculate an alternative benefit estimate. Additionally, in recognition of the discount rate recommended in OMB Circular A–94, alternative benefit estimates were calculated using a 7 percent discount rate. These alternative benefit estimates are presented below.

ALTERNATIVE USE BENEFITS ATTRIBUTABLE TO THIS NPRM

[Present value, 12 years]

Visitor day value reduction assumption (slightly, moderately, very much, extremely)	Discount rate	
	3 percent	7 percent
20, 40, 60, 80	$25,485,000	$18,795,000
10, 20, 30, 40	12,979,473	9,572,011

The FAA and the NPS believe that the true representation of benefits from the proposed rule are reflected by the three percent discount rate and the visitor day value reduction of 20%, 40%, 60%, 80% with the resulting value of 25,485,000, and that value is used to represent the use benefits of this proposal.

In addition to these use benefits, this rulemaking would likely generate non-use benefits. Although the FAA and the NPS have not attempted to estimate the magnitude of these benefits, non-use benefits have been documented and estimated in the general proximity of the Grand Canyon. In a study relating to the operation of Glen Canyon Dam (Hagler Bailly Consulting 1995), annual non-use benefits in a range from $2,286.4 million to $3,442.2 million were estimated based on a national

survey. No attempt has been made to relate these non-use benefit estimates to the potential non-use benefits of aircraft noise reduction that would occur as a result of this proposal. However, these estimates do suggest that potentially significant non-use benefits can be attributed to this proposed rulemaking.

National Canyon Corridor

The GCNP Final Rule, which is being simultaneously promulgated with this proposal, will expand one of the park's flight free zones and eliminate the Blue 1 route. The NPRM would reopen that route (redesignated as Blue 1A) to airtour operators, provided they use Category C aircraft.

The FAA estimates that the revenues potentially lost from eliminating the old Blue 1 route, and included as an average cost of $2.3 million per year in the GCNP Final Rule, would be increasingly recovered throughout the period 1997–2008 as a result of the proposal as operators phase out Categories A and B aircraft and replace them with Category C aircraft.[5] In 1997, the FAA estimates that about 28 percent of the flights between Las Vegas and Tusayan would be conducted using Category C aircraft and would, therefore, use the new Blue 1A route. The remaining air tour flights between Las Vegas and Tusayan would not include a flight through the Blue 1A route and would have a reduced fare. This percentage would increase each year as Categories A and B aircraft are phased out. By 2001 approximately half of the flights between Las Vegas and Tusayan will be conducted using Category C aircraft, and therefore, fly the Blue 1A route. By 2008, the proposed deadline for complete phase out for Categories A and B aircraft, all flights would be conducted using Category C aircraft.

REDUCTION IN REVENUE LOSS

Year	Current value	Present value
1997	$566,259	$529,214
1998	663,459	579,491
1999	754,727	616,082
2000	778,156	593,651
2001	1,180,220	841,480
2002	1,616,147	1,076,907
2003	1,987,803	1,237,904
2004	2,365,380	1,376,673
2005	2,447,181	1,331,104
2006	2,532,784	1,287,539
2007	2,757,791	1,310,207
2008	2,848,798	1,264,900
Totals	20,498,704	12,045,152

The FAA estimates that the recovered lost revenue (net of variable operating costs) attributable to the proposed rule would increase from $556,000 in 1997 to $2.8 million in 2008. The current values and seven percent discounted values are shown in the table above.

The FAA estimated natural resource benefits, discounted at three percent, for the 12-year period 1997–2008 to be $25.5 million. The FAA also estimated non-resource benefits (increased airtour operator profits), discounted at seven percent, for the 12-year period to be $12.0 million. The combined total benefit of this proposal, therefore, is estimated to be $37.5 million.

Summary of Costs and Benefits

The total quantified costs of this proposal to establish noise limitations for certain aircraft operated in the vicinity of the GCNP are estimated to be $172.6 million undiscounted or $96.7 million discounted to present value.

The quantified benefits, including noise reduction and use of the Blue 1A scenic route, are estimated to be $47.4 million undiscounted and $37.5 million discounted to present value. In addition to quantified benefits, there are substantial unquantified benefits as discussed above.

However, estimates of costs and benefits of the proposal were made primarily as an aid in evaluating the economic impacts of a phase-out that the FAA believes is necessary to obtain substantial reductions in aircraft noise in GCNP. The benefits justifying the restoration of natural quiet to the park have already been established by the American public, and that determination was carried out by their elected representatives in enactment of the law directing that natural quiet be restored. Based on that direction and the quantified and unquantified costs and benefits contained in this analysis, the FAA finds this proposal to be cost beneficial.

Alternatives

As explained in the Introduction of this regulatory evaluation, the proposed rule has been deemed "significant" due to its high cost and the impact it would have on small entities. As a result, the FAA has identified and considered alternatives to the proposed rule. Alternative 1 is the proposed rule. Alternative 2 is to not undertake rulemaking at this time beyond the final rule being implemented simultaneously with this proposal. Alternative 3 is the same as Alternative 1, but with no interim phase-out of Category B aircraft. Operators would presumably hold on to their aircraft until the last minute and replace them at the end of 2000 or 2008 depending on what type of aircraft they had.

Cost of Alternatives

A side-by-side cost comparison of Alternatives 1 and 3 is presented in the table below. Alternative 2 would have no cost and is therefore not included. Alternatives 1 and 3 have the same total cost because the same type and number of aircraft would be replaced under both alternatives. However, operators would have a longer time in which to comply under Alternative 3 than under Alternative 1. Therefore, the present value of the cost of that compliance would be less.

COST COMPARISON OF ALTERNATIVES 1 AND 3

Cost categories	Alternative 1		Alternative 3	
	Total cost	Present value	Total cost	Present value
Certified Noise Efficiency Level	$0.08	$0.07	$0.08	$0.07
Phase Out Category A to B	74.33	42.06	74.33	33.99
Phase Out Category B to A	60.92	33.49	60.92	27.05
Non-Addition Category A	21.76	11.87	21.76	9.68

[5] See Notice of Availability of Proposed Air Tour Routes published in the **Federal Register** with this NPRM.

COST COMPARISON OF ALTERNATIVES 1 AND 3—Continued

Cost categories	Alternative 1		Alternative 3	
	Total cost	Present value	Total cost	Present value
Non-Addition Category B	14.07	8.42	14.07	7.07
Total	171.16	95.91	171.16	77.86

Benefits of Alternatives

The benefits of Alternative 1 have already been estimated in the Benefits section above. There are no benefits to Alternative 2 since it merely maintains the status quo.

Alternative 3 would require the same conversion as that required in alternative 1, except that phase-out would not be required. As with the cost analysis, this benefits analysis assumes that all operators of Category A aircraft would wait until the year 2000 to convert their aircraft to Category B. Also, it is assumed that operators would wait until the year 2008 to convert their Category B aircraft to Category C aircraft because there would be no mandatory phase-out of Category B aircraft before 2008.

As with Alternative 1, the indicated reduction in aircraft noise for each year was applied to the total lost value from all aircraft noise. However, the indicated reduction remained constant at −0.74 percent from 1997 to 2000 and 14.23 percent from the years 2000 to 2008. In the year 2008, it is assumed the noise reduction reaches the indicated 45.92 percent. Subtracted from the application is the amount applied as estimated benefits for the final rule making revising SFAR 50–2. That product yields the current use benefit for that year. The annual current use benefits are presented in the following table two tables.

ALTERNATIVE 3.—INDICATED USE BENEFITS OF THE OVERFLIGHT NPRM

Year	Current value	Present value 3 percent
1997	$(106,234)	$(103,140)
1998	(103,931)	(97,965)
1999	(102,204)	(93,531)
2000	1,869,864	1,661,350
2001	1,818,071	1,568,284
2002	1,766,278	1.479,230
2003	1,714,486	1,394,034
2004	1,662,693	1,312,545
2005	1,610,901	1,234,621
2006	1,559,108	1,160,123
2007	1,507,315	1,088,917
2008	4,696,011	3,293,688
Total		13,896,156

The benefits of restoring the Blue 1A route for Alternatives 1, 2, and 3 are the same. As discussed above in the Benefits section, the benefits of implementing this route are $12 million over the 12-year period. When combined with the $13.9 million natural-resource benefits, the total present value benefits of Alternative 3 would be $25.9 million.

The following table compares the costs and benefits of the three proposals. The FAA has rejected Alternative 2 because it relies solely on the final rule issued concurrently with this NPFM to achieve the substantial restoration of natural quiet mandated by Congress. The NPS's definition of substantial restoration is the situation in which 50 percent or more of the Park is free of aircraft noise at least 75 percent of the time. Based on noise estimates contained in the environmental assessment associated with this proposal, the final rule would only marginally achieve these goals in 1997, and would begin to fall below the goal as activity increases in the future. The FAA believes that substantial further reductions in aircraft noise could be achieved by taking advantage of the advanced technology incorporated into quieter aircraft now available. Therefore, the agency rejects Alternative 2 in favor of one that is estimated to meet or exceed NPS standards for the immediate future.

The FAA has rejected Alternative 3 because, while similar to the proposal, it would impose no phase-out schedule for Category B aircraft beyond the requirement that they discontinue operations by December 31, 2008. Imposing no phase-out schedule was considered as a way to provide operators more flexibility in transitioning from Category B to Category C aircraft. A cost analysis of this alternative, based on the assumption that operators would delay phasing out Category B aircraft as long as possible, indicated that there would be a cost savings to operators only in that investment in some Category C aircraft would be delayed. On the other hand, the benefits of less aircraft noise in the Park would also be less during the transition period. Further, if operators actually did delay the phase-out until the last year, they would probably not be able to find suitable replacement aircraft or would have some other reason for requesting an extension of time. The FAA's experience in other rulemaking actions requiring a transition is that most operators do not wait until the deadline. Instead, they develop their own transition schedules. Based on the above, the FAA decided that establishing a transition schedule as contained the proposal would provide for a phase-out that will assure early benefits and can be effectively monitored. Therefore, the Agency rejects Alternative 3.

ALTERNATIVES COSTS AND BENEFITS COMPARISON

[Millions]

	Present value costs	Present value benefits	Benefit cost ratio
Alternative 1	$95.91	$37.5	.39
Alternative 2	0.0	0.0	N/A
Alternative 3	77.86	25.9	.33

Initial Regulatory Flexibility Analysis

By both law and executive order, Federal regulatory agencies are required to consider the impact of proposed regulations on small entities. Executive Order 12866 "Regulatory Planning and Review", dated September 30, 1993, states that:

Each agency shall tailor its regulations to impose the least burden on society, including individuals, businesses of different sizes, and other entities (including small communities and governmental entities), consistent with obtaining the regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations.

The 1980 "Regulatory Flexibility Act" (RFA) requires Federal agencies to prepare an initial regulatory flexibility analysis of any notice of proposed rulemaking that will have a significant economic impact on a substantial number of small entities. The definition

of small entities and guidance material for making determinations required by the RFA are contained in the **Federal Register** [47 FR 32825, July 29, 1982]. Federal Aviation Administration (FAA) order 2100.14A outlined the agency's procedures and criteria for implementing the RFA.

With respect to this proposed rule, a "small entity" is a commercial sightseeing operator that for all practical purposes owns or operates nine or fewer aircraft. A significant economic impact on a small entity is defined as an annualized net compliance cost to such a small commercial sightseeing operator. In the case of scheduled operators of aircraft for hire having less than 60 passenger seats, a "significant economic impact" or cost threshold, is defined as an annualized net compliance cost level that exceeds $69,800; for unscheduled operators the threshold is $4,900. A substantial number of small entities is defined as a number that is more than one-third of the small commercial sightseeing operators (but not less than eleven operators) subject to the proposed rule.

The Federal Aviation Administration has determined that this proposal could have a significant economic impact on all commercial sightseeing operators conducting flights within Grand Canyon National Park and therefore has prepared this initial regulatory flexibility analysis. The analysis, structured in accordance with section 603 of the RFA, requires the following:

1. Why FAA action is being considered.
2. Statement of the objectives and legal basis for the proposed rule.
3. Description of and estimated number of small entities affected.
4. Projected reporting, recordkeeping, and other compliance requirements of the proposed rule.
5. Any relevant Federal rules which may duplicate, overlap or conflict with the proposed rule.

Why FAA Action is Being Considered: The proposal to establish noise limitations for certain aircraft operations in the vicinity of the Grand Canyon National Park stems from the need to further reduce the impact of aircraft noise on the park environment and assist the National Park Service in achieving its statutory mandate imposed by Public Law 100–91 to provide for the substantial restoration of natural quiet and experience in the Grand Canyon National Park.

Statement of the Objectives and Legal Basis for the Proposed Rule: In 1987, Congress enacted Public Law (Pub. L.) 100–91, commonly known as the National Parks Overflights Act (the Act). The Act stated, in part, that noise associated with aircraft overflights at GCNP was causing a "significant adverse effect on the natural quiet and experience of the park and current aircraft operations at the Grand Canyon National Park have raised serious concerns regarding public safety, including concerns regarding the safety of park users."

Public Law 100–91 requires the Department of the Interior to submit to the FAA recommendations to protect resources in the Grand Canyon from adverse impacts associated with aircraft overflights. The law mandated that the recommendations: (1) Provide for substantial restoration of the natural quiet and experience of the park and protection of public health and safety from adverse effects associated with aircraft overflights; (2) with limited exceptions, prohibit the flight of aircraft below the rim of the canyon; and (3) designate flight-free zones except for purposes of administration and emergency operations. In December of 1987, the DOT transmitted its "Grand Canyon Aircraft Management recommendations" to the FAA, which included both rulemaking and nonrulemaking actions.

On May 27, 1988, the FAA issued SFAR No. 50–2 revising the procedures for operation of aircraft in airspace above the Grand Canyon (53 FR 20264, June 2, 1988). The SFAR, among other things, limited the areas for aircraft operations by establishing special flight routes for commercial operators. Since that time, a substantial amount of public debate has taken place regarding the effect of aircraft noise on the Grand Canyon's environment. The debate and the objective of the proposal is more thoroughly discussed in the preamble of this proposed rulemaking.

On June 15, 1995, the FAA published a final rule that extended the provisions of SFAR No. 50–2 to June 15, 1997 (60 FR 31608). This action allowed the FAA sufficient time to review thoroughly the NPS recommendations as to their impact on the safety of air traffic over GCNP, and to initiate and complete any appropriate rulemaking action.

On September 16–20, 1996, in Scottsdale, Arizona, and Las Vegas, Nevada, the FAA held public meetings to obtain additional comment on the NPRM. entitled "Special Flight Rules in the Vicinity of Grand Canyon National Park," and on the draft environmental assessment that accompanied that proposal. Comments and the transcripts of these meetings have been placed in rulemaking docket No. 28537 for Notice 96–11.

Description and Estimated Number of Small Entities Affected: The proposed rulemaking will affect commercial sightseeing operators conducting flights over the Grand Canyon National Park under 14 CFR part 135. These commercial operators provide sightseeing tours of the Grand Canyon over the four flight zones established by SFAR 50–2. FAA data shows that in 1995, there were 26 potentially affected small commercial sightseeing operators, each owning, but not necessarily operating 9 or fewer aircraft. These operators owned a total of 70 aircraft and the average fleet consisted of about 3 airplanes. The FAA estimated that 26 operators, which are also small entities, will be impacted by the proposed rules.

Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule: The proposal would not require affected small commercial sightseeing operators to maintain and report additional information.

The proposed rule would require that operators phaseout noisier aircraft. The proposed rule would allow B category aircraft to replace phased out A category aircraft.

Any Relevant Federal Rules Which May Duplicate, Overlap or Conflict with the Proposed Rule: There are no relevant Federal rules which will duplicate, overlap or conflict with the proposed rule.

Cost of Compliance to Small Entities

The FAA has determined that four aircraft models currently operating in GCNP predate FAA noise standards and therefore do not have certificated noise levels. To obtain a level to use to compare with the Grand Canyon National Park noise efficiency limit may require analysis or a measurement test. Only four aircraft total operating at the Grand Canyon National Park (CE 180; CE 206, PA–28–180, and BT–206–B), do not have certificated noise levels. The cost per analysis or test is $18,750 or $2670 annualized at 7 percent over 10 years. In no situation would a substantial number of small operators be significantly impacted because the annualized cost is below even the lowest threshold for unscheduled operators and no operator owns more than one of these aircraft.

To calculate the annualized cost impact on a small operator of the phaseout schedule, the FAA in the regulatory evaluation determined the cost impact on operators by aircraft type. That is, given the fleet mix of a particular operator, the FAA calculated the cost of replacing a given noncompliant aircraft with a complaint one. The incremental annualized fixed

and variable costs of replacing noncompliant aircraft with compliant aircraft is shown in the following table.

The FAA has determined that, after multiplying the annualized incremental cost per aircraft type by the number of aircraft that operators currently own/or operate, 23 small entities would be significantly impacted under the guidelines outlined earlier. Therefore, a substantial number of operators affected by this proposed requirement (which is more than one-third of all GCNP commercial sightseeing operators) would incur a significant cost impact (See table in full regulatory evaluation.).

Description of Alternative Actions

Section 603(c) of the RFA requires that each initial regulatory flexibility analysis contain a description of any feasible alternatives to the proposed rule that would accomplish the stated objectives of applicable statutes and that minimizes any significant economic impact of the proposed rule on small entities.

The FAA and the NPS have made extensive efforts, including the public meeting at Flagstaff, to determine the optimal action to reduce aircraft noise and provide for the substantial restoration of natural quiet in the GCNP. In addition to this proposed rule's phaseout of operations of certain types of aircraft, the FAA and the NPS considered two other alternatives, described below.

Alternative Two

Under this alternative, the FAA would not issue an NPRM phasing out noisier aircraft at this time. Instead, the FAA would adopt an approach that would "wait-and-see" the extent to which promulgation of part 93, subpart U—Special Flight Rules in the Vicinity of Grand Canyon National Park, AZ, would reduce aircraft noise and provide for substantial restoration of natural quiet in the GCNP. Promulgation of part 93, subpart U, issued concurrently with this NPRM, will reduce aircraft noise in the park by establishing new and modifying existing flight-free zones and enlarging the Special Flight Rules Area.

Quieter, generally larger, aircraft are available, however, that would restore more of the natural quiet in the park. Based on an extensive review of all current information available, the FAA has concluded that the use of these quieter aircraft is necessary to reducing noise substantially more toward natural quiet, and that initiating a phase-out of noisier aircraft immediately will significantly contribute to achieving natural quiet goals. Therefore, the FAA rejects this alternative.

Alternative Three

Under this alternative, Category A aircraft would be banned after December 31, 2000, and Category B aircraft would be banned after December 31, 2008, just as in the proposal, but an interim compliance schedule would not be implemented to phase out Category B aircraft between 2001 and 2008. Although operators of Category B aircraft could replace their aircraft with Category C aircraft before the end of 2008, there would be no requirement to do so.

This alternative could postpone a further reduction in aircraft noise and postpone restoration of the natural quiet in the park during the period 2001–2008. Therefore, the FAA rejects this alternative.

International Trade Impact Assessment

The FAA has determined that the proposed rulemaking will not affect non-U.S. operators of foreign aircraft operating outside the United States or U.S. trade. It could however, have an impact on commercial sightseeing at GCNP, much of which is foreign.

The United States Air Tour Association estimates that 60 percent of all commercial sightseeing tourists in the United States are foreign. The Las Vegas FSDO, however, believes this estimate to be considerably higher at GCNP, perhaps as high as 90 percent. The FAA cannot put a dollar value on the portion of the potential loss in commercial sightseeing revenue associated with the loss of foreign tour dollars.

Federalism Implications

The regulations herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12866, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13), there are no requirements for information collection associated with the proposed regulation.

Conclusion

For the reasons set forth above, the FAA has determined that this proposed rule is a significant regulatory action under Executive Order 12866. In addition, the FAA certifies that this proposal would have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This proposed rule is considered significant under DOT Regulatory Policies and Procedures.

List of Subjects in 14 CFR Part 93

Air traffic control, Airports, Navigation (Air), Reporting and recordkeeping requirements.

The Proposed Amendment

For the reasons set forth above, the Federal Aviation Administration proposes to amend 14 CFR part 93 as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

1. The authority citation for part 93 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44719, 46301.

§ 93.305 [Amended]

2. Section 93.305 is amended by adding before the period at the end of paragraph (c) the words: "and not including the following airspace designated as the National Canyon corridor: that airspace one mile on either side of a line extending from Lat. 36°08′43″ Long. 113°09′19″ to Lat. 36°15′30″, Long. 112°51′07″ to Lat. 36°14′38″, Long. 112°45′56″ to Lat. 36°18′17″, Long. 112°42′22″ to Lat. 36°17′49″, Long. 112°39′54″ to Lat. 36°12′36″, Long. 112°34′120″ to Lat. 36°08′12″, Long. 112°34′36″ then back to the Blue One Direct Route at Havatagvitch Canyon Point.

3. Section 93.306 is added to read as follows:

§ 93.306 Operation of GCNP Category C Aircraft in National Canyon Corridor.

No person may operate an aircraft within the National Canyon Corridor within the Special Flight Rules Area unless the aircraft is a commercial sightseeing operation aircraft that meets the GCNP Category C aircraft standard, as defined in § 93.319.

§ 93.307 [Amended]

4. Section 93.307 is amended by adding at the end of the section after (b)(2)(iii) a new paragraph (b)(3) to read as follows:

* * * * *

(b) * * *

(3) GCNP Category C aircraft in the National Canyon Corridor. 7,500 feet MSL.

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§ 93.316 [Amended]

5. Section 93.316 is amended by removing paragraph (b) and removing the paragraph designation "(a)" from the remaining paragraph.

6. Section 93.319 is added to read as follows:

§ 93.319 Noise limitations for commercial sightseeing flights.

(a) *Definitions.* For the purpose of this section only—

Base level for Category A aircraft means the total number of category A aircraft listed on a certificate holder's operations specifications on December 31, 1996, and for Category B aircraft means the total number of Category B aircraft listed on a certificate holder's operations specifications on December 31, 2000, for use in commercial sightseeing operations within the SFRA.

GCNP Category A aircraft means an aircraft that has not been shown to comply with the GCNP Category B or GCNP Category C noise limit in appendix B of this part.

GCNP Category B aircraft means an aircraft that has been shown to comply with the GCNP Category B noise limit in appendix B of this part, but not the GCNP Category C noise limit in appendix B of this part.

GCNP Category C aircraft means an aircraft that has been shown to comply with the GCNP Category C noise limit in appendix B of this part.

New Entrant Operator means any person that was not authorized to conduct commercial sightseeing operations within the SFRA as of December 31, 1996.

(b) *GCNP Category A Aircraft.* After [Effective date of final rule], no certificate holder may operate a greater number of GCNP Category A aircraft in commercial sightseeing operations within the SFRA than the number of aircraft listed on that certificate holder's operations specifications on December 31, 1996, for use in commercial sightseeing operations within the SFRA. After December 31, 2000, no certificate holder may operate a GCNP Category A aircraft in commercial sightseeing operations within the SFRA.

(c) *GCNP Category B Aircraft.* (1) After [Effective date of final rule], no certificate holder may operate a greater number of GCNP Category B aircraft in commercial sightseeing operations within the SFRA than the number of aircraft listed on that certificate holder's operations specifications on December 31, 1996, for use in commercial sightseeing operations within the SFRA, unless the aircraft was added to the certificate holder's operations specifications after December 31, 1996, and on or before December 31, 2000, as a replacement for a GCNP Category A aircraft that was listed on that certificate holder's operations specifications on December 31, 1996, for use in commercial sightseeing operations within the SFRA.

(2) After December 31, 2002, no certificate holder may operate more than 75 percent of the base level number of GCNP Category B aircraft in commercial sightseeing operations within the SFRA. Calculations resulting in fractions may be rounded to permit the continued operation of the next whole number of Category B aircraft.

(3) After December 31, 2004, no certificate holder may operate more than 50 percent of the base level number of GCNP Category B aircraft. Calculations resulting in fractions may be rounded to permit the continued operation of the next whole number of Category B aircraft.

(4) After December 31, 2006, no certificate holder may operate more than 25 percent of the base level number of GCNP Category B aircraft. Calculations resulting in fractions may be rounded to permit the continued operation of the next whole number of Category B aircraft.

(5) After December 31, 2008, no certificate holder may operate a GCNP Category B aircraft in commercial sightseeing operations within the SFRA.

(d) *GCNP Category C Aircraft.* Except for GCNP Category B aircraft added to the certificate holder's operations specifications as a replacement aircraft as authorized in paragraph (c)(1) of this section, no certificate holder may add an aircraft to its operations specifications for use in commercial sightseeing operations within the Special Flight Rules Area unless the aircraft is a GCNP Category C aircraft.

(e) *New entrant operators.* After [insert effective date of final rule], no new entrant operator may conduct commercial sightseeing operations within the SFRA unless the aircraft used in those operations is a GCNP Category C aircraft.

7. Appendix B is added to part 93 to read as follows:

Appendix B—GCNP Aircraft Noise Limits

This appendix contains procedures for determining GCNP aircraft noise limits for each aircraft subject to § 93.319 determined during the noise certification process as prescribed under part 36 of this chapter. Where no certificated noise level is available, an alternative measurement procedure may be approved by the Administrator.

1. GCNP Category B Noise Limit

A. For helicopters with a flyover noise level obtained in accordance with the measurement procedures prescribed in Appendix H of 14 CFR part 36, the limit is 84 dB for helicopters having 2 or fewer passenger seats, increasing at 3 decibels per doubling of the number of passenger seats for helicopters having 3 or more passenger seats. The limit at number of passenger seats of 3 or more can be calculated by the formula:

$EPNL_{(H-Cat.\ B)}$=84 +10log (# PAX seats/2) dB

B. For helicopters with a flyover noise level obtained in accordance wit the measurement procedures prescribed in Appendix J of 14 CFR part 36, the limit is 81 dB for helicopters having 2 or fewer passenger seats, increasing at 3 decibels per doubling of the number of passenger seats for helicopters having 3 or more passenger seats. The limit at number of passenger seats of 3 or more can be calculated by the formula;

$SEL_{(J-Cat.\ B)}$=81 +10log(# PAX seats/2) dB

C. For propeller-driven airplanes with a measured flyover noise level obtained in accordance with the measurement procedures prescribed in Appendix F of 14 CFR part 36 without the performance correction defined in Sec. F35.201(c), the limit is 73 dB for airplanes having 2 or fewer passenger seats, increasing at 3 decibels per doubling of the number of passenger seats for airplanes having 3 or more passenger seats. The limit at number of passenger seats of 3 or more can be calculated by the formula:

$L_{Amax\ (F-Cat.\ B)}$=73 +10log(# PAX seats/2) dB

D. In the event that a flyover noise level is not available in accordance with Appendix F of 14 CFR part 36, the noise limit for propeller-driven airplanes with a takeoff noise level obtained in accordance with the measurement procedures prescribed in Appendix G is 78 dB for airplanes having 2 or fewer passenger seats, increasing at 3 decibels per doubling of the number of passenger seats for airplanes having 3 or more passenger seats. The limit at number of passenger seats of 3 or more can be calculated by the formula:

$L_{Amax(G-Cat.\ B)}$=78+10log (# PAX seats/2) dB

2. GCNP Category C Noise Limit

A. For helicopters with a flyover noise level obtained in accordance with the measurement procedures prescribed in Appendix H of 14 CFR part 36, the limit is 80 dB for helicopters having 2 or fewer passenger seats, increasing at 3 decibels per doubling of the number of passenger seats for helicopters having 3 or more passenger seats. The limit at number of passenger seats of 3 or more can be calculated by the formula:

$EPNL_{(H-Cat.\ C)}$=80+10log (# PAX seats/2) dB

B. For helicopters with a flyover noise level obtained in accordance with the measurement procedures prescribed in Appendix J of 14 CFR part 36, the limit is 77 dB for helicopters having 2 or fewer passenger seats, increasing at 3 decibels per doubling of the number of passenger seats for helicopters having 3 or more passenger seats. The limit at number of passenger seats of 3 or more can be calculated by the formula:

$SEL_{(J-Cat.\ C)}$=77+10log (# PAX seats/2) dB

C. For propeller-driven airplanes with a measured flyover noise level obtained in accordance with the measurement procedures prescribed in Appendix F of 14 CFR part 36 without the performance correction defined in Sec. F35.201(c), the limit is 69 dB for airplanes having 2 or fewer passenger seats, increasing at 3 decibels per doubling of the number of passenger seats for airplanes having 3 or more passenger seats. The limit at number of passenger seats of 3 or more can be calculated by the formula:

$L_{Amax(F-Cat.\ C)}$=69+10log (# PAX seats/2) dB

D. In the event that a flyover noise level is not available in accordance with Appendix F of 14 CFR part 36, the noise limit for propeller-driven airplanes with a takeoff noise level obtained in accordance with the measurement procedures prescribed in Appendix G is 74 dB for airplanes having 2 or fewer passenger seats, increasing at 3 decibels per doubling of the number of passenger seats for airplanes having 3 or more passenger seats. The limit at number of passenger seats of 3 or more can be calculated by the formula:

$L_{Amax(G-Cat.\ C)}$=74+10log (# PAX seats/2) dB

Issued in Washington, DC, on December 24, 1996.

James D. Erickson,

Director, Office of Environment and Energy.

[FR Doc. 96–33145 Filed 12–30–96; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Air Tour Routes for the Grand Canyon National Park

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of proposed commercial air tour routes for the Grand Canyon National Park and request for comments.

SUMMARY: This notice announces the availability of and requests comments on proposed commercial air tour routes for the Grand Canyon National park (GCNP). The proposed commercial air tour routes are not being published in today's **Federal Register** because they are on very large and very detailed charts that would not publish well in the **Federal Register**. The proposed new routes, or modifications of existing commercial air tour routes, are related to airspace changes contained in a final rule affecting the special flight rules in the vicinity of GCNP and issued concurrently with this notice. The proposed commercial air tour routes are also related to a Notice of Proposed Rulemaking (NPRM) proposing the phase out of noisier aircraft operating in the vicinity of GCNP, also issued concurrently with this notice.

DATES: Comments must be received on or before January 30, 1997.

ADDRESSES: Comments on the proposed air tour routes may be delivered or mailed, in triplicate, to: Federal Aviation Administration, Attention: Dave Metzbower, Air Carrier Operations Branch, Flight Standards Service, AFS–220, 800 Independence Avenue, SW., Washington, DC 20591. Comments may be examined at the above address between 9 a.m. and 4 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Daniel V. Meier, Jr., Air Carrier Operations Branch, AFS–220, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–3749 or Dave Metzbower, Air Carrier Operations Branch, AFS–220, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–3724.

SUPPLEMENTARY INFORMATION: The proposed commercial air tour routes are not being published in today's **Federal Register** because they are on very large and very detailed charts that would not publish well in the **Federal Register**. A copy of the proposed air tour routes may be obtained by contacting Denise Cashmere at (202) 267–3717, by faxing a request to (202) 267–5229, or by sending a request in writing to the Federal Aviation Administration, Air Transportation Division, AFS–200, 800 Independence Avenue, SW., Washington, DC 20591. Interested persons are invited to comment on the routes as they may desire. Commenters must identify that they are commenting on the proposed air tour routes for Grand Canyon National Park. All comments received on or before the closing date for comments will be considered by the Federal Aviation Administration before finalizing the air tour routes. Late-filed comments will be considered to the extent practicable.

Discussion

The FAA, in consultation with the NPS, has developed proposed air tour routes as a result of the final rule affecting the special flight rules in the vicinity of GCNP issued concurrently with this notice. The proposed air tour routes, which complement the final rule affecting the Special Flight Rules in the Vicinity of GCNP and the NPRM concerning noise limitations for aircraft operations in the vicinity of GCNP, will establish new routes or modify existing commercial air tour routes to accommodate airspace changes included in the final rule concerning GCNP. The final rule, which is to be effective May 1, 1997, and the NPRM are being issued concurrently with this notice. The final rule, in part, modifies the dimensions of the GCNP Special Flight Rules Area (SFRA); establishes new and modifies existing flight-free zones; establishes new and modifies existing flight corridors; and establishes reporting requirements for commercial sightseeing companies operating in the SFRA. The NPRM proposes to phase out noisier aircraft operating in the vicinity of GCNP.

The proposed routes were developed on the basis of airspace configurations, safety considerations, the goal of substantial restoration of natural quiet in the GCNP, economic considerations, and comments received in response to Notice No. 96–11, "Special Flight Rules in the Vicinity of Grand Canyon National Park" (61 FR 40120). Several commenters to Notice No. 96–11 noted that it was difficult to comment on the effects of the proposed changes since the proposed routes were not included in the notice. One commenter stated that the FAA and NPS have done only half of the task mandated under the Overflights Act (Pub. L. 100–91) since they have not yet proposed the air tour routes that will be flown.

Routes were not proposed concurrently with Notice No. 96–11 because it was necessary for the FAA to develop the final rule in advance of the route structure. The FAA encourages persons who committed on Notice 96–11 to comment on the commercial air tour routes proposed today.

This notice provide interested persons an opportunity to comment on the proposed air tour routes. Before the proposed air tour routes for GCNP are finalized, the FAA and the National Park Service (NPS) will fulfill their responsibilities to consult with Native American tribes on a government-to-government basis. In this consultation process, FAA, in coordination with NBS, will consider feasible actions to mitigate any identified significant impacts to Native American cultural, religious, or historic sites.

History

Public Law 100–91 required the Department of the Interior (DOI) to submit to the FAA recommendations to protect resources in the Grand Canyon from adverse impacts associated with aircraft overflights. In December 1987, the DOI transmitted its "Grand Canyon Aircraft Management Recommendation" to the FAA. Public Law 100–91 required the FAA to prepare and issue a final plan for the management of air traffic above the Grand Canyon, implementing the recommendations of the DOI without change unless the FAA determined that executing the recommendations would adversely affect aviation safety. After the FAA determined that some of the DOI recommendations would adversely affect aviation safety, the recommendations were modified to address those concerns.

On May 27, 1988, the FAA issued Special Federal Aviation Regulation (SFAR) No. 50–2 revising the procedures for operation of aircraft in the airspace above the Grand Canyon (53 FR 20264, June 2, 1988). Public Law 100–91 also required the DOI to submit a report to Congress "* * * discussing * * * whether [SFAR No. 50–2] has succeeded in substantially restoring the natural quiet in the park; and * * * such other matters, including possible revisions in the plan, as may be of interest." On September 12, 1994, the DOI submitted its final report and recommendations to Congress. This report, entitled "Report on Effects of Aircraft Overflights on the National Park System" (Report to Congress), was published in July 1995. The Report to Congress recommended numerous revisions to SFAR No. 50–2 in order to improve the natural quiet in the national parks. One recommendation was to modify SFAR–50–2 to effect and maintain the

substantial restoration of natural quiet at Grand Canyon National Park.

On June 15, 1995, the FAA published a final rule that extended the effective date of SFAR No. 50–2 to June 15, 1997 (60 FR 31608). This action allowed the FAA sufficient time to review thoroughly the NPS recommendations as to their impact on the safety of air traffic over GCNP.

In April 1996, President Clinton issued a memorandum for the heads of Executive Departments and Agencies (61 FR 18229). In his memorandum, the President directed the Secretary of Transportation to issue proposed regulations within 90 days to place appropriate limits on sightseeing aircraft over the GCNP to reduce the noise immediately and make further substantial progress towards restoration of natural quiet while maintaining aviation safety in accordance with Public Law 100–91. In addition, the President directed that action on the rulemaking to accomplish those purposes should be completed by the end of 1996.

On July 31, 1996, the FAA published a Notice of Proposed Rulemaking (NPRM) to reduce the impact of aircraft noise on GCNP and to assist the National Park Service (NPS) in achieving its statutory mandate imposed by Public Law 100–91 to provide for the substantial restoration of natural quiet and visitor experience in GCNP (Notice No. 96–11; 61 FR 40120).

The FAA held public meetings on September 16–20, 1996, in Scottsdale, AZ and Las Vagas, NV, to obtain additional comment on the NPRM and on the associated draft environmental assessment (EA). Comments and the transcripts of these meetings have been placed in the rulemaking docket (docket no. 28537) and the EA docket (docket no. 28653).

Issued in Washington, DC on December 24, 1996.

William J. White,

Acting Director, Flight Standards Service.

[FR Doc. 96–33147 Filed 12–30–96; 8:45 am]

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Part V

Environmental Protection Agency

40 CFR Parts 19 and 27
Civil Monetary Penalty Inflation Adjustment Rule; Final Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 19 and 27

[FRL–5671–1]

Civil Monetary Penalty Inflation Adjustment Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency ("EPA") is issuing this final Civil Monetary Penalty Inflation Adjustment Rule as mandated by the Debt Collection Improvement Act of 1996 to adjust EPA's civil monetary penalties ("CMPs") for inflation on a periodic basis. Prior to this new law, EPA's penalties had never been adjusted for inflation. This rule will allow EPA's penalties to keep pace with inflation and thereby maintain the deterrent effect Congress intended when it originally specified penalties.

This first mandatory adjustment increases almost all of EPA's penalty provisions by ten percent (except for new penalty provisions enacted into law in 1996, which are not being increased). The Agency is required to review its penalties again at least once every four years thereafter and to adjust them as necessary for inflation according to a specified formula.

EFFECTIVE DATE: January 30, 1997.

FOR FURTHER INFORMATION CONTACT: Steven M. Spiegel, Office of Regulatory Enforcement, Multimedia Enforcement Division, Mail Code 2248W, 401 M Street, SW, Washington, D.C. 20460, or at (703) 308–8507. Further information may also be requested by electronic mail (e-mail) to: spiegel.steven@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Pub. L. 101–410, enacted October 5, 1990; 104 Stat. 890), as amended by the Debt Collection Improvement Act of 1996 (31 U.S.C. 3701 note; Public Law 104–134, enacted April 26, 1996; 110 Stat. 1321), ("DCIA"), each Federal agency is required to issue regulations adjusting for inflation the maximum civil monetary penalties that can be imposed pursuant to such agency's statutes. With the adoption of this rule implementing these statutes, all violations which take place after January 30, 1997 will be subject to the new statutory maximum civil penalty amounts.

With the exception of the new penalty provisions added by the 1996 amendments to the Safe Drinking Water Act, all of the statutory penalty provisions administered by EPA are being increased. All of these increases are for the maximum allowed, ten percent. The affected penalty provisions and their statutory maximum amounts are set out in Table 1 of the new 40 CFR 19.4.

Section 5 of the DCIA sets forth the formula for adjusting the penalties for inflation:

> The inflation adjustment described under section 4 shall be determined by increasing the maximum CMP or the range of minimum and maximum CMPs, as applicable, for each CMP by the cost-of-living adjustment. * * * The term "cost-of-living" adjustment is the percentage for each CMP by which the Consumer Price Index (CPI) for the month of June of the calendar year preceding the adjustment, exceeds the Consumer Price Index for the month of June of the calendar year in which the amount of such CMP was last set or adjusted pursuant to law. Any increase determined under this amendment shall be rounded * * *.

However, the DCIA also sets a ten percent cap on the first adjustment for inflation. Since EPA's penalties have never previously been adjusted for inflation, this first statutorily required adjustment will be limited to ten percent. Table A below sets forth each CMP provision which is being increased pursuant to the DCIA and the intermediate calculations performed to arrive at the adjusted final maximum penalty contained in the last column and in today's rule.

TABLE A.—SUMMARY OF CIVIL MONETARY PENALTY INFLATION ADJUSTMENT CALCULATIONS

U.S. Code citation	Civil monetary penalty description	Year penalty amount was last set by law	Maximum penalty amount set by law as of 10/23/96	Inflation factor calculation [1]	Maximum penalty increase amount after P.L. 101–410 rounding [2]	Maximum penalty amount after increase and P.L. 101–410 rounding	Maximum penalty amount after P.L. 101–410 rounding and 10% limit
7 U.S.C. 1361 (1) ...	FEDERAL INSECTICIDE, FUNGICIDE, & RODENTICIDE ACT CIVIL PENALTY—GENERAL—COMMERCIAL APPLICATORS, ETC.	1978	5,000	456.7/195.3	$7,000	12,000	$5,500
7 U.S.C. 1361 (2) ...	FEDERAL INSECTICIDE, FUNGICIDE, & RODENTICIDE ACT CIVIL PENALTY—PRIVATE APPLICATORS—1ST & SUBSEQUENT OFFENSES OR VIOLATIONS.	1978	500/1,000	456.7/195.3	700/1,000	1,200/2,000	550/1,100
15 U.S.C. 2615	TOXIC SUBSTANCES CONTROL ACT CIVIL PENALTY.	1976	25,000	456.7/170.1	40,000	65,000	27,500
15 U.S.C. 2647(a) ..	ASBESTOS HAZARD EMERGENCY RESPONSE ACT CIVIL PENALTY.	1986	5,000	456.7/327.9	2,000	7,000	5,500
31 U.S.C. 3802(a)(1).	PROGRAM FRAUD CIVIL REMEDIES ACT/VIOLATION INVOLVING FALSE CLAIM.	1986	5,000	456.7/327.9	2,000	7,000	5,500
31 U.S.C. 3802(a)(2).	PROGRAM FRAUD CIVIL REMEDIES ACT/VIOLATION INVOLVING FALSE STATEMENT.	1986	5,000	456.7/327.9	2,000	7,000	5,500
33 U.S.C. 1319(d) ..	CLEAN WATER ACT VIOLATION/CIVIL JUDICIAL PENALTY.	1987	25,000	456.7/340.1	10,000	35,000	27,500
33 U.S.C. 1319(g)(2)(A).	CLEAN WATER ACT VIOLATION/ADMINISTRATIVE PENALTY PER VIOLATION AND MAXIMUM.	1987	10,000/25,000 ..	456.7/340.1	3,000/10,000	13,000/35,000 ..	11,000/27,500

TABLE A.—SUMMARY OF CIVIL MONETARY PENALTY INFLATION ADJUSTMENT CALCULATIONS—Continued

U.S. Code citation	Civil monetary penalty description	Year penalty amount was last set by law	Maximum penalty amount set by law as of 10/23/96	Inflation factor calculation [1]	Maximum penalty increase amount after P.L. 101–410 rounding [2]	Maximum penalty amount after increase and P.L. 101–410 rounding	Maximum penalty amount after P.L. 101–410 rounding and 10% limit
33 U.S.C. 1319(g)(2)(B).	CLEAN WATER ACT VIOLATION/ ADMINISTRATIVE PENALTY PER VIOLATION AND MAXIMUM.	1987	10,000/125,000	456.7/340.1	3,000/40,000	13,000/165,000	11,000/137,500
33 U.S.C. 1321(b)(6)(B)(i).	CLEAN WATER ACT VIOLATION/ ADMIN PENALTY OF SEC 311(b)(3) & (j) PER VIOLATION AND MAXIMUM.	1990	10,000/25,000 ..	456.7/389.1	2,000/5,000	12,000/30,000 ..	11,000 /27,500
33 U.S.C. 1321(b)(6)(B)(ii).	CLEAN WATER ACT VIOLATION/ ADMIN PENALTY OF SEC 311(b)(3) & (j) PER VIOLATION AND MAXIMUM.	1990	10,000/125,000	456.7/389.1	2,000/20,000	12,000/145,000	11,000/137,500
33 U.S.C. 1321(b)(7)(A).	CLEAN WATER ACT VIOLATION/ CIVIL JUDICIAL PENALTY OF SEC 311(b)(3)—PER VIOLATION PER DAY OR PER BARREL OR UNIT.	1990	10,000 or ..... 1,000 per b/u ...	456.7/389.1	5,000 or 200 .... per barrel/unit ...	15,000 or 1,200 per barrel/unit ...	11,000 or 1,100 per barrel or unit
33 U.S.C. 1321(b)(7)(B).	CLEAN WATER ACT VIOLATION/ CIVIL JUDICIAL PENALTY OF SEC 311 (c) & (e)(1)(B).	1990	25,000	456.7/389.1	5,000	30,000	27,500
33 U.S.C. 1321(b)(7) C).	CLEAN WATER ACT VIOLATION/ CIVIL JUDICIAL PENALTY OF SEC 311(j).	1990	25,000	456.7/389.1	5,000	30,000	27,500
33 U.S.C. 1321(b)(7)(D).	CLEAN WATER ACT VIOLATION/ MINIMUM CIVIL JUDICIAL PENALTY OF SEC 311(b)(3)—PER VIOLATION OR PER BARREL/UNIT.	1990	100,000 or 3,000 per b/u.	456.7/389.1	15,000 or 1,000 per b/u.	115,000 or 4,000 per barrel/unit.	11,000 or 3,300 per barrel/unit
33 U.S.C. 1414b(d)	MARINE PROTECTION, RESEARCH AND SANCTUARIES ACT VIOL SEC 104b(d).	1988	600	456.7/353.5	200	800	660
33 U.S.C. 1415(a) ..	MARINE PROTECTION, RESEARCH AND SANCTUARIES ACT VIOLATIONS—FIRST & SUBSEQUENT VIOLATIONS.	1988	50,000/125,000	456.7/353.5	15,000/40,000 ..	65,000/165,000	55,000/137,500
42 U.S.C. 300g–3(b).	SAFE DRINKING WATER ACT/ CIVIL JUDICIAL PENALTY OF SEC 1414(b).	1986	25,000	456.7/327.9	10,000	35,000	27,500
42 U.S.C. 300g–3(c)	SAFE DRINKING WATER ACT/ CIVIL JUDICIAL PENALTY OF SEC 1414(c).	1986	25,000	456.7/327.9	10,000	35,000	27,500
42 U.S.C. 300g–3(g)(3)(A).	SAFE DRINKING WATER ACT/ CIVIL JUDICIAL PENALTY OF SEC. 1414(g)(3)(A).	1986	25,000	456.7/327.9	10,000	35,000	27,500
42 U.S.C. 300g–3(g)(3)(B).	SAFE DRINKING WATER ACT/ MAXIMUM ADMINISTRATIVE PENALTY PER SEC. 1414(g)(3)(B).	1986	5,000	456.7/327.9	2,000	7,000	5,500
42 U.S.C. 300h–2(b)(1).	CIVIL JUDICIAL PENALTY/VIOLATIONS OF REQS—UNDERGROUND INJECTION CONTROL.	1986	25,000	456.7/327.9	10,000	35,000	27,500
42 U.S.C. 300h–2(c)(1).	CIVIL ADMINISTRATIVE PENALTY—VIOLATIONS OF REQS—UNDERGROUND INJECTION CONTROL—PER VIOLATION AND MAXIMUM.	1986	10,000/125,000	456.7/327.9	4,000/50,000	14,000/175,000	11,000/137,500
42 U.S.C. 300h–2(c)(2).	CIVIL ADMINISTRATIVE PENALTY—VIOLATIONS OF REQS—UNDERGROUND INJECTION CONTROL PER VIOLATION & MAXIMUM.	1986	5,000/125,000 ..	456.7/327.9	2,000/50,000	7,000/175,000 ..	5,500/137,500
42 U.S.C. 300h–3(c)(1).	VIOLATION/OPERATION OF NEW UNDERGROUND INJECTION WELL.	1974	5,000	456.7/146.9	11,000	16,000	5,500
42 U.S.C. 300h–3(c)(2).	WILLFUL VIOLATION/OPERATION OF NEW UNDERGROUND INJECTION WELL.	1974	10,000	456.7/146.9	21,000	31,000	11,000
42 U.S.C. 300i–1(b)	ATTEMPTING TO OR TAMPERING WITH PUBLIC WATER SYSTEM/CIVIL JUDICIAL PENALTY.	1986	20,000/50,000 ..	456.7/327.9	10,000/20,000 ..	30,000/70,000 ..	22,000/55,000
42 U.S.C. 300j(e)(2)	FAILURE TO COMPLY W/ORDER ISSUED UNDER SEC. 1'441(c)(1).	1974	2,500	456.7/146.9	5,000	7,500	2,750
42 U.S.C. 300j–4(c)	REFUSAL TO COMPLY WITH REQS OF SEC. 1445(a) OR (b).	1986	25,000	456.7/327.9	10,000	35,000	27,500

TABLE A.—SUMMARY OF CIVIL MONETARY PENALTY INFLATION ADJUSTMENT CALCULATIONS—Continued

U.S. Code citation	Civil monetary penalty description	Year penalty amount was last set by law	Maximum penalty amount set by law as of 10/23/96	Inflation factor calculation [1]	Maximum penalty increase amount after P.L. 101–410 rounding [2]	Maximum penalty amount after increase and P.L. 101–410 rounding	Maximum penalty amount after P.L. 101–410 rounding and 10% limit
42 U.S.C. 300j–23(d).	VIOLATIONS/SECTION 1463(b)—FIRST OFFENSE/REPEAT OFFENSE.	1988	5,000/50,000	456.7/353.5	1,000/15,000	6,000/65,000	5,500/55,000
42 U.S.C. 6928(a)(3).	RESOURCE CONSERVATION & RECOVERY ACT/VIOLATION SUBTITLE C ASSESSED PER ORDER.	1984	25,000	456.7/310.7	10,000	35,000	27,500
42 U.S.C. 6928(c)	RES. CONS. & REC. ACT/CONTINUED NONCOMPLIANCE OF COMPLIANCE ORDER.	1984	25,000	456.7/310.7	10,000	35,000	27,500
42 U.S.C. 6928(g)	RESOURCE CONSERVATION & RECOVERY ACT/VIOLATION SUBTITLE C.	1976	25,000	456.7/170.1	40,000	65,000	27,500
42 U.S.C. 6928(h)(2).	RES. CONS. & REC. ACT/NONCOMPLIANCE OF CORRECTIVE ACTION ORDER.	1984	25,000	456.7/310.7	10,000	35,000	27,500
42 U.S.C. 6934(e)	RES. CONS. & REC. ACT/NONCOMPLIANCE WITH SECTION 3013 ORDER.	1976	25,000	456.7/170.1	8,000	13,000	5,500
42 U.S.C. 6973(b)	RES. CONS. & REC. ACT/VIOLATIONS OF ADMINISTRATIVE ORDER.	1976	5,000	456.7/170.1	8,000	13,000	5,500
42 U.S.C. 6991e(a)(3).	RES. CONS. & REC. ACT/NONCOMPLIANCE WITH UST ADMIN. ORDER.	1984	25,000	456.7/310.7	10,000	35,000	27,500
42 U.S.C. 6991e(d)(1).	RES. CONS. & REC. ACT/FAILURE TO NOTIFY OR SUBMIT FALSE INFO.	1984	10,000	456.7/310.7	5,000	15,000	11,000
42 U.S.C. 6991e(d)(2).	VIOLATIONS OF SPECIFIED UST REGULATORY REQUIREMENTS.	1984	10,000	456.7/310.7	5,000	15,000	11,000
42 U.S.C. 6992(d)(2).	NONCOMPLIANCE W/MEDICAL WASTE TRACKING ACT ASSESSED THRU ADMIN ORDER.	1988	25,000	456.7/353.5	5,000	30,000	27,500
42 U.S.C. 6992d(a)(4).	NONCOMPLIANCE W/MEDICAL WASTE TRACKING ACT ADMIN ORDER.	1988	25,000	456.7/353.5	5,000	30,000	27,500
42 U.S.C. 6992d(d)	MEDICAL WASTE TRACKING ACT VIOLATIONS—JUDICIAL PENALTY.	1988	25,000	456.7/353.5	5,000	30,000	27,500
42 U.S.C. 7413(b)	CLEAN AIR ACT/VIOLATIONS/OWNERS & OPS OF STATIONARY AIR POLLUTION SOURCES—JUDICIAL PENALTIES.	1977	25,000	456.7/181.8	40,000	65,000	27,500
42 U.S.C. 7413(d)(1).	CLEAN AIR ACT/STATIONARY AIR POLLUTION SOURCES—ADMINISTRATIVE PENALTIES PER VIOLATION AND MAXIMUM.	1977	25,000/200,000	456.7/181.8	40,000/300,000	65,000/300,000	27,500/220,000
42 U.S.C. 7413(d)(3).	CLEAN AIR ACT/MINOR VIOLATIONS/ STATIONARY AIR POLLUTION SOURCES—FIELD CITATIONS.	1990	5,000	456.7/389.1	1,000	6,000	5,500
42 U.S.C. 7524(a)	TAMPERING OR MANUFACTURE/SALE OF DEFEAT DEVICES IN VIOLATION OF 7522(a)(3)(A) OR (a)(3)(B)—BY PERSONS.	1977	2,500	456.7/181.8	2,000	6,500	2,750
42 U.S.C. 7524(a)	VIOLATION OF 7522 (a)(3)(A) OR (a)(3)(B)—BY MANUFACTURERS OR DEALERS; ALL VIOLATIONS OF 7522(a) (1), (2), (4), & (5) BY ANYONE.	1990	25,000	456.7/389.1	5,000	30,000	27,500
42 U.S.C. 7524(c)	ADMINISTRATIVE PENALTIES AS SET IN 7524(a) & 7545(d) WITH A MAXIMUM ADMINISTRATIVE PENALTY.	1990	200,000	456.7/389.1	30,000	230,000	220,000
42 U.S.C. 7545(d)	VIOLATIONS OF FUELS REGULATIONS.	1990	25,000	456.7/389.1	5,000	30,000	27,500
42 U.S.C. 9604(e)(5)(B).	SUPERFUND AMEND. & REAUTHORIZATION ACT/NONCOMPLIANCE W/REQUEST FOR INFO OR ACCESS.	1986	25,000	456.7/389.1	10,000	35,000	27,500
42 U.S.C. 9606(b)	SUPERFUND/WORK NOT PERFORMED W/IMMINENT, SUBSTANTIAL ENDANGERMENT.	1986	25,000	456.7/389.1	10,000	35,000	27,500

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TABLE A.—SUMMARY OF CIVIL MONETARY PENALTY INFLATION ADJUSTMENT CALCULATIONS—Continued

U.S. Code citation	Civil monetary penalty description	Year penalty amount was last set by law	Maximum penalty amount set by law as of 10/23/96	Inflation factor calculation [1]	Maximum penalty increase amount after P.L. 101–410 rounding [2]	Maximum penalty amount after increase and P.L. 101–410 rounding	Maximum penalty amount after P.L. 101–410 rounding and 10% limit
42 U.S.C. 9609(a) & (b).	SUPERFUND/ADMIN. PENALTY VIOLATIONS UNDER 42 U.S.C. SECT. 9603, 9608, OR 9622+.	1986	25,000	456.7/327.9	10,000	35,000	27,500
42 U.S.C. 9609(b) ..	SUPERFUND/ADMIN. PENALTY VIOLATIONS—SUBSEQUENT.	1986	75,000	456.7/327.9	30,000	105,000	82,500
42 U.S.C. 9609(c) ..	SUPERFUND/CIVIL JUDICIAL PENALTY/VIOLATIONS OF SECT. 9603, 9608, 9622.	1986	25,000	456.7/327.9	10,000	35,000	27,500
42 U.S.C. 9609(c) ..	SUPERFUND/CIVIL JUDICIAL PENALTY/SUBSEQUENT VIOLATIONS OF SECT. 9603, 9608, 9622.	1986	75,000	456.7/327.9	30,000	105,000	82,500
42 U.S.C. 11045(a) & (b) (1), (2) & (3).	EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT CLASS I & II ADMINISTRATIVE AND CIVIL PENALTIES.	1986	25,000	456.7/327.9	10,000	35,000	27,500
42 U.S.C. 11045(b) (2) & (3).	EPCRA CLASS I & II ADMINISTRATIVE AND CIVIL PENALTIES—SUBSEQUENT VIOLATIONS.	1986	75,000	456.7/327.9	30,000	105,000	82,500
42 U.S.C. 11045(c)(1).	EPCRA CIVIL AND ADMINISTRATIVE REPORTING PENALTIES FOR VIOLATIONS OF SECTIONS 11022 OR 11023.	1986	25,000	456.7/327.9	10,000	35,000	27,500
42 U.S.C. 11045(c)(2).	EPCRA CIVIL AND ADMINISTRATIVE REPORTING PENALTIES FOR VIOLATIONS OF SECTIONS 11021 OR 11043(b).	1986	10,000	456.7/327.9	4,000	14,000	11,000
42 U.S.C. 11045(d) (2) & (3).	EPCRA—FRIVOLOUS TRADE SECRET CLAIMS—CIVIL AND ADMINISTRATIVE PENALTIES.	1986	25,000	456.7/327.9	10,000	35,000	27,500

[1] The "inflation factor" is the result of dividing the June 1995 CPI by the CPI for June of the year the penalty was last set or adjusted.
[2] The penalties must be rounded after the inflation adjustment pursuant to Public Law 101–410 Sec. 5A.

Future adjustments also be made in accordance with the statutory formula. Since today's inflation adjustments are being made in December 1996, the next scheduled adjustment will cover inflation from June 1996 to June of the year in which the next adjustment is made. The DCIA requires that penalties be adjusted for inflation at least once every four years.

Procedural Requirements

I. Administrative Procedure Act

In accordance with 5 U.S.C. 553(b), the Administrative Procedure Act ("APA"), EPA generally publishes a rule in a proposed form and solicits public comment on it before issuing the rule in final. However, 5 U.S.C. 553(b)(3)(B), of the APA provides an exception to the public comment requirement if the agency finds good cause to omit advance notice and public participation. Good cause is shown when public comment is "impracticable, unnecessary, or contrary to the public interest".

Accordingly, EPA finds that providing an opportunity for public comment prior to publication of this rule is not necessary because EPA is carrying out a ministerial, non-discretionary duty specified in an Act of Congress. This rule incorporates requirements specifically set forth in the DCIA requiring EPA to issue a regulation implementing inflation adjustments for all its civil penalty provisions by October 23, 1996. The formula for the amount of the penalty adjustment is prescribed by Congress in the DCIA as well. Prior notice and opportunity to comment are therefore unnecessary in this case because these changes are not subject to the exercise of discretion by EPA. These technical changes, required by law, do not substantively alter the existing regulatory framework nor in any way affect the terms under which civil penalties are assessed by EPA.

II. Small Business Regulatory Enforcement Fairness Act

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA"), EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in today's **Federal Register**. This rule is a not a "major rule" as defined by 5 U.S.C. 804(a).

III. Executive Order 12866-Regulatory Review

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget ("OMB") review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA has determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

IV. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 ("UMRA"), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments and the private sector. Under sections 201, 202 and 205 of the UMRA, EPA generally must assess effects and prepare a written statement of economic and regulatory alternatives analyses for proposed and final rules with Federal mandates, as defined by the UMRA, that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year.

UMRA Section 201 excepts agencies from assessing effects on State, local or tribal governments or the private sector of rules that incorporate requirements specifically set forth in law. Since this rule incorporates requirements specifically set forth in the DCIA, EPA is not required to assess its regulatory effects under Section 201. Further, the section 202 and 205 requirements do not apply to today's action because they apply only to rules for which a general notice of proposed rulemaking is published, and such notice was not published for this rule since it was not required based on the finding of good cause contained in Section I above. Additionally, today's action contains no Federal mandates for State, local or tribal governments or for the private sector because it does not impose any enforceable duties on these entities.

In addition, even if the assessment requirements of UMRA Title II otherwise applied to this rule, the requirements of section 203 of UMRA (requiring EPA to develop a small government agency plan before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments) would not apply here. This rule contains no regulatory requirements that might significantly or uniquely affect small governments because the prescribed inflation adjustments do not change a small government's regulatory obligations. Additionally, this rule will have a similar effect on all individuals and entities subject to civil monetary penalties.

V. Regulatory Flexibility Act

In accordance with 5 U.S.C. 603, the Agency has determined that the regulation being issued today is not subject to the Regulatory Flexibility Act ("RFA"), which generally requires an agency to conduct a regulatory flexibility analysis of any significant impact the rule will have on a substantial number of small entities. By its terms, the RFA applies only to rules subject to notice-and-comment rulemaking requirements under the APA or any other statute. Today's rule is not subject to notice and comment requirements under the APA or any other statute because it is exempted. As discussed in Section I, while the rule is subject to the APA, the Agency has invoked the "good cause" exemption from the APA notice and comment requirements.

The Agency nonetheless has assessed the potential of this rule to adversely impact small entities. This rule contains no regulatory requirements that might significantly or uniquely affect small entities because the prescribed inflation adjustments have similar effect on all entities subject to civil monetary penalties and does not substantively alter the existing regulatory framework.

VI. Paperwork Reduction Act.

This action contains no reporting or record keeping requirements for any non-federal persons or entities and consequently is not subject to the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

List of Subjects

40 CFR Part 19

Environmental protection, Administrative practice and procedure, Penalties.

40 CFR Part 27

Administrative practice and procedure, Assessments, False claims, False statements, Penalties.

Dated: December 20, 1996.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended by adding a new part 19 as follows:

1. By adding a new part 19 to read as follows:

PART 19—ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION

Sec.

19.1 Applicability.
19.2 Effective Date.
19.3 [Reserved].
19.4 Penalty Adjustment and Table.

Authority: Pub. L. 101–410, 104 Stat. 890, 28 U.S.C. 2461 note; Pub. L. 104–134, 110 Stat. 1321, 31 U.S.C. 3701 note.

PART 19—ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION

§ 19.1 Applicability.

This part applies to each statutory provision under the laws administered by the Environmental Protection Agency concerning the maximum civil monetary penalty which may be assessed in either civil judicial or administrative proceedings.

§ 19.2 Effective Date.

The increased penalty amounts set forth in this rule apply to all violations under the applicable statutes and regulations which occur after January 30, 1997.

§ 19.3 [Reserved].

§ 19.4 Penalty Adjustment and Table.

The adjusted statutory penalty provisions and their maximum applicable amounts are set out in Table 1. The last column in the table provides the newly effective maximum penalty amounts.

TABLE 1 OF SECTION 19.4.—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

U.S. Code citation	Civil monetary penalty description	New maximum penalty amount
7 U.S.C. 136(1)	FEDERAL INSECTICIDE, FUNGICIDE, & RODENTICIDE ACT CIVIL PENALTY—GENERAL—COMMERCIAL APPLICATORS, ETC.	$5,500
7 U.S.C. 136(2)	FEDERAL INSECTICIDE, FUNGICIDE, & RODENTICIDE ACT CIVIL PENALTY—PRIVATE APPLICATORS—FIRST AND SUBSEQUENT OFFENSES OR VIOLATIONS.	550/1,000
15 U.S.C. 2615	TOXIC SUBSTANCES CONTROL ACT CIVIL PENALTY	27,500
15 U.S.C. 2647(a)	ASBESTOS HAZARD EMERGENCY RESPONSE ACT CIVIL PENALTY	5,500
31 U.S.C. 3802(a)(1)	PROGRAM FRAUD CIVIL REMEDIES ACT/VIOLATION INVOLVING FALSE CLAIM	5,500

TABLE 1 OF SECTION 19.4.—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS—Continued

U.S. Code citation	Civil monetary penalty description	New maximum penalty amount
31 U.S.C. 3802(a)(2)	PROGRAM FRAUD CIVIL REMEDIES ACT/VIOLATION INVOLVING FALSE STATEMENT.	5,500
33 U.S.C. 1319(d)	CLEAN WATER ACT VIOLATION/CIVIL JUDICIAL PENALTY	27,500
33 U.S.C. 1319(g)(2)(A)	CLEAN WATER ACT VIOLATION/ADMINISTRATIVE PENALTY PER VIOLATION AND MAXIMUM.	11,000/27,500
33 U.S.C. 1319(g)(2)(B)	CLEAN WATER ACT VIOLATION/ADMINISTRATIVE PENALTY PER VIOLATION AND MAXIMUM.	11,000/137,500
33 U.S.C. 1321(b)(6)(B)(I)	CLEAN WATER ACT VIOLATION/ADMIN PENALTY OF SEC 311(B)(3)&(J) PER VIOLATION AND MAXIMUM.	11,000/27,500
33 U.S.C. 1321(b)(6)(B)(ii)	CLEAN WATER ACT VIOLATION/ADMIN PENALTY OF SEC 311(B)(3)&(J) PER VIOLATION AND MAXIMUM.	11,000/137,500
33 U.S.C. 1321(b)(7)(A)	CLEAN WATER ACT VIOLATION/CIVIL JUDICIAL PENALTY OF SEC 311(b)(3)—PER VIOLATION PER DAY OR PER BARREL OR UNIT.	11,000 or 1,100 per barrel or unit
33 U.S.C. 1321(b)(7)(B)	CLEAN WATER ACT VIOLATION/CIVIL JUDICIAL PENALTY OF SEC 311(c)&(e)(1)(B).	27,500
33 U.S.C. 1321(b)(7)(C)	CLEAN WATER ACT VIOLATION/CIVIL JUDICIAL PENALTY OF SEC 311(j)	27,500
33 U.S.C. 1321(b)(7)(D)	CLEAN WATER ACT VIOLATION/MINIMUM CIVIL JUDICIAL PENALTY OF SEC 311(b)(3)—PER VIOLATION OR PER BARREL/UNIT.	11,000 or 3,300 per barrel or unit
33 U.S.C. 1414b(d)	MARINE PROTECTION, RESEARCH & SANCTUARIES ACT VIOL SEC 104b(d)	660
33 U.S.C. 1415(a)	MARINE PROTECTION RESEARCH AND SANCTUARIES ACT VIOLATIONS—FIRST AND SUBSEQUENT VIOLATIONS.	55,000/137,500
42 U.S.C. 300g–3(b)	SAFE DRINKING WATER ACT/CIVIL JUDICIAL PENALTY OF SEC 1414(b)	27,500
42 U.S.C. 300g–3(c)	SAFE DRINKING WATER ACT/CIVIL JUDICIAL PENALTY OF SEC 1414(c)	27,500
42 U.S.C. 300g–3(g)(3)(A)	SAFE DRINKING WATER ACT/CIVIL JUDICIAL PENALTY OF SEC. 1414(g)(3)(a)	27,500
42 U.S.C. 300g–3(g)(3)(B)	SAFE DRINKING WATER ACT/MAXIMUM ADMINISTRATIVE PENALTY PER SEC. 1414(g)(3)(B).	5,500
42 U.S.C. 300h–2(b)(1)	CIVIL JUDICIAL PENALTY/VIOLATIONS OF REQS—UNDERGROUND INJECTION CONTROL (UIC).	27,500
42 U.S.C. 300h–2(c)(1)	CIVIL ADMIN PENALTY/VIOLATIONS OF UIC REQS—PER VIOLATION AND MAXIMUM.	11,000/137,500
42 U.S.C. 300h–2(c)(2)	CIVIL ADMIN PENALTY/VIOLATIONS OF UIC REQS—PER VIOLATION AND MAXIMUM.	11,000
42 U.S.C. 300h–3(c)(1)	VIOLATION/OPERATION OF NEW UNDERGROUND INJECTION WELL	5,500
42 U.S.C. 300h–3(c)(2)	WILLFUL VIOLATION/OPERATION OF NEW UNDERGROUND INJECTION WELL	11,000
42 U.S.C. 300i–1(b)	ATTEMPTING TO OR TAMPERING WITH PUBLIC WATER SYSTEM/CIVIL JUDICIAL PENALTY.	22,000/55,000
42 U.S.C. 300j(e)(2)	FAILURE TO COMPLY W/ORDER ISSUED UNDER SEC. 1441(c)(1)	2,750
42 U.S.C. 300j–4(c)	REFUSAL TO COMPLY WITH REQS. OF SEC. 1445(a) OR (b)	27,500
42 U.S.C. 300j–23(d)	VIOLATIONS/SECTION 1463(b)—FIRST OFFENSE/REPEAT OFFENSE	5,500/55,000
42 U.S.C. 6928(a)(3)	RESOURCE CONSERVATION & RECOVERY ACT/VIOLATION SUBTITLE C ASSESSED PER ORDER.	27,500
42 U.S.C. 6928(c)	RES. CONS. & REC. ACT/CONTINUED NONCOMPLIANCE OF COMPLIANCE ORDER.	27,500
42 U.S.C. 6928(g)	RESOURCE CONSERVATION & RECOVERY ACT/VIOLATION SUBTITLE C	27,500
42 U.S.C. 6928(h)(2)	RES. CONS. & REC. ACT/NONCOMPLIANCE OF CORRECTIVE ACTION ORDER	27,500
42 U.S.C. 6934(e)	RES. CONS. & REC. ACT/NONCOMPLIANCE WITH SECTION 3013 ORDER	5,500
42 U.S.C. 6973(b)	RES. CONS. & REC. ACT/VIOLATIONS OF ADMINISTRATIVE ORDER	5,500
42 U.S.C. 6991e(a)(3)	RES. CONS. & REC. ACT/NONCOMPLIANCE WITH UST ADMINISTRATIVE ORDER	27,500
42 U.S.C. 6991e(d)(1)	RES. CONS. & REC. ACT/FAILURE TO NOTIFY OR SUBMIT FALSE INFO	11,000
42 U.S.C. 6991e(d)(2)	VIOLATIONS OF SPECIFIED UST REGULATORY REQUIREMENTS	11,000
42 U.S.C. 6992d(a)(2)	NONCOMPLIANCE W/MEDICAL WASTE TRACKING ACT ASSESSED THRU ADMIN ORDER.	27,500
42 U.S.C. 6992d(a)(4)	NONCOMPLIANCE W/MEDICAL WASTE TRACKING ACT ADMINISTRATIVE ORDER.	27,500
42 U.S.C. 6992d(d)	VIOLATIONS OF MEDICAL WASTE TRACKING ACT—JUDICIAL PENALTIES	27,500
42 U.S.C. 7413(b)	CLEAN AIR ACT/VIOLATION/OWNERS & OPS OF STATIONARY AIR POLLUTION SOURCES—JUDICIAL PENALTIES.	27,500
42 U.S.C. 7413(d)(1)	CLEAN AIR ACT/VIOLATION/OWNERS & OPS OF STATIONARY AIR POLLUTION SOURCES—ADMINISTRATIVE PENALTIES PER VIOLATION & MAX.	27,500/220,000
42 U.S.C. 7413(d)(3)	CLEAN AIR ACT/MINOR VIOLATIONS/STATIONARY AIR POLLUTION SOURCES—FIELD CITATIONS.	5,500
42 U.S.C. 7524(a)	TAMPERING OR MANUFACTURE/SALE OF DEFEAT DEVICES IN VIOLATION OF 7522(a)(3)(A) OR (a)(3)(B)—BY PERSONS.	2,750
42 U.S.C. 7524(a)	VIOLATION OF 7522(a)(3)(A) OR (a)(3)(B)—BY MANUFACTURERS OR DEALERS; ALL VIOLATIONS OF 7522(a)(1), (2), (4), & (5) BY ANYONE.	27,500
42 U.S.C. 7524(c)	ADMINISTRATIVE PENALTIES AS SET IN 7524(a) & (7545(d) WITH A MAXIMUM ADMINISTRATIVE PENALTY.	220,000
42 U.S.C. 7545(d)	VIOLATIONS OF FUELS REGULATIONS	27,500
42 U.S.C. 9604(e)(5)(B)	SUPERFUND AMEND. & REAUTHORIZATION ACT/NONCOMPLIANCE W/REQUEST FOR INFO OR ACCESS.	27,500

TABLE 1 OF SECTION 19.4.—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS—Continued

U.S. Code citation	Civil monetary penalty description	New maximum penalty amount
42 U.S.C. 9606(b)	SUPERFUND/WORK NOT PERFORMED W/IMMINENT, SUBSTANTIAL ENDANGERMENT.	27,500
42 U.S.C. 9609(a) & (b)	SUPERFUND/ADMIN. PENALTY VIOLATIONS UNDER 42 U.S.C. SECT. 9603, 9608, OR 9622.	27,500
42 U.S.C. 9609(b)	SUPERFUND/ADMIN. PENALTY VIOLATIONS—SUBSEQUENT	82,500
42 U.S.C. 9609(c)	SUPERFUND/CIVIL JUDICIAL PENALTY/VIOLATIONS OF SECT. 9603, 9608, 9622	27,500
42 U.S.C. 9609(c)	SUPERFUND/CIVIL JUDICIAL PENALTY/SUBSEQUENT VIOLATIONS OF SECT. 9603, 9608, 9622.	82,500
42 U.S.C. 11045(a) & (b)(1), (2) & (3).	EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT CLASS I & II ADMINISTRATIVE AND CIVIL PENALTIES.	27,500
42 U.S.C. 11045(b) & (2)(3)	EPCRA CLASS I & II ADMINISTRATIVE AND CIVIL PENALTIES—SUBSEQUENT VIOLATIONS.	82,500
42 U.S.C. 11045(c)(1)	EPCRA CIVIL AND ADMINISTRATIVE REPORTING PENALTIES FOR VIOLATIONS OF SECTIONS 11022 OR 11023.	27,500
42 U.S.C. 11045(c)(2)	EPCRA CIVIL AND ADMINISTRATIVE REPORTING PENALTIES FOR VIOLATIONS OF SECTIONS 11021 OR 11043(b).	11,000
42 U.S.C. 11045(d) & (2)(3)	EPCRA—FRIVOLOUS TRADE SECRET CLAIMS—CIVIL AND ADMINISTRATIVE PENALTIES.	27,500

PART 27—[AMENDED]

2. The authority citation for part 27 is revised to read as follows:

Authority: 31 U.S.C. 3801–3812; Pub. L. 101–410, 104 Stat. 890, 28 U.S.C. 2461 note; Pub. L. 104–134, 110 Stat. 1321, 31 U.S.C. 3701 note.

4. Section 27.3 is amended by revising paragraphs (a)(1) and (b)(1) to read as follows:

§ 27.3 Basis for civil penalties and assessments.

(a) *Claims.* (1) Except as provided in paragraph (c) of this section, any person who makes a claim that the person knows or has reason to know—

(i) Is false, fictitious, or fraudulent;

(ii) Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

(iii) Includes, or is supported by, any written statement that—

(A) Omits a material fact;

(B) Is false, fictitious, or fraudulent as a result of such omission; and

(C) Is a statement in which the person making such statement has a duty to include such material fact; or

(iv) Is for payment for the provision of property or services which the person has not provided as claimed, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,500 [1] for each such claim.

* * * * *

(b) *Statements.* (1) Except as provided in paragraph (c) of this section, any person who makes a written statement that—

(i) The person knows or has reason to know—

(A) Asserts a material fact which is false, factitious, or fraudulent; or

(B) Is false, factitious, or fraudulent because it omits a material fact that the person making the statement has a duty to include in such statement; and

(ii) Contains, or is accompanied by, an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,500 [2] for each such statement.

* * * * *

[FR Doc. 96–32972 Filed 12–30–96; 8:45 am]

BILLING CODE 6560–50–P

[1] As adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, 104 Stat. 890), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134, 110 Stat. 1321).

[2] As adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, 104 Stat. 890), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134, 110 Stat. 1321).

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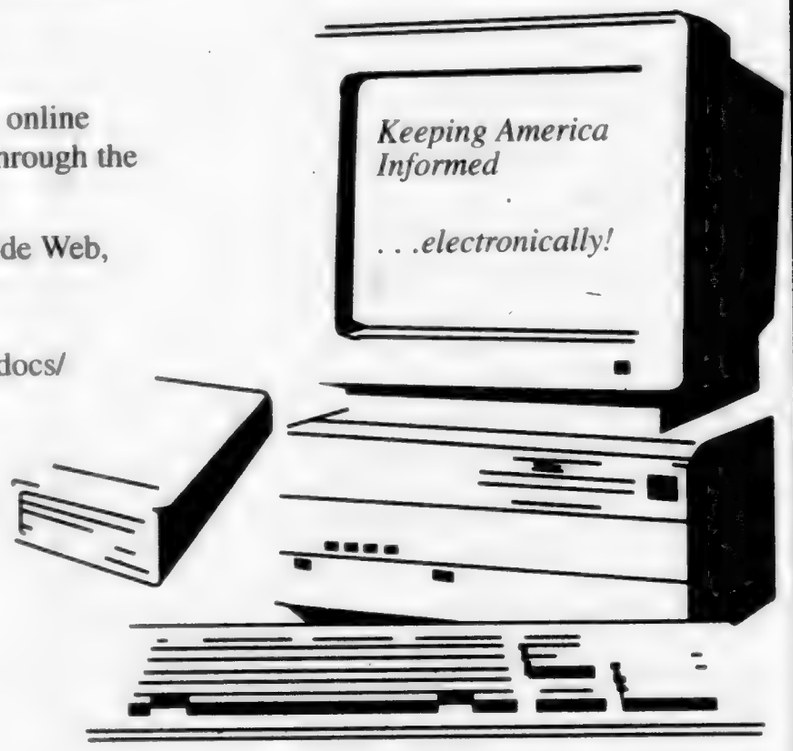
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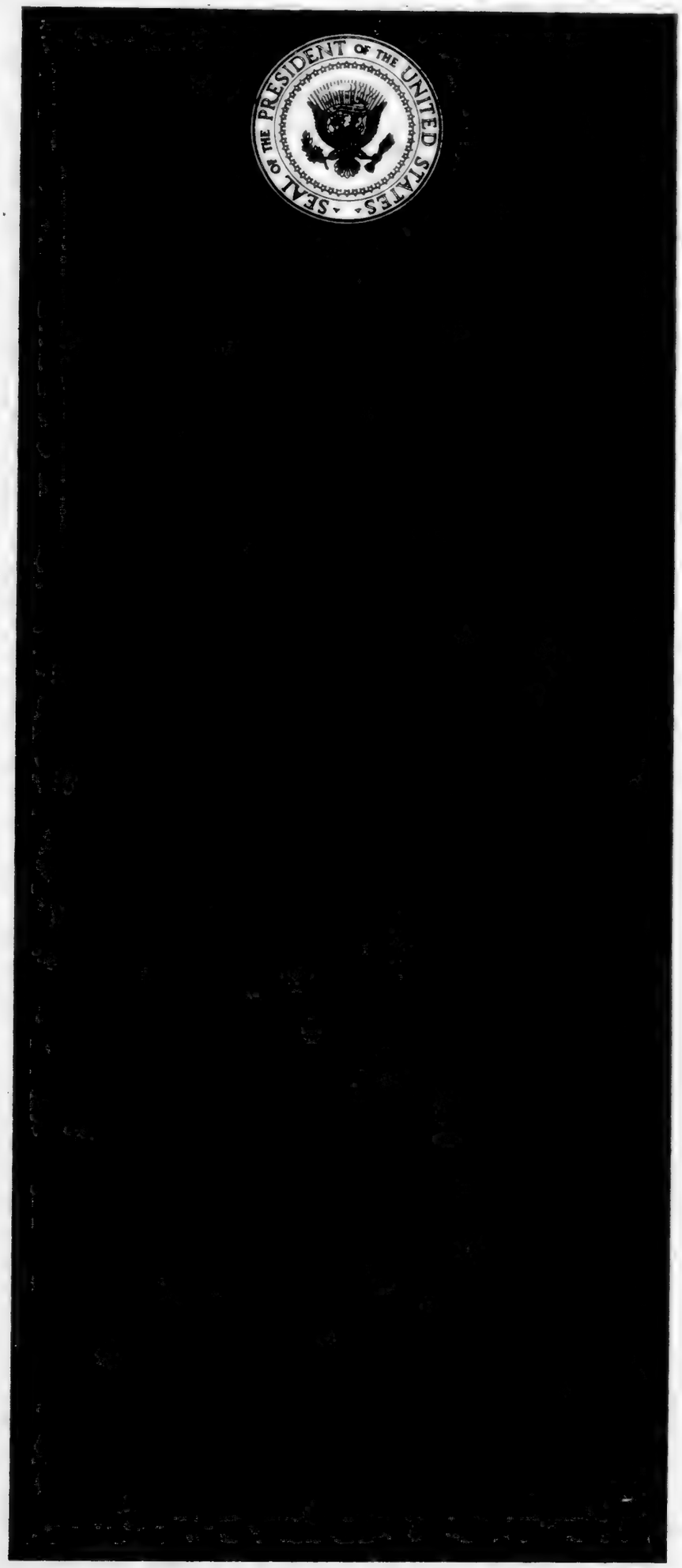
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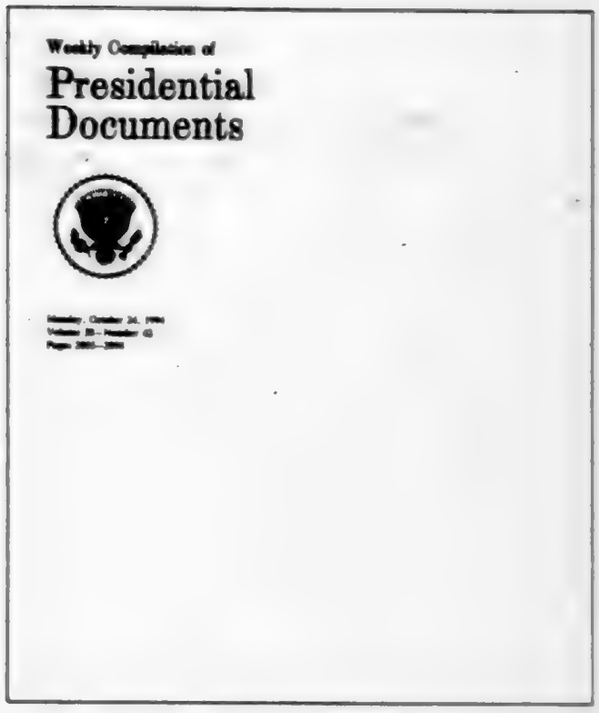
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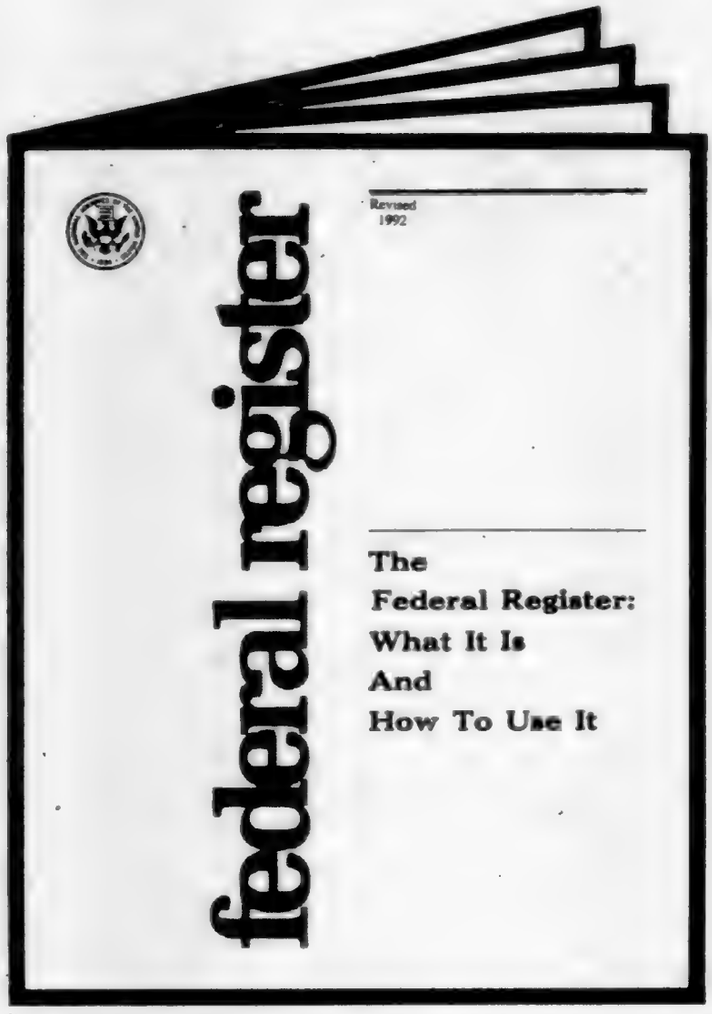
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LSA—LIST OF CFR SECTIONS AFFECTED

The LSA (List of CFR Sections Affected) is a monthly publication designed to lead users of the Code of Federal Regulations (CFR) to amendatory actions published in the Federal Register (FR). It should be shelved with current CFR volumes. Entries are by CFR title, chapter, part, and section. Proposed rules are listed at the end of appropriate titles.

HOW TO USE THIS FINDING AID

The CFR is revised annually according to the following schedule:

Titles 1–16—as of Jan. 1
17–27—as of April 1
28–41—as of July 1
42–50—as of Oct. 1

To bring these regulations up to date, consult the most recent LSA for any changes, additions, or removals published after the revision date of the volume you are using. Then check the CUMULATIVE LIST OF PARTS AFFECTED appearing in the Reader Aids of the latest Federal Register for less detailed but timely changes published after the final date included in this publication.

The page numbers listed to the right of each LSA entry indicate where the specific amendments begin in the Federal Register. **Boldface** page numbers under a particular title indicate that the page numbers span 2 years. **Boldface** is used to distinguish the previous year from the current year.

Cite a page reference from this publication using the volume number (60 FR for 1995, 61 FR for 1996) and the page number. Example: 24727 cite as 60 FR 24727. For your convenience, the volume number has been included in the Table of Federal Register Issue Pages and Dates.

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There is no single annual issue of the LSA. Four ANNUAL ISSUES must be saved; the DECEMBER issue is the ANNUAL for Titles 1–16; the MARCH issue is the ANNUAL for Titles 17–27; the JUNE issue is the ANNUAL for Titles 28–41; the SEPTEMBER issue is the ANNUAL for Titles 42–50. ANNUAL ISSUES to be saved are clearly designated on the cover.

PARALLEL TABLE OF AUTHORITIES AND RULES

Following Title 50 is an update to Parallel Table of Authorities and Rules found in the CFR Index and Finding Aids. This table contains authority citations added to or removed from the Parallel Table of Authority and Rules as a result of documents published in the Federal Register since January 1, 1996.

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A table is included at the end of this publication which identifies the volume number, the inclusive page numbers, and the corresponding Federal Register issue dates for the period covered.

INDEXES

An INDEX to the daily Federal Register is published monthly and is cumulated for 12 months. A separate volume, the CFR Index and Finding Aids to the entire Code of Federal Regulations, is revised as of January 1 each year.

INQUIRIES AND SUGGESTIONS

Rob Sheehan was Chief Editor of the LSA, assisted by Kent Giles and Susannah C. Hurley. The LSA was prepared under the direction of Richard L. Claypoole assisted by Jim Wickliffe. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to Richard L. Claypoole, Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408.

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[1]Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2]The July 1, 1985 edition of 32 CFR Parts 1 to 189 contains a note only for Parts 1 to 39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1 to 39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3]The July 1, 1985 edition of 41 CFR Chapters 1 to 100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the 11 CFR volumes issued as of July 1, 1984, containing those chapters.

[4]No amendments to this volume were promulgated during the period April 1, 1990 through March 31, 1994. The CFR volume issued as of April 1, 1990 should be retained.

[5]No amendments to this volume were promulgated during the period July 1, 1991 through June 30, 1994. The CFR volume issued as of July 1, 1991 should be retained.

[6]No amendments to this volume were promulgated during the period January 1, 1993 to December 31, 1993. The CFR volume issued as of January 1, 1993 should be retained.

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890.908 Regulation at 60 FR 26668 confirmed 50689
890.909 Regulation at 60 FR 26668 confirmed 50689
890.910 Regulation at 60 FR 26668 confirmed 50689

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890.1109 (d)(2) amended; interim 37810
930.201 (c) added; interim 39267
950.203 (a)(10) revised 4585
950.501 (b) amended 4585
1001 Authority citation revised 36996
1001.101 Added; interim 36996
1001.102 Redesignated from 1001.735–206a; heading revised; interim 36996
1001.735–101—1001.735–103 (Subpart A) Removed; interim 36996
1001.735–201 Removed; interim 36996
1001.735–202 Removed; interim 36996
1001.735–203 Removed; interim 36996
1001.735–204 Removed; interim 36996
1001.735–205 Removed; interim 36996
1001.735–205a Removed; interim 36996
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1001.735–206a Redesignated as 1001.102; interim 36996
1001.735–207 Removed; interim 36996
1001.735–208 Removed; interim 36996
1001.735–209 Removed; interim 36996
1001.735–210 Removed; interim 36996
1001.735–211 Removed; interim 36996
1001.735–212 Removed; interim 36996
1001.735–213 Removed; interim 36996
1001.735–214 Removed; interim 36996
1001.735–301—1001.735–304 (Subpart C) Removed; interim 36996
1001.735–401—1001.735–412 (Subpart D) Removed; interim 36996

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1201.3 (a)(7), (8)(ii), (10), (12) and (13) amended 1
1201.126 (c) amended 49049
1201 Appendixes II and III revised 4586

Chapter VI—Federal Retirement Thrift Investment Board (Parts 1600—1699)

1620 Authority citation revised 2873, 41486
1620.90—1620.99 (Subpart G) Revised; interim 41486
1620.110—1620.119 (Subpart I) Added; interim 2873
1653.5 (a) revised 18912
1653.25 (a) revised 18912
1660 Removed 36610

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1900.100 Corrected 13051

Chapter XIV—Federal Labor Relations Authority, General Counsel of the Federal Labor Relations Authority and Federal Service Impasses Panel (Parts 2400—2499)

2470.1 Amended 41294
2471.2 Revised 41294
2471.3 (a)(1), (b)(1) and (4) revised 41294
2471.4 Revised 41294
2471.5 Heading, (a), (b), (d) and (e) revised 41294
2471.6 Heading, (a)(2) and (b) revised 41294
2471.7 Heading and introductory text revised; (a) and (b) introductory text removed; (b)(1) through (6) redesignated as (a) through (f) 41295
2471.8 Heading revised 41295
2471.9 (a) revised 41295
2472 Authority citation revised 41295
2472.2 (d) through (n) redesignated as (e) through (o); new (d) added; new (j) revised 41295
2472.3 Revised 41295
2472.4 (a)(1) and (6) revised 41295
2472.5 Revised 41295
2472.6 Removed; new 2472.6 redesignated from 2472.7; heading, (a), (b), (d), (e) and (f) revised 41295
2472.7 Redesignated as 2472.6; new 2472.7 redesignated from 2472.8 41295
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2472.8 Redesignated as 2472.7; new 2472.8 redesignated from 2472.9 41295
Revised 41296
2472.9 Redesignated as 2472.8; new 2472.9 redesignated from 2472.10 41295

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2472.10 Redesignated as 2472.9; new 2472.10 redesignated from 2472.11 41295
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2472.11 Redesignated as 2472.10; new 2472.11 redesignated from 2472.12 41295
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2472.12 Redesignated as 2472.11 41295
2473 Added 41296
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2634 Authority citation revised 32635
2634.1001 (b) amended 32635
Corrected 35589
2634.1002 (b)(1)(i), (ii), (iv)(B), (v) and (c) revised; (d) and (e) added 32635
(e)(1) corrected 40145
2635.34 (g)(2) corrected 48733
2635.204 (g)(2) through (5) and (6) introductory text revised; (g)(6) Examples 2, 3 and 4 redesignated as (g)(6) Examples 4, 5 and 6; new (g)(6) Examples 2 and 3 added 42969
(f) amended; interim 50691
2635.403 (a) note amended 40951
2635.801 (d)(7) revised; interim 50691
2635.803 Note amended 40951
2635.808 (a)(2) note revised; interim 50691
2635 Appendix D added 40952

Chapter XXII—Federal Deposit Insurance Corporation (Parts 3201—3299)

3201.103 (b)(4) amended 35915
3202 Removed 50947

Chapter XXIII—Department of Energy (Part 3301)

Chapter XXIII Established; interim 35087

Chapter XXIV—Federal Energy Regulatory Commission (Parts 3401—3499)

Chapter XXIV Established 43414

Chapter XXX—Farm Credit System Insurance Corporation (Part 4001)

Chapter XXX Regulation at 60 FR 30776 confirmed 4349

Chapter XXXV—Office of Personnel Management (Part 4501)

Chapter XXXV Established; interim 36996

Chapter XLV—Department of Health and Human Services (Part 5501)

Chapter XLV Established 39763

Chapter L—Department of Transportation (Part 6001)

Chapter L Established 39903

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1.132 Amended.....11503
1.133 (b) heading revised; (b)(2) redesignated as (b)(3); new (b)(2) added.....11503
1.135 Heading revised; existing text designated as (a); new (a) heading and (b) added.....11503
1.136 (a) amended.....11504
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1.141 (a) amended; (e) redesignated as (e)(1); (e)(2) added.....11504
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2 Authority citation revised.....37552
2.16 (a)(1)(xi) removed; (a)(3)(x) revised.....25775
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2.22 (a)(1)(viii)(H), (FF), (GG), (II), (PP), (UU) and (VV) revised; (a)(1)(viii)(V) removed; (a)(1)(viii)(WW) added.....25776
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10 Removed.....30495
12 Revised; interim.....47025
16 Removed.....37199
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17.4 (d)(1) and (2)(ii) amended; (d)(2)(i) revised.....17823
17.18 (c)(8)(ii) amended.....17823
17.20 (a)(9)(i) amended.....17824
17 Appendixes A and B amended.....17824
19 Removed.....42371
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27.63 Reinstated; CFR correction.....48399
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27.93 Reinstated; CFR correction 48400
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27.96 Reinstated; CFR correction 48401
27.97 Reinstated; CFR correction 48401
27.98 Reinstated; CFR correction 48401
28 Authority citation revised 19512
28.909 (b) revised 19512
28.910 (a)(4) and (b) amended 19512
28.911 (a) amended 19512
29 Comment period reopening 9589
29.8001 Table amended 27997, 29923, 29924
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Table corrected 37351
31 Comment period reopening 9589
32 Comment period reopening 9589
33.10 (a), (b) and (d) revised; interim 50422
46.2 (u) revised 13386
47.47 Revised 11504
47.49 (a) through (d) amended; (e) and (f) removed 11504
47.50 Removed 11504
47.51 Removed 11504
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47.67 Removed 11504
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51 Comment period reopening 9589
51.700—51.784 (Subpart) Revised 20703
51.760 Introductory text revised; interim 40290
51.761 Revised; interim 40290
51.885 Revised 11126
51.886 (b) introductory text revised; (c) added 11127
51.888 (a) revised 11127
51.913 Redesignated as 51.914; new 51.913 added 11127
51.914 Redesignated from 51.914 11127
51.1140—51.1179 (Subpart) Revised 20708
51.1151 Introductory text revised; interim 40290
51.1152 Revised; interim 40290
51.1810—51.1837 (Subpart) Revised 20713
51.1820 Introductory text revised; interim 40290
51.1821 Revised; interim 40290
52 Comment period reopening 9589
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52.42 Amended 25549
52.50 Amended 25550
52.51 (c)(2) and (d)(1) amended 25550
52.721—52.729 (Subpart) Revised 43941
52.1511 Regulation at 60 FR 62709 confirmed 48065
52.1512 Regulation at 60 FR 62709 confirmed 48065
52.1517 Regulation at 60 FR 62709 confirmed 48065
52.1669 Regulation at 60 FR 62710 confirmed; (b)(2) revised 48066
52.2321—52.2330 (Subpart) Revised 37664
53 Comment period reopening 9589
53.203 (b)(3) revised 2895
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53.204 (c)(1) revised 2895
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54.17 (b) through (g) revised; (h) through (k) added.....11509
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54.106 (b)(3) amended; (c)(1) and (2) revised; (c)(3) removed.....2898
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58.205 (a) revised.....17548
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58.2750—58.2759 (Subpart U) Revised.....35590
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97 Authority citation revised.....248
97.1 Regulation at 60 FR 17189 confirmed.....248
97.2 Regulation at 60 FR 17189 confirmed; amended.....248
97.3 (c) amended.....248
97.5 Regulation at 60 FR 17189 confirmed; (b)(4) and (c) amended.....248
97.6 Regulation at 60 FR 17189 confirmed; (d) revised.....248
97.7 Regulation at 60 FR 17189 confirmed.....248
97.11 Regulation at 60 FR 17189 confirmed.....248
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225.16 (f)(3) amended.....37672
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226.17 (b)(7) revised.....25554
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226.19 (b)(8)(i) revised.....25554
226.19a (b)(8) revised.....25554
226.23 (e)(1)(ii)(D), (F), (iii)(D), (E) and (4) amended; (h)(2)(iv) through (h)(2)(viii) redesignated as (h)(2)(v) through (ix); (h)(2)(iii) designated in part as (h)(2)(iv); (e)(1)(ii)(C), (iii)(C) and new (h)(2)(iii) revised.....25554
250.30 (t) added.....5272
272.1 (g)(145) added.....19159
273.9 (b)(5)(i) amended.....19160

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273.11 (k) revised 19160
277.18 Heading, (c)(2)(ii)(A), (B), (C), (e)(1), (3)(i) and (p)(3) amended; (c)(1) revised; (c)(5) added 33643
295 Revised 39047, 33643

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300—399)

301 Technical correction 20877, 32900
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300.1 (a) introductory text revised 5924
301.48 (a) amended; interim 32640
301.48–1 Amended; interim 32640
301.48–2 (a) and (b) amended; interim 32640
301.48–3 Amended; interim 32640
301.48–4 Revised; interim 32640
301.48–5 Amended; interim 32641
301.48–6 Amended; interim 32641
301.48–8 Added; interim 32641
301.50—301.50–10 (Subpart) Regulation at 57 FR 54496 confirmed 3177
301.50 Regulation at 58 FR 6347 confirmed 3177
301.50–1 Regulation at 58 FR 6347 confirmed 3177
301.50–2 Regulation at 58 FR 28335 confirmed 3177
301.50–3 Regulations at 58 FR 6348, 28335, 34682, 63027, 59 FR 39939, 52892 and 60 FR 2322 confirmed 3177
301.50–4 Regulation at 58 FR 28335 confirmed 3177
301.50–5 Regulation at 58 FR 6348, 28335 and 34683 confirmed 3177
301.50–6 Regulation at 58 FR 34683 confirmed 3177
301.50–7 Regulation at 58 FR 34683 confirmed 3177
301.50–8 Regulation at 58 FR 34683 confirmed 3177
301.50–10 Regulation at 58 FR 6348, 28335 and 63027 confirmed 3177
301.52–2a Regulation at 60 FR 44416 confirmed 1521
301.64 (a) amended 2392
Regulation at 61 FR 2392 confirmed 26423
301.64–3 (c) amended 2392
Regulation at 61 FR 2392 confirmed 26423
(c) amended; interim 38354
301.75–1 Amended; interim 1521
301.75–4 (a) and (d)(1) revised; interim 1521
301.78—301.78–10 (Subpart) Regulation at 56 FR 57576 confirmed 8205
301.78–3 Regulations at 57 FR 42486, 54168, 58 FR 6345, 39124, 42491, 49188, 53108, 53109, 63030, 67629, 59 FR 2282, 7896, 11179, 35611, 40208, 52407 and 60 FR 40054 confirmed 8205
(c) revised; interim 31004
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301.81–3 (e) amended 17551
301.89–1—301.89–11 (Subpart) Added; interim 13652
301.89–1 Amended; interim 35106
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301.89–3 (e) amended; interim 19235, 35109, 36813
301.89–12 Added; interim 35106
301.90—301.90–10 (Subpart) Removed 47663
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318.13–4e Removed 5924
319 Policy statement 24433
319.56–2d (b)(1) amended; (b)(5)(iv) revised; (b)(5)(v), (vi) and (vii) added 47666
319.56–2v Revised 8207
319.56–2x (b) amended 47667
353 Revised 15368
354.3 (b)(2)(vi) revised; (e)(1), (g)(5)(i)(A), (B), (ii), (iii)(B), (iv), (v) and (h)(2) amended; OMB number 2664
(a) amended; (g)(2) revised 15371

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture (Parts 400—499)

400.47 (b), (c) and (e) removed; (d), (f) and (g) redesignated as (b), (c) and (d); interim 38058
400.48 (b) removed; (c) redesignated as (b); interim 38058

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400.49 Removed; interim 38058
400.50 Removed; interim 38058
400.161—400.177 (Subpart L) Authority citation revised 34368
400.168 (b) and (c) revised 34368
400.169 Regulation at 60 FR 21036 confirmed 39269
Regulation at 60 FR 21035 confirmed 40954
400.650—400.659 (Subpart T) Regulation at 60 FR 1997 confirmed; revised 42975
401.8 Amended; interim 39050
402 Revised 42985
404 Revised 7200
457.118 Added 8855
Corrected 27245
457.119 Added 41300
457.121 Added 44147

Chapter VI—Natural Resources Conservation Service, Department of Agriculture (Parts 600—699)

Chapter VI Regulation at 60 FR 28514 confirmed 42141
610 Authority citation revised 27999
610.1—610.5 (Subpart A) Subpart designation added 27999
610.1 Revised 27999
610.11—610.14 (Subpart B) Added 27999
620 Regulation at 60 FR 28514 confirmed; redesignated as Part 1467 42141
663 Removed 41949

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703 Removed 26424
704.1 Amended; interim 43944
704.2 (a)(12) through (24) redesignated as (a)(13) through (25); new (a)(12) added; interim 10672
(a)(23) amended; interim 43944
704.3 (a), (b) and (d) amended; interim 43944
704.7 (a)(3)(ii), (d)(4), (e)(1) and (8) amended; interim 43944
704.9 (a), (b) and (d) amended; interim 43944
704.18 Amended; interim 43945
704.20 (a)(4) amended; interim 10672
(a)(4) revised; (b) amended; interim 43945
704.24 Amended; interim 43945
704.26 Amended; interim 43945
704.27 (b) amended; interim 43945
704.30 (c) added; interim 43945
718 Revised 37552
718.206 Corrected 49049
719 Removed 37566
720 Removed 37566
723.111 (d) added 37673
723.112 (d) added 50425
729 Authority citation revised 36999
729.102 Amended; interim 36999
729.103 Amended; interim 36999
729.104 (a) revised; (c) amended; interim 36999
729.108 Amended; interim 36999
729.201 Amended; interim 36999
729.204 Redesignated as 729.206; new 729.204 added; interim 36999
729.205 Redesignated as 729.207; interim 36999
Added; interim 37000
729.206 Redesignated as 729.208; new 729.206 redesignated from 729.204; interim 36999
(f) heading, (1), (3) and (7) amended; interim 37000
729.207 Redesignated as 729.209; new 729.207 redesignated from 729.205; interim 36999
(c), (d)(1)(ii)(B) and (2) amended; interim 37000
729.208 Redesignated as 729.210; new 729.208 redesignated from 729.206; interim 36999
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729.209 Redesignated as 729.211; new 729.209 redesignated from 729.207; interim 36999
729.210 Redesignated as 729.212; new 729.210 redesignated from 729.208; interim 36999
(a)(1) revised; interim 37000
729.211 Redesignated as 729.213; new 729.211 redesignated from 729.209; interim 36999
729.212 Redesignated as 729.214; new 729.212 redesignated from 729.210; interim 36999
729.213 Redesignated as 729.215; new 729.213 redesignated from 729.211; interim 36999
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729.214 Redesignated as 729.216; new 729.214 redesignated from 729.212; interim 36999
(a)(2) amended; (d) through (l) redesignated as (e) through (m); (c), new (f)(1)(iii)(A), new (3)(i) and new (l) revised; new (d) added; interim 37001
729.215 Redesignated from 729.213; interim 36999
(f)(2) amended; interim 37001
729.216 Redesignated from 729.214; interim 36999
Revised; interim 37001
729.316 Revised 37565
729.317 Added 37566
760.1—760.34 (Subpart) Authority citation revised 18485
760.2 (k)(1), (2), (l) and (o) revised 18485
782 Nomenclature change 32643
782.2 Amended 32643
782.4 Revised (OMB number) 32643
782.12 (a) introductory text amended; (a)(8) removed; (a)(9), (10), (b), (c) and (d) redesignated as (a)(8), (9), (d), (e) and (f); new (b) and new (c) added; new (e) revised 32643
782.13 (b) and (c) redesignated as (c) and (d); new (d) amended; new (b) added 32643
782.15 (a)(1) amended; (e), (f) and (g) added 32643
782.17 (b) redesignated as (c); new (b) added 32643
790 Removed 37566
791 Removed 37566
793 Removed 37566
796 Removed 37566

Chapter VIII—Grain Inspection, Packers and Stockyard Administration (Federal Grain Inspection Service), Department of Agriculture (Parts 800—899)

800.71 Regulation at 58 FR 3214 withdrawn; (a) amended 43303
800.72 Revised 43305
800.73 Revised 43305
800.86 (c)(2) Tables 1 through 4 amended 18491
Regulation at 61 FR 18490 eff. date delayed to 6-1-97 24669
810.104 (b) amended 18491
Regulation at 61 FR 18491 eff. date delayed to 6-1-97 24669
810.202 (s) removed; (t), (u) and (v) redesignated as (s), (t) and (u); (c), new (s), new (t) and new (u) revised 18491
Regulation at 61 FR 18491 eff. date delayed to 6-1-97 24669
810.204 Revised 18492
Regulation at 61 FR 18492 eff. date delayed to 6-1-97 24669
810.205 Revised 18492
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810.206 Revised 18492
Regulation at 61 FR 18492 eff. date delayed to 6-1-97 24669
868.91 Revised 34715
868.101—868.142 (Subpart B) Removed; interim 7688
868.401—868.410 (Subpart F) Removed; interim 7688
868.501—868.510 (Subpart G) Removed; interim 7688
868.601—868.611 (Subpart H) Removed; interim 7688

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999)

900.80—900.82 (Subpart) Added 20717
905.235 (Subpart) Added; interim 38355
Regulation at 61 FR 38354 confirmed 50693
905.306 Regulation at 60 FR 58499 confirmed 3546
Heading added; interim 38355
906.235 Added; interim 37811
Regulation at 61 FR 37811 confirmed 49651
906.340 (a)(2)(i)(A) and (ii) revised; (a)(2)(i)(c) Table I redesignated as (a)(2)(i)(c) Table II; interim 43141
906.365 (a)(4) revised; interim 43141
911.53 Stayed; interim 17552
Regulation at 61 FR 17552 confirmed 46702
911.54 Stayed; interim 17552
Regulation at 61 FR 17552 confirmed 46702
911.55 Stayed; interim 17552

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923.236 Regulation at 61 FR 40956 confirmed....50230
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929.236 (Subpart) Added; interim 41730
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931.231 Undesignated section heading and section added; interim 42530
932 Budget of expenses 6307, 17556
932.153 Revised; interim 40510
944.28 Regulation at 58 FR 69185 confirmed 13058
944.31 (f) and (g) revised 13058
944.106 Regulation at 60 FR 58499 confirmed 3546
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944.209 Regulation at 58 FR 69185 confirmed; (c) amended 13058
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944.312 Regulation at 58 FR 69185 confirmed 13058
(c) and (h) revised 13059
944.350 Regulation at 58 FR 69185 confirmed 13058
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944.400 Heading and (a) introductory text revised 40958
944.401 Regulation at 58 FR 69186 confirmed 13058
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944.503 Regulation at 58 FR 69186 confirmed 13058
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944.700 Added 40959
945.249 (Subpart) Added; interim 39271
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946.336 (a)(2)(ii) revised 31007
947.247 (Subpart) Added; interim 27248
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947.340 (Subpart) Subpart heading added 43146
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Regulation at 61 FR 29636 confirmed 43947
948.216 Added; interim 36814
Regulation at 61 FR 36814 confirmed 50232
948.386 (Subpart) Heading added 43947
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955.209 Undesignated center heading and section added; interim 49954
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959 Budget of expenses 7408
959.322 Introductory text and (b)(5) revised 24878
966.323 Regulation at 60 FR 57907 confirmed 5926
979 Budget of expenses 250, 7689
979.304 (b)(1) amended; (c)(4) and (5) revised; interim 7409
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980.17 (i) revised 13060
980.117 Regulation at 58 FR 69189 confirmed 13058
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980.212 Regulation at 58 FR 69189 confirmed 13058
(i) revised 13060
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981.18 (b) and (c) amended; (d) added 32920
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981.49 (b) revised; (d) and (e) amended; (f) removed 32921
981.55 Existing text designated as (a); (b) added 32921
981.60 (b) revised 32921
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981.66 (b) and (d) removed; (c), (e), (f) and (g) redesignated as (b), (c), (d) and (e); new (c) amended 32921
981.67 Amended 32921
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981.81 (e) added 32921
981.90 (b)(2) and (3) redesignated as (b)(3) and (4); new (b)(2) added; new (b)(3) amended 32921
981.343 (Subpart) Added; interim 39842
Regulation at 61 FR 39842 confirmed 49955
981.401 (a) and (b) amended; interim 42991
981.442 (a)(1) and (4) amended; interim 42991
981.467 (a) amended 32922
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998 Budget of expenses 29928, 42994
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999.1 Regulation at 58 FR 69190 confirmed 13058
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1002.14 (d) stayed; eff. 5-1-96 through 9-30-96 20721
1002.77 Regulation at 60 FR 62019 confirmed 11294
1002.300—1002.353 (Subpart) Regulation at 60 FR 62019 confirmed 11294
1004.92 (c) stayed in part; eff. 5-1-96 through 9-30-96 20721
1005.7 (d) redesignated as (e); introductory text, (b) and new (e) revised; new (d) added 1148
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1005.32 (a) amended 1148
1005.53 (a)(6) redesignated as (a)(7); new (a)(6) added 1148
1005.61 (a) introductory text, (5) and (b) introductory text amended 1148
(a)(4), (5), (b)(5) and (6) redesignated as (a)(5), (6), (b)(6) and (7); new (a)(4) and new (b)(5) added; (b)(3), new (6) and new (7) amended; interim 41490
1005.80—1005.82 Undesignated center heading added; interim 41490
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1005.90 Amended 1148
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1005.93 (b) and (e) introductory text amended 1148
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1007.2 Amended 20125
1007.30 (a) and (c) revised; interim 41491
1007.50 (d) amended 20125
1007.61 (a)(4), (5), (b)(5) and (6) redesignated as (a)(5), (6), (b)(6) and (7); new (a)(4) and new (b)(5) added; (b)(3), new (6) and new (7) amended; interim 41491
1007.80—1007.82 Undesignated center heading added; interim 41492
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1007.92 (c) introductory text amended 20125
1011.7 Introductory text amended; (d) redesignated as (e); (b) and new (e) revised; new (d) added 1148
1011.13 (e)(3) amended 1149
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1011.61 (a)(4), (5), (b)(5) and (6) redesignated as (a)(5), (6), (b)(6) and (7); new (a)(4) and new (b)(5) added; (b)(3), new (6) and new (7) amended; interim 41493
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1046.73 (f)(2) revised; interim 41495
1046.80—1046.82 Undesignated center heading added; interim 41495
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1400 Added 37566
1401 Redesignated from Part 1470 37575
1402 Revised 37575
1405 Revised 37575
1410 Heading amended; interim 43945
1410.1 Amended; interim 43945
1410.2 (a) and (f)(1) revised; (f)(2) and (h) amended; (g) and (h) redesignated (h) and (i); new (g) added; interim 43945
1410.3 (b) amended; interim 43945
1410.13 (d) added; interim 43946
1410.102 (a) and (b) amended; interim 43946
1410.103 (a)(1), (b)(4), (c) and (f)(2) amended; interim 43946
1410.111 (a) amended; interim 43946
1410.116 (a)(5) revised; interim 43946
1412 Added 37575
1412.206 (d) corrected 49049
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1412.207 (b), (d)(1) and (2) corrected 49050
1412.401 (a) and (b)(2)(iii) corrected 49050
1412.403 Corrected 49050
1412.407 Corrected 49050
1413 Removed 37581
1421 Authority citation revised 37581
1421.1—1421.32 (Subpart) Revised 37581
1421.6 (e) revised 11515
1421.200—1421.217 (Subpart) Heading revised 37595
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1421.201 Removed 37581
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1427.50—1427.58 (Subpart) Designated as Subpart B 37600
1427.100—1427.109 (Subpart) Designated as Subpart C 37600
1427.100 (a) amended; (b)(1) introductory text revised; (b)(3) added 37611
1427.101 (a) revised 37611
1427.103 (a)(1) and (2) revised 37611
1427.107 (a)(1) introductory text, (ii), (2) introductory text, (d) introductory text and (e) introductory text revised; (f)(1)(iii) added 37611
1427.108 (c)(2) and (d) revised; (c)(3) added 37611
1427.109 (a)(3) revised 37611
1427.160—1427.175 (Subpart) Designated as Subpart D 37601
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1427.1081—1427.1089 (Subpart) Designated as Subpart E 37601
1430 Authority citation revised 37615
1430.282 (Subpart) Designated as Subpart A and revised 37615
1430.340—1430.361 (Subpart) Designated as Subpart B 37616
1430.362 Added 37616
1430.400—1430.410 (Subpart C) Added 37616
1430.450—1430.470 (Subpart) Removed 37615
1434 Revised 37618
1435 Added 37618
1435.4 (e) redesignated as (f); new (e) added 15881
1439 Redesignated from Part 1475; nomenclature change 32644
1446 Authority citation revised 37623
1446.101 Amended 37623
1446.103 Amended 37623
1446.203 (b) revised 37623
1446.307 (b) and (d) revised 37624
1446.308 (a), (d) and (e)(1) revised; (f) removed; (g) redesignated as (f) 37624
1446.401 (a)(1) revised 37624
1446.410 (b) revised 37625
1464.8 Introductory text revised 33304
1464.9 (a) revised 33304
1464.12 (d) added 37673
1464.19 (d) added 50425
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1467.1 Heading revised 42141
1467.2 (c), (f) and (h) revised; (g) amended 42141
1467.3 Amended 42141
1467.4 (a) and (b)(2) amended; (b)(1), (c) introductory text, (d)(2), (3) introductory text and (e)(2) revised 42141
1467.6 (a), (b) and (c) redesignated as (b), (c) and (d); new (a) added 42142
1467.7 Heading and (b) heading revised 42142
1467.8 (b)(4), (5) and (e)(2) removed; (e)(3) redesignated as (e)(2); (b)(3), new (e)(2) and (h) revised 42142
1467.9 (a) introductory text amended; (a)(2) revised 42142
1467.10 Heading and (d)(5) revised 42142
1467.11 (a) revised; (b) amended 42142
1467.12 (b) revised 42142
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1467.17 (a) revised 42143
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1485.11 (i) and (gg) amended 32644
1485.13 (c)(1)(i) and (3)(i) amended 32644
1485.14 (a) amended 32644
1485.16 (c)(24) revised; interim 3548
(h) revised 24206
(a)(2), (d)(27) and (29) amended 32644
1485.20 (a)(1) and (3)(iii) amended 32644
1485.23 (c)(2)(v) revised; (c)(2)(vi) removed; interim 3548
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1487 Removed 8208
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1492 Removed 8208
1493.400—1493.530 (Subpart D) Added; interim 33831
1495 Removed 8208
1497 Removed 37574
1498 Removed 37574

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1520.3 Revised 2898
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1703.100—1703.140 (Subpart D) Revised 33626
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1703.105 (a)(11) corrected 37961
1703.107 (a)(2) note correctly removed 37814, 42462
(e)(5), (g) and (j)(1) corrected 37961
1703.117 (e)(8) corrected 37814
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1703.118 (a)(3) corrected 37814
1703.126 (b)(1) corrected 37961
1703.128 Corrected 37961
1703.140 Heading and (a)(2) corrected 37961
1703.100—1703.140 (Subpart D) Appendix A corrected 37961
1755.98 Table amended 26074
1755.700 Added 26074
1755.701 Added 26074
1755.702 Added 26075
1755.703 Added 26076
1755.704 Added 26077
1770.26—1770.27 (Subpart C) Added 39847
1773.1 (c) revised; interim 107
1773.5 (c) revised; interim 107
1773.6 (a) revised; interim 108
1773.9 (a) and (b) revised; interim 108
1773.31 Revised; interim 108
1773.32 (a) revised; interim 108
1773.33 Revised; interim 108
1773.34 (d)(1), (2) and (3) removed; (e)(1)(iii), (2)(iii) and (g) revised; interim 108
1773 Appendix A amended; interim 109
Appendix B amended; interim 111
Appendix C revised; interim 113
1789 Added 48606

Chapter XVIII—Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, Department of Agriculture (Parts 1800—2099)

Chapter XVIII Heading revised; nomenclature change 1109, 2899
1841 Removed 21362
1843 Removed 21362
1845 Removed 21362
1901.201—1901.205 (Subpart E) Authority citation amended 3781
1901.204 (a)(27) revised 3781
1901.351—1901.360 (Subpart H) Removed 6309
1903 Removed 21362
1910 Authority citation revised 35919
1910.1 Introductory text and (a) amended; (c) revised; (e) added; interim 35919
1910.3 Introductory text, (a) introductory text, (1), (2), (4)(i) and (ii) amended; interim 35919
1910.4 (h) and (j) removed; (c) through (g) redesignated as (d) through (h); (b), new (e)

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through new (h), (i)(1) introductory text, (i), (ii)(B) and (5) revised; new (c) added; new (d) heading, new (1), new (3)(i) introductory text, new (iii) introductory text, new (v), (k) introductory text, (1), (3) and (4) amended; interim 35920
1910.5 (c)(1) and (4) introductory text amended; (c)(5) revised; interim 35921
1910.6 Removed; interim 35922
1910.7 Removed; interim 35922
1910.8 Removed; interim 35922
1910.9 Removed; interim 35922
1910.10 (b) amended; interim 35922
1910.11 Revised; interim 35922
1924 Authority citation revised 35922
1924.51 Revised; interim 35922
1924.54 Added; interim 35922
1924.55 Added; interim 35922
1924.56 Revised; interim 35923
1924.58 Revised; interim 35924
1924.59 Revised; interim 35924
1924.60 Revised; interim 35924
1924.61 Removed; interim 35924
1924.62 Removed; interim 35924
1924.71 Removed; interim 35924
1924.73 Removed; interim 35924
1924.74 Amended; interim 35924
1924.100 Revised (OMB number); interim 35924
1924 Exhibit A amended; interim 35924
1927 Revised 11711
1940 Authority citation revised 3781
1940.590 Removed 3781
1940.901—1940.950 (Subpart S) Removed 39851
1941 Authority citation revised 35925
1941.1 Amended; interim 35925
1941.4 Amended; interim 35925
1941.15 (a), (c), (e) introductory text, (2), (3), (f)(2), (3), (h)(1), (2) introductory text, (3), (i) heading and (j) amended; (k) revised; interim 35925
1941.16 (k) amended; interim 35925
1941.18 (a) introductory text and (2) amended; interim 35925
1941.19 (f)(1) amended; (g) through (j) removed; interim 35925
1941.30 Removed; interim 35925
1941.33 (b)(1)(i), (2)(i) and (c)(2) amended; (b)(1)(ii) removed; (b)(1)(iii) through (vii) redesignated as (b)(1)(ii) through (vi); interim 35925
1942 Authority citation revised 6309
1942.2 (a)(1) introductory text amended 6309
1942.106 (a) and (b) amended 6309
1943 Authority citation revised 35925
1943.1 Amended; interim 35925
1943.4 Amended; interim 35925
1943.18 (b)(3) amended; interim 35925
1943.29 (c) amended; interim 35925
1943.30 Removed; interim 35925
1943.32 Removed; interim 35925
1943.33 (b)(1)(i) amended; (b)(1)(ii), (2) and (c) removed; (b)(1)(iii) through (vii) redesignated as (b)(1)(ii) through (vi); interim 35926
1943.80 Removed; interim 35926
1943.82 Removed; interim 35926
1943.83 (b)(1)(i) amended; (b)(1)(ii), (2) and (c) removed; (b)(1)(iii) through (vii) redesignated as (b)(1)(ii) through (vi); interim 35926
1944.27 (i) removed 39851
1944.31 (a) and (e) amended 39851
1944.62 Amended 39851
1944.66 (b) removed; (c) through (g) redesignated as (b) through (f); new (b), new (c) and new (d) amended 39851
1944.67 Amended 39851
1944.69 Amended 39851
1944.70 (b) amended 39851
1944.72 Amended 39851
1944.170 (d) removed; (c)(5)(ii)(C) amended 39851
1944.215 (x) removed; (v) and (w) amended 39851
1944.251—1944.266 (Subpart F) Revised 42943, 42948
1944.408 Removed 39851
1944.409 Amended 39851
1944.410 (a) introductory text amended 39851

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1944.463 (c) introductory text amended 39851
1944.464 Amended 39851
1944.466 Removed 39851
1944.654 (a) and (b) amended 39851
1944.655 Removed 39851
1944.656 Amended 39851
1945 Authority citation revised 35926
1945.101—1945.150 (Subpart C) Removed 21362
1945.151 Amended; interim 35926
1945.152 Amended; interim 35926
1945.154 (a) amended; interim 35926
1945.163 Amended; (a)(1) revised; (a)(2)(ii) removed; interim 35926
1945.166 (c)(4) amended; interim 35926
1945.167 (g) and (h) removed; (i), (j) and (k) redesignated as (h), (i) and (j); (a), (b), (c) and new (h) amended; interim 35926
1945.168 (a), (b)(1)(i) and (ii) amended; interim 35926
1945.169 (n), (o), (p)(3) and (4) removed; interim 35926
1945.173 (b)(2)(ii) amended; interim 35926
1945.180 Removed; interim 35926
1945.182 Removed; interim 35926
1945.183 (a)(1), (3), (4)(i), (ii), (c), (d) and (e) removed; (a)(4)(iii), (b)(1), (7) and (8) amended; interim 35926
Amended; interim 35927
1948.103 (c)(4) revised; interim 6762
1951 Authority citation revised 3781, 35927
1951.201 Revised 3781
1951.251 Revised; interim 35927
1951.252 Revised; interim 35927
1951.253 Revised; interim 35927
1951.254 Removed; interim 35927
1951.255 Revised; interim 35927
1951.261 Removed; interim 35927
1951.262 Revised; interim 35928
1951.263 Revised; interim 35928
1951.264 Revised; interim 35928
1951.265 Revised; interim 35928
1951.266 Revised; interim 35928
1951.300 Revised (OMB number); interim 35928
1951.251—1951.300 (Subpart F) Exhibit A removed; interim 35928
1951.906 Amended; interim 35928
1951.909 (e)(3)(vii), (4) heading and (xi) amended; (e)(3)(vi)(B) and (C) removed; interim 35929
1955 Authority citation revised 35929
1955.66 Introductory text, (a)(1) and (2)(iii)(A) through (D) amended; interim 35929
1962 Authority citation revised 35929
1962.5 Removed; interim 35929
1962.6 Revised; interim 35929
1962.8 (a) and (b) removed; interim 35930
1962.9 Removed; interim 35930
1962.12 Removed; interim 35930
1962.13 Revised; interim 35930
1962.14 Amended; interim 35930
1962.16 Introductory text added; (a) revised; interim 35930
1962.17 (a) revised; interim 35930
Amended; interim 35931
1962.34 (b)(1) through (4) and (d) amended; (e) revised; (f) through (h) removed; interim 35931
1962.40 (c), (d), (e)(1) introductory text, (i) and (2) amended; (e)(4) removed; interim 35931
1962.43 Removed; interim 35931
1962.44 (a) and (c) removed; (b) amended; interim 35931
1962.46 Amended; interim 35931
1962.47 (a)(3)(i), (b) introductory text, (2)(i), (iv) and (c) introductory text amended; interim 35931
1962.1—1962.49 (Subpart A) Exhibit F removed; interim 35931
1965 Authority citation revised 35931
1965.13 (f)(4)(ii) introductory text, (A) and (B) amended; interim 35931
1965.217 (d)(2)(ii)(A) removed; (d)(2)(ii)(B), (C) and (D) redesignated as (d)(2)(ii)(A), (B) and (C); (d)(2)(i)(B), new (ii)(B), new (C)(*1*) and (iii)(A) amended 39852
1980 Authority citation revised 35931, 43149
1980.101 (a), (b) and (e)(1) amended; (e)(2) revised; interim 35932
1980.106 (b) amended; interim 35932

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1980.108 (a)(1)(i) and (2)(i) revised; (a)(1)(iii) amended; interim 35932
1980.109 (b) introductory text revised; interim 35932
1980.110 (a), (b) and (c) amended; interim 35932
1980.113 Introductory text, (a) introductory text, (1), (2), (5), (7) introductory text, (ii) introductory text, (D) introductory text and (b) introductory text amended; (a)(6), (7)(i)(B), (ii)(B), (C), (D)(*1*), (11)(ii) and (iii) revised; (a)(12) 35932
1980.114 Amended; (c) and (d) redesignated as (d) and (e); heading and new (e) revised; introductory text, (a), (b) and new (d) removed; new (c) added; interim 35933
1980.115 Amended; heading revised; (a) through (d) removed; interim 35933
1980.125 (a) introductory text, (b)(1)(i), (3), (c) introductory text, (4) and (d)(3) through (6) amended; interim 35933
1980.126 Amended; interim 35933
1980.129 Amended; introductory text revised; interim 35934
1980.130 Amended; interim 35934
1980.136 (a), (b) and (d) amended; interim 35934
1980.146 (e)(2)(iv)(A) and (3) revised; (e)(2)(iv)(B), (4), (5), (7) and (8) amended 43149
1980.147 Removed 43149
1980.148 Removed; interim 35934
1980.149 Removed; interim 35934
1980.153 Removed; interim 35934
1980.175 (b) introductory text and (1)(i) amended; interim 35934
1980.101—1980.200 (Subpart B) Exhibit A amended; interim 35934
1980.201—1980.294 (Subpart D) Removed 21362
1980.445 Added 18494
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1980.454 Amended 18495
1980.469 Amended 18495
1980.501—1980.600 (Subpart F) Removed 21362
1980.901—1980.1000 (Subpart J) Removed 21362
2003 Authority citation revised 3781
2003.1—2003.5 (Subpart A) Exhibit A amended 3782
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2902 Removed 9901
2903 Removed 4209

Chapter XXX—Office of Finance and Management, Department of Agriculture (Parts 3000—3099)

3017 Authority citation revised 250
3017.110 (a)(3) revised 250
3017.115 (d) added 251
3017.200 (d) added 251

Chapter XXXIV—Cooperative State Research, Education, and Extension Service, Department of Agriculture (Parts 3400—3499)

3401 Revised 27753

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3403 Revised 25367
3411.2 (j) and (k) amended 45319
3411.4 (c)(2)(iii), (3)(iii), (8), (9)(i), (ii), (iii) and (10) amended 45319
3411.5 (a) and (b) amended 45319
3411.7 (c) amended 45319
3411.10 Amended 45319
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3700 Revised 1827

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4284 Authority citation revised 3782
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3 Authority citation corrected.....47550
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3.2 Revised.....18904
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3.38 (b) revised; (c) and (d) redesignated at (f) and (g); new (c), new (d) and (e) revised.....18908
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103.1 (f)(3)(iii)(C), (K), (L), (X), (Y) and (FF) amended; (f)(3)(iii)(GG) revised; interim.....13072
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103.5 (a)(1)(i) amended.....18909
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299.3 Regulation at 59 FR 25558 confirmed; introductory text revised; table amended ...47800
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82 Authority citation revised ...11517
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91.8 Footnote 4 redesignated as Footnote 3; interim 6918
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92.12 (a) and (b) amended 15183
92.106 (c)(2)(ii)(A) and (P)(*1*) revised 31392
92.304 (a)(4)(ii) and (7)(ii) amended 1699
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92.314 Amended 43418
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92.400 Regulation at 60 FR 13900 confirmed; amended 17237
92.405 (a) and (b) revised; (c) redesignated as (d); new (c) added; new (d) amended; OMB number 17237
92.411 Revised 17238
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92.427 (b)(1) and (c)(1) amended; (b)(2)(i), (ii) and (d)(1) introductory text revised 17239
92.428 (a) revised; OMB number 17239
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92.434 Heading revised; Footnote 19 redesignated as Footnote 15 17239
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92.435 Added (OMB number) 17240
94.8 Introductory text amended 43307
94.9 (a) amended 40293
94.10 (a) amended 40293
94.12 (a) amended 40293
94.13 Introductory text amended 40293
94.15 (b) introductory text and (2) amended 32647
98 Authority citation revised 15183
98.2 Amended 17241
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98.11—98.20 (Subpart B) Heading revised 15183
98.13 (a) amended; OMB number 15183
98.14 (a) introductory text amended; OMB number 15183
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98.15 Introductory text, (a)(4) amended; (a)(5) designated in part as (a)(5)(i) through (iv); (a)(7) designated in part as (a)(7)(i) and (ii); (a)(8) designated in part as (a)(8)(i) and (ii); (a)(1), (2), new (5)(ii), new (7)(i) and new (8)(i) revised 15183
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98.17 (b)(1) revised; (g) amended; OMB number 15184
98.21 Added (OMB number) 17242
98.30 Amended 17242
98.35 OMB number 15184
(c) revised; (e) added; OMB number 17242
98.36 (a) introductory text amended 17242
98.37 Added (OMB number) 17242
101.4 (h) added 29464
112.5 Introductory text, (c), (d)(1), (2)(iii)(*a*), (3)(ii), (iii) and (4) revised; (d)(2)(iii)(*b*), (3)(i)(*a*) and (*b*) redesignated as (d)(2)(iii)(B), (3)(i)(A) and (B); (g) added; OMB number 29464
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112.7 (c)(2) and (d)(6) revised; OMB number 29465

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130.9 (a) introductory text amended; (b) revised 20434
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130.14 Heading revised; (a) amended; (c) added; OMB number 20435
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130.16 (a) table amended; (c) added; OMB number 20435
130.17 (a) table amended; (c) added; OMB number 20435
130.18 Existing text designated as (a); (b) added; OMB number 20436
130.20 (a) and (b)(1) revised; (c) amended; (d) redesignated as (e); new (d) added 20436
130.21 (a)(1) through (5) and (c) revised; (a)(6) and (7) added; (b) introductory text, (1), (2) and (3) amended 20436
130.50 (b)(1) amended 20434
(b)(1), (2) and (3) amended; (b)(4) revised 20436
145.10 (g) and (h) revised; (m) and (n) added 11517
145.14 Introductory text revised 11519
145.23 (c)(1)(i), (d)(1)(vii) and (e)(1)(i) amended; (c)(1)(ii)(A) and (e)(1)(ii)(A) revised 11520
145.33 (c)(1)(i), (d)(1)(iii), (iv) and (e)(1)(i) amended; (c)(1)(ii)(A) and (e)(1)(ii)(A) revised; (h) added (OMB number) 11520
145.43 (f)(3)(ii) amended 11521
145.44 (d) added 11521
145.52 (c) added 11521
147.5 Footnote 4 amended 11521
147.6 (b)(2) and (8) amended 11521
147.11 (a)(3) and (4) amended; (a)(5) and (6) illustration revised 11521
147.12 Amended; (a) introductory text, (1), (2), (b) introductory text, (1), (c) introductory text, (1), (2) introductory text, (i) and (ii) redesignated as (b)(1) introductory text, (i), (ii), (2) introductory text, (i), (3)introductory text, (i), (ii) introductory text, (A) and (B); new (a), new (b) introductory text and new (2)(ii) added; new (b)(1) introductory text, new (2) introductory text and new (3)(ii) amended 11524
147.14 Amended 11524
(a)(2)(ii) revised 11525
147.15 Amended 11524
147.16 Amended 11524
147.17 Added 11525
147.26 (a) amended 11525
147.43 (a) introductory text amended 11525

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201.27 (b) revised 36279
201.34 (c) revised 36279
201.49 Revised (OMB number) 36281
201.55 Revised (OMB number) 36281
201.71 (a) and (b) revised 36282
201.73–1 Introductory text revised 36282
201.98 Revised 36282
201.108–1 Introductory text, (a) and (c) through (f) revised 36282

Chapter III—Food Safety and Inspection Service, Meat and Poultry Inspection, Department of Agriculture (Parts 300—499)

304 Authority citation revised 38864
Meetings 43149, 43150, 50425

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304.3 Added 38864
308 Authority citation revised 38864
Meetings 43149, 43150, 50425
308.3 (a) amended 38864
310 Authority citation revised 38864
Meetings 43149, 43150, 50425
310.21 Regulation at 60 FR 66482 eff. date confirmed 4843
310.25 Added 38864
317 Policy statement 39853
317.2 (h)(13) removed; (h)(9)(v) revised 42144
318.7 (c)(4) table amended 7208, 18048
Regulation at 61 FR 7208 withdrawn 16617
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318.147 (f)(4) table amended 18048
320 Meetings 43149, 43150, 50425
320.6 (a) revised 38866
327 Meetings 43149, 43150, 50425
327.2 (a)(2)(i)(*a*) through (*g*), (ii)(*a*) through (*h*) and (iv)(*a*), (*b*) and (*c*) redesignated as (a)(2)(i)(A) through (G), (ii)(A) through (G), (I) and (iv)(A), (B) and (C); (a)(2)(ii)(H)added 38866
381 Authority citation revised 38866
Policy statement 39853
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381.22 Added 38866
381.45 Revised 38866
381.94 Added 38866
381.147 Regulation at 61 FR 18048 eff. date confirmed 37675
(f)(4) table amended 39277
381.180 (a) revised 38868
381.196 (a)(2)(i)(*a*) through (*g*), (ii)(*a*) through (*h*) and (iv)(*a*), (*b*) and (*c*) redesignated as (a)(2)(i)(A) through (G), (ii)(A) through (G), (I) and (iv)(A), (B) and (C); (a)(2)(ii)(H) added 38868
416–417 (Subchapter E) Added 38868
416 Meetings 43149, 43150, 50425
417 Meetings 43149, 43150, 50425

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93 ..... 16978, 20190, 26849, 36520
94 ..... 6955, 14999, 15201, 16978, 20190, 26849, 26850, 35987, 36520
95 ..... 16978, 20190, 26849, 30189, 36520
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306 ..... 9655, 19578
307 9655
308 35990
310 8892
317 ..... 19564, 19578
318 ..... 8892, 9655, 19564, 19578, 35990
319 ..... 7227, 8892, 19578, 26470, 35157, 47453
320 ..... 19564, 35990
325 9655
381 ..... 7227, 8892, 9655, 19564, 19578, 26470, 35157, 35990, 47453
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TITLE 10—ENERGY

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2 Policy statement 13655
Authority citation revised 43407
2.8 Revised 43408
2.201 (a) revised 43408
2.1201 (a)(3) added 39297
2.1203 (e) revised 39297
2.1205 (c) through (n) redesignated as (d) through (o); new (d), new (e)(2) and (4), new (h) introductory text, new (i), new (k) introductory text and (3) and new (l)(1) introductory text and (2) introductory text revised 39297
2.1211 (b) revised 39298
2.1213 Revised 39298
2.1233 (c) revised 39298
2.1263 Revised 39298
19.2 Amended 9902

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19.11 (c) note removed; (c) revised 6764
19.20 Revised 6764
20.2108 (b) revised 24673
30.7 (e)(2) note redesignated as (e)(3) and revised 6764
30.35 (g) introductory text revised 24673
30.36 (a) revised 1113
(k)(4) added 24673
(d), (g)(3), (4)(vi), (h)(1) and (2) amended 29637
30.37 (b) added 1114
30.51 (d), (e) and (f) added 24673
30.72 Amended 9902
40.7 (e)(2) note redesignated as (e)(3) and revised 6765
40.36 (f) introductory text revised 24674
40.42 (a) revised 1114
(k)(4) added 24674
(d), (g)(3), (4)(vi), (h)(1) and (2) amended 29637
40.43 (b) added 1114
40.61 (d), (e) and (f) added 24674
50 Technical correction 232
50.2 Amended 39298
50.4 (b)(8) and (9) added 39298
50.7 (e) and note redesignated as (e)(1) and (2); new (e)(2) revised 6765
50.36 (c)(6) and (7) redesignated as (c)(7) and (8); new (c)(6) and (e) added 39299
50.36a Revised 39299
50.36b Revised 39299
50.44 (a) revised 39299
50.46 (a)(1)(i) revised 39299
50.47 (a)(1) revised 30132
50.48 (f) added 39300
50.49 (a) added 39300
50.51 Heading revised; existing text designated as (a); (b) added 39300
50.54 (o) and (y) revised 39300
50.55a (b)(2) introductory text and (g)(4) revised; (b)(2)(vi), (ix), (x), (g)(4)(v) and (6)(ii)(B) added 41311
50.59 (d) and (e) added 39300
50.60 (a) revised 39300
50.61 (b)(1) revised 39300
50.62 (a) revised 39301
50.65 (a)(1) revised 39301
50.71 (e)(4) revised; (f) added 39301
50.75 (f) revised 39301
50.82 Revised 39301
50.91 Introductory text revised 39303
50.111 (b) revised 39303
50 Appendix E amended 30132
Appendix I amended 39303
51.10 (d) revised 43408
51.22 (c)(14)(ii) amended 9902
51.45 (c) revised 28486
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51.53 Revised 28487
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(b) revised 39304
51.55 (a) revised 28488
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51.71 (d) and (e) revised 28488
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51.75 Footnote 4 redesignated as Footnote 5 28489
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51.95 Revised 28489
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(b) revised 39304
(c) corrected 39555
51.103 (a)(3) revised; (a)(5) added 28490
Regulation at 61 FR 28490 eff. 9–5–96 37351
51.123 (a) and (b) amended 9902
51.10—51.125 (Subpart A) Appendixes A and B amended 28490
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Appendix B corrected 39555, 39556
52 Appendix O amended 9902
53 Removed 35935
55.5 (b)(2)(iii) amended 9902
60.9 (e) and note redesignated as (e)(1) and (2); new (e)(2) revised 6765
61.9 (e) and note redesignated as (e)(1) and (2); new (e)(2) revised 6765
61.30 (a)(3) revised 24674
61.31 (c)(3) added 24674
70.7 (e)(2) note redesignated as (e)(3) and revised 6765
70.25 (g) introductory text revised 24675
70.33 (b) added 1115

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70.38 (a) revised 1115
(k)(4) added 24675
(d) and (g)(3) amended 29637
(g)(4)(vii), (h)(1) and (2) amended 29638
70.51 Footnotes 2 and 3 redesignated as Footnotes 3 and 4; (b)(6) and (7) revised 24675
71.4 Corrected 28724
71.18 (d)(1) corrected 28724
71.55 (d)(3) corrected 28724
71 Appendix A amended 28724
72.10 (e)(2) revised 6766
72.30 (d) introductory text revised 24675
72.54 (m)(3) added 24675
(j)(1) and (2) amended 29638
72.80 (e) and (f) added 24675
110.1 (b)(3) and (4) redesignated as (b)(4) and (5); (b)(2) and new (4) revised; new (b)(3) added 35602
110.2 Amended 35602
110.8 Revised 35602
110.22 (c) amended 35602
110.23 (a)(1) amended 35602
110.26 (a)(2) amended 35602
110.27 (d) revised 35602
110.28 Amended 35602
110.29 Amended 35602
110.30 Amended 35602
110.41 (a)(4) revised 35602
110.44 (b)(2) amended 35602
110 Appendixes A and B amended 35602
Appendixes D, E, F and G redesignated as Appendixes I, K, L and M; new Appendix D added 35603
Appendix E added 35604
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170.12 (a) and (g) revised; (d)(1) removed 16214
170.20 Revised 16214
170.21 Introductory text revised; table amended 16214
170.31 Revised 16215
171.15 (d) removed; (a), (b), (c)(1), (2) and (e) revised 16220
171.16 (c) introductory text, (1), (4), (d) and (e) revised 16220
171.19 (b) and (c) revised; (d) added 16223

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205 Authority citation revised 35114
205.1 Revised 35114
205.50—205.69E (Subpart D) Removed 35114
205.70—205.78 (Subpart E) Removed 35114
205.100—205.109 (Subpart H) Removed 35114
205.120—205.128 (Subpart I) Removed 35114
205.130—205.137 (Subpart J) Removed 35114
205.160—205.162 (Subpart L) Removed 35115
205.200—205.204 (Subpart P) Removed 35115
205.230—205.237 (Subpart R) Removed 35114
420 Revised; interim 35895
430.31—430.33 (Subpart C) Appendix A added 36981
436.1 Revised 32649
436.2 (b) revised 32649
436.10 Revised 32649
436.11 Amended 32649
436.13 (a), (b) introductory text and (2) revised 32650
436.14 (b)(1), (c) introductory text, (d)(2), (e) and (g) revised 32650
436.16 Heading revised; (b) and (c) redesignated as (c) and (d); new (b) added 32650
436.17 Heading revised; (c) and (d) added 32650
436.18 (c) introductory text, (d) and (f) revised; (e) amended 32650
436.19 (d) revised 32651
436.21 Revised 32651
436.22 Revised 32651
436.23 Revised 32651
436.24 Amended 32651
450 Removed; interim 35903
463 Removed 35115
490 Added 10653
600.1—600.30 (Subpart A) Revised 7166
600.112 (c) amended 7165
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600.204 Amended 7165
600.221 (g)(2) amended 7165

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600.224 (b)(4) and (e)(2)(ii) amended 7165
600.225 (e) amended 7165
(f) amended 7166
600.226 (c) amended 7166
600.230 (b), (d)(4) and (f)(2) amended 7166
600.232 (c)(3) and (d)(2) amended 7166
600.236 (c) introductory text and (g)(2) amended 7166
600.237 (a)(3) and (c) amended 7166
600.241 (b), (e)(1)(i), (ii), (2)(ii), (iii) and (3) amended 7166
600.243 (d) amended 7166
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600.251 (c), (d) and (e) amended 7166
600.300—600.307 (Subpart D) Removed 7165
600.402 (d) amended 7166
600.403 (c) amended 7166
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784 Added 36614
830 Ruling 4209
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1003.1 Amended 35114
1003.20 (a) amended 35114
1010 Revised; interim 35088
1021.104 (b) amended 36239
1021.105 Revised 36239
1021.310 Revised 36239
1021.311 (f) removed; (g) redesignated as (f) 36239
1021.312 Removed 36239
1021.315 (b) and (d) revised; (e) added 36239
1021.322 (b)(1) removed; (b)(2) through (5) redesignated as (b)(1) through (4) 36239
1021.400—1021.410 (Subpart D) Appendixes A and B amended 36239
Appendix B amended 36240, 36241
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1035 Removed 39855
1036.105 Amended 39856
1036.110 (c)(1) and (2) added 39856
1036.215 (a) and (b) added 39856
1036.312 (b)(1), (d)(1) and (e)(1) removed; (f) and (g) amended 39856
1036.313 (a)(1) amended 39856
1036.314 (d)(1)(vi) removed; (d)(1)(vii) and (viii) redesignated as (d)(1)(vi) and (vii) 39856
1036.315 (c) removed 39856
1036.411 (c)(1) and (f)(1) removed; (h) and (j) amended 39856
1036.412 (a)(1) removed 39856
1036.700 Revised 39856
1036.705 Introductory text amended; (b) revised 39857
1036.710 Removed 39857
1036.715 Heading revised; introductory text and (a) through (g) amended 39857

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100.7 Regulation at 60 FR 64272 eff. 3–13–96.....10269
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100.8 Regulation at 60 FR 64272 eff. 3–13–96.....10269
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100.19 (a) amended.....6095
102 Technical correction.....4302
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109 Technical correction.....4302
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109.2 (a) amended.....3550
110 Technical correction.....4302
110.6 (c)(1)(i) and (ii) amended.....3550
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3 Appendix A corrected.....1273
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5.32 Removed.....19532
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5.43 Removed.....19532
7 Revised.....4862
19 Authority citation revised.....20334
19.1 (e)(9) amended; (f) redesignated as (g); (e)(11), (12) and new (f) added.....20334
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19.20 Revised.....20335

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19.24 (a) and (b) revised 20335
19.25 (a), (b), (e) and (g) revised 20335
19.33 (a) revised 20336
19.34 (a) and (b)(1) revised 20336
19.35 (a)(3) redesignated as (a)(4); new (a)(3) added; (b) revised 20336
19.37 Heading and (a)(1) revised 20336
19.38 Revised 20336
19.100 Revised 20337
19.112 (a), (b), (c) and (d)(3)(i) revised 20337
19.113 (a) and (b) revised; (c), (d) and (e) redesignated as (d), (e) and (f); new (c) added 20337
19.160 (a) amended 20337
19.161 Revised 20337
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19.170 (d) revised; (e) and (f) redesignated as (f) and (g); new (e) added 20338
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20 Removed 19532
21 Heading revised 4337
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21.11 (Subpart B) Revised 4337
22 Revised 45702
24 Revised 49660
25.12 (h)(3) amended 21363
26 Revised 40300
28 Revised 19532
30 Authority citation revised 43950
30 Appendix A amended 43950
31 Authority citation revised 4870
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31.100 Added 4870
31.101 Added 4870
31.102 Added 4870
34 Authority citation revised 11300
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202 Supplement I amended 50950, 50951
205.1 Revised 19669
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205.13 Revised 19674
205.14 Revised 19674
205.15 Revised 19675
205 Appendixes A and B revised; Appendix C added 19676
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207 OTC margin stock lists 2667, 18495, 39556
208 Appendix D amended 43951
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208.8 (e) and Appendix A removed 45704
208.13 Revised 47369
208.20 Revised 4343
208.23 Added 45704
208 Appendix A amended 47370
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211.8 Amended 4344
211.20 (b)(8) and (9) amended; (b)(10) added 39053
211.22 (a) revised; (c) removed; (d) redesignated as (c) 24440
211.24 (a)(2)(i) and (ii) revised; (d)(3) redesignated as (d)(4); new (d)(3) added 2901
(f) amended 4344
(g) added 39053
211.30 Added 6921
212 Revised 40302
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219.1—219.7 (Subpart A) Regulation at 60 FR 233 eff. date delayed to 5-28-96 14382
219.1 Regulation at 60 FR 233 eff. date delayed to 5-28-96 14382
219.2 Regulation at 60 FR 233 eff. date delayed to 5-28-96 14382
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219.3 Revised 29640
219.4 Revised 29640
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220 OTC margin stock lists 2667, 18495, 39556
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220.130 Removed 20398
221 OTC margin stock lists 2667, 18495, 39556
224 OTC margin stock lists 2667, 18495, 39556
225.4 (f) amended 4344
225.125 (g) revised 45875
225 Appendix A amended 47372
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226 Adjustment notice 3177
226.2 (a)(6) revised 49245
226.4 (a), (c)(7)(ii), (iii), (d) heading, (1) heading, introductory text and (i) revised; (c)(7)(iv) redesignated as (v); (b)(10), (c)(7) heading, new (iv), (d)(3) and (e)(3) added 49245
226.17 (c)(2) redesignated as (c)(2)(i); (a)(1) Footnote 38, new (c)(2)(i) and (f) revised; (c)(2)(ii) added 49246
226.18 (d) Footnote 39 removed; (d)(1) and (2) added; (c) Footnotes 39 and 40 redesignated as (c) Footnotes 40 and 41; (n) revised 49246
226.19 (a)(2) revised 49246
226.22 (a)(4) and (5) added 49246
226.23 (b) introductory text and (1) through (5) redesignated as (b)(1) introductory text and (i) through (v); (b)(2), (g) and (h) added 49246
226.31 (d) and (g) revised 49247
226 Supplement I amended 14955, 14956, 14957, 14959
Appendix H amended 49247
Supplement I amended 49248
228.12 (h)(3) amended 21363
229 Appendixes A and B amended 25390
231.3 (a) introductory text revised 1274
250.161 (d) amended 19806
250.162 (a) amended 19806
250.242 Added 19806
263 Authority citation revised 20341
263.1 (e)(9) amended; (f) redesignated as (g); (e)(11), (12) and new (f) added 20341
263.6 (a)(3) revised 20341
263.8 (b) revised 20342
263.11 (c)(2) and (d) revised 20342
263.12 (a), (c)(1), (2) and (3) revised 20342
263.20 Revised 20342
263.24 (a) and (b) revised 20342
263.25 (a), (b), (e) and (g) revised 20343
263.33 (a) revised 20343
263.34 (a) and (b)(1) revised 20343
263.35 (a)(3) redesignated as (a)(4); new (a)(3) added; (b) revised 20343
263.37 Heading and (a)(1) revised 20344
263.38 Revised 20344
265.6 (a)(1) revised 13395
268.207 (e) revised 252
268.301 (c)(3) amended 13079
268.304 (a)(3)(i)(A) amended 252
268.305 (c)(1) amended 13079
268.506 Amended 13079

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Chapter III—Federal Deposit Insurance Corporation (Parts 300—399)

303.7 (g) added 5930
308 Authority citation revised 20347, 48403
308.1 (e)(8) amended; (f) redesignated as (g); (e)(10), (11) and new (f) added 20347
308.6 (a)(3) revised 20347
308.8 (b) revised 20347
308.11 (c)(2) and (d) revised 20347
308.12 (a), (c)(1), (2) and (3) revised 20348
308.20 Revised 20348
308.24 (a) and (b) revised 20348
308.25 (a), (b), (e) and (g) revised 20348
308.33 (a) revised 20349
308.34 (a) and (b)(1) revised 20349
308.35 (a)(3) redesignated as (a)(4); new (a)(3) added; (b) revised 20349
308.37 Heading and (a)(1) revised 20349
308.38 Revised 20350
308.400—308.402 (Subpart S) Added 48403
310 Nomenclature change 43419
310.1 Revised 43419
310.3 (a) revised 43419
310.4 (b) and (c) revised 43419
310.6 Amended 43420
310.9 (d) redesignated as (e); new (d) added 43420
310.10 (b)(6) and (10) revised; (b)(12) added; (c) removed; (d) and (e) redesignated (c) and (d); new (c) and new (d) amended 43420
310.11 (b) amended 43420
310.13 Amended 43420
311.2 (a) revised; (b)(3) amended 38357
311.7 Amended 38357
311.8 Heading revised; (d)(1) amended; (e) added 38357
324 Removed; eff. 1-1-99 33843
325 Appendix A amended 47375
Appendix C added 47376
327 Assessment rate schedules 26078, 26083
336 Revised 28728
339 Revised 45706
342 Removed 48403
345.12 (h)(3) amended 21364
346.1 (a) amended; (o) revised; (s) through (v) added 5674
346.6 Revised 5674
348 Revised 40305
353 Revised 6099
359 Added 5930
363.1 (b) revised 6493
363.4 (b) revised 6493
363.5 (b) revised 6493
363 Appendix A amended 6494
364 Appendix A amended 43951
366 Added; interim 9596
367 Added; interim 35117

Chapter V—Office of Thrift Supervision, Department of the Treasury (Parts 500—599)

500—517 (Subchapter A) Regulation at 60 FR 66715 eff. date corrected to 12-26-95 575
505.1 Regulation at 60 FR 66715 eff. date corrected to 12-26-95 575
505.2 Regulation at 60 FR 66716 eff. date corrected to 12-26-95 575
505.3 Regulation at 60 FR 66716 eff. date corrected to 12-26-95 575
505.4 Regulation at 60 FR 66716 eff. date corrected to 12-26-95 575
506.1 Regulation at 60 FR 66716 eff. date corrected to 12-26-95 575
509 Authority citation revised 20353
509.1 (e)(7) amended; (f) redesignated as (g); (e)(9), (10) and new (f) added 20353
509.6 (a)(3) revised 20354
509.8 (b) revised 20354
509.11 (c)(2) and (d) revised 20354
509.12 (a), (c)(1), (2) and (3) revised 20354
509.20 Revised 20354
509.24 (a) and (b) revised 20354
509.25 (a), (b), (e) and (g) revised 20355
509.33 (a) revised 20355
509.34 (a) and (b)(1) revised 20355
509.35 (a)(3) redesignated as (a)(4); new (a)(3) added; (b) revised 20356
509.37 Heading and (a)(1) revised 20356

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509.38 Revised 20356
509.102 (g)(2) revised 20356
509.104 (h) removed; (i) redesignated as (h) 20356
510.2 Regulation at 60 FR 66716 eff. date corrected to 12–26–95 575
512.4 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
512.5 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
516.1 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
516.3 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
528—535 (Subchapter B) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
541—558 (Subchapter C) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
543.8 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
543.11 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
544.3 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
545.31 Removed 50971
545.32 Removed 50971
545.33 Removed 50971
545.34 Removed 50971
545.35 Removed 50971
545.36 Removed 50971
545.37 Removed 50971
545.38 Removed 50971
545.39 Removed 50971
545.40 Removed 50971
545.41 Removed 50971
545.42 Removed 50971
545.43 Removed 50971
545.45 Removed 50971
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545.50 Removed 50971
545.51 Removed 50971
545.52 Removed 50971
545.53 Removed 50971
545.72 Removed 50971
545.73 Removed 50971
545.74 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
(c)(1)(vi) revised 50971
545.75 Removed 50971
545.78 Removed 50971
545.82 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
545.121 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
545.131 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
550.2 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
550.3 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
550.10 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
550.13 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
550.14 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
550.15 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
552.5 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
552 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
556.2 Removed 50971
556.3 Removed 50971
556.5 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
556.10 Removed 50971
560 Added 50971
561—575 (Subchapter D) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
563 Authority citation revised 6105, 45709
563.9 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563.48 Removed 45709

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563.51 (f)(1)(i) amended 50984
563.93 Regulation at 60 FR 66718 eff. date corrected to 12-26-95 575
563.93—563.101 (Subpart D) Removed 50984
563.134 Regulation at 60 FR 66718 eff. date corrected to 12-26-95 575
563.160 Regulation at 60 FR 66718 eff. date corrected to 12-26-95 575
Removed 50984
563.170 Regulation at 60 FR 66718 eff. date corrected to 12-26-95 575
(c) revised 50984
563.172 Removed 50984
563.177 Regulation at 60 FR 66718 eff. date corrected to 12-26-95 575
563.180 Heading and (d) revised 6105
563b.2 Regulation at 60 FR 66718 eff. date corrected to 12-26-95 575
563b.3 Regulation at 60 FR 66718 eff. date corrected to 12-26-95 575
563b.4 Regulation at 60 FR 66718 eff. date corrected to 12-26-95 575
563b.8 Regulation at 60 FR 66718 eff. date corrected to 12-26-95 575
563b.29 Regulation at 60 FR 66718 eff. date corrected to 12-26-95 575
563c.3 Regulation at 60 FR 66718 eff. date corrected to 12-26-95 575
563d.1 Regulation at 60 FR 66718 eff. date corrected to 12-26-95 575
563d.2 Regulation at 60 FR 66718 eff. date corrected to 12-26-95 575
563e.12 (g)(3) amended 21364
563f Revised 40308
565.9 Regulation at 60 FR 66719 eff. date corrected to 12-26-95 575
566.1 (g)(6)(i) amended 50984
566.2 Regulation at 60 FR 66719 eff. date corrected to 12-26-95 575
567.3 Regulation at 60 FR 66719 eff. date corrected to 12-26-95 575
567.4 Regulation at 60 FR 66719 eff. date corrected to 12-26-95 575
567.10 Regulation at 60 FR 66720 eff. date corrected to 12-26-95 575
567.13 Regulation at 60 FR 66720 eff. date corrected to 12-26-95 575
570 Appendix A amended 43952
571.6 Regulation at 60 FR 66720 eff. date corrected to 12-26-95 575
571.8 Removed 50984
571.13 Regulation at 60 FR 66720 eff. date corrected to 12-26-95 575
Removed 50984
571.20 Regulation at 60 FR 66720 eff. date corrected to 12-26-95 575
Removed 50984
571.22 Removed 50984
572 Added 45709
574.2 Regulation at 60 FR 66720 eff. date corrected to 12-26-95 575
574.3 Regulation at 60 FR 66720 eff. date corrected to 12-26-95 575
574.4 Regulation at 60 FR 66720 eff. date corrected to 12-26-95 575
574.6 Regulation at 60 FR 66720 eff. date corrected to 12-26-95 575
574.7 Regulation at 60 FR 66720 eff. date corrected to 12-26-95 575
575.2 Regulation at 60 FR 66720 eff. date corrected to 12-26-95 575
575.10 Regulation at 60 FR 66720 eff. date corrected to 12-26-95 575
575.11 Regulation at 60 FR 66720 eff. date corrected to 12-26-95 575
583—584 (Subchapter F) Regulation at 60 FR 66715 eff. date corrected to 12-26-95 575

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583.10 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
584.1 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
584.2–2 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
590—591 (Subchapter G) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
590.4 (e)(1) amended 50984

Chapter VI—Farm Credit Administration (Parts 600—699)

614.4367 (a)(4) and (c)(3) amended 11304
Regulation at 61 FR 11304 eff. 5–3–96 20125
614.4920—614.4960 (Subpart S) Revised 45711
615 Authority citation revised 31394
615.5230 Regulation at 60 FR 57921 eff. 1–2–96 1274
615.5500—615.5502 (Subpart P) Regulation at 60 FR 57919 confirmed 12015
615.5570 (Subpart S) Added 31394
620.21 Regulation at 60 FR 57922 eff. 1–2–96 1274
621.11 Regulation at 59 FR 50888 confirmed 18236

Chapter VII—National Credit Union Administration (Parts 700—799)

701 Authority citation revised 4214
701.1 Revised (OMB number) 11726
701.12 (a), (b) and (c) revised; (d) and (e) redesignated as (g) and (h); new (d), new (e) and (f) added 41323
701.13 (a)(2) amended 41326
701.21 (c)(7)(ii)(C) revised 4214
701.32 Heading, (a) and (b)(1) revised; (d) redesignated as 701.34(a); interim 3790
701.34 (a) redesignated from 701.32(d); new (a)(1) amended; (b), (c) and appendix added; interim 3790
(a)(1) revised 50695
(b)(2) and (c) revised 50697
705 Authority citation revised 50695
705.3 (b) amended 45875
(b) revised 50695
705.5 (b)(1) revised 50695
705.7 (a) amended 50696
705.10 Revised 50696
707 Reporting and recordkeeping requirements 114
709.5 (b)(6) and (7) revised; (b)(8) added; (e) amended; interim 3791
711 Revised 50702
741.204 (b) amended; (c) added; interim 3792
747 Authority citation revised 28024
747.1 (c)(2) amended; (d) redesignated as (e); (c)(3) and new (e) revised; (c)(4) and new (d) added 28025
747.6 (a)(3) revised 28025
747.8 (b) revised 28025
747.9 (a) and (b) revised; (e) added 28025
747.11 (c)(2) and (d) revised 28025
747.12 (a), (c)(1), (2) and (3) revised 28026
747.20 Revised 28026
747.24 (a) and (b) revised 28026
747.25 (a), (b), (e) and (g) revised 28026
(b) amended 45876
747.33 (a) revised 28027
747.34 (a) and (b)(1) revised 28027
747.35 (a)(3) redesignated as (a)(4); new (a)(3) added; (b) revised 28027
747.37 Heading and (a)(1) revised 28027
747.38 Revised 28027
748 Heading revised 11527
Authority citation revised 11527
748.1 (c) revised 11527
760 Revised 45713
790.2 (b)(5) revised; (b)(6)(i), (ii) and (7) amended 45876

Chapter IX—Federal Housing Finance Board (Parts 900—999)

931 Authority citation revised 40313
931.5 Revised 40313
932.26 Added 43154
932.27 Revised 43154
933 Heading revised 42542
933.1 (Subpart A) Revised 42542
933.2—933.5 (Subpart B) Revised 42543

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933.6—933.18 (Subpart C) Redesignated as 933.19—933.23 (Subpart D)....42542
Added....42545
933.11—933.12 (Subpart D) Redesignated as 933.24—933.25 (Subpart E)....42542
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933.17 (Subpart G) Redesignated as 933.30 (Subpart H)....42542
933.18 (Subpart H) Redesignated as 933.31 (Subpart I)....42542
933.19 (Subpart I) Redesignated as 933.32 (Subpart J)....42542
933.19—933.23 (Subpart D) Redesignated from 933.6—933.10 (Subpart C)....42542
933.20 (b)(1) and (2) amended....42549
933.22 (b)(1) amended....42549
933.23 Amended....42549
933.24—933.25 (Subpart E) Redesignated from 933.11—933.12 (Subpart D)....42542
933.24 (a)(2) and (b)(2) amended....42549
933.25 (c), (d)(2)(ii)(A), (B), (iii) and (3) amended....42549
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933.26 (c) amended....42549
933.27 (e) amended....42549
933.28 (b) amended....42549
933.29 Redesignated from 933.16 (Subpart F)....42542
(a)(1) amended....42549
933.30 Redesignated from 933.17 (Subpart G)....42542
Introductory text, (a) and (b) amended....42549
933.31 Redesignated from 933.18 (Subpart H)....42542
(d) amended....42549
933.32 (Subpart J) Redesignated from 933.19 (Subpart I)....42542
941 Authority citation revised....43155
941.7 (f)(2) revised....43155

Chapter XIV—Farm Credit System Insurance Corporation (Parts 1400—1499)

1401.1 Regulation at 60 FR 30778 confirmed....4349

Chapter XVII—Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development (Parts 1700—1799)

1750 Added....35620

Chapter XVIII—Community Development Financial Institutions Fund, Department of the Treasury (Part 1800—1899)

1805.104 (n) revised; interim....1701
1805.201 Amended; interim....1701
1805.600 Amended; interim....1701
Corrected....7690
1805.604 Added; interim....1701
1805.701 (d)(2)(iii) revised; (e)(3) introductory text amended; interim....1702
1806.103 (dd) added; interim....1702
1806.200 (b)(2)(ii) revised; interim....1702
1806.201 (b)(2) revised; (b)(4)(xii) and (xiii)(B) amended; (b)(4)(xiv) added; interim....1702
1806.202 (a) revised; (b)(2) and (3) amended; (b)(4) and (d) added....1702
Corrected....7690
1806.206 (b)(1) and (4) revised; interim....1702

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3....9114, 42565
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205....19696, 37229
207....20399, 33874
208....9114, 18470, 42565
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218....34749
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221 ..... 20399, 33874
225 ..... 9114, 42565, 47242
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229 27802
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327 34751
330 25596
335 33696
336 5956
338 49420
344 26135
357 40756
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502 38114
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543 32713
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545 ..... 1162, 29976, 30190, 32713
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563 ..... 1162, 29976, 30190, 32713, 38114
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932 ..... 17603, 42570
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935 40364
941 42570
1270 42824
1750 29592

TITLE 13—BUSINESS CREDIT AND ASSISTANCE

EDITORIAL NOTE: The revision for the 1996 edition of title 13 was delayed until March 1, 1996. The 1996 revision includes amendments promulgated during the period of January 3, 1995 through March 1, 1996. For amendments promulgated during that period, see the February 1996 LSA.

Chapter I—Small Business Administration (Parts 1—199)

107.50 Amended 41496
107.692 (a) corrected 7985
107.860 (b) amended 41496
107.1530 (g)(2)(i) and (ii) amended 41496
115.10 Corrected 7985
120.111 (a)(4) corrected; (b)(2) correctly removed; (b)(3), (4) and (5) correctly redesignated as (b)(2), (3) and (4) 7986
120.215 Corrected 7986
120.220 Table corrected 11471
120.440 Corrected 7986
120.839 (a)(2) corrected 7986
121 Waiver 42376
121.201 Corrected 7986
Table corrected 43119
121.406 (b)(4) corrected 7986
125.3 (b) corrected 7986
125.5 (d)(3) and (o) corrected 7987
125.6 (a)(2) corrected; (c) correctly removed; (d) through (g) correctly designated as (c) through (f) 39305

Chapter III—Economic Development Administration, Department of Commerce (Parts 300—399)

Chapter III Regulation at 60 FR 46978 confirmed 7981
300.3 (b) revised (OMB numbers) 7981
300.4 Revised 7981
301.4 (d) revised 7982
301.6 (a)(4) revised 15371
302.4 (a) introductory text revised 7982
302.13 Introductory text, (a) through (d) and concluding

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text redesignated as (a) introductory text, (1) through (4) and (b); new (a)(2) revised 7982
302.17 Revised 7982
302.18 Revised 7982
303.2 (a) revised 7982
303.3 (a) introductory text and (1) redesignated as (a)(1) and (2); new (a)(2) revised 7982
304.1 (a)(1)(i), (2)(ii), (iii) and (b) revised 7982
305.7 (a) revised 7983
305.8 (b) table amended 7983
305.11—305.13 (Subpart C) Heading added 7983
305.13 Redesignated as 316.11; new 305.13 redesignated from 305.14 7983
305.14 Redesignated as 305.13 7983
305.15 Redesignated as 316.12 7983
307.2 (c) revised 7983
307.12 (c) revised 7983
307.13 (b) revised 7983
307.14 (e) revised 7983
307.16 Introductory text revised 7983
307.18 (b) revised 7983
307.20 (c) revised; (e) removed 7983
308.5 (b) revised 7983
308.7 (a) revised 7983
315 Heading revised 7984
315.2 Amended 7984
315.5 (b)(2) revised 7984
315.8 (a) revised 7984
315.9 (a) revised 7984
315.10 (b)(4), (5) and (6) revised 7984
315.11 (a) revised 7984
316.1 (b)(1) and (7) revised 7984
316.3 (b) revised 7984, 45738
316.11 Redesignated from 305.13 7983
316.12 Redesignated from 305.15 7983
316.13 Added 7985
317.1 (c)(2) added 7985

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121 20191

TITLE 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation (Parts 1—199)

1 Authority citation revised 7190
1.1 Amended 2081, 5183, 7190, 31328, 34547
11 Heading amended; nomenclature change 18052
11.17 Added 11262
13.29 Added 44155
21 Special FAA conditions 6921, 29930
Comment request 47671
21.93 (b)(4) revised 20699
23 Special FAA conditions 3, 18940
Technical correction 7410, 10269
23.3 (b)(2), (d) and (e) revised 5183
23.25 (a) introductory text, (1) introductory text, (i) and (iii) revised 5183
23.33 (b)(1) and (2) revised 5183
23.45 Revised 5184
23.49 Revised 5184
23.51 Revised 5184
23.53 Revised 5185
23.55 (a) and (b) introductory text revised 5185
23.57 (a) introductory text, (b), (c)(1), (3) introductory text, (4) and (d) revised; (e) added 5185
23.59 Introductory text, (a)(2) and (b) revised 5185
23.63 Added 5186
23.65 Revised 5186
23.66 Added 5186
23.67 Revised 5186
23.69 Added 5187
23.71 Added 5187
23.73 Added 5187
23.75 Heading, introductory text, (a) introductory text, (b), (d), (e) and (f) revised; (h) removed 5187
23.77 Revised 5187
23.143 (a) and (c) revised 5188
23.145 (b) introductory text, (2) through (5), (c) and (d) revised; (b)(6) added 5188
23.147 Revised 5188
23.149 Revised 5189
23.153 Revised 5189

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23.155 (b) introductory text and (1) revised; (c) added 5189
23.157 (d) revised 5189
23.161 (a), (b)(1), (2), (c), (d) introductory text and (4) revised; (e) added 5189
23.175 Revised 5190
23.177 Revised 5190
23.201 Revised 5191
23.203 Heading, introductory text, (a), (b) introductory text, (4), (5), (c) introductory text, (1) and (4) revised; (b)(6) and (c)(6) added 5191
23.205 Removed 5191
23.207 (c) and (d) revised; (e) and (f) added 5191
23.221 Revised 5191
23.233 (a) revised 5192
23.235 Revised 5192
23.237 Added 5192
23.253 (b)(1) removed; (b)(2) and (3) redesignated as (b)(1) and (2) 5192
23.301 (d) revised 5143
23.335 (a)(1), (b)(4)(ii) and (d)(1) introductory text revised; (b)(4)(i) amended; (b)(4)(iii) added 5143
23.337 (a)(1) revised 5144
23.341 (a) and (b) redesignated as (b) and (c); new (a) added; new (b) revised; new (c) introductory text amended 5144
23.343 Added 5144
23.345 Revised 5144
23.347 Existing text designated as (a); (b) added 5144
23.349 (a)(2) revised 5144
23.369 (a) revised 5145
23.371 Revised 5145
23.391 (a) designation and (b) removed 5145
23.393 Added 5145
23.399 Revised 5145
23.415 (a)(2) and (c) revised 5145
23.441 (a)(2) revised; (b) added 5145
23.443 (c) revised 5147
23.455 Undesignated center heading revised 5147
23.457 Removed 5147
23.473 (c)(1) and (f) revised 5147
23.497 (c) added 5147
23.499 (d) and (e) added 5147
23.521 (c) removed 5147
23.561 (b) introductory text and (d)(1) revised; (e) added 5147
23.562 (d) introductory text revised 5192
23.571 Heading, introductory text and (a) revised 5147
23.572 Heading, (a) introductory text and (1) revised 5147
23.573 (a)(5) introductory text revised; (b) amended; (c) removed 5147
23.574 Added 5148
23.575 Added 5148
23.607 Revised 5148
23.611 Revised 5148
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323.3 (a)(2), (4) introductory text, (5), (c)(1), (2) and (3) introductory text amended 19165
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24 Announcement 26095

Chapter I—Bureau of the Census, Department of Commerce (Parts 30—199)

30.80 Added 15698

Chapter II—National Institute of Standards and Technology, Department of Commerce (Parts 200—299)

280 Added 50558

Chapter VII—Bureau of Export Administration, Department of Commerce (Parts 700—799)

730 Added 12734
732 Added 12740
734 Added 12746
736 Added 12754
738 Added 12756
740 Added 12768
742 Added 12786
744 Added 12802
746 Added 12806
748 Added 12812
750 Added 12829
752 Added 12835
754 Added 12844
754.2 (a) and (c)(1)(i) amended; (j) added 27257
756 Added 12851
758 Added 12852
758.3 (d)(2) revised 27257
760 Added 12862
762 Added 12900
762.2 (b)(26) through (34) redesignated as (b)(27) through (35); new (b)(26) added 27258
764 Added 12902
766 Added 12907
768 Redesignated as Part 768A 12734
Added 12915
768A Redesignated from Part 768; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
769 Redesignated as Part 769A 12734
Authority citation revised 14244
769 Supplement No. 17 added 14244
769A Redesignated from Part 769; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
770 Authority citation revised 2102
Redesignated as Part 770A 12734
Added 12920
770.2 Amended; interim 2102
770A Redesignated from Part 770; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
771 Authority citation revised 2102
Redesignated as Part 771A 12734
771.14 (d)(2) amended; interim 2102
771.22 (c)(2)(i) removed; interim 2102
771.24 (b) and (c) revised; interim 3558
771.26 (b) revised; interim 2102
771.28 Added; interim 2102
(a) and (d)(1) amended 5678
771A Redesignated from Part 771; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
771A.25 (d) removed 12734
772 Redesignated as Part 772A 12734
Added 12925
772.11 (k)(1)(i), (ii), (l)(1)(i) and (ii) amended; interim 2103
772A Redesignated from Part 772; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
773 Supplement No. 1 amended; interim 2103
Redesignated as Part 773A 12734
773A Redesignated from Part 773; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
774 Authority citation revised 2102
Redesignated as Part 774A 12734
Added 12937
774.2 (a)(1), (k)(1)(i) and (m) revised 2103
774.3 (b)(3)(i) amended; interim 2103
(b)(3)(ii) and (c)(1)(i)(B) amended; interim 2104
774A Redesignated from Part 774; nomenclature change; eff. 4–

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24–96; removed; eff. 11–1–96; interim 12734
774 Supplement No 1, Category 1 amended (ECCN 1C991) 41327
775 Redesignated as Part 775A 12734
775.1 (a) amended; interim 2104
775.2 (a)(1) and (2) amended; interim 2104
775.3 (a)(1) amended; interim 2104
775.7 (a)(2)(iii) removed; interim 2104
775.10 (f)(1) removed; (g)(1)(i), (ii), (2)(i)(A) and (B) revised; interim 2104
775A Redesignated from Part 775; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
776 Redesignated as Part 776A 12734
776.10 (a)(1) amended; (d) through (m) added; interim 2104
(f)(1) amended 5678
776.11 Removed; interim 2108
776.12 (b) introductory text revised; interim 2108
776A Redesignated from Part 776; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
777 Redesignated as Part 777A 12734
777A Redesignated from Part 777; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
778 Redesignated as Part 778A 12734
778A Redesignated from Part 778; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
779 Redesignated as Part 779A 12734
779A Redesignated from Part 779; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
785 Redesignated as Part 785A 12734
785.4 (d)(1)(xxxiii) amended; interim 2109
(b) added 8471
785A Redesignated from Part 785; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
786 Authority citation revised 2102
Redesignated as Part 786A 12734
786.6 (a)(2) and (c)(2) revised; interim 2109
786A Redesignated from Part 786; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
787 Authority citation revised 2102
Redesignated as Part 787A 12734
787.13 (c) amended; interim 2109
787A Redesignated from Part 787; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
788 Redesignated as Part 788A 12734
788A Redesignated from Part 788; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
789 Redesignated as Part 789A 12734
789A Redesignated from Part 789; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
790 Redesignated as Part 790A 12734
790A Redesignated from Part 790; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
791 Redesignated as Part 791A 12734
791A Redesignated from Part 791; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
799 Authority citation revised 2102
Redesignated as Part 799A 12734
799.1 Supplement No. 1, Category 4 amended; interim (ECCN 4A01A, 4A02A, 4A94F, 4D01A, 4D02A, 4D94F, 4E01A, 4E94F and FA03A) 2109
Supplement No. 1, Category 1 amended; interim (ECCN 1A46B, 1B50B, 1B51B, 1B52B, 1B53B, 1B54B, 1B58B, 1C19A, 1C50B, 1C54B, 1C55B, 1C58B, 1E41B, 1B16A, 1B17A, 1C01A, 1D01A, 1E01A, 1E19A, 1B55B, 1B57B) 3558
Supplement No. 1, Category 2 amended; interim (ECCN 2A48B, 2A49E, 2A50B, 2A52B, 2B01A, 2B08A, 2B41B, 2B50B, 2D01A, 2D49E, 2D50B, 2E49E, 2E50B, 2A19A, 2B06A, 2B07A, 2B09A, 2D19A, 2E01A, 2E02A, 2E03A, 2E19A) 3562
Supplement No. 1, Categories 3 and 6 amended; interim

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TITLE 15 Chapter VII—Con.

(ECCN 3A01A, 3D01A, 3E01A, 6A43B, 6A03A, 6A05A, 6E01A, 6E02A) 3566
Supplement No. 1, Category 9 amended; interim (ECCN 9B26B) 3568
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Supplement No. 1 corrected 6064
799A Redesignated from Part 799; nomenclature change; eff. 4-24-96; removed; eff. 11-1-96; interim 12734
799A.1 Supplement No. 1, Category No. 1 amended (ECCN 1B71E, 1C61B and 1C91F) 41328

Chapter IX—National Oceanic and Atmospheric Administration, Department of Commerce (Parts 900—999)

902.1 (b) table amended (OMB numbers) 11132, 11752, 14468, 15887, 19171, 21932, 26436, 29631, 31230, 32540, 34572, 34967, 35150, 35550, 38359, 43424, 43955
(b) table amended (OMB numbers); interim 34934
Regulation at 61 FR 34934 confirmed; (b) table amended (OMB numbers); interim 47821
922.30—922.31 (Subpart D) Appendix D amended 14964
923 Heading revised 33804
Authority citation revised 33804
923.1—923.3 (Subpart A) Revised 33805
923.10—923.13 (Subpart B) Revised 33806
923.12 (b) correctly designated 36965
923.13 (b) correctly designated 36965
923.20—923.25 (Subpart C) Revised 33806
923.25 (a) corrected 36965
923.30—923.34 (Subpart D) Revised 33808
923.40—923.48 (Subpart E) Revised 33809
923.50—923.58 (Subpart F) Revised 33812
923.60 (Subpart G) Revised 33815
923.80—923.84 (Subpart H) Revised 33815
923.81 (b)(2) corrected 36965
923.83 Correctly designated 36965
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923.110 (Subpart J) Redesignated from Part 927 33818
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923.121 (a) and (b) amended; (h) revised 33818
923.123 (a) amended 33818
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923.124 (d)(1)(i), (iii), (3), (e) and (f) amended 33819
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923.125 (a)(1)(ii), (v), (b)(2)(ii), (iii) and (c) amended 33819
923.126 (a), (b)(1)(iii), (4), (7), (8), (c)(3), (4) and (5) amended 33819
923.127 (a), (b), (c) and (e) amended 33819
923.131—923.135 (Subpart L) Redesignated from Part 928 33818
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923.133 (b)(9), (c)(2) and (d)(2) amended 33818
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923.134 (b)(3) amended 33818
923.135 (a)(2)(i), (ii), (3)(i)(G) and (b)(2) amended 33818
927 Redesignated as 923.110 (Subpart J) 33818
928 Redesignated as 923.131—923.135 (Subpart L) 33818
932 Redesignated as 923.121—923.128 (Subpart K) 33818
933 Removed 33819
946 Appendix A amended 39865
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981 Removed 21074
990 (Subchapter E) Added 500

Chapter XII—United States Travel and Tourism Administration, Department of Commerce (Parts 1200—1299)

Chapter XII Removed 30509

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Chapter XX—Office of the United States Trade Representative (Parts 2000—2099)

2011 Regulation at 55 FR 40648 confirmed 26782
Authority citation revised 26784
2011.101 Revised 26784
2011.102 (g) through (m) redesignated as (h) through (n); new (g) added; (a), (c), (e), (f) and new (j), (k), (l) and (n) revised 26784
2011.103 (a) and (b)(3) revised 26784
2011.104 (a) revised 26784
2011.105 (b) revised 26784
2011.107 (b) introductory text revised 26784
2011.109 (a) revised 26784
2011.201 Revised 26785
2011.202 (g) removed; (h), (i) and (j) redesignated as (g), (h) and (i); (b), (c), (f), new (g) and (i) revised; new (j) added 26785
2011.203 (a) and (c) revised 26785
2011.204 Revised 26785
2011.206 (c) revised 26785
2011.207 (a) revised 26785
2011.208 Added 26785
2011.301—2011.306 (Subpart C) Removed 26785

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TITLE 16—COMMERCIAL PRACTICES

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2.8 (b) amended; interim 50645
2.9 (b)(4) and (6) amended; (b)(5) revised; interim 50645
2.15 (b) amended; interim 50645
2.34 Amended 50431
3.11A Added; interim 50645
3.12 (a) introductory text revised; interim 50646
3.21 (a) through (d) revised; (e) redesignated as (g); new (e) and (f) added; interim 50646
3.22 (a) and (d) revised; (e) and (f) amended; interim 50647
3.24 (a)(1) revised; (a)(2) amended; interim 50647
3.25 (f) amended 50431
(b) amended; interim 50647
3.31 (b) through (e) redesignated as (c), (d), (f) and (g); (a), new (c)(3) and new (d)(1) amended; new (b) and new (e) added; new (c)(1), new (2), new (4)(i) introductory text, new (iii) and new (g) revised; interim 50647
3.33 (a) and (e) introductory text revised; (b) removed; (c) amended; interim 50648
3.34 (a), (b) and (c) heading revised; (c) amended; interim 50648
3.35 (a)(1) and (2) amended; (b)(1) revised; interim 50649
3.36 Revised; interim 50649
3.37 Revised; interim 50649
3.38 Heading and (a) revised; interim 50649
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3.43 (b) revised; interim 50650
3.44 (c) added; interim 50650
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3.46 (a) amended; interim 50650
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3.55 Amended; interim 50650
4.2 (c) and (e)(1) amended; interim 50650
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22 Removed 3800

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23 Revised 27212
303.7 (d) revised 16387
303.10 (b) revised 11544
303.21 (a)(1) revised 11544
303.32 Revised 11544
303.45 (a)(1)(xv) revised 11544
305.9 (a) revised 5680
305.11 (a)(5)(i)(K), (ii)(I), (iii)(H)(*1*) revised 33653
305 Appendix F revised 29940
Appendixes C and D4 revised; Appendix H amended 48622
Appendix I amended 48623
307.12 (b) revised 45886
405 Removed 25561
409 Removed 33313
460 Authority citation revised 13665
460.5 Introductory text, (a) introductory text, (2), (b), (d) introductory text and (1) revised 13665
460.10 Revised 13666
460 Appendix removed; new Appendix added 13666
801.15 (a)(2), (b) and Example 4 revised; Example 5 through Example 8 added 13684
802.1 Revised 13684
802.2 Added 13686
802.3 Added 13688
802.4 Added 13688
802.5 Added 13688

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1000.12 Revised 1707
1000.21 Amended 1708
1000.26 Revised 1707
1000.27 Revised 1708
1000.29 Revised 1708
1000.30 Removed 1708
1000.32 Revised 1708
1010 Removed 29647
1019 Revised 29647
1500 Authority citation revised 19829
1500.14 (b)(6)(i) and (ii) redesignated as (b)(6)(i)(A) and (B); new (b)(6)(i)(A) and (B) amended; new (b)(6)(ii) added; eff. 11–3–97 19829
(b)(6)(i)(A), (ii)(A) and (B) corrected 33175
1500.17 (a)(17) added; eff. 3–26–97 13095
(a)(12)(i) correctly revised 18245
1507.12 Added 13096
1615 Stay of enforcement 47412
1615.1 (a) revised; (c) through (m) redesignated as (d) through (n); new (c) and (o) added 47644
1615.5 (b) removed 1116
1615.31 (b)(3), (c) and (d) removed 1116
1616 Stay of enforcement 47412
1616.2 (a) revised; (m) added 47646
1616.6 (b) removed 1117
1616.31 (b)(6) and (c) removed 1117
1700.14 (a)(25) reinstated; CFR correction 40317

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21 10708
23 ..... 27224, 43500
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406 39101
409 4382
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1210 20503
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1 Fee schedules 19830
Clarification 50431
1.12 (b)(2) amended; (b)(3) redesignated as (b)(4); new (b)(3), (f)(4) and (5) added; (g) introductory text, (1) and (2) revised 19185
1.17 (e)(1)(ii), (h)(2)(vi)(C)(*2*), (vii)(A)(*2*), (B)(*2*), (viii)(A)(*2*) and (3)(ii)(B) amended; (e)(1)(iii), (h)(2)(vi)(C)(*3*), (vii)(A)(*3*), (B)(*3*), (viii)(A)(*3*), (3)(ii)(C), (v)(C) and (D) redesignated as (e)(1)(iv), (h)(2)(vi)(C)(*4*), (vii)(A)(*4*), (B)(*4*), (viii)(A)(*4*), (B)(*4*), (viii)(A)(*4*), (3)(ii)(D), (v)(D) and (E); (a)(1), (c)(5)(xiii), new (h)(2)(vii)(A)(*4*) and new (B)(*4*) revised; new (e)(1)(iii), (h)(2)(vi)(C)(*3*), (vii)(A)(*3*), (C), (viii)(*3*), (3)(ii)(C) and (v)(C) added 19186
1.35 (d)(7) revised 43001
1.58 Revised 19187
3 Technical correction 26253
3.34 (b)(3)(ii) removed; (b)(3)(iii) introductory text and (A)(*3*) revised 20131
4 Interpretation 42146
5 Fee schedules 19830
10.84 (b) amended 21954
10.102 (e)(2) amended 21954
31 Fee schedules 19830
140.20 (a) amended 21955
140.24 (a)(6) amended 21955
140.735–8 (a)(3), (c)(2), (e) and (f) amended 21955
156.4 Added 41498

Chapter II—Securities and Exchange Commission (Parts 200—399)

200.30–4 (a)(11) added 20721
200.30–5 (a)(8)(ii)(B) amended 49011
200.30–7 (a)(3) corrected 15338
200.80 (c)(3) added 24654
202.3a Introductory text amended 49959
210.3–16 Removed 30401
210.4–05 Removed 30401
210.4–06 Removed 30401
210.4–10 (b) revised; (c) through (h) removed; (i) and (j) redesignated as (c) and (d) 30401
211 Staff Accounting Bulletin No. 97 added 40721
228.405 (a) amended; (a)(1) and (2) revised 30391
228.502 (a)(2) revised 24654
228.601 (c)(1)(vi) Note 1 and Note 2 amended 24654
Table amended; (b)(7), (14) and (28) removed 30401
229.405 (a)(1) and (2) revised 30391
229.501 (b) removed; (c) redesignated as (b); new (b)(8) amended 30401
229.502 (a)(2) revised 24654
229.601 (c)(1)(vi) Note 1 and Note 2 amended 24654
Table amended; (b)(6), (7), (14) and (28) removed 30401
229.801 (a) removed 30401
229.802 (a) removed 30401
230.111 (a) amended 49959
230.120 Revised 24654
230.144 (a)(3)(iv) amended; (a)(3)(v) added 21359
230.148 Removed 30401
230.236 (a) and (c)(4) amended 49959
230.252 (h)(2) revised 30401
(f) removed 49959
230.253 (b) redesignated as (b)(1); (b)(2) added 24654
230.300—230.346 Undesignated center heading removed 30402
230.300 Removed 30402
230.302 Removed 30402
230.304 Removed 30402
230.306 Removed 30402
230.310 Removed 30402
230.312 Removed 30402
230.314 Removed 30402
230.316 Removed 30402
230.318 Removed 30402
230.320 Removed 30402
230.322 Removed 30402
230.324 Removed 30402
230.326 Removed 30402
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230.330 Removed 30402

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230.402 (a) and (c) amended; (e) revised....30402
230.406 Note redesignated as Note 1; Note 2 added; (a) amended; (j) removed....30402
230.420 Existing text designated as (a); (b) added....24655
230.445—230.447 Undesignated center heading removed....30402
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230.464 Heading revised; introductory text and (b) amended....30402
230.471 Existing text designated as (a); (b) added....30402
230.472 (b) amended....30402
230.473 (c) and (d) amended....30402
230.481 (h) added....24655
230.482 (a)(6) note added; (a)(7) note removed....24655
230.504 (b)(1) revised....30402
230.604 (a) amended....49959
230.605 (c) redesignated as (c)(1); (c)(2) added....24655
230.651 Undesignated center heading and section removed....30402
230.652 Removed....30402
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230.654 Removed....30402
230.655 Removed....30402
230.656 Removed....30402
230.702(T) Removed....30402
230.703(T) Removed....30402
230.902 (a)(1) amended....30402
230.1001 Undesignated center heading and section added....21359
231 Interpretive releases....24651
232.304 Heading, (a), (b)(1) and (c) revised....24655
232.311 (c) removed; (d) through (i) redesignated as (c) through (h)....30402
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239.15A Form N-1A amended....24657, 49016, 49017, 49961
239.17a Form N-3 amended....24658, 49961
239.17b Form N-4 amended....24658, 49961
239.23 Form N-14 amended....49011
239.36 Form F-6 amended....30403
239.37 Form F-7 amended....24655, 30403
239.38 Form F-8 amended....24655, 30403
239.39 Form F-9 amended....24656, 30403
239.40 Form F-10 amended....24656, 30403
239.41 Form F-80 amended....24656, 30403
239.101 Removed....30403
239.300 Removed....30403
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Authority citation amended....48328
240.0-9 Revised....49959
240.0-11 (c)(1)(ii) revised....49959
240.11Aa3-1 (a)(4) revised....48328
240.11Ac1-1 Revised....48328
240.11Ac1-4 Added....48331
240.12b-7 Removed....49959
240.12b-11 (b) amended; (d) revised....30403
240.12b-12 (e)(3) amended....24656
240.12g-1 Amended....21356
240.12g-4 (a)(1)(ii) and (2)(ii) amended....21356
240.12h-3 (b)(1)(ii) and (2)(ii) amended....21356
240.13a-1 Amended....49959
240.13a-13 Heading and (c) revised....30403
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240.13d-7 Removed....49959
240.13d-101 Amended....49959
240.13d-102 Amended....49959
240.13e-3 (e)(3) amended....24656
240.13e-4 (e)(1)(ii)(A) revised....24656
240.13e-102 Amended....24656
240.14a-3 (b)(2) redesignated as (b)(2)(i); (b)(2)(ii) added....24656
240.14a-5 (d) redesignated as (d)(1); (d)(2) added....24656
240.14a-6 (i) revised....49960
240.14a-7 Note added....24657
240.14a-101 Amended....49960
240.14c-4 (d) added....24657
240.14c-5 (g) revised....49960
240.14c-7 (c) revised....24657
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240.14d-1 (d) revised....30403
240.14d-5 Authority citation removed....24656
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240.15d-13 Heading and (c) revised 30403
240.15d-17 Removed 30404
240.16a-1 (a)(3) and (c)(3) revised; (c)(5) and (6) amended; (c)(7) added 30391
240.16a-2 (b) and (d)(2) revised 30392
240.16a-3 (f)(1)(i) and (g) revised; (f)(1)(ii) and (iii) redesignated as (f)(1)(iii) and (iv); new (f)(1)(ii) and (j) added 30392
(i) revised 30404
240.16a-4 (b), (c) and (d) revised 30392
240.16a-6 (a) revised; (c) removed 30392
240.16a-8 (a)(1) revised; (b)(3) note added 30392
240.16a-9 (a) revised 30393
240.16a-11 Added 30393
240.16a-12 Added 30393
240.16a-13 Added 30393
240.16b-1 (c) removed 30404
240.16b-2 Removed 30393
240.16b-3 Revised 30393
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240.16b-6 (b) note added 30394
240.24b-2 Note added; (g) removed 30404
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249.103 Form 3 amended 30394
249.104 Form 4 amended 30394
249.105 Form 5 amended 30395
249.240 Form 40-F amended 49960
249.310 Form 10-K amended 30404
249.310c Removed 30404
249.323 (a) amended 21356
249.330 Form N-SAR amended 49961
249.501 Form BD revised 37361
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250.1 (d) removed 49961
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250.106 Removed 49961
250.107 Removed 49961
259.404 Form U-7D amended 49961
270.0-5 (d) removed 49961
270.0-8 Revised 49961
270.2a-7 Regulation at 61 FR 13976 compliance date suspended 42786
270.2a41-1 Regulation at 61 FR 13982 compliance date suspended 42786
270.6c-10 Revised 49016
270.8b-6 Removed 49961
270.8b-12 (f) added; authority citation removed 24657
270.11a-3 (a)(3) revised 49016
270.12b-1 (b)(1) revised 49011
270.12d3-1 Regulation at 61 FR 13982 compliance date suspended 42786
270.24f-2 (a)(3) removed; (a)(4) redesignated as (a)(3); new (a)(3) revised 49961
270.30a-1 Amended 49961
270.30b1-1 Amended 49961
270.30b1-3 Amended 49961
270.30d-1 (c), (d)(2) and (e) amended 24657
270.30d-2 Amended 24657
270.31a-1 Regulation at 61 FR 13983 compliance date suspended 42786
271 Interpretive releases 24651
274.11A Form N-1A amended 24657, 49016, 49017, 49961
274.11a-1 Form N-2 amended 24658, 49961
274.11b Form N-3 amended 24658, 49961
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274.101 Form N-SAR amended 49961
275.0-5 (d) removed; (e) redesignated as (d) 49962
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400 Authority citation revised 48348
400.1 (e) added 48348
420 Added 48348

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230 ..... 25601, 30405, 43400, 47706
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239 ..... 16674, 30405, 47706
240 ..... 16674, 17108, 18306, 25601, 30405, 36521, 37701, 43400, 44249, 45730, 47706, 48333

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35.26 Added.....21692
35.27 Added.....21693
35.28 Redesignated as 35.29.....21692
Added.....21693
35.29 Redesignated from 35.28.....21692
37 Added.....21764
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161.3 (h)(2) amended.....39068
250.16 (c)(2) amended.....39068
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284.9 (b)(3) revised; (b)(4) removed; (b)(5) redesignated as (b)(4).....39068
284.10 Added.....39068
346.1 Introductory text revised.....38569
346.2 Introductory text revised.....38569
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381.303 (a) amended.....40723
381.304 (a) amended.....40723
381.305 (a) amended.....40723
381.403 Amended.....40723
381.505 (a) amended.....40723
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10.62 (c)(2) amended.....31395
10.301 Revised.....19835
10.321 Undesignated center heading and section removed.....24888
10.322 Removed.....24888
10.323 Removed.....24888
12 Authority citation amended.....24889, 43961
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12.73—12.74 Undesignated center heading revised.....43961
12.74 Added.....43961
12.130 Regulation at 59 FR 113 confirmed.....28955
12.140—12.143 Authority citation and undesignated center heading removed.....28500
12.140 Removed.....28500
12.141 Removed.....28500
12.142 Removed.....28500
12.143 Removed.....28500
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102.1 Revised.....28955
102.11 Revised.....28956
102.13 Revised.....28956
102.14 Removed.....28955
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102.17 Revised 28956
102.18 Revised 28957
102.19 Revised 28957
102.20 Revised 28957
Table corrected 33846, 41737
102.21 (b)(5) and (e) table amended 37818
103 Authority citation amended 19838
103.0 Revised 19838
103.1—103.13 Designated as Subpart A; subpart heading added 19838
103.6 (a)(1) revised 19838
103.14 Redesignated as 103.31 19838
103.15 Redesignated as 103.34 19838
103.16 Redesignated as 103.32 19838
103.17 Removed 19838
103.18 Redesignated as 103.33 19838
103.21—103.27 (Subpart B) Added 19838
103.31—103.34 Designated as Subpart C; subpart heading added 19838
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103.32 Redesignated from 103.16 19838
103.33 Redesignated from 103.18 19838
103.34 Redesignated from 103.15 19838
118.0 Amended 39070
118.21 Heading and (a) revised; introductory text, (b)(6) and (c) added; (b)(1) amended 39071
118.22 Revised 39071
118.23 Revised 39071
122.13 Amended 25778
122.15 (b) amended 49059
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134.32 Regulation at 59 FR 140 confirmed 28955
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134.43 Regulation at 59 FR 140 confirmed 28955
(e) revised 28980
145 Authority citation amended 24889
145.56 Amended 24889
161 Authority citation amended 24889
161.2 (a)(3) added; authority citation removed 24889
178.2 Amended 28501
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201.11 (a) and (b) revised 37828
201.13 (m) revised 37829
207 Authority citation revised 37829
207.1 Revised 37829
207.2 Regulation at 60 FR 21 confirmed 37829
207.3 (b) and (c) revised 37829
207.4 (a) revised 37829
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207.8 Revised 37831
207.10 Revised 37831
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207.12 Revised 37832
207.13 Revised 37832
207.14 Revised 37832
207.18 Revised 37832
207.20 Redesignated as 207.21; new 207.20 added 37832
207.21 Redesignated as 207.22; new 207.21 redesignated from 207.20 and revised 37832
207.22 Redesignated as 207.23; new 207.22 redesignated from 207.21 37832
207.23 Redesignated as 207.24; new 207.23 redesignated from 207.22 and revised 37832
207.24 Redesignated as 207.25; new 207.24 redesignated from 207.23 and revised 37832
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207.26 Redesignated as 207.27; new 207.26 redesignated from 207.25 37832
207.27 Redesignated as 207.28; new 207.27 redesignated from 207.26 37832
207.28 Redesignated as 207.29; new 207.28 redesignated from 207.27 37832

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207.29 Redesignated as 207.30; new 207.29 redesignated from 207.28 37832
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207.30 Redesignated from 207.29 37832
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207.40 Regulation at 60 FR 22 confirmed 37833
210.3 Regulation at 59 FR 67626 confirmed 43432
210.4 Regulation at 59 FR 67626 confirmed 43432
210.5 Regulation at 59 FR 67626 confirmed 43432
210.14 Regulation at 59 FR 67627 confirmed 43432
210.16 Regulation at 59 FR 67627 confirmed 43432
210.21 Regulation at 59 FR 67627 confirmed 43432
210.22 Regulation at 59 FR 62627 confirmed 43432
210.23 Regulation at 59 FR 67627 confirmed 43432
210.24 Regulation at 59 FR 67627 confirmed 43432
210.39 Regulation at 59 FR 67627 confirmed 43432
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210.43 Regulation at 59 FR 67628 confirmed 43432
210.49 Regulation at 59 FR 67628 confirmed 43432
210.50 Regulation at 59 FR 67628 confirmed 43432
210.51 Regulation at 59 FR 67628 confirmed; (a) revised 43432
210.52 Regulation at 59 FR 67629 confirmed 43432
210.70 Regulation at 59 FR 67629 confirmed 43432
210.76 (b) revised 43433

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200.4 (g)(2)(v) revised 25390
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209.17 Added 31395
345 Revised 20072
348 Added 42377

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404.2 (a)(2) through (6) removed; (a)(7) redesignated as (a)(2) 41330
404.3 (a) removed; (b) and (c) redesignated as (a) and (b) 41330
404.347 Revised 41330
404.350 (a)(5) revised 38363
404.351 (a) revised 38363
404.352 (b)(1) amended 38363
404.353 (a) amended 38363
404.367 Introductory text amended; (c), (d) and (e) redesignated as (d), (e) and (f); (a), (b) and new (f) revised; new (c) added 38363
404.369 Removed 38363
404.390 Amended 41330
404.392 Heading and (a) introductory text revised 41330
404.393 Removed 41330
404.394 Removed 41330
404.395 Removed 41330
404.612 (e) removed; (f), (g) and (h) redesignated as (e), (f) and (g) 41330
404.615 (b) removed; (c) and (d) redesignated as (b) and (c) 41330
404.765 Removed 41330
404.811 Revised 18076
404.812 Added 18077
404.1001 (d)(2) revised 38365
404.1003 Amended 38365
404.1004 (a) introductory text revised; (a)(5) added 38365
404.1012 Amended 38365
404.1018 (g) redesignated as (h); new (g) added 38365
404.1018b (c)(1)(v) revised 38366

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404.1034 (a) introductory text amended; (c) redesignated as (d); new (c) added; new (d) revised 38366
404.1036 Revised 38366
404.1038 Added 38366
404.1042 (c)(2) revised 38366
404.1055 (a), (b) heading and (1) revised; (c)(1) amended 38367
404.1056 (a)(6) revised 38367
404.1057 (a)(1), (2) and (3) revised; (a)(4) amended 38367
404.1068 (d) revised 38367
404.1206 (a) introductory text, (6) and (7) revised; (a)(8) added; (f)(2) amended 38367
404.1210 (e) revised 38367
404.1211 (d) revised 38368
404.1212 Revised 38368
404.1501—404.1599 (Subpart P) Appendix 1 amended 28047
404.2113 (c) amended 31025
404.2115 (a)(3) and (b) revised 31025
404.2116 (b)(2) and (c)(2) revised 31025
416.1124 (c)(7) and (9) revised; (c)(17) and (18) amended; (c)(19) added 49964
416.1161 (a)(12) revised; (a)(21) and (22) amended; (a)(23), (24) and (25) added 49964
416.2201—416.2227 (Subpart V) Authority citation revised 31026
416.2201 Introductory text and (b) revised 31026
416.2203 Amended 31026
416.2209 (b) and (c) amended 31026
416.2212 Amended; heading revised 31026
416.2213 (c) amended 31026
416.2215 Revised 31026
416.2216 (b)(2) and (c)(2) revised 31026
416.2217 Introductory text amended 31027
422.125 (a) and (b) revised 18078
498 Authority citation revised 18079
498.100 (a) and (b) introductory text revised; (b)(1) added 18079
498.101 Amended 18079
498.102 Heading revised; (a) added 18079
498.103 (a) added 18080
498.104 Added 18080
498.106 Heading revised; (a) added 18080
498.108 Revised 18080
498.109 Revised 18080
498.110 Revised 18080
498.114 Added 18080
498.127 Revised 18080
498.128 Heading and (a) revised; (b), (d) and (e) added 18080
498.129 Added 18081
498.132 Revised 18081

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601.1 (d) added 19983
617.3 (ff) revised 19983
626.5 Amended 19983
655.500—655.550 (Subpart F) Regulation at 60 FR 3955, 3976 confirmed 46990
655.600—655.675 (Subpart G) Regulation at 60 FR 3969, 3977 confirmed 46990
658 Authority citation revised 19983
658.710 (d) revised 19983
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702 Authority citation revised 19984
702.433 (e) and (f) amended 19984
702.434 (a), (b) and (c) amended 19984

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TITLE 21—FOOD AND DRUGS

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1.24 (a)(6)(i), (ii) and (iii) amended 14478
2.125 (e)(14) added 15700
(e)(15) added 25392
5.99 Corrected 14375

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5.100 Revised 24223
5.115 Revised 24226
14.100 (c)(9) heading, (ii), (16) heading and (ii) revised 28048
(b)(6) added 36624
20.100 (c)(41) added 33244
25.22 (a) amended 14245
25.24 (b)(2) amended 14245
25.30 (a) amended 14245
70.3 (e) amended 14478
70.19 (p) amended 14478
71.1 (c) amended 14478
73.165 Added 40319
80.10 (d) amended 14479
80.21 (j)(1) through (4) amended 14479
100.120 Removed 27778
100.130 Removed 27778
100.135 Removed 27778
100.140 Removed 27778
100.145 Removed 27778
100.150 Removed 27778
100.160 Removed 27778
101 Technical correction 21074
Authority citation revised 43446
101.9 (c)(7)(ii) and (g)(9) amended 14479
(j)(1)(i) revised; (j)(18) added 40978
101.10 Revised; eff. 5–2–97 40332
101.13 (q)(5) introductory text revised; eff. 5–2–97 40332
101.14 (d)(2)(vii)(B) and (3) introductory text revised; (d)(3)(i) added; eff. 5–2–97 40332
101.17 (c) revised; interim 20100
101.33 Removed 27779
101.36 (f) revised 40979
101.43 (a)(1), (2) and (3) revised; eff. 8–18–97 42759
101.44 (c) revised; eff. 8–18–97 42760
101.45 (c) and (i) amended 14479
Revised; eff. 8–18–97 42760
101.79 (b)(3) corrected 43119, 48529
Clarification 49966
101.80 Added; eff. 1–1–98 43446
101.103 Removed 27779
102.23 (c)(5) amended 14479
103 Removed 27779
103.35 (b), (d)(3)(v) introductory text, (A)(*3*), (E)(*3*), (G)(*3*) and (vi) amended 14479
104.19 Removed 27779
105.67 Removed 27779
Regulation at 61 FR 27779 eff. date confirmed 48963
105.69 Removed 27779
Regulation at 61 FR 27779 eff. date confirmed 48963
106.120 (a) and (b) amended 14479
107.50 (e)(1) and (2) amended 14479
107.240 (b) amended 14479
107.250 Introductory text amended 14479
108.5 (a)(1) amended 14479
108.25 (c)(1) and (2) amended 14479
108.35 (c)(1), (2) introductory text, (ii) and (g) amended 14480
109.5 Removed 27779
109.30 (b) and (d) amended 14480
110.110 (e) amended 14480
114.3 (b) amended 14245
131.135 Effective date note reinstated; CFR correction 48405
131.143 Effective date note reinstated; CFR correction 48405
136 Technical correction 40513
Clarification 46714
136.115 (a)(3) amended 14245
137 Technical correction 40513
Clarification 46714
137.230 Removed 27779
137.235 Removed 27779
137.240 Removed 27779
137.245 Removed 27779
139 Technical correction 40513
Clarification 46714
161.131 Removed 27779
161.132 Removed 27779
161.133 Removed 27779
161.134 Removed 27779
161.135 Removed 27779
161.137 Removed 27779
161.138 Removed 27779
161.139 Removed 27779
161.140 Removed 27779
161.190 (a)(7)(iii) amended 14480
165.110 (a)(2)(iv), (vii), (2), (b)(4)(i)(C), (iii)(E) introductory text, (*2*)(*iii*), (*6*)(*iii*), (*11*)(*iii*) and (F) amended 14480
172 Nomenclature change 14482
Technical correction 27004
172.133 (a)(2) amended 14245
(b)(3) and (4) added; (c)(2) revised 26788
172.210 (b)(3) amended 14245
172.320 (b)(2) and (c)(1) amended 14480
172.345 Removed 27779
172.515 (b) amended 14245
172.804 (c)(23) amended 14480

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Introductory text and (c) revised; (b) amended; (d) removed; (e) and (f) redesignated as (d) and (e) 33656
172.841 (b) amended 14480
173 Nomenclature change 14482
Technical correction 25392, 27004
173.69 Redesignated as 173.300 14245
(a) amended 14480
173.300 Redesignated from 173.69 14245
173.310 (c) table amended 14245
173.315 (a)(2) table amended 46376, 46377
173.325 Added 17829
173.357 (a)(2) amended 14245
175 Nomenclature change 14482
Technical correction 27004
175.105 (c)(5) table amended 42379
175.300 (b)(3)(viii)(*b*) amended 29474
(b)(3)(vii)(*a*) amended 37208
175.320 (b)(3)(i) table amended 14246
176 Nomenclature change 14482
Technical correction 27004
176.170 (b)(2) table amended 14246, 14480
(a)(5) table amended 25394, 37209
176.210 (d)(3) amended 14246
177 Nomenclature change 14482
Technical correction 27004
177.1210 (b)(5) table amended 14480
177.1345 (b)(1) amended 14481
177.1390 (c)(3)(i)(*a*)(*1*) amended 14481
177.1480 (b)(2) amended 14481
177.1500 (c)(5)(i) amended 14481
(a)(15) added; (b) table amended 34371
177.1520 (b) table amended 14246, 14481, 28050, 37210
177.1550 (d)(2)(ii) amended 14481
177.1556 Added 42381
177.1630 (e)(4) amended 46718
177.1637 Added 14965
177.1655 (a) and (b) table revised 29475
177.2450 (b)(2) and (3) amended 14481
177.2600 (c)(4)(i) amended 14246
(c)(4)(ii)(*b*) amended 46544
178 Nomenclature change 14482
Technical correction 27004
178.1010 (b)(45) and (c)(39) added 28053
(b)(46) and (c)(40) added 31397
178.2010 (b) table amended 14246
(b) table amended 46545, 46546
178.3295 Table amended 33847
178.3297 (e) table amended 14246, 48624
(c) amended 14481
178.3725 Added 43157
178.3780 (b)(1) amended 14481
178.3860 (b) table amended 25396
(b) table corrected 42381
179.21 (b)(2)(ii) and (iii) amended 14246
179.41 Added 42383
179.45 (b) introductory text, (5) and (d) amended 14246
180 Heading revised 14246
Nomenclature change 14482
Technical correction 27004
180.22 (b), (e) and (f)(1) amended 14246
181 Nomenclature change 14482
Technical correction 27004
182.10 Table amended 14246
182.1866 Removed 43450
182.5013—182.5997 (Subpart F) Removed 27779
182.5484 Redesignated from 182.8458 14246
182.5697 Heading and (a) amended 14246
182.8458 Redesignated as 182.5484 14246
184.1063 Added 45889
184.1193 (c) amended 14247
184.1259 Heading and (a) revised 36290
184.1311 (a), (b) and (c) revised 40319
184.1372 (a) revised 43450
184.1634 (a) amended 14247
184.1866 Added 43450
186.1025 Removed 27779
189 Nomenclature change 14482
Technical correction 27004, 29650
197 Removed 27779
200.100 Removed 29476
200.101 Removed 29476
201 Comment period extension 38046
201.64 Added 17806
201.320 Added; interim 20100
211 Compliance date extension 37679
250.104 Removed 29476
250.203 Removed 29476
310.101 Removed 29476
310.304 Removed 29477
310.545 (a)(6)(iv)(C) and (d)(25) added; (d) introductory text revised 25142
331 Comment period extension 38046

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331.30 (c)(5) and (f) removed; (c)(6), (7) and (g) redesignated as (c)(5), (6) and (f) 17806
341.70 Added 15703
341.76 (d)(2)(i) and (e) removed; (d)(2)(ii) redesignated as (d)(2) heading 25146
369.21 (d) amended; interim 20101
452.150 Redesignated as 452.150a; new 452.150 added 34726
452.150a Redesignated from 452.150 34726
452.150b Added 34726
500.23 Added 37681
500.24 Added 37681
500.49 Removed 37682
500.50 Added 19544
501.17 (c) revised; interim 20101
505 Removed 37682
507 Removed 37682
508 Removed 37682
508.35 (c)(1), (2) introductory text and (ii) amended 14481
510.120 Removed 37682
510.200 (Subpart C) Removed 37682
510.310 Removed 37682
510.413 Removed 37682
510.515 (b)(7), (17), (25) and (29) removed; (b)(10) and (13) redesignated as (b)(1) and (2); (c) table amended 35950
510.600 (c)(1) table and (2) table amended 15703, 17565, 18672, 21075, 24441, 46547
520 Technical correction 43964
520.500 Removed 34728
520.580 (b)(2) amended 34728
520.620a Removed 34728
520.620b Removed 34728
520.622a (a) amended 34728
520.622b (b)(2) revised 34728
520.905a (d)(2) heading revised; (d)(2)(i)(B) amended 29478
520.905c (d)(2) heading revised; (d)(2)(iii) amended 29478
520.1193 (c)(2) and (3) revised 39868
520.1196 Heading revised; (c)(1)(iii) amended 15186
520.1445 (c)(2) amended 43654
520.1448a (c)(4)(iii) amended 24444
520.1484 (b) revised; (c)(3) amended 31027
(c)(3) amended 31399
520.1485 (b) revised; (d)(3) amended 31398
520.1520 Removed 34728
520.1872 (c)(1)(ii) amended 29651
520.2022 Removed 34728
520.2043 (b)(2) revised 29477
520.2160a Removed 34728
520.2160b Removed 34729
520.2160c Removed 34729
520.2160d Removed 34729
520.2220d (c)(2) amended 46719
520.2325a (b) added; (d) removed; (c), (e) and (f) redesignated as (a), (c) and (d); new (a) revised; new (d) amended 24443
520.2480 Removed 34729
520.2520a (b) amended 34729
520.2520c Removed 34729
520.2520d Removed 34729
522.128 (c)(4) amended 36291
522.147 Added 48830
522.281 Removed 34729
522.313 (d)(3)(ii) revised; (d)(4) and (5) redesignated as (d)(5) and (6); new (d)(4) added 35130
522.314 Added 29479
522.740 Removed 34729
522.955 Added 42383
522.1044 (b), (d)(2)(i) and (3)(i) revised 24441
522.1055 (b) amended 18672
522.1078 (b) amended 37682
522.1182 (a)(4)(i) amended 18672
522.1335 Added 21075
522.1660 (b) and (c)(2)(iii) amended 31028
522.1680 (c)(1)(iii) amended 36291
522.2022 Removed 34729
522.2120 (b) revised; (d)(4) amended 31028
522.2474 Added 25785
522.2477 (c)(3) added 29480
(c)(3) heading and (iii) revised 41499
522.2478 Added 14482
(a) amended 29479
522.2480 Removed 34729
522.2615 (b) amended; (d) removed 29480
522.2662 (b) amended 46548
524.1044b (b) amended 48624
529.810 Removed 34729
529.1044a (b) amended 17830
556.275 (c) added 29478
556.283 Added 42383
556.300 (a) amended 24441
556.430 Revised 31399
556.600 Revised 31028
556.685 Added 24443

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558.55 (d)(2) table amended 35950
558.58 (d)(1) table amended 18082, 35951
558.76 (d)(3)(xiv) added 43451
558.78 (a)(2), (d)(1) table and (2)(ii) amended 18082
558.95 (b)(1)(xiii)(*b*) amended 18082
(b)(4)(iii) added 43655
558.120 (c)(1)(iii)(*b*) amended 18082
558.128 (a) amended 18082
(a), (b) and (c)(1) revised; (c)(2) and (3) removed; (c)(4) and (5) redesignated as (c)(2) and (3) 35952
558.140 Added 35954
558.145 (a)(1) and (2) amended 18082
558.175 (c)(2)(ii) revised 35954
558.185 (a)(1) removed 34729
558.195 (d) table amended 35954
558.258 (c)(2) introductory text and (3) introductory text revised; (c)(2)(iii) and (3)(iii) amended 29478
558.265 (c)(2)(ii) added 21075
(c)(2)(iii) added 24694
558.274 (c)(1) table amended 35955
558.300 (a) revised; (c)(2) through (5) added 32652
558.325 (c)(4)(iii) added 32653
558.340 (a) amended 18082
558.355 (b)(8), (9), (f)(1)(iv)(*b*), (v)(*b*), (xiv)(*b*), (xv)(*b*), (xvi)(*b*) amended; (b)(10) added 18082
(f)(3)(iii)(*b*) and (v)(*b*) amended 24444
(f)(3)(x)(*c*) amended 51003
558.366 (c) table amended 14483
558.367 Removed 34729
558.485 (a)(16) removed 34729
558.515 (a), (d)(1)(iii)(*b*), (iv)(*b*), (v)(*b*) and (vi)(*b*) amended 18082
(d)(1)(iii), (iv) and (v)(*b*) revised 35956
558.530 (d)(2), (3) and (4) redesignated as (d)(4), (5) and (6); (a) and new (d)(4) revised; new (d)(2) and new (3) added; new (d)(6)(i)(*a*) through (*d*) redesignated as (d)(6)(i)(A) through (D) 35956
(d)(5)(xxiv) added 43451
558.550 (b)(1)(vii)(*c*), (ix)(*c*), (xv)(*c*) and (xvi)(*c*) amended 18082
558.555 (b)(2) added 29481
(b)(2)(ii) amended 43451
558.565 Removed 34729
558.582 (a) amended 18082
558.625 (b)(79) amended 17566
(b)(72) removed 34729
558.630 (b)(10) amended 34729
558.635 (b)(1) amended 30133
558.680 (c)(1) table amended 35957
570.22 Removed 37682
573.460 (a) introductory text, (1), (2), (b), (c) introductory text, (1) and (2) redesignated as (a)(1) introductory text, (i), (ii), (2), (3) introductory text, (i) and (ii); new (b) added 15704
582.1666 (b) revised 19544
584.700 Added 43453
589.1001 Added 19544
600.3 (t) revised 24232
601.2 (a) existing text designated as (a) introductory text; new (a) introductory text amended; (a)(1) through (4) and (c) added 24232
601.22 Amended 24233
601.30 Removed 40154
601.31 Removed 40154
601.32 Removed 40154
606.100 (b)(19) added 47422
606.160 (b)(1)(vii) and (viii) added 47422
610.45 (d) added 47423
610.46 Added 47423
610.47 Added 47423
620 Removed 40154
630 Removed 40155
640.110—640.114 (Subpart K) Removed 40155
650 Removed 40155
660.100—660.105 (Subpart K) Removed 40155
680.1—680.3 (Subpart A) Heading removed 40155
680.10—680.16 (Subpart B) Removed 40155
680.20—680.26 (Subpart C) Removed 40155
700.10 Removed 27779
730.3 Amended 14481
740.11 (c) revised; interim 20101
801.63 Added; interim 20101
801.126 Added; eff. 8-28-97 44615
801.403 Removed 37683
801.408 Removed 37683
801.425 Removed; interim 20101
801.427 Removed 37683
801.433 Added; interim 20101

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803 Regulation at 60 FR 63597 eff. date delayed to 7–31–96 16043
803.3 (n)(4) stayed 38347
803.19 (f) and (g) added; eff. 8–28–97 44615
803.55 (b)(9) and (10) stayed 39869
803.57 Stayed 38347
803.58 Stayed 38347
804.25 (c) added; eff. 8–28–97 44615
804.30 Removed 38347
807 Technical correction 47550
807.3 Regulation at 60 FR 63606 eff. date delayed to 7–31–96 16043
(r) stayed 38347
807.20 Regulation at 60 FR 63606 eff. date delayed to 7–31–96 16043
(a)(6) stayed 38347
807.22 Regulation at 60 FR 63606 eff. date delayed to 7–31–96 16043
807.40 Regulation at 60 FR 63606 eff. date delayed to 7–31–96 16043
Stayed 38347
807.65 (j) added; eff. 8–28–97 44615
814.3 (k) and (l) added 15190
(m) and (n) added 33244
814.47 Added 15190
814.100—814.126 (Subpart H) Added 33244
820 Technical correction 47550
820.1 (f) added; eff. 8–28–97 44615
868.5400 (c) revised 50706
870.1350 (c) revised 50706
870.1360 (c) revised 50706
870.3850 (c) revised 50706
870.5300 (c) revised 50706
872.3400 (c) revised 50706
872.3420 (c) revised 50707
872.3480 (c) revised 50707
872.3500 (c) revised 50707
872.3560 (c) revised 50707
872.3820 (c) revised 50707
876 Authority citation revised 50707
876.5220 (c) revised 50707
876.5270 (c) revised 50707
880.5760 (c) revised 50708
882.1825 (c) revised 50708
882.5150 (c) revised 50708
882.5850 (c) revised 50708
884.2620 (c) revised 50708
884.2685 (c) revised 50708
884.4250 (c) revised 50708
884.4270 (c) revised 50708
884.5050 (c) revised 50709
884.5225 (c) revised 50709
888.3120 (c) revised 50709
888.3180 (c) revised 50709
888.3200 (c) revised 50709
888.3210 (c) revised 50709
888.3220 (c) revised 50709
888.3300 (c) revised 50709
888.3310 (c) revised 50710
888.3370 (c) revised 50710
888.3380 (c) revised 50710
888.3480 (c) revised 50710
888.3540 (c) revised 50710
888.3550 (c) revised 50710
888.3570 (c) revised 50710
888.3580 (c) revised 50711
888.3640 (c) revised 50711
888.3680 (c) revised 50711
888.3790 (c) revised 50711
890.3610 (c) revised 50711
897 Added; eff. 8–28–97 44615
897.14 Eff. in part 2–28–97 44616
897.34 Eff. in part 2–28–98 44617
Regulation at 61 FR 44618 eff. date corrected to 8–28–98 47550
1250.51 (d) amended 14481

Chapter II—Drug Enforcement Administration, Department of Justice (Parts 1300—1399)

1309.02 (f) revised 40989
Corrected 41836
(f) corrected 48830
1309.21 Revised 32926
1309.22 (b) revised 32926
1309.28 Added 32926
1309.29 Added 40989
Corrected 48830
1309.71 (a)(2) revised 40989
1310.01 (f)(1)(iv)(A) revised 40989
1310.04 (f) introductory text and (1)(x) revised 40990
Corrected 48830
1310.05 Corrected 17958
1310.06 (b) revised 32926
1310.09 Revised 40990
1310.14 Heading and (a) revised 40990
1310.15 Heading, (a) and (d) revised 40990
1313.02 (d)(1)(iv)(A) revised 40991
1313.23 (c) revised 51004
1313.32 Heading correctly revised 17566

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1316.01—1316.13 (Subpart A) Authority citation correctly revised 17566

Proposed Rules:

1—1299 (Ch. I) 16422, 21392, 26473
1 28116
2 28116
3 28116
5 28116
10 28116
12 28116
20 28116
25 ..... 14922, 19476
56 28116
58 28116
70 ..... 28525, 29701, 48102
71 ..... 14690, 29701, 48102
73 28525
74 28525
80 ..... 28525, 29701, 48102
81 28525
82 28525
101 ..... 16423, 25421, 28525, 29701, 29708, 48102, 50770, 50771
102 19220
106 ..... 36154, 49714
107 ..... 29701, 36154, 48102, 49714
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170 ..... 14690, 29701, 29711, 48102
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174 ..... 29701, 48102
175 ..... 29701, 29711, 48102
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177 ..... 29701, 29711, 48102
178 ..... 28525, 29701, 29711, 48102
182 29711
184 ..... 29701, 29711, 48102
190 50774
200 29502
201 ..... 17807, 28525, 38047, 42826
210 ..... 20104, 39372
211 ..... 20104, 39372
250 29502
310 29502
328 21392
331 ..... 17807, 38047, 42826
343 30002
352 ..... 42398, 48645
500 31468
510 15003
530 25106
589 24253
701 28525
730 ..... 29708, 44013
801 ..... 26140, 32618
803 38348
804 38348
864 30197
880 44013
886 14277
900 ..... 14856, 14870, 14884, 14898, 14908
1250 ..... 29701, 48102
1301 49086
1308 48655

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State (Parts 1—199)

4 Revised 32328
33 Revised 49966
41.2 (l)(2) amended; interim 35629, 39319
50 Authority citation revised 43311
50.1 (g) added 43311
50.2 Amended 43311
50.3 (b) revised 43312
50.5 Introductory text revised 43312
50.7 Revised 43312
50.8 Revised 43312
50.9 Revised 43312
50.20 (a) removed; (b) redesignated as (a) 29652
(a) introductory text, (1) and (2) amended 29653
50.30 (d) added 29652
50.40 Removed; new 50.40 redesignated from 50.41; (a) through

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(d) redesignated as (c), (d), (b) and (e); new (a) added; new (b) revised; new (d) amended 29652
50.41 Redesignated as 50.40 29652
50.42 Removed 29653
50.50 (a) amended 29653
50.51 Removed; new 50.51 redesignated from 50.52 29653
50.52 Redesignated as 50.51 29653
51.1 (h) added 43312
51.21 (b)(6) revised 43312
51.33 Revised 29940
81 Removed 29941
82 Removed 29941
83 Removed 29941
84 Removed 29941
85 Removed 29941
86 Removed 29941
87 Removed 29941
88 Removed 29941
89.1 Revised 29945
92.58 Corrected 14375
92.59 Corrected 14375
120.10 (a)(1) revised 48831
123.22 (d) revised 48831
126.1 (a) amended 19841, 33313, 41738
(a) revised 36625
Amended 41499
128.1 Revised 48831
128.2 Revised 48831
128.3 Revised 48831
128.4 Revised 48832
128.5 (b) and (c) revised 48832
128.6 Revised 48832
128.7 Revised 48832
128.8 Revised 48833
128.9 Revised 48833
128.10 Revised 48833
128.11 Revised 48833
128.12 Revised 48833
128.13 (a), (c), (e) and (f) revised 48833
128.14 Revised 48834
128.15 Revised 48834
128.16 Revised 48834
131.1 Revised 39585

Chapter II—Agency for International Development, International Development Cooperation Agency (Parts 200—299)

212 Revised 43002

Chapter V—United States Information Agency (Parts 500—599)

505 Revised; interim 51004
514 Policy statement 37002
514.20 (d), (i) and (j) revised 15373
(j)(2)(i) stayed; eff. 5-7-96 through 10-4-96 20437
Regulation at 60 FR 15373 confirmed; (d), (i) and (j) revised 29287
514.21 (g) revised 39585

Chapter VI—United States Arms Control and Disarmament Agency (Parts 600—699)

602 Revised 40332
608 Added 36821

Proposed Rules:

171 39927
514 46745
602 27031
603 30009
608 26474
1102 31470

TITLE 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation (Parts 1—999)

230 Authority citation added 14616
230.101—230.121 (Subpart A) Authority citation removed 14616
230.121 (d) removed 14616
230.101—230.121 (Subpart A) Appendixes E and F removed 14616
230.201—230.207 (Subpart B) Authority citation removed 14616
230.301—230.313 (Subpart C) Authority citation removed 14616
230.401—230.415 (Subpart D) Authority citation removed 14616
625 Revised; interim 17566
630 Revised 35632
635.413 Regulation at 60 FR 44274 confirmed 17245
655 Authority citation revised 29626
655.601 (c) and (d) revised; interim 29626
667 Removed 43966
710.401—710.405 (Subpart D) Removed; interim 18247

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712.801—712.805 (Subpart H) Removed; interim 18247
720 Removed; interim 18247
740 Removed; interim 18247
772 Authority citation revised 45321
772.13 (b) revised; interim 45321

Chapter II—National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)

1206 Revised 28747
1215 Heading revised 28749
Authority citation revised 28749
1215.1 Revised 28749
1215.2 Revised 28749
1215.3 Amended 28749
1215.4 Revised 28749
1215.5 Revised 28749
1215.6 Revised 28749
1215.7 Revised 28749
1230 Removed 28751

Chapter III—National Highway Traffic Safety Administration, Department of Transportation (Parts 1300—1399)

1309 Removed 18248

Proposed Rules:

230 17264
655 ..... 29234, 40484
777 30553
1325 16729
1327 16729

TITLE 24—HOUSING AND URBAN DEVELOPMENT

EDITORIAL NOTE: The revision for the 1996 edition of title 24 was delayed until May 1, 1996. The 1996 revision includes amendments promulgated during the period of April 3, 1995 through May 1, 1996. For amendments promulgated during that period, see the April 1996 LSA.

Subtitle A—Office of the Secretary, Department of Housing and Urban Development (Parts 0—99)

0.1 Revised 36251
0.2 Redesignated from 0.735-203 19188
0.3 Redesignated from 0.735-204 19188
0.735-203 Redesignated as 0.2 19188
0.735-204 Redesignated as 0.3 19188
26 Heading revised 50209
26.1—26.26 (Subpart A) Heading revised 50209
26.2—26.5 (Subpart B) Designation removed 50209
26.6—26.8 (Subpart C) Designation removed 50209
26.9—26.16 (Subpart D) Designation removed 50209
26.17—26.21 (Subpart E) Designation removed 50209
26.22—26.24 (Subpart F) Designation removed 50209
26.25—26.26 (Subpart G) Designation removed 50209
26.27—26.54 (Subpart B) Added 50210
27 Revised 48548
28 Revised 50213
29 Removed 48552
30 Revised 50215
50 Revised 50917
60 Authority citation revised 36463
60.101 Revised 36463
60.102 Removed 36463
60.103 Removed 36463
60.107 Removed 36463
60.108 Removed 36463
60.109 Removed 36463
60.110 Removed 36463
60.111 Removed 36463
60.112 Removed 36463
60.113 Removed 36463
60.114 Removed 36463
60.115 Removed 36463
60.116 Removed 36463
60.117 Removed 36463
60.118 Removed 36463
60.119 Removed 36463
60.120 Removed 36463
60.122 Removed 36463
60.123 Removed 36463
60.124 Removed 36463
81 Authority citation revised 50218
81.46 (e)(1) amended 50218

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81.82 (b)(2) amended 50218
81.83 (b)(2) amended; (d)(3) revised 50218
81.84 (b)(2) and (d) revised; (h)(1) and (j)(2) amended 50219
81.85 (c)(1) amended 50219
91.220 (g)(2)(iii) added 48750
91.320 (g)(2)(iii) added 48750
92 Revised 48750
92.600—92.652 (Subpart M) Removed; interim 32295

Chapter I—Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development (Parts 100—199)

103.215 (b) revised; interim 41482
111 Regulation at 61 FR 7675 confirmed 41284
115 Regulation at 61 FR 7675 confirmed; revised 41284
Subchapter A Appendix I removed 41291

Chapter II—Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)

200.243 (a) introductory text amended 50219
200.810 (b) amended 36263
201.1 Amended 19795
201.2 Amended 19795
201.3 Revised 19796
201.10 (a)(1)(iv), (b)(1)(i), (iii), (iv), (2)(i), (ii), (3), (c), (d)(1)(i), (iii), (3), (f)(3), (4) and (5) revised; (a)(2) removed; (a)(3) redesignated as (a)(2) 19796
201.11 (a)(1), (2), (c)(2), (3) and (4) revised; (a)(3) added 19796
201.12 Revised 19797
201.13 Revised 19797
201.17 Revised 19797
201.18 Heading revised 36263
201.20 (a)(2) and (b) revised; (a)(3) removed 19797
201.21 (b)(3) and (5) revised 19797
201.22 (b)(1), (2)(iv) and (c)(1) revised 19797
201.23 Revised 19798
201.24 (a)(1) and (2) revised 19798
201.25 Revised 19798
201.26 (a)(1), (2), (5)(ii), (6)(i), (b)(3)(vi), (vii), (4)(vi), (vii) and (6) introductory text revised; (b)(4)(viii) removed 19798
201.27 (a)(2) amended; (a)(5) revised; (b)(2) removed; (b)(1) redesignated as (b) 19799
201.28 (a) revised 19799
201.32 (a) revised; (b) removed; (c), (d) and (e) redesignated as (b), (c) and (d) 19799
201.40 (b)(3) added 19799
201.52 Amended 19799
201.53 Existing text designated as introductory text amended; (a) and (b) added 19799
201.54 (b)(2) revised 19800
201.55 (a) introductory text, (b) introductory text, (3) and (7) revised 19800
202.3 (j) amended 36263
202.11 Heading revised 36263
Regulation at 61 FR 2651 confirmed 36453
202.12 (k) amended 36263
Regulation at 61 FR 2651 confirmed 36453
202.13 (d) removed; (e) redesignated as (d) 36263
Regulation at 61 FR 2651 confirmed 36453
202.15 Regulation at 61 FR 2651 confirmed 36453
202.17 Regulation at 61 FR 2651 confirmed 36453
203 Authority citation revised 35017
203.3 Regulation at 61 FR 2651 confirmed 36453
203.5 (e) revised 36263
203.17 (b) revised 36263
203.18 (a)(1)(ii) amended; (i) added 36263
203.19 (c) removed 36263
203.22 (a) revised 36263
203.24 (a)(1) revised 36263
203.30 (d) added 36264
203.36 Removed 36264
203.38 Revised 36264
203.40 Amended 36264
203.42 (a) revised 36264
203.43 (c)(3) revised 36264
203.43b Removed 36264
203.43f (b) amended 36264

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203.43h Introductory text, (b) and (g)(3) revised 36264
203.43i (a) revised 36264
203.44 Revised 36264
203.49 Introductory text and (a) amended 36264
203.51 (2) amended 36453
203.204 (a) revised; (g) amended 36264
203.251 (s) revised 36265
203.255 (b)(2) revised 36265
203.258 (c)(2) amended 36453
203.259a (a)(2)(ii)(B) amended 36453
203.262 Revised 37801
203.263 Removed 37801
203.264 Revised 37801
Correctly revised 42787
203.265 (b) amended 36265
(a) revised 37801
203.268 (a) revised 37801
203.281 (b)(1) revised 36265
203.284 (a)(1), (b)(1)(i), (2)(i) and (e) amended 36265
(d) and (e) removed; (f) revised 37801
203.285 (c) amended 36265
(c) revised 37801
203.342 Revised; interim 35017
203.346 Amended 36265
203.350 Second undesignated center heading removed; interim 35017
Second 203.350 removed; interim 35017
203.355 (a) introductory text, (2), (b), (c) introductory text and (g) introductory text revised; (a)(3) through (6) and (h) added; interim 35018
203.356 Revised 36265
203.359 (b) introductory text amended 36453
203.363 (b) heading amended 36453
203.366 (b)(1) amended 36453
203.368 (a)(1)(ii) amended 36453
203.369 (a)(1) and (b) amended 36453
203.370 (c)(3) removed; (c)(4) and (5) redesignated as (c)(3) and (4); interim 35018
203.371 Added; interim 35018
203.378 (c)(1) revised 36265
(c)(3) amended 36453
203.379 (a) introductory text and (b) introductory text revised 36265
(b) amended 36453
203.380 (a)(1)(i) revised 36265
(a)(1)(iii) amended 36453
203.390 (b)(1) revised 36265
203.402 (f), (p) and (s) revised; interim 35018
(b), (c) and (k)(1) revised 36266
(g)(1) heading and (2) heading amended 36453
203.402a (b)(1) removed; (b)(2) and (3) redesignated as (b)(1) and (2); interim 35019
203.404 (a)(3) revised; (a)(5) and (6) added; interim 35019
203.412 Added; interim 35019
203.414 Added; interim 35019
203.423 (a)(1) amended 36453
203.436 Undesignated center heading added 36266
203.438 (c) revised; interim 35019
203.471 Revised; interim 35019
203.473 (a) revised; interim 35019
203.500 Revised; interim 35019
203.501 Amended; interim 35019
203.502 (a) amended; (b) revised 36266
203.552 (a) introductory text revised; interim 35019
203.604 (e)(2)(iii) and (iv) removed; (e)(2)(v) redesignated as (e)(2)(iii); interim 35019
(b) amended 36266
203.605 Added; interim 35019
203.606 (a) amended; (b) introductory text revised; interim 35020
203.614 Revised; interim 35020
203.616 Revised; interim 35020
203.640 Removed; interim 35020
203.641 Removed; interim 35020
203.642 Removed; interim 35020
203.643 Removed; interim 35020
203.644 Removed; interim 35020
203.645 Removed; interim 35020
203.646 Removed; interim 35020
203.647 Removed; interim 35020
203.648 Removed; interim 35020
203.649 Removed; interim 35020
203.650 Removed; interim 35020
203.651 Removed; interim 35020
203.652 Removed; interim 35020
203.653 Removed; interim 35020
203.654 Removed; interim 35020
203.656 Removed; interim 35020
203.658 Removed; interim 35020
203.659 Removed; interim 35020
203.660 Removed; interim 35020
203.664 Revised; interim 35020

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203.665 Revised; interim 35020
203.666 (b) revised; (c) and (d) removed; interim 35020
203.670 (a) revised 36266
203.679 (b)(4) revised 36266
203.685 Removed 36266
206.1 Revised 49032
206.3 Amended 36266, 49032
206.8 Added 49033
206.9 (b) heading revised 36266
(a) revised 49033
206.13 Removed 36266
206.17 (a) revised 36266
206.19 (c) revised 49033
206.25 (d) revised 49033
206.26 (d) revised 49033
206.27 (c)(1) and (d) revised 49033
206.33 Revised 49033
206.35 Amended 49033
206.41 (b) revised 49033
206.43 Removed 49033
206.45 (b) amended 36266
206.47 (e) added 49033
206.51 Revised 26984
206.115 Removed 49033
206.117 Revised 49033
206.119 Removed 49034
206.121 (c) amended 36266
(b) and (c) amended 49034
206.125 (d)(3) revised 49034
206.129 (d)(2)(i) and (ii) revised; interim 35020
206.133 (f) revised 49034
206.209 Revised 49034
207.258b (e) added 49037
207.259 (b)(2)(v) added 49038
221 Authority citation revised 37801
Technical correction 42786
221.45 Revised 36266
221.70 (a)(2) amended 36453
221.251 (a) amended 37801
233 Authority citation revised 36266
233.5 (a) introductory text and (b) revised 36267
234.1 (n) revised 36267
234.11 Added 36267
234.16 (d) added 36267
234.25 (b) revised 36267
234.26 (i) added 26984
234.52 (c) revised 36267
234.54 Added 36267
234.67 Removed 36267
234.70—234.79 Undesignated center heading removed 36267
234.70 Revised 36267
234.85 (a)(2) amended 36453
247 Authority citation revised 47381
247.2 Amended 47382
247.3 (a)(2) and (b) amended; (a)(3) redesignated as (a)(4); new (a)(3) added 47382
247.4 (c) amended 47382
251.3 Revised 49038
251.4 Removed 49038
251.5 Removed 49038
252.3 Revised 49038
252.4 Removed 49038
252.5 Removed 49038
255.3 Revised 49038
255.4 Removed 49038
255.5 Removed 49038
280.1—280.5 (Subpart A) Heading removed 42953
280.1 (a) revised 42953
280.5 Amended 42953
280.10 Redesignated from 280.100 and revised 42953
280.15 Redesignated from 280.103 42953
280.20 Redesignated from 280.115 42953
280.25 Redesignated from 280.207 42953
280.30 Redesignated from 280.303 42953
280.35 Redesignated from 280.305; introductory text revised 42953
280.40 Redesignated from 280.315 42953
280.45 Redesignated from 280.320; (a)(2) and (b)(2) revised 42953
280.50 Redesignated from 280.322 42953
(a)(4) and (6) revised 42954
280.55 Redesignated from 280.330 42954
280.60 Redesignated from 280.335 42954
280.100—280.103 (Subpart B) Heading removed 42953
280.100 Redesignated as 280.10 42953
280.103 Redesignated as 280.15 42953
280.105—280.115 (Subpart C) Heading removed 42953
280.105 Removed 42953
280.110 Removed 42953
280.115 Redesignated as 280.20 42953
280.200—280.225 (Subpart D) Heading removed 42953
280.200 Removed 42953
280.205 Removed 42953
280.207 Redesignated as 280.25 42953

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280.210 Removed 42953
280.215 Removed 42953
280.220 Removed 42953
280.225 Removed 42953
280.300 Removed 42953
280.303 Redesignated as 280.30 42953
280.305 Redesignated as 280.35 42953
280.315 Redesignated as 280.40 42953
280.320 Redesignated as 280.45 42953
280.322 Redesignated as 280.50 42953
280.330 Heading and (c)(2) revised 36267
Redesignated as 280.55 42954
280.335 Redesignated as 280.60 42954
290 Heading and authority citation revised 32265
290.30 Second (c)(2) removed 19188
(a) amended 32265
290.37 (b) revised 32265
290.39 (c)(2) revised 32265
291.100 (a)(3) amended; (a)(4) introductory text revised 36267
291.105 (e) and (h)(2) amended 36267
291.110 (b)(1) amended 36268
291.115 (b)(2) revised 36268
291.300—291.307 (Subpart D) Regulation at 60 FR 45333 eff. date extended 43966

Chapter V—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)

570.405 (e)(4) revised (OMB number pending) 32269
570.415 (c)(1)(i)(C), (d)(2)(i)(D) and (k)(3)(iii) removed; (d)(2)(i)(E) through (I) and (k)(3)(iv) redesignated as (d)(2)(i)(D) through (H) and (k)(3)(iii); (a), (b), (c)(1)(i)(A), (B), (2), (d)(1)(i)(A), (B), (ii), (iii), (2)(i)(A), new (E), (f)(1), (2)(1), (g)(i)(ii), (iii), (2)(ii), (3)(i), (ii), (i)(1)(iii), (2) and (k)(3)(ii) revised 36456
570.430 (f) added (OMB number pending) 32269
570.507 (a)(2) heading revised 32269
572.1 (a) designation, heading and (b) removed 48797
572.5 Regulation at 60 FR 36018 confirmed; amended 48797
572.110 (b)(1) amended 48797
572.115 (a)(2) revised 48797
572.120 Regulation at 60 FR 36018 confirmed 48797
572.130 (d)(3) and (4) amended 48798
572.135 Regulation at 60 FR 36018 confirmed 48797
572.140 Revised 48798
572.200 Revised 48798
572.205 Revised 48798
572.210 Regulation at 60 FR 36018 confirmed 48797
(a) and (f) revised; (e) removed 48798
572.220 Regulation at 60 FR 36018 confirmed 48797
(a)(1) and (b)(1)(ii)(C) revised; (a)(3) added; (b)(2)(i) and (ii) amended 48798
572.315 Revised 48798
572.420 (b) and (h) revised; (c) and (d) removed 48798
573 Added 47405
573.6 OMB number pending 47406
573.7 OMB number pending 47406
573.8 OMB number pending 47407
573.11 OMB number pending 47408
582 Authority citation revised 51169
582.1 (a) amended; (b) revised 51169
582.5 Revised 51169
582.105 (a) and (d)(2) amended 51170
582.120 Regulation at 59 FR 24253 confirmed 48056
582.200 Regulation at 59 FR 24253 confirmed 48056
Revised (OMB number) 51170
582.205 Regulation at 59 FR 24254 confirmed 48056
582.210 Regulation at 59 FR 24254 confirmed 48056
582.215 Regulation at 59 FR 24254 confirmed 48056
582.220 Regulation at 59 FR 24254 confirmed 48056
582.225 Regulation at 59 FR 24254 confirmed 48056
582.230 Revised 51170
582.300 (a)(1) amended 51171
582.305 (a) amended 51171
582.310 (a) revised 51171
582.340 (a)(1) and (b)(2)(i) revised; (b)(2), (3) introductory text and (iv) amended 51171
583.1 (a) amended 51175
583.5 Revised 51175
583.125 (b) revised 51175
583.135 (b) revised 51175

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583.200 Revised 51176
583.230 Revised 51176
583.300 (f) revised 51176
583.305 Revised 51176
583.325 (b) revised 51176
583.405 (a)(1) amended 51176
585.305 (m)(1) and (2) added; interim 25125
586.1 Regulation at 60 FR 42975 eff. date extended 45322
586.5 Regulation at 60 FR 42975 eff. date extended 45322
586.10 Regulation at 60 FR 42976 eff. date extended 45322
586.15 Regulation at 60 FR 42976 eff. date extended 45322
586.20 Regulation at 60 FR 42977 eff. date extended 45322
586.25 Regulation at 60 FR 42978 eff. date extended 45322
586.30 Regulation at 60 FR 42978 eff. date extended 45322
586.35 Regulation at 60 FR 42978 eff. date extended 45322
586.40 Regulation at 60 FR 42979 eff. date extended 45322
586.45 Regulation at 60 FR 42980 eff. date extended 45322
586.50 Removed; interim 45321

Chapter VII—Office of the Secretary, Department of Housing and Urban Development (Housing Assistance Programs and Public and Indian Housing Programs) (Parts 700—799)

700 Revised 42943, 42949

Chapter VIII—Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Section 202 Direct Loan Program) (Parts 800—899)

880.201 Amended 47382
880.607 (b)(1)(ii), (2) and (c)(2) amended; (b)(1)(iii) redesignated as (b)(1)(iv); new (b)(1)(iii) added 47382
882.406 Revised (OMB number) 48056
882.801—882.810 (Subpart H) Revised 48057
882.802 Regulations at 58 FR 13831 and 61 FR 5851 confirmed 48056
882.803 Regulations at 58 FR 13831 and 61 FR 5851 confirmed 48056
882.804 Regulations at 58 FR 13831 and 61 FR 5851 confirmed 48056
882.805 Regulations at 58 FR 13831, 59 FR 24255 and 61 FR 5851 confirmed 48056
882.806 Regulation at 58 FR 13833 confirmed 48056
882.808 Regulations at 58 FR 13833 and 61 FR 5852 confirmed 48056
884.102 Amended 47382
884.216 Existing text designated as (a); (b) added 47382
888 Fair market rent schedules 49576

Chapter IX—Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—999)

901.10 (b)(4) revised 35634
913.106 (d) and (e) redesignated as (e) and (f); new (d) added; interim 46346
941 Comment period extention 35958
941.101 Revised (OMB number pending); interim 38016
941.102 Revised; interim 38016
941.103 Amended; interim 38017
941.201 (a) amended; (c) redesignated as (d); new (c) added; interim 38017
941.202 (c)(3) added 19714
(c) introductory text, (1) introductory text, (i), (ii) and (2) redesignated as (c)(1) introductory text, (i) introductory text, (A), (B) and (ii); new (c)(2) added; (c)(3) removed; (f) amended; interim 38017
941.203 Revised; interim 38017
941.204 Removed; interim 38018
941.205 Revised (OMB number pending); interim 38018

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941.206 Removed; interim 38018
941.208 Revised; interim 38018
941.301—941.306 (Subpart C) Revised; interim 38018
941.301 OMB number pending 38018
941.303 OMB number pending 38018
941.304 OMB number pending 38018
941.401—941.404 (Subpart D) Revised; interim 38020
941.404 OMB number pending 38021
941.501 (Subpart E) Revised; interim 38021
941.600—941.616 (Subpart F) Added 19714
941.602 (a) revised; interim 38022
941.606 OMB number pending 19715
941.610 OMB number pending 19716
950.102 Amended; interim 46346
950.190 (e) amended 50219
950.705 (c) added; interim 51182
950.715 (b)(2) amended; interim 51182
950.720 (e) redesignated as (e)(1); (e)(2) added; interim 51182
950.725 (b)(1) redesignated as (b)(1)(i); (b)(1)(ii) added; (b)(2) revised (OMB number pending); interim 51182
950.730 (c)(1)(i) amended; interim 51182
950.756 Added (OMB number pending); interim 51182
950.757 Added (OMB number pending); interim 51182
953 Revised 40090
954 Added; interim 32295
965.205 (e) amended 50219
970.2 (a)(9) and (10) amended; (a)(11) and (12) added 19719
982.54 (d)(1), (15) and (16) amended; (d)(17), (18) and (19) added 27163
982.158 (d) revised 27163
982.202 (a) heading revised; (b)(2) amended 27163
982.205 Heading and (a)(1) revised 27163
982.301 (b)(4) removed; (b)(5) through (17) redesignated as (b)(4) through (16); new (b)(10) amended 27163
982.307 (b)(1)(i) amended 27163
982.353 (b) amended 27163
(a) and (f) revised 42131
982.355 (b)(2) and (e)(4) revised; (b)(3) added; (e)(3) and (5) amended 27163
982.401 (j)(3)(iv)(B) revised 27163
982.451 (c)(5) added 27163
982.551 (h)(2) amended 27163
983.203 (a)(5) amended 27163
990.104 (c) added; interim 51183
990.107 (b)(2) amended; interim 51183
990.108 (d) redesignated as (d)(1); (d)(2) added; interim 51183
990.109 (b)(1) redesignated as (b)(1)(i); (b)(1)(ii) added; (b)(2) revised (OMB number pending); interim 51183
990.110 (c)(1) amended; interim 51183
990.114 Added (OMB number pending); interim 51183
990.116 Added (OMB number pending); interim 51183

Chapter XX—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200—3899)

3282 Authority citation revised 50219
3282.10 Amended 50219
3500 Policy statement 29254, 29258, 29264, 49398
Authority citation revised 46510, 50219
3500.2 (b) amended 29252
3500.8 (c)(2) amended 29252
3500.14 (b) amended; (g) heading and (1) amended 29252
3500.15 (b)(1) introductory text revised 29252
3500.17 (b), (c)(1)(i) and (d)(1)(ii) amended 29252
(b) and (c)(4)(i) amended 46510
(m) revised; (n)(1) and (4)(iii) amended 50219
3500 Appendix B amended 29253
Appendix D revised 29254
Appendix D correctly revised 41944

Proposed Rules:

0 30013
10 42722
35 29170
36 29170

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TITLE 24 *Proposed Rules:—Con.*

37 29170
206 21918
570 50654
888 20982
900—999 (Ch. IX) 39812, 42939
901 50358
3500 ..... 21394, 46511

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior (Parts 1—299)

10 Added 34374
63 Added 32274
63.15 OMB number pending 32274
63.33 OMB number pending 32274
63.34 OMB number pending 32274
65 Removed 27780
66 Removed 27780
76 Removed 27780
151.12 Existing text designated as (a); (b) added 18083
211 Revised 35653
212 Revised 35661
271 Removed 49060
272 Removed 49060
274 Removed 49060
277 Removed 49060
278 Removed 49060

Chapter IV—Office of Navajo and Hopi Indian Relocation (Parts 700—799)

700.801—700.839 (Subpart R) Added; interim 35667

Chapter V—Bureau of Indian Affairs, Department of the Interior, and Indian Health Service, Department of Health and Human Services (Parts 900—999)

Chapter V Established 32501

Chapter VI—Office of the Assistant Secretary—Indian Affairs, Department of the Interior (Parts 1000—1099)

1001.7 Added 17831
1001.8 Added 17832
1001.9 Added 17832
1001.10 Added 17832

Proposed Rules:

1—299 (Ch. I) 17857, 18100
1 27821
2 31875
5 36671
11 35158
12 35163
21 33876
45 34399
92 39606
142 31470
144 24731
150 27822
152 34400
154 30559
161 29327
162 30560
166 27824
169 37417
171 35167
175 29040
214 41365
215 44019
217 27831
250 19600
256 36829
271 27833
272 27833
274 27833
277 27833
278 27833
290 ..... 29044, 37022
291 25604
525 21394

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury (Parts 1—799)

1 Authority citation amended 17573, 18676, 19189, 27259, 30138, 33314, 33322, 42169
Authority citation revised 33336
Authority citation corrected 39072, 40993, 47821
1.62–2 (h)(1) amended 27005
1.132–5 (s) and (t) added 27006
1.163–7 (a) amended 30138
1.166–3T Added 32654
1.168(h)–1 Added 18676
1.168(i)–2 Added 18677
1.274–1 Amended 27006

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1.274–2 Heading, (f)(2)(i) heading and (iii) revised; (c)(6) amended; (g) added 27006
1.351–1 (a)(3) added 19189
(c)(6) redesignated as (c)(7); new (c)(6) added 19544
1.367(e)–0 Removed 42169
1.367(e)–0T Added 42169
1.367(e)–1 Removed 42169
1.367(e)–1T Added 42169
1.382–1 Amended 33314
1.382–2 (a)(1)(iv) added; (f)(18)(i) redesignated as (a)(3)(i); (a)(1)(iii) and new (3)(i) amended 33315
1.382–2T (e)(2)(iv) Example 1, 2, (f)(4), (5), (18)(i) and (h)(2)(i)(A) amended; (f)(1) redesignated as (f)(1)(i); new (f)(1)(i) heading, (ii) and (iii) added 33315
1.382–5T Added 33316
1.382–8T Added 33316
1.401(a)–4 Amended 14247
1.446–4 (a)(2)(ii) and (iii) redesignated as (a)(2)(iii) and (iv); new (a)(2)(ii) added; (e)(4) amended 30138
1.469–1 (h)(2) amended 33322
1.469–5T (d)(A) and (B) redesignated as (d)(1) and (2) 14247
1.482–0 Amended 21956
1.482–7 (c)(2) and (3) removed; (c)(4), (5), (j)(2) introductory text and (i) through (v) redesignated as (c)(2), (3) and (j)(2)(i) introductory text and (A) thorugh (E); (c)(1)(i), new (2)(ii) and (f)(3)(iii)(E) Example 8 revised; (c)(1)(iv), new (j)(2)(i) heading and (ii) added; (f)(3)(ii) and new (j)(2)(i) amended 21956
Corrected 33656
1.483–2T Removed 30138
1.483–4 Added 30138
1.584–2 (b)(1) and (2) designation removed 19546
1.584–4 (a)(1) and (2) removed; (a) amended; (e) added 19546
(a) corrected 39072
1.597–2 (c)(5) amended 33322
1.597–4 (g)(3) amended 33322, 33323
1.671–4 (a) amended 19191
1.677(a)–1 (d) amended 19191
1.721–1 (c) added 19189
1.882–0 Corrected 15891
1.882–5 (a)(6), (8) *Example 1*, (b)(3), (c)(2)(i) and (d)(6) corrected 15891
1.884–1 (e)(5) *Example 1* corrected 14247
1.884–5 (e)(4)(ii) corrected 14248
1.897–1 (f)(1)(iii) corrected 14248
1.904(f)–3 (a) and (b) amended 33323
1.936–6 (b)(1) amended 21367
(b)(1) corrected 39072
1.1001–1 (g) revised 30139
1.1001–3 Added 32930
(g) Example 5 corrected 47822
1.1001–4T Added 32654
1.1012–1 (g) revised 30139
1.1271–0 (b) amended 30139
1.1272–1 (b)(2)(ii), (c) and (d) revised; (f)(2) and (j) Examples 5 and 7 amended 30140
1.1273–1 (a) amended; (c)(1)(ii) and (f) Example 4 revised 30141
1.1274–2 (e) amended; (g) revised; (j) added 30141
1.1275–2 (g), (h) and (j) added 30142
1.1275–2T Removed 30143
1.1275–3 (b)(1)(i) revised 30143
1.1275–4 Added 30143
1.1275–5 (a)(1), (b)(2), (c)(1), (5), (d) introductory text, Examples 4 through 9, (e)(2) and (3)(v) introductory text revised; (a)(3)(i) introductory text, (ii), (c)(3)(ii) and (e)(3)(v) Example 3 amended; (a)(5), (6) and (d) Example 10 added 30153
1.1275–6 Added 30155
1.1341 (f)(2)(i) amended 33323
1.1394–0 Added 27259
1.1394–1 Added 27259
1.1501–1 Removed 33325
1.1502–0 Revised 33325
1.1502–0A Removed 33325
1.1502–1 (b), (f)(1) and (2) introductory text revised; (f)(4) and (j) added 33325
1.1502–1A Removed 33325
1.1502–2 (h) revised 33326
1.1502–2A Removed 33325
1.1502–3A Removed 33325
1.1502–9 (a) and (f) Example 5 33323
1.1502–10A Removed 33325
1.1502–11 (a)(2), (3), (4) and (b)(2)(iii) Examples 1, 2 and 3 33323

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(c) redesignated from 1.1502–15(b); new (c) heading added 33326
1.1502–11A Removed 33325
1.1502–12 (b) amended 33323
1.1502–12A Removed 33325
1.1502–13 (c)(7)(ii) Example 10, (g)(5) Example 4 and (h)(2) Examples 1 and 2 33323
1.1502–13A Removed 33325
1.1502–14A Removed 33325
1.1502–15 (a)(1) and (3) amended 33323
(b) redesignated as 1.1502–11(c); redesignated as 1.1502–15A 33326
1.1502–15A Removed 33325
Redesignated from 1.1502–15; heading revised; (b) added 33326
1.1502–15T Added 33326
1.1502–16A Removed 33325
1.1502–17A Removed 33325
1.1502–18 (f)(1)(ii), (iii), (2)(i), (ii), (4) Example and (5) 33323
1.1502–18A Removed 33325
1.1502–19A Removed 33325
1.1502–20 (a)(1), (c)(4) Example 7 and (g)(3) Examples 1 and 2 amended 33323
1.1502–21 (b)(1), (2)(i) and (e)(1)(i) amended 33323
Redesignated as 1.1502–21A 33326
1.1502–21A Redesignated from 1.1502–21; heading revised; (d)(4), (e)(3) and (h) added 33328
1.1502–21T Added 33328
1.1502–22 (a)(1)(ii), (3) and (b)(1) amended 33323
Redesignated as 1.1502–22A 33333
1.1502–22A Redesignated from 1.1502–22; heading revised; (d)(3) and (e) added 33333
1.1502–22T Added 33333
1.1502–23 Amended 33323
Redesignated as 1.1502–23A 33334
1.1502–23A Redesignated from 1.1502–23; heading revised; existing text redesignated as (a); (b) added 33334
1.1502–23T Added 33334
1.1502–26 (a)(1)(ii) amended 33323
1.1502–30A Removed 33325
1.1502–31A Removed 33325
1.1502–32 (b)(5) Example 2 amended 33323
1.1502–32A Removed 33325
1.1502–33A Removed 33325
1.1502–34A Removed 33325
1.1502–35A Removed 33325
1.1502–36A Removed 33325
1.1502–37A Removed 33325
1.1502–38A Removed 33325
1.1502–39A Removed 33325
1.1502–40A Removed 33325
1.1502–41 (a) and (b) amended 33323
Redesignated as 1.1502–41A 33334
1.1502–41A Removed 33325
Redesignated from 1.1502–41; heading revised; (c) added 33334
1.1502–42 (f)(4)(i)(A) and (j) Example 4 33324
1.1502–42A Removed 33325
1.1502–43 (b)(2)(v) through (viii) amended 33324
1.1502–43A Removed 33325
1.1502–44 (b)(2) and (3) amended 33324
1.1502–44A Removed 33325
1.1502–45A Removed 33325
1.1502–46A Removed 33325
1.1502–47 (h)(2)(i) through (iv), (vii) Example, (3)(iii), (iv), (v), (4)(i), (ii), (iii), (k)(5), (l)(3)(i), (m)(2)(ii), (3)(i), (vi)(A), (vii), (ix), (5) Example 4, (o)(2)(i), (ii) and (q) amended 33324
1.1502–47A Removed 33325
1.1502–48A Removed 33325
1.1502–49A Removed 33325
1.1502–50A Removed 33325
1.1502–51A Removed 33325
1.1502–78 (a) amended 33324
1.1502–79 (a)(1)(i) and (b)(1) amended 33324
(c)(1), (d)(1) and (e)(1) amended 33325
(a) and (b) redesignated as 1.1502–79A(a) and (b); new (a) and new (b) added 33334
1.1502–79A Added; (a) and (b) redesignated from 1.1502–79A(a) and (b) 33334
1.1502–80 (c) amended 33325
1.1502–90T Added 33336
1.1502–91T Added 33337
1.1502–92T Added 33341
1.1502–93T Added 33351
1.1502–94T Added 33352
1.1502–95T Added 33355
1.1502–96T Added 33362
1.1502–98T Added 33364
1.1502–99T Added 33364

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1.1502–100 (c)(2) amended 33325
1.1503–2 (d)(2)(i), (ii), (4) Examples 1 and 2, (g)(2)(vii)(B)(1), (2), (E), (G) Examples 1 and 2 and (h)(3) amended 33325
1.1503–2A (f)(1)(i) introductory text, (C), (2)(i), (ii) and (4) Example 2 amended 33325
1.1552–1 (a)(3)(i) and (b)(1) amended 33325
1.6038B–1T (b)(2)(i) amended; (e) added 42177
1.6045–2T Removed 46720
1.6049–4 (b)(1), (2) introductory text, (3), (4) amended; (b)(5) added; authority citation removed 17573
1.6049–5 (b)(1) introductory text revised; (c) amended; authority citation removed 17573
1.6049–6 (e)(4) redesignated as (e)(5); new (e)(4) revised 17574
(e)(4) corrected 40993
1.6049–8 Added 17574
1.6662–0 Corrected 14248
1.6662–5T (e)(4)(iii) corrected 14248
1.6662–6 (d)(2)(iii)(A), (D) and (e) *Example* corrected 14248
26.2601–1 (b)(1)(v)(D) Examples 2, 4, 5, (4)(i) and (c) corrected; (b)(3)(iii) introductory text, (A) introductory text, (*1*), (*2*), (B) and (C) correctly designated as (b)(3)(iii)(A) introductory text, (*1*) introductory text, (*i*), (*ii*), (*2*) and (*3*); new (b)(3)(iii)(A)(*3*) and (B) correctly added 29653
(b)(3)(iii)(B) amended 43656
26.2612–1 (a)(2)(ii) and (b)(1)(i) corrected 29653
26.2632–1 (d)(1) corrected 29654
26.2642–2 (b)(3)(ii)(B) corrected 29654
26.2642–4 (a)(3) and (b) Example 5 corrected 29654
26.2642–5 (b)(1) amended 43656
26.2652–1 (a)(2) and (6) Examples 1 and 5 corrected 29654
26.2654–1 (a)(1)(ii)(A), (5) Examples 5, 8, (b)(1)(ii)(A) and (ii)(C)(*1*) corrected 29654
(a)(1)(ii)(B) revised 43656
26.2662–1 (c)(2)(vi) Example 1 corrected 29654
26.2663–2 (c)(2), (d) Example 3 and (e) corrected 29654
31 Authority citation amended 27008
Technical correction 40993
31.3406(g)–1 (d) added 17574
31.6011(a)–4 (b) amended 27008
31.6011(a)–4T Removed 27008
48.4101–1 (f)(3)(ii)(D) corrected 28053
301 Authority citation amended 26790, 33367
301.6109–1 (a)(1), (b), (c), (d)(2), (f), (g) and (h) revised; (d)(3) and (4) added 26790
(d)(3)(iv)(A)(*1*) correctly revised; (h)(1) corrected 33657
301.6231(a)(7)–1 Redesignated as 301.6231(a)(7)–1T 37683
301.6231(a)(7)–1T Redesignated from 301.6231(a)(7)–1 37683
301.6402–7 (g)(2)(iii), (3) Example 2 and (h)(1)(ii) Example amended 33325
301.7503–1 (a) amended; (b) revised; (c) removed 42179
301.7701–4(e) Added 19191
301.9100–1T Added 33367
301.9100–2T Added 33368
301.9100–3T Added 33368
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602.101 (c) table corrected (OMB numbers) 14248
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1 Revised 26097
1.3 (b) removed; (c) redesignated as (b); new (b) revised 20723
2 Removed 26097
3 Removed 26097
4.3 (b) removed; (c) redesignated as (b) 20723
4.21 (g)(1) amended.....20723
5.3 (b) removed; (c) redesignated as (b) 20723
7.3 (b) removed; (c) redesignated as (b) 20723
9.84 (c) revised 29953
9.152 Added 29952
16.22 (d) removed 20723
17 Added 31412
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18.14 OMB number 37003
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19.57 Undesignated center heading and section added.....31425
19.58 Added 31425
19.61 (b) removed; (c) redesignated as (b); new (b) revised 20724
19.69 Removed.....31426
19.534 Revised 20724
19.581 (a) amended 20724
19.592 Amended.....20724
19.780 (c)(4) and (5) revised.....31426
20.21 (b) removed; (c) redesignated as (b).....20724
21.2 (b) removed; (c) redesignated as (b) 20724
22.21 (b) removed; (c) redesignated as (b).....20724
24.20 (b) removed; (c) redesignated as (b).....20724
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24.246 (b) table amended 21079
24.248 Amended.....21079
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25.3 (b) removed; (c) redesignated as (b) 20724
25.221 (a) amended 20724
30 Authority citation revised 37003
30.22 Amended 37003
30.23 Amended 37004
30.24 (a) amended.....37004
30.32 (c) amended 37004
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47 Policy statement.....18678
53.3 Revised 37005
53.21 (b) removed; (c) and (d) redesignated as (b) and (c).....20724
53.103 Heading amended.....20724
53.131 (a)(5) amended.....37005
53.132 (c)(2)(i) revised; (c)(2)(iii) added 37005
53.133 (b) introductory text amended 20724
(d)(2) revised; (d)(4) added.....37006
53.134 (d)(2)(iii) revised; (d)(2)(iv) added 37006
53.135 (c)(1) revised; (c)(3) added 37006
53.179 (b)(1)(iii) revised; (b)(1)(iv) added 37006
55 Authority citation revised 38085
55.11 Amended 38085
55.21 (b) removed; (c) redesignated as (b).....20724
55.181 (Subpart J) Added.....38085

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70 Authority citation revised 31030, 31426
70.1 (e) and (f) added 29955
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70.2 Added 31031
70.11 Amended 29955
70.321 (a) amended 31426
70.411 (c)(2) revised 31031
(c)(2)(v) and (vii) removed; (c)(2)(vi) redesignated as (c)(2)(v); new (c)(2)(vi) added; (c)(17) amended 31426
70.414 (a) and (g) revised 31031
(j) revised 31426
70.501—70.509 (Subpart F) Added 31031
70.601—70.610 (Subpart G) Added 31033
70.701—70.702 (Subpart H) Heading added 29955
70.701 Redesignated from 71.41; (a)(1), (d)(1) and (2)(i)(B) amended 29955
70.702 Redesignated from 71.42; (a) amended 29955
70.801—70.803 (Subpart I) Heading added 29955
70.801 Added 29955
70.802 Redesignated from 71.26 29955
(a), (d), (f) and (g) amended 29956
70.803 Redesignated from 71.27 29955
71 Removed 29956
71.26 Redesignated as 70.802 29955
71.27 Redesignated as 70.803 29955
71.41 Redesignated as 70.701 29955
71.42 (c)(1) removed; (c)(2) redesignated as (c) 20724
Redesignated as 70.702 29955
170 Authority citation revised 31035, 31426
170.21—170.28 (Subpart B) Removed 20724
170.60—170.79 (Subpart D) Removed 20724
170.85—170.100 (Subpart E) Removed 31035
170.101—170.119 (Subpart F) Removed 20724
170.301—170.311 (Subpart O) Removed 31035
170.611—170.618 (Subpart U) Removed 31426
178.21 (b) removed; (c) redesignated as (b) 20724
178.40a (b)(1) amended 39321
178.57 (c) amended 39321
178.92 (c)(1) introductory text and (iii) amended 39321
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179.21 (b) removed; (c) redesignated as (b) 20725
194 Authority citation revised 31426
194.33 (b) revised 31426
194.41 (b) removed; (c) redesignated as (b) 20725
194.191 (a) amended 31426
197 Removed 31426
197.2 (b) removed; (c) redesignated as (b); new (b) revised 20725
200.3 (b) removed; (c) redesignated as (b); new (b) revised 20725
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200.105 Amended 29957
200.106 Amended 29957
200.107—200.110 Undesignated center heading amended 29957

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200.108 Amended 29957
200.109 Amended 29957
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200.126 Amended 29957
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250.2 (b) removed; (c) redesignated as (b) 20725
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250.172 Revised 31427
250.173 (a) and (d) amended; (c) introductory text revised 31427
250.221 (a) and (c) amended 31427
250.307 Amended 31427
250.308 Revised 31427
250.309 (a) and (d) amended; (c) introductory text and (1) revised 31427
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252 Authority citation revised 20725
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275.72a Removed; new 275.72a redesignated from 275.72b 37004
275.72b Redesignated as 275.72a 37004
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275.183 Removed 37004
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290.2 (b) removed; (c) redesignated as (b) 20725
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0.100—0.104 (Subpart R) Appendix amended 46720
0.197 Added; interim 48406
2.62 (h) introductory text, (1) introductory text and (5) amended; (h)(6) revised 38570
29 Added 40725
36.407 Revised 39324
42 Notice 42556
42.1—42.3 (Subpart A) Authority citation revised 34729
42.1 Revised 34730
(b) corrected 43119
50 Authority citation revised 49260
50.22 Added; interim 49260
74.4 Revised 51012
82 Removed; interim 38086
90.60—90.67 (Subpart D) Added 40733
91 Authority citation revised 49970
91.21—91.24 (Subpart C) Added; interim 49970
92 Added; interim 49972

Chapter V—Bureau of Prisons, Department of Justice (Parts 500—599)

524 Authority citation revised 47795
524.12 (c) amended; (f) removed 47795
524.15 Amended 47795
524.16 Revised 47795
524.17 Added 47795
524.70—524.76 (Subpart F) Revised 40143
541.22 (a)(6)(i), (iii) and (iv) revised 47795
544.10—544.13 (Subpart B) Removed 47796
544.81 (g) revised 47795
552 Authority citation revised 38042
552.20 Introductory text amended; (a) through (e) revised 39800
552.21 (d) amended 39800
552.22 (c) revised; (g) amended 39800
552.24 Introductory text, (a), (f) and (g) revised; (d) amended 39800
552.26 Revised 39801
552.30—552.33 (Subpart D) Revised 38042
571.10 Revised 38043
571.20 Revised 47795

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TITLE 29—LABOR

Subtitle A—Office of the Secretary of Labor (Parts 0—99)

4 Authority citation revised 40716
4.181 (b)(1) revised 40716
5 Authority citation revised 40716
5.5 (b) revised 40716
5.15 (b)(1) and (2) removed; (b)(3), (4) and (5) redesignated as (b)(1), (2) and (3) 40716

Chapter I—National Labor Relations Board (Parts 100—199)

102.156—102.167 (Subpart U) Added; interim 38371
102.168—102.176 (Subpart V) Added; interim 38373

Chapter V—Wage and Hour Division, Department of Labor (Parts 500—899)

504 Revised 51014
506 Revised 51014
506.500—506.541 (Subpart F) Regulation at 60 FR 3955, 3977 confirmed 46990
506.600—506.675 (Subpart G) Regulation at 60 FR 3969, 3977 confirmed 46990
507 Revised 51014
508 Revised 51014

Chapter XIV—Equal Employment Opportunity Commission (Parts 1600—1699)

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Chapter XVII—Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)

1910.1001 (j)(3)(v) revised 43457
1915.1001 (h)(2)(iii), (k)(6), (8)(vii), (9)(iii), (iv) and (m)(1)(i)(A) revised 43457
1926.416 (a)(4), (f) and (g) removed 41738
1926.417 (d) removed 41739
1926.450—1926.454 (Subpart L) Revised 46104
1926.453 OMB number pending 46117
1926.556 Removed 46131
1926.1101 (h)(2)(iii), (k)(6), (8)(vii), (9)(iii), (iv) and (m)(1)(i)(A) revised 43458
1952.204 (b) revised 36824
1952.205 (b) amended 36825

Chapter XX—Occupational Safety and Health Review Commission (Parts 2200—2499)

2200.201 (b) revised 50712

Chapter XXV—Pension and Welfare Benefits Administration, Department of Labor (Parts 2500—2599)

2509 Authority citation revised 33849
2509.75–1 Removed 33849
2509.75–2 (b) removed 33849
2509.75–7 Removed 33849
2509.76–2 Removed 33849
2509.76–3 Removed 33849
2510.3–102 Revised 41233
2520.103–6 (b)(1) revised 33849
2520.103–7 Removed 33849
2520.104–2 Removed 33849
2520.104–3 Removed 33849
2520.104–5 Removed 33849
2520.104–6 Removed 33849
2520.104–28 Removed 33849
2520.104–45 Removed 33849
2520.104b–2 (b) revised 33849
(c) through (f) and (h) removed 33850
2520.104b–4 (d) removed 33850
2520.104b–5 Removed 33850
2520.104b–12 Removed 33850
2550 Authority citation revised 33850
2550.407a–3 Removed 33850
2550.407a–4 Removed 33850
2550.407c–3 Removed 33850
2550.414b–1 Removed 33850
2550.414c–1 Removed 33850
2550.414c–2 Removed 33850
2550.414c–3 Removed 33850
2550.414c–4 Removed 33850

Chapter XXVI—Pension Benefit Guaranty Corporation (Parts 2600—2699)

Chapter XXVI Removed 34003

Chapter XXVII—Federal Mine Safety and Health Review Commission (Parts 2700—2799)

2703 Revised 39872

Chapter XL—Pension Benefit Guaranty Corporation (Parts 4000—4999)

Chapter XL Established 34003
4022.23 Table corrected 36626
4022.24 (c)(4) corrected 36626
4022.62 Example 3 and (i) corrected 36626
4022.63 Corrected 36626
4041A.2 Corrected 36626
4044 Appendixes A and B corrected 36626
Appendixes B and D corrected 36627
Appendix B amended 36969, 42384, 48406
Appendix B corrected 37316, 37795

Proposed Rules:

1 40366
5 40366
101 35172
102 ..... 35172, 40369
1600—1699 (Ch. XIV) 34405
1910 ..... 37849, 47712
1915 45923
1926 37849
1952 ..... 48443, 48446
4001 38409
4043 38409
4065 38409

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TITLE 30—MINERAL RESOURCES

Chapter I—Mine Safety and Health Administration, Department of Labor (Parts 1—199)

56 Authority citation revised 36795
Policy statement 42787
56.6000—56.6905 (Subpart E) Revised 36975
56.18010 Revised 50436
57 Authority citation revised 36801
Policy statement 42787
57.6000—57.6960 (Subpart E) Revised 36801
57.18010 Revised 50436
70 Notice 45322
71 Notice 45322

Chapter II—Minerals Management Service, Department of the Interior (Parts 200—299)

203 Comment period extension 48834
203.1 (Subpart A) Comment period extension 40734
203.50—203.56 (Subpart B) Comment period extension 40734
256.47 (e)(2) revised 34732

Chapter VII—Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700—999)

735.23 Reinstated; CFR correction 40155
901.15 (e) removed 37383
902.15 (d) added 48842
902.16 Introductory text and (b) added 48842
913.15 (t) added 37385
913.16 (v) removed 37385
925.15 (v) added 38376
931.25 Added 38380
931.26 Added 38381
935.15 (bbbb) added 46550
936.15 (r) added 38382
937.772 Reinstated; CFR correction 40155
944.15 (hh) added 46552
944.16 (c) and (d) removed 46552
946.15 (kk) added 42790
(ll) added 46554
948.15 (q) added 38387
948.16 (rrr) removed; (vvv) added 38387
950.15 (x) added 40746
(y) added 43969
950.16 (q) and (bb) through (hh) removed; (ii) through (ll) added 40746

Proposed Rules:

21 45925
24 45925
75 45925
202 49894
206 ..... 37865, 39931, 48872, 49894
250 41541
756 51070
906 47722
913 39612
917 46577
920 44258
935 43696
936 ..... 40369, 49282, 49284
943 ..... 38420, 44260
946 ..... 38422, 48110
948 37023

TITLE 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury (Parts 200—399)

208 Added; interim 39258
211 Authority citation revised 41739
211.1 (a) revised 41739
211.2 Revised 41739
214 Removed 43656
306.115 Revised 43637
306.116 Removed; new 306.116 redesignated from 306.117 and revised 43637
306.117 Redesignated as 306.116; new 306.117 redesignated from 306.119 and revised 43637
306.118 Removed 43637
306.119 Redesignated as 306.117 43637
306.120 Removed 43637
306.121 Removed 43637
306.122 Removed 43637
306.115—306.122 (Subpart O) Appendix removed 43637
321 Authority citation revised 37197
321.21 Revised 37197
350 Removed 43637
356 Authority citation revised 37010
356.2 Amended 37010, 43637

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TITLE 31 Chapter II—Con.

356.3 Introductory text revised; (a) amended 43637
356.5 Introductory text amended 43637
356.11 (a)(1) amended 37010
(a)(2) amended 43637
356.13 (a)(2) removed; (a)(1) redesignated as (a); new (a) amended 37010
356.15 Redesignated as 356.16; new 356.15 added 37010
356.16 Redesignated as 356.17; new 356.16 redesignated from 356.15 37010
356.17 Redesignated from 356.16 37010
(b) revised 43637
356.21 (a) revised 37011
356.22 (b) amended 37011
356.31 (a) and (c) amended; (d) revised 43637
356.36 Revised (OMB numbers) 37011
356 Appendix A amended 37011
357.0 Added 43628
357.1 Added 43628
357.2 Redesignated from 357.3 and amended 43628
357.3 Redesignated as 357.2 43628
357.10—357.14 (Subpart B) Added 43629
357.41 Revised 43630
357.42 Added 43630
357.44 Added 43631
357 Appendix B added 43631
358.3 Revised 43638

Chapter V—Office of Foreign Assets Control, Department of the Treasury (Parts 500—599)

500 Authority citation revised 43460
500.701 (c) added 43460
515 Authority citation revised 37386, 43461
515.206 Added 37386
515.311 Existing text designated as (a); (b) added 37386
515.334 Added 37386
515.335 Added 37386
515.336 Added 37386
515.701 (a)(5) removed; (a)(6) redesignated as (a)(5); (d) added 37386
(e) added 43461
535 Authority citation revised 43461
535.701 (c) added 43461
550 Authority citation revised 43461
550.701 (c) redesignated as (d); new (c) added 43461
560 Authority citation revised 43461
560.701 (e) added 43461
575 Authority citation revised 43461
575.323 Added 36628
575.324 Added 36628
575.325 Added 36628
575.326 Added 36628
575.522 Added 36628
575.701 (d) redesignated as (e); new (d) added 43461
596 Added 43463
Chapter V Appendixes A and B amended 43459

Proposed Rules:

1 50461
203 51186
344 ..... 39228, 40764
356 ..... 38127, 50924

TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense (Parts 1—399)

66 Removed 37386

Chapter V—Department of the Army (Parts 400—699)

505.5 Revised 43657
619.1 Amended 49061
619.4 (a), (b) introductory text and (5) revised 49061
619.6 Introductory text and (k) revised 49061
619.7 (d) revised 49061
619.8 Revised 49061
619 Appendix G added 49062
623.5 (c)(5)(A) through (D) redesignated as (c)(5)(i) through (iv) 45890
630 Revised 39073

Chapter VI—Department of the Navy (Parts 700—799)

706.2 Table Three amended 35959
Table Four amended 36292, 48070
Table Four corrected 36497
Tables Four and Five amended 46378

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Chapter VII—Department of the Air Force (Parts 800—1099)

801 Removed 46379
837 Removed 43466
856 Removed 45322
862 Removed 45323
909 Removed 45323
950 Removed 45323

Proposed Rules:

21 43867
22 43867
28 43867
32 43867
33 43867
34 43867
202 40764
318 47467
651 ..... 37865, 47839

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

26.03 (f) table revised 45325
100 Temporary regulations lists 39325, 49678
100.T08-35-039 Added (temporary) 44161
100.19 Corrected 36292
100.35-T96-051 Added (temporary) 47823
100.35T08-034 Added (temporary) 41507
100.35T08-038 Added (temporary) 41506
100.35T96-045 Added (temporary) 40514
100.113 Added 45891
100.508 Implementation (temporary) 44160
100.513 Implementation (temporary) 50436
100.801 Implementation (temporary) 44160
110 Authority citation corrected 36786
110.72d Revised 40994
116 Authority citation corrected 36786
117 Temporary drawbridge operations regulations 37211, 50712
Regulation at 61 FR 24236 eff. date confirmed 40515
117.478 (b) revised 49064
117.491 (b) removed; (c) through (f) redesignated as (b) through (e) 39873
117.1059 (h) stayed; (j) added; eff. 2-1-97 through 6-1-97 43158
(c) stayed; (i) added; eff. 10-1-96 through 1-31-97: 43159
117 Appendix A corrected 36786
120 (Subchapter K) Added; interim 37652
127.003 Corrected 36629
128 Added; interim 37654
154.100 (a) revised; (d) added 41457
154.105 Amended 41458
154.106 (a) revised; (b) amended 41458
(b) corrected 42462
154.107 (b) revised 41458
154.108 (a) introductory text and (d) revised 41458
154.110 (b)(1) revised 41458
(a) introductory text and (d) revised 41461
154.300 (a) introductory text, (c), (e) and (f) revised 41458
154.310 (a)(2), (7), (15), (16) and (22) revised; (a)(23) added 41459
154.320 (a)(1) and (d) revised 41459
154.325 Revised 41459
154.500 (a) and (b) revised 41459
154.520 Revised 41459
154.530 (a) revised; (e) added 41460
154.540 Revised 41460
154.545 (e) added 41460
154.560 (e) revised 41460
(e) corrected 42462
154.710 (b), (c), (d) introductory text, (7) and (8) revised; (e) added 41460
154.735 Introductory text, (l), (s) and (t) revised; (u) and (v) added 41460
154.740 Introductory text and (b) revised; (j) added 41461
156.120 Introductory text, (f) and (w)(5) revised; (cc) and (dd) added 41461
156.150 (c)(3) and (5) revised; (c)(6) added 41461
156.170 (c)(1)(i), (iv), (f)(1) and (2) revised; (f)(2) redesignated as (f)(3); (h) added 41461
157 Authority citation revised 39788

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TITLE 33 Chapter I—Con.

157.01 (a)(2) revised 39788
157.02 Added 39788
(b) corrected 41685
157.03 Corrected 36786
Amended 39788
157.400—157.410 (Subpart G) Heading revised 39788
157.400 Revised 39788
157.410 (c) revised 39789
157.415 Added 39789
157.420 Added 39789
157.430 Added 39789
157.435 Added 39789
(a) corrected 41685
157.440 Added 39790
157.445 Added; eff. 7–29–97 39790
(a) corrected 41685
157.450 Added 39790
157.455 Added 39790
(a)(4) corrected 41685
157.460 Added; eff. in part 7–29–97 39790
(b) corrected 41685
157.500—157.510 (Subpart H) Added 39791
157.600—157.610 (Subpart I) Added 39791
158.140 (a)(2) corrected 36629
160 Authority citation revised 50234
160.201 (b), (c) introductory text, (1), (3)(i), (ii) and (iii) revised; (c)(3)(iv) through (x) added 50234
160.203 Amended 50234
160.207 (c)(1) through (5) revised; (c)(6) through (11) added 50234
160.211 (a) introductory text and (1) through (8) revised; (a)(9) through (16) added 50234
(b) amended 50235
160.213 (a) introductory text and (1) through (7) revised; (a)(8) through (15) added; (b) amended 50235
161.12 (b) table revised 45326
161.25 Revised 45327
164 Authority citation revised 35072
164.01 (b) added 35072
164.03 (b) revised 35072
164.70 Added 35072
164.72 Added 35073
164.74 Added 35074
164.76 Added 35076
164.78 Added 35076
164.80 Added 35076
164.82 Added 35076
165 Temporary regulations lists 39325, 49678
165.T01–041 Added (temporary) 35131
165.T01–068 Added (temporary) 40516
165.T01–072 Added (temporary) 45892
165.T01–100 Added (temporary) 45893
165.T01–109 Added (temporary) 47054
165.T05–045 Added (temporary) 35132
165.T07–052 Added (temporary) 50437
165.T1–3009 Added (temporary) 40995
165.T11–030 Added (temporary) 37213
165.903 (a) introductory text revised; (a)(1) through (10) redesignated as (a)(2) through (11); new (a)(1) added 37685
165.1304 (a) revised 47824
179.19 (b) corrected 36629
181.3 Corrected 36786
183.3 Corrected 36629

Chapter II—Corps of Engineers, Department of the Army (Parts 200—399)

334.420 (a)(2) amended; (b)(1)(i) removed; (b)(1)(iii), (iv) and (v) redesignated as (b)(1)(ii), (iii) and (iv); (b)(2) revised 43970
334.530 (b)(2) revised 34733
334.630 (a) and (b)(1) revised 34733
334.760 (b)(1) revised 43970
334.1110 (a)(1) designation removed; (a)(2) redesignated as (b); (a) heading and new (b) revised 43970
334.1340 (a)(3) and (4) redesignated as (a)(1) and (2); new (a)(2) heading and (c) revised 34733

Proposed Rules:

100 50463
117 35702
154 34775
155 34775
165 ..... 37714, 40587, 47839
167 35703
334 48112
404 50258
407 50258

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TITLE 34—EDUCATION

Subtitle A—Office of the Secretary, Department of Education (Parts 1—99)

74 OMB circular applicability 50712
80 OMB circular applicability 50712

Chapter II—Office of Elementary and Secondary Education, Department of Education (Parts 200—299)

263 Revised 46338

Chapter VI—Office of Postsecondary Education, Department of Education (Parts 600—699)

646 Revised 38537
656 Revised 50193
657 Revised 50202
668.163 (a)(2)(iii) removed; (a)(3) revised 49043

Proposed Rules:

75 ..... 37184, 43640, 47550
76 ..... 43640, 47550
77 ..... 43640, 47550
206 37184
231 37184
235 37184
263 39246
270 ..... 43640, 47550
271 ..... 43640, 47550
272 ..... 43640, 47550
369 37184
371 37184
373 37184
375 37184
376 37184
378 37184
380 37184
381 37184
385 37184
386 37184
387 37184
388 37184
389 37184
390 37184
396 37184
607 ..... 43640, 47550
610 37184
612 37184
630 37184
637 37184
642 ..... 43640, 47550
648 ..... 43640, 47550
658 37184
660 37184
661 37184
662 ..... 43640, 47550
663 ..... 43640, 47550
664 ..... 43640, 47550
668 ..... 48564, 49390, 49552, 49874
669 37184
673 49390
674 ..... 48564, 49390, 49874
675 ..... 48564, 49390, 49874
676 ..... 48564, 49390, 49874
682 ..... 47398, 48564, 49382, 49874
685 ..... 48564, 49874
690 ..... 48564, 49390, 49874

TITLE 35—PANAMA CANAL

Chapter I—Panama Canal Regulations (Parts 1—299)

61.155 (e) added 36497
123.4 (a) amended 36498

Proposed Rules:

133 46407
135 46407

TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

Chapter I—National Park Service, Department of the Interior (Parts 1—199)

1.2 (a), (b) and (d) revised 35136
1.4 (a) amended 35136
1.10 (b) amended 46556
7.11 Removed 46380
13.2 (c) and (e) revised 35137
31 Removed 40996

Chapter II—Forest Service, Department of Agriculture (Parts 200—299)

211 Authority citation revised 47673
211.1 Removed 47673
211.6 Removed 41507
222.23 Revised 35959
223.65 Revised 48625
223.66 Removed 48625

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TITLE 36 Chapter II—Con.

223.170—223.183 (Subpart E) Removed 35960
242.24 Revised 39702
(a)(1) table amended 48628
242.25 Added; eff. 8–1–96 through 6–30–97 39709
(k)(6)(iii)(B) table, (7)(iii) table, (11)(i) table, (13)(iii) table, (14)(iii) table, (15)(iii)(D) table amended; eff. 8–1–96 through 6–30–97 48628
(k)(15)(iii)(D) table and (16)(iii) table amended; eff. 8–1–96 through 6–30–97 48628
242.26 Added; eff. 1–1–97 through 12–31–97 39747
242.27 Added; eff. 1–1–97 through 12–31–97 39751

Chapter VII—Library of Congress (Parts 700—799)

701.33 (a)(4) revised 49262

Chapter XI—Architectural and Transportation Barriers Compliance Board (Parts 1100—1199)

1191.2 Revised 39324

Proposed Rules:

7 41058
242 41060
800 48580
1190 36688
1191 ..... 36688, 37964
1228 39373

TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—Patent and Trademark Office, Department of Commerce (Parts 1—199)

1.5 (f) added 42802
1.12 (c) added 42802
1.14 Heading, (a), (b) and (e) revised 42802
1.16 (a), (b), (d) and (f) through (i) revised; (m) added 39587
(m) corrected 43400
1.17 (b) through (g), (j), (m) through (p), (r) amd (s) revised 39587
1.18 Revised 39588
1.20 (c), (e), (f), (g), (i)(1), (2), (j)(1), (2) and (3) revised 39588
1.21 (a)(1), (3) and (6) revised 39588
(a)(1) corrected 43400
1.52 (a) and (b) revised 42803
1.54 (b) revised 42803
1.58 Heading and (c) revised; (b) removed 42803
1.62 (e) and (f) revised 42803
1.72 (b) revised 42803
1.75 (g) revised; (h) and (i) added 42803
1.77 Revised 42803
1.78 (a)(2) and (c) revised; (d) removed 42804
1.84 (c), (f), (g) and (x) revised 42804
1.96 Revised 42804
1.97 (a) through (d) revised 42805
1.107 (a) revised 42805
1.110 Revised 42805
1.130 Added 42805
1.131 (a) revised 42806
1.132 Revised 42806
1.154 Revised 42806
1.163 (c) and (d) added 42806
1.291 (a) and (b) revised 42806
1.292 (a) and (b) revised 42807
1.315 Revised 42807
1.321 (c) revised 42807
1.445 (a) revised 39588
1.482 (a)(1)(i), (ii) and (2)(ii) revised 39588
1.492 (a), (b) and (d) revised 39588
1.497 Revised 42807
2.102 (c)(2) revised 36825
15 Removed 42808
15a Removed 42808
101 Removed 40999
102 Removed 40999

Chapter II—Copyright Office, Library of Congress (Parts 200—299)

201 Comment period extension 49680
251.2 Revised 37215
251.58 (c) revised 37215
251.60 Amended 37215
251.61 (a) revised 37215
251.62 (a) amended 37216
251.63 (a) amended 37216

Chapter V—Under Secretary for Technology, Department of Commerce (Parts 500—599)

501 Authority citation revised 40999

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Heading revised; interim 40999
501.1 Revised; interim 40999
501.3 Revised; interim 40999
501.4 Revised; interim 40999
501.6 (a)(1) introductory text, (iii), (2), (3)(i) and (4)(i) revised; interim 40999
501.7 (b) and (c) revised; interim 40999
501.8 (a) and (b) revised; (c) and (d) redesignated as (d) and (e); new (c) added; interim 41000
501.9 Revised; interim 41000
501.11 Added; interim 41000

Proposed Rules:

1 49820
2 48872
3 49820
5 49820
7 49820
10 51072

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Department of Veterans Affairs (Parts 0—99)

1.12 Undesignated center heading and section added 33850
1.891 Authority citation revised 38571
1.892 Authority citation revised 38571
1.893 Authority citation revised 38571
1.894 Authority citation revised 38571
1.895 Revised 38571
1.896 Authority citation revised 38571
1.897 Authority citation revised 38571
4.88 Undesignated center heading revised; section removed 39875
4.88b Revised 39875
4.96 Heading and (a) revised; (c) added 46727
4.97 Revised 46728
19.76 Amended 43008
20.703 Revised 43009
21.5100 (b), (c) and (d) corrected 36629

Proposed Rules:

1 ..... 33878, 40589
3 ..... 41368, 50264
16 47469
17 ..... 37024, 41108

TITLE 39—POSTAL SERVICE

Chapter I—United States Postal Service (Parts 1—999)

5 Authority citation revised 36499
5.2 Revised 36499
7.1 (a) revised 36499
10 Authority citation revised 36499
Heading revised 36499
10.1 Redesignated from 10.11 and revised 36499
10.2 Redesignated from 10.31 and revised 36499
10.3 Added 36500
10.4 Redesignated from 10.41; (a) and (e)(2) revised 36500
10.11—10.12 (Subpart A) Heading removed 36499
10.11 Redesignated as 10.1 36499
10.12 Removed 36500
10.21—10.24 (Subpart B) Heading removed 36499
10.21 Removed 36500
10.22 Removed 36500
10.23 Removed 36500
10.24 Removed 36500
10.31—10.37 (Subpart C) Heading removed 36499
10.31 Redesignated as 10.2 36499
10.32 Removed 36500
10.41 Redesignated as 10.4 36500
10.42 (Subpart D) Heading removed 36499
20 IMM amended; incorporation by reference; interim 36501, 39592, 39593
111 DMM amended; incorporation by reference 42479, 48071, 48574
233.3 (c)(9) revised 42557

Chapter III—Postal Rate Commission (Parts 3000—3099)

3001.61—3001.68 (Subpart C) Appendix A corrected 37316

Proposed Rules:

701 42219

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TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency (Parts 1—799)

3 Revised 40503
5 Removed 41331
9.1 Table amended (OMB numbers) 33851, 33852, 48229
Table amended (OMB numbers); eff. 7–31–96 34228
51.112 (a)(1) revised; (a)(2) amended 41840
51.160 (f)(1) revised; (f)(2) amended 41840
51.166 (l)(1) revised; (l)(2) amended 41840
51.350 (b)(1) revised; (b)(5) added 39036
51.351 (h) added 39036
(c) added 40945
51.352 (c) revised 40945
51.353 (c)(5) added 39036
51.357 (a)(12) and (b)(4) added 40945
51.358 (b)(4) added 40945
51.361 Introductory text and (b)(1)(i) revised 49682
51.364 (e) and (f) added 39037
51.365 (a)(23) and (24) amended; (a)(25) added 40945
51.366 (a)(2)(ix) amended; (a)(2)(xi) through (xxiii) added 40945
51.372 (b)(3) revised 40946
(b)(3) corrected 44119
51.373 (f) added 39037
(g) added 40946
51.350—51.373 (Subpart S) Appendix B amended 40946
51 Appendix W revised 41840
52 State implementation plan determinations 36292, 49262
52.21 (l)(1) revised; (l)(2) amended 41894
52.220 (c)(231) added 36502
(c)(194)(i)((A)(*5*), (207)(i)(B)(*3*), (220)(i)(B)(*1*), (225)(i)(B)(*4*) and (C)(*1*) added 37393
(c)(189)(i)(B)(*3*), (210)(i)(E), (220)(i)(B)(*3*), (221)(i)(A)(*2*), (229) and (230) added 38574
(c)(185)(i)(A)(*9*), (194)(i)(G), (198)(i)(K), (207)(i)(B)(*2*) and (225)(i)(B)(*3*) removed 43977
(c)(187)(i)(A)(*6*) added 44163
(c)(91) added 49066
52.320 (c)(74) added 49684
52.370 (c)(71) added 38576
52.372 Removed 38576
52.373 Revised 38576
52.374 Table revised 38576
52.376 (c) added 38577
52.535 Removed 49066
52.720 (c)(120) added 38581
(c)(130) added 38590
(c)(128) added 41341
52.725 (d) added 41345
52.726 (m) added 38590
52.930 (c) added 50720
52.970 (c)(70) added 37839
(c)(64) added 38591
(c)(67) added 48412
Regulation at 61 FR 37839 withdrawn 50238
52.975 (d) added 37839
Regulation at 61 FR 37839 withdrawn 50238
52.994 Added 48412
52.1075 Added 50717
52.1119 (a)(2) added 43976
52.1120 (c)(112) added 41338
52.1167 Table amended 41338
52.1170 (c)(107) added; eff. 7–1–96 through 9–15–96; interim 45898
52.1173 (f) added 40519
52.1174 (j) removed 39332
52.1320 (c)(86) revised 39335
52.1370 (c)(44) added 51018
52.1570 (c)(54) added 38593
52.1605 Table amended 38594
52.1620 (c)(60) added 48409
52.1670 (c)(89) added 38597
52.1679 Table amended 38597
52.1770 (c)(91) added 49414
(c)(89) added 49418
52.1970 (c)(114) added 37395
(c)(115) added 50714
52.2020 (c)(111) added 39597
(c)(110) added 39600
52.2061 (b) added 39597
Added 39601
52.2062 (b) added 39597
Added 39601
52.2219 Revised 37390
52.2220 (c)(138) added 37390
(c)(142) added 38392
(c)(139) added 39328
(c)(137) added 39334
(c)(143) added 43973
(c)(141) added 47057
52.2225 (b) and (c) removed 37390

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52.2237 Added 36506
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52.2270 (c)(94) added 45329
(c)(101) added 49688
52.2420 (c)(108) and (109) added 38390
52.2425 Heading revised; existing text designated as (a); (b) added 48632
(c) added 48635
52.2433 (o) and (p) added 38390
52.2470 (c)(61) added 38091, 50238
(c)(62) added 38600
(c)(63) added 41335
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(c)(65) added 49690
(c)(66) added 50442
(c)(64) added 50714
52.2570 (c)(95) added 37218
(c)(92) added 39330
52.2585 (k) added 43675
(j) added 43972
52.2634 Added 47059
55 Operating permits 39877
55.6 (c)(3) added; eff. 7–31–96 34228
55.10 (a)(1) revised; (b) added; eff. 7–31–96 34228
55.13 (f) added; eff. 7–31–96 34228
60 Authority delegation notices 42808
60.42 (b)(3) removed 49976
60.45 (g)(1)(iii) removed 49976
63 State operating permit program approvals 43675
63.90 Introductory text amended 36297
63.91 (a) introductory text revised 36297
63.93 (b)(4)(iv) removed 36298
63.95 (b)(4)(i) revised 36298
63.320 (c) through (f) revised 49265
63.322 (a) introductory text and (b) introductory text revised 49265
63.480—63.506 (Subpart U) Added 46924
63.680—63.698 (Subpart DD) Added 34158
63.900—63.907 (Subpart OO) Added 34184
63.920—63.928 (Subpart PP) Added 34186
63.940—63.948 (Subpart QQ) Added 34190
63.960—63.966 (Subpart RR) Added 34193
63.1040—63.1049 (Subpart VV) Added 34195
63.1310—63.1335 (Subpart JJJ) Added 48229
63 Appendix D added 34200
70 Appendix A amended; interim 34739, 39343
Appendix A amended 39601, 39883, 45336
71 Operating permits 39877
71.1—71.12 (Subpart A) Added; eff. 7–31–96 34229
79.51 (c)(1)(ii)(A), (B), (h) introductory text and (1)(ii) revised; (e)(1) amended; (i)(4) added 36511
79.52 (b)(1)(iii), (iv), (2)(iii)(D) introductory text and (E) introductory text revised 36511
79.57 (b)(2)(i), (ii), (iii) and (e)(1)(i)(C) added; (e)(1)(iii)(A), (2)(i), (ii) introductory text, (B), (iii) introductory text, (C), (vi)(B), (vii), (3)(i)(A) and (f)(3) revised; (e)(3)(i) introductory text amended 36511
79.61 (d)(5) revised 36512
79.63 (e)(4)(iii) added 36513
79.68 (f)(1) and (5)(vi) revised 36513
80 Petition for reconsideration 35960
Petition for exemption 42812
80.2 (vv) added 35680
80.4 Revised 35356
80.72 Added 35680
80.79 (j) introductory text revised; (j)(5)(viii), (ix), (10)(i), (iii), (v) through (xi) and (11) removed; (j)(10)(ii), (iv), (12), (13) and (14) redesignated as (j)(10)(i), (ii), (11), (12) and (13); (l) added 35680
80.140 Amended 35356
80.141 (a), (b), (c)(1)(ii), (2), (3)(i), (d) and (e)(1) revised; (c)(1)(i), (e)(2)(ii)(B), (g)(1) and (3) amended; (c)(3)(iv) added; (e)(2)(ii)(B)(*1*)(*iii*) removed 35356
80.155 Revised 35358
80.156 (a)(1)(ii), (2) introductory text, (ii), (3) introductory text, (ii), (4), (5) introductory

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text, (c)(1) introductory text, (i), (3) and (4) revised; (c)(5) through (8) added 35358
80.157 Introductory text, (a), (b), (d), (e) and (f) revised; (d), (e) and (f) redesignated as (e), (f) and (g); new (d) added; OMB number pending 35360
80.158 Revised 35362
80.160 Revised (OMB number pending) 35363
80.161 Added 35364
80.162 Added 35366
80.163 Added 35368
80.164 Added (OMB number pending) 35369
80.165 Added 35371
80.166 Added 35372
80.167 Added 35372
80.168 Added 35373
80.169 Added 35373
80.170 Added (OMB number pending) 35377
80.171 Added 35379
80.172 Added 35380
80.173 Added (OMB number pending) 35380
80.174 Added 35381
81.303 Amended 39344
81.314 Table amended 41345
81.319 Amended 37839
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81.323 Amended 40519
81.348 Amended 50442
81.350 Amended 43675
81.351 Amended 47060
82 Acceptable substitutes listing 47012
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85 Authority citation revised 40946
85.2207 Added 40946
85.2213 (b)(2)(ii) revised 40947
85.2215 (b)(2)(ii) revised 40947
85.2218 (b)(2)(ii) revised 40947
85.2220 (b)(2)(ii) revised 40947
85.2222 Added 40947
85.2223 Added 40947
85.2231 Added 40947
86.094–17 (j) revised 45903
122 Interpretation 41698
125.60 (c)(1) removed; (c)(2) and (3) redesignated as (c)(1) and (2); new (c)(1) introductory text revised 45833
180 Authority citation revised 48848
180.191 Revised 37222
180.236 Revised 36299
180.356 Table amended 39351
180.410 Table amended 39541
180.418 Table amended 39891
180.434 (a) table amended 36302
180.436 (a) table amended 39886
180.466 Table amended 39889
180.494 Added; eff. 9–17–96 through 8–23–97 48848
180.1001 (c) table and (e) table amended 34741, 39353
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180.1169 Added 37397
180.1173 Added 40343
180.1174 Added 40340
180.1175 Added 40338
185.100 Removed 39542
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185.410 Regulation at 59 FR 10997 withdrawn 50685
185.800 Removed 39542
Regulation at 61 FR 39542 withdrawn 50685
185.1900 Regulation at 58 FR 59667 withdrawn 50685
185.2850 Regulation at 61 FR 11993 withdrawn 50685
185.3650 Removed 39542
Regulation at 61 FR 39542 withdrawn 50685
185.3750 Removed 39542
Regulation at 61 FR 39512 withdrawn 50685
185.5000 Regulation at 61 FR 12009 withdrawn; regulation at 61 FR 25154 confirmed 50685
185.5150 Regulation at 61 FR 12009 withdrawn; regulation at 61 FR 25154 confirmed 50685
185.6300 Regulation at 61 FR 12009 withdrawn; regulation at 61 FR 25154 confirmed 50685
227.27 (d) amended 51203
257 Authority citation revised 34269
257.1—257.4 (Subpart A) Heading added; eff. 1–1–98 34269
257.1 (a) revised; eff. 1–1–98 34269
257.5—257.30 (Subpart B) Added; eff. 1–1–98 34269
257.21 Eff. 7–1–98 34270
257.22 Eff. 7–1–98 34272
257.23 Eff. 7–1–98 34272
257.24 OMB number pending 34274
257.25 OMB number pending 34274

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257.26 Eff. 7-1-98 34275
257.27 OMB number pending 34276
257.28 Eff. 7-1-98 34277
258.1 (f)(1) introductory text and (3) revised 50413
261.5 (f)(3) and (g)(3) revised; eff. 1-1-97 34278
261 Appendix IX amended 37401, 46383, 48638, 50242
Appendix IX corrected 40520
268.40 Table corrected 36419
(g) added; table amended 43927
268.48 (a) table amended 43931
271 State hazardous waste management program authorizations 38392, 39353, 40520, 41345, 43009, 43018
271.1 (j) Table 1 amended; eff. 1-1-97 34278
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272 State hazardous waste management program authorizations 41345
272.1601 Revised 49268
272 Appendix A amended 49269
281 State underground storage tank program authorizations 50720
282.56 Added 41509
282 Appendix A amended 41510
300 Appendix B amended 35137, 35138, 35963, 39081, 40524, 41960, 45336, 47060, 47825, 49690, 50444, 51019, 51020
372.65 (a) and (b) amended 38605, 39359, 39894
425 Authority citation revised 35684
425.15 (a) table amended 35685
425.25 Table amended 35685
425.65 Table amended 35685
425.85 Table amended 35685
745 Authority citation revised 45813
745.220—745.239 (Subpart L) Added 45813
745.320—745.339 (Subpart Q) Added 45825
799.5075 (c)(1)(ii)(A) and (d) revised 37686

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50–201 Authority citation revised 40716
50–201.1 Redesignated as 50.201–3; new 50–201.1 redesignated from 50–206.1.....40716
50–201.2 Redesignated as 50.202–4; new 50–201.2 redesignated from 50–206.2.....40716
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50–201.104 Redesignated as 50–201.103; new 50–201.104 redesignated from 50–201.105.....40716
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101–43.000 Revised; eff. 8–8–96 through 12–31–97.....41353
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101–43.801 (c) removed; (d), (e) and (f) redesignated as (c), (d) and (e); eff. 8–8–96 through 12–31–97.....41554
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Chapter 301 Appendix A amended 40524

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TITLE 42—PUBLIC HEALTH

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24 Added; interim 6557
57.201—57.218 (Subpart C) Authority citation revised 6122
57.202 Amended 6123
57.203 (c) amended 6123
57.205 (a)(1)(i) amended; OMB number 6123
57.206 (a)(1)(i) revised; (a)(2) removed; (a)(3) redesignated as (a)(2) 6123
57.210 (b)(2)(i) and (ii) amended; OMB number 6123
57.211 (a) and (b) amended 6123
57.212 Removed 6123
57.213 (a)(2) amended 6123
57.214 Introductory text amended 6123
Corrected 9532
57.215 (a)(3) amended 6123
57.216 Amended 6123
57.301—57.318 (Subpart D) Authority citation revised 6123
57.302 Amended 6123
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57.306 (a)(1)(i) revised 6123
57.310 OMB number 6123
57.312 (a)(1) amended 6123
57.313 (b) amended 6123
57.314 Introductory text amended 6123
57.316 Amended 6123
57.501—57.514 (Subpart F) Authority citation revised 6124
57.502 Amended 6124
57.509 (a) revised 6124
57.513 Amended 6124
57.701—57.712 (Subpart H) Authority citation revised 6124
57.701 Amended 6124
57.702 Amended 6124
57.704 (c)(1) amended 6124
57.706 (a) introductory text and (2) amended 6124
57.707 (a)(1) amended 6124
57.709 (a) amended 6124
57.710 Amended 6124
57.711 Revised 6124
Corrected 51020
57.801—57.803 (Subpart I) Authority citation revised 6124
57.801 (a) amended 6124
57.1101—57.1112 (Subpart L) Authority citation revised 6124
57.1101 Introductory text amended 6124
57.1102 Amended 6124
57.1106 Introductory text amended 6125
57.1107 (a)(1) amended 6125
57.1110 Amended 6125
57.1111 Revised 6125
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57.1601—57.1610 (Subpart Q) Authority citation revised 6125
57.1601 Introductory text amended 6125
57.1602 Amended 6125
57.1605 (a) introductory text revised 6125
57.1608 Amended 6125
57.1609 Revised 6125
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57.1702 Amended 6125
57.1708 Amended 6125
57.1801—57.1811 (Subpart S) Authority citation revised 6125
57.1801 Amended 6125
57.1802 Amended 6125
57.1804 (a) and (b) revised 6126
57.1806 (a) introductory text revised; (b) amended 6126
57.1809 Amended 6126
57.1810 Revised 6126
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57.1901—57.1910 (Subpart T) Removed 6126
57.2101—57.2110 (Subpart V) Authority citation revised 6126
57.2101 Amended 6126
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57.2105 (a) introductory text revised 6126
57.2108 Amended 6126
57.2109 Revised 6126
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57.2402 (c) and (k) revised 6126
57.2409 Amended 6126
57.2501—57.2510 (Subpart Z) Authority citation revised 6127
57.2501 Revised 6127
57.2502 Amended 6127
57.2503 (b)(2) introductory text revised; (b)(3) removed 6127

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57.2504 (c)(1) and (d) revised 6127
57.2506 (b) revised 6127
57.2509 Amended 6127
57.2601—57.2617 (Subpart AA) Removed 6127
57.2801—57.2810 (Subpart CC) Authority citation revised 6127
57.2801 Amended 6127
57.2802 Amended 6127
57.2804 (a)(1) revised 6127
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57.2809 (a) revised 6127
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57.2901—57.2910 (Subpart DD) Authority citation revised 6128
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57.3001—57.3011 (Subpart EE) Authority citation revised 6128
57.3001 Amended 6128
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57.3101—57.3112 (Subpart FF) Authority citation revised 6128
57.3101 Introductory text amended 6128
57.3102 Amended 6128
57.3106 (a) introductory text revised 6128
57.3110 Amended 6129
57.3111 Revised 6129
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57.3301—57.3303 (Subpart HH) Removed 6129
57.3901—57.3910 (Subpart NN) Removed 6129
57.4002 Amended 6129
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57.4102 Amended 6129
57.4109 (a) revised 6129
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58.1—58.11 (Subpart A) Removed 6129
58.20—58.29 (Subpart B) Removed 6129
58.201—58.215 (Subpart C) Authority citation revised 6129
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58.203 (b) amended 6129
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58.221—58.235 (Subpart D) Authority citation revised 6130
58.222 Amended 6130
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58.224 Revised (OMB number) 6130
58.225 Amended 6131
58.228 Removed; new 58.228 redesignated from 58.229; new (a) revised 6131
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400.202 Amended **63175**
400.310 Table amended (OMB numbers) **63188**
401.601 (d)(2)(ii) revised; eff. 10-21-96 49271
401.607 (d)(2) revised; eff. 9-19-96 49271
405.350 Introductory text revised; eff. 10-21-96 49271
405.356 Revised; eff. 10-21-96 49271
405.357 Added; eff. 10-21-96 49271
405.358 Added; eff. 10-21-96 49271
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405.502 (a)(10) amended **63188**
405.520 Removed **63176**
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405.701—405.750 (Subpart G) Authority citation revised 32348
405.718 Introductory text amended 32348
405.718a (b)(4) amended 32348
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405.718e Amended 32348
405.724 Amended 32348
405.730 Amended 32348
405.750 Heading and introductory text amended 32348
405.815 Amended 32348
405.2163 (f) amended 19743
405.2400—405.2472 (Subpart X) Authority citation revised **63176**
405.2400 Added **63176**
405.2401 (b) amended **63176**
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405.2430 (a)(1)(iii) revised 14657
405.2446 (b) revised 14657
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405.2450 (a)(1) revised 14657
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405.2466 (b)(1)(iv) added 14657
405.2468 (b)(1) revised **63176**
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406.6 (b) revised 40345
406.12 (b) introductory text revised; (b)(1) amended; (b)(3) added; Footnote 1 removed 40345
406.21 (e) removed 40345
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408.24 (a)(6), (7), (8) and (b)(2)(i) revised; (a)(9) added 40347
410.34 (a)(1), (2) and (d) revised **63176**
411.15 (m)(2)(i) amended **63188**
411.108 (a)(8) revised **53876**
411.163 (b)(2) and (3) revised **53876**
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411.360 (e) revised **63440**
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412.63 (s)(1) amended; eff. 10-29-96 46224
412.71 (c)(1)(i) amended **63188**
412.105 (g)(1)(i)(A) amended **63188**
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412.109 (c) revised; (f) redesignated as (g); new (f) added 21972
412.246 (b) revised; eff. 10-29-96 46224
412.302 (d)(1) revised; (d)(4) added; eff. 10-29-96 46224
413 Authority citation revised 37014
413.5 (c)(9) amended **63189**
413.13 (g)(1)(i) amended **63189**
413.40 (g)(1) corrected 2725
(d)(3) revised; eff. 10-29-96 46225
413.80 (h) amended **63189**
413.86 (b)(1) and (g)(1)(ii) amended **63189**
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413.153 (b)(4) and (f) added 37014
413.174 (b)(4)(iv) amended **63189**
414.2 Amended **63177**
414.28 Amended **53877**

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(b) revised **63177**
414.30 (b)(2) revised; (c) added **63177**
(b)(3) correctly revised; (c) correctly removed 42385
414.32 (d)(2) revised **63177**
414.46 (a)(1), (e) and (g) amended; (b), (c) and (d) revised **63177**
414.58 (a) and (b) amended **63189**
414.60 (a) amended **53877**
Revised **63178**
414.450—414.453 (Subpart H) Removed **63178**
415 Added **63178**
415.178 (b) correctly added 42385
416.35 (b)(1)(i) and (d) introductory text amended 40347
417 Authority citation revised 13446
Authority citation correctly revised 42386
417.151 (a) and (e) revised 27287
417.152 Removed 27287
417.153 Heading and (a) revised 27287
417.154 Removed 27287
417.155 (d)(2) introductory text amended 27288
417.157 Revised 27287
417.159 Amended 27288
417.164 Heading amended 27288
417.166 (a)(1) amended 27288
417.479 Added 13446
(a) introductory text, (b), (c), (d), (g) introductory text, (1)(i), (2)(ii) introductory text, (iii), (h)(1) introductory text, (v)(B), (2)(i) introductory text, (ii) introductory text, (3) introductory text, (i)(1) introductory text, (2) introductory text and (j) corrected 46385
417.500 (a)(9) added 13448
417.554 Amended **63189**
417.634 Amended 32348
417.636 (a)(1), (b) heading and introductory text amended 32348
417.638 Amended 32348
417.830 Amended 32348
417.840 Amended 32348
417.912 Removed; CFR correction 38395
417.913 Removed; CFR correction 38395
417.914 Removed; CFR correction 38395
417.915 Removed; CFR correction 38395
417.916 Removed; CFR correction 38395
417.917 Removed; CFR correction 38395
417.918 Removed; CFR correction 38395
417.919 Removed; CFR correction 38395
417.921 Removed; CFR correction 38395
417.922 Removed; CFR correction 38395
417.923 Removed; CFR correction 38395
417.924 Removed; CFR correction 38395
417.925 Removed; CFR correction 38395
417.926 Removed; CFR correction 38395
417.932 Removed; CFR correction 38395
417.933 Removed; CFR correction 38395
417.935 Removed; CFR correction 38395
417.936 Removed; CFR correction 38395
421.214 Added; eff. 10–21–96 49275
424.57 (c) revised **63444**
431.151 Revised 32348
431.152 Amended 32348
431.153 Revised 32348
431.154 (a) and (b) designation removed; (b)(1), (2) and (3) redesignated as (a), (b) and (c) 32349
431.861 Removed 38398
431.862 Removed 38398
431.863 Removed 38398
431.864 Removed 38398
431.865 (d)(8) amended 38398
433.8 Removed 38398
433.201—433.217 (Subpart E) Removed 38398
434.44 (a)(1) revised 13449
434.67 (a)(5) added 13449
434.70 Revised 13449
440.1 Amended 38398
440.10 (a)(2) and (3)(iii) revised **61486**
440.20 (a)(2) and (3)(ii) revised **61486**
440.90 (c) removed **61486**
440.165 (a)(1) and (c) removed; (a)(2) and (3) redesignated as

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(a)(1) and (2); (b)(4)(i) and (ii) revised **61486**
441.152 (b) amended 38398
441.155 (a) and (d) amended 38398
447.10 (a) revised; (g)(1) removed; (g)(2), (3) and (4) redesignated as (g)(1), (2) and (3) 38398
447.300 Amended 38398
447.342 Undesignated center heading and section removed 38398
456.1 (b)(2) introductory text, (iv), (3), (5), (6) and Table 1 amended 38398
456.5 Amended 38399
456.250—456.348 (Subpart E) Removed 38399
456.480 Amended 38399
456.481 (a) and (b) amended 38399
456.482 Amended 38399
456.500—456.525 (Subpart H) Heading amended 38399
456.500 Introductory text amended 38399
456.501 (a) and (c) amended 38399
456.505 Introductory text and (b) amended 38399
456.506 (b) amended 38399
456.508 (a) and (b) amended 38399
456.520 (b) and (c) amended 38399
456.522 (d), (i) and (j) amended 38399
456.600—456.614 (Subpart I) Heading revised 38399
456.600 Amended 38399
456.601 Amended 38399
456.603 (a)(1) removed 38399
456.608 (a) introductory text amended 38399
456.610 (b)(1) amended 38399
456.651 Amended 38399
456.652 (a)(1), (2) and (4) amended 38399
456.654 (a)(2), (7) and (8) amended 38399
473.22 (b)(5) amended 32349
473.46 Heading, (a) and (b) amended 32349
(a) corrected 42386
473.48 (b) and (c) amended 32349
482.27 (c) added; eff. 11–8–96 47433
486.301 Revised 19743
486.304 (c)(1) amended **53877**
(b)(8) added; (e)(3)(ii) revised 19743
486.306 Introductory text, (d), (f) introductory text, (i), (q) and (s) revised 19743
486.307 Added 19744
486.310 Introductory text, (a)(3) and (e) removed; (a) heading added; (b), (c) and (d) revised 19744
486.314 Amended 19745
486.316 (c) through (g) added 19745
486.325 (b) amended 19745
486.301—486.325 (Subpart G) Appendix A added 19745
489 Technical correction **52731**
489.20 (d)(1) amended **63189**
489.21 (f) amended **63189**
489.27 Revised; eff. 10–29–96 46225
489.53 Corrected **53456**
491 Nomenclature change 14658
491.5 (a) and (b)(1) revised; (e) and (f) added 14658
491.8 (a)(3), (6) and (b)(1)(i) revised 14658
498 Technical correction **52731**
498.1 (a) and (c) amended; (e) and (f) removed; (g) and (h) revised; (i), (j) and (k) added 32349
498.2 Amended 32350
498.3 (d)(10) through (14) redesignated as (d)(10)(i), (ii), (iii), (12) and (13); (a), (b)(4), (7), (8), (12), (13), (d) introductory text, (1) and new (10) revised; new (d)(11) added 32350
498.5 (c) revised; (k) added 32350
498.10 (b) amended 32349
498.15 Amended 32349
Corrected 51021
498.17 Heading, (a), (b)(1) and (2) amended 32349
498.44 (a), (b) and (c) amended 32349
498.45 (c)(2) amended 32349
498.60 (c) added 32350
498.61 (a) designation and (b) removed 32350
498.71 (b) amended 32349
498.74 (b)(1) through (4) amended 32351
(b)(1) and (4) corrected 35307, 42386
498.76 Heading, (a) and (c) amended 32349
498.80—498.95 (Subpart E) Heading amended 32349
498.80 Amended 32349

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498.82 Heading, (a)(1) and (2) amended 32349
498.83 Heading, (a), (b) introductory text, (4), (c) and (d) amended 32349
498.85 Amended 32349
498.86 (a), (b) and (d) amended 32349
498.88 Heading, (a) through (e), (f) introductory text, (1) introductory text, (i) and (2) amended 32349
498.90 Revised 32351
498.95 (a), (b) and (c) amended 32349
498.100—498.103 (Subpart F) Heading amended 32349
498.100 Heading, (a), (b)(1) and (2) amended 32349
498.102 (a) introductory text, (2)(ii), (b)(1) and (2) amended 32349
498.103 (a), (b)(1) and (2) heading amended 32349

Chapter V—Office of Inspector General-Health Care, Department of Health and Human Services (Parts 1000—1999)

1001 Authority citation revised 2135
1001.952 (k)(1)(iii), (l) and (m) revised 2135
1003.100 (b)(1)(v) revised **58241**
(b)(1) introductory text and (vii) revised 13449
1003.101 Amended 13449
1003.102 (b)(7) revised **58241**
1003.103 (d) revised **58241**
(f)(1)(iv) and (v) revised; (f)(1)(vi) added 13449
1003.106 (a)(3) revised **58241**
(a)(5)(vii) and (viii) redesignated (a)(5)(viii) and (ix); new (a)(5)(vii) added 13449
1004 Revised **63640**
1004.110 (f) correctly revised 1841

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72 29327
84 ..... 24740, 25513
100 ..... **56289**
..... 4249
405 34614
410 34614
412 ..... 27444, 29449
413 ..... **62237**
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415 34614
418 46579
440 9405
489 ..... 27444, 29449
493 ..... **61509**

TITLE 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior (Parts 1—199)

4.1 (a) revised 47434
Footnote 1 removed; (b)(2)(ii) revised 49976
4.413 (c)(1) and (2) introductory text revised; (c)(2)(i), (ii), (iv), (v), (vi), (vii), (ix), (xi) and (xii) amended; (c)(2)(v)(A) and (B) added **58242**
(c)(2)(iv) amended 40347
4.1109 (a) revised **58243**
(a)(2) undesignated paragraphs designated as (a)(2)(i) through (vii); new (a)(2)(iii), (v) and (vii) revised 40348
10 Added **62158**
11.15 Heading and (a)(1) revised 20609
11.18 (a)(4) revised; (a)(5) added 20609
11.19 Removed 20609
11.30 Heading, (a) and (c)(1)(vi) revised 20609
11.31 Heading, (a)(1), (b), (c) introductory text, (1) and (d) revised 20609
11.32 Heading and (c)(1) revised; (f)(3) added 20609
11.33 Revised 20610
11.34 Redesignated as 11.37; new 11.34 added 20610
11.35 Redesignated as 11.38; new 11.35 added 20610
11.36 Added 20610
11.37 Redesignated from 11.34 20610
Heading and (a) revised 20611
11.38 Redesignated from 11.35 20610
11.40—11.41 (Subpart D) Heading revised 20611
11.40 Heading and (a) revised; (b) and (c) heading removed; (c) redesignated as (b) 20611
11.41 Revised 20611
11.42 Added 20611

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11.43 Added 20612
11.44 Added 20612
11.60—11.84 (Subpart E) Heading revised 20612
11.73 (a) amended 20612
11.90 Heading, (a) and (b) revised; (c) amended 20612
11.91 Heading revised; (a) amended 20612
11 Appendixes II and III added 20612
12 Clarification **57543**
Authority citation revised 39084
Clarification 40525
12.700 Revised 39084
12.710 (a), (b) and (c) revised 39084

Chapter II—Bureau of Land Management, Department of the Interior (Parts 1000—9999)

1821.2–1 (d) amended 37687
2120 Redesignated as 4600 29031
2567.0–3—2567.8 (Subpart 2567) Removed 47725
2800 Note removed **57070**
2800.0–5 (j) revised; (aa), (bb) and (cc) added **57070**
2800.0–9 Added **57070**
2801.1–1 (b) and (f) amended **57070**
2803.1–2 (c)(3)(i), (ii), (4), (5) and (d) redesignated as (e)(1), (2), (f), (g) and (h); (b)(1)(i), (c)(1)(iv), (v) introductory text, (2) and new (e) revised; new (d) added **57070**
2812.0–9 Added **57072**
2880.0–9 Added **57072**
2900 Note removed 32353
2920 Authority citation revised 32353
2920.0–9 Added 32353
2920.2–2 Existing text redesignated as (a); new (a) amended; (b) added 32353
3103.2–2 Introductory text amended 4750
3103.4 Heading revised 4750
3103.4–1 Heading and (b)(1) revised; (c) and (d) redesignated as 3103.4–2(a) and (b); (e) redesignated as (c) 4750
3103.4–2 Redesignated as 3103.4–4; (a) and (b) redesignated from 3103.4–1(c) and (d); new heading added 4750
3103.4–3 Added 4750
3103.4–4 Redesignated as 3103.4–2 4750
3140.1–4 (c)(3) amended 4752
3165.1 (b) amended 4752
3715.0–1—3715.9–1 (Subpart 3715) Added 37125
4100.0–3 (g) removed 4227
4110.2–2 (b) amended 4227
4110.2–3 (a)(2) amended 4227
4120.2 (e) amended 4227
4120.3–1 (c) amended 4227
4120.3–2 (a), (b) and (d) amended 4227
4120.3–4 Amended 4227
4120.3–6 (d) amended 4227
4120.3–8 (b) amended 4227
4130.1–2 (a) amended 4227
4130.2 (g) introductory text, (1) and (i) amended 4227
(j) added 29031
4130.4 (a) amended 4227
4130.8 (d) amended 4227
4130.8–1 (c) amended 4227
4140.1 (a)(4), (b) introductory text, (1)(vi) and (8) amended 4227
4150.3 (e) amended 4227
4160.2 Amended 4227
4160.3 (b) amended 4227
4160.4 Amended 4227
4600 Redesignated from 2120 29031
4600.0–2—4600.0–3 (Subpart 4600) Heading revised 29031
4610.5 Amended 29031
6220 (Subchapter F) Removed **61487**
8000 Removed 29679
8300 Removed 29679
8364 Public land closures 7077
Chapter II Appendix removed 2137

Chapter III—Utah Reclamation Mitigation and Conservation Commission (Parts 10000—19999)

10010 Added 16720

Public Land Orders

1374 Revoked in part by PLO 7186 7223
1703 Revoked in part by PLO 7173 ..... **57939**
1992 Revoked in part by PLO 7185 7223
2588 Revoked in part by PLO 7185 7223

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3398 Revoked in part by PLO 7164 ..... **52864**
3689 Revoked in part by PLO 7182 4359
7155 Corrected **52731**
7157 Corrected by PLO 7185 7223
7161 ..... **52631**
7162 ..... **52631**
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7181 2138
7182 4359
7183 4752
7184 5719
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2090 47853
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2130 47853
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2610 47725
2780 48454
2810 ..... **57561, 66246**
3100 45926
3160 ..... **58590**
3170 ..... **56970**
3600 40373
3610 40373
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3860 42407
4100 45385
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8300 15753
8350 47726
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TITLE 44—EMERGENCY MANAGEMENT AND ASSISTANCE

Chapter I—Federal Emergency Management Agency (Parts 0—399)

10 Authority citation revised 4230
10.8 (c), (d) and (e) revised 4230
(c)(1) correctly revised 10688
61.9 Revised 8223
61.17 Added; interim 19200
62 Appendix A amended; interim 24463
Appendix A amended 36513
Appendix A revised 37689
64.6 Table amended ... **51362, 54613, 55330, 65583**
Table amended ... 5948, 7998, 8475, 14498, 15724, 18288, 19858, 25803, 28068, 32704, 36514, 40526, 42180, 44164, 46733
65 Authority citation revised **62218**
65.4 Table amended; interim **54037, 55468, 56250, 56252, 62336**
Table amended **54039, 55470, 56253, 62333**
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Table amended; interim 6562, 6565, 6566, 10473, 11318, 14659, 17251, 25400, 25403, 29488, 33855, 38093, 40528, 43680, 44168
(c) revised; interim 46331
65.5 (d) revised; interim 46331
65.6 (g) revised; interim 46331
65.8 Revised; interim 46331
65.9 (h) added; interim 46331
65.17 Added **62218**
67.11 Flood elevation determinations **54040, 55472, 56254, 62337**
Flood elevation determinations 6568, 6569, 6570, 6572, 10474, 10475, 11319, 14666, 16876, 25406, 29490, 33857, 38095, 43683, 44170
70 Authority citation revised 46331
70.9 Revised; interim 46331

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72 Authority citation revised.....46332
72.1 Revised; interim.....46332
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72.4 Revised; interim.....42332
72.5 (a) and (b) revised; interim.....46333
72.6 Revised; interim.....46333
72.7 Revised; interim.....46333
206 Authority citation revised.....7224, 19201
206.101 (g) introductory text added.....7224
206.131 (a) amended; (d)(1)(iii)(C) and (D) revised.....19201

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61.....**56552**
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TITLE 45—PUBLIC WELFARE

Subtitle A—Department of Health and Human Services, General Administration (Parts 1—199)

74 Regulation at 59 FR 43760 confirmed.....11746
Authority citation revised.....11746
74.1—74.5 (Subpart A) Regulation at 59 FR 43760 confirmed.....11746
74.1 (c) added.....11746
(a)(3) revised; interim.....11747
74.2 Amended.....11746
74.3 Amended.....11746
74.4 Existing text designated as (a); (b) added.....11746
74.5 (a) introductory text amended; (a)(1) revised.....11746
74.10—74.17 (Subpart B) Regulation at 59 FR 43763 confirmed.....11746
74.12 (e) added.....11746
74.17 Amended.....11746
74.20—74.62 (Subpart C) Regulation at 59 FR 43764 confirmed.....11746
74.22 (m) amended; (n) added.....11746
74.23 (d) amended.....11746
74.25 (c)(5) amended; (l) added.....11746
74.26 (a) and (d) revised.....11746
(d)(2) corrected.....15564
74.33 (b) amended.....11747
74.34 (g)(4) added.....11747
74.35 (b)(2) amended.....11747
74.44 (a)(2) and (e)(2) amended.....11747
74.48 (b) amended.....11747
74.50—74.57 (Subpart G) Regulation at 59 FR 43775 confirmed.....11746
74.60—74.62 (Subpart H) Regulation at 59 FR 43775 confirmed.....11746
74.70—74.73 (Subpart D) Regulation at 59 FR 43774 confirmed.....11746
74.70—74.76 (Subpart I) Regulation at 59 FR 43775 confirmed.....11746
74.80—74.85 (Subpart J) Regulation at 59 FR 43775 confirmed.....11746
74.80—74.89 (Subpart E) Regulation at 59 FR 43775 confirmed.....11746
74.81 Amended.....11747
74.90—74.91 (Subpart F) Regulation at 59 FR 43775 confirmed.....11746
74.90—74.97 (Subpart K) Regulation at 59 FR 43775 confirmed.....11746
74.90 (d) amended.....11747
74.100—74.108 (Subpart L) Regulation at 59 FR 43775 confirmed.....11746
74.110—74.116 (Subpart M) Regulation at 59 FR 43775 confirmed.....11746
74.120—74.127 (Subpart N) Regulation at 59 FR 43775 confirmed.....11746
74.130—74.145 (Subpart O) Regulation at 59 FR 43775 confirmed.....11746
74.160—74.164 (Subpart P) Regulation at 59 FR 43775 confirmed.....11746
74.170—74.177 (Subpart Q) Regulation at 59 FR 43775 confirmed.....11746
74.304 (Subpart T) Regulation at 59 FR 43775 confirmed.....11746
74.701—74.720 (Subpart AA) Regulation at 59 FR 43775 confirmed.....11746

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74 Regulations at 59 FR 43775 and 43776 confirmed 11746
Appendix A amended 11747
95.611 (a)(3) removed; (a)(4) through (7) redesignated as (a)(3) through (6); (a)(1), (2), new (3), new (4), new (6), (b)(1)(iii), (iv), (c)(1)(i), (ii)(A) and (d) revised 39897
95.621 (f)(6) revised 39898
96.122 (g)(21) and (22) redesignated as (g)(22) and (23); (f)(6) and new (g)(21) added 1508
Corrected 2335
96.123 (a)(5) added 1508
96.130 Added 1508

Chapter VI—National Science Foundation (Parts 600—699)

601 Authority citation revised 51021
601.1 Amended 51021
601.2 Amended 51021
601.3 Amended 51021
601.4 Amended 51021
601.6 Introductory text, (a) and (d) amended 51021
605.0 Amended 51021
612.3 (b), (c), (f) and (g) amended 51022
612.7 (a) and (d) amended 51022
613.3 (b) amended 51022
650.15 (b) and (d) amended 51022
672.3 (f) amended 51022

Chapter VIII—Office of Personnel Management (Parts 800—899)

801 Appendix A amended 11748

Chapter XI—National Foundation on the Arts and the Humanities (Parts 1100—1199)

1180.5 (f) added **63964**
1180.17 Revised **63964**
1180.20 (f)(1) revised **63964**
1180.35 Heading, (a) and (b) revised **63964**
1180.40 Removed **63964**
1180.41 Revised **63964**
1180.45 (a) revised **63964**
1180.48 Revised **63964**
1180.49 Revised **63964**
1180.50 Revised **63964**
1180.58 Revised **63965**
1180.59 Revised **63965**
1180.75 (d) revised **63965**

Chapter XIII—Office of Human Development Services, Department of Health and Human Services (Parts 1300—1399)

1336.30 Heading revised; (a), (b) designation and (c) removed 42820
1336.33 Added 42820
1336.34 Added 42820
1336.35 Added 42821
1370 (Subchapter H) Added 6793
1385.1 (a) and (b) revised; eff 10–30–96 51153
1385.3 Amended; eff. 10–30–96 51153
1385.4 Revised; eff. 10–30–96 51154
1385.5 Removed; eff. 10–30–96 51154
1385.6 Revised; eff. 10–30–96 51154
1385.7 Removed; eff. 10–30–96 51154
1385.8 Introductory text revised; eff. 10–30–96 51154
1385.9 (a) amended; (b), (c) and (d) revised; (e) added; eff. 10–30–96 51154
1386.1 Revised; eff. 10–30–96 51155
1386.2 (b)(1) and (c) revised; eff. 10–30–96 51155
1386.4 Removed; eff. 10–30–96 51155
1386.19 Added; eff. 10–30–96 51155
1386.20—1386.24 (Subpart B) Heading revised; eff. 10–30–96 51155
1386.20 Heading, (a), (d) and (e) revised; (f) added; eff. 10–30–96 51156
1386.21 Revised; eff. 10–30–96 51157
1386.22 Added; eff. 10–30–96 51158
1386.23 Revised (OMB number pending); eff. 10–30–96 51159
1386.24 Introductory text, (a) and (b) redesignated as (a) introductory text, (1) and (2); new (a) introductory text and new (1) revised; new (b) added; eff. 10–30–96 51159
1386.25 Added; eff. 10–30–96 51159
1386.30—1386.36 (Subpart C) Heading revised; eff. 10–30–96 51159
1386.30 (e) redesignated as (f); (a), (c)(1), new (f)(2) and (3) revised; (c)(3) and new (e) added; (OMB number pending); eff. 10–30–96 51159
1386.31 Heading revised; (a) through (d) redesignated as

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(b) through (e); new (a) added; eff. 10–30–96 51160
1386.32 Revised (OMB number pending); eff. 10–30–96 51160
1386.33 (a) revised; eff. 10–30–96 51160
1386.34 Added; eff. 10–30–96 51160
1386.35 Heading and (b)(1) revised; (d), (e) and (f) added; eff. 10–30–96 51161
1386.36 Heading and (e) revised; eff. 10–30–96 51161
1386.80 Revised; eff. 10–30–96 51161
1386.85 (a) revised; eff. 10–30–96 51161
1386.90 Revised; eff. 10–30–96 51161
1386.92 Revised; eff. 10–30–96 51162
1386.93 (c)(2) and (d) revised; eff. 10–30–96 51162
1386.94 (a), (b)(2) and (c) revised; eff. 10–30–96 51162
1386.101 (a)(11) and (c) revised; eff. 10–30–96 51162
1386.111 (c) and (d) revised; eff. 10–30–96 51162
1386.112 (a) and (b) revised; eff. 10–30–96 51162
1387.1 (a), (b) and (d) revised; eff. 10–30–96 51163
1388 Revised; eff. 10–30–96 51163

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1610 Revised; interim 41962
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1611 Appendix A revised 12041
1612 Revised; interim 45745
1617 Revised; interim 41964
1620 Revised; interim 45749
1626 Revised; interim 45751
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1636 Added; interim 45741
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1.01–10 (b)(1) introductory text, (ii)(B) and (C) corrected **54106**
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1.01–25 (b) amended 50725
1.03–15 (g), (h) and (j) revised 50725
2 Authority citation revised 13927
2.10–10 Amended 50725
2.10–20 (e) amended 50725
2.10–105 (b) amended 50725
2.10–115 (b) amended 50725
2.45–20 (a) amended 50725
2.75–1 (f) revised 13927
(c) and (d) amended 50725
2.75–5 (a) amended 50725
2.75–10 (b) amended 50725
2.75–15 (a) amended 50725
2.75–17 Removed 13927
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2.75–30 Removed 13927
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(c) amended 50725
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4.12–1 (e) amended 50726
5.703 (c) amended 50726
6.01 (a) amended 50726
6.06 (a), (b) and (d) amended 50726
10 Authority citation revised **65483**
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10.103 Amended **65483**
10.112 (b) amended 50726
10.201 (b) revised; (h), (i) and (j) added **65484**
10.205 (f)(2) revised; (k) added **65486**
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10.207 (h) and (i) added **65486**
(d)(1) revised; eff. 10–7–96 47063
10.209 (i) and (j) added **65486**
10.217 (a)(1) and (2) amended; eff. 10–7–96 47064
10.901 (a) revised; eff. 10–7–96 47064
12 Authority citation revised **65487**
Comment period reopened 13098
12.01–6 Amended **65487**
12.02–4 (a) revised; (b) removed; (c) redesignated as (b); new (c), (d) and (e) added **65487**
12.02–9 (g) and (h) added **65489**
12.05–9 (a) and (b) introductory text revised; eff. 10–7–96 47064
12.10–5 (a) and (b) introductory text revised; eff. 10–7–96 47064
12.15–9 (a) and (c) amended; eff. 10–7–96 47064
13 Comment period reopened 13098
15 Comment period reopened 13098, 19859
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16.205 Corrected **54106**
(g) amended 50726
16.207 (b) revised **67063**
16.500 Corrected **54106**
(a) and (c) amended 50726
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25.45–1 (a) amended 50726
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26.15–1 (a) and (b) removed; (c) redesignated as (b); new (a) added 25997
28.40 (b) revised **54444**
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28.50 Amended **54444**
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28.200—28.270 (Subpart C) Heading revised **54444**
28.200 Revised **54444**
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30.01–6 (d) revised; interim 25286
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31 Comment period reopened 13098
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31.05–1 (a) revised; interim 25286
31.10–15 (a) amended 25997
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Table 31.10–21(b) revised 39793
(e)(1), (3) and (g) amended 50726
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32.02–5 Revised 25997
32.15–10 Revised 25997
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33 Removed; interim 25286
33.01–3 (a) amended 50727
34.01–15 (a) amended 50727
34.05–5 (a) introductory text and (1) through (4) revised 25998
34.05–15 Removed 25999
34.10–10 (e), (e–1) and (n) removed; Table 34.10(E–1) and (f) through (m) redesignated as Table 34.10(E) and (g) through (n); new (e), (f) and (o) added 25999
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34.13–1 (Subpart 34.13) Revised 25999
34.55–1—34.55–10 (Subpart 34.55) Removed 25999
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35.01–5 (a) designation, (b) and (c) removed 25999
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35.10–5 Revised; interim 25287
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35.10–7 Removed; interim 25287
35.10–9 Removed; interim 25287
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35.40–1—35.40–40 (Subpart 35.40) Heading revised; interim 25287
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35.70–1—35.70–35 (Subpart 35.70) Removed 26000
38 Authority citation revised 26000
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(e) corrected 35138
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114—122 (Subchapter K) Added; interim 885
114.400 (b) corrected 20556
114.600 (a) and (b) amended 50730
116.202 (b)(6)(x) corrected 24464
116.300 Second 116.300 correctly designated as 116.330 20556
116.330 Correctly designated 20556
116.415 (b) table corrected 20556

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116.500 (o)(2) corrected 20556
117.15 (d) correctly revised 24464
117.64 Corrected 20556
118.300 (e) corrected 20556
118.320 (c)(1) corrected 24464
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119.115 (b) corrected 20556
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119.455 (a)(1)(ii) and (b)(3) corrected 20556
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127 Comment period reopening 7425
127.210 (b) amended 50731
128 Comment period reopening 7425
128.310 (b) amended 50731
128.410 Correctly designated 1035
129 Comment period reopening 7425
130 Comment period reopening 7425
130.470 (a) amended 50731
131 Comment period reopening 7425
131.530 (b)(1) amended 50731
131.535 (b) amended 50731
131.550 (a) corrected 1035
131.575 (a) corrected 1035
131.580 (e) amended 50731
132 Comment period reopening 7425
132.220 Table corrected 1035
133 Comment period reopening 7425
Added; interim 25304
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133.70 (a) corrected 40281
133.105 (a)(i)(iii) corrected 40281
133.120 (b) corrected 40281
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134 Comment period reopening 7425
134.140 (b) amended 50731
135 Comment period reopening 7425
136 Comment period reopening 7425
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147.50 (d) amended 50731
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150.140 Amended 50731
150.150 Introductory text amended 50731
150.160 (a) amended 50731
150.170 Table correctly revised; CFR correction 5518
150 Tables I and II and Appendix III amended 50731
151 Comment period reopening 13098
151.05–1 (f) removed 50731
151.13–1 (a) designation removed; amended 50731
151.13–5 (a) amended 50731
151.50–20 (i) amended 50732
151.50–22 (d) amended 50732
151.50–23 (e) amended 50732
151.50–36 (b) amended 50732
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151.50–75 Amended 50732
151.50–76 (b), (c) and (g) amended 50732
151.50–77 (a) amended 50732
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153 Comment period reopening 13098
153.1 (a)(4) amended 50732
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153.7 (b)(4)(iii) corrected **54106**
(b)(4) introductory text, (iii), and (c)(3) through (6) amended 50732
153.9 Footnote 1 removed; (a) introductory text revised 26008
153.10 (a)(1), (3) and (b) amended 50732
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153.16 Introductory text amended 26008
(a) amended 50732
153.219 (b)(3) amended 50732
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153.460 (b) and (c) amended 50732
153.490 (b)(1) amended 50732
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153.556 (a) amended 50732
153.557 (a)(3) and (b) amended 50732
153.558 (b) amended 50732
153.808 Amended 26009
153.809 Corrected **54106**
Revised 26009
153.902 Corrected **54106**
(b) and (c) revised 26009
153.921 Amended 50732
153.935a (a)(2) amended 50732
153.1010 (b)(4) amended 50732
153.1011 (a)(2) and (3) amended 50732
153.1025 (c) amended 50732
153.1046 Reinstated; CFR correction 42822
153.1052 Amended 50732
153.1101 (c) amended 50732
153.1119 (c)(1), (2)(viii), (3) and (e) amended 50732
153.1502 (a) amended 50732
153.1608 Note amended 50732
153 Table 1 amended 50732
154 Comment period reopened 13098
154.1 (a) and (b) amended 50732
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154.22 Corrected **54106**
154.30 (a), (b) and (c) amended 50732
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154.503 (e) amended 50732
154.516 Introductory text amended 50732
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154.805 (e) amended 50732
154.904 (a) amended 50732
154.908 (b) amended 50732
154.912 Amended 50732
154.1005 (a) and (b) amended 50733
154.1135 (a)(3) amended 50733
154.1335 (b)(1) and (c)(1) amended 50733

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154.1340 (c)(1) and (d) amended 50733
154.1345 (b)(2)(i) amended 50733
154.1725 (a)(2), (4) and (b)(1) amended 50733
154.1735 (a) amended 50733
154.1755 Amended 50733
154.1803 Corrected **54106**
154.1860 Amended 50733
154 Appendix A amended 50733
159 Authority citation revised 13927
159.001–2 Revised 13927
Amended 50733
159.001–3 Revised 13927
159.001–4 Added 13928
(a) amended 50733
159.001–5 Revised 13928
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159.005–13 (a)(4) revised 13928
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159.010–1 Revised 13928
159.010–5 Revised 13928
159.010–7 Removed; new 159.010–7 redesignated from 159.010–9 and revised 13928
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159.010–9 Redesignated as 159.010–7 13928
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159.010–17 Redesignated as 159.010–11; new 159.010–17 redesignated from 159.010–19 and revised 13929
159.010–19 Redesignated as 159.010–17; new 159.010–19 redesignated from 159.010–21 and revised 13929
159.010–21 Redesignated as 159.010–19 13929
160 Comment period extension **52631**
Authority citation revised 13945
160.001–1 (d) amended 50733
160.002–1 (c) amended 50733
160.010–1 (a) amended 50733
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160.010–4 Corrected **54107**
(b), (c)(1), (2) and (3) amended 50733
160.010–7 (a) amended 50733
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160.021–9 Removed 13929
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160.034–1—160.034–5 (Subpart 160.034) Removed 26009
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160.037–1 (c) amended 50733
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160.047–1 (c)(1) amended 50733
160.047–6a Removed 13930
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160.047–7 Revised 13930
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160.048–7a Removed 13930
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160.049–7 (a) and (d) removed; (b), (c) and (e) redesignated as (a), (b) and (c) 13930
160.049–7a Removed 13930
160.049–8 Revised 13930
160.049–9 Removed 13930
160.049–10 Removed 13930
160.051–0 (a) amended 50733
160.052–1 (c)(1) amended 50733
160.052–8a Removed 13930
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160.052–8c Removed 13930
160.052–9 Revised 13930
160.052–11 Removed 13930
160.052–12 Removed 13930
160.054–1 (b) amended 50733
160.055–1 (c) amended 50733

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160.057–9 Removed 13930
(b) amended 50733
160.060–1 Corrected **54107**
(c)(1) amended 50733
160.060–8a Removed 13930
160.060–8b Removed 13930
160.060–8c Removed 13930
160.060–9 Revised 13930
160.060–11 Removed 13931
160.060–12 Removed 13931
160.064–5 Removed 13931
160.064–5a Removed 13931
160.064–5b Removed 13931
160.064–7 Revised 13931
160.064–8 Removed 13931
160.064–9 Removed 13931
160.066–11 (c) revised 13931
160.066–18 Removed 13931
(b) amended 50733
160.072–09 (a) amended 50733
160.073–5 (b) amended 50733
160.076—160.076–39 (Subpart 160.076) Regulation at 60 FR 32848 confirmed 13945
160.076–5 Amended 13945, 50733
160.076–7 (a) revised 13945
160.076–9 (b) revised 13945
160.076–11 (b) revised 13945
(a) amended 50733
160.076–13 (c)(10) removed 13946
160.076–21 (d) and (e) removed; (f) redesignated as (d) 13946
160.076–23 (a)(1) revised; (a)(2) and (b) removed; (a)(3) redesignated as (a)(2) 13946
160.076–25 (c) revised 13946
160.076–27 Removed 13946
160.076–29 Tables 160.076–29A and 160.076–29B revised 13946
Tables 160.076–29A and 160.076–29B corrected 15868
160.076–31 (c)(8) revised 13946
160.076–37 (b) revised 13947
160.076–39 (c) and (d)(1)(i) revised; (d)(2) and (f) removed 13947
160.077–2 (a) amended 50733
160.077–5 (a) amended 50733
160.077–9 Revised 13931
(a) corrected 15868
160.171–3 (a) amended 50733
160.174–3 (a) amended 50733
160.176–3 (a) amended 50733
160.176–4 (a) amended 50733
161 Authority citation revised 28291
161.002–1 Revised; interim 28291
(a) corrected 36787
(c) amended 50733
161.002–2 (a) through (d) amended; interim 28292
161.002–3 (c), (d) and (e) removed; interim 28292
161.002–4 (b) added; interim 28292
161.002–5 Removed; interim 28292
161.002–6 Removed; interim 28292
161.002–7 Removed; interim 28292
161.002–8 (b) removed; interim 28292
161.002–10 (b) heading and (1) revised; (b)(2), (3), (4), (c)(3), (d), (e) heading and (1) through (4) amended; (i) through (m) removed; interim 28292
(b) heading, (1) and (e)(2) correctly revised; (b)(2) through (5), (c)(3), (d) heading, (1), (2) heading, (e) heading, (1), (3), (4) and (f)(1) corrected 49691
161.002–11 Removed; interim 28292
161.002–12 (a) amended; interim 28292
161.002–13 Removed; interim 28292
161.002–15 Revised; interim 28292
161.002–16 Removed; interim 28292
161.002–17 Revised; interim 28292
161.002–18 Added; interim 28292
161.004–1—161.004–7 (Subpart 161.004) Removed; interim 28293
Correctly designated 33045
(d) amended 50733
161.004–7 (a) amended 50734
161.010–1 Corrected **54107**
(a) amended 50733
161.010–4 (a) and (b) amended 50734
161.011–10 (c) amended 50734
161.012–5 (a) amended 50734
161.013–7 (a) amended 50733
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162.017–3 (b) amended 50734
162.017–6 (a) and (c) amended 50734
162.027–1—162.027–3 (Subpart 162.027) Revised 26009
162.027–2 (b) amended 50734
162.027–6 (a) amended 50734
162.050–7 (a), (f) and (g) amended 50734
162.050–15 (a), (e) and (h) amended 50734
164 Authority citation revised 26009
164.007–1 (c)(1) amended 50734

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164.008–1 (c)(1) amended 50734
164.009–9 (a) and (d) amended 50734
164.009–11 (a) amended 50734
164.012–1 (b) amended 50734
164.016–1—164.016–5 (Subpart 164.016) Removed 26009
164.018–7 (a) amended 50734
164.019–3 Amended 50734
164.023–3 (a) amended 50734
167.05–25 Revised; interim 25311
167.05–35 Added; interim 25311
167.15–28 Added; interim 25311
167.15–30 (e) amended 50734
167.35–1 Revised; interim 25311
167.35–2 Removed; interim 25311
167.35–3 Removed; interim 25311
167.35–5 Removed; interim 25311
167.35–10 Removed; interim 25311
167.35–15 Removed; interim 25311
167.35–20 Removed; interim 25311
167.35–25 Removed; interim 25311
167.35–30 Removed; interim 25311
167.35–35 Removed; interim 25311
167.35–40 Removed; interim 25311
167.35–45 Removed; interim 25311
167.35–50 Removed; interim 25311
167.35–60 Removed; interim 25311
167.35–65 Removed; interim 25311
167.35–70 Removed; interim 25311
167.35–72 Removed; interim 25311
167.35–75 Removed; interim 25311
167.35–80 Removed; interim 25311
167.35–85 Removed; interim 25311
167.35–90 Removed; interim 25311
167.40–20 Amended 26010
167.40–35 Removed 26010
167.45–40 (c–1) and (c–2) removed; (a), (b) and (c) revised 26010
167.45–55 Removed 26010
167.55–5 Heading and (j) revised; note removed; interim 25311
167.65–1 Revised; interim 25311
167.65–3 Removed 26010
167.65–10 Removed 26010
167.65–15 Revised 26010
167.65–30 Removed 26010
167.65–50 Revised 26010
167.65–55 Removed; interim 25311
168 Authority citation revised 26010
168.05–5 Revised; interim 25312
168.10–1 Revised; interim 25312
168.10–5 Revised; interim 25312
168.15–1—168.15–60 (Subpart 168.15) Revised 26010
168.15–15 (a) correctly revised 35138
168.15–25 (a) correctly revised 35138
169 Authority citation revised 26011
169.115 (b) amended 50734
169.229 (e) amended 50734
169.321 Removed 26011
169.742 Removed 26011
170 Authority citation removed 943
Comment period reopening 7425
170.001 (a) introductory text and (b) amended 943
170.010 Amended 50734
170.015 (a) amended 50734
170.055 (g) revised; interim 57671
(i)(1) amended; (w) added 943
170.075 (b) amended 944
170.100 (b) amended 50734
170.105 (b)(1) removed; (b)(2) through (5) redesignated as (b)(1) through (4) 944
170.160—170.173 (Subpart E) Heading revised 944
170.160 (b)(1) removed; (b)(2), (3) and (4) redesignated as (b)(1), (2) and (3) 944
170.170 (a) amended; (d) revised 944
(a) corrected 20556
170.173 (b)(2) amended 944
170.200 (a)(2) amended 944
170.265 (c) amended; (d) introductory text and (2) revised 944
(c) amended 50734
170.270 (e) revised 944
171 Authority citation revised 53713
Authority citation revised 944
171.001 (a) revised 944
171.010 (a), (d)(1) and (3) revised; (e) through (k), (l), (m) and (n) redesignated as (f) through (l), (n), (p) and (q); new (e), new (m) and (o) added 944
171.020—171.043 (Subpart B) Removed 944
171.057 (a) and (b) amended 944
171.080 (d), (e) and (f) redesignated as (e), (f) and (h); new (d) and (g) added; new (e) introductory text and new (f) revised 53713
171.085 (a), (h)(1) and (j)(2) revised 945
171.110 (a) designation and (b) removed 945
171.114 Removed 945

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171.115 (a) designation and (b) removed 945
171.119 Removed 945
171.120 Revised 945
171.122 (f)(1) revised; Table 171.122 redesignated from Table 171.124 945
171.124 Table redesignated as Table 171.122; section removed 945
171.130 (a) designation and (b) removed 945
171.140 Removed 945
171.145 Removed 945
171.150 Removed 945
171.155 Removed 945
173.005 (b) revised 945
173.020 (c) introductory text revised 945
173.025 (b) introductory text, (c) and Graph 173.025 revised 945
173.054 (a)(1) and (b)(1) amended 946
173.059 Amended 946
173.060 (a) amended 946
173.061 Amended 946
(a) corrected 20556
173.062 Amended 946
173.063 (a) and (d) amended 946
174 Comment period reopening 7425
174.005 (g) and (h) added; interim **57671**
174.007 (a) amended 50734
174.180—174.225 (Subpart G) Added; interim **57671**
174.205 (b) corrected 1035
174.240—174.260 (Subpart H) Added; interim **57673**
175—185 (Subchapter T) Revised 946
175 Comment period reopening 7425
175.05–2 Revised; interim **57674**
(b) corrected 1035
175.10–40 Revised; interim **57674**
175.35–1 (Subpart 175.35) Removed; interim **57674**
175.110 (d) table corrected 20557
175.400 Corrected 20557
175.540 (b) corrected 24464
175.600 (a) and (b) amended 50734
176.000 Correctly designated as 176.400 20557
176.100 (b) corrected 20557
176.105 (d) and (e) corrected 20557
176.107 (a) and (b) corrected 20557
176.110 (a) and (b) corrected 20557
176.310 (a) and (b) corrected 20557
176.400 Correctly designated 20557
176.404 Corrected 20557
176.802 (c) corrected 20557
176.810 (b)(2) table corrected 20557
176.920 Correctly designated 20557
176.970 Correctly designated as 176.920 20557
177.410 (c)(3) and (d)(1) corrected 24464
177.1010 Corrected 20557
178.320 (d) corrected 20557
178.330 (d)(3)(i) and (ii) corrected 20557
178.450 (a) corrected 20557
179.220 (a) corrected 20557
180.15 (e) correctly revised 24464
180.68 (c)(1) corrected 20557
180.70 (d)(1) corrected 20557
180.71 (d) corrected 24464
180.137 (e) introductory text corrected 20557
180.204 Correctly designated 20557
180.207 (b) corrected 24464
180.304 Correctly designated as 180.204 20557
181.220 (c)(3) corrected 20557
(d)(1) corrected 24464
181.410 (b)(2) corrected 20557
181.500 (d) corrected 24464
182.15–40 (a)(3) amended 50735
182.20–40 (a)(2)(ii) amended 50735
182.320 (a) corrected 20557
182.425 (b)(6) corrected 20557
182.430 Corrected 20557
(k) corrected 24464
182.520 (j)(1) corrected 20557
183.130 (a) corrected 20557
183.340 (p) corrected 20557
183.350 (d) corrected 20557
183.530 (c) corrected 24465
184.01–3 (a) amended 50735
185.115 (a) corrected 24465
185.506 (b)(1) corrected 20557
185.602 (c) corrected 24465
185.614 Corrected 24465
188.05–10 (d) revised; interim 25312
188.10–52 Removed; interim 25312
188.10–53 Revised; interim 25312
188.27–1 (Subpart 188.27) Added; interim 25312
188.35–5 (b) amended 50735
189.15–1 Revised; interim 25312
189.20–20 (a) introductory text redesignated as introductory

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text; (a)(1) through (4) redesignated as (a) through (d); new (a) revised; interim 25312
189.25–15 Revised; interim 25312
189.40–3 (e)(1), (3) and (g) amended 50735
189.55–15 (a)(2) corrected 54106
(a)(2) and (3) amended 50735
189.60–30 Removed 26011
189.60–45 (a) amended 50735
190.01–03 (a) amended 50735
190.01–13 Removed 26011
190.20–1—190.20–90 (Subpart 190.20) Revised 26011
192 Removed; interim 25312
193.01–3 (a) amended 50735
193.05–20 Removed 26012
193.10–10 (d) and (i) revised; (i–1) and (i–2) removed; (j) and (k) redesignated as (l) and (m); new (j) and new (k) added 26012
193.10–90 Revised 26013
195.01–3 (a) amended 50735
195.06–1 (Subpart 195.06) Added; interim 25312
196 Authority citation revised 25312
196.03–1 (Subpart 196.03) Removed 26013
196.13–1 Revised; interim 25313
196.13–5 Removed; interim 25313
196.13–10 Removed; interim 25313
196.13–15 Removed; interim 25313
196.13–20 Removed; interim 25313
196.14–1—196.14–20 (Subpart 196.14) Removed; interim 25313
196.15–25 Removed; interim 25313
196.15–35 Revised; interim 25313
196.15–37 Removed; interim 25313
196.15–40 Removed; interim 25313
196.15–45 Removed; interim 25313
196.15–50 Removed; interim 25313
196.15–65 Removed; interim 25313
196.15–70 Removed; interim 25313
196.17–1 (Subpart 196.17) Removed 26013
196.18–1 (Subpart 196.18) Removed 26013
196.23–1 (Subpart 196.23) Removed 26013
196.27–10 Removed 26013
196.33–1 (Subpart 196.33) Revised 26013
196.35–3 Revised 26013
196.35–5 (a) introductory text redesignated as introductory text; (a)(6) and (8) removed; (a)(1) through (5), (7) and (9) through (13) redesignated as (a) through (k); new (a) revised; interim 25313
196.35–10 Removed 26013
196.37–37 Revised; interim 25313
196.37–40 Removed; interim 25313
196.37–43 Removed; interim 25313
196.37–45 Removed 26013
196.37–49 Removed; interim 25313
196.39–1 (Subpart 196.39) Removed; interim 25313
196.43–1—196.43–5 (Subpart 196.43) Revised 26013
196.60–1 (Subpart 196.60) Removed 26013
196.75–1 (Subpart 196.75) Removed 26013
196.90–1—196.90–10 (Subpart 196.90) Removed; interim 25313
197.205 (b)(1) amended 50735
197.510 (a) and (b) amended 50735
199 (Subchapter W) Added; interim 25313
Comment period reopening 43685
199.05 (b) corrected 40281
(a) amended 50735
199.20 (a)(1), (2), (b) and (c) amended 50735
199.175 (b)(17) and (21)(i)(B) corrected; (b)(20) correctly designated 40281
199.190 (b)(1)(vii), (g)(4) and (i) corrected 40281
199.211 (a) correctly designated 40281
199.273 (b) corrected 40281
199.620 (j) table corrected 40281
199.630 (a) table, (f) introductory text and (k)(1) corrected 40281

Chapter II—Maritime Administration, Department of Transportation (Parts 200—399)

252.1 Amended 32706
252.32 (c)(1) and (2) amended 32706
272.41 (e), (f) and (g) removed 32706
298 Revised 21314
308 Revised 1131
381.9 Revised 24897

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Chapter III—Saint Lawrence Seaway Development Corporation (Great Lakes Pilotage), Department of Transportation (Parts 400—499)

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Removed.....32655
401 Redesignated as 33 CFR Part 404.....32655
401.110 (a)(2) and (9) revised.....5721
(a)(9) revised.....50735
401.210 (a)(4) and (7) amended.....5721
401.211 (e) amended.....5721
401.220 (b) amended.....5721
401.230 (b), (c) and (d) amended.....5721
401.240 (a) and (d) amended.....5721
401.250 (c) amended; (d) revised.....5721
401.320 (d)(2), (3) and (4) amended.....5721
401.425 Amended.....5721
401.431 (e) amended.....5721
401.510 (b)(2), (3) introductory text and (5) amended.....5721
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401.650 Amended.....5721
401.710 (g) amended.....5721
402 Redesignated as 33 CFR Part 405.....32655
402.100 Amended.....5721
403 Redesignated as 33 CFR Part 406.....32655
403.300 (b) revised.....21084
404 Redesignated as 33 CFR Part 407.....32655
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501.4 (b) amended; (c) revised.....57941
501.5 (j) heading removed; (j)(1) and (2) redesignated as (i)(5) and (6); (f)(1)(i), (i) introductory text, (3), (4), new (5) and new (6) introductory text revised; (l)(2) amended.....57941
501.26 (f) amended; (g) through (m) redesignated as (i) through (o); new (g) and new (h) added; new (i)(6) removed.....9944
(j) and (k) corrected; (n) correctly redesignated as (p).....14032
501.28 Revised.....57941
501.31 Removed.....57941
501.41 (c)(6) and (d) revised; (c)(9) removed.....57941
501 Appendix A revised.....57942
505 Added; eff. 10–28–96.....50444
514.7 (h)(1)(v) revised; (h)(2)(i)(C) added.....5309
514.8 (f) revised.....56123
514.17 (d)(1) table correctly revised; CFR correction.....35686
514.20 (d) revised.....56123
514.21 (j) revised.....56124
514 Exhibit II added.....5310
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572 Petition for reconsideration.....17849
572.103 (a) through (e) amended.....11573
572.104 (e) through (r), (s) through (x), (y) and (z) through (ff) redesignated as (f) through (s), (u) through (z), (cc) and (dd) through (jj); new (e), new (t), new (aa), new (bb) and (kk) added; new (g), new (j) and new (hh) amended; new (o) heading and (cc) revised.....11574
572.301 (b) amended.....11574
572.302 (b) amended.....11574
572.303 (b) amended.....11574
572.304 (b) amended.....11574
572.305 (b) amended.....11574
572.306 (b) amended.....11574
572.307 (b) amended.....11574
572.308 (b) amended.....11574
572.309 (a) amended.....11574
572.401 Heading, (a)(1), (2), (c), (d) and (e) revised.....11574
572.402 (e)(2) and (f) amended; (h) removed.....11575
572.403 Redesignated as 572.405; new 572.403 redesignated from 572.501; (a) and (b) amended.....11575
572.404 Redesignated as 572.406; new 572.404 redesignated from 572.202; (a) and (b)(1) amended.....11575

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572.405 Removed; redesignated from 572.403; (a) and (g)(3) revised 11575
572.406 Redesignated as 572.407; new 572.406 redesignated from 572.404 and revised 11575
572.407 Redesignated from 572.406 11575
572.501—572.505 (Subpart E) Added 11575
572.501 Redesignated as 572.403 11575
572.502 Redesignated as 572.404 11575
572.601 (a) revised; (b)(1) amended 11576
572.608 (b)(2) revised 11576
572.701 (b), (c) and (d) removed; (a)(1), (2), (e) and (f) redesignated as (d), (e), (f) and (i); new (a), (b), (g) and (h) added; new (d), new (f) and new (i) revised; new (e) amended 11576
(f) amended 40530
572.702 Redesignated as 572.706; new 572.702 added 11576
(b) amended 40531
572.703 Redesignated as 572.707 11576
Added 11577
572.704 Redesignated as 572.709 11576
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572.705 Added 11577
572.706 Redesignated from 572.702; heading revised; (d) added 11576
572.707 Redesignated from 572.703; introductory text amended 11576
572.708 Added 11577
572.709 Redesignated from 572.704 and revised 11576
572.902 Revised 11577
572.991 Amended 11577
572 Appendix A revised 11577
Appendix B added 11579
Appendix C added 11580
Appendix D added 11582
Appendix E added 11584

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..... 13284, 15438, 16749
13 16749
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540 ..... 33059, 39940, 43209, 50265
552 ..... **53572**

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission (Parts 0—199)

Chapter I Policy statement 11163
Order 14672, 26466, 30531, 35964, 39359
0.5 (a)(15) added 8476
0.15 (i) amended 8477
0.81 Undesignated center heading and section added 2727

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0.91 (l) amended 8477
0.111 Undesignated center heading and section revised 8476
0.121 (a) amended 8477
0.131 (j) revised 4361
0.151 Revised 10689
0.185 Introductory text, (a) and (b) revised 8476
0.241 (f) revised 4918
(g) added 31045
0.251 (j) added 26464
(c), (d) and (e) added; (f), (g) and (h) removed; (i) and (j) redesignated as (f) and (g) 29311
0.283 (a)(9)(i) revised 10689
0.284 (a)(3) and (4) revised 8477
0.291 (h) revised 16230
0.311 (g) revised **55998**
(f) amended **61662**
Amended 8477
(i) added 25805
0.314 (l) added 25805
0.317 Amended 8477
0.331 (d) revised 26465
0.332 (c) and (h) amended 8477
0.387 (b) amended 8477
0.391 Undesignated center heading and section added 2728
0.401 (a)(4) amended 8477
0.408 Revised (OMB numbers) 51023
0.431 Amended 8477
0.443 Amended 8477
0.445 (g) amended 8477
0.467 (a)(1) table and (2) revised 14500
1 Report **64348**
Order 40155
Authority citation revised 45618, 46561
Petition denial 45903
1.4 (h) introductory text revised; Examples 12 and 13 redesignated as Examples 13 and 14; new Example 12 added 11749
1.24 (d) added **53277**
1.61 (c), (d), (e) and (f) removed; (g) redesignated as (c); (a), (b) and new (c) introductory text revised 4361
1.77 (i) added 26670
1.227 (b)(6) revised 18291
1.402 (h) and (i) revised 4918
1.420 (f) revised 43472
1.741 Revised 26670
1.761 Revised 26671
1.767 (a) revised; (e) and (f) added (effective date pending) 15726
1.825 (b) revised 26671
1.901 Revised 26671
1.924 (b)(2)(ii) revised 26671
1.926 (a)(6) revised 26671
1.962 (a)(1) removed; (a)(2) through (7) redesignated as (a)(1) through (6) 26671
1.972 (a)(1) and (c) revised 26671
1.1102 Revised 41967
1.1103 Revised 41974
1.1104 Revised 41975
1.1105 Revised 41979
Table corrected 44176
1.1106 Revised 41979
1.1107 Revised 41980
Table corrected 44176
1.1152 Revised 36639
1.1153 Revised 36641
1.1154 Revised 36641
1.1155 Revised 36641
1.1156 Revised 36642
1.1307 (b) revised; (e) added 41014
1.1310 Added 41016
1.1401 Revised 43024, 45618
1.1402 (a), (b), (d), (e) and (f) revised; (h) added 43024
(d) revised 45618
1.1403 Revised 43025, 45618
1.1404 (a), (d) introductory text and (2) revised 43025
(b) and (c) revised; (k) added 45619
1.1409 (e) added 43025
(b) and (d) revised 45619
1.1416 Added 43025
Heading and (b) revised 45619
1.1501 Amended 39898
1.1502 Revised 39898
1.1504 (b)(5) amended; (b)(6) added 39898
1.1505 Revised 39899
1.1506 (b) revised 39899
1.1507 (a) amended 39899
1.1508 Amended 39899
1.1511 (a) and (b) introductory text revised 39899
1.1513 Amended 39899
1.1514 (a) and (c) revised 39899
1.1524 Amended 39899
1.1526 (a) revised 39899
1.1527 Revised 39900
1.1528 Amended 39900
1.2107 (c) revised; eff. 11-18-96 49075

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1.2110 (b)(4)(x)(C), (D) and (E) redesignated as (c), (d) and (e) **52865**
1.4000 (Subpart S) Added (OMB number pending) 46561
2.104 (a) revised 15384
2.106 Table amended 14501
Table amended; Footnotes 621, 622, 627 and 635 revised; Footnotes 633 and 634 removed; Footnote 641A added 15384
Table amended; Footnotes 551, 612, 614, 682, 708, US330 and US331 removed; Footnotes 672, 675, 676, 678, 697 and 703 revised; eff. 10–28–96 45342
2.805 Revised 31045
2.901 Revised 31045
2.906 Added 31045
2.909 Introductory text revised; (c) added 31045
2.913 Revised 31045
2.937 Undesignated center heading and section revised 31046
2.945 Revised 31046
2.946 (a) and (b) revised 31046
2.948 (a)(3) and (d) added 31046
2.995 (a)(2) revised 26671
2.997 Revised 14502
2.1071 Undesignated center heading and section added 31046
2.1072 Added 31046
2.1073 Added 31046
2.1074 Added 31047
2.1075 Added 31047
2.1076 Added 31047
2.1077 Added 31048
2.1091 Undesignated center heading and section added 41017
2.1093 Added 41017
2.1204 (a)(4) amended 8477
2.1302 Amended; eff. 11–13–96 42386
3 Added 20165
5.67 (d)(2) amended 8477
11.11 (a) and (b) revised **55998**
11.12 Revised **55999**
11.21 Introductory text revised **55999**
11.31 (a)(1), (b) and (c) revised **55999**
11.33 (a)(3)(i), (ii), (5) introductory text, (ii), (9), (11) and (b)(2) revised **55999**
11.34 (c) revised **56000**
11.47 Added **56000**
11.51 (a) and (b) amended; (c) revised; (f) and (i) removed; (g), (h) and (j) through (n) redesignated as (f), (g) and (h) through (l) **56000**
11.52 (a) revised **56000**
11.61 (a)(1)(i), (2)(i) and (ii)(A) revised **56000**
15 Reconsideration petition 3600
Authority citation revised 18509, 29689
15.3 (r) revised; (bb) added 31048
15.19 (d) revised 18509
(b) and (c) redesignated as (a)(4) and (5); new (a)(4) and new (5) revised; new (b) and new (c) added 31048
15.31 (f)(1) revised 14502
15.32 Added 31049
15.33 (a) revised 14502
15.35 (b) revised 14502
15.37 (g) added 31049
15.101 (a) table and (c) through (f) revised 31050
15.102 Added 31050
15.115 (i) revised 18509
15.117 (g)(3) removed 30532
15.118 (b), (c)(1) through (5) and (d) revised 18509
15.205 (d)(4) added 14503
15.245 (b)(1) introductory text correctly revised 42558
15.253 Added 14503
(f) revised 41018
15.255 Added; stayed 14503
(g) revised 41018
15.307 (a), (f) and (g) revised 29689
15.319 (i) revised 41018
17.1 Revised 4362
17.2 (a) revised; (c) and (d) added 4362
17.4 Revised 4362
17.5 Added 4362
17.6 Added 4363
17.7—17.17 (Subpart B) Heading revised 4363
17.10 Introductory text revised 4363
17.14 (a) amended 4363
17.17 (a) revised 4363
17.22 Amended 4363
17.23 Revised 4363
17.24 Removed 4363
17.25 Removed 4363
17.26 Removed 4363
17.27 Removed 4363
17.28 Removed 4363
17.29 Removed 4363
17.30 Removed 4363

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17.31 Removed 4363
17.32 Removed 4363
17.33 Removed 4363
17.34 Removed 4363
17.35 Removed 4363
17.36 Removed 4363
17.37 Removed 4363
17.38 Removed 4363
17.39 Removed 4363
17.40 Removed 4363
17.41 Removed 4363
17.42 Removed 4363
17.43 Removed 4363
17.47 Revised 4363
17.48 Introductory text revised; (a) amended 4364
17.49 Heading, introductory text and (c) revised; (d) added 4364
17.50 Revised 4364
17.51 (b) revised 4364
17.57 Revised 4364
20 Authority citation revised 45619
20.3 Amended 38402
20.6 (d)(2), (e) and Note 1 revised 33867
20.03 Amended 40352
20.11 (c) added 45619
20.12 Added 38402
Heading revised; (c) added; eff. 10-28-96 43981
20.15 (e) added 38637
20.18 Amended 40352
21 Order 2452
21.2 Amended **57366**
Revised 26671
21.3 (b) removed; (c) redesignated as (b) 26673
21.6 (b) and (c) revised 26673
21.11 (g) added 4364
21.13 (a)(6) and (b) revised; (f) removed; (g) redesignated as (f) 26673
21.15 (g) revised **57366**
(d) revised; (e), (f) and (g) redesignated as (f), (g) and (h); new (e) added 4364
Introductory text, (c), (d) and (g) revised 26673
21.20 (b)(5) revised 26674
21.23 (c)(1) and (d) removed; (c)(2) through (7) and (e) through (g) redesignated as (c)(1) through (6) and (d) through (f); new (c)(1) introductory text and (d)(1) revised 26674
21.27 (d) removed 26674
21.31 (f) removed 26674
21.33 (a) removed; (b), (c) and (d) redesignated as (a), (b) and (c) 26674
21.39 (d)(3) revised 26674
21.41 (c)(3) revised 4364
(b) and (c) revised 26674
21.42 (d) revised **57366**
(c)(6) revised 4364
(a), (b)(1), (4) and (c)(3) revised; (c)(7) removed; (c)(8) redesignated as (c)(7) 26674
21.43 (a) revised 26675
21.45 (a) and (c) revised 26675
21.100 Revised 26675
21.101 (a) revised; (b) removed; (c) redesignated as (b) 26675
21.106 (a)(2)(ii), (3) and (4) removed; (a)(2)(iii) redesignated as (a)(2)(ii) 26675
21.107 (b) revised; (c) removed 26675
21.108 Removed 26675
21.109 (b) revised 26675
21.111 Revised 4365
21.112 Revised 4365
21.113 (c)(2) amended 8477
21.114 Removed 26676
21.117 (b) revised 4365
21.119 Removed 26676
21.120 (a) revised; (d) and (e) removed 26676
21.122 (a) revised; (d) and (e) removed 26676
21.214 Removed 26676
21.303 (a), (b), (c) and (d)(1) revised 26676
21.500—21.512 (Subpart G) Removed 26676
21.700—21.713 (Subpart I) Removed 26676
21.800—21.809 (Subpart J) Removed 26676
21.901 (e) revised 26676
21.902 (g)(1) revised **57367**
(i)(1) and (2) revised 18098
First (c) removed; (c)(1)(ii) reinstated; CFR correction 25594
(c)(1)(ii) revised 26676
21.903 (a) revised 26676
21.904 (c)(2) redesignated as (c)(3); new (c)(2) added **57367**
21.912 (e)(3) added 15387
21.924 (c) revised **57367**
21.925 (a)(2) revised **57367**
21.929 Existing text designated as (b); (a) added **57367**

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21.933 Revised **57367**
21.938 (c) through (g) redesignated as (d) through (h); new (c) added; new (d) and new (f) revised **57367**
21.956 (a)(1) introductory text revised 18098
21.960 (b)(5)(i) and (d)(1)(i) revised **57367**
21.961 (b)(2) introductory text revised **57368**
22 Order 21380, 34375
Authority citation revised 29689
Waiver 50736
22.99 Amended 31050
22.115 (a)(2) and (3) revised 4365
22.365 Revised 4365
22.369 (c)(3) amended 8477
22.377 Introductory amended 31051
22.527 Added 31051
22.535 Introductory text revised; (f) added 31051
22.537 (h) added 31051
22.602 Revised 29689
22.901 (e) removed 38403
Introductory text revised; eff. 10–28–96 43981
Introductory text and (d) revised; eff. 10–28–96 45356
23.20 (e)(2) amended 8477
23.28 (c) added 4365
23.39 Revised 4366
23.40 Removed 4366
24 Waiver 25807, 25808, 25810
Authority citation revised 29691
24.3 Revised; eff. 10–28–96 45356
24.5 Amended 29691
24.52 Revised 41018
24.55 Added 4366
24.204 Removed 33868
24.229 (c) removed; (d) redesignated as (c) and revised 33868
24.237 (c) revised 29691
24.239 Undesignated center heading and section added 29691
24.241 Added 29691
24.243 Added 29692
24.245 Added 29692
24.247 Added 29692
24.249 Added 29693
24.251 Added 29693
24.253 Added 29693
24.416 Removed 4366
24.704 (a)(3) added 33868
24.706 Revised 33868
24.709 Heading, (a)(1), (2), (c)(1) introductory text, (2) introductory text and (ii) revised 33868
24.715 Removed 33868
24.716 (c) redesignated as (d); (a)(1), (2), (b) and new (d)(2) revised; new (c) added 33868
24.717 (a) and (b) revised; (c) removed; (d) redesignated as (c) 33869
24.720 (b)(2) and (3) redesignated as (b)(3) and (4); (b) heading, new (3), new (4), (c)(2), (e), (f), (g), (j)(2), (l)(11)(i), (n)(1), (3) and (4) revised; new (b)(2) and (5) added 33869
24.813 (a)(1), (2) and (4) revised 33870
24.816 Removed 4366
24.839 (a), (d)(1) and (2) revised; (d)(3), (4) and (5) added 33870
25.104 Revised 10898
(b)(1) revised; (f) added (OMB number pending) 46562
25.110 (b) revised 9951
25.113 (c) revised; (d) redesignated as (f); new (d) and (e) added 4366
(b) and (d) revised 9951
25.114 (c)(6)(iii) removed 9945
(c)(18) revised; (c)(23) and (24) removed 9952
25.115 (c) introductory text revised 9952
25.117 (a) revised 9952
25.119 (c) added 4367
25.130 (e) added 4367
(d) revised 9952
25.131 (b), (g) and (j) revised 9952
25.136 (b) revised 9945
25.140 Heading, (a) and (b) revised 9952
25.143 (h) added 9945
25.202 (c) revised 9952
25.203 (g)(2) amended 8477
(j) and (k) revised 9945
(h) added; eff. 10–28–96 44181
25.210 (e) introductory text and (j) introductory text revised; (f) removed 9952
25.211 (b) revised 9952
25.213 (c) and (d) removed 9945
25.250 Added; eff. 10–28–96 44181
25.257 Added; eff. 10–28–96 44181
25.258 Added; eff. 10–28–96 44181

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25.276 (c) revised 9953
25.300 (h) added 4367
32 Memorandum opinion and order **53544**
Authority citation revised 50245
32.11 (a)(1) and (2) revised 50245
32.9000 Amended 50245
36 Memorandum opinion and order **53544**
Recommendation **65010**
36.601 (c) revised **65011**
(c) revised 34376
36.622 (a) amended; (c) revised **65012**
(c) revised 34377
43 Manual revision 4918
Authority citation revised 50245
43.21 (a) and (d) amended; (c) and (f) introductory text revised; (g) added 50245
43.22 Revised 50246
43.41 Amended 50246
43.43 (a) revised 50246
43.51 (a) introductory text and (b) revised **52866**
43.82 Added **51368**
51 Added 45619
Authority citation revised 47348
51.5 Amended; eff. 10–7–96 47348
51.205 Added; eff. 10–7–96 47349
51.207 Added; eff. 10–7–96 47349
51.209 Added; eff. 10–7–96 47349
51.211 Added; eff. in part 10–7–96 and 11–15–96 47349
51.213 Added; eff. 11–15–96 47349
51.215 Added; eff. 10–7–96 47350
51.217 Added; eff. 11–15–96 47350
51.305 (g) added; eff. 11–15–96 47351
51.307 (e) added; eff. 11–15–96 47351
51.325 Added; eff. 11–15–96 47351
51.327 Added; eff. 11–15–96 47351
51.329 Added; eff. 11–15–96 47351
51.331 Added; eff. 11–15–96 47352
51.333 Added; eff. 11–15–96 47352
51.335 Added; eff. 11–15–96 47352
52 Added 38637
Authority citation revised 47353
52.1—52.5 (Subpart A) Redesignated as Subpart C; eff. 10–7–96 47353
Added; eff. 10–7–96 47353
52.1 Redesignated as 52.21; eff. 10–7–96 47353
52.3 Redesignated as 52.23; eff. 10–7–96 47353
52.5 Redesignated as 52.25; eff. 10–7–96 47353
52.7—52.19 (Subpart B) Added; eff. 10–7–96 47353
52.7 Redesignated as 52.27; eff. 10–7–96 47353
52.9 Redesignated as 52.29; eff. 10–7–96 47353
52.11 Redesignated as 52.31; eff. 10–7–96 47353
52.19 Eff. in part 11–15–96 47354
52.21 Redesignated from 52.1; eff. 10–7–96 47353
(f), (l), (s), (t) and (u) removed; (g) through (k), (m) through (r) and (v) redesignated as (f) through (q); eff. 10–7–96 47355
52.23 Redesignated from 52.3; eff. 10–7–96 47353
52.25 Redesignated from 52.5; eff. 10–7–96 47353
52.27 Redesignated from 52.7; eff. 10–7–96 47353
52.29 Redesignated from 52.9; eff. 10–7–96 47353
52.31 Redesignated from 52.11; eff. 10–7–96 47353
61 Declaration 8879
Report and order 7738
Order 36515
Petitions for waiver 36653
61.20—61.21 Undesignated center heading revised (effective date pending) 15726
61.20 (b) revised (effective date pending) 15726
61.21 (a) revised (effective date pending) 15726
61.22—61.50 Undesignated center heading revised (effective date pending) 15727
61.22 (b) amended **52866**
(b) and (d) revised (effective date pending) 15727
61.23 (c) revised 15727
61.42 (d)(5) added **52346**
61.45 (b) introductory text and (h) revised; (b)(3) added **52346**
61.47 (g)(6) added **52346**
61.48 (j) added **52346**
63 Authority citation revised **57196**
Order 40531
63.01 (k)(5) and (r) revised; (k)(6) redesignated as (k)(7); new (k)(6) and (s) added **67335**
Heading and introductory revised; (k)(5), (6), (7), (r), (s)

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and Notes 1 through 4 removed (effective date pending) 15727
63.05 Heading revised (effective date pending) 15727
63.08 (a)(i) removed; (a)(ii) and (iii) redesignated as (a)(1) and (2); new (a) introductory text, new (2) and (b) amended; (c) revised; (e) added 10476
63.09 Removed 10476
63.10 (a)(1), (2) and (3) revised; (c) added **67337**
(a) introductory text, (3) and (4) amended; (c)(3) revised (effective date pending) 15727
63.11 Revised **67338**
(a) introductory text, (2), (c)(1), (2), (3) and (d) revised; (e)(2) amended (effective date pending) 15727
63.12 (c)(1) revised **67338**
Revised (effective date pending) 15728
63.13 (a)(3) and (5) amended; (a)(4) revised **67338**
(a)(3) and (5) amended; (a)(4) revised (effective date pending) 15728
63.14 Revised **67338**
Revised (effective date pending) 15728
63.15 (b) revised **51368**
Heading and (a) revised; (c) removed (effective date pending) 15729
63.16 Removed 10476
63.17 Added **67339**
(b) amended (effective date pending) 4937
(b) introductory text and (4) revised (effective date pending) 15728
63.18 Added (effective date pending) 15729
63.19 Added (effective date pending) 15732
63.20 Added (effective date pending) 15732
63.21 Added (effective date pending) 15732
63.52 (b) amended 10476
Heading revised (effective date pending) 15733
63.53 Revised (effective date pending) 15733
63.54 Undesignated center heading and section removed 10476
63.55 Removed 10476
63.56 Removed 10476
63.57 Removed 10476
63.58 Removed 10476
63.62 (a) revised 15733
63.71 Heading revised (effective date pending) 15733
63.100 (a)(3), (4) and (6) revised; (b) through (e) amended; (h) added **57196**
64 Declaration **56124**
Declaration 8879
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Petition for reconsideration 8879
Waiver 20746, 50246
Authority citation revised 24903
Petitions for waiver 36653
64.604 (c)(4)(iii)(I) revised 36642
64.607 Revised; eff. 10–23–96 42185
64.702—64.708 (Subpart G) Heading revised 14981
64.703 (b)(3) revised 14981
64.706 Revised 14981
64.708 (d) revised 14981
64.903 (a) introductory text and (b) revised 50246
64.1201 (e)(3) revised 8880
64.1402 (c) amended 43160
64.1501—64.1515 (Subpart O) Heading revised; eff. 12–23–96 39087
64.1501 Revised; eff. 12–23–96 39087
64.1503 Revised; eff. 12–23–96 39087
64.1504 Revised; eff. 12–23–96 39087
64.1510 (b) revised; (c) added; eff. 12–23–96 39088
64.1601 Corrected **54449**
64.1603 Corrected **54449**
64.1604 Regulation at 60 FR 29490 eff. 4–12–95 ..... **54449**
64.1700—64.1704 (Subpart Q) Added 24903
64.1801 (Subpart R) Added 42564
66 Removed 36654
68 Reconsideration petition **52105**
Authority citation revised 42387
68.2 (a) introductory text revised; (a)(9), (10), (j) and (k) added; eff. 11–13–96 42387
68.3 Amended; eff. 10–23–96 42186
Amended; eff. 11–13–96 42387
68.4 (a)(1) and (2) revised; eff. 10–23–96 42186
68.6 Added; eff. 10–23–96 42186

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68.104 (b) amended; eff. 11–13–96 42392
(b) amended 47434
68.112 (b)(1), (3), (4), (5) and (c) revised; (b)(6) added; eff. 10–23–96 42186
(b)(2) amended; eff. 11–13–96 42392
68.200 Introductory text amended; (d) revised; eff. 11–13–96 42392
68.208 (a) amended; eff. 11–13–96 42392
68.211 Added; eff. 11–13–96 42392
68.224 (a) revised; eff. 10–23–96 42187
68.300 (c) added; eff. 10–23–96 42187
(c) added; eff. 11–13–96 42392
68.306 (a)(4) amended **54814**
(a)(5) amended **54815**
68.308 (a), (b)(7)(ii)(C), (h)(2) introductory text and (ii) Table III revised; (b)(1)(viii), (2)(iii) and (h)(3) added; (f)(2)(ii) table and (h)(2)(v) amended; eff. 11–13–96 42392
68.310 (a) table, (i) introductory text and (l) revised; eff. 11–13–96 42393
68.312 (b) introductory text, (2) and (h) introductory text revised; (c)(2) amended; eff. 11–13–96 42394
(b)(2), (c)(2) and (d)(1)(iv) amended 47434
68.316 Heading and introductory text revised; eff. 10–23–96 42187
68.317 Added; eff. 10–23–96 42187
73 Memorandum opinion and order **53877**
Petition for reconsideration **53878**, **56531**
Petition denial **55206**, **55661**
Authority citation revised **55480**
Application review **56125**
Petition for reconsideration 2454, 7999, 14981, 16878, 20490, 25594, 29311, 31449, 35139, 42394, 48638
Technical correction 7739
Order 8880, 8881
Application review 19558, 37840
Petition denial 29491, 29492, 37840
73.53 (b)(9) revised **55480**
73.57 (d) revised **55480**
73.62 (b) and (c) revised **55480**
73.69 (a)(1) and (2) revised **55480**
73.202 (b) table amended **52105**, **52106**, **53278**, **54313**, **54617**, **54953**, **54954**, **55206**, **55332**, **55801**, **56001**, **56255**, **56532**, **57368**, **57369**, **62218**, **62219**, **62220**, **62221**, **63645**, **64349**, **65021**, **65022**, **65244**, **65587**
(b) table amended 2453, 2454, 4232, 4233, 4234, 5722, 9359, 9360, 9361, 9648, 10284, 10285, 11320, 11584, 14032, 14504, 14677, 16879, 18511, 18512, 18685, 18686, 20490, 20747, 21384, 21385, 21973, 24243, 24244, 24465, 29492, 32706, 33377, 34377, 34743, 34744, 37840, 40156, 40747, 41019, 42189, 42190, 42394, 43026, 43472, 43686, 44183, 44184, 47435, 47436, 47437, 48639
(b) table amended; eff. 10–28–96 ..... 50247, 50248
(b) table amended; eff. 11–4–96 51029
73.561 (b) introductory text amended 18291
(d) amended 28767
73.606 (b) table amended **62220**
(b) table amended 4233, 8000, 11585, 19558, 34745
73.621 (f) revised 36304
73.646 Heading, (a), (b), (d), (e) and (f) revised 36304
73.658 (g) revised 10692
73.671 (a) revised; note removed; (c) and Notes 1 and 2 added; eff. 9–1–97 43997
73.672 Removed; eff. 9–1–97 43998
73.673 Added (OMB number pending) 43998
73.682 (a)(24) added 36304
73.691 Revised **55480**
73.733 Revised 28767
73.757 (b) removed **55480**
73.761 (c) amended 28767
73.764 Removed **55480**
73.900 Amended **56000**
73.1010 (c) removed **55480**
73.1020 (b) revised 18291
(c) added 28767
73.1030 (c)(2) amended 8477
73.1207 (b)(2) revised 36305
73.1213 Revised 4367
73.1230 Revised **55480**
73.1250 (h) amended **56000**
73.1300 Added **55481**
73.1350 Added **55481**
73.1400 Revised **55481**
73.1410 Removed **55482**
73.1500 Removed **55482**
73.1550 Removed **55482**

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73.1580 Revised **55482**
73.1615 (c)(2) added 28767
73.1635 (a)(5) revised **55482**
(a)(4) amended 28767
73.1690 (b)(1) revised 4367
73.1740 (c) added 28767
73.1750 Amended 28767, 46563
73.1820 (b)(4), (5) and (6) removed; (b)(7) and (8) redesignated as (b)(4) and (5); (a) introductory text, (2)(iii) and new (b)(4) revised **55482**
73.1860 Removed **55482**
73.1870 (a) and (b)(3) revised **55482**
73.3500 Table amended (OMB number pending) 43998
73.3516 (e) introductory text and (1) revised 18291
73.3523 (a) revised 18291
73.3526 (a)(8)(iii) revised (OMB number pending) 43998
73.3533 (c) added 4367
73.3555 (a) revised 10690
(e) revised 10692
73.3571 (c)(1) and (2) redesignated as (c)(2) and (3); new (c)(1) added 46563
73.3584 (a) amended 18291
73.3591 (a) introductory text and (c) revised; (d) added 18291
73.3613 (e) revised 36305
74.5 (c) removed **55482**
74.15 (g) added 28767
74.18 Revised **55482**
74.22 Revised 4368
74.112 (e) revised 28767
74.165 Revised **55482**
74.432 (e)(1) revised **55482**
74.434 (b) revised **55482**
74.436 (a) revised **55483**
74.533 (a)(2) revised **55483**
74.551 (c) added 4368
74.564 Heading and (a) revised **55483**
74.634 (a)(1) revised **55483**
74.651 (d) added 4368
74.703 (c) revised **55483**
74.734 (a) introductory text revised; (a)(6) removed **55483**
74.750 (g) revised **55483**
74.763 (c) revised 28768
74.765 (b) removed; (c) redesignated as (b) **55483**
74.769 Revised **55483**
74.901 Amended **55483**
74.903 (b)(5) revised; (d) amended **57368**
74.939 (i) revised **55483**
74.969 Revised **55483**
74.1203 (e) revised **55483**
74.1234 (a) introductory text revised; (c) removed **55484**
74.1251 (d) added 4368
74.1263 (e) revised 28768
76 Technical correction 11749
Petition for reconsideration 15388
Authority citation revised 18510, 28708
Order 32706
76.5 (ll) revised (effective date pending) 6137
(a) and (ff) revised 18977
76.51 (a)(32) revised **51928**
(b)(73) revised 18292
76.55 (e) revised 29313
76.227 Added 9650
76.309 (c)(3)(i)(B) revised 18977
76.501 (b) removed; (f) revised 15388
76.502 Revised 15388
76.505 Added 18977
76.605 (a)(1) revised; (a)(2) removed; (a)(3) through (13) redesignated as (a)(2) through (12) 18510
(b) Note 6 revised 18978
76.630 (c) removed; (d) and (e) redesignated as (c) and (d); new (c) introductory text, (2)(i), (d)(2)(iii) and note 18510
76.701 (i) added and stayed 18978
76.702 Revised and stayed 18978
76.802 Revised (effective date pending) 6137
76.905 (b)(4) added 18978
76.922 (e) through (k) redesignated as (g) through (m); (c), (d) and new (g) through new (m) revised; new (e) and new (f) added **52113**
(e)(3)(ii) revised **54817**
(i)(6)(i) and (7) revised; (i)(6)(ii) through (vii) redesignated as (i)(6)(iii) through (viii); new (i)(6)(ii) added (OMB number pending) 9367
(a) revised 45359
76.923 (n) and (o) added **52118**
(a), (c), (f), (g) and (m) revised 32709
76.924 Heading, (e)(1)(iii) and (2)(iii) revised; (e)(1)(iv), (v), (2)(iv) and (v) removed 9367

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76.925 (a) and (b) redesignated as (b) and (c); new (a) added; new (c) revised **52119**
76.933 (a), (b), (e) and (f) revised; (g) and (h) added **52119**
(e) and (g)(5) revised 18978
76.934 (f) revised **52120**
76.942 (f) revised **52120**
76.944 (c) added **52121**
76.950 Revised 18979
76.951 Revised 18979
76.953 (a) revised 18979
76.956 (a) revised 18979
76.957 Revised **52121**
76.960 Revised **52121**
76.964 Revised 18979
76.970 (a) through (e) revised 16400
76.971 (g) added 16401
76.977 Heading revised 16401
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(a) table amended; (b)(7) and (8) added 26466
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97.17 (g) removed; (h) redesignated as (g) 53132
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Amended; interim 41470
19.502–2 Regulation at 60 FR 34757 confirmed 39190
(a) and (c) revised; (b)(2) amended 39209
19.502–3 Regulation at 60 FR 34757 confirmed 39190
19.502–4 Regulation at 60 FR 34757 confirmed 39190
19.503 Regulation at 60 FR 34757 confirmed 39190
19.506 Regulation at 60 FR 34757 confirmed 39190
19.508 Regulation at 60 FR 34757 confirmed 39190
(c) and (d) amended 39209
19.602–2 (a) designation and (b) removed; (a)(1), (2), (3) and (c) redesignated as (a) through (d); new (d) revised 2637
19.702 (d) added; interim 2638
Regulation at 60 FR 34757 confirmed; introductory text amended 39190
19.704 (b) amended 31643
19.705–2 (d) revised 2638
19.708 (b)(1)(iii) amended 2639
Regulation at 60 FR 34757 confirmed; (a) introductory text amended 39190
19.811–3 (d)(3) revised 39209
19.902 Regulation at 60 FR 34757 confirmed 39190
19.1001 Regulation at 59 FR 67036 confirmed 31643
19.1005 Regulation at 59 FR 67036 confirmed 31643
19.1006 Regulation at 59 FR 67037 confirmed 31643
Regulation at 60 FR 34757 confirmed 39190
20.103 Regulation at 60 FR 34758 confirmed 39190
20.104 Regulation at 60 FR 34758 confirmed 39190
20.202 Regulation at 60 FR 34758 confirmed 39190
20.301 Regulation at 60 FR 34758 confirmed 39190
20.302 Regulation at 60 FR 34758 confirmed 39190
22.201 Revised 31644
22.202 Amended 31644
Regulation at 60 FR 34758 confirmed 39190
22.305 Regulation at 60 FR 34758 confirmed 39190
22.1001 Amended 39207
22.1003–4 (b)(4)(iii)(B) amended 39198
22.1005 Removed 39198
22.1006 Regulation at 60 FR 34758 confirmed 39190
(e)(1) amended; interim 41470
22.1022 Amended 39198
23.101 Regulation at 60 FR 34758 confirmed 39190
23.405 (b)(1) revised; (b)(2) and (3) amended 39198
23.501 Regulation at 60 FR 34758 confirmed 39190
23.504 Regulation at 60 FR 34758 confirmed 39190
23.505 Regulation at 60 FR 34758 confirmed 39190
23.800—23.804 (Subpart 23.8) Regulation at 60 FR 28501 confirmed 31645
23.800 Amended 31645
23.802 Revised 31645
23.803 (b)(2) amended 31645
23.804 Revised 31645
23.901—23.907 (Subpart 23.9) Added; interim 55307

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23.901 Amended; eff. 10-7-96 41474
23.902 Existing text designated in part as (a) and (b); new (a) amended; new (b) revised; eff. 10-7-96 41474
23.903 (b)(1) revised; eff. 10-7-96 41474
23.906 (a), (b) and (c) revised; eff. 10-7-96 41474
23.907 Introductory text and (a) revised; eff. 10-7-96 41474
25.100 Regulation at 59 FR 64788 confirmed 39190
25.101 Amended; interim **67514**
Regulations at 59 FR 545 and 60 FR 67514 confirmed 31619
25.104 (a) revised; interim **67515**
Regulation at 60 FR 67515 confirmed 31619
25.109 (e) and (f) removed; (g) redesignated as (e); (d), new (e) introductory text and new (2) revised; new (e)(1) amended; interim **67515**
Regulations at 58 FR 31141, 59 FR 545 and 60 FR 67515 confirmed 31619
25.202 (c) amended; interim **67515**
Regulations at 58 FR 31141, 59 FR 545 and 60 FR 67515 confirmed 31619
25.205 (b) revised; interim **67515**
Regulations at 58 FR 31141, 59 FR 546 and 60 FR 67515 confirmed 31619
25.300 Regulation at 59 FR 546 confirmed 31619
25.302 Regulation at 60 FR 34758 confirmed 39190
(b)(1) revised 39198
25.305 Regulation at 59 FR 546 confirmed 31619
Heading and (c) amended; (c) redesignated as (c)(1); (c)(2) added; interim 31647
25.400—25.408 (Subpart 25.4) Regulation at 58 FR 31141 confirmed 31619
25.400 Revised; interim **67515**
Regulations at 58 FR 31141, 59 FR 546 and 60 FR 67515 confirmed 31619
25.401 Amended; interim **67515**
Regulations at 58 FR 31142, 59 FR 546 and 60 FR 67515 confirmed 31619
25.402 (a)(1), (2), (3) and (c) revised; (a)(4) removed; (a)(5) and (6) redesignated as (a)(4) and (5); interim **67516**
Regulations at 58 FR 31142, 59 FR 546 and 60 FR 67516 confirmed 31619
(g) added; interim 31647
(b) amended 31650
25.403 Revised; interim **67516**
Regulations at 58 FR 31142, 59 FR 546 and 60 FR 67516 confirmed 31619
25.405 Regulation at 59 FR 546 confirmed 31619
25.406 Removed; interim **67517**
Regulations at 58 FR 31142, 59 FR 547 and 60 FR 67517 confirmed 31619
25.407 Removed; interim **67517**
Regulations at 58 FR 31142, 59 FR 547 and 60 FR 67517 confirmed 31619
25.408 Heading, (a)(2) and (4) revised; interim **67517**
Regulations at 58 FR 31142, 59 FR 547 and 60 FR 67517 confirmed 31619
(a)(3) and (4) revised; interim 31647
25.501 (Subpart 25.5) Heading revised 31650
25.501 Revised 31650
25.502 Added 31651
25.701—25.702 (Subpart 25.7) Revised; eff. 10-7-96 41476
25.703 Regulation at 60 FR 34758 confirmed 39190
25.1000—25.1003 (Subpart 25.10) Regulation at 58 FR 31142 confirmed 31619
25.1000 Amended; interim **67517**
25.1001 Revised; interim **67517**
Regulation at 60 FR 67517 confirmed 31619
25.1002 (a)(3)(i) removed; (a)(3)(ii) and (iii) redesignated as (a)(3)(i) and (ii); (a)(1), (2), (3) introductory text and new (i) revised; (c)(1) introductory text amended; interim **67517**
Regulation at 60 FR 67517 confirmed 31619
25.1003 Revised; interim **67517**
Regulations at 59 FR 547 and 60 FR 67517 confirmed 31619

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26.104 (b) introductory text revised....39211
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27.203–1 Regulation at 60 FR 34759 confirmed....39190
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28.101–2 Revised....39213
28.101–3 Removed....39213
28.102 Heading revised; interim....31652
28.102–1 (b) redesignated as (c); (a) introductory text and new (c) amended; new (b) added; interim....31652
28.102–2 (b) heading and (1) introductory text revised; (b)(2), (3), (c)(1) and (2) amended; (d) added; interim....31652
28.102–3 Heading revised; introductory text, (a), (b) and (c) redesignated as (a) introductory text, (1), (2) and (3); new (b) added; interim....31652
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28.106–3 Heading revised; (c) added; interim....31652
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28.106–8 Added; interim....31652
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30.602–2 (a)(1), (3), (b)(1), (c)(1), (2), (d)(1) and (3) amended....18918
30.602–3 (b)(1), (2) and (d)(1) amended....18918
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31.001 Amended....39217
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31.101 Amended **31655**
31.201–2 (d) added **31656**
31.205–6 (a) introductory text, (1), (b)(1), (c) introductory text, (d) and (i) revised; (a)(5) amended; (b) introductory text added; (f)(2) removed; (f)(3) redesignated as (f)(2) **39217**
31.205–11 (e) amended; (o) added; interim **64255**
31.205–16 Heading revised; (g) added; interim **64255**
31.205–22 Heading revised; (a)(4) and (5) amended; (a)(6) added; (f) removed; (g) redesignated as (f) **31657**
31.205–38 (f) amended **39189**
31.205–41 (b)(6) revised **2641**
31.205–46 (a) heading and (1) revised; (a)(3)(iv) amended; (a)(7) added **31657**
31.205–47 (f)(8) added; eff. 10–7–96 ..... **41477**
31.205–50 Removed **31657**
32.000 (g) and (h) amended; (i) added; interim **45772**
32.002 (a)(7) added; interim **45772**
32.202–1 (b)(2) amended **39190**
32.602 (h) revised; interim **41470**
32.603 Revised; interim **41470**
32.610 (b)(2) revised **18922**
32.613 (h)(3) revised **18922**
32.614–1 (c) introductory text amended **18922**
32.617 Regulation at 60 FR 34759 confirmed **31658, 39190**
32.803 (d) revised **18921**
32.806 (a)(2) revised **18921**
32.901 Regulation at 59 FR 11380 and 60 FR 34759 confirmed **31658**
Regulation at 60 FR 34759 confirmed **39190**
Amended **39198**
32.902 Amended; interim **45772**
32.903 Amended; interim **45772**
32.908 Regulation at 60 FR 34759 confirmed **31658**
Regulation at 60 FR 34759 confirmed; (c) amended **39190**
(d) removed; interim **45772**
32.1100—32.1103 (Subpart 32.11) Added; interim **45772**
33.102 (a), (b)(3)(i) and (c) amended; (e) revised; interim **41470**
33.103 Revised; interim **39219**
33.104 (a)(3)(i) introductory text and (f) amended; interim **41470**
33.105 Removed; interim **41470**
33.106 Regulation at 60 FR 34759 confirmed **39190**
33.201 Regulations at 56 FR 67417 and 59 FR 11381 confirmed **31659**
33.202 Regulations at 56 FR 67417 and 59 FR 11381 confirmed **31659**
33.204 Regulations at 56 FR 67417 and 59 FR 11381 confirmed **31659**
33.207 Regulations at 56 FR 67417 and 59 FR 11381 confirmed **31659**
33.208 Regulation at 59 FR 11381 confirmed **31659**
33.210 Regulation at 59 FR 11381 confirmed **31659**
33.211 Regulation at 59 FR 11382 confirmed **31659**
33.214 Regulations at 56 FR 67417 and 59 FR 11382 confirmed **31659**
33.215 Regulation at 56 FR 67417 confirmed **31659**
34.000—34.005–6 (Subpart 34.0) Regulation at 59 FR 67048 confirmed **31659**
34.001 Amended; interim **41470**
34.100—34.104 (Subpart 34.1) Regulation at 59 FR 67048 confirmed **31659**
36.502 Regulation at 60 FR 34759 confirmed **39190**
36.503 Regulation at 60 FR 34759 confirmed **39190**
36.506 Regulation at 60 FR 34759 confirmed **39190**
36.508 Regulation at 60 FR 34759 confirmed **39190**
36.509 Regulation at 60 FR 34759 confirmed **39190**
36.510 Regulation at 60 FR 34759 confirmed **39190**
36.511 Regulation at 60 FR 34759 confirmed **39190**
36.512 Regulation at 60 FR 34759 confirmed **39190**
36.513 Regulation at 60 FR 34759 confirmed **39190**
36.515 Regulation at 60 FR 34759 confirmed **39190**
36.521 Regulation at 60 FR 34759 confirmed **39190**
36.602–5 Regulation at 60 FR 34759 confirmed **39190**
36.701 Regulation at 60 FR 34759 confirmed **39190**

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(c) amended 39198
36.702 Regulation at 60 FR 34759 confirmed 39190
37.101 Regulation at 59 FR 67051 confirmed 31660
37.102 Revised 2630
37.103 Regulation at 59 FR 67051 confirmed 31660
37.114 Added 2630
37.202 (a) revised; interim 41470
38.000 Amended; interim 41470
39 Revised; interim 41470
41.201 Regulation at 60 FR 34759 confirmed; (b) amended 39190
41.401 Regulation at 60 FR 34759 confirmed 39190
42.302 (a)(11) introductory text and (iv) amended 18918
Regulation at 59 FR 11382 confirmed 31659
42.705–3 (b)(4)(i) and (5) revised 31622
42.708 (a) introductory text amended; (a)(2)(i) and (ii) revised 31661
42.903 Regulation at 60 FR 34759 confirmed; amended 39190
42.1104 Regulation at 60 FR 34759 confirmed 39190
43.102 (c) added; interim 18915
43.205 Regulation at 60 FR 34760 confirmed; (d)(2) and (e) amended 39190
44.201–2 (a)(1) amended 2642
Regulation at 60 FR 34760 confirmed; (b)(2) amended 39190
44.204 Regulation at 60 FR 34760 confirmed; (e) amended 39190
44.302 (a) amended 2642
45.106 Regulation at 60 FR 34760 confirmed; (e) amended 39190
45.608–1 Table amended; interim 41471
45.608–5 (d) removed; (e) redesignated as (d); interim 41471
46.101 Amended 31662
46.103 (c) and (d) amended; (e) added 31663
46.202–1 Regulation at 60 FR 34760 confirmed 39190
46.301 Regulation at 60 FR 34760 confirmed 39190
46.302 Regulation at 60 FR 34760 confirmed 39190
46.304 Regulation at 60 FR 34760 confirmed 39190
46.307 Regulation at 60 FR 34760 confirmed 39190
46.312 Regulation at 60 FR 34760 confirmed 39190
46.316 Regulation at 60 FR 34760 confirmed 39190
46.404 Regulation at 60 FR 34760 confirmed 39190
46.407 (c)(1) introductory text and (f) amended; (d) revised 31663
46.801 (a) amended; interim 41471
46.805 Regulation at 60 FR 34760 confirmed; (a) heading and introductory text and (b) heading and introductory text amended 39190
47.104–4 Regulation at 60 FR 34760 confirmed; (a)(2) and (b) amended 39190
47.200 Regulation at 60 FR 34760 confirmed; (b)(4) amended 39190
47.205 Regulation at 60 FR 34760 confirmed 39190
(b) amended 39198
47.305–16 Regulation at 60 FR 34760 confirmed; (b) amended 39190
47.405 Regulation at 60 FR 34760 confirmed 39190
47.504 Regulation at 60 FR 34760 confirmed 39190
48.001 Amended 39220
48.102 (a) amended 39221
49.105 (c)(13) amended 39221
49.206–3 Added 39221
49.303–2 Redesignated as 49.303–3; new 49.303–2 added 39221
49.303–3 Redesignated as 49.303–4; new 49.303–3 redesignated from 49.303–2 39221
49.303–4 Redesignated as 49.303–5; new 49.303–4 redesignated from 49.303–3 39221
49.303–5 Redesignated from 49.303–4 39221
49.403 (b)(1) and (2) amended 39222
49.502 (e)(1) and (2) amended 39222
49.503 (c) amended 39222
49.504 Regulation at 60 FR 34760 confirmed 39190
51.101 (c) added 2631
51.102 (a) introductory text amended; (c)(3) revised 2631
51.103 (c) revised; interim 41471

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52.203–3 Introductory text revised; interim **39200**
52.203–4 Removed **39189**
52.203–5 Introductory text amended **39189**
52.203–6 Regulation at 60 FR 34761 confirmed **39190**
Amended **39198**
52.203–7 Regulation at 60 FR 34761 confirmed **39190**
52.204–2 Amended; introductory text revised 31617
52.204–4 Regulation at 60 FR 28494 confirmed; amended 31616
52.208–9 Added 2631
52.209–5 Amended 2633
52.209–6 Regulation at 60 FR 34761 confirmed **39190**
52.211–1 Amended 31663
52.211–2 Introductory text amended 31663
52.211–3 Introductory text amended 31663
52.212–3 Corrected **54818**
Amended 2633
Amended; interim 31648
52.212–4 Amended; interim 45773
52.212–5 Amended; interim **67517**
Regulations at 60 FR 67517 and 60 FR 67517 confirmed 31619
Amended; interim 31648, 41471
52.213–2 Regulation at 60 FR 34761 confirmed **39190**
Introductory text amended **39198**
52.213–3 Regulation at 60 FR 34761 confirmed **39190**
Introductory text amended **39198**
52.214–7 Amended 31620
52.214–19 Amended 31664
52.214–23 Amended 31620
52.214–32 Amended 31620
52.214–33 Amended 31620
52.214–34 Regulation at 58 FR 31143 confirmed 31619
52.214–35 Regulation at 58 FR 31143 confirmed 31619
52.215–1 Regulation at 60 FR 34761 confirmed **39190**
52.215–2 Regulation at 60 FR 34761 confirmed **39190**
Amended **39198**
52.215–10 Amended 31620
52.215–27 Amended 2634
52.215–36 Amended 31620
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52.216–1 Regulation at 60 FR 34761 confirmed **39190**
52.216–7 Amended 31661
52.216–13 Amended; introductory text revised 31661
52.216–15 Amended; introductory text revised 31622
52.217–1 Removed 39207
52.217–2 Revised 39207
52.219–4 Regulation at 60 FR 34761 confirmed **39190**
52.219–5 Regulation at 60 FR 34761 confirmed **39190**
52.219–6 Amended 39209
52.219–7 Regulation at 60 FR 34761 confirmed **39190**
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52.219–9 Amended 2639, 31643
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52.220–1 Regulation at 60 FR 34761 confirmed **39190**
52.220–2 Regulation at 60 FR 34761 confirmed **39190**
52.220–3 Regulation at 60 FR 34761 confirmed **39190**
52.222–3 Revised 31644
52.222–4 Regulation at 60 FR 34761 confirmed **39190**
52.222–40 Removed **39198**
52.222–48 Amended; interim 41471
52.223–5 Regulation at 60 FR 34761 confirmed **39190**
52.223–11 Regulation at 60 FR 28501 confirmed; revised 31645
52.223–12 Regulation at 60 FR 28501 confirmed 31645
52.223–13 Added; interim **55308**
Revised; eff. 10–7–96 41475
52.223–14 Added; interim **55308**
Revised; eff. 10–7–96 41475
52.225–2 Amended; introductory text revised; interim **67517**
Regulation at 60 FR 67517 confirmed 31619
52.225–3 Regulation at 59 FR 547 confirmed 31619
52.225–4 Added 31651
52.225–8 Regulations at 58 FR 31143 and 59 FR 547 confirmed 31619
52.225–9 Amended; interim **67517**
Regulations at 58 FR 31143, 59 FR 547 and 60 FR 67517 confirmed 31619
52.225–11 Revised; eff. 10–7–96 41476

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52.225–15 Amended; heading revised; interim **67518**
Corrected 2454
Regulations at 58 FR 31143, 59 FR 548 and 60 FR 67518 confirmed 31619
52.225–16 Removed; interim **67518**
Regulations at 58 FR 31144 and 60 FR 67518 confirmed 31619
52.225–17 Removed; interim **67518**
Regulations at 58 FR 31144, 59 FR 548 and 60 FR 67518 confirmed 31619
52.225–18 Amended; heading revised; interim **67518**
Regulations at 58 FR 31144 and 60 FR 67518 confirmed 31619
52.225–19 Amended; heading revised; interim **67518**
Regulations at 58 FR 31144, 59 FR 548 and 60 FR 67518 confirmed 31619
52.225–20 Regulation at 59 FR 548 confirmed 31619
Amended; interim 31648
52.225–21 Amended; interim **67518**
Regulation at 59 FR 548 and 60 FR 67518 confirmed 31619
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52.225–22 Added; interim 31649
52.226–xx Added 31793
52.226–1 Regulation at 56 FR 41737 confirmed 39210
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52.227–1 Regulation at 60 FR 34761 confirmed 39190
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52.227–3 Regulation at 60 FR 34761 confirmed 39190
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52.228–1 Revised 39213
52.228–2 Amended; introductory text revised; interim 31653
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52.228–7 Amended 2640
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52.228–15 Added 39214
52.228–16 Added 39214
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52.232–26 Regulation at 59 FR 11380 confirmed 31658
52.232–27 Regulation at 59 FR 11380 confirmed 31659
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52.232–33 Added; interim 45773
52.232–34 Added; interim 45774
52.233–1 Regulations at 56 FR 67417 and 59 FR 11382 confirmed 31659
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52.234–1 Regulation at 59 FR 67048 confirmed 31659
52.236–2 Regulation at 60 FR 34761 confirmed 39190
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52.236–12 Regulation at 60 FR 34762 confirmed 39190
52.236–15 Regulation at 60 FR 34762 confirmed 39190
52.236–21 Regulation at 60 FR 34762 confirmed 39190
52.239–1 Added; interim 41472
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52.244–2 Amended 2642, 39198
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52.244–5 Amended; interim 2638
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52.245–7 Amended 2640
52.245–10 Amended 2640
52.246–1 Regulation at 60 FR 34762 confirmed 39190
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52.246–4 Amended 31665
52.246–7 Amended 31665

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204.670-3 (a)(1), (2) introductory text, (5) and (b)(2) revised; (b)(1) amended....51030
204.670-5 Revised....51030
204.670-6 (b) revised....61592
Heading, (b)(1)(iii), (iv), (v), (2) and (c)(1) revised....51031
204.670-8 Revised....51031
204.670-9 Heading and (b) revised....51031
204.7003 (a)(1)(i) revised....61592
(a)(1)(i)(F) amended....50451
204.7201 (b) revised....51031
204.7202-1 (a) amended....51031
204.7202-2 Heading, (a) introductory text, (b)(1) introductory text, (i), (ii) and (2)(vi) revised....51031
204.7203 (a) and (b) revised; (e) removed....51031
204.7204-1 (b) amended....51031
204.7204-2 Heading revised....51031
204.7206 Introductory text revised....51032
206.001 Added....61592

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206.102 (Subpart 206.1) Regulation at 60 FR 2888 confirmed **61591**
Removed **61592**
206.303–1 (c) added **61592**
206.304 Revised 10285
(a)(4)(B)(*2*) revised 50451
207.102 Added **61592**
207.103 (h)(i)(B) amended 50451
207.104 Added 50451
207.105 Introductory text revised; (b)(12), (15) and (17) redesignated as (b)(13), (16) and (18); (a)(8), new (b)(13)(iv), new (16) and new (18)(A)(*1*)(*ii*) amended; (b)(18)(D) added 50451
(b)(5), (6) and (17)(A)(*8*) revised **61593**
207.470 Revised; interim 16879
Regulation at 61 FR 16879 confirmed 50450
(b) revised 50452
208.7003–1 Revised **61593**
208.7003–2 (c) revised **61593**
209.103 (c) added 50452
209.103–70 Revised **61593**
Amended 50452
209.106–1 Revised **61593**
209.202 Revised **61593**
209.403 Amended **61593**
(1) amended 50452
209.405–1 (a) and (b) redesignated as (b) and (c) **61593**
209.470 Regulation at 60 FR 13074 confirmed 7741
209.470–1 Regulations at 60 FR 13074 and 61593 confirmed 7741
Revised 7742
Revised; interim 25408
209.470–2 Regulation at 60 FR 13074 confirmed 7741
Revised; interim 25408
209.470–3 Amended **61593**
Regulations at 60 FR 13074 and 61593 confirmed 7741
210 Removed **61593**
211 Revised **61594**
212 Revised **61595**
212.301 (f)(i) removed; (f)(ii), (iii) and (iv) redesignated as (f)(i), (ii), and (iii); new (f)(ii) amended 50452
213 Heading revised 7742
213.000 Amended 7742
213.101 Amended 7742
213.204 (b) amended 7742
213.401 Redesignated from 213.402 7742
213.402 Redesignated as 213.401; new 213.402 redesignated from 213.403 7742
213.403 Redesignated as 213.402; new 213.403 redesignated from 213.404; (c)(i)(B) and (ii) amended 7742
213.404 Redesignated as 213.403 7742
213.505–1 Redesignated from 213.505–2; heading revised; introductory text, (b)(i) introductory text and (F)(*3*) amended 7742
213.505–2 Redesignated as 213.505–1 7742
Corrected 9532
213.505–3 (b)(1) introductory text revised 7742
(b)(1) corrected 18195
213.507 Heading and (a)(i) revised 7742
214.406–3 (e)(i) amended **61596**
(e)(i) and (vi) amended 50452
215.605 Heading, (b)(ii)(B) and (E) revised; (b)(iv) added 18687
(b) revised 50452
215.608 (a) redesignated as (a)(1); (a)(2) added 18687
215.804–8 Revised **61596**
215.805–5 (a)(1)(A)(*3*) amended **61596**
215.810 Revised 7742
215.810–2 Added 7742
215.810–3 Added 7743
(b)(i)(A) corrected 18195
215.971–4 (d)(3)(A) amended **61596**
216.306 Added 7743
(c)(i)(C)(iii) corrected 18195
216.603–4 Revised 7743
216.703 (c) revised 7743
(c) corrected 18195
216.7203 Corrected 18195
217.103–1 (b)(v), (vi)(A)(*2*) and (viii)(C) amended **61596**
217.202 (3) added 7743
217.7302 (b) revised **61596**
217.7402 Introductory text amended; (b) revised 7743
217.7404–3 (a) introductory text amended 7743
217.7406 Amended **61596**
Revised 7743
219 Heading revised 18687
Heading revised; interim 39900
219.501 S–70 stayed **54955**

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219.502–2–70 Stayed....54955
219.502–4 (b)(i) stayed....54955
219.506 Stayed....54955
219.508 (e) stayed....54955
219.508–70 Stayed....54955
219.602–1 Regulation at 60 FR 40107 confirmed....61591
219.602–70 Regulation at 60 FR 40107 confirmed....61591
219.702—219.708 (Subpart 219.7) Heading revised....50452
219.702 (a) introductory text revised; interim....39900
Heading corrected....49008
219.703 Regulation at 60 FR 13075 confirmed....61591
(a) amended....61596
(a) corrected....50535
219.704 Revised....61596
(a)(4) added....18687
219.708 (b)(1)(A), (B) and (c)(1)(A) revised; interim....39901
219.1006 (b)(2) amended....61596
(b)(1)(B) revised....18687
219.7001 (a) revised....18687
219.7200—219.7204 (Subpart 219.72) Added....18688
219.7201 Amended....50452
223.104 Revised....61596
223.404 (Subpart 223.4) Added....61596
223.570—223.570–4 (Subpart 223.5) Regulation at 57 FR 32737 confirmed....50450
223.570–4 (b)(1) revised....61597
Regulation at 60 FR 61597 confirmed....50450
223.803 (Subpart 223.8) Added....50452
223.7101 Revised....61597
223.7102 Regulation at 60 FR 13076 confirmed....61591
(a)(7), (8) and (9)(ii) amended....61597
223.7103 Regulation at 60 FR 13076 confirmed....61591
223.7200—223.7203 (Subpart 223.72) Added....7743
225.102 Regulation at 60 FR 34470 confirmed....61591
225.302 (b)(i) amended....61597
225.402 (c) revised....130
(a) revised....7744
225.403 (d)(1)(A), (B) introductory text and (*2*) amended....61597
(g)(4) added; (m)(4) removed; interim....37841
(d)(1)(B)(*3*) amended....50453
225.403–70 Introductory text revised; interim....37841
225.408 Heading and (a)(2) revised....16880
225.770–4 Amended....61597
225.871–7 (a)(1) amended....61597
225.872–1 (a) and (b) amended....61597
225.872–2 (a)(2)(ii) amended....61597
225.872–3 (f)(4) amended....61597
225.970 (Subpart 225.9) Added....50453
225.7001 Revised; interim....10899
Regulation at 61 FR 10899 confirmed....50450
(a) revised....50453
225.7002–2 (j) added....61597
(e) and (f) revised....50453
225.7002–3 Revised....50453
225.7002–4 Removed....50453
225.7004 Regulation at 60 FR 19532 confirmed....61591
225.7004–1 Regulation at 60 FR 19532 confirmed....61591
225.7004–2 Regulation at 60 FR 19532 confirmed....61591
225.7004–3 Regulation at 60 FR 19532 confirmed....61591
225.7004–4 Regulation at 60 FR 19532 confirmed....61591
(b) revised....61597
225.7004–5 Regulation at 60 FR 19532 confirmed....61591
225.7004–6 Regulation at 60 FR 19532 confirmed....61591
225.7007 Regulation at 60 FR 19532 confirmed....61591
225.7007–1 Regulation at 60 FR 19533 confirmed....61591
225.7007–2 Regulation at 60 FR 19533 confirmed....61591
225.7007–3 Regulation at 60 FR 19533 confirmed....61591
225.7007–4 Regulation at 60 FR 19533 confirmed....61591
Revised....61597
225.7010 Regulation at 60 FR 19533 confirmed....61591
225.7010–2 Regulation at 60 FR 19533 confirmed....61591
225.7010–3 Regulation at 60 FR 19533 confirmed....61591
Revised....61597
225.7011–4 (b) introductory text amended....50453
225.7012 Revised; interim....13107
Regulation at 61 FR 13107 confirmed....50450

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225.7012–1 Revised; interim 13107
Regulation at 61 FR 13107 confirmed.....50450
225.7012–2 Revised; interim 13107
Regulation at 61 FR 13107 confirmed.....50450
225.7012–3 Revised; interim 13107
Regulation at 61 FR 13107 confirmed.....50450
Heading revised; (1) and (2) redesignated as (a) and (b).....50453
225.7012–4 Removed; interim 13107
Regulation at 61 FR 13107 confirmed.....50450
225.7016–1 Regulation at 60 FR 19533 confirmed.....61591
225.7016–2 Regulation at 60 FR 19533 confirmed.....61591
225.7016–3 Regulation at 60 FR 19533 confirmed.....61591
Revised.....61597
225.7016–4 Regulation at 60 FR 19534 confirmed.....61591
225.7016–5 Regulation at 60 FR 19534 confirmed.....61591
225.7018–2 Amended.....61597
225.7019 Revised; interim 10900
Regulation at 61 FR 10900 confirmed.....50450
225.7019–1 Regulation at 60 FR 19534 confirmed.....61591
Revised; interim.....10900
Regulation at 61 FR 10900 confirmed.....50450
225.7019–2 Regulation at 60 FR 19534 confirmed.....61591
(b) amended.....61597
Revised; interim.....10900
Regulation at 61 FR 10900 confirmed.....50450
Revised.....50453
225.7019–3 Regulation at 60 FR 19534 confirmed.....61591
Revised; interim.....10900
Regulation at 61 FR 10900 confirmed.....50450
(a)(2) introductory text revised; (a)(3) added.....50453
225.7019–4 Regulation at 60 FR 19534 confirmed.....61591
Revised; interim.....10900
Regulation at 61 FR 10900 confirmed.....50450
225.7022 Revised; interim 13107
Corrected.....16287
Regulation at 61 FR 13107 confirmed.....50450
225.7022–1 Revised; interim 13107
Regulation at 61 FR 13107 confirmed.....50450
225.7022–2 Revised; interim 13107
Regulation at 61 FR 13107 confirmed.....50450
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225.7022–4 Added; interim.....13107
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225.7023 Regulation at 60 FR 34471 confirmed.....61591
225.7023–1 Regulation at 60 FR 34471 confirmed.....61591
Amended.....61597
225.7023–2 Regulation at 60 FR 34471 confirmed.....61591
225.7023–3 Regulation at 60 FR 34471 confirmed.....61591
Amended.....61597
225.7102 Introductory text revised 7744
Revised.....50453
225.7103 (a) and (c) introductory text amended.....61597
(e)(1) revised; (e)(2) redesignated as (e)(3); new (e)(2) added 7744
Revised.....50453
225.7104 Revised 50453
225.7201 Revised 61597
225.7303 Heading revised; interim 18987
Regulation at 61 FR 18987 confirmed.....50450
Amended 50453
225.7303–2 (a)(3) revised.....7744
(a) introductory text and (c) introductory text revised; interim.....18987
Regulation at 61 FR 18987 confirmed.....50450
225.7303–5 Added; interim.....18988
Regulation at 61 FR 18988 confirmed.....50450
225.7305–5 (c) corrected.....49531
225.7307–1 (f) amended 61597
225.7307–2 (b) amended.....61597
226.103 (Subpart 226.1) Added 61597
226.7100 Regulation at 60 FR 5870 confirmed.....61591

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226.7104 Regulation at 60 FR 5870 confirmed **61591**
Revised **61598**
227.7004 (c)(6) amended 50454
227.7009–1 (a) removed; (b) through (f) redesignated as (a) through (e); new (d) amended 50454
227.7101 (b) removed; (c) redesignated as (b) **61598**
227.7102–3 (a), (b) and (c) amended **61598**
227.7103–6 (a) amended **61598**
227.7103–15 (c) introductory text revised **61598**
227.7104 Heading and (a) amended **61598**
227.7202–2 Removed **61598**
228.106–4 Removed 7744
228.106–4–70 Removed 7744
228.106–6 Removed 7744
228.171 Removed 50454
228.171–1 (e) amended **61598**
Revised; interim 3601
Removed 50454
228.171–2 (a) revised; interim 3601
Removed 50454
228.171–3 Revised; interim 3601
Removed 50454
228.311–1 Removed; new 228.311–1 redesignated from 228.311–2 50454
228.311–2 Redesignated as 228.311–1 50454
228.370 Heading revised 50454
231.205–6 Regulation at 60 FR 2331 confirmed **61591**
(g)(2)(i) removed **61598**
(f)(1) added; interim 7077
(a)(2) revised; interim 36306
Regulation at 61 FR 7077 confirmed 50450
(a)(2) and (f)(1) amended 50454
231.205–70 Revised 16881
(b)(3) corrected 49531
(d)(2) amended 50454
231.205–71 Added; interim 21975
(b) amended 50454
231.301 Regulation at 60 FR 2331 confirmed **61591**
231.303 (3) revised; interim 36306
231.603 Regulation at 60 FR 2331 confirmed **61591**
Revised **61598**
Revised; interim 36306
231.703 Regulation at 60 FR 2331 confirmed **61591**
Revised **61598**
Revised; interim 36306
231.7000—231.7002–6 (Subpart 231.70) Removed **61598**
232.170 (a) and (b) amended **61598**
232.171 (a)(1), (b)(1) and (3) amended **61598**
232.173–1 (b) amended **61598**
232.173–5 Introductory text amended **61598**
232.501–1 Regulation at 58 FR 62046 confirmed 7741
232.501–2 (a) amended **61598**
232.502–1–71 Regulation at 58 FR 62046 confirmed 7741
232.617 Amended **61598**
232.703–70 Added 7744
232.803 (d) revised 50454
234.001 Added **61598**
235.006 Regulation at 60 FR 4570 confirmed **61591**
(a) and (b)(iv) revised 50454
235.015–71 (i)(2) amended **61598**
235.017–1 Regulation at 60 FR 13077 confirmed **61591**
Revised **61598**
235.7002 (a)(1) and (2) amended **61598**
(a)(4) amended 50454
235.7003 (b)(1) revised **61599**
(c)(6) added 7744
(b)(4)(ii) amended 50454
235.7004–3 (d) amended 7744
235.7006 Amended **61599**
(d) amended 7744
235.7706 Corrected 18195
236.201 (a) revised 7749
236.204 Added 7749
236.271 Revised 7749
236.303–70 (c)(2) introductory text revised 18688
236.604 (a) introductory text added 7749
237.102–70 Added **61599**
237.104 Regulation at 60 FR 2888 confirmed **61591**
(b)(ii) introductory text and (B) **61599**
237.109 Added **61599**
237.171 Removed **61599**
237.171–1 Removed **61599**
237.171–2 Removed **61599**
237.270 Removed **61599**
237.270–1 Removed **61599**
237.270–2 Removed **61599**

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237.270–3 Removed **61599**
237.270–4 Removed **61599**
237.7204 Amended **61599**
239.7303 (b) revised **61599**
239.7501–2 Revised 50454
242.203 (a)(i)(P) and (Q) amended; (a)(ii) revised; (a)(iii) removed; (a)(iv) and (v) redesignated as (a)(iii) and (iv) 7749
242.302 (a)(19) amended; (a)(67) added 50454
242.705–1 (b)(3) and (4) removed **61599**
242.705–2 (b)(2)(ii) and (iv) amended **61599**
242.770 Removed **61599**
242.770–1 Removed **61599**
242.770–2 Removed **61599**
242.770–3 Removed **61599**
242.770–4 Removed **61599**
242.770–5 Removed **61599**
242.770–6 Removed **61599**
242.771–3 (b)(2) and (c) amended **61599**
242.803 (b)(i)(C) and (D) redesignated as (b)(i)(D) and (E); new (b)(i)(C) added 25409
(b)(i)(C) amended 50454
242.1106 (a)(i) revised 50454
242.1107–70 Revised 50455
242.1204 (e) revised 16882
242.1503 (Subpart 242.15) Added 18688
242.7003–1 Revised **61599**
242.7202 (d) revised 50455
242.7203 Revised 50455
242.7204 (a)(1) and (2) amended 50455
242.7206 Introductory text revised **61599**
Introductory text amended 50455
243.105 Revised; interim 25408
244.303 Removed 50455
244.304 (b) introductory text amended 50455
246.101 Regulation at 60 FR 33145 confirmed **61591**
246.102 Regulation at 60 FR 33145 confirmed **61591**
246.202–3 Regulation at 60 FR 33145 confirmed **61591**
Redesignated as 246.202–4 ..... **61599**
246.202–4 Redesignated from 246.202–3; (i) and (ii) redesignated as (1) and (2) **61599**
246.204 Regulation at 60 FR 33145 confirmed **61591**
Removed **61599**
246.704 Regulation at 60 FR 33145 confirmed **61591**
(2) and (4) amended **61599**
246.770–1 (f)(2)(i) revised **61599**
246.770–2 (b) and (c) redesignated as (c) and (d); new (b) added; new (c) revised 7749
246.770–8 (a) introductory text, (c) introductory text and (2) revised; (b)(2) removed; (b)(3) redesignated as (b)(2) 7750
247.572–1 (a) revised **61599**
247.572–2 (a)(4) and (5) amended; (a)(6) added **61600**
249.7001 (b)(4) and (9) amended 50455
249.7002 (b) introductory text and (2) amended **61600**
250.201–70 (b)(1) and (2) amended **61600**
250.303 (5) and (10) amended 50455
252.203–7000 Amended **61600**
252.203–7001 Amended **61600**
252.203–7003 Removed **61600**
252.204–7001 Introductory text amended **61600**
252.209–7000 Amended **61600**
252.209–7005 Redesignated from 252.209–7007 and amended **61600**
Amended 7750
Corrected 18195
252.209–7007 Redesignated as 252.209–7005 ..... **61600**
Regulations at 60 FR 13074 and 61600 confirmed 7741
252.210–7000 Redesignated as 252.211–7003 ..... **61600**
252.210–7001 Redesignated as 252.211–7001 ..... **61600**
252.210–7002 Redesignated as 252.211–7002 ..... **61600**
252.210–7003 Redesignated as 252.211–7000 ..... **61600**
252.210–7004 Redesignated as 252.211–7004 ..... **61600**
252.211–7000 Removed; redesignated from 252.210–7003; introductory text revised **61600**
252.211–7001 Removed; redesignated from 252.210–7001; introductory text revised **61600**
252.211–7002 Removed; redesignated from 252.210–7002; introductory text revised **61600**
252.211–7003 Removed; new 252.211–7003 redesignated

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from 252.210–7000; introductory text revised 61600
252.211–7004 Removed; redesignated from 252.210–7004; introductory text revised 61600
252.211–7006 Removed 61600
252.211–7007 Removed 61600
252.211–7008 Removed 61600
252.211–7009 Removed 61600
252.211–7010 Removed 61600
252.211–7011 Removed 61600
252.211–7012 Removed 61600
252.211–7013 Removed 61600
252.211–7014 Removed 61600
252.211–7015 Removed 61600
252.211–7016 Removed 61600
252.211–7017 Removed 61600
252.211–7018 Removed 61600
252.211–7019 Removed 61600
252.211–7020 Removed 61600
252.211–7021 Removed 61600
252.212–7000 Added 61600
Introductory text amended 50455
252.212–7001 Added 61600
Introductory text amended 50455
252.215–7001 Removed 61601
252.217–7026 Amended 61601
252.217–7027 Revised 7750
Corrected 18195
252.219–7003 Amended; heading revised 61601
Amended 18688
252.219–7004 Amended; interim 39901
252.219–7005 Amended 61601
252.219–7008 Added 18688
252.219–7009 Regulation at 60 FR 40107 confirmed 61591
252.223–7004 Regulation at 57 FR 32737 confirmed 50450
252.223–7006 Regulation at 60 FR 13076 confirmed 61591
Amended 61601
252.223–7007 Added 7750
252.225–7007 Amended 130, 16880
Amended; interim 37842
252.225–7011 Regulation at 60 FR 34471 confirmed 61591
252.225–7012 Amended 61601
Introductory text amended 50455
252.225–7013 Removed 50455
252.225–7014 Amended 61602
Amended 50455
252.225–7015 Introductory text amended 50455
252.225–7016 Amended 61602
Revised; interim 10900
Regulation at 61 FR 10900 confirmed 50450
Revised 50455
252.225–7017 Regulation at 60 FR 19534 confirmed 61591
252.225–7019 Introductory text amended; interim 13108
Regulation at 61 FR 13108 confirmed 50450
252.225–7020 Removed; interim 13108
Regulation at 61 FR 13108 confirmed 50450
252.225–7021 Removed; interim 13108
Regulation at 61 FR 13108 confirmed 50450
252.225–7025 Revised 50456
252.225–7026 Amended 61602
252.225–7029 Regulation at 60 FR 19534 confirmed 61591
252.225–7039 Amended; introductory text revised; interim 13108
Regulation at 61 FR 13108 confirmed 50450
252.225–7040 Introductory text amended 61602
252.227–7013 Amended 61602
252.227–7015 Amended 61602
252.227–7018 Amended 61602
252.227–7037 Amended 61602
252.228–7001 Amended 50456
252.228–7002 Amended 50456
252.228–7006 Removed 7750
252.228–7007 Amended; interim 3601
Removed 50456
252.231–7001 Removed 61602
252.231–7020 Removed 61602
252.231–7021 Removed 61602
252.232–7004 Regulation at 58 FR 62046 confirmed 7741
Amended 7750
252.237–7020 Removed 61602
252.237–7021 Removed 61602
252.239–7010 Amended 61602
252.242–7001 Removed 61602
252.242–7004 Amended 50456
252.247–7023 Amended 61602
252.247–7024 Amended 61603
253.204–70 Revised 61603
(e)(3) revised 18688
(d)(5)(iv)(C) corrected 43119
(e)(3)(ii) corrected 49531
(c)(4)(ix)(B)(9) amended 50456
Revised 51032
253.204–71 Revised 61612
Second (f) correctly designated as (f)(1) 43119

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Revised 51040
253.213–70 (e)(14) revised 7750
253.215–70 Note amended 7751
Note corrected 18195
(c)(2) and (6) revised 51043
Chapter 2 Appendixes C, F and G amended **61615**
Appendix G amended **61620, 61623, 61626, 61627**
Appendix G amended 7751
Appendix G corrected 18195
Appendix B amended 50456
Appendix C removed; Appendix G amended 50457
Appendixes G and I amended 50458, 61591

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501.105 Amended; interim (OMB numbers) 6164
Corrected 14033
501.700 Removed **54955**
501.704 Removed **54955**
501.704–70 Removed **54955**
501.707 Revised **54955**
502.101 Amended **54957**
504.803 (a)(12) and (25) revised; interim 6165
(a) introductory text corrected 14033
504.7001–2 (c) revised; (f) amended **54955**
505.303–70 (a)(1), (b)(1), (2) and (3)(ii) revised 1150
506.001 Removed 39088
Regulation at 61 FR 39088 eff. date corrected to 8–19–96 42190
506.302–1 Amended 39088
Regulation at 61 FR 39088 eff. date corrected to 8–19–96 42190
506.303–1 (a) and (b) designation removed 39088
Regulation at 61 FR 39088 eff. date corrected to 8–19–96 42190
506.303–2 Removed 39088
Regulation at 61 FR 39088 eff. date corrected to 8–19–96 42190
506.304 Removed 39088
Regulation at 61 FR 39088 eff. date corrected to 8–19–96 42190
507.103 Amended; interim 6165
507.104 (c), (d) and (e) revised **54955**
508.301—508.370 (Subpart 508.3) Removed **54956**
508.705–70—508.706 Heading revised **54956**
508.705–70 (b) and (d) revised **54956**
509.106–70 Removed **54956**
510 Heading revised; interim 6165
510.001 Redesignated as 511.001; interim 6165
510.002 Redesignated as 511.002; interim 6165
510.004 Removed; interim 6165
510.004–70 Removed; interim 6165
510.004–71 Removed; interim 6165
510.007 Removed; interim 6165
510.007–70 Removed; interim 6165
510.011 Redesignated as 511.204; interim 6165
(a) corrected 10846
510.070 Removed; interim 6165
510.070–1 Removed; interim 6165
510.070–2 Removed; interim 6165
510.070–3 Removed; interim 6165
510.070–4 Removed; interim 6165
510.071 Removed; interim 6165
510.804–6 (a) corrected 10846
511 Heading revised; interim 6165
511.2 (Subpart 511.2) Added; interim 6166
511.001 Redesignated from 510.001; interim 6165
511.002 Redesignated from 510.002 and amended; interim 6165
511.003 Removed; interim 6165
511.070 Removed; interim 6165
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512.101 Redesignated as 512.401; interim 6166
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1209.507 Revised; eff. 10–25–96 50249
1210 Heading revised; eff. 10–25–96 50249
1210.004 Removed; eff. 10–25–96 50249
1210.004–70 Removed; eff. 10–25–96 50249
1210.011 Removed; eff. 10–25–96 50249
1210.011–90 Removed; eff. 10–25–96 50249
1211 Added; eff. 10–25–96 50249
1212 Heading revised; eff. 10–25–96 50249
1213.107–90 Amended; eff. 10–25–96 50249
1213.507–90 Amended; eff. 10–25–96 50249
1213.7100—1213.7101 (Subpart 1213.71) Added 391
1215.407 Removed; eff. 10–25–96 50249
1215.413–2 (f) revised; interim **55802**
Regulation at 60 FR 55802 confirmed 274
1215.804 Removed; eff. 10–25–96 50249
1215.804–2 Removed; eff. 10–25–96 50249
1215.804–6 Heading revised; eff. 10–25–96 50249
1216.505 (Subpart 1216.5) Added; eff. 10–25–96 50249
1219 Heading revised; eff. 10–25–96 50249
1219.201 Amended; eff. 10–25–96 50249
1219.708—1219.708–70 (Subpart 1219.7) Heading revised; eff. 10–25–96 50249
1219.1005—1219.1006 (Subpart 1219.10) Appendix A redesignated from 1219.1006 Appendix A; eff. 10–25–96 50250
1219.1006 Appendix A redesignated as Subpart 1219.10 Appendix A; eff. 10–25–96 50250
1220 Heading revised; eff. 10–25–96 50250
1224.000 Removed; eff. 10–25–96 50250
1224.103 Added; eff. 10–25–96 50250
1233.214 (d) removed; (b) and (c) redesignated as (c) and (d); new (c) introductory text and new (d) revised; eff. 10–25–96 50250

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1237.104–90 (Subpart 1237.104) Added; eff. 10–25–96 50250
1237.110 (Subpart 1237.1) Heading revised; eff. 10–25–96 50250
1237.7000—1237.7003 (Subpart 1237.70) Added 392
1247.104–370 Amended; eff. 10–25–96 50250
1247.305–70 (a) through (f) amended; eff. 10–25–96 50250
1247.305–71 Amended; eff. 10–25–96 50250
1252.210–70 Redesignated as 1252.211–70; eff. 10–25–96 50250
1252.210–71 Redesignated as 1252.211–71; eff. 10–25–96 50250
1252.211–70 Redesignated from 1252.210–70; eff. 10–25–96 50250
1252.211–71 Redesignated from 1252.210–71; eff. 10–25–96 50250
1252.217–81 Amended; interim **55802**
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1252.237–71 Added 392
1252.237–72 Added 392
1252.247–1 Redesignated as 1252.247–70; eff. 10–25–96 50250
1252.247–2 Redesignated as 1252.247–71; eff. 10–25–96 50250
1252.247–3 Redesignated as 1252.247–72; eff. 10–25–96 50250
1252.247–4 Redesignated as 1252.247–73; eff. 10–25–96 50250
1252.247–5 Redesignated as 1252.247–74; eff. 10–25–96 50250
1252.247–6 Redesignated as 1252.247–75; eff. 10–25–96 50250
1252.247–7 Redesignated as 1252.247–76; eff. 10–25–96 50250
1252.247–8 Redesignated as 1252.247–77; eff. 10–25–96 50250
1252.247–70 Redesignated from 1252.247–1; eff. 10–25–96 50250
1252.247–71 Redesignated from 1252.247–2; eff. 10–25–96 50250
1252.247–72 Redesignated from 1252.247–3; eff. 10–25–96 50250
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1252.247–74 Redesignated from 1252.247–5; eff. 10–25–96 50250
1252.247–75 Redesignated from 1252.247–6; eff. 10–25–96 50250
1252.247–76 Redesignated from 1252.247–7; eff. 10–25–96 50250
1252.247–77 Redesignated from 1252.247–8; eff. 10–25–96 50250
1253.303 (Subpart 1253.3) Appendix amended; interim **55802**
Regulation at 60 FR 55802 confirmed 274
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Appendix A amended; eff. 10–25–96 50250

Chapter 14—Department of the Interior (Parts 1400—1499)

1403.101—1403.101–3 (Subpart 1403.1) Removed 5519
1403.203—1403.203–70 (Subpart 1403.2) Removed 5519
1403.570—1403.570–3 (Subpart 1403.5) Added 5519
1415.413—1415.413–70 (Subpart 1415.4) Removed **53279**
1415.506 (Subpart 1415.5) Removed **53279**
1415.607—1415.608 (Subpart 1415.6) Removed **53279**
1415.803—1415.804–3 (Subpart 1415.8) Removed **53279**
1415.902—1415.905–70 (Subpart 1415.9) Removed **53279**
1425 Revised 15390
1425.202 Removed 5520
1425.204 Removed 5520
1426 Added **53279**
1428 Revised **53280**
1452.203–70 Added 5520
1452.204–70 Removed 31053
1452.204–71 Redesignated as 1452.226–70 ..... **53280**
1452.204–72 Redesignated as 1452.226–71 ..... **53280**
1452.210–70 Removed 31053
1452.224–1 Removed 31053
1452.225–70 Revised 15390
1452.226–70 Redesignated from 1452.204–71 ..... **53280**
1452.226–71 Redesignated from 1452.204–72 ..... **53280**
1452.228–70 Revised **53280**
1452.228–73 Introductory text revised **53280**
1452.233–2 Removed 31053
1452.236–70 Removed 31053
1452.237–70 Removed 31053
1453 Removed 31054

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Chapter 15—Environmental Protection Agency (Parts 1500—1599)

1501.370 Amended 29316
1506.371 Removed 47065
1509.503 Amended 29316
1510.011–71 Removed 29316
1510.011–72 Revised 29316
1510.011–73 Removed 29316
1510.011–74 Removed 29316
1515.407 (a)(1) removed; (a)(2) and (3) redesignated as (a)(1) and (2) 47065
1515.604 (a), (c) and (d) revised 47065
1515.604–70 (c) added 47066
1515.605 (a) and (b) revised; (c) added 47066
1515.608 (e) amended 29316
(a)(1), (b)(1)(ii) and (2)(i) revised; (a)(3) and (b)(3) added; (c) removed; (d) and (e) redesignated as (c) and (d) 47066
1515.609 (c) revised 47067
1515.611 Revised 47067
1515.612 (a)(1)(iii), (iv) and (v) revised; (c) added 47067
1516.303 Added 14504
1516.303–71 Added 14504
1516.303–72 Added 14504
1516.303–73 Added 14504
1516.303–74 Added 14505
1516.303–75 Added 14505
1516.303–76 Added 14505
1516.303–77 Added 14505
1516.307 (c) added 14505
1516.370 Added 14505
1523 Heading revised 14506
1523.7000—1523.7003 (Subpart 1523.70) Added 14506
1528 Removed 29493
1532.170 (b) revised; (c) removed 29316
1532.908 Revised 29317
1534 Removed 47065
1535.007 Revised 14264
1535.007–70 (b) and (c) revised; (d), (e) and (f) added 14265
1536.303—1536.303–70 (Subpart 1536.3) Removed 47065
1536.570 Removed 47065
1542.705–1 Removed 47065
1545.502 (Subpart 1545.5) Removed 47065
1552.210–71 Removed 29317
1552.210–72 Revised 29317
1552.210–73 Removed 29317
1552.210–74 Removed 29317
1552.210–79 (b), (c) and (d) revised; (e) and (f) removed 33689
1552.215–70 Revised 47067
1552.215–71 Revised 47067
1552.215–72 Removed 47068
1552.216–76 Added 14505
1552.228–70 Removed 29493
1552.228–71 Removed 29493
1552.228–72 Removed 29493
1552.228–73 Removed 29493
1552.232–70 Revised 29317
1552.235–72 Revised 14265
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1552.235–75 Added 14265
1552.235–76 Added 14266
1552.235–77 Added 14266
1552.235–78 Added 14266
1552.235–79 Added 14267
1552.236–71 Removed 47065
1552.239–103 Added 14507
1553.232–75 Revised 29318
1553.232–76 Removed 29318

Chapter 16—Office of Personnel Management Federal Employees Health Benefits Acquisition Regulation (Parts 1600—1699)

1604.7101 (Subpart 1604.71) Regulation at 60 FR 16057 confirmed 15198
1652.204–72 Revised 15198

Chapter 18—National Aeronautics and Space Administration (Parts 1800—1899)

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1802 Revised 40537
1803 Revised 40537
1804 Revised 40539
1805 Revised 40543
1806 Revised 40545
1807 Revised 47068
1808 Revised 47073
1809 Revised 47075
1810 Removed 47077
1811 Added 47078
1812 Revised 47079
1814 Revised 47079
1815.413–2 Revised 5313
1815.804 Heading revised **53879**
Heading correctly revised **56125**

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1815.804–1 Redesignated from 1815.804–3; heading, (a)(1), (2), (b), (c), (d) and (e)(3) revised; (a)(3)(i) amended **53879**
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1815.804–2 Added **53879**
(b) correctly added **56126**
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1815.807–70 (d)(1) and (2) amended **53879**
1815.807–71 Amended **53880**
1815.807–72 (a) revised **53880**
1815.870–1 (a) revised; (b) amended **53880**
1815.970 (b) amended 5314
1815.970–2 (f)(1) heading removed **53880**
1815.970–3 (a) amended; (b) revised; (c) removed **53880**
1815.7002 Amended 5314
1816.203–4 (c) amended **53880**
1816.505 Added 5314
1819 Heading revised 5314
1819.705–4—1819.708–70 (Subpart 1819.7) Heading revised 5314
1819.708–70 (b) amended **53881**
1822.103–4 Revised **52121**
1823.570—1823.570–4 (Subpart 1823.5) Added 7225
1823.7004 (c)(2), (3) and (4) revised 5314
1825.400 Added 42395
1825.401 Added 6577
Removed 42395
1827.405 (c) revised 5314
1828.202 Revised 47081
1835.003 Revised 5314
1835.004 Added 47081
1837.204 Added 5314
1842.1305 (Subpart 1842.13) Added 47081
1845.102–70 (a)(3) revised 47083
1845.106–70 (d) revised; (i) removed; (j) and (k) redesignated as (i) and (j) 47083
1845.301 Amended 47084
1845.407 Heading revised; introductory text, (a)(1) and (b) amended 47084
1845.501 Amended 47084
1845.502–1 Amended 47084
1845.502–71 (e) heading revised 47084
1845.505–14 Revised 47084
1845.7101 Amended 47084
1845.7101–1 Revised 47084
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1852.212–72 Removed 47081
1852.212–73 Removed 47081
1852.214–70 Revised 47082
1852.214–71 Revised 47082
1852.214–72 Revised 47082
1852.215–70 Amended **53880**
1852.219–75 Amended **53881**
1852.223–70 Amended 5315
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1871.505 Revised; eff. 10–1–95 through 6–30–97 ..... **51370**
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2401.602–3 Regulation at 60 FR 46154 confirmed 19470
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2402.101 Regulation at 60 FR 46154 confirmed 19470
2404.805 (Subpart 2404.8) Regulation at 60 FR 46155 confirmed 19470
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107.315 (c) and (d) amended 21100
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107.504 (a) and (c) amended 18931
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107.701 (a) designation correctly added 27948
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171.2 (a) through (d) revised; (h) added 21101
171.3 (c) removed; (d) redesignated as (c) 21102
171.6 (b)(2) table amended 33254
171.7 (a)(3) table amended 25941, 26757, 27172, 28673, 28674
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172.205 (f) revised 28675
172.302 (b) revised; eff. 1–1–97 50624
172.310 (b) amended 20749
172.324 (a) revised 27172
172.330 (a)(1) revised 28676
(a)(1)(ii) amended 50254
172.402 (d) revised 27173
172.403 (a), (c) table and (g)(2) amended 20750
172.500 (b)(4) and (5) redesignated as (b)(5) and (6); new (b)(4) added 27173

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172.504 (f)(8) amended; eff. 1–1–97 50624
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172.514 Heading amended 50254
(a) and (b) introductory text amended 50255
172.526 Removed 28676
172.600 (d) revised 27173
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172.704 (c)(1), (2) and (d) introductory text revised 27173
172.803 (b) introductory text, (d)(1)(i) and (ii) amended; (e)(1) designation added 20750
172 Appendix B amended 20750
173 Petition denied 56957
173.4 Heading, (a) introductory text, (9) and (10) revised; (a)(11) removed; (c) added 27173
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173.21 (k) added; interim 26419
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173.22a (c) added 21102
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173.24a (a)(3) amended; (b)(2) revised; eff. 1–1–97 50624
173.24b (a)(1) revised; (a)(3) removed 28676
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173.28 (b)(4) and (7)(iv)(C) revised; (c)(2) amended; eff. 1–1–97 50624
173.29 (f) removed 28676
173.31 (b)(2)(ii) amended; (b)(3)(iii), (4)(i), (ii), (6)(ii), (d)(1)(viii), (2), (e)(2) and (f)(1) revised 33254
173.32 (d) and (e)(2)(i) amended; (t) added; eff. 1–1–97 50625
173.32a (c) revised 27174
173.34 (h) amended 25942
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173.63 (b) redesignated from 173.230(b) 27175
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173.121 (a) amended; eff. 1–1–97 50625
173.125 (a) revised; eff. 1–1–97 50625
173.127 (b)(1) removed; (b)(2) and (3) redesignated as (b)(1) and (2); heading, (b) heading and new (1) introductory text revised; eff. 1–1–97 50625
173.133 (a) introductory text amended; eff. 1–1–97 50626
173.134 (b)(3)(ii) introductory text revised; (b)(4) added; eff. 1–1–97 50626
173.151 Heading revised; (d) added; eff. 1–1–97 50626
173.155 (b)(1) amended 27174
173.156 (b) revised; eff. 1–1–97 50626
173.158 (d) revised; (f)(1) amended; eff. 1–1–97 50626
173.163 Amended 26763
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173.171 Introductory text and (b) revised; (a) amended; (d) added 27174
173.183 (a) and (b) amended; eff. 1–1–97 50627
173.220 (g)(2) revised 27175
173.225 (a) amended; eff. 1–1–97 50627
173.230 (b) redesignated as 173.63(b); removed 27175
173.240 (a) amended 28676
173.241 (a) amended 28676
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173.301 Heading and (j) revised 26763
(a) amended 26764
173.302 (c)(3) amended; (c)(3) Note 3 added 26764
173.306 (i) introductory text revised; (i)(1) removed; (i)(2), (3) and (4) redesignated as (i)(1), (2) and (3); eff. 1–1–97 50627
173.309 (b) revised 26764
173.314 (h) removed 18933
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(c) Note 1 and (n) heading revised 33255
(c) table amended; eff. 1–1–97 50627
173.316 (a)(8) and (c)(3)(ii) amended 25942
173.324 Removed 18932
173.403 Amended 20750
173.410 (f) amended 20750

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173.411 (b)(2)(ii) amended 20750
173.417 (a)(7) table and (b)(2) revised 20750
173.422 (a) introductory text, (4), (b)(1) and (2) amended; (b)(3) added 20751
173.425 Table revised 20751
173.426 (c) amended 20752
173.427 (a)(3), (b)(2), (3)(ii), (c)(1) and (f) table amended; (b)(4) and (b)(5) added 20752
173.428 Introductory text amended 20752
173.435 Table amended 20752, 27175
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173.465 (a) and (e)(1) amended 20753
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173 Appendix H amended; eff. 1–1–97 50627
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178.35—178.68 (Subpart C) Revised 25942
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178.245–4 (e) added; eff. 1–1–97 50628
178.245–6 (a) amended; eff. 1–1–97 50628
178.270–12 (a) amended; eff. 1–1–97 50628
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178.705 (c)(1)(iv)(B) and (2)(ii) amended; eff. 1–1–97 50629
179.2 (a)(10) amended 33255
179.7 (a)(2), (b)(5), (9) and (d) revised; (b)(10) removed; (b)(11), (12) and (13) redesignated as (b)(10), (11) and (12); (b)(7), new (10) and (f) amended 33255
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179.16 (b) revised; (c) added 33255
179.18 (a) introductory text and (b)(2) amended; (b)(1) revised 33256
179.22 (b), (c) and (d) amended 33256
179.100–2 Removed 18934
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179.100–10 (c) amended 28679
179.100–11 Removed 18934
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179.100–20 (a) table amended 28679
179.100–22 Removed 18934
179.101–1 Revised 28679
179.102–1 (a)(1) amended 28680
179.102–2 (a)(1) amended 28680
179.102–4 (d) and (l) removed; (b), (c) and (e) through (k) redesignated as (a) through (i) 28680
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179.200–12 Removed 18934
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179.200–16 (d) amended 28680
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179.300–2 Removed 18934
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179.300–7 (a) table amended; (b) removed 28682
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179.500–17 (a)(7) removed 28682
179 Appendix A amended 33256
180.407 (a)(1) amended 27176
180.501 (a) amended 33256
180.509 (b) introductory text, (c)(3)(iii)(A), (B), (j) and (l) heading revised; (b)(1), (c)(3)(iii) introductory text, (g)(1)(ii) introductory text, table and (i) amended 33256
180.511 (e) amended 33256
180.515 (a) amended; (b) removed; (c) and (d) redesignated as (b) and (c) 33257
180.519 (b)(5), (6) and (c) amended 33257
190 Authority citation revised 18512
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190.1 (a) revised 18512
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190.7 (d) and (i) introductory text revised 18513
190.9 (b)(1)(i) revised 18513
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190.207 (a) and (c) revised 18513
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391.45 (b)(2) revised 13347
391.49 (b) amended 1843
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393.25 (b) amended 1843
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395 Authority citation revised 14679
395.1 (a) revised; (l) through (o) added 14679
395.2 Amended 14679
397 Authority citation revised 20497
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350—399 (Subchapter B) Appendix B amended 1843
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571.211 Removed 20175
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571.214 Amended **57839**
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573.7 (d) removed; (e) redesignated as (d) and revised 278
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575 Reconsideration petition 2946
575.103 Revised; eff. 9-1-97 36657
575.104 Amended; (d)(1)(i)(B), (iii), (2)(i), (ii) introductory text and (e)(2)(ix)(C) revised; (d)(2)(ii)(D) added; (i) through (l) removed; eff. 3-9-98 47443
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609 Authority citation revised 19562
609.5 Amended 19562
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639 Authority citation revised 25090
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800.28 Removed **61490**

Chapter X—Surface Transportation Board, Department of Transportation (Parts 1000—1399)

Chapter X Heading revised 1842
1002 Authority citation revised 32355
1002.1 Introductory text, (e)(2), (f)(11), (14), (g) and (h) amended; (b), (e)(1) and (f)(6) table revised 42191
1002.2 (f)(36) added 32355
(a)(1), (d) and (f) revised; (a)(2) introductory text, (ii), (iii), (3), (b), (c), (d)(4), (e) heading, (2) introductory text, (i), (iii) heading, (g)(1) introductory text, (ii), (iii) and (2) amended 42191
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1039 Authority citation revised 7426, 7427
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1039.14 (b)(5) removed; (b)(6) and (7) redesignated as (b)(5) and (6) 26847
1039.18 Removed 7427
1039.23 Removed 29037
1043.1 (a)(1) and (b) amended **63981**
1051 Authority citation revised 19860
1051.2 (a)(2) and (3) removed; (a)(1) introductory text and (i) through (xi) redesignated as (a) introductory text and (1) through (11) 19860
1053 Removed 19860
1134 Removed 7427
1135 Authority citation revised 7427
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1138 Removed 7427
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1150 Authority citation revised 29973, 32355
1150.31—1150.35 (Subpart D) Heading revised 32355
1150.36 Added 29974
1150.41—1150.45 (Subpart E) Added 32355
1150.44 Corrected 36965
1153 Removed 7428
1154 Removed 16066
1160.1 (h) added **63982**
1160.3 (a) amended **63982**
1160.4 (a)(1), (d) and note amended **63982**
1160.5 (a)(8) added **63982**
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1175 Removed 7428
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1311 Removed 21388
1312 Authority citation revised 19860, 30182
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13 Authority citation revised 31867
13.11 (d)(4) table revised 31868
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32.66 Amended **62048**
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32.67 Amended **62048**
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32.68 Amended **62048**
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32.69 Amended **62048**
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32.70 Amended **62049**
32.71 Amended 46399
36.39 (c) added 29497
91.4 (e)(4) revised 25155
91.11 (b) revised 25155
91.12 Revised 25155
91.14 Revised 25156
91.17 Revised 25156
91.24 (h) and (i) revised 25156
100.5 (k)(15)(iii)(D) table and (16)(iii) table amended; eff. 8–1–96 through 6–30–97 48628
100.24 Revised 39702
(a)(1) table amended 48628
100.25 (k)(11) table, (12) table, (13)(iii) table, (17)(iii) table, (20)(iii)(C) table, (22)(ii)(C) table amended 5688
(k)(25)(iii)(B) table amended 5689
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100.26 Added; eff. 1–1–97 through 12–31–97 39747
100.27 Added; eff. 1–1–97 through 12–31–97 39751

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215.31—215.34 (Subpart D) Redesignated as 216.71—216.74 (Subpart F) 11750
216.3 Amended 7429, 15887, 21933, 27794
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216.13 Heading revised; (d) added 21933
216.24 (b), (d)(1), (2)(i)(A)(*1*), (*2*), (iii)(B) and (e)(7) removed; (c), (d)(2)(ii)(C), (iii)(A), (e)(2)(i)(A) and (5)(v)(B) revised; (d)(2)(v)(B) amended 7429
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216.26 Heading, (b), (c) and (d) revised; introductory text and (e) added 21933

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216.27 Added 21933
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216.32 Revised 21935
216.33 Revised 21935
216.34 Revised 21936
216.35 Added 21936
216.36 Added 21937
216.37 Added 21937
216.38 Added 21937
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216.40 Added 21938
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216.44 Added 21939
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216.81—216.87 (Subpart G) Redesignated from 215.21—215.27 (Subpart C) 11750
216.90—216.95 (Subpart H) Added 27794
216.101—216.108 (Subpart I) Added 15887
216.111—216.114 (Subpart J) Redesignated from 228.11—228.14 (Subpart B) 15887
216.113 Amended 15890
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216.121—216.126 (Subpart K) Redesignated from 228.21—228.26 (Subpart C) 15887
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216.124 Amended 15890
216.125 Amended 15890
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285.2 Amended 30186
285.22 (a)(1), (3) and (b) through (e) revised; (f) introductory text amended 30186

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296.4 (c) and (d) removed; (e) redesignated as (c) 6322
296.5 (a)(2) amended; (a)(3) removed; (a)(4) redesignated as (a)(3); (e)(6)(ii) amended 6322
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298 Removed 35550
299 Removed 35550

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301.5 (b) through (f) revised 11340
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301.10 (a) and (b) revised 11340
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301.18 Redesignated as 301.19; new 301.18 redesignated from 301.17 11341
301.19 Redesignated as 301.20; new 301.19 redesignated from 301.18 11341
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301.21 Redesignated as 301.22; new 301.21 redesignated from 301.20; (d), (f) and (g) revised 11341
301.22 Redesignated as 301.23; new 301.22 redesignated from 301.21 11341
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301.24 Redesignated as 301.25; new 301.24 redesignated from 301.23 11341
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380.23 (b)(1), (c) through (j), (k) introductory text, (5)(v)(A), (ix) and (xiii) revised; (k)(5)(ii)(G), (l), (m) and (n) added 8486
380.24 (e) removed; (f) and (g) redesignated as (e) and (f); (a) introductory text, (b) introductory text, (c) introductory text, (d) introductory text, new (e) introductory text, (f) introductory text, (1) introductory text, (2) and (3) revised; (e)(4), (5) and (f)(4) added 8487
380.26 (b) through (i) revised 8488
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380 Figures 2 and 3 redesignated as Appendixes A and B; new Figure 2 added 8489

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620 Technical correction....7050
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622.7 (a), (b) and (c) revised; (w) through (z) added; eff. in part 10-28-96....43957
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630.7 (q) revised 27307
630.20 Revised 27307
630.23 (b) removed; (c) and (d) redesignated as new (b) and (c); (a) and new (b) amended 27307
630.24 (d)(5) corrected 51934
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630.25 (b) amended 27308
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630.323 (a)(2)(ii) corrected 37843
638 Temporary regulation 62762
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638.7 (m), (n) and (p) revised 56536
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638.21 Revised 66927
638.23 (a)(1) and (b)(1) amended; (c) revised 66927
638.26 Revised 56536
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(gg) and (jj)(1) amended 64355
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641.10 Added 61207
(b)(4), (6) and (7) amended 64355
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641.23 (d)(2)(iii) amended 64355
641.24 (a)(2) and (3) redesignated as (a)(3) and (4); new (a)(2) added; new (a)(4) amended; (g) revised 61209
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641.25 Introductory text amended 64355
641.27 (a) amended 64355
641.28 Redesignated as 641.29; new 641.28 added 64354

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642.25 (a)(2) and (b)(2) amended **57689**
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642.28 (a)(2) and (c) amended; (b)(1), (2) and (e) introductory text revised **57689**
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646 Removed; interim 34964
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648.5 (a) amended 43425
648.6 (a) revised 43425
648.7 (a)(1)(i), (2)(i), (b)(1)(i) and (iii) amended; (f)(3) revised 43425
648.11 (a) amended; (e) introductory text, (1) and (2) revised 43425
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648.51 (f) revised 38405
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648.87 (b)(1) revised; (b)(2) amended 47828
648.88 (d) added 39910
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649.4 (b)(6) added **62225**
649.8 (c)(11) and (12) added; interim; eff. 4–1–96 through 6–25–96 13456
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649.23 Added; interim; eff. 4–1–96 through 6–25–96 13456
649 Figures 4, 5 and 6 added; interim; eff. 4–1–96 through 6–25–96 13458
650 Removed 35011
650.4 Introductory text revised; (a)(10) added **62225**
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651 Figure 4 amended **55210**
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651.9 (e)(40) correctly added **51370**
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651.10 Revised 27737
651.20 (a)(2), (3)(i)(B), (4)(i)(E), (5), (6)(iii)(C), (7), (8) introductory text, (i), (iii)(B), (c)(1), (2), (3)(ii), (5), (d), (e)(2), (f)(2), (g)(1), (2), (i), (j) introductory text and (7) revised; (a)(9) added 27737
651.21 (a)(2)(i), (b)(2)(i), (c)(2)(i), (d) and (e) introductory text revised; (f), (g) and (h) added 27740
651.22 Revised 27741
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651.28 Heading and (b) revised; (a) amended; (c) removed 27743
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655 Figure 1 added 14477
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660.323 (a)(4)(i) corrected 48643
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670 Added **58222**
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671 Removed 31230
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672.20 (a)(1), (c)(1) heading, (2)(i) heading, (ii) heading, (e)(1), (h)(2), (i)(4) and (j) revised; (c)(1)(i)(A) heading, (i)(1) heading, (2) heading, (3) heading and (6) heading added; (g)(1) and (3) amended 5622
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675.21 (a)(1) heading through (6) heading and (b)(4) heading added 5642
675.22 (i) added **61218**
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675.27 (a)(1) heading, (2) heading, (c)(1) heading, (2) heading, (e)(2) heading, (f)(1) heading, (2) heading and (3) heading added; Table removed; (d)(2) introductory text and (g) revised 5643
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676.6 Regulation at 60 FR 45379 confirmed **61498**
676.20 (a)(1) and (2) added **57546**
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676.21 (h) added 1845
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677.4 (b)(1), (c)(1), (2) and (e) revised; interim 13783
677.6 (d)(3)(ii)(C) removed; (b)(2) and (d)(3)(ii)(D) redesignated as (b)(3) and (d)(3)(ii)(C); new (b)(2) added; new (b)(3) heading revised **66757**

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679.7 (f)(13) revised; (f)(16) added 33385
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681.24 Redesignated as 681.22; new 681.24 redesignated from 681.26 35151
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LSA—LIST OF CFR SECTIONS AFFECTED

The LSA (List of CFR Sections Affected) is a monthly publication designed to lead users of the Code of Federal Regulations (CFR) to amendatory actions published in the Federal Register (FR). It should be shelved with current CFR volumes. Entries are by CFR title, chapter, part, and section. Proposed rules are listed at the end of appropriate titles.

HOW TO USE THIS FINDING AID

The CFR is revised annually according to the following schedule:

Titles 1–16—as of Jan. 1
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To bring these regulations up to date, consult the most recent LSA for any changes, additions, or removals published after the revision date of the volume you are using. Then check the CUMULATIVE LIST OF PARTS AFFECTED appearing in the Reader Aids of the latest Federal Register for less detailed but timely changes published after the final date included in this publication.

The page numbers listed to the right of each LSA entry indicate where the specific amendments begin in the Federal Register. **Boldface** page numbers under a particular title indicate that the page numbers span 2 years. **Boldface** is used to distinguish the previous year from the current year.

Cite a page reference from this publication using the volume number (60 FR for 1995, 61 FR for 1996) and the page number. Example: 24727 cite as 60 FR 24727. For your convenience, the volume number has been included in the Table of Federal Register Issue Pages and Dates.

ISSUES TO BE SAVED

There is no single annual issue of the LSA. Four ANNUAL ISSUES must be saved; the DECEMBER issue is the ANNUAL for Titles 1–16; the MARCH issue is the ANNUAL for Titles 17–27; the JUNE issue is the ANNUAL for Titles 28–41; the SEPTEMBER issue is the ANNUAL for Titles 42–50. ANNUAL ISSUES to be saved are clearly designated on the cover.

PARALLEL TABLE OF AUTHORITIES AND RULES

Following Title 50 is an update to Parallel Table of Authorities and Rules found in the CFR Index and Finding Aids. This table contains authority citations added to or removed from the Parallel Table of Authority and Rules as a result of documents published in the Federal Register since January 1, 1996.

TABLE OF FEDERAL REGISTER ISSUE PAGES AND DATES

A table is included at the end of this publication which identifies the volume number, the inclusive page numbers, and the corresponding Federal Register issue dates for the period covered.

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An INDEX to the daily Federal Register is published monthly and is cumulated for 12 months. A separate volume, the CFR Index and Finding Aids to the entire Code of Federal Regulations, is revised as of January 1 each year.

INQUIRIES AND SUGGESTIONS

Rob Sheehan was Chief Editor of the LSA, assisted by Kent Giles and Susannah C. Hurley. The LSA was prepared under the direction of Richard L. Claypoole assisted by Jim Wickliffe. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to Richard L. Claypoole, Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408.

CHECKLIST OF CFR VOLUMES FOR THIS MONTH

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1, 2 (2 Reserved)	(869–028–00001–1)	$4.25	Feb. 1, 1996
3 (1995 Compilation and Parts 100 and 101)	(869–028–00002–9)	22.00	[1] Jan. 1, 1996
4	(869–028–00003–7)	5.50	Jan. 1, 1996
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[1]Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2]The July 1, 1985 edition of 32 CFR Parts 1 to 189 contains a note only for Parts 1 to 39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1 to 39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3]The July 1, 1985 edition of 41 CFR Chapters 1 to 100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the 11 CFR volumes issued as of July 1, 1984, containing those chapters.

[4]No amendments to this volume were promulgated during the period April 1, 1990 through March 31, 1994. The CFR volume issued as of April 1, 1990 should be retained.

[5]No amendments to this volume were promulgated during the period July 1, 1991 through June 30, 1994. The CFR volume issued as of July 1, 1991 should be retained.

[6]No amendments to this volume were promulgated during the period January 1, 1993 to December 31, 1993. The CFR volume issued as of January 1, 1993 should be retained.

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2472.6 Removed; new 2472.6 redesignated from 2472.7; heading, (a), (b), (d), (e) and (f) revised 41295
2472.7 Redesignated as 2472.6; new 2472.7 redesignated from 2472.8 41295
(b) revised 41296
2472.8 Redesignated as 2472.7; new 2472.8 redesignated from 2472.9 41295
Revised 41296
2472.9 Redesignated as 2472.8; new 2472.9 redesignated from 2472.10 41295
2472.10 Redesignated as 2472.9; new 2472.10 redesignated from 2472.11 41295
Revised 41296
2472.11 Redesignated as 2472.10; new 2472.11 redesignated from 2472.12 41295
(a) introductory text and (b) revised 41296
2472.12 Redesignated as 2472.11 41295
2473 Added 41296
Chapter XIV Appendix A amended 1697, 51207
Appendix B revised 16043

Chapter XVI—Office of Government Ethics (Parts 2600—2699)

2634 Authority citation revised 32635
2634.1001 (b) amended 32635
Corrected 35589
2634.1002 (b)(1)(i), (ii), (iv)(B), (v) and (c) revised; (d) and (e) added 32635
(e)(1) corrected 40145
2635.34 (g)(2) corrected 48733
2635.204 (g)(2) through (5) and (6) introductory text revised; (g)(6) Examples 2, 3 and 4 redesignated as (g)(6) Examples 4, 5 and 6; new (g)(6) Examples 2 and 3 added 42969
(f) amended; interim 50691
2635.403 (a) note amended 40951
2635.801 (d)(7) revised; interim 50691
2635.803 Note amended 40951
2635.808 (a)(2) note revised; interim 50691
2635 Appendix D added 40952

Chapter XXII—Federal Deposit Insurance Corporation (Parts 3201—3299)

3201.103 (b)(4) amended 35915
3202 Removed 50947

Chapter XXIII—Department of Energy (Part 3301)

Chapter XXIII Established; interim 35087

Chapter XXIV—Federal Energy Regulatory Commission (Parts 3401—3499)

Chapter XXIV Established 43414

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Chapter XXIX—Federal Communications Commission (Parts 3900—3999)

Chapter XXIX Established 56111

Chapter XXX—Farm Credit System Insurance Corporation (Part 4001)

Chapter XXX Regulation at 60 FR 30776 confirmed 4349

Chapter XXXV—Office of Personnel Management (Part 4501)

Chapter XXXV Established; interim 36996

Chapter XLV—Department of Health and Human Services (Part 5501)

Chapter XLV Established 39763

Chapter L—Department of Transportation (Part 6001)

Chapter L Established 39903

Chapter LIV—Environmental Protection Agency (Part 6401)

Chapter LIV Established 40502

Chapter LVIII—Board of Governors of the Federal Reserve System (Parts 6800—6899)

Chapter LVIII Established 53826

Chapter LXII—Equal Employment Opportunity Commission (Part 7201)

Chapter LXII Established; interim 7066

Chapter LXIX—Tennessee Valley Authority (Part 7901)

Chapter LXIX Established 20118

Chapter LXV—Deparment of Housing and Urban Development (Parts 7501—7599)

Chapter LXV Established 36248

Chapter LXVI—National Archives and Records Administration (Part 7601)

Chapter LXVI Established 40505

Chapter LXXIV—Federal Mine Safety and Health Review Commission (Part 8401)

Chapter LXXIV Established 39871

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316 ..... 6324, 47450
330 546
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TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture (Parts 0—26)

1.131 (a) amended 11503
1.132 Amended 11503
1.133 (b) heading revised; (b)(2) redesignated as (b)(3); new (b)(2) added 11503
1.135 Heading revised; existing text designated as (a); new (a) heading and (b) added 11503
1.136 (a) amended 11504
1.137 Revised 11504
1.141 (a) amended; (e) redesignated as (e)(1); (e)(2) added 11504
1d Removed 2659
1e Removed 2660
2 Authority citation revised 37552
2.16 (a)(1)(xi) removed; (a)(3)(x) revised 25775

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(a)(1)(xxiv) added; (a)(3)(xxix) and (xxx) removed 37552
2.22 (a)(1)(viii)(H), (FF), (GG), (II), (PP), (UU) and (VV) revised; (a)(1)(viii)(V) removed; (a)(1)(viii)(WW) added 25776
2.31 (a) revised 49237
2.42 (a)(13) removed 25776
(a)(43) amended; (a)(44) added 37552
2.43 (a)(24) revised 25776
(a)(29) and (30) removed 37552
2.79 (a)(8)(ix), (xl), (xli), (xliii), (l), (lv), (lvi) revised; (a)(8)(xxix) removed; (a)(8)(lvii) added 25776
6.20—6.36 (Subpart) Revised 53007
6.20—6.34 (Subpart) Appendix 3 amended 6305
6.50—6.59 (Subpart) Removed 28723
6.71—6.75 (Subpart) Removed 28723
6.100—6.102 (Subpart) Removed 28723
9 Removed 42773
10 Removed 30495
12 Revised; interim 47025
12.2 (a) corrected 53491
12.4 (a)(2), (g)(3) and (h) corrected 53491
12.5 (a)(1)(i), (2), (b)(2)(iii) and (7) corrected 53491
12.6 (c) corrected 53491
12.21 (a) designation corrected 53491
12.22 (c) designation corrected 53491
12.30 (b) and (c)(6) corrected 53491
16 Removed 37199
17.2 (b) amended 17823
17.4 (d)(1) and (2)(ii) amended; (d)(2)(i) revised 17823
17.18 (c)(8)(ii) amended 17823
17.20 (a)(9)(i) amended 17824
17 Appendixes A and B amended 17824
19 Removed 42371
26 Removed 40145

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 27—209)

27.62 Reinstated; CFR correction 48399
27.63 Reinstated; CFR correction 48399
27.64 Reinstated; CFR correction 48399
27.65 Reinstated; CFR correction 48399
27.66 Reinstated; CFR correction 48399
27.67 Reinstated; CFR correction 48399
27.68 Reinstated; CFR correction 48399
27.72 Reinstated; CFR correction 48400
27.73 Reinstated; CFR correction 48400
27.80 Reinstated; CFR correction 48400
27.81 Reinstated; CFR correction 48400
27.83 Reinstated; CFR correction 48400
27.85 Reinstated; CFR correction 48400
27.87 Reinstated; CFR correction 48400
27.89 Reinstated; CFR correction 48400
27.90 Reinstated; CFR correction 48400
27.91 Reinstated; CFR correction 48400
27.92 Reinstated; CFR correction 48400
27.93 Reinstated; CFR correction 48400
27.94 Reinstated; CFR correction 48401
27.95 Reinstated; CFR correction 48401
27.96 Reinstated; CFR correction 48401
27.97 Reinstated; CFR correction 48401
27.98 Reinstated; CFR correction 48401
28 Authority citation revised 19512
28.909 (b) revised 19512
28.910 (a)(4) and (b) amended 19512
28.911 (a) amended 19512
29 Comment period reopening 9589
29.8001 Table amended 27997, 29923, 29924
Regulation at 61 FR 27997 eff. date corrected to 7-5-96 37316
Table corrected 37351
31 Comment period reopening 9589
32 Comment period reopening 9589

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33.10 (a), (b) and (d) revised; interim 50422
35.11 (a) and (b) amended; interim 54082
46.2 (u) revised 13386
47.47 Revised 11504
47.49 (a) through (d) amended; (e) and (f) removed 11504
47.50 Removed 11504
47.51 Removed 11504
47.52 Removed 11504
47.53 Removed 11504
47.54 Removed 11504
47.55 Removed 11504
47.56 Removed 11504
47.57 Removed 11504
47.58 Removed 11504
47.59 Removed 11504
47.60 Removed 11504
47.61 Removed 11504
47.62 Removed 11504
47.63 Removed 11504
47.64 Removed 11504
47.65 Removed 11504
47.66 Removed 11504
47.67 Removed 11504
47.68 Removed 11504
51 Comment period reopening 9589
51.38 Revised 54083
51.700—51.784 (Subpart) Revised 20703
51.760 Introductory text revised; interim 40290
51.761 Revised; interim 40290
51.885 Revised 11126
51.886 (b) introductory text revised; (c) added 11127
51.888 (a) revised 11127
51.913 Redesignated as 51.914; new 51.913 added 11127
51.914 Redesignated from 51.914 11127
51.1140—51.1179 (Subpart) Revised 20708
51.1151 Introductory text revised; interim 40290
51.1152 Revised; interim 40290
51.1810—51.1837 (Subpart) Revised 20713
51.1820 Introductory text revised; interim 40290
51.1821 Revised; interim 40290
52 Comment period reopening 9589
Authority citation revised 37664, 43941, 48065, 48066
52.42 Amended 25549
52.50 Amended 25550
52.51 (c)(2) and (d)(1) amended 25550
52.721—52.729 (Subpart) Revised 43941
52.1511 Regulation at 60 FR 62709 confirmed 48065
52.1512 Regulation at 60 FR 62709 confirmed 48065
52.1517 Regulation at 60 FR 62709 confirmed 48065
52.1669 Regulation at 60 FR 62710 confirmed; (b)(2) revised 48066
52.2321—52.2330 (Subpart) Revised 37664
53 Comment period reopening 9589
53.203 (b)(3) revised 2895
Regulation at 61 FR 2895 eff. date delayed to 1-31-97 19155
53.204 (c)(1) revised 2895
Regulation at 61 FR 2895 eff. date delayed to 1-31-97 19155
54 Comment period reopening 9589
54.1 Amended 11505
54.4 Amended 11506
54.14 (a), (b) and Figures 1 and 2 revised 11506
54.17 (b) through (g) revised; (h) through (k) added 11509
54.104 (n) and (o) amended 2895
Regulation at 61 FR 2895 eff. date delayed to 1-31-97 19155
54.106 (b)(3) amended; (c)(1) and (2) revised; (c)(3) removed 2898
Regulation at 61 FR 2898 eff. date delayed to 1-31-97 19155
56 Comment period reopening 9589
58 Comment period reopening 9589
58.205 (a) revised 17548
(b) revised 35590
58.2465—58.2471 (Subpart I) Revised 15876
58.2525—58.2541 (Subpart L) Revised 17548
58.2750—58.2759 (Subpart U) Revised 35590
70 Comment period reopening 9589
90 Authority citation revised 51350
Nomenclature change 51350
90.1 (i), (j) and (m) removed; (k), (l), (n) and (o) redesignated as (i), (j), (k) and (l) 51350
91 Nomenclature change 51350
91.5 (a)(2) revised 51350
91.23 (e) and (f) revised 51350
92 Authority citation revised 51350
Nomenclature change 51350

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Nomenclature corrected.....55840
93 Revised.....51351
94 Nomenclature change.....51352
94.4 (c) revised.....51352
94.303 Revised.....51352
95 Removed.....51352
96 Authority citation revised.....51352
Nomenclature change.....51352
97 Authority citation revised.....248
Nomenclature change.....51352
Authority citation revised.....51353
97.1 Regulation at 60 FR 17189 confirmed.....248
97.2 Regulation at 60 FR 17189 confirmed; amended.....248
97.3 (c) amended.....248
97.5 Regulation at 60 FR 17189 confirmed; (b)(4) and (c) amended.....248
97.6 Regulation at 60 FR 17189 confirmed; (d) revised.....248
97.7 Regulation at 60 FR 17189 confirmed.....248
97.11 Regulation at 60 FR 17189 confirmed.....248
97.15 Regulation at 60 FR 17189 confirmed.....248
97.19 Regulation at 60 FR 17189 confirmed; introductory text amended.....248
97.20 Regulation at 60 FR 17189 confirmed.....248
97.23 Regulation at 60 FR 17189 confirmed.....248
97.100 Regulation at 60 FR 17189 confirmed.....248
97.104 Regulation at 60 FR 17189 confirmed.....248
97.105 Regulation at 60 FR 17189 confirmed.....248
97.106 Regulation at 60 FR 17190 confirmed.....248
97.130 Regulation at 60 FR 17190 confirmed.....248
97.140 Regulation at 60 FR 17190 confirmed; amended.....248
97.141 Regulation at 60 FR 17190 confirmed; amended.....248
97.142 Regulation at 60 FR 17190 confirmed.....248
97.175 Regulation at 60 FR 17190 confirmed.....248
97.201 Regulation at 60 FR 17190 confirmed.....248
97.205—97.222 Regulation at 60 FR 17190 confirmed.....248
97.303 Regulation at 60 FR 17190 confirmed.....248
97.500 Regulation at 60 FR 17190 confirmed.....248
97.800 Regulation at 60 FR 17190 confirmed.....248
98 Nomenclature change.....51353
98.4 (a)(1) revised.....51353
160 Comment period reopening.....9589

Chapter II—Food and Consumer Service, Department of Agriculture (Parts 210—299)

210.10 (k)(3)(i) amended.....37671
210.10a (d)(2)(i) amended.....37671
210 Appendix A amended.....37671
225.2 Amended.....25553
225.15 (f)(2)(iii), (iv) and (3) introductory text revised; (f)(2)(vi) and (3) amended; (f)(4) added.....25553
225.16 (f)(3) amended.....37672
225.20 Table revised (OMB numbers).....25554
226.2 Amended.....25554
226.15 (e)(2) and (3) revised.....25554
226.17 (b)(7) revised.....25554
226.18 (f) amended.....25554
226.19 (b)(8)(i) revised.....25554
226.19a (b)(8) revised.....25554
226.23 (e)(1)(ii)(D), (F), (iii)(D), (E) and (4) amended; (h)(2)(iv) through (h)(2)(viii) redesignated as (h)(2)(v) through (ix); (h)(2)(iii) designated in part as (h)(2)(iv); (e)(1)(ii)(C), (iii)(C) and new (h)(2)(iii) revised.....25554
250.30 (t) added.....5272
271 Technical correction.....55188
271.2 Amended.....53600, 54279, 54290
272 Technical correction.....55188
272.1 (g)(145) added.....19159
(g)(146) added.....33463
(g)(151) added.....54279
(g)(148) added.....54290
(g)(149) added.....54297
(g)(150) added.....54302
(g)(74)(ii)(A)(A) and (B) redesignated as (g)(74)(ii)(A)(*1*) and (*2*); (g)(147) added.....54315
272.9 Amended.....53600
273 Technical correction.....55188
273.1 (a)(2)(i)(B) and (C) revised; (a)(2)(i)(D) removed;

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(a)(2)(ii), (e)(1)(ii) and (f)(2) introductory text amended 54279
(e)(1)(i) amended 54316
273.2 (f)(1)(xiii) added; (f)(8)(i)(A) amended 54290
(f)(1)(ii)(A), (D), (v), (i)(4)(i)(B), (iii) introductory text and (iv) amended; (g)(2) redesignated as (g)(3); (c)(2)(iii), new (g)(2), (i)(4)(iii)(D) and (E) added; (i)(4)(iii)(A), (B) and (C) revised 54315
273.3 Existing text designated as (a) and amended; (b) added 54317
273.4 (a)(2) amended; (a)(9) and (11) removed; (a)(10) redesignated as (a)(9) 54317
273.6 (b)(4) added 54317
273.7 (c)(4)(xiv) and (xv) added; (d)(1)(ii)(A) amended 54279
(h)(1)(v), (6) and (i)(4) amended; (h)(1)(vi) added; (h)(3) revised 54280
273.8 (e)(11)(x) removed 54297
(e)(2) amended 54317
273.9 (c)(1) revised; (c)(7) and (d)(4) amended (b)(5)(i) amended 19160
(d)(7) and (8) redesignated as (d)(8) and (9); new (d)(7) added 54291, 54280
(b)(1)(vi) added; (b)(2)(iv) and (c)(4) amended; (c)(3) and (5)(ii)(B) revised; (c)(5)(i)(D), (ii)(C) and (10)(xi) removed; (c)(5)(i)(E), (F) and (G) redesignated as (c)(5)(i)(D), (E) and (F) 54297
273.10 (a)(2)(i) designation, (ii), (iii) and (f)(2) removed; (a)(1)(ii), new (a)(2), (d)(1)(i), (4) and (e)(1)(i)(E) amended; (e)(2)(i)(E) added 54281
(e)(1)(i)(F) and (G) redesignated as (e)(1)(i)(G) and (H); (d) introductory text, (e)(i)(i)(E) and new (G) amended; (d)(8), new (e)(1)(i)(F) and (f)(9) added 54291
(c)(3)(iii) revised; (d)(1)(i) amended 54298
(a)(1)(iv), (c)(3)(ii) and (g)(2) amended; (c)(2)(iii) and (f)(3) revised 54317
273.11 (k) revised 19160
(c)(1)(i) and (2)(iii) amended 54291
(b) heading, introductory text heading, (1) heading and (ii) heading revised; (b)(1)(ii)(B) amended; (b)(1)(ii)(C) and (2) added 54318
273.12 (a)(4) redesignated as (a)(5); (a)(1)(vi) and new (4) added; (b) heading, (1) introductory text and (2) revised 54291
(c)(2) redesignated as (c)(2)(i); (c)(2)(ii) added 54318
273.13 (c) added 54318
273.14 Revised (OMB number pending) 54318
273.20 Heading and (a) revised 54320
273.21 (j)(1)(vii)(A) amended 54282
(f)(2)(iv), (j)(3)(iii)(A) and (B) amended; (j)(3)(iii)(E) added 54292
(f)(2)(iii) amended 54298
(t) added 54302
(n)(1) amended 54320
274.10 (a)(3) and (j) amended; (a)(4)(iii) redesignated as (a)(4)(iv); new (a)(4)(iii) added 53600
275.12 (d)(2)(ix) added 54292
277.18 Heading, (c)(2)(ii)(A), (B), (C), (e)(1), (3)(i) and (p)(3) amended; (c)(1) revised; (c)(5) added 33643
278.1 (i) through (s) redesignated as (j) through (t); (b)(1)(iv), (c)(5), (d)(3) and new (n) revised; new (i) added; new (s) amended (OMB number pending) 53600
(h) amended 54320
278.2 (a) through (d), (g), (h) and (l) amended 53601
278.3 (a) amended 53601
(a) introductory text amended 54320
278.4 (c) amended 53601
295 Revised 39047

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300—399)

300.1 (a) introductory text revised 5924

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301 Technical correction 20877, 32900
Forum 36811
301.48 (a) amended; interim 32640
301.48–1 Amended; interim 32640
301.48–2 (a) and (b) amended; interim 32640
301.48–3 Amended; interim 32640
301.48–4 Revised; interim 32640
301.48–5 Amended; interim 32641
301.48–6 Amended; interim 32641
301.48–8 Added; interim 32641
301.50—301.50–10 (Subpart) Regulation at 57 FR 54496 confirmed 3177
301.50 Regulation at 58 FR 6347 confirmed 3177
301.50–1 Regulation at 58 FR 6347 confirmed 3177
301.50–2 Regulation at 58 FR 28335 confirmed 3177
301.50–3 Regulations at 58 FR 6348, 28335, 34682, 63027, 59 FR 39939, 52892 and 60 FR 2322 confirmed 3177
301.50–4 Regulation at 58 FR 28335 confirmed 3177
301.50–5 Regulation at 58 FR 6348, 28335 and 34683 confirmed 3177
301.50–6 Regulation at 58 FR 34683 confirmed 3177
301.50–7 Regulation at 58 FR 34683 confirmed 3177
301.50–8 Regulation at 58 FR 34683 confirmed 3177
301.50–10 Regulation at 58 FR 6348, 28335 and 63027 confirmed 3177
301.52–2a Regulation at 60 FR 44416 confirmed 1521
301.64 (a) amended 2392
Regulation at 61 FR 2392 confirmed 26423
301.64–3 (c) amended 2392
Regulation at 61 FR 2392 confirmed 26423
(c) amended; interim 38354
301.75–1 Amended; interim 1521
301.75–4 (a) and (d)(1) revised; interim 1521
301.78—301.78–10 (Subpart) Regulation at 56 FR 57576 confirmed 8205
301.78–3 Regulations at 57 FR 42486, 54168, 58 FR 6345, 39124, 42491, 49188, 53108, 53109, 63030, 67629, 59 FR 2282, 7896, 11179, 35611, 40208, 52407 and 60 FR 40054 confirmed 8205
(c) revised; interim 31004
Regulation at 61 FR 31004 confirmed 47663
301.81–3 (e) amended 17551
301.81—301.81–10 (Subpart) Appendix amended 53603
301.89–1—301.89–11 (Subpart) Added; interim 13652
Revised 52207
Appendix added 52212
301.89–1 Amended; interim 35106
301.89–2 (e) through (n) redesignated as (f) through (o); new (e) added; interim 19235
(d) amended; interim 35106
Revised 52208
301.89–3 (e) amended; interim 19235, 35109, 36813
Revised 52208
301.89–4 Revised 52210
301.89–5 Revised 52210
301.89–6 Revised 52210
301.89–7 Revised 52211
301.89–8 Revised 52211
301.89–9 Revised 52211
301.89–10 Revised 52211
301.89–11 Revised 52211
301.89–12 Added; interim 35106
Redesignated as 301.89–14 52207
Added 52211
301.89–13 Revised 52212
301.89–14 Redesignated from 301.89–12 52207
301.90—301.90–10 (Subpart) Removed 47663
318.13–1 Amended 5924
318.13–4d Revised 5924
318.13–4e Removed 5924
319 Policy statement 24433
319.37–5 Footnote 7 removed; (b)(1) and (d) amended; (b)(2) and Footnote 8 redesignated as (b)(3) and Footnote 7; new (b)(2) added 51210
319.37–6 Footnote 9 redesignated as Footnote 8 51210
319.37–7 Footnote 10 redesignated as Footnote 9 51210
319.37–8 Footnote 11 redesignated as Footnote 10 51210
319.37–13 Footnote 12 redesignated as Footnote 11 51210
319.37–14 (b) amended 51210

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319.56-2d (b)(1) amended; (b)(5)(iv) revised; (b)(5)(v), (vi) and (vii) added 47666
319.56-2v Revised 8207
319.56-2x (b) amended 47667
353 Revised 15368
354.2 Table amended 53604
354.3 (b)(2)(vi) revised; (e)(1), (g)(5)(i)(A), (B), (ii), (iii)(B), (iv), (v) and (h)(2) amended; OMB number 2664
(a) amended; (g)(2) revised 15371

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture (Parts 400—499)

400.47 (b), (c) and (e) removed; (d), (f) and (g) redesignated as (b), (c) and (d); interim 38058
400.48 (b) removed; (c) redesignated as (b); interim 38058
400.49 Removed; interim 38058
400.50 Removed; interim 38058
400.161—400.177 (Subpart L) Authority citation revised 34368
400.168 (b) and (c) revised 34368
400.169 Regulation at 60 FR 21036 confirmed 39269
Regulation at 60 FR 21035 confirmed 40954
400.650—400.659 (Subpart T) Regulation at 60 FR 1997 confirmed; revised 42975
401.8 Amended; interim 39050
402 Revised 42985
404 Revised 7200
457.118 Added 8855
Corrected 27245
457.119 Added 41300
457.121 Added 44147

Chapter V—Agricultural Research Service, Department of Agriculture (Parts 500—599)

502 Heading revised 51211
Authority citation revised 51211
502.1 Revised 51211
502.2 Revised 51211
502.4 Revised 51211
502.5 Revised 51211
502.6 Revised 51211
502.7 Revised 51211
502.8 Revised 51211
502.9 Revised 51211
502.10 Revised 51212
502.11 Revised 51212
502.12 (a), (b) and (c) revised 51212
502.13 Removed; new 502.13 redesignated from 502.14 and revised 51212
502.14 Redesignated as 502.13; new 502.14 redesignated from 502.15 and revised 51212
502.15 Redesignated as 502.14; new 502.15 redesignated from 502.16 and revised 51212
502.16 Redesignated as 502.15; new 502.16 redesignated from 502.17 51212
502.17 Redesignated as 502.16 51212

Chapter VI—Natural Resources Conservation Service, Department of Agriculture (Parts 600—699)

Chapter VI Regulation at 60 FR 28514 confirmed 42141
Forums 52671
610 Authority citation revised 27999
610.1—610.5 (Subpart A) Subpart designation added 27999
610.1 Revised 27999
610.11—610.14 (Subpart B) Added 27999
620 Regulation at 60 FR 28514 confirmed; redesignated as Part 1467 42141
663 Removed 41949

Chapter VII—Consolidated Farm Service Agency, Department of Agriculture (Parts 700—799)

Chapter VII Forums 52671
703 Removed 26424
704.1 Amended; interim 43944
704.2 (a)(12) through (24) redesignated as (a)(13) through (25); new (a)(12) added; interim 10672
(a)(23) amended; interim 43944
704.3 (a), (b) and (d) amended; interim 43944
704.7 (a)(3)(ii), (d)(4), (e)(1) and (8) amended; interim 43944
704.9 (a), (b) and (d) amended; interim 43944
704.18 Amended; interim 43945
704.20 (a)(4) amended; interim 10672
(a)(4) revised; (b) amended; interim 43945
704.24 Amended; interim 43945

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704.26 Amended; interim 43945
704.27 (b) amended; interim 43945
704.30 (c) added; interim 43945
718 Revised 37552
718.206 Corrected 49049
719 Removed 37566
720 Removed 37566
723.111 (d) added 37673
723.112 (d) added 50425
729 Authority citation revised 36999
729.102 Amended; interim 36999
729.103 Amended; interim 36999
729.104 (a) revised; (c) amended; interim 36999
729.108 Amended; interim 36999
729.201 Amended; interim 36999
729.204 Redesignated as 729.206; new 729.204 added; interim 36999
729.205 Redesignated as 729.207; interim 36999
Added; interim 37000
729.206 Redesignated as 729.208; new 729.206 redesignated from 729.204; interim 36999
(f) heading, (1), (3) and (7) amended; interim 37000
729.207 Redesignated as 729.209; new 729.207 redesignated from 729.205; interim 36999
(c), (d)(1)(ii)(B) and (2) amended; interim 37000
729.208 Redesignated as 729.210; new 729.208 redesignated from 729.206; interim 36999
(d) revised; interim 37000
729.209 Redesignated as 729.211; new 729.209 redesignated from 729.207; interim 36999
729.210 Redesignated as 729.212; new 729.210 redesignated from 729.208; interim 36999
(a)(1) revised; interim 37000
729.211 Redesignated as 729.213; new 729.211 redesignated from 729.209; interim 36999
729.212 Redesignated as 729.214; new 729.212 redesignated from 729.210; interim 36999
729.213 Redesignated as 729.215; new 729.213 redesignated from 729.211; interim 36999
Revised; interim 37000
729.214 Redesignated as 729.216; new 729.214 redesignated from 729.212; interim 36999
(a)(2) amended; (d) through (l) redesignated as (e) through (m); (c), new (f)(1)(iii)(A), new (3)(i) and new (l) revised; new (d) added; interim 37001
729.215 Redesignated from 729.213; interim 36999
(f)(2) amended; interim 37001
729.216 Redesignated from 729.214; interim 36999
Revised; interim 37001
729.316 Revised 37565
729.317 Added 37566
760.1—760.34 (Subpart) Authority citation revised 18485
760.2 (k)(1), (2), (l) and (o) revised 18485
782 Nomenclature change 32643
782.2 Amended 32643
782.4 Revised (OMB number) 32643
782.12 (a) introductory text amended; (a)(8) removed; (a)(9), (10), (b), (c) and (d) redesignated as (a)(8), (9), (d), (e) and (f); new (b) and new (c) added; new (e) revised 32643
782.13 (b) and (c) redesignated as (c) and (d); new (d) amended; new (b) added 32643
782.15 (a)(1) amended; (e), (f) and (g) added 32643
782.17 (b) redesignated as (c); new (b) added 32643
790 Removed 37566
791 Removed 37566
793 Removed 37566
796 Removed 37566

Chapter VIII—Grain Inspection, Packers and Stockyard Administration (Federal Grain Inspection Service), Department of Agriculture (Parts 800—899)

800.71 Regulation at 58 FR 3214 withdrawn; (a) amended 43303
800.72 Revised 43305
800.73 Revised 43305
800.86 (c)(2) Tables 1 through 4 amended 18491
Regulation at 61 FR 18490 eff. date delayed to 6-1-97 24669
810.104 (b) amended 18491
Regulation at 61 FR 18491 eff. date delayed to 6-1-97 24669

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810.202 (s) removed; (t), (u) and (v) redesignated as (s), (t) and (u); (c), new (s), new (t) and new (u) revised.....18491
Regulation at 61 FR 18491 eff. date delayed to 6-1-97.....24669
810.204 Revised.....18492
Regulation at 61 FR 18492 eff. date delayed to 6-1-97.....24669
810.205 Revised.....18492
Regulation at 61 FR 18492 eff. date delayed to 6-1-97.....24669
810.206 Revised.....18492
Regulation at 61 FR 18492 eff. date delayed to 6-1-97.....24669
868.91 Revised.....34715
868.101—868.142 (Subpart B) Removed; interim.....7688
868.401—868.410 (Subpart F) Removed; interim.....7688
868.501—868.510 (Subpart G) Removed; interim.....7688
868.601—868.611 (Subpart H) Removed; interim.....7688

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999)

900.80—900.82 (Subpart) Added.....20717
905.235 (Subpart) Added; interim.....38355
Regulation at 61 FR 38355 confirmed.....50693
905.306 Regulation at 60 FR 58499 confirmed.....3546
Heading added; interim.....38355
906.235 Added; interim.....37811
Regulation at 61 FR 37811 confirmed.....49651
906.340 (a)(2)(i)(*a*) and (ii) revised; (a)(2)(i)(*c*) Table I redesignated as (a)(2)(i)(*c*) Table II; interim.....43141
906.365 (a)(4) revised; interim.....43141
911.53 Stayed; interim.....17552
Regulation at 61 FR 17552 confirmed.....46702
911.54 Stayed; interim.....17552
Regulation at 61 FR 17552 confirmed.....46702
911.55 Stayed; interim.....17552
Regulation at 61 FR 17552 confirmed.....46702
911.56 Stayed; interim.....17552
Regulation at 61 FR 17552 confirmed.....46702
911.57 Stayed; interim.....17552
Regulation at 61 FR 17552 confirmed.....46702
911.58 Stayed; interim.....17552
Regulation at 61 FR 17552 confirmed.....46702
911.59 Stayed; interim.....17552
Regulation at 61 FR 17552 confirmed.....46702
911.111 Stayed; interim.....17552
Regulation at 61 FR 17552 confirmed.....46702
911.311 (b) revised; interim.....31005
Stayed; eff. 6-1-97 through 12-31-97.....43144
Regulation at 61 FR 31005 confirmed.....49051
911.329 Stayed; eff. 6-1-97 through 12-31-97.....43144
911.344 Stayed; eff. 6-1-97 through 12-31-97.....43144
915 Budget of expenses.....19514
Regulation at 61 FR 19514 confirmed.....40292
915.150 (d) stayed; interim.....17552
Regulation at 61 FR 17552 confirmed.....46702
915.306 (a)(4) revised; interim.....31006
Regulation at 61 FR 31006 confirmed.....49051
916.234 (Subpart) Added; interim.....37813
Regulation at 61 FR 37813 confirmed.....49653
916.350 (a)(4)(iv) Table 1, Table 2 and (b) revised; (c) added.....13390
(d) added.....19164
Regulation at 61 FR 13390 confirmed; (c) revised.....31391
916.356 (a)(1) introductory text, Table 1, (2) introductory text, (3) introductory text, (4) introductory text and (6) introductory text revised.....13391
(a)(1) revised.....19164
(a)(1)(ii) correctly revised.....26073
(a)(4) and (6) corrected.....31006
Regulation at 61 FR 13391 confirmed; (a)(6) amended.....31391
917.258 (Subpart) Added; interim.....37813
Regulation at 61 FR 37813 confirmed.....49653

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917.442 (a)(4)(iv) Table 1 and (b) revised; (c) added....13392
(d) added....19164
Regulation at 61 FR 13392 confirmed; (c) revised....31391
917.459 (a)(2) removed; (a)(1)(ii) Table 1, (ii), (5) introductory text and (6) introductory text revised....13392
(a)(1) revised....19164
Regulation at 61 FR 13392 confirmed; (a)(6) amended....31391
920.160 (a) and (b) introductory text revised; interim....51576
920.213 Regulation at 61 FR 40507 confirmed....49654
920.303 (d) revised....13395
920.213 Added; interim....40507
922.235 (Subpart) Added; interim....40956
Regulation at 61 FR 40956 confirmed....50230
922.321 (a)(1) revised; interim....30497
Regulation at 61 FR 30497 confirmed....42989
923.236 Undesignated center heading and section added; interim....40956
Regulation at 61 FR 40956 confirmed....50230
924.236 (Subpart) Added; interim....40956
Regulation at 61 FR 40956 confirmed....50230
924.319 (a) introductory text revised....40958
925.304 (b)(2) revised; (b)(1)(vi) and (vii) redesignated as (b)(1)(viii) and (xi); new (b)(1)(vi) and (vii) added; interim....11129
Corrected....14013
Regulation at 61 FR 11129 confirmed....27247
927.8 Revised....17554
927.10 Revised....17554
927.12 Revised....17554
927.41 (a) revised....17554
927.45 Added....17555
927.47 Revised....17555
927.52 (b)(1) revised....17555
927.65 (b) revised....17555
927.236 Undesignated section heading and section added; interim....42530
Regulation at 61 FR 42530 confirmed....52682
928 Budget of expenses....100
928.226 Added; interim....28001
Regulation at 61 FR 28001 confirmed....40147
929.105 (b) revised....30498
929.236 (Subpart) Added; interim....41730
Regulation at 61 FR 41730 confirmed....51354
930 Added....49942
931.231 Undesignated section heading and section added; interim....42530
Regulation at 61 FR 42530 confirmed....52682
932 Budget of expenses....6307, 17556
932.153 Revised; interim....40510
Regulation at 61 FR 40510 confirmed....55205
944.28 Regulation at 58 FR 69185 confirmed....13058
944.31 (f) and (g) revised....13058
944.106 Regulation at 60 FR 58499 confirmed....3546
Regulation at 58 FR 69185 confirmed....13058
944.209 Regulation at 58 FR 69185 confirmed; (c) amended....13058
Stayed; eff. 6-1-97 through 12-31-97....43144
944.312 Regulation at 58 FR 69185 confirmed....13058
(c) and (h) revised....13059
944.350 Regulation at 58 FR 69185 confirmed....13058
Revised....13059
Heading, (a)(1) and (2) revised....40958
944.400 Heading and (a) introductory text revised....40958
944.401 Regulation at 58 FR 69186 confirmed....13058
(c) revised....13059
(b)(12) revised; interim....40510
Regulation at 61 FR 40510 confirmed....55205
944.503 Regulation at 58 FR 69185 confirmed....13058
944.550 Regulation at 58 FR 69186 confirmed....13058
(d) revised....13059
944.605 Regulation at 58 FR 69186 confirmed....13058
944.700 Added....40959

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945.249 (Subpart) Added; interim 39271
Regulation at 61 FR 39271 confirmed 51355
945.341 Regulation at 60 FR 57905 confirmed 3547
Heading added; interim 39271
Regulation at 61 FR 39271 confirmed 51355
946 Budget of expenses 20121
946.248 Regulation at 61 FR 20121 confirmed; corrected 35111
946.336 (a)(2)(ii) revised 31007
947.247 (Subpart) Added; interim 27248
Regulation at 61 FR 27248 confirmed 43146
947.340 (Subpart) Subpart heading added 43146
948.215 Added; interim 29636
Regulation at 61 FR 29636 confirmed 43947
94o.216 Added; interim 36814
Regulation at 61 FR 36814 confirmed 50232
948.386 (Subpart) Heading added 43947
950 Removed 53607
953.253 (Subpart) Added; interim 27249
Regulation at 61 FR 27248 confirmed 43147
953.322 (Subpart) Subpart heading added 43147
955.209 Undesignated center heading and section added; interim 49954
956 Budget of expenses 20122
956.142—956.180 (Subpart) Added 44151
956.202 Corrected 39052
958.240 (Subpart) Added; interim 27251
Regulation at 61 FR 27251 confirmed 43417
958.328 (a)(3)(ii) revised 35593
(a)(1)(ii), (3)(i) and (b) revised; interim 39841
Heading added 43417
Regulation at 61 FR 39841 confirmed 52684
959 Budget of expenses 7408
959.322 Introductory text and (b)(5) revised 24878
966.323 Regulation at 60 FR 57907 confirmed 5926
(d)(1) revised; interim 55731
979 Budget of expenses 250, 7689
979.304 (b)(1) amended; (c)(4) and (5) revised; interim 7409
Regulation at 61 FR 7409 confirmed 20719
980.1 Regulation at 58 FR 69189 confirmed 13058
(i) revised 13060
980.117 Regulation at 58 FR 69189 confirmed 13058
(i) revised 13060
(a)(2), (b)(1) and (2) amended 25557
980.212 Regulation at 58 FR 69189 confirmed 13058
(i) revised 13060
980.501 Regulation at 58 FR 69189 confirmed 13058
Revised 13060
981.14 Revised 32920
981.16 Revised 32920
981.18 (b) and (c) amended; (d) added 32920
981.19 Revised 32920
981.21 Revised 32920
981.31 Revised 32920
981.32 (a) revised; (b)(2) amended 32920
981.33 Revised 32920
981.34 Revised 32921
981.40 (c) revised 32921
981.41 (c) amended 32921
981.47 Amended 32921
981.49 (b) revised; (d) and (e) amended; (f) removed 32921
981.55 Existing text designated as (a); (b) added 32921
981.60 (b) revised 32921
981.61 Amended 32921
981.62 Removed 32921
981.66 (b) and (d) removed; (c), (e), (f) and (g) redesignated as (b), (c), (d) and (e); new (c) amended 32921
981.67 Amended 32921
981.70 Amended 32921
981.73 Amended 32922
981.76 Added 32921
981.81 (e) added 32921
981.90 (b)(2) and (3) redesignated as (b)(3) and (4); new (b)(2) added; new (b)(3) amended 32921
981.343 (Subpart) Added; interim 39842

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Regulation at 61 FR 39842 confirmed....49955
981.401 (a) and (b) amended; interim....42991
Regulation at 61 FR 42991 confirmed....53608
981.442 (a)(1) and (4) amended; interim....42991
Regulation at 61 FR 42991 confirmed....53608
981.467 (a) amended....32922
981.472 (a) amended....32922
982 Budget of expenses....2667
Marketing percentages....11291
Heading revised; nomenclature change....17559
982.4 Revised....17559
982.16 Revised....17559
982.30 (a) introductory text, (b)(1), (2) and (3) revised....17559
982.32 (a), (b), (c) and (f) revised....17559
982.33 (b) revised....17559
982.37 (b) revised....17559
982.39 (i) revised....17559
982.40 (c)(2) introductory text amended....17560
982.46 (b) revised....17560
982.51 (a) amended....17560
982.52 (b) revised....17560
982.54 (b) through (f) revised....17560
982.57 (b) revised....17560
982.58 (a) amended....17560
982.61 Existing text designated as (a); (b) added....17560
982.63 Added....17560
982.340 (Subpart) Added; interim....29926
Regulation at 61 FR 29926 confirmed....42993
985 Marketing percentages....11293, 15697, 29461
985.5 Revised....32924
985.41 Regulation at 61 FR 20124 confirmed....40960
985.141 Added; interim....20124
987 Authority citation revised....49957
987.339 (Subpart) Added; interim....49957
989 Marketing percentages....7069, 36816
989.156 (t) added; interim....102
Regulation at 61 FR 102 confirmed....6309
989.347 (Subpart) Added; interim....52686
993.347 (Subpart) Added; interim....39844
Regulation at 61 FR 39844 confirmed....51357
997 Budget of expenses....29928, 42994
997.20 Regulation at 60 FR 50086 confirmed....104
997.30 Regulations at 60 FR 50086 and 50087 confirmed....104
997.101 Undesignated center heading and section added; interim....35595
998 Budget of expenses....29928, 42994
998.300 Revised....55549
998.409 Undesignated center heading and section added; interim....35595
999 Authority citation revised....31315
999.1 Regulation at 58 FR 69190 confirmed....13058
999.100 Regulation at 58 FR 69190 confirmed....13058
999.200 Regulation at 60 FR 57910 confirmed....2394
999.500 Regulation at 58 FR 69190 confirmed....13058
Revised....13060
999.600 Added....31315

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture (Parts 1000—1199)

1002.14 (d) stayed; eff. 5–1–96 through 9–30–96....20721
1002.77 Regulation at 60 FR 62019 confirmed....11294
1002.300—1002.353 (Subpart) Regulation at 60 FR 62019 confirmed....11294
1004.92 (c) stayed in part; eff. 5–1–96 through 9–30–96....20721
1005.7 (d) redesignated as (e); introductory text, (b) and new (e) revised; new (d) added....1148
1005.30 (a) and (c) revised; interim....41490
1005.32 (a) amended....1148
1005.53 (a)(6) redesignated as (a)(7); new (a)(6) added....1148
1005.61 (a) introductory text, (5) and (b) introductory text amended....1148

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(a)(4), (5), (b)(5) and (6) redesignated as (a)(5), (6), (b)(6) and (7); new (a)(4) and new (b)(5) added; (b)(3), new (6) and new (7) amended; interim 41490
1005.80—1005.82 Undesignated center heading added; interim 41490
1005.80 Added; interim 41490
1005.81 Added; interim 41490
1005.82 Added; interim 41490
1005.90 Amended 1148
1005.91 Amended 1148
1005.93 (b) and (e) introductory text amended 1148
1005.94 Amended 1148
1007.2 Amended 20125
1007.30 (a) and (c) revised; interim 41491
1007.50 (d) amended 20125
1007.61 (a)(4), (5), (b)(5) and (6) redesignated as (a)(5), (6), (b)(6) and (7); new (a)(4) and new (b)(5) added; (b)(3), new (6) and new (7) amended; interim 41491
1007.80—1007.82 Undesignated center heading added; interim 41492
1007.80 Added; interim 41492
1007.81 Added; interim 41492
1007.82 Added; interim 41492
1007.92 (c) introductory text amended 20125
1011.7 Introductory text amended; (d) redesignated as (e); (b) and new (e) revised; new (d) added 1148
1011.13 (e)(3) amended 1149
1011.30 (a) and (c) revised; interim 41493
1011.52 (a)(3) revised 1149
1011.61 (a)(4), (5), (b)(5) and (6) redesignated as (a)(5), (6), (b)(6) and (7); new (a)(4) and new (b)(5) added; (b)(3), new (6) and new (7) amended; interim 41493
1011.80—1011.82 Undesignated center heading added; interim 41493
1011.80 Added; interim 41493
1011.81 Added; interim 41493
1011.82 Added; interim 41493
1046.2 Amended 1149
1046.30 (a) and (c) revised; interim 41494
1046.61 (a)(4), (5), (b)(5) and (6) redesignated as (a)(5), (6), (b)(6) and (7); new (a)(4) and new (b)(5) added; (b)(3), new (6) and new (7) amended; interim 41494
1046.73 (f)(2) revised; interim 41495
1046.80—1046.82 Undesignated center heading added; interim 41495
1046.80 Added; interim 41495
1046.81 Added; interim 41495
1046.82 Added; interim 41495
1075.2—1075.19 Undesignated center heading removed 47039
1075.2 Removed 47039
1075.3 Removed 47039
1075.5 Removed 47039
1075.6 Removed 47039
1075.7 Removed 47039
1075.8 Removed 47039
1075.9 Removed 47039
1075.10 Removed 47039
1075.12 Removed 47039
1075.13 Removed 47039
1075.14 Removed 47039
1075.15 Removed 47039
1075.16 Removed 47039
1075.17 Removed 47039
1075.18 Removed 47039
1075.19 Removed 47039
1075.30—1075.32 Undesignated center heading removed 47039
1075.30 Removed 47039
1075.31 Removed 47039
1075.32 Removed 47039
1075.40—1075.45 Undesignated center heading removed 47039
1075.40 Removed 47039
1075.41 Removed 47039
1075.42 Removed 47039
1075.43 Removed 47039
1075.44 Removed 47039
1075.45 Removed 47039
1075.50—1075.54 Undesignated center heading removed 47039
1075.50 Removed 47039
1075.51 Removed 47039
1075.52 Removed 47039
1075.53 Removed 47039
1075.54 Removed 47039
1075.60—1075.62 Undesignated center heading removed 47039
1075.60 Removed 47039

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1075.61 Removed 47039
1075.62 Removed 47039
1075.70—1075.77 Undesignated center heading removed 47039
1075.70 Removed 47039
1075.71 Removed 47039
1075.72 Removed 47039
1075.73 Removed 47039
1075.74 Removed 47039
1075.75 Removed 47039
1075.76 Removed 47039
1075.77 Removed 47039
1075.85 Undesignated center heading and section removed 47039
1079.7 (b) introductory text amended (temporary) 55733
(b) introductory text amended; eff. in part 12–1–96 through 3–31–97 and in part 4–1–97 55733
1101.2 (b) revised 1148
1106.6 Stayed in part; eff. 9–1–96 through 8–31–98 35596
1106.7 (b)(1) stayed in part; eff. 9–1–96 through 8–31–98 35597
1106.13 (d)(1) stayed; eff. 9–1–96 through 8–31–98 35597
1131.17 (c) stayed in part; eff. 4–1–96 through 3–31–97 17562
1137.7 (b) stayed in part; eff. 9–1–96 through 2–28–97 55206
1137.12 (a)(1) stayed in part; eff. 9–1–96 through 8–31–97 55206
1160.209 (a) revised 27003

Chapter XI—Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200—1299)

1205.510 (b)(2) and (3) revised 31819
(b)(6)(i) revised 31822
1208.52 Stayed; eff. 1–15–95 through 4–30–96 14952
1208.100—1208.150 (Subpart B) Added 30501
1220.228 (b)(5)(ii) and (6) removed 50694
1220.257 Amended 50694
1220.330—1220.332 Undesignated center heading removed 50694
1220.330 Removed 50694
1220.331 Removed 50694
1220.332 Removed 50694
1220.500—1220.555 (Subpart D) Removed 50694
1220.701—1220.731 (Subpart F) Removed 50694
1230.110 Revised 28003
(h) correctly revised 35597
1240.115 (e) revised 29462
Regulation at 61 FR 29462 eff. date corrected to 6–12–96 33175
(e) corrected 38356
1280 Referendum results 13061
1280.101—1280.246 (Subpart A) Added 19517
1280.101 Stayed 33646
1280.102 Stayed 33646
1280.103 Stayed 33646
1280.104 Stayed 33646
1280.105 Stayed 33646
1280.106 Stayed 33646
1280.107 Stayed 33646
1280.108 Stayed 33646
1280.109 Stayed 33646
1280.110 Stayed 33646
1280.111 Stayed 33646
1280.112 Stayed 33646
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1280.124 Stayed 33646
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1280.126 Stayed 33646
1280.201 Stayed 33646
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1280.210 Stayed 33646
1280.211 Stayed 33646
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1280.215 Stayed 33646
1280.216 Stayed 33646
1280.217 Stayed 33646

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1280.218 Stayed 33646
1280.219 Stayed 33646
1280.220 Stayed 33646
1280.221 Stayed 33646
1280.222 Stayed 33646
1280.223 Stayed 33646
1280.224 Regulation at 61 FR 19521 eff. date delayed 33646
1280.225 Regulation at 61 FR 19521 eff. date delayed 33646
1280.226 Regulation at 61 FR 19522 eff. date delayed 33646
1280.227 Regulation at 61 FR 19522 eff. date delayed 33646
1280.228 Regulation at 61 FR 19522 eff. date delayed 33646
1280.229 Stayed 33646
1280.230 Stayed 33646
1280.231 Stayed 33646
1280.232 Stayed 33646
1280.233 Stayed 33646
1280.234 Stayed 33646
1280.235 Stayed 33646
1280.240 Stayed 33646
1280.241 Stayed 33646
1280.242 Stayed 33646
1280.243 Stayed 33646
1280.244 Stayed 33646
1280.245 Stayed 33646
1280.246 Stayed 33646
1280.301—1280.318 (Subpart B) Added 21059
Regulation at 61 FR 21059 eff. date delayed 33646
1280.400—1280.414 (Subpart C) Added 21051
Stayed 33646

Chapter XIV—Commodity Credit Corporation, Department of Agriculture (Parts 1400—1499)

1400 Added 37566
1401 Redesignated from Part 1470 37575
1402 Revised 37575
1405 Revised 37575
1410 Heading amended; interim 43945
1410.1 Amended; interim 43945
1410.2 (a) and (f)(1) revised; (f)(2) and (h) amended; (g) and (h) redesignated (h) and (i); new (g) added; interim 43945
1410.3 (b) amended; interim 43945
1410.13 (d) added; interim 43946
1410.102 (a) and (b) amended; interim 43946
1410.103 (a)(1), (b)(4), (c) and (f)(2) amended; interim 43946
1410.111 (a) amended; interim 43946
1410.116 (a)(5) revised; interim 43946
1412 Added 37575
1412.206 (d) corrected 49049
(f) corrected 49050
1412.207 (b), (d)(1) and (2) corrected 49050
1412.401 (a) and (b)(2)(iii) corrected 49050
1412.403 Corrected 49050
1412.407 Corrected 49050
1413 Removed 37581
1421 Authority citation revised 37581
1421.1—1421.32 (Subpart) Revised 37581
1421.6 (e) revised 11515
1421.200—1421.217 (Subpart) Heading revised 37595
1421.200 Revised 37595
1421.201 Removed 37581
1421.202 Removed 37581
1421.203 Removed 37581
1421.204 Removed 37581
1421.205 Removed 37581
1421.206 Removed 37581
1421.207 Removed 37581
1421.208 Removed 37581
1421.209 Removed 37581
1421.210 Removed 37581
1421.211 Removed 37581
1421.212 Removed 37581
1421.213 Removed 37581
1421.214 Removed 37581
1421.215 Removed 37581
1421.216 Removed 37581
1421.217 Removed 37581
1421.320—1421.324 (Subpart) Removed 37595
1425 Revised 37595
1427 Authority citation revised 37601
1427.1—1427.26 (Subpart) Designated as Subpart A 37600
Revised 37601
1427.50—1427.58 (Subpart) Designated as Subpart B 37600
1427.100—1427.109 (Subpart) Designated as Subpart C 37600
1427.100 (a) amended; (b)(1) introductory text revised; (b)(3) added 37611

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1427.101 (a) revised 37611
1427.103 (a)(1) and (2) revised 37611
1427.107 (a)(1) introductory text, (ii), (2) introductory text, (d) introductory text and (e) introductory text revised; (f)(1)(iii) added 37611
1427.108 (c)(2) and (d) revised; (c)(3) added 37611
1427.109 (a)(3) revised 37611
1427.160—1427.175 (Subpart) Designated as Subpart D 37601
Revised 37612
1427.1081—1427.1089 (Subpart) Designated as Subpart E 37601
1430 Authority citation revised 37615
1430.282 (Subpart) Designated as Subpart A and revised 37615
1430.340—1430.361 (Subpart) Designated as Subpart B 37616
1430.362 Added 37616
1430.400—1430.410 (Subpart C) Added 37616
1430.450—1430.470 (Subpart) Removed 37615
1434 Revised 37618
1435 Added 37618
1435.4 (e) redesignated as (f); new (e) added 15881
1439 Redesignated from Part 1475; nomenclature change 32644
1446 Authority citation revised 37623
1446.101 Amended 37623
1446.103 Amended 37623
1446.203 (b) revised 37623
1446.307 (b) and (d) revised 37624
1446.308 (a), (d) and (e)(1) revised; (f) removed; (g) redesignated as (f) 37624
1446.401 (a)(1) revised 37624
1446.410 (b) revised 37625
1464.8 Introductory text revised 33304
1464.9 (a) revised 33304
1464.12 (d) added 37673
1464.19 (d) added 50425
1467 Redesignated from Part 620 42141
Nomenclature change 42143
1467.1 Heading revised 42141
1467.2 (c), (f) and (h) revised; (g) amended 42141
1467.3 Amended 42141
1467.4 (a) and (b)(2) amended; (b)(1), (c) introductory text, (d)(2), (3) introductory text and (e)(2) revised 42141
1467.6 (a), (b) and (c) redesignated as (b), (c) and (d); new (a) added 42142
1467.7 Heading and (b) heading revised 42142
1467.8 (b)(4), (5) and (e)(2) removed; (e)(3) redesignated as (e)(2); (b)(3), new (e)(2) and (h) revised 42142
1467.9 (a) introductory text amended; (a)(2) revised 42142
1467.10 Heading and (d)(5) revised 42142
1467.11 (a) revised; (b) amended 42142
1467.12 (b) revised 42142
1467.13 (b)(1) revised 42142
1467.14 (a) and (c) amended 42143
1467.17 (a) revised 42143
1468 Revised 37625
1470 Redesignated as Part 1401 37575
1475 Redesignated as Part 1439 32644
1485.11 (i) and (gg) amended 32644
1485.13 (c)(1)(i) and (3)(i) amended 32644
1485.14 (a) amended 32644
1485.16 (c)(24) revised; interim 3548
(h) revised 24206
(a)(2), (d)(27) and (29) amended 32644
Regulation at 61 FR 3548 confirmed 53303
1485.20 (a)(1) and (3)(iii) amended 32644
1485.23 (c)(2)(v) revised; (c)(2)(vi) removed; interim 3548
(a)(2) amended 32644
Regulation at 61 FR 3548 confirmed 53303
1487 Removed 8208
1491 Removed 8208
1492 Removed 8208
1493.400—1493.530 (Subpart D) Added; interim 33831
1495 Removed 8208
1497 Removed 37574
1498 Removed 37574

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Chapter XV—Foreign Agricultural Service, Department of Agriculture (Parts 1500—1599)

1520.3 Revised 2898
1520.4 Revised 2898
1520.5 Revised 2898
1520.6 (a) and (b) amended 2898

Chapter XVII—Rural Utilities Service, Department of Agriculture (Parts 1700—1799)

1703.100—1703.140 (Subpart D) Revised 33626
1703.104 (d) and (g) corrected 37961
1703.105 (a)(11) corrected 37961
1703.107 (a)(2) note correctly removed 37814, 42462
(e)(5), (g) and (j)(1) corrected 37961
1703.117 (e)(8) corrected 37814
(c)(1)(i), (v), (d)(1)(i), (2)(i)(C), (e)(2)(i) and (7) corrected 37961
1703.118 (a)(3) corrected 37814
1703.126 (b)(1) corrected 37961
1703.128 Corrected 37961
1703.140 Heading and (a)(2) corrected 37961
1703.100—1703.140 (Subpart D) Appendix A corrected 37961
1755.98 Table amended 26074
1755.700 Added 26074
1755.701 Added 26074
1755.702 Added 26075
1755.703 Added 26076
1755.704 Added 26077
1770.26—1770.27 (Subpart C) Added 39847
1773.1 (c) revised; interim 107
1773.5 (c) revised; interim 107
1773.6 (a) revised; interim 108
1773.9 (a) and (b) revised; interim 108
1773.31 Revised; interim 108
1773.32 (a) revised; interim 108
1773.33 Revised; interim 108
1773.34 (d)(1), (2) and (3) removed; (e)(1)(iii), (2)(iii) and (g) revised; interim 108
1773 Appendix A amended; interim 109
Appendix B amended; interim 111
Appendix C revised; interim 113
1789 Added 48606

Chapter XVIII—Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, Department of Agriculture (Parts 1800—2099)

Chapter XVIII Heading revised; nomenclature change 1109, 2899
1841 Removed 21362
1843 Removed 21362
1845 Removed 21362
1901.151—1901.158 (Subpart D) Removed 56116
1901.201—1901.205 (Subpart E) Authority citation revised 3781
1901.204 (a)(27) revised 3781
1901.351—1901.360 (Subpart H) Removed 6309
1903 Removed 21362
1910 Authority citation revised 35919
1910.1 Introductory text and (a) amended; (c) revised; (e) added; interim 35919
1910.3 Introductory text, (a) introductory text, (1), (2), (4)(i) and (ii) amended; interim 35919
1910.4 (h) and (j) removed; (c) through (g) redesignated as (d) through (h); (b), new (e) through new (h), (i)(1) introductory text, (i), (ii)(B) and (5) revised; new (c) added; new (d) heading, new (1), new (3)(i) introductory text, new (iii) introductory text, new (v), (k) introductory text, (1), (3) and (4) amended; interim 35920
1910.5 (c)(1) and (4) introductory text amended; (c)(5) revised; interim 35921
1910.6 Removed; interim 35922
1910.7 Removed; interim 35922
1910.8 Removed; interim 35922
1910.9 Removed; interim 35922
1910.10 (b) amended; interim 35922
1910.11 Revised; interim 35922
1924 Authority citation revised 35922, 56116
1924.6 (a)(3)(iv), (6) and (8) amended; (a)(5) revised 56116
1924.13 (e)(1)(ii) amended 56116
1924.51 Revised; interim 35922

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1924.54 Added; interim 35922
1924.55 Added; interim 35922
1924.56 Revised; interim 35923
1924.58 Revised; interim 35924
1924.59 Revised; interim 35924
1924.60 Revised; interim 35924
1924.61 Removed; interim 35924
1924.62 Removed; interim 35924
1924.71 Removed; interim 35924
1924.73 Removed; interim 35924
1924.74 Amended; interim 35924
1924.100 Revised (OMB number); interim 35924
1924 Exhibit A amended; interim 35924
1927 Revised 11711
1940 Authority citation revised 3781
1940.590 Removed 3781
1940.901—1940.950 (Subpart S) Removed 39851
1941 Authority citation revised 35925
1941.1 Amended; interim 35925
1941.4 Amended; interim 35925
1941.15 (a), (c), (e) introductory text, (2), (3), (f)(2), (3), (h)(1), (2) introductory text, (3), (i) heading and (j) amended; (k) revised; interim 35925
1941.16 (k) amended; interim 35925
1941.18 (a) introductory text and (2) amended; interim 35925
1941.19 (f)(1) amended; (g) through (j) removed; interim 35925
1941.30 Removed; interim 35925
1941.33 (b)(1)(i), (2)(i) and (c)(2) amended; (b)(1)(ii) removed; (b)(1)(iii) through (vii) redesignated as (b)(1)(ii) through (vi); interim 35925
1942 Authority citation revised 6309
1942.2 (a)(1) introductory text amended 6309
1942.106 (a) and (b) amended 6309
1943 Authority citation revised 35925
1943.1 Amended; interim 35925
1943.4 Amended; interim 35925
1943.18 (b)(3) amended; interim 35925
1943.29 (c) amended; interim 35925
1943.30 Removed; interim 35925
1943.32 Removed; interim 35925
1943.33 (b)(1)(i) amended; (b)(1)(ii), (2) and (c) removed; (b)(1)(iii) through (vii) redesignated as (b)(1)(ii) through (vi); interim 35926
1943.80 Removed; interim 35926
1943.82 Removed; interim 35926
1943.83 (b)(1)(i) amended; (b)(1)(ii), (2) and (c) removed; (b)(1)(iii) through (vii) redesignated as (b)(1)(ii) through (vi); interim 35926
1944.27 (i) removed 39851
1944.31 (a) and (e) amended 39851
1944.62 Amended 39851
1944.66 (b) removed; (c) through (g) redesignated as (b) through (f); new (b), new (c) and new (d) amended 39851
1944.67 Amended 39851
1944.69 Amended 39851
1944.70 (b) amended 39851
1944.72 Amended 39851
1944.169 (c)(2) revised; (c)(4)(v) amended 56116
1944.170 (d) removed; (c)(5)(ii)(C) amended 39851
1944.151—1944.200 (Subpart D) Exhibit A–1 amended 56116
1944.215 (x) removed; (v) and (w) amended 39851
1944.251—1944.266 (Subpart F) Revised 42943, 42948
1944.408 Removed 39851
1944.409 Amended 39851
1944.410 (a) introductory text amended 39851
1944.463 (c) introductory text amended 39851
1944.464 Amended 39851
1944.466 Removed 39851
1944.654 (a) and (b) amended 39851
1944.655 Removed 39851
1944.656 Amended 39851
1945 Authority citation revised 35926
1945.101—1945.150 (Subpart C) Removed 21362
1945.151 Amended; interim 35926
1945.152 Amended; interim 35926
1945.154 (a) amended; interim 35926
1945.163 Amended; (a)(1) revised; (a)(2)(ii) removed; interim 35926
1945.166 (c)(4) amended; interim 35926

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1945.167 (g) and (h) removed; (i), (j) and (k) redesignated as (h), (i) and (j); (a), (b), (c) and new (h) amended; interim 35926
1945.168 (a), (b)(1)(i) and (ii) amended; interim 35926
1945.169 (n), (o), (p)(3) and (4) removed; interim 35926
1945.173 (b)(2)(ii) amended; interim 35926
1945.180 Removed; interim 35926
1945.182 Removed; interim 35926
1945.183 (a)(1), (3), (4)(i), (ii), (c), (d) and (e) removed; (a)(4)(iii), (b)(1), (7) and (8) amended; interim 35926
Amended; interim 35927
1948.103 (c)(4) revised; interim 6762
1951 Authority citation revised 3781, 35927
1951.201 Revised 3781
1951.251 Revised; interim 35927
1951.252 Revised; interim 35927
1951.253 Revised; interim 35927
1951.254 Removed; interim 35927
1951.255 Revised; interim 35927
1951.261 Removed; interim 35927
1951.262 Revised; interim 35928
1951.263 Revised; interim 35928
1951.264 Revised; interim 35928
1951.265 Revised; interim 35928
1951.266 Revised; interim 35928
1951.300 Revised (OMB number); interim 35928
1951.251—1951.300 (Subpart F) Exhibit A removed; interim 35928
1951.906 Amended; interim 35928
1951.909 (e)(3)(vii), (4) heading and (xi) amended; (e)(3)(vi)(B) and (C) removed; interim 35929
1955 Authority citation revised 35929
1955.66 Introductory text, (a)(1) and (2)(iii)(A) through (D) amended; interim 35929
1962 Authority citation revised 35929
1962.5 Removed; interim 35929
1962.6 Revised; interim 35929
1962.8 (a) and (b) removed; interim 35930
1962.9 Removed; interim 35930
1962.12 Removed; interim 35930
1962.13 Revised; interim 35930
1962.14 Amended; interim 35930
1962.16 Introductory text added; (a) revised; interim 35930
1962.17 (a) revised; interim 35930
Amended; interim 35931
1962.34 (b)(1) through (4) and (d) amended; (e) revised; (f) through (h) removed; interim 35931
1962.40 (c), (d), (e)(1) introductory text, (i) and (2) amended; (e)(4) removed; interim 35931
1962.43 Removed; interim 35931
1962.44 (a) and (c) removed; (b) amended; interim 35931
1962.46 Amended; interim 35931
1962.47 (a)(3)(i), (b) introductory text, (2)(i), (iv) and (c) introductory text amended; interim 35931
1962.1—1962.49 (Subpart A) Exhibit F removed; interim 35931
1965 Authority citation revised 35931
1965.13 (f)(4)(ii) introductory text, (A) and (B) amended; interim 35931
1965.217 (d)(2)(ii)(A) removed; (d)(2)(ii)(B), (C) and (D) redesignated as (d)(2)(ii)(A), (B) and (C); (d)(2)(i)(B), new (ii)(B), new (C)(*1*) and (iii)(A) amended 39852
1980 Authority citation revised 35931, 43149
1980.101 (a), (b) and (e)(1) amended; (e)(2) revised; interim 35932
1980.106 (b) amended; interim 35932
1980.108 (a)(1)(i) and (2)(i) revised; (a)(1)(iii) amended; interim 35932
1980.109 (b) introductory text revised; interim 35932
1980.110 (a), (b) and (c) amended; interim 35932
1980.113 Introductory text, (a) introductory text, (1), (2), (5), (7) introductory text, (ii) introductory text, (D) introductory text and (b) introductory text amended; (a)(6), (7)(i)(B), (ii)(B), (C), (D)(*1*), (11)(ii) and (iii) revised; (a)(12) and (c) added; interim 35932
1980.114 Amended; (c) and (d) redesignated as (d) and (e);

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heading and new (e) revised; introductory text, (a), (b) and new (d) removed; new (c) added; interim 35933
1980.115 Amended; heading revised; (a) through (d) removed; interim 35933
1980.125 (a) introductory text, (b)(1)(i), (3), (c) introductory text, (4) and (d)(3) through (6) amended; interim 35933
1980.126 Amended; interim 35933
1980.129 Amended; introductory text revised; interim 35934
1980.130 Amended; interim 35934
1980.136 (a), (b) and (d) amended; interim 35934
1980.146 (e)(2)(iv)(A) and (3) revised; (e)(2)(iv)(B), (4), (5), (7) and (8) amended 43149
1980.147 Removed 43149
1980.148 Removed; interim 35934
1980.149 Removed; interim 35934
1980.153 Removed; interim 35934
1980.175 (b) introductory text and (1)(i) amended; interim 35934
1980.101—1980.200 (Subpart B) Exhibit A amended; interim 35934
1980.201—1980.294 (Subpart D) Removed 21362
1980.445 Added 18494
1980.451 (i)(13) introductory text revised 18495
1980.454 Amended 18495
1980.469 Amended 18495
1980.501—1980.600 (Subpart F) Removed 21362
1980.601—1980.700 (Subpart G) Removed 55877
1980.901—1980.1000 (Subpart J) Removed 21362
2003 Authority citation revised 3781
2003.1—2003.5 (Subpart A) Exhibit A amended 3782
2018.251—2018.255 (Subpart F) Revised 32645
2054 Removed 21362

Chapter XXI—Foreign Economic Development Service, Department of Agriculture (Parts 2100—2199)

Chapter XXI Removed 2898

Chapter XXII—Office of International Cooperation and Development, Department of Agriculture (Parts 2200—2299)

Chapter XXII Removed 2898

Chapter XXV—Office of the General Sales Manager, Department of Agriculture (Parts 2500—2599)

Chapter XXV Removed 2898

Chapter XXIX—Office of Energy, Department of Agriculture (Parts 2900—2999)

2902 Removed 9901
2903 Removed 4209

Chapter XXX—Office of Finance and Management, Department of Agriculture (Parts 3000—3099)

3010 Removed 53608
3017 Authority citation revised 250
3017.110 (a)(3) revised 250
3017.115 (d) added 251
3017.200 (d) added 251

Chapter XXXIV—Cooperative State Research, Education, and Extension Service, Department of Agriculture (Parts 3400—3499)

3401 Revised 27753
3403 Revised 25367
3411.2 (j) and (k) amended 45319
3411.4 (c)(2)(iii), (3)(iii), (8), (9)(i), (ii), (iii) and (10) amended 45319
3411.5 (a) and (b) amended 45319
3411.7 (c) amended 45319
3411.10 Amended 45319
3411.15 Amended 45319

Chapter XXXVII—Economic Research Service, Department of Agriculture (Parts 3700—3799)

3700 Revised 1827

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Chapter XL—Economics Management Staff, Department of Agriculture (Parts 4000—4099)

4000 Removed 42371
4001 Removed 3788

Chapter XLII—Rural Business-Cooperative Service and Rural Utilities Service, Department of Agriculture (Part 4200—4299)

Chapter XLII Heading revised; nomenclature change 3782
4284 Authority citation revised 3782
4284.501—4284.600 (Subpart F) Revised 3787

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20 38107
28 7756
29 ..... 10902, 10903
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1280 35982
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1962 37405
1980 3853
3550 15395
4279 3853
4287 3853

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice (Parts 1—499)

1.1 (p) added 18904
3 Authority citation corrected 47550
3.1 (b)(1), (2) and (c) revised 18904
3.2 Revised 18904
(b) corrected 32924
3.3 Revised 18906
3.4 Revised 18907
3.5 Revised 18907
3.6 Revised 18907
(b) corrected 21065
3.7 Revised 18907
3.8 Revised 18907
3.23 (b) revised 18908
(b)(3) corrected 19976, 21228
3.24 Revised 18908
3.31 (b) revised 18908
(b) corrected 19976, 21228
(b) amended; interim 46374
3.38 (b) revised; (c) and (d) redesignated at (f) and (g); new (c), new (d) and (e) revised 18908
100.4 (c)(2) and (3) amended 25778
103.1 (f)(3)(iii)(C), (K), (L), (X), (Y) and (FF) amended; (f)(3)(iii)(GG) revised; interim 13072
(f)(3)(iii)(LL) and (MM) amended; (f)(3)(iii)(NN) added 28010
103.2 (b)(2)(iii) added; (b)(17) heading revised; (b)(17) amended; interim 13072
(e) added 28010
103.5 (a)(1)(i) amended 18909
103.7 (a) revised 18909
(b)(1) amended 28013
(a) existing text designated as (a)(1) and amended; (a)(2) added 35598
(b)(1) amended; interim 46374, 53304
(b)(1) corrected 47550
Regulation at 60 FR 50388 confirmed 53831
103.12 Added; interim 47041
204.1 Heading and (a) revised; interim 13072
(e)(1) revised; (e)(2), (3) and (f)(1) amended; (g)(3) added; interim 13073
204.2 Regulation at 60 FR 38948 confirmed 7207
Heading revised; (d) removed; (c) redesignated as (d); new (c) added; interim 13073
(e) through (h) redesignated as (f) through (i); new (e) added; interim 13075
(g)(2)(iv), (h)(2) and (i)(3) amended; interim 13077
204.5 (d) amended; interim 33305
205.1 Revised; interim 13077
205.2 (b) revised; (c) and (d) added; interim 13078
208 Authority citation revised 18909
208.19 (a) revised 18909
210.4 (b)(2) and (3) revised 46536
212.1 (g) revised 11720
212.5 (g) added; interim 36611
214.2 (c)(1) amended 35935
216.1 Amended; interim 13079

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217.5 (a)(1) revised; interim ...35600, 39273
(a)(1) corrected 41684
235.1 Regulation at 60 FR 50389 confirmed 53831
235.13 Regulation at 60 FR 50389 confirmed; revised 53831
236.7 Revised 18909
240.1—240.20 (Subpart A) Heading removed 47668
240.40—240.47 (Subpart B) Removed 47668
242 Authority citation revised 18909
Authority citation corrected 47550
242.1 (a) revised 8859
242.2 (c)(1)(i) through (xvii) revised 8859
242.17 (e) amended; interim 46374
242.19 (b) and (c) amended 18909
(b) corrected 19976, 21228
242.21 (a) revised 18909
242.22 Amended 18909
Corrected 21065
245a.2 (n)(2) heading, (ii) and (3) revised 46536
246 Authority citation revised 18909
246.7 Revised 18910
Corrected 32924
264.1 (b) amended 37675, 46537
Regulation at 58 FR 68024 confirmed 47669
264.3 Regulation at 58 FR 68025 confirmed 47669
274a Technical correction 55740
274a.2 (b)(1)(v)(A)(*6*) revised; (b)(1)(v)(A)(*7*) and (*10*) removed 46537
(a) amended; interim 52236
274a.9 (b) amended; (c), (d) and (e) redesignated as (d), (e) and (f); new (c) added; interim 52236
274a.12 (c)(20) and (22) added 46537
274a.14 (c)(1) and (2) revised 46537
282 Removed 47800
286.8 Regulation at 60 FR 50390 confirmed 53831
(f) added 53833
292.1 (a)(2)(ii) and (iii) revised; interim 53610
299.1 Table amended 28013, 46537, 53833
Regulation at 59 FR 25556 confirmed; amended 47800
Regulation at 60 FR 50390 confirmed 53831
299.3 Regulation at 59 FR 25558 confirmed; introductory text revised; table amended 47800
299.4 Regulation at 59 FR 25558 confirmed 47800
(b) introductory text, (1), (3), (d) and (e) revised 47801
299.5 Table amended 28013, 47801, 53833
Regulation at 59 FR 25559 confirmed 47800
301 Added; interim 35112
301.1 (a)(2) and (b)(2) corrected 43948
340.1 Added 55553
340.2 Redesignated from 340.11 and revised 55554
340.11 Redesignated as 340.2 55554
499.1 Regulation at 59 FR 25561 confirmed 47800
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50.6 (b) and (e) amended 25134
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71.3 (b) amended 47670
75 Effective date confirmation 56116
75.5 Removed 47670
75.6 Removed 47670
75.7 Removed 47670
75.10 Removed 47670
77.1 Regulation at 60 FR 62989 confirmed 16617
77.5 (b)(1) amended 25138
78.1 Amended; interim 14239
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Regulation at 61 FR 14239 confirmed 41733
78.41 (a) and (b) amended; interim 56118
78.43 Regulation at 60 FR 67321 confirmed 15882
82 Authority citation revised 11517
82.30 Amended 11517
82.34 Amended 11517
91.5 (a) and (b) revised; (c) amended; interim 6918
91.8 Footnote 4 redesignated as Footnote 3; interim 6918
92.11 Amended 15183
92.12 (a) and (b) amended 15183
92.106 (c)(2)(ii)(A) and (P)(*1*) revised 31392
92.300 Amended 52239
92.301 (c) revised; (d) through (i) added (OMB number) 52239
92.303 Footnote 11 redesignated as Footnote 12 52239
92.304 (a)(4)(ii) and (7)(ii) amended 1699
Regulation at 61 FR 1699 eff. date confirmed 10269
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Heading and (b) revised; (a)(1)(ii) introductory text and (iii) amended; (a)(4) through (12) removed 52245
92.308 (a)(1) revised 14240
(c)(2)(ii)(A) amended 36817
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92.315—92.318 Undesignated center heading Footnote 18 redesignated as Footnote 16 52246
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92.400 Regulation at 60 FR 13900 confirmed; amended 17237
92.405 (a) and (b) revised; (c) redesignated as (d); new (c) added; new (d) amended; OMB number 17237
92.411 Revised 17238
92.417 Regulation at 60 FR 13900 confirmed 17237
92.418 (a) revised 17238
92.419 (a) revised; OMB number 17239
92.423 (a) amended; (b) revised; OMB number 17239
92.424 Regulation at 60 FR 13900 confirmed 17237
92.427 (b)(1) and (c)(1) amended; (b)(2)(i), (ii) and (d)(1) introductory text revised 17239
92.428 (a) revised; OMB number 17239
92.429 Amended 17239
92.433 Removed 17239
92.434 Heading revised; Footnote 19 redesignated as Footnote 15 17239
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92.435 Added (OMB number) 17240
94.1 (a)(2) amended 51771
94.8 Introductory text amended 43307
94.9 (a) amended 40293
94.10 (a) amended 40293
94.11 (a) amended 51771
94.12 (a) amended 40293
94.13 Introductory text amended 40293

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94.15 (b) introductory text and (2) amended 32647
96 Authority citation revised 15183
98.2 Amended 17241
98.5 OMB number 15183
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98.10a Added (OMB number) 17241
98.11—98.20 (Subpart B) Heading revised 15183
98.13 (a) amended; OMB number 15183
98.14 (a) introductory text amended; OMB number 15183
(a) revised; (d) redesignated as (e); new (d) added 17242
98.15 Introductory text, (a)(4) amended; (a)(5) designated in part as (a)(5)(i) through (iv); (a)(7) designated in part as (a)(7)(i) and (ii); (a)(8) designated in part as (a)(8)(i) and (ii); (a)(1), (2), new (5)(ii), new (7)(i) and new (8)(i) revised 15183
98.16 Introductory text and (b) amended 15184
98.17 (b)(1) revised; (g) amended; OMB number 15184
98.21 Added (OMB number) 17242
98.30 Amended 17242
98.35 OMB number 15184
(c) revised; (e) added; OMB number 17242
98.36 (a) introductory text amended 17242
98.37 Added (OMB number) 17242
101.4 (h) added 29464
102.2 Existing text designated as (a); (b) added 52873
102.4 (f) revised; (g) redesignated as (h); new (g) added 52873
104.6 (b) amended 52873
105 Heading revised 52874
105.1 (a)(4) and (5) redesignated as (a)(5) and (6); new (a)(4) added; new (a)(5) revised 52874
105.4 Revised 52874
112.5 Introductory text, (c), (d)(1), (2)(iii)(*a*), (3)(ii), (iii) and (4) revised; (d)(2)(iii)(*b*), (3)(i)(*a*) and (*b*) redesignated as (d)(2)(iii)(B), (3)(i)(A) and (B); (g) added; OMB number 29464
(c)(2)(v) corrected 33175
112.7 (c)(2) and (d)(6) revised; OMB number 29465
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113.209 (b)(4) revised 31823
113.312 Heading and (b)(4) revised 31823
113.330 Revised 33841
113.450—113.455 Undesignated center heading revised 51744
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113.451 Introductory text revised; (b) and (c) removed; (d) redesignated as (b) 51776
113.452 (b) removed; (c) redesignated as (b); heading, introductory text, (a), new (b) introductory text, new (1) and new (3) revised 51776
113.453 Removed 51777
113.454 (b) removed; (c) redesignated as (b); introductory text, (a) and new (b) introductory text revised 51777
113.455 (b) removed; (c) redesignated as (b); introductory text, (a) and new (b) introductory text revised 51777
113.499 Added 51777
116 Heading revised 52874
116.1 Introductory text, (a), (b) and (c) redesignated as (a) introductory text, (1), (2) and (3); new (a) introductory text and new (1) revised; new (b) and new (c) added (OMB number) 52874
116.2 OMB number 52874
116.3 OMB number 52874
116.4 OMB number 52874
116.5 Revised (OMB number) 52874
116.6 OMB number 52874
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130 Authority citation revised 20432
130.1 Amended 20432
130.2 Heading and (a) table revised; OMB number 20432
130.3 (a)(1) table and (c)(3) revised; OMB number 20432
130.4 Removed 20433

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130.5 Heading revised; (a), (b)(1), (2) and (3) amended; (c) added; OMB number 20433
130.6 (a) amended 20433
130.7 (a) amended 20433
130.8 (a) table revised 20434
130.9 (a) introductory text amended; (b) revised 20434
130.10 Added 20434
(a) table corrected 25513
130.14 Heading revised; (a) amended; (c) added; OMB number 20435
130.15 (a) table amended; (c) added; OMB number 20435
130.16 (a) table amended; (c) added; OMB number 20435
130.17 (a) table amended; (c) added; OMB number 20435
130.18 Existing text designated as (a); (b) added; OMB number 20436
130.20 (a) and (b)(1) revised; (c) amended; (d) redesignated as (e); new (d) added 20436
130.21 (a)(1) through (5) and (c) revised; (a)(6) and (7) added; (b) introductory text, (1), (2) and (3) amended 20436
130.50 (b)(1) amended 20434
(b)(1), (2) and (3) amended; (b)(4) revised 20436
145.10 (g) and (h) revised; (m) and (n) added 11517
145.14 Introductory text revised 11519
145.23 (c)(1)(i), (d)(1)(vii) and (e)(1)(i) amended; (c)(1)(ii)(A) and (e)(1)(ii)(A) revised 11520
145.33 (c)(1)(i), (d)(1)(iii), (iv) and (e)(1)(i) amended; (c)(1)(ii)(A) and (e)(1)(ii)(A) revised; (h) added (OMB number) 11520
145.43 (f)(3)(ii) amended 11521
145.44 (d) added 11521
145.52 (c) added 11521
147.5 Footnote 4 amended 11521
147.6 (b)(2) and (8) amended 11521
147.11 (a)(3) and (4) amended; (a)(5) and (6) illustration revised 11521
147.12 Amended; (a) introductory text, (1), (2), (b) introductory text, (1), (c) introductory text, (1), (2) introductory text, (i) and (ii) redesignated as (b)(1) introductory text, (i), (ii), (2) introductory text, (i), (3) introductory text, (i), (ii) introductory text, (A) and (B); new (a), new (b) introductory text and new (2)(ii) added; new (b)(1) introductory text, new (2) introductory text and new (3)(ii) amended 11524
147.14 Amended 11524
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147.26 (a) amended 11525
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201.71 (a) and (b) revised 36282
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205 Authority citation revised 54728
205.101 (b)(11)(iii) revised; (e) added; interim 54728
205.105 (b) revised; interim 54728
205.202 (b) and (c) revised; interim 54728
205.209 (c) revised; interim 54728

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304 Authority citation revised 38864
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308 Authority citation revised 38864
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308.3 (a) amended 38864
310 Authority citation revised 38864
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310.25 Added 38864
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317.2 (h)(13) removed; (h)(9)(v) revised 42144
318.7 (c)(4) table amended 7208, 18048
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318.147 (f)(4) table amended 18048
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381 Authority citation revised 38866
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381.22 Added 38866
381.45 Revised 38866
381.94 Added 38866
381.147 Regulation at 61 FR 18048 eff. date confirmed 37675
(f)(4) table amended 39277
381.180 (a) revised 38868
381.196 (a)(2)(i)(*a*) through (*g*), (ii)(*a*) through (*h*) and (iv)(*a*), (*b*) and (*c*) redesignated as (a)(2)(i)(A) through (G), (ii)(A) through (G), (I) and (iv)(A), (B) and (C); (a)(2)(ii)(H) added 38868
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2.1203 (e) revised 39297
2.1205 (c) through (n) redesignated as (d) through (o); new

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2.1211 (b) revised 39298
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19.20 Revised 6764
20.2108 (b) revised 24673
30.7 (e)(2) note redesignated as (e)(3) and revised 6764
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30.37 (b) added 1114
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40.7 (e)(2) note redesignated as (e)(3) and revised 6765
40.36 (f) introductory text revised 24674
40.42 (a) revised 1114
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40.43 (b) added 1114
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50 Technical correction 232
50.2 Amended 39298
50.4 (b)(8) and (9) added 39298
50.7 (e) and note redesignated as (e)(1) and (2); new (e)(2) revised 6765
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50.54 (o) and (y) revised 39300
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50.60 (a) revised 39300
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51.55 (a) revised 28488
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1036.313 (a)(1) amended 39856
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100 Technical correction.....4302
100.5 (e)(3)(i) amended.....3549
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100.8 Regulation at 60 FR 64272 eff. 3–13–96.....10269
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114.6 (d)(3)(i) and (5) amended.....3550
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TITLE 12—BANKS AND BANKING

Chapter I—Comptroller of the Currency, Department of the Treasury (Parts 1—199)

2 Revised 51781
3.6 (a) revised 47367
3 Appendix A corrected 1273
Appendix B added 47367
5.23 Removed 19532
5.25 Removed 19532
5.32 Removed 19532
5.41 Removed 19532
5.43 Removed 19532
7 Revised 4862
19 Authority citation revised 20334
19.1 (e)(9) amended; (f) redesignated as (g); (e)(11), (12) and new (f) added 20334
19.6 (a)(3) revised 20334
19.8 (b) revised 20334
19.11 (c)(2) and (d) revised 20334
19.12 (a), (c)(1), (2) and (3) revised 20335
19.20 Revised 20335
19.24 (a) and (b) revised 20335
19.25 (a), (b), (e) and (g) revised 20335
19.33 (a) revised 20336
19.34 (a) and (b)(1) revised 20336
19.35 (a)(3) redesignated as (a)(4); new (a)(3) added; (b) revised 20336
19.37 Heading and (a)(1) revised 20336
19.38 Revised 20336
19.100 Revised 20337
19.112 (a), (b), (c) and (d)(3)(i) revised 20337
19.113 (a) and (b) revised; (c), (d) and (e) redesignated as (d), (e) and (f); new (c) added 20337
19.160 (a) amended 20337
19.161 Revised 20337
19.162 Removed 20338
19.170 (d) revised; (e) and (f) redesignated as (f) and (g); new (e) added 20338
19.171 (b) revised 20338
19.184 Revised 20338
20 Removed 19532
21 Heading revised 4337
Authority citation revised 4337
21.11 (Subpart B) Revised 4337
22 Revised 45702
24 Revised 49660
25.12 (h)(3) amended 21363
26 Revised 40300
28 Revised 19532
30 Authority citation revised 43950
30 Appendix A amended 43950
31 Authority citation revised 4870
Revised 54536
31.100—31.102 Undesignated center heading added 4870
31.100 Added 4870
31.101 Added 4870
31.102 Added 4870
34 Authority citation revised 11300
34.1—34.5 (Subpart A) Revised 11300
34.20—34.25 (Subpart B) Revised 11301
34.81—34.87 (Subpart E) Revised 11301

Chapter II—Federal Reserve System (Parts 200—299)

201.51 Revised 5926
202 Supplement I amended 50950, 50951
205.1 Revised 19669
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205.7 Revised 19671
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205.9 Revised 19671
205.10 Revised 19672
205.11 Revised 19673
205.12 Revised 19674
205.13 Revised 19674
205.14 Revised 19674
205.15 Revised 19675
205 Appendixes A and B revised; Appendix C added 19676
Supplement I revised 19686
Supplement II removed 19695
207 OTC margin stock lists 2667, 18495, 39556, 55555
208 Appendix D amended 43951
Authority citation revised 45704, 47369
208.8 (e) and Appendix A removed 45704
208.13 Revised 47369
208.20 Revised 4343
208.23 Added 45704
208 Appendix A amended 47370
Appendix E added 47370
211.8 Amended 4344

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211.20 (b)(8) and (9) amended; (b)(10) added 39053
211.22 (a) revised; (c) removed; (d) redesignated as (c) 24440
211.24 (a)(2)(i) and (ii) revised; (d)(3) redesignated as (d)(4); new (d)(3) added 2901
(f) amended 4344
(g) added 39053
211.30 Added 6921
212 Revised 40302
213.1 Revised 52258
213.2 Revised 52258
213.3 Revised 52259
213.4 Revised 52259
213.5 Revised 52260
213.6 Removed 52258
213.7 Revised 52261
213.8 Revised 52261
213.9 Added 52261
213 Appendix D removed 52258
Appendix A revised 52262
Appendixes B and C revised; Supplement I amended 52269
219 Regulation at 60 FR 233 eff. date delayed to 5-28-96 14382
219.1—219.7 (Subpart A) Regulation at 60 FR 233 eff. date delayed to 5-28-96 14382
219.1 Regulation at 60 FR 233 eff. date delayed to 5-28-96 14382
219.2 Regulation at 60 FR 233 eff. date delayed to 5-28-96 14382
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219.3 Revised 29640
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219.6 Revised 29641
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219.7 Removed 29641
219.21—219.24 (Subpart B) Regulation at 60 FR 233 eff. date delayed to 5-28-96 14382
220 OTC margin stock lists 2667, 18495, 39556, 55555
220.1 Revised 20390
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220.129 Removed 20398
220.130 Removed 20398
221 OTC margin stock lists 2667, 18495, 39556, 55555
224 OTC margin stock lists 2667, 18495, 39556, 55555
225.4 (f) amended 4344
225.125 (g) revised 45875
225 Appendix A amended 47372
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226 Adjustment notice 3177
226.2 (a)(6) revised 49245
226.4 (a), (c)(7)(ii), (iii), (d) heading, (1) heading, introductory text and (i) revised; (c)(7)(iv) redesignated as (v); (b)(10), (c)(7) heading, new (iv), (d)(3) and (e)(3) added 49245
226.17 (c)(2) redesignated as (c)(2)(i); (a)(1) Footnote 38, new (c)(2)(i) and (f) revised; (c)(2)(ii) added 49246
226.18 (d) Footnote 39 removed; (d)(1) and (2) added; (c) Footnotes 39 and 40 redesignated as (c) Footnotes 40 and 41; (n) revised 49246
226.19 (a)(2) revised 49246
226.22 (a)(4) and (5) added 49246
226.23 (b) introductory text and (1) through (5) redesignated as (b)(1) introductory text and (i) through (v); (b)(2), (g) and (h) added 49246
226.31 (d) and (g) revised 49247
226 Supplement I amended 14955, 14956, 14957, 14959, 49248
Appendix H amended 49247
228.12 (h)(3) amended 21363

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229 Appendixes A and B amended 25390
231.3 (a) introductory text revised 1274
245 Removed 52876
250.161 (d) amended 19806
250.162 (a) amended 19806
250.242 Added 19806
263 Authority citation revised 20341
263.1 (e)(9) amended; (f) redesignated as (g); (e)(11), (12) and new (f) added 20341
263.6 (a)(3) revised 20341
263.8 (b) revised 20342
263.11 (c)(2) and (d) revised 20342
263.12 (a), (c)(1), (2) and (3) revised 20342
263.20 Revised 20342
263.24 (a) and (b) revised 20342
263.25 (a), (b), (e) and (g) revised 20343
263.33 (a) revised 20343
263.34 (a) and (b)(1) revised 20343
263.35 (a)(3) redesignated as (a)(4); new (a)(3) added; (b) revised 20343
263.37 Heading and (a)(1) revised 20344
263.38 Revised 20344
264 Revised 53830
265.6 (a)(1) revised 13395
268.207 (e) revised 252
268.301 (c)(3) amended 13079
268.304 (a)(3)(i)(A) amended 252
268.305 (c)(1) amended 13079
268.506 Amended 13079

Chapter III—Federal Deposit Insurance Corporation (Parts 300—399)

303.7 (g) added 5930
308 Authority citation revised 20347, 48403
308.1 (e)(8) amended; (f) redesignated as (g); (e)(10), (11) and new (f) added 20347
308.6 (a)(3) revised 20347
308.8 (b) revised 20347
308.11 (c)(2) and (d) revised 20347
308.12 (a), (c)(1), (2) and (3) revised 20348
308.20 Revised 20348
308.24 (a) and (b) revised 20348
308.25 (a), (b), (e) and (g) revised 20348
308.33 (a) revised 20349
308.34 (a) and (b)(1) revised 20349
308.35 (a)(3) redesignated as (a)(4); new (a)(3) added; (b) revised 20349
308.37 Heading and (a)(1) revised 20349
308.38 Revised 20350
308.400—308.402 (Subpart S) Added 48403
310 Nomenclature change 43419
310.1 Revised 43419
310.3 (a) revised 43419
310.4 (b) and (c) revised 43419
310.5 Amended 43420
310.9 (d) redesignated as (e); new (d) added 43420
310.10 (b)(6) and (10) revised; (b)(12) added; (c) removed; (d) and (e) redesignated (c) and (d); new (c) and new (d) amended 43420
310.11 (b) amended 43420
310.13 Amended 43420
311.2 (a) revised; (b)(3) amended 38357
311.7 Amended 38357
311.8 Heading revised; (d)(1) amended; (e) added 38357
324 Removed; eff. 1-1-99 33843
325 Appendix A amended 47375
Appendix C added 47376
327 Assessment rate schedules 26078, 26083
Authority citation revised 53839
327.32 (a)(2)(i)(A) and (3)(i) revised; (c) added 53839
327.41—327.45 (Subpart C) Added 53839
336 Revised 28728
339 Revised 45706
342 Removed 48403
345.12 (h)(3) amended 21364
346.1 (a) amended; (o) revised; (s) through (v) added 5674
346.6 Revised 5674
348 Revised 40305
353 Revised 6099
359 Added 5930
363.1 (b) revised 6493
363.4 (b) revised 6493
363.5 (b) revised 6493
363 Appendix A amended 6494
364 Appendix A amended 43951
366 Added; interim 9596
367 Added; interim 35117

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Chapter V—Office of Thrift Supervision, Department of the Treasury (Parts 500—599)

500—517 (Subchapter A) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
505.1 Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
505.2 Regulation at 60 FR 66716 eff. date corrected to 12–26–95 575
505.3 Regulation at 60 FR 66716 eff. date corrected to 12–26–95 575
505.4 Regulation at 60 FR 66716 eff. date corrected to 12–26–95 575
506.1 Regulation at 60 FR 66716 eff. date corrected to 12–26–95 575
509 Authority citation revised 20353
509.1 (e)(7) amended; (f) redesignated as (g); (e)(9), (10) and new (f) added 20353
509.6 (a)(3) revised 20354
509.8 (b) revised 20354
509.11 (c)(2) and (d) revised 20354
509.12 (a), (c)(1), (2) and (3) revised 20354
509.20 Revised 20354
509.24 (a) and (b) revised 20354
509.25 (a), (b), (e) and (g) revised 20355
509.33 (a) revised 20355
509.34 (a) and (b)(1) revised 20355
509.35 (a)(3) redesignated as (a)(4); new (a)(3) added; (b) revised 20356
509.37 Heading and (a)(1) revised 20356
509.38 Revised 20356
509.102 (g)(2) revised 20356
509.104 (h) removed; (i) redesignated as (h) 20356
510 Authority citation revised 56119
510.2 Regulation at 60 FR 66716 eff. date corrected to 12–26–95 575
510.6 Added 56119
512.4 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
512.5 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
516.1 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
516.3 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
528—535 (Subchapter B) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
541—558 (Subchapter C) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
543.8 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
543.11 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
544.3 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
545.31 Removed 50971
545.32 Removed 50971
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545.50 Removed 50971
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545.74 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
(c)(1)(vi) revised 50971
545.75 Removed 50971
545.78 Removed 50971

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545.82 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575

545.121 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575

545.131 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575

550.2 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575

550.3 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575

550.10 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575

550.13 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575

550.14 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575

550.15 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575

552.5 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575

552 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575

556.2 Removed 50971

556.3 Removed 50971

556.5 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575

556.10 Removed 50971

560 Added 50971

561—575 (Subchapter D) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575

563 Authority citation revised 6105, 45709

563.9 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575

563.48 Removed 45709

563.51 (f)(1)(i) amended 50984

563.93 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575

563.93—563.101 (Subpart D) Removed 50984

563.134 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575

563.160 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575

Removed 50984

563.170 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575

(c) revised 50984

563.172 Removed 50984

563.177 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575

563.180 Heading and (d) revised 6105

563b.2 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575

563b.3 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575

563b.4 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575

563b.8 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575

563b.29 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575

563c.3 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575

563d.1 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575

563d.2 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575

563e.12 (g)(3) amended 21364

563f Revised 40308

565.9 Regulation at 60 FR 66719 eff. date corrected to 12–26–95 575

566.1 (g)(6)(i) amended 50984

566.2 Regulation at 60 FR 66719 eff. date corrected to 12–26–95 575

567.3 Regulation at 60 FR 66719 eff. date corrected to 12–26–95 575

567.4 Regulation at 60 FR 66719 eff. date corrected to 12–26–95 575

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567.10 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
567.13 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
570 Appendix A amended 43952
571.6 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
571.8 Removed 50984
571.13 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
Removed 50984
571.20 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
Removed 50984
571.22 Removed 50984
572 Added 45709
574.2 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
574.3 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
574.4 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
574.6 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
574.7 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
575.2 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
575.10 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
575.11 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
583—584 (Subchapter F) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
583.10 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
584.1 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
584.2–2 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
590—591 (Subchapter G) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
590.4 (e)(1) amended 50984

Chapter VI—Farm Credit Administration (Parts 600—699)

614.4367 (a)(4) and (c)(3) amended 11304
Regulation at 61 FR 11304 eff. 5–3–96 20125
614.4920—614.4960 (Subpart S) Revised 45711
615 Authority citation revised 31394
615.5230 Regulation at 60 FR 57921 eff. 1–2–96 1274
615.5500—615.5502 (Subpart P) Regulation at 60 FR 57919 confirmed 12015
615.5570 (Subpart S) Added 31394
620.21 Regulation at 60 FR 57922 eff. 1–2–96 1274
621.11 Regulation at 59 FR 50888 confirmed 18236
622 Authority citation revised 54729
622.61 Added 54729

Chapter VII—National Credit Union Administration (Parts 700—799)

701 Authority citation revised 4214
701.1 Revised (OMB number) 11726
701.12 (a), (b) and (c) revised; (d) and (e) redesignated as (g) and (h); new (d), new (e) and (f) added 41323
701.13 (a)(2) amended 41326
701.21 (c)(7)(ii)(C) revised 4214
701.32 Heading, (a) and (b)(1) revised; (d) redesignated as 701.34(a); interim 3790
701.34 (a) redesignated from 701.32(d); new (a)(1) amended; (b), (c) and appendix added; interim 3790
(a)(1) revised 50695
(b)(2) and (c) revised 50697
705 Authority citation revised 50695
705.3 (b) amended 45875
(b) revised 50695
705.5 (b)(1) revised 50695
705.7 (a) amended 50696

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705.10 Revised 50696
707 Reporting and recordkeeping requirements 114
709.5 (b)(6) and (7) revised; (b)(8) added; (e) amended; interim 3791
711 Revised 50702
741.204 (b) amended; (c) added; interim 3792
747 Authority citation revised 28024
747.1 (c)(2) amended; (d) redesignated as (e); (c)(3) and new (e) revised; (c)(4) and new (d) added 28025
747.6 (a)(3) revised 28025
747.8 (b) revised 28025
747.9 (a) and (b) revised; (e) added 28025
747.11 (c)(2) and (d) revised 28025
747.12 (a), (c)(1), (2) and (3) revised 28026
747.20 Revised 28026
747.24 (a) and (b) revised 28026
747.25 (a), (b), (e) and (g) revised 28026
(b) amended 45876
747.33 (a) revised 28027
747.34 (a) and (b)(1) revised 28027
747.35 (a)(3) redesignated as (a)(4); new (a)(3) added; (b) revised 28027
747.37 Heading and (a)(1) revised 28027
747.38 Revised 28027
748 Heading revised 11527
Authority citation revised 11527
748.1 (c) revised 11527
760 Revised 45713
790.2 (b)(5) revised; (b)(6)(i), (ii) and (7) amended 45876
791.6 Revised 55208

Chapter IX—Federal Housing Finance Board (Parts 900—999)

931 Authority citation revised 40313
931.5 Revised 40313
932.26 Added 43154
932.27 Revised 43154
933 Heading revised 42542
933.1 (Subpart A) Revised 42542
933.2—933.5 (Subpart B) Revised 42543
933.6—933.18 (Subpart C) Redesignated as 933.19—933.23 (Subpart D) 42542
Added 42545
933.11—933.12 (Subpart D) Redesignated as 933.24—933.25 (Subpart E) 42542
933.13—933.15 (Subpart E) Redesignated as 933.26—933.28 (Subpart F) 42542
933.16 (Subpart F) Redesignated as 933.29 (Subpart G) 42542
933.17 (Subpart G) Redesignated as 933.30 (Subpart H) 42542
933.18 (Subpart H) Redesignated as 933.31 (Subpart I) 42542
933.19 (Subpart I) Redesignated as 933.32 (Subpart J) 42542
933.19—933.23 (Subpart D) Redesignated from 933.6—933.10 (Subpart C) 42542
933.20 (b)(1) and (2) amended 42549
933.22 (b)(1) amended 42549
933.23 Amended 42549
933.24—933.25 (Subpart E) Redesignated from 933.11—933.12 (Subpart D) 42542
933.24 (a)(2) and (b)(2) amended 42549
933.25 (c), (d)(2)(ii)(A), (B), (iii) and (3) amended 42549
933.26—933.28 (Subpart F) Redesignated from 933.13—933.15 (Subpart E) 42542
933.26 (c) amended 42549
933.27 (e) amended 42549
933.28 (b) amended 42549
933.29 Redesignated from 933.16 (Subpart F) 42542
(a)(1) amended 42549
933.30 Redesignated from 933.17 (Subpart G) 42542
Introductory text, (a) and (b) amended 42549
933.31 Redesignated from 933.18 (Subpart H) 42542
(d) amended 42549
933.32 (Subpart J) Redesignated from 933.19 (Subpart I) 42542
934 Authority citation revised 55880
934.6 Revised 55880
935.6 (d) added 52687
941 Authority citation revised 43155
941.7 (f)(2) revised 43155

Chapter XIV—Farm Credit System Insurance Corporation (Parts 1400—1499)

1401.1 Regulation at 60 FR 30778 confirmed 4349

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1411 Added 55079

Chapter XVII—Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development (Parts 1700—1799)

1750 Added 35620

Chapter XVIII—Community Development Financial Institutions Fund, Department of the Treasury (Part 1800—1899)

1805.104 (n) revised; interim 1701
1805.201 Amended; interim 1701
1805.600 Amended; interim 1701
Corrected 7690
1805.604 Added; interim 1701
1805.701 (d)(2)(iii) revised; (e)(3) introductory text amended; interim 1702
1806.103 (dd) added; interim 1702
1806.200 (b)(2)(ii) revised; interim 1702
1806.201 (b)(2) revised; (b)(4)(xii) and (xiii)(B) amended; (b)(4)(xiv) added; interim 1702
1806.202 (a) revised; (b)(2) and (3) amended; (b)(4) and (d) added; interim 1702
Corrected 7690
1806.206 (b)(1) and (4) revised; interim 1702

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205 ..... 19696, 37229
207 ..... 20399, 33874
208 ..... 9114, 18470, 42565
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215 19863
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336 5956
338 49420
344 26135
357 40756
362 43486
368 18470
502 38114
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TITLE 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration (Parts 1—199)

EDITORIAL NOTE: The revision for the 1996 edition of title 13 was delayed until March 1, 1996. The 1996 revision includes amendments promulgated during the period of January 2, 1995 through March 1, 1996. For amendments promulgated during that period, see the February 1996 LSA.

107.50 Amended 41496
107.692 (a) corrected 7985
107.860 (b) amended 41496
107.1530 (g)(2)(i) and (ii) amended 41496
115.10 Corrected 7985
120.111 (a)(4) corrected; (b)(2) correctly removed; (b)(3), (4) and (5) correctly redesignated as (b)(2), (3) and (4) 7986
120.215 Corrected 7986
120.220 Table corrected 11471
120.440 Corrected 7986
120.839 (a)(2) corrected 7986
121 Waiver 42376, 54538
121.201 Corrected 7986
Table corrected 43119
121.406 (b)(4) corrected 7986
125.3 (b) corrected 7986
125.5 (d)(3) and (o) corrected 7987
125.6 (a)(2) corrected; (c) correctly removed; (d) through (g) correctly designated as (c) through (f) 39305

Chapter III—Economic Development Administration, Department of Commerce (Parts 300—399)

Chapter III Regulation at 60 FR 46978 confirmed 7981
300.3 (b) revised (OMB numbers) 7981
300.4 Revised 7981
301.4 (d) revised 7982
301.6 (a)(4) revised 15371
302.4 (a) introductory text revised 7982
302.13 Introductory text, (a) through (d) and concluding text redesignated as (a) introductory text, (1) through (4) and (b); new (a)(2) revised 7982
302.17 Revised 7982
302.18 Revised 7982
303.2 (a) revised 7982
303.3 (a) introductory text and (1) redesignated as (a)(1) and (2); new (a)(2) revised 7982
304.1 (a)(1)(i), (2)(ii), (iii) and (b) revised 7982
305.7 (a) revised 7983
305.8 (b) table amended 7983
305.11—305.13 (Subpart C) Heading added 7983
305.13 Redesignated as 316.11; new 305.13 redesignated from 305.14 7983
305.14 Redesignated as 305.13 7983
305.15 Redesignated as 316.12 7983
307.2 (c) revised 7983
307.12 (c) revised 7983
307.13 (b) revised 7983
307.14 (e) revised 7983
307.16 Introductory text revised 7983
307.18 (b) revised 7983
307.20 (c) revised; (e) removed 7983
308.5 (b) revised 7983
308.7 (a) revised 7983
315 Heading revised 7984
315.2 Amended 7984
315.5 (b)(2) revised 7984
315.8 (a) revised 7984
315.9 (a) revised 7984
315.10 (b)(4), (5) and (6) revised 7984
315.11 (a) revised 7984
316.1 (b)(1) and (7) revised 7984
316.3 (b) revised 7984, 45738
316.11 Redesignated from 305.13 7983
316.12 Redesignated from 305.15 7983
316.13 Added 7985
317.1 (c)(2) added 7985

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121 20191

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TITLE 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation (Parts 1—199)

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1 Authority citation revised....7190
1.1 Amended....2081, 5183, 7190, 31328, 34547
11 Heading amended; nomenclature change....18052
11.17 Added....11262
13.3 (d) added....54004
13.29 Added....44155
16 Added....54004
21 Special FAA conditions....6921, 29930
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23 Special FAA conditions....3, 18940
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23.33 (b)(1) and (2) revised....5183
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23.55 (a) and (b) introductory text revised....5185
23.57 (a) introductory text, (b), (c)(1), (3) introductory text, (4) and (d) revised; (e) added....5185
23.59 Introductory text, (a)(2) and (b) revised....5185
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23.65 Revised....5186
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23.67 Revised....5186
23.69 Added....5187
23.71 Added....5187
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23.75 Heading, introductory text, (a) introductory text, (b), (d), (e) and (f) revised; (h) removed....5187
23.77 Revised....5187
23.143 (a) and (c) revised....5188
23.145 (b) introductory text, (2) through (5), (c) and (d) revised; (b)(6) added....5188
23.147 Revised....5188
23.149 Revised....5189
23.153 Revised....5189
23.155 (b) introductory text and (1) revised; (c) added....5189
23.157 (d) revised....5189
23.161 (a), (b)(1), (2), (c), (d) introductory text and (4) revised; (e) added....5189
23.175 Revised....5190
23.177 Revised....5190
23.201 Revised....5191
23.203 Heading, introductory text, (a), (b) introductory text, (4), (5), (c) introductory text, (1) and (4) revised; (b)(6) and (c)(6) added....5191
23.205 Removed....5191
23.207 (c) and (d) revised; (e) and (f) added....5191
23.221 Revised....5191
23.233 (a) revised....5192
23.235 Revised....5192
23.237 Added....5192
23.253 (b)(1) removed; (b)(2) and (3) redesignated as (b)(1) and (2)....5192
23.301 (d) revised....5143
23.335 (a)(1), (b)(4)(ii) and (d)(1) introductory text revised; (b)(4)(i) amended; (b)(4)(iii) added....5143
23.337 (a)(1) revised....5144
23.341 (a) and (b) redesignated as (b) and (c); new (a) added; new (b) revised; new (c) introductory text amended....5144
23.343 Added....5144
23.345 Revised....5144
23.347 Existing text designated as (a); (b) added....5144
23.349 (a)(2) revised....5144
23.369 (a) revised....5145
23.371 Revised....5145
23.391 (a) designation and (b) removed....5145
23.393 Added....5145
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23.415 (a)(2) and (c) revised....5145
23.441 (a)(2) revised; (b) added....5145
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23.457 Removed....5147
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23.499 (d) and (e) added 5147
23.521 (c) removed 5147
23.561 (b) introductory text and (d)(1) revised; (e) added 5147
23.562 (d) introductory text revised 5192
23.571 Heading, introductory text and (a) revised 5147
23.572 Heading, (a) introductory text and (1) revised 5147
23.573 (a)(5) introductory text revised; (b) amended; (c) removed 5147
23.574 Added 5148
23.575 Added 5148
23.607 Revised 5148
23.611 Revised 5148
23.629 (b) and (c) redesignated as (c) and (b); (a) introductory text, new (b) introductory text, new (c) introductory text, (d)(3)(i), (g) and (h) revised; (i) added 5148
23.657 (c) removed 5148
23.673 (a) designation and (b) removed 5148
23.677 (a) revised 5165
23.691 Added 5165
23.697 (c) added 5165
23.701 (a)(1) and (2) revised 5165
23.703 Added 5166
23.723 (b) amended 5166
23.725 (b) amended 5148
23.729 (e) revised; (g) added 5166
23.735 (a) introductory text revised; (c) redesignated as (d); new (c) and (e) added 5166
23.745 Added 5166
23.755 (b) removed; (c) redesignated as (b) 5148
23.775 (d) and (e) redesignated as (e) and (d); (a), (c) and new (e) revised; (h) added 5166
23.777 (c)(2) amended 5136
23.779 (b)(1) table amended 5136
23.783 (b) revised; (g) added 5166
23.785 Introductory text added; (b) and (c) revised 5167
23.787 Revised 5167
23.791 Added 5167
23.807 (a)(4) and (b)(6) added; (b) introductory text and (5) revised 5167
23.841 (a) amended 5167
23.853 Heading revised 5167
23.855 Added 5167
23.865 Revised 5148
23.867 Undesignated center heading and section heading revised 5168
23.901 (d)(1) and (2) revised 5136
23.903 (c) heading and (g) heading added; (f) heading revised 5136
23.907 (a) introductory text amended 5136
23.925 Introductory text revised 5136
(b) revised 5148
23.929 Amended 5136
23.933 (a)(1) revised; (a)(3) and (b)(2) amended 5136
23.955 (a)(1) through (4) revised 5136
23.959 Existing text designated as (a); (b) added 5136
23.963 (b) revised; (e) amended 5136
23.965 (b)(4) and (5) added 253
(b)(3)(i) revised 5136
23.973 (f) revised 5136
23.975 (a)(5) revised 5136
23.979 (b) revised 5137
23.1001 (b)(2) revised 5137
23.1013 (d)(1) amended 5137
23.1041 Amended 5137
23.1043 (a), (c) and (d) revised 5137
23.1045 (a) revised 5137
23.1047 Revised 5137
23.1091 (c)(2) revised 5137
23.1093 (c) heading added 5137
23.1105 (a) revised 5137
23.1107 Introductory text revised 5137
23.1121 (g) revised 5137
23.1141 (b) revised 5137
23.1143 (f) introductory text revised 5137
23.1153 Revised 5138
23.1181 (b)(3) added 5138
23.1183 (a) amended 5138
23.1191 (b) revised 5138
23.1203 (e) revised 5138
23.1303 Introductory text revised; (d) and (e) amended; (f) and (g) added 5168
23.1305 (b)(3)(ii) removed 5138
(b)(4) revised 13644
23.1307 (a), (b) and (c) designation removed 5168
23.1309 (a)(4) added 5168
23.1311 Revised 5168
23.1321 (d) introductory text amended 5168

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23.1323 (d) removed; (e) and (c) redesignated as (d) and (e); new (c) and (f) added; new (e) amended 5168
23.1325 (g) amended 5169
(e) revised; (f) removed 5192
23.1326 Added 5169
23.1329 (b) amended 5169
23.1337 (b)(1) amended 5138
Heading and (b) introductory text revised; (b)(4) and (5) redesignated as (b)(5) and (6); new (b)(4) added 5169
23.1351 (b)(2), (3) and (c)(3) revised; (b)(4) removed; (b)(5) redesignated as (b)(4); (f) amended 5169
23.1353 (h) added 5169
23.1359 Added 5169
23.1361 (c) amended 5169
23.1365 (b) revised; (d), (e) and (f) added 5169
23.1383 Revised 5169
23.1401 (a) introductory text revised 5169
23.1413 Removed 5169
23.1431 (c), (d) and (e) added 5169
23.1435 (c) revised 5170
23.1447 (a)(4) added; (d) and (e) revised 5170
23.1451 Added 5170
23.1453 Added 5170
23.1461 (a) revised 5170
23.1511 (a)(1) and (2) revised 5192
23.1521 (b)(5) and (e) revised 5192
23.1543 (c) added 5192
23.1545 (b)(5) and (6) revised 5193
23.1553 Revised 5193
23.1555 (e)(2) revised 5193
23.1559 Revised 5193
23.1563 (c) added 5193
23.1567 (d) added 5193
23.1581 (a)(3) and (c) added; (b)(2) introductory text and (d) revised 5193
23.1583 (k), (l) and (m) redesignated as (i), (j) and (k); introductory text, (a)(3) introductory text, (i), (c)(3), (4), (d) through (g), new (i), new (j) and new (k) revised; (c)(5), (6), new (l), new (m), (n), (o) and (p) added 5193
23.1585 Revised 5194
23.1587 Revised 5194
23.1589 (b) revised 5195
23 Appendix A amended 5149
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25 Authority citation revised 5220
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25.305 (d) removed 5220
25.321 (c) and (d) added 5220
25.331 (a)(1), (2) and (d) removed; (a)(3) and (4) redesignated as (a)(1) and (2); heading, (a) introductory text, new (1) and new (2) revised 5220
25.333 Heading and (a) revised; (c) removed 5220
25.335 (d) revised 5220
25.341 Revised 5221
(a)(6) corrected 9533
25.343 (b)(1)(ii) revised 5221
25.345 (a) and (c) revised 5221
25.349 Introductory text and (b) revised 5222
25.351 Introductory text revised; (b) removed 5222
25.365 (d) revised 28695
25.371 Revised 5222
25.373 (a) revised 5222
25.391 Introductory text and (e) revised 5222
25.427 Revised 5222
25.445 Heading and (a) revised 5222
25.571 (b)(2) and (3) revised 5222
25.831 (a) revised; (g) added 28695
25.841 (a) revised 28696
25.1447 (c)(1) through (4) revised 28696
25.1517 Added 5222
27 Special FAA conditions 6921, 29930
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27.1 (c) added 21906
27.65 (b)(2) introductory text and (ii) revised 21907
27.561 (b)(3)(v) and (c)(5) added; (c)(2), (3) and (4) revised 10438
27.1141 (c) and (d) redesignated as (d) and (e); new (c) added 21907
27.1151 Added 21907
27 Appendix C added 21907
29 Technical correction 29931, 36965
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29.1 (e) amended 21898
(e) corrected 33963
29.49 Redesignated from 29.73 and revised 21898

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29.51 (a) introductory text revised 21899
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29.55 Added 21899
29.59 Revised 21899
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29.60 Added 21899
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29.73 Redesignated as 29.49 21898
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29.77 Redesignated as 29.85; new 29.77 added 21900
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29.85 Redesignated from 29.77 21900
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29.87 Revised 21901
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29.547 Heading, (a), (c) introductory text, (d) introductory text, (e) introductory text and (1)(ii) revised; (b) added 21907
29.561 (b)(3)(v) and (c)(5) added; (c)(2), (3) and (4) revised 10438
29.610 Heading and (a) revised; (d) added 21907
(d)(3) and (4) corrected 33963
29.629 Revised 21907
29.631 Added 21907
Corrected 33963
29.917 (b) redesignated as (c); new (b) added 21908
29.923 (b)(3)(i) revised 21908
29.1305 (a)(6) through (25) redesignated as (a)(7) through (26); new (a)(6) added 21908
(a)(13) corrected 43952
29.1309 (h) revised 21908
29.1323 (b)(2)(ii) revised 21901
29.1351 (d) revised 21908
29.1587 (a)(4), (5) and (b)(3) revised; (a)(6) added 21901
(a)(5) amended; (a)(6) redesignated as (a)(7); new (a)(6) added 21908
29 Appendix B amended 21908
31.47 Heading, (a) and (d) revised 18223
(a) corrected 20877
33 Special FAA conditions 16375
33.7 (c)(1)(viii) redesignated as (c)(1)(x); new (c)(1)(viii) and (ix) added; new (c)(1)(x) revised 31328
33.29 (c) added 31328
33.63 Revised 28432
33.67 (d) added 31328
33.74 Added 28432
33.83 Revised 28432
33.85 (c) and (d) added 31328
33.87 (a) introductory text and (8) revised; (f) redesignated as (g); new (f) added; new (g)(2)(i) through (iv) amended 31328
33.88 Revised 31329
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33.93 Revised 31329
35 Special FAA conditions 114, 254
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43.3 (i) redesignated as (j); new (i) added 19501

43.7 (d) amended 19501

43.11 (b) amended 19501

43 Appendix A amended 19501

61.2 Redesignated as 61.3; new 61.2 added 34547

61.3 Redesignated as 61.5; new 61.3 redesignated from 61.2 and revised 34547

61.4 Added 34548

61.5 Redesignated as 61.6; new 61.5 redesignated from 61.3; (d) introductory text and (f) revised; (i) and (j) added 34547

61.6 Redesignated from 61.5 34547

61.13 (e) revised 34548

61.21 Amended; heading revised 34548

61.23 (a)(3), (b)(2) and (c) revised 11256

61.39 (a)(3) revised 11256

(a)(6) and (7) added 34548

61.45 Heading, (a), (c) and (d) revised 34548

61.51 (b)(1)(ii), (iii), (iv), (3)(iii), (c)(2)(i), (4) and (5) revised; (b)(2)(viii) and (c)(2)(iv) added 34548

61.55 (b)(2)(ii) revised; (b)(3) and (4) added 34549

61.56 (e) revised; (h) added 34549

61.57 (c), (d) and (e) revised 34549

61.58 Revised 34550

61.63 Heading and (a) revised 34550

61.64 Added 34550

61.65 (b) introductory text, (c) introductory text, (1), (3), (4), (5), (e) introductory text, (2) and (g) revised; (c)(6) and (h) added; (d) and (f) removed 34552

61.67 (a)(2), (b) introductory text, (1), (2), (c)(2), (d) introductory text, (1) introductory text and (2) revised; (c) amended; (c)(3) through (7) added 34553

61.68 Added 34553

61.109 Revised 34554

61.113 Revised 34555

61.129 (b) introductory text, (1) and (2) introductory text revised; (b)(4) and (c) added 34555

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25.3 (a)(1)(iv) and (b)(1)(ii) revised.....55094

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280 Added 50558

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303 Authority citation revised 55884
303.1 (a) amended 55884
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303.6 (f) introductory text amended; (f) concluding text removed 55885
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303.12 (b)(3) introductory text, (c)(1) and (2) amended 55885
303.14 (b) heading, (1) and (3) revised; (b)(4) added; (c)(1)(iv), (2) and (e) amended; (c)(3) removed 55885

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734 Added 12746
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734.4 (b) through (f) redesignated as (c) through (g); new (b) and (h) added; interim 54543
736 Added 12754
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738 Added 12756
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740 Added 12768
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740.6 (b)(2)(iii)(A), (B), (C), (iv)(A), (B) and (C) redesignated as (b)(2)(iii)(B), (C), (D), (iv)(B), (C) and (D); new (b)(2)(iii)(A) and new (iv)(A) added; interim 54543
742 Added 12786
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748 Added 12812
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750 Added 12829
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752 Added 12835
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752.3 (a)(7) and (8) redesignated as (a)(9) and (10); new (a)(7) and new (8) added; interim 54543
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756 Added 12851
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758 Added 12852
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760 Added 12862
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762 Added 12900
Compliance date extension 55741
762.2 (b)(26) through (34) redesignated as (b)(27) through (35); new (b)(26) added 27258
764 Added 12902
Compliance date extension 55741
766 Added 12907
Compliance date extension 55741
768 Redesignated as Part 768A 12734
Added 12915
Compliance date extension 55741
768A Redesignated from Part 768; nomenclature change; eff. 4-24-96; removed; eff. 11-1-96; interim 12734
Removal at 61 FR 12734 eff. 12-31-96 55741
769 Redesignated as Part 769A 12734
Authority citation revised 14244
769A Removal at 61 FR 12734 eff. 12-31-96 55741

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769 Supplement No. 17 added 14244
769A Redesignated from Part 769; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
770 Authority citation revised 2102
Redesignated as Part 770A 12734
Added 12920
Compliance date extension 55741
770.2 Amended; interim 2102
770A Redesignated from Part 770; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
Removal at 61 FR 12734 eff. 12–31–96 55741
771 Authority citation revised 2102
Redesignated as Part 771A 12734
771.14 (d)(2) amended; interim 2102
771.22 (c)(2)(i) removed; interim 2102
771.24 (b) and (c) revised; interim 3558
771.26 (b) revised; interim 2102
771.28 Added; interim 2102
(a) and (d)(1) amended 5678
771A Redesignated from Part 771; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
Removal at 61 FR 12734 eff. 12–31–96 55741
771A.14 (d)(4) added; interim 54543
771A.25 (d) removed 12734
772 Redesignated as Part 772A 12734
Added 12925
Compliance date extension 55741
772.11 (k)(1)(i), (ii), (l)(1)(i) and (ii) amended; interim 2103
772A Redesignated from Part 772; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
Removal at 61 FR 12734 eff. 12–31–96 55741
773 Supplement No. 1 amended; interim 2103
Redesignated as Part 773A 12734
773A Redesignated from Part 773; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
Removal at 61 FR 12734 eff. 12–31–96 55741
774 Authority citation revised 2102
Redesignated as Part 774A 12734
Added 12937
Supplement No. 1, Category 9 amended; interim (ECCN 9A004 and 9E003) 54544
Compliance date extension 55741
774.2 (a)(1), (k)(1)(i) and (m) revised 2103
774.3 (b)(3)(i) amended; interim 2103
(b)(3)(ii) and (c)(1)(i)(B) amended; interim 2104
774A Redesignated from Part 774; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
Removal at 61 FR 12734 eff. 12–31–96 55741
774 Supplement No 1, Category 1 amended (ECCN 1C991) 41327
775 Redesignated as Part 775A 12734
775.1 (a) amended; interim 2104
775.2 (a)(1) and (2) amended; interim 2104
775.3 (a)(1) amended; interim 2104
775.7 (a)(2)(iii) removed; interim 2104
775.10 (f)(i) removed; (g)(1)(i), (ii), (2)(i)(A) and (B) revised; interim 2104
775A Redesignated from Part 775; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
Removal at 61 FR 12734 eff. 12–31–96 55741
776 Redesignated as Part 776A 12734
776.10 (a)(1) amended; (d) through (m) added; interim 2104
(f)(1) amended 5678
776.11 Removed; interim 2108
776.12 (b) introductory text revised; interim 2108
776A Redesignated from Part 776; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
Removal at 61 FR 12734 eff. 12–31–96 55741
776A.2 Added; interim; eff. 10–21–96 through 11–1–96 54545
776A.20 Added; interim; eff. 10–21–96 through 11–1–96 54546
777 Redesignated as Part 777A 12734
777A Redesignated from Part 777; nomenclature change; eff. 4–

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24–96; removed; eff. 11–1–96; interim 12734
Removal at 61 FR 12734 eff. 12–31–96 55741
778 Redesignated as Part 778A 12734
778A Redesignated from Part 778; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
Removal at 61 FR 12734 eff. 12–31–96 55741
779 Redesignated as Part 779A 12734
779A Redesignated from Part 779; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
Removal at 61 FR 12734 eff. 12–31–96 55741
785 Redesignated as Part 785A 12734
785.4 (d)(1)(xxxiii) amended; interim 2109
(b) added 8471
785A Redesignated from Part 785; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
Removal at 61 FR 12734 eff. 12–31–96 55741
786 Authority citation revised 2102
Redesignated as Part 786A 12734
786.6 (a)(2) and (c)(2) revised; interim 2109
786A Redesignated from Part 786; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
Removal at 61 FR 12734 eff. 12–31–96 55741
787 Authority citation revised 2102
Redesignated as Part 787A 12734
787.13 (c) amended; interim 2109
787A Redesignated from Part 787; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
Removal at 61 FR 12734 eff. 12–31–96 55741
788 Redesignated as Part 788A 12734
788A Redesignated from Part 788; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
Removal at 61 FR 12734 eff. 12–31–96 55741
789 Redesignated as Part 789A 12734
789A Redesignated from Part 789; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
Removal at 61 FR 12734 eff. 12–31–96 55741
790 Redesignated as Part 790A 12734
790A Redesignated from Part 790; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
Removal at 61 FR 12734 eff. 12–31–96 55741
791 Redesignated as Part 791A 12734
791A Redesignated from Part 791; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
Removal at 61 FR 12734 eff. 12–31–96 55741
799 Authority citation revised 2102
Redesignated as Part 799A 12734
799.1 Supplement No. 1, Category 4 amended; interim (ECCN 4A01A, 4A02A, 4A94F, 4D01A, 4D02A, 4D94F, 4E01A, 4E94F and FA03A) 2109
Supplement No. 1, Category 1 amended; interim (ECCN 1A46B, 1B50B, 1B51B, 1B52B, 1B53B, 1B54B, 1B58B, 1C19A, 1C50B, 1C54B, 1C55B, 1C58B, 1E41B, 1B16A, 1B17A, 1C01A, 1D01A, 1E01A, 1E19A, 1B55B and 1B57B) 3558
Supplement No. 1, Category 2 amended; interim (ECCN 2A48B, 2A49E, 2A50B, 2A52B, 2B01A, 2B08A, 2B41B, 2B50B, 2D01A, 2D49E, 2D50B, 2E49E, 2E50B, 2A19A, 2B06A, 2B07A, 2B09A, 2D19A, 2E01A, 2E02A, 2E03A and 2E19A) 3562
Supplement No. 1, Categories 3 and 6 amended; interim (ECCN 3A01A, 3D01A, 3E01A, 6A43B, 6A03A, 6A05A, 6E01A and 6E02A) 3566
Supplement No. 1, Category 9 amended; interim (ECCN 9B26B) 3568
Supplement No. 1, Category 3 amended (ECCN 3B01A) 5678
Supplement No. 1 corrected 6064
799A Redesignated from Part 799; nomenclature change; eff. 4–

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24-96; removed; eff. 11-1-96; interim 12734
Removal at 61 FR 12734 eff. 12-31-96 55741
799A.1 Supplement No. 1, Category No. 1 amended (ECCN 1B71E, 1C61B and 1C91F) 41328
Supplement No. 1, Category 9 amended; interim (ECCN 9A04A and 9E03A); eff. 10-21-96 through 11-1-96 54546

Chapter IX—National Oceanic and Atmospheric Administration, Department of Commerce (Parts 900—999)

902.1 (b) table amended (OMB numbers) 11132, 11752, 14468, 15887, 19171, 21932, 26436, 29631, 31230, 32540, 34572, 34967, 35150, 35550, 38359, 43424, 43955, 51214, 56126
(b) table amended (OMB numbers); interim 34934
Regulation at 61 FR 34934 confirmed; (b) table amended (OMB numbers); interim 47821
904 Authority citation revised 54731
904.210 Revised 54731
904.212 Revised 54731
904.240 (f)(5) revised; (f)(6) removed 54731
904.250 (c) revised 54731
922.30—922.31 (Subpart D) Appendix D amended 14964
922.110—922.112 (Subpart K) Appendix A revised 51577
923 Heading revised 33804
Authority citation revised 33804
923.1—923.3 (Subpart A) Revised 33805
923.10—923.13 (Subpart B) Revised 33806
923.12 (b) correctly designated 36965
923.13 (b) correctly designated 36965
923.20—923.25 (Subpart C) Revised 33806
923.25 (a) corrected 36965
923.30—923.34 (Subpart D) Revised 33808
923.40—923.48 (Subpart E) Revised 33809
923.50—923.58 (Subpart F) Revised 33812
923.60 (Subpart G) Revised 33815
923.80—923.84 (Subpart H) Revised 33815
923.81 (b)(2) corrected 36965
923.83 Correctly designated 36965
923.84 (b)(5)(i) correctly designated 36965
923.90—923.96 (Subpart I) Revised 33186
923.90—923.98 (Subpart J) Removed 33804
923.110 (Subpart J) Redesignated from Part 927 33818
923.121—923.128 (Subpart K) Redesignated from Part 932 33818
923.121 (a) and (b) amended; (h) revised 33818
923.123 (a) amended 33818
(b), (d) and (e) amended 33819
923.124 (d)(1)(i), (iii), (3), (e) and (f) amended 33819
(d)(1)(i) corrected 36965
923.125 (a)(1)(ii), (v), (b)(2)(ii), (iii) and (c) amended 33819
923.126 (a), (b)(1)(iii), (4), (7), (8), (c)(3), (4) and (5) amended 33819
923.127 (a), (b), (c) and (e) amended 33819
923.131—923.135 (Subpart L) Redesignated from Part 928 33818
923.131 Amended 33818
923.133 (b)(9), (c)(2) and (d)(2) amended 33818
(c)(2) corrected 36965
923.134 (b)(3) amended 33818
923.135 (a)(2)(i), (ii), (3)(i)(G) and (b)(2) amended 33818
927 Redesignated as 923.110 (Subpart J) 33818
928 Redesignated as 923.131—923.135 (Subpart L) 33818
932 Redesignated as 923.121—923.128 (Subpart K) 33818
933 Removed 33819
946 Appendix A amended 39865, 53311
Appendix B added 39867
981 Removed 21074
990 (Subchapter E) Added 500

Chapter XII—United States Travel and Tourism Administration, Department of Commerce (Parts 1200—1299)

Chapter XII Removed 30509

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Chapter XX—Office of the United States Trade Representative (Parts 2000—2099)

2011 Regulation at 55 FR 40648 confirmed 26782
Authority citation revised 26784
2011.101 Revised 26784
2011.102 (g) through (m) redesignated as (h) through (n); new (g) added; (a), (c), (e), (f) and new (j), (k), (l) and (n) revised 26784
2011.103 (a) and (b)(3) revised 26784
2011.104 (a) revised 26784
2011.105 (b) revised 26784
2011.107 (b) introductory text revised 26784
2011.109 (a) revised 26784
2011.201 Revised 26785
2011.202 (g) removed; (h), (i) and (j) redesignated as (g), (h) and (i); (b), (c), (f), new (g) and (i) revised; new (j) added 26785
2011.203 (a) and (c) revised 26785
2011.204 Revised 26785
2011.206 (c) revised 26785
2011.207 (a) revised 26785
2011.208 Added 26785
2011.301—2011.306 (Subpart C) Removed 26785

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TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission (Parts 0—999)

Chapter I Determination 32323
1.97 Introductory text amended 54548
1.98 (Subpart L) Added 54549
2.8 (b) amended; interim 50645
2.9 (b)(4) and (6) amended; (b)(5) revised; interim 50645
2.15 (b) amended; interim 50645
2.34 Amended 50431
3.11A Added; interim 50645
3.12 (a) introductory text revised; interim 50646
3.21 (a) through (d) revised; (e) redesignated as (g); new (e) and (f) added; interim 50646
3.22 (a) and (d) revised; (e) and (f) amended; interim 50647
3.24 (a)(1) revised; (a)(2) amended; interim 50647
3.25 (f) amended 50431
(b) amended; interim 50647
3.31 (b) through (e) redesignated as (c), (d), (f) and (g); (a), new (c)(3) and new (d)(1) amended; new (b) and new (e) added; new (c)(1), new (2), new (4)(i) introductory text, new (iii) and new (g) revised; interim 50647
3.33 (a) and (e) introductory text revised; (b) removed; (c) amended; interim 50648
3.34 (a), (b) and (c) heading revised; (c) amended; interim 50648
3.35 (a)(1) and (2) amended; (b)(1) revised; interim 50649
3.36 Revised; interim 50649
3.37 Revised; interim 50649
3.38 Heading and (a) revised; interim 50649
3.38A (a) amended; interim 50650
3.43 (b) revised; interim 50650
3.44 (c) added; interim 50650
3.45 (f) added; interim 50650
3.46 (a) amended; interim 50650
3.51 (a) and (c)(1) revised; interim 50650

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3.55 Amended; interim 50650
4.2 (c) and (e)(1) amended; interim 50650
19 Removed 27222
22 Removed 3800
23 Revised 27212
24 Added 51583
260.1 Revised 53316
260.2 Revised 53317
260.3 Revised 53317
260.4 Revised 53317
260.5 Revised 53317
260.6 Revised 53317
260.7 (a), (b) and (e) through (h) revised 53318
260.8 Revised 53320
303.7 (d) revised 16387
303.10 (b) revised 11544
303.21 (a)(1) revised 11544
303.32 Revised 11544
303.45 (a)(1)(xv) revised 11544
305 Energy efficiency ranges 55563
305.4 (a) introductory text and (b) introductory text revised 54549
305.9 (a) revised 5680
305.11 (a)(5)(i)(K), (ii)(I), (iii)(H)(*1*) revised 33653
305 Appendix F revised 29940
Appendixes C and D4 revised; Appendix H amended 48622
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306.1 Amended 54549
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307.12 (b) revised 45886
405 Removed 25561
406 Removed 55097
409 Removed 33313
460 Authority citation revised 13665, 54549
460.1 Amended 54549
Corrected 55840
460.5 Introductory text, (a) introductory text, (2), (b), (d) introductory text and (1) revised 13665
460.10 Revised 13666
460 Appendix removed; new Appendix added 13666
801.15 (a)(2), (b) and Example 4 revised; Example 5 through Example 8 added 13684
802.1 Revised 13684
802.2 Added 13686
802.3 Added 13688
802.4 Added 13688
802.5 Added 13688

Chapter II—Consumer Product Safety Commission (Parts 1000—1799)

1000.12 Revised 1707
1000.21 Amended 1708
1000.26 Revised 1707
1000.27 Revised 1708
1000.29 Revised 1708
1000.30 Removed 1708
1000.32 Revised 1708
1010 Removed 29647
1019 Revised 29647
1020 Added 52878
1500 Authority citation revised 19829
1500.14 (b)(6)(i) and (ii) redesignated as (b)(6)(i)(A) and (B); new (b)(6)(i)(A) and (B) amended; new (b)(6)(ii) added; eff. 11–3–97 19829
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1500.17 (a)(17) added; eff. 3–26–97 13095
(a)(12)(i) correctly revised 18245
1500.132 Removed 54551
1507.12 Added 13096
1615 Stay of enforcement 47412
1615.1 (a) revised; (c) through (m) redesignated as (d) through (n); new (c) and (o) added 47644
1615.5 (b) removed 1116
1615.31 (b)(3), (c) and (d) removed 1116
1616 Stay of enforcement 47412
1616.2 (a) revised; (m) added 47646
1616.6 (b) removed 1117
1616.31 (b)(6) and (c) removed 1117
1700.14 (a)(25) reinstated; CFR correction 40317

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TITLE 17—COMMODITY AND SECURITIES EXCHANGES

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Clarification 50431
1.12 (b)(2) amended; (b)(3) redesignated as (b)(4); new (b)(3), (f)(4) and (5) added; (g) introductory text, (1) and (2) revised 19185
1.17 (e)(1)(ii), (h)(2)(vi)(C)(*2*), (vii)(A)(*2*), (B)(*2*), (viii)(A)(*2*) and (3)(ii)(B) amended; (e)(1)(iii), (h)(2)(vi)(C)(*3*), (vii)(A)(*3*), (B)(*3*), (viii)(A)(*3*), (3)(ii)(C), (v)(C) and (D) redesignated as (e)(1)(iv), (h)(2)(vi)(C)(*4*), (vii)(A)(*4*), (B)(*4*), (viii)(A)(*4*), (B)(*4*), (viii)(A)(*4*), (3)(ii)(D), (v)(D) and (E); (a)(1), (c)(5)(xiii), new (h)(2)(vii)(A)(*4*) and new (B)(*4*) revised; new (e)(1)(iii), (h)(2)(vi)(C)(*3*), (vii)(A)(*3*), (C), (viii)(*3*), (3)(ii)(C) and (v)(C) added 19186
1.35 (d)(7) revised 43001
1.58 Revised 19187
3 Technical correction 26253
3.34 (b)(3)(ii) removed; (b)(3)(iii) introductory text and (A)(*3*) revised 20131
4 Interpretation 42146
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Technical correction 56271
5 Fee schedules 19830
10.84 (b) amended 21954
10.102 (e)(2) amended 21954
31 Fee schedules 19830
140.20 (a) amended 21955
140.24 (a)(6) amended 21955
140.735–8 (a)(3), (c)(2), (e) and (f) amended 21955
143 Authority citation revised 55566
143.1 Revised 55566
143.8 Added 55566
156.4 Added 41498

Chapter II—Securities and Exchange Commission (Parts 200—399)

200.30–4 (a)(11) added 20721
200.30–5 (a)(8)(ii)(B) amended 49011
200.30–7 (a)(3) corrected 15338
200.80 (c)(3) added 24654
202.3a Introductory text amended 49959
210.3–16 Removed 30401
210.4–05 Removed 30401
210.4–06 Removed 30401
210.4–10 (b) revised; (c) through (h) removed; (i) and (j) redesignated as (c) and (d) 30401
210.03–05 (a)(3) and (b) revised 54514
210.11–01 (b) and (c) revised 54514
211 Staff Accounting Bulletin No. 97 added 40721
228.310 (c) and (d)(1) revised; (d)(2) removed; (d)(3) redesignated as (d)(2) 54515
228.405 (a) amended; (a)(1) and (2) revised 30391
228.502 (a)(2) revised 24654
228.601 (c)(1)(vi) Note 1 and Note 2 amended 24654
Table amended; (b)(7), (14) and (28) removed 30401
228.701 (e) added 54508
229.405 (a)(1) and (2) revised 30391
229.501 (b) removed; (c) redesignated as (b); new (b)(8) amended 30401
229.502 (a)(2) revised 24654
229.601 (c)(1)(vi) Note 1 and Note 2 amended 24654
Table amended; (b)(6), (7), (14) and (28) removed 30401
229.701 (e) added 54508
229.801 (a) removed 30401
229.802 (a) removed 30401
230.111 (a) amended 49959
230.120 Revised 24654
230.144 (a)(3)(iv) amended; (a)(3)(v) added 21359
230.148 Removed 30401
230.236 (a) and (c)(4) amended 49959
230.252 (h)(2) revised 30401
(f) removed 49959
230.253 (b) redesignated as (b)(1); (b)(2) added 24654
230.300—230.346 Undesignated center heading removed 30402
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230.302 Removed 30402
230.304 Removed 30402
230.306 Removed 30402
230.310 Removed 30402
230.312 Removed 30402
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230.316 Removed 30402
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230.326 Removed 30402
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230.338 Removed 30402
230.340 Removed 30402
230.342 Removed 30402
230.344 Removed 30402
230.346 Removed 30402
230.402 (a) and (c) amended; (e) revised 30402
230.406 Note redesignated as Note 1; Note 2 added; (a) amended; (j) removed 30402
230.420 Existing text designated as (a); (b) added 24655
230.445—230.447 Undesignated center heading removed 30402
230.445 Removed 30402
230.446 Removed 30402
230.447 Removed 30402
230.464 Heading revised; introductory text and (b) amended 30402
230.471 Existing text designated as (a); (b) added 30402
230.472 (b) amended 30402
230.473 (c) and (d) amended 30402
230.481 (h) added 24655
230.482 (a)(6) note added; (a)(7) note removed 24655
230.504 (b)(1) revised 30402
230.604 (a) amended 49959
230.605 (c) redesignated as (c)(1); (c)(2) added 24655
230.651 Undesignated center heading and section removed 30402
230.652 Removed 30402
230.653 Removed 30402
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230.655 Removed 30402
230.656 Removed 30402
230.702(T) Removed 30402
230.703(T) Removed 30402
230.902 (a)(1) amended 30402
230.1001 Undesignated center heading and section added 21359
231 Interpretive releases 24651
232.301 Revised 52284
232.304 Heading, (a), (b)(1) and (c) revised 24655
232.311 (c) removed; (d) through (i) redesignated as (c) through (h) 30402
239.14 Form N–2 amended 24658, 49961
239.15A Form N–1A amended 24657, 49016, 49017, 49961
239.17a Form N–3 amended 24658, 49961
239.17b Form N–4 amended 24658, 49961
239.23 Form N–14 amended 49011
239.25 Form S–4 amended 54516
239.34 Form F–4 amended 54516
239.36 Form F–6 amended 30403
239.37 Form F–7 amended 24655, 30403
239.38 Form F–8 amended 24655, 30403
239.39 Form F–9 amended 24656, 30403
239.40 Form F–10 amended 24656, 30403
239.41 Form F–80 amended 24656, 30403
239.101 Removed 30403
239.300 Removed 30403
239.701 Removed 30403
240 Phase–in period extension 30396
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240.0–9 Revised 49959
240.0–11 (c)(1)(ii) revised 49959
240.11Aa3–1 (a)(4) revised 48328
240.11Ac1–1 Revised 48328
240.11Ac1–4 Added 48331
240.12b–7 Removed 49959
240.12b–11 (b) amended; (d) revised 30403
240.12b–12 (e)(3) amended 24656
240.12g–1 Amended 21356
240.12g–4 (a)(1)(ii) and (2)(ii) amended 21356
240.12h–3 (b)(1)(ii) and (2)(ii) amended 21356
240.13a–1 Amended 49959
240.13a–13 Heading and (c) revised 30403
240.13a–17 Removed 30403
240.13d–7 Removed 49959
240.13d–101 Amended 49959
240.13d–102 Amended 49959
240.13e–3 (e)(3) amended 24656
240.13e–4 (e)(1)(ii)(A) revised 24656
240.13e–102 Amended 24656
240.14a–3 (b)(2) redesignated as (b)(2)(i); (b)(2)(ii) added 24656

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240.14a–5 (d) redesignated as (d)(1); (d)(2) added....24656
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240.16a–3 (f)(1)(i) and (g) revised; (f)(1)(ii) and (iii) redesignated as (f)(1)(iii) and (iv); new (f)(1)(ii) and (j) added....30392
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240.16a–8 (a)(1) revised; (b)(3) note added....30392
240.16a–9 (a) revised....30393
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249.330 Form N–SAR amended....49961
249.501 Form BD revised....37361
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270.11a–3 (a)(3) revised....49016
270.12b–1 (b)(1) revised....49011
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270.24f–2 (a)(3) removed; (a)(4) redesignated as (a)(3); new (a)(3) revised....49961
270.30a–1 Amended....49961
270.30b1–1 Amended....49961
270.30b1–3 Amended....49961
270.30d–1 (c), (d)(2) and (e) amended....24657
270.30d–2 Amended....24657
270.31a–1 Regulation at 61 FR 13983 compliance date suspended....42786
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240.....16674, 17108, 18306, 25601, 30405, 36521, 37701, 43400, 44249, 45730, 47706, 48333, 54518, 55593
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35.26 Added.....21692
35.27 Added.....21693
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35.29 Redesignated from 35.28.....21692
37 Added.....21764
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161.3 (h)(2) amended.....39068
250.16 (c)(2) amended.....39068
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381.305 (a) amended.....40723
381.403 Amended.....40723
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1315 Authority citation revised.....55098
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10 Authority citation amended.....24887, 28955
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10.62 (c)(2) amended 31395
10.301 Revised 19835
10.321 Undesignated center heading and section removed 24888
10.322 Removed 24888
10.323 Removed 24888
12 Authority citation amended 24889, 43961
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12.73—12.74 Undesignated center heading revised 43961
12.74 Added 43961
12.130 Regulation at 59 FR 113 confirmed 28955
12.140—12.143 Authority citation and undesignated center heading removed 28500
12.140 Removed 28500
12.141 Removed 28500
12.142 Removed 28500
12.143 Removed 28500
12.150 Undesignated center heading and section removed 24889
101.3 (b)(1) amended 49059
(b)(1) table amended 51363
102 Regulation at 59 FR 113 confirmed 28955
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102.0 Revised 28955
102.1 Revised 28955
102.11 Revised 28956
102.13 Revised 28956
102.14 Removed 28955
102.15 Revised 28956
102.16 Removed 28955
102.17 Revised 28956
102.18 Revised 28957
102.19 Revised 28957
102.20 Revised 28957
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102.21 (b)(5) and (e) table amended 37818
103 Authority citation amended 19838
103.0 Revised 19838
103.1—103.13 Designated as Subpart A; subpart heading added 19838
103.6 (a)(1) revised 19838
103.14 Redesignated as 103.31 19838
103.15 Redesignated as 103.34 19838
103.16 Redesignated as 103.32 19838
103.17 Removed 19838
103.18 Redesignated as 103.33 19838
103.21—103.27 (Subpart B) Added 19838
103.31—103.34 Designated as Subpart C; subpart heading added 19838
103.31 Redesignated from 103.14 19838
103.32 Redesignated from 103.16 19838
103.33 Redesignated from 103.18 19838
103.34 Redesignated from 103.15 19838
111 User fee due date 54551
118.0 Amended 39070
118.21 Heading and (a) revised; introductory text, (b)(6) and (c) added; (b)(1) amended 39071
118.22 Revised 39071
118.23 Revised 39071
122.13 Amended 25778
122.15 (b) amended 49059
134 Policy statement 32924
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134.32 Regulation at 59 FR 140 confirmed 28955
(r) removed 28980
134.43 Regulation at 59 FR 140 confirmed 28955
(e) revised 28980
145 Authority citation amended 24889
145.56 Amended 24889
161 Authority citation amended 24889
161.2 (a)(3) added; authority citation removed 24889
178.2 Authority citation and undesignated center heading removed 28500, 43429
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201.6 (a), (b) and (f) revised 37827
201.11 (a) and (b) revised 37828
201.13 (m) revised 37829
207 Authority citation revised 37829
207.1 Revised 37829
207.2 Regulation at 60 FR 21 confirmed 37829
207.3 (b) and (c) revised 37829
207.4 (a) revised 37829
207.7 (a), (f)(2), (3) and (g) revised 37829
207.8 Revised 37831

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207.10 Revised 37831
207.11 Revised 37831
207.12 Revised 37832
207.13 Revised 37832
207.14 Revised 37832
207.18 Revised 37832
207.20 Redesignated as 207.21; new 207.20 added 37832
207.21 Redesignated as 207.22; new 207.21 redesignated from 207.20 and revised 37832
207.22 Redesignated as 207.23; new 207.22 redesignated from 207.21 37832
207.23 Redesignated as 207.24; new 207.23 redesignated from 207.22 and revised 37832
207.24 Redesignated as 207.25; new 207.24 redesignated from 207.23 and revised 37832
207.25 Redesignated as 207.26; new 207.25 redesignated from 207.24 37832
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207.26 Redesignated as 207.27; new 207.26 redesignated from 207.25 37832
207.27 Redesignated as 207.28; new 207.27 redesignated from 207.26 37832
207.28 Redesignated as 207.29; new 207.28 redesignated from 207.27 37832
207.29 Redesignated as 207.30; new 207.29 redesignated from 207.28 37832
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207.30 Redesignated from 207.29 37832
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207.40 Regulation at 60 FR 22 confirmed 37833
210.3 Regulation at 59 FR 67626 confirmed 43432
210.4 Regulation at 59 FR 67626 confirmed 43432
210.5 Regulation at 59 FR 67626 confirmed 43432
210.14 Regulation at 59 FR 67627 confirmed 43432
210.16 Regulation at 59 FR 67627 confirmed 43432
210.21 Regulation at 59 FR 67627 confirmed 43432
210.22 Regulation at 59 FR 62627 confirmed 43432
210.23 Regulation at 59 FR 67627 confirmed 43432
210.24 Regulation at 59 FR 67627 confirmed 43432
210.39 Regulation at 59 FR 67627 confirmed 43432
210.42 Regulation at 59 FR 67628 confirmed 43432
210.43 Regulation at 59 FR 67628 confirmed 43432
210.49 Regulation at 59 FR 67628 confirmed 43432
210.50 Regulation at 59 FR 67628 confirmed 43432
210.51 Regulation at 59 FR 67628 confirmed; (a) revised 43432
210.52 Regulation at 59 FR 67629 confirmed 43432
210.70 Regulation at 59 FR 67629 confirmed 43432
210.76 (b) revised 43433

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10 51849
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162 50459
351 28821
353 28821
355 28821

TITLE 20—EMPLOYEES' BENEFITS

Chapter II—Railroad Retirement Board (Parts 200—399)

200.4 (g)(2)(v) revised 25390
209.16 Added 31395
209.17 Added 31395
345 Revised 20072
348 Added 42377
368 Regulation at 61 FR 8214 confirmed 54733

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Chapter III—Social Security Administration (Parts 400—499)

404.2 (a)(2) through (6) removed; (a)(7) redesignated as (a)(2) 41330
404.3 (a) removed; (b) and (c) redesignated as (a) and (b) 41330
404.347 Revised 41330
404.350 (a)(5) revised 38363
404.351 (a) revised 38363
404.352 (b)(1) amended 38363
404.353 (a) amended 38363
404.367 Introductory text amended; (c), (d) and (e) redesignated as (d), (e) and (f); (a), (b) and new (f) revised; new (c) added 38363
404.369 Removed 38363
404.390 Amended 41330
404.392 Heading and (a) introductory text revised 41330
404.393 Removed 41330
404.394 Removed 41330
404.395 Removed 41330
404.502a Revised 56131
404.506 Revised 56131
404.612 (e) removed; (f), (g) and (h) redesignated as (e), (f) and (g) 41330
404.615 (b) removed; (c) and (d) redesignated as (b) and (c) 41330
404.765 Removed 41330
404.811 Revised 18076
404.812 Added 18077
404.907 Revised 56132
404.930 (a)(4) and (5) amended; (a)(6) and (7) added 56132
404.1001 (d)(2) revised 38365
404.1003 Amended 38365
404.1004 (a) introductory text revised; (a)(5) added 38365
404.1012 Amended 38365
404.1018 (g) redesignated as (h); new (g) added 38365
404.1018b (c)(1)(v) revised 38366
404.1020 (a)(3)(iv) revised 38366
404.1034 (a) introductory text amended; (c) redesignated as (d); new (c) added; new (d) revised 38366
404.1036 Revised 38366
404.1038 Added 38366
404.1042 (c)(2) revised 38366
404.1055 (a), (b) heading and (1) revised; (c)(1) amended 38367
404.1056 (a)(6) revised 38367
404.1057 (a)(1), (2) and (3) revised; (a)(4) amended 38367
404.1068 (d) revised 38367
404.1206 (a) introductory text, (6) and (7) revised; (a)(8) added; (f)(2) amended 38367
404.1210 (e) revised 38367
404.1211 (d) revised 38368
404.1212 Revised 38368
404.1501—404.1599 (Subpart P) Appendix 1 amended 28047
404.2113 (c) amended 31025
404.2115 (a)(3) and (b) revised 31025
404.2116 (b)(2) and (c)(2) revised 31025
410.501—410.591 (Subpart E) Authority citation revised 56132
410.561 Revised 56132
410.561a Revised 56132
410.601—410.699a (Subpart F) Authority citation revised 56133
410.623 Revised 56133
410.630 Revised 56133
416.1124 (c)(7) and (9) revised; (c)(17) and (18) amended; (c)(19) added 49964
416.1161 (a)(12) revised; (a)(21) and (22) amended; (a)(23), (24) and (25) added 49964
416.1615 (a)(1) revised 56134
416.2201—416.2227 (Subpart V) Authority citation revised 31026
416.2201 Introductory text and (b) revised 31026
416.2203 Amended 31026
416.2209 (b) and (c) amended 31026
416.2212 Amended; heading revised 31026
416.2213 (c) amended 31026
416.2215 Revised 31026
416.2216 (b)(2) and (c)(2) revised 31026
416.2217 Introductory text amended 31027
422.125 (a) and (b) revised 18078
498 Authority citation revised 18079
498.100 (a) and (b) introductory text revised; (b)(1) added 18079
498.101 Amended 18079
498.102 Heading revised; (a) added 18079
498.103 (a) added 18080
498.104 Added 18080
498.106 Heading revised; (a) added 18080

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498.108 Revised 18080
498.109 Revised 18080
498.110 Revised 18080
498.114 Added 18080
498.127 Revised 18080
498.128 Heading and (a) revised; (b), (d) and (e) added 18080
498.129 Added 18081
498.132 Revised 18081

Chapter V—Employment and Training Administration, Department of Labor (Parts 600—699)

601.1 (d) added 19983
617.3 (ff) revised 19983
626.5 Amended 19983
655.500—655.550 (Subpart F) Regulation at 60 FR 3955, 3976 confirmed 46990
655.600—655.675 (Subpart G) Regulation at 60 FR 3969, 3977 confirmed 46990
658 Authority citation revised 19983
658.710 (d) revised 19983
658.711 Revised 19983

Chapter VI—Employment Standards Administration, Department of Labor (Parts 700—799)

702 Authority citation revised 19984
702.433 (e) and (f) amended 19984
702.434 (a), (b) and (c) amended 19984

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348 16067
355 54745
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TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)

1.24 (a)(6)(i), (ii) and (iii) amended 14478
2.125 (e)(14) added 15700
(e)(15) added 25392
5.99 Corrected 14375
5.100 Revised 24223
5.115 Revised 24226
14.100 (c)(9) heading, (ii), (iii) heading and (ii) revised 28048
(b)(6) added 36624
20.100 (c)(41) added 33244
25.22 (a) amended 14245
25.24 (b)(2) amended 14245
25.30 (a) amended 14245
50.3 (n) added 51528
50.24 Added 51528
56.109 (c) revised; (d) and (e) redesignated as (e) and (f); new (e) amended; new (d) and (g) added 51529
70.3 (e) amended 14478
70.19 (p) amended 14478
71.1 (c) amended 14478
73.165 Added 40319
73.3100 Added 51586
80.10 (d) amended 14479
80.21 (j)(1) through (4) amended 14479
100.120 Removed 27778
100.130 Removed 27778
100.135 Removed 27778
100.140 Removed 27778
100.145 Removed 27778
100.150 Removed 27778
100.160 Removed 27778
101 Technical correction 21074
Authority citation revised 43446
101.9 (c)(7)(ii) and (g)(9) amended 14479
(j)(1)(i) revised; (j)(18) added 40978
101.10 Revised; eff. 5-2-97 40332
101.13 (q)(5) introductory text revised; eff. 5-2-97 40332
101.14 (d)(2)(vii)(B) and (3) introductory text revised; (d)(3)(i) added; eff. 5-2-97 40332
101.17 (c) revised; interim 20100
101.33 Removed 27779
101.36 (f) revised 40979
101.43 (a)(1), (2) and (3) revised; eff. 8-18-97 42759
101.44 (c) revised; eff. 8-18-97 42760
101.45 (c) and (i) amended 14479
Revised; eff. 8-18-97 42760
101.79 (b)(3) corrected 43119, 48529
Clarification 49966
(b)(3) corrected; CFR correction 55567
101.80 Added; eff. 1-1-98 43446
101.103 Removed 27779
102.23 (c)(5) amended 14479

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103 Removed 27779
103.35 (b), (d)(3)(v) introductory text, (A)(*3*), (E)(*3*), (G)(*3*) and (vi) amended 14479
104.19 Removed 27779
105.67 Removed 27779
Regulation at 61 FR 27779 eff. date confirmed 48963
105.69 Removed 27779
Regulation at 61 FR 27779 eff. date confirmed 48963
106.120 (a) and (b) amended 14479
107.50 (e)(1) and (2) amended 14479
107.240 (b) amended 14479
107.250 Introductory text amended 14479
108.5 (a)(1) amended 14479
108.25 (c)(1) and (2) amended 14479
108.35 (c)(1), (2) introductory text, (ii) and (g) amended 14480
109.5 Removed 27779
109.30 (b) and (d) amended 14480
110.110 (e) amended 14480
114.3 (b) amended 14245
131.135 Effective date note reinstated; CFR correction 48405
131.143 Effective date note reinstated; CFR correction 48405
136 Technical correction 40513
Clarification 46714
136.115 (a)(3) amended 14245
137 Technical correction 40513
Clarification 46714
137.230 Removed 27779
137.235 Removed 27779
137.240 Removed 27779
137.245 Removed 27779
139 Technical correction 40513
Clarification 46714
161.131 Removed 27779
161.132 Removed 27779
161.133 Removed 27779
161.134 Removed 27779
161.135 Removed 27779
161.137 Removed 27779
161.138 Removed 27779
161.139 Removed 27779
161.140 Removed 27779
161.190 (a)(7)(iii) amended 14480
165.110 (a)(2)(iv), (vii), (2), (b)(4)(i)(C), (iii)(E) introductory text, (*2*)(*iii*), (*6*)(*iii*), (*11*)(*iii*) and (F) amended 14480
172 Nomenclature change 14482
Technical correction 27004
172.133 (a)(2) amended 14245
(b)(3) and (4) added; (c)(2) revised 26788
172.210 (b)(3) amended 14245
172.320 (b)(2) and (c)(1) amended 14480
172.345 (d) revised 27779
172.515 (b) amended 14245
172.804 (c)(23) amended 14480
Introductory text and (c) revised; (b) amended; (d) removed; (e) and (f) redesignated as (d) and (e) 33656
172.841 (b) amended 14480
173 Nomenclature change 14482
Technical correction 25392, 27004
173.69 Redesignated as 173.300 14245
(a) amended 14480
173.300 Redesignated from 173.69 14245
173.310 (c) table amended 14245
173.315 (a)(2) table amended 46376, 46377
173.325 Added 17829
173.357 (a)(2) amended 14245
175 Nomenclature change 14482
Technical correction 27004
175.105 (c)(5) table amended 42379
175.300 (b)(3)(viii)(*b*) amended 29474
(b)(3)(vii)(*a*) amended 37208
175.320 (b)(3)(i) table amended 14246
176 Nomenclature change 14482
Technical correction 27004
176.170 (b)(2) table amended 14246, 14480
(a)(5) table amended 25394, 37209
176.210 (d)(3) amended 14246
177 Nomenclature change 14482
Technical correction 27004
177.1210 (b)(5) table amended 14480
177.1345 (b)(1) amended 14481
177.1390 (c)(3)(i)(*a*)(*1*) amended 14481
177.1480 (b)(2) amended 14481
177.1500 (c)(5)(i) amended 14481
(a)(15) added; (b) table amended 34371
(a)(16) added; (b) table and (c)(5)(ii) amended 53853
177.1520 (b) table amended 14246, 14481, 28050, 37210, 51365
177.1550 (d)(2)(ii) amended 14481
177.1556 Added 42381
177.1630 (e)(4) amended 46718
177.1637 Added 14965
177.1655 (a) and (b) table revised 29475
177.2450 (b)(2) and (3) amended 14481

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177.2600 (c)(4)(i) amended 14246
(c)(4)(ii)(*b*) amended 46544
178 Nomenclature change 14482
Technical correction 27004
178.1010 (b)(45) and (c)(39) added 28053
(b)(46) and (c)(40) added 31397
178.2010 (b) table amended 14246, 46545, 46546
178.3295 Table amended 33847, 51588
178.3297 (e) table amended 14246, 48624
(c) amended 14481
178.3725 Added 43157
178.3780 (b)(1) amended 14481
178.3860 (b) table amended 25396
(b) table corrected 42381
179.21 (b)(2)(ii) and (iii) amended 14246
179.41 Added 42383
179.45 (b) introductory text, (5) and (d) amended 14246
180 Heading revised 14246
Nomenclature change 14482
Technical correction 27004
180.22 (b), (e) and (f)(1) amended 14246
181 Nomenclature change 14482
Technical correction 27004
182.10 Table amended 14246
182.1866 Removed 43450
182.5013—182.5997 (Subpart F) Removed 27779
182.5484 Redesignated from 182.8458 14246
182.5697 Heading and (a) amended 14246
182.8458 Redesignated as 182.5484 14246
184.1063 Added 45889
184.1193 (c) amended 14247
184.1259 Heading and (a) revised 36290
184.1311 (a), (b) and (c) revised 40319
184.1372 (a) revised 43450
184.1634 (a) amended 14247
184.1866 Added 43450
186.1025 Removed 27779
189 Nomenclature change 14482
Technical correction 27004, 29650
197 Removed 27779
200.100 Removed 29476
200.101 Removed 29476
201 Comment period extension 38046
201.64 Added 17806
201.320 Added; interim 20100
211 Compliance date extension 37679
250.104 Removed 29476
250.203 Removed 29476
310.101 Removed 29476
310.304 Removed 29477
310.545 (a)(6)(iv)(C) and (d)(25) added; (d) introductory text revised 25142
312.2 (b)(6) added 51529
312.20 (c) added 51529
312.23 (f) added 51529
312.30 Introductory text amended 51529
312.42 (b)(5) added 51530
312.54 Added 51530
312.60 Amended 51530
312.130 (d) added 51530
314.430 (d) redesignated as (d)(1); (d)(2) added 51530
331 Comment period extension 38046
331.30 (c)(5) and (f) removed; (c)(6), (7) and (g) redesignated as (c)(5), (6) and (f) 17806
341.70 Added 15703
341.76 (d)(2)(i) and (e) removed; (d)(2)(ii) redesignated as (d)(2) heading 25146
355.3 (e) revised; eff. 4–7–97 52286
355.10 (a)(1) heading, (b)(1) heading, (2) heading and (c)(1) heading amended; eff. 4–7–97 52286
355.50 Regulation at 60 FR 52508 eff. date delayed to 4–7–97 52285
(c)(1) and (2) revised; (d)(1)(i) heading and (ii) heading amended; eff. 4–7–97 52287
369.21 (d) amended; interim 20101
452.150 Redesignated as 452.150a; new 452.150 added 34726
452.150a Redesignated from 452.150 34726
452.150b Added 34726
500.23 Added 37681
500.24 Added 37681
500.49 Removed 37682
500.50 Added 19544
501.17 (c) revised; interim 20101
505 Removed 37682
507 Removed 37682
508 Removed 37682
508.35 (c)(1), (2) introductory text and (ii) amended 14481
510.120 Removed 37682
510.200 (Subpart C) Removed 37682

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510.310 Removed 37682
510.413 Removed 37682
510.515 (b)(7), (17), (25) and (29) removed; (b)(10) and (13) redesignated as (b)(1) and (2); (c) table amended 35950
510.600 (c)(1) table and (2) table amended 15703, 17565, 18672, 21075, 24441, 46547
520 Technical correction 43964
520.500 Removed 34728
520.580 (b)(2) amended 34728
520.620a Removed 34728
520.620b Removed 34728
520.622a (a) amended 34728
520.622b (b)(2) revised 34728
520.905a (d)(2) heading revised; (d)(2)(i)(B) amended 29478
520.905c (d)(2) heading revised; (d)(2)(iii) amended 29478
520.1193 (c)(2) and (3) revised 39868
520.1196 Heading revised; (c)(1)(iii) amended 15186
520.1445 (c)(2) amended 43654
520.1448a (c)(4)(iii) amended 24444
(a)(4)(iii) and (d)(4)(iii) amended 53615
520.1484 (b) revised; (c)(3) amended 31027
(c)(3) amended 31399
520.1485 (b) revised; (d)(3) amended 31398
520.1520 Removed 34728
520.1660d (a)(7) revised; (e)(1)(ii)(A)(*3*), (B)(*3*), (C)(*3*), (iii)(C) and (iv)(C) amended 52690
520.1872 (c)(1)(ii) amended 29651
520.2022 Removed 34728
520.2043 (b)(2) revised 29477
520.2160a Removed 34728
520.2160b Removed 34729
520.2160c Removed 34729
520.2160d Removed 34729
520.2220d (c)(2) amended 46719
520.2325a (b) added; (d) removed; (c), (e) and (f) redesignated as (a), (c) and (d); new (a) revised; new (d) amended 24443
520.2480 Removed 34729
520.2520a (b) amended 34729
520.2520c Removed 34729
520.2520d Removed 34729
522.128 (c)(4) amended 36291
522.147 Added 48830
522.281 Removed 34729
522.313 (d)(3)(ii) revised; (d)(4) and (5) redesignated as (d)(5) and (6); new (d)(4) added 35130
522.314 Added 29479
522.740 Removed 34729
522.770 Added 53321
522.955 Added 42383
522.1044 (b), (d)(2)(i) and (3)(i) revised 24441
522.1055 (b) amended 18672
522.1078 (b) amended 37682
522.1182 (a)(4)(i) amended 18672
522.1335 Added 21075
522.1660 (b) and (c)(2)(iii) amended 31028
522.1680 (c)(1)(iii) amended 36291
522.1720 (b)(1) and (2) revised 54333
522.1850 (c)(1) revised; (c)(2)(i) and (ii) amended 54333
522.2022 Removed 34729
522.2120 (b) revised; (d)(4) amended 31028
522.2474 Added 25785
522.2477 (c)(3) added 29480
(c)(3) heading and (iii) revised 41499
522.2478 Added 14482
(a) amended 29479
522.2480 Removed 34729
522.2615 (b) amended; (d) removed 29480
522.2662 (b) amended 46548
524.1044b (b) amended 48624
529.810 Removed 34729
529.1044a (b) amended 17830
556.225 Added 53321
556.275 (c) added 29478
556.283 Added 42383
556.300 (a) amended 24441
556.430 Revised 31399
556.600 Revised 31028
556.685 Added 24443
558.15 (g)(1) table amended 51590
558.55 (d)(2) table amended 35950
558.58 (d)(1) table amended 18082, 35951
558.76 (d)(3)(xiv) added 43451
558.78 (a)(2), (d)(1) table and (2)(ii) amended 18082
558.95 (b)(1)(xiii)(*b*) amended 18082
(b)(4)(iii) added 43655
558.120 (c)(1)(iii)(*b*) amended 18082
558.128 (a) amended 18082
(a), (b) and (c)(1) revised; (c)(2) and (3) removed; (c)(4) and (5) redesignated as (c)(2) and (3) 35952

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(c)(2) corrected 53615
558.140 Added 35954
558.145 (a)(1) and (2) amended 18082
558.175 (c)(2)(ii) revised 35954
558.185 (a)(1) removed 34729
558.195 (d) table amended 35954
558.258 (c)(2) introductory text and (3) introductory text revised; (c)(2)(iii) and (3)(iii) amended 29478
558.265 (c)(2)(ii) added 21075
(c)(2)(iii) added 24694
558.274 (c)(1) table amended 35955
558.300 (a) revised; (c)(2) through (5) added 32652
558.325 (c)(4)(iii) added 32653
558.340 (a) amended 18082
558.355 (b)(8), (9), (f)(1)(iv)(*b*), (v)(*b*), (xiv)(*b*), (xv)(*b*), (xvi)(*b*) amended; (b)(10) added 18082
(f)(3)(iii)(*b*) and (v)(*b*) amended 24444
(f)(3)(x)(c) amended 51003
558.366 (c) table amended 14483
558.367 Removed 34729
558.450 Revised 51590
558.485 (a)(16) removed 34729
558.515 (a), (d)(1)(iii)(*b*), (iv)(*b*), (v)(*b*) and (vi)(*b*) amended 18082
(d)(1)(iii), (iv) and (v)(*b*) revised 35956
(d)(2) revised 51593
558.530 (d)(2), (3) and (4) redesignated as (d)(4), (5) and (6); (a) and new (d)(4) revised; new (d)(2) and new (3) added; new (d)(6)(i)(*a*) through (*d*) redesignated as (d)(6)(i)(A) through (D) 35956
(d)(5)(xxiv) added 43451
558.550 (b)(1)(vii)(*c*), (ix)(*c*), (xv)(*c*) and (xvi)(*c*) amended 18082
558.555 (b)(2) added 29481
(b)(2)(ii) amended 43451
558.565 Removed 34729
558.582 (a) amended 18082
558.625 (b)(79) amended 17566
(b)(72) removed 34729
558.630 (b)(10) amended 34729
558.635 (b)(1) amended 30133
558.680 (c)(1) table amended 35957
570.22 Removed 37682
573.460 (a) introductory text, (1), (2), (b), (c) introductory text, (1) and (2) redesignated as (a)(1) introductory text, (i), (ii), (2), (3) introductory text, (i) and (ii); new (b) added 15704
582.1666 (b) revised 19544
584.700 Added 43453
589.1001 Added 19544
600.3 (t) revised 24232
601.2 (a) existing text designated as (a) introductory text; new (a) introductory text amended; (a)(1) through (4) and (c) added 24232
601.22 Amended 24233
601.30 Removed 40154
601.31 Removed 40154
601.32 Removed 40154
601.51 (d) redesignated as (d)(1); (d)(2) added 51530
606.100 (b)(19) added 47422
606.160 (b)(1)(vii) and (viii) added 47422
610.45 (d) added 47423
610.46 Added 47423
610.47 Added 47423
620 Removed 40154
630 Removed 40155
640.110—640.114 (Subpart K) Removed 40155
650 Removed 40155
660.100—660.105 (Subpart K) Removed 40155
680.1—680.3 (Subpart A) Heading removed 40155
680.10—680.16 (Subpart B) Removed 40155
680.20—680.26 (Subpart C) Removed 40155
700.10 Removed 27779
730.3 Amended 14481
740.11 (c) revised; interim 20101
801.63 Added; interim 20101
801.126 Added; eff. 8–28–97 44615
801.403 Removed 37683
801.408 Removed 37683
801.425 Removed; interim 20101
801.427 Removed 37683
801.433 Added; interim 20101
803 Regulation at 60 FR 63597 eff. date delayed to 7–31–96 16043
803.3 (n)(4) stayed 38347
803.19 (f) and (g) added; eff. 8–28–97 44615
803.55 (b)(9) and (10) stayed 39869
803.57 Stayed 38347
803.58 Stayed 38347

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804.25 (c) added; eff. 8–28–97 44615
804.30 Removed 38347
807 Technical correction 47550
807.3 Regulation at 60 FR 63606 eff. date delayed to 7–31–96 16043
(r) stayed 38347
807.20 Regulation at 60 FR 63606 eff. date delayed to 7–31–96 16043
(a)(6) stayed 38347
807.22 Regulation at 60 FR 63606 eff. date delayed to 7–31–96 16043
807.40 Regulation at 60 FR 63606 eff. date delayed to 7–31–96 16043
Stayed 38347
807.65 (j) added; eff. 8–28–97 44615
808 Authority citation revised 52654
808.1 (d)(10) added; eff. 6–1–97 52654
812 Authority citation revised 52654
812.1 (a) amended; eff. 6–1–97 52654
812.20 (a)(1) revised; (a)(4) added 51530
812.35 (a) amended 51531
812.38 (b)(4) added 51531
812.47 Added 51531
814 Authority citation revised 51531
814.3 (k) and (l) added 15190
(m) and (n) added 33244
814.9 (d) redesignated as (d)(1); (d)(2) added 51531
814.47 Added 15190
814.100—814.126 (Subpart H) Added 33244
814.102 Stayed 55741
814.104 Stayed 55741
814.106 Stayed 55741
814.108 Stayed 55741
814.110 (a) stayed 55741
814.112 (b) stayed 55741
814.116 (b) stayed 55741
814.118 (d) stayed 55741
814.120 (b) stayed 55741
814.124 (b) stayed 55741
814.126 (b)(1) stayed 55741
820 Technical correction 47550
Revised; eff. 6–1–97 52654
820.1 (f) added; eff. 8–28–97 44615
868.5400 (c) revised 50706
870.1350 (c) revised 50706
870.1360 (c) revised 50706
870.3850 (c) revised 50706
870.5300 (c) revised 50706
872.3400 (c) revised 50706
872.3420 (c) revised 50707
872.3480 (c) revised 50707
872.3500 (c) revised 50707
872.3560 (c) revised 50707
872.3820 (c) revised 50707
876 Authority citation revised 50707
876.5220 (c) revised 50707
876.5270 (c) revised 50707
880.5760 (c) revised 50708
882.1825 (c) revised 50708
882.5150 (c) revised 50708
882.5850 (c) revised 50708
884.2620 (c) revised 50708
884.2685 (c) revised 50708
884.4250 (c) revised 50708
884.4270 (c) revised 50708
884.5050 (c) revised 50709
884.5225 (c) revised 50709
888.3120 (c) revised 50709
888.3180 (c) revised 50709
888.3200 (c) revised 50709
888.3210 (c) revised 50709
888.3220 (c) revised 50709
888.3300 (c) revised 50709
888.3310 (c) revised 50710
888.3370 (c) revised 50710
888.3380 (c) revised 50710
888.3480 (c) revised 50710
888.3540 (c) revised 50710
888.3550 (c) revised 50710
888.3570 (c) revised 50710
888.3580 (c) revised 50711
888.3640 (c) revised 50711
888.3680 (c) revised 50711
888.3790 (c) revised 50711
890.3610 (c) revised 50711
897 Added; eff. 8–28–97 44615
897.14 Eff. in part 2–28–97 44616
897.34 Eff. in part 2–28–98 44617
Regulation at 61 FR 44617 eff. date corrected to 8–28–98 47550
1250.51 (d) amended 14481

Chapter II—Drug Enforcement Administration, Department of Justice (Parts 1300—1399)

1309.02 (f) revised 40989
Corrected 41836
(f) corrected 48830
Regulation at 61 FR 40989 withdrawn 52287
1309.21 Revised 32926
1309.22 (b) revised 32926
1309.28 Added 32926, 40989
Regulation at 61 FR 40989 withdrawn 52287

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TITLE 21 Chapter II—Con.

1309.29 Added 40989
Corrected 48830
1309.71 (a)(2) revised 40989
Regulation at 61 FR 40989 withdrawn 52287
1310.01 (f)(1)(iv)(A) revised 40989
Regulation at 61 FR 40990 withdrawn 52287
1310.04 (f) introductory text and (1)(x) revised 40990
Corrected 48830
Regulation at 61 FR 40990 withdrawn 52287
1310.05 Corrected 17958
1310.06 (b) revised 32926
1310.09 Revised 40990
Regulation at 61 FR 40990 withdrawn 52287
1310.14 Heading and (a) revised 40990
Regulation at 61 FR 40990 withdrawn 52287
1310.15 Heading, (a) and (d) revised 40990
Regulation at 61 FR 40990 withdrawn 52287
1313.02 (d)(1)(iv)(A) revised 40991
Regulation at 61 FR 40991 withdrawn 52287
1313.23 (c) revised 51004
1313.32 Heading correctly revised 17566
1316.01—1316.13 (Subpart A) Authority citation correctly revised 17566

Proposed Rules:

1—1299 (Ch. I) 16422, 21392, 26473
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25 ..... 14922, 19476, 54746
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70 ..... 28525, 29701, 48102
71 ..... 14690, 29701, 48102
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101 ..... 16423, 25421, 28525, 29701, 29708, 48102, 50770, 50771, 55122
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170 ..... 14690, 29701, 29711, 48102
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178 ..... 28525, 29701, 29711, 48102
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201 ..... 17807, 28525, 38047, 42826
210 ..... 20104, 39372
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250 29502
310 ..... 29502, 53685, 55602
314 55602
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330 51625
331 ..... 17807, 38047, 42826
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352 ..... 42398, 48645, 53340
500 31468
510 15003
530 25106
589 24253
600 55602

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801.....26140, 32618
803.....38348
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TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State (Parts 1—199)

4 Revised.....32328
33 Revised.....49966
41.2 (l)(2) amended; interim...35629, 39319
41.101 (c) removed.....53058
41.104 (e) removed.....53058
41.105 (a)(3)(iii) amended; (a)(3)(iv) removed.....53058
41.113 (k)(2)(ii) amended; (k)(3) removed.....53058
50 Authority citation revised.....43311
50.1 (g) added.....43311
50.2 Amended.....43311
50.3 (b) revised.....43312
50.5 Introductory text revised.....43312
50.7 Revised.....43312
50.8 Revised.....43312
50.9 Revised.....43312
50.20 (a) removed; (b) redesignated as (a).....29652
(a) introductory text, (1) and (2) amended.....29653
50.30 (d) added.....29652
50.40 Removed; new 50.40 redesignated from 50.41; (a) through (d) redesignated as (c), (d), (b) and (e); new (a) added; new (b) revised; new (d) amended.....29652
50.41 Redesignated as 50.40.....29652
50.42 Removed.....29653
50.50 (a) amended.....29653
50.51 Removed; new 50.51 redesignated from 50.52.....29653
50.52 Redesignated as 50.51.....29653
51.1 (h) added.....43312
51.21 (b)(6) revised.....43312
51.33 Revised.....29940
81 Removed.....29941
82 Removed.....29941
83 Removed.....29941
84 Removed.....29941
85 Removed.....29941
86 Removed.....29941
87 Removed.....29941
88 Removed.....29941
89.1 Revised.....29945
92.58 Corrected.....14375
92.59 Corrected.....14375
120.10 (a)(1) revised.....48831
123.22 (d) revised.....48831
126.1 (a) amended.....19841, 33313, 41738
(a) revised.....36625
Amended.....41499
128.1 Revised.....48831
128.2 Revised.....48831
128.3 Revised.....48831
128.4 Revised.....48832
128.5 (b) and (c) revised.....48832
128.6 Revised.....48832
128.7 Revised.....48832
128.8 Revised.....48833
128.9 Revised.....48833
128.10 Revised.....48833
128.11 Revised.....48833
128.12 Revised.....48833
128.13 (a), (c), (e) and (f) revised.....48833
128.14 Revised.....48834
128.15 Revised.....48834
128.16 Revised.....48834
131.1 Revised.....39585

Chapter II—Agency for International Development, International Development Cooperation Agency (Parts 200—299)

212 Revised.....43002
228 Added.....53616
228.03 (b) corrected.....54849
228.25 Corrected.....54849
228.30—228.39 (Subpart D) Heading corrected.....55361

Chapter V—United States Information Agency (Parts 500—599)

505 Revised; interim.....51004
514 Policy statement.....37002
514.20 (d), (i) and (j) revised.....15373
(j)(2)(i) stayed; eff. 5-7-96 through 10-4-96.....20437

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TITLE 22 Chapter V—Con.

Regulation at 60 FR 15373 confirmed; (d), (i) and (j) revised 29287
514.21 (g) revised 39585

Chapter VI—United States Arms Control and Disarmament Agency (Parts 600—699)

602 Revised 40332
603 Revised 51593
608 Added 36821

Proposed Rules:

171 ..... 39927, 53158
514 46745
602 27031
603 30009
605 53158
608 26474
1102 31470

TITLE 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation (Parts 1—999)

230 Authority citation added 14616
230.101—230.121 (Subpart A) Authority citation removed 14616
230.121 (d) removed 14616
230.101—230.121 (Subpart A) Appendixes E and F removed 14616
230.201—230.207 (Subpart B) Authority citation removed 14616
230.301—230.313 (Subpart C) Authority citation removed 14616
230.401—230.415 (Subpart D) Authority citation removed 14616
625 Revised; interim 17566
630 Revised 35632
635.413 Regulation at 60 FR 44274 confirmed 17245
655 Authority citation revised 29626
655.601 (c) and (d) revised; interim 29626
667 Removed 43966
710.401—710.405 (Subpart D) Removed; interim 18247
712.801—712.805 (Subpart H) Removed; interim 18247
720 Removed; interim 18247
740 Removed; interim 18247
772 Authority citation revised 45321
772.13 (b) revised; interim 45321

Chapter II—National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)

1206 Revised 28747
1210 Added 55217
1215 Heading revised 28749
Authority citation revised 28749
1215.1 Revised 28749
1215.2 Revised 28749
1215.3 Amended 28749
1215.4 Revised 28749
1215.5 Revised 28749
1215.6 Revised 28749
1215.7 Revised 28749
1230 Removed 28751

Chapter III—National Highway Traffic Safety Administration, Department of Transportation (Parts 1300—1399)

1309 Removed 18248
1313.5 Regulation at 61 FR 9104 confirmed; (h) added 55222
1313.6 Regulation at 61 FR 9104 confirmed; (g) added 55222

Proposed Rules:

230 17264
655 ..... 29234, 40484, 54111
658 54588
777 30553
1325 16729
1327 16729

TITLE 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development (Parts 0—99)

EDITORIAL NOTE: The revision for the 1996 edition of title 24 was delayed until May 1, 1996. The 1996 revision includes amendments promulgated during the period of April 3, 1995 through May 1, 1996. For amendments promulgated during that period, see the April 1996 LSA.

0.1 Revised 36251

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0.2 Redesignated from 0.735–203 19188
0.3 Redesignated from 0.735–204 19188
0.735–203 Redesignated as 0.2 19188
0.735–204 Redesignated as 0.3 19188
1 Authority citation revised 52217
1.9 (b) revised; (c), (d) and (e) removed 52217
1.10 Removed; new 1.10 redesignated from 1.12 52217
1.11 Removed 52217
1.12 Redesignated as 1.10 52217
2 Removed 52217
5 Authority citation revised 54498
5.210—5.238 (Subpart B) Authority citation added 54498
5.300—5.380 (Subpart C) Authority citation added 54498
5.500—5.528 (Subpart E) Authority citation added 54498
5.601—5.617 (Subpart F) Added 54498
8 Authority citation revised 52218
8.58 (b) revised; (c), (d) and (e) removed 52218
8.59 Removed 52218
8.60—8.71 (Subpart E) Removed 52218
26 Heading revised 50209
26.1—26.26 (Subpart A) Heading revised 50209
26.2—26.5 (Subpart B) Designation removed 50209
26.6—26.8 (Subpart C) Designation removed 50209
26.9—26.16 (Subpart D) Designation removed 50209
26.17—26.21 (Subpart E) Designation removed 50209
26.22—26.24 (Subpart F) Designation removed 50209
26.25—26.26 (Subpart G) Designation removed 50209
26.27—26.54 (Subpart B) Added 50210
27 Revised 48548
28 Revised 50213
29 Removed 48552
30 Revised 50215
42 Revised 51757
50 Revised 50917
60 Authority citation revised 36463
60.101 Revised 36463
60.102 Removed 36463
60.103 Removed 36463
60.107 Removed 36463
60.108 Removed 36463
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60.111 Removed 36463
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60.119 Removed 36463
60.120 Removed 36463
60.122 Removed 36463
60.123 Removed 36463
60.124 Removed 36463
81 Authority citation revised 50218
81.46 (e)(1) amended 50218
81.82 (b)(2) amended 50218
81.83 (b)(2) amended; (d)(3) revised 50218
81.84 (b)(2) and (d) revised; (h)(1) and (j)(2) amended 50219
81.85 (c)(1) amended 50219
91.205 (b)(1) amended 51760
91.220 (g)(2)(iii) added 48750
91.305 (b)(1) amended 51760
91.315 (e) designated as (e)(1); new (e)(2) added; interim (OMB number pending) 54920
91.320 (g)(2)(iii) added 48750
(g)(1) amended; interim 54920
91.500 (b) introductory text revised; interim 54920
92 Revised 48750
92.353 (e) revised 51760
92.600—92.652 (Subpart M) Removed; interim 32295

Chapter I—Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development (Parts 100—199)

103.45 Amended 52218
103.50 Amended 52218
103.100 Amended 52218
103.215 (b) revised; interim 41482
Amended 52218
103.330 Amended 52218
103.405 Amended 52218
103.410 Amended 52218
103.500 Amended 52218
104 Removed 52218
111 Regulation at 61 FR 7675 confirmed 41284

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115 Regulation at 61 FR 7675 confirmed; revised 41284
Subchapter A Appendix I removed 41291
146 Authority citation revised 52218
146.43 Revised 52218
180 Added 52218

Chapter II—Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)

200.243 (a) introductory text amended 50219
200.810 (b) amended 36263
200.1301 Reinstated 54267
200.1302 Correctly designated 54267
200.1303 Added 54503
201.1 Amended 19795
201.2 Amended 19795
201.3 Revised 19796
201.10 (a)(1)(iv), (b)(1)(i), (iii), (iv), (2)(i), (ii), (3), (c), (d)(1)(i), (iii), (3), (f)(3), (4) and (5) revised; (a)(2) removed; (a)(3) redesignated as (a)(2) 19796
201.11 (a)(1), (2), (c)(2), (3) and (4) revised; (a)(3) added 19796
201.12 Revised 19797
201.13 Revised 19797
201.17 Revised 19797
201.18 Heading revised 36263
201.20 (a)(2) and (b) revised; (a)(3) removed 19797
201.21 (b)(3) and (5) revised 19797
201.22 (b)(1), (2)(iv) and (c)(1) revised 19797
201.23 Revised 19798
201.24 (a)(1) and (2) revised 19798
201.25 Revised 19798
201.26 (a)(1), (2), (5)(ii), (6)(i), (b)(3)(vi), (vii), (4)(vi), (vii) and (6) introductory text revised; (b)(4)(viii) removed 19798
201.27 (a)(2) amended; (a)(5) revised; (b)(2) removed; (b)(1) redesignated as (b) 19799
201.28 (a) revised 19799
201.32 (a) revised; (b) removed; (c), (d) and (e) redesignated as (b), (c) and (d) 19799
201.40 (b)(3) added 19799
201.52 Amended 19799
201.53 Existing text designated as introductory text amended; (a) and (b) added 19799
201.54 (b)(2) revised 19800
201.55 (a) introductory text, (b) introductory text, (3) and (7) revised 19800
202.3 (j) amended 36263
202.11 Heading revised 36263
Regulation at 61 FR 2651 confirmed 36453
202.12 (k) amended 36263
Regulation at 61 FR 2651 confirmed 36453
202.13 (d) removed; (e) redesignated as (d) 36263
Regulation at 61 FR 2651 confirmed 36453
202.15 Regulation at 61 FR 2651 confirmed 36453
202.17 Regulation at 61 FR 2651 confirmed 36453
203 Authority citation revised 35017
203.3 Regulation at 61 FR 2651 confirmed 36453
203.5 (e) revised 36263
203.17 (b) revised 36263
203.18 (a)(1)(ii) amended; (i) added 36263
203.19 (c) removed 36263
203.22 (a) revised 36263
203.24 (a)(1) revised 36263
203.30 (d) added 36264
203.36 Removed 36264
203.38 Revised 36264
203.40 Amended 36264
203.42 (a) revised 36264
203.43 (c)(3) revised 36264
203.43b Removed 36264
203.43f (b) amended 36264
203.43h Introductory text, (b) and (g)(3) revised 36264
203.43i (a) revised 36264
203.44 Revised 36264
203.49 Introductory text and (a) amended 36264
203.51 (2) amended 36453
203.204 (a) revised; (g) amended 36264
203.251 (s) revised 36265
203.255 (b)(2) revised 36265
203.258 (c)(2) amended 36453
203.259a (a)(2)(ii)(B) amended 36453
203.262 Revised 37801
203.263 Removed 37801
203.264 Revised 37801

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Correctly revised 42787
203.265 (b) amended 36265
(a) revised 37801
203.268 (a) revised 37801
203.281 (b)(1) revised 36265
203.284 (a)(1), (b)(1)(i), (2)(i) and (e) amended 36265
(d) and (e) removed; (f) revised 37801
203.285 (c) amended 36265
(c) revised 37801
203.342 Revised; interim 35017
203.346 Amended 36265
203.350 Second undesignated center heading removed; interim 35017
Second 203.350 removed; interim 35017
203.355 (a) introductory text, (2), (b), (c) introductory text and (g) introductory text revised; (a)(3) through (6) and (h) added; interim 35018
203.356 Revised 36265
203.359 (b) introductory text amended 36453
203.363 (b) heading amended 36453
203.366 (b)(1) amended 36453
203.368 (a)(1)(ii) amended 36453
203.369 (a)(1) and (b) amended 36453
203.370 (c)(3) removed; (c)(4) and (5) redesignated as (c)(3) and (4); interim 35018
203.371 Added; interim 35018
203.378 (c)(1) revised 36265
(c)(3) amended 36453
203.379 (a) introductory text and (b) introductory text revised 36265
(b) amended 36453
203.380 (a)(1)(i) revised 36265
(a)(1)(iii) amended 36453
203.390 (b)(1) revised 36265
203.402 (f), (p) and (s) revised; interim 35018
(b), (c) and (k)(1) revised 36266
(g)(1) heading and (2) heading amended 36453
203.402a (b)(1) removed; (b)(2) and (3) redesignated as (b)(1) and (2); interim 35019
203.404 (a)(3) revised; (a)(5) and (6) added; interim 35019
203.412 Added; interim 35019
203.414 Added; interim 35019
203.423 (a)(1) amended 36453
203.436 Undesignated center heading added 36266
203.438 (c) revised; interim 35019
203.471 Revised; interim 35019
203.473 (a) revised; interim 35019
203.500 Revised; interim 35019
203.501 Amended; interim 35019
203.502 (a) amended; (b) revised 36266
203.552 (a) introductory text revised; interim 35019
203.604 (e)(2)(iii) and (iv) removed; (e)(2)(v) redesignated as (e)(2)(iii); interim 35019
(b) amended 36266
203.605 Added; interim 35019
203.606 (a) amended; (b) introductory text revised; interim 35020
203.614 Revised; interim 35020
203.616 Revised; interim 35020
203.640 Removed; interim 35020
203.641 Removed; interim 35020
203.642 Removed; interim 35020
203.643 Removed; interim 35020
203.644 Removed; interim 35020
203.645 Removed; interim 35020
203.646 Removed; interim 35020
203.647 Removed; interim 35020
203.648 Removed; interim 35020
203.649 Removed; interim 35020
203.650 Removed; interim 35020
203.651 Removed; interim 35020
203.652 Removed; interim 35020
203.653 Removed; interim 35020
203.654 Removed; interim 35020
203.656 Removed; interim 35020
203.658 Removed; interim 35020
203.659 Removed; interim 35020
203.660 Removed; interim 35020
203.664 Revised; interim 35020
203.665 Revised; interim 35020
203.666 (b) revised; (c) and (d) removed; interim 35020
203.670 (a) revised 36266
203.679 (b)(4) revised 36266
203.685 Removed 36266
206.1 Revised 49032
206.3 Amended 36266, 49032
206.8 Added 49033
206.9 (b) heading revised 36266
(a) revised 49033
206.13 Removed 36266
206.17 (a) revised 36266
206.19 (c) revised 49033
206.25 (d) revised 49033
206.26 (d) revised 49033

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206.27 (c)(1) and (d) revised 49033
206.33 Revised 49033
206.35 Amended 49033
206.41 (b) revised 49033
206.43 Removed 49033
206.45 (b) amended 36266
(e) added 49033
Corrected 55188
206.47 (c) amended 49033
206.51 Revised 26984
206.115 Removed 49033
206.117 Revised 49033
206.119 Removed 49034
206.121 (c) amended 36266
(b) and (c) amended 49034
206.125 (d)(3) revised 49034
206.129 (d)(2)(i) and (ii) revised; interim 35020
206.133 (f) revised 49034
206.209 Revised 49034
207.258b (e) added 49037
207.259 (b)(2)(v) added 49038
221 Authority citation revised 37801
Technical correction 42786
221.45 Revised 36266
221.70 (a)(2) amended 36453
221.251 (a) amended 37801
233 Authority citation revised 36266
233.5 (a) introductory text and (b) revised 36267
234.1 (n) revised 36267
234.11 Added 36267
234.16 (d) added 36267
234.25 (b) revised 36267
234.26 (i) added 26984
234.52 (c) revised 36267
234.54 Added 36267
234.67 Removed 36267
234.70—234.79 Undesignated center heading removed 36267
234.70 Revised 36267
234.85 (a)(2) amended 36453
236.3 Added 54503
247 Authority citation revised 47381
247.2 Amended 47382
247.3 (a)(2) and (b) amended; (a)(3) redesignated as (a)(4); new (a)(3) added 47382
247.4 (c) amended 47382
251.3 Revised 49038
251.4 Removed 49038
251.5 Removed 49038
252.3 Revised 49038
252.4 Removed 49038
Correctly removed 51319
252.5 Removed 49038
Correctly removed 51319
255.3 Revised 49038
255.4 Removed 49038
255.5 Removed 49038
280.1—280.5 (Subpart A) Heading removed 42953
280.1 (a) revised 42953
280.5 Amended 42953
280.10 Redesignated from 280.100 and revised 42953
280.15 Redesignated from 280.103 42953
280.20 Redesignated from 280.115 42953
280.25 Redesignated from 280.207 42953
280.30 Redesignated from 280.303 42953
280.35 Redesignated from 280.305; introductory text revised 42953
280.40 Redesignated from 280.315 42953
280.45 Redesignated from 280.320; (a)(2) and (b)(2) revised 42953
280.50 Redesignated from 280.322 42953
(a)(4) and (6) revised 42954
280.55 Redesignated from 280.330 42954
280.60 Redesignated from 280.335 42954
280.100—280.103 (Subpart B) Heading removed 42953
280.100 Redesignated as 280.10 42953
280.103 Redesignated as 280.15 42953
280.105—280.115 (Subpart C) Heading removed 42953
280.105 Removed 42953
280.110 Removed 42953
280.115 Redesignated as 280.20 42953
280.200—280.225 (Subpart D) Heading removed 42953
280.200 Removed 42953
280.205 Removed 42953
280.207 Redesignated as 280.25 42953
280.210 Removed 42953
280.215 Removed 42953
280.220 Removed 42953
280.225 Removed 42953
280.300 Removed 42953
280.303 Redesignated as 280.30 42953
280.305 Redesignated as 280.35 42953
280.315 Redesignated as 280.40 42953
280.320 Redesignated as 280.45 42953
280.322 Redesignated as 280.50 42953

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280.330 Heading and (c)(2) revised 36267
Redesignated as 280.55 42954
280.335 Redesignated as 280.60 42954
290 Heading and authority citation revised 32265
290.30 Second (c)(2) removed 19188
(a) amended 32265
290.37 (b) revised 32265
290.39 (c)(2) revised 32265
291.1—291.5 (Subpart A) Revised 55711
291.100—291.150 (Subpart B) Revised 55712
291.100 (a)(3) amended; (a)(4) introductory text revised 36267
291.105 (e) and (h)(2) amended 36267
291.110 (b)(1) amended 36268
291.115 (b)(2) revised 36268
291.200 (Subpart C) Revised 55714
291.300—291.307 (Subpart D) Regulation at 60 FR 45333 eff. date extended 43966
291.400 Revised (OMB number) 55714
291.405 Removed 55714
291.410 Removed 55714
291.415 Revised 55715
291.420 Removed 55714
291.425 Removed 55714
291.435 Revised 55715
291.440 Revised 55716

Chapter V—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)

570.405 (e)(4) revised (OMB number pending) 32269
570.415 (c)(1)(i)(C), (d)(2)(i)(D) and (k)(3)(iii) removed; (d)(2)(i)(E) through (I) and (k)(3)(iv) redesignated as (d)(2)(i)(D) through (H) and (k)(3)(iii); (a), (b), (c)(1)(i)(A), (B), (2), (d)(1)(i)(A), (B), (ii), (iii), (2)(i)(A), new (E), (f)(1), (2)(1), (g)(i)(ii), (iii), (2)(ii), (3)(i), (ii), (i)(1)(iii), (2) and (k)(3)(ii) revised 36458
570.430 (f) added (OMB number pending) 32269
570.480 (b) revised; interim 54921
570.482 (d)(1) and (2) amended; (d)(3), (f)(3)(v)(L) and (M) added; interim 54921
570.483 (b)(1)(iv), (2)(iii) and (3) introductory text revised; (e)(5) redesignated as (e)(6); (b)(1)(v), (3)(iii) and new (e)(5) added; (b)(2)(ii)(A), (4)(vi)(D), (E), (F)(2) and new (e)(6) amended; interim 54921
570.485 Heading revised; (c) added; interim 54922
570.486 (a) introductory text amended; interim 54922
570.487 (e) added; interim 54922
570.489 (e)(3) introductory text amended; (k)(1) redesignated as (l); (k)(2) removed; interim 54922
570.493 (a)(1) and (b) amended; interim 54922
570.507 (a)(2) heading revised 32269
570.606 (c) revised 51760
572.1 (a) designation, heading and (b) removed 48797
572.5 Regulation at 60 FR 36018 confirmed; amended 48797
572.110 (b)(1) amended 48797
572.115 (a)(2) revised 48797
572.120 Regulation at 60 FR 36018 confirmed 48797
572.130 (d)(3) and (4) amended 48798
572.135 Regulation at 60 FR 36018 confirmed 48797
572.140 Revised 48798
572.200 Revised 48798
572.205 Revised 48798
572.210 Regulation at 60 FR 36018 confirmed 48797
(a) and (f) revised; (e) removed 48798
572.220 Regulation at 60 FR 36018 confirmed 48797
(a)(1) and (b)(1)(ii)(C) revised; (a)(3) added; (b)(2)(i) and (ii) amended 48798
572.315 Revised 48798
572.420 (b) and (h) revised; (c) and (d) removed 48798
573 Added 47405
573.6 OMB number pending 47406
573.7 OMB number pending 47406
573.8 OMB number pending 47407
573.11 OMB number pending 47408
576.1 Revised 51548
576.3 Amended 51548

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576.5 Added 51549
576.21 Revised 51549
576.22 Redesignated as 576.23 51549
576.23 Redesignated as 576.25; new 576.23 redesignated from 576.22 and revised 51549
576.25 Redesignated from 576.23 51549
Revised 51550
576.31 Redesignated from 576.51 and revised 51550
576.33 Redesignated from 576.53 and amended 51550
576.35 Redesignated from 576.55; (a)(1), (b) and (c) revised 51550
576.41—576.45 (Subpart D) Removed 51550
576.41 Redesignated from 576.61; heading, (b), (c) heading, (d)(1), (2), (e), (f) and (g) revised 51551
576.43 Redesignated from 576.63; heading, (a), (b), (d) introductory text, (2), (f), (g) and (h) revised; (c) and (e) introductory text amended 51551
576.45 Redesignated from 576.67; (c)(1), (9) and (d) amended; (c)(2) and (3) redesignated as (c)(3) and (4); new (c)(2) added; new (c)(3), new (4), (f) heading and (2) revised 51551
576.51—576.55 (Subpart E) Redesignated as Subpart C 51550
576.51 Redesignated as 576.31 51550
Redesignated from 576.71 and revised 51552
576.52 Removed 51550
576.53 Redesignated as 576.33 51550
Redesignated from 576.73; (a) and (b) introductory text revised 51552
576.55 Redesignated as 576.35 51550
Redesignated from 576.75 and revised 51552
576.56 Redesignated from 576.77 and revised 51552
576.57 Redesignated from 576.79; (e) and (f) revised; (h) redesignated as (j); new (h) and (i) added 51552
576.59 Redesignated from 576.80 51553
576.61 Redesignated as 576.41 51551
Redesignated from 576.81; introductory text amended; (a) and (b) added 51553
576.61—576.67 (Subpart F) Redesignated as Subpart D 51550
576.63 Redesignated as 576.43 51551
Redesignated from 576.83 and amended 51553
576.65 Redesignated from 576.65 and revised 51553
576.67 Redesignated as 576.45 51551
Redesignated from 576.89; (b) and (c) amended 51553
576.71—576.80 (Subpart G) Redesignated as Subpart E 51550
576.71 Redesignated as 576.51 51552
576.73 Redesignated as 576.53 51552
576.75 Redesignated as 576.55 51552
576.77 Redesignated as 576.56 51552
576.79 Redesignated as 576.57 51552
576.80 Redesignated as 576.59 51553
576.81—576.89 (Subpart H) Redesignated as Subpart F 51550
576.81 Redesignated as 576.61 51553
576.83 Redesignated as 576.63 51553
576.87 Redesignated as 576.65 51553
576.89 Redesignated as 576.67 51553
582 Authority citation revised 51169
582.1 (a) amended; (b) revised 51169
582.5 Revised 51169
582.105 (a) and (d)(2) amended 51170
582.120 Regulation at 59 FR 24253 confirmed 48056
582.200 Regulation at 59 FR 24253 confirmed 48056
Revised (OMB number) 51170
582.205 Regulation at 59 FR 24254 confirmed 48056
582.210 Regulation at 59 FR 24254 confirmed 48056
582.215 Regulation at 59 FR 24254 confirmed 48056
582.220 Regulation at 59 FR 24254 confirmed 48056
582.225 Regulation at 59 FR 24254 confirmed 48056
582.230 Revised 51170
582.300 (a)(1) amended 51171
582.305 (a) amended 51171
582.310 (a) revised 51171
582.340 (a)(1) and (b)(2)(i) revised; (b)(2), (3) introductory text and (iv) amended 51171
583.1 (a) amended 51175
583.5 Revised 51175
583.125 (b) revised 51175

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583.135 (b) revised 51175
583.200 Revised 51176
583.230 Revised 51176
583.300 (f) revised 51176
583.305 Revised 51176
583.325 (b) revised 51176
583.405 (a)(1) amended 51176
585.2 Revised 52187
585.4 Amended 52187
585.306 (m)(1) and (2) added; interim 25125
(m)(1) and (2) removed 52187
585.309 (e) revised 52187
585.310 (a) revised 52187
585.312 Revised 52187
586.1 Regulation at 60 FR 42975 eff. date extended 45322
586.5 Regulation at 60 FR 42975 eff. date extended 45322
586.10 Regulation at 60 FR 42976 eff. date extended 45322
586.15 Regulation at 60 FR 42976 eff. date extended 45322
586.20 Regulation at 60 FR 42977 eff. date extended 45322
586.25 Regulation at 60 FR 42978 eff. date extended 45322
586.30 Regulation at 60 FR 42978 eff. date extended 45322
586.35 Regulation at 60 FR 42979 eff. date extended 45322
586.40 Regulation at 60 FR 42979 eff. date extended 45322
586.45 Regulation at 60 FR 42980 eff. date extended 45322
586.50 Removed; interim 45321

Chapter VII—Office of the Secretary, Department of Housing and Urban Development (Housing Assistance Programs and Public and Indian Housing Programs) (Parts 700—799)

700 Revised 42943, 42949

Chapter VIII—Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Section 202 Direct Loan Program) (Parts 800—899)

813 Removed 54503
880.201 Amended 47382
880.607 (b)(1)(ii), (2) and (c)(2) amended; (b)(1)(iii) redesignated as (b)(1)(iv); new (b)(1)(iii) added 47382
882.406 Revised (OMB number) 48056
882.801—882.810 (Subpart H) Revised 48057
882.802 Regulations at 58 FR 13831 and 61 FR 5851 confirmed 48056
882.803 Regulations at 58 FR 13831 and 61 FR 5851 confirmed 48056
882.804 Regulations at 58 FR 13831 and 61 FR 5851 confirmed 48056
882.805 Regulations at 58 FR 13831, 59 FR 24255 and 61 FR 5851 confirmed 48056
882.806 Regulation at 58 FR 13833 confirmed 48056
882.808 Regulations at 58 FR 13833 and 61 FR 5852 confirmed 48056
884.102 Amended 47382
884.216 Existing text designated as (a); (b) added 47382
888 Fair market rent schedules 49576

Chapter IX—Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—999)

901.10 (b)(4) revised 35634

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913 Removed 54503
913.106 (d) and (e) redesignated as (e) and (f); new (d) added; interim 46346
941 Comment period extention 35958
941.101 Revised (OMB number pending); interim 38016
941.102 Revised; interim 38016
941.103 Amended; interim 38017
941.201 (a) amended; (c) redesignated as (d); new (c) added; interim 38017
941.202 (c)(3) added 19714
(c) introductory text, (1) introductory text, (i), (ii) and (2) redesignated as (c)(1) introductory text, (i) introductory text, (A), (B) and (ii); new (c)(2) added; (c)(3) removed; (f) amended; interim 38017
941.203 Revised; interim 38017
941.204 Removed; interim 38018
941.205 Revised (OMB number pending); interim 38018
941.206 Removed; interim 38018
941.208 Revised; interim 38018
941.301—941.306 (Subpart C) Revised; interim 38018
941.301 OMB number pending 38018
941.303 OMB number pending 38018
941.304 OMB number pending 38018
941.401—941.404 (Subpart D) Revised; interim 38020
941.404 OMB number pending 38021
941.501 (Subpart E) Revised; interim 38021
941.600—941.616 (Subpart F) Added 19714
941.602 (a) revised; interim 38022
941.606 OMB number pending 19715
941.610 OMB number pending 19716
950.102 Amended; interim 46346
Amended 54503
950.103 Removed 54504
950.190 (e) amended 50219
950.705 (c) added; interim 51182
950.715 (b)(2) amended; interim 51182
950.720 (e) redesignated as (e)(1); (e)(2) added; interim 51182
950.725 (b)(1) redesignated as (b)(1)(i); (b)(1)(ii) added; (b)(2) revised (OMB number pending); interim 51182
950.730 (c)(1)(i) amended; interim 51182
950.756 Added (OMB number pending); interim 51182
950.757 Added (OMB number pending); interim 51182
953 Revised 40090
954 Added; interim 32295
960.208 Revised 54504
965.205 (e) amended 50219
970.2 (a)(9) and (10) amended; (a)(11) and (12) added 19719
982.54 (d)(1), (15) and (16) amended; (d)(17), (18) and (19) added 27163
982.158 (d) revised 27163
982.202 (a) heading revised; (b)(2) amended 27163
982.205 Heading and (a)(1) revised 27163
982.301 (b)(4) removed; (b)(5) through (17) redesignated as (b)(4) through (16); new (b)(10) amended 27163
982.307 (b)(1)(i) amended 27163
982.353 (b) amended 27163
(a) and (f) revised 42131
982.355 (b)(2) and (e)(4) revised; (b)(3) added; (e)(3) and (5) amended 27163
982.401 (j)(3)(iv)(B) revised 27163
982.451 (c)(5) added 27163
982.551 (h)(2) amended 27163
983.203 (a)(5) amended 27163
990.104 (c) added; interim 51183
990.107 (b)(2) amended; interim 51183
990.108 (d) redesignated as (d)(1); (d)(2) added; interim 51183
990.109 (b)(1) redesignated as (b)(1)(i); (b)(1)(ii) added; (b)(2) revised (OMB number pending); interim 51183
990.110 (c)(1) amended; interim 51183
990.114 Added (OMB number pending); interim 51183
990.116 Added (OMB number pending); interim 51183

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Chapter XX—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200—3899)

3282 Authority citation revised 50219
3282.10 Amended 50219
3500 Policy statement 29254, 29258, 29264, 49398
Authority citation revised 46510, 50219
3500.2 (b) amended 29252
Regulation at 61 FR 29252 eff. date delayed 51782
3500.8 (c)(2) amended 29252
Regulation at 61 FR 29252 eff. date delayed 51782
3500.14 (b) amended; (g) heading and (1) amended 29252
Regulation at 61 FR 29252 eff. date delayed 51782
3500.15 (b)(1) introductory text revised 29252
Regulation at 61 FR 29252 eff. date delayed 51782
3500.17 (b), (c)(1)(i) and (d)(1)(ii) amended 29252
(b) and (c)(4)(i) amended 46510
(m) revised; (n)(1) and (4)(iii) amended 50219
Regulation at 61 FR 29252 eff. date delayed 51782
3500 Appendix B amended 29253
Appendix D revised 29254
Appendix D correctly revised 41944
Regulations at 61 FR 29253, 29254 and 41944 eff. date delayed 51782

Proposed Rules:

0 30013
10 42722
35 29170
36 29170
37 29170
42 53341
92 53341
206 21918
215 53341
219 53341
221 53341
236 53341
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574 53341
576 53341
582 53341
583 53341
585 53341
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885 53341
886 53341
888 20982
889 53341
890 53341
900—999 (Ch. IX) 39812, 42939
901 50358
906 53341
941 53341
950 53341
968 53341
970 53341
983 53341
3500 ..... 21394, 46511

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior (Parts 1—299)

10 Added 34374
63 Added 32274
63.15 OMB number pending 32274
63.33 OMB number pending 32274
63.34 OMB number pending 32274
65 Removed 27780
66 Removed 27780
76 Removed 27780
151.12 Existing text designated as (a); (b) added 18083
211 Revised 35653
212 Revised 35661
271 Removed 49060
272 Removed 49060
274 Removed 49060
277 Removed 49060
278 Removed 49060

Chapter II—Indian Arts and Crafts Board, Department of the Interior (Parts 300—399)

309 Added 54555

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TITLE 25

Chapter IV—Office of Navajo and Hopi Indian Relocation (Parts 700—799)

700.801—700.839 (Subpart R) Added; interim 35667

Chapter V—Bureau of Indian Affairs, Department of the Interior, and Indian Health Service, Department of Health and Human Services (Parts 900—999)

Chapter V Established 32501

Chapter VI—Office of the Assistant Secretary—Indian Affairs, Department of the Interior (Parts 1000—1099)

1001.7 Added 17831
1001.8 Added 17832
1001.9 Added 17832
1001.10 Added 17832

Proposed Rules:

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1 27821
2 31875
5 36671
11 35158
12 35163
21 33876
45 34399
92 39606
142 31470
144 24731
150 27822
152 34400
154 30559
161 29327
162 30560
166 27824
169 37417
171 35167
175 29040
214 41365
215 44019
217 27831
250 19600
256 36829
271 27833
272 27833
274 27833
277 27833
278 27833
290 ..... 29044, 37022
291 25604
525 21394

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury (Parts 1—799)

1 Authority citation amended 17573, 18676, 19189, 27259, 30138, 33314, 33322, 33336, 42169
Authority citation corrected 39072, 40993, 47821
1.62–2 (h)(1) amended 27005
1.132–5 (s) and (t) added 27006
1.163–7 (a) amended 30138
1.166–3T Added 32654
1.168(h)–1 Added 18676
1.168(i)–2 Added 18677
1.274–1 Amended 27006
1.274–2 Heading, (f)(2)(i) heading and (iii) revised; (c)(6) amended; (g) added 27006
1.351–1 (a)(3) added 19189
(c)(6) redesignated as (c)(7); new (c)(6) added 19544
1.367(e)–0 Removed 42169
1.367(e)–0T Added 42169
1.367(e)–1 Removed 42169
1.367(e)–1T Added 42169
1.382–1 Amended 33314
1.382–2 (a)(1)(iv) added; (f)(18)(i) redesignated as (a)(3)(i); (a)(1)(iii) and new (3)(i) amended 33315
1.382–2T (e)(2)(iv) Example 1, 2, (f)(4), (5), (18)(i) and (h)(2)(i)(A) amended; (f)(1) redesignated as (f)(1)(i); new (f)(1)(i) heading, (ii) and (iii) added 33315
1.382–5T Added 33316
1.382–8T Added 33316
1.401(a)–4 Amended 14247
1.446–4 (a)(2)(ii) and (iii) redesignated as (a)(2)(iii) and (iv); new (a)(2)(ii) added; (e)(4) amended 30138
1.469–1 (h)(2) amended 33322
1.469–5T (d)(A) and (B) redesignated as (d)(1) and (2) 14247
1.482–0 Amended 21956

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1.482–7 (c)(2) and (3) removed; (c)(4), (5), (j)(2) introductory text and (i) through (v) redesignated as (c)(2), (3) and (j)(2)(i) introductory text and (A) thorugh (E); (c)(1)(i), new (2)(ii) and (f)(3)(iii)(E) Example 8 revised; (c)(1)(iv), new (j)(2)(i) heading and (ii) added; (f)(3)(ii) and new (j)(2)(i) amended 21956
Corrected 33656
1.483–2T Removed 30138
1.483–4 Added 30138
1.584–2 (b)(1) and (2) designation removed 19546
1.584–4 (a)(1) and (2) removed; (a) amended; (e) added 19546
(a) corrected 39072
1.597–2 (c)(5) amended 33322
1.597–4 (g)(3) amended 33322, 33323
1.671–4 (a) amended 19191
1.677(a)–1 (d) amended 19191
1.721–1 (c) added 19189
1.882–0 Corrected 15891
1.882–5 (a)(6); (8) *Example 1*, (b)(3), (c)(2)(i) and (d)(6) corrected 15891
1.884–1 (e)(5) *Example 1* corrected 14247
1.884–5 (e)(4)(ii) corrected 14248
1.897–1 (f)(1)(iii) corrected 14248
1.904(f)–3 (a) and (b) amended 33323
1.936–6 (b)(1) amended 21367
(b)(1) corrected 39072
1.1001–1 (g) revised 30139
1.1001–3 Added 32930
(g) Example 5 corrected 47822
1.1001–4T Added 32654
1.1012–1 (g) revised 30139
1.1254–0 Amended 53063
1.1254–2 (d)(1)(ii) revised 53063
1.1254–3 (b)(1)(i), (ii), (d)(1)(i) and (ii) revised 53063
1.1254–4 Added 53063
1.1254–6 Amended 53066
1.1271–0 (b) amended 30139
1.1272–1 (b)(2)(ii), (c) and (d) revised; (f)(2) and (j) Examples 5 and 7 amended 30140
1.1273–1 (a) amended; (c)(1)(ii) and (f) Example 4 revised 30141
1.1274–2 (e) amended; (g) revised; (j) added 30141
1.1275–2 (g), (h) and (j) added 30142
1.1275–2T Removed 30143
1.1275–3 (b)(1)(i) revised 30143
1.1275–4 Added 30143
1.1275–5 (a)(1), (b)(2), (c)(1), (5), (d) introductory text, Examples 4 through 9, (e)(2) and (3)(v) introductory text revised; (a)(3)(i) introductory text, (ii), (c)(3)(ii) and (e)(3)(v) Example 3 amended; (a)(5), (6) and (d) Example 10 added 30153
1.1275–6 Added 30155
1.1341 (f)(2)(i) amended 33323
1.1394–0 Added 27259
1.1394–1 Added 27259
1.1501–1 Removed 33325
1.1502–0 Revised 33325
1.1502–0A Removed 33325
1.1502–1 (b), (f)(1) and (2) introductory text revised; (f)(4) and (j) added 33325
1.1502–1A Removed 33325
1.1502–2 (h) revised 33326
1.1502–2A Removed 33325
1.1502–3A Removed 33325
1.1502–9 (a) and (f) Example 5 33323
1.1502–10A Removed 33325
1.1502–11 (a)(2), (3), (4) and (b)(2)(iii) Examples 1, 2 and 3 33323
(c) redesignated from 1.1502–15(b); new (c) heading added 33326
1.1502–11A Removed 33325
1.1502–12 (b) amended 33323
1.1502–12A Removed 33325
1.1502–13 (c)(7)(ii) Example 10, (g)(5) Example 4 and (h)(2) Examples 1 and 2 33323
1.1502–13A Removed 33325
1.1502–14A Removed 33325
1.1502–15 (a)(1) and (3) amended 33323
(b) redesignated as 1.1502–11(c); redesignated as 1.1502–15A 33326
1.1502–15A Removed 33325
Redesignated from 1.1502–15; heading revised; (b) added 33326
1.1502–15T Added 33326
1.1502–16A Removed 33325
1.1502–17A Removed 33325
1.1502–18 (f)(1)(ii), (iii), (2)(i), (ii), (4) Example and (5) 33323
1.1502–18A Removed 33325
1.1502–19A Removed 33325

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1.1502–20 (a)(1), (c)(4) Example 7 and (g)(3) Examples 1 and 2 amended 33323
1.1502–21 (b)(1), (2)(i) and (e)(1)(i) amended 33323
Redesignated as 1.1502–21A 33326
1.1502–21A Redesignated from 1.1502–21; heading revised; (d)(4), (e)(3) and (h) added 33328
1.1502–21T Added 33328
1.1502–22 (a)(1)(ii), (3) and (b)(1) amended 33323
Redesignated as 1.1502–22A 33333
1.1502–22A Redesignated from 1.1502–22; heading revised; (d)(3) and (e) added 33333
1.1502–22T Added 33333
1.1502–23 Amended 33323
Redesignated as 1.1502–23A 33334
1.1502–23A Redesignated from 1.1502–23; heading revised; existing text redesignated as (a); (b) added 33334
1.1502–23T Added 33334
1.1502–26 (a)(1)(ii) amended 33323
1.1502–30A Removed 33325
1.1502–31A Removed 33325
1.1502–32 (b)(5) Example 2 amended 33323
1.1502–32A Removed 33325
1.1502–33A Removed 33325
1.1502–34A Removed 33325
1.1502–35A Removed 33325
1.1502–36A Removed 33325
1.1502–37A Removed 33325
1.1502–38A Removed 33325
1.1502–39A Removed 33325
1.1502–40A Removed 33325
1.1502–41 (a) and (b) amended 33323
Redesignated as 1.1502–41A 33334
1.1502–41A Removed 33325
Redesignated from 1.1502–41; heading revised; (c) added 33334
1.1502–42 (f)(4)(i)(A) and (j) Example 4 33324
1.1502–42A Removed 33325
1.1502–43 (b)(2)(v) through (viii) amended 33324
1.1502–43A Removed 33325
1.1502–44 (b)(2) and (3) amended 33324
1.1502–44A Removed 33325
1.1502–45A Removed 33325
1.1502–46A Removed 33325
1.1502–47 (h)(2)(i) through (iv), (vii) Example, (3)(iii), (iv), (v), (4)(i), (ii), (iii), (k)(5), (l)(3)(i), (m)(2)(ii), (3)(i), (vi)(A), (vii), (ix), (5) Example 4, (o)(2)(i), (ii) and (q) amended 33324
1.1502–47A Removed 33325
1.1502–48A Removed 33325
1.1502–49A Removed 33325
1.1502–50A Removed 33325
1.1502–51A Removed 33325
1.1502–78 (a) amended 33324
1.1502–79 (a)(1)(i) and (b)(1) amended 33324
(c)(1), (d)(1) and (e)(1) amended 33325
(a) and (b) redesignated as 1.1502–79A(a) and (b); new (a) and new (b) added 33334
1.1502–79A Added; (a) and (b) redesignated from 1.1502–79A(a) and (b) 33334
1.1502–80 (c) amended 33325
1.1502–90T Added 33336
1.1502–91T Added 33337
1.1502–92T Added 33341
1.1502–93T Added 33351
1.1502–94T Added 33352
1.1502–95T Added 33355
1.1502–96T Added 33362
1.1502–98T Added 33364
1.1502–99T Added 33364
1.1502–100 (c)(2) amended 33325
1.1503–2 (d)(2)(i), (ii), (4) Examples 1 and 2, (g)(2)(vii)(B)(1), (2), (E), (G) Examples 1 and 2 and (h)(3) amended 33325
1.1503–2A (f)(1)(i) introductory text, (C), (2)(i), (ii) and (4) Example 2 amended 33325
1.1552–1 (a)(3)(i) and (b)(1) amended 33325
1.6038B–1T (b)(2)(i) amended; (e) added 42177
1.6045–1 (q) amended 53060
1.6045–1T Added 53060
1.6045–2 (i) amended 53060
1.6045–2T Removed 46720
Added 53060
1.6049–4 (b)(1), (2) introductory text, (3), (4) amended; (b)(5) added; authority citation removed 17573
1.6049–5 (b)(1) introductory text revised; (c) amended; authority citation removed 17573

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1.6049–6 (e)(4) redesignated as (e)(5); new (e)(4) revised.....17574
(e)(4) corrected 40993
1.6049–8 Added.....17574
1.6662–0 Corrected 14248
1.6662–5T (e)(4)(iii) corrected 14248
1.6662–6 (d)(2)(iii)(A), (D) and (e) *Example* corrected.....14248
26.2601–1 (b)(1)(v)(D) Examples 2, 4, 5, (4)(i) and (c) corrected; (b)(3)(iii) introductory text, (A) introductory text, (*1*), (*2*), (B) and (C) correctly designated as (b)(3)(iii)(A) introductory text, (*1*) introductory text, (*i*), (*ii*), (*2*) and (*3*); new (b)(3)(iii)(A)(*3*) and (B) correctly added 29653
(b)(3)(iii)(B) amended 43656
26.2612–1 (a)(2)(ii) and (b)(1)(i) corrected 29653
26.2632–1 (d)(1) corrected 29654
26.2642–2 (b)(3)(ii)(B) corrected.....29654
26.2642–4 (a)(3) and (b) Example 5 corrected 29654
26.2642–5 (b)(1) amended 43656
26.2652–1 (a)(2) and (6) Examples 1 and 5 corrected 29654
26.2654–1 (a)(1)(ii)(A), (5) Examples 5, 8, (b)(1)(ii)(A) and (ii)(C)(*1*) corrected 29654
(a)(1)(ii)(B) revised 43656
26.2662–1 (c)(2)(vi) Example 1 corrected 29654
26.2663–2 (c)(2), (d) Example 3 and (e) corrected 29654
31 Authority citation amended 27008
Technical correction 40993
31.3406(g)–1 (d) added.....17574
31.6011(a)–4 (b) amended.....27008
31.6011(a)–4T Removed 27008
48.4101–1 (f)(3)(ii)(D) corrected 28053
301 Authority citation amended 26790, 33367
301.6011–2T Added 53060
301.6109–1 (a)(1), (b), (c), (d)(2), (f), (g) and (h) revised; (d)(3) and (4) added 26790
(d)(3)(iv)(A)(*1*) correctly revised; (h)(1) corrected.....33657
301.6231(a)(7)–1 Redesignated as 301.6231(a)(7)–1T 37683
301.6231(a)(7)–1T Redesignated from 301.6231(a)(7)–1 37683
301.6402–7 (g)(2)(iii), (3) Example 2 and (h)(1)(ii) Example amended 33325
301.7503–1 (a) amended; (b) revised; (c) removed 42179
301.7701–4(e) Added.....19191
301.9100–1T Added 33367
301.9100–2T Added 33368
301.9100–3T Added 33368
602 Technical correction 40993
602.101 (c) table corrected (OMB numbers) 14248
(c) table amended (OMB numbers).....17574, 19192, 26792, 27008, 30159, 33321, 33335, 33365, 33370, 42178, 46720, 53066

Proposed Rules:

1 .....14517, 15204, 15743, 17614, 20503, 20766, 20767, 21985, 21988, 27036, 27833, 27834, 28118, 28821, 30845, 31426, 31473, 31474, 32728, 35696, 36320, 39104, 42217, 42401, 43695, 44023, 44024, 48656, 49279, 49715, 50778, 51256, 52902, 53161, 53688
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26 29714
31 .....17614, 20767, 28823, 36320, 42401
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514.....17614, 28823, 42401
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TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

Chapter I—Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury (Parts 1—299)

1 Revised 26097
1.3 (b) removed; (c) redesignated as (b); new (b) revised 20723
2 Removed 26097

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3 Removed 26097
4.3 (b) removed; (c) redesignated as (b) 20723
4.21 (g)(1) amended 20723
5.3 (b) removed; (c) redesignated as (b) 20723
7.3 (b) removed; (c) redesignated as (b) 20723
9.84 (c) revised 29953
9.152 Added 29952
16 Authority citation revised 54936
16.22 (d) removed 20723
16.33 Added 54936
17 Added 31412
18.13 OMB number 37003
18.14 OMB number 37003
18.16 (b) removed; (c) redesignated as (b) 20723
18.17 OMB number 37003
18.21 OMB number 37003
18.22 OMB number 37003
18.24 OMB number 37003
18.26 OMB number 37003
18.27 OMB number 37003
18.31 OMB number 37003
18.32 OMB number 37003
18.33 OMB number 37003
18.34 OMB number 37003
18.35 OMB number 37003
18.36 OMB number 37003
18.37 OMB number 37003
18.38 OMB number 37003
18.51 OMB number 37003
18.52 OMB number 37003
18.54 OMB number 37003
18.55 OMB number 37003
18.56 OMB number 37003
18.61 OMB number 37003
18.62 OMB number 37003
18.63 OMB number 37003
18.65 OMB number 37003
19.57 Undesignated center heading and section added 31425
19.58 Added 31425
19.61 (b) removed; (c) redesignated as (b); new (b) revised 20724
19.69 Removed 31426
19.534 Revised 20724
19.581 (a) amended 20724
19.592 Amended 20724
19.780 (c)(4) and (5) revised 31426
20.21 (b) removed; (c) redesignated as (b) 20724
21.2 (b) removed; (c) redesignated as (b) 20724
22.21 (b) removed; (c) redesignated as (b) 20724
24.20 (b) removed; (c) redesignated as (b) 20724
24.65 (c) revised 31030
24.67 (b) and (c) revised 31030
24.246 (b) table amended 21079
24.248 Amended 21079
24.295 (a) revised 31030
25.3 (b) removed; (c) redesignated as (b) 20724
25.221 (a) amended 20724
30 Authority citation revised 37003
30.22 Amended 37003
30.23 Amended 37004
30.24 (a) amended 37004
30.32 (c) amended 37004
30.43 Amended 37004
30.51 Amended 37004
47 Policy statement 18678
53.3 Revised 37005
53.21 (b) removed; (c) and (d) redesignated as (b) and (c) 20724
53.103 Heading amended 20724
53.131 (a)(5) amended 37005
53.132 (c)(2)(i) revised; (c)(2)(iii) added 37005
53.133 (b) introductory text amended 20724
(d)(2) revised; (d)(4) added 37006
53.134 (d)(2)(iii) revised; (d)(2)(iv) added 37006
53.135 (c)(1) revised; (c)(3) added 37006
53.179 (b)(1)(iii) revised; (b)(1)(iv) added 37006
55 Authority citation revised 38085
55.11 Amended 38085
55.21 (b) removed; (c) redesignated as (b) 20724
55.181 (Subpart J) Added 38085
70 Authority citation revised 31030, 31426
70.1 (e) and (f) added 29955
Revised 31031
70.2 Added 31031
70.11 Amended 29955
70.321 (a) amended 31426
70.411 (c)(2) revised 31031
(c)(2)(v) and (vii) removed; (c)(2)(vi) redesignated as (c)(2)(v); new (c)(2)(vi) added; (c)(17) amended 31426
70.414 (a) and (g) revised 31031
(j) revised 31426

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70.501—70.509 (Subpart F) Added 31031
70.601—70.610 (Subpart G) Added 31033
70.701—70.702 (Subpart H) Heading added 29955
70.701 Redesignated from 71.41; (a)(1), (d)(1) and (2)(i)(B) amended 29955
70.702 Redesignated from 71.42; (a) amended 29955
70.801—70.803 (Subpart I) Heading added 29955
70.801 Added 29955
70.802 Redesignated from 71.26 29955
(a), (d), (f) and (g) amended 29956
70.803 Redesignated from 71.27 29955
71 Removed 29956
71.26 Redesignated as 70.802 29955
71.27 Redesignated as 70.803 29955
71.41 Redesignated as 70.701 29955
71.42 (c)(1) removed; (c)(2) redesignated as (c) 20724
Redesignated as 70.702 29955
170 Authority citation revised 31035, 31426
170.21—170.28 (Subpart B) Removed 20724
170.60—170.79 (Subpart D) Removed 20724
170.85—170.100 (Subpart E) Removed 31035
170.101—170.119 (Subpart F) Removed 20724
170.301—170.311 (Subpart O) Removed 31035
170.611—170.618 (Subpart U) Removed 31426
178.21 (b) removed; (c) redesignated as (b) 20724
178.40a (b)(1) amended 39321
178.57 (c) amended 39321
178.92 (c)(1) introductory text and (iii) amended 39321
178.116 Revised 39321
178.119 Revised 39322
179.21 (b) removed; (c) redesignated as (b) 20725
194 Authority citation revised 31426
194.33 (b) revised 31426
194.41 (b) removed; (c) redesignated as (b) 20725
194.191 (a) amended 31426
197 Removed 31426
197.2 (b) removed; (c) redesignated as (b); new (b) revised 20725
200.3 (b) removed; (c) redesignated as (b); new (b) revised 20725
200.5 Amended 29956
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200.46 Amended 29957
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200.49 Amended 29957
200.49a Amended 29957
200.49b Amended 29957
200.55 (a) amended 29957
200.57 Amended 29957
200.59 Amended 29957
200.60 (a), (b) and (c) amended 29957
200.61 Amended 29957
200.62 Amended 29957
200.63 Amended 29957
200.64 (a), (b) and (c) amended 29957
200.65 Amended 29957
200.70 Amended 29957
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200.72 Amended 29957
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200.78 Amended 29957
200.79 (b) amended 29957
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200.105 Amended 29957
200.106 Amended 29957
200.107—200.110 Undesignated center heading amended 29957
200.107 Amended 29957
200.107a Amended 29957
200.108 Amended 29957
200.109 Amended 29957
200.110 Amended 29957
200.115 Amended 29957
200.116 Amended 29957
200.117 Amended 29957
200.126 Amended 29957
200.129 Amended 29957
250.2 (b) removed; (c) redesignated as (b) 20725

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250.11 Amended 31427
250.51 (a) and (c) amended 31427
250.171 Amended 31427
250.172 Revised 31427
250.173 (a) and (d) amended; (c) introductory text revised 31427
250.221 (a) and (c) amended 31427
250.307 Amended 31427
250.308 Revised 31427
250.309 (a) and (d) amended; (c) introductory text and (1) revised 31427
251.2 (b) removed; (c) redesignated as (b) 20725
252 Authority citation revised 20725
252.2 (b) removed; (c) redesignated as (b) 20725
252.216 Amended 20725
270.1 Revised 54085
270.11 Amended 54085
270.41 (b) removed; (c) redesignated as (b) 20725
270.351—270.478 (Subpart K) Added 54085
275.21 (b) removed; (c) redesignated as (b) 20725
275.30 Revised 37004
275.31 Revised 37004
275.32 Revised 37004
275.33 Revised 37004
275.34 Revised 37004
275.35 Revised 37004
275.39 Removed; new 275.39 redesignated from 275.39a 37004
275.39a Redesignated as 275.39 37004
275.63 (a) amended 54095
275.72a Removed; new 275.72a redesignated from 275.72b 37004
275.72b Redesignated as 275.72a 37004
275.72c Removed 37004
275.85 Concluding text amended 54095
275.85a (b) amended 54095
275.86 Amended 54095
275.115a (a)(1) and (b)(1) amended 54095
275.137 Introductory text amended 54095
275.140 Amended 54095
275.151—275.153 (Subpart H) Removed 37004
275.183 Removed 37004
285 Removed 54095
285.2 (b) removed; (c) redesignated as (b) 20725
290.2 (b) removed; (c) redesignated as (b) 20725
295.34 Amended 54096
296.171—296.181 (Subpart H) Removed 20725

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5 ..... 30015, 40568, 49715
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TITLE 28—JUDICIAL ADMINISTRATION

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0.100—0.104 (Subpart R) Appendix amended 46720
0.197 Added; interim 48406
2.1 (c), (d) and (e) revised 55743
2.17 (a) revised 55743
2.26 (b) revised 55743
2.27 (a) revised 55743
2.28 (f) revised 55743
2.62 (h) introductory text, (1) introductory text and (5) amended; (h)(6) revised 38570
(h)(6) corrected 54096
(e) revised; interim 54097
2.64 Revised 55743
2.67 Removed 55743
29 Added 40725
36.407 Revised 39324
42 Notice 42556
42.1—42.3 (Subpart A) Authority citation revised 34729
42.1 Revised 34730
(b) corrected 43119
50 Authority citation revised 49260
50.22 Added; interim 49260
74.4 Revised 51012
82 Removed; interim 38086
90.60—90.67 (Subpart D) Added 40733
91 Authority citation revised 49970
Technical correction 54333
91.21—91.24 (Subpart C) Added; interim 49970
92 Added; interim 49972

Chapter V—Bureau of Prisons, Department of Justice (Parts 500—599)

524 Authority citation revised 47795
524.12 (c) amended; (f) removed 47795
524.15 Amended 47795
524.16 Revised 47795
524.17 Added 47795
524.70—524.76 (Subpart F) Revised 40143
541.22 (a)(6)(i), (iii) and (iv) revised 47795
544.10—544.13 (Subpart B) Removed 47796
544.81 (g) revised 47795
552 Authority citation revised 38042
552.20 Introductory text amended; (a) through (e) revised 39800
552.21 (d) amended 39800
552.22 (c) revised; (g) amended 39800
552.24 Introductory text, (a), (f) and (g) revised; (d) amended 39800
552.26 Revised 39801
552.30—552.33 (Subpart D) Revised 38042
571.10 Revised 38043
571.20 Revised 47795

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543 56096
553 56096

TITLE 29—LABOR

Subtitle A—Office of the Secretary of Labor (Parts 0—99)

4 Authority citation revised 40716
4.181 (b)(1) revised 40716
5 Authority citation revised 40716
5.5 (b) revised 40716
5.15 (b)(1) and (2) removed; (b)(3), (4) and (5) redesignated as (b)(1), (2) and (3) 40716

Chapter I—National Labor Relations Board (Parts 100—199)

102.156—102.167 (Subpart U) Added; interim 38371
102.168—102.176 (Subpart V) Added; interim 38373

Chapter II—Office of Labor-Management Programs, Department of Labor (Parts 200—299)

270 Removed 51597

Chapter V—Wage and Hour Division, Department of Labor (Parts 500—899)

504 Revised 51014
506 Revised 51014

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506.500—506.541 (Subpart F) Regulation at 60 FR 3955, 3977 confirmed 46990
506.600—506.675 (Subpart G) Regulation at 60 FR 3969, 3977 confirmed 46990
507 Revised 51014
508 Revised 51014

Chapter XIV—Equal Employment Opportunity Commission (Parts 1600—1699)

1691 Notice 42556

Chapter XVII—Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)

1910.1001 (j)(3)(v) revised 43457
1915.1001 (h)(2)(iii), (k)(6), (8)(vii), (9)(iii), (iv) and (m)(1)(i)(A) revised 43457
1926.416 (a)(4), (f) and (g) removed 41738
1926.417 (d) removed 41739
1926.450—1926.454 (Subpart L) Revised 46104
1926.453 OMB number pending 46117
1926.556 Removed 46131
1926.1101 (h)(2)(iii), (k)(6), (8)(vii), (9)(iii), (iv) and (m)(1)(i)(A) revised 43458
1952.204 (b) revised 36824
1952.205 (b) amended 36825
1952.227 (b) added 55099
1952.237 (b) added 55099
1952.327 (c) added 55099
1952.347 (c) added 55099

Chapter XX—Occupational Safety and Health Review Commission (Parts 2200—2499)

2200.201 (b) revised 50712

Chapter XXV—Pension and Welfare Benefits Administration, Department of Labor (Parts 2500—2599)

2509 Authority citation revised 33849
2509.75–1 Removed 33849
2509.75–2 (b) removed 33849
2509.75–7 Removed 33849
2509.76–2 Removed 33849
2509.76–3 Removed 33849
2510.3–102 Revised 41233
2520.103–6 (b)(1) revised 33849
2520.103–7 Removed 33849
2520.104–2 Removed 33849
2520.104–3 Removed 33849
2520.104–5 Removed 33849
2520.104–6 Removed 33849
2520.104–28 Removed 33849
2520.104–45 Removed 33849
2520.104b–2 (b) revised 33849
(c) through (f) and (h) removed 33850
2520.104b–4 (d) removed 33850
2520.104b–5 Removed 33850
2520.104b–12 Removed 33850
2550 Authority citation revised 33850
2550.407a–3 Removed 33850
2550.407a–4 Removed 33850
2550.407c–3 Removed 33850
2550.414b–1 Removed 33850
2550.414c–1 Removed 33850
2550.414c–2 Removed 33850
2550.414c–3 Removed 33850
2550.414c–4 Removed 33850

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Chapter XXVI Removed 34003

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2703 Revised 39872

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4022.23 Table corrected 36626
4022.24 (c)(4) corrected 36626
4022.62 Example 3 and (i) corrected 36626
4022.63 Corrected 36626
4041A.2 Corrected 36626
4044 Appendixes A and B corrected 36626
Appendixes B and D corrected 36627
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7.95—7.108 (Subpart F) Added.....55518
31 Removed.....55525
32 Removed.....55525
36 Heading revised.....55525
36.1 Revised.....55525
36.2 Revised.....55525
36.6 (b)(2), (3) and (4) amended.....55526
36.9 (a) amended.....55526
36.20 (b) revised; (c) added.....55526
36.21 Amended.....55526
36.43 (a) amended.....55526
36.48 Note revised.....55526
56 Authority citation revised.....36795
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56.6000—56.6905 (Subpart E) Revised.....36975
56.18010 Revised.....50436
57 Authority citation revised.....36801
Policy statement.....42787
57.6000—57.6960 (Subpart E) Revised.....36801
57.18010 Revised.....50436
70 Notice.....45322
70.1900 (Subpart T) Added.....55526
71 Notice.....45322
75.310 (a)(4) corrected; CFR correction.....55567
75.325 (f) through (k) added.....55526
75.342 (b)(2) and (c) introductory text revised.....55527
75.344 (d) removed; (e) redesignated as (d).....55527
75.371 (r) revised; (kk) through (pp) added.....55527
75.380 (f)(3)(i) removed; (f)(3)(ii) through (v) redesignated as (f)(3)(i) through (iv).....55527
75.400 Revised.....55527
75.1710 Revised.....55527
75.1710–1 Heading, (a) and (f) amended.....55527
75.1900—75.1916 (Subpart T) Added.....55527
76.360 (b)(7) revised.....55527
150.13 Revised.....55887

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203 Comment period extension.....48834
203.1 (Subpart A) Comment period extension.....40734
203.50—203.56 (Subpart B) Comment period extension.....40734
256.37 (a) concluding text removed; (a)(2) revised; (a)(3) added.....55889
256.47 (e)(2) revised.....34732

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735.23 Reinstated; CFR correction.....40155
901.15 (e) removed.....37383
902.15 (d) added.....48842
902.16 Introductory text and (b) added.....48842
913.15 (t) added.....37385
913.16 (v) removed.....37385
914.15 (rrr) added.....55748
914.16 (o), (q), (r) and (t) through (aa) removed; (ii) added.....55748
925.15 (v) added.....38376
931.25 Added.....38380
931.26 Added.....38381
934.25 (e) added.....52694
935.15 (bbbb) added.....46550
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936.15 (r) added.....38382
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944.15 (hh) added.....46552
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946.15 (kk) added.....42790
(ll) added.....46554

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948.15 (q) added 38387
948.16 (rrr) removed; (vvv) added 38387
950.15 (x) added 40746
(y) added 43969
950.16 (q) and (bb) through (hh) removed; (ii) through (ll) added 40746

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24 45925
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906 47722
913 ..... 39612, 51613
917 ..... 46577, 55247
920 44258
935 ..... 43696, 54373, 54375
936 ..... 40369, 49282, 49284
943 ..... 38420, 44260
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TITLE 31—MONEY AND FINANCE: TREASURY

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208 Added; interim 39258
211 Authority citation revised 41739
211.1 (a) revised 41739
211.2 Revised 41739
214 Removed 43656
306.115 Revised 43637
306.116 Removed; new 306.116 redesignated from 306.117 and revised 43637
306.117 Redesignated as 306.116; new 306.117 redesignated from 306.119 and revised 43637
306.118 Removed 43637
306.119 Redesignated as 306.117 43637
306.120 Removed 43637
306.121 Removed 43637
306.122 Removed 43637
306.115—306.122 (Subpart O) Appendix removed 43637
321 Authority citation revised 37197
321.21 Revised 37197
344 Revised 55693
350 Removed 43637
353.24 Added 53822
356 Authority citation revised 37010
356.2 Amended 37010, 43637
356.3 Introductory text revised; (a) amended 43637
356.5 Introductory text amended 43637
356.11 (a)(1) amended 37010
(a)(2) amended 43637
356.13 (a)(2) removed; (a)(1) redesignated as (a); new (a) amended 37010
356.15 Redesignated as 356.16; new 356.15 added 37010
356.16 Redesignated as 356.17; new 356.16 redesignated from 356.15 37010
356.17 Redesignated from 356.16 37010
(b) revised 43637
(a)(2) and (b)(2) redesignated as (a)(3) and (b)(3); (a) introductory text, new (3), (b) introductory text and new (3) introductory text revised; new (a)(2) and new (b)(2) added 54909
356.21 (a) revised 37011
356.22 (b) amended 37011
356.25 (b) redesignated as (c); (a) introductory text and new (c) introductory text revised; new (b) added 54910
356.31 (a) and (c) amended; (d) revised 43637
356.36 Revised (OMB numbers) 37011
356 Appendix A amended 37011
357.0 Added 43628
357.1 Added 43628
357.2 Redesignated from 357.3 and amended 43628
357.3 Redesignated as 357.2 43628
357.10—357.14 (Subpart B) Added 43629
357.41 Revised 43630
357.42 Added 43630
357.44 Added 43631
357 Appendix B added 43631
358.3 Revised 43638
370 Heading revised 54910
370.0 Revised 54910

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370.1—370.4 (Subpart A) Subpart designation and heading added 54910
370.1 Amended 54910
370.2 Redesignated as 370.5 54910
370.3 Redesignated as 370.6 54910
370.4 Redesignated as 370.7 54910
370.5—370.16 (Subpart B) Subpart designation and heading added 54910
370.5 Redesignated as 370.8; new 370.5 redesignated from 370.2 54910
370.6 Redesignated as 370.9; new 370.6 redesignated from 370.3 54910
370.7 Redesignated as 370.10; new 370.7 redesignated from 370.4 54910
370.8 Redesignated as 370.11; new 370.8 redesignated from 370.5 54910
370.9 Redesignated as 370.12; new 370.9 redesignated from 370.6 54910
370.10 Redesignated as 370.13; new 370.10 redesignated from 370.7 54910
370.11 Redesignated as 370.14; new 370.11 redesignated from 370.8 54910
370.12 Redesignated as 370.15; new 370.12 redesignated from 370.9 54910
370.13 Redesignated as 370.30; new 370.13 redesignated from 370.10 54910
370.14 Redesignated as 370.16; new 370.14 redesignated from 370.11 54910
370.15 Redesignated as 370.31; new 370.15 redesignated from 370.12; heading revised 54910
370.16 Redesignated from 370.14 54910
370.20—370.25 (Subpart C) Added 54910
370.30—370.31 (Subpart D) Subpart designation and heading added 54911
370.30 Redesignated from 370.13 54910
370.31 Redesignated from 370.15 54910
Revised 54911

Chapter V—Office of Foreign Assets Control, Department of the Treasury (Parts 500—599)

500 Authority citation revised 43460, 54938
500.701 (c) added 43460
(a)(6) removed; (b) and (c) redesignated as (c) and (d); (a) introductory text, (3) and new (c) revised; new (b) added 54938
515 Authority citation revised 37386, 43461, 54938
515.208 Added 37386
515.311 Existing text designated as (a); (b) added 37386
515.334 Added 37386
515.335 Added 37386
515.336 Added 37386
515.701 (a)(5) removed; (a)(6) redesignated as (a)(5); (d) added 37386
(e) added 43461
(a)(5) removed; (b) through (e) redesignated as (c) through (f); (a) introductory text, (3) and new (d) revised; new (b) added 54938
535 Authority citation revised 43461, 54938
535.701 (c) added 43461
(b) and (c) redesignated as (c) and (d); (a) and new (c) revised; new (b) added 54938
550 Authority citation revised 43461, 54939
550.701 (c) redesignated as (d); new (c) added 43461
(b), (c) and (d) redesignated as (c), (d) and (e); (a) and new (c) revised; new (b) added 54939
560 Authority citation revised 43461, 54939
560.701 (e) added 43461
(b), (c) and (e) redesignated as (c), (e) and (d); (a) and new (c) revised; new (b) added 54939
575 Authority citation revised 43461, 54939
575.323 Added 36628
575.324 Added 36628
575.325 Added 36628
575.326 Added 36628
575.522 Added 36628

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575.701 (d) redesignated as (e); new (d) added 43461
(b) through (e) redesignated as (c) through (f); (a) introductory text, (1) and new (d) revised; new (b) added; new (c) amended 54939
585 Authority citation revised 54940
585.701 (b), (c) and (d) redesignated as (c), (d) and (e); (a) and new (d) revised; new (b) added; new (c) amended 54940
590 Authority citation revised 54940
590.701 (b), (c) and (d) redesignated as (c), (d) and (e); (a) and new (d) revised; new (b) added; new (c) amended 54940
595 Authority citation revised 54940
595.701 (b) redesignated as (c); (a) and new (c) revised; new (b) added 54940
596 Added 43463
Chapter V Appendixes A and B amended 43459
Appendix C amended 54334

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1 50461
203 51186
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TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense (Parts 1—399)

66 Removed 37386
90 Redesignated as Part 174 54097
91 Redesignated as Part 175 54097
92 Correctly added; CFR correction 55567
174—175 (Subchapter G) Heading revised 54097
174 Redesignated from Part 90 54097
175 Redesignated from Part 91 54097
175.1 Amended 54097
175.6 (b) amended 54097
175.7 (f)(1) amended 54098

Chapter V—Department of the Army (Parts 400—699)

505.5 Revised 43657
619.1 Amended 49061
619.4 (a), (b) introductory text and (5) revised 49061
619.6 Introductory text and (k) revised 49061
619.7 (d) revised 49061
619.8 Revised 49061
619 Appendix G added 49062
623.5 (c)(5)(A) through (D) redesignated as (c)(5)(i) through (iv) 45890
630 Revised 39073

Chapter VI—Department of the Navy (Parts 700—799)

706.2 Table Three amended 35959
Table Four amended 36292, 48070, 52882
Table Four corrected 36497
Tables Four and Five amended 46378
Table Two amended 52880

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801 Removed 46379
837 Removed 43466
856 Removed 45322
862 Removed 45323
909 Removed 45323
950 Removed 45323

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TITLE 33—NAVIGATION AND NAVIGABLE WATERS

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26.03 (f) table revised 45325
100 Temporary regulations lists 39325, 49678
100.T08-35-039 Added (temporary) 44161
100.19 Corrected 36292
100.35-T08-041 Added (temporary) 53322

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100.35-T96-051 Added (temporary) 47823
100.35T08-034 Added (temporary) 41507
100.35T08-038 Added (temporary) 41506
100.35T96-045 Added (temporary) 40514
100.113 Added 45891
100.501 Implementation (temporary) 52695
100.508 Implementation (temporary) 44160
100.513 Implementation (temporary) 50436
100.517 Implementation (temporary) 53321
100.801 Implementation (temporary) 44160
110 Authority citation corrected 36786
110.72d Revised 40994
116 Authority citation corrected 36786
117 Temporary drawbridge operation regulations 37211, 50712
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117.478 (b) revised 49064
117.491 (b) removed; (c) through (f) redesignated as (b) through (e) 39873
117.1059 (h) stayed; (j) added; eff. 2-1-97 through 6-1-97 43158
(c) stayed; (i) added; eff. 10-1-96 through 1-31-97 43159
117 Appendix A corrected 36786
120 (Subchapter K) Added; interim 37652
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127 Clarification 51597
127.003 Corrected 36629
128 Added; interim 37654
154.100 (a) revised; (d) added 41457
154.105 Amended 41458
154.106 (a) revised; (b) amended 41458
(b) corrected 42462
154.107 (b) revised 41458
154.108 (a) introductory text and (d) revised 41458
154.110 (b)(1) revised 41458
(a) introductory text and (d) revised 41461
154.300 (a) introductory text, (c), (e) and (f) revised 41458
154.310 (a)(2), (7), (15), (16) and (22) revised; (a)(23) added 41459
154.320 (a)(1) and (d) revised 41459
154.325 Revised 41459
154.500 (a) and (b) revised 41459
154.520 Revised 41459
154.530 (a) revised; (e) added 41460
154.540 Revised 41460
154.545 (e) added 41460
154.560 (e) revised 41460
(e) corrected 42462
154.710 (b), (c), (d) introductory text, (7) and (8) revised; (e) added 41460
154.735 Introductory text, (l), (s) and (t) revised; (u) and (v) added 41460
154.740 Introductory text and (b) revised; (j) added 41461
156.120 Introductory text, (f) and (w)(5) revised; (cc) and (dd) added 41461
156.150 (c)(3) and (5) revised; (c)(6) added 41461
156.170 (c)(1)(i), (iv), (f)(1) and (2) revised; (f)(2) redesignated as (f)(3); (h) added 41461
157 Authority citation revised 39788
157.01 (a)(2) revised 39788
157.02 Added 39788
(b) corrected 41685
157.03 Corrected 36786
Amended 39788
157.400—157.410 (Subpart G) Heading revised 39788
157.400 Revised 39788
157.410 (c) revised 39789
157.415 Added 39789
157.420 Added 39789
157.430 Added 39789
157.435 Added 39789
(a) corrected 41685
157.440 Added 39790
157.445 Added; eff. 7-29-97 39790
(a) corrected 41685
157.450 Added 39790
157.455 Added 39790
(a)(4) corrected 41685
157.460 Added; eff. in part 7-29-97 39790
(b) corrected 41685
157.500—157.510 (Subpart H) Added 39791
157.600—157.610 (Subpart I) Added 39791
158.140 (a)(2) corrected 36629

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160.201 (b), (c) introductory text, (1), (3)(i), (ii) and (iii) revised; (c)(3)(iv) through (x) added.....50234
160.203 Amended.....50234
160.207 (c)(1) through (5) revised; (c)(6) through (11) added.....50234
160.211 (a) introductory text and (1) through (8) revised; (a)(9) through (16) added.....50234
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165.T07-052 Added (temporary).....50437
165.T1-3009 Added (temporary).....40995
165.T11-030 Added (temporary).....37213
165.903 (a) introductory text revised; (a)(1) through (10) redesignated as (a)(2) through (11); new (a)(1) added.....37685
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207 Authority citation revised.....55572
207.440 (u) revised.....55572
334.420 (a)(2) amended; (b)(1)(i) removed; (b)(1)(iii), (iv) and (v) redesignated as (b)(1)(ii), (iii) and (iv); (b)(2) revised.....43970
334.530 (b)(2) revised.....34733
334.630 (a) and (b)(1) revised.....34733
334.760 (b)(1) revised.....43970
334.1110 (a)(1) designation removed; (a)(2) redesignated as (b); (a) heading and new (b) revised.....43970
334.1340 (a)(3) and (4) redesignated as (a)(1) and (2); new (a)(2) heading and (c) revised.....34733

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74 OMB circular applicability.....50712
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Chapter II—Office of Elementary and Secondary Education, Department of Education (Parts 200—299)

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614 Removed 51784
617 Removed 51784
619 Removed 51784
641 Removed 51784
646 Revised 38537
656 Revised 50193
657 Revised 50202
668.163 (a)(2)(iii) removed; (a)(3) revised 49043

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TITLE 35—PANAMA CANAL

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61.155 (e) added 36497
123.4 (a) amended 36498

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TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

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1.2 (a), (b) and (d) revised 35136
1.4 (a) amended 35136
1.10 (b) amended 46556
7.11 Removed 46380
13.2 (c) and (e) revised 35137
(e) redesignated as (f); new (e) added 54339
13.80—13.87 (Subpart D) Added 54339
13.82 OMB number pending 54340
13.83 OMB number pending 54340
13.84 OMB number pending 54341
13.85 OMB number pending 54341
31 Removed 40996

Chapter II—Forest Service, Department of Agriculture (Parts 200—299)

211 Authority citation revised 47673
211.1 Removed 47673
211.6 Removed 41507
222.23 Revised 35959
223.65 Revised 48625
223.66 Removed 48625
223.170—223.183 (Subpart E) Removed 35960
242.24 Revised 39702
(a)(1) table amended 48628
242.25 Added; eff. 8-1-96 through 6-30-97 39709
(k)(6)(iii)(B) table, (7)(iii) table, (11)(i) table, (13)(iii) table, (14)(iii) table, (15)(iii)(D) table amended; eff. 8-1-96 through 6-30-97 48628
(k)(15)(iii)(D) table and (16)(iii) table amended; eff. 8-1-96 through 6-30-97 48629
242.26 Added; eff. 1-1-97 through 12-31-97 39747
242.27 Added; eff. 1-1-97 through 12-31-97 39751

Chapter VII—Library of Congress (Parts 700—799)

701.33 (a)(4) revised 49262

Chapter XI—Architectural and Transportation Barriers Compliance Board (Parts 1100—1199)

1191.2 Revised 39324

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TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

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1.5 (f) added 42802
1.12 (c) added 42802
1.14 Heading, (a), (b) and (e) revised 42802
1.16 (a), (b), (d) and (f) through (i) revised; (m) added 39587
(m) corrected 43400
1.17 (b) through (g), (j), (m) through (p), (r) amd (s) revised 39587
1.18 Revised 39588
1.20 (c), (e), (f), (g), (i)(1), (2), (j)(1), (2) and (3) revised 39588
1.21 (a)(1), (3) and (6) revised 39588
(a)(1) corrected 43400
1.52 (a) and (b) revised 42803
1.54 (b) revised 42803
1.58 Heading and (c) revised; (b) removed 42803
1.62 (e) and (f) revised 42803
1.72 (b) revised 42803
1.75 (g) revised; (h) and (i) added 42803
1.77 Revised 42803
1.78 (a)(2) and (c) revised; (d) removed 42804
1.84 (c), (f), (g) and (x) revised 42804
1.96 Revised 42804

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1.97 (a) through (d) revised 42805
1.107 (a) revised 42805
1.110 Revised 42805
1.130 Added 42805
1.131 (a) revised 42806
1.132 Revised 42806
1.154 Revised 42806
1.163 (c) and (d) added 42806
1.291 (a) and (b) revised 42806
1.292 (a) and (b) revised 42807
1.315 Revised 42807
1.321 (c) revised 42807
1.445 (a) revised 39588
1.482 (a)(1)(i), (ii) and (2)(ii) revised 39588
1.492 (a), (b) and (d) revised 39588
1.497 Revised 42807
2.7 Added 55223
2.53 Removed 55223
2.102 (c)(2) revised 36825
2.189 Undesignated center heading and section removed 55223
15 Removed 42808
15a Removed 42808
101 Removed 40999
102 Removed 40999

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201 Comment period extension 49680
251.2 Revised 37215
251.58 (c) revised 37215
251.60 Amended 37215
251.61 (a) revised 37215
251.62 (a) amended 37216
251.63 (a) amended 37216

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501 Authority citation revised 40999
Heading revised; interim 40999
501.1 Revised; interim 40999
501.3 Revised; interim 40999
501.4 Revised; interim 40999
501.6 (a)(1) introductory text, (iii), (2), (3)(i) and (4)(i) revised; interim 40999
501.7 (b) and (c) revised; interim 40999
501.8 (a) and (b) revised; (c) and (d) redesignated as (d) and (e); new (c) added; interim 41000
501.9 Revised; interim 41000
501.11 Added; interim 41000

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TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Department of Veterans Affairs (Parts 0—99)

1.12 Undesignated center heading and section added 33850
1.891 Authority citation revised 38571
1.892 Authority citation revised 38571
1.893 Authority citation revised 38571
1.894 Authority citation revised 38571
1.895 Revised 38571
1.896 Authority citation revised 38571
1.897 Authority citation revised 38571
4.13 Amended 52700
4.16 (c) removed 52700
4.88 Undesignated center heading revised; section removed 39875
4.88b Revised 39875
4.96 Heading and (a) revised; (c) added 46727
4.97 Revised 46728
4.125 Revised 52700
4.126 Revised 52700
4.127 Revised 52700
4.128 Revised 52700
4.129 Revised 52700
4.130 Removed; new 4.130 redesignated from 4.132 and revised 52700
4.131 Removed 52700
4.132 Redesignated as 4.130 52700
19.76 Amended 43008
20.703 Revised 43009
21.5100 (b), (c) and (d) corrected 36629

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TITLE 39—POSTAL SERVICE

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10 Authority citation revised.....36499
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10.1 Redesignated from 10.11 and revised.....36499
10.2 Redesignated from 10.31 and revised.....36499
10.3 Added.....36500
10.4 Redesignated from 10.41; (a) and (e)(2) revised.....36500
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10.31—10.32 (Subpart C) Heading removed.....36499
10.31 Redesignated as 10.2.....36499
10.32 Removed.....36500
10.41 Redesignated as 10.4.....36500
10.42 (Subpart D) Heading removed.....36499
20 IMM amended; incorporation by reference; interim.....36501, 39592, 39593, 55573
111 DMM amended; incorporation by reference.....42479, 48071, 48574, 52703, 53323
233.3 (c)(9) revised.....42557
273.3 (a)(1) and (b)(1) revised.....55750

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3001.61—3001.69c (Subpart C) Appendix A corrected.....37316
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TITLE 40—PROTECTION OF ENVIRONMENT

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3 Revised.....40503
5 Removed.....41331
9.1 Table amended (OMB numbers).....33851, 33852, 48229, 51366, 52295, 53854, 54039
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50 Decision.....52852
51.100 (s) introductory text and (1) revised.....52850
51.112 (a)(1) revised; (a)(2) amended.....41840
51.160 (f)(1) revised; (f)(2) amended.....41840
51.166 (l)(1) revised; (l)(2) amended.....41840
51.350 (b)(1) revised; (b)(5) added.....39036
51.351 (h) added.....39036
(c) added.....40945
51.352 (c) revised.....40945
51.353 (c)(5) added.....39036
51.357 (a)(12) and (b)(4) added.....40945
51.358 (b)(4) added.....40945
51.361 Introductory text and (b)(1)(i) revised.....49682
51.364 (e) and (f) added.....39037
51.365 (a)(23) and (24) amended; (a)(25) added.....40945
51.366 (a)(2)(ix) amended; (a)(2)(xi) through (xxiii) added.....40945
51.372 (b)(3) revised.....40946
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51.373 (f) added.....39037
(g) added.....40946
51.350—51.373 (Subpart S) Appendix B amended.....40946
51 Appendix W revised.....41840
52 State implementation plan determinations.....36292, 49262, 51598, 54948
52.12 (c)(83) and (85) added.....51611
52.21 (l)(1) revised; (l)(2) amended.....41894
52.220 (c)(231) added.....36502

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(c)(194)(i)((A)(*5*), (207)(i)(B)(*3*), (220)(i)(B)(*1*), (225)(i)(B)(*4*) and (C)(*1*) added 37393
(c)(189)(i)(B)(*3*), (210)(i)(E), (220)(i)(B)(*3*), (221)(i)(A)(*2*), (229) and (230) added 38574
(c)(185)(i)(A)(*9*), (194)(i)(G), (198)(i)(K), (207)(i)(B)(*2*) and (225)(i)(B)(*3*) removed 43977
(c)(187)(i)(A)(*6*) added 44163
(c)(91) added 49066
(c)(191)(i)(D), (196)(i)(C)(*3*), (229)(i)(A) and (231)(i)(B) added 52299
(c)(197)(i)(A)(*2*) and (224)(i)(B) added 54943
52.320 (c)(74) added 49684
(c)(75) added 51787
52.370 (c)(71) added 38576
52.372 Removed 38576
52.373 Revised 38576
52.374 Table revised 38576
52.376 (c) added 38577
52.535 Removed 49066
52.720 (c)(120) added 38581
(c)(130) added 38590
(c)(128) added 41341
(c)(102) added 54559
52.725 (d) added 41345
52.726 (m) added 38590
52.741 (a)(2) revised 54559
52.770 (c)(114) added 55894
52.870 (c)(32) added 51368
52.930 (c) added 50720
52.970 (c)(70) added 37839
(c)(64) added 38591
(c)(67) added 48412
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(c)(69) added 53642
(c)(71) added 54742
(c)(72) added 55896
52.975 (d) added 37839
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52.994 Added 48412
52.1020 (c)(42) and (43) added 53639
52.1031 Table amended 53639
52.1075 Added 50717
52.1119 (a)(2) added 43976
52.1120 (c)(112) added 41338
(c)(111) added 53632
52.1167 Table amended 41338, 53532
52.1170 (c)(107) added; eff. 7-1-96 through 9-15-96; interim 45898
52.1173 (f) added 40519
52.1174 (j) removed 39332
52.1320 (c)(86) revised 39335
52.1370 (c)(44) added 51018
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52.1570 (c)(54) added 38593
52.1582 (e) and (f) added 53628
52.1605 Table amended 38594
52.1620 (c)(60) added 48409
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52.1670 (c)(89) added 38597
52.1679 Table amended 38597
52.1683 (c) added 51217
52.1770 (c)(91) added 49414
(c)(89) added 49418
52.1820 (c)(28) added 52868
52.1870 (c)(111) added 52883
52.1970 (c)(114) added 37395
(c)(115) added 50714
52.2020 (c)(111) added 39597
(c)(110) added 39600
(c)(100) added 54737
52.2061 (b) added 39597
Added 39601
52.2062 (b) added 39597
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52.2070 (c)(46) and (47) added 55903
52.2081 Table amended 55903
52.2086 Added 55902
52.2219 Revised 37390
52.2220 (c)(138) added 37390
(c)(142) added 38392
(c)(139) added 39328
(c)(137) added 39334
(c)(143) added 43973
(c)(141) added 47057
(c)(140) added 53636
(c)(144) added 55909
52.2225 (b) and (c) removed 37390
52.2237 Added 36506, 54946
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52.2270 (c)(94) added 45329
(c)(101) added 49688
(c)(103) added 55896
52.2420 (c)(108) and (109) added 38390
52.2425 Heading revised; existing text designated as (a); (b) added 48632
(c) added 48635
52.2433 (o) and (p) added 38390
52.2470 (c)(61) added 38091, 50238
(c)(62) added 38600, 53070
(c)(63) added 41335
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(c)(65) added 49690

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(c)(66) added 50442
(c)(64) added 50714
(c)(67) added 53327
(c)(68) added 54563
52.2520 (c)(39) and (40) added 54735
52.2570 (c)(95) added 37218
(c)(92) added 39330
52.2585 (k) added 43675
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52.2634 Added 47059
55 Operating permits 39877
55.6 (c)(3) added; eff. 7–31–96 34228
55.10 (a)(1) revised; (b) added; eff. 7–31–96 34228
55.13 (f) added; eff. 7–31–96 34228
60 Authority delegation notices 42808
60.4 (c) table revised 52868
60.42 (b)(3) removed 49976
60.45 (g)(1)(iii) removed 49976
62 Authority citation revised 55576
62.10850—62.10870 (Subpart SS) Added 55576
63 State operating permit program approvals 43675
Technical correction 54342
63.90 Introductory text amended 36297
63.91 (a) introductory text revised 36297
63.93 (b)(4)(iv) removed 36298
63.95 (b)(4)(i) revised 36298
63.320 (c) through (f) revised 49265
63.322 (a) introductory text and (b) introductory text revised 49265
63.480—63.506 (Subpart U) Added 46924
63.680—63.698 (Subpart DD) Added 34158
63.900—63.907 (Subpart OO) Added 34184
63.920—63.928 (Subpart PP) Added 34186
63.940—63.948 (Subpart QQ) Added 34190
63.960—63.966 (Subpart RR) Added 34193
63.1040—63.1049 (Subpart VV) Added 34195
63.1310—63.1335 (Subpart JJJ) Added 48229
63 Appendix D added 34200
70.4 (d)(2) revised 56370
70 Appendix A amended; interim 34739, 39343, 51370, 51372, 55923
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71 Operating permits 39877
71.1—71.12 (Subpart A) Added; eff. 7–31–96 34229
79.51 (c)(1)(ii)(A), (B), (h) introductory text and (1)(ii) revised; (e)(1) amended; (i)(4) added 36511
79.52 (b)(1)(iii), (iv), (2)(iii)(D) introductory text and (E) introductory text revised 36511
79.57 (b)(2)(i), (ii), (iii) and (e)(1)(i)(C) added; (e)(1)(iii)(A), (2)(i), (ii) introductory text, (B), (iii) introductory text, (C), (vi)(B), (vii), (3)(i)(A) and (f)(3) revised; (e)(3)(i) introductory text amended 36511
79.61 (d)(5) revised 36512
79.63 (e)(4)(iii) added 36513
79.68 (f)(1) and (5)(vi) revised 36513
80 Petition for reconsideration 35960
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80.2 (vv) added 35680
80.4 Revised 35356
80.72 Added 35680
80.79 (j) introductory text revised; (j)(5)(viii), (ix), (10)(i), (iii), (v) through (xi) and (11) removed; (j)(10)(ii), (iv), (12), (13) and (14) redesignated as (j)(10)(i), (ii), (11), (12) and (13); (l) added 35680
80.140 Amended 35356
80.141 (a), (b), (c)(1)(ii), (2), (3)(i), (d) and (e)(1) revised; (c)(1)(i), (e)(2)(ii)(B), (g)(1) and (3) amended; (c)(3)(iv) added; (e)(2)(ii)(B)(*1*)(*iii*) removed 35356
80.155 Revised 35358
80.156 (a)(1)(ii), (2) introductory text, (ii), (3) introductory text, (ii), (4), (5) introductory text, (c)(1) introductory text, (i), (3) and (4) revised; (c)(5) through (8) added 35358
80.157 Introductory text, (a), (b), (d), (e) and (f) revised; (d), (e) and (f) redesignated as (e), (f) and (g); new (d) added; OMB number pending 35360
80.158 Revised 35362

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80.160 Revised (OMB number pending) 35363
80.161 Added 35364
80.162 Added 35366
80.163 Added 35368
80.164 Added (OMB number pending) 35369
80.165 Added 35371
80.166 Added 35372
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80.168 Added 35373
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80.170 Added (OMB number pending) 35377
80.171 Added 35379
80.172 Added 35380
80.173 Added (OMB number pending) 35380
80.174 Added 35381
81.303 Amended 39344
81.314 Table amended 41345
81.319 Amended 37839, 53642
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81.323 Amended 40519
81.332 Amended 53643
81.343 Amended 55909
81.348 Amended 50442, 53328, 54563
81.350 Amended 43675
81.351 Amended 47060
82 Acceptable substitutes listing 47012
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82.180 (a)(8)(ii) revised 54039
82.170—82.184 (Subpart G) Appendix D added 54040
85 Authority citation revised 40946
85.2207 Added 40946
85.2213 (b)(2)(ii) revised 40947
85.2215 (b)(2)(ii) revised 40947
85.2218 (b)(2)(ii) revised 40947
85.2220 (b)(2)(ii) revised 40947
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86.1 Amended 54877
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86.000–16 Added 54881
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86.000–26 Added (OMB number pending) 54883
86.000–28 Added (OMB number pending) 54884
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86.001–24 Revised (OMB number pending) 54887
86.001–25 Revised (OMB number pending) 54887
86.001–26 Revised (OMB number pending) 54888
86.001–28 Revised (OMB number pending) 54888
86.004–9 Revised (OMB number pending) 54889
86.004–28 Revised (OMB number pending) 54890
86.094–17 (j) revised 45903
86.101 (a)(2) removed; (a)(4) added 54890
86.106–00 Added 54890
86.108–00 Added (OMB number pending) 54890
86.115–00 Added 54891
86.118–00 Added 54891
86.127–00 Added 54891
86.128–00 Added 54892
86.129–00 Added (OMB number pending) 54892
86.130–00 Added 54893
86.131–00 Added 54893
86.132–00 Added 54893
86.135–00 Added 54894
86.158–00 Added 54894
86.159–00 Added (OMB number pending) 54894
86.160–00 Added (OMB number pending) 54895
86.161–00 Added (OMB number pending) 54897
86.162–00 Added (OMB number pending) 54898

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86.162–03 Added (OMB number pending) 54899
86.163–00 Added 54899
86.164–00 Added 54900
86.610–84 Removed 51366
86.1003–88 Removed 51366
86.1005–88 Removed 51366
86.1008–88 Removed 51366
86.1010–84 Removed 51366
86.1183–87 (g)(1)(ii) revised; (g)(1)(iii), (iv) and (v) removed 51366
86 Appendix I amended 54901
89.2 Amended 52102
89.908 Revised 52102
90.903 Revised 52102
90.908 Revised 52102
91 Added (OMB numbers pending) 52102
122 Interpretation 41698
125.60 (c)(1) removed; (c)(2) and (3) redesignated as (c)(1) and (2); new (c)(1) introductory text revised 45833
180 Authority citation revised 48848
180.191 Revised 37222
180.236 Revised 36299
180.356 Table amended 39351
180.410 Table amended 39541
180.418 Table amended 39891
180.434 (a) table amended 36302
180.436 (a) table amended 39886
180.466 Table amended 39889
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180.494 Added; eff. 9–17–96 through 8–23–97 48848
180.1001 (c) table and (e) table amended 34741, 39353
(c) table amended 34743
180.1169 Added 37397
180.1173 Added 40343
180.1174 Added 40340
180.1175 Added 40338
185.100 Removed 39542
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185.410 Regulation at 59 FR 10997 withdrawn 50685
185.800 Removed 39542
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185.1900 Regulation at 58 FR 59667 withdrawn 50685
185.2850 Regulation at 61 FR 11993 withdrawn 50685
185.3650 Removed 39542
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185.3750 Removed 39542
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185.5000 Regulation at 61 FR 12009 withdrawn; regulation at 61 FR 25154 confirmed 50685
185.5150 Regulation at 61 FR 12009 withdrawn; regulation at 61 FR 25154 confirmed 50685
185.6300 Regulation at 61 FR 12009 withdrawn; regulation at 61 FR 25154 confirmed 50685
227.27 (d) amended 51203
257 Authority citation revised 34269
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173.34 (e)(10), (13) and (19)(ii) amended; (e)(19) introductory text amended 51240
173.189 (b) amended 51338
173.224 (c)(1) and (2) amended 51338
173.225 (e)(1) amended 51338
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173.302 (c)(3) amended 51240
173.306 (b)(3) amended 51338
173.309 (b) revised 51240
173.315 (e) and (i)(3) amended 51339
174.81 (g) introductory text amended 51339
174.83 (b) introductory text amended 51339
174.85 (d) table amended 51339
174.101 (h) and (o) introductory text amended 51339
174.112 (b) amended 51339
175.320 (a) table amended 51339
176.194 (c) and (e) amended 51339
176.340 (b)(1), (3), (4) and (5) amended 51339
177.835 (g) introductory text revised 51339
178.320 (a) amended 51339
178.337–1 (b), (c)(1), (2) introductory text, (i), (ii), (d), (e)(1), (2) and (f) amended 51340
178.337–2 (a)(1) through (4), (b) heading, (1) introductory text, (2) introductory text and (c) amended 51340
178.337–3 (b), (c)(1)(iii)(A), (B) introductory text, (C), (iv)(A), (B), (C), (2)(iii)(A), (B) introductory text, (C), (iv)(A), (B), (C), (e), (f), (g) introductory text and (1) amended 51340
178.337–4 (b) and (c) amended 51340
178.337–6 (b) amended 51340
178.337–8 (a)(1) amended 51340
178.337–9 (a)(2), (3), (b)(1), (6), (c) and (d)(1) amended 51340
178.337–11 (a)(1)(ii) through (v), (2)(i), (ii), (b), (c)(1) and (3) amended 51340
178.337–13 (a) through (d) amended 51340
178.337–14 (b)(2) amended 51340
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178.338–9 (c)(1) amended 51340
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178.345–3 (a)(1), (b) introductory text, (c)(1) introductory text, (iii)(A), (B) introductory text, (C), (iv)(A), (B), (C), (2) introductory text, (iii)(A), (B) introductory text, (C), (iv)(A), (B), (C) and (f)(2) amended 51341
178.345–4 (a) amended 51341
178.345–6 (a) and (b) amended 51341
178.345–7 (a) introductory text, (c), (d)(2) and (5) amended; (d)(2) table revised 51341
178.345–8 (a)(1) introductory text, (3), (4), (b) introductory text, (2), (c)(1), (2), (d) introductory text, (1), (2) introductory text, (ii) and (e) amended 51341
178.345–9 (e) and (h) amended 51341
178.345–10 (a), (c), (e) introductory text and (1) amended 51341
178.345–11 (a), (b) introductory text and (d) amended 51341
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178.345–12 Amended 51342
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178.345–14 (a) revised; (b)(4), (5) and (d) amended 51342
178.345–15 (b)(2) and (d) amended 51342
179.103–5 (a)(1) amended 51342
179.300–7 (a) amended 51342
180.403 Amended 51342
180.407 (c) table, (d)(2)(vi), (f)(3), (g)(1)(viii), (ix), (h)(1) introductory text, (i) and (ii) amended 51342
180.413 (e) amended 51342
180.415 (b) amended 51343
180.417 (c)(2) amended 51343

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365 Authority citation added 54707
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365.101—365.123 (Subpart A) Redesignated from 1160.1—1160.12 (Subpart A) 54707
365.201—365.207 (Subpart B) Redesignated from 1160.40—1160.43 (Subpart B) 54707
365.301—365.309 (Subpart C) Redesignated from 1160.60—1160.64 (Subpart C) 54707
365.401—365.413 (Subpart D) Redesignated from Part 1181 54707
366 Redesignated from Part 1044 54707
367 Redesignated from Part 1023 54707
368 Redesignated from Part 1171 54707
371 Redesignated from Part 1045 54707
372 Heading added 54708
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372.101—372.117 (Subpart A) Redesignated from Part 1047 54708
372.115 Heading revised 54708
372.201—372.243 (Subpart B) Redesignated from Part 1048 54708
372.301—372.303 (Subpart C) Redesignated from Part 1049 54708
373 Heading added 54708
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374 Heading added 54709
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374.501—374.505 (Subpart E) Redesignated from Part 1054 54709
375 Redesignated from Part 1056 54707
376 Redesignated from Part 1057 54707
377 Heading added 54708
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377.201—377.217 (Subpart B) Redesignated from Part 1320; heading revised 54709
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379 Redesignated from Part 1167 54707
387 Authority citation revised 54709
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387.317 Heading revised 54710
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387.415 Heading revised 54710
390 Authority citation revised 54710
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593 Authority citation revised 51243
593 Appendix A added 51243

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1043 Redesignated as 387.301—387.323 (Subpart C) 54709
1044 Redesignated as Part 366 54707
1045 Redesignated as Part 371 54707
1047 Redesignated as 372.101—372.117 (Subpart A) 54708
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1056 Redesignated as Part 375 54707
1057 Redesignated as Part 376 54707
1058 Redesignated as 390.401—390.407 (Subpart D) 54710
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1063 Redesignated as 374.301—374.319 (Subpart C) 54709
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1067 Removed 54707
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1071 Removed 54105
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1084 Redesignated as 387.401—387.419 (Subpart D) 54710
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1113 Authority citation revised 52712
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1114.22 Revised 52713
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1114.26 (a) and (c) amended 52713
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1114.30 Revised 52713
1114.31 (a), (b)(1), (2), (c) and (d) amended; (b)(2)(iv) added 52713
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1115.2 Introductory text, (b)(2) and (g) amended; (e) revised 52714
1115.3 Revised 52714
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1160 Heading redesignated as Part 365 heading 54707
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1167 Redesignated as Part 369 54707
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INQUIRIES AND SUGGESTIONS

Rob Sheehan was Chief Editor of the LSA, assisted by Kent Giles and Susannah C. Hurley. The LSA was prepared under the direction of Raymond A. Mosley, assisted by Jim Wickliffe. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to Raymond A. Mosley, Acting Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408 or e-mail info@fedreg.nara.gov.

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Subscription (mailed as issued)		264.00	1996
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[1]Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2]The July 1, 1985 edition of 32 CFR Parts 1 to 189 contains a note only for Parts 1 to 39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1 to 39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3]The July 1, 1985 edition of 41 CFR Chapters 1 to 100 contains a note for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the 11 CFR volumes issued as of July 1, 1984, containing those chapters.

[4]No amendments to this volume were promulgated during the period April 1, 1990 through March 31, 1994. The CFR volume issued as of April 1, 1990 should be retained.

[5]No amendments to this volume were promulgated during the period July 1, 1991 through June 30, 1994. The CFR volume issued as of July 1, 1991 should be retained.

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No. 96–52 of Sept. 12, 1996 50417
No. 96–53 of Sept. 26, 1996 56859
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TITLE 3 Administrative Orders—Con.

No. 96-56 of Sept 30, 1996 56863
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No. 96-59 of Sept. 30, 1996 56869
No. 97-1 of Nov. 8, 1996 59171
No. 97-2 of Nov. 11, 1996 59805
No. 97-3 of Nov. 11, 1996 59807
No. 97-4 of Nov. 12, 1996 59809
No. 97-5 of Nov. 20, 1996 59303

TITLE 4—ACCOUNTS

Chapter I—General Accounting Office (Parts 1—99)

21 Revised 39042
28.11 (c)(1) revised; (c)(2) amended 36810
28.13 Added; interim 9089
Regulation at 61 FR 9089 confirmed; revised 36810
28.17 (a)(2) and (3) revised 36810
28.18 (a) and (b) revised; interim 9090
Regulation at 61 FR 9090 confirmed; (c)(1) revised; (c)(2) amended 36810
28.86 (b)(1) revised; (b)(2) amended 36810
28.98 (d) redesignated as (e)(1); new (d) and (e)(2) added; (c) heading and new (e)(1) revised 36810
29.■ (c)(1) revised; (c)(2) amended 36811
29.10 (c)(1) revised; (c)(2) amended 36811

Proposed Rules:

2 44187
7 ..... 44187, 47240
21 ..... 6579, 19205

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Office of Personnel Management (Parts 1—1199)

251 Added 32915
300 Authority citation revised 19510
300.502 Revised 19510
300.503 (c)(3) and (4) added 19510
300.504 (a) and (b) revised 19511
300.505 Revised 19511
300.507 Revised 19511
315.608 Revised 9322
317.502 (c) revised 46533
330 Authority citation revised 11500
330.102 Revised 11501
330.1001 (Subpart J) Correctly designated 691
333 Authority citation revised 11501
333.102 Revised 11501
335 Authority citation revised 11501
335.105 Revised 11501
410 Revised; interim 21948
412 Revised 46533
530 Authority citation revised 3540
530.202 Amended; interim 3540
Regulation at 61 FR 3540 confirmed 34713
531 Authority citation revised 3540
Authority citation corrected 42939
Technical correction 43574
531.101—531.106 (Subpart A) Removed; interim 3540
Regulation at 61 FR 3540 confirmed 34713
531.301 Amended; interim 3540
Regulation at 61 FR 3540 confirmed 34713
531.304 (a)(2) and (k) revised; interim 3540
Regulation at 61 FR 3540 confirmed 34713
531.306 Revised; interim 3540
Regulation at 61 FR 3540 confirmed 34713
531.602 Amended; interim 3540
Regulation at 61 FR 3540 confirmed 34713
531.603 (b) revised 40950
(b)(21) corrected 42939
531.606 (a)(2) revised; interim 3541
Regulation at 61 FR 3541 confirmed 34713
531.701—531.705 (Subpart G) Added; interim 3541
Regulation at 61 FR 3541 confirmed 34713
531.703 (i) revised 34714
532.201—532.285 (Subpart B) Appendixes B and D amended; interim 3175, 5921, 27996, 47661, 48817, 49649
Regulations at 60 FR 55175, 55181 and 55423 confirmed 5922

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Appendixes A and C amended 10879
Appendix A amended 20701
Regulation at 61 FR 5921 confirmed 27243
Regulation at 60 FR 57146 confirmed 27995
Regulation at 61 FR 3175 confirmed 27997
Appendix D amended; interim 36609
534.401 (b)(3) revised; interim 3542
Regulation at 61 FR 3542 confirmed 34713
550 Technical correction 53491
550.103 Amended; interim 3542
Regulation at 61 FR 3542 confirmed 34713
550.105 (a)(1) revised; interim 3542
Regulation at 61 FR 3542 confirmed 34713
550.106 (c)(1) revised; interim 3542
Regulation at 61 FR 3542 confirmed 34713
(c)(1) corrected 50535
(c)(1) correctly designated 51319
550.107 (a) revised; interim 3542
Regulation at 61 FR 3542 confirmed 34713
550.111 (d)(2) amended; interim 3542
Regulation at 61 FR 3542 confirmed 34713
550.113 (a) revised; interim 3542
Regulation at 61 FR 3542 confirmed 34713
550.114 (c) revised; interim 3542
Regulation at 61 FR 3542 confirmed 34713
550.141 Amended; interim 3542
Regulation at 61 FR 3542 confirmed 34713
550.144 (a) introductory text revised; interim 3543
Regulation at 61 FR 3543 confirmed 34713
550.151 Amended; interim 3543
Regulation at 61 FR 3543 confirmed 34713
550.154 (a) revised; interim 3543
Regulation at 61 FR 3543 confirmed 34713
550.201—550.206 (Subpart B) Authority citation revised 3543
Regulation at 61 FR 3543 confirmed 34713
550.202 Amended; interim 3543
Regulation at 61 FR 3543 confirmed 34713
550.701—550.713 (Subpart G) Authority citation revised 3543
Regulation at 61 FR 3543 confirmed 34713
550.703 Amended; interim 3543
Regulation at 61 FR 3543 confirmed 34713
575 Authority citation revised 3543
575.103 Amended; interim 3543
Regulation at 61 FR 3543 confirmed 34713
575.203 Amended; interim 3543
Regulation at 61 FR 3543 confirmed 34713
575.303 Amended; interim 3543
Regulation at 61 FR 3543 confirmed 34713
575.402 (b) revised; interim 3543
Regulation at 61 FR 3543 confirmed 34713
575.403 Amended; interim 3543
Regulation at 61 FR 3543 confirmed 34713
575.405 (c)(2) and (d)(2) revised; interim 3544
Regulation at 61 FR 3544 confirmed 34713
581.103 (a)(24) revised; interim 3544
Regulation at 61 FR 3544 confirmed 34713
582.102 Amended; interim 3544
Regulation at 61 FR 3544 confirmed 34713
591.201 Amended 59177
591.203 Heading and (a) introductory text revised 59177
591.212 Added 59177
591.401—591.406 (Subpart D) Authority citation revised 27244
591.401 (a) revised 27244
591.402 Revised 27244
591.403 Revised 27244
591.405 Revised 27244
630.1204 (d)(1) revised; interim 3544
Regulation at 61 FR 3544 confirmed 34713
630.1208 (b)(2) revised; interim 3544
Regulation at 61 FR 3544 confirmed 34713
734 Regulation at 59 FR 48769 confirmed 35099
734.101 Amended 35099

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TITLE 5 Chapter I—Con.

734.102 (a) introductory text and (b) revised 35100
734.203 Example 2 added 35100
734.204 (f) added; Example 2 revised 35100
734.205 Examples 8 and 9 added 35100
734.208 (c), (d) and Examples 12 and 13 added; Example 4 revised 35100
734.302 Revised 35100
734.306 Examples 3 through 13 revised; Examples 14 through 19 added 35101
734.307 Example 1 revised 35101
734.401 (a)(14), (15) and (16) revised; (a)(17) added 35101
734.402 Examples 4 and 5 redesignated as Examples 5 and 6; (b) and new Examples 5 and 6 revised; new Example 4 added 35101
734.404 Revised 35101
734.406 Examples 1 through 8 added 35102
734.408 Revised 35102
734.412 (a), (b) and (c) revised 35102
734.502 (d) revised 35102
734.504 Added 35102
831 Authority citation revised 41720, 58458
831.201 (h) amended; interim 41720
831.204 Removed; interim 41720
Added; interim 58458
831.704 Added; interim 41720
831.2009 Added; interim 41720
831.2203 Regulations at 60 FR 54586 and 54587 confirmed 21953
831.2207 Regulation at 60 FR 54586 confirmed 21953
831.2208 Regulation at 60 FR 54587 confirmed 21953
837.104 Added; interim 41720
837.506 Added; interim 41720
841.102 (b) through (f) redesignated as (b)(1) through (5); new (c) added; interim 41720
842 Authority citation revised 41720, 58458
842.104 (f) amended; interim 41720
842.106 Removed; interim 41720
Added; interim 58459
842.304 (d) added; interim 41720
842.310 Added; interim 41721
842.703 Regulation at 60 FR 54587 confirmed 21953
842.704 Regulation at 60 FR 54587 confirmed 21953
842.707 Regulation at 60 FR 54587 confirmed 21953
842.708 Regulation at 60 FR 54587 confirmed 21953
843.212 Added; interim 41721
843.314 Added; interim 41721
844.106 Added; interim 41721
846 Authority citation revised 58459
846.201 (b) redesignated as (b)(1); (b)(2) added; interim 58459
847 Added; interim 41721
870 Authority citation revised 58459
870.201 Existing text designated as (a); (b) added; interim 58459
871 Authority citation revised 58459
871.201 Existing text designated as (a); (b) added; interim 58459
872 Authority citation revised 58460
872.201 Existing text designated as (a); (b) added; interim 58460
873 Authority citation revised 58460
873.201 Existing text designated as (a); (b) added; interim 58460
890 Authority citation revised 58460
890.101 (a) amended 15178
890.102 (f) added; interim 58460
890.105 Revised 15178
890.107 Revised 15179
Second 890.107 removed; CFR correction 25775
890.301 (c) amended; interim 37808
890.502 (a) through (e) revised; (f) and (h) removed; (g) redesignated as (f); interim 37808
890.808 (d)(2) amended; interim 37810
890.901—890.910 (Subpart I) Regulation at 60 FR 26668 confirmed 50689
890.901 Regulation at 60 FR 26668 confirmed 50689
890.902 Regulation at 60 FR 26668 confirmed 50689
890.903 Regulation at 60 FR 26668 confirmed 50689
890.904 Regulation at 60 FR 26668 confirmed 50689
890.905 Regulation at 60 FR 26668 confirmed 50689
890.906 Regulation at 60 FR 26668 confirmed 50689
890.907 Regulation at 60 FR 26668 confirmed 50689

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890.908 Regulation at 60 FR 26668 confirmed 50689
890.909 Regulation at 60 FR 26668 confirmed 50689
890.910 Regulation at 60 FR 26668 confirmed 50689
890.1109 (d)(2) amended; interim 37810
930.201 (c) added; interim 39267
950.203 (a)(10) revised 4585
950.501 (b) amended 4585
1001 Authority citation revised 36996
1001.101 Added; interim 36996
1001.102 Redesignated from 1001.735–206a; heading revised; interim 36996
1001.735–101—1001.735–103 (Subpart A) Removed; interim 36996
1001.735–201 Removed; interim 36996
1001.735–202 Removed; interim 36996
1001.735–203 Removed; interim 36996
1001.735–204 Removed; interim 36996
1001.735–205 Removed; interim 36996
1001.735–205a Removed; interim 36996
1001.735–206 Removed; interim 36996
1001.735–206a Redesignated as 1001.102; interim 36996
1001.735–207 Removed; interim 36996
1001.735–208 Removed; interim 36996
1001.735–209 Removed; interim 36996
1001.735–210 Removed; interim 36996
1001.735–211 Removed; interim 36996
1001.735–212 Removed; interim 36996
1001.735–213 Removed; interim 36996
1001.735–214 Removed; interim 36996
1001.735–301—1001.735–304 (Subpart C) Removed; interim 36996
1001.735–401—1001.735–412 (Subpart D) Removed; interim 36996

Chapter II—Merit Systems Protection Board (Parts 1200—1299)

1201.3 (a)(7), (8)(ii), (10), (12) and (13) amended 1
1201.126 (c) amended 49049
1201 Appendixes II and III revised 4586

Chapter VI—Federal Retirement Thrift Investment Board (Parts 1600—1699)

1600.1 Amended; interim 58754
1620 Authority citation revised 2873, 41486, 55202
1620.72 (b)(1) amended; interim 58755
1620.83 (a) amended; interim 58755
1620.90—1620.99 (Subpart G) Revised; interim 41486
1620.110—1620.119 (Subpart I) Added; interim 2873
1620.110 Revised; interim 55202
1620.111 Amended; interim 55202
1620.112 Revised; interim 55202
1620.114 Revised; interim 55202
1620.118 Revised; interim 55202
1645.1 Amended 58973
1645.2 Revised 58974
1645.3 Amended 58974
1645.4 Revised 58974
1645.5 Revised 58974
1645.6 Revised 58974
1645.7 Revised 58974
1653.5 (a) revised 18912
1653.25 (a) revised 18912
1655 Authority citation revised 58755
1655.1 Amended; interim 58755
1655.2 Amended; interim 58755
1655.3 Revised; interim 58755
1655.4 Revised; interim 58755
1655.9 (b) and (c) revised; interim 58755
1655.10 (c) revised; (d) removed; interim 58755
1655.11 (d) revised; interim 58755
1655.12 Revised; interim 58755
1655.13 (a)(1), (2)(ii) and (3) revised; interim 58756
1655.15 (b) revised; (c) amended; interim 58756
1655.16 (b) revised; (d) removed; interim 58757
1655.17 (a) and (b) amended; interim 58757
1655.18 Revised; interim 58757
1655.19 Revised; interim 58757
1655.21 Removed; interim 58757
1655.22 Removed; interim 58757
1655.23 Removed; interim 58757
1655.24 Removed; interim 58757
1660 Removed 36610

Chapter IX—Appalachian Regional Commission (Parts 1900—1999)

1900.100 Corrected 13051

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TITLE 5

Chapter XIV—Federal Labor Relations Authority, General Counsel of the Federal Labor Relations Authority and Federal Service Impasses Panel (Parts 2400—2499)

2470.1 Amended 41294
2471.2 Revised 41294
2471.3 (a)(1), (b)(1) and (4) revised 41294
2471.4 Revised 41294
2471.5 Heading, (a), (b), (d) and (e) revised 41294
2471.6 Heading, (a)(2) and (b) revised 41294
2471.7 Heading and introductory text revised; (a) and (b) introductory text removed; (b)(1) through (6) redesignated as (a) through (f) 41295
2471.8 Heading revised 41295
2471.9 (a) revised 41295
2472 Authority citation revised 41295
2472.2 (d) through (n) redesignated as (e) through (o); new (d) added; new (j) revised 41295
2472.3 Revised 41295
2472.4 (a)(1) and (6) revised 41295
2472.5 Revised 41295
2472.6 Removed; new 2472.6 redesignated from 2472.7; heading, (a), (b), (d), (e) and (f) revised 41295
2472.7 Redesignated as 2472.6; new 2472.7 redesignated from 2472.8 41295
(b) revised 41296
2472.8 Redesignated as 2472.7; new 2472.8 redesignated from 2472.9 41295
Revised 41296
2472.9 Redesignated as 2472.8; new 2472.9 redesignated from 2472.10 41295
2472.10 Redesignated as 2472.9; new 2472.10 redesignated from 2472.11 41295
Revised 41296
2472.11 Redesignated as 2472.10; new 2472.11 redesignated from 2472.12 41295
(a) introductory text and (b) revised 41296
2472.12 Redesignated as 2472.11 41295
2473 Added 41296
Chapter XIV Appendix A amended 1697, 51207
Appendix B revised 16043

Chapter XVI—Office of Government Ethics (Parts 2600—2699)

2634 Authority citation revised 32635
2634.1001 (b) amended 32635
Corrected 35589
2634.1002 (b)(1)(i), (ii), (iv)(B), (v) and (c) revised; (d) and (e) added 32635
(e)(1) corrected 40145
2635.34 (g)(2) corrected 48733
2635.204 (g)(2) through (5) and (6) introductory text revised; (g)(6) Examples 2, 3 and 4 redesignated as (g)(6) Examples 4, 5 and 6; new (g)(6) Examples 2 and 3 added 42969
(f) amended; interim 50691
2635.403 (a) note amended 40951
2635.801 (d)(7) revised; interim 50691
2635.803 Note amended 40951
2635.808 (a)(2) note revised; interim 50691
2635 Appendix D added 40952

Chapter XXII—Federal Deposit Insurance Corporation (Parts 3201—3299)

3201.103 (b)(4) amended 35915
3202 Removed 50947

Chapter XXIII—Department of Energy (Part 3301)

Chapter XXIII Established; interim 35087

Chapter XXIV—Federal Energy Regulatory Commission (Parts 3401—3499)

Chapter XXIV Established 43414

Chapter XXVIII—Department of Justice (Part 3801)

Chapter XXVIII Established; interim 59814

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Chapter XXIX—Federal Communications Commission (Parts 3900—3999)

Chapter XXIX Established 56111

Chapter XXX—Farm Credit System Insurance Corporation (Part 4001)

Chapter XXX Regulation at 60 FR 30776 confirmed 4349

Chapter XXXV—Office of Personnel Management (Part 4501)

Chapter XXXV Established; interim 36996

Chapter XLII—Department of Labor (Parts 5200—5299)

Chapter XLII Established; interim 57284

Chapter XLIII—National Science Foundation (Part 5301)

Chapter XLIII Established; interim 59818

Chapter XLV—Department of Health and Human Services (Part 5501)

Chapter XLV Established 39763

Chapter L—Department of Transportation (Part 6001)

Chapter L Established 39903

Chapter LIV—Environmental Protection Agency (Part 6401)

Chapter LIV Established 40502

Chapter LVII—General Services Administration (Parts 6700—6799)

Chapter LVII Established 56401

Chapter LVIII—Board of Governors of the Federal Reserve System (Parts 6800—6899)

Chapter LVIII Established 53828

Chapter LXII—Equal Employment Opportunity Commission (Part 7201)

Chapter LXII Established; interim 7066

Chapter LXIX—Tennessee Valley Authority (Part 7901)

Chapter LXIX Established 20118

Chapter LXV—Deparment of Housing and Urban Development (Parts 7501—7599)

Chapter LXV Established 36248

Chapter LXVI—National Archives and Records Administration (Part 7601)

Chapter LXVI Established 40505

Chapter LXXIV—Federal Mine Safety and Health Review Commission (Part 8401)

Chapter LXXIV Established 39871

Proposed Rules:

316 ..... 6324, 47450
330 546
333 546
335 ..... 546, 6324
338 6324
531 55227
532 4940
591 41746
731 394
732 394
736 394
890 35973
1312 48855
1605 56904
1645 45906
2429 28797
2470 28798
2471 28798
2472 28798
2473 28798

TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture (Parts 0—26)

1.51 Revised 57577

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TITLE 7 Subtitle A—Con.

1.131 (a) amended 11503
1.132 Amended 11503
1.133 (b) heading revised; (b)(2) redesignated as (b)(3); new (b)(2) added 11503
1.135 Heading revised; existing text designated as (a); new (a) heading and (b) added 11503
1.136 (a) amended 11504
1.137 Revised 11504
1.141 (a) amended; (e) redesignated as (e)(1); (e)(2) added 11504
1d Removed 2659
1e Removed 2660
2 Authority citation revised 37552
2.16 (a)(1)(xi) removed; (a)(3)(x) revised 25775
(a)(1)(xxiv) added; (a)(3)(xxix) and (xxx) removed 37552
2.22 (a)(1)(viii)(H), (FF), (GG), (II), (PP), (UU) and (VV) revised; (a)(1)(viii)(V) removed; (a)(1)(viii)(WW) added 25776
2.31 (a) revised 49237
2.42 (a)(13) removed 25776
(a)(43) amended; (a)(44) added 37552
2.43 (a)(24) revised 25776
(a)(29) and (30) removed 37552
2.79 (a)(8)(ix), (xl), (xli), (xliii), (l), (lv), (lvi) revised; (a)(8)(xxix) removed; (a)(8)(lvii) added 25776
6.20—6.36 (Subpart) Revised 53007
6.20—6.34 (Subpart) Appendix 3 amended 6305
6.50—6.59 (Subpart) Removed 28723
6.71—6.75 (Subpart) Removed 28723
6.100—6.102 (Subpart) Removed 28723
9 Removed 42773
10 Removed 30495
12 Revised; interim 47025
12.2 (a) corrected 53491
12.4 (a)(2), (g)(3) and (h) corrected 53491
12.5 (a)(1)(i), (2), (b)(2)(iii) and (7) corrected 53491
12.6 (c) corrected 53491
12.21 (a) designation corrected 53491
12.22 (c) designation corrected 53491
12.30 (b) and (c)(6) corrected 53491
16 Removed 37199
17.2 (b) amended 17823
17.14 (d)(1) and (2)(ii) amended; (d)(2)(i) revised 17823
17.18 (c)(8)(ii) amended 17823
17.20 (a)(9)(i) amended 17824
17 Appendixes A and B amended 17824
19 Removed 42371
26 Removed 40145

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 27—209)

27.62 Reinstated; CFR correction 48399
27.63 Reinstated; CFR correction 48399
27.64 Reinstated; CFR correction 48399
27.65 Reinstated; CFR correction 48399
27.66 Reinstated; CFR correction 48399
27.67 Reinstated; CFR correction 48399
27.69 Reinstated; CFR correction 48399
27.72 Reinstated; CFR correction 48400
27.78 Reinstated; CFR correction 48400
27.80 Reinstated; CFR correction 48400
27.81 Reinstated; CFR correction 48400
27.83 Reinstated; CFR correction 48400
27.85 Reinstated; CFR correction 48400
27.87 Reinstated; CFR correction 48400
27.89 Reinstated; CFR correction 48400
27.90 Reinstated; CFR correction 48400
27.91 Reinstated; CFR correction 48400
27.92 Reinstated; CFR correction 48400
27.93 Reinstated; CFR correction 48400
27.94 Reinstated; CFR correction 48401
27.95 Reinstated; CFR correction 48401

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27.96 Reinstated; CFR correction 48401
27.97 Reinstated; CFR correction 48401
27.98 Reinstated; CFR correction 48401
28 Authority citation revised 19512
28.909 (b) revised 19512
28.910 (a)(4) and (b) amended 19512
28.911 (a) amended 19512
29 Comment period reopening 9589
29.8001 Table amended 27997, 29923, 29924
Regulation at 61 FR 27997 eff. date corrected to 7–5–96 37316
Table corrected 37351
31 Comment period reopening 9589
32 Comment period reopening 9589
33.10 (a), (b) and (d) revised; interim 50422
35.11 (a) and (b) amended; interim 54082
46.2 (u) revised 13386
47.47 Revised 11504
47.49 (a) through (d) amended; (e) and (f) removed 11504
47.50 Removed 11504
47.51 Removed 11504
47.52 Removed 11504
47.53 Removed 11504
47.54 Removed 11504
47.55 Removed 11504
47.56 Removed 11504
47.57 Removed 11504
47.58 Removed 11504
47.59 Removed 11504
47.60 Removed 11504
47.61 Removed 11504
47.62 Removed 11504
47.63 Removed 11504
47.64 Removed 11504
47.65 Removed 11504
47.66 Removed 11504
47.67 Removed 11504
47.68 Removed 11504
51 Comment period reopening 9589
51.38 Revised 54083
51.700—51.784 (Subpart) Revised 20703
51.760 Introductory text revised; interim 40290
51.761 Revised; interim 40290
51.885 Revised 11126
51.886 (b) introductory text revised; (c) added 11127
51.888 (a) revised 11127
51.913 Redesignated as 51.914; new 51.913 added 11127
51.914 Redesignated from 51.914 11127
51.1140—51.1179 (Subpart) Revised 20708
51.1151 Introductory text revised; interim 40290
51.1152 Revised; interim 40290
51.1810—51.1837 (Subpart) Revised 20713
51.1820 Introductory text revised; interim 40290
51.1821 Revised; interim 40290
52 Comment period reopening 9589
Authority citation revised 37664, 43941, 48065, 48066
52.42 Amended 25549
52.50 Amended 25550
52.51 (c)(2) and (d)(1) amended 25550
52.721—52.729 (Subpart) Revised 43941
52.1511 Regulation at 60 FR 62709 confirmed 48065
52.1512 Regulation at 60 FR 62709 confirmed 48065
52.1517 Regulation at 60 FR 62709 confirmed 48065
52.1669 Regulation at 60 FR 62710 confirmed; (b)(2) revised 48066
52.2321—52.2330 (Subpart) Revised 37664
53 Comment period reopening 9589
53.203 (b)(3) revised 2895
Regulation at 61 FR 2895 eff. date delayed to 1–31–97 19155
53.204 (c)(1) revised 2895
Regulation at 61 FR 2895 eff. date delayed to 1–31–97 19155
54 Comment period reopening 9589
54.1 Amended 11505
54.4 Amended 11506
54.14 (a), (b) and Figures 1 and 2 revised 11506
54.17 (b) through (g) revised; (h) through (k) added 11509
54.104 (n) and (o) amended 2895
Regulation at 61 FR 2895 eff. date delayed to 1–31–97 19155
54.106 (b)(3) amended; (c)(1) and (2) revised; (c)(3) removed 2898
Regulation at 61 FR 2898 eff. date delayed to 1–31–97 19155
56 Comment period reopening 9589
58 Comment period reopening 9589
58.205 (a) revised 17548

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(b) revised 35590
58.2465—58.2471 (Subpart I) Revised 15876
58.2525—58.2541 (Subpart L) Revised 17548
58.2750—58.2759 (Subpart U) Revised 35590
70 Comment period reopening 9589
90 Authority citation revised 51350
Nomenclature change 51350
90.1 (i), (j) and (m) removed; (k), (l), (n) and (o) redesignated as (i), (j), (k) and (l) 51350
91 Nomenclature change 51350
91.5 (a)(2) revised 51350
91.23 (e) and (f) revised 51350
92 Authority citation revised 51350
Nomenclature change 51350
Nomenclature corrected 55840
93 Revised 51351
94 Nomenclature change 51352
94.4 (c) revised 51352
94.303 Revised 51352
95 Removed 51352
96 Authority citation revised 51352
Nomenclature change 51352
97 Authority citation revised 248, 51353
Nomenclature change 51352
97.1 Regulation at 60 FR 17189 confirmed 248
97.2 Regulation at 60 FR 17189 confirmed; amended 248
97.3 (c) amended 248
97.5 Regulation at 60 FR 17189 confirmed; (b)(4) and (c) amended 248
97.6 Regulation at 60 FR 17189 confirmed; (d) revised 248
97.7 Regulation at 60 FR 17189 confirmed 248
97.11 Regulation at 60 FR 17189 confirmed 248
97.15 Regulation at 60 FR 17189 confirmed 248
97.19 Regulation at 60 FR 17189 confirmed; introductory text amended 248
97.20 Regulation at 60 FR 17189 confirmed 248
97.23 Regulation at 60 FR 17189 confirmed 248
97.100 Regulation at 60 FR 17189 confirmed 248
97.104 Regulation at 60 FR 17189 confirmed 248
97.105 Regulation at 60 FR 17189 confirmed 248
97.106 Regulation at 60 FR 17190 confirmed 248
97.130 Regulation at 60 FR 17190 confirmed 248
97.140 Regulation at 60 FR 17190 confirmed; amended 248
97.141 Regulation at 60 FR 17190 confirmed; amended 248
97.142 Regulation at 60 FR 17190 confirmed 248
97.175 Regulation at 60 FR 17190 confirmed 248
97.201 Regulation at 60 FR 17190 confirmed 248
97.205—97.222 Regulation at 60 FR 17190 confirmed 248
97.303 Regulation at 60 FR 17190 confirmed 248
97.500 Regulation at 60 FR 17190 confirmed 248
97.800 Regulation at 60 FR 17190 confirmed 248
98 Nomenclature change 51353
98.4 (a)(1) revised 51353
160 Comment period reopening 9589

Chapter II—Food and Consumer Service, Department of Agriculture (Parts 210—299)

210.10 (k)(3)(i) amended 37671
210.10a (d)(2)(i) amended 37671
210 Appendix A amended 37671
225.2 Amended 25553
225.15 (f)(2)(iii), (iv) and (3) introductory text revised; (f)(2)(vi) and (3) amended; (f)(4) added 25553
225.16 (f)(3) amended 37672
225.20 Table revised (OMB numbers) 25554
226.2 Amended 25554
226.15 (e)(2) and (3) revised 25554
226.17 (b)(7) revised 25554
226.18 (f) amended 25554
226.19 (b)(8)(i) revised 25554
226.19a (b)(8) revised 25554
226.23 (e)(1)(ii)(D), (F), (iii)(D), (E) and (4) amended; (h)(2)(iv) through (h)(2)(viii) redesignated as (h)(2)(v) through (ix); (h)(2)(iii) designated in part as (h)(2)(iv);

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(e)(1)(ii)(C), (iii)(C) and new (h)(2)(iii) revised 25554
250.30 (t) added 5272
271 Technical correction 55188, 58281
271.1 (g)(151) added 54279
271.2 Amended 53600, 54279, 54290, 60010
272 Technical correction 55188
272.1 (g)(145) added 19159
(g)(146) added 33643
(g)(151) added 54279
(g)(148) added 54290
(g)(149) added 54297
(g)(150) added 54302
(g)(74)(ii)(A)(A) and (B) redesignated as (g)(74)(ii)(A)(*1*) and (*2*); (g)(147) added 54315
(g)(151) corrected 58281
(g)(152) added 60010
272.4 (a)(2) amended 60010
272.7 Revised 60010
272.9 Amended 53600
273 Technical correction 55188, 58281
273.1 (a)(2)(i)(B) and (C) revised; (a)(2)(i)(D) removed; (a)(2)(ii), (e)(1)(ii) and (f)(2) introductory text amended 54279
(e)(1)(i) amended 54316
273.2 (f)(1)(xiii) added; (f)(8)(i)(A) amended 54290
(f)(1)(ii)(A), (D), (v), (i)(4)(i)(B), (iii) introductory text and (iv) amended; (g)(2) redesignated as (g)(3); (c)(2)(iii), new (g)(2), (i)(4)(iii)(D) and (E) added; (i)(4)(iii)(A), (B) and (C) revised 54316
273.3 Existing text designated as (a) and amended; (b) added 54317
273.4 (a)(2) amended; (a)(9) and (11) removed; (a)(10) redesignated as (a)(9) 54317
273.6 (b)(4) added 54317
273.7 (c)(4)(xiv) and (xv) added; (d)(1)(ii)(A) amended 54279
(h)(1)(v), (6) and (i)(4) amended; (h)(1)(vi) added; (h)(3) revised 54280
273.8 (e)(11)(x) removed 54297
(e)(2) amended 54317
273.9 (c)(1) revised; (c)(7) and (d)(4) amended (b)(5)(i) amended 19160
(d)(7) and (8) redesignated as (d)(8) and (9); new (d)(7) added 54291, 54280
(b)(1)(vi) added; (b)(2)(iv) and (c)(4) amended; (c)(3) and (5)(ii)(B) revised; (c)(5)(i)(D), (ii)(C) and (10)(xi) removed; (c)(5)(i)(E), (F) and (G) redesignated as (c)(5)(i)(D), (E) and (F) 54297
273.10 (a)(2)(i) designation, (ii), (iii) and (f)(2) removed; (a)(1)(ii), new (a)(2), (d)(1)(i), (4) and (e)(1)(i)(E) amended; (e)(2)(i)(E) added 54281
(e)(1)(i)(F) and (G) redesignated as (e)(1)(i)(G) and (H); (d) introductory text, (e)(i)(i)(E) and new (G) amended; (d)(8), new (e)(1)(i)(F) and (f)(9) added 54291
(c)(3)(iii) revised; (d)(1)(i) amended 54298
(a)(1)(iv), (c)(3)(ii) and (g)(2) amended; (c)(2)(iii) and (f)(3) revised 54317
273.11 (k) revised 19160
(c)(1)(i) and (2)(iii) amended 54291
(b) heading, introductory text heading, (1) heading and (ii) heading revised; (b)(1)(ii)(B) amended; (b)(1)(ii)(C) and (2) added 54318
273.12 (a)(4) redesignated as (a)(5); (a)(1)(vi) and new (4) added; (b) heading, (1) introductory text and (2) revised 54291
(c)(2) redesignated as (c)(2)(i); (c)(2)(ii) added 54318
273.13 (c) added 54318
273.14 Revised (OMB number pending) 54318
273.20 Heading and (a) revised 54320
273.21 (j)(1)(vii)(A) amended 54282
(f)(2)(iv), (j)(3)(iii)(A) and (B) amended; (j)(3)(iii)(E) added 54292
(f)(2)(iii) amended 54298
(t) added 54302
(n)(1) amended 54320
274.10 (a)(3) and (j) amended; (a)(4)(iii) redesignated as (a)(4)(iv); new (a)(4)(iii) added 53600
275.12 (d)(2)(ix) added 54292

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277.18 Heading, (c)(2)(ii)(A), (B), (C), (e)(1), (3)(i) and (p)(3) amended; (c)(1) revised; (c)(5) added 33643
278.1 (i) through (s) redesignated as (j) through (t); (b)(1)(iv), (c)(5), (d)(3) and new (n) revised; new (i) added; new (s) amended (OMB number pending) 53600
(h) amended 54320
278.2 (a) through (d), (g), (h) and (l) amended 53601
278.3 (a) amended 53601
(a) introductory text amended 54320
278.4 (c) amended 53601
282.1 Revised 60012
282.2 Removed; new 282.2 added 60012
282.3 Removed 60012
282.4 Removed 60012
282.5 Removed 60012
282.6 Removed 60012
282.10 Removed 60012
282.11 Removed 60012
282.12 Removed 60012
282.13 Removed 60012
282.14 Removed 60012
282.16 Removed 60012
282.17 Removed 60012
282.18 Removed 60012
282.19 Removed 60012
284 Removed 60012
285.2 (b) amended 60012
285.3 (a) amended; (b)(3)(iii) removed; (d) through (h) added 60012
285.4 Removed; new 285.4 redesignated from 285.6 60013
285.5 Removed; new 285.5 redesignated from 285.7; (a) and (b) amended 60013
285.6 Redesignated as 285.4 60013
285.7 Redesignated as 285.5 60013
285.8 Removed 60013
285.9 Removed 60013
285.10 Removed 60013
295 Revised 33643, 39047

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300—399)

300.1 (a) introductory text revised 5924
301 Technical correction 20877, 32900
Forum 36811
301.48 (a) amended; interim 32640
Regulation at 61 FR 32640 confirmed 56404
301.48–1 Amended; interim 32640
Regulation at 61 FR 32640 confirmed 56404
301.48–2 (a) and (b) amended; interim 32640
Regulation at 61 FR 32640 confirmed 56404
301.48–3 Amended; interim 32640
Regulation at 61 FR 32640 confirmed 56404
301.48–4 Revised; interim 32640
Regulation at 61 FR 32640 confirmed; (d)(4) revised; (d)(6) amended 56404
301.48–5 Amended; interim 32641
Regulation at 61 FR 32641 confirmed 56404
301.48–6 Amended; interim 32641
Regulation at 61 FR 32641 confirmed 56404
301.48–8 Added; interim 32641
Regulation at 61 FR 32641 confirmed 56404
301.50—301.50–10 (Subpart) Regulation at 57 FR 54496 confirmed 3177
301.50 Regulation at 58 FR 6347 confirmed 3177
301.50–1 Regulation at 58 FR 6347 confirmed 3177
301.50–2 Regulation at 58 FR 28335 confirmed 3177
301.50–3 Regulations at 58 FR 6348, 28335, 34682, 63027, 59 FR 39939, 52892 and 60 FR 2322 confirmed 3177
301.50–4 Regulation at 58 FR 28335 confirmed 3177
301.50–5 Regulations at 58 FR 6348, 28335 and 34683 confirmed 3177

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301.50–6 Regulation at 58 FR 34683 confirmed 3177
301.50–7 Regulation at 58 FR 34683 confirmed 3177
301.50–8 Regulation at 58 FR 34683 confirmed 3177
301.50–10 Regulations at 58 FR 6348, 28335 and 63027 confirmed 3177
301.52–2a Regulation at 60 FR 44416 confirmed 1521
301.64 (a) amended 2392
Regulation at 61 FR 2392 confirmed 26423
301.64–3 (c) amended 2392
Regulation at 61 FR 2392 confirmed 26423
(c) amended; interim 38354
Regulation at 61 FR 38354 confirmed 57987
301.75–1 Amended; interim 1521
301.75–4 (a) and (d)(1) revised; interim 1521
301.78—301.78–10 (Subpart) Regulation at 56 FR 57576 confirmed 8205
301.78–3 Regulations at 57 FR 42486, 54168, 58 FR 6345, 39124, 42491, 49188, 53108, 53109, 63030, 67629, 59 FR 2282, 7896, 11179, 35611, 40208, 52407 and 60 FR 40054 confirmed 8205
(c) revised; interim 31004
Regulation at 61 FR 31004 confirmed 47663
301.81–3 (e) amended 17551
301.81—301.81–10 (Subpart) Appendix amended 53603
301.89–1—301.89–11 (Subpart) Added; interim 13652
Revised 52207
Appendix added 52212
301.89–1 Amended; interim 35106
301.89–2 (e) through (n) redesignated as (f) through (o); new (e) added; interim 18235
(d) amended; interim 35106
Revised 52208
301.89–3 (e) amended; interim 19235, 35109, 36813
Revised 52208
301.89–4 Revised 52210
301.89–5 Revised 52210
301.89–6 Revised 52210
301.89–7 Revised 52211
301.89–8 Revised 52211
301.89–9 Revised 52211
301.89–10 Revised 52211
301.89–11 Revised 52211
301.89–12 Added; interim 35106
Redesignated as 301.89–14 52207
Added 52211
301.89–13 Added 52212
301.89–14 Redesignated from 301.89–12 52207
301.90—301.90–10 (Subpart) Removed 47663
318.13–1 Amended 5924
318.13–4d Revised 5924
318.13–4e Removed 5924
319 Policy statement 24433
319.37–5 Footnote 7 removed; (b)(1) and (d) amended; (b)(2) and Footnote 8 redesignated as (b)(3) and Footnote 7; new (b)(2) added 51210
319.37–6 Footnote 9 redesignated as Footnote 8 51210
319.37–7 Footnote 10 redesignated as Footnote 9 51210
319.37–8 Footnote 11 redesignated as Footnote 10 51210
319.37–13 Footnote 12 redesignated as Footnote 11 51210
319.37–14 (b) amended 51210
319.56–2d (b)(1) amended; (b)(5)(iv) revised; (b)(5)(v), (vi) and (vii) added 47666
319.56–2v Revised 8207
319.56–2x (b) amended 47667
353 Revised 15368
354.2 Table amended 53604
354.3 (b)(2)(vi) revised; (e)(1), (g)(5)(i)(A), (B), (ii), (iii)(B), (iv), (v) and (h)(2) amended; OMB number 2664
(a) amended; (g)(2) revised 15371

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture (Parts 400—499)

400.47 (b), (c) and (e) removed; (d), (f) and (g) redesignated as (b), (c) and (d); interim 38058
400.48 (b) removed; (c) redesignated as (b); interim 38058
400.49 Removed; interim 38058
400.50 Removed; interim 38058
400.161—400.177 (Subpart L) Authority citation revised 34368
400.168 (b) and (c) revised 34368

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400.169 Regulation at 60 FR 21036 confirmed 39269
Regulation at 60 FR 21035 confirmed 40954
400.650—400.659 (Subpart T) Regulation at 60 FR 1997 confirmed; revised 42975
401.8 Amended; interim 39050
402 Revised 42985
404 Revised 7200
457.109 Added 58775
457.111 Added 57580
457.118 Added 8855
Corrected 27245
457.119 Added 41300
Corrected 57583
457.121 Added 44147

Chapter V—Agricultural Research Service, Department of Agriculture (Parts 500—599)

502 Heading revised 51211
Authority citation revised 51211
502.1 Revised 51211
502.2 Revised 51211
502.4 Revised 51211
502.5 Revised 51211
502.6 Revised 51211
502.7 Revised 51211
502.8 Revised 51211
502.9 Revised 51211
502.10 Revised 51212
502.11 Revised 51212
502.12 (a), (b) and (c) revised 51212
502.13 Removed; new 502.13 redesignated from 502.14 and revised 51212
502.14 Redesignated as 502.13; new 502.14 redesignated from 502.15 and revised 51212
502.15 Redesignated as 502.14; new 502.15 redesignated from 502.16 and revised 51212
502.16 Redesignated as 502.15; new 502.16 redesignated from 502.17 51212
502.17 Redesignated as 502.16 51212

Chapter VI—Natural Resources Conservation Service, Department of Agriculture (Parts 600—699)

Chapter VI Regulation at 60 FR 28514 confirmed 42141
Forums 52671
610 Authority citation revised 27999
610.1—610.5 (Subpart A) Subpart designation added 27999
610.1 Revised 27999
610.11—610.14 (Subpart B) Added 27999
620 Regulation at 60 FR 28514 confirmed; redesignated as Part 1467 42141
663 Removed 41949

Chapter VII—Consolidated Farm Service Agency, Department of Agriculture (Parts 700—799)

Chapter VII Forums 52671
703 Removed 26424
704.1 Amended; interim 43944
704.2 (a)(12) through (24) redesignated as (a)(13) through (25); new (a)(12) added; interim 10672
(a)(23) amended; interim 43944
704.3 (a), (b) and (d) amended; interim 43944
704.7 (a)(3)(ii), (d)(4), (e)(1) and (8) amended; interim 43944
704.9 (a), (b) and (d) amended; interim 43944
704.18 Amended; interim 43945
704.20 (a)(4) amended; interim 10672
(a)(4) revised; (b) amended; interim 43945
704.24 Amended; interim 43945
704.26 Amended; interim 43945
704.27 (b) amended; interim 43945
704.30 (c) added; interim 43945
718 Revised 37552
718.206 Corrected 49049
719 Removed 37566
720 Removed 37566
723.111 (d) added 37673
723.112 (d) added 50425
729 Authority citation revised 36999
729.102 Amended; interim 36999
729.103 Amended; interim 36999
729.104 (a) revised; (c) amended; interim 36999
729.108 Amended; interim 36999
729.201 Amended; interim 36999
729.204 Redesignated as 729.206; new 729.204 added; interim 36999
729.205 Redesignated as 729.207; interim 36999
Added; interim 37000

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729.206 Redesignated as 729.208; new 729.206 redesignated from 729.204; interim 36999
(f) heading, (1), (3) and (7) amended; interim 37000
729.207 Redesignated as 729.209; new 729.207 redesignated from 729.205; interim 36999
(c), (d)(1)(ii)(B) and (2) amended; interim 37000
729.208 Redesignated as 729.210; new 729.208 redesignated from 729.206; interim 36999
(d) revised; interim 37000
729.209 Redesignated as 729.211; new 729.209 redesignated from 729.207; interim 36999
729.210 Redesignated as 729.212; new 729.210 redesignated from 729.208; interim 36999
(a)(1) revised; interim 37000
729.211 Redesignated as 729.213; new 729.211 redesignated from 729.209; interim 36999
729.212 Redesignated as 729.214; new 729.212 redesignated from 729.210; interim 36999
729.213 Redesignated as 729.215; new 729.213 redesignated from 729.211; interim 36999
Revised; interim 37000
729.214 Redesignated as 729.216; new 729.214 redesignated from 729.212; interim 36999
(a)(2) amended; (d) through (l) redesignated as (e) through (m); (c), new (f)(1)(iii)(A), new (3)(i) and new (l) revised; new (d) added; interim 37001
729.215 Redesignated from 729.213; interim 36999
(f)(2) amended; interim 37001
729.216 Redesignated from 729.214; interim 36999
Revised; interim 37001
(a) amended; (c) added 60510
729.316 Revised 37565
729.317 Added 37566
760.1—760.34 (Subpart) Authority citation revised 18485
760.2 (k)(1), (2), (l) and (o) revised 18485
782 Nomenclature change 32643
782.2 Amended 32643
782.4 Revised (OMB number) 32643
782.12 (a) introductory text amended; (a)(8) removed; (a)(9), (10), (b), (c) and (d) redesignated as (a)(8), (9), (d), (e) and (f); new (b) and new (c) added; new (e) revised 32643
782.13 (b) and (c) redesignated as (c) and (d); new (d) amended; new (b) added 32643
782.15 (a)(1) amended; (e), (f) and (g) added 32643
782.17 (b) redesignated as (c); new (b) added 32643
790 Removed 37566
791 Removed 37566
793 Removed 37566
796 Removed 37566

Chapter VIII—Grain Inspection, Packers and Stockyard Administration (Federal Grain Inspection Service), Department of Agriculture (Parts 800—899)

800.71 Regulation at 58 FR 3214 withdrawn; (a) amended 43303
800.72 Revised 43305
800.73 Revised 43305
800.86 (c)(2) Tables 1 through 4 amended 18490
Regulation at 61 FR 18490 eff. date delayed to 6-1-97 24669
810.104 (b) amended 18491
Regulation at 61 FR 18491 eff. date delayed to 6-1-97 24669
810.202 (s) removed; (t), (u) and (v) redesignated as (s), (t) and (u); (c), new (s), new (t) and new (u) revised 18491
Regulation at 61 FR 18491 eff. date delayed to 6-1-97 24669
810.204 Revised 18492
Regulation at 61 FR 18492 eff. date delayed to 6-1-97 24669
810.205 Revised 18492
Regulation at 61 FR 18492 eff. date delayed to 6-1-97 24669
810.206 Revised 18492
Regulation at 61 FR 18492 eff. date delayed to 6-1-97 24669
868.91 Revised 34715
868.101—868.142 (Subpart B) Removed; interim 7688
868.401—868.410 (Subpart F) Removed; interim 7688

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868.501—868.510 (Subpart G) Removed; interim 7688
868.601—868.611 (Subpart H) Removed; interim 7688

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999)

900.80—900.82 (Subpart) Added 20717
905.235 (Subpart) Added; interim 38355
Regulation at 61 FR 38355 confirmed 50693
905.306 Regulation at 60 FR 58499 confirmed 3546
Heading added; interim 38355
906.235 Added; interim 37811
Regulation at 61 FR 37811 confirmed 49651
906.340 (a)(2)(i)(*a*) and (ii) revised; (a)(2)(i)(*c*) Table I redesignated as (a)(2)(i)(*c*) Table II; interim 43141
Regulation at 61 FR 43141 confirmed; (a)(2)(i)(C) amended 59822
906.365 (a)(4) revised; interim 43141
Regulation at 61 FR 43141 confirmed 59822
911.53 Stayed; interim 17552
Regulation at 61 FR 17552 confirmed 46702
911.54 Stayed; interim 17552
Regulation at 61 FR 17552 confirmed 46702
911.55 Stayed; interim 17552
Regulation at 61 FR 17552 confirmed 46702
911.56 Stayed; interim 17552
Regulation at 61 FR 17552 confirmed 46702
911.57 Stayed; interim 17552
Regulation at 61 FR 17552 confirmed 46702
911.58 Stayed; interim 17552
Regulation at 61 FR 17552 confirmed 46702
911.59 Stayed; interim 17552
Regulation at 61 FR 17552 confirmed 46702
911.111 Stayed; interim 17552
Regulation at 61 FR 17552 confirmed 46702
911.311 (b) revised; interim 31005
Stayed; eff. 6–1–97 through 12–31–97 43144
Regulation at 61 FR 31005 confirmed 49051
911.329 Stayed; eff. 6–1–97 through 12–31–97 43144
911.344 Stayed; eff. 6–1–97 through 12–31–97 43144
915 Budget of expenses 19514
Regulation at 61 FR 19514 confirmed 40292
915.150 (d) stayed; interim 17552
Regulation at 61 FR 17552 confirmed 46702
915.306 (a)(4) revised; interim 31006
Regulation at 61 FR 31006 confirmed 49051
916.234 (Subpart) Added; interim 37813
Regulation at 61 FR 37813 confirmed 49653
916.350 (a)(4)(iv) Table 1, Table 2 and (b) revised; (c) added 13390
(d) added 19164
Regulation at 61 FR 13390 confirmed; (c) revised 31391
916.356 (a)(1) introductory text, Table 1, (2) introductory text, (3) introductory text, (4) introductory text and (6) introductory text revised 13391
(a)(1) revised 19164
(a)(1)(ii) correctly revised 26073
(a)(4) and (6) corrected 31006
Regulation at 61 FR 13391 confirmed; (a)(6) amended 31391
917.258 (Subpart) Added; interim 37813
Regulation at 61 FR 37813 confirmed 49653
917.442 (a)(4)(iv) Table 1 and (b) revised; (c) added 13392
(d) added 19164
Regulation at 61 FR 13392 confirmed; (c) revised 31391
917.459 (a)(2) removed; (a)(1)(ii) Table 1, (ii), (5) introductory text and (6) introductory text revised 13392
(a)(1) revised 19164
Regulation at 61 FR 13392 confirmed; (a)(6) amended 31391
920.160 (a) and (b) introductory text revised; interim 51576
920.213 Added; interim 40507

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Regulation at 61 FR 40507 confirmed....49654
920.303 (d) revised....13395
922.235 (Subpart) Added; interim....40956
Regulation at 61 FR 40956 confirmed....50230
922.321 (a)(1) revised; interim....30497
Regulation at 61 FR 30497 confirmed....42989
923.236 Undesignated center heading and section added; interim....40956
Regulation at 61 FR 40956 confirmed....50230
924.236 (Subpart) Added; interim....40956
Regulation at 61 FR 40956 confirmed....50230
924.319 (a) introductory text revised....40958
925.304 (b)(2) revised; (b)(1)(vi) and (vii) redesignated as (b)(1)(viii) and (ix); new (b)(1)(vi) and (vii) added; interim....11129
Corrected....14013
Regulation at 61 FR 11129 confirmed....27247
927.8 Revised....17554
927.10 Revised....17554
927.12 Revised....17554
927.41 (a) revised....17554
927.45 Added....17555
927.47 Revised....17555
927.52 (b)(1) revised....17555
927.65 (b) revised....17555
927.236 Undesignated section heading and section added; interim....42530
Regulation at 61 FR 42530 confirmed....52682
928 Budget of expenses....100
928.226 Added; interim....28001
Regulation at 61 FR 28001 confirmed....40147
929.105 (b) revised....30498
929.236 (Subpart) Added; interim....41730
Regulation at 61 FR 41730 confirmed....51354
930 Added....49942
931.231 Undesignated section heading and section added; interim....42530
Regulation at 61 FR 42530 confirmed....52682
932 Budget of expenses....6307, 17556
932.153 Revised; interim....40510
Regulation at 61 FR 40510 confirmed....55205
944.28 Regulation at 58 FR 69185 confirmed....13058
944.31 (f) and (g) revised....13058
944.106 Regulation at 60 FR 58499 confirmed....3546
Regulation at 58 FR 69185 confirmed....13058
944.209 Regulation at 58 FR 69185 confirmed; (c) amended....13058
Stayed; eff. 6-1-97 through 12-31-97....43144
944.312 Regulation at 58 FR 69185 confirmed....13058
(c) and (h) revised....13059
944.350 Regulation at 58 FR 69185 confirmed....13058
Revised....13059
Heading, (a)(1) and (2) revised....40958
944.400 Heading and (a) introductory text revised....40958
944.401 Regulation at 58 FR 69186 confirmed....13058
(c) revised....13059
(b)(12) revised; interim....40510
Regulation at 61 FR 40510 confirmed....55205
944.503 Regulation at 58 FR 69186 confirmed....13058
944.550 Regulation at 58 FR 69186 confirmed....13058
(d) revised....13059
944.605 Regulation at 58 FR 69186 confirmed....13058
944.700 Added....40959
945.249 (Subpart) Added; interim....39271
Regulation at 61 FR 39271 confirmed....51355
945.341 Regulation at 60 FR 57905 confirmed....3547
Heading added; interim....39271
Regulation at 61 FR 39271 confirmed....51355
946 Budget of expenses....20121
946.248 Regulation at 61 FR 20121 confirmed; corrected....35111
946.336 (a)(2)(ii) revised....31007
947.247 (Subpart) Added; interim....27248

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Regulation at 61 FR 27248 confirmed 43146
947.340 (Subpart) Subpart heading added 43146
948.215 Added; interim 29636
Regulation at 61 FR 29636 confirmed 43947
948.216 Added; interim 36814
Regulation at 61 FR 36814 confirmed 50232
948.386 (Subpart) Heading added 43947
950 Removed 53607
953.253 (Subpart) Added; interim 27249
Regulation at 61 FR 27249 confirmed 43147
953.322 (Subpart) Subpart heading added 43147
955.209 Undesignated center heading and section added; interim 49954
956 Budget of expenses 20122
956.142—956.180 (Subpart) Added 44151
956.202 Corrected 39052
958.240 (Subpart) Added; interim 27251
Regulation at 61 FR 27251 confirmed 43417
958.328 (a)(3)(ii) revised 35593
(a)(1)(ii), (3)(i) and (b) revised; interim 39841
Heading added 43417
Regulation at 61 FR 39841 confirmed 52684
959 Budget of expenses 7408
959.322 Introductory text and (b)(5) revised 24878
966.234 (Subpart) Added; interim 60512
966.323 Regulation at 60 FR 57907 confirmed 5926
(d)(1) revised; interim 55731
Heading added; interim 60512
979 Budget of expenses 250, 7689
979.304 (b)(1) amended; (c)(4) and (5) revised; interim 7409
Regulation at 61 FR 7409 confirmed 20719
980.1 Regulation at 58 FR 69189 confirmed 13058
(i) revised 13060
980.117 Regulation at 58 FR 69189 confirmed 13058
(i) revised 13060
(a)(2), (b)(1) and (2) amended 25557
980.212 Regulation at 58 FR 69189 confirmed 13058
(i) revised 13060
980.501 Regulation at 58 FR 69189 confirmed 13058
Revised 13060
981.14 Revised 32920
981.16 Revised 32920
981.18 (b) and (c) amended; (d) added 32920
981.19 Revised 32920
981.21 Revised 32920
981.31 Revised 32920
981.32 (a) revised; (b)(2) amended 32920
981.33 Revised 32920
981.34 Revised 32921
981.40 (c) revised 32921
981.41 (c) amended 32921
981.47 Amended 32921
981.49 (b) revised; (d) and (e) amended; (f) removed 32921
981.55 Existing text designated as (a); (b) added 32921
981.60 (b) revised 32921
981.61 Amended 32921
981.62 Removed 32921
981.66 (b) and (d) removed; (c), (e), (f) and (g) redesignated as (b), (c), (d) and (e); new (c) amended 32921
981.67 Amended 32921
981.70 Amended 32921
981.73 Amended 32922
981.76 Added 32921
981.81 (e) added 32921
981.90 (b)(2) and (3) redesignated as (b)(3) and (4); new (b)(2) added; new (b)(3) amended 32921
981.343 (Subpart) Added; interim 39842
Regulation at 61 FR 39842 confirmed 49955
981.401 (a) and (b) amended; interim 42991
Regulation at 61 FR 42991 confirmed 53608
981.442 (a)(1) and (4) amended; interim 42991
Regulation at 61 FR 42991 confirmed 53608
981.467 (a) amended 32922
981.472 (a) amended 32922
982 Budget of expenses 2667

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Marketing percentages 11291
Heading revised; nomenclature change 17559
982.4 Revised 17559
982.16 Revised 17559
982.30 (a) introductory text, (b)(1), (2) and (3) revised 17559
982.32 (a), (b), (c) and (f) revised 17559
982.33 (b) revised 17559
982.37 (b) revised 17559
982.39 (i) revised 17559
982.40 (c)(2) introductory text amended 17560
982.46 (b) revised 17560
982.51 (a) amended 17560
982.52 (b) revised 17560
982.54 (b) through (f) revised 17560
982.57 (b) revised 17560
982.58 (a) amended 17560
982.61 Existing text designated as (a); (b) added 17560
982.63 Added 17560
982.340 (Subpart) Added; interim 29926
Regulation at 61 FR 29926 confirmed 42993
984.347 (Subpart) Added; interim 60513
985 Marketing percentages 11293, 15697, 29461
985.5 Revised 32924
985.141 Added; interim 20124
Regulation at 61 FR 20124 confirmed 40960
987 Authority citation revised 49957
987.339 (Subpart) Added; interim 49957
Regulation at 61 FR 49957 confirmed 59180
989 Marketing percentages 7069, 36816
989.156 (t) added; interim 102
Regulation at 61 FR 102 confirmed 6309
989.347 (Subpart) Added; interim 52686
993.347 (Subpart) Added; interim 39844
Regulation at 61 FR 39844 confirmed 51357
997 Budget of expenses 29928, 42994
997.20 Regulation at 60 FR 50086 confirmed 104
997.30 Regulations at 60 FR 50086 and 50087 confirmed 104
997.101 Undesignated center heading and section added; interim 35595
Regulation at 61 FR 35595 confirmed 59824
998 Budget of expenses 29928, 42994
998.300 Revised 55549
998.409 Undesignated center heading and section added; interim 35595
Regulation at 61 FR 35595 confirmed 59824
999 Authority citation revised 31315
999.1 Regulation at 58 FR 69190 confirmed 13058
999.100 Regulation at 58 FR 69190 confirmed 13058
999.200 Regulation at 60 FR 57910 confirmed 2394
999.500 Regulation at 58 FR 69190 confirmed 13058
Revised 13060
999.600 Added 31315

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture (Parts 1000—1199)

1002.14 (d) stayed; eff. 5-1-96 through 9-30-96 20721
1002.77 Regulation at 60 FR 62019 confirmed 11294
1002.300—1002.353 (Subpart) Regulation at 60 FR 62019 confirmed 11294
1002.400—1002.444 (Subpart) Regulation at 60 FR 62019 confirmed 11294
1004.92 (c) stayed in part; eff. 5-1-96 through 9-30-96 20721
1005.7 (d) redesignated as (e); introductory text, (b) and new (e) revised; new (d) added 1148
1005.30 (a) and (c) revised; interim 41490
1005.32 (a) amended 1148
1005.53 (a)(6) redesignated as (a)(7) and revised; new (a)(6) added 1148
1005.61 (a) introductory text, (5) and (b) introductory text amended 1148
(a)(4), (5), (b)(5) and (6) redesignated as (a)(5), (6), (b)(6) and

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(7); new (a)(4) and new (b)(5) added; (b)(3), new (6) and new (7) amended; interim 41490
1005.80—1005.82 Undesignated center heading added; interim 41490
1005.80 Added; interim 41490
1005.81 Added; interim 41490
1005.82 Added; interim 41490
1005.90 Amended 1148
1005.91 Amended 1148
1005.93 (b) and (e) introductory text amended 1148
1005.94 Amended 1148
1007.2 Amended 20125
1007.30 (a) and (c) revised; interim 41491
1007.50 (d) amended 20125
1007.61 (a)(4), (5), (b)(5) and (6) redesignated as (a)(5), (6), (b)(6) and (7); new (a)(4) and new (b)(5) added; (b)(3), new (6) and new (7) amended; interim 41491
1007.80—1007.82 Undesignated center heading added; interim 41492
1007.80 Added; interim 41492
1007.81 Added; interim 41492
1007.82 Added; interim 41492
1007.92 (c) introductory text amended 20125
1011.2 (b) revised 1148
1011.7 Introductory text amended; (d) redesignated as (e); (b) and new (e) revised; new (d) added 1148
1011.13 (e)(3) amended 1149
1011.30 (a) and (c) revised; interim 41493
1011.52 (a)(3) revised 1149
1011.61 (a)(4), (5), (b)(5) and (6) redesignated as (a)(5), (6), (b)(6) and (7); new (a)(4) and new (b)(5) added; (b)(3), new (6) and new (7) amended; interim 41493
1011.80—1011.82 Undesignated center heading added; interim 41493
1011.80 Added; interim 41493
1011.81 Added; interim 41493
1011.82 Added; interim 41493
1046.2 Amended 1149
1046.30 (a) and (c) revised; interim 41494
1046.61 (a)(4), (5), (b)(5) and (6) redesignated as (a)(5), (6), (b)(6) and (7); new (a)(4) and new (b)(5) added; (b)(3), new (6) and new (7) amended; interim 41494
1046.73 (f)(2) revised; interim 41495
1046.80—1046.82 Undesignated center heading added; interim 41495
1046.80 Added; interim 41495
1046.81 Added; interim 41495
1046.82 Added; interim 41495
1075.2—1075.19 Undesignated center heading removed 47039
1075.2 Removed 47039
1075.3 Removed 47039
1075.5 Removed 47039
1075.6 Removed 47039
1075.7 Removed 47039
1075.8 Removed 47039
1075.9 Removed 47039
1075.10 Removed 47039
1075.12 Removed 47039
1075.13 Removed 47039
1075.14 Removed 47039
1075.15 Removed 47039
1075.16 Removed 47039
1075.17 Removed 47039
1075.18 Removed 47039
1075.19 Removed 47039
1075.30—1075.32 Undesignated center heading removed 47039
1075.30 Removed 47039
1075.31 Removed 47039
1075.32 Removed 47039
1075.40—1075.45 Undesignated center heading removed 47039
1075.40 Removed 47039
1075.41 Removed 47039
1075.42 Removed 47039
1075.43 Removed 47039
1075.44 Removed 47039
1075.45 Removed 47039
1075.50—1075.54 Undesignated center heading removed 47039
1075.50 Removed 47039
1075.51 Removed 47039
1075.52 Removed 47039
1075.53 Removed 47039
1075.54 Removed 47039
1075.60—1075.62 Undesignated center heading removed 47039
1075.60 Removed 47039
1075.61 Removed 47039
1075.62 Removed 47039

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1075.70—1075.77 Undesignated center heading removed 47039
1075.70 Removed 47039
1075.71 Removed 47039
1075.72 Removed 47039
1075.73 Removed 47039
1075.74 Removed 47039
1075.75 Removed 47039
1075.76 Removed 47039
1075.77 Removed 47039
1075.85 Undesignated center heading and section removed 47039
1079.7 (b) introductory text amended (temporary) 55733
(b) introductory text amended; eff. in part 12–1–96 through 3–31–97 and in part 4–1–97 55733
1106.6 Stayed in part; eff. 9–1–96 through 8–31–98 35596
1106.7 (b)(1) stayed in part; eff. 9–1–96 through 8–31–98 35597
1106.13 (d)(1) stayed; eff. 9–1–96 through 8–31–98 35597
1131.17 (c) stayed in part; eff. 4–1–96 through 3–31–97 17562
1137.7 (b) stayed in part; eff. 9–1–96 through 2–28–97 55206
1137.12 (a)(1) stayed in part; eff. 9–1–96 through 8–31–97 55206
1160.209 (a) revised 27003

Chapter XI—Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200—1299)

1205.510 (b)(2) and (3) revised 31819
(b)(6)(i) revised 31822
1208.52 Stayed; eff. 1–15–95 through 4–30–96 14952
1208.100—1208.150 (Subpart B) Added 30501
1220.228 (b)(5)(ii) and (6) removed 50694
1220.257 Amended 50694
1220.330—1220.332 Undesignated center heading removed 50694
1220.330 Removed 50694
1220.331 Removed 50694
1220.332 Removed 50694
1220.500—1220.555 (Subpart D) Removed 50694
1220.701—1220.731 (Subpart F) Removed 50694
1230.110 Revised 28003
(b) correctly revised 35597
1240.115 (e) revised 29462
Regulation at 61 FR 29462 eff. date corrected to 6–12–96 33175
(e) corrected 38356
1280 Referendum results 13061
1280.101—1280.246 (Subpart A) Added 19517
1280.101 Stayed 33646
1280.102 Stayed 33646
1280.103 Stayed 33646
1280.104 Stayed 33646
1280.105 Stayed 33646
1280.106 Stayed 33646
1280.107 Stayed 33646
1280.108 Stayed 33646
1280.109 Stayed 33646
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1280.111 Stayed 33646
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1280.113 Stayed 33646
1280.114 Stayed 33646
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1280.119 Stayed 33646
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1280.122 Stayed 33646
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1280.126 Stayed 33646
1280.201 Stayed 33646
1280.202 Stayed 33646
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1280.204 Stayed 33646
1280.205 Stayed 33646
1280.206 Stayed 33646
1280.207 Stayed 33646
1280.208 Stayed 33646
1280.209 Stayed 33646
1280.210 Stayed 33646
1280.211 Stayed 33646
1280.212 Stayed 33646
1280.213 Stayed 33646
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1280.215 Stayed 33646
1280.216 Stayed 33646
1280.217 Stayed 33646
1280.218 Stayed 33646
1280.219 Stayed 33646

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1280.220 Stayed 33646
1280.221 Stayed 33646
1280.222 Stayed 33646
1280.223 Stayed 33646
1280.224 Regulation at 61 FR 19521 eff. date delayed 33646
1280.225 Regulation at 61 FR 19521 eff. date delayed 33646
1280.226 Regulation at 61 FR 19522 eff. date delayed 33646
1280.227 Regulation at 61 FR 19522 eff. date delayed 33646
1280.228 Regulation at 61 FR 19522 eff. date delayed 33646
1280.229 Stayed 33646
1280.230 Stayed 33646
1280.231 Stayed 33646
1280.232 Stayed 33646
1280.233 Stayed 33646
1280.234 Stayed 33646
1280.235 Stayed 33646
1280.240 Stayed 33646
1280.241 Stayed 33646
1280.242 Stayed 33646
1280.243 Stayed 33646
1280.244 Stayed 33646
1280.245 Stayed 33646
1280.246 Stayed 33646
1280.301—1280.318 (Subpart B) Added 21059
Regulation at 61 FR 21059 eff. date delayed 33646
1280.400—1280.414 (Subpart C) Added 21051
Stayed 33646

Chapter XIV—Commodity Credit Corporation, Department of Agriculture (Parts 1400—1499)

1400 Added 37566
1401 Redesignated from Part 1470 37575
1402 Revised 37575
1405 Revised 37575
1410 Heading amended; interim 43945
1410.1 Amended; interim 43945
1410.2 (a) and (f)(1) revised; (f)(2) and (h) amended; (g) and (h) redesignated (h) and (i); new (g) added; interim 43945
1410.3 (b) amended; interim 43945
1410.13 (d) added; interim 43946
1410.102 (a) and (b) amended; interim 43946
1410.103 (a)(1), (b)(4), (c) and (f)(2) amended; interim 43946
1410.111 (a) amended; interim 43946
1410.116 (a)(5) revised; interim 43946
1412 Added 37575
1412.206 (d) corrected 49049
(f) corrected 49050
1412.207 (b), (d)(1) and (2) corrected 49050
1412.401 (a) and (b)(2)(iii) corrected 49050
1412.403 Corrected 49050
1412.407 Corrected 49050
1413 Removed 37581
1421 Authority citation revised 37581
1421.1—1421.32 (Subpart) Revised 37581
1421.6 (e) revised 11515
1421.200—1421.217 (Subpart) Heading revised 37595
1421.200 Revised 37595
1421.201 Removed 37581
1421.202 Removed 37581
1421.203 Removed 37581
1421.204 Removed 37581
1421.205 Removed 37581
1421.206 Removed 37581
1421.207 Removed 37581
1421.208 Removed 37581
1421.209 Removed 37581
1421.210 Removed 37581
1421.211 Removed 37581
1421.212 Removed 37581
1421.213 Removed 37581
1421.214 Removed 37581
1421.215 Removed 37581
1421.216 Removed 37581
1421.217 Removed 37581
1421.320—1421.324 (Subpart) Removed 37595
1425 Revised 37595
1427 Authority citation revised 37601
1427.1—1427.26 (Subpart) Designated as Subpart A 37600
Revised 37601
1427.50—1427.58 (Subpart) Designated as Subpart B 37600
1427.100—1427.109 (Subpart) Designated as Subpart C 37600
1427.100 (a) amended; (b)(1) introductory text revised; (b)(3) added 37611
1427.101 (a) revised 37611
1427.103 (a)(1) and (2) revised 37611

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1427.107 (a)(1) introductory text, (ii), (2) introductory text, (d) introductory text and (e) introductory text revised; (f)(1)(iii) added....37611
1427.108 (c)(2) and (d) revised; (c)(3) added....37611
1427.109 (a)(3) revised....37611
1427.160—1427.175 (Subpart) Designated as Subpart D....37601
Revised....37612
1427.1081—1427.1089 (Subpart) Designated as Subpart E....37601
1430 Authority citation revised....37615
1430.282 (Subpart) Designated as Subpart A and revised....37615
1430.340—1430.361 (Subpart) Designated as Subpart B....37616
1430.362 Added....37616
1430.400—1430.410 (Subpart C) Added....37616
1430.450—1430.470 (Subpart) Removed....37615
1434 Revised....37618
1435 Added....37618
1435.4 (e) redesignated as (f); new (e) added....15881
1439 Redesignated from Part 1475; nomenclature change....32644
1446 Authority citation revised....37623
1446.101 Amended....37623
1446.103 Amended....37623
1446.203 (b) revised....37623
1446.307 (b) and (d) revised....37624
1446.308 (a), (d) and (e)(1) revised; (f) removed; (g) redesignated as (f)....37624
1446.401 (a)(1) revised....37624
1446.410 (b) revised....37625
1464.8 Introductory text revised....33304
1464.9 (a) revised....33304
1464.12 (d) added....37673
1464.19 (d) added....50425
1467 Redesignated from Part 620....42141
Nomenclature change....42143
1467.1 Heading revised....42141
1467.2 (c), (f) and (h) revised; (g) amended....42141
1467.3 Amended....42141
1467.4 (a) and (b)(2) amended; (b)(1), (c) introductory text, (d)(2), (3) introductory text and (e)(2) revised....42141
1467.6 (a), (b) and (c) redesignated as (b), (c) and (d); new (a) added....42142
1467.7 Heading and (b) heading revised....42142
1467.8 (b)(4), (5) and (e)(2) removed; (e)(3) redesignated as (e)(2); (b)(3), new (e)(2) and (h) revised....42142
1467.9 (a) introductory text amended; (a)(2) revised....42142
1467.10 Heading and (d)(5) revised....42142
1467.11 (a) revised; (b) amended....42142
1467.12 (b) revised....42142
1467.13 (b)(1) revised....42142
1467.14 (a) and (c) amended....42143
1467.17 (a) revised....42143
1468 Revised....37625
1470 Redesignated as Part 1401....37575
1475 Redesignated as Part 1439....32644
1485 Nomenclature change....58780
1485.11 (i) and (gg) amended....32644
(ff) revised....58780
1485.12 (b) revised....58780
1485.13 (c)(1)(i) and (3)(i) amended....32644
1485.14 (a) amended....32644
1485.16 (c)(24) revised; interim....3548
(h) revised....24206
(a)(2), (d)(27) and (29) amended....32644
Regulation at 61 FR 3548 confirmed....53303
1485.20 (a)(1) and (3)(iii) amended....32644
1485.23 (c)(2)(v) revised; (c)(2)(vi) removed; interim....3548
(a)(2) amended....32644
Regulation at 61 FR 3548 confirmed....53303
1487 Removed....8208
1491 Removed....8208
1492 Removed....8208
1493.400—1493.530 (Subpart D) Added; interim....33831
1495 Removed....8208
1497 Removed....37574
1498 Removed....37574
1499 Added....60515

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Chapter XV—Foreign Agricultural Service, Department of Agriculture (Parts 1500—1599)

1520.3 Revised 2898
1520.4 Revised 2898
1520.5 Revised 2898
1520.6 (a) and (b) amended 2898

Chapter XVII—Rural Utilities Service, Department of Agriculture (Parts 1700—1799)

1703.100—1703.140 (Subpart D) Revised 33626
1703.104 (d) and (g) corrected 37961
1703.105 (a)(11) corrected 37961
1703.107 (a)(2) note correctly removed 37814, 42462
(e)(5), (g) and (j)(1) corrected 37961
1703.117 (e)(8) corrected 37814
(c)(1)(i), (v), (d)(1)(i), (2)(i)(C), (e)(2)(i) and (7) corrected 37961
1703.118 (a)(3) corrected 37814
1703.126 (b)(1) corrected 37961
1703.128 Corrected 37961
1703.140 Heading and (a)(2) corrected 37961
1703.100—1703.140 (Subpart D) Appendix A corrected 37961
1755.98 Table amended 26074
1755.700 Added 26074
1755.701 Added 26074
1755.702 Added 26075
1755.703 Added 26076
1755.704 Added 26077
1770.26—1770.27 (Subpart C) Added 39847
1773.1 (c) revised; interim 107
1773.5 (c) revised; interim 107
1773.6 (a) revised; interim 108
1773.9 (a) and (b) revised; interim 108
1773.31 Revised; interim 108
1773.32 (a) revised; interim 108
1773.33 Revised; interim 108
1773.34 (d)(1), (2) and (3) removed; (e)(1)(iii), (2)(iii) and (g) revised; interim 108
1773 Appendix A amended; interim 109
Appendix B amended; interim 111
Appendix C revised; interim 113
1789 Added 48606

Chapter XVIII—Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, Department of Agriculture (Parts 1800—2099)

Chapter XVIII Heading revised; nomenclature change 1109, 2899
1806 Authority citation revised 59777
1806.1 (a) revised; interim 59777
1841 Removed 21362
1843 Removed 21362
1845 Removed 21362
1901.151—1901.158 (Subpart D) Removed 56116
1901.201—1901.205 (Subpart E) Authority citation revised 3781
1901.204 (a)(27) revised 3781
1901.351—1901.360 (Subpart H) Removed 6309
1903 Removed 21362
1910 Authority citation revised 35919, 59777
1910.1 Introductory text and (a) amended; (c) revised; (e) added; interim 35919
Introductory text revised; interim 59777
1910.3 Introductory text, (a) introductory text, (1), (2), (4)(i) and (ii) amended; interim 35919
1910.4 (h) and (j) removed; (c) through (g) redesignated as (d) through (h); (b), new (e) through new (h), (i)(1) introductory text, (i), (ii)(B) and (5) revised; new (c) added; new (d) heading, new (1), new (3)(i) introductory text, new (iii) introductory text, new (v), (k) introductory text, (1), (3) and (4) amended; interim 35920
1910.5 (c)(1) and (4) introductory text amended; (c)(5) revised; interim 35921
1910.6 Removed; interim 35922
1910.7 Removed; interim 35922
1910.8 Removed; interim 35922
1910.9 Removed; interim 35922
1910.10 (b) amended; interim 35922
1910.11 Revised; interim 35922

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1922 Authority citation revised 59777
1922.101—1922.150 (Subpart C) Removed; interim 59777
1924 Authority citation revised 35922, 56116
1924.6 (a)(3)(iv), (6) and (8) amended; (a)(5) revised 56116
1924.13 (e)(1)(ii) amended 56116
1924.51 Revised; interim 35922
1924.54 Added; interim 35922
1924.55 Added; interim 35922
1924.56 Revised; interim 35923
1924.58 Revised; interim 35924
1924.59 Revised; interim 35924
1924.60 Revised; interim 35924
1924.61 Removed; interim 35924
1924.62 Removed; interim 35924
1924.71 Removed; interim 35924
1924.73 Removed; interim 35924
1924.74 Amended; interim 35924
1924.100 Revised (OMB number); interim 35924
1924 Exhibit A amended; interim 35924
1927 Revised 11711
1940 Authority citation revised 3781
1940.590 Removed 3781
1940.901—1940.950 (Subpart S) Removed 39851
1941 Authority citation revised 35925
1941.1 Amended; interim 35925
1941.4 Amended; interim 35925
1941.15 (a), (c), (e) introductory text, (2), (3), (f)(2), (3), (h)(1), (2) introductory text, (3), (i) heading and (j) amended; (k) revised; interim 35925
1941.16 (k) amended; interim 35925
1941.18 (a) introductory text and (2) amended; interim 35925
1941.19 (f)(1) amended; (g) through (j) removed; interim 35925
1941.30 Removed; interim 35925
1941.33 (b)(1)(i), (2)(i) and (c)(2) amended; (b)(1)(ii) removed; (b)(1)(iii) through (vii) redesignated as (b)(1)(ii) through (vi); interim 35925
1942 Authority citation revised 6309
1942.2 (a)(1) introductory text amended 6309
1942.106 (a) and (b) amended 6309
1943 Authority citation revised 35925
1943.1 Amended; interim 35925
1943.2 Amended 35925
1943.4 Amended; interim 35925
1943.18 (b)(3) amended; interim 35925
1943.29 (c) amended; interim 35925
1943.30 Removed; interim 35925
1943.32 Removed; interim 35925
1943.33 (b)(1)(i) amended; (b)(1)(ii), (2) and (c) removed; (b)(1)(iii) through (vii) redesignated as (b)(1)(ii) through (vi); interim 35926
1943.80 Removed; interim 35926
1943.82 Removed; interim 35926
1943.83 (b)(1)(i) amended; (b)(1)(ii), (2) and (c) removed; (b)(1)(iii) through (vii) redesignated as (b)(1)(ii) through (vi); interim 35926
1944.1—1944.50 (Subpart A) Removed; interim 59777
1944.27 (i) removed 39851
1944.31 (a) and (e) amended 39851
1944.62 Amended 39851
1944.66 (b) removed; (c) through (g) redesignated as (b) through (f); new (b), new (c) and new (d) amended 39851
1944.67 Amended 39851
1944.69 Amended 39851
1944.70 (b) amended 39851
1944.72 Amended 39851
1944.156 Added; interim 59777
1944.169 (c)(2) revised; (c)(4)(v) amended 56116
1944.170 (d) removed; (c)(5)(ii)(C) amended 39851
1944.151—1944.200 (Subpart D) Exhibit A–1 amended 56116
1944.215 (x) removed; (v) and (w) amended 39851
1944.251—1944.266 (Subpart F) Revised 42943, 42948
1944.408 Removed 39851
1944.409 Amended 39851
1944.410 (a) introductory text amended 39851
1944.451—1944.500 (Subpart J) Removed; interim 59777
1944.463 (c) introductory text amended 39851
1944.464 Amended 39851

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1944.466 Removed 39851
1944.654 (a) and (b) amended 39851
1944.655 Removed 39851
1944.656 Amended 39851
1945 Authority citation revised 35926
1945.101—1945.150 (Subpart C) Removed 21362
1945.151 Amended; interim 35926
1945.152 Amended; interim 35926
1945.154 (a) amended; interim 35926
1945.163 Amended; (a)(1) revised; (a)(2)(ii) removed; interim 35926
1945.166 (c)(4) amended; interim 35926
1945.167 (g) and (h) removed; (i), (j) and (k) redesignated as (h), (i) and (j); (a), (b), (c) and new (h) amended; interim 35926
1945.168 (a), (b)(1)(i) and (ii) amended; interim 35926
1945.169 (n), (o), (p)(3) and (4) removed; interim 35926
1945.173 (b)(2)(ii) amended; interim 35926
1945.180 Removed; interim 35926
1945.182 Removed; interim 35926
1945.183 (a)(1), (3), (4)(i), (ii), (c), (d) and (e) removed; (a)(4)(iii), (b)(1), (7) and (8) amended; interim 35926
Amended; interim 35927
1948.103 (c)(4) revised; interim 6762
1951 Authority citation revised 3781, 35927
1951.101—1951.150 (Subpart C) Heading revised; interim 59778
1951.101 Revised; interim 59778
1951.151 Revised; interim 59778
1951.201 Revised 3781
1951.251 Revised; interim 35927
Amended; interim 59778
1951.252 Revised; interim 35927
1951.253 Revised; interim 35927
1951.254 Removed; interim 35927
1951.255 Revised; interim 35927
1951.261 Removed; interim 35927
1951.262 Revised; interim 35928
1951.263 Revised; interim 35928
1951.264 Revised; interim 35928
1951.265 Revised; interim 35928
1951.266 Revised; interim 35928
1951.300 Revised (OMB number); interim 35928
1951.251—1951.300 (Subpart F) Exhibit A removed; interim 35928
1951.301—1951.350 (Subpart G) Removed; interim 59778
1951.401—1951.413 (Subpart I) Removed; interim 59778
1951.451 Introductory text revised; interim 59778
1951.601—1951.650 (Subpart M) Removed; interim 59778
1951.906 Amended; interim 35928
1951.909 (e)(3)(vii), (4) heading and (xi) amended; (e)(3)(vi)(B) and (C) removed; interim 35929
1955 Authority citation revised 35929
1955.1 Revised; interim 59778
1955.51 Revised; interim 59778
1955.66 Introductory text, (a)(1) and (2)(iii)(A) through (D) amended; interim 35929
1955.101 Amended; interim 59778
1956 Authority citation revised 59778
1956.51 Revised; interim 59779
1962 Authority citation revised 35929
1962.5 Removed; interim 35929
1962.6 Revised; interim 35929
1962.8 (a) and (b) removed; interim 35930
1962.9 Removed; interim 35930
1962.12 Removed; interim 35930
1962.13 Revised; interim 35930
1962.14 Amended; interim 35930
1962.16 Introductory text added; (a) revised; interim 35930
1962.17 (a) revised; interim 35930
Amended; interim 35931
1962.34 (b)(1) through (4) and (d) amended; (e) revised; (f) through (h) removed; interim 35931
1962.40 (c), (d), (e)(1) introductory text, (i) and (2) amended; (e)(4) removed; interim 35931
1962.43 Removed; interim 35931
1962.44 (a) and (c) removed; (b) amended; interim 35931
1962.46 Amended; interim 35931
1962.47 (a)(3)(i), (b) introductory text, (2)(i), (iv) and (c) introductory text amended; interim 35931
1962.1—1962.49 (Subpart A) Exhibit F removed; interim 35931

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1965 Authority citation revised 35931
1965.13 (f)(4)(ii) introductory text, (A) and (B) amended; interim 35931
1965.101—1965.139 (Subpart C) Removed; interim 59779
1965.217 (d)(2)(ii)(A) removed; (d)(2)(ii)(B), (C) and (D) redesignated as (d)(2)(ii)(A), (B) and (C); (d)(2)(i)(B), new (ii)(B), new (C)(*1*) and (iii)(A) amended 39852
1980 Authority citation revised 35931, 43149
1980.101 (a), (b) and (e)(1) amended; (e)(2) revised; interim 35932
1980.106 (b) amended; interim 35932
1980.108 (a)(1)(i) and (2)(i) revised; (a)(1)(iii) amended; interim 35932
1980.109 (b) introductory text revised; interim 35932
1980.110 (a), (b) and (c) amended; interim 35932
1980.113 Introductory text, (a) introductory text, (1), (2), (5), (7) introductory text, (ii) introductory text, (D) introductory text and (b) introductory text amended; (a)(6), (7)(i)(B), (ii)(B), (C), (D)(*1*), (11)(ii) and (iii) revised; (a)(12) and (c) added; interim 35932
1980.114 Amended; (c) and (d) redesignated as (d) and (e); heading and new (e) revised; introductory text, (a), (b) and new (d) removed; new (c) added; interim 35933
1980.115 Amended; heading revised; (a) through (d) removed; interim 35933
1980.125 (a) introductory text, (b)(1)(i), (3), (c) introductory text, (4) and (d)(3) through (6) amended; interim 35933
1980.126 Amended; interim 35933
1980.129 Amended; introductory text revised; interim 35934
1980.130 Amended; interim 35934
1980.136 (a), (b) and (d) amended; interim 35934
1980.146 (e)(2)(iv)(A) and (3) revised; (e)(2)(iv)(B), (4), (5), (7) and (8) amended 43149
1980.147 Removed 43149
1980.148 Removed; interim 35934
1980.149 Removed; interim 35934
1980.153 Removed; interim 35934
1980.175 (b) introductory text and (1)(i) amended; interim 35934
1980.101—1980.200 (Subpart B) Exhibit A amended; interim 35934
1980.201—1980.294 (Subpart D) Removed 21362
1980.445 Added 18494
1980.451 (i)(13) introductory text revised 18495
1980.454 Amended 18495
1980.469 Amended 18495
1980.501—1980.600 (Subpart F) Removed 21362
1980.601—1980.700 (Subpart G) Removed 55877
1980.901—1980.1000 (Subpart J) Removed 21362
2003 Authority citation revised 3781
2003.1—2003.5 (Subpart A) Exhibit A amended 3782
2018.251—2018.255 (Subpart F) Revised 32645
2054 Removed 21362

Chapter XXI—Foreign Economic Development Service, Department of Agriculture (Parts 2100—2199)

Chapter XXI Removed 2898

Chapter XXII—Office of International Cooperation and Development, Department of Agriculture (Parts 2200—2299)

Chapter XXII Removed 2898

Chapter XXV—Office of the General Sales Manager, Department of Agriculture (Parts 2500—2599)

Chapter XXV Removed 2898

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Chapter XXIX—Office of Energy, Department of Agriculture (Parts 2900—2999)

2902 Removed 9901
2903 Removed 4209

Chapter XXX—Office of Finance and Management, Department of Agriculture (Parts 3000—3099)

3010 Removed 53608
3017 Authority citation revised 250
3017.110 (a)(3) revised 250
3017.115 (d) added 251
3017.200 (d) added 251

Chapter XXXIV—Cooperative State Research, Education, and Extension Service, Department of Agriculture (Parts 3400—3499)

3401 Revised 27753
3403 Revised 25367
3411.2 (j) and (k) amended 45319
3411.4 (c)(2)(iii), (3)(iii), (8), (9)(i), (ii), (iii) and (10) amended 45319
3411.5 (a) and (b) amended 45319
3411.7 (c) amended 45319
3411.10 Amended 45319
3411.15 Amended 45319

Chapter XXXV—Rural Housing Service, Department of Agriculture (Parts 3500—3599)

Chapter XXXV Established; interim 59779

Chapter XXXVII—Economic Research Service, Department of Agriculture (Parts 3700—3799)

3700 Revised 1827

Chapter XL—Economics Management Staff, Department of Agriculture (Parts 4000—4099)

4000 Removed 42371
4001 Removed 3788

Chapter XLII—Rural Business-Cooperative Service and Rural Utilities Service, Department of Agriculture (Part 4200—4299)

Chapter XLII Heading revised; nomenclature change 3782
4284 Authority citation revised 3782
4284.501—4284.600 (Subpart F) Revised 3782

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29 ..... 10902, 10903
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1755 ..... 4754, 44195
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1944 ..... 1153, 4814
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1962 37405
1980 3853
3550 15395
4279 3853
4287 3853

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice (Parts 1—499)

1.1 (p) added 18904
3 Authority citation corrected 47550
Authority citation revised 59305
3.1 (b)(1), (2) and (c) revised 18904
(a)(1) amended 59305
3.2 Revised 18904
(b) corrected 32924
3.3 Revised 18906
3.4 Revised 18907
3.5 Revised 18907
3.6 Revised 18907
(b) corrected 21065

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3.7 Revised 18907
3.8 Revised 18907
3.23 (b) revised 18908
(b)(3) corrected 19976, 21228
3.24 Revised 18908
3.31 (b) revised 18908
(b) corrected 19976, 21228
(b) amended; interim 46374
3.38 (b) revised; (c) and (d) redesignated as (f) and (g); new (c), new (d) and (e) added 18908
100.4 (c)(2) and (3) amended 25778
103.1 (f)(3)(iii)(C), (K), (L), (X), (Y) and (FF) amended; (f)(3)(iii)(GG) revised; interim 13072
(f)(3)(iii)(LL) and (MM) amended; (f)(3)(iii)(NN) added 28010
103.2 (b)(2)(iii) added; (b)(17) heading revised; (b)(17) amended; interim 13072
(e) added 28010
(e)(3) introductory text and (ii) revised 57584
103.5 (a)(1)(i) amended 18909
103.7 (a) revised 18909
(b)(1) amended 28013
(a) existing text designated as (a)(1) and amended; (a)(2) added 35598
(b)(1) amended; interim 46374, 53304
(b)(1) corrected 47550
Regulation at 60 FR 50388 confirmed 53831
103.12 Added; interim 47041
204.1 Heading and (a) revised; interim 13072
(e)(1) revised; (e)(2), (3) and (f)(1) amended; (g)(3) added; interim 13073
204.2 Regulation at 60 FR 38948 confirmed 7207
Heading revised; (d) removed; (c) redesignated as (d); new (c) added; interim 13073
(e) through (h) redesignated as (f) through (i); new (e) added; interim 13075
(g)(2)(iv), (h)(2) and (i)(3) amended; interim 13077
204.5 (d) amended; interim 33305
205.1 Revised; interim 13077
205.2 (b) revised; (c) and (d) added; interim 13078
208 Authority citation revised 18909
208.19 (a) revised 18909
210.4 (b)(2) and (3) revised 46536
212.1 (g) revised 11720
212.3 (f)(2) revised; interim 59825
212.5 (g) added; interim 36611
214.2 (c)(1) amended 35935
216.1 Amended; interim 13079
217.5 (a)(1) revised; interim 35600, 39273
(a)(1) corrected 41684
235.1 Regulation at 60 FR 50389 confirmed 53831
235.13 Regulation at 60 FR 50389 confirmed; revised 53831
236.7 Revised 18909
240.1—240.20 (Subpart A) Heading removed 47668
240.40—240.47 (Subpart B) Removed 47668
242 Authority citation revised 18909
Authority citation corrected 47550
242.1 (a) revised 8859
242.2 (c)(1)(i) through (xvii) revised 8859
242.17 (e) amended; interim 46374
242.19 (b) and (c) amended 18909
(b) corrected 19976, 21228
242.21 (a) revised 18909
242.22 Amended 18909
Corrected 21065
245.6 Regulation at 57 FR 49375 confirmed 59827
245a.2 (n)(2) heading, (ii) and (3) revised 46536
246 Authority citation revised 18909
246.7 Revised 18910
Corrected 32924
264.1 (b) amended 37675, 46537
Regulation at 58 FR 68024 confirmed 47669
264.3 Regulation at 58 FR 68025 confirmed 47669
274a Technical correction 55840
274a.2 (b)(1)(v)(A)(*6*) revised; (b)(1)(v)(A)(*7*) and (*10*) removed 46537
(a) amended; interim 52236
274a.9 (b) amended; (c), (d) and (e) redesignated as (d), (e) and (f); new (c) added; interim 52236
274a.12 (c)(20) and (22) added 46537
274a.14 (c)(1) and (2) revised 46537
282 Removed 47800
286.8 Regulation at 60 FR 50390 confirmed 53831
(f) added 53833

292.1 (a)(2)(ii) and (iii) revised; interim 53610
299.1 Table amended 28013, 46537, 53833
Regulation at 59 FR 25556 confirmed; amended 47800
Regulation at 60 FR 50390 confirmed 53831
299.3 Regulation at 59 FR 25558 confirmed; introductory text revised; table amended 47800
299.4 Regulation at 59 FR 25558 confirmed 47800
(b) introductory text, (1), (3), (d) and (e) revised 47801
299.5 Table amended 28013, 47801, 53833
Regulation at 59 FR 25559 confirmed 47800
301 Added; interim 35112
301.1 (a)(2) and (b)(2) corrected 43948
340.1 Added 55553
340.2 Redesignated from 340.11 and revised 55554
340.11 Redesignated as 340.2 55554
499.1 Regulation at 59 FR 25561 confirmed 47800
Table amended 47801

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3 ..... 40552, 41684
103 ..... 40552, 41684
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208 35894
212 ..... 4374, 40552
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242 40552
245 43028
264 4374
273 29323
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287 40552
292 40552
292a 40552
312 ..... 44227, 51250
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917 8225

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 1—199)

50.6 (b) and (e) amended 25138
53.1 Revised 56882
53.2 (b) amended 56883
54.2—54.6 (Subpart A) Removed 47669
71 Effective date confirmation 56116
71.3 (b) amended 47670
(a) amended 56883
71.7 Heading revised; (c) amended 56883
71.10 Heading and (a) introductory text revised 56883
75 Effective date confirmation 56116
75.5 Removed 47670
75.6 Removed 47670
75.7 Removed 47670
75.10 Removed 47670
77.1 Regulation at 60 FR 62989 confirmed 16617
77.5 (b)(1) amended 25138
78.1 Amended; interim 14239
(a)(4)(iv) and (5)(v) correctly designated as (a)(4)(iii) and (iv) 19976
Regulation at 61 FR 14239 confirmed 41733
78.41 (a) and (b) amended; interim 56118, 58626
78.43 Regulation at 60 FR 67321 confirmed 15882
82 Authority citation revised 11517
Heading revised 56883
82.1—82.15 (Subpart A) Removed 56883
Added 56883
82.19—82.25 (Subpart B) Added 56889
82.30—82.38 (Subpart B) Redesignated as Subpart C 56883
82.30 Amended 11517
82.34 Amended 11517
91.5 (a) and (b) revised; (c) amended; interim 6918
91.8 Footnote 4 redesignated as Footnote 3; interim 6918
92 Heading revised 56890

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92.101 (c)(3)(i), (g)(2), (3) and (4) amended 56890
92.104 (b)(2), (3), (c)(3), (4), (d)(3) and (4) amended 56891
92.106 (c)(2)(ii)(A) and (P)(*1*) revised 31392
(c)(5)(iii) amended 56891
92.209 (a)(1) designation removed; (a)(2) redesignated as (b); new (b) amended 56891
92.300 Amended 52239
92.301 (c) revised; (d) through (i) added (OMB number) 52239
92.303 Footnote 11 redesignated as Footnote 12 52239
92.304 (a)(4)(ii) and (7)(ii) amended 1699
Regulation at 61 FR 1699 eff. date confirmed 10269
Footnote 12 removed 52239
Heading and (b) revised; (a)(1)(ii) introductory text and (iii) amended; (a)(4) through (12) removed 52245
92.308 (a)(1) revised 14240
(c)(2)(ii)(A) amended 36817
(a)(1) amended; interim 39853
Footnotes 16 and 17 redesignated as Footnotes 14 and 15 52245
92.314 Amended 43418
Revised 52245
92.315—92.318 Undesignated center heading Footnote 18 redesignated as Footnote 16 52246
92.319—92.320 Undesignated center heading Footnote 19 redesignated as Footnote 17 52246
92.321—92.326 Undesignated center heading Footnote 20 redesignated as Footnote 18 52246
92.324 Amended; interim 39853
Footnote 21 redesignated as Footnote 19 52246
92.326 Amended; interim 39853
92.400 Regulation at 60 FR 13900 confirmed; amended 17237
92.405 (a) and (b) revised; (c) redesignated as (d); new (c) added; new (d) amended; OMB number 17237
92.411 Revised 17238
92.417 Regulation at 60 FR 13900 confirmed 17237
92.418 (a) revised 17238
92.419 (a) revised; OMB number 17239
92.423 (a) amended; (b) revised; OMB number 17239
92.424 Regulation at 60 FR 13900 confirmed 17237
92.427 (b)(1) and (c)(1) amended; (b)(2)(i), (ii) and (d)(1) introductory text revised 17239
92.428 (a) revised; OMB number 17239
92.429 Amended 17239
92.433 Removed 17239
92.434 Heading revised; Footnote 19 redesignated as Footnote 15 17239
(a), (b)(2)(i)(B), (ii)(A), (B), (D), (E), (F), (K), (iii)(G), (J), (K), (L), (3)(i)(A) introductory text, (*1*), (*3*), (*5*), (ii), (3)(iv) heading, introductory text, (A), (B), (v), (5), (c), (d)(2) introductory text, (iv) and (4) amended; Footnote 20 redesignated as Footnote 16; OMB number 17240
92.435 Added (OMB number) 17240
94 Heading revised 56891
94.0 Amended 56891
94.1 (a)(2) amended 51771
94.6 Heading, (a) introductory text, (1), (2), (c) introductory text, (2), (5), (d) introductory text, (1)(ix) introductory text, (A), (B), (C) introductory text, (*1*), (*2*), (d)(2), (3) and (4) amended 56891
94.8 Introductory text amended 43307
94.9 (a) amended 40293
94.10 (a) amended 40293
94.11 (a) amended 51771
94.12 (a) amended 40293
94.13 Introductory text amended 40293
94.15 (b) introductory text and (2) amended 32647
97.2 Table amended 58627
98 Authority citation revised 15183
98.2 Amended 17241
98.5 OMB number 15183
Introductory text and (a) through (e) redesignated as (a) introductory text and (1)

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through (5); new (a) introductory text amended; new (b) added 17241
98.10a Added (OMB number) 17241
98.11—98.20 (Subpart B) Heading revised 15183
98.11 Amended 15183
98.12 (a) and (b) amended 15183
98.13 (a) amended; OMB number 15183
98.14 (a) introductory text amended; OMB number 15183
(a) revised; (d) redesignated as (e); new (d) added 17242
98.15 Introductory text, (a)(4) amended; (a)(5) designated in part as (a)(5)(i) through (iv); (a)(7) designated in part as (a)(7)(i) and (ii); (a)(8) designated in part as (a)(8)(i) and (ii); (a)(1), (2), new (5)(ii), new (7)(i) and new (8)(i) revised 15183
98.16 Introductory text and (b) amended 15184
98.17 (b)(1) revised; (g) amended; OMB number 15184
98.21 Added (OMB number) 17242
98.30 Amended 17242
98.35 OMB number 15184
(c) revised; (e) added; OMB number 17242
98.36 (a) introductory text amended 17242
98.37 Added (OMB number) 17242
101.4 (h) added 29464
102.2 Existing text designated as (a); (b) added 52873
102.4 (f) revised; (g) redesignated as (h); new (g) added 52873
104.6 (b) amended 52873
105 Heading revised 52874
105.1 (a)(4) and (5) redesignated as (a)(5) and (6); new (a)(4) added; new (a)(5) revised 52874
105.4 Revised 52874
112.5 Introductory text, (c), (d)(1), (2)(iii)(*a*), (3)(ii), (iii) and (4) revised; (d)(2)(iii)(*b*), (3)(i)(*a*) and (*b*) redesignated as (d)(2)(iii)(B), (3)(i)(A) and (B); (g) added; OMB number 29464
(c)(2)(v) corrected 33175
112.7 (c)(2) and (d)(6) revised; OMB number 29465
(m) added 33841
113.209 (b)(4) revised 31823
113.312 Heading and (b)(4) revised 31823
113.330 Revised 33841
113.450—113.455 Undesignated center heading revised 51744
113.450 Revised 51774
113.451 Introductory text revised; (b) and (c) removed; (d) redesignated as (b) 51776
113.452 (b) removed; (c) redesignated as (b); heading, introductory text, (a), new (b) introductory text, new (1) and new (3) revised 51776
113.453 Removed 51777
113.454 (b) removed; (c) redesignated as (b); introductory text, (a) and new (b) introductory text revised 51777
113.455 (b) removed; (c) redesignated as (b); introductory text, (a) and new (b) introductory text revised 51777
113.499 Added 51777
116 Heading revised 52874
116.1 Introductory text, (a), (b) and (c) redesignated as (a) introductory text, (1), (2) and (3); new (a) introductory text and new (1) revised; new (b) and new (c) added (OMB number) 52874
116.2 OMB number 52874
116.3 OMB number 52874
116.4 OMB number 52874
116.5 Revised (OMB number) 52874
116.6 OMB number 52874
116.7 Amended 52874
116.8 Revised (OMB number) 52874
130 Authority citation revised 20432
130.1 Amended 20432
130.2 Heading and (a) table revised; OMB number 20432
130.3 (a)(1) table and (c)(3) revised; OMB number 20432
130.4 Removed 20433
130.5 Heading revised; (a), (b)(1), (2) and (3) amended; (c) added; OMB number 20433
130.6 (a) amended 20433
130.7 (a) amended 20433
130.8 (a) table revised 20434
130.9 (a) introductory text amended; (b) revised 20434

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130.10 Added 20434
(a) table corrected 25513
130.14 Heading revised; (a) amended; (c) added; OMB number 20435
130.15 (a) table amended; (c) added; OMB number 20435
130.16 (a) table amended; (c) added; OMB number 20435
130.17 (a) table amended; (c) added; OMB number 20435
130.18 Existing text designated as (a); (b) added; OMB number 20436
130.20 (a) amended 20434
(a) and (b)(1) revised; (c) amended; (d) redesignated as (e); new (d) added 20436
130.21 (a)(1) through (5) and (c) revised; (a)(6) and (7) added; (b) introductory text, (1), (2) and (3) amended 20436
130.50 (b)(1) amended 20434
(b)(1), (2) and (3) amended; (b)(4) revised 20436
145.10 (g) and (h) revised; (m) and (n) added 11517
145.14 Introductory text revised 11519
145.23 (c)(1)(i), (d)(1)(vii) and (e)(1)(i) amended; (c)(1)(ii)(A) and (e)(1)(ii)(A) revised 11520
145.33 (c)(1)(i), (d)(1)(iii), (iv) and (e)(1)(i) amended; (c)(1)(ii)(A) and (e)(1)(ii)(A) revised; (h) added (OMB number) 11520
145.43 (f)(3)(ii) amended 11521
145.44 (d) added 11521
145.52 (c) added 11521
147.5 Footnote 4 amended 11521
147.6 (b)(2) and (8) amended 11521
147.11 (a)(3) and (4) amended; (a)(5) and (6) illustration revised 11521
147.12 Amended; (a) introductory text, (1), (2), (b) introductory text, (1), (c) introductory text, (1), (2) introductory text, (i) and (ii) redesignated as (b)(1) introductory text, (i), (ii), (2) introductory text, (i), (3)introductory text, (i), (ii) introductory text, (A) and (B); new (a), new (b) introductory text and new (2)(ii) added; new (b)(1) introductory text, new (2) introductory text and new (3)(ii) amended 11524
147.14 Amended 11524
(a)(2)(ii) revised 11525
147.15 Amended 11524
147.16 Amended 11524
147.17 Added 11525
147.26 (a) amended 11525
147.43 (a) introductory text amended 11525
161.2 (d)(6) amended 56891

Chapter II—Grain Inspection, Packers and Stockyards Administration (Packers and Stockyards Programs), Department of Agriculture (Parts 200—299)

201.27 (b) revised 36279
201.34 (c) revised 36279
201.49 Revised (OMB number) 36281
201.55 Revised (OMB number) 36281
201.71 (a) and (b) revised 36282
201.73–1 Introductory text revised 36282
201.98 Revised 36282
201.108–1 Introductory text, (a) and (c) through (f) revised 36282
205 Authority citation revised 54728
205.101 (b)(11)(iii) revised; (e) added; interim 54728
205.105 (b) revised; interim 54728
205.202 (b) and (c) revised; interim 54728
205.209 (c) revised; interim 54728

Chapter III—Food Safety and Inspection Service, Meat and Poultry Inspection, Department of Agriculture (Parts 300—499)

304 Authority citation revised 38864
Meetings 43149, 43150, 50425, 53305, 55206, 55207
304.3 Added 38864
308 Authority citation revised 38864
Meetings 43149, 43150, 50425, 53305, 55206, 55207
308.3 (a) amended 38864
310 Authority citation revised 38864
Meetings 43149, 43150, 50425, 53305, 55206, 55207
310.21 Regulation at 60 FR 66482 eff. date confirmed 4849

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310.25 Added 38864
317 Policy statement 39853
317.2 (h)(13) removed; (h)(14)(v) revised 42144
318.7 (c)(4) table amended 7208, 18048
Regulation at 61 FR 7208 withdrawn 15617
Regulation at 61 FR 18048 eff. date confirmed 37675
(c)(4) table amended; eff. 1-21-97 58782
318.147 (f)(4) table amended 18048
320 Meetings 43149, 43150, 50425, 53305, 55206, 55207
320.6 (a) revised 38866
327 Meetings 43149, 43150, 50425, 53305, 55206, 55207
327.2 (a)(2)(i)(*a*) through (*g*), (ii)(*a*) through (*h*) and (iv)(*a*), (*b*) and (*c*) redesignated as (a)(2)(i)(A) through (G), (ii)(A) through (G), (I) and (iv)(A), (B) and (C); (a)(2)(ii)(H)added 38866
381 Authority citation revised 38866
Policy statement 39853
Meetings 43149, 43150, 50425, 53305, 55206, 55207
381.22 Added 38866
381.45 Revised 38866
381.94 Added 38866
381.147 Regulation at 61 FR 18048 eff. date confirmed 37675
(f)(4) table amended 39277
381.180 (a) revised 38868
381.196 (a)(2)(i)(*a*) through (*g*), (ii)(*a*) through (*h*) and (iv)(*a*), (*b*) and (*c*) redesignated as (a)(2)(i)(A) through (G), (ii)(A) through (G), (I) and (iv)(A), (B) and (C); (a)(2)(ii)(H) added 38868
416 Meetings 53305, 55206, 55207
416-417 (Subchapter E) Added 38868
416 Meetings 43149, 43150, 50425
417 Meetings 43149, 43150, 50425, 53305, 55206, 55207

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1 ..... 5524, 9371, 11778, 30545, 34386
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92 ..... 7079, 9957, 14268, 16978, 20189, 20190, 21389, 26849, 27797, 28073, 36520, 43188, 56165
93 ..... 16978, 20190, 26849, 36520
94 ..... 6955, 14999, 15201, 16978, 20190, 26849, 26850, 35987, 36520
95 ..... 16978, 20190, 26849, 30189, 36520
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130 43188
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301 ..... 9655, 19564, 35990
304 ..... 9655, 19578, 35990, 57790
305 9655
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308 ..... 35990, 57790
310 ..... 8892, 57790
317 ..... 19564, 19578
318 ..... 8892, 9655, 19564, 19578, 35990, 57791
319 ..... 7227, 8892, 19578, 26470, 35157, 47453
320 ..... 19564, 35990, 57790
325 ..... 9655, 59372
327 57790
381 ..... 7227, 8892, 9655, 19564, 19578, 26470, 35157, 35990, 47453, 57790, 59372
391 34747
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TITLE 10—ENERGY

Chapter I—Nuclear Regulatory Commission (Parts 0—199)

Chapter I Regulatory agenda 46537
2 Policy statement 13655
Authority citation revised 43407, 53555
Technical correction 56623
2.8 Revised 43408
2.201 (a) revised 43408
2.205 (j) added 53555
2.1201 (a)(3) added 39297
2.1203 (e) revised 39297

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2.1205 (c) through (n) redesignated as (d) through (o); new (d), new (e)(2) and (4), new (h) introductory text, new (i), new (k) introductory text and (3) and new (l)(1) introductory text and (2) introductory text revised 39297
2.1211 (b) revised 39298
2.1213 Revised 39298
2.1233 (c) revised 39298
2.1263 Revised 39298
13 Authority citation revised 53555
Technical correction 56623
13.3 (a)(1) and (b)(1) revised 53555
19.2 Amended 9902
19.11 (c) note removed; (c) revised 6764
19.20 Revised 6764
20.2108 (b) revised 24673
30.7 (e)(2) note redesignated as (e)(3) and revised 6764
30.35 (g) introductory text revised 24673
30.36 (a) revised 1113
(k)(4) added 24673
(d), (g)(3), (4)(vi), (h)(1) and (2) amended 29637
30.37 (b) added 1114
30.51 (d), (e) and (f) added 24673
30.72 Amended 9902
40.7 (e)(2) note redesignated as (e)(3) and revised 6765
40.36 (f) introductory text revised 24674
40.42 (a) revised 1114
(k)(4) added 24674
(d), (g)(3), (4)(vi), (h)(1) and (2) amended 29637
40.43 (b) added 1114
40.61 (d), (e) and (f) added 24674
50 Technical correction 232
50.2 Amended 39298
50.4 (b)(8) and (9) added 39298
50.7 (e) and note redesignated as (e)(1) and (2); new (e)(2) revised 6765
50.36 (c)(6) and (7) redesignated as (c)(7) and (8); new (c)(6) and (e) added 39299
50.36a Revised 39299
50.36b Revised 39299
50.44 (a) revised 39299
50.46 (a)(1)(i) revised 39299
50.47 (a)(1) revised 30132
50.48 (f) added 39300
50.49 (a) revised 39300
50.51 Heading revised; existing text designated as (a); (b) added 39300
50.54 (o) and (y) revised 39300
50.55a (b)(2) introductory text and (g)(4) revised; (b)(2)(vi), (ix), (x), (g)(4)(v) and (6)(ii)(B) added 41311
50.59 (d) and (e) added 39300
50.60 (a) revised 39300
50.61 (b)(1) revised 39300
50.62 (a) revised 39301
50.65 (a)(1) revised 39301
50.71 (e)(4) revised; (f) added 39301
50.75 (f) revised 39301
50.82 Revised 39301
50.91 Introductory text revised 39303
50.111 (b) revised 39303
50 Appendix E amended 30132
Appendix I amended 39303
51.10 (d) revised 43408
51.22 (c)(14)(ii) amended 9902
51.45 (c) revised 28486
Regulation at 61 FR 28486 eff. 9–5–96 37351
51.53 Revised 28487
Regulation at 61 FR 28487 eff. 9–5–96 37351
(b) revised 39304
51.55 (a) revised 28488
Regulation at 61 FR 28488 eff. 9–5–96 37351
51.71 (d) and (e) revised 28488
Regulation at 61 FR 28488 eff. 9–5–96 37351
51.75 Footnote 4 redesignated as Footnote 5 28489
Regulation at 61 FR 28489 eff. 9–5–96 37351
51.95 Revised 28489
Regulation at 61 FR 28489 eff. 9–5–96 37351
(b) revised 39304
(c) corrected 39555
51.103 (a)(3) revised; (a)(5) added 28490
Regulation at 61 FR 28490 eff. 9–5–96 37351
51.123 (a) and (b) amended 9902
51.10—51.125 (Subpart A) Appendixes A and B amended 28490
Regulation at 61 FR 28490 eff. 9–5–96 37351
Appendix B corrected 39555, 39556

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52 Appendix O amended 9902
53 Removed 35935
55.5 (b)(2)(iii) amended 9902
60.9 (e) and note redesignated as (e)(1) and (2); new (e)(2) revised 6765
61.9 (e) and note redesignated as (e)(1) and (2); new (e)(2) revised 6765
61.30 (a)(3) revised 24674
61.31 (c)(3) added 24674
70.7 (e)(2) note redesignated as (e)(3) and revised 6765
70.25 (g) introductory text revised 24675
70.33 (b) added 1115
70.38 (a) revised 1115
(k)(4) added 24675
(d) and (g)(3) amended 29637
(g)(4)(vii), (h)(1) and (2) amended 29638
70.51 Footnotes 2 and 3 redesignated as Footnotes 3 and 4; (b)(6) and (7) revised 24675
71.4 Corrected 28724
71.18 (d)(1) corrected 28724
71.55 (d)(3) corrected 28724
71 Appendix A amended 28724
72.10 (e)(2) revised 6765
72.30 (d) introductory text revised 24675
72.54 (m)(3) added 24675
(j)(1) and (2) amended 29638
72.80 (e) and (f) added 24675
110.1 (b)(3) and (4) redesignated as (b)(4) and (5); (b)(2) and new (4) revised; new (b)(3) added 35602
110.2 Amended 35602
110.8 Revised 35602
110.22 (c) amended 35602
110.23 (a)(1) amended 35602
110.26 (a)(2) amended 35602
110.27 (d) revised 35602
110.28 Amended 35602
110.29 Amended 35602
110.30 Amended 35602
110.41 (a)(4) revised 35602
110.44 (b)(2) amended 35602
110 Appendixes A and B amended 35602
Appendixes D, E, F and G redesignated as Appendixes I, K, L and M; new Appendix D added 35603
Appendix E added 35604
Appendix F added 35605
Appendixes G, H and J added 35606
Appendix L amended 35607
170.12 (a) and (g) revised; (d)(1) removed 16214
170.20 Revised 16214
170.21 Introductory text revised; table amended 16214
170.31 Revised 16215
171.15 (d) removed; (a), (b), (c)(1), (2) and (e) revised 16220
171.16 (c) introductory text, (1), (4), (d) and (e) revised 16220
171.19 (b) and (c) revised; (d) added 16223

Chapter II—Department of Energy (Parts 200—699)

205 Authority citation revised 35114
205.1 Revised 35114
205.50—205.69E (Subpart D) Removed 35114
205.70—205.78 (Subpart E) Removed 35114
205.100—205.109 (Subpart H) Removed 35114
205.120—205.128 (Subpart I) Removed 35114
205.130—205.137 (Subpart J) Removed 35114
205.160—205.162 (Subpart L) Removed 35115
205.200—205.204 (Subpart P) Removed 35115
205.230—205.237 (Subpart R) Removed 35114
420 Revised; interim 35895
430.31—430.33 (Subpart C) Appendix A added 36981
436.1 Revised 32649
436.2 (b) revised 32649
436.10 Revised 32649
436.11 Amended 32649
436.13 (a), (b) introductory text and (2) revised 32650
436.14 (b)(1), (c) introductory text, (d)(2), (e) and (g) revised 32650
436.16 Heading revised; (b) and (c) redesignated as (c) and (d); new (b) added 32650
436.17 Heading revised; (c) and (d) added 32650

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436.18 (c) introductory text, (d) and (f) revised; (e) amended 32650
436.19 (d) revised 32651
436.21 Revised 32651
436.22 Revised 32651
436.23 Revised 32651
436.24 Amended 32651
450 Removed; interim 35903
463 Removed 35115
490 Added 10653
600.1—600.30 (Subpart A) Revised 7166
600.112 (c) amended 7165
600.136 Revised 7165
600.204 Amended 7165
600.221 (g)(2) amended 7165
600.224 (b)(4) and (e)(2)(ii) amended 7165
600.225 (e) amended 7165
(f) amended 7166
600.226 (c) amended 7166
600.230 (b), (d)(4) and (f)(2) amended 7166
600.232 (c)(3) and (d)(2) amended 7166
600.236 (c) introductory text and (g)(2) amended 7166
600.237 (a)(3) and (c) amended 7166
600.241 (b), (e)(1)(i), (ii), (2)(ii), (iii) and (3) amended 7166
600.243 (d) amended 7166
600.244 (b) amended 7166
600.250 (b)(5) amended 7166
600.251 (c), (d) and (e) amended 7166
600.300—600.307 (Subpart D) Removed 7165
600.402 (d) amended 7166
600.403 (c) amended 7166
600.405 (b)(2)(ii)(C) amended 7166

Chapter III—Department of Energy (Parts 700—999)

784 Added 36614
830 Ruling 4209
835 Ruling 4209

Chapter X—Department of Energy (General Provisions) (Parts 1000—1099)

1003.1 Amended 35114
1003.20 (a) amended 35114
1010 Revised; interim 35088
1021.104 (b) amended 36239
1021.105 Revised 36239
1021.310 Revised 36239
1021.311 (f) removed; (g) redesignated as (f) 36239
1021.312 Removed 36239
1021.315 (b) and (d) revised; (e) added 36239
1021.322 (b)(1) removed; (b)(2) through (5) redesignated as (b)(1) through (4) 36239
1021.400—1021.410 (Subpart D) Appendixes A and B amended 36239
Appendix B amended 36240, 36241
Appendixes B, C and D amended 36242
1035 Removed 39855
1036.105 Amended 39856
1036.110 (c)(1) and (2) added 39856
1036.215 (a) and (b) added 39856
1036.312 (b)(1), (d)(1) and (e)(1) removed; (f) and (g) amended 39856
1036.313 (a)(1) amended 39856
1036.314 (d)(1)(vi) removed; (d)(1)(vii) and (viii) redesignated as (d)(1)(vi) and (vii) 39856
1036.315 (c) removed 39856
1036.411 (c)(1) and (f)(1) removed; (h) and (j) amended 39856
1036.412 (a)(1) removed 39856
1036.700 Revised 39856
1036.705 Introductory text amended; (b) revised 39857
1036.710 Removed 39857
1036.715 Heading revised; introductory text and (a) through (g) amended 39857

Chapter XVII—Defense Nuclear Facilities Safety Board (Parts 1700—1799)

1703 FOIA fee schedule adjustment 28725

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2 ..... 1557, 4378, 43409, 59031
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TITLE 11—FEDERAL ELECTIONS

Chapter I—Federal Election Commission (Parts 1—9099)

100 Technical correction 4302
100.5 (e)(3)(i) amended 3549
100.7 Regulation at 60 FR 64272 eff. 3-13-96 10269
(b)(2) amended (effective date pending) 18051
Regulation at 61 FR 18051 eff. 6-21-96 31824
100.8 Regulation at 60 FR 64272 eff. 3-13-96 10269
(b)(2) amended (effective date pending) 18051
Regulation at 61 FR 18051 eff. 6-21-96 31824
100.19 (a) amended 6095
102 Technical correction 4302
102.4 Regulation at 60 FR 64273 eff. 3-13-96 10269
104.3 (e)(5) amended 3549
104.4 (c)(3) amended 3549
104.5 (f) amended 3549
104.14 (c) amended 3549
104.15 (a) amended 3549
104.18 Added (effective date pending) 42376
Regulation at 61 FR 42376 eff. 1-1-97 58460
105.1 Revised 3550
105.4 Amended 3550
105.5 Revised 3550
106 Technical correction 4302
108.8 Amended 6095
109 Technical correction 4302
109.1 Regulation at 60 FR 64273 eff. 3-13-96 10269
109.2 (a) amended 3550
110 Technical correction 4302
110.6 (c)(1)(i) and (ii) amended 3550
110.7 (b)(4) removed 40961
110.12 Regulation at 60 FR 64273 eff. 3-13-96 10269
110.13 Regulation at 60 FR 64273 eff. 3-13-96 10269
Revised (effective date pending) 18051
(a)(2) corrected 24533
Regulation at 61 FR 18051 eff. 6-21-96 31824
114 Technical correction 4302
114.1 Regulation at 60 FR 64273 eff. 3-13-96 10269
114.2 Regulation at 60 FR 64274 eff. 3-13-96 10269
114.3 Regulation at 60 FR 64275 eff. 3-13-96 10269
114.4 Regulation at 60 FR 64276 eff. 3-13-96 10269
(f) revised (effective date pending) 18051
Regulation at 61 FR 18051 eff. 6-21-96 31824
114.6 (d)(3)(i) and (5) amended 3550
114.13 Regulation at 60 FR 64279 eff. 3-13-96 10269
9034.4 Regulation at 60 FR 57538 eff. 2-9-96 4849
9038.2 Regulation at 60 FR 57539 eff. 2-9-96 4849

Proposed Rules:

100 3621

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104 ..... 13465, 52901
109 41036
110 ..... 3621, 41036
114 3621

TITLE 12—BANKS AND BANKING

Chapter I—Comptroller of the Currency, Department of the Treasury (Parts 1—199)

2 Revised 51781
3.6 (a) revised 47367
3.100 (f) heading and (1) revised 60363
3 Appendix A corrected 1273
Appendix B added 47367
Appendix A amended 60363
5 Revised 60363
5.23 Removed 19532
5.25 Removed 19532
5.32 Removed 19532
5.41 Removed 19532
5.43 Removed 19532
7 Revised 4862
7.1000 (a)(2)(i) amended; (c)(1) revised 60387
7.2023 Removed 60387
7.2024 Removed 60387
16.20 (d) revised 60387
19 Authority citation revised 20334
19.1 (e)(9) amended; (f) redesignated as (g); (e)(11), (12) and new (f) added 20334
19.6 (a)(3) revised 20334
19.8 (b) revised 20334
19.11 (c)(2) and (d) revised 20334
19.12 (a), (c)(1), (2) and (3) revised 20335
19.20 Revised 20335
19.24 (a) and (b) revised 20335
19.25 (a), (b), (e) and (g) revised 20335
19.33 (a) revised 20336
19.34 (a) and (b)(1) revised 20336
19.35 (a)(3) redesignated as (a)(4); new (a)(3) added; (b) revised 20336
19.37 Heading and (a)(1) revised 20336
19.38 Revised 20336
19.100 Revised 20337
19.112 (a), (b), (c) and (d)(3)(i) revised 20337
19.113 (a) and (b) revised; (c), (d) and (e) redesignated as (d), (e) and (f); new (c) added 20337
19.160 (a) amended 20337
19.161 Revised 20337
19.162 Removed 20338
19.170 (d) revised; (e) and (f) redesignated as (f) and (g); new (e) added 20338
19.171 (b) revised 20338
19.184 Revised 20338
20 Removed 19532
21 Heading revised 4337
Authority citation revised 4337
21.11 (Subpart B) Revised 4337
22 Revised 45702
24 Revised 49660
25.12 (h)(3) amended 21363
26 Revised 40300
28 Revised 19532
28.2 (b) revised 60387
28.10 Revised 60387
28.11 (f) and (v) revised 60387
30 Authority citation revised 43950
30 Appendix A amended 43950
31 Authority citation revised 4870
Revised 54536
31.100—31.102 Undesignated center heading added 4870
31.100 Added 4870
31.101 Added 4870
31.102 Added 4870
34 Authority citation revised 11300
34.1—34.5 (Subpart A) Revised 11300
34.20—34.25 (Subpart B) Revised 11301
34.81—34.87 (Subpart E) Revised 11301

Chapter II—Federal Reserve System (Parts 200—299)

201.51 Revised 5926
202 Supplement I amended 50950, 50951
204.9 (a) revised 60173
205.1 Revised 19669
205.2 Revised 19669
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205.4 Revised 19670
205.5 Revised 19670
205.6 Revised 19670
205.7 Revised 19671
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205.9 Revised 19671
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205.12 Revised 19674

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205.13 Revised 19674
205.14 Revised 19674
205.15 Revised 19675
205 Appendixes A and B revised; Appendix C added 19676
Supplement I revised 19686
Supplement II removed 19695
207 OTC margin stock lists 2667, 18495, 39556, 55555
Authority citation revised 60166
207.114 Added 60166
Authority citation revised 45704, 47369
208.8 (e) and Appendix A removed 45704
208.13 Revised 47369
208.20 Revised 4343
208.23 Added 45704
208 Appendix A amended; Appendix E added 47370
Appendix D amended 43951
211.8 Amended 4344
211.20 (b)(8) and (9) amended; (b)(10) added 39053
211.22 (a) revised; (c) removed; (d) redesignated as (c) 24440
211.24 (a)(2)(i) and (ii) revised; (d)(3) redesignated as (d)(4); new (d)(3) added 2901
(f) amended 4344
(g) added 39053
211.30 Added 6921
212 Revised 40302
213.1 Revised 52258
213.2 Revised 52258
213.3 Revised 52259
213.4 Revised 52259
213.5 Revised 52260
213.6 Removed 52258
213.7 Revised 52261
213.8 Revised 52261
213.9 Added 52261
213 Appendix D removed 52258
Appendix A revised 52262
Appendixes B and C revised; Supplement I amended 52269
215.2 (e)(2)(i) revised 57770
Regulation at 61 FR 57770 eff. date corrected to 11-8-96 58782
215.4 (a) introductory text, (1) and (2) redesignated as (a)(1) introductory text, (i) and (ii); new (a)(1) heading and new (2) added 57770
Regulation at 61 FR 57770 eff. date corrected to 11-8-96 58782
218 Removed 57289
218.101 Redesignated as 250.400 57289
218.102 Redesignated as 250.401 57289
218.103 Redesignated as 250.402 57289
218.104 Redesignated as 250.403 57289
218.105 Redesignated as 250.404 57289
218.106 Redesignated as 250.405 57289
218.107 Redesignated as 250.406 57289
218.108 Redesignated as 250.407 57289
218.109 Redesignated as 250.408 57289
218.110 Redesignated as 250.409 57289
218.111 Redesignated as 250.410 57289
218.112 Redesignated as 250.411 57289
218.113 Redesignated as 250.412 57289
218.114 Removed 57289
219 Regulation at 60 FR 233 eff. date delayed to 5-28-96 14382
219.1—219.7 (Subpart A) Regulation at 60 FR 233 eff. date delayed to 5-28-96 14382
219.1 Regulation at 60 FR 233 eff. date delayed to 5-28-96 14382
219.2 Regulation at 60 FR 233 eff. date delayed to 5-28-96 14382
Revised 29640
219.3 Revised 29640
219.4 Revised 29640
219.5 Revised 29641
219.6 Revised 29641
(b) corrected 32317
219.7 Removed 29641
219.21—219.24 (Subpart B) Regulation at 60 FR 233 eff. date delayed to 5-28-96 14382
Authority citation revised 58975
219.21 Amended 58975
220 OTC margin stock lists 2667, 18495, 39556, 55555
Authority citation revised 60167
220.1 Revised 20390
220.2 Revised 20390
220.3 Revised 20392
220.4 Revised 20392
220.5 Revised 20394
220.6 Revised 20394
220.7 Revised 20394
220.8 Revised 20394
220.9 Revised 20395
220.10 Revised 20395
220.11 Revised 20395
220.12 Revised 20395
220.13 Revised 20396
220.14 Revised 20396
220.15 Revised 20396
220.16 Revised 20396
220.17 Revised 20397
220.18 Revised 20397

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220.19 Removed 20398
220.106 Removed 20398
220.107 Removed 20398
220.109 Removed 20398
220.112 Removed 20398
220.114 Removed 20398
220.115 Removed 20398
220.116 Removed 20398
220.120 Removed 20398
220.125 Removed 20398
220.129 Removed 20398
220.130 Removed 20398
220.132 Added 60167
221 OTC margin stock lists 2667, 18495, 39556, 55555
Authority citation revised 60167
221.125 Added 60167
224 OTC margin stock lists 2667, 18495, 39556, 55555
225.2 (q) added; interim 56407
225.4 (f) amended 4344
225.125 (g) revised 45875
225 Appendix A amended 47372
Appendix E added 47373
226 Adjustment notice 3177
226.2 (a)(6) revised 49245
226.4 (a), (c)(7)(ii), (iii), (d) heading, (1) heading, introductory text and (i) revised; (c)(7)(iv) redesignated as (v); (b)(10), (c)(7) heading, new (iv), (d)(3) and (e)(3) added 49245
226.17 (c)(2) redesignated as (c)(2)(i); (a)(1) Footnote 38, new (c)(2)(i) and (f) revised; (c)(2)(ii) added 49246
226.18 (d) Footnote 39 removed; (d)(1) and (2) added; (c) Footnotes 39 and 40 redesignated as (c) Footnotes 40 and 41; (n) revised 49246
226.19 (a)(2) revised 49246
226.22 (a)(4) and (5) added 49246
226.23 (b) introductory text and (1) through (5) redesignated as (b)(1) introductory text and (i) through (v); (b)(2), (g) and (h) added 49246
226.31 (d) and (g) revised 49247
226 Supplement I amended 14955, 14956, 14957, 14959, 49248
Appendix H amended 49247
228.12 (h)(3) amended 21363
229 Appendixes A and B amended 25390
231.3 (a) introductory text revised 1274
245 Removed 52876
250 Authority citation revised 57289
250.161 (d) amended 19806
250.162 (a) amended 19806
250.242 Added 19806
250.400—250.413 Undesignated center heading added 57289
250.400 Redesignated from 218.101 57289
250.401 Redesignated from 218.102 57289
250.402 Redesignated from 218.103 57289
250.403 Redesignated from 218.104 57289
250.404 Redesignated from 218.105 57289
250.405 Redesignated from 218.106 57289
250.406 Redesignated from 218.107 57289
250.407 Redesignated from 218.108 57289
250.408 Redesignated from 218.109 57289
250.409 Redesignated from 218.110 57289
250.410 Redesignated from 218.111 57289
250.411 Redesignated from 218.112 57289
250.412 Redesignated from 218.113 57289
250.413 Added 57289
261.10 Appendix A amended; interim 60014
263 Authority citation revised 20341, 56407
263.1 (e)(9) amended; (f) redesignated as (g); (e)(11), (12) and new (f) added 20341
263.6 (a)(3) revised 20341
263.8 (b) revised 20342
263.11 (c)(2) and (d) revised 20342
263.12 (a), (c)(1), (2) and (3) revised 20342
263.20 Revised 20342
263.24 (a) and (b) revised 20342
263.25 (a), (b), (e) and (g) revised 20343
263.33 (a) revised 20343
263.34 (a) and (b)(1) revised 20343

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263.35 (a)(3) redesignated as (a)(4); new (a)(3) added; (b) revised 20343
263.37 Heading and (a)(1) revised 20344
263.38 Revised 20344
263.65 Added 56407
264 Revised 53830
265.6 (a)(1) revised 13395
268.207 (e) revised 252
268.301 (c)(3) amended 13079
268.304 (a)(3)(i)(A) amended 252
268.305 (c)(1) amended 13079
268.506 Amended 13079

Chapter III—Federal Deposit Insurance Corporation (Parts 300—399)

303.7 (g) added 5930
308 Authority citation revised 20347, 48403, 57990
308.1 (e)(8) amended; (f) redesignated as (g); (e)(10), (11) and new (f) added 20347
308.6 (a)(3) revised 20347
308.8 (b) revised 20347
308.11 (c)(2) and (d) revised 20347
308.12 (a), (c)(1), (2) and (3) revised 20348
308.20 Revised 20348
308.24 (a) and (b) revised 20348
308.25 (a), (b), (e) and (g) revised 20348
308.33 (a) revised 20349
308.34 (a) and (b)(1) revised 20349
308.35 (a)(3) redesignated as (a)(4); new (a)(3) added; (b) revised 20349
308.37 Heading and (a)(1) revised 20349
308.38 Revised 20350
308.116 (b)(4) added 57990
308.132 (c)(2) revised; (c)(3) added 57991
308.400—308.402 (Subpart S) Added 48403
310 Nomenclature change 43419
310.1 Revised 43419
310.3 (a) revised 43419
310.4 (b) and (c) revised 43419
310.6 Amended 43420
310.9 (d) redesignated as (e); new (d) added 43420
310.10 (b)(6) and (10) revised; (b)(12) added; (c) removed; (d) and (e) redesignated as (c) and (d); new (c) and new (d) amended 43420
310.11 (b) amended 43420
310.13 Amended 43420
311.2 (a) revised; (b)(3) amended 38357
311.7 Amended 38357
311.8 Heading revised; (d)(1) amended; (e) added 38357
324 Removed; eff. 1-1-99 33843
325 Appendix A amended 47375
Appendix C added 47376
327 Assessment rate schedules 26078, 26083
Authority citation revised 53839
327.32 (a)(2)(i)(A) and (3)(i) revised; (c) added 53839
327.41—327.45 (Subpart C) Added 53839
336 Revised 28728
339 Revised 45706
342 Removed 48403
345.12 (h)(3) amended 21364
346.1 (a) amended; (o) revised; (s) through (v) added 5674
346.6 Revised 5674
348 Revised 40305
353 Revised 6099
359 Added 5930
363.1 (b) revised 6493
363.4 (b) revised 6493
363.5 (b) revised 6493
363 Appendix A amended 6494
364 Appendix A amended 43951
366 Added; interim 9596
367 Added; interim 35117

Chapter V—Office of Thrift Supervision, Department of the Treasury (Parts 500—599)

500—517 (Subchapter A) Regulation at 60 FR 66715 eff. date corrected to 12-26-95 575
505.1 Regulation at 60 FR 66715 eff. date corrected to 12-26-95 575
505.2 Regulation at 60 FR 66716 eff. date corrected to 12-26-95 575
505.3 Regulation at 60 FR 66716 eff. date corrected to 12-26-95 575
505.4 Regulation at 60 FR 66716 eff. date corrected to 12-26-95 575

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506.1 Regulation at 60 FR 66716 eff. date corrected to 12–26–95 575
509 Authority citation revised 20353
509.1 (e)(7) amended; (f) redesignated as (g); (e)(9), (10) and new (f) added 20353
509.6 (a)(3) revised 20354
509.8 (b) revised 20354
509.11 (c)(2) and (d) revised 20354
509.12 (a), (c)(1), (2) and (3) revised 20354
509.20 Revised 20354
509.24 (a) and (b) revised 20354
509.25 (a), (b), (e) and (g) revised 20355
509.33 (a) revised 20355
509.34 (a) and (b)(1) revised 20355
509.35 (a)(3) redesignated as (a)(4); new (a)(3) added; (b) revised 20356
509.37 Heading and (a)(1) revised 20356
509.38 Revised 20356
509.102 (g)(2) revised 20356
509.104 (h) removed; (i) redesignated as (h) 20356
510 Authority citation revised 56119
510.2 Regulation at 60 FR 66716 eff. date corrected to 12–26–95 575
510.6 Added 56119
512.4 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
512.5 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
516.1 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
516.3 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
528—535 (Subchapter B) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
541—558 (Subchapter C) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
543.8 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
543.11 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
544.3 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
545.31 Removed 50971
545.32 Removed 50971
545.33 Removed 50971
545.34 Removed 50971
545.35 Removed 50971
545.36 Removed 50971
545.37 Removed 50971
545.38 Removed 50971
545.39 Removed 50971
545.40 Removed 50971
545.41 Removed 50971
545.42 Removed 50971
545.43 Removed 50971
545.45 Removed 50971
545.46 Removed 50971
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545.48 Removed 50971
545.49 Removed 50971
545.50 Removed 50971
545.51 Removed 50971
545.52 Removed 50971
545.53 Removed 50971
545.72 Removed 50971
545.73 Removed 50971
545.74 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
(c)(1)(vi) revised 50971
545.75 Removed 50971
545.78 Removed 50971
545.82 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
545.121 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
545.126 Removed 60178
545.131 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
550.2 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
550.3 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
550.10 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
550.13 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575

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550.14 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
550.15 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
552.5 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
552 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
556.2 Removed 50971
556.3 Removed 50971
556.5 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
556.10 Removed 50971
556.16 Removed 60178
560 Added 50971
Authority citation revised 60184
560.3 Amended; interim 60184
560.130 Added 60178
561—575 (Subchapter D) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
563 Authority citation revised 6105, 45709
563.9 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563.35 Removed 60178
563.36 Added; interim 60184
563.40 Removed 60178
563.44 Removed 60178
563.48 Removed 45709
563.50 Removed; interim 60184
563.51 (f)(1)(i) amended 50984
Removed; interim 60184
563.52 Removed; interim 60184
563.93—563.101 (Subpart D) Removed 50984
563.93 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563.134 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563.160 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
Removed 50984
563.170 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
(c) revised 50984
563.172 Removed 50984
563.177 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563.180 Heading and (d) revised 6105
563.200 Added 60178
563.201 Added 60179
563b.2 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563b.3 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563b.4 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563b.8 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563b.29 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563c.3 Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
563d.1 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563d.2 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563e.12 (g)(3) amended 21364
563f Revised 40308
565.9 Regulation at 60 FR 66719 eff. date corrected to 12–26–95 575
566.1 (g)(6)(i) amended 50984
566.2 Regulation at 60 FR 66719 eff. date corrected to 12–26–95 575
567.3 Regulation at 60 FR 66719 eff. date corrected to 12–26–95 575
567.4 Regulation at 60 FR 66719 eff. date corrected to 12–26–95 575
567.10 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
567.13 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
570 Appendix A amended 43952
571.4 Removed 60179

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571.6 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
571.7 Removed 60179
571.8 Removed 50984
571.9 Removed 60179
571.13 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
Removed 50984
571.20 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
Removed 50984
571.22 Removed 50984
572 Added 45709
574.1 Revised; interim 60184
574.2 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
(q)(2)(ii) revised; (q)(3) added; interim 60184
574.3 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
(c)(1)(iii) through (vii), (2)(iv) and (v) redesignated as (c)(1)(iv) through (viii), (2)(v) and (vi); (c)(1)(ii) and new (2)(v) amended; new (c)(1)(iii) and (2)(iv) added; (c)(2)(i) revised; interim 60184
574.4 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
574.6 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
574.7 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
575 Heading revised; interim 60184
575.2 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
(h) revised; interim 60184
575.10 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
575.11 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
583—584 (Subchapter F) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
583.10 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
583.20 (b)(2) revised; (c) added; interim 60185
584.1 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
584.2–2 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
584.2a (e) removed; interim 60185
590—591 (Subchapter G) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
590.4 (e)(1) amended 50984

Chapter VI—Farm Credit Administration (Parts 600—699)

614.4367 (a)(4) and (c)(3) amended 11304
Regulation at 61 FR 11304 eff. 5–3–96 20125
614.4920—614.4960 (Subpart S) Revised 45711
615 Authority citation revised 31394
615.5230 Regulation at 60 FR 57921 eff. 1–2–96 1274
615.5500—615.5502 (Subpart P) Regulation at 60 FR 57919 confirmed 12015
615.5570 (Subpart S) Added 31394
620.21 Regulation at 60 FR 57922 eff. 1–2–96 1274
621.11 Regulation at 59 FR 50888 confirmed 18236
622 Authority citation revised 54729
622.61 Added 54729

Chapter VII—National Credit Union Administration (Parts 700—799)

701 Authority citation revised 4214
701.1 Revised (OMB number) 11726
Revised; interim 59308
701.12 (a), (b) and (c) revised; (d) and (e) redesignated as (g) and (h); new (d), new (e) and (f) added 41323
701.13 (a)(2) amended 41326
701.21 (c)(7)(ii)(C) revised 4214
701.32 Heading, (a) and (b)(1) revised; (d) redesignated as 701.34(a); interim 3790

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701.34 (a) redesignated from 701.32(d); new (a)(1) amended; (b), (c) and appendix added; interim 3790
(a)(1) revised 50695
(b)(2) and (c) revised 50697
705 Authority citation revised 50695
705.3 (b) amended 45875
(b) revised 50695
705.5 (b)(1) revised 50695
705.7 (a) amended 50696
705.10 Revised 50696
707 Reporting and recordkeeping requirements 114
709.5 (b)(6) and (7) revised; (b)(8) added; (e) amended; interim 3791
711 Revised 50702
741.204 (b) amended; (c) added; interim 3792
745 Authority citation revised 60186
745.200 (b) and (d) revised 60186
747 Authority citation revised 28024, 57291
747.1 (c)(2) amended; (d) redesignated as (e); (c)(3) and new (e) revised; (c)(4) and new (d) added 28025
747.6 (a)(3) revised 28025
747.8 (b) revised 28025
747.9 (a) and (b) revised; (e) added 28025
747.11 (c)(2) and (d) revised 28025
747.12 (a), (c)(1), (2) and (3) revised 28026
747.20 Revised 28026
747.24 (a) and (b) revised 28026
747.25 (a), (b), (e) and (g) revised 28026
(b) amended 45876
747.33 (a) revised 28027
747.34 (a) and (b)(1) revised 28027
747.35 (a)(3) redesignated as (a)(4); new (a)(3) added; (b) revised 28027
747.37 Heading and (a)(1) revised 28027
747.38 Revised 28027
747.1001 (Subpart K) Added 57291
748 Heading revised 11527
Authority citation revised 11527
748.1 (c) revised 11527
760 Revised 45713
790.2 (b)(5) revised; (b)(6)(i), (ii) and (7) amended 45876
791.6 Revised 55208

Chapter IX—Federal Housing Finance Board (Parts 900—999)

931 Authority citation revised 40313
931.5 Revised 40313
932.26 Added 43154
932.27 Revised 43154
933 Heading revised 42542
933.1 (Subpart A) Revised 42542
933.2—933.5 (Subpart B) Revised 42543
933.6—933.18 (Subpart C) Redesignated as 933.19—933.23 (Subpart D) 42542
Added 42545
933.11—933.12 (Subpart D) Redesignated as 933.24—933.25 (Subpart E) 42542
933.13—933.15 (Subpart E) Redesignated as 933.26—933.28 (Subpart F) 42542
933.16 (Subpart F) Redesignated as 933.29 (Subpart G) 42542
933.17 (Subpart G) Redesignated as 933.30 (Subpart H) 42542
933.18 (Subpart H) Redesignated as 933.31 (Subpart I) 42542
933.19 (Subpart I) Redesignated as 933.32 (Subpart J) 42542
933.19—933.23 (Subpart D) Redesignated from 933.6—933.10 (Subpart C) 42542
933.20 (b)(1) and (2) amended 42549
933.22 (b)(1) amended 42549
933.23 Amended 42549
933.24—933.25 (Subpart E) Redesignated from 933.11—933.12 (Subpart D) 42542
933.24 (a)(2) and (b)(2) amended 42549
933.25 (c), (d)(2)(ii)(A), (B), (iii) and (3) amended 42549
933.26—933.28 (Subpart F) Redesignated from 933.13—933.15 (Subpart E) 42542
933.26 (c) amended 42549
933.27 (e) amended 42549
933.28 (b) amended 42549
933.29 Redesignated from 933.16 (Subpart F) 42542
(a)(1) amended 42549
933.30 Redesignated from 933.17 (Subpart G) 42542
Introductory text, (a) and (b) amended 42549

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933.31 Redesignated from 933.18 (Subpart H) 42542
(d) amended 42549
933.32 (Subpart J) Redesignated from 933.19 (Subpart I) 42542
934 Authority citation revised 55880
934.6 Revised 55880
935.6 (d) added 52687
941 Authority citation revised 43155
941.7 (f)(2) revised 43155
950 Revised; interim 59314

Chapter XIV—Farm Credit System Insurance Corporation (Parts 1400—1499)

1401.1 Regulation at 60 FR 30778 confirmed 4349
1411 Added 55079

Chapter XVII—Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development (Parts 1700—1799)

1750 Added 35620

Chapter XVIII—Community Development Financial Institutions Fund, Department of the Treasury (Part 1800—1899)

1805.104 (n) revised; interim 1701
1805.201 Amended; interim 1701
1805.600 Amended; interim 1701
Corrected 7690
1805.604 Added; interim 1701
1805.701 (d)(2)(iii) revised; (e)(3) introductory text amended; interim 1702
1806.103 (dd) added; interim 1702
(q) revised; interim 59828
1806.200 (b)(2)(ii) revised; interim 1702
1806.201 (b)(2) revised; (b)(4)(xii) and (xiii)(B) amended; (b)(4)(xiv) added; interim 1702
1806.202 (a) revised; (b)(2) and (3) amended; (b)(4) and (d) added; interim 1702
Corrected 7690
(a) revised; interim 59828
1806.205 (c)(1) revised; interim 59828
1806.206 (b)(1) and (4) revised; interim 1702

Proposed Rules:

3 ..... 9114, 42565
13 18470
32 37227
204 30545
205 ..... 19696, 37229
207 ..... 20399, 33874, 60168
208 ..... 9114, 18470, 42565
211 ..... 6956, 18470
215 ..... 19863, 57797
218 34749
219 43195
220 ..... 20399, 33874, 60168
221 ..... 20399, 33874, 60168
225 ..... 9114, 42565, 47242
226 ..... 2968, 26126, 60223
229 27802
230 26470
245 26471
250 34749
261 7436
325 ..... 9114, 42565
327 ..... 34751, 53867
330 25596
335 33696
336 5956
338 49420
344 26135
357 40756
362 43486
368 18470
502 38114
516 38114
543 32713
544 32713
545 ..... 1162, 29976, 30190, 32713
552 32713
556 ..... 1162, 30190, 32713
559 29976
560 ..... 1162, 29976, 30190
562 38114
563 ..... 1162, 29976, 30190, 32713, 38114
565 38114
567 ..... 29976, 42565
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EDITORIAL NOTE: The revision for the 1996 edition of title 13 was delayed until March 1, 1996. The 1996 revision includes amendments promulgated during the period of January 3, 1995 through March 1, 1996. For amendments promulgated during that period, see the February 1996 LSA.

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240.12g-1 Amended....21356
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240.13e–102 Amended 24656
240.14a–3 (b)(2) redesignated as (b)(2)(i); (b)(2)(ii) added 24656
240.14a–5 (d) redesignated as (d)(1); (d)(2) added 24656
240.14a–6 (i) revised 49960
240.14a–7 Note added 24657
240.14a–101 Amended 49960
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240.16a–2 (b) and (d)(2) revised 30392
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249.308 Form 8–K amended 54508, 54516
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249.310 Form 10–K amended 30404, 54509
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249.323 (a) amended 21356
249.330 Form N–SAR amended 49961
249.501 Form BD revised 37361
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259.404 Form U–7D amended 49961
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270.2a–7 Regulation at 61 FR 13976 compliance date suspended 42786
270.2a41–1 Regulation at 61 FR 13982 compliance date suspended 42786
270.6c–10 Revised 49016
270.8b–6 Removed 49961
270.8b–12 (f) added; authority citation removed 24657
270.11a–3 (a)(3) revised 49016
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270.12d3–1 Regulation at 61 FR 13982 compliance date suspended 42786
270.24f–2 (a)(3) removed; (a)(4) redesignated as (a)(3); new (a)(3) revised 49961
270.30a–1 Amended 49961
270.30b1–1 Amended 49961
270.30b1–3 Amended 49961
270.30d–1 (c), (d)(2) and (e) amended 24657
270.30d–2 Amended 24657
270.31a–1 Regulation at 61 FR 13983 compliance date suspended 42786
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274.11a–1 Form N–2 amended 24658, 49961
274.11b Form N–3 amended 24658, 49961
274.11c Form N–4 amended 24658, 49961
274.101 Form N–SAR amended 49961
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10 Authority citation amended 24887, 28955
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10.22 Removed 28955
10.62 (c)(2) amended 31395
10.301 Revised 19835
10.321 Undesignated center heading and section removed 24888
10.322 Removed 24888
10.323 Removed 24888
12 Authority citation amended 24889, 43961
Technical correction 41737
12.73—12.74 Undesignated center heading revised 43961
12.74 Added 43961
12.130 Regulation at 59 FR 113 confirmed 28955
12.140—12.143 Authority citation and undesignated center heading removed 28500
12.140 Removed 28500
12.141 Removed 28500
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12.150 Undesignated center heading and section removed 24889
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102 Regulation at 59 FR 113 confirmed 28955
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102.11 Revised 28956
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102.21 (b)(5) and (e) table amended 37818
103 Authority citation amended 19838
103.0 Revised 19838
103.1—103.13 Designated as Subpart A; subpart heading added 19838
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103.14 Redesignated as 103.31 19838
103.15 Redesignated as 103.34 19838
103.16 Redesignated as 103.32 19838
103.17 Removed 19838
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103.21—103.27 (Subpart B) Added 19838
103.31—103.34 Designated as Subpart C; subpart heading added 19838
103.31 Redesignated from 103.14 19838
103.32 Redesignated from 103.16 19838
103.33 Redesignated from 103.15 19838
103.34 Redesignated from 103.15 19838
111 User fee due date 54551
118.0 Amended 39070
118.21 Heading and (a) revised; introductory text, (b)(6) and (c) added; (b)(1) amended 39071
118.22 Revised 39071
118.23 Revised 39071
122.13 Amended 25778
122.15 (b) amended 49059
134 Policy statement 32924
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134.32 Regulation at 59 FR 140 confirmed 28955
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134.43 Regulation at 59 FR 140 confirmed 28955
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145 Authority citation amended 24889
145.56 Amended 24889
161 Authority citation amended 24889
161.2 (a)(3) added; authority citation removed 24889
178.2 Authority citation and undesignated center heading removed 28500
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Chapter II—United States International Trade Commission (Parts 200—299)

201.6 (a), (b) and (f) revised 37827
201.11 (a) and (b) revised 37828
201.13 (m) revised 37829
207 Authority citation revised 37829
207.1 Revised 37829
207.2 Regulation at 60 FR 21 confirmed 37829
207.3 (b) and (c) revised 37829
207.4 (a) revised 37829
207.7 (a), (f)(2), (3) and (g) revised 37829
207.8 Revised 37831
207.10 Revised 37831
207.11 Revised 37831
207.12 Revised 37832
207.13 Revised 37832
207.14 Revised 37832
207.18 Revised 37832
207.20 Redesignated as 207.21; new 207.20 added 37832
207.21 Redesignated as 207.22; new 207.21 redesignated from 207.20 and revised 37832
207.22 Redesignated as 207.23; new 207.22 redesignated from 207.21 37832
207.23 Redesignated as 207.24; new 207.23 redesignated from 207.22 and revised 37832
207.24 Redesignated as 207.25; new 207.24 redesignated from 207.23 and revised 37832
207.25 Redesignated as 207.26; new 207.25 redesignated from 207.24 37832
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207.26 Redesignated as 207.27; new 207.26 redesignated from 207.25 37832
207.27 Redesignated as 207.28; new 207.27 redesignated from 207.26 37832
207.28 Redesignated as 207.29; new 207.28 redesignated from 207.27 37832
207.29 Redesignated as 207.30; new 207.29 redesignated from 207.28 37832
Revised 37833
207.30 Redesignated from 207.29 37832
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207.40 Regulation at 60 FR 22 confirmed 37833
210.3 Regulation at 59 FR 67626 confirmed 43432
210.4 Regulation at 59 FR 67626 confirmed 43432
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210.14 Regulation at 59 FR 67627 confirmed 43432
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210.22 Regulation at 59 FR 62627 confirmed 43432
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210.49 Regulation at 59 FR 67628 confirmed 43432
210.50 Regulation at 59 FR 67628 confirmed 43432
210.51 Regulation at 59 FR 67628 confirmed; (a) revised 43432
210.52 Regulation at 59 FR 67629 confirmed 43432
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TITLE 20—EMPLOYEES' BENEFITS

Chapter II—Railroad Retirement Board (Parts 200—399)

200.4 (g)(2)(v) revised 25390
209.16 Added 31395
209.17 Added 31395
345 Revised 20072
348 Added 42377
368 Regulation at 61 FR 8214 confirmed 54733

Chapter III—Social Security Administration (Parts 400—499)

404.2 (a)(2) through (6) removed; (a)(7) redesignated as (a)(2) 41330
404.3 (a) removed; (b) and (c) redesignated as (a) and (b) 41330
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404.350 (a)(5) revised 38363
404.351 (a) revised 38363
404.352 (b)(1) amended 38363
404.353 (a) amended 38363
404.367 Introductory text amended; (c), (d) and (e) redesignated as (d), (e) and (f); (a), (b) and new (f) revised; new (c) added 38363
404.369 Removed 38363
404.390 Amended 41330
404.392 Heading and (a) introductory text revised 41330
404.393 Removed 41330
404.394 Removed 41330
404.395 Removed 41330
404.502a Revised 56131
404.506 Revised 56131
404.612 (e) removed; (f), (g) and (h) redesignated as (e), (f) and (g) 41330
404.615 (b) removed; (c) and (d) redesignated as (b) and (c) 41330
404.765 Removed 41330
404.811 Revised 18076
404.812 Added 18077
404.907 Revised 56132
404.930 (a)(4) and (5) amended; (a)(6) and (7) added 56132
404.1001 (d)(2) revised 38365
404.1003 Amended 38365
404.1004 (a) introductory text revised; (a)(5) added 38365
404.1012 Amended 38365
404.1018 (g) redesignated as (h); new (g) added 38365
404.1018b (c)(1)(v) revised 38366
404.1020 (a)(3)(iv) revised 38366
404.1034 (a) introductory text amended; (c) redesignated as (d); new (c) added; new (d) revised 38366
404.1036 Revised 38366
404.1038 Added 38366
404.1042 (c)(2) revised 38366
404.1055 (a), (b) heading and (1) revised; (c)(1) amended 38367
404.1056 (a)(6) revised 38367
404.1057 (a)(1), (2) and (3) revised; (a)(4) amended 38367
404.1068 (d) revised 38367
404.1206 (a) introductory text, (6) and (7) revised; (a)(8) added; (f)(2) amended 38367
404.1210 (e) revised 38367
404.1211 (d) revised 38368
404.1212 Revised 38368
404.1501—404.1599 (Subpart P) Appendix 1 amended 28047
404.2113 (c) amended 31025
404.2115 (a)(3) and (b) revised 31025
404.2116 (b)(2) and (c)(2) revised 31025
410.501—410.591 (Subpart E) Authority citation revised 56132
410.561 Revised 56132
410.561a Revised 56132
410.601—410.699a (Subpart F) Authority citation revised 56133
410.623 Revised 56133
410.630 Revised 56133
416.1124 (c)(7) and (9) revised; (c)(17) and (18) amended; (c)(19) added 49964
416.1161 (a)(12) revised; (a)(21) and (22) amended; (a)(23), (24) and (25) added 49964
416.1615 (a)(1) revised 56134
416.2201—416.2227 (Subpart V) Authority citation revised 31026
416.2201 Introductory text and (b) revised 31026
416.2203 Amended 31026
416.2209 (b) and (c) amended 31026
416.2212 Amended; heading revised 31026
416.2213 (c) amended 31026
416.2215 Revised 31026
416.2216 (b)(2) and (c)(2) revised 31026

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TITLE 20 Chapter III—Con.

416.2217 Introductory text amended 31027
422.125 (a) and (b) revised 18078
498 Authority citation revised 18079
498.100 (a) and (b) introductory text revised; (b)(1) added 18079
498.101 Amended 18079
498.102 Heading revised; (a) added 18079
498.103 (a) added 18080
498.104 Added 18080
498.106 Heading revised; (a) added 18080
498.108 Revised 18080
498.109 Revised 18080
498.110 Revised 18080
498.114 Added 18080
498.127 Revised 18080
498.128 Heading and (a) revised; (b), (d) and (e) added 18080
498.129 Added 18081
498.132 Revised 18081

Chapter V—Employment and Training Administration, Department of Labor (Parts 600—699)

601.1 (d) added 19983
617.3 (ff) revised 19983
626.5 Amended 19983
655.500—655.550 (Subpart F) Regulation at 60 FR 3955, 3976 confirmed 46990
655.600—655.675 (Subpart G) Regulation at 60 FR 3969, 3977 confirmed 46990
658 Authority citation revised 19983
658.710 (d) revised 19983
658.711 Revised 19983

Chapter VI—Employment Standards Administration, Department of Labor (Parts 700—799)

702 Authority citation revised 19984
702.433 (e) and (f) amended 19984
702.434 (a), (b) and (c) amended 19984

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TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)

1.24 (a)(6)(i), (ii) and (iii) amended 14478
2.125 (e)(14) added 15700
(e)(15) added 25392
5.99 Corrected 14375
5.100 Revised 24223
5.115 Revised 24226
14.100 (c)(9) heading, (ii), (16) heading and (ii) revised 28048
(b)(6) added 36624
20.100 (c)(41) added 33244
25.22 (a) amended 14245
25.24 (b)(2) amended 14245
25.30 (a) amended 14245
50.3 (n) added 51528
50.24 Added 51528
50.27 (a) revised 57280
56.109 (c) revised; (d) and (e) redesignated as (e) and (f); new (e) amended; new (d) and (g) added 51529
70.3 (e) amended 14478
70.19 (p) amended 14478
71.1 (c) amended 14478
73.165 Added 40319
73.3100 Added 51586
80.10 (d) amended 14479
80.21 (j)(1) through (4) amended 14479
100.120 Removed 27778
100.130 Removed 27778
100.135 Removed 27778
100.140 Removed 27778
100.145 Removed 27778
100.150 Removed 27778
100.160 Removed 27778
101 Technical correction 21074
Authority citation revised 43446
101.9 (c)(7)(ii) and (g)(9) amended 14479
(j)(1)(i) revised; (j)(18) added 40978
101.10 Revised; eff. 5–2–97 40332
101.13 (q)(5) introductory text revised; eff. 5–2–97 40332
101.14 (d)(2)(vii)(B) and (3) introductory text revised; (d)(3)(i) added; eff. 5–2–97 40332
101.17 (c) revised; interim 20100
101.33 Removed 27779

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101.36 (f) revised 40979
101.43 (a)(1), (2) and (3) revised; eff. 8–18–97 42759
101.44 (c) revised; eff. 8–18–97 42760
101.45 (c) and (i) amended 14479
Revised; eff. 8–18–97 42760
101.62 (b)(1) introductory text revised; eff. 1–1–98 59001
101.79 (b)(3) corrected 43119, 48529
Clarification 49966
(b)(3) corrected; CFR correction 55567
101.80 Added; eff. 1–1–98 43446
101.103 Removed 27779
102.23 (c)(5) amended 14479
103 Removed 27779
103.35 (b), (d)(3)(v) introductory text, (A)(*3*), (E)(*3*), (G)(*3*) and (vi) amended 14479
104.19 Removed 27779
105.67 Removed 27779
Regulation at 61 FR 27779 eff. date confirmed 48963
105.69 Removed 27779
Regulation at 61 FR 27779 eff. date confirmed 48963
106.120 (a) and (b) amended 14479
107.50 (e)(1) and (2) amended 14479
107.240 (b) amended 14479
107.250 Introductory text amended 14479
108.5 (a)(1) amended 14479
108.25 (c)(1) and (2) amended 14479
108.35 (c)(1), (2) introductory text, (ii) and (g) amended 14480
109.5 Removed 27779
109.30 (b) and (d) amended 14480
110.110 (e) amended 14480
114.3 (b) amended 14245
131.122 Removed; eff. 1–1–98 59002
131.123 Removed; eff. 1–1–98 59002
131.132 Removed; eff. 1–1–98 59002
131.135 Effective date note reinstated; CFR correction 48405
Removed; eff. 1–1–98 59002
131.136 Removed; eff. 1–1–98 59002
131.138 Removed; eff. 1–1–98 59002
131.143 Effective date note reinstated; CFR correction 48405
Removed; eff. 1–1–98 59002
131.144 Removed; eff. 1–1–98 59002
131.146 Removed; eff. 1–1–98 59002
131.149 (a) amended; eff. 1–1–98 59002
131.185 Removed; eff. 1–1–98 59002
131.187 Removed; eff. 1–1–98 59002
133.131 Removed; eff. 1–1–98 59002
136 Technical correction 40513
Clarification 46714
136.115 (a)(3) amended 14245
137 Technical correction 40513
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137.230 Removed 27779
137.235 Removed 27779
137.240 Removed 27779
137.245 Removed 27779
139 Technical correction 40513
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161.131 Removed 27779
161.132 Removed 27779
161.133 Removed 27779
161.134 Removed 27779
161.135 Removed 27779
161.137 Removed 27779
161.138 Removed 27779
161.139 Removed 27779
161.140 Removed 27779
161.190 (a)(7)(iii) amended 14480
165.110 (a)(2)(iv), (vii), (2), (b)(4)(i)(C), (iii)(E) introductory text, (*2*)(*iii*), (*6*)(*iii*), (*11*)(*iii*) and (F) amended 14480
172 Nomenclature change 14482
Technical correction 27004
172.133 (a)(2) amended 14245
(b)(3) and (4) added; (c)(2) revised 26788
172.210 (b)(3) amended 14245
172.320 (b)(2) and (c)(1) amended 14480
172.345 (d) revised 27779
172.515 (b) amended 14245
172.804 (c)(23) amended 14480
Introductory text and (c) revised; (b) amended; (d) removed; (e) and (f) redesignated as (d) and (e) 33656
172.841 (b) amended 14480
173 Nomenclature change 14482
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173.69 Redesignated as 173.300 14245
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173.300 Redesignated from 173.69 14245
173.310 (c) table amended 14245
173.315 (a)(2) table amended 46376, 46377
173.325 Added 17829
173.357 (a)(2) amended 14245
175 Nomenclature change 14482
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175.105 (c)(5) table amended 42379
175.300 (b)(3)(viii)(*b*) amended 29474

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(b)(3)(vii)(*a*) amended 37208
175.320 (b)(3)(i) table amended 14246
176 Nomenclature change 14482
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176.170 (b)(2) table amended 14246, 14480
(a)(5) table amended 25394, 37209, 58629
176.210 (d)(3) amended 14246
177 Nomenclature change 14482
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177.1210 (b)(5) table amended 14480
177.1345 (b)(1) amended 14481
177.1390 (c)(3)(i)(*a*)(*1*) amended 14481
177.1480 (b)(2) amended 14481
177.1500 (c)(5)(i) amended 14481
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(a)(16) added; (b) table and (c)(5)(ii) amended 53853
177.1520 (b) table amended 14246, 14481, 28050, 37210, 51365
(a)(3)(i)(*a*)(*3*) added; (c) table amended 59330
177.1550 (d)(2)(ii) amended 14481
177.1556 Added 42381
177.1630 (e)(4) amended 46718
177.1637 Added 14965
177.1655 (a) and (b) table revised 29475
177.2450 (b)(2) and (3) amended 14481
177.2600 (c)(4)(i) amended 14246
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178 Nomenclature change 14482
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178.1010 (b)(45) and (c)(39) added 28053
(b)(46) and (c)(40) added 31397
178.2010 (b) table amended 14246, 46545, 46546, 56892
178.3295 Table amended 33847, 51588
178.3297 (e) table amended 14246, 48624
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178.3725 Added 43157
178.3780 (b)(1) amended 14481
178.3860 (b) table amended 25396
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179.21 (b)(2)(ii) and (iii) amended 14246
179.41 Added 42383
179.45 (b) introductory text, (5) and (d) amended 14246
180 Heading revised 14246
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180.22 (b), (e) and (f)(1) amended 14246
181 Nomenclature change 14482
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182.10 Table amended 14246
182.1866 Removed 43450
182.5013—182.5997 (Subpart F) Removed 27779
182.5484 Redesignated from 182.8458 14246
182.5697 Heading and (a) amended 14246
182.8458 Redesignated as 182.5484 14246
184.1063 Added 45889
184.1193 (c) amended 14247
184.1259 Heading and (a) revised 36290
184.1311 (a), (b) and (c) revised 40319
184.1372 (a) revised 43450
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200.101 Removed 29476
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201.320 Added; interim 20100
211 Compliance date extension 37679
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250.203 Removed 29476
310.101 Removed 29476
310.304 Removed 29477
310.545 (a)(6)(iv)(C) and (d)(25) added; (d) introductory text revised 25142
312.2 (b)(6) added 51529
312.20 (c) added 51529
312.23 (f) added 51529
312.30 Introductory text amended 51529
312.42 (b)(5) added 51530
312.53 (c)(1)(vi)(*d*) revised 57280
312.54 Added 51530
312.60 Amended 51530
312.62 (b) revised 57280
312.130 (d) added 51530
314.430 (d) redesignated as (d)(1); (d)(2) added 51530
328.10 (f) redesignated as (g); new (f) added 58630
331 Comment period extension 38046

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331.30 (c)(5) and (f) removed; (c)(6), (7) and (g) redesignated as (c)(5), (6) and (f).....17806
333.150 (c)(2) heading and (3) added; eff. 11–17–97.....58472
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341.76 (d)(2)(i) and (e) removed; (d)(2)(ii) redesignated as (d)(2) heading.....25146
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355.10 (a)(1) heading, (b)(1) heading, (2) heading and (c)(1) heading amended; eff. 4–7–97.....52286
355.50 Regulation at 60 FR 52508 eff. date delayed to 4–7–97.....52285
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510.413 Removed.....37682
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510.600 (c)(1) table and (2) table amended.....15703, 17565, 18672, 21075, 24441, 46547, 58630, 58631, 59003
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520.1193 (c)(2) and (3) revised.....39868
520.1196 Heading revised; (c)(1)(iii) amended.....15186
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520.1660d (a)(7) revised; (e)(1)(ii)(A)(*3*), (B)(*3*), (C)(*3*), (iii)(C) and (iv)(C) amended.....52690
520.1872 (c)(1)(ii) amended.....29651
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522.128 (c)(4) amended.....36291
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522.1145 (a)(2) amended.....59003
522.1182 (a)(4)(i) amended.....18672
522.1335 Added.....21075

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522.1660 (b) and (c)(2)(iii) amended....31028
522.1680 (c)(1)(iii) amended....36291
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522.1850 (c)(1) revised; (c)(2)(i) and (ii) amended....54333
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522.2120 (b) revised; (d)(4) amended....31028
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522.2477 (c)(3) added....29480
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524.1044b (b) amended....48624
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530 Added....57743
556.225 Added....53321
556.228 Added....56893
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558.15 (g)(1) table amended....51590
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558.78 (a)(2), (d)(1) table and (2)(ii) amended....18082
558.95 (b)(1)(xiii)(*b*) amended....18082
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558.120 (c)(1)(iii)(*b*) amended....18082
558.128 (a) amended....18082
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558.145 (a)(1) and (2) amended....18082
558.175 (c)(2)(ii) revised....35954
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558.258 (c)(2) introductory text and (3) introductory text revised; (c)(2)(iii) and (3)(iii) amended....29478
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558.274 (c)(1) table amended....35955
558.300 (a) revised; (c)(2) through (5) added....32652
558.325 (c)(4)(iii) added....32653
558.340 (a) amended....18082
558.355 (b)(8), (9), (f)(1)(iv)(*b*), (v)(*b*), (xiv)(*b*), (xv)(*b*), (xvi)(*b*) amended; (b)(10) added....18082
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558.530 (d)(2), (3) and (4) redesignated as (d)(4), (5) and (6); (a) and new (d)(4) revised; new (d)(2) and new (3) added; new (d)(6)(i)(*a*) through (*d*) redesignated as (d)(6)(i)(A) through (D)....35956
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558.680 (c)(1) table amended....35957
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573.460 (a) introductory text, (1), (2), (b), (c) introductory text, (1) and (2) redesignated as (a)(1) introductory text, (i), (ii), (2), (3) introductory text, (i) and (ii); new (b) added....15704
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584.700 Added....43453
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600.3 (t) revised....24232
601.2 (a) existing text designated as (a) introductory text; new

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601.22 Amended 24233
601.30 Removed 40154
601.31 Removed 40154
601.32 Removed 40154
601.51 (d) redesignated as (d)(1); (d)(2) added 51530
606.100 (b)(19) added 47422
606.160 (b)(1)(vii) and (viii) added 47422
610.45 (d) added 47423
610.46 Added 47423
610.47 Added 47423
610.64 Revised 57330
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630 Removed 40155
640.110—640.114 (Subpart K) Removed 40155
650 Removed 40155
660.100—660.105 (Subpart K) Removed 40155
680.1—680.3 (Subpart A) Heading removed 40155
680.10—680.16 (Subpart B) Removed 40155
680.20—680.26 (Subpart C) Removed 40155
700.10 Removed 27779
730.3 Amended 14481
740.11 (c) revised; interim 20101
801.63 Added; interim 20101
801.126 Added; eff. 8–28–97 44615
801.403 Removed 37683
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803 Regulation at 60 FR 63597 eff. date delayed to 7–31–96 16043
803.3 (n)(4) stayed 38347
803.19 (f) and (g) added; eff. 8–28–97 44615
803.55 (b)(9) and (10) stayed 39869
803.57 Stayed 38347
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804.25 (c) added; eff. 8–28–97 44615
804.30 Removed 38347
807 Technical correction 47550
807.3 Regulation at 60 FR 63606 eff. date delayed to 7–31–96 16043
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807.20 Regulation at 60 FR 63606 eff. date delayed to 7–31–96 16043
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807.65 (j) added; eff. 8–28–97 44615
808 Authority citation revised 52654
808.1 (d)(10) added; eff. 6–1–97 52654
810 Added; eff. 5–19–97 59018
812 Authority citation revised 52654
812.1 (a) amended; eff. 6–1–97 52654
812.20 (a)(1) revised; (a)(4) added 51530
812.35 (a) amended 51531
812.38 (b)(4) added 51531
812.47 Added 51531
812.140 (a)(3) introductory text revised; (a)(3)(i) amended 57280
814 Authority citation revised 51531
814.3 (k) and (l) added 15190
(m) and (n) added 33244
814.9 (d) redesignated as (d)(1); (d)(2) added 51531
814.47 Added 15190
814.100—814.126 (Subpart H) Added 33244
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820.1 (f) added; eff. 8–28–97 44615
868.5400 (c) revised 50706
870.1350 (c) revised 50706
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872.3820 (c) revised 50707
876 Authority citation revised 50707
876.5220 (c) revised 50707
876.5270 (c) revised 50707
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897 Added; eff. 8-28-97 44615
897.14 Eff. in part 2-28-97 44616
897.34 Eff. in part 2-28-98 44617
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1250.51 (d) amended 14481

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1308.12 (c)(26) redesignated as (c)(27); new (c)(26) added 56894
1309.02 (f) revised 40989
Corrected 41836
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1309.21 Revised 32926
1309.22 (b) revised 32926
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1309.71 (a)(2) revised 40989
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1310.04 (f) introductory text and (1)(x) revised 40990
Corrected 48830
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1310.14 Heading and (a) revised 40990
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1310.15 Heading, (a) and (d) revised 40990
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1313.02 (d)(1)(iv)(A) revised 40991
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1313.23 (c) revised 51004
1313.32 Heading correctly revised 17566
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41.105 (a)(3)(iii) amended; (a)(3)(iv) removed.....53058
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50.30 (d) added 29652
50.40 Removed; new 50.40 redesignated from 50.41; (a) through (d) redesignated as (c), (d), (b) and (e); new (a) added; new (b) revised; new (d) amended 29652
50.41 Redesignated as 50.40 29652
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128.16 Revised 48834
131.1 Revised 39585

Chapter II—Agency for International Development, International Development Cooperation Agency (Parts 200—299)

212 Revised 43002
228 Added 53616
228.03 (b) corrected 54849
228.25 Corrected 54849
228.30—228.39 (Subpart D) Heading corrected 55361

Chapter V—United States Information Agency (Parts 500—599)

505 Revised; interim 51004
514 Policy statement 37002
514.20 (d), (i) and (j) revised 15373
(j)(2)(i) stayed; eff. 5-7-96 through 10-4-96 20437
Regulation at 61 FR 15373 confirmed; (d), (i) and (j) revised 29287
514.21 (g) revised 39585

Chapter VI—United States Arms Control and Disarmament Agency (Parts 600—699)

601 Revised 58328
602 Revised 40332
603 Revised 51593
608 Added 36821

Proposed Rules:

171 ..... 39927, 53158
514 46745
602 27031
603 30009
605 53158
608 26474
1102 31470

TITLE 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation (Parts 1—999)

230 Authority citation added 14616
230.101—230.121 (Subpart A) Authority citation removed 14616
230.121 (d) removed 14616
230.101—230.121 (Subpart A) Appendixes E and F removed 14616

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230.201—230.207 (Subpart B) Authority citation removed 14616
230.301—230.313 (Subpart C) Authority citation removed 14616
230.401—230.415 (Subpart D) Authority citation removed 14616
625 Revised; interim 17566
630 Revised 35632
635.413 Regulation at 60 FR 44274 confirmed 17245
640 Regulation at 60 FR 47483 confirmed 57331
640.113 (d) revised; (e) removed; (f) redesignated as (e) 57331
655 Authority citation revised.....29626
655.601 (c) and (d) revised; interim 29626
667 Removed 43966
710.401—710.405 (Subpart D) Removed; interim.....18247
712.801—712.805 (Subpart H) Removed; interim.....18247
720 Removed; interim 18247
740 Removed; interim 18247
772 Authority citation revised.....45321
772.13 (b) revised; interim 45321

Chapter II—National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)

1206 Revised.....28747
1210 Added 55217
1215 Heading revised.....28749
Authority citation revised 28749
1215.1 Revised 28749
1215.2 Revised 28749
1215.3 Amended 28749
1215.4 Revised 28749
1215.5 Revised 28749
1215.6 Revised 28749
1215.7 Revised 28749
1230 Removed.....28751

Chapter III—National Highway Traffic Safety Administration, Department of Transportation (Parts 1300—1399)

1309 Removed.....18248
1313.5 Regulation at 61 FR 9104 confirmed; (h) added.....55222
1313.6 Regulation at 61 FR 9104 confirmed; (g) added.....55222

Proposed Rules:

230.....17264
655.....29234, 40484, 54111
658.....54588
777.....30553
1325 16729
1327 16729

TITLE 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development (Parts 0—99)

EDITORIAL NOTE: The revision for the 1996 edition of title 24 was delayed until May 1, 1996. The 1996 revision includes amendments promulgated during the period of April 3, 1995 through April 30, 1996. For amendments promulgated during that period, see the April 1996 LSA.

0.1 Revised.....36251
0.2 Redesignated from 0.735–203 19188
0.3 Redesignated from 0.735–204 19188
0.735–203 Redesignated as 0.2.....19188
0.735–204 Redesignated as 0.3.....19188
1 Authority citation revised.....52217
1.9 (b) revised; (c), (d) and (e) removed.....52217
1.10 Removed; new 1.10 redesignated from 1.12 52217
1.11 Removed 52217
1.12 Redesignated as 1.10.....52217
2 Removed 52217
5 Authority citation revised.....54496
5.210—5.238 (Subpart B) Authority citation added.....54496
5.300—5.380 (Subpart C) Authority citation added.....54496
5.500—5.528 (Subpart E) Authority citation added.....54496
5.501 Added; interim 60538
5.506 (b)(1), (2), (h)(2) and (3) introductory text revised; interim 60538
5.510 (b) revised; interim 60539
5.512 (a) revised; interim 60539
5.514 (b), (c)(1), (e)(1) and (f)(1) revised; (f)(2) removed; (f)(3)

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and (4) redesignated as (f)(2) and (3); interim 60539
5.516 (c) introductory text revised; interim 60539
5.518 (a), (b)(3) and (5) revised; interim 60539
5.526 Revised; interim 60540
5.601—5.617 (Subpart F) Added 54498
8 Authority citation revised 52218
8.58 (b) revised; (c), (d) and (e) removed 52218
8.59 Removed 52218
8.60—8.71 (Subpart E) Removed 52218
26 Heading revised 50209
26.1—26.26 (Subpart A) Heading revised 50209
26.2—26.5 (Subpart B) Designation removed 50209
26.6—26.8 (Subpart C) Designation removed 50209
26.9—26.16 (Subpart D) Designation removed 50209
26.17—26.21 (Subpart E) Designation removed 50209
26.22—26.24 (Subpart F) Designation removed 50209
26.25—26.26 (Subpart G) Designation removed 50209
26.27—26.54 (Subpart B) Added 50210
27 Revised 48548
28 Revised 50213
29 Removed 48552
30 Revised 50215
42 Revised 51757
50 Revised 50917
60 Authority citation revised 36463
60.101 Revised 36463
60.102 Removed 36463
60.103 Removed 36463
60.107 Removed 36463
60.108 Removed 36463
60.109 Removed 36463
60.110 Removed 36463
60.111 Removed 36463
60.112 Removed 36463
60.113 Removed 36463
60.114 Removed 36463
60.115 Removed 36463
60.116 Removed 36463
60.117 Removed 36463
60.118 Removed 36463
60.119 Removed 36463
60.120 Removed 36463
60.122 Removed 36463
60.123 Removed 36463
60.124 Removed 36463
81 Authority citation revised 50218
81.46 (e)(1) amended 50218
81.82 (b)(2) amended 50218
81.83 (b)(2) amended; (d)(3) revised 50218
81.84 (b)(2) and (d) revised; (h)(1) and (j)(2) amended 50219
81.85 (c)(1) amended 50219
91.205 (b)(1) amended 51760
91.220 (g)(2)(iii) added 48750
91.305 (b)(1) amended 51760
91.315 (e) designated as (e)(1); new (e)(2) added; interim (OMB number pending) 54920
91.320 (g)(2)(iii) added 48750
(g)(1) amended; interim 54920
91.500 (b) introductory text revised; interim 54920
92 Revised 48750
92.353 (e) revised 51760
92.600—92.652 (Subpart M) Removed; interim 32295

Chapter I—Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development (Parts 100—199)

103.45 Amended 52218
103.50 Amended 52218
103.100 Amended 52218
103.215 (b) revised; interim 41482
Amended 52218
103.330 Amended 52218
103.405 Amended 52218
103.410 Amended 52218
103.500 Amended 52218
104 Removed 52218
111 Regulation at 61 FR 7675 confirmed 41284
115 Regulation at 61 FR 7675 confirmed; revised 41284
100—125 (Subchapter A) Appendix I removed 41291
146 Authority citation revised 52218
146.43 Revised 52218
180 Added 52218

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Chapter II—Office of Assistant Secretary for Housing–Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)

200.243 (a) introductory text amended 50219
200.810 (b) amended 36263
200.1301 Reinstated 54267
200.1302 Correctly designated 54267
Revised 60160
200.1303 Added 54503
201.1 Amended 19795
201.2 Amended 19795
201.3 Revised 19796
201.10 (a)(1)(iv), (b)(1)(i), (iii), (iv), (2)(i), (ii), (3), (c), (d)(1)(i), (iii), (3), (f)(3), (4) and (5) revised; (a)(2) removed; (a)(3) redesignated as (a)(2) 19796
201.11 (a)(1), (2), (c)(2), (3) and (4) revised; (a)(3) added 19796
201.12 Revised 19797
201.13 Revised 19797
201.17 Revised 19797
201.18 Heading revised 36263
201.20 (a)(2) and (b) revised; (a)(3) removed 19797
201.21 (b)(3) and (5) revised 19797
201.22 (b)(1), (2)(iv) and (c)(1) revised 19797
201.23 Revised 19798
201.24 (a)(1) and (2) revised 19798
201.25 Revised 19798
201.26 (a)(1), (2), (5)(ii), (6)(i), (b)(3)(vi), (vii), (4)(vi), (vii) and (6) introductory text revised; (b)(4)(viii) removed 19798
201.27 (a)(2) amended; (a)(5) revised; (b)(2) removed; (b)(1) redesignated as (b) 19799
201.28 (a) revised 19799
201.32 (a) revised; (b) removed; (c), (d) and (e) redesignated as (b), (c) and (d) 19799
201.40 (b)(3) added 19799
201.52 Amended 19799
201.53 Existing text designated as introductory text amended; (a) and (b) added 19799
201.54 (b)(2) revised 19800
201.55 (a) introductory text, (b) introductory text, (3) and (7) revised 19800
202.3 (j) amended 36263
202.11 Heading revised 36263
Regulation at 61 FR 2651 confirmed 36453
202.12 (k) amended 36263
Regulation at 61 FR 2651 confirmed 36453
202.13 (d) removed; (e) redesignated as (d) 36263
Regulation at 61 FR 2651 confirmed 36453
202.15 Regulation at 61 FR 2651 confirmed 36453
202.17 Regulation at 61 FR 2651 confirmed 36453
203 Authority citation revised 35017
203.3 Regulation at 61 FR 2651 confirmed 36453
203.5 (e) revised 36263
203.17 (b) revised 36263
203.18 (a)(1)(ii) amended; (i) added 36263
203.19 (c) removed 36263
203.22 (a) revised 36263
203.24 (a)(1) revised 36263
203.30 (d) added 36264
203.36 Removed 36264
203.38 Revised 36264
203.40 Amended 36264
203.42 (a) revised 36264
203.43 (c)(3) revised 36264
203.43b Removed 36264
203.43f (b) amended 36264
203.43h Introductory text, (b) and (g)(3) revised 36264
203.43i (a) revised 36264
203.44 Revised 36264
203.49 Introductory text and (a) amended 36264
203.51 (2) amended 36453
203.204 (a) revised; (g) amended 36264
203.251 (s) revised 36265
203.255 (b)(2) revised 36265
203.258 (c)(2) amended 36453
203.259a (a)(2)(ii)(B) amended 36453
203.262 Revised 37801
203.263 Removed 37801
203.264 Revised 37801
Correctly revised 42787
203.265 (b) amended 36265
(a) revised 37801
203.268 (a) revised 37801
203.281 (b)(1) revised 36265
203.284 (a)(1), (b)(1)(i), (2)(i) and (e) amended 36265

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(d) and (e) removed; (f) revised 37801
203.285 (c) amended 36265
(c) revised 37801
203.342 Revised; interim 35017
203.346 Amended 36265
203.350 Second undesignated center heading removed; interim 35017
Second 203.350 removed; interim 35017
203.355 (a) introductory text, (2), (b), (c) introductory text and (g) introductory text revised; (a)(3) through (6) and (h) added; interim 35018
203.356 Revised 36265
203.359 (b) introductory text amended 36453
203.363 (b) heading amended 36453
203.366 (b)(1) amended 36453
203.368 (a)(1)(ii) amended 36453
203.369 (a)(1) and (b) amended 36453
203.370 (c)(3) removed; (c)(4) and (5) redesignated as (c)(3) and (4); interim 35018
203.371 Added; interim 35018
203.378 (c)(1) revised 36265
(c)(3) amended 36453
203.379 (a) introductory text and (b) introductory text revised 36265
(b) amended 36453
203.380 (a)(1)(i) revised 36265
(a)(1)(iii) amended 36453
203.390 (b)(1) revised 36265
203.402 (f), (p) and (s) revised; interim 35018
(b), (c) and (k)(1) revised 36266
(g)(1) heading and (2) heading amended 36453
203.402a (b)(1) removed; (b)(2) and (3) redesignated as (b)(1) and (2); interim 35019
203.404 (a)(3) revised; (a)(5) and (6) added; interim 35019
203.412 Added; interim 35019
203.414 Added; interim 35019
203.423 (a)(1) amended 36453
203.436 Undesignated center heading added 36266
203.438 (c) revised; interim 35019
203.471 Revised; interim 35019
203.473 (a) revised; interim 35019
203.500 Revised; interim 35019
203.501 Amended; interim 35019
203.502 (a) amended; (b) revised 36266
203.552 (a) introductory text revised; interim 35019
203.604 (e)(2)(iii) and (iv) removed; (e)(2)(v) redesignated as (e)(2)(iii); interim 35019
(b) amended 36266
203.605 Added; interim 35019
203.606 (a) amended; (b) introductory text revised; interim 35020
203.614 Revised; interim 35020
203.616 Revised; interim 35020
203.640 Removed; interim 35020
203.641 Removed; interim 35020
203.642 Removed; interim 35020
203.643 Removed; interim 35020
203.644 Removed; interim 35020
203.645 Removed; interim 35020
203.646 Removed; interim 35020
203.647 Removed; interim 35020
203.648 Removed; interim 35020
203.649 Removed; interim 35020
203.650 Removed; interim 35020
203.651 Removed; interim 35020
203.652 Removed; interim 35020
203.653 Removed; interim 35020
203.654 Removed; interim 35020
203.656 Removed; interim 35020
203.658 Removed; interim 35020
203.659 Removed; interim 35020
203.660 Removed; interim 35020
203.664 Revised; interim 35020
203.665 Revised; interim 35020
203.666 (b) revised; (c) and (d) removed; interim 35020
203.670 (a) revised 36266
203.679 (b)(4) revised 36266
203.685 Removed 36266
206.1 Revised 49032
206.3 Amended 36266, 49032
206.8 Added 49033
206.9 (b) heading revised 36266
(a) revised 49033
206.13 Removed 36266
206.17 (a) revised 36266
206.19 (c) revised 49033
206.25 (d) revised 49033
206.26 (d) revised 49033
206.27 (c)(1) and (d) revised 49033
206.33 Revised 49033
206.35 Amended 49033
206.41 (b) revised 49033
206.43 Removed 49033
206.45 (b) amended 36266
(e) added 49033

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Corrected 55188
206.47 (c) amended 49033
206.51 Revised 26984
206.115 Removed 49033
206.117 Revised 49033
206.119 Removed 49034
206.121 (c) amended 36266
(b) and (c) amended 49034
206.125 (d)(3) revised 49034
206.129 (d)(2)(i) and (ii) revised; interim 35020
206.133 (f) revised 49034
206.209 Revised 49034
207.258b (e) added 49037
207.259 (b)(2)(v) added 49038
213.501 (Subpart C) Revised 60160
213.751—213.752 (Subpart D) Removed 60160
213.800 (Subpart E) Removed 60160
220.1—220.249 (Subpart A) Removed 60160
221 Authority citation revised 37801
Technical correction 42786
221.1 (a) revised 60160
221.3 Removed 60160
221.5 Removed 60160
221.20 (c) revised 60160
221.25 Removed 60160
221.30 Removed 60160
221.32 Removed 60160
221.35 Removed 60160
221.45 Revised 36266
Removed 60160
221.50 (a) revised 60160
221.57 Removed 60160
221.60 Removed 60160
221.65 Removed 60160
221.70 (a)(2) amended 36453
Removed 60160
221.251 (a) amended 37801
233 Authority citation revised 36266
Removed 60160
233.5 (a) introductory text and (b) revised 36267
234.1—234.66 (Subpart A) Revised 60161
234.1 (n) revised 36267
234.11 Added 36267
234.16 (d) added 36267
234.25 (b) revised 36267
234.26 (i) added 26984
234.52 (c) revised 36267
234.54 Added 36267
234.67 Removed 36267
234.70—234.79 Undesignated center heading removed 36267
234.70 Revised 36267
234.85 (a)(2) amended 36453
234.251 Revised 60163
234.256 (a), (b), (e) and (f) revised 60163
234.259 Revised 60163
236.3 Added 54503
245 Authority citation revised 57961
245.10 Revised 57961
245.15 (a) revised 57961
245.205 (b) and (c) amended 57961
245.405—245.435 (Subpart E) Revised 57962
245.505—245.530 (Subpart F) Removed 57964
245.605—245.630 (Subpart G) Removed 57964
245.705—245.730 (Subpart H) Removed 57964
247 Authority citation revised 47381
247.2 Amended 47382
247.3 (a)(2) and (b) amended; (a)(3) redesignated as (a)(4); new (a)(3) added 47382
247.4 (c) amended 47382
251.3 Revised 49038
251.4 Removed 49038
251.5 Removed 49038
252.3 Revised 49038
252.4 Removed 49038
Correctly removed 51319
252.5 Removed 49038
Correctly removed 51319
255.3 Revised 49038
255.4 Removed 49038
255.5 Removed 49038
280.1—280.5 (Subpart A) Heading removed 42953
280.1 (a) revised 42953
280.5 Amended 42953
280.10 Redesignated from 280.100 and revised 42953
280.15 Redesignated from 280.103 42953
280.20 Redesignated from 280.115 42953
280.25 Redesignated from 280.207 42953
280.30 Redesignated from 280.303 42953
280.35 Redesignated from 280.305; introductory text revised 42953
280.40 Redesignated from 280.315 42953
280.45 Redesignated from 280.320; (a)(2) and (b)(2) revised 42953

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280.50 Redesignated from 280.322 42953
(a)(4) and (6) revised 42954
280.55 Redesignated from 280.330 42954
280.60 Redesignated from 280.335 42954
280.100—280.103 (Subpart B) Heading removed 42953
280.100 Redesignated as 280.10 42953
280.103 Redesignated as 280.15 42953
280.105—280.115 (Subpart C) Heading removed 42953
280.105 Removed 42953
280.110 Removed 42953
280.115 Redesignated as 280.20 42953
280.200—280.225 (Subpart D) Heading removed 42953
280.200 Removed 42953
280.205 Removed 42953
280.207 Redesignated as 280.25 42953
280.210 Removed 42953
280.215 Removed 42953
280.220 Removed 42953
280.225 Removed 42953
280.300 Removed 42953
280.303 Redesignated as 280.30 42953
280.305 Redesignated as 280.35 42953
280.315 Redesignated as 280.40 42953
280.320 Redesignated as 280.45 42953
280.322 Redesignated as 280.50 42953
280.330 Heading and (c)(2) revised 36267
Redesignated as 280.55 42954
280.335 Redesignated as 280.60 42954
290 Heading and authority citation revised 32265
290.30 Second (c)(2) removed 19188
(a) amended 32265
290.37 (b) revised 32265
290.39 (c)(2) revised 32265
291.1—291.5 (Subpart A) Revised 55711
291.100—291.150 (Subpart B) Revised 55712
291.100 (a)(3) amended; (a)(4) introductory text revised 36267
291.105 (e) and (h)(2) amended 36267
291.110 (b)(1) amended 36268
291.115 (b)(2) revised 36268
291.200 (Subpart C) Revised 55714
291.300—291.307 (Subpart D) Regulation at 60 FR 45333 eff. date extended 43966
291.400 Revised (OMB number) 55714
291.405 Removed 55714
291.410 Removed 55714
291.415 Revised 55715
291.420 Removed 55714
291.425 Removed 55714
291.435 Revised 55715
291.440 Revised 55716

Chapter V—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)

570.405 (e)(4) revised (OMB number pending) 32269
570.415 (c)(1)(i)(C), (d)(2)(i)(D) and (k)(3)(iii) removed; (d)(2)(i)(E) through (I) and (k)(3)(iv) redesignated as (d)(2)(i)(D) through (H) and (k)(3)(iii); (a), (b), (c)(1)(i)(A), (B), (2), (d)(1)(i)(A), (B), (ii), (iii), (2)(i)(A), new (E), (f)(1), (2)(1), (g)(i)(ii), (iii), (2)(ii), (3)(i), (ii), (i)(1)(iii), (2) and (k)(3)(ii) revised 36458
570.430 (f) added (OMB number pending) 32269
570.480 (b) revised; interim 54921
570.482 (d)(1) and (2) amended; (d)(3), (f)(3)(v)(L) and (M) added; interim 54921
570.483 (b)(1)(iv), (2)(iii) and (3) introductory text revised; (e)(5) redesignated as (e)(6); (b)(1)(v), (3)(iii) and new (e)(5) added; (b)(2)(ii)(A), (4)(vi)(D), (E), (F)(2) and new (e)(6) amended; interim 54921
570.485 Heading revised; (c) added; interim 54922
570.486 (a) introductory text amended; interim 54922
570.487 (e) added; interim 54922
570.489 (e)(3) introductory text amended; (k)(1) redesignated as (l); (k)(2) removed; interim 54922
570.493 (a)(1) and (b) amended; interim 54922
570.507 (a)(2) heading revised 32269
570.606 (c) revised 51760
572.1 (a) designation, heading and (b) removed 48797
572.5 Regulation at 60 FR 36018 confirmed; amended 48797

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572.110 (b)(1) amended 48797
572.115 (a)(2) revised 48797
572.120 Regulation at 60 FR 36018 confirmed 48797
572.130 (d)(3) and (4) amended 48798
572.135 Regulation at 60 FR 36018 confirmed 48797
572.140 Revised 48798
572.200 Revised 48798
572.205 Revised 48798
572.210 Regulation at 60 FR 36018 confirmed 48797
(a) and (f) revised; (e) removed 48798
572.220 Regulation at 60 FR 36018 confirmed 48797
(a)(1) and (b)(1)(ii)(C) revised; (a)(3) added; (b)(2)(i) and (ii) amended 48798
572.315 Revised 48798
572.420 (b) and (h) revised; (c) and (d) removed 48798
573 Added 47405
573.6 OMB number pending 47406
573.7 OMB number pending 47406
573.8 OMB number pending 47407
573.11 OMB number pending 47408
576.1 Revised 51548
576.3 Amended 51548
576.5 Added 51549
576.21 Revised 51549
576.22 Redesignated as 576.23 51549
576.23 Redesignated as 576.25; new 576.23 redesignated from 576.22 and revised 51549
576.25 Redesignated from 576.23 51549
Revised 51550
576.31 Redesignated from 576.51 and revised 51550
576.33 Redesignated from 576.53 and amended 51550
576.35 Redesignated from 576.55; (a)(1), (b) and (c) revised 51550
576.41—576.45 (Subpart D) Removed 51550
576.41 Redesignated from 576.61; heading, (b), (c) heading, (d)(1), (2), (e), (f) and (g) revised 51551
576.43 Redesignated from 576.63; heading, (a), (b), (d) introductory text, (2), (f), (g) and (h) revised; (c) and (e) introductory text amended 51551
576.45 Redesignated from 576.67; (c)(1), (9) and (d) amended; (c)(2) and (3) redesignated as (c)(3) and (4); new (c)(2) added; new (c)(3), new (4), (f) heading and (2) revised 51551
576.51—576.55 (Subpart E) Redesignated as Subpart C 51550
576.51 Redesignated as 576.31 51550
Redesignated from 576.71 and revised 51552
576.52 Removed 51550
576.53 Redesignated as 576.33 51550
Redesignated from 576.73; (a) and (b) introductory text revised 51552
576.55 Redesignated as 576.35 51550
Redesignated from 576.75 and revised 51552
576.56 Redesignated from 576.77 and revised 51552
576.57 Redesignated from 576.79; (e) and (f) revised; (h) redesignated as (j); new (h) and (i) added 51552
576.59 Redesignated from 576.80 51553
576.61—576.67 (Subpart F) Redesignated as Subpart D 51550
576.61 Redesignated as 576.41 51551
Redesignated from 576.81; introductory text amended; (a) and (b) added 51553
576.63 Redesignated as 576.43 51551
Redesignated from 576.83 and amended 51553
576.65 Redesignated from 576.65 and revised 51553
576.67 Redesignated as 576.45 51551
Redesignated from 576.89; (b) and (c) amended 51553
576.71—576.80 (Subpart G) Redesignated as Subpart E 51550
576.71 Redesignated as 576.51 51552
576.73 Redesignated as 576.53 51552
576.75 Redesignated as 576.55 51552
576.77 Redesignated as 576.56 51552
576.79 Redesignated as 576.57 51552
576.80 Redesignated as 576.59 51553
576.81—576.89 (Subpart H) Redesignated as Subpart F 51550
576.81 Redesignated as 576.61 51553
576.83 Redesignated as 576.63 51553
576.87 Redesignated as 576.65 51553
576.89 Redesignated as 576.67 51553
582 Authority citation revised 51169

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582.1 (a) amended; (b) revised 51169
582.5 Revised 51169
582.105 (a) and (d)(2) amended 51170
582.120 Regulation at 59 FR 24253 confirmed 48056
582.200 Regulation at 59 FR 24253 confirmed 48056
Revised (OMB number) 51170
582.205 Regulation at 59 FR 24254 confirmed 48056
582.210 Regulation at 59 FR 24254 confirmed 48056
582.215 Regulation at 59 FR 24254 confirmed 48056
582.220 Regulation at 59 FR 24254 confirmed 48056
582.225 Regulation at 59 FR 24254 confirmed 48056
582.230 Revised 51170
582.300 (a)(1) amended 51171
582.305 (a) amended 51171
582.310 (a) revised 51171
582.340 (a)(1) and (b)(2)(i) revised; (b)(2), (3) introductory text and (iv) amended 51171
583.1 (a) amended 51175
583.5 Revised 51175
583.125 (b) revised 51175
583.135 (b) revised 51175
583.200 Revised 51176
583.230 Revised 51176
583.300 (f) revised 51176
583.305 Revised 51176
583.325 (b) revised 51176
583.405 (a)(1) amended 51176
585.2 Revised 52187
585.4 Amended 52187
585.305 (m)(1) and (2) added; interim 25125
(m)(1) and (2) removed 52187
585.309 (e) revised 52187
585.310 (a) revised 52187
585.312 Revised 52187
586.1 Regulation at 60 FR 42975 eff. date extended 45322
586.5 Regulation at 60 FR 42975 eff. date extended 45322
586.10 Regulation at 60 FR 42976 eff. date extended 45322
586.15 Regulation at 60 FR 42976 eff. date extended 45322
586.20 Regulation at 60 FR 42977 eff. date extended 45322
586.25 Regulation at 60 FR 42978 eff. date extended 45322
586.30 Regulation at 60 FR 42978 eff. date extended 45322
586.35 Regulation at 60 FR 42979 eff. date extended 45322
586.40 Regulation at 60 FR 42979 eff. date extended 45322
586.45 Regulation at 60 FR 42980 eff. date extended 45322
586.50 Removed; interim 45321

Chapter VII—Office of the Secretary, Department of Housing and Urban Development (Housing Assistance Programs and Public and Indian Housing Programs) (Parts 700—799)

700 Revised 42943, 42949

Chapter VIII—Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Section 202 Direct Loan Program) (Parts 800—899)

813 Removed 54503
880.201 Amended 47382
880.607 (b)(1)(ii), (2) and (c)(2) amended; (b)(1)(iii) redesignated as (b)(1)(iv); new (b)(1)(iii) added 47382
882.406 Revised (OMB number) 48056
882.801—882.810 (Subpart H) Revised 48057
882.802 Regulations at 58 FR 13831 and 61 FR 5851 confirmed 48056
882.803 Regulations at 58 FR 13831 and 61 FR 5851 confirmed 48056
882.804 Regulations at 58 FR 13831 and 61 FR 5851 confirmed 48056
882.805 Regulations at 58 FR 13831, 59 FR 24255 and 61 FR 5851 confirmed 48056
882.806 Regulation at 58 FR 13833 confirmed 48056
882.808 Regulations at 58 FR 13833 and 61 FR 5852 confirmed 48056

884.102 Amended 47382
884.216 Existing text designated as (a); (b) added 47382
888 Fair market rent schedules 49576

Chapter IX—Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—999)

901.10 (b)(4) revised 35634
913 Removed 54503
913.106 (d) and (e) redesignated as (e) and (f); new (d) added; interim 46346
941 Comment period extention 35958
941.101 Revised (OMB number pending); interim 38016
941.102 Revised; interim 38016
941.103 Amended; interim 38017
941.201 (a) amended; (c) redesignated as (d); new (c) added; interim 38017
941.202 (c)(3) added 19714
(c) introductory text, (1) introductory text, (i), (ii) and (2) redesignated as (c)(1) introductory text, (i) introductory text, (A), (B) and (ii); new (c)(2) added; (c)(3) removed; (f) amended; interim 38017
941.203 Revised; interim 38017
941.204 Removed; interim 38018
941.205 Revised (OMB number pending); interim 38018
941.206 Removed; interim 38018
941.208 Revised; interim 38018
941.301—941.306 (Subpart C) Revised; interim 38018
941.301 OMB number pending 38018
941.303 OMB number pending 38018
941.304 OMB number pending 38018
941.401—941.404 (Subpart D) Revised; interim 38020
941.404 OMB number pending 38021
941.501 (Subpart E) Revised; interim 38021
941.600—941.616 (Subpart F) Added 19714
941.602 (a) revised; interim 38022
941.606 OMB number pending 19715
941.610 OMB number pending 19716
950.102 Amended; interim 46346
Amended 54503
950.103 Removed 54504
950.190 (e) amended 50219
950.705 (c) added; interim 51182
950.715 (b)(2) amended; interim 51182
950.720 (e) redesignated as (e)(1); (e)(2) added; interim 51182
950.725 (b)(1) redesignated as (b)(1)(i); (b)(1)(ii) added; (b)(2) revised (OMB number pending); interim 51182
950.730 (c)(1)(i) amended; interim 51182
950.756 Added (OMB number pending); interim 51182
950.757 Added (OMB number pending); interim 51182
953 Revised 40090
954 Added; interim 32295
960.208 Revised 54504
965.205 (e) amended 50219
970.2 (a)(9) and (10) amended; (a)(11) and (12) added 19719
982.54 (d)(1), (15) and (16) amended; (d)(17), (18) and (19) added 27163
982.158 (d) revised 27163
982.202 (a) heading revised; (b)(2) amended 27163
982.205 Heading and (a)(1) revised 27163
982.301 (b)(4) removed; (b)(5) through (17) redesignated as (b)(4) through (16); new (b)(10) amended 27163
982.307 (b)(1)(i) amended 27163
982.353 (b) amended 27163
(a) and (f) revised 42131
982.355 (b)(2) and (e)(4) revised; (b)(3) added; (e)(3) and (5) amended 27163
982.401 (j)(3)(iv)(B) revised 27163
982.451 (c)(5) added 27163
982.551 (h)(2) amended 27163
983.203 (a)(5) amended 27163
990.104 (c) added; interim 51183
990.107 (b)(2) amended; interim 51183
990.108 (d) redesignated as (d)(1); (d)(2) added; interim 51183
990.109 (b)(1) redesignated as (b)(1)(i); (b)(1)(ii) added; (b)(2) revised (OMB number pending); interim 51183
990.110 (c)(1) amended; interim 51183

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990.114 Added (OMB number pending); interim 51183
990.116 Added (OMB number pending); interim 51183

Chapter XX—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200—3899)

3282 Authority citation revised 50219
3282.10 Amended 50219
3500 Policy statement 29254, 29258, 29264, 49398
Authority citation revised 46510, 50219, 58475
Effective date time schedule 56624
3500.2 (b) amended 29252, 58475
Regulation at 61 FR 29252 eff. date delayed 51782
3500.5 (b)(2) revised 58475
3500.7 (e)(3) amended 58476
3500.8 (c)(2) amended 29252, 58476
Regulation at 61 FR 29252 eff. date delayed 51782
3500.13 (b)(2) amended 58476
3500.14 (b) amended; (g) heading and (1) amended 29252
Regulation at 61 FR 29252 eff. date delayed 51782
(g)(1)(vi) and (vii) amended; (g)(1)(viii) removed 58476
3500.15 (b)(1) introductory text revised 29252
Regulation at 61 FR 29252 eff. date delayed 51782
Heading revised; (a), (b) introductory text, (1) introductory text and (3)(i) amended 58476
3500.17 (b), (c)(1)(i) and (d)(1)(ii) amended 29252, 58476
(b) and (c)(4)(i) amended 46510
(m) revised; (n)(1) and (4)(iii) amended 50219
Regulation at 61 FR 29252 eff. date delayed 51782
3500 Appendix B amended 29253, 58476
Appendix D revised 29254, 58477
Appendix D correctly revised 41944
Regulations at 61 FR 29253, 29254 and 41944 eff. date delayed 51782
Appendixes E and N removed; Appendix F redesignated as Appendix E 58479

Proposed Rules:

0 30013
10 42722
35 29170
36 29170
37 29170
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92 53341
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968 53341
970 53341
983 53341
3500 ..... 21394, 46511

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior (Parts 1—299)

10 Added 34374
63 Added 32274
63.15 OMB number pending 32274
63.33 OMB number pending 32274
63.34 OMB number pending 32274

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65 Removed 27780
66 Removed 27780
76 Removed 27780
151.12 Existing text designated as (a); (b) added 18083
211 Revised 35653
212 Revised 35661
250 Removed 59332
271 Removed 49060
272 Removed 49060
274 Removed 49060
277 Removed 49060
278 Removed 49060

Chapter II—Indian Arts and Crafts Board, Department of the Interior (Parts 300—399)

309 Added 54555
309.2 (c) and (d) corrected 57002
309.3 (b)(1) corrected 57002

Chapter IV—Office of Navajo and Hopi Indian Relocation (Parts 700—799)

700.801—700.839 (Subpart R) Added; interim 35667

Chapter V—Bureau of Indian Affairs, Department of the Interior, and Indian Health Service, Department of Health and Human Services (Parts 900—999)

Chapter V Established 32501

Chapter VI—Office of the Assistant Secretary—Indian Affairs, Department of the Interior (Parts 1000—1099)

1001.7 Added 17831
1001.8 Added 17832
1001.9 Added 17832
1001.10 Added 17832

Proposed Rules:

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1 27821
2 31875
5 36671
11 35158
12 35163
21 33876
45 34399
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144 24731
150 27822
152 34400
154 30559
161 29327
162 30560
166 27824
169 37417
171 35167
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217 27831
250 19600
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272 27833
274 27833
277 27833
278 27833
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291 25604
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TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury (Parts 1—799)

1 Authority citation amended 17573, 18676, 19189, 27259, 30138, 33314, 33322, 33336, 42169, 60545
Authority citation corrected 39072, 40993, 47821
1.62–2 (h)(1) amended 27005
1.132–5 (s) and (t) added 27006
1.163–7 (a) amended 30138
1.166–3T Added 32654
1.168(h)–1 Added 18676
1.168(i)–2 Added 18677
1.274–1 Amended 27006
1.274–2 Heading, (f)(2)(i) heading and (iii) revised; (c)(6) amended; (g) added 27006
1.351–1 (a)(3) added 19189
(c)(6) redesignated as (c)(7); new (c)(6) added 19544
1.367(e)–0 Removed 42169
1.367(e)–0T Added 42169
1.367(e)–1 Removed 42169
1.367(e)–1T Added 42169
1.382–1 Amended 33314
1.382–2 (a)(1)(iv) added; (f)(18)(i) redesignated as (a)(3)(i);

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(a)(1)(iii) and new (3)(i) amended 33315
1.382–2T (e)(2)(iv) Example 1, 2, (f)(4), (5), (18)(i) and (h)(2)(i)(A) amended; (f)(1) redesignated as (f)(1)(i); new (f)(1)(i) heading, (ii) and (iii) added 33315
1.382–5T Added 33316
1.382–8T Added 33316
1.401(a)–4 Amended 14247
1.446–4 (a)(2)(ii) and (iii) redesignated as (a)(2)(iii) and (iv); new (a)(2)(ii) added; (e)(4) amended 30138
1.469–1 (h)(2) amended 33322
1.469–5T (d)(A) and (B) redesignated as (d)(1) and (2) 14247
1.482–0 Amended 21956
1.482–7 (c)(2) and (3) removed; (c)(4), (5), (j)(2) introductory text and (i) through (v) redesignated as (c)(2), (3) and (j)(2)(i) introductory text and (A) thorugh (E); (c)(1)(i), new (2)(ii) and (f)(3)(iii)(E) Example 8 revised; (c)(1)(iv), new (j)(2)(i) heading and (ii) added; (f)(3)(ii) and new (j)(2)(i) amended 21956
Corrected 33656
1.483–2T Removed 30138
1.483–4 Added 30138
1.584–2 (b)(1) and (2) designation removed 19546
1.584–4 (a)(1) and (2) removed; (a) amended; (e) added 19546
(a) corrected 39072
1.597–2 (c)(5) amended 33322
1.597–4 (g)(3) amended 33322, 33323
1.671–4 (a) amended 19191
1.677(a)–1 (d) amended 19191
1.721–1 (c) added 19189
1.863–0 Added 60545
1.863–1 (a), (b) and (c) revised; (e) added 60545
1.863–2 Revised 60546
1.863–3 Redesignated as 1.863–3A 60545
Added 60547
1.863–3A—1.863–3AT Undesignated center heading added 60545
1.863–3A Redesignated from 1.863–3 60545
1.863–3AT Redesignated from 1.863–3A 60545
1.863–3T Redesignated as 1.863–3AT 60545
1.863–4 Heading and (a) revised 60550
1.863–5 Removed 60550
1.882–0 Corrected 15891
1.882–5 (a)(6), (8) *Example 1*, (b)(3), (c)(2)(i) and (d)(6) corrected 15891
1.884–1 (e)(5) *Example 1* corrected 14247
1.884–5 (e)(4)(ii) corrected 14248
1.897–1 (f)(1)(iii) corrected 14248
1.904(f)–3 (a) and (b) amended 33323
1.936–6 (b)(1) amended 21367
(b)(1) corrected 39072
1.1001–1 (g) revised 30139
1.1001–3 Added 32930
(g) Example 5 corrected 47822
1.1001–4T Added 32654
1.1012–1 (g) revised 30139
1.1254–0 Amended 53063
1.1254–2 (d)(1)(ii) revised 53063
1.1254–3 (b)(1)(i), (ii), (d)(1)(i) and (ii) revised 53063
1.1254–4 Added 53063
1.1254–6 Amended 53066
1.1271–0 (b) amended 30139
1.1272–1 (b)(2)(ii), (c) and (d) revised; (f)(2) and (j) Examples 5 and 7 amended 30140
1.1273–1 (a) amended; (c)(1)(ii) and (f) Example 4 revised 30141
1.1274–2 (e) amended; (g) revised; (j) added 30141
1.1275–2 (g), (h) and (j) added 30142
1.1275–2T Removed 30143
1.1275–3 (b)(1)(i) revised 30143
1.1275–4 Added 30143
1.1275–5 (a)(1), (b)(2), (c)(1), (5), (d) introductory text, Examples 4 through 9, (e)(2) and (3)(v) introductory text revised; (a)(3)(i) introductory text, (ii), (c)(3)(ii) and (e)(3)(v) Example 3 amended; (a)(5), (6) and (d) Example 10 added 30153
1.1275–6 Added 30155
1.1341 (f)(2)(i) amended 33323
1.1394–0 Added 27259
1.1394–1 Added 27259
1.1501–1 Removed 33325
1.1502–0 Revised 33325

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1.1502–43A Removed....33325
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1.1502–79A Added; (a) and (b) redesignated from 1.1502–79A(a) and (b) 33334
1.1502–80 (c) amended 33325
1.1502–90T Added 33336
1.1502–91T Added 33337
1.1502–92T Added 33341
1.1502–93T Added 33351
1.1502–94T Added 33352
1.1502–95T Added 33355
1.1502–96T Added 33362
1.1502–98T Added 33364
1.1502–99T Added 33364
1.1502–100 (c)(2) amended 33325
1.1503–2 (d)(2)(i), (ii), (4) Examples 1 and 2, (g)(2)(vii)(B)(1), (2), (E), (G) Examples 1 and 2 and (h)(3) amended 33325
1.1503–2A (f)(1)(i) introductory text, (C), (2)(i), (ii) and (4) Example 2 amended 33325
1.1552–1 (a)(3)(i) and (b)(1) amended 33325
1.6038B–1T (b)(2)(i) amended; (e) added 42177
1.6045–1 (q) amended 53060
1.6045–1T Added 53060
1.6045–2 (i) amended 53060
1.6045–2T Removed 46720
Added 53060
1.6049–4 (b)(1), (2) introductory text, (3), (4) amended; (b)(5) added; authority citation removed 17573
1.6049–5 (b)(1) introductory text revised; (c) amended; authority citation removed 17573
1.6049–6 (e)(4) redesignated as (e)(5); new (e)(4) revised 17574
(e)(4) corrected 40993
1.6049–8 Added 17574
1.6662–0 Corrected 14248
1.6662–5T (e)(4)(iii) corrected 14248
1.6662–6 (d)(2)(iii)(A), (D) and (e) *Example* corrected 14248
20.2056A–0 Amended 60553
20.2056A–2 (d) added 60553
20.2056A–2T Removed 60559
26.2601–1 (b)(1)(v)(D) Examples 2, 4, 5, (4)(i) and (c) corrected; (b)(3)(iii) introductory text, (A) introductory text, (*1*), (*2*), (B) and (C) correctly designated as (b)(3)(iii)(A) introductory text, (*1*) introductory text, (*i*), (*ii*), (*2*) and (*3*); new (b)(3)(iii)(A)(*3*) and (B) correctly added 29653
(b)(3)(iii)(B) amended 43656
26.2612–1 (a)(2)(ii) and (b)(1)(i) corrected 29653
26.2632–1 (d)(1) corrected 29654
26.2642–2 (b)(3)(ii)(B) corrected 29654
26.2642–4 (a)(3) and (b) Example 5 corrected 29654
26.2642–5 (b)(1) amended 43656
26.2652–1 (a)(2) and (6) Examples 1 and 5 corrected 29654
26.2654–1 (a)(1)(ii)(A), (5) Examples 5, 8, (b)(1)(ii)(A) and (ii)(C)(*1*) corrected 29654
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26.2662–1 (c)(2)(vi) Example 1 corrected 29654
26.2663–2 (c)(2), (d) Example 3 and (e) corrected 29654
31 Authority citation amended 27008
Technical correction 40993
31.3406(g)–1 (d) added 17574
31.6011(a)–4 (b) amended 27008
31.6011(a)–4T Removed 27008
40.6011(a)–1 (c) amended; (d) removed 58005
40.6011(a)–2 (b)(2) amended 58005
40.6302(c)–1 (b)(1)(ii), (5)(ii), (6)(iii), (c)(2)(iv), (3)(iii) and (g) removed; (b)(1)(iii), (5)(iii), (c)(3)(iv), (e) and (f) redesignated as (b)(1)(ii), (5)(ii), (c)(3)(iii), (f) and (g); (a), (b)(1)(i), new (5)(ii), (6)(ii), (c)(2)(i)(A), (iii)(B) and new (f)(3)(ii) amended; new (e) added 58005
40.6302(c)–2 (b)(2)(i)(A) and (ii)(B) amended; (c) revised 58005
40.6302(c)–3 (f) and (g) redesignated as (g) and (h); (b)(1)(ii), (3) and new (h) amended; new (f) added 58006
40.6302(c)–4 (d) redesignated as (e); (a), (b)(1) and new (e) amended; new (d) added 58007
40.6302(c)–5T Removed 58007
40.9999–1 Examples 1 and 3 amended 58007
48.4082–2 (a) amended 58007
48.4083–1 (b)(1) introductory text and (d)(1) amended 58007
48.4101–1 (f)(3)(ii)(D) corrected 28053
48.6427–7 Removed 58007

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48.6714–1 Redesignated as 48.6715–1.....58007
48.6715–1 Redesignated from 48.6714–1; (a) introductory text amended.....58007
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1.3 (b) removed; (c) redesignated as (b); new (b) revised 20723
2 Removed 26097
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18.13 OMB number 37003
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19.61 (b) removed; (c) redesignated as (b); new (b) revised 20724
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24.246 (b) table amended 21079
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30 Authority citation revised 37003
30.22 Amended 37003
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53.21 (b) removed; (c) and (d) redesignated as (b) and (c) 20724
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53.131 (a)(5) amended 37005
53.132 (c)(2)(i) revised; (c)(2)(iii) added 37005
53.133 (b) introductory text amended 20724
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53.134 (d)(2)(iii) revised; (d)(2)(iv) added 37006
53.135 (c)(1) revised; (c)(3) added 37006
53.179 (b)(1)(iii) revised; (b)(1)(iv) added 37006
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55.11 Amended 38085
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70.2 Added 31031
70.11 Amended 29955
70.321 (a) amended 31426
70.411 (c)(2) revised 31031
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70.501—70.509 (Subpart F) Added 31031
70.601—70.610 (Subpart G) Added 31033
70.701—70.702 (Subpart H) Heading added 29955
70.701 Redesignated from 71.41; (a)(1), (d)(1) and (2)(i)(B) amended 29955
70.702 Redesignated from 71.42; (a) amended 29955
70.801—70.803 (Subpart I) Heading added 29955
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71.42 (c)(1) removed; (c)(2) redesignated as (c) 20724
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250.173 (a) and (d) amended; (c) introductory text revised 31427
250.221 (a) and (c) amended 31427
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275.39a Redesignated as 275.39 37004
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275.72a Removed; new 275.72a redesignated from 275.72b 37004
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275.115a (a)(1) and (b)(1) amended 54095
275.137 Introductory text amended 54095
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0.197 Added; interim 48406
2.1 (c), (d) and (e) revised 55743
2.17 (a) revised 55743
2.26 (b) revised 55743
2.27 (a) revised 55743
2.28 (f) revised 55743
2.62 (h) introductory text, (1) introductory text and (5) amended; (h)(6) revised 38570
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36.407 Revised 39324
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90.60—90.67 (Subpart D) Added 40733
91 Authority citation revised 49970
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524 Authority citation revised 47795
524.12 (c) amended; (f) removed 47795
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524.70—524.76 (Subpart F) Revised 40143
540 Authority citation revised 57568
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540.71 (a), (d) and (e) amended; interim 57568
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544.81 (g) revised 47795
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552.20 Introductory text amended; (a) through (e) revised 39800
552.21 (d) amended 39800
552.22 (c) revised; (g) amended 39800
552.24 Introductory text, (a), (f) and (g) revised; (d) amended 39800
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0.735–12 (Subpart C) Redesignated as 0.735–2 (Subpart A) 57287
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0.737–1—0.737–11 (Subpart B) Redesignated as Subpart B 57287
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506.500—506.541 (Subpart F) Regulation at 60 FR 3955, 3977 confirmed 46990
506.600—506.675 (Subpart G) Regulation at 60 FR 3969, 3977 confirmed 46990
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1910.11—1910.19 (Subpart B) Authority citation revised 56831
1910.19 (l) added 56831
1910.1000 Table Z–1 amended 56831
1910.1001 (j)(3)(v) revised 43457
1910.1051 Added (OMB number pending) 56831
1915.1000 Table Z–1 amended 56856
1915.1001 (h)(2)(iii), (k)(6), (8)(vii), (9)(iii), (iv) and (m)(1)(i)(A) revised 43457
1926.55 Appendix A amended 56856
1926.416 (a)(4), (f) and (g) removed 41738
1926.417 (d) removed 41739
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1926.451 (a)(2) corrected; (c)(2) correctly revised 59831
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1926.450—1926.454 (Subpart L) Appendix E corrected 59832
1926.556 Removed 46131
1926.1100—1926.1148 (Subpart Z) Authority citation revised 56856
1926.1101 (h)(2)(iii), (k)(6), (8)(vii), (9)(iii), (iv) and (m)(1)(i)(A) revised 43458
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2509 Authority citation revised 33849
2509.75–1 Removed 33849
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2520.104–28 Removed 33849
2520.104–45 Removed 33849
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250.291 (b)(3) and (d)(4)(i) revised 60026
250.292 (b)(4)(i) revised 60026
256.37 (a) concluding text removed; (a)(2) revised; (a)(3) added.....55889
256.47 (e)(2) revised 34732

Chapter VII—Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700—999)

735.23 Reinstated; CFR correction.....40155
901.15 (e) removed 37383
902.15 (d) added 48842
902.16 Introductory text and (b) added 48842
906.15 (v) added 59337
913.15 (t) added.....37385
913.16 (v) removed 37385
914.15 (rrr) added.....55748
914.16 (o), (q), (r) and (t) through (aa) removed; (ii) added.....55748
925.15 (v) added 38376
931.25 Added.....38380
931.26 Added.....38381
934.25 (e) added 52694
935.15 (bbbb) added.....46550
(cccc) added.....55750
936.15 (r) added.....38382
937.772 Reinstated; CFR correction.....40155
944.15 (hh) added 46552
944.16 (c) and (d) removed 46552
946.15 (kk) added.....42790

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(ll) added 46554
948.15 (q) added 38387
948.16 (rrr) removed; (vvv) added 38387
950.15 (x) added 40746
(y) added 43969
950.16 (q) and (bb) through (hh) removed; (ii) through (ll) added 40746

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21 45925
24 45925
75 45925
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202 ..... 49894, 52735, 59849
206 ..... 37865, 39931, 48872, 49894, 52735, 59849
250 41541
290 55607
756 ..... 51070, 53884
906 ..... 47722, 58800
913 ..... 39612, 51613
917 ..... 46577, 55247
920 44258
935 ..... 43696, 54373, 54375
936 ..... 40369, 49282, 49284
943 ..... 38420, 44260, 56648
946 ..... 38422, 48110
948 37023

TITLE 31—MONEY AND FINANCE: TREASURY

Subtitle A—Office of the Secretary of the Treasury (Parts 0—50)

1 Determination 60559

Chapter II—Fiscal Service, Department of the Treasury (Parts 200—399)

208 Added; interim 39258
211 Authority citation revised 41739
211.1 (a) revised 41739
211.2 Revised 41739
214 Removed 43656
306.115 Revised 43637
306.116 Removed; new 306.116 redesignated from 306.117 and revised 43637
306.117 Redesignated as 306.116; new 306.117 redesignated from 306.119 and revised 43637
306.118 Removed 43637
306.119 Redesignated as 306.117 43637
306.120 Removed 43637
306.121 Removed 43637
306.122 Removed 43637
306.115—306.122 (Subpart O) Appendix removed 43637
321 Authority citation revised 37197
321.21 Revised 37197
344 Revised 55693
350 Removed 43637
353.24 Added 53822
356 Authority citation revised 37010
356.2 Amended 37010, 43637
356.3 Introductory text revised; (a) amended 43637
356.5 Introductory text amended 43637
356.11 (a)(1) amended 37010
(a)(2) amended 43637
356.13 (a)(2) removed; (a)(1) redesignated as (a); new (a) amended 37010
356.15 Redesignated as 356.16; new 356.15 added 37010
356.16 Redesignated as 356.17; new 356.16 redesignated from 356.15 37010
356.17 Redesignated from 356.16 37010
(b) revised 43637
(a)(2) and (b)(2) redesignated as (a)(3) and (b)(3); (a) introductory text, new (3), (b) introductory text and new (3) introductory text revised; new (a)(2) and new (b)(2) added 54909
356.21 (a) revised 37011
356.22 (b) amended 37011
356.25 (b) redesignated as (c); (a) introductory text and new (c) introductory text revised; new (b) added 54910
356.31 (a) and (c) amended; (d) revised 43637
356.36 Revised (OMB numbers) 37011
356 Appendix A amended 37011
357.0 Added 43628
357.1 Added 43628
357.2 Redesignated from 357.3 and amended 43628
357.3 Redesignated as 357.2 43628
357.10—357.14 (Subpart B) Added 43629
357.41 Revised 43630
357.42 Added 43630
357.44 Added 43631
357 Appendix B added 43631

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TITLE 31 Chapter II—Con.

358.3 Revised 43638
370 Heading revised 54910
370.0 Revised 54910
370.1—370.4 (Subpart A) Subpart designation and heading added 54910
370.1 Amended 54910
370.2 Redesignated as 370.5 54910
370.3 Redesignated as 370.6 54910
370.4 Redesignated as 370.7 54910
370.5—370.16 (Subpart B) Subpart designation and heading added 54910
370.5 Redesignated as 370.8; new 370.5 redesignated from 370.2 54910
370.6 Redesignated as 370.9; new 370.6 redesignated from 370.3 54910
370.7 Redesignated as 370.10; new 370.7 redesignated from 370.4 54910
370.8 Redesignated as 370.11; new 370.8 redesignated from 370.5 54910
370.9 Redesignated as 370.12; new 370.9 redesignated from 370.6 54910
370.10 Redesignated as 370.13; new 370.10 redesignated from 370.7 54910
370.11 Redesignated as 370.14; new 370.11 redesignated from 370.8 54910
370.12 Redesignated as 370.15; new 370.12 redesignated from 370.9 54910
370.13 Redesignated as 370.30; new 370.13 redesignated from 370.10 54910
370.14 Redesignated as 370.16; new 370.14 redesignated from 370.11 54910
370.15 Redesignated as 370.31; new 370.15 redesignated from 370.12; heading revised 54910
370.16 Redesignated from 370.14 54910
370.20—370.25 (Subpart C) Added 54910
370.30—370.31 (Subpart D) Subpart designation and heading added 54911
370.30 Redesignated from 370.13 54910
370.31 Redesignated from 370.15 54910
Revised 54911

Chapter V—Office of Foreign Assets Control, Department of the Treasury (Parts 500—599)

500 Authority citation revised 43460, 54938
500.701 (c) added 43460
(a)(6) removed; (b) and (c) redesignated as (c) and (d); (a) introductory text, (3) and new (c) revised; new (b) added 54938
515 Authority citation revised 37386, 43461, 54938
515.208 Added 37386
515.311 Existing text designated as (a); (b) added 37386
515.334 Added 37386
515.335 Added 37386
515.336 Added 37386
515.701 (a)(5) removed; (a)(6) redesignated as (a)(5); (d) added 37386
(e) added 43461
(a)(5) removed; (b) through (e) redesignated as (c) through (f); (a) introductory text, (3) and new (d) revised; new (b) added 54938
535 Authority citation revised 43461, 54938
535.701 (c) added 43461
(b) and (c) redesignated as (c) and (d); (a) and new (c) revised; new (b) added 54938
550 Authority citation revised 43461, 54939
550.701 (c) redesignated as (d); new (c) added 43461
(b), (c) and (d) redesignated as (c), (d) and (e); (a) and new (c) revised; new (b) added 54939
560 Authority citation revised 43461, 54939, 58480
560.603 (f)(2) revised 58481
560.701 (e) added 43461
(b), (c) and (e) redesignated as (c), (e) and (d); (a) and new (c) revised; new (b) added 54939
575 Authority citation revised 43461, 54939
575.323 Added 36628
575.324 Added 36628

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575.325 Added 36628
575.326 Added 36628
575.522 Added 36628
575.701 (d) redesignated as (e); new (d) added 43461
(b) through (e) redesignated as (c) through (f); (a) introductory text, (1) and new (d) revised; new (b) added; new (c) amended 54939
585 Authority citation revised 54940
585.701 (b), (c) and (d) redesignated as (c), (d) and (e); (a) and new (d) revised; new (b) added; new (c) amended 54940
590 Authority citation revised 54940
590.701 (b), (c) and (d) redesignated as (c), (d) and (e); (a) and new (d) revised; new (b) added; new (c) amended 54940
595 Authority citation revised 54940
595.701 (b) redesignated as (c); (a) and new (c) revised; new (b) added 54940
596 Added 43463
Chapter V Appendixes A and B amended 43459
Appendix C amended 54334

Proposed Rules:

1 50461
203 ..... 51186, 59211
225 58493
344 ..... 39228, 40764
356 ..... 38127, 50924, 51851

TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense (Parts 1—399)

66 Removed 37386
69 Revised 60563
90 Redesignated as Part 174 54097
91 Redesignated as Part 175 54097
92 Correctly added; CFR correction 55567
Redesignated as Part 176 56896
174—175 (Subchapter G) Heading revised 54097
174 Redesignated from Part 90 54097
175 Redesignated from Part 91 54097
175.1 Amended 54097
175.6 (b) amended 54097
175.7 (f)(1) amended 54098
176 Redesignated from Part 92 56896
176.15 (b) amended 56896
176.20 (a), (c) introductory text, (1)(i), (3)(i), (ii)(C) and (5) amended 56896
176.30 (b)(3)(i), (5) and (c) amended 56896
176.35 (b)(4)(i), (c)(1) and (2) amended 56896
176.40 (a) introductory text amended 56897
176.45 (b) and (c) amended 56897
199.4 (c)(3)(xi)(A)(*7*) and (f)(10) added; (d)(3)(v) and (f)(2)(i)(G) amended; (e)(3)(i)(A)(*3*) revised 59338

Chapter V—Department of the Army (Parts 400—699)

505.5 Revised 43657
619.1 Amended 49061
619.4 (a), (b) introductory text and (5) revised 49061
619.6 Introductory text and (k) revised 49061
619.7 (d) revised 49061
619.8 Revised 49061
619 Appendix G added 49062
623.5 (c)(5)(A) through (D) redesignated as (c)(5)(i) through (iv) 45890
630 Revised 39073
644.181—644.284 (Subpart E) Removed 58133

Chapter VI—Department of the Navy (Parts 700—799)

706.2 Table Three amended 35959
Table Four amended 36292, 48070, 52882, 60027
Table Four corrected 36497
Tables Four and Five amended 46378, 58009
Table Two amended 52880

Chapter VII—Department of the Air Force (Parts 800—1099)

801 Removed 46379
837 Removed 43466
856 Removed 45322
862 Removed 45323
909 Removed 45323
950 Removed 45323

Proposed Rules:

21 43867

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22 43867
28 43867
32 43867
33 43867
34 43867
199 56929
202 ..... 40764, 58803
318 47467
651 ..... 37865, 47839

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

26.03 (f) table revised 45325
100 Temporary regulations lists 39325, 49678
Regulation at 61 FR 33032 eff. date delayed to 1–1–98 60028
100.T08–35–039 Added (temporary) 44161
100.01—100.50 (Subpart A) Regulation at 61 FR 33032 eff. date delayed to 1–1–98 60028
100.01 Regulation at 61 FR 33032 eff. date delayed to 1–1–98 60028
100.05 Regulation at 61 FR 33032 eff. date delayed to 1–1–98 60028
100.15 Regulation at 61 FR 33032 eff. date delayed to 1–1–98 60028
100.17 Regulation at 61 FR 33032 eff. date delayed to 1–1–98 60028
100.18 Regulation at 61 FR 33033 eff. date delayed to 1–1–98 60028
100.19 Corrected 36292
Regulation at 61 FR 33033 eff. date delayed to 1–1–98 60028
100.25 Regulation at 61 FR 33033 eff. date delayed to 1–1–98 60028
100.30 Regulation at 61 FR 33033 eff. date delayed to 1–1–98 60028
100.35 Regulation at 61 FR 33033 eff. date delayed to 1–1–98 60028
100.35–T08–041 Added (temporary) 53322
100.35–T96–051 Added (temporary) 47823
100.35T08–034 Added (temporary) 41507
100.35T08–038 Added (temporary) 41506
100.35T96–045 Added (temporary) 40514
100.50 Regulation at 61 FR 33033 eff. date delayed to 1–1–98 60028
100.100—100.1305 (Subpart B) Regulation at 61 FR 33033 eff. date delayed to 1–1–98 60028
100.100 Regulation at 61 FR 33033 eff. date delayed to 1–1–98 60028
100.113 Added 45891
100.118 Added 59024
100.501 Implementation (temporary) 52695, 60028
100.508 Implementation (temporary) 44160
100.513 Implementation (temporary) 50436
100.517 Implementation (temporary) 53321
100.721 Added 59023
100.801 Implementation (temporary) 44160
110 Authority citation corrected 36786
110.72d Revised 40994
116 Authority citation corrected 36786
117 Temporary drawbridge operation regulations 37211, 50712
Regulation at 61 FR 24236 eff. date confirmed 40515
117.147 (b) stayed; (c) added; eff. 2–1–97 through 6–30–97 59026
117.253 (b)(1)(ii) and (iii) revised; (b)(3) added 57586
117.478 (b) revised 49064
117.491 (b) removed; (c) through (f) redesignated as (b) through (e) 39873
117.1059 (h) stayed; (j) added; eff. 2–1–97 through 6–1–97 43158
(c) stayed; (i) added; eff. 10–1–96 through 1–31–97 43159
117 Appendix A corrected 36786
120 (Subchapter K) Added; interim 37652
Clarification 51597
127 Clarification 51597
127.003 Corrected 36629
128 Added; interim 37654
154.100 (a) revised; (d) added 41457
154.105 Amended 41458
154.106 (a) revised; (b) amended 41458
(b) corrected 42462
154.107 (b) revised 41458
154.108 (a) introductory text and (d) revised 41458

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154.110 (b)(1) revised 41458
(a) introductory text and (d) revised 41461
154.300 (a) introductory text, (c), (e) and (f) revised 41458
154.310 (a)(2), (7), (15), (16) and (22) revised; (a)(23) added 41459
154.320 (a)(1) and (d) revised 41459
154.325 Revised 41459
154.500 (a) and (b) revised 41459
154.520 Revised 41459
154.530 (a) revised; (e) added 41460
154.540 Revised 41460
154.545 (e) added 41460
154.560 (e) revised 41460
(e) corrected 42462
154.710 (b), (c), (d) introductory text, (7) and (8) revised; (e) added 41460
154.735 Introductory text, (l), (s) and (t) revised; (u) and (v) added 41460
154.740 Introductory text and (b) revised; (j) added 41461
156.120 Introductory text, (f) and (w)(5) revised; (cc) and (dd) added 41461
156.150 (c)(3) and (5) revised; (c)(6) added 41461
156.170 (c)(1)(i), (iv), (f)(1) and (2) revised; (f)(2) redesignated as (f)(3); (h) added 41461
157 Authority citation revised 39788
157.01 (a)(2) revised 39788
157.02 Added 39788
(b) corrected 41685
157.03 Corrected 36786
Amended 39788
157.400—157.410 (Subpart G) Heading revised 39788
157.400 Revised 39788
157.410 (c) revised 39789
157.415 Added 39789
157.420 Added 39789
157.430 Added 39789
157.435 Added 39789
(a) corrected 41685
157.440 Added 39790
157.445 Added; eff. 7-29-97 39790
(a) corrected 41685
157.450 Added 39790
157.455 Added 39790
(a)(4) corrected 41685
(a)(5) and (6) stayed 60189
157.460 Added; eff. in part 7-29-97 39790
(b) corrected 41685
157.500—157.510 (Subpart H) Added 39791
157.600—157.610 (Subpart I) Added 39791
158.140 (a)(2) corrected 36629
160 Authority citation revised 50234
160.201 (b), (c) introductory text, (1), (3)(i), (ii) and (iii) revised; (c)(3)(iv) through (x) added 50234
160.203 Amended 50234
160.207 (c)(1) through (5) revised; (c)(6) through (11) added 50234
160.211 (a) introductory text and (1) through (8) revised; (a)(9) through (16) added 50234
(b) amended 50235
160.213 (a) introductory text and (1) through (7) revised; (a)(8) through (15) added; (b) amended 50235
161.12 (b) table revised 45326
161.25 Revised 45327
164 Authority citation revised 35072
164.01 (b) added 35072
164.03 (b) revised 35072
164.70 Added 35072
164.72 Added 35073
164.74 Added 35074
164.76 Added 35076
164.78 Added 35076
164.80 Added 35076
164.82 Added 35076
165 Temporary regulations lists 39325, 49678
165.T01-041 Added (temporary) 35131
165.T01-068 Added (temporary) 40516
165.T01-072 Added (temporary) 45892
165.T01-100 Added (temporary) 45893
165.T01-109 Added (temporary) 47054
165.T05-045 Added (temporary) 35132
165.T07-052 Added (temporary) 50437
165.T08-066 Added (temporary) 59027
165.T1-3009 Added (temporary) 40995
165.T11-030 Added (temporary) 37213
165.141 Added 60032
165.903 (a) introductory text revised; (a)(1) through (10) redesignated as (a)(2) through (11); new (a)(1) added 37685
165.1101 Added 60029
165.1304 (a) revised 47824
179.19 (b) corrected 36629
181.3 Corrected 36786
183.3 Corrected 36629

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TITLE 33

Chapter II—Corps of Engineers, Department of the Army (Parts 200—399)

207 Authority citation revised.....55572
207.440 (u) revised 55572
334.420 (a)(2) amended; (b)(1)(i) removed; (b)(1)(iii), (iv) and (v) redesignated as (b)(1)(ii), (iii) and (iv); (b)(2) revised.....43970
334.530 (b)(2) revised.....34733
334.630 (a) and (b)(1) revised.....34733
334.760 (b)(1) revised.....43970
334.1110 (a)(1) designation removed; (a)(2) redesignated as (b); (a) heading and new (b) revised.....43970
334.1340 (a)(3) and (4) redesignated as (a)(1) and (2); new (a)(2) heading and (c) revised 34733

Chapter IV—Saint Lawrence Seaway Development Corporation, Department of Transportation (Parts 400—499)

401.101—401.102 (Subpart B) Authority citation added.....54734
401.101 Authority citation removed.....54733
401.102 Authority citation removed.....54733
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117.....35702, 57599, 59047, 59394, 59396
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155 .....34775, 58804
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404 .....50258, 58496
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TITLE 34—EDUCATION

Subtitle A—Office of the Secretary, Department of Education (Parts 1—99)

74 OMB circular applicability 50712
80 OMB circular applicability 50712
99.1 (a) revised; (b) removed; (c), (d) and (e) redesignated as (b), (c) and (d).....59295
99.2 Amended 59295
99.3 Amended 59295
99.6 Removed 59295
99.7 Revised 59295
99.10 (a), (b), (d) and authority citation revised; (c) and (e) amended 59296
99.12 (a) amended; authority citation revised 59296
99.20 (a) amended 59296
99.21 (a), (b)(1) introductory text and (2) amended.....59296
99.31 (a)(5)(i), (9) and authority citation revised; (a)(6)(iii) redesignated as (a)(6)(iv); new (a)(6)(iii) added 59296
99.32 (d)(3) and (4) amended; (d)(5) added; authority citation revised 59297
99.33 (c) and (d) revised; (e) added 59297
99.34 (a)(1)(ii) amended 59297
99.36 (b) and authority citation revised; (c) added.....59297
99.38 Added 59297
99.63 Amended 59297

Chapter II—Office of Elementary and Secondary Education, Department of Education (Parts 200—299)

263 Revised 46338

Chapter VI—Office of Postsecondary Education, Department of Education (Parts 600—699)

600.5 (e) removed.....60569
614 Removed 51784
617 Removed 51784
619 Removed 51784
641 Removed 51784
646 Revised 38537
656 Revised 50193
657 Revised 50202
668 Notice 58926
668.1 (c)(4), (10) and (12) amended 60396
668.2 (b)(1), (2) and (3) amended 60396

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668.4 Added 60602
668.15 (e) removed; (g) revised; (h) added 60569
668.16 (m)(2)(ii) and (n) amended; (o) added (OMB number pending) 60603
668.22 (g)(3)(i) amended 60396
668.23 Revised (OMB number pending) 60569
668.24 Revised (OMB number pending) 60491
668.25 (c)(4)(i) amended 60492
668.26 (b)(3) amended 60492
668.161—668.167 (Subpart K) Revised 60603
668.163 (a)(2)(iii) removed; (a)(3) revised 49043
668.165 OMB number pending 60603
668.167 OMB number pending 60603
673 Added 60393
674 Notice 58926
674.2 (a) and (b) amended 60608
674.3 Removed 60396
674.4 Removed 60396
674.8 (b)(2) amended 60396
674.14 Removed 60396
674.15 Removed 60396
674.16 (d)(1) and (e) amended; (g) removed; (h), (i) and (j) redesignated as (g), (h) and (i) 60608
674.18 (b) removed; (c) redesignated as (b) 60396
674.19 (d), (e)(1), (3) and (4) heading revised; (e)(4)(v) removed; (e)(4)(vi) redesignated as (e)(4)(v) 60492
675 Notice 58926
675.2 (a) and (b) amended 60608
675.3 Removed 60396
675.4 Removed 60396
675.14 Removed 60396
675.15 Removed 60396
675.18 (b) removed; (c) through (h) redesignated as (b) through (g) 60396
675.19 (b)(1) revised; (b)(2)(iii) and (iv) amended; (b)(2)(v), (vi), (vii), (4), (5) and (c) removed 60492
675.26 (d) revised 60396
675.49 Amended 60396
676 Notice 58926
676.2 (a) and (b) amended 60608
676.3 Removed 60396
676.4 Removed 60396
676.14 Removed 60396
676.15 Removed 60396
676.16 (c) amended; (e) removed; (f) and (g) redesignated as (e) and (f) 60608
676.18 (b) removed; (c) redesignated as (b) 60396
676.19 (b) revised; (c) removed 60493
682 Notice 58926
682.200 (a)(1) amended 60608
682.202 (f)(2) amended 60486
682.207 (b)(1)(ii)(B), (C) and (v)(B)(*1*) amended; (c)(3), (4) and (d) revised; (c)(5) added 60609
682.401 (b)(28) added 60436
(b)(27) revised 60486
682.404 (a)(2)(ii) and (f) revised; eff. in part 1–1–98 60486
682.406 (a)(12) revised 60486
682.410 (a)(2) introductory text, (ii) and (x) revised; (a)(11)(iii) and (b)(11) added 60436
(b)(2) and (6)(vii)(A) revised 60486
682.411 (c), (d) introductory text, (1) and (2) revised (OMB number pending) 60486
682.413 (b) redesignated as (b)(1); (b)(2) added 60487
682.414 (a)(2) revised; (c) introductory text, (1) and (2) removed; (a)(3), (4) and (c)(3) redesignated as (a)(4), (5) and (c)(2); new (a)(3) and new (c)(1) added; new (a)(4)(iii), new (iv), new (5)(i) and new (c)(2) amended 60493
682.418 Added (OMB number pending) 60437
682.603 (b)(4) amended; (b)(5) and (h)(1) revised; (b)(6) and (c) removed 60609
682.604 (a) heading, (b) heading, (c)(3)(i), (ii), (d)(2) and (e) revised; (a) redesignated as (a)(1); (a)(2), (3) and (c)(6) through (9) added; (b)(2)(ii) removed; (b)(2)(iii), (c)(2)(i), (ii)(A), (B), (4), (d)(1)(i) and (3)amended 60609
682.610 (a) and (b) revised; (f)(2) redesignated as (c)(2)(iv); (c)(2)(ii), (iii) and new (c)(2)(iv) amended; (d), (e) and (f) removed 60493
685 Notice 58926

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TITLE 34 Chapter VI—Con.

685.102 (a)(1) amended 60610
685.301 (b) revised 60610
685.303 (c) amended; (d) revised 60610
685.309 (a)(1), (c) and (d) revised; (e), (f) and (g) removed; (h), (i) and (j) redesignated as (e), (f) and (g) 60493
(e) amended 60610
690 Notice 58926
690.2 (c) amended 60396
Heading revised; (a) amended 60610
690.3 Removed 60610
690.10 (b) revised 60397
690.12 (b)(1) amended 60397
690.13 Revised 60397
690.14 (b)(1) and (2) removed; (b)(3) introductory text, (i), (ii) and (4) redesignated as (c) introductory text, (1), (2) and (d); heading, (a) and new (b) revised 60397
690.61 (a)(1)(ii) and (b)(2) revised 60397
690.75 (a)(2) and (e) introductory text amended 60397
(b) removed; (c), (d) and (e) redesignated as (b), (c) and (d) 60610
690.78 (c)(2), (3) and (4) amended; (c)(6) added 60397
(a) amended 60610
690.81 (c) removed 60397
(a) revised 60493
690.82 Revised 60494

Proposed Rules:

75 ..... 37184, 43640, 47550
76 ..... 43640, 47550
77 ..... 43640, 47550
206 37184
222 52564
231 37184
235 37184
263 39246
270 ..... 43640, 47550
271 ..... 43640, 47550
272 ..... 43640, 47550
350 53560
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369 37184
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388 37184
389 37184
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607 ..... 43640, 47550, 52399
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610 37184
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630 37184
636 52399
637 ..... 37184, 52399
642 ..... 43640, 47550
645 52399
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655 52399
658 ..... 37184, 52399

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660 ..... 37184, 52399
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662 ..... 43640, 47550
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664 ..... 43640, 47550
668 ..... 48564, 49390, 49552, 49874
669 ..... 37184, 52399
673 49390
674 ..... 48564, 49390, 49874
675 ..... 48564, 49390, 49874
676 ..... 48564, 49390, 49874
682 ..... 47398, 48564, 49382, 49874
685 ..... 48564, 49874
690 ..... 48564, 49390, 49874

TITLE 35—PANAMA CANAL

Chapter I—Panama Canal Regulations (Parts 1—299)

61.155 (e) added 36497
123.4 (a) amended 36498
133 Authority citation revised 60612
133.1 Revised 60612
135 Authority citation revised 60612
135.2 Amended 60612
135.3 Heading and (a) revised 60612
135.13 (a) amended; (a)(10) and (11) added; (b) revised 60612
135.14 (d) added 60612
135.15 (d) and (e) added 60612
135.31 Amended 60612
135.41 Amended 60612
135.42 (c) added 60612

Proposed Rules:

133 ..... 46407, 53886
135 ..... 46407, 53886

TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

Chapter I—National Park Service, Department of the Interior (Parts 1—199)

1.2 (a), (b) and (d) revised 35136
1.4 (a) amended 35136
1.10 (b) amended 46556
7.11 Removed 46380
13.2 (c) and (e) revised 35137
(e) redesignated as (f); new (e) added 54339
13.80—13.87 (Subpart D) Added 54339
13.82 OMB number pending 54340
13.83 OMB number pending 54340
13.84 OMB number pending 54341
13.85 OMB number pending 54341
31 Removed 40996

Chapter II—Forest Service, Department of Agriculture (Parts 200—299)

211 Authority citation revised 47673
211.1 Removed 47673
211.6 Removed 41507
222.23 Revised 35959
223.65 Revised 48625
223.66 Removed 48625
223.170—223.183 (Subpart E) Removed 35960
242.24 Revised 39702
(a)(1) table amended 48628
242.25 Added; eff. 8-1-96 through 6-30-97 39709
(k)(6)(iii)(B) table, (7)(iii) table, (11)(i) table, (13)(iii) table, (14)(iii) table, (15)(iii)(D) table amended; eff. 8-1-96 through 6-30-97 48628
(k)(15)(iii)(D) table and (16)(iii) table amended; eff. 8-1-96 through 6-30-97 48629
242.26 Added; eff. 1-1-97 through 12-31-97 39747
242.27 Added; eff. 1-1-97 through 12-31-97 39751

Chapter VII—Library of Congress (Parts 700—799)

701.33 (a)(4) revised 49262

Chapter XI—Architectural and Transportation Barriers Compliance Board (Parts 1100—1199)

1191.2 Revised 39324

Proposed Rules:

7 ..... 41058, 59393
61 51536
223 ..... 54589, 58281
242 41060
800 48580
1190 ..... 36688, 51397
1191 ..... 36688, 37964, 51397
1228 39373

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TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—Patent and Trademark Office, Department of Commerce (Parts 1—199)

1.1 (a) heading revised; (g) removed 56446
1.3 Revised 56446
1.5 (f) added 42802
(a) revised 56446
1.6 (a) revised 56447
1.8 (a)(1)(i)(A) and (2)(ii) revised 56447
1.9 (h) added 56447
1.10 Revised 56447
1.12 (c) added 42802
1.14 Heading, (a), (b) and (e) revised 42802
1.16 (a), (b), (d) and (f) through (i) revised; (m) added 39587
(m) corrected 43400
1.17 (b) through (g), (j), (m) through (p), (r) amd (s) revised 39587
1.18 Revised 39588
1.20 (c), (e), (f), (g), (i)(1), (2), (j)(1), (2) and (3) revised 39588
1.21 (a)(1), (3) and (6) revised 39588
(a)(1) corrected 43400
1.52 (a) and (b) revised 42803
1.54 (b) revised 42803
1.58 Heading and (c) revised; (b) removed 42803
1.62 (e) and (f) revised 42803
1.72 (b) revised 42803
1.75 (g) revised; (h) and (i) added 42803
1.77 Revised 42803
1.78 (a)(2) and (c) revised; (d) removed 42804
1.84 (c), (f), (g) and (x) revised 42804
1.96 Revised 42804
1.97 (a) through (d) revised 42805
1.107 (a) revised 42805
1.110 Revised 42805
1.130 Added 42805
1.131 (a) revised 42806
1.132 Revised 42806
1.154 Revised 42806
1.163 (c) and (d) added 42806
1.291 (a) and (b) revised 42806
1.292 (a) and (b) revised 42807
1.315 Revised 42807
1.321 (c) revised 42807
1.445 (a) revised 39588
1.482 (a)(1)(i), (ii) and (2)(ii) revised 39588
1.492 (a), (b) and (d) revised 39588
1.497 Revised 42807
2.7 Added 55223
2.53 Removed 55223
2.102 (c)(2) revised 36825
2.165 (a)(1) revised 56448
2.189 Undesignated center heading and section removed 55223
5.33 Revised 56448
10.23 (c)(9) revised 56448
15 Removed 42808
15a Removed 42808
101 Removed 40999
102 Removed 40999

Chapter II—Copyright Office, Library of Congress (Parts 200—299)

201 Comment period extension 49680
251.2 Revised 37215
251.58 (c) revised 37215
251.60 Amended 37215
251.61 (a) revised 37215
251.62 (a) amended 37216
251.63 (a) amended 37216
253.5 (c)(1), (2) and (3) revised 60613

Chapter V—Under Secretary for Technology, Department of Commerce (Parts 500—599)

501 Authority citation revised 40999
Heading revised; interim 40999
501.1 Revised; interim 40999
501.3 Revised; interim 40999
501.4 Revised; interim 40999
501.6 (a)(1) introductory text, (iii), (2), (3)(i) and (4)(i) revised; interim 40999
501.7 (b) and (c) revised; interim 40999
501.8 (a) and (b) revised; (c) and (d) redesignated as (d) and (e); new (c) added; interim 41000
501.9 Revised; interim 41000
501.11 Added; interim 41000

Proposed Rules:

1 ..... 49820, 51855
2 48872
3 49820
5 49820

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7 49820
10 51072
202 58497

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Department of Veterans Affairs (Parts 0—99)

1.12 Undesignated center heading and section added 33850
1.891 Authority citation revised 38571
1.892 Authority citation revised 38571
1.893 Authority citation revised 38571
1.894 Authority citation revised 38571
1.895 Revised 38571
1.896 Authority citation revised 38571
1.897 Authority citation revised 38571
2.6 (a)(8) revised 56449
3.1 (n) introductory text and (y)(4) amended; (n)(3) note removed 56627
3.204 Heading revised; (a) and (b) redesignated as (b) and (c); new (a) added; new (b) amended 56626
3.205 Cross reference amended 56626
3.206 Cross reference amended 56626
3.207 Cross reference amended 56626
3.208 Cross reference amended 56626
3.209 Cross reference amended 56626
3.210 Cross reference amended 56626
3.211 Cross reference amended 56626
3.212 Cross reference amended 56626
3.213 (a) introductory text and cross reference amended 56626
3.214 Cross reference amended 56626
3.307 (a)(6)(ii) amended 57588
3.309 (e) amended 57589
4.13 Amended 52700
4.16 (c) removed 52700
4.88 Undesignated center heading revised; section removed 39875
4.88b Revised 39875
4.96 Heading and (a) revised; (c) added 46727
4.97 Revised 46728
4.125 Revised 52700
4.126 Revised 52700
4.127 Revised 52700
4.128 Revised 52700
4.129 Revised 52700
4.130 Removed; new 4.130 redesignated from 4.132 and revised 52700
4.131 Removed 52700
4.132 Redesignated as 4.130 52700
17.80 (a)(1) revised 56897
19.76 Amended 43008
20.703 Revised 43009
21.5100 (b), (c) and (d) corrected 36629
36.4300—36.4375 Authority citation revised 56449
36.4337 (k)(1)(i) introductory text and (3) amended; authority citation added 56449
42.3 (a)(1)(iv) and (b)(1) concluding text amended; authority citation added 56449

Proposed Rules:

1 ..... 33878, 40589
3 ..... 41368, 50264
16 47469
17 ..... 37024, 41108, 56486

TITLE 39—POSTAL SERVICE

Chapter I—United States Postal Service (Parts 1—999)

5 Authority citation revised 36499
5.2 Revised 36499
7.1 (a) revised 36499
10 Authority citation revised 36499
Heading revised 36499
10.1 Redesignated from 10.11 and revised 36499
10.2 Redesignated from 10.31 and revised 36499
10.3 Added 36500
10.4 Redesignated from 10.41; (a) and (e)(2) revised 36500
10.11—10.12 (Subpart A) Heading removed 36499
10.11 Redesignated as 10.1 36499
10.12 Removed 36500
10.21—10.24 (Subpart B) Heading removed 36499
10.21 Removed 36500
10.22 Removed 36500
10.23 Removed 36500
10.24 Removed 36500
10.31—10.32 (Subpart C) Heading removed 36499

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TITLE 39 Chapter I—Con.

10.31 Redesignated as 10.2 36499
10.32 Removed 36500
10.41 Redesignated as 10.4 36500
10.42 (Subpart D) Heading removed 36499
20 IMM amended; incorporation by reference; interim 36501, 39592, 39593, 55573
111 DMM amended; incorporation by reference 42479, 48071, 48574, 52703, 53323
111.3 (e) table amended 60191
233.3 (c)(9) revised 42557
233.12 Added 56450
273.3 (a)(1) and (b)(1) revised 55750

Chapter III—Postal Rate Commission (Parts 3000—3099)

3001.61—3001.69c (Subpart C) Appendix A corrected 37316
Appendix A amended 55100, 55102

Proposed Rules:

111 53280
701 42219

TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency (Parts 1—799)

3 Revised 40503
5 Removed 41331
9.1 Table amended (OMB numbers) 33851, 33852, 48229, 51366, 52295, 53854, 54039
Table amended (OMB numbers); eff. 7-31-96 34228
50 Decision 52852
51.100 (s) introductory text and (1) revised 52850
51.112 (a)(1) revised; (a)(2) amended 41840
51.160 (f)(1) revised; (f)(2) amended 41840
51.166 (l)(1) revised; (l)(2) amended 41840
51.350 (b)(1) revised; (b)(5) added 39036
51.351 (h) added 39036
(c) added 40945
51.352 (c) revised 40945
51.353 (c)(5) added 39036
51.357 (a)(12) and (b)(4) added 40945
51.358 (b)(4) added 40945
51.361 Introductory text and (b)(1)(i) revised 49682
51.364 (e) and (f) added 39037
51.365 (a)(23) and (24) amended; (a)(25) added 40945
51.366 (a)(2)(ix) amended; (a)(2)(xi) through (xxiii) added 40945
51.372 (b)(3) revised 40946
(b)(3) corrected 44119
51.373 (f) added 39037
(g) added 40946
51.350—51.373 (Subpart S) Appendix B amended 40946
51 Appendix W revised 41840
52 State implementation plan determinations 36292, 49262, 51598, 54948
Announcement 56450
52.12 (c)(83) and (85) added 51611
52.21 (l)(1) revised; (l)(2) amended 41894
52.150 Added 56470
Heading corrected 58281
52.220 (c)(231) added 36502
(c)(194)(i)((A)(*5*), (207)(i)(B)(*3*), (220)(i)(B)(*1*), (225)(i)(B)(*4*) and (C)(*1*) added 37393
(c)(189)(i)(B)(*3*), (210)(i)(E), (220)(i)(B)(*3*), (221)(i)(A)(*2*), (229) and (230) added 38574
(c)(185)(i)(A)(*9*), (194)(i)(G), (198)(i)(K), (207)(i)(B)(*2*) and (225)(i)(B)(*3*) removed 43977
(c)(187)(i)(A)(*6*) added 44163
(c)(91) added 49066
(c)(191)(i)(D), (196)(i)(C)(*3*), (229)(i)(A) and (231)(i)(B) added 52299
(c)(197)(i)(A)(*2*) and (224)(i)(B) added 54943
(c)(207)(i)(D)(*3*), (220)(i)(C) and (230)(i)(B) added 56472
(c)(193)(i)(A)(*3*) added 56629
(c)(179)(i)(E) and (193)(i)(D) added 56631
(c)(232) added 57780
(c)(239) added 58134
52.222 (b) added 56474
(a)(1)(iv) added 56476
52.320 (c)(74) added 49684
(c)(75) added 51787
(c)(63) added 60615
52.347 Removed 60615
52.370 (c)(71) added 38576

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52.372 Removed 38576
Added 56900
52.373 Revised 38576
52.374 Table revised 38576
52.376 (c) added 38577
52.535 Removed 49066
52.720 (c)(120) added 38581
(c)(130) added 38590
(c)(128) added 41341
(c)(102) added 54559
52.725 (d) added 41345
52.726 (m) added 38590
52.741 (a)(2) revised 54559
52.770 (c)(114) added 55894
52.795 (f) and (g) added 58486
52.870 (c)(32) added 51368
52.930 (c) added 50720
52.970 (c)(70) added 37839
(c)(64) added 38591
(c)(67) added 48412
Regulation at 61 FR 37839 withdrawn 50238
(c)(69) added 53642
(c)(71) added 54742
(c)(72) added 55896
52.975 (d) added 37839
Regulation at 61 FR 37839 withdrawn 50238
52.994 Added 48412
52.1020 (c)(42) and (43) added 53639
52.1031 Table amended 53639
52.1075 Added 50717
52.1119 (a)(2) added 43976
52.1120 (c)(112) added 41338
(c)(111) added 53632
52.1167 Table amended 41338, 53532
52.1170 (c)(107) added; eff. 7-1-96 through 9-15-96; interim 45898
52.1173 (f) added 40519
52.1174 (j) removed 39332
52.1320 (c)(86) revised 39335
52.1370 (c)(44) added 51018
(c)(43) added 54948
(c)(34) added 60614
52.1389 Removed 60615
52.1478 Added 57333
52.1570 (c)(54) added 38593
52.1572 Added 56900
52.1582 (e) and (f) added 53628
52.1605 Table amended 38594
52.1620 (c)(60) added 48409
(c)(62) added 53642
52.1670 (c)(89) added 38597
52.1672 Added 56900
52.1679 Table amended 38597
52.1683 (c) added 51217
52.1770 (c)(91) added 49414
(c)(89) added 49418
52.1820 (c)(28) added 52868
(c)(25) added 60615
52.1833 Removed 60615
52.1870 (c)(111) added 52883
52.1970 (c)(114) added 37395
(c)(115) added 50714
52.2020 (c)(111) added 39597
(c)(110) added 39600
(c)(100) added 54737
52.2061 (b) added 39597
Added 39601
52.2062 (b) added 39597
Added 39601
52.2070 (c)(46) and (47) added 55903
52.2081 Table amended 55903
52.2086 Added 55902
52.2219 Revised 37390
52.2220 (c)(138) added 37390
(c)(142) added 38392
(c)(139) added 39328
(c)(137) added 39334
(c)(143) added 43973
(c)(141) added 47057
(c)(140) added 53636
(c)(144) added 55909
52.2225 (b) and (c) removed 37390
52.2237 Added 36506, 54946
Regulation at 61 FR 36506 withdrawn 47057
52.2270 (c)(94) added 45329
(c)(101) added 49688
(c)(103) added 55896
52.2320 (c)(30) added 60615
52.2348 Removed 60615
52.2420 (c)(108) and (109) added 38390
52.2425 Heading revised; existing text designated as (a); (b) added 48632
(c) added 48635
52.2433 (o) and (p) added 38390
52.2470 (c)(61) added 38091, 50238
(c)(62) added 38600, 53070
(c)(63) added 41335
Regulations at 61 FR 38091 and 61 FR 38600 withdrawn 47055
(c)(65) added 49690
(c)(66) added 50442
(c)(64) added 50714
(c)(67) added 53327
(c)(68) added 54563
52.2520 (c)(39) and (40) added 54735
(c)(35) added 60197
52.2522 (g) added 58482
52.2570 (c)(95) added 37218

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TITLE 40 Chapter I—Con.

(c)(92) added 39330
52.2585 (k) added 43675
(j) added 43972
52.2634 Added 47059
55 Operating permits 39877
55.6 (c)(3) added; eff. 7–31–96 34228
55.10 (a)(1) revised; (b) added; eff. 7–31–96 34228
55.13 (f) added; eff. 7–31–96 34228
60 Authority delegation notices 42808, 59832
60.4 (c) table revised 52868
60.42 (b)(3) removed 49976
60.45 (g)(1)(iii) removed 49976
62 Authority citation revised 55576
62.10850—62.10870 (Subpart SS) Added 55576
63 State operating permit program approvals 43675
Technical correction 54342
63.90 Introductory text amended 36297
63.91 (a) introductory text revised 36297
63.93 (b)(4)(iv) removed 36298
63.95 (b)(4)(i) revised 36298
63.320 (c) through (f) revised 49265
63.322 (a) introductory text and (b) introductory text revised 49265
63.480—63.506 (Subpart U) Added 46924
63.680—63.698 (Subpart DD) Added 34158
63.900—63.907 (Subpart OO) Added 34184
63.920—63.928 (Subpart PP) Added 34186
63.940—63.948 (Subpart QQ) Added 34190
63.960—63.966 (Subpart RR) Added 34193
63.1040—63.1049 (Subpart VV) Added 34195
63.1310—63.1335 (Subpart JJJ) Added 48229
63 Appendix D added 34200
69.13 Added 58289
69.21—69.22 (Subpart B) Heading revised 58291
69.22 Added 58291
69.31—69.32 (Subpart C) Heading revised 58292
69.32 Added 58292
70.4 (d)(2) revised 56370
70 Appendix A amended; interim 34739, 39343, 51370, 51372, 55923
Appendix A amended 39601, 39883, 45336, 56370, 57594, 60034
Regulation at 61 FR 45336 withdrawn 56631
71 Operating permits 39877
71.1—71.12 (Subpart A) Added; eff. 7–31–96 34229
75.6 (e) revised 59157
75.11 Regulation at 60 FR 26566 confirmed; (a), (d) and (e) revised; (g) removed 59157
75.16 (a)(2)(ii)(B), (C) and (b)(2)(ii)(B) revised; (e)(5) added 59158
75.18 (b)(3) added 59158
75.20 (b) introductory text and (g)(1)(i) revised 59158
75.21 Regulation at 60 FR 26566 confirmed 59157
(a) revised; (d) added; (f) removed 59159
75.30 Regulation at 60 FR 26566 confirmed 59157
(d) revised 59160
75.32 Regulation at 60 FR 26567 confirmed 59157
(a)(3) revised; (a)(4) removed 59160
75.34 Regulation at 60 FR 26567 confirmed 59157
(a), (b) introductory text, (1), (c) introductory text and (d) revised 59160
75.53 Regulation at 60 FR 26568 confirmed 59157
(d) introductory text revised; (d)(4) removed 59161
75.55 Regulation at 60 FR 26568 confirmed 59157
(b)(3) introductory text, (i), (ii) and (e) revised 59161
75.56 Regulation at 60 FR 26569 confirmed 59157
(c) revised; (d) added 59161
75.61 (a)(5) added 59162
75.64 Regulation at 60 FR 26569 confirmed 59157
75.66 Regulation at 60 FR 26569 confirmed 59157
(f)(2) revised 59162
75 Regulations at 60 FR 26569, 26570 and 26571 confirmed 59157
Appendix A amended 59162
Appendix B amended 59165

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Appendixes D and F amended 59166
79.51 (c)(1)(ii)(A), (B), (h) introductory text and (1)(ii) revised; (e)(1) amended; (i)(4) added 36511
79.52 (b)(1)(iii), (iv), (2)(iii)(D) introductory text and (E) introductory text revised 36511
79.57 (b)(2)(i), (ii), (iii) and (e)(1)(i)(C) added; (e)(1)(iii)(A), (2)(i), (ii) introductory text, (B), (iii) introductory text, (C), (vi)(B), (vii), (3)(i)(A) and (f)(3) revised; (e)(3)(i) introductory text amended 36511
79.61 (d)(5) revised 36512, 58746
79.63 (e)(4)(iii) added 36513
79.68 (f)(1) and (5)(vi) revised 36513
80 Petition for reconsideration 35960
Petition for exemption 42812, 53854
80.2 (vv) added 35680
80.4 Revised 35356
80.46 (f)(3)(i) and (g)(9)(i) revised 58306
80.72 Added 35680
80.79 (j) introductory text revised; (j)(5)(viii), (ix), (10)(i), (iii), (v) through (xi) and (11) removed; (j)(10)(ii), (iv), (12), (13) and (14) redesignated as (j)(10)(i), (ii), (11), (12) and (13); (l) added 35680
80.140 Amended 35356
80.141 (a), (b), (c)(1)(ii), (2), (3)(i), (d) and (e)(1) revised; (c)(1)(i), (e)(2)(ii)(B), (g)(1) and (3) amended; (c)(3)(iv) added; (e)(2)(ii)(B)(*1*)(*iii*) removed 35356
(c)(3)(v) added 58747
80.155 Revised 35358
80.156 (a)(1)(ii), (2) introductory text, (ii), (3) introductory text, (ii), (4), (5) introductory text, (c)(1) introductory text, (i), (3) and (4) revised; (c)(5) through (8) added 35358
80.157 Introductory text, (a), (b), (d), (e) and (f) revised; (d), (e) and (f) redesignated as (e), (f) and (g); new (d) added; OMB number pending 35360
80.158 Revised 35362
80.160 Revised (OMB number pending) 35363
80.161 Added 35364
(b)(1)(ii)(D) added 58747
80.162 Added 35366
80.163 Added 35368
80.164 Added (OMB number pending) 35369
80.165 Added 35371
80.166 Added 35372
80.167 Added 35372
80.168 Added 35373
80.169 Added 35373
(g) redesignated as (c)(9); new (c)(9) heading and introductory text amended 58747
80.170 Added (OMB number pending) 35377
80.171 Added 35379
80.172 Added 35380
(e)(2) revised 58747
80.173 Added (OMB number pending) 35380
80.174 Added 35381
81.303 Amended 39344
81.307 Amended 58487
81.314 Table amended 41345
81.315 Amended 58486, 60616
81.319 Amended 37839, 53642
Regulation at 61 FR 37839 withdrawn 50238
81.323 Amended 40519
81.332 Amended 53643
81.343 Amended 55909
81.348 Amended 50442, 53328, 54563
81.350 Amended 43675
81.351 Amended 47060
82 Acceptable substitutes listing 47012
Petition denial 51018
82.180 (a)(8)(ii) revised 54039
82.170—82.184 (Subpart G) Appendix D added 54040
85 Authority citation revised 40946
85.2207 Added 40946
85.2213 (b)(2)(ii) revised 40947
85.2215 (b)(2)(ii) revised 40947
85.2218 (b)(2)(ii) revised 40947
85.2220 (b)(2)(ii) revised 40947
85.2222 Added 40947
85.2223 Added 40947
85.2231 Added 40947
86.1 Amended 54877
86.000–2 Added 54878
86.000–3 Added 54878
86.000–7 Added (OMB number pending) 54878

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86.000–8 Added (OMB number pending) 54878
86.000–9 Added (OMB number pending) 54879
86.000–16 Added 54881
86.000–21 Added (OMB number pending) 54882
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86.000–26 Added (OMB number pending) 54883
86.000–28 Added (OMB number pending) 54884
86.001–2 Introductory text revised 54886
86.001–9 Revised (OMB number pending) 54886
86.001–21 Revised (OMB number pending) 54886
86.001–23 Revised (OMB number pending) 54887
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86.001–26 Revised (OMB number pending) 54888
86.001–28 Revised (OMB number pending) 54888
86.004–9 Revised (OMB number pending) 54889
86.004–28 Revised (OMB number pending) 54890
86.090–5 (a)(3) added 58106
86.094–13 (a)(1), (c)(1), (d)(1), (e)(1) and (f)(1) amended 58620
86.094–17 (j) revised 45903
86.094–26 (a)(2), (b)(2)(i) and (ii) amended 58620
86.101 (a)(2) removed; (a)(4) added 54890
86.106–00 Added 54890
86.108–00 Added (OMB number pending) 54890
86.115–00 Added 54891
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86.160–00 Added (OMB number pending) 54895
86.161–00 Added (OMB number pending) 54897
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86.163–00 Added 54899
86.164–00 Added 54900
86.610–84 Removed 51366
86.1003–88 Removed 51366
86.1005–88 Removed 51366
86.1008–88 Removed 51366
86.1010–84 Removed 51366
86.1183–87 (g)(1)(ii) revised; (g)(1)(iii), (iv) and (v) removed 51366
86 Appendix I amended 54901
89.2 Amended 52102
89.908 Revised 52102
89.1003 (a)(6) and (b)(4) revised; (b)(5), (6) and (7) added 58106
90.103 (a) introductory text table revised 58300
90.109 (c) added 58300
90.903 Revised 52102
90.908 Revised 52102
91 Added (OMB numbers pending) 52102
122 Interpretation 41698
125.60 (c)(1) removed; (c)(2) and (3) redesignated as (c)(1) and (2); new (c)(1) introductory text revised 45833
131.36 (d)(13)(ii) amended 60617
147.1350 Revised 58933
147.1351 (a) amended 58933
147.1350—147.1355 Appendix A added 58934
180 Authority citation revised 48848
180.191 Revised 37222
180.236 Revised 36299
180.356 Table amended 39351
180.368 (e) added 60622
180.410 Table amended 39541
180.418 Table amended 39891
180.434 (a) table amended 36302
(d) added; eff. 11–13–96 through 10–31–98 58140
180.436 (a) table amended 39886

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180.466 Table amended 39889
Table corrected 51372
180.472 Heading revised; (d) added; eff. 11-29-96 through 11-29-97 60627
180.482 Existing text designated as (a); (b) added; eff. 11-29-96 through 11-30-97 60632
180.494 Added; eff. 9-17-96 through 8-23-97 48848
180.1001 (c) table and (e) table amended 34741, 39353
(c) table amended 34743
180.1163 Amended 58332
180.1169 Added 37397
180.1173 Added 40343
180.1174 Added 40340
180.1175 Added 40338
185.100 Removed 39542
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185.410 Regulation at 59 FR 10997 withdrawn 50685
185.800 Removed 39542
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185.1900 Regulation at 58 FR 59667 withdrawn 50685
185.2850 Regulation at 61 FR 11993 withdrawn 50685
185.3650 Removed 39542
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185.3750 Removed 39542
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185.5000 Regulation at 61 FR 12009 withdrawn; regulation at 61 FR 25154 confirmed 50685
185.5150 Regulation at 61 FR 12009 withdrawn; regulation at 61 FR 25154 confirmed 50685
185.6300 Regulation at 61 FR 12009 withdrawn; regulation at 61 FR 25154 confirmed 50685
227.27 (d) amended 51203
257 Authority citation revised 34269
257.1—257.4 (Subpart A) Heading added; eff. 1-1-98 34269
257.1 (a) revised; eff. 1-1-98 34269
257.5—257.30 (Subpart B) Added; eff. 1-1-98 34269
257.21 Eff. 7-1-98 34270
257.22 Eff. 7-1-98 34272
257.23 Eff. 7-1-98 34272
257.24 OMB number pending 34274
257.25 OMB number pending 34274
257.26 Eff. 7-1-98 34275
257.27 OMB number pending 34276
257.28 Eff. 7-1-98 34277
258.1 (f)(1) introductory text and (3) revised 50413
258.70 (c) added 60337
258.74 (f) and (h) added; (k) revised 60337
258.75 Added 60339
261.5 (f)(3) and (g)(3) revised; eff. 1-1-97 34278
261.6 (c)(1) revised 59950
261 Appendix IX amended 37401, 46383, 48638, 50242, 57334
Appendix IX corrected 40520
262.34 (a)(1)(i) and (ii) revised 59950
264.179 Revised 59950
264.200 Revised 59950
264.232 Revised 59950
264.1030 (b) revised; note amended 59950
264.1033 (l) and (m) redesignated as (m) and (n); (f)(2)(vi)(B), (k) and new (n) revised; new (l) and (o) added 59950
264.1034 (b) introductory text revised 59951
264.1035 (c)(9) and (10) added; (d) revised 59952
264.1050 (b) revised; (f) added; note amended 59952
264.1055 Revised 59952
264.1058 (e) added 59952
264.1064 (g)(6) added 59952
264.1080 (b)(7) and (8) added 59952
264.1082 Revised 59953
264.1083 Revised 59954
264.1084 Revised 59955
264.1085 Revised 59960
264.1086 Revised 59962
264.1087 (b)(3), (c)(2), (3)(ii), (5)(i)(D) and (E) revised; (b)(4) and (c)(7) added 59965
264.1088 Revised 59966
264.1089 Revised 59966
264.1090 (a) and (b) revised 59968
264.1091 Removed 59968
265.178 Revised 59968
265.202 Revised 59968
265.231 Revised 59968
265.1030 (b) revised; note amended 59968
265.1033 (k) and (l) redesignated as (l) and (m); (f)(2)(iv)(B), (j)

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and new (m) revised; new (k) and (n) added 59969
265.1034 (b) introductory text revised 59970
265.1035 (c)(3) and (d) revised; (c)(9) and (i0) added 59970
265.1050 (b) revised; (e) added; note amended 59970
265.1055 Revised 59971
265.1058 (e) added 59971
265.1064 (g)(6) added 59971
265.1080 (b)(7) and (8) added 59971
265.1081 Amended 59971
265.1083 Revised 59972
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265.1087 Revised 59986
265.1088 (b)(3), (c)(2), (3)(ii), (5)(i)(D) and (E) revised; (b)(4) and (c)(7) added 59989
265.1089 Revised 59990
265.1090 Revised 59990
265.1091 Removed 59992
265 Appendix VI added 59992
266.100 (c)(3)(i)(B), (C) and (D) correctly added; CFR correction 56631
268.40 Table corrected 36419
(g) added; table amended 43927
268.44 (p) added 55727
268.48 (a) table amended 43931
270.14 (b)(5) revised 59996
270.27 Revised 59996
271 State hazardous waste management program authorizations 38392, 39353, 40520, 41345, 43009, 43018, 52884, 54950, 55223
271.1 (j) Table 1 amended; eff. 1–1–97 34278
(j) Table 1 amended 43931, 59996
(j) Table 2 amended 59997
272 State hazardous waste management program authorizations 41345
272.1601 Revised 49268
272 Appendix A amended 49269
281 State underground storage tank program authorizations 50720
282.56 Added 41509
282.71 Added 56136
282 Appendix A amended 41510, 56137
300 Appendix B amended 35137, 35138, 35963, 39081, 40524, 41960, 45336, 47060, 47825, 49690, 50444, 51019, 51020, 51373, 52887, 53329, 54098, 54344, 55751, 55752, 56477, 57594, 58333, 59185, 60197
372.65 (a) and (b) amended 38605, 39359, 39894
425 Authority citation revised 35684
425.15 (a) table amended 35685
425.25 Table amended 35685
425.65 Table amended 35685
425.85 Table amended 35685
455.10 (g) through (u) added 57548
455.11 Revised 57549
455.40 Revised 57549
455.41 Added 57549
455.42 Revised 57550
455.43 Added 57550
455.44 Added 57551
455.45 Added 57551
455.46 Added 57551
455.47 Added 57552
455.60—455.67 (Subpart E) Added 57552
455 Table 8 added 57553
Tables 9 and 10 added 57554
712.30 (e) table amended 55787
716.120 (d) table amended 55787
721.1660 Added 52295
745 Authority citation revised 45813
745.220—745.239 (Subpart L) Added 45813
745.320—745.339 (Subpart Q) Added 45825
763 Waiver 52703
799.5075 (c)(1)(ii)(A) and (d) revised 37686

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TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 50—Public Contracts, Department of Labor (Parts 50–1—50–999)

50–201 Authority citation revised 40716
50–201.1 Redesignated as 50.201–3; new 50–201.1 redesignated from 50–206.1 40716
50–201.2 Redesignated as 50.202–4; new 50–201.2 redesignated from 50–206.2 40716
50–201.3 Redesignated from 50.201–1 and amended 40716
50–201.4 Redesignated from 50.201–2....40716
50–201.64 Removed....40716
50–201.101 Removed; new 50–201.101 redesignated from 50–201.102 40716
50–201.102 Redesignated as 50–201.101; new 50–201.102 redesignated from 50–201.103 40716
50–201.103 Redesignated as 50–201.102; new 50–201.103 redesignated from 50–201.104 40716
50–201.104 Redesignated as 50–201.103; new 50–201.104 redesignated from 50–201.105 40716
50–201.105 Redesignated as 50–201.104; new 50–201.105 redesignated from 50–201.106 40716
50–201.106 Redesignated as 50–201.105 40716
50–206 Removed....40716
50–206.1 Redesignated as 50–201.1 40716
50–206.2 Redesignated as 50–201.2 40716

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50–206.3 Removed 40716
50–206.50 Removed 40716
50–206.51 Removed 40716
50–206.52 Removed 40716
50–206.53 Removed 40716
50–206.54 Removed 40716
50–206.55 Removed 40716
50–206.56 Removed 40716

Chapter 60—Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Parts 60–1—60–999)

60–999 Revised 43467

Chapter 101—Federal Property Management Regulations (Parts 101–1—101–99)

101–11 (Subchapter B) Added; interim 41001
101–35 (Subchapter F) Added; interim 41003
101–43.000 Revised; eff. 8–8–96 through 12–31–97 41353
101–43.600—101–43.603 (Subpart 101–43.6) Added; eff. 8–8–96 through 12–31–97 41353
101–43.801 (c) removed; (d), (e) and (f) redesignated as (c), (d) and (e); eff. 8–8–96 through 12–31–97 41554
101–46.201–2 (a) amended; eff. 8–8–96 through 12–31–97 41355
101–49.001–5 Introductory text revised 60034

Chapter 105—General Services Administration (Parts 105–1—105–999)

105–735 Revised 56403

Chapter 201—Federal Information Resources Management Regulation (Parts 201–1—201–99)

Chapter 201 Removed 39359
201–23 Revised 39082
Regulation at 61 FR 39082 eff. date corrected to 7–26–96 40708
201–24.202 Removed 39083
Regulation at 61 FR 39082 eff. date corrected to 7–26–96 40708
201–39.801–1 Revised; interim 35685
201–39.803 Removed; interim 35685
201–39.803–1 Removed; interim 35685
201–39.803–2 Removed; interim 35685
201–39.803–3 Removed; interim 35685

Chapter 301—Travel Allowances (Parts 301–1—301–99)

301–3 Authority citation revised 55577
301–3.4 (b)(2)(i) amended 55577
301–5 Authority citation revised 55578
301–5.5 (c) removed 55578
301–6 Authority citation revised 55578
301–6.6 (b) amended 55578
301–7.12 (a)(2)(i) table revised 59185
301–8 Authority citation revised 55578
301–8.5 (a)(2) amended 55578
301–10 Authority citation revised 55578
301–10.2 (b)(3)(ii) removed 55578
301–11 Authority citation revised 55578
301–11.3 (c) revised 55578
301–11.4 (a) heading, (b) and (c) revised; (d) added 55578
301–11.5 (c)(3) amended 55578
301 Appendix A revised 59185
302–6.2 (g)(1) and (2) amended 55578
Chapter 301 Appendix A amended 40524

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50.604 Correctly added; CFR correction 56631
50.605 Correctly added; CFR correction 56632
50.606 Correctly added; CFR correction 56632
52 Authority citation revised 55105
52.1 Revised 55105
52.2 Revised 55105
52.3 Revised 55105
52.4 Revised 55105
52.6 (a) amended; (b) through (e) redesignated as (c) through (f); new (b) added; new (c)(2) and new (d) revised 55105
52.8 Revised 55106
52.9 Heading revised 55106
52a Authority citation revised 55108
52a.1 Revised 55108
52a.2 Amended 55108
52a.3 (a) and (b) revised 55109
52a.7 Revised 55109
52a.8 Amended; heading revised 55109
52a.9 Revised 55110
54a Removed 55108
57.2405 (c) revised 51788
63a Added 55111
65a Added 55114
72 Authority citation revised 55197
72.6 Added 55197
72.7 Added 55199
72 Appendix A amended 55199

Chapter IV—Health Care Financing Administration, Department of Health and Human Services (Parts 400—499)

410.32 (a) and (b) redesignated as (d) and (e); new (a), new (b) and (c) added 59554
412.63 Regulation at 61 FR 46224 eff. 10–1–96 51217
412.105 Regulation at 61 FR 46224 eff. 10–1–96 51217
412.246 Regulation at 61 FR 46224 eff. 10–1–96 51217
412.302 Regulation at 61 FR 46224 eff. 10–1–96 51217
413.40 Regulation at 61 FR 46225 eff. 10–1–96 51217
413.53 (a)(1)(ii) introductory text, (C) and (2) revised; (b) amended 51616
Corrected 58631
413.86 Regulation at 61 FR 46225 eff. 10–1–96 51217
413.114 (c)(1) revised; (c)(2) removed; (c)(3) redesignated as (c)(2) 51616
415.152 Amended 59554
415.174 (a)(4)(iii) amended 59554
431.407 (a)(2) and (b) revised; (d) added 58143
440.40 Heading revised; (c) added 59188
489.27 Regulation at 61 FR 46225 eff. 10–1–96 51217

Chapter V—Office of Inspector General–Health Care, Department of Health and Human Services (Parts 1000—1999)

1003.103 (c) revised 52301

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4180.2 (f) introductory text revised 59835
5470 Authority citation revised 53861
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TITLE 44—EMERGENCY MANAGEMENT AND ASSISTANCE

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62.23 Revised; eff. 10–31–96 51219
62 Appendix B revised; eff. 10–31–96 51221
64.6 Table amended 51227, 51229, 54564, 57572, 59339
65.4 Table amended; interim 54566, 60038
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TITLE 45—PUBLIC WELFARE

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6 Removed 54744

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8 Removed 54744
46 Waiver 51531
79 Authority citation revised 52301
79.3 (a)(1) and (b)(1) revised 52301

Chapter II—Office of Family Assistance (Assistance Programs), Administration for Children and Families, Department of Health and Human Services (Parts 200—299)

205 Authority citation revised 58143
205.50 (a)(4) introductory text and (i) revised; (a)(4)(iv) and (b) added 58143

Chapter VI—National Science Foundation (Parts 600—699)

672 Authority citation revised 59027
672.24 Added 59027
680 Authority citation revised 59837
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680.10—680.13 (Subpart A) Revised; interim 59837
680.20 Removed; new 680.20 redesignated from 680.21; interim 59839
680.21 Redesignated as 680.20; interim 59839
681 Removed; interim 59839
682 Removed; interim 59839
683 Removed; interim 59839
684 Removed; interim 59839

Chapter XIII—Office of Human Development Services, Department of Health and Human Services (Parts 1300—1399)

1301 Authority citation revised 57225
1301.31 Revised; eff. 1-1-98 57225
1303.14 (b)(4) revised; eff. 1-1-98 57226
1304 Revised; eff. 1-1-98 57210
1304.20 OMB number pending 57212
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1304.51 OMB number pending 57222
1304.60 OMB number pending 57225
1305.1 Amended; eff. 1-1-98 57226
1305.3 Heading, (b) introductory text, (c) introductory text, (d) and (f)(1) revised; eff. 1-1-98 57226
1306 Authority citation revised 57226
1306.1 Revised; eff. 1-1-98 57226
1306.20 (a) through (e) redesignated as (b) through (f); new (a) added; eff. 1-1-98 57226
1306.21 Revised; eff. 1-1-98 57226
1306.30 (c) revised; eff. 1-1-98 57226
1306.33 (c)(3) revised; eff. 1-1-98 57227
1308.6 (b)(1) revised; eff. 1-1-98 57227
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1355.10 Revised 58653
1355.20 (a) amended 58653
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1355.25 Added 58654
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28.65 Added; interim 57273
28.80 (a)(2) and (d)(1) revised; interim 57273
28.120 Revised; interim 57273
28.225 (a)(3)(i) amd (ii) revised; interim 57275
28.270 (c) revised; interim 57275
28.275 Added; interim 57275
28.320 (b) revised; interim 57275
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161 Policy statement 51789
190.01–3 (a) corrected 52497
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295 Added 53862
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501.4 (c) revised 51231
501.5 (i) introductory text and (6) introductory text revised 51231
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501.41 (a) amended; (d) revised 51231
501 Appendix A amended 51231
502 Authority citation revised 51233
502.42 Revised 51233
502.68 (f)(1) amended 51233
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1503.905 (Subpart 1503.9) Added 57337
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1514.201–6 (a) and (b) designation removed 55118
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106.33 (b), (c) and (d) revised 51336
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172.102 (c)(1) amended 51240
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173.7 (a) introductory text amended 51338
173.22a (c) amended 51242
173.28 (b)(4)(ii) corrected 51495
173.31 (a)(6)(i) removed; (a)(6)(ii) through (v) redesignated as (a)(6)(i) through (iv); new (a)(6)(i) through (iv), (b)(5), (c)(3) and (d)(1)(vii) amended 51338
173.34 (e)(10), (13) and (19)(ii) amended; (e)(19) introductory text amended 51240
173.189 (b) amended 51338
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173.225 (e)(1) amended 51338
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173.302 (c)(3) amended 51240
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178.337–2 (a)(1) through (4), (b) heading, (1) introductory text, (2) introductory text and (c) amended 51340
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178.337–6 (b) amended 51340
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178.337–11 (a)(1)(ii) through (v), (2)(i), (ii), (b), (c)(1) and (3) amended 51340
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178.337–17 (a) amended 51340
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178.345–4 (a) amended 51341
178.345–6 (a) and (b) amended 51341
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178.345–9 (e) and (h) amended 51341
178.345–10 (a), (c), (e) introductory text and (1) amended 51341
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225 Authority citation revised 59371
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PARALLEL TABLE OF AUTHORITIES AND RULES

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TABLE OF FEDERAL REGISTER ISSUE PAGES AND DATES

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An INDEX to the daily Federal Register is published monthly and is cumulated for 12 months. A separate volume, the CFR Index and Finding Aids to the entire Code of Federal Regulations, is revised as of January 1 each year.

INQUIRIES AND SUGGESTIONS

Rob Sheehan was Chief Editor of the LSA, assisted by Kent Giles and Susannah C. Hurley. The LSA was prepared under the direction of Raymond A. Mosley, assisted by Jim Wickliffe. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to Raymond A. Mosley, Acting Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408 or e-mail info@fedreg.nara.gov.

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1, 2 (2 Reserved)	(869–028–00001–1)	$4.25	Feb. 1, 1996
3 (1995 Compilation and Parts 100 and 101)	(869–028–00002–9)	22.00	[1] Jan. 1, 1996
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1200–End, 6 (6 Reserved)	(869–028–00006–1)	25.00	Jan. 1, 1996
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46–51	(869–028–00009–6)	13.00	Jan. 1, 1996
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§§ 1.908-1.1000	(869-028-00094-1)	26.00	Apr. 1, 1996
§§ 1.1001-1.1400	(869-028-00095-9)	26.00	Apr. 1, 1996
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Complete 1996 CFR set		883.00	1996
Microfiche CFR Edition:			
Subscription (mailed as issued)		264.00	1996
Individual copies		1.00	1996
Complete set (one-time mailing)		264.00	1995
Complete set (one-time mailing)		244.00	1994

[1]Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2]The July 1, 1985 edition of 32 CFR Parts 1 to 189 contains a note only for Parts 1 to 39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1 to 39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3]The July 1, 1985 edition of 41 CFR Chapters 1 to 100 contains a note for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the 11 CFR volumes issued as of July 1, 1984, containing those chapters.

[4]No amendments to this volume were promulgated during the period April 1, 1990 through March 31, 1994. The CFR volume issued as of April 1, 1990 should be retained.

[5]No amendments to this volume were promulgated during the period July 1, 1991 through June 30, 1994. The CFR volume issued as of July 1, 1991 should be retained.

[6]No amendments to this volume were promulgated during the period January 1, 1993 to December 31, 1993. The CFR volume issued as of January 1, 1993 should be retained.

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Yearly subscription	24.00		
CFR Index and Finding Aids	35.00		1996

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4254 Revoked in part by PLO 7202 29758
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28.86 (b)(1) revised; (b)(2) amended 36810
28.98 (d) redesignated as (e)(1); new (d) and (e)(2) added; (c) heading and new (e)(1) revised 36810
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330.1001 (Subpart J) Correctly designated 691
333 Authority citation revised 11501
333.102 Revised 11501
335 Authority citation revised 11501
335.105 Revised 11501
410 Revised; interim 21948
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410.403 (b) corrected 68821
412 Revised 46533
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530.202 Amended; interim 3540
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531 Authority citation revised 3540
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531.101—531.106 (Subpart A) Removed; interim 3540
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531.301 Amended; interim 3540
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531.304 (a)(2) and (k) revised; interim 3540
Regulation at 61 FR 3540 confirmed 34713
531.306 Revised; interim 3540
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531.602 Amended; interim 3540
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531.603 (b) revised 40950
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531.606 (a)(2) revised; interim 3541
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531.703 (i) revised 34714
532.201—532.285 (Subpart B) Appendixes B and D amended; interim 3175, 5921, 27996, 47661, 48817, 49649
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550.105 (a)(1) revised; interim 3542
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550.106 (c)(1) revised; interim 3542
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550.107 (a) revised; interim 3542
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550.113 (a) revised; interim 3542
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550.114 (c) revised; interim 3542
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550.141 Amended; interim 3542
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550.144 (a) introductory text revised; interim 3543
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550.151 Amended; interim 3543
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550.154 (a) revised; interim 3543
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550.201—550.206 (Subpart B) Authority citation revised 3543
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550.202 Amended; interim 3543
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550.701—550.713 (Subpart G) Authority citation revised 3543
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550.703 Amended; interim 3543
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575 Authority citation revised 3543
575.103 Amended; interim 3543
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575.402 (b) revised; interim 3543
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575.403 Amended; interim 3543
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575.405 (c)(2) and (d)(2) revised; interim 3544
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581.103 (a)(24) revised; interim 3544
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581 Appendix A revised 67378
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591.203 Heading and (a) introductory text revised 59177
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630.201 Revised; eff. 1–6–97 64450
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630.905 (c) amended; eff. 1–6–97 64451
630.907 (d)(2) revised; eff. 1–6–97 64451
630.911 (h) added; eff. 1–6–97 64451
630.1010 (d) added; eff. 1–6–97 64451
630.1201—630.1211 (Subpart L) Regulation at 68 FR 39602 confirmed 64450
630.1201 (b)(1)(ii)(B) and (3)(i) revised; eff. 1–6–97 64451
630.1202 Amended; eff. 1–6–97 64451
630.1203 (a)(4), (b), (c), (d), (g) and (h) revised; eff. 1–6–97 64452
630.1204 (d)(1) revised; interim 3544
Regulation at 61 FR 3544 confirmed 34713
(d) introductory text and (f) revised; eff. 1–6–97 64453
630.1205 (b) introductory text, (c), (d) and (e) revised; (b)(2) and (3) amended; (b)(4) and (5) removed; eff. 1–6–97 64453
630.1206 (f) revised; eff. 1–6–97 64453
630.1207 (a), (b)(2), (5), (6), (c) and (i) revised; eff. 1–6–97 64453
630.1208 (b)(2) revised; interim 3544
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(b)(5), (h) and (i) revised; (k) added; eff. 1–6–97 64453
630.1210 (a) and (c) revised; eff. 1–6–97 64454
630.1211 (b)(3) revised; eff. 1–6–97 64454
734 Regulation at 59 FR 48769 confirmed 35099
734.101 Amended 35099
734.102 (a) introductory text and (b) revised 35100
734.203 Example 2 added 35100
734.204 (f) added; Example 2 revised 35100
734.205 Examples 8 and 9 added 35100
734.208 (c), (d) and Examples 12 and 13 added; Example 4 revised 35100
734.302 Revised 35100
734.306 Examples 3 through 13 revised; Examples 14 through 19 added 35101
734.307 Example 1 revised 35101
734.401 (a)(14), (15) and (16) revised; (a)(17) added 35101
734.402 Examples 4 and 5 redesignated as Examples 5 and 6; (b) and new Examples 5 and 6

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734.406 Examples 1 through 8 added 35102
734.408 Revised 35102
734.412 (a), (b) and (c) revised 35102
734.502 (d) revised 35102
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831 Authority citation revised 41720, 58458
831.201 (h) amended; interim 41720
831.204 Removed; interim 41720
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831.704 Added; interim 41720
831.2009 Added; interim 41720
831.2203 Regulations at 60 FR 54586 and 54587 confirmed 21953
831.2207 Regulation at 60 FR 54586 confirmed 21953
831.2208 Regulation at 60 FR 54587 confirmed 21953
837.104 Added; interim 41720
837.506 Added; interim 41720
841.102 (b) through (f) redesignated as (b)(1) through (5); new (c) added; interim 41720
842 Authority citation revised 41720, 58458
842.104 (f) amended; interim 41720
842.106 Removed; interim 41720
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842.304 (d) added; interim 41720
842.310 Added; interim 41721
842.703 Regulation at 60 FR 54587 confirmed 21953
842.704 Regulation at 60 FR 54587 confirmed 21953
842.707 Regulation at 60 FR 54587 confirmed 21953
842.708 Regulation at 60 FR 54587 confirmed 21953
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846 Authority citation revised 58459
846.201 (b) redesignated as (b)(1); (b)(2) added; interim 58459
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870 Authority citation revised 58459
870.201 Existing text designated as (a); (b) added; interim 58459
871 Authority citation revised 58459
871.201 Existing text designated as (a); (b) added; interim 58459
872 Authority citation revised 58460
872.201 Existing text designated as (a); (b) added; interim 58460
873 Authority citation revised 58460
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890 Authority citation revised 58460
890.101 (a) amended 15178
890.102 (f) added; interim 58460
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890.301 (c) amended; interim 37808
890.502 (a) through (e) revised; (f) and (h) removed; (g) redesignated as (f); interim 37808
Regulation at 58 FR 39607 confirmed; (e) revised; eff. 1–6–97 64454
890.808 (d)(2) amended; interim 37810
890.901—890.910 (Subpart I) Regulation at 60 FR 26668 confirmed 50689
890.901 Regulation at 60 FR 26668 confirmed 50689
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890.909 Regulation at 60 FR 26668 confirmed 50689
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890.1109 (d)(2) amended; interim 37810
930 Authority citation corrected 56271
930.201 (c) added; interim 39267
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1001 Authority citation revised 36996
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1001.735–202 Removed; interim 36996
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1001.735–205 Removed; interim 36996
1001.735–205a Removed; interim 36996
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1001.735–301—1001.735–304 (Subpart C) Removed; interim 36996
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1201.126 (c) amended 49049
1201 Appendixes II and III revised 4586

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1600.1 Amended; interim 58754
1605 Revised 68472
1620 Authority citation revised 2873, 41486, 55202
1620.72 (b)(1) amended; interim 58755
1620.83 (a) amended; interim 58755
1620.90—1620.99 (Subpart G) Revised; interim 41486
1620.110—1620.119 (Subpart I) Added; interim 2873
1620.110 Revised; interim 55202
1620.111 Amended; interim 55202
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1655.10 (c) revised; (d) removed; interim 58755
1655.11 (d) revised; interim 58755
1655.12 Revised; interim 58755
1655.13 (a)(1), (2)(ii) and (3) revised; interim 58756
1655.15 (b) revised; (c) amended; interim 58756
1655.16 (b) revised; (d) removed; interim 58757
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2471.4 Revised 41294
2471.5 Heading, (a), (b), (d) and (e) revised 41294

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2471.6 Heading, (a)(2) and (b) revised 41294
2471.7 Heading and introductory text revised; (a) and (b) introductory text removed; (b)(1) through (6) redesignated as (a) through (f) 41295
2471.8 Heading revised 41295
2471.9 (a) revised 41295
2472 Authority citation revised 41295
2472.2 (d) through (n) redesignated as (e) through (o); new (d) added; new (j) revised 41295
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2472.4 (a)(1) and (6) revised 41295
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2472.6 Removed; new 2472.6 redesignated from 2472.7; heading, (a), (b), (d), (e) and (f) revised 41295
2472.7 Redesignated as 2472.6; new 2472.7 redesignated from 2472.8 41295
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2472.11 Redesignated as 2472.10; new 2472.11 redesignated from 2472.12 41295
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2634.1002 (b)(1)(i), (ii), (iv)(B), (v) and (c) revised; (d) and (e) added 32635
(e)(1) corrected 40145
2635.34 (g)(2) corrected 48733
2635.204 (g)(2) through (5) and (6) introductory text revised; (g)(6) Examples 2, 3 and 4 redesignated as (g)(6) Examples 4, 5 and 6; new (g)(6) Examples 2 and 3 added 42969
(f) amended; interim 50691
2635.403 (a) note amended 40951
2635.801 (d)(7) revised; interim 50691
2635.803 Note amended 40951
2635.808 (a)(2) note revised; interim 50691
2635 Appendix D added 40952
2640 Revised; eff. 1-17-97 66841

Chapter XXII—Federal Deposit Insurance Corporation (Parts 3201—3299)

3201.103 (b)(4) amended 35915
3202 Removed 50947

Chapter XXIII—Department of Energy (Part 3301)

Chapter XXIII Established; interim 35087

Chapter XXIV—Federal Energy Regulatory Commission (Parts 3401—3499)

Chapter XXIV Established 43414

Chapter XXVIII—Department of Justice (Part 3801)

Chapter XXVIII Established; interim 59814

Chapter XXIX—Federal Communications Commission (Parts 3900—3999)

Chapter XXIX Established 56111

Chapter XXX—Farm Credit System Insurance Corporation (Part 4001)

Chapter XXX Regulation at 60 FR 30776 confirmed 4349

Chapter XXXV—Office of Personnel Management (Part 4501)

Chapter XXXV Established; interim 36996

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Chapter XLII—Department of Labor (Parts 5200—5299)

Chapter XLII Established; interim 57284

Chapter XLIII—National Science Foundation (Part 5301)

Chapter XLIII Established; interim 59818

Chapter XLV—Department of Health and Human Services (Part 5501)

Chapter XLV Established 39763

Chapter L—Department of Transportation (Part 6001)

Chapter L Established 39903

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Chapter LIV Established 40502

Chapter LVII—General Services Administration (Parts 6700—6799)

Chapter LVII Established 56401

Chapter LVIII—Board of Governors of the Federal Reserve System (Parts 6800—6899)

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Chapter LXIX—Tennessee Valley Authority (Part 7901)

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TITLE 7—AGRICULTURE

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1.51 Revised 57577
1.131 (a) amended 11503
1.132 Amended 11503
1.133 (b) heading revised; (b)(2) redesignated as (b)(3); new (b)(2) added 11503
1.135 Heading revised; existing text designated as (a); new (a) heading and (b) added 11503

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1.136 (a) amended 11504
1.137 Revised 11504
1.141 (a) amended; (e) redesignated as (e)(1); (e)(2) added 11504
1d Removed 2659
1e Removed 2660
2 Authority citation revised 37552
2.16 (a)(1)(xi) removed; (a)(3)(x) revised 25775
(a)(1)(xxiv) added; (a)(3)(xxix) and (xxx) removed 37552
2.22 (a)(1)(viii)(H), (FF), (GG), (II), (PP), (UU) and (VV) revised; (a)(1)(viii)(V) removed; (a)(1)(viii)(WW) added 25776
(a)(2)(xlv) added 68541
2.31 (a) revised 49237
2.42 (a)(13) removed 25776
(a)(43) amended; (a)(44) added 37552
2.43 (a)(24) revised 25776
(a)(29) and (30) removed 37552
2.79 (a)(8)(ix), (xl), (xli), (xliii), (l), (lv), (lvi) revised; (a)(8)(xxix) removed; (a)(8)(lvii) added 25776
2.80 (a)(50) added 68541
6.20—6.36 (Subpart) Revised 53007
6.20—6.34 (Subpart) Appendix 3 amended 6305
6.50—6.59 (Subpart) Removed 28723
6.71—6.75 (Subpart) Removed 28723
6.100—6.102 (Subpart) Removed 28723
9 Removed 42773
10 Removed 30495
12 Revised; interim 47025
12.2 (a) corrected 53491
12.4 (a)(2), (g)(3) and (h) corrected 53491
12.5 (a)(1)(i), (2), (b)(2)(iii) and (7) corrected 53491
12.6 (c) corrected 53491
12.21 (a) designation corrected 53491
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12.30 (b) and (c)(6) corrected 53491
16 Removed 37199
17.2 (b) amended 17823
17.14 (d)(1) and (2)(ii) amended; (d)(2)(i) revised 17823
17.18 (c)(8)(ii) amended 17823
17.20 (a)(9)(i) amended 17824
17 Appendixes A and B amended 17824
19 Removed 42371
26 Removed 40145

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27.62 Reinstated; CFR correction 48399
27.63 Reinstated; CFR correction 48399
27.64 Reinstated; CFR correction 48399
27.65 Reinstated; CFR correction 48399
27.66 Reinstated; CFR correction 48399
27.67 Reinstated; CFR correction 48399
27.69 Reinstated; CFR correction 48399
27.72 Reinstated; CFR correction 48400
27.73 Reinstated; CFR correction 48400
27.80 Reinstated; CFR correction 48400
27.81 Reinstated; CFR correction 48400
27.83 Reinstated; CFR correction 48400
27.85 Reinstated; CFR correction 48400
27.87 Reinstated; CFR correction 48400
27.89 Reinstated; CFR correction 48400
27.90 Reinstated; CFR correction 48400
27.91 Reinstated; CFR correction 48400
27.92 Reinstated; CFR correction 48400
27.93 Reinstated; CFR correction 48400
27.94 Reinstated; CFR correction 48401
27.95 Reinstated; CFR correction 48401
27.96 Reinstated; CFR correction 48401
27.97 Reinstated; CFR correction 48401
27.98 Reinstated; CFR correction 48401
28 Authority citation revised 19512
28.909 (b) revised 19512

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31 Comment period reopening.....9589
32 Comment period reopening.....9589
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51.760 Introductory text revised; interim.....40290
51.761 Revised; interim.....40290
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51.1151 Introductory text revised; interim.....40290
51.1152 Revised; interim.....40290
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51.1820 Introductory text revised; interim.....40290
51.1821 Revised; interim.....40290
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53.204 (c)(1) revised.....2895
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54 Comment period reopening.....9589
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54.14 (a), (b) and Figures 1 and 2 revised.....11506
54.17 (b) amended; (c) through (g) revised; (h) through (k) added.....11509
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54.106 (b)(3) amended; (c)(1) and (2) revised; (c)(3) removed.....2898
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58 Comment period reopening.....9589
58.43 Revised; eff. 1–5–97.....68998
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58.2525—58.2541 (Subpart L) Revised 17548
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70 Comment period reopening 9589
90 Authority citation revised 51350
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90.1 (i), (j) and (m) removed; (k), (l), (n) and (o) redesignated as (i), (j), (k) and (l) 51350
91 Nomenclature change 51350
91.5 (a)(2) revised 51350
91.23 (e) and (f) revised 51350
92 Authority citation revised 51350
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95 Removed 51352
96 Authority citation revised 51352
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98 Nomenclature change 51353
98.4 (a)(1) revised 51353
160 Comment period reopening 9589

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210.10a (d)(2)(i) amended 37671
210 Appendix A amended 37671
225.2 Amended 25553
225.15 (f)(2)(iii), (iv) and (3) introductory text revised; (f)(2)(vi) and (3) amended; (f)(4) added 25553
225.16 (f)(3) amended 37672
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226.19 (b)(8)(i) revised 25554
226.19a (b)(8) revised 25554
226.23 (e)(1)(ii)(D), (F), (iii)(D), (E) and (4) amended; (h)(2)(iv) through (h)(2)(viii) redesignated as (h)(2)(v) through (ix); (h)(2)(iii) designated in part as (h)(2)(iv); (e)(1)(ii)(C), (iii)(C) and new (h)(2)(iii) revised 25554
250.30 (t) added 5272

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271.2 Amended 53600, 54279, 54290, 60010
272 Technical correction 55188
272.1 (g)(145) added 19159
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(g)(74)(ii)(A)(A) and (B) redesignated as (g)(74)(ii)(A)(*1*) and (*2*); (g)(147) added 54315
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272.4 (a)(2) amended 60010
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273 Technical correction 55188, 58281
273.1 (a)(2)(i)(B) and (C) revised; (a)(2)(i)(D) removed; (a)(2)(ii), (e)(1)(ii) and (f)(2) introductory text amended 54279
(e)(1)(i) amended 54316
273.2 (f)(1)(ii)(A), (D), (v), (i)(4)(i)(B), (iii) introductory text and (iv) amended; (g)(2) redesignated as (g)(3); (c)(2)(iii), new (g)(2), (i)(4)(iii)(D) and (E) added; (i)(4)(iii)(A), (B) and (C) revised 54316
(f)(1)(xiii) added; (f)(8)(i)(A) amended 54290
273.3 Existing text designated as (a) and amended; (b) added 54317
273.4 (a)(2) amended; (a)(9) and (11) removed; (a)(10) redesignated as (a)(9) 54317
273.6 (b)(4) added 54317
273.7 (c)(4)(xiv) and (xv) added; (d)(1)(ii)(A) amended 54279
(h)(1)(v), (6) and (i)(4) amended; (h)(1)(vi) added; (h)(3) revised 54280
273.8 (e)(11)(x) removed 54297
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273.9 (b)(1)(vi) added; (b)(2)(iv) and (c)(4) amended; (c)(3) and (5)(ii)(B) revised; (c)(5)(i)(D), (ii)(C) and (10)(xi) removed; (c)(5)(i)(E), (F) and (G) redesignated as (c)(5)(i)(D), (E) and (F) 54297
273.9 (b)(5)(i) amended 19160
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273.10 (e)(1)(i)(F) and (G) redesignated as (e)(1)(i)(G) and (H); (d) introductory text, (e)(i)(i)(E) and new (G) amended; (d)(8), new (e)(1)(i)(F) and (f)(9) added 54291
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273.11 (k) revised 19160
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273.12 (a)(4) redesignated as (a)(5); (a)(1)(vi) and new (4) added; (b) heading, (1) introductory text and (2) revised 54291
(c)(2) redesignated as (c)(2)(i); (c)(2)(ii) added 54318
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273.20 Heading and (a) revised 54320
273.21 (j)(1)(vii)(A) amended 54282
(f)(2)(iv), (j)(3)(iii)(A) and (B) amended; (j)(3)(iii)(E) added 54292
(f)(2)(iii) amended 54298
(t) added 54302
(n)(1) amended 54320
274.10 (a)(3) and (j) amended; (a)(4)(iii) redesignated as (a)(4)(iv); new (a)(4)(iii) added 53600
275.12 (d)(2)(ix) added 54292
277.18 Heading, (c)(2)(ii)(A), (B), (C), (e)(1), (3)(i) and (p)(3) amended; (c)(1) revised; (c)(5) added 33643

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278.1 (i) through (s) redesignated as (j) through (t); (b)(1)(iv), (c)(5), (d)(3) and new (n) revised; new (i) added; new (s) amended (OMB number pending).....53600
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301.50–7 Regulation at 58 FR 34683 confirmed 3177
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301.52–2a Regulation at 60 FR 44416 confirmed 1521
301.64 (a) amended 2392
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301.64–3 (c) amended 2392
Regulation at 61 FR 2392 confirmed 26423
(c) amended; interim 38354
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301.75–1 Amended; interim 1521
301.75–4 (a) and (d)(1) revised; interim 1521
301.78—301.78–10 (Subpart) Regulation at 56 FR 57576 confirmed 8205
301.78–3 Regulations at 57 FR 42486, 54168, 58 FR 6345, 39124, 42491, 49188, 53108, 53109, 63030, 67629, 59 FR 2282, 7896, 11179, 35611, 40208, 52407 and 60 FR 40054 confirmed 8205
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319.37–6 Footnote 9 redesignated as Footnote 8 51210
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319.37–14 (b) amended 51210
319.56–2d (b)(1) amended; (b)(5)(iv) revised; (b)(5)(v), (vi) and (vii) added 47666
319.56–2v Revised 8207
319.56–2x (b) amended 47667
353 Revised 15368
354.2 Table amended 53604
354.3 (b)(2)(vi) revised; (e)(1), (g)(5)(i)(A), (B), (ii), (iii)(B), (iv), (v) and (h)(2) amended; OMB number 2664
(a) amended; (g)(2) revised 15371
371.2 (d)(2)(xix) added 68541

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400.47 (b), (c) and (e) removed; (d), (f) and (g) redesignated as (b), (c) and (d); interim 38058
400.48 (b) removed; (c) redesignated as (b); interim 38058
400.49 Removed; interim 38058
400.50 Removed; interim 38058
400.161—400.177 (Subpart L) Authority citation revised 34368

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400.168 (b) and (c) revised 34368
(c) corrected 65153
400.169 Regulation at 60 FR 21036 confirmed 39269
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400.650—400.659 (Subpart T) Regulation at 60 FR 1997 confirmed; revised 42975
401.8 Amended; interim 39050
401.143 Introductory text revised; eff. 1–30–97 69001
402 Revised 42985
404 Revised 7200
Removed 69011
433 Authority citation revised 68543
433.7 Amended; interim 68543
457.107 Added; eff. 1–30–97 69002
457.109 Added 58775
457.111 Added 57580
457.118 Added 8855
Corrected 27245
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500 Heading revised 65302
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500.13 Revised 65303
502 Heading revised 51211
Authority citation revised 51211
502.1 Revised 51211
502.2 Revised 51211
502.4 Revised 51211
502.5 Revised 51211
502.6 Revised 51211
502.7 Revised 51211
502.8 Revised 51211
502.9 Revised 51211
502.10 Revised 51212
502.11 Revised 51212
502.12 (a), (b) and (c) revised 51212
502.13 Removed; new 502.13 redesignated from 502.14 and revised 51212
502.14 Redesignated as 502.13; new 502.14 redesignated from 502.15 and revised 51212
502.15 Redesignated as 502.14; new 502.15 redesignated from 502.16 and revised 51212
502.16 Redesignated as 502.15; new 502.16 redesignated from 502.17 51212
502.17 Redesignated as 502.16 51212

Chapter VI—Natural Resources Conservation Service, Department of Agriculture (Parts 600—699)

Chapter VI Regulation at 60 FR 28514 confirmed 42141
Forums 52671
610 Authority citation revised 27999
610.1—610.5 (Subpart A) Subpart designation added 27999
610.1 Revised 27999
610.11—610.14 (Subpart B) Added 27999
620 Regulation at 60 FR 28514 confirmed; redesignated as Part 1467 42141
651 Removed 66867
663 Removed 41949

Chapter VII—Consolidated Farm Service Agency, Department of Agriculture (Parts 700—799)

Chapter VII Forums 52671
703 Removed 26424
704.1 Amended; interim 43944
704.2 (a)(12) through (24) redesignated as (a)(13) through (25); new (a)(12) added; interim 10672
(a)(23) amended; interim 43944
704.3 (a), (b) and (d) amended; interim 43944
704.7 (a)(3)(ii), (d)(4), (e)(1) and (8) amended; interim 43944
704.9 (a), (b) and (d) amended; interim 43944
704.18 Amended; interim 43945
704.20 (a)(4) amended; interim 10672
(a)(4) revised; (b) amended; interim 43945
704.24 Amended; interim 43945
704.26 Amended; interim 43945

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704.27 (b) amended; interim 43945
704.30 (c) added; interim 43945
718 Revised 37552
718.206 Corrected 49049
719 Removed 37566
720 Removed 37566
723.111 (d) added 37673
723.112 (d) added 50425
723.113 (d) added 63702
723.114 (d) added 63702
723.115 (d) added 63702
723.116 (d) added 63702
723.117 (d) added 63702
723.118 (d) added 63702
729 Authority citation revised 36999
729.102 Amended; interim 36999
729.103 Amended; interim 36999
729.104 (a) revised; (c) amended; interim 36999
729.108 Amended; interim 36999
729.201 Amended; interim 36999
729.204 Redesignated as 729.206; new 729.204 added; interim 36999
729.205 Redesignated as 729.207; interim 36999
Added; interim 37000
729.206 Redesignated as 729.208; new 729.206 redesignated from 729.204; interim 36999
(f) heading, (1), (3) and (7) amended; interim 37000
729.207 Redesignated as 729.209; new 729.207 redesignated from 729.205; interim 36999
(c), (d)(1)(ii)(B) and (2) amended; interim 37000
729.208 Redesignated as 729.210; new 729.208 redesignated from 729.206; interim 36999
(d) revised; interim 37000
729.209 Redesignated as 729.211; new 729.209 redesignated from 729.207; interim 36999
729.210 Redesignated as 729.212; new 729.210 redesignated from 729.208; interim 36999
(a)(1) revised; interim 37000
729.211 Redesignated as 729.213; new 729.211 redesignated from 729.209; interim 36999
729.212 Redesignated as 729.214; new 729.212 redesignated from 729.210; interim 36999
729.213 Redesignated as 729.215; new 729.213 redesignated from 729.211; interim 36999
Revised; interim 37000
729.214 Redesignated as 729.216; new 729.214 redesignated from 729.212; interim 36999
(a)(2) amended; (d) through (l) redesignated as (e) through (m); (c), new (f)(1)(iii)(A), new (3)(i) and new (l) revised; new (d) added; interim 37001
729.215 Redesignated from 729.213; interim 36999
(f)(2) amended; interim 37001
729.216 Redesignated from 729.214; interim 36999
Revised; interim 37001
(a) amended; (c) added 60510
729.316 Revised 37565
729.317 Added 37566
760.1—760.34 (Subpart) Authority citation revised 18485
Authority citation revised 64601
760.2 (k)(1), (2), (l) and (o) revised 18485
782 Nomenclature change 32643
782.2 Amended 32643
782.4 Revised (OMB number) 32643
782.12 (a) introductory text amended; (a)(8) removed; (a)(9), (10), (b), (c) and (d) redesignated as (a)(8), (9), (d), (e) and (f); new (b) and new (c) added; new (e) revised 32643
782.13 (b) and (c) redesignated as (c) and (d); new (d) amended; new (b) added 32643
782.15 (a)(1) amended; (e), (f) and (g) added 32643
782.17 (b) redesignated as (c); new (b) added 32643
790 Removed 37566
791 Removed 37566
793 Removed 37566
796 Removed 37566

Chapter VIII—Grain Inspection, Packers and Stockyard Administration (Federal Grain Inspection Service), Department of Agriculture (Parts 800—899)

800.71 Regulation at 58 FR 3214 withdrawn; (a) amended 43303
800.72 Revised 43305
800.73 Revised 43305
800.86 (c)(2) Tables 1 through 4 amended 18490

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Regulation at 61 FR 18490 eff. date delayed to 6-1-97 24669
810.104 (b) amended 18491
Regulation at 61 FR 18491 eff. date delayed to 6-1-97 24669
810.202 (s) removed; (t), (u) and (v) redesignated as (s), (t) and (u); (c), new (s), new (t) and new (u) revised 18491
Regulation at 61 FR 18491 eff. date delayed to 6-1-97 24669
810.204 Revised 18492
Regulation at 61 FR 18492 eff. date delayed to 6-1-97 24669
810.205 Revised 18492
Regulation at 61 FR 18492 eff. date delayed to 6-1-97 24669
810.206 Revised 18492
Regulation at 61 FR 18492 eff. date delayed to 6-1-97 24669
868.90 Revised; eff. 2-18-97 66535
868.91 Revised 34715
868.92 (a)(2) revised; eff. 2-18-97 66536
868.101—868.142 (Subpart B) Removed; interim 7688
868.401—868.410 (Subpart F) Removed; interim 7688
868.501—868.510 (Subpart G) Removed; interim 7688
868.601—868.611 (Subpart H) Removed; interim 7688

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999)

900.80—900.82 (Subpart) Added 20717
905.153 Added; eff. 1-30-97 69015
905.235 (Subpart) Added; interim 38355
Regulation at 61 FR 38355 confirmed 50693
905.306 Regulation at 60 FR 58499 confirmed 3546
Heading added; interim 38355
(a) Table I amended; interim 64253
906.151 Existing text designated as (a); (b) and (c) added 64255
906.235 Added; interim 37811
Regulation at 61 FR 37811 confirmed 49651
906.340 (a)(2)(i)(a) and (ii) revised; (a)(2)(i)(c) Table I redesignated as (a)(2)(i)(c) Table II; interim 43141
Regulation at 61 FR 43141 confirmed; (a)(2)(i)(C) amended 59822
906.365 (a)(4) revised; interim 43141
Regulation at 61 FR 43141 confirmed 59822
911.53 Stayed; interim 17552
Regulation at 61 FR 17552 confirmed 46702
911.54 Stayed; interim 17552
Regulation at 61 FR 17552 confirmed 46702
911.55 Stayed; interim 17552
Regulation at 61 FR 17552 confirmed 46702
911.56 Stayed; interim 17552
Regulation at 61 FR 17552 confirmed 46702
911.57 Stayed; interim 17552
Regulation at 61 FR 17552 confirmed 46702
911.58 Stayed; interim 17552
Regulation at 61 FR 17552 confirmed 46702
911.59 Stayed; interim 17552
Regulation at 61 FR 17552 confirmed 46702
911.111 Stayed; interim 17552
Regulation at 61 FR 17552 confirmed 46702
911.311 (b) revised; interim 31005
Stayed; eff. 6-1-97 through 12-31-97 43144
Regulation at 61 FR 31005 confirmed 49051
911.329 Stayed; eff. 6-1-97 through 12-31-97 43144
911.344 Stayed; eff. 6-1-97 through 12-31-97 43144
(a)(3) amended; eff. 1-3-97 64257
915 Budget of expenses 19514
Regulation at 61 FR 19514 confirmed 40292
915.150 (d) stayed; interim 17552
Regulation at 61 FR 17552 confirmed 46702
915.306 (a)(4) revised; interim 31006
Regulation at 61 FR 31006 confirmed 49051
916.234 (Subpart) Added; interim 37813

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Regulation at 61 FR 37813 confirmed 49653
916.350 (a)(4)(iv) Table 1, Table 2 and (b) revised; (c) added; interim 13390
(d) added 19164
Regulation at 61 FR 13390 confirmed; (c) revised 31391
916.356 (a)(1) introductory text, Table 1, (2) introductory text, (3) introductory text, (4) introductory text and (6) introductory text revised; interim 13391
(a)(1) revised 19164
(a)(1)(ii) correctly revised 26073
(a)(4) and (6) corrected 31006
Regulation at 61 FR 13391 confirmed; (a)(6) amended 31391
917.258 (Subpart) Added; interim 37813
Regulation at 61 FR 37813 confirmed 49653
917.442 (a)(4)(iv) Table 1 and (b) revised; (c) added; interim 13392
(d) added 19164
Regulation at 61 FR 13392 confirmed; (c) revised 31391
917.459 (a)(2) removed; (a)(1)(ii) Table 1, (ii), (5) introductory text and (6) introductory text revised; interim 13392
(a)(1) revised 19164
Regulation at 61 FR 13392 confirmed; (a)(6) amended 31391
920.160 (a) and (b) introductory text revised; interim 51576
Regulation at 61 FR 51575 confirmed 64960
920.213 Added; interim 40507
Regulation at 61 FR 40507 confirmed 49654
920.303 (d) revised 13395
922.235 (Subpart) Added; interim 40956
Regulation at 61 FR 40956 confirmed 50230
922.321 (a)(1) revised; interim 30497
Regulation at 61 FR 30497 confirmed 42989
923.236 Undesignated center heading and section added; interim 40956
Regulation at 61 FR 40956 confirmed 50230
924.236 (Subpart) Added; interim 40956
Regulation at 61 FR 40956 confirmed 50230
924.319 (a) introductory text revised 40958
925.304 (b)(2) revised; (b)(1)(vi) and (vii) redesignated as (b)(1)(viii) and (ix); new (b)(1)(vi) and (vii) added; interim 11129
Corrected 14013
Regulation at 61 FR 11129 confirmed 27247
927.8 Revised 17554
927.10 Revised 17554
927.12 Revised 17554
927.41 (a) revised 17554
927.45 Added 17555
927.47 Revised 17555
927.52 (b)(1) revised 17555
927.65 (b) revised 17555
927.236 Undesignated section heading and section added; interim 42530
Regulation at 61 FR 42530 confirmed 52682
928 Budget of expenses 100
928.226 Added; interim 28001
Regulation at 61 FR 28001 confirmed 40147
929.105 (b) revised 30498
929.236 (Subpart) Added; interim 41730
Regulation at 61 FR 41730 confirmed 51354
930 Added 49942
931.231 Undesignated section heading and section added; interim 42530
Regulation at 61 FR 42530 confirmed 52682
932 Budget of expenses 6307, 17556
932.153 Revised; interim 40510
Regulation at 61 FR 40510 confirmed 55205
944.28 Regulation at 58 FR 69185 confirmed 13058
944.31 (f) and (g) revised 13058
944.106 Regulation at 60 FR 58499 confirmed 3546
Regulation at 58 FR 69185 confirmed 13058
(a) revised; interim 64253
944.209 Regulation at 58 FR 69185 confirmed; (c) amended 13058

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Stayed; eff. 6-1-97 through 12-31-97 43144
944.312 Regulation at 58 FR 69185 confirmed 13058
(c) and (h) revised 13059
944.350 Regulation at 58 FR 69185 confirmed 13058
Revised 13059
Heading, (a)(1) and (2) revised 40958
944.400 Heading and (a) introductory text revised 40958
944.401 Regulation at 58 FR 69186 confirmed 13058
(c) revised 13059
(b)(12) revised; interim 40510
Regulation at 61 FR 40510 confirmed 55205
944.503 Regulation at 58 FR 69186 confirmed 13058
944.550 Regulation at 58 FR 69186 confirmed 13058
(d) revised 13059
944.605 Regulation at 58 FR 69185 confirmed 13058
944.700 Added 40959
945.249 (Subpart) Added; interim 39271
Regulation at 61 FR 39271 confirmed 51355
945.341 Regulation at 60 FR 57905 confirmed 3547
Heading added; interim 39271
Regulation at 61 FR 39271 confirmed 51355
946 Budget of expenses 20121, 35111
946.336 (a)(2)(ii) revised 31007
947.247 (Subpart) Added; interim 27248
Regulation at 61 FR 27248 confirmed 43146
947.340 (Subpart) Subpart heading added 43146
948.215 Added; interim 29636
Regulation at 61 FR 29636 confirmed 43947
948.216 Added; interim 36814
Regulation at 61 FR 36814 confirmed 50232
948.386 (Subpart) Heading added 43947
950 Removed 53607
953.253 (Subpart) Added; interim 27249
Regulation at 61 FR 27249 confirmed 43147
953.322 (Subpart) Subpart heading added 43147
955.209 Undesignated center heading and section added; interim 49954
Regulation at 61 FR 49954 confirmed 67180
956 Budget of expenses 20122
956.142—956.180 (Subpart) Added 44151
956.202 Corrected 39052
958.240 (Subpart) Added; interim 27251
Regulation at 61 FR 27251 confirmed 43417
958.328 (a)(3)(ii) revised 35593
(a)(1)(ii), (3)(i) and (b) revised; interim 39841
Heading added 43417
Regulation at 61 FR 39841 confirmed 52684
959 Budget of expenses 7408
959.322 Introductory text and (b)(5) revised 24878
966.234 (Subpart) Added; interim 60512
966.323 Regulation at 60 FR 57907 confirmed 5926
(d)(1) revised; interim 55731
Heading added; interim 60512
979 Budget of expenses 250, 7689
979.304 (b)(1) amended; (c)(4) and (5) revised; interim 7409
Regulation at 61 FR 7409 confirmed 20719
980.1 Regulation at 58 FR 69189 confirmed 13058
(i) revised 13060
980.117 Regulation at 58 FR 69189 confirmed 13058
(i) revised 13060
(a)(2), (b)(1) and (2) amended 25557
980.212 Regulation at 58 FR 69189 confirmed 13058
(i) revised 13060
980.501 Regulation at 58 FR 69189 confirmed 13058
Revised 13060
981.14 Revised 32920
981.16 Revised 32920
981.18 (b) and (c) amended; (d) added 32920
981.19 Revised 32920
981.21 Revised 32920
981.31 Revised 32920

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981.32 (a) revised; (b)(2) amended 32920
981.33 Revised 32920
981.34 Revised 32921
981.40 (c) revised 32921
981.41 (c) amended 32921
981.47 Amended 32921
981.49 (b) revised; (d) and (e) amended; (f) removed 32921
981.55 Existing text designated as (a); (b) added 32921
981.60 (b) revised 32921
981.61 Amended 32921
981.62 Removed 32921
981.66 (b) and (d) removed; (c), (e), (f) and (g) redesignated as (b), (c), (d) and (e); new (c) amended 32921
981.67 Amended 32921
981.70 Amended 32921
981.73 Amended 32922
981.76 Added 32921
981.81 (e) added 32921
981.90 (b)(2) and (3) redesignated as (b)(3) and (4); new (b)(2) added; new (b)(3) amended 32921
981.343 (Subpart) Added; interim 39842
Regulation at 61 FR 39842 confirmed 49955
981.401 (a) and (b) amended; interim 42991
Regulation at 61 FR 42991 confirmed 53608
981.442 (a)(1) and (4) amended; interim 42991
Regulation at 61 FR 42991 confirmed 53608
981.467 (a) amended 32922
981.472 (a) amended 32922
981.481 Added 64603
982 Marketing percentages 11291
Budget of expenses 2667
Heading revised; nomenclature change 17559
982.4 Revised 17559
982.16 Revised 17559
982.30 (a) introductory text, (b)(1), (2) and (3) revised 17559
982.32 (a), (b), (c) and (f) revised 17559
982.33 (b) revised 17559
982.37 (b) revised 17559
982.39 (i) revised 17559
982.40 (c)(2) introductory text amended 17560
982.46 (b) revised 17560
982.51 (a) amended 17560
982.52 (b) revised 17560
982.54 (b) through (f) revised 17560
982.57 (b) revised 17560
982.58 (a) amended 17560
982.61 Existing text designated as (a); (b) added 17560
982.63 Added 17560
982.340 (Subpart) Added; interim 29926
Regulation at 61 FR 29926 confirmed 42993
984.347 (Subpart) Added; interim 60513
985 Marketing percentages 11293, 15697, 29461
985.5 Revised 32924
985.141 Added; interim 20124
Regulation at 61 FR 20124 confirmed 40960
987 Authority citation revised 49957
987.339 (Subpart) Added; interim 49957
Regulation at 61 FR 49957 confirmed 59180
989 Marketing percentages 7069, 36816
989.156 (t) added; interim 102
Regulation at 61 FR 102 confirmed 6309
989.347 (Subpart) Added; interim 52686
Regulation at 61 FR 52686 confirmed 64456
993.347 (Subpart) Added; interim 39844
Regulation at 61 FR 39844 confirmed 51357
997 Budget of expenses 29928, 42994
997.20 Regulation at 60 FR 50086 confirmed 104
997.30 Regulations at 60 FR 50086 and 50087 confirmed 104
997.101 Undesignated center heading and section added; interim 35595
Regulation at 61 FR 35595 confirmed 59824
998 Budget of expenses 29928, 42994
998.300 Revised 55549
998.409 Undesignated center heading and section added; interim 35595
Regulation at 61 FR 35595 confirmed 59824
999 Authority citation revised 31315

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999.1 Regulation at 58 FR 69190 confirmed 13058
999.100 Regulation at 58 FR 69190 confirmed 13058
999.200 Regulation at 60 FR 57910 confirmed 2394
999.500 Regulation at 58 FR 69190 confirmed 13058
Revised 13060
999.600 Added 31315

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture (Parts 1000—1199)

1002.14 (d) stayed; eff. 5-1-96 through 9-30-96 20721
1002.77 Regulation at 60 FR 62019 confirmed 11294
1002.300—1002.353 (Subpart) Regulation at 60 FR 62019 confirmed 11294
1002.400—1002.444 (Subpart) Regulation at 60 FR 62019 confirmed 11294
1004.61 Heading and introductory text revised; (b) removed 69017
1004.63 Amended; heading revised 69017
1004.73 (a) introductory text and (1) amended; (b) removed 69017
1004.75 (a) amended 69017
1004.90—1004.95 Undesignated center heading removed 69017
1004.90 Removed 69017
1004.91 Removed 69017
1004.92 (c) stayed in part; eff. 5-1-96 through 9-30-96 20721
Removed 69017
1004.93 Removed 69017
1004.94 Removed 69017
1004.95 Removed 69017
1005.7 (d) redesignated as (e); introductory text, (b) and new (e) revised; new (d) added 1148
1005.30 (a) and (c) revised; interim 41490
1005.32 (a) amended 1148
(a) removed 69017
1005.53 (a)(6) redesignated as (a)(7) and revised; new (a)(6) added 1148
1005.61 (a)(4), (5), (b)(5) and (6) redesignated as (a)(5), (6), (b)(6) and (7); new (a)(4) and new (b)(5) added; (b)(3), new (6) and new (7) amended; interim 41490
(a) introductory text, (5) and (b) introductory text amended 1148
Heading revised; (a) introductory text and (6) amended; (b) removed 69017
1005.62 (b) revised 69018
1005.71 (a)(2)(i) amended 69018
1005.73 (a)(2) introductory text, (c)(2), (d)(4) and (5) amended; (d)(3) removed 69018
1005.74 Amended 69018
1005.75 (a) amended 69018
1005.80—1005.82 Undesignated center heading added; interim 41490
1005.80 Added; interim 41490
1005.81 Added; interim 41490
1005.82 Added; interim 41490
1005.90—1005.94 Undesignated center heading removed 69018
1005.90 Amended 1148
Removed 69018
1005.91 Amended 1148
Removed 69018
1005.92 Removed 69018
1005.93 (b) and (e) introductory text amended 1148
Removed 69018
1005.94 Amended 1148
Removed 69018
1007.2 Amended 20125
1007.30 (a) and (c) revised; interim 41491
1007.32 (a) removed 69018
1007.50 (d) amended 20125
1007.61 (a)(4), (5), (b)(5) and (6) redesignated as (a)(5), (6), (b)(6) and (7); new (a)(4) and new (b)(5) added; (b)(3), new (6) and new (7) amended; interim 41491
Heading revised; (a) introductory text and (6) amended; (b) removed 69018
1007.62 (b) amended 69018
1007.71 (a)(2)(i) amended 69018
1007.73 (a)(1), (2), (d)(2), (f)(4) and (5) amended; (f)(3) removed 69018
1007.74 Amended 69018
1007.75 (a) amended 69018

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1007.80—1007.82 Undesignated center heading added; interim 41492
1007.80 Added; interim 41492
1007.81 Added; interim 41492
1007.82 Added; interim 41492
1007.90—1007.94 Undesignated center heading removed 69018
1007.90 Removed 69018
1007.91 Removed 69018
1007.92 (c) introductory text amended 20125
Removed 69018
1007.93 Removed 69018
1007.94 Removed 69018
1011.2 (b) revised 1148
1011.7 Introductory text amended; (d) redesignated as (e); (b) and new (e) revised; new (d) added 1148
1011.13 (e)(3) amended 1149
1011.30 (a) and (c) revised; interim 41493
1011.32 (a) removed 69018
1011.52 (a)(3) revised 1149
1011.61 (a)(4), (5), (b)(5) and (6) redesignated as (a)(5), (6), (b)(6) and (7); new (a)(4) and new (b)(5) added; (b)(3), new (6) and new (7) amended; interim 41493
Heading revised; (a) introductory text amended; (b) removed 69018
1011.62 (b) amended 69018
1011.71 (a)(2)(i) amended 69018
1011.73 (a)(2) introductory text, (c)(2), (d)(4) and (5) amended; (d)(3) removed 69018
1011.74 Amended 69018
1011.75 (a) amended 69018
1011.80—1011.82 Undesignated center heading added; interim 41493
1011.80 Added; interim 41493
1011.81 Added; interim 41493
1011.82 Added; interim 41493
1011.90—1011.94 Undesignated center heading removed 69018
1011.90 Removed 69018
1011.91 Removed 69018
1011.92 Removed 69018
1011.93 Removed 69018
1011.94 Removed 69018
1046.2 Amended 1149
1046.30 (a) and (c) revised; interim 41494
1046.32 (d) removed 69018
1046.61 (a)(4), (5), (b)(5) and (6) redesignated as (a)(5), (6), (b)(6) and (7); new (a)(4) and new (b)(5) added; (b)(3), new (6) and new (7) amended; interim 41494
Heading revised; (a) introductory text amended; (b) removed 69018
1046.62 (b) amended 69018
1046.71 (a)(2)(i) amended 69018
1046.73 (f)(2) revised; interim 41495
(a), (b) introductory text, (d)(4) and (5) amended; (d)(3) removed 69019
1046.74 Amended 69019
1046.75 (a) amended 69019
1046.80—1046.82 Undesignated center heading added; interim 41495
1046.80 Added; interim 41495
1046.81 Added; interim 41495
1046.82 Added; interim 41495
1046.90—1011.94 Undesignated center heading removed 69019
1046.90 Removed 69019
1046.91 Removed 69019
1046.92 Removed 69019
1046.93 Removed 69019
1046.94 Removed 69019
1075 Removed 67927
1075.2—1075.19 Undesignated center heading removed 47039
1075.2 Removed 47039
1075.3 Removed 47039
1075.5 Removed 47039
1075.6 Removed 47039
1075.7 Removed 47039
1075.8 Removed 47039
1075.9 Removed 47039
1075.10 Removed 47039
1075.12 Removed 47039
1075.13 Removed 47039
1075.14 Removed 47039
1075.15 Removed 47039
1075.16 Removed 47039
1075.17 Removed 47039
1075.18 Removed 47039
1075.19 Removed 47039
1075.30—1075.32 Undesignated center heading removed 47039
1075.30 Removed 47039
1075.31 Removed 47039

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1075.32 Removed 47039
1075.40—1075.45 Undesignated center heading removed 47039
1075.40 Removed 47039
1075.41 Removed 47039
1075.42 Removed 47039
1075.43 Removed 47039
1075.44 Removed 47039
1075.45 Removed 47039
1075.50—1075.54 Undesignated center heading removed 47039
1075.50 Removed 47039
1075.51 Removed 47039
1075.52 Removed 47039
1075.53 Removed 47039
1075.54 Removed 47039
1075.60—1075.62 Undesignated center heading removed 47039
1075.60 Removed 47039
1075.61 Removed 47039
1075.62 Removed 47039
1075.70—1075.77 Undesignated center heading removed 47039
1075.70 Removed 47039
1075.71 Removed 47039
1075.72 Removed 47039
1075.73 Removed 47039
1075.74 Removed 47039
1075.75 Removed 47039
1075.76 Removed 47039
1075.77 Removed 47039
1075.85 Undesignated center heading and section removed 47039
1079.7 (b) introductory text amended (temporary) 55733
(b) introductory text amended; eff. in part 12–1–96 through 3–31–97 and in part 4–1–97 55733
1106.6 Stayed in part; eff. 9–1–96 through 8–31–98 35596
1106.7 (b)(1) stayed in part; eff. 9–1–96 through 8–31–98 35597
1106.13 (d)(1) stayed; eff. 9–1–96 through 8–31–98 35597
1131.17 (c) stayed in part; eff. 4–1–96 through 3–31–97 17562
1137.7 (b) stayed in part; eff. 9–1–96 through 2–28–97 55206
1137.12 (a)(1) stayed in part; eff. 9–1–96 through 8–31–97 55206
1160.202 (a) revised 27003

Chapter XI—Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200—1299)

1205.510 (b)(2) and (3) revised 31819
(b)(6)(i) revised 31822
1208.52 Stayed; eff. 1–15–95 through 4–30–96 14952
1208.100—1208.150 (Subpart B) Added 30501
1220.228 (b)(5)(ii) and (6) removed 50694
1220.257 Amended 50694
1220.330—1220.332 Undesignated center heading removed 50694
1220.330 Removed 50694
1220.331 Removed 50694
1220.332 Removed 50694
1220.500—1220.555 (Subpart D) Removed 50694
1220.701—1220.731 (Subpart F) Removed 50694
1230.110 Revised 28003
(b) correctly revised 35597
1240.115 (e) revised 29462
Regulation at 61 FR 29462 eff. date corrected to 6–12–96 33175
(e) corrected 38356
1280 Referendum results 13061
1280.101—1280.246 (Subpart A) Added 19517
1280.101 Stayed 33646
1280.102 Stayed 33646
1280.103 Stayed 33646
1280.104 Stayed 33646
1280.105 Stayed 33646
1280.106 Stayed 33646
1280.107 Stayed 33646
1280.108 Stayed 33646
1280.109 Stayed 33646
1280.110 Stayed 33646
1280.111 Stayed 33646
1280.112 Stayed 33646
1280.113 Stayed 33646
1280.114 Stayed 33646
1280.115 Stayed 33646
1280.116 Stayed 33646
1280.117 Stayed 33646
1280.118 Stayed 33646
1280.119 Stayed 33646
1280.120 Stayed 33646
1280.121 Stayed 33646

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1280.122 Stayed 33646
1280.123 Stayed 33646
1280.124 Stayed 33646
1280.125 Stayed 33646
1280.126 Stayed 33646
1280.201 Stayed 33646
1280.202 Stayed 33646
1280.203 Stayed 33646
1280.204 Stayed 33646
1280.205 Stayed 33646
1280.206 Stayed 33646
1280.207 Stayed 33646
1280.208 Stayed 33646
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1280.210 Stayed 33646
1280.211 Stayed 33646
1280.212 Stayed 33646
1280.213 Stayed 33646
1280.214 Stayed 33646
1280.215 Stayed 33646
1280.216 Stayed 33646
1280.217 Stayed 33646
1280.218 Stayed 33646
1280.219 Stayed 33646
1280.220 Stayed 33646
1280.221 Stayed 33646
1280.222 Stayed 33646
1280.223 Stayed 33646
1280.224 Regulation at 61 FR 19521 eff. date delayed 33646
1280.225 Regulation at 61 FR 19521 eff. date delayed 33646
1280.226 Regulation at 61 FR 19522 eff. date delayed 33646
1280.227 Regulation at 61 FR 19522 eff. date delayed 33646
1280.228 Regulation at 61 FR 19522 eff. date delayed 33646
1280.229 Stayed 33646
1280.230 Stayed 33646
1280.231 Stayed 33646
1280.232 Stayed 33646
1280.233 Stayed 33646
1280.234 Stayed 33646
1280.235 Stayed 33646
1280.240 Stayed 33646
1280.241 Stayed 33646
1280.242 Stayed 33646
1280.243 Stayed 33646
1280.244 Stayed 33646
1280.245 Stayed 33646
1280.246 Stayed 33646
1280.301—1280.318 (Subpart B) Added 21059
Regulation at 61 FR 21059 eff. date delayed 33646
1280.400—1280.414 (Subpart C) Added 21051
Stayed 33646

Chapter XIV—Commodity Credit Corporation, Department of Agriculture (Parts 1400—1499)

1400 Added 37566
1401 Redesignated from Part 1470 37575
1402 Revised 37575
1405 Revised 37575
1410 Heading amended; interim 43945
1410.1 Amended; interim 43945
1410.2 (a) and (f)(1) revised; (f)(2) and (h) amended; (g) and (h) redesignated (h) and (i); new (g) added; interim 43945
1410.3 (b) amended; interim 43945
1410.13 (d) added; interim 43946
1410.102 (a) and (b) amended; interim 43946
1410.103 (a)(1), (b)(4), (c) and (f)(2) amended; interim 43946
1410.111 (a) amended; interim 43946
1410.116 (a)(5) revised; interim 43946
1412 Added 37575
1412.206 (d) corrected 49049
(f) corrected 49050
1412.207 (b), (d)(1) and (2) corrected 49050
1412.401 (a) and (b)(2)(iii) corrected 49050
1412.403 Corrected 49050
1412.407 Corrected 49050
1413 Removed 37581
1421 Authority citation revised 37581
1421.1—1421.32 (Subpart) Revised 37581
1421.6 (e) revised 11515
1421.200—1421.217 (Subpart) Heading revised 37595
1421.200 Revised 37595
1421.201 Removed 37581
1421.202 Removed 37581
1421.203 Removed 37581
1421.204 Removed 37581
1421.205 Removed 37581
1421.206 Removed 37581
1421.207 Removed 37581
1421.208 Removed 37581
1421.209 Removed 37581
1421.210 Removed 37581
1421.211 Removed 37581

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1421.212 Removed 37581
1421.213 Removed 37581
1421.214 Removed 37581
1421.215 Removed 37581
1421.216 Removed 37581
1421.217 Removed 37581
1421.320—1421.324 (Subpart) Removed 37595
1425 Revised 37595
1427 Authority citation revised 37601
1427.1—1427.26 (Subpart) Designated as Subpart A 37600
Revised 37601
1427.50—1427.58 (Subpart) Designated as Subpart B 37600
1427.100—1427.109 (Subpart) Designated as Subpart C 37600
1427.100 (a) amended; (b)(1) introductory text revised; (b)(3) added 37611
1427.101 (a) revised 37611
1427.103 (a)(1) and (2) revised 37611
1427.107 (a)(1) introductory text, (ii), (2) introductory text, (d) introductory text and (e) introductory text revised; (f)(1)(iii) added 37611
1427.108 (c)(2) and (d) revised; (c)(3) added 37611
1427.109 (a)(3) revised 37611
1427.160—1427.175 (Subpart) Designated as Subpart D 37601
Revised 37612
1427.1081—1427.1089 (Subpart) Designated as Subpart E 37601
1430 Authority citation revised 37615
1430.282 (Subpart) Designated as Subpart A and revised 37615
1430.340—1430.361 (Subpart) Designated as Subpart B 37616
1430.362 Added 37616
1430.400—1430.410 (Subpart C) Added 37616
1430.450—1430.470 (Subpart) Removed 37615
1434 Revised 37618
1435 Added 37618
1435.4 (e) redesignated as (f); new (e) added 15881
1437 Added 69005
1439 Redesignated from Part 1475; nomenclature change 32644
1446 Authority citation revised 37623
1446.101 Amended 37623
1446.103 Amended 37623
1446.203 (b) revised 37623
1446.307 (b) and (d) revised 37624
1446.308 (a), (d) and (e)(1) revised; (f) removed; (g) redesignated as (f) 37624
1446.401 (a)(1) revised 37624
1446.410 (b) revised 37625
1464.8 Introductory text revised 33304
1464.9 (a) revised 33304
1464.12 (d) added 37673
1464.13 (d) added 63702
1464.14 (d) added 63702
1464.15 (d) added 63702
1464.16 (d) added 63702
1464.17 (d) added 63702
1464.18 (d) added 63702
1464.19 (d) added 50425
1467 Redesignated from Part 620 42141
Nomenclature change 42143
1467.1 Heading revised 42141
1467.2 (c), (f) and (h) revised; (g) amended 42141
1467.3 Amended 42141
1467.4 (a) and (b)(2) amended; (b)(1), (c) introductory text, (d)(2), (3) introductory text and (e)(2) revised 42141
1467.6 (a), (b) and (c) redesignated as (b), (c) and (d); new (a) added 42142
1467.7 Heading and (b) heading revised 42142
1467.8 (b)(4), (5) and (e)(2) removed; (e)(3) redesignated as (e)(2); (b)(3), new (e)(2) and (h) revised 42142
1467.9 (a) introductory text amended; (a)(2) revised 42142
1467.10 Heading and (d)(5) revised 42142
1467.11 (a) revised; (b) amended 42142
1467.12 (b) revised 42142
1467.13 (b)(1) revised 42142
1467.14 (a) and (c) amended 42143
1467.17 (a) revised 42143
1468 Revised 37625
1470 Redesignated as Part 1401 37575
1475 Redesignated as Part 1439 32644
1485 Nomenclature change 58780

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1485.11 (i) and (gg) amended 32644
(ff) revised 58780
1485.12 (b) revised 58780
1485.13 (c)(1)(i) and (3)(i) amended 32644
1485.14 (a) amended 32644
1485.16 (c)(24) revised; interim 3548
(h) revised 24206
(a)(2), (d)(27) and (29) amended 32644
Regulation at 61 FR 3548 confirmed 53303
1485.20 (a)(1) and (3)(iii) amended 32644
1485.23 (c)(2)(v) revised; (c)(2)(vi) removed; interim 3548
(a)(2) amended 32644
Regulation at 61 FR 3548 confirmed 53303
1487 Removed 8208
1491 Removed 8208
1492 Removed 8208
1493.400—1493.530 (Subpart D) Added; interim 33831
1495 Removed 8208
1497 Removed 37574
1498 Removed 37574
1499 Added 60515

Chapter XV—Foreign Agricultural Service, Department of Agriculture (Parts 1500—1599)

1520.3 Revised 2898
1520.4 Revised 2898
1520.5 Revised 2898
1520.6 (a) and (b) amended 2898

Chapter XVII—Rural Utilities Service, Department of Agriculture (Parts 1700—1799)

1703.100—1703.140 (Subpart D) Revised 33626
1703.104 (d) and (g) corrected 37961
1703.105 (a)(11) corrected 37961
1703.107 (a)(2) note correctly removed 37814, 42462
(e)(5), (g) and (j)(1) corrected 37961
1703.117 (e)(8) corrected 37814
(c)(1)(i), (v), (d)(1)(i), (2)(i)(C), (e)(2)(i) and (7) corrected 37961
1703.118 (a)(3) corrected 37814
1703.126 (b)(1) corrected 37961
1703.128 Corrected 37961
1703.140 Heading and (a)(2) corrected 37961
1703.100—1703.140 (Subpart D) Appendix A corrected 37961
1710.109 (c) introductory text, (1), (2) and (3) redesignated as (c)(1) introductory text, (i), (ii) and (iii); new (c)(2) added; eff. 1-21-97 66870
1710.110 (a) amended; (c)(1)(iii) added; eff. 1-21-97 66870
1710.114 (b)(3) amended; eff. 1-21-97 66871
1710.119 (b)(3) revised; eff. 1-21-97 66871
1714.56 (c) introductory text revised; eff. 1-21-97 66871
1717.150—1717.161 (Subpart D) Added; eff. 1-21-97 66871
1755.98 Table amended 26074
1755.700 Added 26074
1755.701 Added 26074
1755.702 Added 26075
1755.703 Added 26076
1755.704 Added 26077
1770.26—1770.27 (Subpart C) Added 39847
1773.1 (c) revised; interim 107
1773.5 (c) revised; interim 107
1773.6 (a) revised; interim 108
1773.9 (a) and (b) revised; interim 108
1773.31 Revised; interim 108
1773.32 (a) revised; interim 108
1773.33 Revised; interim 108
1773.34 (d)(1), (2) and (3) removed; (e)(1)(iii), (2)(iii) and (g) revised; interim 108
1773 Appendix A amended; interim 109
Appendix B amended; interim 111
Appendix C revised; interim 113
1786.167 (a) amended; eff. 1-21-97 66874
1789 Added 48606

Chapter XVIII—Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, Department of Agriculture (Parts 1800—2099)

Chapter XVIII Heading revised; nomenclature change 1109, 2899

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1806 Authority citation revised 59777
Technical correction 63928
1806.1 (a) revised; interim 59777
1841 Removed 21362
1843 Removed 21362
1845 Removed 21362
1901.151—1901.158 (Subpart D) Removed 56116
1901.201—1901.205 (Subpart E) Authority citation revised 3781
1901.204 (a)(27) revised 3781
1901.351—1901.360 (Subpart H) Removed 6309
1903 Removed 21362
1910 Authority citation revised 35919, 59777
Technical correction 63928
1910.1 Introductory text and (a) amended; (c) revised; (e) added; interim 35919
Introductory text revised; interim 59777
1910.3 Introductory text, (a) introductory text, (1), (2), (4)(i) and (ii) amended; interim 35919
1910.4 (h) and (j) removed; (c) through (g) redesignated as (d) through (h); (b), new (e) through new (h), (i)(1) introductory text, (i), (ii)(B) and (5) revised; new (c) added; new (d) heading, new (1), new (3)(i) introductory text, new (iii) introductory text, new (v), (k) introductory text, (1), (3) and (4) amended; interim 35920
1910.5 (c)(1) and (4) introductory text amended; (c)(5) revised; interim 35921
1910.6 Removed; interim 35922
1910.7 Removed; interim 35922
1910.8 Removed; interim 35922
1910.9 Removed; interim 35922
1910.10 (b) amended; interim 35922
1910.11 Revised; interim 35922
1922 Authority citation revised 59777
Technical correction 63928
1922.101—1922.150 (Subpart C) Removed; interim 59777
1924 Authority citation revised 35922, 56116, 65156
1924.5 (d)(4) added; eff. 1-10-97 65156
1924.6 (a)(3)(iv), (6) and (8) amended; (a)(5) revised 56116
1924.13 (e)(1)(ii) amended 56116
1924.51 Revised; interim 35922
1924.54 Added; interim 35922
1924.55 Added; interim 35922
1924.56 Revised; interim 35923
1924.58 Revised; interim 35924
1924.59 Revised; interim 35924
1924.60 Revised; interim 35924
1924.61 Removed; interim 35924
1924.62 Removed; interim 35924
1924.71 Removed; interim 35924
1924.73 Removed; interim 35924
1924.74 Amended; interim 35924
1924.100 Revised (OMB number); interim 35924
1924 Exhibit A amended; interim 35924
1927 Revised 11711
1940 Authority citation revised 3781, 39851
1940.590 Removed 3781
1940.901—1940.950 (Subpart S) Removed 39851
1941 Authority citation revised 35925
1941.1 Amended; interim 35925
1941.4 Amended; interim 35925
1941.15 (a), (c), (e) introductory text, (2), (3), (f)(2), (3), (h)(1), (2) introductory text, (3), (i) heading and (j) amended; (k) revised; interim 35925
1941.16 (k) amended; interim 35925
1941.18 (a) introductory text and (2) amended; interim 35925
1941.19 (f)(1) amended; (g) through (j) removed; interim 35925
1941.30 Removed; interim 35925
1941.33 (b)(1)(i), (2)(i) and (c)(2) amended; (b)(1)(ii) removed; (b)(1)(iii) through (vii) redesignated as (b)(1)(ii) through (vi); interim 35925
1942 Authority citation revised 6309, 65156
1942.2 (a)(1) introductory text amended 6309
1942.18 (d)(17) added; eff. 1-10-97 65156
1942.106 (a) and (b) amended 6309
1943 Authority citation revised 35925
1943.1 Amended; interim 35925

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1943.2 Amended; interim 35925
1943.4 Amended; interim 35925
1943.18 (b)(3) amended; interim 35925
1943.29 (c) amended; interim 35925
1943.30 Removed; interim 35925
1943.32 Removed; interim 35925
1943.33 (b)(1)(i) amended; (b)(1)(ii), (2) and (c) removed; (b)(1)(iii) through (vii) redesignated as (b)(1)(ii) through (vi); interim 35926
1943.80 Removed; interim 35926
1943.82 Removed; interim 35926
1943.83 (b)(1)(i) amended; (b)(1)(ii), (2) and (c) removed; (b)(1)(iii) through (vii) redesignated as (b)(1)(ii) through (vi); interim 35926
1944 Technical correction 63928
1944.1—1944.50 (Subpart A) Removed; interim 59777
1944.27 (i) removed 39851
1944.31 (a) and (e) amended 39851
1944.62 Amended 39851
1944.66 (b) removed; (c) through (g) redesignated as (b) through (f); new (b), new (c) and new (d) amended 39851
1944.67 Amended 39851
1944.69 Amended 39851
1944.70 (b) amended 39851
1944.72 Amended 39851
1944.156 Added; interim 59777
1944.169 (c)(2) revised; (c)(4)(v) amended 56116
1944.170 (d) removed; (c)(5)(ii)(C) amended 39851
1944.151—1944.200 (Subpart D) Exhibit A-1 amended 56116
1944.215 (x) removed; (v) and (w) amended 39851
1944.251—1944.266 (Subpart F) Revised 42943, 42948
1944.408 Removed 39851
1944.409 Amended 39851
1944.410 (a) Introductory text amended 39851
1944.451—1944.500 (Subpart J) Removed; interim 59777
1944.463 (c) introductory text amended 39851
1944.464 Amended 39851
1944.466 Removed 39851
1944.654 (a) and (b) amended 39851
1944.655 Removed 39851
1944.656 Amended 39851
1945 Authority citation revised 35926
1945.101—1945.150 (Subpart C) Removed 21362
1945.151 Amended; interim 35926
1945.152 Amended; interim 35926
1945.154 (a) amended; interim 35926
1945.163 Amended; (a)(1) revised; (a)(2)(ii) removed; interim 35926
1945.166 (c)(4) amended; interim 35926
1945.167 (g) and (h) removed; (i), (j) and (k) redesignated as (h), (i) and (j); (a), (b), (c) and new (h) amended; interim 35926
1945.168 (a), (b)(1)(i) and (ii) amended; interim 35926
1945.169 (n), (o), (p)(3) and (4) removed; interim 35926
1945.173 (b)(2)(ii) amended; interim 35926
1945.180 Removed; interim 35926
1945.182 Removed; interim 35926
1945.183 (a)(1), (3), (4)(i), (ii), (c), (d) and (e) removed; (a)(4)(iii), (b)(1), (7) and (8) amended; interim 35926
Amended; interim 35927
1948 Authority citation revised 65156
1948.103 (c)(4) revised; interim 6762
1948.117 (d) amended; eff. 1-10-97 65156
1951 Authority citation revised 3781, 35927
Technical correction 63928
1951.101—1951.150 (Subpart C) Heading revised; interim 59778
1951.101 Revised; interim 59778
1951.151 Revised; interim 59778
1951.201 Revised 3781
1951.251 Revised; interim 35927
Amended; interim 59778
1951.252 Revised; interim 35927
1951.253 Revised; interim 35927
1951.254 Removed; interim 35927
1951.255 Revised; interim 35927
1951.261 Removed; interim 35927
1951.262 Revised; interim 35928
1951.263 Revised; interim 35928
1951.264 Revised; interim 35928
1951.265 Revised; interim 35928
1951.266 Revised; interim 35928
1951.300 Revised (OMB number); interim 35928

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1951.251—1951.300 (Subpart F) Exhibit A removed; interim 35928
1951.301—1951.350 (Subpart G) Removed; interim 59778
1951.401—1951.413 (Subpart I) Removed; interim 59778
1951.451 Introductory text revised; interim 59778
1951.601—1951.650 (Subpart M) Removed; interim 59778
1951.906 Amended; interim 35928
1951.909 (e)(3)(vii), (4) heading and (xi) amended; (e)(3)(vi)(B) and (C) removed; interim 35929
1955 Authority citation revised 35929
Technical correction 63928
1955.1 Revised; interim 59778
1955.51 Revised; interim 59778
1955.66 Introductory text, (a)(1) and (2)(iii)(A) through (D) amended; interim 35929
1955.101 Amended; interim 59778
1956 Authority citation revised 59778
Technical correction 63928
1956.51 Revised; interim 59779
1962 Authority citation revised 35929
1962.5 Removed; interim 35929
1962.6 Revised; interim 35929
1962.8 (a) and (b) removed; interim 35930
1962.9 Removed; interim 35930
1962.12 Removed; interim 35930
1962.13 Revised; interim 35930
1962.14 Amended; interim 35930
1962.16 Introductory text added; (a) revised; interim 35930
1962.17 (a) revised; interim 35930
Amended; interim 35931
1962.34 (b)(1) through (4) and (d) amended; (e) revised; (f) through (h) removed; interim 35931
1962.40 (c), (d), (e)(1) introductory text, (i) and (2) amended; (e)(4) removed; interim 35931
1962.43 Removed; interim 35931
1962.44 (a) and (c) removed; (b) amended; interim 35931
1962.46 Amended; interim 35931
1962.47 (a)(3)(i), (b) introductory text, (2)(i), (iv) and (c) introductory text amended; interim 35931
1962.1—1962.49 (Subpart A) Exhibit F removed; interim 35931
1965 Authority citation revised 35931
Technical correction 63928
1965.13 (f)(4)(ii) introductory text, (A) and (B) amended; interim 35931
1965.101—1965.139 (Subpart C) Removed; interim 59779
1965.217 (d)(2)(ii)(A) removed; (d)(2)(ii)(B), (C) and (D) redesignated as (d)(2)(ii)(A), (B) and (C); (d)(2)(i)(B), new (ii)(B), new (C)(*1*) and (iii)(A) amended 39852
1980 Authority citation revised 35931, 43149, 65157, 67632
1980.6 (a) amended 67632
(b) amended 67633
1980.13 (a) introductory text, (2) and (c) amended; (a)(3) removed 67633
1980.20 (a) introductory text amended 67633
1980.41 (b)(3)(iii)(A) amended 67633
1980.46 (a)(2) amended 67633
1980.47 (d) amended 67633
1980.48 Added; eff. 1-10-97 65157
1980.60 (a)(2) revised 67633
1980.61 (b)(3), (4) and (h) amended 67633
1980.63 (b) amended 67633
1980.67 (a) amended 67633
1980.68 Amended 67633
1980.101 (a), (b) and (e)(1) amended; (e)(2) revised; interim 35932
1980.106 (b) amended; interim 35932
1980.108 (a)(1)(i) and (2)(i) revised; (a)(1)(iii) amended; interim 35932
1980.109 (b) introductory text revised; interim 35932
1980.110 (a), (b) and (c) amended; interim 35932
1980.113 Introductory text, (a) introductory text, (1), (2), (5), (7) introductory text, (ii) introductory text, (D) introductory text and (b) introductory text amended; (a)(6), (7)(i)(B), (ii)(B), (C), (D)(*1*),

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(11)(ii) and (iii) revised; (a)(12) and (c) added; interim 35932
1980.114 Amended; (c) and (d) redesignated as (d) and (e); heading and new (e) revised; introductory text, (a), (b) and new (d) removed; new (c) added; interim 35933
1980.115 Amended; heading revised; (a) through (d) removed; interim 35933
1980.125 (a) introductory text, (b)(1)(i), (3), (c) introductory text, (4) and (d)(3) through (6) amended; interim 35933
1980.126 Amended; interim 35933
1980.129 Amended; introductory text revised; interim 35934
1980.130 Amended; interim 35934
1980.136 (a), (b) and (d) amended; interim 35934
1980.146 (e)(2)(iv)(A) and (3) revised; (e)(2)(iv)(B), (4), (5), (7) and (8) amended 43149
1980.147 Removed 43149
1980.148 Removed; interim 35934
1980.149 Removed; interim 35934
1980.153 Removed; interim 35934
1980.175 (b) introductory text and (1)(i) amended; interim 35934
1980.101—1980.200 (Subpart B) Exhibit A amended; interim 35934
1980.201—1980.294 (Subpart D) Removed 21362
1980.401 (a) revised 67633
1980.445 Added 18494
1980.451 (i)(13) introductory text revised 18495
1980.454 Amended 18495
1980.469 Amended 18495
1980.501—1980.600 (Subpart F) Removed 21362
1980.601—1980.700 (Subpart G) Removed 55877
1980.901—1980.1000 (Subpart J) Removed 21362
2003 Authority citation revised 3781
2003.1—2003.5 (Subpart A) Exhibit A amended 3782
2018.251—2018.255 (Subpart F) Revised 32645
2054 Removed 21362

Chapter XXI—Foreign Economic Development Service, Department of Agriculture (Parts 2100—2199)

Chapter XXI Removed 2898

Chapter XXII—Office of International Cooperation and Development, Department of Agriculture (Parts 2200—2299)

Chapter XXII Removed 2898

Chapter XXV—Office of the General Sales Manager, Department of Agriculture (Parts 2500—2599)

Chapter XXV Removed 2898

Chapter XXIX—Office of Energy, Department of Agriculture (Parts 2900—2999)

2902 Removed 9901
2903 Removed 4209

Chapter XXX—Office of Finance and Management, Department of Agriculture (Parts 3000—3099)

3010 Removed 53608
3017 Authority citation revised 250
3017.110 (a)(3) revised 250
3017.115 (d) added 251
3017.200 (d) added 251

Chapter XXXIV—Cooperative State Research, Education, and Extension Service, Department of Agriculture (Parts 3400—3499)

3401 Revised 27753
3403 Revised 25367
3411.2 (j) and (k) amended 45319
3411.4 (c)(2)(iii), (3)(iii), (8), (9)(i), (ii), (iii) and (10) amended 45319
3411.5 (a) and (b) amended 45319
3411.7 (c) amended 45319
3411.10 Amended 45319
3411.15 Amended 45319

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Chapter XXXV—Rural Housing Service, Department of Agriculture (Parts 3500—3599)

Chapter XXXV Established; interim 59779
3550 Technical correction 63928
3550.9 (a) corrected 65266
3550.10 Corrected 65266
3550.63 (a) corrected 65266

Chapter XXXVII—Economic Research Service, Department of Agriculture (Parts 3700—3799)

3700 Revised 1827

Chapter XXXIX—Economic Analysis Staff, Department of Agriculture (Parts 3900—3999)

Chapter XXXIX Removed 68987

Chapter XL—Economics Management Staff, Department of Agriculture (Parts 4000—4099)

4000 Removed 42371
4001 Removed 3788

Chapter XLII—Rural Development Administration, Department of Agriculture (Part 4200—4299)

Chapter XLII Heading revised; nomenclature change 3782
4279 Added 67633
4284 Authority citation revised 3782
4284.501—4284.600 (Subpart F) Revised 3782
4287 Added 67648

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TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice (Parts 1—499)

1.1 (p) added 18904
3 Authority citation corrected 47550
Authority citation revised 59305
3.1 (b)(1), (2) and (c) revised 18904
(a)(1) amended 59305
3.2 Revised 18904
(b) corrected 32924
3.3 Revised 18906
3.4 Revised 18907
3.5 Revised 18907
3.6 Revised 18907
(b) corrected 21065
3.7 Revised 18907
3.8 Revised 18907
3.23 (b) revised 18908
(b)(3) corrected 19976, 21228
3.24 Revised 18908
3.31 (b) revised 18908
(b) corrected 19976, 21228
(b) amended; interim 46374
3.38 (b) revised; (c) and (d) redesignated as (f) and (g); new (c), new (d) and (e) added 18908
100.4 (c)(2) and (3) amended 25778
103.1 (f)(3)(iii)(C), (K), (L), (X), (Y) and (FF) amended; (f)(3)(iii)(GG) revised; interim 13072
(f)(3)(iii)(LL) and (MM) amended; (f)(3)(iii)(NN) added 28010
103.2 (b)(2)(iii) added; (b)(17) heading revised; (b)(17) amended; interim 13072
(e) added 28010

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(e)(3) introductory text and (ii) revised 57584
103.5 (a)(1)(i) amended 18909
103.7 (a) revised 18909
(b)(1) amended 28013
(a) existing text designated as (a)(1) and amended; (a)(2) added 35598
(b)(1) amended; interim 46374, 53304
(b)(1) corrected 47550
Regulation at 60 FR 50388 confirmed 53831
103.12 Added; interim 47041
204.1 Heading and (a) revised; interim 13072
(e)(1) revised; (e)(2), (3) and (f)(1) amended; (g)(3) added; interim 13073
204.2 Regulation at 60 FR 38948 confirmed 7207
Heading revised; (d) removed; (c) redesignated as (d); new (c) added; interim 13073
(e) through (h) redesignated as (f) through (i); new (e) added; interim 13075
(g)(2)(iv), (h)(2) and (i)(3) amended; interim 13077
204.5 (d) amended; interim 33305
205.1 Revised; interim 13077
205.2 (b) revised; (c) and (d) added; interim 13078
208 Authority citation revised 18909
208.19 (a) revised 18909
210.4 (b)(2) and (3) revised 46536
212.1 (g) revised 11720
212.3 (f)(2) revised; interim 59825
212.5 (g) added; interim 36611
214.2 (c)(1) amended 35935
216.1 Amended; interim 13079
217.5 (a)(1) revised; interim 35600, 39273
(a)(1) corrected 41684
235.1 Regulation at 60 FR 50389 confirmed 53831
235.13 Regulation at 60 FR 50389 confirmed; revised 53831
236.7 Revised 18909
240.1—240.20 (Subpart A) Heading removed 47668
240.40—240.47 (Subpart B) Removed 47668
242 Authority citation revised 18909
Authority citation corrected 47550
242.1 (a) revised 8859
242.2 (c)(1)(i) through (xvii) revised 8859
242.17 (e) amended; interim 46374
242.19 (b) and (c) amended 18909
(b) corrected 19976, 21228
242.21 (a) revised 18909
242.22 Amended 18909
Corrected 21065
242.25 (i) added; eff. 3-3-97 69020
245.6 Regulation at 57 FR 49375 confirmed 59827
245a.2 (n)(2) heading, (ii) and (3) revised 46536
246 Authority citation revised 18909
246.7 Revised 18910
Corrected 32924
264.1 (b) amended 37675, 46537
Regulation at 58 FR 68024 confirmed 47669
264.3 Regulation at 58 FR 68025 confirmed 47669
274a Technical correction 55840
274a.2 (b)(1)(v)(A)(*6*) revised; (b)(1)(v)(A)(*7*) and (*10*) removed 46537
(a) amended; interim 52236
274a.9 (b) amended; (c), (d) and (e) redesignated as (d), (e) and (f); new (c) added; interim 52236
274a.12 (c)(20) and (22) added 46537
274a.14 (c)(1) and (2) revised 46537
282 Removed 47800
286.8 Regulation at 60 FR 50390 confirmed 53831
(f) added 53833
292.1 (a)(2)(ii) and (iii) revised; interim 53610
299.1 Table amended 28013, 46537, 53833
Regulation at 59 FR 25556 confirmed; amended 47800
Regulation at 60 FR 50390 confirmed 53831
299.3 Regulation at 59 FR 25558 confirmed; introductory text revised; table amended 47800
299.4 Regulation at 59 FR 25558 confirmed 47800
(b) introductory text, (1), (3), (d) and (e) revised 47801
299.5 Table amended 28013, 47801, 53833
Regulation at 59 FR 25559 confirmed 47800
301 Added; interim 35112
301.1 (a)(2) and (b)(2) corrected 43948

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340.1 Added 55553
340.2 Redesignated from 340.11 and revised 55554
340.11 Redesignated as 340.2 55554
499.1 Regulation at 59 FR 25561 confirmed 47800
Table amended 47801

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TITLE 9—ANIMALS AND ANIMAL PRODUCTS

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50.6 (b) and (e) amended 25138
53.1 Revised 56882
53.2 (b) amended 56883
54.2—54.6 (Subpart A) Removed 47669
71 Effective date confirmation 56116
71.3 (b) amended 47670
(a) amended 56883
71.7 Heading revised; (c) amended 56883
71.10 Heading and (a) introductory text revised 56883
75 Effective date confirmation 56116
75.5 Removed 47670
75.6 Removed 47670
75.7 Removed 47670
75.10 Removed 47670
77.1 Regulation at 60 FR 62989 confirmed 16617
Amended; interim 67929
77.5 (b)(1) amended 25138
78.1 Amended; interim 14239
(a)(4)(iv) and (5)(v) correctly designated as (a)(4)(iii) and (iv) 19976
Regulation at 61 FR 14239 confirmed 41733
78.41 (a) and (b) amended; interim 56118, 58626
78.43 Regulation at 60 FR 67321 confirmed 15882
82 Authority citation revised 11517
Heading revised 56883
82.1—82.15 (Subpart A) Removed 56883
Added 56883
82.19—82.25 (Subpart B) Added 56889
82.30—82.38 (Subpart B) Redesignated as Subpart C 56883
82.30 Amended 11517
82.34 Amended 11517
91.5 (a) and (b) revised; (c) amended; interim 6918
91.8 Footnote 4 redesignated as Footnote 3; interim 6918
92 Heading revised 56890
92.101 (b)(3)(ii) removed; (b)(3)(i) introductory text, (A), (B), (C), (D) introductory text, (*1*), (*2*), (*3*) and (E) through (L) redesignated as (b)(3) introductory text, (i), (ii), (iii), (vi) introductory text, (A), (B), (C) and (v) through (xii); new (b)(3) introductory text revised; new (b)(3)(vi), new (vii) and new (x) amended; eff. 1-27-97 68125
(c)(3)(i), (g)(2), (3) and (4) amended 56890
92.102 (c) amended; eff. 1-27-97 68125
92.103 (a)(1) and (2)(v) amended; (a)(1)(xiii), (2)(iii) and (iv) revised; OMB number; eff. 1-27-97 68125
92.104 (b)(2), (3), (c)(3), (4), (d)(3) and (4) amended 56891
(c)(2), (8), (13) through (16), (d)(2), (9), (10) and (11) revised; OMB number; eff. 1-27-97 68126
92.105 (a), (c) introductory text and (1) revised; eff. 1-27-97 68126

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92.106 (c)(2)(ii)(A) and (P)(*1*) revised 31392
(c)(5)(iii) amended 56891
(b)(1) and (2) amended; eff. 1-27-97 68126
92.107 Existing text designated as (a); (b) and (c) added; eff. 1-27-97 68126
92.209 (a)(1) designation removed; (a)(2) redesignated as (b); new (b) amended 56891
92.300 Amended 52239
92.301 (c) revised; (d) through (i) added (OMB number) 52239
92.303 Footnote 11 redesignated as Footnote 12 52239
92.304 (a)(4)(ii) and (7)(ii) amended 1699
Regulation at 61 FR 1699 eff. date confirmed 10269
Footnote 12 removed 52239
Heading and (b) revised; (a)(1)(ii) introductory text and (iii) amended; (a)(4) through (12) removed 52245
92.308 (a)(1) revised 14240
(c)(2)(ii)(A) amended 36817
(a)(1) amended; interim 39853
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92.315—92.318 Undesignated center heading Footnote 18 redesignated as Footnote 16 52246
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92.324 Amended; interim 39853
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92.326 Amended; interim 39853
92.400 Regulation at 60 FR 13900 confirmed; amended 17237
92.405 (a) and (b) revised; (c) redesignated as (d); new (c) added; new (d) amended; OMB number 17237
92.411 Revised 17238
92.417 Regulation at 60 FR 13900 confirmed 17237
92.418 (a) revised 17238
92.419 (a) revised; OMB number 17239
92.423 (a) amended; (b) revised; OMB number 17239
92.424 Regulation at 60 FR 13900 confirmed 17237
92.427 (b)(1) and (c)(1) amended; (b)(2)(i), (ii) and (d)(1) introductory text revised 17239
92.428 (a) revised; OMB number 17239
92.429 Amended 17239
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92.434 Heading revised; Footnote 19 redesignated as Footnote 15 17239
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92.435 Added (OMB number) 17240
94 Heading revised 56891
94.0 Amended 56891
94.1 (a)(2) amended 51771
94.6 Heading, (a) introductory text, (1), (2), (c) introductory text, (2), (5), (d) introductory text, (1)(ix) introductory text, (A), (B), (C) introductory text, (*1*), (*2*), (d)(2), (3) and (4) amended 56891
94.8 Introductory text amended 43307
94.9 (a) amended 40293
94.10 (a) amended 40293
94.11 (a) amended 51771
94.12 (a) amended 40293
94.13 Introductory text amended 40293
94.15 (b) introductory text and (2) amended 32647
97.2 Table amended 58627
98 Authority citation revised 15183
98.2 Amended 17241
98.5 OMB number 15183
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98.10a Added (OMB number) 17241
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98.11 Amended 15183
98.12 (a) and (b) amended 15183
98.13 (a) amended; OMB number 15183
98.14 (a) introductory text amended; OMB number 15183
(a) revised; (d) redesignated as (e); new (d) added 17242
98.15 Introductory text, (a)(4) amended; (a)(5) designated in part as (a)(5)(i) through (iv); (a)(7) designated in part as (a)(7)(i) and (ii); (a)(8) designated in part as (a)(8)(i) and (ii); (a)(1), (2), new (5)(ii), new (7)(i) and new (8)(i) revised 15183
98.16 Introductory text and (b) amended 15184
98.17 (b)(1) revised; (g) amended; OMB number 15184
98.21 Added (OMB number) 17242
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98.36 (a) introductory text amended 17242
98.37 Added (OMB number) 17242
101.4 (h) added 29464
102.2 Existing text designated as (a); (b) added 52873
102.4 (f) revised; (g) redesignated as (h); new (g) added 52873
104.6 (b) amended 52873
105 Heading revised 52874
105.1 (a)(4) and (5) redesignated as (a)(5) and (6); new (a)(4) added; new (a)(5) revised 52874
105.4 Revised 52874
112.5 Introductory text, (c), (d)(1), (2)(iii)(*a*), (3)(ii), (iii) and (4) revised; (d)(2)(iii)(*b*), (3)(i)(*a*) and (*b*) redesignated as (d)(2)(iii)(B), (3)(i)(A) and (B); (g) added; OMB number 29464
(c)(2)(v) corrected 33175
112.7 (c)(2) and (d)(6) revised; OMB number 29465
(m) added 33841
113.207 Heading, introductory text, (b) introductory text, and (2) through (5) revised; eff. 1-27-97 67930
113.209 (b)(4) revised 31823
113.312 Heading and (b)(4) revised 31823
113.330 Revised 33841
113.450—113.455 Undesignated center heading revised 51744
113.450 Revised 51774
113.451 Introductory text revised; (b) and (c) removed; (d) redesignated as (b) 51776
113.452 (b) removed; (c) redesignated as (b); heading, introductory text, (a), new (b) introductory text, new (1) and new (3) revised 51776
113.453 Removed 51777
113.454 (b) removed; (c) redesignated as (b); introductory text, (a) and new (b) introductory text revised 51777
113.455 (b) removed; (c) redesignated as (b); introductory text, (a) and new (b) introductory text revised 51777
113.499 Added 51777
116 Heading revised 52874
116.1 Introductory text, (a), (b) and (c) redesignated as (a) introductory text, (1), (2) and (3); new (a) introductory text and new (1) revised; new (b) and new (c) added (OMB number) 52874
116.2 OMB number 52874
116.3 OMB number 52874
116.4 OMB number 52874
116.5 Revised (OMB number) 52874
116.6 OMB number 52874
116.7 Amended 52874
116.8 Revised (OMB number) 52874
130 Authority citation revised 20432
130.1 Amended 20432
130.2 Heading and (a) table revised; OMB number 20432
130.3 (a)(1) table and (c)(3) revised; OMB number 20432
130.4 Removed 20433
130.5 Heading revised; (a), (b)(1), (2) and (3) amended; (c) added; OMB number 20433
130.6 (a) amended 20433
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130.9 (a) introductory text amended; (b) revised 20434
130.10 Added 20434
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130.14 Heading revised; (a) amended; (c) added; OMB number 20435
130.15 (a) table amended; (c) added; OMB number 20435
130.16 (a) table amended; (c) added; OMB number 20435
130.17 (a) table amended; (c) added; OMB number 20435
130.18 Existing text designated as (a); (b) added; OMB number 20436
130.20 (a) amended 20434
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130.21 (a)(1) through (5) and (c) revised; (a)(6) and (7) added; (b) introductory text, (1), (2) and (3) amended 20436
130.50 (b)(1) amended 20434
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145.10 (g) and (h) revised; (m) and (n) added 11517
145.14 Introductory text revised 11519
145.23 (c)(1)(i), (d)(1)(vii) and (e)(1)(i) amended; (c)(1)(ii)(A) and (e)(1)(ii)(A) revised 11520
145.33 (c)(1)(i), (d)(1)(iii), (iv) and (e)(1)(i) amended; (c)(1)(ii)(A) and (e)(1)(ii)(A) revised; (h) added (OMB number) 11520
145.43 (f)(3)(ii) amended 11521
145.44 (d) added 11521
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147.5 Footnote 4 amended 11521
147.6 (b)(2) and (8) amended 11521
147.11 (a)(3) and (4) amended; (a)(5) and (6) illustration revised 11521
147.12 Amended; (a) introductory text, (1), (2), (b) introductory text, (1), (c) introductory text, (1), (2) introductory text, (i) and (ii) redesignated as (b)(1) introductory text, (i), (ii), (2) introductory text, (i), (3)introductory text, (i), (ii) introductory text, (A) and (B); new (a), new (b) introductory text and new (2)(ii) added; new (b)(1) introductory text, new (2) introductory text and new (3)(ii) amended 11524
147.14 Amended 11524
(a)(2)(ii) revised 11525
147.15 Amended 11524
147.16 Amended 11524
147.17 Added 11525
147.26 (a) amended 11525
147.43 (a) introductory text amended 11525
161.2 (d)(6) amended 56891

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201.34 (c) revised 36279
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201.98 Revised 36282
201.108–1 Introductory text, (a) and (c) through (f) revised 36282
205 Authority citation revised 54728
205.101 (b)(11)(iii) revised; (e) added; interim 54728
205.105 (b) revised; interim 54728
205.202 (b) and (c) revised; interim 54728
205.209 (c) revised; interim 54728

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304 Authority citation revised 38864
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308 Authority citation revised 38864
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310 Authority citation revised 38864
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381.133 (b)(9)(xxvi) revised; (b)(9)(xxvii) added; eff. 12–17–97....66201
381.147 (f)(4) table amended....18048, 39277
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381.180 (a) revised....38868
381.196 (a)(2)(i)(*a*) through (*g*), (ii)(*a*) through (*h*) and (iv)(*a*), (*b*) and (*c*) redesignated as (a)(2)(i)(A) through (G), (ii)(A) through (G), (I) and (iv)(A), (B) and (C); (a)(2)(ii)(H) added....38868
391.2 Revised....65460
391.3 Revised....65460
391.4 Revised....65460
416–417 (Subchapter E) Added....38868
416 Meetings....43149, 43150, 50425, 53305, 55206, 55207
417 Meetings....43149, 43150, 50425, 53305, 55206, 55207

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TITLE 10—ENERGY

Chapter I—Nuclear Regulatory Commission (Parts 0—199)

Chapter I Regulatory agenda 46537
2 Policy statement 13655
Authority citation revised 43407, 53555
Technical correction 56623
2.8 Revised 43408
2.201 (a) revised 43408
2.205 (j) added 53555
2.1201 (a)(3) added 39297
2.1203 (e) revised 39297
2.1205 (c) through (n) redesignated as (d) through (o); new (c) added; new (d), (e)(2), (4), (h) introductory text, (i), (k) introductory text, (3), (l)(1) introductory text and (2) revised 39297
2.1211 (b) revised 39298
2.1213 Revised 39298
2.1233 (c) revised 39298
2.1263 Revised 39298
13 Authority citation revised 53555
Technical correction 56623
13.3 (a)(1) and (b)(1) revised 53555
19.2 Amended 9902
19.11 (c) note removed; (c) revised 6764
19.20 Revised 6764
20.1003 Amended; eff. 1–9–97 65127
20.1101 (d) added; eff. 1–9–97 65127
20.2108 (b) revised 24673
20.2203 Heading, (b)(1)(iv) and (2) revised; (a)(2)(iv) added; eff. 1–9–97 65127
21.3 Amended; eff. 1–10–97 65171
30.7 (e)(2) note redesignated as (e)(3) and revised 6764
30.35 (g) introductory text revised 24673
30.36 (a) revised 1113
(k)(4) added 24673
(d), (g)(3), (4)(vi), (h)(1) and (2) amended 29637
30.37 (b) added 1114
30.51 (d), (e) and (f) added 24673
30.72 Amended 9902
40.7 (e)(2) note redesignated as (e)(3) and revised 6765
40.36 (f) introductory text revised 24674
40.42 (a) revised 1114
(k)(4) added 24674
(d) introductory text, (g)(3), (4)(vi), (h)(1) and (2) amended 29637
40.43 (b) added 1114
40.61 (d), (e) and (f) added 24674
50 Technical correction 232
50.2 Amended 39298
Amended; eff. 1–10–97 65172
50.4 (b)(8) and (9) added 39298
50.7 (e) and note redesignated as (e)(1) and (2); new (e)(2) revised 6765
50.8 (b) revised (OMB numbers); eff. 1–10–97 65172
50.34 (a)(1) revised; Footnotes 5, 7 and 8 redesignated as Footnotes 8, 9 and 10; (a)(12), (b)(10) and (11) added; eff. 1–10–97 65172
50.36 (c)(6) and (7) redesignated as (c)(7) and (8); new (c)(6) and (e) added 39299
50.36a Revised 39299
50.36b Revised 39299
50.44 (a) revised 39299
50.46 (a)(1)(i) revised 39299
50.47 (a)(1) revised 30132
50.48 (f) added 39300
50.49 (a) revised 39300
(b)(1) revised; eff. 1–10–97 65173
50.51 Heading revised; existing text designated as (a); (b) added 39300
50.54 (o) and (y) revised 39300
(ff) added; eff. 1–10–97 65173
50.55a (b)(2) introductory text and (g)(4) introductory text revised; (b)(2)(vi), (ix), (x), (g)(4)(v) and (6)(ii)(B) added 41311
50.59 (d) and (e) added 39300
50.60 (a) revised 39300
50.61 (b)(1) revised 39300
50.62 (a) revised 39301
50.65 (a)(1) revised 39301
(b)(1) revised; eff. 1–10–97 65173
50.71 (e)(4) revised; (f) added 39301
50.75 (f) revised 39301
50.82 Revised 39301
50.91 Introductory text revised 39303
50.111 (b) revised 39303
50 Appendix E amended 30132
Appendix I amended 39303

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TITLE 10 Chapter I—Con.

Appendix S added; eff. 1–10–97 65173
51.10 (d) revised 43408
51.22 (c)(14)(ii) amended 9902
51.45 (c) revised 28486
Regulation at 61 FR 28486 eff. 9–5–96 37351
(c) revised; eff. 1–17–97 66542
51.53 Revised 28487
Regulation at 61 FR 28487 eff. 9–5–96 37351
(b) revised 39304
Revised; eff. 1–17–97 66543
51.55 (a) revised 28488
Regulation at 61 FR 28488 eff. 9–5–96 37351
(a) revised; eff. 1–17–97 66544
51.71 (d) and (e) revised 28488
Regulation at 61 FR 28488 eff. 9–5–96 37351
(d) and (e) revised; eff. 1–17–97 66544
51.75 Regulation at 61 FR 28489 eff. 9–5–96 37351
Footnote 4 redesignated as Footnote 5; eff. 1–17–97 66545
Corrected 68543
51.95 Revised 28489
Regulation at 61 FR 28489 eff. 9–5–96 37351
(b) revised 39304
(c) corrected 39555
Revised; eff. 1–17–97 66545
51.103 (a)(3) and (5) revised 28490
Regulation at 61 FR 28490 eff. 9–5–96 37351
(a)(3) revised; (a)(5) added; eff. 1–17–97 66546
Corrected 68543
51.123 (a) and (b) amended 9902
51.10—51.125 (Subpart A) Appendix A amended; Appendix B added 28490
Regulation at 61 FR 28490 eff. 9–5–96 37351
Appendix B corrected 39555, 39556
Appendix A amended; Appendix B revised; eff. 1–17–97 66546
52.17 (a)(1) introductory text and (vi) revised; eff. 1–10–97 65175
52 Appendix O amended 9902
53 Removed 35935
54.4 (a)(1)(iii) revised; eff. 1–10–97 65175
55.5 (b)(2)(iii) amended 9902
60.2 Amended; eff. 1–3–97 64267
60.8 Revised; eff. 1–3–97 64268
60.9 (e) and note redesignated as (e)(1) and (2); new (e)(2) revised 6765
60.21 (c)(1)(i), (ii)(B), (3) and (8) revised; eff. 1–3–97 64268
60.43 (b)(5) amended; eff. 1–3–97 64268
60.46 (a)(3) amended; eff. 1–3–97 64268
60.51 (a)(2)(i) and (ii) amended; eff. 1–3–97 64268
60.102 (c) amended; eff. 1–3–97 64268
60.111 (a) revised; eff. 1–3–97 64268
60.121 (a) and (b) amended; eff. 1–3–97 64268
60.122 (b)(6) and (c) introductory text amended; eff. 1–3–97 64269
60.130 Revised; eff. 1–3–97 64269
60.131 (b) revised; (c) through (k) added; eff. 1–3–97 64269
60.132 (c)(1) revised; eff. 1–3–97 64269
60.133 (g) introductory text and (2) revised; eff. 1–3–97 64270
60.136 Undesignated center heading and section added; eff. 1–3–97 64270
61.9 (e) and note redesignated as (e)(1) and (2); new (e)(2) revised 6765
61.30 (a)(3) revised 24674
61.31 (c)(3) added 24674
70.7 (e)(2) note redesignated as (e)(3) and revised 6765
70.25 (g) introductory text revised 24675
70.33 (b) added 1115
70.38 (a) revised 1115
(k)(4) added 24675
(d) and (g)(3) amended 29637
(g)(4)(vii), (h)(1) and (2) amended 29638
70.51 Footnotes 2 and 3 redesignated as Footnotes 3 and 4; (b)(6) and (7) revised 24675
71.4 Corrected 28724
71.18 (d)(1) corrected 28724
71.55 (d)(3) corrected 28724
71 Appendix A amended 28724
72.10 (e)(2) revised 6766
72.30 (d) introductory text revised 24675
72.54 (m)(3) added 24675
(j)(1) and (2) amended 29638
72.80 (e) and (f) added 24675
100.1 Revised; eff. 1–10–97 65175

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100.2 Revised; eff. 1–10–97 65175
100.3 Revised; eff. 1–10–97 65175
100.4 Added; eff. 1–10–97 65176
100.8 Revised; eff. 1–10–97 65176
100.10—100.11 (Subpart A) Undesignated center heading removed; subpart heading added; eff. 1–10–97 65176
100.20—100.23 (Subpart B) Added; eff. 1–10–97 65176
110.1 (b)(3) and (4) redesignated as (b)(4) and (5); (b)(2) and new (4) revised; new (b)(3) added 35602
110.2 Amended 35602
110.8 Revised 35602
110.22 (c) amended 35602
110.23 (a)(1) amended 35602
110.26 (a)(2) amended 35602
110.27 (d) revised 35602
110.28 Amended 35602
110.29 Amended 35602
110.30 Amended 35602
110.41 (a)(4) revised 35602
110.44 (b)(2) amended 35602
110 Appendixes A and B amended 35602
Appendixes D, E, F and G redesignated as Appendixes I, K, L and M; new Appendix D added 35603
Appendix E added 35604
Appendix F added 35605
Appendixes G, H and J added 35606
Appendix L amended 35607
170.12 (a) and (g) revised; (d)(1) removed 16214
170.20 Revised 16214
170.21 Introductory text revised; table amended 16214
170.31 Revised 16215
171.15 (d) removed; (a), (b), (c)(1), (2) and (e) revised 16220
171.16 (c) introductory text, (1), (4), (d) and (e) revised 16220
171.19 (b) and (c) revised; (d) added 16223

Chapter II—Department of Energy (Parts 200—699)

205 Authority citation revised 35114
205.1 Revised 35114
205.50—205.69E (Subpart D) Removed 35114
205.70—205.78 (Subpart E) Removed 35114
205.100—205.109 (Subpart H) Removed 35114
205.120—205.128 (Subpart I) Removed 35114
205.130—205.137 (Subpart J) Removed 35114
205.160—205.162 (Subpart L) Removed 35115
205.200—205.204 (Subpart P) Removed 35115
205.230—205.237 (Subpart R) Removed 35114
420 Revised; interim 35895
430.31—430.33 (Subpart C) Appendix A added 36981
436.1 Revised 32649
436.2 (b) revised 32649
436.10 Revised 32649
436.11 Amended 32649
436.13 (a), (b) introductory text and (2) revised 32650
436.14 (b)(1), (c) introductory text, (d)(2), (e) and (g) revised 32650
436.16 Heading revised; (b) and (c) redesignated as (c) and (d); new (b) added 32650
436.17 Heading revised; (c) and (d) added 32650
436.18 (c) introductory text, (d) and (f) revised; (e) amended 32650
436.19 (d) revised 32651
436.21 Revised 32651
436.22 Revised 32651
436.23 Revised 32651
436.24 Amended 32651
450 Removed; interim 35903
463 Removed 35115
490 Added 10653
600.1—600.30 (Subpart A) Revised 7166
600.112 (c) amended 7165
600.136 Revised 7165
600.204 Amended 7165
600.221 (g)(2) amended 7165
600.224 (b)(4) and (e)(2)(ii) amended 7165
600.225 (e) amended 7165
(f) amended 7166
600.226 (c) amended 7166
600.230 (b), (d)(4) and (f)(2) amended 7166

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600.232 (c)(3) and (g)(2) amended 7166
600.236 (c) introductory text and (d)(2) amended 7166
600.237 (a)(3) and (c) amended 7166
600.241 (b), (e)(1)(i), (ii), (2)(ii), (iii) and (3) amended 7166
600.243 (d) amended 7166
600.244 (b) amended 7166
600.250 (b)(5) amended 7166
600.251 (c), (d) and (e) amended 7166
600.300—600.307 (Subpart D) Removed 7165
600.402 (d) amended 7166
600.403 (c) amended 7166
600.405 (b)(2)(ii)(C) amended 7166
600.415 Amended 7166

Chapter III—Department of Energy (Parts 700—999)

784 Added 36614
830 Ruling 4209
835 Ruling 4209

Chapter X—Department of Energy (General Provisions) (Parts 1000—1099)

1003.1 Amended 35114
1003.20 (a) amended 35114
1010 Revised; interim 35088
1021.104 (b) amended 36239
1021.105 Revised 36239
1021.310 Revised 36239
1021.311 (f) removed; (g) redesignated as (f) 36239
1021.312 Removed 36239
1021.315 (b) and (d) revised; (e) added 36239
1021.322 (b)(1) removed; (b)(2) through (5) redesignated as (b)(1) through (4) 36239
1021.400—1021.410 (Subpart D) Appendixes A and B amended 36239
Appendix B amended 36240, 36241
Appendixes B and C amended 36242
Appendix D amended 36243
Appendixes B, C and D amended; eff. 1–6–97 64608
1035 Removed 39855
1036.105 Amended 39856
1036.110 (c)(1) and (2) added 39856
1036.215 (a) and (b) added 39856
1036.312 (b)(1), (d)(1) and (e)(1) removed; (f) and (g) amended 39856
1036.313 (a)(1) amended 39856
1036.314 (d)(1)(vi) removed; (d)(1)(vii) and (viii) redesignated as (d)(1)(vi) and (vii) 39856
1036.315 (c) removed 39856
1036.411 (c)(1) and (f)(1) removed; (h) and (j) amended 39856
1036.412 (a)(1) removed 39856
1036.700 Revised 39856
1036.705 Introductory text amended; (b) revised 39857
1036.710 Removed 39857
1036.715 Heading revised; introductory text and (a) through (g) amended 39857

Chapter XVII—Defense Nuclear Facilities Safety Board (Parts 1700—1799)

1703 FOIA fee schedule adjustment 28725

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2 ..... 1857, 4378, 43409, 59031
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30 ..... 295, 6796, 43193, 51835
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34 ..... 30837, 37019, 48645
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40 ..... 295, 6796, 43193, 51835
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51 43409
52 ..... 18099, 27027, 51835
60 ..... 6796, 51835
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437 15736
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708 55230
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1021 ..... 6414, 17257, 35990
1023 55932
1035 3877
1036 3877

TITLE 11—FEDERAL ELECTIONS

Chapter I—Federal Election Commission (Parts 1—9099)

100 Technical correction 4302
100.5 (e)(3)(i) amended 3549
100.7 Regulation at 60 FR 64272 eff. 3–13–96 10269
(b)(2) amended (effective date pending) 18051
Regulation at 61 FR 18051 eff. 6–21–96 31824
100.8 Regulation at 60 FR 64272 eff. 3–13–96 10269
(b)(2) amended (effective date pending) 18051
Regulation at 61 FR 18051 eff. 6–21–96 31824
100.19 (a) amended 6095
102 Technical correction 4302
102.4 Regulation at 60 FR 64273 eff. 3–13–96 10269
104.3 (e)(5) amended 3549
104.4 (c)(3) amended 3549
104.5 (f) amended 3549
104.14 (c) amended 3549
104.15 (a) amended 3549
104.18 Added (effective date pending) 42376
Regulation at 61 FR 42376 eff. 1–1–97 58460
105.1 Revised 3550
105.4 Amended 3550
105.5 Revised 3550
106 Technical correction 4302
108.8 Amended 6095
109 Technical correction 4302
109.1 Regulation at 60 FR 64273 eff. 3–13–96 10269
109.2 (a) amended 3550
110 Technical correction 4302
110.6 (c)(1)(i) and (ii) amended 3550
110.7 (b)(4) removed 40961
110.12 Regulation at 60 FR 64273 eff. 3–13–96 10269
110.13 Regulation at 60 FR 64273 eff. 3–13–96 10269
Revised (effective date pending) 18051
(a)(2) corrected 24533
Regulation at 61 FR 18051 eff. 6–21–96 31824
114 Technical correction 4302
114.1 Regulation at 60 FR 64273 eff. 3–13–96 10269
114.2 Regulation at 60 FR 64274 eff. 3–13–96 10269
114.3 Regulation at 60 FR 64275 eff. 3–13–96 10269
114.4 Regulation at 60 FR 64276 eff. 3–13–96 10269
(f) revised (effective date pending) 18051
Regulation at 61 FR 18051 eff. 6–21–96 31824
114.6 (d)(3)(i) and (5) amended 3550
114.13 Regulation at 60 FR 64279 eff. 3–13–96 10269
9034.4 Regulation at 60 FR 57538 eff. 2–9–96 4849
9038.2 Regulation at 60 FR 57539 eff. 2–9–96 4849
(a)(2) amended 69020

Proposed Rules:

100 3621
104 ..... 13465, 52901, 68688
109 41036
110 ..... 3621, 41036
114 3621

TITLE 12—BANKS AND BANKING

Chapter I—Comptroller of the Currency, Department of the Treasury (Parts 1—199)

1 Revised 63982
2 Revised 51781
3.6 (a) revised 47367
3.100 (f) heading and (1) revised 60363
3 Appendix A corrected 1273

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Appendix B added 47367
Appendix A amended 60363
5 Revised 60363
5.23 Removed 19532
5.25 Removed 19532
5.32 Removed 19532
5.41 Removed 19532
5.43 Removed 19532
7 Revised 4862
7.1000 (a)(2)(i) amended; (c)(1) revised 60387
7.1021 Removed 63986
7.2023 Removed 60387
7.2024 Removed 60387
8.2 (a)(6) added; (b) redesignated as (b)(1); concluding text designated as (b)(2) and (3); (a)(5) and new (b)(3) amended 64002
9 Revised; eff. 1-29-97 68554
12 Revised 63965
16.20 (d) revised 60387
19 Authority citation revised 20334, 68559
19.1 (e)(9) amended; (f) redesignated as (g); (e)(11), (12) and new (f) added 20334
19.6 (a)(3) revised 20334
19.8 (b) revised 20334
19.11 (c)(2) and (d) revised 20334
19.12 (a), (c)(1), (2) and (3) revised 20335
19.20 Revised 20335
19.24 (a) and (b) revised 20335
19.25 (a), (b), (e) and (g) revised 20335
19.33 (a) revised 20336
19.34 (a) and (b)(1) revised 20336
19.35 (a)(3) redesignated as (a)(4); new (a)(3) added; (b) revised 20336
19.37 Heading and (a)(1) revised 20336
19.38 Revised 20336
19.100 Revised 20337
19.112 (a), (b), (c) and (d)(3)(i) revised 20337
19.113 (a) and (b) revised; (c), (d) and (e) redesignated as (d), (e) and (f); new (c) added 20337
19.135 Added; eff. 1-29-97 68559
19.160 (a) amended 20337
19.161 Revised 20337
19.162 Removed 20338
19.170 (d) revised; (e) and (f) redesignated as (f) and (g); new (e) added 20338
19.171 (b) revised 20338
19.184 Revised 20338
20 Removed 19532
21 Heading revised 4337
Authority citation revised 4337
21.11 (Subpart B) Revised 4337
22 Revised 45702
23 Revised; eff. 1-17-97 66560
24 Revised 49660
25.12 (h)(3) amended 21363
26 Revised 40300
28 Revised 19532
28.2 (b) revised 60387
28.10 Revised 60387
28.11 (f) and (v) revised 60387
30 Authority citation revised 43950
30 Appendix A amended 43950
31 Authority citation revised 4870
Revised 54536
31.100—31.102 Undesignated center heading added 4870
31.100 Added 4870
31.101 Added 4870
31.102 Added 4870
34 Authority citation revised 11300
34.1—34.5 (Subpart A) Revised 11300
34.20—34.25 (Subpart B) Revised 11301
34.81—34.87 (Subpart E) Revised 11301

Chapter II—Federal Reserve System (Parts 200—299)

201.51 Revised 5926
202 Supplement I amended 50950, 50951
204.2 (f)(1)(iii) revised; (f)(1)(iv) and (3) removed; (f)(1)(v) redesignated as (f)(1)(iv); (c)(1)(i) introductory text, (iv)(C), (E), (d)(2), new (f)(1)(iv)(C), new (E), (h)(1)(ii)(A), (2)(ii) and (t) amended; eff. 4-1-97 69025
204.3 (a)(3)(i), (ii) designation and (i)(5)(iv) removed; (f)(1) revised; (h)(1), (2), (i)(1)(ii) and (4)(ii) amended; eff. 4-1-97 69025
204.4 Revised; eff. 4-1-97 69025
204.7 (a)(1) amended; eff. 4-1-97 69025
204.8 (a)(2)(i)(B)(*5*) and (3)(v) amended; eff. 4-1-97 69025
204.9 (a) revised 60173

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(b) removed; (a)(1) and (2) redesignated as (a) and (b); eff. 4–1–97 69025
205.1 Revised 19669
205.2 Revised 19669
205.3 Revised 19669
205.4 Revised 19670
205.5 Revised 19670
205.6 Revised 19670
205.7 Revised 19671
205.8 Revised 19671
205.9 Revised 19671
205.10 Revised 19672
205.11 Revised 19673
205.12 Revised 19674
205.13 Revised 19674
205.14 Revised 19674
205.15 Revised 19675
205 Appendixes A and B revised; Appendix C added 19676
Supplement I revised 19686
Supplement II removed 19695
207 OTC margin stock lists 2667, 18495, 39556, 55555
Authority citation revised 60166
207.114 Added 60166
208 Authority citation revised 45704, 47369
208.8 (e) and Appendix A removed 45704
208.13 Revised 47369
208.20 Revised 4343
208.23 Added 45704
208 Appendix D amended 43951
Appendix A amended; Appendix E added 47370
211.8 Amended 4344
211.20 (b)(8) and (9) amended; (b)(10) added 39053
211.22 (a) revised; (c) removed; (d) redesignated as (c) 24440
211.24 (a)(2)(i) and (ii) revised; (d)(3) redesignated as (d)(4); new (d)(3) added 2901
(f) amended 4344
(g) added 39053
211.30 Added 6921
212 Revised 40302
213.1 Revised 52258
213.2 Revised 52258
213.3 Revised 52259
213.4 Revised 52259
213.5 Revised 52260
213.6 Removed 52258
213.7 Revised 52261
213.8 Revised 52261
213.9 Added 52261
213 Appendix D removed 52258
Appendix A revised 52262
Appendixes B and C revised; Supplement I amended 52269
215.2 (e)(2)(i) revised 57770
Regulation at 61 FR 57770 eff. date corrected to 11–8–96 58782
215.4 (a) introductory text, (1) and (2) redesignated as (a)(1) introductory text, (i) and (ii); new (a)(1) heading and new (2) added 57770
Regulation at 61 FR 57770 eff. date corrected to 11–8–96 58782
218 Removed 57289
218.101 Redesignated as 250.400 57289
218.102 Redesignated as 250.401 57289
218.103 Redesignated as 250.402 57289
218.104 Redesignated as 250.403 57289
218.105 Redesignated as 250.404 57289
218.106 Redesignated as 250.405 57289
218.107 Redesignated as 250.406 57289
218.108 Redesignated as 250.407 57289
218.109 Redesignated as 250.408 57289
218.110 Redesignated as 250.409 57289
218.111 Redesignated as 250.410 57289
218.112 Redesignated as 250.411 57289
218.113 Redesignated as 250.412 57289
218.114 Removed 57289
219 Regulation at 60 FR 233 eff. date delayed to 5–28–96 14382
219.1—219.7 (Subpart A) Regulation at 60 FR 233 eff. date delayed to 5–28–96 14382
219.1 Regulation at 60 FR 233 eff. date delayed to 5–28–96 14382
219.2 Regulation at 60 FR 233 eff. date delayed to 5–28–96 14382
Revised 29640
219.3 Revised 29640
219.4 Revised 29640
219.5 Revised 29641
219.6 Revised 29641
(b) corrected 32317
219.7 Removed 29641
219.21—219.24 (Subpart B) Regulation at 60 FR 233 eff. date delayed to 5–28–96 14382
Authority citation revised 58975
219.21 Amended 58975
220 OTC margin stock lists 2667, 18495, 39556, 55555
Authority citation revised 60167
220.1 Revised 20390
220.2 Revised 20390

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220.3 Revised 20392
220.4 Revised 20392
220.5 Revised 20394
220.6 Revised 20394
220.7 Revised 20394
220.8 Revised 20394
220.9 Revised 20395
220.10 Revised 20395
220.11 Revised 20395
220.12 Revised 20395
220.13 Revised 20396
220.14 Revised 20396
220.15 Revised 20396
220.16 Revised 20396
220.17 Revised 20397
220.18 Revised 20397
220.19 Removed 20398
220.106 Removed 20398
220.107 Removed 20398
220.109 Removed 20398
220.112 Removed 20398
220.114 Removed 20398
220.115 Removed 20398
220.116 Removed 20398
220.120 Removed 20398
220.125 Removed 20398
220.129 Removed 20398
220.130 Removed 20398
220.132 Added 60167
221 OTC margin stock lists 2667, 18495, 39556, 55555
Authority citation revised 60167
221.125 Added 60167
224 OTC margin stock lists 2667, 18495, 39556, 55555
225.2 (q) added; interim 56407
225.4 (f) amended 4344
225.125 (g) revised 45875
225 Appendix A amended 47372
Appendix E added 47373
226 Adjustment notice 3177
Adjustment notice 65317
226.2 (a)(6) revised 49245
226.4 (a), (c)(7)(ii), (iii), (d) heading, (1) heading, introductory text and (i) revised; (c)(7)(iv) redesignated as (v); (b)(10), (c)(7) heading, new (iv), (d)(3) and (e)(3) added 49245
226.17 (c)(2) redesignated as (c)(2)(i); (a)(1) Footnote 38, new (c)(2)(i) and (f) revised; (c)(2)(ii) added 49246
226.18 (d) Footnote 39 removed; (d)(1) and (2) added; (c) Footnotes 39 and 40 redesignated as (c) Footnotes 40 and 41; (n) revised 49246
226.19 (a)(2) revised 49246
226.22 (a)(4) and (5) added 49246
226.23 (b) introductory text and (1) through (5) redesignated as (b)(1) introductory text and (i) through (v); (b)(2), (g) and (h) added 49246
226.31 (d) and (g) revised 49247
226 Supplement I amended ... 14955, 14956, 14957, 14959, 49248
Appendix H amended 49247
228.12 (h)(3) amended 21363
229 Appendixes A and B amended 25390
231.3 (a) introductory text revised 1274
245 Removed 52876
250 Authority citation revised 57289
250.161 (d) amended 19806
250.162 (a) amended 19806
250.242 Added 19806
250.400—250.413 Undesignated center heading added 57289
250.400 Redesignated from 218.101 57289
250.401 Redesignated from 218.102 57289
250.402 Redesignated from 218.103 57289
250.403 Redesignated from 218.104 57289
250.404 Redesignated from 218.105 57289
250.405 Redesignated from 218.106 57289
250.406 Redesignated from 218.107 57289
250.407 Redesignated from 218.108 57289
250.408 Redesignated from 218.109 57289
250.409 Redesignated from 218.110 57289
250.410 Redesignated from 218.111 57289
250.411 Redesignated from 218.112 57289
250.412 Redesignated from 218.113 57289
250.413 Added 57289
261.10 Appendix A amended; interim 60014
263 Authority citation revised 20341, 56407

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263.1 (e)(9) amended; (f) redesignated as (g); (e)(11), (12) and new (f) added 20341
263.6 (a)(3) revised 20341
263.8 (b) revised 20342
263.11 (c)(2) and (d) revised 20342
263.12 (a), (c)(1), (2) and (3) revised 20342
263.20 Revised 20342
263.24 (a) and (b) revised 20342
263.25 (a), (b), (e) and (g) revised 20343
263.33 (a) revised 20343
263.34 (a) and (b)(1) revised 20343
263.35 (a)(3) redesignated as (a)(4); new (a)(3) added; (b) revised 20343
263.37 Heading and (a)(1) revised 20344
263.38 Revised 20344
263.65 Added 56407
(b)(2) introductory text corrected 65318
264 Revised 53830
265.6 (a)(1) revised 13395
268.207 (e) revised 252
268.301 (c)(3) amended 13079
268.304 (a)(3)(i)(A) amended 252
268.305 (c)(1) amended 13079
268.506 Amended 13079

Chapter III—Federal Deposit Insurance Corporation (Parts 300—399)

303.7 (g) added 5930
308 Authority citation revised 20347, 48403, 57990
308.1 (e)(8) amended; (f) redesignated as (g); (e)(10), (11) and new (f) added 20347
308.6 (a)(3) revised 20347
308.8 (b) revised 20347
308.11 (c)(2) and (d) revised 20347
308.12 (a), (c)(1), (2) and (3) revised 20348
308.20 Revised 20348
308.24 (a) and (b) revised 20348
308.25 (a), (b), (e) and (g) revised 20348
308.33 (a) revised 20349
308.34 (a) and (b)(1) revised 20349
308.35 (a)(3) redesignated as (a)(4); new (a)(3) added; (b) revised 20349
308.37 Heading and (a)(1) revised 20349
308.38 Revised 20350
308.116 (b)(4) added 57990
308.132 (c)(2) revised; (c)(3) added 57991
308.400—308.402 (Subpart S) Added 48403
310 Nomenclature change 43419
310.1 Revised 43419
310.3 (a) revised 43419
310.4 (b) and (c) revised 43419
310.6 Amended 43420
310.9 (d) redesignated as (e); new (d) added 43420
310.10 (b)(6) and (10) revised; (b)(12) added; (c) removed; (d) and (e) redesignated as (c) and (d); new (c) and new (d) amended 43420
310.11 (b) amended 43420
310.13 Amended 43420
311.2 (a) revised; (b)(3) amended 38357
311.7 Amended 38357
311.8 Heading revised; (d)(1) amended; (e) added 38357
324 Removed; eff. 1-1-99 33843
325 Appendix A amended 47375
Appendix C added 47376
327 Assessment rate schedules 26078, 26083, 64609
Authority citation revised 53839
327.3 (c)(1) amended 67696
327.4 (a) introductory text amended; (a)(1)(i)(A), (ii)(A) and (c) revised 67696
327.6 Heading and (a) revised 64983
327.8 (h) revised; (j) and (k) added 64983
(i) removed 67696
327.9 Revised 67696
327.10 Added 67698
327.32 (a)(2)(i)(A) and (3)(i) revised; (c) added 53839
(a)(1), (2) and (4) introductory text revised; (a)(5) removed 64983
327.33 Added 64983
327.34 Added 64984
327.35 Added 64984
327.36 Added 64984
327.37 Added 64984
327.41—327.45 (Subpart C) Added 53839
336 Revised 28728
339 Revised 45706
342 Removed 48403

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345.12 (h)(3) amended 21364
346.1 (a) amended; (o) revised; (s) through (v) added 5674
346.6 Revised 5674
348 Revised 40305
353 Revised 6099
359 Added 5930
363.1 (b) revised 6493
363.4 (b) revised 6493
363.5 (b) revised 6493
363 Appendix A amended 6494
364 Appendix A amended 43951
366 Added; interim 9596
367 Added; interim 35117
Regulation at 61 FR 35117 confirmed; revised 68559

Chapter V—Office of Thrift Supervision, Department of the Treasury (Parts 500—599)

500—517 (Subchapter A) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
505.1 Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
505.2 Regulation at 60 FR 66716 eff. date corrected to 12–26–95 575
505.3 Regulation at 60 FR 66716 eff. date corrected to 12–26–95 575
505.4 Regulation at 60 FR 66716 eff. date corrected to 12–26–95 575
506.1 Regulation at 60 FR 66716 eff. date corrected to 12–26–95 575
(b) revised (OMB numbers) 65178
509 Authority citation revised 20353
509.1 (e)(7) amended; (f) redesignated as (g); (e)(9), (10) and new (f) added 20353
509.6 (a)(3) revised 20354
509.8 (b) revised 20354
509.11 (c)(2) and (d) revised 20354
509.12 (a), (c)(1), (2) and (3) revised 20354
509.20 Revised 20354
509.24 (a) and (b) revised 20354
509.25 (a), (b), (e) and (g) revised 20355
509.33 (a) revised 20355
509.34 (a) and (b)(1) revised 20355
509.35 (a)(3) redesignated as (a)(4); new (a)(3) added; (b) revised 20356
509.37 Heading and (a)(1) revised 20356
509.38 Revised 20356
509.102 (g)(2) revised 20356
509.104 (h) removed; (i) redesignated as (h) 20356
510 Authority citation revised 56119
510.2 Regulation at 60 FR 66716 eff. date corrected to 12–26–95 575
510.6 Added 56119
512.4 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
512.5 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
516.1 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
516.3 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
528—535 (Subchapter B) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
541—558 (Subchapter C) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
543.1 (b) amended 64015
543.8 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
543.11 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
543.14 Amended 64015
544.1 Amended 64015
544.2 (a)(2), (b)(4) and (c) revised; (b) introductory text amended 64016
544.3 Regulation at 60 FR 66717 eff. date corrected to 12–26–95 575
Removed 64016
544.5 (b) amended; (b)(12) and (15) removed; (b)(5) through (11), (16), (17), (c)(1) introductory text, (i), (ii), (iii) and concluding text redesignated as (b)(6) through (12), (15), (16), (c)(1)(i) introductory text, (A), (B), (C) and (iii); (a), new

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(b)(6), new (7), new (8), new (11), new (15), new (16), new (c)(1)(i) introductory text, new (B), new (iii), (2) and (d) revised; (b)(1) through (4), new (10)(i), new (ii) and new (13) amended; new (b)(5), (c)(1)(ii) and (3) added.....64016
544.8 Removed.....64017
Redesignated from 545.131.....64018
544.9 Removed.....64017
544 Appendix removed.....64017
545.31 Removed.....50971
545.32 Removed.....50971
545.33 Removed.....50971
545.34 Removed.....50971
545.35 Removed.....50971
545.36 Removed.....50971
545.37 Removed.....50971
545.38 Removed.....50971
545.39 Removed.....50971
545.40 Removed.....50971
545.41 Removed.....50971
545.42 Removed.....50971
545.43 Removed.....50971
545.45 Removed.....50971
545.46 Removed.....50971
545.47 Removed.....50971
545.48 Removed.....50971
545.49 Removed.....50971
545.50 Removed.....50971
545.51 Removed.....50971
545.52 Removed.....50971
545.53 Removed.....50971
545.72 Removed.....50971
545.73 Removed.....50971
545.74 Regulation at 60 FR 66717 eff. date corrected to 12–26–95.....575
(c)(1)(vi) revised.....50971
(a), (b), (c) heading and introductory text, (1), (2), (3), (4) heading, (ii)(F), (5), (6), (7), (d) and (e) removed; (c)(4)(i) introductory text, (A) through (E), (ii) introductory text, (A) through (E), (G), (iii) and (iv) redesignated as (a) introductory text, (1) through (5), (b) introductory text, (1) through (5), (6), (c) and (d); heading and new (a) introductory text revised; new (b) introductory text, new (1) and new (c) amended.....66570
545.75 Removed.....50971
545.76 Removed.....66571
545.77 Removed.....66571
545.78 Removed.....50971
545.80 Removed.....66571
545.81 Removed.....66571
545.82 Regulation at 60 FR 66717 eff. date corrected to 12–26–95.....575
Removed.....66571
545.121 Regulation at 60 FR 66717 eff. date corrected to 12–26–95.....575
545.126 Removed.....60178
545.131 Regulation at 60 FR 66717 eff. date corrected to 12–26–95.....575
Redesignated as 544.8.....64018
550.2 Regulation at 60 FR 66717 eff. date corrected to 12–26–95.....575
550.3 Regulation at 60 FR 66717 eff. date corrected to 12–26–95.....575
550.10 Regulation at 60 FR 66717 eff. date corrected to 12–26–95.....575
550.13 Regulation at 60 FR 66717 eff. date corrected to 12–26–95.....575
550.14 Regulation at 60 FR 66717 eff. date corrected to 12–26–95.....575
550.15 Regulation at 60 FR 66718 eff. date corrected to 12–26–95.....575
552.1 Removed.....64018
552.2 Removed.....64018
552.2–5 Removed.....64018
552.3 Amended.....64018
552.4 (b)(3) removed; (b)(4), (5) and (6) redesignated as (b)(3), (4) and (5); (a)(1), (b) introductory text and new (4) amended; (a)(2), new (b)(3), new (5) and (c) revised; (b)(1) heading, (2) heading, (6) and (8) heading added.....64018
552.5 (a) amended; (b)(1) introductory text, (i), (ii) and concluding text redesignated as (b)(1)(i) introductory text, (A), (B) and (iii); new (b)(1)(i) introductory text, new (B), new (iii) and (2) revised; new (b)(1)(ii), (3) and (d) added.....64019

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Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
552.6 (a), (b), (e) and (f)(1) amended; (d)(1) revised; (f)(3) removed; (h) added 64020
552.6–1 (a), (c) and (e) amended; (b), (f) heading, (1) and (k) revised 64020
552.6–2 (a) amended; (c) revised 64020
552.8 Removed 64020
552.11 (b) amended 64020
552 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
Appendix removed 64020
556.1 Removed 64020
556.2 Removed 50971
556.3 Removed 50971
556.5 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
556.10 Removed 50971
556.16 Removed 60178
556.17 Removed 64020
559 Added 66571
560 Added 50971
Authority citation revised 60184
560.3 Amended; interim 60184
560.30 Revised 66577
560.32 Added 66578
560.36 Added 66579
560.37 Added 66579
560.93 (a) revised 66579
560.130 Added 60178
561—575 (Subchapter D) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
561.13 Tables amended 65179
563 Authority citation revised 6105, 45709
563.7 (a) and (d)(2) amended 65179
563.9 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563.35 Removed 60178
563.36 Added; interim 60184
563.37 Removed 66579
563.38 Removed 66579
563.40 Removed 60178
563.41 (e)(2)(iii) redesignated as (e)(3); (e)(2)(i), (ii)(B) and new (3) amended 65179
(b)(4) revised 66579
563.44 Removed 60178
563.48 Removed 45709
563.50 Removed; interim 60184
563.51 (f)(1)(i) amended 50984
Removed; interim 60184
563.52 Removed; interim 60184
563.93—563.101 (Subpart D) Removed 50984
563.93 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563.132 Removed 66579
563.134 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563.160 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
Removed 50984
563.170 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
(c) revised 50984
563.172 Removed 50984
563.177 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563.180 Heading and (d) revised 6105
563.200 Added 60178
563.201 Added 60179
563b.2 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563b.3 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563b.4 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563b.8 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563b.29 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563c.3 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563d.1 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
Amended 65179
563d.2 Regulation at 60 FR 66718 eff. date corrected to 12–26–95 575
563e.12 (g)(3) amended 21364
563f Revised 40308

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565.9 Regulation at 60 FR 66719 eff. date corrected to 12–26–95 575
566.1 (g)(6)(i) amended 50984
566.2 Regulation at 60 FR 66719 eff. date corrected to 12–26–95 575
567.1 (l)(1) amended; (dd) revised 66579
567.3 Regulation at 60 FR 66719 eff. date corrected to 12–26–95 575
567.4 Regulation at 60 FR 66719 eff. date corrected to 12–26–95 575
567.10 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
567.13 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
570 Appendix A amended 43952
571.4 Removed 60179
571.6 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
571.7 Removed 60179
571.8 Removed 50984
571.9 Removed 60179
571.13 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
Removed 50984
571.20 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
Removed 50984
571.21 Removed 66579
571.22 Removed 50984
572 Added 45709
574.1 Revised; interim 60184
574.2 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
(q)(2)(ii) revised; (q)(3) added; interim 60184
574.3 (c)(1)(iii) through (vii), (2)(iv) and (v) redesignated as (c)(1)(iv) through (viii), (2)(v) and (vi); (c)(1)(ii) and new (2)(v) amended; new (c)(1)(iii) and (2)(iv) added; (c)(2)(i) revised; interim 60184
Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
574.4 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
574.6 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
(c)(5) amended 65179
574.7 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
575 Heading revised; interim 60184
575.2 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
(h) revised; interim 60184
575.9 (a)(1), (4) and (5) amended; (a)(2) revised 64021
575.10 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
575.11 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
583—584 (Subchapter F) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
583.10 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
583.20 (b)(2) revised; (c) added; interim 60185
584.1 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
584.2–2 Regulation at 60 FR 66720 eff. date corrected to 12–26–95 575
584.2a (e) removed; interim 60185
590—591 (Subchapter G) Regulation at 60 FR 66715 eff. date corrected to 12–26–95 575
590.4 (e)(1) amended 50984

Chapter VI—Farm Credit Administration (Parts 600—699)

600 Authority citation revised 67185
600.5 (b) and (d)(1) amended; (d)(2) revised (effective date pending); interim 67185
603 Authority citation revised 67185
603.310 (b) amended (effective date pending); interim 67185
611.1030 Amended (effective date pending); interim 67185
611.1135 (a), (b)(1), (2), (3)(v), (6), (7), (c), (d)(1) introductory

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text, (iv) and (2) revised; (e) removed (effective date pending); interim 67185
611.1140—611.1145 (Subpart J) Removed (effective date pending); interim 67186
611.1155—611.1158 (Subpart K) Removed (effective date pending); interim 67186
611.1160—611.1169 (Subpart L) Removed (effective date pending); interim 67186
611.1170—611.1176 (Subpart M) Removed (effective date pending); interim 67186
611.1180—611.1183 (Subpart N) Removed (effective date pending); interim 67186
611.1190—611.1198 (Subpart O) Removed (effective date pending); interim 67186
611.1200 (c) amended (effective date pending); interim 67186
611.1250 (b) and (c) amended (effective date pending); interim 67186
611.1255 Revised (effective date pending); interim 67186
611.1266 (c) amended (effective date pending); interim 67186
614.4321 Revised (effective date pending); interim 67186
614.4367 (a)(4) and (c)(3) amended 11304
Regulation at 61 FR 11304 eff. 5-3-96 20125
614.4440 (h)(1) amended (effective date pending); interim 67187
614.4444 Amended (effective date pending); interim 67187
614.4510 (b) and (d)(4) removed; (c) and (d) redesignated as (b) and (c); introductory text, (a) and new (c) introductory text revised (effective date pending); interim 67187
614.4515 Removed (effective date pending); interim 67187
614.4516 Heading revised; introductory text added (effective date pending); interim 67187
614.4517 (c) added (effective date pending); interim 67187
614.4520 Removed (effective date pending); interim 67187
614.4525 (c) and (d) amended (effective date pending); interim 67187
614.4920—614.4960 (Subpart S) Revised 45711
615 Authority citation revised 31394
615.5120 (a) amended (effective date pending); interim 67187
615.5140 (a)(1) revised (effective date pending); interim 67187
615.5143 Amended (effective date pending); interim 67187
615.5230 Regulation at 60 FR 57921 eff. 1-2-96 1274
615.5250 (e) revised (effective date pending); interim 67187
615.5280 (a) through (e) revised (effective date pending); interim 67187
615.5290 (a) amended (effective date pending); interim 67188
615.5450—615.5462 (Subpart O) Revised; interim 67192
615.5500—615.5502 (Subpart P) Regulation at 60 FR 57919 confirmed 12015
615.5560 (c) revised; interim 67195
615.5570 (Subpart S) Added 31394
(c) revised; interim 67195
618.8260 Removed (effective date pending); interim 67188
618.8310 (b)(1) amended (effective date pending); interim 67188
618.8320 (b)(2) and (5) revised; (b)(9) removed; (b)(10) and (11) redesignated as (b)(9) and (10) (effective date pending); interim 67188
618.8325 (c) amended (effective date pending); interim 67188
618.8330 (a) designation and (b) removed (effective date pending); interim 67188
618.8340 Removed (effective date pending); interim 67188
618.8360 Removed (effective date pending); interim 67188
618.8370 Removed (effective date pending); interim 67188
618.8380—618.8420 (Subpart I) Removed (effective date pending); interim 67188
619.9060 Revised (effective date pending); interim 67188
620.21 Regulation at 60 FR 57922 eff. 1-2-96 1274

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621.11 Regulation at 59 FR 50888 confirmed 18236
622 Authority citation revised 54729
622.61 Added 54729

Chapter VII—National Credit Union Administration (Parts 700—799)

701 Authority citation revised 4214
701.1 Revised (OMB number) 11726
Revised; interim 59308
701.12 (a), (b) and (c) revised; (d) and (e) redesignated as (g) and (h); new (d), new (e) and (f) added 41323
701.13 (a)(2) amended 41326
701.21 (c)(7)(ii)(C) revised 4214
(d)(1) amended; (d)(4) introductory text revised 68128
701.32 Heading, (a) and (b)(1) revised; (d) redesignated as 701.34(a); interim 3790
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707.1 (c) amended 68129
707 Appendix C amended 68129
709.5 (b)(6) and (7) revised; (b)(8) added; (e) amended; interim 3791
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745 Authority citation revised 60186
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747 Authority citation revised 28024, 57291
747.1 (c)(2) amended; (d) redesignated as (e); (c)(3) and new (e) revised; (c)(4) and new (d) added 28025
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747.9 (a) and (b) revised; (e) added 28025
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747.20 Revised 28026
747.24 (a) and (b) revised 28026
747.25 (a), (b), (e) and (g) revised 28026
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1805.701 (d)(2)(iii) revised; (e)(3) introductory text amended; interim.....1702
1806.103 (dd) added; interim.....1702
(q) revised; interim.....59828
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1806.201 (b)(2) revised; (b)(4)(xii) and (xiii)(B) amended; (b)(4)(xiv) added; interim.....1702
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TITLE 13—BUSINESS CREDIT AND ASSISTANCE

EDITORIAL NOTE: The revision for the 1996 edition of title 13 was delayed until March 1, 1996. The 1996 revision includes amendments promulgated during the period of January 3, 1995 through March 1, 1996. For amendments promulgated during that period, see the February 1996 LSA.

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107.50 Amended 41496
107.692 (a) corrected 7985
107.860 (b) amended 41496
107.1530 (g)(2)(i) and (ii) amended 41496
115.10 Corrected 7985
120.111 (a)(4) corrected; (b)(2) correctly removed; (b)(3), (4) and (5) correctly redesignated as (b)(2), (3) and (4) 7986
120.215 Corrected 7986
120.220 Table corrected 11471
120.440 Corrected 7986
120.839 (a)(2) corrected 7986
121 Waiver 42376, 54538
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121.406 (b)(4) corrected 7986
125.3 (b) corrected 7986
125.5 (d)(3) and (o) corrected 7987
125.6 (a)(2) corrected; (c) correctly removed; (d) through (g) correctly designated as (c) through (f) 39305

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302.17 Revised 7982
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303.2 (a) revised 7982
303.3 (a) introductory text and (1) redesignated as (a)(1) and (2); new (a)(2) revised 7982
304.1 (a)(1)(i), (2)(ii), (iii) and (b) revised 7982
305.7 (a) revised 7983
305.8 (b) table amended 7983
305.11—305.13 (Subpart C) Heading added 7983
305.13 Redesignated as 316.11; new 305.13 redesignated from 305.14 7983
305.14 Redesignated as 305.13 7983
305.15 Redesignated as 316.12 7983
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307.12 (c) revised 7983
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307.14 (e) revised 7983
307.16 Introductory text revised 7983
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308.5 (b) revised 7983
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315 Heading revised 7984
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315.5 (b)(2) revised 7984
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11 Nomenclature change 18052
11.17 Added 11262
13 Authority citation revised 67444
13.3 (d) added 54004
13.29 Added 44155
13.301—13.305 (Subpart H) Added; eff. 1-21-97 67444
16 Added 54004
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23.33 (b)(1) and (2) revised 5183
23.45 Revised 5184
23.49 Revised 5184
23.51 Revised 5184
23.53 Revised 5185
23.55 (a) and (b) introductory text revised 5185
23.57 (a) introductory text, (b), (c)(1), (3) introductory text, (4) and (d) revised; (e) added 5185
23.59 Introductory text, (a)(2) and (b) revised 5185

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23.63 Added 5186
23.65 Revised 5186
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23.69 Added 5187
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23.75 Heading, introductory text, (a) introductory text, (b), (d), (e) and (f) revised; (h) removed 5187
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23.143 (a) and (c) revised 5188
23.145 (b) introductory text, (2) through (5), (c) and (d) revised; (b)(6) added 5188
23.147 Revised 5188
23.149 Revised 5189
23.153 Revised 5189
23.155 (b) introductory text and (1) revised; (c) added 5189
23.157 (d) revised 5189
23.161 (a), (b)(1), (2), (c), (d) introductory text and (4) revised; (e) added 5189
23.175 Revised 5190
23.177 Revised 5190
23.201 Revised 5191
23.203 Heading, introductory text, (a), (b) introductory text, (4), (5), (c) introductory text, (1) and (4) revised; (b)(6) and (c)(6) added 5191
23.205 Removed 5191
23.207 (c) and (d) revised; (e) and (f) added 5191
23.221 Revised 5191
23.233 (a) revised 5192
23.235 Revised 5192
23.237 Added 5192
23.253 (b)(1) removed; (b)(2) and (3) redesignated as (b)(1) and (2) 5192
23.301 (d) revised 5143
23.335 (a)(1), (b)(4)(ii) and (d)(1) introductory text revised; (b)(4)(i) amended; (b)(4)(iii) added 5143
23.337 (a)(1) revised 5144
23.341 (a) and (b) redesignated as (b) and (c); new (a) added; new (b) revised; new (c) amended 5144
23.343 Added 5144
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23.347 Existing text designated as (a); (b) added 5144
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23.441 (a)(2) revised; (b) added 5145
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23.497 (c) added 5147
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23.561 (b) introductory text and (d)(1)(i) revised; (e) added 5147
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23.574 Added 5148
23.575 Added 5148
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23.629 (b) and (c) redesignated as (c) and (b); (a) introductory text, new (b) introductory text, new (c) introductory text, (d)(3)(i), (g) and (h) revised; (i) added 5148
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23.673 (a) designation and (b) removed 5148
23.677 (a) revised 5165
23.691 Added 5165
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23.703 Added 5166
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23.775 (d) and (e) redesignated as (e) and (d); (a), (c) and new (e) revised; (h) added 5166
23.777 (c)(2) amended 5136
23.779 (b)(1) table amended 5136
23.783 (b) revised; (g) added 5166
23.785 Introductory text added; (b) and (c) revised 5167
23.787 Revised 5167
23.791 Added 5167
23.807 (a)(4) and (b)(6) added; (b) introductory text and (5) revised 5167
23.841 (a) amended 5167
23.853 Heading revised 5167
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23.865 Revised 5148
23.867 Undesignated center heading and section heading revised 5168
23.901 (d)(1) and (2) revised 5136
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23.929 Amended 5136
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23.963 (b) revised; (e) amended 5136
23.965 (b)(4) and (5) added 253
(b)(3)(i) revised 5136
23.973 (f) revised 5136
23.975 (a)(5) revised 5136
23.979 (b) revised 5137
23.1001 (b)(2) revised 5137
23.1013 (d)(1) amended 5137
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23.1181 (b)(3) added 5138
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23.1303 Introductory text revised; (d) and (e) amended; (f) and (g) added 5168
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23.1307 (a), (b) and (c) designation removed 5168
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23.1311 Revised 5168
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23.1581 (a)(3) and (c) added; (b)(2) introductory text and (d) revised 5193
23.1583 (k), (l) and (m) redesignated as (i), (j) and (k); introductory text, (a)(3) introductory text, (i), (c)(3), (4), (d) through (g), new (i), new (j) and new (k) revised; (c)(5), (6), new (l), new (m), (n), (o) and (p) added 5193
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25.333 Heading and (a) revised; (c) removed 5220
25.335 (d) revised 5220
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25.345 (a) and (c) revised 5221
25.349 Introductory text and (b) revised 5222
25.351 Introductory text revised; (b) removed 5222
25.365 (d) revised 28695
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25.373 (a) revised 5222
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25.445 Heading and (a) revised 5222
25.571 (b)(2) and (3) revised 5222
25.783 (h) revised 57956
25.785 (h)(1) revised 57956
25.807 (a)(1) through (4), (7), (d), (e) and (f) revised; (a)(8), (9), (g), (h) and (i) added 57957
25.810 (a) introductory text, (1) introductory text, (ii), (b), (c)(1) and (d) revised 57958
25.811 (e)(2) introductory text and (4) introductory text revised 57958
25.812 (g)(1)(ii) revised 57958
25.813 (a) introductory text, (1) and (b) revised 57958
25.831 (a) revised; (g) added 28695
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25.841 (a) revised 28696
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27.1 (c) added 21906
27.65 (b)(2) introductory text and (ii) revised 21907
27.561 (b)(3)(v) and (c)(5) added; (c)(2), (3) and (4) revised 10438
27.1141 (c) and (d) redesignated as (d) and (e); new (c) added 21907
27.1151 Added 21907
27 Appendix C added 21907
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29.51 (a) introductory text revised 21899
29.53 Revised 21899
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29.55 Added 21899
29.59 Revised 21899
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29.60 Added 21899
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29.61 Added 21899
29.62 Added 21899
29.64 Added 21900
29.65 (a) revised; (c) removed 21900
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29.81 Added 21900
29.83 Added 21900
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29.85 Redesignated from 29.77 21900
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(c) corrected 33963
29.87 Revised 21901
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29.547 Heading, (a), (c) introductory text, (d) introductory text, (e) introductory text and (1)(ii) revised; (b) added 21907
29.561 (b)(3)(v) and (c)(5) added; (c)(2), (3) and (4) revised 10438
29.610 Heading and (a) revised; (d) added 21907
(d)(3) and (4) corrected 33963
29.629 Revised 21907
29.631 Added 21907
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29.917 (b) redesignated as (c); new (b) added 21908
29.923 (b)(3)(i) revised 21908
29.1305 (a)(6) through (25) redesignated as (a)(7) through (26); new (a)(6) added 21908
(a)(13) corrected 43952
29.1309 (h) revised 21908
29.1323 (b)(2)(ii) revised 21901
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29.1587 (a)(4), (5) and (b)(3) revised; (a)(6) added 21901
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29 Appendix E amended 21908
31.47 Heading, (a) and (d) revised 18223
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33 Special FAA conditions 16375
33.7 (c)(1)(viii) redesignated as (c)(1)(x); new (c)(1)(viii) and (ix) added; new (c)(1)(x) revised 31328
33.29 (c) added 31328
33.63 Revised 28433
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399 Authority citation revised.....29019
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399.102 Removed.....17565

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1215 Appendix A revised.....46713
1260 Revised; interim.....38059
1274 Added 13398

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6 Added.....55093

24 Announcement 26095

25 Authority citation revised 55094

25.3 (a)(1)(iv) and (b)(1)(ii) revised.....55094

28 Authority citation revised 55095

28.400 (a), (b) and (e) revised 55095

28 Appendix A amended.....55095

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30.80 Added 15698

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280 Added.....50558

Chapter III—International Trade Administration, Department of Commerce (Parts 300—399)

303 Authority citation revised.....55884

303.1 (a) amended 55884

303.2 (a)(1) amended; (a)(13) and (b)(3) revised.....55884

(b)(4) removed; (b)(5) and (6) redesignated as (b)(4) and (5) 55885

303.6 (f) introductory text amended; (f) concluding text removed.....55885

303.7 (b) revised.....55885

303.8 (c)(2) revised 55885

303.10 Removed 55885

303.11 Removed 55885

303.12 (b)(3) introductory text, (c)(1) and (2) amended.....55885

303.14 (b) heading, (1) and (3) revised; (b)(4) added; (c)(1)(iv), (2) and (e) amended; (c)(3) removed.....55885

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Chapter VII—Bureau of Export Administration, Department of Commerce (Parts 700—799)

730 Added.....12734

Compliance date extension 55741

Authority citation revised 68577

730.5 (d) amended; interim.....68577

732 Added.....12740

Compliance date extension 55741

Authority citation revised 68577

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732.2 (f)(1)(ii) amended 64274
(b) introductory text and (d) introductory text amended; interim 68577
732.3 (f)(1)(ii) amended 64274
(e)(2) amended; interim 68577
732.4 (b)(3)(iii) revised 64274
732.5 (a)(2) revised 64274
734 Added 12746
Compliance date extension 55741
Authority citation revised 68577
734.2 (b)(1) and (2) introductory text revised; (b)(9) added; interim 68578
734.3 (b)(3)(i) through (iv) redesignated as (b)(3)(i)(A) through (D); new (b)(3)(ii) added; interim 65464
(b)(3) revised; note added; interim 68578
734.4 (b) through (f) redesignated as (c) through (g); new (b) and (h) added; interim 54543
(b) and (h) revised; interim 65464, 68578
734.5 (c) added; interim 68578
734.7 (b) revised; interim 65464
(b) revised; (c) added; interim 68578
734.8 (a) amended; interim 68579
734.9 Revised; interim 68579
734 Supplement No. 1 amended; interim 68579
736 Added 12754
Compliance date extension 55741
Authority citation revised 68577
736.2 (b)(3)(ii)(A)(*1*) and (B)(*1*) revised 64274
(b)(7) revised; interim 68579
738 Added 12756
Compliance date extension 55741
Authority citation revised 68577
738.2 (d)(2)(i)(A) amended; interim 68579
740 Added 12768
Compliance date extension 55741
Authority citation revised 68577
740.1 (c) and (d)(1) revised 64274
740.2 (a)(5) and (6) revised 64274
740.3 Revised 64274
740.4 Redesignated as 740.8 64274
Added 64275
740.5 Redesignated as 740.9 64274
Added 64275
740.6 (b)(2)(iii)(A), (B), (C), (iv)(A), (B) and (C) redesignated as (b)(2)(iii)(B), (C), (D), (iv)(B), (C) and (D); new (b)(2)(iii)(A) and new (iv)(A) added; interim 54543
Redesignated as 740.10 64274
Added 64275
740.7 Redesignated as 740.11 64274
Added 64276
(a), (b)(2), (c)(2), (d)(2) and (e) revised 67449
740.8 Redesignated as 740.12; new 740.8 redesignated from 740.4 64274
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740.9 Redesignated as 740.13; new 740.9 redesignated from 740.5 64274
Revised 64279
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(c)(3) revised; interim 68580
740.10 Redesignated as 740.14; new 740.10 redesignated from 740.6 64274
Revised 64281
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740.11 Redesignated as 740.15; new 740.11 redesignated from 740.7 64274
Revised 64282
Redesignated as 740.12; new 740.11 redesignated from 740.10; interim 68579
(b)(2)(iii) and (iv) revised; interim 68580
740.12 Redesignated from 740.8 64274
(d)(2) redesignated as (d)(3); new (d)(2) added; interim 65464
Redesignated as 740.13; new 740.12 redesignated from 740.11; interim 68579
740.13 Redesignated from 740.9 64274
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740.14 Redesignated from 740.10 64274
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Redesignated as 740.15; new 740.14 redesignated from 740.13; interim 68579
740.15 Redesignated from 740.11 64274
Redesignated as 740.16; new 740.15 redesignated from 740.14; interim 68579
740.16 Redesignated from 740.15; interim 68579
742 Added 12786
Compliance date extension 55741
Authority citation revised 68577
742.4 (a) amended 64283
742.12 (a)(1) and (2) amended 64283
742.14 Added; interim 54543
742.15 Added; interim 65464
Revised; interim 68580
742 Supplements 4 and 5 added; interim 65465
744 Added 12802
Compliance date extension 55741
Authority citation revised 68577
744.2 (c) revised 64284
744.9 Added; interim 68584
746 Added 12806
Compliance date extension 55741
746.2 (a)(1) revised 64284
746.3 (a)(1) revised 64284
746.4 (b) revised 64284
746.5 (a)(1) and (b)(1) revised 64284
748 Added 12812
Compliance date extension 55741
Authority citation revised 68577
748.3 (b)(3) added; interim 68585
748 Supplements No. 2 and 5 amended 64285
750 Added 12829
Compliance date extension 55741
Authority citation revised 68577
750.3 (b)(2)(v) added; interim 68585
750.7 (h)(2) revised 64285
752 Added 12835
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752.3 (a)(7) and (8) redesignated as (a)(9) and (10); new (a)(7) and new (8) added; interim 54543
752.5 (c)(8)(i) introductory text revsed 64285
754 Added 12844
Compliance date extension 55741
754.2 (a) and (c)(1)(i) amended; (j) added 27257
756 Added 12851
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758 Added 12852
Compliance date extension 55741
758.1 (d)(2)(vi) amended 64285
758.3 (d)(2) revised 27257
(h)(2) introductory text amended; (m)(3)(ii)(C) introductory text revised 64285
758.6 (a)(1)(ii) revised 64285
760 Added 12862
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762 Added 12900
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762.2 (b)(26) through (34) redesignated as (b)(27) through (35); new (b)(26) added 27258
(b)(6) through (35) redesignated as (b)(7) through (36); new (b)(6) added; interim 65466
764 Added 12902
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766 Added 12907
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768 Redesignated as Part 768A 12734
Added 12915
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Authority citation revised 68577
768.1 (b) revised; interim 68585
768.3 (a) amended; interim 68585
768A Redesignated from Part 768; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
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769 Redesignated as Part 769A 12734
Authority citation revised 14244
769 Supplement No. 17 added 14244
769A Redesignated from Part 769; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
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770 Authority citation revised 2102
Redesignated as Part 770A 12734
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770.2 Amended; interim 2102
(l) added 67450
770.3 (d)(1)(i)(B), (ii) and (2)(ii) revised 64286
770A Redesignated from Part 770; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734

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771 Authority citation revised 2102
Redesignated as Part 771A 12734
771.14 (d)(2) amended; interim 2102
771.22 (c)(2)(i) removed; interim 2102
771.24 (b) and (c) revised; interim 3558
771.26 (b) revised; interim 2102
771.28 Added; interim 2102
(a) and (d)(1) amended 5678
771A Redesignated from Part 771; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
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771A.14 (d)(4) added; interim 54543
771A.25 (d) removed 12734
772 Redesignated as Part 772A 12734
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772.11 (k)(1)(i), (ii), (l)(1)(i) and (ii) amended; interim 2103
772A Redesignated from Part 772; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
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773 Supplement No. 1 amended; interim 2103
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773A Redesignated from Part 773; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
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774 Authority citation revised 2102, 68577
Redesignated as Part 774A 12734
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774.2 (a)(1), (k)(1)(i) and (m) revised 2103
774.3 (b)(3)(i) amended; interim 2103
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774 Supplement No 1, Category 1 amended (ECCN 1C991) 41327
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774A Redesignated from Part 774; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
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775 Redesignated as Part 775A 12734
775.1 (a) amended; interim 2104
775.2 (a)(1) and (2) amended; interim 2104
775.3 (a)(1) amended; interim 2104
775.7 (a)(2)(iii) removed; interim 2104
775.10 (f)(1) removed; (g)(1)(i), (ii), (2)(i)(A) and (B) revised; interim 2104
775A Redesignated from Part 775; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
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776 Redesignated as Part 776A 12734
776.10 (a)(1) amended; (d) through (m) added; interim 2104
(f)(1) amended 5678
776.11 Removed; interim 2108
776.12 (b) introductory text revised; interim 2108
776A Redesignated from Part 776; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
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776A.2 Added; interim; eff. 10–21–96 through 11–1–96 54545
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777 Redesignated as Part 777A 12734

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777A Redesignated from Part 777; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
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778 Redesignated as Part 778A 12734
778A Redesignated from Part 778; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
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779 Redesignated as Part 779A 12734
779A Redesignated from Part 779; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
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785 Redesignated as Part 785A 12734
785.4 (d)(1)(xxxiii) amended; interim 2109
(b) added 8471
785A Redesignated from Part 785; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
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786 Authority citation revised 2102
Redesignated as Part 786A 12734
786.6 (a)(2) and (c)(2) revised; interim 2109
786A Redesignated from Part 786; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
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787 Authority citation revised 2102
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787.13 (c) amended; interim 2109
787A Redesignated from Part 787; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
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788 Redesignated as Part 788A 12734
788A Redesignated from Part 788; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
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789 Redesignated as Part 789A 12734
789A Redesignated from Part 789; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
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790 Redesignated as Part 790A 12734
790A Redesignated from Part 790; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
Removal at 61 FR 12734 eff. 12–31–96 55741
791 Redesignated as Part 791A 12734
791A Redesignated from Part 791; nomenclature change; eff. 4–24–96; removed; eff. 11–1–96; interim 12734
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799 Authority citation revised 2102
Redesignated as Part 799A 12734
799.1 Supplement No. 1, Category 4 amended; interim (ECCN 4A01A, 4A02A, 4A94F, 4D01A, 4D02A, 4D94F, 4E01A, 4E94F and 4A03A) 2109
Supplement No. 1, Category 1 amended; interim (ECCN 1A46B, 1B50B, 1B51B, 1B52B, 1B53B, 1B54B, 1B58B, 1C19A, 1C50B, 1C54B, 1C55B, 1C58B, 1E41B, 1B16A, 1B17A, 1C01A, 1D01A, 1E01A, 1E19A, 1B55B and 1B57B) 3558
Supplement No. 1, Category 2 amended; interim (ECCN 2A48B, 2A49E, 2A50B, 2A52B, 2B01A, 2B08A, 2B41B, 2B50B, 2D01A, 2D49E, 2D50B, 2E49E, 2E50B, 2A19A, 2B06A, 2B07A, 2B09A, 2D19A, 2E01A, 2E02A, 2E03A and 2E19A) 3562
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799A Redesignated from Part 799; nomenclature change; eff. 4-24-96; removed; eff. 11-1-96; interim 12734
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799A.1 Supplement No. 1, Category No. 1 amended (ECCN 1B71E, 1C61B and 1C91F) 41328
Supplement No. 1, Category 9 amended; interim (ECCN 9A04A and 9E03A); eff. 10-21-96 through 11-1-96 54546

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902 Technical correction 66077
902.1 (b) table amended (OMB numbers) 11132, 11752, 14468, 15887, 19171, 21932, 26436, 29631, 31230, 32540, 34572, 34934, 34967, 35150, 35550, 38359, 43424, 43955, 51214, 56126, 56429, 58463
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(b) table corrected (OMB numbers) 64495
904 Authority citation revised 54731
904.210 Revised 54731
904.212 Revised 54731
904.240 (f)(5) revised; (f)(6) removed 54731
904.250 (c) revised 54731
922.30—922.51 (Subpart D) Appendix D amended 14964
922.110—922.112 (Subpart K) Appendix A revised 51577
922.131 Amended; eff. 1-21-97 66917
922.132 (a)(10) added; eff. 1-21-97 66917
923 Heading revised 33804
Authority citation revised 33804
923.1—923.3 (Subpart A) Revised 33805
923.10—923.13 (Subpart B) Revised 33806
923.12 (b) correctly designated 36965
923.13 (b) correctly designated 36965
923.20—923.25 (Subpart C) Revised 33806
923.25 (a) corrected 36965
923.30—923.34 (Subpart D) Revised 33808
923.40—923.48 (Subpart E) Revised 33809
923.50—923.58 (Subpart F) Revised 33812
923.60 (Subpart G) Revised 33815
923.80—923.84 (Subpart H) Revised 33815
923.81 (b)(2) corrected 36965
923.83 Correctly designated 36965
923.84 (b)(5)(i) correctly designated 36965
923.90—923.96 (Subpart I) Revised 33816
923.90—923.98 (Subpart J) Removed 33804
923.110 (Subpart J) Redesignated from Part 927 33818
923.121—923.128 (Subpart K) Redesignated from Part 932 33818
923.121 (a) and (b) amended; (h) revised 33818
923.123 (a) amended 33818
(b), (d) and (e) amended 33819
923.124 (d)(1)(i), (iii), (3), (e) and (f) amended 33819
(d)(1)(i) corrected 36965
923.125 (a)(1)(ii), (v), (b)(2)(ii), (iii) and (c) amended 33819
923.126 (a), (b)(1)(iii), (4), (7), (8), (c)(3), (4) and (5) amended 33819
923.127 (a), (b), (c) and (e) amended 33819
923.131—923.135 (Subpart L) Redesignated from Part 928 33818
923.131 Amended 33818
923.133 (b)(9), (c)(2) and (d)(2) amended 33818
(c)(2) corrected 36965
923.134 (b)(3) amended 33818
923.135 (a)(2)(i), (ii), (3)(i)(G) and (b)(2) amended 33818
927 Redesignated as 923.110 (Subpart J) 33818
928 Redesignated as 923.131—923.135 (Subpart L) 33818
932 Redesignated as 923.121—923.128 (Subpart K) 33818
933 Removed 33819
946 Appendix A amended 39865, 53311
Appendix B added 39867
981 Removed 21074
990 (Subchapter E) Added 500
Notice 58131

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TITLE 15

Chapter XII—United States Travel and Tourism Administration, Department of Commerce (Parts 1200—1299)

Chapter XII Removed 30509

Chapter XX—Office of the United States Trade Representative (Parts 2000—2099)

2011 Regulation at 55 FR 40648 confirmed 26784
Authority citation revised 26784
2011.101 Revised 26784
2011.102 (g) through (m) redesignated as (h) through (n); new (g) added; (a), (c), (e), (f) and new (j), (k), (l) and (n) revised 26784
2011.103 (a) and (b)(3) revised 26784
2011.104 (a) revised 26784
2011.105 (b) revised 26784
2011.107 (b) introductory text revised 26784
2011.109 (a) revised 26784
2011.201 Revised 26785
2011.202 (g) removed; (h), (i) and (j) redesignated as (g), (h) and (i); (b), (c), (f), new (g) and (i) revised; new (j) added 26785
2011.203 (a) and (c) revised 26785
2011.204 Revised 26785
2011.206 (c) revised 26785
2011.207 (a) revised 26785
2011.208 Added 26785
2011.301—2011.306 (Subpart C) Removed 26785

Chapter XXIII—National Telecommunications and Information Administration, Department of Commerce (Parts 2300—2399)

2301 Revised 57973
2301.4 (b)(2) corrected 64948

Proposed Rules:

4 6585
4a 6585
4b 6585
30 36318
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254 14685
303 ..... 37845, 60154
406 14686
700—799 (Ch. VII) 51395
700 14688
701 14688
702 14688
801 54109
922 ..... 5335, 5969, 33876
923 9746
926 9746
927 9746
928 9746
932 9746
933 9746
946 ..... 19594, 28804
981 2969
2301 27230

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission (Parts 0—999)

Chapter I Determination 32323
1.97 Introductory text amended 54548
1.98 (Subpart L) Added 54549
2.8 (b) amended; interim 50645
2.9 (b)(4) and (6) amended; (b)(5) revised; interim 50645
2.15 (b) amended; interim 50645
2.34 Amended 50431
3.11A Added; interim 50645
3.12 (a) introductory text revised; interim 50646
3.21 (a) through (d) revised; (e) redesignated as (g); new (e) and (f) added; interim 50646
3.22 (a) and (d) revised; (e) and (f) amended; interim 50647
3.24 (a)(1) revised; (a)(2) amended; interim 50647
3.25 (f) amended 50431
(b) amended; interim 50647
3.31 (b) through (e) redesignated as (c), (d), (f) and (g); (a), new (c)(3) and new (d)(1) amended; new (b) and new (e) added; new (c)(1), new (2), new (4)(i) introductory text, new (iii) and new (g) revised; interim 50647

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3.33 (a) and (e) introductory text revised; (b) removed; (c) amended; interim 50648
3.34 (a), (b) and (c) heading revised; (c) amended; interim 50648
3.35 (a)(1) and (2) amended; (b)(1) revised; interim 50649
3.36 Revised; interim 50649
3.37 Revised; interim 50649
3.38 Heading and (a) revised; interim 50649
3.38A (a) amended; interim 50650
3.43 (b) revised; interim 50650
3.44 (c) added; interim 50650
3.45 (f) added; interim 50650
3.46 (a) amended; interim 50650
3.51 (a) and (c)(1) revised; interim 50650
3.55 Amended; interim 50650
4.2 (c) and (e)(1) amended; interim 50650
19 Removed 27222
21 Removed 59182
22 Removed 3800
23 Revised 27212
24 Added 51583
260.1 Revised 53316
260.2 Revised 53317
260.3 Revised 53317
260.4 Revised 53317
260.5 Revised 53317
Corrected 67109
260.6 Revised 53317
260.7 (a), (b) and (e) through (h) revised 53318
Introductory text and (b)(2) Example 4 corrected 67109
260.8 Revised 53320
301.1 (a)(2) revised 67709
301.12 (e)(1) revised 67709
301.19 (i)(1), (2), (3), (k) and (l)(2) revised 67709
301.27 Revised 67710
301.43 Revised 67710
303.7 (d) revised 16387
303.10 (b) revised 11544
303.21 (a)(1) revised 11544
303.32 Revised 11544
303.45 (a)(1)(xv) revised 11544
305 Energy efficiency ranges 55563
305.4 (a) introductory text and (b) introductory text revised 54549
305.9 (a) revised 5680
305.11 (a)(5)(i)(K), (ii)(I), (iii)(H)(*1*) revised 33653
305 Appendix F revised 29940
Appendixes C and D4 revised; Appendix H amended 48622
Appendix I amended 48623
306.1 Amended 54549
Corrected 55840
307.12 (b) revised 45886
405 Removed 25561
406 Removed 55097
409 Removed 33313
419 Removed 68144
460 Authority citation revised 13665, 54549
460.1 Amended 54549
Corrected 55840
460.5 Introductory text, (a) introductory text, (2), (b), (d) introductory text and (1) revised 13665
460.10 Revised 13666
460 Appendix removed; new Appendix added 13666
801.15 (a)(2), (b) and Example 4 revised; Example 5 through Example 8 added 13684
802.1 Revised 13684
802.2 Added 13686
802.3 Added 13688
802.4 Added 13688
802.5 Added 13688

Chapter II—Consumer Product Safety Commission (Parts 1000—1799)

1000.12 Revised 1707
1000.21 Amended 1708
1000.26 Revised 1707
1000.27 Revised 1708
1000.29 Revised 1708
1000.30 Removed 1708
1000.32 Revised 1708
1010 Removed 29647
1019 Revised 29647
1020 Added 52878
1030 Authority citation revised 65458
1030.101 (Subpart A) Added 65458
1030.402—1030.408 (Subpart D) Removed 65459
1500 Authority citation revised 19829
Effective date affirmation 26096
1500.14 (b)(6)(i) and (ii) redesignated as (b)(6)(i)(A) and (B);

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new (b)(6)(i)(A) and (B) amended; new (b)(6)(ii) added; eff. 11–3–97 19829
(b)(6)(i)(A), (ii)(A) and (B) corrected 33175
1500.17 (a)(12) added; eff. 3–26–97 13095
(a)(12)(i) correctly revised 18245
1500.132 Removed 54551
1507 Effective date affirmation 26096
Authority citation revised 67200
1507.3 (a)(2) amended (effective date pending) 67200
1507.12 Added; eff. 3–26–97 13096
1615 Stay of enforcement 47412
1615.1 (a) revised; (c) through (m) redesignated as (d) through (n); new (c) and (o) added 47644
1615.5 (b) removed 1116
1615.31 (b)(3), (c) and (d) removed 1116
1616 Stay of enforcement 47412
1616.2 (a) revised; (m) added 47646
1616.6 (b) removed 1117
1616.31 (b)(6) and (c) removed 1117
1700.14 (a)(25) reinstated; CFR correction 40317

Proposed Rules:

0—999 (Ch. I) 1538, 68173
21 10708
23 ....27224, 43500
253 55589
254 19869
300 67739
301 67748
303 ....5340, 35992
305 6801
405 8499
406 39101
409 4382
419 29039
436 5969
1210 20503
1507 41043
1508 65996
1509 65996
1700 59043

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TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Futures Trading Commission (Parts 1—199)

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1 Fee schedules 19830
Clarification 50431
1.12 (b)(2) amended; (b)(3) redesignated as (b)(4); new (b)(3), (f)(4) and (5) added; (g) introductory text, (1) and (2) revised 19185
1.17 (e)(1)(ii), (h)(2)(vi)(C)(*2*), (vii)(A)(*2*), (B)(*2*), (viii)(A)(*2*) and (3)(ii)(B) amended; (e)(1)(iii), (h)(2)(vi)(C)(*3*), (vii)(A)(*3*), (B)(*3*), (viii)(A)(*3*), (3)(ii)(C), (v)(C) and (D) redesignated as (e)(1)(iv), (h)(2)(vi)(C)(*4*), (vii)(A)(*4*), (B)(*4*), (viii)(A)(*4*), (B)(*4*), (viii)(A)(*4*), (3)(ii)(D), (v)(D) and (E); (a)(1), (c)(5)(xiii), new (h)(2)(vii)(A)(*4*) and new (B)(*4*) revised; new (e)(1)(iii), (h)(2)(vi)(C)(*3*), (vii)(A)(*3*), (C), (viii)(*3*), (3)(ii)(C) and (v)(C) added 19186
1.35 (d)(7) revised 43001
1.58 Revised 19187
3 Technical correction 26253
3.34 (b)(3)(ii) removed; (b)(3)(iii) introductory text and (A)(*3*) revised 20131
3 Appendix A amended 58628
4 Interpretation 42146
Comment period extension 54731
Technical correction 56271
Interpretation 65940
5 Fee schedules 19830
10.84 (b) amended 21954
10.102 (e)(2) amended 21954
30 Appendix C amended 64989
31 Fee schedules 19830
140.20 (a) amended 21955
140.24 (a)(6) amended 21955
140.735–8 (a)(3), (c)(2), (e) and (f) amended 21955
143 Authority citation revised 55566
143.1 Revised 55566
143.8 Added 55566
156.4 Added 41498

Chapter II—Securities and Exchange Commission (Parts 200—399)

200.30–4 (a)(11) added 20721
200.30–5 (a)(8)(ii)(B) amended 49011
200.30–7 (a)(3) corrected 15338
200.30–14 (k) added 56892
200.80 (c)(3) added 24654
201 Technical correction 59930
201.1001 (Subpart E) Added 57774
202.3a Introductory text amended 49959
210.3–16 Removed 30401
210.4–05 Removed 30401
210.4–06 Removed 30401
210.4–10 (b) revised; (c) through (h) removed; (i) and (j) redesignated as (c) and (d) 30401
210.03–05 (a)(3) and (b) revised 54514
210.11–01 (b) and (c) revised 54514
211 Staff Accounting Bulletin No. 97 added 40721
228.310 (c) and (d)(1) revised; (d)(2) removed; (d)(3) redesignated as (d)(2) 54515
228.405 (a) amended; (a)(1) and (2) revised 30391
228.502 (a)(2) revised 24654
228.601 (c)(1)(vi) Note 1 and Note 2 amended 24654
Table amended; (b)(7), (14) and (28) removed 30401
228.701 (e) added 54508
229.405 (a)(1) and (2) revised 30391
229.501 (b) removed; (c) redesignated as (b); new (b)(8) amended 30401
229.502 (a)(2) revised 24654
229.601 (c)(1)(vi) Note 1 and Note 2 amended 24654
Table amended; (b)(6), (7), (14) and (28) removed 30401
229.701 (e) added 54508
229.801 (a) removed 30401
229.802 (a) removed 30401
230.111 (a) amended 49959
230.120 Revised 24654
230.144 (a)(3)(iv) amended; (a)(3)(v) added 21359
230.148 Removed 30401
230.236 (a) and (c)(4) amended 49959
230.252 (h)(2) revised 30401
(f) removed 49959
(e) revised; (h)(1) amended 67202

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230.253 (b) redesignated as (b)(1); (b)(2) added 24654
230.254 (b)(1) amended 67202
230.255 (a)(1) amended 67202
230.256 Introductory text amended 67202
230.257 Introductory text amended 67202
230.259 (a) amended 67202
230.300—230.346 Undesignated center heading removed 30402
230.300 Removed 30402
230.302 Removed 30402
230.304 Removed 30402
230.306 Removed 30402
230.310 Removed 30402
230.312 Removed 30402
230.314 Removed 30402
230.316 Removed 30402
230.318 Removed 30402
230.320 Removed 30402
230.322 Removed 30402
230.324 Removed 30402
230.326 Removed 30402
230.328 Removed 30402
230.330 Removed 30402
230.332 Removed 30402
230.334 Removed 30402
230.336 Removed 30402
230.338 Removed 30402
230.340 Removed 30402
230.342 Removed 30402
230.344 Removed 30402
230.346 Removed 30402
230.402 (a) and (c) amended; (e) revised 30402
230.406 Note redesignated as Note 1; Note 2 added; (a) amended; (j) removed 30402
230.420 Existing text designated as (a); (b) added 24655
230.445—230.447 Undesignated center heading removed 30402
230.445 Removed 30402
230.446 Removed 30402
230.447 Removed 30402
230.464 Heading revised; introductory text and (b) amended 30402
230.471 Existing text designated as (a); (b) added 30402
230.472 (b) amended 30402
230.473 (c) and (d) amended 30402
230.481 (h) added 24655
230.482 (a)(6) note added; (a)(7) note removed 24655
230.504 (b)(1) revised 30402
230.604 (a) amended 49959
230.605 (c) redesignated as (c)(1); (c)(2) added 24655
230.651 Undesignated center heading and section removed 30402
230.652 Removed 30402
230.653 Removed 30402
230.654 Removed 30402
230.655 Removed 30402
230.656 Removed 30402
230.702(T) Removed 30402
230.703(T) Removed 30402
230.902 (a)(1) amended 30402
230.1001 Undesignated center heading and section added 21359
231 Interpretive releases 24651
232.101 (c)(7) removed; (c)(8) through (20) redesignated as (c)(7) through (19); eff. 5-5-97 67202
232.301 Revised 52284
232.304 Heading, (a), (b)(1) and (c) revised 24655
232.311 (c) removed; (d) through (i) redesignated as (c) through (h) 30402
239.9 Form SB-1 amended 67202
239.10 Form SB-2 amended 67202
239.14 Form N-2 amended 24658, 49961
239.15A Form N-1A amended 24657, 49016, 49017, 49961
239.17a Form N-3 amended 24658, 49961
239.17b Form N-4 amended 24658, 49961
239.23 Form N-14 amended 49011
239.25 Form S-4 amended 54516
239.34 Form F-4 amended 54516
239.36 Form F-6 amended 30403
239.37 Form F-7 amended 24655, 30403
239.38 Form F-8 amended 24655, 30403
239.39 Form F-9 amended 24656, 30403
239.40 Form F-10 amended 24656, 30403
239.41 Form F-80 amended 24656, 30403
239.90 Form 1-A amended 67203
239.91 Form 2-A amended 67203
239.101 Removed 30403
239.300 Removed 30403
239.701 Removed 30403
240 Phase-in period extension 30396
Authority citation amended 48328
Revised compliance dates 63709
240.0-9 Revised 49959
240.0-11 (c)(1)(ii) revised 49959
240.11Aa3-1 (a)(4) revised 48328
240.11Ac1-1 Revised 48328

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240.11Ac1–4 Added 48331
240.12b–7 Removed 49959
240.12b–11 (b) amended; (d) revised 30403
240.12b–12 (e)(3) amended 24656
240.12g–1 Amended 21356
240.12g–4 (a)(1)(ii) and (2)(ii) amended 21356
240.12h–3 (b)(1)(ii) and (2)(ii) amended 21356
240.13a–1 Amended 49959
240.13a–13 Heading and (c) revised 30403
240.13a–17 Removed 30403
240.13d–7 Removed 49959
240.13d–101 Amended 49959
240.13d–102 Amended 49959
240.13e–3 (e)(3) amended 24656
240.13e–4 (e)(1)(ii)(A) revised 24656
(h)(5) revised 68589
240.13e–102 Amended 24656
240.14a–3 (b)(2) redesignated as (b)(2)(i); (b)(2)(ii) added 24656
240.14a–5 (d) redesignated as (d)(1); (d)(2) added 24656
240.14a–6 (i) revised 49960
240.14a–7 Note added 24657
240.14a–101 Amended 49960
240.14c–4 (d) added 24657
240.14c–5 (g) revised 49960
240.14c–7 (c) revised 24657
240.14c–101 Amended 49960
240.14d–1 (d) revised 30403
240.14d–5 Authority citation removed 24656
Note added 24657
240.14d–102 Amended 24657
240.14d–103 Amended 24657
240.15d–1 Amended 49960
240.15d–13 Heading and (c) revised 30403
240.15d–17 Removed 30404
240.16a–1 (a)(3) and (c)(3) revised; (c)(5) and (6) amended; (c)(7) added 30391
240.16a–2 (b) and (d)(2) revised 30392
240.16a–3 (f)(1)(i) and (g) revised; (f)(1)(ii) and (iii) redesignated as (f)(1)(iii) and (iv); new (f)(1)(ii) and (j) added 30392
(i) revised 30404
240.16a–4 (b), (c) and (d) revised 30392
240.16a–6 (a) revised; (c) removed 30392
240.16a–8 (a)(1) revised; (b)(3) note added 30392
240.16a–9 (a) revised 30393
240.16a–11 Added 30393
240.16a–12 Added 30393
240.16a–13 Added 30393
240.16b–1 (c) removed 30404
240.16b–2 Removed 30393
240.16b–3 Revised 30393
240.16b–4 Removed 30404
240.16b–6 (b) note added 30394
240.24b–2 Note added; (g) removed 30404
240.31–1 Note and (f) revised; eff. 1–1–97; revised; eff. 9–1–97; note revised; eff. 10–1–97 68594
241 Interpretive releases 24651
249.103 Form 3 amended 30394
249.104 Form 4 amended 30394
249.105 Form 5 amended 30395
249.240 Form 40–F amended 49960
249.308 Form 8–K amended 54508, 54516
249.308a Form 10–Q amended 54509
249.308b Form 10–QSB amended 54509
249.310 Form 10–K amended 30404, 54509
249.310b Form 10–KSB amended 54509
249.310c Removed 30404
249.323 (a) amended 21356
249.330 Form N–SAR amended 49961
249.501 Form BD revised 37361
Regulation at 61 FR 37361 compliance date suspended 47412
250.1 (d) removed 49961
250.94 (b) removed 49961
250.106 Removed 49961
250.107 Removed 49961
259.404 Form U–7D amended 49961
270.0–5 (d) removed 49961
270.0–8 Revised 49961
270.2a–7 Regulation at 61 FR 13976 compliance date suspended 42786
270.2a41–1 Regulation at 61 FR 13982 compliance date suspended 42786
270.6c–10 Revised 49016
270.8b–6 Removed 49961
270.8b–12 (f) added; authority citation removed 24657
270.11a–3 (a)(3) revised 49016
270.12b–1 (b)(1) revised 49011
270.12d3–1 Regulation at 61 FR 13982 compliance date suspended 42786

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270.17f-6 Added 51212
270.24e-2 (a) revised 68595
270.24f-2 (a)(3) removed; (a)(4) redesignated as (a)(3); new (a)(3) revised 49961
270.30a-1 Amended 49961
270.30b1-1 Amended 49961
270.30b1-3 Amended 49961
270.30d-1 (c), (d)(2) and (e) amended 24657
270.30d-2 Amended 24657
270.31a-1 Regulation at 61 FR 13983 compliance date suspended 42786
271 Interpretive releases 24651
274.11A Form N-1A amended 24657, 49016, 49017, 49961
274.11a-1 Form N-2 amended 24658, 49961
274.11b Form N-3 amended 24658, 49961
274.11c Form N-4 amended 24658, 49961
274.101 Form N-SAR amended 49961
275.0-5 (d) removed; (e) redesignated as (d) 49962
275.203-3 Removed 49962
275.204-1 (c) stayed 68173
276 Interpretive releases 24651
279.3 Stayed 68173

Chapter IV—Department of the Treasury (Parts 400—499)

400 Authority citation revised 48348
400.1 (e) added 48348
420 Added 48348
420.4 (a)(3) corrected 52498
420.5 Corrected 52498, 53996
420 Appendix B corrected 52498

Proposed Rules:

1 ..... 19869, 28806, 55235, 59386, 66241, 68175
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5 ..... 59386, 68175
15 37409
16 37409
17 37409
18 37409
19 37409
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147 66949
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210 ..... 16674, 45730
228 ..... 16672, 16674, 17108, 47706, 65440
229 ..... 16672, 16674, 17108, 65440
230 ..... 25601, 30405, 43400, 47706, 54518, 65440, 66621
232 ..... 44249, 59046, 65440
239 ..... 16674, 30405, 47706, 65440, 66621
240 ..... 16674, 17108, 18306, 25601, 30405, 36521, 37701, 43400, 44249, 45730, 47706, 48333, 54518, 55593, 59046, 65440
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249 ..... 16672, 16674, 30405, 37701, 47706, 65440
250 ..... 25601, 43400
270 ..... 25601, 43400, 49022, 66621, 68100
274 ..... 30405, 66621
275 ..... 25601, 43400, 68503
279 68503
300 56485

TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Energy Regulatory Commission, Department of Energy (Parts 1—399)

2.26 Added 68606
3c Revised 43415
11 Appendix A revised 58470
35 Notice 30509, 31394
35.15 Revised 21692
35.26 Added 21692
35.27 Added 21693
35.28 Redesignated as 35.29 21692
Added 21693
35.29 Redesignated from 35.28 21692
37 Added 21764
Comment request 30804
141 FERC Form No. 1 amended 49662
154 Clarification 38565
161.3 (h)(2) amended 39068
250.16 (c)(2) amended 39068
284 Clarification 19832
Order 40962, 55208
284.8 (b)(3) revised; (b)(4) and (5) removed; (b)(6) redesignated as (b)(4) 39068
284.9 (b)(3) revised; (b)(4) removed; (b)(5) redesignated as (b)(4) 39068
284.10 Added 39068
346.1 Introductory text revised 38569
346.2 Introductory text revised 38569

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365.2 (b)(2) revised 57327
365.5 Redesignated as 365.6 57327
Added 57328
365.6 Redesignated as 365.7; new 365.6 redesignated from 365.5 57327
365.7 Redesignated as 365.8; new 365.7 redesignated from 365.6 57327
365.8 Redesignated from 365.7 57327
375.309 (g) revised 57328
381.302 (a) amended 40723
381.303 (a) amended 40723
381.304 (a) amended 40723
381.305 (a) amended 40723
381.403 Amended 40723
381.505 (a) amended 40723
381.801 Amended 40723
385 Notice 30509, 31394
385.2011 (b)(5) amended 21695

Chapter XIII—Tennessee Valley Authority (Parts 1300—1399)

1300 Revised 20118
1303.2 Corrected 54849
1315 Authority citation revised 55098
1315.400 (a) and (b) amended 55098

Proposed Rules:

4 64031
35 ..... 17263, 21847, 38663, 41759
161 19211
204 41046
250 19211
284 ..... 19211, 58790
346 19878
375 64031
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TITLE 19—CUSTOMS DUTIES

Chapter I—United States Customs Service, Department of the Treasury (Parts 1—199)

10 Authority citation amended 24887, 28955
Technical correction 33845, 41737
10.22 Removed 28955
10.62 (c)(2) amended 31395
10.301 Revised 19835
10.321 Undesignated center heading and section removed 24888
10.322 Removed 24888
10.323 Removed 24888
12 Authority citation amended 24889, 33845, 43961
Technical correction 41737
12.73—12.74 Undesignated center heading revised 43961
12.74 Added 43961
12.130 Regulation at 59 FR 113 confirmed 28955
12.140—12.143 Authority citation and undesignated center heading removed 28500
12.140 Removed 28500
12.141 Removed 28500
12.142 Removed 28500
12.143 Removed 28500
12.150 Undesignated center heading and section added 24889
101.3 (b)(1) table amended 43429, 49059, 51363
102 Regulation at 59 FR 113 confirmed 28955
Policy statement 32924
102.0 Revised 28955
102.1 Revised 28955
102.11 Revised 28956
102.13 Revised 28956
102.14 Removed 28955
102.15 Revised 28956
102.16 Removed 28955
102.17 Revised 28956
102.18 Revised 28957
102.19 Revised 28957
102.20 Revised 28957
Table corrected 33846, 41737
102.21 (b)(5) and (e) table amended 37818
103 Authority citation revised 19838
103.0 Revised 19838
103.1—103.13 Designated as Subpart A; subpart heading added 19838
103.6 (a)(1) revised 19838
103.14 Redesignated as 103.31 19838
103.15 Redesignated as 103.34 19838
103.16 Redesignated as 103.32 19838
103.17 Removed 19838
103.18 Redesignated as 103.33 19838
103.21—103.27 (Subpart B) Added 19838
103.31—103.34 Designated as Subpart C; subpart heading added 19838
103.31 Redesignated from 103.14 19838

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103.32 Redesignated from 103.16 19838
103.33 Redesignated from 103.18 19838
103.34 Redesignated from 103.15 19838
111 User fee due date 54551
118.0 Amended 39070
118.21 Heading and (a) revised; introductory text, (b)(6) and (c) added; (b)(1) amended 39071
118.22 Revised 39071
118.23 Revised 39071
122.13 Amended 25778
122.15 (b) amended 49059
134 Policy statement 32924
General marking exception 37678
Technical correction 33845, 41737
134.32 Regulation at 59 FR 140 confirmed 28955
(r) removed 28980
134.43 Regulation at 59 FR 140 confirmed 28955
(e) revised 28980
145 Authority citation amended 24889
145.56 Amended 24889
161 Authority citation amended 24889
161.2 (a)(3) added; authority citation removed 24889
178.2 Amended 28501

Chapter II—United States International Trade Commission (Parts 200—299)

201.6 (a), (b) and (f) revised 37827
201.11 (a) and (b) revised 37828
201.13 (m) revised 37829
207 Authority citation revised 37829
207.1 Revised 37829
207.2 Regulation at 60 FR 21 confirmed 37829
207.3 (b) and (c) revised 37829
207.4 (a) revised 37829
207.7 (a), (f)(2), (3) and (g) revised 37829
207.8 Revised 37831
207.10 Revised 37831
207.11 Revised 37831
207.12 Revised 37832
207.13 Revised 37832
207.14 Revised 37832
207.18 Revised 37832
207.20 Redesignated as 207.21; new 207.20 added 37832
207.21 Redesignated as 207.22; new 207.21 redesignated from 207.20 and revised 37832
207.22 Redesignated as 207.23; new 207.22 redesignated from 207.21 37832
207.23 Redesignated as 207.24; new 207.23 redesignated from 207.22 and revised 37832
207.24 Redesignated as 207.25; new 207.24 redesignated from 207.23 and revised 37832
207.25 Redesignated as 207.26; new 207.25 redesignated from 207.24 37832
Revised 37833
207.26 Redesignated as 207.27; new 207.26 redesignated from 207.25 37832
207.27 Redesignated as 207.28; new 207.27 redesignated from 207.26 37832
207.28 Redesignated as 207.29; new 207.28 redesignated from 207.27 37832
207.29 Redesignated as 207.30; new 207.29 redesignated from 207.28 37832
Revised 37833
207.30 Redesignated from 207.29 37832
Revised 37833
207.40 Regulation at 60 FR 22 confirmed 37833
210.3 Regulation at 59 FR 67626 confirmed 43432
210.4 Regulation at 59 FR 67626 confirmed 43432
210.5 Regulation at 59 FR 67626 confirmed 43432
210.14 Regulation at 59 FR 67627 confirmed 43432
210.16 Regulation at 59 FR 67627 confirmed 43432
210.21 Regulation at 59 FR 67627 confirmed 43432
210.22 Regulation at 59 FR 62627 confirmed 43432
210.23 Regulation at 59 FR 67627 confirmed 43432
210.24 Regulation at 59 FR 67627 confirmed 43432
210.39 Regulation at 59 FR 67627 confirmed 43432
210.42 Regulation at 59 FR 67628 confirmed 43432

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210.43 Regulation at 59 FR 67628 confirmed 43432
210.49 Regulation at 59 FR 67628 confirmed 43432
210.50 Regulation at 59 FR 67628 confirmed 43432
210.51 Regulation at 59 FR 67628 confirmed; (a) revised 43432
210.52 Regulation at 59 FR 67629 confirmed 43432
210.70 Regulation at 59 FR 67629 confirmed 43432
210.76 (b) revised 43433

Proposed Rules:

10 ..... 51849, 56645
18 56645
19 28808
101 ..... 19880, 30552
103 48098
113 28808
114 56645
122 ..... 30552, 64041
123 48100
132 28522
134 38119
144 28808
151 28522
162 50459
351 28821
353 28821
355 28821

TITLE 20—EMPLOYEES' BENEFITS

Chapter II—Railroad Retirement Board (Parts 200—399)

200.4 (g)(2)(v) revised 25390
209.16 Added 31395
209.17 Added 31395
345 Revised 20072
348 Added 42377
368 Regulation at 61 FR 8214 confirmed 54733

Chapter III—Social Security Administration (Parts 400—499)

404.2 (a)(2) through (6) removed; (a)(7) redesignated as (a)(2) 41330
404.3 (a) removed; (b) and (c) redesignated as (a) and (b) 41330
404.347 Revised 41330
404.350 (a)(5) revised 38363
404.351 (a) revised 38363
404.352 (b)(1) amended 38363
404.353 (a) amended 38363
404.367 Introductory text amended; (c), (d) and (e) redesignated as (d), (e) and (f); (a), (b) and new (f) revised; new (c) added 38363
404.369 Removed 38363
404.390 Amended 41330
404.392 Heading and (a) introductory text revised 41330
404.393 Removed 41330
404.394 Removed 41330
404.395 Removed 41330
404.502a Revised 56131
404.506 Revised 56131
404.612 (e) removed; (f), (g) and (h) redesignated as (e), (f) and (g) 41330
404.615 (b) removed; (c) and (d) redesignated as (b) and (c) 41330
404.765 Removed 41330
404.811 Revised 18076
404.812 Added 18077
404.907 Revised 56132
404.930 (a)(4) and (5) amended; (a)(6) and (7) added 56132
404.1001 (d)(2) revised 38365
404.1003 Amended 38365
404.1004 (a) introductory text revised; (a)(5) added 38365
404.1012 Amended 38365
404.1018 (g) redesignated as (h); new (g) added 38365
404.1018b (c)(1)(v) revised 38366
404.1020 (a)(3)(iv) revised 38366
404.1034 (a) introductory text amended; (c) redesignated as (d); new (c) added; new (d) revised 38366
404.1036 Revised 38366
404.1038 Added 38366
404.1042 (c)(2) revised 38366
404.1055 (a), (b) heading and (1) revised; (c)(1) amended 38367
404.1056 (a)(6) revised 38367
404.1057 (a)(1), (2) and (3) revised; (a)(4) amended 38367
404.1068 (d) revised 38367
404.1206 (a) introductory text, (6) and (7) revised; (a)(8) added; (f)(2) amended 38367
404.1210 (e) revised 38367
404.1211 (d) revised 38368
404.1212 Revised 38368

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TITLE 20 Chapter III—Con.

404.1501—404.1599 (Subpart P) Appendix 1 amended 28047
Appendix 1 amended 64616
404.2113 (c) amended 31025
404.2115 (a)(3) and (b) revised 31025
404.2116 (b)(2) and (c)(2) revised 31025
410.501—410.591 (Subpart E) Authority citation revised 56132
410.561 Revised 56132
410.561a Revised 56132
410.601—410.699a (Subpart F) Authority citation revised 56133
410.623 Revised 56133
410.630 Revised 56133
416.535 (a) amended; (c) added 67205
416.538 (d) redesignated as (e); new (d) added 67205
416.542 (a)(1) amended; (a)(3) added 67206
416.545 Added 67206
416.546 Added 67206
416.570 Amended 67206
416.640 (e) added 67206
416.1124 (c)(7) and (9) revised; (c)(17) and (18) amended; (c)(19) added 49964
(c)(18) and (19) amended; (c)(20) added 67207
416.1161 (a)(12) revised; (a)(21) and (22) amended; (a)(23), (24) and (25) added 49964
416.1210 (p) and (q) amended; (r) added 67207
416.1247 Added 67207
416.1615 (a)(1) revised 56134
416.2201—416.2227 (Subpart V) Authority citation revised 31026
416.2201 Introductory text and (b) revised 31026
416.2203 Amended 31026
416.2209 (b) and (c) amended 31026
416.2212 Amended; heading revised 31026
416.2213 (c) amended 31026
416.2215 Revised 31026
416.2216 (b)(2) and (c)(2) revised 31026
416.2217 Introductory text amended 31027
422.125 (a) and (b) revised 18078
498 Authority citation revised 18079
498.100 (a) and (b) introductory text revised; (b)(1) added 18079
498.101 Amended 18079
498.102 Heading revised; (a) added 18079
498.103 (a) added 18080
498.104 Added 18080
498.106 Heading revised; (a) added 18080
498.108 Revised 18080
498.109 Revised 18080
498.110 Revised 18080
498.114 Added 18080
498.127 Revised 18080
498.128 Heading and (a) revised; (b), (d) and (e) added 18080
498.129 Added 18081
498.132 Revised 18081
498.201 Added 65468
498.202 Added 65468
498.203 Added 65469
498.204 Added 65469
498.205 Added 65469
498.206 Added 65469
498.207 Added 65469
498.208 Added 65470
498.209 Added 65470
498.210 Added 65470
498.211 Added 65470
498.212 Added 65470
498.213 Added 65470
498.214 Added 65471
498.215 Added 65471
498.216 Added 65471
498.217 Added 65471
498.218 Added 65471
498.219 Added 65471
498.220 Added 65472
498.221 Added 65472
498.222 Added 65472
498.223 Added 65472
498.224 Added 65472

Chapter V—Employment and Training Administration, Department of Labor (Parts 600—699)

601.1 (d) added 19983
617.3 (ff) revised 19983
626.5 Amended 19983
655.500—655.550 (Subpart F) Regulation at 60 FR 3955, 3976 confirmed 46990
655.600—655.675 (Subpart G) Regulation at 60 FR 3969, 3977 confirmed 46990
658 Authority citation revised 19983
658.710 (d) revised 19983
658.711 Revised 19983

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Chapter VI—Employment Standards Administration, Department of Labor (Parts 700—799)

702 Authority citation revised.....19984
702.433 (e) and (f) amended.....19984
702.434 (a), (b) and (c) amended.....19984

Proposed Rules:

348.....16067
355.....54745
356.....54745
416.....17609, 18529
498.....39921
656.....17610, 18650

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)

Chapter I Compliance date announcement.....67710, 68145
1.24 (a)(6)(i), (ii) and (iii) amended.....14478
2.125 (e)(14) added.....15700
(e)(15) added.....25392
5.99 Corrected.....14375
5.100 Revised.....24223
5.115 Revised.....24226
14.100 (c)(9) heading, (ii), (16) heading and (ii) revised.....28048
(b)(6) added.....36624
20.100 (c)(41) added.....33244
25.22 (a) amended.....14245
25.24 (b)(2) amended.....14245
25.30 (a) amended.....14245
50.3 (n) added.....51528
50.24 Added.....51528
50.27 (a) revised.....57280
56.109 (c) revised; (d) and (e) redesignated as (e) and (f); new (e) amended; new (d) and (g) added.....51529
70.3 (e) amended.....14478
70.19 (p) amended.....14478
71.1 (c) amended.....14478
73 Regulation at 61 FR 40319 eff. date confirmed.....64027
73.165 Added.....40319
73.3100 Added.....51586
80.10 (d) amended.....14479
80.21 (j)(1) through (4) amended.....14479
100.120 Removed.....27778
100.130 Removed.....27778
100.135 Removed.....27778
100.140 Removed.....27778
100.145 Removed.....27778
100.150 Removed.....27778
100.160 Removed.....27778
101 Technical correction.....21074
Authority citation revised.....43446
101.9 (c)(7)(ii) and (g)(9) amended.....14479
(j)(1)(i) revised; (j)(18) added.....40978
101.10 Revised; eff. 5-2-97.....40332
101.13 (q)(5) introductory text revised; eff. 5-2-97.....40332
(b) introductory text and (q)(5) introductory text correctly revised; eff. 5-2-97.....67452
101.14 (d)(2)(vii)(B) and (3) introductory text revised; (d)(3)(i) added; eff. 5-2-97.....40332
101.17 (c) revised; interim.....20100
101.33 Removed.....27779
101.36 (f) revised.....40979
101.43 (a)(1), (2) and (3) revised; eff. 8-18-97.....42759
101.44 (c) revised; eff. 8-18-97.....42760
101.45 (c) and (i) amended.....14479
Revised; eff. 8-18-97.....42760
101.62 (b)(1) introductory text revised; eff. 1-1-98.....59001
101.79 (b)(3) corrected.....43119, 48529
Clarification.....49966
(b)(3) corrected; CFR correction.....55567
101.80 Added; eff. 1-1-98.....43446
101.103 Removed.....27779
102.23 (c)(5) amended.....14479
103 Removed.....27779
103.35 (b), (d)(3)(v) introductory text, (A)(3), (E)(3), (G)(3) and (vi) amended.....14479
104.19 Removed.....27779
105.67 Removed.....27779
Regulation at 61 FR 27779 eff. date confirmed.....48963
105.69 Removed.....27779
Regulation at 61 FR 27779 eff. date confirmed.....48963
106.120 (a) and (b) amended.....14479
107.50 (e)(1) and (2) amended.....14479
107.240 (b) amended.....14479
107.250 Introductory text amended.....14479

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108.5 (a)(1) amended 14479
108.25 (c)(1) and (2) amended 14479
108.35 (c)(1), (2) introductory text, (ii) and (g) amended 14480
109.5 Removed 27779
109.30 (b) and (d) amended 14480
110.110 (e) amended 14480
114.3 (b) amended 14245
131.122 Removed; eff. 1-1-98 59002
131.123 Removed; eff. 1-1-98 59002
131.132 Removed; eff. 1-1-98 59002
131.135 Effective date note reinstated; CFR correction 48405
Removed; eff. 1-1-98 59002
131.136 Removed; eff. 1-1-98 59002
131.138 Removed; eff. 1-1-98 59002
131.143 Effective date note reinstated; CFR correction 48405
Removed; eff. 1-1-98 59002
131.144 Removed; eff. 1-1-98 59002
131.146 Removed; eff. 1-1-98 59002
131.149 (a) amended; eff. 1-1-98 59002
131.185 Removed; eff. 1-1-98 59002
131.187 Removed; eff. 1-1-98 59002
133.131 Removed; eff. 1-1-98 59002
136 Technical correction 40513
Clarification 46714
136.115 (a)(3) amended 14245
137 Technical correction 40513
Clarification 46714
137.230 Removed 27779
137.235 Removed 27779
137.240 Removed 27779
137.245 Removed 27779
139 Technical correction 40513
Clarification 46714
161.131 Removed 27779
161.132 Removed 27779
161.133 Removed 27779
161.134 Removed 27779
161.135 Removed 27779
161.137 Removed 27779
161.138 Removed 27779
161.139 Removed 27779
161.140 Removed 27779
161.190 (a)(7)(iii) amended 14480
165.110 (a)(2)(iv), (vii), (2), (b)(4)(i)(C), (iii)(E) introductory text, (*2*)(*iii*), (*6*)(*iii*), (*11*)(*iii*) and (F) amended 14480
172 Nomenclature change 14482
Technical correction 27004
172.133 (a)(2) amended 14245
(b)(3) and (4) added; (c)(2) revised 26788
172.210 (b)(3) amended 14245
172.320 (b)(2) and (c)(1) amended 14480
172.345 (d) revised 27779
172.515 (b) amended 14245
172.804 (c)(23) amended 14480
Introductory text and (c) revised; (b) amended; (d) removed; (e) and (f) redesignated as (d) and (e) 33656
172.809 Added 65941
172.841 (b) amended 14480
173 Nomenclature change 14482
Technical correction 25392, 27004
173.69 Redesignated as 173.300 14245
(a) amended 14480
173.300 Redesignated from 173.69 14245
173.310 (c) table amended 14245
173.315 (a)(2) table amended 46376, 46377
173.325 Added 17829
173.357 (a)(2) amended 14245
175 Nomenclature change 14482
Technical correction 27004
175.105 (c)(5) table amended 42379
175.300 (b)(3)(viii)(*b*) amended 29474
(b)(3)(vii)(*a*) amended 37208
175.320 (b)(3)(i) table amended 14246
176 Nomenclature change 14482
Technical correction 27004
176.170 (b)(2) table amended 14246, 14480
(a)(5) table amended 25394, 37209, 58629
176.210 (d)(3) amended 14246
177 Nomenclature change 14482
Technical correction 27004
177.1210 (b)(5) table amended 14480
177.1345 (b)(1) amended 14481
177.1390 (c)(3)(i)(*a*)(*1*) amended 14481
177.1480 (b)(2) amended 14481
177.1500 (c)(5)(i) amended 14481
(a)(15) added; (b) table amended 34371
(a)(16) added; (b) table and (c)(5)(ii) amended 53853
177.1520 (b) table amended 14246, 14481, 28050, 37210, 51365
(a)(3)(i)(*a*)(*3*) added; (c) table amended 59330
177.1550 (d)(2)(ii) amended 14481
177.1556 Added 42381
177.1630 (e)(4) amended 46718
177.1637 Added 14965
177.1655 (a) and (b) table revised 29475

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177.2450 (b)(2) and (3) amended 14481
177.2600 (c)(4)(i) amended 14246
(c)(4)(ii)(*b*) amended 46544
(c)(4)(ix) amended 60535
178 Nomenclature change 14482
Technical correction 27004
178.1010 (b)(45) and (c)(39) added 28053
(b)(46) and (c)(40) added 31397
178.2010 (b) table amended 14246, 46545, 46546, 56892, 65944, 66918, 68623
178.3295 Table amended 33847, 51588
Table amended 65943
178.3297 (e) table amended 14246, 48624
(c) amended 14481
(e) table amended 64991
178.3725 Added 43157
178.3780 (b)(1) amended 14481
178.3860 (b) table amended 25396
(b) table corrected 42381
179.21 (b)(2)(ii) and (iii) amended 14246
179.41 Added 42383
179.45 (b) introductory text, (5) and (d) amended 14246
180 Heading revised 14246
Nomenclature change 14482
Technical correction 27004
180.22 (b), (e) and (f)(1) amended 14246
181 Nomenclature change 14482
Technical correction 27004
182.10 Table amended 14246
182.1866 Removed 43450
182.5013—182.5997 (Subpart F) Removed 27779
182.5484 Redesignated from 182.8458 14246
182.5697 Heading and (a) amended 14246
182.8458 Redesignated as 182.5484 14246
184.1063 Added 45889
184.1193 (c) amended 14247
184.1259 Heading and (a) revised 36290
184.1311 (a), (b) and (c) revised 40319
184.1372 (a) revised 43450
184.1634 (a) amended 14247
184.1866 Added 43450
186.1025 Removed 27779
189 Nomenclature change 14482
Technical correction 27004, 29650
197 Removed 27779
200.100 Removed 29476
200.101 Removed 29476
201 Comment period extension 38046
Compliance date extension 68623
201.64 Added 17806
201.320 Added; interim 20100
211 Compliance date extension 37679
250.104 Removed 29476
250.203 Removed 29476
310.101 Removed 29476
310.304 Removed 29477
310.545 (a)(6)(iv)(C) and (d)(25) added; (d) introductory text revised 25142
312.2 (b)(6) added 51529
312.20 (c) added 51529
312.23 (f) added 51529
312.30 Introductory text amended 51529
312.42 (b)(5) added 51530
312.53 (c)(1)(vi)(*d*) revised 57280
312.54 Added 51530
312.60 Amended 51530
312.62 (b) revised 57280
312.130 (d) added 51530
314.430 (d) redesignated as (d)(1); (d)(2) added 51530
328.10 (f) redesignated as (g); new (f) added 58630
331 Comment period extension 38046
331.30 (c)(5) and (f) removed; (c)(6), (7) and (g) redesignated as (c)(5), (6) and (f) 17806
333.150 (c)(2) heading and (3) added; eff. 11-17-97 58472
341.70 Added 15703
341.76 (d)(2)(i) and (e) removed; (d)(2)(ii) redesignated as (d)(2) heading 25146
355.3 (e) revised; eff. 4-7-97 52286
355.10 (a)(1) heading, (b)(1) heading, (2) heading and (c)(1) heading amended; eff. 4-7-97 52286
355.50 Regulation at 60 FR 52508 eff. date delayed to 4-7-97 52285
(c)(1) and (2) revised; (d)(1)(i) heading and (ii) heading amended; eff. 4-7-97 52287
355.70 (a) stayed in part 9-23-96 through 10-7-97 65946
369.21 (d) amended; interim 20101
452.150 Redesignated as 452.150a; new 452.150 added 34726
452.150a Redesignated from 452.150 34726
452.150b Added 34726

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500.23 Added 37681
500.24 Added 37681
500.49 Removed 37682
500.50 Added 19544
501.17 (c) revised; interim 20101
505 Removed 37682
507 Removed 37682
508 Removed 37682
508.35 (c)(1), (2) introductory text and (ii) amended 14481
510.120 Removed 37682
510.200 (Subpart C) Removed 37682
510.310 Removed 37682
510.413 Removed 37682
510.515 (b)(7), (17), (25) and (29) removed; (b)(10) and (13) redesignated as (b)(1) and (2); (c) table amended 35950
510.600 (c)(1) table and (2) table amended 15703, 17565, 18672, 21075, 24441, 46547, 58630, 58631, 59003, 63710, 63711, 66580, 68146
520 Technical correction 43964
520.154b (b) amended 66581
520.309 Added 66581
520.447 (c)(3) amended; (d) added 59003
520.500 Removed 34728
520.580 (b)(2) amended 34728
520.620a Removed 34728
520.620b Removed 34728
520.622a (a) amended 34728
520.622b (b)(2) revised 34728
520.813 Added 56893
520.905a (d)(2) heading revised; (d)(2)(i)(B) amended 29478
520.905c (d)(2) heading revised; (d)(2)(iii) amended 29478
520.1193 (c)(2) and (3) revised 39868
520.1196 Heading revised; (c)(1)(iii) amended 15186
(c)(1)(ii) amended 59004
520.1197 Added 67452
520.1445 (c)(2) amended 43654
520.1448a (c)(4)(iii) amended 24444
(a)(4)(iii) and (d)(4)(iii) amended 53615
520.1484 (b) revised; (c)(3) amended 31027
(c)(3) amended 31399
520.1485 (b) revised; (d)(3) amended 31398
520.1520 Removed 34728
520.1660d (a)(7) revised; (e)(1)(ii)(A)(*3*), (B)(*3*), (C)(*3*), (iii)(C) and (iv)(C) amended 52690
520.1872 (c)(1)(ii) amended 29651
520.2022 Removed 34728
520.2043 (b)(2) revised 29477
(b)(2) amended 63712
520.2160a Removed 34728
520.2160b Removed 34729
520.2160c Removed 34729
520.2160d Removed 34729
520.2220d (c)(2) amended 46719
520.2325a (b) added; (d) removed; (c), (e) and (f) redesignated as (a), (c) and (d); new (a) revised; new (d) amended 24443
(a) revised 63711
520.2480 Removed 34729
520.2520a (b) amended 34729
520.2520c Removed 34729
520.2520d Removed 34729
522.128 (c)(4) amended 36291
522.147 Added 48830
522.281 Removed 34729
522.313 (d)(3)(ii) revised; (d)(4) and (5) redesignated as (d)(5) and (6); new (d)(4) added 35130
(d)(7) added 66583
522.314 Added 29479
522.740 Removed 34729
522.770 Added 53321
522.955 Added 42383
522.1004 Added 68147
522.1044 (b), (d)(2)(i) and (3)(i) revised 24441
522.1055 (b) amended 18672
522.1078 (b) amended 37682
522.1145 (a)(2) amended 59003
522.1182 (a)(4)(i) amended 18672
522.1290 (b) amended 66582
522.1335 Added 21075
522.1660 (b) and (c)(2)(iii) amended 31028
522.1680 (c)(1)(iii) amended 36291
522.1720 (b)(1) and (2) revised 54333
522.1850 (c)(1) revised; (c)(2)(i) and (ii) amended 54333
522.2005 Added 66582
522.2022 Removed 34729
522.2120 (b) revised; (d)(4) amended 31028
522.2474 Added 25785
522.2477 (c)(3) added 29480
(c)(3) heading and (iii) revised 41499

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522.2478 Added 14482
(a) amended 29479
522.2480 Removed 34729
522.2615 (b) amended; (d) removed 29480
522.2662 (b) amended 46548
524.1044b (b) amended 48624
524.1600a (b) amended 63712
529.810 Removed 34729
529.1044a (b) amended 17830
530 Added 57743
556.113 Amended 66583
556.150 Revised 67453
556.225 Added 53321
556.228 Added 56893
556.275 (c) added 29478
556.283 Added 42383
556.300 (a) amended 24441
556.430 Revised 31399
556.500 Revised 67453
556.600 Revised 31028
556.685 Added 24443
556.720 Revised 67453
556.735 Revised 68148
558.4 (d) table amended 68148
558.15 (g)(1) table amended 51590
558.55 (d)(2) table amended 35950
(b)(3) added 66584
558.58 (d)(1) table amended 18082, 35951
558.76 (d)(3)(xiv) added 43451
(d)(3)(xiv) revised 66584
558.78 (a)(2), (d)(1) table and (2)(ii) amended 18082
558.95 (b)(1)(xiii)(*b*) amended 18082
(b)(4)(iii) added 43655
558.120 (c)(1)(iii)(*b*) amended 18082
558.128 (a) amended 18082
(a), (b) and (c)(1) revised; (c)(2) and (3) removed; (c)(4) and (5) redesignated as (c)(2) and (3) 35952
(c)(2) corrected 53615
558.140 Added 35954
558.145 (a)(1) and (2) amended 18082
558.175 (c)(2)(ii) revised 35954
558.185 (a)(1) removed 34729
558.195 (d) table amended 35954
558.258 (c)(2) introductory text and (3) introductory text revised; (c)(2)(iii) and (3)(iii) amended 29478
558.265 (c)(2)(ii) added 21075
(c)(2)(iii) added 24694
558.274 (c)(1) table amended 35955
558.300 (a) revised; (c)(2) through (5) added 32652
558.325 (c)(4)(iii) added 32653
558.340 (a) amended 18082
558.355 (b)(8), (9), (f)(1)(iv)(*b*), (v)(*b*), (xiv)(*b*), (xv)(*b*), (xvi)(*b*) amended; (b)(10) added 18082
(f)(3)(iii)(*b*) and (v)(*b*) amended 24444
(f)(3)(x)(*c*) amended 51003
558.366 (c) table amended 14483
558.367 Removed 34729
558.450 Revised 51590
558.485 (a)(16) removed 34729
558.515 (a), (d)(1)(iii)(*b*), (iv)(*b*), (v)(*b*) and (vi)(*b*) amended 18082
(d)(1)(iii), (iv) and (v)(*b*) revised 35956
(d)(2) revised 51593
558.530 (d)(2), (3) and (4) redesignated as (d)(4), (5) and (6); (a) and new (d)(4) revised; new (d)(2) and new (3) added; new (d)(6)(i)(*a*) through (*d*) redesignated as (d)(6)(i)(A) through (D) 35956
(d)(5)(xxiv) added 43451
558.550 (b)(1)(vii)(*c*), (ix)(*c*), (xv)(*c*) and (xvi)(*c*) amended 18082
558.555 (b)(2) added 29481
(b)(2)(ii) amended 43451
558.565 Removed 34729
558.582 (a) amended 18082
558.618 Added 68148
558.625 (b)(79) amended 17566
(b)(72) removed 34729
(b)(76) removed 58631
(f)(1)(vi)(*e*) added 67712
558.630 (b)(10) amended 34729
558.635 (b)(1) amended 30133
558.680 (c)(1) table amended 35957
570.22 Removed 37682
573.460 (a) introductory text, (1), (2), (b), (c) introductory text, (1) and (2) redesignated as (a)(1) introductory text, (i), (ii), (2), (3) introductory text, (i) and (ii); new (b) added 15704
582.1666 (b) revised 19544
584.700 Added 43453
589.1001 Added 19544
600.3 (t) revised 24232
601.2 (a) existing text designated as (a) introductory text; new

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(a) introductory text amended; (a)(1) through (4) and (c) added 24232
601.22 Amended 24233
601.30 Removed 40154
601.31 Removed 40154
601.32 Removed 40154
601.51 (d) redesignated as (d)(1); (d)(2) added 51530
606.100 (b)(19) added 47422
Regulation at 61 FR 47422 eff. date corrected to 2–7–97 66919
606.160 (b)(1)(vii) and (viii) added 47422
Regulation at 61 FR 47422 eff. date corrected to 2–7–97 66919
610.45 (d) added 47423
Regulation at 61 FR 47423 eff. date corrected to 2–7–97 66919
610.46 Added 47423
Regulation at 61 FR 47423 eff. date corrected to 2–7–97 66919
610.47 Added 47423
Regulation at 61 FR 47423 eff. date corrected to 2–7–97 66919
610.64 Revised 57330
620 Removed 40154
630 Removed 40155
640.110—640.114 (Subpart K) Removed 40155
650 Removed 40155
660.100—660.105 (Subpart K) Removed 40155
680.1—680.3 (Subpart A) Heading removed 40155
680.10—680.16 (Subpart B) Removed 40155
680.20—680.26 (Subpart C) Removed 40155
700.10 Removed 27779
730.3 Amended 14481
740.11 (c) revised; interim 20101
801.63 Added; interim 20101
801.126 Added; eff. 8–28–97 44615
801.403 Removed 37683
801.408 Removed 37683
801.425 Removed; interim 20101
801.427 Removed 37683
801.433 Added; interim 20101
803 Regulation at 60 FR 63597 eff. date delayed to 7–31–96 16043
803.3 (n)(4) stayed 38347
803.19 (f) and (g) added; eff. 8–28–97 44615
803.55 (b)(9) and (10) stayed 39869
803.57 Stayed 38347
803.58 Stayed 38347
804.25 (c) added; eff. 8–28–97 44615
804.30 Removed 38347
807 Technical correction 47550
807.3 Regulation at 60 FR 63606 eff. date delayed to 7–31–96 16043
(r) stayed 38347
807.20 Regulation at 60 FR 63606 eff. date delayed to 7–31–96 16043
(a)(6) stayed 38347
807.22 Regulation at 60 FR 63606 eff. date delayed to 7–31–96 16043
807.40 Regulation at 60 FR 63606 eff. date delayed to 7–31–96 16043
Stayed 38347
807.65 (j) added; eff. 8–28–97 44615
808 Authority citation revised 52654
808.1 (d)(10) added; eff. 6–1–97 52654
810 Added; eff. 5–19–97 59018
812 Authority citation revised 52654
812.1 (a) amended; eff. 6–1–97 52654
812.20 (a)(1) revised; (a)(4) added 51530
812.35 (a) amended 51531
812.38 (b)(4) added 51531
812.47 Added 51531
812.140 (a)(3) introductory text revised; (a)(3)(i) amended 57280
814 Authority citation revised 51531
814.3 (k) and (l) added 15190
(m) and (n) added 33244
814.9 (d) redesignated as (d)(1); (d)(2) added 51531
814.47 Added 15190
814.100—814.126 (Subpart H) Added 33244
814.102 Stayed 55741
814.104 Stayed 55741
814.106 Stayed 55741
814.108 Stayed 55741
814.110 (a) stayed 55741
814.112 (b) stayed 55741
814.116 (b) stayed 55741
814.118 (d) stayed 55741
814.120 (b) stayed 55741
814.124 (b) stayed 55741
814.126 (b)(1) stayed 55741
820 Technical correction 47550
Revised; eff. 6–1–97 52654
820.1 (f) added; eff. 8–28–97 44615
868.5400 (c) revised 50706
870.1350 (c) revised 50706

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870.1360 (c) revised 50706
870.3850 (c) revised 50706
870.5300 (c) revised 50706
872.3400 (c) revised 50706
872.3420 (c) revised 50707
872.3480 (c) revised 50707
872.3500 (c) revised 50707
872.3560 (c) revised 50707
872.3820 (c) revised 50707
876 Authority citation revised 50707
876.5220 (c) revised 50707
876.5270 (c) revised 50707
880.5580 Added 64617
880.5760 (c) revised 50708
882.1825 (c) revised 50708
882.5150 (c) revised 50708
882.5850 (c) revised 50708
884.2620 (c) revised 50708
884.2685 (c) revised 50708
884.4250 (c) revised 50708
884.4270 (c) revised 50708
884.5050 (c) revised 50709
884.5225 (c) revised 50709
884.5425 (b) revised 67714
884.5435 (b) revised 67714
888.3120 (c) revised 50709
888.3180 (c) revised 50709
888.3200 (c) revised 50709
888.3210 (c) revised 50709
888.3220 (c) revised 50709
888.3300 (c) revised 50709
888.3310 (c) revised 50710
888.3370 (c) revised 50710
888.3380 (c) revised 50710
888.3480 (c) revised 50710
888.3540 (c) revised 50710
888.3550 (c) revised 50710
888.3570 (c) revised 50710
888.3580 (c) revised 50711
888.3640 (c) revised 50711
888.3680 (c) revised 50711
888.3790 (c) revised 50711
890.3610 (c) revised 50711
897 Added; eff. 8-28-97 44615
897.14 Eff. in part 2-28-97 44616
897.34 Eff. in part 2-28-98 44617
Regulation at 61 FR 44617 eff. date corrected to 8-28-98 47550
1250.51 (d) amended 14481

Chapter II—Drug Enforcement Administration, Department of Justice (Parts 1300—1399)

1301 Comment request 68624
1308.12 (c)(26) redesignated as (c)(27); new (c)(26) added 56894
1309.02 (f) revised 40989
Corrected 41836
(f) corrected 48830
Regulation at 61 FR 40989 withdrawn 52287
1309.21 Revised 32926
1309.22 (b) revised 32926
1309.28 Added 32926, 40989
Regulation at 61 FR 40989 withdrawn 52287
1309.29 Added 40989
Corrected 48830
1309.71 (a)(2) revised 40989
Regulation at 61 FR 40989 withdrawn 52287
1310.01 (f)(1)(iv)(A) revised 40990
Regulation at 61 FR 40990 withdrawn 52287
1310.04 (f) introductory text and (1)(x) revised 40990
Corrected 48830
Regulation at 61 FR 40990 withdrawn 52287
1310.05 Corrected 17958
1310.06 (b) revised 32926
1310.09 Revised 40990
Regulation at 61 FR 40990 withdrawn 52287
1310.14 Heading and (a) revised 40990
Regulation at 61 FR 40990 withdrawn 52287
1310.15 Heading, (a) and (d) revised 40990
Regulation at 61 FR 40990 withdrawn 52287
1311 Comment request 68624
1313.02 (d)(1)(iv)(A) revised 40991
Regulation at 61 FR 40991 withdrawn 52287
1313.23 (c) revised 51004
1313.32 Heading correctly revised 17566
1316.01—1316.13 (Subpart A) Authority citation correctly revised 17566

Proposed Rules:

1—1299 (Ch. I) 16422, 21392, 26473, 60661
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25 ..... 14922, 19476, 54746
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70 ..... 28525, 29701, 48102
71 ..... 14690, 29701, 48102
73 28525
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80 ..... 28525, 29701, 48102
81 28525
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101 ..... 16423, 25421, 28525, 29701, 29708, 48102, 50770, 50771, 55122, 58151, 67243
102 19220
106 ..... 36154, 49714
107 ..... 29701, 36154, 48102, 49714
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200 29502
201 ..... 17807, 28525, 38047, 42826
210 ..... 20104, 39372
211 ..... 20104, 39372
250 29502
310 ..... 29502, 53685, 55602
314 55602
328 21392
330 51625
331 ..... 17807, 38047, 42826
343 30002
351 66953
352 ..... 42398, 48645, 53340
500 31468
510 15003
511 59209
514 59209
530 25106
564 59845
589 24253
600 55602
701 28525
730 ..... 29708, 44013
801 ..... 26140, 32618
803 38348
804 38348
812 66954
864 30197
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886 14277
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900 ..... 14856, 14870, 14884, 14898, 14908
1250 ..... 29701, 48102
1301 ..... 49086, 66637
1304 66637
1308 48655

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State (Parts 1—199)

4 Revised 32328
33 Revised 49966
40 Authority citation revised 59184
40.9 Added 59184
40.63 Heading revised 59184
40.91—40.93 (Subpart J) Redesignated as 40.101—40.103 (Subpart K) 59184
40.101—40.105 (Subpart K) Redesignated from 40.91—40.93 (Subpart J) 59184
Redesignated as 40.201—40.205 (Subpart L) 59184
40.111 (Subpart L) Redesignated as 40.301 (Subpart M) 59184
40.201—40.205 (Subpart L) Redesignated from 40.101—40.105 (Subpart K) 59184
40.301 (Subpart M) Redesignated from 40.111 (Subpart L) 59184

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41.2 (l)(2) amended; interim...35629, 39319
41.101 (c) removed 53058
(a) revised 56439
41.104 (e) removed 53058
41.105 (a)(3)(iii) amended; (a)(3)(iv) removed 53058
41.113 (k)(2)(ii) amended; (k)(3) removed 53058
50 Authority citation revised 43311
50.1 (g) added 43311
50.2 Amended 43311
50.3 (b) revised 43312
50.5 Introductory text revised 43312
50.7 Revised 43312
50.8 Revised 43312
50.9 Revised 43312
50.20 (a) removed; (b) redesignated as (a) 29652
(a) introductory text, (1) and (2) amended 29653
50.30 (d) added 29652
50.40 Removed; new 50.40 redesignated from 50.41; (a) through (d) redesignated as (c), (d), (b) and (e); new (a) added; new (b) revised; new (d) amended 29652
50.41 Redesignated as 50.40 29652
50.42 Removed 29653
50.50 (a) amended 29653
50.51 Removed; new 50.51 redesignated from 50.52 29653
50.52 Redesignated as 50.51 29653
51.1 (h) added 43312
51.21 (b)(6) revised 43312
51.33 Revised 29940
81 Removed 29941
82 Removed 29941
83 Removed 29941
84 Removed 29941
85 Removed 29941
86 Removed 29941
87 Removed 29941
88 Removed 29941
89.1 Revised 29945
92.58 Corrected 14375
92.59 Corrected 14375
120.10 (a)(1) revised 48831
121.1 Amended 56895, 68633
123.22 (d) revised 48831
126.1 (a) amended 19841, 33313, 41499, 41738
(a) revised 36625
128.1 Revised 48831
128.2 Revised 48831
128.3 Revised 48831
128.4 Revised 48832
128.5 (b) and (c) revised 48832
128.6 Revised 48832
128.7 Revised 48832
128.8 Revised 48833
128.9 Revised 48833
128.10 Revised 48833
128.11 Revised 48833
128.12 Revised 48833
128.13 (a), (c), (e) and (f) revised 48833
128.14 Revised 48834
128.15 Revised 48834
128.16 Revised 48834
131.1 Revised 39585
171.32 (j)(2) amended 68149

Chapter II—Agency for International Development, International Development Cooperation Agency (Parts 200—299)

210 Removed 65946
212 Revised 43002
228 Added 53616
228.03 (b) corrected 54849
228.25 Corrected 54849
228.30—228.39 (Subpart D) Heading corrected 55361

Chapter V—United States Information Agency (Parts 500—599)

505 Revised; interim 51004
514 Policy statement 37002
514.20 (d), (i) and (j) revised 15373
(j)(2)(i) stayed; eff. 5-7-96 through 10-4-96 20437
Regulation at 61 FR 15373 confirmed; (d), (i) and (j) revised 29287
514.21 (g) revised 39585

Chapter VI—United States Arms Control and Disarmament Agency (Parts 600—699)

601 Revised 58328
602 Revised 40332
603 Revised 51593
605 Revised 64286
608 Added 36821

Proposed Rules:

171 ..... 39927, 53158

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514.....46745
602.....27031
603.....30009
605.....53158
608.....26474
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TITLE 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation (Parts 1—999)

230 Authority citation added.....14616
230.101—230.121 (Subpart A) Authority citation removed.....14616
230.121 (d) removed.....14616
230.101—230.121 (Subpart A) Appendixes E and F removed.....14616
230.201—230.207 (Subpart B) Authority citation removed.....14616
230.301—230.313 (Subpart C) Authority citation removed.....14616
230.401—230.415 (Subpart D) Authority citation removed.....14616
450 Authority citation revised.....67175
450.316 (a)(14) and (15) amended; (a)(16) added.....67175
450.318 (e) amended.....67175
450.320 (a) revised; (b) and (c) amended.....67175
450.322 (b)(4) amended.....67175
450.336 (b)(6) removed.....67175
500 Revised.....67170
625 Revised; interim.....17566
626 Added.....67174
630 Revised.....35632
635.413 Regulation at 60 FR 44274 confirmed.....17245
640 Regulation at 60 FR 47483 confirmed.....57331
640.113 (d) revised; (e) removed; (f) redesignated as (e).....57331
655 Authority citation revised.....29626
655.601 (c) and (d) revised; interim.....29626
667 Removed.....43966
668 Authority citation added.....67211
668.101 Amended.....67212
668.101—668.113 (Subpart A) Authority citation removed.....67211
668.103 Amended.....67212
668.105 (e) amended.....67212
668.107 (a) and (b) amended.....67212
668.109 (b)(3), (5) and (6) amended; (b)(7), (8), (9) and (c)(9) added; (c)(1), (2), (4), (6) and (7) revised.....67212
668.111 (b)(2) amended; (c)(1) revised.....67212
668.113 (a) amended; (b)(1) revised; (b)(3) added.....67212
668.201—668.215 (Subpart B) Authority citation removed.....67211
710.401—710.405 (Subpart D) Removed; interim.....18247
712.801—712.805 (Subpart H) Removed; interim.....18247
720 Removed; interim.....18247
740 Removed; interim.....18247
772 Authority citation revised.....45321
772.13 (b) revised; interim.....45321

Chapter II—National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)

1206 Revised.....28747
1210 Added.....55217
1215 Heading revised.....28749
Authority citation revised.....28749
1215.1 Revised.....28749
1215.2 Revised.....28749
1215.3 Amended.....28749
1215.4 Revised.....28749
1215.5 Revised.....28749
1215.6 Revised.....28749
1215.7 Revised.....28749
1230 Removed.....28751

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1309 Removed.....18248
1313.5 Regulation at 61 FR 9104 confirmed; (h) added.....55222
1313.6 Regulation at 61 FR 9104 confirmed; (g) added.....55222

Proposed Rules:

230.....17264
655.....29234, 40484, 54111
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TITLE 24—HOUSING AND URBAN DEVELOPMENT

EDITORIAL NOTE: The revision for the 1996 edition of title 24 was delayed until May 1, 1996. The 1996 revision includes amendments promulgated during the period of April 3, 1995 through May 1, 1996. For amendments promulgated during that period, see the April 1996 LSA.

Subtitle A—Office of the Secretary, Department of Housing and Urban Development (Parts 0—99)

0.1 Revised 36251
0.2 Redesignated from 0.735–203 19188
0.3 Redesignated from 0.735–204 19188
0.735–203 Redesignated as 0.2 19188
0.735–204 Redesignated as 0.3 19188
1 Authority citation revised 52217
1.9 (b) revised; (c), (d) and (e) removed 52217
1.10 Removed; new 1.10 redesignated from 1.12 52217
1.11 Removed 52217
1.12 Redesignated as 1.10 52217
2 Removed 52217
5 Authority citation revised 54498
Technical correction 64617
5.210—5.238 (Subpart B) Authority citation added 54498
5.300—5.380 (Subpart C) Authority citation added 54498
5.500—5.528 (Subpart E) Authority citation added 54498
5.501 Added; interim 60538
5.508 (b)(1), (2), (h)(2) and (3) introductory text revised; interim 60538
5.510 (b) revised; interim 60539
5.512 (a) revised; interim 60539
5.514 (b), (c)(1), (e)(1) and (f)(1) revised; (f)(2) removed; (f)(3) and (4) redesignated as (f)(2) and (3); interim 60539
5.516 (c) introductory text revised; interim 60539
5.518 (a), (b)(3) and (5) revised; interim 60539
5.526 Revised; interim 60540
5.601—5.617 (Subpart F) Added 54498
8 Authority citation revised 52218
8.58 (b) revised; (c), (d) and (e) removed 52218
8.59 Removed 52218
8.60—8.71 (Subpart E) Removed 52218
26 Heading revised 50209
26.1—26.26 (Subpart A) Heading revised 50209
26.2—26.5 (Subpart B) Designation removed 50209
26.6—26.8 (Subpart C) Designation removed 50209
26.9—26.16 (Subpart D) Designation removed 50209
26.17—26.21 (Subpart E) Designation removed 50209
26.22—26.24 (Subpart F) Designation removed 50209
26.25—26.26 (Subpart G) Designation removed 50209
26.27—26.54 (Subpart B) Added 50210
27 Revised 48548
28 Revised 50213
29 Removed 48552
30 Revised 50215
42 Revised 51757
50 Revised 50917
60 Authority citation revised 36463
60.101 Revised 36463
60.102 Removed 36463
60.103 Removed 36463
60.107 Removed 36463
60.108 Removed 36463
60.109 Removed 36463
60.110 Removed 36463
60.111 Removed 36463
60.112 Removed 36463
60.113 Removed 36463
60.114 Removed 36463
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60.116 Removed 36463
60.117 Removed 36463
60.118 Removed 36463
60.119 Removed 36463
60.120 Removed 36463
60.122 Removed 36463
60.123 Removed 36463
60.124 Removed 36463
81 Authority citation revised 50218
81.2 (b) amended; (c) added; interim 63947
81.46 (e)(1) amended 50218
81.82 (b)(2) amended 50218
81.83 (b)(2) amended; (d)(3) revised 50218

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81.84 (b)(2) and (d) revised; (h)(1) and (j)(2) amended 50219
81.85 (c)(1) amended 50219
81.91—81.99 (Subpart H) Revised; interim 63948
91.205 (b)(1) amended 51760
91.220 (g)(2)(iii) added 48750
91.305 (b)(1) amended 51760
91.315 (e) designated as (e)(1); new (e)(2) added; interim (OMB number pending) 54920
91.320 (g)(2)(iii) added 48750
(g)(1) amended; interim 54920
91.500 (b) introductory text revised; interim 54920
92 Revised 48750
92.353 (e) revised 51760
92.600—92.652 (Subpart M) Removed; interim 32295

Chapter I—Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development (Parts 100—199)

100—125 (Subchapter A) Appendix I removed 41291
103.45 Amended 52218
103.50 Amended 52218
103.100 Amended 52218
103.215 (b) revised; interim 41482
Amended 52218
103.330 Amended 52218
103.405 Amended 52218
103.410 Amended 52218
103.500 Amended 52218
104 Removed 52218
111 Regulation at 61 FR 7675 confirmed 41284
115 Regulation at 61 FR 7675 confirmed; revised 41284
146 Authority citation revised 52218
146.43 Revised 52218
180 Added 52218

Chapter II—Office of Assistant Secretary for Housing–Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)

200.243 (a) introductory text amended 50219
200.810 (b) amended 36263
200.1301 Reinstated 54267
200.1302 Correctly designated 54267
Revised 60160
200.1303 Added 54503
201.1 Amended 19795
201.2 Amended 19795
201.3 Revised 19796
201.10 (a)(1)(iv), (b)(1)(i), (iii), (iv), (2)(i), (ii), (3), (c), (d)(1)(i), (iii), (3), (f)(3), (4) and (5) revised; (a)(2) removed; (a)(3) redesignated as (a)(2) 19796
201.11 (a)(1), (2), (c)(2), (3) and (4) revised; (a)(3) added 19796
201.12 Revised 19797
201.13 Revised 19797
201.17 Revised 19797
201.18 Heading revised 36263
201.20 (a)(2) and (b) revised; (a)(3) removed 19797
201.21 (b)(3) and (5) revised 19797
201.22 (b)(1), (2)(iv) and (c)(1) revised 19797
201.23 Revised 19798
201.24 (a)(1) and (2) revised 19798
201.25 Revised 19798
201.26 (a)(1), (2), (5)(ii), (6)(i), (b)(3)(vi), (vii), (4)(vi), (vii) and (6) introductory text revised; (b)(4)(viii) removed 19798
201.27 (a)(2) amended; (a)(5) revised; (b)(2) removed; (b)(1) redesignated as (b) 19799
201.28 (a) revised 19799
201.32 (a) revised; (b) removed; (c), (d) and (e) redesignated as (b), (c) and (d) 19799
201.40 (b)(3) added 19799
201.52 Amended 19799
201.53 Existing text designated as introductory text amended; (a) and (b) added 19799
201.54 (b)(2) revised 19800
201.55 (a) introductory text, (b) introductory text, (3) and (7) revised 19800
202.3 (j) amended 36263
202.11 Heading revised 36263
Regulation at 61 FR 2651 confirmed 36453
202.12 (k) amended 36263
Regulation at 61 FR 2651 confirmed 36453
202.13 (d) removed; (e) redesignated as (d) 36263

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202.15 Regulation at 61 FR 2651 confirmed....36453
202.17 Regulation at 61 FR 2651 confirmed....36453
203 Authority citation revised....35017
203.3 Regulation at 61 FR 2651 confirmed....36453
203.5 (e) revised....36263
203.17 (b) revised....36263
203.18 (a)(1)(ii) amended; (i) added....36263
203.19 (c) removed....36263
203.22 (a) revised....36263
203.24 (a)(1) revised....36263
203.30 (d) added....36264
203.36 Removed....36264
203.38 Revised....36264
203.40 Amended....36264
203.42 (a) revised....36264
203.43 (c)(3) revised....36264
203.43b Removed....36264
203.43f (b) amended....36264
203.43h Introductory text, (b) and (g)(3) revised....36264
203.43i (a) revised....36264
203.44 Revised....36264
203.49 Introductory text and (a) amended....36264
203.51 (2) amended....36453
203.204 (a) revised; (g) amended....36264
203.251 (s) revised....36265
203.255 (b)(2) revised....36265
203.258 (c)(2) amended....36453
203.259a (a)(2)(ii)(B) amended....36453
203.262 Revised....37801
203.263 Removed....37801
203.264 Revised....37801
Correctly revised....42787
203.265 (b) amended....36265
(a) revised....37801
203.268 (a) revised....37801
203.281 (b)(1) revised....36265
203.284 (a)(1), (b)(1)(i), (2)(i) and (e) amended....36265
(d) and (e) removed; (f) revised....37801
203.285 (c) amended....36265
(c) revised....37801
203.342 Revised; interim....35017
203.346 Amended....36265
203.350 Second undesignated center heading and second section removed; interim....35017
203.355 (a) introductory text, (2), (b), (c) introductory text and (g) introductory text revised; (a)(3) through (6) and (h) added; interim....35018
203.356 Revised....36265
203.359 (b) introductory text amended....36453
203.363 (b) heading amended....36453
203.366 (b)(1) amended....36453
203.368 (a)(1)(ii) amended....36453
203.369 (a)(1) and (b) amended....36453
203.370 (c)(3) removed; (c)(4) and (5) redesignated as (c)(3) and (4); interim....35018
203.371 Added; interim....35018
203.378 (c)(1) revised....36265
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203.379 (a) introductory text and (b) introductory text revised....36265
(b) amended....36453
203.380 (a)(1)(i) revised....36265
(a)(1)(iii) amended....36453
203.390 (b)(1) revised....36265
203.402 (f), (p) and (s) revised; interim....35018
(b), (c) and (k)(1) revised....36266
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203.402a (b)(1) removed; (b)(2) and (3) redesignated as (b)(1) and (2); interim....35019
203.404 (a)(3) revised; (a)(5) and (6) added; interim....35019
203.412 Added; interim....35019
203.414 Added; interim....35019
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203.438 (c) revised; interim....35019
203.471 Revised; interim....35019
203.473 (a) revised; interim....35019
203.500 Revised; interim....35019
203.501 Amended; interim....35019
203.502 (a) amended; (b) revised....36266
203.552 (a) introductory text revised; interim....35019
203.604 (e)(2)(iii) and (iv) removed; (e)(2)(v) redesignated as (e)(2)(iii); interim....35019
(b) amended....36266
203.605 Added; interim....35019
203.606 (a) amended; (b) introductory text revised; interim....35020

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203.614 Revised; interim....35020
203.616 Revised; interim....35020
203.640 Removed; interim....35020
203.641 Removed; interim....35020
203.642 Removed; interim....35020
203.643 Removed; interim....35020
203.644 Removed; interim....35020
203.645 Removed; interim....35020
203.646 Removed; interim....35020
203.647 Removed; interim....35020
203.648 Removed; interim....35020
203.649 Removed; interim....35020
203.650 Removed; interim....35020
203.651 Removed; interim....35020
203.652 Removed; interim....35020
203.653 Removed; interim....35020
203.654 Removed; interim....35020
203.656 Removed; interim....35020
203.658 Removed; interim....35020
203.659 Removed; interim....35020
203.660 Removed; interim....35020
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203.665 Revised; interim....35020
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203.670 (a) revised....36266
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203.685 Removed....36266
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206.8 Added....49033
206.9 (b) heading revised....36266
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206.13 Removed....36266
206.17 (a) revised....36266
206.19 (c) revised....49033
206.25 (d) revised....49033
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206.27 (c)(1) and (d) revised....49033
206.33 Revised....49033
206.35 Amended....49033
206.41 (b) revised....49033
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206.47 (c) amended....49033
206.51 Revised....26984
206.115 Removed....49033
206.117 Revised....49033
206.119 Removed....49034
206.121 (c) amended....36266
(b) and (c) amended....49034
(c) corrected....67931
206.125 (d)(3) revised....49034
206.129 (d)(2)(i) and (ii) revised; interim....35020
206.133 (f) revised....49034
206.209 Revised....49034
207.258b (e) added....49037
207.259 (b)(2)(v) added....49038
213.501 (Subpart C) Revised....60160
213.751—213.752 (Subpart D) Removed....60160
213.800 (Subpart E) Removed....60160
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221 Authority citation revised....37801
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221.5 Removed....60160
221.20 (c) revised....60160
221.25 Removed....60160
221.30 Removed....60160
221.32 Removed....60160
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221.45 Revised....36266
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221.65 Removed....60160
221.70 (a)(2) amended....36453
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221.251 (a) amended....37801
233 Authority citation revised....36266
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233.5 (a) introductory text and (b) revised....36267
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234.1 (n) revised....36267
234.11 Added....36267
234.16 (d) added....36267
234.25 (b) revised....36267
234.26 (i) added....26984
234.52 (c) revised....36267
234.54 Added....36267
234.67 Removed....36267
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234.70 Revised....36267
234.85 (a)(2) amended....36453
234.251 Revised....60163
234.256 (a), (b), (e) and (f) revised....60163
234.259 Revised....60163
236.3 Added....54503

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245.205 (b) and (c) amended.....57961
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247 Authority citation revised.....47381
247.2 Amended.....47382
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247.4 (c) amended.....47382
251.3 Revised.....49038
251.4 Removed.....49038
251.5 Removed.....49038
252.3 Revised.....49038
252.4 Removed.....49038
Correctly removed.....51319
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Correctly removed.....51319
255.3 Revised.....49038
255.4 Removed.....49038
255.5 Removed.....49038
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280.5 Amended.....42953
280.10 Redesignated from 280.100 and revised.....42953
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280.20 Redesignated from 280.115.....42953
280.25 Redesignated from 280.207.....42953
280.30 Redesignated from 280.303.....42953
280.35 Redesignated from 280.305; introductory text revised.....42953
280.40 Redesignated from 280.315.....42953
280.45 Redesignated from 280.320; (a)(2) and (b)(2) revised.....42953
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280.55 Redesignated from 280.330.....42954
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280.330 Heading and (c)(2) revised.....36267
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290 Heading and authority citation revised.....32265
290.30 Second (c)(2) removed.....19188
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291.1—291.5 (Subpart A) Revised.....55711
291.100—291.150 (Subpart B) Revised.....55712
291.100 (a)(3) amended; (a)(4) introductory text revised.....36267
291.105 (e) and (h)(2) amended.....36267
291.110 (b)(1) amended.....36268
291.115 (b)(2) revised.....36268
291.200 (Subpart C) Revised.....55714
291.300—291.307 (Subpart D) Regulation at 60 FR 45333 eff. date extended.....43966
291.400 Revised (OMB number).....55714
291.405 Removed.....55714
291.410 Removed.....55714
291.415 Revised.....55715
291.420 Removed.....55714
291.425 Removed.....55714
291.435 Revised.....55715
291.440 Revised.....55716

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Chapter V—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)

570.405 (e)(4) revised (OMB number pending) 32269
570.415 (c)(1)(i)(C), (d)(2)(i)(D) and (k)(3)(iii) removed; (d)(2)(i)(E) through (I) and (k)(3)(iv) redesignated as (d)(2)(i)(D) through (H) and (k)(3)(iii); (a), (b), (c)(1)(i)(A), (B), (2), (d)(1)(i)(A), (B), (ii), (iii), (2)(i)(A), new (E), (f)(1), (2)(1), (g)(i)(ii), (iii), (2)(ii), (3)(i), (ii), (i)(1)(iii), (2) and (k)(3)(ii) revised 36458
570.430 (f) added (OMB number pending) 32269
570.480 (b) revised; interim 54921
570.482 (d)(1) and (2) amended; (d)(3), (f)(3)(v)(L) and (M) added; interim 54921
570.483 (b)(1)(iv), (2)(iii) and (3) introductory text revised; (e)(5) redesignated as (e)(6); (b)(1)(v), (3)(iii) and new (e)(5) added; (b)(2)(ii)(A), (4)(vi)(D), (E), (F)(*2*) and new (e)(6) amended; interim 54921
570.485 Heading revised; (c) added; interim 54922
570.486 (a) introductory text amended; interim 54922
570.487 (e) added; interim 54922
570.489 (e)(3) introductory text amended; (k)(1) redesignated as (l); (k)(2) removed; interim 54922
570.493 (a)(1) and (b) amended; interim 54922
570.507 (a)(2) heading revised 32269
570.606 (c) revised 51760
572.1 (a) designation, heading and (b) removed 48797
572.5 Regulation at 60 FR 36018 confirmed; amended 48797
572.110 (b)(1) amended 48797
572.115 (a)(2) revised 48797
572.120 Regulation at 60 FR 36018 confirmed 48797
572.130 (d)(3) and (4) amended 48798
572.135 Regulation at 60 FR 36018 confirmed 48797
572.140 Revised 48798
572.200 Revised 48798
572.205 Revised 48798
572.210 Regulation at 60 FR 36018 confirmed 48797
(a) and (f) revised; (e) removed 48798
572.220 Regulation at 60 FR 36018 confirmed 48797
(a)(1) and (b)(1)(ii)(C) revised; (a)(3) added; (b)(2)(i) and (ii) amended 48798
572.315 Revised 48798
572.420 (b) and (h) revised; (c) and (d) removed 48798
573 Added 47405
573.6 OMB number pending 47406
573.7 OMB number pending 47406
573.8 OMB number pending 47407
573.11 OMB number pending 47408
576.1 Revised 51548
576.3 Amended 51548
576.5 Added 51549
576.21 Revised 51549
576.22 Redesignated as 576.23 51549
576.23 Redesignated as 576.25; new 576.23 redesignated from 576.22 and revised 51549
576.25 Redesignated from 576.23 51549
Revised 51550
576.31 Redesignated from 576.51 and revised 51550
576.33 Redesignated from 576.53 and amended 51550
576.35 Redesignated from 576.55; (a)(1), (b) and (c) revised 51550
576.41—576.45 (Subpart D) Removed 51550
576.41 Redesignated from 576.61; heading, (b), (c) heading, (d)(1), (2), (e), (f) and (g) revised 51551
576.43 Redesignated from 576.63; heading, (a), (b), (d) introductory text, (2), (f), (g) and (h) revised; (c) and (e) introductory text amended 51551
576.45 Redesignated from 576.67; (c)(1), (9) and (d) amended; (c)(2) and (3) redesignated as (c)(3) and (4); new (c)(2) added; new (c)(3), new (4), (f) heading and (2) revised 51551

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576.51—576.55 (Subpart E) Redesignated as Subpart C 51550
576.51 Redesignated as 576.31 51550
Redesignated from 576.71 and revised 51552
576.52 Removed 51550
576.53 Redesignated as 576.33 51550
Redesignated from 576.73; (a) and (b) introductory text revised 51552
576.55 Redesignated as 576.35 51550
Redesignated from 576.75 and revised 51552
576.56 Redesignated from 576.77 and revised 51552
576.57 Redesignated from 576.79; (e) and (f) revised; (h) redesignated as (j); new (h) and (i) added 51552
576.59 Redesignated from 576.80 51553
576.61—576.67 (Subpart F) Redesignated as Subpart D 51550
576.61 Redesignated as 576.41 51551
Redesignated from 576.81; introductory text amended; (a) and (b) added 51553
576.63 Redesignated as 576.43 51551
Redesignated from 576.83 and amended 51553
576.65 Redesignated from 576.65 and revised 51553
576.67 Redesignated as 576.45 51551
Redesignated from 576.89; (b) and (c) amended 51553
576.71—576.80 (Subpart G) Redesignated as Subpart E 51550
576.71 Redesignated as 576.51 51552
576.73 Redesignated as 576.53 51552
576.75 Redesignated as 576.55 51552
576.77 Redesignated as 576.56 51552
576.79 Redesignated as 576.57 51552
576.80 Redesignated as 576.59 51553
576.81—576.89 (Subpart H) Redesignated as Subpart F 51550
576.81 Redesignated as 576.61 51553
576.83 Redesignated as 576.63 51553
576.87 Redesignated as 576.65 51553
576.89 Redesignated as 576.67 51553
582 Authority citation revised 51169
582.1 (a) amended; (b) revised 51169
582.5 Revised 51169
582.105 (a) and (d)(2) amended 51170
582.120 Regulation at 59 FR 24253 confirmed 48056
582.200 Regulation at 59 FR 24253 confirmed 48056
Revised (OMB number) 51170
582.205 Regulation at 59 FR 24254 confirmed 48056
582.210 Regulation at 59 FR 24254 confirmed 48056
582.215 Regulation at 59 FR 24254 confirmed 48056
582.220 Regulation at 59 FR 24254 confirmed 48056
582.225 Regulation at 59 FR 24254 confirmed 48056
582.230 Revised 51170
582.300 (a)(1) amended 51171
582.305 (a) amended 51171
582.310 (a) revised 51171
582.340 (a)(1) and (b)(2)(i) revised; (b)(2), (3) introductory text and (iv) amended 51171
583.1 (a) amended 51175
583.5 Revised 51175
583.125 (b) revised 51175
583.135 (b) revised 51175
583.200 Revised 51176
583.230 Revised 51176
583.300 (f) revised 51176
583.305 Revised 51176
583.325 (b) revised 51176
583.405 (a)(1) amended 51176
585.2 Revised 52187
585.4 Amended 52187
585.305 (m)(1) and (2) added; interim 25125
(m)(1) and (2) removed 52187
585.309 (e) revised 52187
585.310 (a) revised 52187
585.312 Revised 52187
586.1 Regulation at 60 FR 42975 eff. date extended 45322
586.5 Regulation at 60 FR 42975 eff. date extended 45322
586.10 Regulation at 60 FR 42976 eff. date extended 45322
586.15 Regulation at 60 FR 42976 eff. date extended 45322
586.20 Regulation at 60 FR 42977 eff. date extended 45322
586.25 Regulation at 60 FR 42976 eff. date extended 45322
586.30 Regulation at 60 FR 42978 eff. date extended 45322
586.35 Regulation at 60 FR 42979 eff. date extended 45322
586.40 Regulation at 60 FR 42979 eff. date extended 45322

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586.45 Regulation at 60 FR 42960 eff. date extended 45322
586.50 Removed; interim 45321

Chapter VII—Office of the Secretary, Department of Housing and Urban Development (Housing Assistance Programs and Public and Indian Housing Programs) (Parts 700—799)

700 Revised 42943, 42949

Chapter VIII—Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Section 202 Direct Loan Program) (Parts 800—899)

813 Removed 54503
880.201 Amended 47382
880.607 (b)(1)(ii), (2) and (c)(2) amended; (b)(1)(iii) redesignated as (b)(1)(iv); new (b)(1)(iii) added 47382
882.406 Revised (OMB number) 48056
882.801—882.810 (Subpart H) Revised 48057
882.802 Regulations at 58 FR 13831 and 61 FR 5851 confirmed 48056
882.803 Regulations at 58 FR 13831 and 61 FR 5851 confirmed 48056
882.804 Regulations at 58 FR 13831 and 61 FR 5851 confirmed 48056
882.805 Regulations at 58 FR 13831, 59 FR 24255 and 61 FR 5851 confirmed 48056
882.806 Regulation at 58 FR 13833 confirmed 48056
882.808 Regulations at 58 FR 13833 and 61 FR 5852 confirmed 48056
884.102 Amended 47382
884.216 Existing text designated as (a); (b) added 47382
888 Fair market rent schedules 49576
Fair market rent schedules 66132

Chapter IX—Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—999)

901 Revised; interim 68933
901.10 (b)(4) revised 35634
913 Removed 54503
913.106 (d) and (e) redesignated as (e) and (f); new (d) added; interim 46346
941 Comment period extention 35958
941.101 Revised (OMB number pending); interim 38016
941.102 Revised; interim 38016
941.103 Amended; interim 38017
941.201 (a) amended; (c) redesignated as (d); new (c) added; interim 38017
941.202 (c) introductory text, (1) introductory text, (i), (ii) and (2) redesignated as (c)(1) introductory text, (i) introductory text, (A), (B) and (ii); new (c)(2) added; (c)(3) removed; (f) amended; interim 38017
(c)(3) added 19714
941.203 Revised; interim 38017
941.204 Removed; interim 38018
941.205 Revised (OMB number pending); interim 38018
941.206 Removed; interim 38018
941.208 Revised; interim 38018
941.301—941.306 (Subpart C) Revised; interim 38018
941.301 OMB number pending 38018
941.303 OMB number pending 38018
941.304 OMB number pending 38018
941.401—941.404 (Subpart D) Revised; interim 38020
941.404 OMB number pending 38021
941.501 (Subpart E) Revised; interim 38021
941.600—941.616 (Subpart F) Added 19714
941.602 (a) revised; interim 38022
941.606 OMB number pending 19715
941.610 OMB number pending 19716
950.102 Amended; interim 46346
Amended 54503
950.103 Removed 54504
950.190 (e) amended 50219
950.705 (c) added; interim 51182

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950.715 (b)(2) amended; interim 51182
950.720 (e) redesignated as (e)(1); (e)(2) added; interim 51182
950.725 (b)(1) redesignated as (b)(1)(i); (b)(1)(ii) added; (b)(2) revised (OMB number pending); interim 51182
950.730 (c)(1)(i) amended; interim 51182
950.756 Added (OMB number pending); interim 51182
950.757 Added (OMB number pending); interim 51182
953 Revised 40090
954 Added; interim 32295
960.208 Revised 54504
965.205 (e) amended 50219
970.2 (a)(9) and (10) amended; (a)(11) and (12) added 19719
982.54 (d)(1), (15) and (16) amended; (d)(17), (18) and (19) added 27163
982.158 (d) revised 27163
982.202 (a) heading revised; (b)(2) amended 27163
982.205 Heading and (a)(1) revised 27163
982.301 (b)(4) removed; (b)(5) through (17) redesignated as (b)(4) through (16); new (b)(10) amended 27163
982.307 (b)(1)(i) amended 27163
982.353 (b) amended 27163
(a) and (f) revised 42131
982.355 (b)(2) and (e)(4) revised; (b)(3) added; (e)(3) and (5) amended 27163
982.401 (j)(3)(iv)(B) revised 27163
982.451 (c)(5) added 27163
982.551 (h)(2) amended 27163
983.203 (a)(5) amended 27163
990.104 (c) added; interim 51183
990.107 (b)(2) amended; interim 51183
990.108 (d) redesignated as (d)(1); (d)(2) added; interim 51183
990.109 (b)(1) redesignated as (b)(1)(i); (b)(1)(ii) added; (b)(2) revised (OMB number pending); interim 51183
990.110 (c)(1) amended; interim 51183
990.114 Added (OMB number pending); interim 51183
990.116 Added (OMB number pending); interim 51183

Chapter XX—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200—3899)

3282 Authority citation revised 50219
3282.10 Amended 50219
3500 Policy statement 29254, 29258, 29264, 49398
Authority citation revised 46510, 50219, 58475
Effective date time schedule 56624
3500.2 (b) amended 29252, 58475
Regulation at 61 FR 29252 eff. date delayed 51782
3500.5 (b)(2) revised 58475
3500.7 (e)(3) amended 58476
3500.8 (c)(2) amended 29252, 58476
Regulation at 61 FR 29252 eff. date delayed 51782
3500.13 (b)(2) amended 58476
3500.14 (b) amended; (g) heading and (1) amended 29252
Regulation at 61 FR 29252 eff. date delayed 51782
(g)(1)(vi) and (vii) amended; (g)(1)(viii) removed 58476
3500.15 (b)(1) introductory text revised 29252
Regulation at 61 FR 29252 eff. date delayed 51782
Heading revised; (a), (b) introductory text, (1) introductory text and (3)(i) amended 58476
3500.17 (b), (c)(1)(i) and (d)(1)(ii) amended 29252, 58476
(b) and (c)(4)(i) amended 46510
(m) revised; (n)(1) and (4)(iii) amended 50219
Regulation at 61 FR 29252 eff. date delayed 51782
3500 Appendix B amended 29253, 58476
Appendix D revised 29254, 58477
Appendix D correctly revised 41944
Regulations at 61 FR 29253, 29254 and 41944 eff. date delayed 51782
Appendixes E and N removed; Appendix F redesignated as Appendix E 58479

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10 Added.....34374
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10.8 Heading corrected.....65473
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309 Added.....54555
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1001.7 Added.....17831
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TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury (Parts 1—799)

1 Authority citation amended 17573, 18676, 19189, 27259, 30138, 33314, 33322, 33336, 42169, 60545, 65322, 65951, 66213, 67455, 67719, 67938, 68151, 69029

Authority citation corrected 39072, 40993, 47821

1.25–3 Added 66214
1.25–3T (g)(1)(iii) and (p) removed 66215
1.45B–1T Removed 67213
1.62–2 (h)(1) amended 27005
1.108(c)–1 Added 65322
1.108(c)–1T Removed 65322
1.132–5 (s) and (t) added 27006
1.163–7 (a) amended 30138
1.163(d)–1 Added 65322
1.163(d)–1T Removed 65322
1.166–3T Added 32654
1.168(h)–1 Added 18676
1.168(i)–2 Added 18677
1.170A–1 (h) and (i) redesignated as (j) and (k); new (h) added; new (k) revised 65951
1.170A–13 (f) revised 65952
1.274–1 Amended 27006
1.274–2 Heading, (f)(2)(i) heading and (iii) revised; (c)(6) amended; (g) added 27006
1.351–1 (a)(3) added 19189
(c)(6) redesignated as (c)(7); new (c)(6) added 19544
1.367(a)–3 Added 68637
1.367(a)–3T (a), (c) and (d) revised 68641
1.367(e)–0 Removed 42169
1.367(e)–0T Added 42169
1.367(e)–1 Removed 42169
1.367(e)–1T Added 42169
1.368–0 Amended 67455
1.368–1 (g) heading and (1) revised; (g)(2)(iv) added 67455
1.382–1 Amended 33314
1.382–2 (a)(1)(iv) added; (f)(18)(i) redesignated as (a)(3)(i); (a)(1)(iii) and new (3)(i) amended 33315
1.382–2T (e)(2)(iv) Example 1, 2, (f)(4), (5), (18)(i) and (h)(2)(i)(A) amended; (f)(1) redesignated as (f)(1)(i); new (f)(1)(i) heading, (ii) and (iii) added 33315
1.382–5T Added 33316
1.382–8T Added 33316
1.401(a)–4 Amended 14247
1.446–4 (a)(2)(ii) and (iii) redesignated as (a)(2)(iii) and (iv); new (a)(2)(ii) added; (e)(4) amended 30138
1.469–1 (h)(2) amended 33322
1.469–5T (d)(A) and (B) redesignated as (d)(1) and (2) 14247
1.475–0 Added 67719
1.475(a)–3 Added 67720
1.475(b)–1 Added 67720
1.475(b)–1T Removed 67719
1.475(b)–2 Added 67722
1.475(b)–2T Removed 67719
1.475(b)–4 Added 67722
1.475(c)–1 Added 67723
1.475(c)–1T Removed 67719
1.475(c)–2 Added 67725

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1.475(c)–2T Removed 67719
1.475(d)–1 Added 67725
1.475(d)–1T Removed 67719
1.475(e)–1 Added 67725
1.475(e)–1T Removed 67719
1.482–0 Amended 21956
1.482–7 (c)(2) and (3) removed; (c)(4), (5), (j)(2) introductory text and (i) through (v) redesignated as (c)(2), (3) and (j)(2)(i) introductory text and (A) thorugh (E); (c)(1)(i), new (2)(ii) and (f)(3)(iii)(E) Example 8 revised; (c)(1)(iv), new (j)(2)(i) heading and (ii) added; (f)(3)(ii) and new (j)(2)(i) amended 21956
Corrected 33656
1.483–2T Removed 30138
1.483–4 Added 30138
1.581–1 Revised 66588
1.581–2 (a) removed; (b) and (c) redesignated as (a) and (b); new (a) amended 66588
1.584–2 (b)(1) and (2) designation removed 19546
1.584–4 (a)(1) and (2) removed; (a) amended; (e) added 19546
(a) corrected 39072
1.597–2 (c)(5) amended 33322
1.597–4 (g)(3) amended 33322, 33323
1.671–4 (a) amended 19191
1.677(a)–1 (d) amended 19191
1.721–1 (c) added 19189
1.731–2 Added 67938
1.761–1 (a) revised 66588
1.863–0 Added 60545
1.863–1 (a), (b) and (c) revised; (e) added 60545
(e) correctly revised 65323
1.863–2 Revised 60546
(c) corrected 65323
1.863–3 Redesignated as 1.863–3A 60545
Added 60547
(h) correctly revised 65323
1.863–3A—1.863–3AT Undesignated center heading added 60545
1.863–3A Redesignated from 1.863–3 60545
1.863–3AT Redesignated from 1.863–3A 60545
1.863–3T Redesignated as 1.863–3AT 60545
1.863–4 Heading and (a) revised 60550
1.863–5 Removed 60550
1.882–0 Corrected 15891
1.882–5 (a)(6), (8) Example 1, (b)(3), (c)(2)(i) and (d)(6) corrected 15891
1.884–1 (e)(5) Example 1 corrected 14247
1.884–5 (e)(4)(ii) corrected 14248
1.897–1 (f)(1)(iii) corrected 14248
1.904(f)–3 (a) and (b) amended 33323
1.936–6 (b)(1) amended 21367
(b)(1) corrected 39072
1.1001–1 (g) revised 30139
1.1001–3 Added 32930
(g) Example 5 corrected 47822
1.1001–4T Added 32654
1.1012–1 (g) revised 30139
1.1044(a)–1 Added 65322
1.1044(a)–1T Removed 65322
1.1254–0 Amended 53063
1.1254–2 (d)(1)(ii) revised 53063
1.1254–3 (b)(1)(i), (ii), (d)(1)(i) and (ii) revised 53063
1.1254–4 Added 53063
1.1254–6 Amended 53066
1.1271–0 (b) amended 30139
1.1272–1 (b)(2)(ii), (c) and (d) revised; (f)(2) and (j) Examples 5 and 7 amended 30140
1.1273–1 (a) amended; (c)(1)(ii) and (f) Example 4 revised 30141
1.1274–2 (e) amended; (g) revised; (j) added 30141
1.1275–2 (g), (h) and (j) added 30142
1.1275–2T Removed 30143
1.1275–3 (b)(1)(i) revised 30143
1.1275–4 Added 30143
1.1275–5 (a)(1), (b)(2), (c)(1), (5), (d) introductory text, Examples 4 through 9, (e)(2) and (3)(v) introductory text revised; (a)(3)(i) introductory text, (ii), (c)(3)(ii) and (e)(3)(v) Example 3 amended; (a)(5), (6) and (d) Example 10 added 30153
1.1275–6 Added 30155
1.1291–0 Added 68151
1.1291–0T Introductory text and table amended 68151
1.1291–9 Added 68151
1.1291–9T Removed 68153
1.1291–10 Added 68153
1.1291–10T Removed 68154

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1.1341 (f)(2)(i) amended 33323
1.1377–0 Added 67455
1.1377–1 Added 67456
1.1377–2 Added 67457
1.1377–3 Added 67458
1.1394–0 Added 27259
1.1394–1 Added 27259
1.1501–1 Removed 33325
1.1502–0 Revised 33325
1.1502–0A Removed 33325
1.1502–1 (b), (f)(1) and (2) introductory text revised; (f)(4) and (j) added 33325
1.1502–1A Removed 33325
1.1502–2 (h) revised 33326
1.1502–2A Removed 33325
1.1502–3A Removed 33325
1.1502–9 (a) and (f) Example 5 33323
1.1502–10A Removed 33325
1.1502–11 (a)(2), (3), (4) and (b)(2)(iii) Examples 1, 2 and 3 33323
(c) redesignated from 1.1502–15(b); new (c) heading added 33326
1.1502–11A Removed 33325
1.1502–12 (b) amended 33323
1.1502–12A Removed 33325
1.1502–13 (c)(7)(ii) Example 10, (g)(5) Example 4 and (h)(2) Examples 1 and 2 33323
1.1502–13A Removed 33325
1.1502–14A Removed 33325
1.1502–15 (a)(1) and (3) amended 33323
(b) redesignated as 1.1502–11(c); redesignated as 1.1502–15A 33326
1.1502–15A Removed 33325
Redesignated from 1.1502–15; heading revised; (b) added 33326
1.1502–15T Added 33326
1.1502–16A Removed 33325
1.1502–17A Removed 33325
1.1502–18 (f)(1)(ii), (iii), (2)(i), (ii), (4) Example and (5) 33323
1.1502–18A Removed 33325
1.1502–19A Removed 33325
1.1502–20 (a)(1), (c)(4) Example 7 and (g)(3) Examples 1 and 2 amended 33323
1.1502–21 (b)(1), (2)(i) and (e)(1)(i) amended 33323
Redesignated as 1.1502–21A 33326
1.1502–21A Redesignated from 1.1502–21; heading revised; (d)(4), (e)(3) and (h) added 33328
1.1502–21T Added 33328
1.1502–22 (a)(1)(ii), (3) and (b)(1) amended 33323
Redesignated as 1.1502–22A 33333
1.1502–22A Redesignated from 1.1502–22; heading revised; (d)(3) and (e) added 33333
1.1502–22T Added 33333
1.1502–23 Amended 33323
Redesignated as 1.1502–23A 33334
1.1502–23A Redesignated from 1.1502–23; heading revised; existing text redesignated as (a); (b) added 33334
1.1502–23T Added 33334
1.1502–26 (a)(1)(ii) amended 33323
1.1502–30A Removed 33325
1.1502–31A Removed 33325
1.1502–32 (b)(5) Example 2 amended 33323
1.1502–32A Removed 33325
1.1502–33A Removed 33325
1.1502–34A Removed 33325
1.1502–35A Removed 33325
1.1502–36A Removed 33325
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1.1502–38A Removed 33325
1.1502–39A Removed 33325
1.1502–40A Removed 33325
1.1502–41 (a) and (b) amended 33323
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1.1502–41A Removed 33325
Redesignated from 1.1502–41; heading revised; (c) added 33334
1.1502–42 (f)(4)(i)(A) and (j) Example 4 33324
1.1502–42A Removed 33325
1.1502–43 (b)(2)(v) through (viii) amended 33324
1.1502–43A Removed 33325
1.1502–44 (b)(2) and (3) amended 33324
1.1502–44A Removed 33325
1.1502–45A Removed 33325
1.1502–46A Removed 33325
1.1502–47 (h)(2)(i) through (iv), (vii) Example, (3)(iii), (iv), (v), (4)(i), (ii), (iii), (k)(5), (l)(3)(i), (m)(2)(ii), (3)(i), (vi)(A), (vii), (ix), (5) Example 4, (o)(2)(i), (ii) and (q) amended 33324
1.1502–47A Removed 33325
1.1502–48A Removed 33325
1.1502–49A Removed 33325
1.1502–50A Removed 33325

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1.1502–51A Removed 33325
1.1502–78 (a) amended 33324
1.1502–79 (a)(1)(i) and (b)(1) amended 33324
(c)(1), (d)(1) and (e)(1) amended 33325
(a) and (b) redesignated as 1.1502–79A(a) and (b); new (a) and new (b) added 33334
1.1502–79A Added; (a) and (b) redesignated from 1.1502–79A(a) and (b) 33334
1.1502–80 (c) amended 33325
1.1502–90T Added 33336
1.1502–91T Added 33337
1.1502–92T Added 33341
1.1502–93T Added 33351
1.1502–94T Added 33352
1.1502–95T Added 33355
1.1502–96T Added 33362
1.1502–98T Added 33364
1.1502–99T Added 33364
1.1502–100 (c)(2) amended 33325
1.1503–2 (d)(2)(i), (ii), (4) Examples 1 and 2, (g)(2)(vii)(B)(1), (2), (E), (G) Examples 1 and 2 and (h)(3) amended 33325
1.1503–2A (f)(1)(i) introductory text, (C), (2)(i), (ii) and (4) Example 2 amended 33325
1.1552–1 (a)(3)(i) and (b)(1) amended 33325
1.6038B–1T (b)(2)(i) amended; (e) added 42177
1.6045–1 (q) amended 53060
1.6045–1T Added 53060
1.6045–2 (i) amended 53060
1.6045–2T Removed 46720
Added 53060
1.6049–4 (b)(1), (2) introductory text, (3), (4) amended; (b)(5) added; authority citation removed 17573
1.6049–5 (b)(1) introductory text revised; (c) amended; authority citation removed 17573
1.6049–6 (e)(4) redesignated as (e)(5); new (e)(4) revised 17574
(e)(4) corrected 40993
1.6049–8 Added 17574
1.6081–2 Added 69029
1.6081–2T Removed 69029
1.6081–3T Removed 69029
1.6081–4 (a) and (c) revised; (d) and (e) added 69030
1.6081–4T Removed 69030
1.6081–6 Added 69030
1.6081–7 Added 69030
1.6115–1 Added 65954
1.6655(e)–1 Added 65322
1.6655(e)–1T Removed 65322
1.6662–0 Corrected 14248
1.6662–5T (e)(4)(iii) corrected 14248
1.6662–6 (d)(2)(iii)(A), (D) and (e) Example corrected 14248
1.6695–1 (b)(1) amended 65320
1.6695–1T Removed 65320
18.1377–1 Removed 67458
20.2056A–0 Amended 60553
20.2056A–2 (d) added 60553
20.2056A–2T Removed 60559
26.2601–1 (b)(1)(v)(D) Examples 2, 4, 5, (4)(i) and (c) corrected; (b)(3)(iii) introductory text, (A) introductory text, (*1*), (*2*), (B) and (C) correctly designated as (b)(3)(iii)(A) introductory text, (*1*) introductory text, (*i*), (*ii*), (*2*) and (*3*); new (b)(3)(iii)(A)(*3*) and (B) correctly added 29653
(b)(3)(iii)(B) amended 43656
26.2612–1 (a)(2)(ii) and (b)(1)(i) corrected 29653
26.2632–1 (d)(1) corrected 29654
26.2642–2 (b)(3)(ii)(B) corrected 29654
26.2642–4 (a)(3) and (b) Example 5 corrected 29654
26.2642–5 (b)(1) amended 43656
26.2652–1 (a)(2) and (6) Examples 1 and 5 corrected 29654
26.2654–1 (a)(1)(ii)(A), (5) Examples 5, 8, (b)(1)(ii)(A) and (ii)(C)(*1*) corrected 29654
(a)(1)(ii)(B) revised 43656
26.2662–1 (c)(2)(vi) Example 1 corrected 29654
26.2663–2 (c)(2), (d) Example 3 and (e) corrected 29654
31 Authority citation amended 27008
Technical correction 40993
31.3406(g)–1 (d) added 17574
31.6011(a)–4 (b) amended 27008
31.6011(a)–4T Removed 27008
40.6011(a)–1 (c) amended; (d) removed 58005
40.6011(a)–2 (b)(2) amended 58005
40.6302(c)–1 (b)(1)(ii), (5)(ii), (6)(iii), (c)(2)(iv), (3)(iii) and (g) removed; (b)(1)(iii), (5)(iii), (c)(3)(iv), (e) and (f)

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redesignated as (b)(1)(ii), (5)(ii), (c)(3)(iii), (f) and (g); (a), (b)(1)(i), new (5)(ii), (6)(ii), (c)(2)(i)(A), (iii)(B) and new (f)(3)(ii) amended; new (e) added 58005
40.6302(c)–2 (b)(2)(i)(A) and (ii)(B) amended; (c) revised 58005
40.6302(c)–3 (f) and (g) redesignated as (g) and (h); (b)(1)(ii), (3) and new (h) amended; new (f) added 58006
40.6302(c)–4 (d) redesignated as (e); (a), (b)(1) and new (e) amended; new (d) added 58007
40.6302(c)–5T Removed 58007
40.9999–1 Examples 1 and 3 amended 58007
48 Authority citation revised 66216
48.4082–2 (a) amended 58007
48.4082–5T Added 66216
48.4083–1 (b)(1) introductory text and (d)(1) amended 58007
48.4101–1 (f)(3)(ii)(D) corrected 28053
48.6427–7 Removed 58007
48.6714–1 Redesignated as 48.6715–1 58007
48.6715–1 Redesignated from 48.6714–1; (a) introductory text amended 58007
48.6715–2T Added 66216
49.4291–1 (Subpart F) Added 58007
301 Authority citation amended 26790, 33367, 65320, 66220, 67459
301.6011–2T Added 53060
301.6061–1 Revised 65320
301.6061–1T Removed 65320
301.6103(n)–1 (a) introductory text, (2), concluding text, (d) introductory text, (2), (e)(1) and (2) amended; (e)(3) added; authority citation removed 66218
301.6103(l)(14)–1 Redesignated from 301.6103(l)(14)–1T; heading amended 66220
301.6103(l)(14)–1T Redesignated as 301.6103(l)(14)–1 66220
301.6109–1 (a)(1), (b), (c), (d)(2), (f), (g) and (h) revised; (d)(3) and (4) added 26790
(d)(3)(iv)(A)(*1*) correctly revised; (h)(1) corrected 33657
(b)(2)(iii) and (iv) amended; (d)(2) redesignated as (d)(2)(i); (b)(2)(v), new (d)(2)(i) heading and (ii) added 66588
301.6156–1 Removed 58008
301.6206–1 Removed 58008
301.6231(a)(7)–1 Redesignated as 301.6231(a)(7)–1T 37683
Added 67459
301.6231(a)(7)–1T Redesignated from 301.6231(a)(7)–1 37683
Removed 67459
301.6321(a)(7)–2 Added 67462
301.6335–1 (c)(3) revised; (c)(4) through (9) redesignated as (c)(5) through (10); new (c)(4) added 66217
301.6402–7 (g)(2)(iii), (3) Example 2 and (h)(1)(ii) Example amended 33325
301.6415–1 Removed 58008
301.6416–1 Removed 58008
301.6417–1 Removed 58008
301.6418–1 Removed 58008
301.6419–1 Removed 58008
301.6420–1 Removed 58008
301.6421–1 Removed 58008
301.6423–1 Removed 58008
301.6651–1 (c)(3) amended 69031
301.6651–1T Removed 69031
301.6675–1 Removed 58008
301.6905–1 Undesignated center heading revised 58008
301.7001–1 Undesignated center heading removed 58008
301.7011–1 Undesignated center heading and section removed 58008
301.7232–1 Removed 58008
301.7328–1 Removed 58008
301.7503–1 (a) amended; (b) revised; (c) removed 42179
301.7701–1 Revised 66588
301.7701–2 Revised 66589
301.7701–3 Revised 66590
301.7701–4 (b), (c)(1), (2) Examples 1 and 3 amended; (f) added 66592
301.7701–4(e) Added 19191
301.7701–6 Revised 66593
301.7701–7 Removed 66593
301.9100–1T Added 33367
301.9100–2T Added 33368
301.9100–3T Added 33368
601.101 (b) amended; (c) removed 58008

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601.102 (b)(2)(i) and (ii) revised; (b)(2)(iii), (iv) and (c) removed 58008
601.104 (a)(4) and (5) removed; (c)(4) amended 58008
601.201 (a)(2) amended 58008
601.202 (c)(1) amended 58008
601.203 (a)(1) amended 58008
601.301—601.328 (Subpart C) Removed 58008
601.401—601.405 (Subpart D) Heading revised 58008
601.402 Removed 58008
601.403 Removed 58008
601.404 Removed 58008
601.405 Removed 58008
601.9000 (Subpart J) Removed 58008
602 Technical correction 40993
602.101 (c) table corrected (OMB numbers) 14248
(c) table amended (OMB numbers) 17574, 19192, 26792, 27008, 30159, 33321, 33335, 33365, 33370, 42178, 46720, 53066, 58008, 60550, 60559, 65323, 65955, 66593, 67458, 67462, 67726, 68154, 68641, 69031

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1—799 (Ch. I) 68697
1 ..... 14517, 15204, 15743, 17614, 20503, 20766, 20767, 21985, 21988, 27036, 27833, 27834, 28118, 28821, 30845, 31426, 31473, 31474, 32728, 35696, 36320, 39104, 42217, 42401, 43695, 44023, 44024, 48656, 49279, 49715, 50775, 51256, 52902, 53161, 53688, 56647, 58020, 58152, 58798, 65371, 66000, 67260, 67508, 67510, 67512, 67752, 68175
20 43197
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31 ..... 17614, 20767, 28823, 36320, 42401
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TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

Chapter I—Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury (Parts 1—299)

1 Revised 26097
1.3 (b) removed; (c) redesignated as (b); new (b) revised 20723
2 Removed 26097
3 Removed 26097
4.3 (b) removed; (c) redesignated as (b) 20723
4.21 (g)(1) amended 20723
5.3 (b) removed; (c) redesignated as (b) 20723
7.3 (b) removed; (c) redesignated as (b) 20723
9.84 (c) revised 29953
9.152 Added 29952
9.153 Added 67466
16 Authority citation revised 54936
16.22 (d) removed 20723
16.33 Added 54936
17 Added 31412
18.13 OMB number 37003
18.14 OMB number 37003
18.16 (b) removed; (c) redesignated as (b) 20723
18.17 OMB number 37003
18.21 OMB number 37003
18.22 OMB number 37003
18.24 OMB number 37003
18.26 OMB number 37003
18.27 OMB number 37003
18.31 OMB number 37003
18.32 OMB number 37003
18.33 OMB number 37003
18.34 OMB number 37003
18.35 OMB number 37003
18.36 OMB number 37003
18.37 OMB number 37003
18.38 OMB number 37003
18.51 OMB number 37003
18.52 OMB number 37003
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18.62 OMB number 37003
18.63 OMB number 37003
18.65 OMB number 37003

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19.57 Undesignated center heading and section added 31425
19.58 Added 31425
19.61 (b) removed; (c) redesignated as (b); new (b) revised 20724
19.69 Removed 31426
19.534 Revised 20724
19.581 (a) amended 20724
19.592 Amended 20724
19.780 (c)(4) and (5) revised 31426
20.21 (b) removed; (c) redesignated as (b) 20724
21.2 (b) removed; (c) redesignated as (b) 20724
22.21 (b) removed; (c) redesignated as (b) 20724
24.20 (b) removed; (c) redesignated as (b) 20724
24.65 (c) revised 31030
24.67 (b) and (c) revised 31030
24.246 (b) table amended 21079
24.248 Amended 21079
24.295 (a) revised 31030
25.3 (b) removed; (c) redesignated as (b) 20724
25.221 (a) amended 20724
30 Authority citation revised 37003
30.22 Amended 37003
30.23 Amended 37004
30.24 (a) amended 37004
30.32 (c) amended 37004
30.43 Amended 37004
30.51 Amended 37004
47 Policy statement 18678
53.3 Revised 37005
53.21 (b) removed; (c) and (d) redesignated as (b) and (c) 20724
53.103 Heading amended 20724
53.131 (a)(5) amended 37005
53.132 (c)(2)(i) revised; (c)(2)(iii) added 37005
53.133 (b) introductory text amended 20724
(d)(2) revised; (d)(4) added 37006
53.134 (d)(2)(iii) revised; (d)(2)(iv) added 37006
53.135 (c)(1) revised; (c)(3) added 37006
53.179 (b)(1)(iii) revised; (b)(1)(iv) added 37006
55 Authority citation revised 38085
55.11 Amended 38085
55.21 (b) removed; (c) redesignated as (b) 20724
55.181 (Subpart J) Added 38085
70 Authority citation revised 31030, 31426
70.1 (e) and (f) added 29955
Revised 31031
70.2 Added 31031
70.11 Amended 29955
70.321 (a) amended 31426
70.411 (c)(2) revised 31031
(c)(2)(v) and (vii) removed; (c)(2)(vi) redesignated as (c)(2)(v); new (c)(2)(vi) added; (c)(17) amended 31426
70.414 (a) and (g) revised 31031
(j) revised 31426
70.501—70.509 (Subpart F) Added 31031
70.601—70.610 (Subpart G) Added 31033
70.701—70.702 (Subpart H) Heading added 29955
70.701 Redesignated from 71.41; (a)(1), (d)(1) and (2)(i)(B) amended 29955
70.702 Redesignated from 71.42; (a) amended 29955
70.801—70.803 (Subpart I) Heading added 29955
70.801 Added 29955
70.802 Redesignated from 71.26 29955
(a), (d), (f) and (g) amended 29956
70.803 Redesignated from 71.27 29955
71 Removed 29956
71.26 Redesignated as 70.802 29955
71.27 Redesignated as 70.803 29955
71.41 Redesignated as 70.701 29955
71.42 (c)(1) removed; (c)(2) redesignated as (c) 20724
Redesignated as 70.702 29955
170 Authority citation revised 31035, 31426
170.21—170.28 (Subpart B) Removed 20724
170.60—170.79 (Subpart D) Removed 20724
170.85—170.100 (Subpart E) Removed 31035
170.101—170.119 (Subpart F) Removed 20724
170.301—170.311 (Subpart O) Removed 31035
170.611—170.618 (Subpart U) Removed 31426
178.21 (b) removed; (c) redesignated as (b) 20724
178.40a (b)(1) amended 39321
178.57 (c) amended 39321

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178.92 (c)(1) introductory text and (iii) amended 39321
178.116 Revised 39321
178.119 Revised 39322
179.21 (b) removed; (c) redesignated as (b) 20725
194 Authority citation revised 31426
194.33 (b) revised 31426
194.41 (b) removed; (c) redesignated as (b) 20725
194.191 (a) amended 31426
197 Removed 31426
197.2 (b) removed; (c) redesignated as (b); new (b) revised 20725
200.3 (b) removed; (c) redesignated as (b); new (b) revised 20725
200.5 Amended 29956
200.25 Amended 29957
200.27 Amended 29957
200.29 Amended 29957
200.31 Amended 29957
200.35 Amended 29957
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200.37 Amended 29957
200.38 Amended 29957
200.45 Amended 29957
200.46 Amended 29957
200.48 Amended 29957
200.49 Amended 29957
200.49a Amended 29957
200.49b Amended 29957
200.55 (a) amended 29957
200.57 Amended 29957
200.59 Amended 29957
200.60 (a), (b) and (c) amended 29957
200.61 Amended 29957
200.62 Amended 29957
200.63 Amended 29957
200.64 (a), (b) and (c) amended 29957
200.65 Amended 29957
200.70 Amended 29957
200.71 Amended 29957
200.72 Amended 29957
200.73 Amended 29957
200.75 Amended 29957
200.78 Amended 29957
200.79 (b) amended 29957
200.80 Amended 29957
200.85 Amended 29957
200.95 Amended 29957
200.105 Amended 29957
200.106 Amended 29957
200.107—200.110 Undesignated center heading amended 29957
200.107 Amended 29957
200.107a Amended 29957
200.108 Amended 29957
200.109 Amended 29957
200.110 Amended 29957
200.115 Amended 29957
200.116 Amended 29957
200.117 Amended 29957
200.126 Amended 29957
200.129 Amended 29957
250.2 (b) removed; (c) redesignated as (b) 20725
250.11 Amended 31427
250.51 (a) and (c) amended 31427
250.171 Amended 31427
250.172 Revised 31427
250.173 (a) and (d) amended; (c) introductory text revised 31427
250.221 (a) and (c) amended 31427
250.307 Amended 31427
250.308 Revised 31427
250.309 (a) and (d) amended; (c) introductory text and (1) revised 31427
251.2 (b) removed; (c) redesignated as (b) 20725
252 Authority citation revised 20725
252.2 (b) removed; (c) redesignated as (b) 20725
252.216 Amended 20725
270.1 Revised 54085
270.11 Amended 54085
270.41 (b) removed; (c) redesignated as (b) 20725
270.351—270.478 (Subpart K) Added 54085
275.21 (b) removed; (c) redesignated as (b) 20725
275.30 Revised 37004
275.31 Revised 37004
275.32 Revised 37004
275.33 Revised 37004
275.34 Revised 37004
275.35 Revised 37004
275.39 Removed; new 275.39 redesignated from 275.39a 37004
275.39a Redesignated as 275.39 37004
275.63 (a) amended 54095
275.72a Removed; new 275.72a redesignated from 275.72b 37004
275.72b Redesignated as 275.72a 37004
275.72c Removed 37004
275.85 Concluding text amended 54095
275.85a (b) amended 54095

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275.86 Amended 54095
275.115a (a)(1) and (b)(1) amended 54095
275.137 Introductory text amended 54095
275.140 Amended 54095
275.151—275.153 (Subpart H) Removed 37004
275.183 Removed 37004
285 Removed 54095
285.2 (b) removed; (c) redesignated as (b) 20725
290.2 (b) removed; (c) redesignated as (b) 20725
295.34 Amended 54096
296.171—296.181 (Subpart H) Removed 20725

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1 ..... 33391, 33393, 33395, 33396, 33405
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19 ..... 39929, 40568, 56928
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25 ..... 40568, 56928
27 ..... 40568, 56928
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70 ..... 30013, 40568, 56928
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TITLE 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice (Parts 0—199)

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0.100—0.104 (Subpart R) Appendix amended 46720
0.116 Amended 59305
0.197 Added; interim 48406
2.1 (c), (d) and (e) revised 55743
2.17 (a) revised 55743
2.26 (b) revised 55743
2.27 (a) revised 55743
2.28 (f) revised 55743
2.62 (h) introductory text, (1) introductory text and (5) amended; (h)(6) revised 38570
(h)(6) corrected 54096
(e) revised; interim 54097
2.64 Revised 55743
2.67 Removed 55743
14 Appendix amended 66220
16.96 (k)(4) amended; (n) and (o) added 65180
29 Added 40725
31.303 (d)(1)(i), (v), (e)(2), (3), (f)(2), (3)(vi), (4)(vi), (5)(i)(C), (iii), (iv), (6)(i) and (ii) revised; (f)(4)(iv), (v) and (j) introductory text amended 65138
36.407 Revised 39324
42 Notice 42556
42.1—42.3 (Subpart A) Authority citation revised 34729
42.1 Revised 34730
(b) corrected 43119
45 Authority citation revised 59815
Heading revised; interim 59815
45.1 Added; interim 59815
45.2 Redesignated from 45.735-4; interim 59815
45.3 Redesignated from 45.735-5(b); heading revised; interim 59815
45.4 Redesignated from 45.735-7a; interim 59815
45.735-1 Removed; interim 59815
45.735-2 Removed; interim 59815
45.735-3 Removed; interim 59815
45.735-4 Redesignated as 45.2; interim 59815
45.735-5 (a) removed; interim 59815
(b) redesignated as 45.3; interim 59815
45.735-6 Removed; interim 59815
45.735-7 Removed; interim 59815
45.735-7a Redesignated as 45.4; interim 59815
45.735-8 Removed; interim 59815
45.735-9 Removed; interim 59815
45.735-10 Removed; interim 59815
45.735-11 Removed; interim 59815
45.735-12 Removed; interim 59815
45.735-14 Removed; interim 59815
45.735-14a Removed; interim 59815
45.735-15 Removed; interim 59815
45.735-16 Removed; interim 59815
45.735-17 Removed; interim 59815
45.735-18 Removed; interim 59815
45.735-19 Removed; interim 59815
45.735-21 Removed; interim 59815
45.735-22 Removed; interim 59815
45.735-23 Removed; interim 59815
45.735-24 Removed; interim 59815
45.735-25 Removed; interim 59815
45.735-26 Removed; interim 59815
45.735-27 Removed; interim 59815
45 Appendix removed; interim 59815
50 Authority citation revised 49260
50.22 Added; interim 49260
74.4 Revised 51012
82 Removed; interim 38086
90.60—90.67 (Subpart D) Added 40733
91 Authority citation revised 49970
Technical correction 54333
91.21—91.24 (Subpart C) Added; interim 49970
92 Added; interim 49972
Regulation at 61 FR 49972 confirmed 69032

Chapter III—Federal Prison Industries, Inc., Department of Justice (Parts 300—399)

345.11 (c)(1) revised 59168

Chapter V—Bureau of Prisons, Department of Justice (Parts 500—599)

513 Authority citation revised 64950
513.30—513.68 (Subpart D) Added 64950
522.30 (Subpart D) Revised 64953
524 Authority citation revised 47795
524.12 (c) amended; (f) removed 47795
524.15 Amended 47795
524.16 Revised 47795
524.17 Added 47795

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TITLE 28 Chapter V—Con.

524.70—524.76 (Subpart F) Revised 40143
540 Authority citation revised 57568
540.70 Revised; interim 57568
540.71 (a), (d) and (e) amended; interim 57568
540.72 Added; interim 57569
541.22 (a)(6)(i), (iii) and (iv) revised 47795
544.10—544.13 (Subpart B) Removed 47796
544.81 (g) revised 47795
552 Authority citation revised 38042
552.20 Introductory text amended; (a) through (e) revised 39800
552.21 (d) amended 39800
552.22 (c) revised; (g) amended 39800
552.24 Introductory text, (a), (f) and (g) revised; (d) amended 39800
552.26 Revised 39801
552.30—552.33 (Subpart D) Revised 38042
571.10 Revised 38043
571.20 Revised 47795

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38 37964
58 37426
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540 64954
543 56096
553 56096

TITLE 29—LABOR

Subtitle A—Office of the Secretary of Labor (Parts 0—99)

0 Authority citation revised 57286
0.735–1 Added 57287
0.735–2 (Subpart A) Redesignated from 0.735–12 (Subpart A); heading revised 57287
0.735–12 (Subpart C) Redesignated as 0.735–2 (Subpart A) 57287
0.735–13 Removed 57287
0.737–1—0.737–11 (Subpart B) Redesignated from Subpart F; authority citation removed 57287
1.7 Partial stay at 58 FR 58954 extended 68641
4 Authority citation revised 40716
4.2 Revised 68663
4.6 (q) introductory text revised 68663
4.52 Redesignated as 4.53; new 4.52 added 68664
4.53 Redesignated as 4.54; new 4.53 redesignated from 4.52 68664
4.54 Redesignated as 4.55; new 4.54 redesignated from 4.53 68664
4.55 Redesignated as 4.56; new 4.55 redesignated from 4.54 68664
4.56 Redesignated from 4.55 68664
4.112 Revised 68664
4.181 (b)(1) revised 40716
5 Authority citation revised 40716
5.2 Partial stay at 58 FR 58954 extended 68641
5.5 (b) revised 40716
Partial stay at 58 FR 58954 extended 68641
5.15 (b)(1) and (2) removed; (b)(3), (4) and (5) redesignated as (b)(1), (2) and (3) 40716

Chapter I—National Labor Relations Board (Parts 100—199)

101.39 Revised 65182
102.21 Revised 65331
102.44 Removed 65331
102.66 (d) removed; (e), (f) and (g) redesignated as (d), (e) and (f) 65331
102.98 (a) and (b) designation removed 65182
102.99 (a) removed; (b) and (c) redesignated as (a) and (b) 65182
102.117 (p) and (q) added 65183
102.156—102.167 (Subpart U) Added; interim 38371
102.168—102.176 (Subpart V) Added; interim 38373
102.177 (Subpart W) Added 65331

Chapter II—Office of Labor-Management Programs, Department of Labor (Parts 200—299)

270 Removed 51597

Chapter IV—Office of Labor-Management Standards, Department of Labor (Parts 400—499)

402 Policy statment 67942

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403 Policy statment 67942
404 Policy statment 67942
405 Policy statment 67942
406 Policy statment 67942
408 Policy statment 67942
409 Policy statment 67942

Chapter V—Wage and Hour Division, Department of Labor (Parts 500—899)

504 Revised 51014
506 Revised 51014
506.500—506.541 (Subpart F) Regulation at 60 FR 3955, 3977 confirmed 46990
506.600—506.675 (Subpart G) Regulation at 60 FR 3969, 3977 confirmed 46990
507 Revised 51014
508 Revised 51014

Chapter XIV—Equal Employment Opportunity Commission (Parts 1600—1699)

1691 Notice 42556

Chapter XVII—Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)

1910.11—1910.19 (Subpart B) Authority citation revised 56831
1910.19 (l) added 56831
1910.1000 Table Z–1 amended 56831
1910.1001 (j)(3)(v) revised 43457
1910.1051 Added (OMB number pending) 56831
1915.1000 Table Z–1 amended 56856
1915.1001 (h)(2)(iii), (k)(6), (8)(vii), (9)(iii), (iv) and (m)(1)(i)(A) revised 43457
1926.55 Appendix A amended 56856
1926.416 (a)(4), (f) and (g) removed 41738
1926.417 (d) removed 41739
1926.450—1926.454 (Subpart L) Revised 46104
1926.451 (a)(2) corrected; (c)(2) correctly revised 59831
(b)(2)(i) note added; (f)(6) corrected; (d)(13) correctly revised 59832
1926.453 OMB number pending 46117
(b)(2)(v) note correctly added 59832
1926.450—1926.454 (Subpart L) Appendix E corrected 59832
1926.556 Removed 46131
1926.1100—1926.1148 (Subpart Z) Authority citation revised 56856
1926.1101 (h)(2)(iii), (k)(6), (8)(vii), (9)(iii), (iv) and (m)(1)(i)(A) revised 43458
1952.152 Heading revised 66601
1952.154 Added 66601
1952.155 Revised 66601
1952.156 Revised 66602
1952.204 (b) revised 36824
1952.205 (b) amended 36825
1952.227 (b) added 55099
1952.237 (b) added 55099
1952.327 (c) added 55099
1952.347 (c) added 55099

Chapter XX—Occupational Safety and Health Review Commission (Parts 2200—2499)

2200.201 (b) revised 50712

Chapter XXV—Pension and Welfare Benefits Administration, Department of Labor (Parts 2500—2599)

2509 Authority citation revised 33849
2509.75–1 Removed 33849
2509.75–2 (b) removed 33849
2509.75–7 Removed 33849
2509.76–2 Removed 33849
2509.76–3 Removed 33849
2510.3–102 Revised 41233
2520.103–6 (b)(1) revised 33849
2520.103–7 Removed 33849
2520.104–2 Removed 33849
2520.104–3 Removed 33849
2520.104–5 Removed 33849
2520.104–6 Removed 33849
2520.104–28 Removed 33849
2520.104–45 Removed 33849
2520.104b–2 (b) revised 33849
(c) through (f) and (h) removed 33850
2520.104b–4 (d) removed 33850
2520.104b–5 Removed 33850
2520.104b–12 Removed 33850
2550 Authority citation revised 33850
2550.407a–3 Removed 33850

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2550.407a–4 Removed 33850
2550.407c–3 Removed 33850
2550.414b–1 Removed 33850
2550.414c–1 Removed 33850
2550.414c–2 Removed 33850
2550.414c–3 Removed 33850
2550.414c–4 Removed 33850

Chapter XXVI—Pension Benefit Guaranty Corporation (Parts 2600—2699)

Chapter XXVI Removed 34003

Chapter XXVII—Federal Mine Safety and Health Review Commission (Parts 2700—2799)

2703 Revised 39872

Chapter XL—Pension Benefit Guaranty Corporation (Parts 4000—4999)

Chapter XL Established 34003
4000.1 Table amended 67943
4000.2 Table amended 67943
4001.2 Amended 63989
4011 Appendix B amended 65474
4022.3 (a) amended 67943
4022.23 Table corrected 36626
4022.24 (c)(4) corrected 36626
4022.62 Example 3 and (i) corrected 36626
4022.63 Corrected 36626
4022 Appendix amended 65474
4041.2 Amended 67943
4041A.[illegible] Corrected 36626
4043 Revised 63989
4044 Appendixes A and B corrected 36626
Appendixes B and D corrected 36627
Appendix B amended 36969, 42384, 48406, 53623, 58479, 65476
Appendix B corrected 37316, 37795
Appendix D amended 65476
4065 Authority citation revised 63998
4065.3 Existing text designated as (b); (a) added 63998

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2500—2599 (Ch. XXV) 68697
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4007 66247
4043 38409
4065 38409

TITLE 30—MINERAL RESOURCES

Chapter I—Mine Safety and Health Administration, Department of Labor (Parts 1—199)

7.81—7.92 (Subpart E) Added 55504
7.95—7.108 (Subpart F) Added 55518
31 Removed 55525
32 Removed 55525
36 Heading revised 55525
36.1 Revised 55525
36.2 Revised 55525
36.6 (b)(2), (3) and (4) amended 55526
36.9 (a) amended 55526
36.20 (b) revised; (c) added 55526
36.21 Amended 55526
36.43 (a) amended 55526
36.48 Note revised 55526
56 Authority citation revised 36795
Policy statement 42787
56.6000—56.6905 (Subpart E) Revised 36975
56.18010 Revised 50436
57 Authority citation revised 36801
Policy statement 42787
57.6000—57.6960 (Subpart E) Revised 36801
57.18010 Revised 50436
70 Notice 45322
70.1900 (Subpart T) Added 55526
71 Notice 45322
75.310 (a)(4) corrected; CFR correction 55567
75.325 (f) through (k) added 55526
75.342 (b)(2) and (c) introductory text revised 55527
75.344 (d) removed; (e) redesignated as (d) 55527
75.371 (r) revised; (kk) through (pp) added 55527

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75.380 (f)(3)(i) removed; (f)(3)(ii) through (v) redesignated as (f)(3)(i) through (iv) 55527
75.400 Revised 55527
75.1710 Revised 55527
75.1710–1 Heading, (a) and (f) amended 55527
75.1900—75.1916 (Subpart T) Added 55527
76.360 (b)(7) revised 55527
150.13 Revised 55887

Chapter II—Minerals Management Service, Department of the Interior (Parts 200—299)

203 Comment period extension 48834
203.1 (Subpart A) Comment period extension 40734
203.50—203.56 (Subpart B) Comment period extension 40734
250.1 Introductory text amended; (a)(1), (b), (c)(1) through (4), (6), (d), (e)(1) through (5), (f)(1) and (g)(2) revised 60022
250.53 (b) revised 60024
250.122 (e)(4)(i) introductory text revised 60024
250.123 (b)(9)(i) revised 60025
250.126 (c)(3), (e)(2) and (3) revised 60025
250.137 (b)(1)(ii), (c)(4)(ii) and (vii) revised 60025
250.138 (b)(4)(i), (6)(i), (7), (8)(i), (9), (10), (c)(3), (d)(1)(v), (5) through (9), (e)(1)(i) and (2)(i) revised 60025
250.180 (c)(6)(i), (ii), (v), (vi), (viii)(A), (C), (d)(3)(iv), (v)(B), (f)(2)(i), (ii), (iv), (v) and (vii) revised 60026
250.181 (c)(1) revised 60026
250.291 (b)(3) and (d)(4)(i) revised 60026
250.292 (b)(4)(i) revised 60026
256.37 (a) concluding text removed; (a)(2) revised; (a)(3) added 55889
256.47 (e)(2) revised 34732

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735.23 Reinstated; CFR correction 40155
901.15 (e) removed 37383
902.15 (d) added 48842
902.16 Introductory text and (b) added 48842
906.15 (v) added 59337
913.15 (t) added 37385
913.16 (v) removed 37385
914.15 (rrr) added 55748
914.16 (o), (q), (r) and (t) through (aa) removed; (ii) added 55748
917.15 (aaa) added 66224
917.16 (i) revised 66224
925.15 (v) added 38376
931.25 Added 38380
931.26 Added 38381
934.25 (e) added 52694
935.15 (bbbb) added 46550
(cccc) added 55750
936.15 (r) added 38382
(s) added 67215
937.772 Reinstated; CFR correction 40155
943.15 (o) added 67218
944.15 (hh) added 46552
944.16 (c) and (d) removed 46552
946.15 (kk) added 42790
(ll) added 46554
948.15 (q) added 38387
948.16 (rrr) removed; (vvv) added 38387
950.15 (x) added 40746
(y) added 43969
950.16 (q) and (bb) through (hh) removed; (ii) through (ll) added 40746

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350 Removed.....43637
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356.3 Introductory text revised; (a) amended.....43637
356.5 Introductory text amended.....43637
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370.15 Redesignated as 370.31; new 370.15 redesignated from 370.12; heading revised 54910
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500 Authority citation revised 43460, 54938
500.701 (c) added 43460
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515 Authority citation revised 37386, 43461, 54938
515.208 Added 37386
515.311 Existing text designated as (a); (b) added 37386
515.334 Added 37386
515.335 Added 37386
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515.701 (a)(5) removed; (a)(6) redesignated as (a)(5); (d) added 37386
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535 Authority citation revised 43461, 54938
535.701 (c) added 43461
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550 Authority citation revised 43461, 54939
550.701 (c) redesignated as (d); new (c) added 43461
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560 Authority citation revised 43461, 54939, 58480
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575 Authority citation revised 43461, 54939
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575.523 Added 65313
575.524 Added 65314
575.525 Added 65314
575.526 Added 65315
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590 Authority citation revised.....54940
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595 Authority citation revised.....54940
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92 Correctly added; CFR correction.....55567
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174 Redesignated from Part 90.....54097
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100.T08-35-039 Added (temporary) 44161
100.01—100.50 (Subpart A) Regulation at 61 FR 33032 eff. date delayed to 1-1-98 60028
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100.05 Regulation at 61 FR 33032 eff. date delayed to 1-1-98 60028
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100.19 Corrected 36292
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100.30 Regulation at 61 FR 33033 eff. date delayed to 1-1-98 60028
100.35 Regulation at 61 FR 33033 eff. date delayed to 1-1-98 60028
100.35-T08-041 Added (temporary) 53322
100.35-T96-051 Added (temporary) 47823
100.35-T96-068 Added (temporary) 64992
100.35T-07-067 Added 65333
100.35T08-034 Added (temporary) 41507
100.35T08-038 Added (temporary) 41506
100.35T96-045 Added (temporary) 40514
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100.100—100.1305 (Subpart B) Regulation at 61 FR 33033 eff. date delayed to 1-1-98 60028
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116 Authority citation corrected 36786
117 Temporary drawbridge operation regulations 37211, 50712, 64995
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117.253 (b)(1)(ii) and (iii) revised; (b)(3) added 57586
117.261 (bb) revised; interim 67948
117.478 (b) revised 49064
117.491 (b) removed; (c) through (f) redesignated as (b) through (e) 39873
117.1059 (h) stayed; (j) added; eff. 2-1-97 through 6-1-97 43158
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117 Appendix A corrected 36786
120 (Subchapter K) Added; interim 37652

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127.003 Corrected 36629
128 Added; interim 37654
154.100 (a) revised; (d) added 41457
154.105 Amended 41458
154.106 (a) revised; (b) amended 41458
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154.107 (b) revised 41458
154.108 (a) introductory text and (d) revised 41458
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154.300 (a) introductory text, (c), (e) and (f) revised 41458
154.310 (a)(2), (7), (15), (16) and (22) revised; (a)(23) added 41459
154.320 (a)(1) and (d) revised 41459
154.325 Revised 41459
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154.740 Introductory text and (b) revised; (j) added 41461
156.120 Introductory text, (f) and (w)(5) revised; (cc) and (dd) added 41461
156.150 (c)(3) and (5) revised; (c)(6) added 41461
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157 Authority citation revised 39788
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157.02 Added 39788
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157.400 Revised 39788
157.410 (c) revised 39789
157.415 Added 39789
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157.420 Added 39789
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157.430 Added 39789
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157.435 Added 39789
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157.440 Added 39790
157.445 Added; eff. 7-29-97 39790
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157.450 Added 39790
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157.455 Added 39790
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(a)(5) and (6) stayed 60189
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157.460 Added; eff. in part 7-29-97 39790
(b) corrected 41685
157.500—157.510 (Subpart H) Added 39791
157.600—157.610 (Subpart I) Added 39791
158.140 (a)(2) corrected 36629
160 Authority citation revised 50234
160.201 (b), (c) introductory text, (1), (3)(i), (ii) and (iii) revised; (c)(3)(iv) through (x) added 50234
160.203 Amended 50234
160.207 (c)(1) through (5) revised; (c)(6) through (11) added 50234
160.211 (a) introductory text and (1) through (8) revised; (a)(9) through (16) added 50234
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160.213 (a) introductory text and (1) through (7) revised; (a)(8) through (15) added; (b) amended 50235
161.12 (b) table revised 45326
161.25 Revised 45327
164 Authority citation revised 35072
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164.03 (b) revised 35072
164.70 Added 35072
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164.82 Added 35076
165 Temporary regulations lists 39325, 49678
165.T01-041 Added (temporary) 35131

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165.T01-068 Added (temporary) 40516
165.T01-072 Added (temporary) 45892
165.T01-100 Added (temporary) 45893
165.T01-109 Added (temporary) 47054
165.T05-045 Added (temporary) 35132
165.T06-072 Added (temporary) 67949
165.T07-052 Added (temporary) 50437
165.T08-066 Added (temporary) 59027
165.T1-3009 Added (temporary) 40995
165.T11-030 Added (temporary) 37213
165.T96-073 Added (temporary) 68157
165.141 Added 60032
165.708 Added 68156
165.903 (a) introductory text revised; (a)(1) through (10) redesignated as (a)(2) through (11); new (a)(1) added 37685
165.1101 Added 60029
165.1304 (a) revised 47824
179.19 (b) corrected 36629
181.3 Corrected 36786
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207 Authority citation revised 55572
207.440 (u) revised 55572
334.420 (a)(2) amended; (b)(1)(i) removed; (b)(1)(iii), (iv) and (v) redesignated as (b)(1)(ii), (iii) and (iv); (b)(2) revised 43970
334.460 (a)(12), (b)(1) through (7), (9) and (11) revised; (a)(13) added 64997
334.530 (b)(2) revised 34733
334.630 (a) and (b)(1) revised 34733
334.760 (b)(1) revised 43970
334.1110 (a)(1) designation removed; (a)(2) redesignated as (b); (a) heading and new (b) revised 43970
334.1340 (a)(3) and (4) redesignated as (a)(1) and (2); new (a)(2) heading and (c) revised 34733

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86 Authority citation revised 66225
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86.1 Revised 66225
86.2 (a) and (b) amended 66225
Authority citation revised 66226
86.3 Heading, (a) and (b) amended 66225
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86.4 (a) amended; (b) and (c) removed; authority citation revised 66226
86.5 Heading, (a) and (b) amended 66225
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86.6 Heading, (b)(3) and authority citation revised; (a), (b)(1) and (2) amended 66226
86.7 (a) removed; (b) and (c) redesignated as (a) and (b); new (a) and new (b) amended; authority citation revised 66226
86.100 Authority citation revised 66226
86.101 Authority citation revised 66226

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86.102 Authority citation revised 66226
86.10[illegible] Authority citation revised 66226
86.200—86.204 (Subpart C) Removed 66226
86.300—86.304 (Subpart D) Heading amended 66226
86.300 Heading, introductory text, (b) introductory text and (2) amended; authority citation revised 66226
86.301 Heading, (a) introductory text, (2), (b) introductory text, (1), (2)(i)(A) and (B) amended 66225
Authority citation revised 66226
86.302 (a) and (b) amended 66225
Authority citation revised 66226
86.303 (a) introductory text and (b) through (e) amended 66225
Authority citation revised 66226
86.304 Heading, (a) introductory text, (1), (2)(i), (3) introductory text, (ii), (b) introductory text, (1) and (2) introductory text amended 66225
Authority citation revised 66226
86.400 (a) amended 66225
Authority citation revised 66226
86.401 (d)(1) and (2) amended 66225
Authority citation revised 66226
86.402 (a) amended 66225
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86.403 Authority citation revised 66226
86.404 Authority citation revised 66226
86.405 Authority citation revised 66226
86.406 Authority citation revised 66226
86.407 (a) and (d) amended 66225
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86.408 (a)(1)(ii) amended 66225
Authority citation revised 66226
86.409 (c) introductory text and (e)(2) amended 66225
Authority citation revised 66226
86.410 (a)(1) introductory text and (d) amended 66225
Authority citation revised 66226
86.411 (a)(1), (2) and (b) amended 66225
Authority citation revised 66226
99.1 (a) revised; (b) removed; (c), (d) and (e) redesignated as (b), (c) and (d) 59295
99.2 Amended 59295
99.3 Amended 59295
99.6 Removed 59295
99.7 Revised 59295
99.10 (a), (b), (d) and authority citation revised; (c) and (e) amended 59296
99.12 (a) amended; authority citation revised 59296
99.20 (a) amended 59296
99.21 (a), (b)(1) introductory text and (2) amended 59296
99.31 (a)(5)(i), (9) and authority citation revised; (a)(6)(iii) redesignated as (a)(6)(iv); new (a)(6)(iii) added 59296
99.32 (d)(3) and (4) amended; (d)(5) added; authority citation revised 59297
99.33 (c) and (d) revised; (e) added 59297
99.34 (a)(1)(ii) amended 59297
99.36 (b) and authority citation revised; (c) added 59297
99.38 Added 59297
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600.5 (e) removed 60569
614 Removed 51784
617 Removed 51784
619 Removed 51784
641 Removed 51784
646 Revised 38537
656 Revised 50193
657 Revised 50202
668 Notice 58926
668.1 (c)(4), (10) and (12) amended 60396
668.2 (b)(1), (2) and (3) amended 60396
668.4 Added 60602

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668.15 (e) removed; (g) revised; (h) added 60569
668.16 (m)(2)(ii) and (n) amended; (o) added (OMB number pending) 60603
668.22 (g)(3)(i) amended 60396
668.23 Revised (OMB number pending) 60569
668.24 Revised (OMB number pending) 60491
668.25 (c)(4)(i) amended 60492
668.26 (b)(3) amended 60492
668.161—668.167 (Subpart K) Revised 60603
668.163 (a)(2)(iii) removed; (a)(3) revised 49043
668.165 OMB number pending 60603
668.167 OMB number pending 60603
673 Added 60393
674 Notice 58926
674.2 (a) and (b) amended 60608
674.3 Removed 60396
674.4 Removed 60396
674.8 (b)(2) amended 60396
674.14 Removed 60396
674.15 Removed 60396
674.16 (d)(1) and (e) amended; (g) removed; (h), (i) and (j) redesignated as (g), (h) and (i) 60608
674.18 (b) removed; (c) redesignated as (b) 60396
674.19 (d), (e)(1), (3) and (4) heading revised; (e)(4)(v) removed; (e)(4)(vi) redesignated as (e)(4)(v) 60492
675 Notice 58926
675.2 (a) and (b) amended 60608
675.3 Removed 60396
675.4 Removed 60396
675.14 Removed 60396
675.15 Removed 60396
675.18 (b) removed; (c) through (h) redesignated as (b) through (g) 60396
675.19 (b)(1) revised; (b)(2)(iii) and (iv) amended; (b)(2)(v), (vi), (vii), (4), (5) and (c) removed 60492
675.26 (d) revised 60396
675.49 Amended 60396
676 Notice 58926
676.2 (a) and (b) amended 60608
676.3 Removed 60396
676.4 Removed 60396
676.14 Removed 60396
676.15 Removed 60396
676.16 (c) amended; (e) removed; (f) and (g) redesignated as (e) and (f) 60608
676.18 (b) removed; (c) redesignated as (b) 60396
676.19 (b) revised; (c) removed 60493
682 Notice 58926
682.200 (a)(1) amended 60608
682.202 (f)(2) amended 60486
682.207 (b)(1)(ii)(B), (C) and (v)(B)(*1*) amended; (c)(3), (4) and (d) revised; (c)(5) added 60609
682.401 (b)(28) added 60436
(b)(27) revised 60486
682.404 (a)(2)(ii) and (f) revised; eff. in part 1-1-98 60486
682.406 (a)(12) revised 60486
682.410 (a)(2) introductory text, (ii) and (x) revised; (a)(11)(iii) and (b)(11) added 60436
(b)(2) and (6)(vii)(A) revised 60486
682.411 (c), (d) introductory text, (1) and (2) revised (OMB number pending) 60486
682.413 (b) redesignated as (b)(1); (b)(2) added 60487
682.414 (a)(2) revised; (c) introductory text, (1) and (2) removed; (a)(3), (4) and (c)(3) redesignated as (a)(4), (5) and (c)(2); new (a)(3) and new (c)(1) added; new (a)(4)(iii), new (iv), new (5)(i) and new (c)(2) amended 60493
682.418 Added (OMB number pending) 60437
682.603 (b)(4) amended; (b)(5) and (h)(1) revised; (b)(6) and (c) removed 60609
682.604 (a) heading, (b) heading, (c)(3)(i), (ii), (d)(2) and (e) revised; (a) redesignated as (a)(1); (a)(2), (3) and (c)(6) through (9) added; (b)(2)(ii) removed; (b)(2)(iii), (c)(2)(i), (ii)(A), (B), (4), (d)(1)(i) and (3)amended 60609
682.610 (a) and (b) revised; (f)(2) redesignated as (c)(2)(iv); (c)(2)(ii), (iii) and new (c)(2)(iv) amended; (d), (e) and (f) removed 60493
685 Notice 58926
685.102 (a)(1) amended 60610

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TITLE 34 Chapter VI—Con.

685.301 (b) revised 60610
685.303 (c) amended; (d) revised 60610
685.309 (a)(1), (c) and (d) revised; (e), (f) and (g) removed; (h), (i) and (j) redesignated as (e), (f) and (g) 60493
(e) amended 60610
690 Notice 58926
690.2 (c) amended 60396
Heading revised; (a) amended 60610
690.3 Removed 60610
690.10 (b) revised 60397
690.12 (b)(1) amended 60397
690.13 Revised 60397
690.14 (b)(1) and (2) removed; (b)(3) introductory text, (i), (ii) and (4) redesignated as (c) introductory text, (1), (2) and (d); heading, (a) and new (b) revised 60397
690.61 (a)(1)(ii) and (b)(2) revised 60397
690.75 (a)(2) and (e) introductory text amended 60397
(b) removed; (c), (d) and (e) redesignated as (b), (c) and (d) 60610
690.78 (c)(2), (3) and (4) amended; (c)(6) added 60397
(a) amended 60610
690.81 (c) removed 60397
(a) revised 60493
690.82 Revised 60494

Proposed Rules:

75 ..... 37184, 43640, 47550
76 ..... 43640, 47550
77 ..... 43640, 47550
206 37184
222 52564
231 37184
235 37184
263 39246
270 ..... 43640, 47550
271 ..... 43640, 47550
272 ..... 43640, 47550
350 53560
351 53560
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360 53560
369 37184
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464 54024
472 54024
477 54024
489 54024
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491 54024
607 ..... 43640, 47550, 52399
608 52399
609 52399
610 37184
612 37184
628 52399
630 37184
636 52399
637 ..... 37184, 52399
642 ..... 43640, 47550
645 52399
647 52399
648 ..... 43640, 47550
649 52399
650 52399
655 52399
658 ..... 37184, 52399
660 ..... 37184, 52399

661 ..... 37184, 52399
662 ..... 43640, 47550
663 ..... 43640, 47550
664 ..... 43640, 47550
668 ..... 48564, 49390, 49552, 49874, 66854
669 ..... 37184, 52399
673 49390
674 ..... 48564, 49390, 49874
675 ..... 48564, 49390, 49874
676 ..... 48564, 49390, 49874
682 ..... 47398, 48564, 49382, 49874
685 ..... 48564, 49874
690 ..... 48564, 49390, 49874

TITLE 35—PANAMA CANAL

Chapter I—Panama Canal Regulations (Parts 1—299)

61.155 (e) added 36497
123.4 (a) amended 36498
133 Authority citation revised 60612
133.1 Revised 60612
135 Authority citation revised 60612
135.2 Amended 60612
135.3 Heading and (a) revised 60612
135.13 (a) amended; (a)(10) and (11) added; (b) revised 60612
135.14 (d) added 60612
135.15 (d) and (e) added 60612
135.31 Amended 60612
135.41 Amended 60612
135.42 (c) added 60612

Proposed Rules:

133 ..... 46407, 53886
135 ..... 46407, 53886

TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

Chapter I—National Park Service, Department of the Interior (Parts 1—199)

1.2 (a), (b) and (d) revised 35136
1.4 (a) amended 35136
1.10 (b) amended 46556
7.11 Removed 46380
13.2 (c) and (e) revised 35137
(e) redesignated as (f); new (e) added 54339
13.80—13.87 (Subpart D) Added 54339
13.82 OMB number pending 54340
13.83 OMB number pending 54340
13.84 OMB number pending 54341
13.85 OMB number pending 54341
31 Removed 40996

Chapter II—Forest Service, Department of Agriculture (Parts 200—299)

211 Authority citation revised 47673
211.1 Removed 47673
211.6 Removed 41507
222.23 Revised 35959
223.39 Removed 64815
223.65 Revised 48625
223.66 Removed 48625
223.113 Revised 64816
223.170—223.183 (Subpart E) Removed 35960
242.24 Revised 39702
(a)(1) table amended 48628
242.25 Added; eff. 8-1-96 through 6-30-97 39700
(k)(6)(iii)(B) table, (7)(iii) table, (11)(i) table, (13)(iii) table, (14)(iii) table, (15)(iii)(D) table amended; eff. 8-1-96 through 6-30-97 48628
(k)(15)(iii)(D) table and (16)(iii) table amended; eff. 8-1-96 through 6-30-97 48629
242.26 Added; eff. 1-1-97 through 12-31-97 39747
242.27 Added; eff. 1-1-97 through 12-31-97 39751

Chapter VII—Library of Congress (Parts 700—799)

701.33 (a)(4) revised 49262

Chapter XI—Architectural and Transportation Barriers Compliance Board (Parts 1100—1199)

1191.2 Revised 39324

Proposed Rules:

7 ..... 41058, 59393
61 51536
223 ..... 54589, 58281, 64569, 68690
242 ..... 41060, 67274
800 48580
1190 ..... 36688, 51397, 64832
1191 ..... 36688, 37964, 51397, 64832
1228 39373

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TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—Patent and Trademark Office, Department of Commerce (Parts 1—199)

1.1 (a) heading revised; (g) removed 56446
1.3 Revised 56446
1.5 (f) added 42802
(a) revised 56446
1.6 (a) revised 56447
1.8 (a)(1)(i)(A) and (2)(ii) revised 56447
1.9 (h) added 56447
1.10 Revised 56447
1.12 (c) added 42802
1.14 Heading, (a), (b) and (e) revised 42802
1.16 (a), (b), (d) and (f) through (i) revised; (m) added 39587
(m) corrected 43400
1.17 (b) through (g), (j), (m) through (p), (r) amd (s) revised 39587
1.18 Revised 39588
1.20 (c), (e), (f), (g), (i)(1), (2), (j)(1), (2) and (3) revised 39588
1.21 (a)(1), (3) and (6) revised 39588
(a)(1) corrected 43400
1.52 (a) and (b) revised 42803
1.54 (b) revised 42803
1.58 Heading and (c) revised; (b) removed 42803
1.62 (e) and (f) revised 42803
1.72 (b) revised 42803
1.75 (g) revised; (h) and (i) added 42803
1.77 Revised 42803
1.78 (a)(2) and (c) revised; (d) removed 42804
1.84 (c), (f), (g) and (x) revised 42804
1.96 Revised 42804
1.97 (a) through (d) revised 42805
1.107 (a) revised 42805
1.110 Revised 42805
1.130 Added 42805
1.131 (a) revised 42806
1.132 Revised 42806
1.154 Revised 42806
1.163 (c) and (d) added 42806
1.291 (a) and (b) revised 42806
1.292 (a) and (b) revised 42807
1.315 Revised 42807
1.321 (c) revised 42807
1.445 (a) revised 39588
1.482 (a)(1)(i), (ii) and (2)(ii) revised 39588
1.492 (a), (b) and (d) revised 39588
1.497 Revised 42807
1.741 (a) revised 64028
2.7 Added 55223
2.53 Removed 55223
2.102 (c)(2) revised 36825
2.165 (a)(1) revised 56448
2.189 Undesignated center heading and section removed 55223
5.33 Revised 56448
10.23 (c)(9) revised 56448
15 Removed 42808
15a Removed 42808
101 Removed 40999
102 Removed 40999

Chapter II—Copyright Office, Library of Congress (Parts 200—299)

201 Comment period extension 49680
251.1 Revised 63717
251.2 Revised 37215
251.3 (a) introductory text and (b) amended 63717
251.5 (c) amended 63717
251.32 (a) and (b)(2)(ii) revised; (d) amended 63717
251.43 (a) amended 63717
251.44 (a), (b), (e)(2), (f) and (g) revised 63717
251.45 (b)(1)(i) and (2)(i) revised 63718
251.58 (c) revised 37215
251.60 Amended 37215
251.61 (a) revised 37215
251.62 (a) amended 37216
251.63 (a) amended 37216, 63718
252.4 (e) revised 63718
253.5 (c)(1), (2) and (3) revised 60613
257.4 (e) revised 63718
259.2 (c) introductory text amended 63718
259.5 (e) revised 63718

Chapter V—Under Secretary for Technology, Department of Commerce (Parts 500—599)

501 Authority citation revised 40999
Heading revised; interim 40999
501.1 Revised; interim 40999
501.3 Revised; interim 40999
501.4 Revised; interim 40999

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501.6 (a)(1) introductory text, (iii), (2), (3)(i) and (4)(i) revised; interim 40999
501.7 (b) and (c) revised; interim 40999
501.8 (a) and (b) revised; (c) and (d) redesignated as (d) and (e); new (c) added; interim 41000
501.9 Revised; interim 41000
501.11 Added; interim 41000

Proposed Rules:

1 ..... 49820, 51855
2 48872
3 49820
5 49820
7 49820
10 51072
202 ..... 58497, 64042

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Department of Veterans Affairs (Parts 0—99)

1.12 Undesignated center heading and section added 33850
1.891 Authority citation revised 38571
1.892 Authority citation revised 38571
1.893 Authority citation revised 38571
1.894 Authority citation revised 38571
1.895 Revised 38571
1.896 Authority citation revised 38571
1.897 Authority citation revised 38571
2.1 Regulation at 60 FR 40757 confirmed 68665
2.6 3.1 (n) introductory text and (y)(4) amended; (n)(3) note removed 56627
3.101 Removed 68666
3.107 Heading revised 67950
3.204 Heading revised; (a) and (b) redesignated as (b) and (c); new (a) added; new (b) amended 56626
3.205 Cross reference amended 56626
3.206 Cross reference amended 56626
3.207 Cross reference amended 56626
3.208 Cross reference amended 56626
3.209 Cross reference amended 56626
3.210 Cross reference amended 56626
3.211 Cross reference amended 56626
3.212 Cross reference amended 56626
3.213 (a) introductory text and cross reference amended 56626
3.214 Cross reference amended 56626
3.307 (a)(6)(ii) amended 57588
3.309 (e) amended 57589
3.315 (c)(1)(i) and (ii) removed; (c)(1)(iii) and (iv) redesignated as (c)(1)(i) and (ii); (c)(3)(i) and (4) amended; (c)(4) authority citation revised 67950
3.352 Heading revised 68666
3.400 (d) removed 67950
3.709 Removed 67950
3.712 Heading revised; (a) and (b) heading removed; (b)(1) and (2) redesignated as (a) and (b) 67950
3.961 Removed 67950
3.962 Removed 67950
3.1000 (g) amended 67950
4.13 Amended 52700
4.16 (c) removed 52700
4.88 Undesignated center heading revised; section removed 39875
4.88b Revised 39875
4.96 Heading and (a) revised; (c) added 46727
4.97 Revised 46728
4.125 Revised 52700
4.126 Revised 52700
4.127 Revised 52700
4.128 Revised 52700
4.129 Revised 52700
4.130 Removed; new 4.130 redesignated from 4.132 and revised 52700
4.131 Removed 52700
4.132 Redesignated as 4.130 52700
14.507 (a) and (b) amended 68666
17.63 (a)(2) revised 63720
17.80 (a)(1) revised 56897
17.81 (a)(1)(i) revised 63720
17.82 (a)(1)(i) revised 63720
19.8 Revised 68666
19.76 Amended 43008
20.703 Revised 43009
21.5100 (b), (c) and (d) corrected 36629
36.4300—36.4375 Authority citation revised 56449

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TITLE 38 Chapter I—Con.

36.4337 (k)(1)(i) introductory text and (3) amended; authority citation added 56449
42.3 (a)(1)(iv) and (b)(1) concluding text amended; (a)(8) revised; authority citation added 56449

Proposed Rules:

1 ..... 33878, 40589
3 ..... 41368, 50264
16 47469
17 ..... 37024, 41108, 56486

TITLE 39—POSTAL SERVICE

Chapter I—United States Postal Service (Parts 1—999)

5 Authority citation revised 36499
5.2 Revised 36499
7.1 (a) revised 36499
10 Authority citation revised 36499
Heading revised 36499
10.1 Redesignated from 10.11 and revised 36499
10.2 Redesignated from 10.31 and revised 36499
10.3 Added 36500
10.4 Redesignated from 10.41; (a) and (e)(2) revised 36500
10.11—10.12 (Subpart A) Heading removed 36499
10.11 Redesignated as 10.1 36499
10.12 Removed 36500
10.21—10.24 (Subpart B) Heading removed 36499
10.21 Removed 36500
10.22 Removed 36500
10.23 Removed 36500
10.24 Removed 36500
10.31—10.32 (Subpart C) Heading removed 36499
10.31 Redesignated as 10.3 36499
10.32 Removed 36500
10.41 Redesignated as 10.4 36500
10.42 (Subpart D) Heading removed 36499
20 IMM amended; incorporation by reference; interim 36501, 39592, 39593, 55573
111 DMM amended; incorporation by reference 42479, 48071, 48574, 52703, 53323
111.3 (e) table amended 60191, 64620, 67228
111.5 Revised 64620
233.3 (c)(9) revised 42557
233.12 Added 56450
273.3 (a)(1) and (b)(1) revised 55750

Chapter III—Postal Rate Commission (Parts 3000—3099)

3001.61—3001.69c (Subpart C) Appendix A corrected 37316
Appendix A amended 55100, 55102

Proposed Rules:

111 53280
701 42219
3001 67760

TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency (Parts 1—799)

3 Revised 40503
5 Removed 41331
9.1 Table amended (OMB numbers) 33851, 33852, 48229, 51366, 52295, 53854, 54039, 66227, 67951
Table amended (OMB numbers); eff. 7-31-96 34228
19 Added 69364
27 Authority citation revised 69366
27.3 (a)(1) and (b)(1) revised 69366
39 Removed 64291
50 Decision 52852
51.100 (s) introductory text and (1) revised 52850
51.112 (a)(1) revised; (a)(2) amended 41840
51.160 (f)(1) revised; (f)(2) amended 41840
51.166 (l)(1) revised; (l)(2) amended 41840
51.350 (b)(1) revised; (b)(5) added 39036
51.351 (h) added 39036
(c) added 40945
51.352 (c) revised 40945
51.353 (c)(5) added 39036
51.357 (a)(12) and (b)(4) added 40945
51.358 (b)(4) added 40945
51.361 Introductory text and (b)(1)(i) revised 49682
51.364 (e) and (f) added 39037
51.365 (a)(23) and (24) amended; (a)(25) added 40945

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51.366 (a)(2)(ix) amended; (a)(2)(xi) through (xxiii) added 40945
51.372 (b)(3) revised 40946
(b)(3) corrected 44119
51.373 (f) added 39037
(g) added 40946
51.350—51.373 (Subpart S) Appendix B amended 40946
51 Appendix W revised 41840
52 State implementation plan determinations 36292, 49262, 51598, 54948
Announcement 56450
52.12 (c)(83) and (85) added 51611
52.21 (l)(1) revised; (l)(2) amended 41894
52.150 Added 56470
Heading corrected 58281
52.220 (c)(231) added 36502
(c)(194)(i)((A)(*5*), (207)(i)(B)(*3*), (220)(i)(B)(*1*), (225)(i)(B)(*4*) and (C)(*1*) added 37393
(c)(189)(i)(B)(*3*), (210)(i)(E), (220)(i)(B)(*3*), (221)(i)(A)(*2*), (229) and (230) added 38574
(c)(185)(i)(A)(*9*), (194)(i)(G), (198)(i)(K), (207)(i)(B)(*2*) and (225)(i)(B)(*3*) removed 43977
(c)(187)(i)(A)(*6*) added 44163
(c)(91) added 49066
(c)(191)(i)(D), (196)(i)(C)(*3*), (229)(i)(A) and (231)(i)(B) added 52299
(c)(197)(i)(A)(*2*) and (224)(i)(B) added 54943
(c)(207)(i)(D)(*3*), (220)(i)(C) and (230)(i)(B) added 56472
(c)(193)(i)(A)(*3*) added 56629
(c)(179)(i)(E) and (193)(i)(D) added 56631
(c)(232) added 57780
(c)(239) added 58134
(c)(240) added 64293
52.222 (b) added 56474
(a)(1)(iv) added 56476
52.320 (c)(74) added 49684
(c)(75) added 51787
(c)(63) added 60615
52.347 Removed 60615
52.348 Added 67469
52.370 (c)(71) added 38576
52.372 Removed 38576
Added 56900
52.373 Revised 38576
52.374 Table revised 38576
52.376 (c) added 38577
52.520 (c)(96) added 65957
52.535 Removed 49066
52.691 Existing text designated as (a); (b) added 66606
52.720 (c)(120) added 38581
(c)(130) added 38590
(c)(128) added 41341
(c)(102) added 54559
(c)(131) added 67472
52.725 (d) added 41345
52.726 (m) added 38590
52.741 (a)(2) revised 54559
52.770 (c)(114) added 55894
52.795 (f) and (g) added 58486
52.870 (c)(32) added 51368
52.930 (c) added 50720
52.970 (c)(70) added 37839
(c)(64) added 38591
(c)(67) added 48412
Regulation at 61 FR 37839 withdrawn 50238
(c)(69) added 53642
(c)(71) added 54742
(c)(72) added 55896
52.975 (d) added 37839
Regulation at 61 FR 37839 withdrawn 50238
52.994 Added 48412
52.1020 (c)(42) and (43) added 53639
52.1031 Table amended 53639
52.1075 Added 50717
Heading revised; (c) added 64029
52.1119 (a)(2) added 43976
52.1120 (c)(112) added 41338
(c)(111) added 53632
52.1167 Table amended 41338, 53532
52.1170 (c)(107) added; eff. 7-1-96 through 9-15-96; interim 45898
52.1173 (f) added 40519
(g) added 66609
52.1174 (j) removed 39332
(n) added 66609
(m) added 66611
52.1185 (b) added 66609
Added 66611
52.1320 (c)(86) revised 39335
52.1370 (c)(44) added 51018
(c)(43) added 54948
(c)(34) added 60614
52.1389 Removed 60615
52.1478 Added 57333
52.1570 (c)(54) added 38593
52.1572 Added 56900
52.1582 (e) and (f) added 53628
(e) and (f) removed 66607

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TITLE 40 Chapter I—Con.

52.1605 Table amended 38594
52.1620 (c)(60) added 48409
(c)(62) added 53642
52.1670 (c)(89) added 38597
52.1672 Added 56900
52.1679 Table amended 38597
52.1683 (c) added 51217
(c) removed 64029
52.1770 (c)(91) added 49414
(c)(89) added 49418
52.1820 (c)(28) added 52868
(c)(25) added 60615
52.1833 Removed 60615
52.1870 (c)(111) added 52883
52.1970 (c)(114) added 37395
(c)(115) added 50714
52.2020 (c)(111) added 39597
(c)(110) added 39600
(c)(100) added 54737
(c)(113) added 67231
(c)(112) added 67233
52.2036 (f) added 67232
52.2037 (e), (f) and (g) added 67231
52.2061 (b) added 39597
Added 39601
52.2062 (b) added 39597
Added 39601
52.2070 (c)(46) and (47) added 55903
52.2081 Table amended 55903
52.2086 Added 55902
52.2219 Revised 37390
52.2220 (c)(138) added 37390
(c)(142) added 38392
(c)(139) added 39328
(c)(137) added 39334
(c)(143) added 43973
(c)(141) added 47057
(c)(140) added 53636
(c)(144) added 55909
52.2225 (b) and (c) removed 37390
52.2237 Added 36506, 54946
Regulation at 61 FR 36506 withdrawn 47057
52.2270 (c)(94) added 45329
(c)(101) added 49688
(c)(103) added 55896
52.2320 (c)(30) added 60615
52.2348 Removed 60615
52.2420 (c)(108) and (109) added 38390
52.2425 Heading revised; existing text designated as (a); (b) added 48632
(c) added 48635
52.2433 (o) and (p) added 38390
52.2470 (c)(61) added 38091, 50238
(c)(62) added 38600, 53070
(c)(63) added 41335
Regulations at 61 FR 38091 and 61 FR 38600 withdrawn 47055
(c)(65) added 49690
(c)(66) added 50442
(c)(64) added 50714
(c)(67) added 53327
(c)(68) added 54563
52.2520 (c)(39) and (40) added 54735
(c)(35) added 60197
52.2522 (g) added 58482
52.2570 (c)(95) added 37218
(c)(92) added 39330
52.2585 (k) added 43675
(j) added 43972
52.2634 Added 47059
55 Operating permits 39877
55.6 (c)(3) added; eff. 7-31-96 34228
55.10 (a)(1) revised; (b) added; eff. 7-31-96 34228
55.13 (f) added; eff. 7-31-96 34228
60 Authority delegation notices 42808, 59832
60.4 (c) table revised 52868
60.42 (b)(3) removed 49976
60.45 (g)(1)(iii) removed 49976
61.100—61.108 (Subpart I) Heading revised 68981
61.100 Revised 68981
61.101 (a) and (e) removed; (b), (c), (d) and (f) redesignated as (a) through (d) 68981
61.107 (c)(1) removed 68981
62 Authority citation revised 55576
62.10850—62.10870 (Subpart SS) Added 55576
63 State operating permit program approvals 43675
Technical correction 54342
63.14 Second (b)(4) through (7) and (b)(8) through (14) redesignated as (b)(8) through (18) 66227
63.40 Added 68399
63.41 Added 68399
63.42 Added 68400
63.43 Added 68401
63.44 Added 68404
63.90 Introductory text amended 36297
63.91 (a) introductory text revised 36297
63.93 (b)(4)(iv) removed 36298
63.95 (b)(4)(i) revised 36298
63.100 (d)(3)(ii), (i), (l)(3)(ii)(B), (4)(iii)(A) and (m)(2) revised;

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(g)(2)(iii), (h)(2)(iv) and (l)(4)(iii) introductory text amended 64574
63.102 (c) introductory text revised; (c)(2) removed 64575
63.106 (a) revised 64575
63.110 (e)(2)(ii) introductory text and (f)(4)(ii) revised 64575
63.117 (e) amended 64576
63.120 (d)(2) introductory text and (i) revised; (d)(3)(i) amended 64576
63.122 (a)(2) removed; (b) revised 64576
63.123 (b) removed 64576
63.128 (h)(1) introductory text, (2) and (3) revised 64576
63.129 (b) amended; (e) and (f) revised 64576
63.151 Heading, (a)(2), (6)(i), (c) introductory text, (1), (d)(8)(i), (e) introductory text, (1), (3), (f) introductory text, (g)(1), (h) and (j) revised; (a)(6)(iv) and (7) amended 64576
63.152 (a)(2), (c)(4)(ii) and (e) introductory text revised; (c)(5)(ii)(F) removed 64577
63.320 (c) through (f) revised 49265
63.322 (a) introductory text and (b) introductory text revised 49265
63.480—63.506 (Subpart U) Added 46924
63.546 (a) revised 65336
63.549 (b) revised 65336
63.680—63.698 (Subpart DD) Added 34158
63.753 (a)(2) amended 66227
63.788 (b)(1) amended 66227
63.780—63.788 (Subpart II) Table 2 amended 66228
63.900—63.907 (Subpart OO) Added 34184
63.920—63.928 (Subpart PP) Added 34186
63.940—63.948 (Subpart QQ) Added 34190
63.960—63.966 (Subpart RR) Added 34193
63.1040—63.1049 (Subpart VV) Added 34195
63.1310—63.1335 (Subpart JJJ) Added 48229
63 Appendix D added 34200
69.13 Added 58289
(a)(2), (b), (c), (d)(1) and (3) corrected 66077
69.21—69.22 (Subpart B) Heading revised 58291
69.22 Added 58291
(a)(2), (b), (c)(1), (2), (d) and (e)(1) corrected 66077
69.31—69.32 (Subpart C) Heading revised 58292
69.32 Added 58292
(a)(2), (b), (c)(2), (3), (d), (e)(1) and (3) corrected 66077
70.4 (d)(2) revised 56370
70 Appendix A amended 34739, 39343, 39601, 39883, 45336, 51370, 51372, 55923, 56370, 57594, 60034, 64475, 64635
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Appendix A corrected 63928
71 Operating permits 39877
71.1—71.12 (Subpart A) Added; eff. 7-31-96 34229
75.6 (e) revised 59157
75.11 Regulation at 60 FR 26566 confirmed; (a), (d) and (e) revised; (g) removed 59157
75.16 (a)(2)(ii)(B), (C) and (b)(2)(ii)(B) revised; (e)(5) added 59158
75.18 (b)(3) added 59158
75.20 (b) introductory text and (g)(1)(i) revised 59158
75.21 Regulation at 60 FR 26566 confirmed 59157
(a) revised; (d) added; (f) removed 59159
75.30 Regulation at 60 FR 26566 confirmed 59157
(d) revised 59160
75.32 Regulation at 60 FR 26567 confirmed 59157
(a)(3) revised; (a)(4) removed 59160
75.34 Regulation at 60 FR 26567 confirmed 59157
(a), (b) introductory text, (1), (c) introductory text and (d) revised 59160
75.53 Regulation at 60 FR 26568 confirmed 59157
(d) introductory text revised; (d)(4) removed 59161
75.55 Regulation at 60 FR 26568 confirmed 59157

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(b)(3) introductory text, (i), (ii) and (e) revised 59161
75.56 Regulation at 60 FR 26569 confirmed 59157
(c) revised; (d) added 59161
75.61 (a)(5) added 59162
75.64 Regulation at 60 FR 26569 confirmed 59157
75.66 Regulation at 60 FR 26569 confirmed 59157
(f)(2) revised 59162
75 Regulations at 60 FR 26569, 26570 and 26571 confirmed 59157
Appendix A amended 59162
Appendix B amended 59165
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76.2 Amended 67162
76.5 (g) removed 67162
Correctly removed 68821
76.6 Revised 67162
76.7 (a) and (b) added 67163
76.8 (a)(2), (5), (e)(3)(iii)(A) and (B) amended 67163
76.10 (f)(1)(iii) amended 67163
76.16 Added 67163
76 Appendix B amended 67164
79.51 (c)(1)(ii)(A), (B), (h) introductory text and (1)(ii) revised; (e)(1) amended; (i)(4) added 36511
79.52 (b)(1)(iii), (iv), (2)(iii)(D) introductory text and (E) introductory text revised 36511
79.57 (b)(2)(i), (ii), (iii) and (e)(1)(i)(C) added; (e)(1)(iii)(A), (2)(i), (ii) introductory text, (B), (iii) introductory text, (C), (vi)(B), (vii), (3)(i)(A) and (f)(3) revised; (e)(3)(i) introductory text amended 36511
79.61 (d)(5) revised 36512, 58746
79.63 (e)(4)(iii) added 36513
79.68 (f)(1) and (5)(vi) revised 36513
80 Petition for reconsideration 35960
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80.2 (vv) added 35680
80.4 Revised 35356
80.46 (f)(3)(i) and (g)(9)(i) revised 58306
80.72 Added 35680
80.79 (j) introductory text revised; (j)(5)(viii), (ix), (10)(i), (iii), (v) through (xi) and (11) removed; (j)(10)(ii), (iv), (12), (13) and (14) redesignated as (j)(10)(i), (ii), (11), (12) and (13); (l) added 35680
80.140 Amended 35356
80.141 (a), (b), (c)(1)(ii), (2), (3)(i), (d) and (e)(1) revised; (c)(1)(i), (e)(2)(ii)(B), (g)(1) and (3) amended; (c)(3)(iv) added; (e)(2)(ii)(B)(*1*)(*iii*) removed 35356
(c)(3)(v) added 58747
80.155 Revised 35358
80.156 (a)(1)(ii), (2) introductory text, (ii), (3) introductory text, (ii), (4), (5) introductory text, (c)(1) introductory text, (i), (3) and (4) revised; (c)(5) through (8) added 35358
80.157 Introductory text, (a), (b), (d), (e) and (f) revised; (d), (e) and (f) redesignated as (e), (f) and (g); new (d) added; OMB number pending 35360
80.158 Revised 35362
80.160 Revised (OMB number pending) 35363
80.161 Added 35364
(b)(1)(ii)(D) added 58747
80.162 Added 35366
80.163 Added 35368
80.164 Added (OMB number pending) 35369
80.165 Added 35371
80.166 Added 35372
80.167 Added 35372
80.168 Added 35373
80.169 Added 35373
(g) redesignated as (c)(9); new (c)(9) heading and introductory text amended 58747
80.170 Added (OMB number pending) 35377
80,171 Added 35379
80.172 Added 35380
(e)(2) revised 58747
80.173 Added (OMB number pending) 35380
80.174 Added 35381
81.303 Amended 39344
81.307 Amended 58487
81.314 Table amended 41345
81.315 Amended 58486, 60616
81.319 Amended 37839, 53642
Regulation at 61 FR 37839 withdrawn 50238

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81.323 Amended 40519
81.328 Amended 64295
81.332 Amended 53643
81.343 Amended 55909
81.348 Amended 50442, 53328, 54563
81.350 Amended 43675
81.351 Amended 47060
82 Acceptable substitutes listing 47012
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82.62 (j) and (k) removed 64427
82.68 (f) and (g) removed 64427
82.70 (a)(2)(vii) revised 64427
82.154 (g) and (h) revised 68508
82.180 (a)(8)(ii) revised 54039
82.170—82.184 (Subpart G) Appendix D added 54040
85 Authority citation revised 40946
85.2207 Added 40946
85.2213 (b)(2)(ii) revised 40947
85.2215 (b)(2)(ii) revised 40947
85.2218 (b)(2)(ii) revised 40947
85.2220 (b)(2)(ii) revised 40947
85.2222 Added 40947
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86.1 Amended 54877
86.000–2 Added 54878
86.000–3 Added 54878
86.000–7 Added (OMB number pending) 54878
86.000–8 Added (OMB number pending) 54878
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86.000–16 Added 54881
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86.000–25 Added (OMB number pending) 54883
86.000–26 Added (OMB number pending) 54883
86.000–28 Added (OMB number pending) 54884
86.001–2 Introductory text revised 54886
86.001–9 Revised (OMB number pending) 54886
86.001–21 Revised (OMB number pending) 54886
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86.001–24 Revised (OMB number pending) 54887
86.001–25 Revised (OMB number pending) 54887
86.001–26 Revised (OMB number pending) 54888
86.001–28 Revised (OMB number pending) 54888
86.004–9 Revised (OMB number pending) 54889
86.004–28 Revised (OMB number pending) 54890
86.090–5 (a)(3) added 58106
86.094–13 (a)(1), (c)(1), (d)(1), (e)(1) and (f)(1) amended 58620
86.094–17 (j) revised 45903
86.094–26 (a)(2), (b)(2)(i) and (ii) amended 58620
86.101 (a)(2) removed; (a)(4) added 54890
86.106–00 Added 54890
86.108–00 Added (OMB number pending) 54890
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86.129–00 Added (OMB number pending) 54892
86.130–00 Added 54893
86.131–00 Added 54893
86.132–00 Added 54893
86.135–00 Added 54894
86.158–00 Added 54894
86.159–00 Added (OMB number pending) 54894
86.160–00 Added (OMB number pending) 54895
86.161–00 Added (OMB number pending) 54897
86.162–00 Added (OMB number pending) 54898
86.162–03 Added (OMB number pending) 54899
86.163–00 Added 54899
86.164–00 Added 54900
86.610–84 Removed 51366
86.1003–88 Removed 51366
86.1005–88 Removed 51366
86.1008–88 Removed 51366
86.1010–84 Removed 51366
86.1183–87 (g)(1)(ii) revised; (g)(1)(iii), (iv) and (v) removed 51366
86 Appendix I amended 54901
89.2 Amended 52102

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89.908 Revised 52102
89.1003 (a)(6) and (b)(4) revised; (b)(5), (6) and (7) added 58106
90.103 (a) introductory text table revised 58300
90.109 (c) added 58300
90.903 Revised 52102
90.908 Revised 52102
91 Added (OMB numbers pending) 52102
122 Interpretation 41698
125.60 (c)(1) removed; (c)(2) and (3) redesignated as (c)(1) and (2); new (c)(1) introductory text revised 45833
131 Notice of availability 65183
131.32 Added 64822
131.36 (d)(13)(ii) amended 60617
147.1350 Revised 58933
147.1351 (a) amended 58933
147.1350—147.1355 Appendix A added 58934
180 Authority citation revised 48848
180.191 Revised 37222
180.236 Revised 36299
180.356 Table amended 39351
180.368 (e) added 60622
180.410 Table amended 39541
(c) added 63725
180.418 Table amended 39891
180.434 (a) table amended 36302
(d) added; eff. 11-13-96 through 10-31-98 58140
180.436 (a) table amended 39886
180.466 Table amended 39889
Table corrected 51372
180.472 Heading revised; (d) added; eff. 11-29-96 through 11-29-97 60627
180.482 Existing text designated as (a); (b) added; eff. 11-29-96 through 11-30-97 60632
180.494 Added; eff. 9-17-96 through 8-23-97 48848
180.1001 (c) table and (e) table amended 34741, 39353
(c) table amended 34743
180.1163 Amended 58332
180.1169 Added 37397
180.1173 Added 40343
180.1174 Added 40340
180.1175 Added 40338
180.1176 Added 67473
180.1177 Added 67473
185.100 Removed 39542
Regulation at 61 FR 39542 withdrawn 50685
185.410 Regulation at 59 FR 10997 withdrawn 50685
185.800 Removed 39542
Regulation at 61 FR 39542 withdrawn 50685
185.1900 Regulation at 58 FR 59667 withdrawn 50685
185.2850 Regulation at 61 FR 11993 withdrawn 50685
185.3650 Removed 39542
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185.3750 Removed 39542
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185.5000 Regulation at 61 FR 12009 withdrawn; regulation at 61 FR 25154 confirmed 50685
185.5150 Regulation at 61 FR 12009 withdrawn; regulation at 61 FR 25154 confirmed 50685
185.6300 Regulation at 61 FR 12009 withdrawn; regulation at 61 FR 25154 confirmed 50685
227.27 (d) amended 51203
228.15 (l)(3)(vii) and (x) amended 68970
244 Removed 69034
245 Removed 69034
257 Authority citation revised 34269
257.1—257.4 (Subpart A) Heading added; eff. 1-1-98 34269
257.1 (a) revised; eff. 1-1-98 34269
257.5—257.30 (Subpart B) Added; eff. 1-1-98 34269
257.21 Eff. 7-1-98 34270
257.22 Eff. 7-1-98 34272
257.23 Eff. 7-1-98 34272
257.24 OMB number pending 34274
257.25 OMB number pending 34274
257.26 Eff. 7-1-98 34275
257.27 OMB number pending 34276
257.28 Eff. 7-1-98 34277
258.1 (f)(1) introductory text and (3) revised 50413
258.70 (c) added 60337
258.74 (f) and (h) added; (k) revised 60337
258.75 Added 60339
261.5 (f)(3) and (g)(3) revised; eff. 1-1-97 34278
261.6 (c)(1) revised 59950
261 Appendix IX amended 37401, 46383, 48638, 50242, 57334

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262.34 (a)(1)(i) and (ii) revised....59950
264.179 Revised....59950
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264.1030 (b) revised; note amended....59950
264.1033 (l) and (m) redesignated as (m) and (n); (f)(2)(vi)(B), (k) and new (n) revised; new (l) and (o) added....59950
264.1034 (b) introductory text revised....59951
264.1035 (c)(9) and (10) added; (d) revised....59952
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264.1082 Revised....59953
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264.1086 Revised....59962
264.1087 (b)(3), (c)(2), (3)(ii), (5)(i)(D) and (E) revised; (b)(4) and (c)(7) added....59965
264.1088 Revised....59966
264.1089 Revised....59966
264.1090 (a) and (b) revised....59968
264.1091 Removed....59968
265.178 Revised....59968
265.202 Revised....59968
265.231 Revised....59968
265.1030 (b) revised; note amended....59968
265.1033 (k) and (l) redesignated as (l) and (m); (f)(2)(iv)(B), (j) and new (m) revised; new (k) and (n) added....59969
265.1034 (b) introductory text revised....59970
265.1035 (c)(3) and (d) revised; (c)(9) and (10) added....59970
265.1050 (b) revised; (e) added; note amended....59970
265.1055 Revised....59971
265.1058 (e) added....59971
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265.1088 (b)(3), (c)(2), (3)(ii), (5)(i)(D) and (E) revised; (b)(4) and (c)(7) added....59989
265.1089 Revised....59990
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265.1091 Removed....59992
265 Appendix VI added....59992
266.100 (c)(3)(i)(B), (C) and (D) correctly added; CFR correction....56631
268.40 Table corrected....36419
(g) added; table amended....43927
268.44 (p) added....55727
268.48 (a) table amended....43931
270.14 (b)(5) revised....59996
270.27 Revised....59996
271 State hazardous waste management program authorizations....38392, 39353, 40520, 41345, 43009, 43018, 52884, 54950, 55223, 67474
271.1 (j) Table 1 amended; eff. 1-1-97....34278
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272 State hazardous waste management program authorizations....41345
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282 Appendix A amended....41510, 56137
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372.65 (a) and (b) amended....38605, 39359, 39894
425 Authority citation revised....35684
425.15 (a) table amended....35685
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435.10 (Subpart G) Revised....66123
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435.40—435.47 (Subpart D) Revised 66125
455.10 (g) through (u) added 57548
455.11 Revised 57549
455.40 Revised 57549
455.41 Added 57549
455.42 Revised 57550
455.43 Added 57550
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455.46 Added 57551
455.47 Added 57552
455.60—455.67 (Subpart E) Added 57552
455 Table 8 added 57553
Tables 9 and 10 added 57554
712.30 (e) table amended 55787
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716.120 (d) table amended 55787
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721.267 Added 63734
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721.484 Added 63735
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721.979 Added 63735
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745 Authority citation revised 45813
745.220—745.239 (Subpart L) Added 45813
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763 Waiver 52703
799.5075 (c)(1)(ii)(A) and (d) revised 37686

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101–43.600—101–43.603 (Subpart 101–43.6) Added; eff. 8–8–96 through 12–31–97 41353
101–43.801 (c) removed; (d), (e) and (f) redesignated as (c), (d) and (e); eff. 8–8–96 through 12–31–97 41554
101–46.201–2 (a) amended; eff. 8–8–96 through 12–31–97 41355
101–49.001–5 Introductory text revised 60034

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105–70.003 (a)(1)(iv) and (b)(1)(ii) amended 67235
105–735 Revised 56403

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201–24.202 Removed 39083
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201–39.801–1 Revised; interim 35685
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301–1 Authority citation revised 64998
301–1.101 (b)(4) amended 64998
301–1.202 (a)(5) and (b)(6) amended 64998
301–1.205 (e) removed 64998
301–3 Authority citation revised 55577
301–3.4 (b)(2)(i) amended 55577
301–4 Authority citation revised 68159
301–4.2 (c)(1) and (2) amended 68159
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301–5.5 (c) removed 55578
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301–11.5 (c)(3) amended 55578
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301–11.6 (b)(16) amended 68161

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301–17.2 (d) removed; (e) and (f) redesignated as (d) and (e) 64998
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413.114 (c)(1) revised; (c)(2) removed; (c)(3) redesignated as (c)(2) 51616
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417.479 (b), (f) introductory text, (5), (g)(1)(iv), (2)(ii), (h)(1)(iv), (v) and (2) revised; (g)(2)(iii) removed 69049
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302.36 (a) introductory text amended; (a)(1) through (5) removed 67240
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16.207 Revised 66613
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28.50 Amended; interim 57272
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64.1330 Added 52323
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64.1509 (b)(2) amended 55582
64.1900 (Subpart S) Added 59366
68 Authority citation revised 52324
68.2 (a)(1) revised 52324
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68.300 Second (c) correctly designated as (d) 54953
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69.104 (a) revised; (d) redesignated as (d)(1); (d)(2) added 65364
69.501 (d) removed; (e) revised 65364
73.202 (b) table amended 51789, 53643, 53644, 55117, 55118, 55752, 55926, 57335, 57336, 58340, 58341, 58785, 60044, 60632, 63759, 64999, 65478, 66228, 66229, 66618, 67727, 67728, 68162
73.606 (b) table amended 52900, 53645, 54104
80 Authority citation revised 58010
80.13 Revised 58010
80.15 (b)(4) and (6) removed; (b)(5) and (7) redesignated as (b)(4) and (5); new (b)(4) amended 55581
87 Authority citation revised 58011
87.18 Revised 58011
87.19 (b)(3) removed; (b)(4) and (5) redesignated as (b)(3) and (4) 55581
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90.103 (b) table amended; (c)(12) revised; (c)(31) added 52307
90.115 (b)(3) and (4) revised 55581
95.816 (e) redesignated as (e)(1); (c)(3), (d)(1) and new (e)(1) revised; (d)(4) and (e)(2) added 60205
97 Technical correction 63758
97.303 (j)(2) revised 55926
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1.405 (d) and (e) revised 67411
2.101 Amended 69288
4.602 (d) revised; interim 67412
4.603 Revised; interim 67412
4.803 (a)(11) amended 67430
5.303 (b)(2) amended 69289
9.103 (b) amended; interim 67410
9.104–1 (a), (c), (e) and (f) amended; interim 67410
9.104–3 (a) removed; (b) through (e) redesignated as (a) through (d) 67410

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9.406–2 (b)(1)(ii) revised 69291
9.407–2 (a)(4) revised 69291
9.702 (d) removed; (e) and (f) redesignated as (d) and (e); interim 67410
12.214 Added 67418
12.301 (b)(1), (3), (c)(1), (d) and (e)(1) amended 67430
12.503 (c)(3) revised 67418
12.504 (c)(3) revised 67418
13.106–2 (c)(3) amended 69289
13.111 (g) removed; (h) and (i) redesignation (g) and (h) 69292
14.205–1 (d)(2) amended; interim 67410
14.304–1 (a)(2) and (c) revised 69293
14.503–1 (g) amended 69289
15.412 (d) amended 69289
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19.001 Amended; interim 67410
19.102 (f)(1) amended; interim 67410
19.302 (d)(1) amended 69289
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19.502–1 Introductory text amended 67430
19.508 (c) and (d) amended 67430
19.601—19.602–4 (Subpart 19.6) Heading revised; interim 67410
19.601 (c) removed; (d) redesignated as (c); interim 67410
19.702 Regulation at 61 FR 2638 confirmed; (d) amended 67420
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19.803 (a)(3) amended; interim 67410
19.804–2 (b) revised; (c) added; interim 67421
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19.805–1 (c) redesignated as (d); new (c) added; new (d) amended; interim 67421
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19.808–1 (b) revised; interim 67421
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19.811–1 (b)(5) removed; interim 67421
19.811–3 (a), (b) and (d)(1) revised; (d)(2) removed; (d)(3) redesignated as (d)(2); new (d)(2) amended; interim 67421
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22.602 Revised; interim 67410
22.604–2 (b) removed; (c) redesignated as (b); interim 67410
22.606 Removed; interim 67410
22.606–1 Removed; interim 67410
22.606–2 Removed; interim 67410
22.607 Removed; interim 67410
22.608 Revised; interim 67411
22.608–1 Removed; interim 67411
22.608–2 Removed; interim 67411
22.608–3 Removed; interim 67411
22.608–4 Removed; interim 67411
22.608–5 Removed; interim 67411
22.608–6 Removed; interim 67411
22.610 Revised; interim 67411
23.504 (a) introductory text, (3) and (b) revised; (c) removed; (d) redesignated as (c); (a)(4)(ii), (5), (6) and new (c) amended 69292
23.505 (a)(2) amended; (b) removed; (c) redesignated as (b); heading, (a) introductory text and new (b) introductory text revised 69292
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31.205–11 Regulation at 60 FR 64255 confirmed; (o) revised 67424
31.205–16 Regulation at 60 FR 64255 confirmed; (g) revised 67424
31.205–36 (a) amended; interim 69288
33.102 (a) amended; interim 67411
33.103 (f)(3) amended 69289
33.104 (c)(1) amended 69289
36.607 (b) revised 69291
42.704 (e) added 69296
42.705 Revised 69296
43.102 (c) revised; interim 69296
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1503.905 (Subpart 1503.9) Added 57337
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1514.201–6 (a) and (b) designation removed 55118
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1519.201–72 Redesignated from 1519.201–2; (b) and (c)(3) amended 57339
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1535.007–70 (c) amended 57339
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1542.703–2 Added 57339
1548.102 (Subpart 1548.1) Removed 55118
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1852.215–70 Removed; interim 52343
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1852.216–89 Revised; interim 52347
1852.222–71 Removed 55758
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1852.228–77 Removed 55774
1852.231–71 Removed 55774
1852.232–12 Removed 55774
1852.232–70 Removed 55774
1852.232–83 Removed 55774
1852.232–84 Removed 55774
1852.243–71 Added 64824
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6102 Added 52369
6104 Authority citation revised 67242
6104.9 Added; interim; eff. 12–20–96 through 7–26–97 67242

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9904.412–50 (d)(2) introductory text amended 58011
9904.413–60 (c)(7), (8), (12), (13) and (24) amended 58011

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TITLE 49—TRANSPORTATION

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1.46 (ccc) added 55583
(eee) added 67474
(ddd) added 67952
1.48 Second (jj) redesignated as (d); (h) and (i) added 68163
1.53 (b)(5) added 68163
1.66 (v) added 64030
1.71 (b) added 68163
27 Authority citation revised 56424
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27.5 Amended 56424
27.71 Revised 56424
27.72 Added 56424
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106 Technical correction 64030
106.1 Amended 51336
106.3 Revised 51336
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106.17 (b) amended 51336
106.21 Revised 51336
106.25 Amended 51336
106.27 (c) amended 51336
106.29 Amended 51336
106.31 (a), (c) introductory text and (d) amended 51336
106.33 (b), (c) and (d) revised 51336
106.35 (b) amended 51337
106.37 (a) revised 51337
107.202 (d) amended 51337
107.502 (f) removed 51337
107.503 (b) introductory text amended; (b)(1) and (2) removed 51337
107.601 (c) amended 51337
171 Petition denial 51235
171.4 (d) removed 51337
171.7 (a)(3) table amended 51337, 65959
171.8 Amended 51337
Regulation at 61 FR 26419 confirmed 68954
172 Petition denial 51236
172.101 Table amended 51240, 51337, 51338
172.102 (c)(1) amended 51240
(c)(1) and (3) amended 51338
173 Authority citation revised 68954
173.7 (a) introductory text amended 51338
173.21 Regulation at 61 FR 26419 confirmed; (k) revised 68954
173.22a (c) amended 51242
173.28 (b)(4)(ii) corrected 51495
173.31 (a)(6)(i) removed; (a)(6)(ii) through (v) redesignated as (a)(6)(i) through (iv); new (a)(6)(i) through (iv), (b)(5), (c)(3) and (d)(1)(vii) amended 51338
173.34 (e)(10), (13) and (19)(ii) amended; (e)(19) introductory text amended 51240
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